

(2014) 04 SHI CK 0069

In the High Court Of Himachal Pradesh

Case No : R.F.A. Nos. 4144, 4145, 4146, 4147, 4148, 4149, 4150, 4151, 4152, 4153, 4154, 4155, 4156, 4157, 4158, 4159, 4160, 4161, 4162, 4163, 4164 and 4165 of 2013 and 5, 6, 8 and 9/2014

Collector Land Acquisition

APPELLANT

Vs

Surat Ram and Others

RESPONDENT

Date of Decision : 30-04-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 18, 4, 6, 7

Citation : (2014) 04 SHI CK 0069

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Advocate : Vijay Arora, Advocates for the Appellant; Naveen K. Bhardwaj, Advocates for the Respondent

Judgement

Sanjay Karol, J.—For the purpose of construction of Parbati Hydro Electric Project, land belonging to poor villagers-respondents herein was acquired. Proceedings under the provisions of Land Acquisition Act, 1894 (hereinafter referred to as the Act) commenced with the issuance of notification dated 21.3.2006 under Section 4 of the Act. The same was published in the daily news paper on 24.4.2006. Notification under Sections 6 and 7 of the Act was published in the Gazette on 10.3.2007. Award under Section 11 of the Act, was passed by the Land Acquisition Collector on 18.7.2009 on which date, possession of land, from the respondents, was also taken over under the provisions of the Act.

2. Aggrieved thereof and dissatisfied with the compensation so determined by the Collector, various petitions under Section 18 of Act were filed by the land owners, seeking enhancement of compensation so awarded by the Collector. The same stand decided in terms of common impugned award dated 3.4.2013, District Judge, Kullu, H.P. The amount stands enhanced to Rs. 19,580/- per biswa.

3. Significantly, before the Court below, claimants placed on record earlier award dated 31.8.2010 passed by Additional District Judge, Kullu in Reference Petition

No. 31/2008, titled as Mohar Singh and others v. Collector Land Acquisition and another (Ex. PW1/F). Claimants also placed on record award dated 28.2.2011, in Reference Petition No. 59/2009, titled as Tripta and another v. Collector, Land Acquisition and others (Ex. P-1). Certain sale deeds were also placed on record by the claimants. The appellants herein, to rebut the claim of the respondents herein, placed on record award dated 19.11.2011 passed in Land Reference Petition No. 54 of 2009, titled as Tej Singh and others v. collector Land Acquisition and others by the Additional District Judge, Fast Track, Kullu. Also sale deeds (marked documents Mark R-1 to R-5) were placed on record.

4. Significantly, Court below, while passing the impugned award has only taken into account award Ex. PW1/F.

5. Challenge to the impugned award is on the ground that neither there is any material, nor any cogent evidence on record to establish the nature, category, classification, quality, potential and similarity of the acquired land with that of the land covered under the award relied upon. It is also argued that parties could not prove the sale deeds so placed on record on account of non examination of vendor and vendee. Also other awards stand ignored.

6. Mr. Vijay Arora, learned counsel for the appellants invites my attention to the decision of the apex Court in Ramanlal Deochand Shah Vs. The State of Maharashtra and Another, .

7. Appreciating the ratio of law laid down by the apex Court, as also considering the fact that parties, more particularly the appellants herein, could not lead evidence with regard to award placed on record, in my considered view, interest of justice would be met if matter is remanded back to the Court below for consideration afresh, after affording opportunity of leading evidence to the parties.

8. As such, impugned award dated 3.4.2013, passed by District Judge, Kullu, H.P., is quashed and set aside with the following directions:--

"(i) Reference petitions stand revived.

(ii) Parties, as agreed, shall appear before the District Judge on 30.5.2014.

(iii) The Court shall fix dates for leading evidence by both the parties.

(iv) Proceedings stand expedited. Reference petitions shall be decided within a period of six months from the date of appearance so fixed.

(v) Fresh award shall be passed, in accordance with law, on the basis of entire material, including the one already placed on record by the parties."

With the aforesaid observations, present appeals stand disposed of, so also, pending application(s), if any.