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JUDGMENT SHEET
IN THE LAHORE HIGH COURT AT LAHORE
JUDICIAL DEPARTMENT

REGULAR FIRST APPEAL No. 271 of 1999.

(The Land Acquisition Collector, etc. vs. Mst. Mashallah Begum, etc.)

J U D G M E N T

Date of hearing **21:06:2010.**

Appellants by **Mr. Jahanzeb Khan Bharwana,**
Advocate.

Respondents No.1 to 10 by **Mr. M. Javed Iqbal, Advocate.**

NASIR SAEED SHEIKH, J:- This RFA is directed against the judgment and decree dated 29.04.1998, passed by the learned Senior Civil Judge, Gujranwala, disposing of a reference under section 18 of the Land Acquisition Act, 1894 against the award dated 20.10.1991 (Ex.R.1) which award was assailed by the land owners.

2. Precisely stating the facts of the case are that total land measuring 8 *kanals*, 12 *marlas* belonging to the private respondents was acquired by the National Highway Authority for the construction of additional carriageway in village Ashfaq Abad/Qila Chait Singh, tehsil and district, Gujranwala. The compensation as fixed for acquiring this land was Rs.1968.65 per marla as per the award announced dated 20.10.1991. In addition to the said price, 15%

compulsory charges were allowed and 8% compound interest was also directed to be awarded to the respondents owners by the Land Acquisition Collector of National Highway Authority.

3. The reference was contested by the appellants. The learned Senior Civil Judge framed the following issues:-

ISSUES.

1. *Whether the reference is not proceedable in its present form? OPR.*
2. *Whether the reference is incompetent for the grounds mentioned in preliminary objection No.2 of the written reply? OPR.*
3. *Whether the reference is barred by time? OPR.*
4. *Whether the reference is bad for non-joinder of necessary parties, if so, who they are and what is the effect of their non impleadment? OPR.*
5. *Whether the petitioners are estopped from bringing this petition by their act and conduct? OPR.*
6. *Whether the compensation of the suit land was incorrectly and inadequately assessed, if so, what is the correct amount of the compensation? OPP.*
7. *Relief.*

4. The parties produced their respective evidence and vide impugned judgment and decree

dated 29.04.1998, the learned Senior Civil Judge, Gujranwala modified the amount of compensation from Rs.1968.65 to Rs.5,000/- per marla for the subject land. The remaining awarding of 15% compulsory charges and 8% compound interest were also allowed to remain intact.

5. The instant RFA has been filed by the Land Acquisition Collector, Highway Division, District Gujranwala and the National Highway Authority through General Manager, Lahore.

6. It is contended by the learned counsel for the appellants that the modification in the compensation allowed by the learned Senior Civil Judge is not in accordance with the general price list Ex.R.2 made about the subject land by the Board of Revenue. It is further contended by the learned counsel for the appellants that the impugned judgment and decree is not sustainable.

7. The learned counsel for the respondents has controverted the arguments of the learned counsel for the appellants by arguing that for the purpose of determination of compensation by the learned Senior Civil Judge/Referee Court, the matter has been decided on the basis of evidence produced by the parties. The learned counsel for the respondents has submitted that the respondents produced sale deed (Ex.A.1) dated 13.08.1983 showing the price of Rs.5,000/- per marla of the land situated in the vicinity of the subject land. The learned counsel for the respondents has further

argued that *Aks Shajra* (Ex.A.2) showing the location of the subject property was also produced. The learned counsel thus argued that the appellants did not produce any proof of the compensation or price of the subject land through some transaction at the relevant time when notification under section 4 was issued with respect to the acquisition of the subject land, therefore, the learned counsel for the respondents has contended that evidence produced by the private respondents remained un-rebutted and that the valuation made by the Board of Revenue has no legal sanctity.

8. When confronted with this proposition, the learned counsel for the appellants again relied upon the document Ex.R.2 reflecting evaluation made by Board of Revenue, however, he could not state as to under which provision of law, the general valuation made by the Board of Revenue can have a binding effect upon a Referee Court as against the documents of sale deed produced as Ex.A.1 and *Aks Shajra* produced as Ex.A.2 by the private respondents.

9. We have considered the arguments of the learned counsel for the parties and have perused the record.

10. The learned Senior Civil Judge has relied upon sale deed (Ex.A.1) and the proof of the location of the subject property through Ex.A.2 *Aks Shajra* and has determined the compensation to be awarded to the

respondents at the rate of Rs.5,000/- per marla of the subject land. This evidence produced by the respondents has not been rebutted through proof of any specific transaction of sale established by the appellants in the vicinity of the subject land. The learned Senior Civil Judge thus relied upon not only documentary evidence produced by the respondents, but has also discussed the relevant case law as cited in paragraph No.7 of the impugned judgment. The learned Senior Civil Judge has discussed the evidence in details in paragraph No.10 while recording his findings on Issue No.6 and has determined the compensation at the rate of Rs.5,000/- per marla as declared in the relief clause of the impugned judgment and decree dated 29.04.1998.

11. We are not persuaded by the learned counsel for the appellants to interfere in the judgment passed by the learned Senior Civil Judge. We do not therefore consider any merits in this RFA, which is **DISMISSED**, with no orders as to costs.

(Mian Shahid Iqbal)
JUDGE.

(Nasir Saeed Sheikh)
JUDGE.

M. Ayoub