

SMT. SANTOSH KUMARI ETC.

v.

STATE OF HARYANA

AUGUST 28, 1996

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

*Land Acquisition Act, 1894 :*

*Sections 4(1), 23(1-A)—Compensation—Award of—Enhanced by Additional District Judge—Further enhanced by High Court—On appeal held, when compensation is determined on yardage basis for housing development and the lands are to be developed, direction to deduct 1/3rd towards development charges, is required to be given—Further enhancement of compensation not warranted—Party not entitled to additional amount—High Court wrongly given it.*

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2251-52 of 1991 Etc.

From the Judgment and Order dated 22.4.85 of the Punjab & Haryana High Court in R.F.A. Nos. 766 and 767 of 1984.

D.V. Sehgal, J.S. Malik, A.V. Palli, Ms. Rekha Palli and Atul Sharma for the Appellant.

Pradeep Misra and Ms. Rani Chhabra for the appellant in C.A. No. 2251-52/91.

Jasbir Malik and Prem Malhotra for the Respondent.

The following Order of the Court was delivered :

Notification under Section 4(1) of the Land Acquisition Act, 1894 (1 of 1894) (for short, the 'Act') was published on September 25, 1979 acquiring large tracks of land for urbanisation within the municipal limits of Panipat. The Land Acquisition Officer in his award dated April 7, 1981 determined the compensation at the rate of Rs. 24,960 per acre for Block I and Rs. 19,992 per acre for Block-II. On reference, the Additional District Judge enhanced the compensation by his award and decree dated

- A January 24, 1984 to Rs. 18 per sq. yd. On further appeal by the State as well as the claimants, the High Court enhanced the compensation to Rs. 21.25 per sq. yd. without any deductions for developmental charges. The High Court has also granted additional amount under Section 23(1-A) of the Act. Thus, these appeals by special leave.
- B Shri Sehgal, learned senior counsel for the appellants contended that the notification relied upon by the District Judge relates to third acquisition dated October 10, 1978 while the acquisition in this case is of September 25, 1979. Therefore, the learned Judge ought to have granted escalated charges rather than what was granted in the earlier cases. We find no force in the contention. In fact, the Additional District Judge relying upon small
- C piece of land which did not find favour with the High Court, enhanced the compensation. The High Court also on the comparative evaluation and considering the evidence adduced before the reference Court, determined the compensation at the rate of Rs. 21.25 per sq. yd. It is settled law that when the compensation is determined on yardage basis for housing
- D development and the lands are to be developed, the direction to deduct 1/3rd towards the development charges, is required to be given. The High Court has not adopted that principle but the State has not come in appeal. The High Court has also granted additional amount under Section 23(1-A) of the Act to which the appellants are not entitled. Under these
- E circumstances, we do not find any justification warranting further enhancement of the compensation.

The appeals are accordingly dismissed but, in the circumstances, without costs.

G.N.

Appeals dismissed.