
(2008) 08 P&H CK 0046
In the Punjab And Haryana At Chandigarh

Zile Singh and Others

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 22-08-2008

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 23, 4

Citation : (2008) 152 PLR 319 : (2009) 1 RCR(Civil) 185

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rakesh Kumar Jain, J.—This order shall dispose of four RFA Nos. 759, 1222, 2773 and 1223 of 1986 as the facts and law involved in these appeals are common.

2. Briefly stated, 15 acres 4 kanals 17 marlas (i.e. 124 kanals 17 marlas) of land situated in village Kaul was notified u/s 4 of the Land Acquisition Act, 1894 (for short the "Act") dated 25.6.1984 (published in the official gazette on 26.6.1984) for a public purpose namely for construction of 132 KV Sub Station Kaul. Out of the acquired land, land measuring 102 Kanals 7 Marlas was Chahi, land measuring 19 Kanals 8 Marlas was Nehri, land measuring 1 Kanal 9 Marlas was Banjar Jadid and remaining 1 Kanal 13 Marlas of land was Gair Mumkin Kotha/tubewell etc. However, at the time of site inspection it was observed that the entire land was of identical kind, therefore, the Land Acquisition Collector had treated the entire land as Chahi and Nehri for the purpose of assessment of compensation. Vide Award dated 17.4.1985, the Land Acquisition Collector compensated the landowners with an amount of Rs. 30,000/- per acre. No tubewell was found in the acquired land small size saplings of Safeda (Eucalyptus) was compensated @ Rs. 5/- per sapling of Safeda and the landowners were allowed to cut the trees. On reference u/s 18 of the Act, the compensation has been reassessed u/s 23 of the Act @ Rs. 45,000/- per acre on the basis of award-Ex. P-

3. Sh. C.B. Goel, Advocate, counsel for the appellants has vehemently argued that Award Ex. P-5 dated 29.3.1985 which has been relied upon by the Court below pertains to notification dated 3.4.1981 issued u/s 4 of the Act in respect of 74 Acres of land that has been acquired for strengthening the Regional Research Station, Kaul, for research in agriculture. It has been further submitted that the Court below has observed that land which pertains to the notification dated 3.4.1981 was abutting Karnal-Pabnawa Road and was also near Punjab National Bank, Panchayat Ghar, Janta College, Shiv Ji Mandir, Co-operative Bank, Hostel of the Agricultural University and the rest of the University. Counsel for the appellants has referred to the statement of PW1 Zile Singh, who had also stated that market value of the land in question was not less than Rs. 1,00,000/- per acre as it was situated on Kaul-Pabnawa Road. It is also stated that the new Anaj Mandi was at a distance of 3/4th of a Kilometer from the acquired land. Abadi of Kaul was at a distance of half a kilometer from the acquired land and Pehowa-Karnal Road was at a distance of half Kilometer. He has further stated that Pabla road Bifurcates from the Karnal-Pehowa Road and there were buildings of Punjab National Bank, Co-operative Bank, Janta College, Bus stand, University and Research Centre of Haryana Agriculture University,

4. In nut shell counsel for the appellants has argued that as per Ex. P-5, if the value of the land in village Kaul was Rs. 45,000/- per acre on 3.4.1981, then the appellants are entitled to an increase of at least 10% per acre for every year since their land was acquired on 25.6.1984. He has further referred to a decision of Hon"ble Apex Court in The Special Land Acquisition Officer, BTDA, Bagalkot Vs. Mohd. Hanif Sahib Bawa Sahib, .

5. On the other hand, counsel for the respondent has argued that the land pertaining to Ex. P-5 has a better location and potential as compared to the land involved in the present case and optimum compensation has already been awarded to the appellants, therefore, there is no scope for further enhancement of the compensation.

6. I have heard both the counsel for the parties and have perused the record.

7. There is no dispute that the land of village Kaul has been acquired vide Ex. P-5 as well as the present acquisition. As per the evidence on record land pertaining to the acquisition of 1981 and land of the present acquisition is almost on the same pedestal so far as potentiality is concerned. Therefore, I am of the view that the appellants are entitled for an enhancement for a period of 3 years over and above the compensation that has been assessed @ Rs. 45,000/- per acre for the acquisition on 3.4.1981.

8. Keeping in view the law laid down by Hon"ble Apex Court in Special Land Acquisition Officer (supra) an increase of 10% per acre is hereby awarded for the interregnum period of two acquisitions i.e. 2.1.1981 Ex.PW and the present acquisition dated 25.6.1984 which comes to Rs. 13,500/-per acre.

9. Therefore, in view of the above discussion, the present appeals are allowed

and the compensation is further enhanced to Rs. 58,500/- per acre. It is ordered that the appellants be awarded a sum of Rs. 58,500/- (i.e. Rs. 45,000/- Rs. 13,500) as market value of the acquired Land along with all the statutory benefits as permissible under law with costs of the present appeals.