
(1994) 01 P&H CK 0023
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 750 of 1984

Sohan Lal

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 18-01-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (1994) 107 PLR 261

Hon'ble Judges : R.P. Sethi, J;H.S. Bedi, J

Bench : Division Bench

Advocate : M.L. Sharma, for the Appellant; Jaivir Yadav, D.A.G. for Respondent Nos. 1 and 2, Harbhagwan Singh Arun Walia, for Respondent Nos. 3 and 4, S.K. Aggarwal and Amar Vivek, for the Respondent

Final Decision : Allowed

Judgement

Harjit Singh Bedi, J.—This appeal is directed against the judgment of the (earned single Judge, dated 2nd April, 1984, whereby the writ petition filed by the petitioner was dismissed.

2. Vide notice dated 23rd April, 1965 u/s 36 of the Punjab Town Improvement Act, 1922, as applicable to Haryana (corresponding to Section 4 of the Land Acquisition Act, 1894), the Ambala Improvement Trust notified its intention to acquire 18 kanals 14 marlas of land situated within the Municipal Limits of Ambala City for the purpose of Development Scheme No. 12, framed by the Trust. The Scheme was duly sanctioned u/s 42 of the Town Improvement Act on 3rd April, 1967 and further proceedings for acquisition of land were taken. Vide award dated 8th December, 1971, the Land Acquisition Officer gave a flat rate of compensation at the rate of Rs. 10/- per square yard. Dis-satisfied with the amount awarded, the land owners asked for and obtained a reference to the Land Acquisition Tribunal. Respondent No. 5 Kishan Singh who was a tenant on the land in question was also awarded 8 per cent of the compensation by the Land Acquisition Officer for his right as a tenant, but as he too found the award

unsatisfactory, also sought a reference u/s 18 of the Act. Both the references were disposed off by the Tribunal vide order dated 21st December, 1979 and the compensation was enhanced to Rs. 14/- per sq. yard and Kishan Singh was awarded 1/3rd of the said amount as compensation. Still dis-satisfied with the compensation, the landowners as also Kishan Singh filed separate writ petitions in this Court which have been dismissed by the judgment impugned in this appeal. The learned single judge held on the strength of a Full Bench decision in *Devinder Kaur v. Ludhiana Improvement Trust, Ludhiana and Ors.* (1975) 77 PLR 527 (F.B.) that the compensation to be awarded to the landowners whose land was acquired under the Town Improvement Act was not to be less than the compensation that would have been awarded had the land been acquired under the Land Acquisition Act. The learned single Judge further found that the sale instances relied upon by the landowners as also by the improvement Trust could not be taken into consideration. It was also observed that sitting on the writ side interference was not warranted unless an error of law had crept into the orders of the Tribunal or the Land Acquisition Collector and interference was to be made only when the conscience of the Court was shaken.

3. We have gone through the record of this case with the help of the learned counsel and find that an error of law and fact has apparently come into the order of the learned single judge. It will be noted that for enhancing the compensation to Rs. 14/- per sq. yard the Land Acquisition Tribunal had relied on a judgment of this Court dated 19th August, 1976 in respect of the land adjoining the one covered by Scheme No. 12 in which acquisition had been made in September, 1960. As we find that the notice u/s 36 of the Town Improvement Act in this case was issued on 23rd April, 1965 i.e. almost five years after the date of acquisition of the adjoining land, we are of the view that some enhancement is called for in the present appeal. The appellant has prayed that his compensation be enhanced to Rs. 18/- per sq. yard and keeping in view the above facts, we feel that the prayer is justified and is allowed.

4. Some arguments were addressed by the learned counsel for the appellant that the share of compensation apportioned in favour of Kishan Singh respondent No. 5 ought to have been fixed at 1/4th and not 1/3rd. It has been held that no hard and fast rule can be laid down in this matter and keeping in view the fact that respondent No. 5, Kishan Singh, had been a tenant on the land in question for over 20 years and that the Tribunal as also the learned Single Judge have found that he was entitled to 1/3rd of the compensation, no interference is called for in appeal.

5. It has been conceded before us that the benefits of enhanced solatium and interest are not available to the appellant in view of the judgment of the Supreme Court in *Union of India (UOI) and Another Vs. Raghubir Singh (Dead) by Lrs. Etc.*, but as the matter with regard to the payment of the additional amount u/s 23(1A) of the Land Acquisition Act is before the Hon'ble Supreme Court, this matter is left open as per the submission of the learned counsel. The

appeal is allowed to the extent indicated above. No costs.