
(2004) 07 P&H CK 0091

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 2665 of 1989

Ram Chand Wason and others

APPELLANT

Vs

State of Haryana and another

RESPONDENT

Date of Decision : 28-07-2004

Acts Referred:

Citation : (2005) 2 LJR 561 : (2004) 4 RCR(Civil) 382

Hon'ble Judges : Ashutosh Mohunta, J

Advocate : Mr. Ashok Sharma, Advocate. Mr. Alok Jain, Advocate., Advocates for appearing Parties

Judgement

Ashutosh Mohunta, J. (Oral)

1. The present appeal has been filed against the judgment and decree dated 24.3.1989 passed by the Additional District Judge, Sonapat, vide which the appellants were awarded compensation at the rate of Rs. 45/ per square yard for the land acquired. The appellants were also held entitled to statutory benefits under the Land Acquisition Act, 1894 (for short 'the Act').

2. Briefly the facts of the case are that in pursuance of the notification dated 16.12.1985 issued under Section 4 of the Act the State of Haryana acquired 0.38 acres of land situated in Sonapat for a public purpose, namely, for the development and utilisation of the land as a residential and commercial area. The entire land as per the revenue record was classified as Gair Mumkin land. Declaration under Section 6 of the Act was issued immediately thereafter. The Land Acquisition Collector, Urban Estates, Faridabad (Haryana) (for short 'the Collector') awarded compensation for the acquired land at the rate of Rs. 20/ per square yard. Statutory benefits under Section 23(1A) of the Act were also awarded.

3. Being dissatisfied with the award of the Collector, the claimants filed application under Section 18 of the Act for referring the matter to the District Judge. On reference, the Additional District Judge, Sonapat, vide his judgment

dated 24.3.1989 enhanced the compensation of the acquired land from Rs. 20/ to Rs. 45/ per square yard along with all the statutory benefits. However, as the claim petition was filed by one Ram Chand and 13 others (the names of 13 others had not been given in the reference application), therefore the reference petition was treated to be on behalf of Ram Chand only and, consequently, the reference on behalf of other 13 persons was rejected. It is against this judgment that the present appeal has been filed.

4. The claimants have claimed compensation at the rate of Rs. 80/ per square yard. In order to claim the aforementioned amount, the claimants have relied upon various sale deeds as mentioned in paragraph 9 of the judgment of the Additional District Judge. Apart from the sale deeds relied upon by the landownerclaimants, they have also relied upon the award dated 13.3.1984 (copy at Ex. P7), which shows that 44 Bighas and 4 Biswas of the land was acquired as per notification issued under Section 4 of the Act on 19.4.1979 for a public purpose, namely, utilisation as residential, commercial and industrial area. The land which was subjectmatter of Exhibit P7, was also acquired at Sonapat. The Collector had awarded compensation at the rate of Rs. 15/ per square yard. However, the High Court had enhanced the compensation to Rs. 40/ per square yard. On the basis of Exhibit P7 it has been contended by the learned counsel for the appellants that as the land in the present case was acquired on 16.12.1983, i.e., after a period of 4 years and 8 months of the notification which was the subjectmatter of Exhibit P7, therefore, the appellants are entitled to get the benefit at the rate of 12 per cent per annum for the acquisition made in the present case. Counsel for the appellant has also argued that the application under Section 18 of the Act was filed before the Collector for referring the matter to the District Judge by Ram Chand and 13 others and the said Ram Chand was acting as the Special Power of Attorney in respect of 13 cosharers, therefore, all the cosharers are entitled to receive the compensation. However, the counsel contends that the Reference Court has not allowed the compensation to the 13 other cosharers. Learned counsel for the appellants has relied upon A. Viswanatha Pillai and others v. The Special Tehsildar for Land Acquisition and others, 1992(1) R.R.R. 255 : 1991(2) All India Land Laws Reporter 596, in support of his contention.

5. Learned counsel for the respondents has controverted the arguments raised by the learned counsel for the appellants. It is contended that the claimants are not entitled to any higher compensation as the sale deed produced by the State depicts that the price of the land was very low. Learned counsel has further contended that the Reference Court rightly rejected the reference in respect of 13 others, as their names had not been mentioned in the application under Section 18 of the Act.

6. A perusal of Exhibit P7 shows that for the land which was acquired in Sonapat vide notification dated 19.4.1979 for utilisation as residential, commercial and industrial area, the landowner was awarded compensation at the rate of Rs. 40/

per square yard. As the acquisition in the present case was after a gap of 4 years and 8 months, therefore, by giving benefit at the rate of 10 per cent per annum for the period of 4 years and 8 months, the market value of the land acquired in the present case is enhanced by Rs. 18/ per square yard. Thus, the appellants would be entitled to receive compensation at the rate of Rs. 63/ per square yard.

7. Now coming to the second question, i.e., whether the claim petition can be entertained on behalf of 13 other cosharers, who have not been named in the application under Section 18 of the Act, it had been mentioned by the Collector that the case be referred to the District Judge for determining the compensation. The application was filed by "Ram Chand son of Uttam Chand Wason, Special Power of Attorney in respect of 13 other cosharers mentioned in the record." It shows that the names of 13 other cosharers had been mentioned. In the award also the names of 13 other cosharers had been mentioned. In A. Vishwanatha Pillai's case (supra) it has been held by the Hon"ble Supreme Court that in a reference sought by one of the coowners, by stating that the land belonged to all the brothers, others are also entitled to enhanced pro rata compensation. Apart from the above, it has been laid down by the Hon"ble Supreme Court in Ram Kumar and others v. Union of India and others, 1991(1) RRR 548 (SC) : 1991(2) All India Land Laws Reporter SC 17, that "it is the duty of the Collector to send full information of the survey numbers under acquisition to the Court and make reference under Section 18 and failure thereof is illegal." Thus, the Collector was dutybound to send full particulars of all the cosharers as well as the details of the land to the Reference Court for determining the compensation.

8. In view of the above, the 13 cosharers, as mentioned in the award of the Collector, would also be entitled to claim compensation on the enhanced rate. The finding of the Reference Court that as names of 13 others had not been mentioned and, therefore, the claim petition "will be deemed to have been filed only on behalf of Ram Chand" is set aside.

9. Net result of the above discussion is that the claimants are held entitled to compensation at the rate of Rs. 63/ per square yard. The compensation shall be distributed on pro rata basis amongst all the cosharers. The statutory benefits under the Act are also hereby awarded to the claimants.

The appeal is, accordingly, allowed.