

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

RFA No.6676 of 2012 and other connected matters

Date of decision:23.5.2016

Gobind and another

...Appellant(s)

Versus

The State of Haryana and another

...Respondents

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: Ms.Munisha Gandhi, Sr. Advocate with
Mr.Ashwani Gaur, Advocate for the appellant(s) in
RFA Nos.1114 and 4490 of 2013 and for the respondent(s) in
RFA Nos.167 and 184 of 2013.
Mr.Sandeep Sharma, Advocate for the appellant(s) in
RFA No.6676 of 2012.
Mr.Ashok Tyagi, Advocate,
for the appellant(s) in RFA Nos.2768 to 2772, 2852 and 6422
of 2013 and for the respondent(s) in RFA Nos.172, 175 and
177 of 2013.
Mr.Aditya Jain, Advocate for the appellant(s) in
RFA Nos. 2137, 2773 and 2774 of 2013 and for the
respondent(s) in RFA No.171 and 176 of 2013.

Mr.Arun Beniwal, DAG, Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

This batch of 35 Regular First Appeals, out of which appeals bearing RFA Nos.167 to 186, 1325, 2895 of 2013 filed by the State of Haryana and remaining appeals bearing RFA Nos.6676 of 2012, 1114 of 2013, 2137, 2768 to 2774, 2852, 4490 and 6422 of 2013, filed by the land owners, 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. However, with the consent of learned counsel for the parties and for the facility of reference, facts are being culled out from **RFA No.6676 of 2012**

(Gobind and another Vs. The State of Haryana and another).

Briefly put, facts necessary for disposal of instant set of appeals are that State of Haryana sought to acquire the land measuring 34.81 acres, out of the revenue estate of village Basai, at public expenses for public purpose; namely for development and utilisation of land for water works in Sector 100 in Gurgaon. Accordingly, notification dated 4.2.2008 came to be issued under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short), which was followed by notification dated 12.2.2008 under Section 6 of the Act. Land Acquisition Collector ('LAC' for short), vide his Award No.20 dated 29.9.2008, assessed the market value of the acquired land at the uniform rate of Rs.60,00,000/- per acre.

Dissatisfied with the market value assessed by the LAC, land owners filed their objections under Section 18 of the Act and as a consequence thereof, land references were forwarded to the learned reference court for its decision. Learned reference court vide its impugned award dated 15.10.2012 decided as many as 21 land references, assessing the market of the acquired land, at the uniform rate of Rs.1,75,00,000/- per acre.

Both the parties felt aggrieved against the above-said impugned award dated 15.10.2012 passed by the learned reference court. State of Haryana has filed the appeals, seeking reduction in the amount of compensation granted by the learned reference court, whereas land owners have approached this Court, seeking further enhancement in the amount of compensation for their acquired land. That is how, all these 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 keeping in view the totality of facts and circumstances of these cases, the appeals filed by the State of Haryana have been found without any merit and the same are liable to be dismissed. However, 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.

Learned senior counsel for the appellants-land owners has been found well justified in contending that since the learned reference court placed reliance on its earlier award dated 29.9.2012 Ex.PX and this Court had already decided the appeals against the above-said award dated 29.9.2012 vide order dated 20.5.2016 passed in **RFA No.4475 of 2012 (Ram Chander and another Vs. State of Haryana and others)**, instant set of appeals would be squarely covered by the order dated 20.5.2016 passed by this Court. Learned senior counsel for the appellants also submits that very many appeals against the above-said award Ex.PX were from village Basai itself, out of whose revenue estate the land was acquired by way of instant acquisition.

So far as the evidence led by the State of Haryana before the learned reference court is concerned, learned senior counsel for the appellants-land owners would submit that all the sale-deeds relied upon by the State were disclosing much lesser market price than granted by the LAC. All the sale-deeds produced by the State were not only hit by the provisions of Section 25 of the Act but were also liable to be ignored, on the basis of their individual merits. She concluded by submitting that since the area sold

by sale-deeds Ex.PW1/B dated 29.10.2007 and Ex.PW1/A dated 30.10.2007, when put together, was measuring more than 4 acres, no cut was warranted to be imposed much less 30% cut, as illegally imposed by the learned reference court. She prays for dismissal of the appeals filed by the State of Haryana and for allowing the appeals filed by the land owners, removing 30% cut on the market price disclosed in the above-said sale-deeds Ex.PW1/A and Ex.PW1/B, as well as by following the order dated 20.5.2016 passed by this Court, pertaining to the immediate preceding acquisition of this very village, wherein notification under Section 4 of the Act was issued on 25.1.2008.

When confronted with the above-said factual as well as legal aspect of the matter, learned counsel for the State sought to reiterate the arguments raised by him before this Court, in the appeals arising out of village Basai, pertaining to the acquisition dated 25.1.2008. However, so far as above-said factual as well as legal aspect of the matter is concerned, learned counsel for the State could not deny the same and rightly so, it being a matter of record.

It has gone undisputed before this Court that the market price, disclosed in the above-said two sale-deeds Ex.PW1/B and Ex.PW1/A dated 29.10.2007 and 30.10.2007, respectively, whereby land measuring more than 4 acres was sold out of the revenue estate of Basai itself, was Rs.2,50,00,000/- per acre. It is also a matter of record that this Court has already decided the appeals from village Basai itself, arising out of above-said award dated 29.9.2012 (Ex.PX), vide order dated 20.5.2016 assessing the market value of the land acquired from this very village Basai vide notification dated 25.1.2008, at the rate of Rs.2,50,00,000/- per acre,

meaning thereby 30% cut, imposed on the market price disclosed by these two sale-deeds, was removed.

In view of what has been discussed hereinabove, this Court has found no reason to treat the land owners in these appeals differently. Reasons are more than one. Firstly, there was gap of only 10 days in two acquisitions. In the earlier acquisition, notification under Section 4 of the Act was issued on 25.1.2008, whereas in the instant set of appeals, it was issued on 4.2.2008. Land of village Basai itself was acquired by both these acquisitions. Almost identical set of evidence was relied upon by both the parties. While deciding the appeals arising out of earlier acquisition, this Court vide its order dated 20.5.2016, has held that since land measuring more than 2 acres was sold by said-deeds Ex.P7 and Ex.P9, imposition of 30% cut on the market price disclosed therein was not warranted.

It has been so said by this Court, after placing reliance on more than one judgments of the Hon'ble Supreme Court and a Division Bench of this Court. Reiterating the same reasons and following the same analogy, with a view to avoid repetition and for the sake of brevity, it is held that since land measuring more than 4 acres was sold by way of two sale-deeds Ex.PW1/A and Ex.PW1/B in the instant set of appeals, imposition of 30% cut was illegally applied by the learned reference court. Such a misconceived finding cannot be upheld and the same is hereby set aside. The view that has been taken by this Court also finds support from the order dated 20.5.2016 passed by this Court in **Ram Chander's** case (supra).

Let it be specifically recorded here that no other 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 cases 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 allowed to the extent indicated above. Accordingly, the land owners are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.2,50,00,000/- per acre, from the date of notification under Section 4 of the Act. Besides this, the land owners shall 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 appeals stand disposed of, in the afore-said terms, however, with no order as to costs.

23.5.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE