

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.71 of 1992
Date of Decision: 08.02.2019

Ishwar Swarup Sharma & Ors.

... Appellants

VS.

BSNL & Ors.

... Respondents

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

Present: Mr. Shrenik Jain, Advocate for
Mr. Gaurav Singla, Advocate for the appellant

None for UOI

Mr. Sudeep Mahajan, Addl. AG Haryana

G.S. SANDHAWALIA, J. (Oral)

(1) The present appeal filed by the landowners under Section 54 of the Land Acquisition Act, 1894 is directed against the award dated 01.10.1991 passed by the Reference Court, Jagadhari seeking further enhancement. The notification under Section 4 was issued on 29.03.1983 for 2 bighas 9 biswas (2470.42 sq.yards) situated in village Gobindpuri, Hadbast No.414 Tehsil Jagadhari. The public purpose for acquisition was for construction of Coaxial Staff Quarters for providing residence to the maintenance personnel for maintaining the long distance telephone circuits at Yamuna Nagar. The Collector vide award No.87 dated 05.03.1985 had awarded ₹ 100/- per sq.yard besides other statutory benefits. Dissatisfied, a petition under Section 18 had been filed on the ground that the land was situated within the municipal area of city Yamuna Nagar and market value was not less than ₹ 500/- per sq.yard.

(2) The enhancement by the Additional District Judge was on account of the fact that there were two sale deeds which were post-

₹ 48,000/- (₹ 120 per sq.yard). However, compensation had only been awarded @ ₹ 100/- per sq.yard and therefore the enhancement had been worked out on in spite of the fact that the sale was post-notification. The claim of the landowners on the strength of smaller sale deeds which were shown at Mark Q & Q1 on the site plan Ex.A1 was rejected on the ground that sale deeds pertained to the main Jagadhari-Yamuna Nagar road. After examining the evidence, it was held that they were at distance of 130-150 yard from the acquired land and the distance had been respectively admitted by the claimants as well as by the respondents in their evidence.

(3) Lastly the sale deeds admittedly related to the commercial plots of very small sizes of 25 yards each meant for shops and were situated in commercial belt of Yamuna Nagar and thus reliance was not placed upon them. Similarly, agreements Ex.AW6/A to AW6/C as such in favour of M/s Lajja Ram Garg and sons and Surinder Metal Work Jagadhari in respect of various khasra Nos.494 @ ₹ 400 & ₹ 500, respectively executed in 1978, 1980 and 1982 were also rejected on the ground that sale transactions were not relevant as such agreements had never seen the light of the day. The claim of the severance was also declined on the ground that the remaining land of the claimant was still abutting the road from three sides and therefore on that account such claim was not justified.

(4) This Court has gone through the record which was available and the site plan in question. The finding which has been recorded is a factual finding and it is a matter of record that firstly the sale deeds Ex.A2&A3 relied upon are pertaining to shops on the main Jagadhari-Yamuna Nagar road. Therefore the market value of the said sale deeds which are on the main road would be at a much higher level and therefore

cannot be compared to the land in question situated inside in comparison as per site plan.

(5) It is settled principle that shops situated even at the back of the building which is on the main road would command a different premium on account of poor location and therefore the Reference Court has rightly declined to take the said sale deeds as a proper sale exemplar. The Reference Court has taken pains as such to reject the claim of respondents wherein reliance has been placed upon the sale transactions to note that they were 1000 ft. away from the acquired land. Resultantly, it has granted enhancement keeping in view the fact that the Land Acquisition Collector himself had worked out the average price of both the sale deeds dated 24.11.1983 but had awarded only ₹ 100/- per sq.yard. Thus no fault can be found on the face of the record as such to interfere with the well reasoned award of the Reference Court.

(6) The appeal is accordingly dismissed.

08.02.2019

vvishal

(G.S. Sandhawalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No