

Before:—N. C. Jain, J.

ANIL KUMAR AND OTHERS,—Petitioners.

versus

HARYANA STATE,—Respondent.

Civil Revision No. 1938 of 1991.

4th September, 1991.

Land Acquisition (Amendment) Act, 1984—Ss. 18 & 28-A—Re-determination of market value—Petitioners seeking evaluation of land on same rate as given to other claimants—Entitled to have land evaluated at same rate as those who approached court—Award of court—Interpretation—To mean that award which attained finality at the stage of District Judge, High Court or Supreme Court.

Held, that the petitioners are entitled to have their land evaluated at the same rate which was given to other claimants who approached this court. The true and correct interpretation of Section 28-A of the Land Acquisition Act in my considered view would be that other owners who did not seek any reference under Section 18 of the Land Acquisition Act would, on re-determination, be entitled to the same rates which other land owners have got either from the court of District Judge or from the High Court or from the Supreme Court. The use of the words in Section 28-A "award of the court" does not and cannot possibly mean the award of the court of the District Judge. The award of the court would be that award which is final, whether finality is attained at the stage of District Judge or High Court or Supreme Court.

(Para 5)

Petition u/s 115 CPC for revision of the order of the Land Acquisition Collector, P.W. (Irrigation Branch) Ambala City dated 13th February, 1991 redetermining the compensation of the land at the rate of Rs. 27,300 per acre as per the judgment of Shri Raj Kumar Gupta, Addl. District Judge, Karnal dated 5th January, 1981, and entitling the claimants/applicants to solatium at the rate of 15 per cent of the enhanced amount of compensation and interest at the rate of 6 per annum from the date of dispossession till realisation of the amount.

The applicants/claimants shall be entitled to the interest till the date of actual realisation.

Claim:—Applications under Section 28-A of the Land Acquisition (Amendment) Act 1984 read with Section 18 of the Act for re-determination of market value.

Claim in revision: For enhancement of compensation.

Arun Jain, Advocate, for the Petitioner.

Jagdev Sharma, Addl. A.G. Haryana, for the Respondent.

JUDGMENT

This judgment of mine would dispose of Civil Revision Petition Nos. 1938 to 1961 of 1991, as question of law is similar in all the cases.

(2) The Government of Haryana,—*vide* its notification No. 8097/1L/II/SYL dated 23rd June, 1976, published in the Haryana Government gazette dated 6th July, 1976, sought to acquire a lot of land, situate in village Kirmach Tehsil and District Karnal, for constructing SYL Canal. The Land Acquisition Collector,—*vide* his award dated 23rd November, 1976, assessed the compensation at the rate of Rs. 8720 per acre. Certain land owners sought reference under Section 18 of the Land Acquisition Act (hereinafter referred to as the Act) and the learned Additional District Judge, Karnal,—*vide* his award dated 5th January, 1981, assessed the market value of the acquired land at the rate of Rs. 27,300 per acre. Those land owners who sought the references under Section 18 of the Act, feeling aggrieved against the award of the learned Additional District Judge, Karnal, filed Regular First Appeals in this court. This court while deciding Regular First Appeal No. 700 of 1981 decided on 23rd July, 1986, determined the market value of the acquired land at the rate of Rs. 31,000 per acre.

(3) On the basis of the award rendered by this court, the petitioners whose lands were also acquired by virtue of the same notification filed various applications under Section 28-A of the Act for re-determination of the market value of their acquired land, on the ground that they are also entitled to the grant of same compensation as their land was also acquired by the same notification. The petitioners claimed compensation at the rate of Rs. 31,000 per acre which was granted by this court. The matter was taken up by the Collector and he,—*vide* his order under challenge before me, determined the market value of the acquired land at the rate of Rs. 27,300 per acre i.e. the rate given by the Additional District Judge. The petitioners feeling aggrieved against the order of the Collector have filed the aforementioned revision-petitions.

(4) The short question which arises for determination in these matters is as to whether the petitioners are entitled to the grant of compensation at the same rates which were allowed by the learned Additional District Judge, Karnal, or they are entitled to the grant of market value at the rates which were allowed by this court.

(5) After hearing the learned counsel for the parties. I am of the view that the petitioners are entitled to have their land evaluated to the same rate which was given to other claimants who approached this court. The true and correct interpretation of Section 28-A of the Land Acquisition Act in my considered view would be that other owners who did not seek any reference under Section 18 of the Land Acquisition Act would, on re-determination, be entitled to the same rates which other land owners have got either from the court of District Judge or from the High Court or from the Supreme Court. The use of the words in Section 28-A "award of the court" does not and cannot possibly mean the award of the court of the District Judge. The award of the court would be that award which is final, whether finality is attained at the stage of District Judge or High Court or Supreme Court. The award of the District Judge merges into the award of the High Court. If the view of the Collector is to be upheld, it would create an anomalous position. In a particular case, the amount awarded by the District Judge may be reduced by the High Court. Can in such a situation be contended by the claimants that they are entitled to the compensation awarded by the District Judge which is a higher one and not the compensation which is awarded by this court. The answer would certainly be in the negative.

(6) For the reasons recorded above, the revision petitions are allowed and the petitioners are held entitled to the grant of compensation at the rate of Rs. 31,000 per acre. They would also be entitled to the grant of statutory benefits of the amended provisions of Section 23(2) and 28 of the Land Acquisition Act, as was done by this Court in Regular First Appeal No. 700 of 1981, decided on 23rd July, 1986. The parties are left to bear their own costs throughout.

J.S.T.

Before :—A. P. Chowdhri & J. B. Garg, JJ.

INCOME-TAX OFFICER, KHANNA, DISTT. LUDHIANA,
—Appellant.

versus

ANIL KUMAR,—Respondent.

Criminal Appeal No. 332-DBA of 1987

1st October, 1991.

Income-tax Act, 1961—S. 276-B—Prosecution of partnership concern for non-compliance of Section—Punishment imposed contains substantive sentence to extent of six months as well—Whether firm liable to punishment of sentence.