Supreme Court of India
State Of Haryana vs Gurcharan Singh & Anr. Etc on 18 January, 1995
Equivalent citations: 1996 AIR 106, 1995 SCC Supl. (2) 637
Author: K Ramaswamy
Bench: Ramaswamy, K.

PETITIONER:
STATE OF HARYANA

Vs.

RESPONDENT:
GURCHARAN SINGH & ANR. ETC.

DATE OF JUDGMENT18/01/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
VENKATACHALA N. (J)

CITATION:
1996 AIR 106 1995 SCC Supl. (2) 637
JT 1995 (2) 345 1995 SCALE (1)530

ACT:

HEADNOTE:

JUDGMENT:

ORDER 1 This appeal arises from the judgment and decree of the High Court of Punjab & Haryana in RSA No.1137 of 1970 and batch dated May 21, 1981. An extent of 20 acres 38 cents was notified and published for acquisition in the State Gazette under s.4(1) of the Land Acquisition Act on June 22, 1974 for residential colony. The lands are situated in Panchkula, near Chandigarh, as satellite town. The Land Acquisition Collector (for short 'the Collector') awarded the market value in his award dated June 25, 1976, to the Abadi land at the rate of Rs. 12,240/per acre and to the Gheir Mumkin land @ Rs. 1200/- per acre. In addition, he also awarded compensation to the fruit bearing trees in the respective appeals as follows.

R.F.A.NO.1137 OF 1979 = Rs.1,12,993.50 R.F.A.NO.1138 OF 1979 = Rs.1,56,659.40 R.F.A.NO.1354 OF 1979 = Rs. 40,842.00 R.F.A.NO.1355 OF 1979 = Rs.1,65,688.00

2. On reference under s. 1 8, in his award and decree dated December 12, 1978, the Addl. District Judge affirmed the award of the Collector. In other words, he passed nil award. On appeal, the High Court by confirming the market value of the land, enhanced the compensation to the fruit bearing trees by 60 % of what was awarded by the Collector and accordingly granted enhanced compensation with statutory benefits. Thus this appeal by special leave.

3. Ms. Surichi Agarwal, learned counsel for the State, contended that the High Court has committed grave error of law in upholding the determination of the compensation both to the land as well as fruit bearing trees and has also further committed error in enhancing the market value to the fruit bearing trees in addition to the confirmation of the compensation separately awarded for the land and the fruit bearing trees. It is against the settle principle of law as laid down by this court in catena of decisions. We find force in the contention. Sri Bagga, learned counsel for the respondents, contended that in the year 1966 the price index was at 144 points whereas in 1970 the index was found to be at -213 points. The High Court, therefore, was right in increasing the compensation to the fruit bearing trees by 60%. We find no force in the contention. It is settled law that the Collector or the court who determines the compensation for the land as well as fruit bearing trees cannot determine them separately. The compensation is to the value of the acquired land. The market value is determined on the basis of the yield. Then necessarily applying suitable multiplier, the compensation need to be awarded. Under no circumstances the court should allow the compensation on the basis of the nature of the land as well as fruit bearing trees. In other words, market value of the land is determined twice over and one on the basis of the value of the land and again on the basis of the yield got from the fruit bearing trees. The definition of the land includes the benefits to arise from the land as defined in s.3(a) of the Act. After compensation is determined on the basis of the value of the land from the income applying suitable multiplier, then the trees would be valued only as fire-wood and necessary compensation would be given. In this case, the High Court did not adopt this procedure. We have looked into the figures furnished in the judgment of the High Court of the amount awarded by the Officer himself. He too while determining the compensation at the rate of Rs. 12,240/- per acre on the basis of the yield, the multiplier applied is more than 8 years. Under no circumstances, the multiplier should be more than 8 years multiplier as it is settled law of this court in catena of decisions that when the market value is determined on the basis of the yield from the trees or plantation, 8 years multiplier shall be appropriate multiplier. For agricultural land 12-- years multiplier shall be suitable multiplier.

4. In this case, the Collector applied more than 8 years multiplier and awarded compensation. The High Court also has no adverted to this aspect of the matter. The High Court committed error of law in further enhancing the compensation. Considered from this perspective, since we cannot interfere with the award -of the Collector, though the Collector had committed palpable error of law in separately awarding the compensation to the land as well as fruit bearing trees, it is an offer which cannot be disturbed because of s.25 of the Acts. The rate. of compensation should have been less than what the Collector has awarded, we cannot reduce the amount less than the amount offered by the Collector, yet we have to hold that the Collector, civil court and the High Court should have applied 8 years multiplier and determined the compensation. They awarded much more than what the, claimant would justly and fairly be entitled to. Therefore, further enhancement of 60% by the High Court on the basis of the Price Index is clearly illegal.

5.The appeals are accordingly allowed. The judgment and decree of the High Court is set aside and the award and decree of the Reference Court is affirmed. In the circumstances of the case, the parties are directed to bear their own costs.