IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.207 of 2006 and other connected matters
Date of decision: 21.01.2016

Kishan and others

... Appellants

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Arun Yadav, Advocate
for the appellants (in RFA Nos.207 to 209 of 2006).

Mr. Sanjay Mittal, Advocate
for the appellants (in RFA Nos.1748 to 1750, 3248 of 2006)

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

*****

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

This batch of 07 appeals bearing Regular First Appeal Nos.207 to 209, 1748 to 1750 & 3248 of 2006 filed by land owners, is being decided together, as all the 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.207 of 2006 (Kishan and others Vs. State of Haryana and others).

Brief facts of the case are that State of Haryana sought to acquire land measuring 373 kanal, 18 marla (46 acres, 05 kanal, 18 marla) out of the revenue estate of Village Asalwas, Tehsil Bawal, District Rewari at public expenses for public purpose i.e. for construction of Water Works and other allied works for the industrial growth of industrial centre, Bawal. Accordingly, notification under Section 4 of the Land Acquisition Act, 1894 ('Act' for short) was issued on 18.05.1999, which was followed by notification dated 19.10.1999 under Section 6 of the Act. Land Acquisition Collector, vide his award No.1 dated 29.06.2000 granted the compensation for the acquired land, as under: -

1.	*Land falling on NH No.8*	*Rs.9,00,000/- per acre*
2.	*Chahi*	*Rs.4,00,000/- per acre*
3.	*Barani*	*Rs.3,50,000/- per acre*
4.	*Bhud*	*Rs.3,00,000/- per acre*
5.	*Banjar kadim*	*Rs.2,50,000/- per acre*
6.	*Gair Mumkin*	*Rs.5,00,000/- per acre*

Dissatisfied, the land owners filed their objections under Section 18 of the Act and as a consequence thereof, land references were forwarded to the learned reference Court who decided the same vide common award dated 01.04.2005, whereby land references of the land owners were dismissed, upholding the abovesaid award of the Land Acquisition Collector. Feeling aggrieved against the impugned award passed by the learned reference Court, land owners have approached this Court by way of these appeals, seeking enhancement in the compensation.

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 keeping in view the totality of facts and circumstances of these cases, 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 would show that the learned reference Court fell in serious error of law, while not taking into consideration the relevant sale instances, which were duly proved on record by the land owners. There were three sale deeds produced by the land owners in the form of Ex.P9, Ex.P10 and Ex.P11. Because the sale deed Ex.P9 and Ex.P10 were post-acquisition, the learned reference Court was justified in ignoring the same. However, since the sale deed Ex.P11 was dated 30.10.1996, pertaining to the adjoining village, the same ought to have been taken into consideration for assessing the market value of the acquired land. As the learned reference Court has proceeded on a wholly misconceived and perverse approach in this regard, the impugned award cannot be sustained.

Coming to the evidence produced on record by the State of Haryana, all the four sale instances in the form of Ex.R2 to Ex.R5 were admittedly post-acquisition and the same could not have been considered for assessing the market value of the acquired land.

In view of what has been discussed hereinabove, the only relevant piece of evidence available on the record is the sale deed Ex.P11 at page 175 of the lower Court record. Vide this sale deed, the land measuring 04 kanal, which was of a reasonable size and cannot be said to be a small plot, was sold for an amount of Rs.6,57,853/- per acre at the rate of Rs.13,15,706/- per acre. However, since this land sold vide Ex.P11 was abutting the National Highway No.8, a reasonable cut has to be applied on the price of the land disclosed in this sale deed. As the acquired land was also not far from the National Highway No.8 and some part of the acquired land was located very close to the National Highway No.8, 25% cut would be just and reasonable. After applying 25% cut on the sale price of Ex.P11, the amount would come to Rs.9,86,780/- per acre, which is rounded off to Rs.9,86,800/- per acre. Almost the same amount of compensation for the acquired land would come in favour of the land owners, even on the basis of judgment of the Hon'ble Supreme Court in **Omkar Singh and others Vs. State of Haryana and others, 2015 (1) Scale 673.** In **Omkar Singh**'s case (supra), the Hon'ble Supreme Court had an occasion to decide the market value of the acquired land for as many as nine villages, including Village Asalwas and Pathuhera. The abovesaid sale instance Ex.P11 pertains to Village Pathuhera. As per the judgment of the Hon'ble Supreme Court in **Mehrawal Khewaji Trust (Regd.), Faridkot and others Vs. State of Punjab, (2012) 5 SCC 432,** the land owners are entitled for best price for their acquired land.

Since there was time gap of about 02 years and 05 months between the date of sale in Ex.P11 and the date of acquisition in these cases, the land owners would also be entitled for the annual increase. To be fair to all the concerned, only 12% annual increase per annum for a period of 02 years would be just and reasonable. While adopting the cumulative method, as laid down by the Hon'ble Supreme Court in **General Manager, Oil and Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel and another, 2008 (14) SCC 745,** the total amount comes to Rs.12,37,841/- per acre, which is rounded off to Rs.12,37,840/- per acre. Thus, the land owners in these appeals are held entitled to receive the compensation for their acquired land at the rate of Rs.12,37,840/- per acre, from the date of notification under Section 4 of the

Act.

As the entire land was acquired for one and the same purpose and it could also have been put to commercial, residential as well as industrial purpose, oweing to its location, belting system adopted by the Land Acquisition Collector and illegally upheld by the learned reference Court cannot be sustained. It is pertinent to note here that the acquired land in these cases was not abutting the National Highway No.8, but it is equally true that it was very close to the National Highway. For this reason and also keeping in view the other relevant positive determinative factors of the acquired land, including its potentiality, this Court is of the considered view that belting system was not warranted in the present case. Having said that, this Court feels no hesitation to conclude that the land owners would be entitled to receive the compensation for their acquired land at the abovesaid market value at uniform rate.

The view taken by this Court also finds support from numerous 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, 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.***

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 all the appeals filed by the land owners deserve to be partly allowed, as indicated above and the same are hereby allowed, in the aforesaid terms. The land owners are held entitled to receive the compensation at uniform rate of Rs.12,37,840/- per acre for their acquired land, from the date of notification under Section 4 of the Act. Besides this, land owners shall also be entitled for all other statutory benefits available to them, under the relevant provisions of the Act.

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

[RAMESHWAR SINGH MALIK]
21.01.2016 **JUDGE**
vishnu