

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RFA-6663-2012 (O&M)
Date of Decision: October 30, 2017

State of Haryana and others

...Appellants

Versus

Rajbir Singh and another

...Respondents

and other connected matters, i.e. RFA Nos. 6664 to 6666 of 2012 (O&M); and 1327 to 1333 of 2013 (O&M)

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Ms. Safia Gupta, AAG, Haryana,
for the appellants.

Mr. Amit Kumar Jain, Advocate,
for the respondents (in RFA No. 6663 of 2012).

ARUN PALLI, J. (ORAL)

Vide this order and judgment, I shall decide a batch of 11 appeals that have been preferred by the State against a common award, dated 06.06.2011 and two subsequent orders, dated 22.03.2012 and 29.11.2012, vide which the Reference Court had reviewed its earlier assessment and awarded enhanced compensation. 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 from **RFA No. 6663 of 2012 (State of Haryana and others v. Rajbir Singh and another)**.

Vide notification, dated 26.09.2006, issued under Section 4 of the Land Acquisition Act, 1894, a land situated in three villages, i.e. Lisana

and District Rewari, was sought to be acquired for constructing Bhudpur Distributory from KM No. 0.0.0.0 to 3.650 off taking from KM 26.200/R of J.L.N. Canal. The final declaration under Section 6 was published on 07.02.2007. Vide Award No. 4, dated 04.06.2007, the Land Acquisition Collector assessed the market value of the acquired land at Rs. 12,50,000/- per acre. However, subsequently in exercise of power under Section 13-A of the Act, the Collector vide order dated 22.03.2012, rectified its earlier award, dated 04.06.2007, and re-determined the market value of the acquired land at Rs. 16,00,000/- per acre. Being aggrieved by the assessment as also the compensation, the claimant/landowners filed objections under Section 18 to the award rendered by the Collector. As a result, 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 ruled out of consideration the sale deeds Exs. P-1 to P-7, brought on record by the claimant/landowners. Likewise, a copy of the award, dated 11.08.2010 (Ex. P-8), vide which the land situated in village Lisana, Bikaner, Gangaicha, Ghurkawas and Kakoria, Tehsil and District Rewari, in relation to the notification dated 06.11.2006, issued under Section 4, was assessed by the Reference Court, was also ignored. However, the sale deeds Exs. R-1 to R-8 tendered in evidence by the State, were held to be germane to the acquisition in question and thus required to be taken into consideration. But, in reference to its previous award, dated 19.01.2011, rendered in LA Case No. 39 of 2008/2010, titled **Banwari Lal v. State of Haryana**, the Reference Court concluded that the matter in issue was covered by the said award, for, even in those proceedings the land that

formed part of village Gokalgarh, was acquired for a common purpose, i.e. Budhpur Distributory. And, although, the Land Acquisition Collector had assessed the land under acquisition in those proceedings, at Rs. 12,50,000/- per acre, but in the proceedings under Section 18, the compensation was enhanced to Rs.16,00,000/- per acre. And, since the Land Acquisition Collector in the present proceedings, vide award dated 4.6.2007 and subsequent clarifications made on 12.02.2008, had assessed compensation @ Rs.16,00,000/- per acre, the value of the acquired land was accordingly assessed at the same rate i.e. Rs.16,00,000/- per acre. However, vide subsequent order dated 22.03.2012, the Reference Court allowed the review application filed by the claimant/landowners against the award dated 06.06.2011, and enhanced the compensation to Rs.20,00,000/- per acre. Vide yet another order, dated 29.11.2012, passed in another review application, the Reference Court followed its earlier order dated 22.03.2012 and enhanced the compensation accordingly. That is how, the award dated 06.06.2011 and the orders passed by the Reference Court in review application, dated 22.03.2012 and 29.11.2012, have been assailed in these appeals. However, the claimant/landowners have not chosen to question the award as also the orders referred to above, to seek further enhancement.

Learned State counsel submits that the award as also the orders that have been assailed in these appeals are wholly perverse and contrary the position on record. She submits that while passing the award, dated 06.06.2011, the Reference Court completely overlooked that although the Land Acquisition Collector vide Award No. 4, dated 04.06.2007, had assessed the market value of the acquired land at Rs.12,50,000/- per acre,

but vide a rectified award, dated 12.02.2008, value of the acquired land was re-determined at Rs.16,00,000/- per acre. So much so, she asserts that although the Reference Court while passing the award, dated 06.06.2011, specifically noticed the rectified award dated 12.02.2008, rendered by the Collector as also the re-determined value of the acquired land, yet while allowing the review applications, it observed in its order dated 22.03.2012, that the rectified/subsequent award, dated 12.02.2008, was not brought to its notice at the time of hearing. Not just that, she submits the Reference Court while allowing the review applications, enhanced the compensation from Rs.16,00,000/- to Rs.20,00,000/- per acre but without any basis. Therefore, it is urged that the impugned award, dated 06.06.2011, as also the orders dated 22.03.2012 and 29.11.2012, are required to be set aside on that score alone.

The factual position as sketched above, is not disputed by the learned counsel for the claimant/landowners. Rather, he very fairly concedes that the reference Court has failed to assign any basis to justify the enhancement in the compensation for Rs.16,00,000/- per acre to Rs.20,00,000/- per acre. However, it is urged that the claimant/landowners had brought on record the sale deeds Exs. P-1 to P-7, vide which the land situated in the same revenue estate, i.e. Gokalgarh and the adjacent villages, was alienated for a sale consideration ranging between Rs.21,32,000/- per acre to Rs.77,44,000/- per acre. But, he submits that all these sale deeds were discarded by the reference Court, for, these executed prior to the issuance of notification dated 26.09.2006, issued under Section 4. Accordingly, he asserts that the reasons assigned by the Reference Court to

discard these sale instances were wholly erroneous.

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

For the limited issue that arises for determination in these appeals, it indeed would be necessary to refer to the conclusion arrived at by the Reference Court while enhancing the compensation from Rs.16,00,000/- per acre to Rs.20,00,000/- per acre; **“It is also true that as per the award Ex.R9 passed by the Land Acquisition Collector, the market value of the acquired land was assessed at the rate of Rs.12,50,000/- per acre but lateron, vide dated 12.2.2008, the market value of the acquired land was rectified and award was announced at the rate of Rs.16 lacs per acre. However, while addressing the arguments, this fact was neither argued nor brought into the notice of this court that at a later stage, the market value of the acquired land has been rectified from Rs.12.50 lacs to Rs.16 lacs per acre and this fact also remained unnoticed and taking into consideration the award Ex.R9 passed by the Land Acquisition Collector, the petitions were allowed and the market value of the acquired land was assessed at the rate of Rs.16 lacs per acre along with all statutory benefits, but the market value while delivering the award by this court dated 6.6.2011 was taken into consideration on the basis of the award at the rate of Rs.12.50 lacs passed by the Land Acquisition Collector. Since at a later stage, the market value of the acquired land was rectified at the rate of Rs.16 lacs per acre by the Land Acquisition Collector, for the purpose of assessing the market value of the acquired land in the award delivered by this court dated 6.6.2011 in the main**

petition titled as Rajbir Singh etc. Vs. State of Haryana etc. along with 16 other reference petitions which have been consolidated in the main petition, the market value of the acquired land in the award is reviewed and is being assessed at the rate of Rs.20,00,000/- (Rs.Twenty lacs) along with all statutory benefits and consequently, with the above observation and discussion, the review petition filed by the petitioners accordingly stands allowed. It is further clarified that this order shall also form part of the original award and would also be applicable in other connected reference petitions.”.

A bare analysis of the conclusion arrived at by the Reference Court, as referred to above, reveals that the enhancement awarded by the Reference Court has indeed no basis. It is not a case either where the compensation enhanced by the Reference Court from Rs.16,00,000/- to Rs.20,00,000/- is preceded by any reference to material and evidence on record least an analysis thereof. Thus, in the given situation the only and the inevitable conclusion one could reach; the order dated 22.03.2012 and 29.11.2012, rendered by the reference Court are wholly perverse. Though not of much significance, but even the observations recorded by the reference Court that rectified subsequent award dated 12.02.2008, rendered by the Collector was not brought to it's notice is also erroneous, for, the reference Court itself observed while passing the award dated 6.6.2001; **Hence, taking into consideration the entire facts and circumstances including the rate which has been allowed by the Land Acquisition Collector while pronouncing the award dated 4.6.2007 and certain clarifications were made on 12.2.2008 and compensation has been**

allowed at the rate of Rs.16,00,000/- (Rs.16 lacs) per acre of the acquired land and as such, in the given facts and circumstances and referring the entire evidence led on behalf of the petitioners as well as respondents and keeping in view the entire circumstances relating to disposal of the present petitions, prevalent market rate of the acquired land is assessed at the rate of Rs.16,00,000/- (Rs. Sixteen lacs) per acre.

The matter has yet another dimension. Concededly, the claimant/landowners had brought on record the sale deeds Ex.P1 to Ex.P7, but these sale instances were ruled out of consideration, for, these were executed before issuance of notification dated 26.09.2006, under Section 4. Apparently, the approach as also the view of the reference Court is erroneous. For, it is sale instances that are post notifications under Section 4, which cannot be taken into consideration.

Thus, faced with this situation, learned counsel for the parties submit that the matter at hands required to be remitted to the Reference Court for re-decision. In the normal parlance, in the matter of this nature remand is the last resort and least desired. But in the matter at hands it appears to be the inevitable option. Resultantly, the impugned award dated 06.06.2011 as also the orders dated 22.03.2012 and 29.11.2012, are set aside. The matter is remitted to the Reference Court for decision afresh in accordance with law. Vide an order dated 12.12.2012, passed by this Court, 75% of the enhanced compensation was stayed. Whereas, balance 25% of the enhanced amount has since been released to the claimant/landowners. It is clarified, 25% of the enhanced compensation that has already been disbursed, shall not be recovered till the matter is re-decided. However, the

Reference Court shall pass necessary or appropriate orders in this regard while rendering a final judgment. For, now the Reference Court shall redetermine the true value of the acquired land, the parties shall at liberty to adduce any further evidence, if so advised. However, it is made clear that only one opportunity shall be awarded to each of the parties on the date that shall be specified by the Reference Court in this regard. In the event of default, the evidence of the defaulting party shall be deemed to have been closed.

The parties through their respective counsel shall appear before the District Judge, Rewari, on 13.11.2017. Needless to assert that it shall be the discretion of the District Judge to either decide the matter himself or assign to any other Court of competent jurisdiction. However, in the facts and circumstances of the case, the Reference Court is requested to decide the matter within a period of three months the parties shall cause appearance before the District Judge. It is clarified that this order shall not constitute any expression of opinion on the merits of the case of either party.

In conspectus of the above, all these appeals are accordingly disposed of in the above terms. The Registry is directed to return the LCR to the Reference Court forthwith.

(ARUN PALLI)
JUDGE

October 30, 2017
P Kapoor

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