

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

RFA No. 3810 of 2013 (O&M)
LAC No. 59 of 2012

Date of decision : 20.11.2015

Raghubir Singh and another	..	Appellants
versus		
State of Haryana and another	..	Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. S. P. Khatri, Mr. Arun Singal, Mr. Navneet Singh,
Mr. Naveen Singh Panwar, Mr. Surender Saini,
Mr. Ajit Malik, Advocates, and
Mr. Vinod Kumar, Advocate for
Mr. Harkesh Manuja, Advocate, for the landowners
in the appeals argued on 5.11.2015 (Regular 882).

Mr. Sushil Jain, Mr. Surender Saini, Advocates,
Mr. C. B. Goel, Advocate,
Mr. Vinod Kumar, Advocate for
Mr. Harkesh Manuja, Advocate, for the landowners
in the appeals argued on 16.11.2015 (Regular 767).

Mr. Shivendra Swaroop, Assistant Advocate General, Haryana.

Rajesh Bindal, J.

This order will dispose of RFA Nos. 3810 to 3815, 4305, 4371, 4442, 4461, 4473, 5417, 5479 to 5481, 5488 to 5491, 5725, 5826 to 5837, 6076 to 6087, 6142 to 6144, 6171, 6196 to 6199, 6471, 6534, 6574 to 6594, 6630 to 6634, 6641 to 6645, 6955, 6956 of **2013**,

RFA Nos. 70, 71, 1034 to 1036, 1045 to 1049, 1295 to 1300, 1581, 2202, 2228, 2439 to 2441, 2823, 2886 to 2889, 3376, 3386, 3398, 3421, 3422, 4304, 4319, 4320, 4441, 6284, 8760 of **2014**,

RFA Nos. 283, 2252, 2624, 2625, 3576, 3715 of **2015**.

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

Briefly, the facts are that vide notification dated 19.10.2001, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the State of Haryana sought to acquire 54.09 acres of land situated in village Sultanpur, Hadbast No.80, Tehsil and District Sonapat, for development and utilisation thereof as residential and commercial area in Sectors 5 & 6, Sonapat. Notification under Section 6 of the Act was issued on 18.10.2002. The Land Acquisition Collector (for short, 'the Collector') vide award no.13 dated 14.10.2004 assessed the market value of the acquired land @ ₹ 3,50,000/- per acre. Dissatisfied with the award of the Collector, the landowners filed objections. On reference, the learned court below vide award dated 21.2.2013 determined the market value of the acquired land @ ₹ 326/- per square yard.

Vide another notification dated 20.10.2001, issued under Section 4 of the Act, the State of Haryana sought to acquire 348.74 acres of land situated in village Raipur, Tehsil and District Sonapat, for the same purpose. Notification under Section 6 of the Act was issued on 18.10.2002. The Collector vide award no.12 dated 14.10.2004 assessed the market value of the acquired land @ ₹ 3,50,000/- per acre for chahi/ nehri kinds of land and ₹ 2,50,000/- per acre for gair mumkin/banjar kinds of land. Dissatisfied with the award of the Collector, the landowners filed objections. On reference, the learned court below vide award dated 23.3.2013 determined the market value of the acquired land @ ₹ 326/- per square yard.

These awards have been impugned in the present set of appeals by the landowners.

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 its location. He further submitted that the acquired land is located adjoining to Sectors 3 and 7, Sonapat, which were developed long back. Sector 7 is located abutting the GT Road, whereas Sector 3 is beyond Sectors 5 and 6, the land for which was acquired vide notification in question. For the acquisition carried out for development as Sectors 3 and 7, where notification under Section 4 of the Act was issued on 9.11.1992, this Court in RFA No. 2453 of 2000 *Chanderpati vs State of Haryana and another* decided on 30.5.2007, assessed the compensation @ ₹ 200/- per

square yard. There is a time gap of nine years. Though the learned Court below has granted increase for the aforesaid time gap, but merely @ 7% per annum at the flat rate. Hon'ble the Supreme Court held that the increase for the time gap can be granted even upto 100% per annum if the area in question was developing at a fast pace. In the present case, increase should be granted at least @ 15% per annum with cumulative effect. Learned counsel for the landowners did not place reliance upon any sale-deed produced on record by the landowners.

On the other hand, learned counsel for the State submitted that Hon'ble the Supreme Court in The General Manager, Oil and Natural Gas Corporation Limited vs Rameshbhai Jivanbhai Patel and another, (2008) 14 SCC 745, opined that increase, if any, is to be granted, time gap should not be for a period more than five years. In the present case, the landowners are seeking increase for the period of nine years, which is not justified. There is no evidence on record to show that there was any increase in the prices during the interregnum. He further submitted that the State had produced the sale-deeds on record, the land pertaining to which is forming part of the acquired land and the average sale consideration paid therein was ₹ 3,00,000/- per acre, which clearly justified the award of the Collector. Despite the fact that the learned Reference Court has assessed the compensation @ ₹ 15,77,840/- per acre, the State accepted the same and did not prefer appeal. However, he submitted that no case for further enhancement is made out.

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

In the case in hand, the acquisition is for the purpose of development as Sectors 5 and 6, Sonapat. The acquired land is not abutting GT Road. Sector 7 is abutting the GT Road and moving away from the GT Road, Sectors 5 and 6 are in between Sectors 3 and 7, the land for which was acquired vide notification dated 9.11.1992. Learned counsel for the landowners have not placed reliance on any sale-deed, which may have been produced by them. The only reliance is on the compensation awarded for acquisition of land where notification under Section 4 of the Act was issued on 9.11.1992 and increase for the time gap is being sought.

Hon'ble the Supreme Court in General Manager, ONGC Ltd.'s case (supra) opined that increase, if any, to be granted for the time gap in two acquisitions, should normally be not for a period of more than 4 to 5 years. Relevant paragraph thereof is extracted below:

“15. Normally, recourse is taken to the mode of determining the market value by providing appropriate escalation over the proved market value of nearby lands in previous years (as evidenced by sale transactions or acquisitions), where there is no evidence of any contemporaneous sale transactions or acquisitions of comparable lands in the neighbourhood. The said method is reasonably safe where the relied-on sale transactions/ acquisitions precede the subject acquisition by only a few years, that is, up to four to five years. *Beyond that it may be unsafe, even if it relates to a neighbouring land. What may be a reliable standard if the gap is of only a few years, may become unsafe and unreliable standard where the gap is larger.* For example, for determining the market value of a land acquired in 1992, adopting the annual increase method with reference to a sale or acquisition in 1970 or 1980 may have many pitfalls. This is because, over the course of years, the 'rate' of annual increase may itself undergo drastic change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices affecting the very standard of increase.”
[emphasis supplied]”

It has further been opined in the aforesaid judgment that the increase for the time gap can also be granted at different rates considering the material on record. In the present case, nothing has been referred to by learned counsel for the landowners to show that there was rapid increase in the prices in the area to justify the increase @ 15% per annum. In this situation, the issue to be considered is as to for how much time the increase

should be granted. Hon'ble the Supreme Court in Kashmir Singh v. State of Haryana and others, (2014) 2 SCC 165 while considering that there was a time gap eight years in the two acquisitions, but still granted increase for the period of four years only. Similarly in RFA No. 5605 of 2009 - State of Haryana vs Gurdeep Singh and another, decided on 5.8.2015, while noticing that there was time gap of 19 years, but still granted increase only for a period of 14 years. SLP against the aforesaid judgment is stated to be pending in Hon'ble the Supreme Court.

Considering the aforesaid aspect and the location of the land, its potentiality, in my opinion, the landowners in the present case deserve to be granted increase for the time gap in two acquisitions @ 12% per annum but limiting the period to 5 years only. If the amount is added in ₹ 200/- by granting increase @ 12% per annum, the amount of compensation shall come out to ₹ 353/- per square yard. The compensation is reasonable, if considered in the light of compensation assessed for the land earlier acquired for Industrial Estate, Sonapat, where notification under Section 4 of the Act was issued on 24.7.1997 and the compensation therein was assessed @ ₹ 10,40,000/- per acre.

For the reasons mentioned above, the appeals are allowed. The landowners are awarded compensation @ ₹ 353/- per square yard. They shall also be entitled to all the statutory benefits available to them under the Act.

20.11.2015
vs

(Rajesh Bindal)
Judge

(Refer to Reporter)