IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.M. No. 11077-CI of 2019 in/and
RFA No. 1555 of 2017
Date of decision: 19.12.2019

Sehdev @ Satya Dev ....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. 11077-CI of 2019

The present application has been filed for disposal of the main appeals in terms of ***RFA No. 1100 of 2013, Subhash Chander 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. 1555 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 11.12.2012. The Reference Court, for the notification dated 13.01.2010, enhanced the market value from Rs.60,00,000/- per acre to Rs.1,56,24,000/- per acre for village Kherki Majra. This Court in *Subhash Chander's case (supra),* while dealing with the said award, has enhanced the market value to Rs.2,98,54,720/- per acre. Relevant part of the order reads thus:-

> *"Resultantly, this Court is of the opinion that the said sale exemplars can be successfully used as the basis for fixing the market value. The award having been modified for the notification of 2008, can also be utilized for fixing the market value for the present notification dated 13.01.2010 by giving 12% cumulative enhancement on Rs.2,38,00,000/- which has been awarded for the notification dated 25.01.2008.*
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> *A perusal of the chart reproduced in para no. 16 of the Reference Court award would show that the market value of the land went up to Rs.3,05,00,000/- on 13.02.2008 (Ex.P-4/A) within 15 days which shows a rising trend in prices and, therefore, the benefit of 12% increase can be granted.*
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> *The said principle has been laid down in* ***General Manager, Oil & Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel, 2008 (4) RCR (Civil) 487*** *which reads thus:-*
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> *"11. Primarily, the increase in land prices depends on four factors - situation of the land, nature of development in surrounding area, availability of land for development in the area, and the demand for land in the area. In rural areas unless there is any prospect of development in the vicinity, increase in prices would be slow, steady and gradual, without any sudden spurts or jumps. On the other hand, in urban or semi-urban areas, where the development is faster, where the demand for land is high and where there is construction activity all around, the escalation in market price is at a much*

higher rate, as compared to rural areas. In some pockets in big cities, due to rapid development and high demand for land, the escalations in prices have touched even 30% to 50% or more per year, during the nineties. On the other extreme, in remote rural areas where there was no chance of any development and hardly any buyers, the prices stagnated for years or rose marginally at a nominal rate of 1% or 2% per annum. There is thus a significant difference in increases in market value of lands in urban/semi-urban areas and increases in market value of lands in the rural areas. Therefore if the increase in market value in urban/semi-urban areas is about 10% to 15% per annum, the corresponding increases in rural areas would at best be only around half of it, that is about 5% to 7.5% per annum. This rule of thumb refers to the general trend in the nineties, to be adopted in the absence of clear and specific evidence relating to increase in prices. Where there are special reasons for applying a higher rate of increase, or any specific evidence relating to the actual increase in prices, then the increase to be applied would depend upon the same.

12. Normally, recourse is taken to the mode of determining the market value by providing appropriate escalation over the proved market value of nearby lands in previous years (as evidenced by sale transactions or acquisition), where there is no evidence of any contemporaneous sale transactions or acquisitions of comparable lands in the neighbourhood. The said method is reasonably safe where the relied-on-sale transactions/acquisitions precedes the subject acquisition by only a few years, that is upto four to five years. Beyond that it may be unsafe, even if it relates to a neighbouring land. What may be a reliable standard if *the gap is only a few years, may become unsafe and unreliable standard where the gap is larger. For example, for determining the market value of a land acquired in 1992, adopting the annual increase method with reference to a sale or acquisition in 1970 or 1980 may have many pitfalls. This is because, over the course of years, the `rate' of annual increase may itself undergo drastic change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices affecting the very standard of increase."*

It is also pertinent to notice that the State appeals bearing ***RFA Nos. 1728 to 1772 of 2013, State of Haryana through Collector Gurgaon vs. Inder Singh and others*** *have already been dismissed qua the said village on 02.04.2013.*

The market value is, thus, fixed at Rs.2,98,54,720/- per acre. Resultantly, the appeals of the land owners are allowed. The land owners will be entitled for the said market value alongwith all statutory benefits.

Miscellaneous applications, if any, in which no separate orders have been passed, also stand disposed of accordingly."

Accordingly, the appeals are allowed in the above said terms. However, the land owners will not be entitled to interest on the enhanced compensation for 1397 since the delay in filing the appeals was condoned conditionally on 20.09.2017.

19.12.2019 (G.S. SANDHAWALIA)
shivani JUDGE

Whether reasoned/speaking Yes/No

Whether reportable Yes/No