

SUPREME COURT OF AZAD JAMMU AND KASHMIR
[Appellate Jurisdiction]

PRESENT:

Raja Saeed Akram Khan, J.
Ghulam Mustafa Mughal, J.

Civil Appeal No.159 of 2019
(PLA filed on 29.05.2019)

Muhammad Rasheed son of Fazal Hussain,
caste Jatt, r/o Sangot, Tehsil and District
Mirpur.

....APPELLANT

VERSUS

1. Collector Land Acquisition Mangla Dam
Raising Project, Mirpur.
2. WAPDA through Chairman WAPDA,
WAPDA House Mall Road Lahore.
3. Superintending Engineer/Project
Director Mangla Dam Raising Project,
Mirpur.
4. Azad Government of the State of
Jammu and Kashmir through its Chief
Secretary Azad Jammu and Kashmir,
Muzaffarabad.

....RESPONDENTS

(On appeal from the judgement and decree of the High Court dated 29.03.2019 in civil appeal No.823 of 2009)

FOR THE APPELLANT: Mr. Muhammad Khalil Ghazi, Advocate.

FOR THE RESPONDENTS: Mirza Zaidullah, Advocate.

Date of hearing: 24.02.2020

JUDGMENT:

Raja Saeed Akram Khan, J.—The above titled appeal by leave of the Court has been directed against the judgment and decree passed by the High Court on 29.03.2019, whereby the appeal filed by the appellant, herein, has been dismissed.

2. The facts necessary for disposal of this appeal are that a brick kiln, owned by the appellant was acquired for Mangla Dam Raising Project. The Collector Land Acquisition assessed the compensation of the brick kiln as Rs.29,98,410/-. The appellant feeling dissatisfied from the compensation amount

determined by the Collector filed a reference application and claimed that the market value of the brick kiln is not less than Rs.2,00,00,000/- and he is entitled to get the same amount. The learned Reference Judge after necessary proceedings while accepting the reference application enhanced the compensation to the tune of Rs.3,89,793/-. The appellant, herein, again feeling aggrieved filed an appeal before the High Court for further enhancement in the compensation amount. The learned High Court dismissed the appeal through the impugned judgment, hence, this appeal by leave of the Court.

3. Mr. Muhammad Khalil Ghazi, Advocate, the learned counsel for the appellant argued that the impugned judgment is against law and the facts of the case. He submitted that the appellant by producing cogent evidence proved his claim but the

learned High Court has not appreciated the same in a legal manner. The learned counsel while referring to the contents of award forcefully submitted that the compensation amount determined by the Collector is the result of miscalculation but the learned High Court even has not considered this aspect of the case.

4. On the other hand, Mirza Zaidullah, Advocate, the learned counsel for the respondents strongly controverted the arguments advanced by the learned counsel for the appellant. He submitted that the appellant failed to produce before the Collector the details of income tax paid by him; moreover, he also failed to bring on record any solid evidence before the Reference Judge; thus, in such state of affairs, the learned High Court has not committed any illegality while dismissing the appeal.

5. We have heard the arguments of the learned counsel for the parties and gone through the record along with the impugned judgment. The perusal of the impugned judgment shows although, the learned High Court has discussed the evidence brought on record but the other point; i.e., miscalculation made by the Collector in the award, has not considered and resolved. The learned counsel for the respondents during the course of arguments also failed to satisfy the Court in respect of the point of miscalculation. As the learned High Court has not attended/resolved the point (*supra*), therefore, to get the wisdom of the High Court at first, we deem it proper to remand the case.

6. In view of the above, the impugned judgment is set aside and the case is remanded to the learned High Court with the direction to decide the same afresh within a

period of one month positively from the communication of the judgment of this Court.

The appeal stands accepted in the above terms with no order as to costs.

Mirpur,
25.02.2020

JUDGE

JUDGE

