

(1988) 05 P&H CK 0111

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 1005 of 1979 and Civil Miscellaneous No. 1356-CI of 1980

Ramesh Dutt

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 27-05-1988

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (1988) 05 P&H CK 0111

Hon'ble Judges : Jai Singh Sekhon, J

Bench : Single Bench

Advocate : D.B. Mittal, for the Appellant; K.P. Bhandari, A.G. Pb. (Mr. K.B. Bhandari with him), for the Respondent

Judgement

Jai Singh Sekhon, J.—In pursuance of the notification published on October 16, 1970, u/s 4 of the Land Acquisition Act, 1894 (hereinafter called "the Act"), the State of Punjab sought to acquire 180 acres of land from the revenue estate of Bhatinda for establishment of a residential Urban Estate. The Land Acquisition Collector awarded compensation of the acquired land at the following rates:-

(i) Land of field Nos. S 2936, 2937, 2938, 2940, 2891 and 2894 measuring 58 B. 4B

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Rs. 19,200/- Rs. 2,32,800.00

Remaining area measuring 86 B. 11 B of irrigated land, field Nos. 2930 min/6-18, 2925/5-13, 2926/5-13, 2927/11-0, 2933 min/18 -0, 2934 min/8-0, 2935 min/7-0, 2941/10-18, 2942/8-18, 2944/4-8

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Rs. 15,400/- Rs. 2,77,681.00

per acre.

(ii) Measuring 151 B-0 B. of Barani including paths field Nos. 2895/2 min, 2902/2 min, 2903 min, 2930 min, 2931, 2932, 2933 min, 2934 min, 2935 min, 3030 min.

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Rs. 14,400/- Rs. 4,53,000.00

per acre.

(iii) Measuring 8 B-10 B. of BanjarKadim. gairnaumkin, tibbas and pits (field Nos. 2895/2 min, 2902/2 min.)

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Rs. 7200/- Rs. (sic)

per acre.

2. Being dissatisfied with the adequacy of the compensation awarded by the Land Acquisition Collector, the claimant sought reference u/s 18 of the Act to the Additional District Judge, Bhatinda who vide his impugned order, enhanced the compensation to Rs. 10/- per sq. yard, i.e., Rs. 48,400/- per acre, besides allowing 15 percent solatium and 6 per cent per annum interest from the date of there dispossession. He, however, did not enhance the compensation regarding the loss of business of poultry farm being run on the acquired land on the ground that the landowner had been continuing this business illegally on this very land till the end of 1977.

3. Still being dissatisfied with the adequacy of the compensation awarded by the Additional District Judge, Bhatinda, the appellant has come up in this appeal. Sarvshri J.R. Mittal, counsel for the appellant as well as Shri K.P. Bhandari, learned Advocate General, Punjab, assisted by Shri K.B. Bhandari, Advocate, have conceded that the matter is covered by the decision of this Court in R.F.A. No. 436 of 1978 (Babu Ram and another v. State of Punjab R.F.A. No. 436 of 1978), decided on January 28, 1987. A perusal of the said Judgment shows that the award of the Additional District Judge awarding compensation at the rate of Rs. 10/- per square yard was maintained by the learned Single Judge. Thus, there is no justification in enhancing the compensation in the present case. In the above referred judgment the learned Single Judge had allowed the compensation for the poultry birds for one year at the rate of Re. 1/- per bird per month by relying upon a Division Bench judgment of this Court in Savitri Devi v. State of Haryana 1984 (1) Land L.R. 245. In the case in hand the learned Additional District Judge had disallowed the compensation on account of loss of business of running the poultry farm on the ground that the land-holder had been carrying on this business illegally uptill the end of 1977 though the land was acquired on March 30, 1973. But the above referred finding appears to be erroneous as the landlord had to shift this business, may be some years after the

acquisition of the acquired land, especially when the Division Bench of this Court in Savitri Devi's case (supra) had held that at least one year's period is required to re-start the business, even though in that case some of the claimants were able to re-start their business after acquiring suitable land. The Land Acquisition Collector had awarded Rs. 1200/- for 1200 egg laying birds at the rate of Re. 1/- per bird for one month only. The claim of the appellant in this regard remained unchallenged in the written reply, which in turn reveals that the contention of Shri Ramesh Dutt claimant (A.W. 2) about having kept 1200 egg laying birds was admitted by the respondent.

4. Under these circumstances, the appellant shall also be entitled to compensation of 1200 egg laying birds at the rate of Re. 1/- per bird per month for a period of one year, as that much time is required for setting up a new hen-shed, as per the findings of the above referred Division Bench of this Court. The appellant shall also be entitled to 30% solatium over and above this compensation, besides interest at the rate of 9% per annum for one year from the date of his shifting the poultry shed from the acquired land and 15% interest onwards till its payment. However, the appellant shall not be entitled to an amount equal to 12% per annum on this score though he shall be entitled to this amount on the market value of the (sic) land, in view of the provisions of section 23(1) of the Act. However in the peculiar circumstances of this case, there is no order as to costs.