

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RFA No. 1932 of 2009
Date of decision: 15.02.2018

Gurjant Singh and others

....Appellant(s)

Versus

The Punjab State and another

...Respondent(s)

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

Present: Mr. Surinder Garg, Advocate,
for the appellants.

Ms. Jasleen Kaur, AAG, Punjab.

G.S.SANDHAWALIA, J. (Oral)

The present appeal is directed under Section 54 of the Land Acquisition Act, 1894 (in short 'the Act') against the order of the Reference Court dated 01.11.2008 whereby, the Reference Court has enhanced the compensation to Rs.3,00,000/- per acre alongwith the statutory benefits. The land acquired of the appellant land owners was 7 kanals in village Mehmuana, Tehsil and District Faridkot for construction of Bihlewala Minor.

The process of acquisition had been initiated on 15.10.1998 when the notification under Section 4 of the Act was issued and the notification under Section 6 of the Act was issued on 26.10.1998. Vide award dated 16.04.2001, the market price of the land was assessed at Rs.1,90,000/- per acre against which the reference petition was filed being dis-satisfied with the claim. The respondents had been proceeded against ex parte and the land owners examined as many as 4 witnesses in support of their claim. Exs. A-5 and A-6 were two sale deeds for 2 marlas and 4 kanals

of land respectively dated 03.06.2002 and 24.02.2000. The sale consideration was Rs.4,000/- and Rs.37,500/- respectively. The same have been rightly discarded being post notification sale instances. Reliance was also placed upon award Ex.A-7 which was for village Machaki Kalan and similarly award Ex.A-8, the award for village Machaki Khurd and was for construction of Bihlewala Minor which was for the same purpose. It was on this account the enhancement has been done to Rs.3,00,000/-.

Nothing could be shown that there were sale deeds prior to the date of notification having market value of higher amount than what has been awarded. It is settled principle that the onus lies upon the land owners to bring on record the material to show what is the market value on the date of issuance of notification. In the absence of any material on record, there is no scope for enhancement of the amount.

Counsel for the appellant has argued that in similar matters for village Machaki Khurd, compensation on account of severance have been granted in RFA No. 979 of 2009, Harpal Singh and another vs. State of Punjab and another decided on 08.02.2018.

It is not disputed that a claim as such for severance charges was made in the claim petition but it is to be noticed that neither any site plan has been exhibited in the present case to show what was the severance and not in the statement of the witnesses as such any such specific averments have been made as to how much of land has been severed on account of construction of the minor. Thus, the case is different from RFA No. 979 of 2009 wherein, specific site plan had been exhibited and the expert had been examined who had also proved on record the site plan which had been duly exhibited to show that the land owners had been adversely effected on

account of the minor and the land having been divided and there being no access to the other side.

Accordingly, in the absence of any such evidence, there is no scope for interference and the present appeal is accordingly dismissed.

15.02.2018
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No