
(1989) 03 P&H CK 0049

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 2292 of 1987

Smt. Savitri (Died) and others

APPELLANT

Vs

Haryana State and another

RESPONDENT

Date of Decision : 01-03-1989

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (1989) 03 P&H CK 0049

Hon'ble Judges : Naresh Chander Jain, J

Bench : Single Bench

Advocate : M.L. Sarin, with Mr. Ashish Handa, for the Appellant; S.C. Mohunta, A.G. with Mr. N.K. Kapoor, for the Respondent

Final Decision : Allowed

Judgement

Naresh Chander Jain, J.—In pursuance of the Notification No. Z-42M/235/B, dated 19-2-1979 published on 13-3-1979 u/s 4 of the Land Acquisition Act (hereinafter called the "Act"), the Government of Haryana acquired 1.73 acres of land situated in village Rewari, Tehsil Rewari, District Mohindergarh. The aforementioned land included the land of the Appellants, that is, measuring 8 Kanals 7 Marlas. The land has been acquired for the construction of Mile No. 4 of D.J. Road to Mile No. 44 of P.S.R. Road in Mohindergarh District. The Land Acquisition Collector determined the compensation for the Chahi land at the rate of Rs. 15,040/- for Bhur land at the rate of Rs. 10,080/- and for Gair Mumkin land at the rate of Rs. 6,080/- per acre. On reference u/s 18 of the Land Acquisition Act the learned Additional District Judge has determined the market value of the acquired land at the rate of Rs. 10,000/- per acre as the land was Gair Mumkin

2. The learned Additional District Judge while fixing the market value of the acquired land at the rate of Rs. 10,000/- per acre has taken into consideration mutations Exhibits R. 1 and R. 2. These mutations are inadmissible in evidence to determine the market value of the acquired land as had been held by this Court in a Full Bench judgment reported as State of Punjab v. Pohnu (1986-1)

P.L.R. 109. This being the legal position, the finding is not sustainable in law. Even otherwise, the learned Additional District Judge should have determined the market value of the acquired land by relying upon sale deed Exhibit P. 3. The learned Additional District Judge has given two reasons for not relying upon Exhibit P. 3. In the first instance it has been observed by him that Exhibit P. 3. could not be taken into consideration because by this sale transaction the land was sold on November 30, 1977, that is, one year and three months prior to the issuance of notification u/s 4 of the Act in the present case This reasoning on the face of it is not appealing because it is well settled law that the transaction of sale prior to Section 4 can be taken into consideration. Rather, this would have been a ground to add premium over the consideration mentioned in sale deed. The other reasoning, namely that the acquired land is situated at a distance of 880 yards from the land forming part of Exhibit P. 3 can also be said to be no good reasoning for discarding the transaction of sale altogether. This can be a ground for applying the cut particularly when the acquired land forming part of the transaction of sale Exhibit P. 3 is near the Municipal limits of the town Moreover, the acquired land has been described to be Rasta in the revenue records. By taking into consideration all the factors, I am of the view that the sale transaction Exhibit P. 3 can be made the basis for evaluating the acquired land. After making Exhibit P. 3 as the basis I would apply a cut of 25 per cent. Normally speaking, this Court would have applied 1/3rd cut but 1/4th cut is being applied in view of time-lag between the sale transaction Exhibit P. 3 and the date of the notification After applying a cut of 1/4th to the value mentioned in the sale transaction Exhibit P. 3. the market value of the acquired land comes to Rs. 20,902/-. The same can be rounded off to Rs. 21,000/-.

3. In the light of the observations made above, the market value of the acquired land is fixed at Rs. 21,000/- per acre. Consequently, the appeal is allowed with proportionate costs. The Appellants are also held entitled to the statutory benefits of the amended provisions of Sections 23(1-A), 23(2) and 28 of the Act.