

**NON-REPORTABLE**

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO.9207 OF 2012**

Manmohan Lal Gupta (Dead) Thru Lrs. ....Appellant(s)

Versus

Market Committee Bhikhi & Ors. ....Respondent(s)

**J U D G M E N T**

**A.S. Bopanna,J.**

1. The appellant is before this Court assailing the judgment dated 15.07.2009 of the High Court of Punjab and Haryana at Chandigarh, passed in RFA No.1586/2005. The said appeal was also included in the common judgment passed by the High Court in RFA No.2082/2004 and other analogous appeals. Through the said judgment the High Court has determined the market

value of the land at Rs.90/- per sq. yard plus the other statutory benefits. The said determination of market value amounts to reduction from what has been determined by the Additional District Judge, Mansa (hereinafter referred to as the 'Reference Court'). The appellant is therefore claiming to be aggrieved by the judgment impugned herein.

**2.** The land, in all measuring 31 acres 1 kanal and 4 marlas was notified for acquisition in order to develop the new grain market. The preliminary notification under Section 4 of the Land Acquisition Act, 1894 (for short 'L.A. Act') was issued on 30.11.1992. In the total extent notified the land measuring 10 kanals 17 marlas comprised in khewat/khatauni No.123/221 bearing khasra No.1207/2/2, situate in Bhikhi, beside the Highway from Bhatinda to Chandigarh, belonging to the appellant was also included. After following the due process as provided under Section 5-A of the L.A. Act, the declaration under Section 6 of the L.A. Act was notified on 24.12.1993. The Land Acquisition Officer (for short 'LAO') through the award dated 15.01.1996 determined the market value of

Nehri land at Rs.45019/- per acre and of Gair mumkin land at Rs.59378/- per acre, plus statutory benefits.

**3.** The appellant as also several other similarly placed land owners being aggrieved by the market value as determined by the LAO filed their objection and sought reference under Section 18 of the L.A. Act. Accordingly, the consideration for enhancement was referred to the Reference Court, Mansa. In the proceedings before the Reference Court, 18 cases including that of the land belonging to the appellant was taken up for composite consideration. The evidence that was tendered in the lead case of Saroj Rani was taken note and a common determination of the market value was made. In the said process the Reference Court took into consideration the sale deed dated 31.05.1995 and also the sale deed dated 03.06.1996 which were marked as Exhibits A-1 and A-2 as the sale exemplars. In that light having taken into consideration the location of the property concluded that the market value had not been appropriately fixed by the LAO. In the said process the Reference Court also took into consideration that the lands under the subject

acquisition could be categorised as the land which is adjacent to the Highway, the lands that are abutting those lands which are adjacent to the Highway and also the lands which were situate thereafter. The three categories were considered as first, second and third lot. Accordingly, the market value of the land situate in the first lot was determined at Rs.140/- per sq. yard, the second lot was determined at Rs.120/- per sq. yard and for the third lot the market value determined was Rs.100/- per sq. yard. In addition, the statutory benefits were also ordered to be paid.

**4.** The beneficiary of the acquisition, namely, Market Committee, Bhikhi, District Mansa preferred appeals before the High Court, among which RFA No.1586/2005 pertained to the appellant herein. In the said appeal the beneficiary of acquisition had assailed the enhancement of market value made by the Reference Court. Certain land owners had also preferred cross appeals seeking further enhancement of the compensation among which RFA No.2053/2004 was the appeal filed by the appellants herein seeking enhancement of the market value.

**5.** The High Court having clubbed the appeals, on consideration was of the opinion that the reliance placed by the Reference Court on the sale deeds which were at Exhibits A-1 and A-2 was not justified, inasmuch as, the said sale deeds were relating to transactions subsequent to the notification for acquisition. On discarding the said documents the High Court while taking note of the remaining documents has opined that the sale deed marked at Exhibits A-17 to A-27 relating to the very properties under acquisition would be the proper exemplars to be taken into consideration. In that light, the sale consideration paid under Exhibit A-22 was taken as the basis and on arriving at the price per square yard, added increase at 12 per cent for every year and also added an additional sum of Rs.12/- per sq. yard, thereby arriving at the market value of Rs.90/- per sq. yard. The High Court also concluded that the classification of the properties in question into three lots was not appropriate since all the lands had the road running beside it and had the same advantages. Hence, the said determined market value of Rs.90/- per sq. yard was made uniformly

applicable in respect of all the lands which were the subject matter of the acquisition initiated under the preliminary notification dated 30.11.1992. The appellant land losers therefore being aggrieved by the reduction in market value has filed this appeal.

**6.** Dr. Romesh Gautam, learned senior counsel appearing for the appellant referred to the appeal papers including the judgments passed by the Reference Court as also the High Court. The contention is that the land belonging to the appellant is situate adjacent to the main road which had high commercial potential and as such the determination as made by the Reference Court itself was on the lower side, which in fact required further enhancement. In that situation when the Reference Court had determined the market value of the land at Rs.140/- per sq. yard the same ought not to have been reduced by the High Court, instead it should have been enhanced. It is contended that it is common knowledge that the value of immovable property will always appreciate and in such situation, appropriate market value was required to be determined by keeping this aspect in view. The land

belonging to the appellant is Gair mumkin land which was considered as the land to which higher compensation than Nehri land was payable, even according to the determination made by LAO. In such event the market value now determined by the High Court is on lower side which calls for interference and if not further enhancement of the market value from what is determined by the Reference Court, at least, the award of Reference Court should be restored.

**7.** Mr. Jagjit Singh Chhabra, learned counsel appearing for the beneficiaries of the acquisition seeks to justify the judgment passed by the High Court. It is contended that as rightly noticed by the High Court the sale exemplars at Exhibits A-1 and A-2 relied upon by the Reference Court related to the sale transactions which were subsequent to the date of the acquisition notification. The sale consideration under such documents cannot be the basis to determine the market value. When there was no other appropriate exemplar available, the High Court keeping in view the earlier decisions of this Court has taken into consideration the very sale deeds under which the land

owners had purchased the lands and has in fact taken into consideration the appreciation at a higher percentage. In such event the appellants cannot have any grievance in this regard. He therefore seeks the dismissal of the above appeal.

**8.** In the light of the rival contentions, we have perused the appeal papers. The nature of consideration made by the Reference Court would indicate that the Reference Court has taken into consideration the documents at Exhibits A-1 and A-2 as the exemplar sale deeds. The sale consideration under the said documents at Rs.70,000/- (Rupees seventy thousand only) and Rs.1,44,000/- (Rupees one lakh forty-four thousand only) was taken note; keeping in view the extent purchased under the said sale deeds had worked out the sale consideration at Rs.400/- per sq. yard. From the said amount reduction was made for the difference in time gap and the value was determined at Rs.140/-, Rs.120/- and Rs.100/- per sq. yard in respect of the three lots of the properties which had been classified and bifurcated by keeping in view the location of the property from the main road. Though the



formula adopted to determine market value was justified, the reliance on the said documents at Exhibits A-1 and A-2 cannot be sustained since the sale deeds being dated 31.05.1995 and 03.06.1996 had come into existence much later than 30.11.1992, the date on which the preliminary notification was issued and the same was published in the newspapers on 11.12.1992 and 14.12.1992. This Court, in the order dated 13.09.2021 passed in C.A. Nos.3875-3876 of 2009 has referred to the turbulent period in Punjab prior to 1992 when the land value had crashed due to exodus. Since the position had improved only after 1992 the comparison of land value subsequent thereto to the value prior thereto would not be appropriate. Therefore, the sale consideration under the said documents cannot be the basis to determine the market value of the property in question, for which the date of the preliminary notification would be relevant.

**9.** In that view, we are of the opinion that the High Court was justified in discarding the sale exemplars at Exhibits A-1 and A-2. Further the High Court having taken into consideration the nature and location of the

property was also of the opinion that the classification made by the Reference Court as first, second and third lot was not justified. When the different items of property in the different survey number were acquired for the same purpose of establishing the market yard and as observed by the High Court since all the lands had the road passing beside it, a common determination of the market value was the appropriate course. In that view, the said observation of the High Court is justified. In that background, the determination of the market value which would be applicable to all the lands which were the subject matter of the acquisition was to be made when the various land owners had also filed their appeals. The determination of the common market value which is applicable to all the lands as made by the High Court is justified.

**10.** In that regard to arrive at the appropriate market value, the High Court having discarded the documents at Exhibits A-1 and A-2 had taken note of the remaining documents. In order to rely upon Exhibits A-17 to A-24 as also Exhibit A-27 i.e., the sale deeds under which the

properties were purchased by the land owners the High Court has referred to the decision of this Court in ***The Dollar Company, Madras vs. Collector of Madras*** (1975) 2 SCC 730 and in ***V. Subrahmanya Rao vs. Land Acquisition Officer*** (2004) 10 SCC 640. The said decisions have been extracted in detail and noted. It is to be noted that such sale exemplars of the very property in question would in a normal circumstance be appropriate if the sale instance is closer to the period of acquisition. In the case which was referred by the High Court the sale instances were around ten months prior to the notification. Be that as it may, in the absence of such sale instances which were closer to the date of the notification in the instant case, the High Court has taken guidance from the decisions of this Court in ***Shakuntalabai (Smt.) and Ors. vs. State of Maharashtra*** (1996) 2 SCC 152 and ***Om Prakash (Dead) by LRs. & Ors. vs. Union of India & Anr.*** (2004) 10 SCC 627 whereunder this Court had indicated the percentage of appreciation to be considered per year when earlier sale instances are taken

into consideration and the acquisition notification is of a subsequent date.

**11.** It is in that light, the High Court, from the documents at Exhibits A-17 to A-27 has taken the document at Exhibit A-22 i.e., a sale deed dated 04.06.1981 whereunder the price paid for the extent of 1 kanal and 9 marlas at Rs.25,000/- (Rupees twenty-five thousand only) as the basis. On taking the said price into consideration, the amount was worked to Rs.1,31,931/- (Rupees one lakh thirty-one thousand nine hundred and thirty-one only) per acre, which on being divided would work out to Rs.34/- per sq. yard. To the said amount the High Court has added 12 percent appreciation per year from 1981 to 1992 and arrived at the market value at Rs.78/- per sq. yard. An additional value of Rs.12/- per sq. yard was added as escalation by taking note that the reference to Exhibits A-1 and A-2 would indicate that there was steep increase of the prices in Punjab after the situation had improved. Therefore, the total market value was arrived at Rs.90/- per sq. yard, in addition to which the statutory benefits were also ordered. The

consideration as made by the High Court is in accordance with law, which would not call for interference. The method followed would indicate that the contentions raised by the learned senior counsel for the appellant would stand answered since the location of the property, the potentiality of the property and appreciation of the value has been kept in perspective while determining the market value with reference to the date of notification.

**12.** In addition to the above, it is also brought to our notice that one other land owner, namely, Shri Sudesh Kumar whose appeal bearing RFA No.2092/2004 was also considered under the same common judgment dated 15.07.2009 impugned herein was before this Court in SLP(C) No.15535/2010 assailing the very impugned judgment. This Court by the order dated 29.04.2011 has dismissed the special leave petition *in limine*. Further, though the appeal filed by the appellants herein in RFA No.2053/2004 (O&M) against the very judgment passed by the Reference Court dated 20.02.2004 was pending before the High Court without being tagged with RFA No.1586/2005 filed by the Market Committee against the

same judgment of the Reference Court, the said RFA No.2053/2004 has however subsequently been dismissed by the High Court on 25.05.2015.

**13.** Therefore, having noted all the above aspects of the matter we see no reason to interfere with the impugned judgment dated 15.07.2009 passed by the High Court in RFA No.1586/2005. Accordingly, the above appeal being devoid of merit stands dismissed with no order as to costs.

**14.** Pending application, if any, stands disposed of.

.....**J.**  
**(M.R. SHAH)**

.....**J.**  
**(A.S. BOPANNA)**

**New Delhi,**  
**September 20, 2021**