IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA No. 7126 of 2013 (O&M)
Date of Decision: May 03, 2017

Kanwar Lal and another

...Appellants

Versus

State of Haryana through Collector, Gurgaon and others

...Respondents

and other connected matters:

Filed By	Numbers	Total
Claimants/ Landowners	RFA Nos.2715, 2716, 2828, 2829, 3302, 3303 of 2012, 5852 to 5855, 6466, 6472, 6473, 6523, 7084 to 7087, 5849, 7127, 7128, 457, 2297, to 2300 and 5672 of 2013 and 241, 244, 5540, 7203, 5430 and 827 of 2014	33
HSIDC	RFA Nos.8142 to 8158, 8014 to 8021 and 4803 to 4809 of 2013	32

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present: **For the claimants/Landowners**

Mr. Rajesh Lamba, Advocate,
Mr. J.P. Ahlawat, Advocate for
Mr. N.D.Achint, Advocate,
Mr. Subhash Rana, Advocate,
for Mr. P.R. Yadav, Advocate,
Mr. Sandeep Kotla, Advocate,
Mr. Sudhir Aggarwal, Advocate,
Mr. G.S. Brar, Advocate,
for Mr. S.K. Yadav, Advocate.

For State of Haryana

Ms. Safia Gupta, AAG, Haryana.

For HSIIDC

Mr. Pritam Singh Saini, Advocate,

ARUN PALLI, J. (ORAL)

Vide this order and judgment, I shall decide a batch of 66 appeals, of which 34 appeals have been filed by the claimants/landowners and the rest 32 appeals have been preferred by the 'HSIDC; (now 'Haryana State Industrial & Infrastructure Development Corporation Limited'). For, the matter arises out of the same acquisition and the questions 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. 7126 of 2013, titled "Kanwar Lal and another Vs. State of Haryana through Collector, Gurgaon and others**".

Vide notification, dated 17.11.2005, issued under Section 4 read with clause (c) of sub rule 2 of Section 17 of the Land Acquisition Act, 1894 (for short, 'the Act'), a land measuring 129 acres, 6 kanals and 1 marla, situated in four different villages, such as, Fazilwas (HB No. 149), 241 kanals 12 marlas, Chandla Dungerwas (HB No. 148), 387 kanals 13 marlas, Langra (HB No. 145), 201 kanals 11 marlas and Udaipuri (HB No. 144), 207 kanals 5 marlas, Tehsil and District Gurgaon, was sought to be acquired for the construction and development of Express Highway, and connecting therewith National Highway Nos. 1, 10, 8 and 2. The final declaration under Section 6 was published on 08.02.2006. And, vide separate awards made by the Land Acquisition Collector, value of the acquired land, in each of these villages, was assessed at ₹12,50,000/- per acre. Being aggrieved by the assessment as also the compensation awarded by the Collector, the claimants/landowners 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 vide award(s) dated 18.04.2013 (of village Fazilwas), 15.07.2013 (of village Chandla Dungerwas) and 07.12.2012 (of village Langra), enhanced the compensation awarded to the claimants/landowners, to ₹43,17,841/- per acre. However, vide award(s) dated 18.11.2010 (of village Fazilwas) and 29.03.2012 (of village Udaipuri), the Reference Court dismissed the claim of the claimants/landowners. That is how, as indicated above, both the parties are in appeal before this Court. Of course, the claimants/landowners seek further enhancement. Whereas the HSIIDC has appealed for setting aside of the award made by the Reference Court.

Learned counsel for the claimants/landowners submit in unison that all what formed basis of the assessment or the enhancement awarded by the reference Court is it's previous judicial pronouncement or award dated 21.11.2012 (Ex.P14), in **LAC No.740 of 2009/2011 (Madan Gopal Land Holding & Developers (P) Ltd. Vs. State of Haryana through its Collector, Gurgaon and others)**, vide which the land situated in village Fazilwas itself and in 14 other villages, **"acquired for the same purpose"**, was assessed @ ₹43,17,841/- per acre. And, for the notification under Section 4 in those proceedings was issued 10 months prior to the issuance of notification under Section 4 in the present case, the claimants/landowners in these proceedings were awarded compensation at the same rate i.e. ₹43,17,841/- per acre. It is urged that in the appeals preferred against the award dated 21.11.2012 (Ex.P14) this Court, vide order and judgment, dated

05.02.2016, rendered in RFA No. 1853 of 2012, titled **"Attar Singh v. State of Haryana and others"**, and other connected matters, has further enhanced the compensation to ₹ 62,11,700/- per acre. Thus, it is submitted that as a necessary consequence, the claimants/landowners, even in these proceedings shall be entitled to the same compensation. Further, as the notification in the case of Attar Singh (supra), under Section 4 of the Act, was issued on 11.01.2005, i.e. 10 months prior to the issuance of notification in the present case, the claimants/landowners shall also be entitled to a suitable increase.

As opposed to this, Mr. Pritam Singh Saini, learned counsel for HSIIDC, does not dispute that in the appeals preferred by the claimants/landowners against the award, dated 21.11.2012 (Ex.P14), this Court in the case of Attar Singh (supra), has further enhanced the compensation.

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

Concededly, the notification under Section 4 of the Act was issued on 17.11.2005, vide which, the land situated in four different villages i.e. Fazilwas, Chandla Dungerwas, Langra and Udaipuri, Tehsil and District Gurgaon, was acquired for construction and development of Express Highway, and connecting therewith National Highway Nos.1, 10, 8 and 2. The Land Acquisition Collector had assessed the market value of the acquired land, uniformly, at ₹12,50,000/- per acre. The sale deeds Ex.P2, Ex.P3, Ex.P7, Ex.P8 and Ex.P9, that were relied upon by the claimants/landowners, were ruled out of the consideration for, these were executed post issuance of notification under Section 4. As regards the sale deeds dated 15.06.2005 (Ex.P1) and 8.7.2005 (Ex.P4) it was concluded that these were executed in favour of the private builder and even the sale consideration for which these sites were alienated was highly exaggerated or over hiked. Even otherwise, the said sale instances pertained to village Kukdola and therefore, could not be relied upon. Likewise, even the sale deeds that were brought on record by the HSIIDC were also discarded. For, these were executed at a rate that was even less than the rate at which the Collector had assessed the acquired land. In the situation, the reference Court relied upon an award dated 21.11.2012 (Ex.P14), vide which, the land situated in village Fazilwas itself and other adjacent villages were assessed at ₹43,17,841/- per acre. Particularly, for, the land under acquisition in both the proceedings was acquired for a common purpose, and there was hardly any time difference between the two notifications issued under Section 4 in both the proceedings. Even otherwise, this has neither been the case of HSIIDC before the reference Court nor before this Court that the award dated 21.11.2012 (Ex.P14) could never be the basis or relied upon to assess the value of the acquired land. Nothing was brought on record to show either that the land that was under acquisition in both the proceedings was dis-similar in nature, quality and value. Even, during the course of hearing this position was not disputed by the learned counsel for the HSIIDC. And, rightly so, for, even the Land Acquisition Collector had assessed the acquired land as also the land under acquisition in the case of Attar Singh at

₹12,50,000/- per acre. Concededly, in the appeals preferred against the award dated 21.11.2012 (Ex.P14), this Court, vide order and judgment dated 5.2.2016, rendered in the case of Attar Singh (supra), had further enhanced the compensation to ₹62,11,700/- per acre. Thus, as a necessary consequence, the claimants in the present proceedings would be entitled to the same compensation.

The argument advanced by learned counsel for the claimants that, for, there was a time difference of 10 months between the two notifications, issued under Section 4, in the case of Attar Singh (supra) and in the present case and therefore, the claimants are also entitled to a suitable increase upon the value of the land assessed in the case of Attar Singh, cannot be countenanced. Concededly, nothing is brought on record to show that after issuance of notification, dated 11.01.2005, issued under Section 4 there was an unprecedented escalation in the value of real estate even in a short span of 10 months. Even otherwise, the Supreme Court in the case of **The General Manager, Oil and Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel and another, 2008 (14) SCC 745** had specifically observed that while calculating the annual increase the base year or the year of relied upon transactions has to be excluded. Apparently, both the notifications were issued in the year 2005, and thus, the claim of the landowners, in this regard, is wholly mis-conceived.

In conspectus of the above, the appeals preferred by the claimants/landowners are disposed of in terms of the decision of this Court in the case of Attar Singh (supra). And as a necessary consequence, the appeals filed by the HSIIDC are dismissed. Needless to assert that the claimants/landowners shall also be entitled to all the statutory benefits as are admissible in law.

03.05.2017 **(ARUN PALLI)**
Manoj Bhutani **JUDGE**

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