

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

(1)

RFA No.262 of 1992

Rameshwar Dayal & others

...Appellants

Versus

State of Haryana

...Respondent

(1)

RFA No.263 of 1992

Charan Singh & others

...Appellants

Versus

State of Haryana

...Respondent

Decided on : 08.02.2019

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

Present: Mr.S.S.Dinarpur, Advocate, for the appellants.

Ms.Safia Gupta, AAG, Haryana.

G.S.SANDHAWALIA, J. (Oral)

Present appeals have been filed under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act') against the judgment of the Reference Court, Ambala dated 22.10.1991, whereby the Reference Court had enhanced the compensation to Rs.6000/- per acre for the Salab land and maintained it for Gair Mumkin at Rs.1900 and Rs.3800/- per acre for Banjar Kadim.

The basis of enhancement was by accepting the argument that Salab land should have been assessed for the compensation at 9/15th of the Chahi land, for which, Rs.11,000/- per acre had been awarded. The Reference Court had noticed that the land in question was adjoining to

the area which was prohibited under Sections 4 & 5 of the Punjab Land Preservation Act, 1900, which was a Gair Mumkin rivulet and part of the river and could not be put under agriculture as it was sandy and had lots of stones on it.

The land acquired was measuring 1755 bighas 1 biswa and was for the purpose of afforestation by the Forest Department by notification dated 11.08.1980 under Section 4 of the Act. RW-1, Krishan Kumar, Patwari, office of the Deputy Conservator of Forests, Ambala was examined to prove that the site-plan was part of the rivulet. The acquisition, thus, had been done by the Forest Department to check heavy soil erosion. The sale deeds of the adjoining village were for the subsequent period from 1983 to 1986 and the same were not taken into consideration. Similarly, the mortgage deeds of the year 1981 made at the time of loan advance, were post-notification. The Reference Court has also discussed the said mortgage deeds to come to the conclusion that the average price would again come to Rs.1925/- per acre only. The argument of counsel for the appellants, as such, was that the bank had only advanced loan to the extent of 1/3rd of the amount, was rightly rejected, which was the claim of one of the claimants (PW-5).

The potentiality of the land is a major aspect for fixing the market value and in the present case, as noticed, finding of fact has been recorded that the land in question is a Gair Mumkin rivulet and therefore, the aspect of it developing from any way, for the purpose of residential or commercial angle, does not arise. Rather, it has also come on record that

it is being used for afforestation purposes, as such, to prevent soil erosion and therefore, the Land Acquisition Collector has awarded adequate value, as per the type of the land. The claim of counsel for the appellants that the land was under cultivation, is contrary, in as much as there was a claim for the trees which were standing on the land and the witnesses have stated that Shesham trees had been planted. Under issue No.3, it was held that there was no proof that the trees were existing as no expert, as such, had been examined, to show the plantation of the trees along with value of the trees to show the market value. Krishan Kumar, Patwari, RW-1, had submitted that there were no trees on the acquired land. Thus, if there were trees, the question of the land being put to agricultural use also does not arise.

Accordingly, in view of the above discussion, there is no scope for enhancement of compensation in the present set of appeals and consequently, the same are, hereby, dismissed.

February 8th, 2019
sailesh

(G.S.SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*