

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA-504-1992

Date of decision: 11.09.2019

Smt. Bhakri Devi

....Appellant

Versus

Union of India & others

...Respondents

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

Present: None for the appellant.

Ms.J.K.Sidhu, AAG, Punjab.

G.S. SANDHAWALIA, J. (Oral)

The present appeal, filed under Section 54 of the Land Acquisition Act, 1894, is directed against the award dated 01.12.1989, whereby the benefit of increase in compensation for the fruit bearing trees @ 133% has been granted, over and above the assessment made by the Land Acquisition Collector, on the ground that the Sale Price Index shot up from 1977 to that prevailing in 1966. Resultantly, the benefit of increase in compensation for the fruit bearing trees had been granted along with statutory benefits w.e.f. 10.04.1978.

The acquisition under Section 4 in question was dated 26.08.1977, for the land falling in Village Athotarwan Tehsil Pathankot District Gurdaspur, for Defence purposes and the award was passed on 18.12.1988, for the fruit bearing trees, which were standing on the land, to the tune of Rs.83,513/-. Landowner, being aggrieved against the said amount awarded, challenged the compensation on the ground that the LAC had not gone on the spot and not seen the fruit bearing trees for which he had given the compensation without taking into consideration the situation and grading was equally defective and arbitrary. Compensation was also sought for the delay period as the report was received late from the Technical Department.

Keeping in view the statement, as such, that claim was for the year 1977 on account of the notification which was done on 26.08.1977/02.12.1977, the Reference Court granted the benefit, keeping in view the judgment of the Division Bench in **Ranjit Singh Vs. Union Territory Chandigarh AIR 1983 P&H 308**.

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A perusal of the paperbook would go on to show that the landowner had appeared as PW-1 and stated that the trees were of A-class and good quality and highly nurtured and the amount was at a lower level and the value of the year 1966 had been granted instead of value of the year 1977. However, no expert evidence was produced to show the valuation of the trees. It is on that basis the Reference Court, as such, while keeping in view the statement of Mehar Chand, Office Superintendent, from the office of Defence Estate, Pathankot, who appeared as RW-1, held that the calculation was made according to the formula of the Horticulture Department of the year 1966. The enhancement has been granted keeping in view the date of the notification and that the rates were assessed for the year 1966.

In such circumstances, in the absence of any such independent evidence lead for the valuation of trees and the enhancement having been granted, in view of the principles laid down by the Division Bench, no fault can be found, as such, in the amount awarded by the Reference Court. The onus was upon the landowner, as such, to show that she was entitled for higher compensation. In the absence of any independent expert opinion, the question of enhancing the amount of compensation would not arise.

Resultantly, in view of the above discussion, finding no merit in the present appeal, the same is dismissed.

11.09.2019
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No