IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA Nos. 2129 of 2013 and other connected cases
Date of decision:22.11.2019

Jaggan and others ....Appellant(s)

Versus

State of Haryana and others ...Respondent(s)

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

Present: Mr. Pawan Kumar, Senior Advocate with
Mr. Surya Kumar, Advocate,
Mr. Anshuman Mandhar, Advocate and
Mr. Mandeep S. Bedi, Senior Advocate with
Mr. Sidhant Nehra, Advocate,
Mr. Rajat Garg, Advocate for
Mr. Aditya Jain, Advocate,
Mr. Sanjay Vij, Advocate,
Mr. Sanjay Vashisth, Advocate,
Mr. Harsh Bunger, Advocate,
Mr. Udit Garg, Advocate
Mr. Gurpreet Singh, Advocate for
Mr. Saurabh Arora, Advocate,
Ms. Nitika Sharma, Advocate for
Mr. Aashish Chopra, Advocate,
Mr. Suresh Kumar Kaushik, Advocate,
Mr. Sonu Giri, Advocate for
Mr. Sandeep Sharma, Advocate,
Mr. Atul Yadav, Advocate,
Mr. Rohit Sud, Advocate,
Ms. Monika Singh, Advocate for
Mr. Amit Kumar Jain, Advocate
Mr. Harshit Anand, Advocate for
Mr. Shekhar Verma, Advocate,
Mr. Munfaid Khan, Advocate,
Mr. J.L.Malhotra, Advocate,
Mr. Akash Sridhar, Advocate for
Mr. Ashwani Talwar, Advocate,
Mr. Ashok Tyagi, Advocate,
Mr. J.S. Saneta, Advocate,
Mr. Rishabh Goel, Advocate for
Mr. Lokesh Sinhal, Advocate,
Mr. Rajni Kant, Advocate for
Mr. Rakesh Dhiman, Advocate,

Mr. Abhishek Sharma, Advocate,
Mr. Ashish Gupta, Advocate,
for the landowners.

Mr. Sudeep Mahajan, Addl. AG Haryana with
Mr. Abhinash Jain, AAG, Haryana.

G.S.SANDHAWALIA, J.

The present judgment shall dispose of 95 appeals i.e. RFA Nos. 2129 of 2013 (O&M) and other connected appeals bearing RFA Nos.488, 2005 to 2021, 2130, 2131, 2203 to 2207, 2221, 2222, 2310, 2320, 2334, 2341, 2349, 2352, 2374, 2619, 2798, 2871, 2983 to 2998, 3370, 3512, 3858 to 3869, 4010, 4011, 4479, 5241, 5421, 5455 to 5458 of 2013, RFA Nos.2169, 2453 to 2455, 2759, 5269, 6118, 9448 of 2014, RFA Nos.129, 130, 1394, 1395, 4558 of 2015, RFA No.462 of 2016, 3647 of 2017, 4610 of 2018 and 3510 of 2019, since common questions of facts and law are involved in all the appeals. Facts are being taken from ***RFA No. 2129 of 2013, Jaggan and others vs. State of Haryana and others.***

The present appeal has been filed under Section 54 of the Land Acquisition Act, 1894 (in short 'the Act') against the award of the Reference Court dated 30.11.2012 whereby, the Reference Court, while deciding LAC No. 174 of 2010, Jaggan and others vs. State of Haryana and others, fixed the market value at Rs.1,99,80,000/- per acre. The basis of enhancement from Rs.70,00,000/- per acre as given by the Collector vide award No. 39 dated 12.08.2009 was the sale deeds Exs. P-15 to P-17 dated 24.04.2008 which were kept into consideration and average was taken out to fix the market value at Rs.4,44,00,000/- per acre. A 55% cut was applied on the same to bring the market value at Rs.1,99,80,000/- per acre. The Reference Court, vide subsequent awards dated 13.11.2013, 23.11.2013, 23.08.2014, 28.10.2014, 31.10.2014, 02.12.2014, 04.12.2015, 19.03.2016, 19.05.2016 and 02.08.2018 followed the earlier award dated 30.11.2012. The land which was acquired vide notification dated 24.06.2008 for village Medawas was for the public purpose of development and utilization of land for sector roads 58 to 67, Gurgaon and measured 109.59 acres as per the award of the Land Acquisition Collector.

Counsel for the land owners accordingly submitted that the highest sale deed in question (Ex.P-15) for Rs.4,44,61,538/- should have been taken into consideration and the cut as such should be reduced which was on the higher side. It is pointed out that State appeals being RFA No. 1493 of 2013 had already been dismissed on 18.07.2013.

State, on the other hand, has submitted that the sale deeds have been executed in favour of the same vendee, who is a builder namely Martial Buildcon Pvt. Ltd and even the vendor is common namely Hardeep Singh. It is submitted that if all the sale deeds are taken into consideration since their sale considerations are in a narrow bandwith, the principle of averaging is the right formula which has been applied. Reliance is placed upon the judgment of the Apex Court in ***Chanderashekhar vs. Land Acquisition Officer, 2012 (1) SCC 390*** to submit that the development cut as such could go upto 75% and, therefore, the amount awarded is just and is not liable to be interfered with and there is no case for further enhancement made out. It is further submitted that the Apex Court in ***Ram Kanwar and others vs. State of Haryana and another, 2015 (1) RCR (Civil) 234*** has upheld the cut of 50% on account of the keenness of the builders shown in acquiring the properties.

The Reference Court also noticed that Ex.P-21 showed a high spike in prices and land measuring 4 kanals had been sold at

Rs.14,15,00,000/- per acre on 21.07.2006. It was further noticed that the average sale instances otherwise were of Rs.3,55,00,000/- per acre. It is, thus, noticed that Ex.P-21 was not depicting the correct market price. Similarly, Exs.P-27/A dated 07.03.2008 for 12 kanals land was also noticed whereby, the market value was Rs.3,40,00,000/- per acre but it was held that land was located at a far away place from the revenue estate of the village and from the acquired land though it was closest to the date of Section 4 notification. Thus, reliance had been placed upon Exs.P-15 to P-17 being more proximate in time and location to the acquired land. However, keeping in view that it was in the midst of the developed area, reduction was made on the best price to balance the sale price and the cut of 55% was put for development infrastructure, development expenditure and waiting period. The claim of the land owners, that since the land was being acquired for roads and no cut was to be applied was rejected.

A perusal of the record would go on to show that the enhancement was sought on the ground that the land was situated in the close vicinity of developed colonies like Malibu Town, South City, DLF, Unitech, Greenwood and Rosewood which were located within radius of 1 to 2 kilometers from the land. Sectors 38 to 41, 44 to 47 and 57 had already been developed by HUDA and accordingly, market value at Rs.50,000/- per square yard was prayed for. PW-3 Kanshi Ram Dahiya, the draftsman proved the site plan Ex.P-28, which had been prepared after inspecting the spot on the basis of the *Aksh Shajra* issued by the Revenue Patwari. Sale deeds Exs.P-1 to P-7 were shown in the site plan in blue colour and the land of the petitioner was shown in red colour. The licensed land was shown in yellow colour and the land for which the DTPO had already granted Change of Land Use (CLU) had been shown in green colour. The relevant sale deeds which are of reasonable size and of village Medawas and which are closest to the date of notification can be summarized as under:-

Sr. No.	Exh. No.	Vasika No.	Date	Land Area		Total Sale consideration	Rate Per Acre	Revenue Estate
				K	M			
7	P12	17933	30.11.2007	13	1	6,38,56,000	3,91,45,440	Medawas
6	P11	18197	03/12/07	6	18	3,14,81,000	3,64,99,710	Medawas
8	P13	18032	30.12.2007	16	0	7,30,00,000	3,65,00,000	Medawas
24	P27/A	28438	07/03/08	12	0	5,10,00,000	3,40,00,000	Medawas
10	P15	2154	24.04.2008	5	4	2,89,00,000	4,44,61,538	Medawas
11	P16	2155	24.04.2008	6	17	3,80,00,000	4,43,79,562	Medawas
12	P17	2156	24.04.2008	16	1	8,90,00,000	4,43,61,370	Medawas

A perusal of the above sale deeds would, thus, go on to show that the market value as such has a steady rise from around Rs.3.65 crores to rise up and steady at the average which has been worked out by the Reference Court at Rs.4,44,00,000/- per acre. This Court has been consistently applying the principle of 50% cut on builder sale deed in view of the fact that builders have keen interest in purchasing the properties at high prices also to build up their land bank and keeping in view the law laid down by the Apex Court in *Ram Kanwar's case (supra)*, which reads thus:-

> *"19. In the instant case, though the sale deeds were for part of lands which were acquired by the acquiring authority under the notification, the said sale deeds indicated an abnormal increase of more than 100% in less than four months. It is not a far reaching implication of the said land being in the vicinity of area under development or already developed, which attributed additional locational advantages leading to escalation of the sale price at which a buyer would purchase the lands. Another fact noticed by the High Court is that the buyers for all these sale transactions had vested interest in the land adjoining or around the properties in such transaction.*
>
> *20. In light of the aforesaid, it can be concluded*

that the buyers would not have hesitated in offering higher prices to purchase the lands than the market rate of such lands and, therefore, in determination of compensation payable to the land-losers, such price could not be relied upon without making necessary deductions bringing it at par with the estimated fair market value of the acquired lands. In our considered view, the High Court has correctly made appropriate deductions to the consideration offered under the sale deeds produced and marked in the evidence while assessing fair and true market value of the acquired lands on the date of issuance of Section 4 notification."

In such circumstances, this Court is of the opinion that instead of a 55% cut as applied by the Reference Court, 50% cut should be applied upon builder sale deeds, as has also been done for the adjoining villages Ullawas, Behrampur, Kadarpur, Ghata, for which the land was acquired for the same notification. Thus, the market value would work out at Rs.2,22,00,000/- per acre. It is also to be noticed that Medawas is located below village Nangli Umarpur and on the eastern side of village Badshahpur. It is flanked on the eastern side by village Kadarpur on the south eastern side and Ullawas on the north eastern side. Similarly, Behrampur which is situated east of Ullawas and Kadarpur, the market value has been fixed at Rs.1,67,00,000/- per acre. This Court has fixed the market value at Rs.2 crores for village Ullawas for the same notification. For Kadarpur which is on the southern side in comparison to the heart of Gurgaon market value has been fixed at Rs.1,50,00,000/- per acre since the said village is far away from the main Sohna road and furthest away.

In such circumstances, the appeals of the land owners are liable to be allowed to the extent that the cut is liable to be reduced by 5% and fixed at 50% on account of the sale exemplar being in favour of builders. Thus, the market value is assessed at Rs.2,22,00,000/- per acre alongwith all statutory benefits.

22.11.2019 (G.S. SANDHAWALIA)
shivani JUDGE

Whether reasoned/speaking Yes/No

Whether reportable Yes/No