

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

RFA No.532 of 2009 and other
connected matters

Date of Decision : 19.1.2016

State of Haryana and others

.....Appellants

Vs.

Dharampal and others

.....Respondents

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CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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Present : Ms. Vibha Tiwari, AAG, Haryana, for the appellants in
RFA Nos.532 to 566 of 2009 and RFA No.801 of 2009 and
for respondents in RFA Nos.6337 to 6345 of 2012 and RFA
Nos.7029 to 7032 of 2012 and RFA No.1063 of 2013.

Mr.Sanjiv Kodan, Advocate for the appellants in RFA
Nos.6337 to 6345 of 2012 and RFA Nos.7029 to 7032 of 2012
and RFA No.1063 of 2013 and
for respondents in RFA Nos.532 to 566 of 2009 and
RFA No.801 of 2009.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

These 50 regular first appeals, arising out of the same acquisition and raising identical questions of law and facts, are being decided by this common order. Out of these 50 appeals, 36 appeals bearing RFA Nos.532 to 566, 801 of 2009 have been filed by the State of Haryana and 14 appeals bearing RFA Nos.6337 to 6345 of 2012, 7029 to 7032 of 2012 and 1063 of 2013 and cross objections No.213-C1 of 2010, 214-C1 of 2010 and 5-C1 of 2011 have been filed by the land owners. For the facility of reference, facts are being culled out from RFA No.532 of 2009 (State of Haryana and others Vs. Dharampal and others).

Brief facts of the case are that the State of Haryana sought to

acquire land measuring 93 kanals 11 marlas, out of the revenue estate of Village Majra (Dubaldhan), Tehsil Beri, Distt. Jhajjar, at public expenses for public purpose; namely for construction of Siwana-Majra Distributory. Notification under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) was issued on 21.12.2000, which was followed by notification dated 10.9.2001 issued under Section 6 of the Act. Land Acquisition Collector, vide his award no.12 dated 18.12.2002 granted compensation @ Rs.1.00 lac per acre at flat rate for all types of land.

Land owners felt dissatisfied and filed their objections under Section 18 of the Act. Consequently, as many as 36 land references were forwarded to the learned reference court, which were decided together, vide impugned award dated 7.10.2008. The learned reference court granted the compensation at the uniform rate of Rs.2,50,000/- per acre for the acquired land. Both the parties felt aggrieved against the impugned award passed by the learned reference court. State of Haryana has filed 36 appeals, whereas 14 appeals and three cross objections have been filed by the land owners. State of Haryana is seeking reduction in the compensation granted by the learned reference court, whereas the land owners are seeking enhancement thereof.

After hearing 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 since the appeals filed by the State of Haryana have 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. To say so, reasons are more than one, which are being recorded hereinafter.

It is a matter of record and not in dispute that the sale instances produced by the State were post acquisition and the same were rightly ignored by the land reference court. It is not even the argued case on behalf of the State of Haryana that any sale deed produced on its behalf before the learned reference court, was executed either immediately before the notification under Section 4 of the Act or soon thereafter. In this view of the matter, there is no evidence available on record, which might be consideration in favour of the State of Haryana.

Coming to the evidence produced by the land owners, there is a sale deed Ex.P-1 dated 21.5.1998, whereby land measuring 16 kanals 13 marlas was sold for Rs.4,15,000/-. This is one of the relevant piece of evidence in favour of the land owners. However, since the market value disclosed in this sale deed Ex.P-1 was on lower side i.e. @ Rs.1,99,398/- per acre, learned counsel for the land owners rightly submitted that this piece of evidence may be ignored and a better piece of evidence available on record in the form of earlier award dated 7.5.2008 Ex.P-2 at page 23 of the lower court record pertaining to the land of adjoining village Achhej may be made the basis for assessing the market value in the present case, granting reasonable increase for the time gap. Award dated 7.5.2008 was passed by the learned reference court, deciding as many as 12 land references pertaining to the adjoining village Achhej, Tehsil Beri, Distt. Jhajjar, wherein land was acquired for the same purpose, vide notification dated 4.5.2000 issued under Section 4 of the Act. The learned reference court had granted compensation @ Rs.2,50,000/- per acre to the land owners of village Achhej, vide award Ex.P-2.

Learned reference court, in the present case, was well within its

jurisdiction to follow the earlier award Ex.P-2, as both the awards were passed by the same reference court. However, the learned reference court fell in error of law, while not granting any benefit of annual increase to the land owners in the cases in hand, for the time gap between the acquisition under the award Ex.P-2 and the present acquisition.

As noticed above, notification under Section 4 of the Act was issued qua the land under award Ex.P-2 on 4.5.2000, whereas in the present case, notification under Section 4 of the Act was issued on 21.12.2000, thus, there was a time gap of more than seven and half months. In this view of the matter, taking into consideration the peculiar facts and circumstances obtaining in these cases, with a view to do complete and substantial justice between the parties, this court is of the considered view that the land owners were entitled for 8% increase over and above the above said amount of compensation @ Rs.2,50,000/-. Amount on account of 8% of Rs.2,50,000/- would come to Rs.20,000/-. Thus, the total market value would be Rs.2,70,000/- per acre, (Rs.2,50,000/- + Rs.20,000/-) and the land owners in these cases would be entitled to receive the compensation @ Rs.2,70,000/- for their acquired land from the date of notification under Section 4 of the Act.

Ordered accordingly.

No other argument was raised.

Considering the peculiar facts and circumstances of the cases noted above, coupled with the reasons aforementioned, this court is of the considered view that since the appeals filed by the State of Haryana have been found wholly misconceived, bereft of merit and without any substance, these must fail and the same are hereby dismissed.

The appeals filed by the land owners and cross objections are partly allowed to the extent indicated above. The land owners are held entitled to receive the compensation @ Rs.2,70,000/- 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 to all other statutory benefits available to them under the relevant provisions of the Act.

Resultantly, with the observations made above, all these 50 appeals and cross objections stand disposed of, in the above said terms, however, with no order as to costs.

19.1.2016
GS

(RAMESHWAR SINGH MALIK)
JUDGE