(2009) 04 P&H CK 0224

In the Punjab And Haryana At Chandigarh

Surjan Singh and Others and Harbhajan Singh and Others	APPELLANT
Vs	
Punjab State and Others Avtar Singh and Baldev Singh Vs State of Punjab and Another Indian Oil Corporation Ltd. Vs Malkiat Singh and Others and Joginder Singh and Others	RESPONDENT

Date of Decision : 20-04-2009

Acts Referred:
Land Acquisition Act, 1894 — Section 4

Citation : (2010) 158 PLR 644 : (2010) 7 RCR(Civil) 2992

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Judgement

Rajesh Bindal, J.—This order shall dispose of a bunch of 20 appeals, as the same arise out of a common acquisition.

2. R.F.A. Nos. 2700, 2693 to 2699, 2701, 3300, 3393, 3513, 3521, 3967, 4615 of 1998, 309 and 310 of 1999 have been filed by the land owners seeking further enhancement of compensation for the acquired land.

3. R.F.A. Nos. 1520, 1549 and 2219 of 1999 have been filed by Indian Oil Corporation seeking reduction of the amount of compensation awarded to the land owners for the acquired land.

4. In R.F.A. Nos. 2700, 2693 to 2699, 2701, 3300, 3393, 3513, 3521, 3967, 4615 of 1998, 309 and 310 of 1999, cross objections have been filed by Indian Oil Corporation seeking reduction of compensation awarded to the land owners.

5. In R.F.A. No. 1520 of 1999, the land owners have filed crossobjections seeking further enhancement of compensation.

6. The facts have been extracted from R. F. A. No. 2700 of 1998.

7. Briefly, the facts are that land measuring 421 kanals and 4 marlas, situated in the revenue estate of village Suchi Pind was acquired vide notification dated

2.1.1985 issued u/s 4 of the Land Acquisition Act, 1894 (for short, `the Act'') for setting up of LPG Bottling Plant by Indian Oil Corporation. Similarly, vide same notification, land measuring 72 kanals and 6 marlas was acquired for the same purpose forming part of revenue estate of Villages Chak Hussaina and Lamba Pind. The Land Acquisition Collector (for short, `the Collector'') vide award dated 10.11.1986, assessed the market value of the acquired land at Rs. 92,515/- per acre for Chahi even land; Rs. 74,000/- per acre for Chahi uneven land and Rs. 23,120/- per acre for Gair Mumkin kind of land. Aggrieved against the same, the land owners filed objections which were referred to the learned court below, who keeping in view the material placed on record by the parties, determined the fair value @ Rs. 1,10,000/- per acre for Chahi even and Gair Mumkin kind of land and Rs. 88,000/- per acre for Chahi uneven kind of land in both the villages.

8. Learned Counsel for the land owners submitted that the learned court below has totally failed to consider the evidence produced by the land owners on record in the form of sale deeds, which clearly established that value of the acquired land on the date of acquisition was not less than Rs. 3,500/- to Rs. 4,000/- per marla. The entire area in the vicinity was already developed. The acquired land fell within the municipal limits of Jalandhar. Already there was acquisition by Indian Oil Corporation for their depot. The land was abutting 22'' metalled road leading to Pathankot bye-pass from the abadi of village Suchi Pind. Number of industrial establishments were located on the bye-pass. The acquired land was merely 200-300 yards away from the bye-pass. Once the learned court below had recorded a finding that the land had great potential for urbanisation, there was no reason for not placing reliance upon the sale deeds produced for small plots of land, as within the municipal limits the sale is always for small plots as big chunk of land is rarely available. Even the State or the Indian Oil Corporation also could not produce any sale deed for big chunk of land in the area. The learned court below has gone wrong in totally discarding the sale deeds produced by the land owners. At the most, a small cut could be applied considering the smallness of the plots and also the fact that these were sale deeds pertaining the houses, where some construction existed. Even the sale deeds produced by the Indian Oil Corporation were also showing value of Rs. 3,500/- per marla. Reliance was placed upon Shri Radhey Shyam v. The State of Haryana 1980 PLJ 77; The Deputy Director, Land Acquisition Vs. Malla Atchinaidu and Others, ; Lucknow Development Authority Vs. Krishna Gopal Lahoti and Others, and Atma Singh (died) through LRs. and Others Vs. State of Haryana and Another, . It was further argued that the learned court below has gone wrong in not granting interest on solatium as the same is contrary to the law laid down by Hon''ble the Supreme Court in Sunder Vs. Union of India, .

9. On the other hand, learned Counsel for Indian Oil Corporation submitted that there is no evidence on record to show that any civic amenities were available in the area which was acquired. It was a plain land. Construction activity was either in the village abadi or along with the main road/bye-pass. In fact, the earlier acquisition was carried out in the year 1979 for which this Court had assessed

the compensation at Rs. 45,000/- per acre. Even if increase @ 12% is granted thereon, considering the fact that the land in question is situated adjoining to the acquired land, the compensation, which was awarded by the Collector, was much more and in fact it did not deserve any increase.

10. In response to the contentions raised by learned Counsel for Indian Oil Corporation, learned Counsel for the land owners submitted that there is no material on record to show anything about the earlier acquisition or assessment of compensation therefor. Once the land had potential for being developed as urban area, no actual development as such is required at the spot for the purpose of determination of fair value.

11. Heard learned Counsel for the parties and perused the relevant referred record.

12. As far as location of the land is concerned, the same is not disputed by either of the parties. The same is located adjoining to the already acquired land of Indian Oil Corporation abutting the metalled road leading from the abadi of village Suchi Pind to Jalandhar-Pathankot bye-pass. The acquired land is not abutting the main bye-pass. Rather, it has come in the evidence that the same is 200-300 yards from the bye-pass. It is also an admitted fact on record that the entire land forms part of the municipal limits of Jalandhar. Certain commercial and industrial establishments have been shown on main Jalandhar-Pathankot bye-pass in site plan (Ex. AW6/A) or near the crossing where the road leading from the abadi of village Suchi Pind is connected with the bye-pass. The acquisition in the present case was carried out on 2.1.1985. Site plan (Ex. AW6/A) was prepared on 16.12.1993 and was produced in evidence on 21.1.1994. In his statement, AW6- Shanti Sarup Draftsman, who had prepared site plan Ex. AW6/A, had stated that the same is correct according to the site on the spot. Meaning thereby, it was showing the position as was existing on the date of preparation of the site plan, namely, 16.12.1993. A perusal of the sale deeds produced by the land owners on record show that all of them are either forming part of the abadi of villages Suchi Pind or Chak Hussaina or Mohalla Santokhpura.

13. At the time of argument as well, learned Counsel for the land owners had pointed out in site plan (Ex. AW6/A) that green portions are the places where some of the land pertaining to sale deeds is located. A perusal thereof shows that these are located on Jalandhar/Pathankot bye-pass, whereas the land in question is admittedly located 200-300 yards away from the bye-pass. It has also come in the evidence of AW11-Gurdeep Singh that Railway Station, Suchi Pind is 1-1/2 furlongs from the acquired land, whereas Jalandhar Railway Station is 3 kilometers away.

14. As regards the location of the land being within the municipal area of Jalandhar is concerned, learned Counsel for the land owners referred to the finding recorded by the Reference Court in that regard. Learned Counsel appearing for Indian Oil Corporation did not refer to any evidence to controvert

the finding. In such situation, this Court did not have any option but to scrutinise the evidence itself. There is no documentary evidence on record as such to show that the land falls within the municipal limits. AW12- Banta Singh in his cross-examination stated that the land in question was included in the Municipal Committee 7-8 years back. His statement was recorded on 1.12.1994. The acquisition was vide notification dated 2.1.1985. AW14-Gurnam Singh, though in his examination-inchief stated that the land in question is forming part of the Municipal Corporation, however, in his cross-examination, he stated that village Suchi Pind came into the limits of Municipal Corporation about 4-5 years back. Suchi Pind fell into the limits of Municipal Corporation after the acquisition of this land. Surjan Singh in his cross-examination stated that he did not know the year in which the municipal limits were extended upto this land. AW16- Ram Sarup stated that the land is forming part of municipal limits of Jalandhar. RW4- Sat Pal Singh Kalra, Deputy Manager (Sales), Indian Oil Corporation in his evidence stated that the land was outside the municipal limits. The record shows that it is only the oral evidence produced by the land owners to claim that the land was within the limits of Municipal Corporation, Jalandhar, which is also contradictory and on that basis, no definite finding can be recorded about this fact.

15. A perusal of the sale deeds on record show that these are for sale of small plots with houses constructed thereon. Meaning thereby the consideration money paid included the cost of construction as well and further the same is either located on main Jalandhar-Pathankot bye-pass road or in the abadi area of villages Suchi Pind or Chak Hussaina or Mohalla Santokhpura. This means that it had all civic amenities, whereas the land is a big chunk of 421 kanals and 4 marlas.

16. It is a fact on record that Indian Oil Corporation had produced sale deeds on record, which also pertained to small houses ranging from 5 marlas to 15 marlas, forming part of Suchi Pind. It is only sale deed (Ex. R3) produced by it, which is relevant as the same was registered prior to the acquisition. Sale deeds Ex. R1, Ex. R2 and Ex. R4 were registered after the issuance of notification u/s 4 of the Act. The value, as is evident from sale deed (Ex. R3) also shows the value in line with the evidence led by the land owners, where it is in the range of Rs. 3,500/- per marla. Accordingly, I deem it appropriate to rely upon sale deed Ex. R3 produced by Indian Oil Corporation itself.

17. Now the issue which arises for consideration by this Court is as to how the value of the acquired land is to be determined considering the fact that the evidence, which has been produced on record pertained to small houses located either in the abadi of the village or on the main bye-pass. Considering these facts, in my considered opinion, in this case guess work will have to be applied by a thumb rule. Firstly, on some estimation, the amount, which is included in the consideration money paid for sale of houses on account of construction is to be reduced. In my opinion, considering the fact that these are small plots where there is construction of 2-3 rooms, kitchen with boundary wall etc., 50% of the

consideration would be a reasonable amount which should be reduced considering the fact that the properties dealt with in the sale deeds were of constructed houses. After reducing a sum of Rs. 1,750/- therefrom, the value comes out to Rs. 1,750/- per marla. In my opinion, a further cut would also be required to be applied in the present case, considering the factors, namely, that the acquired land is a big chunk of land measuring 421 kanals and 4 marlas and the evidence, which has been relied upon pertained to the houses which are either located in the village abadi or on the main Jalandhar-Pathankot bye-pass. On that account, in my opinion, it would be appropriate to apply a further cut of 40% thereon. Accordingly, reducing a sum of Rs. 700/- therefrom, the value of the acquired land would come out to Rs. 1,050/- per marla. This amount of compensation shall be payable to the land owners whose land is Chahi even and Gair Mumkin, as there cannot be any classification on that account, the entire land being suitable for urbanisation.

18. As far as uneven land is concerned, there is a finding by the learned court below that there were 5 to 6 feet deep pits, where the land had been dug for the purpose of manufacturing bricks. For this kind of land, the learned court below had determined the compensation at Rs. 88,000/- per acre, namely, Rs. 550/- per marla. As the compensation for the even kind of land has been enhanced from Rs. 1,10,000/- per acre or Rs. 687.50 per marla to Rs. 1,050/- per marla, in the same proportion, for the uneven kind of land, the same is also enhanced and is determined at Rs. 840/- per marla. The land owners shall also be entitled to all statutory benefits available under the Act.

19. As far as claim of the land owners regarding grant of interest on solatium is concerned, the issue has been authoritatively decided by a Constitution Bench of Hon''ble the Supreme Court in Sunder''s case (supra), where it has been held that the land owners are entitled to interest on solatium. Accordingly, the finding of the learned court below on that account is set aside.

20. The appeals and the cross objections are disposed of in the manner indicated above.