IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RA-RF-46-CI-2019 in
RFA-2687-2012
Decided on : 09.04.2019

Jaswinder Kaur ... Applicant/review-appellant

Versus

Union Territory, Chandigarh ... Respondent

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

Present: Mr. P.C.Dhiman, Advocate,
for the applicant/review-appellant.

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G.S.SANDHAWALIA, J. (Oral)

Review application has been filed of the judgment dated 11.02.2019 by the applicant whose land was acquired vide notification dated 01.10.2002. The Land Acquisition Collector had granted three separate amounts, vide the award dated 29.03.2004 @ Rs.7,35,056/-, Rs.8,46,064/- and Rs.10,50,080/- per acre, which have been enhanced by the Reference Court, vide award dated 21.09.2011, granting uniform compensation @ Rs.12,60,096/- per acre. For the same notification, on account of better evidence having been led later, in another reference, compensation was awarded at a higher rate, @ Rs.24,14,555/- per acre. Eventually, vide the order under review, uniform compensation has been granted for all the awards, for the notification dated 01.10.2002 @ Rs.26,02,807/- per acre.

The applicant-landowner, however, is not satisfied with the amount awarded, mainly on two accounts; firstly, it is submitted that for the notification dated 20.02.2003, which is almost 4 months apart, a sum of Rs.35,71,200/- per acre has also been granted in view of the judgment passed in **RFA-5519-2009** titled **Union Territory, Chandigarh Vs. Mohinder Singh**, decided on 17.02.2016, pertaining to the notification dated 14.02.2001. Accordingly, an argument is raised that the same principle should be followed for the present notification also.

The second argument which has been raised is that statutory benefits should be granted on the amount of compensation awarded for the structures, trees etc., which has wrongly not been granted.

For the first argument, the reasoning given by this Court in the order under review is very apparent and clear. The landowners had not produced the sale deeds dated 30.06.2000 and 04.07.2000 (Exs. P-17 & P-18, respectively), for the notification dated 01.10.2002, when the cases were decided vide award dated 21.09.2011. The other landowners, in the subsequent reference petition, exhibited the said sale deeds and therefore, this Court was in a better position to assess the correct market value.

Shri Bal V.Sehgal was one of the claimant in the first set of appeals which were decided on 21.09.2011 but the sale deeds were not exhibited by the landowners in the first set of cases. The said sale deeds were, thus, withheld, for the purposes best known to the landowners, which it did not suit them as the market value if calculated on the sale deeds would come to a lower amount. Resultantly, in para Nos.40 to 45 of the judgment under review, reasoning has been recorded as to why sale deeds are better sale exemplars than falling back on awards. It has also been noticed by examining at the site-plan that the land of the sale deeds was closer to where the acquired land was situated, pertaining to award No.569. For the subsequent notification dated 23.03.2004, which was pertaining to the award No.567, passed by the LAC, the land was closer to the alternate route No.3, pertaining to the award of **Mohinder Singh** (supra). On that account, the landowners whose land was acquired vide the said notification dated 20.02.2003, were awarded compensation on the basis of cumulative enhancement on the basis of earlier award passed, after noticing the distance *inter se* from the site-plan and that it would be a relevant piece of evidence whereas the sale deeds would not govern the market value being situated far away from the portion of land acquired. In such circumstances, the claim for enhancement, on the basis of the amount awarded for the notification dated 20.02.2003, is not justifiable.

Reliance can be placed upon the judgment of the Apex Court in **Ram Kanwar & others Vs. State of Haryana & others 2015 (1) RCR (Civil) 234**, wherein it has been held that sale deeds are the best piece of evidence for assessing the market value of which referred in the award. Relevant portion of the said judgment read as under:

> "11. It is not in dispute that the land acquired in the instant case is situated closer to the National Capital Region and the National Highway No.8 and so lay in small pockets between such area which was already under development before the acquisition. While both the Courts below have noticed the sale deeds produced by the appellants for sale transactions in the vicinity of acquired lands, the Reference Court,

erroneously without going into the increase in prices that the sale deeds reflect, has considered the compensation granted under a comparable award for an earlier Section 4 notification where the same sale deeds were relied upon as reliable evidence in quantifying compensation payable to the acquired land.

12. It is settled law that prices fetched for similar lands with similar advantages and potentialities under bona fide transactions of sale at or about the time of the preliminary notification are the usual and, indeed the best, evidences of market value of lands."

Mr.Dhiman vehemently submits that the land of the applicant was also subject matter of the second acquisition.

However, the order under review, whereby award dated 21.09.2011 was subject matter of challenge, pertains to the notification dated 01.10.2002 and therefore, the said argument is without any basis and cannot be accepted. If any land of the applicant/appellant falls within the notification dated 20.02.2003, needless to say the benefit of the said award will obviously flow to her.

Coming to the second limb of the argument, as to whether the statutory benefits are to be granted and other factors which have to be considered under Section 23 of the Land Acquisition Act, 1894. This Court has relied upon the observations of the Apex Court in **State of Punjab Vs. Amarjit Singh 2011 (2) SCR 617**, wherein the earlier Constitutional Bench etc. has been discussed in detail. It has been categorically held that market value is a different connotation whereas damages on account of injuries/trees/structures and severance would fall under the other clauses and are not part of the market value.

In such circumstances, keeping in view the law laid down by the Apex Court, which this Court has opted to follow and which is also binding upon it, finding no ground for review of the order dated 11.02.2019, the present application is hereby dismissed.

April 9th 2019 **(G.S.SANDHAWALIA)**
sailesh **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No