

Maya Devi (Died) Vs. State of Haryana

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Court : Punjab and Haryana

Decided On : Jan-07-1999

Reported in : (1999)122PLR98

Judge : G.S. Singhvi and; M.L. Singhal, JJ.

Acts : [Land Acquisition Act, 1894](#) - Sections 23

Appeal No. : Letters Patent Appeal No. 1513 of 1989

Appellant : Maya Devi (Died)

Respondent : State of Haryana

Advocate for Def. : Jaswant Singh, Deputy Adv. General

Advocate for Pet/Ap. : V.B. Aggarwal, Adv.

Disposition : Appeal dismissed

Judgement :

G.S. Singhvi, J.

1. These appeals have been filed against the judgment of the learned Single Judge dated 3.11.1988 by which he declined the prayer of the appellants for further enhancement of compensation awarded by the Additional District Judge, Kurukshetra.

2. The Government of Haryana acquired 19.24 Acres of land situated in Darra Kalan, Kurukshetra, for a public purpose, namely, for setting up of an Urban Estate. Out of the acquired land 144 kanals 15 marlas was Chahi land, 7 kanals 14 marlas was Gair Mumkin and 1 kanal and 9 marlas was Banjar Jadid.

3. The Land Acquisition Collector passed an award dated 25.8.1982 for payment of compensation at the rate of Rs. 30,000/- per acre for Chahi and Gair Mumkin land. For Banjar Jadid, he awarded compensation at the rate of Rs. 15,000/- per acre. The learned Additional District Judge, Kurukshetra, who heard reference applications filed by the land owners, including the appellants, under Section 18 of the [Land Acquisition Act, 1894](#) (hereinafter referred to as 'the Act') enhanced the compensation to Rs. 1,13,250/- per acre i.e., Rs. 23.40 per square yard. He also directed the payment of solatium and interest in accordance with Sections 23(1-A), 23(2) and 30 of the Act.

4. The appellants and some other land owners challenged the award passed by the learned Additional District Judge in Regular First Appeals, which have been dismissed by the learned Single Judge.

5. In support of these appeals, Shri V.B. Aggarwal and Shri M.S. Cheema urged the following contentions:

(i) The Additional District Judge, Kurukshetra as well as the learned Single Judge have erred in not determining the compensation in accordance with the sale transaction Ex.P.9 dated 11.4.1979 vide which 1 kanal 10 marlas of land was sold for a sum of Rs. 69,375/- i.e. at the rate of Rs. 3,70,000/- per acre.

(ii) The learned Single Judge has erred in not granting appropriate increase in the compensation payable to the landowners over and above what was determined vide Ex.P.16 in respect of acquisition of land made in 1972.

6. Learned counsel argued that the Reference Court as well as the learned Single Judge have erroneously discarded the sale transaction Ex.P.9 on the ground that it related to a small place of land. They submitted that even though the land covered by Ex.P.9 was very small, the same should have been made basis for

award of compensation because the character and the situation of the acquired land is similar to the land sold vide Ex.P.9. They relied on the observations made by the Additional District Judge, Kurukshetra regarding situation of the land and submitted that the learned Single Judge should have accepted the appellants prayer for further enhancement of compensation keeping in view the future potential of development and the nature of the land. Learned counsel further submitted that disposal of a part of the acquired land by the Haryana Urban Development Authority at a very high price should have been treated as sufficient by the learned Single Judge for award of higher compensation. Shri Aggarwal further argued that even if the award/judgment Ex.P.15 could be relied upon for determination of compensation, the learned Single Judge should have accepted the prayer of the land owners for further increase in the amount of compensation keeping in view the steep rise in the prices of the land. The learned Deputy Advocate General argued that the sale transaction relating to small piece of land measuring 1 kanal 10 marlas has been rightly ignored by the learned Additional District Judge and the learned Single Judge because the acquired land consisted of a very big chunk i.e. 153 kanals 18 marlas. He relied on various judicial precedents to support his argument that the LP.A. Bench should not interfere with the view taken by the learned Single Judge. Shri Jaswant Singh submitted that the enhancement granted by the learned Additional District Judge is quite in consonance with the prevailing market value of the land and there is no justification for further enhancement of the compensation. He invited our attention to paragraphs 11 to 13 of the judgment of the learned Additional District Judge and submitted that the findings recorded by the Reference Court after proper evaluation of evidence should not be disturbed merely because there is a remote possibility of this Court forming a different opinion on re-assessment of evidence. Learned Deputy Advocate General also contended that the sale transaction Ex.P.9 could not have been relied upon for award of compensation to the appellants because the author of that transaction was not examined as witness.

7. We have thoughtfully considered the respective submissions. Although no absolute rule has been evolved for determination of the question whether sale transaction relating to small piece of land can constitute basis for determination of market value of a large tract of land, broadly speaking there is a consensus among

the Courts that such transactions cannot ordinarily form the basis for determination of the market value of a big piece of land acquired by the State. In Tarlochan Singh and Anr. v. State of Punjab and Ors., (1995)2 S.C.C. 424, Pehlad Singh and Anr. v. Union of India, (1996)1 S.C.C. 310, Kamlabai Jageshwar Joshi and Anr. v. State of Maharashtra and Ors., (1996)1 S.C.C. 669 and Rattan Lal Gupta and Ors. v. Union of India, (1996)7 S.C.C. 3, there Lordships have held that the sale transactions of small plots are not relevant for determination of market value of the acquired land consisting of big chunk. In the case in hand, the learned Additional District Judge referred to the various sale transactions relied upon by the land owners and rejected their claim for assessment of compensation on the basis of Ex.P.9 by making the following observations:

'Now I will make a reference to the evidence led by the petitioners regarding the market value of the acquired land at the time of its acquisition.

(a) The transactions relied upon by the petitioners are tabulated herebelow for a convenient perusal:

Area Sold	Value for Approximate	No. the document	transaction which sold price per acre	Ex. Nature of Date of
11.04.79	1 K 10 M Rs. 69,375/-	Rs. 3,70,000/-	DeedP.16	-do- 15.05.72
32 sq. yds.	Rs. 3,000/-	Rs. 4,35,000/-	(12' x 24')	P 17 -do- 17.07.72
				-do- Rs. 5,000/-
				Rs. 7,55,000/-
				P.18 -do- -do- -do- -do- -do-
				P.19 -do- -do- -do- Rs. 5,000/-
				-do-P.20 -do-
08.03.71	11'x 30'	Rs. 5,000/-	Rs. 3,97,000/-	P.21 -do- 03.03.71
				-do- Rs. 3,000/-
				P.22 -do- 25.03.74
	42'x 86'	Rs. 37,000/-	Rs. 4,98,000/-	(OK. 1M) P.23 -do-
08.06.77	11' x 24'	Rs. 4,000/-	Rs. 6,53,000/-	(OK 12M)P.24 -do- 28.11.78
				-do- Rs. 4,000/-
				-do-----

According to the above quoted instances the price per square yard comes to Rs. 76/-, Rs. 94/-, Rs. 156/-, Rs. 156/-, Rs. 157/-, Rs. 82/-, Rs. 103/-, Rs. 135/- and Rs. 135/- respectively.

(b) It is admitted case of the parties that the acquired land had been converted into Commercial Sector No.17 by HUDA. Some plots had been auctioned in Sectors 17 and 13 on 20.2.1995 and Ex.P.6 is a record of the proceedings of the auction

so held on that day. This document had been proved by Arjun Lal, Clerk, in the office of Estate Officer, HUDA, Kurukshetra. A perusal of this document shows that shop-cum-office sites measuring 5.5 x 25 square metres had been auctioned on that day for amounts ranging from Rs. 1,57,400/- to Rs. 1,65,000/-. The reserve price of each of these sites was Rs. 1,57,400/-. The auction price of these shop-cum-office sites ranged between Rs. 1,144/- to Rs. 1,200/- per square meter. Similarly, two booth sites measuring 5.5 x 8.25 square meters having the reserve price of Rs. 69,200/- each had been auctioned for Rs. 71,500/- and Rs. 69,200/-. The auction price was thus Rs. 1,589/- and Rs. 1,546/- per square meter, respectively. Similarly, five booth sites measuring 2.75 x 8.25 square meters having a reserve price of Rs. 63,000/- each had been auctioned for the amounts ranging between Rs. 63,500/- to Rs. 69,200/-. The auction price thus ranged between Rs. 2,775/- to Rs. 3,048/- per square meter. All these sites were in respect of Sector 17, Kurukshetra.

(c) The petitioners had also produced in evidence a copy of the receipt Ex.P.11 whereby a sum of Rs. 5,600/- had been deposited as earnest money in respect of booth No.134, Sector 17, Kurukshetra on 26.10.1984. This amount of Rs. 5,600/- represented 10% of the auction money. The area of the booth is, however, not mentioned in this document.

(d) The petitioners had also produced in evidence a copy of the award Ex.P.15 dated 30.7.1982 of the Additional District Judge, Kurukshetra. A perusal of this document shows that as per a notification dated 10.4.73 (1973) issued under Section 4 of the Land Acquisition Act land measuring 20 acres 3 kanals and 7 marlas situated in Darra Kalan, Kurukshetra had been acquired for the construction of buildings for the Ayurvedic College Hospital etc. The Land Acquisition Collector had awarded compensation for that land at the rates of Rs. 25,000/-, Rs. 20,000/-, Rs. 15,000/- and Rs. 13,000/- per acre for the Chahi, Barani, Banjar and Gair Mumkin lands respectively. The learned Additional District Judge, Kurukshetra had held that land had the potential for being used as an urban site and he had awarded compensation for the entire land at a flat rate of Rs. 75,000/- per acre. The land covered by this award is situated adjacent to Chhenvi Pathsahi Gurudawara on the Sarover and Shehit Sarover, Kurukshetra.

xx xx xx(a) The instance Ex.P.16 to Ex.P.24 cannot be made the basis for working out the market value of the acquired land because these instances are in respect of very small plots having an area ranging from 32 square yards to 36 sq. yds. The area of the land covered by the instance Ex.P.22 was 360 sq. yds only.

(b) The instance furnished by the document Ex.P.9 is in respect of the sale of 1 kanal 10 marlas of land on 11.4.1979 for Rs. 69,375/-. The sale price comes to Rs. 3,70,000/- per acre or Rs. 76/- per square yard according to this transaction. From the statement of Gurcharan Singh P.W.9, it is apparent that the land covered by this instance is situated on the northern side of the acquired land across the Red Road. This instance is also in respect of a very small plot of land and in my considered opinion the market value of the acquired land cannot be assessed on the basis of this instance. When large tracts of land are acquired, the transactions in respect of small properties do not offer a proper guideline. The valuation in transaction in respect of smaller property could obviously not be made the real basis for determining the compensation for the larger tracts of property.

(c) It was sought to be contended by the counsel for the petitioners that the Acquiring Department i.e. HUDA had sold plots out of the acquired land at exorbitant rates on 20.2.1985 as is apparent from the document Ex.P.6 and about which a reference has been made in para 9(b) above. It was contended that since after acquiring the land in dispute, HUDA itself was selling sites of exorbitant rates so adequate compensation should be paid to the petitioners by keeping in view the transaction which stand mentioned in the document Ex.P.6 relating to Sector 17, Kurukshetra. These contentions of the learned counsel for the petitioners are without substance. The land in dispute had been acquired for development and utilisation for setting up a Commercial Urban Estate at Kurukshetra. After developing the land in dispute HLJDA had auctioned the plots in 1985. There is no doubt that HUDA had auctioned plots out of the acquired land at exorbitant rates but this is an advantage which HUDA is deriving on account of the carrying out of the scheme for which the property in dispute had been acquired. It is settled law that any advantage due to the carrying out of the scheme for which the property is compulsorily acquired has to be excluded while determining the market value of the acquired land at the time of its acquisition. Thus, the prices at which the plots

were sold at the time of auction of plots on 20.2.1985 by HUDA out of the acquired land cannot be made the basis for working out the market value of the acquired land in this case.'

8. The learned Single Judge expressed his concurrence with the above mentioned observations of the Reference Court in the following words:-

'The total argument raised by the learned counsel for the appellants that the lower Court instead of relying on P.15 for evaluating their lands should have determined in the light of Ex.PD which related to the sale of 1 kanal 10 marla of land on 11th April, 1979, for a sum of Rs. 69,375/- i.e. at the rate of Rs. 3,70,000/per acre appears to be wholly untenable. The Court was right in rejecting the argument on the ground that this transaction related to too tiny a piece of land as compared to the extent of the suit land i.e. 19.23 acres. I see no flaw in this approach and conclusion of the lower Court. As has been pointed out earlier, Ex.P.15 related to the determination of the market value of a sizeable area. The Court was perfectly justified in treating the said award as the basis for the determination of the market price of the suit land. I, therefore, repel the above noted stand of the learned counsel for the claimants.'

9. In our opinion, the view taken by the learned Additional District Judge is based on a proper appreciation of evidence and the learned Single Judge has not committed any error of law when he refused to interfere with the award passed by the Reference Court.

10. The plea of the appellants for further increase in the value of the land with reference to Ex.P. 15 also merits rejection because the reasons assigned by the learned Additional District Judge for enhancing the compensation of the acquired land vis-a-vis Ex.P.15 are quite cogent. In paragraph 13 of his award, the learned Additional District Judge observed:

'(a) A perusal of the award, a copy of which is Ex.P.15 shows that about 20 acres of land had been acquired in pursuance of a notification dated 10.4.1973 under Section 4 of the Land Acquisition Act for the construction of the buildings for the Ayurvedic College and Hospital at Kurukshetra. The land to which the award

Ex.P.15 relates is admittedly situated adjacent to the Chhenvi Pathshahi Gurudwara on the southern side. Chhenvi Pateshahi Gurdwara is at a distance of about one or two furlongs from the acquired land on the south-western side. The land involved in these references had at least (if not better) the same location, situation and potential as the land covered by the award Ex.P.15 had. Since the Additional District Judge, Kurukshetra had awarded compensation for that land which was acquired on 10.4.1973 at Rs. 75,500/- per acre so the market value of the land involved in these references on 18.2.1980 would naturally have been much more than Rs. 75,500/- per acre. It is well known that the prices of land have shown increase year by year. Judicial notice of this fact can be taken. In support of this view reliance is placed upon A.I.R. 1972 S.C. 1472 Tribeni Devi v. Collector of Ranchi, A.I.R. 1976 Pb. 325 DLF Housing and Constructions (P) Ltd. v. Union of India, 1981 C.L.J. (Civil) 84 Hari Ram etc. v. Land Acquisition Collector, Industrial Development, Punjab, Chandigarh etc., and A.I.R. 1984 Delhi 208 Dewan Anand Kumar and Ors. v. Union of India.

(b) Since the land covered by the Award Ex.P.15 and the land involved in these references had identical situation, location and potential, so I am of the considered opinion that the market value of the land involved in these references can be fixed by giving a suitable increase over the compensation which was awarded for the land covered by the award a copy of which is Ex.P.15 because that land was acquired on 10.4.1973 and the land involved in these references was acquired on 18.2.1980. During this gap of about 7 years the prices must have increased at least by 50%. In my considered opinion, the market value of the acquired land as on 18.2.1980 could reasonably be fixed by giving an increase of 50% over Rs. 75,500/-. Thus assessed the market value of the acquired land would come to Rs. 1,13,250/- per acre i.e. Rs. 23.40 per square yard approximately. Issue No. 1 is decided accordingly in each case.'

11. Before the learned Single Judge, this part of the award was not challenged. Therefore, we do not find any valid ground to accept the submission of the learned counsel for the appellants that the compensation awarded to the land owners should be enhanced by grant of further increase in the value of the land vis-a-vis Ex.P. 15.

12. For the reasons mentioned above, these appeals fail and the same are dismissed.

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