
(2008) 08 P&H CK 0080
In the Punjab And Haryana At Chandigarh

Rama Nand and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 25-08-2008

Acts Referred:

Land Acquisition Act, 1894 — Section 17, 18, 23, 28, 4

Citation : (2008) 152 PLR 407 : (2009) 1 RCR(Civil) 195

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Judgement

Rakesh Kumar Jain, J.—This order shall dispose of 4 cases i.e. R.F.A. Nos. 2370 of 1991, 2236 of 1991, 48 of 1992 and 49 of 1992, as the facts and law involved therein are common.

2. Vide notification issued u/s 4 read with Section 17 of the Land Acquisition Act, 1984 (for short "the Act") dated 28.7.87 7.62 acres of land was acquired for public purpose, namely, for the construction of Sub Divisional Complex at Siwani. Vide report roznamcha No. 203 possession of the aforesaid land was taken by the State Government on 15.3.1982. However, the acquisition had lapsed thereafter vide notification dated 16.7.1987 issued u/s 4 read with Section 17 of the Act followed by notification dated 17th July, 87 issued u/s 6 of the aforesaid land was acquired for the same purpose, namely, for the construction of Sub Divisional Complex at Siwani. In this acquisition, land of Rama Nand and others was also acquired measuring 10 bighas 13 biswas falling in Khasra No. 257, 12 bighas 6 biswas is Khasra No. 259/2 and 6 bighas 13 biswas in Khasra No. 260 whereas land of Maha Devi etc. falling in Khasra No. 1728/257/2 measuring 2 bighas 5 biswas was acquired. Collector announced his award on 21.4.88 and assessed the market value at the rate of Rs. 40/- per square yard, Rs. 50/- per square yard and Rs. 60/- per square yard. Dissatisfied with the award of the Collector, objections u/s 18 of the Act were filed which were referred to the Civil Court. The appellants herein pleaded that the land in question is situated at the highway known as Hissar-Bikaner road and is in proximity with hospital, rest

house, Railway Station, shops, factories and other buildings. The land owners had claimed Rs. 200/- to Rs. 250/- per square yard, besides, interest and solatium as per law. While contesting their claim the respondent pleaded that rates applied by the office of District Collector were adequate compensation and no further enhancement is warranted in this case. Both the parties led their oral as well as documentary evidence. In the case set up by Rama Nand etc. Mange Ram, Draftsman, was examined as PW1 who has prepared the site plan, Sohan Lal Patwari, proved Aks shajra Ex.P.2, Sajjan Kumar as PW3 who had proved from the record that the rates of the acquired land were proposed at the rate of Rs. 40/- per square yard for khasra No. 257 and Rs. 60/- per square yard for khasra No. 259/2, Rama Nand claimant was examined as PW4 who had testified on all the points taken by him in the petition. Besides this oral evidence, sale deeds Ex.P.9 to Ex.P.17 with its corresponding mutation number Ex.P.3 to Ex.P.8 were tendered. So far as the claimant Maha Devi etc. are concerned, Hanuman Parshad was examined as PW1, Sohan Lal as PW2, Mange Ram as PW3 and Banwari Lal as PW4 and tendered sale deeds Ex.P.4 to Ex.P.13 and mutation Nos.Ex.P.15 to Ex.P.25. On the other hand, in both the cases respondent examined RW1 Kedar Nath, Naib Tehsildar, Land Acquisition, RW2 Kailash Nath Patwari, RW3 Krishana Kumar Patwari, RW4 K.K. Jatana, RW5 Dharam Chand and tendered sale deeds Ex.R.2 to Ex.R.7 and mutations No.Ex.R.9 to Ex.R.14. After appreciating the evidence on record, the Additional District Judge, Bhiwani assessed the compensation at the rate of Rs. 50/- per square yard for the land for which Collector had awarded Rs. 40/- per square yard, Rs. 75/- in place of Rs. 50/- per square yard and Rs. 90/- per square yard in place of Rs. 60/- per square yard.

3. Both the claimants as well as State of Haryana have come up in appeal against the impugned award dated 25th July, 1991 in which the claimants have prayed for enhancement of compensation whereas respondent State has prayed that the compensation is excessive and should be reduced.

4. Mr. R.S. Mittal, Senior Advocate has made two submissions. Firstly, that the Court below itself has found as per the proposed award in the year 1982 the rates were Rs. 40/- for khasra No. 257 and 259/2 and Rs. 60/- for khasra No. 260 then after 5 years i.e. in the year 1987 when the subsequent notification was issued the amount should have been doubled if not more but the learned Court below had awarded compensation only 1-1/2 times instead of making it double. Secondly, it is argued that though the acquisition is of the year 1987 but the Court below has not granted statutory award u/s 23(1)(A) and 23(2) and 28 of the Act. Mr. Rajiv Kawatra, Sr. D.A.G., Haryana while opposing the appeal filed by the claimants and arguing the appeals filed by the State of Haryana submitted that the Court below has erred in not considering the sale deeds tendered by the State i.e. Ex.R.4 to Ex.R.9. He has further argued that in case the compensation awarded by the Additional District Judge, Bhiwani cannot be reduced then it cannot be further enhanced also in view of the fact that already 10% increase per year has been given by the Court to the claimants which is in consonance

with the judgment of the Hon''ble Supreme Court in the case of The Special Land Acquisition Officer, BTDA, Bagalkot Vs. Mohd. Hanif Sahib Bawa Sahib, . So far as the other argument of the claimant with regard to the award of the statutory benefits is concerned, the counsel for the State could not raise any serious contest.

I have heard both the counsel for the parties and have perused the record with their assistance.

5. So far as the determination of the market value is concerned, the sale deeds relied upon by the counsel for the State namely Ex.R.4 to Ex.R.9 cannot be taken into consideration for the simple reason that the rates flowing from the sale deeds are less than the award given by the Collector. But at the same time, I do not agree with the argument of the counsel for the claimant that the amount of compensation should have been doubled as per the observation of the Court below because in my view the Court has rightly awarded 50% more over the rates assessed by the Land Acquisition Collector which is in consonance with the decision of the Hon''ble Supreme Court in the case of Special Land Acquisition Officer BYDA (supra) where 10% increase has been allowed per year which comes to 50% in 5 years. Therefore, I do not find any reason for further enhancement in the assessment of the market value. However, so far as the statutory benefits are concerned, since the acquisition is of the year 1987, the appellants are entitled to solatium and interest as per Section 23(1)(A) and 23(2) and 28 of the Act alongwith costs of the present appeal.

In view of the above discussion, the appeals filed by the claimants are partly allowed whereas the appeals filed by the State are dismissed.