IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA-2105-1990 (O&M)
Date of Decision: July 17, 2017

Gurmit Kaur

...Appellant

Versus

Punjab State and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Rajinder Sharma, Advocate, for the appellant.

Ms. Ruksaar Sandhu, AAG, Punjab.

ARUN PALLI, J. (ORAL)

The claimant is in appeal against an award, dated 02.05.1990, rendered by the Reference Court. The facts that are required to be noticed are limited.

Vide notification, under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), dated 14.01.1987, a land measuring 177 Kanals (H.B. No. 54), situated in village Bara Aslam, Tehsil Nakodar, District Jalandhar, was sought to be acquired for setting up the Satluj Cooperative Sugar Mills at Nakodar. The Land Acquisition Collector, vide award dated 29.09.1987, assessed the compensation of the acquired land at Rs. 40,000/- per acre. Being dissatisfied with the assessment as also the compensation awarded by the Collector, the appellant/landowner filed objections under Section 18 of the Act. Resultantly, the dispute was referred to the Civil Court for determination of the true value of the acquired land. The Reference Court on a consideration of the matter in issue and the evidence on record, enhanced the compensation awarded to the claimant to

Rs.57,000/- per acre. The conclusion arrived at by the Reference Court reads thus:-

> "16. The claimants have brought on record certified copies of the three sale deeds, namely, Ex.A2 dated 14.6.85, and Ex. A3 dated 2.7.85 for 6K-13 Mls. each @ Rs.44,000/- each and Ex. A4 dated 30.1.1986 in respect of 2K of land for Rs.24000/-. The average per acre of these sales comes to Rs.74,400/- per acre. These sales give a fair idea of the market value of the type of the land acquired that prevailed at the time relevant for the determination of the market value under the Act.
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> 17. However, it may appear to be more expedient in the ends of justice to work out the average market value of the land per acre by taking to means of Rs.74,400/- on the basis of the said sale transactions and the average worked out by the Collector As. Rs.40,000/- per acre without the said sales. So computed, it comes to Rs.57,200/-, but the round figure of Rs.57,000/- may be taken to be the fair market value of the land at the time of the notification under Section 4 of the Act i.e. 14.1.1987.
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> 18. There is, therefore, no escape from the conclusion that the market value determined by the Land Acquisition Collector is unfair and inadequate and that the fair market value of the acquired land was Rs.57,000/- per acre and the compensation was therefore, required to be determined at that rate with consequential enhancement and the benefits available

under the Act in the form of solatium etc. The issue is decided accordingly."

Ex facie, the Reference Court worked out the average price of the three sale deeds that were relied upon by the claimant/landowner. Vide sale deeds, dated 14.06.1985 (Ex. A-2) and 02.07.1985 (Ex. A-3), a land measuring 6K-13M each was sold @ Rs.44,000/-. And, vide sale deed, dated 30.01.1986 (Ex. A-4), a land measuring 2K was sold for Rs.24,000/-. Although the average price per acre as determined by the Reference Court is Rs.74,400/- per acre, however, learned counsel for the parties are *ad idem* that the figure arrived at by the Reference Court is erroneous, as it ought to be Rs.59,736/- per acre. Further, the Reference Court worked out the average market value of the acquired land of the amount assessed by the Collector, i.e. Rs.40,000/- per acre and the average sale price of the three sale deeds (Exs. A-2 to A-4), i.e. Rs.74,400/- per acre and computed the value of the acquired land at Rs.57,200/-, which was rounded off to Rs.57,000/- per acre. But as indicated above, the figure of Rs.74,400/- per acre is erroneous as the average sale price of Exs. A-2 to A-4 comes to Rs.59,736/-. Therefore, the average of the compensation assessed by the Collector and the sale consideration reflected in the sale instances (Exs. A-2 to A-4) works out to Rs.49,868/- per acre [Rs.40,000/- + Rs.59,736/- = Rs.99,736/- ÷ 2]. Meaning thereby, what indeed has been awarded by the Reference Court is in excess and is apparently owing to arithmetical miscalculation. But as the acquisition pertains to olden times, for the notification under Section 4 was issued on 14.01.1987, i.e. more than 30 years ago, and the difference between the amount awarded, i.e. Rs.57,000/- per acre, and Rs.59,736/- per acre, is not substantial, therefore, I deem it appropriate to rest the matter at that. Particularly when the claimant/landowner had withdrawn the enhanced compensation in terms of the impugned award, dated 02.05.1990, years ago. And more than that, for the State never questioned the impugned award.

In view of above, no further enhancement is feasible. Accordingly, the appeal is dismissed being devoid of merit.

(ARUN PALLI)
JUDGE

July 17, 2017
Pkapoor

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO