

LUDHIANA IMPROVEMENT TRUST
v.
BRIJESHWAR SINGH CHHAL AND ANR. ETC.

MARCH 19, 1996

[K. RAMASWAMY, S.P. BHARUCHA AND
K.S. PARIPOORNAN, JJ.]

Punjab Town Improvement Act, 1922 : Section 36.

Land Acquisition Act, 1894 : Section 4(1)

Land Acquisition—Compensation—Principle for determination of—Classification of land as levelled up land and low lying land—Adopting belting system for determination of compensation—Award of less compensation for latter category—Appeal by landowners—Fixation of market value by High Court at uniform rate—Held not correct in law—Held adopting belting system is a fair principle to determine just compensation—Claimants must establish that the levelled up lands and low lying lands command same market value—In the circumstance of case order of Reference Court awarding compensation restored.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7025 of 1996 Etc.

From the Judgment and Order dated 17.12.92 of the Punjab & Haryana High Court in C.W.P. No. 3758 of 1992.

Prem Malhotra for the Appellants.

Ujjagar Singh Devendra, Verma and Ms. Naresh Bakshi for the Respondents.

The following Order of the Court was delivered :

Delay condoned.

Leave granted. We have heard learned counsel on both sides.

The only question argued by the learned counsel for the appellant is with regard to the belting of the land. An extent of 13 acres of land situated

near Ludhiana was acquired for commercial-cum-residential purpose. Notification under Section 36 of the Punjab Town Improvement Act, 1922 which is *pari materia* to the notification under Section 4(1) of the Land Acquisition act, 1894, was published on July 13, 1973. The Land Acquisition Officer in his award dated February 3, 1976 classified the lands as levelled-up land and low-lying land. In respect of the levelled-up land he awarded compensation @ Rs. 21 per sq. yd. and for the low lying land @ Rs. 13 per sq. yd. On reference, the District Judge awarded compensation @ Rs. 107 per square yard in respect of the lands abutting the main road at a depth of 5 karanams and for other land he awarded compensation @ Rs. 80 per sq. yd. and for the low-lying area @ Rs. 50 per sq. yd. The claimants challenged the award of the District Court and the High Court in the writ petitions has held that all the lands are evenly situated. Accordingly, it awarded compensation uniformly at Rs. 107 per sq. yd. The Improvement Trust felt aggrieved by the direction given by the High Court with regard to the belting. Hence these appeals by special leave.

The Land Acquisition Officer has stated that the lands measuring 61 kanals 10 marlas bearing different khasra numbers mentioned in the award are situated in low-lying area and are under the pond with a depth of 3 to 6 feet. Unless the lands are improved by expending considerable amount, they cannot be levelled-up. Therefore, the Land Acquisition Officer awarded compensation for those land at Rs.13 per sq. yd. The High Court in the impugned order relying upon its earlier judgment held that the belting system adopted by the Land Acquisition Officer and the reference Court is not correct in law. It is settled by decisions of this Court that belting is a fair principle to determine just and adequate compensation lest unjust award would ensue. When large extent of land is acquired, land abutting the roads or developed area and interior land do not commend the same market value. When it is proved that the lands are situated in low-lying area, obviously the lands situated at levelled area would command higher market rate than the lands situated in low-lying area.

Shri Ujjagar Singh, learned senior counsel appearing for the claimants, contended that the allottee would prefer to purchase the lands in low-lying area to build their shops or establishments underground so as to have economical use of the land allotted to them. Therefore, the fixation of the market value at the uniform rate by the High Court is correct in law. We cannot appreciate the stand taken by the claimants. The claimants, as

a fact, have to establish that the levelled up lands and the low-lying lands command same market value and that, therefore, they are required to be awarded at the same rate. It is seen that the Land Acquisition Officer has himself stated which was not disputed in the reference Court that the depth of the land is 3 to 6 feet. Unless the land is levelled-up, it cannot command the same market value as the levelled-upland possessed. Under those circumstances, the High Court was clearly in error in holding that the belting system cannot be adopted and compensation should be awarded in respect of all the lands at the uniform rate.

The appeals are accordingly allowed and the order of the reference Court paying compensation @ Rs. 50 per sq. yd. to the low-lying lands admeasuring 61 kanals 10 gunthas in the Khasra numbers mentioned in the award of the Land Acquisition Officer stands restored. No costs.

Appeals allowed.