

11.07.2018

Present: Mr.Basant Thakur, Advocate vice Mr.Ramakant Sharma, Sr. Advocate as Amicus Curiae.

Ms.Jyotsna Rewal Dua, Sr. Adocate with Ms.Charu Bhatnagar, Adocate, for NHAI.

Mr.Rajesh Kumar Sharma, ASGI, for Union of India.

Mr.Ashok Sharma, Advocate General, with Mr.Ajay Vaidya, Sr.Additional Advocate General, M/s Ranjan Sharma, Adarsh Sharma, Ms.Rita Goswami, Mr.Nand Lal Thakur, Additional Advocate Generals, for the respondents-State.

Sh.Prashant Deshta, Sub-Divisional Magistrate, Nalagarh-cum-CALA and Sh.Subhash Saklani, OSD (CALA), are present in Court.

2. In the affidavit dated 02.07.2018, *inter alia*, following averments are made:-

“8.5. As in the case of Haryana, the average sale rates and the Circle rates in respect of land proposed to be acquired in the State of Himachal Pradesh in respect of the stretch falling in the State of Himachal Pradesh were also found to be unrealistic/astronomically higher than the rates at which the sale deeds had been executed. A copy of the details of the Circle Rates and the Average Sale Deed rates in the State of Himachal Pradesh, as obtained from the SDM-cum-CALA, Nalagarh is also enclosed as Annexure-IV. Even the method of calculation of the basic land rates by the CALA did not prima-facie appear to be in accordance with Section-26 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR Act, 2013), as applicable to the National Highway Act, 1956.

... ..

“8.7 It is evident from the above that a proposal, which entailed an estimated civil construction cost of Rs. 420 crores and the estimated land cost of about Rs. 650 crores would prima-facie be an unviable project and the Ministry

of Road Transport & Highways and the NHAI may find it extremely difficult to proceed further with such a proposal, especially when there are serious questions about the genuineness of the Collector/Circle Rates vis-a-vis the actual market rates in these stretches of both the states. The issue of determination of the basic market price of the subject land under acquisition for the proposed stretch of the National Highway is being reviewed in consultation with the respective State Governments and a decision on further roadmap for execution of the said project would be dependent on the outcome of this exercise by both the State Governments.

9. The Ministry of Road Transport & Highways and the NHAI, as submitted hereinbefore, have taken up the matter with both the states and are hopeful of an early review/resolution of the issues. It is, therefore, respectfully prayed that this affidavit may kindly be taken on record and orders as deemed fit and proper may kindly be passed in the interest of justice”.

3. We direct the Chief Secretary, to the Government of Himachal Pradesh, to forthwith take a decision on the issue, for the matter is pending consideration before him. Needful be positively done within a period of two weeks.

4. Learned Advocate General, assures that needful shall positively be done within the aforesaid period. We may only point out the urgency, for if no such decision is taken, it appears that the entire project may become economically unviable and the Central Government, may not accord approval with respect to the same.

5. List on 01.08.2018, before which date, affidavit of the Chief Secretary, to the Government of Himachal Pradesh, be positively filed on the action taken report.

6. The SDM-cum-CALA, Nalagarh, has explained the circumstances under which the market value stood determined.

7. The officers present in Court, need not remain present in Court, unless so required.

List on 01.08.2018.

(Sanjay Karol),
Acting Chief Justice.

July 11, 2018
(Purohit)

(Tarlok Singh Chauhan),
Judge.