

Mohinder Singh & Ors vs State Of Haryana on 5 August, 2014

Equivalent citations: AIR ONLINE 2014 SC 267, 2014 (8) SCC 897, (2014) 2 CLR 441, (2014) 4 REC CIV R 360, (2014) 4 CUR CC 44, (2014) 5 ALL WC 5327, (2015) 1 CIV LJ 758, (2014) 4 ICC 722, (2014) 9 SCALE 216, (2014) 5 BOM CR 578, (2014) 2 LAND LR 390, (2014) 107 ALL LR 712, (2015) 1 MPLJ 50, (2015) 1 MAH LJ 39, (2015) 126 REVDEC 450, (2014) 4 JCR 185 (SC), (2014) 2 CLR 441 (SC), (2014) 2 WLC (SC) CIVIL 414, (2014) 144 ALL IND CAS 207 (SC), (2014) 144 ALL IND CAS 207

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Bench: Adarsh Kumar Goel, C. Nagappan, T.S. Thakur

REPORTABLE
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.7227-7257 OF 2014
[@Special Leave Petition (Civil) Nos.5161-5191 of 2001]

Mohinder Singh & Ors. .. Appellants
-vs-

State of Haryana .. Respondents

with

CIVIL APPEAL Nos.7258-7311 OF 2014
[@Special Leave Petition (Civil) Nos.15196-15249 of 2002]

J U D G M E N T

C. NAGAPPAN, J.

Leave granted.

All these appeals are directed against the common judgment dated 11.9.2000 in LPA No.210 of 1999 and connected appeals passed by the Division Bench of the High Court for the States of Punjab and Haryana, at Chandigarh.

The State of Haryana issued Notification dated 2.12.1982 under Section 4(1) of the Land Acquisition Act, 1894, intending to acquire 327.52 acres in village Patti Jhambra, Shahabad in District Kurukshetra for a public purpose namely to develop and utilize the land for residential, commercial industrial area for the urban Estate of Shahabad. Section 6 Notification was issued on 4.7.1984 in relation to 178.62 acres, though on actual measurement, the possession of the land taken was found only 90.07 acres. After hearing the objections of the land-owners/claimants the Collector by his Award dated 16.9.1986 awarded compensation at different rates per acre, classifying the lands as Chahi, Abadi plot, Gair Mumkin and Banjar quadim. Having not satisfied with the amount awarded, the claimants filed applications for reference under Section 18 of the Act and the Collector referred them to the District Judge, Kurukshetra for determining the value of the lands. The Reference Court after hearing both the parties on the basis of the evidence adduced, awarded uniform compensation at Rs.2,66,400/- per acre in his Award dated 31.5.1991. Feeling dissatisfied with the said Award the State filed Regular First Appeals seeking reduction in the amount of compensation and the claimants filed independent appeals for enhancement of the compensation. The learned single Judge of the High Court partly allowed the appeal filed by the State and dismissed the appeals of the claimants and held that the claimants are entitled to get compensation at the rate of Rs.1,83,080/- per acre along with solatium and interest and statutory benefits. Feeling aggrieved the claimants preferred Letters Patent Appeals and the Division Bench of the High Court partly allowed the claimants appeals and modified the award to the extent that claimants are entitled to get compensation at the rate of Rs.2,19,696 per acre along with other benefits as awarded by the Reference Court. Feeling dissatisfied the State preferred the present appeals seeking reduction in the amount of compensation and the claimants preferred separate appeals seeking for enhancement of the compensation.

Shri Narender Hooda, learned Additional Advocate General for the State of Haryana submitted that the sale transactions relied on by the claimants related to small plots of land and the sale price of such transactions could not be taken to be an accurate assessment of the valuation of lands which were acquired in bulk and the acquired lands were agricultural in nature and they are not developed and deduction of 50% of the market value done by the learned single Judge was reasonable and is liable to be restored. Mr. Brijender Chahar, learned senior advocate who appeared for the claimants submitted that the lands in question fell within the municipal limits of Shahabad and it is in the midst of already developed land and reasonable deduction would be not more than 20% of the assessed value of the land and the cut of 40% imposed by the Division Bench of the High Court was not justified in the circumstances.

We carefully considered the submissions and perused the record. The only point for consideration in these appeals is as to what would be the reasonable deduction towards development charges, to be made from the market value. With regard to the location and potential of the land, the Reference Court held that the acquired land adjoins the abadi of the township of Shahabad and it is in its municipal limits and it is in evidence that around this land there exist DAV College, Girls High school, cinema hall, cold storage, rice mills, grain market and private nursing homes and all the establishments have sprung up before the acquisition and the acquired land had great potential value for development of residential commercial and industrial units. The learned single Judge while referring to the contention of the State that the land in question was recorded as agricultural

land has held that the State has produced no evidence to establish the same and on the contrary the testimony of PW1 on oath that the land lies within the municipal limit of Shahabad remained unrebutted.

This Court in the decision in Charan Dass vs. H.P. Housing and Urban Development Authority [(2010) 13 SCC 398] observed that any deduction made should be based on the situation of the land and the need for development and where the acquired land is in the midst of already developed land with amenities of roads, drainage, electricity etc. then deduction of 40% would not be justified. In Kasturi and others vs. State of Haryana [(2003) 1 SCC 354] wherein the question had arisen as to whether the deduction of development charges at the rate of 20% in regard to the acquired lands was justified or not, and after taking the various factors into consideration it was held that a cut of 20% to the development charges which was lower than the normal 1/3rd was understandable and could be justified.

In our view, the High Court on the facts of the case was justified in taking into consideration the size of the plots which were exhibited for the purpose of comparison with the size of the plot acquired, but we are unable to uphold the cut of 40% which has been imposed by the High Court since the acquired lands are already within developed municipal limits and the deduction of 1/4th the market value made by the Reference Court is appropriate and liable to be restored.

In the result the appeals preferred by the claimants are partly allowed and the impugned judgment of the Division Bench of the High Court is set aside and the Award passed by the Reference Court is restored. The appeals preferred by the State are dismissed.

Interlocutory Application Nos. 5 and 6 in S.L.P. No.5191 of 2001 for bringing on record the legal heirs are allowed. No costs.

.....J. (T.S. Thakur)J. (C. Nagappan)J.
(Adarsh Kumar Goel) New Delhi;

August 05, 2014.