

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**RFA No.1 of 2010 & connected matters
Date of decision:27.1.2016**

State of Haryana and others

...Appellants

Versus

Maan Singh

...Respondent

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.Vikrant Hooda, Advocate for the appellants in
RFA Nos.4903 of 2010, 3950 to 3959 of 2011, 1951 of 2012,
561 of 2015 & 6458 of 2015 and for the respondent(s) in State
appeals.

Mr.Arun Beniwal, DAG, Haryana and
Ms.Vibha Tiwari, AAG, Haryana for the appellants in
RFA Nos. 1 to 18 of 2010, 591, 594, 596 to 600, 617, 619 of
2010, 7635 to 7641 of 2011 and 7419 of 2011 and for the
respondents in land owners appeals.

Mr.Ajay Jain, Advocate for the appellant(s) in
RFA No.378 of 2010 and for the respondent(s) in State appeal.

Mr.S.P.Khatri, Advocate for the appellant(s) in
RFA No.677 of 2011 and for the respondent(s) in State appeal.
None for the appellants in RFA No.2279 and 5155 of 2010.

RAMESHWAR SINGH MALIK, J. (Oral)

This batch of 53 appeals, out of which 35 have been filed by
the State of Haryana bearing RFA Nos. 1 to 18 of 2010, 591, 594, 596 to
600, 617, 619 of 2010, 7635 to 7641 of 2011 and 7419 of 2011 and 18 have
been filed by the land owners bearing RFA Nos.378, 2279, 4903 and 5155
of 2010, 677 of 2011, 3950 to 3959 of 2011, 1951 of 2012, 561 of 2015 &
6458 of 2015 is being decided vide this common order, as all these appeals

arise out of the same acquisition raising identical questions of law and facts. Learned counsel for the parties are *ad idem* that no land owner of village Mandothi has filed any appeal. For the facility of reference and with the consent of learned counsel for the parties, facts are being culled out from RFA No.1 of 2010 (State of Haryana and others v Maan Singh).

Brief facts of the case are that land measuring 137 kanals and 5 marlas was sought to be acquired out of the revenue estate of village Sankhol, land measuring 180 kanals and 2 marlas was sought to be acquired out of the revenue estate of village Jakhoda and land measuring 165 kanals was sought to be acquired out of the revenue estate of village Mandothi. All the above-said three villages fall in Tehsil Bahadurgarh, District Jhajjar. The land was acquired for public purpose; namely for four laning of National Highway No.10 (Delhi-Rohtak-Hisar).

Accordingly, notification under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) was issued on 14.1.1999, followed by notification dated 11.1.2000 under Section 6 of the Act. Land acquisition collector announced Award No.7-R dated 14.6.2001, Award No. 8-R dated 29.8.2001 and Award No. 9-R dated 26.9.2001 pertaining to villages Sankhol, Jakhoda and Mandothi, respectively. The collector granted the compensation to the land owners @Rs.2,97,600/- per acre at a uniform rate. Seven references were forwarded to the learned reference court from village Sankhol, which came to be decided by learned reference court vide common award dated 31.8.2009. 18 land references were forwarded from village Jakhoda, which came to be decided by the learned reference court vide common award dated 28.8.2009. Similarly, 16 land references from village Mandothi were forwarded, which were decided by

the learned reference court vide common award dated 31.7.2009. The learned reference court granted Rs.5 lacs per acre for the total acquired land, out of all the above-said three villages.

Feeling aggrieved against the above-said impugned awards passed by the learned reference court, both the parties have approached this Court by way of above-said 53 appeals. The State of Haryana is seeking reduction in compensation awarded by the learned reference court, whereas the land owners are seeking enhancement thereof.

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 are liable to be dismissed, whereas appeals filed by the land owners deserve to be partly allowed, for the following more than one reasons.

It is a matter of record and not in dispute that National Highway No. 10 goes from Delhi to Rohtak onwards. The land in all the above-said three villages was acquired for one and the same purpose, i.e. for four lining National Highway No.10. It is also not in dispute that some land, out of the acquired land, was within the municipal area of Bahadurgah Town. It has also not been disputed on record that all the revenue estates of the above-said three villages were adjoining each other. Since the total land was acquired for one and the same purpose, the land acquisition collector as well as the learned reference court rightly granted the compensation at a uniform rate for the acquired land of all the above-said three villages. Thus, the potentiality, nature and location of the acquired

land is hardly in dispute.

A bare perusal of all the above-said three impugned awards dated 31.7.2009, 28.8.2009 and 31.8.2009 passed by the learned reference court pertaining to villages Mandothi, Jakhoda and Sankhol, respectively would show that despite the availability of sale instances from village Sankhol itself, the learned reference court has placed reliance on an award Ex.PX dated 27.2.2009, pertaining to village Rohad for the purpose of assessing the market value of the acquired land in all these cases. This approach adopted by the learned reference court has since been found patently illegal, the same cannot be sustained. It is so said because once the sale instances from village Sankhol itself were available on record, the award Ex.PX dated 27.2.2009, pertaining to village Rohad, could not have been made the basis for assessing the market value of the acquired land from these above-said three villages.

Learned counsel for the State has raised only one argument, relying upon the order dated 27.3.2014 passed by this Court in RFA No.3046 of 2009 (State of Haryana and others v. Partap), contending that since the land owners of village Rohad have been granted the compensation @ Rs.6,20,000/- per acre, land owners in the present set of appeals will also not be entitled for any higher compensation. This argument raised by the learned counsel for the State has been found wholly misplaced. It does not appeal to reason as to why the land owners of the above-said three villages should be made to suffer without there being any fault on their part, if the land owners of village Rohad failed to produce on record any relevant sale instances, so as to claim higher compensation for their acquired land.

This Court has referred to as many as 9 sale-deeds on page 4 of

its order dated 27.3.2014 passed in **Partap's** case (supra) but in all those sale-deeds, the market value disclosed was on much lower side than the market value disclosed in the sale-deeds, being relied upon by the learned counsel for the land owners in the cases in hand. Having said that, this Court feels no hesitation to conclude that the order dated 27.3.2014 passed by this Court in **Partap's** case (supra) is not a safe guide for the purpose of assessing the market value of acquired land in the present set of appeals.

Learned reference court has referred to seven sale instances produced by the land owners in para 7 of the impugned award dated 28.8.2009. Out of these seven sale deeds, which are available on lower court record ('LCR' for short), sale-deeds Exhibit P2, P3 and P4 are since post acquisition, cannot be made the basis for assessing the market value of the acquired land. Learned counsel for the State was also found justified in contending that since sale deeds Ex.P5 and Ex.P7 were pertaining to very small pieces of land sold thereunder, these also do not deserve to be taken into consideration for the purpose of assessing the market value. These material facts could not be denied by the learned counsel for the land owners as well.

Thus, after ignoring the sale-deeds contained in Exhibits P2, P3, P4, P5 and P7 for the above-said reasons, only two sale-deeds, which are the most relevant pieces of evidence in favour of the land owners, are the sale-deeds Ex.P1 and Ex.P6. These two sale instances can be safely made the basis for assessing the market value of the acquired land. Vide sale-deed Ex.P1 dated 10.5.1996, land measuring 13K-8M was sold for Rs.19,26,250/- @ Rs.11,50,000/- per acre. Similarly, vide sale-deed Ex.P6 dated 28.5.1996, land measuring 8K-3M was sold for Rs.11,05,344/-

@ Rs.10,85,000/- per acre. In this peculiar fact situation of the cases in hand, the best course of action to assess the market value would be taking average of both these sale-deeds and the same comes to Rs.11,17,500/- per acre. No contrary or better evidence has been referred or relied upon by the learned counsel for the State.

Since both the above-said sale-deeds Ex.P1 and Ex.P6 were executed in the month of May 1996 and notification under Section 4 of the Act came to be issued on 14.1.1999, there was a time gap of two years and seven months and the land owners would be entitled for 12% annual increase for this time gap. Adopting the cumulative method, as laid down by the Hon'ble Supreme Court in **Ashok Kumar and others v. State of Haryana and others, 2015 (3) Scale 242**, the total market value would come to Rs.14,99,917.44 paise which is rounded off to Rs.15,00,000/- per acre. It is pertinent to note here that this figure has not been disputed by the learned counsel for either of the parties. Accordingly, the land owners in all these cases, are held entitled to receive the compensation for their acquired land at a uniform rate of Rs.15,00,000/- per acre from the date of notification under Section 4 of the Act.

Should there be any ambiguity, it is clarified that since the Collector as well as the learned reference court have granted the compensation to the land owners of all the above-said three villages at the uniform rate and rightly so, the land having been acquired for one and the same purpose, the said factually correct and legally justified factor is not being deviated by this Court as well. It is so said, because the total acquired land was abutting the National Highway No.10 and purpose of acquisition was also one and the same. Once the total acquired land was going to be

utilised for the same purpose, coupled with the fact that location and potentiality of the acquired land was not in dispute, quality thereof would be of hardly any consequence. In such a situation, it can be safely concluded that the Land Acquisition Collector as well as the learned reference court were fully justified in granting same amount of compensation to the land owners of all the above-said three villages.

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 are 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 15,00,000/- per acre from the date of notification under Section 4 of the Act. Besides this, the land owners shall also be held entitled for all other statutory benefits available to them under the relevant provisions of the Act.

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

27.1.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE