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

RFA No.1542 of 2000 (O&M)
Date of decision : 14.12.2015

Smt. Pooja Rani and another

... Appellants

vs

State of Haryana and another

.. Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Sandeep Vermani, Advocate, for the landowners.

Mr. Vishal Garg, Additional Advocate General, Haryana.

Mr. M.L. Sarin, Senior Advocate with
Mr. Hemant Sarin, Advocate, for the Market Committee.

Rajesh Bindal, J.

This order will dispose of a bunch of appeals bearing RFA Nos. 1542, 1802 to 1806, 1818 to 1840, 2028, 2077 to 2096 of 2000, as common questions of law and facts are involved therein.

By filing the appeals, the landowners are seeking enhancement of compensation for the acquired land, whereas, the Market Committee is in appeal seeking reduction thereof.

Briefly, the facts of the case are that State of Haryana vide notification dated 30.4.1992, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') sought to acquire land situated in village Taoru, Tehsil Nuh, District Gurgaon for extension of New Grain Market, Taoru. The same was followed by notification dated 29.4.1993, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide award No.2 dated 30.10.1994, assessed the market value of the acquired land @ ₹ 4,00,000/- per acre upto one acre depth from the road and @ ₹ 2,50,000/- per acre for the remaining land. Aggrieved against the award of the Collector, the landowners filed objections, which were referred to the learned court below, who keeping in view the material placed on record by the parties, assessed the market value of the acquired land @ 5,00,000/- per acre irrespective of the nature of land. This award has been impugned by the landowners as well as by the Market Committee before this Court.

Learned counsel for the land owners submitted that the learned court below has estimated the value of the acquired land without appreciating the material placed on record by them in the form of documents (Ex. P5 to Ex. P11). Sale deed (Ex. P10) whereby 16 marlas of land was sold on 31.1.1991 at an average price of ₹ 7,50,000/- per acre, was pertaining to the same village. Vide sale deed (Ex. P11), land measuring 10 marlas was sold at an average price of ₹ ₹ 7,20,000/-. He further referred to the statements of the witnesses showing the potentiality of the acquired land.

In response to the arguments of the land owners, learned counsel for the State and Market Committee submitted that the learned court below has failed to consider the material placed on record by the State in the form of sale deeds (Ex. R1 to Ex. R10), vide which big chunks of land were sold at an average price of ₹ 60,952/- to ₹ 4,48,000/- per acre. The land pertaining thereto is situated in vicinity of the acquired land. However, these sale deeds produced by the State were not considered only for the reason that vendors and the vendees had not been produced. However, keeping in view the judgment of Hon'ble the Supreme Court in State of Haryana v. Ram Singh, (2001) 6 SCC 254, such a view expressed by the learned court below cannot stand in judicial scrutiny. If the sale deeds produced by the State are considered, the value of the land as determined by the learned court below, would require substantial reduction what to talk of increase as is sought to be claimed by the land owners.

Heard learned counsel for the parties and perused the record.

A perusal of paragraph 14 of the impugned award shows that sale deeds (Ex. R1 to Ex. R10) were not considered by the learned Court below relying upon the judgments of Hon'ble the Supreme Court in Kumari Veeraiah v. State of Andhra Pradesh, (1995) 4 SCC 136, whereas the same was held to be not good law subsequently in terms of the judgment of Hon'ble the Supreme Court in Ram Singh's case (supra).

The enunciation of law in Ram Singh's case (supra) has not been disputed by learned counsel appearing for the land owners. In view of the enunciation of law in Ram Singh's case (supra), the sale deeds, as produced by the State and the landowners, were required to be considered for the purpose of determination of fair value of the acquired land. Certified copy of the sale deed can very well be considered as relevant piece of evidence without the parties to the transaction having been examined in court. However, that does not preclude the court from rejecting the transaction itself as being mala fide or sham provided such a stand is taken before the Court. However, the same having not been considered at all and the value having been determined only on the basis of sale deeds produced by the land owners, in my opinion, the same would require further consideration by the learned Reference Court.

Accordingly, the impugned award passed by the learned court below is set aside. The matters are remanded back to the Reference Court for consideration of the matter afresh on the basis of the material already placed on record by the parties. The parties are directed to appear before the learned District Judge, Gurgaon on 27.2.2016. As the acquisition in the present case is pertaining to the year 1992, it would be appreciated, if the matters are disposed of early.

Learned counsel for the Market Committee pointed out that in terms of the interim order dated 5.10.2000 passed in RFA No.1818 of 2000, the Market Committee had deposited 50% of amount of compensation, which has been kept in a fixed deposit. The same may be ordered to be released.

Since the matters are being remanded back to the court below for decision afresh and whatever compensation is finally determined, the State will be liable to pay the same, hence, it is directed that the amount of compensation lying deposited in FDR in terms of the order passed by this Court in RFA No.1818 of 2000, be released to the depositor.

The appeals are disposed of in the above terms.

14.12.2015 **(Rajesh Bindal)**

sharmila **Judge**