

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

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**RFA No.882 of 2018 (O&M)
alongwith other connected appeals
Decided on : 19.07.2019**

State of Haryana and others

... Appellants

Versus

Vedpal and others

... Respondents

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

Present : Mr. Shivendra Swaroop, AAG, Haryana.
Ms. Vibha Tewari, AAG, Haryana.

Mr. Abhinav Sood, Advocate and
Mr. J.P. Sharma, Advocate for the landowners.

G.S. Sandhawalia, J. (Oral)

Delay applications

Applications for condoning the delay for the period ranging between 161 days to 188 days, are allowed, in view of the averments made in the applications, duly supported by affidavit of the official. The delay for the period ranging between 161 days to 188 days in filing the appeals is condoned.

CMs stand disposed of.

Main appeals

The present judgment shall dispose of 18 appeals i.e. RFA Nos.882 to 897, 1002 and 1003 of 2018, filed by the State under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act'), are directed against the Award of the Reference Court, Narnaul dated 17.05.2017.

The Reference Court had enhanced the market value from ₹20

lakhs per acre to ₹24,69,852/- per acre on the strength of an Award (Ex.PX) passed earlier on 02.01.2017. The same was pertaining to village Totaheri, which is stated to be adjacent to village Sheoramnathpura for which the present set of appeals is concerned, whereby 55 kanals 2 marlas of land was acquired. The notification was dated 08.11.2011 under Section 4 of the Act and it was for the Construction of the Road, maintenance, management and operation of MDR No.129 from Rai Malikpur to Narnaul.

Resultantly, placing reliance upon the Award (Ex.PX), which is **LA Case No.397 of 2014**, titled as '**Balwan etc. Vs. State of Haryana**' decided on 02.01.2017, the amount had been enhanced on the ground that it was of an adjoining/adjacent village and the land of both the villages have same potential.

Counsel for the State has pointed out that the sale deeds produced by the landowners Ex.P43, Ex.P44 and Ex.P51 are pertaining to village in question and the same have not even been referred to while fixing the market value, on the strength of the award as such.

The said methodology which has been followed would fall foul in view of the observations of the Apex Court in '**Manoj Kumar & others Vs. State of Haryana & others**', 2018 (2) RCR (Civil) 815, wherein it has been held that sale exemplars are the best piece of evidence to fix the market value. Blind reliance upon an award cannot be fallen back on. Relevant portion of the said judgment reads as under:-

“15. The awards and judgment in the cases of others not

being inter parties are not binding as precedents. Recently, we have seen the trend of the courts to follow them blindly probably under the misconception of the concept of equality and fair treatment. The courts are being swayed away and this approach in the absence of and similar nature and situation of land is causing more injustice and tantamount to giving equal treatment in the case of unequal's. As per situation of a village, nature of land its value differ from the distance to distance even two to three-kilometer distance may also make the material difference in value. Land abutting Highway may fetch higher value but not land situated in interior villages.

16. The previous awards/judgments are the only piece of evidence at par with comparative sale transactions. The similarity of the land covered by previous judgment/award is required to be proved like any other comparative exemplar. In case previous award/judgment is based on exemplar, which is not similar or acceptable, previous award/judgment of court cannot be said to be binding. Such determination has to be out rightly rejected. In case some mistake has been done in awarding compensation, it cannot be followed on the ground of parity an illegality cannot be perpetuated. Such award/judgment would be wholly irrelevant.

17. There is yet another serious infirmity seen in following the judgment or award passed in acquisition made before 10 to 12 years and price is being determined on that basis by giving either flat increase or cumulative increase as per the choice of individual Judge without going into the factual scenario. The said method of determining compensation is available only when there is absence of sale transaction before issuance of notification under section 4 of the Act and for giving annual increase, evidence should reflect that price of land had appreciated

regularly and did not remain static. The Recent trend for last several years indicates that price of land is more or less static if it has not gone down. At present, there is no appreciation of value. Thus, in our opinion, it is not a very safe method of determining compensation.

18. To base determination of compensation on a previous award/ judgment, the evidence considered in the previous judgment/ award and its acceptability on judicial parameters has to be necessarily gone into, otherwise, /gross injustice may be caused to any of the parties. In case some gross mistake or illegality has been committed in previous award/judgment of not making deduction etc. and/or sufficient evidence had not been adduced and better evidence is adduced in case at hand, previous award/judgment being not inter-parties cannot be followed and if land is not similar in nature in all aspects it has to be out-rightly rejected as done in the case of comparative exemplars. Sale deeds are at par for evidentiary value with such awards of the court as court bases its conclusions on such transaction only, to ultimately determine the value of the property.”

It is pointed out that the sale deeds as such are showing the market value below even what had been awarded by the Land Acquisition Collector and, therefore, question of enhancement did not arise.

As noticed the sale deeds have not been referred to, in spite of the fact that the same had been brought on record. Similarly sale deeds of the State have been discarded only on account of the fact, in view of the provisions of Section 25 of the Act that value of the land cannot be assessed less as what is the market value. The sale deeds produced both by the State and the landowners were to be taken into consideration while

granting enhancement and appropriate reasons should have been given why the sale deeds have not been considered and discarded and whether they were bonafide or not and relevant for the purpose of fixing the market value.

The said exercise having not been done, the award of the Reference Court is not sustainable and, accordingly, the same is set . The matter is remanded to the District Judge, Mohindergarh at Narnaul for fresh consideration. Parties shall appear before the District Judge, Mohindergarh at Narnaul on 19.08.2019.

The appeals stand disposed of.

JULY 19, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No