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BHAG SINGH ETC.

v.

UNION OF INDIA & ANR.

(Civil Appeal Nos. 4070 - 4075 of 2012)

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MAY 05, 2022

[HEMANT GUPTA AND V. RAMASUBRAMANIAN, JJ.]

C *Land Acquisition Act, 1894 – ss.4, 6 and 18 – Acquisition of land (situated in village Sohana) vide notification in question dated 26-10-1990 – Compensation of Rs.4 lakhs per acre awarded by Reference Court, upheld by High Court – Challenge before Supreme Court – Relevance, if any, of subsequent notification dated 11-11-1993, wherein compensation of Rs.8 lakhs per acre was awarded – Whether determination of market value subsequent to the notification in question would be relevant – Held: Though appreciation in price*

D *can be presumed, but the market value cannot be assessed by applying suitable deduction in the market value of the land acquired by a subsequent notification – When the later notification was issued, development activities had already been taken place in view of two earlier notifications – It was not the percentage of increase in the*

E *market value but increase due to development which had taken place on account of earlier notifications – Therefore, market value of the land in question cannot be based upon the land acquired vide notification dated 11-11-1993 and when there were other intervening notifications – Alternatively, if one examines market value of land*

F *acquired vide earlier notification dated 4-2-1981 in village Sohana (wherein compensation of Rs.1.25 lakhs per acre was awarded), after giving yearly increase of 10% per annum, even then the market value arrived at (corresponding to year 1990) would be Rs.2.94 lakhs per acre, which is not more than market value of Rs. 4 lakhs per acre determined by High Court – Reference Court had awarded*

G *compensation of Rs.4 lakhs per acre in respect of land situated in another village (Village Lakhnaur), which was also acquired vide same notification – Such determination was not appealed against either by the land owners or by the State – High Court rightly relied upon such determination to assess market value of land in question at Rs.4 lakhs per acre – No interference warranted.*

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Dismissing the appeals, the Court

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HELD: 1. It is an undisputed fact that there is no sale instance in respect of land situated in Village Sohana after the first notification dated 4.2.1981 till the notification in question dated 26.10.1990. Though, in respect of acquisition of land vide notification dated 11.11.1993, the compensation assessed is Rs.8 lakhs per acre which is more than two years later and in between, there is acquisition of land vide notification dated 25.7.1991. The question now is as to whether determination of market value subsequent to the notification would be relevant to determine the market value of the land acquired more than two years earlier. It is found that though appreciation in price can be presumed, but the market value cannot be assessed by applying suitable deduction in the market value of the land acquired by a subsequent notification. When the later notification is issued, the development activities had already been taken place in view of the earlier two notifications. Therefore, it is not the percentage of increase in the market value but increase due to the development which has taken place on account of earlier notifications. Therefore, market value of the land cannot be based upon the land acquired vide notification dated 11.11.1993 and when there were other notifications intervening on 26.10.1990 and 25.7.1991. [Para 14][149-E, G-H; 150-A-B]

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2. Alternatively, even if one examines the market value of the land acquired vide notification dated 4.2.1981 in Village Sohana after giving yearly increase of 10% per annum, even then the market value arrived at (corresponding to the year 1990) is not more than market value determined by the High Court. [Paras 16, 17][150-C; 150-E]

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3. The Reference Court has awarded compensation of Rs.4 lakhs per acre in respect of land situated in another village (Village Lakhnaur), acquired vide the same notification. Such determination has not been appealed against either by the land owners or by the State. The High Court has rightly relied upon such determination to assess the market value of the land at Rs.4 lakhs per acre. [Para 18][150-F-G]

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A CIVIL APPELLATE JURISDICTION : Civil Appeal Nos.4070-4075 of 2012.

From the Judgment and Order dated 02.08.2010 of the High Court of Punjab and Haryana at Chandigarh in RFAs No4911 of 2009, 1778 of 2007 and 5565, 5566, 3612, 3613 of 2008.

B With

Civil Appeal Nos.4076-4082, 4086 And 4083-4084 of 2012.

Rameshwar Singh Malik, Sr. Adv., Jitesh Malik, Ms. Anisha Dahiya, Satish Kumar, Satyapal Khushal Chand Pasi, Mrs. B. Sunita Rao, Advs. for the Appellants.

C Shailesh Madiyal, Sudhanshu Prakash, Om Prakash Shukla, Ms. Vanshaja Shukla, Pratik Samajpati, Ms. Aniruddha Purushotham, A. K. Sharma, R. K. Rathore, Ms. Ranjeeta Rohatgi, Ms. Samten Doma, Kuldip Singh, Yash Pal Dhingra, B. V. Balaram Das, Ms. Anukriti Pareek, B. Krishna Prasad, Advs. for the Respondents.

D The Judgment of the Court was delivered by

HEMANT GUPTA, J.

1. The present appeals are directed against orders dated 2.8.2010 and 21.12.2010 passed by the High Court of Punjab and Haryana at Chandigarh whereby the appeals of the land owners and that of the Union were dismissed, maintaining the compensation of Rs.4 lakhs per acre awarded by the learned Additional District Judge, Rupnagar in reference under Section 18 of the Land Acquisition Act, 1894¹.

2. The notification dated 26.10.1990 was published intending to acquire 32 acres 6 kanal and 3 marlas of land in Village Sohana and 90 acres 7 kanal and 18 marlas of land in Village Lakhnaur. The said notification was followed by a notification dated 6.11.1991 issued under Section 6 of the Act. The Land Acquisition Collector awarded compensation of Rs.1,75,000/- per acre. Aggrieved by the market value determined by the Land Acquisition Collector, the land owners sought reference under Section 18 of the Act. The Reference Court awarded compensation of Rs.4 lakhs per acre apart from the compensation for super-structures. The said award of the amount of compensation was based upon a judgment dated 11.10.2002 (Ex.P/13) by the Reference

H ¹For short, the 'Act'

Court pertaining to the same notification in respect of land situated in Village Lakhnaur. A

3. Mr. Rameshwar Singh Malik, learned senior counsel appearing for the land owners in Civil Appeal Nos. 4076-4082 of 2012 and Civil Appeal Nos. 4083-4084 of 2012 argued that in respect of land acquired vide subsequent notification dated 25.7.1991 for the land situated in Village Sohana, the Reference Court had awarded a compensation of Rs.5,96,000/- and in respect of another notification dated 11.11.1993, in respect of land situated in Village Sohana, the Reference Court has awarded Rs.6,96,000/- per acre. It was further contended that in terms of acquisition of land vide notification dated 27.9.1988 of Village Kambali, Rs.5,96,000/- per acre was awarded as compensation by the Reference Court which was affirmed by the High Court in first appeal. The present acquisition is more than 2 years later, therefore, the land owners are entitled to compensation on the basis of the amount of compensation awarded by the High Court in addition to the increase in prices for the period of 2 years. It was argued that Village Kambali and Village Sohana are adjoining villages, therefore, the market value determined in respect of Village Kambali is a reasonable yardstick for determination of the compensation in respect of land situated in Village Sohana. B C D

4. On behalf of the State, it was argued that total land admeasuring 123 acres 6 kanals 1 marla was subject matter of acquisition vide notification dated 26.10.1990 out of which 262 kanals and 3 marlas is the land situated in Village Sohana and 728 kanals and 6 marlas of land is situated in Village Lakhnaur. Out of the total land acquired, 49 acres 4 kanals and 18 marlas have been utilized by the Union for the purpose of Border Security Force whereas the rest of the land has been utilized by the State. The Reference Court has relied upon determination of compensation vide Ex.P/13 in respect of land in Village Lakhnaur which is part of the same notification by which the land in Village Sohana was acquired. Therefore, the award of market value of land by the Reference Court, as affirmed by the High Court, does not suffer from any error or illegality. E F G

5. The appellants have filed a Lay-out Plan (Annexure P/20) before this Court. It shows that the land situated in Village Sohana and Village Mataur are close to each other whereas land situated at Village Kambali and kambala are at quite a distance located near the Chandigarh International Airport. As per Map of Survey of India, the village Kumbra H

A is the next village located on east of village Sohana whereas village Mouli is situated on south-east of Sohana. Village Kambala is further away from Mauli. Kambali is located further on south-east. The distance from Sohana to Kambala and Kambali is more than 2 kms. Therefore, the compensation awarded for the land situated at Village Kambali cannot be considered as a reasonable yardstick for determining the market value of land situated in Village Sohana.

6. The land of Village Sohana has been subject matter of acquisition for a number of times. First acquisition was in pursuance of a notification date 4.2.1981 under Section 4 of the Act. In respect of such land acquired in Village Mataur and Sohana, the compensation awarded by the High Court was Rs.1,25,000/- per acre vide Ex.P/8.

7. Another notification under Section 4 of the Act was published on 25.7.1991 in respect of acquisition of Land situated in Village Sohana. Compensation of Rs.5,96,000/- per acre was awarded by the learned Reference Court relying upon the determination of compensation of land acquired in Village Kambali wherein the High Court in *State of Punjab v. Mohinder Singh & Ors.*² awarded compensation @ Rs.5,96,000/- per acre. The High Court's judgment was based upon the fact that Village Kambali and Village Sohana are adjoining to each other and in close proximity. The award of the Reference Court is subject matter of challenge before the High Court in RFA No. 1786 of 2000 at the instance of the State and is pending final decision. The land owners have filed cross-objections in the said appeal.

8. Thereafter, the land situated at Village Sohana was also acquired vide notification dated 11.11.1993. The Reference Court awarded Rs.6,96,000/- per acre. However, the amount of compensation was enhanced to Rs.8 lakhs per acre in *Harbachan Kaur & Ors. v. State of Punjab*³ vide order dated 23.8.2006.

9. In respect of land acquired vide notification under Section 4 of the Act dated 26.10.1990, the Reference Court relied upon determination of compensation vide Ex.P/13 by the Reference Court in respect of land in Village Lakhnaur which forms part of the same notification by which the land in Village Sohana was acquired. The said award had attained finality as no appeal was preferred against it.

² RFA No. 625 of 1994

³ RFA No. 2322 of 1998

10. The argument is that land situated in Village Kambali is situated in close proximity of land situated in Sohana, therefore, compensation assessed by the High Court in *Mohinder Singh* can be treated as base market value. As observed above, the two villages Kambali and Sohana are not in close proximity but located at substantial distance as per the Map of Survey of India as also the lay-out plan produced by the landlord. Therefore, such judgment is not a helpful guide to determine compensation.

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11. Another appeal arising out of notification dated 25.7.1991 is pending before the High Court. Therefore, it would not be proper to discuss the said award of the Reference Court.

12. In respect of the land acquired vide notification dated 11.11.1993, the High Court has awarded compensation @ Rs.8 lakhs per acre. The argument is that suitable deduction should be made from such determination of the market value of the land acquired vide notification dated 26.10.1990.

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13. The Reference Court as well as the High Court has given a finding of fact that no sale instance produced by the parties are relevant for determining the market value. Therefore, the only relevant basis is the previous judgments.

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14. We have heard learned counsel for the parties. It is an undisputed fact that there is no sale instance in respect of land situated in Village Sohana after the first notification dated 4.2.1981 till the notification in question dated 26.10.1990. The absence of sale deeds shows that there was no sale and purchase of the land which could show the potentiality of use of the land for residential, commercial or industrial purposes. The Village Kambali and Kambala are not adjoining to Village Sohana as per the Lay Out plan produced by the appellants themselves. The nearest village from Village Sohana is Mataur and not Village Kambali or Kambala. Therefore, the market value determined in respect of Village Kambali cannot be considered for determination of compensation. Though, in respect of acquisition of land vide notification dated 11.11.1993, the compensation assessed is Rs.8 lakhs per acre which is more than two years later and in between, there is acquisition of land vide notification dated 25.7.1991.

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15. The question now is as to whether determination of market value subsequent to the notification would be relevant to determine the market value of the land acquired more than two years earlier. We find that though appreciation in price can be presumed, but the market value cannot be assessed by applying suitable deduction in the market value of

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- A the land acquired by a subsequent notification. When the later notification is issued, the development activities had already been taken place in view of the earlier two notifications. Therefore, it is not the percentage of increase in the market value but increase due to the development which has taken place on account of earlier notifications. Therefore, market value of the land cannot be based upon the land acquired vide notification dated 11.11.1993 i.e., more than two years later of the notification in question and when there were other notifications intervening on 26.10.1990 and 25.7.1991.
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16. Alternatively, even if we examine the market value of the land acquired vide notification dated 4.2.1981 in Village Sohana after giving yearly increase of 10% per annum, the increase in the base value would be as under:
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D	1981	1,25,000
	1982	1,37,500
	1983	1,51,250
	1984	1,66,375
	1985	1,83,012.5
E	1986	2,01,313.75
	1987	2,21,445.12
	1988	2,43,589.63
	1989	2,67,948.59
	1990	2,94,743.44
	Rounded off	2,94,743/-

17. Thus, even then the market value is not more than market value determined by the High Court.

18. The Reference Court has awarded compensation of Rs.4 lakhs per acre in respect of land situated in Village Lakhnaur, acquired vide the same notification. Such determination has not been appealed against either by the land owners or by the State. The High Court has rightly relied upon such determination to assess the market value of the land at Rs.4 lakhs per acre. In view of the said fact, we do not find any error in the orders passed by the High Court which may warrant interference in the present appeals.
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19. In view of the above discussion, we do not find any merit in the appeals. The same are dismissed.