

244 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-3720-2018 (O&M)

Decided on:-17.10.2023

Om Pati and another

....Appellants.

vs.

State of Haryana and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. S.K. Sharma, Advocate for the appellants.

Mr. Shivendra Swaroop, DAG, Haryana.

Mr. Pritam Singh Saini, Advocate,
for respondents No.2 and 3.

Mr. Neeraj Saini, Advocate for
Mr. S.R. Hooda, Advocate,
for respondent No.18-Gram Panchayat.

HARKESH MANUJA J. (Oral)

1. By way of present appeal, challenge has been laid to an award dated 19.04.2018 passed by the Reference Court-cum-Additional District Judge, Sonapat, whereby reference petition filed at the instance of appellants-landowners invoking Sections 18 and 30 of the Land Acquisition Act, 1894 (herein after called "1894 Act"), stands dismissed for want of sufficient evidence having been led by them.

2. Briefly stating, certain land owned by the appellants-landowners, situated in the revenue estate of village Barona, Tehsil and District Sonapat, came to be acquired vide notifications dated 01.04.2010 and 04.04.2011, issued under Sections 4 and 6, respectively, of the 1894

Act, followed by an award No.44 dated 13.03.2013, whereby, the market

value for acquired land was assessed @ Rs.30 lakhs per acre. The purpose of acquisition of land was for development of industrial modern township.

3. Aggrieved of the award passed by the Land Acquisition Collector, appellants-landowners invoked reference under Sections 18 and 30 of the 1894 Act, seeking enhancement of compensation besides raising a dispute qua its apportionment. Despite having been granted sufficient opportunities, no evidence was led from the side of the landowners and the reference was thus, declined vide award dated 19.04.2018 passed by the Additional District Judge, Sonapat.

4. By way of present appeal, the aforementioned award dated 19.04.2018 has been assailed at the instance of appellants-landowners seeking relief of enhancement of compensation as well as seeking apportionment as against respondents No.4 to 18.

5. During pendency of the present appeal, an application under Order 41 Rule 27 read with Section 151 CPC, seeking permission to lead additional evidence was filed, wherein, though, notice was issued on 18.01.2019, yet no reply to the same was filed by the respondents.

6. I have heard learned counsels for the parties in detail and have gone through the paper book including the application filed under Order 41 Rule 27 CPC.

7. In the present case, the dispute of apportionment of compensation has been initiated against the private respondents, besides claiming enhancement of market value. The case set up by the appellants is that during consolidation, the land under acquisition which belonged to their predecessors was some how entered in the name of private respondents and

drawing the benefit of the said bonafide error, they were claiming themselves to be entitled for the release of the compensation. Although, no evidence in support of the claim set up by the appellants was led on their behalf before the Reference Court, however, in the present appeal an application under Order 41 Rule 27 read with Section 151 CPC seeking permission to lead additional evidence in the shape of revenue record to support the aforestated contention has been filed. Perusal of the same shows that the appellants rely upon mutations, jamabandies, khasra girdhawaries and few orders passed by the consolidation authorities, having prima facie bearing over the controversy in question.

8. Considering the fact that substantial rights of the appellants-landowners regarding enhancement of compensation as well as its apportionment are involved in the present case, in the humble opinion of this Court, it would be in the interest of justice in case the award dated 19.04.2018 passed by the Reference Court is set-aside and the matter is sent back for its fresh adjudication after affording another chance to the parties to lead their evidence so as to defend their right in an effective manner by producing and proving the revenue record before the Reference Court.

9. Keeping in view the fact that the acquisition proceedings commenced vide notification dated 01.04.2010 and a period of more than 13 years has elapsed, the Reference Court is requested to decide the claim invoking Sections 18 & 30 of the 1894 Act, as expeditiously as possible, preferably within a period of 01 year from today by granting 03 effective opportunities each to the appellants-landowners as well as the respondents, so as to lead their evidence.

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10. Accordingly, the present petition is disposed of in view of the aforesaid terms and the award dated 19.04.2018, passed by the Reference Court is set-aside.

11. Pending application, if any, stands disposed of.

17.10.2023

(HARKESH MANUJA)

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JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/ No