IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.4694 of 2014 and other connected matters
Date of decision: 03.03.2016

Tara Chand and others

... Appellants

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Y.P. Malik, Advocate
for the appellant(s) (in RFA Nos.7010 to 7019, 8816 of 2014) and for the respondent (s) (in RFA Nos.9173, 9190, 9192, 9195 to 9199, 9201, 9202 of 2014)

Mr. Vinod Kumar, Advocate for
Mr. Harkesh Manuja, Advocate
for the appellant(s) (in RFA Nos.4694 to 4697, 5446, 7212 of 2014)

Mr. Ashwani Talwar, Advocate and
Mr. A.K. Wadhawan, Advocate
for the appellant(s) (in RFA Nos.4924 to 4928, 5452, 6282, 6336 of 2014, 2123 of 2015) and for the cross-objectors (in RFA No.9186 of 2014)

Mr. Ravinder Malik, Advocate
for the appellant(s) (in RFA Nos.897, 3590 of 2015)

Mr. Suneel Ranga, Advocate
for the appellant(s) (in RFA Nos.768, 1027 to 1029, 1498, 3259, 3260 of 2015)

Mr. Arvind Singh, Advocate and
Mr. Parveen Sharma, Advocate
for the appellant(s) (in RFA No.8088 of 2014)

Mr. Rahul Jaswal, Advocate
for the appellant(s) (in RFA Nos.1051, 1052 of 2015)

Mr. Akshay Jindal, Advocate
for the appellant(s) (in RFA No.892 of 2015)

Mr. Pritam Singh Saini, Advocate and
Mr. Vishal Garg, Advocate for HSIIDC.

Mr. B.S. Giri, Advocate for
Mr. P.K. Mutneja, Advocate for Indian Oil Corporation

Mr. Arun Beniwal, DAG, Haryana.

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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<u>RAMESHWAR SINGH MALIK, J.</u>

Instant bunch of 70 appeals, out of which 31 appeals bearing Regular First Appeal Nos.9173 to 9202 of 2014 & 3610 of 2015 filed by the beneficiary department i.e. Haryana State Industrial and Infrastructure Development Corporation ('HSIIDC' for short) and remaining 39 appeals bearing Regular First Appeal Nos.4694 to 4697, 4924 to 4928, 5446, 5452, 6282, 6336, 7010 to 7019, 7212, 8088, 8816 of 2014, 768, 892, 897, 1027 to 1029, 1051, 1052, 1498, 2123, 3259, 3260, 3590 of 2015 and also the cross-objection No.146-CI 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 No.4694 of 2014 (Tara Chand and others Vs. State of Haryana and others).

State of Haryana sought to acquire land measuring 423 acres and 16 marla, out of the revenue estates of two villages namely Bohali and Dadlana, Tehsil and District Panipat, at public expenses for the public purpose i.e. for development of industrial estate by HSIIDC. Accordingly, notification dated 30.06.2005 was issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act'), which came to be followed by notification dated 18.05.2009 under Section 6 of the Act. Land Acquisition Collector ('LAC' for short), vide award No.6 dated 28.06.2007 for village Bohali and vide award No.8 dated 10.09.2007 for village Dadlana, assessed the market value of the acquired land at the uniform rate of Rs.16,00,000/- per acre, without resorting to any belting system.

Dissatisfied, the land owners filed their objections under Section 18 of the Act and as a consequence thereof, as many as 30 land references of village Bohali were decided by the learned reference Court vide impugned award dated 15.02.2014. 16 land references pertaining to village Dadlana, were decided by the learned reference Court vide impugned award dated 15.09.2014. The learned reference Court assessed the market value for the total acquired land from both these villages at the uniform rate of Rs.28,65,500/- per acre.

Both the parties felt aggrieved against the abovesaid impugned awards passed by the learned reference Court. The beneficiary department i.e. HSIIDC is seeking reduction in the amount of compensation awarded by the learned reference Court, whereas the land owners are seeking further enhancement in the amount of compensation for their acquired land. That is how, all these 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 rival contentions raised, this Court is of the considered opinion that so far as the appeals filed by the beneficiary department i.e. HSIIDC are concerned, the same have been found without any merit and are liable to be dismissed. However, the appeals and cross-objections filed by the land owners deserve to be partly accepted, suitably enhancing the amount of compensation for their acquired land. To say so, reasons are more than one, which are being recorded hereinafter.

So far as the location and potentiality of the acquired land is concerned, it has been discussed in detail by the learned reference Court in para 4 of the impugned award. The findings recorded by the learned reference Court in this regard has not been disputed by learned counsel for HSIIDC before this Court. The relevant part of para 4 of the impugned award, pointing out about the potentiality of the acquired land, reads as under: -

> *"...........Panipat is a priority town of National Capital Region located on national highway. It is situated at a distance of about 90 kilometers from Delhi and is known for its handloom products. A large number of large and medium scale industries such as Cooperative Sugar Mill, Distillery, National Fertilizer Limited, Thermal Power Plant and Indian Oil Refinery have been set up in the vicinity of the Panipat Town. The acquired land adjoins Indian Oil Refinery. It is situated on the metalled road leading from Village Bohali to Panipat City. It is also situated near the abadi of Village Kabri, Faridpur and Nizampur. Number of commercial establishments have also come up in the area which includes industrial units, spinning mills and handloom factories. A transport nagar has also been developed near the acquired land. The extension of the abadi of Panipat City is also towards the acquired land. Number of export oriented factories have also come up near the acquired land. The land situated at Village Bohali has been acquired for setting up world class petrochemical hub by Indian Oil Refinery. It will give employment to lacs of people and will earn profit in crores of rupees. The acquired land is situated*

in the area of fully developed industrial estate having all types of modern amenities. It is situated at a distance of about 4 kilometers from the municipal limits of Panipat town. It is further stated by the petitioners that the market value of the acquired land was not less than Rs.1,20,00,000/- per acre at the time of issuance of notification under Section 4 of the Land Acquisition Act. The sale deed of the land adjoining the acquired land has been registered at the rate of Rs.1,04,23,454/- per acre on 7.2.2006. Number of private land developers such as Ansals, Eldeco, TDI and Parasnath Paliwal Group of Builders have developed residential colonies in the area. The plots are being sold at the rate of Rs.8,000/- to 10,000/- per sq. yards."

In fact, after setting up of the Panipat Oil Refinery, this area had been the most happening place, as every investor intended to invest maximum amount in this area. All round development had been taking place in the adjoining revenue estates. Hardly any open and simple agricultural land was left between Panipat and this oil refinery, which was set up in the revenue estate of Village Bohali, somewhere in the early 90s. In view of these undisputed facts available on record, potentiality of the acquired land cannot be disputed.

Both the parties placed on record voluminous evidence in support of their respective stands taken before the learned reference Court. However, only two sale deeds were pre-acquisition, being dated 23.06.1993 in the form of Ex.P1 and Ex.P2, pertaining to small pieces of land. The remaining sale deeds were not found relevant, most of them being post-acquisition. The learned reference Court did not place reliance on the sale instances produced on record by the land owners. Similarly, the learned reference Court ignored the sale deeds produced by the State and beneficiary department i.e. HSIIDC, because all the sale exemplars relied upon by the State were disclosing much lessor market value than what was assessed by the LAC, vide his abovesaid two awards.

In such a situation, learned reference Court was left with no other option except to follow the earlier awards Ex.P41 and Ex.P91, which were pertaining to adjoining revenue estates of Village Sithana and Begumpur respectively. After following the award pertaining to Village Sithana in the form of Ex.P41, the learned reference Court assessed the market value @ Rs.28,65,500/- per acre (Rs.592.05 per square yard). Learned counsel for the beneficiary department i.e. HSIIDC has vehemently contended that award Ex.P41 was not at all relevant and the learned reference Court proceeded on a wholly misconceived approach, while placing reliance on this award, because the land of village Sithana was situated at a substantial distance from the acquired land.

Fairly conceding that all the sale deeds relied upon by the State and beneficiary department were disclosing much lesser market value than the one assessed by LAC, he submits that because of this reason, there was no scope of any enhancement in the amount of compensation at the hands of learned reference Court. He further submits that since it was a case of no evidence, so far as the claim of the land owners, was concerned, the learned reference Court committed serious illegality, while placing reliance on Ex.P41. He prays for allowing the appeals filed by HSIIDC, reducing the amount of compensation to what was granted by LAC.

Per contra, learned counsel for the land owners submit that there was no substantial time gap between the sale deed dated 07.11.2005, whereby a big chunk of land measuring 86 kanals was sold at the rate of Rs.53,09,244/- per acre. They further submit that although the sale instances contained in sale deeds Ex.P1 and Ex.P2 were pertaining to small pieces of land, yet the same ought to have been taken into consideration for the purpose of assessing the market value of the acquired land, after applying a reasonable cut on the market value disclosed therein. They also placed strong reliance on the earlier award Ex.P41 pertaining to village Sithana, contending that since it was pertaining to the adjoining revenue estate, the learned reference Court has rightly placed reliance thereon and there was no illegality committed by the learned reference Court in this regard. Learned counsel for the land owners concluded by submitting that since the Regular First Appeals arising out of abovesaid award Ex.P41, have been decided by this Court vide order dated 01.03.2016 assessing the market value at the rate of Rs.1130/- per square yard, that order is the best piece of evidence, which can be made the basis for assessing the market value of the acquired land. They pray for allowing the appeals filed by the land owners for further enhancement of the compensation for their acquired land.

After giving anxious consideration to the contentions raised by learned counsel for the parties, this Court is of the considered view that if the sale instance dated 07.11.2005 is to be relied upon, there being no substantial time gap between this sale and the date of notification, the land owners would be entitled at a much higher compensation, i.e. at the rate of about Rs.50,00,000/- per acre, even after applying a reasonable cut on the market value disclosed therein. Similarly, if the abovesaid two sale instances contained in Ex.P1 and Ex.P2 are taken into consideration, whereby the small pieces of land were sold at the rate of Rs.25,79,720/- per acre in the year 1993 and the benefit of 12% annual increase, on cumulative basis, is granted to the land owners for the time gap, the amount would come almost the same.

Under these peculiar facts and circumstances of the case noticed hereinabove, it would be safer to consider the judicial precedents in the form of Ex.P41, which was an earlier award of reference Court and the order dated 01.03.2016 passed by this Court in the appeals arising therefrom. Thereafter, a reasonable reverse cut on the said market value can be applied so that none of the parties may have any grouse in this regard. It is so said because the date of acquisition in the award Ex.P41 was 14.12.2006, whereas in the instant acquisition, notification under Section 4 of the Act is 30.06.2005.

In view of what has been discussed hereinabove, to strike a balance 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 apply a cut of 20% on the market value, assessed by this Court vide order dated 01.03.2016 passed in the appeals arising from the award Ex.P41. Order dated 01.03.2016 was passed by this Court in **RFA No.3119 of 2013 (Indian Oil Corporation Vs. State of Haryana and others)**, along with another appeal filed by the land owner of village Sithana, whose land was acquired. After applying 20% reverse cut on the market value of Rs.1130/- per square yard, assessed in RFA No.3119 of 2013 decided on 01.03.2016, the market value comes to Rs.904/- per square yard. Accordingly, the land owners are held entitled to receive the amount of compensation at the uniform rate of Rs.904/- per square yard for their acquired land, from the date of notification under Section 4 of the Act.

So far as the distance between the acquired land and the land in RFA No.3119 of 2013 of village Sithana is concerned, learned counsel for the parties are not ad idem on any particular distance. On the one hand, learned counsel for HSIIDC submits that there was a substantial distance between the acquired land and the land of village Sithana, whereas learned counsel for the land owners submit that there was hardly any distance between two pieces of land. Be that as it may, one material fact, which has gone undisputed on record is that the revenue estates of village Sithana and village Bohali were adjoining with each other. Once it is so, the reliance can be safely placed on two judgments of the Hon'ble Supreme Court in this regard, rendered in **Ashrafi and others Vs. State of Haryana and others, 2013 (5) SCC 527** and **Kashmir Singh Vs. State of Haryana and others, 2014 (2) SCC 165.**

Under the peculiar circumstances, it can be safely concluded that granting any lesser amount of compensation to the land owners, in the instant set of appeals, would be wholly inadequate. In fact, this Court has duly considered all the relevant positive as well as negative determinative factors for the purpose of assessing the market value of the acquired land, in view of the law laid down by the Hon'ble Supreme Court in **Viluben Jhalejar Contractor (D) by LRs Vs. State of Gujarat, 2005 (4) SCC 789.**

Let it be specifically recorded here that no better evidence or any 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 cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that the appeals filed by the beneficiary department i.e. HSIIDC have been found wholly misconceived, bereft of merit and without any substance, thus, these must fail and the same are hereby dismissed. The appeals as well as cross-objections 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 for their acquired land at the uniform rate of Rs.904/- per square yard, 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 the abovesaid appeals as well as cross-objection stand disposed of, in the abovesaid terms, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
03.03.2016 **JUDGE**
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