IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No. 7214 of 2012 (O&M)

Date of decision : 29.7.2015

Janardhan .. Appellant

vs

State of Haryana and another .. Respondents

Coram : Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Sandeep Panwar, Mr. Arvind Bansal, Advocates, and
Mr. Naveen Sharma, Advocate for
Mr. Vikram Singh, Advocate, for the landowners.

Mr. Gaurav Jindal, Additional Advocate General, Haryana.

Rajesh Bindal, J.

This order will dispose of RFA Nos. 7214 of 2012, 1070 of 2013, 2267 and 2338 of 2015, as common questions of law and facts are involved therein.

The landowners are in appeal seeking enhancement of compensation for the acquired land.

Briefly, the facts of the case are that the State of Haryana vide notification dated 8.1.2003 issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') sought to acquire land situated within the revenue estate of Villages Sakra and Kheri Sakra, Tehsil and District Kaithal, for extension of Pundri Drain No.1 from RD 55000 to 84412. Notification under Section 6 of the Act was issued on 2.12.2003. The Land Acquisition Collector (for short, 'the Collector') vide award dated 19.9.2005 assessed the market value of the acquired land of both the villages @ ₹ 2,20,000/- per acre. Dissatisfied with the award of the Collector, the landowners filed objections. On reference, the learned court below vide awards dated 17.8.2012 and 22.10.2012 determined the market value of the acquired land of both the villages @ ₹ 2,50,000/- per acre. Aggrieved against the awards of learned Court below, the landowners are in appeal before this Court.

Learned counsel for the landowners submitted that the court below has not awarded just and fair compensation for the acquired land while considering the location of the land. The acquired land is situated near the abadi. It had residential as well as commercial potentially. The value of the land in the area was not less than ₹ 15,00,000/- per acre. It was further submitted that the State Government had issued policies dated 28.4.2005, and 6.4.2007 fixing minimum rates for acquisition of the land in the State. He prayed that as the award in the present case was announced on 19.9.2005, a reasonable increase can be granted on the value of the land as provided in the policy circulated on 28.4.2015 keeping in view the difference between the enforcement of policy and announcement of award by the Collector. The prayer is for determination of value keeping in view the policies, location and potentiality of the land acquired.

Learned counsel for the State submitted that the learned court below without there being any evidence produced on record by the landowners showing the value of the land, had assessed compensation for the acquired land @ ₹ 2,50,000/- per acre. It had merely applied thumb rule for assessment of compensation. It was further submitted that there was no irrigation facilities in the area. The value of the land in the area was quite low. The submission is that sufficient amount of compensation has been awarded by the learned Court below, which does not call for any enhancement. The prayer is for dismissal of the appeals.

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

8. It is not disputed by the learned counsel for the State that the Government of Haryana had issued policies from time to time whereby the minimum rates were fixed for payment as compensation for the acquired land in the State of Haryana. As per policy dated 28.4.2005, all the landowners in whose cases the award of the Collector was passed on or after 5.3.2005 irrespective of date of notification under Section 4 of the Act, are entitled to minimum amount of compensation @ ₹ 5,00,000/- per acre. Notification in the present case was issued on 8.1.2003 and award by the

Collector was announced on 19.9.2005. The relevant extract of the policy dated 28.4.2005, is as under:-

> "Subject:- Fixation of floor rates for acquisition of land for public purpose in the State of Haryana.
>
> Sir,
>
> I am directed to refer to the subject cited and to state that the State Government has been acquiring land for public purposes for various departments as well as other State Agencies. Under the present system compensation is paid to the land owners based on the rate fixed by the Committee constituted under the Chairmanship of Divisional Commissioner vide this department letter No. 3670-R-5-95/8943, dated 20.6.1995. This Committee had been recommending rates based on the quality, category and location of the land under acquisition.
>
> 2. It has been the general experience that the rates of compensation fixed for acquisition are quite low as compared to the market rates prevalent in that area. Consequently, the land owners have to approach the Courts for enhancing the compensation paid to them and this process of litigation takes a substantial time. Agricultural land all over the State has become very valuable and more so in the region surrounding Delhi. The farmer who is deprived of his only livelihood is entitled to a fair compensation based on the market rates prevalent in the area.
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> 3. The question of bringing about an improvement in the system by fixing a minimum floor rate and thereby ensure payment of fair compensation to the farmers based on the market rates, has been under the active consideration of the State Government. The system of acquisition followed by the Delhi Administration as well as by the NOIDA operating in the NCR has also been studied.
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> 4. It has now been decided by the Government that the

State be divided into following Zones for the purpose of fixing floor rates of land acquisition:-

i) The urbanisable area as shown in the Gurgaon Development Plan.

ii) Rest of the NCR sub-region of Haryana including Panchkula and periphery of Chandigarh forming part of Haryana State.

iii) Rest of the State outside Haryana sub-region of NCR.

5. After due consideration, it has further been decided to fix the following floor rates for the above three Zones for acquisition of land for public purpose:

i) The urbanisable area of Gurgaon will have a minimum floor rates of Rs. 15.00 lacs per acre.

ii) Rest of the Haryana sub-region of NCR including Panchkula and area of Chandigarh periphery in the Haryana State will have a minimum floor rate of Rs. 12.50 lacs per acre.

iii) For the rest of the State minimum floor rate will be Rs. 5.00 lacs per acre.

iv) These rates do not include the solatium and interest payable under the provisions of the Land Acquisition Act.

6. The Committee headed by the Divisional Commissioner will continue to perform its duties while fixing the rate of compensation for various categories of land under acquisition based on these floor rates. It will continue to take into account all these parameters for working out the land acquisition rate being followed at present while communicating the rate to the Acquiring Departments/ Agencies in the State."

Thereafter, Government of Haryana, issued letter dated 25.5.2005 clarifying about applicability of the aforesaid instructions/ policy dated 28.4.2005 with regard to fixation of floor price of acquired land for public purposes in the State. The relevant extract thereof is as under:-

> "After a careful and detailed consideration, it has been decided that no award for acquisition of land to be announced on/ after 5th March 2005 shall be on rates lower than the floor rates, communicated to you vide this department letter dated 28-4-2005. The other provisions of the communication dated 28-4-05 will remained unchanged."

As per aforesaid policy dated 28.4.2005, minimum rates in the area in question would be @ ₹ 5,00,000/- per acre. These rates are applicable to all those acquisitions where awards had been announced on or after 5.3.2005 irrespective of date of notification under Section 4 of the Act. Policy dated 28.4.2005 was revised on 6.4.2007. The relevant extract of policy, dated 6.4.2007, is as under:-

> "Sub: Fixation of floor rates for the acquisition of land for public purpose in the State of Haryana.
>
> Ref: This Department Memo No. 2025-R-5-2005/4299, dated 28.4.2005.
>
> Vide this Department Memo. under reference, minimum floor rates for acquiring land for public purposes for various Departments as well as other State Agencies were fixed by the Haryana Government as follows:

i) Minimum floor rate for urbanisable area of Gurgaon.	Rs. 15.00 lacs per acre
ii) Minimum floor rate for rest of the Haryana Sub-Region of NCR inlcuding Panchkula and area of Chandigarh periphery in the Haryana State.	Rs.12.50 lacs per acre.
iii) Minimum floor rate for the rest of the Haryana State.	Rs. 05.00 lacs per acre.

> (These floor rates did not include the solatium and interest payable under the provisions of the Land Acquisition Act, 1894).
>
> 2. Now it has been observed that with the passage of time market rates of the land have increased substantially.

Therefore, Haryana Government has re-considered this matter and has decided to re-fix these floor rates as follows:

i) Minimum floor rate for urbanisable area of Gurgaon.	Rs. 20.00 lacs per acre
ii) Minimum floor rate for rest of the Haryana Sub-Region of NCR inlcuding Panchkula and area of Chandigarh periphery in the Haryana State.	Rs.16.00 lacs per acre.
iii) Minimum floor rate for the rest of the Haryana State.	Rs. 08.00 lacs per acre.

3. These floor rates do not include the solatium and interest payable under the provisions of the Land Acquisition Act, 1894.

4. These revised rates will be applicable on all those acquisitions where awards have been announced on or after 22.3.2007 irrespective of the date of notification under Section 4 of the Land Acquisition Act, 1894."

As per the aforesaid policy dated 6.4.2007 the minimum floor rate in the Haryana State was fixed @ ₹ 8,00,000/- per acre and the rates are applicable to all those acquisitions where awards have been announced on or after 22.3.2007 irrespective of date of notification under Section 4 of the Act. The value of the land in question, as per the area in the policy of the Government dated 28.4.2005, was ₹ 5,00,000/- per acre. It increased from ₹ 5,00,000/- to ₹ 8,00,000/- per acre in the year 2007.

The award in the present case was announced by the Collector on 19.9.2005 whereas as per policy dated 28.4.2005, the date of applicability is 5.3.2005. The Government of Haryana itself had assessed the value of the land in the area in question at ₹ 5,00,000/- per acre in the year 2005 and ₹ 8,00,000/- per acre in the year 2007.

The aforesaid policy letters, in my opinion, can be considered as a piece of evidence showing the value of the land. Considering the facts that the award in the present case was announced on 19.9.2005 and date of enforcement of policy dated 28.4.2005 is 5.3.2005, the landowners in the present case deserve to be granted proportionate increase. The time gap from policy dated 28.4.2005 till the award of the Collector in the present case is about six months. For this period granting proportionate increase the amount of compensation shall come out to ₹ 5,30,000/- per acre. Accordingly, the value of the land in the present set of appeals is determined @ ₹ 5,30,000/- per acre. The landowners shall also be entitled to all the statutory benefits available under the Act.

The appeals are disposed of accordingly.

29.7.2015 **(Rajesh Bindal)**
vs **Judge**

(Refer to Reporter)