

CHARANJIT KAUR (DEAD) THR. PROPOSED LRS.

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v.

UNION OF INDIA AND ORS.

APRIL 4, 2003

[DORAISWAMY RAJU AND D.M. DHARAMADHIKARI, JJ.]

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Land Acquisition Act, 1894:

Land acquisition—Appeals before High Court—Against common judgment and same subject matter filed by claimants as well as Union of India—Segregation and disposal of appeals filed by claimants while appeals filed by Union of India kept pending—Propriety—Held, the method of segregation of appeals filed by the claimants from the appeals filed by the Union of India for separate consideration as well as the manner of disposal adopted also do not conform to a proper, reasonable and lawful exercise of powers of the appellate court—Where several appeals are before an appellate forum filed in the form of counter claims both of the land owners as well as the acquiring authorities, for determination of the proper market value and assessment of fair compensation, the process involved in such adjudication, necessarily has to be a related one, taking together, the combination of all relevant factors and the adjudication cannot be undertaken in a disinjuncted manner by dealing with such claims, though pertaining to the same subject-matter, separately and distinctly—Such compartmental consideration of competing and conflicting claims relating to one and the same matter would seriously jeopardize a proper and effective determination and assessment of the market value and fair compensation to be paid for the property acquired—When large extent of undeveloped lands are acquired and the courts have to assess the market value of the acquired property also taking into account the potentialities for developed uses, courts devised the method of imposing deductions of a reasonable percentage of the average market value to ultimately arrive at the actual market values to be paid—The process of such determination being inevitably a composite one keeping in view a combination of several and varying factors, the same cannot be legitimately undertaken in a disinjuncted and compartmentalised manner, without sacrificing uniformity in approach and resultant injustice to parties—Besides, some of the observations made in the judgments itself would amount to virtual foreclosure of the claims of the land owners substantially who are seeking to oppose deduction as

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A *against the plea of the authorities for deduction of 53% towards development cost—Appeal—Appeals by rival parties against same judgment and same subject matter—Segregation for disposal separately—Propriety—Practice and Procedure.*

B CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 3068-3069 of 2003.

From the Judgment and Order dated 25.1.2000 of the Punjab and Haryana High Court in L.P.A. Nos. 1110 and 1111 of 1999.

WITH

C C.A. Nos. 3073-3074, 3075, 3077, 3078, 3079, 3081, 3082, 3083, 3084, 3085, 3086, 3087, 3089, 3091, 3092, 3095, 3097, 3098, 3099, 3100, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113, 3114, 3115, 3116, 3117, 3118, 3119, 3120, 3121, 3122, 3123, 3124, 3125, 3126, 3127, 3128, 3129, 3130, 3131, 3132, 3133, 3134, 3135, 3136, 3137, 3138-3139, 3141, 3142, 3143-3148 of 2003.

D R.N. Trivedi, Additional Solicitor General, R.K. Jain, K.T.S. Tulsi, A.V. Palli, Atul Sharma, Mrs. Rekha Palli, Ms. Varuna Gagnani Bhandari for Subramonium Prasad, B.S. Chahar, Jyoti Chahar for Vinay Garg, R.K. Talwar for Yash Pal Dhingra, Mrs. Indra Sawhney, Ms. Smita Inna, K.C. Kaushik, Mrs. Sushma Suir, B.V. Balaram Das (NP), R.S. Suri and Jagjit Singh Chhabra for the appearing parties.

The following Order of the Court was delivered:

F Leave granted.

Heard the learned counsel appearing for the appellants as well as for the Union of India and State of Punjab.

G The main grievance projected for the appellants is that when the appeals filed by the Union of India against the very judgment respect of which these appeals before the High Court were also filed are pending, the appeals of the claimants in the High Court alone could not have been segregated and separately disposed of leading to grave injustice resulting in perfunctory determination of compensation and claims relating thereto, pertaining to the very subject matter in issue, in all such appeals. We have been taken through

H the judgment of the High Court. Ms. Indra Sawhney, learned counsel appearing

for the Union of India contends that the final hearing and disposal of these matters may be kept in abeyance by granting leave and the orders on the appeals filed by the respondents herein in the High court may be awaited so that the appeals against such decision can be considered together by this Court. In other respect it is contended that the compensation awarded and affirmed by the High Court is reasonable and that the claim for further enhancement has rightly not met with the acceptance of the Division Bench of the High Court. It is also contended that what is now the subject matter of the appeals filed by the Union of India and pending before the High Court is only as to the percentage of deduction to be made for purposes of development i.e. whether it is to be fixed at 20% on the average price or more or at 53% as claimed by the Union of India, and consequently there is no justification for interference with the judgment of the High Court under challenge, at this stage.

We have carefully considered the submissions of the learned counsel appearing on the either side. Even at the outset we may point out that the method of segregation of the appeals filed by the claimants from the appeals filed by the Union of India for separate consideration as well as the manner of disposal adopted also do not conform to a proper, reasonable and lawful exercise of powers of the appellate court. Where several appeals are before an appellate forum filed in the form of counter claims both of the land owners as well as the acquiring authorities for determination of the proper marked value and assessment of fair compensation, the process involved in such adjudication, necessarily has to be a related one, taking together, the combination of all relevant factors and the adjudication cannot be undertaken in a disjuncted manner by dealing with such claims, though pertaining to the same subject matter, separately and distinctly. Such compartmental consideration of the competing and conflicting claims relating to one and the same matter would seriously jeopardize a proper and effective determination and assessment of the market value and fair compensation to be paid for the property acquired. Courts have often reiterated that market value of the property acquired has got to be determined keeping into consideration the location, importance, prospects and purposes to which the said land may be used and potentialities in foreseeable future. When large extent of undeveloped lands are acquired and the courts had to assess the market value of the acquired property also taking into account the potentialities for developed uses, courts devised the method of imposing deductions of a reasonable percentage of the average market value to ultimately arrive at the actual market value to be paid. The process of such determination being inevitably

A a composite one, keeping in view a combination of several and varying factors, the same cannot be legitimately undertaken in a disjoined and decompartmentalised manner, without sacrificing uniformity in approach and resultant injustice to parties.

B Apart from the irregularity involved in separating the two categories of appeals relating to the land owners and the acquiring authorities to be dealt with separately, some of the observations made in the judgments itself would amount to virtual foreclosure of the claims of the land owners, substantially who are seeking to oppose any deduction as against the plea of the authorities for deduction of 53% towards development cost. The observations in the
C judgments under challenge that 20% cut, though has been imposed, keeping in mind the lack of potentiality of the land etc., in the opinion of the High Court, the cut appears to be rather on the lower side, could hardly be considered to be either judicious or judicial way of dealing with competing claims of parties objectively, since those claims are indisputably the subject matter of
D appeals filed by the Union of India, which are stated to be still pending and remain to be finally adjudicated, after hearing the parties in those appeals.

For all the reasons stated above the judgments of the High Court under challenge in all these appeals are set aside. The appeals before the High Court are directed to be restored to their original files to be dealt with, along with the other appeals said to have been filed by the acquiring authorities and stated to be still pending in the High Court. The consideration and
E determination of all the contentions of the parties to the proceedings on either side shall be afresh, uninfluenced by any of the observations made in the earlier judgments hereby set aside. The counsel on either side are permitted to move the High Court for expeditious disposal of the appeals. These appeals
F stand allowed and finally disposed of accordingly.

No costs.

R.P.

Appeals allowed.