

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RFA No.4721 of 2013 (O&M)
Decided on: 09.03.2018

Haryana State Industrial Development Corporation(now HSIIDC)

....Appellant

Versus

Shanti & others

...Respondents

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

Present: Mr.P.S.Saini, Advocate, for the appellant.

Ms.Safia Gupta, AAG, Haryana.

G.S. SANDHAWALIA, J. (Oral)

Counsel for the appellant submits that the matter is covered by the judgment of the Apex Court in **SLP (C) No.15476 of 2016** titled *Surender Singh Vs. State of Haryana & others*, decided on 25.01.2018, vide which, the matter has been remanded to the Reference Court. It is submitted that as per the award under challenge, which was pertaining to the notification dated 11.01.2005, for the land situated in the Village Mokalwas, the Reference Court had awarded a sum of Rs.43,17,841/- per acre. In RFA-1853-2012 titled *Attar Singh Vs. State of Haryana & others*, & other connected cases, decided on 05.02.2016, the amount had been enhanced to Rs.62,11,700/- per acre. The Apex Court in **Surender Singh's case** (supra), set aside the compensation awarded and has remanded the matter to the Reference Court. Relevant portion read as under:

“34. In our considered opinion, the approach of the High Court in the facts of these cases does not appear to be right inasmuch as the High Court failed to take into consideration several material issues which arose in these cases and had bearing on determination of the fair market rate of the land in question under Section 23 of the Act.

35. First, the acquired land, in these cases, was a huge chunk of land measuring around 520 acres, 2 kanals and 13.5.marlas. Second, the entire acquired land was not situated in village Kasan but it was spread over in 15 villages as detailed above. Third, there is no evidence to show much less any finding of the High Court as to what was the actual distance among the 15 villages against one another, the location, situation/area of each village, whether any development had taken place and, if so, its type, nature and when it took place in any of these villages, the potentiality and the quality of the acquired land situated in each village, its nature and the basis, the market rate of the land situated in each village prior to the date of acquisition or in its near proximity, whether small piece of land or preferably big chunk of land, the actual distance of each village *qua* any other nearby big developed city, town or a place, whether any activity is being carried on in the nearby areas, their details. Fourth, whether the acquired land in the case of **Pran Sukh** (supra) in village Kasan and the acquired land in question are similar in nature or different and, if so, how and on what basis, their total distance etc.

36. These were, in our view, the issues which had material bearing while determining the rate of the acquired land in question.

37. The High Court, in the absence of any evidence on any of these issues, could not have determined one flat market rate of the acquired land in question by applying one isolated rate of one land situated in one village Kasan and adding 8% annual increase from 1994 in such rate and made it applicable to the entire lands situated in 15 different villages.

38. In our opinion, it is only when the evidence had been adduced by the parties to the *lis* on the aforementioned issues, the Court would have been in a position to apply its mind objectively as to which method should be applied for determination of the rate, i.e., whether belting system or flat

rate system or different rates for different lands depending upon the quality of land situated in different villages etc.

39. The fair market value of the acquired land cannot be decided in isolation on the basis of only one factor. There are several other factors, which govern the determination of the rate. These factors need to be proved with sufficient evidence. It must appear that the Courts have made sincere endeavor to determine the fair market rate of the acquired land and while determining has taken into account all relevant aspects of the case. It is the duty of the landowners and the State to adduce proper and sufficient evidence to enable the Courts to arrive at a reasonable and fair market rate of the acquired land prevalent on the date of acquisition.

40. Taking into consideration the aforesaid infirmities, which we have noticed, we have no hesitation in holding that the trial in these cases has not been satisfactory. We cannot countenance the cursory manner in which both the Courts below proceeded to determine the market rate of the acquired land. It has certainly caused prejudice to both the parties.

41. We do not blame any party for prosecuting their case in wholly unsatisfactory manner but the fact remains that both the parties failed to adduce sufficient evidence on several material issues, as a result, both the Courts below did not record any finding on any of the material issues arising in the case.

42. In the light of the foregoing discussion, we find it difficult at this stage to determine the fair market rate of the acquired land for want of sufficient evidence. If we do, it will cause prejudice to the parties. We, therefore, refrain from doing so.

43. In view of the foregoing discussion, we allow the appeals filed by the State, set aside the impugned judgment and the award of the Reference Court (Civil Courts) and remand the cases to the Reference Court for deciding all reference cases afresh on merits keeping in view our observations made *supra*.

44. Parties would be at liberty to adduce additional evidence in support of their respective stand both oral and documentary. The Reference Court will accordingly decide the rate of land as prevalent on the date of acquisition in the light of law laid down by this Court strictly in accordance with law uninfluenced by any finding of the High Court and this Court on the merits.

45. Parties to appear before the Reference Court on 05.02.2018 to enable the Reference Court to proceed in the cases and ensure its disposal within one year from the date of appearance of the parties as an outer limit. The original record of the case, if requisitioned here, be sent back forthwith to the concerned Reference Court.

46. Since we have remanded these cases to the Reference Court for fresh adjudication on merits in accordance with law, the appellants (landowners) are entitled to get back the amount of court fee paid by each appellant (landowner) on his appeal memo before the High Court as also before this Court as provided under Section 13 of the Court Fees Act.

47. The Registry is accordingly directed to issue necessary certificate of refund of Court Fee amount, if paid by any of the landowner on his memo of appeal in the High Court and in this Court under the Court Fees Act to enable the landowners to claim the refund of the court fee amount from the concerned State Treasury.

48. If for any reason, it is not possible for the Registry of this Court to issue refund certificate of the Court Fee amount paid by the landowners (appellants) on their memo of appeals filed in the High Court on their respective appeal memo then the requisite certificate shall be issued by the concerned High Court as per the Rules in favour of each appellant (landowner) under the Court Fees Act.”

Keeping in view the above, the present appeal is allowed and the reference award dated 12.10.2012 is set aside and the matter is

remanded to the Reference Court, to decide the matter afresh, in view of
the orders of the Apex Court in **Surender Singh's case** (supra).

09.03.2018
Sailesh (G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No