

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2187 OF 2013
(@ SPECIAL LEAVE PETITION(CIVIL)NO. 17615 OF 2008)

SUBHASH CHANDER & ORS. APPELLANTS

VERSUS

STATE OF HARYANA & ANR. RESPONDENTS

WITH

CIVIL APPEAL NO.2188 OF 2013 @S.L.P.(C)NO.17622 OF 2008
CIVIL APPEAL NO.2189 OF 2013 @S.L.P.(C)NO.17621 OF 2008
CIVIL APPEAL NO.2190 OF 2013 @S.L.P.(C)NO.17625 OF 2008
CIVIL APPEAL NO.2191 OF 2013 @S.L.P.(C)NO.17623 OF 2008
CIVIL APPEAL NO.2192 OF 2013 @S.L.P.(C)NO.17733 OF 2008
CIVIL APPEAL NO.2193 OF 2013 @S.L.P.(C)NO.21265 OF 2009

AND WITH

CIVIL APPEAL NO.2194 OF 2013 @S.L.P.(C)NO.22374 OF 2009

O R D E R

1. Delay in filing applications for substitution is condoned.
2. Applications for substitution are allowed.
3. Permission to file Special Leave Petitions is granted.
4. Delay in filing the S.L.Ps is condoned.
5. Leave is granted in all the Special Leave Petitions.
6. These Civil Appeals filed by the land-owners are disposed of by this common judgment and order, since the issues involved are one and the same.
7. The facts in these appeals are as under: The respondent-State had acquired lands in and around the Municipal limits of Karnal, Haryana, for the purpose of development of an urban estate. The first phase of such acquisition of lands under Section 4 of the Land Acquisition Act, 1894 (for short "the Act") had taken place some time in the year 1973 and 1977. The lands so acquired were later renamed as Sectors 13 and 14. The Land Acquisition Collector by award dated 23.11.1973 had awarded compensation of Rs.270/- per biswa (Rs.5.40 per square yard, (for short "per sq.

yard") for whole of the land, besides Ghair Mumkin rasta) and Rs.135/- per biswa (Rs.2.70 per sq. yard for Ghair Mumkin rasta). The compensation so awarded was further enhanced by the Reference Court. On further appeal by the land-owners therein, the High Court in the case of Jatinder Singh vs. The State of Haryana and ors. (R.F.A. No. 1655 of 1979 dated 17.07.1980) had enhanced the compensation at the rate of Rs.22/- per sq. yard. The lands in dispute which are re-christened as Sector 6, 3, 9 and 7, was acquired under Section 4 of the Act by issuing successive notifications dated 04.06.1980, 13.03.1981, 22.06.1982 and 05.07.1982, respectively. On completion of the acquisition proceedings under the Act, the Land Acquisition Collector determined the compensation at Rs.28,512/- per acre for Chahi Nehri Land, Rs.22,080/- per acre for Barani Land, Rs.14,200/- per acre for Banjar Qadim Land and Rs.13,440/- per acre for Ghair Mumkin Land acquired under notification dated 04.06.1980; at Rs.80,000/- per acre for Chahi/Nehri Land and Rs.50,000/- per acre for Ghair Mumkin Land acquired under notification dated 13.03.1981; and at Rs.86,000/- per acre in respect of land acquired under both the notifications dated 22.06.1982 and 05.07.1982.

8. Aggrieved by the determination of the compensation by the Land Acquisition Collector, the land-owners had sought reference of the matter to the Civil Court under Section 18 of the Act for determining the fair and just compensation for the lands acquired. Upon such reference, the Reference Court had enhanced the rate of compensation in respect of lands in Sectors 6, 3, 9 and 7 to Rs.20/-, Rs.33/-, Rs.35/- and Rs.35/- per sq. yard, respectively. Being dissatisfied with the compensation so awarded, several land-owners had filed appeals before the High Court seeking enhanced compensation. The respondent-State had also appealed against the aforesaid award seeking reduction of the compensation so determined.
9. The learned Single Judge of the High Court in the aforesaid Appeal No. 882 of 1983 and connected matters has determined the rate of compensation payable to the lands acquired under different notifications as under:

"In absence of sufficient material of comparable rates, the market price can be determined by periodical increase formula approved by the Apex Court in the case of Sahaswan, District Badaun (supra). If the formula approved by the Apex Court in Shaswan, District Baduan (supra) is to be applied with 1973 year as the base, the market value of the land in the year 1980 comes to Rs.58.45/-, in the year 1981 comes to Rs.66.21/- and in the year 1982 comes to Rs.76.21/-. The land being big chunk, 1/3rd of the development purposes, for roads, parks and public utilities. Therefore, the rate per square yard comes to Rs.39.17/- as on the date of notification dated 4.6.1980 and Rs.44.37/- per square as on the date of notification dated 13.3.1981 and at Rs.51.07/- per square yard as on the dates of notifications dated 22.6.1982 and 5.7.1982. Accordingly, the market price of the land under different acquisition notifications is assessed at Rs.39/- per square yard in respect to land acquired for Sector 6 (represented by notification dated 4.6.1980) and Rs.44/- for Sector 3 (represented by the notification dated 22.6.1982 and 5.7.1982). These appeals are accordingly allowed with costs and respondents are directed to calculate the compensation for the acquired land at the above rates. The appellants are also entitled to solatium and interest as determined by the Reference Court on the amount determined herein."

10. The aforesaid conclusion is reached by the learned Single Judge keeping in view the judgment and order passed in RFA No. 1655 of 1979 dated 17.07.1980 and accordingly has enhanced compensation payable at the rate of 15% per annum from the date of last acquisition in the same area in the light of observations of this Court in *Krishi Utpadan Mandi Samiti v. Bipin Kumar*, (2004) 2 SCC 283. However, 1/3rd of the price is deducted as development cost and, accordingly, the market price of lands was assessed at Rs.39/- per sq. yard for Sector 6; at Rs.44/- per sq. yard for Sector 3; and at Rs.51/- per sq. yard for both Sectors 7 and 9. The land-owners were also awarded solatium and interest.
11. Being aggrieved by the judgment and order so passed by the learned Single Judge, the land-owners are before us in these appeals.
12. We have heard Shri V.K. Jhanji and Shri P.N. Misra, learned senior counsel appearing for the appellants and Shri Tarjit Singh, learned counsel for the State.
13. Shri Jhanji and Shri Misra would contend that the learned Single Judge while determining the just and fair compensation payable to the land owners ought not to have deducted 1/3rd price towards the development costs, after taking into consideration the base price of the lands acquired at Rs.22/- per sq. yard in consonance with the price of lands acquired earlier which are renamed as Sectors 13 and 14. They would submit that such deduction in the name of costs for developing roads, parks and other public utilities is contrary to the base price fixed in the case of *Jatinder Singh's* case (*supra*). In aid of their submission, the learned counsel have relied upon several judgments of this Court, reference to which, in our opinion, may not be necessary for the purpose of disposal of these appeals.
14. Per contra, learned counsel appearing for the State would justify the impugned judgment and order passed by the High Court.
15. We have carefully perused the impugned judgment and order including the awards of the Courts below. We have also appreciated the arguments advanced by the parties to the lis.
16. We notice that the learned Single Judge, while enhancing the compensation has followed the quantification of compensation of the adjacent lands at the rate of Rs.22/- per sq. yard previously determined by the High Court for lands acquired by the respondent-State in the year 1973 and 1977. The said rate pertains to the lands later named as Sectors 13 and 14, which are situated across the lands in lis herein. The learned Single Judge, after keeping the base price at Rs.22/- per sq. yard has enhanced the compensation at the rate of 15% per annum for the lands acquired vide notifications dated 04.06.1980, 13.03.1981, 22.06.1982 and 05.07.1982 later named as Sectors 6, 3, 9 and 7, respectively. While doing so, he has deducted 1/3rd of the said price towards

costs borne by the respondent-State in development of such lands as commercial and residential areas.

17. In our view, since the learned Single Judge has fixed the base price in consonance with the compensation awarded for lands previously acquired in the year 1973 and 1977 and calculated the market value with an increase at the rate of 15% per annum from 1973 till the issuance of respective notifications dated 04.06.1980, 13.03.1981, 22.06.1982 and 05.07.1982 following the observation made by this Court in Krishi Utpadan case (supra), in our considered opinion, ought not to have made any deduction towards the development costs.
18. In view of the above, while modifying the order passed by the learned Single Judge, we direct the Reference Court to determine the market value of the lands acquired and re-christened as Sectors 3, 6, 7 and 9 at the rate of Rs.58.45/- for the lands acquired under 1980 notification, at Rs.66.21/- for the lands acquired under 1981 notification and Rs.76.21/- per sq. yard for the lands acquired under 1982 notification without deducting 1/3rd of the price towards development costs.
19. Shri Jhanji, learned counsel for the appellants, would raise another contention insofar as the non-payment of interest on the solatium amount awarded by the High Court. He would submit that the learned Single Judge, while determining the compensation payable to the appellants ought to have directed the Reference Court to award appropriate interest on the solatium amount. To buttress his contention he refers to the Constitution Bench decision of this Court in the case of Sunder v. Union of India, (2001) 7 SCC 211, wherein the Court while considering the scope and extent of solatium under the provisions of the Act has observed in respect of interest accruing on such solatium and stated at paragraph 24 as under:

" The proviso to Section 34 of the Act makes the position further clear. The proviso says that "If such compensation" is not paid within one year from the date of taking possession of the land, interest shall stand escalated to 15% per annum from the date of expiry of the said period of one year "on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry". It is inconceivable that the solatium amount would attract only the escalated rate of interest from the expiry of one year and that there would be no interest on solatium during the preceding period. What the legislature intended was to make the aggregate amount under Section 23 of the Act to reach the hands of the person as and when the award is passed, at any rate as soon as he is deprived of the possession of his land. Any delay in making payment of the said sum should enable the party to have interest on the said sum until he receives the payment. Splitting up the compensation into different components for the purpose of payment of interest under Section 34 was not in the contemplation of the legislature when that section was framed or enacted."
20. The learned Single Judge, in the impugned judgment and order, has not awarded interest on the solatium amount. We are of the opinion that in view of the Constitution Bench decision of this Court, the learned Judge ought to have granted interest on the solatium amount.

21. In view of the above discussion, we allow these appeals, modify the order passed by the learned Single Judge and remit these appeals to the Reference Court to re-determine the compensation payable to the land owners in the light of the judgment and order passed by us in these appeals. We further direct the Reference Court to complete this exercise as early as possible, at any rate, within an outer limit of six months.

Ordered Accordingly.

.....J.
(H.L. DATTU)

.....J.
(DIPAK MISRA)

NEW DELHI;
FEBRUARY 19, 2013.
ITEM NO.5

COURT NO.6

SECTION IVB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).17615/2008

(From the judgement and order dated 05/10/2007 in RFA No.390/1988 of the HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

SUBHASH CHANDER & ORS.

Petitioner(s)

VERSUS

STATE OF HARYANA & ANR..

Respondent(s)

SLP(C) NO. 17622 of 2008

SLP(C) NO. 17625 of 2008

(With appln(s) for c/delay in filing SLP and office report)

WITH SLP(C) NO. 17621 of 2008

SLP(C) NO. 17623 of 2008

(With appln.(s)f permission to file SLP and substitution of deceased petitioner and c/delay in filing substitution appln. and c/delay in filing SLP and office report)

SLP(C) NO. 17733 of 2008

(With office report)

SLP(C) NO. 21265 of 2009

(With office report)

SLP(C) NO. 22374 of 2009

(With office report)

Date: 19/02/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU
HON'BLE MR. JUSTICE DIPAK MISRA

For Petitioner(s) in

SLP(C)Nos.21265 & Mr.V.K.Jhanji, Sr.Adv.
22374/2009 Mr.Mukesh Sharma,Adv.
For Mr. Rameshwar Prasad Goyal, Adv.

For Petitioner(s) in Mr.P.N.Mishra, Sr.Adv.

Rest of the SLPs Mr.Shish Pal Laler, Adv.
Mr.S.K.Gupta, Adv.
Mr. Balbir Singh Gupta,Adv.

For Respondent(s) Mr.Tarjit Singh Chikkara, Adv.

For Mr. Kamal Mohan Gupta,Adv.

UPON hearing counsel the Court made the following
O R D E R

Delay in filing applications for substitution is condoned.

Applications for substitution are allowed.

Permission to file Special Leave Petitions is granted.

Delay in filing the S.L.P.s is condoned.

Leave granted.

Appeals are allowed, in terms of the signed order.

(G.V.Ramana)
Court Master
(signed order is placed on the file)

(Vinod Kulvi)
Court Master