

(2000) 11 P&H CK 0214

High Court Of Punjab And Haryana At Chandigarh

Case No: First Appeal from Order No. 613 of 1988

Vir Kaur

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision: Nov. 13, 2000

Acts Referred:

- Land Acquisition Act, 1894 - Section 23
- Requisitioning and Acquisition of Immovable Property Act, 1952 - Section 7, 8

Citation: (2001) 4 RCR(Civil) 354

Hon'ble Judges: H.S. Bedi, J

Bench: Single Bench

Advocate: Rajive Bhalla, for the Appellant; Ashutosh Mohunta, Senior Standing Counsel, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

H.S. Bedi, J.

This appeal arises out of the award of the learned Additional District Judge, Gurdaspur exercising the powers of Arbitrator u/s 8 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (hereinafter called the "Act"). Land measuring 7 kanals 13 marlas situated in village Bharoli Khurd belonging to the mother of the present appellant was acquired for defence purposes vide notification u/s 7 of the Act dated December 12, 1969 and published in the Punjab Government Gazette on January 9, 1970. As the compensation offered was not acceptable to her, she sought the appointment of an Arbitrator u/s 8. The matter was thereafter taken up by the Arbitrator and after examining the evidence produced on record and more particularly the award of the High Court pertaining to the land acquired in the same village in the year 1964, awarded as sum of Rs. 220/- per marla as compensation. The Arbitrator also noted that the award pertaining to the land

acquired from Harbans Singh and Shanti Devi in the year 1964 had become final as the appeal filed against the award of the High Court had been dismissed by the Supreme Court. The Arbitrator also observed that as the lands belonging to the present appellant and that belonging to Harbans Singh and Shanti Devi were similarly situated, the appellant was also entitled to the award of Rs. 220/- per marla and solatium as well.

2. It is against this award, the present appeal has been filed seeking an enhancement of the compensation.

3. Mr. Rajive Bhalla, the learned counsel appearing on behalf of the appellant, has raised only one argument. He has pointed out that the award pertaining to Harbans Singh and Shanti Devi pertained to an acquisition made in the year 1964 whereas the land of the present appellant had been acquired in 1969, i.e. after a lapse of five years and as such an enhancement of compensation at the rate of 12% per annum was called for in the light of a Division Bench judgment of this Court rendered in [Mechanical Department, Primary Co-operative Bank Ltd., N.E.R., Gorakhpur and another Vs. Joint Secretary, Ministry of Agriculture and Co-operation, G.O.I., New Delhi and others,](#)

4. As against this, Mr. Ashutosh Mohunta, the learned Sr. Standing Counsel for the Union of India has pointed out that the land belonging to the present appellant had been in possession of the Defence department since 1966 and as such the Division Bench judgment of this Court could not be applied to the facts of the present case. He has also urged that the appellant was, in any case, not entitled to the award of solatium and interest in terms of the award of the Arbitrator, in view of the judgment rendered in [Union of India \(UOI\) Vs. Hari Krishan Khosla \(Dead\) by Lrs.,](#) , which had been followed by several other judgments.

5. We have considered the arguments of the learned counsel and find that the compensation awarded to the appellant needs to be enhanced, in view of the fact that the land of Harbans Singh and Shanti Devi had been acquired in the year 1964 and that a period of 5 years had elapsed by the time the land of the present appellant had been acquired. Admittedly there is no sale transaction pertaining to the land or near about as the entire area had been requisitioned. The element of enhancement by way of interest must, therefore, be considered. I am, therefore, of the opinion that keeping 1964 as the base year, the appellant would be entitled to Rs. 100/- per marla by way of enhancement, which would make it a little less than the 12% enhancement claimed by the appellant.

6. The correctness of the judgment in Hari Krishan Khosla's case (supra) has been put up for re-consideration by the Hon'ble Supreme Court. In this view of the matter, the question with regard to the grant of solatium and interest on the enhanced amount is left open till a decision is taken by the Supreme Court. It is, however, clarified that in case the Hon'ble Supreme Court reverses the judgment in

Hari Krishan Khosla's case, the appellant would be entitled to approach this Court for appropriate orders in that regard in the present case.

The appeal is allowed in the above terms.

7. Appeal allowed.