

(2003) 07 P&H CK 0012

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 1161 of 1983

Punjab State

APPELLANT

Vs

Gurcharan Singh

RESPONDENT

Date of Decision : 23-07-2003

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2004) 136 PLR 575 : (2003) 4 RCR(Civil) 636

Hon'ble Judges : Viney Mittal, J

Bench : Single Bench

Advocate : P.S. Thiara,A.A.G, for the Appellant;

Final Decision : Dismissed

Judgement

Viney Mittal, J.—The State of Punjab is in appeal against the award dated March 22, 1983 passed by the learned District Judge, Gurdaspur.

2. A land measuring 10.28 acres was acquired by the State Government vide notification dated December 15, 1978 u/s 4 of the Land Acquisition Act. After the land was required, an award was given by the Land Acquisition Collector fixed Rs. 7,000/- per acre as the market value of the Chahi land, Rs. 7000/- per acre of Gair Mumkin Abadi, Rs. 5,000/- per acre of Barani land and Rs. 2,000/- per acre of Gair Mumkin Rastra.

3. The land owner felt dissatisfied and claimed reference. The learned District Judge on the basis of the evidence led by the parties, up-held the market value as assessed by the Land Acquisition Collector. While claiming a reference the land owner (the present respondent) had also claimed compensation for severance by the road which was constructed by the State Government on the acquired land. It was claimed that by the construction of the aforesaid road, the remaining land of the land owner had been rendered unless, inasmuch as the aforesaid chahi land had been rendered into barani land. Earlier the facility of irrigation was available from the tube-well and the land owner had been raising three crops in a

year. After construction of the road and raising of the level of the aforesaid remaining land. It was claimed by the land owner that in fact the entire remaining land would be left useless and would cause a recurring loss to him.

4. The learned District Judge agreed with the claim made by the land owner. Accordingly, he awarded a compensation of Rs. 4,000/- per acre for the left over lot of land.

5. The State of Punjab is now in appeal, challenging the aforesaid award of Rs. 4,000/- per acre as severance charges.

6. I have heard Sh. S.P. Thiara, learned Additional Advocate General, Punjab and with his assistance have also gone through the record of the case.

7. The arguments raised by the learned counsel for the appellant have been duly dealt with by the learned District Judge in paragraph 21 of the award rendered by the learned District Judge. The following observations have been made:-

"It is a common case between the parties that the acquisition of the applicant's land has resulted into division of his left-over land into two parts. The acquired land has been used for the construction of a road. Already a road has been built which is 6 to 7 feet from the level of the adjoining fields. Applicant has deposed that prior to acquisition whole of his land including the acquired portion was irrigated by a tube-well. Alongwith the acquired land both his tube-well as well as masonry slender of the wall have also been acquired. Consequently, whole of his left over land has been rendered into Barani land. Earlier when facility of irrigation was available, he had been raising from his land three crops in a year. Non availability of irrigation means will turn the land into Barani land which will hardly give one crop in a year. That too will be wholly depended on the mercy of rain. The height of the road is creating a big hurdle in the management of his land. It is difficult to cross the land with bullocks for going to the other side. The left over chunk of land on the side is measuring only 3/4 of a kanal. Such a small piece of land will be practically useless so far as farming is concerned. Yet another loss occasioned to the applicant is that from his left over land for doing the earth work of the road, top soil has been removed. This has not only rendered the land infertile but also caused ditches in it. This sworn testimony of the appellant has not been questioned in his cross-examination or there is any rebuttal to the same. Keeping in view the various factors which in the wake of acquisition has adversely affected the left-over land of the claimant, I think he is within his right to ask for compensation. In my view Rs. 4000/- per acre for left-over lot of land would be the just and reasonable compensation which the applicant should get. I order accordingly."

8. Sh. P.S. Thiara, learned Additional Advocate General has not been able to show that the observations made by the learned District Judge with regard to the loss suffered by the land owner are erroneous in any manner.

9. The learned District Judge has given a categoric finding that it was difficult to

cross the land with bullocks for going to the another side. The left over chunk of the land on the side is only 3/4th of a kanal. Such a small piece of land would be practically useless so far as the farming is concerned.

10. In these circumstances, I do not find that award of Rs. 4,000/- per acre for the small portion of 3/4 of a kanal land was excessive in any manner.

11. I do not find any merit in the appeal. The same is accordingly dismissed. There shall be no order as to costs.