

In the High Court of Punjab and Haryana at Chandigarh

Regular First Appeal No. 2435 of 1996
Date of Decision: 06.5.2015.

Thuru Ram

.....Appellant

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. R.S.Manhas, Advocate and
Mr. Vinay Saini, Advocate for
Mr. G.S.Nagra, Advocate
for the appellant/land owner.

Mr. P.S.Mattewal, Addl. A.G., Punjab.

SABINA, J.

Land belonging to the appellant, was sought to be acquired along with trees standing on it for construction of Hydrel Channel. Notification under Section 4 of the Land Acquisition Act, 1894 ('Act' for short), was issued on 12.1.1990. Declaration under Section 6 of the Act was made on 28.2.1990. Land Acquisition Collector passed the supplementary award dated 10.3.1993 awarding compensation qua the fruit trees standing on the acquired land. Aggrieved against the said award, the appellant sought reference under Section 18 of the Act. The Reference Court vide the impugned award dated 6.8.1996 dismissed the reference sought by the appellant. Hence, the present appeal by the appellant/land owner.

Learned counsel for the appellant has submitted that

the report submitted by the expert examined by the appellant, was liable to be believed and the appellant was liable to be allowed compensation as per the said report qua the standing trees over the land in dispute.

Learned State counsel, on the other hand, has submitted that the appeal filed by the appellant was liable to be dismissed as no reliance could be placed on the report submitted by the expert AW-2, examined by the appellant. The report submitted by expert Vipin Chander RW-2, was liable to be believed.

So far as the number of the fruit bearing trees standing on the acquired land are concerned, there is not dispute qua the same. The case of the appellant was that the age of the trees was about 4-5 years. AW-2 Sunder Singh expert examined by the appellant, in his report Exhibit A-1 has given the age of the trees as 4/5 years. A perusal of the report submitted by the expert examined by the State RW-2 Vipin Chander reveals that he has given the age of the trees as two years. The said expert while appearing in the witness box also stated that the plants were aged about two years and were not yielding any fruit. However, as per the *khasra girdawri* placed on record as Exhibit A-3 from November 1985 onwards, it is evident that the trees were standing on the acquired land. This shows that the report submitted by the expert examined by the State cannot be relied upon as the age of the trees given by the said expert is contrary to the revenue record. Rather, it shows that the report submitted by the expert examined by the appellant, is correct. The said witness AW-2 Sunder Singh, expert examined by the land owner, has categorically deposed that he had visited the spot in the year 1990. As per the report submitted by

the said expert, the age of the trees was in consonance with the revenue record. Thus, the Reference Court fell in error while dismissing the reference filed by the appellant. The appellant was liable to be granted compensation in terms of the report Exhibit A-1 of expert AW-2 Sunder Singh. However, the appellant was not entitled to claim 10% more on the amount assessed by the expert due to nearness of the acquired land to the fruit market as there is no evidence available on record in this regard.

Accordingly, this appeal is allowed. Impugned award dated 6.8.1996 is set aside. The reference sought by the appellant, is accepted and appellant is awarded compensation to the tune of ₹ 5,77,377/- for the standing trees on the acquired land. Appellant is further held entitled to receive interest and other statutory benefits as per Section 23 (1-A), 23(2) and 28 of the Act.

**(SABINA)
JUDGE**

May 06, 2015
Gurpreet