

Baldev Singh and Others

Vs

State of Punjab Through Collector

Civil Appeal No. 2280 of 1986

(K. Ramaswamy, G.B. Pattanaik JJ)

07.08.1996

ORDER

1. Notification under Section 4(1) of the Land Acquisition Act, 1894 (1 of 1894) (for short, 'the Act') was published on 29-1-1982 acquiring a total extent of 193 kanals 3 marlas of land situated in Village Lamin in Punjab State for construction of Hydel Channel. The Land Acquisition Collector awarded compensation at the rate of Rs 16,000 per acre and also awarded 5% additional amount thereon with solatium and interest. On reference the Additional District Judge in his award and decree dated 13-12-1983 enhanced the compensation to Rs 30,000 per acre. On appeal, the High Court reduced the compensation to the amount awarded by the Land Acquisition Collector by judgment and decree dated 25-2-1985. Thus, this appeal by special leave.

2. It is contended by the learned counsel for the appellants that the High Court has committed grievous error in reducing the compensation from Rs 30,000 to Rs 16,000 per acre. It is contended that Exts. A-12 and 13, the sale deeds of 12-2-1981 and 30-3-1981 respectively executed one year prior to the date of acquisition would show that the market value of which land commanded was Rs 40,000 per acre; even the sale deeds Ext. A-14 dated 23-3-1981, Ext. A-15 dated 1-7-1981 which commanded market value was Rs 60,000, though of smaller extent of 5 bighas each; hence, the market value will not be less than Rs 40,000. Therefore, the Additional District Judge was right in granting compensation at the rate of Rs 30,000 per acre. In support thereof, he placed reliance also on another judgment in respect of land in the neighbouring village wherein the same learned Judge had confirmed the market value at the rate of Rs 30,000 per acre in respect of the cultivable Chahi land. We find no force in the contention of the learned counsel. It is seen that none of the persons connected with documents Exts. A-12 to 15 has been examined. It would also be seen that one kanal was sold in the same village under Exts. A-12 and 13 respectively which worked out to Rs 40,000 per acre or Rs 5000 per kanal. The High Court has rightly pointed out that no prudent cultivator would purchase one kanal of land for the purpose of cultivation. In other words, the purchase for the purpose of cultivation would be uneconomical and not a valid one. Looked at from another angle, it is common knowledge that it would take a long time for publication of the notification under Section 4(1). In the meanwhile it would be known to the villagers that the land would be under acquisition. Therefore, it would be obvious that these documents were brought into existence to inflate the market value. Obvious, therefore, none of the persons connected with the documents has been examined. There is no proof of passing of the consideration thereunder or the circumstances in which the documents came to be executed. Under these circumstances, all the documents are inadmissible in evidence and cannot be looked into. If they are excluded, the only other evidence is the oral evidence. It is not in dispute that the land situated in the neighbouring village and acquired for the same purpose fetched compensation at the rate of Rs 15,000 per acre in respect of the Chahi land and Rs 9000 and Rs 10,000 for Baravi land etc. That judgment of the High Court has become

final. Under those circumstances, the High Court was well justified in relying upon that document and in upholding the award of the Collector but with modification as indicated :

"The Land Acquisition Collector has not been able to point out any distinction between the value of land in Villages Uchi Bassi, Lamin and Jamalpur. For Village Uchi Bassi, this Court has allowed market price for Chahi land at the rate of Rs 15,000 per acre, and still lesser for inferior quality of agricultural land. Hence it will be safe to rely on the judicial instance coupled with the State instances Exhibits RW 3/3 to RW 3/7. However, the Land Acquisition Collector was not right in giving different value for Chahi and Nahri land, which are generally treated as the award of the court below and restore the award of the Land Acquisition Collector and also restore the value fixed by the Land Acquisition Collector except for Nahri land and fix the market value as follows :

#Chahi/Nahri Rs 16,000 per acreBarani Rs 10,000 per acreBanjar Quadim Rs 8,000 per acreGair Mumkin Rs 6,000 per acre.###

3. In addition, 4% (sic 5%) of the aforesaid amount was allowed by the Land Acquisition Officer. In addition the Court also granted the benefit under the Amendment Act 68 of 1984. Under the circumstances, we do not think there is any error of law in judgment. The judgment in another case which is not a part of the record nor was brought on record and filing of an application under Order 41 Rule 27 CPC cannot be looked into for that reason. Under these circumstances, the judgment cannot be relied upon.

4. The appeal is accordingly dismissed but in the circumstances without costs.