
(2009) 06 SHI CK 0045
In the High Court Of Himachal Pradesh

Union of India (UOI)	Vs	APPELLANT
Charan Singh and Others		RESPONDENT

Date of Decision : 24-06-2009

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (2009) 06 SHI CK 0045

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sanjay Karol, J.—The present appeal arises out of the impugned award dated 24.10.2003 passed by the District Judge, Kinnaur Civil Division at Rampur Bushahr, H.P. in Land Reference Petition No. 100 of 1999 titled as Bodi Devi v. L.A.C. and Ors.,

2. Learned Counsel for the claimant has invited my attention to the judgment dated 16.12.2008 delivered by this Court in RFA No. 430/2004 titled as Union of India v. Damodar Dass and Ors. According to him, the impugned award dated 29.3.2003 arises out of the very same acquisition proceedings which was also subject-matter in the aforesaid case.

3. Heard learned Counsel for the parties and perused the record.

4. The claimant's land amongst other land owners, situate in village Averi, H.P. was acquired vide Notification dated 16.11.1994, issued u/s 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") which was published in the H.P. Rajpatra on 21.9.1995. Award No. 1/1998 dated 19.3.1998 was passed by the Collector, Land Acquisition.

5. According to the learned Counsel for the respondents, it may not be necessary to consider the evidence material and the contentions of the parties in these cases when the matter is concluded by the decision of this Court in Damodar

Dass (supra).

6. Several land owners including the present claimant filed Land Reference Petitions before the District Judge u/s 18 of the Act. The same were decided in terms of different awards passed by the District Judge. This Court, in Damodar Dass (supra), after relying upon the evidence led by the claimants therein upheld the award passed by the District Judge in one of the cases being Land Ref. Petition No. 40 of 1999, wherein the District Judge enhanced the compensation awarded by the Collector from Rs. 52,500/-per bigha to Rs. 60,000/- per bigha for all categories of land. In the impugned award, the Court below has also enhanced the compensation from Rs. 52,500/- per bigha, as awarded by the Collector to Rs. 60,000/- per bigha. The instant land being covered by the very same Notification, hence I see no reason as to why the appellants be also not awarded the same compensation.

7. The fact that the claimant's land was acquired in terms of the Notification issued under the provisions of the Act is not in dispute. The extent, the location and the entitlement of the claimants is also not in dispute. It is equally true that even though large chunk of land was acquired for setting up of defence establishment but, however, individual share holding of each claimant is not very big and substantial.

8. The increase of the amount of the market value is also not very high and is just about 10% from what was awarded by the Collector, Land Acquisition.

9. In order to prove its case, the claimant examined Shri Bala Ram (PW-1) and Shri Pawan Kumar (PW-2)

10. In rebuttal, the respondents examined Shri Shyam Chand (RW-1) and Shri Chain Ram (RW-2).

11. Village Averi is at a distance of 6 kms. from Rampur. That the acquired land was put to agricultural use and the claimants used to sow maize, wheat and vegetables stands proved by PW-1. According to the claimant, her land was acquired with that of other persons like Shri Bala Ram, who has got compensation @ Rs. 1,65,000/- per bigha and that the market value of the acquired land was approximately 21/2 lacs per bigha. With the acquisition of the land, as stands proved by the claimant, there has been mass dislocation of population which has not only affected their personal life but also their businesses.

12. The acquired land was well connected by road and having all modern facilities, such as, telephone, road, electricity, water, school and market also stands proved by PW-2.

13. Judicial notice can be taken of the fact that Rampur, Tehsil Headquarters, is a fast going township. In and around Rampur, many Mega Power Projects have already been established and are in the process of being commissioned. The acquired land is just at a distance of 6 kms. from Rampur. Thus, the potentiality

of the acquired land to be put to use other than agriculture cannot be ruled out and is in fact substantial.

14. The Collector Land Acquisition, passed the Award on the basis of the annual average market price (Ext.RW-1/A) of village Nirmand, according to which the market price of the land at Nirmand for different categories of land was ;

Ropa Awal = Rs. 31,464/- per bigha, Ropa Doem = Rs. 27,268/- per bigha, Ropa Soem = Rs. 17,200/- per bigha, Bathal Awal = Rs. 18,458.88 per bigha. Bathal Doem = Rs. 12,166.00 per bigha. Bathal Soem = Rs. 6,292.80 per bigha. Bathal Chaharam = Rs. 3,775.68 per bigha. Banjar Malkiyati = Rs. 839.04 per bigha

15. The same was considered as according to the witnesses of the State, five yearly average market price as also the annual average market price of village Averl was very less and could not be construed to be determinative of the true market value of the acquired land.

16. The locational situation of village Averl from Rampur does not appear to be in dispute. Nirmand is at a distance of 12 kms. from village Averl. If this was so then why the average price of village Rampur was not taken into account by the Collector, is not evident from the record.

17. It is now settled principle of law that the market value of the acquired land has to be determined on the crucial date of notification u/s 4 of the Act and only the genuineness of the sale transaction has to be taken into account and the market value has to be assessed on the basis of comparable sale transaction which has taken place in the area concerned and proximity from time angle and proximity from situation angle has to be identified and every case must be dealt with its own and valuation of these factors would depend upon the facts and circumstances of each case and there cannot be any hard and fast or rigid rules. Common sense is the best and the most reliable guide.

18. The Apex Court in *Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and Another, , R.L. Jain (D) by Lrs. Vs. DDA and Others, and Ravinder Narain and Another Vs. Union of India (UOI), ,* it has been held that the rate fixed for smaller plots in the same vicinity can be the basis for fixation of rate for large area acquired.

19. It has come on record from the statement of PW-1 that village Nirmand is linked with Rampur via Averl. It has also come on record that as part of the package for acquisition of the land the State has earmarked area to rehabilitate the uprooted population. Undoubtedly this fact by itself would in no manner mean that the claimants should not be entitled to the fair market value of the acquired land, which has to be that of the willing seller and a purchaser at the time of acquisition of the land in question. In any event, there is nothing on record to prove that the claimants were also allotted any plots.

20. While enhancing compensation from Rs. 52,500/- to Rs. 60,000/-, the District Judge has held as under:

The contention of the learned Counsels for the petitioners that the Land Acquisition Collector had inadequately assessed the market value of the land under acquisition is partly uphold because I have already disposed of many other reference petitions filed u/s 18 of the Act qua the same Award relating to the acquired land by the Land Acquisition Collector in village Averi. In those land reference petitions, on the basis of sale deed placed in the files of other reference petitions I have already assessed and announced awards qua the land situated in village Averi which was acquired by the same award, in order to avoid conflicting decisions qua the same Award and qua the same land situated in the same village, I assess the market value of the acquired land as Rs. 60,000/- per Bigha irrespective of classification of land because the object to acquire the land is same and as per Rulings of the Hon"ble Apex Court of India if the object to acquire the land is same, the value of the land has to be assessed irrespective of the classification of the land.

21. The said finding is approved.

22. I see no error in the impugned Award passed by the Court below. The claimants have been awarded compensation which is just, fair and reasonable. The entire material has been considered and appreciated correctly. I see no reason to interfere in the same.

23. No other point urged.

24. For the aforesaid reasons, the appeal is dismissed, so also the pending application, if any.