

MOHINDER SINGH & ORS.

A

v.

STATE OF HARYANA

(Civil Appeal Nos.7227-7257 of 2014 etc).

AUGUST 05, 2014

B

[T.S. THAKUR, C. NAGAPPAN AND
ADARSH KUMAR GOEL, JJ.]

Land Acquisition Act, 1894 - Land acquired under - Award of compensation - Reasonable deduction from market value of the land, towards development charges - Ascertainment of - Reference Court deducted 1/4th of the market value - High Court deducted 40% of the market value -Held: If the acquired land is already in the midst of already developed land, deduction of 40% would not be justified - In the present case, the acquired land was already within developed municipal limits, hence the cut of 40% is not justified - Deduction of 1/4th of market value made by Reference Court is appropriate.

C

D

The question for consideration in the present appeals was as to what would be the reasonable deduction towards development charges, to be made from the market value, in respect of the land in question, acquired under Land Acquisition Act, 1894.

E

Partly allowing the appeals preferred by the claimants and dismissing the appeals preferred by the State, the Court

F

HELD:1. With regard to the location and potential of the land, the Reference Court held that the acquired land adjoins the abadi of the township of Shahabad and it is in its municipal limits and it is in evidence that around this land there exist College, Girls High school, cinema hall, cold storage, rice mills, grain market and private nursing

G

H

A homes and all the establishments have sprung up before the acquisition and the acquired land had great potential value for development of residential commercial and industrial units. The Single Judge of the High Court, while referring to the contention of the State that the land in question was recorded as agricultural land has held that the State has produced no evidence to establish the same and on the contrary, the testimony of PW1 on oath that the land lies within the municipal limit of Shahabad remained un rebutted. [Para 5] [373-A-D]

C 2. The High Court on the facts of the case was justified in taking into consideration the size of the plots which were exhibited for the purpose of comparison with the size of the plot acquired, but the cut of 40% which has been imposed by the High Court cannot be upheld, since the acquired lands are already within developed municipal limits and the deduction of 1/4th the market value made by the Reference Court is appropriate and liable to be restored. [Para 7] [373-G-H; 374-A]

E *Charan Dass vs. H.P. Housing and Urban Development Authority* (2010) 13 SCC 398: 2009 (14) SCR 163; *Kasturi and others vs. State of Haryana* (2003) 1 SCC 354: 2002 (4) Suppl. SCR 117 - relied on.

Case Law Reference

F 2009 (14) SCR 163 relied on Para 6
 2002 (4) Suppl. SCR 117 relied on Para 6

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 7227-7257 of 2014.

G From the Judgment and Order dated 11.09.2000 in LPA Nos. 310, 311, 313, 314, 315, 316, 318, 319, 320, 321, 323, 324, 325, 326, 327, 328, 330, 331, 332, 333, 334, 336, 337, 338, 339, 340, 341, 358, 361, 1283, of 1999 of the High Court of Punjab & Haryana at Chandigarh.

H

WITH

A

C.A. Nos. 7258-7311 of 2014.

Brijendra Chahar, Mahabir Singh, Aditya Gupta, Rishi Malhotra, Prem Malhotra, Kamal Mohan Gupta, S.K Bansal, Savithri Bansal, V.S. Lakshmi, A. Venayagam Balan, Kailash Chand for the Appellants.

B

Narender Hooda, Manjit Singh, AAG, Vikas Saharan, Kamal Mohan Gupta, Vivekta Singh, Nupur Choudhary, Sanjay Kumar Rathee, Dr. Kailash Chand, Naresh Bakshi for the Respondent.

C

The Judgment of the Court was delivered by

C. NAGAPPAN, J. : 1. Leave granted.

2. All these appeals are directed against the common judgment dated 11.9.2000 in LPA No.210 of 1999 and connected appeals passed by the Division Bench of the High Court for the States of Punjab and Haryana, at Chandigarh.

D

3. The State of Haryana issued Notification dated 2.12.1982 under Section 4(1) of the Land Acquisition Act, 1894, intending to acquire 327.52 acres in village Patti Jhambra, Shahabad in District Kurukshetra for a public purpose namely to develop and utilize the land for residential, commercial industrial area for the urban Estate of Shahabad. Section 6 Notification was issued on 4.7.1984 in relation to 178.62 acres, though on actual measurement, the possession of the land taken was found only 90.07 acres. After hearing the objections of the land-owners/claimants the Collector by his Award dated 16.9.1986 awarded compensation at different rates per acre, classifying the lands as Chahi, Abadi plot, Gair Mumkin and Banjar quadim. Having not satisfied with the amount awarded, the claimants filed applications for reference under Section 18 of the Act and the Collector referred them to the District Judge, Kurukshetra for determining the value of the lands. The Reference Court after hearing both the parties on the basis of the evidence adduced, awarded uniform compensation at

E

F

G

H

A Rs.2,66,400/- per acre in his Award dated 31.5.1991. Feeling
 dissatisfied with the said Award the State filed Regular First
 Appeals seeking reduction in the amount of compensation and
 the claimants filed independent appeals for enhancement of the
 compensation. The learned single Judge of the High Court
 B partly allowed the appeal filed by the State and dismissed the
 appeals of the claimants and held that the claimants are entitled
 to get compensation at the rate of Rs.1,83,080/- per acre along
 with solatium and interest and statutory benefits. Feeling
 aggrieved the claimants preferred Letters Patent Appeals and
 C the Division Bench of the High Court partly allowed the
 claimants appeals and modified the award to the extent that
 claimants are entitled to get compensation at the rate of
 Rs.2,19,696 per acre along with other benefits as awarded by
 the Reference Court. Feeling dissatisfied the State preferred
 D the present appeals seeking reduction in the amount of
 compensation and the claimants preferred separate appeals
 seeking for enhancement of the compensation.

4. Shri Narender Hooda, learned Additional Advocate
 General for the State of Haryana submitted that the sale
 E transactions relied on by the claimants related to small plots of
 land and the sale price of such transactions could not be taken
 to be an accurate assessment of the valuation of lands which
 were acquired in bulk and the acquired lands were agricultural
 in nature and they are not developed and deduction of 50% of
 F the market value done by the learned single Judge was
 reasonable and is liable to be restored. Mr. Brijender Chahar,
 learned senior advocate who appeared for the claimants
 submitted that the lands in question fell within the municipal
 limits of Shahabad and it is in the midst of already developed
 G land and reasonable deduction would be not more than 20%
 of the assessed value of the land and the cut of 40% imposed
 by the Division Bench of the High Court was not justified in the
 circumstances.

5. We carefully considered the submissions and perused
 H the record. The only point for consideration in these appeals

MOHINDER SINGH & ORS. v. STATE OF HARYANA 373
[C. NAGAPPAN, J.]

is as to what would be the reasonable deduction towards development charges, to be made from the market value. With regard to the location and potential of the land, the Reference Court held that the acquired land adjoins the abadi of the township of Shahabad and it is in its municipal limits and it is in evidence that around this land there exist DAV College, Girls High school, cinema hall, cold storage, rice mills, grain market and private nursing homes and all the establishments have sprung up before the acquisition and the acquired land had great potential value for development of residential commercial and industrial units. The learned single Judge while referring to the contention of the State that the land in question was recorded as agricultural land has held that the State has produced no evidence to establish the same and on the contrary the testimony of PW1 on oath that the land lies within the municipal limit of Shahabad remained unrebutted.

6. This Court in the decision in **Charan Dass vs. H.P. Housing and Urban Development Authority** [(2010) 13 SCC 398] observed that any deduction made should be based on the situation of the land and the need for development and where the acquired land is in the midst of already developed land with amenities of roads, drainage, electricity etc. then deduction of 40% would not be justified. In **Kasturi and others vs. State of Haryana** [(2003) 1 SCC 354] wherein the question had arisen as to whether the deduction of development charges at the rate of 20% in regard to the acquired lands was justified or not, and after taking the various factors into consideration it was held that a cut of 20% to the development charges which was lower than the normal 1/3rd was understandable and could be justified.

7. In our view, the High Court on the facts of the case was justified in taking into consideration the size of the plots which were exhibited for the purpose of comparison with the size of the plot acquired, but we are unable to uphold the cut of 40% which has been imposed by the High Court since the acquired

A lands are already within developed municipal limits and the deduction of 1/4th the market value made by the Reference Court is appropriate and liable to be restored.

B 8. In the result the appeals preferred by the claimants are partly allowed and the impugned judgment of the Division Bench of the High Court is set aside and the Award passed by the Reference Court is restored. The appeals preferred by the State are dismissed. Interlocutory Application Nos. 5 and 6 in S.L.P. No.5191 of 2001 for bringing on record the legal heirs are allowed. No costs.

C

Kalpana K. Tripathy

Appeals disposed of.