IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.2208 of 2008 (O&M) and other connected appeals
Reserved on: 01.10.2019
Pronounced on : 07.12.2019

Bhag Singh

... Appellant

Versus

State of Punjab

... Respondent

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

Present : Mr. Harsh Manocha, Advocate
for the appellant (s).

Ms. Anju Arora, Addl. AG, Punjab.

G.S. Sandhawalia, J.

The present judgment shall dispose of 7 appeals i.e. **RFA Nos.2208 & 2215 of 2008 and RFA Nos.2291 & 2293 to 2296 of 2013** arising out of the Award dated 30.11.2007 and 19.12.2012 passed by the Reference Court, Roopnagar, whereby for the land falling in villages Marauli Kalan (Mandouli Kalan) and Marauli Khurd (Mandouli Khurd), a sum of ₹6 lakhs per acre had been awarded by enhancing the compensation from ₹4.5 lakhs per acre for Marauli Khurd (Mandouli Khurd) and ₹5.4 lakhs per acre for Marauli Kalan (Mandouli Kalan).

2. Vide Award dated 30.11.2007, the Reference Court had decided 52 appeals, lead case of which was **Land Reference No.171 of 2004 'Sajjan Singh Vs. State of Punjab'** while awarding the said amount of compensation. Thereafter, on 19.12.2012, the Reference Court decided another 9 reference petitions, lead case of which was **Land**

Reference No.113 of 2011 'Nachhattar Singh Vs. State of Punjab and another' and awarded the same amount of compensation. The Reference Court had relied upon Ex.P3 dated 08.09.2003 whereby land measuring 2 kanals 5 marlas had been sold for Rs.5,40,000/- A reverse cut of 36% was put on the same to assess the market value for the difference of 3 years.

3. It is pertinent to notice that on an earlier occasion, this Court while deciding as many as 70 appeals on 18.01.2016, lead case of which was **RFA No.2207 of 2008 'Ajit Singh Vs. State of Punjab'** arising out of the impugned award as such had enhanced the compensation to ₹8 lakhs per acre for the notification dated 04.08.2000. At that stage, nobody had appeared for the landowners.

4. Some of the landowners went to the Apex Court and filed five special leave petitions being **SLP Nos.2389-2393 of 2017 'Nachhattaar Singh Vs. State of Punjab and another'**, which were disposed of 03.02.2017 with liberty to file a review petition before this Court. The ground put forth before the Apex Court was that since ₹8 lakhs per acre had been awarded by this Court on 01.06.2016 in respect of the land of same village compensation @ ₹62 lakhs per acre had been granted for the notification dated 28.11.2000. It was held out that SLP had been dismissed by the Apex Court against the grant of higher compensation. But keeping in view the fact that the said decision was a subsequent event, liberty was given to approach this Court by filing

review petitions. Resultantly, review petitions had been filed in 7 cases, which were allowed on 13.03.2019 and the order dated 18.01.2016 was recalled on this ground. Thus, the appeals are being decided afresh.

5. It was also noticed that reliance on the said case which had been placed upon for the compensation awarded for the notification dated 28.11.2000 @ ₹62,16,415/- per acre + 50% severance charges for the same village had been set aside in **Civil Appeal Nos.23530-23531-2017 'Union of India Vs. Jasmer Singh and another'** on 06.12.2017 and the cases had been remanded, after liberty had been granted by the Apex Court in the present set of cases. It is a matter of record in the said set of cases wherein the land was acquired for the Broad Gauge Railway Line from Morinda to Chandigarh Railway Station, the judgment has been reserved in view of the earlier remand order passed by the Apex Court and the matter has, thus, been reopened.

6. In such circumstances, this Court is proceeding ahead to decide the matter afresh, as the notification in the present set of cases is prior in point of time dated 04.08.2000.

7. The notification in the present set of cases under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') was issued on 04.08.2000 for the construction of 2 to 4 lane road (Morinda Byepass) on the Ludhiana Chandigarh Road while exercising the urgency provisions under Section 17 of the Act. The land measuring 338 kanals 15 marlas of village Marauli Kalan (Mandouli Kalan), Hadbast No.248 and the land

measuring 43 kanals 8 marlas of village Marauli Khurd (Mandouli Khurd) Hadbast No.249 was acquired. Vide Award No.1 dated 21.11.2002, a sum of ₹5,40,000/- was awarded for village Marauli Kalan (Mandouli Kalan), whereas ₹4,50,000/- per acre was granted for village Marauli Khurd (Mandouli Khurd) by the Land Acquisition Collector.

8. It is pertinent to notice that there were four more villages alongwith Morinda to whom compensation @ ₹8,10,000/- per acre had been awarded whereas the other villages had been awarded standard compensation @ ₹5.4 lakhs per acre. The landowners being dissatisfied filed petitions under Section 18 of the Act claiming the market value to be ₹50 lakhs per acre. The claim of the landowners was that the land was very fertile and yielding three crops in a year and the land was acquired for by-pass road. The land was situated on the National Highway and had great potential value as the village had all the amenities such like High School, Veterinary Hospital, shops, workshops, Poultry Farm and Morinda town was just near to the acquired land, which has a Municipal Corporation. The Railway Station, Hospital, Bus Stand, Banks, Petrol Pumps, Shops, Grain Market, Sugar Mill, High Schools, College, Sewerage facilities were available. The limits of Municipal Corporation Morinda had been extended upto the boundaries of the village Marauli Kalan, Rampur Manda and Marauli Khurd and the land was level land and was being irrigated. Reference was also made to the notification whereby land had been acquired for the Railway Line which was crossing

the by-pass road and there was a provision of the Government to construct over bridge on the railway line, which effected the land of the petitioners. The land had been divided into two parts and it had become difficult to go from one side of the land to the other side of the land and, accordingly severance charges were also claimed.

9. The landowners examined as many as 10 witnesses, whereas the respondent/State did not bring any evidence and the same was closed by order.

10. Amarjit Singh had appeared as PW-1. He stated that the land was situated on the National Highway No.21 and Morinda town was just near the acquired land and it was expanding towards the villages. The present market value of the acquired land had increased to ₹one crore per acre. The private builders were selling the land @ ₹1,000/- per square yard. Similarly, PW-2 also submitted his affidavit on the same lines. Cross-examination had also revealed that the railway line was cutting the bye-pass road. Amar Singh-Civil Draftsman had appeared as PW-3 and proved the site plan by stating that he had visited the acquired land on 24.12.2002. The acquired land had been shown in red colour. He proved the site plan Ex.PW3/B.

11. The site plan would go on to show that the land branched off from National Highway No.21 between village Marauli Kalan and Marauli Khurd and skirted Morinda town. The village Marauli Khurd (Mandouli Khurd) was approximately 1 Km away towards the interior and there was a criss-cross over the railway line close to Morinda town.

The PWD Rest House of Morinda and Civil Hospital was at a distance of 1 Km from where the land crossed the railway line. The witness had also stated that the acquired land was ½ km from the Morinda Municipal Committee and the land of both villages including the boundaries of village Gharuan touched the boundaries of Municipal Committee.

12. Similar was the deposition of PW-4 Malkiat Singh and PW-5 Jagjit Singh, Halqa Patwari. The landowner Sajjan Singh had appeared as PW-6.

13. A perusal of the zimni orders would go on to show that after giving three opportunities, the evidence of the respondent/State was closed by order and the case was fixed for rebuttal evidence and arguments.

14. The market value was fixed @ of ₹6 lakhs per acre, on the basis of the sale deed dated 08.09.2003 (Ex.P6) for 2 kanals 5 marlas of land, which had been sold for a sum of ₹5,40,000/-. The market rate was calculated @ ₹11,52,000/- per acre, on the basis of the said sale deed and a reverse cut was put of 36% on the same to assess the market value @ ₹7,37,000/- per acre. Further cut was, thus, applied on the ground that the value of the land in question would have a increase rate exceeding 12% after the construction of the road, to fix the market value @ ₹6 lakhs per acre.

15. Counsel for the appellants, Mr. Harsh Manocha, has submitted that there was an error in calculation by the Reference Court

regarding the market value of sale deed dated 08.09.2003 (Ex.P6) wherein 2 kanals 5 marlas of land had been sold for ₹5,40,000/- and the market value would work out @ ₹19,20,000/- per acre and not ₹11,52,000/- as worked out. It is submitted that since 2 kanals 5 marlas would comprise of 45 marlas, the market value would come to ₹12,000/- per marla and per acre rate would work out to ₹19,20,000/- per acre.

16. Counsel for the State was not in a position to controvert the said factual aspect.

17. Resultantly, Mr. Manocha, has relied upon the judgment of the Apex Court passed in **'Ravinder Narain and another Vs. Union of India' 2003 (2) SCR 424** to submit that when sale is within a reasonable time of the date of Section 4 notification and it is a bonafide transaction of the land acquired, possessing some advantages, then value of small plots can be used to fix the rate. It is, accordingly, submitted that if a reverse cut @ 12% per annum of 36 months on the cumulative basis is applied, the market value would come to ₹13,08,427/- per acre. Thus, it is submitted that the market value has to be fixed at the said rate instead of what had been granted by the Reference Court.

18. In the present set of cases, as noticed the State has not led any contrary evidence as to the market value. No doubt once the land had been acquired by invoking the urgency provisions under Section 17 for the bye-pass road, the market value would have undoubtedly jumped in the intervening period between 04.08.2000 to 08.09.2003 when Ex.P3

was executed three years earlier. The bye-pass as such is for Morinda which skirted the Morinda town from Marauli Kalan (Mandouli Kalan) and went off from National Highway No.21 while dividing the two villages of Marauli Khurd (Mandouli Khurd) and Marauli Kalan (Mandouli Kalan) would have led to a spurt in the prices in the said year.

19. In such circumstances, this Court is of the opinion that the observations of the Apex Court passed in **'Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona', 1988 (3) SCC 751** and keeping in the plus and minus factors on the mental screen, the proximity to the road and nearness to the developed area, the sale deed as such being a genuine instance without any better evidence having been produced by the State would be a relevant sale exemplar. In the said case, it has been held that even post notification instances can be taken into consideration if they are very proximate, genuine and the acquisition itself has not motivated the purchaser to pay a higher price on account of the resultant improvement in development prospects. Thus, keeping in mind the judgment of the Apex Court passed in **'Chandrashekar (D) by LRs & others Vs. Land Acquisition Officer & another', 2012 (1) SCC 390,** wherein the reverse cut principle was upheld, a further 20% cut is put on Rs.13,08,427/- on account of smallness of Ex.P6 to assess the market value to ₹10,46,742/- per acre.

20. The said amount is also being awarded for the land of the said villagers for the subsequent notification dated 28.11.2000, whereby

the land was acquired for the construction of the Broad Gauge Railway Line from Morinda to Chandigarh Railway Station. Apart from relying upon the said sale deeds in **RFA No.3161 of 2009 'Jasmer Singh & another (II) Vs. State of Punjab'**, which has also been pronounced today, the sale deeds of the adjoining village Gharuan, the land of which was acquired vide notification dated 28.11.2000 has also been kept into consideration and for said village ₹13,44,000/- per acre has been awarded, in view of the fact that the said revenue estate is in close vicinity and is the next village from Gharuan and a 20% cut has also been put to fix the market value @ ₹10,75,200/- per acre.

21. It is pertinent to mention that the State has not challenged the award of Reference Court as such regarding the enhancement and was satisfied when the Reference Court had placed reliance on the post-dated sale exemplar. Neither any arguments have been raised on the issue of severance in the second round of litigation and this Court is in agreement with the observations by the Reference Court that by virtue of the bye-pass cutting through the agricultural land, the market value of the adjoining land in the area and the balance land of the petitioners would have appreciated by giving them access from the wide bye-pass Morinda road leading to appreciation and compensating them for the loss of statutory restrictions which may be imposed on the balance land.

22. Resultantly, keeping in view the above, this Court is of the opinion that it would be just and appropriate if ₹10,46,742/- per acre is

awarded as the market value for the land of two villages i.e. Marauli Kalan (Mandouli Kalan) and Marauli Khurd (Mandouli Khurd), alongwith all statutory benefits.

23. The present appeals are, accordingly disposed of. All pending civil miscellaneous applications, if any, also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

DECEMBER 07, 2019
Naveen

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No