IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No. 929 of 2012 (O&M)
Date of decision: 9.2.2016

Land Acquisition Collector (SDM) Tehsil Complex Phagwara, District Kapurthala and another

.. Appellants

Vs.

Joginder Singh Walia

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Yatinder Sharma, Additional A.G. Punjab
for the appellants
in RFA Nos. 3307 to 3309 of 2005, 929 to 933 of 2012
and for the respondents in others RFAs.

Mr. Sunil Chadha, Sr. Advocate with
Mr. M.S. Atwal, Advocate
for the appellants in RFA No. 449 of 2005.

Mr. R.S. Athwal, Advocate
for the appellants in RFA No. 642 to 647 of 2005.

Mr. Abhishek Bhadwaj, Advocate for
Mr. Balram Singh, Advocate in RFA No. 1518 of 2005.

Ms. Jatinderjit Kaur, Advocate
for the appellants in RFA No. 4457 of 2013
and for the respondents in RFA No. 933 of 2012.

Mr. Hitesh Kaplish, Advocate
for the appellants
in RFA No. 7361 of 2011 & 550, 551 of 2013.

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Mr. N.C. Sahni, Advocate
for the appellants RFA No. 3192, 3193 of 2005.

Ms. Anuradha Oberoi, Advocate for
Ms. Upasna Dhawan, Advocate
for the appellants in RFA No. 364 of 2005.

Mr. Deepak Sabherwal, Advocate
for the appellants in RFA No. 2872 of 2007
and for respondent No.1 to 4 in RFA No. 3308 of 2005.

None for the appellants in RFA Nos. 7902 of 2011, 517, 829, 830, 4711 of 2012, 505 of 2013

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 30 regular first appeals, out of which 8 filed by the State of Punjab bearing RFA Nos. 3307 to 3309 of 2005, 929 to 933 of 2012 and 22 filed by the landowners bearing RFA Nos. 364, 449, 642 to 647, 1518, 3192, 3193 of 2005, 2872 of 2007, 7361, 7902 of 2011, 517, 829, 830, 4711 of 2012, 505, 550, 551, 4457 of 2013, 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. 929 of 2012 (Land Acquisition Collector and another Vs. Joginder Singh Walia).

Brief facts of the case, which are necessary for disposal of this bunch of appeals, are that State of Punjab sought to acquire land

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measuring 502 kanals 2 marlas from the revenue estates of four villages namely Phagwara Sharki, Hazipur, Dhak Bhularai and Khurampur, Tehsil Phagwara, District Kapurthala, at public expenses for public purpose; namely for four laning of Ropar-Balachaur-Nawanshahr-Phagwara road and for construction of Bye-pass for Phagwara City. Accordingly, notification under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) came to be issued on 28.11.2000 which was followed by notification dated 5.9.2001 under Section 6 of the Act. The Land Acquisition Collector, vide his different awards, granted compensation of ₹7,20,000/- per acre at flat rate for village Phagwara Sharki. An amount of ₹7,65,000/- per acre, for *Chahi Land*, was granted to the landowners of village Hazipur and ₹8,50,000/- was granted to those landowners whose land was adjoining to Phagwara-Hoshiarpur road. Similarly, to the landowners of village Khurampur and Dhak Bhularai, Land Acquisition Collector granted the compensation @ ₹7,65,000/-per acre at flat rate.

Dissatisfied, landowners filed their objections under Section 18 of the Act and as a consequence thereof, land references were forwarded to the learned reference court, who decided the same vide its common award dated 14.10.2004 for village Phagwara Sharki but he did not enhance the amount of compensation. Similarly, qua the land of village Khurampur, learned reference court, vide award dated 30.7.2005, did not enhance the compensation, however, 30% of the market value was granted to the landowners on account of severance charges. Likewise, vide award dated 4.6.2011, learned

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reference court dismissed the land references qua village Hazipur. However, vide its separate award dated 31.10.2011 qua village Dhak Bhularai, learned reference court enhanced the amount of compensation to ₹12 lacs and also granted 30% of the market value on account of severance charges.

Feeling aggrieved against the awards dated 30.7.2005 and 31.10.2011 passed by the learned reference court qua villages Khurampur and Dhak Bhularai, State of Punjab has approached this Court seeking reduction in the compensation, whereas the landowners of all the four villages have approached this Court seeking further enhancement in the compensation. That is how, all these 30 appeals are being decided together.

Having heard learned counsel for the parties at considerable length, after careful perusal of record of the cases and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that appeals filed by the State of Punjab are bereft of merit and the same are liable to be dismissed, whereas the appeals filed by the landowners deserve to be partly accepted, suitably enhancing the compensation for their acquired land. To say so, reasons are more than one, which are being recorded hereinafter.

Location and potential of the acquired land is not in dispute. Nature of the acquired land was semi urban. Purpose of the acquisition discloses that the acquired land was situated on Ropar-Balacuhar-Nawanshahr-Phagwara Highway. This was the reason that

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the land was acquired for four laning of the road and construction of bye pass for Phagwara City. Thus, potentiality of the land had never been in dispute. It is also pertinent to note here that, as recorded by the learned reference court, the acquired land was already semi developed and it was surrounded by residential colonies, grain market, vegetable market, commercial establishments like hotels and resorts, including KC Resort, which was situated at the distance of just 50 yards from the acquired land. Educational institutions were also situated nearby. The abovesaid undisputed facts would clearly show that the acquired land was enjoying great potentiality.

A close perusal of the impugned awards passed by the learned reference court would show that no reason has been assigned, while ignoring the relevant sale instances produced by the landowners, including sale instances in the form of Ex. P-15, Ex. P-16 and Ex. P-17. These sale deeds were of November, 1999, and average market value disclosed in all these three sale deeds comes to more than ₹20,000/- per marla. Even if the market value is taken @ ₹20,000/-per marla, then per acre value thereof comes to ₹32 lacs. Since the land sold by way of these sale deeds was 9/10 marlas in each case, learned counsel for the State was found justified in contending that at least 40% cut deserves to be imposed. After imposing 40% cut on the abovesaid market value of ₹32 lacs per acre, it comes to ₹19, 20,000/- per acre.

Now comes the time gap between the abovesaid sale instances and date of notification under Section 4 of the Act, which

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was exactly one year. Taking into consideration the location of the acquired land which was certainly semi urban in nature, it would be just and expedient to grant 15% annual increase to the landowners, in view of the law laid down by the Hon'ble Supreme Court in **General Manager, Oil & Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel & Anr 2008 (14) SCC 745**. Granting the benefit of annual increase of 15%, the total market value of one acre comes to ₹22,08,000/-.

It is pertinent to note that the land sold vide abovesaid three sale deeds was from village Phagwara Sharki and Khurampur. Since the acquired land out of the abovesaid four revenue estates was situated on the Highway, this Court has not found any reason to uphold the belting system adopted by the Land Acquisition Collector qua the land of village Hazipur. In fact, since the entire land was acquired for one and the same purpose by way of same notification, belting system would not be justified and the landowners of all these villages would be entitled to receive the compensation at the uniform rate of ₹22,08,000/- per acre from the date of notification under Section 4 of the Act.

The abovesaid view taken by this Court on belting system also finds support from more than one following judgments of the Hon'ble Supreme Court:

(1) Union of India Vs. Harinder Pal Singh and others, 2005 (12) SCC 564 (SC)

(2) Udho Dass Vs. State of Haryana, 2010 (12) SCC 51 (SC)

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(3) Ashrafi and others Vs. State of Haryana, 2013 (5) SCC 527 (SC)

Coming to the severance charges, learned reference court has failed to record any reason whatsoever, while granting the benefit of only 30% of the market value on account of severance charges. It has also gone undisputed on record that the landowners were left in the lurch, because no permission of change of land use would be available to them for the unacquired land adjoining the acquired land. In this view of the matter, granting of 30% of the market value of the acquired land by the learned reference court, on account of severance charges, and that too without recording any reason, cannot be sustained.

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. Owing to the location, nature and potentiality of the acquired land, as well as the abovesaid undisputed fact situation available on record, regarding non availability of CLU facility for the unacquired land, this Court is of the view that it would be just and expedient to grant 50% of the market value to the landowners on account of severance charges. Ordered accordingly.

No contrary evidence or judicial pronouncement was pressed into service, nor any other argument was raised by learned counsel for either of the parties.

Considering the peculiar facts and circumstances of the

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cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that the appeals filed by the State of Punjab are wholly misconceived, bereft of merit and without any substance, thus, these must fail and the same are hereby dismissed.

Appeals filed by the landowners deserve to be partly accepted and the same are hereby allowed to the extent indicated above. The landowners-appellants are held entitled to receive the compensation @₹22,08,000/- per acre for their acquired land from the date of notification under Section 4 of the Act. The landowners are also entitled to receive 50% of the market value of the acquired land on account of severance charges. Besides this, the landowners shall be entitled for all other statutory benefits available to them under the relevant provisions of the Act.

Resultantly, with the observations made above, all these appeals stand disposed of in the abovesaid terms, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

9.2.2016
AK Sharma

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