

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

\*\*\*\*

**RFA No.438 of 2012**

**Date of Decision: 08.02.2019**

\*\*\*\*

Bhajan Lal (since deceased) through his LRs ... Appellant

VS.

State of Haryana & Anr. ... Respondents

\*\*\*\*

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

\*\*\*\*

Present: Mr. PS Jammu, Advocate and  
Mr. IS Brar, Advocate for the appellant

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

\*\*\*\*

**G.S. SANDHAWALIA, J. (Oral)**

(1) The present judgment shall dispose of RFA Nos.438 to 441, 2138 to 2140 of 2012 under Section 54 of the Land Acquisition Act, 1894 arising out of the award of the Reference Court, Sirsa dated 30.11.2011. The Reference Court had fixed the market value @ Rs.602/- per sq.yard (₹ 29,13,680/- per acre) for the notification dated 19.11.2003. The land which was sought to be acquired measured 78 kanals 19 marlas in village Shergarh, District Sirsa for the public purpose for construction of sewerage treatment plant and Disposal Works, Dabwali.

(2) The Land Acquisition Collector vide award dated 16.12.2005 had awarded ₹ 5 lakhs per acre. The ground for enhancement is an earlier award dated 23.10.2007 (Ex.P2) which was for the notification dated 23.07.1997 whereby ₹ 350/- per sq.yard had been awarded (₹ 16,94,000/- per acre). By granting 12% cumulative increase for the difference of 6 years, the Reference Court enhanced the compensation.

(3) Counsel for the landowners has accordingly argued that in RFA No.1389 of 2008 (Diwan Singh & Ors. vs. State of Haryana & Ors.) and

other connected appeals, the landowners for the notification dated 23.07.1997 have been able to get further enhancement and the market value was fixed @ ₹ 893/- sq.yard (₹ 43,22,120/- per acre) on the ground that 15% cumulative increase has been granted. It is submitted that the matter has been further upheld by the Apex Court on 05.09.2016 in SLP No.25283 of 2016. It is accordingly submitted that enhancement should be granted keeping in view the market value fixed @ ₹ 893/- per sq.yard on the same principle.

(4) The State on the other hand has seriously opposed such an approach and has rightly placed reliance upon the judgment of **The General Manager, Oil and Natural Gas Corporation Ltd. vs. Rameshbhai Jivanbhai Patel & Anr. (2008) 14 SCC 745;** and **Loveleen Kumar & Ors. vs. State of Haryana & Ors. (2018) 7 SCALE 596;** and **Manoj Kumar etc. vs. State of Haryana etc., (2017) 12 SCALE 731** . It is submitted that there is a difference of over 5 years between the two notifications and the Apex Court has not appreciated applying the principle of cumulative increase beyond 5 years in the above-stated judgment. It was further held that the sale exemplars are the best piece of evidence to fix the market value.

(5) It is further brought to the notice of this Court that for similar acquisition prior in point of time, a notification was issued on 16.05.2002 for around 28 acres which was for the construction of Chaudhary Devi Lal Memorial Navodaya Vidyalaya wherein the Land Acquisition Collector had awarded ₹ 3 lakhs per acre and the Reference Court had enhanced the value to ₹ 1619/- per sq.yard (₹ 78,35,960/- per acre) upto the depth of 150 feet and ₹ 681/- per sq.yard (₹ 32,96,040/- per acre) beyond 150 feet. It is submitted that even reference had been made to the said acquisition and the

award of the Reference Court Ex.P1 wherein the above amount had been awarded on the ground that it was situated opposite to the land acquired and therefore the said award would have relevance. It is a different matter that the said award was not as such relied upon, however, the enhancement has been granted on the basis of Notification dated 23.07.1997 prior in time which in any way is not sustainable in view of the Apex Court judgments referred to above.

(6) A perusal of Ex.P10 site plan would go on to show that the acquired land is situated right opposite to Navodaya school which was subject matter of notification dated 16.05.2002. In the case of the said acquisition, in RFA No.5158 of 2008 State of Haryana vs. Chetin Kaur & Anr. decided on 04.04.2018, this Court while deciding the issue on remand from the Apex Court had further remanded the matter to the Reference Court. The reasoning for the said remand is that the earlier awards cannot be a sole consideration and cumulative increase is not liable to be granted on that basis. Similarly, Reference Court had relied upon the location of the land of the stadium for sports complex which was acquired on 23.07.1997. Accordingly, the Court has observed that the distance of stadium is not reflected in the site plan. The observations of this Court reads as under:-

*“In such circumstances, mere reliance upon earlier award which is pertaining to acquisition of the land for the Stadium for the construction of sports complex could not have been the sole reliance for fixing the market value by granting 12% increase which has been granted by the Reference Court. No doubt the land is situated within the municipal limits and from the site plan it is clear that it has certain potentials as it is*

*2 km from the Judicial Court Complex and 04 kms from the Gol Chowk. It is pertinent to notice that on the site plan the stadium has not also been depicted and therefore, the distance as such from the said stadium of the earlier acquired land is also not clarified and therefore reliance as such on the earlier award as such is without any basis. However, keeping in view the site plan Ex.P/1, this Court is of the opinion that an opportunity should be given to the landowners to bring on record relevant material to show what was the market value in the vicinity at the time of Section 4 notification dated 16.02.2002 since the land was acquired under the principle of eminent domain and the landowners are entitled for compensation at market value as such.*

*Accordingly, the State appeals are allowed and award of the Reference Court dated 13.06.2008 and 14.06.2008 are set aside. The Reference Court will decide the issue afresh. It will be open to the landowners to bring on record relevant material and the reference Court will grant two adequate opportunities to the landowners for the said purpose. The State will be also given adequate opportunity as such to rebut the material which comes on record. Needles to say that whatever has been received by the landowners for the time being shall not be recovered from them till the reference Court re-decide the petitions. Since the matter is of the year 2002, the Reference Court is requested to complete proceedings within six months from the date of receipt of certified copy of this order.*

*Resultantly, the appeals of the landowners have been rendered infructuous and are disposed of in the same terms.”*

(7) A perusal of the site plan herein would go on to show that the stadium apparently seem to be at a considerable distance from the land in question and also is not situated on the same road and is on National Highway No.10. The land which is subject matter of acquisition is on Dabwali/Chautala road and therefore there would be but natural variance in the market value. This exercise would have to be carried out by the Reference court by taking appropriate sale exemplars and keeping them in mind as on the date of Section 4 notification. Since the land is situated opposite each other and in the case of **Chetin Kaur** (supra), the matter has been remanded, it would also be appropriate to follow the same course of action also.

(8) Accordingly, the appeals of the landowners are remanded for afresh decision in the above terms. Needless to say that the landowners shall be given the same benefit to lead evidence as granted on an earlier occasion and appellants will appear before the District Judge, Sirsa on 05.03.2019.

(9) Ordered accordingly.

**08.02.2019**

*vvishal*

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

1. Whether speaking/reasoned?  
2. Whether reportable?

**Yes/No**  
**Yes/No**