

(2014) 07 P&H CK 0550

High Court Of Punjab And Haryana At Chandigarh

Case No: RFA No. 1382 of 1993

The State of Punjab

APPELLANT

Vs

Gurcharan Singh

RESPONDENT

Date of Decision: July 25, 2014

Hon'ble Judges: Bharat Bhushan Parsoon, J

Bench: Single Bench

Advocate: P.S. Mattewal, Additional Advocate General, Advocate for the Appellant

Final Decision: Dismissed

Judgement

Dr. Bharat Bhushan Parsoon, J.

This Regular First Appeal by the State of Punjab is directed against Award dated 2.6.1992 of the Court of the Additional District Judge, Ropar (for short, the reference Court) whereby compensation for land acquired by the appellant-State had been enhanced over and above the Award of Land Acquisition Collector.

2. Facts necessary for adjudication of this appeal where appellant-State has sought reversal of the impugned Award praying for restoration of the Award of the Collector, are as under:-

3. The main plea of the landowners before the reference Court was regarding severance of their land which remained with them after acquisition of their land. Out of 239 Kanals 8 Marlas of their land in village Doomchheri, 36 Kanals 1 Marla land was acquired whereafter the remaining land had fallen in two parts viz. 42 Kanals 19 Marlas which had been left towards village abadi, whereas 160 Kanals 8 Marlas was left across the canal. The main award for acquisition of the land was announced on 28.6.1986 whereas supplementary award regarding severance of the compact holding was announced by the Collector on 29.7.1987. The landowners had raised their grievances that compensation regarding severance was highly inadequate. It was claimed that only 25% of the value of the land was awarded as compensation and that also was subject to a maximum of 5 acres. They had claimed

enhanced compensation @ 75% over and above the total market value of the whole land.

4. Land of the claimants-respondents which was acquired was chahi in kind and its compensation was awarded @ Rs. 72,500/- per acre.

5. Notwithstanding tough contest put-forth by the State of Punjab (now appellant) compensation for severance was granted by the reference Court in the following scale:-

(i) The claimants would be paid compensation for severance @ 50% of the value of the land up to one acre.

(ii) They shall be paid severance compensation @ 45% for the land above one acre up to 3 acres.

(iii) They shall be paid compensation for the severance of land @ 40% above 3 acres of land up to 5 acres of land.

(iv) No compensation for severance shall be paid beyond 5 acres of land for the unacquired land.

(v) They shall be paid compensation in respect of both parcels of the land which remains unacquired, subject to a maximum of 5 acres in each parcel.

(vi) The calculation was to be made taking market value of the acquired land @ Rs. 72,500/- per acre.

6. By way of this appeal appellant-State seeks reduction in the compensation claiming that enhancement of severance compensation by the reference Court is against norms fixed by the Collector vide its award dated 29.7.1987 whereby severance compensation had been awarded @ 25% of the value of the land, less already awarded for that type of land for the unacquired portion of the land. Claiming that impugned award has caused grave miscarriage of justice to the appellant, its reversal has been sought.

7. Hearing has been provided.

8. It remains a fact that because of acquisition of land of the respondents-owners unacquired land of theirs has suffered severance in two parts whereas one tract of land measuring 42 Kanals 19 Marlas had remained towards village abadi, rest of 160 Kanals 8 Marlas has fallen across the canal. Finding reduction in utility of the unacquired land of the owners and holding that it had resulted in deprivation of user of the entire land for the owners, disagreeing with the Collector who had given compensation only to the tune of 25% of the value of the land subject to maximum of 5 acres regarding that part of the land which had remained across the canal, the reference Court had noticed that no compensation had been paid for severance regarding 42 Kanals 19 Marlas of land.

9. Thus, it was a case of no compensation for one tract of land and payment of only 25% of the value of the land in respect of the other tract of land which measured 160 Kanals 8 Marlas. In its wisdom, the reference Court had drawn scale whereby compensation for severance was fixed up to 5 acres of unacquired land. No compensation was payable beyond 5 acres.

10. When the entire spectrum of facts is seen from the point of view of landowners, out of their entire holding of 239 Kanals 8 Marlas chahi land, 36 Kanal 1 Marla was acquired for construction of the SYL and remaining land of the landowners had suffered severance into two parcels. One parcel of the land is of 42 Kanals 19 Marlas which remained towards the village abadi. The other severed parcel of land is of 160 Kanals 8 Marlas which remained across the canal.

11. Since the severance compensation @ 25% of the value given by the Collector was not adequate, the reference Court after discussing the entire factual matrix and attending facts as also circumstances of the case had come to a firm finding that no compensation was payable beyond 5 acres of the unacquired land and in that also 4 categories had been prepared. When the slab of compensation payable for severance of land holding of the landowners is for every severed part and thus is reflective of vision and mature understanding, no fault either on facts or in law is discernible or has been pointed out in the Award which puts the Appellate State to any illegal burden or charge.

12. There is no merit in the appeal.

13. Dismissed.