HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

RFA-1427 of 2014 and other connected matters
Date of decision:12.2.2016

Rajit and another

...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: Ms.Anita Balyan, Advocate for the appellants in RFA Nos.1427 to 1433, 1639 to 1654, 2117, 2130, 2158, 2159, 2273 to 2275, 2569 to 2578, 2702 to 2710, 2788, 2789, 2952 to 2957, 3353, 3354, 3813, 3814, 3825, 5251, 9236 to 9248, 7138 to 7150, 7353, 7831, 7832, 9674, 10066 and 10579 of 2014, 806 and 812 of 2015.

Mr.Sanjay Mittal, Advocate for the appellants in RFA Nos.10644 to 10661, 10802, 10869 to 10880 of 2014, 310, 378 to 381, 397, 398, 743, 744, 884 and 2151 of 2015.

Mr.Vivek Khatri, Advocate for the appellants in RFA Nos. 1764 to 1774, 6259 of 2014 and 1315 to 1322 of 2015.

None for the appellants in RFA Nos.9563, 9745, 9752, 9803, 10442 of 2014 and 79 of 2015.

Ms.Vibha Tiwari, AAG, Haryana.
Mr.Pritam Saini, Advocate for HSIIDC.

RAMESHWAR SINGH MALIK, J. (Oral)

This batch of 165 appeals bearing RFA Nos.1427 to 1433, 1639 to 1654, 1764 to 1774, 2117, 2130, 2158, 2159, 2273 to 2275, 2569 to 2578, 2702 to 2710, 2788, 2789, 2952 to 2957, 3353, 3354, 3813, 3814, 3825, 5251, 6259,, 7138 to 7150, 7353, 7831, 7832, 9236 to 9248, 9563, 9674, 9745, 9752, 9803, 10066, 10442, 10579, 10644 to 10661, 10802 and

10869 to 10880 of **2014,** 79, 310, 378 to 381, 397, 398, 743, 744, 806, 812, 884, 1315 to 1322 and 2151 of **2015,** 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.1427 of 2014 (Rajit and another v. State of Haryana and others).

Facts necessary for disposal of instant batch of appeals are that State of Haryana sought to acquire the land for construction and development of Expressway known as Kundli-Manesar-Palwal Expressway ('KMP' for short). Accordingly, invoking the urgency clause under Section 17 of the Land Acquisition Act, 1894 (`the Act' for short), notifications under Sections 4 and 6 of the Act came to be issued on 19.11.2004. Land measuring 151 acres 1 kanal and 11 marlas was acquired from the revenue estate of village Badli, Tehsil Bahadurgarh, District Jhajjar; land measuring 61 acres 2 kanal and 5 marlas was acquired from the revenue estate of village Mund Khera; land measuring 115 acres 7 kanals and 13 marlas was acquired from the revenue estate of village Bupania and land measuring 28 acres 6 kanal and 11 marla was acquired from the revenue estate of village Dariyapur. Land acquisition collector, vide his different village-wise awards granted the compensation at the uniform rate of Rs.12.50 lacs per acre to the land owners of the above-said four villages. Dissatisfied, the land owners filed their objections under Section 18 of the Act and as a consequence thereof, village-wise land references were forwarded to the learned reference court. Vide separate village-wise awards, the learned reference court granted only marginal increase in the amount of compensation.

Feeling aggrieved against the impugned awards passed by the learned reference court, the land owners have approached this Court by way of present set of appeals, seeking further enhancement in the amount of compensation for their acquired land.

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 the appeals filed by the land owners deserve to be partly accepted, suitably enhancing the amount of compensation for their acquired land, for the following more than one reasons.

So far as the evidence in the form of sale instances produced by the land owners before the learned reference court is concerned, all the seven sale instances were admittedly post acquisition. Sale-deed Ex.P1 was dated 16.11.2006; sale-deed Ex.P2 was dated 13.11.2006; sale-deed Ex.P3 and Ex.P4 were dated 15.11.2006, sale-deed Ex.P5 was dated 17.11.2008; sale-deed Ex.P6 was dated 18.8.2009 and sale-deed Ex.P7 was dated 12.1.2009. Although, all these sale-deeds were pertaining to the land of village Badli, whose land was acquired by way of above-said notification dated 19.11.2004, yet since all these sale-deeds came to be executed at a later point of time after a gap of 2 to 5 years, learned reference court committed no error of law, while not placing reliance on these sale-deeds. Having said that, this Court feels no hesitation to conclude that the findings recorded by the learned reference court regarding the sale-deeds produced by the land owners deserve to be upheld.

In fact, it seems that the land owners proceeded on to place reliance only in the State policy framed for the purpose of fixing the market value of the acquired land or which was likely to be acquired in near future. First such policy framed by the State of Haryana was dated 28.4.2005, whereby the market value was fixed at Rs.12.50 lacs per acre. That is what was the amount of compensation awarded by the learned reference court at a uniform rate to the land owners of the above-said four villages, irrespective of kind, location and quality of land. Similarly, learned reference court referred to later policy dated 6.4.2007 which was made applicable with effect from 22.3.2007.

However, the learned reference court misdirected itself, while granting the benefit of monthly enhancement of Rs.15,217/- to the land owners only for a period of 11 months and 19 days, taking this time gap between the date of award announced by the land acquisition collector and effective date of policy, i.e. 28.4.2005. In this regard argument raised by the learned counsel for the land owners has been found worth acceptance that the market value assessed by the land acquisition collector would relate back to the date of notification under Section 4 of the Act which was 19.11.2004 in the present cases, whereas the awards came to be announced by land acquisition collector, at a later point of time in the year 2006.

In view of what has been discussed hereinabove, the land owners would be entitled for a monthly enhancement of Rs.15,217/- for the time gap of 29 months, which comes to Rs.4,41,293/- per acre which is rounded of up to Rs.4,41,300/-. The above-said facts and figures have not been disputed by the learned counsel for the parties.

So far as the potentiality of the acquired land is concerned, it had never been in dispute. The acquired land was situated within the

National Capital Region. The land was also fit for commercial as well as industrial purposes. It was also not far away from Delhi. The Airport Authority of the India had already earmarked the land for setting up of Airport in the close vicinity of the acquired land. Petroleum plant, Parle Biscuit factory, Somani Tile factory, Hindustan Sanitary Wares and Surya Tube factory were already existing near the acquired land. 1000 Megawatt Gas Power Plant project had been sanctioned in the nearby village Khungai.

Since the learned reference court has failed to take into consideration all these above-said positive and determinative factors for assessing the market value of the acquired land, this Court is of the considered view that the land owners are entitled for some reasonable increase on this count as well. In the absence of any clinching evidence in this regard, this Court is left with no other option except to proceed on a guess work. Thus, taking a holistic and pragmatic view of the matter, proceeding on a constructive approach to do complete and substantial justice between the parties, this Court is of the considered opinion that it would be just and expedient to grant a lump sum amount of Rs.3 lacs per acre at a uniform rate to the land owners of all these four villages. It is so said because owing to the peculiar fact situation obtaining in these cases, granting any lesser amount would be wholly inadequate.

A bare perusal of the site plan produced by the HSIIDC during the course of hearing and taking judicial notice thereof, it is crystal clear that the unacquired land of the land owners have been bifurcated in such a manner that it would become very difficult for the land owners to put the said unacquired land to its optimum use. It has been held by the Hon'ble Supreme Court in **Mehrawal Khewaji Trust (Registered), Faridkot and**

others v. State of Punjab and others, (2012) 5 SCC 432 that the land owners are entitled to receive the best price for their acquired land. Hon'ble the Supreme Court in **Udho Dass v. State of Haryana, 2010 (12) SCC 51** has also held that it is very difficult to compensate the land owners in true sense of the term, because some times there may be 100% annual increase in the prices.

In this view of the matter, taking into considering all the relevant factors including the positive as well as negative determinative factors of the acquired land, it would be just and reasonable to grant 40% of the above-said market value to the land owners on account of severance charges. However, this Court would hasten to add at this stage that the above-said percentage on account of severance charges is being granted only because of the peculiar fact situation obtaining in these cases. It is neither desirable nor possible to lay down any straight jacket formula in this regard, which might be made applicable in every given situation. Further, it is equally true that each case is to be decided on the basis of its own peculiar facts and circumstances.

No other relevant 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 case noted above, coupled with the reasons aforementioned, this Court is of the considered view that this batch of appeals 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 for their acquired land at the uniform rate of Rs.19,91,300/- per acre, i.e.

Rs.(12,50,000+4,41,300+3,00,000) from the date of notification under Section 4 of the Act. The land owners are also held entitled to receive the 40% of the market value on account of severance charges. 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 afore-said appeals stand partly allowed, in the afore-said terms, however, with no order as to costs.

12.2.2016 **(RAMESHWAR SINGH MALIK)**
mks **JUDGE**