

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RFA No. 42 of 1992 (O&M)

Date of decision : 24.8.2015

Nand Ram

.. Appellant

versus

State of Haryana

.. Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: None for the appellant.

Mr. Vishal Garg, Additional Advocate General, Haryana.

Rajesh Bindal, J.

By filing appeal the landowner is seeking enhancement of compensation on account of acquisition of land.

Briefly, the facts are that land situated in the revenue estate of village Taj Nagar, Hadbast No. 30, Tehsil and District Gurgaon, was sought to be acquired vide notification dated 3.9.1983, published on 13.9.1983, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') for construction of road. Notification under Section 6 of the Act was issued on 22.10.1984. The Land Acquisition Collector (for short, 'the Collector') vide award dated 27.3.1985, assessed the market value of the acquired land @ ₹ 20,000/- per acre for chahi and ₹ 8,000/- per acre for banjar kadeem kinds of land. Aggrieved against the award of the Collector, the land owner filed objections which were referred to the learned court below, who keeping in view the material placed on record by the parties, determined the fair value of the acquired land @ ₹ 28,000/- per acre. It is this award which has been impugned in the present appeal.

No one has appeared for the appellant at the time of hearing.

It has been pleaded by the landowner that the land in question was acquired for construction of road. It is located at a distance of ½ kilometer from the Jamalpur Bus Stand and also just ½ kilometer from the

Farrukh Nagar Pachgaon Road. It was also located near abadi of village Jamalpur. The sale-deed dated 3.3.1981, Ex. P3, produced by the landowner on record has been totally ignored. The land pertaining thereto was located quite close to the acquired land. Even if the area dealt with in the aforesaid sale-deed was small, a reasonable cut can be applied. The prayer is that compensation payable to the landowner deserves to be enhanced further.

Learned counsel for the State submitted that the sale-deeds, Ex. P1 to P3 are not relevant as these were for small plots. The learned court below has wrongly enhanced the compensation without any basis. The compensation as assessed by the Collector was already on higher side, still it was enhanced further by the Reference Court.

Heard learned counsel for the State and perused the relevant referred record.

The land was acquired vide notification under Section 4 of the Act on 3.9.1983 for construction of road.

In so far as sale-deed, Ex. P1, is concerned, it was registered on 19.2.1985, for purchase of 15 marls of land. The learned Court below has rightly not considered the same, as it was registered 1½ years after the issuance of notification. The value of the land must have been increased due to construction of road and development in the area.

As far as the plea of the landowner that sale-deed dated 3.3.1981, Ex. P3, has not been considered by the learned Court below is concerned, the learned court below while dealing with this sale-deed has mentioned that vide this sale-deed, 7½ marlas of land along share in the nalchah was sold, therefore, the market value of the land cannot be assessed properly on its basis.

The learned court below has rightly relied upon sale-deeds, Ex. P2 and Ex. R1, registered on 14.7.1984 and 13.1.1983, respectively. Vide sale-deed, Ex. P2, the land measuring 4 kanals 9 marlas along share in the nalchah and right of irrigation was sold for ₹ 20,000/-, at an average price of ₹ 36,000/- per acre. It was registered 10 months after the issuance of notification under Section 4 of the Act. Vide sale-deed dated 13.1.1983, Ex. R1, 17 kanals 14 marlas of land pertaining to village Tajnagar was sold for ₹ 45,000/- at an average price of ₹ 20,340/- per acre. The learned Court

below while applying cut and granting increase for the gap period, assessed the market value of the land. As far as application of cut is concerned, the sale transaction, Ex. P-2 and Ex. R3, are not for small pieces of land.

For the reasons mentioned above, prima facie, I do not find any reason to interfere with the impugned award. However, as learned counsel for the appellant is not available, the appeal is dismissed for non-prosecution.

24.8.2015
vs

(Rajesh Bindal)
Judge