IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.213 of 2012
Date of Decision : 21.03.2017

State of Haryana through Collector, Rewari and others

......Appellants

Versus

Thawar Singh

...... Respondent

and other connected matters:

Filed By	Numbers	Total
Beneficiary/State of Haryana	RFA Nos.214 to 219 of 2012	6
Claimants/landowners	XOBJR-23-CI-2012 in RFA-214-2012, XOBJR-22-CI-2012 in RFA-215-2012, XOBJR-24-CI-2012 in RFA-216-2012 and XOBRJ-21-CI-2012 in RFA-217-2012	4

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Sudeep Mahajan, Addl. A.G. Haryana
for the appellant(s).
Mr. Abhishek Yadav, Advocate
for the cross-objectors.

ARUN PALLI, J. (Oral)

Vide this order and judgment, I shall decide a batch of 7 appeals and 4 cross objections, of which all the appeals have been filed by the State of Haryana, and claimants/landowners have preferred cross-objections. 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 order and judgment. However, by consensus the facts are being culled out from RFA No.213 of 2012 (State of Haryana through Collector, Rewari and others Vs. Thawar Singh).

2. Vide notification dated 4.4.2007, issued under Section 4 of the Land Acquisition Act, 1894, (for short 'the Act'), a land measuring 2.272 acres, situated in village Bhandor and Harzipur, Tehsil and District Rewari was sought to be acquired for extension of Rajiaka Distributory from kilometer 14.088 to 18.450. Final declaration under Section 6 of the Act was published on 23.04.2007. The Land Acquisition Collector, vide award No.14, dated 3.10.2007, assessed the market value of the acquired land at ₹16,00,000/- per acre. Dis-satisfied with assessment and the compensation awarded by the Collector, the claimants/landowners 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 rejected the sale deeds/sale instances that were/are being relied upon by the claimants, for those either pertained to an extremely small or a negligible area or were executed post issuance of notification under Section 4 in the present proceedings. Although, vide sale deed dated 25.06.2007 (Ex.PW1/A) an area measuring 1 kanal 1 marla was sold at ₹750/- per square yard i.e. ₹36,30,000/- per acre, but that too was discarded for a stray or a single instance could never be the basis to ascertain the prevalent market rate of the acquired land. Likewise, even the sale deeds/sale instances produced by the State were also ignored. However, in view of the location, the development activities that were being carried out in the vicinity of the acquired land, and the rising trend in the property prices, it was concluded that land in question had a potential of being used for multiple purposes. Resultantly, the compensation awarded by the

Collector was enhanced to ₹20,00,000/- per acre. That is how parties are before this Court. Of course, the State prays that the award rendered by the reference Court be set aside. Whereas, the claimants seek further enhancement.

3. Mr. Sudeep Mahajan, learned Addl. Advocate General, Haryana submits that all the sale deeds/sale instances that were being relied upon by the claimants/landowners were discarded by the reference Court itself, for, these were executed post issuance of notification under Section 4 or pertained to an extremely small area. Therefore, he asserts that the claim for further enhancement by the landowners is wholly mis-conceived. Further, in reference to the sale deeds produced by the State i.e. Exs.R1 to R5, tabulated below, it is contended that each of those sale deeds pertained to village Bhandor itself, and the reference Court on an analysis thereof, had specifically observed that the sale consideration of the land situated in village Bhandor, could never be more than ₹6,00,000/- per acre.

Sr. No.	Sale deed	Dated	Village	Area K-M	Amount	Rate per acre	Ex.
1	3074	10.7.2007	Bhandor	12-0	825000	550000	R1
2	3793	3.8.2007	Bhandor	2-17	196000	550175	R2
3	5003	13.9.2006	Bhandor	7-0	525000	600000	R3
4	5004	13.9.2006	Bhandor	4-7	286000	525977	R4
5	598	30.4.2007	Bhandor	5-9	375000	550458	R5

He submits, that having observed so how could the claimants be still awarded enhancement or no enhancement was feasible.

4. Per contra, learned counsel for the cross-objectors/land owners submits that all the sale deeds i.e. Ex.PW1/A, Ex.PW3/A to Ex.PW3/E, tabulated below, that were produced by the landowners, pertained to village

Bhandor itself, and were executed either immediately preceding the issuance of notification under Section 4 or just thereafter.

Sr. No.	Sale deed	Dated	Village	Area K-M	Amount	Rate per acre	Exhibit
1	2649	25.6.2007	Bikaner	1-1	Rs.750 per sq. yard	3630000	PW1/A
2	4433	15.10.2008	Bhandor	112.44 Sq. yard	Rs.1250 per sq. yard	6050000	PW3/A
3	8260	18.2.2008	Bhandor	90 sq. yard	Rs.1350 per sq. yard	6534000	PW3/B
4	3744	3.8.2006	Bhandor	0-5	Rs.750 per sq. yard	2432000	PW3/C
5	726	4.5.2006	Bhandor	0-2	Rs.502 per sq. yard	2440000	PW3/D
6	2505	21.7.2008	Bhnador	0-1	Rs.508 per sq. yard	2458720	PW3/E

He submits that the sale deed dated 4.5.2006 (Ex.PW3/D), was executed earliest in point of time at ₹502/- per square yard i.e. ₹ 24,40,000/- per acre, and vide sale deeds, that were executed post issuance of notification under Section 4, the land was sold in the range of ₹24,58,720/- to ₹65,34,000/- per acre, which showed that value of the real estate in the village had appreciated manifold. He submits that even the sale deeds that were executed after issuance of notification under Section 4, could be taken into account to determine the true value of the acquired land, by applying appropriate/suitable reverse cut.

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

6. Undoubtedly, all the sale deeds i.e. Ex.R1 to Ex.R5, that were produced by the State pertained to village Bhandor. It is also true that each

of those sale deeds were executed for a consideration between ₹5,25,977/- to ₹ 6,00,000/- per acre, including those that were executed post issuance of notification dated 4.4.2007, under Section 4 in the present proceedings. Whereas, the Land Acquisition Collector himself assessed the value of the acquired land at ₹16,00,000/- per acre. Thus, the presumption that permeates the records is that these sale deeds were grossly under-valued to evade payment of stamp duty. And, could never be termed as bona fide transactions or were unsafe to be the basis to work out the true value of the acquired land. Perhaps, for that reasons even the Collector did not factor in these sale instances, while evaluating the acquired land. No doubt, in reference to these sale deeds, the reference Court did observe that the sale consideration for a land situated in village Bhandor could not be more than ₹6,00,000/-. But that would hardly be of any consequence, for, the reference Court, for the reasons indicated above, still never relied upon those sale instances, and rather awarded enhancement.

7. Likewise, the sale deeds produced by the claimants i.e. PW1/A, PW3/A, PW3/B and PW3/E were executed post issuance of notification under Section 4, and thus, could not be relied upon, being not the true reflective of the value of the acquired land. No doubt, the sale deeds Ex.PW3/C and PW3/D were executed immediately preceding the notification issued under Section 4, but these pertained to an extremely small or a negligible area measuring 2 or 5 marlas respectively. For, sure, the area that was sold vide these sale deeds could only be utilized for a purpose other than agriculture. Be that residential or commercial. Whereas the acquired land, measuring 2.272 acres, was purely agriculture in nature.

8. Having said that, I may now advert to yet another dimension of the dispute, that has a decisive bearing on the mater in issue. The evidence on record shows that the acquired land was located at the National Highway No.71. Many leading industries such as M/s Rama Industries, Rewari and M/s Ashai Railway Sleeper Factory were situated adjoining the acquired land. Uma Bharti Senior Secondary School, ITI, Rewari, HUDA Bye-pass, Rewari were also located nearby. The educational institutions like K.L.P. College, Ahir College and RBS Public School, B.Ed. College were situated at a distance of 5 kilometers from the acquired land. In fact, the acquired land was a part of the National Capital Region Development Scheme that was/is being developed on priority basis. The department of Town and Country Planning had already notified a development plan from Rewari to Jhajjar, where the acquired land is situated. Thus, without a doubt the acquired land had the potentiality of being used for residential, commercial or any other purpose except just agriculture. Thus, the argument of the learned State counsel that enhancement awarded by the reference Court had no basis cannot be countenanced.

9. Of course, the sale deeds that were executed post issuance of notification under Section 4, could not be the basis to work out the value of the acquired land, but the fact remains, vide the sale deed dated 25.06.2007 (Ex.PW1/A), executed less than 3 months after the issuance of notification under Section 4, an area measuring 1 kanal 1 marla was sold at ₹ 750/- per square yard i.e. ₹36,30,000/- per acre. Vide sale deed dated 15.10.2008 (Ex.PW3/A) a land measuring 112.44 square yard was sold at ₹1250/- per square yard i.e. ₹60,50,000/- per acre. And, Vide sale deed dated

21.07.2008 (Ex.PW3/E), an area measuring 1 Marla was sold at ₹508/- per square yard i.e. 24,58,720/- per acre. Likewise, vide sale deed dated 18.02.2008 (Ex.PW3/B), a plot measuring 90 square yard was sold at ₹1350/- per square yard i.e. ₹65,34,000/- per acre. *Ex facie,* the value of the real estate in the village was appreciating exponentially. It would be apposite to refer to the sale deed dated 3.8.2006 (Ex.PW3/C) that was executed precisely 8 months prior to the issuance of notification under Section 4, and was thus the most contemporaneous sale instance on record. Though, vide said transaction an area measuring, just, 5 marlas was sold at ₹502.48/- per square yard i.e ₹24,32,000/- per acre. But, even after making a suitable deduction or a cut, say 15% owing to the smallness of the area; it would still work out to be ₹20,67,200/-. Whereas, the reference Court had evaluated the acquired land at ₹20,00,000/- per acre i.e. 413.22 per square yard, which is nearly the same. That being so, no interference is warranted with the impugned award.

In conspectus of the above, the appeals filed by the State as also the cross-objections, preferred by the land owners, are dismissed.

21.03.2017 **(ARUN PALLI)**
Manoj Bhutani **JUDGE**

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