IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.F.A. No. 3192 of 2015 (O&M)
Date of decision: November 27, 2015

Ramkala .. Appellant

Vs.

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Argued by: S/Shri Sudhir Mittal, Ram Bilas Gupta, Naresh Chander for P.C. Dhiman, Navneet Singh, Sandeep Kotla, Shilak Ram Hooda, Advocates for the landowners.

Mr. Abhinash Jain, Assistant Advocate General, Haryana.

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Rajesh Bindal J.

This order will dispose of RFA Nos. 3192 to 3207, 3403, 3495, 4283 to 4285, 4345 to 4349, 4400 to 4402, 4542, 4552, 4624, 4675, 4676, 5359, 5378, 5399, 5610, 5611 and 6119 of 2015.

In the appeals filed by the landowners, they are seeking further enhancement of compensation for the acquired land.

Briefly, the facts of the case are that vide notification dated 14.8.2003, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the State of Haryana, sought to acquire 243.36 acres of land, situated in village Jhajjar, HB No. 100, Tehsil & District, Jhajjar for development and utilisation thereof as residential and commercial Sector 9, Jhajjar. The same was followed by notification dated 10.8.2004, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the

Collector'), vide award No. 4 dated 27.7.2006, assessed the market value of the acquired land @ ₹ 12,50,000/- per acre. Dissatisfied with the award of the Collector, the landowners filed objections, which were referred to the learned reference court. The learned reference court determined the market value of the acquired land @ ₹ 14,89,052/- per acre. It is this award which is impugned by the landowners before this court.

Learned counsel for the landowners submitted that considering the location and potentiality of the land, the learned court below has failed to assess fair value thereof. The sale deeds (Ex. P6 to Ex. P8), which was part of the acquired land, have been totally ignored. Vide aforesaid sale deeds, small plots were sold at an average price of ₹ 700/- to ₹ 750/- per square yard. Those were registered more than one year prior to the acquisition, hence, even increase for the time gap is required to be granted. Even if the plots dealt with in the aforesaid sale deeds are small in size and are located on road, a reasonable cut can be applied but these cannot be ignored altogether. The city was expanding in this side. Lot of construction activities had started. Initially, 252.80 acres was notified under Section 4 of the Act, however, finally 243.36 acres of land was acquired. Rest of the land was released on account of construction already existing. He further submitted that the learned court below has failed to grant statutory benefit under Section 23(1-A) of the Act on a wrong premise that assessment of compensation is from the date of award by the Collector merely because the policy of the State had fixed that rate for the purpose of assessment of compensation. In support of his plea, reliance was placed upon Rishi Pal Singh and others v. Meerut Development Authority and another, (2006) 3 SCC 205; Executive Engineer, Karnataka Housing Board v. Land Acquisition Officer, GADAG and others, (2011) 2 SCC 246 and Maj. Gen. Kapil Mehra and others v. Union of India and another, (2015) 2 SCC 262.

On the other hand, learned counsel for the State submitted that the sale deeds sought to be relied upon by learned counsel for the landowners were for small plots measuring 62, 93 and 210 square yards. The sale deeds were got registered by the person whose land was going to be acquired just to create evidence. The price range also suggests the same.

In fact, on fair assessment of compensation by the learned Reference Court, the State even did not challenge the award. Even if the sale transactions pertaining to small plots are to be relied upon, as opined by Hon'ble the Supreme Court in Maj. Gen. Kapil Mehra and others' case (supra), a cut to the extent of 75% on account of smallness of plot and the development expenses has to be applied, hence, even if the sale transactions are treated as genuine, still after application of cut, the compensation would come out to be far less than what has already been granted. In fact, the argument raised by learned counsel for the landowners that there was lot of development activities or construction in the area has no legs to stand. Had there been such a situation, there would have been number of sale transactions showing value of the land. As against the sale deeds produced by the landowners, the State had produced sale deed (Ex. RW1/B), vide which one kanal and one marla of land was sold at an average price of ₹ 94/- per square yard. Similar is the price range in other sale deeds produced by the State. However, learned counsel for the State fairly admitted that location of the land dealt with in the sale deeds produced by the State has not been shown on the site plan. Those have been totally ignored. When the sale transactions pertaining to area larger than that produced by the landowners is available, that should be preferred. The entire acquired land at the time of acquisition was located outside the municipal limits, hence, it is not a case for enhancement of compensation.

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

As far as the acquired land is concerned, it is not in dispute that the same is located outside the municipal limits. It was acquired for development as Sector 9, Jhajjar. Though the landowners had produced number of sale deeds in evidence, however, reliance was sought to be placed only upon three sale deeds (Ex. P6 to Ex. P8). The other sale transactions pertain to either the constructed house/shop and/or were located just in the heart of the city, hence, were rightly ignored even by the learned Reference Court. In all three sale transactions sought to be relied upon by learned counsel for the landowners, the vendor is one and the price range is also close, namely, ₹ 700/- to ₹ 750/- per square yard. The plots are merely measuring 62 to 210 square yards located, even as per recital in the sale deeds, on road.

The learned Reference Court for the purpose of assessment of compensation had placed reliance upon the policies issued by the Government from time to time for grant of minimum rate for the acquired land. The first policy was issued on 28.4.2005 providing for minimum rate @ ₹ 12,50,000/- per acre in the area in question, where the award had been announced by the Collector on or after 5.3.2005. The aforesaid policy was revised. The fresh policy was issued on 6.4.2007 revising the rate from ₹ 12,50,000/- per acre to ₹ 16,00,000/- per acre w.e.f. 22.3.2007. The learned Reference Court considering the time gap in two policies and time gap from the date of award for the land in question, granted proportionate increase to the landowners and assessed the compensation @ ₹ 14,89,052/- per acre. If calculated per square yard, the same would come out to ₹ 307.65.

Though isolated sale deeds (Ex. P6 to Ex. P8) executed by a landowner just before the acquisition of land may not be safe for the purpose of assessment of compensation, however, still considering the location and smallness of plots dealt with therein, in my opinion, even if cut on account of smallness of area dealt with and on account of development expenses is applied, the compensation will not be more than what has already been awarded to the landowners. Reference can be made to the judgment of Hon'ble the Supreme Court in Maj. Gen. Kapil Mehra and others' case (supra).

As far as the claim of landowners for statutory benefit under Section 23(1A) of the Act is concerned, in my opinion, the contention is meritorious. The assessment of compensation in terms of the provisions of the Act is on the date of issuance of notification under Section 4 of the Act. The policy of the State, no doubt, in its wisdom, related the amount of compensation to the date of award. From that, it cannot be taken that compensation assessed for acquisition of land was in violation of the provisions of the Act providing for assessment on the date of issuance of notification under Section 4 of the Act. The State had merely fixed the rates, hence, in my opinion, it would be unjustified to deny the landowners all the statutory benefits including under Section 23(1A) of the Act on the premise that compensation has been awarded to the landowners from the date of award.

For the reasons mentioned above, while upholding the amount of compensation awarded, in my opinion, the landowners are entitled to statutory benefit under Section 23(1A) of the Act. Ordered accordingly. The award of the learned Reference Court is modified to that extent.

The appeals are disposed of accordingly.

(Rajesh Bindal)
Judge

November 27, 2015
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