

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**RFA No. 3541 of 2001 and other connected matters
Date of decision: 13.01.2016**

Chhoto and others

... Appellants

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Rakesh Lathwal, Advocate and
Mr. Navneet Singh, Advocate
Mr. Bhupender Singh Saroha, Advocate for
Mr. Gorakh Nath, Advocate
for the appellant (s).

Mr. Arun Beniwal, DAG, Haryana.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J.

These 42 connected appeals bearing Regular First Appeal Nos. 3541 to 3545, 3984 to 3986, 4247, 5489 to 5507, 5051 and 5435 of 2001, 1275 to 1277, 1724 1852, 1853, 1905, 2731, 2732 of 2002 & 150, 406, 407 of 2004 filed by the Stae of Haryana as well as by the land owners are being decided together, as these are arising out of the same acquisition, raising identical questions of law and facts. However, for the facility of reference, facts are being culled out from RFA No.3541 of 2001 (Smt. Chhoto and others Vs. State of Haryana and others).

Briefly put, facts necessary for disposal of this batch of appeals are that State of Haryana acquired total 289 kanal and 03 marla of land, out of which 280 kanal and 08 marla was from the revenue estate of Village Rathdhana and 08 kanal, 15 marla was out of the revenue estate of Village Bandepur. Both the villages were situated near Sonapat. The land was acquired for construction of Sewerage Treatment Plant. Notification under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) was issued on 04.02.1994, which was followed by notification dated 28.07.1994 issued under Section 6 of the Act. Land Acquisition Collector, vide his award No.4 for Village Rathdhana and award No.5 for Village Bandepur, announced on the same date i.e.25.08.1995, granted the compensation at the rate of Rs.1,50,000/- per acre, qua the land from Village Rathdhana and Rs.1,75,000/- per acre for the land of Village Bandepur.

Dissatisfied with the compensation awarded by the Collector, land owners filed their objections under Section 18 of the Act and as a consequence thereof, as many as 24 land references were forwarded, which came to be decided by the learned reference Court vide common award dated 29.05.2001. Learned reference Court granted the compensation to the land owners at the uniform rate of Rs.2,00,000/- per acre for the land from both the villages.

Feeling aggrieved, State of Haryana has filed 24 RFAs, seeking reduction in the compensation awarded by the learned reference Court, whereas 18 RFAs have been filed by the land owners, seeking further enhancement in the compensation. However, no cross-objections have been filed by the land owners. That is how, these 42 Regular First Appeals are being decided together.

Learned counsel for the appellants-land owners submit that learned

reference Court illegally ignored the cogent evidence brought on record. There were as many as 10 sale deeds in the form of Ex.P1 to Ex.P10, which have been duly proved. Referring to the site plan Ex.P11 available at page 103 of the lower Court record, learned counsel for the land owners-appellants submit that the acquired land could have been used for residential, industrial as well as commercial purposes, as it was situated very close to the municipal limits of Sonapat city. The acquired land was surrounded by running industrial units, godowns of Food Corporation of India, water treatment plant, Sonapat and it was situated very close to the Sonapat-Narela-Delhi Road. They concluded by submitting that since the learned reference Court has not considered all the relevant and positive determinative factors in the correct perspective, while passing the impugned award, the land owners are entitled for much higher compensation.

On the other hand, learned counsel for the State, while referring to the site plan Ex.R4 at page 121 of the lower Court record and the numerous sale deeds, including Ex.R1 to Ex.R6, submits that the learned reference Court has granted higher compensation which was not legally justified, because the land owners were not entitled for any further enhancement over and above granted by the Collector. He prays for dismissal of the appeals filed by the land owners and for allowing the appeals filed by the State of Haryana.

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 contentions raised, this Court is of the considered opinion that keeping in view the totality of facts and circumstances of these cases, there seems to be no scope to interfere in favour of the State of Haryana and the

appeals filed by it, are liable to be dismissed, being bereft of any merit. The appeals filed by the land owners deserve to be partly allowed, suitably enhancing the compensation for their acquired land, for the following more than one reasons.

A bare reading of the impugned award passed by the learned reference Court would show that the learned Court below fell in a serious error of law, while ignoring the sale deeds produced in evidence by the land owners, pointing out that the same were pertaining to small pieces of land. Similarly, the sale instances produced on record by the State of Haryana were ignored by the learned reference Court, saying that the price of land depicted therein was less than what was granted by the Collector and the same were not taken into consideration even by the Land Acquisition Collector, while passing the award. This approach adopted by learned reference Court was patently illegal and the same cannot be upheld. It is so said because sale instances produced on record by both the parties, while leading their respective evidences ought to have been taken into consideration, taking into account the best sale instances, out of two sets of sale deeds produced by both the parties.

With the able assistance of learned counsel for both the parties, this Court has examined each and every sale deed available on lower Court record. After giving anxious consideration to the evidence and two sale deeds available on the file, it is just and expedient to assess the market value taking the average of four sale deeds out of the total sale deeds produced by both the parties. Sale deed Ex.P1 dated 30.08.1993 and sale deed dated 05.01.1994 Ex.P3 were produced by the land owners, whereby land measuring 14 marla and 17 marla respectively were sold. Other sale deeds were either for smaller

size of plots or post-acquisition. Similarly, sale deed Ex.R1 dated 02.12.1992 and sale deed Ex.R6 dated 26.08.1991 are the most relevant sale deeds produced by the State of Haryana.

Vide sale deed Ex.R1, land measuring 07 kanal, 06 marlas was sold, whereas by sale deed Ex.R6, land measuring 60 kanal, 12 marla was sold. In the absence of any other better evidence available on record, it is thought appropriate to take average of all these four sale deeds i.e. Ex.P1, Ex.P3, Ex.R1 and Ex.R6. Average of these four sale deeds comes to Rs.96.62 per square yard, which is rounded off to Rs.97 per square yard. Thus, taking a holistic view of the matter with a view to do complete and substantial justice between the parties, this Court feels no hesitation to conclude that the land owners are entitled to receive the compensation for their acquired land at the rate of Rs.97 per square yard, from the date of notification under Section 4 of the Act, with all other statutory benefits.

As noticed above, location of the land speaks volumes in favour of the land owners. In this regard, the evidence produced by the land owners have gone un rebutted on record. Even in the oral evidence produced by the State of Haryana, including RW1 Parkash, RW2 Azad Singh and RW3 Mukesh Sharma have admitted in their deposition before the Court that on both sides of the Sonapat-Narela-Delhi Road, some factories, shops and houses were already existing at the time of notification under Section 4 of the Act. In the same vicinity, there were godowns of Food Corporation of India, old-age home and other industrial as well as commercial establishments. The acquired land is very closely situated to the O.P. Jindal Global University. Thus, taking into consideration all these positive determinative factors, no case has been made

out in the appeals filed by the State of Haryana for reduction of compensation, which has been granted by the learned reference Court. On the other hand, as noticed hereinabove, the land owners have been found entitled for more compensation i.e. at the rate of Rs.97 per square yard.

No other argument was raised.

Considering the totality of facts and circumstances of the cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that the appeals filed by the State of Haryana have been found bereft of merit and without any substance, thus, must fail and the same are hereby dismissed. The appeals filed by the land owners-appellants are hereby allowed to the extent indicated above. The land owners are held entitled to receive the compensation at the rate of Rs.97/- per square yard for their acquired land, from the date of notification under Section 4 of the Act. Besides this, the land owners shall also be entitled for all the statutory benefits available to them, under the relevant provisions of the Act.

Resultantly, with the observations made above, all these 42 appeals stand disposed of, in the abovesaid terms, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

13.01.2016
vishnu