IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.4571 of 2014 and other connected matters
Date of decision: 26.02.2016

State of Haryana and another

... Appellants

Vs.

Dalip Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Gaurav Jindal, Addl. AG, Haryana.

Mr. Rajinder Singh Rana, Advocate
for the appellant(s) (in RFA Nos.5514 to 5524 of 2014)

None for the appellant(s) (in RFA Nos.10430, 10578, 8523 of 2014 & 5397 of 2015)

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.

Instant batch of 31 appeals, out of which 16 appeals bearing Regular First Appeals Nos.4571 to 4586 of 2014, filed by the State of Haryana and remaining 15 appeals bearing Regular First Appeal Nos.5514 to 5524, 8523, 10430, 10578 of 2014, 5397 of 2015, filed by the land owners, is being decided vide this common order, as 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 Nos.4571 of 2014 (State of Haryana and another Vs. Dalip Singh).

Brief facts of the case, which are necessary for disposal of instant bunch of appeals, are that State of Haryana sought to acquire the land measuring 11 Acres, 02 Kanal and 14 Marla, out of the revenue estate of Assandh, at the public expense for public purpose i.e. for setting up new Water Works for augmentation of existing water supply at Assandh, District Karnal. Accordingly, notification under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) came to be issued on 03.06.2010, which was followed by notification dated 07.10.2010 issued under Section 6 of the Act. Land Acquisition Collector, vide his award No.6 dated 11.03.2013 assessed the market value @ Rs.12,00,000/- per acre at flat rate.

Dissatisfied with the market value assessed by the Land Acquisition Collector, the land owners filed their objections under Section 18 of the Act and as a consequence thereof, as many as 16 land references were forwarded. The learned reference Court, vide its common impugned award dated 05.04.2014, decided all 16 land references together, enhancing the amount of compensation to Rs.39,81,706.67 per acre, which is stated to have been corrected later on to Rs.36,16,703/- per acre.

Both the parties felt aggrieved against the abovesaid impugned award passed by the learned reference Court. State of Haryana has filed 16 appeals seeking reduction in the amount of compensation granted to the land owners, whereas the land owners by way of their 15 appeals, are seeking further enhancement in the amount of compensation for their acquired land. That is how, all these 31 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 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, thus, liable to be dismissed. However, 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.

A bare reading of the impugned award passed by the learned reference Court would show that the leaned reference Court was not clear in its approach as to what it was intending to do. There are very many factual mistakes, which have been committed not only in the facts and figures but also in the amount of market value assessed. It is a matter of record that both the parties produced numerous sale instances, in support of their respective stands taken, before the learned reference Court. However, all the sale instances relied upon by the State except the one contained in Ex.R5, were post-acquisition.

Similarly, the sale instances produced by the land owners were either pertaining to very small pieces of land or were post-acquisition except the one i.e. Ex.PW9/F, which was very relevant, whereby a plot of reasonable size was sold. Since the market value disclosed in the sale deed Ex.R5 relied upon by the State was lower than the market value assessed by the Land Acquisition Collector, the learned reference Court was well within its jurisdiction to ignore the same, because the said sale deed was hit by the provisions of Section 25 of the Act. The learned reference Court was also justified in ignoring those sale deeds relied upon by the land owners, which were pertaining to very small pieces of land and these findings recorded by the learned reference Court deserve to be upheld.

In view of what has been discussed hereinabove, with a view to strike a balance to do complete and substantial justice between the parties and proceeding on a holistic approach in this regard, it is just and expedient that keeping in view the law laid down by the Hon'ble Supreme Court in **Lal Chand Vs. Union of India and others, 2009 (15) SCC 769**, sale deed Ex.R5 relied upon by the State as well as the sale deed Ex.PW9/F relied upon by the land owners deserve to be taken into consideration, for the purpose of assessing the market value of the acquired land. Since neither there is any other relevant sale deed available on record nor has been pointed out by learned counsel for the parties, average of both these sale deeds would be justified so that none of the parties may have any grouse in this regard. Taking the average market value of these two sale deeds Ex.PW9/F and Ex.R5, relied upon by both the parties to substantiate their respective stands taken, the amount comes to Rs.35,39,010/- per acre.

The immediate next question of law that arises for consideration of this Court is, as to whether the land owners would be entitled for the benefit of annual increase for the time gap. Admittedly, there was a time gap of 02 years and more than 06 months. It goes without saying that the land owners would be certainly entitled for the annual increase for this time gap. Learned counsel for the State has placed before this Court a site plan of Assandh town showing the location of acquired land and the sale deeds relied upon by the parties. So far as the location of the acquired land is concerned, no factual difference has been found between this site plan produced by learned counsel for the State and the site plan Ex.P16 available at page 155 of the lower Court record.

A bare perusal of both these site plans would make it crystal clear that the acquired land was situated at a prime location. It was falling within Assandh-Jind Road and Assandh-Safidon Road. The acquired land was also very close to the Bus Stand Assandh. It was surrounded by already developed area, including residential as well as commercial area. In this view of the matter, it can be safely concluded that the acquired land was having great potentiality and it could have been easily put to residential as well as commercial use.

The next question that falls for consideration of this Court is, as to whether any cut is warranted to be imposed on the abovesaid market value. Imposition of any particular percentage of cut, on a given market value disclosed by sale exemplars, is not an absolute rule. Neither it is desirable nor it is possible to lay down a straight-jacket formula, which might be made applicable in every given situation. It is equally true that each case is to be decided on the basis of its own peculiar facts and circumstances. Further, peculiar fact situation obtaining in any particular case is to be examined, considered and appreciated first before applying any codified or judgemade law thereto. Sometimes, difference of one additional fact or circumstance can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundra Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

So far as the fact situation obtaining in the cases in hand is concerned, the abovesaid sale deeds contained in Ex.R5 and Ex.PW9/F, relied upon by both the parties have been taken into consideration and average thereof has been taken. These sales were not pertaining to small pieces of land. Under the sale deed Ex.R5, land measuring 24 Kanal and 05 Marla was sold, whereas by way of sale deed Ex.PW9/F, land measuring 04 Kanal, 11 Marla was sold, which could not be said to be small pieces of land under any circumstances. Having said that, this Court feels no hesitation to conclude that no cut is liable to be imposed on the abovesaid average market value of Ex.R5 and Ex.PW9/F. There is another strong reason to say so that the State was not going to construct any road or carve out any park, while utilizing the acquired land. The land was situated in already developed area, enjoying a prime location. Under these undisputed facts, applying any particular cut on the abovesaid market value would amount to do injustice to the land owners. In fact, imposition of any cut is not warranted because of the abovesaid peculiar facts and circumstances of the case.

The abovesaid view taken by this Court also finds support a Division Bench judgment of this Court in **Harbans Singh and others v. State of Punjab through the Land Acquisition Collector, 2006(1) RCR (Civil) 634,** which was, in turn, based on the law laid down by the Hon'ble Supreme Court. The relevant observations made by the Division Bench in paras 12 & 13 of its judgment in **Harbans Singh**'s case (supra), which can be gainfully followed in the present case, read as under: -

> *"There is no quarrel with the proposition, as has been laid down by the Hon'ble Apex Court in Administrator General of West Bengal Vs. Collector's case (supra), that where the sale instance relied upon by the claimants comprised of small plot of land, than a cut has to be applied while evaluating a large tract of land.*

However, in our considered view, the aforesaid proposition of law would not be attracted to the present case. As has been noticed by the learned reference Court as well as by the learned Single Judge, it is clear that the acquired land was situated within the municipal limits. G.T. Road was situated on one side of the acquired land whereas on the other side of the acquired land a bypass road connecting Sirhind town with the G.T. Road was situated. There were certain shops, workshops, and petrol-pumps near the acquired land. In this view of the matter, certain observations made by the Hon'ble Apex Court in Bhagwathula Samanna and others Vs. Special Tehsildar and Land Acquisition Officer, 1992 (1) RRR 257: 1992 L.A.C.C. 314 may be noticed:

> *"The proposition that large area of land cannot possible fetch a price at the same rate at which shall plots are sold is not absolute proposition and in the given circumstances it would be permissible to take into account the price fetched by the small plots of land. If the larger tract of land because of advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not warranted. With regard to the nature of the plots involved in these two cases, it has been satisfactory shown on the evidence on record that the land has facilities of road and other amenities and is*

adjacent to a developed colony and in such circumstances it is possible to utilise the entire area in question as house sites. In respect of the land acquired for the road, the same advantages are available and it did not required any further development. We are, therefore, of the view that the High Court has erred in applying the principle of deduction and reducing the fair market value of land from Rs.10/- per sq. yard to Rs.6.50 per sq. yard. In our opinion, no such deduction is justified in the facts and circumstances of these cases."

Following the aforesaid dictum laid down by the Hon'ble Supreme Court of India, a Division Bench of Madras High Court in Special Tehsildar (Adi Dravidar Welfare) Vs. Abdul Reguman, 1996 L.A.C.C. 394 held as follows:

"In our view the observation made by the Supreme Court is squarely applicable to the case in hand. Admittedly, the land in question is already in a developed area and situated in an advantageous position and quite suitable for building purpose. It is also proved in evidence that the land in question has all the amenities such as roads, drainage, electricity, communications etc. Therefore, we are of the view that the learned Subordinate Judge is not justified in deducting 20% from the market value. We, therefore, set aside that part of the order of the learned Subordinate Judge, fixing the market value at Rs.1325/- less 20%. The

crossobjection is, therefore, allowed and the order of the Subordinate Judge is modified to this extent."

Respectfully following the law laid down by the Hon'ble Supreme Court and the Division Bench of this Court, it is unhesitatingly held that no cut is warranted to be imposed on the abovesaid market value.

Oweing to the prime location of the acquired land, which was situated in the fully developed area, the land owners would be entitled for 15% annual increase on cumulative basis, in view of the law laid down by the Hon'ble Supreme Court in **The General Manager, Oil and Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel and another, 2008 (4) SCC 745** and **Ashok Kumar and others Vs. State of Haryana and others, 2015 (3) Scale 242.** Granting the benefit of 15% annual increase on the abovesaid market value for the time gap of two and half years, the amount comes to Rs.50,31,366.27 per acre, which is rounded off to Rs.50,31,370/- per acre. Accordingly, the land owners are held entitled to receive the compensation for the acquired land at uniform rate of Rs.50,31,370/- per acre, from the date of notification under Section 4 of the Act. The abovesaid facts and figures have not been disputed by learned counsel for the parties.

Let it be specifically be recorded here that no better evidence or any other 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 cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that the appeals filed by the State of Haryana are wholly misconceived, bereft of merit and without any substance, thus, these must fail and the same are hereby dismissed.

The appeals filed by the land owners deserve to be partly accepted and the same are allowed to the extent indicated above. The land owners are held entitled to receive the compensation at the uniform rate of Rs.50,31,370/- per acre for their acquired land, 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 these 31 appeals stand disposed of, in the abovesaid terms, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

26.02.2016
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