HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

RFA No.2174 of 1997 and connected matters
Date of decision:3.5.2016

Babu Ram (Deceased) through LRs

...Appellant

Versus

The Collector, Land Acquisition-cum-Sub Divisional Officer (Civil), Kapurthala and others

...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.M.L.Saggar, Sr.Advocate with
Mr.Sunny Saggar, Advocate for the appellant in
RFA No.2174 of 1997.
Mr.Sunil Chadha, Sr. Advocate with
Mr.M.S.Atwal, Advocate for the appellant(s) in
RFA No.1760 of 2001.
Mr.G.S.Bhatia, Advocate for the appellant(s) in
RFA No.2496 of 2001.
Mr.Viney Saini, Advocate for
Mr.G.S.Nagra, Advocate for the appellant(s) in
RFA Nos.3153 to 3158 of 2001 and RFA No.4465 of 2001.
Mr.M.S.Dhillon, Advocate for the appellant(s) in
RFA No.3011 to 3016 of 2001.
None for the appellants in RFA Nos.3644 to 3646 of 1998 and in RFA Nos.4537 and 4538 of 2011.

Mr.Yatinder Sharma, Addl.A.G., Punjab
for the appellant(s) in State appeals.

<u>RAMESHWAR SINGH MALIK, J.</u> (Oral)

This batch of 25 appeals, out of which 4 appeals bearing RFA Nos.560 to 562 of 1999 and 3563 of 1999 filed by the State of Punjab and remaining 21 appeals bearing RFA Nos.2174 of 1997, 3644 to 3646 of 1998, 1760, 2496, 3011 to 3016, 3153 to 3158, 4465, 4537 and 4538 of 2001 filed by the land owners, is being decided vide this common order, as all these appeals, arise out of the same acquisition and raise identical questions of law and facts. However, with the consent of learned counsel for the parties and for the facility of reference, facts are being culled out from RFA No.2174 of 1997 (Babu Ram v. The Collector, Land Acquisition-cum-Sub Divisional Officer (Civil), Kapurthala and others).

Briefly put, facts necessary for disposal of present set of appeals are that the State of Punjab sought to acquire the land measuring 132 acres 6 kanals and 19 marlas, out of the three revenue estates; namely villages Wadala Khurd, Rasulpur Brahamna and Budho Punder at public expense for public purpose, i.e. for setting up of Airport at Kapurthala-Jalandhar Road. Accordingly, notification under Section 4 of the Land Acquisition Act, 1894 (`the Act' for short) was issued on 22.1.1990, which came to be followed by notification dated 14.1.1991 under Section 6 of the Act.

Land Acquisition Collector (`LAC' for short), vide his common Award No.1 dated 19.1.1993, for all the above-said three villages, assessed the market value of the acquired land, at the rate of Rs.21,705.60 paise per acre for Chahi land of village Budho Punder. Rs.19,760/- per acre was assessed for Barani land of village Wadala Khurd. Gair Mumkin land of village Rasulpur Brahamna was assessed at the rate of Rs.16,000/- per acre.

Dissatisfied with the market value assessed by the LAC, land owners filed their objections under Section 18 of the Act. The learned reference court, vide its award dated 21.12.1996, dismissed the land reference bearing No.37 of 4.8.1993 titled as `Babu Ram v. The Collector, Land Acquisition and others'. This very impugned award dated 21.12.1996 passed by the learned reference court in Babu Ram's case (supra) was followed by the learned reference court in 15 more land references and those were also dismissed vide impugned award dated 17.1.2001.

Again, the above-said award passed in Babu Ram's case (supra) was followed in Parkash Rani case as well, out of the village Rasulpur Brahamna and this land reference was also dismissed vide impugned award dated 6.11.2000. However, the land references of M/s Aggarwal Chemical House, M/s Bharat Chemical House and M/s Indochem Polymer Industries were allowed vide different but identical awards dated 25.5.1998. Similarly, land reference of Smt.Sital Sharma was also allowed following the above-said award dated 25.5.1998, vide a separate award dated 26.7.1999. In all the above-said four cases, the learned reference court assessed the market value at the uniform rate of Rs.1500/- per marla @ Rs.2,40,000/- per acre.

Both the parties felt aggrieved against the above-said awards dated 25.5.1998 and 26.7.1999. State of Punjab has filed four appeals, seeking reduction in the amount of compensation, granted to the land owners, whereas land owners have filed appeals, seeking further enhancement in the amount of compensation for their acquired land. Similarly, all the land owners have approached this Court whose land references have been dismissed by the learned reference court, seeking enhancement in the amount of compensation for their acquired land. That is how, all these appeals are being decided together.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that all the appeals filed by both the parties deserve to be partly allowed, for the following more than one reasons.

So far as the potentiality of the acquired land is concerned, a bare perusal of site plan and aks chajra, available on Lower Court Record (`LCR' for short), would make it crystal clear that the acquired land was abutting the main Kaputhala-Jalandhar road on one side and it was abutting an approach road on the other side. Very many establishments, including commercial establishments, were already existing in and around the acquired land at the time of its acquisition.

As noticed hereinabove, three land owners were already having running industries on the acquired land. Grain market was also situated in close proximity of the acquired land. Cold storage, Service Center and School were also situated near the acquired land. Having said that, this Court feels no hesitation to conclude that the acquired land was situated at a prime location and was having immense potentiality.

Learned reference court in its impugned award dated 21.12.1996 passed in Babu Ram's case (supra) has referred to three sale-deeds in para 7 of the impugned award. These sale deeds were pertaining to the land of village Budho Punder. Ex.A4 was dated 8.6.1992, Ex.A5 was dated 18.3.1991 and Ex.A6 was dated 4.2.1986. The date of notification under Section 4 of the Act was 19.1.1990. In view of this undisputed fact situation, the only relevant sale-deed was Ex.A6 dated 4.2.1986, wherein the land measuring 8 kanals was sold for Rs.40,000/-, i.e. at the rate of Rs.40,000/- per acre. However, the learned reference court misdirected itself, while completely ignoring this reliable piece of evidence available on record in favour of the land owners. In fact, in the given circumstances of the case, Ex.A6 was the only relevant piece of evidence, which could have been easily made the basis for assessing the market value of the acquired land.

However, the learned reference court failed to do so and for no good reasons. In this view of the matter, finding recorded by the learned reference court in para 7 of the impugned award, cannot be sustained. It seems that the State of Punjab did not produce any evidence except placing reliance on the award passed by the LAC. Even if the evidence produced by the State in other cases is to be examined, as the same deserves to be examined by this Court, the sale instances produced by the State were either undervalued or distress sales. In either of these two situations, the sale instances produced by the State are bound to be ignored, in view of the law laid down by the Hon'ble Supreme Court in **Lal Chand v. Union of India and another, 2009 (15) SCC 769**, wherein Hon'ble Supreme Court in para 32 of the judgment held as under:-

> *"The existence of several other sale deeds showing a much higher value and the fact that the Land Acquisition Collector chose to award a higher rate in regard to some of the acquired lands, leads to an inevitable inference that Ex.R3 to R7 were either undervalued or were distress sales. Whatever be the reason, they are liable to be excluded from consideration."*

Perusal of the sale-deeds Ex.R1, R2 and R3, relied upon by the State in the case of M/s Aggarwal Chemical House, i.e. RFA No.3646 of 1998, would show that owing to the location and potentiality of the acquired land, all these sale-deeds were the result of distress sales or they were undervalued transactions. Further, it is the general tendency to get the sale-deed registered at much less rate than the market value, with a view to save stamp duty and registration charges etc. The view taken by this Court also finds support from the observations made by the Hon'ble Supreme Court in **Haryana State Industrial Development Corporation v. Pran Sukh, 2012**

(7) SCC 721.

Except these above-said sale-deeds, there was no other evidence available on the LCR, which might have been read in favour of the State of Punjab. In view of the non-availability of any other relevant piece of evidence, sale-deed Ex.A6 dated 4.2.1986 is the only relevant piece of evidence, which can be safely made the basis for assessing the market value of the acquired land. It is so said because as per the law laid down by the Hon'ble Supreme Court in **Mehrawal Khewaji Trust (Registered), Faridkot and others v. State of Punjab and others, (2012) 5 SCC 432,** the sale deed disclosing highest market value is to be considered and the land owners are entitled to get the best price for their acquired land.

Undisputedly, there was a time gap of four years between this sale-deed Ex.A6 and notification under Section 4 of the Act. In view of the law laid down by the Hon'ble Supreme Court in **The General Manager, Oil & Natural Gas Corporation Ltd. v. Rameshbhai Jivanbhai Patel & another, 2008(14) SCC 745** and **Ashok Kumar and others v. State of Haryana, 2015 (3) Scale 242,** the land owners would be entitled at least 12% annual increase on cumulative basis, for this time gap of four years. Granting the benefit of 12% annual increase on cumulative basis, for four years, on the above-said market value of Rs.40,000/- per acre, disclosed in the sale-deed Ex.A6, the amount comes to Rs.62,940.77 paise, which is rounded off to Rs.62,950/-per acre. Accordingly, the land owners are held entitled to receive the amount of compensation at the rate of Rs.62,950/- per acre for their acquired land, from the date of notification under Section 4 of the Act.

Coming to the belting system wrongly adopted by the LAC which was illegally maintained by the learned reference court, this Court is of the considered view that belting system was not warranted in the present case. It is so said because the entire land was acquired vide same notification and for the same purpose. Every inch of the acquired land was going to be put to the same use. In such a situation, exact location or quality of any particular piece of land would be hardly of any consequence. The total acquired land deserves to be assessed at the uniform rate.

The above-said view taken by this Court, on the belting system, also finds support from more than one following judgments, of the Hon'ble Supreme Court as well as this Court:-

1. **Union of India Vs. Harinder Pal Singh and others, 2005 (12) SCC 564;**
2. **Udho Dass Vs. State of Haryana, 2010 (12) SCC 51;**
3. **Ashrafi and others Vs. State of Haryana and others, 2013 (5) SCC 527;**
4. ***Kehar Singh Vs. Punjab State, 1992 (1) R.R.R. 81 (P&H);***
5. ***Harinderpal Singh Vs. Punjab State through the Collector, Amritsar, 1997 (3) RCR (Civil) 431 (P&H);***
6. ***Union of India Vs. Dr. Balbir Singh, 1999 (2) RCR (Civil) 546 (P&H);***
7. ***Pawan Kumar and another Vs. Land Acquisition Collector and others, 2001 (1) RCR (Civil) 598 (P&H);***
8. ***Harjit Singh @ Kaka Singh (died) Vs. State of Punjab and another, 2004 (1) RCR (Civil) 484 (P&H);***
9. ***Smt. Mahabiri Devi and others Vs. State of Haryana***

and another, 2005 (4) RCR (Civil) 142 (P&H);

10. ***Gulzar Singh Vs. State of Haryana, 2006 (3) RCR (Civil) 174 (P&H);***
11. ***Kashmira Singh and others Vs. Land Acquisition Tribunal Ludhiana Improvement Trust through its President and others, 2006 (2) L.A.R. 69.(P&H);***
12. ***Gursher Singh and others Vs. President, Improvement Trust Tribunal, Jalandhar and others, 2007 (1) RCR (Civil) 429 (P&H);***
13. ***Baru Ram and others Vs. State of Haryana and another, 2010 (3) RCR (Civil) 754. (P&H).***

So far as the assessment of the market value of the acquired land is concerned, no other argument was raised on behalf of either of the parties.

Coming to the super-structures and trees on the acquired land in RFA No.1760 of 2001 (Smt. Parkash Rani v. Collector, Land Acquisition-cum-Sub Divisional Officer (Civil) and others), appellant (Smt.Parkash Rani) had 800 eucalyptus trees on her acquired land at the time of its acquisition. Since these trees were planted in the year 1982, age of these trees was 8 years at the time of acquisition of the land. This claimant-appellant has produced expert witness AW-2 Ajit Singh, Range Forest Officer of the State of Punjab. This witness has given the evidence that the price of each eucalyptus tree was between Rs.1000/- to Rs.1200/-. This material witness also stood the acid test of cross-examination and nothing adverse could be elicited from him.

Learned reference court in para 11 of the impugned award has specifically recorded that the respondents have not produced any evidence to the contrary. However, the learned reference court, without recording any cogent reason, has assessed the market value of eucalyptus trees at the rate of Rs.600/- per tree. This patently illegal finding recorded by the learned reference court cannot be sustained. Since the expert evidence given by the Range Forest Officer of the State of Punjab itself has gone uncontroverted and unrebutted, said expert evidence ought to have been accepted by the learned reference court. In this view of the matter, the market value of the eucalyptus trees owned by Smt. Parkash Rani (appellant) is assessed at the rate of Rs.1,000/- per tree. Number of eucalyptus trees was 800, which has never been in dispute. The above-said factual aspect of the matter could not be controverted by the learned counsel for the State of Punjab and rightly so, it being a matter of record. Accordingly, appellant (Smt. Parkash Rani) is held entitled to receive the compensation for her eucalyptus trees at the rate of Rs.1,000/- per eucalyptus tree.

Coming to the super-structures in RFA No.3646 of 1998 (M/s Aggarwal Chemical House v. Union of India and others), a bare perusal of the valuation report Ex.P2, available at page 25 of LCR, coupled with the statement of AW-3 Charanjit Singh at page 13 of LCR, would make it crystal clear that referring to his calculations on the basis of relevant factors, the expert has arrived at the figure of Rs.13,49,362.50 paise for the super-structure only. It is also a matter of record that the State did not produce any contrary evidence.

Learned reference court failed to assign any cogent reason, while assessing the market value of the super-structures owned by this land owner at the rate of Rs.8,56,500/-. Such a finding, without any supporting reasons, cannot be sustained, particularly when the evidence led by the land owner has gone undisputed and uncontroverted. In the totality of facts and circumstances of the case, this Court is of the considered opinion that granting an amount of Rs.12 lacs would meet the ends of justice because any lesser amount would be wholly unjustified. Accordingly, the claimant-appellant is held entitled to receive the amount of Rs.12 lacs for the super-structure, existence of which at the time of acquisition, had never been in dispute.

Coming to the appeal of M/s Bharat Chemical House, bearing RFA No.3644 of 1998 (M/s Bharat Chemical House v. Union of India and others), valuation report Ex.P2 dated 18.9.1994 available at page 25 of LCR, shows that the the market value for construction and building was assessed at Rs.3,46,200/-. However, the learned reference court proceeded on a factually incorrect approach, while treating the market value of the building at Rs.13,49,362.50 paise, which, in fact, was the market value of the building in RFA No.3646 of 1998 (M/s Aggarwal Chemical House v. Union of India and others). Since the State did not produce any contrary evidence in this case as well, it would be just and reasonable to grant an amount of Rs.3 lacs for super-structure, owned by this land-owner at the time of its acquisition, because granting any lesser amount will be wholly unjustified.

Similarly, the claimant-land owner in RFA No.3645 of 1998 (M/s Indochem Polymer Industries v. Union of India and others) claimed the amount of Rs.70,000/- for the super-structure, as per the valuation report Ex.P2 available at page 23 of LCR. However, the learned reference court granted an amount of Rs.40,000/- but without recording any cogent reasons in this regard. Since this piece of evidence has also gone uncontroverted and unrebutted at the hands of the State of Punjab, this Court is of the considered view that granting an amount of Rs.60,000/- would be just and reasonable. Ordered accordingly.

Let it be specifically recorded here that no other better evidence or judicial precedents were pressed into service nor any other argument was raised on behalf of either of the parties.

Considering the peculiar facts and circumstances of the case noted hereinabove, coupled with the reasons aforementioned, this Court is of the considered view that the appeals filed by the State of Haryana as well as by the land owners deserve to be partly accepted and the same are hereby allowed to the extent indicated above.

The land owners are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.62,950/- per acre from the date of notification under Section 4 of the Act. The land owners are also held entitled to receive the amount of compensation towards trees as well as super-structures, as indicated above. Besides this, the land owners shall also be entitled to all the statutory benefits available to them under the relevant provisions of the Act.

Resultantly, with the observations made above, all the appeals stand disposed of, in the afore-said terms, however, with no order as to costs.

3.5.2016 **(RAMESHWAR SINGH MALIK)**
mks **JUDGE**