

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

**RFA No. 5138 of 2011 (O&M)
LAC No. 713 of 2008**

Date of decision : 10.12.2015

State of Haryana and others	vs	.. Appellants
Lal Singh and another		.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Shivendra Swaroop, Assistant Advocate General, Haryana.
 Mr. B. K. Bagri, Advocate, for the landowners.

Rajesh Bindal, J.

This order will dispose of RFA Nos. 5138 to 5162, 5196 to 5220, 5433, 5434, 5868 to 5875, 6049 to 6056, 7347 to 7352, 7676, 7083 to 7087, of 2011, 109, 110, 292, 442 to 445, 677, 678, 1926, 4760 to 4772, 5786 and 7173 of 2012 and Cross-objection Nos. 16/CI to 18/CI of 2012, as the same arise out of common acquisition.

By filing appeals, the State of Haryana is seeking reduction of compensation awarded to the landowners for the acquired land, whereas by filing appeals and cross-objections, the landowners are seeking enhancement thereof.

Briefly, the facts are that vide notification dated 30.11.2007, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the State of Haryana sought to acquire 10.372 acres of land situated in village Jeetpura Istmurar, Hadbast No. 282, 13.659 acres in village Khatawali, Hadbast No. 284, 1.842 acres of village Dhakia, Hadbast no.286, Tehsil and District Rewari, for construction of Khatawali Minor from K.M. 0.002 to 6.984 off taking from K.M. 5.985/R of Jeetpura distributory in villages Phadni, Jeetpura Istmurar, Khatawali and Dhakia, Tehsil and District Rewari. Notification under Section 6 of the Act was issued on

10.12.2007. The Land Acquisition Collector (for short, 'the Collector') vide award no.21 dated 28.3.2008 for village Khatawali, which was subject matter in LAC No. 713 of 2008 Lal Singh and another vs State of Haryana and others, vide award no.1 dated 21.4.2008 of village Jeetpura Istmurar, which was subject matter in LAC No. 223 dated 17.11.2008 Jitender and another vs State of Haryana and others decided on 19.5.2011 and vide award no.19 dated 18.3.2008 of village Dhakia, which was subject in LAC No. 688 dated 17.11.2008 Manohar Lal vs State of Haryana and others decided on 29.7.2011, assessed the market value of the acquired land @ ₹ 16,00,000/- per acre. Dissatisfied with the awards of the Collector, the landowners filed objections. On reference, the learned court below determined the market value of the acquired land @ ₹ 20,00,000/- per acre. These awards have been impugned by both the parties before this Court.

Learned counsel for the landowners submitted that the land in question was located at a prime place in District Rewari, being close to Delhi-Jaipur National Highway. It pertained to revenue estates of villages Jeetpura Istmurar, Khatawali and Dhakia. Sale-deed of the concerned revenue estate of village Khatawali was produced showing the value of the land @ ₹ 46,00,000/- per acre, vide which large chunk of land measuring 51 kanals 18 marlas was sold on 18.12.2006, much prior to the acquisition in question. In fact, the same deserves to be relied upon, if not, at least the Court should have considered the average sale consideration paid in various sale-deeds produced by the landowners for the purpose of assessment of compensation. It was submitted that due to acquisition of land for Khatawali minor the land was divided into two portions. The submission is that it became uneconomical and difficult for them to cultivate two portions of land. The submission is that inspite of the fact that bifurcation of the land is undisputed but still the learned court below in some cases granted severance but in some of the cases rejected the claim of the landowners. It was submitted that the landowners are entitled to damages on account of severance. In support of the submissions, reference was made to Bhoop Singh vs State of Haryana and others 2015 (2) R.C.R. (Civil) 252.

On the other hand, learned counsel for the State submitted that the sale-deeds produced on record by the landowners have not been shown

on any site plan produced on record so as to enable this Court to compare the location pertaining the land dealt with therein viz-a-viz the acquired land. The acquired land in the present case was a strip passing through different villages namely Fadni, Jeetpura Istmurar, Khatawali and Dhakia. There may be some locational advantage to the land for which higher sale consideration was paid, as for the same revenue estate the variation in the sale consideration is ranging from ₹ 23,00,000/- to ₹ 46,00,000/- per acre. The land pertaining to none of the sale-deeds was close to the acquired land or was pertaining thereto. Number of sale-deeds had been produced on record by the State, which have wrongly been discarded. The same can very well be considered for the purpose of assessment of compensation. As the issue regarding severance was not raised before the learned Court below, it has not granted compensation for the same. Learned counsel for the State did not refer to any site plan produced by the State showing the location pertaining to the land in the sale-deeds produced.

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

The land of the revenue estates of villages Jeetpura Istmurar, Khatawali and Dhakia was acquired vide notification dated 30.11.2007 issued under Section 4 of the Act for construction of Khatawali Minor from K.M. 0.002 to 6.984 off taking from K.M. 5.985/R of Jeetpura distributory in villages Phadni, Jeetpura Istmurar, Khatawali and Dhakia. There is no site plan produced on record by the parties showing the location of the entire acquired land.

In the case in hand in LAC No. 713 dated 19.11.2008 Lal Singh and another vs State of Haryana and others for valuation of land of village Khatawali, the landowners produced the following sale-deeds:-

Exhibit	Sale-deed dated	Revenue estate	Area	Sale consideration in ₹	Rate per square yard in ₹
P-2	18.12.2006	Khatawali	51 k 18 m	2,98,42,500/-	46,00,000/-
P-3	14.2.2007	Khatawali	32 k 6 m	98,86,250/-	23,00,00/-
P-4	30.3.2007	Khatawali	28 k 02 m	1,48,36,250/-	41,50,000/-

The sale-deeds were available but the learned Court below by relying upon the award of the Collector and considering the increasing trend, assessed the compensation @ ₹ 20,00,000/- per acre.

As regards the assessment of compensation for the acquired land is concerned, a perusal of the details as noticed above, shows that the landowners in LAC No. 713 dated 19.11.2008, which was first in the series decided by the Reference Court, had produced three sale-deeds pertaining to the revenue estate of village Khatawali showing the price ranging from ₹ 23,00,000/- to ₹ 46,00,000/- per acre. The learned court below by applying the thumb rule assessed the compensation @ ₹ 20,00,000/- per acre in LAC No. 713 dated 19.11.2008.

Before the learned Reference Court various sale-deeds for assessment of compensation of the land of village Jeetpura Istmurar were produced by the landowners pertaining to revenue estates of village Khatawali and Jeetpura Istmurar. The value shown therein is ranging from ₹ 20,00,000/- to ₹ 38,40,000/- per acre. Three of them were pertaining to small plots measuring less than 1 kanal. The details of the sale-deeds are as under:-

Exhibit	Sale-deed dated	Revenue estate	Area	Sale consideration in ₹	Rate per square yard in ₹
P-7	11.1.2007	Khatawali	58 k 13 m	1,46,62,500/-	20,00,000/-
P-9/A	13.7.2007	Jeetpura Istmurar	1 m	18,500/-	29,60,000/-
P-10	4.6.2004	Jeetpura Istmurar	3 m	50,000/-	26,66,666/-
P-11	19.1.2007	Khatawali	12 m	2,88,000/-	38,40,000/-

In the aforesaid sale-deeds pertaining to land of revenue estate of village Khatawali, the price shown was ranging from ₹ 20,00,000/- to ₹ 38,40,000/- per acre

In LAC No. 694 of 2008 Jash Ram and others vs State of Haryana and others decided on 20.10.2011, the learned Reference Court while assessing the compensation relied upon the following sale-deeds:-

Exhibit	Sale-deed dated	Revenue estate	Area	Sale consideration in ₹	Rate per square yard in ₹
P-1	4.6.2014	Jeetpura	3 m	50,000/-	26,66,666/-
P-2	13.7.2007	Jeetpura	1 m	18,500/-	29,60,000/-
P-16	18.12.2006	Khatawali	51 k 18 m	2,98,42,500/-	46,00,000/-
P-17	11.1.2007	Khatawali	58 k 13 m	1,46,62,500/-	20,00,000/-
P-18	19.1.2007	Khatawali	12 m	2,88,000/-	38,40,000/-
P-19	14.2.2007	Khatawali	32 k 6 m	92,86,250/-	23,00,000/-
P-20	30.3.2007	Khatawali	28 k 12 m	1,48,36,250/-	41,50,000/-

Vide aforesaid sale-deed, Ex.P-16, large chunk of land measuring 51 kanals 18 marlas was sold on 18.12.2006, at an average price

of ₹ 46,00,000/- per acre, whereas subsequent thereto vide sale-deed, Ex. P17, land measuring 58 kanals 13 marlas was sold on 11.1.2007 at an average sale consideration of ₹ 20,00,000/- per acre. The other sale-deeds produced by the landowners were not relevant as were either pertaining to revenue estate of villages Jonawas, Fadni, Baliyar Khurd and Alamgirpur or were registered after the issuance of notification under Section 4 of the Act.

In LAC No. 688 dated 17.11.2008 Manohar Lal vs State of Haryana and others decided on 29.7.2011, no sale deed was produced by the landowners on record. The compensation was assessed by the learned Reference court while relying upon its earlier award, Ex. PX in LAC No. 713 dated 19.11.2008.

The contention sought to be raised by learned counsel for the landowners was that the sale transactions pertaining to land of village Khatawali showing the value of land at ₹ 46,00,000/- per acre should have been relied upon for the purpose of assessment of compensation and, if not, at least the Court should have considered the average sale consideration paid in various sale-deeds produced by the landowners for the purpose of assessment of compensation. However, I do not find any merit in the submission made. A perusal of the various sale-deeds produced by the landowners shows that the sale-deeds of revenue estates of villages Khatawali, Jeetpura Istmurar, Jonawas, Fadni, Baliyar Khurd and Alamgirpur were produced. In all the sale-deeds, the land dealt with was upto one kanal or less than one kanal. The average sale consideration paid therein was maximum ₹ 46,00,000/- per acre. In the case of village Khatawali, the sale consideration is ranging from ₹ 20,00,000/- to ₹ 46,00,000/- per acre. The area dealt with therein is also large. But the fact remains that the land in the present case was acquired for construction of Khatawali Minor from K.M. 0.002 to 6.984 off taking from K.M. 5.985/R of Jeetpura distributory in villages Phadni, Jeetpura Istmurar, Khatawali and Dhakia, which is in the form of a strip. There may be some locational advantage to the land sold at a higher price as in the same revenue estate large chunk of land was sold @ ₹ 20,00,000/- per acre. While assessing the compensation in the land acquisition cases, the calculation cannot be made by mathematical exactitude, as some times guess work is also applied.

Keeping in view the aforesaid material on record, in my opinion, the learned court below has not committed any error in assessing the compensation @ ₹ 20,00,000/- per acre. Accordingly, the appeals and cross-objections are dismissed as regards the valuation of land is concerned.

As far as the contention raised by learned counsel for the landowners regarding award of compensation on account of severance is concerned, the fact that on account of acquisition of land for construction of Khatawali minor, land of some of the landowners has been divided into two parts, has not been disputed. It has even been so recorded by the Reference Court, but still damages on account of severance of land have not been awarded, which the landowners deserve to be granted. On account of acquisition and construction of a minor/drain/distributory, it becomes difficult to cultivate the other portion of the land and to cross over to the other side. The level of a drain/ minor is always above the level of the land, which makes it difficult to irrigate or use the divided portions of the land to its optimum and also to approach the other portion of the land.

Considering the aforesaid facts, in my opinion, all the landowners, whose land has been divided into two portions shall be entitled to damages on account of severance at the uniform rate of 20% of the value of the acquired land. The land owners shall also be entitled to the statutory benefits available under the Act.

For the reasons mentioned above, the appeals filed by the State are dismissed and the appeals and cross-objections filed by the landowners are disposed of in the above terms.

10.12.2015
vs

(Rajesh Bindal)
Judge

(Refer to Reporter)