

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.947 of 1990 (O&M)

Date of Decision: 07.12.2018

Chandu Lal & Anr.

... Appellants

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Ranjit Saini, Advocate for the appellants

Mr. Sudeep Mahajan, Addl. AG Haryana and
Ms. Vibha Tewari, AAG Haryana

G.S. SANDHAWALIA, J. (Oral)

This order shall dispose of RFA Nos.947 to 950 of 1990 filed by the landowners against the award dated 04.04.1989. For the sake of this order, RFA No.947 of 1990 is being treated as the lead case.

This appeal under Section 54 of the Land Acquisition Act, 1894 is directed against the award dated 04.04.1989 whereby a sum of ₹ 52,500/- per acre has been granted as market value for the land falling in Village Isharpur, Tehsil Jagadhari, Yamuna Nagar, Hadbast No.137 which was acquired vide notification under Section 4 of the Land Acquisition Act, 1894 dated 28.02.1985. The land measuring 118 kanals 6 marlas of village Isharpur was sought to be acquired for the public purpose pertaining to expansion of Yamuna Nagar Thermal Power Plant. The Collector awarded ₹ 34400/- per acre for Chahi, ₹ 11000/- for Banjar Kadim and ₹ 5500/- for Gair Mumkin apart from the statutory benefits.

In the 7 references which were before it, the Reference Court had granted the enhancement on the basis of Ex.P4 which was an award dated 19.11.1988 of village Pansara, Hadbast No.127 which had also been acquired

for the same purpose. A perusal of the said Exhibit would show that sale deed

(Ex.P5) having an area of 31K 10M was taken into consideration which was sold for ₹ 2,75,625/- and the market value of which ₹ 70000/- per acre. The sale deeds relied upon by the State was discarded on the ground that they were far-away from the acquired land and also judgment Ex.P10 & P11 whereby acquisition was done in June 1982 and the market price of the agricultural land belonging to village Pansara was fixed @ ₹ 45000/- per killa was also kept in mind. Similarly, the acquisition of village Lapra (Ex.P12) which was ahead of village Pansara towards Saharanpur side was acquired in 1982, the market value/price of which was assessed @ ₹ 50000/- per acre and thus marginal premium of ₹ 2500/- per acre was given to fix the market value @ ₹ 52500/- per acre.

Counsel for the landowners has relied upon the judgment in RFA No.1150 of 1989 (Molu Ram vs. State of Haryana) which was decided on 06.09.2006 to submit that Ex.P4 was challenged before this Court and the amount has been further enhanced to ₹ 72500/- per acre. The relevant portion reads as under:-

“Keeping in view the evidence available on record, it is quite clear that the acquired land, as on the date of acquisition itself had tremendous non-agricultural potentiality because the whole area abutting on all four sides of the acquired land was being used for non-agricultural purposes. Apart from high non-agricultural potentiality possessed by the acquired lands, the same is also situated close to the Municipal Limits of Yamuna Nagar. As per the stand of the State, the land in dispute was an ordinary agricultural land. It is settled law that where land acquired under the Act falls within the vicinity of a particular town, it should be evaluated as an urban property even if the property at the time of acquisition is used as agricultural property. In the instant case, the Collector and the Tribunal had evaluated agricultural property

acquired by the standards of agricultural property and not by the standards of urban property. Thus, it was a patent error on the face of the record and the same is required to be corrected by this Court by awarding some enhancement and in view of this, to my mind, keeping in view the facts and circumstances of the case and the location of the acquired land, as discussed above, compensation at the rate of Rs.72,500/- per acre would meet the ends of justice and I order accordingly. The land-owner will also be entitled to all the statutory benefits as awarded by the Additional District Judge, Ambala.

For the reasons recorded above, appeals, being R.F.A. No.1150 and 1151 of 1989 filed by the appellant land-owners are partly allowed by enhancing the amount of compensation to Rs.72,500/- per acre instead of Rs.52,500/- per acre as awarded by the Additional District Judge, Ambala, inclusive of all the statutory benefits as awarded by the Additional District Judge, Ambala while passing this award. The appellant-land-owners are directed to pay the court fee, if not paid earlier, on the enhanced amount of compensation, within three months from today to claim the enhanced amount of compensation.”

Counsel for the State’s sole argument was that Ex.R1 should have been taken into consideration wherein the amount was assessed @ ₹ 51,000/- per killa for village Rattanpura which was also an acquisition for the same purpose. However, a perusal of the impugned award would show that the reference court preferred Ex.P4 since the landowner Devi Chand’s (PW2) evidence had gone unrebutted to the extent that the land was located on Saharanpur-Yamuna Nagar road which connects major portion of Punjab, Haryana, Himachal Pradesh and there was ever-growing industrial activity in Saharanpur and Yamuna Nagar.

The site plan (Ex.P3) also has been perused which shows that the land of village Pansara is also depicted in the said site plan whereas the land of

village Rattanpura does not find mention in the same. Close to the acquired land there is railway line going towards Saharanpur and parallel to that is the Saharanpur road. In such circumstances the reasoning as such which has been given by the Reference Court seems to be well justified whereby the value as such has been assessed higher than village Rattanpura. Once for the adjoining village where land was acquired for the same purpose, this Court has already fixed the market value @ ₹ 72,500/- and the State could not bring to notice of this Court whether it has chosen to assail the said award, no valid reason would be there not to follow the judgment in Molu Ram's case (cited supra) to maintain parity. Resultantly, these appeals are partly allowed and as such the market value is assessed @ ₹ 72,500/- along with all statutory benefits.

07.12.2018*vvishal***(G.S. Sandhawalia)
Judge**

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No