IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RA-RF No. 72 of 2019 (O & M) in RFA No. 7017 of 2014
Date of decision: 13.03.2020

Sahib Singh and others ....Petitioner(s)

Versus

State of Haryana and others ...Respondent(s)

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

Present: Mr. Y.P. Malik, Advocate,
for the applicant-appellants.

G.S.SANDHAWALIA, J. (Oral)

The present order shall dispose of 10 review applications i.e. CM-6008-6009-CI-2019- in/and RA-RF-72-2019 in RFA-7017-2014, CM-6010-6011-CI-2019- in/and RA-RF-73-2019 in RFA-7019-2014, CM-6021-6022-CI-2019- in/and RA-RF-79-2019 in RFA-7012-2014, CM-6012-6013-CI-2019- in/and RA-RF-74-2019 in RFA-7014-2014, CM-6016-6017-CI-2019- in/and RA-RF-76-2019 in RFA-7018-2014, CM-6025-6026-CI-2019- in/and RA-RF-81-2019 in RFA-7013-2014, CM-6027-6028-CI-2019- in/and RA-RF-82-2019 in RFA-7010-2014, CM-6014-6015-CI-2019- in/and RA-RF-75-2019 in RFA-8816-2014, CM-9893-9892-9894-CI-2019- in/and RA-RF-117-2019 in RFA-7016-2014 and CM-884-883-885-CI-2020-in/and RA-RF-6-2019 in RFA-7015-2014 as common questions of facts and law are involved in all the review applications. Reference is being made to ***RA-RF No. 72 of 2019 (O & M), Sahib Singh and others vs. State of Haryana and others.***

The review applications have been filed for review of the order dated 03.03.2016 (Annexure A-1) which are barred by as much as 1117-

1143 days in filing the same. The ground taken in the review application is that SLP had been preferred against the order which is sought to be reviewed, which was dismissed on 03.03.2017 (Annexure A-2). In such circumstances, the delay is sought to be condoned.

Firstly, this Court is of the opinion that no sufficient cause as such is made out to condone the delay in as much as the order of the Apex Court was dated 03.03.2017 and the present review applications have only been filed on 24.04.2019 i.e. almost after a period of 2 years. The ground of illiteracy as such of the land owners has been taken, which is not a valid ground as such as the land is situated in district Panipat and is the hub of industrialization and the land owners of State of Haryana are well versed with all the legalities of the Land Acquisition Act with the help of the lawyers of the area on account of the rapid industrialization which has taken place in the State specially around the G.T. Road.

On merits also, no case is made out for reviewing the order dated 03.03.2016 whereby, the Co-ordinate Bench had enhanced the compensation from Rs.28,65,500/- per acre (Rs.592/- per square yard) to Rs. 43,75,360/- per acre (Rs.904/- per square yard) for the land which was acquired vide notification dated 30.06.2005 falling in village Bohali, District Panipat for the development of the HSIIDC.

The co-ordinate Bench had granted enhancement on the basis of the enhancement granted to the land owners of the adjoining village i.e. Sithana whereby, for the notification dated 14.12.2006, a sum of Rs.1,130/- per square yard had been granted. A reverse cut as such of 20% was applied to fix the market value at Rs.904/- per square yard since the present notification was earlier in point of time.

It is the case of the counsel that since the difference in point of time is 17-1/2 months is there, the reverse cut should be of only 17.5% and therefore, the benefit should be given accordingly. The judgment which is sought to be reviewed does not show that the percentage as such of reverse cut was applied on the formula of months. A general principle of 20% cut had been applied by the Co-ordinate Bench to fix the market value. It is settled principle that while assessing the market value, the principle of guesstimation also takes place as laid down by the Apex Court in ***Trishla Jain & another Vs. State of Uttranchal (2011) 6 SCC 47.***

In such circumstances, the reduction which is sought to be of 17.5% in the present case does not amount to any clerical error or an error apparent on the face of the record vide which the judgment can be reviewed. Even otherwise, the SLPs have been dismissed and, therefore, there is no ground made out to review the order dated 03.03.2016.

The Apex Court in ***ONGC Ltd. vs. Rameshbhai Jivanbhai Patel and another, 2008 (14) SCC 745*** has also said that the reverse cut principle is a unsafe principle and is not a reliable method to rely upon. The relevant portion reads thus:-

> *"13. Much more unsafe is the recent trend to determine the market value of acquired lands with reference to future sale transactions or acquisitions. To illustrate, if the market value of a land acquired in 1992 has to be determined and if there are no sale transactions/acquisitions of 1991 or 1992 (prior to the date of preliminary notification), the statistics relating to sales/acquisitions in future, say of the years 1994-95 or 1995-96 are taken as the base price and the market value in 1992 is worked back by making deductions at*

the rate of 10% to 15% per annum. How far is this safe? One of the fundamental principles of valuation is that the transactions subsequent to the acquisition should be ignored for determining the market value of acquired lands, as the very acquisition and the consequential development would accelerate the overall development of the surrounding areas resulting in a sudden or steep spurt in the prices. Let us illustrate. Let us assume there was no development activity in a particular area. The appreciation in market price in such area would be slow and minimal. But if some lands in that area are acquired for a residential/commercial/industrial layout, there will be all round development and improvement in the infrastructure/ amenities/facilities in the next one or two years, as a result of which the surrounding lands will become more valuable. Even if there is no actual improvement in infrastructure, the potential and possibility of improvement on account of the proposed residential/commercial/ industrial layout will result in a higher rate of escalation in prices. As a result, if the annual increase in market value was around 10% per annum before the acquisition, the annual increase of market value of lands in the areas neighbouring the acquired land, will become much more, say 20% to 30%, or even more on account of the development/proposed development. Therefore, if the percentage to be added with reference to previous acquisitions/sale transactions is 10% per annum, the percentage to be deducted to arrive at a market value with reference to future acquisitions/sale transactions should not be 10% per annum, but much more. The percentage of standard increase becomes unreliable.

> *Courts should therefore avoid determination of market value with reference to subsequent/future transactions. Even if it becomes inevitable, there should be greater caution in applying the prices fetched for transactions in future. Be that as it may."*

Accordingly, no ground is made out either to condone the delay or to allow the review applications and accordingly both the applications for condonation of delay as well as for review are dismissed.

13.03.2020 (G.S. SANDHAWALIA)
shivani JUDGE

Whether reasoned/speaking Yes/No

Whether reportable Yes/No