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**(2009) 04 P&H CK 0261**  
**In the Punjab And Haryana At Chandigarh**

|                                          |            |
|------------------------------------------|------------|
| Smt. Vidya Wati (dead) through Lrs.      | APPELLANT  |
| Vs                                       |            |
| The Land Acquisition Tribunal and Others | RESPONDENT |

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**Date of Decision :** 21-04-2009

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2009) 154 PLR 718

**Hon'ble Judges :** Jitendra Chauhan, J; Adarsh Kumar Goel, J

**Bench :** Division Bench

**Final Decision :** Allowed

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## Judgement

Adarsh Kumar Goel, J.—This order will dispose of CWP Nos. 3427 and 3298 of 1987 filed by the claimants seeking enhancement in compensation.

2. Land of the petitioners was acquired in pursuance of notification dated 14.9.1973 u/s 36 of the Punjab Town Improvement Act, 1922 (in short, "the 1922 Act") for development of residential-cum-commercial centre on Smadhi Road, Khanna. The scheme was finally approved by the Government. The Land Acquisition Collector vide award dated 14.8.1978 assessed the compensation for the land at the rate of Rs. 279/- per marla. The petitioners sought reference for higher compensation. Claim of the petitioners was Rs. 1,875/- per marla i.e. around Rs. 75/- per square yard. In the writ petition, it has been stated that after reference was made, the petitioner was allowed to amend the claim to Rs. 307/- per square yard for the land upto the depth of 43 feet from the road and Rs. 205/- per square yard for the remaining land. 3. The Tribunal vide award dated 22.10.1986 partly allowed the claim and enhanced the compensation to Rs. 39/- per square yard for the area upto 26 feet depth from the GT road and Rs. 26/- per square yard for the remaining land.

4. The Tribunal duly appreciated the evidence of the parties. It was held that the acquired land had potential for commercial and residential purposes being located near the City and the GT road. The Tribunal relied upon sale deed Ex.A6

dated 19.8.1970 which was for sale of 13-1/2 marlas at the rate of Rs. 39/- per square yard. The said sale deed was made basis for the compensation for the land abutting the road.

5. The Tribunal also relied upon sale deeds Exs.A9 and A.7, average of which was at the rate of Rs. 26/- per square. The said rate was followed for the land which was beyond 26 feet above the GT road. The Tribunal also relied upon order of this Court in respect of acquisition vide notification dated 21.3.1968 Ex.R.2 in LPA No. 342 of 1981 (Smt. Vidyavati v. Land Acquisition Collector and Ors.), wherein compensation was awarded at the rate of Rs. 26/- per square yard.

6. The claimants petitioners had relied upon award Ex.A3 in Shanti Sagar Verma v. Improvement Trust, wherein acquisition was of the same date but location of the land was different. Therein, compensation was awarded at the rate of Rs. 307/- per square yard upto the depth of 40 feet from the main road and Rs. 205/- per square yard for the remaining land. The Tribunal held that the land covered therein was in the heart of shopping centre and at a better situation and the same could not be made basis for assessing compensation for the acquired land in the present case.

7. We have heard learned Counsel for the parties.

8. Learned Counsel for the petitioners raised following submissions:

(i) Compensation should have been awarded on the basis of award Ex.A3 which has been wrongly discarded by the Tribunal and even if the location of land of the petitioners was different, land being in the same City and covered by notification of the same date, the same should have been held to be comparable.

(ii) The Tribunal has based its award on sale deed dated 19.8.1970 Ex.A6 without making any allowance for the enhancement of the prices upto the date of notification in the present case i.e. 14.9.1973.

(iii) Compensation for the entire land which formed one block should have been at uniform rate and mere distance from main road beyond 26 feet was not a valid justification for awarding lesser compensation for the land beyond 26 feet when the entire land had equal potential.

9. Learned Counsel for the Improvement Trust supported the impugned award and submitted that re-appreciation of evidence is not permissible in writ jurisdiction. He submitted that award Ex.A3 was rightly distinguished. Possible enhancement on account of time lag in rate disclosed by the sale deed Ex.A6 dated 19.8.1970 was rightly held to have been offset by the fact that the transaction therein was of small piece of 13 marlas and if the same was to be made as basis for determining value of big chunk of land, appropriate deduction was required to be made. It was next submitted that location of land abutting the main road and remaining land had rightly been classified in separate belts.

10. Question for consideration is whether the impugned award warrants

interference under Article 226 of the Constitution.

11. As regards applicability of Ex.A.3, we do not find any ground to interfere with the view taken by the Tribunal. It is well known that even in the same city, prices of land may be different on account of different locations. The Tribunal having held that the land covered by Ex.A3 was in the heart of shopping centre which was better located, we do not find any ground to interfere with the said finding.

12. As regards the submission that basis for determining value of land of the petitioners is three years old sale deed, we are of the view that the finding of the Tribunal on this aspect can also not be held to be erroneous. Even if prices may have risen in three years, this factor was off set by the fact that piece of land covered by the sale deed was small which could not be mechanically accepted as basis for determining market value of big chunk.

13. Coming now to the submission that the entire land had the same potential and formed one block and should have been valued at the same rate, while we are conscious of the principle that there can be belting system and different compensation can be awarded for different blocks of land, in view of finding of the Tribunal in the present case that the entire land had unique potential for being used for commercial and residential purposes, the depth of 26 feet cannot be made the sole basis for giving lesser compensation for the remaining land. Once the entire land had the same potential, it could not be held that the land beyond 26 feet would be of lesser value. Market value is to be awarded having regard to the higher potential for which the land could be used and in view of finding of the Tribunal itself in para 24 of the impugned award that the entire land had unique potential for use for commercial and residential purposes, depth of 26 feet could not have been made the basis to deny the same compensation for the entire land.

14. In *The Land Acquisition Officer, Revenue Divisional Officer, Chittoor Vs. Smt. L. Kamalamma (Dead) by Lrs. and Others K. Krishnamachari and Others*, , it was observed:

Many a discerning customer may prefer to stay in the interior and far away from the main road and may be willing to pay reasonably higher price for that site. One cannot rely on the mere possibility so as to indulge in a meticulous exercise of classification of the lands as was done by the Land Acquisition Officer when the entire land was acquired in one block and therefore classification of the same into different categories does not stand to reason.

15. In view of above, we do not find any justification for the Tribunal awarding lower compensation for the land beyond 26 feet from the road.

16. Accordingly, we partly allow this petition and modify the impugned award by holding that compensation for the entire land will stand assessed at the rate of Rs. 39/-per square yard. The petitioners will also be entitled to statutory solatium and interest.