IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No. 2066 of 2013 (O&M)
LAC No. 154 of 2010

Date of decision : 29.10.2015

Ram Sarup ... Appellant

vs

State of Haryana and others ... Respondents

Coram : Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Rajesh Lamba, Advocate, for the landowners.
Mr. Arun Beniwal, Deputy Advocate General, Haryana.

Rajesh Bindal, J.

This order will dispose of RFA Nos. 2066 to 2074 of 2013, as the same arise out of common acquisition.

By filing the appeals, the landowners are seeking enhancement of compensation for the acquired land.

Briefly, the facts of the case are that vide notification issued on 29.12.2004, under Section 4 of the Land Acquisition Act, 1894 (for short, `the Act'), State of Haryana sought to acquire land situated in village Gadli, Tehsil and District Fatehabad, for construction of Hisar Ghaghar Multi Purpose Channel from RD-109000 to 398600 (Sub reach RD 141023 to RD 186677) in village Gadli. It was followed by notification dated 19.4.2005 issued under Section 6 of the Act. The Land Acquisition Collector (for short, `the Collector') vide award dated 22.12.2005 assessed compensation for the acquired land @ ₹ 5,00,000/- 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 30.10.2012 dismissed the claim of the landowners with regard to enhancement of compensation for the acquired land, however, they were held entitled to damages @ 25% of the value of the land on account of bifurcation. It is this award which has been impugned before this court by the landowners in the present set of appeals.

Learned counsel for the landowners submitted that the learned court below has wrongly rejected the claim of the landowners. The Collector has not awarded compensation keeping in view the location and potential value of the land. It is 13 km from Adampur. The value of the land was not less than ₹ 30 lacs per acre. He further submitted that the Government had issued policies from time to time for awarding compensation for the acquired land in the State, in terms of which compensation has to be awarded keeping in view the date of the award. He prayed that as the award in the present case was announced on 22.12.2005, a reasonable increase or cut can be applied on the value of the land as provided in the policies circulated on 28.4.2005 and 6.4.2007.

On the other hand, learned counsel for the State submitted that the Collector has awarded just and fair compensation. It was submitted that value of the land in the area was not as much as has been claimed by the landowners, however, keeping in view the policies framed by the State, compensation @ ₹ 5,00,000/- has been awarded.

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

Admittedly, the Government of Haryana had issued policy dated 28.4.2005 whereby the minimum rates of the land in the State of Haryana were fixed. The policy dated 28.4.2005, provides that 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, shall be entitled to minimum compensation @ ₹ 5,00,000/- per acre. The relevant extract of 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.

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.

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, the State 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."

The aforesaid policy dated 28.4.2005 issued by the Government was revised on 6.4.2007, increasing the minimum rates in the State as fixed in the year 2005. 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 including 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 including 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."

The policy dated 6.4.2007, shows that the minimum floor rates for the rest of the Haryana State were revised to ₹ 8,00,000/- per acre from ₹ 5,00,000/- per acre and the rates are applicable on all those acquisitions where awards by the Collector have been announced on or after 22.3.2007 irrespective of date of notification under Section 4 of the Act.

In the present case, the award was announced by the Collector on 22.12.2005 whereas as per aforesaid policies dated 28.4.2005 and 6.4.2007, the dates of applicability are 5.3.2005 and 22.3.2007, respectively. The State of Haryana itself had increased the value of the land from the year 2005 to 2007 by 60% in the area in question i.e. from ₹ 5,00,000/- to ₹ 8,00,000/- per acre. A perusal of the aforesaid policies shows that after a gap of nearly two years, the minimum compensation payable for acquisition of land was enhanced @ 30% per annum. This is evident of rising prices of land on which there is lot of pressure in recent times because of demand for urbanization and other infrastructural facilities.

The aforesaid policy letters, in my opinion, can be considered as a piece of evidence showing the value of the land. The increase from ₹ 5,00,000/- to ₹ 8,00,000/- if calculated from 5.3.2005 till 22.3.2007, the effective dates of two policies, providing for minimum rates, the same comes to ₹ 12,500/- per month. Taking into account the aforesaid facts, as the award in the present case was announced by the Collector on 22.12.2005, the landowners in the present case deserve to be granted compensation by adding ₹ 12,500/- per month on ₹ 5,00,000/- with effect from 5.3.2005 till the announcement of award by the Collector in the present case i.e. about 9½ months. If the aforesaid amount is added, the compensation comes to ₹ 6,18,750/-, which is rounded off to ₹ 6,19,000/- per acre.

For the reasons mentioned above, the appeals are allowed. The award of learned Court below is modified only to the extent of value of the acquired land. The same is assessed @ ₹ 6,19,000/- per acre. Amount of damages awarded on account of severance is upheld. The landowners shall also be entitled to all the statutory benefits available to them under the Act.

29.10.2015 **(Rajesh Bindal)**
vs. **Judge**