
(1996) 05 P&H CK 0040

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 958 of 1993 and Cross Objection No. 97-C of 1994

State of Punjab and Others

APPELLANT

Vs

Raj Kumar and Others

RESPONDENT

Date of Decision : 09-05-1996

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (1996) 114 PLR 546 : (1997) 2 RCR(Civil) 158

Hon'ble Judges : Sat Pal, J

Bench : Single Bench

Advocate : R.S. Mittal and Alok Jain, for the Appellant; Sarjit Singh Sr. Advocate, Vikas Singh and Jagdev Singh, for the Respondent

Judgement

Sat Pal, J.—This appeal is directed against the judgment and decree, dated 1st December, 1992, passed by the Additional District Judge, Patiala. By this judgment learned Additional District Judge held that respondents landowners were entitled to the market value of the land so acquired at the rate of Rs. 108/- per square yard. It was, however, held that the landowners would be entitled to solatium at the rate of 304 and 12% per annum increase u/s 23(1-A) of the land Acquisition Act (hereinafter referred to as the Act). With regard to severance, the learned Additional District Judge held that the landowners were entitled to 25% of the market value of the unacquired land, but they would not be entitled to solatium u/s 23(2) and the amount u/s 23(1-A) of the Act on the amount of compensation on account of severance, but they would be entitled to the amount of interest on the amount of compensation in accordance with the Land Acquisition Act.

2. Briefly stated, the facts of the case are that the State of Punjab acquired the land of the landowners under the provisions of the Act on the ground that the said land was required for constructing stores for the Food Corporation of India. The Land Acquisition Collector vide his award dated 10th January, 1989 fixed the

price of the land in dispute at the rate of Rs. 580.00 per Maria. At the instance of the landowners, reference u/s 18 of the Act was made to the learned Additional District Judge, Patiala. The learned Additional District Judge, Patiala, by the impugned judgment held that the award made by the Collector at the rate of Rs. 580/- per marla was inadequate and held that the landowners were entitled to enhanced compensation at the rate of Rs. 108/- per square yard. The aforesaid judgment has been challenged by the State of Punjab and Food Corporation of India. Cross objections have also been filed by the landowners.

3. Mr. Mittal, learned Senior Counsel, appearing on behalf of the Food Corporation of India drew my attention to para 27 of the judgment and submitted that in this paragraph, the learned Additional District Judge has clearly stated that:

"The petitioners for reasons best known did not produce any sale deed in order to prove the market value of the acquired land."

He further submitted that in the absence of any evidence adduced on behalf of the landowners, the learned Additional District Judge has relied on document, Exhibit AW 4/A which contained instructions dated 4th August, 1988 issued by the State of Punjab laying down certain guidelines to be taken into consideration by the office of the Registrar for the purpose of charging stamp duty for registration of the sale deed. He submitted that the aforesaid instructions had been held to be invalid by a Division Bench of this Court in the case Chamkaur Singh and another Vs. The State of Punjab and another, and also by the apex Court in a recent decision in Civil Appeal No. 5337-41 of 1990, State of Punjab v. Mahavir Singh, decided on 21st November, 1995. He, therefore, contended that the impugned judgment passed by the learned Additional District Judge enhancing the compensation at the rate of Rs. 108/- per square yard was liable to be set aside. The learned counsel further submitted that the acquired land cannot be treated as Gair Mumkin land as admittedly the said land in fact was Chahi land and became Ghair Mumkin land only after the stores were constructed by the Food Corporation of India prior to the issuance of the notification of 1987. He, therefore, contended that the compensation of the acquired land could be calculated at the rate of Rs. 50,000/- per acre as in the year 1968 and 12% per annum could be added for the period from 1969 to 1987. In support of this contention he placed reliance on two recent judgments of the supreme Court in Prem Nath Kapur and Another Vs. National Fertilizers Corpn. of India Ltd. and Others, , and Astekaar Naganaatha Rao and Others etc. Vs. The Assistant Commissioner and Land Acquisition Officer and others etc., , The learned counsel further submitted that the landowners were not entitled to any compensation regarding severance of their lands but he could not point out any material from the records which could support this contention.

4. Mr. Sarjit Singh, learned senior counsel appearing on behalf of the respondents submitted that it is true that the landowners did not produce any sale deed in order to prove the market value of the acquired land but Exhibit A.-I

which is letter dated 6th April, 1988 written by the then Collector (DC) Patiala, to the Director Food Supplies, Chandigarh, is the legal evidence on record. This letter shows that the market rate of land acquired for FCI Godown at Nabha was approved as follows :

1. Chahi at the rate of Rs. 580.58 per Maria.

2. Gair Mumkin Rs. 2504.42 per Maria.

5. He submitted that as per the aforesaid Exhibit A-I, the rate of the Gair Mumkin land comes to Rs. 83/- per square yard and thus in any case, the landowners were entitled to compensation at the rate of Rs. 83/- per square yard. As regards the contention of the learned counsel for the Food Corporation of India that the land in dispute should be treated as Chahi land, he submitted that as per Jamabandi of the relevant period i.e. 1985-86, copy of which is Exhibit P.4, the acquired land of the landowners was Gair Mumkin land. As regards the compensation for severance, the learned counsel submitted that the learned Additional District Judge had given valid reasons for grant of compensation on this account.

6. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties and have perused the record. It is true that the land- owners did not produce any sale deed in order to prove the market value of the acquired land. It is also correct that the learned Additional District Judge erred in relying on the instructions contained in Exhibit A.W. 4/A as the aforesaid instructions have already been held to be invalid by this Court in the case of Chamkaur Singh (supra) as well as by the Supreme Court in the case of Mahavir Singh (supra) but the learned Additional District Judge did not commit any error in relying on the letter dated 6th April, 1988 written by the then Collector, Patiala to the Director Food Supplies Punjab wherein it was clearly stated that the value of Gair Mumkin land acquired, for Food Corporation of India has been fixed at Rs. 2504.42 per marla which comes to Rs. 83/- per square yard. The contention of the learned counsel for the Food Corporation of India that the land acquired was Chahi land and not Gair Mumkin land, is without any merit, as the land in question at the relevant time when it was acquired, was Ghair Mumkin land and this fact is fully established from the Jamabandi for the year 1985-86, copy of which is Exhibit P-4. Keeping this fact in view I am of the opinion that the landowners were entitled to compensation at the rate of Rs. 83/- per square yard and not at the rate of Rs. 108/- per square yard. As regards the compensation granted on account of severance for unacquired land, the learned counsel for FCI could not point out any material to support his contention that the landowners were not entitled to this compensation. On the contrary, the learned Additional District Judge in the impugned judgment has given legal and valid reasons for the grant of this compensation.

7. In view of the above discussion, the R.F.A. No. 958/93 is partly allowed and the impugned judgment passed by the learned Additional District Judge is

modified to the extent that the respondents-landowners shall be entitled to enhanced compensation at the rate of Rs. 83/- per square yard instead of Rs. 108/- per square yard. They shall also be entitled to solatium at the rate of 30% and 12% per annum increase u/s 23(1-A) of the Act. They shall also be entitled to interest on the enhanced amount as per amended provisions of the Act. It is, however, made clear that no solatium or interest is payable on additional amount u/s 23(1-A) of the Act in terms of the law laid down by the Supreme Court in the case of Prem Nath Kapur (*supra*). The findings of the learned Additional, District Judge with regard to compensation granted on account of severance for unacquired land are, however, confirmed. With this judgment C.R. No. 4856 of 1994 also stands disposed of C.R. No. 4352 of 1994 has also become infructuous and is dismissed as such.

8. Since I have held that the respondents-landowners are entitled to compensation at the rate of Rs. 83/- per square yard, there is no merit in the Cross-objections. Accordingly, the cross-objections are dismissed.

9. The parties are left to bear their own costs.