IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.5272 to 5281 of 2015 (O&M)
Decided on : 13.03.2020

State of Punjab & others ... Appellants

Versus

Rajesh Kumar ... Respondent

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

Present: Ms.Maloo Chahal, DAG, Punjab.

Mr.Arihant Goyal, Advocate, for the landowners.

<u>G.S. Sandhawalia, J. (Oral)</u> :-

The present appeals filed under Section 54 of the Land Acquisition Act, 1894 (for short the 'Act'), bearing RFA-5272 to 5281-2015, filed by the State, are directed against the award of the Reference Court, Pathankot dated 20.04.2015, whereby 25% increase along with all statutory benefits, was granted of the compensation awarded by the Land Acquisition Collector, by applying the principle of thumb rule. The ground that prevailed was that there was evidence that the area acquired was abutting the main road but could not be equated with the developed area in the real sense.

However, on account of the fact that it was surrounded by some construction of shops, Kisan Bhawan, Police Post, hospital, Government offices, bank, post office and it was all haphazard construction, the benefits, as such, was granted. Resultantly, a comparative chart, as such, shows the enhancement for the land measuring 95 kanals 2 marlas falling in Villages Bamial and Pindi Parolian, acquired vide notification dated 17.06.2009, for the construction of High Level Bridge over river Ujj, on the Bamial-Khojki Chak-Palah road in District Gurdaspur.

The chart showing comparative assessment for enhancement reads as under:

Village Bamial	**Type of land**	**Rate per marla**	**Rate per acre**	**Rate per marla (25% increase)**	**Rate per acre (25% increase)**
	Barani	1,562	2,50,000	1,954	3,12,500
	Chahi	2,500	4,00,000	3,125	5,00,000
	Nehari	2,500	4,00,000	3,125	4,00,000
	Commercial	80,000	1,28,00,000	1,00,000	1,60,00,000
	Gair Mumkin Rasta	1,250	2,00,000	1,563	2,50,000

State Counsel, thus, has vehemently argued that the sale exemplars (Exs.A3 & A4) were not relied upon but enhancement had been granted.

A perusal of the site-plan (Ex.A1) would go on to show that the Reference Court had noticed that there was construction along with the road which had been acquired for the purpose of High-level Bridge. The 2 sale deeds were also produced and the land which had been acquired was shown in red colour whereas the shops adjoining the acquired land on both sides of the road were shown in yellow colour. The 2 sale deeds which were also adjoining the land which had been acquired had been shown in green colour.

The said sale deeds are dated 22.12.2004 (Ex.A3) whereby land measuring 4 marlas was sold for Rs.90,000/- and thus the market value works out to Rs.22,500/- per marla. Similarly, Ex.A4 dated 17.10.2007, whereby 2 marlas of land was sold for Rs.1,50,000/-, the market value works out to Rs.75,000/- per marla. The Reference Court has discredited the said sale deeds on the ground that they are prior in point of time being of the year 2004 and 2007 whereas the acquisition is dated 17.06.2009 and therefore, they could not be taken into consideration for assessing the market value of the land and secondly, on account of the fact that they are small parcels of land.

Though the Reference Court has relied upon the judgment in **General Manager, Oil & Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel 2008 14 SCC 745**, but the true intent of the judgment has been lost sight of. If the sale deeds were prior in time, the same could be relied upon and were not liable to be discarded on the ground that they had shored up the market rate on account of the impending acquisition. Rather the genuineness of the sale deeds executed 5 years back, could not have been objected to by the State.

Similarly, on account of the smallness aspect, a cut could have been applied upon the said sale deeds to assess the market value since they were in close vicinity of the area. But the Reference Court did not do so, though to the detriment of the landowners.

But since this Court is only dealing with the appeals filed by the State and therefore, the benefit of enhancement is not liable to flow as the landowners have chosen not to file any appeal. However, the fact remains that the market value of the land is apparently far higher on the basis of the above-said sale deeds also and therefore, the applicability of the thumb rule of 25% increase is not liable to be interfered, in the facts and circumstances. Even otherwise, this Court in **Prem Singh & others**

Vs. State of Haryana & others 2013 (1) RCR (Civil) 158, held that the principle of thumb rule could be applied since the Land Acquisition Collector awards a lessor amount than the true market value which is prevalent in the area.

Resultantly, in view of the above discussion, no case is made out for interference in the order passed by the Reference Court and the present appeals are, accordingly, dismissed.

(G.S. SANDHAWALIA)
JUDGE

March 13th, 2020
sailesh

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