

RAM PIARI AND ANR. ETC.

v.

LAND ACQUISITION COLLECTOR, SOLAN AND ORS. ETC.

MARCH 12, 1996

[K. RAMASWAMY AND K. VENKATASWAMI, JJ.]

*Land Acquisition Act, 1894 : Sections 4(1), 11, 18, 25, 26 and 54.*

*Land acquisition—Compensation—Power of Court to reduce—Collector classify the acquired lands into seven categories and awarding compensation @ Rs. 14195 per bigha for Kuhal land and Rs. 9425 per bigha for Katuhal land—High Court reducing the compensation to the uniform rate of Rs. 7100 per bigha—Appeal—Held on reference or appeal the Court cannot reduce the compensation to less than the offer made by the Collector—Held High Court committed an error of law in reducing the compensation in respect of Kuhal and Katuhal lands—Award of Collector restored in respect of these lands.*

*Land acquisition—All lands acquired for common purpose namely commercial purpose—High Court recording a finding that as on the date of acquisition lands were agricultural land, they require development—In such circumstances High Court committed error in determining development charges @ 50%—Direction that 33⅓% of the market value be deducted towards development charges—Reliance not placed by High Court on the sale deeds but on the maximum amount awarded by the collector as basis for determination of compensation held right.*

*K. Vasundara Devi v. Revenue Divisional Officer (LAO), [1995] 5 SCC 426, referred to.*

*Land Acquisition—Beneficiary—Authority accepting the award—Thereafter issuing notice to the purchasers to pay revised price on the basis of enhanced market value—Direction to development authority to recover the amount and pay the amount recovered at the rate determined by Court to respective landowners—Claimants held not entitled to additional amount under section 23(1-A) but held entitled to solatium and interest.*

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 5237-39 of 1996 Etc. Etc.

From the Judgment and Order dated 4.5.95 of the Himachal Pradesh High Court in R.F.A. No. 95 of 1990.

R.K. Jain, Ashok K. Chhabra, Ms. Madhu Moolchandani, Rakesh K. Khanna and Surya Kant for the Appellants.

T. Sridharan, Rajiv Nanda, T.A. Khan, (N.K. Shrama) (NP) and Y.P. Rao for the Respondents.

The following Order of the Court was delivered :

Leave granted in SLP (C) Nos. 18543-45, 19947-49, 18644 and 18646 of 1995.

Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the 'Act') was published on 3.9.1973 acquiring 863 bighas of land situated in villages Gumma, Kamli, Dangyar and Ambota in Parwanoo township. The award under Section 11 was made by the Collector on 14.7.1977. He determined the compensation at varying rates between Rs. 14,195 per bigha and Rs. 500 per bigha for lands classified into seven categories. On reference under Section 18, the District Judge, Solan by award and decree dated 15.5.1991 uniformly awarded compensation at the uniform rate of Rs. 14,195 per bigha. In Civil Appeal Nos. 8274-83 of 1985, acquisition was made in 1976 but the lands were left cut from 1973 notification. On November 9, 1978, the Land Acquisition Collector awarded compensation similar to compensation awarded for 1973 acquisitions. Taking into consideration the trend in appreciation of land prices, the District Judge vide award dated May 23, 1991 awarded common price for all categories of land, i.e., Rs. 24,000 per bigha. On appeal by the State and cross appeals by the claimants, the High Court by judgment and order dated 4.5.1995 reduced the compensation to the uniform rate of Rs. 7,100 per bigha. Dissatisfied with the reduction, the claimants have filed these appeals by special leave.

This Court issued notice dated 28.8.1995 confined to the correctness of the order of the High Court with respect to first two categories of lands, namely, Kuhal land for which the Land Acquisition Officer awarded a sum of Rs. 14, 195 per bigha and Katuhall land for which a sum of Rs. 9,425 has been awarded. In earlier cases, notice was not confined to the above aspects but leave was granted. Thus all these appeals have been posted

together for disposal.

Shri Ashok Chhabra and Shri R.K. Jain, learned counsel appearing for the appellants raised three-fold contention. Firstly, that the High Court has committed manifest error in reducing the compensation to 1 and 2 category lands, namely, Kuhal and Katuhal lands for which the Land Acquisition Officer had offered compensation at the rate of Rs 14,195 and Rs. 9,425 per bigha respectively which is an offer and under Section 25 of the Act, the High Court cannot reduce the compensation less than what was offered by the Collector. Secondly, it is contended that in view of the finding recorded by the District Judge and the High Court, namely, that the lands are possessed of potential value for building purposes, 50% reduction of compensation resulting in uniform rate of Rs. 7,100 per bigha is not correct. The claimants are entitled to higher compensation. It is also contended that deduction of 50% towards developmental charges is not correct on the facts in this case since the finding of the High Court is that all the lands are possessed of same potentialities. Thirdly, it is contended by Shri Jain, learned senior counsel that after the award was made by the reference Court under Section 26, notices were issued to the purchasers to pay revised price on the basis of the enhanced value. When the same was questioned the High Court dismissed the same. Therefore, when the beneficiary was seeking to avail of the award passed by the Court and sought to recover the enhanced compensation from the beneficiaries, nothing prevented the State to have the compensation paid to the land owners whose land has been acquired. Shri Parbhakar Rao, learned counsel for the respondent resisted all the contentions.

The first question, therefore, is : whether the High Court was justified in reducing the compensation in respect of Kuhal and Katuhal lands classified by the Collector to Rs. 14,195 and Rs. 9,425 per bigha respectively. Section 25 of the Act says that the amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11. It is settled law that the award made by the Collector is an offer made by him on behalf of the Government and the State is bound by the offer. While on reference under Section 18 or on appeal against the enhanced compensation under Section 54, the Court cannot reduce the compensation less than the offer made by the Collector. Therefore. The High Court while fixing the uniform rate of compensation to all the lands @ Rs. 7100 per bigha committed error of law in reducing the compensation

to the lands classified by the Collector to be Kuhal and Katuhal lands for which compensation @ Rs. 14,195 and Rs. 9,425 per bigha respectively was offered. The High Court, therefore, in that perspective has committed error of law in reducing the compensation in respect of the above lands. Accordingly, the award of the Collector is restored in respect of the lands classified by him as Kuhal and Katuhal lands.

The next question is : whether all other lands are possessed of same potentialities for awarding uniform market value in respect of all the lands. No doubt, the High Court found that all the lands are acquired for the common purpose, namely, commercial purpose. But it has recorded a finding that as on the date of the acquisition the lands are agricultural lands, they require development. Under those circumstances, on the date of the acquisition, the lands did not possess of the potential value for building purposes though notification was issued for commercial purpose. However, the High Court has committed error in determining developmental charges @ 50%. It is seen that the lands are abutting the hill slopes and the national highway, though used as agricultural lands. This Court has considered the entire case law in a latest judgment in *K. Vasundara Devi v. Revenue Divisional Officer (LAO)*, [1995] 5 SCC 426 and held that the Court will be justified in deducting market value between 33-1/3% and 60% of the compensation based upon the facts in each case. On the facts of this case, we are of the opinion that deduction of 33 1/3% would meet the ends of justice.

The deduction of 1/3rd share as directed by this Court would not be applicable to the Kuhal and Katuhal lands which were offered by the Collector. Since that was only an offer, it did not bind the parties; hence no deduction in that behalf could be made from the said offer. Under those circumstances, we are of the considered view that 33-1/3% of the market value would be deducted towards developmental charges.

No doubt, Shri Ashok Chhabra, learned counsel placed reliance on the sale deeds which are marked in the case right from 1970 to 1978 and reflected varied prices, it is seen that the lands are situated in four villages. They are not contiguous to each other but are situated at different spots wherever it is feasible to construct township. Under these circumstances, it would be difficult on the facts in this case, to pin point a particular sale deed which reflects the proximate potentiality or the similarity of the land

under acquisition. Moreover, all the sale deeds are of small extents varying from 1/2 bigha to 8 bighas in one sale deed. The High Court, therefore, was right in placing reliance not on all the sale deeds but on the maximum amount awarded by the collector to be the basis for determination of the compensation. Based thereon, the High Court has reduced 50% towards developmental charges and determined the compensation at Rs. 7,100 per bigha. The basis adopted by the High Court cannot be said to be vitiated by any wrong principle of law. Therefore, the market value of the lands of the respondents including kutuhul lands, i.e., item 2 to 7 of classification made by the Land Acquisition Officer, should be determined @ Rs. 14,195 per bigha after deducting 33-1/3% towards developmental charges to arrive at the market value; the balance amount would be the market value which would be just and adequate compensation.

In fact, in this case obviously the development authority accepted the award of the Court, acted upon it and issued notice to the purchaser, calling upon them to pay the compensation on the basis of the enhanced market value determined by the the District Judge. On the facts of this case, we think that the development authority having accepted the award, though the State carried the matter in appeal, has succeeded upon principle of law. The development authority is directed to recover the amount and pay the amount so recovered at the rate determined by the Court to the respective land owners. We direct that this direction may not be treated to be a precedent. On the facts of this case, we think that the above direction would meet the ends of justice. The appellants are not entitled to additional amount under Section 23(1-A). They are entitled to solatium @ 30% and interest @ 9% per annum from the date of taking possession for one year and thereafter @ 15% per annum on the enhanced compensation till the date of its deposit into the Court.

The appeals are disposed of accordingly. No costs.

Appeals disposed of.