IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

381 **RFA No.5234 of 2014(O & M)**
and connected matters
Date of Decision:28.08.2017

Paramjit Singh Dhillon

....appellant

Versus

State of Haryana and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

Present: **For the claimant-landowners:**

Mr.Ashwani Talwar, Advocate
Mr.Aakash Sridhar, Advocate
Mr.Ashok Wadhwan, Advocate
Mr.Veena Ashwani Talwar, Advocate
Mr.Lalit Narang, Advocate
Mr.Varun Sharma, Advocate
Ms.Priya Deep, Advocate
Ms.Kirti, Advocate
Mr.Akshay Bansal, Advocate
Mr.Gaurav Gaur, Advocate
Mr.Rohan Sharma, Advocate for
Mr.Vikram Singh, Advocate
Mr.Ravi Gakhar, Advocate for
Mr.Jagdish Manchanda, Advocate

For the cross-objectors
Mr.Sukhdeep Parmar, Advocate
for the appellant in RFA 6459 of 2015
for cross objector in X-Objection No.196-CI of 2015 in RFA No.10586 of 2014
for cross objector in X-Objection No.197-CI of 2015 in RFA No.10581 of 2014

For the State
Mr.Sudeep Mahajan, Addl.AG Haryana

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Filed by	*Appeal Nos.*
Claimant/ landowners	**RFA No. 2738, 3375, 4442, 5234, 5559, 6256, 6257, 6258, 6511,6512, 6513, 6514, 6515, 6516, 6517, 6518, 6519, 7349, 7806, 7807, 7920, 8110, 8676, 8677, 8678, 9083, 9372 & 9750 of 2014; and 905, 917, 4306, 4307, 4308, 6459 of 2015.**
State	**RFA Nos. 6622 to 6655, 10581 to 10588 of 2014; 38, 950, 1397, 1398, 1405, 1406, 4457 of 2015**
Cross-objectors	**XOBJR-11-CI-2017 in RFA No.6632 of 2014, XOBJR-196-CI of 2015 in RFA No.10586 of 2014, XOBJR-197-CI of 2015 in RFA No.10581 of 2014, XOBJR-294-CI-2016 in RFA No.6653 of 2014, XOBJR-295-CI-2016 in RFA No.6626 of 2014, XOBJR-39-CI of 2015 in RFA No.6652 of 2014, XOBJR-296-CI of 2016 in RFA No.6635 of 2014 and XOBJR-58-CI of 2015 in RFA No.6640 of 2014.**

ARUN PALLI, J. (ORAL):

Vide this order and judgement, I shall decide a batch of 83 appeals, of which 49 appeals have been filed by the State of Haryana and the rest 34, as also the 8 cross objections, have been filed by the claimant-landowners. For, the matter arise out of the same acquisition and the question that requires determination is common, these are being disposed of by a common judgement. However, by consensus, the facts are being culled from **RFA No.5234 of 2014**, titled **"Paramjit Singh Dhillon vs. State of Haryana and others".**

Vide notification dated 29.11.2006, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), a land situated in three different villages i.e.Azizullapur (Hadbast No.5) measuring 128.21 acres, Patti Makhdoom Jadgan (Hadbast No.9) measuring 12.98 acres and Patti Taraf Insar (Hadbast No.12) measuring 9.04 acres, Tehsil and District Panipat, was sought to be acquired for setting up residential, commercial and institutional area for Sector 19, Panipat, under the Haryana Urban Development Authority Act, 1977. Final declaration under Section 6 was published on 28.11.2007. The Land Acquisition Collector (for short, 'the

Collector'), rendered three separate awards for each of the revenue estate i.e. Award No.29,30 and 31 dated 23.11.2009 and assessed the value of the acquired land at ₹ 50 lakhs per acre. Being dissatisfied by the assessment, as also the compensation awarded, 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 an analysis of the matter in issue and the evidence on record, the reference Court, vide nine separate awards rendered on different dates i.e.10.01.2014, 03.07.2014, 10.07.2014, 01.08.2014, 15.07.2014, 25.08.2014, 07.07.2014, 17.11.2014 and 12.01.2015, enhanced the compensation to ₹ 1 crore per acre. That is how, as indicated above, the parties are in appeal before this Court. Of course, the claimants seek further enhancement in the compensation. And the State has appealed to set aside the awards rendered by the reference Court.

Mr.Ashwani Talwar, learned counsel for the claimant-landowners submits that the claimants had proved on record a sale deed dated 07.02.2006 (Ex.P2), vide which an area measuring 92K-2M that formed part of the same revenue estate, i.e. village Azizullapur, was alienated at ₹ 1,04,23,424/- per acre. And although, the reference Court relied upon the said sale instance, but yet assessed the value of the acquired land at ₹ 1 crore per acre only. He submits that the land that was alienated vide sale instance (Ex.P2) was owned by one of the claimant-landowners, in these proceedings i.e.Paramjit Singh, and, therefore, there was hardly any basis to assess the value of the acquired land at a lesser rate than what the sale deed dated 07.02.2006 was executed for. Further, he submits that since there was a time difference of nine months between execution of the sale deed Ex.P2 and the notification dated 29.11.2006, issued under Section 4 of the Act, the claimants were also entitled to an appropriate increase upon the value of the land reflected in the sale instance (Ex.P2).

Per contra, Mr.Sudeep Mahajan, learned Addl. Advocate General, Haryana, submits that numerous sale instances i.e.Ex.R1 to Ex.R10 were brought on record by the State, which too pertained to village Azizullapur and Patti Makhdoom Jadgan, but were discarded by the reference Court, for the reasons that are wholly unsustainable. He submits that even though, the price at which the sale deeds Ex.R1 to Ex.R10 were executed, was even less than the rate awarded by the Collector, yet for evaluating the true value of the acquired land, the reference Court ought to have factored-in these sale instances.

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

Ex facie, the reference Court had relied upon a sale deed dated 07.02.2006 (Ex.P2), vide which the area measuring 92K-2M, situated in the same revenue estate i.e. village Azizullapur was alienated for a consideration of ₹ 12 crores i.e.₹ 1,04,23,424/- per acre. Further, the sale deed (Ex.P2) was executed prior to the notification dated 29.11.2006, issued under Section 4 in the present proceedings, and the land that was alienated thereby was also situated adjacent to the acquired land. The execution and veracity of this sale transaction was never questioned by the State. This was not the case of the State either before the reference Court or during the hearing of this appeal, that the sale consideration for which the said site was alienated was either inflated or fictitious. Thus, in the situation, reliance placed upon the sale deed dated 07.02.2006 (Ex.P2) was not only the most suitable but also the safest mode to assess the true value of the acquired land. Undoubtedly, the State too had brought on record the sale deeds Ex.R1 to Ex.R10 that are being tabulated heither-to-below:

Sr. No.	*Exhibit*	*Date*	*Village*	*Extent*	*Consideration*	*Value per acre*
1	Ex.R-1	28.06.2006	Makhdoom Jadgan	2 kanal 11 marla	₹ 2,55,000/-	₹ 8,00,000/- i.e.₹165.29 per sq.yard
2	Ex.R-2	22.06.2006	-do-	11 marlas 6 sarsai	₹ 56,000/-	₹7,74,400/- per acre i.e.₹160/- per sq.yard
3	Ex.R-3	15.06.2006	Makhdoom Jadgan	1 acre 8 marla	₹20,00,000/-	₹19,04,761/- i.e. ₹393.54 per sq.yard
4	Ex.R-4	16.01.2007	Azizullapur	445 sq.yard	₹ 2,55,500/-	₹27,78,921/- i.e.₹574.15 per sq.yard
5	Ex.R-5	09/03/07	Azizullapur	220 sq.yard	₹ 1,25,000/-	₹27,50,000/- i.e.₹568.18 per sq.yard
6	Ex.R-6	21.03.2007	Azizullapur	10.5 marla	₹ 65,000/-	₹9,90,491/- i.e.₹204.64 per sq.yard
7	Ex.R-7	22.12.2006	Azizullapur	6 marla	₹ 1,65,000/-	₹44,00,000/- i.e.₹909.09 per sq.yard
8	Ex.R-8	16.01.2007	Azizullapur	1 kanal 2 marla	₹ 3,66,000/-	₹26,59,819/- i.e.₹549.54 per sq.yard
9	Ex.R-9	18.01.2007	Azizullapur	266 sq.yard	₹ 1,53,000/-	₹ 27,83,909.77/- i.e. ₹ 575.18 per sq.yard
10	Ex.R-10	29.12.2006	Azizullapur	7 kanal 4 marla	₹ 13,10,000/-	₹14,55,555.55/- i.e.₹300.73 per sq.yard

Apparently, the value, at which sale deeds Ex.R1 to Ex.R10 were executed range between ₹ 7,74,400 to ₹44,00,000/- per acre. No doubt, all what Section 25 of the Act postulates is; the compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11 of the Act. And, therefore, the sale deeds that were executed even at a rate less than what the collector had offered, can always be factored-in to assess the true value of the acquired land. What is the position in the matter in hand? It would be apposite to point out once again that vide award dated 23.11.2009, the Collector had assessed the value of the acquired land at ₹ 50 lacs per acre. Nothing is brought on record to show or justify that if the bona fides of these transactions (Ex.R1 to Ex.R10) were not in issue, then, whey these sale instances were ignored by the Collector himself and the acquired land was assessed at a higher value. Apparently, the sale deeds Ex.R4 to Ex.R10 were executed at a abysmally low price. Significantly, sale deeds Ex.R6 (dated 21.03.2007) and Ex.R10 (dated 29.12.2006) were executed post issuance of notification under Section 4, but for a consideration far less than the value reflected in the sale deed dated 15.06.2006 (Ex.R3).

The matter can be viewed from yet another standpoint. Panipat is priority town of National Capital Region, located on National Highway. It is situated at a distance of about 90 Kms.from Delhi. Evidence on record shows that the Urban Estate, Sector 18, is situated towards northern and eastern side of the acquired land. A residential colony known as Sushant city is also located nearby. The observations recorded by the reference Court itself is **"some part of the land of Patti Makhdoom Jadgan and Patti Taraf Insar is situated within the limits of municipal area."** That being so, it is irreconcilable that value of the real estate in the area or in the vicinity of the acquired land was de-escalating. Thus, the presumption that permeates the record is that these sale instances i.e. Ex.R1 to Ex.R10 were undervalued to evade payment of stamp duty and were thus unsafe to be relied upon.

Rather, the argument advanced by learned counsel for the claimant-landowners that once the sale deed dated 07.02.2006 (Ex.P2) formed basis of assessment, the claimants ought to have been awarded compensation, at least, at the same rate, has merit. Needless to assert, that a claimant-landowner is entitled to the best value for his land, for, even otherwise, he is not a litigant by choice but owing to a compulsory acquisition of his holding. It is not disputed either that the land that was sold vide sale instance (Ex.P2) was owned by one of the claimant-landowners i.e. Paramjit Singh in these proceedings. The purport and intent of the Act is to award just and fair compensation to the claimant-landowners. And in the event, the claimant-landowner is awarded compensation at a rate less than what he had sold his land for, that indeed would be unjust and unfair. Rather, I am reminded to refer to the observations recorded by the reference Court, while evaluating the value of the acquired land;

> **"It is thus evident that the acquired land had great potentiality for development as residential, commercial and industrial purposes. Had the land not been acquired, the land owners could have fetched much more price for the land than has been awarded by the Land Acquisition Collector."**

In the wake of the above, the only and inevitable conclusion that could be reached; the reference Court ought to have assessed the value of the acquired land at ₹ 1,04,23,424/- per acre.

Insofar as, the submission of learned counsel that the notification dated 29.11.2006, under Section 4 was issued almost nine months subsequent to the execution of the sale deed dated 07.02.2006 (Ex.P2) and, therefore, the claimants were entitled to an appropriate increase, lacks conviction and cannot be countenanced. The Supreme Court in the case of ***"General Manager, Oil & Natural Gas Corporation Limited versus Rameshbhai Jivanbhai Patel and another" 2008(14)SCC 745,*** held;

> **The reference court has stated that the gap between 6.1.1987 (the date of transaction covered by Ex.P15) and 15.9.1992 (the date of acquisition under consideration) was six and half years. It therefore calculated the increase for six and half years. This is obviously erroneous. The actual gap is five years and eight months and not six and half years. However, for the purpose of calculation, we have to exclude the year of the relied-upon transaction, which is the base year. If the year of relied-upon transaction in 1987, the increase is applied not from 1987 itself but only from the next year which is 1988. If the rate was Rs.10 per sq.m. in 1987, and the cumulative rate of increase is 7.5% per year, the price will be Rs.10.75 in 1988, Rs.11.56 in 1989, Rs.12.42 in 1990, Rs.13.35 in 1991 and Rs.14.35 in 1992. Thus the calculation of increase is only for five years and not for six and half years.**

And, for, the sale deed dated 07.02.2006 (Ex.P2) and notification dated 29.11.2006 under Section 4 were executed and issued in the year 2006 itself, no increase for a period of nine months could be awarded to the claimants.

In conspectus of the above, the appeals as also the cross objections filed by the claimant-landowners are disposed of in the above terms. They shall be entitled to the compensation at ₹ 1,04,23,424/- per acre as also the statutory benefits as admissible in law. And as a necessary consequence, the State appeals are dismissed.

August 28, 2017 **(ARUN PALLI)**
neenu **JUDGE**

REPORTABLE