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

RFA No. 2870 of 2009 (O&M)
LAC No. 45 of 22.2.2006
Date of decision : 22.9.2015

Gurdev Singh and others .. Appellants

versus

Union Territory, Chandigarh .. Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Chetan Mittal, Senior Advocate with
Mr. Udit Garg, Advocate, Mr. Hardip Singh, Advocate, and
Mr. Mohan Singh Rana, Advocate,
Mr. P. C. Dhiman, Advocate,
Mr. R. N. Maurya, Advocate,
Mr. Rajesh Kumar, Advocate for Mr. R. K. Dhiman, Advocate,
Mr. Tapan Kumar Yadav, Advocate for
Mr. D. S. Raghu, Advocate, for the landowners
in acquisition dated 12.6.2002.

Mr. Hardip Singh, Advocate and
Mr. Mohan Singh Rana, Advocate
Mr. P. C. Dhiman, Advocate, for the landowners
in acquisition dated 11.12.2003.

Mr. P. C. Dhiman, Advocate, for the landowners
in acquisition dated 22.12.2005.

Mr. Vishal Sodhi, Mr. Deepak Sharma, and
Mr. A. P. Setia, Advocates, for the U. T. Chandigarh
in acquisition dated 12.6.2002

Mr. Vishal Sodhi, and Mr. Deepak Sharma,
for the U. T. Chandigarh
in acquisition dated 11.12.2003.

Mr. A. P. Setia, Advocate, for U. T. Chandigarh
in acquisition dated 22.12.2005.

Rajesh Bindal, J.

1. This order will dispose of the following appeals bearing

RFA Nos. 2870 to 2874, 2903, 2904, 2906 to 2921, 3168, 3169, 3375, 3376, 3701 to 3703, 3812 to 3814, 3961, 4575 to 4580, 4664 to 4681, 4781 to 4811, 4843 to 4848, 5029, 5090, 5096 to 5099, 5227, 5560, 5563, 5571, 5801 to 5816, 5818 to

5823, 5825, 5850 to 5863, 5955 of **2009,**

RFA Nos. 333, 447, 960, 1543, 1544, 2275, 2276, 2370, 2396 to 2405, 2977, 3287 to 3291, 4485, 4839 to 4851, 5279 of **2010,**

RFA Nos. 621, 2218, 2219, 5259 to 5263, 5276 to 5280, 6119, 6732 to 6734, 6910, 7111, 7183 to 7198, 7652, 7688 of **2011**,

RFA No. 221 of **2012**

RFA Nos. 962, 963, 1074, 1075, 2812, 2962 to 2968, 3852, 4387, 4409, 4481, 4990 of **2013,**

RFA Nos. 205, 5015, 6700, 6701 of **2014,**

RFA No. 4646 of **2015, and**

Cross-objection Nos. 70/CI to 72/CI, 87/CI, 129/CI of **2010**,

Cross-objection Nos. 18/CI, 26/CI, and 34/CI of **2011,**

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 filing appeals, the Union Territory, Chandigarh, is seeking reduction thereof.

3. Briefly, the facts are that vide notification dated 12.6.2002, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the Chandigarh Administration sought to acquire 56 kanals 1 marla of land situated in village Raipur Kalan, Hadbast No. 371, and land 61.39 acres situated in village Mauli Jagran, Hadbast No. 373, Union Territory, Chandigarh, for setting up of Industrial Area and other allied uses for 3rd Phase. Notification under Section 6 of the Act was issued on 20.11.2002. The Land Acquisition Collector (for short, 'the Collector') vide award no. 559 dated 28.3.2003 assessed the market value of all kinds of land of village Raipur Kalan @ ₹ 11,28,480/- per acre and ₹ 5,11,875/- for gair mumkin nadi, nala, choe and khadan and for the land of village Mauli Jagran @ ₹ 12,19,040/- per acre for all kinds of land and ₹ 5,07,925/- per acre for gair mumkin nadi, nala, choe and khadan. Dissatisfied with the award of the Collector, the landowners filed objections. On reference, the learned court below determined the market value of the entire acquired land of both the villages @ ₹ 20,86,398/- per acre.

4. Vide another notification dated 11.12.2003, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the Chandigarh Administration sought to acquire 181 kanals 11 marla of land situated in village Raipur Kalan, Hadbast No. 371, for planned development including the provision of Gaushala & Cattle Pound & Shelters for stray Animals, Afforestation and Allied uses. Notification under Section 6 of the Act was issued on 8.1.2004. The Land Acquisition Collector (for short, 'the Collector') vide award no. 568 dated 29.3.2004 assessed the market value of the acquired land @ ₹ 7,67,593/- per acre and ₹ 6,14,074/- per acre for normal level land and low lying land respectively. 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 @ ₹ 24,78,000/- per acre.

5. Vide another notification dated 22.12.2005, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the Chandigarh Administration sought to acquire 8.13 acres of land situated in village Mouli Jagran, U.T. Chandigarh, for construction of Route No. 2 from Chandigarh to Panchkula. Notification under Section 6 of the Act was issued on 26.12.2005. The Land Acquisition Collector (for short, 'the Collector') vide award no. 579 dated 22.3.2006 assessed the market value of the acquired land @ ₹ 19,00,000/- 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 @ ₹ 29,82,000/- per acre.

6. These awards have been impugned in the present set of appeals by both the parties.

7. Learned counsel for the landowners submitted that the sale-deeds, Ex.P30 and Ex.P31, both dated 19.3.2002 and sale-deed dated 21.3.2002, Ex. P32, (LAC No. 61 of 2006) which are pertaining to revenue estates of Mauli Jagran and Raipur Kalan, registered three months prior to the date of issuance of notification under Section 4 of the Act, have been totally ignored by the learned Reference Court. The sale consideration paid therein ranges from ₹ 34,94,374/- to ₹ 40,00,000/- per acre. The area dealt with therein is also not small, as it ranges from 2 kanals to 3 kanals. The

bonafide of these transactions is also not in dispute. The compensation for the acquired land deserves to be assessed in terms thereof. Chandigarh is a well planned city. Hardly any land is left, which was not acquired for planned development. Much sale-deeds are not available because there are lot of restrictions on constructions here.

8. It was further submitted that in LAC No. 108 of 2006, the landowners have placed on record sale-deeds, Ex. P46 to Ex. P53, showing value of the land in and around, before and after the acquisition in the area. Sale-deed, Ex. P46, was registered on 7.12.1999, for a sale consideration of ₹ 1,02,00,000/- vide which 40 kanals 16 marlas of land was sold at an average price of ₹ 20,00,000/- per acre in the revenue estate of village Raipur Khurd. Vide sale-deed dated 5.12.2000, Ex.P47, land of village Raipur Kalan measuring 2 kanals was sold at an average price of ₹ 25,00,000/- per acre. Land pertaining to this sale-deed is also forming part of the acquired land. Sale-deeds, Ex. P30 to P-32 (LAC No. 108 of 2006), are same sale transactions which are Ex. P50, Ex. P51 and Ex. P48 respectively. Vide sale-deed, Ex. P49 (LAC No. 108 of 2006), land measuring 13 kanals 3 marlas of land of village Raipur Kalan was sold at an average price of ₹ 1,80,45,113/- per acre on 5.11.2003. Vide sale-deeds, Ex. P52 and Ex.P53 (LAC No. 108 of 2006), land measuring 2 kanals and 2 kanals 11 marlas was sold at an average price of ₹ 1 crore and ₹ 1,02,40,000/- per acre, respectively of village Darua. The purpose for which the land was acquired, namely, setting up of Industrial Area Phase-III, itself shows that the land was fit for industrialization. The landowners should also be benefited with the pace of development.

9. On the other hand, learned counsel for the Union Territory, Chandigarh, submitted that none of the sale-deeds produced on record by the landowners are relevant as these are of small plots or the location thereof is not evident. Three sale-deeds, Ex.P30 to Ex. P32 (LAC No.108/2006), are to be ignored and have rightly been ignored by the learned Reference Court for the reason that those were registered just prior to the issuance of notification under Section 4 of the Act with a view to jack up the price in the area to create evidence. Some of the sale-deeds are located at a far off place where the area was already well developed being

near the Sukhna Lake. The Collector had assessed the compensation taking average of the sale-deeds registered immediately preceding the issuance of notification under Section 4 of the Act. He further submitted that for the acquired land, which was kind of gair mumkin nadi, nala choe and khadan, different amount of compensation was granted by the Collector. The learned Reference Court has committed illegality in treating entire land of one quality. Gair mumkin nadi, nala choe and khadan cannot be equated with the plain area. It was not merely uneven. In support of his arguments, reliance was placed upon judgment of this Court in *Arunash Chander Kaushik vs Union Territory, Chandigarh* 2009 (2) Law Herald 1199. It was further submitted that nearly about one year thereafter, acquisition was carried out for Defence Security Forces in villages Hallo Majra and Behlana, where notification under Section 4 of the Act was issued on 19.3.1999, for which this Court in RFA No. 1460 of 2003 - *Jit Singh and others vs Union Territory, Chandigarh*, decided on 24.8.2015, had assessed the compensation @ ₹ 11,30,000/- per acre. Both the lands are comparable to each other, as the land in question is beyond the Railway line and one has to adopt a longer route to approach Chandigarh. It was close to the land earlier acquired for construction of rehabilitation Labour Colonies, tenements for the slum dwellers.

10. In response to the contention raised by learned counsel for Union Territory, Chandigarh, learned counsel for the landowners submitted that no evidence has been produced by Union Territory, Chandigarh, to show any part of the acquired land was gair mumkin nadi, nala, choe or khadan. Rather in his evidence PW7 Satyabir, Patwari (LAC No. 114 of 2006/2011), stated that the distance of acquired land from the adjoining villages Raipur Khurd, Mauli Jagran, Behlana and Darua is about one kilometer and the land was chahi and the land was levelled to the road. Nothing was stated about the land being low lying area. Hence, the acquired land should be assessed at the same rate.

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

12. From the site plan available on record, the location of the land is evident. It is located beyond the railway line from Ambala to Kalka.

Close to the acquired land was earlier acquired land for rehabilitation colonies or the tenements for the labour. Approach to the land from Chandigarh side was by a longer route. For the earlier acquisitions in village Mauli Jagran notifications under Section 4 of the Act were issued in the year 1991 and 1994. For the acquisition of land for the purpose, namely, rehabilitation of Labour Colonies, notification under Section 4 of the Act was issued on 12.9.1991 and this Court vide order of even date passed separately in RFA No. 1665 of 2011 *Darshan Kumar and others vs Union of India,* upheld the award of the learned Reference Court assessing compensation @ ₹ 192/- per square yard. For the land acquired vide notification under Section 4 of the Act dated 4.4.1998, for rehabilitation of Labour Colonies, this Court vide order of even date passed separately in RFA No. 1484 of 2003 *Munshi Ram Chhabra (deceased) through LRs vs Land Acquisition Collector, Union Territory, Chandigarh,* has awarded compensation @ ₹ 250/- per square yard.

13. The landowners have referred to the following instances for the purpose of assessment of compensation of the acquired land:-

Sr. No.	*Exhibit*	*Sale-deed with date*	*Village*	*Area sold*	*Consideration paid in ₹*	*Rate per acre in ₹*
1	Ex.P2	*Allotment land to DLF*	*Kishangarh*	*12.5 acres*	34,64,00,000/-	2,69,12,000/-
2	*Ex.P39*	Allotment of land to Uppal Housing Pvt. Ltd. In Pocket no. 3 Manimajra on free hold basis	*Kishangarh*	*5.39 acres*	108,01,00,000/-	20,02,25,362/-
3	Ex.P46	07.12.1999	Raipur Khurd	40K–16 M	1,02,00,000/-	20,00,000/-
4	Ex.P47	5.12.2000	Raipur Kalan	2 Kanals	6,25,000/-	25,00,000/-
5	Ex.P48	21.3.2002	Raipur Kalan	2K- 5¼ M	9,90,000/-	34,96,000/-
6	Ex.P49	5.11.2003	Raipur Kalan	2/3rd share out of 1 kanal with building structure	15,00,000/-	1,80,45,113/-
5	Ex.P50	19.3.2002	Mauli Jagran	2 kanals	10,00,000/-	40,00,000/-
7	Ex.P51	19.3.2002	Mauli Jagran	3 kanals	13,50,000/-	36,00,000/-
8	Ex.P52	8.1.2003	Darua	2 kanals	25,00,000/-	1,00,00,000/-
9	Ex.P53	30.5.2003	Darua	2 K 11 M	32,64,000/-	1,02,40,000/-

14. The sale-deeds, Ex. R1 to Ex. R4, produced by the Union Territory, Chandigarh, have rightly been ignored by the learned Court below, as these were executed for sale of the land at the rate of ₹ 6 to ₹ 8 lacs per acre.

15. As far as Exhibits Ex. P2 and Ex.P39, pertaining to allotment of land to DLF and M/s Uppal Housing Private Limited are concerned, the same are not relevant for the reason that the land pertaining thereto is located far off from the acquired land in and around Rajiv Gandhi IT Park, Chandigarh. The area already well planned and developed. Sale-deed, Ex.P49, pertains to a small plot of 2/3rd share out of one kanal along with structure located in the abadi of village Raipur Kalan. Sale-deeds, Ex. P52 and Ex. P53 again are not relevant as those pertained to area located closed to the Railway Station on Chandigarh side, which was being used for commercial purposes. In my opinion, it would not be safe to place reliance upon sale-deeds, Ex. P48, P50 and P51, for the reason that these were registered just 2-3 months before the issuance of notification under Section 4 of the Act almost at the same rate. No doubt, these were claimed to be part of the acquired land, whereas the fact remains that entire sale-consideration including earlier money, though running into lacs of rupees was paid in cash, apparently shows that these were got registered just to create evidence for claiming higher compensation.

16. Sale-deed, Ex. P47, which was registered on 5.12.2000, can be considered to be reliable peace of evidence for the reason that genuineness of this sale-deed cannot be doubted. Vide aforesaid sale-deed, 2 kanals of land was sold at ₹ 6,25,000/-, at an average price of ₹ 25,00,000/- per acre. It was forming part of the acquired land. There is a time gap of 1 year 6 months between the registration of aforesaid sale-deed and issuance of notification under Section 4 of the Act dated 12.6.2002. If increase @ 12% is granted for the aforesaid gap, the amount of compensation shall come out to ₹ 29,50,000/- per acre. The same shall be the compensation for the entire land, except for gair mumkin nadi, nala, choe and khadan of land measuring 315 kanals in village Mauli Jagran and 41 kanals 9 marlas in village Raipur Kalan. The land of this quality cannot be compared with the plain land. It is settled proposition of law that a normal buyer will not pay same price for gair mumkin nadi, nala, choe or khadan, which is being paid for a plain land, hence, the compensation thereof deserves to be assessed at a lesser rate. Earlier also the same principle was applied by this Court in *Arunash Chander Kaushik*'s case (supra).

17. In view of my aforesaid discussions, in my opinion, the landowners for the land acquired vide notification under Section 4 of the Act dated 12.6.2002 deserves to be granted compensation @ ₹ 29,50,000/- per acre for the plain land, whereas for the land which has been classified as gair mumkin nadi, nala, choe and khadan by the Collector, the amount of compensation as assessed by the learned Reference Court is upheld.

18. As far as the land acquired vide notification under Section 4 of the Act dated 11.12.2003 is concerned, the same was acquired 1 year 6 months from the earlier acquisition which was carried out vide notification under Section 4 of the Act on 12.6.2002. Considering the time gap between the two acquisitions, increase @ 12% with cumulative effect would be reasonable. If increase @ 12% per annum with cumulative effect is added on ₹ 29,50,000/- for the gap period of 1 year 6 months between the two acquisition, the compensation comes to ₹ 34,50,000/-. The landowners for the land acquired vide notification under Section 4 of the Act dated 11.12.2003 are granted compensation @ ₹ 34,50,000/- per acre for the plain land, whereas for the land which has been classified as gair mumkin nadi, nala, choe and khadan by the Collector, the amount of compensation as assessed by the learned Reference Court is upheld.

19. In so far as the land acquired vide notification under Section 4 of the Act dated 22.12.2005 is concerned, the same was acquired 2 years from the earlier acquisition which was carried out vide notification under Section 4 of the Act on 11.12.2003. Considering the time gap between the two acquisitions, increase @ 12% with cumulative effect would be reasonable. If increase @ 12% per annum with cumulative effect is added on ₹ 34,50,000/- for the gap period of 2 years between the two acquisition, the compensation comes to ₹ 43,27,680/-, which is rounded off to ₹ 43,28,000/-. The landowners for the land acquired vide notification under Section 4 of the Act dated 22.12.2005 are granted compensation @ ₹ 43,28,000/- per acre.

20. The landowners shall also be entitled to all the statutory benefits available to them under the Act.

21. For the reasons mentioned above, the appeals are disposed of.

To sum up:-

i) the landowners for the land acquired vide notification under Section 4 of the Act dated 12.6.2002 are held entitled to compensation @ ₹ 29,50,000/- per acre for the plain land, whereas for the land which has been classified as gair mumkin nadi, nala, choe and khadan by the Collector, the amount of compensation as assessed by the learned Reference Court shall be payable.

ii) the landowners for the land acquired vide notification under Section 4 of the Act dated 11.12.2003 are held entitled to compensation @ ₹ 34,50,000/- per acre for the plain land, whereas for the land which has been classified as gair mumkin nadi, nala, choe and khadan by the Collector, the amount of compensation as assessed by the learned Reference Court shall be payable.

ii) the landowners for the land acquired vide notification under Section 4 of the Act dated 22.12.2005 are held entitled to compensation @ ₹ 43,28,000/- per acre.

iii) they shall also be entitled to all statutory benefits in terms of the provisions of the Act.

22.9.2015 (Rajesh Bindal)
vs Judge

(Refer to Reporter)