HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

RFA-2645-2009 & connected matters
Date of decision:9.2.2016

Kasam and others

...Appellants

Versus

State of Haryana and others

...Respondents

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: Mr.Rajesh Lamba, Advocate for the appellants.
Mr.Arun Beniwal, DAG, Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

Instant order proposes to decide together 7 appeals bearing RFA Nos.2645 to 2651 of 2009, as all these appeals arise out of the same acquisition and raise identical questions of law and facts. However, for the facility of reference, facts are being culled out from RFA No.2645 of 2009 (Kasam and others v. State of Haryana and others).

Facts necessary for disposal of instant batch of appeals are that the State of Haryana sought to acquire land measuring 4.47 acres (35K-15M), out of the revenue estate of village Dhoj, District Faridabad at public expenses for public purpose namely; for construction of roads. Accordingly, notification under Section 4 of the Land Acquisition Act, 1894 (`the Act' for short) was issued on 17.7.2001, which came to be followed by notification dated 18.7.2001 under Section 6 of the Act. Land Acquisition Collector, vide his award No.1 dated 28.6.2002, granted the compensation @ Rs.3 lacs per acre for agricultural land; Rs. 5 lacs per acre for the land adjoining the road and upto the depth of two acres whereas Rs.1,11,540/- per acre was granted for Gair Mumkin Pahar. Dissatisfied, the land owners filed their objections under Section 18 of the Act and as a consequence thereof, land references were forwarded, which came to be dismissed by the learned reference court vide its impugned award dated 8.12.2008.

Feeling aggrieved, land owners have approached this Court by way of these appeals, seeking enhancement in the compensation for their acquired land. Along with the appeals, land owners also moved an application under Order 41 Rule 27 of the Code of Civil Procedure, seeking to lead additional evidence by placing on record certified copies of three sale-deeds in the form of Annexures A-1 to A-3. After notice, this application was allowed by this Court vide order dated 25.1.2016.

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 all the appeals filed by the land owners deserve to be partly allowed, for the following more than one reasons.

The above-said three sale-deeds pertained to village Dhoj itself. Since the sale-deed Annexure A-3 was dated 21.6.2001 and the land came to be acquired vide notification dated 17.7.2001, this has been found to be the most relevant sale instance. So far as location of the acquired land was concerned, it was admitted by RW-1 Devender Singh (Halqa Patwari) that the acquired land was situated within the municipal area of Faridabad. Under these circumstances, it would be just and expedient to ignore the first two sale-deeds Annexures A-1 and A-2, because the sale-deed Annexure A-3 would disclose more realistic market value of the acquired land, it having been executed just about one month prior to the date of notification under Section 4 of the Act.

Keeping in view the above-said peculiar facts and circumstances of the case and in the absence of any other better piece of evidence produced by either party, sale-deed Annexure A-3 seems to be the safe guide to assess the market value of the acquired land. It is also pertinent to note about this sale-deed Annexure A-3, that the area sold thereunder was beyond two acres depth from the road. The land sold through this sale-deed was measuring 7K-8M which was a plot of reasonable size and this cannot be said to be a sale pertaining to small piece of land.

The land sold vide this sale-deed (Annexure A-3) was from the revenue estate of village Dhoj itself and it was sold at the rate of Rs.3,76,216/- per acre. Further, since the total land acquired was less than 5 acres and the area sold vide this sale-deed Annexure A-3 was about one acre, applying any cut thereon would not be justified. Having said that, this Court feels no hesitation to conclude that market value of the acquired land was not less than Rs.3,76,216/- per acre at the time of its acquisition. Accordingly, it is held that land owners-appellants would be entitled to receive the compensation for their acquired land at the flat rate of Rs.3,76,216/- per acre from the date of notification under Section 4 of the Act. Belting system is being ignored because every inch of acquired land would be to put to one and the same use.

No other relevant evidence or judicial precedent was pressed into service nor any other argument was raised on behalf of either of the parties.

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 impugned award passed by the learned reference court is liable to be modified and the above-said seven appeals filed by the land owners deserve to be partly accepted, which are hereby allowed to the extent indicated above. The land owners are held entitled to receive the compensation for their acquired land @ Rs.3,76,216/- 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.

9.2.2016 **(RAMESHWAR SINGH MALIK)**
mks **JUDGE**