

SUPREME COURT OF INDIA

State of Punjab

Vs.

Thuru Ram

C.A.No.488 of 2018

(Arun Mishra and Mohan M.Shantanagoudar,JJ.,)

19.01.2018

JUDGMENT

Mohan M.Shantanagoudar,J.,

SLP(Civil) No. 2223 of 2017

1. Leave granted.
2. The Judgment dated 06.05.2015 passed by the High Court of Punjab & 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 over looked 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.