

NIKKI

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v.

UNION OF INDIA AND ANR.

JANUARY 17, 1995

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

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Land Acquisition Act, 1894—Sections 4(1) & 23 (1)—Compensation claim—Land acquired in 1978 for brick klin—Lands situated not in developed area—Fixation of market value at Rs. 50,000 per acre—Not arbitrary or illegal—Sale instances of small extent-cannot be relied on to determine compensation of large extent of land.

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A notification u/s 4(1) of the Land Acquisition Act, 1894, was published on June 2, 1978 acquiring 21.64 acres of land in a village near Chandigarh for established of a Brick Klin for Chandigarh Housing Board. The Land Acquisition Collector classified the the land and awarded the compensation between Rs. 21,000 to Rs. 48,000 per acre. On reference, the civil court uniformly enhanced the compensation to Rs. 27,000 per acre. On appeal, the High Court enhanced the compensation to Rs. 50,000 per acre. This appeal had been filed by the claimant for further enhancement of the compensation to Rs.1 lac per acre.

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The appellant contended that the High Court Court ought to have relied on the awards made by the Court in 1980 wherein Rs. 3,75,000 per acre was awarded and Rs. 62,000 per acre was awarded in 1982, wherein the acquisition was near Chandigarh by the side of the town which was equi-distance of the land under acquisition on the other side of the road.

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Dismissing the appeal, this Court

HELD : In the instant case, the lands were situated on the side of the road wherein lands were not developed. The very fact, that the acquisition in this case was for brick klin indicated that it was not such a developed area. As early as in 1974 when the court itself determined the compensation of Rs. 33,000 per acre, the fixation of the market value at Rs. 50,000 per acre could not be said to be arbitrary or illegal. Two sale instances of 1971 & 1974 were of small extents and so they did not provide reasonable and safe basis nor could be relied on to determine compensa-

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A tion of large extent of land. [343-D-F]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 998 of 1990.

B From the Judgment and Order dated 17.1.83 of the Punjab & Haryana High Court in R.F.A. No. 821 of 1980.

L.R. Singh for the Appellant.

Manoj Swaroop for the Respondent.

C The following Order of the Court was delivered :

A notification under s.4(1) was published on June 2, 1978 acquiring 21.64 acres of land in Mauli Jagaram village, near Chandigarh for establishment of a Brick Klin for Chandigarh housing Board. The Land Acquisition Collector in his award under s.11 of the Act dated July 12, 1978 classified the land and awarded the compensation between Rs. 21,000 to Rs. 48,000 per acre. On reference, the Addl. District Judge in his award and decree dated January 28, 1980 had uniformly enhanced the compensation to Rs. 27,000 per acre, without agreeing with the classification of the land made by the Collector. On further appeal under s.54, the High Court by its judgment and decree dated 17.1.83 in RFA no. 821 enhanced the compensation to Rs. 50,000 per acre. Still not being satisfied, the appellant has come to this Court by special leave.

The learned counsel Sri L.R. Singh for the appellant has contended that as early as in 1971 and 1974 the market value of the land was ranging between Rs. 37,500 to Rs. 62,000 per acre. The High Court ought to have relied on the awards made by the Court in RFA No. 2608 of 1980 wherein Rs.3,75,000 per acre was awarded for the acquisition to establish Mani Mazra Motor Market and Rs. 62,000 per acre was awarded in LPA No. 1207 dated September 22, 1982 wherein the acquisition was near Chandigarh by the side of the town which is equi-distance of the land under acquisition on the other side of the road. Therefore, the claimants are entitled to the compensation at Rs. 1 lac per acre. We find no force in the contention. The learned Judge of the High Court has pointed out in his judgment thus :

H "It cannot be disputed that in the area of Chandigarh the prices

have been rising and by the time the acquisition was made in June, 1978, the rise would have been such that the value would have been 50,000 per acre. It is true that in December, 1974 for village Buterla the compensation was allowed at the rate of Rs. 33,000 per acre, but for the acquisitions made in 1977-78 the Compensation was allowed at the rate of Rs. 62,000 in *Jaswant Singh's* case (supra). The villages in which acquisitions were made in *Jaswant Singh's* case (supra) were more close to the Town of Chandigarh and on the same side of Sukhna Choe as is the Town of Chandigarh, and therefore had higher value as compared to the land on the other side of the Sukhna Choe where the acquisition has been made in this case. Therefore, seeing the case from any angle, I am of the considered opinion that it would be reasonable to award the compensation at the rate of Rs. 50,000 per acre in these appeals and I order accordingly." A
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The learned Judge, having had the knowledge of topography of the Chandigarh and the neighbourhood had considered that the lands in other area are though situated on the opposite side, are situated in developed area, while the lands under acquisition were not similarly situated on the other side of the road wherein lands were not developed. The very fact, that the acquisition in this case was for brick klin, clearly indicates that it was not such a developed area as contended. As early as in 1974 when the court itself determined the compensation of Rs. 33,000 per acre, the fixation of the market value at Rs. 50,000 per acre cannot be said to be arbitrary or illegal. Two sale instances of 1971 and 1974 are of small extents and so they do not provided reasonable and safe basis nor can be relied on, as rightly done by the High Court, to determine compensation of large extent of land. The High Court, therefore, was right in determining compensation at Rs. 50,000 per acre. The appeal is accordingly dismissed. No costs. D
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Appeal dismissed.