

Hardyal Kaur and others Vs The State of Punjab

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Oct. 14, 1988

Acts Referred: Land Acquisition Act, 1894 " Section 4

Hon'ble Judges: Jai Singh Sekhon, J

Bench: Single Bench

Advocate: M.L. Sarin and Miss Jaishree Thakur, for the Appellant; K.P. Bhandari, A.G. Pb. and Mr. Ravi Kapur, for the Respondent

Judgement

Jai Singh Sekhon, J.

In pursuance of the notification published on 28th February, 1980, u/s 4 of the Land Acquisition Act, 1894

(hereinafter called the Act), the State of Punjab sought to acquire land measuring 60 kanals 12 Marlas belonging to Harbhai Singh the

predecessor-in interest of the present claimants, for the expansion of Guru Gobind Singh Medical College and Hospital at Faridkot. The Land

Acquisition Collector awarded compensation of the acquired land at the rate of Rs. 3(sic)00/- per acre, besides awarding Rs. 5000/- for two

rooms, Rs. 700/-for seven trees and Rs. 500/ for the tube-well bore. Being dissatisfied with the adequacy of the compensation of their acquired

land, the claimants sought reference u/s 18 of the Act to the Court of the District Judge, Faridkot. The learned Additional District Judge, Faridkot,

vide his impugned award, enhanced the compensation of the acquired land to Rs. 36,000/- per acre, besides allowing 15% solarium over and

above the said compensation and interest at the rate of 6% per annum on the enhanced amount of compensation from the date of taking

possession till its payment. Still being dissatisfied, the claimants have come up in appeal.

2. I have heard Mr. M. L. Sarin, learned Counsel for the Appellants and Mr. K. P. Bhandari, learned Advocate General, Punjab, besides-

perusing the record. There is no dispute between the parties that the acquired land has a situation potential of being used for residential and

commercial purposes being located at a distance of 3 Killas from the buildings of the Panchayat Bhawan, Red Cross Bhawan and P. W. D. Rest

House at Faridkot Sadhu Singh, Revenue Patwari (R. W. 1) had frankly admitted these facts. He further stated that there are residential houses

and shops along the Faridkot Sadaq road and Faridkot-Araiyan Wala road and that the land falling towards the western side of the acquired land

had already been acquired for the Medical College and that the main habitation of Faridkot town falls at a distance of 7 Killas from the acquired

land. He also admitted that the acquired land falls at a distance of one Killa i.e. 40 Karams from the Faridkot-Sadaq road. The perusal of the plan,

Ex. A. I. prepared by Kanwar Lal, Revenue Patwari (A.W.1) on the basis of Aks Shajra as well as copy of the Shajra Aks Ex. R.I also supports

the above referred conclusion regarding the location of the acquired land According to Kanwar Lal, Revenue Patwari, the acquired land falls

nearer to Faridkot town than the land already acquired for the Medical College as well as for the Faridkot Cantonment. No doubt, the perusal of

the certified copy, Ex. A. 3 of the award of the learned Additional District Judge as well as certified Ex. A. 4 of the order of the High Court

pertaining to the land acquired for Faridkot Cantonment reveals that the said land was located along the main Faridkot Sadaq road as well as the

Cantonment road, but all the same the acquired land in the present case being located nearer to the above referred office buildings as well as

adjoining the buildings of the Medical College, there is no option but to conclude that it has a better situation potential than the land subject-matter

of the order of the High Court Ex. A 4. The perusal of Ex. A. 4 shows that the said land was acquired vide notification published on 28th August,

1974, whereas the present land was acquired vide notification published on 28th February, 1980, i.e after a gap of 5 1/2 years. The High Court in

R. F. A. No. 1637 of 1979 awarded compensation of the acquired land upto a depth of 40 Karams from the said main roads at the rate of Rs.

30,000/- per Acre and the remaining land at Rs, 30,000/- per Acre. A judicial notice can be taken of the fact that there is tremendous increase in

the prices of immovable property from year to year in the urban areas. Thus, the price of the acquired land in the year 1980 must have been more

than doubled than the one in the year 1974. Therefore, it can be well inferred that the market price of the land abutting the main Faridkot-Sadaq

road would be at Rs. 1,20,000/- per Acre on 28th February, 1980. The present acquired land being situated at a distance of 40 Karams away

from the said road, at least one-third of the above referred price has to be slashed for providing roads etc. Thus, on the basis of the judgment of

this Court, Ex. A.4, the market value of the acquired land could not be less than Rs. 80,000/- per Acre on 28th February, 1980. This conclusion is

further fortified from the factum that as per sale deed, Ex A. 5, land measuring 4 Kanals 0 Marla forming part of Khasra No. 5706 was sold for

Rs. 30,000/- on 19th December, 1972. That land is located along the Faridkot-Ferozepur metalled road. The per acre price of this land would

work upto Rs. 60,000/- per acre in the year 1972. So by the year 1980, it must have been doubled. If we slash one-third from the said market

price, in view of the factum that the land in the present case is located at a distance of one Killa from the Faridkot Sadaq road, than the market

price of the acquired land would work upto Rs. 80,000/- per acre. The remaining sale transactions Exs. A.6 to A. 20 were rightly discarded by

the learned Additional District Judge as these pertain to small pieces of land only. The learned Additional District Judge, has relied upon the sales

exhibited by mutations Ex. R. 7, R.8 and R.10 in calculating the average market price at Rs. 36,000/- per acre, but in view of the findings of Full

Bench of this Court in The State of Punjab v. Pohni (1986) 89 P. L R. 109., the certified copies of the mutations being inadmissible in evidence,

cannot be taken into consideration. Moreover, the land subject-matter of these mutations being located near the sewerage dump, probably would

not fetch better price than the acquired land, although the said land is located along the Faridkot-Araiyawala road. Thus the market price of the

acquired land on 28th February, 1980 is assessed at Rs 80,000/- per Acre.

3. Due to lack of evidence, it cannot be said that the Land Acquisition Collector had awarded inadequate compensation for construction and the

bore of the tube-well. The claimants are also not entitled to any compensation due to loss of business or for shifting as, admittedly, according to

Kanwar Lal, Revenue Patwari (A. W. 1) the land was lying vacant at the time of acquisition.

4. For the foregoing reasons, the compensation of the acquired land is enhanced to Rs. 80,000/- per Acre by accepting this appeal. The claimants

shall also be entitled to 30% solatium over and above the said compensation, besides to an amount equal to 12% per annum over and above the

compensation from the date of notification u/s 4 of the Act till the date of pronouncement of the award by the Land Acquisition Collector or taking

of the possession of the land, whichever is earlier. The claimants shall also be entitled to 9% per annum interest on the said compensation for the

first year from the date of delivery of possession of the land and 15% per annum for the subsequent years. They shall also be entitled to the

proportionate costs.