

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

**RFA No.5565 of 2001 (O&M)
Date of decision: 7.1.2016**

Bharat Petroleum Corporation Limited, New Delhi, through its
Executive Manager, Retail, Rewari

.. Appellant

Vs.

Surender Kumar and others

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Chetan Mittal, Sr. Advocate with
Mr. Udit Garg, Advocate
for the appellants-Bharat Petroleum Corporation Ltd.

Mr. Mukesh Yadav, Advocate for
Mr. Jaivir Yadav, Advocate
for private respondents in the appeals filed by Bharat
Petroleum Corporation Ltd and
for the appellants in RFA Nos. 1048, 1054, 1055, 1056
1057, 1058, 1059 and 3457 of 2002.

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.

This batch of 25 regular first appeals bearing RFA No.
5565, 5638 to 5645 of 2001 and 1048, 1054 to 1059, 3457, 2270 to
2277 of 2002 is being decided together, as all these appeals
are arising out of the same acquisition and raise

identical questions of law and fact. However, for the facility of reference, facts are being culled out from RFA No. 5565 of 2001 (Bharat Petroleum Corporation Limited Vs. Surender Kumar and others).

Briefly put, basic facts necessary for disposal of this batch of appeals are that State of Punjab sought to acquire land at public expenses for the public purpose, i.e. construction of Bulk Petroleum Installation for the receipt, storage and distribution of petroleum products at village Kamalpur, District Rewari for the Bharat Petroleum Corporation Limited ('BPCL' for short). Accordingly, notification under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) was issued on 7.10.1994, for acquiring the land measuring 28 acres, followed by notification dated 26.4.1995 under Section 6 of the Act. The Land Acquisition Collector, vide his award dated 22.8.1995, awarded compensation to the land owners @ ₹75,000/- per acre for *Chahi* Land and ₹80,000/- per acre for *Magda* kind of land.

Dissatisfied with the award of the Collector, land owners filed their petitions under Section 18 of the Act and as a consequence thereof, cases were referred to the learned reference court. Parties led their respective evidence. After hearing learned counsel for the parties and going through the evidence brought on record, learned reference court, vide its impugned award dated 18.8.2001, granted the compensation of ₹3,36,000/- per acre for the land falling within 500 meters of Rewari-Bawal Road and ₹2,80,000/-

per acre for the land beyond 500 meters, alongwith other statutory benefits.

Feeling aggrieved against the impugned awards, beneficiary-department, i.e. BPCL, as well as some land owners filed their respective regular first appeals before this Court. The beneficiary department is seeking reduction in the compensation awarded by the learned reference court whereas the land owners are seeking enhancement thereof.

Learned senior counsel for the appellants-beneficiary department, i.e. BPCL, submits that the learned reference court has illegally ignored the evidence brought on record in the form of sale deeds Ex.R-1 and R-2 and has also illegally relied upon the sale deeds produced by the land owners in the form of Ex.P-3, while passing the impugned award. He further submits that two earlier awards Ex. R-6 and R-7 were also illegally ignored by the learned reference court. He also places reliance on the site plan (Ex.R3) to contend, that the land owners were not entitled to place reliance on the sale deed Ex. P-3. He prays for allowing the appeals, by suitably reducing the compensation awarded by the learned reference court.

Per contra, learned counsel for the land owners has vehemently contended that the beneficiary-department has miserably failed to produce any cogent evidence. The learned reference court rightly ignored the sale deeds Ex. R-1 and R-2 because these were not duly proved on record. He further submits that earlier awards Ex. R-6 and R-7 were also of no consequence, being totally irrelevant.

He would contend that in the given circumstances, sale deed dated 10.5.1993 (Ex. P-3) was the best piece of evidence which has been rightly relied upon by the learned reference court, applying 40% cut for the purpose of assessing the market value. However, learned counsel for the land owners submits that all the positive determinative factors were not taken into consideration by the learned reference court. He submits that since the entire chunk of land was within one block and was abutting Rewari-Bawal Road, the learned reference court was not at all justified in adopting the Belting System, because the total land was to be used for the same purpose and exact location of the land, in such a fact situation, would be of no consequence. He prays for dismissal of the appeals filed by the BPCL and for allowing the appeals filed by the land owners, awarding them uniform rate of compensation.

Having heard the learned counsel for the parties at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that appeals filed by the BPCL are without any merit and are liable to be dismissed, whereas appeals filed by the land owners deserve to be partly allowed granting them the uniform rate of compensation ignoring the Belting System, for the following more than one reasons.

A careful perusal of the award passed by the learned reference court would show that the evidence produced by the beneficiary-department or the State of Haryana in the form of Ex. R1

to R-3, R6 and R7 was rightly not found worth acceptance by the learned reference court. The beneficiary department-BPCL miserably failed to prove its case before the learned reference court.

Further, learned reference court, in para 42 of its impugned award, while dealing with the evidence lead by the BPCL, observed as under:-

“Strangely enough, not an iota of evidence has been led by the respondents to substantiate their case. They have only tendered in evidence the certified copies of jamabandi Ex.R4 to Ex.R5. But the land mentioned in these sale deeds was under tenancy since long as is evident and proved from copy of jamabandi Ex.P13. As such, the market value of the acquired land cannot be assessed on the basis of these sale deeds Ex.R4 and Ex.R5 as these sale deeds cannot be executed between the willing vendors and willing vendee for fetching and fixing the market value prevalent in the vicinity of the acquired land. Thus, the copies of mutations Ex.R1 and Ex.R2 pertaining to the sale deeds cannot be taken into consideration while determining the market value of acquired land.”

On the other hand, regarding potential of the acquired land for its development for commercial and residential purpose, learned reference court has recorded very cogent findings in para 30 to 32 of

the impugned award and the same deserves to be noticed here,
which read as under:-

“Undoubtedly and admittedly the land is situated on Rewari-Rewal Road. All development activities are already existing and there is great pressure also on the land with regards to its demand for commercial and residential purposes. When the acquired land is situated adjacent in the developed area, the compensation need not to be determined categorised on the basis of the nature of the land. Whether the land is Chahi or Berani etc is immaterial for the purpose of determining the compensation. It has to be paid at a uniform rate considering it as the commercial land. Therefore, land being adjacent to the important main roads, a uniform rate of compensation has to be awarded.

The above sale transactions and the witnesses examined by the petitioners regarding the location and the development activities, potentiality of the land and its market value have proved that the acquired land had its great potentiality on the date of its acquisition.

During cross examination, it is admitted by RW-2 Somdutt Patwari, Halqa Kamalpur that the acquired land is situated on Rewari-Rewal Road. It

is contended by learned counsel for the petitioners that even the Rws have admitted the cases of the petitioners.”

Although the learned reference court has rightly observed in the abovesaid para 30 of its impugned award that entire land being adjacent to the Rewari-Bawal road, uniform compensation was to be awarded, yet the learned reference court adopted the Belting System without recording any reasons and the same is liable to be modified in favour of the land owners, granting them the compensation on uniform rate. The view taken by this Court also finds support from the Division Bench judgment of this Court in **Harinderpal Singh Vs. Punjab State through the Collector, Amritsar, 1997 (3) RCR (civil) 431**, which was upheld by the Hon'ble Supreme Court in **Union of India Vs. Harinderpal Singh and others, JT 2005 (9) SC 280**.

So far as reliance placed on the sale deed Ex. P-3 is concerned, same has been rightly relied upon after applying 40% cut. Although cut of 40% seems to be on higher side, yet in the totality of facts and circumstances of these cases, the impugned award deserves to be upheld in this regard.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since appeals filed by the beneficiary department-BPCL are misconceived, bereft of merit and without any substance, they must fail and the same are accordingly

dismissed. Appeals filed by the land owners are partly allowed and they are held entitled for the compensation at uniform rate of ₹3,36,000/- per acre for their acquired land. Besides this, the land owners shall also be entitled for all the statutory benefits available to them under the relevant provisions of the Act.

With the abovesaid observations made, this bunch of 25 appeals stand disposed of, in the aforesaid terms, however, with no orders as to costs.

**(RAMESHWAR SINGH MALIK)
JUDGE**

7.1.2016
AK Sharma