(2009) 04 P&H CK 0322

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Ujagar Singh (deceased) through LRs.		APPELLANT
	Vs	
The Union Territory The Union Territory Vs Ujagar Singh		RESPONDENT

Date of Decision: April 21, 2009

Acts Referred:

- Land Acquisition Act, 1894 - Section 4

Hon'ble Judges: Rajesh Bindal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Rajesh Bindal, J.
This order will dispose of a set of above mentioned two appeals, as common questions of law and facts are involved.

2. Dissatisfied with the impugned award, both the land owner as well as Union Territory, Chandigarh are in appeal, whereby on account of compensation assessed for the trees standing on the acquired land, the learned court below had granted increase @ 160%.

3. Briefly, the facts are that vide notification dated 3.10.1979, issued u/s 4 of the Land Acquisition Act, 1894 (for short, ''the Act''), land of Ujagar Singh-claimant was acquired over which was existing an Orchard consisting of 1046 fruit trees. The Land Acquisition Collector (for short, ''the Collector'') awarded Rs. 1,27,533.16 as compensation for acquisition of the trees. Aggrieved against the same, the land owner filed objections which were referred to the learned District Judge, Chandigarh, who keeping in view the material placed on record by the parties, granted increase @ 160% thereon.

4. Learned Counsel for the land owner submitted that for the time gap, the land owner was entitled to increase @ 200% as the price index in the year 1966 was 144.3, which increased to 374 in the year 1979, when the land was acquired. There was a difference of 229.7 and the land owner was entitled to increase to that extent on the value of trees, as was assessed by the Collector. He further submitted that even the quality of the trees had not been properly assessed by the Collector. The evidence produced by him for that purpose had not been considered at all.

5. On the other hand, learned Counsel for Union Territory relying upon the price index 1970-71 stated that the same was 79.7 in the year 1966, which increased to 206.5 in the year 1979, and the difference being 126.8, the land owner was not entitled to increase more than that rate and the award of the learned court below granting increase @ 160% is totally uncalled for.

6. Heard learned Counsel for the parties and perused the record.

7. It is a case where, in my opinion, both the parties have unnecessarily filed appeals. Paragraph 7 of the impugned award deserves a reference, which is as under:

In view of the report Ex. P.35 and the remand order of the Hon''ble High Court, learned Counsel for the claimant contended that the amount of compensation already awarded to the claimant may be increased by 160%. The learned Government Pleader did not raise any cogent plea to repel this contention of learned Counsel for the claimant. It was specifically observed in the remand order that after the publication of formula 1966, there was tremendous increase in the whole sale price index as published by the Govt. of India and 100% increase for the acquisition of fruit trees was allowed in the year 1975. The trees in the present case were acquired in the year 1979 and so the claimant is entitled to the enhanced compensation @ 160%, as deposed by his own witness. Issue No. 1 is decided accordingly.

8. A perusal of the aforesaid paragraph of the impugned award shows that the land owner claimed that he was entitled to increase by 160% on the compensation already awarded by the Collector. To repel this argument, no cogent plea was raised by learned Government Pleader. The learned court below in the impugned award had granted increase of compensation to the land owner to the extent of 160% on the value so assessed by the Collector. Accordingly, the contention of both the parties that the compensation was not correct is totally misconceived.

9. Even the contention of learned Counsel for the land owner that difference in the price index being 229.7 if considered qua the years 1966 and 1979, as per the price index 1961-62, the entitlement shall increase to that extent, whereas the contention of learned Counsel for Union Territory is that as per price index 1970-71, the difference being 126.8 from 1966 to 1979, the entitlement of the land owner was only to the extent of 126.8%, are totally misconceived. Increase @ 160% on the value

of fruit bearing trees standing on the acquired land was granted for the reason that the Collector had assessed the value thereof as per formula in 1966, the acquisition having been made in the year 1979, for the intervening period the increase was to be granted as per the price index. By whatever price index, the same is considered--may be 1961-62 or 1971-72, the increase was 160%. If on 144.3, 160% is added, the same comes out to 375.18 and in case 160% is added on 79.7, the same comes out to 207.22, which is quite close to the price index, as has been referred to in the year 1979 as per both price indexes of 1961-62 and 1970-71.

10. For the reasons mentioned above, both the appeals are dismissed being without any merit.