
(2016) 06 SHI CK 0016
In the High Court Of Himachal Pradesh
Case No : RFA No. 330 of 2008

State of Himachal Pradesh & Another	Vs	APPELLANT
Sh. Pritam Singh & others		RESPONDENT

Date of Decision : 03-06-2016

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (2016) LatestHLJ(HP) 827

Hon'ble Judges : Mr. Tarlok Singh Chauhan, J.

Bench : Single Bench

Advocate : Ms. Meenakshi Sharma, Additional Advocate General with Mr. J.S. Guleria, Assistant Advocate General, for the Appellant; Mr. Dibinder Ghosh, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. Tarlok Singh Chauhan J.(Oral) - All these appeals are disposed of by a common judgment, as they involve common question of law and fact.

2. It is not disputed before me that acquisition of land was construction of Shoghi-Dhari road by a common notification issued under Section 4 of the Land Acquisition Act, 1894. It is also admitted that this very notification and the award made pursuant thereto have been the subject matter of adjudication in RFA Nos. 352, 353 and 354 of 2000, decided on 27th August, 2007. The Court while disposing of these three appeals held the appellants in these cases to be entitled to a uniform enhancement of the amount of compensation, which was Rs. 2,76,760/- per bigha regardless of the category and classification of the land. In addition, the appellants were held entitled to all statutory benefits including interest on the solatium from the date of publication of the notification i.e. 1.7.1995 till the date of payment.

3. Even in these appeals, the compensation of the acquired land has been awarded at the rate of Rs. 2,76,760/- per bigha regardless of the nature and

category of the land and the operative portion of the award reads thus:-

"12. In view of my finding on issue No. 1 above, the reference is answered accordingly. The petitioners are awarded compensation of the acquired land at the rate of Rs. 2,76,760/- per bigha regardless the nature and category of the land. The petitioners shall further be entitled to:-

(a) Solatium at the rate of 30% on the market value assessed above;

(b) Additional Compulsory acquisition charges at the rate of 12% per annum on the market value as assessed above for the period and from the date of publication of notification under Section 4 of the Act of 1984 i.e. 6.3.1997 to the date of Collector's award of the date of taking of the possession of the acquired land whichever is earlier.

(c) Interest at the rate of 9% per annum on the enhanced amount from the date of notification i.e. 6.3.1997 for one year.

(d) Interest at the rate of 15% per annum on the enhanced amount from the date of notification i.e. from 7.3.1998 till the date of payment of the amount in the Court."

4. Thereafter identical matters were also adjudicated in RFA Nos. 340 and 341 of 2000, decided on 7th September, 2007, RFA No. 282 of 2000 along with RFA No. 44 of 2002, decided on 26th September, 2007 and RFA No. 473 of 2011, decided on 17th March, 2012.

5. The judgment rendered in RFA No. 282 of 2000, titled Sewak Ram and others v. State of H.P. along with RFA No. 44 of 2002, titled State of H.P. v. Sewak Ram and others is a detailed one and the relevant portion thereof reads as under:-

"In brief, the facts of the case are that the Government of Himachal Pradesh had issued a Notification under Section 4 of the Land Acquisition Act, in short "the Act" on 11.5.1989, but it got elapsed, as no further proceedings were taken up, therefore, a fresh notification under section 4 of the Act was issued on 5.6.1995 for acquisition of land in dispute for public purpose i.e. "construction of Shoghi-Dhari Road". The Land Acquisition Collector had assessed and awarded the amount of compensation based upon the classification of land to various land owners.

The appellants felt aggrieved by and dissatisfied with the impugned award of the Land Acquisition Collector thus preferred the Land Reference, which was sent to the learned District Judge for determination under section 18 of the Act. The learned District Judge, after considering the evidence on record, vide impugned award held that the amount of compensation awarded by the Land Acquisition Collector was adequate but allowed the interest on the compensation amount awarded by the Land Acquisition Collector from the year 1987, when the trace cutting was done on the acquired land on the presumption that the possession was taken over by the respondents. The interest at the rate of 9% per annum

w.e.f. 1.12.1987 to 30.11.1988 and further at the rate of 15% per annum w.e.f. 1.12.1988 to the date of award of the Land Acquisition Collector, i.e. 3.6.1996 on the market value of the acquired property, as assessed by the Land Acquisition Collector, was also awarded. However, the appellants were not held entitled to the increase of any amount under Section 23(1-A) of the Act. The amount awarded and paid off on account of such increase was ordered to be set off against the amount of interest ordered to be paid to the appellants.

The claimants have assailed the impugned award in the instant appeals on the grounds that the learned District Judge had acted as an appellate court whereas he was required to determine the amount independently and that the evidence was not appreciated in its right perspective thus erred in determining the market value of the land.

The respondent-State also felt aggrieved by the impugned award and filed a separate appeal on the ground that the interest awarded by the learned District Judge from the date of possession was wrong and illegal. The appellants were only entitled to interest from the date of notification under section 4(1) of the Act.

Learned counsel for the appellants has argued that the impugned award passed by the learned District Judge is wrong and illegal and further ventilated that the Land Acquisition Collector has assessed the market value of the land on the basis of the classification of the land which varies from Rs. 6,060/- for ghasni land to Rs. 2,76,760/- per bigha for the irrigated land whereas the Reference court, after considering the award should have awarded the compensation payable to the highest class of land uniformly and that the evidence on record was wrongly appreciated, which has caused the miscarriage of justice. He further placed two judgments of this court passed in R.F.A.352 of 2000 along with RFAs No. 353 & 354 of 2000, decided on 27.8.2007 and in RFA No. 340 of 2000 decided on 7.9.2007, with respect to the other adjacent land covered under the notification dated 5.6.1995 whereby the coordinate Benches have awarded uniformly the amount of Rs. 2,76,760/- per bigha.

Shri Nainta, learned Deputy Advocate General has admitted that the purpose of acquisition, date of notification under Section 4 of the Act and the date of award passed by the learned District Judge in the RFA's cited above are the same and the claimants were awarded the compensation uniformly by this Court. Since, the learned District Judge had wrongly awarded the interest from the date of possession which in fact should have been awarded from the date of notification under section 4 of the Act i.e. 5.6.1995.

I have considered the rival contentions of the learned counsel for the parties and have gone through the record.

Claimants had produced Sewak Ram (PW1), to prove the potentially of the acquired land. He claimed Rs. 4 lac. Per bigha, which was the prevalent rate at the time of the notification under section 4 of the Act. Puran Chand Patwari (PW2) produced statement Ex.P1 of sale transaction taken place between 1991

to 1992. Het Ram (PW3) vendor and Ramesh Thakur (PW4) vendee proved the sale deed Ex.P4 of 0-4 biswas having consideration mount of Rs. 72,000/- It is situated 2 furlongs away from the acquired land, abutting the road. Further the claimants also relied upon awards Ex.PX and Ex.PX1. Respondents only examined Patwari. The land, under acquisition, has different types of land. As already said all these types of land have been acquired by the State Government for the public purpose i.e. for the construction of the "Shoghi-Dhari road", by a common notification issued under section 4 of the Act. The Land Acquisition Collector had awarded the compensation to various land owners for different kinds of land as under:

Kind of land

Rate per bigha

Kuhl

Rs. 2,76,760/-

Katul

Rs. 2,02,020/-

Bangar Abhal

Rs. 1,51,520/-

Banger Doem

Rs. 1,01,020/-

Banger Soem

Rs. 50,500/-

Banjar Kadim

Rs. 18,180/-

Ghasni

Rs. 6,060/-

The learned District Judge has considered the evidence aforesaid and did not allow any enhancement but it is by now well settled that the classification of acquired land for the agricultural purpose is not relevant looking to the common purpose of acquisition, which in this case is the construction of road. Therefore, applying the ratio of the case LAC Solan & another v. Bhoop Ram, 1997 (2) S.L.C. 229, the claimants are of course entitled for compensation at the highest rate assessed by the Collector L.A.C. for the best and highest category of the land.

Since the coordinate benches of this court have already modified the award

dated 1.11.1999 of the learned district Judge with respect to the adjacent lands/ acquired for the same purpose and covered by the same notification, the claimants in this case too are held entitled to a uniform enhancement of compensation to the tune of Rs. 2,76,760/- per bigha for the acquired land irrespective of different category of classification of land.

Accordingly, both the appeals are allowed. The award passed by the learned District Judge stands modified as aforesaid and the appellants are also held entitled for all statutory benefits including interest on the solatium from the date of publication of the notification i.e. 5.6.1995 till the date of payment, as may be applicable u/s 23,23 (1-A), 28 & 34 of the Act, in accordance with the law laid down by the Apex Court in *Sunder v. Union of India*, 2001 (7) SCC 211. However, it is clarified that the interest which was directed to be paid from the date of possession i.e. 1987 by the learned District Judge is now ordered to be paid from the date of publication of the notification under section 4 of the Act i.e. 5.6.1995. Accordingly, the award of the learned District Judge, stands modified. Both the appeals are disposed of."

6. I am in agreement with the judgments rendered in all the aforesaid cases and do not find any reason to differ from the reasoning or conclusion arrived therein, more especially when the acquisition is for a common purpose and the award has been made pursuant to a common notification and evidence on the record.

7. Since the issue raised in these appeals is already covered by the judgments rendered earlier by this Court, as referred in detail above, there is no merit in these appeals and the same are accordingly dismissed, leaving the parties to bear their costs.