
(2004) 09 P&H CK 0124

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 906 of 1989

State of Punjab and Another

APPELLANT

Vs

Hans Raj Setia (Deceased) through LRs. and Others

RESPONDENT

Date of Decision : 15-09-2004

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4, 6

Citation : (2005) 140 PLR 146

Hon'ble Judges : G.S. Singhvi, J

Bench : Single Bench

Advocate : G.S. Cheema, D.A.G, for the Appellant; K.S. Malka, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Singhvi, J.—This appeal by the State of Punjab is directed against award dated 31.10.1988 passed by Additional District Judge, Ferozepur in Land Acquisition Case No. 56 of 1987. 2. The Government of Punjab, vide notification dated 15.3.1982 issued under Sections 4 and 6 of the Act, acquired 7.46 acres of land situated in village Suppanwali, Tehsil Abohar, District Ferozepur for a public purpose, namely, for construction of Daulatpur Minor., This included 15 kanals 2 marlas of land belonging to the respondents which formed part of Khasra No. 68/26/1 on which they had planted kinoo/malta orchard. The possession of the land had been taken by the concerned authorities in October, 1977 i.e. almost five and half years before issuance of acquisition notification. By an award dated 7.11.1985. Land Acquisition Collector, Drainage Circle, Patiala determined the market value of the land at the following rates:-

Nehri - Rs. 4,600/- per acre. Gair-mumkin - Rs. 2,000/- per acre.

3. Feeling dis-satisfied with the award of the Land Acquisition Collector, the respondents filed an application u/s 18 of the Land Acquisition Act, 1894 (for short, "the Act") for award of compensation at the rate not less than Rs.

60,000/- per acre, They demanded compensation for the standing crops and fruit trees. They also claimed compensation of Rs. 20,000/- due to severance and Rs. 10,000/- as damages for diminution of the profits of the land acquired between the time of publication of notifications u/s 4 and 6 of the Act. The appellants contested the application filed by the respondents and averred that the market value fixed by the Land Acquisition Collector was just and fair.

4. On the pleading of the parties, the Additional District Judge framed the following issues:-

(1) What is the market value of the land acquired? OPA

(2) To what amount the applicant is entitled as compensation? OPA

(3) Relief.

5. In support of their claim, one of the respondent, namely, Hans Raj, appear as AWI and examined Shri Sant Ram, Inspector (Horticulture) as AW2. They also tendered in evidence copy of jamabandi for the year 1973-74 (Exhibit A1), copies of Khasra girdawaris from 1974 to 1979 (Exhibit A2), 1979 to 1984 (Exhibit A3) and 1984 to 1987 (Exhibit A4) and copies of sale deeds Exhibits A5 to A8. The appellants examined Patwari Ram Partap as RW1 and Patwari Banarsi Das as RW2.

6. After considering the evidence produced by the parties, the learned Additional District Judge assessed the market value of the land of the respondent at the rate of Rs. 60,000/- per acre. He also held that the claimants shall be entitled to solatium at the rate of Rs. 30% and interest at the rate of Rs. 15% from the date of possession i.e. July, 1977.

7. Shri G.S. Cheema, learned Senior Deputy Advocate General, Punjab argued that the impugned award is liable to be set aside because the learned Additional District Judge gravely erred in awarding compensation on the premise that the respondents are entitled to receive income of Rs. 50/- per plant per annum. He further argued that the life of kinoo/malta tree cannot be more than 10 years, and therefore, the multiplier-of "12" could not have been applied for determination of the compensation payable to the respondents.

8. In my opinion, there is no merit in the arguments of the learned Senior Deputy Advocate General. Rather, I am of the view that the learned Additional District Judge committed an error in fixing the life of the trees as 12 years ignoring the law laid down by this Court in Ramjit Singh v. The Union Territory of Chandigarh 1983 P.L.J. 290 and by the Supreme Court in The State of Madras Vs. Rev. Brother Joseph, and State of West Bengal Vs. Shyamapada and Others,

Hence the appeal is dismissed.