

M/S. Northern Carriers Private Limited

Vs

Jullundur Improvement Trust, Jullundur and Others

Civil Appeal No. 147 of 1983

(D.A. Desai, R.B. Misra JJ)

12.01.1983

ORDER

1. Special leave granted limited to the question of compensation.
2. Appellant Northern Carriers Pvt. Ltd. filed Civil Writ Petition No. 7515 of 1976 in the High Court of Punjab & Haryana at Chandigarh under Article 226 of the Constitution questioning the validity of a notice issued under section 36 of the Punjab Town Improvement Act, 1922 ('Act' for short) as also the award dated October 5, 1972 made by the Collector determining the compensation of the land acquired under the impugned notification.
3. The appellant purchased land admeasuring 29 kanals and 1 marla comprised in various Khasra Nos. more particularly set out in the petition for Rs. 2,43,050 under a deed of transfer executed on behalf of the Central Government on June 225, 1971. The appellant immediately entered into possession and since then, he has been in possession of the land. It appears that a notice under Section 36 of the Act was issued on November 4, 1966. In view of the provision contained in Clauses 1 and 2 of the Schedule to the Act, a notice under Section 36 of the Act has the same effect as a notification under Section 4 (1) of the Land Acquisition Act. This acquisition was with respect to a scheme framed under the Act. Subsequently, on May 30, 1968, a notification under Section 6 of the Land Acquisition Act. The Collector made his award in respect of land on March 11, 1978. That was the principal award in respect of land on March 11, 1978. That was the principal award. Subsequently, a supplementary award which included the land purchased by the appellant, was made on October 5, 1972. After this award, the respondent-Trust started taking steps for acquiring actual possession of the land of the appellant. Thereupon, the appellant filed a writ petition questioning the validity of the notice under Section 36 and the award.
4. It was strenuously contended before the learned Single Judge that the land purchased by the appellant belonged to the Central Government and was of the ownership of the Central Government on November 4, 1966 when the notice under Section 36 of the Act was issued and it was not open either to the State Government or the respondent-Trust to acquire land belonging to the Central Government and if notice under Section 36 was invalid, subsequent notification under Section 42 and the award was equally invalid. This contention found favour with the learned Single Judge and the notice and award were quashed.
5. The respondent-Trust preferred Letters Patent Appeal No. 198 of 1979. A Division Bench of the High Court allowed the appeal holding that there is nothing in the Act which precluded acquisition of the land belonging to the Central Government for the scheme framed by the Trust and sanctioned by the State Government. Accordingly the appeal was allowed and the writ petition of the appellant

was dismissed. Hence this appeal by special leave.

6. We heard Dr. Y. S. Chitale, learned counsel for the appellant and Mr. Harbans Lal, learned counsel for the respondent.

7. Having now the matter, we are of the opinion that quashing the notice under Section 36 of the Act, as prayed for on behalf of the appellant, would disturb the whole scheme which includes large track of other lands. And the thrust of argument was with regard to a patent inequitable situation highlighting the fact that while the appellant purchased the land from the Central Government at the price of Rs. 2,43,050 on June 25, 1971, the Collector awarded the compensation only in amount of Rs. 1,10,561. This inequitable situation is apparent on the face of the record. No doubt, learned counsel for the respondent submitted that if the appellant is dissatisfied with the compensation awarded by the Collector, it is open to him to approach the appropriate authority for enhancing the compensation and that in fact the appellant has availed of this remedy. That may be so. But we feel apparent Government in June 1971 for the price of Rs. 2,43,050. Therefore, in order to do justice between the parties, without waiting for the award that may be made by the authority to whom a reference is made for enhancing the compensation, we direct that the respondent- Trust shall pay Rs. 2,43,050 being the amount for which the appellant purchased the land from the Central Government as and by way of compensation.

8. The appellant had also contended that since purchasing of the land, he made improvements to the tune of Rs. 50,000 in the land. There was a faint murmur raised on behalf of the respondent disputing the amount. The murmur is inaudible. In our opinion, the respondent-Trust shall pay Rs. 50,000 for the improvements made by the appellant in the acquired land. Thus, there will be an award of Rs. 2,93,050 for the land of the appellant. He would be entitled to solatium at 15 per cent of the amount awarded.

9. Only one aspect remains to be dealt with. Dr. Chitale urged whenever land of anyone was acquired for the purpose of scheme, each such owner, whose land was acquired, was allotted one plot admeasuring 1 kanal at reserved price. We see no justification in treating the appellant differently.

10. Accordingly we allow this appeal. The respondent is directed to pay Rs. 2,93,050 as compensation plus 15 per cent solution on compensation herein awarded. The award made by the Collector, if satisfied, that is if the amount is already paid and withdrawn by the appellant, the same shall be given credit in making the final payments. The respondent shall allot one plot of land in the scheme admeasuring 1 kanal at reserved price and the reserved price shall be payable by the appellant to the respondent. The reference for enhancement made by the appellant shall be withdrawn by it within four weeks from today and if it is not withdrawn, the same shall stand dismissed as withdrawn. As the appellant is in the possession of the land till today, it is not entitled to interest on the amount awarded as compensation. Respondent do hand over possession of land immediately on payment of compensation.

11. This appeal is allowed to the extent herein indicated.

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