

A

KHANNA IMPROVEMENT TRUST

v.

LAND ACQUISITION TRIBUNAL AND ORS.

JANUARY 18, 1995

B

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

C

*Constitution of India—Art 226—Punjab Town improvement Act, 1922—Sections 36 and 41—Acquisition of land—Award of Compensation—Belting of land made by Tribunal—Writ Petition—High Court increasing belting—Compensation enhanced—Whether High Court was justified in interfering with belting made by Arbitrator in exercise or writ jurisdiction—Held, No.*

D

The Notification u/s 36 of the Punjab Town Improvement Act, 1922 was published for acquisition of certain land. The Land Acquisition Collector awarded the market value @ Rs. 1,88,731 per acre. On reference, the Tribunal enhanced the compensation to Rs. 307 per sq. upto a depth of 43 ft. and at Rs. 205 per sq. yd. beyond 43 ft. The claimants filed the Writ Petition challenging the award of the Tribunal. The High Court while confirming the award of the Arbitrator changed the belting upto a depth of 50 ft. awarded to that land together with statutory benefits as applicable under the Land Acquisition Amendment Act 68 of 1984 which was confirmed in LPA. Hence this appeal.

E

F

The appellants alleged that the High Court committed grievous error of law in interfering with the belting made by the Arbitrator and wrongly increased it to 50 ft. deptt. It was next contended that the High Court should not have granted additional interest and solatium.

Allowing the appeal this Court

G

HELD : 1.1. Under the Punjab Town Improvement Act, 1922, no right of appeal is provided. Therefore, in exercise of the power under Article 226 of the Constitution, the High Court has to confine itself to correcting any error of jurisdiction committed by the authorities namely, the arbitrator appointed under the Act and it cannot assume *suo motu* jurisdiction of the appellate court and attempt to correct every mistake assumed to have been committed by the Tribunal. In the instant case, the High Court had not rested its conclusion on any factual foundation for increasing the belting

H

upto a depth of 50 ft. for which the Tribunal had evidence before it. Therefore, the High Court was not justified in increasing the belting from 43 ft. to 50 ft. to enhance the compensation @ Rs. 307 per sq. yard.

1.2. The Award of the additional amount at 12% per annum on the enhanced compensation exercising the power u/s 23 (1-A) of the Land Acquisition Amendment Act 68 of 1984 was illegal. [406-G-H]

*K.S. Paripooman v. State of Kerala*, [1994] 5 SCC 593, relied on.

1.3. The Land Acquisition Amendment Act 68 of 1985 is made applicable to the acquisition made under the Punjab Town Improvement Trust Act, 1922. Since the award of the Arbitrator was made on March 28, 1985 namely, after the Amendment had come into force, the claimants were entitled to the payment of solatium @ 30% and also interest for one year @ 9% from the date of award till date of taking possession, on the enhanced compensation. [407-B-C]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3867 of 1990 Etc. Etc.

From the Judgment and Order dated 1.6.89 of the Punjab & Haryana High Court in L.P.A. No. 663 of 1989.

R.K. Talwar and Goodwill Indeevar for the Appellant.

Mrs. Purnima Bhatt Kak, Anant Palli and E.C. Agarwala for the respondents.

The following Order of the Court was delivered :

The Notification under section 36 of the Punjab Town Improvement Act, 1922 was published in the Gazette on September 14, 1973 and a Notification under s.41 sanction of the Scheme was published on December 3, 1975 for acquisition of the land in question of an extent of 29 Kanals 1-3/4 Marlas of the land. The Land Acquisition Collector in his award dated February 24, 1977 awarded the market value @ Rs. 1,88,731 per acre. On reference, the Tribunal in its award dated March 28, 1985 enhanced the compensation to Rs. 307 per sq. yd. upto a depth of 43 ft. and beyond 43 ft. at Rs. 205 per sq. yd. Feeling aggrieved, the claimants filed the writ petition in the High Court. The learned Single Judge in C.W.P. No. 4309

A of 1985 & batch while confirming the award of the Arbitrator changed the belting upto a depth of 50 ft. awarded to that land upto that extent together with statutory benefits as applicable under the Land Acquisition Amendment Act 68 of 1984 which was confirmed in L.P.A. No. 663 of 1989 and batch dated June 1, 1989. Thus these appeals by Special Leave.

B We find force in the contention of the learned counsel appearing for the Improvement Trust that the learned Single Judge of the High Court committed grievous error of law in interfering with the belting made by the arbitrator and wrongly increased it to 50 ft. depth. It in seen that the Arbitrator on the basis of the evidence adduced before the Court in two sale deeds upto a depth of 43 ft. fixed at Rs. 307. Therefore, the Arbitrator determined the compensation @ Rs. 307 per sq. yd. The High Court found that the respondents did not raise a point in the writ petition of the correctness of the belting by the Tribunal. But held that it was the duty of the High Court under Article 226 of the Constitution of India to have it corrected, as, according to learned judges, it is a palpable error committed by the Tribunal. We do not appreciate the view taken by the High Court. The High Court has not exercised the appellate jurisdiction under section 54 of the Land Acquisition Act. Admittedly, under the Punjab Town Improvement Act, 1922 no right of appeal is provided. Therefore, in exercise of the power under Article 226 the High Court has to confine itself to correcting any error of jurisdiction committed by the authorities namely, the Arbitrator appointed under the Act and it cannot assume suo motu jurisdiction of the appellate Court and attempt to correct every mistake assumed to have been committed by the Tribunal. The High Court had not rested its conclusion on any factual foundation for increasing the belting under a depth of 50 ft. while the Tribunal had evidence before it. Considered from this perspective, we are of the view that the High Court was not justified in increasing the belting from 43 ft. to 50 dt. to enhance the compensation @ Rs. 307 per sq. yard.

G The High Court also has awarded additional amount at 12% per annum on the enhanced compensation exercising the power under section 23(1-A) of the Land Acquisition Amendment Act 68 of 1984. This controversy is now covered by the Judgment of the Constitution Bench of this Court in *K.S. Paripooman v. State of Kerala*, reported in [1994] 5 SCC 593. Therefore, the award of the additional amount at 12% per annum is clearly H illegal. It is accordingly set aside.

It is next contended that the High Court would not have granted additional interest and solatium. We find no force in the contention. This Court interpreting the provisions of Punjab Town Improvement Trust Act, 1922 has held that the Land Acquisition Act was made applicable by reference and not by adoption and therefore, the Amendment Act 68/84 stand applicable to the acquisition made under the Punjab Town Improvement Trust Act, 1922. In that view, we hold that since the award of the Arbitrator was on March 28, 1985 namely, after the Amendment Act has come into force, the claimants are entitled to the payment of solatium @ 30% and also interest for one year @ 9% from 24.2.77 to 28.8.78 (date of award to date of taking possession) on the enhanced compensation. Thereafter they are not entitled to the interest at 15% The appeals are accordingly allowed to the above extent. No costs.

A.G.

Appeals allowed.