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THE STATE OF PUNJAB

v.

HARCHAL SINGH (DEAD) THROUGH LRS.

MAY 23, 2006

B [DR. AR. LAKSHMANAN AND LOKESHWAR SINGH PANTA, JJ.]

*Land Acquisition Act—Section 4—"Chahi" land situated in village acquired for public purpose—High Court fixed compensation at Rs.1,75,000 per acre—Challenge to—Held: On facts, reason given by High Court while awarding compensation was cogent and convincing—Compensation awarded could not be characterized as excessive—Hence interference by this Court not warranted.*

C

In 1981, vide a notification issued under Section 4 of the Land Acquisition Act, "Chahi" land situated in a village was acquired for expansion of an Industrial Focal Point. The land in question was quite close to a developed colony. The Land Acquisition Officer awarded Rs. 85,000 per acre for the said land. The District Judge maintained the award. High Court, in appeal, however raised the compensation to Rs. 1,75,000 per acre by taking into consideration a sale transaction in respect of a very small size of plot in the developed colony. Hence the present appeals.

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Dismissing the appeals, the Court

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HELD: 1.1. The High Court awarded a sum of Rs. 1,75,000 per acre by taking into consideration the sale dated 12.1.1978 of a land of 407 sq. yds. The sale price for the said land was Rs. 23,635 and the price per acre comes to Rs. 2,81,065. The High Court taking into consideration the said sale transaction pertaining to 407 sq. yds. for Rs. 23,635 and that it was in a developed colony reduced the compensation amount from Rs. 2,81,065 per acre to Rs. 1,40,532.50 per acre. It applied 50 per cent cut keeping in view the submissions of the State that the High Court should not grant the same amount of compensation for the acquired land because the sale transaction, which the High Court took into consideration, related to a very small size of plot and that too in a developed colony. The High Court keeping in view the long period, awarded a further enhancement of Rs. 35,000 per acre, which according

to it met the ends of justice. [871-B-E]

1.2. The reasons given by the High Court in fixing the compensation at Rs. 1,75,000 per acre is cogent and convincing. The compensation awarded cannot at all be characterised as excessive or on the high side. Since the High Court has awarded the compensation at Rs. 1,75,000 per acre in the peculiar facts and circumstances of the case, this Court does not propose to interfere with the said award. This apart, Section 4(1) Notification was issued in the year 1981 and the special leave petitions were filed in this Court in the year 1989 and the leave was granted in the year 1999 and the appeal is being disposed off now in the year 2006, which is only due to "Laws Delays" and that the delay is not attributable to any one. [871-F-G]

1.3. Further, the claimant shall also be entitled to all other statutory benefits under the amended provisions of the Land Acquisition Act as contained in Sections 23(1A), 23(2) and 28 of the Act. The High Court has also awarded cost of the appeal to the claimants which is affirmed.

[872-A]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3890-3891 of 1999.

From the Judgment and Order dated 18.1.1989 of the High Court of Punjab and Haryana at Chandigarh in R.F.A. Nos. 2853/1986 and 82/87.

H.M. Singh, Kaushal Yadav, Anil Hooda, Ms. Shabana Saifil and Arun K. Sinha, Advs. for the Appellant.

Nikhil Goel for Mrs. Sheela Goel, Adv., for the respondents.

The Judgment of the Court was delivered by

**DR. AR. LAKSHMANAN, J.** : Heard Mr. H.M. Singh, learned counsel for the appellant and Mr. Nikhil Goel, learned counsel for the respondent. The matter relates to the acquisition of the land owned by the respondent for public purpose. Notification under section 4 of the Land Acquisition Act was issued on 4.2.1981 for the acquisition of the land in question situate in village Kambali, Tehsil Kharar, District Ropar for the purpose of expansion of Industrial Focal Point Mohali. The Land Acquisition

A Officer by its award dated 22.12.1983 awarded a sum of Rs.85,000 per acre for Chahi land. We are concerned only with Chahi land in these appeals and not other lands. On 2.9.1986, the District Judge maintained the award of Rs.85,000 per acre as regards Chahi land was concerned. The matter was taken up on appeal by the State of Punjab. The respondent claimant also filed an appeal. Both the appeals were disposed of by the High Court by a common judgment on 18.1.1989. The High Court awarded the compensation at Rs. 1,75,000 per acre for the acquired land and dismissed the appeal of the appellants State and allowed the appeal of the claimants. Special Leave petitions were filed by the State of Punjab in the year 1989 as S.L.P. (C) No. 8647-8648 of 1989. This Court on 19.7.1999 granted leave and also stayed the operation of the order passed by the High Court after a period of 10 years and odd. During the pendency of the civil appeals, respondent Harchal Singh died and his LRs. were brought on record by order dated 2.9.2005, on which day, this Court also set aside the abatement.

D These appeals are now listed before this Bench for final disposal. We have perused the award passed by the Land Acquisition Officer and order passed by the District Judge and the common Judgment rendered by the High Court. The High Court on a consideration of the exhibits filed and marked before it and the oral evidence came to the conclusion that “phase nos. X and XI of Urban Estate Mohali have come up in the land of village Kambali earlier and the claimant’s land is at a distance of three killas from phase XI and the situation of the acquired land admittedly is quite close to the area already under development of the Urban Estate”. In the instant case, the very purpose for acquisition of this land is for expansion of the Industrial Focal Point, which itself implies that the acquired land of the claimant was fit for industrial purposes or expansion of similar kind of construction etc. The Land Acquisition Collector also considered potentiality and assessed the land which was recorded as “Chahi” in the revenue record at the rate of Rs.85,000 per acre. According to the claimant, his land was irrigated by the sewerage drain. This fact further stood confirmed from the award of the Collector in which it is mentioned that the land is extremely fertile being irrigated by “Ganda Nala” and is in a level shape. P.W.1 in his evidence has stated that in phase X in Mohali plot no.2330 was sold in auction for Rs.2,31,000 and this plot measured 507 sq. yds. Another plot in phase IX was sold for Rs.25,998 which was of 407 sq. yds. However, these plots were sold on 27.3.1982 much after the notification regarding the acquisition of the land of the claimants. These plots were sold in a fully developed area and the price

was to be paid by the purchasers in instalments. P.W.2 Hardev Singh states in his own evidence that phase nos. X and IX are a part of vilalge Kambali and claimants' land is at a distance of three killas from phase IX. In his cross-examination, he admitted that there was brick kiln very close to the acquired land and admitted that there was no house existing in between the acquired land and phase IX. The learned Single Judge also relied upon the evidence rendered by these witnesses. The High Court has now awarded a sum of Rs.1,75,000 per acre taking into consideration of the sale dated 12.1.1978 of a land of 407 sq. yds. The sale price for the said land was Rs.23,635 and the price per acre comes to Rs.2,81,000. The High Court taking consideration the sale transaction in phase IX pertaining to 407 sq. yds. for Rs.23,635 and that it was in a developed colony reduced the compensation amount from Rs.2,81,065 per acre to Rs.1,40,532-50 per acre. The High Court has applied 50 per cent cut keeping in view all the submissions of the learned counsel for the State that the High Court should not grant the same amount of compensation for the acquired land because the sale transaction, which the High Court took into consideration, related to a very small size of plot and that too in a developed colony. The High Court keeping in view of the long period, awarded a further enhancement of Rs.35,000 per acre, which according to the High Court would meet the ends of justice. In other words, the compensation payable could be rounded off to Rs.1,75,000 per acre of the acquired land. The High Court was of the view that on the ground of high potentiality of the acquired land, the compensation now awarded could not be said to be on the higher side.

In our opinion, the reasons given by the High Court in fixing the compensation at Rs.1,75,000 per acre is cogent and convincing. The compensation awarded at Rs.1,75,000 per acre cannot at all be characterised as excessive or on the high side as argued by the learned counsel for the State. Since the High Court has awarded the compensation at Rs.1,75,000 per acre in the peculiar facts and circumstances of the case, we do not propose to interfere with the said award. This apart, aforesaid 4(1) Notification was issued in the year 1981 and the special leave petitions were filed in this Court in the year 1989 and the leave was granted in the year 1999 and the appeal is being disposed off now in the year 2006, which is only due to "Laws Delays" and that the delay is not attributable to any one.

We, therefore, have no other option except to dismiss the appeal. We also make it clear that the claimant shall also be entitled to all other statutory

A benefits under the amended provisions of the Land Acquisition Act as contained in Sections 23(1A), 23(2) and 28 of the Act. The High Court has also awarded cost of the appeal to the claimants. We affirm the same.

B The Government having acquired the land in the year 1981, at least now pay the compensation and other benefits within three months from this date to the claimants.

C In our opinion, there is absolutely no warrant for interference with the order passed by the High Court fixing the compensation at Rs.1,75,000 per acre. The appeals accordingly stand dismissed. There shall be no orders as to costs.

B.B.B.

Appeals dismissed.