

REPORTABLE

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No. 3188 of 2013
Date of Decision: February 27, 2017

Nasib Singh and others

...Appellants

Versus

Union Territory, Chandigarh

...Respondent

and other connected matters:

Filed By	Numbers	Total
Beneficiary/Union Territory, Chandigarh	RFA Nos. 1531 to 1565 and 7282 to 7286 of 2014	40
Claimant/Landowners	RFA Nos. 2800, 2801, 3189 to 3191, 3850, 3911 to 3913, 4016, 4017, 4120 to 4125, 4389, 4445, 4838, 4940 to 4952 and 6522 of 2013; 1031 to 1033 and 2178 of 2014	38
Claimant/Landowners	XOBJR-205-CI-2015 in RFA No. 1556 of 2014	01

CORAM: HON’BLE MR. JUSTICE ARUN PALLI

Present: For the Claimants/Landowners

Mr. P.C. Dhiman, Advocate
(in RFA Nos. 3188 to 3191, 3850, 4016, 4017, 4120 to 4125, 4389, 4445, 6522 of 2013; and 1031 to 1033 & 2178 of 2014)
Mr. Hardip Singh, Advocate, and
Mr. Mohan Singh Rana, Advocate
(in RFA Nos. 4838 & 4940 to 4952 of 2013; and XOBJR-205-CI-2015 in RFA-1556-2014)
Mr. R.K. Dhiman, Advocate
(in RFA Nos. 3911 to 3913 of 2013)
Mr. Vikas Jain, Advocate
(in RFA Nos. 2800 & 2801 of 2013; and for respondent No. 1 in RFA No. 1549 & 1559 of 2014)

For the beneficiary – Union Territory, Chandigarh

Mr. Suvir Sehgal,
Senior Standing Counsel,
Union Territory, Chandigarh, with
Mr. A.P. Setia, Advocate, and
Mr. Deepak Sharma, Advocate

ARUN PALLI, J. (ORAL)

Vide this order and judgment, I shall decide a batch of 79 appeals and one cross-objection, of which 40 appeals have been filed by the Union Territory, Chandigarh, and the rest 39 appeals and one cross-objection have been preferred by the claimant/landowners. For, the matter arises out of the same acquisition and the issues that require determination are common in all these appeals, these are being disposed of by a common judgment. However, by consensus the facts are being culled out from **RFA No. 3188 of 2013**, titled “**Nasib Singh and others v. Union Territory, Chandigarh**”.

Vide notification, under Section 4 of the Land Acquisition Act, 1894 (for short, ‘the Act’), published on 11.03.2005, a land measuring 214 kanals and 7 marlas, that formed part of the revenue estate of village Sarangpur, Union Territory, Chandigarh, was sought to be acquired for greenbelt, parks and social infrastructure. Final declaration under Section 6 was published on 09.03.2006. Vide Award No. 584, dated 27.12.2006, the Land Acquisition Collector assessed the market value of the acquired land at Rs. 25,76,121/- per acre. Being aggrieved of 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.

On consideration of the matter in issue and the evidence on record, the

Reference Court relied upon an earlier award dated 17.02.2012 (Ex. P-18), vide which the land situated in the adjoining village, i.e. Dhanas, was assessed at Rs. 54,95,459/- per acre. But as the notification under Section 4, in relation to the award dated 17.02.2012 (Ex. P-18), was issued on 30.01.2006 i.e. ten months later than the notification dated 11.03.2005, in the present proceedings, the Reference Court applied a 10% cut on the value of the land assessed vide award dated 17.02.2012 (Ex. P-18). As a result, the claimant/landowners were awarded compensation at Rs.49,46,000/- per acre. That is how, as indicated above, both the parties are in appeal before this Court. Of course, the Union Territory, Chandigarh, has appealed for setting aside the award rendered by the Reference Court, whereas the claimant/landowners seek further enhancement.

Learned counsel for the claimant/landowners submit in unison that all what forms basis of the compensation awarded by the Reference Court is the award dated 17.02.2012 (Ex. P-18), and in the appeals preferred against the said award, this Court vide order and judgment dated 22.09.2015, rendered in **RFA No. 1437 of 2012 (O&M)**, titled “**Dalwinder Singh and another v. Union Territory, Chandigarh**”, and other connected matters, had further enhanced the compensation to Rs. 91,80,000/- per acre. Therefore, it is submitted that after deducting an amount equal to 10% of the value assessed by this Court, for the time difference between two notifications issued under Section 4, the claimant/landowners shall be entitled to compensation at Rs. 82,62,000/- per acre.

As opposed to this, Mr. Sehgal, learned Senior Standing Counsel for UT, Chandigarh, submits that the Reference Court erred to assess the value of the acquired land on the basis of award dated 17.02.2012

(Ex. P-18), for, a sale deed, dated 04.12.2003 (Ex. R-1), vide which a land measuring 3 kanals and 2 marals, which too pertained to village Sarangpur, was sold at Rs. 14,06,451/- per acre, was on record. Thus, he submits that value of the acquired land ought to have been assessed on the basis of the sale consideration reflected in the said sale deed, by awarding proportionate annual increase. Further, he submits that the award dated 17.02.2012 (Ex. P-18), could not be relied upon, for, it pertained to an acquisition post issuance of notification under Section 4 in the present proceedings. Reliance is placed in this regard upon the decisions of the Supreme Court in **General Manager, Oil and Natural Gas Corporation Limited v. Rameshbhai Jivanbhai Patel and another**, (2008) 14 SCC 745, and **A. Natesam Pillai v. Special Tahsildar, Land Acquisition, Tiruchy**, (2010) 9 SCC 118. In the alternative, he also contends that vide judgment dated 17.08.2015, rendered in RFA No. 2025 of 2009 (O&M), titled “**Kanwaljit Singh Mujral and another v. Union Territory, Chandigarh**”, this Court assessed the value of the land situated in the same village i.e. Sarangpur, at Rs. 27,90,000/- per acre, in relation to a notification dated 20.11.2003, issued under Section 4. And the notification under Section 4, in respect of the award, dated 17.02.2012 (Ex. P-18), was issued on 30.01.2006, i.e. after 26 months of the issuance of notification in the case of **Kanwaljit Singh Mujral (supra)**. Therefore, he contends that appreciation in the price of the acquired land in the interregnum, i.e. between 20.11.2003 to 30.01.2006, works out to Rs.63,90,000/- (Rs.91,80,000/- – Rs.27,90,000/-) per acre or Rs.2,45,769/- per month. And for the notification under Section 4 in the present proceedings was issued on 11.03.2005, i.e. after 16 months of the notification dated 20.11.2003, the claimant/landowners could be awarded

increase at Rs.2,45,769/- per month, for a period of 16 months upon Rs.27,90,000/-, i.e. the value of the land as on 20.11.2003. Thus, he asserts that land owners shall, at best, be entitled to compensation at Rs.67,22,304/- (Rs.39,32,304.00 + Rs.27,90,000.00) per acre.

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

The argument advanced by learned counsel for the UT, Chandigarh, that the sale deed, dated 04.12.2003 (Ex. R-1), ought not to have been ignored by the Reference Court to assess the true value of the acquired land, lacks conviction. *Ex facie*, the said sale deed was executed for a sale consideration of Rs.14,06,451/- per acre, whereas none other than the Collector himself assessed the value of the acquired land at Rs.25,76,121/- per acre as on 11.03.2005. Thus, the Collector did not deem it safe to evaluate the acquired land on the basis of the said sale instance even by awarding a suitable annual increase. For, still it would never have reflected the true value of the land in question.

Likewise, the argument that is being advanced even in the alternative; apportion the appreciation i.e. Rs.63,90,000/- (Rs.91,80,000.00 – Rs.27,90,000.00) in the value of the acquired land, between 20.11.2003 to 30.01.2006, for each month, and for the notification under Section 4 in the present proceedings was issued on 11.03.2005, i.e. 16 months after the notification dated 20.11.2003, the claimants be awarded increase for the said period at Rs.2,45,769/- per month, cannot be countenanced either. Needless to assert that in the absence of any specific and conclusive evidence to the contrary, a slow, systematic and gradual increase or appreciation in the value of a land is presumable with course of

time. Whereas on the contrary, development activities in the vicinity of the acquired land or acquisition of the adjoining areas, that brings along basic facilities such as transport, communications, power supplies, and other infrastructure, would inevitably lead to a sudden spurts or escalation in value of the real estate. What is the position in the matter in hand? Indisputably, vide a notification dated 23.12.1999, issued under Section 4 of the Act, a land that formed part of three different villages, including **Sarangpur**, was acquired for setting up Chandigarh Botanical Garden. Subsequently, vide notification dated 01.01.2001, issued under Section 4, another chunk of land, that too formed part of the revenue estate of Sarangpur, was acquired for development of complex for important projects in village Sarangpur, U.T., Chandigarh. And, vide yet another notification, dated 20.11.2003, land situated in village Lahora and Sarangpur was acquired for Chandigarh Science Park and Institutional Area and the land development under the Capital of Punjab (Development and Regulation) Act, 1952. And, it was in relation to the notification dated 20.11.2003, this Court, vide order and judgment dated 17.08.2015, in the case of **Kanwaljit Singh Mujral (supra)**, had assessed the value of the land, acquired in those proceedings, at Rs.27,90,000/- per acre. Naturally, as a consequence of three successive acquisitions from the same and adjoining villages, between December, 1999 to November, 2003, the price of the acquired land or even the adjacent areas appreciated manifold. That is how, in relation to a notification, dated 30.01.2006, land situated in village Dhanas was assessed by this Court, in **RFA No. 1437 of 2012 (Dalwinder Singh and another v. Union Territory, Chandigarh)**, at Rs.91,80,000/- per acre. No doubt, assessment of the value of the acquired land in the case of **Dalwinder Singh (supra)** was in relation

to a notification dated 30.01.2006, but that was just ten months after the notification dated 11.03.2005, issued in the present case. Whereas, the notification dated 20.11.2003, in the case of **Kanwaljit Singh Mujral (supra)**, was issued sixteen months before/prior to the issuance of notification in these proceedings. Thus, most of the effect of appreciation in the value of the acquired land and the adjoining areas, owing to the three successive acquisitions, was observed in the period of sixteen months, i.e. between 20.11.2003 to 11.03.2005. Resultantly, value of the acquired land had almost stabilised and reached its optimum potential during this period. Therefore, it would not be safe, viable, and just to mathematically apportion the appreciation in the value of the acquired land, between 20.11.2003 to 30.01.2006, on per month basis. And award increase for a period of 16 months @ Rs. 2,45,769/- per month, to work out the true value of the acquired land as on 11.03.2005.

Apparently, both the parties had failed to produce any contemporaneous sale deeds or judicial pronouncements, immediately preceding the present acquisition. Vide award dated 17.02.2012 (Ex. P-18), land situated in village Dhanas, was acquired, and its value, in relation to notification dated 30.01.2006, was assessed at Rs.54,95,959/- per acre. Concededly, both the villages i.e. Dhanas and Sarangpur are contiguous, and this was never the case of the respondent that land situated in both these villages was dis-similar owing to its quality and value. Further, it is the common case of the parties that in the appeals preferred against the award, dated 17.02.2012 (Ex. P-18), this Court vide order and judgment dated 22.09.2015, in the case of **Dalwinder Singh (supra)**, had further enhanced the compensation to Rs.91,80,000/- per acre. So much so, the appeals

preferred against the said decision by the parties have also been dismissed by the Supreme Court, vide order dated 29.06.2016, rendered in S.L.P. (C) Nos. 9352-9481 of 2016 (Union Territory Chandigarh v. Dalwinder Singh and another). Undoubtedly, the notification in context of the award dated 17.02.2012 (Ex. P-18) was issued post issuance of notification in the present case, but the time difference between the two was merely ten months. And, significantly the assessment in the case of **Dalwinder Singh (supra)** was final and conclusive, thus, in the situation, the award dated 17.02.2012 (Ex. P-18) was the safest and most suitable evidence that could be the basis to determine the value of the acquired land. And, that being so, the decision in the cases of **General Manager, Oil and Natural Gas Corporation Limited (supra)** and **A. Natesam Pillai (supra)** by the Supreme Court would not advance the case of the respondent either.

Having said that, the short but a significant issue that remains to be determined is as to what would be the appropriate or suitable cut that is required to be imposed upon the value of the land that was assessed by this Court vide order and judgment dated 22.09.2015, in the case of **Dalwinder Singh (supra)** to arrive at true value of the acquired land. Albeit the time difference between two notifications was ten months, but it shall also be true that even the present acquisition impacted the value of the land in its vicinity. The assessment as regards the land in the case of **Dalwinder Singh (supra)**, at Rs.91,80,000/- per acre, represents the value of the land as on 30.01.2006. And not on 11.03.2005. It would be apposite, at this stage, to refer to the decision of the Supreme Court in **General Manager, Oil and Natural Gas Corporation Limited (supra)**, wherein while considering a similar issue it was held that *if a percentage to be added with reference to*

previous acquisition/sale transactions is 10% per annum, the percentage to be deducted to arrive at a market value with reference to future acquisitions/sale transactions should not be 10% per annum, but much more.

Therefore, to neutralise the effect of escalation or appreciation in the value of the land between 11.03.2005 to 30.01.2006, it shall be just and appropriate to deduct or impose 20% cut in the value of the acquired land as on 30.01.2006. As a result, the claimant/landowners shall be entitled to compensation at Rs.73,44,000/- [Rs.91,80,000.00 – Rs.18,36,000.00 (20%)] per acre. Needless to assert that they shall also be entitled to all the statutory benefits as admissible in law.

In conspectus to the position as sketched out above, the appeals as also the cross-objection filed by the claimant/landowners are disposed of accordingly. And, as a natural consequence, the appeals preferred by the Union Territory, Chandigarh, fail and are accordingly dismissed.

(ARUN PALLI)
JUDGE

February 27, 2017

P Kapoor

Whether Speaking/Reasoned:

YES / NO

Whether Reportable:

YES / NO