

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No. 2416 of 2000 (O&M)

Date of Decision: July 24, 2017

Shiv Kumar and others

...Appellants

Versus

Haryana State and others

...Respondents

and other connected matters, i.e.

Filed By:	Case No.
Claimant/Landowners	2415 of 2000 and 3566 of 2001
State of Haryana	183, 223 and 224 of 2001

CORAM: HON’BLE MR. JUSTICE ARUN PALLI

Present: For the Claimant/Landowners

Mr. Vikram Singh, Advocate with
Ms. Ramandeep Kaur, Advocate.

For State of Haryana

Mr. Sudeep Mahajan, Addl. AG, Haryana.

ARUN PALLI, J. (ORAL)

Vide this order and judgment, I shall decide a batch of six appeals, of which three have been filed by the claimant/landowners and the rest three by the State of Haryana. For, all these appeals arise out of the same acquisition, these are being disposed of by a common judgment. However by consensus, the facts are being culled out from RFA No. 2416 of 2000.

Vide notification, dated 01.08.1996, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), a land situated in village Qasba Karnal (H.B. No.1), Tehsil and District Karnal, was sought to be acquired for construction of Sewerage Treatment Plant in Karnal. The final declaration under Section 6 of the Act was published on 12.02.1997. The Land Acquisition Collector, vide Award No. 1, dated 04.11.1997, assessed the market value of the acquired land at Rs. 4,00,000/- per acre i.e. Rs.82.64 per square yard. Being dis-satisfied by the assessment as also the compensation awarded by the Collector, the claimants/landowners filed objections under Section 18 of the Act. Resultantly, the dispute was referred to the Civil Court for determination of the true value of the acquired land. And, on a consideration of the matter in issue and the evidence on record, the Reference Court enhanced the compensation to Rs.145/- per square yard. That is how, as indicated above, the claimants/landowners as also the State are in appeal. Of course, the claimants/landowners seek further enhancement. And, the State has appealed to set aside the impugned award.

Learned counsel for the claimants/landowners submits that the Reference Court while assessing the true value of the acquired land had relied upon a decision of this Court, dated 10.02.1999 (Ex. P1), rendered in RFA No. 1678 of 1994, titled "State of Haryana and another v. Smt. Bina Devi", vide which this Court had assessed the value of a land adjacent to the acquired land, acquired for Sectors 4-5, Urban Estate, Karnal at Rs.145/- per square yard. But, he submits that as the notification under Section 4 in the case of Smt. Bina Devi (supra) was issued on 08.02.1989 and in the present proceedings on 1.8.1996 i.e. after over seven years, the Reference Court

ought to have awarded an appropriate increase. He submits that the reasons assigned by the Reference Court to deny the increase over and above Rs.145/- per square yard, are erroneous. Thus, the claimants/landowners be awarded an appropriate/suitable increase @ 12% per annum for a period of seven years.

As opposed to this, learned State counsel submits that no doubt the acquired land adjoined and was situated right behind the land that was acquired for Sectors 4-5, Urban Estate, Karnal, but the land under acquisition in the case of Smt. Bina Devi (supra) was located adjacent to the G.T. Road, Karnal and was surrounded by various hotels, dhabas and commercial establishment and was thus, more valuable than the acquired land. He submits that on a comparative analysis of the location of the acquired land vis-a-vis the land under acquisition in the case of Smt. Bina Devi (supra), the Reference Court had reached a just conclusion that value of the acquired land in the year 1996 would have been the same as was of the land in the case of Smt. Bina Devi (supra) in the year 1989. Thus, he submits there was hardly any occasion to still award any increase upon the assessed value of the land that was acquired for Sectors 4-5, Urban Estate, Karnal.

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

Ex facie, the Reference Court discarded the sale instances that were brought on record by the claimants/landowners as also the State, for, those were said to have no relevance for assessing the value of the acquired land. The only document that was found to be germane to the acquisition in

question, was the judgment (Ex. P1), rendered by this Court in the case of Smt. Bina Devi (supra), vide which the land adjacent to the acquired land, acquired for Sectors 4-5, Urban Estate, Karnal, was assessed at Rs.145/- per square yard.

Indisputably, the time difference between the two notifications, issued under Section 4 dated 8.2.1989 in the case of Smt. Bina Devi (supra) and dated 01.08.1996, in the present proceedings, was over seven years. But yet the reference Court denied the increase to the claimants/landowners upon the assessed value of the adjacent land i.e. Rs.145/- per square yard as on 8.2.1989. The conclusion arrived at by the reference Court in this regard reads thus:-

“From the above discussion and the evidence referred above, the only document relevant for assessing the market value is Ex.P1 judgment of the Hon'ble High Court by which the market value of the land under Sectors 4-5 which is adjoining the acquired land, was, assessed at the rate of Rs.145/- per square yard. Although that land was acquired in the year 1989 and the present land was acquired in the year 1996 and during that period there must have been increased in the potential of the land. But definitely the said land under Sectors 4-5 was for residential and commercial purpose and was adjacent to G.T. Road which is surrounded by various hotels, dhabas, shops, petrol, pump and commercial establishments. While the acquired land is not adjacent to G.T.Road. Yet it being

adjacent to Sectors 4-5 and now a passage has been given by constructing a road. So, I feel that the rate which was given by the Hon'ble High Court for Sectors 4-5 Urban Estate which was acquired in the year 1989, is to be given for the acquired land acquired in the year 1996. Although it is a well known fact that increase at the rate of 12 percent per year should be given on the rate given in the previous award. But as the land acquired for Sectors 4-5 was for residential and commercial purpose. While the acquired land was being used for agricultural purpose earlier and there was a old Mugal Canal which was being used as a GANDA NALA and the purpose for the land acquired was not commercial or residential. Rather it was for sewerage treatment plant which is generally constructed away from the abadi. That is why I do not feel to give increase of 12 percent per year on the award given by the Hon'ble High Court. Another aspect which weighed in my mind, why I did not give the 12% per annum increase, because in the year 1989-90 when the earlier land was acquired, there was a boom/huge increase in the prices of the land due to Terrorism problem in Punjab. But after that when the present land was acquired, there was definitely a slump in the prices of the land”.

Apparently, what indeed weighed with the reference Court to

deprive the claimants of any increase was; that the land in the case of Smt. Bina Devi (supra) was located adjacent to the G.T. road and was surrounded by hotels, dhabas, shops, petrol pump and commercial establishments. Which is why its value was assessed at Rs.145/- per square yard as on 08.02.1989. Whereas, although, the acquired land was contiguous and situated behind the land in the case of Smt. Bina Devi, but it lacked the locational advantage which the other land was equipped with. Meaning thereby, value of the acquired land as on 08.02.1989 was not or could never be assessed at Rs.145/- per square yard. But since there was a time difference of over 7 years between the two notifications issued under Section 4 in both the acquisitions, the reference Court was of the view, that even the value of the acquired land by 01.08.1996 would have just been the same i.e. Rs.145/- per square yard. Further, the land in the case of Smt. Bina Devi (supra) was acquired for residential and commercial purposes whereas in the present proceedings the purpose of acquisition was; construction of sewerage treatment plant. And lastly; the real estate market had witnessed a boom or an unprecedented hike in the property prices in the year 1989 because of the disturbance in the State of Punjab owing to terrorism but soon thereafter there was a slump in the market.

However, an analysis of the matter in issue and the material on record leads to an irresistible conclusion that the approach, understanding and the reasons assigned by the reference Court in support of the impugned award are erroneous.

What has apparently been lost sight of by the reference Court is that if the value of the land in the case of Smt. Bina Devi (supra) was more

than the acquired land in the year 1989, owing to its location, than after the issuance of notification dated 8.2.1989, vide which, the land adjacent to the acquired land was acquired for sectors 4-5 Urban Estate, even the value of the acquired land, for sure, multiplied many fold. Needless to assert that acquisitions and resultant development such as transport, communications, power supplies and other infrastructure, would inevitably leads to a sudden spurts or escalation in the value of the real estate in the vicinity or adjoining areas. What the reference Court apparently failed to factor in, for assessing the true value of the acquired land, was the impact of the acquisition of the adjacent area for setting up Sectors 4-5, Urban Estate, Karnal. That being so, for sure, and if not more, the value of the acquired land appreciated to Rs.145/- per square yard in the year 1989 itself. Likewise, the observations recorded by the reference Court, that the land in the case of Smt. Bina Devi (supra) was acquired for residential and commercial purposes and whereas the purpose of acquisition in the present proceedings was to set up a sewerage treatment plant are patently erroneous. Suffice it to say that the purpose for which the acquired land was to be utilized was hardly a factor to determine it's value. Even the observation; that value of the real estate has escalated many fold in the year 1989-90 owing to the terrorist activities in the State of Punjab but by the time the notification dated 1.08.1996, under Section 4 was issued there was a slump in the property prices is also perverse. Nothing was brought on record by the State to indicate that after a sharp hike in the property prices in the year 1989-90 the value of the real estate in the area had sharply declined or de-escalated. Rather Sh. Vipin Gupta, Architect (PW-7), proved the site plan Ex.P7 on

record which shows that even the acquired land was hardly at any distance from the G.T. road. Satish Kumar, PW1 testified in his deposition that New Grain Market was just 4-5 killas away from the acquired. Deras of Sher Singh, Rajpal and Rajbir were at a distance of about three acres from the land under acquisition. The area that was acquired for sectors 4-5 was fully developed and city of Karnal was adjacent to these sectors. The acquired land was located near to Mission Flora Flower Treatment Plant that supplied flowers to various countries. In conspectus of the above, it would be safe to presume and hold that even the value of the acquired land as on 08.02.1989, if not more, was at least Rs.145/- per square yard.

Indisputably, the notification, dated 01.08.1996, was issued after over 7 years of issuance of notification, dated 08.02.1989, in the case of Smt. Bina Devi (supra). The Supreme Court in the case of **General Manager, Oil and Natural Gas Corporation Ltd. V. Rameshbhai Jivanbhai Patel and another, (2008) 14 SCC 745**, had held that primarily the appreciation in the value of real estate depends upon 4 factors i.e. (1)situation of the land (2) nature of development in surrounding area (3) availability of land for development in the area (4) and the demand for land in the area. Therefore, if the increases in market value in urban/semi urban areas is about 10% to 15% per annum, the corresponding increases in rural areas would at best be only around half of it, that is about 5% to 7.5% per annum. As sketched out above, the acquired land had indeed transformed into a semi urban area owing to an all round and rapid development in its immediate vicinity. Therefore, in the given situation, the only and inevitable conclusion that could be reached is that claimants/landowners are

entitled to be awarded annual increase on cumulative basis @ 12% per annum for a period of 7 years. And consequently, they shall be entitled to compensation @ Rs.321/- per square yard, as per calculations made in the following table:

Year	Base value (in Rs.)	Cumulative increase	Increase (in Rs.)	Total (in Rs.)
1989	145	0.00%	0	145
1990	145	12.00%	17.4	162.4
1991	162.4	12.00%	19.49	181.89
1992	181.89	12.00%	21.83	203.72
1993	203.72	12.00%	24.45	228.17
1994	228.17	12.00%	27.38	255.55
1995	255.55	12.00%	30.67	286.22
1996	286.22	12.00%	34.35	320.57

Accordingly, the appeals preferred by the claimants/landowners are disposed of in the above terms and as a necessary consequence the State's appeals are dismissed.

(ARUN PALLI)
JUDGE

July 24, 2017
Manoj Bhutani

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO