
(2004) 07 P&H CK 0002

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 108 of 1990 in RFA No. 1844 of 1986

Sukhdev Singh

APPELLANT

Vs

State of Punjab and another

RESPONDENT

Date of Decision : 22-07-2004

Acts Referred:

Citation : (2005) 1 ICC 282 : (2005) 2 LJR 726 : (2004) 4 RCR(Civil) 492

Hon'ble Judges : V.K.Bali, J and K.S.Garewal, J

Advocate : Mr. Arun Palli, Advocate. Ms. Nirmaljit Kaur, Addl. Advocate General, Punjab., Advocates for appearing Parties

Judgement

V.K. Bali, J. (Oral)

1. Challenge in the present Letters Patent Appeal is to the judgment of the learned Single Judge recorded in R.F.A. No. 2344 of 1986 dated August 29, 1989 by which while hearing a set of appeals filed by the claimants and the one by the State against the judgment passed by the learned Additional District Judge dated April 29, 1986, the market value of the eucalyptus trees was reduced from the one assessed by the said Court. Whereas, learned Additional District Judge assessed the market value of eucalyptus trees @ Rs. $280 \times 2 = \text{Rs. } 560/$, it was reduced Rs. $188.65 \times 2 = 377.30$ per tree. In the manner aforesaid, whereas, the two appeals filed by the claimants were dismissed, the one filed by the State was allowed. Hence the present Letters Patent Appeal.

2. Before we might evaluate the contentions raised by the learned counsel for the parties, it will be useful to mention the facts culminating in filing of the present Letters Patent Appeal.

3. Pursuant to the notification dated 13.12.1982 issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter called 'the Act') the Government of Punjab acquired land for the construction of Sutlaj Yamuna Link in the revenue estate of Mandiana. The acquisition of the land resulted into two awards, the first pertaining to land with which the contesting parties are not concerned in this

appeal and the second which was supplementary award dated 23.7.1984 vide which eucalypts trees grown in Khasra No 702 and 703 numbering 2100 were assessed at the rate of Rs. 188.65 per tree by the learned Collector vide his award dated 21.3.1984. Aggrieved by the same, the claimants sought reference under Section 18 of the Act and the learned Additional District Judge vide his order dated 24.9.1986 assessed the market value of the trees at Rs. 280/ per tree and inasmuch as eucalyptus trees were to give 2 crops, so multiplier of 2 was used and ultimately the claimants were held entitled to Rs. 560/ per tree. This was challenged by the claimants as well as by the State, with the result, as stated above.

4. Mr. Palli, learned counsel for the appellants vehemently contends that while evaluating the trees, the learned Trial Court, as also learned Single Judge relied upon testimony of Shri Jaswant Singh Kohli (AW2), a Government Official being posted as Deputy Divisional Forest Officer, Patiala. He is an expert in Forestry and was serving in the Forest Department and had Diploma in Forestry from Government College, Dharamshala. On the basis of the evidence given by this witness the value of the matured eucalyptus tree was worked out at Rs. 320. The evidence of this witness, as mentioned above, has also been accepted by the learned Single Judge. Mr. Palli contends that the price of the trees has been reduced and worked out at the rate, same was done by the Land Acquisition Collector by simply mentioning that the report of Expert was two years later when notification under Section 4 was issued and, therefore, during the period of two years, price of the trees would have appreciated to a large extent or at least to the extent of 20%. It is urged that even if the said finding may be based upon good reasons, yet, even by that method, the price of the trees could not have been worked out less than the one determined by learned Additional District Judge.

5. In order to appreciate the contention of the learned counsel for the parties, it would be significant to reproduce the findings recorded by the learned Single Judge that over the period of two years the price of the trees would have escalated to the extent of 20% if average hike to the prices takes place. The findings to the above effect are extracted below :

"It appears that the Learned Additional District Judge had worked out the market value of each tree at Rs. 320/ on the basis of the evidence of this witness regarding the market price of the rafters as well as the fuel wood. In a way it can be well said that he has misread the evidence of this witness as the rates of the rafters given by him pertained to the year 1984 and not on 13th December, 1982, the day on which notification under Section 4 of the Act was issued for the acquisition of the land on which these trees were growing. It is a well known fact that due to the prevalent inflation, the price of fuel wood as well as of the rafters during the period of two years would have been appreciated to a large extent or at least to the extent of 20% if the average hike in prices is to be taken into consideration."

6. Ms. Nirmaljit Kaur, learned Additional Advocate General, Punjab, however, contends that price of the trees determined by the learned Single Judge is just and fair and order passed by it is perfectly valid particularly when the petitioners are to be paid in lump sum and in the manner aforesaid, the claimants have been fully compensated for the trees.

7. We have heard learned counsel for the parties and with their assistance, examined the record of the case. We find considerable merit in the contention of learned counsel for the appellant. It could not be disputed during the course of arguments that the statement of Jaswant Singh Kohli (AW2), who was expert in the line, has since been accepted and even as per findings recorded by the learned Single Judge the price would get a hike of 20 per cent within a period of two years, i.e., from the date when notification under Section 4 was issued and the date when expert assessed the value of the trees. If, therefore, from the price worked out by the expert, a cut of 20% was made and to that extent, price of the trees was reduced, it would not be less than what was determined by the learned Additional District Judge. It is pertinent to mention here that notification in the present case is dated 13.12.1982 and by the time report of the expert came, which is stated to be in the year 1984, even two years had not gone by. The price as mentioned above, even if worked by reducing the same to the extent of 20%, same would not be less than Rs. 280/ per tree, as was rightly held by learned Additional District Judge, Further, it requires to be mentioned that it has been the case of the appellant throughout that he was entitled to three crops, which argument was accepted but the petitioner was still not held entitled to three crops on the ground that he was getting lumpsum amount.

8. In totality of the facts and circumstances of the case, we find that there was no justification to modify the order passed by the learned Additional District Judge reducing the market price of the tree from Rs. 560/ to Rs. 377.30

In view of the discussion made above, this appeal is accepted and the judgment of the learned Single Judge is hereby set aside and the order passed by the learned Additional District Judge is upheld. The parties are, however, left to bear their own costs.