(2013) 07 P&H CK 0052

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 3989 of 2011 (O and M)

Raghunath Singh and Others APPELLANT

Vs

State of Haryana and Others RESPONDENT

Date of Decision : 24-07-2013

Acts Referred:

Citation : (2013) 07 P&H CK 0052

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : Sanjay Mittal and Mr. P.R. Yadav, for The Land Owners, for the Appellant; Anjum Ahmed, A.A.G., Haryana, for the Respondent

Final Decision : Disposed Off

Judgement

Rajesh Bindal, J.—This order will dispose of RFA Nos. 3989 to 3999, 4632 to 4638, 5355, 6830 and 6831 of 2011, 428, 429, 1543 and 1544 of 2012 filed by the land owners seeking enhancement in the amount of compensation awarded by the learned court for the acquired land. Briefly, the facts of the case are that vide notification dated 28.4.2008, issued u/s 4 of the Land Acquisition Act, 1894 (for short, ''the Act''), the State of Haryana, acquired 7.125 acres of land, situated in villages Nangla Mayan, Mamaria Thether, Mamaria Ahir, Mamaria Assampur and Kadhu alias Bhawani Pur, Tehsil and District Rewari for construction of Nangla Extension Distributory from K.M. 5.750 to 9.470 of taking from K.M. 14.700/L of Dewana distributory. The same was followed by notification dated 12.5.2008, issued u/s 6 of the Act. The Land Acquisition Collector (for short, ''the Collector''), vide award dated 23.12.2008 determined the market value of the acquired land @ Rs. 16,00,000/- per acre. Dissatisfied with the award of the Collector, the landowners filed objections, which were referred to the learned court. The learned reference court determined the market value of the acquired land @ Rs. 20,00,000/- per acre. It is this award which is impugned by the land owners before this court.

2. Learned counsel for the land owners submitted that though there is a clear

finding recorded by the court below that on account of acquisition of land for construction of Nangla Extension Distributory, the land owned by the land owners has been divided into two parts and they are entitled to damages on account of severance, however, while assessing the value of the acquired land @ Rs. 19,90,000/- per acre, the court below merely granted Rs. 10,000/- per acre on account of severance and assessed the compensation @ Rs. 20,00,000/- per acre. Considering the fact that the land was acquired for construction of distributory, the land owners were not able to approach the other portion of land, as no bridges were provided.

3. On the other hand, learned counsel for the State, while not disputing the fact that the land of the land owners has been divided into two parts with the acquisition of land, submitted that the land owners have been sufficiently compensated on that account. In fact, the value of the land was assessed on the higher side. That had taken care of the damages on account of severance of land. The land owners were not entitled to any further compensation on that account.

4. Heard learned counsel for the parties and perused the relevant referred record.

5. In the present case, the Collector had assessed the compensation of the acquired land @ Rs. 16,00,000/- per acre, which was enhanced to Rs. 20,00,000/- per acre by the court below. While assessing the compensation, considering the sale deeds produced on record, the court below determined the same at Rs. 19,90,000/- per acre and rounded of the same to Rs. 20,00,000/- per acre observing that Rs. 10,000/- per acre shall be on account of damages for severance of land. The fact that the land of the land owners has been divided with the acquisition of land for the purpose of construction of distributory is not disputed. The development in the area is evident from the sale deeds produced by the State. Some of them were post acquisition, showing substantial increase in the value of the land. Reliance thereon cannot be disputed by the State as those were produced by it. The State is not in appeal. These facts show that it is satisfied with the findings recorded by the court below pertaining to valuation of land. It cannot be disputed that on account of acquisition and construction of a distributory, it becomes difficult to cultivate the other portion of the land and to cross over to the other side. The level of the distributory is always above the level of the land, which makes it difficult to irrigate or use the divided portions of the land to its optimum and also to approach the other portion of the land. The bridges, if any, are provided at a distance and the land owners have to take a longer route to reach other part of the land. On that account, the land owners deserve to be compensated. In my opinion, damages on account of severance to the tune of 20% on the value of the acquired land would be just and reasonable. Accordingly, the landowners are held entitled to damages on account of severance @ 20% on the value of the acquired land. They shall also be entitled to statutory benefits available under the Act. While calculating the statutory benefits, the learned court below shall keep in view the judgment of Hon''ble the

Supreme Court in State of Punjab Vs. Amarjit Singh and Another,

The appeals are disposed of accordingly.

