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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.1813 of 1998
Date of decision: 15.1.2018

State of Haryana ...**Appellant**

Versus

Chhajju Ram and others ...**Respondents**

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

Present: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana with Mr. Shivendra Swaroop, AAG, Haryana for the appellant.

Mr. Apoorva Sangwan, Advocate for Mr. S.S.Dinarpur, Advocate for the land owners.

Mr. Neeraj Sharma, Advocate and Mr. Jasdev Brar, Advocate for the respondents (in RFA Nos.1813 to 1823 and 2231 of 1998)

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G.S.SANDHAWALIA, J. (Oral)

This order shall dispose of RFA Nos.1813 to 1823 and 2231 of 1998 as common question of law and facts are involved in these appeals. However, the facts have been taken from RFA No.1813 of 1998.

The State has filed the present appeals against the judgment dated 9.3.1998 whereby the Addl. District Judge, Jagadhri determined the market value of the land which had been notified under Section 4 of the Land Acquisition Act, 1894 on 4.2.1987 (hereinafter referred to as "the Act") at the rate of ₹ 45,000/- per acre.

Counsel for the State Mr. Sudeep Mahajan, Addl. Advocate General, Haryana ably assisted by Mr. Shivendra Swaroop, AAG, Haryana has mainly contended that the reverse cut had been applied by the reference

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Court for the purpose for determining the market value and the same was not sustainable while placing reliance upon the judgment of the Apex Court in **The General Manager, Oil and Natural Gas Corporation Ltd. Vs. Ramesh Jivanbhai Patel 2009(1) PLR 494.**

The acquisition was for the purpose of construction of link road from village Milak Khas to Shiv Mandir. The Land Acquisition Collector assessed the value of land ₹ 35,500/- for Chahi, ₹ 24,000/- for Barani, ₹ 12000/- for Banjar and ₹ 6000/- for Ghair Mumkin per acre. Keeping in view the exemplars which were brought on record by PW-2 and PW-3, the reference Court relied upon the sale deed dated 3.11.1992 (Ex.P2) wherein one kanal land was sold at the rate of ₹ 20,000/- which translated into ₹ 1,60,000/- per acre. Exemplars Ex. R/1 to Ex. R/4 which were produced by the State through RW-1 Bhim Sain, Kanungo were rejected on the ground that the sale deeds could not be relied upon since neither the vendors nor the vendees had been examined and the all the sale deeds were unattested and could not be relied upon while placing reliance upon the judgment of the Apex Court in **G.Narayan Rao Vs. The Land Acquisition Officer 1996(2) Apex Court Journal, 147.**

The argument of the State that exemplar dated 3.11.1992 (Ex. P2) was much later than the Section 4 notification was met by the reference Court by applying reverse cut at the rate of 12% per year to the tune of 72%. Resultantly, the market value was assessed at the rate of ₹ 45,000/- per acre which is now being objected to by the State.

The argument of the State that certified copies of the sale deeds as such could be read into evidence in view of Section 51-A of the

Act is well justified and there is no quarrel with the said issue. But Section 51-A provides that a certified copy of the document registered under the Registration Act, 1908 including a copy given under Section 57 of that Act can be accepted as evidence of the transaction recorded in such document. A perusal of Ex. R/1 to Ex. R/4 would go on to show that they were not certified copies obtained from the office of Sub Registrar and therefore, necessary compliance under Section 51-A of the Act has not been done. In such circumstances reliance upon **G.Narayan Rao's** case (supra) was well justified by the reference Court that neither the vendor nor the vendees of these sale deeds have been examined to prove the the sale-deeds and it was noticed that only the Kanungo had appeared to prove the said documents. Another factor which would go on to show from perusal of site plan Ex. R/5 is that the said sale deeds are not close to the land which was acquired for the purpose of construction of link road from Milak Khas to Shiv Mandir and therefore the said sale deeds would not depict the correct market value of the land which was specifically acquired for the purpose to extend the path which was already in existence and thus it had higher potential and market value.

The argument of the State counsel that 15% reverse cut should be applied and compensation should be reduced to ₹ 40,000/- per acre is also not liable to be accepted. This Court finds that it was the specific case of the claimants in the claim petition that the land acquired was near to the holy place of international fame namely Kapal Mochan and was surrounded by commercial complex as it was near to the Atta Chakki and other shops and residential house of an Ex-Minister was also stated to be quite near the acquired land apart from Harijan Dharamshala and also a Government School. Therefore, the land in question could be utilized for commercial purpose and compensation accordingly was asked for.

In the written statement filed, the fact was admitted that the land was acquired for construction of road on the already existing path. Even perusal of statement of witness Tej Singh, land owner while appearing as PW-1 would go on to show that the land in question was ¾ killas away from Kapal Mochan and suggestion put to him that there was no colony near the land was denied. He further clarified that the road was being made on already existing passage. The witness of the State also admitted the said factum of the road which was to be connected to the religious institution. It was the case of the State witness that there was no flour mill, kothi of Phool Chand Mullana and Harijan Colony at the time of notification and they had come up later on but he could not give the year of construction. The witness PW-3 Budh Ram who proved Ex. P2 had stated that exemplar land was situated 1 killa (one acre) away from the acquired and it was only 4 killas (four acres) away from the Kapal Mochan fair area. He also denied the suggestion that land was superior in quality to the acquired land.

The admission by the State that the land was acquired for construction of road on the already existing path for connivence of pilgrims to reach Kapal Mochan and this aspect has not been kept in mind by the Reference Court. Therefore, even if the argument of the State is to be accepted, the benefit cannot be granted keeping in view of the potentiality of the land which was abutting the passage.

In such circumstances, no case, as such, is made out for interference in the well reasoned award passed by the Addl. District Judge, in the absence of any contrary evidence on record. The present appeals, accordingly, stand dismissed.

Photocopy of this order be placed on the record of each connected case file.

January 15, 2018 **(G.S.SANDHAWALIA)**
Pka **Judge**

Whether speaking/reasoned Yes/No

Whether reportable: Yes/No