

STATE OF PUNJAB AND ORS. ETC.

v.

RAMAN RAI AND ORS. ETC.

AUGUST 14, 1995

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

*Land Acquisition Act, 1894 :*

*Section 4(1), 9-10, 22(2), 23(1-A), 23(2)—Acquisition of lands—Compensation—Enhancement sought on basis of claim made—Held, Court is to determine compensation on basis of market value of acquired land as on date of publication of Section 4(1) notification and not on basis of claim as such—A claim is assessment of value of land made by owner—If compensation is to be determined on marla basis, all land to be computed at 23 square yards per marla—Court fees on additional amount of compensation—To be paid within time prescribed.*

The State Government acquired lands admeasuring 58 acres and odd of the land owner claimants in August 1979. The Land Acquisition Officer determined compensation at the rate of Rs. 50,000 per acre for block A and Rs. 36,000 per acre for block B. On reference, the Civil Court enhanced the compensation to Rs. 1,00,000 and Rs. 60,000 for Blocks A and B respectively. On appeal, the High Court further enhanced the compensation to Rs. 1,60,000 per acre. The landowners filed appeals by special leave claiming further increase in the compensation whereas the State approached this Court in similar manner against the enhanced compensation.

The land owners contended that as the previous batch of appeals, the land-owners had claimed Rs. 1,50,000 per acre and this Court had confirmed the same, they were entitled to higher compensation in the instant appeals also as the amount claimed by them was higher than Rs. 150,000 per acre.

Dismissing the appeals of the land owners, and partly allowing those of the State, that Court

**A HELD : 1.1. The Court is enjoined under s.23(1) of the Land Acquisition Act, 1894 to determine the compensation on the basis of the market value of the acquired land as on the date of the publication of section 4(1) notification and not on the basis of the claim as such. The claim is the assessment of the value of the land made by the owner.**

**B [702-C; 701-H; 702-A]**

**1.2. Under the unamended s.22(2) of the Act, the Court is prohibited to award compensation higher than that claimed pursuant to the notice under ss.9 and 10 of the Act. The statutory prohibition, not to award higher than what was claimed, itself shows that the Court is not to award any amount in excess of the amount claimed. [702-B]**

**2. In view of the fact that on earlier occasion, this Court has confirmed the market value @ Rs. 1,50,000 as limited by the owners, in the instant appeals also the land owners would be entitled to the same amount of compensation, namely @ Rs. 1,50,000 per acre. [702-C]**

**3. There being variations in measurement of marla, as one marla is treated equivalent to 30 square yards at some places and 23 square yards at others, if the Land Acquisition Officer is to determine compensation on marla basis, he should consider all cases at 23 square yards per marla, irrespective of the villages in which the lands situate. If the lands are calculated on acreage basis there would not be any difficulty or discrepancy in awarding the compensation. [702-E]**

**4. If additional amount of compensation becomes due on account of calculation of land on marla basis, as a special case, deficit court fee, if required to be paid, may be paid within one month. [702-H, 703-A]**

**5. The claimants are not entitled to 12 per cent per annum of the additional amount under s.23(1-A). However, they are entitled to 9 per cent interest for one year from the date of taking possession and 15 per cent interest thereafter, till the date of deposit of the enhanced compensation awarded by operation of the provisions to s.28 of the Act. The claimants are also entitled to 30 per cent solatium under s.23(2) of the Act on the enhanced compensation. [702-G]**

**H CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7771-72 of 1995 Etc.**

From the Judgment and Order dated 4.8.88 of the Punjab & Haryana High Court in R.F.A. Nos. 104-111 of 1985. A

V.C. Mahajan, Ms. S. Janani, G. Bansal, Manoj Swarup, P.N. Puri and C.N. Sreekumar for the appearing parties.

The following Order of the Court was delivered : B

These appeals are disposed of by a common judgment. The State has filed these appeals against the enhanced compensation. The respondents filed the appeals for further increase of compensation that awarded by the High Court @ Rs. 1,60,000 per acre. The learned counsel for the claimants, in fairness, have given up their claims for higher compensation on the basis of three transactions relied on before the High Court-Ex.P.4, P.7 and P.9 dated April 7, 1979, March 29, 1978 and June 26, 1978 respectively. However, relying upon the judgment of the High Court in respect of the lands which are marked in blue colour in the plan for which higher compensation was granted, while lands situated far away from the land in question, counsel for the claimants contended that since their lands are abutting the G.T. Road, they are entitled for higher compensation. They also sought to justify the grant of higher compensation by the High Court on the ground that in provision batch of appeals arising out of S.L.P. (C) Nos. 4397/89 4376-4400/89 decided on July 19, 1995, the land owners had claimed only at the rate of 1,50,000 and this Court confirmed the same. Therefore, the claimants in these cases are entitled to higher compensation, as the amount claimed by them was higher than Rs. 1,50,000. C D E

Having regard to the contentions raised by the counsel for the parties, the question is what will the proper compensation payable to the claimants in these cases. Admittedly 58 acres, 3 canals 15 marlas were acquired by notification dated August 10, 1979. The Land Acquisition Officer determined the compensation for Block 'A' @ Rs. 50,000 and for Block 'B' at the of Rs. 36,000 per acre. On reference under s.18, the Civil Court enhanced the compensation to one lakh per acre for Block 'A' and Rs. 60,000 for Block 'B', On appeal, the learned Single Judge enhanced the compensation to Rs. 1,000 per marla, in other words Rs. 1,60,000 per acre. F G

What is to be determined is the market value of the acquired land H

A prevailing as on the date of the publication s.4(1) notification and not on the basis of the claim as such. The claim is the assessment of the value of the land made by the owner. According to him that would be the prevailing market value of the acquired land. The parties can claim higher amount but under the unamended s.22(2) of the Act the Court is prohibited to award compensation higher than was claimed pursuant to the notice under s.9 and 10 of the Act. The statutory prohibition, not to award higher than what was claimed, itself shows that the Court is not to award any amount in excess of the amount claimed. The Court is enjoined under s.23(1) to determine the compensation of the acquired land as on date notification.

B In view of the fact that on earlier occasion, this court has confirmed the market value @ Rs. 1,50,000 as limited by the owners in these cases, the claimants, herein also would be entitled to the same amount of compensation, namely @ Rs. 1,50,000 per acre. It is made clear that in earlier cases the State had not pressed for lesser amount than the one claimed in the statement of the claimants.

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It would appear that there is some discrepancy in the calculation of the market value on the basis of marlas. It is stated by the counsel for the claimants, and not disputed by the counsel for the State, that qua the lands situated at Maksudan Village 30 sq. yd. is equivalent to one marla, while in Jullunder city 23 sq. yards in equivalent to one marla. If the lands are calculated on acres basis, there would not be any difficulty or discrepancy in awarding the compensation.

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If the compensation is determined by the Land Acquisition Officer on marlas basis, the Land Acquisition Officer should consider all the cases at 23 sq. yards per marla, irrespective of the villages in which the lands are situated. The matter is accordingly clarified. The claimants are not entitled to 12 per cent per annum of the additional amount under s.23(1-A). However, they are entitled to 9 per cent interest for one year from the date of taking possession and 15 per cent interest thereafter, till the date of deposit of the enhanced compensation awarded by operation of the proviso to s.28 of the Act. The claimants are also entitled to 30 per cent solatium under s.23(2) of the Act on the enhanced compensation.

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The State appeals are partly allowed and the claimants appeals are dismissed. In view of the above clarification, if additional amount of

compensation becomes due on account of calculation of land on marlas A  
basis, as a special case, deficit court fee, if required to be paid, may be  
paid within one month from today. This direction to pay deficit court fee  
would not be used as a precedent.

R.P.

Appeals dismissed.