IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.F.A. No. 2025 of 2009 (O&M)
Date of decision: August 17, 2015

Sh. Kanwaljit Singh Mujral and another

.. Appellants

v.

Union Territory, Chandigarh

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Shailendra Jain, Senior Advocate with
Mr. Bhagender, Mr. P. C. Dhiman, Mr. Hardip Singh
and Mr. Mohan Singh, Rana, Advocates for the
land owners.

Mr. Deepak Sharma, Mr. A. P. Setia,
Mr. Jaivir Chandail and Mr. Vikas Suri, Advocates for
Union Territory, Chandigarh.

..

Rajesh Bindal J.

1. This order will dispose of a bunch of appeals bearing

RFA Nos. 2025, 2026, 2889, 2900, 3167, 3213 to 3215, 3227 to 3235, 3314 to 3345, 3394, 3466 to 3490, 3534 to 3536, 3568, 3719, 3791, 3792, 3810, 3811, 4126 to 4131, 4265 to 4275, 4290 to 4293, 4531, 4634 to 4642, 4645 to 4651, 4652 to 4658, 4910, 4934, 5198, 5208 to 5221, 5226, 5230, 5561, 5574, 5579, 5826 to 5840, 5915, 5916 and 5954 of 2009;

RFA Nos. 358, 359, 369, 427 to 432, 483, 485, 498 to 508, 549, 1035, 1545, 1731, 3041, 4063 and 5001 of 2010;

RFA Nos. 1201, 1715, 2017 to 2027, 3232 to 3238, 3240 to 3278, 3353 to 3357, 3434, 3440, 3464, 4329, 4330, 4363, 4823, 4824, 5369, 6131, 7261, 7262 and 7874 of 2011;

RFA Nos. 39 to 41, 234, 283, 284, 508, 548, 739, 740, 758, 782 1560, 1909 to 1919, 1959, 2835, 3013 to 3016, 3028 to 3069, 3315 to 3317, 4722, 4879, 4919 to 4922, 5309 to 5312, 5387, 5767, 6294, 6530, 6540, 6542 and 6668 of 2012;

RFA Nos. 1622 to 1634, 2490 to 2506, 2788, 2789, 2853, 3322, 3323, 4310, 4397, 4477, 4743, 4744, 5032 to 5034, 5089 to 5096, 5667, 5845, 6126, 6164, 6165, 6628, 6629, 6845, and 6868 of 2013; and

RFA Nos. 1807 to 1809, 2087 and 2094 of 2014;

Cross Objections Nos. 123-CI of 2010 in RFA No. 3228 of 2009, 124-CI of 2010 in RFA No. 2900 of 2009, 133-CI of 2010 in RFA No. 4271 of 2009, 134-CI of 2010 in RFA No. 4652 of 2009, 135-CI of 2010;

Cross Objections No. 38-CI of 2013 in RFA No. 4272 of 2009;

Cross Objections No. 99-CI of 2014 in RFA No. 1731 of 2010 and

Cross Objections Nos. 8-CI of 2015 in RFA No. 4268 of 2009;

as common questions of law and facts are involved.

2. In the appeals and cross-objections filed by the landowners, they are seeking enhancement of compensation for the acquired land, whereas in the appeals filed by Union Territory, Chandigarh, the prayer is for reduction thereof.

3. Briefly, the facts are that vide notification dated 23.12.1999, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), Union Territory, Chandigarh sought to acquire land of villages, namely, Dhanas (105.48 acres), Lahora (14.61 acres) and Sarangpur (37.11 acres) for the purpose of setting up Chandigarh Botanical Garden. The same was followed by notification dated 14.3.2000, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide different awards, awarded the compensation as under:

“Revenue Estate	Date of award	Amount awarded per acre in ₹
Lahora	5.6.2001	5,43,636/-
Sarangpur	29.10.2001	9,70,898/- except Gair Mumkin Nadi, Nala, Riverbed, Choe,Khadan etc.
Sarangpur/Dhanas	8.3.2002	9,70,898/- 2,79,538/- Gair Mumkin Nadi, nala, River Bed, Choe and khadan etc.
Dhanas	8.3.2002	5,32,886/-

4. On reference under Section 18 of the Act, the learned court below assessed the market value of the acquired land @ ₹ 15,50,000/- per acre for all the villages.

5. Vide another notification dated 1.1.2001, issued under Section 4 of the Act, Union Territory, Chandigarh sought to acquire 104.88 acres of land, situated in village Sarangpur, for development of complex for important Projects in village Sarangpur, U.T., Chandigarh. The same was followed by notification under Section 6 of the Act. The Collector, vide award dated 27.12.2002, awarded compensation @ ₹ 9,70,890/- per acre. On reference under Section 18 of the Act, the learned court below assessed the market value of the acquired land @ ₹ 17,20,500/- per acre.

6. In earlier round of litigation, the matters pertaining to acquisition of land, where notifications under Sections 4 of the Act were issued on 23.12.1999 and 1.1.2001, were remitted back to the learned court below by this Court in RFA No. 2632 of 2005—Union Territory, Chandigarh v. Prabhjot Singh, decided on 26.3.2009.

7. After remand, the learned court below assessed the compensation @ ₹ 17,57,400/- per acre pertaining to acquisition of land where notification under Section 4 of the Act was issued on 23.12.1999 and @ ₹ 20,20,000/- per acre for the land acquired vide notification dated 1.1.2001.

8. The aforesaid awards have been challenged in the present set of appeals by the landowners. Union Territory, Chandigarh has not filed any

appeal.

9. Vide another notification dated 20.11.2003, issued under Section 4 of the Act, Union Territory, Chandigarh sought to acquire 1,801 kanals and 8 marlas, situated in village Lahora, HB No. 348, for development of Complex for Important Projects and Allied Purposes, i.e., for Chandigarh Science Park and Institutional Area and the Land Development under the Capital of Punjab (Development and Regulation) Act, 1952. The same was followed by notification dated 18.11.2004, issued under Section 6 of the Act. The Collector, vide award dated 28.2.2005, awarded compensation @ ₹ 15,54,098/- per acre. On reference under Section 18 of the Act, the learned court below assessed the market value of the acquired land @ ₹ 23,13,139/- per acre.

10. Vide same notification, i.e., 20.11.2003, Union Territory, Chandigarh also sought to acquire 87.893 acres of land in village Sarangpur for development of Complex for Important Projects and Allied Purposes i.e. for Chandigarh Science Park and Institutional Area and the Land Development under the Capital of Punjab (Development and Regulation) Act, 1952. The same was followed by notification issued under Section 6 of the Act. The Collector, vide award dated 20.4.2005, awarded compensation @ ₹ 20,24,254/- per acre. On reference under Section 18 of the Act, the learned court below assessed the market value of the acquired land @ ₹ 23,13,139/- per acre.

11. To put the record straight, it may be added here that only the landowners have preferred appeals for enhancement of compensation pertaining to the acquisition of land, where notifications under Section 4 of the Act were issued on 23.12.1999 and 1.1.2001, whereas for the acquired land pertaining to notification dated 20.11.2003, issued under Section 4 of the Act, the landowners as well as Union Territory, Chandigarh have filed appeals and cross objections.

12. Learned counsel for the landowners submitted that considering the location of the land, the amount of compensation awarded by the court below is not just and fair. The land is strategically located adjoining to city Chandigarh. In fact, this was the only area left out, where the land could be

acquired for the purpose of planned development. It falls in the periphery of already urbanised area in Chandigarh. The submission is that this court in RFA No. 2989 of 2006—Union Territory, Chandigarh v. Behal Singh Gill and another, decided on 18.5.2010, had assessed the value of the land acquired vide different notifications. In the said judgment, the value of the land pertaining to village Daddu Majra, acquired vide different notifications, was assessed. Village Daddu Majra is adjoining to village Sarangpur. The potentiality of the land is same. Once this court had assessed the value of the land pertaining to village Daddu Majra, where notification under Section 4 was issued on 29.9.1998, @ ₹ 20,37,532/- per acre, the first notification in the present case having been issued on 23.12.1999 and there being a gap of one year and four months, the landowners be granted increase thereon for the aforesaid time period @ 15% per annum with compound effect. In fact, if considered as compared to village Daddu Majra, the land in question is more valuable as it is located close to PGIMER and Panjab University. On village Daddu Majra side, there is a garbage dump and solid waste treatment plant, which causes a lot of foul smell. It was further submitted that object of Chandigarh Administration is to acquire the land at throw away prices and thereafter sell the same at exorbitant rates. The land measuring 30 acres pertaining to village Lahora, was allotted for the purpose of film city on 2.3.2007 at ₹ 191 crores on lease hold for 99 years (Ex.PW16/3 in LAC No. 138 of 2003).

13. It was further submitted that the sale deed 8.12.1999 (Ex. P23 in LAC No. 138 of 2003) was produced on record. Vide aforesaid sale deed, three kanals of land in village Sarangpur was sold at an average price of ₹ 20,00,000/- per acre. It was just before issuance of notification under Section 4 of the Act on 23.12.1999. No cut is required to be applied as the area dealt with therein was quite large and further the transactions of sale and purchase in Chandigarh, even in rural areas, is restricted on account of application of various Acts. The landowners are not entitled to raise any construction. In fact, these all are kind of distress sales. The land pertaining to the aforesaid sale deed was subsequently acquired, where notification under Section 4 of the Act was issued on 20.11.2003. Reliance

was placed upon a judgment of Hon'ble the Supreme Court in M/s Mahamaya Gen. Finance Co. Ltd. v. State of U. P. and others, 2014(3) RCR (Civil) 311 in support of the argument that no cut deserves to be applied.

14. It was further submitted that the learned court below had first determined the value of the land, where notification under Section 4 of the Act was issued on 1.1.2001 and thereafter determined the value of the land acquired prior thereto vide notification dated 23.12.1999. As far as the land, where notification was issued on 20.11.2003, reference was made to sale deed dated 23.11.2002 (Ex. P42 in LAC No. 146 of 2006), vide which 1 kanal and 19 marlas of land pertaining to village Lahora was sold at an average price of ₹ 32,82,051/- per acre. The aforesaid land was part of the acquired land. There is a time-gap of one year in the sale deed and the notification under Section 4 of the Act. While applying no cut, the landowners should be awarded increase @ 15% per annum on the aforesaid amount.

15. On the other hand, learned counsel for Union Territory, Chandigarh submitted that awards of the court below pertaining to acquisition of land where notification under Section 4 of the Act was issued on 23.12.1999 and 1.1.2001, do not require any interference by court as after remand by this court earlier, the compensation has been further enhanced. Though earlier the Union Territory had filed appeals, however, considering that fair compensation had been awarded, no appeals have been preferred. The allotment of land for film city in the year 2007 has no relevance for determination of compensation for the acquired land as the same was after the acquisition in question and development of the area. Regarding relevance of the judgment of this court in Behal Singh Gill's case (supra), learned counsel submitted that the acquired land therein was adjoining to Sector 38, which was already developed. The acquired land in the present case is located far off therefrom. He further submitted that even sale deed (Ex. P23 in LAC No. 138 of 2003) is of no relevance as the buyer therein was a builder who may have purchased the land for certain specific purpose paying value more than the market value. Otherwise also, that sale deed was got registered a few days prior to the issuance of notification

under Section 4 of the Act, hence, may have been with a view to create evidence for the purpose of claiming more compensation.

16. As far as appeals pertaining to acquisition of land where notification under Section 4 of the Act was issued on 20.11.2003 are concerned, it was submitted that reliance on the earlier award pertaining to acquisition of land in village Daddu Majra has no relevance as the land dealt with therein is not located in the vicinity of the acquired land. The sale deed (Ex. P42) is also of no relevance as the same pertains to a small plot, whereas the acquired land was a big chunk.

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

18. Before the issue regarding valuation of the acquired land is considered, it would be relevant to refer to the location of the acquired land. Moving away from Sector 12 -PGIMER, Chandigarh towards Mullanpur, the planned urbanised area of Chandigarh ends with PGIMER in Sector-12 on one side and Panjab University on the other side of Madhya Marg. Thereafter, there is a protected forest, land for which was acquired where notification under Section 4 of the Act was issued on 19.3.1989. It is followed by a choe and village abadi. Thereafter, the acquired land vide aforesaid three notifications is located on both sides of the road leading to Mullanpur. The land, where notification under Section 4 of the Act was issued on 23.12.1999, is located on left side of the road, whereas the land where notification under Section 4 of the Act was issued on 1.1.2001 is located on the right side at the boundary of Union Territory, Chandigarh with the State of Punjab, whereas the land, where notification under Section 4 of the Act was issued on 20.11.2003, is located adjoining to the same towards Chandigarh. However, part of that touches the boundaries of State of Punjab as well.

19. As valuation of land pertaining to village Daddu Majra has been relied upon, it would be relevant to refer to the location thereof as well. Village Daddu Majra is located on a road leading from Sectors 38, 39 and 40. The aforesaid land was acquired for development as West of Sector 38, which was already developed and on the other side thereof was Sector

39, which had already been developed. Meaning thereby, the aforesaid land was adjoining to the developed planned urbanised area.

20. In the matters pertaining to acquisition of land, where notifications under Section 4 of the Act were issued on 23.12.1999 and 1.1.2001, the Reference Court had earlier assessed the compensation @ ₹ 15,50,000/- per acre and ₹ 17,20,500/- per acre, respectively. The matters were remitted back by this court vide judgment dated 26.3.2009 in Prabhjot Singh's case (supra), while noticing the fact that all three sides, in chunk the land having already having been acquired and used for developed planning with no scope for further acquisition and this being the first acquisition in this area, the parties may be given further opportunity to lead any evidence, as the land pertaining to the sale deed produced on record was not located on any site plan. After the matters were remitted back, on the basis of the evidence led by the parties, the learned Reference Court assessed the compensation for the land where notification under Section 4 of the Act was issued on 23.12.1999 @ ₹ 17,57,400/- per acre, whereas for the land where notification under Section 4 of the Act was issued on 1.1.2001, the value was assessed @ ₹ 20,20,000/- per acre. The landowners were still feeling aggrieved, whereas the Union Territory has not filed appeal, even though the amount awarded is more than what was awarded in the first round of litigation. The issue is as to whether the aforesaid compensation is just and fair or not.

21. To claim higher compensation, reliance was sought to be placed on a judgment of this Court in Behal Singh Gill's case (supra) assessing compensation for acquisition of land in village Daddu Majra. As has already been referred to above, the location of the land in question cannot be compared with that of village Daddu Majra, as the same was located just adjoining to the urbanised area, whereas the land in question is located at a distance with protected forest, choe and village abadi in between. Even the rate at which the land was allotted for film city in the year 2007 also cannot be made the basis for the purpose of assessment of compensation for the acquired land. The amount of compensation assessed for the land, where notification under Section 4 of the Act was issued on

23.12.1999 is ₹ 17,57,400/- per acre. Even a small portion of land measuring 3 kanals of land was sold close to that merely @ ₹ 20,00,000/- per acre. The value assessed for big chunk of land is just about 10% less thereof, which does not call for any interference by this court.

22. As far as the land, where notification under Section 4 of the Act was issued on 1.1.2001 is concerned, as there is a time gap of one year in two acquisitions, the amount of compensation assessed @ ₹ 20,20,000/- per acre also does not call for any interference as there is no appeal by Union Territory. There is no scope for any further increase as no evidence has been referred to for the purpose. The increase is otherwise justifiable in the area on account of location and development in Chandigarh and the surrounding areas and limited availability of land.

23. As far as the land pertaining to acquisition where notification under Section 4 of the Act was issued on 20.11.2003 is concerned, in my opinion, the same deserves to be enhanced. The land beyond that towards Punjab State boundary and opposite that on the other side of the road had already been acquired. On one corner of the acquired land was village abadi towards Chandigarh. Considering the increase in prices in the area and time gap of two years and 10 months between two acquisitions, namely, 1.1.2001 and 20.11.2003, in my opinion, the landowners deserve to be granted increase @ 12% per annum for the time gap in two acquisitions with compound effect. If calculated and rounded off, the amount of compensation would come out to ₹ 27,86,784/- (rounded off to ₹ 27,90,000/-) per acre. The landowners shall be entitled to the same amount of compensation for the entire chunk of land. They shall also be entitled to all the statutory benefits available under the Act.

24. Accordingly, the awards of the learned court below assessing compensation for the land acquired vide notifications dated 23.12.1999 and 1.1.2001 are upheld, whereas the awards of the learned court below assessing compensation for the land acquired vide notification dated 20.11.2003 are modified and the landowners are held entitled to compensation @ ₹ 27,90,000/- per acre along with all statutory benefits available under the Act.

25. The appeals and cross objections filed by the landowners as well as the appeals filed by Union Territory, Chandigarh are disposed of in the manner, indicated above.

(Rajesh Bindal)
Judge

August 17,2015
mk (Refer to Reporter)