

²⁵⁷ IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-1844-2018 (O&M)
DECIDED ON:-22.09.2023

Santosh

...Appellant...

VS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Deepak Girotra, Advocate,
for the appellant.

Mr. Shivendra Swaroop, DAG, Haryana.

HARKESH MANUJA J. (Oral)

1. By way of present appeal, challenge has been laid to an award dated 13.11.2017 passed by the Reference Court, whereby reference petition filed under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as “1894 Act”) at the instance of appellant-landowner was partly allowed and the compensation against the acquired land stood enhanced from Rs.39,00,000/- per acre to Rs.97,46,125/- per acre, besides all other statutory benefits.

2. Briefly stating, land owned by the appellant, situated in the revenue estate of Village Jhajjar came to be acquired for the purpose of construction of new Bus Stand Jhajjar, vide notifications dated 23.08.2012 and 07.05.2013, issued under Sections 4 and 6, respectively, of the 1894 Act, followed by an award dated 29.05.2014 passed by the Land Acquisition

Collector, in exercise of its powers under Section 11 of the 1894 Act,

thereby, making assessment of compensation @ Rs.39,00,000/- per acre besides other benefits.

3. Being dissatisfied, the appellant-landowner filed reference petition under Section 18 of the 1894 Act, seeking enhancement of compensation.

4. Upon notice, respondents supported the determination of compensation as assessed vide award dated 29.05.2014 and contested the claim made for enhancement at the instance of appellant-landowner.

5. Thereafter, issues were framed and parties were granted opportunity to lead their respective evidence. Upon consideration of the material available on records, the Reference Court vide its award dated 13.11.2017, determined the compensation @ Rs.97,46,125/- per acre as on 23.08.2012 i.e. the date of notification issued under Section 4(1) of the 1894 Act, besides holding the appellant-landowner to be entitled for other statutory benefits provided under Sections 23 (1)(a), 23(2) as well as 28, thereof while granting solatium @ 30% on the amount.

6. Still aggrieved, the appellant-landowner filed present appeal for seeking further enhancement. Though in grounds of appeal, various pleas were taken to claim enhancement of market value of the land, however during arguments, learned counsel for the appellant-landowner, on instructions, restricted his claim in the present appeal only to the extent of seeking solatium @ 100% while relying upon Section 30 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “2013 Act”) by submitting that the award in the present acquisition proceedings was made on

29.05.2014 i.e. after coming into operation of 2013 Act w.e.f. 01.01.2014 and thus the provisions of 2013 Act were to be made applicable relating to determination of compensation as envisaged under clause (a) to sub-Section (1) to Section 24 of 2013 Act. He further submits that though the entire award was required to be passed under the provisions of 2013 Act, however, the appellant approached the Reference Court invoking Section 18 of the 1894 Act and has led her evidence, followed by determination made thereupon by the Reference Court, it would be disadvantageous at this stage, in case, the matter is now remanded back to the Reference Court for determination of compensation afresh in accordance with the provisions of 2013 Act. Drawing attention of the Court towards the fact that in the scenario of sending the matter back to the Reference Court, unnecessary procedural difficulties would be faced by the appellant-landowner, which would further delay the disbursement of her valid claim and would also burden the State Exchequer of huge liability towards interest, learned counsel thus, restricts his claim only with regard to the award of 100% solatium in terms of Section 30 of 2013 Act on the amount of market value already assessed vide award dated 13.11.2017, passed by Reference Court. Section 24 (1)(a) and Section 30(1) are reproduced hereunder for reference:-

“Section 24(1(a):- Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.

(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply;”

Section 30(1): Award of solatium

(1) The Collector having determined the total compensation to be paid, shall, to arrive at the final award, impose a “Solatium” amount equivalent to one hundred per cent of the compensation amount.

7. On the other hand, prayer made herein-above has been vehemently opposed by learned State counsel, while relying upon decision dated 19.04.2022 passed by this Court in RFA No. 309 of 2021 (and connected cases) titled as **“State of Haryana vs. Rajbir”** and submits that once no award was passed in the present case till 01.01.2014, the provisions of 2013 Act were required to be followed for the purpose of determination of compensation in terms of Section 24 (1)(a) of 2013 Act and the award was liable to be set aside, while remanding the matter back to the Reference Court, so as to redetermine the amount of compensation by following the provisions of Section 26 of 2013 Act.

8. As regards the award of solatium @ 100% in terms of Section 30 of 2013 Act, learned State counsel has not been able to put forth any serious opposition.

9. I have heard learned counsel for the parties and gone through the paper book.

10. At the outset, it may be relevant to point out here that the appeals filed at the instance of respondent-State, challenging the award passed by the Reference Court pertaining to this very acquisition proceedings already stand dismissed by this Court vide its judgment dated 09.05.2018 passed in RFA-1946 of 2018 (O&M) (and other connected

cases), titled as “***State of Haryana and others vs. Dharambir Singh and others***”. No details of any further challenge to the aforementioned judgment has been brought to the notice of this Court, thereby resulting into finality of the assessment of compensation made by the Reference Court in its award dated 13.11.2017 against the respondents-State. Relevant portion from the decision dated 09.05.2018 passed by this Court in ***Dharambir Singh and others*** case (supra) is reproduced hereunder:-

“Resultantly, no ground is made out to interfere in the well reasoned award and the appeals are dismissed.

It is made clear that nothing said herein will affect the rights of the landowners in their set of appeals as that aspect has not been taken into consideration by this Court while dismissing the present appeals filed by the State.”

11. Moreover, the appellant-landowner though having claimed enhancement of compensation in the prayer clause of the grounds of appeal through his counsel, however restricted her claim only with regard to enhancement of solatium from 30% to 100% as envisaged under Section 30 of 2013 Act and has not agitated the issue of enhancement of compensation/market value. The claim made by the appellant-landowner as regards 100% solatium, relying upon Section 30 of 2013 Act is clearly made out as the award in the present case has been passed on 29.05.2014 i.e. post applicability of 2013 Act (w.e.f. 01.01.2014) and thus, for the purpose of determination of compensation, the provision of 2013 Act were to be made applicable as envisaged under clause (a) to sub-Section (1) of Section 24 of 2013 Act.

12. Though, learned State counsel appears to be justified having

placed reliance upon decision dated 19.04.2022 passed in *Rajbir's* case (supra), to contend that the case in hand was required to be remanded to the Reference Court for determination of compensation in terms of Section 24 (1) (a) of the 2013 Act, however, in the peculiar facts and circumstances of the present case, wherein the appellant-landowner has not agitated the issue of market value/compensation and even about the award dated 29.05.2014 passed by the Collector, but, has restricted her claim merely with regard to the enhancement of solatium from 30% to 100%, as per the statutory mandate of Section 30(1) of 2013 Act, the remand at this stage in the present facts may not be justified. Above all, it would delay the determination as well as disbursement of compensation in favour of appellant-landowner unnecessarily to large extent which would even otherwise burden the State Exchequer to a large extent, about payment of needless and unwarranted huge statutory interest for unjustified reasons.

13. Additionally, in the circumstance when appellant-landowner deciding not to press the issue with respect to the market value, besides the State appeal already having been dismissed, thereby upholding the determination made vide award dated 13.11.2017 passed by the Reference Court, while setting it aside in toto, would amount to unsettled the settled issues and also of setting aside/recalling the decision dated 09.05.2018 passed in case of *Dharambir Singh and others* (supra), which has become final by now qua the right of respondents-State so as to question the determination of market value made by the Reference Court vide its award dated 13.11.2017 and thus, on this aspect, *Rajbir's* case (supra) cannot be made applicable in the peculiar facts and circumstances of the present case,

as in the said case determination of market value of the land was also in contention. On the other hand, in the present case, no judicial determination is required to be done and after having assessed the compensation, grant of 100% solatium is only an enabling act in view of the statutory mandate as envisaged under Section 30(1) of 2013 Act and therefore, remanding the matter back would be an exercise in futility.

14. Accordingly, in view of the discussion made herein-above, the award dated 13.11.2017 passed by the Reference Court as regards the determination of market value @ Rs.97,46,125/- per acre is upheld with modification as regards the grant of benefit of solatium by enhancing it from 30% to 100%, besides granting them all other statutory benefits and interests under the provisions of 2013 Act.

15. In view of the above, the present appeal is disposed of.

16. Pending application(s), if any, shall stand(s) disposed of.

22.09.2023

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/ No