
(2008) 12 P&H CK 0127
In the Punjab And Haryana At Chandigarh

State of Punjab and Another

APPELLANT

Vs

Ishar Singh

RESPONDENT

Date of Decision : 14-12-2008

Acts Referred:

Land Acquisition Act, 1894 — Section 25, 4, 6

Citation : (2009) 153 PLR 441

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Judgement

Rakesh Kumar Jain, J.—This common order shall dispose 17 Regular First Appeals with 9 cross-objections, bearing R.F.A. Nos. 60 & 62 of 1994 with X-objections 53 & 54-CI of 1994, R.F.A. No. 63 of 1994 with X-objection 55-CI of 1994, R.F.A. No. 65 of 1994 with X-objection 56-CI of 1994, R.F.A. No. 67 of 1994 with X-objection 57-CI of 1994, R.F.A. No. 68 of 1994 with X-objection 63-CI of 1994, R.F.A. No. 70 of 1994 with X-objection 58-CI of 1994, R.F.A. No. 71 with X-objection 64-CI of 1994, R.F.A. No. 74 of 1994 with X-objection 125-CI of 1995 and R.F.A. Nos. 61, 64, 66, 69, 72, 73, 358 & 359 of 1994 as identical questions of law and facts are involved therein.

2. Land situated in village Landiali, Hadbast No. 227, Tehsil Sirhind, District Patiala, was acquired for construction of Chunni distributory from R.D. 4542 to 6100 metres with the issuance of notification u/s 4 of the Land Acquisition Act, 1894 (in short "the Act") published on 11.3.1987 followed by a notification of declaration issued u/s 6 of the Act published on 14.3.1987.

3. The Land Acquisition Collector, SYL, Canal Project, Punjab Patiala (for short "the Collector") vide award No. 248/P-SYL dated 16.11.1987 fixed the value of the acquired land for Chahi @ Rs. 66,000/- per acre and for Gair Mumkin @ Rs. 35,000/- per acre, besides awarding other statutory benefits in terms of the provisions of the amended Act.

4. Unsatisfied landowners carried reference to the Civil Court wherein it was

claimed that the value of the land at the time of acquisition was not less than Rs. 2 lacs per killa. It was claimed that the left over land was affected by moisture caused by water of the Canal and a sum of Rs. 20,000/- was claimed as damages towards it besides Rs. 10,000/- was claimed for standing crops. It was further maintained that the quality of the entire land was Chahi which was wrongly treated as Barani. The landowners also claimed compensation for severance charges of their land.

5. These objections were opposed by the State. It was pleaded that fair and adequate compensation has already been paid to the landowners in respect of the land as well as severance charges. In the evidence of the landowners, Joginder Kumar, Draftsman had proved plan Ex.A1 showing the distributory starting from Chunni Kalan going upto the village Dandiali. In the site plan the acquired land was shown in red colour mark X to XI. He had stated that the land of village Nadiali, Chunni Kalan, Meh Judan and Bassian were of the same potentiality. The road leading from Sirhind to Chandigarh is at a distance of about 2 Kms from the acquired land. PW2 Sohan Singh deposed that the distributory starts from Chunni Kalan and passes through village Landiali. The potentiality of the land of village Chunni Kalan and Landiali is of the same nature and same was the case of land of village Mehmudan and Bassian. AW3 Sohan Singh, Patwari proved Aks - Sajra copy Ex.AW3/A and stated that distributory starts from village Khanpur Behlan and terminates at village Rampur after passing through village Landiali. The revenue limits of village Chunni Kalan and Khanpur adjoins village Landiali and the kind of land of village Landiali is better as compared to village Chunni Kalan and Rampur Behlan. It was also deposed that distributory after starting from village Chunni Kalan passes through village Khanpur and then comes to village Landiali. According to the landowners the land of village Sarakpura which is adjoining to village Landiali was also acquired for Chunni distributory vide notification issued u/s 4 of the Act dated 16.9.1987. The Land Acquisition Collector had valued the Chahi land @ Rs. 62,000/- per acre and Gair Mumkin land @ Rs. 35,000/- per acre. It was further enhanced to Rs. 1 lac per acre for Chahi and Rs. 60,000/- per acre for Gair Mumkin land. It was further stated that land of village Khanpur Behlan was acquired vide notification dated 13.3.1987 for the purpose of Chunni distributory for which the Collector awarded Rs. 62,000/- per acre for Chahi and Rs. 35,000/- per acre for Gair Mumkin but the learned District Judge, Ropar vide his order dated 13.6.1992 (Ex.A3) determined the compensation @ Rs. 1 lac per acre for Chahi land and @ Rs. 60,000/- per acre for Gair Mumkin land. It was further submitted that land situated in village Chunni Khurd was acquired for Chunni distributory and the learned District Judge, Ropar vide his award (Ex.A4) assessed the market value of Chahi land @ Rs. 1,25,000/- per acre and for Gair Mumkin @ Rs. 55,000/- per acre. Thus keeping in view the award of the adjoining villages, Ex.A2, A3 and A4 where the land has been acquired for Chunni distributory in the month of March, 1987, the reference court assessed the market value of the land of village Landiali, at the same time rates i.e. for Chahi land @ Rs. 1 lac per acre

and for Gair Mumkin Rs. 60,000/- per acre. 6. So far as the severance charges are concerned, learned reference Court awarded 25% of the value of the acquired land in this regard. The only arguments raised by the counsel for the State of Punjab is that the learned Court below has wrongly discarded the evidence led by the State as sale instance Ex.R1 and Ex.R2 are pertaining to village Landiali whereby Chahi land has been sold @ Rs. 56,000/- per acre vide sale deed dated 7.4.1986 and Rs. 27,961/- per acre vide sale deed dated 26.5.1986. It was pointed out by the counsel for the State that the market value in the year 1987 as per these two sale deeds should not have been more than Rs. 40,000/- to Rs. 50,000/- per acre.

7. After hearing learned Counsel for the State, I do not find any merits in his submission in view of the fact that the Collector himself has awarded Rs. 66,000/- per acre for Chahi land and the reference Court cannot give the compensation less than the award of the Collector in view of Section 25 of the Act. Insofar as the arguments of the learned Counsel for the landowners, who have filed cross-objections in these appeals, in respect of the amount of severance charges awarded 25% of the market value of the acquired land is concerned, the counsel for the landowners has cited State of Haryana and Others Vs. Rajinder Kumar and Others, " (1988)94 P.L.R. 695, "Smt. Narinder Kaur v. The State of Punjab" (1980)82 P.L.R. 437, Bishan Dass Vs. State of Punjab, , "State of Punjab through Collector, Hoshiarpur and Ors. v. Gopal Singh" (2002)131 P.L.R. 843, in which 50% of the market value has been awarded as severance charges. I am in full agreement with the law laid down in the aforesaid judgments of this Court and therefore I hold that the landowners are entitled to severance charges to the tune of 50% of the market value instead of 25% as held by the reference Court. In view of the above discussion, the appeals filed by the State of Punjab against the judgment passed by the learned Additional District Judge, Patiala in respect of the assessment of quantum of compensation is dismissed and the cross-objections filed by the landowners are allowed to the extent that they should be entitled to severance charges @ 50% of the market value of the acquired land instead of 25% as determined by the reference Court. However there shall be no order as to costs.