
(1998) 08 P&H CK 0029

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 1739 of 1989

Smt. Veena Garg and Others

APPELLANT

Vs

Punjab State

RESPONDENT

Date of Decision : 18-08-1998

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (1998) 120 PLR 698 : (1998) 4 RCR(Civil) 276

Hon'ble Judges : T.H.B. Chalapathi, J;H.S. Brar, J

Bench : Division Bench

Advocate : P.C. Dhiman, for the Appellant; H.S. Sethi and Amit Sethi, for the Respondent

Final Decision : Dismissed

Judgement

Harphul Singh Brar, J.—This judgment of ours shall decide L.P.A. No. 1739 and 1852 filed by the claimants and LPA Nos. 2155 and 2156 of 1989, filed by the Land Acquisition Collector, Punjab State Electricity Board, Patiala, as they arise out of the common award as well as the common judgment of the learned Single Judge dated 27.3.1989. The facts are being taken from L.P.A. No. 1739 of 1989.

2. Vide Notification u/s 4 of the Land Acquisition Act, (hereinafter called as "the Act), issued on March 11, 1981, 48 Kanals of land situated in village Bhagapurana District Faridkot, was acquired for 132 KV. Sub Station of Punjab State Electricity Board. The appellants-claimants had challenged ,the legality of the Notification u/s 4 of the Act in writ proceedings before this Court. The writ petitions were allowed. It was, thereafter that fresh Notification u/s 4 of the Act acquiring the aforementioned land was issued on March 19, 1982. The Land Acquisition Collector, Punjab State Electricity Board, Patiala, determined the market price of the land at the rate of Rs. 66,00/- per acre vide his award dated 26.7.1982.

3. On reference, u/s 18 of the Act, the Land Acquisition Court, determined the

market price of the land in dispute at the rate of Rs. 75,000/- per acre.

4. The claimants went in Regular First Appeals before this Court. The learned Single Judge of this Court, after taking into consideration the evidence on record determined the market value of the land at the rate of Rs. 81,400/- per acre. The appeals filed by the land owners were consequently allowed with proportionate costs, whereas the appeals preferred by the Punjab State were, dismissed with no order as to costs.

5. Before us, L.P.A. Nos. 1739 and 1852 of 1989 have been filed by the claimants and LPA Nos. 2155 and 2156 of 1989, have been filed by the Land Acquisition Collector, Punjab State Electricity Board, Patiala.

6. The learned counsel for the claimants-appellants has submitted that the learned Single Judge has assessed the market price of the land on a very lower side.

7. The market price of the land of the claimants-appellants, according to the learned counsel, could not be fixed at the lesser rate that what they had paid for the land. Each of the appellants had purchased land measuring 8 marlas through registered sale-deed. The land purchased by them is part of the acquired land. The learned Single Judge, according to the learned counsel, has rejected the sale-deeds of the claimants-appellants for not awarding the market price as indicated in the sale-deeds, on illegal and insufficient grounds. The learned counsel for the claimants further submitted that the land owned by the claimants had potential value and was within municipal limits. There are residential colonies and other development works adjoining the land in dispute and, thus, the claimants had purchased the land, keeping in view of the pressure on the land. They are, thus, entitled to Rs. 34,000/- per acre, more, over and above the amount awarded by the learned Single Judge.

8. On the other hand, the learned counsel for the land Acquisition Collector, P.S.E.B., Patiala, submits that the learned single Judge should not have determined the market value of the land on the basis of guess work. According to him, the compensation awarded by the land Acquisition Collector should have been maintained.

9. We have heard the learned counsel for the parties and have gone through the record with their help.

10. The only question involved in these appeals is about the quantum of compensation awarded to the claimants.

11. The learned counsel for the claimants-appellants has argued that sale price of land comprised in sale deeds Exs. A.19/1, A 20/2 and A. 21/3, should have been taken into consideration, while determining the compensation of the acquired land.

12. The learned Single Judge has not relied upon these sale instances though the

sale took place much before the acquisition i.e. in the year 1978 by observing that by virtue of the above mentioned sale deeds land measuring 12, 12 and 11 marlas respectively was sold and, thus, these sales could not be termed as comparable sales vis a vis the acquired land.

13. We do not differ from the observations made by the learned Single Judge when he held that the sales comprised in Exs. 19/1, A.20/2 and 21/3 were not comparable instances vis a vis the acquired land. We have gone through these sale instances. The sale comprised in Exs. A 19/1 was of the land measuring 12 marlas 61/2 Sarsai (346 2-1/2 sq. feet) for abadi (residence) purpose. Similar is the position with the sale price shown in the sale deeds Exs. 20/2 and A. 21/3 respectively. The land comprised in these transactions was sold only as abadi lands and that is why the sale was of very small pieces of land comprising 11, 12 and 12 marlas each. These sale instances, were, thus, rightly not considered by the learned Single Judge as comparable instances for determination of the market price of the acquired land. The acquired land was not abadi deh land. It was purely agricultural land. The land sold for abadi always fetches much more price as compared to purely agricultural land.

14. The learned counsel further argued that Exs. A-II and A-13 vide which land measuring 1 kanals 3 marlas each were shown to have been purchased by the claimants on 22.5.1981 at the rate of about more than 2 lacs per acre, should have been taken into consideration by the courts below.

15. The learned Single Judge did not take into consideration the above said instances of sale on the following objections raised by the learned counsel for the Punjab State Electricity Board.

16. First objection raised by the learned counsel for the Punjab State Electricity Board was that these sales were affected after the issuance of the first notification regarding the acquired land in March, 1981 and that the claimants were in the knowledge of the intended acquisition.

17. The second objection raised by the learned counsel for the Punjab State Electricity Board was that these transactions also pertained to very small pieces of land and they did not truly represent the market value of the acquired land being sales of very small pieces of land.

18. The learned Single Judge, after taking into consideration the above said objections of the learned counsel for the P.S.E.B. and repelling the arguments of the learned counsel for the land owners on the point held as under :-

"Leaving aside that these two transactions of sale pertain to small area of land and that something can be said by the learned counsel for the State that these two transactions of sale were affected after the issuance of the previous notification, I would not like to place any reliance upon them, as they are mutations which cannot be looked at in view of the law laid down by the Full Bench of this Court in State of Punjab v. Pohnu and Anr. (1986)89 P.L.R. 109".

19. Mutations can not prove the sale price of the land until and unless the sale deeds of the lands are produced/proved on the record of the case. Mutations Exs. A11 and A-13 vide which the land measuring 1 kanal 3 marlas is shown to have been purchased by the claimants, were rightly rejected by the learned Single Judge. When relying upon the State of Punjab v. Pohnu and Anr. (1986)89 P.L.R. 109, learned counsel for the appellant was unable to advance any other plausible argument which could persuade us to enhance the market price of the land as finally determined by the learned Single Judge.

20. Learned counsel for the P.S.E.B. is also unable to persuade us that the market value of the land determined ultimately by the learned Single Judge is on a higher side.

21. The judgment of the learned Single Judge is based upon cogent reasons. While enhancing the market value of the land, learned Single Judge referred to finding in the award of the learned Addl. District Judge wherein it has been specifically observed that the acquired land was better situated as compared to the land covering the subject matter of Exs. R.8 and R.9 on the basis of which the learned Additional District Judge had determined the market value of the land. Potentiality of the land acquired was also considered as higher by the Additional District Judge than the land comprised in sale deeds Exs. R.8 and R.9 respectively.

22. Taking all the factual position into consideration and applying some guess work, learned Single Judge determined the market value of the land @ Rs. 81,400/per acre.

23. In view of our discussion made above, we do not find any infirmity in the judgment of the learned Single Judge while determining the market price of the land @ Rs. 81,400/- per acre.

24. No other point has been urged before us.

25. Consequently, all these four appeals filed by the claimant-appellants as well as by the Punjab State Electricity Board are dismissed, however, without any order as to costs.