

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

RFA No.638 of 2003 and other connected matters
Date of Decision : 11.1.2016

State of Haryana and anotherAppellants

Vs.

Ram Gopal and othersRespondents

...

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

...

Present : Mr.Abhinash Jain, AAG, Haryana
Mr. Arun Singal, Advocate.
Mr. R.D. Yadav, Advocate.

...

1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

This order proposes to decide together 14 regular first appeals bearing Nos.638, 639 to 644 of 2003, 1209, 1210, 1211, 1315, 1316, 1317 and 1318 of 2003, seven each filed by land owners and State of Haryana, as all the appeals are arising out of the same acquisition and raise identical questions of law and fact. However, for the facility of reference, facts are being culled out from RFA No.638 of 2003 (State of Haryana and another Vs. Ram Gopal and others).

Briefly put, facts of the case are that the State of Haryana sought to acquire 2.637 acres land of village Kheri Motla and 0.387 acre out of the revenue estate of village Bagthala, Tehsil and Distt. Rewari, at public

expense for the public purpose i.e. construction of extension of Kheri Distributory. Accordingly, notification under Section 4 of the Land Acquisition Act, 1984 ('Act' for short) was issued on 8.6.1998, which was followed by notification dated 30.7.1998 under Section 6 of the Act. Land Acquisition Collector, vide his award No.11 pertaining to village Bagthala and the award No.12 pertaining to village Kheri Motla, both of even date i.e. 21.5.1999 granted compensation @ Rs.2.50 lacs per acre for chahi land and Rs.3,10,000/- per acre for gair mumkin land.

Dissatisfied, land owners raised objections under Section 18 of the Act and accordingly, seven land references were forwarded to the learned reference court, which was decided together vide common award dated 26.10.2002. The learned reference court allowed the references of the land owners, granting them the compensation at the uniform rate of Rs.6.00 lacs per acre. Feeling aggrieved, seven appeals have been filed by the State of Haryana and seven appeals have been filed the land owners. The State is seeking reduction in the compensation, whereas the land owners are seeking enhancement thereof.

After hearing learned counsel for the parties at considerable length, going through the record of the case and giving thoughtful consideration to the rival contentions raised, this court is of the considered opinion that all the appeals filed by the State of Haryana are covered against the appellant-State vide order dated 13.12.2010 passed by this court in RFA No.2413 of 2002 (State of Haryana and others Vs. Umrao and others) and the same are liable to be dismissed, whereas the appeals filed by the land owners deserve to be partly allowed, for the following more than one reasons.

It is a matter of record and not in dispute that the learned reference court in paras 12 and 14 of the impugned award placed reliance on Ex.P-11, a copy of award dated 22.4.2002 which was land reference of Umrao Singh, pertaining to adjoining village Bolni, Tehsil and Distt. Rewari, whose land was acquired for construction of Bolni extension distributory. Land of Umrao Singh was acquired vide notification dated 9.12.1997 under Section 4 of the Act. It is also a matter of record that Umrao Singh was granted the compensation for his acquired land @ Rs.6.00 lacs per acre.

Against the award Ex.P-11 dated 22.4.2002, State of Haryana filed RFA No.2413 of 2002 (State of Haryana and others Vs. Umrao and others), which came to be dismissed by this court vide order dated 13.12.2010. It is also not in dispute that the order dated 13.12.2010 passed by this court in Umrao Singh's case (supra) has attained finality between the parties. Having said that, this court feels no hesitation to conclude that the appeals filed by the State are misconceived and bereft of any merit, thus, these must fail. No case for interference has been made out, therefore, the appeals filed by the State of Haryana are accordingly dismissed.

The only short argument raised by the learned counsel for the land owners is that the land owners are entitled for annual increase for the time gap between the date of notification under Section 4 in both the cases. He submits that the notification under Section 4 of the Act was issued on 9.12.1997 in the case of Umrao Singh, whereas in the case of present land owners, it was issued on 8.6.1998, therefore, there was a gap of time of six months. He prays only for this limited relief in favour of the land owners.

The argument raised by learned counsel for the appellants-land owners was

ought to be refuted by learned counsel for the State, while referring to para 14 of the impugned award passed by the learned reference court. He submits that it was not Ex.P-11 alone, which might have been made the sole basis for the impugned award by the learned reference court, but in addition to this award Ex.P-11, the learned reference court considered other evidence also, including the sale deeds, because of which any further increase would not be justified in favour of the land owners.

After giving anxious consideration to the arguments raised by learned counsel for the parties, this court is of the considered view that since the time gap between both the acquisitions was undisputed, being a matter of record, it is just and expedient to grant the annual increase in favour of the land owners, because by now it is an established principle of law that the land owners are entitled for annual increase for such a time gap. The time gap was exactly six months between two acquisitions. As noticed above, in the case of Umrao Singh, notification under Section 4 of the Act was issued on 9.12.1997, whereas in the present case, notification under Section 4 of the Act was issued on 8.6.1998. In this view of the matter, it can be safely concluded that the land owners would be entitled for the annual increase @ 12%, which would be 6% for six months time gap. 6% of Rs.6.00 lacs would come to Rs.36000/- and the land owners in all these seven appeals filed by them would be entitled to receive the compensation at the uniform rate of Rs.6,36,000/- per acre from the date of notification under Section 4 of the Act.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this court is of the

considered view that the appeals filed by the State having been found bereft of merit and without any substance, must fail and the same are hereby dismissed. However, the appeals filed by the land owners deserve to be partly allowed as indicated above and the land owners are held entitled for the compensation for their acquired land at the uniform rate of Rs.6,36,000/- per acre from the date of notification under Section 4 of the Act. Besides this, the land owners shall also be entitled for all the statutory benefits available to them under the relevant provisions of the Act.

Resultantly, with the above said observations made, all the above said 14 appeals are disposed of in the above said terms, however, with no order as to costs.

11.1.2016
GS

(RAMESHWAR SINGH MALIK)
JUDGE