IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.F.A. No. 3328 of 2008 (O&M)
Date of decision: November 03, 2015

Shingari Devi (deceased) through LRs and others
.. Appellants

v.
State of Haryana and others
.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. S. P. Khatri, Mr. Ashok Tyagi, Mr. Navneet Singh, Mr. Kul Bhushan Sharma, Mr. Ashwani Gaur, Mr. Navneet Singh for Mr. Sukhdeep Parmar, Advocates for the landowners.

Mr. Pritam Singh Saini, Advocate for HSIIDC.

Mr.Vishal Garg, Additional Advocate General, Haryana with Mr. Shivendra Swaroop, Assistant Advocate General, Haryana.

Rajesh Bindal J.

1. This order will dispose of

R.F.A. Nos. 3328 to 3336, 3771 to 3776, 3828 to 3830, 4175 to 4179, 4727, 4728, 4745 to 4752, 4777, 4869, 5096 to 5100, 5266 to 5268, 5276 to 5279 and 5648 of 2008;

RFA Nos. 37, 65, 66, 73, 94 to 97, 388, 712, 811, 847 to 851, 1618, 1850 to 1928, 2198 to 2218, 2503, 2504 of 2009;

RFA Nos. 1272 and 1273 of 2010;

RFA Nos. 1836, 1837, 2282, 2324, 2325, 3681, 4147, 4524, 4860 to 4862, 5163 and 5164 of 2011;

RFA Nos. 4 to 7 of 2012;

RFA Nos. 401 to 403, 484, 485 and 2623 of 2013,

2. In the appeals filed by the landowners, they are seeking further enhancement of compensation for the acquired land, whereas in the appeals

filed by Haryana State Industrial & Infrastructure Development Corporation (for short, 'the Corporation'), the prayer is for reduction thereof.

3. Briefly, the facts of the case are that vide notification dated 21.11.2002, issued under Section 4 of the Land Acquisition Act, 1894 (for short, `the Act'), State of Haryana sought to acquire 322 Acres, 6 Kanals and 6 Marlas of land, situated in village Barhi, HB No. 4, Tehsil Gannaur, District Sonepat for development as Industrial Estate, Phase-II in villages Barhi and Garhi Kesari, Tehsil Gannaur, District Sonepat. The same was followed by notification dated 4.11.2003, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector') vide award No. 1 dated 3.11.2004, assessed the market value of the acquired land as under:

Class of land acquired	Rate per acre in ₹
A Block	10,00,000/-
B Block	6,00,000/-
C Block (Chahi/Nehri)	2,50,000/-
C Block (Banjar/Gair Mumkin)	1,70,000/-

4. Vide same notification, issued under Section 4 of the Act, State of Haryana sought to acquire 61 Kanals and 10 Marlas of land, situated in village Garhi Kesari, HB No. 242, Tehsil Gannaur, District Sonepat for same purpose. The same was also followed by notification dated 4.11.2003, issued under Section 6 of the Act. The Collector, vide award No. 2 dated 3.11.2004, assessed the market value of the acquired land as under:

Class of land acquired	Rate per acre in ₹
Nehri/Chahi	3,00,000/- per acre
Banjar Kadim/ Gair Mumkin	2,20,000/- per acre

5. Dissatisfied with the awards 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 of both the villages @ ₹ 4,26,000/- per acre upto the depth of four acres from National Highway, whereas for rest of the land, the awards of the Collector were upheld.

6. Learned counsel for the landowners, while referring to the site plan (Ex. P16) produced on record submitted that the acquired land is located on GT Road adjoining to the land already acquired for Industrial Estate, Phase-I, Barhi, where notification under Section 4 of the Act was issued on 17.9.1997. For that acquisition, this Court in RFA No. 3272 of 2002—Umed Singh v. State of Haryana and others, decided on 24.12.2010, assessed the compensation @ ₹ 6,50,000/- per acre for the land abutting GT Road upto a depth of two acres and for the rest of the land behind that, the same was assessed @ ₹ 3,60,700/- per acre. It had great future potential. Gannaur Town was not far off. The area surrounding the acquired land was developing at a fast pace. He further submitted that the court below has failed to appreciate the evidence produced on record by the landowners. The sale deed (Ex. P1) pertaining to the land, which was located just opposite the acquired land was not considered. Though it was registered one month after the issuance of notification under Section 4 of the Act, however, the genuineness thereof cannot be disputed, as it was a sale transaction between the owner of the land, whose land was not acquired. He was not interested as such in the valuation of the acquired land. The vendee was Reliance Industries Ltd. The agreement was entered into earlier, though it is not mentioned in the sale deed as such. He further submitted that for the purpose of assessment of compensation of the acquired land, a reasonable cut of 33% can be applied for the land abutting GT Road upto a depth of four acres and for the balance land, further cut of 33% can be applied.

7. Alternative submission is that for the depth of land on GT Road upto two acres, cut of 33% can be applied on the sale consideration shown in sale deed (Ex. P1). For another two acres depth, further cut of 33% can be applied and for the balance land, further cut of 25% can be applied. Still further, the submission is that the earlier award pertaining to acquisition of land for Phase-I can be relied upon and for the time gap of 5 years and two months in two acquisitions, increase @ 15% per annum with compound effect should be granted.

8. Mr. Kulbhushan Sharma, Advocate appearing for some of the landowners argued that the entire land should be assessed at uniform rate and no belting system should be applied.

9. On the other hand, learned counsel for HSIIDC while not disputing the location of the land, submitted that there are sale deeds produced on record by the State, which were registered after the issuance of notification under Section 4 of the Act and the land pertaining to which was acquired. Those have been totally ignored by the learned Reference Court, even though those are the best exemplars. The land dealt with in the sale deeds produced by the State is of large area. The sale consideration shown therein justify the award of the Collector. It was further submitted that once there are sale deeds available, which were registered after the earlier acquisition, the earlier award should not be relied upon.

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

11. As far as location of the land is concerned, the same is not in dispute. The land adjoining to the land in question was acquired earlier vide notification dated 17.9.1997. The compensation therefor was assessed by this Court in Umed Singh's case (supra) @ ₹ 6,50,000/- per acre for the land abutting GT Road upto a depth of two acres and for the rest of the land behind that, the same was assessed @ ₹ 3,60,700/- per acre. The aforesaid judgment has been upheld by Hon'ble the Supreme Court in Special Leave to Appeal (Civil) CC No. 13024 of 2012—M.D., HSIIDC v. Surat Singh and others, decided on 9.8.2012.

12. Learned counsel for the landowners sought to rely upon the sale deed (Ex. P1) dated 23.12.2002, which was registered after the issuance of notification under Section 4 of the Act and the vendee therein is Reliance Industries Ltd. This mere fact shows that higher price may have been paid for small portion of land as compared to the price of the land in the area on account of specific requirement as the sale transaction is pertaining to 8 kanals and 18 marlas of land, hence, in my opinion, it would not be safe to place reliance thereupon. As far as the sale deeds produced by the State are

concerned, those were registered after the issuance of notification under Section 4 of the Act and the land pertaining to which is part of the acquisition, in my opinion, it would not be safe to place reliance even thereupon as those were distress sales. The land having already been notified under Section 4 of the Act, these transactions will not depict fair value of the land in the area.

13. In the aforesaid fact situation, now this court is left with the earlier award pertaining to acquisition of adjoining land five years earlier. It cannot be disputed that there was development in the area earlier with the acquisition of land for Industrial Estate, Phase-I. The land is abutting GT Road. Gannaur town is also not far off.

14. Considering the aforesaid facts, in my opinion, the landowners deserve to be granted increase @ 12% per annum for the time gap of five years on the value of the land as assessed in Umed Singh's case (supra), where notification under Section 4 of the Act was issued on 17.9.1997 pertaining to the adjoining land and applying the same principle regarding belting, the landowners are held entitled to compensation @ ₹ 10,00,000/- per acre for the land abutting GT road upto a depth of 2 acres and ₹ 5,80,000/- (rounded off) per acre for rest of the land located behind that. The landowners shall also be entitled to all the statutory benefits available to them under the Act.

15. For the reasons mentioned above, the appeals filed by the landowners are allowed and the appeals filed by HSIIDC are dismissed.

(Rajesh Bindal)
Judge

November 03, 2015
mk

(Refer to Reporter)