

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

RFA No. 2358 of 2007 (O&M)
LAC No. 51 of 8.6.2004

Date of decision : 10.12.2015

State of Haryana and others	VS	.. Appellants
Surjan and others		.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Abhinash Jain, Assistant Advocate General, Haryana.

Mr. Jarnail Singh Saneta and Mr. Arun Singal, Advocates,
for the landowners/cross-objectors.

Rajesh Bindal, J.

This order will dispose of RFA Nos. 4668 to 4697 of 2006, 2358, 2359 of 2007 and Cross Objection Nos. 35/CI, 36/CI, 46/CI to 53/CI, 56/CI, 57/CI, 59/CI to 63/CI of 2007, 61/CI to 65/CI of 2013, as the same arise out of common acquisition.

By filing appeals, the State of Haryana is seeking reduction in compensation for the acquired land, whereas by filing Cross-objections, the landowners are seeking enhancement thereof.

Briefly, the facts are that vide notification dated 9.9.1998, published on 10.9.1998, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the State of Haryana sought to acquire land measuring 73 kanals 5 marlas situated in village Dumiana, Hadbast No.56, and 161 kanals 5 marlas of village Urlana Khurd, Hadbast No.50, Sub Tehsil Madlauda, Tehsil and District Panipat, for construction of New Urlana Khurd Minor from RD 0– 45285 off taking at RD – 12300/L Butana Branch in the area of villages Dumiana and Urlana Khurd. Notification under Section 6 of the Act was issued on 10.2.1999 and published on 18.2.1999. The Land Acquisition Collector (for short, 'the Collector') vide

award no.1 dated 17.6.2000 pertaining to village Urlana Khurd assessed the value of the acquired land @ ₹ 1,65,000/- per acre for chahi/nehri, ₹ 1,00,000/- per acre for barani, ₹ 50,000/- per acre for banjar kadim thur and ₹ 3,75,000/- per acre for gair mumkin kinds of land and vide award no.2 dated 14.6.2000, assessed the market value of the acquired land of village Dumiana @ ₹ 1,50,000/- per acre for nehri/ chahi, ₹ 1,00,000/- per acre for barani, ₹ 50,000/- per acre for banjar kadim Thur and ₹ 3,37,500/- per acre for gair mumkin kinds of land. Dissatisfied with the awards of the Collector, the landowners filed objections. On reference, the learned court below vide different awards determined the market value of the acquired chahi/ nehri kind of land @ ₹ 2,00,000/- per acre. These awards have been impugned by both the parties before this Court.

Learned counsel for the landowners submitted that the learned Court below had not assessed the compensation considering the sale-deeds produced on record by the landowners which established that value of the acquired land in the area was much more than what has been granted. It was further submitted that the learned court below has not granted any compensation on account of severance of land. Undisputedly, the land in question was acquired for construction of Urlana Khurd Minor, which bifurcated the land into two portions. The submission is that it became uneconomical and difficult for them to cultivate the two portions of land, divided by the channel. The submission is that inspite of the fact that bifurcation of the land is undisputed but still the learned court below in some cases has granted severance but in some cases rejected the claim of the landowners. It was submitted that all the landowners are entitled to compensation on account of severance. In support of the submissions, reliance was made to Smt. Narinder Kaur vs The State of Punjab and others 1980 PLR 473 and State of Punjab through Collector Kumerian Hydel Channel Project, Talwara vs Amar Nath and others 1988 LACC 310.

On the other hand, learned counsel for the State submitted that just and fair compensation has been assessed by the Collector. The sale-deeds sought to be relied upon by the landowners are for small plots and may be located near the abadi of the city, as no site plan showing their location has been placed on record, whereas the acquired land is located far

away from the city as it was acquired for construction of minor. He further submitted that number of sale-deeds had been produced on record by the State which have wrongly been discarded. The same can very well be considered for the purpose of assessment of compensation. However, he did not refer to any site plan produced on record by the State showing location of land pertaining to the sale-deeds produced. He further submitted that unless the landowners prove any loss having been suffered by them on account of acquisition of land, they cannot be granted any compensation on account of severance. The landowners have been provided siphon and *pulia* as per instructions of the Government and there is no difficulty in irrigating the land on both sides of the newly constructed minor. Hence, their claim regarding severance does not survive.

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

The land in the present case was acquired on 9.9.1998 for construction of New Urlana Khurd Minor from RD 0 – 45285 off taking at RD – 12300/L Butana Branch in the area of villages Dumiana and Urlana Khurd. No site plan was placed on record by either of the parties to show the location of the land pertaining to the sale-deeds produced by them in evidence vis-a-vis the acquired land. In the absence thereof, it will not be appropriate for this court to compare the location of the land dealt with therein viz-a-viz the acquired land for the purpose of assessment of compensation. The landowners have produced on record sale-deed, Ex.P3, vide which 11 kanals 5 marlas of land was sold for ₹ 2,81,250/-, at an average price of ₹ 2,00,000/- per acre on 16.4.1998. Having relied upon the aforesaid sale-deed, the learned Court below assessed the compensation for the acquired land @ ₹ 2,00,000/- per acre only for the chahi/nehri kind of land instead of ₹ 1,65,000/- and ₹ 1,50,000/- per acre of both the villages. The sale-deeds dated 14.12.1998, Ex.R1 and Ex.R2, produced by the State were rightly discarded as those were post acquisition. The impugned awards passed by the Court below do not call for any interference by this Court, considering the fact that there is no other relevant evidence produced on record regarding valuation of land. Accordingly, their claim to this extent is rejected.

As far as the contention raised by learned counsel for the landowners regarding award of damages on account of severance is concerned, the fact that on account of acquisition of land for construction of New Urlana Khurd Minor, land of the landowners has been divided into two parts, has not been disputed. It has even been so recorded by the Reference Court, but still damages on account of severance of land have not been awarded, which the landowners deserve to be granted. On account of acquisition and construction of a minor/drain/distributory, it becomes difficult to cultivate the other portion of the land and to cross over to the other side. The level of a drain/ minor is always above the level of the land, which makes it difficult to irrigate or use the divided portions of the land to its optimum and also approach the other portion of the land.

Considering the aforesaid facts, in my opinion, all the landowners, whose land has been divided into two portions shall be entitled to damages on account of severance at the uniform rate of 20% of the value of the acquired land. Reference can be made to judgments of this Court in RFA No. 3989 of 2011 Raghunath Singh and others vs State of Haryana and others decided on 24.7.2013 and RFA No. 4824 of 2012 – Smt. Rajwan and others vs State of Haryana decided on 23.8.2013. The land owners shall also be entitled to the statutory benefits available under the Act as interpreted by Hon'ble the Supreme Court in State of Punjab vs Amarjit Singh and another (2011) 4 SCC 734.

For the reasons mentioned above, the appeals filed by the State are dismissed and the cross-objections filed by the landowners are disposed of in the above terms.

10.12.2015
vs

(Rajesh Bindal)
Judge