(2006) 09 P&H CK 0156

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No''s. 1700 and 2030 of 1995

Shangara Singh — APPELLANT

Vs

Punjab State and Others
 Punjab State and Another Vs Shangara Singh — RESPONDENT

Date of Decision : 06-09-2006

Acts Referred:
Land Acquisition Act, 1894 — Section 18, 4

Citation : (2006) 09 P&H CK 0156

Hon'ble Judges : Nirmal Yadav, J

Bench : Single Bench

Advocate : I.S. Bajwa, for the Appellant; Sonia Dhillon AAG, for the Respondent

Final Decision : Dismissed

Judgement

Nirmal Yadav, J.—Vide this judgment, RFA Nos. 1700 of 1995 & 2137 of 1995 filed by the claimants and RFA Nos. 2030 of 1995 & 2031 of 1995 filed by the Punjab State, against the judgment dated 17.4.1995 passed by learned Additional District Judge, Hoshiarpur, are being disposed of together as common questions of law and facts are involved in these appeals.

2. The State of Punjab vide notification dated 5.12.1991 published on 13.12.1991 issued u/s 4 of the Land Acquisition Act, 1894, hereinafter referred to as `the Act'', acquired 12 Kanals 5 Marlas of land situated in the revenue estates of village Sagran, Tehsil Dasuya, District Hoshiarpur for constructing approaches to high level over Sagran Cho Crossing on Dasuya-Hajipur road. The Land Acquisition Collector, vide Award No. 6 dated 3.2.1993 awarded Rs. 44,174/- per acre for Chahi land; Rs. 36,000/- per acre for Barani land and Rs. 29883/- for Gair Mumkin land. The claimants, being dis-satisfied with the award of the Collector, sought references u/s 18 of the Act, pleading that the market value of the land at the time of issuance of the notification was not less than Rs. 1,50,000/- per annum for Chahi land; Rs. 1,20,000/- per acre for Barani land and Rs. 1,00,000/- per acre for Gair Mumkin land. The land is situated near the

abadi and on the main road abutting the Bus Stand of village Sagran.

3. The land has the potential for being used as residential as well as commercial purposes. It was further pleaded that on account of the acquisition, the land of the claimants has been divided into two parts and thus they are entitled to compensation on account of severance. The references were contested by the State. It was pleaded that the Land Acquisition Collector had awarded reasonable and adequate compensation on the basis of the rates approved by the Collector. All other averments were denied.

4. The Additional District Judge, Hoshiarpur, after taking into consideration the facts and the evidence on record, enhanced the compensation to the tune of Rs. 74,400/- per acre for Chahi land but maintained the compensation so awarded in respect of Barani and Gair Mumkin land.

5. I have heard learned Counsel for the parties.

6. It is argued by the learned Counsel appearing for the State that the learned Additional District Judge, Hoshiarpur, while deciding the references has not considered the sale-deeds Ex.R.2 to Ex.R.5. It is further argued that the acquired land has no potential value.

7. On the other hand, learned Counsel for the appellant-claimants argued that the compensation should have been fixed taking into consideration that the land is situated on Dasuya-Halwara road and is adjacent to the limits of Municipal Committee, Dasuya and the abadi of village Sagran. Bus Stand, Post Office, High School, Bank and about 20 shops are also located near the land in question, therefore, it has got high potential for being used for residential as well as commercial purposes. It is further argued that the compensation awarded on account of severance is very low. On account of the land having been divided into two portions, the value of the land has been substantially decreased. The remaining land left in the hands of the appellants has been rendered useless and uneconomic, therefore, compensation for the unacquired land should be 50% as severance charges. The learned Counsel further argued that this Court in the case of State of Punjab v. Bhagwanti and Ors. RFA No. 243 of 1990, decided on 19.7.1991, had awarded Rs. 74,400/- per acre for the entire land and the categorisation was not accepted by the Court. It is argued that the land acquired therein was situated in the same area where present land is situated and the notification for acquisition of that land was issued on 15.1.1985. The learned Counsel, therefore, argued that an increase of 10% every year progressively from the year 1985 to 1991 i.e. for about seven years over and above the compensation awarded in the above case, may be awarded.

8. I have heard the rival submissions of learned Counsel for the parties. To my mind, categorisation of the land should not be applicable when the entire land has been acquired for the same purpose. Since, the Chahi, Barani and Gair Mumkin land has been acquired for the same purpose i.e. construction of approaches to high level road, therefore, every piece of land has the same

potential being nearer to each other. Moreover, no material has been placed on record to suggest that the Chahi land would be put to better use than the Barani and Gair Mumkin land. There is no evidence of existence of any activity such as construction of industrial or urban area towards the Chahi land. Therefore, the approach of the Additional District Judge to categorise the land is not proper.

9. As regards the market value, undoubtedly the Courts adopt `comparable sales method'' of valuation. This method is preferred because it provides the evidence for determination of the market value of the acquired land which a willing purchaser would pay for the acquired land, if it had been sold in the open market at the time of issuance of notification u/s 4 of the Act. The claimants in the present case have produced sale deeds Ex. A.2 to Ex.A.5. Ex. A.2 and Ex. A.5 relate to the year 1993-94 i.e. after the issuance of the notification. Therefore, sale instances Ex. A.3 and Ex.A.4 would only be relevant. The average of both sale instances comes to about Rs. 50,000/- per annum. However, average of sale-deeds Ex. R.2 to R.5 produced by the State, market value of the land per acre comes to about Rs. 33,000/-, but the rate fixed by the Collector mark `A'' shows the market value of the land in that particular area as Rs. 74,400/- per acre. The value of the Chahi land in the area in question was fixed by the Land Acquisition Collector as Rs. 70,000/- per acre. Accordingly, the reference Court had awarded Rs. 74,400/- per acre for the Chahi land. Even this Court in Bhagwanti''s case (supra) had assessed the market value at the rate of Rs. 74,400/- per acre for the land acquired in the year 1985 in the area of village Tarkiana, Tehsil Dasuya, District Hoshiarpur. Learned Counsel for the claimant-appellants argued that the land in question is also sitauted in Tehsil Dasuya itself.

10. As regards the argument of the learned Counsel that every year 10% increase should be awarded on account of escalation of prices, I am in agreement with this argument. While determining the market value by taking the price of old comparable sale transactions as the base value and if there is no evidence coming forth for adoption, 10% per annum may be taken as appreciation of value of land for every subsequent year, upto the date of acquisition. This Court had assessed the market value at the rate of Rs. 74,400/- per acre for the land acquired vide notification dated 15.1.1985 in village Tarkiana, Tehsil Dasuya. The present acquisition was made vide notification dated 5.12.1991 and the reference Court had awarded Rs. 74,400/- per acre. By adding the amount calculated for the time gap of about seven years at the rate of 10% per annum i.e. Rs. 52,080/- (74,400 x 70 % 100), the value of the land comes to Rs. 1,26,480/- (Rs. 74,400 + Rs. 52,080) per acre. Accordingly, the market value of the acquired land is assessed (in round figures) at Rs. 1,26,500/- per acre for the entire land discarding the categorisation of the land.

11. As regards the argument of the learned Counsel for the claimant-appellants that only 10% has been awarded for severance of land, no evidence has been brought on record that the remaining land has been rendered inaccessible on account of acquisition of the land or that the value of the said area has

diminished/reduced more than 10% on account of severance.

12. In view of the above, the appeals filed by the claimants are partly allowed by assessing the market value of the entire land on the date of issuance of the notification u/s 4 of the Act, at Rs. 1,26,500/- per acre. They would also be entitled to solatium at the rate of 30% and interest at the rate of 9% per annum from the date of taking possession upto the year 2004 and thereafter at the rate of 6% per annum till the payment of excess amount.

13. In view of the above findings, the appeals filed by the State have no merit and are hereby dismissed.