IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.1212 of 2005 and other connected matters
Date of decision: 20.01.2016

Tejpal Singh and others

... Appellants

Vs.

Land Acquisition Collector and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Aseem Sharma, Advocate for
Mr. Pankaj Nanhera, Advocate
for the appellant (s) (in RFA Nos.1212, 759, 770 to 774, 849 to 852, 891, 1211, 1342 to 1345, 2031 of 2005) and
for the respondent (s)(in RFA Nos.460 to 464, 466 to 478 of 2005).

Mr. Sushil K. Sharma, Advocate for
Mr. M.L. Sharma, Advocate
for the appellant (s) (in RFA Nos.536 to 541 of 2005) and
for the respondent(s)
(in RFA Nos.465, 467, 469, 470, 474, 475 of 2005).

Mr. Ajay Singh, Advocate for
Mr. Bhag Singh, Advocate
for the appellant (in RFA No.1761 of 2006) and
for the respondent (in RFA No.465 of 2005).

Mr. Pritam Singh Saini, Advocate
for the Marketing Board, Haryana.

Mr. Abhinash Jain, AAG, 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

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<u>RAMESHWAR SINGH MALIK, J.</u>

These 44 appeals, out of which 19 appeals bearing Regular First

Appeal Nos.460 to 478 of 2005 filed by the Market Committee, Barwala and 25 appeals bearing RFA Nos.536 to 541, 759, 770 to 774, 849 to 852, 891, 1211, 1212, 1342 to 1345, 2031 of 2005 and 1761 of 2006 filed by the land owners, are being decided together vide this common order, as all these appeals arise from the same acquisition and raise identical questions of law and facts. However, for the facility of reference, facts are being culled out from RFA No.1212 of 2005 (Tejpal Singh and others Vs. Land Acquisition Collector and others).

Brief facts of this case are that State of Haryana sought to acquire 175 kanal, 07 marla of land (21 acres, 07 kanal, 07 marla) out of the revenue estate of Village Plasara at public expenses for public purpose; namely for setting up grain market, office building and staff quarters etc. at Barwala, Tehsil and District Panchkula. Notification dated 06.02.1995 under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) was issued, which was followed by notification dated 20.09.1995 issued under Section 6 of the Act. Land Acquisition Collector, vide his award No.1 dated 31.01.1996, granted the compensation at the rate of Rs.2,25,000/- per acre upto the depth of 02 acres on State Highway and Rs.1,80,000/- per acre beyond the depth of 02 acres.

Dissatisfied, the land owners filed their objections under Section 18 of the Act and as a consequence thereof, as many as 19 land references were forwarded to the learned reference Court. All these 19 land references were decided together by the learned reference Court vide its impugned award dated 30.09.2004, whereby the land owners were granted the compensation for their acquired land at the rate of Rs.2,60,000/- per acre upto the depth of 02 acres on the State Highway. However, amount of Rs.1,80,000/- per acre granted by the

Collector for the land beyond the depth of 02 acre, was maintained as it is by the learned reference Court.

Feeling aggrieved against the impugned award passed by the learned reference Court, both the parties have approached this Court by way of this bunch of appeals. 19 RFAs have been filed by the Market Committee, Barwala, seeking reduction in the compensation awarded to the land owners, whereas 25 RFAs have been filed by the land owners, seeking enhancement in the compensation. That is how, these 44 appeals are being decided together.

After hearing the learned counsel for the parties at considerable length, going through the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that the appeals filed by the Market Committee, Barwala are bereft of any merit and the same are liable to be dismissed, whereas the appeals filed by the land owners deserve to be partly allowed, for the following more than one reasons.

It is a matter of record that all the sale deeds Ex.R2 to Ex.R5 produced in its evidence by the appellant-Market Committee, Barwala were post-acquisition. However, the learned reference Court fell in serious error of law, while taking into consideration all these post-acquisition sale instances for the purpose of assessing the market value. Further, there is no site plan produced on record by the appellant-Market Committee, Barwala, so as to show as to what was the distance between the acquired land and the land sold by way of these sale deeds Ex.R2 to Ex.R5. In the absence of any such cogent evidence produced on behalf of the appellant-Market Committee, Barwala, showing the relevance of these sale instances, the same cannot be taken into consideration for the purpose of assessing the market value.

Coming to the voluminous evidence produced by the land owners in the form of Ex.P1 to Ex.P20, the only four sale instances contained in Ex.P1 to Ex.P4, site plan Ex.P17 and Akshizra Ex.P12 have been found very relevant pieces of evidence. All the sale instances produced by the land owners were of the year 1992, whereas the notification under Section 4 of the Act came to be issued on 06.02.1995. It is equally pertinent to note here that the land sold vide sale deed Ex.P1 dated 10.09.1992 was measuring 19 marla and it was sold for an amount of Rs.50,000/- at the rate of Rs.4,35,600/- per acre. Sale deed Ex.P2 dated 15.07.1992 pertains to land measuring 05 marla sold for Rs.20,000/- at the rate of Rs.6,04,000/- per acre. Likewise, sale deed Ex.P3 dated 13.07.1992 was for land measuring 01 kanal, which was sold for Rs.1,25,000/- at the rate of Rs.10,00,000/- per acre. Similarly, vide sale deed Ex.P4 dated 29.06.1992, land measuring 01 marla was sold for Rs.8,000/- at the rate of Rs.12,25,400/- per acre. Since two sale instances Ex.P2 and Ex.P4 were pertaining to very small pieces of land i.e. 05 marla and 01 marla respectively, these are liable to be ignored, particularly when two other sale instances of bigger chunks of land are available on record.

Bare perusal of Akshizra Ex.P12 and site plan Ex.P17 available on the lower Court record would show that the land measuring 01 kanal sold vide Ex.P3 was, in fact, part of the acquired land. There could not be any better piece of evidence than this sale deed Ex.P3. However, to be fair to all concerned, average of both these sale deeds can be taken into account for the purpose of assessing the market value of the acquired land and the same comes to Rs.7,17,800/- per acre, which is rounded off to Rs.7,18,000/- per acre.

It is also not in dispute that there was a time gap of about 31 months between the abovesaid sale deeds and the date of acquisition. So far as the location of the land depicted in the site plan Ex.P17 available at page 122 of the lower Court record is concerned, the acquired land was situated at prime location. It was abutting the National Highway. The acquired land was surrounded by numerous establishments of commercial nature, including poultry farms, industrial units, petrol pump etc. Just in front of the acquired land, there was HMT residential colony across the road. Having said that, it can be safely concluded that the acquired land could have been put to commercial as well as residential purposes. There is no contrary evidence available on the record.

Once the abovesaid positive and cogent evidence in favour of the land owners has gone unrebutted, this Court feels no hesitation to hold that the nature of acquired land was semi-urban. In such a situation, the land owners would be entitled for 15% annual increase on the abovesaid market value for their acquired land, in view of the law laid down by the Hon'ble Supreme Court in **General Manager, Oil and Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel and another, 2008 (4) SCC 745.** Granting the benefit of 15% annual increase per annum to this semi-urban acquired land, amount of compensation would come to Rs.10,35,014/- per acre. This amount has been calculated after adopting the cumulative method, as held by the Hon'ble Supreme Court in **Ashok Kumar Vs. State of Haryna, 2015 (3) Scale 242.** Thus, the land owners are held entitled to receive the compensation at the rate of Rs.10,35,014/- per acre for their acquired land, from the date of notification under Section 4 of the Act.

So far as the belting system adopted by the learned reference Court is concerned, the same would not be permissible in law, for the reason that the entire acquired land would be put to the same use and quality thereof would be of no consequence. In this view of the matter, ignoring the belting system, every land owner is held entitled to receive the same amount of compensation for his acquired land i.e. at the rate of Rs.10,35,014/- per acre.

The argument raised by learned counsel for the Market Committee, Barwala-beneficiary department, that a reasonable cut deserves to be applied on the market value assessed, has been considered but not found worth acceptance. The reason is undisputed prime location of the acquired land. Further, it is not the absolute rule that the cut has to be applied in every given situation. In fact, it is the settled proposition of law that each case has to be decided as per its own peculiar fact situation. Neither, it is desirable nor possible to lay down a straight-jacket formula, which might be applicable in all the given situations.

The view taken by this Court also finds support from the Division Bench judgment of this Court in **Smt. Chanderpati Vs. State of Haryana, 2006 (1) RCR (Civil) 634**. In fact, the judgment rendered by the Division Bench of this Court in **Smt. Chanderpati'**s case (supra) is based on the law laid down by the Hon'ble Supreme Court. The relevant observations made in paras 12 and 13 of the judgment in **Smt. Chanderpati**'s case (supra), which can be gainfully followed in the present case, read as under: -

> *"There is no quarrel with the proposition, as has been laid down by the Hon'ble Apex Court in* ***Administrator General of West Bengal Vs. Collector's case*** *(supra), that where the sale instance relied upon by the claimants comprised of small plot of land, than a cut has to be applied while evaluating a large tract of land.*

However, in our considered view, the aforesaid proposition of law would not be attracted to the present case. As has been noticed by the learned reference Court as well as by the learned Single Judge, it is clear that the acquired land was situated within the municipal limits. G.T. Road was situated on one side of the acquired land whereas on the other side of the acquired land a by-pass road connecting Sirhind town with the G.T. Road was situated. There were certain shops, workshops, and petrol-pumps near the acquired land. In this view of the matter, certain observations made by the Hon'ble Apex Court in ***Bhagwathula Samanna and others Vs. Special Tehsildar and Land Acquisition Officer, 1992 (1) RRR 257: 1192 L.A.C.C. 314*** *may be noticed:*

> *"The proposition that large area of land cannot possible fetch a price at the same rate at which shall plots are sold is not absolute proposition and in the given circumstances it would be permissible to take into account the price fetched by the small plots of land. If the larger tract of land because of advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not warranted. With regard to the nature of the plots involved in these two cases, it has been satisfactory shown on the evidence on record that the land has facilities of road and other amenities and is*

adjacent to a developed colony and in such circumstances it is possible to utilise the entire area in question as house sites. In respect of the land acquired for the road, the same advantages are available and it did not required any further development. We are, therefore, of the view that the High Court has erred in applying the principle of deduction and reducing the fair market value of land from Rs.10/- per sq. yard to Rs.6.50 per sq. yard. In our opinion, no such deduction is justified in the facts and circumstances of these cases."

Following the aforesaid dictum laid down by the Hon'ble Supreme Court of India, a Division Bench of Madras High Court in ***Special Tehsildar (Adi Dravidar Welfare) Vs. Abdul Reguman, 1996 L.A.C.C. 394*** *held as follows:*

"In our view the observation made by the Supreme Court is squarely applicable to the case in hand. Admittedly, the land in question is already in a developed area and situated in an advantageous position and quite suitable for building purpose. It is also proved in evidence that the land in question has all the amenities such as roads, drainage, electricity, communications etc. Therefore, we are of the view that the learned Subordinate Judge is not justified in deducting 20% from the market value. We, therefore, set aside that part of the order of the learned Subordinate Judge, fixing the market value at Rs.1325/- less 20%. The cross-

objection is, therefore, allowed and the order of the Subordinate Judge is modified to this extent."

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 Market Committee, Barwala are misconceived, bereft of merit and without any substance, thus, these must fail and the same are hereby dismissed.

The appeals filed by the land owners are hereby partly allowed to the extent indicated above. The land owners are held entitled to receive the compensation at the uniform rate of Rs.10,35,014/- per acre 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 44 appeals stand disposed of, in the abovesaid terms, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

20.01.2016
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