PETITIONER:
GURDIAL SINGH & ANR.

Vs.

RESPONDENT:
STATE OF PUNJAB

DATE OF JUDGMENT01/03/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)

CITATION:
1995 AIR 2283 1995 SCC (3) 333
JT 1995 (3) 87 1995 SCALE (2)235

ACT:

HEADNOTE:

JUDGMENT:
ORDER
1. A notification under Section 4 of the Land Acquisition Act, 1994, was published on Feb. 15, 1979, acquiring 4.5 acres of land for establishing a Milk Chilling-cum-Demonstration Centre at Village Sardulgarh in Bhatinda District of Punjab State. The Land Acquisition Officer in his award dated March 23, 1979, awarded a sum of Rs. 13,816/- per acre as compensation. On reference, the Additional District Judge, Bhatinda, by decree dated April 30 1981, enhanced the compensation to Rs. 2,50,000/- per acre. On appeal under Section 54 by the State, the High Court in R.F.A. No. 1065 of 1981 and batch, by its order dated September 15, 1982, reduced the compensation to Rs.30,000/- per acre. Dissatisfied with the judgment of the High Court, the appellants filed these appeals by special leave.
2. Shri Prem Malhotra, learned counsel appearing for the appellants, has strenuously contended that the sale-deed (Ex.Al to A5) and Mutation Proceedings (Ex.A7 to A16) would show that the market value ranged between Rs3,12,000/- to Rs. 1,08,000/-. He submitted that the High Court was not justified in relying upon the solitary mutation proceedings noted in the judgment to determine the compensation at Rs.30,000/per acre, We find no -force in this contention. It is seen that under the unamended Act, by operation of Section 9, the claimant or the owner is enjoined to make claim giving particulars of the claim. Section 25 of the Act, as originally stood, provided that in a case where a claim is made the amount awarded by the court shall not ex-ceed the amount claimed or less than the amount awarded by the Collector under Section 11. This is by operation of sub-section (1) of Section 25. But in case where the claim was not made, sub-section (2) operated and held the field. Sub-section (2) Section 25 read thus :

"When the applicant has refused to make such

claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector."

Thus, it can be seen that in a case where the applicant had omitted to make the claim, then the court had not jurisdiction

88

to award the compensation in excess of the amount awarded by the Collector. In these cases, no claim had been admittedly made by the appellants.

3.This provision was not noted by the High Court. The High Court, by referring to the mutation proceedings in which the market value was shown to be ranging between Rs.9,400/- to Rs. 14,000/- per acre had enhanced the compensation to Rs.30,000/- per acre. That appeal was allowed to become final; and so nothing can be done with the market value as fixed by the High Court. But these appeals are dismissed in view of the statutory prohibition contained in sub-section (2) Section 25 of the Act. We make no order as to costs.

89