
(1997) 05 P&H CK 0088

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 2135 of 1991

State of Haryana

APPELLANT

Vs

Akhara Panchayat Maha Nirwani

RESPONDENT

Date of Decision : 23-05-1997

Acts Referred:

Citation : (1999) 1 PLJ 176 : (1999) 1 PLR 200 : (1998) 3 RCR(Civil) 337

Hon'ble Judges : V.K.Bali, J

Advocate : Mr. Jagdish Manchanda, Advocate, Mr. S.M. Sharma, DAG, (Haryana), Mr. H.S. Hooda, A.G. (Haryana), Advocates for appearing Parties

Judgement

V.K. Bali, J. (Oral)

1. I propose to decide four connected Regular First Appeals bearing No. 2135 of 1991, 2301 of 1991, 2302 of 1991 and 2303 of 1991 as common questions of law and facts arise in all these appeals. Even the Additional District Judge consolidated all the petitions arising from the same acquisition and decided the same by a common judgment. These appeals have been filed by the State of Haryana praying that the order passed by the Additional District Judge dated May 4, 1991, vide which compensation as assessed/enhanced by the Land Acquisition Collector be set aside.

2. Brief facts of the case reveal that the Government sought to acquire 5.33 acres of land situated in village Gledwa, Tehsil Pehowa, District Kurukshetra for the public purpose, namely, for construction of road from village Gledwa to Bulbehera vide notification issued on that behalf on January 25, 1983. This notification was followed by a declaration that was issued under section 6 of the Act on April 19, 1983. Ultimately, the Land Acquisition Collector vide his award dated March 29, 1985, assessed compensation of Chahi land at the rate of Rs. 26,000/ per acre whereas Ghairmumkin land was assessed at Rs. 18,000/ per acre.

3. Dissatisfied with the award of the Land Acquisition Collector, the claimants

who are respondents in this appeal preferred an application under section 18 of the Land Acquisition Act for suitably enhancing the compensation as market value of the land was much more on the date when notification under section 4 of the Land Acquisition Act was issued. It was, inter alia, pleaded by the claimants that the market value of the land prevailing at the time of publication of notification was Rs. 60,000/ per acre and their remaining unacquired land had become uneconomic as the land was acquired for purpose of road which now passed through their remaining agricultural land. They also stated that the road has divided their land into two parts and they are entitled to compensation on account of damages due to severance. They also pleaded that the entire land in the village is most productive and that they had made huge investments for the improvement of the entire land. They claimed fixation of compensation at the market value of Rs. 1,20,000/ per acre. The matter was contested by the respondent State. In the written statement filed on its behalf it was pleaded that fair and reasonable compensation has been paid to the claimants. While determining the market value all the factors i.e. location, potentiality etc. were closely examined. It was also pleaded that the land of the claimants had not been bifurcated. On pleadings of the parties, learned Additional District Judge framed the following issues :

1. What was the market value of the acquired land at the time of issue of notification under section 4 of the Land Acquisition Act ? OPP

2. Relief.

4. After the resultant trial the learned Additional District Judge vide impugned judgment awarded compensation to the claimants at the rate of Rs. 30,000/ per acre. Claimants were held entitled to solatium at the rate of 30% per annum on the enhanced amount of compensation. They were also held entitled to 12% additional amount as provided under Section 23(1A) of the Act on the market value of the land from the date of notification under section 4 of the Act till the date of award by the Collector on the amount of compensation. They were also awarded interest on the amount of compensation and on the enhanced amount of solatium at the rate of 9% per annum for one year from the date of award and thereafter at the rate of 15% per annum till the date of payment.

5. Mr. S.M. Sharma, learned Deputy Advocate General vehemently contends that there was no evidence at all led by the claimants and no effort was at all made to show that the compensation assessed by the Land Acquisition Collector was inadequate and yet on complete conjectures and surmises award of the Land Acquisition Collector has been interfered with and the compensation enhanced in the manner fully detailed above.

6. I find considerable merit in the contention of Mr. Sharma. It shall be seen that the claimants had produced on record sale instance Ex. P1 of village Sanghla which pertains to May 19, 1990. Approximate rate per acre of this sale instance works out to Rs. 86,660/. This sale could not possibly be relied upon as the same

was effected after eight years from the date the land of the claimants was acquired in this case. The land was also not of the same village from where land under acquisition was acquired. The learned Additional District Judge, thus, rightly rejected this instance. The sale instances produced by the respondent State were also rejected but obviously this Court is not concerned with the sale instance produced by the State. After rejecting the sole sale instance produced by the claimants, the contention of the Counsel representing the claimants in the trial Court that a judicial notice of the ever increasing price of the land be taken was accepted. It may be mentioned here that but for oral statement of one or two witnesses naturally blowing their own trumpet with a view to get more compensation, who stated that prevalent price was about Rs. 1 lac per acre in the village, in a way, endeavouring to show increase in price, there was no documentary evidence brought on record to show that the area from where the land was acquired had evidenced any increase in the prices of the real estate. In view of this Court, unless there was some reliable evidence showing increase in the price of the land, finding that prices were raising could not be recorded only on the argument of the claimants. It is conceded that while giving increase in the price of the land, thus, determining the market value as fully detailed above, no evidence at all was taken into consideration. It may, however, be mentioned that whereas the Collector had granted Rs. 26,000/ per acre for Chahi land and Rs. 18,000/ for Ghair Mumkin land, the learned Additional District Judge did not give any reason as to why he thought it fit to grant flat rate for entire land. It goes without saying that Ghair Mumkin land could not yield that much income as it could be possible from the Chahi land. Looked from any angle, this Court is of the view that the judgment passed by the learned Additional District Judge cannot sustain.

All these appeals are, therefore, allowed and the judgment passed by the Additional District Judge is set aside. Parties are left to bear their own costs.