

# PUNJAB AND HARYANA HIGH COURT

State of Punjab

Vs

Khushal Singh

R.F.A. No. 2807 of 1987

(G.R. Majithia, J.)

31.08.1989

## JUDGMENT

### **G.R. Majithia, J.**

1. This judgment will dispose of Regular First Appeal Nos. 1806 of 1809, 1810 of 1987, with Cross C-II Objection No. 56 of 1988, 1811 to 1823 of 1987, 2807 to 2831 of 1987 filed by the State and Regular First Appeal Nos. 1591 to 1598, 1763, 1770, 1764, 2270 to 2289 and 2373 of 1987 filed by the claimant landowners.

2. Pursuant to a notification dated December 13, 1982, under Section 4 of the Land Acquisition Act (for short 'the Act') land measuring 61-13 Acres situate in the revenue estate of Khera Gajju was acquired for a public purpose namely construction of Sutlej Yamuna Link Canal. The notification was followed by a declaration dated January 7, 1983 under Section 6 of the Act. The Collector awarded the compensation to the landowners at the following rate :-

(i) Chahi land	Rs. 51360/- per acre.
(ii) Gair Mumkin	Rs. 18,000/- per acre.

The claimants were not satisfied with the quantum of compensation awarded by the Collector and got reference made to the Land Acquisition Court under Section 18 of the Act. The Land Acquisition Court allowed compensation for the Chahi land at the rate of Rs. 72990/- per Acre and for Gair Mumkin at the rate of Rs. 35,000/- per Acre. He carved out a special belt for the land abutting on the road connecting Rajpura with Chandigarh on both sides upto the depth of 100 feet and awarded compensation for that land at the rate of Rs. 1,00,000/- per Acre. The State and the claimants feeling aggrieved against the award of the Land Acquisition Court have come up in appeal to this Court. The State has taken exception to the higher compensation allowed by the Land Acquisition Court while the claimants think that the compensation awarded by the Land Acquisition Court is inadequate.

3. The principal dispute raised in the cases is only with regard to the quantum of compensation to be allowed to the claimants. Village Khera Gajju abuts on the road connecting Rajpura with Chandigarh through Banur and Zirakpur. There is a focal point at Khera Gajju. It has a Dispensary and a Hospital is coming up at the focal point. The branches of two Scheduled Banks and the office of the Punjab State Electricity Board are also located there. Some land in the focal point was owned by the Gram Panchayat which was sold by public auction in plots measuring 5 Marlas each and each plot fetched price ranging between Rs. 8750/- and Rs. 9250/-. On the basis of this evidence, there is no escape from the conclusion that this village has all the trapping of a town and the acquired land could be developed into residential and commercial cities in due course. The finding recorded by the Land Acquisition Court regarding the potentiality of the land has not been assailed by either of the parties. As observed earlier, the dispute is only regarding the quantum of compensation. Mr. M.L. Sarin, learned Senior Advocate who led the arguments on behalf of the claimants submitted that the sales made in public auction by the Gram Panchayat could be adopted safe criteria for determining valuation of the acquired land. Although, the land was sold in plots still it furnishes a very valuable guideline for determining the market value of the land. He also submitted that when the land was acquired for Sutlej Yamuna Link Canal, the landowners formed action committee and they objected to the acquisition of the land for the construction of the Sutlej Yamuna Link Canal. On the intervention of Chief Minister an agreement was arrived at between the members of the action committee and the former and it was resolved that irrigated acquired land will not be evaluated at a price less than Rs. 1,00,000/- per Acre. There is substance in the submissions made by the learned counsel.

4. The land in the focal point was sold in public auction on April 23, 1979 and September 25, 1979 at Rs. 2,00,000/- per Acre. The agreement dated June 27, 1986 which was arrived at between the Chief Minister and the members of the action committee, although was entered into subsequent to the notification but could be taken into consideration at this stage for evaluating the land. The agreement recites that the irrigated land will not be evaluated at a rate less than Rs. 1,00,000/- per acre. Head of the Government and the members of the action committee, who were representatives of the claimants mutually arrived at a settlement that irrigated land will not be evaluated at a price lower than Rs. 1,00,000/- per Acre. The head of the Government must have been assisted by the officers and officials of the various departments when the settlement was arrived at. It cannot be alleged that he was not acting in State interest and, there is no material on the record to hold to the contrary. Head of the Government is expected to keep the State interest in mind when entering into an agreement for evaluation the land acquired with the landowner claimants or their representatives. Of course, if in a given case it is proved that the head of the Government was not acting *bona fide* or in the interest of the State the Court will be well within its rights to reject the agreement. The agreement has not been executed in terms of Article 299 of the Constitution. Nevertheless, it cannot lose its efficacy merely for the reasons that the settlement arrived at between the head of the Government and the members of the action committee was not brought into existence in the form of a binding agreement. The settlement can be taken note of and it can be treated as a piece of evidence for fixing the market value of the acquired land.

5. The settlement is a post notification transaction. All transactions which are relevant fairly afford a criterion of the value of the property on the date of notification Post notification transactions cannot be ignored altogether. In the instant case, as observed earlier, the settlement was arrived at between the head of the Government and the representatives claimants regarding

fixation of the market value and cannot be ignored. The Appellate Court can take note of subsequent events when its correctness is not disputed.

6. Thus, I hold that the Chahi land should have been evaluated at Rs. 1,00,000/- per Acre. While evaluating the land, the location, kind and soil of the land have to be kept in view. Gair Mumkin land cannot be equated with Chahi land although it has to be used for the same public purpose viz. construction of Sulej Yamuna Link Canal. Gair Mumkin land is obviously inferior to the Chahi land. It will be fair if the Gair Mumkin land is evaluated at Rs. 60,000/- per Acre.

7. The land abutting one either side of the road connecting Rajpura with Chandigarh via Banur and Zirkpur has not been correctly evaluated. The land Acquisition Court referred to the transactions of the land in the focal point which was sold by the Gram Panchayat in plots of 5 Marlas each for Rs. 8750/- to Rs. 9250/-. The average will work out to be more than Rs. 2,00,000/- per Acre. These sales were effected in the year 1979. This Court can take judicial notice of the fact that land values are continuously rising due to inflation. Even if the sales effected by the Panchayat in the year 1979 are kept in view, the average sale price comes to Rs. 2,00,000/- per Acre. This evaluation has been arrived at on the basis of the sale deeds covering land measuring 5 Marlas. It does furnish good evidence, though it cannot be made the basis for determining the price of the land forming a big chunk. A rule of thumb has to be applied and in evaluating the land, little guess work can not be ruled out. It will be fair if the land abutting on either side of the road upto a depth of 150 feet is evaluated at Rs. 1,50,000/- per Acre. Thus, I hold that the claimants are entitled to compensation at the following rates :-

- (i) Land abutting on the either side of the road connecting Rajpura with Chandigarh via banur and Zirkpur upto the depth of 150 feet is evaluated at Rs. 1,50,000/- per Acre.
- (ii) Chahi land at the rate of Rs. 1,00,000/- per Acre.
- (iii) Gair Mumkin land at the rate of Rs. 60,000/- per Acre.

8. They will in addition be entitled to solatium and interest as provided under the Amended Act.

9. The claimants' appeals are allowed with proportionate costs and that of the State and cross-objection filed by it are dismissed. The claimants landowners will be entitled to enhanced compensation to the extent to which they have paid the Court fee in appeal.

Appeal allowed.