

A

THE STATE OF PUNJAB

v.

DES RAJ

APRIL 18, 1996

B

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Land Acquisition Act, 1894 :*

C

*Amendment Act 68 of 1984—Sections 23(2), 28 and 23(1-A)—Reference court determining compensation on March 19, 1982 prior to the Amendment Act 68 of 1984—Hence claimants not entitled to the enhanced solatium, interest and additional amount under the amended provisions—Determination of compensation by High Court Single Judge—Appeal pending before Division Bench—Hence matter left open and the Division Bench would be free to decide the matter according to law.*

D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7673 of 1996.

E

From the Judgment and Order dated 2.12.88 of the Punjab & Haryana High Court in R.F.A. No. 912 of 1982.

Sanjeev Sen and Manoj Swarup for the Appellant.

T.N. Arora, Adv. for the Respondent.

F

The following Order of the Court was delivered :

Delay condoned. Leave granted.

G

Notification under section 4(1) of the Land Acquisition Act, 1894 (for short, the 'Act') was published on March 11, 1978 acquiring 55 acres 5 kanals 1 marla for construction of new Mandi at Jalalabad. The Collector in his award dated March 13, 1978 determined the compensation at Rs. 4500 per acre. On reference, the Additional District Judge by his award and decree dated March 19, 1982 enhanced the compensation to Rs. 25,000 per acre and Rs. 20,000 per acre on the basis of belting. The learned single Judge by his judgment and decree dated December 2, 1988 further enhanced the compensation to Rs. 43,000 and Rs. 34,000 per acre on belting

H

basis, but applied the provisions of Amendment Act 68 of 1984. In this appeal, we are concerned only with the applicability of Sections 23(2), 28 and 23(1-A) of the Act as amended by Act 68 of 1984. Since the reference Court determined the compensation on March 19, 1982, i.e., prior to the introduction of the Amendment Act, the claimants are not entitled to the enhanced solatium and interest and also the additional amount under section 23(2), 28 and 23(1-A) respectively of the Act.

It is brought to our notice that dissatisfied with the enhanced compensation of Rs. 43,000 per acre, the claimant has filed Letters Patent Appeal and that it is pending. If that is so, we need not go into the question whether determination of the compensation by the learned single Judge at Rs 43,000 per acre is justified or not. The matter is left open. The Division Bench would be free to decide the matter according to law. But as regards the applicability of the amended provisions, in view of the above facts, the learned single Judge was clearly in error in extending the additional benefits under the amended provisions of the Act.

The appeal is accordingly allowed. The order awarding 30% solatium, 9% interest from the date of taking possession for one year and thereafter 15% interest and also the additional amount of 12% per annum under section 23(1-A) stands set aside. Instead, the claimant is entitled to 15% solatium under section 23(2) and 6% interest under Section 28 as unamended, on enhanced compensation from the date of taking possession till date of deposit into Court. No costs.

G.N.

Appeal allowed.