

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

RFA No. 2350 of 2005 (O & M)
Reserved on: 28.03.2018
Date of decision: 01.05.2018

State of HaryanaPetitioner(s)

Versus

Sucha Singh and others ...Respondent(s)

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

Filed By	RFA Nos./X Objections
Land Owners	2462, 2521, 2742, 2743 and 2910 of 2005 and X Obj. No. 2-CI of 2008 in RFA No. 2911 of 2005
State of Haryana	2350 to 2356 and 2911 of 2005

Present: Mr. Sudeep Mahajan, Addl. A.G., Haryana,
with Mr. Shivendra Swaroop, AAG, Haryana.

Mr. M.K. Chauhan, Advocate,
with Mr. Shoaib Khan, Advocate,
and Mr. Alok Mittal, Advocate,
for the land owners.

Mr. Deepak Singh Saini, Advocate,
for the Cross Objectors (in X Objections No. 2-CI of 2008).

G.S.SANDHAWALIA, J.

The present judgment shall dispose of 13 appeals i.e. RFA Nos. 2350 to 2356, 2462, 2521, 2742, 2743, 2910 and 2911 of 2005 and one X Objection i.e. X Objections No. 2-CI of 2008 in RFA No. 2911 of 2005, as common questions of facts and law are involved in all the appeals. Reference is being made to ***RFA No. 2350 of 2005, State of Haryana vs. Sucha Singh.***

The present set of appeals under Section 54 of the Land

Acquisition Act, 1894 (in short 'the Act') preferred both by the land owners and the State are directed against the award of the Reference Court, Panchkula dated 25.05.2005 whereby, the market value of the land falling in village Devi Nagar, Hadbast No. 384 has been fixed at Rs.286/- per sq. yard (Rs.13,84,240/- per acre). The basis of the award is an earlier award (Ex.PD) (Ex.P-38) dated 16.09.2002 in case titled as Purujit Singh vs. State of Haryana whereby, the market value had been fixed at Rs.256/- per square yard for the said village for the notification dated 11.07.1995. Accordingly, 12% increase was given on the said market value fixed and the rate has been assessed at Rs.286/- per sq. yard.

The acquisition in question is of 52.01 acres of land for development and utilization of land for recreational and commercial area of Sector 3, Panchkula. The Section 4 notification was dated 02.05.1997 and vide Award No. 1 dated 01.10.1999, the Land Acquisition Collector fixed the value at Rs.3,30,000/- per acre. It is pertinent to notice that for the earlier notification dated 11.07.1995, a sum of Rs.3,00,000/- had been assessed for the said village Devi Nagar which was for construction of roads between Sectors 3, 21, 24 and 25, Panchkula. The other villages have been given a lesser amount in as much as village Jhuriwala has been given Rs.1,05,000/- per acre whereas, Bana Madanpur has been given Rs.2,81,000/- per acre.

Aggrieved against the same, reference petitions under Section 18 of the Act were filed wherein, as much as 47 documents were brought on record in evidence apart from 4 awards passed of adjoining villages. The State had produced as many as 11 documents through Dhoop Singh, Kanungo. The Reference Court had declined to place reliance upon the

allotment letters of HUDA as they could not be considered for assessing the market value of the acquired land. It was noticed that the land of Maheshpur was adjoining the land of village Devi Nagar and that the land was located at an advantageous location and had the potentiality for commercial and residential purpose. The adjoining sectors were developed and the national highway was abutting the land in question as the Mini Secretariat, Judicial Courts Complex, Youth Hostel, Majri Chowk were at a short distance. The sale deeds of village Maheshpur were accordingly ignored and also the award Ex.PA which pertained to the notification dated 21.12.1994. Similarly, the awards of village Judian and Fatehpur Ex.PB and PC were also not considered. Accordingly, while placing reliance upon Ex.PD and P38 in *Purujit Singh's case (supra)*, the benefit had been granted.

It is a matter of record that the said award had been set aside in RFA No. 825 of 2003 on 21.01.2010 and in RFA No. 65 of 2003 on 26.05.2011 by this Court and the matters were remanded for fresh decision. The Reference Court on 22.01.2013 enhanced the compensation to Rs.746/- per square yard (Rs.36,10,640/- per acre) while placing reliance upon the award dated 20.04.2009 (Ex.P-89 in that case). In the said cases in ***RFA No. 3788 of 2013, Purujit Singh vs. State of Haryana*** decided on 27.04.2018 this Court has now enhanced the compensation to Rs.895/- per square yard and Rs.820/- per square yard for land falling in Devi Nagar and Bana Madanpur by allowing the appeals filed by the land owners and after keeping in mind that no appeals have been filed by the State regarding the notification dated 11.07.1995.

It is pertinent to notice that the basis for enhancement also is on

two accounts. Firstly, that the acquisition for the notification dated 11.07.1995 for 64.5 acres of land for three villages, Devi Nagar, Bana Madanpur and Jhuriwala was done for the purpose of construction of a road between Sectors 3, 21, 24 and 25, Panchkula. Keeping in view the fact that the land was being acquired for the road and there was no requirement of development cut as such, the enhancement has been granted specially for villages Devi Nagar and Bana Madanpur and on an additional ground that their land abuts the Highway Nos. 22 and 73. However, the land for village Jhuriwala has been maintained since it does not abut either of the highways.

It is to be noticed that the earlier award dated 20.04.2009 in ***RFA No. 3506 of 2009, Lokinder Singh vs. State of Haryana and others***, decided on 06.04.2018 for acquisition of land measuring 95 acres in villages Jhuriwala, Bana Madanpur market value has been maintained @ 746/- per square yard whereas in RFA No. 1795 of 2012, ***Bachan Singh @ Bachna and others vs. State of Haryana and another***, the appeals of the land owners of village Nada had been allowed against the award dated 31.01.2012 whereby, Rs.460/- per square yard (Rs.22,26,400/- per acre) had been granted which has been enhanced to Rs. 746/- per square yard to bring it at the same level.

In such circumstances, this Court is of the opinion that the appeals of State are liable to be dismissed whereas, the land owners are entitled for enhancement of compensation on the ground that the cumulative increase is to be granted for the period of 22 months intervening the two notifications dated 11.07.1995 and 02.05.1997.

A perusal of the record would also go on to show that the land owners had brought on record the allotment of 20 acres of land to Haryana

State Agricultural Marketing Board for establishing the Grain & Vegetable Market in Sector 20, Panchkula, which would go on to show that the allotment was made on 05.08.1994 as per the possession certificate Ex.P-1. The value had been fixed at Rs.954/- per square yard and Rs.402/-, which were the internal development charges, if added, would take the value at Rs.1,356/- per square yard which was eventually not levied vide letter dated 08.04.1999 (Ex.P-34) on account of decision taken on 09.02.1999 (Ex.P-35). The said allotment letter has also been kept into consideration in *Lokinder Singh's case (supra)* while maintaining the compensation since the land was falling in village Fatehpur which was acquired in the year 1990 and the land owners had been paid Rs.394/- per square yard. The said factors were kept in mind to highlight the exponent level of growth which was taking place at the point when the acquisition was made. This was to come to a conclusion that the order passed by the Reference Court on 20.04.2009 was justified whereby, Rs.746/- per square yard had been awarded on the basis of falling back on various methods to calculate the market value by giving 50% cut towards development costs by HUDA and keeping in view the sale deeds pertaining to the area in question and also the fact that there were awards of the neighbourhood on which cumulative increase could be granted.

The site plan Ex.P-6/A would go on to show the location of the acquired land since it is part of village Devi Nagar and on an earlier occasion in the year 1987, the land had already been acquired for village Devi Nagar whereby, value had been assessed at Rs.250/- per square yard in ***Civil Appeal No. 1074 of 2012, Om Parkash vs. State of Haryana*** by the Apex Court. In view of the land of Devi Nagar being left out adjoining the

river and away from the National Highway, the second set of acquisition as such took place to acquire the balance land which would be clear from site plan Ex.R-1 also produced by the State through Dhoop Singh, Kanungo. The said witness had also admitted that there was a Golf Course in Sector 3, Panchkula which was developed in the land of village Devi Nagar. The sale deed which he had produced was pertaining to land in village Maheshpur. The suggestion was denied that he had wrongly depicted the location of the sale deeds and the acquired land. In such circumstances, as has also been noticed in *Lokinder Singh's case (supra)*, the market value of the land has been suppressed by the State by issuing notifications since 1971 while developing the adjoining areas across the river.

In such circumstances, the Reference Court was well justified to take into account the earlier award Ex.PD (Ex.P38) and grant enhancement by giving the benefit of 12% increase. Since however, over a period of time, the said award itself had been set aside and now for the earlier acquisition, the market value had been assessed at Rs.746/- per square yard for the notification dated 11.07.1995, the land owners are entitled for necessary enhancement on that account as the yardstick on the basis of which the market value had been assessed has itself been varied.

As noticed, for the said notification, State had not chosen to file any appeals and, therefore, if 12% cumulative increase is granted for 22 months, the amount comes to Rs.919/- per square yard (44,47,960/- per acre) and by keeping in mind 15% cumulative increase for the said period, the market value would work out to Rs.965/- per square yard (46,70,600/- per acre) for 22 months. The State though has opposed the enhancement @ 15% but in *Lokinder Singh's case (supra)* the matter had been discussed in

detail as to how development has taken place and the State has chosen itself to exploit the land on the highways to develop them firstly. Thereafter development of the interior lands at a subsequent point of time by putting infrastructure in place slowly but leaving the land owners with no proper sale exemplars due to the impending acquisition as per the master plan of the town of Panchkula has been done. The relevant part of the judgment in *Lokinder Singh's case (supra)* reads as under:-

“The fact that the land is situated on one side abutting the National Highway No.73 and on the other side, is well connected to the developed sectors of Panchkula, through the bridge i.e. Sectors 3, 21 to 24. If the said principles are also applied a 15% cumulative increase from the year 1989 is called for. The plots at Panchkula were being developed and sold by HUDA through brochures which have already been placed on record and the market price was galloping for the residential development due to the reason for being a satellite town of Chandigarh, where civic facilities were already existing, but there was no scope of further expansion.

Reference would be necessary to see the graphic rise in prices which was taking place, which would be clear from the allotment letter of around the said period of Panchkula Town. Reference can be made to the allotment letter dated 21.07.1987 (Ex.P4) for 1 kanal plot No.343 in Sector 21 Panchkula for Rs.1,42,380/- across the river from the land which was acquired. Enhancement was done vide Ex.P5 on 11.01.1994 @ Rs.61.42 per square meter and another enhancement was demanded vide letter dated 08.04.1999 (Ex.P6). Ex.P16 is a brochure of HUDA for Sector 25 adjoining the acquired land pertaining to the

booking which was closing on 09.12.1992, wherein the rate demanded for a 1 kanal plot was Rs.974 per square yard. Similarly, brochure where booking commenced on 20.10.1993 (Ex.P17) for the adjoining Sector 26 demand was Rs.902 per sq.yard for a 1 kanal plot measuring 502.32 square yards. The said brochure clearly indicated another bridge on Ghaggar for providing access for the new township was one of the salient features. The salient features are highlighted as under:-

“ Panchkula extension is a new self contained township based on the neighbourhood planning concept.*

** Another bridge on Ghaggar river to provide efficient linkages to the new township.*

** Close proximity to other stations of tourists like Morni Hills-the only Hill station of Haryana, Pinjore Garden, Shimla etc.*

** Located on the State Highway linking the township with other important towns like Chandigarh, Shimla Nahan, Dehradun, Ambala, Delhi etc.”*

A perusal of Ex.P39/1 from the record of second case pertaining to Nada would go on to show that allotment on 18.01.1994 in Sector 25 Panchkula Extension of 209 square meters plot was @ Rs.885 per square meter for plot No.569 and thereafter enhancement was sought on 28.09.2000 vide Ex.P39/A and Ex.P39/B and on 29.04.2002 and 30.09.2002, Ex.P39/C. Thereafter, the brochure Ex.P35 for residential plots for Sector 27 and 28, whereby the booking commenced in the year 2001 would go on to show that for a 1 kanal plot in Sector 27 and 28 rate being sought was @ Rs.3735 per square yard.

The benefit has to go to the landowners who could not get sale exemplars of the area in consonance with the development which has been taking place on

account of the fact that the State had chosen to keep the land preserved for its potentiality and use by issuing notifications after notifications. A perusal of the notification dated 20.09.1971 (Ext.P-26) would go on to show that the land measuring 52.09 acres of Village Bana Madanpur was sought to be acquired for setting up a stone crushing zone. Thereafter, on 13.12.1982 (Ext.P-27), for additional industrial area, Urban Estate Panchkula, land was notified for various villages including Bana Madanpur (517 acres 5 kanals 15 marlas) Jhuriwala (5 acres) Ramgarh (677 acres 1 kanal 13 marlas) and Naggal Moginand (3 acres 8 biswa). Similarly, on 26.10.1989 (Ext.P-28), for the residential, institutional and commercial area of the Urban Estate Panchkula, for Villages Bana Madanpur and Jhuriwala, land measuring 486 acres 4 kanals 16 marlas and 5 acres of Jhuriwala was notified for acquisition. The State being well aware of the location of the land and the development taking place, cannot be permitted to lock up the land acquired under the threat of acquisition.”

Resultantly, reliance can safely be placed upon the observations of the Apex Court in ***Oil and Natural Gas Corporation Limited Vs. Rameshbhai Jivanbhai Patel and another, 2008 (14) SCC 745***. Relevant portion of the same reads thus:-

11. Primarily, the increase in land prices depends on four factors - situation of the land, nature of development in surrounding area, availability of land for development in the area, and the demand for land in the area. In rural areas unless there is any prospect of development in the vicinity, increase in prices would be slow, steady and gradual, without any sudden spurts or jumps. On the other hand, in urban or semi-urban

areas, where the development is faster, where the demand for land is high and where there is construction activity all around, the escalation in market price is at a much higher rate, as compared to rural areas. In some pockets in big cities, due to rapid development and high demand for land, the escalations in prices have touched even 30% to 50% or more per year, during the nineties. On the other extreme, in remote rural areas where there was no chance of any development and hardly any buyers, the prices stagnated for years or rose marginally at a nominal rate of 1% or 2% per annum. There is thus a significant difference in increases in market value of lands in urban/semi-urban areas and increases in market value of lands in the rural areas. Therefore if the increase in market value in urban/semi-urban areas is about 10% to 15% per annum, the corresponding increases in rural areas would at best be only around half of it, that is about 5% to 7.5% per annum. This rule of thumb refers to the general trend in the nineties, to be adopted in the absence of clear and specific evidence relating to increase in prices. Where there are special reasons for applying a higher rate of increase, or any specific evidence relating to the actual increase in prices, then the increase to be applied would depend upon the same.

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13. Much more unsafe is the recent trend to determine the market value of acquired lands with reference to future sale transactions or acquisitions. To illustrate, if the market value of a land acquired in 1992 has to be determined and if there are no sale transactions/acquisitions of 1991 or 1992 (prior to the date of preliminary notification), the statistics relating to sales/acquisitions in future, say of the years 1994-95

or 1995-96 are taken as the base price and the market value in 1992 is worked back by making deductions at the rate of 10% to 15% per annum. How far is this safe? One of the fundamental principles of valuation is that the transactions subsequent to the acquisition should be ignored for determining the market value of acquired lands, as the very acquisition and the consequential development would accelerate the overall development of the surrounding areas resulting in a sudden or steep spurt in the prices. Let us illustrate. Let us assume there was no development activity in a particular area. The appreciation in market price in such area would be slow and minimal. But if some lands in that area are acquired for a residential/commercial/industrial layout, there will be all round development and improvement in the infrastructure/ amenities/facilities in the next one or two years, as a result of which the surrounding lands will become more valuable. Even if there is no actual improvement in infrastructure, the potential and possibility of improvement on account of the proposed residential/commercial/ industrial layout will result in a higher rate of escalation in prices. As a result, if the annual increase in market value was around 10% per annum before the acquisition, the annual increase of market value of lands in the areas neighbouring the acquired land, will become much more, say 20% to 30%, or even more on account of the development/proposed development. Therefore, if the percentage to be added with reference to previous acquisitions/sale transactions is 10% per annum, the percentage to be deducted to arrive at a market value with reference to future acquisitions/sale transactions should not be 10% per annum, but much more. The percentage of standard increase becomes unreliable.

Courts should therefore avoid determination of market value with reference to subsequent/future transactions. Even if it becomes inevitable, there should be greater caution in applying the prices fetched for transactions in future. Be that as it may.

In view of the above, it can be safely recorded that the growth has to be assessed for this portion of land at 15% cumulative increase being closer to the National Highway No. 22 which is more important and secondly, since this portion of the land did not have the locational disadvantage as such of the land falling in village Jhuriwala which is across the river and whose potential could only be utilized after the second bridge had been built across the river Ghaggar in 1994.

This Court is consciously not taking the market price as Rs.895/- per square yard as awarded for the other land owners falling in village Devi Nagar which was granted in *Purujit Singh's case (supra)* since enhancement in that case was on account of the fact that the land had been acquired for the purposes of road and the wastage would be minimal and, therefore, the enhancement is being given from the base of Rs.746/- per square yard. The location of the acquired land has also been noticed from the site plan (Ex.P-6/A) which would go on to show that the land was adjoining the river and away from the national highway and, therefore, similarly, land which was connecting to the national highway is also for the same village Devi Nagar has been granted enhancement on that basis.

Resultantly, cross objections in RFA No. 2911 of 2005 filed by the land owners and the appeals i.e. RFA Nos. 2462, 2521, 2742, 2743 and 2910 of 2005 are allowed and enhancement is granted by assessing the market value at Rs.965/- per square yard (Rs.46,70,600/- per acre) plus

statutory benefits and the appeals of the State i.e. RFA Nos. 2350 to 2356 and 2911 of 2005 are dismissed.

01.05.2018
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No

