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(2003) 12 P&H CK 0010

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 1371 of 1985

State of Haryana APPELLANT

Vs

Baldeva and Others RESPONDENT

Date of Decision : 03-12-2003

Acts Referred:
Land Acquisition Act, 1894 — Section 18

Citation : (2004) 137 PLR 524 : (2004) 1 RCR(Civil) 831

Hon'ble Judges : M.M. Kumar, J

Bench : Single Bench

Advocate : N.K. Joshi, AAG, for the Appellant; S.S. Dalal, for the Respondent

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—This appeal filed u/s 54 of the Land Acquisition Act, 1894 (for brevity ''the Act'') challenges the order dated 29.4.1985 passed by the learned Additional District Judge, Kurukshetra enhancing the compensation of the acquired land from Rs. 8,000/- for the nehri land and Rs. 7040/- for the barani land to and a flat rate of Rs. 15,000/- per acre. Reliance has been placed by the Additional District Judge on the post notification sale instances Ex. P1 dated 20.6.1984 and Ex.P2 dated 24.9.1984.

2. Brief facts of the case are that a notification u/s 4 of the Act was issued on 18.3.1982 for acquiring 96 kanals 2 marlas of land for the purpose of extension of Kachhana Minor from RD No. 19527 to 28280. The Land Acquisition Collector announced his award on 5.8.1983 awarding compensation @ Rs. 8000/- for the nehri land and @ Rs. 7040/- per acre for the barani land. Over 91 kanals of land was Nehri and 4 kanals 8 marlas of land was barani; Solatium @ 15 percent was also allowed. However, no interest was allowed as possession of the land was sought to be taken after offering compensation which in fact was taken on 5.8.1983. The claimant-respondents sought reference u/s 18 of the Act for enhancement of the compensation alleging that market value of the land was Rs. 33,000/- per acre arid also sought solatium and interest on the enhanced

amount. The learned Additional District Judge while deciding the reference came to the conclusion that Exs.Pl and P2, copies of the sale deeds which are later in point of the time than the notification u/s 4 of the Act could be taken into consideration and proceeded to assess the market value by imposing a cut of 25 percent at the rate of Rs. 15,000/- per acre. The views of the learned Additional District Judge in this regard read as under:

"I have given careful consideration to the question regarding the market value of the acquired land on the date of the notification u/s 4 of the Land Acquisition Act. I am of the considered opinion that the market value of the acquired land can be assessed by allowing a suitable decrease on the value of the land as furnished by the documents Ex. P1 and Ex.P2. According to these two documents the market value of the acquired land comes to Rs. 20,000/- per acre. In my opinion it would be just and proper to effect reduction of 25% in the market value of the land furnished by these documents in order to work out the market value of the acquired land on the date of the notification u/s 4 of the Land Acquisition Act. In this view of the matter, the market value of the acquired land can reasonably the assessed at Rs. 15,000/- per acre."

3. Shri N.K. Joshi, learned State counsel has argued that post notification sale instances are not safe to rely because the acquisition of the adjoining land always results in rise in price and therefore, the post notification instances may not represent the correct market value on the date of notification issued u/s 4 of the Act. In this view of the matter, the learned counsel has argued that the compensation amount awarded by the Land Acquisition Collector should have been upheld without enhancing any compensation by the learned Additional District Judge.

4. Shri S.S. Dalal, learned counsel for the claimant-respondents has placed reliance on a judgment of this Court rendered in R.F.A. No. 621 of 1983 (Fateh Chand and Anr. v. State of Haryana and Ors.) decided on 17.9.2003 and argued that there is nothing wrong in placing reliance on the post notification sale instances as long as the same are bona fide representing that willing purchaser has sold the land to a willing seller at the market value.

5. After hearing the learned counsel for the parties and perusing the judgment of this Court in Fateh Chand''s case (supra), I am of the considered view that the judgment of the learned Additional District Judge based on Exs.Pl and P2 assessing the market value is liable to be upheld. It is well settled by a number of judgments of the Supreme Court that post sale instances can be relied upon as long as the same are bona fide. Reliance in this regard can be placed on the judgments of the Supreme Court in the cases of Mehta Ravindrarai Ajitrai (Deceased) by Lrs and Others Vs. State of Gujarat, and Administrator General of West Bengal Vs. Collector, Varanasi, . Moreover, land in this case was acquired for the purpose of extension of Kachhana Minor from RD No. 19527 to 28280. Such an acquisition would hardly give rise to the prices of the adjoining land. Even otherwise, nothing has been brought on record to show that the rise in

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prices is on account of the acquisition of the land in pursuance to the notification issued u/s 4 of the Act on 18.3.1982. There fore, there is no legal infirmity in the impugned judgment and the same is liable to be upheld.

For the reasons recorded above, the appeal fails and the same is dismissed.

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