

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA No.1854 of 2015 (O&M)
Date of Decision : 24.05.2017

State of Haryana through Land Acquisition Collector, Urban Estate,
Panchkula

.....Appellant

Versus

Smt. Ram Kaur and another

..... Respondents

and other connected matters:

Filed By	Numbers	Total
State of Haryana	2579, 2580, 1864 to 1871, 1873 to 1882, 4164 to 4172, 4319, 4161, 4162, 3616, 3615, 4205, 4204, 3211, 3155, 1787, 1848, 1686 to 1689, 1692 to 1698, 1700 to 1706, 1883 to 1902, 1729 to 1747, 1801 to 1822, 1648 to 1666, 1748 to 1764, 1629 to 1631, 1633 to 1639, 1641 to 1647, 1667 to 1684, 1841 to 1845, 1849 to 1851, 1853, 1856 to 1862, 1708 to 1723, 1725, 1727, 1728, 1765, 1766, 1768 to 1786, 1788 to 1800, 1627, 1840, 1823 to 1829, 1831 to 1837, 1839, 1724, 1726, 3614 of 2015, 2890 and 2891 of 2016.	281
Claimants/ Landowne rs	RFA Nos.1941 to 2021, 2166, 2167, 2180, 2328 to 2352, 2368 to 2375, 2426 to 2429, 2456 to 2465, 2765, 2909, 2919, 2920, 3099 to 3104, 3118, 3119, 3672, 4182 to 4198, 4203 to 4210, 4228, 4258 to 4260, 4381 to 4383, 4670, 5222, 5298, 5309, 5561, 5975, 6195, 6196, 6575, 6576, 6903 to 6913, 6915 to 6935, 6944 to 6945, 7176 to 7178, 7229, 7322, 7333, 7351, 8167, 8265 to 8270, 8364, 8459, 8460, 8461, 8727, 8728, 9010, 10057, 10069, 9149, 9150, 4637, 4636, 5353 to 5356, 8365 to 8368, 9265 to 9268 of 2014. RFA Nos.258 to 260, 440, 1323, 1457, 1458, 1460, 1465, 3392 to 3394, 3493, 3592, 2249, 2286, 2349, 2287, 2352, 2458, 2459, 6241, 825, 829, 2679, 2681, 2680, 3156, 35, 1016, 912, 5392, 5373, 6980, 6531, 1017, 877 to 881, 1609 to 1613, 1614 and 2181 of 2015, RFA Nos.2569, 3194, 4291, 4292, of 2016 RFA No.156 of 2017	312

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : For the State of Haryana

Mr. Sudeep Mahajan, Addl. A.G. Haryana with
Mr. Abhinash Jain, AAG, Haryana.

For the claimants/landowners

Mr. Akshay Bhan, Sr. Advocate with
Mr. Manoj Khan Chouhan, Advocate and
Mr. Shoaib Khan, Advocate;
Mr. B.S.Sudan, Advocate;
Mr. B.S.Sudan, Advocate for
Mr. Sandeep Kumar Loura, Advocate;
Mr. Amit Kumar Jain, Advocate;
Mr. Swaran Singh, Advocate;
Mr. S.S.Salar, Advocate;
Mr. Ishan Cooner, Advocate for
Mr. J.S.Cooner, Advocate;
Mr. Arun Kumar Singal, Advocate;
Mr. Ram Kumar Saini, Advocate;
Mr. Deepak Sharma, Advocate;
Mr. Suresh Kumar Arya, Advocate;

ARUN PALLI, J. (Oral)

Vide this order and judgment I shall decide a batch of 594 appeals of which 282 appeals have been preferred by the State and the rest 312 appeals are filed by the claimants-landowners. Eleven identical awards, though rendered on different dates; 18.11.2013, 4.2.2014, 3.3.2014, 6.3.2014, 10.3.2014, 15.3.2014, 9.9.2014, 13.11.2014, 14.11.2014, 17.11.2014 and 6.1.2015, are being assailed in these appeals. However, for, the matter arises out of the same acquisition and the question that require determination is common in all these appeals, these are being disposed of by a common judgment. By consensus the facts are being culled out from **RFA No.1854 of 2015 (State of Haryana through Land Acquisition Collector, Urban Estate, Panchkula Vs. Smt. Ram Kaur and another)**.

Vide notification dated 30.11.2006, issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') a land measuring 465.29 acres, situated in 9 different villages such as Surajpur, 80.33 acres, (H.B. No.109), Baglana, 1.65 acres, (H.B. No.112), Pinjore, 24.21 acres, (H.B. No.113), Abdullapur, 20.50 acres, (H.B. No.115), Rathpur, 65.35 acres, (H.B. No.116), Firozpur, 47.11 acres, (H.B. No.117), Manakpur Devi Lal, 131.75 acres, (H.B. No.118), Manakpur Nanak Chand, 59.44 acres, (H.B. No.119) and Manakpur Thakar Dass, 52.80 acres, (H.B. No.120), Tehsil Kalka, District Panchkula, was sought to be acquired for development and utilization of land as residential area for Sectors 27, 28 and 30 at Pinjore. The final declaration under Section 6 of the Act Published on 28.11.2007. Vide award No.7 dated 26.11.2009, the Land Acquisition Collector assessed the market value of the acquired land at ₹20,00,000/- per acre. Being aggrieved by the assessment as also the compensation awarded by the Collector, the claimants filed objections under Section 18 of the Act. 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 relied upon a judicial pronouncement or its previous award dated 19.05.2009 (Ex.PX), for, seven of the 9 villages that were under acquisition in the present proceedings were common in both the acquisitions. Vide award (Ex.PX), the claimants/landowners were awarded compensation @ ₹1200/- per square yard. But, as the notification under Section 4, relating to the award (Ex.PX), was issued on 14.11.2007, i.e. almost a year later than the notification under Section 4 in the present case, the reference Court applied a reverse cut @ 10% in the value of the land under acquisition in those

proceedings. Further, as the acquired land in the other proceedings was said to be situated nearer to National Highway No.22, a further deduction @ 10% was caused. Resultantly, the claimants/landowners in the present case were awarded compensation at ₹972/- per square yard i.e. 10% of the 1200 = 120 (1200-120 = 1080) and 10% of 1080 = 108 (1080-108 = 972). The conclusion arrived at by the reference Court reads thus:-

“The learned counsel for the petitioner also relied upon award dated 19.5.2009 Ex.PX pertaining to notification u/s 4 dated 14.11.2007 pertaining to village Manakpur Devilal, Manakpur Nanak Chand, Manakpur Thakurdass, Firojpur, Abdulapur, Rathpur, Pinjore. The land was acquired to develop sectors 27, 28 and 30 at Pinjore under the HUDA Act. The land is of same village except of village Abdullapur and Rathpur. The land was acquired about one year after the land acquired in the case in hand. As per testimony of PW.11, this land is situated about 350 feet away from the acquired land. Moreover, there is a Shiv Shakti colony nearby. Furthermore, the small instances relied upon by respondents Ex.R.1 to Ex.R.34 are not being taken into consideration as most of sale instances are of subsequent period of notification. Further, they are showing the much less market value than the assessed by the LAC. The collectors rates are prevalent and proved by PW.2 are also not taken into consideration as it does not reflect the true market value prevalent in a particular year. Furthermore testimony of PW.11 viz-a-viz testimony of petitioners PW.1, PW.6, PW.9 and PW.10 and the award Ex.PX are being considered being relevant to ascertain the market value of the land at the time of issuance of notification u/s 4 of the Act. Thus considering the ratio

of law in case of Prem Chand and ors. Vs. Union of India (supra), 10% cut is being made as the award Ex.PX is of one year later acquisition. Further the acquired land of the case in hand is away from the National Highway viz-a-viz the acquired land of Ex.PX, therefore, considering the potentiality, nature and quality, another 10% cut is being made to assess the actual market value in November 2006 i.e. at the time of notification u/s 4 of the Act. Thus, the market value of the land comes to Rs.972/- i.e. 10% of 1200=120 (1200-120=1080) and 10% of 1080=108 (1080-108=972)".

Ex facie, the award rendered by the reference Court proceeds on a premise that seven of the 9 villages, that were under acquisition in the present proceedings, were common in the acquisition that culminated into an award dated 19.05.2009 (Ex.PX). The acquired land was situated in the same villages except village Abdullapur and Rathpur. And, therefore, to assess the true value of the acquired land the award (Ex.PX), was the most suitable or safest option. However, the position on record is not in sync with the conclusion arrived at by the reference Court. For, the observation that seven of the 9 villages that were under acquisition in these proceedings were common in both the acquisitions is erroneous. Concededly, the entire land that was acquired vide notification, dated 14.11.2007, issued under Section 4, formed part of the revenue estate of village Pinjore alone. Naturally, vide award dated 19.05.2009 (Ex.PX) the reference Court never assessed the value of the land situated in the other six villages Manakpur Devilal, Manakpur Nanak Chand, Manakpur Thakurdass, Firojpur, Abdullapur and Rathpur. The observation that in the proceedings relating

to the award (Ex.PX) **“the land was acquired to develop sectors 27, 28 and 30 at Pinjore under the HUDA Act”** is also factually incorrect. For, the land in those proceedings was acquired for protection and preservation of ancient and historical temple remains in village Pinjore. And, whereas it was in the matter in hand the acquisition was resorted to for development and utilization of land as residential area for Sectors 27, 28 and 30. Not just that the reference Court specifically observed that seven of the nine villages were common in both the acquisitions except village Abdullapur and Rathpur whereas in the same paragraph the Court itself records that even these two villages were part of the acquisition in award Ex.PX. Needless to assert that the very basis of perception, understanding and the judgment rendered by the reference Court is flawed which vitiates the impugned award. Faced with this and preceded by due deliberations, learned counsel for the parties have reached a consensus that the matter warrants re-decision, and thus, needs to be remitted.

That being so, the impugned award(s) is set aside. The matter is remitted to the District Judge, Panchkula for consideration of the claim of the landowners afresh in accordance with law. Now, when the matter is being remanded, the parties to the lis shall be at liberty to adduce any further evidence, if necessary. The reference Court shall award two opportunities to each of the parties on the dates that shall be specified in this regard. However, in the event of default the right to lead further evidence shall stand forfeited. As has been informed, during the course of hearing, by the learned counsel for the parties that pursuant to the award(s) rendered by the reference Court the claimants/landowners have even withdrawn the

enhanced compensation since long. The amount that has already been released to the claimants/landowners shall not be recovered till the matter is re-decided by the reference Court. However, the reference Court shall pass suitable or appropriate orders, if necessary, in this regard while pronouncing the final judgment. The parties through their respective counsel shall appear before the District Judge on 3.7.2017. In the facts and circumstances of the present case, I deem it appropriate and necessary to request the reference Court to decide the matter within a period of 4 months from the date the parties would cause appearance before the Court. The appeals are disposed of in the above terms. However, by way of abundant caution, it is clarified 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 claims on the basis of the evidence on record and in accordance with law.

The Registry is directed to return the LCRs forthwith.

Civil Miscellaneous applications

In the wake of the order and judgment of an even date in the main case, the applications are rendered infructuous.

24.05.2017

Manoj Bhutani

(ARUN PALLI)
JUDGE

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