

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

RFA-1654-2004

Date of decision: 02.07.2019

Kartar Singh & others

Versus

....Appellants

Secy to Govt of Punjab & others

...Respondents

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

Present: Mr.Arun Jain, Sr.Advocate
with Mr.Amit Jain, Advocate,
Mr.Vijay Rana, Advocate, for the appellants.

Mr.I.S.Sidhu, Advocate, for the PGCI.

Ms.J.K.Sidhu, AAG, Punjab.

G.S. SANDHAWALIA, J.

The present appeals, bearing RFA-1403 to 1414-2004 and RFA-1121-2013, filed by the Power Grid Corporation of India and RFA-1650, 1651, 1653 to 1659-2004 and RFA-5499-2017, filed by the landowners, under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act'), are directed against the awards of the Reference Court, Jalandhar, dated 24.02.2004 and 26.09.2012, vide which, the market value has been enhanced from Rs.3 lakhs per acre to Rs.4 lakhs per acre, for the land adjoining the Jalandhar-Amritsar road and Rs.3,60,000/- per acre for the balance land.

The land measuring 98 acres was acquired for the public purpose of construction of a 400/220 KV Sub-Station, Kartarpur, vide notification under Sections 4 and 17, issued on 04.08.1995. Vide award No.4 dated 26.03.1997, the Collector fixed the compensation @ Rs.3 lakhs

RFA-1654-2004 & other connected cases

per acre for the whole block of the land. The landowners, being aggrieved against the market value which had been fixed, claimed higher compensation before the Reference Court, who came to the conclusion that the 4 sale deeds which had been exhibited, could not be made the basis for enhancing the compensation, keeping in view the fact that one of the sale deed was executed 5 months earlier and could be ignored. The purpose of acquisition was also kept in mind that the electricity grids are not set-up in the abadi area and therefore, the location of the land was 3 kms away from the Kartarpur town and the Railway Station was also 2/3 kms away from the acquired land.

Reliance was placed upon sale deeds (Exs.R2 to R5) produced by the respondents, which pertained to 23.12.2004, whereby land measuring 1 kanal was sold for Rs.1,75,000/-. Similarly, vide sale deed dated 18.01.1995 (Ex.R-3) also, land had been sold at the same rate as was the case of Ex.R4 dated 28.12.1994 & Ex.R5 dated 09.01.1995 which were also sold for the same rate. However, it was also noticed that they were below the amount which had been awarded by the Land Acquisition Collector and therefore, it was noticed that sometimes purchasers get the sale deeds registered at a low price in order to avoid payment of stamp fee and other expenses. However, keeping in view the fact that the land was falling on the Amritsar-Jalandhar road, the amount was enhanced by Rs.1 lakh, as noticed above, for the land adjoining the GT road and by Rs.60,000/- for the balance portion while disposing of twenty reference petitions on 24.02.2004.

A perusal of the record of LAC-14-1998 titled ***Kartar Singh***

RFA-1654-2004 & other connected cases

& others Vs. Secretary to Government, Department of Irrigation & Power, Punjab, Chandigarh & others would go on to show that the landowners have pleaded that Kartarpur town was famous for manufacture of furniture and toys and in this respect, the town is on the world map and many industrial units have come up on the GT Road. There was no land available from Jalandhar upto Kartarpur on account of acquisition for ITBP, Depot, CRPF, Engineering College (Ambedkar University) and therefore, the land especially towards GT road towards Amritsar was being used for commercial purposes. There were 2 cold storages near the land of the landowners and Kartarpur town was a Municipal Committee, having a college, 2 high schools, Railway Station, Police Station, Sub-Tehsil, Head Quarter, Civil Hospital, Block Development Office and all amenities of life. The same was suburb of Jalandhar City and was a fast developing town near Jalandhar and had religious connection having the link with the Great Gurus. There was a colony namely Vasant Vihar which had come up across on the GT road wherein the land was sold for Rs.20,000/- per marla, the value of which comes to Rs.32 lakhs per acre. Even by applying a 50% deduction, the value could not be less than Rs.16 lakhs and accordingly, a sum of Rs.12 lakhs was claimed per acre. Reference of 3 sale deeds was given in para 5 whereby the market value of the land would work out, as under:

“Date of Sale Deed	Area	Amount
10-3-1995	1-0	1,96,000-00
10-3-1995	1-0	1,96,000-00
5-6-1995	0-13	1,43,000-00”

RFA-1654-2004 & other connected cases

In reply to the said petition filed under Section 18, the claim of the value of the land @ Rs.16 lakhs was denied and the plea taken was that the land was agricultural in nature at the time of acquisition. The damages which was claimed @ Rs.10,000/- per acre on account of 3/4th of the land having been acquired, was denied on the ground that the Land Acquisition Collector had granted the said benefit of Rs.10,000/- per acre, whereby more than 3/4th of the land had been acquired and where landowners had been left with less than 2 acres of land. It was pleaded that the landowners had been duly compensated on account of acquisition, after taking into consideration all aspects and the amount was more than what the sale deeds were executed and the amount had to be calculated from the sale transactions executed prior to one year of the publication of the notification. The execution of the sale deeds, as mentioned above, were not admitted in para 5. But no such plea was taken that they had been executed for the purpose of enhancing the market value prior to the issuance of the Section 4 notification.

PW-1, Jit Singh had stated that DAV College, Jalandhar was situated within the range of 18 kms from the acquired land and the land was Chahi in nature. The Hameera Sugar Mill was also at a distance of 2 kms from the acquired land and there were hospital and cold storages in Village Kartarpur, there was Market Committee also and the acquired land being situated on the Amritsar-Jalandhar road, was very valuable. Kartarpur was known as the best furniture market of the Northern India and the acquired land could have been used for the purposes of setting up business. Similar was the statement of PW-2, Surinder Singh, claimant

that there was potentiality regarding the land which could be used for commercial as well as residential purposes, falling near Village Dyalpur and Jagjit Distillery at Hamira. Rakesh Gupta, Deputy Manager, Power Grid Corporation, was examined and he stood by the claim that the land was agricultural in nature and was situated at a distance of 3 kms from Kartarpur. He admitted that Aggarwal Cold Storage was situated near the acquired land and some portion was situated on the front side and other at the back side but the rate assessed was as per average. No special compensation had been given to the persons whose land was situated on the front portion of the G.T.Road.

Keeping in view the evidence which had come on record, the following sale deeds have been duly considered:

Sr. No.	No.of Ext.	Land sold	Sale consideration	Date of Transaction	Rate per acre
1	Ext.P-2	14K-04M	Rs.14,57,500/-	14.10.99	Rs.8,71,831/-
2	Ext.P-3	1Kanal	Rs.1,96,000/-	10.3.95	Rs.15,68,000/-
3	Ext.P-4	0K-12M	Rs.1,00,000/-	7.11.97	Rs.13,33,333/-
4	Ext.P-5	0K-12M	Rs.1,00,000/-	29.8.97	Rs.13,33,333/-

Thus, it would be apparent that on the earlier occasion, sale deed dated 10.03.1995 had been duly relied upon which has been duly exhibited as Ex.P3 whereby market value works out to Rs.15,68,000/- per acre. The other sale deeds exhibited as Ex.P2, P4 &P5 are all post-dated and not liable to be taken into consideration. Merely because the land was measuring 1 kanal was not a ground, as such, to reject the sale deed. It is settled principle that the potentiality of the land is to be taken into consideration and appropriate deduction could be made on the same for

RFA-1654-2004 & other connected cases

the purpose of the smallness of the plot and on account of development cut. Reliance can be placed upon the judgment in **Major General Kapil Mehra & others Vs. Union of India & another (2015) 2 SCC 262.**

Relevant portion of the judgment reads as under:

“14. While taking comparable sales method of valuation of land for fixing the market value of the acquired land, there are certain factors which are required to be satisfied and only on fulfillment of those factors, the compensation can be awarded according to the value of the land stated in the sale deeds. [In Karnataka Urban Water Supply and Drainage Board and Ors. v. K.S. Gangadharappa & Anr.](#), (2009) 11 SCC 164, factors which merit consideration as comparable sales are, interalia, laid down as under:-

“It can be broadly stated that the element of speculation is reduced to minimum if the underlying principles of fixation of market value with reference to comparable sales are made:

(i) when sale is within a reasonable time of the date of notification under [Section 4\(1\)](#);

(ii) It should be a bona fide transaction;

It should be of the land acquired or of the land adjacent to the land acquired; and It should possess similar advantages.

It is only when these factors are present, it can merit a consideration as a comparable case ([See Special Land Acquisition Officer v. T. Adinarayan Setty](#) (AIR 1959 SC 429) These aspects have been highlighted in [Ravinder Narain v. Union of India](#) (2003) 4 SCC 481.”

xxxx xxxx xxxx

20. Where the lands acquired are of different type and different locations, averaging is not permissible. But where there are several sales of similar lands, more or less, at the same time, whose prices have marginal variation, averaging

thereof is permissible. For the purpose of fixation of fair and reasonable market value of any type of land, abnormally high value or abnormally low value sales should be carefully discarded. If the number of sale deeds of the same locality and the same period with short intervals are available, the average price of the available number of sale deeds shall be considered as a fair and reasonable market price. Ultimately, it is in the interest of justice for the land losers to be awarded fair compensation. All attempts should be taken to award fair compensation to the extent possible on the basis of their accessibility to different kinds of roads, locational advantages etc. Four perpetual lease deeds A-7 to A-10 relied upon by the appellants are of the same locality – Vasant Kunj Residential Scheme and relate to the period ranging from September 1995 to December 1996, but they are just prior to [Section 4\(1\)](#) notification. In our view, the High Court was justified in taking the average of the said four exemplars and approach adopted by the High Court in averaging the sale prices of Exs A7 to A10 cannot be said to be perverse.”

It is not disputed that the land in question is situated in National Highway No.1, which is also known as 'Sher Shah Suri Marg', leading to Amritsar and was smack on the Highway and was close to the town. The potentiality of the said land cannot be disputed in any manner. Similarly, it is not the case of the respondents that the land was disadvantaged or low-lying in any manner whereby lessor amount of compensation should be granted. Merely because the sale deed is dated 10.03.1995 is not the ground to discount the same, as has been done by the Reference Court, rather a proximate sale deed is to be kept in mind for awarding just and fair compensation. Sale deeds much prior in time are also to be discarded. Reliance can be placed upon the judgment of a 3

RFA-1654-2004 & other connected cases

Judges Bench of the Apex Court in **Chandra Bhan (D) thr. LRs & others Vs. Ghaziabad Development Authority & others 2015 (15) SCC 343**. In the said case, the sale deed was just a month earlier and the benefit was granted, as the sale exemplars were of 150 sq.yards and 57 sq.yards dated 07.09.1988 and 23.08.1988 and the date of notification was 16.08.1988, which was relied upon to fix the market value by applying a 30% cut on the average. Relevant portion of the judgment read as under:

“24. Under the circumstances, the Reference Court was justified in relying upon the two sale deeds executed before the last date of publication under Section 4 of the Act, that is, 1st October, 1988. As mentioned above, Exhibit 16A was executed on 11th July, 1988 and Exhibit 18C was executed on 23rd August, 1988 well before the last date of publication of the Notification under Section 4 of the Act. In our opinion, the High Court erroneously took the view that reliance should not be placed on these sale deeds since they had come into existence either just before the issuance of the Notification under Section 4 of the Act or soon after the issuance of that Notification insinuating thereby that the sale deeds did not reflect the true market price of the land that was sold through those sale deeds.

25. The High Court was also in error in coming to the conclusion that because the two sale deeds Exhibit 16A and Exhibit 18C relate to small parcels of land (150 sq.yds. and 57 sq. yds. respectively) they could not be used as exemplars for determining the market value of the acquired land. It is true that the sale deeds pertain to small parcels of land but it is not usual to find sale transactions of large tracts of land that could give some indication of the market value of the acquired land. In fact, in *Special Land Acquisition Officer and another v. M.K.Rafiq Saheb*, (2011) 7 SCC 714 it was observed that in

the normal course it is hardly possible for a claimant to produce sale instances of large tracts of land. In paragraph 24 of the report it was held as follows:-

“It may also be noticed that in the normal course of events, it is hardly possible for a claimant to produce sale instances of large tracks of land. The sale of land containing large tracks are generally very far and few. Normally, the sale instances would relate to small pieces of land. This limitation of sale transaction cannot operate to the disadvantage of the claimants. Thus, the Court should look into sale instances of smaller pieces of land while applying reasonable element of deduction.”

A perusal of Ex.R2 to R5 would go on to show that there was one common thread running in the said sale deeds is that the market value is Rs.1,75,000/-. It is but obvious that the purpose of getting the sale deeds registered on the said rates would be at the Collector's rate and therefore, uniformity in price for the 8 kanals sold. It is well known that sale deeds are always executed at the Collector rate which is generally below the market value, to avoid impounding and rather the uniform rate of sale consideration ranging from December, 1994 to January, 1995 would only go on to show that these sale deeds were being executed at a uniform rate and were, thus, grossly undervalued.

The other issue which arises for consideration is whether the Reference Court was correct in applying the belting system as the land which is acquired is 783 kanals 14 marlas and works out to around 98 acres and is for a public purpose, i.e., for construction of a Sub-Station. Thus, it is not a case of setting up a residential or a commercial colony

RFA-1654-2004 & other connected cases

and there would be minimum wastage of land and therefore, the respondents cannot plead that there has to be a development cut. In **Lal Chand Vs. Union of India and another 2009 (15) SCC 769**, 40% development cut had been applied by the Apex Court on account of the land being close to Municipal limits. The issue of land being acquired for industrial purposes and the wastage being minimal, was also discussed. Similarly, in **Chakas Vs. State of Punjab & others 2011 (10) SCR 618** also, uniform compensation had been awarded for 550 acres which had been acquired for the purpose of a Industrial Corporation. Resultantly, only a 10% development cut had been applied as most of the land would have been utilized by the Corporation. The relevant portion reads as under:

“19. The Reference Court committed a grave error in deducting 50% of the value assessed by him, towards development charges and further reduced the said amount for the reasons not assigned by him. The learned Single Judge vide the impugned judgment has enhanced the amount of compensation but committed an error in fixing the base price as 2,75,000/- per acre for the acquired land, applying the doctrine of reasonable cut to the average price worked out by him at Rs.3,42,527/- per acre. We do not approve of the reasonings adopted either by the reference Court or by the High Court. How much amount is to be deducted from the base price would depend on various factors.

20. As mentioned hereinabove, in the case in hand the bulk of the land that is almost 525 acres has been given to respondent No.3, the Corporation for setting up its own industry and other infrastructure thereon. Thus, the lands likely to be used towards roads, sewage and other such facilities would be minimum as most of the vacant land would be utilised by respondent No. 3 for its own benefits.

21. Needless to say, once the industry is set up, it would be for the financial benefit and gain of respondent No.3 year after year. Thus, looking to the matter from all angles, respondent No. 3 - Corporation would be a great beneficiary at the cost of depriving the appellant - land owner of his sole livelihood of agriculture.”

The Collector, vide its award, specifically noticed that a path has to be provided for the balance land and has changed the path to the edge of the acquired land. It had also been noticed that the Punjab Government had desired that the Power Grid Corporation shall employ one member from each of the family whose land had been acquired and necessary directions had also been issued. An extra amount of Rs.10,000/- had been awarded per acre in addition for those persons whose more than 3/4th land had been acquired and they would be injuriously affected on account of the acquisition forcing them to shift from their place of residence and occupation. Similarly, Rs.10,000/- per acre in addition had been awarded for the land which had been left from acquisition and which is less than 2 acres, as it would not be viable for agricultural use. While assessing the market value, it had been noticed that the District Collector had sent two rates, one for the Chahi land and one for GT road, upto 1 acre, @ Rs.2,66,147/- and Rs.3 lakhs per acre, which had been proposed. However, the LAC granted Rs.3 lakhs as uniform compensation as it was a whole block of land which was acquired, keeping in view the proximity of the acquired land to the GT Road and the overall development vis-a-vis the construction of a cold storage adjacent to the land, a residential colony opposite it and the proximity to the town of Kartarpur. The under-valuation of the sale

RFA-1654-2004 & other connected cases

deeds was also kept in mind.

Thus, it is apparent that the LAC had also granted uniform compensation and the Reference Court was in error in resorting to the belting system as one compact piece of land was acquired. The Apex Court in **Haridwar Development Authority, Haridwar Vs. Raghbir Singh and others'** 2010 (11) SCC 581 had granted uniform compensation on account of the land being contiguous, falling on the Highway and being developed for housing project. In **HSI IDC Vs. Pran Sukh'** (2010) 11 SCC 175, whereby the land was acquired for Industrial Model Township of Gurugram, the Apex Court granted a sum of Rs.20 lakhs per acre as uniform compensation.

Thus, keeping in view the close proximity and the fact that there was a cold storage in proximity and housing colony opposite the road and the potentiality of the land, this Court is of the opinion that appropriate deduction should have been applied on the sale exemplar dated 10.03.1995. Keeping in view the judgment of the Apex Court in **Chandrashekar (D) by LRs & others Vs. Land Acquisition Officer & another** 2012 (1) SCC 390, whereby it has been held that deduction could go upto 75%, this Court deems it fit to place a cut of 60% on both accounts (development and smallness) on Rs.15,68,000/- (Ex.P-3) and the amount works out to Rs.9,46,800/-. Therefore, the market value of the land acquired works out @ Rs.6,27,200/- per acre along with all statutory benefits. The said amount of compensation would offset and being inclusive of damages which has been suffered by the landowners, as has also been noticed by the LAC. The present appeals, filed by the

RFA-1654-2004 & other connected cases

landowners are, accordingly, partly allowed, to the above extent.

However, in RFA-5499-2017, the landowner shall not be entitled for the benefit of interest for the period of 4366 days, on the enhanced compensation i.e., the period of delay in filing the appeal against the second award dated 26.09.2012. The appeals filed by the Power Grid Corporation are, hereby dismissed.

02.07.2019	(G.S. SANDHAWALIA)
Sailesh	JUDGE
Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No