IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.F.A. No. 4170 of 2001 (O&M)
Date of decision: October 21, 2015

Gurjant Singh

.. Appellant

v.

Union of India and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. M. L. Sarin, Senior Advocate with
Mr. Hemant Sarin, Advocate for the landowners
(in RFA Nos. 4170 to 4173 of 2001).

Mr. Vivek Singla, Advocate for the respondents-
Union of India.

Rajesh Bindal J.

1. This order will dispose of

R.F.A. Nos. 4170 to 4173, 4555, 5060, 5061, 5561, 5781 and 5782 of **2001;**

RFA Nos. 95 to 99, 223 to 231, 425 to 442, 446, 447, 450 to 469, 803, 843 to 846, 1661 and 3953 of **2002;**

RFA Nos. 846, 4461 to 4471, 4524 of **2003;**

RFA Nos. 2494 and 2495 of **2004** and

RFA Nos. 518, 528 and 1184 of **2005.**

In the appeals filed by the land owners, they are seeking further enhancement of compensation for the acquired land, whereas in the appeals filed by Union of India, the prayer is for reduction thereof.

Briefly, the facts of the case are that vide notification dated 10.5.1991, published on 19.7.1991, issued under Section 4 of the Land Acquisition Act, 1894 (for short, `the Act'), Union of India sought to acquire 32 acres of land, situated in the revenue estate of village Mehna Patti, District Bathinda for setting up an Air Force Colony. The same was followed by notification dated 15.9.1992, issued under Section 6 of the Act. The Land Acquisition Collector (for short, `the Collector') vide award dated 27.8.1993, assessed the market value of the acquired land @ ₹ 1,00,538/- per acre for Nehri land and ₹ 93,533/- per acre for Barani land.

Dissatisfied with the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below assessed the market value of the acquired land @ ₹ 3,00,000/- per acre. It is this award which has been impugned before this court by both the parties.

Learned counsel for the landowners submitted that the learned court below has failed to appreciate the evidence led by the landowners on record in the form of two sale deeds (Ex. AW6/A and Ex. AW9/A). Vide sale deed (Ex. AW6/A) dated 11.7.1988, plot measuring 100 square yards was sold at an average price of ₹ 100/- per square yard, whereas vide sale deed (Ex. AW9/A) dated 19.7.1988, plot measuring 100 square yards was sold at an average price of ₹ 120/- per square yard. The land dealt with in both the sale deeds is forming part of the acquired land. To substantiate the plea, learned counsel referred to khasra number, as mentioned in the sale deeds, linking the same to the acquired land, as mentioned in the award of the Collector. The acquisition otherwise was also for a small chunk of 32 acres of land for the purpose of setting up an Air Force Colony. The acquired land is situated on Bathinda-Bibiwala-Nathana road. On the North side of the acquired land, there is ITBP Complex; on the East Bathinda-Bibiwala-Nathana road and beyond that Cantonment areas and on its south is Polytechnic College, Bathinda as well as other residential colonies. The acquired land is located at a distance of 3 kilometers from Court Complex as well as General Bus Stand, Bathinda and almost the same distance from Railway Station. There are number of commercial establishments including shops, marriage palaces, ice factories, stores etc. and even some of the concerns have constructed their godowns and stores much beyond the acquired land. It had great future potential. While referring to the judgments of Hon'ble the Supreme Court in Smt. Shakuntalabai and others v. State of Maharashtra, (1996) 2 SCC 152 and V. Subrahmanya Rao v. Land Acquisition Zone Officer, (2004) 10 SCC 640, it was submitted that the learned court below had committed an error in merely placing reliance upon an earlier award pertaining to acquisition of land for construction of Government Polytechnic Institute at Bathinda and granting increase thereon for a time gap of about 9-1/2 years @ 12% per annum. Even that calculation was not correctly made. Once the sale deeds pertaining to the acquired land were available, those deserved to be relied upon for the purpose of assessment of compensation. He further referred to the Collector's rate (Ex. AY) in the area, which was ₹ 3,75,000/- per acre. He further submitted that even out of two sale deeds produced on record by the landowners, one showing highest value, i.e., sale deed (Ex. AW9/A) should be relied upon. While granting increase for the time gap @ 12% per annum, compensation be assessed by applying a reasonable cut considering the potentiality of the land. He further submitted that the fact that there were 53 land references for acquisition of 32 acres of land shows that holding of the landowners was quite small. Small plots were being sold in the area for construction of houses.

On the other hand, learned counsel for Union of India submitted that the learned court below has not properly assessed the compensation for the acquired land. There was no good reason to grant increase for a period of 9-1/2 years while relying upon the award in the case of acquisition of land for Government Polytechnic Institute and granting increase @ 12% per annum thereon. He further submitted that it was the era when the State was affected by terrorism. There was hardly any buyer of the land. The compensation as assessed by the Collector was just and reasonable and the same did not call for any interference by the court below.

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

In the case in hand, the land is located on Bathinda-Bibiwala-Nathana road. After crossing the city, adjoining to the acquired land, there is Ammunition Dump. Thereafter, the acquired land is located and then ITBP colony is there. It is no in dispute that at the time of acquisition, the land in question was not forming part of the municipal limits.

As far as the sale deeds produced by the landowners are concerned, a perusal of the khasra number mentioned in the sale deeds and the award of the Collector, if read with statements of AW6-Baldev Singh and AW9-Gurjant Singh, it is evident that the land pertaining thereto is forming part of the acquired land. It is a matter of common knowledge that Punjab was passing through a very bad phase of terrorism at the time when the aforesaid sale deeds were registered. Even at the time when the land in question was acquired, the State of Punjab was under President's rule from 11.6.1987 to 25.2.1992. The then Chief Minister of Punjab was assassinated in 1995, hence, to claim that during that period the prices of the land increased, without there being any evidence on record in support thereof, is a far-fetched argument. The sale consideration shown in the aforesaid two sale deeds registered almost at the same time is ₹ 100/- and ₹ 120/- per square yard. The variation itself suggests that prices depended on the location.

In my opinion, as the specific location of the land pertaining to the aforesaid sale deeds is not available on record, in my opinion, it would be safe to take average of both the sale deeds which shall come out to ₹ 110/- per square yard. Considering the turmoil to which the State of Punjab was passing through at that time, there was hardly any appreciation in the prices. Even otherwise, there is no evidence produced on record by the landowners in support of that claim, hence, in my opinion, no increase for the time gap can be granted to the landowners from the date of registration of the sale deeds till the issuance of notification under Section 4 of the Act, as grant of increase for the time gap is also dependent on the development in the area and appreciation of prices. The area dealt with in the sale deeds was quite small as the same is 100 square yards each and the acquired land being a big chunk, in my opinion, a cut of 40% would be reasonable. Applying the same, the value of the acquired land shall come out to ₹ 3,19,440/- per acre, which is rounded off to ₹ 3,20,000/- per acre.

Accordingly, the landowners are held entitled to compensation @ ₹ 3,20,000/- per acre. They shall also be entitled to statutory benefits available to them under the Act. The appeals filed by the landowners are allowed, whereas the appeals filed by Union of India are dismissed.

(Rajesh Bindal)
Judge

October 21, 2015
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