HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RFA No.460 of 1988
Date of Decision: 15.01.2019

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Durga Parsad & Ors. ... Appellants

VS.

State of Haryana ... Respondent

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

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Present: Mr. Shailendra Jain, Sr.Advocate with
Mr. Vikrant Rana, Advocate for the appellants

Mr. Sudeep Mahajan, Addl. AG Haryana and
Ms. Vibha Tewari, AAG Haryana

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G.S. SANDHAWALIA, J. (Oral)

(1) The present appeal under Section 54 of the Land Acquisition Act, 1894 arises out of the award of the Reference Court, Narnaul dated 28.09.1987 whereby the Reference Court has fixed the market value @ ₹ 70000/- per acre for *chahi* and ₹ 60000/- per acre for *gair mumkin* acquired land. The enhancement was from ₹ 60000/- per acre and ₹ 50000/- per acre as granted by the Land Acquisition Collector vide award dated 31.03.1986. The acquisition was initiated on 16.07.1981 under Section 4 for 48 kanals 10 marlas (approximately 6 acres) in Mahendergarh for construction of Housing Board Colony at Mahendergarh.

(2) Senior counsel has submitted that the market value was much more and therefore the compensation which has been granted is not justified. He also further submitted that once the land was being acquired as a uniform block for the purpose of having colony as such therefore compensation should not have been given on the type of land but on uniform basis.

(3) The State, on the other hand, has vehemently opposed any further enhancement and submitted that the enhancement was on the basis of

Ex.R1 which was executed 6 months earlier which is of the adjoining land and sale deed was 07.01.1981 for ₹ 18000/- for land measuring 1 kanal 13 marlas which was purchased by Surinder Kumar Joshi, Advocate.

(4) The Reference Court after examining the sale exemplars as such rejected Ex.P1 to P4 on the ground that the land was situated within the area of city and was not to be considered. Ex.P1 & P2 being post-acquisition of the year 1985 was another ground. Ex.P5 to P8 were rejected on the ground that it related to small pieces of land and were much prior the notification under Section 4. Similarly, Ex.P9 & P10 were also rejected which were of only 1 marla and 3 marla, respectively and were of the year 1984 and only showed trend of rise of prices. Award (Ex.P11) dated 25.07.1983 Bhawani Sahai & Ors. vs. State of Haryana whereby the compensation was fixed @ ₹ 2,42,200/-per acre was also discounted. The said award pertained to the land which was situated within the area where Civil Hospital, Police Station, Police Quarters, Banks, Cinemas, Shops and residential houses etc. were located and that land had potentialities for development of houses, shops etc. and was situated on the pucca road leading to Railway Station, Mahendergarh and which was acquired for the purpose of Canal Colony vide notification dated 11.08.1981, was the reason to not bank on the same.

(5) The Reference Court, thus, did not grant the same benefit to the petitioners on the ground that in the present case, the large part of the acquired land was not abutting the road leading to bus stand and there were less chances of development and therefore the said award was not relevant piece of evidence to be considered for determining the prevalent market value of the acquired land. It is in such circumstances that Ex.R1 was relied

upon by the Reference Court as relevant for determination of the prevalent market price by noting that the land was situated just adjoining to the acquired land and therefore the market value was enhanced to ₹ 70000/- per acre for *chahi* and ₹ 60000/- for *gair mumkin* land.

(6) A perusal of the record would show that it was pleaded that the land was situated in the most developed area of Mahendergarh town and was abutting on the main road leading to Narnaul and Charkhi Dadri and was located in front of Industrial Training Institute, Mahendergarh close to the Bus Stand, Courts, PWD rest House and the main market.

(7) A perusal of the deposition of PW1 Dharamvir Yadav, Advocate, Mohindergarh would show that some part of the acquired land abutted the main road and some part of it was at a little distance from the main road. Industrial Training Institute and RATC was in front of the acquired land across the main road. The kothis of OP Yadav, and KL Yadav, Advocates and residence of Bhagwan Das, Saw Mill Jayco Motors and Pipe Factory of Rangrao Singh abutted the acquired land towards the road. Towards the east of the acquired land, the Bus Stand Mohindergarh was situated in between the acquired land and Bus Stand, the residence of Kharwal Advocates, Offices and residences of PWD Department and various shops were situated. On the west of the acquired land, there were residential houses of the ITI and thereafter was the Saw Mill of Prem s/o Sheo Narain. In cross-examination, it came that only one kanal of land abutted the main road and the remaining land was situated at a distance of about 150/200 yards from the main road and the area of the front portion was about 60//70 feet in width and rest was on the back side. The witness admitted that he knew SK Joshi, Advocate and that he had purchased the

land from the petitioner in the year 1981 and this land adjoined the acquired land and his land fell nearer to road in the acquired land. It was also admitted that the entire area towards the south of the Kothi of Sh. OP Yadav was being used as agricultural land. There were shops which fell in between the acquired land and Bus Stand and some of them were constructed earlier and some were new and were situated along the road. Most of the city of Mohindergarh was situated towards the East of the Bus Stand.

(8) PW2 Tirlok Chand, the retired Naib Tehsildar also deposed that the land was situated on the main road leading to Narnaul and Dadri which linked it with the bus stand Mahendergarh. The ITI and Rural Artisan Centre were situated in front of the acquired land across the road. The acquired land was situated at a distance of three killas from the bus stand and the Sub Divisional Courts and the other offices were located at a distance of only one killa from the acquired land. ITI staff quarters abutted the acquired land towards west. As per the site plan (Ex.PW2/1), the acquired land was shown in yellow lines and only 7 karams acquired land abutted the main Narnaul-Dadri road. He deposed that 16 kothis and workshops were shown in the site plan which had been marked at Sr.No.1 to 16 and the same were in existence for last 15-16 years. The sale deeds and the dates had also been mentioned in the site plan. The new construction which took place after the aforesaid 16 buildings were also in existence and they consisted of one kothi of Sh. OP Yadav, Advocate and two boundary walls along with some foundations of some unknown person and one workshop, saw mill and three shops and one oil mill in the revenue estate of village Riwasa on the same road. The kothi of Om Parkash and the

boundary walls, the entire acquired land and its adjoining land towards south was being used for agricultural purpose.

(9) Similar was the deposition of PW3 Durga Prasad that the acquired land was situated on the main road leading from Mahendergarh to Dadri and Narnaul. He admitted that Canal Colony abutted the pucca road leading from Civil Hospital to Mandi and railway station.

(10) From the statement of RW1 NK Puruthi, Junior Engineer, Haryana Housing Board, Rohtak who had taken possession of the land, it came that main portion of the acquired land fell away from the road and only a strip of passage had been acquired to connect the main land with the road. Towards the North of the road on which the acquired land abutted, there existed ITI complex and other Government land and there was no prospect of further development on that side and towards south there was vacant land. Towards west of the acquired land there were four-five quarters of ITI complex and the other land was lying vacant. Towards the east, there was a nalla. The main city of Mahendergarh was situated towards east of the acquired land at a distance of one kilometer. PWD Rest House and Court premises were located at about half kilometer towards east of the acquired land after vacant land and thereafter there was vacant land and the bus stand of Mahendergarh was towards the east of the acquired land at about a distance of 500 yards and police station was also at a distance of about half kilometer.

(11) From the above evidence one fact would be clear that the land as such was situated in close vicinity of the bus stand and there were shops and civil hospital which were around 500 yards away. A perusal of the site plan Ex.PW2/1 as such would show that the Canal colony was situated

around the Civil Hospital and was farther away from the land in question and therefore the Reference Court was well justified in discarding the award Ex.P11. Reliance as such which has been placed upon the sale deed (Ex.R1) produced by the State as such cannot be discounted as argued by the counsel for the landowners. The market value of ₹ 18000/- for 1 kanal 13 marlas which works out to 999 sq.yards would come to ₹ 87,272/- per acre. Even if 20% deduction is taken on account of smallness of the plot since acquisition in the present case was of 48 kanals 10 marlas, the market value which has been granted as such would work out in the range of ₹ 69818/- per acre only. The only benefit which can be granted as such to the landowners to the extent is that since the potentiality of the land in question was obvious and the land was acquired for the Housing Board colony for uniform compact block, the landowners would be entitled to equal amount of compensation of ₹ 70000/- per acre across the board.

(12) Reference can be made to the observation in ***Haridwar Development Authority, Haridwar vs. Raghubir Singh etc. (2010) 11 SCC 581*** wherein the belting done away was approved. The relevant paras read as under:-

> *"6. The question whether the acquired lands have to be valued uniformly at the same rate, or whether different areas in the acquired lands have to be valued at different rates, depends upon the extent of the land acquired, the location, proximity to an access road/Main Road/Highway or to a City/Town/Village, and other relevant circumstances. We may illustrate:*

(A). When a small and compact extent of land is acquired and the entire area is similarly situated, it will be appropriate to value the acquired land at a single uniform rate.

(B). If a large tract of land is acquired with some lands facing a main road or a national highway and other lands being in the interior, the normal procedure is to value the lands adjacent to the main road at a higher rate and the interior lands which do not have road access, at a lesser rate.

(C) Where a very large tract of land on the outskirts of a town is acquired, one end of the acquired lands adjoining the town boundary, the other end being two to three kilometres away, obviously, the rate that is adopted for the land nearest to the town cannot be adopted for the land which is farther away from the town. In such a situation, what is known as a belting method is adopted and the belt or strip adjacent to the town boundary will be given the highest price, the remotest belt will be awarded the lowest rate, the belts/strips of lands falling in between, will be awarded gradually reducing rates from the highest to the lowest.

(D) Where a very large tract of land with a radius of one to two kilometres is acquired, but the entire land acquired is far away from any town or city limits, without any special Main road access, then it is logical to award the entire land, one uniform rate. The fact that the distance between one point to another point in the acquired lands, may be as much as two to three kilometres may not make any difference.

7. The acquisition with which we are concerned relates to a comparatively small extent of village land measuring about 38 bighas of compact contiguous land. The High Court was of the view that the size and situation did not warrant any belting and all lands deserved the same rate of compensation. The Authority has not placed any material to show that any area was less advantageously situated. Therefore the view of the High Court that compensation should be awarded at an uniform rate does not call for interference."

(13) Resultantly, the present appeal is partly allowed to the extent that the landowners would be entitled for uniform compensation of ₹ 70000/- per acre along with all statutory benefits.

15.01.2019 **(G.S. Sandhawalia)**
vvishal **Judge**

1. Whether speaking/reasoned? ***Yes***
2. Whether reportable? *No*