IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA No.229 of 2001 alongwith
XOBJR-28-CI-2001

Indian Oil Corporation Limited

... Appellant

Versus

Risal Singh and others

... Respondents/Cross-objectors

(2)

RFA No.230 of 2001 alongwith
XOBJR-30-CI-2001

Indian Oil Corporation Limited

... Appellant

Versus

Parbhu Dayal and others

... Respondents/Cross-objectors

(3)

RFA No.231 of 2001 alongwith
XOBJR-29-CI-2001

Indian Oil Corporation Limited

... Appellant

Versus

Smt. Phooli Devi and others

... Respondents/Cross-objectors

Decided on : 24.01.2019

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

Present : Mr. Ashish Kapoor, Advocate
for the appellant-Corporation.

Mr. Ajit Sharma, Advocate for
Mr. R.D. Yadav, Advocate and
Mr. Adhiraj Singh, Advocate for
Mr. Ranjit Saini, Advocate for the landowners/cross-objectors.

G.S. Sandhawalia, J. (Oral)

The present order shall dispose of three appeals i.e. **RFA Nos.229 to 231 of 2001** filed by the Indian Oil Corporation Limited (for short 'the Corporation') under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') and three cross-objections i.e. **XOBJR-28 to 30-CI-2001**, filed by the landowners, against the Award dated 02.11.2000 passed by the Reference Court, Rewari, whereby the market value has been enhanced to ₹2,17,400/- per acre for the land which was acquired vide notification dated 31.12.1993 to the extent of 57 kanals 15 marlas falling in village Bhudpur, District Rewari.

2. The enhancement has been done from ₹65,000/- per acre for Magda and ₹1,10,000/- per acre for Gair Mumkin Rasta, which was awarded by the Land Acquisition Collector on 27.10.1994. The land was acquired for the purpose of construction of a Pump Station for the appellant-Corporation for supply of crude oil to Karnal Refinery. The basis of enhancement is a sale deed Ex.P1 dated 08.09.1992, which was for 17 marlas of land and was sold for ₹77,000/-. Resultantly, the same was relied upon and 70% cut was put on account of smallness of sale exemplar to fix the market value as noticed above, as for 17 marlas of land the market value would come to ₹7,25,000/- per acre. The cross-objections have also been filed by the landowners primarily on the ground that cut was on the excessive side and, therefore, the market value is liable to be enhanced.

3. Counsel for the landowners on the other hand has primarily

raised argument on account of the fact that the sale deeds Ex.RW-1/1 to RW-1/5 had not been taken into consideration by the Reference Court on account of the fact that the vendor and vendees have not been examined and, therefore, submits that the same is not justified. Reliance has been placed upon the sale deed which pertained from the size of 3 marlas to 1 kanal of land and the market value per acre, thus, would work out @ ₹64,000/- if the biggest sale exemplar, i.e., of 1 kanal is taken into consideration.

4. There is no dispute with the argument which has been raised by Mr. Kapoor regarding the wrong reasoning adopted by the Reference Court, whereby the sale deeds were rejected on the ground that the vendor-vendee had not been examined in view of Section 51-A of the Act. The said section reads as under:-

> "**51A Acceptance of certified copy as evidence**. In any proceeding under this Act, a certified copy of a document registered under the Registration Act, 1908 (16 of 1908), including a copy given under section 57 of that Act, may be accepted as evidence of the transaction recorded in such document."

5. The said section was subject matter of consideration before the Constitutional Bench of the Apex Court in the case of **'Cement Corporation of India Ltd. Vs. Purya and others' AIR 2004 SC 4830**, wherein it was held that the registered documents produced would carry a presumption of genuineness and same was rebuttable and it only shifts the burden of proof against whom the presumption operates for disproving it and resultantly the reasoning as such given by the Reference

Court cannot be held to be justified qua this aspect. Accordingly, it was held that the vendor and vendees are not required for proving the sale deeds, which is the correct position of law and the certified copies of the sale deeds can be relied upon. However, a caveat was put, as such, that it is discretionary in nature and the Court may not accept the evidence contained in a deed of sale wherein the material is brought by a person who is party to the lis and it would only shift the burden, as such, and the genuineness of the transactions could always fall for adjudication. Relevant portions of the judgment read as under:

> "25. Section 51A of the Land Acquisition Act seeks to make an exception to the aforementioned rule.
>
> 26. In the acquisition proceedings, sale deeds are required to be brought on records for the purpose of determining market value payable to the owner of the land when it is sought to be acquired.
>
> 27. Although by reason of the aforementioned provision the parties are free to produce original documents and prove the same in accordance with the terms of the rules of evidence as envisaged under the Indian Evidence Act, the L.A. Act provides for an alternative thereto by inserting the said provision in terms whereof the certified copies which are otherwise secondary evidence may be brought on record evidencing a transaction. Such transactions in terms of the aforementioned provision may be accepted in evidence. Acceptance of an evidence is not a term of art. It has an etymological meaning. It envisages exercise of judicial mind to the materials on record. Acceptance of evidence by a court would be dependent upon the facts of the case and other relevant factors. A piece of

evidence in a given situation may be accepted by a court of law but in another it may not be.

28. Section 51 A of the L.A. Act may be read literally and having regard to the ordinary meaning which can be attributed to the term 'acceptance of evidence' relating to transaction evidenced by a sale deed, its admissibility in evidence would be beyond any question. We are not oblivious of the fact that only by bringing a documentary evidence in the record it is not automatically brought on the record. For bringing a documentary evidence on the record, the same must not only be admissible but the contents thereof must be proved in accordance with law. But when the statute enables a court to accept a sale deed on the records evidencing a transaction, nothing further is required to be done. The admissibility of a certified copy of sale deed by itself could not be held to be inadmissible as thereby a secondary evidence has been brought on record without proving the absence of primary evidence. Even the vendor or vendee thereof is not required to examine themselves for proving the contents thereof. This, however, would not mean that contents of the transaction as evidenced by the registered sale deed would automatically be accepted. The legislature advisedly has used the word 'may'. A discretion, therefore, has been conferred upon a court to be exercised judicially, i.e., upon taking into consideration the relevant factors.

29. In V.Narasaiah's case, this Court correctly understood the said scope and object of insertion of Section 51A in the LA Act when it held thus :

"It was in the wake of the aforesaid practical

> difficulties that the new Section 51A was introduced in the LA Act. When the section says that certified copy of a registered document "may be accepted as evidence of the transaction recorded in such document" it enables the court to treat what is recorded in the document, in respect of the transactions referred to therein, as evidence."

xxxx xxxx xxxx

37. Having noticed the scope of Section 51A of the LA Act as understood by this Court in V. Narasaiah's case to be the correct interpretation, we will now consider whether such evidence is mandatorily binding on the authority or the court concerned or it is only an enabling provision.

38. In relation to the argument pertaining to Section 13 (5) of the Food Adulteration Act a Constitution Bench of this Court in Mangaldas Raghavji Ruparel & Anr. vs. State of Maharashtra & Anr. AIR 1966 SC 128 stated as follows :-

> "that sub-Section clearly makes the contents of the report of Public Analyst admissible in evidence and the prosecution cannot fail solely on the ground that the Public Analyst had not been examined in the case, but what value is to be attached to such report must necessarily be for the court to consider and decide."
>
> (Emphasis supplied)

39. While it is clear that under Section 51A of the LA Act a presumption as to the genuineness of the contents of the document is permitted to be raised, the same can be relied upon only if the said presumption is not rebutted by other evidence. In the said view of the

> matter we are of the opinion the decision of this Court in the case of Land Acuisition Officer & Mandal Revenue Officer vs. V. Narasaiah (supra) lays down the correct law."

6. Said view was 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**, by holding that mere production of some sale exemplars deeds without connecting the subject matter of the instrument, to the acquired lands will be of little assistance in determining the market value as *prima facie* evidence of the prevailing market value. Even if such land was at the other end of the village at a distance of one or two kms, the principle of the jointness and the difference between the urban and rural land was to be kept in mind and the benefit is to be given in the rural areas, which would apply to the present case. Relevant portion of the judgment reads as under:

> "28. But a word of caution. What Narsaiah and Cement Corporation of India clarified was that a certified copy of a sale deed could be marked as an exhibit and its contents may be relied upon as evidence of the sale transaction, even without examining either the vendor or the vendee, in view of the enabling provision in Section 51 of the LA Act. <u>If the acquisition is in regard to a large area of agricultural lands in a village, and the exemplar sale deed is also in respect of an agricultural land in the same village, it may be possible to rely upon the sale deed as prima facie evidence of the prevailing market value, even if such land is at the other end of the village at a distance of one or two kilometres</u>. But the same may not be the position where the acquisition relates to plots in a town or city where every locality or road has a different value. For example in a place like Delhi there are

> some areas where the plot value is many times more than the value of plots in a neighbouring middle class locality which in turn may be many time more than the value of plot in a neighbouring slum area. Or the price of a property on a main road may be many times more than the price of a property on a parallel smaller road, though the two properties may be situated back to back. It cannot be said that merely because two properties adjoin each other or touch each other the value applicable to the property facing a main road, should be applied to the property to its rear facing a service road. Therefore, while a distance of about a kilometre may not make a difference for purposes of market value in a rural village, even a distance of 50 metre may make a huge difference in market value in urban properties.

7. However, the fact remains that the sale deeds were produced, but the evidence does not depict in any manner as to where the land in question was located and whether it was close to the acquired land and thus, would have no relevance to assess the market value of the land acquired.

8. On the other hand the Reference Court has in detail examined the evidence on record and noticed the statement of PW-2 Ghanshyam Singh, who had sold the land which was subject matter of Ex.P1 that the land was at a distance of about 200 yards from the acquired land. The location of the land was already noticed that it was in outskirts of Rewari town and ½ km away from the Railway Colony, Rewari. Resultantly, it was held that the sale deed was well comparable from the location point of the land and major part of the acquired land of the village was on the road of the village and it had potential value for development. The 70% reduction was, accordingly, put and uniform rate was given since the land was in a compact block and therefore, the

classification of the land could not be taken into consideration.

9. A perusal of the site-plan rather would go on to show that Ext.P-1 is situated away from Rewari town and beyond the acquired land. The acquired land in question is close to Sr.Secondary School, Bhudpur and closer to the town, therefore, potentiality, as such, has rightly been noticed, as such. It is settled principle that the land abutting the road has always a better value. Reliance upon Ext.P-1 has, thus, been correctly made as it was a good exemplar, as such, to fix the market value. Almost maximum amount of cut which is permissible, as per the judgment of the Apex Court in **'Chandrashekar (D) by LRs & others Vs. Land Acquisition Officer & another' 2012 (1) SCC 390** has been resorted to and 70% cut has been put on account of smallness of the sale exemplar. Uniform compensation has also been granted keeping in view the fact that the land was a compact block of 57 kanals 15 marlas and in view of the settled principle of law that once a compact block is being acquired for the same purpose, then uniform compensation should be granted. Reliance can be placed upon the judgment in **'Subh Ram Vs. State of Haryana and another' 2010 (1) SCC 444** and in **'Haryana State Industrial Development Corporation Vs. Pran Sukh & others' 2010 (11) SCC 175,** on this aspect.

10. Keeping in view the overall merits of the case, the argument that reliance should be placed upon Ex.RW-1/1 to RW-1/5, is misplaced, as nothing could be shown from the record that the said sale deeds dated 24.04.1992 were situated in the close vicinity of the land acquired and

would show the correct market value and that it was similar in nature and therefore, the amount of compensation, as awarded, is liable to be reduced.

11. Similarly, the argument raised, as such, by the counsel for the cross-objectors that the cut should be decreased, is without any basis. The best sale exemplar has been taken into consideration, considering the fact that the acquisition is for 57 kanals 15 marlas of land, in comparison to the sale exemplar(Ex.P-1), which is of 17 marlas of land. Accordingly, this Court is of the opinion that the Reference Court has applied the principle of reduction on account of smallness of area, as held out in **'Trishala Jain and another Vs. State of Uttaranchal and another' 2011 (6) SCC 47**, which was followed in **'Mehrawal Khewaji Trust (Regd.) Faridkot and others Vs. State of Punjab and others' (2012) 5 SCC 432.**

12. Resultantly, finding no merit in the present appeals and the cross-objections, the same are dismissed and the award of the Reference Court dated 02.11.2000 is maintained. Resultantly, the interim stay on the 50% of the amount of compensation which stands deposited with the Executing Court is vacated and the same shall be disbursed to the landowners.

(G.S. SANDHAWALIA)
JUDGE

JANUARY 24, 2019
Naveen

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*