

Ram Piari and Another

Vs

Land Acquisition Collector, Solan and Others

Civil Appeal No. 5237-39 of 1996

(K. Ramaswamy, K. Venkataswami JJ)

12.03.1996

JUDGMENT

1. Leave granted in SLP (C) Nos. 18543-45, 19947-49, 18644 and 18646 of 1995.

2. Notification under Section 4 (1) of the Land Acquisition Act, 1984 (for short, the 'Act') was published on 3-9-1973 acquiring 863 bighas of land situated in villages Gumma, Kamli, Dangyar and Abota in Parwanoo township. The award under Section 11 was made by the Collector on 14-7-1977. He determined the compensation at varying rates between Rs. 14, 195/- per bigha and Rs. 500/- per bigha for lands classified into seven categories. On reference under Section 18, the District Judge, Solan by award and decree dated 15-5-1991 uniformly awarded compensation at the uniform rate of Rs. 14,195/- bigha. In Civil Appeal Nos. 8274-83 of 1985. acquisition was made in 1976 but the lands were left out from 1973 notification. On November 9, 1978, the Land Acquisition Collector awarded compensation similar to compensation awarded for 1973 acquisitions. Taking into consideration the trend in appreciation of land prices, the District Judge vide award dated May 23, 1991 awarded common price for all categories of land, i. e., Rs. 24,000/- per bigha. On appeal by the State and cross appeals by the claimants, the High Court by judgment and order dated 4-5-1995 reduced the compensation to the uniform rate of Rs. 7,100/- per bigha, Dissatisfied with the reduction, the claimants have filed these appeals by special leave.

3. This Court issued notice dated 28-8-1995 confined to the correctness of the order of the High Court with respect to first two categories of lands, namely, Kuhal land for which the Land Acquisition Officer awarded a sum of Rs. 14,195/- per bigha and Katuhul land for which a sum of Rs. 9,425/- has been awarded. In earlier cases, notice was not confined to the above aspects but leave was granted. Thus all these appeals have been posted together for disposal.

4. Shri Ashok Chhabra and Shri R. K. Jain, learned counsel appearing for the appellants raised three-fold contention. Firstly, that the High Court has committed manifest error in reducing the compensation to 1 and 2 category lands, namely, Kuhal and Katuhul lands for which the Land Acquisition Officer had offered compensation at the rate of Rs. 14,195/- and Rs. 9,425/- per bigha respectively which is an offer and under Section 25 of the Act, the High Court cannot reduce the compensation less than what was offered by the Collector. Secondly, it is contended that in view of the finding recorded by the District Judge and the High Court, namely, that the lands are possessed of potential value for building purposes, 50% reduction of compensation resulting in uniform rate of Rs. 7,100/- per bigha is not correct. The claimants are entitled to higher compensation. It is also contended that deduction of 50% towards developmental charges is not correct on the facts in this case since the finding of the High Court is that all the lands are possessed of same potentialities. Thirdly, it is contended by Shri Jain, learned senior counsel that after the award was made by the

reference Court under Section 26, notices were issued to the purchasers to pay revised price on the basis of the enhanced market value. When the same was questioned the High Court dismissed the same. Therefore, when the beneficiary was seeking to avail of the award passed by the Court and sought to recover the enhanced compensation from the beneficiaries, nothing prevented the State to have the compensation paid to the land owners whose land has been acquired. Shri Parbhakar Rao, learned counsel for the respondent rested all the contentions.

5. The first question, therefore, is : wherever the High Court was justified in reducing the compensation in respect of Kuhal and Katuhall lands classified by the Collector to rupees 14,195/- and Rs. 9,425/- per bigha respectively. Section 25 of the Act says that the amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11. It is settled law that the award made by the Collector is an offer made by him on behalf of the Government and the State is bound by the offer. While in reference under Section 18 or on appeal against the enhanced compensation under Section 54, the Court cannot reduce the compensation less than the offer made by the Collector. Therefore, the High Court while fixing the uniform rate of compensation to all the lands @ Rs. 7100/- per bigha committed error of law in reducing the compensation to the lands classified by the Collector to be Kuhal and Katuhall lands for which compensation @ Rs. 14,195/- and Rs. 9,425/- per bigha respectively was offered. The High Court, therefore, in that perspective has committed error of law in reducing the compensation in respect of the above lands. Accordingly, the award of the Collector is restored in respect of the lands classified by him as Kuhal and Katuhall lands.

6. The next question is : whether all other lands are possessed of same potentialities for awarding infirm market value in respect of all the lands. No doubt, the High Court found that all the lands are acquired for the common purpose, namely, commercial purpose. But it has recorded a finding that as on the date of the acquisition the lands are agricultural lands, they require development. Under those circumstances, on the date of the acquisition, the lands did not possess of the potential value for building purposes though notification was issued for commercial purpose. However, the High Court has committed error in determining development charges @ 50%. It is seen that the lands are abutting the hill slopes and the national highway, though used as agricultural lands. This Court has considered the entire case law in latest judgment in K. Vasundra Devi. v. Revenue Divisional Officer (LAO), (1995) 5 SCC 426 AIR SCW 3655) and held that the Court will be justified in deducting market value between 33-1/3% and 60% of the compensation based upon the facts in each case. On the facts of this case, we are of the opinion that deduction of 33-1/3% would meet the ends of justice.

7. The deduction of 1/3rd share as directed by this Court would not be applicable to the Kuhal and Katuhall lands which were offered by the Collector. Since that was only an offer, it did not bind the parties; hence no deduction in that behalf could be made from the said offer. Under those circumstances we are of the considered view that 33-1/3% of the market value would be deducted towards development charges.

8. No doubt, Shri Askok Chhabra, learned counsel placed reliance on the sale deeds which are marked in the case right from 1970 to 1978 and reflected varied prices, it is seen that the lands are situated in four villages. They are not contiguous to each other but are situated at different spots wherever it is feasible to construct township. Under these circumstances, it would be difficult on the facts in this case, to pin point a particular sale deed which reflects the proximate potentiality for the similarity of the land under acquisition. Moreover, all the sale deeds are of small extents varying from 1/2 bigha to 8 bigha in one sale deed. The High Court, therefore, was right in placing reliance

not on all the sale deeds but on the maximum amount awarded by the Collector to be the basis for determination of the compensation, Based thereon, the High Court has reduced 50% towards development charges and determined the compensation at Rs. 7,100/- per bigha. The basis adopted by the High Court cannot be said to be vitiated by any wrong principle of law. Therefore, the market value of the lands of the respondent including Kutuhal lands, i. e. items 2 to 7 of classification made by the Land Acquisition Officer, should be determined @ Rs. 14,195/- per bigha after deducting 33 1/3% towards developmental charges to arrive at the market value; the balance amount would be the market value which would be just and adequate compensation.

9. In fact, in this case obviously the development authority accepted the award of the Court, acted upon it and issued notice to the purchasers calling upon them to pay the compensation on the basis of the enhanced market value determined by the District Judge. On the facts of this case, we think that the development authority having accepted the award, though the State carried the matter in appeal, has succeeded upon principle of law. The development authority is directed to recover the amount and pay the amount so recovered at the rate determined by the Court to the respective land owners. We direct that this direction may not be treated to be a precedent. On the facts of this case, we think that the above direction would meet the ends of justice. The appellants are not entitled to additional amount under Section 23 (1-A). They are entitled to solatium @ 30% and interest @ 9% per annum from the date of taking possession for one year and thereafter @ 15% per annum on the enhanced compensation till the date of its deposit into the Court.

10. The appeals are disposed of accordingly. No costs. Order accordingly.