IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RFA No.668 of 1999
Decided on: 16.01.2018

State of Haryana

....Appellant

Versus

Gurmail Singh & others ...Respondents

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

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

None for the respondents.

G.S. SANDHAWALIA, J. (Oral)

The present judgment shall dispose of 7 appeals bearing RFA-668 to 673 & 789-1999, 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 28.10.1998, whereby while deciding the 7 petitions filed under Section 18 of the Land Acquisition Act, 1894, the market value was assessed at Rs.65,000/- per acre on uniform basis along with statutory benefits.

The sheet-anchor argument raised by the State Counsel is that the sale deeds (Exts. R-1 to R-3) were not taken into consideration, which showed a lesser value than the one assessed by the Reference Court. Accordingly, it is submitted that reliance upon Exts. P-1 & P-2, i.e., sale deeds dated 15.05.1984 and 11.03.1987, whereby the land had been sold at Rs.61,000/- and Rs.70,000/- per acre, was wrongly averaged and compensation was assessed @ Rs.65,000/- per acre.

The notification under Section 4 of the Act was dated 05.03.1987 and was published on 17.03.1987 for acquisition of 5.93 acres of land, for the purpose of construction of L/R H.L. Bridge over Som Nadi (Approaches). The award was announced for 5.90 acres of land of Rs.2,80,614 was assessed as compensation including 30% compulsory acquisition charges and additional market value.

A perusal of the record of Gurmail Singh would go on to show that the acquisition was done for the construction of road in Village Fatehgarh, Tehsil Jagadhri and the Collector had announced the award dated 01.06.1989. It was pleaded that the Land Acquisition Collector had not kept in mind the land was adjacent to the abadi of the Village Fatehgarh and the people of the village had been using the surrounding land to the land under acquisition for constructing their house. The market value, as per the situation of the land, was claimed to be not less than Rs.4 lakhs per acre. It was averred that the land-owners had constructed some rooms and trees were also standing on the land. After acquisition and by construction of road, the same had been divided into two parts and the whole land had become useless and the land-owners should be awarded compensation of the land which was left divided on both sides of the road. The facts also not kept in mind by the Land Acquisition Collector, for determination of compensation were equality, classification of land, severance charges, compensation for the standing trees etc., while awarding enhancement.

In the written statement filed on behalf of the respondent-State, it was mentioned that supplementary award for trees was to be given after assessment of the value by the Forest Department but the assessment was not found to be correct. The officials found that the trees had already been cut by the owners. The acquired land was ordinary agricultural land and unfit for residential purposes and no rooms was there on the acquired land.

The land-owners examined Bharat, Sher Singh, Dharamvir, Som Nath and Bir Singh, as 4 witnesses and State, on the other hand, examined Bhim Sain, Kanungo as RW-1. He had tendered into evidence Exts.R-1 to R-3, and site plan as Ext.R-4 and the acquired land was shown in red colour and the land of the sale deeds in blue colour, pertaining to Ext. R-1 to R-3. He admitted that the road was constructed after bifurcating the acquired land which resulted into severance of the land-holdings. It was his version that the trees had already been cut and there was no necessity for supplementary award qua the said factor. The Reference Court had, accordingly, taken into consideration the statements of PW-2 & PW-3, to hold that the sale deeds stood proved and as noticed, had taken out the average and has assessed the value.

The sale deeds were dated 15.05.1984 which is almost 3 years prior to the acquisition for 17 kanals 2 marlas of land (Ext.P-1) and accordingly, the rate came to Rs.61,000/- per acre. Though the sale deed dated 11.03.1987 is post acquisition, to the extent that the date of acquisition under Section 4 notification was 05.03.1987 but was published on 17.03.1987 and therefore, the same had validly been taken into consideration whereby the rate was assessed at Rs.70,000/- per acre. The averaging which had been followed by the District Judge, as such, has resulted in relevant assessment of the market value on the best examplars to award compensation to the owners. Reliance upon Exts.R-1 to R-3, had not been done by the Court, on account of the fact that the sale deeds had not been proved on the file, because neither the vendee nor the vendor had been examined at the trial.

Counsel for the State has relied upon by falling back on the Section 51A that certified copies were sufficient, as such, to prove the market value.

A perusal of the site-plan would show that only the sale deed dated 29.11.1983 (Ext. R-3) was relatively close whereas the others were far away from the close vicinity, as such, of the land in question. The vendor, as such, has not been examined. The claimants could not establish or elicit, as such, from the said vendors as to in what circumstances, the sale deeds had been executed at a lower rate of Rs.17,500/-.

It is also to be noticed that Ext.P-1 was executed 3 years prior to the notification under Section 4. A steady increase, as such, has been noticed in the period of 3 years, to the second sale deed dated 11.03.1987 which is a nominal rise. Reliance upon the sale deeds by the Courts below was well justified as it reflected true market value of the area in question. Even if the principle of cumulative enhancement is to be given of Ext.P-1, the value would come to slightly more than one which has been assessed at Rs.61,50,000/- per acre.

Rather, in the cross-examination, PW-2, who proved Ext-P-1, has specifically stated that the land was purchased 1 km away from the acquired land whereas PW-3 had similarly stated that the land purchased by his wife vide Ext.-P-2 was 5 or 6 acres from the acquired land. No cross-examination was conducted of the said witnesses, whether the sale deeds pertained to land far away and therefore, on this account also, the Courts below were well justified in placing reliance upon the 2 sale deeds.

In such circumstances, the assessment, as such, of the market value, has been validly done and the same does not call for any interference in the present set of appeals, and accordingly, the same are hereby, dismissed.

16.01.2018 **(G.S. SANDHAWALIA)**
Sailesh **JUDGE**
Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No