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

RFA No. 5228 of 2011 (O&M)

Date of decision : 02.9.2015

Savinder Singh alias Surender Singh and another ... Appellants

vs

State of Haryana and others ... Respondents

Coram : Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. K. S. Sidhu, Senior Advocate with Mr. A. S. Sandhu, Mr. Sandeep Punchhi, Mr. B. S. Mittal, Mr. Rajesh Sethi, Rajeev Godara, Mr. S. K. Jain, Mr. Sanjiv Gupta, Mr. Vivek Khatri, Mr. Ashok Verma, Advocates, Ms. Divya Godara Advocates for Mr. Lal Singh Sandhu, Advocate, for the landowners in the appeals argued on 27.8.2015

Mr. Sandeep Punchhi, Mr. S. K. Jain, and Mr. Rajeev Godara, Advocates, for the landowners in the appeals argued on 28.8.2015 and 31.8.2015.

Mr. Vishal Garg, Additional Advocate General, Haryana with Mr. Shivendra Swaroop, Assistant Advocate General, Haryana.

Rajesh Bindal, J.

1. This order will dispose of the following appeals bearing

RFA Nos. 5228, 5229, 5347 to 5351, 5834 to 5856, 7162 to 7168, 7202 to 7204, 7243 to 7246, 7368, 7461 to 7526, 7544 to 7546, 7955 to 7957 of 2011;

RFA Nos. 68 to 74, 732 to 734, 778, 788, 916, 928, 1283 to 1305, 1315, 1316, 1435, 1436, 1495 to 1498, 1960, 1961, 220, 390 to 396, 453 to 456, 3080, 3275 to 3278, 4490 to 4492, 5233 to 5248, 5587, 7233, 7256, 7257 of 2012; and

RFA No. 303 to 305, 503, 946, 947, 948, 4149 of 2013, as the same arise out of common acquisition.

2. By filing the appeals, the landowners are seeking enhancement of compensation for the acquired land, whereas by filing appeals, the State is seeking reduction thereof.

3. Briefly, the facts of the case are that vide notification issued on 19.12.2002, under Section 4 of the Land Acquisition Act, 1894 (for short, `the Act'), State of Haryana sought to acquire land measuring 416.02 acres situated within the revenue estate of village Khairpur, Hadbast No. 79, and Village Vaidwala Tehsil and District Sirsa, for commercial and residential Sectors 19 and 20 at Sirsa. Notification under Section 6 of the Act was issued on 18.12.2003 vide which 307.36 acres of land was declared for acquisition. The actual area was found to be 304.94 acres. The Land Acquisition Collector (for short, the Collector) vide different awards assessed the compensation @ ₹ 6,00,000/- per acre. Dissatisfied with 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 2.5.2011 assessed the market value of the acquired land @ ₹ 525/- per square yard of village Khairpur and ₹ 490/- per square yard for the land of village Vaidwala.

4. Vide another notification issued on 30.11.2004, under Section 4 of the Act, State of Haryana sought to acquire land measuring 56.80 acres situated within the revenue estate of village Khairpur, Hadbast No. 79, Tehsil and District Sirsa, for commercial and residential Sectors 19 and 20 at Sirsa. Notification under Section 6 of the Act was issued on 28.11.2005 vide which 50.30 acres of land was declared for acquisition. The actual area was found to be 49.02 acres. The Land Acquisition Collector (for short, the Collector) vide award dated 27.11.2007 assessed the compensation @ ₹ 15,00,000/- per acre for gair mumkin land and ₹ 8 lacs per acre for nehri and chahi kinds of land. Dissatisfied with 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 29.2.2012 assessed the market value of the acquired land @ ₹ 550/- per square yard.

5. The aforesaid awards have been impugned before this court by both the parties.

6. Learned counsel for the landowners submitted that the learned court below has not awarded just and fair compensation for the acquired land keeping in view the location and potential value thereof. It is situated within the municipal limits of Sirsa town. Residential and commercial Sector-20, Part-I, Sirsa and HSIDC colony is also adjacent to the acquired land. Mini Secretariat, Judicial complex, banks, etc. are close to the acquired land. The basic amenities were available close to the acquired land. The distance between the acquired land and these places ranges from ½ KM to 2 Kms. The acquired land is sandwiched between Hisar-Sirsa road which is National Highway No. 10 and Sirsa-Barnala road leading to Punjab which is also a State highway. A road from D. C. Colony/ PWD rest house leading from Barnala road to Hisar road has been carved out underneath which is a minor and the acquired land abuts that road. Bus Stand, Sirsa, is also at a very small distance i.e. 2 kms away from the acquired land. Sahid Bhagat Singh Standium, Chaudhary Devi Lal University, Sirsa, are in the close vicinity of the acquired land. It is strategically located and had a great future potentiality.

7. In support of his arguments that compensation as assessed by the learned Court below is not just and fair, learned counsel for the landowners referred to sale-deeds, Ex.P3, Ex.P5, Ex.P6, Ex.P7, Ex.P8, Ex.P10 and judgments pertaining to acquisition of land earlier in the area. Elaborating his arguments, while referring to site-plan, Ex. P21 (LAC No. 292 of 2006), it was submitted that vide sale-deeds, Ex. P5 and P6, which were registered on 15.11.2000, land measuring 1 kanal each was sold at an average price of ₹ 823/- per square yard. Sale-deed, Ex.P6, was forming part of the acquired land. The acquisition having taken place more than two years thereafter, increase of 24% should be granted thereon and the compensation has to be assessed accordingly. At the most, a cut 10% to 20% can be applied keeping in view the smallness of the transaction. In support of his arguments, reliance was placed upon *Mehrawal Khewaji Trust (Regd.), Faridkot and others vs State of Punjab and others* 2012 (2)

RCR (Civil) 893.

8. As far as sale-deeds, Ex.P7 and Ex. P8, are concerned, the same were pertaining to 16 marlas and 8 marlas which were sold at an average price of ₹ 459/- and ₹ 1,917/- per square yard on 20.10.1997 and 30.10.2001, respectively. Vide sale-deed dated 28.2.1996, Ex. P3, 4 kanals of land was sold for consideration of ₹ 4,50,000/-, at an average price of ₹ 186/- per square yard, which is part of the acquired land. Vide sale-deed, Ex. P10, land measuring 15 kanals 15 marlas was sold at an average price of ₹ 7,645/- per square yard on 18.4.2007. Reliance was also made to judgment of this Court passed in RFA No. 46 of 2000 *Joginder Kaur and others vs State of Haryana and another*, decided on 22.9.2004, whereby the award of the learned court below assessing compensation @ ₹ 700/- per square yard for the land of village Khairpur acquired vide notification under Section 4 of the Act, issued on 27.11.1992 for development and utilisation thereof for a road was upheld. Civil Appeal Nos. 6975-6981 of 2011 *Darshan Singh and others vs State of Haryana and others* filed against the judgment of this Court were dismissed on 12.5.2015 by Hon'ble the Supreme Court.

9. Learned counsel also referred to RFA No. 3125 of 1999 – *Diwan Chand vs State of Haryana and others*, decided on 24.12.2009, vide which this court had assessed the market value of the land of village Khairpur acquired vide notification under Section 4 of the Act dated 5.7.1994, @ ₹ 210/- per square yard upto the depth of 100 yards from the National Highway and ₹ 125/- per square yard for the remaining land (and for the land acquired vide notification under Section 4 of the Act dated 29.11.1995, the market value was assessed at ₹ 250/- per square yard for land upto the depth of 100 yards from the National Highway and ₹ 150/- per square yard for the remaining land.)

10. Further reference was also made to award announced by the Collector on 12.1.2011 pertaining to acquisition of land in villages Vaidwala and Khairpur assessing compensation @ ₹ 50,000,00/- per acre, for which notification under Section 4 of the Act was issued on 15.1.2008 for residential and commercial sectors-21, 22P, Sirsa. The Reference Court assessed the compensation @ ₹ 83,18,000/- per acre, and appeals against

which are stated to be pending.

11. On the other hand, learned counsel for the State submitted that no doubt the land pertaining to sale-deed, Ex.P3, is forming part of acquired land, however, considering the fact that the area dealt with therein is quite small as compared to the total acquisition measuring about 305 acres, the same cannot be relied upon. The plot measuring 16 marlas was dealt with in Ex. P7, which was again located on a road in thickly populated commercial area. The plot dealt with in Ex.P8 was again small, which is located on National Highway No. 10. Hence, these sale-deeds are of no relevance for the purpose of assessment of compensation. In fact, the award announced by the Collector was just and fair if considered in the light of the sale-deeds produced on record by the State. Reference was also made to Sale-deeds, Ex. R11, Ex. R14, and Ex. R21. It was submitted that the aforesaid sale-deeds produced by the State are pertaining to revenue estate, land of which was acquired. However, learned counsel for the State could not refer to any site plan on record pointing the location of land dealt with in the aforesaid sale-deeds. He further submitted that the sale-consideration paid in the aforesaid sale-deeds clearly shows that the Collector had been quite liberal in awarding compensation, hence, the same did not require any interference by the Reference Court. While not disputing the assessment of compensation for the land acquired in the years 1992 and 1994, learned counsel for the State submitted that assessment of compensation assessed therein cannot be made the basis for assessment of value of the acquired land as there is time gap of 8 to 10 years in between.

12. In response, learned counsel for the landowners submitted that the sale-deeds produced by the landowners which are less than the Collector rate are to be ignored in terms of Section 25 of the Act.

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

14. In the present case, notification under Section 4 of the Act was issued on 19.12.2002. The State Government sought to acquire 304.94 acres of land. The Collector vide award dated 6.10.2005 assessed the compensation @ ₹ 6,00,000/- per acre, which was increased to @ ₹ 525/-

per square yard for village Khairpur and ₹ 490/- per square yard for the land of village Vaidwala by the Reference Court. For the land acquired vide notification under Section 4 of the Act dated 30.11.2004, the Collector had awarded compensation @ ₹ 15,00,000/- per acre for gair mumkin and ₹ 8,00,000/- per acre for nehri and chahi kinds of land, which was increased by the learned Reference Court to ₹ 550/- per square yard.

15. It is admitted case of the parties that the acquired land is situated within the municipal limits of Sirsa town. Sector-20, Part-I, Sirsa and HSIDC colony are adjoining to the acquired land. Government offices like, Mini Secretariat, Court complex, banks, etc. are close to the acquired land. The basic amenities were available close to the acquired land. It is sandwiched between Hisar-Sirsa road (NH No. 10) and Sirsa-Barnala road leading to Punjab, a State highway. Bus Stand, Sirsa, Sahid Bhagat Singh Stadium, Chaudhary Devi Lal University, Sirsa, are in the vicinity of the acquired land.

16. As far as the value of the land is concerned, in my opinion, the sale-deed, Ex. P3, is not relevant for the reason that the same had been registered on 15.11.2000, two years prior to the date of issuance of notification under Section 4 of the Act dated 19.12.2002. Similarly, sale-deed, Ex. P7, is also not relevant for the reason that a small plot touching the existing sector road from one side and the road of village Vaidwala from other side. The land pertaining to sale-deed, Ex. P8, is located near National Highway No. 10 and is far away from the acquired land, hence, is not comparable with the acquired land. Sale-deed, Ex. P10, was registered on 18.4.2007, after about five years from the date of notification under Section 4 of the Act is also not comparable, as the land dealt with therein is also located near National Highway No.10. Hence, the same is also not relevant.

17. The earlier acquisition in the area was made in the year 1992 where notification under Section 4 of the Act was issued on 27.11.1992. It was pertaining to two portions of land, one adjoining to the land in question, whereas the other one was a small strip of land acquired for extending the road upto National Highway No. 10, which was through thickly populated area. The compensation assessed for big chunk of land by this Court in

Joginder Kaur's case (supra), which was acquired for the purpose development and utilisation of residential area at Sirsa, was @ ₹ 115/- per square yard for nehri for nehri and ₹ 93/- per square yard for banjar qadim and barani, etc. kinds of land, whereas relating to land located between GT Road and the canal, acquired for the purpose of road, the value was assessed @ ₹ 700/- per square yard. In *Diwan Chand*'s case (supra), this Court had also assessed the compensation of the land of village Khairpur acquired vide notification under Section 4 of the Act on 5.7.1994 for integrated Infrastructural Development Centre, Sirsa, for providing Industrial plots/ sheds to the small scale industries with modern infrastructural facilities @ ₹ 210/- per square yard for land upto the depth of 100 yards from the National Highway and ₹ 125/- per square yard for the remaining land.

18. The aforesaid awards are not relevant for two reasons, namely, the same were 10-12 years prior to the acquisition in question and further there are sale-deeds available for the subsequent period and close to the acquisition.

19. Now we are left with sale-deeds, Ex. P5 and Ex. P6. Both are of village Khairpur. The sale-deeds, Ex. P5 and Ex. P6, were registered on 15.11.2000 for sale of land measuring 1 kanal each at an average price of ₹ 823/- per square yard, two years prior to the date of notification under Section 4 of the Act dated 19.12.2002.

20. It is not in dispute that the land dealt with in sale-deed, Ex. P6, is forming part of the acquired land. Land pertaining to sale-deed, Ex. P5 is also located close to the acquired land. The area dealt with in both the sale-deeds is 1 kanal each. The average sale consideration paid is ₹ 823/- per square yard. Considering the fact that there were development activities in the area, in my opinion, the landowners deserves to be granted increase @ 12% per annum for the time gap of two years. Adding 24% therein, the value shall come out to ₹ 1,020/- per square yard.

21. Now the question arises as to how much cut is to be applied for assessing fair value of the acquired land considering the fact that area dealt with in the aforesaid sale-deeds, was merely 1 kanal each and acquired land is a big chunk of land about 305 acres. The issue regarding application of

reasonable cut while considering the sale-deeds pertaining to small plots was considered by Hon'ble the Supreme Court in *Major General Kapil Mehra and others vs Union of India and another* 2015(2) SCC 262. The application of cut which falls in two categories namely the area required to be utilised for development works and infrastructural facilities and the second is regarding cost of development. The principles for the purpose as laid down in *Lal Chand vs Union of India and another* 2009 (15) SCC 769 were re-iterated by Hon'ble the Supreme Court in *Major General Kapil Mehra's* case (supra). Para 40 thereof is extracted below:-

> "40. Rule of one third deduction towards development appears to be the general rule. But so far as Delhi Development Authority is concerned, or similar statutory authorities, where well planned layouts are put in place, larger land area may be utilized for forming layout, roads, parks and other common amenities. Percentage of deduction for development of land to be made in DDA or similar statutory authorities with reference to various types of layout was succinctly considered by this Court in Lal Chand v. Union of India & Anr., (2009) 15 SCC 769 and observing that the deduction towards the development range from 20% to 75% of the price of the plots, in paras 13 to 22, this Court held as under:-
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> > "13. The percentage of "deduction for development" to be made to arrive at the market value of large tracts of undeveloped agricultural land (with potential for development), with reference to the sale price of small developed plots, varies between 20% to 75% of the price of such developed plots, the percentage depending upon the nature of development of the layout in which the exemplar plots are situated.
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> > 14. The "deduction for development" consists of two components. The first is with reference to the area required to be utilized for developmental works

and the second is the cost of the development works. For example, if a residential layout is formed by DDA or similar statutory authority, it may utilize around 40% of the land area in the layout, for roads, drains, parks, playgrounds and civic amenities (community facilities), etc.

15. The development authority will also incur considerable expenditure for development of undeveloped land into a developed layout, which includes the cost of leveling the land, cost of providing roads, underground drainage and sewage facilities, laying water lines, electricity lines and developing parks ands civil amenities, which would be about 35% of the value of the developed plot. The two factors taken together would be the "deduction for development" and can account for as much as 75% of the cost of the developed plot.

16. On the other hand, if the residential plot is in an unauthorized private residential layout, the percentage of "deduction for development" may be far less. This is because in an unauthorized layout, usually no land will be set apart for parks, playgrounds and community facilities. Even if any land is set apart, it is likely to be minimal. The roads and drains will also be narrower, just adequate for movement of vehicles. The amount spent on development work would also be comparatively less and minimal. Thus the deduction on account of the two factors in respect of plots in unauthorized layouts, would be only about 20% plus 20% in all 40% as against 75% in regard to DDA plots.

17. The "deduction for development" with reference to prices of plots in authorized private

residential layouts may range between 50% to 65% depending upon the standards and quality of the layout.

18. The position with reference to industrial layouts will be different. As the industrial plots will be large (say of the size of one or two acres or more as contrasted with the size of residential plots measuring 100 sq. m to 200 sq m), and as there will be very limited civic amenities and no playgrounds, the area to be set apart for development (for roads, parks, playgrounds and civic amenities) will be far less; and the cost to be incurred for development will also be marginally less, with the result the deduction to be made from the cost of an industrial plot may range only between 45% to 55% as contrasted from 65% to 75% for residential plots.

19. If the acquired land is in a semi-developed urban area, and not an undeveloped rural area, then the deduction for development may be as much less, that is, as little as 25% to 40%, as some basic infrastructure will already be available. (Note: The percentages mentioned above are tentative standards and subject to proof to the contrary.

20. Therefore the deduction for the "development factor" to be made with reference to the price of a small plot in a developed layout, to arrive at the cost of undeveloped land, will be far more than the deduction with reference to the price of a small plot in an unauthorized private layout or an industrial layout. It is also well known that the development cost incurred by statutory agencies is much higher than the cost incurred by private developers, having regard to higher overheads and expenditure.

> 21. Even among the layouts formed by DDA, the percentage of land utilized for roads, civic amenities, parks and playgrounds may vary with reference to the nature of layout-whether it is residential , residential-cum-commercial or industrial; and even among residential layouts, the percentage will differ having regard to the size of the plots, width of the roads, extent of community facilities, parks and playgrounds provided.
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> 22. Some of the layouts formed by the statutory development authorities may have large areas earmarked for water/sewage treatment plants, water tanks, electrical substations, etc. in addition to the usual areas earmarked for roads, drains, parks playgrounds and community/civic amenities. The purpose of the aforesaid examples is only to show that the "deduction for development" factor is a variable percentage and the range of percentage itself being very wide from 20% to 75%." Lal Chand's case deals with acquisition of lands by DDA under the Rohini Residential Housing Scheme where 40% deduction was made towards the land area to be utilized for laying down of roads, drains etc. Further deduction of 35% of the value of the developed plot towards cost of levelling the land, cost of providing roads, underground drainage, laying down water lines, electricity lines was made. "

22. In the case in hand, genuineness of the sale-deeds is not in dispute. The learned counsel for the State did not point that the area where 1 kanal each land was purchased by the vendees vide sale-deeds, Ex. P5 and Ex. P6, were in a properly developed colonies, hence, it can be considered to be a privately developed colony with comparable lesser area left for infrastructural facilities and lesser amount spent for development. As per the

parameters for application of cut, in my opinion, 40% is reasonable deduction. Reducing the aforesaid amount from ₹ 1,020/-, the amount of compensation payable to the landowners would come to ₹ 612/- per square yard for the land acquired vide notification under Section 4 of the Act dated 19.12.2002.

23. The contention raised by learned counsel for the State regarding valuation of land with reference to sale-deeds, Ex.P11, Ex. P14 and Ex. P21, is concerned, the same is merely to be noticed and rejected in the light of the fact that there is sale transaction available pertaining to the acquired land itself.

24. The contention raised by learned counsel for the landowners that the sale transactions referred to by the State, which are showing less value than the assessed by the Collector are to be ignored is also to be rejected for the reason that Section 25 of the Act merely provides that Reference Court cannot grant compensation less than what has been awarded by the Collector. There is no bar in considering the sale-deeds, referred to by the State, if those are relevant. The Court can always arrive at a conclusion that the amount of compensation payable to the landowners comes less than the award of the Collector but the amount so awarded by the Collector cannot be reduced. Reference can be made to judgment of Hon'ble the Supreme Court in *Madishetti Bala Ramul (D) by LRs vs The Land Acquisition Officer* 2007 (3) RCR (Civil) 455. Para 7 thereof is extracted below:-

> 17. Section 25 of the Act merely prohibits that total amount of the award granted by the Collector cannot be reduced. Section 25 which has undergone an amendment in the year 1984, thus, merely lays down that the amount of compensation awarded by the reference court shall not be less than the amount awarded by the Collector, and in no circumstances the amount awarded by the Collector can be reduced. What is an award is a total sum and not the ingredients contained therein. An award made by the Collector is in

the form of an offer. It is in that sense only that the amount contained therein cannot be reduced."

Acquisition dated 30.11.2004

25. The small portion of land subsequently acquired where notification under Section 4 of the Act was issued on 30.11.2004. It is adjoining to the land acquired vide notification under Section 4 of the Act dated 19.12.2002 for development as Sectors 19 and 20, Sirsa.

26. Considering the development activities and the surroundings in the area and the facts as noticed above, in my opinion, the landowners for the aforesaid acquisition deserves to be granted increase @ 12% per annum with cumulative effect for the time gap of two years on the value as assessed for the acquisition carried out vide notification under Section 4 of the Act on 19.12.2002. If increase @ 12% per annum with cumulative effect is added on ₹ 612/-, the amount comes to ₹ 767.69, which is rounded off to ₹ 768/-.

27. For the reasons mentioned above, the appeals filed by the landowners are allowed. The appeals filed by the State are dismissed.

To sum up:-

i) the landowners for the land acquired vide notification under Section 4 of the Act dated 19.12.2002 are held entitled to compensation @ ₹ 612/- per square yard.

ii) the landowners for the land acquired vide notification under Section 4 of the Act dated 30.11.2004 are held entitled to compensation @ ₹ 768/- per square yard.

iii) they shall also be entitled to all statutory benefits in terms of the provisions of the Act.

02.9.2010 **(Rajesh Bindal)**
vs. **Judge**

(Refer to Reporter)