IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.F.A. No. 9626 of 2014 (O&M)
Date of decision: September 22, 2015

Hanuman Singh

.. Appellant

Vs.

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Argued by: M/s Ashish Gupta, M. L. Sharma, Vinod Kumar Mehta, Amit Choudhary, Ajay Jain, Ashwani Bakshi and Sandeep Khunger, Advocates for the landowners.

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

...

Rajesh Bindal J.

1. This order will dispose of

RFA Nos. 9626 to 9629, 9870 to 9886, 9888 to 9914, 10191 to 10232, 10243 to 10252, 10265, 10266, 10327, 10391 to 10397, 10400 to 10425, 10638 to 10641, 10784 to 10799 and 10806 of **2014**; and

RFA Nos. 64, 131 to 133, 249, 250, 332, 368 to 370, 373 to 377, 394 to 396, 528, 595 to 597, 810, 823, 830, 875, 876, 946, 1579, 1584, 1911 to 1915, 2044 to 2046, 2155, 2165, 2326, 2327, 2613, 3132 and 3217 of **2015.**

2. In the appeals filed by the landowners, they are seeking further enhancement of compensation for the acquired land. The State has not

preferred any appeal against the award passed by the learned Reference Court.

3. Briefly, the facts of the case are that vide notification dated 12.2.2008, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the State of Haryana, sought to acquire 592.64 acres of land, situated in villages Barseen, Basti Bhiwan and Matana for development and utilisation thereof as residential and commercial Sectors 4, 5 and 7A, Fatehabad. The same was followed by notification dated 11.2.2009, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide award dated 10.2.2011, assessed the market value of the acquired land of all the villages @ ₹ 27,50,000/- per acre. Dissatisfied with the award of the Collector, the landowners filed objections, which were referred to the learned court. The learned reference court determined the market value of the acquired land of all the villages @ ₹ 43,20,000/- per acre. It is this award which is impugned by the landowners before this court.

4. Vide another notification dated 12.2.2008, issued under Section 4 of the Act, the State of Haryana, sought to acquire 82.91 acres of land, situated in villages Dhanger, Basti Bhiwan, Barseen and Matana for construction of bye-pass road adjacent to Sectors 4, 5, 5 Part and 7A Part, Fatehabad. The same was followed by notification dated 13.2.2008, issued under Section 6 of the Act. The Collector, vide award dated 30.12.2008, assessed the market value of the acquired land pertaining to village Barseen @ ₹ 9,00,000/- per acre for Nehri/Chahi/Gair Mumkin; ₹ 8,00,000/- per acre for Taal/Tibba and ₹ 26,00,000/- per acre upto 2 acres depth from the road in khasra No. 98//8, 14, 17, 25, 105//5, 6, 106//1, 2,9, 10, 11, 12 and 19; pertaining to village Basti Bhiwan @ ₹ 17,00,000/- per acre for Nehri/Chahi/Gair Mumkin Rasta and upto depth of 2 acres from the road in khasra No. 137//10, 11, 12, 13, 16/2, 17, 18, 19, 138//6 and 15 and ₹ 12,00,000/- per acre for other land; pertaining to village Barseen @ ₹ 11,00,000/- per acre for Nehri/Chahi/Gair Mumkin Rasta and ₹ 8,00,000/- per acre for Taal/Tibba and pertaining to village Matana @ ₹ 18,00,000/- per acre for Nehri/Chahi/Gair Mumkin Khaal Rasta, ₹ 11,00,000/- per acre

for Taal and ₹ 10,00,000/- per acre for Tibba. Despite policy of the Government prescribing minimum rates for acquisition of land, the Collector awarded different rates and less than the minimum fixed in the policy for some areas. Dissatisfied with the award of the Collector, the landowners filed objections, which were referred to the learned court. The learned reference court determined the market value of the acquired land @ ₹ 43,20,000/- per acre. It is this award which is impugned by the landowners before this court.

5. Reference to exhibits in the judgment has been made from LAC No. 93-LA/2011.

6. Mr. M. L. Sharma, learned counsel for the landowners submitted that surrounding area, where the land was acquired, was already developed. There had been number of acquisitions earlier. Vide notifications dated 21.7.1993 and 21.12.1998, land pertaining to Fatehabad was acquired for development and utilisation thereof as residential and commercial Sector 3, Fatehabad. Vide notification dated 2.10.2001, land pertaining to Fatehabad was acquired for construction of District Police Lines. Vide notification dated 4.7.2006, land pertaining to villages Fatehabad, Basti Bhiwan and Matana was acquired for developing the same as residential and commercial Sectors 9, 10, 11 and 11-A, Fatehabad. The compensation assessed by the courts for the aforesaid acquisitions clearly establish the potentiality of the land and the value thereof. The land dealt with in sale deeds (Ex. P20, Ex. P31 and Ex. P37) was part of the acquired land. There are two other sale deeds (Ex. P38 and Ex. P39) dated 27.8.2007 on record, whereby land measuring 13 kanals and 12 marlas and 14 kanals and 5 marlas, respectively was sold at an average price of ₹ 2,51,00,000/- per acre.

7. Referring to the aforesaid material on record, learned counsel submitted that the awards pertaining to the land adjoining to the acquired land is the best evidence available on record, which should be relied upon for the purpose of assessment of compensation, as judicial mind had been applied while arriving at the value. In the case in hand, the latest acquisition being dated 4.7.2006, the land pertaining thereto is adjoining to the acquired

land. The compensation therein was assessed @ ₹ 1,485/- per square yard by this court in RFA No. 5585 of 2014—Haryana Urban Development Authority and another v. Prem Chand Gupta and others, decided on 22.7.2015, hence, there being a time gap of one year and six months, increase for that period be granted @ 12% per annum with cumulative effect. Alternative submissions were also made for averaging the sale consideration paid in sale deeds (Ex. P20, Ex. P31, Ex. P37, Ex. P38 and Ex. P39) and assessing the compensation. He further submitted that average value can be arrived at by different method, i.e., taking into consideration the award and the value shown in the relevant sale deeds registered during that time. He further submitted that in terms of the law laid down by Hon'ble the Supreme Court, the highest exemplar has to be taken into consideration for the purpose of assessment of compensation, the same being ₹ 2,51,00,000/- per acre, vide sale deeds (Ex. P38 and Ex. P39). If the same is taken into consideration, the value of the acquired land would come out to ₹ 5,186/- per square yard. However, learned counsel could not point out location of the land dealt with in the aforesaid sale deeds. Part of the acquired land also pertains to revenue estate of Fatehabad, which was declared as a District way back in the year 1997 and there was spurt in development activities thereafter. First Nuclear Power Plant in Haryana is being set up in District Fatehabad.

8. Mr. Ashish Gupta, learned counsel appearing for some of the landowners placed reliance upon sale deeds (Ex. P21 and Ex. P25). The land dealt with therein is located quite close to the acquired land. He further referred to sale deed (Ex. R6) produced by the State, which was registered on 21.12.2006. The sale consideration paid therein is ₹ 1,12,00,000/- at an average rate of ₹ 62,22,080/- per acre. Production of the sale deed in evidence by the State itself shows that value of the acquired land in the area was much more than what was assessed by the Collector. He further submitted that vide sale deed (Ex. P20) dated 17.11.2006, land measuring 40 kanals was sold for ₹ 2,00,00,000/- at an average price of ₹ 40,00,000/- per acre. There being time gap of 3 years between registration of the sale deed and the notification issued under Section 4 of the Act in the present

case, increase of 36% be granted and the value would come out to ₹ 4,495/- per square yard. After applying cut of 30% thereon, the value would come out to ₹ 3,146/- per square yard. Further reliance was placed upon sale deed (Ex. P25) dated 11.3.2008, vide which land measuring 14 kanals and 8 marlas was sold for ₹ 1,12,00,000/- at an average price of ₹ 62,22,224/- per acre. Even if the aforesaid sale deed was registered one month after the registration of the sale deed in question, the same suggests how the prices of the land increased in the area. Within a span of about 2 years, the prices increased by almost 50%.

9. While referring to the aforesaid sale deeds and also other sale deeds produced on record by the State showing value of the land pertaining to the revenue estate of village Basti Bhiwan ranging from ₹ 2,00,000/- per acre to ₹ 4,00,000/- per acre, it was submitted that in such a situation, the best course would be to rely upon the earlier award pertaining to the acquisition in the area as the evidence produced therein has been tested in judicial scrutiny.

10. Learned counsel further submitted that for the land acquired for construction of bye-pass though adjoining to the acquired land, the landowners deserve to be granted severance as their land had been divided into two parts. This court in earlier cases had taken judicial notice of this and in the cases of acquisition of land for construction of road, canal and drainage, severance was granted at flat rate of 20%. However, he was candid in saying that there is no material on record to suggest that the land of any of the landowners, to whom he is representing, was bifurcated with the aforesaid acquisition for construction of bye-pass.

11. On the other hand, learned counsel for the State submitted that Hon'ble the Supreme Court in Ram Kanwar and others v. State of Haryana and another, 2015(1) RCR (Civil) 234 opined that the sale deeds pertaining to the land registered close to the acquisition are the best exemplar. The awards are to be relied upon in the absence of any relevant sale deed. In the present case, there are sale deeds available on record after the earlier acquisition in the area, hence, those are the relevant transactions for the purpose of assessment of compensation. Sale deed (Ex. P21) is not relevant

considering the fact that it was merely for an area of five marlas. It is dated 7.2.2005. There are other sale deeds available of bigger chunks of land registered close to the acquisition, hence, those would be relevant piece of evidence. He further submitted that in its fairness, the State had produced sale deed (Ex. R6) on record, however, that was for a small area of 5 marlas and 7-1/2 sarsai. He further submitted that increase for any time gap from registration of the sale deeds till the date of issuance of notification under Section 4 of the Act, at the best, can be @ 12% per annum. Disputing the relevance of sale deeds (Ex. P22, Ex. P23, Ex. P24, Ex. P25 and Ex. P26) produced by the landowners, he submitted that though all the sale deeds were registered on the same day, but there was lot of variation in the consideration paid, which shows that it all depends on demand and supply and the buyers were builders. Higher consideration may have been paid to make it a compact block or on account of compensation. There are sale deeds available on record close to the acquisition and even subsequent thereto showing lesser value, hence, the award passed by the Reference Court does not call for any interference.

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

13. As far as location of the land is concerned, it is evident from the site plan (Ex.P19). The acquired land is located on one side of the city of Fatehabad. There had been acquisitions earlier in this area, the first being vide notification dated 21.7.1993 for residential and commercial purpose for Sector 3, Fatehabad. For the aforesaid acquisition, this Court in RFA No. 122 of 2000-- Smt. Neelam v. The State of Haryana and others, decided on 22.9.2008, assessed the compensation @ ₹ 260/- per square yard upto the depth of 100 meters on National Highway 10 and ₹ 206/- per square yard for the remaining land. For notification dated 21.12.1998, where the land was acquired for the same purpose, this Court in Ram Kumar's case (supra) assessed the compensation @ ₹ 432/- per square yard upto the depth of 100 meters from National Highway and @ ₹ 342/- per square yard for remaining land. Subsequently, for notification dated 2.10.2001, where the land was acquired for construction of District Police Lines, Fatehabad, this Court in

RFA No. 63 of 2005-- State of Haryana and others v. Hemant Kumar, decided on 29.4.2010 assessed the compensation @ ₹ 600/- per square yard. In appeal, Hon'ble the Supreme Court enhanced the compensation to @ ₹ 866/- per square yard. For the notification dated 4.7.2006, where the land was acquired for residential and commercial Sectors 9, 10, 11 and 11-A, Fatehabad, this Court in Prem Chand Gupta and others' case (supra), assessed the compensation @ ₹ 1,485/- per square yard. The acquired land is located beyond that. At the same time, acquisition was made for two purposes, namely, for development of residential/commercial Sectors and second being for construction of a bye-pass adjoining to the aforesaid land. Adjoining to the acquired land, some private colonies have been shown, for which it was argued that licences had been given to the builders. On one side, it abuts NH-10. On the other side is the land already acquired for Police Lines, more than 6 years prior to the date of acquisition in the case in hand.

14. The contention raised by learned counsel for the landowners for assessing the compensation was by placing reliance upon award pertaining to acquisition of land for Sectors 9 to 11, where notification under Section 4 of the Act was issued on 4.7.2006. This Court in Prem Chand Gupta's case (supra) had assessed the compensation therefor @ ₹ 1,485/- per square yard. The submission was that considering the development in the area, increase for the time gap of two acquisitions be granted @ 12% per annum with cumulative effect. The second contention is for assessment of compensation, considering various sale deeds produced on record, which show value different than what has been assessed for the acquisition vide notification dated 4.7.2006. There are sale-deeds available even for the period subsequent thereto.

15. The first issue to be considered is as to whether the award pertaining to earlier acquisition should be relied upon for the purpose of assessment of compensation and increase for the time gap is to be granted or the sale-deeds pertaining to the land forming part of the acquired land and adjoining thereto, which can be termed to be comparable sale transactions should be relied upon, if those transactions have taken place after the earlier

acquisition. Hon'ble the Supreme Court in Ram Kanwar's case (supra) held that sale deeds should be relied upon, if available, instead of comparable awards, in assessing the compensation. The relevant paragraph is extracted below:

> “15. The Reference Court, therefore, was not justified in ignoring the best piece of evidence the sale deeds and instead, relying on the comparable award which would otherwise be the best evidence should such sale deeds not been bona fide or be for lands that did not lay proximate to the acquired lands. The High Court, in our considered opinion, has rightly rejected the reasoning of Reference Court and considered the un-assailed sale deeds as true estate of market value of acquired lands.”

16. Hence, in view of the aforesaid enunciation of law by Hon'ble the Supreme Court, it would not be appropriate to place reliance solely on the award pertaining to earlier acquisition in the area, especially when there are sale-deeds available for the period subsequent thereto.

17. Now coming to the various sale-deeds produced by the landowners before the court below. The same are extracted below:

Sr. No.	Exhibit	Date	Area sold K M	Total sale consideration in ₹	Average sale consideration per acre in ₹
1.	P20	17.11.2006	40-00	2,00,00,000/-	40,00,000/-
2.	P21	7.2.2005	0-5	5,00,000/-	1,60,00,000/-
3.	P22	11.3.2008	26-14	1,66,87,500/-	50,00,000/-
4.	P23	11.3.2008	7-8	46,25,000/-	48,00,000/-
5.	P24	11.3.2008	16-17	1,05,31,250/-	49,00,000/-
6.	P25	11.3.2008	14-08	1,12,00,000/-	62,22,224/-
7.	P26	14.3.2008	150-15	5,46,46,875/-	29,00,000/-
8.	P30	30.5.2005	0-3-3	4,25,000/-	2,40,00,000/-
9.	P31	12.7.2006	22-11	1,12,75,000/-	40,00,000/-
10.	P34	23.4.2009	29-17	2,57,16,363/-	68,92,153/-
11.	P35	16.4.2009	22-15	1,87,48,444/-	65,92,260/-
12.	P36	16.4.2009	49-7	4,51,07,444/-	73,12,250/-
13.	P37	11.4.2007	55-19	2,76,32,306/-	39,51,000/-
14.	P38	27.8.2007	13-12	4,26,70,000/-	2,51,00,000/-
15.	P39	27.8.2007	14-5	4,47,09,375/-	2,51,00,000/-

18. At the time of hearing, reliance was placed upon following sale deeds:

Sr. No.	Exhibit	Date	Area sold K M	Total sale consideration in ₹	Average sale consideration per acre in ₹
1.	P20	17.11.2006	40-00	2,00,00,000/-	40,00,000/-
2.	P25	11.3.2008	14-08	1,12,00,000/-	62,22,224/-
3.	P31	12.7.2006	22-11	1,12,75,000/-	40,00,000/-
4.	P37	11.4.2007	55-19	2,76,32,306/-	39,51,000/-
5.	P38	27.8.2007	13-12	4,26,70,000/-	2,51,00,000/-
6.	P39	27.8.2007	14-5	4,47,09,375/-	2,51,00,000/-
7.	R6	21.12.2006	0-5-7-1/2	22,000/-	62,22,280/-

(Though in the award of the Reference Court amount mentioned is ₹ 1,12,00,000/-, but actually it is ₹ 22,000/-)

19. A perusal of the aforesaid table of sale deeds sought to be relied upon by learned counsel for the landowners shows that all these were registered after the earlier acquisition of land for development as Sectors 9 to 11, where notification under Section 4 of the Act was issued on 4.7.2006. Notification in the present case was issued on 12.2.2008. Sale deed (Ex. P25) was registered one month after the issuance of notification under Section 4 of the Act.

20. As far as reliance on sale-deeds (Ex. P38 and Ex. P39) is concerned, in my opinion, the same cannot be relied upon for the purpose of assessment of compensation for the acquired land as in the site plan (Ex. P19), the land pertaining thereto is shown to be located on the other side of the city. The value of the land there as such is not evident from any other material on record. However, it shows that the land dealt with therein is located close to the old township, where there were already developed areas having commercial and residential establishments.

21. Now coming to the location of the land pertaining to the sale deed (Ex. P20) dated 17.11.2006, vide which 40 kanals of land was sold for

₹ 2,00,00,000/- at an average price of ₹ 40,00,000/- per acre. The land was purchased by a builder, which is shown to be located in Alpha International City, the land of which was not acquired but is adjoining to the acquired land. The location of the land pertaining to the sale deed (Ex. P31) dated 12.7.2006, vide which 22 kanals and 11 marlas of land was purchased by a builder, is also shown to be located in Alpha International City. The average sale consideration paid therein is ₹ 40,00,000/- per acre. The location of the land pertaining to the sale deed (Ex. P37) dated 11.4.2007, vide which 55 kanals and 19 marlas was sold for ₹ 2,76,32,306/- at an average price of ₹ 39,51,000/- per acre, is also shown in Alpha International City.

22. As far as sale deed (Ex. P25) dated 11.3.2008 is concerned, the same was again purchased by a builder. The area dealt with therein is 14 kanals and 8 marlas. It is shown to be located close to NH-10 and Police Lines on the other side of the road, where also township developed by a private builder has been shown.

23. On the same day, vide following three different sale deeds, the land was purchased by the same buyer:

Sr. No.	Exhibit	Date	Area sold K M	Total sale consideration in ₹	Average sale consideration per acre in ₹
1.	P22	11.3.2008	26-14	1,66,87,500/-	50,00,000/-
2.	P23	11.3.2008	7-8	46,25,000/-	48,00,000/-
3.	P24	11.3.2008	16-17	1,05,31,250/-	49,00,000/-

24. The fact that same buyer had paid different value of the land located in the same revenue estate and located close by is with a purpose to make it a big chunk for development as a colony shows that price depended on demand and supply. These were the prices even after one month of the issuance of notification under Section 4 of the Act in the present case. Even small earnest money in the aforesaid deals was paid after the issuance of notification under Section 4 of the Act. Meaning thereby, the aforesaid was the value of the land even after the notification under Section 4 of the Act in the present case had already been issued and all infrastructural facilities

or the status of development with earlier acquisitions in the area was already existing. The land in question is otherwise also located away from the city if considered vis-a-vis the location of land pertaining to Sectors 9 to 11.

25. If aforesaid three sale deeds (Ex. P20, Ex. P31 and Ex. P37) are taken into consideration and increase @ 12% per annum with cumulative effect for the time gap is granted with reference to the date of registration of the sale deeds and issuance of notification under Section 4 of the Act, the value of the land on the date of issuance of notification under Section 4 of the Act will come as under:

Sale Deed	Date	Time gap	Value per acre in ₹
Ex. P20	17.11.2006	1 year 3 months	46,00,000/-
Ex. P31	12.7.2006	1 year 7 months	47,60,000/-
Ex. P37	11.4.2007	7 months	42,27,520/-

26. If compared with two sale deeds (Ex. P23 and Ex. P24), which were registered on 11.3.2008 after the issuance of notification under Section 5 of the Act in the present case, the value is close to what is arrived at with reference to the aforesaid three sale deeds (Ex. P20, Ex. P31 and Ex. P37).

27. Considering the aforesaid material and also keeping in view the potentiality of the land, in my opinion, applying a thumb rule, the landowners in the present case deserve to be granted compensation @ ₹ 50,00,000/- per acre.

28. As far as claim for severance is concerned, learned counsel for the landowners has not been able to point out that the land pertaining to any of the landowner has been bifurcated. The reason being that major portion of the land acquired for construction of bye-pass is adjoining to the land acquired for development as Sectors 4, 5 and 7A, hence, there is no question of any severance. In the absence thereof, the claim with regard to award of damages on account of severance is declined.

29. For the aforesaid reasons, it is held that the landowners shall be entitled to compensation @ ₹ 50,00,000/- per acre. They shall also be entitled to all statutory benefits available to them under the Act.

30. The appeals are disposed of, accordingly.

(Rajesh Bindal)
Judge

September 22, 2015
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(Refer to Reporter)