

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RFA No.2935 of 2001

Decided on: 14.02.2018

Palla Ram (deceased) th.LRs & others

....Appellants

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Sanjay Mittal, Advocate
(in RFA-2935, 2936, 2937, 4392, 4393, 4396-2001)
and Mr.S.S.Khurana, Advocate, (in RFA-3293 & 4395-2001)
for the land-owners.

Mr.Sudeep Mahajan, Addl.A.G., Haryana and
Ms.Safia Gupta, AAG, Haryana.

G.S. SANDHAWALIA, J. (Oral)

The present judgment shall dispose of 8 appeals bearing RFA-4392, 4393, 4394, 4395, 4396, 4397, 4398 & 4399-2001, filed by the State and 6 appeals, bearing RFA-2935, 2936, 2937, 3293, 4438 & 4439-2001, filed by the land-owners, are directed against the Reference Court award dated 17.04.2001, under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act'), passed by the Addl.District Judge, Rewari, under Section 18 of the Act. Land measuring 32 acres falling within the Municipal limits of Rewari and in the revenue estate of Chandpur, was sought to be acquired for developing a commercial area at Rewari.

The notification under Section 4 was issued on 17.05.1990 and under Section 6 notification was issued on 03.05.1991. The award was passed on 30.04.1993, whereby compensation was awarded @ Rs.1,50,000/- per acre for chahi land, falling in the area of Village Chandpur, Rs.1,25,000/- per acre for barani land, Rs.1,25,000/- per acre for gair mumkin and Rs.60,000/- per acre for Deegar land falling within the Municipal limits of Rewari.

In the reference petition, compensation was, accordingly, claimed at a higher rate, keeping in view the fact that the land was situated within the Municipal area. The Reference Court, vide the impugned judgment, granted Rs.7,88,480/- per acre for the land upto the depth of 100 meters and Rs.6,72,000/- per acre for the land beyond 100 meters from the road, by adding 12% appreciation on the ground that on an earlier occasion, in an acquisition of the notification dated 23.01.1990, award of which was passed on 25.03.1992, the Reference Court on 12.04.1994, had fixed the value which had been modified by this Court in RFA-1488-1994 on 25.05.2000 (Ext.P-1) @ Rs.7,04,367/- per acre upto 100 meters and Rs.6,00,000/- beyond that.

It is not disputed that the judgment was modified in LPA-387-2001, titled *Pawan Kumar & another Vs. Land Acquisition Collector*, at the instance of land-owners, on 15.05.2006 and a uniform rate was given @ Rs.7,04,367/- to all land-owners by holding that the belting method should not have been adopted as the land fall within the Municipal area. Accordingly, all claimants were given uniform rate as given in Category-A along with statutory benefits, as mentioned above. The SLP against the said order already stands dismissed on 07.04.2008. The relevant portion of the judgment rendered in LPA-387-2001, read as under:

“We, however, find merit in the argument of Mr.Mittal that the belting system in the present circumstances was perhaps in applicable. The learned Single Judge has noticed that the land in question was within the municipal area and had great residential and commercial potential and was in fact to be utilized for the purposes of development of Sector 3, Part-II in Rewari township. In this connection, reliance has been placed

on the site plan Ex.P-2 and the cross-examination of PW-2, who stated that the area had already been developed and a number of buildings were touching the acquired land and that the Government offices were also situated close-by. The learned Single Judge was, however, swayed by the fact that the acquired land was some 5 kms. away from the National Highway along a minor road. The learned Single Judge accordingly, relied on the judgment in Basant Kaur etc. v. Union of India etc., 1997 L.A.C.C. 17 to hold that land abutting the main road had a higher market value and, therefore, a higher price. We, however, find that in the cited case, there appears to be a lack of evidence as to the exact situation of the acquired land and its potential for development.

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We may once again underline that the facts would have to be seen in each case as has been repeatedly held by the Courts. As already mentioned above, the land in question, which is within the municipal area abutting the abadi of the Rewari, has great potential. To our mind, the finding of the learned Single Judge that the belting system could not be applied, was erroneous. We accordingly hold that all the claimants would be entitled to a uniform rate as given in category 'A'. Such appellant/claimants shall also have their statutory benefits.”

Counsel for the State has, accordingly, argued that the enhancement which has been granted by the Reference Court, on the basis of an earlier award dated 25.03.1992, whereas in the instant case it was 30.04.1993 and therefore, there is no ground made out for granting the 12% increase. It is, accordingly, submitted that under Section 23, the market value is to be seen on the date of the issuance of Section 4 notification which is the only relevant consideration and not the date of passing of the award.

There is no dispute with the said proposition. The Reference Court has, thus, gone wrong in enhancing the market value on the basis of the date of passing of the award in the 2 set of acquisitions, which cannot be justified in any manner. Once this Court has already given a uniform compensation @ Rs.7,04,367/- to all the land-owners, there was no justification, as such, to grant compensation at a higher amount. It is to be noticed that from Ext.P-9/A, which is the site-plan, it would be expressly clear that on an earlier occasion, acquisition was on 23.01.1990, which was adjoining the land acquired in the present set of acquisition and was just across the road. The difference between the two Section 4 notifications were only 4 months apart and there was no scope for granting further enhancement, as has been done by the Reference Court. The land, as such, could not be shown as being situated in a better location qua the land which had earlier been acquired for which, this Court has already assessed the market value.

The argument that the land-owners would be entitled for the same market value, which has been granted in RFA-2629-2001 titled *Mandir Kaushal Kishore Shivji Maharaj Vs. State of Haryana & others*, whereby uniform compensation of Rs.540/- per sq.yard has been granted since the same pertains to the same notification, would be of no avail. The site-plan has been perused. The acquisition in the said case was for a commercial purpose, for a portion of land adjoining the Brass Market, which is at a considerable distance in the town and closer to the old city and is 200 yards from the bus-stand. The present portion of land is, as noticed, for developing residential, commercial and institutional area at Rewari, by

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HUDA and therefore, merely because the notifications of the same date, the same market value cannot be granted as the present portion has been acquired for setting up new residential area also, by plotting the land. The locational advantage of the land adjoining the Brass Market would be totally different than the land which is now sought to be acquired, which fact would be clear from Ext. PW-9/A, the site-plan.

In such circumstances, the appeals bearing, RFA-RFA-4392, 4393, 4394, 4395, 4396, 4397, 4398 & 4399-2001, filed by the State warrant acceptance whereas the land-owners are held entitled for payment of uniform compensation @ Rs.7,04,367/- per acre and the appeals bearing RFA-2935, 2936, 2937, 3293, 4438 & 4439-2001, filed by the land-owners are dismissed.

All appeals stand disposed of, accordingly.

14.02.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*