Smt. Padma Uppal and Others

Vs

State of Punjab and Others

Civil Appeal Nos. 2394-2403 of 1972

(CJI A.N. Ray, M.H. Beg, Jaswant Singh JJ)

23.08.1976

JUDGMENT

JASWANT SINGH, J. –

1. This batch of 18 appeals nos. 2394 to 2403 of 1972 and 2694, 2695, 2697 to 2700, 2703 and 2704 of 1972 by certificates granted under Article 133(1)(a) of the Constitution which arise out of acquisition proceedings under the Land Acquisition Act, 1894 (Act 1 of 1894) (hereinafter referred to as 'the Act') and are directed against the common judgment dated January 3, 1969 of the High Court of Punjab and Haryana shall be disposed of by this judgment. While the first group of ten appeals nos. 2394 to 2403 of 1972 are by the erstwhile proprietors of land claiming enhancement of the compensation awarded to them by the High Court, the rest of the eight appeals are by the State of Punjab challenging the quantum of compensation as enhanced by the High Court

2. It appears that a vast area of land measuring 832 kanals and 2 marlas (i.e. 4,16,050 sq. yds.) situate in Amritsar (urban) and village Tungbala, Amritsar, was acquired by the Government of Punjab for a public purpose viz. the expansion of the existing medical college and allied institutions in the city of Amritsar. Whereas the notification under Section 4(1) of the Act in respect of the aforesaid area was issued on March 18, 1959, the notification under Section 6 of the Act was issued on July 4, 1959. The Collector, Amritsar, classified the aforesaid area for fixation of compensation into two categories viz. the potential building area and the agricultural land. The Collector categorised 60 kanals and 18 marlas (i.e. 30,450 sq. yds.) which abutted on the Circular Road and Majitha Road as potential building area and the remaining 771 kanals and 4 marlas as agricultural land and by his order dated December 2, 1959 awarded Re. 1 per sq. yd. as compensation for the potential building ares and Re. /6/- per sq. yd. for agricultural land. Dissatisfied with the award, the erstwhile proprietors approached the Collector requesting him to make references to the Senior Sub-Judge, Amritsar, under Section 18 of the Act. The Senior Sub-Judge made a spot inspection for the purpose of appraisal of the evidence adduced before him and by his judgment and award dated June 9, 1962, accepted the classification made by the Collector but enhanced the compensation of the agricultural land to Re. 1 per sq. yd. and of the potential building area to Rs. 1.50 per sq. yd. On appeal, the High Court after taking into consideration some transactions of sales in the locality proximate in point of time to the date of the publication of the notification under Section 4(1) of the Act, the opinion of the valuers regarding the trend of the prices of land in the locality and the situation and potentialities of the land in question by its aforesaid judgment and decree dated January 3, 1968, awarded Rs. 3 per sq. yd. for the agricultural land and Rs. 4.50 per sq. yd. for the potential building area. It is against this judgment and decree that the present appeals, as already stated, have been preferred.

3. At the hearing of these appeals, counsel for the appellants in the first set of ten appeals have, in the first instance, urged that as the plots of land in question formed one consolidated block, the entire area thereof should have been treated as potential building area and compensation awarded accordingly. It has been next contended by counsel for the appellants particularly in appeals nos. 2402 and 2403 of 1972 that the High Court has erred in overlooking the evidential value furnished by (i) the award made by the Collector, Amritsar fixing Rs. 4/12/- per sq. yd. as compensation for the land measuring 28.75 acres in Amritsar (urban) and 32.04 acres in village Tungbala, Amritsar which was sought to be acquired in February, 1947, and notification under Section 4(1) of the Act in respect whereof was published on February 22, 1947, (ii) the price paid by the appellants in purchasing some of the plots in question in October, 1946, and January, 1947, and (iii) the transactions of sale of the land in the locality made in 1958-59 which conclusively established that the market value of the land in question was much higher than that awarded by the High Court. On the other hand, it has been contended by Counsel for the State of Punjab and Collector, Amritsar, that the material on record did not warrant the enhancement by the High Court of the compensation awarded to the erstwhile proprietors by the Senior Subordinate Judge, Amritsar; that the High Court could not justifiably ignore the fact that for 25 kanals and 10 marlas of land which lay in close proximity to the plots of land in question and was acquired by the State in May, 1956, the market value was assessed at Rs. 25 per marla i.e. Re. 1 per sq. yd.; and that in any event, the High Court acted illegally in awarding compensation in excess of Rs. 4 per sq. yd. claimed by the respondents in the second set of six appeals nos. 2694, 2695 and 2697 to 2700 of 1972.

4. Before dealing with the rival contentions advanced by counsel for the parties, it will be appropriate to refer to the law bearing on the matter. The measure of compensation to be awarded to the owners of immovable property acquired by the State is enshrined in Section 23(1) of the Act which is designed to award just and fair compensation for the acquisition. According to this provision, compensation has to be awarded on the basis of the market value prevalent on the date of the publication of the notification under Section 4(1) of the Act. The connotation of the expression 'market value' has been explained time and again by this Court. In Khaja Fizuddin v. State of Andhra Pradesh [C.A. 176 of 1962, decided on April 10, 1963], it was laid down as follows :

> Under Section 23(1) of the Act, in determining the amount of compensation, the Court shall take into consideration the market value of the land at the date of publication of the notification under Section 4(1) thereof. Decided cases have laid down that the said market rate must be determined by reference to the price which a willing vendor might reasonably expect to obtain from a willing purchaser. For ascertaining the market rate the court can rely upon such transactions which would afford a guide to fix the price. Price paid for a land acquired within a reasonable time from the date of acquisition of the land in question would certainly be the best piece of evidence. Price paid for a land possessing advantages similar to those of the land acquired in or about the time of notification will also supply the date for assessment of compensation.

5. Bearing in mind the above principles, let us now deal with the contentions raised by counsel for the erstwhile owners of the plots of land in question. The contention of counsel for the appellants that compensation should have been awarded treating the entire land as potential building area is devoid of substance. It is true that the land in question constitutes one block but it cannot be overlooked that the entire area thereof is not similarly situate and does not possess the same or similar advantages and benefits. The Senior Subordinate Judge (who had the advantage of spot inspection) as also the High Court have after careful analysis of the evidence observed that it is only

the portion of the area which adjoins the Majitha Road opposite to which is situate the Sacred Heart Convent which lies close to Gopalnagar and a portion of the land on the Circular Road opposite to which there are buildings that can reasonably be regarded as a potential building area and the remaining area which extends far beyond the alignment of the Sacred Heart Convent and does not possess the same advantages canto be treated at par with the former category of the land. It has also been concurrently found by the courts below that apart from the fact that the land which falls within the second category is situate in the rear away from habitation, it suffers from two other drawbacks in that it is not accessible from either side of the two roads and there are no roads therein. The erstwhile proprietors cannot, therefore, be justifiably granted compensation for the agricultural land at the rate determined in respect of the potential building area which possesses far greater advantages. We are fortified in this view by a decision of this Court in Mirza Nausherwan Khan v. Collector (Land Acquisition), Hyderabad [(1975) 1 SCC 238] where Krishna Iyer, J. who spoke for the Bench said : [p. 241, para 8]

> It is true that the court has adopted a higher value for a strip 50 feet wide adjoining the road, based on the principle of belting. There is no doubt that when we deal with value of an extensive plot of land in a city the strip that adjoins an important road will have a higher value than what is in the rear, for obvious reasons of potential user or commercial exploitation.

6. We cannot also accede to the contention of counsel for the appellants in appeals nos. 2402 and 2403 of 1972 that they should have at least been granted compensation for the potential building area at Rs. 4/12/-, the rate fixed by the Collector, Amritsar for 28.75 acres in Amritsar (urban) and 32.04 acres in village Tungbala, Amritsar, sought to be acquired by the State in February, 1947 as the proceedings for acquisition of the said area were dropped and the proximity in point of time to the notification under Section 4(1) of the Act which is a material factor is lacking.

7. The contention advanced on behalf of the appellants in the aforesaid two appeals that the compensation awarded to them could not be fixed below the price paid by them for some of the plots in question in 1943, 1946 and 1947 has also no force. It cannot be ignored that Amritsar having come near the border as a result of the partition of the sub-continent, the prices of land situate therein fell considerably soon after the partition and kept on maintaining a low level for more than a decade.

8. The contention of counsel for the appellants in the aforesaid two appeals that they should have at least been awarded compensation for the potential building area at the rate prevalent in Gopalnagar in 1958-59 cannot also be acceded to. A glance at the chart of the acquisitions which appears at page 85 of the paper book shows that the sales were of very small plots of land. In seven transactions out of eight to which our attention has been invited, the land acquired was below 200 sq. yds. and in the eighth transaction, it was 250 sq. yds. It is also well settled that in determining compensation the value fetched for small plot of land cannot be applied to the lands covering a very large extent and that the large area of land cannot possibly fetch a price at the same rate at which small plots are sold. (See Collector of Lakhimpur v. Bhuban Chandra Dutta [AIR 1971 SC 2015 : (1972) 4 SCC 236].). All the three contentions advanced on behalf of the claimants of compensation, therefore, fail.

9. Let us now deal with the second set of the aforesaid eight appeals preferred by the State of Punjab. While doing so, it would be well to recall that it is well established that in an appeal from an award granting compensation, this Court should not interfere unless there is a wrong application

of any well settled principle or unless there is something to show not merely that on the balance of evidence it is possible to reach a different conclusion but that the judgment cannot be supported by reason of a wrong application of a principle or because some important point affecting valuation has been overlooked or misapplied. Moreover, there is a prudent condition to which the appellate power, generally speaking is subject. A court of appeal interferes not when the judgment under attack is not right but only when it is shown to be wrong. (See Special Land Acquisition Officer, Bangalore v. T. Adinarayan Setty [1959 Supp 1 SCR 404 : AIR 1959 SC 429 : 1959 Cri LJ 526]; Dattatraya Shankarbhat Ambalgi v. Collector of Sholapur [(1971) 3 SCC 43] and Dollar Company, Madras v. Collector of Madras [(1975) 2 SCC 730].)

10. The first contention advanced on behalf of the State that the erstwhile owners of the land in question could not be given compensation higher than that assessed for the acquisition made by the State for the construction of Hygiene and Vaccine Institute is devoid of force. Whereas the notification under Section 4(1) of the Act with regard to that acquisition was published on May 17, 1956, the notification under the said provision of the Act in respect of the instant acquisition was published on March 18, 1959 when the market value of the land in the locality had risen very high. The rate of compensation assessed for the former acquisition cannot, therefore, serve as a safe guide for determination of compensation for the acquisition in question. Similarly, the consideration paid by Smt. Balwant Kaur to Shri Girdhari Lal in March, 1957 for the purchase of land cannot also serve as a safe guide as this transaction also took place in March, 1957 i.e. nearly two years before the publication of the aforesaid notification in respect of the present acquisition. The High Court was, in our opinion, perfectly justified on the basis of the material before it in fixing compensation at Rs. 4.50 per sq. yd. for the potential building area and Rs. 3.00 for the agricultural area in respect of the plots of land involved in appeals nos. 2402 and 2403 of 1972. The High Court, however, was wrong in overlooking an important point affecting compensation payable to the erstwhile owners of the potential building area involved in appeals nos. 2694, 2695 and 2697 to 2700 of 1972. The said claimants having claimed compensation only at the rate of Rs. 4.00 per sq. yd. in the first appeals filed by them in the High Court, they could not have been awarded compensation exceeding that rate. Thus the said appeals filed by the State cannot but be allowed to the extent to which the compensation awarded to the claimants in respect of the potential building area acquired exceeds Rs. 4.00 per sq. yd.

11. In the result, appeals nos. 2394 to 2403 of 1972 and 2703 and 2704 of 1972 fail and are hereby dismissed with costs (limited to one hearing fee) and appeals Nos. 2694, 2695 and 2697 to 2700 of 1972 are allowed with costs (limited to one hearing fee) to the extent indicated above.

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