

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

X Obj. No. 148 of 2019 (O & M) in/and
RFA No. 4021 of 2019
Date of decision: 15.01.2020

Deputy Chief Engineer through UOI and anotherAppellant(s)

Versus

Gurmukh Singh and others ...Respondent(s)

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

Present: Mr. Puneet Jindal, Sr. Advocate,
with Mr. Amandeep Singh Meho, Advocate,
for the appellants.

Mr. Naresh Kaushal, Advocate,
for cross objectors/respondents.

Mr. Dinesh Saini, Advocate,
for Mr. Pritam Saini, Advocate,
for respondents no. 7 to 10. (in RFA No. 4023 of 2019).

G.S.SANDHAWALIA, J. (Oral)

The present judgment shall dispose of three appeals alongwith three cross objections i.e. X Objection Nos. 148, 149 and 155 of 2019 in/and RFA Nos. 4021, 4022 and 4023 of 2019 respectively as common questions of facts and law are involved in all the cross objections and the appeals. Reference is being made to ***X Obj. No. 148 of 2019 in/and RFA No. 4021 of 2019.***

The appeals are directed against the award dated 05.01.2019 passed by the Reference Court, Mohali. The Reference Court has granted a sum of Rs.17,00,000/- per acre by placing reliance upon Ex.P-4, an award dated 30.04.2007 pertaining to village Kambali. The notification in

question is dated 29.06.2000 and the acquired land is of village Jagatpura, which is for the purpose of construction of the railway line from Chandigarh to Ludhiana.

It is not disputed that this Court in **RFA No. 3161 of 2009, Jasmer Singh and another (II) vs. State of Punjab** decided on 07.12.2019 has already held that for the said village and for the said notification, market value is to be assessed at Rs.27,47,418/- per acre alongwith all statutory benefits. The relevant portion reads thus:-

“235. Resultantly, a uniform amount of compensation to the tune of 30% on account of severance of land is granted on the market value which has been assessed for different villages and for different notifications. However, it is made clear that on the amount of 30% severance charge, the landowners would not be entitled for the benefits of Section 23 (1A) and Section 23 (2) as it has been held not to be the market value as such by the Apex Court in 'State of Punjab Vs. Amarjit Singh', 2011 (4) SCC 734.

236. Keeping in view the above discussion, the market value alongwith all statutory benefits is fixed as under:-

xxx

xxx

xxx

*(b) Qua notification dated 24.06.2000 (i) For villages **Jagatpura, Kambali** the market value is fixed @ Rs.27,47,418/- per acre alongwith all statutory benefits, whereas for village Chilla the same is fixed @ Rs.24,72,677/- per acre alongwith all statutory benefits. For villages Manauli and Raipur Khurd, the market value is fixed @ Rs.22,25,410/- per acre alongwith all statutory benefits.*

xxx

xxx

xxx

238. In appeals where delay has been condoned conditionally, the benefit of interest on the enhanced compensation for the period of delay in filing the appeals shall not be granted to the landowners, as specified in the orders condoning the delay.”

Resultantly, 702 appeals filed by the land owners and by the Railways were disposed of.

The only distinction which counsel for the railways has pointed out is that the land owners cannot be entitled for the statutory interest on account of their own default in pursuing their legal remedies. It is submitted that the land references were dismissed on 24.07.2008 and a restoration application was filed only on 05.04.2014 which was eventually allowed on 03.10.2018 and eventually the reference petition was allowed on 05.01.2019, as noticed above. It is, thus, submitted that interest for the period from July, 2008 till the application was decided on 03.10.2018 is not liable to be granted. It is further pointed out that the benefit of interest has also been denied to other land owners who had filed their appeals late as per para no. 238, reproduced above.

A perusal of the record would go on to show that the said argument is not liable to be accepted since it is settled principle that an act of Court will harm no litigant in view of the maxim “*actus curiae neminem gravabit*”.

A perusal of the paper book would go on to show that the references were to be consolidated with the main case namely Gurdev Singh vs. State of Punjab and were to be put up for final disposal with the main land references, which is the lead case of village Jagatpura as per order dated 29.09.2003 of the Reference Court at Ropar. Strangely, the case was

put up on 24.07.2008 separately, which led to its dismissal in default as counsel was not present for obvious reasons. A perusal of the restoration application would also go on to show that it has also been noticed in the main judgment that initially the matters were pending at Ropar. It is only on the bifurcation of the district when Mohali was set up, the land owners came to know that their case has been dismissed in default and was not pending at Mohali. It is in such circumstances the Reference Court has restored the land reference on 03.10.2018. The said application was also contested by the Railways by filing reply. Even issues had been framed but thereafter, the Railways had failed to appear and had been proceeded against ex parte, which would be clear from the order dated 03.10.2018.

Keeping in view that sufficient cause was made out, the land reference was restored on 03.10.2018 and thereafter decided. It is also settled principle that references are to be adjudicated on merits since principle of eminent domain has been pressed into for acquisition of the land. Usually, evidence is led in one case and is read as evidence in the other cases and the present reference as such had been de-tagged and wrongly dismissed, as noticed above. In such circumstances, the Reference Court rightly allowed the application for restoration. Even otherwise, the railways did not challenge the said order dated 03.10.2018 and it had become final and, therefore, they are not entitled, as such, to now turn around and submit that the land owners are not entitled for the benefit of statutory interest for the intervening period.

Secondly, para no. 238 pertains to the delay in filing the appeals whereby Section 5 applications were allowed and delay condoned

and, therefore, the land owners have been denied the interest for the said period on the principle laid down by the Supreme Court in ***Imrat Lal and others vs. Land Acquisition Collector and others, 2014 (14) SCC 133*** and ***Dhiraj Singh (D) through L.Rs. and others vs. Haryana State and others, 2014 (14) SCC 127*** and, therefore, the observations in the said para would have no bearing on the issue, which has arisen herein.

Resultantly, the objection raised by the Railways is merit less and is rejected. Accordingly, the cross objections filed by the land owners are allowed and the same amount of market value is granted, as reproduced above and the appeal of the Railways is dismissed.

15.01.2020
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking Yes/No

Whether reportable Yes/No