
(2004) 01 P&H CK 0099

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 390 of 1982 and Cross Objection No. 147-CI of 1999

State of Punjab and Others

APPELLANT

Vs

Gian Singh

RESPONDENT

Date of Decision : 12-01-2004

Acts Referred:

Land Acquisition Act, 1984 — Section 23

Citation : (2004) 137 PLR 677 : (2004) 2 RCR(Civil) 699

Hon'ble Judges : Viney Mittal, J

Bench : Single Bench

Advocate : Sukhbir Singh, Addl.A.G, for the Appellant; M.S. Bedi, for the Respondent

Final Decision : Allowed

Judgement

Viney Mittal, J.—Vide a notification dated March 27, 1979 published in the official gazette on April 27, 1979, land measuring 26 kanals 4 marlas situated in village Panj Graian, District Gurdaspur was acquired for a public purpose. The learned Land Acquisition Collector assessed the market value of the acquired land at the rate of Rs. 9900/- per acre. The claimant-landowner felt dissatisfied and claimed a reference u/s 18 of the Land Acquisition Act. The matter was accordingly referred.

2. During the course of reference proceedings, the parties led their evidence. Although the landowner relied upon three sale deeds Ex.A1 to Ex.A3 but all the aforesaid sale deeds were ruled out of the consideration. While the sale deed Ex.A2 was ruled out of the consideration because of the fact that the said sale took place much after the issuance of the notification u/s 4 of the Act, sale deeds Ex.A1 and Ex.A3 were ruled out of the consideration because of the fact that the claimant-landowner had failed to place on record the site plan showing the proximity of the land covered under the said sale deeds with the acquired land.

3. On the other hand, the respondents has relied upon various mutations only. The learned reference Court chose to place reliance upon mutation Ex.R3 which pertained to a sale dated February 21, 1978. The average price of the land sold under the said sale deed was Rs. 20,800/- per acre. On that basis the learned reference court further held that taking into consideration the advantageous position of the acquired land, some further enhancement was required to be given to the claimant over and above the aforesaid sale. Accordingly, the learned Additional District Judge assessed the market value of the acquired land at the rate of Rs. 30,000/- per acre.

4. The State of Punjab has felt dissatisfied with the enhancement and has approached this Court through the present regular first appeal. The claimant-landlord has also filed cross-objections claiming further enhancement.

5. I have heard Shri Sukhbir Singh, the learned Additional Advocate General, Punjab for the appellants and Shri M.S. Bedi, Advocate appearing for the claimant-landowner and with their assistance have also gone through the record of the case.

6. At the outset it may be relevant to notice that the assessment had been made by the learned Additional District Judge merely on the basis of the mutations produced by the State of Punjab and Punjab State Electricity Board. However, a copy of the sale deed on the basis of which the aforesaid mutation Ex.R3 was recorded, has not been placed on record. It is not in dispute that in view of the settled law, the mutation of a sale instance cannot be taken into consideration and is in admissible evidence vis-a-vis the said sale transaction. Since no sale instance has been produced by the acquiring authorities, therefore, the said mutation could not have been taken into consideration by the learned Additional District Judge.

7. In this view of the matter, the present appeal is allowed and the judgment dated December 3, 1981, passed by the learned Additional District Judge, Gurdaspur, is set aside and the matter is remanded back to the learned Additional District Judge, Gurdaspur to decide the matter afresh. The parties to the reference shall be at liberty to lead further evidence in support of their respective claims in accordance with law.

8. The parties through their learned counsel have been directed to appear before the learned Additional District, Gurdaspur on February, 26, 2004. The learned Additional District Judge shall now make an effort to dispose of the matter as expeditiously as possible and in any case on or before December 31, 2004. For that purpose the parties shall be directed to produce their evidence at their own responsibility and without the assistance of the Court.

9. In view of the aforesaid discussion, the cross-objections are also disposed of at this stage.