

[Non-Reportable]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 488 OF 2018

(Arising out of SLP (Civil) No. 2223 of 2017)

State of Punjab and Ors.

.....Appellants

Versus

Thuru Ram

.....Respondent

J U D G M E N T

MOHAN M. SHANTANAGOUDAR, J.

Leave granted.

2. The Judgment
dated
06.05.2015
passed by the
High Court of
Punjab &
Haryana at
Chandigarh in
R.F.A. No. 2435

of 1996 is called in question by the State of Punjab on the ground that the compensation ordered to be paid in respect of the fruit trees standing on the acquired land is liable to be reduced substantially.

- 3.** Land of the respondent was acquired along with trees standing on it for construction of

Hydel Channel.

A notification under Section 4 of the Land Acquisition Act, 1894

(hereinafter referred to as 'the Act') was issued on 12.01.1990 and the declaration under Section 6 of the Act was made on 28.02.1990.

The Land Acquisition Collector passed the supplementary

award

awarding

compensation

of the fruit

trees standing

on the acquired

land on

10.03.1993.

Reference

Court had

rejected the

reference

sought by the

respondent

holding that

the award

made by the

Land

Acquisition

Collector was

proper and

correct. The respondent approached the High Court of Punjab & Haryana by filing the appeal which came to be allowed by the impugned judgment and reference was accepted awarding compensation to the tune of Rs. 5,77,377/- for the standing trees on the acquired land

along with other statutory benefits as per Sections 23(1-A), 23(2) and 28 of the Act. Hence, this appeal by the State.

4. Heard the parties. The counsel for appellant taking us through the material on record submits that the judgment of the High Court is liable to be set aside inasmuch

as it has not considered the evidence in proper perspective while coming to the conclusion. She has drawn our attention to certain paragraphs of the judgment of the reference court in support of the said contention. Per contra, learned advocate for the respondent argued in

support of the judgment of the High Court.

5. The

respondent/the claimant relied upon Exhibit A.1. i.e. the assessment report of AW-2 prepared by an expert, in support of his contention seeking enhancement.

On the other hand, the State relied upon the opinion of another expert i.e. RW-2 (the

report of RW-2
is at Exhibit
R.1.) to contend
that the
respondent is
not entitled for
compensation
as sought in
respect of the
trees.

6. According to
respondent,
396 fruit trees
were standing
on the acquired
land of the
respondent.

They were,
orange 28,
peach 76,
mausami 135
and mango

157. The Land Acquisition Collector awarded total compensation of Rs. 37,321.12 including 30 percent solatium and 12 percent increase in respect of such fruit trees. As mentioned supra, the reference court on evaluating the material on record confirmed the

award of the
Land

Acquisition

Collector.

7. Though, the

respondent

(AW-1) claimed

that the 396

fruit trees were

standing, in his

deposition he

stated that they

were 250 fruit

trees which

included

amrood, orange

and mango.

Such trees were

4 to 5 years

old. The expert

examined by

the respondent

i.e. AW-2
Sunder Singh
is a retired
District
Agricultural
Officer who
served for 34
years in various
capacities.
According to
his report total
value of all the
trees was
Rs.6,35,114.70.
Certain other
factors such as
distance of land
from the town
etc. are also
deposed by
him.

Per contra, the Patwari (RW-1) examined on behalf of the appellant State has produced khasra girdawari register of the relevant village in respect of certain years. The total area of the acquired land belonging to the respondent is 7 kanals 2 marlas (less than 1 acre). In 1985-86, wheat and other crops were shown to have sown in the land. However, subsequently orchard (Bagicha) has been added with different ink in the crops column and according to him such entry was made, i.e. adding the word Bagicha, without any order from the competent authority. No initials were also found. According to RW-2, Horticulture Development Officer the acquired trees of the respondent were found to be of 'D' category. He has given the value of every kind of standing fruit trees. The valuation of RW-2 is far less than the valuation provided by AW-2.

8. The expert examined by the respondent (AW-2) has admitted that there was a tank for storing water and

buckets were lying. Meaning thereby the respondent was allegedly watering the fruit trees by pouring water with the help of buckets. There was no perennial source of water. In that regard the reference court concluded that the irrigation facility was scanty. AW-2 has further

deposed that there could be 90 fruit trees in one killa (equal to one acre). If, only 90 fruits trees can be planted in one killa (one acre), we are at a loss to understand as to how there could be 250 trees or 396 trees in 7 kanals and 2 marlas of land (less than one acre) that too of B category as is sought to be

contended by the respondent.

9. In view of the above, it is clear that the High Court has overlooked certain material aspects of the evidence before coming to the conclusion. The High Court needs to consider the entire material in proper perspective afresh. Hence, the matter is to be remitted to the High Court

of Punjab &
Haryana for
fresh disposal
in accordance
with law.

Ordered

accordingly, the
matter is
remitted to the
High Court.

The impugned
judgment is set
aside. Appeal
stands

disposed off
accordingly.

.....**J.**
(ARUN MISHRA)

.....**J.**
(MOHAN M. SHANTANAGOUDAR)

New Delhi
Dated: January 19, 2018