

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

C.M. No. 11078-CI of 2019 in/and
RFA No. 1532 of 2017
Date of decision: 19.12.2019

Dharambir and others

....Appellant(s)

Versus

State of Haryana and another

...Respondent(s)

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

Present: Mr. Kamal Mor, Advocate,
for the applicant-appellant.

Ms. Vibha Tewari, AAG, Haryana.
G.S.SANDHAWALIA, J. (Oral)

C.M. No. 11078-CI of 2019

The present application has been filed for disposal of the main appeals in terms of ***RFA No. 3996 of 2013, Naresh and others vs. State of Haryana and others*** decided on 18.10.2019.

Notice in the application.

Ms. Vibha Tewari, AAG, Haryana accepts notice.

Keeping in view that the matter is covered and the said case was not listed on an earlier occasion with the connected appeals, the application is allowed. Main appeal is taken on Board and is taken up for hearing today itself.

RFA No. 1532 of 2017

The present appeal filed under Section 54 of the Land Acquisition Act, 1894, is directed against the Award of the Reference Court, Gurgaon dated 19.03.2013. The Reference Court, for the notification dated 13.01.2010, enhanced the market value from Rs.60,00,000/- per acre

to Rs.1,89,72,000/- per acre for village Dhanwapur. This Court in *Naresh and other's case (supra)*, while dealing with the said award, has enhanced the market value to Rs.3,19,87,200/- per acre. Relevant part of the order reads thus:-

“9. In such circumstances, the said award would be a relevant piece of evidence and cannot be brushed aside as contended by the counsel for the landowners. It is a settled principle that onus is always upon the landowners to bring sufficient evidence on record to show the amount of compensation which is liable to be paid to them and for assessing the market value. No site plan had been brought on record or draftsman examined to that extent to show location of the land pertaining to Ex.P9 and P10 dated 31.03.2008 whether the same is situated on the southern side or on the northern side of the village Dhanwapur.

10. A perusal of the site plan would also go on to show that the road leading from Dwarka called as Northern Periphery Road was not far from the Abadi of village Dhanwapur, which is situated below the road and the market value of the land below the Northern Periphery Road, would be far more.

11. The land which is situated on the northern side of the abadi area would necessarily command less value, as it was in the process of development and being further away from the town of Gurgaon. Thus, the landowners have thus withheld the location of the sale deeds dated 31.03.2008 which had been purchased by two developers. Nothing could be brought on record as to show that what was the reason as such for the jump in prices between 23.08.2007 whereby on earlier occasion the land had been sold @ Rs.3 crores per acre, whereas 7 months later on 31.03.2008 the value had jumped to

*Rs.4,10,00,000/- per acre. It was for the landowners to dispel this motion, which they had failed to do so by not producing the site plan showing the location of the said sale deed, which were tendered into evidence at rebuttal stage without examining the vendor and vendee as such. Though the certified copies can be accepted under Section 51A of the Act, but it has been held by the Apex Court in '**Cement Corporation Of India Ltd vs Purya & Ors**', (2004) 8 SCC 270 that for assessing the market value, the vendor and vendee should be examined as such, so that they can be cross-examined on account of the peculiar factors, which may arise on account of the value as such. The relevant portion of the said judgment read as under:-*

“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.”

12. Resultantly, the argument of the landowners that the said sale deeds would be better exemplars to assess the market value is rejected.

*13. However, in view of the principle laid down by the Apex Court in '**Oil and Natural Gas Corporation Limited Vs. Rameshbhai Jivanbhai Patel and another'** 2008 (14) SCC 745, the benefit of cumulative increase @ 12% is granted on the amount which has now been finalized by the Apex Court @ Rs.2,55,00,000/- per acre for the notification dated 25.01.2008. Resultantly, the market value for village Dhanwapur is assessed @ Rs.3,19,87,200/- per acre alongwith all statutory benefits.*

14. The present appeals stand allowed, accordingly.

15. All pending civil miscellaneous applications also stand disposed of.”

Accordingly, the appeal is allowed in the above said terms.

However, the land owners will not be entitled to interest on the enhanced compensation for 1034 since the delay in filing the appeals was condoned conditionally on 20.09.2017.

19.12.2019
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No