

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

428

RFA No.2252 of 1991

Prem Sarup Bansal (Deceased) through his legal heirs and others

... Appellants

Versus

State of Haryana and others

... Respondents

(2)

RFA No.2253 of 1991

Prem Sarup Bansal (Deceased) through his legal heirs and others

... Appellants

Versus

State of Haryana and others

... Respondents

Decided on : 14.02.2020

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

Present: Mr. Umesh Aggarwal, Advocate for the appellants.

Mr. Sudeep Mahajan, Addl. AG, Haryana.

G.S. Sandhawalia, J. (Oral)

The present order shall dispose off two appeals i.e. **RFA Nos.2252 & 2253 of 1991**, filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') arise out of the Award dated 06.02.1991 passed by the District Judge, Hisar. While deciding the petition under Section 18 & 30 of the Act vide the said Award, the market value had been assessed @ ₹100/- per square yard, apart from the statutory benefits under the Act.

2. The appellant herein is aggrieved against the findings recorded by the District Judge to the extent that Devki Bai-respondent No.3 in

RFA No.2252 & 2253 of 1991

RFA No.2252 of 1991 was held entitled to receive compensation to the extent of 362 square yards and similarly Devki Nandan-respondent No.3 in RFA No.2253 of 1991 was held entitled to receive compensation to the extent of 855 square yards.

3. A perusal of the impugned Award as such would go on to show that while deciding issue No.1-A, the Reference Court examined the site plan (Ex.P6) and the admission made by the appellant Prem Sarup Bansal who had appeared as PW-15 regarding the partition of the land *inter se* the parties. It was, accordingly, recorded that the said appellant (now represented through legal heirs) had no claim regarding the area which falls on the northern side of the line of partition between the parties. Some area had been left has also been acquired and, accordingly, it was held that the respondents-claimants were entitled to receive compensation as per the agreement *inter se*. It was also noticed that Prem Sarup Bansal (now deceased) was reluctant to mention the exact area and had also not produced the *Bahi Khata* relating to partition. Resultantly, on the strength of the sale deeds which were on record conclusion was arrived that Plot No.9 was purchased by the claimant-Devki Bai and similarly Plot No.10 was purchased on 01.02.1971. A finding was recorded that Plot No.9 measuring 208 square yards and a portion of Plot No.10 measuring 46 square yards was acquired by the State Government. These plots were surrounded by three roads and the area of the roads was also acquired and resultantly the entitlement of Devki Bai also came to 108 square yards, since the roads were for the use of the plots.

Resultantly, the benefit was given that the claimants were entitled for the compensation for 362 square yards. It was also held that Devki Nandan and Devki Bai were owners of the land measuring 855 square yards and 362 square yards out of the total land acquired.

4. A perusal of the record as such would go on to show that the appellant as such has been not very clear and clean with the Reference Court regarding what was the exact amount of land he was staking claim to in the proceedings under Section 30 which were also being decided alongwith the assessment of market value. The specific order had been passed on 10.04.1985 by the District Judge, Hisar whereby the claimant was directed to file a specific claim and give a copy of the the same to the opposite counsel, failing which the evidence was to be led by the private respondents. Issues were accordingly to be framed and opportunity was given to cross-examine the appellant Prem Sarup Bansal and the case had been adjourned to 20.04.1985 for the purpose of submitting the claim.

5. Resultantly, on 02.09.1985 when the private respondents filed an application that Prem Sarup Bansal be directed to file a specific claim, the same was opposed by the counsel for the Prem Sarup Bansal on the ground that the application should have been moved earlier and the case was fixed for production of their evidence as directed in view of the order dated 10.04.1985. Thereafter, additional issues were framed vide order dated 16.09.1985 which included the issue under which the apportionment has been decided.

6. While framing additional issues the stand of Devki Bai and

RFA No.2252 & 2253 of 1991

Devki Nandan as such was that Prem Sarup Bansal was owner of 37 kanals 19 marlas of land out of the acquired land and the remaining land belonged to the said applicants. It is to be noticed that notification under Section 4 of the Act was issued on 14.10.1980 and 01.06.1981 and Awards were passed on the same date i.e. 30.09.1982 whereby land measuring 16 kanals 5 marlas and 23 kanals 4 marals totalling 39 kanals 9 marlas as such was acquired.

7. Thus, it is apparent that the appellant herein has never been very specific which is the exact portion of land to which he was entitled to receive compensation and on what basis and as to how the private respondents namely Devki Bai and Devki Nandan were not entitled for the same. The Reference Court has relied upon two sale deeds which they have produced, in support of the findings. Counsel for the appellant also is not in a position in view of the above facts to explain the conduct of the appellant to show the error which has occurred in the impugned award, which is impugned on the ground that the shares have been wrongly apportioned.

8. Accordingly, keeping in view the above there is no merit in the present appeals and the same are dismissed.

FEBRUARY 14, 2020
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No