

BALDEV SINGH AND ORS.

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v.

STATE OF PUNJAB THROUGH COLLECTOR

AUGUST 7, 1996

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

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*Land Acquisition Act, 1894 :*

*Ss.4(1), 11, 23(1-A), 23(2) and 28—Acquisition of agricultural land—Compensation—Notification u/s 4(1) published in 1982—Award by Collector determining compensation at the rate of Rs. 16,000 per acre—Reference court enhancing compensation to Rs. 30,000 per acre by its award and decree dated 13.12.1983—High Court reducing the compensation to the amount awarded by Collector and granting benefit available under Amendment Act 68 of 1984—Held, none of the persons connected with the sale deeds relied on by the claimants examined—Documents seem to be brought into existence to inflate the market value—All the documents are inadmissible in evidence and cannot be looked into—Judgment of High Court modifying award of Collector upheld—Judgment in another case, which is not part of the record nor was brought on record, cannot be relied upon.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2280 of 1986 Etc.

From the Judgment and Order dated 25.2.85 of the Punjab & Haryana High Court in Regular Civil Appeal No. 582 of 1984.

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Awadh Behari, R.S. Sodhi, A.K. Sanghi, R.S. Suri and Sudhir Walia for the appearing parties.

The following Orders of the Court was delivered :

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Notification under Section 4(1) of the Land Acquisition Act 1 of 1894 (for short, the 'Act') was published on January 29, 1982 acquiring a total extent of 193 kanals 3 marlas of land situated in village Lamin in Punjab State for construction of Hydrel Channel. The Land Acquisition Collector awarded compensation at the rate of Rs. 16,000 per acre and also awarded

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- A 5% additional amount thereon with solatium and interest. On reference the Additional District Judge in his award and decree dated December 13, 1983 enhanced the compensation to Rs. 30,000 per acre. On appeal, the High Court reduced the compensation to the amount awarded by the Land Acquisition Collector by judgment and decree dated February 25, 1985,
- B Thus, this appeal by special leave.

C It is contended by the learned counsel for the appellants that the High Court has committed grievous error in reducing the compensation from Rs. 30,000 to Rs. 16,000 per acre. It is contended that Exts. A-12 and 13, the sale deeds of February 12, 1981 and 30th March, 1981 respectively executed one year prior to the date of acquisition would show that the market value of which land commanded was Rs. 40,000 per acre; even the sale deeds Ex. A-14 dated March 23, 1981, Ex.-A-15 dated July 1, 1981 which commanded market value was Rs. 60,000, though

D of smaller extent of 5 bighas each; hence, the market value will not less than Rs. 40,000. Therefore, the additional District Judge was right in granting compensation at the rate of Rs. 30,000 per acre. In support thereof, he placed reliance also on another judgment in respect of land in the neighbouring village wherein the same learned Judge had confirmed the market value at the rate of Rs. 30,000 per acre in respect of

E the cultivable Chahi land. We find no force in the contention of the learned counsel. It is seen that none of the persons connected with documents Ex. A-12 to 15 has been examined. It would also be seen that one Kanal was sold in the same village under Exts. A-12 and 13 respectively which worked out to Rs. 40,000 per acre or Rs. 5,000 per

F kanal. The High Court has rightly pointed out that no prudent cultivator would purchase one kanal of land for the purpose of cultivation. In other words, the purchase for the purpose of cultivation would be uneconomical and not valid one. Looked at from another angle, it is common knowledge that it would take long time for publication of the notification under

G section 4(1). In the meanwhile it would be known to the villagers that the land would be under acquisition. Therefore, it would be obvious that these documents were brought into existence to inflate the market value. Obvious, therefore, none of the persons connected with the documents has been examined. There is no proof of passing of the consideration

H thereunder or the circumstances in which the documents came to be

executed. Under these circumstances, all the documents are inadmissible in evidence and cannot be looked into. If they are excluded, the only other evidence is the oral evidence. It is not in dispute that the land situated in the neighbouring village and acquired for the same purpose fetched compensation at the rate of Rs. 15,000 per acre in respect of the Chahi land and Rs. 9,000 and Rs. 10,000 for Baravi land etc. That judgment of the High Court has become final. Under those circumstances, the High Court was well justified in relying upon that document and in upholding the award of the Collector but with modification as indicated:

"The Land Acquisition Collector has not been able to point out any distinction between the value of land in village Uchi Bassi, Lamin and Jamalpur. For village Uchi Bassi, this Court has allowed market price for Chahi land at the rate of Rs. 15,000 per acre, and still lesser for inferior quality of agricultural land. Hence it will be safe to rely on the judicial instance coupled with the State instances Exhibit. RW3/3, to RW3/7. However, the Land Acquisition Collector was not right in giving different value for Chahi and Nahri land, which are generally treated of the award of the Court below and restore the award of the Land Acquisition Collector and also restore the value fixed by the Land Acquisition Collector except for Nahri land and fix the market value as follows :

Chahi/Nahri	Rs. 16,000 per acre
Barani	Rs. 10,000 per acre
Banjar Qadim	Rs. 8,000 per acre
Gair Mukin	Rs. 6,000 per acre."

In addition, 4% of the aforesaid amount was allowed by the Land Acquisition Officer. In addition the Court also granted the benefit under the Amendment Act 68 of 1984. Under the circumstances, we do not think there is any error of law in judgment. The Judgment in another case which is not a part of the record nor was brought on record and filing of an application under Order 41, Rule 27, C.P.C. cannot be looked

A into for that reason. Under these circumstances, the judgment cannot be relied upon.

The appeal is accordingly dismissed but in the circumstances without costs.

B The Civil Appeal is dismissed as withdrawn.

R.P.

Appeal dismissed.