

Letters Patent Appeal 500 of 2001

Date of decision: 23.12.2006.

Jasbir Kaur and anr

...Appellants

Versus

Union Territory of Chandigarh  
Respondent

...

CORAM: HON'BLE MR JUSTICE S.S.NIJJAR.  
HON'BLE MR JUSTICE S.S.SARON.

Present: Mr AS Chahal, Advocate, for the appellant.  
Ms Lisa Gill, Advocate for the UT Chandigarh.

This order will dispose of LPA Nos.500, 741 to 746 and 992 of 2001 as they relate to the same acquisition. The challenge in these LPAs is to the order dated 27.5.1999 passed in *Surinder Singh and anr v. UT Chandigarh* (RFA 2879 of 1998). The orders under appeal have disposed of the RFAs in terms of the order passed in Surinder Singh's case (RFA 2879 of 1998).

Land measuring 39.27 acres in the revenue estate of village Mani Majra was acquired with an intention to develop residential-cum-commercial complex in pocket No.4 of the Mani Majra Complex. For the purpose of acquisition, notification under Section 4 of the Land Acquisition Act 1894 (Act – for short) was issued on 25.5.1989. The Land Acquisition Collector, vide his award No.413 LAO dated 5.1.1990, awarded compensation to the claimants @ Rs 1,65,400/- per acre. The claimants being dissatisfied with the compensation awarded to them, preferred references under Section 18 of the Act, which were referred by the Land Acquisition Collector to the District Judge, Chandigarh for determination of

the compensation payable. The learned Additional District Judge, Chandigarh, to whom the references were assigned vide judgment and order dated 30.3.1998 enhanced the compensation payable for the acquired land in favour of the claimants by awarding a sum of Rs 3,87,200/- per acre. The claimants dissatisfied with the compensation that was awarded sought further enhancement by way of RFAs. The UT Administration Chandigarh assailed the aforesaid judgment dated 30.3.1998 passed by the learned Additional District Judge on the ground that the enhancement made in favour of the claimants was excessive and unreasonable and that the award passed by the Collector was liable to be restored.

After the issuance of the aforesaid notification dated 25.5.1989 under Section 4 of the Act in respect of the present acquisition, the UT Administration, Chandigarh intended to acquire another parcel of land measuring 16.86 acres in the revenue estate of village Mani Majra for the extension of Indira Colony. For the said purpose another notification under Section 4 of the Act was issued on 12.6.1989. The Land Acquisition Collector in respect of the second notification dated 12.6.1989 awarded a sum of Rs 1,65,400/- per acre as compensation to the claimants Yad Ram etc. therein. As such, the amount of compensation awarded in respect of the present acquisition in pursuance of the notification dated 25.5.1989 under Section 4 of the Act was maintained. The claimants – Yad Ram etc., however, aggrieved against the amount of compensation awarded in respect of the acquisition undertaken in terms of the second notification dated 12.6.1989, preferred references under Section 18 of the Act. The learned Additional District Judge, Chandigarh in terms of his judgment and award dated 2.3.1998 awarded a sum of Rs 2,80,000/- per acre to the claimants – Yad Ram etc. therein. The award in respect of the subsequent notification was pronounced by the learned Additional District Judge prior in point of

time i.e. on 2.3.1998 whereas the award in terms of the present acquisition was pronounced later i.e. on 30.3.1998. The claimants – Yad Ram, etc. seeking compensation in respect of the subsequent notification accepted the said amount and as observed by the learned Single Judge, no appeal seeking enhancement has been listed before this Court against the said judgment and award dated 2.3.1998. The UT Administration, however, challenged the judgment and award dated 2.3.1998 of the learned Additional District Judge praying that the amount of compensation of Rs 2,80,000/- per acre awarded to the claimants therein was excessive and was liable to be reduced. It has sought restoration of the Collector's award in the said case also. There were 17 appeals filed by the UT Administration in respect of the acquisition undertaken in terms of the subsequent notification. The learned Single Judge disposed of 57 appeals of the claimants as well as of the UT Administration whereby two judgments i.e. the judgment dated 30.3.1998 and 2.3.1998 relating to the acquisition notifications which were issued on 25.5.1989 and 12.6.1989 respectively were disposed of. The learned Single Judge relied upon two earlier judgments of this Court i.e. Ex A21 and Ex PX. Vide Ex A21, this Court awarded a sum of Rs 87/- per sq yard i.e. Rs 4,18,080/- per acre in respect of the land acquired in the same village in pursuance of an earlier notification dated 18.2.1980 under Section 4 of the Act. In terms of Ex PX the learned District Judge had awarded a sum of Rs 2,00,000/- per acre in respect of land acquired in the same village vide another notification dated 10.12.1986. The learned Single Judge found that the best method of computing the compensation to which the claimants would be entitled to would be to give them the average of the two awards with the requisite benefits available to them because of time. Accordingly, the average price as determined vide judgments Ex A21 and Ex PX was worked out to Rs 3,09,040/-. It was observed that there was no

direct evidence available to give compensation to the claimants, however, the Court could not over-look the factor that the average amount as worked out would be of the year 1986. The claimants would, therefore, be entitled to increase for a period of 2 to 5 years as the notification in the present case relates to the year 1989. By giving them the benefit of increase @ 12% p.a., they were held entitled to an increase of Rs 92,713/- on the average price of the two awards Ex A21 and Ex PX that had been worked out. Accordingly, the compensation payable to the claimants was worked out to Rs 4,01,753/- per acre. This compensation was payable to the claimants whose land had been acquired for developing residential-cum-commercial complex in pocket No.4 in the residential complex of Mani Majra. The location of the land acquired in the same village for further developing Indira Colony was held to be different and its comparative potential was held less than the land acquired for pocket No.4. The compensation payable to the claimants in respect of the land acquired for further developing the Indira Colony was, therefore, assessed @ 25% less than the amount awarded to the claimants in relation to the development of residential-cum-commercial complex in pocket No.4. The claimants in respect of the land acquired for further development of Indira Colony were held entitled to a sum of Rs 3,01,315/- per acre in place of Rs 2,80,000/- per acre which had been awarded to them by the learned Additional District Judge. In substance, in terms of the order of the learned Single Judge, the claimants in respect of the acquisition for development of residential-cum-commercial complex in pocket No.4, Mani Majra were held entitled to a sum of Rs 4,01,753/- per acre by working out the average price determined on the basis of the judgments Ex A21 and Ex PX whereas the claimants whose land had been acquired for the development of Indira Colony were

held entitled to Rs 3,01,315/- per acre i.e. 25% less than the amount awarded to the claimants in respect of the acquisition of pocket No.4.

Learned counsel for the appellants has contended that the compensation awarded by the learned Single Judge by taking the average price on the basis of the judgments Ex A21 and Ex PX is wholly improper and the appellants are entitled to higher compensation by placing reliance only on the judgment Ex A21 in terms of which a sum of Rs 87,000/- per sq yard i.e. Rs 4,18,080/- per acre has been awarded, in respect of the acquired land in the same village. Reliance placed on the award Ex PX, it is contended, is liable to be ruled out of consideration.

In response, learned counsel for UT Administration Chandigarh has contended that the award passed by the learned Single Judge is just and proper and calls for no further enhancement.

We have given our thoughtful consideration to the matter.

As has already been noticed, the present LPAs have been filed against the order passed by the learned Single Judge in the case of **Surinder Singh and anr v. UT Chandigarh** (RFA 2879 of 1998). The said order also disposed of the appeals for enhancement of compensation payable to the claimants – Yad Ram etc. whose land had been acquired for the purpose of extension of Indira Colony, Manimajra vide notification dated 12.6.1989. Against the impugned order of the learned Single Judge whereby the compensation payable to the claimants – Surinder Singh and others and Yad Ram and others, the UT Administration filed LPA 1684 of 2000. A Letters Patent Bench of this Court on 20.11.2000 dismissed the same. It was held as follows:-

“Reliance has been placed upon judgments Ex A-21 and Ex PX arising out of the acquisition of land vide notifications dated 18.2.1980 and 10.12.1986 respectively. Down-ward

trend of prices of property accounts for reduction in the market value awarded in Ex PX. Average amount of compensation in these two judgments, with requisite benefit available to them because of time, has been worked out at the rate of Rs 3,09,040/-. Further on the basis of the notification dated 10.12.1986, which was the subject matter of Ex PX, keeping in view the gap of 2-5 years in the notification dated 12.6.1989, the learned Single Judge has given the benefit at the rate of 12% per annum in arriving at the fair market value for acquisition of the land in the case of Surinder Singh. Increase at the rate of 12% per annum is the same as that of interest prescribed under the Land Acquisition Act. Learned counsel appearing on behalf of the appellant is unable to show from the record any evidence of fall in prices of property in and around Chandigarh during the period 1986 to 1989.

In case of Yad Ram, land acquired for development of Indira Colony is found to be inferior in location and potentiality as it is not located adjacent to the main road or any other important place as the land in the case of Surinder Singh. It is for this reason that the learned Single Judge has held the appellants entitled to compensation at the rate of 25% less than the amount awarded in the case of Surinder Singh.

We find no error in the impugned judgment so as to warrant interference in this letters patent appeal.

Finding no merit in the appeal, we need not to go into the question of condonation of delay in filing and refiling the appeal.

Dismissed.”

The contention of the learned counsel for the appellants that only the award Ex A21 was liable to be taken into consideration, is without merit. The two judgments and awards Ex A21 and Ex PX relied upon by the learned Single Judge relate to acquisition of land in the same village. The learned Single Judge observed that the best way of computing the compensation would be to give the claimants average of the aforesaid two awards with the requisite benefit available to them on account of the time gap between the acquisition. The average price of the two awards Ex A21 and Ex PX was worked out to Rs 3,09,040/-. Learned counsel for the appellants has, however, contended that reliance placed on the award Ex PX is misplaced as that was not relied upon by the learned Additional District Judge in his order passed in Reference under Section 18 of the Act. A reference has been made to para 17 of the award of the learned Additional District Judge which reads as under:-

“As far as the copy of award Ex PX is concerned, the same is with regard to the land situated in village Manimajra and the market value was fixed to be Rs 2 lacs per acre, vide notification dated 10.12.1986. This award was also produced before me in some cases of Manimajra and after allowing necessary increase, I have fixed the market value to be Rs 2,80,000/- per acre. The copy of award has not been filed by either of the parties. However, I have seen the photocopy of that award, which was with regard to notification dated 12.6.1989. In that award, the value was fixed keeping in view one of the consideration that there were number of pits in the acquired land by lifting the soil.”

A Division Bench of this Court vide order dated 27.9.2001 that was passed in the present LPA observed that the above observations made in paragraph 17 of the judgment of the learned Additional District Judge cannot be interpreted to mean, by any stretch of imagination, that Ex PX has not been relied upon. It was held that in any case Ex PX has been properly appreciated by the learned Single Judge and relied upon. In fact, in terms of the order dated 27.9.2001 passed by this Court in the present LPA, it was noticed that the learned counsel for the appellant had contended that Ex A21 relied upon by the learned Additional District Judge was subject matter of appeal which was still pending and in case there was an increase in the appeal that had been preferred against Ex A21, there would be automatic increase in this case as well. He had taken time to ascertain the number of the RFA that might have been filed against the award Ex A21. It is submitted that against the award (Ex A21), LPA 347 of 1993 was filed which was allowed on 5.10.2005 and compensation @ Rs 116/- per sq yard has been awarded. Indeed, LPA 347 of 1993 titled Amarjit Singh and ors v. UT Chandigarh has been allowed by an order dated 5.10.2005. A perusal of the record shows that the said appeal was against the order dated 9.11.1992 in RFA 1417 of 1982 titled Amarjit Singh v. UT Chandigarh. In the said case of Amarjit Singh (supra), land measuring 1.69 acres was acquired for a Middle School in Mani Majra, UT Chandigarh. Notification for its acquisition was issued on 18.8.1980. The market value of the land was assessed at Rs 35,000/- per acre by the Land Acquisition Collector. On reference made under Section 18 of the Act, the learned District Judge, Chandigarh vide his award dated 5.5.1982 fixed the market value of the acquired land at Rs 15,000/- per Kanal. In RFA 1417 of 1982, the market value of the acquired land was determined at Rs 87/- per sq yard which in LPA has been enhanced to Rs 116/- per sq yard. It may appropriately be



noticed that the acquisition in the said case was in respect of the area measuring Rs 1.69 acres only. In the present case, the acquisition involves acquisition of 39.27 acres. Therefore, the said area of 1.69 acres cannot be taken to be the sole basis for determining the compensation awarded. The other connected LPAs filed by the UT Administration Chandigarh have been dismissed and the order passed by the learned Single Judge in Surinder Singh's case (RFA 2879 of 1998) has attained finality.

Therefore, it would not be appropriate at this stage to unsettle the awards that have been passed.

Accordingly, we are of the view that the assessment made by the learned Single Judge on the basis of the two awards i.e. Ex A21 and Ex PX is correct and has been followed by a Division Bench of this Court in the case of UT Chandigarh v. Lakhir Singh LPA 1684 of 2000 decided on 20.11.2000. Besides, it has been held to be valid in terms of the order dated 27.9.2001 passed in the present LPA.

For the foregoing reasons, we find no merit in these appeals and the same are accordingly dismissed.

( S.S.NIJJAR )  
JUDGE

23.12.2006.  
ASR

( S.S.SARON )  
JUDGE

WHETHER FIT FOR INDEXING : YES/NO