2023INSC735

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 3992-4000/2011

MALA ETC. ETC. ..... APPELLANT(S)

VERSUS

STATE OF PUNJAB AND OTHERS ..... RESPONDENT(S)

WITH

CIVIL APPEAL NO. 5218 OF 2011

BADDAR KUMAR MEHTA (DEAD) THR. LRS. .... APPELLANT(S)

VERSUS

STATE OF PUNJAB AND ANOTHER .....RESPONDENT(S)

WITH

CIVIL APPEAL NO. 5219 OF 2011

RAJNI SHARMA .... APPELLANT(S)

VERSUS

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Deepak Gugnani
Date: 2023.08.17
14:23:58 IST
Reason:

STATE OF PUNJAB AND ANOTHER ..... RESPONDENT(S)

WITH

CIVIL APPEAL NO. 10693 OF 2011

SHRIMATI CHINDO ...APPELLANT(S)

VERSUS

STATE OF PUNJAB AND ANOTHER ..... RESPONDENT(S)

J U D G M E N T

BELA M. TRIVEDI, J.

1. This batch of 12 appeals arise out of the common judgment and order dated 17.08.2010 passed by the High Court of Punjab and Haryana at Chandigarh in Civil Writ Petition No.20433/2009 and others (in all 40 writ petitions). Before the High Court, 14 writ petitions were filed by the land owners and 26 writ petitions were filed by the Improvement Trust, Hoshiarpur. Vide the impugned judgment, the High Court allowed the writ petitions filed by the land owners by enhancing the market value of the acquired land to Rs.2,000/- per marla and granted all statutory benefits available under the Land Acquisition Act 1894 (hereinafter referred to as the said Act). The High Court also granted the benefit of Rs.400/- at 10% per marla to the assessed amount for two years.

Meaning thereby, the High Court accorded the total amount of compensation payable to the land owners at Rs.2,400/- per marla along with all statutory benefits available under the Act. The High Court dismissed the writ petitions filed by the Improvement Trust.

2. The Hoshiarpur Improvement Trust (Respondent No.3 herein) prepared a scheme for the purpose of Development Scheme (residential) under Sections 24, 25 and 28 of the Punjab Town Improvement Act 1922 in an area admeasuring 291 kanals 7 marlas situated within the Municipal limits in village Purhiran and Sutehri. Out of the said land, 230 kanals 9 marlas belonged to the Municipal Committee, Hoshiarpur, which were taken over by the Respondent No.2, Land Acquisition Collector (Improvement Trust) through negotiations. To acquire the rest of the lands admeasuring 59 kanals 3 marlas, a notification under Section 36 of the Improvement Act was issued on 29.07.1994. After completing the formalities of hearing the objections etc, the notification under Section 41 of the Improvement Act was issued on 10/14.07.1995. The respondent/ Land Acquisition Collector passed an award on 11.07.1997 awarding the compensation at Rs 1.07 lakhs per acre for Chahi (Rs.668.75 per marla) and Rs.1.10 lakh per acre for the remaining kinds of lands (Rs.687.50 per marla) for

village Purhiran and Rs.1.50 lakh per acre for all kinds of land (Rs.714.30 per marla) for the village Sutehri. The Land Acquisition Collector also assessed Rs. 46,61,760/- for 52 structures/buildings standing at the spot, Rs.70,300/- towards the cost of tube wells, Rs.30,069/- towards fruit bearing trees and Rs.37,824.54 paisa towards compensation of rest of the trees existing at the spot. The Land Acquisition Collector further awarded the statutory benefits under the said Act. The Land owners being dissatisfied by the award passed by the respondent (LAC) had preferred reference under Section 18 of the said Act. The Reference Court/Tribunal vide common award dated 17.04.2009 enhanced the compensation from Rs.668.75/- per marla to Rs.1337.50 per marla for the land Chahi and from Rs.687.50/- per marla to Rs. 1375/- per marla for remaining kinds of land in village Purhiran, and enhanced the compensation from Rs.714.30 to Rs.1428.60 per marla for all kinds of land for the village Sutehri. The Tribunal further awarded the statutory benefits under the Act.

3. The petitioners/land owners being dissatisfied by the said award passed by the Reference Court/Tribunal, preferred fourteen Civil writ petitions before the High Court. The respondent Improvement Trust also filed 26 writ petitions challenging the said award passed by the

said Tribunal. The High Court disposed of all the writ petitions vide the impugned common judgment as stated hereinabove.

4. The Learned Senior Advocate Mr. P.S. Patwalia for the appellants submitted that the lands in question were being used both for commercial and residential purposes and the High Court had erred in not relying upon the sale deeds executed for the shops prior to the date of acquisition, which showed continuous rise in the prices.

5. He further submitted that the High Court had committed gross error in applying one third cut on the assessed market value of Rs.3,000/- per marla, towards development charges though admittedly the lands acquired were situated within the Municipal limits of the villages. The structures/buildings standing thereon, clearly established that the acquired lands were neither undeveloped nor underdeveloped lands. He relied upon the case of ***Haryana State Industrial Development Corporation vs. Pran Sukh and Others***[1] to buttress his submissions.

6. The learned counsel for the respondent state however submitted that when a large chunk of land is being acquired, a suitable deduction is required to be made towards the development charges as per the settled legal position, which has rightly been done by the High Court.

1 (2010) 11 SCC 175

7. In view of the above, let us see whether the impugned judgment warrants any inference of this Court exercising extraordinary jurisdiction under Article 136 of the Constitution of India. Undoubtedly, a plenary jurisdiction exercisable on assuming appellate jurisdiction has been conferred upon the Supreme Court under Article 136, nonetheless it is an extraordinary jurisdiction which must be exercised in exceptional circumstances and that too with great care and caution.

8. The guiding principles for determining the market value of the land at the date of the publication of the notification under Section 4(1) in view of Section 23(1) of the said Act, are well settled by this Court in catena of decisions. Accordingly, the determination of market value is the process of predicting an economic event that is assuming a price a willing vendor would offer to a willing purchaser in normal market conditions, but not an event of anxious dealing at arm's length nor a facade of sale nor fictitious sale brought about in quick succession or otherwise to inflate the market value. No doubt, for ascertaining the market value of the land, its existing condition, location and user, its proximity to residential, commercial or industrial area etc. are the major factors required to be considered. The size and nature of the lands acquired and size and nature of the lands in respect of which sale

instances are produced on record, also would be an important aspects in as much as normally the sale instances of small piece of land can not form reasonable basis to determine the market value of large chunk of land, unless suitable deductions are made in respect of development charges. How much deductions should be made would depend on the nature of land, its topography, special features and state of its development so as to make it suitable for the purpose for which it is acquired.

9. In the instant cases, the Tribunal after recording the submissions of the counsels for the parties and recording the sale instances on record, without any further analysis of evidence or discussion, abruptly enhanced the market rates of the acquired lands to almost double the rates at which the compensation was assessed by the Land Acquisition Collector. The Tribunal enhanced the rates from Rs. 668.75/- to Rs. 1337.50/- per marla for the land Chahi and from Rs. 687.50/- to Rs. 1375/- per marla for the remaining kinds of land for the village Purhiran, and enhanced from Rs. 714.30/- to Rs. 1428.60/- per marla for all kinds of land for village Sutehri. The said rates have been further enhanced by the High Court to Rs. 3,000/- per marla for all the lands in question.

10. Though the Learned Senior Counsel Mr. Patwalia had sought to submit that the High Court had failed to consider the sale instance of the shop executed in close proximity of the date on which the lands in question were acquired, we do not find any merit in the said submission. The High Court has duly considered all the sale instances in the light of other evidence on record and after duly reasoning out as to why the other sale instances should not be relied upon, has relied upon the sale instances dated 31.08.1992 (Ex. P/30) and dated 14.08.1992 (Ex. P/32) which were executed in close proximity to the date on which the lands in question were acquired. The solitary sale instance of shop has rightly been ignored, the other sale instances more germane and relevant of the lands situated in nearby area of the area of acquisition being available on record.

11. The next submission made by Mr. Patwalia with regard to the one third cut imposed by the High Court has also hardly any force. The High Court after determining the market value of the lands acquired at Rs. 3000/- per marla, has deducted one third amount therefrom towards the development charges taking into consideration the settled legal position. It is well settled position of law that while determining the deduction for development charges, the courts should keep in mind the

nature of land, area under acquisition, whether the land is developed or not, if developed to what extent, the purpose of acquisition etc. Though, it is true that while determining the market value of large chunk of land, the value of smaller pieces of land could be taken into consideration, however, after making appropriate deduction in the value of lands or setting apart land required for carving out roads, leaving open spaces, plotting out smaller plots etc. The percentage of deduction or the extent of area required to be set apart has to be assessed by the courts having regard to the size, shape, situation, user etc. of the lands acquired. It is essentially a kind of guess work the courts are expected to undertake.

12. In ***Chimanlal Hargovinddas* v. *Special Land Acquisition Officer, Poona and Anr.***[2], this Court held as under:

> "**8.** ……. The first two grounds are devoid of merit. It is common knowledge that when a large block of land is required to be valued, appropriate deduction has to be made for setting aside land for carving out roads, leaving open spaces, and plotting out smaller plots suitable for construction of buildings. The extent of the area required to be set apart in this connection has to be assessed by the court having regard to the shape, size and situation of the concerned block of land etc. There cannot be any hard and fast rule as to how much deduction should be made to account for this factor. It is essentially a question of fact depending on the facts and circumstances of each

2 (1988) 3 SCC 751

case. It does not involve drawing upon any principle of law."

13. In ***Lal Chand* v. *Union of India and Anr.***[3], this Court held that:

"**14.** The "deduction for development" consists of two components. The first is with reference to the area required to be utilised for developmental works and the second is the cost of the development works. For example, if a residential layout is formed by DDA or similar statutory authority, it may utilise around 40% of the land area in the layout, for roads, drains, parks, playgrounds and civic amenities (community facilities), etc.

15. The development authority will also incur considerable expenditure for development of undeveloped land into a developed layout, which includes the cost of levelling the land, cost of providing roads, underground drainage and sewage facilities, laying water lines, electricity lines and developing parks and civil amenities, which would be about 35% of the value of the developed plot. The two factors taken together would be the "deduction for development" and can account for as much as 75% of the cost of the developed plot.

16 to 21…….

22. Some of the layouts formed by the statutory development authorities may have large areas earmarked for water/sewage treatment plants, water tanks, electrical substations, etc. in addition to the usual areas earmarked for roads, drains, parks, playgrounds and community/civic amenities. The purpose of the aforesaid examples is only to show that the "deduction for development" factor is a variable percentage and the range of percentage itself being very wide from 20% to 75%."

3 (2009) 15 SCC 769

14. This Court in the judgment reported as ***Kasturi and Ors*. v. *State of Haryana***[4], held that there may be various factual factors which may have to be taken into consideration while applying the cut in payment of compensation towards developmental charges, maybe in some cases it is more than 1/3rd and in some cases less than 1/3rd. This Court held as under:

> "**7** ……. However, in cases of some land where there are certain advantages by virtue of the developed area around, it may help in reducing the percentage of cut to be applied, as the developmental charges required may be less on that account. There may be various factual factors which may have to be taken into consideration while applying the cut in payment of compensation towards developmental charges, maybe in some cases it is more than 1/3rd and in some cases less than 1/3rd. It must be remembered that there is difference between a developed area and an area having potential value, which is yet to be developed. The fact that an area is developed or adjacent to a developed area will not ipso facto make every land situated in the area also developed to be valued as a building site or plot, particularly when vast tracts are acquired, as in this case, for development purpose."

15. The High Court in the impugned judgment after applying the ratio of decisions in case of ***Brig. Sahib Singh Kalha and Ors vs. Amritsar Improvement Trust and Others***[5] and other decisions to the facts of these cases, came to the conclusion that a cut of one third was

4 (2003) 1 SCC 354
5 AIR (1982) SC 940

required to be imposed on the amount of compensation awarded by it. When the impugned judgment of High Court reveals that the High Court has taken into consideration the relevant factors prescribed under the Act, as interpreted by this Court, the assessment of market value so determined does not warrant any interference of this Court in the appeals under Article 136 of the Constitution of India.

16. In that view of the matter, the appeals being devoid of merits are dismissed.

…….J.
[BELA M. TRIVEDI]

…….J.
[DIPANKAR DATTA]

NEW DELHI;
August 17, 2023