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

**RFA No.1452 of 1998 (O&M) and other connected appeals
Decided on : 05.03.2019**

Rajwant Singh and others

... Appellants

Versus

The State of Haryana

... Respondent

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

Present: Mr. Harnek Singh, Advocate
for the landowners in RFA Nos.623 & 1452 of 1998.

Mr. Sudeep Mahajan, Addl. AG, Haryana.
Ms. Vibha Tewari, AAG, Haryana.

G.S. Sandhawalia, J. (Oral)

The present judgment shall dispose of 4 appeals i.e. RFA Nos.1452, 781, 623 and 624 of 1998 filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') against the Award dated 18.12.1997, whereby a sum of ₹114 per square yard had been awarded for the land measuring 15 kanals 16 marlas which was acquired for the purpose of construction of building of DSP Residence situated in Jagadhri.

2. The notification under Section 4 of the Act was issued on 11.11.1986 and the Land Acquisition Collector (for short 'the LAC') vide Award dated 11.08.1989 had granted a sum of ₹27 per square yard, which has, accordingly, been enhanced. Resultantly, both the sides are aggrieved against the enhancement, the landowners are claiming higher amount, whereas the State is aggrieved against the enhancement on the ground that the methodology applied by the Reference Court was not justified.

3. A perusal of the impugned Award would go on to show that the sale deeds Ex.P1 to P3 were ignored on the ground that the vendors and vendees of the sale deeds had not been examined. The judgment passed in **'G. Narayan Rao Vs. The Land Acquisition Officer, 1996 (2) Apex Court Journal 147 (SC)** was relied upon to reject the sale exemplars produced by the landowners. Reliance was placed upon Ex.R5 and R6 which were produced by the State, which were executed on 30.04.1987, whereby the market value was worked out @ ₹101.14 per square yard and ₹99.96 per square yard and an average rate of ₹100/- was taken to fix the market value. On account of having been executed 5½ months after the date of the notification, keeping in view the fact that the some appreciation would have resulted in the price of the land after publication till the execution of said sale deeds, ₹5 was deducted out of ₹100/- to make the price in consonance with the notification dated 11.11.1986. However, on the said amount of ₹95/- per square yard additional 20% has been granted on account of the fact that there was higher potentiality of the land in question and since it was abutting two roads, one of which was connecting Ambala-Jagadhri and other leading to Bilaspur.

4. The claim for compensation on account of the super-structure and loss of business was rejected on the ground that nothing was brought to show that there was any business running and the boundary wall was made as such only to prevent the encroachers from the land in question. The claim of ₹3,50,000/- on account of the boundary

wall was rejected and, therefore, the value of ₹20,160/- which was the assessment made by the Technical, PWD Authorities was accepted. The same was done on the ground that there was no report put on the file regarding the valuation of the structure. It was noticed that qua the land in question there was a common decree as such. Under issue No.3 it was noticed that there was an admission by PW3 that there was a partition *inter se* and on that basis 9 kanals 13 marlas of land had gone to Rajwant Singh and the rest of the land to Gurmukh Singh.

5. Counsel for the landowners has rightly argued that the reasoning given by the Reference Court to discard the sale deeds Ex.P1 to P3 is not justified, keeping in view the judgment of the Constitutional Bench of the Apex Court passed in **'Cement Corporation of India Ltd. Vs. Purya and others' AIR 2004 SC 4830,** whereby it has been held that the registered sale deeds may be taken into consideration without examining the vendor or vendee subject to certain conditions. The view taken in the judgment passed in **'Land Acquisition Officer Vs. V. Narasaiah' 2001 (3) SCC 530,** was upheld while disapproving the view taken in **'Special Dy. Collector Vs. Kurra Sambasiva Rao, (1997) 6 SCC 41.** The said view has, thereafter, been followed by the Apex Court in **Ranvir Singh & another Vs. Union of India (2005) 12 SCC 59**; **Himmat Singh & others Vs. State of Madhya Pradesh & another (2013) 16 SCC 392** and in **Lal Chand Vs. Union of India 2009 (15) SCC 769.**

6. Resultantly, this Court has examined Ex. P1 to P3. Firstly, it

is to be noticed that reliance was placed upon sale deed dated 26.10.1987 (Ex.P-1), which is post notification and cannot be made basis since it is only for 231 square feet (25.6 square yards) and the market value works out ₹781 per square yard. The sale deed, as such, is post notification by almost one year an, therefore, the same cannot be taken into consideration.

7. Similarly, Ex.P2 dated 22.02.1985 would go on to show that it is a sale deed pertaining to 2639 square yards which is a constructed house, sold for ₹5,27,800/- and the market value works out to ₹200/- per square yard and, therefore, the same also cannot be taken into consideration as the cost of construction is another aspect which will have to be offset. Keeping this aspect in mind even 50% of the value is offset for construction, the market value would come to the same value as has been fixed by the Reference Court. Coming to Ex. P3, which is dated 27.11.1984, for land measuring 5 bighas 5 biswas, which was sold for ₹8,91,233/-, the market value would come to ₹56.11 per square yard.

8. Counsel for the State has, thus, placed heavy reliance upon the same but has not been able to show from the record, the location of the said portion and as to how it could offset the sale deeds, as such, which had been relied upon by the Reference Court (Ex. R5 & R6) and which had been produced by the State itself.

9. The Reference Court was well justified, as such, that the State itself cannot question the market value of the sale exemplars

produced by it whereby the market value, as such, has been assessed. The land, as such, is within the Municipal Limits and as noticed had great potential, as it was situated not only on the main road but was also abutting the two main roads and, therefore, on account of the potentiality additional 20% has been granted and is justified. In **'Chandrashekar (D) by LRs & others Vs. Land Acquisition Officer & another' 2012 (1) SCC 390**, the Apex Court had noticed the principle of reverse cut and that the market value calculated on that basis was approved, whereby the cut had been made.

10. In such circumstances, once the land in question which was acquired was within the Municipal limits of Jagadhri and was acquired for the purpose of construction of DSP Residence and was falling at an extremely potential location, the valuation, as such, which has been done by the Reference Court, does not call for any interference, to this extent.

11. The issue, as such, regarding the assessment of the structures on the land, the Reference Court was not justified, as such, to totally reject the claim of the landowners on the ground that the expert had not been produced. It is not disputed that the Collector had granted a sum of ₹20,160/- which was the cost of the boundary wall of the plot measuring almost 2 acres in question, as the State valuers always grant the market value on the lower side and in such circumstances, 25% enhancement can be granted on the increase of the value of super-structure, in view of the fact that the landowners claimed a exorbitant price for superstructure. As

noticed, ₹3,50,000/- was claimed on account of the construction of the boundary wall. Accordingly, by applying the thumb rule in the present case, as laid down in **Romal Singh & another Vs. Punjab State & others 2017 (4) Law Herald 3231**, this Court enhances the amount by 25% on account of superstructure, which would come to ₹25,200/-. However, it is made clear that the landowners would not be entitled for the benefits of solatium and additional market value under Section 23 (1A) and Section 23 (2) on the superstructure in view of the judgment of the Apex Court passed in **'State of Punjab Vs. Amarjit Singh', 2011 (4) SCC 734.**

12. Accordingly, in view of the above discussion, the appeals filed by the landowners are partly allowed and the landowners are held entitled for enhancement to the tune of ₹25,200/- on account of superstructure only, whereas the appeals of the State are dismissed, demanding reduction in the market value.

13. All the pending civil miscellaneous applications, if any, stand disposed of, accordingly.

(G.S. SANDHAWALIA)
JUDGE

MARCH 05, 2019
Naveen

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No