

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

RFA-1725-1996 & connected matters

Date of decision:6.1.2016

Ranjit Singh

...Appellant

Versus

The State of Punjab 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.Naresh Kaushal, Advocate for the appellant(s).
Mr.Yatinder Sharma, Addl.A.G., Punjab.

RAMESHWAR SINGH MALIK, J. (Oral)

This order proposes to dispose of 12 connected regular first appeals bearing RFA Nos.1725 to 1732 of 1996, RFA Nos.1967 and 2212 of 1996 as well as RFA Nos. 226 and 461 of 1997, arising out of same acquisition, raising identical questions of law and fact. However, for the facility of reference, the facts are being culled out from RFA No.1725 of 1996.

Briefly put, facts of the case are that State of Punjab sought to acquire the land measuring 7.63 acres situated in the area of village Bhago Majra, Tehsil and District Rupnagar at public expenses for the public purpose, i.e. for construction of Krishan Pura right distributory. Notification under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) was issued on 21.3.1988, which was followed by notification dated 6.4.1988 under Section 6 of the Act. The collector vide Award No.388/R-SYL dated 22.9.1989 awarded Rs.62,000/- per acre for Chahi

land, Rs.60,000/- per acre for Banjar land and Rs.55,000/- per acre for Gair Mumkin land. Feeling dissatisfied, land owners-appellants filed their objections under Section 18 of the Act and the matter was referred to the learned Reference Court. Parties led their respective evidence. The learned Reference Court vide its award dated 6.1.1995 awarded Rs.1 lac per acre for Chahi land and Rs.80,000/- per acre for Gair Mumkin and Brani land. State of Punjab did not file any appeal. However, feeling aggrieved, the land owners have approached this Court by way of these appeals, for enhancement of compensation for their acquired land.

Learned counsel for the appellant(s)-land owner(s) submits that Ext.P2 was the sale-deed for 7 marla land, which was sold for Rs.11,800/- on 24.6.1986, whereas Ext. P3 dated 29.10.1986 was another sale deed vide which land measuring 20K-10M was sold for Rs.2.78 lacs. Both these sale-deeds were pertaining to the land of village Bhago Majra itself. He also refers to Exhibits R-1 and R-2 and contends that both these sale deeds were pertaining to the land of village Chatoli, i.e. another village and because of this reason none of these sale-deeds could have been made the basis, for assessing the market value of the acquired land from the revenue estate of village Bhago Majra. He refers to other evidence led by the claimants-land owners in the form of site plan Ext.P4 for the purpose of showing the potential of the acquired land. He also refers to the statements of Surender Singh (AW-1) and Jagtar Singh (AW-2). Further, learned counsel for the appellant(s)-land owner(s) places heavy reliance on three judgments of this Court in **RFA-2267-1990 (Gurdev Singh (deceased) through his LRs v. State of Punjab, decided on 26.11.2008, Sadhu Singh v. The State of**

Punjab (RFA-3281-1993), decided on 11.5.2010 and Hari Singh v. The State of Punjab (RFA-953-1994), decided on 1.7.2013, to contend that since all these villages namely village Sottal in **Gurdev Singh's** case (supra), village Khunni Majra in **Sadhu Singh's** case (supra) and village Jandpur in **Hari Singh's** case (supra) as well as village of these land owners, i.e. Bhago Majra were close to each other in District Rupnagar itself, the appellants are also entitled at least for the same amount of compensation, which has been granted by this Court to the land owners of the village Khunni Majra in **Sadhu Singh's** case (supra). He prays for allowing all these appeals.

On the other hand, learned counsel for the State submits that since village Chatoli was also situated near village Bhago Majra, sale-deeds Exhibits R1 and R2, which were of the year 1987, could not have been ignored outrightly. He also submits that even if the sale-deed Ext.P3 is to be considered for the purpose of assessing the market value, the claimants would be entitled only for an amount of Rs.1,25,000/- per acre for Chahi land and lesser amount of compensation for other categories of land, after allowing 12% annual increase from the date of sale-deed Ext. P3, i.e. 30.10.1986 till the date of issuance of notification under Section 4 of the Act on dated 21.3.1988. Learned counsel for the State also submits that so far as the judgments relied upon by the learned counsel for the appellants-land owners in **Gurdev Singh's** case (supra), **Sadhu Singh's** case (supra) and **Hari Singh's** case (supra) are concerned, the same are not of any help to the land-owners, being distinguishable on facts and also because there is no combined site plan which may show distance of all these villages.

After hearing the learned counsel for the parties and going through the record of the case, this Court is of the considered opinion that all these appeals filed by the land-owners deserve to be allowed, for the following more than one reasons.

The most relevant piece of evidence available on record is in the form of sale-deed dated 29.10.1986 Ext.P3 vide which land measuring 20K-10M was sold for Rs.2.78 lacs. This land was from village Bhago Majra itself. No contrary sale-deed has been produced by the respondent-State. The sale-deeds Exhibits R1 and R2 were admittedly pertaining to the land of village Chatoli and not Bhago Majra. Thus, the sale-deeds produced by the State in the form of Exhibits R1 and R2 cannot be made the basis for assessing the market value of the acquired land. The learned Reference Court has relied upon the judgment of this Court in **State of Punjab v. Surjan Singh, 1990 (1) PLR 278**, which would have hardly any direct bearing on the facts of the present case. It is so said because the alleged settlement arrived at between Action Committee and the State cannot be said to be having any binding force qua the land of those land owners who were not even party to the said alleged settlement.

In fact, this Court also did not accept the said settlement as it is, while deciding **Surjan Singh's** case (supra). Learned Reference Court has proceeded on wholly misconceived approach in this regard, while assessing the market value of the acquired land in the present cases, on the basis of rate as per the alleged settlement in **Surjan Singh's** case (supra). Although learned counsel for the State was found well justified in fairly stating that the compensation can be assessed on the basis of sale deed Ex.P3, granting

reasonable annual increase for the time gap between the sale-deed and date of notification, yet other relevant and positive determinative factors cannot be ignored.

There are strong reasons and circumstances which speak volumes in favour of the appellants-claimants, when their cases are compared with **Sadhu Singh's** case (supra), who was from village Khunni Majra. Notification under Section 4 of the Act in the instant case was dated 21.3.1988, whereas it was issued in the case of village Khunni Majra on 16.9.1988. In the present case, public purpose for acquisition was construction of Krishan Pura right distributory, whereas in **Sadhu Singh's** case (supra), public purpose of acquisition was construction of Kharar Distributories. In **Sadhu Singh's** case (supra), compensation has been awarded by this Court @Rs.2 lacs per acre for Chahi, Rs.1,60,000/- for Barani and Rs.1.20,000/- for Gair Mumkin. Both these villages are situated almost at similar distance from Chandigarh.

Similar was the case of village Sottal in **Gurdev Singh's** case (supra). In **Hari Singh's** case (supra), the above-said judgment rendered by this Court in **Gurdev Singh's** case (supra) and **Sadhu Singh's** case (supra) were followed. Having said that, this Court feels no hesitation to conclude that the land owners of these appeals in hand are also entitled for compensation almost equal to the land owners of village Khunni Majra, if not exactly equal. It is the common case between the parties that the above-said judgments of this Court in **Gurdev Singh's** case (supra), **Sadhu Singh's** case (supra) and **Hari Singh's** case (supra) have attained finality.

Coming to the belting system, learned counsel for the State could

not support the impugned award passed by the learned Reference Court in this regard and rightly so, because there is no justified reason for the same, the entire land having been acquired for one and the same purpose, i.e. for construction of Krishan Pura right distributory. Further, while assessing the market value of the land, positive determinative factors of the entire land could not have been ignored by the learned Reference Court which has been illegally done in the present case. The entire land in these cases is not far away from Chandigarh. Further, village Bhago Majra was not far away from National Highway.

Land owners have claimed their land abutting to the GT Road. This part of evidence has gone unrebutted. Thus, locality of acquired land cannot be lost sight off and one can take judicial notice of it. Market value of the land is being assessed taking into consideration the qualitative nature of acquired land, keeping in view the cardinal principle of law; namely a willing vendee will offer to a willing vendor with respect to particular nature of the land. In such a situation, there is hardly any scope to distinguish the chahi or barani land for the purpose of assessing the market value thereof. This seems to be the reason that the learned Reference Court has also put two categories of land, i.e. Barani and Gair Mumkin together.

So far as parity with respect to the quality, nature, locality and potentiality of the land in the present cases is concerned, the same is certainly comparable with the land of villages in **Gurdev Singh's** case (supra), **Sadhu Singh's** case (supra) as well as in **Hari Singh's** case (supra), because all these villages are situated neither at far away places from each other nor it has been so denied on behalf of the respondent-State and rightly

so, this again being a matter of record. Thus, while assessing the market value of the acquired land, this Court would hasten to add that the factors like nature, location and quality of land would be added factors to assess the market value of the acquired land at uniform rate, ignoring the belting system, particularly when the purpose of acquisition was for construction of water distributory.

Keeping in view the totality of facts and circumstances of the instant cases noticed hereinabove, it is unhesitatingly held that it is just and expedient to assess the market value of the acquired land in the present cases at a uniform rate of Rs.1,80,000/- lacs per acre so as to do complete and substantial justice between the parties, because the land owners of the above-said villages in the cases of Gurdev Singh, Sadhu Singh as well as in Hari Singh were granted the compensation @Rs.2 lacs per acre for chahi land. The above-said view taken by this Court also finds support from the Division Bench judgment of this Court in **Harinderpal Singh v. Punjab State through the Collector, Amritsar, 1997(3) RCR (Civil) 431**, which was upheld by the Hon'ble Supreme Court in **Union of India v. Harinder Pal Singh and others, JT 2005(9) SC 280**.

No other argument was raised.

Considering the peculiar facts and circumstances of the cases noted hereinabove, coupled with the reasons aforementioned, this Court is of the considered view that the land owners-appellants are entitled for the compensation of their acquired land @Rs.1,80,000/- lacs per acre from the date of notification under Section 4 of the Act. It goes without saying that the land owners-appellants shall also be entitled to all the statutory benefits

available to them under the relevant provisions of the Act.

Resultantly, with the above-said observations made, all the appeals stand allowed to the extent indicated above, however, with no order as to costs.

6.1.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE