

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 5787 of 1987

Date of Decision: May 23, 2006

Kashmira Singh and others

..... *Petitioners*

Versus

*The Land Acquisition Tribunal Ludhiana Improvement Trust
through its President and others*

..... *Respondents*

**Coram: Hon'ble Mr. Justice Ashutosh Mohunta
Hon'ble Mr. Justice Mahesh Grover**

Present: Mr. S.P.S. Dhaliwal, Mr. G.S.Punia and
Mr. Hemant Saini, Advocates
for the land-owners.

Mr. C.M.Munjial, Sr. Addl. A.G. Punjab.

Mr. H.S.Mattewal, Sr. Advocate with
Mr. P.S.Thiara, Advocate,
Mr. A.S.Tung, Mr. Pardeep Bhandari and
Mr. P.S.Jahangir, Advocates
for the Ludhiana Improvement Trust.

...

ASHUTOSH MOHUNTA, J.

This judgment shall dispose of writ petition Nos. 2197, 2281, 5565, 5544, 5580, 5593, 5600, 2298, 5569, 2383, 2392, 5586, 5587, 2394, 2395, 2396, 2397, 2331, 2333, , 2327, 2212, 2206, 2198, 1897, 5567 of 1990, 2335, 6700 of 1989, 1065, 9619, 1924, 5930 of 1988, 3043, 5787, 5788 of 1987 and 5897 of 1996 as all these petitions arise out of the same acquisition proceedings. For the sake of convenience, the facts are being extracted from C.W.P. No. 5787 of 1987.

Briefly the facts of the case are that vide notification dated 2.7.1976 issued under Section 36 of the Punjab Town Improvement Act, 1922, the Ludhiana Improvement Trust (hereinafter referred to as 'the Trust') acquired land measuring 475 acres situated in the revenue estate of village Sunet, Phullanwal and Jawadi, District Ludhiana, for the Development Scheme known as the "475 Acres Development Scheme". The Land Acquisition Collector vide Award No.1 dated 4.8.1981 divided the entire acquired land into four blocks i.e. A, B, C and D viz-a-viz its location qua the

Ludhiana Pakhowal metalled road. The compensation of the levelled land forming part of Block-A was awarded at the rate of Rs.250/- per marla but of the low lying area to the extent of 2 to 3 feet at the rate of Rs.200/- per marla and of the low lying area upto the depth of 3 to 4 feet at the rate of Rs.175/- per marla. Compensation of the levelled land of Block-B was awarded at the rate of Rs.225/- per marla and that of the low lying area to the extent of 1 to 2 feet at the rate of Rs.200/- per marla and of low lying area to the extent of 3 to 4 feet at the rate of Rs.157/- per marla. Compensation of the levelled land falling in Block-C was awarded at the rate of Rs.202/- per marla and that of the low lying area at the rate of Rs.182/- per marla. Compensation of the levelled land falling in Block-D was awarded at the rate of Rs.182/- per marla while of the low lying area upto the depth of 1 to 2 feet at the rate of Rs.164/- per marla and of the low lying area upto the depth of 3 to 4 feet at the rate of Rs.146/- per marla and that of another low lying area of Block-D compensation was awarded at the rate of Rs.127/- per marla.

Being dissatisfied with the said award of the Land Acquisition Collector, the land-owners filed claim petitions under Section 18 of the Land Acquisition Act claiming compensation at the rate of Rs.70/- per square yard besides claiming compensation for loss of livelihood and tubewell etc. The Tribunal after relying on the relevant evidence led before it determined the compensation of the acquired land of the land-owners upto the depth of 50 karams for the main Pakhowal road at the rate of Rs.600/- per marla whereas the remaining levelled land, compensation at the rate of Rs.377/- per marla was awarded and for the low lying areas, the compensation of Rs.262/- per marla was awarded. The land-owners were also held entitled to 30% solatium and additional amount of 12% per annum from the date of publication of the notice under Section 36 of the Punjab Town Improvement Trust till the date of their dispossession or pronouncement whichever was earlier. The land-owners were also held entitled to interest. It is against this judgment that the land-owners as well as the Ludhiana Improvement Trust have filed the present writ petitions.

The land-owners have claimed compensation ranging between Rs.70/- per square yard to Rs.100/- per square yard. It has been argued by the learned counsel that the acquired land is situated within the Municipal

Limits of Ludhiana City and has a great potential for being utilized for commercial as well as residential purposes. It has also been argued by Mr.Dhaliwal that there was no justification for the Tribunal to classify the land in different blocks and categories as the purpose of acquisition was same i.e. for construction of a residential colony in the 475 acres scheme. It has further been argued that the entire residential colony is developed by the Ludhiana Improvement Trust and plots are being carved out and they are being sold at a uniform rate irrespective of their location and, therefore, same rate should have been awarded for the entire land. It has further been argued that the acquired land of the land-owners is surrounded by habitation on all sides and on one side is Pakhowal road and market whereas on the other side there is Jawadi Government School, a Convent school, Vikash Nagar and A.C. Tarcole factory are also in the vicinity of the acquired land. The habitation of Bhai Randhir Singh Nagar and Kabir Colony and Ravidass Colony are also closeby.

On the basis of the above location, the claimants have claimed higher compensation.

On the other hand, it has been argued on behalf of the Ludhiana Improvement Trust that as the entire land was of different types because although some of the lands were levelled and abutting on the main road whereas the others were low lying and not levelled, therefore, different rates of compensation have to be awarded. It has further been argued that although the acquired land is within the Ludhiana Municipal Limits but the entire land does not have the same potential and, therefore, the compensation of the acquired land has to be assessed on the quality of the land.

We have heard the learned counsel at length and have perused the record.

From a perusal, it is clear that the acquired land has a lot of potential for being used for residential purposes as the entire land is within the Ludhiana Municipal Limits. The purpose of acquisition is for development of 475 Acres Residential Colony. There is plenty of habitation in and around the land on all sides. The Tribunal has awarded Rs.20/- per square yard (Rs.600/- per marla) for land upto the depth of 50 karams from the link road whereas for the remaining land compensation has been

assessed at Rs.13/- per square yard (Rs. 393/- per marla). When the purpose of acquisition is one i.e. for setting up of a residential colony and when the entire land falls within the municipal limits then there was no justification in classifying and dividing the land in different blocks and categories. Therefore, we are of the considered view that a uniform rate of compensation ought to have been awarded by the Tribunal. In *The Jalandhar Improvement Trust, Jalandhar v. Vidya Suri (Smt.) and others* reported as (2006-1) The Punjab Law Reporters 153 it has been held by a Division Bench that when the entire acquired land for the scheme was situated within the Municipal Limits of Jalandhar and there was all around development adjoining the acquired land then the land-owners were not entitled to be given any differential treatment for various parts of the acquired land and the land could not be treated to be merely agricultural in nature. Thus, there was no justification for dividing the land in different categories for the purpose of awarding compensation.

As far as the determination of compensation is concerned, the Tribunal has relied on award Ex.A16 passed by the Tribunal itself in reference of Mohinder Singh v. State wherein the land situated in the revenue estate of village Phullanwala acquired for the purpose of this very scheme and which was abutting on the link road, the compensation was awarded at Rs.20/- per square yard. Thus, the Tribunal has rightly relied on the said award and awarded Rs.20/- per square yard in the present case also but upto the depth of only 50 karams from the link road. In our considered opinion, although the rate of Rs.20/- per square yard has fairly been determined by the Tribunal but this rate ought to have been awarded for the entire land and not for the land upto the depth of 50 karams only.

The land-owners have also claimed higher compensation for tubewell and other constructions also but as no cogent evidence has been led, therefore, no further amount can be awarded apart from what has been awarded by the Land Acquisition Collector.

Counsel for the Ludhiana Improvement Trust has argued that as the award of the Land Acquisition Collector is prior to 23.4.1982, therefore, the land-owners are not entitled to any additional amount under Section 23 (1) (a) of the Land Acquisition Act. Learned counsel has relied on the judgment in *K.S.Paripoornan v. State of Kerala* AIR 1995 SC 1012.

A perusal of the impugned judgment shows that as the award of the Land Acquisition Collector was prior to 23.4.1982, therefore, the land-owners are not entitled to any amount under Section 23(1)(a) of the Land Acquisition Act.

As a result of the above discussion, the land-owners are held entitled to a uniform rate of compensation at the rate of Rs.20/- per square yard i.e. Rs.600/- per marla. The land-owners are also held entitled to solatium at the rate of 30% and interest at the rate of 9% per annum for the first year from the date of their dispossession and 15% thereafter till the date of payment of compensation.

The writ petitions are disposed of in the above terms.

**(ASHUTOSH MOHUNTA)
JUDGE**

**(MAHESH GROVER)
JUDGE**

**23.5.2006
Rupi**