

Supreme Court of India

Khanna Improvement Trust vs Land Acquisition Tribunal & Ors on 18 January, 1995

Equivalent citations: 1995 SCC (2) 557, JT 1995 (2) 57

Author: K Ramaswamy

Bench: Ramaswamy, K.

PETITIONER:

KHANNA IMPROVEMENT TRUST

Vs.

RESPONDENT:

LAND ACQUISITION TRIBUNAL & ORS.

DATE OF JUDGMENT 18/01/1995

BENCH:

RAMASWAMY, K.

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RAMASWAMY, K.

VENKATACHALA N. (J)

CITATION:

1995 SCC (2) 557 JT 1995 (2) 57

1995 SCALE (1) 417

ACT:

HEADNOTE:

JUDGMENT:

## ORDER

1. The Notification under section 36 of the Punjab Town Improvement Act, 1922 was published in the Gazette on September 14, 1973 and a Notification under s.41 sanction of the scheme was published on December 3, 1975 for acquisition of the land in question of an extent of 29 Kanals 1-3/4 marls of the land. The Land Acquisition Collector in his award dated February 24, 1977 awarded the market value @ Rs. 1,88,731/- per acre. On reference, the Tribunal in its award dated March 28, 1985 enhanced the compensation to Rs.307/- per sq.yd. upto a depth of 43 ft. and beyond 43 ft. at Rs.205/- per sq.yd. Feeling aggrieved, the claimants filed the writ petition in the High Court. The learned Single Judge in C.W.P. No.4309 of 1985 & batch while confirming the award of the Arbitrator changed the belting upto a depth of 50 ft. awarded to that land upto that extent together with statutory benefits as applicable under the Land Acquisition Amendment Act 68 of 1984 which was confirmed in L.P.A. No. 663 of 1989 and batch dated June 1, 1989. Thus these

appeals by Special Leave.

2. We find force in the contention of the learned counsel appearing for the Improvement Trust that the learned Single Judge of the High Court committed grievous error of law in interfering with the belting made by the Arbitrator and wrongly increased it to 50 ft. depth. It is seen that the Arbitrator on the basis of the evidence adduced before the Court in two sale deeds upto a depth of 43 ft. fixed at Rs.307/-. Therefore, the Arbitrator determined the compensation @ Rs.307/- per sq.yd. The High Court found that the respondents did not raise a point in the writ petition of the But held that it was the duty of the High Court under Article 226 of the Constitution of India to have it corrected, as, according to learned Judge, it is a palpable error committed by the Tribunal. We do not appreciate the view taken by the High Court. The High Court has not exercised the appellate jurisdiction under section 54 of the Land Acquisition Act. Admittedly, under the Punjab Town Improvement Act, 1922 no right of appeal is provided. Therefore, in exercise of the power under Article 226 the High Court has to confine itself to correcting any error of jurisdiction committed by the authorities namely, the Arbitrator appointed under the Act and it cannot assume suo motu jurisdiction of the appellate Court and attempt to correct every mistake assumed to have been committed by the Tribunal. The High Court had not rested its conclusion on any factual foundation for increasing the belting upto a depth of 50 R. while the Tribunal had evidence before it. Considered from this perspective, we are of the view that the High Court was not justified in increasing the belting from 43 ft. to 50 dt. to enhance the compensation @ Rs.307/- per sq.yard.

3.The High Court also has awarded additional amount at 12% per annum on the enhanced compensation exercising the power under section 23(1-A) of the Land Acquisition Amendment Act 68 of 1984. This controversy is now covered by the Judgment of the Constitution Bench of this Court in k.S. Paripoornan v.State of Kerala reported in 1994 (5) SCC 593. Therefore, the award of the additional amount at 12% per annum is clearly illegal. It is accordingly set aside.

4. It is next contended that the High Court would not have granted additional interest and solatium. We find no in the contention. This Court interpreting the provisions of Punjab Town Improvement Trust Act, 1922 has held that the Land reference and not by adoption and therefore, the Amendment Act 68/84 stands applicable to the acquisition made under the Punjab Town Improvement Trust Act, 1922. In that view we hold that since the award of the Arbitrator was on March 28, 1985 namely, after the Amendment Act has come into force, the claimants are en-titled to the payment of solatium @ 30% and also interest for one year @ 9% from 24.2.77 to 28.8.78 (date of award to date of taking possession) on the enhanced compensation. Thereafter they are not entitled to the interest at 15%. The appeals are accordingly allowed to the above extent.No costs.