IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.751 of 2012 and other connected matters
Date of decision: 04.02.2016

Gopi Ram Yadav and others

... Appellants

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Ashok Tyagi, Advocate and
Mr. Gaurav Tyagi, Advocate
for the appellant(s) (in RFA Nos.1550 to 1553, 1958, 3006, 3007 of 2012) and
for the respondent(s) (in RFA Nos.3628, 3679, 3594, 3586, 3654 of 2012)

Mr. Pankaj Jain, Advocate
for the appellant(s) (in RFA No.5808 of 2012)

Mr. Sandeep Sharma, Advocate
for the appellant(s) (in RFA No.751, 1199, 6299 of 2012)

Mr. J.P. Ahlawat, Advocate for
Mr. N.D. Achint, Advocate
for the appellant(s) (in RFA Nos.1182, 2820 to 2822, 4748 of 2012)

Ms. Pratibha Yadav, Advocate
for the appellant(s) (in RFA Nos.2670, 5409, 915 of 2012)

Mr. Mohit Nehra, Advocate for
Mr. Jaivir Yadav, Advocate
for the appellant(s) (in RFA No.1789 of 2013)

Mr. Sudhir Aggarwal, Advocate
for the appellant(s) (in RFA Nos.1097 to 1106, 1109 to 1112, 1507 to 1514, 1489 to 1494, 1944, 1936, 1209 of 2012)

Mr. Vijay Kumar, Advocate for
Mr. Amit Jain, Advocate
for the appellant(s) (in RFA Nos.1073 to 1081 of 2012)

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Mr. Pritam Singh Saini, Advocate
for the appellant(s)-HSIDC (in RFA Nos.3551 to 3685 & 3738 of 2012)

Mr. R.A. Yadav, Advocate
for the appellant(s) (in RFA Nos.1203, 1963, 4732, 7394 of 2012).

Mr. Shailendra Jain, Senior Advocate with
Mr. Bhagender, Advocate
for the appellant(s) (in RFA Nos.1563, 1846 to 1852, 1967, 1969, 4074, 4727, 6220 of 2012)

Mr. K.K. Saini, Advocate for
Mr. S.K. Yadav, Advocate
for the appellant(s) (in RFA Nos.2179 to 2188, 3304, 3305 of 2012).

Mr. Gautam Kaile, Advocate for
Mr. Rajiv Sharma, Advocate
for the appellant(s) (in RFA No.7197 of 2012) and
for the cross-objectors (in RFA Nos.3557, 3587, 3592, 3637, 3649 of 2012)

None for the appellant(s) (in RFA Nos.1953, 4823, 7180, 7226 of 2012).

Ms. Avnika Gupta, Advocate for
Mr. Vinod S. Bhardwaj, Advocate
for the respondent(s)/cross-objector(s) (in RFA No.3579 of 2012)

Mr. Abhinash Jain, AAG, Haryana.

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 230 appeals, out of which 136 appeals bearing Regular First Appeal Nos.3551 to 3685 & 3738 of 2012 have been filed by the Haryana State Industrial Development Corporation ('HSIDC' for short) (now HSIIDC) and remaining 94 appeals bearing Regular First Appeal Nos.751, 915, 1073 to 1081, 1097 to 1106, 1109 to 1112, 1182, 1199, 1203, 1209, 1489 to 1494, 1507 to 1514, 1550 to 1553, 1563, 1846 to 1852, 1936, 1944, 1953, 1958,

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1963, 1967, 1969, 2179 to 2188, 2670, 2820 to 2822, 3006, 3007, 3304, 3305, 4074, 4727, 4732, 4748, 4823, 5409, 5808, 6220, 6299, 7180, 7197, 7226, 7394 of 2012 & 1789 of 2013 filed by the land owners, is being decided vide this common order, as all these appeals and cross-objections No.71-CI to 75-CI of 2013 & 22-CI of 2015 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.751 of 2012 (Gopi Ram and others Vs. State of Haryana and others).

Facts are hardly in dispute. Land measuring 438 kanal 11 marla was sought to be acquired by the State of Haryana out of the revenue estates of as many as eight villages namely Dhankot, Kherki Majra, Garoli Kalan, Harsaru, Hayatpur, Badha, Navada Fatehpur and Kankrola at public expense for public purpose; namely for laying water carrier channels/pipes, raw water storage, sedimentation tanks and pumping sets for industrial complex of Chaudhary Devi Lal Industrial Model Township, Manesar, District Gurgaon. Accordingly, notification under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) was issued on 22.02.2002, which was followed by notification dated 28.03.2002 under Section 6 of the Act. Land Acquisition Collector, vide his common award No.2 dated 03.12.2002 granted the compensation to the land owners of all the abovesaid eight villages as under: -

S. No.	*Name of Village*	*Chahi*	*Ala Barani*	*Bhood*	*Banjar*	*Gair Mumkin*
1.	*Dhankot*	*7,00,000*	*7,00,000*	*7,00,000*	*7,00,000*	*7,00,000*
2.	*Kherki Majra*	*4,25,000*	---	*3,00,000*	*3,00,000*	*5,10,000*
3.	*Garoli Kalan*	*6,00,000*	---	*5,00,000*	*5,00,000*	*12,00,000*
4.	*Harsaru*	*5,50,000*	---	*3,50,000*	*3,50,000*	*6,00,000*
5.	*Hayatpur*	*5,00,000*	---	*4,00,000*	*4,00,000*	*6,00,000*
6.	*Badha*	*5,00,000*	---	*3,50,000*	*3,50,000*	*7,20,000*

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7.	*Navada Fatehpur*	*5,50,000*	*---*	*5,00,000*	*5,00,000*	*7,20,000*
8.	*Kankrola*	*3,25,000*	*---*	*2,00,000*	*2,00,000*	*,20,000*

Dissatisfied, the land owners filed their objections under Section 18 of the Act and as a consequence thereof, as many as 136 land references were forwarded to the learned reference Court, which came to be decided vide common award dated 22.12.2011. Learned reference Court ignored the belting system and granted compensation for the acquired land at flat rate of Rs.26,52,819/- per acre. Learned reference Court also granted 20% of the abovesaid market value on account of severance charges under Section 23 (thirdly) of the Act.

Both the parties felt aggrieved against the abovesaid impugned award passed by the learned reference Court. 136 appeals have been filed by the beneficiary department i.e. HSIDC, whereas 94 appeals as well as cross-objections have been filed by the land owners. That is how, all these 230 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 keeping in view the totality of facts and circumstances of these cases, the appeals filed by the HSIDC have been found bereft of merit and the same are liable to be dismissed, whereas the appeals and cross-objections filed by the land owners deserve to be partly allowed, suitably enhancing the amount of compensation for the acquired land. To say so, reasons are more than one, which are being recorded hereinafter.

Location of the acquired land is not in dispute. As per the site plan Ex.RW2/A, the land which was acquired from the abovesaid different villages

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was located not very far from the National Highway No.8 which goes from Delhi to Jaipur. This was the reason that the learned reference Court has rightly ignored the belting system, granted the uniform rate of compensation for the land acquired out of all these abovesaid eight villages and said finding recorded by the learned reference Court deserves to be upheld.

In this regard, learned reference Court has recorded cogent findings in para 22 of the impugned award and the relevant part thereof reads as under: -

> *"Still further, this court finds no justification in awarding different compensation for different kinds of land. The entire land had been acquired by way of the same notification and for the same public purpose. It has been repeatedly held that where land is acquired in different villages in the near vicinity of each other, it would be wholly wrong to classify the land on the basis of agricultural quality and it would be appropriate to fix a uniform price for the land acquired in all villages. Reliance in this regard can be placed upon Harchal Singh Vs. The State of Punjab (supra), Ram Narain Vs. State of Haryana (supra), Surjan Singh and others Vs. State of Punjab and others (supra), Raj Kumar Vs. State of Punjab (supra) and Tek Chand and others Vs. State of Haryana....."*

Despite making his best efforts, learned counsel for the beneficiary department i.e. HSIDC could not substantiate his argument in this regard as to why the total acquired land should not be granted the market value at the uniform rate. It is also not in dispute that the land was acquired from abovesaid all the eight villages vide same notification and for same purpose. Once the acquired land was going to be utilized for one and the same purpose, exact

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location and kind of land would be hardly of any consequence. Having said that, this Court feels no hesitation to conclude that the learned reference Court committed no error of law, while ignoring the belting system and granting compensation at the uniform rate.

Learned Senior Counsel for the land owners argued that the judgment dated 23.09.2014 passed by this Court in **RFA No.2174 of 2012 (Smt. Savitri Devi Vs. Land Acquisition Collector and others)** which pertains to slightly later acquisition dated 29.01.2003, may be made the basis for assessing the market value of the acquired land in these cases. He further submits that the judgment rendered by this Court in **Savitri Devi**'s case has been upheld by the Hon'ble Supreme Court as well. However, learned counsel for HSIDC has strongly objected to this, contending that the judicial precedents pertaining to later acquisition cannot be made the basis for assessing the market value of land acquired earlier, as in the present set of appeals.

After giving thoughtful consideration to the rival contentions, this Court is of the view that learned counsel for beneficiary department i.e. HSIDC is justified in contending that once the sale instances are available on record, the judgments relating to the later acquisition would not be appropriate to be made the basis for assessing the market value of the cases in hand. Coming to the sale instances discussed in detail by the learned reference Court in para 20 of the impugned award, learned counsel for the parties are ad idem that the average market value of the relevant sale instances available on record has been rightly arrived at by the learned reference Court at Rs.15,00,000/- per acre in the month of May/June, 1995.

Then comes the issue whether any cut would be warranted to be applied in the present case. It is an established principle of law that applying a

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particular percentage of cut on the market value assessed on the basis of sale instances of smaller pieces of land, is not an absolute rule. Neither it is desirable nor it is possible to lay down a straight-jacket formula in this regard, which may be made applicable in every given situation. It is also equally true that each case is to be decided on its own peculiar facts and circumstances. So far as the fact situation of the present case is concerned, location of the acquired land is not in dispute. Potentiality of the acquired land can also be assessed from the material fact that it was located on or near the National Highway No.8. In such a situation, it can be safely concluded that no cut was warranted to be imposed in the present case.

The abovesaid view taken by this Court also finds support from a Division Bench judgment 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 turn, was based on the law laid down by the Hon'ble Supreme Court. The relevant observations made by the Division Bench in paras 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*

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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 utilise 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*

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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."

Respectfully following the law laid down by the Hon'ble Supreme Court and followed by Division Bench of this Court, in the cases referred to hereinabove, this Court is of the considered view that it would be just and expedient not to impose any cut on the abovesaid market value of

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Rs.15,00,000/- per acre.

The next question that falls for consideration of this Court is the annual increase for the time gap between the abovesaid sale instances and date of notification under Section 4 of the Act. The sale instances were of the month of May/June, 1995, whereas the notification under Section 4 of the Act came to be issued on 22.02.2002, thus, there was a time gap of six years and nine months. The land owners would be entitled for 12% annual increase for this time gap. After adopting the cumulative method of calculation and granting the benefit of 12% annual increase on the abovesaid market value of Rs.15,00,000/- per acre, total amount would come to Rs.32,27,198/- per acre, which is rounded off to Rs.32,27,200/- per acre. The cumulative method of calculation has been adopted in view of the law laid down by the Hon'ble Supreme Court in **Ashok Kumar Vs. State of Haryana, 2015 (3) Scale 242.** Accordingly, the land owners are held entitled to receive the compensation at the rate of Rs.32,27,200/- per acre for their acquired land from the date of notification under Section 4 of the Act. Should there be any ambiguity, it is clarified that the land owners shall also be entitled for 20% of the abovesaid enhanced market value on account of damages for severance under Section 23 (thirdly) of the Act.

No contrary 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 beneficiary department i.e. HSIDC are wholly misconceived, bereft of merit and without any substance, thus, these must fail and the same are hereby dismissed.

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The appeals and cross-objections 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 at the rate of Rs.32,27,200/- per acre and also the 20% thereof on account of damages for severance, from the date of notification under Section 4 of the Act. Besides this, the 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 230 appeals and cross-objections stand disposed of, in the abovesaid terms, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

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