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

RFA No.1063 of 1992

Rahul and another (legal heirs of deceased Maya Wanti)

... Appellants

Versus

Punjab State through the Collector Hoshiarpur and another

... Respondents

(2)

RFA No.1481 of 1994

Smt. Maya Wanti (deceased) through legal heirs

... Appellants

Versus

Punjab State through the Collector Hoshiarpur and another

... Respondents

<u>Decided on : 14.03.2019</u>

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

Present : None for the appellants.

Ms. Simran Grewal, AAG, Punjab.

<u>G.S. Sandhawalia, J. (Oral)</u>

The present judgment shall dispose of two appeals i.e. RFA Nos.1063 of 1992 and 1481 of 1994 filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') against the Awards of the Reference Court, Hoshiarpur dated 07.08.1991 and 16.02.1994, respectively, whereby a sum of ₹3,000/-per acre had been assessed as the market value of the land which was acquired vide notification dated 26.04.1984 and compensation for structures.

RFA No.1481 of 1994 pertains to the amount of compensation on account of the Well in question in the land which was acquired, whereby the Reference Court vide Award dated 16.02.1994 had declined to grant the enhancement and upheld the amount awarded by the Sub-Divisional Officer, as per the estimate prepared by the departments.

The land was acquired for the purpose of construction of Maili Dam by notification dated 26.04.1984 issued under Section 4 of the Act. The Land Acquisition Collector (for short 'the LAC') vide Award dated 06.02.1985 had awarded ₹1,760/- per acre for Banjar Qadim and ₹1,185/- per acre for Gair Mumkin. The value of Well in question had been assessed ₹18,058/-.

A perusal of the paper-book would go on to show that in pursuance of the sale deeds produced in evidence and the evidence on record, the Reference Court had come to the conclusion that the land involved is Banjar Qadim and Gair Mumkin Pahar and it was situated at a sufficient distance from the village abadi. Keeping in view the site plan (Ex.A2) the sale deeds (Ex.A6 and Ex.A7) produced by the appellants were discarded on the ground that the same were pertaining to the Barani land. Similarly, the sale transaction dated 19.05.1986 (Ex.A4) was noticed and on account of the fact that the same was post notification, it was rightly discarded as there was a gap of more than 2 years. The sale transaction dated 21.05.1982 (Ex.A5) which was for 89 kanals 12 marlas for ₹30,000/-, whereby the market value was assessed @ ₹6,060/- per acre. As per the record the land was Barani in nature and keeping in the view the fact that it would command higher value, it was held that a further cut had to be applied to find the correct market value. Resultantly, the market value had been fixed @ ₹3,000/- per acre by enhancing it from the amount which was awarded by the LAC.

Another aspect which is to be kept in mind is that vide another Award dated 11.05.1988 of the same village pertaining to the notification dated 06.08.1986, which is also post notification, the Collector had awarded ₹8,000/- per acre for Banjar Qadim and ₹5,000/- per acre in respect of Gair Mumkin Khad and Pahar. Thus, the time gap was also kept in mind. The sale transactions produced by the State were ignored in view of the quality of the land and the distance from the acquired land and, therefore, the enhancement was done.

It is a settled principle that the type of land, nearness to the land acquired and the potentiality of the land has to be taken into consideration while assessing the market value. The necessary exercise as such had been carried out by the Reference Court as it has ignored the land of Ex.A3 which was pertaining to the Banjar and abadi land and it was only one kanal and the acquired land could not be similarly placed.

Resultantly, while relying upon Ex.A5, and keeping in view the fact that the quality of the land was also different, reasonable cut was applied to enhance the market value @ ₹3,000/- per acre at the time of acquisition and no fault as such can be found in the methodology which has been applied by the Reference Court.

The reasoning which has been adopted while declining any further enhancement upon the Well in question, which was situated in the land was that the Well had been constructed before the birth of the applicants. It has been found that the Well was not being used for the purpose of irrigation and it was, thus, presumed that the Well was not in working condition. The cost estimate had been prepared by the Junior Engineer and produced in evidence by Executive Engineer-RW1. A perusal of the evidence would go on to show that as per Ex.R1 the Well had been dug in the year 1905 and, therefore, the claim for further enhancement in such circumstances was rightly repelled, as AW-2 had stated that the Well had been constructed for ₹20/25,000/-. No expert evidence as such had been produced to prove the cost of the Well as such. Therefore, the Reference Court was well justified on falling back on the report of the expert produced by the State. Resultantly, no case is made out for interference in the orders passed by the Reference Court in declining the enhancement on account of Well and neither the market value is liable to be enhanced.

Accordingly, both the appeals are dismissed.

(G.S. SANDHAWALIA)
JUDGE

MARCH 14, 2019
Naveen

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No