

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.3726 of 2018 (O&M)

Date of Decision: 16.09.2019

State of Haryana & Ors.

... Appellants

VS.

Hari Singh (D) thr. LRs

... Respondent

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

Present: Ms. Vibha Tewari, AAG Haryana

None for the respondents

G.S. SANDHAWALIA, J. (Oral)

Delay in filing

Applications under Section 5 of the Limitation Act have been filed for condonation of delay of 504 days in filing the above-cited appeals.

In view of the averments made in the applications showing sufficient cause explaining for the delay duly supported by affidavits of the official which are not opposed by the served landowners by filing separate replies, the delay of 504 days in filing the appeals is hereby condoned.

CMs stand disposed of.

Main cases (O&M)

This order shall dispose of RFA Nos.3726, 3727, 3732, 3734, 3745, 3750 & 3751 of 2018 filed by the State against the award 13.01.2017 of the Reference Court, Narnaul at Mohindergarh for the notification u/s 4 dated 1.3.2011 for village Pali, Tehsil and District Mohindergarh.

These appeals were de-tagged from the earlier bunch on 09.05.2019 of 26 appeals along with the cross-objections on account of service having not been complete.

As per the office report, all the respondents-landowners or their legal representatives have been served except respondent No.3(c) & 3(d) in RFA-3734-2018 but none has put in appearance on behalf of the said landowners. Similarly, notices could not be issued to the LRs of the deceased respondents in RFA Nos.3726, 3732, 3745 of 2018 for want of process fee whereas correct addresses of sole respondent in RFA-3727-2018, respondent No.1 & 2 in RFA-3750-2018 and respondents No.4(a) to 4(c) in RFA-3751-2018 have not been filed.

Vide order dated 09.05.2019, the connected matter has been remanded for fresh consideration vide a detailed order passed in RFA-3725-2018 and Cross-Objection No.163-CI-2018. The relevant portion reads as under:-

“The challenge by the State is to the award dated 12.1.2017, passed by the Reference Court, Narnaul, whereby market value has been enhanced to Rs.60 lakhs from Rs.30 lakhs for the land situated in village Pali. The notification in question is dated 1.3.2011 and the land was acquired for the widening, four laning and maintenance of the road and Operation of MDR 129 from Narnaul to Khudana, District Mahendergarh. The Collector vide award dated 31.10.2012, awarded the land losers, a sum of Rs. 30 lakhs per acre, for all kinds of land. While issuing notice of motion, the following order was passed by this Court on 12.9.2018 :-

“Counsel for the State inter alia submits that there seems to be a patent error in the award of the Reference Court in as much as reference has been made to Ex.P1 to P3, the sale deeds whereas in the table in paragraph No.13, reference has been made to Ex.P9 to Ex.P12. Similarly reference to the sale deeds produced by the State as Ex.R1 to Ex.R7 has been made whereas the reference given in the table is of only Ex.R1 and R2. The

acquisition is also for the land falling in village Pali whereas the exemplars exhibited as Ex.P9 to Ex.P12 in paragraph No.13 pertain to village Buchakpur (page 53 of the paper book).

It is also submitted that eventually enhancement from Rs.30 lacs per acre to Rs.60 lacs per acre is on the basis of report of Tehsildar, Ex.P4 and similarly on the earlier occasion Ex.P4 has been shown as a judgment dated 26.9.2014. It is further submitted that the enhancement which has been granted from Rs.30 lacs per acre to Rs.60 lacs per acre is not justified.

Notice in the applications for condonation of delay of 504 days in filing the appeals and in the main appeals for 11.12.2018.

In the meantime, the operation of the impugned award shall remain stayed.”

The record has been perused and the fact has been confirmed that the judgment as such does not co-relate to the documents which are on record. The sale deeds Exs.P-1 to P-3, which are dated 4.6.2010, 13.9.2010 and 28.2.2011, which finds mention in para No.7, are of village Pali but have not even been referred to for the purpose of assessing the market value. It is settled principle that sale exemplar of the same village around the date of Section 4 notification, is the basic method to assess the market value of the land. However, for the reasons best known to the Reference Court, the said sale deeds have been conveniently ignored, rather a chart Exs.P-9 to P-12 has been prepared, whereby the market value of land has been shown valuing from Rs.8,96,00,000/-per acre and the Revenue Estate is shown as Buchakpur. Similarly, neither any discussion has taken place that Buchakpur is the adjoining village for applying the benefit of said sale deeds and neither the said sale deeds were subject matter of reliance also.

On the other hand, the reason for enhancement is the report of Tehsildar dated 17.3.2012, stated to be Ex.P-4,

whereby the market value was assessed at Rs.One crore during the pendency of the acquisition proceedings, which is apparently shown. The said document is on record but not exhibited. Rather Ex.P-4 is only headnote of an award dated 26.9.2014, whereby land was acquired in villages Pali and Jant for the notification dated 4.12.2009 for the public purpose of setting up the Central University. From the record, the award of the Collector in that case is dated 29.3.2010, wherein market value was assessed at Rs.12 lakhs per acre, whereas for the notification in question dated 1.3.2011, the market value was assessed at Rs.30 lakhs. The Reference Court in that case by award dated 26.12.2014, has refused to grant any enhancement and the same is subject matter of appeal pending before this Court.

In such circumstances, this Court is of the opinion that merely on the basis of report of Tehsildar, which also was not produced by the concerned official, the market value had wrongly been assessed at Rs.one crore per acre, on which a cut of 40% was imposed, on the ground that it was a small chunk of land. Thus, the judgment as such suffers from legal infirmity as the standard methods of assessing market value has not been followed and it cannot be said to be showing any valid reasons, on the basis of which, same can be sustained and necessarily has to be set aside.

It is also pertinent to mention that the sale deeds of the State Exs.R-1 to R-7, which have though been, at one point of time referred to, were tendered by Alok Kumar, JE, PWD (B & R) as RW-2, have been noticed but while reproducing the chart Exs.R-1 and R-2, reference is made to sale deeds of village Buchakpur. In para No.21, the Exs.R-1 to R-7 have been noticed to come to the conclusion that they have market value below what is assessed by the LAC. What was the location of the land and the market value being around the amount awarded by the LAC has not been discussed in the judgment. Therefore, the reasons for discarding as such, are not being

brought on record for the adjudication by this Court as to whether the sale deeds are liable to be rejected in such a sketchy manner as has been done by the Reference Court, and whether belonging to the village in the close vicinity.

Keeping in view the above, this Court is of the opinion that the award cannot stand legal scrutiny as even the award dated 26.9.2014 (Ex.P-4) was not discussed which would have been a relevant piece of evidence as the land was falling in the same village and acquired earlier.

Accordingly, the State appeals are allowed and the judgment of the Reference Court dated 12.1.2017 is set aside. The matters are remanded for fresh consideration. Parties to appear before the District Judge, Mohindergarh at Narnaul on 8.7.2019.

Cross objections are accordingly disposed of.”

Keeping in view the above, no useful purpose would be served to keep the present appeals pending as it would only delay the disposal of the reference petition before the Reference Court as such since the matter is liable to be remanded on the same terms. Accordingly, the present appeals are also allowed, the impugned award of the Reference Court, Narnaul at Mohindergarh is set aside and the matter is remanded to the District Judge, Narnaul at Mohindergarh. A direction is issued to the Reference Court to issue notices to the affected parties/landowners and ensure that the present cases are tagged along with the earlier bunch.

Ordered accordingly.

16.09.2019

vvishal

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

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No