

MEHTAB SINGH AND ORS. ETC. ETC.

A

v.

STATE OF HARYANA

AUGUST 30, 1994

[MADAN MOHAN PUNCHHI AND K. JAYACHANDRA
REDDY, JJ.]

B

Land Acquisition Act, 1894—Section 4—A large chunk of land acquired for public purpose—Award made speedily—Rule of adoption of 12% yearly increase in price due to inflationary trends deduced by the Punjab & Haryana High Court in another case—Applicability of—Universal application of Rule disapproved.

C

Land Acquisition Act, 1894—Section 4—A large chunk of land acquired for public purpose—Acquired land classified in two categories—No marked disparity between rates—Appeal—High Court resurrected classification on a large disparity—Whether orders of High Court sustainable.

D

A large chunk of land measuring 267.91 acres abutting the Delhi Rohtak Road was acquired for the public purpose of development and utilisation as industrial area. A notification under Section 4 of the Land Acquisition Act was issued on 06.01.1977. On 18.02.1977 the Land Acquisition Collector gave award fixing two rates of compensation. However, the price difference amongst the two classification was barely Rs. 560 per acre. On reference under Section 18 to the District Judge, Rohtak, landowners obtained compensation at the flat rate of Rs. 7 per square yard doing away with the classification.

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On appeal, the learned Single Judge of the Punjab and Haryana High Court granted Rs. 10 per square yard but reviving the classification gave a higher compensation of Rs. 15 per square yard for the land abutting on both sides of the Delhi Rohtak Road upto a depth of Rs. 200 ft. Some of the dissatisfied land owners took their cases in Letters Patent Appeal before a Division Bench of that High Court but were unsuccessful. They preferred the present appeals. Their claim was to award of 12% price rise every year due to the inflationary trends, on the basis of a decision by the same High Court in another case.

G

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A Partly allowing the appeal, this court

HELD : 1.1. The principle of 12% annual increase deduced by High Court of Punjab & Haryana in *Maya Devi's* case has no bearing to the instant case because it was within a matter of days from the date of notification that the award was made. No occasion arose to take judicial notice of the inflation and high rise of prices. From the date of award, interest becomes due to the claimant land owner, for henceforth the land ceases to be his and while so the question of price rise does not arise when he is compensated for the deprival by payment of interest. The amendment Act of 1984 is explicit in terms. The limited retrospectivity provided in the amending provisions do not permit adoption of 12% increase in price in each and every acquisition. If it was so intended the legislature would have expressly provided so. This court would decry that rule and express its disapproval for its universal application or for all acquisitions. [797-C-F]

D *Maya Devi and Ors. v. State of Haryana and Ors.*, Regular First Appeal No. 150 of 1982. decided on 18.05.90 (P & H) and *Inder Singh v. State of Punjab*, (1988) 2 Vol. 94 PLR 190, distinguished.

E 1.2. When classification of two sets of land right from the beginning was marginal and not appreciable, there was no occasion for the High Court to have restored the classification on a large disparity and thus a uniform rate of Rs. 15 per square yard would now inevitably have to be given as the correct compensation and not Rs. 18.60 on the basis of *Maya Devi's* case. Since there was no basis for classification, there was no premise for different rates of compensation. [798-D-F]

F *Sher Singh and Ors. v. State of Haryana*, Regular First Appeal No. 488 of 1975, decided on 16.11.1979 (P & H) (unreported), referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 5743-48 of 1994 etc. etc.

G From the Judgment and Order dated 30.3.83 of the Punjab & Haryana High Court in R.F.A. No. 729, 700, 711, 715, 725 & 913 of 1982.

Mahabir Singh and S. Srinivasan for the Appellants in C.A. Nos. 5743-48 & 5753/94.

H Uma Dutta for the Appellant in C.A. Nos. 5749, 5750, 5751, 5752,

5754 & 5755 of 1994.

K.C. Bajaj and Ms. Indu Malhotra for the Respondent.

The Judgment of the Court was delivered by

PUNCHHI, J. Special leave granted in all these matters.

These appeals artificially are divided in two groups but their aim is common, as is their foundation. A large chunk of land measuring 267.91 acres abutting the Delhi-Rohtak Road near the town of Bahadurgarh, District Rohtak was acquired for the public purpose of development and utilisation as industrial area. A notification under section 4 of the Land Acquisition Act for the purpose was issued on 6.1.1977. The acquisition proceeded speedily because within a matter of days, i.e., on 18.2.1977, the Land Acquisition Collector gave award fixing two rates of compensation. The land abutting Delhi-Rohtak Road upto a depth of 36 Karams (198 ft) on either side of the road was to fetch compensation at the rate of Rs. 20,560 and the remaining land on either side of the road at the rate of Rs. 20,000 per acre. Approximately the compensation worked out to about Rs. 4 per square yard. Noticeably the price difference amongst the two classifications was barely Rs. 560 per acre. The dissatisfied land owners on reference under section 18 of the Land Acquisition Act to the District Judge, Rohtak were successful in obtaining on 27.2.1982 compensation at the flat rate of Rs. 7 per square yard, i.e. at the rate of Rs. 33,880 per acre doing away with the classification. The acquisition was thus complete at the District Judge's level under the law as it stood prior to the Land Acquisition (Amendment) Act, 1984. The Land Acquisition Collector was thus ordered to pay solatium @ 15% and interest @ 6% payable under the law then existing.

Some dissatisfied land-owners, including the appellants, moved the Punjab and Haryana High Court in first appeals claiming a higher rate of compensation. A learned Single Judge of that Court on considering the evidence and material on the record viewed that since several industries had come up before the acquisition in the locality where the acquired land was situated, the price, therefore, would have to be determined on that potential. As correctly suggested, the Learned Single Judge placed no reliance on instances where rates related to small pieces of land. The learned Single Judge relied rather upon another decision of that Court in

- A Regular First Appeal No. 1060 of 1981, decided on February 15, 1982, where with regard to the same acquisition Rs. 10 per square yard had been granted and thus instantly granted Rs. 10 per square yard for the land acquired but reviving the classification gave a higher compensation of Rs. 15 per square yard for the land abutting on both sides of the Delhi-Rohtak Road upto a depth of 200 ft, (almost equal to 36 Karams). Some of the dissatisfied land owners took their cases in Letters Patent Appeal before a Division Bench of that High Court but unsuccessfully. They stand granted special leave to appeal against the judgment and order of the Letters Patent Bench. They form one group. Some other land owners have directly obtained leave against the decision of the learned Single Judge. They form the other group. Both seek enhancement of compensation.

- The basis of the claim of the appellants is somewhat chain reacted and circuitous. It has been traced that the decision of the District Judge, Rohtak dated 27-2-1982 in the instant cases, awarding a uniform rate of Rs. 7 per square yard, was followed by an Additional District Judge, Rohtak on 27-7-1982 in L.A. Case No. 145/4 of 1982 who had made in award on 27-7-1982 relating to the same acquisition, adopting the rate of Rs. 7 per square yard. And when the dissatisfied land owners of that case approached the High Court in Appeal, another learned Single Judge on May 18, 1990, in *Maya Devi and another v. State of Haryana & Others*, Regular First Appeal No. 150 of 1982, made an award granting compensation at the rate of Rs. 18.60 per square yard. To arrive at such figure the decision of that Court in Regular First Appeal No. 488 of 1975, (*Sher Singh & Another v. State of Haryana & Others*, decided on 16.11.1979 was pressed into service wherein some lands in contiguous villages Hasanpur, Parnala and Bahadurgarh were acquired under notification under section 4 issued on 17.10.1969, i.e. about 7 years and 2 months prior to the instant acquisition, where rate of Rs. 10 per square yard was granted. Taking that as a foundation another Single Judge's decision of that Court in *Inder Singh v. State of Punjab*, (1988) 2 Vol. 94 Punjab Law Reporter 190, was pressed into service as a reaction to opine that the Amendment Act of 1984 had brought out the vision of the legislature in giving 12% price rise every year due to the inflationary trends and applying that ratio to the rate awarded in *Sher Singh's* case, the price rise came to Rs. 8.60 per square yard totalling the market value of the land at Rs. 18.60 per square yard. The rate so derived in *Maya Devi's* case is now being claimed by the present appellants on the assertion that when for part of the acquired land this rate

has been given by the High Court itself, they are now entitled to the said rate. In *Maya Devi's* case the learned Single Judge had even granted the post-amendment statutory benefits of sections 23(2) and 28 of the Act, but these benefits the present appellants have not claimed and thus these are out of our consideration.

The above narration discloses the mess existing and the inept handling of these matters affecting the coffers of the State and its transferee's interests. The Hon'ble Single Judge deciding *Maya Devi's* case, for whatever reason, was not apprised of the decision rendered by the learned Single Judge under appeal in the instant cases wherein, for the same acquisition, in the year 1982, compensation had been fixed at the rate of Rs. 15 and Rs. 10 respectively. In the normal circumstances, the learned Single Judge, if apprised, in *Maya Devi's* case too would have awarded the rate as given instantly by the learned Single Judge. Even the principle of 12% annual increase deduced in *Maya Devi's* case and *Inder Singh's* case has no bearing to the instant case because it was within a matter of days from the date of notification that the award was made. No occasion arose to take judicial notice of the inflation and high rise of prices. It must be borne in mind that from the date of award, interest becomes due to the claimant land owner, for thenceforth the land ceases to be his and while so the question of price rise does not arise when he is compensated for the deprivation by payment of interest. That apart we have our strongest reservations to the rule evolved by the Court in *Maya Devi's* case as also in *Inder Singh's* case afore-quoted. The Amendment Act of 1984 is explicit in terms. The limited retrospectivity provided in the amending provisions do not permit adoption of 12% increase in price in each and every acquisition. If it was so intended the Legislature would have expressly provided so. We would decry that rule and express our disapproval for its universal application or for all acquisitions.

We have had the advantage of reading the judgment in *Sher Singh's* case (supra) since at our asking its copy was placed before us. The High Court had fixed Rs. 10 per square yard for an acquisition of October 17, 1969 on the finding that during the year 1968-69 the value of the land in the vicinity of the land acquired was between Rs. 5.90 to 8.33 per square yard and so it was appropriate to fix the market value of the acquired land at the rate of Rs. 10 per square yard. There the Land Acquisition Collector had himself awarded the rate at Rs. 9 per square yard and the High Court

- A enhanced it just by a rupee. No classification was resorted to. The present acquired land is in the vicinity of that land. *Sher Singh's* case helps the appellants in a limited way to suggest uniformity of price.

- As hinted earlier, the Land Acquisition Collection even though classifying the acquired land in two categories had not made any marked disparity between the rates. The difference barely was of Rs. 560 per acre - a few paise per square yard. The learned District Judge, in our view, rightly wiped out the classification in giving a flat rate of Rs. 7 per square yard. The learned Single Judge in appeal resurrected the classification and put it at Rs. 15 per square yard on the land abutting the Delhi-Rohtak Road upto a depth of 200 ft. on either side of the road and remaining land at Rs. 10 per square yard. The State of Haryana seemingly submitted to the rate as given by the learned Single Judge for the land abutting Delhi-Rohtak Road, for it did not carry the matter further in appeal. Thus as a sequator we are of the view that when classification of two sets of land right from the beginning was marginal and not appreciable, there was no occasion for the High Court to have restored the classification on a large disparity and thus a uniform rate of Rs. 15 per square yard would now inevitably have to be given as the correct compensation awardable to the claimant-land owners and not Rs. 18.60 on the basis of *Maya Devi's* case (supra). The enhancement due to the claimants-land owners is on the basis of uniformity of rate as for part of the land acquired Rs. 15 has been awarded and since there was no basis for classification, there was no premise for different rates of compensation. For this reason alone, we allow these appeals, modify the orders of the High Court and award to the appellants a flat rate of Rs. 15 per square yard for their lands acquired. They shall, in addition to the enhancement of compensation, be entitled to 15% solatium on the enhanced amount and interest at the rate of 6% on the unpaid amount from the date of award till actual payment.

The appeals are thus allowed to the extent and manner above-mentioned with costs.

A.G.

Appeals partly allowed.