**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Cross Objection-19-CI-2005 in/&
RFA No.1946 of 2003 (O&M)
Date of Decision : 22.03.2017**

State of Haryana through Collector, Panchkula

......Appellant

Versus

Diwan Chand and others

...... Respondents

and other connected matters:

Filed By	Numbers	Total
Beneficiary of acquisition	RFA Nos. 1947, 1948, 1949, 1950, 1951 and 1952 of 2003 (O&M)	6
claimant/landowners	XOBJR-20-CI-2005 in RFA-1947-2003, XOBJR-4-CI-2015 in RFA-1948-2003, XOBJR-3-CI-2015 in RFA-1949-2003, XOBJR-18-CI-2005 in RFA-1950-2003, XOBJR-6-CI-2015 in RFA-1951-2003, XOBJR-2-CI-2015 in RFA-1952-2003 (O&M)	6

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Shivendra Swaroop, AAG, Haryana
for the appellant(s).

Mr. R.S.Longia, Advocate
for the cross-objectors/respondents.

ARUN PALLI, J. (Oral)

Vide this order and judgment, I shall decide a batch of seven appeals that have been preferred by the State of Haryana, as also the cross objections, equal in number, filed by the claimants/landowners. For, the matter arises out of the same acquisition, and the issues that require determination are common, the same is being disposed of by a common judgment. However, by consensus the facts are being culled out from RFA No.1946 of 2003 (State of Haryana through Collector, Panchkula Vs. Diwan Chand and others).

Vide notification under Section 4 of the Land Acquisition Act, 1984, (for short 'the Act'), published on 30.10.1984, a land measuring 5.93 acres, situated in village Rajjipur Jhajar (hadbast No.108), Tehsil Kalka, District Ambala (now in Panchkula), was sought to be acquired for construction of a link road from Ambala Kalka road to Rajjipur Jhajar. However, in the final declaration under Section 6, published on 30.07.1985, the area under acquisition was reduced to 5.23 acres. The Land Acquisition Collector, vide Award No.107, dated 29.10.1986, assessed value of the land that was chahi, at ₹49,056/- per acre, Gair Ali pash at ₹32,700/- per acre, banjar at ₹16,300/- per acre, and gair mumkin at ₹3175/- per acre. Being dis-satisfied with the assessment and the compensation awarded by the Collector, the claimants filed objections under Section 18 of the Act, and resultantly, the dispute was referred to the Civil Court. On a consideration of the matter in issue and the evidence on record, the reference Court relied upon a sale deed dated 27.09.1983 (Ex.P1), vide which an area measuring 1 biswa, situated in village Rajjipur Jhajar itself, was sold for a consideration of ₹8,000/- i.e. @ ₹8,00,000/- per acre (100 biswas being equal to 1 acre). However, owing to the smallness of the area, the reference Court applied a cut of 50% on the sale consideration reflected in the said sale deed. But, as there was a time difference of almost one year between the execution of the sale deed (Ex.P1), and the notification issued under Section 4 in these proceedings, the claimant/landowners were also awarded an annual increase @ 12% to workout the value of the acquired land. Accordingly, all the claimants, notwithstanding the nature of the land, were held entitled to compensation at ₹4,50,000/- per acre. That is how, both the parties are in appeal before this Court. Of course, the State has prayed that the award rendered by the reference Court be set aside, whereas, the claimants/landowners seek further enhancement.

Learned State counsel submits that as the area that was sold vide sale deed, dated 27.09.1983 (Ex.P1) was merely 1 biswa, it could only be used for a purpose other than agriculture, whereas the acquired land was purely agriculture in nature. Thus, he submits that the sale instance Ex.P1, even after applying a 50% cut, could never be the basis to determine the true value of the acquired land. In the alternative, he submits that even if it is assumed that the reference Court had rightly relied upon the sale deed (Ex.P1), still to balance out the value of the acquired land, the reference Court ought to have applied a higher cut than just 50%. Thus, he submits that the compensation awarded by the reference Court is required to be suitably reduced.

Per contra, learned counsel for the claimants/landowners submits that although, vide sale deed dated 27.09.1983 (Ex.P1) only an area measuring 1 biswa was alienated, but the said sale instance pertained to village Rajjipur Jhajar itself, and for the said sale deed was executed a year prior to the issuance of notification under Section 4, it was the most crucial evidence on record. Further, he submits that the land in question was acquired for construction of a link road, therefore, it was not a case where any development work was to be carried out, resulting in some expenditure or cost to be incurred by the State. Thus, any deduction or applying a cut on the sale consideration reflected in the sale deed Ex.P1 was not warranted. And, even if it is assumed that some deduction was required to be made, still a cut of 50% was unreasonably excessive.

I have heard learned counsel for the parties and perused the records.

Ex facie, the State never led any evidence to show as to what indeed was the true value of the acquired land. Concededly, a site that was sold vide sale deed dated 27.09.1983 (Ex.P1), also formed part of the revenue estate of village Rajjipur Jhajar itself. Indisputably, the notification dated 30.10.1984, under Section 4 in the present proceeding was issued a year after the execution of the said sale deed dated 27.09.1983. Thus, the veracity of the sale deed (Ex.P1) or bonafides of the said transaction were never in issue. And, in the absence of any other evidence, the sale deed Ex.P1 was the safest and the most suitable evidence that could be the basis to workout the true value of the acquired land. However, it is also true that the site that was sold vide sale deed Ex.P1 was merely 1 biswa i.e. 50 square yards, therefore, it could only be used for a purpose other than the agriculture. Whereas, the acquired land, measuring 5.23 acres was purely agriculture in nature. Thus, value of such a plot of land or a site would always be far more than a mere agricultural land holding. For, more often than not, alienation of a compact and a well defined site, carries a presumption as regards advantages in terms of location, accessibility and other amenities. What is the position in the matter of hands? An analysis of the sale deed Ex.P1 reveals that towards the eastern side of the plot, that was sold, a plot of the vendee herself existed, on it's western side it was bounded by a railway line, towards north it was abutted by the house of Ram Karan, and on the southern side with the house of Ram Nath. This signifies that the plot that was sold vide sale deed Ex.P1 was a part of the inhabited area. Therefore, to neutralize the effect of all these factors vis-a-vis the evaluation of a large tract of land, it was just and appropriate to cause a suitable deduction or apply a cut. The argument of the learned counsel for the claimants that no deduction or cut, at all, was warranted for the land was merely being acquired for construction of a link road, lacks conviction. Undoubtedly, the acquired land was utilized for the purpose indicated above, but deduction of 50%, was caused owing to the smallness of the area alone and not for any development cost to be incurred by the State. The Supreme Court in the case of **Himmat Singh and others Vs. State of M.P. and another 2013(16) SCC 392,** had approved 50% deduction, in cases where the sale deeds/sale instances of smaller plots of land were relied upon to workout the compensation for a large tract of agricultural land. Thus, argument of the State counsel that reference Court ought to have applied a higher cut, and the submission of the learned counsel for the claimants to the contrary; that the deduction caused by the reference Court was excessive, lack merit and are accordingly, rejected.

No other argument was advanced.

In conspectus of the position, as sketched out above, no ground is made out to interfere with the impugned award. Resultantly, the appeals filed by the State as also the cross-objections preferred by the land owners are dismissed.

22.03.2017 **(ARUN PALLI)**
Manoj Bhutani **JUDGE**

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No