IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

RFA No.3220 of 2014
Date of Decision : 15.2.2016

Parveen Lata ......Appellant

Vs.

State of Punjab and another ......Respondents

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CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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Present : Mr. Sherry K. Singla, Advocate for the appellant in RFA Nos.3220 to 3226, 3272, 3273, 5306, 10233, to 10242 of 2014 and 3406 of 2015.
Mr. Gurminder S. Salana, Advocate for the appellant in RFA No.8669 of 2014.
Mr. Nitin Kaushal, Advocate for Punjab Mandi Board.
Mr. Sanjiv Gupta, Advocate for respondent no.1 in X.Obj. Nos.139-C1 of 2015 to 145-C1 of 2015.
Mr. Rakesh Verma, Sr. DAG, Punjab.

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

RAMESHWAR SINGH MALIK, J

This bunch of 59 appeals, out of which 37 appeals bearing RFA Nos.81 to 117 of 2015 filed by the beneficiary department i.e. Punjab Mandi Board and 22 appeals bearing RFA Nos.3220 to 3226, 3272, 3273, 5306, 8669, 10233, to 10242 of 2014 and 3406 of 2015 and seven cross objections No.139-C1 of 2015 to 145-C1 of 2015 filed by the land owners, is being decided vide this common order, as all these appeals arise out of the same acquisition and raise identical questions of law and facts. However, with the consent of learned counsel for the parties and for facility of reference, facts are being culled out from RFA No.3220 of 2014 (Parveen Lata Vs. State of Punjab and another).

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Brief facts of the case are that State of Punjab sought to acquire land measuring 24 kanals 10 marlas out of the revenue estate of Village Ghalori, Tehsil and Distt. Patiala, on public expenses for public purpose namely; for setting up of vegetable market. Accordingly, notification dated 2.12.2005 was issued under Section 4 of the Land Acquisition Act, 1894 (`the Act' for short), which came be followed by notification dated 5.1.2007 under Section 6 of the Act. The Land Acquisition Collector, vide his award dated 9.1.2009 granted the compensation of Rs.35,00,000/- per acre at the uniform rate for the total acquired land. Dissatisfied, the land owners filed their objections under Section 18 of the Act and as a consequence thereof, as many as 37 land reference were forwarded to the learned reference court. All the 37 land references came to be decided by the learned reference court by its common impugned award dated 13.12.2013, granting the compensation to the land owners @ Rs.1023/- per sq.yard.

Both the parties felt aggrieved against the above said impugned award passed by the learned reference court. 37 appeals have been filed by the Punjab Mandi Board, whereas 24 appeals and seven cross objections have been filed by the land owners. The beneficiary department i.e. Punjab Mandi Board is seeking reduction in the compensation awarded to the land owners, whereas the land owners are seeking further increase in the compensation for their acquired land. That is how, all these appeals are being decided together.

It is a matter of record that both the parties produced voluminous documentary as well as oral evidence before the learned reference court in support of their respective stands taken. The land owners produced more than 100 sale instances. Similarly, the State produced more

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than 10 sale instances. However, since the market value disclosed in the sale instances relied upon by the State was less than what was granted by the Land Acquisition Collector, the learned reference court rightly ignored those sale instances, as the same were hit by the provisions of Section 25 of the Act.

The sole argument raised on behalf of Punjab Mandi Board-the beneficiary department is that the learned reference court has applied 45% cut on the market value disclosed in sale deed Ex.P-110, which was on very lower side. He further submits that in view of the judgement of the Hon'ble Supreme Court in **Lal Chand Vs. Union of India,2010 (3) RCR (Civil) 172,** the learned reference court ought to have applied at least 75% cut on the above said market value disclosed in the sale deed Ex.P-110. Learned counsel for the beneficiary department concluded by submitting that sale deed Ex.P-110 was pertaining to village Arain Majra and was not relevant for assessing the market value in the case in hand.

On the other hand, learned counsels for the land owners would contend that the learned reference court was not justified in applying 45% cut on the market value disclosed in sale deed Ex.P-110, because in view of the peculiar facts and circumstances of the case, no cut at all was warranted to be imposed. They would further contend that there was voluminous documentary evidence in the form of other numerous sale deeds available on record, wherein the market value disclosed was more and the land owners were entitled for much more compensation than what has been granted by the learned reference court.

Having heard learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful

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consideration to the rival contentions raised, this court is of the considered opinion that the appeals filed by the beneficiary department i.e. Punjab Mandi Board are bereft of merit and liable to be dismissed, whereas the appeals filed by the land owners deserve to be partly allowed, suitably enhancing the compensation for their acquired land. To say so, reasons are more than one, which are being recorded hereinafter.

So far as the location and potentiality of the land is concerned, it had never been in dispute at any point of time. It is also a matter of record that the land sold, vide sale deed dated 15.2.2005 Ex.P-110 of Village Arain Majra was touching the acquired land. There were very many other sale deeds available on record in the form of Exs.P-109 to Ex.P-254, wherein the market value disclosed was much higher. Although the learned reference court was justified in placing reliance on this sale deed Ex.P-110 dated 15.2.2005 for assessing the market value in the instant acquisition, yet the learned reference court committed a serious error of law, while imposing 45% cut on the market value disclosed in this sale deed Ex.P-110. It is also pertinent to note here that one of the land owners namely; Prem Singh purchased one plot, vide sale deed dated 12.1.2005 Ex.PX from the revenue estate of village Ghalori itself. This land was also acquired by way of instant acquisition. The market value disclosed in the sale deed Ex.PX dated 12.1.2005 was also almost the same, which was disclosed, vide sale deed dated 15.2.2005 Ex.P-110.

Imposition of a particular percentage of cut is not an absolute rule. Neither it is desirable nor it is possible to lay down a straight jacket formula in this regard, which might be made applicable in every given situation. It is equally true that each case is to be decided on the basis of its

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own peculiar facts and circumstances. The view that has been taken by this court on the issue of imposition of any particular percentage of cut on the market value disclosed in a particular sale deed, also finds support from a Division Bench judgement of this court in **Harbans Singh and others Vs State of Punjab through the Land Acquisition Collector, Patiala**, 2006 (1) RCR (Civil) 634, which in turn was based on the law laid down by the Hon'ble Supreme Court in more than one cases.

The relevant observations made by the Division Bench in paras 12 and 13 of its judgement in **Harbans Singh's case, (supra),** which can be gainfully followed in the present case, read as under :-

> "12. There is no quarrel with the proposition, as has been laid down by the Hon'ble Apex Court in Administrator General of West Bengal V. Collector's case (supra), that where the sale instance relied upon by the claimants comprised of small plot of land, then a cut has to be applied while evaluating a large tract of land. However, in our considered view, the aforesaid proposition of law would not be attracted to the present case. As has been noticed by the learned reference court as well as by the learned Single Judge, it is clear that the acquired land was situated within the municipal limits. G.T. Road was situated on one side of the acquired land whereas on the other side of the acquired land a by-pass road connecting Sirhind town with the G.T. Road was situated. There were certain shops, workshops and petrol pumps near the acquired land. In this view of the matter,

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certain observations made by the Hon'ble Apex Court in Bhagwathula Samanna and others Vs. Special Tehsildar and Land Acquisition Officer, 1992 (1) RRR 257 : 1992 L.A.C.C. 314 may be noticed :

> "The proposition that large area of land cannot possibly fetch a price at the same rate at which small plots are sold is not absolute proposition and in given circumstances it would be permissible to take into account the price fetched by the small plots of land. If the larger tract of land because of advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not warranted. With regard to the nature of the plots involved in these two cases, it has been satisfactorily shown on the evidence on record that the land has facilities of road and other amenities and is adjacent to a developed colony and in such circumstances it is possible to utilise the entire area in question as house sites. In respect of the land acquired for the road, the same advantages are available and it did not require any further development. We are, therefore, of the view that the High Court has erred in applying the

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principle of deduction and reducing the fair market value of land from Rs.10/- per sq. yard to Rs.6.50 per sq. yard. In our opinion, no such deduction is justified in the facts and circumstances of these cases."

13. Following the aforesaid dictum land down by the Hon'ble Supreme Court of India, a Division Bench of Madras High Court in Special Tehsildar (Adi Dravidar Welfare) V. Abdul Reguman, 1996 L.A.C.C. 394 held as follows :

"In our view the observation made by the Supreme Court is squarely applicable to the case in hand. Admittedly, the land in question is already in a developed area and situated in an advantageous position and quite suitable for building purpose. It is also proved in evidence that the land in question has all the amenities such as road, drainage, electricity, communications etc. Therefore, we are of the view that the learned Subordinate Judge is not justified in deducting 20% from the market value. We, therefore, set aside that part of the order of the learned Subordinate Judge, fixing the market value at Rs.1325/- less 20%. The cross-objection is, therefore, allowed and the order of the Subordinate Judge is modified to this extent."

Respectfully following the law laid down by the Hon'ble

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Supreme Court as well as Division Bench of this court in the cases referred to herein above, although no cut was warranted to be imposed on the market value disclosed by way of above said sale deed Ex.P-110 in the present set of cases, yet to strike a balance with a view to do complete and substantial justice between the parties and proceeding on a holistic and pragmatic approach, this court is of the considered opinion that it would be just and expedient to impose 25% cut on the above said market value disclosed in the sale deed Ex.P-110. After imposing 25% cut on the market value disclosed in the sale deed Ex.P-110, the market value would come to Rs.1395.75 per sq.yard, which is rounded off to Rs.1396/- per sq.yard.

The next question that arises for consideration of this court is, whether the land owners are entitled for the annual increase on the above said market value for the time gap between the date of sale deed Ex.P-110 and the date of acquisition in the instant case. The answer is and has to be in the affirmative. The date of notification under Section 4 of the Act was 2.12.2005, whereas the date of sale deed Ex.P-110 was 15.2.2005 and the date of sale in the sale deed Ex.PX was 12.1.2005, thus, there was a time gap of about one year.

Although keeping in view the nature of land, which was admittedly the urban land having been situated within the municipal limits of Patiala City, the land owners would have been entitled for 15% annual increase in view of the law laid down by the Hon'ble Supreme Court in **The General Manager, Oil & Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel & another, 2008 (14) SCC 745,** yet keeping in view the above said peculiar facts and circumstances of the case, this court is of the considered view that 12% annual increase on the above said

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market value would be just and reasonable.

Amount, on account of 12% of the above said market value of Rs.1396/- per sq.yard, would come to Rs.167.52, which is rounded off to Rs.168/- per sq.yard, thus, the total market value comes to Rs.1564/- per sq.yard. Accordingly, the land owners are held entitled to receive the compensation for their acquired land @ Rs.1564/- per sq.yard from the date of notification under Section 4 of the Act. It is so held because the Hon'ble Supreme Court has laid down the law in **Mehrawal Khewaji Trust (Regd.) Faridkot and others Vs. State of Punjab and others,** 2012 (2) RCR (Civil) 893 that the land owners are entitled to receive the best price for their acquired land. Similarly, Hon'ble Supreme Court in paras 17 and 18 of its judgement in the case of **Udho Dass Vs. State of Haryana, 2010 (12) SCC 51,** held that the landowners hardly get the real compensation for their acquired land.

No other better evidence or judicial precedents were 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 appeals filed by the beneficiary department i.e. Punjab Mandi Board are wholly misconceived, bereft of merit and without any substance, thus, these must fail and the same are hereby dismissed. The appeals and cross-objections filed by the land owners deserve to be partly accepted and the same are allowed to the extent indicated above. The land owners are held entitled to receive the compensation for their acquired land @ Rs.1564/- per sq.yard from the date of notification under Section 4 of the

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Act. Besides this, the land owners shall also be entitled for all the statutory benefits available to them under the relevant provisions of the Act.

Resultantly, with the observations made above, all these appeals and cross objections stand disposed of in the above said terms, however, with no order as to costs.

15.2.2016 (RAMESHWAR SINGH MALIK)
GS JUDGE

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