

A MAHANT SHREO NATH CHELA BABA PURAN NATH  
v.  
STATE OF HARYANA THROUGH COLLECTOR

MARCH 1, 1995

B [K. RAMASWAMY AND B.L. HANSARIA, JJ.]

C *Land Acquisition Act, 1894—Compensation—Determination of—Parties agreeing that acquired lands should be treated at par with lands acquired in an earlier case—Consequent determination of compensation relying upon compensation awarded in earlier case—Held valid.*

D 27 acres of appellant's land was acquired for which the Land Acquisition Officer awarded compensation @Rs. 5 per marla. On reference, the District Judge made two blocks and awarded compensation @Rs.120 per marla for 'A' block and for the 'B' block @Rs. 100 per marla. On appeal, a single judge of the High Court awarded compensation @Rs. 140 per marla for all types of land. On further appeal a Division Bench of the High Court, relying upon the judgment in *Mange Ram v. State of Haryana*, R.F.A. No. 798 of 1975 decided in February 1981 by P&H High Court, made two blocks - 'A' block upto the proximity of fifty feet as one block and thereafter block, 'B' and 'C' and fixed valuation for 'A' block @Rs. 8 per sq. yard. As regards 'B' and 'C' block the appellant agreed that the lands in question should be treated at par with 'B' and 'C' block of lands in *Mange Ram's case* and consequently the High Court awarded compensation @Rs. 6.75 per sq. yard as determined in *Mange Ram's case*.

F The appellants filed appeals in this Court seeking compensation @Rs. 8 per sq. yard contending that (i) since the lands were situated on the front to the main Delhi-Rohtak Road much nearer to the front portion to the road than the lands in *Mange Ram's case*, all lands should be treated as 'A' block and compensation should have been awarded @Rs. 8 per sq. yard; (ii) in view of the judgment in *Mange Ram's case* this was a fit case for reconsideration of the evidence.

G Dismissing the appeal, this Court

H HELD: 1. The High Court was right in fixing the market value at Rs. 6.75 per sq. yard. It is a clear case of counsel agreeing not only to the

proximity of the land in *Mange Ram's* case to the lands in these appeals but also in relation to their division 'B' and 'C' block as determined in *Mange Ram's* case. The Division Bench therefore, did not rightly go into the evidence to determine the compensation afresh. Thus, it being within the realm of power and jurisdiction of the High Court and it having fixed the market value at Rs. 6.75 per sq. yard for the land in blocks 'B' and 'C', there is no error of law. Consequently, there is no need to remand the matter for fresh consideration of the evidence as claimed for.

[428-G, 429-B-D]

*Mange Ram v. State of Haryana*, R.F.A. No. 798 of 1975 decided in February 1981 by P&H High Court, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 4495-95A of 1991.

From the Judgment and Order dated 1.5.84 of the Punjab and Haryana High Court in L.P.A. Nos. 573 and 575 of 1980.

Satish Chandra, Ms. Aparna Rohtagi, K.B. Rohtagi and Baldev Atriya for the Appellants.

I.S. Goyal for Ms. Indu Malhotra for the Respondent.

The following Order of the Court was delivered:

These appeals by special leave arise from the judgment of the Division Bench of the High Court of Punjab and Haryana in Letters Patent Appeal No. 573/80 dated May 1, 1984. The lands in a total extent of 27 acres were acquired by a Notification published under s.4(1) on December 22, 1972 and January 31, 1973 for public purpose. The Land Acquisition Officer by his award dated November 28, 1973 determined the compensation @Rs. 5 per marla. On reference under s.18, the Additional District Judge made two blocks and awarded compensation @Rs. 120 per marla for 'A' block and for the 'B' block @Rs. 100 per marla. On appeal, the single Judge of the High Court awarded compensation @Rs. 140 per marla by the judgment dated May 22, 1980 for all types of land. On appeal, the bench of the High Court following the ratio in *Mange Ram v. State of Haryana*, in R.F.A. No. 798/75 dated February 1981 made two blocks. 'A' block upto the proximity of 50 ft. as one block and block 'B' and 'C' thereafter and fixed valuation for 'A' block @Rs. 8 per sq. yd. and for the

A 'B' block and 'C' block @Rs. 6.75 per sq. yd.. Following that ratio, the appeals treated the lands as 'B' and 'C' block and awarded compensation @Rs. 6.75 per sq. yd. with usual 15% solatium & interest at the rate of six per cent from the date of taking possession till the payment. Seeking further enhancement at least @Rs. 8 as awarded in *Mange Ram's case*, these appeals came to be filed.

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Shri Satish Chandra, learned senior counsel for the appellants, contended that the High Court, without discussing the evidence, has reached the conclusion that the lands in question are on par with 'B' and 'C' block as determined in *Mange Ram's case* and awarded compensation @Rs. 6.75 per sq. yd.. The lands in question, in fact, are situated at Rohtak-Delhi road abutting the main Rohtak-Delhi road much more nearer to the front portion to the road than in *Mange Ram's case*. Therefore, all the lands are to be treated as 'A' block and compensation should have been paid @Rs. 8 per sq. yd., though the appellants have been claiming @Rs. 10 per sq. yd. Even otherwise this is a fit case for remand for reconsideration of the evidence in the light of the ratio in *Mange Ram's case*. Shri I.S. Goyal, learned counsel for the respondent-State, contended that the appellants had agreed before the Division Bench that the lands in question are to be treated at part with 'B' and 'C' block of land in *Mange Ram's case* and having agreed for the same it is not open to the appellants to raise afresh contention in this court to contend that the lands were situated on the front to Rohtak-Delhi Road and that, therefore, they are entitled to higher compensation.

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Having given our anxious consideration to their respective contentions, we are of the view that the High Court had done right in fixing the market value at Rs. 6.75 per sq. yd. The High Court has noted thus. "The learned counsel for the parties are agreed that the acquisition to which judgment in *Mange Ram's case* relates not only bears proximity to the present acquisition in point of time but also in location as the two parcels of land in that case and in the instant cases are located in the close vicinity of each other. According to the learned counsel only a canal known as Chhotu Ram Canal intervenes the two acquired areas. The existence of this canal, in our view, cannot possibly be a ground to differentiate the market value of the two parcels of land, i.e. the presently acquired land and the land falling in 'B' and 'C' blocks which was ordered to be treated as one block in *Mange Ram's case*. For that land the appellants were allowed

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compensation @rs. 6.75 per sq. yard".

A

In that view of the matter, it is a clear case of counsel agreeing not only to the proximity of the land in *Mange Ram's* case and the lands in these appeals but also in relation to their location of the two respective parcels of the land i.e. 'B' and 'C' block as determined in *Mange Ram's* case. The Division Bench rightly did not go in to the evidence by this conclusion to determine the compensation afresh. Instead, it relied upon the determination of the compensation in *Mange Ram's* case. It is a point to note that the same learned judges have dealt with both the cases. Obviously, the learned Judges had the knowledge of the proximity as well as situation of the lands when the appeals had been considered. Though a map has been placed before us, we are unable to locate the lands in *Mange Ram's* case, and whether the lands in 'A' block are in the close proximity to the acquired land.

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Under those circumstances, it being within the realm of power and jurisdiction of the High Court and it having fixed the market value at Rs. 6.75 per sq. yd. for the lands in these appeals, there is no error of law. We do not think if we should to remand the matter for fresh consideration of the evidence as claimed for. The appeals are accordingly dismissed. No costs.

D

T.N.A.

Appeals dismissed.

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