IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision : 24.08.2016.
RFA No.982 of 2004

Maha Singh Arya

......Appellant

Versus

State of Haryana and another

...... Respondents

2. RFA No.983 of 2004

Umar Singh Aggarwal @ Amar Singh Aggarwal of Bhagwana

......Appellant

Versus

State of Haryana and another

...... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Rajesh Goyal, Advocate for the appellant.

Mr. Shivendra Swaroop, AAG, Haryana.

ARUN PALLI, J. (Oral)

The appellants happened to be the landowners, and are aggrieved by the award rendered by the reference Court, vide which they were awarded compensation @ ₹ 80/- per square yard, in lieu of the acquisition of their land. And, thus, have appealed for enhancement in the compensation.

The facts that are required to be noticed are limited.

Vide a notification, published on 02.05.1988, under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), a land measuring 1.82 acres, situated in the revenue estate of Taraf Afganan Panipat, was sought to be acquired for its development and utilisation as residential and commercial area in Sector 11-12, Part-II, Panipat. The Land Acquisition Collector, vide its award dated 29.04.1991, assessed the market value of the acquired land at ₹41.32/- per square yard. However, the reference Court in proceedings under Section 18 of the Act, enhanced the compensation to ₹80/- per square yard. That is how, the appellants are before this Court.

Mr.Rajesh Goyal, learned counsel for the appellants submits that the reference Court has assessed and awarded compensation in terms of the judgment dated 21.11.1996, rendered by this Court in L.P.A. No.302 of 1996 (Jogi Ram and others Vs. State of Haryana and others), for the land that too was a part of the same revenue estate, that is, Taraf Afganan, this Court had assessed its market value @ ₹80/- per square yard. However, he asserts, for none other than the appellants (Maha Singh and Umar Singh) themselves had purchased a site each, which formed part of the acquired land, vide sale deeds dated 21.12.1987 (Ex.P1) and 11.11.1987 (Ex.P2), for a consideration of ₹282/- and ₹ 261/- per square yard respectively, the reference Court, if not more ought to have awarded compensation at the same rate. And, thus the reference Court seriously erred in ignoring the two sale deeds. In support of his contention, he places reliance upon **Brij Nandan Vs. State of Haryana, AIR 1980 Punjab and Haryana 27 and Gurmukh Singh Vs. Punjab State and another, RRR Punjab and Haryana High Court 143**.

As opposed to this, all what has been urged by the learned State counsel is that in the appeals arising out of the same acquisition, that is RFA No.87 of 2003, (Jai Kishan Vs. State of Haryana and another) and other connected matters, decided on 20.11.2015, this Court had enhanced the compensation from ₹80/- per square yard to ₹140/- per square yard, by awarding 12% cumulative increase upon the compensation that was assessed and awarded by this Court in the case of Jogi Ram and others (supra). Therefore, he submits that the appellants too, at best, are entitled to the compensation that is, @ ₹140/- per square yard . No other argument was addressed.

I have heard learned counsel for the parties and perused the records.

Before I proceed further in the matter, it would be apposite to refer to the conclusion arrived at by the reference Court which read thus:-

> **" I have fully considered this line of contention advanced by learned counsel for the petitioners but the same is without any force. No doubt, the petitioners had purchased the land in question prior to the issuance of the notification but the same *ipso facto* is not sufficient to award them the same amount which has been paid by them to the vendors. In the case in hand large chunk of the land had already been acquired by the government, a small portion of which was acquired lateron, and the matter of awarding compensation had already been settled by the Hon'ble High Court, as discussed above and for this reason the ratio of the law laid down in the supra relied authorities is not applicable to the facts and circumstances of the cases in hand.**

Keeping in view above discussions and the judgment of a Division Bench of our Hon'ble High Court in Latter Patent Appeal No.302 of 1996 titled Jogi Ram and others Vs. State of Haryana and others decided on 29.11.1996, which also relate to the similar land also situated in the similar area and having similar potentiality, the market price of the acquired land is fired at Rs.80/- per square yard. This issue is thus decided accordingly".

What needs to be set at rest, at the outset, is that finding recorded by the reference Court that the appellants too were entitled to the same compensation, that is, @ ₹ 80/- per square yard, as awarded by this Court in the case of Jogi Ram and others (supra), is wholly erroneous. What appears to have been over-looked by the reference Court is that notification under Section 4 of the Act in the case of Jogi Ram was published on 15.12.1982, whereas in the matter in hand the market value of the acquired land was to be assessed in reference to a notification dated 2.5.1988, that was published 5 ½ years later. That is how, this Court in the appeals arising out of the same acquisition i.e. Jai Kishan Vs. State of Haryana and another (supra) had enhanced the compensation to ₹140/- per square yard by awarding 12% cumulative increase for the difference in time between the two notifications.

Therefore, the only question that is required to be determined is whether the appellants are entitled to compensation @ ₹ 140/- per square yard only as awarded by this Court in the case of Jai Kishan (supra) or at the rate they themselves had purchased their respective sites, which formed part of the acquired land.

Concededly, notification under Section 4 of the Act was published on 02.05.1988. Appellant-Maha Singh, vide sale deed dated 2.12.1987 (Ex.P1), purchased a site measuring 1 kanal, for ₹282/- per square yard. Likewise, vide sale deed dated 11.11.1987 (Ex.P2), appellant-Umar Singh, had also purchased a plot of land measuring 7 marlas, for ₹261/- per square yard.

Appellant-Maha Singh, appeared (PW1), as his own witness, and duly proved the execution and contents of the sale deed, dated 2.12.1987 (Ex.P1). Even otherwise, for the certified copies of both the sale deeds were tendered in evidence, in terms of Section 51-A of the Act, these could always be read into. The execution and veracity of these documents were never questioned by the respondents. This had never been the case of the respondents either that the sale consideration at which the sites, that were the subject matter of the two sale deeds, were purchased by the appellants was either inflated or fictitious. No evidence was led to prove to the contrary. *Ex facie,* even the reference Court did not express any doubt as regards the bona fides of these transactions. In a similar situation, the Division Bench of this Court in Brij Nandan (supra), had held that the vendees-landowners shall be entitled to the actual amount paid by them to the vendors indicated in their respective sale deeds. The conclusion arrived at by the Division Bench reads thus:-

17. "Taking into consideration all the aforesaid

facts and inevitably resorting to what is now judicially recognised as some rational guesswork, we are of the view that the whole of the area under acquisition (with the exception noticed below), now comprised in Section 16 must be assessed at a uniform rate of Rs.10 per square yard only and it is ordered accordingly.

18. An exception, however, is to be made with regard to the land comprised in Khasra Nos. 370 and 372 purchased by Chander Parkash son of Nanak Chand and Sohan Lal son of Deva Ram vide sale deeds Exhibits PW 5/6 and PW 5/7, Tara Chand son of Kishori Lal and Deep Chand son of Tara Chand vide sale deeds Exhibits PW 5/8 and PW 5/9, Chetan Dass son of Budhu Ram and Gurdial son of Matwala Ram vide sale deeds Exhibits PW 5/10, PW 5/12, PW 5/11 and PW 5/13. With regard to the aforesaid transfers the learned District Judge had, after exhaustive discussion, come to the following conclusion:-

"No evidence has been led by the respondents in rebuttal to lead me to suspect or doubt the genuineness of these transactions of sale. I, therefore, in absence of such evidence for the respondents and in view of all the facts found stated therein, hold all these sale deeds as genuine transactions evidencing payment of sale consideration in cash by the vendees to the vendors."

The aforesaid finding has not been remotely challenged on behalf of the State of Haryana. Even otherwise on examination of the aforesaid documentary evidence we see no reason to take a different view from the one arrived at by the learned District Judge. In this context, therefore, there is no option but to uphold the same and it is accordingly, ordered that the vendees above-mentioned shall be entitled to the actual amount paid by

them to the vendors indicated in the respective sale-deeds and the findings of the learned District Judge with regard to the same are hereby affirmed".

And likewise, in Gurmukh Singh (supra) this Court had held that it was well settled that a landowner was to be compensated at least to the extent of the price he had paid for purchasing the land which had later been acquired;

"Now, coming to the aspect of determination of market value of the land acquired, it is to be noted that the appellant owned 10 kanals of land in village Taraf Karabara which has been acquired. He had purchased this land from Shri Madan Mohan Raj PW-1 vide sale deed Exhibit A-1 on 22.1.1970 for a consideration of Rs.50,000/-. The appellant appeared in the witness-box as AW-2 and corroborated this fact. There is no evidence on the record to show that the consideration mentioned in the sale deed is fictitious or exaggerated. In fact no evidence to rebut the statements of A.W.1 and A.W.2 has been produced by the respondent. The learned Additional District Judge has noticed the argument of the Government Pleader that the vender owned large area and it is possible that inflated price was shown in the sale deed Exhibit A1. This is merely conjectural. In this appeal we are not concerned with the subject matter of the notification dated 28.9.1871. We are concerned with 10 kanals of land which was purchased by the appellant for a consideration of Rs.50,000/-, about 10 months before the notification under Section 4 was issued. It is well settled that a landowner is to be compensated at least to the extent of the price that he has paid for purchasing the land which has later been acquired. I, therefore, consider it appropriate to fix the market value of

10 kanals of land owned by the appellant and acquired at Rs.50,000/-".

Needless to assert, that purport and intent of the Act is to award just and fair compensation to the erstwhile landowners. But, if the compensation awarded is not even equal to the consideration for which the appellant-landowner had themselves acquired a piece of land, it indeed would be unjust and unfair.

That being so, the reasons assigned by the reference Court to ignore and discard the sale deeds Ex.P1 and Ex.P2, are palpably erroneous, and thus, the award that is being assailed herein cannot be sustained. Consequently, the award made by the reference Court is set aside. The appellants-landowners shall be entitled to compensation @ ₹282/- and ₹260/- per square yard, respectively, and shall also be entitled to all the statutory benefits, as are admissible in law. The appeals are disposed in the above terms.

24.08.2016 **(ARUN PALLI)**
Manoj Bhutani **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable: Yes/No