

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

**RFA No.2939 of 2019 (O&M)
Decided on : 20.11.2019**

The Land Acquisition Collector-cum-Sub Divisional Magistrate, Kapurthala
& others

... Appellants

Versus

Dr.Mandeep Kaur

... Respondent

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

Present: Ms. Ambika Bedi, AAG, Punjab, for the appellant.

G.S. Sandhawalia, J. (Oral)

CM-6953-CI-2019

Application for condonation of delay of 256 days in filing the present appeal is allowed, in view of the averments made in the application, duly supported by affidavit of the official. Delay of 256 days in filing the present appeal is hereby condoned.

CM stands disposed of.

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The present appeal, filed under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act') is directed against the award passed by the Reference Court, Kapurthala dated 16.08.2018 whereby the market value has been enhanced from Rs.18 lakhs to Rs.20 lakhs per acre, for the land falling in Village Jhal Thikriwal and Bheela, Tehsil Dhilwan District Kapurthala. The basis of enhancement by the Reference Court is the report of the Committee whereby the rate of the land on the road was assessed @ Rs.30 lakhs per acre for Village Bheela (Ex.R-11). The land otherwise was stated to be of value of Rs.20 lakhs per acre, on the basis of which enhancement has been granted.

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The land was acquired vide notification dated 15.06.2010, for construction of approach road from Kapurthala-Subhanpur road to Modern Jail at Kapurthala. The Land Acquisition Collector, vide award dated 17.02.2011 granted Rs.18 lakhs per acre along with solatium and other statutory benefits. Dissatisfied with the same, petition under Section 18 of the Act had been filed on the ground that the land was Chahi in nature. The Polytechnic and Degree College were at a distance of around 2 killas, which was the stand of the State against the claim of Rs.64 lakhs per acre by the landowners. AW-1 had appeared as witness, being the son of the landowner and being the Attorney, to state that the land was at a distance of 2 killas from Subhanpur-Kapurthala road and thus, on the basis of the same, keeping in view the report of the Committee (Ex.R-11), the market value had been enhanced.

State Counsel contends that there was no sale deed of adjacent land or any sale deed to prove the market value on the basis of which enhancement could have been granted.

Once the Committee itself had come to the conclusion vide Ex.R-11 that the market value was Rs.30 lakhs per acre on the road and whereas for the adjoining land, which is Chahi in nature, the value was assessed @ Rs.20 lakhs per acre. It is not disputed that as per the statement of the landowner himself, the land was situated about 2 killas inside from the Subhanpur-Kapurthala road, as per the summoned record. Therefore, keeping in view the fact that it was not very far in the interior, the market value which has been enhanced to Rs.20 lakhs, does not suffer from any error apparent on the face of the record, even in the absence of

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any sale deed. The Apex Court in **Lal Chand Vs. Union of India & another (2009) 15 SCC 769** held that one of the recognized modes of determination of market value can be opinion of the experts which is relevant piece of evidence. Relevant portion of the judgment read as under:

“16. It should however be noted that as contrasted from the assessment of market value contained in non-statutory Basic Value Registers, the position may be different, where the guideline market values are determined by Expert Committees constituted under the State Stamp Law, by following the detailed procedure laid down under the relevant rules, and are published in the State Gazette. Such state stamp Acts and the Rules thereunder, provide for scientific and methodical assessment of market value in different areas by Expert Committees. These statutes provide that such committees will be constituted with officers from the Department of Revenue, Public Works, Survey & Settlement, Local Authority and an expert in the field of valuation of properties, with the sub-registrar of the sub-registration district as the member secretary. They also provide for different methods of valuation for lands, plots, houses and other buildings. They require determination of the market value of agricultural lands by classifying them with reference to soil, rate of revenue assessment, value of lands in the vicinity and locality, nature of crop yield for specified number of years, and situation (with reference to roads, markets etc.). The rates assessed by the committee are required to be published inviting objections/suggestions from the members of public. After considering such objections/suggestions, the final rates are published in the Gazette. Such published rates are revised and updated periodically. When the guideline market values, that is, minimum rates for registration of properties, are so evaluated and determined by expert committees as per statutory procedure, there is no reason why such rates should not be a relevant piece of evidence for determination of market value. One of the recognised methods for determination of market value is with reference to opinion of experts. The estimation of market value by such statutorily constituted expert committees, as expert evidence can

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therefore form the basis for determining the market value in land acquisition cases, as a relevant piece of evidence. It will be however open to either party to place evidence to dislodge the presumption that may flow from such guideline market value. We however hasten to add that the guideline market value can be a relevant piece of evidence only if they are assessed by statutorily appointed Expert Committees, in accordance with the prescribed assessment procedure (either street-wise, or road-wise, or area-wise, or village-wise) and finalised after inviting objections and published in the Gazette. Be that as it may. We have referred to this aspect only to show that there are different categories of Basic Valuation Registers in different states and what is stated with reference to the stamp law in Andhra Pradesh or Uttar Pradesh, may not apply with reference to other states where state stamp laws have prescribed the procedure for determination of market value, referred to above.”

Thus, keeping in view the fact that there is nominal enhancement for prime land situated in close vicinity of Subhanpur-Kapurthala road, for the year 2010, this Court is of the opinion that there is no ground for interference in the award passed by the Reference Court. Resultantly, the present appeal is dismissed in limine.

NOVEMBER 20th, 2019

SAILESH

Whether speaking/reasoned:

Whether Reportable:

(G.S. SANDHAWALIA)

JUDGE

Yes/No

Yes/No