IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.2741 of 2012 and other connected matters
Date of decision: 10.02.2016

Gurpreet Singh

... Appellant

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Rakesh Gupta, Advocate
for the appellant(s) (in RFA Nos.2741 to 2747, 5745 to 5751, 6529, 6938, 6939, 7237 of 2012, 828 of 2015)

Ms. Monika Jalota, Advocate
for the appellant(s) (in RFA Nos.5085 to 5087 of 2012) and
for the respondent(s) (in RFA Nos.3981, 3986, 4002 of 2012)

Mr. Aakash Singla, Advocate
for the appellant(s) (in RFA No.7216 of 2012) and
for the respondent(s) (in RFA No.3991 of 2012)

None for the appellant(s) (in RFA No.5776 of 2012)

Mr. Yatinder Sharma, Addl. AG, Punjab.

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 53 appeals, out of which 29 appeals bearing Regular First Appeal Nos.3977 to 4002, 4356 to 4358 of 2012 filed by the State of Punjab and 24 appeals bearing Regular First Appeal Nos. 2741 to 2747, 5085 to 5087, 5745 to 5751, 5776, 6529, 6938, 6939, 7216, 7237 of 2012 & 828 of 2015 filed by the land owners, is being decided vide this common order, as all these appeals are arising out of the same acquisition, raising identical questions of law and facts. However, with the consent of learned counsel for the parties and for the facility of reference, facts are being culled out from RFA No.2741 of 2012 (Gurpreet Singh Vs. State of Punjab and others).

Briefly put, the facts necessary for disposal of these cases are that State of Punjab sought to acquire land measuring 53.63 acres from the revenue estates of different villages namely Chaura, Ghalori, Sher Majra, Ramgarh, Suniarheri, Dalanpur, Kheri Jattan and Alipur Araian at public expense for public purpose i.e. for construction of southern bye-pass for Patiala city. Accordingly, notification dated 09.04.2001 came to be issued under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short), which was followed by notification dated 06.04.2002 under Section 6 of the Act. Land Acquisition Collector, vide his common award No.1 dated 11.11.2002 granted the same amount of compensation i.e. Rs.5,00,000/- per acre for the total land acquired from the revenue estates of abovesaid villages.

Dissatisfied, land owners filed their objections under Section 18 of the Act and as a consequence thereof, land referneces were forwarded to the learned reference Court. As many as 28 land references were decided together by the learned reference Court vide common impugned award dated 30.03.2012, enhancing the amount of compensation at uniform rate for the total land acquired from the abovesaid villages, to Rs.500/- per square yard i.e. Rs.24,20,000/- per acre.

Both the parties felt aggrieved against the impugned award passed by the learned reference Court. 28 appeals have been filed by the State of Punjab, seeking reduction in the compensation granted by the learned reference Court, whereas 24 appeals have been filed by the land owners, seeking further enhancement in the compensation for their acquired land. That is how, these 52 appeals are being decided together. It is pertinent to note here that RFA No.828 of 2015 has arisen out of reference Court award dated 20.08.2014 but since it also pertains to the same acquisition, it is also being decided along with abovesaid other cases.

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 view that so far as the appeals filed by the State of Punjab are concerned, same are bereft of merit and liable to be dismissed, whereas the appeals filed by the land owners deserve to be partly accepted, suitably enhancing the compensation for their acquired land. To say so, reasons are more than one, which are being recorded hereinafter.

Learned counsel for the land owners-appellants submit that all these cases would be squarely covered by the order dated 11.01.2016 passed by this Court in **RFA No.1501 of 2003 (Sukhdev Singh and others Vs. State of Punjab)** so far as the base market value of the land is concerned. They further submit that the land owners in these appeals would be entitled for annual increase at the rate of 15% and on cumulative basis for the time gap of 07 years and 08 months.

On the other hand, learned counsel for the State vehemently contended, opposing the argument raised by learned counsel for the land owners-appellants, that present set of cases would not be covered by the order dated 11.01.2016 in **Sukhdev Singh**'s case (supra). He submits that the land in **Sukhdev Singh**'s case (supra) was acquired for the construction of northern bye-pass, whereas in the instant bunch of cases land was acquired for the construction of southern bye-pass for Patiala city.

Keeping in view the peculiar fact situation of the cases in hand, this Court has found that so far as the market value of the acquired land is concerned, judgment of this Court in **Sukhdev Singh**'s case (supra) would have a direct bearing. It is so said because as per the site plan Ex.P1, area of two villages namely Ghalori and Chaura had already come within the municipal limits. Residential Sector-28 was situated in the revenue estate of Village Ghalori which was developed by Punjab Urban Development Authority. Similarly, residential Sector-26 was situated in the revenue estate of village Chaura and it was also developed by the same authority, whereas the revenue estates of other villages were touching the municipal area of Patiala.

Had the acquired land been situated at far off place, the same could not have been acquired for construction of southern bye-pass. The very fact that the land was acquired for construction of southern bye-pass for Patiala city, itself goes a long way to show that the acquired land was situated on the very outskirts of Patiala city, because of which it was semi-urban land in its nature. Thus, when the location and potentiality of the land acquired for northern bye-pass and southern bye-pass for Patiala city are minutely compared with each other, the acquired land in the cases in hand, seems to be placed on a better footing. Having said that, this Court feels no hesitation to conclude that the present set of cases is covered by the order dated 11.01.2016 passed by this Court in **Sukhdev Singh**'s case (supra).

Now, the next question that falls for consideration of this Court is as to how much was the time gap between these two acquisitions and land owners of instant acquisition are entitled for what percentage of annual increase. So far as the time gap is concerned, it is a matter of record. In **Sukhdev Singh'**s case (supra), the notification under Section 4 of the Act came to be issued on 05.08.1993, whereas in the instant cases notification under Section 4 of the Act was issued on 09.04.2001, thus, there was a time gap of 07 years and 08 months.

Striking a balance with a view to do complete and substantial justice between the parties and proceeding on a constructive and pragmatic approach for the said purpose, this Court is of the considered view that the land owners in these cases would be entitled at least for 92% increase for the time gap of 07 years and 08 months, even if they are held entitled for 12% annual increase for this time gap. Keeping in view the totality of facts and circumstances of the case, 15% annual increase is not being granted to the land owners in these appeals, because the total land acquired from different villages was not enjoying exactly the same potential. Cumulative method of annual increase is also not being adopted in the present set of cases, because of its peculiar fact situation, as noticed hereinabove.

It is also a matter of record that this Court has assessed the market value of the acquired land in **Sukhdev Singh'**s case (supra) at the rate of Rs.730/- per square yard as on 05.08.1993. In view of what has been discussed hereinabove, after granting the benefit of 92% increase at flat rate for this time gap of 07 years and 08 months at the rate of 12% annual increase, the land owners in these cases would be entitled to receive the compensation for their acquired land at the uniform rate of Rs.1400/- per square yard, from the date of notification under Section 4 of the Act.

Coming to the severance charges, the learned reference Court has granted only 5% in this regard, which can be said to be on very lower side. Oweing to the peculiar fact situation including the location and potentiality of the acquired land, this Court is of the view that it would be just and reasonable to grant 30% of the market value to the land owners in these cases on account of severance charges. In this regard, it has gone undisputed on record that the unacquired land has been left totally useless, because it got bifurcated due to acquisition. Granting anything less than 30% on account of severance charges would be totally inadequate and would not meet the ends of justice. Ordered accordingly.

No contrary evidence or judicial pronouncements were pressed into service nor any other argument was raised on behalf of either side.

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

The appeals filed by the land owners deserve to be partly accepted and the same are hereby allowed to the extent indicated above. The land owners are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.1400/- per square yard, from the date of notification under Section 4 of the Act. They are also held entitled to receive 30% of the abovesaid market value on account of severance charges. Besides this, land owners shall be entitled for all the statutory benefits available to them, under the relevant provisions of the Act.

Resultantly, with the observations made above, all these 52 appeals stand disposed of, in the abovesaid terms, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

10.02.2016
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