IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.3102 of 2008
Date of decision: 15.3.2018

Jaswant Singh and others

...Appellants

Versus

State of Haryana and others

...Respondents

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

Present: Mr. Shailendra Jain, Senior Advocate with
Mr. Satyendra Chauhan, Advocate for the appellants.

Mr. Sudeep Mahajan, Addl. Advocate General, Haryana with
Mr. Shivendra Swaroop and Ms. Safia Gupta,
Assistant Advocate Generals, Haryana.

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G.S.SANDHAWALIA, J (Oral)

This order shall dispose of RFA Nos.3102 to 3104, 3070 to 3072, 3216 to 3224 of 2008 and 2064 of 2009 filed by landowners (RFA Nos.3070, 3071, 3072, 3102, 3103, 3104 of 2008 and 2064 of 2009) and the State (RFA Nos.3216 to 3224 of 2008) as common question of law and facts are involved in all these appeals.

The present set of appeals under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") has been directed by both the State as well as land owners against the award dated 11.12.2007 passed by the Reference Court, Rewari wherein the market value of the land was fixed at the rate of ₹ 9,01,224/- per acre for all types of land upto the depth of two acres on both sides of Rewari-Dharuhera-

Delhi Road and at the rate of ₹ 7,00,000/- per acre for all types of land beyond the depth of two acres on the date of notification dated 17.4.2002 issued under Section 4 of the Act. All statutory benefits were also payable to the land owners. The land acquired was of two villages namely Khalilpuri and Katubpuri Jagir and was measuring 120 kanals 7 marlas and 152 kanals 6 marlas respectively and acquisition was for the purpose of setting up the District Police Line, Rewari and construction of staff quarters.

The Land Acquisition Collector, Rewari (for short "the LAC") vide order dated 29.4.2003 awarded compensation at the rate of ₹3,75,000/- per acre for chahi land and at the rate of ₹ 2,75,000/- per acre upto the depth of two acres from the above said road for the land of revenue estate of village Khalilpuri District Rewari. For the land of Katubpuri Jagir a sum of ₹ 2,25,000/- per acre was assessed as the market value which has been enhanced as noticed above by the Reference Court, Rewari.

The land owners have produced as many as 15 sale deeds out of which ten were pertaining to the land of revenue estate of District Rewari and five were pertaining to village Khalilpuri. Resultantly, the sale deeds of revenue estate, Rewari were rightly discarded by holding that they were not good guide of the market value and no fault can be found with the said reasoning.

The five sale deeds, namely, Ex.P3, Ex. P7, Ex.P10, Ex. P11 and Ex. P15 were kept into consideration and eventually reliance was placed upon the sale deed Ex. P10 which is dated 31.12.2001 and was for land measuring 4 kanals 18 marlas which was situated across the main road.

As per the said sale deed the market value would come to ₹ 186/- per sq. yard (₹ 9,00,240/- per acre). The sale deed Ex. P15 dated 2.3.2001(1 kanal 3 marlas) was ignored though it was an instance of the acquired piece of land and the market value would come to ₹ 172/- per sq. yard (₹ 8,32,480/- per acre) and resultantly, larger area of land was taken into consideration. Similarly Ex.P-3 dated 16.2.2001 which was of 1 kanal 8 marlas land and price was coming to ₹ 306/- per sq. yard was discarded. Similarly Ex. P7 was also discarded wherein the price was coming to ₹ 250/- per sq. yard since it only pertained to 4 marlas. Ex.P-11 was also discarded on the ground that it was of 3 marlas and value came to ₹ 275/- per sq. yard. It was also kept in mind that in the year 1990 the land of Sector 4 of Rewari was acquired which was not very far and this Court had granted compensation at the rate of ₹ 7,04,367/- per acre. The floor price of the acquired land in the State of Haryana had also been fixed at the rate of ₹ 12,50,000 per acre and therefore, keeping in view the rising trend Ex. P10 was kept into consideration.

Since there was no instance of village Katubpuri Jagir and the land was adjacent to each other and it was the same kind of land i.e. Chahi, the benefit of contiguous portion being acquired was not granted and belting was preferred while rejecting the argument of the land owners. The reason given was that the purchaser would be willing to purchase the land on the main road and therefore, land could be divided into two groups i.e. one uptill the depth of two acres from the above said road and second remaining land beyond two acres. Reliance was placed upon the judgment in **Union of India Vs. Mangatu Ram etc. 1997(2) PLJ 61** and **State of**

Punjab Vs. Gian Singh 2001(1) All India Land Acquisition and Compensation Cases 485.

Counsel for the State has accordingly submitted that a cut should have been applied upon Ex. P10 which was of just 3-1/2 months prior to the date of Section 4 notification and since it was smaller piece of land whereas large chunk of land was acquired for setting up of District Police Line, Rewari and construction of staff quarters.

Counsel for the land owners on the other hand submitted that once it was contiguous portion of land, the value of the land should have been the same and benefit should be uniform through out. It is also submitted that reliance should have been placed upon Ex. P3 wherein the value of the land acquired was measuring 1 kanal 8 marlas which had been assessed at ₹ 306/- per sq. yard and therefore, the amount was liable to be enhanced.

This Court has perused the site-plan (Ex.PW-9/A) and taken into account the argument raised by Mr. Shailendra Jain, Sr. Advocate, that the benefit of Ex.P-3 should be granted wherein land measuring 1 kanal 8 marlas was sold on 16.02.2001, for a sum of ₹ 14,85,714/- (Rs.306 per sq.yards) and market value should be accordingly fixed.

The location of the said plot has been taken into consideration also by this Court. A perusal of the same would go on to show that though it is almost opposite the acquired land, but it has an added advantage that it falls not only on the road leading from the National Highway to Rewari but also abuts the road leading to the abadi of Village Khalilpuri of which land was acquired. The land is closure to the abadi area and it would thereafter command better pricing as it is having two roads abutting it. Therefore, the Reference Court had rightly not taken it into consideration.

Similarly, the argument raised that since the land is contiguous and has been acquired for a common purpose and therefore, common value should also be granted, though attractive at the first blush, but cannot be accepted in the present facts and circumstances. A perusal of the site plan of land acquired would go on to show that the back portion of the land abuts a "Nallah" and it is away from the main road. The belting system which has, thus, been resorted to, in the facts and circumstances, is well justified, as the value of the land at the back portion closer to the "Nallah" would be less than what was on the main road.

Another factor which is also to be taken into consideration is that even the sale deed of the said land, executed on 02.03.2001 (Ex.P-15) is at a much lesser rate of ₹ 8,34,852/- per acre for land measuring 1 kanal 3 marlas. It is settled principle that the best instance is the sale deed of the acquired land itself and therefore, if the said sale deed is taken into account, the said amount would be less than what the Reference Court had awarded, to the tune of ₹ 9,01,224/-, upto 2 acres and ₹ 7 lacs, for the remaining land. Therefore, even if we resort to the same and give enhancement of 10% for one year (₹ 83,485/-) the value would reduce on account of cut to be put at a figure of ₹ 9,18,337/- for smallness of the plot.

However, if we resort to the averaging factor and take the 5 sale deeds of Khalilpuri into consideration, the average price would work out to ₹ 11,52,802/- Accordingly, keeping in view the area of the land measuring 120 kanals 7 marlas of Village Khalilpuri and 152 kanals 6 marlas of

Katubpuri Jagir acquired, the necessary cut would then have to be applied upon the said figure and if the same is applied even to the extent of 20%, it works out to ₹ 2,30,560/-, bringing down the price to ₹ 9,22,242/- per acre. Accordingly, the landowners are, thus, entitled to the said benefit by increasing and assessing the market price for the acquired land @ ₹ 9,22,242/- per acre, to the extent for the land falling upto 2 acres from the above said road. Similarly, the benefit of ₹ 22,242/- per acre is also granted for the land beyond 2 acres from the road which is assessed @ ₹ 7 lacs and the value will be taken as ₹ 7,22,242/-per acre along with all statutory benefits.

With the above-said observations, the present appeals, filed by the landowners are partly allowed whereas, the appeals filed by the State are dismissed.

March 15, 2018 **(G.S.SANDHAWALIA)**
Pka **Judge**

Whether speaking/reasoned Yes/No

Whether reportable: Yes/No