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BAKHTAWAR SINGH AND ANR. ETC. ETC.

v.

UNION OF INDIA AND ANR.

NOVEMBER 29, 1994

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[K. RAMASWAMY, N.P. SINGH AND N. VENKATACHALA, JJ.]

Land Acquisition Act, 1894:

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Compensation—Application of the principle of average pricing—Wrong and illegal—Lands in huge parcels—Determination of market value and award of compensation.

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Certain lands were acquired under the Land Acquisition Act, 1894. The Land Acquisition Officer awarded a sum of Rs. 22,000 per acre for Nehri and Chahi land and Rs. 8,000 per acre for Barani land and Rs. 4,000 per acre for Gair-mumkin (waste) land. On reference the Addl. District Judge enhanced compensation to Nehri and Chahi lands to Rs. 36,000 per acre and for Gair-mumkin land at the rate of Rs. 6,000 per acre. On appeal Single Judge confirmed the award of the Addl. District Judge, and maintained the decree. In Letters Patent Appeal, the Division Bench enhanced the market value of Nehri land to Rs. 37,000 per acre. Hence this appeal.

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Appellants contended that the LAO made the award on the same day for the lands in Bhagu as well as other villages at the rate of Rs. 22,000 per acre for Nehri and Chahi lands; (as in the present case) which was ultimately enhanced by the High Court to Rs. 50,000 per acre and affirmed by this Court in *Union of India v. Zora Singh*, [1992] 1 SCC 673.

Dismissing the appeal, this Court

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HELD : 1. Application of the principle of average price is wrong and illegal. The High Court had granted higher than the amount claimed pursuant to the notice under Sections 9 and 10 for the Land Acquisition Act. The evidence relied upon by the claimants relates to sale transactions from the same acquired lands which fetched the maximum rate of Rs. 40,000 per acre when the land of 4 kanals 6 Marlas was sold. When the lands of 527 acres in huge parcels were

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acquired it would be preposterous to think that they would fetch the

same market value if a willing buyer bargained from a willing-vendor for such lands. The High Court has given the maximum compensation for the lands in question. [198 F to H, 199 A] A

Union of India v. Zora Singh, [1992] 1 SCC 673, referred to.

2. The judgment of the High Court is not a part of the record. It cannot be treated as a proper basis. There must be evidence for the purpose of determining the market value of the respective prevailing prices in each village. The situation of the lands, their quality and all other relevant facts are necessary and be taken into consideration to enhance the market value which are absolutely lacking in these cases, and the claimants themselves have produced the sale deeds from their own lands. So it is not necessary to travel to other village to determine the market value of the lands in Bhagu village. If that be so, they cannot get more than Rs. 37,000 per annum as awarded by the High Court. [199 C & D] B C

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3749 of 1986 etc. etc. D

From the Judgment and Order dated 17.9.85 of the Punjab and Haryana High Court in L.P. A. No. 937 of 1984.

S.S. Javali, B.R. Naik, Dr. Meera Agarwal, R.C. Mishra for Agarwal Mishra and Co. for the Appellants. E

Ujagar Singh and Naresh Bakshi for the Respondents.

The following Order of the Court was delivered :

Leave granted in S.L.Ps. No. 13360/86, 8584/92, 14567/87, 14591-92/87, 14657/87, 2201/91, 2833/91, 2835/91, 2868/91, 3175/91, 4062/91, 2136/91. F

Notification issued under section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') was published in the State Gazette on June 8, 1979, acquiring 527 and odd acres of land situated in Bhagualong with the lands in the villages Bibiwala, Bachu Khurd, Bachu Kalan, Gobindpura and Mehna in Bhatinda district to establish cantonment for the defence purposes at Bhatinda. The Land Acquisition Officer (for short 'the LAO') in his award dated March 30, 1981, awarded a sum of Rs. 22,000 per acre for Nehri and Chahi land and Rs. 8,000 per acre for Barani land and Rs. 4,000 H G

- A per acre for Gair-mumkin (waste) land. On reference under section 18, the Addl. District Judge, by his award and decree dated August 6, 1983, enhanced compensation to Nehri and Chahi lands to Rs. 36,000 per acre and for Gair-mumkin land at the rate of Rs. 6,000 per acre. On appeal under section 54 of the Act, the learned Single Judge confirmed the award of the Addl. District Judge by his judgment and decree dated August 3, 1984 and
- B maintained the decree. In Letters Patent Appeal, the Division Bench enhanced the market value to Nehri land to Rs. 37,000 per acre by his judgment and decree dated Sept. 17, 1985. Thus this appeal by special leave against the judgment and order of the Division Bench for further enhancement.
- C The appellants' claim for further enhancement at par with the amount awarded by the High Court to the lands situated in Bachu Khurd, Bachu Kalan and Mehna at the rate of Rs. 90,000 per acre up to a depth of 500 meters. Rs. 50,000 per acre to Chahi and Nehri land etc. The contention of Shri Javali, learned senior counsel for the appellants, is that the LAO made the award on the same day for the lands in Bhagu as well as other villages
- D at the rate of Rs. 22,000 per acre for Nehri and Chahi lands. The lands in these cases are also Nehri and Chahi lands. That was ultimately enhanced by the High Court at Rs. 50,000 per acre which was affirmed by this Court in *Union of India v. Zora Singh*, [1992] 1 SCC 673. The appellants, therefore, are entitled to payment of the same compensation. It is also
- E contended that the lands are situated near the Abadi (built-up residential area) of Bhatinda and the lands in Bhagu are also very near to the railway station in Phoos Mandi. The Industrial Training Institute, Bhatinda, is situated at a distance of 4 kms. Bhagu and Phoos Mandi and are a distance of one km. from each other. Therefore, the appellants are entitled to the compensation at the rate of Rs. 50,000 per acre. The Division Bench of the
- F High Court, relying upon four sale transactions, determined the compensation at the rate of Rs. 37,000 per acre on an average and awarded the same on its basis. This court repeatedly has held that the application of the principle of average price is wrong and illegal. We have seen that before the LAO, the appellants seem to have claimed at the rate of Rs. 35,000 per acre and before the Dist. Court, they claimed at the rate of Rs.
- G 60,000 per acre. In other words, the High Court had granted higher than the amount claimed pursuant to the notice under sections 9 and 10. The evidence relied upon by the claimants relates to sale transactions from the same acquired lands which fetched at the maximum rate of Rs. 40000 per acre when the land of 4 Kanals 6 Marlas was sold. When this lands of 527 acres in huge parcels were acquired it would be preposterous to think that
- H they would fetch the same market value or near about the same market

value if a willing buyer bargained from a willing-vendor for such lands. A
The High Court has given the maximum compensation for the lands in
question. It is true that some evidence has been brought from the judgment
of the High Court of the lands situated in another village covered by the
same notification and ultimately decided in *Zora Singh's* case. The market
value for Nehri and Chahi lands were determined at the rate of Rs. 50,000
per acre. This court did not consider the case on merits. The SLPs of the B
Union Government were dismissed without a speaking order.

The judgment of the High Court is not a part of the record. We cannot
treat it as a proper basis. There must be evidence for the purpose of
determining the market value of the respective prevailing prices in each
village. The situation of the lands, their quality and all other relevant facts C
are necessary and be taken into consideration to enhance the market value
which are absolutely lacking in these cases. In these cases, the claimants
themselves have produced the sale deeds from their own lands, So it is not
necessary to travel to other village to determinè the market value of the
lands in Bhagu village. If that be so, they cannot get more than Rs. 37,000
per annum as awarded by the High Court. We may make it clear that the D
State had not filed any appeal at any point of time ever against the orders of
the Addl. Dist. Judge or against the judgment of the Division Bench of the
High Court.

In view of the foregoing discussion, we need not go into the
correctness of the judgment of the Addl. Dist. Judge or of the Division E
Bench. We do not find any ground warranting further enhancement.
Therefore, the appeals are dismissed. No costs.

G.N.

Appeals dismissed.