

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

RFA-1908-1991 (O&M)
Date of decision:06.09.2019

Krishna Devi & others

....Appellants

Versus

The Punjab State

...Respondent

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

Present: Mr.K.S.Dadwal, Advocate
and Mr.Narender Kumar, Advocate, for the appellants.

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

G.S. SANDHAWALIA, J. (Oral)

The present appeal, preferred by the landowners, filed under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act') is directed against the award dated 03.04.1991, passed by the Reference Court, Hoshiarpur, whereby benefit had been granted that payment to the appellants was to be made on the basis of original estimate recommended by Forest Department, vide letter dated 20.06.1986 (Ex.A-4) and the cut imposed was not justified. Similarly, compensation of Maggar quality of Bass was to be assessed at double the claim and compensation for Coppice-Coup was directed to be paid @ Rs.1593/- per Hectare, apart from statutory benefits.

Counsel for the appellant has vehemently, submitted that in view of the directions issued by this Court in RFA-2378-1991 titled *Kashmir Devi (deceased) th Lrs Vs. State of Punjab*, decided on 25.07.2019, the amount of compensation should be doubled, in as much as there is enough evidence to show that for the Khair trees, a person can get two crops

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and this benefit having not been granted and the same had been granted in the said appeal. Apart from that, reliance has been placed upon the application for additional evidence and the benefit of severance having been granted to similarly situated landowners @ 40%, vide order dated 23.05.1996 (Annexure A-3), which was upheld by this Court in CR-938-1997 (Annexure A-4). Thus, two-fold argument, as such, is raised, on account of the fact that the market value paid should be doubled, on account of the second cropping and secondly, benefit of severance should also be granted.

The said arguments are not liable to be accepted for the following grounds. A perusal of petition filed under Section 18 of the Act would go on to show that claim for compensation is based in respect of trees standing on the land measuring 62 kanals 17 marlas, owned by the applicants and possession of which was taken by the State of Punjab. As per the case of the appellant himself, the Department had considered only 2 Cheel trees, one Khair, 3 Sheesham and 33 miscellaneous trees and did not consider the 2 Cheel trees, 4 Sheesham and 5 Khair trees and 40 miscellaneous trees, for which, the appellants are entitled for full compensation of Rs.15,000/- for these trees. It was also averred that remaining land measuring 46 kanals 17 marlas was not under the control of the appellants having been severed and several trees standing on the same whose income was also to be assessed.

The evidence would go on to show that from the statement of witness that Khair trees gave crops upto 2 to 3 times, which is similar to Eucalyptus trees, as per statement of AW-1, Manohar Singh, Forest

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Range Officer. AW-2, Bachittar Singh, Clerk had also calculated the volume as per Ex.A-3 and the price was to be recommended as per Ex.A-4. It was admitted that they had not considered three crops of Khair and Safeda trees when the report was prepared, for Rs.4,58,976.10 paise and in cross-examination, he could not tell the number of trees the claimants had put in the list (Ex.A-2). Similar was the statement of AW-3 regarding the Khair trees which was capable of giving three crops. AW-4, Ravinder himself, in his statement, has submitted that the authorities considered only 30 trees and ignored the other trees. Two Cheel trees and two Sheesham trees and the said Sheesham trees and one Khair trees and other 30 trees were taken into consideration. There were, however, other 51 trees having girth between 18 and 24" and no compensation was given in that respect. It was further averred that there were 68 trees standing on the acquired land for which no compensation had been paid and Cheel, Sheesham and Khair trees were also among those trees.

It is, thus, apparent as per the statement of the said witness himself that there was only one Khair tree out of the crop share assessed. If that is so, the argument raised for doubling the compensation on account of the eucalyptus and khair trees having 2 cropping pattern, on the factual aspect, in the facts and circumstances, is not sustainable. Only if there were large number of Khari and Eucalyptus trees, the benefit could have been given for successive cropping.

Regarding the other argument raised for severance aspect, it is to be noticed that severance is an additional benefit given on the market value. This Court is dealing with the amount of the compensation

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granted for the trees standing on the acquired land, as such and therefore, benefit of severance cannot be granted. If similarly situated landowners had got similar benefits before the Writ Court which had issued directions to the Executing Courts, which would be clear from Ex.A-3 that the Executing Courts had granted the said benefits. This Court cannot issue any direction in a statutory appeal filed under Section 54 of the Act. The appellants had never approached for any such directions under Articles 226/227 of the Constitution of India. In such circumstances, the claim for severance @ 40% in a petition filed for claiming market value of the trees, would not be maintainable. Resultantly, this Court is of the opinion that application under Order 41 Rule 27, wherein certain documents are sought to be brought on record, is liable to be dismissed, as it would not help this Court in pronouncing judgment and would not be relevant for the issue which is to be addressed in the amount awarded. The Reference Court has already granted the protection, to the extent that the original assessment, as per Ex.A-4 is to be granted and appropriate cut which had been imposed, was not justified.

Resultantly, there is no scope for interference in the award dated 03.04.1991, passed by the Reference Court, Hoshiarpur. Consequently, the present appeal is, hereby, dismissed.

06.09.2019

Sailesh

(G.S. SANDHAWALIA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No