

Union Of India vs Harinder Pal Singh & Ors on 26 October, 2005

Equivalent citations: AIR 2006 SUPREME COURT 447, 2005 (12) SCC 564, 2005 AIR SCW 5900, 2005 (8) SLT 265, (2005) 9 JT 280 (SC), 2005 (10) SRJ 504, 2005 (9) JT 280, 2005 (8) SCALE 741, (2006) 1 CLR 45 (SC), (2006) 1 ALLMR 3 (SC), (2006) 38 ALLINDCAS 533 (SC), 2006 (1) ALL MR 3 NOC, (2006) 1 CIVILCOURTC 94, (2006) 2 MAD LW 527, (2005) 8 SCJ 86, (2006) 1 LACC 176, (2006) 62 ALL LR 472, (2006) 1 ANDH LT 7, (2006) 1 ALL WC 26, (2006) 1 CAL LJ 170, (2005) 7 SUPREME 270, (2005) 4 RECCIVR 638, (2006) 1 ICC 652, (2005) 8 SCALE 741, (2006) 2 CIVLJ 1

Author: Altamas Kabir

Bench: Ashok Bhan, Altamas Kabir

CASE NO.:

Appeal (civil) 3343-3554 of 1999

PETITIONER:

Union of India

RESPONDENT:

Harinder Pal Singh & Ors.

DATE OF JUDGMENT: 26/10/2005

BENCH:

Ashok Bhan & Altamas Kabir

JUDGMENT:

J U D G M E N T WITH CA NOS.2640-2642/99, 3309 -3340/99, 3341-3342/99, 3555/99, 3556 -3586/99, 5163/02, 3009 -17/03, 3057-3059/03, 3152-80/03 AND 3060 -3061/03 ALTAMAS KABIR,J.

Applications for substitution in Civil Appeal Nos. 3010/03,3152- 80/03 and in 3343-3554/99 are allowed.

All these appeals relate to the acquisition of 3512.33 acres of land comprised in five villages, namely, Hamidpur, Gumanpura, Khurmania, Kathania and Wadala Bhitewad pursuant to several notifications dated 1st June, 1977, 22nd July, 1977, and 5th May, 1978, issued under Section 4 of the Land Acquisition Act,1894 (hereinafter referred to as 'the Act') for extension of the Cantonment at Amritsar. The Collector passed his award in respect of the acquired lands on 28.3.1978 after classifying the lands in question into four categories namely:

(i) Chahi;

(ii) Nehri;

(iii) Barani;

(iv) Gair Mumkin.

In respect of each of the categories, different rates of compensation per acre were computed in the manner following:

(i) Chahi - Rs.16,500/-

(ii) Nehri - Rs.16,500/-

(iii) Barani - Rs. 12,000/-

(iv) Gair Mumkin - Rs.5,000/-

Various references were thereafter made to the District Court at the request of the aggrieved claimants against the said award of the Land Acquisition Collector for enhanced compensation in respect of the acquired lands at different rates between Rs.50,000/- to Rs.90,000/- per acre. Following the belting method, the learned Additional District Judge, Amritsar, fixed the market value of lands forming part of the first belt at a uniform rate of Rs.50,000/- per acre, irrespective of the quality of the lands. Similarly, in respect of the second belt, the market value of the lands was fixed at Rs.40,000/- per acre, irrespective of the quality of the lands. In respect of the those claimants whose lands did not fall within the two belts, the compensation was enhanced and fixed at

(i) Rs. 25,000/- per acre for Chahi-Nehri lands

(ii) Rs.18,000/- per acre for Barani lands and

(iii) Rs. 8000/- per acre for Gair Mumkin lands.

A batch of appeals was filed against the decision of the Additional District Judge, Amritsar. In the R.F.As involving 721.3837 acres in Hamidpur, after taking into account the potentiality and the nature of the lands, including their proximity to G.T. Road and other connecting roads and the other sale deeds filed before him, the learned single Judge of the Punjab and Haryana High Court fixed the market value of the lands in question at a uniform rate of Rs.16,500/- per acre. The same rate was fixed for the lands in Ghumanpura. LPAs were filed against the order of the learned single Judge in respect of village Hamidpur and Ghumanpura. The other RFAs in respect of the lands comprised in village Kathania and Wadala Bhitewad were pending consideration when the LPAs were taken up for consideration by the Division Bench. Considering the fact that the appeals all related to more or less simultaneous acquisition of the lands comprised in the five villages for extension of the Amritsar Cantonment, the Division Bench took up the RFAs for consideration along

with the LPAs and disposed of all the matters by its findings and judgment in the leading case being LPA No.729/85.

While considering the matter, the Division Bench concluded that the lands comprised in the five villages were more or less of similar nature and character and well connected by roads and that there was a good deal of potentiality for development of the locality. It was observed that the areas in question contained houses and factories and were also close to the Guru Nanak Dev University. The Division Bench also took particular note of the fact that the lands comprised in the adjoining village of Kala Ghanu Pur, which had also been acquired, under notifications dated 1st June, 1977 and 10th June, 1977, were valued uniformly at Rs.40,000/- per acre. The Division Bench observed that the market value of the acquired lands was being determined keeping in view their potentiality for industrialization or urbanization. It was observed further that it had been fairly conceded by counsel for the parties that the market value of the nehri lands in the same locality is the same irrespective of whether they were nearer or farther away from the town. On such consideration, the Division Bench in keeping with the market value of the lands comprised in village Kala Ghanu Pur, was of the view that the market value of the lands under acquisition in the five villages should also be fixed at a uniform rate of Rs.40,000/- per acre, irrespective of their nature or quality and whether the same was situated nearer to the road or at some distance therefrom.

In keeping with the aforesaid determination, the awards passed by the learned Reference Court were all modified to the extent that the claimants of the five villages would be entitled to compensation at the rate of Rs.40,000/-, per acre irrespective of the nature of the land. The claimants would also be entitled to statutory interest and solatium at the rate of 30 per cent. In particular, the claimants of village Kathania and Wadala Bhitewad would also be entitled to the benefit of Section 23 (1-A) of the Act.

As indicated hereinbefore, by virtue of the said judgment delivered in LPA No.729/85, the Division Bench disposed of all the pending appeals, including the RFAs concerning the lands comprised in Kathania and Wadala Bhitewad.

All these appeals have been preferred by the Union of India against the said judgment and order of the Division Bench of the High Court of Punjab and Haryana.

Appearing in support of the appeals, Mr. R. Mohan, learned Additional Solicitor General, firstly urged that the Division Bench of the Punjab and Haryana High Court had erred in abandoning the belting system and taking recourse to a uniform rate for all the lands comprised in the five different villages on account of the fact that all the lands were not similar in nature and did not enjoy the same privileges.

It was also contended by Mr. Mohan that the market value of the lands comprised in village Kala Ghanu Pur had been wrongly taken as a yardstick for the lands involving in the instant appeals on account of the fact that the lands comprised in village Kala Ghanu Pur and those in the five villages involved in the instant acquisition proceedings could not be taken to be comparable units. According to Mr. Mohan, while village Kala Ghanu Pur was situated on the road between G.T. Road and the

bye pass road, the situation of the lands comprised in the other villages was not similar and they did not enjoy the same advantages. Furthermore, village Kala Ghanu Pur was closer to Amritsar and was in the immediate vicinity of Guru Nanak Dev University and the Khalsa College at Amritsar whereas Hamidpur and Kathania were situated at some distance away from the city and the main roads.

Mr. Mohan lastly contended that the lands comprised in village Kala Ghanu Pur were too little to be used as a comparative unit in respect of a larger area of land which had been acquired having particular regard to their location as well as potentiality for development. In support of the said submission, Mr. Mohan firstly relied on a decision of this Court in the case of Union of India & Anr. Vs. Ram Phool & Anr, (2003) 10 SCC 167 wherein the aforesaid principle was noticed and it was observed that it had been held in a catena of decisions of this Court that the sale price in respect of a small bit of transaction would not be the determinative factor for deciding the market value of a vast stretch of land.

Reference was also made to another decision of this Court in the case of Ranvir Singh & Anr. Vs. Union of India., 2005 (7) Scale 238 in which the decision in Ram Phool's case (supra) was noticed. Mr. Mohan urged that having regard to the aforesaid principle, the impugned decision of the Division Bench of the Punjab and Haryana High Court was not capable of being sustained and in the absence of any proper comparable unit the decision of the learned single Judge was liable to be restored.

Appearing in support of the claimants, Mr. P.C. Jain, senior advocate, on the other hand, contended that the decision of the Division Bench of the Punjab and Haryana High Court impugned in these appeals was just and based on the materials available, namely, the rate of compensation fixed in respect of the lands comprising village Kala Ghanu Pura which were adjacent to the lands comprising the five villages forming the subject matter of the present appeals. Mr. Jain contended that from the inspection reports it would be amply clear that all the lands involved in the acquisition proceedings had similar potential for commercial exploitation and could be consolidated into a single unit where the process of development and improvement had already commenced. Mr. Jain pointed out that there were several mills and factories along with residential accommodation which had come up in the area and there was little to differentiate between the lands comprised in either village Kathania or village Hamidpura and those comprised in the adjacent village of Kala Ghanu Pur they were equally well connected by arterial roads. It was urged that since there was little to differentiate between the lands comprised in village Kala Ghanu Pur and those involved in the present acquisition proceedings, the judgments referred to and relied upon by Mr. Mohan would be of little or no relevance. It was urged that, in any event, the lands comprised in village Kala Ghanu Pur could not be said to be a small unit since it comprised an area of 208.2625 acres.

Mr. Jain contended that the appeals were misconceived and were liable to be dismissed.

We have carefully considered the submissions made on behalf of the respective parties and we see no justification to interfere with the decision of the Division Bench of the Punjab and Haryana High Court which, in our view, took a pragmatic approach in fixing the market value of the lands forming the subject matter of the acquisition proceedings at a uniform rate. From the sketch plan of the area

in question, it appears to us that while the lands in question are situated in five different villages, they can be consolidated into one single unit with little to choose between one stretch of land and another. The entire area is in a stage of development and the different villages are capable of being developed in the same manner as the lands comprised in Kala Ghanu Pur where the market value of the acquired lands was fixed at a uniform rate of Rs.40,000/- per acre. The Division Bench of the Punjab and Haryana High Court discarded the belting method of valuation having regard to the local circumstances and features and no cogent ground has been made out to interfere with the same. In our view, in the absence of any contemporaneous document, the market value of the acquired lands of village Kala Ghanu Pur which were acquired at the same time as the lands in the other five villages was correctly taken to be a comparative unit for determination of the market value of the lands comprising the lands forming the subject matter of the acquisition proceedings under consideration. No interference is, therefore, called for in these appeals and they are all dismissed without any order as to costs.

Although, it has been duly mentioned in the judgment under appeal, we reiterate that as far as the benefits under Section 23 (1-A) of the Act are concerned, the same will be confined to the lands comprised in village Kathania and Wadala Bhitewad only where the Collector made his award after 30th April, 1982.