IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.1067 of 2018 (O&M) &
other connected appeals
Decided on : 17.04.2018

State of Haryana and others

... Appellants

Versus

Smt. Lali and others

... Respondents

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

Present : Mr. Shivendra Swaroop, AAG, Haryana, for the appellants.

G.S. Sandhawalia, J. (Oral)

Exemption Applications

Allowed, as prayed for.

CMs stand disposed of.

Main appeals (O&M)

The present order shall dispose of 36 appeals i.e. **RFA No.1067, 1068 & 1070 to 1103 of 2018.** The present set of appeals filed by the State are directed against the Award of Reference Court, Narnaul dated 30.11.2016, whereby the compensation has been enhanced from ₹30 lakhs per acre as awarded by the Land Acquisition Collector to ₹38,72,000/- per acre. The appeals are barred by limitation of 386 days.

The facts are being taken from **RFA No.1067 of 2018 'State of Haryana and others Vs. Smt. Lali and others'**, as common questions of law and fact are involved.

The acquisition proceedings were initiated vide under Section 4 notification of the Land Acquisition Act, 1894 (for short 'the Act') dated 22.03.2011 for the purposes of construction of road (widening/four lane etc.) maintenance, management operation of MDR No.129 from Narnaul to Khudana, District Mohindergarh. The land is situated in village Nangal Sirohi, District Mohindergarh and 342 kanal 5 marlas was sought to be acquired. The Land Acquisition Collector vide Award No.39 dated 27.12.2012 awarded compensation @ ₹30 lakhs per acre.

Keeping in view the sale deed produced by the landowners (Ex.P3) dated 27.10.2010 for 1 kanal land, which was sold for ₹6,05,000/- and the rate works out to ₹48,40,000/- per acre, the Reference Court has taken the same into account and given the benefit of increase as there was only a period of 5 months intervening in the said exemplar and the Section 4 notification. However, keeping in view the size of the exemplar a 20% development cut was imposed to bring down the value to ₹38,72,000/- per acre.

Counsel for the State has argued that the development cut should have more, keeping in view the quantum of the land.

The said argument is not liable to be accepted. The land as noticed had been acquired for the purposes of construction of road (widening and four laning etc.) and it has been noticed that the land is adjacent to the main State Highway No.17 leading from Mohindergarh to Narnaul. Keeping in view the said principle that land situated on the highway always gets higher price, this Court is of the opinion that percentage of cut in such cases is not liable to be varied as the land has been acquired for the purposes of widening and four laning of the road.

The Apex Court in **'Nelson Fernandes and others Vs.**

Special Land Acquisition Office, South Goa and others' 2007 (9) SCC 447, **'Atma Singh (died) through L.Rs. and others Vs. 2008 (2) SCC 568**, **'Himmat Singh and others Vs. State of M.P. and others' 2013 (6) SCC 392** and in **'Indraj Singh (Dead) through L.Rs. and others Vs. State of Haryana and others' 2013 (14) SCC 491** while dealing with the acquisition of land which was for the purpose of construction of a sector road under the Bahadurgarh Scheme, applied deduction of 10% only. The relevant portion of the judgment passed in **Indraj Singh (supra)** reads as under:-

> *"9.The High Court was of the view that the land in question was near to the land abutting two main roads. The High Court also took into consideration the rapid development in the vicinity and therefore, increased the value of the land in question after considering the principles on which lands are valued for the purpose of awarding compensation under the Act.*
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> *10. The High Court also decided to decrease the value of the land by 1/3rd of its value as the land in question was little away from the main road.*
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> *11. The submissions made on behalf of the appellants were to the effect that deduction of 1/3rd value of the land would be very harsh on the appellants because the appellants would be getting substantially less compensation on account of the said deduction. It was also submitted that the High Court had taken note of the fact that the land in question was very much within the developed area. If the land was within the developed area, the High Court should not have deducted 1/3rd of the value of the land in question.*
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> *12. The learned Additional Solicitor General appearing for the State had tried to support the judgment by submitting that the deduction of 1/3rd of the value of the land was just and proper as observed by the High Court.*
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> *13. Upon hearing the learned counsel and upon perusal of the*

> *impugned judgment and relevant records, we are of the view that the appellants should have been awarded more compensation. Deduction to the extent of 1/3rd of the value of the land is definitely harsh even as per the observations made by the High Court as the land in question is very much in the developed area. The area has been developed by the HUDA and therefore, the deduction of 1/3rd of the value of the land is not justified.*
>
> *14. Upon considering all relevant facts, in our opinion, it would be absolutely just if 10% value of the land is deducted instead of 1/3rd because the land is forming part of a well developed area.*
>
> *15. The High Court, after deduction of 1/3rd of the amount of the value has awarded Rs.7,43,000/- per acre for irrigated and non-irrigated land. The said value is after deduction of 1/3rd amount of total valuation of the land. The High Court has, thus, in fact, determined the market value of the land at Rs.11,15,000/- per acre and after deducting 1/3rd of the said amount, it has awarded Rs. 7,43,000/- per acre, after rounding off the figure.*
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> *16. The market value of the land in question, as determined by the High Court, is Rs. 11.15 lacs per acre and instead of taking 1/3rd, we direct that 10% of the said value shall be deducted. The claimants shall be entitled to other statutory benefits like solatium, interest etc. on the enhanced compensation."*

In such circumstances, the argument, thus, raised by the State counsel that the development cut should have been more in view of the extent of the land acquired is without any basis. Similarly, the sale deeds (Ex.RW1/B to Ex.RW1/H) which had been exhibited by the State are ranging between ₹6 lakhs per acre to ₹14,53,000/- per acre and are of less amount than what has been awarded by the Land Acquisition Collector. The Reference Court has rightly referred to the provisions of Section 25 of the Act and discarded the said exemplars.

Accordingly, keeping in view the above, this Court is of the opinion that the amount is just and is on the basis of the evidence which came on record and produced by the landowners. The landowners are entitled to get appropriate market value on the basis of evidence which they have produced on record and in view of the fact that the land is situated on the State highway.

Even otherwise the explanation which has been given in the application for condoning the delay of 386 days is not liable to be accepted. The Reference Court had passed the Award on 30.11.2016 and the opinion by the District Attorney had been given on 19.01.2017. It has been averred that the Legal Remembrancer, Haryana had issued directions to the Executive Engineer, Public Works Department, B&R, Haryana to file the RFA against the judgment dated 30.11.2016 and accordingly the same was got vetted on 08.05.2017. The necessary details as to when the directions were issued have also not been incorporated and, therefore, no sufficient cause as such is made out for condoning the delay of 386 days as the State cannot put itself at a higher pedestal to get the delay condoned and there should have been proper explanation about the fact that when proper instructions had been issued for sanction of the filing of the appeals.

Accordingly, the present appeals alongwith applications for condonation of delay are dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

APRIL 17, 2018

Naveen

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No