

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.F.A. No. 3787 of 2009 (O&M)
Date of decision: November 06, 2015

Gaje Singh and others

.. Appellants

v.

State of Haryana and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Sudhir Mittal, Rakesh Nehra,
Mr. Alok Jain, Advocates for the landowners.
Mr. Abhinash Jain, Assistant Advocate General, Haryana.
Mr. Pritam Saini, Advocate for HSIIDC.

...

Rajesh Bindal J.

1. This order will dispose of
RFA Nos. 3787, 4078 to 4112, 4144 to 4173, 4724 to 4773,
4775, 4885, 4886, 4904 to 4907 and 5124 of 2009;
RFA Nos. 42 to 81, 107 to 173, 175, 176, 562 to 569, 613 to
615, 1402 to 1420, 1557 to 1566, 1713 to 1722, 1733 to 1736, 1836, 1838
to 1845, 1847 to 1864, 1915 to 1927, 1931 to 1933, 1954, 1955, 2013,
2298, 2299, 2409, 2410, 2510, 2511, 2720 to 2741, 2762 to 2765, 2870,
2974 to 2976, 3492, 3865 to 3869, 4160, 5173 of 2010;
RFA Nos. 2209, 2210, 2636 to 2645, 3709, 3766 to 3768,
6105, 7309, 7310, 7421 to 7426 of 2011;
RFA Nos. 4741, 4847 of 2012;
RFA Nos. 9428 of 2014;
RFA Nos. 34 and 824 of 2015.
2. In the appeals filed by the land owners, they are seeking
enhancement of compensation for the acquired land, whereas in the
appeals filed by Haryana State Industrial & Infrastructure Development

Corporation (for short, 'HSI IDC'), the prayer is for reduction thereof.

3. Briefly, the facts of the case are that vide notification dated 24.1.2001, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the State of Haryana sought to acquire the land, situated in villages Kassar, Bahadurgarh, Sankhol, Jakhoda, Shadpur, Tehsil Bahadurgarh, District Jhajjar for development of Industrial Area, Bahadurgarh. The same was followed by notification dated 22.1.2002, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide award No. 5 dated 23.12.2003 determined the market value of the acquired land @ ₹ 5,50,000/- per acre pertaining to land of village Sankhol.

4. Dissatisfied with the award of the Collector, the landowners filed objections, which were referred to the learned court below. The learned reference court, vide award dated 2.5.2009, determined the market value of the acquired land @ ₹ 8,25,000/- per acre.

5. Pertaining to the land of village Kassar, the Collector, vide award No. 2 dated 8.10.2003, determined the market value of the acquired land @ ₹ 2,00,000/- per acre for Nehri/Chahi, Barani/Banjar Kadim land and ₹ 2,50,000/- per acre for Gair Mumkin kind of land.

6. Dissatisfied with the award of the Collector, the landowners filed objections, which were referred to the learned court below. The learned reference court, vide award dated 24.3.2009, determined the market value of the acquired land @ ₹ 6,75,000/- per acre for Nehri/Chahi land and ₹ 4,00,000/- per acre for Gair Mumkin, Barani and Banjar Kadim land.

7. Pertaining to the land of village Shadpur, the Collector, vide award No. 3 dated 8.10.2003, determined the market value of the acquired land @ ₹ 2,00,000/- per acre for all kinds of land.

8. Dissatisfied with the award of the Collector, the landowners filed objections, which were referred to the learned court below. The learned reference court, vide award dated 30.10.2009, determined the market value of the acquired land @ ₹ 8,73,600/- per acre.

9. Pertaining to the land of village Jakhoda, the Collector, vide award No. 6 dated 20.1.2004, determined the market value of the acquired land @ ₹ 6,75,000/- per acre for Nehri/Chahi land and ₹ 4,00,000/- per acre for Gair Mumkin/Barani/Banjar Kadim.

10. Dissatisfied with the award of the Collector, the landowners filed objections, which were referred to the learned court below. The learned reference court, vide award dated 29.9.2009, determined the market value of the acquired land @ ₹ 14,56,000/- per acre.

11. Pertaining to the land of village Bahadurgarh, the Collector, vide award No. 1 dated 8.10.2003, determined the market value of the acquired land @ ₹ 5,50,000/- per acre.

12. Dissatisfied with the award of the Collector, the landowners filed objections, which were referred to the learned court below. The learned reference court, vide award dated 31.7.2010, determined the market value of the acquired land @ ₹ 14,09,200/- per acre.

13. Vide notification dated 23.1.2001, issued under Section 4 of the Act, the State of Haryana sought to acquire the land, situated in village Sankhol, Tehsil Bahadurgarh, District Jhajjar for development of Industrial Area in village Sankhol, Tehsil Bahadurgarh, District Jhajjar. The same was followed by notification dated 22.1.2002, issued under Section 6 of the Act. The Collector, vide award No. 7 dated 20.1.2004, determined the market value of the acquired land @ ₹ 5,50,000/- per acre for all kinds of land.

14. Dissatisfied with the award of the Collector, the landowners filed objections, which were referred to the learned court below. The learned reference court, vide award dated 29.4.2009, determined the market value of the acquired land @ ₹ 8,25,000/- per acre.

15. To sum up, details of acquisition and the amounts awarded by the Collector and the Reference Court are extracted below in a tabulated form:

<i>Date of notification</i>	<i>Village</i>	<i>Amount awarded by the Collector per acre in ₹</i>	<i>Amount awarded by the Reference Court per acre in ₹</i>	<i>Date of award of the Reference Court</i>
24.1.2001	Sankhol	5,50,000/-	8,25,000/-	02/05/09
	Kassar	2,00,000/- for Nehri/Chahi/Barani and Banjar Kadim land 2,50,000/- for Gair Mumkin land	6,75,000/- for Nehri and Chahi land 4,00,000/- for Gair Mumkin and Barani & Banjar land	24.3.2009
	Shadpur	2,00,000/-	8,73,600/-	30/10/09
	Jakhoda	6,75,000/- for Nehri and Chahi land 4,00,000/- for Gair Mumkin, Barani and Banjar Kadim land	14,56,000/-	29.9.2009
	Bahadurgarh	5,50,000/-	14,09,200/-	31.7.2010
23.1.2001	Sankhol	5,50,000/-	8,25,000/-	29.4.2009

16. Reference of exhibits in the judgment has been made from LAC No. 16 of 2005.

17. Learned counsel for the landowners, while referring to site plan (Ex. PX) produced on record submitted that the land in question was acquired for development as Sector 18 and 18-A at Bahadurgarh. There was lot of pressure in the area on land for industrialisation. Bahadurgarh being located closed to Delhi Border, lot of industries were shifting to this side after the order passed by Hon'ble the Supreme Court. The mere fact that about 100 acres of land was finally not acquired after being part of notification under Section 4 of the Act, on account of industries already existing thereon, is evident of this fact. The acquired land was abutting NH-10 on one side and Railway Line on the other side. The manner in which the amount of compensation has been assessed by the court below is not just and fair. The sale deeds produced on record by the landowners have been totally ignored. The same are Ex. P1/1 and Ex. PW2/2. These sale deeds were registered prior to the acquisition of land. The portions of land dealt

with in the aforesaid sale deeds were purchased by the industries already existing, hence, even the genuineness thereof cannot be doubted. Considering the time gap from the registration of sale deeds till the issuance of notification under Section 4 of the Act, increase @ 12% per annum deserves to be granted and thereafter the compensation be assessed. The land dealt with in the aforesaid sale transactions was not even abutting the main road.

18. On the other hand, learned counsel for HSIIDC submitted that the sale deeds sought to be relied upon by the landowners cannot be made the basis for assessment of compensation as those were not the normal sale transactions, rather, the portions of land were purchased by the industries already existing which was adjoining to their land, for the purpose of expansion. For that portion, they can pay any price. It was the case of necessity. There is no other sale deed produced on record, which can be said to be an independent sale transaction. The sale deeds have rightly been ignored by the court below. It is not in dispute that no sale deed has been produced by HSIIDC before the Reference Court.

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

Location of the land

20. The land acquired vide both the notifications dated 23.1.2001 and 24.1.2001 pertains to revenue estates of Sankhol, Kassar, Shadpur, Jakhoda and Bahadurgarh. The land acquired for Sectors 18 and 18-A pertains to revenue estate of Sankhol, whereas for Sectors 16 and 17, where notification under Section 4 of the Act was issued on 24.1.2001, it pertains to revenue estates of Sankhol, Kassar, Shadpur, Jakhoda and Bahadurgarh. The details of notifications and the land acquired in different revenue estates are as under:

<u>Date of notification</u>	<u>Revenue estate</u>
23.1.2001	Sankhol
24.1.2001	Sankhol, Kassar, Shadpur Jakhoda and Bahadurgarh

21. Sectors 18 and 18-A are located on NH-10 on one side with Railway Line on the other side. If moving away from Delhi border to Rohtak, these sectors come first after crossing Bahadurgarh city. Close to the boundary of Section 18 on the other side, the land was acquired for Sectors 16 and 17. It also abuts NH-10. Sector 16 is located while moving away from the city. The land for Sectors 9 and 9-A, Bahadurgarh was acquired earlier, for which notification under Section 4 of the Act was issued on 12.5.1995. Sector 9-A is located on the other side of Bahadurgarh-Nazafgarh Road. The land for Sectors 1 (Part), 10, 11 (Part), 12 and 13 was also acquired earlier, for which notification under Section 4 of the Act was issued on 17.4.2002. The same pertained to revenue estates of Sarai Aurangabad, Balore, Bir Barktabad and Bahadurgarh.

22. To have an idea of the portions of land acquired vide different notifications, as mentioned above, scanned copy of the site plan thereof is added hereunder:



Anomalous situation created by the Reference Court

23. The manner in which the cases have been decided by the Reference Court created anomalous situation. The cases, pertaining to

different villages, where the land was acquired vide same notification were decided at different times by the Reference Court awarding compensation at different rates. For the sake of convenience, the date of notification, revenue estate, amount awarded by the Collector, amount awarded by the Reference Court with date of award are extracted below:

<i>Date of notification</i>	<i>Village</i>	<i>Amount awarded by the Collector per acre in ₹</i>	<i>Amount awarded by the Reference Court per acre in ₹</i>	<i>Date of award of the Reference Court</i>
24.1.2001	Sankhol	5,50,000/-	8,25,000/-	02/05/09
	Kassar	2,00,000/- for Nehri/Chahi/Barani and Banjar Kadim land 2,50,000/- for Gair Mumkin land	6,75,000/- for Nehri and Chahi land 4,00,000/- for Gair Mumkin and Barani & Banjar land	24.3.2009
	Shadpur	2,00,000/-	8,73,600/-	03/10/09
	Jakhoda	6,75,000/- for Nehri and Chahi land 4,00,000/- for Gair Mumkin, Barani and Banjar Kadim land	14,56,000/-	29.9.2009
	Bahadurgarh	5,50,000/-	14,09,200/-	31.7.2010
23.1.2001	Sankhol	5,50,000/-	8,25,000/-	29.4.2009

24. A perusal of the aforesaid details show that for the land abutting GT Road pertaining to revenue estates of Kassar and Sankhol, the Reference Court awarded compensation @ ₹ 6,75,000/- per acre and ₹ 8,25,000/-, respectively. Similarly, for the land, which is not abutting GT Road, pertaining to revenue estates of Shadpur and Jakhoda, compensation @ ₹ 8,73,600/- and ₹ 14,56,000/- per acre has been assessed.

25. To avoid such a situation, this Court in Smt. Maya and others v. State of Haryana and others, (2013) 2 RCR (Civil) 518, issued comprehensive directions. The same are extracted below:

“16. To streamline the dealing of cases under the Land Acquisition Act, with a view to ensure their expeditious

disposal, this Court deems it appropriate to issue the following directions:

- (1) The Land Acquisition Collector shall ensure that all the land owners who file objections furnish their complete addresses.
- (2) All the objections received by the Collector in land acquisition cases shall be referred to the court for adjudication maximum within three months after receipt thereof. Along with the objections or bunch of objections, a certificate shall be annexed by the Collector to the effect that all the objections received upto that date for the acquisition in question have been sent to the court.
- (3) Whenever a land reference is put up before the learned court below, to which it is entrusted, it shall ensure from the District Attorney/Assistant District Attorney and/or the Collector that all the objections received by the Collector upto date have been sent to the court for adjudication. A certificate to the effect has to be placed on record. In case the land references were received on different dates and were put up on different dates either for first hearing or for hearing after notice, the learned court below shall club all the land references arising out of the same acquisition to be heard on one date of hearing before it proceeds further in the matter. Assistance of the office of District Attorney is most relevant on this aspect.
- (4) In case some objections are received late by the Collector for any reason whatsoever, he shall be duty-bound to refer the same to the court immediately after its receipt so that the same is clubbed with the cases already pending and are disposed of along with that. Information about the cases already sent to the court shall also be

furnished by the Collector.

(5) In case any objection is received after the disposal of the land references by the learned Reference Court, the Collector while sending the same to the court for adjudication shall annex a copy of the award/judgment of the court along with that, pertaining to the acquisition in question.

(6) The decision of the land references arising out of the same acquisition in piece-meal on different dates has to be avoided at all cost unless the reference is received late.

(7) The learned courts below to keep in view the directions issued by Hon'ble Supreme Court in Mangat Ram Tanwar's case (supra) pertaining to disposal of land acquisition cases which are extracted below:

“6. We are aware of the problem of back log in most of the Courts. The references under Section 18 should be treated as a class by themselves entitled to priority attention. If care and attention are devoted at the appropriate time, these cases can be easily disposed of by clubbing them groupwise and recording evidence after taking the consent of counsel for the parties. Most of the acquisitions these days relate to large patches of land and ordinarily they are covered under one notification. Cases which are covered by a common notification should be clubbed together for which a statutory foundation is available in the Amending Act of 1984 in extending the benefit of higher compensation to all lands covered by a common notification even if dispute is not raised. If that is done the total number of cases where evidence would be necessary is likely to be reduced and

better attention can perhaps be given. The High Courts should take special note of the pendency of land acquisition references and where it is possible a Court may be set apart for those cases.

7. We expect every referee court to dispose of the references ordinarily within one year of receipt of the reference and the outer limit should be the end of the second year. The High Courts in exercise of their controlling powers should ensure enforcement of this position so that all pending references in the subordinate courts at the original stage may be disposed of within time frame indicated above.”

(8) The cases pertaining to acquisition of land for a canal/drain/road/channel/distributory or of similar nature, where the acquired land passes through different villages in the form of a strip, endeavour should always be made to entrust the cases to one court. Even if the same arise out of different notifications, though issued close in time, the learned courts below should also make efforts to decide these cases collectively after perusing site plan for the entire acquired land. It would be in the interest of all the parties concerned that a site plan showing location of the entire acquired land and also the surrounding area is produced by the State in court. The learned courts below to keep in view the observations made by this court in R.F.A. No. 686 of 1991 –Lokeshwar Dutt v. The State of Haryana and another, decided on 16.8.2010, pertaining to the same issue, which are extracted below:

“ However, finding that number of cases are coming before this court, where this type of situation is being repeated on account of which the court finds it difficult to determine the fair

value of the acquired land, which may result in injustice to either of the party. Not only that, in number of cases, the applications are filed by the land owners for producing additional evidence, which, in fact, should be part of the evidence to be led by the land owners/State at the very first instance. In many cases, the court, in the interest of justice, had to ask the State or the party to produce on record the site plan showing the exact location of the acquired land, sale deeds etc. to avoid injustice to either of the party. This unnecessarily delays the disposal of cases. The basic things, which should be brought on record to enable the court to determine fair value of the acquired land is the notification under Section 4 of the Act, copy of the award, site plan to the scale, showing the acquired boundary vis-a-vis its location such as its closeness to the city, village, highway, internal road with all its positive and negative factors. Another important fact is that such a plan should have the status as on the date of issuance of notification under Section 4 of the Act, the date being crucial for the purpose of determination of fair value of the acquired land. It would be appropriate if the sale instances sought to be produced by the land owners or the State are pointed out on the site plan to be produced on record by either of the party. In the absence of which it is difficult to locate the same and consider its true value. The site plan, which should be taken on record, should be on butter paper or cloth, as it is seen in a number of cases that when the appeals are heard after 15-20 years,

the site plans, which are quite big and may be on thin tracing paper, are torn out making it difficult for the parties to refer to the same and also for the court to consider.”

(9) At the time of filing of appeals against the awards of the learned Reference Court pertaining to an acquisition, the Collector/Land Acquisition Officer shall file an affidavit that appeals against all the awards of the learned Reference Court pertaining to the particular acquisition, have been filed.

(10) This court in R.F.A. No. 4742 of 2010—The State of Haryana and another v. Sh. Tek Chand and others, decided on 11.10.2010, wherein the appeal was filed by the State against award of the learned court below despite the fact that the earlier award of the Reference Court, which had been relied upon for the purpose of determination of compensation in that case had already been upheld by this court and there was no merit in the appeal even on the date of filing thereof, had issued following directions:

“To avoid unnecessary adjournments of the cases, I deem it appropriate to direct that in all appeals filed by the land owners or the State following information must be furnished in the appeal itself:

- (i) In case the learned Reference Court had relied upon any earlier award pertaining to same or any other acquisition, the fact as to whether any appeal against the same is pending or not, should be mentioned in the grounds of appeal. The number of such appeal and status thereof be also mentioned.
- (ii) In case no earlier award is relied upon by the

Reference Court, it should be mentioned that the Reference Court has not relied upon any earlier award.

The aforesaid facts should be mentioned in the last para of the grounds of appeal before the prayer clause. The Registry is directed to ensure compliance of the requirement. This may be brought to the notice of the Bar Association for notifying to the learned members of the Bar.”

(11) In case the State fails to file appeals in all the cases decided by the Reference Court and ultimately the amount of compensation is reduced by the higher court, the State shall be duty-bound to fix the responsibility of the person(s) concerned for the lapse and also recover the amount of loss suffered from the guilty officer(s)/official(s).

(12) The learned Reference Court should also ensure from the Collector and/or the District Attorney that no land reference pertaining to the acquisition of land in the area, which is prior in time, is pending for adjudication and in case there was any acquisition of land in the area prior in time, the award passed by the Reference Court or the higher court therein should always be brought to the notice of the court concerned.

(13) It should be ensured by the court that the land references pertaining to acquisition of land, which is prior in time, are decided first before taking up the cases of the acquisition carried out subsequently.”

The aforesaid directions were not comprehensive as such.

Valuation of the land in the case in hand

26. From the information furnished by learned counsel for the State, it is evident that vide notification dated 23.1.2001 for development as Sectors 18 and 18-A, initially, 254 acres 4 kanals and 2 marlas of land was notified, however, finally the award was announced for 150 acres, 3 kanals and 1 marla, as more than 100 acres of land was released.

27. The landowners produced the following sale instances:

<u>Ex.</u>	<u>Date</u>	<u>Area</u>	Sale consideration in ₹	Average price per acre in ₹	Revenue Estate
PW1/1	28.5.1996	21K-9M	29,06,896/-	10,84,156/-	Sankhol
PW1/2	-do-	21K-8M	29,06,896/-	10,86,690/-	-do-
PW1/3	-do-	8K-3M	11,05,344/-	10,85,000/-	-do-
PW1/4	-do-	8K-3M	11,05,344/-	10,85,000/-	-do-
PW1/5	6.12.1995	7K-11M	9,92,000/-	10,51,125/-	-do-
PY	28.5.1996	21K-9M	29,06,896/-	10,84,157/-	-do-
PZ	10.5.1996	7K-12M	10,92,500/-	11,50,000/-	-do-

28. In the sale deeds (Exs. PW1/1, PW1/2, PW1/3, PW1/4 and Ex. PY), the average sale consideration paid is ₹ 10,85,000/- per acre. These were registered 4 years and 7 months before the date of issuance of notification under Section 4 in the present case. In my opinion, these can be relied upon for the purpose of assessment of compensation in the case in hand. The genuineness of the sale deeds is not in dispute. It cannot be doubted that there had been all around development in the area not with the acquisition of land in question, but even prior and subsequent thereto.

29. The land pertaining to the aforesaid sale deeds is not abutting NH-10 as some part of the land is close to the Railway Line and some in between. However, the fact is not in dispute that those portions of land had been purchased by existing industrial units for expansion. Meaning thereby it was a case of necessity. On that account, higher price also could have been paid. The sale consideration paid in the aforesaid sale deeds registered 4 years and 7 months prior to the acquisition is ₹ 10,85,000/- per acre. If increase @ 12% per annum with compound effect is granted, the value on the date of issuance of notification under Section 4 of the Act would come

out to ₹ 18,26,700/- (rounded off to ₹ 18,30,000/-) per acre. In my opinion, considering the fact that the aforesaid sale transactions were between the landowners and the buyers being the existing industrial units who may be in need of the adjoining land for expansion and may have paid extra price, the same can be the compensation for the land upto the depth of two acres on NH-10. For the land beyond that, a cut of 25% would be reasonable. After applying cut of 25%, the value would come out to ₹ 13,72,500/- (rounded off to ₹ 13,70,000/-) per acre.

30. The land pertaining to Sector 16 is partly located just opposite the land of Sector 18 and in that portion as well. As is evident from the site plan, substantial portion of land was either not acquired or released on account of industrial units already existing. These were not merely located on NH-10, rather, even upto the boundary of Sector 16. Considering the aforesaid fact, in my opinion, even for the land which forms part of Sector 16, the landowners deserve to be granted the same amount of compensation. Ordered accordingly.

31. As far as the land acquired for development as Sector 17 is concerned, in my opinion, the same being further away from the city and the fact that if one moves away from the city, the value starts diminishing, in my opinion, a reasonable cut of 20% is required to be applied thereon. After applying the same, the value upto the depth of two acres from NH-10 is assessed @ ₹ 14,64,000/- (rounded off to ₹ 14,60,000/-) per acre and ₹ 10,96,000/- (rounded off to ₹ 11,00,000/-) per acre for rest of the land.

32. To sum, the landowners are held entitled to compensation as under:

(i) For the land acquired for
development as
Sectors 16, 18 and 18-A

₹ 18,30,000/- per acre
upto the depth of two
acres from main road

₹ 13,70,000/- per acre for
rest of the land.

(ii) For the land acquired for
development as Sector 17

₹ 14,60,000/- per acre
upto the depth of two
acres from main road &
₹ 11,00,000/- per acre for
rest of the land.

33. The appeals filed by the landowners are allowed in the manner
indicated above, whereas the appeals filed by HSIIDC are dismissed.

(Rajesh Bindal)
Judge

November 06, 2015
mk

(Refer to Reporter)