IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.F.A. No. 1437 of 2012 (O&M
Date of decision: September 22, 2015

Dalwinder Singh and another

Appellants

Versus

Union Territory, Chandigarh

Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. P. C. Dhiman, Mr. Hardip Singh and
Mr. Mohan Singh Rana, Advocate for the landowners.

Mr. A.P. Setia, Mr. Deepak Sharma and
Mr. Vishal Sodhi, Advocates for Union Territory, Chandigarh.

...

Rajesh Bindal J.

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

RFA Nos. 1437 to 1463, 1906 to 1908, 2837, 2992 to 3005, 3126 to 3160, 4720, 4891 to 4893, 5228 to 5231, 5258 to 5272 and 7219 of 2012;

RFA Nos. 374 to 377, 467, 546, 547, 2039 to 2047, 2319, 2757 to 2761 and 3033 to 3036 of 2013

as the same arise out of common acquisition.

2. In the appeals filed by the landowners, they are seeking further 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 of the case are that vide notification dated 30.1.2006, issued under Section 4 of the Land Acquisition Act, 1894 (for

short, 'the Act'), Union Territory, Chandigarh sought to acquire 162.5 acres of land in village Dhanas, Hadbast No. 15, U.T., Chandigarh for rehabilitation of slum dwellers. The same was followed by notification dated 15.2.2006, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide award dated 15.12.2006, assessed the compensation @ ₹ 45,79,549/- per acre. Aggrieved against the award of the Collector, the land owners filed objections which were referred to the learned court below, who keeping in view the material placed on record by the parties, determined the fair value of the acquired land @ ₹ 54,95,459/- per acre. The said award has been challenged by the landowners as well as Union Territory, Chandigarh before this court.

4. Learned counsel for the landowners submitted that the acquired land was located just close to the abadi of village Dhanas. Part of it is abutting the road leading from Chandigarh to Mullan Garibdass, whereas on the other side was the land of Punjab State. The area on Punjab side was already developed. Even the land located on the other side of Chandigarh-Mullan Garibdass road had been acquired for use as Botanical Garden and Nature Park. Close to the acquired land also, there were acquisitions earlier. It was a small portion of land in this area, which was left out. The sale deed (Ex. P16) dated 12.1.2006, vide which 2 kanals and 2 marlas of land was sold for a total sale consideration of ₹ 26,77,500/- was not considered by the learned court below. The land dealt with therein was located just adjoining to the acquired land with no special advantages. The average sale consideration paid therein would come out to ₹ 1,02,00,000/- per acre. In fact, there are very few sale transactions in Chandigarh considering the restriction regarding construction. The learned Reference Court has wrongly rejected the aforesaid sale deed opining that none would buy such a costly land only for agricultural purposes. In fact, the area was being used for commercial purposes in the sense that marble and furniture markets had already come up in the area, though the structures were temporary and the open spaces were used for storage of marble. The genuineness of the sale deed cannot be disputed for the reason that just after 20 days, another sale deed (Ex. P17) dated 31.1.2006 for land measuring 2 kanals and 3-1/2

marlas was registered for a total sale consideration of ₹ 33,98,500/- at an average price of ₹ 1,25,00,230/- per acre There are other sale deeds also produced on record for the subsequent period in the same area showing similar prices of the land, hence, to opine that the sale deed (Ex. P17) was not a genuine sale transaction is totally misconceived. The submission is that the area dealt with in the sale deeds being quite large, no cut is required to be applied.

5. On the other hand, learned counsel for Union Territory, Chandigarh submitted that notification under Section 4 of the Act in the present case was issued on 30.1.2006. Survey for acquisition of land in any area starts prior in time. The sale deed (Ex. P17) was got registered by the residents of the area, whose land also may have been acquired, only to jack up the prices and create evidence. This was not the genuine transaction. The other sale deeds being post notification under Section 4 of the Act were not relevant. Even otherwise, the sale transaction entered into after the acquisition of land would always be keeping in view the development activity in the area starting with acquisition of land, hence, the prices may have gone up. Any sale transaction or development in neighbouring State is not relevant as different States have their own advantages or disadvantages. He further submitted that there had been other acquisition of the land in the area, where notification under Section 4 of the Act was issued on 23.12.1999 and this Court in RFA No. 2025 of 2009—Sh. Kanwaljit Singh Mujral and another v. Union Territory, Chandigarh, decided on 17.8.2015, had upheld the award of the learned Reference Court assessing the compensation @ ₹ 17,57,400/- per acre. Even if increase for the time-gap in two acquisitions is granted, the award of the Collector was much more and there was no case made out for enhancement of compensation.

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

7. As is evident from the site plan (Ex. P15) on record, the acquired land is located on Chandigarh-Mullan Garibdass road, on one side of which the acquired land is situated, whereas on the other side is the land acquired for development as Botanical Garden and Nature Park. On one side

of the acquired land abuts the boundary of Punjab State. Around the acquired land was the abadi of villages Dhanas and Sarangpur. Close to that is Milkman's Colony. Chandigarh itself is a small city having a total area of about 114 square kilometers. Major part of it has been planned and developed. The land in outskirts was being acquired for planned development. In the case in hand, the landowners had produced on record sale deed (Ex. P16), which was registered on 12.1.2006, vide which 2 kanals and 2 marlas of land was sold for a total sale consideration of ₹ 26,77,500/- at an average price of ₹ 1,02,00,000/- per acre. It is share in a joint khewat measuring 26 kanals-8-2/3 marlas. Part of this is abutting the acquired land with no special advantage as such. Further reliance was placed upon sale deed (Ex. P17) dated 31.1.2006, vide which 2 kanals and 3-1/2 marlas was sold for a total sale consideration of ₹ 33,98,500/- at an average price of ₹ 1,25,00,230/- per acre. The land pertaining thereto was also located close to the acquired land as the boundaries of revenue estates of villages Dhanas and Sarangpur are adjoining. The submission was for assessing the compensation on the basis thereof.

8. In my opinion, sale deed (Ex. P16) can be relied upon for the purpose of assessment of compensation for the acquired land for the reason that the same is not a small sale transaction and further the land pertaining thereto is adjoining to the acquired land. The contention raised by learned counsel for Union Territory that it was got registered just with a view to jack up prices to create evidence for claiming enhanced compensation is merely to be noticed and rejected keeping in view the subsequent sale deed (Ex. P19) dated 15.5.2007, vide which 3 kanals and 3 marlas of land was sold for total sale consideration of ₹ 78,75,000/- at an average price of ₹ 2,00,00,000/- per acre, hence, the genuineness of sale deed (Ex. P16) cannot be doubted. The rejection thereof by the court below opining that no one will buy agricultural land at an exorbitant rate is merely imaginatory. There were lot of activities in this area with the shifting of marble, furniture and kabari markets from other parts of the city after it was developed. However, still, in my opinion, for assessing fair value of the acquired land, a cut of 10% deserves to be applied on the sale consideration shown in sale deed

(Ex. P16). After reducing a sum of ₹ 10,20,000/- therefrom, the value of the acquired land would come out to ₹ 91,80,000/- per acre. The landowners are held entitled to compensation @ ₹ 91,80,000/- per acre. They shall also be entitled to all statutory benefits available to them under the Act.

9. For the reasons mentioned above, the appeals filed by the landowners are allowed, whereas the appeals filed by the Union Territory are dismissed.

(Rajesh Bindal)
Judge

September 22, 2015
mk

(Refer to Reporter)