

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 2851 of 2016 (O&M)

Date of decision : 27.1.2017

Smt. Sudharsna and others

.. Petitioners

versus

Mundra Delhi Pipeline Paryojna Hindustan
Petroleum Corporation and another

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Hari Pal Verma**

Present: Mr. Deepak Balyan, Advocate, for the petitioners.
Mr. Aman Arora, Advocate, for respondent no.1.

Rajesh Bindal, J.

1. This order will dispose of bunch of writ petitions bearing CWP Nos. 2851, 5722, 5192, 5204, 5205, 5207, 5222, 5224, 5228, 5229, 5230 and 9567 of 2016, as common questions of law and facts are involved therein.

2. However, the facts have been taken from CWP No. 2851 of 2016.

3. Briefly, the facts of the case are that Government of India, Ministry of Petroleum & Natural Gas, New Delhi, issued notification under Section 3(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (for short, 'the Act'), on 7.12.2004, published on 11.12.2004, for acquiring right to use land situated in the revenue estate of Bahadurgarh, District Jhajjar. The competent authority, MDPL, HPCL, Bahadurgarh (for short, 'the competent authority') vide letter dated

19.2.2005, issued notices to the petitioners to file objections, but no objections were filed. The competent authority vide award dated 27.9.2010, assessed the market value of the land @ ₹ 16,00,000/- per acre. Dissatisfied with the award of the competent authority, the landowners filed applications before the learned Additional District Judge, who vide award dated assessed the market value of the acquired land @ ₹ 20,00,000/- per acre and consequently awarded compensation as per the Act. It is this award which has been impugned in the present set of writ petitions by the landowners.

4. Leaned counsel for the petitioners submitted that the value of the land, which had potential for being used for urbanization, has not been properly assessed by the learned court below. The competent authority as well as the learned Court below have failed to award compensation to the petitioners on account loss of *kotha* and future loss of crops at the time when the pipeline was to be laid.

5. On the other hand, learned counsel for respondent no.1 submitted that the petitioners had not filed any objections regarding valuation of the land in question. In fact, it is not a case of acquisition of land, rather only right to use has been taken for laying underground petroleum pipelines. The ownership of the land remains with the landowners. They are at liberty to grow crops on the land. Thus, there is no loss of income. The petitioners had received the compensation without any protest. There was no *kotha* existing on the land in question. Wherever any crop was existing on the land used at the time of lying underground pipeline, compensation was assessed and paid for loss of crop. He further submitted that in the case in hand, no evidence was led. The learned court

below has already awarded higher compensation to the petitioners without there being any evidence led regarding valuation of land. The same does not deserve to be interfered with.

6. Heard learned counsel for the parties and perused the paper book.

7. As per the Scheme of the Act, the Central Government is empowered under Section 3 thereof to express its intention to acquire right of user of any land for the purpose of transportation of petroleum and mineral products from one place to another. After survey and hearing objections, final declaration is made under Section 6 of the Act.

8. Section 9 of the Act prescribes restrictions regarding use of land notified under Section 6 of the Act. Section 10 of the Act deals with compensation payable to the landowners. Compensation can be on account of damages, loss or injuries sustained by any person interested in the land under which the pipeline is proposed to be laid. In addition, the compensation payable is @ of 10% of the value of the land, right of enjoyment of which has been taken. The value has to be assessed, on the date of issuance of notification under Section 3 of the Act. The assessment of compensation has to be made by the competent authority as defined under Section 2(a) of the Act. In case, the amount of compensation as determined by the competent authority is not acceptable to either of the parties, they shall have right to file application before the District Judge within the limits of whose jurisdiction the land or any part thereof is situated. The decision of the District Judge is final in terms of Section 10(6) of the Act.

9. The issue raised by the petitioners in the present bunch of petitions is regarding valuation of land, as a consequence of which they would be entitled to higher compensation in terms of Section 10(4) of the Act. Further prayer is for assessment of compensation on account of damage of *kotha* existing on the land in question and loss of crop.

10. As far as valuation of the land is concerned, undisputedly no evidence has been led by the landowners to show that the value of the land as assessed by the competent authority was not just and fair. The claim that the value of the land was ₹ 1,00,00,000/-, was merely a statement made with no corroborative documentary evidence in the form of sale-deeds or otherwise. In the absence thereof, the claim made by the landowners that the value of the land be assessed at a higher rate than what was assessed by the competent authority could not be accepted. However, the learned court below has assessed just and fair compensation and consequent entitlement of the landowners. For the purpose, reliance was placed upon the policy issued by the State Government on 9.11.2010 providing for minimum rates to be awarded for acquisition of land at different places in the State. The policy was applicable in all cases where the award was announced by the Collector on or after 7.9.2010. In the present case, the competent authority had announced award on 27.9.2010. The object of the policy was to uniformly assess the value of the acquired land and reduce the litigation. Placing reliance upon the aforesaid policy, the learned court below, as against ₹ 16,00,000/- per acre assessed by the Collector, had assessed the value of the land @ of ₹ 20,00,000/- per acre. The respondents accepted the award of the learned court below and did not prefer any appeal.

As no other evidence is on record, in our view, the award of the learned court below cannot be said to be erroneous, calling for interference by this court as far as the value of the land is concerned.

11. As far as argument regarding payment of compensation on account of damages suffered by the petitioners is concerned, admittedly, there was no evidence led by the petitioners either before the competent authority or before the court below. Bald statement to claim that any *kotha* had been demolished or there was any loss of crop, cannot be accepted, hence, the claim made by the petitioners on that count is totally misconceived.

12. For the reasons mentioned above, we do not find that any case is made out for interference in the award of the learned court below. The writ petitions are accordingly dismissed.

13. Before parting with the order, in our opinion, the matter requires consideration by the authority concerned to provide remedy of appeal against the award by the District Judge determining the compensation, which may be on account on acquisition of right to use or on account of damages suffered by the landowners. Determination on both the counts is on the basis of evidence led by the parties. Though Section 18 of the Act provides that the provisions are in addition and not derogation of any other law for the time being in force relating to acquisition of land, however Section 10(6) of the Act provides that the decision of the District Judge under sub-section (2) or sub-section (5) thereof shall be final. Meaning thereby, no remedy of appeal or revision. As for the purpose of examining the correctness of the award of the District Judge, entire evidence may have to be re-apprised. It can better be in similar manner as

provided for under the Land Acquisition Act, 1894 or under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The matter needs to be examined.

14. Copy of the order be sent to respondent no. 2.

(Rajesh Bindal)
Judge

27.1.2017
vs

(Hari Pal Verma)
Judge

Whether speaking/ reasoned
Whether Reportable

Yes/No
Yes/No