(2011) 11 P&H CK 0063

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 3014 of 2011 (O and M)

Union of India and Others APPELLANT

Vs

Rattan Chand RESPONDENT

Date of Decision : 02-11-2011

Acts Referred:

Citation : (2012) 1 RCR(Civil) 192

Hon'ble Judges : Rakesh Kumar Garg, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Kumar Garg, J.—The Union of India has filed the instant appeal challenging the impugned award dated 8.9.2010 of the Reference

Court whereby compensation with regard to super structure of the respondent-claimant has been assessed at Rs. 90,000/-.

2. Vide award dated 15.3.1993 by the Special Land Acquisition Collector, Pathankot, super structure of the claimant-respondent was assessed at

Rs. 47416.60 P.

3. Feeling aggrieved from the aforesaid compensation for their super structure, the claimant filed application for making the reference to the

Competent Court and the same was forwarded to the Additional District Judge, Pathankot (exercising the powers of Reference Court) for

adjudication.

4. Upon notice, the appellants appeared and contested the application stating that the compensation for the super structure was assessed on the

basis of expert knowledge of the official of PWD (B&R) Department, Punjab and as per the rates approved. It was also stated that the structure was temporary and could not be used for residential and commercial purposes. There was no water supply and electricity provided to the

aforesaid structure. The material used in the construction of the structure was also not as per PWD specifications and thus, prayer for dismissal of

the reference application was made.

5. The parties were given an opportunity to lead evidence. The respondents produced one Ved Parkash Saini (AW-2) who proved the site plan

and valuation report of the super structure in question. On the basis of Ex. AW-1, the value of the super structure at the time of acquisition was

assessed at Rs. 1,25,000/-. It may also be mentioned that the appellant has relied upon the report of the Surveyor who prepared the assessment

report of the super structure in question at the time of the acquisition of the land prior to the passing of the award by the Land Acquisition

Collector. However, it may be noticed that even the aforesaid report of the Surveyor of the appellant- Department had assessed the value of the

super structure at Rs. 55,290/-. Not only this, it has also come on record that the aforesaid assessment was made by the Govt. officials keeping in

view the schedule rates of the year 1987 as approved by the State of Punjab. In fact the Reference Court while passing the impugned award has

observed that no criteria to assess the exact value of the structure has been placed before the Court and therefore, in order to strike equity, the

average of both the values, as assessed by the respective parties, is taken by guess work on average basis and thus, the compensation has been

assessed at Rs. 90,000/- for the super structure.

6. The Hon''ble Supreme Court in Prithvi Raj Taneja (Dead) by Lrs. Vs. The State of Madhya Pradesh and Another, and O.A.K Nachimuthu

(Dead) by LRs and others v. Revenue Divisional Office, Erode Tamilnadu AIR 2001 SC 2414 has observed that it is not possible to determine the

compensation amount with mathematical precision and assessment in such matters is bound to involve a certain degree of guess work.

7. Thus, keeping in view the aforesaid discussion, I find no merit in this appeal and the same is hereby dismissed.

8. Since the appeal has been decided on merits, the question of condoning the delay in filing this appeal does not survive.