IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.1767 of 2001 and other connected matters
Date of decision: 12.01.2016

Hari Singh and others

... Appellants

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Adarsh Jain, Advocate
for the appellant (s) (in RFA Nos.1767 to 1769 of 2001, 2115 to 2118, 4580, 5728 of 2001 & 886 of 2002) and
for the respondent (s) (in RFA Nos.1173 to 1195 & 1198 of 2002)

Mr. Shiv Kumar, Advocate
for the appellant (s) (in RFA Nos.366 to 368 of 2005) and
for the respondent(s) (in RFA Nos.126 to 128, 2798, 2829 of 2005)

Ms. Bhupinder Kaur, Advocate for
Mr. Lokesh Sinhal, Advocate
for the appellant (s) (in RFA Nos.1916, 2829, 2830, 3189, 3196 to 3199, 4491, 4874, 4878 of 2001, 2497, 3135 of 2002) and
for the respondent(s) (in RFA No.1172 of 2002)

Mr. Ashish Kapoor, Advocate
for the appellant (s) (in RFA Nos.1172 to 1198 of 2002, 2220, 2798, 2829 of 2005, 840 to 842, 1975 to 1977 of 2013) and
for the respondent(s) (in RFA Nos.2117, 2118, 2830, 3196, 3197, 4878, 5728, 1916, 3199, 4491, 4580, 4874 of 2001, 886 of 2002 & 5592 of 2013)

Mr. S.K. Yadav, Advocate
for the appellant (s) (in RFA No.5592 of 2013) and
for the respondent (s) (in RFA No.840 of 2013)

Mr. Arun Beniwal, DAG, Haryana.

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.

These 67 appeals bearing Regular First Appeal Nos.1767 to 1769, 1916, 2115 to 2118, 2829, 2830, 3189, 3196 to 3199, 4491, 4580, 4874, 4878, 5728 of 2001, 886, 1172 to 1198, 2497, 3135 of 2002, 125 to 128, 366 to 368, 2220, 2798, 2829 of 2005, 840 to 842, 1975 to 1977, 5592 of 2013 filed by Indian Oil Corporation Limited, land owners as well as by the State of Haryana, are being decided together, as these appeals are arising out of the same acquisition, raising identical questions of law and facts. However, for the facility of reference, facts are being culled out from RFA No.1767 of 2001 (Hari Singh and others Vs. State of Haryana and another).

Briefly put, the facts necessary for disposal of this batch of appeals are that the State of Haryana sought to acquire 632 kanals and 07 marla of land from the revenue estate of Village Asawati, Tehsil Palwal, District Faridabad at public expense for the public purpose i.e. for construction of Lube Blending Plant for the Indian Oil Corporation Ltd. Notification dated 27.12.1989 was issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') which was followed by notification dated 20.12.1990 under Section 6 of the Act. Vide award No.2 dated 12.12.1991, Collector awarded the compensation at the rate of Rs.1,50,000/- per acre for Chahi land, Rs.1,00,000/- per acre for Barani land and Rs.2,50,000/- per acre for Gair Mumkin land. Feeling dissatisfied, land owners filed their objections under Section 18 of the Act and accordingly, land references were forwarded to the learned reference Court. 27 land references were decided together by the learned reference Court vide impugned award dated 17.11.2000. Four identical land references were decided by the learned reference Court vide a later award dated 24.09.2004. Another set of three land references was decided together by the learned reference Court vide award dated 30.04.2011. That is how, these 67 identical Regular First Appeals have been filed, which are being decided together.

Learned reference Court rightly ignored the belting system and awarded the compensation at uniform rate of Rs.3,00,000/- per acre. Feeling aggrieved, Indian Oil Corporation Ltd. has filed 36 RFAs, whereas 27 RFAs have been filed by the land owners and 04 RFAs have been filed by the State of Haryana.

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 in the given fact situation of this batch of appeals, neither any scope has been found for enhancing the amount of compensation nor the same has been found liable to be reduced, therefore, all the appeals are liable to be dismissed, maintaining the abovesaid all the three impugned awards passed by the learned reference Court. To say so, reasons are more than one, which are being recorded hereinafter.

Relying on the sale deed dated 24.07.1989 Ex.P3, available at page 103 of the lower Court record, learned counsels for the appellants-land owners submit that land measuring 03 marla was sold for Rs.15,000 and this land was from Village Asawati itself. They also place reliance on another sale deed dated 21.11.1985 Ex.P13 available at page 155 of the lower Court record, whereby land measuring 10 marla was sold from Village Asawati for Rs.15,000/-. The average price of both these sale deeds would come at Rs.5,20,300/- per acre. They further submit that let a reasonable cut be imposed on the average market value of these two sale deeds.

So far as the sale deeds Ex.R1 to Ex.R5 produced by the State of Haryana were concerned, these were post-acquisition sale deeds and were not rightly relied upon by learned reference Court. Earlier award of the learned reference Court as Ex.R6 dated 29.07.1998 available at page 317 of the lower

Court record, was pertaining to the acquisition of Villages Piyala and Asawati, wherein notification under Section 4 of the Act was issued on 09.01.1992. Ex.P15 was the award dated 23.08.1999 passed by the learned reference Court regarding acquisition of Village Piyala, wherein the notification under Section 4 of the Act was issued on 24.12.1993. Copy of this award is available at page 191 of the lower Court record. There was yet another judgment Ex.P17 at page 255 of the lower Court record, which was passed by this Court on 07.10.1999 pertaining to the acquisition of Palwal town, wherein notification under Section 4 of the Act was issued on 10.12.1992. Learned counsel for Indian Oil Corporation Ltd. as well as learned counsel for the State of Haryana have placed reliance on these two awards Ex.R6 and Ex.A5, to contend that the learned reference Court proceeded on a misconceived approach, while granting enhancement to the land owners, which was not at all justified. They submit that the Collector has awarded Rs.2,50,000/- per acre for Gair Mumkin land and at the most, the land owners could have been granted the compensation at uniform rate, because there was no scope of any further enhancement at the hands of learned reference Court.

Learned counsel for the land owners-appellants have fairly stated that keeping in view the peculiar facts and circumstances of these cases, they would not be in a position to make out a case for any further enhancement at the hands of this Court. However, they submit that it is not a case of any reduction as well and all the abovesaid three impugned awards passed by the learned reference Court deserve to be upheld.

After giving anxious consideration to the contentions raised on behalf of both the parties, this Court is of the considered view that neither there is any scope of enhancement nor reduction of compensation in all these cases. It is so said because in the absence of any other relevant evidence, the only evidence which can be made the basis for assessing the market value of the acquired land are the sale deeds Ex.P3 and Ex.P13, because both these sale deeds pertain to the land of Village Asawati itself. Both these sale deeds were prior in time before the date of notification under Section 4 of the Act.

As noticed above, average market value of both these sale deeds Ex.P3 and Ex.P13 comes to Rs.5,20,300/- per acre. Since both these sale deeds were qua small pieces of land, a reasonable cut has to be applied thereon. Taking into consideration all the relevant determinative factors including positive as well as negative factors of the acquired land, it is just and expedient to apply 40% cut on the abovesaid market value of Rs.5,20,300/- per acre. After applying 40% cut, the market value per acre would come to Rs.3,12,180/- per acre. However, keeping in view the peculiar fact situation obtaining in this batch of cases and with a view to do complete and substantial justice between the parties, this Court is of the view that all the abovesaid three impugned awards passed by the learned reference Court, whereby the land owners have been granted the compensation at uniform rate of Rs.3,00,000/- per acre, deserve to be upheld.

Ordered accordingly.

To be fair to the learned counsel for Indian Oil Corporation Ltd., his argument while placing reliance on the order dated 26.08.2010 passed by this Court in **RFA No.4203 of 1998 (Indira and others Vs. State of Haryana and others)** is to be noted to be rejected, as the same has not been found worth acceptance. To say so, the reason is that in the cited cases including awards Ex.R6 and Ex.P15 as well as the order dated 26.08.2010 passed by this Court in **Indira**'s case (supra), no sale deed was relied upon by either of the parties, as none has been referred. It is not even the argued case on behalf of the Indian Oil Corporation Ltd. that there were some sale transactions which were made the basis for arriving at the market value of Rs.30 per square yard in those cases.

This being the clear distinguishing feature between two sets of cases, the order dated 26.08.2010 passed by this Court in **Indira'**s case (supra) as well as the awards Ex.R6 and Ex.P15 are of no help to the Indian Oil Corporation Ltd. or the State of Haryana. Further, it is the settled proposition of law that peculiar facts of each case are to be examined, considered and appreciated first before applying any codified or judgemade law thereto. Sometimes, difference of one additional fact or circumstance can make a world of difference, as held by the Hon'ble Supreme Court in **Padmausundra Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

Learned counsel for the Indian Oil Corporation Limited, raised another argument that it was mandatory for the land owners to implead the beneficiary department before the learned reference Court, it being a necessary party. He further submits that neither the land owners impleaded the beneficiary department as party-respondent before the learned reference Court, nor any notice was issued to it by the learned reference Court, before passing the impugned awards. In this regard, he places reliance on two judgments of the Hon'ble Supreme Court in **Delhi Development Authority Vs. Bhola Nath Sharma (dead) by LRs and others, 2011 (2) SCC 54** and **Neyvely Lignite Corporation Ltd. Vs. Special Tehsildar (Land Acquisition) Neyvely, 1995 (1) SCC 221**, to contend that in such a situation, impugned awards passed by the learned reference Court would be patently illegal and the same are liable to be set aside, remanding back the case to learned reference Court, so as enable the beneficiary department to lead its evidence.

During the course of hearing, when learned counsel for the beneficiary department i.e. Indian Oil Corporation Ltd. was asked to refer any of the provisions in the Act to show that the beneficiary department is a necessary party, he had no answer and rightly so, it being a matter of record. So far as the judgments of the Hon'ble Supreme Court relied upon by learned counsel for the Indian Oil Corporation Ltd. are concerned, there is no dispute about the law laid down therein. However, on close perusal of the cited judgments, the same have not been found of any help to the beneficiary department in the present cases, because State of Haryana was very much party and contested the cases before the learned reference Court.

Further, no prejudice has been shown to have been caused to the beneficiary department, because the State of Haryana has contested the cases at every relevant stage. Besides this, as these appeals have been filed by the Indian Oil Corporation Ltd. before this Court, it was at liberty at every relevant point of time to appear before the learned reference Court as well, by moving an appropriate application. However, it did not do so for the reasons best known to it. Since the appellant-Indian Oil Corporation Ltd. was the beneficiary department, it cannot claim any ignorance in this regard that it was not aware about the pendency of land references before the learned reference Court.

In view of what has been discussed hereinabove, coupled with the peculiar facts and circumstances of these cases, remanding the matter back would amount imposing another round of litigation on the parties, which is very much avoidable and would also be unwarranted. Further, the land owners have been granted a very reasonable compensation for their acquired land. It is also the duty of every Court to ensure finality to the litigation instead of increasing it further. So far as the cases in hand are concerned, neither the remand is warranted nor it is desirable because no prejudice, as such, has been shown to have been caused to the beneficiary department.

No other argument was raised.

Considering the peculiar facts and circumstances of the cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that all these appeals filed by the beneficiary department, State of Haryana as well as by the land owners have been found wholly misconceived, bereft of merit and without any substance, thus, these must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, all the abovesaid impugned awards dated 17.11.2000, 24.09.2004 as well as the award dated 30.04.2011 passed by the learned reference Court are upheld and all the appeals would stand dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
12.01.2016 **JUDGE**
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