IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.718 of 2000 and other connected matters
Date of decision: 08.01.2016

Jarnail Singh and others

... Appellants

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. M.L. Saini, Advocate
Mr. Navjot Singh, Advocate and
Mr. A.P. Kaushal, Advocate for
Mr. R.K.S. Brar, Advocate
Mr. Amandeep Saini, Advocate
for the appellant (s).

Mr. Yatinder Sharma, Addl. AG, Punjab.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

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RAMESHWAR SINGH MALIK, J.

Feeling aggrieved against the impugned award dated 20.12.1999 passed by the learned reference Court, deciding 21 land references together, State of Punjab has filed 21 appeals bearing RFA Nos.1554 to 1566, 1577 to 1581, 1807 to 1809 of 2000, whereas 19 appeals bearing RFA Nos.718 to 720, 1081 to 1088, 1090 to 1093, 1260, 1655, 1721 & 1722 of 2000 have been filed by the land owners. All these 40 Regular First Appeals filed by both the parties against the same impugned award passed by the learned reference Court, arising out of the same acquisition, are being decided together vide this common judgment, as all the appeals raise identical questions of law and facts. However, for the facility of reference, facts are being culled out from RFA No.718 of 2000 (Jarnail Singh and others Vs. State of Punjab).

Undisputed facts between the parties are that an area of 179 acres, 05 kanals and 04 marla was sought to be acquired by the State of Punjab at public expenses for the public purpose i.e. for the additional construction of building for Sant Longowal Institute of Engineering and Technology, Longowal in District Sangrur. Accordingly, notification under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') was issued on 18.03.1992 which was followed by notification under Section 6 of the Act issued on 20.05.1992. Collector, vide his award No.1 dated 04.02.1997 granted the compensation at the rate of Rs.1,25,000/- per acre for Chahi land, Rs.90,000/- for Barani land and Rs.80,000/- for Gair Mumkin land. Land owners filed their objections under Section 18 of the Act and as a consequence thereof, 21 land references came up for consideration before the learned reference Court, who vide impugned award dated 20.12.1999 granted the compensation at the flat rate of Rs.1,79,000/- per acre for Chahi, Barani and Gair Mumkin land, deciding all the 21 land references together.

Both the parties felt dissatisfied and the State of Punjab filed as many as 21 RFAs before this Court, seeking reduction in the compensation awarded, whereas 19 RFAs have been filed by the land owners seeking further enhancement in the compensation. That is how, all the 40 RFAs are being decided together.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that keeping in view the totality of facts and circumstances of these cases, all the 21 appeals filed by the State of Punjab have been found without any merit and the same are liable to be dismissed, whereas all the 19 appeals filed by the land owners deserve to be allowed. To say so, reasons are more than one, which are being recorded hereinafter.

Before proceeding further, zimini order dated 26.10.1999 passed by the learned reference Court, available at page 7 of the lower Court record, deserves to be noticed and the same reads as under: -

> *"Learned G.P. has stated that he has no instruction to appear on behalf of respondent. As such respondent proceeded ex-parte. An application for impleading the legal representatives of Shiam Kaur along with the death certificate filed. In view of this, all the legal heirs of Shiam Kaur are impleaded LR. Reader is directd to make necessary correction. Now for ex-parte evidence to come up on 09.11.1999."*

In all the later zimini orders passed by the learned reference Court, none has put appearance on behalf of the State of Punjab-respondent in all the 21 land references, because in all the zimini orders available at page 7 & 8 of the lower Court record, respondent has been recorded as ex-parte. It shows that the State of Punjab decided not to contest the land references of the land owners nor any application was ever filed seeking for setting aside the abovesaid order dated 26.10.1999, whereby State of Punjab was proceeded ex-parte.

Consequently, the State of Punjab did not produce any evidence at all nor any witness produced by the land owners-claimants was put to any cross-examination, thus, entire evidence led by the land owners has gone unrebutted. When confronted with this peculiar fact situation, learned counsel for the State had no answer and rightly so, it being a matter of record.

A combined reading of the statements of the witnesses particularly AW2 Shamsher Singh Draftsman, who prepared the site plan Ex.A/3, AW5 Tarlochan Singh, Patwari Halqa, Area 'B' who deposed about the location of the land and also verified the site plan Ex.A/3 prepared as per revenue record, AW6 Ram Singh, Patwari Halqa, Area 'D' who also verified the site plan Ex.A/3 and AW10 Darshan Singh who deposed elaborating the details about the high potentiality of the acquired land for its commercial use, clearly shows the numerous positive determinative factors in favour of the land owners-appellants.

Above all, the undisputed site plan Ex.A/3 which speaks volumes about the potentiality of the land, including its location within the municipal limits surrounded by different Government and non-Government institutions including schools, rice sellers, card board mills, shops, houses, petrol pump, brick kilns, grain market, bus stand, tehsil complex, police station, private hospital, workshops, saw mills, Punjab State Electricity Board-Grid Station etc., also goes a long way to establish that the acquired land could have been easily used for residential, industrial as well as commercial purposes. However, all these relevant and positive determinative factors have not been considered by the learned reference Court in the correct perspective, while passing the impugned award. Further, no reason has been assigned by the learned reference Court for not granting annual increase at the rate of 15 % for the acquired land, it being a commercial area, as indicated in the site plan Ex.A/3.

Learned counsel for the land owners has been found justified in contending that no Gram Panchayat was ever constituted, owing to the situation and population of Longowal. A Notified Area Committee was constituted as far as in the year 1945. Thereafter, in the year 1960 municipality was formed for the area which was previously administered by the Notified Area Committee. It was so recorded by this Court in its order dated 13.12.1991, while deciding CWP No.7000 of 1987 (Nahar Singh and others Vs. Additional Director, Consolidation of Holdings, Punjab, Jalandhar and others) and dismissing CWP No.1365 of 1988 filed by the Municipal Committee, Longowal, whereby the petitioners of CWP No.7000 of 1987 were declared the right-holders of the disputed area between them and Municipal Committee. It clearly establish one material fact beyond any scope of doubt that Municipal Committee came to be constituted way back in the year 1960, whereas the notification under Section 4 of the Act was issued on 18.03.1992, meaning thereby the acquired land was already within the municipal area for 32 long years.

Coming to the evidence led by the land owners, they produced three sale deeds in the form of Ex.PW3/A dated 03.03.1990 for a piece of land measuring 13 marlas. Ex.PW7/A dated 25.06.1990 for land measuring 02 kanals, 16 marlas. Since out of abovesaid three sale deeds, sale deed Ex.PW3/A was for a small piece of land measuring only 13 marlas and sale deed Ex.PW8/A being a post-notification sale deed cannot be relied upon in favour of the land owners, while determining the market value of the acquired land. Only relevant sale deed available on the record is Ex.PW7/A dated 25.06.1990, whereby land measuring 02 kanals, 16 marlas was sold for Rs.1,00,000/- at the rate of Rs.2,85,214/- per acre. This sale cannot be said to be of a small piece of land as the sold area would be more than 1600 square yards. In this view of the matter, this Court is of the considered opinion that the sale deed Ex.PW7/A can be safely made the basis for assessing the market value of the acquired land.

So far as the belting system adopted by the Collector was concerned, the same was rightly ignored by the learned reference Court, on the basis of unrebutted evidence because all the acquired land was found either Chahi or Nehri. However, learned reference Court fell in serious error of law, while considering the sale deed Ex.PW3/A qua 13 marla land as well as sale deed Ex.PW7/A qua 2 kanals, 16 marla land to assess the average price of both the sale deeds, whereas the sale deed Ex.PW3/A ought to have been ignored, pertaining to a small piece of land. Learned reference Court has further committed a serious error of law, while applying 1/3rd cut which was not at all warranted, the land having been situated within the municipal limits i.e. urban area and the sale deed being for land measuring 02 kanals and 16 marlas. It is so said because in view of the location of the land which was capable for commercial use, at the most 10 % cut could have been applied on the price of sale deed Ex.PW3/A.

It is equally important to note that the land owners were also entitled for an annual increase for the time gap between sale deed Ex.PW7/A dated 25.06.1990 and the date of notification i.e. 18.03.1992 under Section 4 of the Act. This annual increase, in view of the judgment of the Hon'ble Supreme Court in **General Manager, Oil and Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel and another, 2008 (4) SCC 745,** would be not less than 15%. Since there was time gap of one year and nine months, the land owners were entitled for 25% increase on the price of land depicted in the sale deed Ex.PW7/A.

As per the unrebutted evidence led by the land owners in the form of sale deed Ex.PW7/A, which has been found to be the most relevant sale deed for the purpose of assessing the market value of the acquired land, the price of acquired land per acre on 25.06.1990 was Rs.2,85,214/-. After applying 10%

cut on this sale deed, price of land on 25.06.1990 comes to Rs.2,56,693/- per acre. As noticed above, the land owners were entitled for 25% increase on this price of the land. 25% of Rs.2,56,693/- per acre comes to Rs.64,173.25/-. Thus, the market value of the acquired land on the date of notification under Section 4 of the Act, comes to Rs.2,56,693/-+Rs.64,173.25/-=3,20,866.25/-, which is rounded off to Rs.3,20,866/- per acre. Having said that, this Court feels no hesitation to conclude that the land owners-appellants were entitled to receive the compensation for the acquired land at the rate of Rs.3,20,866/- per acre from the date of notification under Section 4 of the Act i.e. 18.03.1992.

The abovesaid view taken by this Court also finds support from the following judgments of the Hon'ble Supreme Court as well as this Court: -

1. ***Viluben Jhalejar Contractor (D) by LRs Vs. State of Gujarat, 2005 (4) SCC 789.***
2. ***Lal Chand Vs. Union of India,2009 (15) SCC 769.***
3. ***Ram Kumar Vs. State of Haryana and another, 2015 (1) RCR (Civil) 234.***
4. ***Maj. Gen. Kapil Mehra and others Vs. Union of India and another, 2015 (2) SCC 262.***
5. ***Dollar Company, Madras Vs. Collector of Madras, 1975 (2) SCC 730.***

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 RFAs filed by the State of Punjab are wholly misconceived, bereft of merit and without any substance, thus, these must fail and the same are hereby dismissed. The RFAs filed by the land owners are hereby allowed and they are held entitled to receive the compensation at the uniform rate of Rs.3,20,866/- per acre for their acquired land, from the date of notification under Section 4 of the Act. Besides this, the land owners would also be entitled for all the statutory benefits available to them, under the relevant provisions of the Act.

Resultantly, with the abovesaid observations made, all these 40 appeals stand disposed of, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
08.01.2016 **JUDGE**
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