

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

RFA-3944-2002

Date of decision:7.1.2016

Mam Chand and others

...Appellants

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Kulbhuan Sharma, Advocate and
Mr.Adish Gupta, Advocate for the appellants.
Mr.Abhinash Jain, AAG, Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

Instant order proposes to decide ten regular first appeals bearing RFA Nos.3562 and 3563 of 2003 and RFA Nos. 3170 to 3172 of 2009 filed by the State of Haryana and RFA No.3944 of 2002, RFA Nos.1615 to 1617 of 2009 and RFA No.6425 of 2013 filed by the land owners against different awards of the learned Reference Court having been passed on different dates, i.e. 8.10.2002, 5.11.2008 and 23.5.2013, arising out of the same acquisition, as this batch of connected appeals raises identical questions of law and fact. However, for the facility of reference, facts are being culled out from RFA No.3944 of 2002.

Basic facts of the case are hardly in dispute. State of Haryana sought to acquire land for the public purpose, i.e. for the development and utilisation of land for construction of rainy wells for augmentation of water supply for Faridabad Town, from the revenue estate of different villages namely Dadasiya, Kidwali and Sherpur. Accordingly, notification under

Section 4 of the Land Acquisition Act, 1894 ('the Act') was issued on 29.11.1999. Learned counsel for the parties are ad idem that the land in all these cases was acquired vide same notification dated 29.11.1999 and for the same purpose. The notification under Section 4 of the Act was followed by the notification under Section 6 of the Act issued on 30.11.1999.

Land Acquisition Collector, vide his Award No.1 dated 6.6.2000 assessed the market value of the acquired land at the uniform rate of Rs.2,43,360/- per acre qua the land of all the three villages. Feeling dissatisfied, land owners filed their objections under Section 18 of the Act and consequently the matter was referred to the learned Reference Court. Parties led their respective evidence. After hearing the parties and going through the record of the case, the learned Reference Court came to the conclusion that the land owners would be entitled for the compensation at the uniform rate of Rs.170 per square yard. Learned counsel for the parties have verified this fact that this was the common and uniform rate for the acquired land from all the above-said three villages and in all the above-said three awards passed by the learned Reference Court. Feeling aggrieved, land owners as well as State have filed their respective regular first appeals. State is seeking reduction in the compensation awarded, whereas land owners are seeking enhancement thereof.

Heard learned counsel for the parties.

After going through the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that this batch of appeals is squarely covered by the earlier order dated 6.1.2011 passed by this Court in RFA No.3320 of 2002

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there be any confusion in this regard, it is clarified that the above-said RFA No.3320 of 2002 as well as present RFA No.3944 of 2002 have been filed by the same land owners namely Mam Chand and others as their land had been acquired twice over by way of different notifications at two occasions.

Learned counsel for the State submits that all these appeals either filed by the State or filed by the land owners are to be decided in terms of the order dated 6.1.2011 passed by this Court in the above-said RFA No.3320 of 2002, which has attained finality as the State of Haryana did not file any SLP before the Supreme Court against the said order.

Per contra, learned counsel for the land owners, while challenging the findings recorded by the learned Reference Court in paras 9 and 10 of the impugned award, submits that the sale deed Ex.P3 dated 28.10.1997 ought to have been made the basis for assessing the market value of the acquired land, but since the learned Reference Court has proceeded on misconceived approach in this regard, the appellants-land owners are entitled for enhanced compensation, on the basis of this sale-deed Ext.P3. This argument raised by the learned counsel for the appellants-land owners was refuted by the learned counsel for the State, contending that since this sale-deed Ext.P3 pertains to a different village namely Badshahpur, the same cannot be relied upon because the acquired land in the present cases is from village Dadasiya.

Order dated 6.1.2011 passed by this Court in RFA-3320-2002 would show that an increase of Rs.20/- per square yard has already been granted to the land owners of village Dadasiya like the present appellants-land owners by the learned Reference Court. The increase of Rs.20/- per square yard was granted because of time gap of 2 years and 5 months

between two acquisitions pertaining to these two villages namely Badshahpur and Dadasiya. It is no more in dispute that order dated 6.1.2011 passed by this Court in RFA No.3320 of 2002 has become final between the parties.

The notification under Section 4 of the Act was issued on 4.5.1998 in the afore-mentioned RFA No.3320 of 2002, whereas in the present case, date of notification under Section 4 of the Act is 29.11.1999, i.e. after a gap of 1 year and about 7 months. In this view of the matter, appellants-land owners in these cases are entitled to an annual increase @12%. To be fair to the learned counsel for the State, the argument raised by him that the annual increase qua the land of land owners in these cases should not be more than 7.5% per acre on the basis of judgment of the Hon'ble Supreme Court in the **General Manager, Oil & Natural Gas Corporation Ltd. v. Rameshbhai Jivanbhai Patel & another, 2008(14) SCC 745**, is to be noted to be rejected. It is so said, because looking to the topography of the acquired land, it cannot be said to be in rural area.

Further, it is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundra Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533**

No other argument was raised.

Considering the peculiar facts and circumstances of the cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that these matters having been found squarely covered by

the order dated 6.1.2011 passed by this Court in RFA No.3320 of 2002 deserve to be disposed of, in terms of the said order, however, with an increase of 18% for the time gap between two notifications in these two acquisitions. 18% of Rs.170/- per square yard already granted would come to Rs.200.60 which is rounded up to Rs.201/- per square yard. Thus, land owners-appellants are hereby declared entitled for an amount at the uniform rate of Rs.201/- per square yard from the date of notification under Section 4 of the Act. It goes without saying that besides compensation @ Rs.201/- per square yard, the land owners would also be entitled for all other statutory benefits available to them under the relevant provisions of the Act.

Consequently, regular first appeals filed by the State of Haryana bearing RFA Nos.3562 and 3563 of 2003 and RFA Nos. 3170 to 3172 of 2009 are hereby dismissed and the appeals filed by the land owners bearing RFA No.3944 of 2002, RFA Nos.1615 to 1617 of 2009 and RFA No.6425 of 2013 are hereby allowed to the extent indicated above, however, with no order as to costs.

7.1.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE