

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

379

RFA No.4868 of 2014(O & M)
Date of Decision:24.10.2017

Dharampal and others

....appellants

Versus

State of Haryana and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

Present: Mr.Sanjay Mittal, Advocate
for the appellants

Mr.Sudeep Mahajan, Addl.AG Haryana and
Mr.Shivendra Swaroop, AAG Haryana
for the respondents-State

Connected appeals filed by claimant-landowners	RFA Nos.853,4869 to 4882,10617,10618 of 2014 and 1490, 2064 to 2067, 2119, 327, 845 to 853 of 2015
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ARUN PALLI, J. (ORAL):

Vide this order, I shall decide a batch of 34 appeals that have been filed by the claimants-landowners. For, all these appeals arise out of the same acquisition, and, are preferred against a common award, these are being disposed of, by a common judgement. However, by consensus, the facts are being culled from RFA No.4868 of 2014 (Dharampal and others vs. State of Haryana and others).

Vide notification dated 22.03.2007, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), an area measuring 43.35 acres, situated in two villages i.e. Mandauthi (Hadbast No.53) and Rohad, Tehsil Bahadurgarh, District Jhajjar, was sought to be acquired for construction of NCR Water Supply Channel from KM 29.300 to 37.575.

Final declaration under Section 6 was published on 21.05.2007. Vide award No.4, dated 07.04.2008, the Land Acquisition Collector (for short, 'the Collector') assessed the value of the acquired land, at ₹ 16,00,000/- per acre. Being aggrieved by the assessment as also the compensation, the claimant-landowners filed objections under Section 18 to the award rendered by the Collector. Resultantly, the dispute was referred to the civil Court for determination of the true value of the acquired land. On a consideration of the matter in issue and evidence on record, the reference Court discarded all the sale deeds/sale instances that were proved by the claimant-landowners, for, these pertained to the properties located at a prime location. Likewise, the sale deeds Ex.D-1 to Ex.D-4, Ex.D-6 to Ex.D-10 and Ex.D-12, brought on record by the State were also ruled out of consideration, for, the rates, at which these sale deeds were executed, were far less than the rate at which the Collector had assessed the acquired land. And, since, vide sale deeds Ex.D-5 and Ex.D-11, the land was sold @ ₹ 16,00,000/- per acre, which was equivalent to the value determined by the Collector, it was concluded that no further enhancement was feasible. However, as owing to the acquisition in question, the land of few of the claimant-landowners, stood bifurcated into two parts, they were also awarded compensation on account of severance @ 20% of the market value of the acquired land or un-acquired land, whichever was less. That is how, as indicated above, the claimant-landowners are in appeals before this Court, for further enhancement. However, the State has not chosen to file any appeal against the impugned award.

Mr.Sanjay Mittal, learned counsel for the claimants submits that the landowners had proved on record the sale instances Ex.P1 to Ex.P9,

vide which the land situated in the same village i.e. Mandauthi was sold in the range of ₹ 17,82,285/- to ₹ 1,00,32,000/-per acre. However, he submits, that all these sale instances were ignored by the reference Court, for, the properties, that were sold vide these sale deeds were situated at the highway or the main road. And, thus, being located at a prime location could not be relied upon to assess the value of the acquired land. He asserts that the reasons assigned by the reference Court to discard these sale instances are wholly erroneous. Even otherwise, he submits that a bare analysis of the site plan/Aks Sijra Ex.P-10 and Ex.P-14, reveals that the land that was sold vide sale deeds Ex.P3 to Ex.P6, was rather situated closer to the acquired land, than to the national highway. Likewise, it is submitted that the land that was sold vide Ex.P2, Ex.P7 to Ex.P9 was also situated in the vicinity of the acquired land. Therefore, it is urged that the conclusion arrived at by the reference court was perverse and contrary to the record. And, the claimants were entitled to be awarded compensation in terms of the sale deeds/sale exemplars proved on record by the landowners. As regards compensation awarded by the reference Court, on account of severance, he fairly submits that nothing substantive exists on record that entitles the claimants to seek further enhancement.

Per contra, learned State counsel submit that the Collector had rightly assessed the value of the acquired land, and, therefore, no further enhancement was feasible. And, it was precisely, for this reason, even the reference Court had dismissed the claims of the landowners. However, in the alternative, it is submitted that even if the sale instances proved by the claimants, were required to be taken into consideration, the sale deeds Ex.P1 to Ex.P6, being of a smaller area, an appropriate or suitable cut had to

be caused. Whereas, the sale deeds Ex.P7 to Ex.P9 could never be taken into account, for, these were executed, post issuance of notification under Section 4 of the Act.

I have heard learned counsel for the parties and perused the records.

Ex facie, the claimant-landowners had proved on record the sale deeds/sale instances Ex.P1 to Ex.P9 to substantiate their claim. It is not disputed either that all these sale deeds, tabulated below, were executed prior to the issuance of notification dated 22.03.2007, under Section 4. Further, the land that was sold vide these sale deeds also formed part of the same revenue estate i.e. village Mandauthi. The bona fides of these transactions were not in issue either before the reference Court or even before this Court.

<i>Sr. No.</i>	<i>Exhibit</i>	<i>Date</i>	<i>Village/ Town</i>	<i>Extent</i>	<i>Consider- ation</i>	<i>Value per acre</i>	<i>Locatio n Road</i>
1	Ex.P-1	24.09.04	Mandauthi	00B-13 Biswa	8,00,000	19,62,230/-	NH-10
2	Ex.P-2	05/05/05	Mandauthi	02B-16 Biswa	31,19,000	17,82,285/-	NH-10
3	Ex.P-3	20.01.06	Mandauthi	00B-04 Biswa	3,00,000	24,00,000/-	NH-10
4	Ex.P-4	28.03.06	Mandauthi	00B-01 Biswa	82500	26,40,000/-	NH-10
5	Ex.P-5	30.03.06	Mandauthi	00B-01 Biswa	1,00,000	32,00,000/-	NH-10
6	Ex.P-6	13.11.06	Mandauthi	00B-05 Biswa	2,92,000	18,68,800/-	NH-10
7	Ex.P-7	12/04/07	Mandauthi	00B-03 Biswa	5,00,000	53,33,333/-	NH-10
8	Ex.P-8	14.05.07	Mandauthi	00B-02 Biswa	5,85,000	93,60,000/-	NH-10
9	Ex.P-9	22.05.07	Mandauthi	00B-02 Biswa	6,27,000	1,00,32,000/-	NH-10

However, for, the reference Court was of the view that the properties situated at the highways and/or the main roads have a high commercial value than the general market rate, and, as, the land that was alienated vide Ex.P1 to Ex.P9 was situated at a prime location, these could never be relied upon or form basis of assessment;

It is a general market trend that the properties located at

the highways and main roads have high commercial value and usually fetch exorbitant sale price than the general market rate. Sale deeds/exemplars Ex.P1 to Ex.P9 cited by the petitioners cannot be considered by this Court being sale transactions pertaining to prime location as apparent from site plan/Aks Sijra Ex.P10 and Ex.P14.”

There cannot be any illusion that ordinarily the properties located at the national highway or the main road, commands a higher commercial value. But, it has not yet been laid down as an absolute rule of law that sale instances of a property that is located at a prime location can never form basis of assessment or cannot be relied upon to assess the value of a land in its vicinity or adjacent thereto. Rather, if such sale deeds/sale instances are germane to the acquisition, pertain to an area that was situated in the same vicinity, and, are not dis-similar in nature and quality, those could always be factored-in to evaluate the true value of the acquired land. For, at times, even though a land is contiguous to another parcel of land or abuts thereto, but, still is primely located in comparison to the other or is a shade better in terms of its location, but, that would not mean that it was incomparable to evaluate the value of the adjacent land. It is not a case where the reference Court on a comparative analysis of the location of two sites reached a conclusion that these were incomparable and, therefore, the sale deeds Ex.P1 to Ex.P9 could not be relied upon. Even otherwise, the premise upon which the reference Court proceeds and ignore these sale instances, particularly, sale deeds Ex.P3 to Ex.P6, is wholly erroneous and contrary to the record. An analysis of the site plan/Aks Sijra Ex.P10 and Ex.P14 rather reveals that sites that were sold vide these sale deeds were

situated far closer to the acquired land than the national highway or the main road. In fact, in between the land that was alienated vide sale deeds Ex.P3 to Ex.P6 and the National Highway, there also exists another canal i.e. Bahadurgarh Distributory. Something, which appears to have completely escaped notice of the reference Court. No doubt, the land that was alienated vide sale deeds Ex.P2, Ex.P7 and Ex.P9 was situated on the internal road, that connects with the Highway, but, that was hardly a reason by itself to discard these sale deeds. Although, it is different matter that the sale instances Ex.P7 to Ex.P9 could not be taken into account, for, these were executed post issuance of notification dated 22.03.2007 under Section 4. But, as regards the sale deed Ex.P2, the reference Court could always analyse its relevance in context of determining the true value of the acquired land. Thus, the only and the inevitable conclusion that could be reached is; that sale instances Ex.P3 to Ex.P6 were ruled out of consideration without there being any analysis of the location of the sites that were sold vide these sale deeds, in reference to the site plan/Aks Sijra Ex.P10 and Ex.P14.

Thus, in the given situation, I am constrained to remit the matter to the reference Court for re-decision. Resultantly, the argument advanced by the learned State counsel that even if the sale deeds/sale instances Ex.P3 to Ex.P6 could be taken into consideration, but owing to the smallness of the area, an appropriate cut or deduction was required to be caused, pales into insignificance. However, the respondents shall be at liberty to raise all such pleas/argument before the reference court. As indicated earlier, the claimants are not seeking any further enhancement in the compensation on account of severance of their land holdings.

Therefore, the finding recorded by the reference Court, in this regard shall

be final.

In conspectus of the above, the impugned award(s) are partially set aside and the matter is remitted to the reference Court for re-determination of the market value of the acquired land in accordance with law. Parties through their respective counsel shall appear before the District Judge, Jhajjar, on 06.11.2017. It shall be the discretion of the District Judge, to either decide the matter himself or to assign it to any other court of competent jurisdiction. And, now, since the matter is being remanded, the parties shall be at liberty to adduce any further evidence, if so advised. However, each of the parties shall be afforded only one opportunity. And, in the event of default, no further opportunity shall be granted. In the circumstances, the reference Court is requested to decide the matter within a period of eight weeks, from the date, the parties shall cause appearance before the District Judge.

Needless to assert that this order shall not constitute any expression of opinion on merits of the case of either party. Registry is directed to return the lower Court records, forthwith. The appeals are accordingly disposed of.

October 24, 2017

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(ARUN PALLI)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable-

Yes