IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.2190 of 2014 and other connected matters
Date of decision: 02.02.2016

Sukhjit Kaur

... Appellant

Vs.

Union Territory, Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. M.S. Uppal, Advocate
for the appellant(s) (in RFA Nos.2190 & 2309 of 2014).

Mr. Neeraj Sharma, Advocate
for the appellant(s) (in RFA Nos.2947 to 2951, 3404, 4237, 5985 of 2014).

Mr. Hardip Singh, Advocate and
Mr. M.S. Rana, Advocate
for the appellant(s) (in RFA Nos.3048 to 3050 of 2014).

Mr. Phool Chand Dhiman, Advocate
for the appellant(s) (in RFA Nos.675, 778, 779, 1098 to 1101 of 2014).

None for the appellant(s) (in RFA Nos.3400 & 6114 of 2014)

Mr. Vikram Vir Sharda, Standing Counsel and
Mr. Jaivir Chandail, Standing Counsel
for the UT Chandigarh (in RFA Nos.3048, 3050 of 2014)

Mr. A.P. Setia, Standing Counsel
for the UT Chandigarh (in RFA No.6114 of 2014).

Mr. Vishal Sodi, Standing Counsel
for the UT Chandigarh (in RFA Nos.675, 778, 779, 1098 to 1101, 2190, 2309, 2947 to 2951, 3049, 3400, 3404, 4237, 5985 of 2014

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 22 appeals, bearing Regular First Appeal Nos.2190 & 2309, 2947 to 2951, 3404, 4237, 5985, 3048 to 3050, 675, 778, 779, 1098 to 1101, 3400, 6114 of 2014, all filed by the land owners, is being decided together 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.2190 of 2014 (Sukhjit Kaur Vs. Union Territory Chandigrh).

Brief facts of the case are that Union Territory, Chandigarh sought to acquire land measuring 50 acres, at public expenses for public purpose; namely establishment of Aquatic Park for Village Kaimbwala in Union Territory, Chandigarh. Accordingly, notification dated 11.12.2007 was issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act'), which was followed by notification dated 30.07.2008 under Section 6 of the Act. Land Acquisition Collector, vide his award No.607 dated 07.05.2010 granted an amount of Rs.31,80,000/- per acre, at uniform rate. Dissatisfied, 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. The learned reference Court, vide his impugned award dated 01.08.2013, decided the land references, enhancing the amount of compensation to Rs.36,00,000/- per acre. No appeal has been filed by Union Territory, Chandigarh. However, the land owners felt aggrieved and have approached this Court, for further enhancement of compensation for their acquired land, by way of these 22 Regular First Appeals, which 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 the cases in hand, the appeals filed by the land owners deserve to be partly allowed, for the following more than one reasons.

It is a matter of record that there was a voluminous evidence, in the form of as many as 37 sale instances, which was produced by the land owners before the learned reference Court. On the other hand, Union Territory, Chandigarh produced only two sale instances Ex.R41 and Ex.R42 and the market value disclosed therein, was below the market value granted by the Land Acquisition Collector vide his abovesaid award. The only argument raised by learned counsel for UT Chandigarh is that since out of these 37 sale deeds, Collector had already considered as many as 30 sale instances, before passing his award dated 07.05.2010, there was hardly any scope even for the learned reference Court to enhance the amount of compensation and because of the same reason, there is no scope for enhancing the compensation any further at the hands of this Court.

After due consideration, the argument raised by learned counsel for the UT, Chandigarh has been found wholly misplaced and the same is bound to be rejected. It is so said because it is a matter of record that the Land Acquisition Collector did not consider all the sale instances, while announcing his award No.607 dated 07.05.2010. So far as the evidence led by UT Chandigarh before the learned reference Court is concerned, both the sale deeds in the form of Ex.R41 and Ex.R42 were admittedly below the rate granted by the Land Acquisition Collector. In such a situation, the sale instances produced by UT Chandigarh would be hit by the provisions of Section 25 of the Act and the learned reference Court was fully justified in ignoring the same. No further argument has been raised in this regard.

So far as the argument raised by learned counsel for the UT Chandigarh regarding the sale instances in the form of Ex.P28 and Ex.P33 produced by the land owners-appellants before the learned reference Court, being post-acquisition sale instances is concerned, he has been found justified in contending that these have been rightly ignored by the learned reference Court and cannot be made the basis for assessing the market value of the acquired land.

After putting the post-acquisition sale instances out of the consideration, this Court is left with no other option except to consider the sale instances contained in Ex.P34 to P37 which pertain to village Kansal. Vide sale deed Ex.P34, land measuring 24 kanals, 13 marla (3.08 acres) was sold. Vide sale deed Ex.P35, land measuring 8 kanal was sold. Vide sale deed Ex.P36, land measuring 6 kanal 6 marla was sold, whereas vide sale deed Ex.P37, a much bigger chunk of land measuring 46 kanal, 9 marla was sold. Learned counsel for the UT Chandigarh has emphatically opposed reliance on these sale deeds pertaining to village Kansal, contending that since this village was admittedly situated in Punjab, no reliance could be placed on these sale deeds.

However, this argument raised by learned counsel for the UT Chandigarh is to be noted to be rejected, for the reason that it has not been found worth acceptance. There is no denying the fact that village Kansal and Kaimbwala are adjoining with each other. Revenue estate of village Kansal touches the High Court complex. So far as the location of the acquired land is concerned, that has not been disputed even by learned counsel for UT

Chandigarh and rightly so, it being a matter of record. As per site plan Ex.P16 available at page 203 of the lower Court record, the location of village Kansal is clearly established to show that there was no other revenue estate between village Kaimbwala and village Kansal.

Admittedly, there is no other sale instance available on record produced by UT Chandigarh, which may suggest even remotely that the market value disclosed in the sale deeds Ex.P34 to Ex.P37 pertaining to village Kansal would be irrelevant. Further, learned counsel for the UT Chandigarh did not raise any objection about the genuineness of these sale deeds Ex.P34 to Ex.P37. It is the established principle of law that the land owners are entitled to receive the best price for their acquired land, as held by the Hon'ble Supreme Court in **Mehrawal Khewaji Trust (Regd.), Faridkot and others Vs. State of Punjab and others, 2012 (5) SCC 432.**

In all the abovesaid four sale instances out of the revenue estate of village Kansal four big chunks of land were sold and in none of the sale instances, the price per acre was less than Rs.4,56,48,897/-. The sale price disclosed in the sale deed Ex.P37 was fetched even when the land measuring 46 kanal 9 marla was sold, which would be more than five and half crores rupees per acre. Thus, these four sale deeds from village Kansal go a long way to show the realistic market value of the acquired land, prevailing immediately before the acquisition. It is so said because there was a time gap of more than six months between these sale deeds and the date of acquisition. Notification under Section 4 of the Act came to be issued on 11.12.2007, whereas these four sale deeds were executed in the months of March, April, May and June, 2007.

Although oweing to the undisputed fact situation including location of the land sold by way of these abovesaid four sale deeds Ex.P34 to

Ex.P37, there was hardly any scope to apply any cut on the market value disclosed in these sale deeds, yet to be fair to all concerned and with a view to do complete and substantial justice between the parties, this Court is of the considered view that it would be just and expedient to impose 50% cut on the average market value disclosed in these sale deeds. The average market value of the abovesaid four sale deeds comes to Rs.5,03,31,261/- per acre. After applying 50% cut thereon, the amount comes to Rs.2,51,65,630/- per acre.

As rightly pointed out by learned counsel for UT Chandigarh, the sale deed placed on record by the land owners in the form of Ex.P28 to Ex.P33, pertaining to the land of village Kaimbwala itself, disclosed the market value at Rs.2,50,00,000/- per acre. Learned counsel for the UT Chandigarh has been found fully justified in pointing out this. The abovesaid average taken of the four sale deeds pertaining to the land of village Kansal and after applying 50% cut thereon, amount comes almost to the same market value. Further, if the land owners in these appeals are granted the benefit of 15% annual increase, on the abovesaid market value for the time gap, in view of the law laid down by the Hon'ble Supreme Court in **General Manager, Oil and Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel and another, 2008 (4) SCC 745** and **Udho Dass Vs. State of Haryana and others, 2010 (8) SCR 900,** the market value would be more. However, in the peculiar fact situation of this set of appeals, said benefit of 15% annual increase is not being granted as the abovesaid market value is just and reasonable.

In view of what has been discussed hereinabove and taking into consideration all the positive as well as negative determinative factors of the acquired land, land owners in these appeals are held entitled to receive the amount of Rs.2,51,65,630/- per acre for their acquired land, from the date of notification under Section 4 of the Act. It is also pertinent to note here that if in any earlier acquisition, the land owners could not produce the relevant sale instances before the learned reference Court and because of that reason they received less compensation for their acquired land, the land owners in the appeals in hand cannot be made to suffer for none of their fault.

Another argument was raised by learned counsel for the UT Chandigarh that the acquired land was falling within the periphery of Chandigarh, whereas the land of village Kansal was outside the periphery of Chandigarh and was in Punjab, the market value disclosed in the abovesaid four sale deeds pertaining to village Kansal was not relevant for the purpose of assessing the market value of acquired land. However, this argument has been strongly refuted by learned counsel for the appellants-land owners, contending that revenue estate of village Kansal also falls within the periphery of Chandigarh, because the land upto 15 kms from the boundary of Chandigarh falls within its periphery.

Be that as it may, since the location and potentiality of the acquired land had never been in dispute and the land of village Kansal, which was sold vide abovesaid four sale deeds Ex.P34 to Ex.P37 was just adjoining, the same has been found to be relevant pieces of evidence for assessing the market value of the acquired land.

Neither any contrary 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 cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that all these appeals 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 for their acquired land at the rate of Rs.2,51,65,630/- per acre, from the date of notification under Section 4 of the Act. Besides this, the land owners shall also 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 22 appeals stand disposed of, in the abovesaid terms, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

02.02.2016
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