IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Review Application No. 304-CI of 2016 (O&M) in
RFA No. 5735 of 2012
Date of decision: November 21, 2016

Sarla and others

.. Applicants/ appellants

v.

State of Haryana and others

.. Non-applicants/ respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Neeraj Jain, Senior Advocate with
Mr. Ajit Malik, Advocate;
Mr. B. S. Rana, Senior Advocate with
Mr. Gagandeep Rana, Advocate;
M/s S. P. Khatri; M. L. Sharma; Rohit Kumar for
Rohit Chandel and
Ravi Kapur, Advocates for the applicants.

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

Mr. Vishal Garg, Advocate for HSIIDC in Review
Application Nos. 538 and 539 of 2016.

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Rajesh Bindal J.

1. This order will dispose of a bunch of Review Applications No. 295-CI to 299-CI, 301-CI to 305-CI, 318-CI to 324-CI, 326 -CI to 328-CI, 330-CI to 332-CI, 334-CI to 339-CI, 343-CI, 345-CI to 347-CI, 351-CI, 353-CI, 355-CI, 356-CI, 358-CI 360-CI, 361-CI, 371-CI, 375-CI, 376-CI, 385-CI to 387-CI, 389-CI, 393-CI to 395-CI, 414-CI to 423-CI, 429-CI to 444-CI, 452-CI to 454-CI, 457-CI, 477-CI to 480-CI, 482-CI, 483-CI, 486-CI, 487-CI, 494-CI to 510-CI, 538-CI, 539-CI, 558-CI, 561-CI, 564-CI to 576-CI, 578-CI to 581-CI and 611-CI of 2016, as common questions of law and facts are involved.

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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 17.11.2005, vide which State of Haryana sought to acquire land in village Jakholi, HB No. 37, village Sewli, HB No. 39, village Patla, HB No. 40, village Badhkhalsa, HB No. 41, village Firozepur Khadar, HB No. 70, village Asawarpur, HB No. 71, village Khewra, HB No. 72, village Bahalgarh, HB No. 73 and village Badh Malik, HB No. 68, for development and utilization thereof for commercial institutions and residential purposes for Sectors 65 to 68, Sonepat, developed as Rajiv Gandhi Education City, Phase-I. The same was followed by notification dated 7.2.2006 issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide different awards dated 2.3.2006, assessed the market value of the acquired land @ ₹ 12,50,000/- per acre for all the villages.

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 @ ₹ 32,00,000/- per acre pertaining to revenue estates of Badhkhalsa, Badh Malik, Asawarpur, Firozepur Khadar, Bahalgarh and Khewda and @ ₹ 28,00,000/- per acre for the land pertaining to revenue estates of Sewli, Patla and Jakholi. Vide different awards dated 10.3.2011. In some cases, the learned Reference Court upheld the award of the Collector.

4. Still aggrieved, the land-owners as well as the State 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 State, the prayer was for reduction thereof.

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This Court in RFA No. 5360 of 2011-- Kehar Singh v. State of Haryana and others, decided on 3.11.2015, assessed the market value of the acquired land @ ₹ 42,00,000/- per acre for the land abutting GT Road upto the depth of four acres and @ ₹ 32,00,000/- per acre for the remaining land.

5. The judgment of this court was challenged by the land owners in Hon'ble the Supreme Court by filing Special Leave to Appeal (C) Nos. 5024-5047 of 2016—Data Ram and etc. v. State of Haryana and others, which were dismissed as withdrawn, vide order dated 28.3.2016, with liberty to file review applications. Thereafter, the applicants/land owners have filed the review applications.

6. Learned counsel for the applicants submitted that 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.

7. It was further submitted that sale deeds (Ex. P27 and Ex. P28), which though were not part of the acquired land, but were located adjoining thereto, should have been taken into consideration for the purpose of assessment of compensation. The trend of increase in the prices, as is evident from the sale deeds produced on record, was also required to be appreciated. Further, the submission was that belting system was not required to be applied seeing the potentiality of the land. No cut on the value, as shown in the sale deeds, was required to be applied.

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8. It was further submitted that though initially the Special Leave Petitions were permitted to be withdrawn with liberty to file review applications before this court, however, later in Petition(s) for Special Leave to Appeal (C) Nos. 12981-12998 of 2016—Chhanno and others v. State of Haryana and others, against the same judgment of this court, notice has been issued vide order dated 22.7.2016.

9. On the other hand, learned counsel for the respondents submitted that counsel for the land owners mis-stated the facts before Hon'ble the Supreme Court while pointing out error in the judgment with reference to non-assessment of compensation for the land abutting the GT Road. He did not dispute the fact that the issue regarding depth of 4 acres from GT Road can be clarified in feets or yards. 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. 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.

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

11. 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 28.3.2016, 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

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distance could not be measured in acres, yet this court had used the said unit for determining the distance of land for the Highway. The submissions made by learned counsel for the land owners were to be considered on the basis of the material on record. 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.

12. As regards assessment of value of land abutting GT Road is concerned, the counsel for the applicants mis-stated the facts before Hon'ble the Supreme Court. This Court had assessed the compensation @ ₹ 42,00,000/- per acre for the land abutting GT Road upto the depth of four acres and ₹ 32,00,000/- per acre for the remaining land.

13. 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 yards/feet 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.

14. The judgment under review is clarified to the extent that depth

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from GT Road shall be taken as 880 feet instead of 4 acres, as specified earlier.

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

16. 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

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