

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

RFA No. 215 of 2014 (O&M)
LAC No. 311 of 12.6.2012

Date of decision : 20.11.2015

Ravinder Kumar @ Ravinder and others	.. Appellants
versus	
The State of Haryana and others	.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. S. P. Khatri, Mr. Sushil Jain,
Mr. Navneet Singh, Advocates and
Mr. Ankit Rana, Advocate for Mr. R.S. Budhwar, Advocate
for the landowners.

Mr. Shivendra Swaroop, Assistant Advocate General, Haryana.

Rajesh Bindal, J.

This order will dispose of RFA Nos. 5720, 5721, 6661 to 6663, 6986 of 2013, 215, 576, 1040, 10803 of 2014, and 248 of 2015, as the same arise out of common acquisition.

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

Briefly, the facts are that vide notification dated 20.1.2003, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the State of Haryana sought to acquire 40.63 acres of land situated in village Kumaspur, 48.56 acres in village Raipur, and 65.35 acres in village Nangal Khurd, Tehsil and District Sonapat, for development and utilisation thereof as residential and commercial area in Sectors 8 and 19, Sonapat. Notification under Section 6 of the Act was issued on 16.1.2004. The Land Acquisition Collector (for short, 'the Collector') vide award no.6 of village Nangal Khurd, award no.7 of village Kumaspur and award no.9 of village Raipur, all dated 14.1.2006, assessed the market value of the acquired land @ ₹ 12,50,000/- per acre. Dissatisfied with the award of the Collector, the landowners filed objections. On reference, the learned court below vide

award dated 18.5.2013 determined the market value of the acquired land @ ₹ 344/- per square yard. This award has 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 surrounded by Sectors 3, 7, 16 and 18, 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 ten 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 increase in the prices during the interregnum. He further submitted that the State had produced the sale-deeds, Ex.R1, Ex.R3, Ex.R4, Ex.R5, Ex.R8 and Ex.R9, on record, the land pertaining to which is forming part of the acquired land and the average sale consideration paid therein was ranging from ₹ 4,20,000/- per acre to ₹ 5,60,000/- per acre, which clearly justified the award of the Collector. Despite the fact that the learned Reference Court has assessed the

compensation @ ₹ 16,64,960/- 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 8 and 19, 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. The acquired land is surrounded by Sectors 3, 7, 16 and 18. 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.

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.

For the land of villages Sultanpur and Raipur acquired vide notifications under Section 4 of the Act dated 19.10.2001 and 20.10.2001 for development and utilisation thereof as residential and commercial area in Sectors 5 & 6, Sonapat, this Court in RFA No. 3810 of 2013 Raghubir Singh and another vs State of Haryana and another decided today separately assessed the compensation @ ₹ 353/-per square yard. There is a time gap of one year and three months in the present acquisition. In the absence of any sale-deed produced on record by the landowners, but still considering the location and development in the area, in my opinion, the landowners in the present case deserve to be granted increase for the time gap in two acquisitions @ 12% per annum cumulatively. If the amount is

added in ₹ 353/- by granting increase @ 12% per annum, the amount of compensation shall come out to ₹ 407.22 per square yard, which is rounded off to ₹ 410/- per square yard.

For the reasons mentioned above, the appeals are allowed. The landowners are awarded compensation @ ₹ 410/- 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)