

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

-:-

R.F.A No. 5029 of 2017 (O&M)

Date of decision: 19.02.2018

Sunero & Ors.

...Petitioners

Vs.

State of Haryana & Ors.

...Respondents

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

Present: Mr. Sanjay Mittal, Advocate, for the landowners.

Mr. Pritam Saini, Advocate, for HSIIDC.

Ms. Sofia Gupta, AAG, Haryana.

G.S.SANDHAWALIA, J. (Oral)

Delay Applications

Applications have be seeking condonation of delay of 209/216 days in filing the appeal.

In view of the averments made showing sufficient cause explaining for the delay the same in filing the present appeals is hereby condoned.

CMs stand disposed of.

Main Appeals

The present judgment shall dispose of RFA Nos. 5029 of 2017, 242 to 245, 356 to 378, 406 and 407 of 2018 as common questions of facts and law are involved in said the cases.

The appeals are filed under Section 54 of the Land Acquisition Act, 1884 against the order of Reference Court, Rewari dated 15.03.2017

both by the landowners and the HSIIDC. The amount of compensation has been enhanced from Rs.16 lacs per acre to Rs.22 lacs per acre by the Reference Court which had followed the earlier award dated 17.03.2015 passed in LAC No.161 of 2011 titled Babu Lal & Ors. Vs. State of Haryana.

Counsels have submitted in RFA No. 3522 of 2015 titled 'Babu Lal and Ors Vs. State of Haryana & Ors. decided on 25.10.2017, matters have remanded to the District Judge primarily on the ground that there were various sale deeds on record which were not referred to and only on the basis of earlier award, the enhancement had been done. Relevant part reads as under:-

“ In a nutshell, here is a case where both the parties are aggrieved by the findings recorded by the Reference Court as regards the market value of the acquired land. Grievance of the HSIIDC, i.e. beneficiary of the acquisition, is that the conclusion arrived at by the Reference Court is per say perverse, for, nothing substantive is referred or demonstrated to assess the value of the acquired land at Rs.22,00,000/- per acre. Whereas, the grievance of the claimant/landowners is that the Reference Court has absolutely failed to weigh, analyze and appreciate the evidence led by them in support of their claims and, thus, the enhancement awarded by the Reference Court is not the true reflective of the value of the acquired land.

Faced with this situation, learned counsel for the parties have reached a consensus that let the impugned award (s) be set aside and the matter be remitted to the Reference Court for re-decision.

In the normal parlance, in the matter of this nature remand is the last resort and least desired. But in the matter at hands it appears to be the inevitable option. Resultantly, the

impugned award(s) is set aside and the matter is remitted for re-decision. For, now the Reference Court shall redetermine the true value of the acquired land. I deem it expedient to observe that both the parties shall be granted two effective opportunities each, on the dates that shall be specified by the Reference Court in this regard, to lead any further evidence, if so desire. But in the event of default, no further opportunity shall be granted at any cost. I am reminded to point out that this Court while admitting few of the appeals preferred by the beneficiary of the acquisition, i.e. HSIIDC, had stayed payment beyond 50% of the enhanced compensation. But during course of hearing I was informed that in few other matters, in the absence of any stay orders, the claimant/landowners have since been released the enhanced compensation in the execution proceedings. That being so, it is made clear that the amount that has already been released to the claimants shall not be recovered till the matter is re-decided. However, the Reference Court shall pass necessary and appropriate orders in this regard as the situation would warrant while rendering a final judgment. The parties through their respective counsel shall appear before the District Judge, Rewari, on 13.11.2017. Needless to assert that it shall be the discretion of the District Judge to either decide the matter himself or assign to any other Court of competent jurisdiction. However, in the facts and circumstances of the case, the Reference Court is requested to decide the matter within a period of three months the parties shall cause appearance. It is clarified that this order shall not constitute any expression of opinion on the merits of the case of either party. And, the Reference Court shall decide the same on merits and strictly in accordance with law.

In conspectus of the above, all these appeals are accordingly disposed of in the above terms. The Registry is directed to return the LCR to the Reference Court forthwith”

Accordingly, keeping in view the above the present appeals filed both by the land-owners and HSIIDC are allowed. The order of Reference Court dated 15.03.2017 is set aside, the matter is remanded in the same terms. It is expected that the District Judge shall allocate the cases to the same reference Court who is already seized of the earlier reference petitions, which have been remanded.

February 19, 2018
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(G.S. SANDHAWALIA)
JUDGE

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