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TARLOCHAN SINGH AND ANR. ETC. ETC.

THE STATE OF PUNJAB AND ORS.

NOVEMBER 29, 1994

B [K. RAMASWAMY, N.P. SINGH AND N. VENKATACHALA, J.J.]

Land Acquisition Act, 1894

C Sections 4 (1), 18 and 24—Compensation—Award of—Factors to be taken into account—Relevance of—Purpose of acquisition and future development and potential prospective use—Whether relevant in determining market value—Held: No.

D Land to the extent of 881 acres were acquired for the planned development of a municipality. The Land Acquisition Officer in his award determined the compensation to the plain lands at Rs. 39,400 per acre and to the land abutting upto a depth of 100 karams from the Ludhiana-Chandigarh main road at Rs. 42,400 per acre and to the other lands at different rates.

E On a reference, the District Judge fixed the market value of the land abutting the Ludhiana-Chandigarh Road upto a depth of 100 Karams at Rs. 72,600 per acre and for the remaining land at Rs. 58,080 per acre. The State did not file an appeal. The claimants filed appeals for enhancement of the compensation. Single Judge of the High Court determined the market value at Rs. 89,000 and Rs. 39,000 respectively per acre. The Division Bench maintained the award of compensation to the land upto a depth of 100 karams abutting the Ludhiana-Chandigarh main road, but enhanced the market value for the rest of the lands from 100-200 karams at Rs. 58,080 and for the remaining lands @ Rs. 50,000 and Rs. 48,400 per acre. The claimants have filed the present appeals for further increase in compensation.

F G Appellants contended that the Division Bench was not justified in deducting one-third towards development charges; that the compensation of Rs. 39,000 per acre for the lands in Kuliawal was unjust and arbitrary since for the lands equally situated in Jamalpur, Rs. 50,000 was awarded; that since the State did not prefer any appeal, the reduction of the belting from 100 to 55 karams was not correct; and

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that potential value for future development should have been taken into A
consideration in fixing the market value.

Dismissing the appeals, this Court

HELD : 1.1. The appellants are not entitled to further increase for B
determination of compensation and the appeals do not warrant B
interference. [204 G]

1.2. It is seen that a land of magnitude of 881 acres when was C
acquired for planned development of the town, a willing purchaser
would offer the same rates at which small plots admeasuring to 120 to
250 sq. ft. were offered and sold. It is impossible to accept that the
lands would fetch that price when a large track of land was offered for
sale in open market to willing buyer. Under those circumstances, sale
transactions are absolutely and totally irrelevant and cannot form the
basis to determine the compensation. Even though the vendor or
vendees were examined to prove the sale transaction, this Court cannot
determine market value on that basis and award compensation. The
court has power and duty to evaluate the evidence in proper
prospective, apply correct principles and award compensation. Since
the State did not file any appeals, this Court cannot interfere with the
award of the market value determined @ Rs. 50,000 and Rs. 48,400 by
the Division Bench of the High Court for the said lands. [203 D to F] E

2. It is common knowledge that even all the lands in the same F
village may not possess the same quality and command common
market prices. It is seen that the lands in Jamalpur are cutting across
the main road Ludhiana-Chandigarh and that, therefore, the High
Court awarded the compensation at different rates on the basis of
belting. Kuliawal lands are on the northern side below Tajpur Road
and the road is not an important one. It was also stated in the
impugned judgment that lands in Kuliawal village is not abutting main
road and that, therefore, the lands do not command higher value.
Accordingly, the market value was determined for the lands abutting
55 karams at different rate and for the rest of the lands compensation
was awarded @ Rs. 39,000. The appellants' lands are not within the
belt. Therefore, the classification made on the basis of the situation of
the land cannot be said to be illegal. Since the lands situated in
Kuliawal are not on par with the lands in Jamalpur village, the
distinction made by the High Court was right. [204 A to C] H

A 3. The contention that the State did not file any appeal and therefore the reduction of the belting from 100 to 55 karams, cannot be accepted since the State in fact had filed the appeals before the Division Bench. The Division Bench had taken that factor of belting into consideration in determining the market value. [204 D]

B 4. Section 24 of the Land Acquisition Act expressly prohibits and puts an embargo on the Court in taking the factors mentioned in section 24 as irrelevant in determining the market value. Therefore, the future development and potential prospective use of the acquisition etc. are not relevant circumstances. Even the purpose of acquisition also is not relevant. [204 F & G]

C CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 4056-57 of 1984 Etc. Etc.

From the Judgment and Order dated 23-12-87 of the Punjab and Haryana High Court in L.P.A. Nos. 48 and 44 of 1981

D S.S. Javali, B.N. Naik, Harbans Lal, D.V. Sehgal, V.C. Mahajan, Dr. Meera Aggarwal, R.C. Mishra, Ashok Mahajan, S.K. Mehta, M.K. Dua, P.N. Puri, R.C. Pathak, P.R. Bahl, Ms. Prema Tandon, Ranbir Yadav, G.K. Bansal and R.S. Suri for the appearing parties.

E The following Order of the Court was delivered :

Notification under section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act') was published in the State Gazette on March 1, 1974 acquiring a total extent of 881 acres of land for planned development of the municipality. The Land Acquisition Collector in his award dated March 31, 1976 determined the compensation to the plain lands at Rs. 39,400 per acre

F and to the land abutting upto a depth of 100 karams (5-1/2 feet each karam) from the Ludhiana-Chandigarh main road @ Rs. 42,400 per acre and for the other lands different rates were given with which we are not presently concerned. On reference under section 18, the Addl. District Judge by his award and decree dated October 18, 1978 fixed the market value of the land abutting the Ludhiana-Chandigarh Road upto a depth of 100 karams at Rs.

G 72,600 per acre and for the remaining land @ Rs. 58,080 per acre. The State filed no appeals. On appeal by the claimants for further enhancement, the learned Single Judge by his judgment and decree dated August 20, 1980 determined the market value upto a depth of 100 karams abutting Ludhiana-Chandigarh Road at Rs. 89,000 and for the remaining land at Rs. 39,000 per acre. On L.P.A., the Division Bench by its judgment and decree

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dated December 23, 1981 while maintaining the award of the compensation of the land upto the depth of 100 karams abutting the Ludhiana-Chandigarh main road has enhanced the market value for the rest of the lands from 100-200 karams at Rs. 58,080 and for the remaining lands @ Rs. 50,000 and Rs. 48,400 per acre. Still dissatisfied therewith, the appellants have filed the appeals for further increase in the compensation.

Firstly, it was contended that the Division Bench having determined the compensation was not justified in deducting 1/3rd towards developmental charges as the sales therein though were on yardage basis and determined the compensation on acreage basis @ Rs. 58,000 Rs. 50,000 and Rs. 48,000 etc. Though we find force in the contention, the matter does not rest with that conclusion. It is seen that the High Court in its judgment has relied upon the sale transactions small extents of 150 to 250 sq. yards which was worked out on an average of Rs. 1,37,600. They were sold on yardage basis. The learned Judges have determined market value on acreage basis and deducted 1/3rd towards development charges and determined the market value on that basis. The question emerges, ultimately, whether the fixation of the market value @ Rs. 50,000 and Rs. 48,000 is unwarranted on the facts and circumstances of these cases. It is seen that a land of magnitude of 881 acres when was acquired for planned development of the town, a willing purchaser would offer the same rates at which small plots admeasuring to 120 to 250 sq. ft. were offered and sold. It is impossible to accept that the lands would fetch that price when a large track of land was offered for sale in open market to willing buyer. Under those circumstances, sale transactions are absolutely and totally irrelevant and cannot form the basis to determine the compensation. Even though the vendor or vendees were examined to prove the sale transaction, we cannot determine market value on that basis and award compensation. The court has power and duty to evaluate the evidence in proper perspective, apply correct principles and award compensation. Since the State did not file any appeals, we cannot interfere with the award of the market value determined @ Rs. 50,000 and Rs. 48,400 by the Division Bench for the lands in appeals.

It is next contended that for lands in Jamalpur, compensation was awarded at the rate of Rs. 50,000. The lands in Kuliawal were equally situated and compensation paid at the rate of Rs. 39,000 per acre is unjust and arbitrary. We find no force in the contention. Though some plans have been produced before us to show that both the lands are on the side of Tajpur Road, they were not filed in the reference court not subjected them for cross-examination of the L.A.C. of the respective distances of the place, the quality of the land at the respective village and the prices prevailing in

A each village. It is common knowledge that even all the lands in the same village may not possess the same quality and command common market prices. It is seen that the lands in Jamalpur are cutting across the main road Ludhiana-Chandigarh and that, therefore, the learned Judges have awarded the compensation at different rates on the basis of belting. Whereas Kuliawal lands are on the northern side below Tajpur Road and the road is not an important one. It was also stated in the judgment that lands in Kuliawal village is not abutting main road and that, therefore, the lands do not command any higher value. Accordingly, the market value was determined for the lands abutting 55 karams at different rate and for the rest of the lands compensation was awarded @ Rs. 39,000. The appellants' lands are not within the belt. Therefore, the classification made on the basis of the situation of the land cannot be said to be illegal. Since the lands situated in Kuliawal are not on par with the lands in Jamalpur village the distinction made by the High Court was right. The learned Judges determined different rates of market value on that basis.

D It is next contended that the State did not file any appeal and that, therefore, the reduction of the belting from 100 to 55 karams is not correct. On verification when it was pointed out to Shri D.V. Sehgal, learned Senior counsel, that the State did file Letters Patent appeals against the Single Judge's decrees, he has fairly stated, on verification, that the State had filed the appeals before the Division Bench. The Division Bench had taken that factor of belting into consideration in determining the market value.

E It is next contended that the lands in the small extents of about 33 sale transactions would show that the lands are capable of fetching in future higher market value and the notification itself was published for the purpose of planned development of city. Therefore, the High Court was not justified in determining the market value @ Rs. 58,000 for Jamalpur area.

F Potential value for future development should have been taken into consideration in fixing the market value. Section 24 of the Land Acquisition Act expressly prohibits and puts an embargo on the Court in taking the factors mentioned in section 24 as relevant in determining the market value. Under these circumstances, the future development and potential prospective use of the acquisition etc. are not relevant circumstances. Even the purpose of acquisition also is not relevant. We are

G of the opinion that the appellants are not entitled to further increase for determination of compensation and the appeals do not warrant interference. The appeals are accordingly dismissed but without costs since the respondents are not represented by any counsel.

G.N.

Appeals dismissed.