

*Before Jawahar Lal Gupta & N.C. Khichi, JJ*

JAGAT SINGH & ANOTHER,—*Appellants.*

*versus*

IMPROVEMENT TURST, JIND & ANOTHER,—*Respondents.*

L. P. A. No. 265 of 1989

11th November, 1998

*Land Acquisition Act, 1894—S. 23—Land acquired—  
Determination of compensation—Onus of proof.*

*Held* that the market value of the land can be basically assessed on the basis of the sale transactions which may have taken place in respect of the land in close vicinity. The transactions which are in close proximity of the time furnish a valid basis for determining the market value.

(Para 5)

*Further held*, that the burden of proving the market value rests on the claimants. It has to be discharged by not only producing sale deeds but also by proving the market value. The factum of sale consideration has to be specifically proved.

(Para 12)

R.S. Mittal, Sr. Advocate with Sudhir Mittal, Advocate *for the Appellant.*

J.K. Sibal, Sr. Advocate with Kumar Sethi, Advocate, *for the Respondents.*

## JUDGMENT

*Jawahar Lal Gupta, J.*

(1) The land owners have filed these two Letters Patent Appeals to claim that the learned Single Judge has erred in dismissing their writ petitions for enhancement of the compensation as assessed by the Tribunal.

(2) A few facts may be noted.

---

(3) On 10th June, 1975, the Improvement Trust, Jind, issued a notice regarding Development Scheme No. 19 for which land measuring 1890 square yards was proposed to be acquired. After consideration of the objections, the Scheme was notified on 7th September, 1976. The Land Acquisition Collector assessed and awarded compensation to the land owners at the rate of Rs. 7.50 per square yard. The land-owners were not satisfied. They claimed higher compensation. The Tribunal, as constituted under the Punjab Town Improvement Trust Act, 1922, held that the market value of the land was Rs. 40 per square yard. The land-owners were still not satisfied. They approached this Court through two separate petitions under Article 226 of the Constitution. These two petitions having been dismissed, they have filed these two appeals.

(4) Mr. R. S. Mittal, learned counsel for the appellants in LPA No. 265 of 1989 has contended that the land acquired by the respondents was located on the Jind-Gohana road. In respect of the land bearing Khasra No. 29 which had been acquired by the State Government,—*vide* notification dated 9th June, 1976, the Additional District Judge, Jind, had assessed the market value at Rs. 100 per square yard. The learned Single Judge has erred in rejecting the appellants claim for the award of compensation at the same rate. Mr. Arun Walia, learned counsel for the appellants in LPA No. 8 of 1991 has adopted this contention. Besides that, he has also contended that the award given by the Land Acquisition Tribunal was vitiated as it was not signed by the two Assessors along with the President. The claim as made on behalf of the appellants has been controverted by the learned counsel for the respondents.

(5) The market value of the land can be basically assessed on the basis of the sale transactions which may have taken place in respect of the land in close vicinity. The transactions which are in close proximity of the time furnish a valid basis for determining the market value.

(6) In the present case, the appellants have not produced even a single sale deed to indicate that the market value of the land was even Rs. 40 per square yard. In the absence of any evidence in this behalf, the Tribunal had relied upon an award given by the Court in respect of a similar piece of land which had been acquired. By this award compensation at the rate of Rs. 40 per square yard had been awarded.

(7) The onus of proving the market value was on the claimants. They have failed to discharge that onus. Despite that the Tribunal had relied upon the award given by the Court and fixed the market value at Rs. 40 per square yard. Having got that the appellants have started making a higher claim. They rely upon the award of the Court in respect of the land bearing Khasra No. 29 whereby the market value had been assessed at Rs. 100 per square yard. On the basis of that decision, it was claimed that the market value even in respect of the land which is the subject matter of the present appeals should have been assessed at Rs. 100 per square yard. Mr. Mittal submitted that since the land of the appellants was acquired a year earlier, a cut of Re. 1 per square yard could have been imposed. Thus, the market value should have been assessed at Rs. 99 per square yard. We are unable to accept this contention:

(8) Admittedly, the land in question was being used for only agricultural purposes. It has not been shown that its market value at the relevant time was more than Rs. 40 per square yard. After it was included in the development scheme in June, 1975, the price of the land bearing Khasra No. 29 which was on the other side of the road had naturally risen. Its potential had improved. Thus, when the land was acquired in the year 1976, its value was assessed at a higher level. In the absence of any concrete evidence to show that the market value of the land which is the subject matter of these appeals was higher than Rs. 40 per square yard, we find no ground to interfere with the view taken by the learned single Judge.

(9) Mr. Mittal submits that the view taken by the Court is contrary to the evidence on record. The learned counsel has referred to the statements of the witnesses as also the award of the Court, a copy of which has been produced as Annexure P-2. Reference has been made to the statement of Mange Ram, Revenue Patwari, who has appeared as PW-1 and Mr. Jagat Singh PW-2. We have perused the statements. Mange Ram Patwari has only given the location of the land. In his statement there is no mention of the price. So far as PW-2 is concerned, he is one of the appellants. Even he has not referred to any sale transaction to indicate that the value of the land which is the subject matter of these appeals was more than Rs. 40 per square yard in the year 1975. Thus, the oral evidence on record is of no consequence at all.

(10) Regarding the award given by the Court, as already noticed, the learned single Judge has affirmed that the notification

---

under Section 4 of the Land Acquisition Act had been issued in respect of the land comprised in Khasra No. 29 on 9th June, 1976. This was a year later than the notice under Section 36 in respect of the land which is the subject matter of the present cases. Since the development scheme had already been initiated in June, 1975, the value of the land in the adjoining area had risen and thus, the market price was assessed at Rs. 100 per square yard. We are unable to relate it back to the price in the year 1975.

(11) Mr. Mittal has referred to certain decisions. Firstly, the counsel has drawn our attention to the decision of their Lordships of the Supreme Court in case of *Mohinder Singh Gill v. The Chief Election Commissioner, New Delhi* (1), wherein it was held that a public order has to be examined on the basis of the reasons given therein and that such reasons cannot be supplemented subsequently by an affidavit. There is no quarrel with the proposition. However, in the present case we do not find that the learned single Judge had really supplemented the reasons given by the Tribunal. Mr. Mittal submits that the Tribunal had rejected the award given by the Court at Annexure P-2 without assigning any reason. Thus, the award given by the Tribunal should be quashed. We cannot sustain this contention. The reason is obvious. The land which is the subject matter of the award at Annexure P-2 had been the subject matter of acquisition a year later than the matter which is the subject matter of these appeals. The lapse of time and the circumstances were too obvious and the mere fact that these were not specifically delineated would not mean that the award given by the Tribunal was vitiated.

(12) Mr. Mittal has also relied upon the decision in *Land Acquisition Officer Revenue v. L. Kamamma (Smt.) Dead by LRs and others* (2). Herein it was observed by their Lordships that the rise in prices of land is a reality and the Courts can take judicial notice thereof. There is no quarrel with this proposition. However, in the present case this decision is of no assistance to the appellants. The learned counsel has also drawn our attention to the decision of the Apex Court in *Parameshwari Devi v. Punjab State Electricity Board and another* (3). On the basis of the observations in Head Note (A), it was contended that the award in respect of adjoining lands can be taken into consideration. It is undoubtedly so. The

---

(1) A.I.R. 1978 S.C. 851.

(2) 1998 (2) S.C. Cases 285.

(3) A.I.R. 1994 S.C. 1142.

award constitutes a valuable piece of evidence. However, as has been observed by their Lordships in this v̄ery decision, the burden of proving the market value rests on the claimants. It has to be discharged by not only producing sale deeds but also by proving the market value. The factum of sale consideration has to be specifically proved. In the present case, the land-owners have failed to do so. This decision does not advance their cause in any manner.

(13) Lastly, the learned counsel for the appellants has referred to the decision of a Division Bench of this Court in *Harchal Singh v. The State of Punjab* (4). Herein a huge area of the land had been acquired. It was observed that when land is acquired for the residential and commercial purposes, Court cannot assess the market value at different rates for different villages. Such is not the position in the present case.

(14) In view of the above, we do not find that the view taken by the learned single Judge is contrary to the ratio of any of the aforesaid decisions.

(15) Mr. Arun Walia, learned counsel for the appellant in Satish Kumar Sharma's case, LPA No. 8 of 1991, made an additional submission. It was contended that award was not valid as it has not been signed by the two Assessors who had been appointed along with the President of the Tribunal.

(16) A copy of the award has been produced as Annexure P-3 with the paper-book. A perusal thereof shows that Sarvshri A. C. Jain and D. K. Singla were present as the Assessors. Since they had participated and their presence has been duly recorded, the mere fact that the award was only signed by the President of the Tribunal cannot mean that they were not a party to the final decision. Still further, such an objection was not even raised before the learned single Judge.

(17) No other point has been raised.

(18) In view of the above, we find no merit in these appeals. These are consequently dismissed. However, in the circumstances, we make no order as to costs.

---

S.C.K.