

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA No. 1235 of 2011 (O&M)
Date of decision: December 10, 2015

Chhatter Singh

.. Appellant

v.

Haryana State and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Shailendra Jain, Senior Advocate with
Mr. Bhagender, Mr. Sandeep Sharma,
Mr. J. P. Ahlawat for Mr. N. D. Achint,
Mr. P. R. Yadav, Mr. Amit Jain, Mr. Adarsh Jain,
Mr. Ram Kumar Saini for Ms. Sheenu Sura, Advocates
for the landowners.

Mr. Shivendra Swaroop, Assistant Advocate General, Haryana.

...

Rajesh Bindal J.

This order will dispose of
R.F.A. Nos. 1235 of 2011,
RFA Nos. 2745 to 2750, 4351, 6358 of 2013;
RFA Nos. 1078 to 1088, 1109, 2145, 2146, 2525, 2526, 2963,
3409,5012, 5276, 5982, 6134, 6594, 7352, 7377, 8192, 10389, 10804 of
2014.

In the appeals filed by the landowners, they are seeking

enhancement of compensation for the acquired land.

Briefly, the facts are that the land, situated in villages Wazirabad and Haiderpur Viran, Tehsil and District Gurgaon was sought to be acquired by the State of Haryana vide notification dated 20.6.2005, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') for development and utilisation thereof as residential, commercial, institutional and open space for Sectors 52A, 53 and 54, Gurgaon. It was followed by notification under Section 6 of the Act dated 19.6.2006. The Land Acquisition Collector (for short, the Collector'), vide award No. 45 dated 22.2.2007, determined the market value of the acquired land @ ₹ 15,00,000/- per acre for all types of 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 different awards assessed the market value of the acquired land @ 1,383/- per square yard.

In some cases, vide award dated 14.12.2012, the learned Reference Court determined the market value of the acquired land @ ₹ 2,401/- per square yard.

In some cases, vide different awards, the learned Reference Court determined the market value of the acquired land @ ₹ 2,724/- per square yard.

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
20.6.2005	15,00,000/-	1,383/-	
		2,401/-	14.12.2012
		2,724/-	17.10.2013

Learned counsel for the landowners submitted that the area all around the acquired land had already been developed. Part of the land in surrounding was purchased by the builders and developed, whereas part was acquired. There are number of sale deeds produced on record by the landowners showing the value of the acquired land. Some of the sale transactions pertain to the land, adjoining to which was acquired. Specifically sale deed (Ex. P33), vide which 2 Biswas and 2 Biswansis land was sold at an average price of ₹ 4,724.11 per square yard deserves to be relied upon for the purpose of assessment of compensation, as the highest sale exemplar is to be considered, as other sale transactions may have been under valued. The learned Reference Court had gone wrong in applying a cut of 50%, which is not just. The sale transactions pertain to large chunks of land. These were not isolated sale transactions, hence, deserve to be relied upon without even application of any cut. He further submitted that for the earlier acquisition close to the acquired land, this court in RFA No. 1824 of 2006—Sudama and others v. The State of Haryana and others, where notification under Section 4 of the Act was issued on 8.9.1997, had assessed the compensation @ ₹ 1,520/- per square yard. If increase @ 15% per annum with cumulative effect or 25% per annum flat, is calculated, similar figure will be arrived at and the same should be the amount of compensation, which the landowners deserve to be granted. In the area in question, the builders had purchased most part of the land. There were certain left out pockets, which the landowners did not agree to sell to the builders, which were acquired. The landowners should not be made to suffer on that account. In support of the plea that the area all around had been developed by private builders, reference was made to various licences granted. Further reference was made to the rates at which the plots were sold by HUDA much prior to the acquisition in question in the same or nearby area. The brochure clearly suggested that the area is the best place to live in with all world class facilities available. That shows the present and future potentiality of the land.

Learned counsel further referred to letter of allotment (Ex. P73), vide which large chunk of 350.715 acres of land was allotted by HSIIDC to

M/s DLF Limited on 9.2.2010 @ ₹ 12,000/- per square meter. This shows potentiality of the land. The aforesaid land is located just close to the acquired land. However, learned counsel could not dispute the fact that the aforesaid allotment was set aside by this court.

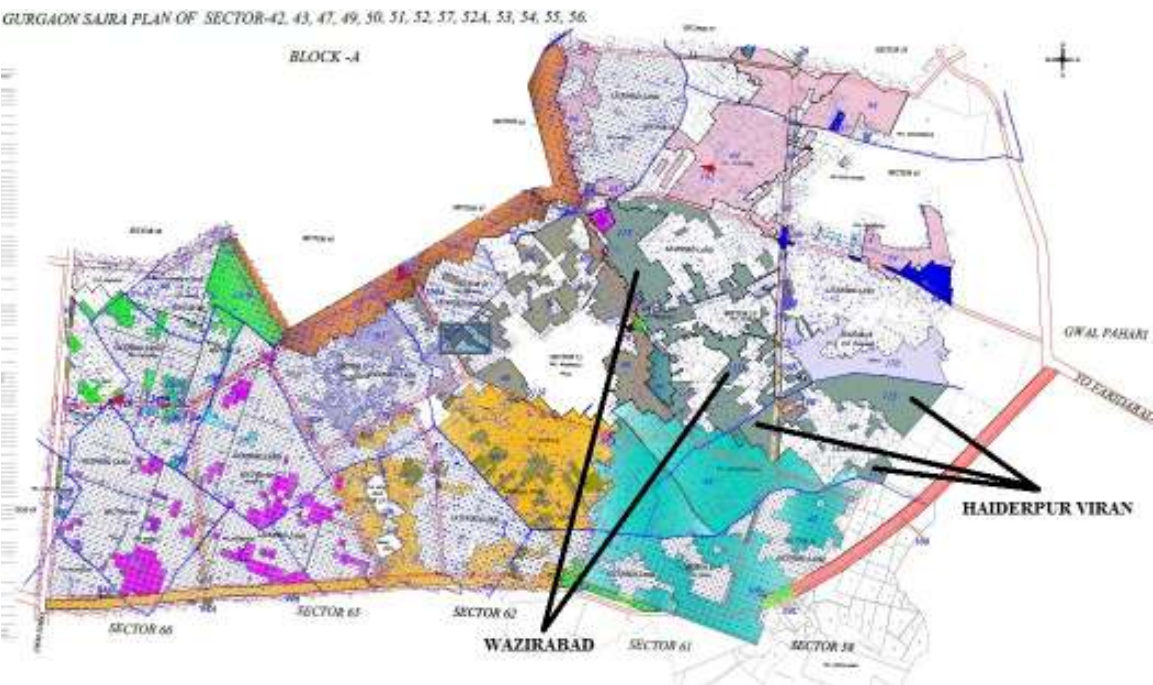
Further reliance was placed upon an order dated 7.3.2011, passed in RFA No. 4911 of 2010—Gopi Ram v. Haryana State and others, vide which this court had awarded compensation @ ₹ 1,520/- per square yard for the acquisition in the same area, where notification under Section 4 of the Act was issued on 1.9.1997. For this purpose, reliance was placed upon a judgment of this court in Sudama's case (supra).

On the other hand, learned counsel for the State submitted that the learned Reference Court had relied upon sale deed (Ex. P33), which was pertaining to a small plot of 2 Biswas and 2 Biswansis. It was registered on 4.5.2005. The application of cut of 50% thereon cannot be said to be unjustified, considering the smallness of the area dealt with therein. The State is not in appeal. He further submitted that there are number of sale deeds produced on record by the landowners starting from the year 1998. All the sale deeds if considered year-wise do not reflect that there was consistent increase in the prices of the land in the area, rather, later in time the prices reduced. In some cases, even at the same time for the land pertaining to the same revenue estate, there was lot of difference in the prices. It may be for the reason of specific location or the small plot being close to the land already purchased by the builders for which the builders may be willing to pay any price. Once there is nothing on record to show that there was increase in the prices of the land in the area during the interregnum, it would be totally unjustified to claim increase, while referring to the judgment of this court in Sudama's case (supra). He further submitted that vendees in most of the sale deeds are builders, hence, there are chances of over statement of sale consideration or payment of higher prices for commercial angle cannot be ruled out. He further submitted that the rates at which the plots had been allotted in the area developed much after the acquisition or in the areas which may have been developed after the earlier acquisition cannot be made the basis for assessment of compensation, as it

cannot be compared with undeveloped land, which was being put to agriculture use before its acquisition.

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

Vide notification dated 20.6.2005, the land pertaining to revenue estates of Wazirabad and Haiderpur Viran was acquired. The scanned copy of the acquired land is appended below:



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 landowners have produced various sale deeds on record, which pertain to the revenue estate of village Adampur, which are as under:

Ex.	Date of Registration	Area Sold (B-B-B)	Total Sale Consideration In	Average per square yard	Village
P1	10.12.2004	03-14-00	4,17,00,000/-	3,725/-	Wazirabad
P2	12.12.2003	02-14-19	2,57,60,000/-	3,099/-	Haidarpur

P3	19.01.2004	01-03-14	88,00,000/-	2,055/-	Wazirabad
P4	19.01.2004	12-00-13	48,00,000/-		Haidarpur
P5	27.10.2004	00-13-17	52,10,000/-		Wazirabad
P6	04.11.2004	00-00-05	75,000/-	1,983/-	Wazirabad
P16	07.01.2002	00-01-10	8,40,000/-	3,702/-	Haidarpur
P17	11.07.2003	00-05-00	15,12,000/-	1,999/-	Wazirabad
P18	08.08.2003	00-00-05	3,00,000/-	7,934/-	Wazirabad
P19	20.10.2003	00-02-05	5,50,000/-	1,616/-	Wazirabad
P20	12.12.2003	00-01-03	5,40,000/-	3,105/-	Haidarpur
P21	12.12.2003	00-07-07	34,50,000/-	3,103/-	Haidarpur
P22	12.12.2003	00-01-05	5,85,000/-	3,094/-	Haidarpur
P23	01.01.2004	01-00-16	90,00,000/-	2,861/-	Wazirabad
P24	03.03.2004	01-03-12	1,68,00,000/-	4,342/-	-do-
P25	07.05.2004	00-00-4.25	1,19,000/-	3,702/-	Haidarpur
P26	22.06.2004	00-05-01	24,00,000/-	3,142/-	-do-
P27	14.07.2004	00-05-01	25,00,000/-	3,273/-	-do-
P28	23.07.2004	00-02-01	14,26,288/-	4,600/-	Wazirabad
P29	15.09.2004	00-03-10	21,00,000/-	3,967/-	-do-
P30	16.09.2004	00-18-19	77,80,000/-	2,714/-	-do-
P31	28.09.2004	00-18-18	83,00,000/-	2,903/-	-do-
P32	01.10.2004	00-00-10	2,00,000/-	2,645/-	Haidarpur
P33	04.05.2005	00-02-02	15,00,000/-	4,723/-	Wazirabad
P34	19.07.2005	00-14-0.5	1,18,58,000/-	5,590/-	Haidarpur
P35	19.07.2005	00-04-00	26,00,000/-	4,298/-	-do-
P36	11.08.2005	01-12-06	2,15,93,500/-	4,420/-	Wazirabad
P37	05.09.2005	01-14-00	2,55,00,000/-	4,959/-	-do-
P46	07.04.1998	00-03-06	18,56,250/-	3,719/-	-do-
P47	07.04.1998	00-03-06	18,56,250/-	3,719/-	-do-
P48	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P49	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P50	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P51	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P52	07.04.1998	00-03-06	18,56,250/-	3,719/-	-do-
P53	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P54	07.04.1998	00-03-06	18,56,250/-	3,719/-	-do-
P55	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P56	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P57	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-

P58	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P59	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P60	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P61	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P62	07.04.1998	00-03-06	18,56,250/-	3,719/-	-do-
P63	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P159	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P160	07.04.1998	00-03-06	18,56,250/-	3,719/-	-do-
P161	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P162	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P163	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P164	07.04.1998	00-03-06	18,56,250/-	3,719/-	-do-
P165	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P166	07.04.1998	00-03-06	18,56,250/-	3,719/-	-do-
P167	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P168	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P169	07.04.1998	00-03-06	18,56,250/-	3,719/-	-do-
P170	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P171	07.04.1998	00-03-06	18,56,250/-	3,719/-	-do-
P172	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P173	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P174	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-
P175	07.04.1998	00-03-06	18,56,250/-	3,719/-	-do-
P176	07.04.1998	00-03-05	18,28,125/-	3,719/-	-do-

In this part of the area, the land had earlier been acquired. Certain licences had also been granted to the private builders. There was earlier acquisition of land in the area, the latest being vide notification dated 23.6.2003, close to the acquired land, for which this court in RFA No. 957 of 2010—Chander v. Haryana State and others, decided separately today, assessed the compensation @ ₹ 2,403/- per square yard. There being time gap of two years, in my opinion, increase for the time gap can be granted to the landowners. Adding the said amount, the compensation would come out to ₹ 3,014/- per square yard, which the landowners deserve to be granted. Even if the same is considered with regard to the sale deeds produced on record by the landowners pertaining to the land of the area, in my opinion,

the aforesaid compensation will be justified considering the smallness of the plots dealt with therein and the large area acquired.

Accordingly, the landowners are held entitled to compensation @ ₹ 3,014/- per square yard for the acquired land. They shall also be entitled to all statutory benefits available to them under the Act.

The appeals are disposed of accordingly.

(Rajesh Bindal)
Judge

December 10, 2015
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(Refer to Reporter)