

PETITIONER:
LUDHIANA IMPROVEMENT TRUST

Vs.

RESPONDENT:
BRIJESHWAR SINGH CHHAL & ANR. ETC.

DATE OF JUDGMENT: 19/03/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
BHARUCHA S.P. (J)
PARIPOORNAN, K.S.(J)

CITATION:
JT 1996 (4) 239 1996 SCALE (3)555

ACT:

HEADNOTE:

JUDGMENT:

WITH

CIVIL APPEAL NOS. 7028, 7027, 7029, 7030 & 7026/96
(Arising out of SLP (C) Nos. 3736, 2708, 4065, 8031 and
16530 of 1994)
O R D E R

Delay condoned.

Leave granted. We have heard learned counsel on both sides.

The only question argued by the learned counsel for the appellant is with regard to the belting of the land. An extent of 13 acres of land situated near Ludhiana was acquired for commercial-cum-residential purpose. Notification under Section 36 of the Punjab Town Improvement Act, 1922 which is pari materia to the notification under Section 4(1) of the Land Acquisition Act, 1894, was published on July 13, 1973. The Land Acquisition Officer in his award dated February 3, 1976 classified the lands as levelled-up land and low-lying land. In respect of the levelled-up land he awarded compensation @ Rs.21/- per sq. yd. and for the low-lying land @ Rs.13/- per sq.yd. On reference, the District Judge awarded compensation @ Rs.107/- per square yard in respect of the lands abutting the main road at a depth of 5 karanams and for other land he awarded compensation @ Rs.80/- per sq. yd. and for the low-lying area @ Rs.50/- per sq. yd. The claimants challenged the award of the District Court and the High Court in the writ petitions has held that all the lands are evenly situated. Accordingly, it awarded compensation uniformly at Rs.107/- per sq. yd. The Improvement Trust felt aggrieved by the direction given by the High Court with regard to the belting. Hence this appeals by special leave.

The Land Acquisition Officer has stated that the lands measuring 61 kanals 10 marlas bearing different khasra numbers mentioned in the award are situated in low-lying area and are under the pond with a depth of 3 to 6 feet.

Unless the lands are improved by expending considerable amount, they cannot be levelled-up. Therefore, the Land Acquisition Officer awarded compensation for those lands at Rs.13/- per sq.yd. The High Court in the impugned order relying upon its earlier judgment held that the belting system adopted by the Land Acquisition Officer and the reference Court is not correct in law. It is settled by decisions of this Court that belting is a fair principle to determine just and adequate compensation lest unjust at would ensue. When large extent of land is acquired, land abutting the roads or developed area and interior land do not command the same market value. When it is proved that the lands are situated in low-lying area, obviously the lands situated at levelled area would command higher market rate than the lands situated in low-lying area.

Shri Ujjagar Singh, learned senior counsel appearing for the claimants, contended that the allottee would prefer to purchase the lands in low-lying area to build their shops or establishments underground so as to have economical use of the land allotted to them. Therefore, the fixation of the market value at the uniform rate by the High Court is correct in law. We cannot appreciate the stand taken by the claimants. The claimants, as a fact, have to establish that the levelled-up lands and the low-lying lands command same market value and that, therefore, they are required to be awarded at the same rate. It is seen that the Land Acquisition Officer has himself stated which was not disputed in the reference Court that the depth of the land is 3 to 6 feet. Unless the land is levelled-up, it cannot command the same market value as the levelled-up land possessed. Under those circumstances, the High Court was clearly in error in holding that the belting system cannot be adopted and compensation should be awarded in respect of all the lands at the uniform rate.

The appeals are accordingly allowed and the order of the reference Court paying compensation @ Rs.50/- per sq.yd. to the low-lying lands admeasuring 61 kanals 10 gunthas in the khasra numbers mentioned in the award of the Land Acquisition Officer stands restored. No costs.