IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.188 of 1992
Decided on : 08.02.2019

Mukhtiar Singh

...Appellant

Versus

State of Punjab & others ...Respondents

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

Present: Mr.Roshan Lal Sharma, Advocate, for the appellant.

Ms.S.G.Randhawa, AAG, Punjab.

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G.S.SANDHAWALIA, J. (Oral)

Present appeal has been filed under Section 54 of the Land Acquisition Act, 1894 against the judgment of the Reference Court, Gurdaspur dated 04.09.1990, whereby the Reference Court had fixed the market value @ Rs.1200/- per marla (Rs.1,92,000/- per acre), enhancing it from Rs.48,000/- per acre, as granted by the Land Acquisition Collector on 08.04.1988.

The basis of enhancement was averaging of the three sale deeds, i.e., sale deed dated 27.01.1981 for Rs.30,000/-; dated 27.05.1982 for Rs.20,000/-; and dated 24.02.1982 for Rs.30,000/- (Exts. P-3, P-5 and P-1, respectively), all executed by the appellant himself. Resultantly, the Reference Court, by resorting to the averaging of the three sale deeds, came to the conclusion that the market value would come to Rs.1800/- per marla (Rs.2,88,000/- per acre) and applied 1/4th cut on the said sale deed. The land was acquired by notification dated 18.01.1983, measuring 22 kanals 18 marlas and the acquisition was for the purpose of Police

Station, Faridkot at Village Bharoli Kalan. Accordingly, the market value was fixed @ Rs.1,92,000/- per acre(Rs.1200/- per marla).

Counsel for the appellant has vehemently submitted that the method of averaging should not have been resorted to and the benefit of the highest sale deed should have been granted. The Reference Court also noticed that there were five sale instances pertaining to the same period and all were from the same khata which comprised the acquired land. Therefore, keeping in view the smallness of the plots in question (Exts.P-2 and P-4) which were of 3 ½ and 5 marlas, respectively, same were rejected. From the said sale exemplars, the market value of the said sale deeds per marla would come to Rs.7000/- to Rs.9500/-. Counsel for the appellant has vehemently tried to convince this Court that the said sale deeds, as such, should have been taken into consideration to assess the market value, which this Court is not inclined to accept. The reasoning recorded by the Reference Court is justified that they were too miniscule, as such in comparison to the 22 kanals 18 marlas of land which was a larger chunk being acquired for the purpose of a Police Station.

State Counsel, on the other hand, has justified the assessment and submits that no case for further enhancement is made out, which this Court is not inclined to accept.

The potentiality of the land in question cannot be disputed. A perusal of the site-plan (Exts.P-6 and R-1) and the evidence on record would go on to show that the land, as such, was situated near the

Pathankot-Jalandhar road. PW-2, the appellant himself had stated that the acquired land was abutting the Jammu-Jalandhar National Highway and Pathankot-Amritsar National Highway and the area of the land was well developed. Petrol pump, railway station, bank and industries were situated near the acquired land. In cross-examination, it transpired that the land was only 1 ½ to 2 kms away from the municipal limits of Pathankot and a bank was situated at a distance of about 200 yards from the acquired land, which was agricultural in nature at that point of time. Even the evidence of the State, as such, was in favour of the landowner, as the Field Kanungo, Devi Sharan, RW-1, deposed that the distance of the Jammu & Kashmir National Highway was about 16-17 karams from the acquired land, which was a bye-pass whereas the Pathankot-Amritsar road was at a distance of about 50 karams from the acquired land. He had seen the spot personally and the surrounding area was stated to be developed. There were shops of "Kabarias" near the acquired land on the road side and Bharoli Railway Station was at a distance of about 1 km from the acquired land. As per his deposition, if the acquired land was sold through private negotiations, it might fetch Rs.4000/- to Rs.5000/- per marla.

Thus, the potentiality of the land in question is not disputed. It is settled principle that land situated near the National Highway commands more value. Reference can be made to **Haridwar Development Authority, Haridwar Vs. Raghubir Singh and others 2010 (11) SCC 581**. The Reference Court itself noted that large number of sale deeds had been executed by the landowner himself. Resultantly, the principles laid down in **Mehrawal Khewaji Trust (Regd.) Faridkot & others Vs. State of Punjab & others 2012 (5) SCC 432** would be directly applicable, wherein it has been held that averaging the sale price between the different sale deeds is not proper and the highest value is to be given to the landowners. Relevant para of the judgment reads as under:

> "15) It is clear that when there are several exemplars with reference to similar lands, it is the general rule that the highest of the exemplars, if it is satisfied, that it is a bona fide transaction has to be considered and accepted. When the land is being compulsorily taken away from a person, he is entitled to the highest value which similar land in the locality is shown to have fetched in a bona fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition. In our view, it seems to be only fair that where sale deeds pertaining to different transactions are relied on behalf of the Government, the transaction representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different course. It is not desirable to take an average of various sale deeds placed before the authority/court for fixing fair compensation."

In the present case, the biggest sale exemplar which has been sold is Ext.P-3 whereby 1 kanal of land was sold on 27.01.1981 for Rs.30,000/- and the value per acre would work out @ Rs.2,40,000/-. If a cumulative increase of 12% is granted on the said sale deed, for the difference of 2 years, the market value comes to Rs.3,01,056/- per acre.

By putting a 20% cut on the same, on account of smallness, the market value comes to Rs.2,40,845/- and the need of development cut is not required to be put because no streets, parks have to be laid out, keeping in view the purpose which it is being acquired for. Resultantly, this Court is of the opinion that the present appeal is liable to be allowed, in the above facts and circumstances, keeping in view the potentiality of the land. The market value of the land acquired is, accordingly, assessed as above @ Rs.2,40,845/- per acre along with all statutory benefits.

Febuary 8th, 2019 **(G.S.SANDHAWALIA)**
sailesh **JUDGE**

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*