IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Review Application No. 173-CI of 2016 (O&M) in
RFA No. 3520 of 2006
Date of decision: November 21, 2016

Bhim Singh and others

.. Applicants/ appellants

v.

State of Haryana and another

.. Non-applicants/ respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. S. P. Khatri, Mr. M. L. Sharma, Mr. Ajay Singh for Mr. Bhag Singh, Mr. Lakshay Bajaj for Mr. Vikrant Hooda and Mr. Arun Nehra, Advocates for the applicants.

Mr. Ankur Mittal, Addl.Advocate General, Haryana.

Mr. Deepak Balyan, Advocate for HSIIDC.

...

Rajesh Bindal J.

1. This order will dispose of a bunch of Review Applications No. 170-CI to 176-CI, 178-CI to 180-CI, 182-CI to 192-CI, 197-CI, 199-CI, 210-CI, 224-CI to 239-CI, 249-CI to 251-CI, 253-CI, 254-CI, 258-CI to 263-CI, 293-CI, 402-CI to 409-CI, 411-CI, 412-CI, 488-CI to 493-CI, 513-CI and 606-CI to 608-CI of 2016, as common questions of law and facts are involved.

2. The cases pertain to determination of compensation for acquisition of land, where notification under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') was issued on 5.8.1997, vide which State of Haryana sought to acquire 303 acres, 7 kanals and 9 marlas of land, situated in village Kundli, Hadbast No. 55, Tehsil and District Sonepat for development as Industrial Estate in villages Kundli, Sersa and Nangal Kalan, Tehsil and District Sonepat. The same was followed by notification dated 29.7.1998, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide his award No. 1 dated 15.12.1998, assessed the market value of the acquired land @ ₹ 4,50,000/- per acre upto the depth of four acres from National Highway No. 1 and @ ₹ 2,25,000/- per are for the remaining land.

3. Dissatisfied with the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below assessed the market value of the acquired land @ ₹ 6,00,000/- per acre for the land situated upto four acres from National Highway No. 1 and ₹ 4,00,000/- per acre for the land situated beyond that.

4. Still aggrieved, the land-owners as well as Haryana State Industrial & Infrastructure Development Corporation Ltd. (for short, 'HSIIDC') filed appeals in this Court. In the appeals filed by the land owners, they were seeking further enhancement of compensation for the acquired land, whereas in the appeals filed by HSIIDC, the prayer was for reduction thereof. This Court in RFA No. 1854 of 2002—Bhim Sain Juneja v. State of Haryana and others, decided on 3.11.2015, assessed the market value of the acquired land @ ₹ 10,40,000/- per acre.

5. The judgment of this court was challenged by the land owners

by filing Special Leave to Appeal (C) Nos. 5757-5766 of 2016—Parmeshwari and others v. State of Haryana and another, which were dismissed as withdrawn, vide order dated 4.3.2016, with liberty to file review applications. Thereafter, the applicants/land owners have filed the review applications.

6. Learned counsel for the applicants submitted that though a portion of the land acquired vide notification in question is located on GT Road, however, at the time of assessment of value, only for the land located beyond 4 acres from GT Road was assessed and not for the land abutting the GT Road. The same is required to be assessed. For the purpose, reference was made to assessment of land located on GT Road, where notification under Section 4 of the Act was issued on 22.10.1997. Vide same judgment of this Court, value thereof was assessed @ ₹ 20,00,000/- per acre.

7. It was further submitted that measurement of 4 acres depth has not been specifically provided in feets or yards. The same needs clarification. The submission is that the road has not been constructed along with killa lines, rather, killas have been cut across by the road. Calculation of compensation by taking the depth upto 4 acres from the road will be very difficult, as it will go diagonally in every killa. A straight line be permitted at the next killa line after 4 acres.

8. It was further submitted that as the area all around was already fully developed, in fact the entire land should have been assessed at the same rate instead of belting system. Sale deeds (Exs. P.24 and P.25), which were pertaining to the acquired land, should have been relied upon as against sale deed (Ex. P.31) and increase thereon should have been granted for the time gap. The rates at which the plots were being sold by HSIIDC

were required to be taken into consideration and the pace at which the same were increased. There was lot of pressure on the land in that area on account of shifting of industries from Delhi.

9. Mr. Arun Nehra, learned counsel appearing for land owners in some of the applications, submitted that the area around the acquired land having already been developed, same compensation should have been assessed for the entire land instead of belting system. He further submitted that while assessing the compensation for the land abutting the GT Road @ ₹ 20,00,000/- per acre, for the land behind that, the compensation should not be @ ₹ 10,40,000/- per acre, but should be assessed 20-30% less and not more than that.

10. On the other hand, learned counsel for the respondents submitted that the only issues raised by learned counsel for the applicants before Hon'ble the Supreme Court, while withdrawing the Special Leave Petitions to enable them to file review applications before this court, was that this court had not assessed the compensation for the land located on GT Road and further that for calculating the compensation for the land located on GT Road, distance could not be measured in acres. The judgment of this court was not set aside and the matter remanded back. The Special Leave Petitions were withdrawn to enable the applicants to file review applications before this court. To that extent, there is justification for raising the arguments. No other arguments can be considered, as these go beyond the scope of review jurisdiction. Even as per the observations made by Hon'ble the Supreme Court, the material on record was to be considered with reference to the two issues, as referred to above. The entire case was not to be re-heard. However, he did not dispute the fact that part of the land

pertaining to the acquisition in question is located on GT Road, for which the compensation is required to be assessed.

11. Heard learned counsel for the parties and perused the paper book.

12. Against the judgment of this court assessing the compensation, the land owners preferred Special Leave Petitions before Hon'ble the Supreme Court, which were dismissed as withdrawn on 4.3.2016 noticing their contention that value of the land abutting GT Road had not been assessed, whereas part of the land was located on GT Road and further distance could not be measured in acres, yet this court had used the said unit for determining the distance of land from the Highway. The submissions made by learned counsel for the land owners were to be considered in accordance with law. Review jurisdiction of this court has been invoked, which has its limited scope. The judgment of this court was not set aside as the Special Leave Petitions were dismissed as withdrawn, hence, the only error apparent on record could be considered. Re-appraisal of evidence may not be possible.

13. As regards assessment of value of land abutting GT Road is concerned, the fact is not in dispute as had even been noticed in the judgment of this court that part of the acquired land was abutting the GT Road. However, while assessing the compensation, the value was assessed only for the land, which was located beyond 4 acres from GT Road. The value upto 4 acres was not assessed. There is error apparent on record to that extent. Vide same judgment, assessing the value of land where notification under Section 4 of the Act was issued on 22.10.1997 and the entire land was located within the depth of 4-5 acres from GT Road, with

development all around, this court had assessed the compensation @ ₹ 20,00,000/- per acre. The location of this land is not far off from the acquired land, hence, in my view, considering the fact that the notification in the present case was issued on 5.8.1997, same value can be assessed for the land abutting the GT Road upto the depth of 4 acres. Ordered accordingly. The applicants-landowners shall also be entitled to all statutory benefits available under the Act.

14. The value of the land located beyond 4 acres was assessed by this court @ ₹ 10,40,000/- per acre. Once the land located on GT Road is being assessed @ ₹ 20,00,000/- per acre, there cannot be variation of about 50% for the land located beyond that, hence, even applying thumb rule, value of the land located beyond 4 acres is also required to be re-assessed. In my view, a cut of 30% can be applied on ₹ 20,00,000/-. As a consequence, the value of land located beyond 4 acres is assessed @ ₹ 14,00,000/- per acre. The land-owners shall also be entitled to statutory benefits available to them under the Act.

15. As regards the measurement of acres from GT Road for the purpose of assessment of compensation is concerned, this court had granted compensation by applying belting system. The value of land abutting GT Road upto the depth of 4 acres was assessed at higher rate, whereas the value beyond 4 acres was assessed at a little lower rate. The contention raised by learned counsel for the applicants can be accepted to the extent that measurement can be specified in terms of feets instead of acres. To this, even learned counsel for the State also did not have any objection. Size of an acre is 198 feet x 220 feet'. To give more benefit to the landowners, the depth of per acre is taken as 220 feet. Multiplied by 4, it will come out to

880 feet, the depth upto which the compensation has been assessed at a higher rate, as compared to the rate for the land located beyond that.

16. As far as other contentions raised by learned counsel for the applicants are concerned, those will not fall within the review jurisdiction, as all the contentions had already been considered while deciding the appeals.

17. To sum up, it is held that the for the land abutting GT Road upto the depth of 880 feet, the applicants-landowners shall be entitled to compensation @ ₹ 20,00,000/- per acre, whereas for the land located beyond that, they shall be entitled to compensation @ ₹ 14,00,000/- per acre. The applicants-landowners shall also be entitled to all statutory benefits available under the Act.

18. The review applications are disposed of accordingly.

(Rajesh Bindal)
Judge

November 21, 2016
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No