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Punjab & Haryana High Court at Chandigarh

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No. 9821 of 2014 (O&M)
LAC No. 142 of 13.4.2006

Date of decision : 30.10.2015

Baru and others .. Appellants

versus

State of Haryana .. Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Surender Pal, Mr. Ashish Gupta, Mr. S. N. Pillania, Mr. S. K. Verma, Mr. Arvind Chauhan, and Mr. Munish Kumar Garg, Advocates, for the landowners.

Mr. Abhinash Jain, Assistant Advocate General, Haryana.

Rajesh Bindal, J.

1. This order will dispose of RFA Nos. 4092, 4225 of **2010**,
RFA Nos. 2514, 6955 of **2011**,
RFA Nos. 9821, 9832, 9833, 9838, 9839, 10017 to 10055, 10478, 10479, 10826 to 10839 of **2014**, and
RFA Nos. 7, 16 to 21, 31, 67, 69, 71, 120 to 127, 198 to 204, 213, 217, 342 to 346, 386 to 389, 411 to 415, 518, 640 to 642, 816, 886, 963, 982 to 989, 1021, 1022, 1489, 1576, 2037, 2039, 2040, 2092 to 2099, 2147, 2148, 2164, 2180, 2244, 2553 to 2556, 2611, 2612, 4547 of **2015**,
as the same arise out of common acquisition.

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

3. Briefly, the facts are that vide notification dated 9.9.2002, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the State of Haryana sought to acquire 380.11 acres of land situated in village Jind, Hadbast No. 79 and 98.89 acres of land situated in village Haibatpur, Hadbast No. 72, Tehsil and District Jind, for development and

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utilisation thereof as residential, commercial sectors 6, 7, 8, and 9 at Jind. Notification under Section 6 of the Act was issued on 8.9.2003. The Land Acquisition Collector (for short, 'the Collector') vide award no. 6 dated 6.9.2005 assessed the market value of the acquired land of revenue estate Jind @ ₹ 10,00,000/- per acre near road upto one acre depth and ₹ 7,00,000/- per acre for the remaining land. Vide award no.7 dated 6.9.2005, the Collector awarded compensation @ ₹ 6,00,000/- per acre for the land near road upto to one acre depth and ₹ 5,50,000/- per acre for the remaining land of village Haibatpur. Dissatisfied with the awards 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 @ ₹ 8,00,000/- per acre for the land situated beyond one acre from the road and ₹ 12,00,000/- per acre for the land situated upto one acre depth from the road and for Nehri, Chahi and Gair Mumkin land pertaining to village Jind. For the land pertaining to village Haibatpur, the court below determined the market value of the acquired land @ ₹ 6,00,000/- per acre for the land situated beyond one acre depth from the road and ₹ 7,00,000/- per acre for the land situated upto one acre depth from the road. Aggrieved against the award of the learned court below, the landowners as well as the State filed appeals.

4. This court vide judgment dated 21.8.2013 passed in RFA No. 5823 of 2008 - *Santosh Devi and others vs State of Haryana and another*, remitted the cases back to the learned court below for decision afresh after giving liberty to the parties to lead further evidence. On remand, the learned court below vide award dated 25.7.2014 determined the market value of the acquired land in the revenue estate of Jind relating to award no.6 @ ₹ 8,47,000/- per acre for the land situated beyond one acre from road and ₹ 11,02,000/- per acre for the land situated upto one acre depth from the metaled roads i.e. Somnath Mandir Road, Shaheed Udham Singh Marg, Jind- Safidon road, for Nehri, Chahi and Gair Mumkin kinds of land. For the land of revenue estate of village Haibatpur relating to award no.7, the compensation was assessed @ ₹ 6,78,000/- per acre for the land situated beyond one acre from the Safidon Road and Jind – Haibatpur Road; ₹

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8,82,000/- per acre for the land situated upto one acre depth situated/abutting on Jind Safidon road of village Haibatpur and ₹ 8,14,000/- per acre for the land situated upto one acre depth on each side of Jind-Habitpur road of village Haibatpur. Still dissatisfied, the landowners have impugned the award before this court.

5. Mr. Ashish Gupta, learned counsel for the landowners submitted that the learned Reference Court after remand of the cases by this Court has gone wrong in reducing the compensation awarded to the landowners in the first round of litigation. In fact, at that stage the Court had failed to consider the sale-deeds, which were forming part of the acquired land and considering the aforesaid transactions, the compensation in fact was required to be increased. However, the learned Court below has gone in a wrong direction by reducing the compensation for the land which was located on road which, in fact, was more valuable.

6. While referring to site plan, Ex. P-172A, learned counsel for the appellants submitted that the acquired land was the best located land in the city where there had been all around development. Just opposite the acquired land on Jind-Safidon road, the entire area had already been acquired for the purpose of development as Sectors 10 and 11, Jind. Commercial and residential establishments were located all along the road on which the acquired land is located. Acquired land is more than 400 acres. It is spread lengthwise to a distance of about 45 acres from Som Nath Mandir Road till rectangle no.50 and 55 in the area of village Haibatpur on Jind-Safidon Road. It has width ranging from 10 to 15 acres along side Shaheed Udham Singh Marg towards its western southern side and towards Jind Safidon road towards southern side. Paradise hotel, new Sabji Mandi, Maha Dev Petrol Pump, Marriage Palaces, Hotel Tilak, Som Nath Mandir, Maghan Paper Board and Sainipur Colony are located near the acquired land. Dalamwala Hospital, Utsav Hotel and other shopping areas are located adjoining to the acquired land. Further moving towards southern eastern side of the acquired land is defence colony and adjoining to Defence Colony is District Jail, Jind and Police Lines is located after crossing Gohana road. Residence of Superintendent of Police and Court complex adjoins the police lines. As the acquired land is abutting Shaheed Udham Singh Marg and

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Jind-Safidon road and its entire southern-western portion adjoins either Shaheed Udham Singh Marg or Jind Safidon road. The land in the vicinity was acquired for HUDA sectors earlier. Most of the acquired land falls within the Municipal limits of Jind. The sale transactions for small plots were produced in evidence for the reason that inhabitants were constructing their houses in the area after purchasing plots. The extension of the city is on this side only.

7. For the purpose of assessment of compensation for the acquired land, learned counsel for the landowners placed reliance upon document, Ex.PR/L, whereby minimum rates were fixed by the Collector for registration of sale-deeds in the area. Entry 43 was referred to show that the rate prescribed was ₹ 2,700/- per square yard for the land situated on Rajbaha bypass to Safidon Road. If that was the value of the land located on road, some reasonable cut can be applied for assessing the value for the land located behind. In support of the arguments that the Collector rates can be relied upon for the purpose of assessment of compensation, reliance was placed upon judgment of Hon'ble the Supreme Court in *Krishan Kumar vs Union of India and another* 2015 (2) RCR (Civil) 597.

8. Further reliance was placed on sale-deed, Ex. PR/B. The land dealt with therein is part of the acquired land. It was registered on 30.10.2001. The area dealt with is 250 square yards, at an average price of ₹ 700/- per square yard. There is time gap of 10 months and 9 days upto the date of notification under Section 4 of the Act. Considering the appreciation of prices of land in the area, as is evident from sale-deeds, Ex. PR/A, Ex. PR/B and Ex. PR/C, there is increase at least @ 100% per annum, hence, for the time gap 80% increase is required to be added thereon and after applying a cut of 20%, the compensation be assessed. Considering the aforesaid fact that the land dealt with in the aforesaid sale-deed is not located on the road, the landowners, whose land abuts the road, deserve to be granted compensation by adding 100% thereon.

9. Learned counsel for the landowners further relied upon sale-deed, Ex. PR/A vide which a plot measuring 130 square yards was sold at an average price of ₹ 1,400/- per square yard on 31.5.2002. Considering the time gap upto the date of notification under Section 4 of the Act, increase of

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25% be added thereon. Considering the small size of the plot, a cut of 25% can be applied, for assessment of compensation of land located on road, and for the land behind that further reasonable cut can be applied.

10. Learned counsel for the landowners further submitted that the learned Reference Court had merely relied upon sale-deed, Ex. PR/A and discarded the sale-deeds, Ex. PR/B and Ex. PR/C, without assigning any reason. Haryana Urban Development Authority, vide Ex. PW72/B to Ex. PW72/D, Ex. PW114/H and Ex. PW114/I, had offered plots for sale in Urban Estate Sectors- 6, 7 and 8 at Jind, wherein price of 1 kanal plot was mentioned as ₹ 5,742/- per square yard and for 10 marlas of land, the price was mentioned as ₹ 5,220/- per square yard, and for plot measuring 2 marlas, the price was fixed at ₹ 359/- per square yard. He further submitted that in view of the settled position of law, highest sale exemplar had to be considered for the purpose of assessment of compensation, hence, Ex. PR/C should be relied upon for the purpose of assessment of compensation.

11. Mr. S.N. Pillania, Advocate, appearing for some of the landowners submitted that considering the potentiality and location, entire land should be assessed at the same rate as the area all around had already been developed. He further submitted that the learned court below had committed error while not granting higher amount of compensation for the land located on the roads and also differentiating while assessing the compensation for the land of village Haibatpur as there was no difference in the location as such. The land of both the revenue estates is adjoining and located opposite to the already developed area. He further referred to sale-deed, Ex. PW/118/B, vide which 61,226 square yards of land was sold on 27.11.2006 at an average price of ₹ 1,384.29 per square yard. He further submitted that distance of the land pertaining to the aforesaid sale-deed was merely one kilometer from the acquired land. Even if the aforesaid sale-deed was registered later in time, a reasonable cut can be applied, which should not be more than 30% to 35%.

12. On the other hand, learned counsel for the State submitted that the learned Court below has not committed any error in assessing the compensation. That is the reason that the State has not preferred any appeal. Otherwise, in the first round of litigation, even the State had filed appeals.

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The genuineness of sale-deed, Ex. PR/C was rightly disputed by the learned Court below for the reason that the sale consideration shown therein was more than 5 times as compared to the sale-deed, Ex. PR/A, which was registered about two months prior in time and at a better location on a road. After remand by this court, the learned Court below has rightly appreciated the evidence and assessed the compensation. He further submitted that the sale instances pertaining to small plots are sought to be relied upon by the landowners for assessing the compensation of big chunk of land measuring about 400 acres.

13. While answering to the contention raised by learned counsel for the landowners, learned counsel for the State referring the rates at which the plots were offered for sale by HUDA, five years after the issuance of notification under Section 4 of the Act, submitted that plots measuring 2 marlas were offered @ ₹ 359/- per square yard. Hence, it is wrong to claim that all plots were sold at an average price of ₹ 5,742/- per square yard.

14. Learned counsel for the State further submitted that all the sale-deeds produced by the State were wrongly discarded by learned Court below. The land pertaining to 10 of them was forming part of the acquired land located at different places. The average sale consideration paid therein was ranging from ₹ 3,30,000/- to ₹ 6,00,000/- per acre. Even in the sale-deeds pertaining to the land, which was located beyond the acquired land but in close vicinity also, the sale consideration paid was in same range. He further submitted that the entire land was not located within the municipal limits. The minor, which is located just in between the acquired land, crossing it vertically, which has been shown as a road by the landowners in the site plan produced, is still existing as only in the year 2008 it was covered and the road was constructed thereon.

15. Distinguishing the judgment *Krishan Kumar*'s case (supra), relied upon by the landowners, it was submitted that the Collector rates were not relied upon by Hon'ble the Supreme Court in the aforesaid case, rather in the facts and circumstances of that case, a thumb rule was applied. It was a case of no evidence. He relied upon judgments of 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,

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Lal Chand vs Union of India and another 2009 (15) SCC 769, *Himmat Singh and others vs State of M.P. and another* 2013(16) SCC 392, and *Ram Kanwar and others vs State of Haryana and another* 2015(1) RCR (Civil) 234, submitted that sale transaction after the issuance of notification under Section 4 of the Act cannot be relied upon for the purpose of assessment of compensation.

16. In response to the contention raised by learned counsel for the State, learned counsel for the landowners submitted that there is nothing on record to suggest that the entire land is not forming part of the municipal limits as is sought to be argued by learned counsel for the State. He further submitted that none of the arguments raised by learned counsel for the State placing reliance upon the sale-deed produced by it can be considered for the reason that those were not considered by the learned Court below and the State is not in appeal against that.

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

18. The acquired land is located partly within the municipal limits, whereas partly it is outside. It is one compact block. One end of it abuts the populated area of old city. It is abutting Jind-Safidon Road, on the opposite side of which the area had already been developed as Sectors 10, 11 and 11 extension by HUDA. The fact that there were constructions already existing on the land sought to be acquired is evident from the fact that initially vide notification under Section 4 of the Act, land measuring 380.11 acres situated in village Jind, and 98.89 acres of land situated in village Haibatpur was sought to be acquired, however, 307.77 acres land of village Jind and 95.25 acres of village Haibatpur, was notified under Section 6 of the Act. The land had a width of about 10 acres from Jind-Safidon Road, as has been shown in the site plan, Ex. P172-A, produced by the landowners. Large chunk of land, which was released from acquisition, was abutting the Jind-Safidon Road or close to the city, whereas small pockets in between were also released. The area adjoining the Jind-Safidon Road has been shown to be commercial in nature. It cannot be doubted that considering its location, the land could not be utilised for urbanisation and had future potential.

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19. Learned counsel for the landowners placed reliance upon the following sale-deeds:-

Sr. No.	*Exhibit*	*Date of registration*	*Area sold*	*Average price per square yard in ₹*
1.	Ex. PW96/F	31.5.2001	27 square yard	4,314/-
2.	Ex. PA	8.8.2001	250 square yard	250/-
3.	Ex. PR/A	31.5.2002	130 square yard	1,400/-
4.	Ex. PR/B	31.10.2001	250 square yard	700/-
5.	Ex. PR/C	6.5.2004	118 square yard	2711.86
6.	Ex. PR/D	8.3.2001	18 square yard	3,333/-
7.	Ex. PX/19	6.2.2001 (allotment letter	105.51 square yard	18,941/-

20. On the other hand, learned counsel for the State, placed reliance upon sale-deeds, Ex. R1 to Ex.10, the details of which are given below:-

Sr. No.	*Exhibit*	*Date of registration*	*Area sold*	*Sale consideration in ₹*	*Average price per acre in ₹*
1.	Ex. R1	17.5.2001	4 k 9 m	3,34,000/-	6,00,000/-
2.	Ex. R2	21.6.2001	9 k 11 m	3,94,000/-	3,30,000/-
3.	Ex. R3	27.3.2002	2 k 1 m	85,000/-	3,30,000/-
4.	Ex. R4	3.6.2002	2 k 1 m	90,000/-	3,50,000/-
5.	Ex. R5	12.9.2001	2 k 10 m	1,05,000/-	3,30,000/-
6.	Ex. R6	9.8.2000	2 k 11 m	1,72,000/-	5,39,607/-
7.	Ex. R7	28.3.2002	8 k 3 m	3,40,000/-	3,30,000/-
8.	Ex. R8	1.9.2000	1 k 18 m	78,500/-	3,30,526/-
9.	Ex. R9	25.9.2001	1 k 13 m	70,000/-	3,30,000/-
10.	Ex. R10	11.6.2002	2 k 15 m	1,20,500/-	3,50,000/-

21. As far as allotment letter, Ex. PX/19, registered on 6.2.2001, is concerned, the same cannot be relied upon for the purpose of assessment of compensation as it is a shop in the New Grain Market.

22. The land pertaining to sale-deed, Ex. PA, which is claimed to be part of the acquired land, is located just in the old city on Somnath Mandir Road, close to New Grain Market, with area all around developed. It was registered on 8.8.2001 at an average price of ₹ 250/- per square yard.

23. The land pertaining to Ex. PR/A, measuring 130 square yard, is located close to Shaheed Udham Singh Marg, which was sold at an average price of ₹ 1,400/- per square yard, just adjoining to that is located land pertaining to sale-deed, Ex.R-7, vide which land measuring 8 kanals 3 marlas was sold at an average price of ₹ 3,30,000/- per acre. Close to that in

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same rectangle number is the land pertaining to sale-deed, Ex.R-8, vide which 1 kanal 18 marlas of land was sold at an average price of ₹ 3,30,526/- per acre.

24. Vide sale-deed, Ex. PR/B, land measuring 250 square yards was sold on 30.10.2001, at an average price of ₹ 700/- per square yard. It is shown to be located just in the middle of the acquired land with no approach, etc., in the site plan produced on record. Though the sale-deeds, Ex.PA and Ex. PR/B, were registered almost at the same time and the location of land pertaining to the sale-deed, Ex. PA, as shown in the site plan, is better, but still the sale consideration paid therein was 1/3rd of what was paid in Ex. PR/B. The land pertaining to sale-deeds, Ex. R1 and Ex. R9, is also shown on Shaheed Udham Singh Marg. Vide sale-deed, Ex. R1, the land measuring 4 kanals 9 marlas was sold on 17.5.2001, at an average price of ₹ 6,00,000/- per acre. The land pertaining to sale-deed, Ex. R9, measuring 1 kanal 13 marlas was sold on 25.9.2001, at an average price of ₹ 3,30,000/- per acre.

25. The land pertaining to sale-deeds, Ex. PR/C and Ex. PR/D, is shown to be located on Jind-Safidon Road in the close vicinity. Though in the sale-deed, PR/D, 18 square yards of land was sold on 8.3.2001 @ ₹ 3,333/- per square yard, but still three years and 2 months later 118 square yards land located close by was sold an at average price of ₹ 2,711.86 per square yard, vide sale-deed, Ex. PR/C on 6.5.2004, as if prices reduced during that period.

26. The aforesaid facts clearly establish that there was certain special advantage or disadvantages attached with the land sold vide aforesaid sale-deeds and these were not the transactions in the normal course. Hence, it would not be safe to place reliance thereon for the purpose of assessment of compensation for the acquired land.

27. Now this Court has left with two sale-deeds, Ex. PA, and Ex. PR/B. As has already been referred to above, the land pertaining to sale-deed, Ex. PA, is located on road and in the old city. The average sale consideration paid therein was ₹ 250/- per square yard. The land pertaining to sale-deed, Ex. PR/B, is located on road, but moving away from the city. In the aforesaid sale-deeds, there is lot of variation in the consideration paid.

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Increase in the prices in a city cannot be seen to the extent of 5-6 times within a short span of nine months.

28. With the aforesaid kind of evidence produced on record, showing variations from ₹ 250/- to ₹ 2,711.86 per square yards vide different sale-deeds produced on record by the landowners, whereas the sale consideration shown in the sale-deeds produced by the State is in the range of ₹ 3,30,000/- per acre to ₹ 6,00,000/- per acre, in my opinion, it will not be safe to place reliance on the sale-deeds, produced on record by the parties and a thumb rule need to be applied considering the totality of the circumstances such as location of land in the area with development all around and the future potentiality thereof.

29. In view of my aforesaid discussions, in my opinion, the value of the land just abutting the road deserves to be assessed @ ₹ 350/- per square yard, whereas the land which is beyond the depth of 2 acres from the road deserves to be assessed @ ₹ 250/- per square yard, irrespective of quality of land as the land being chahi or barani looses its significance once it is fit for urbanisation.

30. The landowners shall also be entitled to all the statutory benefits available under the Act.

31. The appeals are disposed of in the above terms.

30.10.2015 (Rajesh Bindal)
vs Judge

(Refer to Reporter)