

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

**RFA No. 1364 of 2007 (O&M)
Date of decision: 13.1.2016**

State of Haryana and another

.. Appellants

Vs.

Smt. Batto

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Rajesh Lamba, Advocate
for the appellants in
RFA No. 4663 of 2006
RFA No. 2411, 3167, 3188 of 2007
and for respondents in
RFA No. 1364, 1365 of 2007, 852 of 2008.

Mr. Abhinash Jain, AAG, Haryana
for the appellants in
RFA No. 1364, 1365 of 2007, 852 of 2008.
for the respondents in RFA No. 4663 of 2006
RFA No. 2411, 3167, 3188 of 2007

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 bunch of seven regular first appeals arising out of the same acquisition, out of which three have been filed by the State of Haryana bearing RFA Nos. 1364, 1365 of 2007 and 852 of 2008 and four have been filed by the land owners bearing RFA Nos. 4663 of 2006, 2411, 3167, 3188 of 2007, are being decided together vide this

common order, as this batch of appeals raises identical questions of law and facts. However, for the facility of reference, facts are being culled out from RFA No. 1364 of 2007 (State of Haryana and another VS. Smt. Batto).

Brief facts, necessary of disposal of these cases, are that a small piece of land measuring 0.26 acres (1258.4 square yards) was acquired by the State of Haryana at public expenses for public purpose, i.e. construction of road and for green belt for Sectors, 9, 13 and 14, Faridabad. Notification under Section 4 of the Land Acquisition Act, 1894 (' the Act' for short), came to be issued on 13.7.1998 which was followed by notification under Section 6 of the Act. The Land Acquisition Collector, vide his award dated 5.7.2001, granted the compensation to the land owners at the rate of ₹204.81/- per sq. yard.

Dissatisfied, land owners sought references under Section 18 of the Act and as a consequence thereof, four land references were forwarded to the learned reference court. These land references were decided by the learned reference court, vide its common award dated 28.8.2006 enhancing the compensation to ₹250 per sq. yard. One reference bearing LAC No. 130 of 2004 (Prem Singh Vs. State of Haryana and another) came to be dismissed by the same learned reference court vide its award dated 22.2.2007, primarily for the reason that no counsel appeared on behalf of the land owner namely Prem Singh. Thereafter, fourth land reference was allowed by the same learned reference court vide its

award dated 8.3.2007, again granting the compensation @ ₹250 per sq. yard.

Feeling aggrieved, State of Haryana filed three RFAs seeking reduction in the compensation whereas three RFAs have been filed by the land owners for further enhancement of the compensation. Another RFA No. 3167 of 2007 has been filed by the land owner namely Prem Singh against the impugned award dated 22.2.2007 whereby his land reference was dismissed. That is how, all these seven appeals are being decided together.

Learned counsel for the appellants-land owners submits that though the learned reference court has rightly placed reliance on sale deed dated 20.3.1997 (Ex.P6), but annual increase thereon for the time gap between the sale deed and date of notification under Section 4 of the Act has been illegally denied to the land owners. So far as RFA No. 3167 of 2007, filed by Prem Singh whose land reference was dismissed, is concerned, he submits that learned reference court proceeded on a wholly misconceived approach, while passing the impugned award and this land owner namely Prem Singh is also entitled for the same amount of compensation which has been granted to his other co-villagers. He prays for dismissal of the appeals filed by the State of Haryana and for allowing the appeals filed by the land owners.

Per contra, learned counsel for the State seeks dismissal of the appeals filed by the land owners and for allowing the appeals filed by the State of Haryana, contending that learned Collector had

granted sufficient amount of compensation and there was no scope for any further enhancement, at the hands of learned reference court.

After hearing the learned counsel for the parties at considerable length, going through the 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 State, being misconceived and bereft of merit, are liable to be dismissed whereas appeals filed by the land owners deserve to be partly allowed. To say so, reasons are more than one, which are being recorded hereinafter.

The most relevant piece of evidence in these cases is sale deed dated 20.3.1997 (Ex.P6), which was duly proved at the instance of the land owners. It is very pertinent to note here that land measuring 200 sq. yards was sold vide the abovesaid sale deed Ex.P6, out of same very rectangle No. 24/1 from which State of Haryana has acquired the land measuring 1258.4 sq. yards. When the land was sold out of the same rectangle/Khasra numbers from the same revenue estate, no better piece of evidence could be there. Further, land of all the four land owners was acquired only in marlas because the total acquired land was less than three kanals. In such a situation, sale deed dated 20.3.1997 (Ex.P6) is the best piece of evidence which could be safely made the basis for assessing the market value.

Since the land vide this sale deed was sold @ ₹250 per sq. yard, the learned reference court was fully justified in granting the compensation at this very rate to the land owners in these cases as

well. However, learned counsel for the land owners have been found fully justified in contending that land owners were also entitled for annual increase for the time gap between the sale deed and the date of notification under Section 4 of the Act.

The argument raised by learned counsel for the State has been found fallacious and not worth acceptance. It is the settled proposition of law that the land owners are entitled for at least 12% annual increase on the price of land which has been made basis for assessing the market value, for the time gap between the date of sale deed and date of issuance of notification under Section 4 of the Act.

Following this principle of law, the land owners in these cases are held entitled for annual increase on the sale price of their acquired land depicted in the sale deed Ex.P6. Time gap between the sale deed Ex.P6 and date of notification was 16 months, thus, the land owners would be entitled for 16% increase on the market value, i.e. ₹250/- per sq. yard. 16% of ₹250 per sq. yards comes to ₹40. In this view of the matter, land owners would be entitled for compensation @ ₹ 250+40 = ₹290 per sq. yard for their acquired land from the date of acquisition under Section 4 of the Act. As noticed hereinabove, keeping in view the peculiar facts and circumstances of these cases, there is no scope to interfere in the appeals filed by the State of Haryana and the same are liable to be dismissed.

No other argument was raised.

Considering the peculiar facts and circumstances of the

case, coupled with the reasons aforementioned, this Court is of the considered opinion that appeals filed by the State of Haryana, having been found wholly misconceived, bereft of merits and without any substance, must fail and the same are hereby dismissed.

All the four appeals filed by the land owners are hereby allowed. Impugned award dated 22.2.2007 in RFA No. 3167 of 2004 is hereby set aside and land owner therein namely Prem Singh is also held entitled for receiving the same amount of compensation, as has been granted to his other co-villagers for their acquired land, i.e. ₹290 per sq. yard. In addition to the compensation for their acquired land @ ₹290 per sq. yards from the date of notification under Section 4 of the Act, the land owners are also entitled for all other statutory benefits available to them under the Act.

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

**(RAMESHWAR SINGH MALIK)
JUDGE**

13.1.2016
AK Sharma