

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

**RFA No.824 of 2012 & connected matters
Date of decision:5.2.2016**

Smt.Bhagwani and others

...Appellants

Versus

State of Haryana and others

...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: Mr.Arun Yadav, Advocate for the appellants in
RFA Nos.1062 to 1067 of 2012 & 1932 of 2013.
Mr.S.K.Yadav, Advocate for the appellants in
RFA Nos.824 to 826 of 2012 and for the respondents in
RFA Nos.968, 976 and 998 of 2012.
Mr.S.S.Khurana, Advocate for the appellants in
RFA Nos.1155 to 1176, 1464 to 1471, 1590, 1921, 2748 to
2753, 2780 to 2783, 3009 to 3011, 7144, 7145 and 7187 of
2012 and RFA No.1082 of 2013.
Mr.J.P.Jangu, Advocate for the appellants in
RFA Nos.3343 to 3346 of 2015.
Mr.Gulshan Nandwani, Advocate for the appellants in
RFA Nos.5440 to 5446 of 2015.
Mr.Arun Beniwal, DAG, Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

This batch of 150 appeals, out of which 70 appeals have been filed by the land owners bearing RFA Nos.824 to 826, 1062 to 1067, 1155 to 1176, 1464 to 1471, 1590, 1921, 2748 to 2753, 2780 to 2783, 3009 to 3011, 7144, 7145 and 7187 of 2012, 1082 and 1932 of 2013, 3343 to 3346 and 5440 to 5446 of 2015 and 80 appeals have been filed by the State of Haryana bearing RFA Nos.934 to 999 of 2012, 6459 of 2012 and 3105 to 3117 of 2015, 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 both the parties and for the facility of reference, facts are being culled out from RFA No.824 of 2012 (Smt.Bhagwani and others v. State of Haryana and others).

Facts necessary for disposal of instant batch of appeals, are that the State of Haryana sought to acquire the land measuring 19.56 acres, out of the revenue estates of as many as 10 villages, at public expenses for public purpose namely; for construction of Rewari drain. Accordingly, notification under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) was issued on 6.7.2006, which was followed by notification dated 17.7.2006 under Section 6 of the Act. The area of land acquired, village wise, was as under:-

<i>Name of village</i>	<i>Area of acquired land (acres)</i>
Kamalpur	1.44
Davlawas	1.64
Dhamlaka	3.36
Bhawari	3.77
Bharawas	2.82
Aska	0.24
Akbarpur	0.24
Jatuwas	2.04
Dawana	2.8
Daliaki	1.21

Land acquisition collector announced different village wise awards, granting the compensation at the uniform rate of Rs.12,50,000/- per acre. The details of awards passed are as under:-

<i>Award No.</i>	<i>Date</i>	<i>Village</i>	<i>Amount in rupees (per acre)</i>
34R	07/02/07	Kamalpur	12,50,000/-
25R	24.1.2007	Davlawas	-do-
26R	24.1.2007	Dhamlaka	-do-
27R	24.1.2007	Bhawari	-do-
28R	24.1.2007	Bharawas	-do-
29R	24.1.2007	Aska	-do-
30R	24.1.2007	Akbarpur	-do-
31R	07/02/07	Jatuwas	-do-
32R	07/02/07	Dawana	-do-
33R	07/02/07	Daliaki	-do-

Dissatisfied, the 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. As many as 66 land references came to be decided by the learned reference court vide its common impugned award dated 23.9.2011, pertaining to all the above-said 10 villages. Again, the learned reference court granted the compensation at the uniform rate of Rs.20 lacs per acre to all the land owners for their acquired land. Vide award dated 19.12.2014, another set of 14 land acquisition cases, was decided by the learned reference court, pertaining to village Bharawas. He relied upon his abovesaid earlier award dated 23.9.2011 and granted the same amount of compensation to the land owners @ Rs.20 lacs per acre. Again, vide award dated 13.8.2012, the learned reference court decided another land acquisition case from village Bharawas, relying upon the above-said awards and granted the same amount of compensation of Rs.20 lacs per acre.

Both the parties felt aggrieved against the above-said impugned awards passed by the learned reference court. State of Haryana has filed as many as 80 appeals, seeking reduction in the amount of compensation. Remaining 70 appeals have been filed by the land owners as they are seeking further enhancement in the compensation for their acquired land. That is how, the above-said 150 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 deserve to be partly allowed, suitably enhancing the amount of compensation for their acquired land, for the following more than one reasons.

It is a matter of record that both the parties led voluminous documentary as well as oral evidence, in support of their respective stands taken before the learned reference court. The land owners produced as many as 59 sale instances, whereas 21 sale instances were produced by the State. In both the sets of sale instances produced by the parties, some sale instances were post acquisition and the same were rightly ignored by the learned reference court. However, a close perusal of the impugned award passed by the learned reference court and particularly its findings recorded in paras 36 to 39, whereby very many sale instances produced by the land owners were ignored solely for the reason that the land was purchased by some builders, cannot be sustained. It is so said because Hon'ble the Supreme

Court has held in **Mehrawal Khewaji Trust (Registered), Faridkot and others v. State of Punjab and others, (2012) 5 SCC 432** that the land owners are entitled for receiving the best price for their acquired land.

Another cardinal principle of law which can be pressed into service in this regard is that the sale-deeds would disclose the true market value at which a prospective buyer was ready to purchase and a prospective seller was ready to sell. What will be the end use of the land purchased by the vendee would not be a negative determinative factor for assessing the market value of the acquired land. Thus, the argument raised by the learned counsel for the State that these numerous sale-deeds, though pertaining to large tracks of land sold, were rightly ignored by the learned reference court, has been found wholly misplaced and the same cannot be accepted. Having been confronted in this regard, learned counsel for the State could not refer to any relevant provision of law or any judicial precedent in this regard and rightly so, there being none. It is also very pertinent to note here that genuineness of all the sale deeds relied upon by the land owners have not been disputed on behalf of the State at any point of time.

Admittedly, there was no other relevant award passed earlier by any learned reference court which might be taken into consideration for assessing the market value of the acquired land in the instant set of cases. It is also not in dispute that both the parties produced numerous sale instances from the same very revenue estates, whose land was acquired and all the sale instances were regarding the land measuring more than one acre, sold vide each sale-deed. Thus, these cannot be said to be sales pertaining to small pieces of land and would certainly disclose the realistic and genuine

market value, immediately before the notification under Section 4 of the Act.

In such a situation, after considering all the positive and negative determinative factors of the acquired land, with a view to do complete and substantial justice between the parties and taking a holistic view of the matter, this Court is of the considered view that it would be just and expedient to take the average of six sale-deeds, three each, relied upon by both the parties. Sale-deeds Ex.P10, Ex.P18 and Ex.P20, which have been relied upon by the land owners and sale-deeds Ex.R5, R10 and R20 which have been relied upon by the State, have been found the best sale instances in favour of both the parties and the same have been taken into consideration for the purpose of assessing the market value.

Adopting the abovesaid just and reasonable course of action, this Court is of the considered view that it would be appropriate to take average of all these above-said six sale-deeds, so as to arrive at a reasonable market value for the acquired land. Since sale-deed Ex.R4, relied upon by the learned counsel for the State, was for an area less than of one acre, sale instance Ex.R10 dated 24.8.2006 pertaining to land measuring 8K-13M was taken into consideration, despite the fact that the same was executed about one month later than the date of notification under Section 4 of the Act, because there was hardly any time gap between the date of acquisition and this sale-deed.

Taking the average of all the above-said six sale-deeds, i.e. Ex.P10 dated 20.1.2006, Ex.P18 dated 28.10.2005 and Ex.P20 dated 20.1.2006, relied upon by the land owners on one hand and Ex.R5 dated

16.5.2006, Ex.R10 dated 24.8.2006 and Ex.R20 dated 3.7.2006, relied upon by the State on the other hand, the amount per acre comes to Rs.29,31,174/-. In the peculiar facts and circumstances obtaining in these cases, this Court could not find out any better method for arriving at assessing the market value of the acquired land nor any such has been suggested before this Court on behalf of either of the parties.

Having said that, this Court feels no hesitation to conclude that the land owners would be entitled to receive the compensation for their acquired land at the uniform rate of Rs.29,31,174/ per acre from the date of notification under Section 4 of the Act. It is pertinent to note here that since there was no substantial time gap between the above-said sale-deeds and the date of notification under Section 4 of the Act, no benefit on account of annual increase deserves to be granted to the land owners. So far as location and potentiality of the acquired land is concerned, the same has gone undisputed on record as nothing adverse has been pointed out in this regard.

No other relevant evidence or judicial precedent was 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 have been found wholly misconceived, bereft of 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.

Land owners are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.29,31,174/- 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 stand disposed of, in the above-said terms, however, with no order as to costs.

5.2.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE