

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA No. 5309 of 2011 (O&M)
Date of decision: September 22, 2015

Janki Devi and others

.. Appellants

v.

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Balwinder Singh Sudan and Mr. Vishal Kumar,
Mr. Aditya Jain, Advocates for the landowners.

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

...

Rajesh Bindal J.

1. This order will dispose of a bunch of appeals bearing
RFA Nos. 5309 to 5342, 6486, 6715 to 6728, 6834 to 6836,
6916, 6917, 7117 of 2011;
RFA Nos. 5702 to 5705 of 2012;
RFA Nos. 1475 to 1479, 1615, 1616, 2123 to 2125, 2338,
2597, 2604, 3502, 4728, 4976, 5388 to 5393, 5395 to 5408 of 2013;
as common questions of law and facts are involved.

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 the State, the prayer is for reduction thereof.

3. Briefly, the facts of the case are that vide notification dated 4.11.2003, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), State of Haryana sought to acquire 185.56 acres of land in village Pataudi, HB No. 1 Tehsil and District Gurgaon for development and utilization thereof as Residential, Commercial and Institutional Sector at Pataudi. The same was followed by notification dated 3.11.2004, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide award dated 31.1.2006, assessed the market value of the acquired land @ ₹ 12,50,000/- per acre. Aggrieved against the award of the Collector, the landowners filed objections which were referred to the learned court below, who keeping in view the material placed on record by the parties, dismissed the references. The said award has been challenged by the landowners in the present set of appeals.

4. Vide another notification dated 6.1.2004, issued under Section 4 of the Act, State of Haryana sought to acquire 57.18 acres of land in village Pataudi, Tehsil and District Gurgaon for development and utilization thereof as Residential, Commercial and Institutional Sector at Pataudi. The Collector, vide award dated 9.1.2006, assessed the market value of the acquired land @ ₹ 12,50,000/- per acre. Aggrieved against the award of the Collector, the landowners filed objections which were referred to the learned court below, who keeping in view the material placed on record by the parties, dismissed the references. It is this award, which has been challenged by the landowners in the present set of appeals.

5. Vide another notification dated 15.12.2004, issued under Section 4 of the Act, State of Haryana sought to acquire 279 kanals and 16 marlas of land in village Jatauli, Tehsil Pataudi, District Gurgaon for construction of new grain and vegetable market, Pataudi, Tehsil Pataudi, District Gurgaon. The same was followed by notification dated 9.1.2006, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide award dated 15.6.2007, assessed the market

value of the acquired land @ ₹ 16,00,000/- per acre. Aggrieved against the award of the Collector, the landowners filed objections which were referred to the learned court below, who keeping in view the material placed on record by the parties, assessed the market value of the acquired land @ ₹ 48,62,857/- per acre. The said award has been challenged by the landowners as well as the State.

6. Learned counsel for the landowners submitted that the acquired land is situated quite close to the existing abadi of Pataudi town. The acquisition in question was first in series for planned development of the area. It is located near the abadi of the city of Pataudi. The boundaries of the acquired land touched Pataudi-Gurgaon road on one side and Pataudi-Haily mandi road on the other side. It had great future potential for urbanisation. The sale deeds (Ex. P1, Ex. P2, Ex. P4, Ex. P6, Ex. P19 and Ex. P20 in LAC No. 342 of 2007) were not appreciated by the court below. It has rejected the transactions pertaining to small plots merely on the ground that those cannot be considered at all. The findings are contrary to the law laid down by Hon'ble the Supreme Court, in terms of which even the relevant sale transactions pertaining to small plots can also be considered after application of reasonable cut. It was further submitted that in fact the entire area was already being sold by way of small plots and some houses had also been constructed. That is the reason that under Section 4 of the Act, 262.84 acres of land was notified, whereas under Section 6 of the Act, merely 185.56 acres of land was notified. Large chunk was released. Further reference was also made to document (Ex. P9), whereby plots were offered to the landowners whose land was acquired in oustees quota @ ₹ 7,330/- per square meter for bigger size of plot and @ ₹ 6,597/- per square meter for small size of plot. The last date fixed for submission of applications was 8.12.2008. This is the rate at which the plots were sold by HUDA after carrying out some development in the area. Reasonable cut on account of development and time gap can be applied and the compensation be assessed. As regards application of cut is concerned, reliance was placed upon a judgment of Hon'ble the Supreme Court in Chandrashekar (Dead) by LRS and others v. Land Acquisition Officer and another, (2012) 1 SCC 390,

which provides that there can be development cut and for providing infrastructural facilities. Reverse cut was also accepted in the aforesaid judgment. Referring to the judgment of Hon'ble the Supreme Court in Ashrafi and others v. State of Haryana and others, (2013) 5 SCC 527, it was submitted that permissible cut provided therein was 33%. The best exemplar sale deed should be relied upon. The entire acquired land was forming part of the municipal limits of Pataudi. Future potentiality of the land was not considered while assessing the compensation for the acquired land.

7. In RFA No. 6486 of 2011, application was filed for additional evidence showing the amount spent on development activities. Learned counsel also referred to the award pertaining to acquisition of land for Grain Market at Pataudi, where notification under Section 4 of the Act was issued on 15.12.2004 and the learned Reference Court had assessed the compensation @ ₹ 48,62,857/- per acre.

8. On the other hand, learned counsel for the State, while not disputing the fact that in the process of acquisition where notification under Section 4 of the Act was issued on 4.11.2003, more than 77 acres of land was not finally acquired, though notified under Section 4 of the Act. Even in the acquisition proceedings, where notification under Section 4 of the Act was issued on 6.1.2004, more than 11 acres of land was not finally acquired. He submitted that may be there were some houses or some licences may have been granted on account of which part of the land was not finally acquired. He further submitted that the sale deeds produced by the landowners being for small plots and that too commercial, had rightly been ignored by the court below. The land dealt with in the sale deeds produced by the landowners was not of bigger chunks, it clearly establishes that the award of the Collector was just and fair and did not call for any interference.

9. As far as acquisition of land for Grain Market, Pataudi is concerned, he submitted that none of the sale deeds relied upon by the court below were relevant and even otherwise those were for small plots.

10. Heard learned counsel for the parties and perused the paper book.

Assessment of value of land acquired vide notifications
dated 4.11.2003 and 6.1.2004

11. The acquired land in the present case is located on Pataudi-Gurgaon road on one side and Pataudi-Hailymandi road on the other side. Old abadi of the city is close to the acquired land. In fact, substantial portion of the acquired land was released apparently for the reason that there may be houses already constructed, though learned counsel for the State was not able to specify the same. The acquisition in question was first in the area for planned development. The entire land was forming part of the municipal limits. Bus Stand, Mela Ground, Power House, Cinema Hall were located close by. Learned counsel for the landowners relied upon sale deeds (Ex. P2 and Ex. P4 in LAC No. 342 of 2007) dated 26.8.2003 and 17.12.2003 respectively. In sale deed (Ex. P2), land measuring 2 marlas was sold for ₹ 1,22,000/-, at an average price of ₹ 61,000/- per marla. In sale deed (Ex. P4), land measuring 1 marla was sold at an average price of ₹ 62,000/- per marla. A perusal of the aforesaid sale deeds as pointed out on the site plan (Ex. P6 in LAC No. 342 of 2007) show that the land dealt with therein is located in the abadi area of the city and small plots were even commercial in nature, as is even evident from the sale deeds. In fact, the site plan on record is not specifically showing details of the abadi area or otherwise, hence, it will not be safe to place reliance thereupon.

12. As against this, there is sale deed (Ex. P19 in LAC No. 342 of 2007) dated 28.12.1998 on record, vide which 9 marlas of land was sold for ₹ 1,50,000/- at an average price of ₹ 16,667/- per marla. The location of the aforesaid land can be seen on the site plan on the left side in or close to the acquired land on Pataudi-Hailymandi road. Considering the fact that Pataudi was a small city at the relevant time, if increase @ 10% flat is added thereon for the time gap from the date of registration of the sale deed till the issuance of notification under Section 4 of the Act, the value shall come out to ₹ 40,00,000/- per acre. Considering the fact that the acquired land is a big chunk and had the potential being located close to the abadi of the city surrounded by roads on two sides, in my opinion, cut of 50% would be

appropriate.

13. In view of my aforesaid discussion, the landowners are held entitled to compensation @ ₹ 20,00,000/- per acre for the land acquired vide notifications dated 4.11.2003 and 6.1.2004.

Assessment of value of the land acquired vide notification
dated 15.12.2004

14. As far as valuation of the land with reference to notification dated 15.12.2004 is concerned, it is evident that the acquired land is situated on main Pataudi-Hailymandi road and there is lot of development on the said road. The acquired land is strategically located. It was acquired for construction of new grain and vegetable market, Pataudi. There is a old railway station in Hailymandi which is said to be in existence since pre-independence days.

15. A perusal of the impugned award shows that the learned Reference Court placed reliance upon two sale deeds (Ex. PW2/1 and Ex. PW2/5 in LAC No. 423 of 2008). In sale deed (Ex. PW2/1 in LAC No. 423 of 2008) dated 9.9.2004, 7 marlas of land was sold for ₹ 4,24,000/- at an average price of ₹ 96,91,428/- per acre. In sale deed (Ex. PW2/5 in LAC No. 423 of 2008) dated 9.9.2004, 2 marlas of land was sold for ₹ 1,22,000/- at an average price of ₹ 97,60,000/- per acre. Considering that aforesaid sale deeds were registered quite close to the date of issuance of notification under Section 4 of the Act and were pertaining to the same revenue estate, the learned Reference Court applied a cut of 50% thereon for the purpose of assessment of value of the acquired land. Considering the development activities and location of the land, in my opinion, method of assessment of compensation adopted by the learned Reference Court does not call for any interference by this court.

16. Accordingly, the appeals filed by the landowners as well as the State pertaining to the award of the court below regarding notification dated 15.12.2004 are dismissed.

17. To sum up, it is held that for the land acquired vide notifications dated 4.11.2003 and 6.1.2004, the landowners are held entitled to compensation @ ₹ 20,00,000/- per acre. They shall also be entitled to all

statutory benefits available to them under the Act. The appeals filed by the landowners as well as the State against the award of the court below pertaining to acquisition dated 15.12.2004 are dismissed.

(Rajesh Bindal)
Judge

September 22, 2015
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