

PETITIONER:
STATE OF PUNJAB AND OTHERS ETC.

Vs.

RESPONDENT:
RAMAN RAI AND OTHERS ETC.

DATE OF JUDGMENT 14/08/1995

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

CITATION:
1995 SCC (5) 610 1995 SCALE (5)82

ACT:

HEADNOTE:

JUDGMENT:

WITH

CIVIL APPEAL NOS. 7773-74 AND 7775-76 OF 1995
(Arising out of SLP (c) Nos. 4401-02/89 and 9043-44/94)
O R D E R

These appeals are disposed of by a common judgment. The State has filed these appeals against the enhanced compensation. The respondents filed the appeals for further increase of compensation than awarded by the High Court @ Rs. 1,60,000/- per acre. The learned counsel for the claims for higher compensation on the basis of three transactions relied on before the High Court- Ex.p.4, p.7 and p.9 dated April 7, 1979, March 29, 1978 and June 26, 1978 respectively. However, relying upon the judgment of the High Court in respect of the lands which are marked in blue colour in the plan for which higher compensation was granted, while lands situated far away from the land in question, counsel for the claimants contended that since their lands are abutting the G.T. Road, they are entitled for higher compensation. They also sought to justify the grant of higher compensation by the High Court on the ground that in previous batch of appeals arising out of S.L.P. (C) Nos. 4376-4397/89, 4400/89 decided on July 19, 1995, the land owners had claimed only at the rate of 1,50,000/- and this Court confirmed the same. Therefore, the claimants in these cases are entitled to higher compensation, as the amount claimed by them was higher than Rs. 1,50,000/-.

Having regard to the contentions raised by the counsel for the parties, the question is what will the proper compensation payable to the claimants in these cases. Admittedly 58 acres, 3 canals 15 marlas were acquired by notification dated August 10, 1979. The Land Acquisition Officer determined the compensation for Block 'A' @ Rs. 50,000/- and for Block 'B' at the rate of Rs. 36,000/- per acre. On reference under s. 18, the Civil Court enhanced the compensation to one lakh per acre for Block 'A' and Rs. 60,000/- for Block 'B'. On appeal, the learned Single Judge

enhanced the compensation to Rs. 1,000/- per marle, in other words Rs. 1,60,000/- per acre.

What is to be determined is the market value of the acquired land prevailing as on the date of the publication of s. 4(1) notification and not on the basis of the claim as such. The claim is the assessment of the value of the land made by the owner. According to him that would be the prevailing market value of the acquired land. The parties can claim higher amount but under the unamended s.22(2) of the Act the Court is prohibited to award compensation higher than was claimed pursuant to the notice under s.9 and 10 of the Act. The statutory prohibition, not to award higher than what was claimed, itself shows that the Court is not to award any amount in excess of the amount claimed. The Court is enjoined under s.23(1) to determine the compensation of the acquired land as on the date of notification. In view of the fact that on earlier occasion, this Court has confirmed the market value @ Rs. 1,50,000/- as limited by the owners in these cases, the claimants herein also would be entitled to the same amount of compensation, namely @ Rs. 1,50,000/- per acre. It is made clear that in earlier cases the State had not pressed for lesser amount than the one claimed in the statement of the claimants.

It would appear that there is some discrepancy in the calculation of the market value on the basis of marlas. It is stated by the counsel for the claimants, and not disputed by the counsel for the State, that qua the lands situated at Maksudan Village 30 sq. yd. is equivalent to one marla, while in Jullunder city 23 sq. yards is equivalent to one marla. If the lands are calculated on acreage basis, there would not be any difficulty or discrepancy in awarding the compensation.

If the compensation is determined by the land Acquisition Officer on marlas basis, the Land Acquisition Officer should consider all the cases at 23 sq. yards per marla, irrespective of the village in which the lands are situated. The matter is accordingly clarified. The claimants are not entitled to 12 per cent per annum of the additional amount under s.23 (1-A). However, they are entitled to 9 percent interest for one year from the date of taking possession and 15 per cent interest thereafter, till the date of deposit of the enhanced compensation awarded by operation of the proviso to s. 28 of the Act. The claimants are also entitled to 30 percent solatium under s. 23(2) of the Act on the enhanced compensation.

The State appeals are partly allowed and the claimants appeals are dismissed. In View of the above clarification, if additional amount of compensation becomes due on account of calculation of land on marlas basis, as a special case, deficit court fee, if required to be paid, may be paid within one month from today. This direction to pay deficit court fee would not be used as a precedent.