

## **Northern Carriers Private Limited vs Jullundur Improvement Trust, ... on 12 January, 1983**

**Equivalent citations: AIR1983SC282, 1983(1)SCALE29, (1983)2SCC5, AIR 1983 SUPREME COURT 282, 1983 UJ (SC) 193, (1983) IJR 447 (SC), 1983 PUNJ LJ 253, 1983 (1) LANDLR 579, 1983 (1) MCC 70, 1983 (2) SCC 5**

**Bench: D.A. Desai, R.B. Misra**

### **ORDER**

1. Special leave granted limited to the question of compensation.
2. Appellant-Northern Carriers Pvt. Ltd. filed Civil Writ Petition No. 7515 of 1976 in the High Court of Punjab and Haryana at Chandigarh under Article 226 of the Constitution questioning the validity of a notice issued under Section 36 of the Punjab Town Improvement Act, 1922(Act for short) as also the award dated October 5, 1972 made by the Collector determining the compensation of the land acquired under the impugned notification.
3. The appellant purchased land admeasuring 29 kanals and 1 marla comprised in various Khasra Nos. more particularly set out in the petition for Rs. 2,43,050/- under a deed of transfer executed on behalf of the Central Government on June 25, 1971. The appellant immediately entered into possession and since then, he has been in possession of the land. It appears that a notice under Section 36 of the Act was issued on November 4, 1966. In view of the provision contained in Clauses 1 and 2 of the schedule to the Act, a notice under Section 36 of the Act has the same effect as a notification under Section 4 (1) of the Land Acquisition Act. This acquisition was with respect to a scheme framed under the Act. Subsequently, on May 30, 1968, a notification under Section 42(1) was published which has the affect of a declaration under Section 6 of the Land Acquisition Act. The Collector made his Award in respect of land on March 11, 1976. That was the principal Award. Subsequently, a supplementary Award which included the land purchased by the appellant, was made on October 5, 1972. After this Award, the respondent-Trust started taking steps for acquiring actual possession of the land of the appellant. Thereupon, the appellant filed a writ petition questioning the validity of the notice under Section 36 and the Award.
4. It was strenuously contended before the learned Single Judge that the land purchased by the appellant belonged to the Central Government and was of the ownership of the Central Government on November 4, 1966 when the notice under Section 36 of the Act was issued and it was not open either lo the State Government or the respondent Trust to acquire land belonging to the Central Government and if notice under Section 36 was invalid, subsequent notification under Section 42 and the Award was equally invalid. This contention found favour with the learned Single Judge and the notice and award were quashed.

5. The respondent-Trust preferred Letters Patent Appeal No. 198 of 1978. A division Bench of the High Court allowed the appeal holding that there is nothing in the Act which precluded acquisition of the land belonging to the Central Government for the scheme framed by the Trust and sanctioned by the State Government. Accordingly the appeal was allowed and the writ petition of the appellant was dismissed. Hence this appeal by Special Leave.

6. We heard Dr. Y.S. Chitale, learned Counsel for the appellant and Mr. Harbans Lai, learned Counsel for the respondent.

7. Having now the matter, we are of the opinion that quashing the notice under Section 36 of the Act, as prayed for on behalf of the appellant, would disturb the whole scheme which includes large track of other lands, and the thrust of argument was with regard to a patent inequitable situation highlighting the fact that while the appellant purchased the land from the Central Government at the price of Rs. 2,43,050/- on June 25, 1971, the Collector awarded the compensation only in amount of Rs. 1,10,561/-. This inequitable situation is apparent on the face of the record. No doubt, learned Counsel for the respondent submitted that if the appellant is dissatisfied with the compensation awarded by the Collector, it is open to him to approach the appropriate authority for enhancing the compensation and that in fact the appellant has availed of this remedy. That may be so. But we feel apparent injustice in the Collector awarding a sum of Rs. 1,10,561/- in 1972 for the land purchased by the appellant from the Central Government in June 1971 for the price of Rs. 2,43,050/-. Therefore, in order to do justice between the parties, without waiting for the Award that may be made by the Authority to whom a reference is made for enhancing the compensation, we direct that the respondent-Trust shall pay Rs. 2,43,050/- being the amount for which the appellant purchased the land from the Central Government as and by way of compensation.

8. The appellant had also contended that since purchasing the land, he made improvements to the tune of Rs. 50,000/- in the land. There was a faint murmur raised on behalf of the respondent disputing the amount. The murmur is inaudible in our opinion, respondent-Trust shall pay Rs. 50,000/- for the improvements made by the appellant in the acquired land. Thus, there will be an award of Rs. 2,93,050/- for the land of the appellant. He would be entitled to solatium at 15% of the amount awarded.

9. Only one aspect remains to be dealt with. Dr. Chitale urged that whenever land of anyone was acquired for the purpose of scheme, each such owner, whose land was acquired, was allotted one plot admeasuring 1 Kanal at reserved price. We see no justification in treating the appellant differently.

10. Accordingly we allow this appeal. The respondent is directed to pay Rs. 2,93,050/- as compensation plus 15% solatium on compensation herein awarded. The award made by the Collector, if satisfied, that is if the amount is already paid and withdrawn by the appellant, the same shall be given credit in making the final payments. The respondent shall allot one plot of land in the scheme admeasuring 1 Kanal at reserved price and the reserved price shall be payable by the appellant to the respondent. The reference for enhancement made by the appellant shall be withdrawn by it within four weeks from today and if it is not withdrawn, the same shall stand

dismissed as withdrawn. As the appellant is in the possession of the land till today, it is not entitled to interest on the amount awarded as compensation. Respondent do hand over possession of land immediately on payment of compensation.

11. This appeal is allowed to the extent herein indicated.