courtkutchehry.com

Company: Sol Infotech Pvt. Ltd.
Website: www.courtkutchehry.com
Printed For:
Date: 06/11/2025

(1991) 01 P&H CK 0003

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 1101 of 1990

Punjab State Electricity Board and Another	APPELLANT
Vs	
Mohinder Kaur	RESPONDENT

Date of Decision: Jan. 15, 1991

Acts Referred:

- Constitution of India, 1950 - Article 227
- Telegraph Act, 1885 - Section 10

Citation: (1991) 99 PLR 486

Hon'ble Judges: M.S. Liberhan, J

Bench: Single Bench

Advocate: S.C. Goyal and R.K. Aggarwal, for the Appellant; Anupam Gupta, for the Respondent

Final Decision: Dismissed

Judgement

M.S. Liberhan, J.
By this judgment, Civil Revisions No. 1201 of 1990, 1202 of 1990, 1808 and U09 of 1990 shall be disposed of.

2. Briefly, the facts necessary to determine the question in the his are that the Punjab State Electricity Board bad cut 344 eucalyptus trees over a strip of land owned by the claimants in order to lay some overhead electric transmission lines. The Punjab State Electricity Board (hereinafter referred to as the Electricity Board) granted a compensation of Rs. 28,605/- to Jaswant Singh (Petitioner in Civil Revision No. 1808 of 1990).

3. Jaswant Singh (Petitioner in Civil Revision No. 1808 of 1990) disputed the sufficiency of compensation and claimed it to be determined by the District Judge, as envisaged by Section 16(3) of the India Telegraph Act, 1865. The Additional District Judge, Hoshiarpur after considering the issues framed, awarded Ps 43,000/- as the compensation towards

the price of trees cut. For the possible loss likely to be suffered by the said petitioner en account of the compulsion of putting his land under different crops instead of the trees which bad been planted by him, the compensation was assessed at Rs. 22, 000/

4. Similarly, in case of Mohinder Kaur (Petitioner in Civil Revision No. 1809 of J990). The Additional District Judge, Hoshiarpur, awarded a compensation of Rs. 31,250/- for the trees aid Rs. 16.000/- said the compensation for the possible loss to be suffered by the said petitioner on account of the compulsion for putting her land under different crops instead of the trees planted by her.

5. The counsel for the petitioners in C. R Nos 120) and 1202 of 1990 challenged finding of the Additional District Judge, awarding the compensation inter alia on the grounds that (i) report Exhibit R-l given by the Executive Engineer of the Electricity Department was not taken note of (ii) agreement with W1MCO LIMITED, Exhibit A-l produced by the claimants was not considered (Hi) to deductions had been allowed on account of expenditure to be incurred by the claimants for growing and nurturing the trees; and (iv) effect of the likely damage to the trees on account of natural calamities was not taken into consideration.

6. The submissions made by the learned counsel for the claimants were refuted.

7. It is not disputed that for laying son e overhead electric transmission lines, the Electricity Board was bound to pay compensation for the loss and damage caused to tie property of the claim- ants in terms of the Indian Telegraph Act, 1885 for short, the Act Section 10(d) of the Act enjoins that the telegraph authority i e. the Electricity Board in the case in hand) for laying the electric lines, was bound to pay full compensation to all persons interested for any carnage sustained by them by reason of the exercise of the powers in this respect Section 16 further enjoins that if the compensation assessed by the authority was not acceptable, the persons interested could ask the District Judge to assess the sufficiency of compensation. It is well settled that the compensation referred to, relates to a damage sustained by any persons interested and not the damage to the property. (See in this behalf : Hussain Bakhsh v. Secy, of State and Anr. AIR 1935 Lah. 982.).

8. Reading of Section 10(d) of the Act makes it obvious that the authorities while exercising the powers for laying the overhead electric transmission lines shall do as little damage as possible and pay full compensation to all persons interested for any damage sustained by them by reason of laying the electric lines. Emphasis is hid on the compensation for the damage to be suffered by a person on account of laying of the electric lines It is undisputed that the claimants did suffer damage on account of the laying of electric lines. The Electricity Board assessed the compensation for damage suffered by the claimants, oft account of cutting of the trees and under all other heads to the tune of Rs. 28,605/ in case of Jaswant Singh and Rs. (sic)2, 255/-in case of Mohinder Kaur. The Additional District Judge enhanced the compensation amount to tie tune of Rs,

65,000/- and Rs. 48,250/- respectively. .

9. I have gone through the report Exhibit R-1 as well as Exhibit A-1, i. e. Agreement entered into by the claimants viz Mohinder Kaur and Jaswant Singh with WIMCO LIMITED Reading of Exhibit A-1 makes it obvious, that the claimants had purchased each plant if eucalyptus at the rate of Rs. 59 50, though the price was payable in various instalments The Company was bound to puichase the matured trees at the end of eight bears at the market pike then prevalent subject to a minimum price of Rs. 100/- per tree. The Agreement does give some indication regarding the price of various inputs i e. fertilizer, insecticides, pesticides etc. likely to be required and used for the plants, which the Company was bound to pay at cost price which was Rs. 1 50 for first year, Rs. 2.00 after two years, Rs. 4 00 for the fourth year ; and subsequently for the remaining period almost at the rate of Ks. 3.00. Thus, totaling the figure, the cost, of the inputs approximately comes to Rs. 10.50 per plant.

10. The Expert examined by the Electricity Board i. e. their Assistant Executive Engineer, with respect to the assessing of damage caused on account of cutting the trees, had given the value of three years old tree as ranging between Rs. 325/- to Rs. 500/- per tree. According to him, he assessed the value of the trees according to the Forest Rules, providing for assessing the market value of the trees in the year 1926. It was rightly pointed out by the learned counsel for the claimants that the valuation by the Expert cannot be relied upon, as the same is by all means the most unscientific method, and in terms of almost out dated Rules, apart from the fact that it related to the assessment of the valuation of the trees in the forest land and not in scientifically developed lands through the human agencies, with the application of modern techniques. Land in dispute on which the trees were grown, was not forest land, rather it was agricultural land.

11. While assessing the compensation for the damage caused, one has to keep in view the economic loss the claimants would suffer an account of laying of the electric lines. It would be this loss which can be reasonably termed as damage caused to the persons interested and it is for this loss for which the claimants have to be compensated though there is no (sic) formulae for determining the pecuniary loss for the economic loss caused, yet at the same time the pecuniary loss caused by injuring the contractual right of the claimants by which they would have immediately gained, cannot be denied. Though the claimants are bound to diminish the damage and thereby reduce the loss caused by the act of the Electricity Board, yet the compensation is to be assessed as calculated on the basis of a reasonable hypothesis keeping in mind that the assessment or the mode of assessment of the damage does not result in application of draconian rule of law or produce an unjust result. There cannot be any mathematical formula to assess the damage. Rule of thumb within the permissible limits has to be invoked. Attempt has to be made at fixing the proximity. of the loss by invoking judicial experience and common day knowledge as perfect justice is not just possible through human agencies.

12. Keeping in view the price of a plant charged by WIMCO LIMITED in terms of Exhibit A 1 and the maximum and minimum market value of the trees cut on the date of cutting, in my view the finding of the trial Court assessing the value of the trees at Rs. 125/- is not unreasonable in any manner whatsoever. Nothing persuasive has been pointed out to take any different view. The suggestion given by the learned counsel for the Electricity Board, that the loss to the extant of ten percent on account of natural calamities was not taken note of, is balanced when the maximum pries of a three years old tree assessed at Rs. 150/-, admittedly on the basis of the formula applicable to the forest trees of 1926, was reduced to Rs. 125/-.

13. As observed above, the compensation has to be considered in terms of the economic loss cased to the claimants. Though there is neither a scientific nor an arithmetical formulae to assess, yet in view of the undisputed agreement entered into by the claimants with respect to the sales of the trees after a lapse of eight years, at the minimum rate of Rs, 500/ par tree after incurring an expenditure of about Rs. (sic) per tree and further by giving an allowance of about another Rs. 70/ a tree, the claimants have suffered at economic loss of Rs. 360/- par tree Calculating the loss arithmetically the claimants would suffer an economic loss of more than Rupees one lac in eight years Though the District Judge has assessed the value of the trees cut and further allowed the damage under the head possible loss for putting the land under different cops, in my considered view taking it either way, i e. the economic loss which the claimants suffered on account of cutting of the trees prematurely which they would not be able to regrow or by assessing the value of the trees cat and adding to it the loss on account of the land being rendered unfit for a minimum reasonable period of four years as admittedly the trees have been cut one foot above the ground and the roots of the trees having not been totally removed, rendered the land unfit for profitable utilization, the amount of compensation to which the claimants are entitled comes roughly the same Apart from this, the valuation of the loss for the non-utilisation of the land at Rs. 22,000/- in case of Jaswant Singh and Rs. 16,000/- in case of Mohinder Kaur, by any stretch of imagination cannot be termed excessive

14. For the reasons recorded above, I find no force in the Revision Petitions (Nos. 1201 and 1202 of 1990) preferred by the Punjab State Electricity Board, nor do I find any force in the Revision Petitions (Nos. 1808 and 1809 of 1990) filed by Jaswant Singh and Mohinder Kaur respectively, for enhancement of compensation. Accordingly, all the four Revision Petitions are dismissed. In the circumstances, however, there would be no order as to costs.