

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.5449 of 2017 (O&M)

Date of Decision: 17.12.2018

Kanta Devi

... Appellant

VS.

State of Haryana & Ors.

... Respondents

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

Present: Mr. Munish Gupta, Advocate for the appellant(s)

Ms. Vibha Tewari, AAG Haryana

G.S. SANDHAWALIA, J. (Oral)

This order shall dispose of RFA Nos.5449 to 5452 of 2017. For the purpose of this order, RFA No.5449 of 2017 is being treated as the lead case.

The present appeal is directed against the award of the Reference Court, Narnaul dated 29.01.2016. The references were dismissed on the ground that the landowners did not step into the witness box to prove their case and therefore in the absence of any documentary evidence, the amount of compensation @ ₹ 30 lakhs per acre as assessed by the Land Acquisition Collector was upheld. A finding was recorded that the same is rather just and adequate and that the petitioners were not entitled to any enhancement.

Counsel for the appellant has submitted that on account of the lapse as such of the landowners in producing the relevant *sale exemplars* for the land which was acquired falling in village Rasulpur, they should not be penalised and an opportunity should be given to them to get their market value assessed. It is submitted that on account of being misguided and wrongly advised this situation has arisen.

Vide order dated 04.12.2018 this Court has already directed the appellant(s) to deposit costs of ₹ 5000/- in each case with the Advocate Benevolent Fund of the High Court Bar Association in view of the inappropriate stand which was taken to justify the filing of the appeal(s). The procedure followed by Reference Court as such does not suffer from any legal infirmity since as many as 6 effective opportunities including the last one before the evidence of the landowners was closed by order were given. The Reference Court had clubbed 9 cases and the issues were framed on 04.02.2015 and in spite of the counsels appearing, the evidence of the petitioners has not come forth in any of the cases. Resultantly, the impugned award was passed.

It is not disputed that the acquisition is for the public purpose of the construction of road (widening/four lining etc.), maintenance, management, operation of MDR No.129 from Rai Malikpur to Narnaul, Tehsil Narnaul, District Mohindergarh. Large number of references were decided on merits in view of the *sale exemplars* produced by the landowners of other villages and enhanced compensation has been awarded whereas the present landowners defaulted in prosecuting their cases. The only ambiguity which could be pointed out in the procedure followed by Reference Court is that the cost should have been imposed on the landowners to wake them up from their slumber and to bring upon them that the cases were liable to be dismissed which the Reference Court did not do.

Since the land was acquired under the principle of *eminent domain*, the interest of justice as such can be balanced by imposing costs for the unnecessary litigation which the landowners have to pay. Accordingly, this Court is of the opinion that the impugned orders are liable to be set aside subject to the condition that the appellants-landowners shall pay an additional

sum of ₹ 5000/- in each reference which would be deposited with the District Legal Services Authority, Narnaul at Mahendergarh. The reference shall then be decided on merits by giving adequate opportunity to the landowners to produce their evidence. It is made clear that in case the said amount is not deposited by the landowners, their references shall be deemed to have been dismissed and the earlier order shall come into play.

The parties shall put in appearance before the Reference Court on 13.02.2019. Lower court records be sent back.

Applications for condonation of delay are allowed subject to the condition that the landowners will not be entitled to any interest from the date of the impugned award i.e. 29.01.2016 till today.

The appeals are accordingly allowed. In case the reference petitions are decided on merits and the references are answered in favour of the landowners, the Reference Court shall not grant the benefit of interest from 29.01.2016 till today.

Ordered accordingly.

17.12.2018

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(G.S. Sandhawalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No