

(1994) 02 SC CK 0063

In the Supreme Court Of India

Case No : Civil Appeal No's. 4218-19 of 1982

State of Punjab and Another

APPELLANT

Vs

Hans Raj (Dead) by Lrs. Sohan Singh and Others

RESPONDENT

Date of Decision : 15-02-1994

Acts Referred:

Citation : (1994) 3 JT 345 : (1994) 108 PLR 200 : (1994) 2 SCALE 372 : (1994) 5 SCC 734 : (1994) 3 SCC 734 : (1994) 1 SCR 1008

Hon'ble Judges : N. Venkatachala, J;K. Ramaswamy, J

Bench : Division Bench

Advocate : Ranbir Yadav and G.K. Bansal, for the Appellant; Meera Aggarwal and R.C. Mishra, for the Respondent

Final Decision : Partly Allowed

Judgement

1. The notification u/s 4(1) of the Land Acquisition Act, 1894, ('the Act' for short) was published in the State Gazette of Haryana on January 3, 1967, proposing acquisition of land for construction of Panchayat Office building at Tanda. Later on, due to consolidation proceedings, without withdrawing earlier notification, another notification dated August 28, 1968 was published u/s 4(I) of the Act, to acquire 25 Kanals 2 marlas of land for the same purpose leaving apart the residue for the Civil Hospital. The, Land Acquisition Officer awarded compensation for the acquired land @ Rs. 28.46 per marla on May 30, 1973. On reference u/s 18 of the Act the District Judge, Hoshiarpur enhanced the market value of acquired land to Rs. 50- per marla. On further appeal u/s 54 of the Act, a learned single Judge of the High Court enhanced the market value of the acquired land to Rs.375-per marla. He also awarded Rs. 17,0007/-for super-structures shops constructed by the respondents on the acquired land. Thereafter, L.P.A. was filed by the State and also cross-objections by the respondents. The Division Bench confirmed the decree of the learned single Judge by its judgment dated 21.9.79. Thus these appeals by special leave are filed by the State questioning the enhanced compensation.

2. The learned single Judge, apart from relying on sale deeds A-4 dated December 16, 1968 and A-5 dated April 18, 1966 of two marlas relating to Sands in the neighbourhood, relied on additional evidence adduced, namely, mutation proceedings of the sale deeds R-3 dated March 20, 1965, R4 dated April 15, 1965 and R-5 dated August 4, 1965 relating to 9 Kanals 12 marlas purchased by Hans Raj one of the respondents herein which formed part of the acquired land for Rs.4,000/-, and 7 Marias for Rs.4000/- by another witnesses and 10 marlas for Rs.780/- which worked out @ Rs.20-83, Rs.57/-, Rs.78/- per marla respectively. The learned single Judge having given the finding that there is no development between the dates of the purchase by the respondent Hans Raj on March 20, 1965 till date of acquisition, making an average of all the prices of sale transactions worked out @ Rs.375/- per marla.

3. It is contended for the appellants that Hans Raj., one of the claimant-respondents in these appeals purchased the same land which is under acquisition in 1965 @ Rs.20.83 per marla and then the notification was issued in 1967, thereafter several sale deeds were brought into existence and, therefore, they are not bona fide transactions and they cannot form any basis. It is contended for the respondents that they have also filed cross-objections in this Court after the purchase made by Hans Raj in 1965 and before the date of notification under s4(l) large colonies/abadi have come into existence in and around the acquired land. Hans Raj himself constructed shops in the acquired land. The lands are situated close to the bus stand and several developments have taken place. Therefore, the lands possessed of potential value for building purpose and were also adjacent to the main road. Thereby the fixation of the market value @ Rs.375/- per marla by the learned single Judge was not high. On the other hand they were entitled to the market value @ Rs.3,000/- per marla. However, in the course of arguments before us, learned Counsel appearing for contesting parties agreed that the market value of the acquired land may be determined on the basis of R-5 dated August 4, 1965 which worked out @ Rs.78/- per marla and compensation may be given on that basis.

4. Having given our anxious consideration to the respective contentions, we are of the considered view that the learned single Judge of the High Court committed a grave error in working out average price paid under the sale transactions to determine the market value of the acquired land on that basis. As the method of averaging the prices fetched by sales of different lands of different kinds at different times, for fixing the market value of the acquired land, if followed, could bring about a figure of price which may not at all be regarded as the price to be fetched by sale of acquired land. One should not have, ordinarily recourse to such method. It is well settled that genuine and bona fide sale transactions in respect of the land under acquisition or in its absence the bona fide sale transactions proximate to the point of acquisition of the lands situated in the neighbourhood of the acquired lands possessing similar value or utility taken place between a willing vendee and the willing vendor which could be expected to reflect the true value, as agreed between reasonable prudent persons acting in

the normal market conditions are the real basis to determine the market value. The learned single Judge did not adopt that method. As stated earlier, it is agreed between learned Counsel appearing for contesting parties that R-5 dated August 4, 1965 which works out to Rs. 78 per marla, could form the basis for the fixation of the market value of acquired land. On the basis of the said agreement and having regard to lapse of three years time between the date of the purchase under Ex.R-5 in August 1965 and the date of acquisition and sudden developmental activities in and around the acquired land, we are of the view that fixation of the market value of acquired land @ Rs.100/- per marla would be just and reasonable. The respondent-claimants would be entitled to the proportionate solatium on the enhanced market value of land @ 15% and interest @ 6% on the enhanced compensation from the date of taking possession of the land till payment. We do not propose to interfere with the determination of the market value of structure on the acquired land at Rs. 17,000- made by the learned single Judge. It is accordingly confirmed.

5. The appeals of the State are, therefore, partly allowed, but in the circumstances without costs.