

A

STATE OF HARYANA
v.
GURCHARAN SINGH AND ANR. ETC.

JANUARY 18, 1995

B

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

C

Land Acquisition Act, 1894—Sections 4(1) & 23(1)—Acquisition of land with fruit bearing trees—Determination of compensation—Method—Compensation for land as well as fruit bearing trees cannot be determined separately—8 years multiplier shall be appropriate multiplier.

D

The land situated in Panchkula was acquired by a notification published u/s 4(1) of the Land Acquisition Act. The Land Acquisition Collector awarded the market value to the land. In addition, he also awarded compensation to the fruit bearing trees. On reference, award of the Collector was confirmed. On appeal, the High Court by confirming the market value of the land, enhanced the compensation for the fruit bearing trees by 60% of what was awarded by the Collector. Hence this Appeal.

E

The appellant State contended that the High Court committed grave error of law in upholding the determination of the compensation both to the land as well as fruit bearing trees and also enhancing the market value of the fruit bearing trees.

F

The respondent submitted that considering the rise in price index, the High Court was right in increasing the compensation to the fruit bearing trees by 60%

Allowing the appeals, this Court

G

HELD : 1.1. It is settled law that the Collector or the court who determines the compensation for the land as well as fruit bearing trees cannot determine them separately. The compensation is to the value of the acquired land. The market value is determined on the basis of the yield. Then necessarily applying suitable multiplier, the compensation need to be awarded. Under no circumstances the court should allow the compensation on the basis of the nature of the land as well as fruit bearing trees.

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In other words, market value of the land is determined twice over; once on

the basis of the value of the land and again on the basis of the yield got from the fruit bearing trees. The definition of the land includes the benefits which accrue from the land as defined in s.3(a) of the Act. After compensation is determined on the basis of the value of the land from the income applying suitable multiplier, then the trees would be valued only as fire-wood and necessary compensation would be given. [410-G-H, 411-A]

1.2. When the market value is determined on the basis of the yield from the trees or plantation, 8 years multiplier shall be appropriate multiplier. [411-C]

1.3. Though the Collector had committed palpable error of law in separately awarding the compensation to the land as well as fruit bearing trees it is an offer which cannot be disturbed because of section 5 of the Land Acquisition Act. The rate of compensation should have less than what the Collector had awarded, the Court cannot reduce the amount to than the amount offered by the Collector. The Collector, civil court and the High Court should have applied 8 years multiplier and determined the compensation. They awarded much more than what the claimant would justly and fairly be entitled to Therefore, further enhancement of 60% by the High Court on the basis of the Price Index was illegal. [411-E-F]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 4974-76 of 1985 Etc.

From the Judgment and Order dated 21.5.81 of the Punjab & Haryana High Court in R.F.A. Nos. 1137, 1138 and 1354 of 1979.

Ms. Suruchi Agarwal and Ms. Indu Malhotra for the Appellant.

S.K. Bagga and Mrs. Tanuj Bagga for the Respondents.

The following Order of the Court was delivered :

This appeal arises from the judgment and decree of the High Court of Punjab & Haryana in RSA No. 1137 of 1970 and batch dated May 21, 1981. An extent of 20 acres 38 cents was notified and published for acquisition in the State Gazette under s.4(1) of the Land Acquisition Act on June 22, 1974 for residential colony. The lands are situated in Panchkula, near Chandigarh, as satellite town. The Land Acquisition Collector (for short 'the Collector') awarded the market value in his award

A dated June 25, 1976, to the Abadi land at the rate of Rs. 12,240 per acre and to the Gheir Mumkin Land @ Rs. 1200 Per acre. In addition, he also awarded compensation to the fruit bearing trees in the respective appeals as follows :-

B R.F.A. No. 1137 of 1979 = Rs. 1,12,993.50

R.F.A. No. 1138 of 1979 = Rs. 1,56,659.40

R.F.A. No. 1354 of 1979 = Rs. 40,842.00

C R.F.A. No. 1355 of 1979 = Rs. 1,65,688.00

D On reference under s.18, in his award and decree dated December 12, 1978, the Addl. District Judge affirmed the award of the Collector. In other words, he passed nil award. On appeal, the High Court by confirming the market value of the land, enhanced the compensation for the fruit bearing trees by 60% of what was awarded by the Collector and accordingly granted enhanced compensation with statutory benefits. Thus this appeal by special leave.

E Ms. Suruchi Agarwal, learned counsel for the State, contended that the High Court has committed grave error of law in upholding the determination of the compensation both to the land as well as fruit bearing trees and has also further committed error in enhancing the market value of the fruit bearing trees in addition to the confirmation of the compensation separately awarded for the land and the fruit bearing trees. It is against the settle principle of law as laid down by this court in catena of decisions. We find force in the contention. Sri Bagga, learned counsel for the respondents, contended that in the year 1966 the price index was at 144 point whereas in 1970 the index was found to be at 213 points. The High Court, therefore, was right in increasing the compensation to the fruit bearing trees by 60%. We find no force in the contention. It is settled law that the Collector or the court who determines the compensation for the land as well as fruit bearing trees cannot determine them separately. The compensation is to the value of the acquired land. The market value is determined on the basis of the yield. Then necessarily applying suitable multiplier, the compensation need to be awarded. Under no circumstances the court should allow the compensation on the basis of the nature of the land as well as fruit bearing trees. In other words, market value of the land is

determined twice over, and once on the basis of the value of the land and again on the basis of the yield got from the fruit bearing trees. The definition of the land includes the benefits which accrue from the land as defined in s.3(a) of the Act. After compensation is determined on the basis of the value of the land from the income applying suitable multiplier, then the trees would be valued only as fire wood and necessary compensation would be given. In this case, the High Court did not adopt this procedure. We have looked into the figures furnished in the judgment of the High Court of the amount awarded by the Officer himself. He too while determining the compensation at the rate of Rs.12,240 per acre on the basis of the yield applied a multiplier of more than 8 years. Under no circumstances, the multiplier should be more than 8 years multiplier as it is settled law of this court in catena of decisions that when the market value is determined on the basis of the yield from the trees or plantation, 8 years multiplier shall be appropriate multiplier. For agricultural land 12 years multiplier shall be suitable multiplier.

In this case, the Collector applied more than 8 years multiplier and awarded compensation. The High Court also has not adverted to this aspect of the matter. The High Court committed error of law in further enhancing the compensation. Considered from this perspective, since we cannot interfere with the award of the Collector, though the Collector had committed palpable error of law in separately awarding the compensation to the land as well as fruit bearing trees, it is an offer which cannot be disturbed because of s.25 of the Acts. The rate of compensation should have been less than what the Collector has awarded, we cannot reduce the amount to less than the amount offered by the Collector, yet we have to hold that the Collector, civil court and the High Court should have applied 8 years multiplier and determined the compensation. They awarded much more than what the claimant would justly and fairly be entitled to. Therefore, further enhancement of 60% by the High Court on the basis of the Price Index is clearly illegal.

The appeals are accordingly allowed. The Judgment and decree of the High Court is set aside and the award and decree of the reference Court is affirmed. In the circumstances of the case, the parties are directed to bear their own costs.