
(1998) 07 P&H CK 0018

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 801 of 1992 in Regular First Appeal No. 1551 of 1987

State of Punjab and Others

APPELLANT

Vs

Punni Devi alias Basant Kaur

RESPONDENT

Date of Decision : 01-07-1998

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (1999) 121 PLR 183 : (1998) 3 RCR(Civil) 450

Hon'ble Judges : N.C. Khichi, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : G.S. Grewal, AG and Charu Tuli, D.A.G, for the Appellant; R.K. Battas, for Respondent No. 1, O.P. Goyal and Sandeep Salar, for the Respondent

Final Decision : Allowed

Judgement

Jawahar Lal Gupta, J.—These are 19 Letters Patent Appeals arising out of the compensation assessed and awarded by the learned Single Judge. While the State of Punjab claims that the learned Single Judge has wrongly assessed the price of land at Rs. 1,20,000/- per acre, the landowners claim that they are entitled to be awarded the compensation @ Rs. 1,50,000/- per acre. A few facts as relevant for the decision of these cases may be noticed.

2. On April 27, .1982, the State issued a notification u/s 4 of the Land Acquisition Act, 1894 for acquisition of land measuring 265 Bighas 11 Biswas for a public purpose. The land is situate on the road which goes from Bathinda to Badal. On August 31, 1982, the notification u/s 6 was issued. On February 4, 1983, the Collector announced the award and granted compensation at the following rates

(i) Chahi Rs. 24,800/- per acre (ii) Barani Rs. 40,000/- per acre (iii) Nehri Rs. 54,320/- per acre (iv) Gair Mumkin Rs. 72,000/- per acre

The landowners sought reference. The District Judge decided the matter vide his judgment dated February 4, 1987. The basic issue was regarding market value of

the land at the time of the issue of the notification. After examination of the evidence, he held that :-

(i) It is not proved that there were factories or abadi near the acquired land at the time of acquisition.

(ii) Relying upon the statements of Mr. Gurbachan Singh, AW-2, and Mr. Mangal Singh, AW-4, he held that the land was being cultivated at the time of its acquisition.

(iii) This conclusion was further fortified by the photographs Ex.AI/20 to AI/25 which show that "wheat crop is sown in the acquired land."

(iv) He further held that the acquired land is 6 kms. from the acquired land. There was no factory or house etc. near the acquired land. He also found that "the acquired land is not in the municipal limits of Bathinda."

(v) He noticed the sale deeds Ex.A2 to A56 and Ex. RI to R10 and concluded that the "average price of the sale deeds is less than the compensation granted by the Collector.....Thus, he upheld the compensation as awarded by the Collector and awarded the benefits u/s 23 etc.

3. The claimants appealed. They also tiled an application for production of additional evidence. They produced a copy of the notification issued by the State Government on August 13, 1981 and the plan prepared by the Municipal Committee indicating that the municipal limits had been extended and that the acquired land fell within those limits. Civil Misc. application No. 1613/C-1 of 1991 was allowed and the documents were taken on record as Ex.C1 and C2 respectively.

4. On the basis of these two documents, the learned Single Judge held that "the acquired land came within municipal limits about 8 months prior to the notification issued u/s 4 of the Act". It was further observed that since "the land is within municipal limits, it would justifiably be held to have potential for urban development." It was also observed that the land had been acquired vide notification dated May 10, 1979 for the extension of Bathinda Cantonment. The said land is situated towards the north of the acquired land and is not within the municipal limits. In LPA No. 1251 of 1987, decided on January 30, 1989, the market value had been fixed at Rs. 90,000/- per acre for the land within the abadi and abutting the National Highway on either side upto the depth of 500 mtrs. Primarily relying on this precedent, the learned Judge observed that "it would be fair and just to assess the market value of the acquired land at Rs. 1,20,000/- per acre." It was also held that the landowners shall be entitled to the benefits of Sections 23(1A), 23(2) and 28 of the Land Acquisition Act. The landowners were also allowed "to complete the deficiency" of court fee within two months. As already noticed, the State of Punjab as well as the landowners are not satisfied. Both sides have appealed.

5. Mr. G.S. Grewal, learned Advocate General has contended that according to

the sale deeds as produced by both sides on the record, the price of the land was below Rs. 72,000/- per acre. No evidence had been adduced to indicate that the price was above Rs. 72,000/- per acre. The Cantonment was miles away from the land which was the subject matter of the present cases and being nearer the City, its market value was bound to be higher than that of the land in dispute. He, thus, urged that the landowners should not have been awarded anything beyond Rs. 72,000/- per acre.

6. Mr. O.P. Goyal, learned Senior Advocate, pointed out that the land had been acquired for M/s Punjab Mohta Polytex Limited which was later on incorporated as Vardhman olytex Limited. Misc. applications under Order 1 Rule 10 had been filed for impleading the Company as a party in majority of these appeals. In the applications in LPA Nos. 801 to 809 of 1992, notice was issued and these were ordered to be heard with the main cases. Similar applications had also been filed in LPA Nos. 364, 474, 476, 477, 553 and 554 of 1992. Notice to the counsel for the appellants was ordered to be issued. These applications were dismissed vide order dated September 10, 1992 in view of the judgment of the Full Bench in M/s Indo Swiss Time Limited, Dundahera v. Umrao Singh and Ors. (1981)83 P.L.R. 335 (F.B.). However, review applications in these matters were filed. Vide order dated October 16, 1992, these were ordered to be put up for hearing with the main case. These review applications were also pending. Learned counsel submitted that the facts as averred in these applications have not been controverted. In view of the decision of their Lordships of the Supreme Court in M/s. Neyvely Lignite Corpn. Ltd. Vs. Special Tahsildar (Land Acquisition), Neyvely and others, , the company ought to be impleaded as a party. Besides this, learned counsel contended that the decision of the learned Single Judge could not be sustained as

(i) Smt. Punni Devi, the respondent in LPA No. 801 of 1992 and the appellant in LPA No. 364 of 1992 had only asked for a compensation of Rs. 72,000/- per acre which had been rightly awarded by the learned Additional District Judge. She could not ask for enhancement after the lapse of so many years.

(ii) The fact that the land had been included within the Municipal Limits only implied that it could not longer be treated as agricultural land and as such, it could not be classified as Chahi and Barani etc. However, the market value had to be assessed on the basis of the evidence on record.

(iii) The learned Single Judge had erred in holding that the land was more valuable than that acquired for the Cantonment. There was no evidence to support the conclusion of the learned Single Judge. Learned counsel pointed out that the land acquired for the Cantonment was much nearer the City than the land which is the subject matter of these appeals. The town had in fact developed towards the Cantonment and there was no ground to enhance the price of the land beyond Rs. 72,000/-.

7. On the other hand, Mr. M.L. Sarin, learned counsel for the landowners

contended that the land having been included within the municipal limits it had to be assumed that it had potential for development. Rise in prices is the general trend and the court should take judicial notice thereof. He submitted that the market value of the land should have been in fact fixed at Rs. 1,50,000/- and that the learned Single Judge had erred in assessing the market value at Rs. 1,20,000/-.

8. Mr. R.K. Battas, learned counsel for Smt. Punni Devi, submitted that even though, she had initially claimed compensation at the rate of Rs. 72,000/- per acre, it would be unjust to deny her the compensation at the higher rate and that she should be permitted to make up the deficiency in the court fee. He referred to the decisions Bhag Singh and Others Vs. Union Territory of Chandigarh through the land acquisition collector, Chandigarh, and The Scheduled Caste Co-operative Land Owning Society Ltd., Bhatinda Vs. Union of India and others, . to contend that the land owner can be permitted to make up the deficiency in court fee even at a later stage. Learned counsel also very fairly pointed out that a contrary view had been taken in M. Govinda Raju Vs. Special Land Additional Land Acquisition Officer and another, etc., However, this matter had been referred to a larger Bench vide order in Amar Nath Vs. State of Haryana and Another, .

9. In view of the contentions raised by the learned counsel for the parties, the short question that arises for consideration is - What was the correct market value of the land at the time of its acquisition in April, 1982 ?

10. The landowners/claimants had produced on record copies of 55 sale deeds to establish the market value of the land. These documents were on record as Exhibits A-2 to A-56. Similarly, on behalf of the State, copies of 10 sale deeds viz. Exhibits R1 to R10 were produced. All these were instances regarding the sale of small pieces of land. However, the maximum price, according to these sale deeds, came to be Rs. 81,510/- per acre. After consideration of the matter, the Additional District Judge had found that the price fixed by the Land Acquisition Collector was valid. The conclusion was not totally without basis.

11. It is undoubtedly correct that the land had been included within the municipal limits vide notification dated August 13, 1981. It is also true that the notification u/s 4 was issued in April, 1982. The inclusion of the land within municipal limits indicates that the land should no longer be treated as merely useful for agriculture and, thus, the classification on the basis of the source of irrigation etc. should not be applied. It may even be an evidence of the fact that the land has a potential of being developed. In spite of all this, it cannot be forgotten that the value of the land has to be fixed on the basis of concrete evidence. It cannot be totally founded upon guess work. The persons who come to the court with a claim that the land has potential, have to adduce some evidence which may indicate the reasonable market value.

12. In the present case, the instances quoted by the parties being in respect of

very small pieces of land and majority of these being below the rates as fixed by the Collector, these cannot furnish a safe basis for determining the market value. At the same time, the landowners have not produced any evidence to show that the land has a value of Rs. 1,20,000/- per acre as determined by the learned Single Judge. It was emphasised on behalf of the landowners that in the case of the land acquired for the Cantonment, the market value had been assessed at Rs. 90,000/ per acre. The land in the present case having been acquired three years later in the year 1982, the market value should be proportionately enhanced. Apparently, the argument seems to be reasonable. It is factually correct that the land for the cantonment had been acquired vide notification dated May 10, 1979. The market value had been fixed at Rs. 90,000/- per acre. Yet, the fact remains that the location of this land is vitally different. It is on a main highway, it is much closer to the heart of the town. In fact, a perusal of the plan Ex. A1 shows that it is next to the colony established by the Urban Development Agency. As against this, the land which is the subject matter of present proceedings is far away from the centre of the town. While the land which was acquired for the cantonment is at a short distance from the bus stand and the courts etc. and adjoins the posh colony established by the Urban Development Agency, the land which is the subject matter of the present proceedings is a few kms. away. At the relevant time, there was hardly any industry or activity in the nearby region. Learned counsel were unable to refer to any evidence to even remotely indicate that it had a market value of Rs. 1,20,000/- per acre. That being so, the view taken by the learned Single that the market value of the land was Rs. 1,20,000/- per acre cannot be sustained.

13. In our view, the land having been included within the municipal limits, it cannot be classified on the basis of being Barani, Nehri and Chahi etc. Keeping in view the fact that it was at a distance of atleast 3 kms. from the bus stand as admitted by the counsel for the parties, we are of the view that the maximum price as fixed by the Land Acquisition Collector vide his award dated February 4, 1983 in respect of the Gair Marusi land viz. Rs. 72,000/- per acre should be a just and reasonable price for the land.

14. In view of the above, it is held that the market value as fixed by the learned Single Judge was excessive. It is reduced -from Rs. 1,20,000/- to Rs. 72,000/- per acre, it may be added that Smt. Purini Devi had claimed a maximum compensation of Rs. 72,000/- per care though she has now made a prayer for the grant of a higher compensation and for permission to pay additional court fee. However, the claim made by her gives a clear indication regarding the maximum value of the land at the relevant time.

15. It was pointed out by the counsel for the parties that the land had been acquired for the benefit of M/s Punjab Mohta Polytex Limited which is now known as Vardhman Polytex Limited. CM No. C-2 of 1992 had been filed with a prayer that the company should be impleaded as a party. Mr. Sarin who had appeared for the landowners had stated that the company may not be made a party but

the counsel appearing for the company may be heard. We had heard Mr. O.P. Goyal, His arguments have been taken into consideration while determining the market value of the land.

16. In view of the above, the appeals filed by the State of Punjab are allowed and it is held that the market value of the land was Rs. 72,000/- per acre and not Rs. 1,20,000/- per acre as determined by the learned Single Judge. The other benefits shall also stand modified accordingly. The appeals filed by the claimants are dismissed. In the circumstances, the parties are left to bear their own costs.