

(2014) 07 P&H CK 0583

High Court Of Punjab And Haryana At Chandigarh

Case No: RFA Nos. 1269 and 2298 of 1993

Heera Nand

APPELLANT

Vs

State of Haryana
 State of
Haryana Vs Hira Nand

RESPONDENT

Date of Decision: July 25, 2014

Acts Referred:

- Land Acquisition Act, 1894 - Section 18, 4

Hon'ble Judges: Bharat Bhushan Parsoon, J

Bench: Single Bench

Advocate: M.L. Sharma, Advocate and D.D. Gupta, Additional Advocate General, Haryana, Advocate for the Appellant; M.L. Sharma, Advocate and D.D. Gupta, Additional Advocate General, Haryana, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Dr. Bharat Bhushan Parsoon, J.

These two Regular First Appeals, one filed by the landowners and the other by the State of Haryana arise out of the common Award rendered by Sh. C.B. Jaglian, the then Additional District Judge, Ambala on 24.3.1993 whereby in a matter of acquisition of land of village Singhpura, Tehsil Naraingarh, District Ambala pursuant to notification issued by the State of Haryana through its Revenue Department u/s 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) on 13.8.1986, compensation @ Rs. 50,000/- per acre had been awarded.

2. For convenience and clarity, facts have been taken from RFA No. 1269 of 1993.

3. For the purpose of free allotment of residential plots to landless/homeless Harijans, members of backward classes and economically weaker persons, land measuring 13 Kanals 12 Marlas of the appellants-landowners was acquired by the Government of Haryana.

4. The Land Acquisition Collector, Ambala (hereinafter mentioned as the Collector) assessed the market value of the acquired land @ Rs. 25,194/- per acre.

5. Feeling dissatisfied with the Award rendered by the Collector, the landowners made their grievances by way of a petition which on being referred by the Deputy Commissioner, Ambala to District Judge, Ambala, was later adjudicated vide impugned Award as a reference u/s 18 of the Act. It was claimed by the appellants-landowners that the acquired land was of high potential value as the same was situated near the abadi of village Singhpura and was connecting to a road leading from Ambala to Chandigarh via Barwala. It was elaborated that at the time of acquisition of the land, market price of the land was not less than Rs. 1 lac per acre.

6. The respondent-State had contested the reference averring that the assessment of compensation made by the Collector was quite fair and reasonable and was representative of the actual market value of the land on the date of notification u/s 4 of the Act.

7. Disagreeing with the pleas raised by the State of Haryana and partially accepting the stand of the landowners, compensation was fixed @ Rs. 50,000/- per acre with statutory benefits as well.

8. In the grounds of appeal now preferred by the appellants-landowners, it is claimed that strategic location and immense potential of the land for residential and commercial purposes, has not been properly appreciated by the reference court. It is claimed that neither the oral evidence was appreciated nor documentary evidence led by the parties was appropriately considered to determine the market value of the land at the relevant time. Referring to statement of appellant Heera Nand PW and Smt. Shanti Devi PW, it is claimed that strategic location of the acquired land was ignored though these witnesses had sufficiently proved that acquired land was adjacent to the link road leading from village Batana to Barwala and was also adjacent to residential locality of village Singhpura. Referring to sale deed (Ex. P1), it is claimed that one Smt. Shanti Devi had sold her adjacent land in the year 1982 @ Rs. 48,000/- per acre. It is averred that even statement of Patwari Sharwan Kumar made with reference to Aks Sajra (Ex. R1) and sale deeds (Ex. R2) to (Ex. R6) if appropriately appreciated, was supportive of the cause of the appellants.

9. It is claimed that market value of the acquired land which is located near abadi or adjacent to abadi is to be determined as double of the agricultural land. It is mentioned that formula adopted by the reference court, in accepting sale instances consisted of Ex. R1, Ex. R2 and Ex. R3, to arrive at an average of Rs. 32,000/- per acre where 12% increase on the average was given, determining the market rate as Rs. 43,500/- whereafter, market value was assessed to be Rs. 50,000/- per acre was wrong. It is urged that if 50% increase of market value of Rs. 48,000/- in the year 1982 was taken, the market value of the land should have been fixed at Rs.

1,44,000/- per acre.

10. So far as appeal preferred by the State of Haryana is concerned, it is claimed that the reference court unduly gave an enhancement from Rs. 25,194/- per acre given by the Collector to Rs. 50,000/- per acre. It is pleaded that when average market value of three sale instances had been taken by the reference court, there was hardly any case for giving a further rise of Rs. 6,500/- per acre to raise the figure of Rs. 43,500/- to Rs. 50,000/-. Questioning reasoning given by the reference court, it is claimed that the acquired land is not on the link road and rather is away even from village as also its abadi and thus, had no potential. Distinguishing between the sale deeds relied upon by the reference court, it is claimed that the land involved in sale deed (Ex. P1) though had potential for being used for residential purposes being near the abadi was to be left aside because the acquired land has no such potential. It is averred that in these circumstances, only sale deeds (Ex. R2 and Ex. R3) should have been taken into consideration for assessing fair and reasonable market price. It is, thus, urged that taking these sale deeds into consideration, market price was to be worked out @ Rs. 24,000/- per acre. It is claimed that applying an increase of 4.5% of the market value on this amount from December, 1983 to July, 1986, market value on the relevant date should have been determined to be Rs. 27,000/- per acre but was wrongly awarded @ Rs. 50,000/- per acre. Praying for setting aside the Award, it is urged that market value of the land should be assessed not exceeding Rs. 27,000/- per acre.

11. Hearing has been provided.

12. Total acquired land is 13 Kanals 12 Marlas. It pertains to village Singhpura, Tehsil Naraingarh, District Ambala. Notification u/s 4 of the Act was issued on 13.8.1986. The Collector had granted compensation @ Rs. 25,194/- per acre. In addition to statement of landowner Heera Nand as PW1 wherein he has deposed about location of the acquired land and its alleged strategic importance and potentiality, reliance by the appellants-landowners has also been placed to sale deed (Ex. P1), the land sold whereby was shown in comparative analysis with the acquired land in Aks Sajra Ex. P2. Land sold by Smt. Shanti Devi vide sale deed (Ex. P1) as depicted in Aks Sajra (Ex. P2) is close to the acquired land as also to the locality of village Singhpura.

13. Though many instances of sale have been given by the respondent-State but sale deeds (Ex. R2 to Ex. R6) are not relevant because the land mentioned therein is situated at far off places from the locality of village. Statement of Sharwan Kumar (RW1) is very distinct and focused on this count. When we comparatively analyse their respective location with the help of Aks Sajra (Ex. R1) in relation to statement of Sharwan Kumar (RW1), so far as sale instances of Ex. R2 and Ex. R3 are concerned, these are not very far off as are lands sold vide sale deeds (Ex. R4 and Ex. R6). Since land sold vide sale deed (Ex. P1) of 1.9.1982, Ex. R2 of 27.4.1983 and Ex. R-3 of 30.11.1983 is of same nature and is also contiguous, average of these three sale instances was taken into account. All these sale instances pertain to the year

1982-83.

14. Elaborately discussing the entire issue in para 8 of the impugned Award, the reference court had come to a conclusion that average price of land comes to Rs. 32,000/- per acre. Since date of acquisition is in the year 1986 and sale instances were of 1982 and 1983, the reference court had rightly decided to give appreciation of 12% per year on this average price so as to determine the market price in the year of acquisition i.e. 1986 which came approximately as Rs. 43,500/-.

15. Even though stand of the respondent-State is that acquired land was neither close to the locality nor was abutting the link road but there is nothing to support and substantiate such claim of the respondent-State so as to contradict the observations of the reference court. Rather, if we go through the statement of Heera Nand (PW1) which has gone unrepudiated, there is clear version that the acquired land is adjacent to the residential locality of village Singhpura and abuts the link road of village Batana to Barwala. Counsel for the respondent-State has not been able to contradict this version of Heera Nand (PW1). Even co-joint study of Aks Sajra (Ex. P2 and Ex. R1) brings the same result. It was in these circumstances that the reference court finding proximity of the acquired land to the locality of the village and considering its location to be near the link road gave further increase of Rs. 6,500/- per acre over and above the average price of the land calculated by it. It was in these circumstances cumulatively taken together that market value of the acquired land pursuant to notification u/s 4 of the Act was taken to be Rs. 50,000/- per acre.

16. Plea of the appellant-landowners that instance of 1982 of land of Smt. Shanti Devi sold on the sale deed (Ex. P1) would form the most suitable instance of sale effected earlier to the date of acquisition, is not acceptable. Even though land sold in sale deed (Ex. P1) is close to the acquired land as compared to the land sold in sale deeds (Ex. R2 and Ex. R3) but land sold vide sale deed Ex. P1 is much smaller when compared to the acquired land as also to the land which is subject matter of the sale deed (Ex. R2 and Ex. R3) of the same village. Thus, sale instance of land sold in sale deed (Ex. P1) was rightly not taken to be the index to determine market value of the acquired land on the date of notification u/s 4 of the Act in the year 1986. Considering the entire spectrum, average of three sale instances of land located within the vicinity of the acquired land had been taken to arrive at an average price and then 12% per year increase on such average price has been given; in the given circumstances, there is nothing wrong in it. Plea of the respondent-State that only increase of 4.5% should have been given is of no merit particularly when the location of the land is strategic being near to locality of village Singhpura and because of its proximity to link road from village Batana to Barwala.

17. Stand of the appellants-landowners that 15% increase should have been given is highly unrealistic and thus, was rightly not taken into consideration by the reference court. Rather, from the grounds of appeal preferred by the appellants when

evaluated in the interface of discussion made in the impugned Award, it transpires that before the Collector, the landowners had expected market price to be fixed @ Rs. 1,00,000/- per acre. This expectation with the passage of time as is evident from the grounds of appeal increased as they have claimed market value of land @ Rs. 2 lacs per acre.

18. It is to be noted here that over and above such increase of 12% per acre, which is normal increase for the gap years in the sale instances of 1982 and 1983 as also in the year of acquisition, increase of Rs. 6,000/- per acre has also been given because of proximity of acquired land to the abadi.

19. Keeping in view the totality of above facts and circumstances, it is held that the compensation was rightly assessed by the reference court. Sequently, affirming the impugned order dated 24.3.1993, both the appeals being without any merit, are dismissed.