

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA No.6786 of 2015 (O&M)

Date of decision: 23.05.2016

Haryana State Industrial and Infrastructure Development Corporation

... Appellant

Vs.

Paushtik Agro Foods Pvt. Ltd. and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Deepak Balyan, Advocate
for the appellant.

Mr. R.S. Khosla, Senior Advocate with
Ms. Komal Bir Gill, Advocate
for the contesting respondent No.1.

Mr. Shivendra Swaroop, AAG, Haryana
for respondents No.2 & 3-proforma respondents.

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. (ORAL)

Instant appeal, at the hands of beneficiary department, is directed against the impugned award dated 17.04.2014 passed by the learned reference Court. The appellant is seeking reduction in the amount of compensation awarded to the contesting respondent-claimant.

Notice of motion was issued. Respondent No.1 has filed reply to the application for condonation of delay on 21.03.2016, placing on record some documents as Annexures R-1 to R-3, with its reply.

Heard learned counsel for the parties.

Present appeal pertains qua the claim of contesting respondent-claimant only for superstructure, existing on the acquired land, at the time of its acquisition.

Brief facts of the case are that vide notification dated 25.04.2008 issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act'), State of Haryana sought to acquire the land for setting up Chaudhary Devi Lal Industrial Model Township, to be planned and developed as an integrated complex for industrial and commercial purposes in village Fazalwas, Tehsil Manesar, District Gurgaon. Land Acquisition Collector ('LAC' for short), vide his supplementary award No.6 dated 09.03.2010, assessed the market value of the superstructure at the rate of Rs.37,75,429/-.

Dissatisfied with the market value assessed by LAC, claimant filed its objection under Section 18 of the Act and as a consequence thereof, matter was referred to the learned reference Court for its decision. Parties led their respective evidence. Learned reference Court, after going through the evidence available on record, assessed the market value of the superstructure at the rate of Rs.1,12,29,000/- vide impugned award dated 17.04.2014.

Feeling aggrieved against the abovesaid impugned award passed by the learned reference Court, beneficiary department-appellant has approached this Court, by way of instant appeal, seeking reduction in the amount of compensation awarded.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the recorded of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered

opinion that the present appeal is without any merit and the same is liable to be dismissed, for the following more than one reasons.

A bare perusal of the impugned award would show that the evidence led by the claimant has gone completely unrebutted and uncontroverted. An expert witness appeared as PW2 and duly proved his valuation report Ex.PW2/A, whereby he has assessed the market value of the superstructure at Rs.1,12,29,000/-. This witness was put to cross-examination but nothing adverse could be elicited from him, at the hands of the appellant. Further, as per the LAC award Ex.R1 at page 117 of the lower Court record, LAC assessed the abovesaid market value of the superstructure at Rs.37,75,429/-, only on the basis of details provided to him by the department.

However, beneficiary department-appellant, for the reasons best known to it, neither produced any valuation report nor any expert witness to counter the abovesaid valuation report Ex.PW2/A duly proved by PW2-expert witness produced by the claimant before the learned reference Court. Once the expert evidence produced by the claimant has gone completely unrebutted on record, the learned reference Court committed no error of law, while accepting the claim of the claimant, for the abovesaid market value of Rs.1,12,29,000/-, which was based on cogent, documentary as well as oral evidence.

It is also pertinent to note here that out of very many cases of similar nature, the beneficiary department has approached this Court only in the present case and did not challenge identical awards passed by the learned reference Court in numerous other cases. This discriminatory and arbitrary

approach adopted by the appellant can also not be approved at the hands of this Court. The appellant was not expected to adopt the policy of pick and choose, while laying challenge only to one award against the present contesting respondent, out of numerous identical awards.

The relevant observations made by the learned reference Court in para 10 of the impugned award, whereby he has recorded cogent findings, deserve to be noticed here and the same read as under: -

“In case Smt. Lille Mandanjit Vs. Land Acquisition Collector, State of Punjab, 2008 (3) RCR (Civil) 452, our Hon'ble High Court has held that under Section 23 of the Act, expert's opinion or the report of an expert, a Civil Engineer, can be accepted by the court in the absence of any evidence to the contrary as to assessment of value of the structure. Admittedly there is no iota of evidence on the file, which could be produced by the respondents, contrary to the evidence led by the petitioner to show that market value of the superstructure existed on the acquired land as claimed by the petitioner is on the higher side. Therefore in the absence of any evidence, the report Ex.PW2/A can safely be taken into consideration in view of the law laid down by our Hon'ble High Court. Hence there is no reason to disbelieve the valuation report. Photographs Ex.PX to PZ6 placed on the file also support the version of the petitioners. Hence petition is entitled to compensation of Rs.1,12,29,000/- for superstructure existed on the acquired land alongwith all statutory benefits. Hence both these issues are

decided in favour of the petitioner.”

When confronted with the abovesaid factual and legal aspect of the matter, learned counsel for the appellant could not deny the same and rightly so, it being a matter of record. In fact, in the absence of any kind of evidence led by the appellant before the learned reference Court, with a view to controvert the expert evidence duly proved by the claimant, learned counsel for the appellant could not substantiate his argument, despite making his best efforts.

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 instant appeal is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, present appeal stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

23.05.2016
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