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

(339)

**RFA No.359 of 2009 (O&M) and
other connected appeals
Decided on : 27.04.2018**

Santokh Singh (deceased) through L.Rs. and others

... Appellants

Versus

State of Punjab

... Respondent

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

Present: Mr. Naresh Kaushal, Advocate
for the appellants.

Ms. Akshita Chauhan, AAG, Punjab.

G.S. Sandhawalia, J. (Oral)

CM-10528-CI-2016 in RFA No.359 of 2009

Application under Order 22 Rule 3 read with Section 151 CPC has been filed for impleading the legal representatives of deceased Santokh Singh-appellant No.1, who is stated to have expired on 23.07.2014 during the pendency of the appeal. The details of the legal representatives have been mentioned in para 2 of the application and it has been averred that there are no other legal heirs. Application is duly supported by affidavit of Amandeep Singh son of deceased Santokh Singh.

Accordingly, in view of the averments made in the application, duly supported by the affidavit, the same is allowed and the legal representatives, as mentioned in para 2 of the application are permitted to pursue the present litigation only.

CM stands disposed of.

Main appeals

The present order shall dispose of 11 appeals i.e. RFA Nos.359 to 365, 2081, 3734 of 2009 and RFA Nos.550 and 551 of 2010. The facts are being taken from **RFA No.359 of 2009 'Santokh Singh (deceased) through L.Rs. and others Vs. State of Punjab'**, since common question of facts and law are involved.

The present appeals under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') are directed against the Award dated 30.04.2008 passed by the Reference Court, Ropar, whereby it had declined to grant enhancement in the reference petitions filed by land owners whose land fell in the municipal limits of Morinda Town. Vide notification dated 04.08.2000 under Section 4 of the Act, the land was acquired for construction of a bye-pass around the Town of Morinda and the Land Acquisition Collector (LAC) had awarded ₹8.10 lakhs per acre, vide Award dated 21.11.2002 for 246 Bighas 9 Biswas for village Morinda, Hadbast No.254.

The case of the land owners was that the land was situated in Municipal Limits and had great potential. The amenities like Senior Secondary School, College, Hospitals, Shops, Workshops, Sugar Mill, Railway Station, Bus Stand were present therein at Morinda Town and the land was falling within two roads. Apart from that severance was also claimed and compensation @ ₹80 lakhs per acre was sought for.

In the written statement, the fact that the land was within the municipal limits was not denied.

A perusal of the statement of PW-1 Baljinder Singh-Patwari would also go on to show that he admitted that the acquired land fell within the municipal limits and abuts two main roads i.e. Chandigarh-Ludhiana Highway and Morinda-Sirhind Road.

It is also to be noticed that as many as 5 sale deeds Ex.P1 to Ex.P5 pertaining to the year 1998, 2 years prior to the notification dated 04.08.2000 under Section 4 of the Act, were brought on record, which have not been taken into consideration by the Reference Court. While dismissing the reference petitions, reliance has mainly been placed on the award passed by the said officer on 30.11.2007 pertaining to village Marauli Kalan, whereby ₹6 lakhs per acre had been awarded and resultantly keeping in view the same, the compensation was not enhanced on the ground that the State had granted ₹8.10 lakhs per acre for land falling in Morinda. The argument raised that the land was falling within the municipal limits and value was much higher than in Sajjan Singh's case was rejected on the ground that the acquisition was for the same purpose and resultantly the reference petitions have been dismissed.

The said judgment is not sustainable on the ground that it is cursory in nature and the basic principle that the market value is to be assessed on the basis of the sale deeds between a willing purchaser and a person who is wanting to sell the land, has not been kept into consideration. It is further pertinent to notice that against the Award dated 30.11.2007, this Court in **RFA No.2207 of 2008 'Ajit Singh Vs. State of Punjab'** decided on 18.01.2016 for the villages Marauli Kalan and Marauli Khurd for which compensation @ ₹5,40,000/- and ₹4,50,000/- per acre, respectively had been granted by the LAC enhancement has been further granted to the tune of ₹8 lakhs per acre.

Once the Collector had chosen to award ₹8.10 lakhs per acre for the land, which is subject matter of dispute, it is obvious that the same was commanding higher value and the averments which have further been mentioned in the pleadings was that it fell within the municipal limits. The land falling within the municipal limits has to be treated on a different pedestal, which has been held by this Court in **'Gurvinder Singh and others Vs. Haryana State' 2005 (1) PLR 804** on account of the fact that facilities like electricity, roads, infrastructure, hospitals are in the close vicinity and the building potentiality increases. Merely because the land of the other villages was also acquired for the same purpose, which was for a bye-pass was no ground as such to consider the case on the same basis, which has been done by the Reference Court.

The acquisition was for construction of a bye-pass around the Morinda Town. The value of the land on the highway can vary from the location of the land and land which is situated closer to the main town will obviously be more valuable. The basic principles to be kept in mind while deciding the said issue of market value, were not kept in mind. Merely because an award was passed for the same notification for a different revenue estate would not be a ground to deny the enhancement and the evidence had to be scrutinized and the sale deeds had to be examined. The location of the sale exemplars and the location of the acquired land had to be compared to find out whether they were relevant for assessing the market value.

In the absence of the said exercise have not been carried out, counsel for the appellants is well justified to hold out that the judgment of the Reference Court is not sustainable and the Court has failed to exercise its jurisdiction to assess the correct market value.

The issue of severance has also not been adequately dealt with only on account of the fact that the land owners are benefiting on account of the land falling on highway. Under Section 23 Clause four, if a portion of land is severed from the other portion by construction of the highway, it might not be viable as such to cultivate the land and merely because the value has gone up would not be a ground to deny the benefit of severance to the land owners, if it is so proved.

In such circumstances, this Court is of the opinion that the judgment dated 30.04.2008 passed by the Reference Court, Ropar cannot be sustained and the matter is necessarily to be remanded to the District Judge, Ropar for fresh decision in accordance with law, keeping in view the observations made above.

Appeals stand disposed of accordingly.

(G.S. SANDHAWALIA)
APRIL 27, 2018 **JUDGE**
Naveen

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*