

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.F.A. No. 3267 of 2015 (O&M)
Date of decision: November 27, 2015

Ram Kanwar

.. Appellant

Vs.

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Argued by: S/Shri Navneet Singh, Ram Bilas Gupta,
Sandeep Kotla and Chanderhas Yadav, Advocates
for the landowners.

Mr. Abhinash Jain, Assistant Advocate General, Haryana.

...

Rajesh Bindal J.

This order will dispose of RFA Nos. 3267 to 3271, 3320 to 3324, 3326 to 3330, 3401, 3459 to 3472, 4488, 4610, 4791, 4792, 5358, 5383, 5643 to 5645, 5833 to 5835 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 30.12.2002, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the State of Haryana, sought to acquire 191.97 acres of land, situated in village Jhajjar, HB No. 100, Tehsil & District, Jhajjar for development and utilisation thereof as residential and commercial Sector 6, Jhajjar. The same was followed by notification dated 8.12.2003, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the

Collector'), vide award No. 5 dated 5.12.2005, 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 @ ₹ 13,78,574/- 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 deed (Ex. P2), which was part of the acquired land, has been totally ignored. Vide aforesaid sale deed, 3 kanals of land was sold at an average price of ₹ 41,20,800/- per acre. The aforesaid sale deed was registered more than one year prior to the acquisition, hence, even increase for the time gap is required to be granted. The city was expanding on this side. Lot of construction activities had started. Initially, 191.97 acres was notified under Section 4 of the Act, however, finally 181.07 acres of land was acquired. Rest of the land was released on account of construction already existing. However, learned counsel for the landowners fairly submitted that location of the sale deed (Ex. P2) has not been pointed out on any site plan on the record. 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 land dealt with in sale deed (Ex. P2) was purchased by M/s Bharat Petroleum Corporation Ltd. for commercial purpose. The land therein is located near Bus Stand. In fact, on fair assessment of compensation by the learned Reference Court, the State even did not challenge the award. 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. 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 6, Jhajjar. Though reliance was sought to be placed by the landowners on sale deed (Ex. P2), but its recital shows it was purchased by M/s Bharat Petroleum Corporation Ltd. for commercial purposes.

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 @ ₹ 13,78,574/- per acre.

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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