

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

**RFA No.2480 of 1997 (O&M)
Date of decision: 16.02.2015**

State of Haryana and others

... Appellants

Vs.

Smt. Mam Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. B.R.Mahajan, Advocate General with
Mr. Abhinash Jain, AAG, Haryana
for the appellants.

None for the respondents.

AMIT RAWAL J.

This order shall dispose of 22 regular first appeals, i.e., RFA Nos.2480 of 1997, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 243, 344, 345, 346, 347, 348, 349 and 1431 of 1998. However, for adjudication of the aforesaid appeals, the facts are being taken from RFA No.2480 of 1997.

The present regular first appeals have been filed by the State of Haryana against the Award dated 20.08.1987 passed by the Reference Court, Bhiwani, whereby the petitions under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act') have been decided in favour of the land owners by enhancing the amount of compensation to ₹ 72,600/- per acre, i.e., ₹15/- per square yard along with statutory benefits.

The notification under Section 4 of the Act, for acquisition of the land measuring 2.69 acre situated in the area of village Kharak, Tehsil and District Bhiwani, for the public purpose, namely, for the construction of a road from village Kharak to village Malpos, was issued on 31.03.1987, followed by notification dated 14.07.1987 under Section 6 of the Act, for the land of the measurement of 3.16 acres instead of 2.69 acres. The Land Acquisition Collector announced the Award on 7.7.1989 and valued the acquired land in the following manner:-

- i) Gair Mumkin - ₹12,000/- per acre
- ii) Barani - ₹15,000/- per acre
- iii) Nehri - ₹22,000/- per acre.

Dissatisfied with the Award of the Collector, the land owners preferred the reference under Section 18 of the Act before the Land Acquisition Collector. The said reference was referred to the Reference Court for determination of the market value of the acquired land.

In support of their case, land owners examined the following witnesses:-

- PW1 Manphool Singh
- PW2 Jagmal
- PW3 Mahender Singh and closed the evidence.

The land owners, in support of their claim, proved and brought on record following documentary evidence:-

i) Ex.P1, Sale deed dated 27.01.1988 in respect of land measuring 1 kanal which is purported to have been sold @ ₹10,000/-, meaning thereby the total cost of land was ₹80,000/- per acre.

ii) Ex.P2, Sale deed dated 20.06.1989 in respect of land measuring 1 kanal 9 marlas which is purported to have been sold @ ₹10,000/-, meaning thereby the total sale consideration of less than ₹ 80,000/- per acre.

iii) Ex.P3 to Ex.P5, copies of mutation.

On the contrary, the appellant-State in support of its case, examined the following witnesses:-

RW-1- Mohan Lal Patawari, PWD (B&R) Ch.Dadri, who proved on record the following documents:-

Ex.R1 Aks-sijra

EX.R2 sale deed dated 27.02.1986

Ex.R-3 certified copy of sale deed dated 22.1.1986

Ex.R-4 certified copy of sale deed dated 9.4.1986

All the three aforementioned sale deeds were in respect of the following area:-

i) Ex.R-2, 4 kanals 17 marlas for a total sale consideration of ₹ 10,000/-.

ii) Ex.R-3, 19 kanals 9 marlas for a total sale consideration of ₹ 40,500/-.

iii) Ex.R-4, 15 kanals 18 marlas for a total sale

consideration of ₹31, 800/-

All the three aforementioned sale deeds pertained to the year 1986. The Reference Court, on the basis of the aforementioned evidence as well as relying upon *Aks-sijra*, ascertained the market value @ ₹15/- per square yard, in other words, ₹72,600/- per acre.

Against the aforementioned Award, the State of Haryana has preferred the instant regular first appeals and prayed for reduction of the amount of compensation as awarded by the Reference Court.

The aforementioned appeals were admitted on 14.01.1998 in the presence of the counsel for the land owners. However, when the appeals were listed for final hearing, no one had put in appearance despite the fact that the land owners were being represented through counsel.

Sh. B.R.Mahajan, learned Senior Counsel/Advocate General Haryana, assisted by Mr. Abhinash Jain, Assistant Advocate General, Haryana contended that the Reference Court has committed illegality and perversity in awarding the exaggerated amount of compensation by relying upon the sale deeds Ex.P1 and Ex.P2, which pertained to the post notification period as the notification under Section 4 of the Act was issued on 31.03.1987 and therefore, they cannot be looked into for the purpose of determining the market value of the land acquired by the State. He further submitted that compensation awarded by the Land Acquisition

Collector was more than the market price as the acquired land did not have potentiality, much less, only being agricultural land and the same cannot be used for the residential and commercial purposes and thus, prayed that amount of compensation should be reduced.

In support of his aforementioned contention, he has relied upon the judgment of Hon'ble the Supreme Court in **Himmat Singh and others vs. State of M.P. and another 2014(1) R.C.R. (Civil) 592**, to contend that the sale deeds, which are executed after the issuance of notification under Section 4 of the Act, cannot be looked into for the purpose of determination of amount of compensation.

There is no representation on behalf of the land owners.

I have heard learned counsel for the appellants and appraised the Award as well as record and am of the view that Award of the Reference Court is not sustainable in the eyes of law as the Reference Court has erroneously taken into consideration the sale deeds Ex.P1 and Ex.P2 which have been issued after the notification under Section 4 of the Act. Both the sale deeds pertained to the year 1988 and 1989, whereas notification under Section 4 of the Act was issued on 31.03.1987. The land owners have not led any evidence other than the aforementioned sale deeds, whereas on the contrary State has brought on record three sale deeds, as referred above, and from the reading of the contents of the sale deeds, average price of the land comes to between ₹15,000/- to ₹ 17,000/- per acre. Purpose of land which has been acquired was for construction of

road.

From the perusal of Ex.R1, it is also evident that the land sold through sale deeds brought on record by the land owners is far away from the road, whereas the land sold through sale deeds brought on record by the State is closer to the road. Since the notification under Section 4 of the Act had been issued in the year 1987, this Court is of the view that the compensation awarded by the Reference Court is on the higher side and is accordingly Award of the Reference Court is modified and amount of compensation assessed is hereby reduced from ₹72,600/- per acre to ₹30,000/- per acre.

It is hereby observed that in case, the land owners have already withdrawn the amount of enhanced compensation as determined by the Reference Court, the appellant-State would be within its right to execute this order in accordance with law. Memo of costs be prepared.

The appeals are, accordingly, allowed.

(AMIT RAWAL)
JUDGE

February 16th, 2015
savita