

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

458

**RFA No.1760 of 1992
Decided on : 18.12.2019**

Prem Singh (deceased) through his legal heirs and another
... Appellants
Versus

Land Acquisition Collector, SYL Canal Project and another
... Respondents

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

Present: Mr. S.K. Singla, Advocate
for the appellants.

Ms. Ambika Bedi, AAG, Punjab.

G.S. Sandhawalia, J. (Oral)

Present appeal filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') is directed against the Award of the Reference Court, Ropar dated 04.03.1992, wherein the amount of compensation assessed on account of the 573 Guava trees by the Horticulture Inspector @ ₹99,353.10 (Annexure R-1) was upheld. Similarly, the amount estimate prepared by Gurmail Singh, SDO, on account of the Well was also upheld.

2. The reasoning given by the Reference Court while rejecting the claim for enhancement was that the claim as such of the landowners was that there were 900 Guava trees and the Government expert as such had given the contrary report that there were 573 Guava trees. Accordingly, it was held that assessment made by the expert was genuine and nothing had been shown to ensail the assessment made by him. The report of the Deputy Director, Jasbir Singh, who had been examined as PW-1 in support of the claim of 900 Guava trees to the tune of ₹5,45,000/- was discarded on the

ground that the expert usually favours the parties engaging him. The rough note having been prepared at the spot, but the same were not produced in the Court by the said expert also weighed with the Court. Similarly, regarding construction work and tubewell, it transpired that the witness which had been engaged by the landowner PW-2 Sital Singh turned out a retired SDO of Punjab Irrigation, who did not have any experience in evaluating buildings. Resultantly, the report prepared by RW-2 Gurmail Singh was relied upon and the compensation as such awarded was upheld.

3. Counsel for the appellants has vehemently contended that Jasbir Singh, Deputy Director as such was a retired officer from Horticulture Department and his report itself is prudent and was liable to be relied upon. He has placed reliance upon the judgment of the Division Bench of this Court in '**Ranjit Singh Vs. The Union Territory of Chandigarh**' 1983 (85) PLR 471 in support of his case.

4. A perusal of the record would go on to show that the land was acquired vide notification dated 07.10.1985 issued under Section 4 of the Act, falling in village Doomcheri for the construction SYL Canal. The Supplementary Award was passed on 02.03.1987 for the value of the orchard and construction, as the previous Award had been passed on 17.07.1986 for the value of the land. On the basis of the reports produced regarding the trees by the Divisional Forest Officer and Director, Horticulture, the assessment had been duly made.

5. Having been dissatisfied with the same, the landowners had

filed petition under Section 18 of the Act for enhancement of compensation and that the compensation of trees given @ ₹1,45,000/- was low and the amount for Well @ ₹10,500/- was also on the lower side. Claim was made for ₹5 lakhs for the trees and ₹1 lakh for the Well.

6. The number of trees which were stated to be 900 were denied specifically by holding that there were 573 trees and adequate compensation had been granted by the technical officer, who had made the assessment of the trees and tubewell/well.

7. Ex.R1 is the valuation report prepared by the Government expert, wherein 264 and 309 trees had been assessed, on account of the fact that one lot was of 4 years and one lot was of 1 year. The bearing age and the category of the trees had been kept in mind. The basic value and the value of the remaining years was also kept in mind while assessing the market value @ ₹99353.10. Similarly, vide Ex.R2, comprehensive report regarding the construction of Brick Masonry, Plastering and the boring of the tubewell had been done by the witness. The Government witnesses as noticed above appeared in support of their reports and denied the suggestion that there were 900 Guava trees present at the spot and there age was 4 years and there was any under valuation done. Gurmail Singh had also proved his report.

8. On the other hand if one is to peruse the statement of PW-1 and the report prepared by him Ex.P1, it would be clear that the report as such does not inspire any confidence in as much as, apart from the fact that he visited the spot without issuing any notice of his visit to the

Government officials. His report reads as under:-

“6. I, however, find several inconsistencies, inaccuracies and contradictions in the report. There has been an utter lack of proper appreciation and application of the methods and principles laid down in the formula for evaluating fruit trees.

7. The orchard has been unjustly and wrongly placed in lower category. In my opinion the garden fulfilled all conditions for Ist class category keeping in view the facts mentioned above. By placing the garden in lower category, the garden owner suffered a great financial loss due to wrong classification.

8. The fuel/timber value has not been included in the assessment report, which caused a great loss to the garden owner, which is unjust and unfair on the part of the assessing authority.”

9. A perusal of the above report would go on to show that no categorical reasons have been given as to what was wrong in the report of the Government expert, apart from placing it on a lower footing and on what basis, the Government expert had gone wrong. His report Ex.P1 would also go on to show that there were 900 plants of all, which were of 4 years age, to bring the value @ ₹5,45,400/-.

10. The only additional part of valuation which is fuel valuation of ₹9,000/- is the basis, which the Government expert report does not find figure. Reliance as such upon the judgment of the Division Bench in **Ranjit Singh (supra)** to this extent is made that the benefit of the valuation has not been granted for the number of trees as such, on which account there is a leverage in favour of the appellants.

11. Similarly, the statement of PW-2 Sital Singh would go on to show that he had assessed tubewell cost for the first time in his life and

also assessed the cost of underground pipes as told by the claimants and not observed it personally. He had never done any building assessment nor had given any evidence regarding such estimates. He also visited the spot on 13.03.1986 and prepared the estimates on 15.03.1986. He did not keep any notes regarding the inspection done which is stated to have been destroyed after preparing of estimates.

12. It is not disputed that as per Ex.P4 there was a tubewell at the spot for which Government valuator had also given the compensation. Keeping in view the general tendency that the Government expert always make a report to award on the conservative side as such, this Court is of the opinion that an additional amount of ₹10,000/- each on account of the Timber Wood of the fruit trees and enhancement for the tubewell installed, as such would be adequate compensation in the facts and circumstances.

13. Accordingly, the present appeal is partly allowed to this extent by enhancing the compensation by ₹20,000/- alongwith the benefit of statutory interest.

DECEMBER 18, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

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