

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.1536 of 1991 (O&M)

Date of Decision: 29.01.2019

Surjit Kaur

... Appellant

VS.

Punjab State & Ors.

... Respondents

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

Present: Mr. Arnav K Sood, Advocate for
Mr. Amit Jain, Advocate for the appellant

Ms. Simran Grewal Randhawa, AAG Punjab

G.S. SANDHAWALIA, J. (Oral)

(1) The landowner is in appeal under Section 54 of the Land Acquisition Act, 1894 against the award dated 22.04.1991 passed by Reference Court, Ropar whereby a sum of ₹ 40,000/- more has been granted as compensation over and above what was granted by the Land Acquisition Collector vide supplementary award dated 23.07.1986, for the fruit trees standing on the acquired land.

(2) The reasoning as such for not accepting the report of PW1 Jasbir Singh vide which he had estimated the compensation as ₹ 2,45,300/- was that it has come on record that he had visited the site on 02.04.1983 but only prepared the report Ex.P1 three months back. A perusal of his deposition would show that the same was made on 12.02.1990. It has further come on record that the said expert had not brought the rough notes with him and the same had been destroyed. The date of visit was also mentioned in the rough notes and it is in such circumstances, reliance has not been placed on the said report, by the Reference Court.

(3) Similarly, statement of PW2 Lal Singh, retired Deputy Director,

who was present on the day when he visited the spot and counted the fruit trees which were 9 guava trees and 110 mango trees.

(4) The report of RW1 Baldev Singh, Horticulture Inspector who stated that he visited the land falling in village Dugri on 15.12.1983 almost a year after the notification was issued on 30.11.1982. He prepared his assessment report for ₹ 22781.50 paise (Ex.R1). It was rejected on the ground that the Director Horticulture had asked the Land Acquisition Collector that the said report may be treated as cancelled. Another assessment was supplied vide letter dated 22.03.1984 which was for a sum of ₹ 47,731/-. Resultantly, it was held that no reliance can be placed on the report (Ex.P1) of Jasbir Singh (PW1) as the possibility of inaccuracy having occurred in his report due to passage of time cannot be ruled out as he prepared his report after 7 years after visiting the spot. Thus on principle of guess work, compensation was enhanced by ₹ 40,000/- more.

(5) It is settled principle that for proving the market value for standing crops and fruit trees, the onus was as such upon the landowners. Once in cross-examination, the appellant had chosen to rely upon the report submitted by Jasbir Singh (PW1) to claim a sum of ₹ 2,45,300 for the 9 guava trees and 110 mango trees and once the witness's credibility as such was demolished in the witness box on account of preparation of report after 7 years, the reliance placed upon the report as such has rightly not been accepted by the Reference Court.

(6) Keeping in view the overall picture in mind that the number of trees as such did not vary, the enhancement as such has been granted therefore by the Reference Court and the State is not in appeal as such to challenge the finding. In such circumstances there is no scope for

enhancement of the amount of compensation for the fruit bearing trees, in the absence of any credible evidence.

(7) Accordingly, there is no merit in this appeal and the same is dismissed.

29.01.2019

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(G.S. Sandhawalia)
Judge

1. Whether speaking/reasoned?

Yes
2. Whether reportable?

No