
(2004) 07 P&H CK 0135

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 395 of 1989

Raj Kaur and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 17-07-2004

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (2005) 139 PLR 114 : (2004) 4 RCR(Civil) 540

Hon'ble Judges : V.K. Bali, J;K.S. Garewal, J

Bench : Division Bench

Advocate : R.K. Battas and Raman Mohinder, for the Appellant; Swati Gupta, A.A.G., for the Respondent

Final Decision : Dismissed

Judgement

V.K. Bali, J.—By this common order, we propose to dispose of three connected L.P.A. Nos 395 of 1989, 396 of 1989 and 397 of 1989 as common questions of law and facts arise in all these matters. Learned counsel for the parties also suggest likewise. All these appeals arise from a common judgment dated August 25, 1988 rendered by learned Single Judge dealing with land acquired vide notification issued u/s 4 of the Land Acquisition Act, 1894, dated February 10, 1982. The bare minimum facts that need a necessary mention have, however, been extracted from L.P.A. No. 395 of 1989.

2. Brief facts of the case reveal that area measuring 23 Kanals 19 Marias belonging to the claimant-appellants was acquired by the State Government for the construction of 66 K.V. Grid Station by the Electricity Board vide notification u/s 4 of the Land Acquisition Act, 1894, dated February 10, 1982. The Land Acquisition Collector assessed the market value of the land at the rate of Rs. 13,000/- per acre, which, on reference by the claimants was enhanced to Rs. 40,000/- per acre by learned District Judge vide his order dated 6.3.1986. Learned Single Judge vide judgment dated August 25, 1988 has further enhanced market value of the acquired land at the rate of Rs. 50,000/- per acre.

The claimants are still not satisfied and have filed these Letter Patent Appeals.

3. The only contention that has been raised before us is that the land is located in developed area and has a potential for residential and commercial sites and, therefore, the compensation, as determined by learned Single Judge is too inadequate. It is further urged that even though the land of the appellant Raj Kaur in L.P.A. No. 395 of 1989 has been severed into two parts as a result of severance of land, yet no compensation on that count has been determined by learned Trial Court or Learned Single Judge. Insofar as, the first contention of learned counsel, as noted above, is concerned, we may mention that howsoever potential a land may be, the market value of the same is always determined on the basis of material showing market value of the land there, at the time of acquisition. Insofar as the sale deeds produced by the appellants are concerned, the same are wholly irrelevant.

4. Learned counsel for the appellants, during the course of arguments, for the purpose of determining market value of the acquired land, has relied upon the following sale deeds :-

Sale deeds	Date of Sale	Area Sold	Sale Price (per acre)	Consideration	Ex.
A-1	7.12.1982	3-12	Rs. 49,680/-	Rs. 1,10,400A/-	Ex. A-2
A-2	2.3.1983	3-10	Rs. 48,470/-	Rs. 1,10,788/-	Ex. A-3
A-3	8.8.1983	3-10	Rs. 48,470/-	Rs. 1,10,788/-	Ex. A-4
A-4	13.1.1982	0-5	Rs. 7,500/-	Rs. 2,40,400/-	Ex. A-8
A-8	21.6.1985	20-5	Rs. 2,76,562/-	Rs. 74,999/-	

A bare look at the sale instances referred to above shows that but for sale instance Ex.A4 which pertains to 13.1.1982, all other sale instances are post-notification. Learned Single Judge, however, preferred to rely upon Ex.A8 dated 21.6.1985 pertaining to sale of an area of 20 Kanals 5 Maria for a sum of Rs. 2,76,562/- at the rate of Rs. 74,999/- per acre. It is on the basis of the above sale instance that the market value of the land was determined at Rs. 50,000/- per acre.

5. Sale instance Ex.A8 is post-notification pertaining to a period of three years when notification u/s 4 was issued. It is doubtful whether such a sale instance could at all be relied upon for the purpose of determining the market value at the time when Notification u/s 4 was issued. Be that as it may, inasmuch as the State of Punjab has not chosen to file any appeal, we do not want to comment on this aspect any further but for to say that the appellants, in any case, do not deserve any further enhancement. In so far sale instance Ex.A-4 is concerned the same pertains to just a month before notification was issued u/s 4 and is of a very small area measuring only 5 marlas. For that reason it was not relied upon by District Judge, No arguments based on Ex.A4 have been raised before us.

6. Insofar as the other contention with regard to payment of compensation on account of severance of land is concerned, suffice it to say that no argument on the matter aforesaid which had to be based upon evidence, was raised either before learned trial Court or, for that matter, learned Single Judge, who decided

the regular first appeal giving rise to the present Letters Patent Appeal. So much so, no issue was claimed on severance and compensation payable on that count. The contention with regard to determination of compensation and payment thereof on account of severance has also to be repelled.

7. Learned counsel for the appellants has not been able to show any illegality in the order passed by learned Single Judge. We have gone through the records and find that in the facts and circumstances of the case, learned Single Judge should not have relied upon Ex.A8, which is a sale instance three years after the notification. The State of Punjab has not filed any appeal. Suffice it to say that there is no material on records by virtue of which compensation at the rate of Rs. 50,000/- per acre can be further enhanced.

Finding no merit in these appeals, we dismiss the same.