

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-4357-2006 (O&M)
Date of Decision: August 03, 2017

Lakhmi Chand Dharmani

...Appellant

Versus

State of Punjab and another

...Respondents

and other connected matters, i.e. RFA Nos. 3245 of 2006 (O&M); 1077 & 2333 of 2013 (O&M); 997 of 2015 (O&M); and 4668 of 2016 (O&M).

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: **For Claimant/Landowners**

Mr. Sanjay Kaushal, Senior Advocate, with
Mr. A.P. Setia, Advocate. (in RFA No. 4357 of 2006)
Mr. Naresh Kaushal, Advocate.
(in RFA Nos. 1077 & 2333 of 2013; and 997 of 2015)

Mr. Vijay Lath, Advocate,
(in RFA No. 3245 of 2006)

For State of Punjab

Ms. Lavanya Paul, AAG, Punjab.

For GMADA

Mr. Rupinder Khosla, Senior Advocate, with
Mr. Sarvesh Malik, Advocate, and
Ms. Ishrat Phulka, Advocate.

ARUN PALLI, J. (ORAL)

Vide this order and judgment, I shall decide a batch of six appeals, of which five have been filed by the claimant/landowners and a single appeal has been preferred by the Greater Mohali Area Development Authority (GMADA). All these appeals arise out of the same acquisition,

though filed against awards rendered on different dates. But as the issues that arise for determination are common, these are being disposed of by a common judgment. However, by consensus the facts are being culled out from RFA No. 4357 of 2006.

Vide notification, dated 16.12.1998, issued under Section 4 of the Land Acquisition Act, 1895 (for short, 'the Act'), a land measuring 27K-7M, situated in village Jhinjri, Tehsil Anandpur Sahib, District Rupnagar, was sought to be acquired for setting up a parking area. The final declaration under Section 6 was published on 18.02.1999. Vide award No. 15, dated 22.03.2000, the Land Acquisition Collector assessed the market value of the land that was *Chahi/Nehri* and situated within 40 *Karams* of the road at Rs.4,50,000/- per acre and beyond 40 *Karams* at Rs.3,00,000/- per acre; *Barani/Banjar Zadid/Qadim* and situated within 40 *Karams* of the road at Rs.2,93,500/- per acre and beyond 40 *Karams* at Rs.1,95,000/- per acre; *Gair Mumkin Pahar* and situated within 40 *Karams* of the road at Rs.97,500/- per acre and beyond 40 *Karams* at Rs.65,000/- per acre; *Gair Mumkin area/area within Gair Mumkin Abadi* was assessed at Rs.4,35,000/- per acre; and *Gair Mumkin House/Abadi* at Rs.4,55,000/- per acre. Being aggrieved by the assessment and the compensation awarded by the Collector, the claimant/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. On a consideration of the matter in issue and the evidence on record, the Reference Court discarded the sale deeds Exs. P-2 and P-4, dated 17.01.2000, and Ex. P-5, dated 10.03.2000, for these were executed post issuance of notification,

dated 16.12.1998, under Section 4. Likewise, the sale instances, Ex. P-7, dated 22.11.1996, and Ex. P-8, dated 12.9.1996, were also ruled out of consideration for these pertained to different villages such as Mataur and Lodhipur respectively and were, thus, not found relevant to determine the true value of the acquired land. And, in the given situation, the Reference Court relied upon its earlier award, dated 7.10.2003 (Ex.P-3), rendered in Land Reference No. 277, dated 30.07.1999, titled “**Mukesh Kumar v. State of Punjab**”, and other connected matters, vide which the land that formed part of the same revenue estate, i.e. village Jhinjri, was assessed at Rs.14,00,000/- per acre in relation to the notification, dated 30.06.1998, issued under Section 4. Accordingly, the claimant/landowners even in these proceedings were awarded the same compensation, i.e. Rs.14,00,000/- per acre. It may be useful to clarify that RFA Nos. 4357 of 2006, 3245 of 2006 and 4668 of 2016 have been filed against the awards dated 17.03.2006, 21.03.2006 and 29.09.2012, respectively, vide which the claimants were awarded compensation @ Rs. 14,00,000/- per acre. Whereas, RFA No. 997 of 2015 is a cross-appeal filed by the GMADA. And the other two appeals, i.e. RFA Nos. 1077 and 2333 of 2013, have been filed against two separate awards, dated 16.08.2012 and 24.12.2012 respectively. What needs to be noticed is that the claimants in these two appeals never filed the objections under Section 18 to the award rendered by the Collector. However, post passing of the awards, dated 17.03.2006 and 21.03.2006, by the Reference Court, in the land references arising out of the same acquisitions, they moved the Collector under Section 28-A of the Act for re-determination of compensation. And, vide award, dated 08.10.2008, the Collector awarded

them the same compensation. But, for they were not satisfied with the assessment, they sought a reference under Section 28-A(3) of the Act. Resultantly, the matter was referred to the Reference Court. However, vide awards dated 16.08.2012 and 24.12.2012, the Reference Court declined their claims, for, the Collector had already granted them the compensation at the same rate i.e. Rs.14,00,000/- per acre. That is how, as indicated above, the parties are in appeal before this Court. Of course, the claimant/landowners seek further enhancement. And, the GMADA had appealed for setting aside the impugned awards.

Learned counsel for the claimant/landowners submit in unison that what indeed forms basis of the assessment and the compensation awarded by the Reference Court, is an award, dated 07.10.2006 (Ex. P-3), rendered in the case of Mukesh Kumar (supra), vide which the land situated in the same village, was assessed at Rs.14,00,000/- per acre. But as in appeals preferred against the said award, i.e. RFA No. 1605 of 2005, titled “Banka Singh and others v. State of Punjab”, and other connected matters, this Court, vide order and judgment dated 28.01.2016, had enhanced the compensation to Rs.24,200/- per marla, the claimant/landowners, as a necessary consequence, were entitled to the same compensation. Particularly, when the decision of this Court in the case of Banka Singh and others (supra) has since attained finality.

Per contra, learned counsel for the respondents submit that the assessment made by the Land Acquisition Collector was just and fair and, therefore, any further enhancement in the compensation was not feasible. It is urged that the Reference Court erred in placing reliance upon its previous

award, dated 7.10.2003 (Ex.P-3), for, nothing was brought on record to show that the land under acquisition in both the proceedings was identical or similar. In the alternative, it is urged that even if the award Ex. P-3 was to form basis of the assessment and compensation awarded by the Reference Court, it ought to have assessed the value of the acquired land in terms of its quality and by resorting to belting, as was done by the Collector.

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

Needless to assert that acquisition of land and the resultant development such as infrastructure, amenities, transport, power supplies etc., leads to a sudden increase or escalation in the value of real estate in the vicinity or its adjoining areas. Therefore, the sale deeds, dated 17.01.2000 (Exs. P-2 & P-4) and 10.3.2000 (Ex.P-5), were executed post issuance of notification, dated 16.12.1998, issued under Section 4 of the Act and were, thus, rightly ruled out of consideration. Likewise, for vide sale deeds, dated 22.11.1996 (Ex.P-7) and 12.09.1996 (Ex.P-8), a land situated in two other villages, i.e. Mataur and Lodhipur, was alienated, these too were rightly discarded. Even otherwise no cogent evidence or a site plan was brought on record to show the proximity of the acquired land with the land that was alienated vide sale deeds Exs. P-7 and P-8. In the given situation, to assess the true value of the acquired land on the basis of a judicial precedent or an earlier award, dated 07.10.2003 (Ex.P-3), was the most suitable and the safest option. Particularly, for the land under acquisition in the case of Mukesh Kumar (supra), also formed part of the same revenue estate, i.e.

village Jhinjri. Not just that, the notification under Section 4, dated 30.06.1998, in those proceedings was rather issued six months prior to the issuance of notification, dated 16.12.1998, in the matter at hands. So much so even the purpose of acquisition i.e. setting up a parking area, in both the proceedings was common. Further, this was never the case of the State/GMADA either before the Reference Court or even before this Court that the land under acquisition in both the proceedings was dissimilar in nature or quality. It does not end there for the land in the case of Mukesh Kumar (*supra*), was assessed by the Land Acquisition Collector at the same rate and pattern as in the present proceedings. In other words, if indeed, there was any dis-similarity between the two parcels of land, the Collector would have assessed them at different rates. Further, the respondents did not produce any sale deeds/sale instances to show that the value of the acquired land as on 16.12.1998, was less than Rs.14,00,000/- per acre. That being so, the only and the inevitable conclusion the Reference Court could reach; the claimant/landowners were entitled to compensation in terms of the award, dated 07.10.2003 (Ex.P-3).

Having said that, it also needs to be noticed that in the appeal preferred against the award, dated 07.10.2003 (Ex.P-3), this Court, vide its decision in **Banka Singh and others (*supra*)**, had enhanced the compensation to Rs.24,200/- per marla. And, the said decision had since attained finality. For, it was not questioned any further and rather the claimants in those proceedings have been disbursed the compensation also.

Undoubtedly, the Collector had followed a two fold process to assess the acquired land, i.e. in terms of its nature and quality, and then

dividing the acquired land in two belts. But, apparently neither any emphasis was laid by the respondents upon this aspect nor any argument was raised in this regard before the Reference Court. So much so, no such ground is raised in the memorandum of appeal either. The reason is obvious; the claimants had tendered in evidence a judicial precedent or a copy of the award, dated 07.10.2003 (Ex.P-3), vide which the land situated in the same village i.e. Jhinjri, acquired for the same purpose, wherein notification, dated 30.06.1998, under Section 4 was issued just six months earlier, and above all the Collector had assessed the value thereof on the same pattern, and the Reference Court had already awarded compensation at Rs.14,00,000/- per acre to the co-landowners. Thus, the respondents knew that the award Ex.P-3 was the safest and most suitable evidence. Even otherwise, not even a single sale deed/sale instance or any other evidence was brought on record by the respondents to show that certain areas within the acquired land were more valuable than rest of the land either owing to its quality or alleged distance from the road. Rather the evidence led by the claimants showed that the areas adjoining the acquired land or in its immediate vicinity was under a rapid development; acquired land was located near Milk Plant, Jhinjri, the Charitable Hospital Mata Nanki Devi, Gurudwara Sri Kiratpur Sahib and Khalsa College, Anandpur Sahib. Even otherwise, the total land under acquisition in the present proceedings was just 3.4 acres, which shows it was a compact block. The respondents had already acquired a land measuring 170K-13M = 21.3171 acres in the case of Mukesh Kumar (supra) for the same purpose. It appears that as the requirement of the respondents exceeded the availability of land,

the present acquisition was resorted to. Be that as it may, the fact remains that this Court in the appeals filed by the claimants against the award dated 07.10.2003 (Ex.P-3), had enhanced the compensation in the case of **Banka Singh and others (supra)** to Rs. 24,200/- per marla. Further, what indeed is crucial and required to be borne in mind is that the respondents accepted the decision of this Court in the case of Banka Singh (supra). The claimant/landowners in those proceedings have since been disbursed the compensation also. And that being so, the respondents cannot maintain, least successfully, that the claimants in these appeals are not entitled to the same compensation.

In conspectus of the above, the appeals preferred by the claimant/landowners are disposed of in the above terms and they shall be entitled to the compensation as determined by this Court in the case of **Banka Singh and others (supra)**. And, as a necessary consequence the cross-appeal, i.e. RFA No. 997 of 2015, preferred by the GMADA is dismissed.

(ARUN PALLI)
JUDGE

August 03, 2017

Pk Kapoor

Whether Speaking/Reasoned: ✓ YES / NO
Whether Reportable: ✓ YES / NO