

Before: I. S. Tiwana, J.

PURAN,—Appellant.

*versus*

STATE OF HARYANA,—Respondent

Regular First Appeal No. 488 of 1984.

September 23, 1985.

*Land Acquisition Act (I of 1894)—Section 11, 16, 18, 23 and 28—Land Acquisition (Amendment) Act (LXVIII of 1984)—Sections 15 and 30—Acquisition of land—Award made by the Land Acquisition Collector prior to April 30, 1984—Claimants seeking reference under Section 18 and then filing appeal in the High Court—Claimants—Whether entitled to the additional amount of twelve per cent of the market value of the acquired land under Section 23(1-A) as introduced by the amending Act.*

Held, that sub-section (1) of Section 30 of the Land Acquisition (Amendment) Act, 1984 only governs the applicability of section 28 (1-A) to the proceedings before the Collector and not before Land Acquisition Court or the appellate Court. The words "every proceeding for the acquisition of any land under the principal Act" occurring in clauses (a) and (b) of sub-section (1) of section 30 have only reference to the proceedings before the Collector and not to the proceedings in a reference or in appeal against the judgment of the land acquisition Court. Acquisition proceedings terminate or come to an end with the passing of the award or the taking of the possession of the acquired land by the Collector under the Act. In terms of section 16 of the Act, the moment the Collector takes possession of the acquired land after making of award under Section 11, the same comes to vest absolutely in the Government and the acquisition proceedings come to an end. The land stands acquired. The subsequent proceedings as a result of the reference under Section 18 of the Act are independent proceedings and are in the nature of trial of a suit under the Code of Civil Procedure. The scope of these proceedings—may be before the land acquisition court or the appellate Court—is limited only to the four points indicated in the section, i.e., (i) the measurement of the land; (ii) the amount of compensation; (iii) the persons to whom it is payable and (iv) the apportionment of the compensation among the persons interested and cannot be extended to other issues, such as, validity of the notification issued for acquisition or want of jurisdiction in making the award. Therefore, what sub-section (1) of Section 30 of the amending Act ordains is that in those acquisition proceedings before the Collector which were either pending on the 30th day of April, 1982

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and in which proceedings no award had been made by the Collector before that date or such proceedings which have been commenced after that date whether or nor the award had been made by the Collector prior to the commencement of the Act with effect from September 24, 1984, the additional amount in terms of sub-section (1-A) of Section 23 of the Act is to be awarded by the Collector. So far as the proceedings in Court—may be as a result of the reference under Section 18 of the Act or at the appellate stage—are concerned, the mandate of sub-section (1-A) is that “the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value (i.e., the market value fixed under sub-section (1) of section 23) for the period commencing on and from the date of the publication of the notification under Section 4, sub-section (1) in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier”. Thus, the additional amount as envisaged by Section 23 (1-A) is to be awarded to the claimants since the award had been pronounced prior to April 30, 1984.

(Para 4)

*Regular First Appeal from the order of the Court of Shri Raj Kumar Gupta, District Judge, Faridabad, dated 12th January, 1984, awarding compensation to the petitioner at the rate of Rs. 18/- per square yard with solatium at the rate of 15 per cent and interest at the rate of 6 per cent per annum from the date of dispossession till realisation with costs.*

M. S. Jain, Senior Advocate with Adish Gupta, Advocate, for the Appellant.

H. L. Sibal, A.G., Haryana with R. C. Setia, Advocate, for the Respondents

### JUDGEMENT

I. S. Tiwana, J,—

(1) This judgment disposes of nine Regular First Appeals Nos. 488 to 492 and 977 to 980 of 1984 preferred by the landowner claimants as these pertain to the same acquisition proceedings initiated by the State Government with the publication of a notification under section 4 of the Land Acquisition Act, 1894 (for short, the Act) on November 4, 1977. The land of the claimants is located in the revenue estate of Atmadpur and has been acquired to develop it into a residential area, i.e., Sector 30 of Faridabad Township. The

Land Acquisition Collector treating it to be a purely agricultural land for determining its market value, awarded compensation at the rates varying from Rs. 20,000 to Rs. 30,000 per acre. As the claimants did not feel satisfied with the adequacy of this compensation, they sought respective references under section 18 of the Act and as a result thereof the Land Acquisition Court (District Judge, Faridabad) had allowed compensation at the rate of Rs. 18 per square yard besides the statutory solatium and interest at 15 per cent and 6 per cent respectively. The claimants are still not satisfied with the award of the lower Court and have preferred these appeals.

(2) For recording its above noted conclusion the lower Court has primarily relied upon various awards such as, Exhibits P. 11, P. 13, P. 15, P. 17, P. 19, P. 21, P. 22, P. 24 and P. 26, pronounced by it earlier for the acquisition of land in the adjoining village Mawai, for the same purpose, i.e., development of Sector 29 of the Township. The revenue estate of Atmadpur admittedly adjoins the lands of village Mawai,—*vide* all these awards which pertain to the acquisition effected in pursuance of a notification published under section 4 of the Act on October 1, 1973, the market value of that land was determined at Rs. 18 per square yard. Following those awards the Court has awarded similar compensation in these cases. The learned counsel for the appellants is not in a position to find any fault with this approach of the lower Court. He, however, contends that the Court committed an error in not noticing the general upward trend in the prices of lands nearabout or around the developing towns and has wrongly disallowed the claim of the appellants for a higher rate of compensation on account of the time lag of about four years between the two acquisitions dated October 1, 1973 and the present notification dated November 4, 1977. This claim of the appellants has been turned down by the lower Court with the observation that the petitioners before him had "failed to show whether there was any rise in price after 1973 and if so to what extent". I find merit in the above noted submission of the learned counsel. By now it is well recognised that rise in prices of lands nearabout the developing towns is almost a continuous and unending phenomenon and the Courts while determining the market value of the acquired lands have been taking judicial notice of it. There are number of judgments of this Court pertaining to the acquisition of land for Faridabad town itself wherein the similar situation rise in the market value of the acquired land at the rate of Re. 1 per square yard per year has been allowed. A reference in this regard can be

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made to an earlier judgment of mine in (*Ragbir Singh and others v. The State of Haryana and others*) (1),—*vide* which judgment the market value of the land acquired for the development of section 8 of this very complex was determined. In the light of that I am satisfied that the market value of the appellants' land has to be determined at Rs. 22 per square yard, i.e., on account of the lapse of four years between the two acquisitions, i.e., the one to which the above noted awards relate and the present acquisition effected in pursuance of a notification under section 4 of the Act published on November 4, 1977. The learned counsel for the respondent authorities has nothing contrary to submit.

(3) The next contention of the learned counsel for the appellants which of course has been seriously debated by the two sides is that the claimants besides being entitled to solatium and interest at the rate of 30 per cent and 15 per cent, respectively in the light of the amended provisions of sections 32(2) and 28 of the Act, are also entitled to an additional amount at the rate of 12 per cent per annum on the above noted market value in view of the newly added provisions of sub-section (1-A) to section 23 of the Act,—*vide* Act No. 68 of 1984. This latter mentioned sub-section reads as follows:—

“(1-A) In addition to the market value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value for the period commencing on and from the date of the publication of the notification under section 4, sub-section (1), in respect of such land to the date of award of the Collector or the date of taking possession of the land, whichever is earlier.

*Explanation.*—In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any court shall be excluded.”

So far as the claim of the appellants for the enhancement of solatium and interest in the light of the provisions of sections 23(2) and 28 of the Act is concerned, the matter has squarely been settled by their

(1) RFA 586/81 decided on 30th November, 1984.

Lordships of the Supreme Court in (*Bhag Singh and others v. Union Territory of Chandigarh* (2), wherein it has been held that:—

“It is, therefore, clear that under section 30 sub-section (2), the provisions of the amended section 23 sub-section (2) and section 28 are made applicable to all proceedings relating to compensation pending on 30th April, 1982, or filed subsequent to that date, whether before the Collector or before the court or the High Court or the Supreme Court, even if they have finally terminated before the enactment of the Amending Act.”

In the face of this authoritative pronouncement neither the learned counsel for the respondents has anything to submit nor is there escape from the conclusion that the solatium and interest has to be allowed to the appellants in the light of the amended provisions of sections 23(2) and 28 of the Act.

(4) With regard to the other claim in the light of sub-section (1-A) of section 23, learned counsel for the respondents vehemently contends that in view of sub-section (1) of section 30 of the Land Acquisition (Amendment) Act, 1984, i.e., Act No. 68 of 1984, the additional amount at the rate of 12 per cent of the market value of the acquired land can only be allowed in cases where no award has been made by the Land Acquisition Collector prior to the 30th day of April, 1982, i.e., the date when the Amendment Bill was introduced in the House of the People. In order to appreciate the stand of the learned counsel, a detailed reference to section 30(1) of this Act is necessary and the same is reproduced as under:—

“30. Transitional provisions:—

- (1) The provisions of sub-section (1-A) of section 23 of the principal Act, as inserted by clause (a) of section 15 of this Act, shall apply, and shall be deemed to have applied, also to, and in relation to:—
  - (a) every proceedings for the acquisition of any land under the principal Act pending on the 30th day of April, 1982 (the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People), in which no award has been made by the Collector before that date;

(2) C.A. 1519-23/85 decided on 14th August, 1984.

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- (b) every proceeding for the acquisition of any land under the principal Act commenced after that date, whether or not an Award has been made by the Collector before the date of commencement of this Act."

The learned counsel contends that this sub-section governs the applicability of sub-section (1-A) of section 23 of the Act and since in the instant cases not only the notification under section 4 of the Act was published prior to April 30, 1982, but even the award had been made by the Collector earlier to that, the provisions of section 23(1-A) cannot be availed of by the appellants. To me this argument appears to be an argument of confusion. To my mind sub-section (1) of section 30 only governs the applicability of section 23 (1-A) to the proceedings before the Collector and not before the Land Acquisition Court or the appellate Court. The words "every proceeding for the acquisition of any land under the principal Act" occurring in clauses (a) and (b) of sub-section (1) of section 30 have only reference to the proceedings before the Collector and not to the proceedings in a reference or in appeal against the judgment of the Land Acquisition Court. To my mind, acquisition proceedings terminate or come to an end with the passing of the award or the taking of the possession of the acquired land by the Collector under the Act. In terms of section 16 of the Act, the moment the Collector takes possession of the acquired land after making an award under section 11 of the Act, the same comes to vest absolutely in the Government and the acquisition proceedings come to an end. The land stands acquired. The subsequent proceedings as a result of the reference under section 18 of the Act are independent proceedings and are in the nature of trial of a suit under the Code of Civil Procedure. The scope of these proceedings—may be before the land acquisition Court or the Appellate Court—is limited only to the four points indicated in the section, i.e., (i) to the measurement of land; (ii) the amount of compensation; (iii) the persons to whom it is payable and (iv) the apportionment of the compensation among the persons interested, and cannot be extended to other issues, such as, validity of the notification issued for the acquisition or want of jurisdiction in making the award. Therefore, what sub-section (1) of section 30 of Act, No. 68 of 1984 ordains is that in those acquisition proceedings before the Collector which were either pending on the 30th day of April, 1982 and in which proceedings no award had been made by the Collector before that date or such proceedings which have been commenced after that date whether or not an

award had been made by the Collector, prior to the commencement of the Act w.e.f. 24th September, 1984, the additional amount in terms of sub-section (1-A) of section 23 of the Act is to be awarded by the Collector. So far as the proceedings in Court—may be as a result of the reference under section 18 of the Act or at the appellate stage—are concerned, the mandate of sub-section (1-A) is that “the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value (i.e., the market value fixed under sub-section (1) of section 23) for the period commencing on and from the date of the publication of the notification under section 4, sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier”. I thus see no merit in the contention of the learned counsel for the respondents that the additional amount as envisaged by section 23(1-A) is not to be awarded to the appellants as the award in the instant cases had been pronounced on August 28, 1981.

(5) The net result of the above discussion is that besides the payment of market value of the acquired land at the rate of Rs. 22/- per square yard, the appellants would also be paid the additional amount under section 23(1-A) of the Act as indicated above along with solatium at 30 per cent of the market value and interest at the rate of 9 per cent per annum for the first year from the date of taking possession of the acquired land from them and at the rate of 15 per cent for the subsequent period till the date of payment of the enhanced amount of compensation. They would also have the proportionate costs of their appeals.

N.K.S.

*Before S. P. Goyal and G. C. Mittal, JJ.*

**HARYANA IRON AND STEEL ROLLING MILLS,—Applicant.**

*versus*

**COMMISSIONER OF INCOME TAX, HARYANA AND  
CHANDIGARH,—Respondent.**

Income Tax Reference No. 30 of 1978

November 22, 1985.

*Income Tax (XLII of 1961) as amended by Taxation Law (Amendment) Act, 1970—Sections 271 (1)(a) and 275—Delay in filing return of income—Penalty proceedings initiated—Absence of reasonable cause for not furnishing the return in time—Onus to prove such absence—Whether lies on the assessee.*