HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

RFA-2207-2008
Date of decision:18.1.2016

Ajit Singh

...Appellant(s)

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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

Present: None for the appellant(s).
Mr.Yatinder Sharma, Addl.A.G., Punjab.

<u>RAMESHWAR SINGH MALIK, J.</u> (Oral)

This batch of 70 appeals bearing RFA Nos. 2207 to 2237 of 2008, 2659 to 2661 of 2008, 3229, 3630, 3631, 3633, 3634, 3635 and 5381 of 2008, 359 to 365 of 2009, 786 to 789 of 2009, 809, 810, 1415, 1416, 1685, 2081, 3108, 3734 and 4569 of 2009, 550 and 551 of 2010, 2291 to 2296 of 2013 and RFA No.3540 of 2013 filed by the land owners, is being decided together by this common order, as all the appeals arise from the same acquisition and are raising identical questions of law and facts. However, for the facility of reference, facts are being culled out from RFA-2207-2008 (Ajit Singh v. State of Punjab).

Briefly put, facts of the case, which are necessary for disposal of these appeals, are that the State of Punjab sought to acquire the land of two villages namely Marauli Kalan and Marauli Khurd at public expense for public purpose, i.e. for construction of bye-pass around Morinda Town. Notification dated 4.8.2000 was issued under Section 4 of the Land

Acquisition Act, 1894 (`the Act' for short), which was followed by notification under Section 6 of the Act. The Land Acquisition Collector, vide his Award No.1 dated 21.12.2002, granted the compensation @ Rs.5,40,000/- per acre for the land of village Marauli Kalan and @ Rs.4,50,000/- per acre for the land of village Marauli Khurd. Dissatisfied, the land owners filed their objections under Section 18 of the Act and as a consequence thereof, land references were forwarded by the Land Acquisition Collector to the learned Reference Court. Vide common award dated 30.11.2007, learned Reference Court decided as many as 52 land references, granting an amount of Rs.6 lacs per acre for the land of both the above-said villages. That is how, this bunch of appeals, at the instance of land owners, is being decided together.

Nobody has appeared on behalf of the appellants-land owners.

After going through the record of the case with the able assistance of learned counsel for the State and after hearing him, this Court is of the considered opinion that these appeals deserve to be partly allowed, for the following more than one reasons.

It is a matter of record that the State of Punjab did not lead any evidence, as recorded by the learned Reference Court in para 8 of the impugned award. Though, land owners produced as many as six sale instances but except two sale-deeds Ex.P6 dated 8.9.2003 and Ex.P8 dated 27.11.2006, all other sale instances were pertaining to different other villages. Out of these sale-deeds, Ex.P8 was executed after about six years of the date of notification under Section 4 of the Act, because of which, the same was rightly ignored by the learned Reference Court.

In such a situation, the only relevant sale-deed which could have been made the basis for assessing the market value was sale-deed dated 8.9.2003 Ex.P6, whereby land measuring 2K-5M was sold for Rs.5,40,000/- in village Marauli Kalan. The learned Reference Court has relied upon this sale-deed, whereby the land was sold @Rs.11.52 lacs per acre. The learned Reference Court applied 12% per annum cut on the market value of sale-deed and after deducting 36% for the time gap of three years, the market value came to Rs.7.37 lacs per acre.

However, the learned Reference Court has committed a serious error of law, while deducting this market value further without there being any reason, whatsoever. On the other hand, looking to the potential of the acquired land due to its prime location, there ought to have been reasonable increase over and above this market value of Rs.7.37 lacs per acre. After careful examination of the record and giving anxious consideration to the peculiar fact situation, particularly the location of the acquired land, which was abutting the Chandigarh-Ludhiana National Highway and other establishments including education institutions, Maternity Hospitals, Shops, Workshops, Poultry Farms, Banks, General Hospitals and FCI godowns etc. existing nearby, besides the fact that boundary of these villages was touching the municipality area, this Court is of the considered view that land owners in these appeals were entitled at least for an amount of Rs. 8 lacs per acre for their acquired land, from the date of notification under Section 4 of the Act. This market value would be just and reasonable as the acquired land was not far away from Chandigarh and could have been used for commercial as well as residential purpose.

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 this batch of appeals deserve to be partly allowed as indicated above. The land owners are held entitled to receive the compensation for their acquired land @ Rs.8 lacs per acre from the date of notification under Section 4 of the Act. Besides this, the land owners shall also be entitled to all the statutory benefits available to them under the relevant provisions of the Act.

Resultantly, with the observations made above, all the afore-said appeals stand partly allowed, in the afore-said terms, however, with no order as to costs.

18.1.2016 **(RAMESHWAR SINGH MALIK)**
mks **JUDGE**