

PETITIONER:
SA. JAIN COLLEGE TRUST & MANAGING SOCIETY

Vs.

RESPONDENT:
THE STATE OF HARYANA & ANR.

DATE OF JUDGMENT 24/02/1995

BENCH:
PARIPOORNAN, K.S.(J)
BENCH:
PARIPOORNAN, K.S.(J)
VERMA, JAGDISH SARAN (J)

CITATION:
1995 SCC (3) 74 JT 1995 (3) 510
1995 SCALE (2)95

ACT:

HEADNOTE:

JUDGMENT:
PARIPOORNAN, J.:
1. Leave granted.
2. This appeal is filed against the Judgment dated 09.05.1986, of the Division Bench of the High Court of Punjab & Haryana, in L.P.A. No. 139 of 1986 and C.M. No. 903 of 1986, affirming the Judgment of the Single Judge rendered in R.F.A. 390/75 dated 25.10.1985 regarding the award of compensation made under land Acquisition Act. The appellant-Society is running educational and charitable Institutions in the State of haryana. For providing a playground to one of its colleges, the appellant-Society got acquired 7 bighas of land belonging to the second respondent in this appeal (original claimant in the land acquisition proceedings), under the Land Acquisition Act, 1894, hereinafter referred to as 'the Act'. Notifications under section 4 of the Act were issued on 15.05.1968, and 11.06.1968. The notification under section 6 was issued on 13.8.1969. An award dated 29.9.1970, compensation was awarded to the second respondent the land owner, at the rate of Rs. 12000/- per acre and Rs. 1000/- as price of well apart from 15% solatium and 6% interest, from the date of Notification up to the date of award.
3. In the reference to court at the instance of the appellant as well as the third respondent, the Addl. District Judge, by judgment dated 30.12.1974, awarded the enhanced compensation at the rate of Re. 1/per sq.yard for the entire land and further interest at the rate of 6% per annum under section 4 of the Act from the date of Notification till the additional amount was paid to the claimant. In the appeal filed by the claimant before the High Court of Punjab and Haryana in R.F.A. No.390 of 1975, a learned Single Judge of that court by Judgment dated 25.10.1985 enhanced the compensation for the land acquired at the rate of Rs.g/- per

sq.yard. The learned Single Judge also awarded 30% of the market value of the land acquired as solatium, along with 12% of such market value from the date of Notification under section 4 of the Act till the date of taking possession of the land and interest at the rate of 9% per annum for the first year and thereafter at the rate of 15% till the date of payment of compensation for the land acquired. It is against the aforesaid Judgment the petitioner/appellant filed LPA No. 139 of 1986 before the Division Bench, wherein the award of compensation was not interfered with.

4.We heard counsel for the appellant Sri. H.M. Singh and also the counsel for the respondents Sri Mahabir Singh. The main grievance of counsel for the appellant was that the Division Bench was in error in declining to consider the issue of enhancement of compensation and the resultant benefits awarded by the learned Single Judge. We find from a close perusal of the Judgment of the District Judge and also the learned Single Judge, that the land acquired possessed all characteristics of a potential building site for both residential as also commercial or industrial purposes and it was near to other buildings and establishments. Considering the totality of the circumstances and other relevant particulars, the learned Single Judge noticed that the rate of land in the locality had gone up to Rs. 9/- per sq.yard in 1967 and has still gone up to Rs. 11/- per sq.yard in 1970 and 1971. In the circumstances, the learned Single Judge fixed the market value for the land acquired at Rs.8/- per sq.yard. We are of the view that considering the importance of the locality, the potential of the land, and the user to which it can be put, the fixation of the market value of the land acquired at Rs.8/- per sq.yard is reasonable and the Division Bench in appeal did not rightly interfere with the above determination. We hold that the fixation of the market value of the land acquired at

513

Rs. 8/- per sq. yard is reasonable and proper.

5.The Land Acquisition (Amendment) Act, 1984 (ActNo-68 of 1984) became law on 24th September, 1984. The appeal filed by the claimant was pending before the learned Single Judge of the High Court on the day when the Amendment Act came into force. The learned Single Judge delivered the Judgment on 25.10.1985., So the award of 30% solatium on the market value of the land acquired is justified. Similarly the award of the interest on excess compensation fixed by the Court at the rate of 9% for the first year from the date of taking possession, and thereafter at 15% till the date of payment of the compensation for the land acquired, is equally justified. But we are of the view that the amount of 12% per annum awarded on the market value from the date of publication of the Notification under section 4 of the Act till the date of taking possession of the land, awarded as per section 23(1A), is not legally justified. In this case, the proceedings for land acquisition commenced as early as 15.5.1968 and the award was made by the Collector on 29.2.1970, and the possession of the land was taken immediately thereafter. All such events happened long before the Land Acquisition (Amendment) Act of 1984. In such cases the claimants are not entitled to the benefit under section 23(1-A) of the Land Acquisition (Amendment) Act (Amendment Act 68 of 1984). This view is fortified by the decision of this Court in Union of India v. B. V. Saroja & Anr. (1995 (1) SCALE 309).

6.In the result, we hold that the claimant is not entitled to the benefit of section 23(1-A) of the Act --,award of an

amount calculated at the rate of 12% per annum on the market value from the date of publication of the notification under section 4 of the Act till the date of taking possession of the land. Subject to this modification, the decisions of the courts below are affirmed. There shall be no order as to costs in this appeal.

515

JUDIS