

SUPREME COURT OF INDIA

Indraj Singh (Dead) through LRs.

Vs.

State of Haryana

C.A.No.6958 of 2013

(Anil R.Dave and Dipak Misra JJ.)

19.08.2013

JUDGMENT

ANIL R. DAVE, J.

1. Delay condoned.

2. Leave granted in all the special leave petitions.

3. Being aggrieved by the judgment dated 6th November, 2009, delivered in Regular First Appeal No. 950 of 1996 and other First Appeals delivered by the High Court of Punjab & Haryana at Chandigarh, these appeals have been filed by the persons whose lands had been acquired for the purpose of construction of a sector road under the Bahadurgarh Scheme. The appellants are challenging the judgment on the ground that the amount of compensation awarded to them is much lesser than what should have been awarded to them.

4. For the purpose of construction of the road, approximately 7 bighas land was to be acquired and for the said purpose, necessary Notification under the provision of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act”) read with Section 17 had been published on 8th April, 1991, as the land was required immediately.

5. The land which was acquired for the purpose of construction of the road was Nehri (irrigated) as well as gair mumkin (waste land). The Land Acquisition Collector, by virtue of his award dated 9th March, 1992, awarded compensation at the rate of Rs.3,00,000/- per acre for irrigated land whereas Rs.1.5 lac per acre for

gair mumkin type of land. Compensation was also awarded for super-structures and trees standing on the land. Solatium and other statutory benefits were also given to the appellants.

6. Being aggrieved by the award, the appellants had made a Reference under Section 18 of the Act. After hearing the learned counsel and considering the evidence adduced before the court, the District Court had dismissed the Reference as the Court was of the view that the sale deeds relied upon by the appellants were not comparable and therefore, the land transactions referred to by the appellants could not help them for enhancing the amount of compensation awarded to them.

7. Being aggrieved by the dismissal of the Reference by an order dated 8th December, 1995, the appellants along with other land owners had filed First Appeals before the High Court and as all the lands had been acquired under a single notification under Section 4 read with Section 17 of the Act, the High Court had heard all the appeals together and had decided the appeals on the basis of the main appeal decided by it.

8. After hearing the concerned counsel and considering the evidence which had been adduced before the Reference Court, the High Court allowed the appeals by awarding Rs. 11,15,098/- per acre in respect of both, irrigated as well as waste land, observing that both lands would fetch the same price due to its residential and commercial potential.

9. The High Court was of the view that the land in question was near to the land abutting two main roads. The High Court also took into consideration the rapid development in the vicinity and therefore, increased the value of the land in question after considering the principles on which lands are valued for the purpose of awarding compensation under the Act.

10. The High Court also decided to decrease the value of the land by 1/3rd of its value as the land in question was little away from the main road.

11. The submissions made on behalf of the appellants were to the effect that deduction of 1/3rd value of the land would be very harsh on the appellants because the appellants would be getting substantially less compensation on account of the said deduction. It was also submitted that the High Court had taken note of the fact that the land in question was very much within the developed area. If the land was within the developed area, the High Court should not have deducted 1/3rd of the value of the land in question.

12. The learned Additional Solicitor General appearing for the State had tried to support the judgment by submitting that the deduction of 1/3rd of the value of the land was just and proper as observed by the High Court.

13. Upon hearing the learned counsel and upon perusal of the impugned judgment and relevant records, we are of the view that the appellants should have been awarded more compensation. Deduction to the extent of 1/3rd of the value of the land is definitely harsh even as per the observations made by the High Court as the land in question is very much in the developed area. The area has been developed by the HUDA and therefore, the deduction of 1/3rd of the value of the land is not justified.

14. Upon considering all relevant facts, in our opinion, it would be absolutely just if 10% value of the land is deducted instead of 1/3rd because the land is forming part of a well developed area.

15. The High Court, after deduction of 1/3rd of the amount of the value has awarded Rs.7,43,000/- per acre for irrigated and non-irrigated land. The said value is after deduction of 1/3rd amount of total valuation of the land. The High Court has, thus, in fact, determined the market value of the land at Rs.11,15,000/- per acre and after deducting 1/3rd of the said amount, it has awarded Rs. 7,43,000/- per acre, after rounding off the figure.

16. The market value of the land in question, as determined by the High Court, is Rs. 11.15 lacs per acre and instead of taking 1/3rd, we direct that 10% of the said value shall be deducted. The claimants shall be entitled to other statutory benefits like solatium, interest etc. on the enhanced compensation.

17. In view of the above facts, we modify the impugned judgment and allow the appeals to the above extent with no order as to costs.