HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

RFA No.5775 of 2008 & connected matters
Date of decision:21.1.2016

Kabool Singh and others

...Appellants

Versus

Haryana State through Collector and another

...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.Vijender Singh, Advocate for the appellants.
Mr.Abhinash Jain, AAG, Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

Instant order proposes to decide together 59 appeals, out of which 32 have been filed by the State of Haryana, bearing RFA Nos.651 to 679 of 2009, 702, 703 and 833 of 2009 and 27 have been filed by the land owners bearing RFA No.5775 of 2008, RFA Nos.2014 to 2024 of 2009, 2948, 2949, 3154 to 3160, 3991, 4849, 4897, 4898, 4899 and 5568 of 2009, arising out of the same acquisition, as these appeals raise identical questions of law and facts. However, for the facility of reference, facts are being culled out from RFA No.5775 of 2008 (Kabool Singh and others v. Haryana State through Collector and another).

Facts necessary for disposal of instant batch of appeals are that the State of Haryana sought to acquire land measuring 71 acres 7 kanals and 18 marlas at public expense for public purpose; namely for construction of Police Line and Staff quarters at Jhajjar. The acquired land was situated within the revenue estates of villages Nangli and Kamalgarh, Tehsil and

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District Jhajjar. Notification under Section 4 of the Land Acquisition Act, 1894 (`the Act' for short) was issued on 11.10.2002, which came to be followed by notification dated 28.2.2003 under Section 6 of the Act. Land Acquisition Collector, vide his award No.1 dated 30.5.2003, granted compensation @ Rs.2 lacs per acre for Nehri/Chahi land, Rs.1,60,000/- per acre for Barani land and Rs.1,50,000/- per acre for Gair Mumkin land. Dissatisfied, the land owners filed their objections under Section 18 of the Act and as a consequence thereof, land references were forwarded which came to be decided by the learned reference court vide its common award dated 29.7.2008. The learned reference court granted the compensation @ Rs.6 lacs per acre for Nehri/Chahi land, Rs.4,50,000/- per acre for Barani land and Rs.4 lacs per acre for Gair Mumkin land.

Feeling aggrieved, both the parties have approached this Court. The state of Haryana is seeking reduction in the compensation granted to the land owners by the learned reference court, whereas land owners are seeking further enhancement in the compensation for their acquired land.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that keeping in view the totality of facts and circumstances of the cases in hand, the appeals filed by the State of Haryana having been found bereft of merit, 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.

A bare perusal of the impugned award passed by the learned reference court, coupled with the fair statement made by the learned counsel

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for the State, no evidence in the form of any sale instance was produced on behalf of the State of Haryana before the learned reference court. In this view of the matter, the only evidence to be considered for the purpose of assessing the market value, is what was produced by the land owners. Three sale instances were produced in the form of Ex.P1 dated 26.3.1997, whereby a big chunk of land measuring 33K-16M was sold @Rs.3,00,000/- per acre. This sale-deed is available at page 33 of the lower court record (`LCR' for short). The land sold vide this sale-deed was from village Nangli. Sale-deed Ex.P2 was dated 25.6.1997 available at page 43 of LCR, whereby land measuring 16 marla was sold @ Rs.24,20,000/- per acre. This piece of land was out of the revenue estate of village Kamalgarh.

Similarly, vide sale-deed Ex.P3 dated 18.3.1998, available at page 51 of LCR, land measuring 2K-9M was sold @Rs.6,00,816/- per acre. Since the land was acquired for setting up of Police line and staff quarters, Jhajjar, it goes without saying that the land was having very good potential, being situated very close to the municipal area. However, the learned reference court fell in serious error of law, while not taking into consideration the prime location of land, its potentiality as well as other positive determinative factors for assessing the market value of the acquired land.

The above-said relevant piece of evidence, produced by the land owners, in the form of sale instances, i.e. Exhibits P1 to P3, have gone unrebutted on the record, because the State of Haryana thought it appropriate not to lead any evidence, in support of its case before the learned reference court. The land was abutting Jhajjar-Delhi road. It has been so proved vide site plan Ex.P9 by none-else but Chander Pal (Halqa Patwari), whose affidavit Ex.P8 is available at page 83 of LCR.

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The relevant part of evidence tendered by this material witness reads as under:-

> *"That I am revenue Patwari of the above said circle. Prior to me Dhanbir was revenue patwari of this Patwar Circle. I have brought original record pertaining to revenue estate of Kamelgarh and Nangli along with original X-sizra Ex. P9 is correct as per original x-sizra. The same was prepared by Dhanbir Patwari in my presence and I compared the same with the original x-sizra which is correct as per original record, which bears my signature.*
>
> *That I have shown the land sold by Vedpal Singh S/o Sheoran Singh in favour of Uma Parmar vide sale deed dated 25.6.97 on point "A" and the land sold by Rame S/o Karan Singh etc. in favour of Sarupa S/o Mamchand vide sale deed dated 18.03.1998 has been shown as point "B" in the x-sizra. Acquired police line land has been shown with green colour boundary marked as "C" in the x-sizra Ex.P-9.*
>
> *That the acquired land is situated on main Jhajjar-Delhi road surrounded by residential, commercial and educational institute. The education institute like Central School, Govt.Post Graduate College, Govt. Polytechnic College, existed much prior to the acquisition.*
>
> *That the potential value of the acquired land and the land sold vide above sale deeds is equal.*
>
> *That the acquired land falls in National capital region and Govt. has fixed Rs.18,00,000/- per acre in the area of acquired land. Copy of collector rate list attached as Ex.-P-10."*

Although, learned counsel for the land owners vehemently contended that since the land owners are entitled to get the best price, only one sale-deed Ex.P2 dated 25.6.1997 may be made the basis for assessing the market value, yet to be fair to all concerned and taking a holistic view of the matter, this Court is of the considered opinion that it would be just and

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expedient to take average of all the above-said three sale-deeds so as to do complete and substantial justice between the parties. Average market value of all the above-said three sale-deeds Exhibits P1 to P3 would come to Rs.11,06,938/- per acre, which is rounded of to Rs.11,7,000/- per acre.

Coming to the argument raised by the learned counsel for the State that a reasonable cut may be applied on the above-said average market value of the above-said three sale-deeds, the same is to be noted to be rejected. It is so said because no cut is warranted in the present case, owing to the nature and location of the acquired land. The land was situated at a prime location, abutting Jhajjar-Delhi road and it was surrounded by different kinds of establishments, including commercial establishments like private schools, residential as well as industrial establishments. This material fact has been duly proved by none-else but revenue patwari himself, which is clear from his above-said statement made before the court. Having said that, this Court feels no hesitation to conclude that no cut is warranted to be applied in the present case. The view taken by this Court also finds support from a Division Bench judgment of this Court in **Harbans Singh and others v. State of Punjab through the Land Acquisition Collector, 2006(1) RCR (Civil) 634,** which is based on the law laid down by the Hon'ble Supreme Court.

The relevant observations made in paras 12 and 13 by the Division Bench of this Court in **Harbans Singh's** case (supra)**,** which can be gainfully followed in the present case, read as under:-

> *"12. There is no quarrel with the proposition, as has been laid down by the Hon'ble Apex Court in* ***Administrator General of West Bengal v. Collector's case*** *(supra), that where the sale instance relied upon by the claimants comprised of small plot*

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of land, then 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 v. Special Tehsildar and Land Acquisition Officer, 1992(1) RRR 257 : 1992 L.A.C.C. 314*** *may be noticed :*

> *"The proposition that large area of land cannot possibly fetch a price at the same rate at which shall plots are sold is not absolute proposition and in 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 satisfactorily 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 require 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*

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> *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."*

13. 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) v. 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."*

Further, since the purpose of acquisition was one and the same, belting system adopted by the land acquisition collector and illegally upheld by the learned reference court cannot be upheld. It is so said, because the acquired land was going to be put to the same use as it falls on Jhajjar-Delhi road. In such a situation, quality of land would be hardly of any consequence and belting system is not warranted. The view taken by this Court in this regard also finds support from the following judgments of the Hon'ble Supreme Court as well as this Court:-

1. ***Executive Director Vs. Sarat Chandra Bishnoi, 2000 (6) SCC 326.***
2. ***Ashrafi and others Vs. State of Haryana and others,***

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2013 (5) SCC 527.

3. ***Harinderpal Singh Vs. Punjab State through Collector Amritsar, 1997 (3) RCR (Civil) 431.***
4. ***Pawan Kumar and another Vs. Land Acquisition Collector and others, 2001 (1) RCR (Civil) 598.***

In view of the above, ignoring the belting system, all the land owners are held entitled to receive the compensation for their acquired land at a uniform rate of Rs.11,07,000/- per acre, from the date of notification under Section 4 of the Act. Neither any contrary evidence was produced by the State of Haryana before the learned reference court nor any has been pointed out before this Court. It goes without saying that the land owners are entitled to receive the best price for their acquired land. It was so held by the Hon'ble Supreme Court in **Mehrawal Khewaji Trust (Registered), Faridkot and others v. State of Punjab and others, (2012) 5 SCC 432.** Although, there was no evidence produced by the State of Haryana yet to be fair to all concerned, the average of all the above-said three sale-deeds was taken to assess the market value for the acquired land.

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 the appeals filed by the State of Haryana are wholly 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 partly allowed to the extent indicated above.

Consequently, the land owners are held entitled to receive the compensation for their acquired land at a uniform rate of Rs.11,07,000/- per acre from the date of notification 4 of the Act. Besides this, the land owners would also be entitled for all other statutory benefits available to them,

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under the relevant provisions of the Act.

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

21.1.2016 **(RAMESHWAR SINGH MALIK)**
mks **JUDGE**

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