IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No. 2750 of 2007 (O&M)
Date of decision: 2.2.2016

Harmohan Singh Dhawan and another

.. Appellants

Vs.

Union Territory, Chandigarh through Land Acquisition Collector, Sector 17, Chandigarh

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Phool Chand Dhiman, Advocate
for the appellants.

Mr. Vishal Sodhi, Standing Counsel
for the respondent- U.T. Chandigarh.

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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RAMESHWAR SINGH MALIK, J. (Oral)

These three regular first appeals bearing RFA Nos. 2750, 2751 and 2875 of 2007, are being decided together vide this common order, as all these appeals are arising out of the same acquisition and raise identical questions of law and facts. However, with the consent of parties and for the facility of reference, facts are being culled out from RFA No. 2750 of 2007 (Harmohan Singh Dhawan and another VS. Union Territory, Chandigarh).

Facts of the case are hardly in dispute. The Union Territory, Chandigarh, sought to acquire land measuring 4 acres by invoking the urgency clause under Section 17 of the Land Acquisition Act 1894, ('the Act' for short), at public expenses for public purpose; namely for exchanging the land in lieu of the land urgently required for the construction of Chandigarh-Ludhiana Broad Gauge Railway Line. Notification under Section 4 of the Act was issued on 2.3.2001 which was followed by notification dated 5.3.2001 under Section 6 of the Act. The Land Acquisition Collector, vide his award no. 544 dated 21.8.2001 granted the compensation at uniform rate of ₹6,90,240/- per acre.

Dissatisfied, landowners filed their objections under Section 18 of the Act and as a consequence thereof, learned reference court decided all the three land references vide his common award dated 24.4.2007. The learned reference court enhanced the compensation to ₹17,46,000/- per acre at flat rate. Feeling aggrieved against the impugned award passed by the learned reference court, landowners have filed these three appeals which are being decided together.

Learned counsel for the appellants-landowners places reliance on earlier award dated 28.1.2006 (Ex.P-12) passed by the learned reference court. In addition to above, learned counsel for the appellants also places reliance on different allotment orders which are available on record in the form of Ex. P-3, P-4 P-7 and P-9. He submits that since the learned reference court has placed reliance on earlier award Ex.P-12 and ignored other better piece of evidence in the form of allotment orders issued by the U.T. Chandigarh itself, the impugned award passed by the learned reference court is liable to be modified and the landowners are entitled to receive much higher compensation.

Per contra, learned counsel for the U.T. Chandigarh places reliance on numerous orders passed by this Court in the cases of Mansa (deceased) through LRs. Vs. Union Territory, Chandigarh, (RFA No. 2598 of 2004 decided on 7.4.2011); Hardial Singh and others Vs. Union Territory, Chandigarh, (RFA No. 3485 of 2002 decided on 5.10.2010); Jit Singh and others Vs. Union Territory, Chandigarh, (RFA No. 1460 of 2003 decided on 24.8.2015); Mrs. Avtar Sachdev and others Vs. Union Territory, Chandigarh (RFA No. 4238 of 2006 decided on 2.4.2009) and in Narinder Singh Vs. Union of Territory, Chandigarh (RFA No. 727 of 2001 decided on 4.2.2009), to contend that since the learned reference court has already suitably enhanced the compensation, there is no scope of further enhancement in the compensation.

Having heard learned counsel for the parties at considerable length, after careful perusal of the record of the cases and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that all these appeals deserve to be partly allowed, for the following more than one reasons.

So far as location and potentiality of the acquired land is concerned, it is undisputed on record that the acquired land forms part of the revenue estate of village Kaimbwala which falls within Chandigarh. As per site plan Ex.P-10, available at page 135 of the lower court record ('LCR' for short), the acquired land has been shown to be situated very close to Sukhna Lake. On the other side, Rock Garden is situated and adjoining thereto, High Court Complex is situated. Keeping in view the abovesaid peculiar facts and circumstances of the cases, including the positive as well as negative determinative factors, this Court is of the considered view that order dated 4.2.2009 passed by this Court in Narinder Singh's case (supra) would be the most relevant piece of evidence, which would provide a safe guide for assessing the market value of the acquired land in the cases in hand.

So far as the argument raised by learned counsel for the appellants-landowners that, allotment orders issued by the U.T. Chandigarh itself, in favour of the Chandigarh Housing Board, would amount to numerous sale instances and the same deserve to be made basis for assessing the market value of the acquired land is concerned, the same has not been found worth acceptance. It is so said because the said land was acquired much earlier and it was developed by the Chandigarh Administration. External development works were carried out including construction of roads, laying down the sewerage lines as well as carving out parks and green belts. Similar argument was turned down by this Court in Narender Singh's case (supra) as well.

Similarly, argument raised by learned counsel for U.T. Chandigarh, that cases referred to hereinabove decided by this Court, including the cases relied upon by him, may also be considered for making the basis for assessing the market value of the acquired land, has been found misplaced in the given fact situation of the cases in hand. The order passed by this Court in Narender Singh's case (supra) is the best piece of evidence in favour of both the parties and reliance thereon has been placed by none else but learned counsel for the U.T. Chandigarh itself.

In Narinder Singh's case (supra), market value of the acquired land therein was assessed at ₹15,46,450/- per acre. Notification under Section 4 of the Act in Narender Singh's case (supra) was issued on 3.7.1997 whereas in the cases hand, it was issued on 2.3.2001, thus, after a period of 3 years and 8 months. Since the acquired land could have been easily put to residential, commercial as well as industrial use, the landowners would be entitled for annual increase of 15%, in view of the law laid down by the Hon'ble Supreme Court in **General Manager, Oil & Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel & Anr 2008 (14) SCC 745**

In view of the law laid down by the Hon'ble Supreme Court in **Ashok Kumar and others Vs. State of Haryana and others, 2015 (3) Scale 242,** the cumulative method of calculation is to be adopted for granting the benefit of annual increase on the amount of ₹15,46,450/-. Thus, granting the benefit of 15% annual increase on the basis of cumulative method, landowners in these appeals would be entitled for compensation for their acquired land @ ₹25,87,148/- per acre, which is rounded of to ₹25,87,150/- per acre from the date of notification under Section 4 of the Act.

Neither any contrary evidence or judicial precedent was pressed into service, nor any other argument was raised by learned counsel for either of the parties.

Considering the peculiar facts and circumstances of the cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that all these appeals filed by the landowners deserve to be partly accepted and the same are hereby allowed to the extent indicated above. The landowners-appellants are held entitled to receive compensation @ ₹25,87,150/- per acre for their acquired land from the date of notification under Section 4 of the Act. Besides this, the landowners shall also be entitled for all other statutory benefits available to them under the Act.

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

(RAMESHWAR SINGH MALIK)
JUDGE

2.2.2016
AK Sharma