

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

RFA No. 10600 of 2014 (O&M)

LAC no. 161 of 2011

Date of decision : 15.9.2015

Zile Singh and others

... Appellants

VS

State of Haryana and others

... Respondents

Coram : Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Chanderhas Yadav, Advocate, for the landowners.

Mr. Arun Beniwal, Deputy Advocate General, Haryana.

Rajesh Bindal, J.

1. This order shall dispose of RFA Nos. 10600, 10601 of 2014, 547 and 3402 of 2015, arising out of same acquisition.
2. The landowners are in appeal before this court seeking enhancement of compensation for the acquired land.
3. Briefly, the facts of the case are that the State of Haryana vide notification dated 17.3.2006 issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') sought to acquire land situated within the revenue estate of Village Alipur, Hadbast No.150, Tehsil and District Hisar, for construction of Khanpur-Sisai Link Drain. Notification under Section 6 of the Act was issued on 13.7.2006. The Land Acquisition Collector (for short, 'the Collector') vide award dated 10.1.2007 assessed the market value of the acquired land @ ₹ 5,00,000/- per acre. Dissatisfied with the award of the Collector, the landowners filed objections. On reference, the learned court below determined the market value of the acquired land @ ₹ 6,50,000/- per acre. Aggrieved against the award of learned Court below, the landowners are in appeal before this Court.

4. Learned counsel for the landowners submitted that in the present case the award of the Collector was announced on 10.1.2007 and it has been specifically noticed in the impugned award of the learned court below that in terms of the policy dated 6.4.2007 circulated by the Government of Haryana minimum rates for acquisition of land were fixed @ ₹ 8,00,000/- per acre, however, still the landowners in the present case have been awarded only ₹ 6,50,000/- per acre as compensation. The policy dated 6.4.2007 was circulated about three months after the award was announced by the Collector on 10.1.2007 in the present case. In terms of policy circulated on 6.4.2007, the minimum rate for the acquired land was fixed as ₹ 8,00,000/- per acre and the same is applicable to 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. The aforesaid fact clearly establishes that the Government had accepted the appreciation of prices during the interregnum. He prayed that as the award in the present case was announced on 10.1.2007, a reasonable cut can be applied on the value of the land as provided in the policy circulated on 6.4.2007. The prayer is for enhancement of compensation keeping in view the potentiality of the land as well as the aforesaid policies issued by the State itself.

5. On the other hand, 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 @ ₹ 6,50,000/- per acre. It was further submitted that there was no irrigation facilities in the area. The value of the land was determined by the Court below only due to the policy of the State Government otherwise value of the land in the area was quite low. The submission is that sufficient amount of compensation has been awarded by the Collector, which does not call for any enhancement.

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

7. 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. The policy issued on 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 amount of compensation @ ₹ 5,00,000/- per acre. The relevant extract of the aforesaid policy 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.”

8. 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.”

9. As per the 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.

10. The aforesaid policy 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."

11. 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.

12. In the present case, the award was announced by the Collector on 10.1.2007 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 or the price as shown in 2005 is 37.5% less than the price shown in the year 2007. 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 process to frame or revise a policy starts in advance and finalisation thereof takes time.

13. The aforesaid policy letters, in my opinion, can be considered as a piece of evidence showing the value of the land. Considering the fact that the award in the present case was announced on 10.1.2007 and the fact that the State itself had granted increase @ 30% per annum for the time gap of two years in the policies, referred to above, at the same rate the landowners in the present case deserve to be granted proportionate increase. Taking into account the aforesaid facts, as the award in the present case was announced by the Collector on 10.1.2007, the landowners in the present case deserve to be granted compensation @ ₹ 7,50,000/- per acre. Accordingly, the value of the acquired land is determined @ ₹ 7,50,000/- per acre. The landowners shall also be entitled to all the statutory benefits available under the Act.

15.9.2015
vs

(Rajesh Bindal)
Judge