

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

R. F. A. No. 2894 of 1989 (O&M)

Date of decision : 18.8.2015

Ram Kumar (deceased) through LR

..... Appellant

VS

State of Haryana

.... Respondent

Present: Mr. Raman Sharma, Advocate, for the appellant.

Mr. Arun Beniwal, Deputy Advocate General, Haryana.

Rajesh Bindal J.

The landowner is in appeal before this court against the award of the learned court below passed under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act') seeking enhancement of compensation for the acquired land.

Briefly, the facts are that vide Notification dated 2.11.1983, issued under Section 4 of the Act, the land measuring 31 kanals 10 marlas situated in the area of Village Gonder, Tehsil and District Karnal, was sought to be acquired by the State of Haryana for free allotment of residential plots to landless /homeless harijans, members of backward classes and economically weaker persons in the area. Notification under Section 6 of the Act was issued on 12.2.1985. The award was announced by the Land Acquisition Collector (for short, "the Collector") on 28.2.1985, granting compensation @ ₹ 30,000/- per acre. The learned Additional District Judge vide judgment dated 27.9.1989, upheld the award of the Collector. It is this award, which has been impugned in the present appeal.

Learned counsel for the appellant submitted the issue involved in the present appeal is squarely covered by judgment of this Court in RFA No. 2730 of 1989 Harbans Lal and another vs State of Haryana and another whereby the landowners were held entitled to compensation @ ₹ 80/- per square yard.

Learned counsel for the State did not dispute the aforesaid factual matrix, however, he submitted that the appellant in the case in hand claimed ₹ 1,00,000/- per acre as compensation, so he cannot be granted more than that.

Heard learned counsel for the parties and perused the paper book.

No doubt, the applicant-appellant in the present case had claimed compensation of ₹ 1,00,000/- per acre, however, it is always the duty of the Courts to assess just and fair compensation. Claim cannot be restricted to the amount claimed by the landowner, who may for many reasons, such as financial incapacity, could not avail the services of a competent lawyer or to make claim for adequate compensation. It was the time when even ad-valorem court fee was payable for seeking enhancement of compensation. In the case in hand, it may be for that reason also that the landowner had to restrict the claim to a lesser amount. As he may not have the requisite money to pay the ad valorem court fee. It was for this reason that by way of amendment carried out in the year 1990, the State of Haryana prescribed for fixed court fee of ₹ 100/- in appeals claiming higher compensation in the land acquisition cases. Even in the appeals pertaining to the period prior to the aforesaid amendment where this Court had been granting higher compensation than what had been claimed in the appeal and on which the Court fee had been paid, the time was granted to the landowners to affix additional court fee on the higher amount of compensation granted. For the purpose reference can be made to Division Bench judgment of this Court in Harchal Singh vs State of Punjab 1991 PLJ 20.

As in the case in hand, it is not in dispute that the compensation for the land acquired vide same notification was assessed by this Court in Harbans Lal's case (supra) @ ₹ 3,87,200/ per acre, in my opinion, the appellant is also entitled to the same amount of compensation. Accordingly, for the reasons recorded in Harbans Lal's case (supra), the appeal is disposed of in the same terms. As regards the affixation of additional Court fee on the higher amount of compensation than what has been claimed in the appeal and on which the Court fee had been paid, is concerned, in my

opinion, even that is not required to be deposited. The reason is that on the one hand, the appellant will pay the Court fee and on the other hand, his appeal is to be allowed with costs. Meaning thereby it would result in changing of head from which the money has to come and go. That futile exercise is not required to be done.

The appeal is disposed of accordingly.

18.8.2015
vs.

(Rajesh Bindal)
Judge

(Refer to reporter)