HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.12268 of 2017
Date of Decision: 14.02.2019

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Rulia Ram ... Petitioner

VS.

Union of India & Ors. ... Respondents

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

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Present: Mr. SS Sahu, Advocate for the petitioner(s)

None for UOI

Ms. Vibha Tewari, AAG Haryana

Mr. Raman Sharma, Advocate for respondent No.4

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G.S. SANDHAWALIA, J. (Oral)

This order shall dispose of CWP Nos.12268, 12238, 12241 & 12248 of 2017 as the point in issue is common. Facts are being taken from CWP No.12268 of 2017 for the purpose of passing the order.

The petitioner seeks quashing of the award dated 17.07.2013 (P1) passed by the Additional District Judge, Fatehabad whereby the market value of the acquired land was assessed @ ₹ 15 lakhs per acre. The acquisition in question has been done under Section 10(2) of the Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 for laying pipelines for Mundra-Delhi Pipeline Project of Hindustan Petroleum Corporation Ltd. and Mundra-Bathinda Pipeline Project of Hindustan Mittal Energy Ltd.

Counsel at the outset submits that the matter is covered by the judgment of the Division Bench in CWP No.7174 of 2016 Satto Bai vs. Union of India & Ors. decided on 31.01.2017 (P2) whereby other landowners had challenged the same award in question of the Reference

Court and resultantly, the market value was further enhanced to ₹ 18 lakhs per acre. He accordingly submits that the petitioner would be satisfied if the same amount is granted to them.

The prayer, on the other hand, has been opposed by counsel for respondent No.4 i.e. Competent Authority, HPCL on the ground that the writ-petitioners in the earlier set of cases were of village Madh whereas the present petitioners are residents of village Nagpur, Tehsil and District Fatehabad. It is accordingly, argued that the sale exemplar which was relied upon by the Division Bench which had also been noted by the Reference Court as Ex.P6 dated 11.06.2009 pertained to village Madh which was for ₹ 18 lakhs and therefore it cannot be taken into consideration for village Nagpur. It is submitted that the sale exemplar is on the main metalled road whereas the land of the petitioner is located in the interior near the kuccha village rasta and the market value as such would be less. He has relied upon the judgment of the Apex Court in **Haridwar Development Authority, Haridwar vs. Raghubir Singh etc. (2010) 11 SCC 581**, to say that the land falling on the Highway as such would command a better value.

It is a matter of record that while deciding the reference petitions, the Reference Court disposed of as many as 9 references and awarded a uniform compensation of ₹ 15 lakhs per acre by granting a cut on Ex.P6 on the ground that the land had been acquired for the purposes of laying pipeline which was below the earth. No distinction as such has been made between the two villages in question which are admittedly adjoining each other. Even the award of the competent authority had awarded a uniform value of ₹ 8 lakhs.

Respondent No.4 was satisfied with the uniform compensation granted to the landowners of both the villages and did not as such choose to challenge the findings recorded. In such circumstances, it cannot turn around and say that there should be different compensation awarded to the landowners of different villages. Even otherwise, the plea is that Ex.P6 was on a main metalled road as such and it could not be pointed out that the land as such was falling on National Highway or State Highway where the value would be much higher as has been noticed in **Haridwar Development Authority** (supra).

The fact that the acquisition is also of district Fatehabad which is a rural district as such and not well developed and the purpose of acquisition is also for the purpose of laying pipeline and not for housing colony, which was the case in **Haridwar Development Authority** (supra). In such circumstances, this Court is of the opinion that the landowners would be entitled to the same benefit of ₹ 18 lakhs per acre as determined by the Division Bench which reads as under:-

> *"Though the petitioner had produced three sale deeds on record to substantiate the value of the acquired land but sale deeds Ex.P-7 and Ex.P-8 have rightly been discarded by the learned court below as those were registered much after the acquisition of land. Relevance of sale deed Ex.P-6, which has been relied upon by the learned court below for the purpose of assessment of compensation, is not in dispute, as the respondents have not challenged the award of the learned court below. The only issue is as to whether the amount as mentioned in sale deed Ex.P-6 is to be taken as value of the acquired land or any cut has to be applied. No doubt sale deed Ex.P-6 has been registered 2½ months after the acquisition of land but the fact cannot be lost sight off that buyer therein is Hindustan*

Petroleum Corporation Limited, namely, respondent No.4. Location of the land for the purpose of relevance of sale deed is also not in dispute. The average sale consideration paid in the aforesaid sale deed was ₹18,00,000/- per acre. The learned court below for the purpose of assessment of compensation has reduced ₹3,00,000/- per acre therefrom for the time gap of 2½ months. For the assessment of compensation, in our view, that deduction was totally uncalled for. It is for the reason that there is no evidence led on record by the respondents that prices of the land in the area increased to that extent within short span of 2½ months. Accordingly, in our view the value of the land should have been taken as ₹18,00,000/- per acre and compensation be paid to the petitioner(s) accordingly.

For the reasons mentioned above, the writ petitions are allowed. The award of the learned court below is modified to the extent that the market value of the acquired land is determined @ ₹18,00,000/- per acre as against ₹15,00,000/- per acre determined by the learned court below. The landowners shall be entitled to compensation and any other benefits in terms of the provisions of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962."

Accordingly, the writ petition is allowed in same terms. However, the benefit of interest on the enhanced compensation shall not be granted for the intervening period from 17.07.2013 till the filing of the writ petitions i.e. 31.05.2017 – the period of approximately almost 4 years since the landowners cannot get the benefit of interest on account of their lapse for filing the writ petitions at a belated stage.

Ordered accordingly.

14.02.2019 **(G.S. Sandhawalia)**
vvishal **Judge**

1. Whether speaking/reasoned? ***Yes***
2. Whether reportable? *No*