
(2016) 11 SHI CK 0034
In the High Court Of Himachal Pradesh
Case No : R.F.A. No. 350 of 2009

Himachal Pradesh Electricity Board

APPELLANT

Vs

Lala

RESPONDENT

Date of Decision : 18-11-2016

Acts Referred:

Land Acquisition Act, 1894 — Section 54

Citation : (2017) 2 HimLR 821

Hon'ble Judges : Sureshwar Thakur, J.

Bench : Single Bench

Advocate : Mr. Satyen Vaidya, Senior Advocate, with Mr. Vivek Sharma, Advocate, for the Appellants; Mr. G.R. Palsra, Advocate, for the Respondents

Final Decision : Disposed Off

Judgement

Sureshwar Thakur, J.—The appellants stand aggrieved by the impugned award rendered by the learned Reference Court whereby it in reversal to the pronouncement of the Land Acquisition Collector concerned assessed compensation at a rate of Rs.1 lakh per bigha qua the lands of the respondents herein, as stood brought to acquisition also thereupon it levied the concomitant statutory benefits.

2. The lands of the respondents herein were brought to acquisition for construction of 132 KV Tower Line from Larzi to Sarabai (Bajoura). The apposite lands are located in village Khamradha, Sub Tehsil Aut, District Mandi. The Land Acquisition Collector had in adjudging compensation qua the lands of the land owners as stood brought to acquisition relied upon sale exemplars qua lands situated in Mauja Khamradha, sale exemplars whereof comprised in Ext. RW-3/D and Ext.RW- 3/E stood executed on 28.8.1991. Also the Land Acquisition Collector had worked out the value of Barani Awal category of lands at Rs.39,340/-. Contrarily the Reference Court had relied upon Ext.PW-1/A and Ext.PW-3/A executed respectively on 19.08.1992 and on 4.9.1992. The reliance as placed by the Land Acquisition Collector upon Ext. RW-3/D and Ext.RW-3/E

whereas the reliance placed by the Reference Court upon Ext.PW-1/A and Ext.PW-3/A would hold tenacity only when cogent evidence stands adduced in display of (a) Ext. RW-3/D and Ext.RW-3/E besides Ext.PW-1/A and Ext.PW-3/A holding contemporaneity in time angle vis-a-vis the issuance of a notification under Section 4 of the Land Acquisition Act whereupon the lands of the land owners were brought to acquisition. In determining whether Ext. RW-3/D and Ext.RW- 3/E besides Ext.PW-1/A and Ext.PW-3/A respectively hold proximity in time vis-a-vis the issuance of a notification under Section 4 of the Act whereby the lands of the land owners were brought to acquisition, the trite factum qua execution of the aforesaid sale deeds occurring in proximity to the issuance of the apposite notification under the Act stands enjoined to be unearthed from the apposite germane evidence. In making the relevant unearthings an allusion to the factum qua a notification under Section 4 of the Act standing issued on 30.12.1993 is imperative wherefrom an apposite determination would sprout qua whether the aforesaid sale exemplars embodied in the aforereferred exhibits hold any proximity therewith. Bearing in mind the aforesaid facet with both Ext. RW-3/D and Ext.RW-3/E standing executed on 28.08.1991 whereas the apposite notification under the Land Acquisition Act standing issued on 30.12.1993 renders the sale exemplars comprised in Ext. RW-3/D and Ext.RW-3/E to not beget satiation qua the principle of proximity in time occurring inter se their execution with the issuance of the apposite notification under Section 4 of the Act. Consequently, with the relevant trite principle qua sale exemplars embodied in Ext. RW-3/D and Ext.RW-3/E holding no proximity in time vis-a-vis issuance of an apposite notification under Section 4 of the Land Acquisition Act, any reliance upon them by the Land Acquisition Collector for his on their anvil hence determining compensation amount qua the lands of the land owners, was grossly inapt. Contrarily, the reliance placed by the Reference Court upon Ext.PW-1/A and Ext.PW-3/A which palpably stood respectively executed on 19.08.1992 and on 4.9.1992 hence when visibly in contra distinction to Ext. RW-3/D and Ext.RW-3/E they stood executed in close proximity in timing vis-a-vis the issuance of a notification under Section 4 of the Act imperatively hence imputation of reliance thereupon was warranted as aptly done by the learned Reference Court. Conspicuously when for reiteration with the sale exemplars embedded in Ext.PW-1/A and Ext.PW-3/A satiating the principle qua their execution occurring in close proximity in time vis-a-vis the issuance of the apposite notification under the Act, any reliance thereupon by the learned Reference Court visibly does not suffer from any inherent fallibility.

3. Hereafter it is imperative to determine whether the sale exemplars embodied in Ext.PW-1/A and Ext.PW-3/A holds therewithin recitals qua the lands embodied therein also satiating the principle qua their standing located in proximity to the lands brought to acquisition. The sale exemplars embodied in Ext.PW-1/A and Ext.PW-3/A hold therewithin recitals qua the lands depicted therein standing situated in Mohal Aut whereas the lands of the land owners stand located in Mohal Khamradha yet with RW-3 acquiescing in his cross-examination qua Mohal

Aut and Mohal Khamradha holding contiguous boundaries besides when the appellants herein omitted to adduce cogent evidence in display of the lands comprised in Ext.PW-1/A and Ext.PW-3/A not holding proximity in location vis-a-vis the lands as stood brought to acquisition, constrains an inference qua the lands comprised in Ext.PW-1/A and Ext.PW-3/A satiating the relevant parameters qua their standing located in close proximity vis-a-vis the lands as stood brought to acquisition whereupon an inference is erectable qua the sale consideration pronounced therein being reckonable for determining the compensation amount qua the lands as stood brought to acquisition. Fortifying vigour qua the aforesaid inference is garnerable from the factum of the appellant herein not adducing before the learned Reference Court any evidence manifesting the factum qua sale exemplars besides Ext.PW-1/A and Ext.PW-3/A holding a display qua the lands denoted therein holding closer proximity in location vis-a-vis. the lands brought to acquisition vis-a-vis the lands earmarked in Ext.PW- 1/A and Ext.PW-3/A. For absence of adduction by the appellants herein of the aforesaid evidence before the Reference Court it is to be concluded qua the sale exemplars comprised in Ext.PW-1/A and Ext.PW-3/A satiating the twin enshrined legal parameters (a) proximity in time occurring inter se their execution with the issuance of a notification under Section 4 of the Act (b) the lands denoted therein holding proximity in location vis-a-vis. the lands brought to acquisition whereupon hence reliance as stood placed thereupon by the learned Reference Court was in absolute consonance with the relevant legal principles.

4. Moreover, reliance upon Ext.PW-1/A and Ext.PW-3/A by the Reference Court is to be construable to be apt qua their existing no evidence qua the sale consideration recited therein not passing from the vendee to the vendor whereupon the sale exemplars embodied in the aforesaid exhibits facilitate a construction qua theirs standing bereft of any vice of rigging.

5. Be that as it may, the land comprised in Ext.PW-1/A and Ext.PW-3/A pertain to small pieces of land yet the factum of the sale exemplars embodied in the aforereferred exhibits holding therewithin depiction of lands holding a meagre area vis-a-vis the lands brought to acquisition would not render them unreckonable for reliance for thereupon adjudging compensation qua the lands of the land owners significantly when the lands brought to acquisition akin to the lands comprised in Ext.PW-1/A and Ext.PW-3/A hold a meagre besides a scanty area whereupon the enjoined legal necessity of deductions standing meted qua value of the land(s) borne on the sale exemplars comprised in Ext.PW-1/A and Ext.PW-3/A for thereupon assessing compensation vis-a-vis the lands of the land owners, is unwarranted.

6. Accordingly, I find no merit in these appeals, which are accordingly dismissed and the impugned award(s) of the learned Presiding Officer, Fast Track Court, Mandi, District Mandi, are upheld. All pending applications stand disposed of accordingly. No costs.