IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No. 1255 of 2014 (O&M)
LAC No. 37 of 14.8.2010

Date of decision : 10.12.2015

Mukesh Kumar .. Appellant

vs

State of Haryana and others .. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Adarsh Jain, Mr. Kul Bhushan Sharma,
Mr. Ashok Kaushik, Mr. Vikas Kumar, Mr. Rajiv Sharma,
Mr. Shiv Kumar, Mr. G. C. Shahpuri,
Mr. Mohan Singh Rana, for Mr. Sanjeev Kumar Panwar, ,
Mr. Rohit Rana, for Mr. Kunal Dawar, Advocates,
for the landowner (s).

Mr. Randhir Singh, Addl. Advocate General, Haryana with
Mr. Abhinash Jain, Assistant Advocate General, Haryana.

Rajesh Bindal, J.

This order will dispose of the following appeals bearing;

RFA Nos. 3870 to 3873, 4070 to 4089, 4271 to 4273, 5179 to 5203, 5745 to 5760, 6182 to 6185, 6187, 6354, 6355, 6409 to 6411, 6834 to 6837 of **2013;**

RFA Nos. 1 to 16, 204, 235, 372, 378, 535 to 537, 584, 682, 1255, 1494, 2743, 2744, 2746, 2747, 2756, 2782, 3227 to 3270, 3383, 3691, 4299, 4984, 5018, 5256, 7250, 7336, 8503, 8651, 9667 of **2014**,

RFA Nos. 147 to 171, 174 to 176, 450 to 452, 506, 943, 945, 1396, 1532, 1582, 1615 to 1617, 2014, 2023, 2141, 2371, 2600 to 2603, 2924 to 2927, 3710, 4714, 4715 of **2015,**

as the same arise out of common acquisition.

By filing appeals, the landowners are seeking enhancement of compensation for the acquired land, whereas by filing appeals, the State of Haryana is seeking reduction thereof.

Briefly, the facts are that vide notification dated 15.6.2006, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the State of Haryana sought to acquire 165.54 acres of land situated in village Palwal, Hadbast No.116, Tehsil and District Faridabad (Now District Palwal), for development as Sector-12, Palwal, District Palwal. It was followed by notification under Section 6 of the Act dated 14.6.2007. The Land Acquisition Collector (for short, 'the Collector') vide award no.7 dated 9.6.2009 assessed the market value of the acquired land @ ₹ 16,00,000/- per acre. Dissatisfied with the award of the Collector, the landowners filed objections. On reference, the learned court below vide award dated 16.3.2013 determined the market value of the acquired land @ ₹ 24,48,396/- per acre. It is this award which has been impugned in the present set of appeals by both the parties.

Learned counsel for the landowners submitted that the learned Reference Court has not assessed the value of the acquired land fairly in terms of the sale-deeds produced on record by the landowners, which pertained to the same revenue estate i.e. Palwal. The sale-deeds clearly depicted that value of the land in the area was in the range from ₹ 1,000/- to ₹ 3,000/- per square yard before issuance of notification under Section 4 of the Act. The transactions were for large chunk of land, hence, even no cut was required to be applied. Even the learned Reference Court had calculated the average sale consideration at ₹ 71,96,000/- per acre i.e. ₹ 1,486.78 per square yard. The average sale consideration in the aforesaid sale-deeds would, thus, come to ₹ 60,70,786/- per acre. However, learned counsel for the landowners did not refer to any site plan produced on record by the landowners on which the land pertaining to the sale-deeds had been pointed out. He further submitted that the manner in which the compensation has been assessed by the learned Court below is not known to law. While assessing the compensation by applying 1/3rd cut on the average sale consideration paid in the relevant sale-deeds further cut has been applied on account of annuity granted by the State under rehabilitation policy which was totally uncalled for as the same has nothing to do with the valuation of the land as such, on the date of issuance of notification under Section 4 of the Act. The policy was framed by the State only with a view to discourage the landowners from objecting to acquisition of land as a result of which lot of projects may be delayed.

On the other hand, learned counsel for the State submitted that none of the sale-deeds produced by the landowners can be said to be relevant for the reason that location of land dealt with therein cannot be compared with the acquired land, which was located far away from the city. The land pertaining to the sale-deeds was in the area where lot of development activities were there. It was in the area where the builders had stepped in. The acquired land was located close to the Sewerage Treatment Plant, Palwal, for the purpose of which the last acquisition was carried out on 18.2.2002. The valuation thereof is subject matter of consideration before this Court in RFA No. 1114 of 2011 - *State of Haryana and others vs Dharambir and others*. It was further submitted that even otherwise the sale-deeds produced by the landowners do not deserve to be relied upon as those were the purchases made by the builders for commercial purpose. There was unhealthy competition to make a big chunk of land for the purpose of getting a license.

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

The land in question is located beyond old Palwal Town while moving away from Delhi to Mathura. It is not abutting the National Highway. Adjoining to the acquired land, the land in parts was earlier acquired for construction of Sewerage Treatment Effluent Channel from STP to Palwal Drain at Palwal vide different notifications. The latest one being by notification dated 18.2.2002.

Learned counsel for the landowners sought to place reliance upon the following sale-deeds:-

Exhibit	Sale-deed dated	Revenue estate	Area	Sale consideration in ₹	Rate per square yard in ₹
P-1	20.4.2006	Palwal	11 k 5 m	68,50,625/-	1,006.50
P-2	9.6.2006	Palwal	37 k 2 m	2,87,52,500/-	1,280.99
P-3	13.6.2006	Palwal	17 k 5 m	1,31,53,125/-	1,260.33
P-4	8.6.2006	Palwal	18 k 3 m	1,50,87,187/-	1,373.96
P-5	19.4.2006	Palwal	13 k 8 m	83,75,000/-	1,033.00
P-17	13.6.2006	Palwal	8 k	56,18,750/-	1,160.89
P-18	12.5.2006	Palwal	7 k 5 m	56,18,750/-	1,280.99

No doubt, the aforesaid sale-deeds were registered just within two months prior to the issuance of notification under Section 4 of the Act and the area dealt with therein is quite large. However, the fact remains that the landowners have not referred to any site plan produced by them on record showing the exact location of the land dealt with in the aforesaid sale-deeds. In para 22 of the award of the reference court, it has been observed that the land pertaining to the aforesaid sale-deeds is located in Palwal Town. It was claimed by learned counsel for the State that this is towards Delhi side from Palwal, whereas the acquired land is located on Mathura side. Keeping in view the aforesaid facts, in my opinion, it will not be safe to place reliance upon the value shown in the sale-deeds produced on record by the landowners.

In the absence thereof, as has already been discussed above, there had been earlier acquisitions of land adjoining to the acquired land having same potentiality, for the purpose of Sewerage Treatment Effluent Channel. The value thereof was the subject matter of consideration before this Court in *Dharambir*'s case (supra), where award of compensation @ ₹ 306/- per square yard granted by the learned Court below was upheld by judgment of even date. There is a time gap of four years and four months between the two acquisitions. Considering the fact that there were development activities in the area, as is evident from the fact that the landowners have produced sale-deeds showing purchase of land by the builders, in my opinion, for the aforesaid time gap, the landowners deserve to be granted an increase @ 12% per annum with cumulative effect. If calculated at ₹ 306/-, the amount of compensation comes out to ₹ 24,20,000/- per acre. As compensation in land acquisition cases can never be calculated with mathematical exactitude, some guess work is always applied, I do not find any reason to interfere with the impugned award of the learned Court below assessing compensation @ ₹ 24,48,396/- per acre, though by adopting a different formula.

The manner in which the learned court below has assessed the compensation is really novice. Apparently the principles of law settled for the purpose were not kept in view. Relevant part of the award of the learned Court below assessing the compensation is extracted below:-

(i)	Value of the land determined at the time of Notification on dated 15.6.2006 on the basis of sale deeds Ex. P-1 to Ex. P-5 and Ex. P-7 to Ex. P-27	Rs. 62,17,786/-
(ii)	Deduction of 1/3rd amount towards development charges comes to	Rs. 20,75,595/-
(iii)	After making said 1/3rd deduction, the balance comes to	Rs. 41,45,190/-
(iv)	Land Acquisition Collector determined the value of the land at the rate of Rs. 16 lacs per acre (which has already been paid to the land owners)	Rs. 16,00,000/-
(v)	After deducting the said compensation amount awarded by the Land Acquisition Officer, the balance comes to	Rs. 25,45,190/-
(vi)	Deduction of 2/3rd amount towards Rehabilitation/ Outsees Policies launched by the Government of Haryana comes to	Rs. 16,96,793/-
(vii)	After making said 2/3rd deduction, the balance comes to	Rs. 8,48,396/-

Once the compensation is assessed on the basis of sale-deeds produced on record by the landowners, there was no question of any deduction on account of benefits granted under certain rehabilitation policy issued by the State which was notified by the Government of Haryana on 7.12.2007 with the title, 'Policy for Rehabilitation and Resettlement of Land Owners – Land Acquisition Oustees'. It clearly provided that the value of annuity to the landowners shall be over and above the usual amount of compensation. The object of the policy is to discourage the landowners from objecting to acquisition of land and to further take care of the landowners for long term as they loose their source of livelihood. These are beneficial in nature. Hence, no amount on that account could be deducted from the amount of compensation assessed in terms of the principles laid down therefor. Hence, this Court does not approve the method adopted by the learned Reference court for assessment of compensation.

For the reasons mentioned above, I do not find any merit in the present appeals. Accordingly, the same are dismissed.

10.12.2015 (Rajesh Bindal)
vs Judge

(Refer to Reporter)