
(2012) 09 P&H CK 0001

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 2954 of 1992, X Obj No. 39-CI of 2000 and Regular First Appeal No. 280 of 1993, X Obj. No. 41-CI of 2000 and Regular First Appeal No. 282 of 1993 and Regular First Appeal No. 78 of 1995

Dial Singh and Another

APPELLANT

Vs

State of Punjab and Another
 The State of Punjab Vs
Gurdial Singh and Others

RESPONDENT

Date of Decision : 18-09-2012

Acts Referred:

Citation : (2012) 09 P&H CK 0001

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : P.K. Gupta with Ms. Priya Gupta in RFA No. 2954 of 1992 and Mr. Ram Lal Gupta, A.A.G., Punjab, for the Appellant; Ram Lal Gupta, Addl. A.G., Punjab in RFA No. 2954 of 1992 and Mr. P.K. Gupta, Advocate with Ms. Priya Gupta, Advocate in RFA No. 281 of 1993, for the Respondent

Final Decision : Dismissed

Judgement

K. Kannan, J.—The appeals are at the instance of the State in RFA Nos. 280 to 282 of 1993 and RFA Nos. 78 and 79 of 1995 and the land owners are the appellants in RFA No. 2954 of 1992. The land owners have also filed cross objections with reference to the appeals filed by the State seeking for enhancement. The property acquired by the State was through a notification issued on 09.02.1988 at village Ghel measuring an extent of 2 acres 67 cents for construction of Kasumbri minor. The land owners had placed before the Court evidence of sale transactions in relation to the abadi land of 3 marlas in Ghel and in the adjoining village in Badali Alla Singh that made references to abadi land under Ex. P4 at the rate of Rs. 1,92,000/- per acre, abadi land at the rate of Rs. 81,000/- per acre under Ex. P5 and land under Ex. P8 at Rs. 1,04,000/- per acre for 191/2 marlas where the classifications of property had not been mentioned. The Court found that it was not possible to rely on valuation for a small piece of

land of abadi as constituting an exemplar. The State had also placed on evidence transaction of sale with reference to a property in the same village for an extent of 8 kanals 6 marlas of land for value of property at Rs. 19,277/- per acre. The Collector had already determined the valuation of property at Rs. 60,000/- per acre for chahi and Rs. 35,000/- per acre for gair mumkin and finding that even the Collector had discarded the evidence, it looked for an assessment of compensation in an adjoining village where property was acquired for the same purpose of laying the Kasumbri minor. The acquisition had been with reference to the same date and therefore, the compensation assessed for the adjoining village was taken to reflect the correct valuation for the land owners and enhanced the compensation to Rs. 1,00,000/- per acre for Chahi and Rs. 45,000/- per acre for gair mumkin. Learned counsel appearing on behalf of the land owners contends that the only sale deed, which was brought before the Court in respect of the same village was Ex. P3 where the valuation given was Rs. 12,80,000/- per acre and appropriate cut may be given for determination of value for the agricultural land. The learned counsel refers to a judgment of the Supreme Court in Rishi Pal Singh and others Vs. Meerut Development Authority and another 2006 (1) SC 635 where the Supreme Court held that there was no bar in law to take as exemplar a transaction of a small plot of land especially when other relevant materials were not available. Such exemplars would be considered after making adequate discount. The Supreme Court was actually considering a case of an exemplar of a small piece of land in the town where the property acquired also fell within the municipal limits. Where the category of property is the same and the exemplar offered is in respect of a small piece of land, the reliance on such a document after providing for appropriate cut would be possible. I cannot apply this judgment to a situation where the category of property was an agricultural piece of land in a village and the document shown as exemplar was in relation to a property in abadi. Unless there had been specific evidence about how the value of the property in abadi could be compared to valuation of agricultural lands to make appropriate deductions, it would be unwise for me to make a cut with reference to abadi land. It all depends on the type of evidence which is adduced before the Court. I have not before me any better evidence, than what was produced in the Reference Court itself.

2. The Reference Court has done what was permissible when the documents filed by either side were not sufficient to enable the Court to take a proper consideration regarding the valuation of property. Indeed even the rejection of sale deed under Ex. R1 would not have been possible, for it does not sets out the law correctly. The bar against reduction of valuation in a reference u/s 18 less than the amount of what is already determined by the Collector does not extend so far to discard any transaction of sale where a price less than what was determined by the Collector is produced as an exemplar regarding the prevailing market rate. This has been held so by a judgment of the Supreme Court in Lal Chand Vs. Union of India (UOI) and Another, . This was in the context of how the Court was holding that even a sale of lesser value would be taken into

consideration to understand the prevailing prices and it ought not to be wholly discarded. If the value of an agricultural land as transacted at a relevant time was shown to be less than Rs. 20,000/- and the Court was working out a compensation at Rs. 1,00,000/- per acre, it was doing so by reference to the fact that in respect of compensation determined for an adjoining village for the same purpose of construction of Kasumbri minor, the compensation had been determined at Rs. 1,00,000/- per acre. The Court, therefore, looked for homogeneity in approach to secure what was just to all the land owners, who had lost their lands. I will not find the approach of the Reference Court to be erroneous and if the Reference Court was, therefore, making a reference to a judgment of determination of valuation of adjoining land, it erring slightly on the wrong side for the cause of justice. Learned counsel for the land owners would contend that the persons, who had lost their lands for more than two decades back ought not to be turned away without proper assessment for enhancement of compensation. An emotional appeal for enhancement must make possible for the Court to see that such increase is rooted in some judicial approach that is possible by reference to documents. What is possible for a party to feel emotional about his land unfortunately cannot attach itself to the Court's approach. I cannot, therefore, find any reason for any enhancement of compensation already made. The appeals filed by the State seeking for reduction of compensation shall be rejected and so too the claim for enhancement made by the land owners. The awards are retained and the appeals and cross appeals are dismissed.