

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-1023-2008 (O&M)
Date of Decision: August 01, 2017

Sardari Devi

...Appellant

Versus

State of Haryana and others

...Respondents

and other connected matters, i.e. RFA Nos. 1000, 1024 to 1027, 1395, 1396, 2674, 2675, 2697, 3718 & 5396 of 2008 (O&M)

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. S.S. Dinarpur, Advocate, and
Mr. Subhash Godara, Advocate,
(in RFA Nos. 1023, 1025, 1026 and 1027 of 2008)
Mr. Robin Dutt, Advocate,
(in RFA Nos. 1000, 1395, 1396 and 2697 of 2008)
Mr. Hardeep Singh Dhillon, Advocate,
for Mr. Vikram Singh, Advocate,
(in RFA Nos. 2674 and 2675 of 2008)
Ms. Minakshi Poswal, Advocate,
for Mr. R.S. Mamli, Advocate,
(in RFA No. 5396 of 2008)
for the appellant(s).

Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the respondents.

ARUN PALLI, J. (ORAL)

This is a batch of 13 appeals preferred by the claimant/landowners. For all these appeals arise out of the same acquisition and have been filed against a common award, dated 06.11.2007, rendered by the Reference Court, these are being disposed of by a common judgment. By consensus the facts are being culled out from RFA No. 1023

of 2008.

Vide notification, dated 14.05.2002, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), a land measuring 50 Acres 2 Kanals and 17 Marlas, situated in village Jaroda (H.B. No. 403), Tehsil Jagadhri, District Yamunanagar, was sought to be acquired for construction of District Jail, Yamunanagar. The final declaration under Section 6 of the Act was published on 21.02.2003. Vide Award No. 2, dated 26.10.2004, the Land Acquisition Collector assessed the market value of the land, categorized as “**Prime**”, measuring 5A-6K, at Rs.10,00,000/- per acre, and the rest at Rs.6,00,000/- per acre. Being dis-satisfied with the assessment as also 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. And, vide impugned award, dated 06.11.2007, the claims of the landowners have since been dismissed, they are in appeal before this Court.

Learned counsel for the claimant/landowners submit in unison that the landowners had brought on record the sale deeds (Exs. P-52 to P-63 and P-69 to P-73) in support of their claim for further enhancement in the compensation. And, a few of the sale deeds were discarded by the Reference Court, for these were executed in the year 2007, i.e. subsequent to the issuance of notification, dated 14.05.2002, under Section 4 of the Act which was understandable. However, the reasons assigned to reject even the other sale instances were palpably erroneous. And, the copy of an award, dated 02.02.2005 (Ex.P-65), in relation to the adjacent villages was

also overlooked and instead the finding recorded by the Reference Court is that the claimant/landowners failed to produce any judicial pronouncement or an award pertaining to a similar land. In a nutshell it is urged that the impugned award is perverse and is, thus, unsustainable.

As opposed to this, although Mr. Sudeep Mahajan, learned Additional Advocate General, Haryana, submits that the value assessed and awarded by the Collector was just and fair, therefore, no further enhancement was feasible. However, he fairly admits that the observations recorded by the Reference Court in context of the sale deeds (Exs. P-57 and P-60) are erroneous and contrary to the record. It is not disputed either that the Reference Court completely overlooked even the award, dated 02.02.2005 (Ex.P-65).

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

Ex facie, the claimant/landowners had brought on record numerous sale instances, i.e. Exs. P-52 to P-63 and P-69 to P-73, vide which the lands situated in the adjacent villages, i.e. Bhatauli, Gulab Nagar and even from the same revenue estate i.e. Jaroda, were alienated. Before proceeding further, it would be apposite to tabulate all these sale deeds with requisite details:

Exhibit	Date	Village	Extent	Consideration (in Rs.)	Value per acre (in Rs.)
P-52	31.08.1992	Bhatauli	48K (6 acres)	5100000.00	850000.00
P-53	27.12.1995	Bhatauli	1K-4M	185000.00	1233333.00
P-54	11.06.1998	Gulab Nagar	1K-13M	225000.00	1090909.00
P-55	10.07.2001	Gulab Nagar	200 Sq.Yds.	120000.00	2904000.00

P-56	17.08.2001	Gulab Nagar	16M	170000.00	1694000.00
P-57	15.11.2001	Gulab Nagar	8M	85000.00	1694000.00
P-58	14.01.2002	Gulab Nagar	44.44 Sq.Yds.	53500.00	5808000.00
P-59	10.04.2002	Gulab Nagar	3K-12M	450000.00	1000000.00
P-60	05.03.2004	Gulab Nagar	2K-2M	572000.00	2178000.00
P-61	15.04.2005	Gulab Nagar	15M	227000.00	2420000.00
P-62	24.08.2004	Bhatauli	5K	3000000.00	4800000.00
P-63	25.10.2004	Jaroda	20K-10M	5125000.00	1210000.00
P-69	25.10.2004	Jaroda	4K-8M	1100000.00	1210000.00
P-72	20.03.2007	Jaroda	77K-9M	9681250.00	1000000.00
P-73	13.04.2007	Jaroda	18K-5M	2281250.00	1000000.00

And, in context of the contentions raised by the learned counsel for the respective parties in particular, it would be imperative to refer even to the conclusion arrived at by the Reference Court, which reads thus:

“.....The petitioners produced sale deeds at the time of arguments which are of the year 2007 and those will be of no avail as the market value at the time of notification has to be seen. The other sale deeds which were produced by the petitioners would go to show that some of them are not comparable to the property in question because the sale deeds which were produced for land situated in the heart of Jagadhri city will obviously have a value manifold to that of the land in question. The other sale deeds which were prior to the date of the relevant notification show that none of the lands was sold for more than the rate granted by the Collector. The sale deed Ex.P57 gave a rate of Rs.350/- per square yard which is less than what is already granted. Ex.P59 was executed at the rate of Rs.10 lacs per acre which is the rate

already given by the Collector for prime land. In Ex.P60 the rate was given as Rs.450/- per square yard which is also not more than the compensation already awarded. Ex.P61, Ex.P62 & Ex.P63 are of the dates later than the relevant notification and, therefore, the documents cannot be considered. The petitioners did not file any sale deed vide which it could be said that the land of similar nature was sold for greater value. Rather Ex.P52 shows that 6 acres were sold for Rs.51 lacs. The respondents produced sale deeds relating to the neighbouring land which showed that the Collector had already awarded better rate. The relevant documents are Ex.R1 to Ex.R3.”

In so far as the observation that the sale deeds (Exs. P-72 & P-73) that were executed in the year 2007, could not be taken into consideration is understandable, for these transactions were post notification, dated 14.05.2002, under Section 4. In fact, even the sale deeds Exs. P-60 to P-63 and P-69, executed between 2004-05, could also not be factored in, for the same reason. However, the question that arises in the face of the record is; **Could the Reference Court rule out even the other sale instances or the reasons assigned to discard the other sale deeds are indeed sustainable?**

The finding recorded by the Reference Court that the other sale deeds could not be termed as comparable sale instances, for, the land that was sold vide these transactions was situated in the heart of Jagadhri City, cannot be countenanced. For, the Reference Court failed to specify as to

which were those sale deeds. And, even if few of the sale instances were in relation the land located within the city, still the Reference Court ought to have, at least, analyzed their bearing on the acquired land by way of comparative analysis. Further, the observations; the other sale deeds produced by the claimant/landowners were of no consequence, for these were executed at a rate that was even less than what the Collector had awarded, is also untenable. No doubt vide sale deed, dated 31.08.1992 (Ex.P-52), a land measuring 48 kanals, situated in village Bhatauli, was sold for Rs.51,00,000/-, i.e. at Rs.8,50,000/- per acre. But what appears to have been lost sight of by the Reference Court is that the said instance reflected the value of the land as it was on 31.08.1992 only whereas, the value of the acquired land was to be assessed in context of the notification, dated 14.05.2002. And if the sale deed Ex.P-52, was indeed a comparable sale instance, it could always be relied upon by awarding appropriate/suitable increase for the time difference between its execution and issuance of notification under Section 4 in the present proceedings. And the sale deeds Ex. P-53 to Ex. P-58 were in any case executed for a higher value, therefore, the observation recorded by the Reference Court was/is patently perverse. No doubt, vide sale deed, dated 10.04.2002 (Ex.P-59), a land measuring 3 Kanals and 12 Marlas, situated in village Gulab Nagar, was sold at Rs.4,50,000/-, i.e. Rs.10,00,000/- per acre. But the Collector had assessed only a part of the acquired land, i.e. 5 acres and 6 kanals, categorized as 'Prime' at Rs.10,00,000/- per acre, whereas rest of the acquired land was assessed at Rs.6,00,000/- per acre only. In fact, the question that required determination by the Reference Court was; **Whether**

there indeed was any cogent and tangible explanation to term a part of the acquired land as “Prime” and even that at a higher rate? In any case, the sale deed, dated 10.04.2002 (Ex.P-59), was a material piece of evidence, at least, qua the land that was assessed at Rs.6,00,000/- per acre. Likewise, the observation that the sale deed, dated 15.11.2001 (Ex.P-57), was executed @ Rs.350/- per square yard which was less than the rate awarded by the Collector, is contrary to the record. Vide sale deed, dated 15.11.2001 (Ex.P-57), a land situated in village Gulab Nagar, measuring 8 marlas, was sold for consideration of Rs.85,000/-, i.e. Rs.16,94,000/- per acre or Rs.350/- per square yard. Whereas the compensation awarded by the Collector even for the **“Prime”** land was Rs.10,00,000/- per acre only, i.e. Rs.206.61p. per square yard. So is the case as regards the sale deed, dated 05.03.2004 (Ex.P-60), vide which a land measuring 2K-2M, situated in village Gulab Nagar, was sold at Rs.5,72,000/-, i.e. at Rs.21,78,000/- per acre or Rs.450/- per square yard.

It does not end here as the Reference Court observed in no uncertain terms in para 6 that ***“the petitioners did not produce any judgments or awards in respect of acquisition of other land in the same area from which the market value could be compared”***. Whereas, the claimant/landowners had indeed produced a copy of the award, dated 02.02.2005 (Ex.P-65), vide which pursuant to a notification, dated 28.04.1999, issued under Section 4, a land situated in the adjoining villages was assessed at Rs.12,07,000/- per acre. Learned counsel for the parties are *ad idem* that in an appeal against the said award, i.e. RFA No. 1955 of 2005 (Swaran Singh v. State of Haryana and another), vide order and judgment

dated 04.10.2012, this Court had further enhanced the compensation to Rs.1,560/- per Sq. Mtr. Be that as it may. An analysis of the position sketched out above leads to an irresistible and inaccessible conclusion that the impugned award is wholly perverse and the findings recorded in support thereof are contrary to the record. Apparently it lacks analysis as also the adjudication of the claims of the landowners. On being pointedly asked, learned State counsel could not show as to how the impugned award rendered could at all be sustained. Thus, the only and the inevitable conclusion that could be reached is; the impugned award deserves to be set aside and the matter needs to be remitted for re-decision.

Accordingly, the appeals are allowed and the impugned award, dated 06.11.2007, is set aside. The matter is remitted to the Reference Court for re-decision. The parties through their respective counsel shall appear before the District Judge, Yamunanagar at Jagadhri, on 28.08.2017. Needless to assert that it shall be the discretion of the District Judge to decide the matter himself or assign it to another Court of competent jurisdiction. For the acquisition pertains to olden times, the Reference Court is requested to re-decide the matter within a period of three months from the date the parties would cause appearance before the District Judge.

Needless to assert that this order shall not constitute an expression of opinion on the merits of the case of either party. And, the Reference Court shall decide the references strictly in accordance with law and on the basis of the evidence on record.

(ARUN PALLI)
JUDGE
YES / NO
YES / NO

August 01, 2017 Whether Speaking/Reasoned:
P Kapoor Whether Reportable: