(2019) 11 SHI CK 0033

In the High Court Of Himachal Pradesh

Case No : Regular First Appeal No. 76 Of 2011

State Of H.P. & Ors — APPELLANT

Vs

Rikhi Ram (Since Deceased) Through His Legal Heirs — RESPONDENT

Date of Decision : 11-11-2019

Acts Referred:
Land Aquisition Act, 1894 — Section 4

Citation : (2019) 11 SHI CK 0033

Hon'ble Judges : Sureshwar Thakur, J

Bench : Single Bench

Advocate : Y.S. Thakur, Vijay Sharma

Final Decision : Dismissed

Judgement

Sureshwar Thakur, J

1. The State of Himachal Pradesh, is, aggrieved by the award pronounced by the learned Reference Court, upon, reference petition, bearing Case No. 2 FTC/4 of 2009, wherethrough, the, market value of the acquired land, hence, stood assessed, at, the rate, of, Rs. 25,000/- per biswas, and, on the afore market value, of, the land, the learned reference court bestowed, vis-a-vis, the land put to acquisition, all the, statutorily ordained benefits.

2. The Land Acquisition Collector concerned, vis-a-vis, the cultivable land hence had assessed compensation, at, the rate of Rs.1,13,250/- per bigha, and, qua the uncultivable land, he had, assessed compensation, at, the rate of Rs.9,060/- per biswa, (i) and, thereagainst, the reference petition bearing Case No. 2FTC/4 of 2009, stood constituted, by the aggrieved landowners, before the learned Reference Court, and, thereon, the, impugned verdict become rendered. The Land Acquisition collector had made reliance, upon, Ex.RW1/B, exhibit whereof, is, a sale exemplar, appertaining to Village Harthu. However, the reliance made thereon, hence, by the Land Acquisition Collector, became benumbed, under, the impugned award, given the land borne in Ex.RW1/B, occurring remotely, from,

the acquired land. Obviously, hence, the, afore reason(s), acquires reinforced vigour, as, Ex.RW1/B, hence, omitted to mete apt satiation, vis-a-vis, the predominant principle, of, proximity, hence occurring, inter se, the, location(s), of, lands, borne in Ex.RW1/B, and, vis-a-vis, the acquired land(s).

3. Be that as it may, the learned reference Court, for, assessing compensation amount, vis-a-vis, the aggrieved landowners, had, made dependence, upon, Ex.P-1, a sale exemplar, proven to be validly, and, duly executed, (a) and, also not proven to be carrying any rigged sale transaction, (b) and, the afore made dependence thereon, is, both apt, and, befitting, as, the land borne therein, stands located, within Mohal Dadal, (c) whereupon, vis-a-vis, the lands borne in Ex.P-1, hence, becoming located, at Dadal, render them, to, rather fall within, the, territorial domains, of, the acquired land, (d) and, when hence the imperative principle, of, proximity in location angle, inter se, the sale exemplar, borne in Ex.P-1, and, vis-a-vis, the acquired land, becomes rather satiated, thereupon, the meteing of reliance thereon, is, both apt, and, valid.

4. Furthermore, thereonwards, the execution, of, Ex.P-1 occurred two years four months prior, to, the making, of, a notification under Section 4, of, the Land Acquisition Act, and, when within the afore duration, of, times, escalations in the market value, of, the land, has visibly occurred, (a) thereupon, the meteings, of, 20% escalation, vis-a-vis, the sale consideration, borne in Ex. P-1, for, hence determining the compensation amount, vis-a-vis, the acquired land, also become meritworthy, and, valid.

5. In addition, when no other sale exemplar become adduced, at the instance of the respondents, hence, satiating the requisite parameter(s) qua proximity in location angle, and, also qua proximity, in, time angle, inter se, the, purported sale exemplar, and, the acquired land, hence emerging, and, when this court, hence, for the reasons aforestated, rather has dispelled the efficacy, of, Ex. RW1/B, thereupon, the impugned award, does not, suffer from any infirmity, and, is, amenable for affirmation, by, this Court.

6. Lastly, the learned Additional Advocate General has contended, that, with the tract of land, borne in Ex.P-1, being minimal, whereas, the acquired land, being larger in size, vis-a-vis, the land borne in Ex.P-1, (a) thereupon, suitable deductions were enjoined, to be meted, vis-a-vis, the sale consideration, embodied in Ex.P-1, for hence, just, reasonable, and, fair compensation, rather becoming determined, vis-a-vis, the acquired land. However, the afore submission, cannot be accepted, as, the meteing of deduction(s), towards development costs, is, vindicable, (b) only when the acquisition of the land, is, made for raising colonies, or for developing, from hitherto undeveloped tracts, of, acquired land, hence, saleable plots, (c) contrarily, when the acquisition, of, the hereat acquired lands, hence is evidently made for the construction, of, a road, (d) and, when the afore acquisition of the land, is not ingrained, with, any profiteering motive, of, the state, and, rather, is, a holistic welfare activity, nor when any expenses towards developing, of, plots , from, the hitherto

undeveloped land, is, enjoined, to be incurred, hence, no deduction, vis-a-vis, the applicable hereat market value of the land, borne, in, Ex.P-1, is to be meted, for, thereafter adjudging hence just, fair, and, reasonable compensation, vis, the acquired land.

7. For the foregoing reasons, there is no merit in the instant appeal, and, it is dismissed accordingly. In sequel, the award impugned before this Court, is, affirmed and maintained. All pending applications also stand disposed of.

