

JAI PARKASH ETC ETC

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v.

UNION TERRITORY, CHANDIGARH ETC ETC

(Civil Appeal Nos. 1765-1767 of 2022)

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MARCH 10, 2022

[M. R. SHAH AND B.V. NAGARATHNA, JJ.]

Land Acquisition Act, 1894 – ss.4 and 6 – Acquisition of land – Determination of fair market value – Just compensation – Land Acquisition Officer assessed market value of the acquired lands @ Rs.6,87,837/- per acre – Reference Court enhanced it, @ Rs.9,65,000/- per acre – High Court, taking average price of two sale deeds – exhibit P-73 and P-74 relied upon by original claimants-appellants, determined the price of Rs.22,57,000/- per acre, and, thereafter giving a cut of 50%, determined market value of the acquired lands at Rs.11,28,580/- (round off to Rs.11,30,000/-) per acre – On appeal, held: High Court relied upon sale instances exhibit P-73 and P-74 against which no appeals were preferred by the Administration – Therefore, findings recorded by High Court that the sale instances i.e. exhibit P-73 and P-74 can be best exemplars and can be considered for determining and assessing the market value of the lands acquired, has attained finality – Further, nothing was discussed by the High Court while applying a deduction of 50%, therefore, in the normal course the matters were to be remanded to the High Court for applying the proper cut – However, the parties requested the Supreme Court to make appropriate percentage of deduction instead of remanding the matters to the High Court – Considering the location of the lands acquired and that part of the acquired land abuts the National Highway No.21 and at the same time, the sale instances exhibit P-73 & P-74 pertain to comparatively smaller plots as compared to the acquired lands, a deduction of 40 % instead of 50% as applied by the High Court, will meet the end of justice – Accordingly, Rs.13,54,200/- per acre awarded by Supreme Court towards compensation for the acquired lands.

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A CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 1765-1767 of 2022.

From the Judgment and Order dated 24.08.2015 of the High Court of Punjab and Haryana at Chandigarh in Regular First Appeal Nos.1932, 1929 and 1930 of 2003.

B With

Civil Appeal Nos.1768-1791, 1792-1804 and 1805-1806 of 2022.

Ravindra Bana, Ms. Radhika Gautam, Surinder Kumar Gupta, Neeraj Sharma, Jugal Kishore Gupta, Aman Rastogi, Sanjay Rastogi,
C Advs. for the Appellants.

Sarad Kr. Singhanian, G. S. Makker, Shree Pal Singh, Nikhil Goel, Ms. Naveen Goel, Kartik Kaushal, Adithya Koshy Roy, Sumeir Ahuja, Yajur Bhalla, Deepak Samota, Siddharth Srivastava, Shubham Bhalla, Advs. for the Respondents.

D The Judgment of the Court was delivered by

M. R. SHAH, J.

1. As common question of law and facts arise in this group of appeals, they are disposed of by this common judgment and order.

E 2. The relevant facts which are necessary for determination of the present appeals in a nutshell are as under:-

2.1 In all these cases a notification under Section 4 of the Land Acquisition Act, 1894 was issued on 19.03.1999 by which the Chandigarh Administration sought to acquire 30.78 acres of land situated in Village Hallo Majra, HadbastNo.219 and 32.92 acres of land situated in Village Behlana, HadbastNo.231, Union Territory, Chandigarh, for use by Defence Security Forces. That a notification under Section 6 of the Land Acquisition Act, 1894 was issued on 23.03.1999. The Land Acquisition Officer declared the award dated 18.01.2000 and assessed the market value of the acquired lands of both the villages @ Rs.6,87,837/- per acre. That on reference, the learned Reference Court determined and enhanced the market value of the acquired lands of both the villages @ Rs.9,65,000/- per acre. The judgment and award passed by the Reference Court determining the market value of the lands @ Rs.9,65,000/- per acre was the subject matter of appeals before the High Court.

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2.2 At this stage, it is required to be noted that before the Reference Court, the original claimants – appellants herein relied upon the sale deeds produced and exhibited as P-43, P-44 and P-73 and P-74. However, the learned Reference Court rejected the said sale transactions on the ground that the said sale transactions are pertaining to small plots. Therefore, the learned Reference Court discarded the same. Before the High Court also the original claimants heavily relied upon the sale instances at exhibit P-43, P-44 and P-73 and P-74. By the impugned common impugned judgment and order, the High Court has held that the Reference Court ought to have considered the sale transactions exhibit P-73 and P-74 and ought to have determined the market value of the lands acquired, after adopting some reasonable cut. After taking the average price of both the sale deeds – exhibit P-73 and P-74, the High Court determined the average price of Rs.22,57,000/- per acre. That thereafter after giving a cut of 50%, the High Court has determined the market value of the acquired lands at Rs.11,28,580/- (round off to Rs.11,30,000/-) per acre.

2.3 Feeling aggrieved and dissatisfied with the common impugned judgment and order passed by the High Court in respective appeals, determining/assessing the market value of the lands acquired at Rs.11,30,000/- per acre, the original claimants have preferred the present appeals.

3. We have heard the learned counsel appearing on behalf of the respective parties at length.

4. At the outset, it is required to be noted that the High Court has relied upon the sale instances exhibit P-73 and P-74 against which no appeals have been preferred by the Chandigarh Administration. Therefore, the findings recorded by the High Court that the sale instances i.e. exhibit P-73 and P-74 can be best exemplars and which can be considered for determining and assessing the market value of the lands acquired, has attained finality.

5. Now the next question which would arise for consideration, would be, whether in the facts and circumstances of the case, the High Court is justified in applying a deduction of 50% while determining/assessing market price?

5.1 It is to be noted that as such nothing has been discussed by the High Court while applying a deduction of 50%. Therefore, in the normal

A course the appeals are required to be remanded to the High Court for applying the proper cut. However, learned counsel appearing on behalf of the respective parties have prayed and requested to make the appropriate percentage of deduction by this Court instead of remanding the matters to the High Court.

B 6. Having heard learned counsel appearing on behalf of the respective parties and considering the location of the lands acquired and that part of the acquired land abuts the National Highway No. 21 and at the same time, the sale instances exhibit P-73 & P-74 pertain to comparatively smaller plots as compared to the acquired lands (in all approximately 63.70 acres of lands) a reasonable percentage of deduction is required to be made while determining/assessing the market price.

C 7. Looking to the location and the purpose for which the lands have been acquired, in the peculiar facts and circumstances of the case, we are of the opinion that if a deduction of 40 % is applied instead of 50% as applied by the High Court, it will meet the end of justice and it can be said to be a fair market value for the acquired lands. Therefore, if a deduction of 40% is applied, it will come to Rs.13,54,200/- per acre. The present appeals are required to be allowed in part to the aforesaid extent.

D 8. In view of the above and for the reasons stated above, all these present appeals are allowed in part. The impugned judgments and orders passed by the High Court in respective Regular First Appeals are hereby modified to the extent of awarding Rs.13,54,200/- per acre towards compensation for the acquired lands (instead of Rs.11,30,000/- per acre as assessed and awarded by the High Court). The land owners shall also be entitled to all the statutory benefits available under the Act on the enhanced amount of compensation. However, it is observed that so far as the appellants in Civil Appeal Nos.1805-1806 of 2022, arising out of the impugned judgment and order passed by the High Court in RFA No.1253 of 2004, is concerned, they shall not be entitled to any interest on 1033 days' delay on the enhanced amount of compensation but solatium is payable on the enhanced amount of compensation for the period of delay i.e., for the period of 1033 days in filing the Special Leave Petition before this Court. All these appeals are partly allowed to the aforesaid extent. In view of the above there shall be no order as to costs.