

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RFA No.2336 of 1998
Decided on: 16.01.2018

State of Haryana & others

....Appellants

Versus

Phool Singh

...Respondents

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

Present: Mr.Sudeep Mahajan, Addl.AG, Hayrana.

None for the respondent.

G.S. SANDHAWALIA, J. (Oral)

The present judgment shall dispose of 4 appeals bearing RFA-2336 to 2339-1998, involving common questions of law and facts.

Challenge has been raised in these appeals by the State to the order passed by the Reference Court dated 09.03.1998, of the Addl.District Judge, Jagadhri, under Section 18 of the Land Acquisition Act, 1894 (for short, the '1894 Act'), wherein the market value was assessed at Rs.51,000/- per acre.

The same is on the basis of Ext.P-2, which the sale deed dated 30.12.1986 of the same village Khadri, falling in Tehsil Chhachhrauli, District Ambala. The exemplars produced by the State, Exts. R-1 to R-3 were not kept in mind which had been produced by Bhim Sain, Kanungo, who had appeared as RW-1 and also proved the site-plan (Ext. R-4). The same had been discarded on the basis that the vendor and vendee had not been examined.

The said proposition, of-course, is not a correct view which has been taken by the Reference Court, to the extent that Section 51A provides that certified copies can be taken into evidence under the 1894 Act. However, the fact remains that a perusal of the site-plan (Ext.R-4) would

show that the land acquired, shown red in colour was at a considerable distance from the land pertaining to the sale deeds which are shown in green colour and therefore, reliance upon the said sale deeds by the State would be of no value. The Reference Court while keeping in mind the sale deed (Ext.P-2) noticed that it pertained to 5 kanals 16 marlas which is relatively big chunk of land and which had been sold at Rs.38,000/-, thus the value would come to around Rs.52,413/- per acre, which is not disputed by the State Counsel also.

A perusal of the record would go on to show that the acquisition process started on 17.03.1987 under Section 4, for the purpose of construction of L/R H.L. Bridge over Som Nadi (Approaches) of the Buria Khadri Deodar Road and therefore, land measuring 2.78 acres was sought to be acquired and the Collector had assessed the rate @ Rs.32,000/- per acre. Resultantly, the Reference Petition had been filed wherein enhancement had been sought on various counts including standing trees and the fact that the land was situated near the main road of the village and the High School. The said facts having not been taken into consideration by the Collector and the market value was sought @ Rs.1 lakh per acre.

In the written statement filed, the award was justified and that it was fair and reasonable and according to the nature of the land. The land was situated far away from the *abadi* and school and there was no potential for the plots being used and resultantly, the plea taken was that there was no enhancement required.

The Reference Court has rightly not relied upon Ext.P-1, since version in the cross-examination had come that the location of the land was 30-40 killas away from the acquired land and the purpose was for construction and use for residence, as per the cross-examination of PW-2, Rati Ram. Reliance was rightly placed upon Ext.P-2, which was just 6-7 killas away from the acquired land. In the cross-examination also, it had been put to the witness that whether his land was superior to the acquired land which he denied. He further stated that the land was touching the *abadi* and denied that the acquired land was far away from the *abadi*. In the cross-examination of the said witness also, it has come that the land was 1 km. away from the *abadi*.

Reliance, thus, has been placed upon a safe exemplar of a large chunk of land of the same village and which was executed on 30.12.1986, 3 months prior to the Section 4 notification and no fault, as such, can be found on the exemplar taken to assess the market value under Section 23 of the 1894 Act. The site-plan, as noticed, which has been exhibited by the State and the sale deeds Exts.R-1 to R-3, wherein value of the land ranged from Rs.12,000/- to Rs.36,000/- per acre pertained to the period ranging from November, 1985 to July, 1988. The same would also be of no relevance, since the site-plan would show that they are not situated close to the land in question whereas in the statement of PW-3 itself, it has also come that land depicted in Ext.P-2 was closer and only 6-7 killas away from the acquired land.

In such circumstances, the reasoning which has been

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recorded by the Reference Court for awarding the compensation @
Rs.51,000/- per acre, is well justified and no fault can be found in the
same.

Accordingly, in view of the above discussion, the present
appeals are hereby, dismissed.

16.01.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*