

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 5861 of 2014 (O&M)
Date of decision: 9.2.2017

Gurdial Singh

.. Petitioner

v.

Land Acquisition Tribunal and others

.. Respondents

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

Present: Mr. Pritam Saini, Advocate for the petitioner.
Mr. S. C. Pathela, Advocate for the Improvement Trust.

...

Rajesh Bindal J.

This order shall dispose of a bunch petitions bearing CWP Nos. 5861, 5869, 5896, 6069, 6070, 6074, 6097 and 6146 of 2014 and 722 of 2015, as common questions of law and facts are involved.

However, the facts have been extracted from CWP No. 5861 of 2014.

The landowner has filed the present petition impugning the award dated 1.2.2014, passed by Land Acquisition Tribunal, Rupnagar (for short, 'the Tribunal'), whereby compensation was assessed on account of acquisition of land. The award of the Tribunal has been accepted by Improvement Trust, Rupnagar. Only the landowner is aggrieved.

Briefly, the facts of the case are that vide notification dated 28.4.1994, issued under Section 42 of the Punjab Town Improvement Act, 1922 (for short, 'the Act'), State of Punjab accorded sanction for the development scheme known as Transport Nagar Development Scheme, Rupnagar, vide which area measuring 24 acres, 6 kanals and 11 marlas approximately was acquired by Improvement Trust, Rupnagar in the boundaries of Municipal Committee, Rupnagar. After the acquisition of land, award dated 18.4.1996 was passed by Land Acquisition Collector, Improvement Trust, Rupnagar (for short, 'the Collector'), vide which compensation was granted for the acquired land. Aggrieved against the award of the Collector, the landowner filed objections, which were referred to the Tribunal, who keeping in view the material placed on record by the parties, determined the fair value of the acquired land as under:

<u>Kind of land</u>	<u>Rate per acre in ₹</u>
Chahi land	2,69,312/-
Barani land	1,34,656/-
Gair Mumkind land	1,85,600/-

The aforesaid award has been impugned in the present petition.

Learned counsel for the petitioner-landowner submitted that for the purpose of assessment of fair value of the acquired land, the Tribunal has failed to appreciate the evidence brought on record by the landowner keeping in view the location of the acquired land. The acquired land had great potential. It was located on Chandigarh-Ropar road and was within the municipal limits. It has potential for urbanisation. The sale deeds produced

on record have been wrongly discarded. One of them was pertaining to the same revenue estate. The fact that the land was being sold in small plots in the area is evident of the fact that it had potential for urbanisation. He further submitted that after the acquisition of land and development as Transport Area there, plots had been sold at the rate of more than ₹ one crore per acre. He further submitted that the acquired land was not a big chunk, as it was merely 24 acres, 6 kanals and 11 marlas. Once it was located within the municipal limits and was fit for urbanisation, there was no question of categorising the same as Chahi, Barani or Gair Mumkin. The land fit for being used for urbanisation loses its significance of being Chahi or Barani. He further submitted that the earlier award assessing the compensation @ ₹ 6,93,000/- per acre, pertaining to acquisition of nearby land, where notification under Section 42 of the Act was issued on 12.4.1989, be relied upon and increase for the time gap be granted.

On the other hand, learned counsel for the Improvement Trust submitted that though assessment of compensation by the Tribunal was on higher side, however, still the Improvement Trust being generous to the landowner, had not impugned the award. There was no evidence led by the landowner worth consideration. Most of the sale deeds produced on record pertain to Ropar city, whereas the land was located more than 4-5 kilometers away therefrom, near Budki river. It was a low lying area, the level of which had to be raised for development of the area. Lot of amount was spent by the Improvement Trust. He further submitted that reliance on the earlier award pertaining to acquisition of land, where notification under Section 42 of the Act was issued on 12.4.1989 is totally mis-placed, as the location of that portion of land has not been shown on any site plan

produced on record by the landowner. Similar is the position with regard to sale deed (Ex. P16) dated 14.10.1986, vide which 6 biswas of land in the revenue estate of village Paprala was sold for ₹ 24,000/-. Location of that portion of land is also not shown on any site plan. In the absence of any evidence led on record by the landowner, the award of the Tribunal cannot be said to be unreasonable.

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

After the acquisition of land, if the landowner is not satisfied with the award of the Collector, he has a remedy to file objections, which are referred to the court. The onus is on the landowner to prove that assessment of compensation by the Collector was not just and fair. In the case in hand, no doubt, the landowner has produced number of sale deeds, however, none of them is relevant for the reason that the land pertaining thereto is located in Ropar city, whereas the acquired land was located about 4-5 kilometers away from the city and adjoining Budki river. As claimed by learned counsel for the Improvement Trust and even observed by the Tribunal in the award, the area was low lying, level of which was required to be raised by the Improvement Trust for making it fit for use. The earlier award pertaining to acquisition of land, where notification under Section 42 of the Act was issued on 12.4.1989, cannot be relied upon for the reason that location of the land pertaining thereto has not been shown on any site plan produced on record. Similar is the position with reference to plot sold vide sale deed (Ex. P16). In the absence thereof, there is no material referred to by learned counsel for the landowner, which can substantiate their plea that the award of the Tribunal is not just and fair.

However, we find that the entire land is admittedly within the municipal limits of Ropar. It is abutting a road emanating from Chandigarh-Ropar road, hence, it cannot be disputed that it was fit for urbanisation. Acquisition was for development as Transport Area, which normally is located outside the city. If the land is located within the municipal limits and is fit for urbanisation, it loses its significance of being Chahi or Barani, hence, to assess the compensation while categorising the land as Chahi, Barani or Gair Mumkin is not in conformity with settled principles of law for assessment of compensation for the acquired land. Therefore, the award of the Tribunal to that extent is erroneous and is set aside. The entire acquired land is directed to be assessed @ ₹ 2,69,312/- per acre, i.e., the rate assessed for chahi category of land. The landowner shall also be entitled to statutory benefits available to them under the Act.

For the reasons mentioned above, impugned award of the Tribunal is modified to the extent indicated above. The writ petitions stand disposed of accordingly.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

9.2.2017
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No