

(1988) 08 P&H CK 0012

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular First Appeal No. 1677 of 1984 and Civil Miscellaneous No. 1741-CI of 1985

Jalandhar Cold Storage

APPELLANT

Vs

Collector Land Acquisition

RESPONDENT

Date of Decision: Aug. 4, 1988

Acts Referred:

- Land Acquisition Act, 1894 - Section 4

Hon'ble Judges: I.S. Tiwana, J

Bench: Single Bench

Advocate: M.L. Sarin and Mr. A.S. Grewal, for the Appellant; K.P. Bhandari, A.G. Punjab and Mr. K.B. Bhandari, for the Respondent

Final Decision: Dismissed

Judgement

I.S. Tiwana, J.

These thirty-eight appeals (R. F. A. Nos. 2120 to 2123 of 1984, 481 to 492, 494 to (sic)02, 552, 710 of 1985, 1676, 1677 of 1984, 104 to 111,478 of 1985) the first twenty-seven preferred by the State of Punjab and the remaining eleven by the landowner-claimants are being disposed of through this common judgment in view of the identity of facts and the contentions raised therein. The solitary question that needs to be settled relates to the determination of the market value of the acquired land

2. The undisputed facts are that in pursuance of a notification published u/s 4 of the Land Acquisition Act (for short the "Act") on August 10, 1979, an area measuring 58 acres 3 kanals 16 marlas falling within three revenue estates, i. e., villages Jalandhar, Maksudan and Nagra was acquired for the setting up of a vegetable and fruit market. Concededly, the entire acquired land fell within the municipal limits of Jalandhar Corporation. For evaluating the land for purposes of paying compensation to the landowners, the Land Acquisition Collector categorized it into two blocks on

the basis of its distance vis a-vis the Grand Trunk Road, i. e , Jalandhar-Amritsar road and for "A" Block he determined the market value at Rs. 50,000/-per acre and for "B" Block at Rs, 36,000/-. Since the claimants did not accept the fairness of this compensation, they sought their respective references u/s 18 of the Act and as a result thereof, the District Court while maintaining the two blocks, has through different but somewhat similar awards, enhanced the rate of the market value to the following extent:

(i) For "A" Block ... Rs 667/- per marla per sq.

(ii) For "B" Block ... Rs 425/- per marla per sq.

3. The primary submissions of the learned Counsel for the landowner-claimants now are that firstly there was no justification for categorizing the land into two blocks in view of the potentiality it had come to acquire by the time it was notified for acquisition ; and secondly, the court should not have relied upon the sale instance (Exhibit P-7) solely for purposes of determining the market value of the acquired land

4. Having heard the learned Counsel for the parties at some length in the light of the evidence on record, while I find considerable merit in their first submission, I do not agree with them wholly so far as the second contention is concerned.

5. While considering the potentiality the suit land had, the learned lower court noticed that it abutted on the left side of the Grand Trunk Road if one has to proceed from Jalandhar to Amritsar. It touched the habitation of villages Maksudan and Jalandhar City ; a colony known as "Professor Colony" is located just opposite to it across the G. T. Road. The Court also observed in the light of the site plan Exhibit P-I prepared and proved by Shant Sarup (Pw 1) (RFA No, 1677 of 1984) that close to it number of factories and other industrial complexes had been constructed on both sides of the Grand Trunk Road. In the light of these facts, the Court concluded that the land had "potential for being used for commercial and residential purposes." In the face of this conclusion which is not disputed by the learned Counsel for the acquiring authorities, I find that there was no justification with the Court to categorise the land into two different blocks for purposes of its evaluation. By now, it is fairly well settled that normally the land that has potential for being utilized for commercial or residential purposes has to be evaluated at a flat rate for paying compensation to the landowner-claimants. I, therefore, accept the first submission of the learned Counsel for the claimants, as noted above, and hold that the entire land has to be treated at par for purposes of paying compensation to the claimants.

6. The only other crucial issue that remains to be settled is what should be the market value of the acquired land. For recording its conclusion, as noted above, the Court formed the opinion that the sale instances relied upon by the claimants generally disclosed a price rate of Rs. 1000/- per marla and imposing a cut of 1/3rd on that on account of the fact that these transactions pertained to small and

insignificant areas, it determined the market value of the "A" Block land at Rs. 667/-per marla. For fixing the market value of the land falling in "B" Block it primarily relies upon two sale transactions Exhibits A-3 and A-7 (RFA No 552 of 1985) which disclosed the price rates of Rs. 440 and 410 per marla respectively. To make it a round figure the Court determined the market value of this block at Rs. 425/- per marla. In the light of my above noted conclusion that the entire acquired land is to be treated at par for purposes of its evaluation, this approach and conclusion of the lower court has obviously to be set aside and I do so. Now to determine the market value of this land I find that the following three sale instances i. e , Exhibits P-4, P-7 and P-9 are very relevant. These transactions are within a period of four months to 18 months of the date of notification. The details of these transactions are as follows:

No	Date	Area	Price	Rate per marla
Ex. P-4	7.3.1979	9M 152 Sq. feet	Rs. 10,000/-	Rs 1000/-
Ex. P-7	29.3.1978	15 Marlas	Rs. 25,000/-	Rs. 1667/-
Ex. P-9	26.6.1978	10 M. 18 Sq.ft.	Rs. 10,000/-	Rs, 1000/-

In the light of these transactions the average price per marla works out to be Rs 1222.33 paise. The claimants, however, cannot be awarded compensation at this rate in view of the smallness of the plots to which these transactions pertained In other words, had the claimant to sell their acquired land in the form of plots of the sizes to which these transactions relate they would have lost at least 20 per cent of their land for providing approaches to those plots and other community amenities.

7. In the light of these factors, I feel that it would be fair and just to the claimants to determine the market value of the acquired land at a flat rate of Rs. 1000/-per marla Therefore, the market value of the acquired land is determined at that. It is needless for me to say here that besides this the claimants are also entitled to the benefits of Sections 23 (1-A), 23(2) and 28 of the Act as amended by Act No. 68 of 1984. They are also held entitled to the proportionate costs of their appeals

8. In the light of this conclusion of mine the State Appeals are devoid of any merit and are dismissed. No costs.