

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

Date of Decision: October 25, 2017

...Appellants

State of Haryana and others

...Respondents

and other connected matters, i.e.

Filed By	Case Nos.
Claimant/Landowners	RFA Nos. 3299 to 3309, 3422, 3523 to 3538, 4412, 4555, 5087 to 5089, 5250 to 5253, 5364, 5372, 5410, 5437, 5661, 5662, 5664, 5799, 5925, 6986 & 6987 of 2015 (O&M); 360 to 362, 1813, 2127 to 2129, 2631 to 2635, 2968, 2969, 2977, 3977 & 3978 of 2016 (O&M); and 1002, 1003, 1483, 1530 & 2033 of 2017 (O&M)
HSI IDC	RFA Nos. 4022 to 4028, 4495 to 4504, 4958 and 6162 to 6183 of 2015 (O&M)

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: **For the Claimant/Landowners:**

(in RFA Nos. 4555 & 5364 of 2015; 1813, 2127 to 2129, 2968 & 2969 of 2016; and 1483 & 1530 of 2017).

**Mr. Arun Beniwal, Advocate,
for Mr. Manish Soni, Advocate
(in RFA Nos. 2631 to 2635 of 2016).**

(in RFA Nos. 3522 to 3538, 4412, 5087, 5088, 5089, 5250 to 5253, 5372, 5437, 5661, 5662, 5664, 5799, 5925, 6986 & 6987 of 2015; and 360 to 362, 3977 & 3978 of 2016).

**Mr. Mohit Rana, Advocate,
for Mr. Gopal Sharma, Advocate
(in RFA Nos. 1002 & 1003 of 2017).**

Mr. Sanjay Vashisth, Advocate
(in RFA No. 2033 of 2017).

Mr. Ajit Kumar Sharma, Advocate,
for Mr. Ram Darshan Yadav, Advocate
(in RFA Nos. 3299 to 3309, 3422 and 5410 of 2015).

Mr. Shailendra Jain, Senior Advocate, with
Mr. Satyaendra Chauhan, Advocate,
(in RFA No. 2977 of 2016)

For State of Haryana:

Ms. Safia Gupta, AAG, Haryana.

For HSIIDC:

Mr. Pritam S. Saini, Advocate
(in RFA Nos. 3299 to 3309, 4022 to 4028, 4412, 4495 to 4504, 4555, 4958, 5087 to 5089, 5250 to 5253, 5364, 5410, 5437, 5661, 5662, 5664, 5925, 6986 & 6987 of 2015; 360 to 362, 1813, 2127 to 2129, 2631 to 2635, 2968, 2969, 2977, 3977 & 3978 of 2016; and 1002, 1003, 1483, 1530 & 2033 of 2017).

Mr. Deepak Manchanda, Advocate
(in RFA Nos. 3422, 3522 to 3538, 5372, 5799 and 6162 to 6183 of 2015).

ARUN PALLI, J. (ORAL)

Vide this order and judgment, I shall decide a batch of 111 appeals, of which **71** appeals have been filed by the claimant/landowners and the rest **40** by the HSIIDC, i.e. beneficiary of the acquisition. Although all these appeals have been preferred against six separate awards, dated **17.01.2015, 24.03.2015, 25.03.2015, 26.03.2015, 27.03.2015 and 24.08.2015**, but as the questions that arise for determination are common, these are being disposed of by a common judgment. However, by consensus, the facts are being culled from **RFA No. 3522 of 2015 (Babu Lal and others v. State of Haryana and others)**.

the Land Acquisition Act, 1894, a land situated in six different villages, i.e. **Deodhai, Baghthala, Patuhera, Banipur, Karnawas and Asalwas, Tehsil Bawal, District Rewari**, was sought to be acquired for extension of Industrial Growth Centre, Bawal. The final declaration under Section 6 was published on 08.07.2009. The Land Acquisition Collector, vide six separate awards, for each of the villages, i.e. Award No. 1-R, dated 16.03.2010, for Deodhai; 8-R, dated 18.03.2010, for Patuhera; 2-R, dated 16.03.2010, for Banipur; 4-R, dated 16.03.2010, for Baghthala; 7-R, dated 17.03.2010, for Karnawas; and 9-R, dated 22.03.2010, for Asalwas, 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, the claimant/landowners filed objections under Section 18 to the award(s) rendered by the Collector. Resultantly, 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 vide impugned award, dated **17.01.2015**, as regards the land situated in **village Deodhai**, enhanced the compensation to **Rs.22,00,000/- per acre**. Subsequently, while deciding the land references of other villages, i.e. Patuhera, Banipur, Bhagthala, Karnawas and Asalwas, the Reference Court vide separate awards, rendered on different dates, awarded compensation to the claimant/landowners in terms of its earlier award, dated **17.01.2015**. That is how, as indicated above, both the parties are in appeal before this Court. Of course, the claimants seek further enhancement in the compensation. Whereas, HSIIDC, i.e. beneficiary of the acquisition has appealed to set aside the impugned award(s).

Learned counsel for the claimants submit that the landowners had proved on record the sale deeds Exs. P-1 to P-5, vide which the land situated in the same village, i.e. Deodhai, was sold for a sale consideration ranging between Rs.48,06,740.51 to Rs.1,26,70,299.72 per acre. But, yet the Reference Court ignored these sale instances Ex. P-1 to P-3 and Ex. P-5, for these were executed in favour of the firms, i.e. builders. And, although vide sale deed, dated 10.04.2008 (Ex.P-1), a land situated in village Deodhai, measuring 85K-16M, was sold for Rs.8,55,00,000/-, but the said property was situated on both sides of NH-8 and, therefore, could not be relied upon. It is urged that the reasons assigned by the Reference Court to discard these sale instances are wholly erroneous, for merely because the vendees in these transactions happened to be the firms or builders, these could not be ruled out of consideration. Likewise, even if the land that was alienated vide sale deed, dated 10.04.2008 (Ex.P-1), was situated on NH-8, that was hardly a reason to ignore the said sale instance. In fact, the Reference Court apparently failed to even consider the sale deed, dated 22.12.2006 (Ex.P-4), vide which a land situated in the same village was sold at Rs.48,06,740.51 per acre. Further, learned counsel for the claimants submit that in the subsequent awards rendered by the Reference Court, it merely followed, being first in point of time, the impugned award dated 17.01.2015. Resultantly, the sale deeds produced on record by the claimants in the subsequent references, as regards the other five villages were ruled out of consideration. Accordingly, the sale deeds that were produced in the matters pertaining to the other villages, were completely ignored. Thus, it is submitted that the value of the acquired land is required to be determined in

terms of the sale deeds/sale instances proved on record by the claimants, particularly when all the sale deeds Exs. RW-1/1 to RW-1/4, brought on record by the State were ignored, for, these were executed @ far less than the rate at which the Collector had assessed the acquired land.

Per contra, learned counsel for HSIIDC submit that even though the Reference Court had discarded all the sale deeds/sale instances proved on the record by the claimant/landowners as also the State, yet the Reference Court enhanced the compensation from Rs.16,00,000/- per acre to Rs.22,00,000/- per acre. Apparently, it is urged that the Reference Court has not assigned any basis to justify the enhancement. Accordingly, it is urged that the impugned awards(s) are wholly perverse and liable to be set aside.

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

For the limited issue that arises for consideration in the present appeals, it indeed would be necessary to refer to the conclusion arrive at by the Reference Court; “.....***The petitioners have relied upon sale deeds Ex.P-1 to Ex.P-5. Rajesh Kumar, Assistant Registration Clerk (PW4) has admitted in his cross examination that the sale deeds Ex.P-1 to Ex.P-3 and Ex.P-5 have been executed in favour of firms i.e. builders. Sale deed Ex.P-1 is dated 10.4.2008 and the same pertains to the land situated at illage Deodai and according to the said sale deed, the land measuring 85 kanal 16 marla was sold for Rs.8,55,00,000/-. However, a perusal thereof would show that the land sold was situated on both sides of NH-8 and as such, the market value of the acquired land should not be assessed on the basis of the said sale deed. The respondents have produced copy of sale***

deeds Ex.RW1/1 to Ex.RW1/4. Sale deed dated 24.10.2007 Ex.RW1/1 is in respect of land measuring 8 kanal 8 marla situated in the revenue estate of Village Karnawas and according to the said sale deed, the land measuring 8 kanal 8 marla was sold for sale consideration of Rs.11,55,000/-. Similarly, the sale deed dated 28.11.2007 Ex.RW1/2 pertains to land measuring 2 kanal situated in the revenue estate of Village Karnawas and the same was sold for sale consideration of Rs.3,00,000/-. Sale deed dated 6.12.2007 Ex.RW1/3 pertains to land measuring 4 kanal 3 marla situated in the revenue estate of village Karnawas and the same was sold for sale consideration of Rs.11,00,000/- and sale deed dated 30.5.2008 Ex.RW14 pertains to land measuring 8 kanal 3 marla situated in the revenue estate of village Karnawas and the same was sold for sale consideration of Rs.13,24,500/-. As per Collector rate, value of the land situated in village Deodai was Rs.13.5 lacs per acre for chahi, Rs.12 lacs for barani, banjar. 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. In the present case, the market value of the acquired land was assessed by learned Land Acquisition Collector at the rate of Rs. 16 lacs per acre at the time of issuing notification dated 31.10.2008 under Section 4 of the Land Acquisition Act, so the market value cannot be assessed at a rate less than Rs. 16 lacs per acre. Keeping in view the facts and circumstances of the case, location and nature of the land acquired, purpose of acquiring, the market value of the acquired land is assessed at the rate of Rs. 22 lacs per acre for all kinds of land from the date of issuing the notification under

Ex facie, the claimant/landowners had proved on record the sale instances Exs. P-1 to P-5, tabulated hereinafter, vide which a land situated in the same revenue estate, i.e. village Deodhai, was alienated prior to the notification dated 31.10.2008, issued under Section 4;

Exhibit	Date	Village	Extent	Consideration (in Rs.)	Value per acre (in Rs.)
P-1	10.04.2008	Deodhai	85K-16M	8,55,00,000.00	79,72,027.97
P-2	12.12.2007	Deodhai	32K-4M	3,96,36,000.00	98,47,453.41
P-3	16.11.2007	Deodhai	58K-15M	9,30,00,000.00	1,26,70,299.72
P-4	22.12.2006	Deodhai	1K-2M	5,61,614.00	48,06,740.51
P-5	09.05.2007	Deodhai	18M	5,45,000.00	57,33,333.33

that abuts or is situated on the National Highway, and is not dissimilar in

nature and quality, and is found to be germane to the acquisition, it per force shall have to be factored in. It is not a case where the Reference Court on a comparative analysis of the acquired land with the land that were sold vide sale deeds Exs. P-1 to P-3 and P-5, reached a conclusion that these sites were incomparable or for some cogent reason it was unsafe to rely upon these sale instances. Not just that, the sale deed, dated 22.12.2006 (Ex.P-4), which was neither said to be executed in favour of a builder nor situated on a National Highway, was completely ignored for no tangible reason. Rather, the document (Ex.P-4) apparently escaped notice of the Reference Court.

As indicated earlier, the land references pertaining to the other villages, i.e. Patuhera, Banipur, Bhagthala, Karnawas and Asalwas, were disposed of by the Reference Court while relying upon its earlier award dated 17.01.2015. But, the grievance of the claimant/landowners is that once contemporaneous sale deeds/sale instances exist on record, the Reference Court ought to have determine the market value of the acquired land in terms thereof, rather than relying upon a judicial precedent. Significantly, the matter has yet another dimension; although the Reference Court ignored the sale deeds/sale instances, brought on record by the claimant/landowners as also the State, but yet enhanced the compensation from Rs.16,00,000/- to Rs.22,00,000/- per acre. *Ex facie*, the finding rendered by the Reference Court is not preceded by even a reference to any material or evidence on record, least an analysis thereof.

In a nutshell, here is a case where both the parties are aggrieved by the findings recorded by the Reference Court as regards the market value of the acquired land. Grievance of the HSIIDC, i.e. beneficiary of the

acquisition, is that the conclusion arrived at by the Reference Court is per say perverse, for, nothing substantive is referred or demonstrated to assess the value of the acquired land at Rs.22,00,000/- per acre. Whereas, the grievance of the claimant/landowners is that the Reference Court has absolutely failed to weigh, analyze and appreciate the evidence led by them in support of their claims and, thus, the enhancement awarded by the Reference Court is not the true reflective of the value of the acquired land.

Faced with this situation, learned counsel for the parties have reached a consensus that let the impugned award(s) be set aside and the matter 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(s) is set aside and the matter is remitted for re-decision. For, now the Reference Court shall redetermine the true value of the acquired land. I deem it expedient to observe that both the parties shall be granted two effective opportunities each, on the dates that shall be specified by the Reference Court in this regard, to lead any further evidence, if so desire. But in the event of default, no further opportunity shall be granted at any cost. I am reminded to point out that this Court while admitting few of the appeals preferred by the beneficiary of the acquisition, i.e. HSIIDC, had stayed payment beyond 50% of the enhanced compensation. But during course of hearing I was informed that in few other matters, in the absence of any stay orders, the claimant/landowners have since been released the enhanced compensation in the execution proceedings. That being so, it is made clear that the amount

that has already been released to the claimants shall not be recovered till the matter is re-decided. However, the Reference Court shall pass necessary and appropriate orders in this regard as the situation would warrant while rendering a final judgment. 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. It is clarified that this order shall not constitute any expression of opinion on the merits of the case of either party. And, the Reference Court shall decide the same on merits and strictly in accordance with law.

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 25, 2017
P Kapoor

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