
(2009) 04 P&H CK 0149
In the Punjab And Haryana At Chandigarh

Ajmer Singh and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 18-04-2009

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (2010) 158 PLR 651(1)

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Judgement

Rajesh Bindal, J.—This order will dispose of a bunch of 18 appeals, as common questions of law and facts are involved.

2. The land owners are in appeal seeking further enhancement of compensation for the acquired land.

3. Briefly, the facts are that land measuring 41.10 acres, situated in village Rori, Tehsil and District Sirsa, was acquired vide notification dated 29.3.1993 issued u/s 4 of the Land Acquisition Act, 1894 (for short, "the Act") for the purpose of construction of Rori-Ghaggar Drain. The Land Acquisition Collector (for short, "the Collector") gave award of Rs. 30,000/- per acre. Aggrieved against the same, the land owners filed objections which were referred to the learned Additional District Judge, Sirsa, who keeping in view the material placed on record by the parties, assessed the market value of the acquired land at Rs. 1,00,000/- per acre.

4. Learned Counsel for the land owners submitted that the learned court below has failed to appreciate the evidence led by the land owners on record for the purpose of determination of fair value of the acquired land. Sale deed (Ex.P53) registered on 15.5.1992 for a big chunk of land measuring 10 kanals 17 marlas @ Rs. 1,10,599/- per acre was not relied upon in its true letter and spirit and the compensation was assessed at merely Rs. 1,00,000/- per acre. In fact, the land owners were entitled to the amount of compensation in terms thereof and further

increase at least @ 12% per annum for the time gap. He further submitted that with the acquisition of land for the construction of Rori-Ghaggar drain, the land has been divided into two parts and the land owners on that account are also entitled to damages on account of severance, as it has become difficult for them to cultivate or approach the other portion of the land, though a claim to that effect was made in the reference petition and even evidence was also led, but still the learned court below has failed to grant any compensation on that account. It is submitted that the fact that with the construction of drain, the land is divided into two parts which create difficulty in cultivation and approaching the other portion of land, cannot possibly be denied.

5. On the other hand, learned Additional Advocate General submitted that fair assessment of the value of the acquired land has been made by the learned court below by relying upon sale deed (Ex.P53), which does not call for any interference at all. He further submitted that in fact the land owners are not entitled to that much amount of compensation. However, the State did not prefer any appeal at that time showing generosity to the land owners. The land in question was water logged. The drain was constructed only for that purpose. He further submitted that in the absence of any issue having been framed and the evidence led by the land owners, they are not entitled to any amount of compensation on account of severance as the onus to prove that they had suffered any loss/damages was on the land owners, which they failed to discharge.

6. Heard learned Counsel for the parties and perused the record.

7. As far as determination of compensation for the acquired land is concerned, considering the material on record, I do not find any reason to interfere therein. Sale deed (Ex.P53), which was executed on 15.5.1992, approximately 10 months prior to the date of notification, was relied upon by the learned court below for granting compensation/to the land owners @ Rs. 1,00,000/- per acre. The average consideration paid therein was Rs. 1, 10,599.07 per acre. The location of the land pertaining to sale deed (Ex.P53) is not shown on any site plan. All what has come in the oral evidence is that the same is 10-12 killas away from the acquired land. The acquisition in the present case is for Rori-Ghaggar drain, which is of good length. It cannot possibly be said that the land pertaining to sale deed (Ex.P53) would be 10-12 killas away from the acquired land. At the most, it can be from one point and not from the entire acquired land. In the absence of exact location of the land pertaining to the sale deed, I do not find any reason to grant any further increase in the amount of compensation for the acquired land. The court below has already appreciated the evidence by finding that the land in question was not Chahi kind of land as from the jamabandis and khasra girdawans on record, the land yielded only one crop in three years, meaning thereby it was dependent on rain. Accordingly, as far as value of the acquired land is concerned, the award of the learned court below is upheld.

8. As regards the grant of compensation on account of severance is concerned,

no issue to that effect was framed by the Reference Court. However, a perusal of the reference petition filed by the land owners shows that they had claimed compensation on account of bifurcation of land to the extent of Rs. 75,000/-. In his statement, PW1-Jagdev Singh/claimant stated that with the acquisition, the land has been bifurcated into two parts and accordingly the same cannot be used properly for agricultural purposes as no path for approaching the land on the other side of the drain has been provided and the value of the remaining portion has been reduced considerably. To the similar effect is the statement of PW2-Brij Lal Panch of village Rori. PW3-Jagdev Singh Haiqa Patwari supported the claim made by the land owners to the effect that with the acquisition, the " land had been bifurcated into two parts. Meaning thereby, there is evidence led by the land owners, though oral, to submit that with the acquisition of land for construction of Rori-Ghaggar drain, the land has been divided into two parts. As far as difficulty/loss suffered by the land owners on account of bifurcation of land with the construction of drain is concerned, the court can very well appreciate that considering the site plan on record which shows that the same is passing through various killas bifurcating the same leaving triangles on both sides, which certainly makes it difficult to approach other portion of the land for the purpose of cultivation and also for irrigation etc. Though the land owners have not led evidence in detail to state as to how much loss they have suffered on that account, however, in such matters, sometimes the courts are required to apply guess work and considering the fact that the land owners have been put to loss/difficulty with the acquisition of land for the purpose of construction of a drain, I deem it appropriate to grant them 25% of the value of the land as compensation on account of severance. The award of the learned court below is modified to that extent. The land owners shall also be entitled to all statutory benefits available to them under the Act.

The appeals are disposed of in the manner indicated above.