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RAJ KUMAR AND ANR.

v.

STATE OF PUNJAB AND ANR.

JANUARY 11, 1995

B

[R. RAMASWAMY AND SUJATA V. MANOHAR, JJ.]

C

Land Acquisition Act. 1894 : Award of Compensation—Belting—Differential treatment from rest of the lands—Fixing of market value on that basis—Held valid—For other lands, market value determined on the basis or evidence on record—Held, no interference called for.

D

In respect of certain lands acquired the Land Acquisition Officer determined the Market value @ Rs. 24,000 per acre upto a belting of 22 Karmas and for the rest of the land, he determined the market value @ Rs. 20,000 by acre. On reference, the Additional District Judge enhanced the market value @ Rs. 1,60,000 per acre upto 22 karmas, @ Rs. 1,000 per marla and for the rest of the land @ Rs. 50,000 per acre.

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On appeal, the High Court confirmed the determination of compensation up to 22 karmas @ Rs. 1,60,000, and enhanced the market value of the remaining land to Rs. 65,000 per acre, with statutory benefits. State did not file appeals. Two of the claimants preferred the present appeals, claiming higher compensation.

Dismissing the appeals, this Court

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HELD : 1. The Land Acquisition Officer, the District Judge as well as the High Court have consistently taken 22 karmas to be the proper area of dimension for belting which should be separately treated from rest of the land. Belting is a settled rule of law to award differential compensation. The land abutting road upto a depth of 22 karmas was treated as unit and compensation was determined separately to the rest of the land.

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The entire extent of 56 acres of the acquired land cannot be considered to have the same value. For the rest of the land compensation was determined at Rs. 65,000 per acre. The courts below, therefore, rightly determined 22 karmas to be the belting area for differential treatment from the rest of the lands. It is settled law that belting is one of the principles on the basis

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of which market value would be determined. It being the principle the

belting has been rightly determined by the High Court, the Civil Court as well as the Land Acquisition Officer. [186-D-F] A

2. The purpose of acquisition i.e., to establish market an on that account the lands are possessing value, is irrelevant by operation of s.24 of the Act. It is true that the High Court in another case has determined the market value @ Rs. 14,000 per Marla, but there is no material to show as to what has happened to the judgment. Further the basis on which the High Court, in the appeals and other cases, has determined the market value is on appreciating the evidence placed on record. As the State did not file the appeal, this Court is of the view that the High Court has rightly determined the market value for the rest of the land at Rs. 65,000 per acre. [186-G-H, 187-A] B C

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 783-84 of 1995.

From the Judgment and Order dated 12.11.88 of the Punjab & Haryana High Court in R.F.A. Nos. 218-19 of 1985. D

S. C. Maheshwari and Ms. Sandhya Goswamy for the Appellants.

Ranbir Yadav for G.K. Bansal, for the Respondents.

The following Order of the Court was delivered : E

Leave granted.

A notification under s.4(1) of the Land Acquisition Act was published in the State Gazette on January 24, 1980 acquiring a total extent of 56 acres, 5 kanals and 11 marlas of land for establishment of a Grain Market. The Land Acquisition Officer by his award dated February 21, 1982 determined the market value at Rs. 24,000 per acre upto a belting of 22 karmas and for rest of the land he determined the market value @ Rs. 20,000 per acre. On reference, the Addl. District Judge enhanced the market value by his award and decree dated June 15, 1984 at Rs. 1,60,000 per acre upto 22 karmas at the rate of Rs. 1,000 per marlas and for rest of the land he determined compensation at the rate of Rs. 50,000 per acre. However, on further appeal while the High Court confirmed determination of the compensation upto 22 karmas at the rate of Rs. 1,60,000 per acre, enhanced the market value for the remaining land to Rs. 65,000 per acre with the statutory benefits by its judgment and decree dated October 15, H F G

- A 1985. The State did not file appeals. However, still not being satisfied, two of the claimants filed these appeals by special leave.

The first question that arises, as strenuously contended by the learned counsel for the appellant, is whether belting of 22 karmas is illegal or arbitrary. The land abutted the main road Jullundhar to Pathankot, would no doubt command higher potentiality for the purpose of shopping. But to what extent the belting should have been given would be a question of fact. It is also contended that the other lands also equally possessed of the same potential value. The acquisition of land for Mandi market itself shows that the land has potential value. The High Court, therefore, should have awarded higher compensation. Thirdly, it was contended that in a subsequent judgment in *Gurmeet Singh & Ors. v. Land Acquisition Collector & Ors*, Regular First Appeal No. 1848/85 dated August 21, 1989, another Division Bench has granted @ Rs. 14,000 per Marla and that therefore the appellant should also be paid at the same rate. We find no force in these contentions. It is seen that the Land Acquisition Officer, the District Judge as well as the High Court have consistently taken 22 karmas to be the proper area of dimension for belting which should be separately treated from rest of the land. Belting is a settled rule of law to award differential compensation. The land abutting road upto a depth of 22 karmas was treated as a unit and compensation was determined separately to the rest of the land. The entire extent of 56 acres of the acquired land cannot be considered to have the same value. For the rest of the land compensation was determined at Rs. 65,000 per acres. The courts, below, therefore, rightly determined 22 karmas to be the belting area for differential treatment from the rest of the lands. It is settled law that the belting is one of the principle on the basis of which market value would be determined. It being the principle, the belting has been rightly determined by the High Court, the Civil Court as well as the Land Acquisition Officer. We find no illegality in determining the belting at 22 karmas and thus no further interference is required in the matter. The purpose of acquisition i.e., to establish market and on its account the lands are possessing potential value, is irrelevant by operation of s.24 of the Act. It is true that the High Court in another case by another bench has determined the market value @ Rs. 14,000 per Marla in the judgment referred to above, but we do not find any material as to what has happened to the judgment. Further the basis on which the High Court, in the appeals and other cases, has determined the market value is on appreciating the evidence placed on

record. As the State did not file the appeal, we are of the view that the High Court has rightly determined the market value for the rest of the land at Rs. 65,000 per acre. Accordingly we do not think that there is any justification warranting interference in the matter. A

The appeals are accordingly dismissed but without costs.

G.N.

Appeals dismissed. B