IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA-6066-2015 (O&M)
Date of Decision: July 31, 2017

Bhagwat Sarup and others

...Appellants

Versus

State of Haryana and others

...Respondents

and other connected matters:

Filed By:	**RFA Nos.**
Claimant/Landowners	5423, 5618, 5880, 5881, 5941 to 5948, 6004, 6005, 6067 to 6075, 6077 to 6086, 6115 & 6226 of 2015 (O&M); and 372, 1349 & 1547 of 2016 (O&M).
HSIIDC	6914 to 6975 of 2015 (O&M).

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: **For the claimant/landowners**

Mr. S.P. Chahar, Advocate,
Mr. Abhilaksh Grover, Advocate,
Ms. Anita Balyan, Advocate.

For the State of Haryana

Mr. Shivendra Swaroop, Assistant Advocate General, Haryana.

For HSIIDC

Mr. Pritam S. Saini, Advocate.

ARUN PALLI, J. (ORAL)

Vide this order and judgment, I shall decide a batch of 101 appeals, of which 39 appeals have been filed by the claimant/landowners and the rest 62 by the HSIIDC. For, all these appeals arise out of the same acquisition and have been preferred against a common award, dated

Prashant Kapoor
2017.08.18 12:02
I attest to the accuracy and
authenticity of this document

06.04.2015, these are being disposed of by a common judgment. However, by consensus the facts are being culled out from **RFA No. 6066 of 2015 (Bhagwat Sarup and others v. State of Haryana and others)**.

Vide notification issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), dated 25.07.2006, a land measuring 1433 kanals and 6 marlas (179.425 acres), situated in village Kassar, Tehsil Bahadurgarh, District Jhajjar, was sought to be acquired, for setting up an Industrial Estate, Bahadurgarh to be planned and developed as an integrated complex for industrial and other public utilities etc.. A final declaration under Section 6 was published on 14.06.2007 for; 1412 kanals and 12 marlas i.e. 177.1 acres. The Land Acquisition Collector, Jhajjar, vide Award No. 9, dated 14.02.2008, assessed the 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 claimant/landowners had proved on record the sale deeds (Exs. P-3 to P-24) in support of their claim for further enhancement. However, the sale deeds Exs. P-3, P-6, P-7, P-23 and P-24, were ruled out of consideration by the Reference Court; for these were said to have been executed at a very high value, i.e. Rs.76,00,000/- to Rs.97,00,000/- per acre. Whereas, the sale consideration for which the remaining sale deeds were executed varied between Rs.55,00,000/- to Rs.65,00,000/- per acre. Accordingly, it was concluded that the average price of the land in the area was Rs.60,00,000/- per acre. However, a deduction @ Rs.10,00,000/- per

Prashant Kapoor
2017.08.18 12:02
I attest to the accuracy and
authenticity of this document

acre was also caused on account of development charges. Resultantly, the claimant/landowners were held entitled to compensation at Rs.50,00,000/- per acre. That is how, as indicated above, the parties are in appeal before this Court. Of course, the claimant/landowners seek further enhancement in the compensation. Whereas, the HSIIDC has appealed to set aside the impugned award.

Learned counsel for the claimant/landowners submit in unison that the Reference Court apparently erred to ignore the sale deeds dated 17.10.2006 (Ex.P-3), executed @ Rs.97,05,495/- per acre, 01.06.2006 (Ex.P-6) executed @ Rs.91,99,389/- per acre, 03.03.2006 (Ex.P-23) executed @ Rs.80,00,000/- per acre and 01.06.2006 (Ex.P-24) executed @ Rs.92,00,000/- per acre, to assess the true value of the acquired land. It is urged that the land that was sold vide these sale deeds was also situated in the same village, i.e. Kassar. And except sale deed Ex. P-3, that was executed just after three months of the notification, dated 25.07.2006, issued under Section 4, all other sale instances preceded the said notification. It is submitted that the claimant/landowners were entitled to the best value for their land. And, for the sale deed, dated 17.10.2006 (Ex.P-3), was the most comparable sale instance, the Reference Court ought to have assess the value of the acquired land in terms thereof. Further, the Reference Court had applied a cut @ Rs.10,00,000/- per acre on account of development charges, which apparently was without any basis. Thus, the assessment arrived at by the Reference Court as regards the value of the acquired land was erroneous, and, therefore, the impugned award required to be modified.

Prashant Kapoor
2017.08.18 12:02
I attest to the accuracy and
authenticity of this document

Per contra, Mr. Pritam S. Saini, learned counsel for the HSIIDC, submits that the assessment made by the Collector and the compensation awarded to the claimants was just and fair and, therefore, no further enhancement was feasible. Further, the sale deeds, dated 17.10.2006 (Ex.P-3), 01.06.2006 (Ex.P-6), 03.03.2006 (Ex.P-23) and 01.06.2006 (Ex.P-24) were rightly ignored, for these were executed at an abnormally higher value than the price prevalent and reflected in the other sale deeds. Likewise, he submits that the Reference Court was fully justified to cause deduction @ Rs.10,00,000/- per acre, for the State had to incur a considerable expense to develop the acquired land for its due utilisation.

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

Concededly, the claimant/landowners had brought on record numerous sale instances, i.e. Ex. P-3 to Ex. P-24, that are being tabulated below, to seek further enhancement;

Exhibit	Date	Village	Area	Sale Price	Value per acre
P-3	17.10.2006	Kassar	9K-2M	11040000.00	9705495.00
P-4	26.04.2006	Kassar	8K	6500000.00	6500000.00
P-5	02.03.2006	Kassar	35K-4M	27280004.00	6200000.00
P-6	01.06.2006	Kassar	6K-11M	7532000.00	9199389.00
P-7	06.09.2007	Kassar	20K-1M	19047500.00	7600000.00
P-8	24.01.2006	Kassar	14K-18M	11156250.00	5989933.00
P-9	24.01.2006	Kassar	37K-8M	28050000.00	6000000.00
P-10	24.01.2006	Kassar	7K-9M	5578128.00	5989936.00
P-11	13.01.2006	Kassar	41K-12M	28600000.00	5500000.00
P-12	13.01.2006	Kassar	47K-10M	32646223.00	5498311.00
P-13	20.01.2006	Kassar	8K-06M	5706254.00	5500003.00
P-14	23.01.2006	Kassar	0K-03M	102409.00	5461813.00
P-15	20.01.2006	Kassar	7K-0M	4843216.00	5534104.00

Prashant Kapoor
2017.08.18 12:02
I attest to the accuracy and
authenticity of this document

P-16	24.01.2006	Kassar	13K-1M	9800000.00	6007663.00
P-17	20.01.2006	Kassar	7K-8M	5078907.00	5490710.00
P-18	16.01.2006	Kassar	2K-1M	1419401.00	5539125.00
P-19	16.01.2006	Kassar	0K-19M	653125.00	5500000.00
P-20	09.02.2006	Kassar	9K-3M	6290625.00	5500000.00
P-21	10.02.2006	Kassar	55K-2M	36503750.00	5270962.00
P-22	24.02.2006	Kassar	8K	6000000.00	6000000.00
P-23	03.03.2006	Kassar	66K-14M	66700000.00	8000000.00
P-24	01.06.2006	Kassar	6K-11M	7532500.00	9200000.00

Needless to assert that acquisition of land and the resultant development leads to a sudden increase or escalation in the value of real estate in the vicinity or its adjoining areas. *Ex facie*, the sale deeds, dated 17.10.2006 (Ex. P-3) and 06.09.2007 (Ex. P-7), were executed post issuance of notification, dated 25.07.2006, under Section 4 of the Act, therefore, these were/are neither suitable nor safe to be relied upon to assess the true value of the acquired land. However, the sale deeds, dated 01.06.2006 (Ex. P-6), 03.03.2006 (Ex. P-23) and 01.06.2006 (Ex. P-24), were indeed executed prior to the notification, dated 25.07.2006, under Section 4. It is not disputed either that the land that was alienated vide these sale instances also formed part of the same revenue estate, i.e. village Kassar. Further, this was never the case of the State that the land that was alienated vide these sale deeds was dissimilar in nature and quality to the acquired land. The veracity and bonafides of these transactions were never questioned by the State. The site plans (Exs. P-1 and P-25) reveal that the land that was sold vide these sale deeds was located in close proximity to the acquired land. And it is also true that the State led no evidence in rebuttal. No sale deeds/sale instances were produced to show that the value of the acquired land or of the land in

Prashant Kapoor
2017.08.18 12:02
I attest to the accuracy and
authenticity of this document

its immediate vicinity was far less than the consideration for which sale deeds Exs. P-6, P-23 and P-24 were executed. That being so, the reasons assigned by the Reference Court to rule out of consideration the sale deeds Ex.P-6, Ex.P-23, and Ex.P-24; ***"……However, I see some substance in the arguments of Ld. Counsels for the respondents that many industrialists started purchasing the agricultural land at exorbitant rates, much much higher than the actual market value of the agricultural land, in apprehension of the fact that the State Government is going to acquire the land in village Kassar for developing industrial area…….. Even if, I ignore the sale deeds Ex.P3, Ex.P6, Ex.P7, Ex.P23, Ex.P24, being on the very high side from 76 to 97 lacs per acre, the remaining sale deeds show the price ranges from 55 lacs to 65 lacs per acre in the year 2006 i.e. average sale price of Rs.60 lacs per acre. …… "*** are *ex facie* errneous and, thus, cannot be sustained. Needless to assert that claimant/landowners not being litigants by choice but owing to the compulsory acquisition were entitled to the best value for their land holding. Thus, the Reference Court ought to have factored in the sale instances Exs. P-6, P-23 and P-24 to work out the just and fair value of the acquired land.

But the argument of the learned counsel for the claimant/landowners that the acquired land be assessed in terms of the sale deed, dated 01.06.2006 (Ex. P-24), executed @ Rs. 92,00,000/- per acre, or in the alternative sale deed, dated 01.06.2006 (Ex. P-6), executed @ Rs.91,99,389/- per acre, or the sale instance, dated 03.03.2006 (Ex. P-23), executed @ Rs.80,00,000/-, cannot be countenanced either. *Ex facie*, all the sale deeds, i.e. Ex. P-4 to Ex. P-24 were executed in a time span of five

Prashant Kapoor
2017.08.18 12:02
I attest to the accuracy and
authenticity of this document

months. Except the sale deeds Ex. P-6, Ex. P-23 and Ex. P-24 (for Exs.P-3 and P-7 have been ignored being instances post notification under Section 4), all other sale deeds were executed in the range of Rs. 52,70,962/- per acre to Rs. 65,00,000/- per acre. Of course there have been successive acquisitions in the village Kassar as also in the adjacent villages in the past. Evidence on record shows that the area in the immediate vicinity of acquired land was under rapid development and was surrounded by residential and commercial properties. Land acquired for the development of industrial area Sectors 16 and 17, vide notification dated 24.01.2001, was/is contiguous to the acquired land. Meaning thereby, value of the real estate in the area was escalating rapidly. But it cannot be ruled out either that the land that was sold vide sale deeds Ex. P-6, Ex.P-23 and Ex. P-24, was a shade better in terms of the location or was equipped with certain special features or latest advantages. Therefore, to assess the value of the acquired land solely on the basis of sale deed Ex.P-24 or Ex.P-6 or even Ex. P-23 would not be the safest mode. But these being the most comparable and/or the contemporaneous sale instances are indeed required to be factored in. Therefore, it would be just and fair if the average value or price of these sale deeds, i.e. Exs. P-4 to P-6 and P-8 to P-24, is worked out to assess the true value of the acquired land;

Sr. No.	Exhibit	Date	Value per acre
1	P-4	26.04.2006	6500000.00
2	P-5	02.03.2006	6200000.00
3	P-6	01.06.2006	9199389.00
4	P-8	24.01.2006	5989933.00
5	P-9	24.01.2006	6000000.00
6	P-10	24.01.2006	5989936.00

Prashant Kapoor
2017.08.18 12:02
I attest to the accuracy and
authenticity of this document

7	P-11	13.01.2006	5500000.00
8	P-12	13.01.2006	5498311.00
9	P-13	20.01.2006	5500003.00
10	P-14	23.01.2006	5461813.00
11	P-15	20.01.2006	5534104.00
12	P-16	24.01.2006	6007663.00
13	P-17	20.01.2006	5490710.00
14	P-18	16.01.2006	5539125.00
15	P-19	16.01.2006	5500000.00
16	P-20	09.02.2006	5500000.00
17	P-21	10.02.2006	5270962.00
18	P-22	24.02.2006	6000000.00
19	P-23	03.03.2006	8000000.00
20	P-24	01.06.2006	9200000.00
	Total		**123881949.00**

Rs.12,38,81,949/- ÷ 20 = Rs.61,94,097.45p.

Having said that, the only issue that survives is; **Whether the deduction caused by the Reference Court, at Rs.10,00,000/- per acre, on account of development charges can be countenanced?** The Supreme Court in **Chandershekhar (dead) by LRs and others v. Land Acquisition Collector and another, (2012) 1 SCC 390,** held that deduction towards development included (i) keeping aside area/space for providing developmental infrastructure and (ii) development expenditure. What needs to be noticed is that this was never the case of the State that the sale instances that were relied upon by the claimant/landowners formed part of a fully developed lay out or an urban area or an estate that was equipped with modern days facilities. Whereas, the acquired land lacked all those features/advantages. As indicated earlier, the State failed to lead any evidence in the matter except the statement of RW-1 Abdul Hamid Khan,

Prashant Kapoor
2017.08.18 12:02
I attest to the accuracy and
authenticity of this document

which hardly justify the deduction caused by the Reference Court. Thus, no cut on account of development charges could at all be applied or was warranted. Resultantly, the claimant/landowners shall be entitled to compensation at **Rs.61,94,097.45p. per acre**.

That being so, the appeals preferred by the claimant/landowners are disposed of in the above terms, i.e. the landowners shall be entitled to compensation at Rs.61,94,097.45p. per acre. Needless to assert that the claimant/landowners shall also be entitled to all the statutory benefits as are admissible in law. And a necessary consequence, the appeals preferred by HSIIDC are dismissed.

(ARUN PALLI)
JUDGE

July 31, 2017
Pkapoor

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

Prashant Kapoor
2017.08.18 12:02
I attest to the accuracy and
authenticity of this document