IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA No.3788 of 2013 and other connected appeals
Reserved on: 08.03.2018
Decided on : 27.04.2018

Purujit Singh

... Appellant

Versus

State of Haryana and another

... Respondents

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

Present : Mr. Alok Mittal, Advocate,
Mr. M.K. Chouhan, Advocate and
Mr. Shoaib Khan, Advocate for the appellant (s).

Mr. Sudeep Mahajan, Addl. AG, Haryana &
Ms. Safia Gupta, AAG, Haryana.

G.S. Sandhawalia, J.

The present order shall dispose of 21 appeals i.e RFA Nos.3788 to 3800, 3808, 3809, 4322, 4871, 4872, 4873 of 2013, RFA No. 4547 of 2014 and 959 of 2015. The facts are being taken from **RFA No.3788 of 2013 'Purujit Singh Vs. State of Haryana and another'.**

The present set of appeals have been filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') by the land owners who are aggrieved against compensation granted @ ₹746 per square yard (@ ₹36,10,640/- per acre) vide Awards dated 22.01.2013 and 06.02.2014 by the Reference Court, Panchkula. The acquisition process under Section 4 read with Section 17 of the Act was initiated on 11.07.1995 for 64.5 acres in Village Devi Nagar, Bana Madanpur and Jhuriwala for construction of roads between Sectors 3 & 21 and Sector 24 & 25, Panchkula. The Land Acquisition Collector vide Award No.3 dated 10.07.1997 awarded market value at different rates for three villages and ₹1,05,000/- per acre was granted for village Jhuriwala, ₹3 lakhs per acre was granted for village Devi Nagar, ₹2,81,000/- per acre for the land falling in village Bana Madanpur.

Initially the Reference Court had fixed the compensation @ ₹5,60,000/- per acre for village Jhuriwala and Bana Madanpur and ₹256/- per square yard for village Devi Nagar amounting to ₹12,39,040/- per acre, vide award dated 16.09.2012 alongwith all statutory benefits. Remand orders were passed in **RFA No.825 of 2003 and RFA No.65 of 2003** on 21.01.2010 and 26.05.2011 respectively by the Court and, eventually the matter has been re-decided as noticed above.

The Reference Court noticed that the land was acquired for connecting Urban Estate, Panchkula to Panchkula Extension and the land was situated within developed sectors and land had earlier been acquired for developing Sector 23 vide notification dated 04.05.1995 just 2 months 7 days prior to the present notification. Accordingly, keeping in mind the Award dated 20.04.2009 (Ex.P89), which is qua the notification dated 04.05.1995, the value of the land was also assessed at the same rate. The Reference Court kept into consideration that all the three villages were one unit of land which was similar and it was contiguous.

Counsel for the landowners have accordingly argued that the land was being acquired for the purposes of the road. The percentage of development cut had to be reduced as there was minimum wastage as such and even otherwise once the location of the land of the two villages i.e. Devi Nagar and Bana Madanpur was abutting the two highways, certain percentage over and above the amount awarded to the tune of ₹746 per square yard was liable to be granted. Reliance was accordingly placed upon the judgments of the Apex Court in **'Nelson Fernandes and others Vs. Special Land Acquisition Office, South Goa and others' 2007 (9) SCC 447**, **'Atma Singh (died) through L.Rs. and others Vs. 2008 (2) SCC 568** and in **'Indraj Singh (Dead) through L.Rs. and others Vs. State of Haryana and others' 2013 (14) SCC 491** in this regard.

State on the other hand justified the amount awarded and submitted that no further increase is warranted.

It is pertinent to notice that the State has chosen not to file appeals against the said fixation of the market value, though it had chosen to contest the award dated 20.04.2009, whereby the land for Sectors 22, 23 was acquired vide notification dated 04.05.1995.

This Court in **RFA No.3506 of 2009 'Lokinder Singh and others Vs. State of Haryana and others'** has upheld the Award dated 20.04.2009 pertaining to village Jhuriwala, Bana Madanpur on 06.04.2018 and also enhanced the compensation for village Nada where the balance portion of the sector was located. However, no land of village Devi Nagar as such was involved in the said cases. As noticed village Devi Nagar's location as such is on the road itself across the river towards the main highway leading from Ambala to Kalka known as National Highway No.22 and, therefore, the location of the land is prime. Even the Land Acquisition Collector has granted more compensation for village Devi Nagar in comparison to the land of the other villages to the tune of ₹3 lakhs. Similary, the land falling in village Bana Madanpur also abuts the National Highway No.73 on the other side of the river, which is a road leading from Panchkula to Yamuna Nagar and therefore, the value also for village Bana Madanpur is more than village Jhuriwala and the Land Acquisition Collector had awarded ₹2.81 lakhs per acre whereas for village Jhuriwala he had only awarded ₹1,05,000/- per acre.

The break-up of the land in three villages is 15.91 acres for village Bana Madanpur, 19.96 acres for village Jhuriwala and 28.67 acres for village Devi Nagar. The Section 18 petition also highlighted the said location of the land, though it claimed uniform compensation @ ₹2266/- per square yard.

From the statement of PW1-Harbans Lal, Halka Patwari, the factum of the location of village Devi Nagar was brought on record, which is also clear from the site plan Mark-A, which is similar to Ex.P55 which has already been taken on record. The said village is situated on National Highway No.22 adjoining to Civil Secretariat, Panchkula and it is closest to Majri Chowk, where the Civil Secretariat and Judicial Complex are located. The roads which are now been carved out connecting the National Highway No.22 to the bridge built in 1994 is adjoining village Maheshpur wherein Sector 21 was developed and the land of the said village Maheshpur was acquired in parts in 1971-1983.

PW9 Ramesh Chand-Assistant Draftsman deposed about the copy of the Development Plan and extension of the M-2 Road on the acquired land which has been shown on the Development Plan Ex.P23. He further deposed that road in question led from Ambala-Kalka Highway to Sector 24 and 25 and further led to National Highway No.73. It thus started from village Devi Nagar and land of Maheshpur was adjoining through the land of village Jhuriwala.

Similarly, PW11 Amar Deep also deposed regarding the factum that the land was acquired for the construction of bridge and for connecting Sectors 21 and 25 to Urban Estate, Panchkula by invoking emergency clause and no opportunity was given to file objections and the award was passed on 10.07.1997. He also deposed that the land situated in village Devi Nagar was acquired by HUDA for developing sectors 1 to 4 and 21. It was also used for developing Sector 4 Panchkula, apart from the development of Sector-3, which was a Recreational Centre and also International level Olympic Stadium and Golf Course etc. had been set up.

The land owner Purujit Singh also appeared as PW15 , who deposed that the land was acquired for the construction of the road for connecting whole of Panchkula to Sectors 22 to 28, which were across the river and as well as to connect National Highway No.22 to National Highway No.73. He also deposed regarding the development of the town across the river between Sectors 24 and 28 at the initial stage.

RW-1 Dhoop Singh, Kanungo in his evidence deposed that the land was uneven. However, in his cross-examination he also admitted that the acquired land had connected the other Sectors of Panchkula to sectors 22 to 28 and the distance had been shortened a lot. Earlier one had travel to Sector 25 to Sector 28 via Majri Chowk, but he, however, denied the fact that the value and utility of the sectors across the river had increased, because of the construction of the road. He deposed about the quality of the land being similar in nature and connected with each other.

It is in such circumstances, this Court has to assess that the appellants-land owners are entitled for any further enhancement, keeping in view the location of the land, specially that falling in village Devi Nagar and village Bana Madanpur.

Keeping in view the cumulative factors in mind and the fact that the compensation was assessed @ ₹746/- per square yard for the land which has been acquired for the main sectors of 22 and 23, the land owners whose land has now been acquired for construction of the road are entitled for the benefit of the cut being reduced as such which was granted to the extent of 50% also while assessing the compensation in the Award dated 20.04.2009, keeping in view the development costs and the potentiality of the land and the spurt in prices which had taken place due to the construction of the second bridge over the river Ghaggar in the year 1994.

This Court has already dealt in detail in the case of **Lokinder Singh (supra)** regarding the prime location of the land as such and upheld the market value @ ₹746/- per square yard. The relevant part of the said judgment 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.*
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> *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:-*
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> > *"* 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, keeping the principle in mind that land situated on the National Highway always commands more price than the land which is situated far away, as already elucidated by the Apex Court in **'Haridwar Development Authority, Haridwar Vs. Raghubir Singh and others' 2010 (11) SCC 581, 'Ashok Kumar and another Vs. State of Haryana' 2016 (2) RCR (Civil) 351** and **'Bhule Ram Vs. Union of India and another' 2014 (11) SCC 307,** the land owners of the 2 villages of Devi Nagar and Bana Madanpur are entitled for enhancement.

In **Nelson Fernandes (supra)** the acquisition was for construction of new Broad Gauge line for the Konkan Railways. The Apex Court noticed that normally 1/3rd deduction had been directed in certain cases, but wherein it was for specific purpose and question of development cut, therefore, would not arise and resultantly modified the orders of the Reference Court and the High Court by granting 20% deduction only.

Similarly in **Atma Singh (supra)** the acquisition was for setting up of a sugar factory, deduction of 10% only was imposed, which was also the case in **Indraj Singh (supra)**, which was for the construction of a sector road under the Bahadurgarh Scheme. The relevant portion of the said judgment reads as under:-

> *"9.The High Court was of the view that the land in question was near to the land abutting two main roads. The High Court also took into consideration the rapid development in the vicinity and therefore, increased the value of the land in question after considering the principles on which lands are valued for the purpose of awarding compensation under the Act.*
> *10. The High Court also decided to decrease the value of the land by 1/3rd of its value as the land in question was little away from the main road.*

11. The submissions made on behalf of the appellants were to the effect that deduction of 1/3rd value of the land would be very harsh on the appellants because the appellants would be getting substantially less compensation on account of the said deduction. It was also submitted that the High Court had taken note of the fact that the land in question was very much within the developed area. If the land was within the developed area, the High Court should not have deducted 1/3rd of the value of the land in question.

12. The learned Additional Solicitor General appearing for the State had tried to support the judgment by submitting that the deduction of 1/3rd of the value of the land was just and proper as observed by the High Court.

13. Upon hearing the learned counsel and upon perusal of the impugned judgment and relevant records, we are of the view that the appellants should have been awarded more compensation. Deduction to the extent of 1/3rd of the value of the land is definitely harsh even as per the observations made by the High Court as the land in question is very much in the developed area. The area has been developed by the HUDA and therefore, the deduction of 1/3rd of the value of the land is not justified.

14. Upon considering all relevant facts, in our opinion, it would be absolutely just if 10% value of the land is deducted instead of 1/3rd because the land is forming part of a well developed area.

15. The High Court, after deduction of 1/3rd of the amount of the value has awarded Rs.7,43,000/- per acre for irrigated and non-irrigated land. The said value is after deduction of 1/3rd amount of total valuation of the land. The High Court has, thus, in fact, determined the market value of the land at Rs.11,15,000/- per acre and after deducting 1/3rd of the said amount, it has awarded Rs. 7,43,000/- per acre, after rounding off the figure.

16. The market value of the land in question, as determined by the High Court, is Rs. 11.15 lacs per acre and instead of taking 1/3rd, we direct that 10% of the said value shall be deducted. The claimants shall be entitled to other statutory benefits like *solatium, interest etc. on the enhanced compensation."*

In **'C.R. Nagaraja Shetty Vs. Special Land Acquisition Officer and Estate Officer and another' 2009 (11) SCC 75**, where the land was acquired for widening of the national highway, the High Court had directed for deduction of ₹25/- per square feet, which was set aside by the Apex Court on the ground that there is no evidence, if any for development charges, therefore, the deduction was not justified. The relevant portion reads as under:-

> *"7. That leaves us with the other question of deduction ordered by the High Court.*
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> *8. The High Court has directed the deduction of Rs. 25/- per square feet. Unfortunately, the High Court has not discussed the reason for this deduction of Rs. 25/- per square feet nor has the High Court relied on any piece of evidence for that purpose. It is true that where the lands are acquired for public purpose like setting up of industries or setting up of housing colonies or other such allied purposes, the acquiring body would be entitled to deduct some amount from the payable compensation on account of development charges, however, it has to be established by positive evidence that such development charges are justified. The evidence must come for the need of development contemplated and the possible expenditure for such development. We do not find any such discussion in the order of the High Court. As if this is not sufficient, when we see the judgment of the Principal Civil Judge (Sr. Division), Bangalore, Rural District, Bangalore in Reference proceedings, we find that there is no deduction ordered for the so-called development charges. We are, therefore, not in a position to understand as to from where such development charges sprang up. The Learned Counsel appearing on behalf of the respondents was also unable to point out any such evidence regarding the proposed development. We cannot ignore the fact that the land is acquired only for widening of the National Highway. There would, therefore, be no question*

of any such development or any costs therefor. In the reported judgment in ***Nelson Fernandes and Others v. Special Land Acquisition Officer, South Goa and Others in 2007(2) RCR(Civil) 508 : 2007(2) RAJ 463 : 2007(9) SCC 447****, this Court has discussed the question of development charges. That was a case, where, the acquisition was for laying a Railway line. This Court found that the land under acquisition was situated in an area, which was adjacent to the land already acquired for the same purpose, i.e., for laying Railway line. In paragraph 29, the Court observed that the Land Acquisition Officer, the District Judge and the High Court had failed to notice that the purpose of acquisition was for Railways and that the purpose is a relevant factor to be taken into consideration for fixing the compensation. The Court relied on judgment in* ***Viluben Jhalejar Contractor v. State of Gujarat, reported in 2005(2) RCR(Civil) 492 : 2005(4) SCC 789****, where it was held that the purpose for which the land is acquired, must also be taken into consideration in fixing the market value and the deduction of development charges. Further, in paragraph 30, the Court specifically referred to the deduction for the development charges and observed :-*

> *"30. We are not, however, oblivious of the fact that normally ⅓rd deduction of further amount of compensation has been directed in some cases. However, the purpose for which the land is acquired must also be taken into consideration. In the instant case, the land was acquired for the construction of new BG line for the Konkan Railways..................... In the instant case, acquisition is for laying a railway line. Therefore, the question of development thereof would not arise."*

The Court made a reference to two other cases, viz., ***Hasanali Khanbhai & Sons v. State of Gujarat, 1995(3) RRR 283 : 1995(5) SCC 422 and Land Acquisition Officer v. Nookala Rajamallu, reported in 2004(1) RCR(Civil) 293 : 2003(12) SCC 334*** *respectively, where, the deduction by way development charges, was held permissible. The situation is no different in the present case. All that the acquiring body has to achieve is to widen the National Highway. There is no further question of any* *development. We again, even at the cost of repetition, reiterate that no evidence was shown before us in support of the plea of the proposed development. We, therefore, hold that the High Court has erred in directing the deduction on account of the developmental charges at the rate of Rs. 25/- per square feet out of the ordered compensation at the rate of Rs. 75/- per square feet. We set aside the judgment to that extent. The claimant would, therefore, be entitled to the compensation at the rate of Rs. 75/- per square feet with all the statutory benefits like solatium under Section 23(2), 12% interest under Section 23 (1-A) on the enhanced market value and interest at 9% and 15% as provided under Section 34 of the Act for one year and the rest of the period from the date of taking possession till the date of payment of the compensation awarded in favour of the claimant. With this, we partly allow the appeal and modify the order of the High Court.*

Appeal partly allowed."

Even in **'Ashok Kumar and another Vs. State of Haryana' 2016 (2) RCR (Civil) 351'** the land was acquired for Sector-21 Panchkula falling in village Fatehpur. In the said case, it was noticed that the same was not abutting the national highway and, therefore, the market value was not fixed at the same rate, which had been granted for village Devi Nagar where the property had extensive national highway frontage. The relevant portion reads as under:-

"12. In the case of the appellants herein, it is an admitted position that the properties do not abut the national highway. Admittedly, it is situated about 375 yards away from the national highway and it appears that there is only the narrow Nahan Kothi Road connecting the properties of the appellants to the national highway. Therefore, it will not be just and proper to award land value of ₹250/- per square yard, which is granted to the property in adjoining village. Having regard to the factual and legal position obtained above, we are of the considered view that the just

and fair compensation in the case of appellants would be ₹200/- per square yard.

In **'Himmat Singh and others Vs. State of M.P. and others' 2013 (6) SCC 392** while keeping the said principles in mind, whereby the land was acquired for Broad Gauge Rail Line by the Central Railway, it was noticed that it was not for carving out a lay out for residential, industrial or commercial purposes and the 50% deduction was not approved, which had been made towards the cost of development charges.

Resultantly, keeping in view the location of the land acquired for village Devi Nagar, this Court is of the view that the land situated in village Devi Nagar being closer to the Center of Panchkula town and more importantly closer to the more important National Highway No.22 is entitled for 20% benefit over and above ₹746 per square yard which had been awarded and the market value of the land is accordingly assessed @ ₹895 per square yard (₹43,31,800/- per acre). Similarly, the land falling in village Bana Madanpur which is abutting the National Highway No.73 is granted 10% benefit, which takes it value to ₹820/- per square yard (₹39,71,704/- per acre).

Accordingly, keeping in view the above two factors, the appeals of the land owners of village Devi Nagar and Bana Madanpur are allowed and the market value is assessed as mentioned above.

The land owners of village Jhuriwala, their land being sandwiched and away from the highway and having been acquired for the purposes of the road between the sectors and not a contiguous plot, in such circumstances, would not be entitled for the additional benefit, in view of the peculiar facts and circumstances.

(G.S. SANDHAWALIA)
JUDGE

APRIL 27, 2018
Naveen

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*