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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM No.5217-CI of 2023 in/and
RFA No.740 of 2015 (O&M)
Date of Decision: 20.11.2023

PAL SINGH AND ORS.

.....Appellants

Vs

STATE OF PUNJAB & ORS

....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. R.S. Manhas, Advocate
for the applicants-appellants.

HARKESH MANUJA, J. (Oral)

CM No.5217-CI of 2023

Prayer made in this application under Section 151 CPC is for listing the main appeal for actual date. The main appeal has already been admitted vide order dated 01.05.2015.

Notice in the application.

On asking of the Court, Mr. Athar Ahmed, DAG, Punjab, accepts notice on behalf the respondents.

With the concurrence of learned counsel for the parties, the present application is allowed. Main appeal is taken up today.

RFA No.740 of 2015 (O&M)

1. Present appeal has been filed by the appellants to modify the award dated 26.08.2014 passed by the Additional District Judge, Pathankot (hereinafter to be referred as "Reference Court") seeking further enhancement of compensation amount.

2. Briefly stating, the land owned by the appellants, situated in Village Kot Khas, Tehsil Pathankot, District Gurdaspur (now Pathankot)

was sought to be acquired vide notification dated 16.06.1994 issued under Section 4 of Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') followed by notification dated 28.10.1994, issued under Section 6 thereof. At the time of acquisition of land, certain fruit bearing trees as well as non-fruit bearing trees existed over the same and a separate award No.16 dated 04.12.1996 was passed by the Land Acquisition Collector in exercise of its power under Section 11 of the 1894 Act, in this regard.

3. Being dissatisfied, the appellants-landowners filed reference seeking enhancement of compensation by invoking Section 18 of the 1894 Act. The aforementioned reference petition came to be allowed with increase @ 4.9% over the amount awarded under the Collector's award vide judgment dated 26.08.2014 under the orders of Reference Court-cum-Addl. District Judge, Gurdaspur.

4. By way of present appeal, impugning the aforementioned award dated 26.08.2014, learned counsel for the appellants submits that the assessment of market value for the fruit bearing as well as non-fruit bearing trees was made by the Land Acquisition Collector having relied upon formula dated 15.05.1985 prepared by Dr. G.S. Nijjer, Director of Horticulture Department, Government of Punjab, Chandigarh. Learned counsel also submits that the acquisition proceedings in the present case were initiated vide notification dated 16.06.1994 and thus the assessment of compensation should have been carried out by giving appropriate increase between May 1985 to June 1994, by relying upon the price index prevailing at that point of time. In support, learned counsel for the appellants places

reliance upon decision dated 02.08.2012 passed in RFA No.3478 of 1992 in case of “***Kartar Singh and Karnail Singh sons of Shri Kesar Singh son of Shri Kesar Singh successor in interest of late Shri Kesar, both residents of Village Hardosaran, Tehsil Pathankot Vs. Punjab State through Collector Gurdaspur and Others***”.

5. On the other hand, learned State counsel submits that the assessment of market value as regards the trees was carried out by the Land Acquisition Collector having relied upon the formula dated 15.05.1985 and the time gap between the date of formula and the notification was not much, thus the appellants were not entitled for any appreciation.

6. I have heard learned counsel for the parties and gone through the paperbook. I find substance in the submissions made on behalf of the appellants.

7. Acquisition in the present case was carried out vide notification dated 16.06.1994 issued under Section 4 of the 1894 Act and the assessment of compensation was made on the basis of formula dated 15.05.1985 whereas, undisputedly between 1985-1994 there was adequate appreciation in the price index which had gone from 127 points to 297 points thereby making increase of 170 per cent over the price assessed by Dr. G.S. Nijjer in its formula dated 15.05.1985. The aforementioned formula of increase given in favour of landowners was approved by this Court vide decision dated 02.08.2012 passed in RFA No.3478 of 1992 in case of ***Kartar Singh*** (Supra). Relevant para thereof is reproduced hereunder:-

“The appeal is for enhancement of compensation for value of the trees which were lost to the owner by the acquisition of land. The grievance expressed is that the Reference Court had accepted the valuation of the trees made as per the formula called 'Dr. Nijjar's formula' for assessing the trees for the year 1985. The learned counsel for the appellants would argue that in Punjab Small Industries and Export Corporation Limited Versus Zail Singh in RFA No.1907 of 2002, decided on 28.09.2010, this Court had factored the increase for assessment of value of trees for the subsequent years by taking note of the increase in price index. In this case, the learned counsel argues that as against the valuation made as per Dr. Nijjar's formula of the year 1985, the price index had gone from 127 points to 150 points in 1987. This, according to him, would mean an increase of 23% over the price assessed by the application of Dr. Nijjar's formula.

2. I adopt the valuation and would provide for 23% increase on the valuation made as per the application of Dr. Nijjar's formula.....”

8. This Court, even in case of **Union of India and another versus Pritam Singh, 2004(4) RCR (Civil) 5**, under similar facts and circumstances, upheld the increase based on difference of the wholesale price index.

9. Accordingly, in view of the discussion made hereinabove, the impugned award dated 26.08.2014, passed by the Reference Court is set aside and the present appeal is allowed to the extent that based on the appreciation of price index between 1985 to 1994, the appellants-landowners shall be entitled for increase of 170% over and above the

amount assessed by the Land Acquisition Collector vide its award dated 04.12.1996 towards compensation for the fruit bearing as well as non-fruit bearing trees besides all other statutory benefits and interests provided as admissible under the 1894 Act.

November 20, 2023

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No