HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

RFA-2117-2005 and connected matters
Date of decision:10.3.2016

Inder Singh and others

...Appellants

Versus

State of Haryana 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.B.S.Rana, Sr. Advocate with
Mr.Anil Dutta, Advocate and
Mr.S.P.Khatri, Advocate for the appellant(s).

Mr.Pritam Saini, Advocate for HSIIDC.
Mr.Shivendra Swaroop, AAG, Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

This bunch of five appeals bearing RFA Nos.2117, 2234, 2235 2250 and 2438 of 2005, 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.2117 of 2005 (Inder Singh and others v. State of Haryana and others).

Facts are hardly in dispute. State of Haryana sought to acquire the land measuring 13 acres, 6 kanals and 3 marlas, out of the revenue estate of Village Bad Malik, Revenue Estate No.68, Tehsil and District Sonepat, at public expenses for public purpose; namely for construction of Fruit and Vegetable Complex at Kundli. Accordingly, notification dated 24.11.1994 came to be issued under Section 4 of the Land Acquisition Act, 1894 (`the Act' for short), which was followed by notification dated 16.11.1995 under Section 6 of the Act. While adopting the belting system, land acquisition collector assessed the market value at the rate of Rs.2,50,000/- per acre for the land up to the depth of 100 meters parallel to Jatheri-Biswa Mile Road, irrespective of the nature of the land and beyond that line, market value was assessed at Rs.2 lacs per acre for Gair Mumkin/Chahi/Nehri type of land. Rs.1,80,000/- per acre was assessed for Banjar Kadim land. However, no compensation was awarded for trees, tubewells or other super-structures.

Land owners were not satisfied with the compensation awarded by the land acquisition collector. They filed their objections under Section 18 of the Act and as a consequence, as many as 10 land references were forwarded, which came to be dismissed by the learned reference court vide impugned common award dated 21.3.2005. Feeling aggrieved against the impugned award passed by the learned reference court, land owners have approached this Court by way of instant set of appeals, seeking enhancement in the amount of compensation for their acquired land.

Learned senior counsel for the appellants-land owners has raised only two arguments. Firstly, he submits that these appeals are squarely covered by the order dated **5.7.2011** passed by this Court in **RFA No.1971 of 2001 (Asa Ram and others v. State of Haryana and others)** except the time gap between two acquisitions. Secondly, he submits that since there was a time gap of 9 months between these two acquisitions, the land owners in the instant set of appeals may be granted the benefit of annual increase on the market value which was granted by this Court in **Asa Ram's** case (supra).

Faced with the above, learned counsel for the beneficiary department, i.e. HSIIDC, submits that though the instant acquisition as well as the acquisition in **Asa Ram's** case (supra) were identical in nature, but the present set of appeals are not squarely covered by the order passed by this Court in **Asa Ram's** case (supra). However, on close and comparative study of the cases in hand, arising out of instant acquisition and the earlier acquisition in **Asa Ram's** case (supra), both have been found exactly similar. Neither there was any distinguishing feature found available in these two acquisitions nor any distinguishing feature has been pointed out by the learned counsel for HSIIDC. Having said that, this Court feels no hesitation to conclude that the present set of appeals are squarely covered by the order passed by this Court in **Asa Ram's** case (supra), except the time gap between these two acquisitions.

It is also a matter of record that date of acquisition under Section 4 of the Act in **Asa Ram's** case (supra) was 23.2.1994, whereas in the instant acquisition, notification under Section 4 of the Act was issued on 24.11.1994, thus, there was a time gap of exact nine months between these two notifications. It is also a matter of record that this Court assessed the market value of the land acquired in **Asa Ram's case (supra),** at the rate of Rs.210/- per square yard, while ignoring the belting system, which had been adopted by the land acquisition collector and was upheld by the learned reference court. It is also pertinent to note here that while deciding **Asa Ram's** case (supra), this Court has followed the judgment of the Hon'ble Supreme Court in **Udho Dass v. State of Haryana, 2010 (12) SCC 51**.

Since the nearby land had already been acquired by way of preceding acquisition, the acquired land in the instant set of cases was no more a simple agricultural land. In this view of the mater, potentiality of the acquired land had never been in dispute and the land owners would be entitled for the benefit of 12% annual increase for the above-said time gap of 9 months on the above-said market value of Rs.210/- per square yard, assessed by this Court in **Asa Ram's** case (supra). Granting this benefit of 12% annual increase for a period of 9 months, the amount comes to Rs.228.90 paise, which is rounded of to Rs.229/- per square yard. Accordingly, the land owners are held entitled to receive the amount of compensation for their acquired land at the uniform rate of Rs.229/- per square yard from the date of notification under Section 4 of the Act.

Coming to the question of belting system, this Court is of the view that no belting system was warranted in the present case. It is so said because every inch of acquired land was going to be put to the same use. Purpose of acquisition was the same. In such an undisputed fact situation, it can be safely held that the belting system was wrongly adopted by the land acquisition collector and illegally upheld by the learned reference court, which cannot be upheld.

The above-said view taken by this Court on the belting system also finds support from the 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, 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 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.***

No other argument was raised on behalf of either of the parties.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the appeals filed by the land owners deserve to be partly accepted and the same are allowed to the extent indicated above. The land owners are held entitled to receive the amount of compensation for their acquired land at the uniform rate of Rs.229/- per square yard from the date of notification under Section 4 of the Act. 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 afore-said appeals stand disposed of, in the afore-said terms, however, with no order as to costs.

10.3.2016 **(RAMESHWAR SINGH MALIK)**
mks **JUDGE**