

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

**RFA No.3165 of 2016 (O&M)
Date of decision:09.01.2018**

Haryana State Industrial Development Corporation (now Haryana State Industrial & Infrastructure Development Corporation Ltd.) th. District Town Planner

....Appellant

Versus

Amar Nath & others

...Respondents

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

Present: Mr.Pritam Singh Saini, Advocate, for the appellant.

Mr.Bhim Singh, Advocate, for the respondents.

G.S. SANDHAWALIA, J. (Oral)

The present appeal is directed against the award passed by the Addl.District Judge, Gurugram dated 06.02.2014, whereby Amar Nath-respondent No.1 has been held entitled to compensation of Rs.19,78,000/- and Kanwar Lal-respondent No.2 for Rs.25,05,000/- for super-structures which had been evaluated along with all statutory benefits.

The said award is challenged mainly on the ground that the inspection by the valuer was carried out subsequently after the award was passed on 09.03.2010, since the inspection of the sites was done on 16.04.2010 and 17.04.2014.

The reasoning given by the Court was that the valuation report (Ext. P-3) showed that regarding the building of Amar Nath in question, it was resting on iron girders and stone slabs roof on the ground-floor and the first-floor. It had electricity connection and submersible well and septic tank and resultantly, keeping in view the photographs (Annexure P-5 to

P-22), assessment was made qua Amar Nath.

Similarly, regarding Kanwar Lal, reliance was placed upon the report (Ext. P-1) that the building was having RCC roof at the ground-floor and the first-floor and also having electricity connection, submersible well and septic tank. The covered area along with its value had been mentioned in the report and the site-plan, assessed by PW-2, Nand Kumar Nagpal who was a Government approved valuer. In the absence of the evidence led by the appellant-Corporation, the enhancement was, accordingly, allowed from Rs.4,06,177/- in one case and from Rs.7,04,092/- in the case of Kanwar Lal.

Counsel for the land-owners has relied upon the evidence to demonstrate that in the case of Amar Nath, the inspection conducted on 17.04.2010 showed that the covered area was 2000 sq.ft. and the ceiling of the said house was resting on steel girders and stone slabs and therefore, the cost of construction had been less as compared to the cost of construction in the case of Kanwar Lal. In the report (Annexure P-1), it was further mentioned that the area came in *abadi deh* in Village Fazilwas and therefore, the approval from HUDA/ Town Planning Department was not required in the present case.

In the case of Kanwar Lal, the construction was 10 years old, as per the cross-examination of the expert and the total covered area was to the tune of 1700 sq.ft., besides boundary walls, bore-well, tube-well, barbed wire fencing etc. The roof of the house was of RCC and the doors were of teakwood. The rate of teakwood was stated to be Rs.2000/- per

cubic-foot and at the time of installation in 2008, the rate was stated to be Rs.1100/- per cubic-foot. The same had been calculated on the basis of the rates from Haryana PWD Schedule of Rates, 1988 to work out the cost, in the case of Kanwar Lal.

The preliminary award dated 09.03.2010 (Ext. R-1), passed by the Land Acquisition Collector, would go on to show that the assessment was based on the report from the technical authorities whereby the amounts were awarded. The Addl.District Judge had framed issue No.1 as to whether the appellants are entitled to any compensation on account of the structures existing on the acquired land and if so, how much, the onus of which was on the claimant-respondents. The respondents led the requisite evidence, in pursuance of the said issue and produced the valuation of the Building Expert and discharged their onus. The appellant chose not to produce any evidence to controvert the same and even in the cross-examination, nothing, as such, could be elicited which could be worth consideration, as to how the amount awarded was wrong. The appellant had only tendered in evidence, copy of the award (Ext.R-1) and not examined any other expert, as such.

The argument raised that the inspection was conducted after the award, also loses significance, as there is no cross-examination on this aspect of the said witness that whether he could not do so or not because possession had been taken.

In such circumstances, no case, as such, is made out for interference in the well reasoned award passed by the Addl.District

Judge, in the absence of any contrary evidence on record. The present appeal, accordingly, stands dismissed.

09.01.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*