

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 13332 of 1994 (O&M)
Date of decision: 6.2.2017

Balwant Singh Gupta and others

.. Petitioners

v.

The Tribunal Improvement Trust and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Ajay Jain, Advocate for the petitioners in
CWP Nos. 12642, 13332 of 1994 and respondents No. 5 to 13
in CWP No. 16798 of 1994.

Ms. Suman Devi Saxena, Advocate for
Ms. Deepali Puri, Advocate for the petitioner in
CWP No. 13687 of 1994.

Mr. Sumeet Sheokand, Advocate for respondent No. 2-
Improvement Trust in CWP Nos. 12642, 13332, 13687 of
1994 and for the petitioner in CWP No. 16798 of 1994.

...

Rajesh Bindal J.

This order will dispose of a bunch of petitions bearing CWP
Nos. 12642, 13332, 13687 and 16798 of 1994, as common questions of law
and facts are involved.

In CWP Nos. 12642, 13332 and 13687 of 1994, the landowners

are seeking further enhancement of compensation awarded by the Tribunal,

Improvement Trust, Hansi (for short, 'the Tribunal'), whereas in CWP No. 16798 of 1994, the prayer is for reduction thereof.

However, the facts have been extracted from CWP No. 12642 of 1994.

Briefly, the facts of the case are that land measuring 11 kanals and 16 marlas in Khasra Nos. 1075 (6-3), 1077(5-8) and 1078(0-5), situated within the township of Hansi was acquired by Town Improvement Trust, Hansi (for short, 'the Improvement Trust') vide notification dated 24.12.1974 issued under the Punjab Town Improvement Trust Act, 1922 (for short, 'the Act') for construction of Lajpat Rai Market under Scheme No. 8. The same was followed by notification dated 27.9.1976 issued under Sections 41(1) and 42 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide award dated 6.3.1986 assessed the compensation @ ₹ 75/- per square yard for the acquired land. Aggrieved against the award of the Collector, the landowners filed objections, which were referred to the Tribunal. The President of the Tribunal, vide judgment dated 28.4.1994, assessed the market value of the acquired land @ ₹ 180/- per square yard. Vide separate judgment dated 28.4.1994, the Assessors in the Tribunal assessed the compensation @ ₹ 160/- per square yard for the front portion of the land upto 30' wide strip and ₹ 75/- per square yard for the remaining land. As majority opinion was to prevail, the landowners were granted compensation @ ₹ 160/- and ₹ 75/- per square yard, as mentioned above. Against the aforesaid judgment of the Tribunal, the petitioners are before this court.

The petitioners raised a brief argument that prior to the acquisition in question, there was earlier acquisition where notification

under Section 36 of the Act was issued on 24.4.1973. The matter regarding assessment of compensation for that acquisition was considered by this court in CWP No. 5290 of 1983—Balwant Singh and others v. The Land Acquisition Tribunal and others, decided on 11.10.2006 and the compensation was assessed at the flat rate of ₹ 150/- per square yard. The aforesaid land was located on Delhi-Hissar road. It was acquired for Modern Market called the Indira Market Development Scheme. In that case, the Tribunal had assessed the compensation @ ₹ 150/- per square yard and ₹ 40/- per square yard for two different categories of land. Considering the potential thereof, this court had assessed the compensation @ ₹ 150/- per square yard for the entire chunk of land. The area acquired therein was 45 kanals and 6 marlas. The land in the present case is located within Hansi Township and the area is merely 11 kanals and 16 marlas. It was acquired for development as Lajpat Rai Market. It was located close to the heart of the city and the area already developed. The Tribunal assessed the compensation for the entire land @ ₹ 180/- per square yard, whereas the Assessors assessed the same @ ₹ 160/- and ₹ 75/- per square yard for two different categories of land. As the majority opinion was to prevail, the petitioners were granted compensation @ ₹ 160/- and ₹ 75/- per square yard. For the purpose of assessment of compensation, the Presiding Member of the Tribunal had relied upon the award pertaining to earlier acquisition and granted increase for the time gap. In fact, the entire land having the potential of being used for commercial purposes and being a small chunk, deserves to be assessed at the same rate instead of any belting system.

On the other hand, learned counsel for the Improvement Trust submitted that reliance on the earlier award is totally mis-placed for the

reason that location of two portions of land is not comparable. The present chunk of land is located on Jind-road, whereas other portion was located on Delhi-Hissar road. The Assessors had rightly assessed the value considering the evidence brought on record by the parties. The award does not call for any interference by this court.

Heard learned counsel for the parties and perused the paper book.

In the case in hand, the acquisition is of a small chunk of land measuring 11 kanals and 16 marlas. The same had been acquired for Lajpat Rai Market. The Presiding Officer of the Tribunal, in his opinion, has noticed the fact that even if the land pertaining to earlier acquisition was located on Delhi-Hissar road, the location of the acquired land was not less potential as it is located close to the abadi of Hansi town, hence, in our opinion, there is no error in placing reliance on the earlier award pertaining to the acquisition of land for Modern Market called Indira Market Development Scheme, which was one year and eight months prior to the acquisition in question. While assessing the compensation based thereon, the Presiding Officer of the Tribunal assessed the compensation for the entire land @ ₹ 180/- per square yard, as for the earlier acquisition, this court in Balwant Singh's case (supra) had assessed the compensation @ ₹ 150/- per square yard for the entire chunk of 45 kanals and 6 marlas of land. The belting system was done away with. In our view, the opinion expressed by the Presiding Officer of the Tribunal was more reasonable as compared to the Assessors, who had assessed the value @ ₹ 160/- and ₹ 75/- per square yard for two different categories of land. In the process, the Assessors lost sight of the settled principles of law regarding assessment of

value of the land, which is fit for urbanisation and is located within the municipal limits. The fact that the acquired land was a small piece of 11 kanals and 16 marlas was also not taken into consideration.

For the reasons mentioned above, the writ petitions filed by the landowners are allowed, whereas the petition filed by Improvement Trust is dismissed. The landowners are held entitled to compensation @ ₹ 180/- per square yard for the entire chunk of land. The opinion expressed by the President of the Tribunal is accepted and that of the Assessors is set aside. They shall also be entitled to all statutory benefits available to them under the Act. The impugned award is modified to the extent indicated above.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

6.2.2017
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No