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Punjab & Haryana High Court at
Chandigarh

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RFA No. 1460 of 2003 (O&M)
Date of decision : 24.8.2015

Jit Singh and others .. Appellants

versus

Union Territory, Chandigarh .. Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. P. C. Dhiman and Mr. Vijay Lath, Advocates,
for the landowners.

Mr. Deepak Sharma and Mr. Vishal Sodhi,Advocates,
for Union Territory, Chandigarh.

Rajesh Bindal, J.

1. This order will dispose of the following appeals:-

RFA Nos. 1460,1461, 1535 to 1537, 1540 to 1545, 1558, 1928 to 1932, 2021, 2175, 2387 to 2401, 3020 to 3028 of 2003,

RFA Nos. 132, 133, 157, 158, 440, 894 to 923, 999, 1245 to 1259 of 2004,

RFA No. 259 of 2010,

RFA Nos. 4497 to 4499 of 2012,

Cross objection nos. 70/CI of 2003 in RFA No. 2389 of 2003, 71/CI of 2003 in RFA No. 2397 of 2003, Cross Objection No. 140/CI of 2004 in RFA No. 911 of 2004 and Cross Objection No. 131/CI of 2010 in RFA No. 259 of 2010, as the same arise out of common acquisition.

2. By filing appeals and cross-objections, the landowners are seeking enhancement of compensation for the acquired land, whereas by filed appeals, Union Territory, Chandigarh, is seeking reduction of compensation.

3. Briefly, the facts are that vide notification dated 19.3.1999, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the

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Act'), the Chandigarh Administration sought to acquire 30.78 acres of land situated in village Hallo Majra, Hadbast No.219 and 32.92 acres of land situated in village Behlana, Hadbast No.231, Union Territory, Chandigarh, for use by Defence Security Forces. Notification under Section 6 of the Act was issued on 23.3.1999. The Land Acquisition Collector (for short, 'the Collector') vide award dated 18.1.2000 assessed the market value of the acquired land of both the villages @ ₹ 6,87,837/- per acre. Dissatisfied with the award of the Collector, the landowners filed objections. On reference, the learned court below determined the market value of the acquired land of both the villages @ ₹ 9,65,000/- per acre. This award has been impugned in the present set of appeals.

4. Learned counsel for the landowners submitted that the land in question is strategically located. It is adjoining and behind the land already acquired by Chandigarh Administration for CRPF and ITBP. It is abutting abadi of the village. Acquired land of both the villages adjoins each other. It is a compact big chunk of land. Compensation awarded by the learned Court below is quite meager. The sale-deeds produced on record by the landowners have been ignored and merely reliance was placed upon earlier award pertaining to acquisition of land way back in the year 1989 (Ex. P76) and increase for the time gap was granted @ 12% per annum. The same would not be appropriate in the case in hand for the reason that there are sale transactions available in the area adjoining to the acquired land and forming part of the acquired land. Further the increase in value of the land in Chandigarh was at a very high pace. This fact is evident from the sale transactions produced on record. Even in the sale transactions, fair value of the land cannot be depicted as there are lot of restrictions for the use of land, which can be used only for the purpose of agriculture. The learned counsel for the landowners referred to the following sale-deeds:-

Name of the village	*Exhibit*	*Date of sale-deed*	*Area*	*Amount paid in ₹*	*Average price per acre in ₹*
Behlana	Ex. P43 in LAC No. 97/2000/2002	26.3.1997	3½ marlas	50,000/-	22,85,714/-
	Ex. P44 in LAC No. 97/2000/2002	7.5.1997	3 marlas	45,000/-	24,00,000/-
Hallo Majra	Ex. P73 in LAC No. 235/2000/2002	7.10.1994	12 biswas	1,91,000/-	15,28,000/-
	Ex. P74 in LAC No. 235/2000/2002	29.2.1996	6 biswas	1,00,000/-	16,00,000/-

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5. The submission is that the aforesaid sale-deeds are quite relevant considering the location pertaining to the land dealt with therein. If average sale consideration paid therein is considered, the compensation payable to the landowners deserves to be enhanced further.

6. On the other hand, learned counsel for Union Territory, Chandigarh submitted that the sale-deeds produced by the landowners before the learned Court below, which have been referred to before this Court, have rightly been discarded by the learned Court below for the reason that the same pertained to small plots, whereas the acquisition was for land measuring 30.78 acres of village Hallo Majra and 32.92 acres of village Behlana. It was further submitted that in case the sale-deeds pertaining to small plots are to be relied upon, a reasonable cut has to be applied on account of size and development charges. It was further submitted that the learned Court below has further gone wrong in awarding compensation by adding 114% amount awarded for the acquisition carried out way back in the year 1989. Firstly increase for the time gap can be granted in case there is positive evidence available on record showing appreciation of prices during that period. Further Hon'ble the Supreme Court in *Lal Chand vs Union of India* 2010(3) RCR (Civil) 172 had deprecated grant of increase for the time gap of more than five years. In the case in hand, the time gap was more than ten years between the present acquisition and the acquisition relied upon.

7. Heard learned counsel for the parties and perused the relevant referred record.

8. It is admitted case of the parties that land of both the villages is adjoining to each other.

9. As far as the location of the acquired land is concerned, the same pertains to revenue estates of villages Hallo Majra and Behlana. As per site plan, Ex. P-1, part of the acquired land abuts the National Highway No. 21. Adjoining to that on both sides, the land was acquired vide notification under Section 4 of the Act dated 22.11.1985 for CRPF and vide notification under Section 4 of the Act dated 13.10.1989 for ITBP. The part of the land is sandwiched between the aforesaid two acquisitions and part is

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located behind. The landowners have relied upon the following sale-deeds:-

Name of the village	*Exhibit*	*Date of sale-deed*	*Area*	*Amount paid in ₹*	*Average price per acre in ₹*
Behlana	Ex. P43	26.3.1997	3 ½ marlas	50,000/-	22,85,714/-
	Ex. P44	7.5.1997	3 marlas	45,000/-	24,00,000/-
Hallo Majra	Ex. P73	7.10.1994	12 biswas	1,91,000/-	15,28,000/-
	Ex. P74	29.2.1996	6 biswas	1,00,000/-	16,00,000/-

10. The award of the learned Court below assessing compensation while relying up the compensation awarded for earlier acquisition in the area for ITBP where notification under Section 4 of the Act was issued on 13.10.1989, cannot be sustained. Hon'ble the Supreme Court in Lal Chand's case (supra) opined that in case increase for the time gap in two acquisitions has to be granted, the same should normally be not more than five years.

11. The approach of the learned Court below in rejecting the sale transactions pertaining to small plots is also not appropriate. If the sale-deeds are found to be relevant vis-a-vis the location of the acquired land, the same can also be relied upon, however, a reasonable cut on account of size and development charges has to be applied. The acquisition in the present case was for land measuring 30.78 acres of village Hallo Majra and 32.92 acres of village Behlana, whereas the sale-deeds are of small plots ranging from 3 marlas to 12 biswas of land. The land pertaining to sale-deed, Ex. P43 and Ex. P44 whereby the land measuring 3½ marlas and 3 marlas respectively was dealt with is located close to the abadi of the village Behlana. Size of the plots sold in village Behlana is also quite small as compared to the acquired land. In sale deeds, Ex. P73 and Ex. P74 pertaining to land of village Hallo Majra, where 12 biswas and 6 biswas of land respectively was dealt with. The entire land is contiguous and I do not find that there is any special advantage attached to the land pertaining to the aforesaid two sale-deeds. The aforesaid two sale-deeds can very well be relied upon for the purpose of assessment of compensation. As the sale-deed, Ex. P73, was registered on 7.10.1994 for a sale consideration of ₹ 1,91,000/-, for the land measuring 12 biswas, 4 years and 5 months prior to the issuance of notification under Section 4 of the Act in the present case, to bring the value shown therein at par on the date of the notification under

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Section 4 of the Act, increase @ 12% per annum is to be added. While adding the same, the value shall come to Rs. 23,38,000/- per acre. The sale-deed Ex. P74, was registered on 29.2.1996 for 6 biswas of land for a sale consideration of ₹ 1,00,000/- at an average price of ₹ 16,00,000/- per acre. By adding increase @ 12% per annum for the time gap of 35 months, the value shall come out to ₹ 21,76,000/- per acre. The average sale consideration paid in both the sale-deeds shall come out to ₹ 22,57,000/- per acre.

12. Considering the fact that the aforesaid two sale-deeds pertained to comparatively smaller plots as compared to the acquired land, in my opinion, a cut of 50% is required to be applied for the purpose of assessment of compensation for the acquired land. After application of the cut, value of the acquired land will come out to ₹ 11,28,580/- (round off to ₹ 11,30,000/-) per acre.

13. For the reasons mentioned above, the appeals and the cross-objections filed by the landowners are allowed. The appeals filed by the Union Territory, Chandigarh, are dismissed. The compensation for the acquired land is assessed @ ₹ 11,30,000/- per acre. The landowners shall also be entitled to the statutory benefits available under the Act.

24.8.2015 (Rajesh Bindal)
vs Judge

(Refer to Reporter)