IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.1838 of 2011 and other connected matters
Date of decision: 28.01.2016

State of Haryana and others

... Appellants

Vs.

Ramphal

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Arun Beniwal, DAG, Haryana.

Mr. Surinder Gandhi, Advocate
for the appellants (in RFA Nos.2697 to 2705, 6068 to 6070, 7171 to 7176 of 2011, 546 of 2012).

Mr. Sudhir Kumar Hooda, Advocate
for the appellant(s) (in RFA Nos.4532, 4730 to 4735, 7547, 7548, 7845, 7846, 4530, 1561, 1562 to 1572 of 2011, 1978 to 1980, 2461, 2462 of 2013)

Mr. Sandeep Singal, Advocate
for the appellant(s) (in RFA Nos.4025 to 4028, 4089, 4090, 4503, 4506 of 2011, 2771 to 2773 of 2012)

Mr. Ramesh Hooda, Advocate
for the appellant(s) (in RFA Nos.1791 to 1799 of 2011)

Mr. Sandeep Parkash Chahar, Advocate
for the appellant(s) (in RFA Nos.2695, 2696, 5920 to 5927, 7590 to 7592, 3934 to 3937, 6127, 7864, 7251, 7252 of 2011)

None for the appellant(s) (in RFA Nos.4093, 4094 of 2011, 861, 862, 5445 to 5448 of 2012).

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.

This batch of 184 appeals, out of which 87 appeals have been filed by the State of Haryana bearing Regular First Appeal Nos.1838 to 1882, 2105, 2110 to 2114, 4371 to 4406 of 2011, whereas 97 appeals have been filed by the land owners bearing Regular First Appeal Nos.1561 to 1572, 1791 to 1799, 2695 to 2705, 3934 to 3937, 4025 to 4028, 4089, 4090, 4093, 4094, 4503, 4506, 4530, 4532, 4730 to 4735, 5920 to 5927, 6068 to 6070, 6127, 7171 to 7176, 7251, 7252, 7547, 7548, 7590 to 7592, 7845, 7846, 7864 of 2011, 546, 861, 862, 2771 to 2773, 5445 to 5448 of 2012, 1978 to 1980, 2461, 2462 of 2013 is being decided vide this common order, as all these appeals arise out of the same acquisition and raise identical questions of law and facts. With the consent of learned counsels and for facility of reference, facts are being culled out from RFA No.1838 of 2011.

Briefly put, facts necessary for disposal of all these appeals, are that the State of Haryana sought to acquire land measuring 66.23 acres out of revenue estate of village Sunaria Khurd, land measuring 36.68 acres out of the revenue estate of village Dobh and land measuring 30.39 acres out of the revenue estate of village Karor. Similarly, land measuring 49.81 acres was sought to be acquired out of the revenue estate of village Mayana and land measuring 10.53 acres out of the revenue estate of village Khrawar. All these villages fall in Tehsil and District Rohtak. The land was acquired at public expense for public purpose namely; for construction of bye-pass for Rohtak city. Accordingly, Notification dated 13.08.2001 came to be issued under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short), which was followed by notification dated 20.02.2002 under Section 6 of the Act. Land

Acquisition Collector announced village-wise different awards. Award No.4/R dated 17.02.2004 was for village Sunaria Khurd. Award No.3-R dated 10.2.2004 was for village Dobh. Award No.1/R dated 07.01.2004 for village Karor. Award No.3/R dated 31.12.2003 was for village Mayana. Award No.2/R dated 22.10.2003 was for village Khrawar.

Land Acquisition Collector (for short 'LAC')granted the compensation to the land owners of village Sunaria Khurd at the rate of Rs.2,00,000/- per acre for Nehri, Rs.1,75,000/- per acre for Barani, Rs.1,50,000/- per acre for Bhood and Rs.1,00,000/- per acre for Banjar Kadeem. He awarded the amount of compensation at the rate of Rs.2,00,000/- per acre for Nehri/Chahi to the land owners of village Dobh and Rs.1,00,000/- per acre for Gair Mumkin. Similarly, Collector granted the amount of Rs.1,50,080/- per acre for Nehri land to the land owners of village Karor and Rs.1,00,000/- per acre for Banjar Kadeem. Rs.2,00,000/- per acre was granted for Nehri land to the land owners of village Mayana and Rs.1,00,000/- was granted for Gair Mumkin and Banjar Kadeem. The same amount of compensation was awarded to the land owners of village Khrawar, which was granted to the land owners of village Karor.

Dissatisfied, the land owners filed their objections under Section 18 of the Act and as a consequence thereof, 15 land references of village Sunaria Khurd came to be decided by the learned reference Court vide common award dated 29.09.2010, granting the compensation at the rate of Rs.10,00,171/- per acre at flat rate. 37 land references of village Dobh were decided vide common award dated 26.02.2011, granting the compensation at the rate of Rs.10,00,171/- per acre, relying upon the abovesaid award pertaining to village Sunaria Khurd. Similarly, 21 land references were decided by the learned reference Court pertaining to village Karor vide common award dated 23.08.2010 granting the compensation at the rate of Rs.2,82,000/- per acre. 14 land references of village Mayana were decided by the learned reference Court vide common award dated 28.08.2010 granting an amount of Rs.2,50,000/- per acre. Likewise, 9 land references of village Khrawar came to be decided together by the learned reference Court vide its award dated 20.05.2011 granting the compensation at the rate of Rs.7,14,454/- per acre at flat rate.

Both the parties felt aggrieved against the abovesaid impugned awards. State of Haryana has filed 50 appeals against the land owners of village Sunaria Khurd, whereas 36 appeals have been filed by the land owners of village Sunaria Khurd. State of Haryana has filed 36 appeals against the land owners of village Dobh and 11 appeals have been filed by the land owners of village Dobh. State of Haryana has not filed any appeal against the land owners of village Karor, Mayana and Khrawar for the reasons best known to it. Remaining appeals have been filed by the different land owners from other villages, which is a matter of record. That is how, these 184 appeals are being decided together.

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 so far as the appeals filed by the State of Haryana are concerned, the same have been found bereft of merit and are liable to be dismissed. The appeals filed by the land owners in all the abovesaid cases deserve to be partly allowed, suitably enhancing the compensation. To say so, reasons are more than one, which are being recorded hereinafter.

Cases of all the five villages are being taken separately so as to avoid any kind of ambiguity.

Village Sunaria Khurd

A bare perusal of the impugned award passed by the learned reference Court would show that the land owners placed reliance on sale deed Ex.PW2/C, whereby the land measuring 1 kanal, 8 marla out of the revenue estate of village Sunaria Khurd itself, was sold on 28.04.2000 for an amount of Rs.2,25,000/- at the rate of Rs.12,85,714/- per acre. Land owners also placed reliance on a later LAC award dated 26.02.2008 pertaining to village Bhali Anandpur and village Bahu Akbarpur. However, since the notification for acquiring the land of village Bhali Anandpur and Bahu Akbarpur was issued as late as on 30.08.2006 and LAC award was dated 26.02.2008, the learned reference Court rightly discarded this piece of evidence, as there was a time gap of 5 years. So far as the State of Haryana is concerned, it produced two sale instances in the form of Ex.R2 and Ex.R3. Vide sale deed Ex.R2 dated 10.05.1999, Nehri land measuring 4 kanal was sold for Rs.72,000/- at the rate of Rs.1,44,000/- per acre. The second sale deed Ex.R3 was dated 01.07.2003 which was post-acquisition and rightly ignored by the learned reference Court. So far as the sale instance in the form of Ex.R2 was concerned, the learned reference Court has been found justified in discarding this sale deed as well, as it was hit by the provisions of Section 25 of the Act.

In view of the above, the only relevant piece of evidence available on record is sale deed Ex.PW2/C. The learned reference Court has rightly relied upon this sale deed but has proceeded on a wholly misconceived and illegal approach, while applying 1/3rd cut on the market value disclosed in this sale deed. It is so said because oweing to the location and potentiality of the acquired land, no cut was warranted. The land of village Sunaria Khurd was situated on the outskirts of Rohtak city. As per the site plan available on the lower Court record, the land was situated very close to the municipal limits of Rohtak city. Since there is no dispute about the location and potentiality of the acquired land, the learned reference Court ought not to have applied any cut on the market value disclosed in the sale deed Ex.PW2/C.

The abovesaid view taken by this Court in this regard, also finds support from the judgment of Division Bench of this Court in **Harbans Singh and others Vs. State of Punjab through the Land Acquisition Collector, Patiala, 2006 (1) RCR (Civil) 634,** which in turns was based on the law laid down by the Hon'ble Supreme Court. The relevant observations made by the Division Bench referring to the law laid down by the Hon'ble Supreme Court in para 12 and 13 of its judgment in **Harbans Singh'**s case (supra), which can be gainfully followed in the present case, read as under: -

> *"There is no quarrel with the proposition, as has been laid down by the Hon'ble Apex Court in* ***Administrator General of West Bengal Vs. Collector's case*** *(supra), that where the sale instance relied upon by the claimants comprised of small plot of land, than 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 Vs. 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 possible fetch a price at the same rate at which shall plots are sold is not absolute proposition and in the 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 satisfactory 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 utilize 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 required 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 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."*

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) Vs. 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."*

In view of the law laid down by the Hon'ble Supreme Court as well as this Court, it can be safely concluded that applying a cut on the market value disclosed in a sale deed pertaining to small size of plot is not an absolute rule in every given situation. Further, neither it is desirable nor possible to lay down a straight-jacket formula, which may be made applicable in every given situation. It is also an established principle of law that each case is to be decided on the basis of its own peculiar facts and circumstances. Thus, taking a holistic and pragmatic view of the matter, to do complete and substantial justice between the parties, this Court is of the considered view that it is just and expedient not to apply any cut on the market value disclosed in the sale deed Ex.PW2/C because of location and potentiality of the land coupled with its other positive determinative factors.

It is also a matter of record that there was a time gap of 16 months between the sale deed Ex.PW2/C dated 28.04.2000 and the date of notification under Section 4 of the Act i.e. 30.08.2001. Since the land was of semi-urban nature, the land owners would be entitled for 15% annual increase for this time gap, as per the law laid down by the Hon'ble Supreme Court in **General Manager, Oil and Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel and another, 2008 (4) SCC 745.** Applying the cumulative method of increase, as held by the Hon'ble Supreme Court in **Ashok Kumar Vs. State of Haryana, 2015 (3) Scale 242** and at the rate of 15% annual increase, the market value would come to Rs.15,52,499.65 per acre, which is rounded off to Rs.15,52,500/- per acre, therefore, the land owners of village Sunaria Khurd are held entitled to receive the amount of compensation for their acquired land at the rate of Rs.15,52,500/- per acre, from the date of notification under Section 4 of the Act.

<u>Village Dobh</u>

As per the award dated 16.02.2011 passed by the learned reference Court pertaining to village Dobh, land owners of this village were also granted the compensation at the rate of Rs.10,00,171/- per acre at flat rate. Since both these villages Dobh and Sunaria Khurd were adjoining with each other and were also touching the boundary of Rohtak city, the learned reference Court was well-justified in placing reliance on its own earlier award dated 29.09.2010

Ex.PY, which was pertaining to land of village Sunaria Khurd. The land of both these villages was acquired for the same purpose. Once this fact situation has gone undisputed on record, the learned reference Court has committed no error of law, while placing reliance on the earlier award Ex.PY dated 29.09.2010. Following the same analogy, this Court has found no reason to deny the same amount of compensation to the land owners of village Dobh as well, therefore, land owners of this village are also held entitled to receive the compensation for their acquired land at the rate of Rs.15,52,500/- per acre, from the date of notification under Section 4 of the Act.

Village Karor

Careful perusal of the impugned award dated 23.08.2010 pertaining to this village Karor passed by the learned reference Court, would show that a very meager amount of Rs.2,82,000/- per acre has been granted to the land owners of this village for their acquired land. It is not in dispute that all these abovesaid five villages are adjoining each other and acquired land out of all these five villages was situated very close to the municipal area of Rohtak city. This was the reason that the entire land was acquired for one and the same purpose i.e. for construction of bye-pass for Rohtak city. Further, the land owners of this village put specific reliance on an earlier award dated 17.10.2007 passed by the learned reference Court, which was placed on record as Ex.PW1/A pertaining to an earlier acquisition. Vide this reference Court award dated 17.10.2007, villagers of this very village Karor along with the villagers of village Khrawar and Ismaila were granted the compensation at the rate of Rs.7,87,000/- per acre.

However, the learned reference Court has miserably failed to apply its judicious mind, while altogether ignoring this material piece of evidence, which was very much available on record in the form of Ex.PW1/A and the impugned award cannot be sustained qua this aspect. Reading of Ex.PW1/A, which is available at page 45 of the lower Court record, would show that land under the said award was also acquired for the purpose of four lanning of National Highway No.10 (Delhi-Rohtak-Hisar). This further goes to show that village Karor was situated on National Highway No.10. This also shows the location and potentiality of the acquired land. However, this aspect has also been ignored by the learned reference Court, while passing the impugned award. If the land owners of this village are granted the benefit of this undisputed piece of evidence in their favour, available on lower Court record, in the form of Ex.PW1/A, the amount of compensation would come almost to the same, which has been granted by this Court to the land owners of abovesaid two villages namely Sunaria Khurd and Dobh. In this view of the matter, once the location and potentiality of the acquired land is not in dispute, it can be safely concluded that the land owners of village Karor would also be entitled for same amount of compensation for their acquired land i.e. at the rate of Rs.15,52,500/- per acre, from the date of notification under Section 4 of the Act.

Lest it should be misconstrued at any later point of time, it is clarified that the land owners of village Karor are being granted the abovesaid amount of compensation for their acquired land because of the peculiar fact situation obtaining in their cases.

Village Mayana

Perusal of the impugned award dated 28.08.2010 passed by the learned reference Court granting an amount of Rs.2,50,000/- per acre, would show that the learned reference Court has miserably failed to assign any reason much less cogent reasons, while granting this meager amount of compensation to the land owners of village Mayana. Again, it has gone undisputed before this Court that acquired land of village Mayana was situated very close to the municipal limits of Rohtak city. Purpose of acquisition was the same. The land out of the revenue estate of this village was also acquired vide same notification. Once the learned reference Court itself has referred to the location of the land in para 18 of the impugned award to the effect that boundary of village Mayana was adjoining to Rohtak city and was very close to PGIMS, Rohtak, M.D. University, Rohtak and Jat College etc., it does not appeal to reason that why the land owners of this village were also not granted the same amount of compensation, which was granted to the land owners of other abovesaid villages including Sunaria Khurd and Dobh. Had there been any distinguishable feature either in the fact situation or potentiality of the acquired land from this village, the learned reference Court might have been justified in granting lesser amount of compensation to the land owners of this village, however, it has not been found either so said by the learned reference Court nor it has been established from the record.

Further, in the absence of any other cogent and direct evidence, the earlier award passed by the learned reference Court pertaining to the adjoining village, would certainly be a relevant piece of evidence. In the present case, it was the earlier award dated 29.09.2010 passed by the same reference Court pertaining to village Sunaria Khurd, whose land was also acquired vide same notification and for same purpose. In this view of the matter, this Court has found no reason nor any such reason has been pointed out by learned counsel for the State as to why the land owners of this village be also not granted the same amount of compensation, which has been granted to the villagers of village Sunaria Khurd for their acquired land. Thus, the land owners of village

Mayana are also held entitled to receive the same amount of compensation for their acquired land i.e. at the rate of Rs.15,52,500/- per acre, from the date of notification under Section 4 of the Act.

Village Khrawar

Learned reference Court vide its award dated 20.05.2011 has granted an amount of Rs.7,14,454/- per acre at flat rate to the land owners of this village. Although the learned reference Court in para 15 of its impugned award, has referred to the undisputed location and potentiality of the acquired land of this village, yet positive determinative factors thereof, have been illegally ignored. RW1 while appearing before the Court had to admit in his cross-examination that the acquired land was surrounded by 10+2 school for girls and boys, veterinary hospital, apex school, four temples and a hotel towards the left side of National Highway No.10 in the area of village Khrawar He admitted that there were factories in the revenue estate of village Khrawar including Mohinder Fasteners, LPS, Bossar etc. He also admitted that village Ismaila and Khrawar were having similar facilities in all respect.

Thus, from the testimony of this material witness RW1, it can be safely concluded that the acquired land was situated at a very advantageous location and the same could have been developed for residential, industrial, educational and commercial purposes. Not only this, there were numerous sale instances available on the record and in such a situation, the learned reference Court ought to have granted the same amount of compensation to the land owners of this village which had been granted to the land owners of village Sunaria Khurd. In fact, if one goes strictly as per the exact topography of the area, acquired land from this village Khrawar seems to be on better footing, as it was situated on National Highway No.10.

Further, once the learned reference Court itself has placed reliance and rightly so, on its earlier award dated 29.09.2010 pertaining to village Sunaria Khurd, while deciding the cases of village Dobh, there was no justified reason not to place reliance on that very award for the purpose of deciding the land references of this village as well. It is so said because all these villages were adjoining with each other and were also situated very close to the municipal limits of Rohtak city. Thus, considering the totality of facts and circumstances of the case noticed hereinabove, coupled with the relevant and position determinative factors of the acquired land from this village, the land owners of village Khrawar are also held entitled for the same amount of compensation, which has been granted to the land owners of village Mayana i.e. at the rate of Rs.15,52,500/- per acre, from the date of notification under Section 4 of the Act.

Neither any other argument was raised nor any contrary evidence available on record or any judicial precedents were pressed into service 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 so far as the appeals filed by the State of Haryana are concerned, the same have been found 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 deserve to be partly allowed and the same are hereby allowed to the extent indicated above. Treating all the land owners of abovesaid villages equally, oweing to the location and potentiality of their acquired land, land owners of all these villages are held entitled to receive the compensation for their acquired land at the same uniform rate of Rs.15,52,500/- per acre, from the date of notification under Section 4 of the Act. Besides this, the land owners shall also be entitled for all the statutory benefits available to them, under the relevant provisions of the Act.

Resultantly, with the observations made above, all the abovesaid 184 appeals stand disposed of in the abovesaid terms, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
28.01.2016 **JUDGE**
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