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HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision Nos.1994 to 1999 &,
2008 to 2010 of 2020 (O&M)

Reserved on: 08.03.2021
Decided on: 15.03.2021

National Highway Authority of India ... Petitioner

Versus

Inderjeet and others ... Respondents

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

Present: Ms. Sonia Madan, Advocate,
for the petitioner(s) in CR No.1994 to 1999 of 2020.

Ms. Priyanka Dalal, Advocate,
for the petitioner(s) in CR Nos.2008 to 2010 of 2020.

Mr. R.S.Randhawa, Advocate,
for the respondents in CR Nos.1994 to 1998,
2009 & 2010 of 2020.

Mr. Aditya Jain, Advocate,
for the respondents in CR Nos.1999 & 2008 of 2020.

Ms. Shruti Jain Goyal, AAG, Haryana.

(The proceedings were conducted through video
conferencing, as per instructions.)

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G.S. Sandhawalia, J.

The present order shall dispose of nine cases bearing Civil Revision Nos.1994 to 1999, 2008, 2009 and 2010 of 2010, since common questions of law and facts are involved in all the cases. However, for deciding the aforesaid cases, the facts are being extracted from Civil

Revision No.1994 of 2020.

The National Highway Authority of India (for short "petitioner-authority"), as such, challenges the order dated 10.01.2020 passed by the Executing Court, being Additional District Judge, Palwal, whereby its objections have been dismissed. The reason to dismiss the said objections is that the acquired land, as such, is situated on and around by-pass Hodal near Dabchik Tourist Complex and the Arbitrator, vide his award dated 12.12.2017 (Annexure P-2), had fixed the rate of the acquired land as per the circle rate for the year 2011-12, i.e. @ ₹50,000/- per sq. yard and, therefore, the Executing Court could not go beyond the decree. The stand of the petitioner-authority that the circle rate is @ ₹40,000/- per sq. yard since the land was falling in the revenue estate of village Bedha Patti, Hodal was accordingly rejected on the examination of record. Resultantly, directions were given to calculate the compensation @ ₹50,000/- per sq. yard, which was according to the circle rate for the year 2011-12, and to pay the same to the decree holder.

Counsel for the petitioner has vehemently argued that it is the case of the land owners themselves that the land fell in the revenue estate of village Bedha Patti, Hodal and the commercial collector rate for the said land was @ ₹40,000/- per sq. yard. Therefore, the direction that the amount should have been paid @ ₹50,000/- per sq. yard was not sustainable. Reference is made to the arguments raised by the counsel for the landowners before the Arbitrator on 11.10.2017, wherein similar set of land was also acquired vide notification dated 04.05.2010 and ₹30,000/- per sq. yard was the compensation fixed as per the award dated 26.04.2012. Similarly, reference is also made to the arguments raised by the counsel for the landowners when the matter was decided before the Arbitrator on 12.12.2017 (Annexure P-2) that the land was situated in village Bedha Patti, Tehsil Hodal, District Palwal.

Mr. Randhawa, learned counsel appearing on behalf of the respondents, on the contrary, has clarified the issue that the land may fall in the revenue estate of village Bedha Patti. However, the same was acquired for the widening/six laning etc., maintenance, management and operation of National Highway No.2 of the stretch of land from K.M. 44.200 to K.M. 93.800 (Delhi-Agra Section) vide notification S.O. No.125(E) dated 20.01.2012, issued under Section 3A(1) of the National Highways Act, 1956 (hereinafter referred to as the "Act"). Similarly, the notification under Section 3D(1) of the Act was issued on 14.01.2013. He has relied upon the site plan, which is placed on record to show that in the award, which had been passed by the Competent Authority on 26.02.2015 (Annexure P-1), Khasra No.208//14 had been specifically mentioned. He co-related it to show from the site plan Annexure R-1/5 that the land in question was within the municipal limits of Hodal and fell on the National Highway No.2 and the commercial rate of the land on both sides of Dubchick to Gorata Chowk, by-pass Hodal, had been assessed rightly.

A perusal of the paper book would go to show that vide Award dated 26.02.2015, the award of the amount of ₹2,83,65,730/- was announced for the land measuring 2326.956 sq. meters (4 kanals-12 marlas). The market value of the commercial land had been assessed as ₹13,55,39,689.40 paise, i.e. @ ₹33,500/- per sq. meter. The said landowners had taken the matter before the Arbitrator, who had fixed the market value of the acquired land at the commercial collector rates of the locality for the year 2011-12. The relevant portion of the Award dated 12.12.2017 reads as under:-

> "1. As per section 30 of the new The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
> 2. Commercial collector rates of the locality for the year 2011-12 should be the basis to calculate Award.
> 3. The unit of calculation of Award should be Yards because the collector rates are fixed in yards."

The petitioner-authority had filed objection petitions under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the "Act") before the Additional District Judge, Palwal, which were disposed of on 04.09.2018 by noticing that the landowners had deposited the commercial charges in the Municipal Committee, Hodal, in the years 2007 to 2009, i.e. prior to the notification dated 20.01.2012. The sale deeds of February/March, 2012 were kept in mind to hold that the market price was @ ₹50,000/- per sq. yard. The circle rate was also stated to be @ ₹50,000/- per sq. yard at the time of notification dated 20.01.2012. It was also noticed that 3 years later, on 26.02.2015, the circle rate had gone upto @ ₹60,000/- per sq. yard and, therefore, the objection petitions were dismissed. The Review Application was then dismissed on 05.12.2018 (Annexure P-5) on the ground that there is no ground for review apart from making the corrections in the dates, which were clerical in nature.

The execution application (Annexure P-6) was then filed for realization of the said amount @ ₹50,000/- per sq. yard, on which objections were filed by the petitioner-authority that the commercial rates were @

₹33,500/- per sq. meter. Resultantly, the impugned order has been passed, wherein the Executing Court has rightly dismissed the objections on the ground that the circle rate being @ ₹50,000/- per sq. yard, the Executing Court could not go beyond the decree. This Court has also examined the award dated 26.02.2015, wherein in Category-D, there is a specific mention about Khasra No.208//14 and the cumulative reading of the arguments, which had been raised before the Court, was that the acquired land fell on the Dubchick to Gorata Chowk, by-pass Hodal and was in the revenue estate of village Bedhal Patti. The same is sought to be misconstrued by the petitioner-authority to the extent that the commercial rate for the said area is only @ ₹40,000/- per sq. yard. It is not in dispute that the land was acquired for the purposes of expansion of the Highway and merely because of some part of it fell in the revenue estate of village Bedha Patti, as such, would not lead to the conclusion that the value was less and the circle rate of Hodal, as such, would not be applicable to it. It is well settled principle that the land falling on the National Highway always has more value than the land which might be situated 2 Kilometers inside and, therefore, the collector rate for the revenue estate of village Bedha Patti, Hodal, as such, may be @ ₹40,000/- per sq. yard, but is for the land which is situated away from the Highway. The land of the landowners in the present case(s) is very much acquired for the purposes of expansion of the Highway, therefore, the petitioner-authority cannot, as such, take benefit of the fact that the land falls in the other revenue estate. Reliance can be placed upon the judgment rendered by the Supreme Court in the case of **Manoj Kumar vs. State of Haryana**, 2018(2) RCR 815, wherein this aspect has been considered that the land abutting the National

Highways would make material difference in value and would fetch higher value than the land situated in the interiors. The 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."

The perusal of the site plan would also go to show that one can correlate the By-Pass National Highway No.2, which is passing through Hodal. The Dubchik Tourist Complex, situated at the bottom, whereas Gorata Chowk is situated on the top portion of the site plan and on the by-pass road and, therefore, Khasra No.208//14 can, as such, be located abutting the by-pass road, for which the land has been acquired by the petitioner-authority for widening purposes.

In such circumstances, no illegality or irregularity can be pointed out in the impugned order of the Executing Court, which has only upheld the earlier order, noticing that on an earlier occasion, for the subsequent notification two years later dated 26.02.2015, compensation has been granted @ ₹60,000/- per sq. yard by the Competent Authority and, thus, has upheld its order passed on 04.09.2018. Thus, in the absence of the said order under

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Section 34 of the Act, having not been modified or any stay having been granted by this Court, the Executing Court was justified in holding that the payment should be made to the landowners @ ₹50,000/- per sq. yard.

In view of the above, this Court does not find any merit in the present revision petitions and the same, thus, are dismissed.

(G.S. SANDHAWALIA)
JUDGE

March 15, 2021
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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No