

**SUPREME COURT OF INDIA**

Haryana State Agri. Market Board

Vs.

Krishan Kumar

C.A.No.2959 of 2011

(R.V.Raveendran and A.K.Patnaik JJ.)

05.04.2011

**ORDER**

1. Leave granted. Heard.

2. An extent of 8 acres 17 marlas of agricultural land in Ganaur village, District Sonapat, was acquired in pursuance of preliminary notification dated 27.9.1991 for the purpose of establishing a Vegetable Market. The Land Acquisition Collector ('Collector' for short) by award dated 27.1.1994, awarded compensation at the rate of ` 1,92,000/- per acre. The 20 Reference Court increased the compensation to ` 3,40,000/- per acre, by judgment and award dated 8.11.1997. On appeal by the land owners, the High Court, by the impugned judgment dated 8.5.2008, increased the compensation to ` 425/- per sq.yd. which works out to ` 20,57,000/- per acre. Feeling aggrieved, the beneficiaries of acquisition have filed these appeals by special leave.

3. Before the Reference Court the claimants relied upon two sale deeds (Ex P2 dated 5.8.1991 and Ex P3 dated 25.4.1990) relating to an extent of 77 sq.yds sold for ` 73,150/- and 31 sq.yds sold for ` 46,500/- respectively. The Collector relied upon three sale instances, namely, Exhibit R.1 dated 29.6.1992, Exhibit R. 2 dated 1.7.1994 and Exhibit R. 3 dated 1.7.1994 which disclosed sales of an extent of 9 Kanals 18 Marias for ` 1,95,000/-, an extent of 7 Kanals 18 Marias for ` 1,40,000/- and an extent of 7 Kanals 18 Marias for a price of ` 1,42,500/- respectively.

4. The reference Court rejected the 45 sale transactions (Ex P2 and P3) relied upon by the claimants on the ground that they related to very small pieces of well developed land situated adjoining the main road. It was of the view that the sale

deeds relied upon by the LAC were also of rio assistance as all of them related to a period subsequent to the date of preliminary notification which was dated 27.9.1991.

5. The Reference Court relied upon the evidence of Om Prakash, a clerk from the Deputy Commissioner's Office, Sonapat, who was examined as P.W. 6 to give evidence about the Circle Rates. He had stated that the market price of agricultural lands in Ganaur situated between G.T. Road upto municipal limits, was ` 3,40,000/- ` 2,55,000/- and ` 1,70,000/- per acre in regard to irrigated/ronsi/barani and banjar lands. The Reference Court therefore awarded ` 3,40,000/- per acre as compensation.

6. The High Court also relied upon the evidence of P.W. 6 who was the clerk from the Deputy Commissioner's office. It referred to the evidence given by him that the value of commercial plots situated on both sides of the GT Road was ` 850/- to ` 1275/- per sq.yd., and for residential plots, the rate was ` 225/- to ` 425/- per sq.yd. The High Court determined the market value as ` 425/- per sq.yd. with reference to the highest of the rates applicable to residential plots. The said determination is challenged in these appeals by special leave.

7. It is evident from the judgment of the Reference Court and the High Court that the acquired lands though agricultural in nature, were situated on the outskirts of Ganaur township that is after Namaste Chowk and before G.T. Road. The High Court also found that that there were residential houses, rice mills etc., in the surrounding area. But the question is whether the High Court was justified in increasing the compensation more than six times from ` 13,40,000/- per acre to ` 20,57,000/- per acre.

8. Normally it is not safe to proceed on the basis of circle rates or Collector's rates, as they are broad assessments which may or may not be based on proper scientific survey and verification. However, in this case, not only the Reference Court and High Court, but also the parties have relied upon the evidence of P.W. 6 as evidence of market value. P.W. 6 gave the circle rate for agricultural lands, for residential plots, and for commercial plots of Gannuar. He stated that the Collector's rate for agricultural land was ` 3,40,000/- per acre ` 225/- to ` 425/- per sq.yd. for residential plots and ` 850/- to ` 1275/- per sq.yd. for commercial plots. It is well settled that market value has to be determined with reference to comparable lands and with reference to comparable sales, if available. The commercial plots are not comparable to the acquired lands. In so far as small residential plots abutting the main road leading to G.T. Road, they cannot obviously be applied

directly without any deductions to arrive at the value of undeveloped agricultural land even if the acquired lands may be situated immediately near the town outskirts. It is now well settled that if the value of small developed plots should be the basis, appropriate deductions will have to be made there from towards the area to be used for roads, drains and common facilities like park, open space etc. Thereafter, further deduction will have to be made towards the cost of development, that is the cost of leveling the land, cost of laying roads and drains, and the cost of drawing electrical, water and sewer lines. Having regard to the fact that the acquired lands were in a semi-developed areas within the Ganaur municipal limits, we are of the view that it would be appropriate to apply an aggregate deduction of 45% from the value of residential plots (towards the land for development and the cost of development) to arrive at the market value of the acquired lands. The High Court has taken the highest of the rates for residential plots. Such a rate will apply to residential plots in developed layouts adjoining the main road, in prime areas. There is no evidence to show the situation of the plots which fetched ` 425/- per sq.yd. and situation of the plots which fetched ` 225/- per sq.yd. In the absence of any evidence, the deduction of 45% should be made from ` 225/- per sq.yd. which necessarily will apply to residential plots in outlying areas like the acquired lands. Therefore the market value will be ` 255/- less 45% per sq.yd. that is ` 140/- per sq.yd. or ` 6,77,600/- per acre.

9. We, accordingly, allow these appeals and reduce the compensation from ` 425/- per sq.yd. to ` 140/- per sq.yd. and award ` 677,600/- per acre with all statutory benefits, as awarded by the Courts below.