

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

**RFA No.1946 of 2018 (O&M) &
connected cases**

Date of Decision:09.05.2018

State of Haryana and others ...Appellants

Versus

Dharambir Singh and others ...Respondents

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

Present: Ms. Safia Gupta, AAG, Haryana.

G.S. SANDHAWALIA, J. (ORAL)

The present order shall dispose of RFA Nos.1946 to 1959 of 2018 as common law and facts are involved. The facts have been taken from RFA No.1946 of 2018.

Exemption applications:

Applications for exemption from filing the certified copy of judgment dated 13.11.2017 are allowed, subject to all just exceptions.

CMs stand disposed of.

Delay applications:

Applications for condonation of delay of 56 days in filling the appeals have been filed. In view of the averments made in the applications, duly supported by affidavit of the official, same are allowed and the delay in filling the appeals is condoned.

CMs stand disposed of.

Main case:

The State in the present set of appeals is aggrieved against

the award dated 13.11.2017 passed by the Reference Court, Jhajjar. Vide impugned award of the Reference Court, the compensation awarded by the Land Acquisition Collector, vide award dated 29.05.2014 has been enhanced from Rs.39,00,000/- per acre to Rs.55,23,148/- per acre by fixing the market price under Section 4 of the Land Acquisition Act, 1894 for notification dated 23.08.2012 of land falling in village Jhajjar which was acquired for the purpose of construction of New Bus Stand.

The basis for enhancement is that sale deeds Ex.P1 to P3, P6 and P8 were taken into consideration and after giving 12% annual increase average worked out to Rs.82,84,721/-. Thereafter 1/3rd cut was applied on account of development, waiting periods etc. and the market value was fixed as noticed above. One landowner namely Smt. Santosh was awarded a higher amount of Rs.97,46,125/- per acre since she had purchased the one piece of land which was acquired vide Ex.P1 on 23.05.2008 and resultantly, she was given the benefit of 12% enhancement and 1/3rd deduction was then imposed to grant higher compensation.

The counsel for the State has argued that some of the sale deeds are pertaining to small portion of land Ex.P1 which was for 1 kanal 10 marlas and Ex.P3 for 2 kanals 4 marlas. The said argument is noticed and liable to be rejected. The settled principle for assessing the market value is what a buyer is willing to pay to a person who is interested to sell but exemplars are the sale deeds of the area in question. The chart of the sale deeds which had been produced by the landowners prove the market value would go to show the value of the land in the area and the same is reproduced as under:

Sr. No.	Exhibit	Award/Sale deed no.	Date of registration/award	Area	Sale consideration (Rs.)	Per acre value (Rs.)	12% increment per year	Total value per acre as on 22.8.2012 (Rs.)	
1	Ex.P1	769	23.5.2008	1K-10M	18,15,000/-	96,80,000/-	49,39,187/- (from 23.5.2008 to 22.8.2012)	1,46,19,187/-	Jhajjar
2	Ex.P2	2226	25.7.06	1A-15M	55,00,000/-	50,28,571/-	Rs.36,71,821/- (from 25.7.06 to 22.8.12)	87,00,392/-	-do-
3	Ex.P3	2228	25.7.06	2K-4M	12,50,000/-	45,45,454/-	Rs.36,71,821/- (from 25.7.06 to 22.8.12)	82,17,275/-	-do-
4	Ex.P4	4749	17.1.05	18K	9,00,000/-	4,00,000/-	---	---	-do-
5	Ex.P5	608	14.5.08	700 Sq. Yards	21,00,000/-	1,45,20,000/-	Rs.74,56,517/- (from 14.5.08 to 22.8.12)	2,19,76,517/-	-do-
6	Ex.P6	6466	23.02.07	4A-7K-7M	1,35,00,000/-	27,10,163/-	Rs.17,92,717/- (from 23.2.07 to 22.8.12)	45,02,880/-	-do-
7	Ex.P7	325	24.4.08	454 sq yards.	13,62,000/-	1,45,20,000/-	Rs.75,51,991/- (from 24.4.08 to 22.8.12)	2,20,71,991/-	-do-
8	Ex.P8	6777	06/03/07	7A-6K-13M	2,54,52,000/-	32,50,055/-	Rs.21,33,817/- (from 6.3.07 to 22.08.12)	53,83,872/-	-do-
9	Ex.P9	7310	20.3.08	1000 sq.yards	22,00,000/-	1,06,48,000/-	Rs.56,60,652/- (from 23.3.08 to 22.8.12)	1,63,08,652/-	-do-
10	Ex.P10	1423	20.6.06	932 sq.yds.	10,25,200/-	49,61,968/-	Rs.36,80,285/- (from 20.6.06 to 22.8.12)	86,42,253/-	-do-
11	Ex.P11	1166	28.6.10	200 sq.yards.	6,30,000/-	1,52,46,000/-	Rs.39,44,746/- (from 28.6.10 to 22.8.12)	1,91,90,746/-	-do-

A perusal of the same would go to show that the average has been taken of a larger chunks of lands which are of 1 acre 15 marlas (Ex.P2), 4 acres 7 kanals 7 marlas (Ex.P6) and similarly Ex.P8 is of 7 acres 6 kanals 13 marlas. The above said sale deeds would go to show that the value per acre was Rs.50,28,571/-, Rs.27,10,163/- and Rs.32,50,055/- respectively. On the said amounts 12% simple increase has been granted to assess the market value by taking the average and thereafter, applying a development cut of 1/3rd. The reasoning of the Reference Court is also as per settled principles laid down for assessing the market value, which reads as under:

“21. After going through the sale deeds produced by the petitioners it is amply clear that the sale deeds are prior to the notification under section 4 of the Land

Acquisition Act. Learned counsel for the petitioners have placed reliance on the The General Manager, Oil & Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel & another 2008 (4) RCR (Civil) 487 (SC); Bimla Devi & ors. Vs. State of Haryana & ors. 2016(2) LAR 206 (P&H); and State of Haryana & ors. Vs. Nafe Singh & ors. 2017 (1) Law Herald 370 (P&H) to contend that 12% annual increase on the previous sale consideration was allowed in the urban areas to ascertain the market value of the acquired land on the basis of sale deed prior in time to the acquisition. Thus, in view of legal position referred above on the basis of the authorities of law relied upon by the learned counsel for the petitioners the annual increase @ 12% on the sale consideration may be allowed till date of acquisition. The sale deeds Ex.P1, Ex.P2, Ex.P3, Ex.P6 and Ex.P8 appear to be more proximate in area, time and location to the acquisition of land in the present case. The sale deed Ex.P1 pertains to the sale of some area acquired in this case. Vide sale deed Ex.P2 area sold is more than once acre and area sold in sale deed Ex.P3 is 2 Kanals 4 Marlas. Similarly, vide sale deed Ex.P6 the land sold was 4 acres 7 Kanals and 7 Marlas, while the sale deed Ex.P8 pertains to the sale of 7 acres, 6 Kanals and 13 Marlas of land. These all the sale deeds are between 2006 and 2008. However, the sale deed Ex.P4 which pertains to the year 2005 and is a sale for 18 Kanals, sale deed Ex.P5 which although pertains to the year of 2008 but is for the sale of land only 700 sq. yards, sale deed Ex.P7 for the sale of 454 sq. yards, sale deed Ex.P9 for the sale of 1000 sq. yards, sale deed Ex.P10 for the sale of 932 sq. yards and sale deed Ex.P11 for the sale of 200 sq. yards, all being for the sale of small areas in plots cannot be

taken into consideration for determination of the value of the acquired land, being more advantageous than the acquired land. Thus in order determine the base price the sale price reflected in the sale deeds Ex.P1 to Ex.P3 and Ex.P6 and Ex.P8 after 12% annual increase shows the average of Rs.82,84,721/- per acre, Keeping in view the land sold by the sale deeds to be of the developed area, the deduction of 1/3rd amount is to be applied and as such after deducting the 1/3rd amount on account of development waiting period etc. the market value of the acquired land would be Rs.55,23,148/- per acre.”

Resultantly, this Court is of the opinion that majority of sale deeds which have been produced to assess the market value cannot be faulted in any manner. The landowners have to be given their dues which is as per prevalent market rate and once they have brought on record sufficient evidence to show the value of the land by the above said exemplars which has been mentioned above, no fault as such can be found in the impugned award.

The sale instances of the State, Ex.R2 to R5 are below the amounts awarded by the Land Acquisition Collector ranging from Rs.15,50,000/- to Rs.31,91,892/- and sum of Rs.39 Lakhs per acre as noticed above has been awarded by the Land Acquisition Collector. The purpose for acquisition also cannot be lost out of sight in as much as it is for the construction of a New Bus Stand at Jhajjar. The plea of the landowners is also that land acquired is adjoining the National Highway No.71-A and near HUDA sector within the City Jhajjar and District Headquarter is hardly a distance of 1 K.M. from the acquired land and

town is situated 20 KM from the Delhi border. The potentiality aspect as is apparent from the fact that the bus stand would be in a central place on the basis of which the sale deeds have been brought on record and sufficient material was available before the Reference Court to assess the market value.

Resultantly, no ground is made out to interfere in the well reasoned award and the appeals are dismissed.

It is made clear that nothing said herein will affect the rights of the landowners in their set of appeals as that aspect has not been taken into consideration by this Court while dismissing the present appeals filed by the State.

With the main appeals having been dismissed, no separate orders are required to be passed in stay applications.

09.05.2018
pvd

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No