

PUNJAB AND HARYANA HIGH COURT

Inder Singh

Vs

State of Punjab

Regular First Appeal no. 455 of 1978

(M.S. Liberhan, J.)

03.05.1988

JUDGMENT

M.S. Liberhan, J.

1. In this appeal against the award of the Additional District Judge, Ludhiana, dated 22nd August, 1977, the brief facts are as under :-

2. Vide notifications dated 28th September, 1971 under sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') 14 acres of land was acquired for the construction of grain market. Out of the acquired land, the appellant was the owner of 12 Kanals 18 Marlas of land comprising of Khasra Nos. 3/11/1, 3/11/2 and 3/20/1. The Collector, vide his award dated 21st November, 1972, awarded compensation at the rate of Rs. 32,000/- per acre with respect to the land adjoining the link road from Ludhiana to Chandigarh, and Rs. 24,000/- per acre for the remaining land. The claimant challenged the adequacy of compensation and filed application under section 18 of the Act, whereupon reference was made to the District Judge. After recording evidence (documentary and oral), the Additional District Judge affirmed the award of the Collector.

3. The appellant claimed that the land in dispute was of great potential for commercial as well as residential purposes. The land was situated on the bye - pass of fast developing city of Ludhiana. He claimed compensation at the rate of Rs. 60/- per square yard.

4. The State controverted the claim, contending that the award suffers from no infirmity.

5. In this appeal only finding on issue No. 1 relating to the market value is challenged. It has been pointed out at the bar that a Division Bench of this Court in L.P.A. No. 178 of 1978 (*Sardari Lal and another v. The State of Punjab and another*) awarded Rs. 15/- per square yard with respect to the land of the same village i.e. Salem Tabri, acquired for Bus Stand, vide notification dated 10th June, 1968. Both the lands are situated adjoining to each other. The Hon'ble Division Bench, after appreciating the potentiality and taking into consideration the various sale - deeds, came to the conclusion that on 10th June, 1968 the market value of the land acquired for the Bus Stand was Rs. 15/- per square yard. Learned counsel for the State has not

been able to controvert this contention raised by learned counsel for the appellant. It is not disputed that the land in the case at hand and the land acquired for the Bus Stand are similar and adjoining. The fact further finds support from Ex. P.W. 10/3. It was further observed in the said Division Bench judgement that there were no reasons to assess the value of the land acquired in belts and in order to evaluate the acquired land, its division into belts was not justified.

6. Learned counsel for the appellant further contends that it is a well recognized and judicially noted fact that the prices of land has been tremendously increasing day by day. In support of this contention, he has relied upon *Sumer Chand Jain v. State of Haryana*¹, wherein an increase of Rs. 2.50 per square yard per year was acknowledged. Learned counsel has relied upon another judgement reported as *Puran v. State of Haryana*², also wherein an increase of Re. 1/- per square yard per year was acknowledged. However, in my view, the said judgments are based on their own peculiar facts, and these increases per year were acknowledged as there was some evidence on record to find out what was the increase every year. But in the case in hand, I do not find any evidence on record to infer the increase in price per year. However, it cannot be disputed that the prices are increasing and the judicial notice of the increase has to be taken. The legislature has come to the rescue of landowners and provided vide section 23(1-A) of the Act that the claimants shall be entitled to an amount calculated at the rate of 12 per cent per annum as the increase in price of the period commencing on and from the date of the publication of the notification under section 4 of the Act till the date of announcement of the award or the date of taking over possession of the land, whichever is earlier. From these provisions, legislative intention to recognise the increase of 12 per cent in price every year can be inferred. Since the land acquired in the present case in 1971 the land acquired for the Bus Stand in 1968 are similar and adjoining, it will be reasonable to fix the price of the land in the present case by giving an increase of 12 per cent per year to the price awarded by the Division Bench in Sardari Lal's case (supra) from 1968 to 1971 and thus the appellant shall be entitled to an increase of Rs. 5/- per square yard to the price awarded by the Division Bench.

7. In view of my above discussion, I assess the market value of the land in dispute at the rate of Rs. 20/- per square yard on the date of notification.

8. The counsel for the appellant contends that the appellant shall be entitled to the benefit of section 23(1-A) of the Act as the notification was issued on 28th September, 1971 and the award had been announced on 21st November, 1972. In view of this provision, the appellant shall be entitled to an amount at the rate of 12 per cent per annum from the date of notification under section 4 of the Act till the date of the award or the date the possession was taken, whichever is earlier. In support of this contention, learned counsel for the appellant has ruled upon *State of Punjab v. Krishan Lal*³,, which is a Full Bench judgment of this Court. I find force in the contention of the learned counsel for the appellant. The appellant shall be entitled to the benefit of section 23(1-A) of the Act i.e., the claimant shall be entitled to an increase at the rate of 12% per annum from the date of notification to the date of the award by the Collector or the date of taking over of possession, whichever is earlier.

9. The appellant shall further be entitled to solatium at the rate of 30 per cent and interest at the rate of 9 per cent for the first year and 15 per cent per annum thereafter till the date of payment.

10. In view of the above observations, the appeal is accepted and the award of the Additional

District Judge is modified in the above terms. The appellant shall be entitled to the costs of the appeal.

Appeal allowed.

Cases Referred.

11986 (1) Cur. L.J. 45

2(1986-1) 89 P.L.R. 59

3(1987-1) 91 P.L.R. 688