**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

211 (2 cases)

RFA No.2163 of 1997 (O&M)
DATE OF DECISION: 23rd SEPTEMBER, 2024

Ram Singh and others
…. Appellants
Versus
State of Haryana and another
…. Respondents

2. RFA No.2041 of 1997 (O&M)

Gram Panchayat, Badhra
…. Appellant
Versus
State of Haryana and another
…. Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. R.S. Sangwan, Advocate
for the appellants in both cases.

Ms. Safia Gupta, AAG, Haryana.

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RAJBIR SEHRAWAT, J. (Oral)

1. This shall dispose of aforementioned two appeals, i.e. RFA Nos.2163 and 2041 of 1997; as almost common facts are involved therein.

2. The facts are being taken from RFA No.2163 of 1997. The facts which have emerged in the case are that the land measuring 10 kanal 9 marla comprised in khasra No.192/1 (17-16) situated in village Bhadra belonging to the appellants and similarly, another land involved in RFA No.2041 of 1997, belonging to the Gram Panchayat, measuring 7 kanal 7 marla comprised in khasra No.192/1 (17-16) had been taken

under the road constructed by the PWD (B&R), Branch, since the year 1970. However, the said land had not been acquired by the respondents. When the appellants raised the issue, then a notification under Section 4 of the Land Acquisition Act (for short, the Act) was issued by the respondents on 25.08.1993. Thereafter, notification under Section 6 of the Act was issued on 11.10.1993. After completion of the process of the acquisition, the Land Acquisition Collector granted the compensation at the rate of Rs.50,000/- per acre. Challenging the said award passed by the Land Acquisition Collector, the present appellants and the Gram Panchayat; both had sought reference. The Reference Court has declined any enhancement to the appellants. Hence, the present appeal has been filed.

3. Arguing the case, learned counsel for the appellants has submitted that the compensation granted to the appellants is abysmally low. Sufficient material was led in evidence before the Reference Court to show that the market value of the land; as on the date of issuance of notification; was not less than Rs.6 to 7 lakhs per acre. Even the sale deeds of the relevant time were placed on record. The nearest sale deed i.e. Ex.PC is dated 30.07.1993, vide which, the land measuring 3 kanal 10 marla had been shown to have been sold for Rs.1.80 lakhs. Beside this, other sale deeds were also led in evidence as Ex.PA and PB, which are of dated 16.08.1994 and 02.02.1996. Hence, it is submitted that even as per Ex.PC, i.e. the nearest sale deed, the market value of the land comes about Rs.4,10,000/- per acre. Learned counsel for the appellants has further submitted that even the Government of India had also taken some land for construction of telephone exchange in August, 1994 at the rate of

Rs.4 Lakhs per acre. Accordingly, it is submitted by the counsel that although the oral testimony of the witnesses and other sale deeds justified the higher amount of Rs.7 lakhs to Rs.8 lakhs per acre, however, by any means, the market value of the land should not be taken less than Rs.4,10,000/- per acre.

4. It is further submitted by learned counsel for the appellants that it is not even in dispute that the road on the land was constructed a long time back; before issuance of the notification of the acquisition. Therefore, the appellants have been deprived of the usages of the land in question for about 20 years even before the issuance of the notification for acquisition. The appellants deserve to be compensated even for that. Hence, it is submitted that the award passed by the Reference Court deserves to be set aside and the compensation deserves to be enhanced in terms of the above submissions.

5. On the other hand, learned counsel for the respondents-State has submitted that the respondents have led in evidence sale deeds Ex.R-2 to Ex.R-6 ranging from the year 1989 to 1990, which show that the average market value of the land in question has rightly been assessed by the Collector and that no further enhancement is warranted in the matter. It is further submitted by learned State counsel that the sale deed, upon which the appellants are relying, is situated near *Loharu-Dadri* road, therefore, the market value of that land was much higher, whereas, the same is not the case of the land under acquisition. No other argument has been raised.

6. Having heard learned counsel for the parties and having perused the material on file, this Court finds that the factum of the land

having been taken over by the respondents-State in the year 1970 is not even disputed by either of the parties. Therefore, it is established on record that there is a road constructed on the land of the appellants, which is a subject-matter of the acquisition. The award has been passed by the Land Acquisition Collector in process of acquisition, which was started in the year 1993. Therefore, it is not disputed that the appellants have been deprived of the usages of the land from the year 1970 to 1993. The award passed by the Reference Court does not even mention this aspect for the purpose of compensation. The Court below has not even adverted to the fact whether the appellants deserve to be compensated for that loss or not? In the opinion of this Court, when dis-possession of the appellants since the year 1970 is not even in dispute, then the appellants deserve to be compensated for the loss of usages for this long time.

7. So far as the market value of the land is concerned, there are two rival set of sale deeds. The sale deeds led in evidence by the State have to be discarded for the simple reason that those sale deeds are three-four years prior to the date of issuance of notification of the acquisition of the land in question. Therefore, the same cannot be considered for assessing the correct market value. Moreover, the average of the sale deeds suggests the market value even less than the market value assessed by the Land Acquisition Collector. Hence, those sale deeds have simply to be discarded, as such. On the other hand, the appellants have led in evidence the sale deed of the duration which is nearest to the issuance of notification of the acquisition of the land. In fact, this sale deed is immediately prior to the date of acquisition. Even if the other sale deeds led in evidence by the appellants are not to be given a serious

consideration for being of the dates after the date of issuance of notification, still the sale deed Ex.PC can safely be taken as a deed representing the correct market value at the relevant time. As per the said sale deed also, the market value of the land comes around Rs.4,11,000/- per acre. This figure can be rounded off on the lower side, being the solitary sale deed for the reliance of the Court; and being of comparatively small area, however, even the factum of the Government of India purchasing the land for telephone exchange at the rate of Rs.4 lakhs would clearly support the assessment of the Court that the market value of the land was not less than Rs.4 lakhs per acre at the given time.

8. Although, learned counsel for the respondents has submitted that the sale deed Ex.PC pertains to an area, which is near *Loharu-Dadri* road, however, this argument has to be simply noted to be rejected for the simple reason that the land in question is under the *Badhra-Berla* road itself. Had this land not been taken over by the respondents in the year 1970 and this would not have been acquired, then this would have totally abutted to the road. In any case, since the acquired land is under the existing road only, therefore, the situational aspect of the sale deed in question is of no significance at all.

9. In view of the above, both the appeals are allowed and the impugned award passed by the Reference Court is set aside. The appellants are held entitled to the market value of Rs.4 lakhs per acre along with the statutory benefits and the statutory interest.

10. It deserves to be clarified that since the land in question had been taken by the State in the year 1970, therefore, the interest payable to the land owners would start from the date of taking possession of the land

by the respondents. Still further, since the appellants have been deprived of the usages of the land for a long time, therefore, the appellants deserve to be compensated even for the said deprivation. As per conservative estimate, at the relevant time, the average income per year can be taken at Rs.5,000/- per acre. Accordingly, the appellants are also held entitled to this amount of Rs.5,000/- per acre w.e.f. January, 1971 till the date of issuance of notification under Section 4 of the Act i.e. 25.08.1993.

11. The pending miscellaneous application, if any, is also disposed of as such.

(RAJBIR SEHRAWAT)
JUDGE

23rd SEPTEMBER, 2024
'Sandeep'

Whether speaking/reasoned:	*Yes*	*No*
Whether Reportable:	*Yes*	*No*