(2004) 01 P&H CK 0097

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 15 of 1990

Union of India (UOI) and Others APPELLANT

Vs

Dhannu Ram and Others RESPONDENT

Date of Decision : 07-01-2004

Acts Referred:
Land Acquisition Act, 1894 — Section 18

Citation : (2004) 137 PLR 384 : (2004) 2 RCR(Civil) 690

Hon'ble Judges : Ashutosh Mohunta, J

Bench : Single Bench

Advocate : Ranjana Shahi, for the Appellant; Rajive Bhalla, for the Respondent

Judgement

Ashutosh Mohunta, J.—This judgment shall dispose of RFA Nos. 15, 16, 17, 18, 19, 20 and 21 of 1990 as common question of law and facts are involved in these cases.

2. These appeals have been filed against the judgment of Additional District Judge, Gurdaspur, dated 2.9.1989, whereby compensation for the trees standing on the land acquired was enhanced by 133% of the market value of the tress as awarded by the Special Land Acquisition Collector.

3. Briefly the facts of the case are that vide notification dated 16.9.1977 issued u/s 4 of the Land Acquisition Act, 1894 (for short the Act), Punjab Government intended to acquire land in village Bagahana, District Gurdaspur. On the land acquired, fruit bearing trees were also standing The Land Acquisition Collector had determined the compensation pertaining to the land on an earlier occasion by a subsequently award dated 16.3.1988. An award was passed relating to fruit trees.

4. Dissatisfied with the award of the Land Acquisition Collector, claimants filed applications u/s 18 of the Act for referring the matter to the Additional District Judge, Gurdaspur. On reference, the Additional District Judge, Gurdaspur, increased the market value of the acquired trees to the tune of 133% over and

above what was the award by the Special Land Acquisition Collector. It is against this judgment that the Union of India has filed the present appeals.

5. Ms. Ranjana Shahi, learned counsel for Union of India, has contended that the Additional District Judge has erred in linking the price index of consumable items with the cost of trees. It is further contended that the rate of 133% as fixed by the Reference Court is on the higher side. The arguments of the learned counsel for the Union of India have been controverted by Shri Rajive Bhalla, counsel for the claimant-respondents. Shri Bhalla argued that the award of rise in price index has been determined in case of Ranjit Singh v. Union Territory, Chandigarh (1983) 85 P.L.R. 471 and thus, the enhancement of 133% as awarded by the Reference Court is just and proper.

6. I have heard the learned counsel for the parties and have perused the impugned judgment. A perusal of the judgment of Ranjit Singh''s case (supra) clearly shows that the price of the fruit bearing tress has been assessed according to the formula of S. Har-bans Singh, Horticulture Expert, which was published in the year 1966. As notification u/s 4 of the Act was issued on 16.9.1977, therefore, a corresponding increase has to be given to the land-owners in accordance with the formula published by the Government of India. The Reference Court has rightly given an increase of 133% over and above the price index prevailing in the year 1966. As the land in the instant case was acquired 11 years after the publishing of the formula in 1966 and as the wholesale price index had gone up, therefore, the claimants were entitled to a corresponding increase of 11 years. Thus, I find no infirmity in the judgment of the Reference Court whereby the land owners were held entitled to an increase of 133% over the market value of the acquired trees assessed on the basis of the formula of 1966.

7. In the instant case as the award was pronounced by the Special Land Acquisition Collector, Amritsar, on 16.3.1988, therefore, the land owners would be entitled to the statutory benefits u/s 23(1)(a) of the Act. Although the claimants have not claimed additional amount u/s 23(1)(a) of the Act, but, as all the statutory benefits have to be awarded to a land-owner in view of the judgment in Shri Narainan Doss Jain v. Agra Mahapalika 50 1991 A.C.C. 199 (S.C.) therefore, on the same analogy the claimants would be entitled to the benefits of additional amount u/s 23(1)(a) of the Act.

8. In view of the above, I uphold the market value of the trees as determined by the Additional District Judge, Gurdaspur. Apart from the above , the land-owners would be entitled to 30% solatium thereon, 12% additional amount as per Section 23(1)(a) of the Act and interest at the rate of 9% per annum fro the first year from the date of taking over of possession and at the rate of 15% per annum from subsequent years till the date of payment.

9. The appeals filed by the Union of India are dismissed accordingly.

