

(2011) 10 P&H CK 0107

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 2646 of 2011 (O and M)

Dharambir and others

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 31-10-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 24, 4

Citation : (2012) 1 RCR(Civil) 190

Hon'ble Judges : Rakesh Kumar Garg, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Kumar Garg, J.—This judgment shall dispose of 34 Regular First Appeals i.e. RFA Nos. 2646 to 2659, 2670 to 2680 and 4016 to 4024 2011 as the same have arisen out of one common award of the Reference Court dated 24.9.2010, determining market value, of the land in dispute pertaining to Village Bass Akbarpur, which was acquired by issuing notification u/s 4 of the Land Acquisition Act, 1894 (for short, "the Act") on 24.11.2004 for a public purpose namely to construct Bass Multipurpose Channel on State expenditure.

2. The Land Acquisition Collector had assessed the market value of the acquired land at the rate of Rs. 5 lacs per acre irrespective of the kind of land along with statutory benefits vide his award dated 20.12.2005.

3. Aggrieved from the aforesaid award, the land owners/interested persons qua the acquired land made applications u/s 18 of the Act alleging that the acquired land was very fertile and valuable and the amount of compensation as determined by the Land Acquisition Collector was insufficient and inadequate and while determining the compensation, the Land Acquisition Collector failed to consider the potentiality of the land in question and various other factors which are relevant for determining the market value of the land. The market value of the acquired land was not less than Rs. 40 lacs per acre. On receipt of the

aforesaid reference applications, the same were referred to the Court of District Judge, Hisar for adjudication.

4. In the written statement, the respondent-State besides taking preliminary objections, pleaded that the awarded amount was more than reasonable compensation which was determined after taking into account relevant factors and the rates prevailing in the area at the time of acquisition.

5. In order to prove their case, the appellants examined Sham Lal Patwari, from the office of District Revenue Officer as PW-1 and proved the award No. 30-H dated 20.12.2005 (Ex.P1) of the Land Acquisition Collector and award No. 23-H dated 31.12.2008 (Ex.P2). Randhir Singh son of Roop Chand, one of the claimants, stepped into witness box as PW2 who tendered into evidence his affidavit as Ex.P12. Satywan son of Shri Sube Singh was examined as Ex.P.13 who tendered into his evidence as Ex.P-13. The respondents in order to rebut the evidence of the appellants examined Ramphal, Sub Divisional Officer, Hansi Water Services Sub Division No. 2 as RW-1, who tendered into evidence his affidavit and also placed reliance upon documents Ex.R-2 minutes of meeting headed by then Commissioner, Hisar Division and award Ex.R-3.

6. After considering the evidence on record and hearing learned counsel for the parties, the reference Court vide impugned award, assessed the market value of the land in question at Rs. 6 lacs per acre irrespective of the kind of land on the date of publication of notification u/s 4 of the Act.

7. Still not satisfied, the land owners/interested persons have filed the instant appeals, challenging the impugned award of the reference Court on the ground that the reference Court has ignored material evidence placed on record with regard to market price of the land and that the acquisition has resulted in bifurcation of their land and were, thus, entitled to additional compensation on account of severance allowance. Not only this, it is further grouse of the appellants that while determining the compensation, the market price prevailing in the area and potentiality of the land in question has been ignored and thus, the impugned award was liable to be modified to the extent of granting higher compensation to the appellants.

8. I have heard learned counsel for the appellants and perused the impugned award as well as evidence on record of the reference Court with the help of counsel for the appellants.

9. Admittedly, there is no evidence led by the appellants on record before the reference Court showing the market value of the land in dispute. The documentary evidence placed on record of the reference Court do not refer to any sale instance or other admissible evidence which is relevant for determining such market value. The recommendations of the State Government in awarding price @ 8 lacs per acre for the land to be acquired within the area of Village Kutubpur, Ramayana and Sultanpur is of no help to the appellants, as it has not been shown as to how the aforesaid market value for other villages is

comparable to the land in question.

10. The reliance of the appellants on a subsequent award No. 23- H dated 31.12.2008 (Ex.P-2) vide which land of village Bass Hajamshapur was assessed @ Rs. 8 lacs per acre is misconceived as the said award has been passed subsequent to the date of notification u/s 4 of the Land Acquisition Act in the instant case and there is a gap of about three and a half year in the date of issuance of notifications u/s 4 of the Act in this case as well as in the case based on award Ex.P-2. As per Section 24 of the Act, no subsequent fact to the acquisition of notification u/s 4 of the Act can be considered for the assessment of compensation and such fact can be considered only to establish that there is a rising trend of prices. Not only this, even if the clock is reverted back from 21.5.2008 (i.e. the date of notification u/s 4 of the Act in the award Ex.P2) to 24.11.2004 i.e. the date of notification u/s 4 of the Act in the instant appeals, a cut is applied on the compensation amounting to Rs. 8 lacs, the same will be less than Rs. 6 lacs which has already been awarded to the appellants by the Reference Court. It is well settled that circle rates/floor prices for registration of land in the area cannot be made basis for determining the market price of the acquired land and thus, no enhancement can be made on the basis of the floor rates @ Rs. 8 lacs per acre announced by the State of Haryana as argued by the learned counsel for the appellant.

11. Id this view of the matter, I find no merit in these appeals.

12. No other argument was raised.

13. Dismissed.

14. Since these appeals have been dismissed, no other application survive.

15. A photocopy of this order be placed on the files of other connected cases.