IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA-3382-2009 (O&M)
Date of Decision: October 03, 2017

Darbara Singh and others

...Appellants

Versus

State of Haryana

...Respondent

and other connected matters, i.e.

Filed By	Case Nos.
Claimant/ Landowners	RFA Nos. 264 of 2008 and 3383 of 2009 (O&M)
State of Haryana	RFA Nos. 3721 to 3732, 3778 to 3783, 3802, 3803, 3847 and 3848 of 2007 (O&M)

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Rahul Deswal, Advocate,
(in RFA Nos. 3382 and 3383 of 2009)
Mr. Ajay Kumar Kansal, Advocate,
(in RFA No. 264 of 2008)
for the appellant(s).

Mr. Sudip Mahajan, Additional Advocate General, Haryana.

ARUN PALLI, J. (ORAL)

Vide this order and judgment, I shall decide a batch of 25 appeals, of which 22 appeals have been preferred by the State of Haryana and the rest 3 by the claimant/landowners. For, all these appeals arise out of the same acquisition, and the questions that arise for consideration are common, these are being disposed of by a common judgment. However, by consensus the facts are being culled from **RFA No. 3382 of 2009**, titled **"Darbara Singh and others v. State of Haryana".**

Vide notification, dated 17.01.2002, issued under Section 4 of the Land Acquisition Act, 1894, a land measuring 131 Kanals 10 Marlas, situated in village Frain Khurd, Tehsil Narwana, District Jind, was sought to be acquired for construction/Extension of Narwana Minor. The final declaration under Section 6 was published on 21.03.2002. Vide Award No. 12, dated 17.09.2002, the Land Acquisition Collector assessed the market value of the land that was *Nehri* @ Rs.2,00,000/- per acre; and *Barani* @ Rs.1,50,000/-. The tubewells were assessed at Rs.8,930/- each. Being aggrieved by the assessment as also the compensation, the claimant/landowners filed objections under Section 18, to the award rendered by the Collector. 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 relied upon a judicial precedent or its previous award, dated 15.04.2006 (Ex. PX), rendered in **LAC No. 119 of 05.12.2001**, titled "**Risala and others v. State of Haryana**", and other connected land-references, vide which a land situated in the adjacent village, i.e. Sedha Majra, was assessed, in relation to the notification dated 21.11.1997, under Section 4, at Rs.3,00,000/- per acre. As a result, vide two identical awards of an even date, dated 17.07.2007, the Reference Court enhanced the compensation to Rs.3,00,000/- per acre. The compensation as regards tubewells was also enhanced from Rs.8,930/- to Rs.15,000/- each. That is how, as indicated above, both the parties are in appeal before this Court. Of course, the claimant/landowners seek further enhancement in the compensation, whereas the State has appealed to set aside the impugned award(s).

Learned counsel for the claimant/landowners submit that all what forms basis of the award rendered by the Reference Court is an award, dated 15.04.2006 (Ex.PX). However, it is urged, that in the appeals filed by the claimant/landowners against the award (Ex.PX), this Court vide order and judgment dated 19.01.2011, rendered in **RFA No. 2564 of 2005 (Kailasho and others v. State of Haryana) and other connected matters**, had set aside the said award and remitted the matter to the Reference Court for re-decision. But, the Reference Court even on redetermination, vide an award dated 22.12.2011, assessed the value of the acquired land at the same rate, i.e. Rs. 3,00,000/- per acre. And, again, the claimant/landowners assailed the subsequent award, and this Court vide order and judgment dated 23.04.2016, rendered in **RFA No. 2176 of 2012**, titled "**Rajinder v. State of Haryana**", and other connected matters, further enhanced the compensation to Rs.3,78,467/- per acre. However, they assert for the notifications under Section 4 in the case of Rajinder (supra) was issued on 21.11.1997, and in the present proceedings on 17.01.2002, i.e. after four years and two months, the claimant/landowners were/are entitled to a suitable or an appropriate increase upon the value of the land, i.e. Rs.3,78,467/- per acre, assessed by this Court. Further, it is submitted that as a consequence of the acquisition in question, the land of the claimant/landowners was bifurcated into two parts and, therefore, they were also entitled to damages on account of severance. And, for this Court in the case of Rajinder (supra) had awarded compensation @ 40% of the market value of the acquired land on account of severance, the claimant/landowners, even in these proceedings, be also awarded the same compensation.

As opposed to this, Mr. Sudip Mahajan, learned Additional Advocate General, Haryana, does not dispute the fact that in the appeals preferred by the claimant/landowners against the relied upon acquisition or an award, dated 22.12.2011, this Court, in the case of Rajinder (supra), had enhanced the compensation to Rs.3,78,467/- per acre and had also awarded compensation @ 40% of the market value of the acquired land on account of severance. Although, he admits that the time difference between the two notifications, issued under Section 4, i.e. in the case of Rajinder (supra) and the present proceedings, was over four years, but it is submitted that in the absence of any cogent evidence to show that the value of the land in the vicinity of the acquired land indeed appreciated, no increase could be awarded. In the alternative, however, it is urged that as the acquired land was purely agricultural in nature, in terms of the decision of the Supreme Court in **The General Manager, Oil and Natural Gas Corporation Limited v. Rameshbhai Jivanbhai Patel and another, (2008) 14 SCC 745**, the claimant/landowners could at best be awarded increase @ 7.5% per annum.

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

Concededly, vide notification, dated 17.01.2002, a land that formed part of the revenue estate of village Frain Khurd, Tehsil Narwana, District Jind, was sought to be acquired for construction/Extension of Narwana Minor. The Reference Court had relied upon a judicial precedent or its previous award rendered in the case of Risala and others (supra), vide which a land situated in the adjacent village, i.e. Sedha Majra, acquired for construction of Barsola Feeder, was assessed at Rs.3,00,000/- per acre. This has never been the case of the State, either before the Reference Court or even in these proceedings that the land under acquisition in the case of Risala and others (supra) was dissimilar to the acquired land in nature, quality or value. Thus, in the absence of any cogent or credible evidence, reliance placed by the Reference Court upon an award, dated 15.04.2006 (Ex.PX), was not only the most suitable but also the safest mode to assess the true value of the acquired land. It is not disputed either that in the appeals arising out of the relied upon acquisition, this Court in the case of Rajinder (supra) had further enhanced the compensation to Rs.3,78,467/- per acre. Not just that, the decision rendered by this Court in the said case has since attained finality. Meaning thereby, value of the acquired land as on 21.11.1997, i.e. date of notification under Section 4 in the case of Rajinder (supra), was Rs.3,78,467/- per acre. *Ex facie*, the notification under Section 4 in the present proceedings was issued over four years later, i.e. on 17.01.2002. Significantly, neither did the Reference Court award any increase for the time difference between the two notifications under Section 4, nor assigned any reasons in this regard. Nothing is brought on record by the State either to show that post notification, dated 21.11.1997, under Section 4, in the case of Rajinder (supra), value of the real estate in the vicinity of the acquired land, had indeed dropped or deescalated. The evidence on record shows that the acquisition in the present proceedings was preceded by numerous acquisitions in the adjacent or adjoining villages, which rather reveals that the area that surrounded the acquired land was under a rapid development and there indeed was a demand for the land in the area. In fact, the decision of this Court in the case of Rajinder (supra) reveals that the market value of the land under acquisition in those proceedings was assessed by this Court while awarding 12% annual increase on cumulative basis. Therefore, absent any evidence to the contrary, the claimant/landowners even in the present acquisition shall be entitled to annual increase @ 12% on cumulative basis, for a period of four years, as being depicted hither-to-below, upon Rs.3,78,467/- per acre, i.e. the value of the land assessed by this Court in the case of Rajinder (supra).

Year	Original Value	Cumulative Increase @ 12%	Value
1997 (Base year)		0	3,78,467.00
1998	3,78,467.00	45416.04	4,23,883.04
1999	4,23,883.04	50865.96	4,74,749.00
2000	4,74,749.00	56969.88	5,31,718.88
2001	5,31,718.88	63806.26	5,95,525.00
2002	5,95,525.00		

This brings me to another facet of the matter: the very purpose of acquisition was construction/Extension of Narwana Minor and as a necessary consequence the landholdings of few of the claimant/landowners stood bifurcated into two parts. Although the Reference Court specifically recorded; "**But to my mind due to bifurcation of their land the petitioners might have suffered great hardship in cultivating and irrigation of their land"**, yet did not award any compensation on account of severance. It is not disputed that this Court even in the case of Rajinder (supra), for, the land in those proceedings was acquired for construction of Barsola Feeder, had awarded 40% of the market value of the acquired land as compensation on account of severance. That being so, the claimant/landowners, whose land stood severed or bifurcated owing to the acquisition in question, too would be entitled to compensation at the same rate, i.e. @ 40% of the market value of the acquired land as depicted in the previous paragraph.

In conspectus of the above, the appeals filed by the claimant/landowners are disposed of in the above terms. Needless to assert that they shall also be entitled to all the statutory benefits as admissible in law. Whereas, as a necessary consequence the appeals preferred by the State are dismissed.

(ARUN PALLI)
JUDGE

October 03, 2017
Pkapoor

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