(2005) 05 P&H CK 0042

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 737 of 2000

Smt. Jaswant Kaur and Others — APPELLANT

Vs

State of Punjab and Another — RESPONDENT

Date of Decision : 13-05-2005

Acts Referred:
Land Acquisition Act, 1894 — Section 18

Citation : (2005) 141 PLR 511 : (2005) 3 RCR(Civil) 384

Hon'ble Judges : Viney Mittal, J

Bench : Single Bench

Advocate : Naresh Kaushal, S.S. Rathore and Arun Nehra, for the Appellant; Ashok Aggarwal, A.A.G., for the Respondent

Judgement

Viney Mittal, J.—This order shall dispose of 13 Regular First Appeals bearing Nos. 737, 738, 842, 849 to 857 and 1588 of 2000 as all the appeals have arisen from a common award dated January 21, 2000 passed by the learned Additional District Judge, Ropar.

2. Vide notification dated April 7, 1989, 185 kanals 7 marlas of land in village Tarf Kumbra was intended to be acquired for a public purpose, namely, for extension of Industrial Focal Point, Mohali. Subsequently, the said land was acquired. An award dated March 28, 1990 was passed by the Land Acquisition Collector assessing the market value of the acquired land for various categories. For the Chahi land, the market value was assessed to Rs. 1,00,000/- per acre, for Barani Rs. 80,000/- per acre and for Gair mumkin, the Land Acquisition Collector assessed the market value at the rate of Rs. 5500/- per acre.

3. The claimant-landowners felt dissatisfied with assessment and, accordingly, claimed reference u/s 18 of the Land Acquisition Act. The matter was duly referred for adjudication to the learned Additional District Judge, Ropar.

4. During the course of reference proceedings, the parties led their evidence, in support of their respective claims. Without taking into consideration the various

sale instances relied upon by the parties, the learned reference Court took into consideration the assessment of the market value by this Court for the acquired lands in villages Kambli and Kambala and thus, assessed the market value of the present acquired land at uniform rate of Rs. 5,20,000/-. Beside the aforesaid compensation, the landowners were also held entitled to statutory benefits as per provisions of the amended Act. The landowners still felt dissatisfied and have approached this Court through the present Regular First Appeals claiming further enhancement.

5. I have heard the learned Counsel for the parties at some length.

6. Learned counsel for the claimant-appellants have primarily placed reliance upon a Division Bench judgment of this Court in Harchal Singh v. State of Punjab 1991 P.L.J. 20, wherein some lands in village Kambala and Kambali for extension of Industrial Focal Point, Mohali were acquired vide notification dated February 4, 1981. While considering the assessment of compensation for the aforesaid acquired land, the Division Bench also took into consideration the assessment of the market value for the acquired land in neighbouring villages, Mataur and Sohana. After taking into consideration the situation of the acquired land in the aforesaid four villages, the following observations were made by the Division Bench.

"7. The four villages are in the near vicinity of each other and are part of SAS Nagar/Mohali and this town is adjoining Union Territory of Chandigarh on one side and, therefore, has acquired potential for urbanisation. In Mohali itself lot of construction had come up before the acquisitions in dispute and, therefore, contiguous villages on this ground had also gained potential for urbanisation. Once urbanisation has come up and the acquired land has gained potential for that purpose it will be wholly wrong to classify the land on the basis of agricultural quality. Therefore, we are of the view that the entire land including those which are Gair Mumkin and Banzar Qadim cannot be kept in a separate category for fixing price. However, if it is found that the land is in depression because of Chhapar (Pond) or because of Khatan, lesser price may have to be fixed."

7. It is not in dispute that a substantial development has taken place in and around the city of Mohali (SAS Nagar). It is a matter of common knowledge that when huge colonies are developed, small distance between the revenue estates of two villages would lose much of its significance. Once a development activity is going around the acquired land, the value of the land increases rapidly. It is also well settled by now that in huge acquisition and mass development a similar compensation should be awarded to all the claimant-landowners irrespective of some distance in the location of the land unless the location of the land is having a definite distinct benefit and potential like being adjacent to the National Highway etc.

8. On the strength of the observations made by the Division Bench in Harchal

Singh''s case (supra), the claimant-appellants have claimed that they were entitled to a compensation of Rs. 5,96,000/-, atleast, which was assessed for the acquired land in village Kambli, which had been acquired through notification dated September 27, 1998. It has also been pointed out that the aforesaid award of compensation was upheld by this Court in Regular First Appeal No. 625 of 1994 (State of Punjab v. Mohinder Singh and Ors.) decided on October 7, 1999.

9. I have given my thoughtful consideration to the aforesaid contentions raised by the claimant-appellants and find myself in agreement with the same. Learned Additional District Judge himself has noticed that the present acquired land in village Tarf Kumbra adjoins the earlier acquired land in village Kambali which was acquired through notification dated September 29, 1988. It has further been observed by the learned Additional District Judge that due to disturbed conditions in the State of Punjab there was no appreciation of the value of the land during the period September 27, 1988 to April 7, 1989, the date of the notification in the present case. In these circumstances, the claim made by the claimant-appellants claiming a parity with the landowners of village Kambali, whose land has been acquired through notification dated September 27, 1988 cannot be disputed.

10. Accordingly, I partly allow the present appeals and hold that the claimant-landowners in the present appeals shall be entitled to the market value of Rs. 5,96,000/- per acre for their acquired land. Besides the aforesaid market value, the claimant-landowners would also be entitled to the statutory benefits, as are admissible, in view of the amended provisions of the Act. There shall, however, be no order as to costs.