

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

**RFA No.1468 of 1990
Decided on : 18.01.2019**

Kalyan Singh and others

... Appellants

Versus

State of Haryana and others

... Respondents

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

Present : Mr. Chiranshu Bansal, Advocate for
Mr. Vikram Singh, Advocate for the appellants.

Ms. Vibha Tewari, AAG, Haryana.

G.S. Sandhawalia, J. (Oral)

The challenge in the present appeal is to the grant of ₹15,994.5 against the claim of 224 trees falling in Khasra No.9065, 9070 and 9071. Out of the said trees 154 trees were fruit bearing trees and 62 Shisham trees, as per the claim of the appellants. The Reference Court vide Award dated 23.02.1989, while referring to the evidence in detail has come to the conclusion that total trees belonging to Kalawati and Umrao Singh were 241, in as much as 153 trees were belonging to Kalawati and 87 trees to Umrao Singh, since their khasra numbers were same. Accordingly, it was held that the claim for trees beyond the said numbers was not justified. It was also noticed that the report prepared by PW-4 Shri K.S. Randhawa, Senior Scientist could not be taken into consideration, as in the cross-examination the witness has admitted that he has not visited the spot. The estimate given by him was on the basis of knowledge acquired by him and was not on the basis of factual situation and, therefore, reliance was placed

upon the statement of RW-2 Shri Rehtu Lal, the expert produced by the State.

A perusal of the statement of RW-2 Shri Rehtu Lal would go on to show that he had visited the land of Kalawati in the year 1981 and had given a detailed statement as to why the different value was assessed as ₹115/- of each of the 40 trees of Mango, ₹160/- of each of the 25 Mango trees and ₹235/- each of the 20 mango trees. He also stated that the age of 100 Mango trees was between 35 to 40 years and he could not assess the value of the firewood trees. He deposed that the Khasra number of the land belonging to Umrao Singh were same which is of the land of Kalawati and the trees of Guava and Khatta were the same of both the persons. The claim of timber trees on account of the fact that Rajinder Singh had sold timber of non-fruit bearing was rejected as their value was much less in comparison to the trees which of fruit bearing. It has further been noticed that no data was made available as to the cost of cutting and removing the trees by either of the parties and, thus, the amount of compensation awarded by the Land Acquisition Collector in respect to the trees was held to be justified.

It is settled principle that the onus as such to prove the market value would be upon the appellants and they themselves have chosen not to examine a expert who had inspected the Orchard physically and on the basis of which he could submit his report. Reliance upon the report of the PW-4 K.S. Randhawa as such would not be justified in the facts and circumstances and the Reference Court has rightly not taken

into consideration his report. Once the said witness has not visited the Orchard where fruit bearing trees were planted, the reliance on his statement has rightly not been done. The official witness, who had visited the Orchard has given a detailed position regarding as to how the assessment is to be made in the case of fruit bearing trees and that a double claim as such was being made between the appellant and Umrao Singh and, thus, on the basis of which the amount of ₹15,994.5 was assessed and has been upheld by the Reference Court.

Keeping in view the above, this Court is of the opinion that , no case is made out for enhancement of the amount which had been granted by the Land Acquisition Collector. Resultantly, there is no merit in the present appeal and the same is dismissed.

JANUARY 18, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No