

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-2017-2015 (O&M)
Date of Decision: July 27, 2017

Kartar Singh (deceased) through LR's and others

...Appellants

Versus

State of Haryana and another

...Respondents

and other connected matters:

Filed By:	RFA Nos.
Claimant/Landowners	2018 to 2020 of 2015; 2390 and 2391 of 2016 (O&M)
State of Haryana	6809 and 7269 to 7274 of 2015 (O&M)

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: For the claimant/landowners

Mr. Sandeep Sharma, Advocate,
Mr. P.R. Yadav, Advocate.

For the State

Mr. Sudeep Mahajan, Addl. Advocate General, Haryana.

ARUN PALLI, J. (ORAL)

Vide this order and judgment, I shall decide a batch of 13 appeals of which 6 appeals have been filed by the claimant/landowners and the rest 7 by the State of Haryana. For, all these appeals arise out of the same acquisition and the award, dated 30.10.2014, that is being assailed in all these appeals, is common, these are being disposed of by a common judgment. However, by consensus the facts are being culled out from RFA

No. 2017 of 2015.

Vide notification, dated 29.08.2006, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), a land measuring 8.58 acres, situated in village Kaluwas (HB No. 118), Tehsil and District Rewari, was sought to be acquired for construction of 2nd Sewerage Treatment Plant in the revenue estate of village Kaluwas. The final declaration under Section 6 of the Act was published on 09.08.2007. Vide award No. 18, dated 14.12.2007, the Land Acquisition Collection assessed the market value of the acquired land at Rs.16,00,000/- per acre. Being dissatisfied with 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. The Reference Court, vide impugned award, dated 30.10.2014, enhanced the compensation awarded to the claimant/landowners to Rs.20,00,000/- per acre, i.e. 413.22p. Per square yard. That is how, as indicated above, the claimant/landowners as also the State are in appeal before this Court. On course, the claimant/landowners seek further enhancement in the compensation. And the State has appealed to set aside the impugned award.

Learned counsel for the claimant/landowners in reference to the decision of this Court, dated 19.02.2016, rendered in **RFA No. 7398 of 2011** (**State of Haryana and others v. Ghisa Ram**) and other connected matters, submit that vide another notification, dated 04.04.2007, issued just after over six months of the notification, dated 29.08.2006, under Section 4, in the present proceedings, the State Government had acquired a land

measuring 8.859 acres, situated in the revenue estate of three villages, i.e. Aspuri, Gokulgarh and **Kaluwas**. The Collector vide award, dated 31.08.2007, had assessed the value of the land under acquisition @ Rs.16,00,000/- per acre. And, the Reference Court vide award dated 25.08.2011, had enhanced the compensation to Rs.20,00,000/- per acre. However, in appeals preferred by the landowners, this Court had further enhanced the compensation to Rs. 48,93,240/- per acre. Therefore, it is submitted that the claimant/landowners are also entitled to the same compensation, particularly when the value of the land situated in the same village had already been enhanced by this Court. It is urged that the matter be disposed of in terms of the decision of this Court in the case of **Ghisa Ram (supra)**.

Per contra, Mr. Sudeep Mahajan, Additional Advocate General, Haryana, submits that the assessment made by the Collector was just and fair and no further enhancement was feasible. He submits that the Reference Court has hardly assigned any reason to enhance the compensation from Rs.16,00,000/- to Rs.20,00,000/- per acre. Thus, he submits that the impugned award is unsustainable. As to the decision of this Court in the case of **Ghisa Ram (supra)**, learned State counsel does not dispute that the land situated in the same revenue estate, i.e. village Kaluwas, was assessed by this Court at Rs.48,93,240/- per acre. But all what he submits is that the said decision would have no bearing on the present proceedings, for, the notification under Section 4 in the case of **Ghisa Ram (supra)** was issued on 04.04.2007, i.e. subsequent to the notification under Section 4 in the present proceedings. And in any case, he

submits, in the absence of any evidence to show the precise location of the land that was under acquisition in the case of **Ghisa Ram (supra)** and its proximity with the acquired land, the claimant/landowners may not be entitled to the same compensation.

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

Before I proceed further, it would be apposite to refer to the conclusion arrived at by the Reference Court, which reads thus:

“.....The petitioners have tendered in evidence copy of sale deeds Ex.PW3/A to Ex.PW3/F. As per sale deed Ex.PW3/A, which is dated 19.4.2010, the rate of land situated in Rewari is Rs.3400/- per sq. yard. Moreover, the sale deeds Ex.PW3/A, Ex.PW3/D and Ex.PW3/E pertain to the year 2010 and 2009 and the same are post dated notification and cannot be taken into consideration. In Zile Singh Vs. State of Haryana, 2004 (2) LACC 536, it has been held that for the purpose of determination of market value of the acquired land, post notification sale instances cannot be taken into consideration. Ex.PW3/B, Ex.PW3/C and Ex.PW3/F pertain to the year 2005, 2006 and 2004 but the same are regarding small chunk of land and therefore the same also cannot be relied upon for the purpose of determination fo the market value of the land. The respondents have produced on file copy of sale deed dated 22.4.2008 Ex.RW1/B and as per said sale deed, the rate of land was Rs.7 lacs per acre. However, as per Section 25 of

Land Acquisition Act, 1894, the amount of compensation awarded by the court shall not be less than the amount awarded by the Collector under Section 11. Accordingly, taking into consideration the facts and circumstances of the case and nature of the land acquired, purpose of acquiring, the market value of the acquired land is assessed at the rate of Rs.20,00,000/- (Rs.20 lacs) per acre for all kinds of land from the date of issuing the notification under Section 4 of the Act along with all the statutory benefits under Section 23(1-A), 23(2) and 28 of the Act. This issue is, accordingly, decided in favour of the petitioners.”

Ex facie, the claimant/landowners had relied upon the sale deeds (Exs. PW-3/A to PW-3/F). The sale deeds Exs. PW-3/A, PW-3/D and PW-3/E were ignored by the Reference Court, for, these were executed post issuance of notification, dated 29.08.2006, in the present proceedings. Whereas, the sale instances Exs. PW-3/B, PW-3/C and PW-3/F were also ruled out of consideration, for, vide these sale deeds the area that was sold was extremely small or negligible, i.e. measuring between 4/5 marlas. Likewise, the sale deed (Ex.RW-1/B) relied upon by the State was also discarded, for, that was executed at a lesser rate than what was awarded even by the Collector. And despite having reached this conclusion, the Reference Court still enhanced the compensation to Rs.20,00,000/- per acre. Nothing indeed is referred to that actually found basis to the enhancement awarded by the Reference Court. No reason is assigned either in this regard. But it is also true that a coordinate Bench of this Court in the case of **Ghisa Ram**

(supra) had assessed the value of the land, that too formed part of the revenue estate of village **Kaluwas**, at Rs.48,93,240/- per acre. No doubt, the notification under Section 4 in the said proceedings was issued on 04.04.2007, and in the present proceedings a little earlier, i.e. on 29.08.2006. But the fact remains that vide Award No. 18, dated 14.12.2007 and Award No. 9, dated 31.08.2007, respectively, the Collector had himself assessed the value of the land under acquisition in both the proceedings at the same rate, i.e. Rs.16,00,000/- per acre, which rather shows that even the State never considered the land impugned in both the acquisitions to be dissimilar in nature and quality. Be that as it may. For, in the absence of any concrete evidence that shows the proximity, distance and location of the land under acquisition in the case of **Ghisa Ram (supra)** with the acquired land, it may not be safe or possible to conclusively conclude that even the claimant/landowners in the present proceedings are also entitled to be awarded the same compensation. And, even if it is assumed that the acquired land is identically located or equipped with the similar advantages as the land in the case of **Ghisa Ram (supra)**, still the question that would require determination is; for the notification under Section 4 in the case of **Ghisa Ram (supra)**, dated 04.04.2007, was issued eight months later than the notification, dated 29.08.2006, in the present proceedings, could the claimant/landowners be awarded compensation by applying any reverse cut or appropriate or suitable deduction? But as indicated earlier, the assessment of the acquired land by the Reference Court at Rs.20,00,000/- per acre, is wholly devoid of basis and consequently the conclusion reached by the Reference Court is perverse. Thus, the value of the acquired land requires

re-determination.

Faced with this, learned counsel for the claimant/landowners submit that let the impugned award be set aside and the matter be remitted to the Reference Court for re-decision. So is the grievance of even the learned State counsel, for he asserts that the impugned award is cryptic and, thus, unsustainable.

That being so, the award rendered by the Reference Court, dated 30.10.2014, is set aside. And in the given circumstances it is deemed fit and appropriate to remit the matter to the Reference Court for re-determination. And, now as the matter is being remanded, in the wake of the factual matrix of the case, it would be expedient to permit the parties to adduce any further evidence, if they so desire. However, both the parties shall be awarded two effective opportunities each to lead their respective evidence on the dates that shall be specified by the Reference Court.

I have been informed by the learned counsel for the parties that the claimant/landowners were disbursed the compensation in terms of the impugned award. Suffice it to say that till the matter is re-decided by the Reference Court, the State shall not cause any recovery. However, an appropriate order in this regard shall be passed, if required, by the Reference Court while re-deciding the matter finally.

The parties through their respective counsel are directed to appear before the District Judge, Rewari, on 14.08.2017. Needless to say that it shall be the discretion of the District Judge to either decide the land references himself or assign the matter to any other Court of competent jurisdiction. In the wake of the peculiar facts and circumstances of the

present case, the Reference Court is requested to re-decide the matter within a period of three months from the date the parties shall cause appearance before the District Judge.

It is clarified by way of abundant caution that this order shall not constitute any expression of opinion on the merits of the case of the either party and the Reference Court shall re-decide the matter strictly in accordance with law and on the basis of evidence on record.

(ARUN PALLI)
JUDGE

July 27, 2017
Pkapoor

Whether Speaking/Reasoned:
Whether Reportable:

YES / NO
YES / NO