

(1989) 01 P&H CK 0021

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 1535 of 1984 and Civil Miscellaneous No. 1539-CI of 1988

Sarup Singh and others

APPELLANT

Vs

The Land Acquisition Collector, Urban Development, Punjab,
Chandigarh and others

RESPONDENT

Date of Decision : 31-01-1989

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (1989) 01 P&H CK 0021

Hon'ble Judges : Naresh Chander Jain, J

Bench : Single Bench

Advocate : M.L. Sarin, with Miss. Jaishree Thakur, for the Appellant; H.S. Bedi, A.A.G. with Arun Katpalia, for the Respondent

Final Decision : Dismissed

Judgement

Naresh Chander Jain, J.—Vide notification No. 11574-5UD-75/53407 initially issued on 23.12.1975 supplemented by eorrigenda on 6.1.19J6 land measuring 60 Kanals 14 Marlas in the revenue estate of village Chachoki, (Sic)ehsil Phagwara, District Kapurthala was acquired by the State of Punjab for a public purpose, namely, for the setting up of Residential Urban Estate. The Land Acquisition Collector fixed the market value of the acquired land at Rs. 25500/- per acre by describing the same as Chahi and Ghair Mumkin Chahi. The learned Additional District Judge on reference u/s 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") fixed the market value of the acquired land on the date of the notification at Rs. 3500/- per marla for the land abutting the road upto the depth of 18 Karama. For the rest of land Rs. 3000/- per marla was assessed by him. The claimants have filed R.F.A. No. 1535 of 19(Sic)4 claiming enhanced compensation whereas the State of Punjab has filed R.F.A. No. 1632 of 1984 for the reduction of the compensation. By this judgment both the appeals would stand disposed of.

2. After hearing the learned Counsel for the parties and on going through the judgment and the entire record. I am of the firm view that neither enhancement nor redaction is called for in these appeals. The learned Additional District Judge has rightly ruled out of consideration the sale transactions Exhibits A. 11 and A. 12 by which two pieces of land were transferred by the father to his daughter. The ground upon the basis of which two sale transactions have been ignored is that the sales must have been effected in favour of his daughters by showing less considerations. As regards other sale transactions, the learned Counsel for the claimants has mainly relied upon Exhibit A. 3 a mutation corresponding to Exhibit A. 3/A which has been exhibited by me today by allowing the application for additional evidence the notice of which was given by J.S. Sekhon, J. This transaction of sale took place on 5.4.1972. Land measuring 1 Kanal 2 Marlas was sold by virtue of this sale deed Exhibit A. 3/A and the rate per marla comes to Rs. 1818/-. There is a time lag of about four years between the sale transaction which took place on 5.4.1972, and the land acquired by issuance of a corrigenda on 6.1.1976. In view thereof, sufficient allowance has to be given for the price rise which has taken place between this period of three years and nine months. Moreover, the situation of the acquired land can well be ascertained by looking at Aks Shajra Exhibit A. 1 which has been prepared by Daljit Singh Patwari who is official witness. He has clearly stated in his statement that the factories are there near the acquired land that the acquired land is situated at a distance of 100 Karams only from Municipal Committee Phagwara. He further stated that Jagjit Cotton Textile Mill is situated at a distance of 237 yards only from the acquired land. He being the Patwari of the Halqa of the village Chachoki where the acquired land is situated can be safely relied upon and has been rightly relied upon by the learned Additional District Judge for determining the market value of the acquired land at the time of the notification. A perusal of Ak's Shajra Exhibit A. 1 makes it abundantly clear that on two sides of the acquired land there is a main road called "G.(Sic). Road" and "Dosanjh Road" and on the third side of the land is village Phirni. Equally important is the fourth side of the road which is the abadi. In fact, potentialities of the acquired land can well be judged by reading the application u/s 18 as well as the statement of the claimant recorded by the learned Additional District Judge regarding the existence of residential houses and other structures including the tube-wells, trees etc, belonging to the Appellant himself. High potentialities of the land speak volume in favour of the claimants. Moreover, it has been noticed by the learned Additional District Judge that 6 Kanals of land of the claimants which has not been acquired is insufficient for agricultural purposes. In other words, the court has kept in mind that the claimants have to be compensated for severance of their land. Another point which goes in favour of the claimants and which has been so noticed in the award under challenge is that they had to look for alternative means of livelihood because their land has been acquired. Keeping in view the market value of the land, the severance and the shifting of residence to earn their livelihood, the learned Additional District Judge has rightly evaluated the land at the rate of Rs. 3500/- upto the depth of 18 Karams and Rs. 3000/- per acre for the remaining

land

3. The learned Counsel for the claimants has argued that the entire land should have been evaluated at the uniform rate of Rs. 3:00/- per marla. I am unable to agree with the argument. The learned Additional District Judge has rightly fixed the compensation at the rate of Rs. 3000/- per marla for the entire land excluding the land upto the depth of 18 Karams from the roads because even according to the sale transaction Exhibit A. 3/A the market value of the acquired land in the year 1972 was Rs. 1818/-per marla In fact, the learned Additional District Judge has kept in view not only the sale instance but the potentialities, the severance and the shifting of residence to make livelihood while evaluating the land and no fault, therefore, can be found with the belting system.

4. The learned Counsel for the state while challenging the award by saying that it is on the higher side has argued that even according to Exhibit A. 3/A the market value of the acquired land in the year 1972 was Rs. 1818/- per marla and further giving allowance the same could not have been evaluated at the rates so fixed by the learned Additional District Judge after giving the increase of 12 per cent per year. I am unable to agree with the contention of the learned Counsel. The learned Additional District Judge, as has been observed above, has kept in view sale instances, the potentialities, the severance etc. while fixing the market value of the acquired land at the rates awarded by him. In my view, no error discernible from the award can reasonably be pointed out compelling me to take different view of the matter.

5. In the light of the observations made above, both the appeals, that is one filed by the claimants and the other by the State are dismissed with no order as to costs. The claimants would, however, have the statutory benefits of the amended provisions of Sections 23(-A), 23(2) and 28 of the Act.