

2024:PHHC:095015



214 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-230-1998 (O&M)
Decided on:-15.07.2024

State of Punjab and anotherAppellants.

VS.

Kartar Singh and othersRespondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Athar Ahmed, DAG, Punjab,
for the appellant(s)-State.

None for the respondents.

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HARKESH MANUJA J. (Oral)

1. By way of present appeal, challenge has been laid to an award dated 18.09.1997 passed by the Reference Court-cum-Additional District Judge, Patiala, whereby reference petition filed at the instance of respondents-landowners invoking Section 18 of the Land Acquisition Act, 1894 (herein after to be called as “1894 Act”), stand allowed.

2. Briefly stating, certain land owned by the respondents-landowners, situated in the revenue estate of village Thuha, Tehsil Rajpura, District Patiala, came to be acquired for the construction of Raj Khand minor distributory. Total land acquired was 7.36 acres. The Land Acquisition Collector in its supplementary award dated 26.11.1993, awarded compensation for severance of un-acquired land of the claimants at the rate of 20% of the market value assessed for acquisition of land.

3. Aggrieved of the award passed by the Land Acquisition Collector, respondents-landowners invoked reference petition under Section 18 of the 1894 Act, seeking enhancement of compensation. Upon consideration of the material available on record, the Reference Court vide its award dated 18.09.1997 decided the reference petition as under:-

“In view of my finding on issue No.1, the land reference is allowed. The petitioners are awarded compensation for severance of Khasra No.977 at the rate of 50% of the market value of the acquired land, for the severed land on both sides of the Raj Khand distributory (comprised of khasra No.977/2), subject to a maximum of 5 acres of land. The petitioner shall not be entitled to solatium under Section 23(2-O) or any amount u/s 23(1-A) of the Act on the amount of compensation for severance.

The petitioners are also allowed interest on the amount of enhanced compensation at the rate of 9% per annum for the first year from the date of taking over the possession and at the rate of 15% per annum thereafter till realization. The compensation for severance already received by the petitioners from the Collector Shall be adjusted against the enhanced amount of compensation.”

4. Dissatisfied with the aforesaid award, appellant-State has filed the present appeal.

5. Learned counsel for the appellant-State submits that the Reference Court erred in law while enhancing the severance charges from 20% to 50%, by holding that the un-acquired land of the claimants was rendered inaccessible, due to acquisition and was likely to be damaged due to seepage of canal water, whereas, Pargat Singh, Kanunga (RW-1) in his statement had categorically stated that there was no flow of water in SYL canal nor was there any water in its distributory, thus, there was no likelihood of seepage which could cause damage to the unacquired land. No

other argument has been addressed.

6. No one has put in appearance on behalf of the respondents.

7. I have heard learned counsel for the appellant and gone through the paper book.

8. Perusal of record shows that in the present case, the acquisition of 7.36 acres of land situated within the revenue estate of village Thuha, Tehsil Rajpura, District Patiala, came to be acquired for the construction of Raj Khand minor distributory. From the evidence available on record, it can be deciphered that on account of acquisition, large piece of agricultural land belonging to the respondents-landowners became useless and un-fruitful as it could not be utilized and cultivated due to difficult access. Moreover, as per the statement of Pargat Singh, Kanungo (RW-1), part of the un-acquired land was without proper approach even from the canal bank with bullocks, bullock cart. Besides it, as and when the water started flowing in the main SYL canal and Raj Khand distributory, on account of their higher embankment, the unacquired area of the appellants/landowners towards west as well as towards east of the distributory was affected by seepage. In view of such evidence available on record, the Reference Court committed no illegality or perversity while enhancing compensation for severance from 20% to 50% of the market value of the acquired land.

9. Accordingly, in terms of the discussion made herein above, finding no merits in the present appeal, the same is thus, dismissed.

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

15.07.2024
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/ No