IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA No. 2269 of 2010 (O&M)
Date of decision: December 10, 2015

Phool Singh and another

.. Appellants

v.

State of Haryana and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Argued by: Mr. Ashok Aggarwal and Mr. Shailendra Jain
Senior Advocates with
Mr. Mukul Aggarwal, Mr. Gaurav Aggarwal,
Mr. K. K. Saini for Mr. S. K. Yadav,
Mr. Ashok Tyagi, Mr. J. P. Ahlawat for Mr. N.D. Achint,
Mr. Sandeep Sharma, Mr. Sachin Mittal,
Mr. J. P. Rana, Mr. Amit Jain,
Mr. Amit Jain for Mr. R. C. Chauhan,
Mr. Ram Kumar Saini for Ms. Sheenu Sura, Advocates
for the landowners (in Regular No. 344).

Ms. Sheenu Sura and Mr. Sandeep Sharma,
Ms. Sheenu Sura for Mr. Ram Kumar Saini,
Mr. K. K. Saini for Mr. S. K. Yadav,
Mr. J. P. Ahlawat for Mr. N. D. Achint,
Advocates for the landowners (in Regular No. 810).

Mr. Shivendra Swaroop, Assistant Advocate General, Haryana.

...

Rajesh Bindal J.

1. This order will dispose of

R.F.A. Nos. 2269, 2509, 2759, 3234 to 3237, 3319 to 3322, 3335 to 3337, 3478, 3843 to 3856, 3875 to 3879, 3906, 3921, 3922, 4210 to 4212, 4244, , 4502, 4503, 4569 to 4572, 4662, 4926, 4928 to 4932, 4934 to 4939, 5046, 5072, 5073, 5093 to 5104, 5109, 5182, 5192, 5193, 5204, 5283, 5284, 5316, 5331, 5495, 5496, 5505 to 5519 of 2010;

RFA Nos. 431, 432, 676, 1083, 1216, 2323, 3435, 3518, 4153, 4305, 4515, 5352, 6122, 6951, 7144, 7439, 7440, 7446, 7447, 7537, 7538, 7573, 7574, 7587 to 7589, 7649, 7661, 7681, 7691, 7693 to 7804, 7830, 7831, 7869, 7896, 7905, 7970, 7971, 7989 of 2011;

RFA Nos. 156, 159 to 180, 231, 239, 259, 290, 426, 427, 501, 516, 528, 550, 695, 696, 721, 722, 723, 810, 833 to 835, 847 to 849, 866 to 874, 921, 923, 1193, 1194, 1561, 1582, 1591, 1598, 1599, 1855, 1856, 1946, 4068, 5775, 7421 of 2012;

RFA Nos. 1073, 2633 and 4729 of 2013;

RFA Nos. 3740, 4438, 4439, 4655, 4656, 7371 and 9046 of 2014;

RFA No. 33, 429, 3505 and 3587 of 2015

2. The landowners are in appeal seeking enhancement of compensation for the acquired land.

3. Briefly, the facts are that the land measuring 250.53 acres of village Wazirabad, 37.96 acres of village Badshahpur, 172.52 acres of village Tigra, 13.95 acres of village Samaspur, 9.45 acres of village Ghasola, 1.39 acres of village Amarpur Nagli and 25.53 acres of village Ghatta, Tehsil & District Gurgaon was sought to be acquired by the State of Haryana vide notification dated 24.8.2000, issued under Section 4 of the Land Acquisition Act, 1894 (for short, `the Act') for development and utilisation thereof as residential, commercial and institutional area of Sector 57, Gurgaon. It was followed by notification under Section 6 of the Act on 22.8.2001. The Land Acquisition Collector (for short, the Collector'), vide award No. 9 dated 21.7.2003, determined the market value of the acquired land @ ₹ 12,00,000/- per acre for chahi land; ₹ 9,60,000/- per acre for Magda and Alabarani land, ₹ 8,40,000/- per acre for Bhood land and ₹ 7,20,000/- per acre for Banjar and Gair Mumkin land pertaining to village

Wazirabad. Aggrieved against the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below, vide award dated 23.8.2011, assessed the market value of the acquired land @ ₹ 1,697.83 per square yard.

4. Pertaining to the land of village Badshahpur, the Collector, vide award No. 14 dated 21.7.2003, assessed the compensation @ ₹ 6,25,000/- per acre for Chahi land; ₹ 4,25,000/- per for Bhood and Banjar and ₹ 7,30,000/- per acre for Gair Mumkin land. Aggrieved against the award of the Collector, the landowners filed objections. On reference under Section 18 of the Act, the learned court below, vide award dated 26.2.2010 assessed the compensation @ ₹ 717/- per square yard.

5. Pertaining to the land of village Tigra, the Collector, vide award No. 10 dated 21.7.2003, assessed the compensation @ ₹ 6,20,000/- per acre for Chahi land; ₹ 5,50,000/- per acre for Alabarani land,₹ 4,50,000/- per acre for Bhood land, ₹ 4,20,000/- per acre for Banjar land and ₹ 7,00,000/- per acre for Gair Mumkin land. Aggrieved against the award of the Collector, the landowners filed objections. On reference under Section 18 of the Act, the learned court below, vide award dated 23.2.2010, assessed the compensation @ 888/- per square yard.

6. Pertaining to the land of village Samaspur, the Collector, vide award No. 12 dated 21.7.2003, assessed the compensation @ ₹ 6,00,000/- per acre for Chahi land; ₹ 4,00,000/- per acre for Alabarani land; ₹ 3,60,000/- per acre for Bhood land, ₹ 2,00,000/- per acre for Banjar land and ₹ 6,00,000/- per acre for Gair Mumkin land. Aggrieved against the award of the Collector, the landowners filed objections. On reference under Section 18 of the Act, the learned court below, vide award dated 25.11.2009, assessed the compensation @ ₹ 717/- per square yard.

7. Pertaining to the land of village Ghasola, the Collector, vide award No. 15 dated 21.7.2003, assessed the compensation @ ₹ 4,50,000/- per acre for Chahi land; ₹ 3,00,000/- per acre for Banjar and Bhood land; ₹ 5,40,000/- per acre for Gair Mumkin land. Aggrieved against the award of the Collector, the landowners filed objections. On reference under Section 18 of the Act, the learned court below, vide award dated 30.8.2010,

assessed the compensation @ ₹ 717/- per square yard.

8. Pertaining to the land of village Amarpur Nagli, the Collector, vide award No. 13 dated 21.7.2003, assessed the compensation @ ₹ 3,25,000/- per acre for Chahi land; ₹ 2,75,000/- per acre for Bhood and Banjar land, ₹ 4,02,000/- per acre for Gair Mumkin land. Aggrieved against the award of the Collector, the landowners filed objections. On reference under Section 18 of the Act, the learned court below, vide award dated 27.3.2010, assessed the compensation @ ₹ 717/- per square yard.

9. Pertaining to the land of village Ghatta, the Collector, vide award No. 12 dated 21.7.2003, assessed the compensation @ ₹ 2,80,000/- for Chahi land; ₹ 1,40,000/- per acre for Alabarani land; ₹ 1,20,000/- per acre for Bhood land; ₹ 95,000/- per acre for Banjar land; ₹ 4,65,000/- for Gair Mumkin land. Aggrieved against the award of the Collector, the landowners filed objections. On reference under Section 18 of the Act, the learned court below, vide award dated 25.2.2010, assessed the compensation @ ₹ 253/- per square yard.

10. Vide notification dated 9.6.2003, land measuring 66.01 acres in village Wazirabad, 20.93 acres in village Tigra, Samaspur and Ghatta Tehsil & District Gurgaon was sought to be acquired by the State of Haryana, issued under Section 4 of the Act for development of residential, commercial and institutional area in Sector 57, Gurgaon. It was followed by notification under Section 6 of the Act on 2.6.2004. The Collector, vide award Nos. 16 and 17 dated 20.12.2005, determined the market value of the acquired land @ ₹ 15,00,000/- per acre. Aggrieved against the awards of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below, vide award dated 25.8.2010, assessed the market value of the acquired land @ ₹ 1,211/- per square yard pertaining to revenue estate of Wazirabad. In some cases, vide awards dated 9.12.2011, 27.7.2012, 31.7.2012 and 30.10.2014, the learned Reference Court assessed the compensation @ ₹ 2,106/- per square yard.

11. Vide award dated 28.2.2011, the learned Reference Court assessed the market value of the acquired land @ ₹ 2,106/- per square yard pertaining to revenue estate of village Tigra.

12. For the sake of convenience, date of notification under Section 4 of the Act, the amount awarded by the Collector and the Reference Court and the date of award of the Reference Court in the present set of appeals is extracted below in tabulated form:

Date of notification under Section 4 of the Act.	Amount awarded by the Collector per acre in ₹	Amount awarded by the Reference Court per square yard in ₹	Date of award of the Reference Court
24.8.2000	**Village Wazirabad**		
	12,00,000/- for Chahi land 9,60,000/- for Magda & Alabarani land 8,40,000/- for Bhood land 7,20,000/- for Banjar & Gair Mumkin land	1,697.83	23.8.2011
	Village Badshahpur		
	6,25,000/- for Chahi land 4,25,000/- for Bhood & Banjar land 7,30,000/- for Gair Mumkin land	717/-	26.2.2010
	Village Tigra		
	6,20,000/- for Chahi land 5,50,000/- for Alabarani land 4,50,000/- for Bhood land 4,20,000/- for Banjar land 7,00,000/- for Gair Mumkin land	888/-	23.2.2010
	Village Samaspur		
	6,00,000/- for Chahi land 4,00,000/- for Alabarani land 3,60,000/- for Bhood land 2,00,000/- for Banjar land 6,00,000/- for Gair Mumkin land	717/-	25.11.2009
	Village Ghasola		
	4,50,000/- for Chahi land 3,00,000/- for Banjar & Bhood land 5,40,000/- for Gair Mumkin land	717/-	30.8.2010
	Village Amarpur Nagli		
	3,25,000/- for Chahi land 2,75,000/- for Banjar & Bhood land 4,02,000/- for Gair Mumkin land	717/-	27.3.2010
	Village Ghatta		
	2,80,000/- for Chahi land 1,40,000/- for Alabarani land 1,20,000/- for Bhood land	253/-	25.2.2010

	95,000/- for Banjar land 4,65,000/- for Gair Mumkin land		
	Village Wazirabad		
9.6.2003	15,00,000/-	1,211/-	25.8.2010
		2,106/-	9.12.2011 27.7.2012 31.7.2012 30.10.2014
	Villages Tigra, Samaspur and Ghatta		
	15,00,000/-	2,106/-	28.2.2011

13. Learned counsel for the landowners submitted that the entire area of the acquired land, which was in pockets, was located in the revenue estates of Wazirabad, Badshahpur, Tigra, Samaspur, Ghasola, Amarpur Nagli and Ghatta. It was sandwiched between already developed areas by the private builders. These were left out portions, which the builders could not convince the landowners to part with. Some land was acquired for periphery road. It was further submitted that Wazirabad is a big revenue estate. There had been number of acquisitions in that area. For the acquisition vide notification dated 8.9.1997, in RFA No. 1824 of 2006--Sudama and others v. The State of Haryana and another, decided on 1.10.2010, this court had granted compensation @ ₹ 1,520/- per square yard and subsequently in RFA No.1528 of 2009—Smt. Santra Devi and others v. The State of Haryana and others, decided on 6.8.2013, this court assessed the compensation @ ₹ 1,596/- per square yard, where notification under Section 4 of the Act was issued on 29.8.1998. It was further submitted that with the acquisition of land earlier in the year 1997-98, the pace of development in the area was quite fast. The city was expanding on this side only. There are sale transactions (Ex. P7 to Ex. P44 in LAC No. 38 of 2005), where the land was sold at an average price of ₹ 3,519/- per square yard. It was submitted that those pertain to the areas, which form part of Sector 53, whereas the land in question was acquired for development as residential, commercial and institutional area for Sector 57 and periphery road. The land being part of the same revenue estate, the landowners deserve to be granted compensation by granting increase for the time gap at the same rate, at which it was granted in Sudama's case (supra).

14. While impugning the award of the court below, learned counsel submitted that the sale deeds, which were registered two years prior to the acquisition, were rejected opining them to be old, whereas sale transactions registered after the issuance of notification under Section 4 of the Act were rejected, opining them to be post-acquisition. The findings deserve to be set aside. It was further submitted that even if it is found that in some sale deeds produced on record, the land had been sold at a higher price on account of some locational advantage, a reasonable cut can be applied, but the sale transactions cannot be rejected altogether.

15. Additional contention raised by learned counsel for the landowners for the land pertaining to revenue estates of Tigra and Ghatta is that in Sector 43, the land was allotted to Power Grid Corporation @ ₹ 3,513.02 per square yard vide allotment letter dated 21.6.1999 (Ex. P80 in LAC No. 427 of 2004). He further referred to the statement made by PW9-Akash Jyoti Baruah, Senior Marketing Executive (Sales Department), Ansal Buildwell Ltd., who stated that the land was purchased by the company for development as Sushant Lok, which is close to the acquired land. However, he did not mention the date on which the land was purchased by the company.

16. For the land pertaining to revenue estate of Ghatta, reliance was placed upon the earlier acquisition, which was subject-matter of consideration before this court in Sudama's case (supra) and increase for the time gap was sought.

17. On the other hand, learned counsel for the State submitted that all the sale deeds sought to be relied upon by learned counsel for the landowners are located near the road, where the builders, such as DLF and Sun City had developed the area long back. It was far away from the acquired land. No sale deed pertaining to the acquired land had been purchased. In fact, in the sale transactions, where the builders are the buyers, real value is not depicted as the commercial angle steps in with competitiveness for getting licences, where minimum area is required, a builder may be ready to pay any price for small-small chunks. Only those

sale deeds had been produced by the landowners on record.

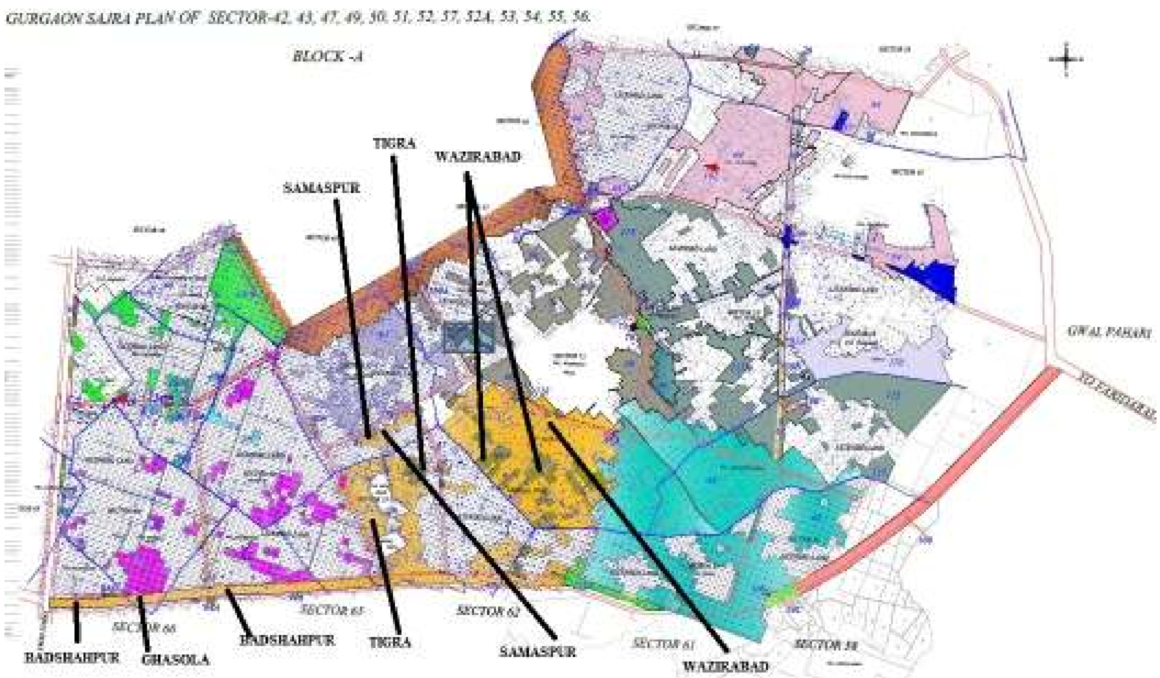
18. He further submitted that the judgment in Sudama's case (supra) cannot as such be relied upon, especially for granting increase @ 25% per annum, as the land pertaining thereto was located at a distance from the acquired land, especially where notification under Section 4 of the Act was issued on 8.9.1997. It was a small area surrounded by all around developed area.

19. As regards the land pertaining to revenue estate of Tigra, it was submitted that there is no sale transaction produced on record by the landowners pertaining to that area. The site plan produced on record by the landowners (Ex. PW10/A in LAC No. 427 of 2004) cannot be relied upon for the reason that the person, who prepared the site plan, while appearing as PW10-Ganga Ram, admitted that he had no licence for preparation of the site plan. As regards revenue estate of Ghatta, it was submitted that the land is located far off from the earlier acquired land. There was acquisition of land earlier in the area. Some increase can be granted on that. The variation in the sale consideration paid in various sale deeds establishes the fact that the same was on account of various reasons.

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

21. Vide notification dated 24.8.2000, the land pertaining to seven revenue estates was acquired, which are Wazirabad, Badshahpur, Tigra, Samaspur, Ghasola, Amarpur Nagli and Ghatta. There is no site plan produced on record by the landowners as such showing the acquisition of land. The State was directed to produce a site plan in court depicting the location of the land, which was produced. The same is taken on record as mark 'A'. A perusal of the plan shows that acquisition of land is in pockets located at different places, the valuation of which can be taking into consideration the evidence on record as well as by applying a thumb rule, as considering the location of pockets of land at different places, assessment of compensation with mathematical exactitude will not be possible. The learned court below had assessed the compensation pertaining to different villages by different awards at different rates. It certainly creates anomalous

situation. In the absence of any proper site plan on record also, the court below was unable to take holistic view for the purpose of assessment of compensation for the acquired land. The scanned copy of the plan of acquired land, as produced in court, is appended below:



22. It is not in dispute that the land pertaining to revenue estate of Wazirabad, which is a quite big revenue estate, was earlier acquired vide notifications dated 5.5.1997, 15.5.1997 and 8.9.1997. This Court in Sudama's case (supra) assessed the compensation @ ₹ 1,216/- per square yard for the land acquired vide notifications dated 5.5.1997 and 15.5.1997 and ₹ 1,520/- for the land acquired vide notification dated 8.9.1997. The land acquired in the present case is located adjoining to the land already acquired vide notifications dated 5.5.1997 and 15.5.1997. Considering the development all around at that time, in my opinion, the landowners pertaining to the revenue estates of Wazirabad and Samaspur deserve to be granted increase for the time gap of 3 years and 3 months @ 12% per annum with cumulative effect on the amount of compensation awarded in Sudama's case (supra), which would come out to ₹ 1,759/- per square yard.

23. As far as the land pertaining to revenue estates of Ghasola, Amarpur Nagli and Badshahpur is concerned, which is located far off from

the land pertaining to revenue estates of Wazirabad and Samaspur, in my opinion, by applying a thumb rule, the compensation can be assessed by reducing 21% from the compensation assessed for the land pertaining to revenue estates of Ghasola and Badshahpur, where notification under Section 4 of the Act was issued on 15.4.2002 and compensation has been assessed @ 1,020/- per square yard by a separate judgment passed today in RFA No. 3619 of 2009 –Municipal Corporation v. State of Haryana and others. There is a time gap of one year and nine months between the two acquisitions. The present being earlier in time, so cut has been applied. After applying the same, the landowners are held entitled to compensation @ ₹ 806/- per square yard.

24. The land pertaining to revenue estates of Ghatta and Tigra is adjoining to revenue estates of Wazirabad, Samaspur and Badshahpur, rather, it is located in between them. There is no evidence referred to by learned counsel for the landowners showing that increase of prices in the area was more than 12% per annum to justify increase at higher price. Considering its location and applying a thumb rule, in my opinion, the landowners pertaining to land of revenue estates of Ghatta and Tigra deserve to be granted compensation @ ₹ 1,216/- per square yard.

25. No doubt, this court in Smt. Santra Devi's case (supra) had assessed the compensation @ ₹ 1,596/- per square yard for the land acquired vide notification dated 29.8.1998, however, a perusal of the site plan produced on record shows that correct facts were not brought before the court at that time. Rather, the State counsel had conceded increase for the time gap between two acquisitions. It was a small acquisition. A perusal of the site plan shows that part of the land acquired vide that notification was located adjoining to the land acquired vide notification dated 8.9.1997, whereas part was acquired at a distant place, hence, in my opinion, the same cannot be relied upon as a precedent.

26. As far as the land, which was acquired vide notification dated 9.6.2003 is concerned, the same is also depicted in the scanned copy of the site plan in paragraph No. 21 of the judgment. It is in small pockets in between the area adjoining to the land already acquired vide notification

dated 24.8.2000. Considering the valuation of the land already assessed for the acquisition vide notification dated 24.8.2000, in my opinion, there being a time of about 2 years and 9 months, the landowners deserve to be granted increase @ 12% per annum for the time gap. Accordingly, for the land pertaining to villages Wazirabad and Samaspur, the landowners are held entitled to compensation @ ₹ 2,403/- per square yard, whereas for the land pertaining to revenue estates of Ghatta and Tigra, the landowners are held entitled to compensation @ ₹ 1,662/- per square yard

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

		Rates per square yard in ₹
(i)	For the notification dated 24.8.2000 pertaining to revenue estates of Wazirabad and Samaspur	1,759/-
(ii)	For the notification dated 24.8.2000 pertaining to revenue estates of Tigra and Ghatta	1,216/-
(iii)	For the notification dated 24.8.2000 pertaining to revenue estates of Amarpur Nagli, Badshahpur and Ghasola	806/-
(iv)	For the notification dated 9.6.2003 pertaining to revenue estates of Wazirabad and Samaspur	2,403/-
(v)	For the notification dated 9.6.2003 pertaining to revenue estates of Tigra and Ghatta	1,662/-

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

29. The appeals are disposed of in the manner indicated above.

(Rajesh Bindal)
Judge

December 10, 2015
mk (Refer to Reporter)