IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No. 2373 of 2013 (O&M)
Date of decision: 26.2.2016

Lakhmi

.. Appellant

Vs.

State of Haryana and another

... Respondents

CORAM:HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. R.N. Lohan, Advocate
for the appellants
in RFA No. 2373, 4020 to 4022 of 2013.

Mr. Rajesh K. Kataria, Advocate
for the appellants
in RFA No. 2792, 2793 of 2013.

Mr. S.N. Pillania, Advocate
for the appellants
in RFA No.2893 of 2013.

Mr. Jasbir Mor, Advocate
for the appellants
in RFA No. 4657 to 4659 of 2013, 2376 to 2383, 3046, 3047, 3944, 5294, 6112, of 2014.

Mr. Suresh Ahlawat, Advocate
for the appellants
in RFA No. 6850 of 2013, 3701 of 2014.

Mr. Munish Kumar Garg, Advocate
for the appellants
in RFA No. 6862 of 2013, 212 of 2014.

Mr. Ashok K. Sharma (Bhana), Advocate
for the appellants
in RFA No. 6860, 6861 of 2013
RFA Nos. 1075, 1076 of 2014.

Mr. S.K. Verma, Advocate
for the appellants in 521, 522 of 2014.

Mr. Abhishek Yadav, Advocate for
Mr. Navneet Singh, Advocate
for the appellants
in RFA No. 1601 to 1603 of 2014, 2250 of 2014.

Mr. R.C. Chauhan, Advocate
for the appellants in RFA No. 7346 of 2015.

None for the appellants in RFA No. 4454, 5349, 5350, 6849, 7284 of 2013, 10333 of 2014, 854 to 864, 4598, 4599 of 2015.

Ms. Vibha Tewari, AAG, Haryana.

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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. (Oral)

This batch of 56 Regular First Appeals bearing, RFA Nos. 2373, 2792, 2793, 2898, 4020 to 4022, 4454, 4657 to 4659, 5349, 5350, 6849, 6850, 6860 to 6862, 7284 of 2013; 212, 521, 522, 1075, 1076, 1601 to 1603, 2250, 2376 to 2383, 3046, 3047, 3701, 3944, 5294, 6112, 10333 of 2014, 854 to 864, 4598, 7346 of 2015 filed by the landowners, seeking further enhancement in the compensation for their acquired land, 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. 2373 of 2013 (Lakhmi VS. State of Haryana and another).

Briefly put, facts necessary for disposal of instant bunch of appeals are that the State of Haryana sought to acquire land out of as many as 6 revenue estates, at public expenses for public purpose;

for construction of byepass to connect Jind-Bhiwani Road with Jind-Hansi Raod. Accordingly, notification dated 4.7.2006 came to be issued under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short), which was followed by notification dated 29.5.2007 under Section 6 of the Act. Finally, land measuring 12.48 acres was acquired from the revenue estate of village Ramgarh, 3.43 acres from revenue estate of village Ikkas, 2.09 acres from the revenue estate of village Ramrai, 1.63 acres from the revenue estate of village Gobindpura and 1.79 acres from the revenue estate of Jind.

The Land Acquisition Collector, vide his villagewise awards of even date, i.e. 14.2.2008, assessed the market value differently. Vide his award Nos. 6J, 7J and 8J dated 14.2.2008 qua villages Ramgarh, Ramrai and Ikkas respectively, the Land Acquisition Collector, awarded the compensation @ ₹8 lacs per acre for the land acquired. Vide his award No. 3J dated 14.2.2008 for village Gobindpura, Land Acquisition Collector awarded an amount of ₹33,88,000/- per acre. Vide his award No. 4J dated 14.2.2008 for Jind, Land Acquisition Collector awarded the compensation of ₹30 lacs per acre and vide his award No. 5J dated 14.2.2008 for village Birbaraban, the Land Acquisition Collector, awarded an amount of ₹8 lacs per acre.

Dissatisfied with the abovesaid amounts of compensation awarded by the Land Acquisition Collector, landowners filed their objections under Section 18 of the Act and as a consequence thereof, numerous land references were forwarded to the learned reference court. As many as 61 land references came to be decided by the learned reference court vide its common impugned award dated 30.11.2012. Amount of compensation for the land acquired from villages Ramgarh, Ikkas, Ramrai was enhanced from ₹8 lacs to ₹10 lacs per acre. However, land references qua villages Gobindpura and Jind were dismissed. Similarly, as many as 17 land references were decided together by the learned reference court, vide its separate award dated 15.11.2013 pertaining to village Birbaraban, enhancing the amount of compensation from ₹8 lacs to ₹10,80,000/- per acre.

State of Haryana has not filed any appeal against any of the abovesaid awards passed by the learned reference court. However, the landowners felt aggrieved against the abovesaid impugned awards passed by the learned reference court and have approached this Court by way of instant set of appeals, which are being decided together. The landowners are seeking further enhancement in the amount of compensation for their acquired land.

Having heard learned counsel for for the parties at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that so far as appeals of the landowners of village Gobindpura are concerned, the same have been found bereft of merit and are liable to be dismissed, whereas the appeals filed by the landowners from other villages namely Ramgarh, Ramrai, Ikkas, Jind and Birbaraban deserve to be partly allowed, suitably enhancing the compensation for their acquired land. To say so, reasons are more than one, which are being recorded hereinafter.

It is a matter of record that land out of the abovesaid six revenue estates was acquired vide one and the same notification and for the same purpose; for construction of byepass from Jind-Bhiwani Road to Jind-Hisar Road. The very fact that the land was acquired for the construction of byepass is sufficient to show that acquired land was situated on the outskirts of Jind City. Although no satisfactory evidence has been referred to by the learned counsel for the parties, whether the acquired land or some part thereof was situated within the municipal limits, yet judicial notice can be taken from the fact that the land was situated very close to Jind City.

Location of the acquired land on the outer periphery of the Jind was the reason that it was acquired for the construction of byepass. This fact has been duly corroborated by relevant piece of evidence available on record in the from of site plan Ex.P12, at page 106 of the lower court record ('LCR' for short). A close perusal of the site plan goes a long way to show that the land acquired from all the revenue estates was enjoying almost the same potentiality, because all the revenue estates were touching each other and were located in the same line. Most of the area of revenue estate of village Ramgarh was towards Jind City and that of village Birbaraban was touching village Ramrai and Jind, as it is clearly depicted from the site plan.

In view of the abovesaid undisputed fact situation obtaining in the instant set of appeals, the acquired land was no more simple agricultural land at the time of its acquisition. It is so said because having been located in the close proximity of municipal area, the acquired land was having great potentiality. However, the learned reference court has failed to appreciate this crucial aspect of the matter, while passing the abovesaid impugned awards, which are liable to be modified. So far as numerous sale deeds produced by the landowners on record before the learned reference court were concerned, admittedly, all the sale deeds were post acquisition and the learned reference court was fully justified in ignoring the same. Similarly, all the sale examplers relied upon by the State were found disclosing the market value at lower price than what was assessed by the Land Acquisition Collector. Since all the sale instances relied upon by the State were hit by the provisions of Section 25 of the Act, the learned reference court committed no error of law, while ignoring these sale deeds as well.

In view of what has been discussed hereinabove and in the absence of any other cogent and relevant evidence available on record, the substantial question of law that arises for consideration of this Court is: whether the landowners of villages Ramgarh, Ikkas, Ramrai, Jind and Birbaraban could have been discriminated in the manner they have been and whether they were entitled to be treated at par with the landowners of village Gobindpura, in the matter of granting compensation for their acquired land.

After giving anxious consideration to the peculiar facts and circumstances of the cases noted above, this Court feels no hesitation to conclude that answer to the question posed above is and has to be in the affirmative. In this regard, a bare perusal of the awards passed by the Land Acquisition Collector pertaining to all the six revenue estates would make it crystal clear that neither there was any reason available with him for this discrimination, nor anything has been discussed by him, while assessing the market value of the land of all the abovesaid six revenue estates. One common sentence has been recorded by the Land Acquisition Collector in all the six awards that keeping in view the location and all other factors which were essential for determination of the market value, he was assessing that particular market value of the acquired land.

It is also pertinent to note that all the six awards are stereotype copies of each other. There is not even one distinguishing feature either referred to or discussed or highlighted by the Land Acquisition Collector, so as to justify his awards, fixing different market values for the acquired land of all these villages, which was acquired for the same purpose. Landowners of village Gobindpura have miserably failed to bring on record any relevant or cogent evidence for making out a case for further enhancement of compensation for their acquired land. However, at the same time the discriminatory treatment given to the landowners of other five revenue estates cannot be upheld, because it is in glaring violation of the Constitutional mandate.

The State is under legal obligation to treat all its citizens equally. However, in the present set of cases, no reason much less justified reason, is forthcoming for upholding the patently discriminatory awards passed by the same Land Acquisition Collector in spite of the fact that all the landowners were similarly placed and their acquired land was enjoying the same potentiality. In this regard, law laid down by the Hon'ble Supreme Court in **Ashrafi and others Vs. State of Haryana, 2013 (5) SCC 527** can be safely relied upon. The Hon'ble Supreme Court in **Mehrawal Khewaji Trust (Registered), Faridkot and others Vs. State of Punjab and others, (2012) 5 SCC 432,** has held that the landowners are entitled to receive the best price for their acquired land. Again, in the case of **Udho Dass Vs. State of Haryana, 2010 (12) SCC 51,** the Hon'ble Supreme Court has held that the landowners hardly get compensated in true sense of word in the matters of compulsory acquisition because they had no role to play either in the price fixation policy adopted by the State or to avoid the acquisition.

In such a situation, it can be safely concluded that since the learned reference court has failed to appreciate this equally important aspect of the matter in the correct perspective, while passing the impugned awards, the same cannot be sustained for this reason as well. Consequently, the landowners of villages Ramgarh, Ikkas, Ramrai, Jind and Birbaraban have been found entitled for equal treatment, in the matter of granting the compensation for their acquired land, bringing them at par with the landowners of village Gobindpura. Accordingly, they are held entitled for receive the compensation for their acquired land at the uniform rate of ₹33,88,000/- from the date of notification under Section 4 of the Act.

Coming to the next equally important question regarding granting reasonable amount to the landowners on account of severance charges, it goes without saying that after construction of byepass, the landowners will not be in a position to put their unacquired land to its optimum use. Neither it is feasible nor possible for the State to provide underpasses or fly-overs to the landowners at short distances, so as to enable them to have an easy access to their unacquired land. The landowners will have to cover long distance to approach their unacquired fields for the purpose of cultivation. Since transportation charges would be increased, the net profit from the agricultural produce would be substantially reduced. It is true that there is no clinching evidence in this regard, yet taking judicial notice of all the abovesaid glaring facts, it cannot be disputed, it being a matter of common knowledge.

Keeping in view abovesaid material aspects of the matter, this Court is of the considered view that it would be just and expedient to grant at least 30% of the abovesaid market value to the landowners, on account of severance charges. Granting any lesser amount of compensation on account of severance charges would be wholly inadequate. Accordingly, the landowners of all the six villages, including the landowners of village Gobindpura, are held entitled to receive 30% of the abovesaid market value, on account of severance charges, from the date of notification under Section 4 of the Act.

Let it be specifically recorded that no better evidence or relevant 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, coupled with the reasons aforementioned, this Court is of the considered view that all these appeals filed by the landowners deserve to be partly accepted and the same are hereby allowed to the extent indicative above. The landowners are held entitled to receive the compensation for their acquired land at the uniform rate of ₹33,88,000/- per acre from the date of notification under Section 4 of the Act. Further, the landowners are also held entitled to receive 30% of the abovesaid market value, on account of severance charges, 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 these 56 appeals stand disposed of in the abovesaid terms, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

26.2.2016
AK Sharma