
(2016) 04 SHI CK 0111

In the High Court Of Himachal Pradesh

Case No : Regular First Appeal No. 111 of 2006

Rama Nand

APPELLANT

Vs

State of Himachal Pradesh & anr.

RESPONDENT

Date of Decision : 27-04-2016

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (2016) sup HimLR 3145 : (2016) 2 SimLC 991

Hon'ble Judges : Mr. Dharam Chand Chaudhary, J.

Bench : Single Bench

Advocate : Mr. G.D. Verma, Senior Advocate with Mr. B.C. Verma, Advocate, for the Appellant; Mr. Shrawan Dogra, Advocate General with Mr. D.S. Nainta and Mr. Virender Verma, Addl. Advocate Generals, for the Respondent

Final Decision : Disposed Off

Judgement

Dharam Chand Chaudhary, J. (Oral) - This judgment shall dispose of both appeals arising out of the same award.

2. Appellants herein are resident of village and Post Office, Kufri, Tehsil and District Shimla. Their land situate in village Kufri Junga, Tehsil Shimla was acquired by the respondent-State for the construction of Kufri Bypass road in order to widen the Shimla-Wangtu National Highway-22. Notification under Section 4 of the Land Acquisition Act was issued on 5.9.1996. The Land Acquisition Collector has assessed the market value of the acquired land as under:-

Kuhai Awal

Rs. 43,625/80 per bigha

do Doyam

Rs. 36,468/40 per bigha

Bagicha Bakhal I

Rs. 28, 629/40 do

do do II

Rs. 21,812/80 do

Karali Awal

Rs. 13,633/- do

Do Doyam

Rs. 7,157/40 do

Banjar/ghasani

Rs. 5,453/20 do

3. The appellants herein were not satisfied with the assessment of the market value of the acquired land so made by the Land Acquisition Collector and they preferred references registered as RBT/FTC No. 8-S/4 of 2004/2000 and RBT/FTC No. 10-S/4 of 2004/2000 for seeking redetermination of the market value of the acquired land. The other right holders Puran Chand etc. and Virender Kumar etc. had also preferred references registered as RBT-FTC No. 9-S/4 of 2004/2000 and RBT-FTC No. 7-S/4 of 2004/2000 for re-determination of the market value of the acquired land. The Land Acquisition Collector has forwarded the references so made by the appellants herein and aforesaid Puran Chand etc. as well as Virender Kumar etc. to the District Court, Shimla. All the four references came to be decided by a common award under challenge in these appeals. Learned Reference Court on appreciating of the evidence has re-determined the market value of the acquired land as under:-

"Ld. Counsels for the applicants urged that there was sale as contained in Ex.PW4/A and it was made in October, 2000 and rate was Rs. 15,00,000/- for one Bigha of land and it was in Kufri and therefore, this rate should be allowed. Another sale transaction relied is contained in Ex.PW2/A and this sale took place in 1990. Both these transactions are not in proximate from time angle. As earlier said, sale transactions within a reasonable time angle can be considered and the date of notification u/s 4 of the L.A. Act 1894 is very crucial. There is no evidence in terms of AIR 1988 SC 943 (supra) and no benefit can be extended to the applicants. There is no other evidence to show that there was market value more than the rate applied by the LAC. Sale deed R1 showed that 6 bigha of land was sold for Rs. 1,36,000/- and R.2 showed sale of 7.14 bighas of land for Rs. 1,20,000/- and this property also situated in Kufri Junga itself and sales were effected in 1995 and 1996. Ex.R/3 sale related to built up structure and it has no relevance. However, these properties which were acquired by the State abutted on the National Highway and it was within a reasonable distance from the Kufri Bazar. There is school, a post office, Bus Stand and other Govt. Offices. The place

is well connected by road. It is a tourist place and it has commercial value. Therefore, some allowance for such advantages should have made by the LAC while assessing compensation. In my humble opinion, a 20% increase on the rate applied by the LAC is justifiable and petitioners are entitled to the following rate for class of land acquired:"

1.

Kuhal Awal

Rs. 52,344/- per bigha

2.

Kuhal Doyam

Rs. 43,680/- per bigha

3.

Bagicha Awal

Rs. 34,320/- per bigha

4.

Bagicha Doyam

Rs. 26,160/- per bigha

5.

Karali Bakhal Awal

Rs. 16,356/- per bigha

6.

Karali Bakhal Doyam

Rs. 8,580/- per bigha

7.

Banjar/ghasani

Rs. 6,480/- per bigha"

4. The appellants, however, were not satisfied with the assessment of the market value so made by learned Reference Court below, hence preferred these appeals before this Court. Shri Puran Chand and his son Vipin Kumar aforesaid had also preferred appeal against this very award in this Court registered as RFA No. 378 of 2006. The said appeal came to be decided by this Court vide judgment dated 26.2.2010. The perusal of the judgment ibid reveals that a Co-ordinate Bench of this Court on appreciation of the evidence available on record and taking into

consideration the given facts and circumstances, has arrived at a conclusion that the market value of the acquired land should have been assessed @ Rs. 2,00,000/- per bigha irrespective of its nature and quality. Thus, the compensation irrespective of nature and quality of the acquired land has been awarded at the flat rate i.e. Rs. 2,00,000/- per bigha. The judgment has attained finality as no appeal has been preferred by either party against the same.

5. The points in issue in these appeals are, therefore, covered in favour of the appellants by the judgment of this Court in Puran Chand's case cited supra, because his land was also situate in the same village i.e. Kufri Junga and acquired for the same public purpose i.e. construction of Kufri Bypass road to widen Shimla-Wangru National High Way-22. The notification was also same and similar. Not only this, but the reference petition filed by Shri Puran Chand etc. was decided by this very award under challenge in these appeals. Being so, there is no need to go to the factual details and to elaborate the evidence available on record. Accordingly, these appeals are disposed of with a direction to the respondents-State to pay the compensation with respect to the acquired land belonging to the appellants herein @ Rs. 2,00,000/- per bigha. The appellants shall also be entitled to all other statutory benefits on the enhanced amount of compensation.

6. Pending application(s), if any, shall also stand disposed of.