HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

RFA-7398-2011 and connected matters
Date of decision:19.2.2016

State of Haryana and others

...Appellants

Versus

Ghisa Ram

...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.Jaivir Yadav, Advocate for the appellants in RFA Nos.6069 to 6075 of 2013 and RFA No.1421 of 2014.
Ms.Vibha Tiwari, AAG, Haryana and
Mr.Abhinash Jain, AAG, Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

This batch of 29 appeals, out of which 21 appeals bearing RFA Nos.7398 to 7418 of 2011 have been filed by the State of Haryana and remaining 8 appeals bearing RFA Nos.6069 to 6075 of 2013 and RFA No.1421 of 2014 have been filed by the land owners and Cross-Objections Nos.19-CI of 2012 & 3-CI of 2012, is being decided vide this common order, as all these appeals arise out of same acquisition and raise 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.7398 of 2011** (State of Haryana and others v. Ghisa Ram).

Facts necessary for disposal of instant batch of appeals are that State of Haryana sought to acquire land measuring 8.859 acres of land, out of the revenue estates of three villages, situated near Rewari, at public expenses for public purpose, i.e. for construction of Kaluwas Minor. Accordingly, notification under Section 4 of the Land Acquisition Act, 1894 (`the Act' for short) was issued on 4.4.2007, which came to be followed by notification dated 23.4.2007 under Section 6 of the Act. Land measuring 0.915 acres was acquired from village Aspur, land measuring 5.289 acres was acquired from village Gokalgarh and land measuring 2.654 acres was acquired out of the revenue estate of village Kaluwas.

Land acquisition collector, vide his Award No.9 dated 31.8.2007, granted the compensation at a uniform rate of Rs.16 lacs per acre. Dissatisfied, land owners filed their objections under Section 18 of the Act and as a consequence thereof, 21 land references were forwarded to the learned reference court. All these 21 land references came to be decided by the learned reference court vide its common impugned award dated 25.8.2011, enhancing the amount of compensation for the acquired land at a uniform rate of Rs.20 lacs per acre.

Both the parties felt aggrieved against the above-said impugned award passed by the learned reference court. State of Haryana has filed 21 appeals, seeking reduction in the amount of compensation awarded by the learned reference court, whereas the land owners in their appeals are seeking further enhancement in the amount of compensation for their acquired land. That is how, all these cases 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 the appeals filed by the State of Haryana have been found bereft of merit and are liable to be dismissed, whereas the appeals filed by the land owners deserve to be partly allowed, suitably enhancing the amount of compensation for their acquired land. To say so, reasons are more than one, which are being recorded hereinafter.

A bare reading of the impugned award passed by the learned reference court would show that all the seven sale instances produced by the State of Haryana before the learned reference court, were disclosing the market value much less than what had been granted by the land acquisition collector. The learned reference court was fully justified, while ignoring these sale instances because all the sale examplers, relied upon by the State of Haryana, were hit by the provisions of Section 25 of the Act. The finding recorded by the learned reference court in this regard deserves to be upheld. Similarly, the learned reference court committed no error of law, while not placing reliance on all the seven sale instances, relied upon by the land owners, because those were pertaining to very small pieces of land. However, the learned reference court proceeded on guess work, assessed the market value of the acquired land which has been found on very lower side.

In view of what has been discussed hereinabove, this Court is not left with many other options to assess the market value of the acquired land, except to follow another order passed by this Court today in **RFA No.48 of 2012 (Harphool v. State of Haryana and others)**, whereby a bunch of 34 appeals has been decided, including qua the land of village Gokalgarh, whose land has been acquired in the instant acquisition as well. Although, in **Harphool's** case (supra), the land measuring 58.93 acres was acquired from the revenue estate of village Gokalgarh alone, vide notification dated 14.11.2006 under Section 4 of the Act, for public purpose i.e. for development and utilization of land for the outer ring road/green belt on both sides of Pataudi Road upto Jhajjar Road at Rewari and in the instant case, land was acquired for construction of Kaluwas Minor, yet the order passed by this Court in **Harphool's** case (supra) can safely be made the basis for assessing the market value of the acquired land, in the present set of cases, after applying a reasonable cut on the market value assessed in **Harphool's** case (supra).

As rightly suggested by the learned counsel for the State that in the peculiar fact situation, a cut of 75% may be imposed on the market value assessed in **Harphool's** case (supra), this Court is of the considered view that suggestion made by the learned counsel for the State is worth acceptance. Learned counsel for the land owners has contended that any cut beyond 40% would be unreasonable, because one of the revenue estates was common, that is of village Gokalgarh in the present case as well as in **Harphool's** case (supra).

In the absence of any other better evidence and while striking a balance to do complete and substantial justice between the parties, proceeding on a holistic approach, this Court is of the considered opinion that it would be just and expedient to apply 75% cut, as suggested by learned counsel for the State, on the market value assessed in **Harphool's** case (supra). It is so said, because there is no clinching evidence to show the actual potentiality of the acquired land. No doubt, land of village Gokalgarh has been acquired in both these acquisitions, i.e. in the instant set of appeals as well as in **Harphool's** case (supra), but that factor alone would not be sufficient to award the same amount of compensation to the land owners in the cases in hand, which was granted to the land owners in **Harphool's** case (supra).

Keeping in view the peculiar facts and circumstances of the case noticed hereinabove, it can be safely concluded that 75% cut on the market value assessed in **Harphool's** case (supra) would not be on higher side. The contention raised by learned counsel for the land owners in this regard for 40% cut has been found misplaced and cannot be accepted.

It is a matter of record that the market value has been assessed at Rs.4044/- per square yard in **Harphool's** case (supra). After applying 75% cut on this market value of Rs.4044/- per square yard, the amount comes to Rs.1011/- per square yard, which is equivalent to Rs.48,93,240/- per acre. Accordingly, the land owners in the instant acquisition have been found entitled to receive the compensation for their acquired land at the rate of Rs.48,93,240/- per acre from the date of notification under Section 4 of the Act. Ordered accordingly.

So far as the location and potentiality of the acquired land is concerned, part of land of village Gokalgarh had earlier been acquired for residential purpose for development of Sectors 6 and 7 by HUDA at Rewari. Thereafter, in **Harphool's** case (supra), some land of village Gokalgarh was acquired for the purpose of development and utilization thereof for outer ring road/green belt etc. Again, some part of acquired land in the instant acquisition, is also from the revenue estate of village Gokalgarh.

Further, the revenue estates of village Gokalgarh, Aspur and Kaluwas adjoin each other, which has been so depicted in the site plan, available on record. This is the reason that the above-said 75% cut has been imposed on the market value assessed by this Court in **Harphool's** case (supra), with a view to grant a reasonable amount of compensation to the land owners, in these appeals, for their acquired land. Hon'ble the Supreme Court in **Mehrawal Khewaji Trust (Registered), Faridkot and others v. State of Punjab and others, (2012) 5 SCC 432** has held that the land owners are entitled to receive the best price for their acquired land.

Let it be specifically recorded here that no better evidence or judicial precedents were pressed into service nor any other argument was raised on behalf of either of the parties.

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 of Haryana are 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 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.48,93,240/- per acre from the date of notification under Section 4 of the Act. Besides this, the land owners shall also be entitled to all the statutory benefits available to them under the relevant provisions of the Act.

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

19.2.2016 **(RAMESHWAR SINGH MALIK)**
mks **JUDGE**