

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA No.3172 of 2006 and other connected matters
Date of decision: 14.01.2016

Krishna

... Appellant

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Shrey Goel, Advocate for
Mr. J.K. Goel, Advocate
for the appellant.

Mr. Vinod Bhardwaj, Advocate
for the applicants-respondents (in CM-8090-CI of 2015 in RFA
No.4000 of 2006 and CM-8097-CI-2015 in RFA No.4022 of 2006)

Mr. Abhinash Jain, AAG, 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

RAMESHWAR SINGH MALIK, J.

These 23 appeals bearing Regular First Appeal Nos.3172 to 3177, 3515, 3995 to 4001, 4021 to 4025, 4147, 4207, 4208 & 4279 of 2006, out of which 16 have been filed by the State of Haryana and 07 appeals have been filed by the land owners, arising out of the same acquisition, are being decided together, as these appeals raise identical questions of law and facts. However, for the facility of reference, facts are being culled out from RFA No.4000 of 2006 (State of Haryana Vs. Jai Kumar and others).

Briefly put, facts necessary for disposal of these cases are that land measuring 16 acres, 04 kanal, 08 marla, out of revenue estates of Kalayat, was acquired by the State of Haryana at public expenses for the public purpose;

namely for construction of Water Works for Kaithal city. Notification under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') was issued on 04.06.2003 which was followed by notification dated 23.10.2003 under Section 6 of the Act. Land Acquisition Collector, vide his award No.1 dated 20.05.2004 granted the compensation @ Rs.1,40,000/- per acre, at uniform rate, for the acquired land, as the total land was Nehri. Dissatisfied, land owners filed their objections under Section 18 of the Act and as a consequence thereof, as many as 16 land references were forwarded to the learned reference Court, who decided the same vide common award dated 05.06.2006. The learned reference Court did not order any increase in the amount of compensation for the acquired land. However, compensation for the tubewells was enhanced from Rs.2250/- to Rs.1,05,000/- per tubewell.

Feeling aggrieved, both the parties have filed their respective appeals before this Court. 16 RFAs have been filed by the State of Haryana, seeking reduction in compensation, whereas 07 RFAs have been filed by the land owners, seeking enhancement in compensation. That is how, these total 23 appeals 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 so far as the appeals filed by the State of Haryana are concerned, the same have been found bereft of any merit, thus, liable to be dismissed. However, the appeals filed by the land owners deserve to be partly allowed, for the following more than one reasons.

A bare reading of the impugned award passed by the learned reference Court would show that the learned reference Court fell in serious

error of law, while ignoring the sale instances produced by both the parties, at the time of leading their evidences. From the evidence available on record, the sale deed dated 08.04.2003 Ex.PW8/A, which is available at page 95-103 of the lower Court record ('LCR' for short) produced on behalf of the land owners and sale deed dated 02.06.2003 Ex.R2 available at page 131 of the LCR produced on behalf of the State of Haryana, have been found to be the best pieces of evidence produced on behalf of both the parties.

Learned counsel for the parties have been found justified in contending that there is no other relevant evidence available on record, which can be relied upon by them. In the absence of any other relevant evidence available on the file, this Court is of the considered opinion that the learned reference Court ought to have considered these two sale deeds in favour of both the parties. However, since the learned reference Court has proceeded on a patently illegal approach, while ignoring the abovesaid relevant pieces of evidence, the impugned award cannot be sustained as it is and the same is liable to be modified.

To be fair to all concerned, it would be just and expedient to take the average of both these sale deeds Ex.PW8/A dated 08.04.2003 produced by the land owners and Ex.R2 dated 02.06.2003 produced on behalf of the State of Haryana. It is pertinent to note here that the land measuring 13 kanal, 12 marla was sold by way of sale deed Ex.PW8/A for an amount of Rs.15,30,000/- at the rate of Rs.4,00,000/- per acre and the land under this sale deed was out of the revenue estates of this very village namely Kalayat. However, smaller piece of land measuring 01 kanal, 16 marla was sold by way of sale deed Ex.R2 for an amount of Rs.31,500/- at the rate of Rs.1,40,000/- per acre. The average market value of both these sale deeds comes to Rs.2,70,000/- per acre and the land

owners are certainly entitled to receive this much compensation for their acquired land, along with other statutory benefits.

So far as the amount of compensation enhanced for the tubewells by the learned reference Court is concerned, the same seems to be well-justified in the circumstances of the case, hence left undisturbed. It is so said because the amount of Rs.1,05,000/- per tubewell in the year 2003 was just and reasonable and there is hardly any scope for any further enhancement, in the absence of any evidence.

At this stage, learned counsel for the applicants in CM-8090-CI of 2015 filed in RFA No.4000 of 2006 (State of Haryana Vs. Jai Kumar and others) and CM-8097-CI-2015 in RFA No.4022 of 2006 (State of Haryana Vs. Banarsi and others), submits that although because of bonafide reason, the applicants-land owners could not file either their cross-appeals or cross-objections, yet they are entitled to receive the same amount of compensation which is being assessed by this Court for the acquired land. In this regard, he refers to the provisions of Order 41 Rule 33 read with Section 151 of the Code of Civil Procedure ('CPC' for short).

When confronted with the unambiguous provisions of Rule 33 of Order 41, as to why this Court should not exercise the power in favour of the land owners-respondents, leaned counsel for the State had no answer and rightly so, it being a matter of record. Having said that, this Court is of the considered view that it is just and expedient that the land owners-respondents, whosoever they may be out of this batch of appeals, also deserve to be declared entitled to receive the amount of compensation for his/her/their acquired land at the same rate of Rs.2,70,000/- per acre.

In fact, in the given fact situation obtaining in the cases in hand, it

is the compulsive necessity for this Court to pass such an order with a view to do complete and substantial justice between the parties and also to avoid another round of litigation, which might be imposed on the land owners. The view taken by this Court also finds support from the judgments of the Hon'ble Supreme Court in **Mahant Dhangir and another Vs. Madan Mohan and others, 1987 (Suppl) SCC 528, Delhi Electric Supply Vs. Basanti Devi and another, 1999 (8) SCC 229** and **Atul Chander Kalita Vs. Bano Ram Baro and others, AIR 2004 Gauhati 174.**

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 the appeals filed by the State of Haryana have been found wholly misconceived, bereft of merit and without any substance, thus, these must fail and the same are accordingly dismissed. The appeals filed by the land owners are hereby partly allowed to the extent indicated above.

Consequently, all the land owners are held entitled to receive the compensation for their acquired land at the rate of Rs.2,70,000/- per acre, from the date of notification under Section 4 of the Act. The compensation granted to the land owners by the learned reference Court regarding tubewells is upheld. Besides this, the land owners are also be entitled for all other statutory benefits available to them, under the relevant provisions of the Act.

Resultantly, with the observations made above, all these 23 appeals stand disposed of in the abovesaid terms, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

14.01.2016
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