IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RA-RF Nos. 27 and 28 of 2020 (O & M) in
RFA Nos. 173 and 171 of 2019 respectively
Date of decision: 15.01.2021

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Harnek Singh and others ....Appellant(s)

Versus

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

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

Present: Mr. Narender Singh, Advocate,
for the applicant-appellants.

(Proceedings are conducted through video conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)

The present order shall dispose of two review applications alongwith applications for condonation of delay of 161 days in filing the review applications, as common questions of facts and law are involved in both the review applications. Reference is being made to ***RA-RF No. 27 of 2020, Harnek Singh and others vs. State of Haryana and another.***

Applications have been filed for review of the orders dated 27.05.2020 and 10.08.2020 by the land owners in the present two appeals alongwith an applications for condonation of delay of 161 days in filing the review applications.

Counsel for the applicant has submitted that the market value of the land for the notification dated 16.03.1999 has been wrongly fixed and it should have been Rs.1,115 per square yard instead of Rs.1,106 per square yard, which was further cut down on account of development charges to the extent of 55% and the market value was, thus, worked out at Rs. 498 per square yard (Rs.24,10,320/-

per acre). Similarly, for the land falling across the railway line closer to the developed portion, the additional 12% benefit had been granted i.e. Rs.2,89,238/- and, therefore, the market value had been worked out at Rs.26,99,558/- per acre (Rs.558/- per square yard). The argument raised is that enhancement of 1 year and 11 months has to be given from April 1997 to 16.03.1999 and in para no. 117 of the judgment, only 11% enhancement has been mentioned against Rs.890/-.

The said argument is not tenable. In the main judgment dated 27.05.2020, it was noticed that the sale deeds were of April, 1997 and, therefore, it had been wrongly mentioned that there was a difference of 11 months and, therefore, the land owners are entitled for the benefit of 11% enhancement. The said mistake was rectified in C.M. No. 2247-CI of 2020 in RFA No. 1638 of 2019 on 10.08.2020. It was specifically noticed that the intervening period was 1 year and 11 months and the mentioning of 1 year had been missed out in para no. 117 initially, though enhancement had been calculated on that basis. Thus, if cumulative enhancement of 12% for the first year on Rs.890/- is made, it comes out to Rs.997/-. Since the notification is dated 16.03.1999 for the next year for 11 months, 11% will have to be granted on Rs.997/-, which comes out to Rs.109.6 and, therefore, the amount works out to Rs.1,106/-, as has been clarified in the order dated 10.08.2020 and, therefore, there is no scope for review.

The argument that the land as such of the applicant falls on the road which comes from I.T. Park, U.T., Chandigarh and, therefore, should be granted the enhanced amount of compensation which has been granted to the other land owners for the same notification across the railway line is also not sustainable. In para no. 95, it has been noticed that the development in the I.T. Park took place on 01.10.2002 and 20.02.2003 when land was acquired by the Chandigarh

Administration, which is subsequent to the notification dated 16.03.1999. The approach road as such was, thus, not in existence at the time when the present acquisition had taken place and, therefore, the land did not have that potentiality and only on account of a subsequent development of I.T. Park in Chandigarh, the potentiality of the land has gone up. It is settled principle that potentiality is to be seen on the date of the notification and, therefore, the argument as such is rejected.

It is also to be noticed that the counsel who has now filed the review application was not the counsel at the initial stage when 360 appeals were argued between 19.02.2020 to 25.02.2020 and, therefore, did not have the benefit of observations which were being made in Court and could not interact with this Court. Therefore, keeping in view the law laid down in ***Tamil Nadu Electricity Board vs. N. Raju Reddiar and another, 1997 (9) SCC 736***, the review application at his instance is not maintainable.

The last argument which has been raised is that Ex.PW15/C i.e. the sale deed dated 27.08.1997 should have been taken into consideration where, 3 marlas of land was sold for Rs.1652.89 per square yard and that should have been the base.

The said argument is also to be rejected keeping in view that the land acquired vide present notification is of 202.55 acres of land of village Bhainsa Tibba and 785.67 acres of village Saketri. The sale deed, thus, is miniscule in nature and keeping in view the principle of averaging of sale deeds which was resorted to for the earlier notification, Rs.890/- was taken as the base. The said sale deeds have been discussed in para nos. 38 and 39. Ex.PW-10/C therein was also a sale deed regarding a small piece of land of 30 square yards where the market value was Rs.1,984/-. The said sale deed was also discarded on the ground of being a small piece of land and held to be not a bona fide transaction with a great variance of market value in comparison to Exs.P-2 to P-4 which had been taken into consideration which were ranging between Rs.846 to Rs.916/-, on the basis of which, the average was taken to be Rs. 890/-. On the same principle, Ex.PW-15/C is also not liable to be taken into consideration.

Thus, there being no error apparent on the face of the record, the review applications alongwith the applications for condonation of delay are dismissed.

Office will ensure that the corrections made vide order dated 10.08.2020 are also incorporated in the main case and the order is also placed on record in the main appeal i.e. RFA No. 1817 of 2019. In para no. 117, the benefit of 11% enhancement which has been mentioned would, thus, be read for a period of 1 year months and 11 months respectively at the rate of 12% increase.

15.01.2021 (G.S. SANDHAWALIA)
shivani JUDGE

Whether reasoned/speaking Yes/No

Whether reportable Yes/No