IN THE HIGH COURT OF PUNJAB AND HARYANA, AT CHANDIGARH

RFA No. 5585 of 2014
Date of Decision: 22.07.2015

Haryana Urban Development Authority and another

-----Appellants

vs.

Prem Chand Gupta and others

---Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. M.L. Sharma, Advocate,

Mr. Ashwani Bakshi, Advocate,

Mr. Binderjit Singh, Advocate,

Mr. Amit Chaudhary, Advocate,

Mr. S.N. Pillania, Advocate,

Mr. Sandeep Khunger, Advocate,

Mr. V.B. Aggarwal, Advocate,
for the land-owners.

Mr. Baldev Raj Mahajan, Senior Advocate, with
Mr. Pritam Singh Saini, Advocate,
for HUDA.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

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SABINA, J.

Vide this order, above mentioned appeal as well as appeals mentioned below would be disposed of as they have arisen out of the same acquisition/award.

<u>Appeals filed by the HUDA</u>

1. RFA No. 5586 of 2014
2. RFA No. 5587 of 2014
3. RFA No. 5588 of 2014
4. RFA No. 5589 of 2014
5. RFA No. 5590 of 2014
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Appeals filed by the Land-owners

1. RFA No. 3661 of 2014
2. RFA No. 4651 of 2014
3. RFA No. 4730 of 2014
4. RFA No. 4731 of 2014
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175.RFA No. 403 of 2015

176.RFA No. 404 of 2015

177.RFA No. 564 of 2015

178.RFA No. 565 of 2015

Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred as 'the Act') was issued on 04.07.2006 for acquisition of land of Villages Fatehabad, Basti Bhiwan and Matana for developing residential and commercial Sectors 9, 10, 11 and 11-A at Fatehabad. Declaration under Section 6 of the Act was issued on 03.7.2007. Total 724.82 acres of land was acquired. So far as Village Fatehabad is concerned, 313.22 acres of land was acquired whereas land measuring 318.74 acres of Village Basti Bhiwan was acquired and land measuring 107.04 acres of Village Matana was acquired. The Land Acquisition Collector, vide its award dated 31.03.2008 granted compensation @ ₹12,00,000/- per acre for all kinds of land so far as Village Fatehabad is concerned. So far as Village Basti Bhiwan is concerned, the Land Acquisition Collector allowed ₹12,00,000/- per acre for *Nehri/Chahi/Tibba/Tal* and ₹24,00,000/- per acre for *Gair Mumkin* land. So far as Village Matana is concerned, the Land Acquisition Collector, granted compensation @ ₹9,00,000/- per acre for all kinds of land.

The land-owners sought reference under Section 18 of the Act being dissatisfied with the amount of compensation awarded by the Land Acquisition Collector. The Reference Court disposed of 213 references preferred by the land-owners under Section 18 of the Act vide award dated 24.12.2013.

The Reference Court assessed the market value of the land @ ₹965 per square yard qua all kinds of land and the Reference

Court while allowing the references held as under:-

> "*As a sequel to the above discussion and in view of the findings on issues No. 1 and 2, the market value of the acquired land i.e subject matter of the present references is assessed as ₹965/- per square yards on the relevant date of publication of notification under Section 4 of the Land Acquisition Act.*
>
> *In addition to this, it is further held that the petitioner Satish Kumar in LA case No. 186 of 2008 has suffered damages to the tune of ₹18,870/- on account of shifting of the tubewell from the land acquired by the respondent and he is entitled to this amount as damages under Section 23 of the Land Acquisition Act. Further, the petitioner is entitled to the labour amount to the tune of ₹20,000/- which will include the cost of war and tear of pipes etc. Further, the petitioner Satish Kumar is entitled to damages for loss of construction on Khasra No. 206//1 in the sum of ₹50,000/-.*
>
> *In L.A. Case No. 57 of 2009 titled Krishna Devi vs. State of Haryana, the petitioner is entitled to the labour amount to the tune of ₹20,000/- which will include the cost of wear and tear of pipes etc. However, Smt. Krishna Devi is not entitled any more compensation than assessed by technical expert of PWD B&R Department.*
>
> *In L.A. Case No. 49 of 2009 tilted Shanta Rani etc. vs. State of Haryana, the petitioners are entitled to ₹20,000/- extra as labour charges for the shifting of submersible bore only.*
>
> *In LA case No. 209 of 2008 tilted Jug Lal etc. vs. State, Jug Lal etc. are entitled to only*

₹20,000/- amount extra than provided by respondents.

In L.A. case No. 263 of 2008 tilted Ram Kumar vs. State of Haryana. Ram Kumar is not entitled to only ₹20,000/- amount extra than provided by respondents.

In L.A. case No. 326 of 2008 tilted Om Parkash vs. State of Haryana etc. the petitioner Om Parkash is not entitled to any additional amount.

In L.A. case No. 260 of 2008 titled Onkar vs. State of Haryana, the petitioner Onkar Chand is not entitled to any additional amount.

In LA case No. 284 tilted Bagrawat etc vs. State of Haryana etc. five shops have been demolished on account of acquisition, the petitioners Bagawat etc. are given ₹2,00,000/- as damages.

In addition to the above compensation, it is further directed that:-

(i) In the light of provisions contained in Section 23 (1-A) of the Act, the petitioners shall be entitled to addition amount @ ₹12% per annum on the enhance amount of compensation including the compensation granted on account of costs of tubewell and shifting charges.

(ii) The above mentioned petitioners shall also be paid statutory solatium @ ₹30% over and above the enhanced amount of compensation as mentioned above, in the light of Section 23(2) of the Act.

(iii) In view of Section 28 of the Act, the above mentioned petitioners shall also be

entitled to interest @ ₹9% per annum for a period of one year from the date of taking over possession and @ ₹15% per annum on the expiry of said period of one year on the aggregate amount of enhanced compensation including solatium and additional amount of 12%.

In order to ensure that the land-owners are not harassed, the compensation would be disbursed in the manner given below:-

(i) Within one month from today, the Special Land Acquisition Officer shall depute an officer subordinate to him not below the rank of Naib Tehsildar or an equivalent rank, to get in touch with the land-owners and/or their legal representatives and inform them about their entitlement to receive the balance amount of compensation.

(ii) The concerned officers shall instruct the land-owners and/or their legal representatives to open savings bank account in a nationalized or scheduled bank, in case they already do not have such account.

(iii) The account numbers of the land-owners and/or their legal representatives should be furnished by the concerned officer to the Land Acquisition Officer within a period of one month.

(iv) Within next one month, the Special Land Acquisition Officer shall deposit the amount of compensation along with other statutory benefits in the bank accounts of the land-owners and/or their legal representatives in the form of account payee cheques.

Accordingly, all the references are allowed with costs. Counsel fee is assessed at

₹1,000/- in each case. Memo of costs be prepared. File be consigned to the record room after due compliance.”

Hence, the present appeals by the land-owners as well as by the Haryana Urban Development Authority (hereinafter referred as 'HUDA').

Learned counsel for the land-owners have submitted that the Reference Court while enhancing the amount of compensation had assessed the market value of the land basing reliance on award Exhibit P-77 and order passed by this Court in appeal Exhibit P-78. Learned counsel for the land-owners have further submitted that this Court vide Exhibit P-78 had enhanced the market value of the land @ ₹600/- per square yard with regard to acquisition made for construction for police lines in pursuance to notification dated 02.10.2001 (under Section 4 of the Act). The Hon'ble Apex Court vide order dated 25.02.2015, has enhanced the amount of compensation to ₹866/- per square yard. Learned counsel for the land-owners have submitted that the land-owners were also entitled to consequential increase by granting them 12% increase on cumulative basis.

Learned Senior counsel for HUDA has not controverted the factum of passing of the order dated 25.02.2015 passed by the Hon'ble Apex Court with regard to acquisition of land for construction of police lines but has submitted that the market value of the land was not liable to be assessed on the basis of acquisition made as per notification dated 02.10.2001. Learned Senior counsel has further submitted that the purpose of acquisition vide notification dated 02.10.2001 and the notification in the present case were different.

In the present case, notification under Section 4 of the Act was issued on 04.07.2006 for development of residential and commercial Sectors 9, 10, 11 and 11-A at Fatehabad. As per the evidence on record, the acquired land was surrounded by police line as well as residential and commercial premises. Surrounding land was acquired by the State vide notification dated 21.07.1993 for construction of Mini Secretariat and Judicial Complex. The land was then acquired vide notification dated 21.12.1998 for developing sectors of HUDA. In the year 2001, the land was acquired for developing police lines vide notification dated 02.10.2001. 84 acres 03 kanals of land was acquired for construction of police lines.

The Reference Court vide Exhibit P-77 awarded compensation as under:-

> "*Block-A : Land situated within 2 acres of the National Highway No. 10 at ₹8,60,000/- acre.*
>
> *Block-B : Land falling within next three acres at ₹7,40,000/- per acre.*
>
> *Block-C : Rest of the land at ₹5,00,000/- per acre.* "

In appeal, this Court vide Exhibit P-78, enhanced the market value @ of ₹600/- per square yard.

Against the said decision, the appeals filed by the land-owners were allowed by the Hon'ble Apex Court and the compensation amount was enhanced to ₹866/- per sq. yard vide order dated 25.02.2015 in Civil Appeals No. 6755-6762 of 2013 and other connected matters.

The Hon'ble Apex Court while disposing of the appeals has held as under:-

> *"After perusing the records and the judgment and order passed by this Court in the case of Asharfi and others vs. State of Haryana in Civil Appeal Nos. 3279-3287 of 2013, dated 11.04.2013 wherein the compensation was enhanced from ₹260/- sq. yards to ₹350/- sq. yards, by applying 12 per cent increase in respect of land acquired vide Notification dated 21.07.1993 and ₹616/- in respect of land acquired by Notification dated 21.12.1998, the learned counsel for the appellant was justified in making the aforesaid submission. After the proceedings, before the Executing Court compensation was being paid in these cases on the aforesaid basis which has since been paid by the Government.*
>
> *In view of the above, we allow these appeals and enhance the compensation to ₹866/- per sq. yard. The appellants are also entitled to all the statutory benefits including solatium and interest. Interest on the enhanced compensation, however, shall be given from the date of the judgment passed by the High Court. No order as to costs.*
>
> *Ordered accordingly."*

So far as the State appeals against the order passed by this Court dated 29.04.2010 are concerned, the same were dismissed by the Hon'ble Apex Court, vide order dated 25.02.2015.

In the present case, the land situated in Village Fatehabad was earlier sought to be acquired vide notifications dated 21.07.1993, 21.12.1998 and 02.10.2001, under Section 4 of the Act for different purposes. The learned Reference Court in the facts of the present case rightly held that the land sought to be acquired in the present case had great potentiality on account of earlier acquisitions and rightly assessed the market value of the acquired land by basing reliance on the market value assessed by this Court qua acquisition vide notification dated 02.10.2001. However, now the market value of the land assessed vide notification dated 02.10.2001 has been enhanced by the Hon'ble Apex Court and in consequence thereto, the market value of the land is liable to be enhanced in the present case by allowing 12% increase for the intervening period from 02.10.2001 to 04.07.2006 i.e. the dates of notifications under Section 4 of the Act.

Learned counsel for the land-owners has submitted that by giving 12% increase on cumulative basis for the intervening period of about 5 years i.e. from 02.10.2001 to 04.07.2006, the market value of the land comes to ₹1,485/- per square yard by basing reliance on the decision of the Hon'ble Apex Court dated 25.02.2015.

The said calculation has not been disputed by learned Senior counsel for HUDA.

Accordingly, the market value of the land is enhanced @ ₹1,485/- per square yard qua the acquired land irrespective of the quality of the land. With this modification, the remaining reliefs granted by the learned Reference Court to the land-owners shall remain intact. Consequently, the appeals filed by the land-owners are allowed and the appeals filed by the HUDA are dismissed.

(SABINA)
JUDGE

July 22, 2015
nitin