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

407 **RFA No.2573 of 2013 (O&M) and other connected appeals
Reserved on : 17.10.2019
Pronounced on : 01.11.2019**

Hem Chander & others

... Appellants

Versus

State of Haryana and others

... Respondents

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

Present: Mr. Shailendra Jain, Senior Advocate with
Mr. Vikrant Rana, Advocate
Mr. Sandeep Sharma, Advocate,
Mr. Amit Jain, Advocate
Mr. Ashok Tyagi, Advocate
Ms. Bhanvi Sood, Advocate, for
Mr. Aditya Jain, Advocate
for the landowners.

Mr. Sudeep Mahajan, Addl. AG, Haryana.
Ms. Vibha Tiwari, AAG, Haryana.

G.S. Sandhawalia, J.

The present judgment shall dispose of 25 appeals bearing RFA-2573, 2574, 2575, 2896, 3840, 3841, 3842, 4831, 5601, 6381, 6382, 6383, 6384, 6385, 6386, 6904, 6905, 6906, 6907 & 6908-2013, RFA-1498,1499 & 4993-2014, RFA-37 & 75-2015, filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') by the landowners against the Award dated 25.01.2013 passed by the Reference Court, Gurgaon. The land acquired falls in village Mohamadheri pertaining to the notification dated 13.01.2010 issued under Section 4 of the Act, lead case being **LAC-422-2011** titled **Nanak Chand & others Vs. State of Haryana & others** whereby the market value was enhanced to Rs.1,43,91,000/- per acre, on the basis of Exs.P2 to P4, P7 & P8, sale deeds ranging between dated 26.11.2010 to 07.07.2011, by taking the average, market price was fixed @ Rs.3,19,80,000/-. Thereafter, a 55% deduction was put to fix the market value at Rs.1,43,91,000, for the notification under Section 4 dated 13.01.2010, whereby land measuring 34.03 acres was acquired for the public purpose of construction of roads of Sectors 99 to 115, Gurgaon. Vide Award No.77 dated 31.03.2010, LAC, had awarded Rs.45,00,000/- as the market value. The landowners, being dissatisfied, filed petitions under Section 18. The reference Court, while deciding 26 reference petitions, fixed the above-said market value. The subsequent award dated 23.11.2013 only followed the said view.

2. The sale deeds which were produced by the landowners, pertaining to the village in question, as per the table reproduced by the Reference Court, reads as under:

Sr. No.	Exh	Vasika No.	Date	Land Area			Total Sale considera-tion	Rate per acre	Revenue estate
				K	M	Sarsal			
1.	P1	6969	26. 06.2007	3 bigha 1 biswa		10 biswansi	2,63,37,500	1,38,00,000	Mohammad heri
2.	P2	2451	26. 11.2010	17 biswa		5 biswansi	1,61,71,875	2,95,00,000	Mohammad heri
3.	P3	31666	10.02.11	4 bigha	15 bis wa	1 biswansi	8,91,00,818	3,00,00,000	Mohammad heri
4.	P4	32464	17.2.11	1 bigha	14 bis wa	10 biswansi	3,23,43,750	3,04,00,000	Mohammad heri
5.	P7	6264	17.6.11	4 bigha	6 bis wa	9.5 biswansi	9,45,82,035	3,50,00,000	Mohammad heri

Sr. No.	**Exh**	**Vasika No.**	**Date**	**Land Area**			**Total Sale considera-tion**	**Rate per acre**	**Revenue estate**
6.	P8	9662	07.07.11	3 bigha	4 biswa	10.5 biswansi	7,05,77464	3,50,00,000	Mohammadheri

3. Counsel for the landowners submitted that the averaging should not have been resorted to and for the best sale exemplar dated 26.06.2007 (Ex.P1) for the 2 ½ years, 12% increase should be granted on the basis of cumulative enhancement and the market value should, thus, be fixed. It has further been pointed out from the sale deeds (Exs.P3, P4, P7 & P8) that the market value was steadily climbing to Rs.3,50,00,000/-, which showed the exponential rise in the land value of the village in question. It is, accordingly, submitted that the amount would come to Rs.1,82,26,415/-, if the said principle is applied which has been applied by the Apex Court in ***General Manager, Oil & Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel 2008 (4) RCR (Civil) 487***. The relevant observations read as under:

> "11. Primarily, the increase in land prices depends on four factors-situation of the land, nature of development in surrounding area, availability of land for development in the area, and the demand for land in the area. In rural areas unless there is any prospect of development in the vicinity, increase in prices would be slow, steady and gradual, without any sudden spurts or jumps. On the other hand, in urban or semi-urban areas, where the development is faster, where the demand for land is high and where there is construction activity all around, the escalation in market price is at a much higher rate, as compared to rural areas. In some pockets in big cities, due to rapid development and high demand for land, the escalations in prices have touched

> even 30% to 50% or more per year, during the nineties. On the other extreme, in remote rural areas where there was no chance of any development and hardly any buyers, the prices stagnated for years or rose marginally at a nominal rate of 1% or 2% per annum. There is thus a significant difference in increases in market value of lands in urban/semi-urban areas and increases in market value of lands in the rural areas. Therefore if the increase in market value in urban/semi-urban areas is about 10% to 15% per annum, the corresponding increases in rural areas would at best be only around half of it, that is about 5% to 7.5% per annum. This rule of thumb refers to the general trend in the nineties, to be adopted in the absence of clear and specific evidence relating to increase in prices. Where there are special reasons for applying a higher rate of increase, or any specific evidence relating to the actual increase in prices, then the increase to be applied would depend upon the same.

4. State Counsel, on the other side, submits that Ex.P1 is a sale deed in favour of a builder and therefore, necessary cut of 50% should be applied on it, on account of the keenness which the builder would show i.e. M/s Shiv Shakti Estate Pvt. Ltd. in the sale transaction and its keenness to purchase the land in question.

5. The sale deeds produced by the State (Exs.R1 to R5) have rightly been discarded being below the amount as awarded by the LAC and therefore, would not require any serious consideration. The State has not challenged the said findings, as such by filing separate appeals. However, it has been rightly argued by the State Counsel that for averaging the post notification sale deeds of November, 2010 and 2011, could not have been taken into consideration.

6. A perusal of the Masterplan, which has been exhibited as

Ex.P4 would show the Gurgaon-Manesar Urban Complex for the year 2025 AD (Ex.P5 & P6). It would be clear from the same that the location of the land falls in Sector 103-106 which have been carved out. The land is situated just behind Daultabad whereby also, for the same notification, the land was acquired for the sector roads. The advantage of being situated behind Daultabad and away from the main road is that a 150 feet wide road has connected it to the Delhi border. Therefore, it is apparent that the rise in prices, as such, are taking place and the potentiality of the land to be used for residential commercial purposes, thus, cannot be denied.

7. The argument of the State that a cut of 50% as such should be given on the appellant sale deed is not liable to be taken into consideration, as the market value would dip considerably if such a process is followed. As per Ex.P1 market value way-back in 2007 is only ₹1,38,00,000/-. The principle that the market value of the adjoining village for the same notification can be kept into consideration, in view of the law laid down in **Union of India Vs. Harinder Pal Singh 2005 (12) SCC 564**, **Charan Dass (Dead) by LR Vs. Himachal Pradesh Housing & Urban Development Authority 2010 (13) SCC 398** and **Premwati Vs. Union of India 2013 (4) Law Herald (SC) 3381.** For the same notification qua village Dulatabad which is situated towards the main road i.e. The Northern Periphery Road and is the adjoining village, this Court in **RFA No.5244 of 2013 'Satbir Singh and others Vs. State of Haryana and others'** is granting compensation @ Rs.3,19,87,200/- per

acre. The acquired land is also situated in an identical position as village Babupur, which is the adjoining village, but situated towards Delhi and is situated behind Pawala Khusarpur. For village Babupur this Court in **RFA No.377 of 2016 'Sri Bhagwan Vs. State of Haryana and others'** is granting market value @ Rs.2,97,35,640/- per acre. Similarly, for the land situated in village Dharampur which is falling in Sector 108 which is further towards Najafgarh drain and away from the main road, this Court in **RFA No.4987 of 2014 'Jai Bhagwan and others Vs. State of Haryana and others'** a sum of Rs.2,67,62,076/- per acre has been fixed as market value.

8. In such circumstances, this Court is of the opinion that the land is identically situated as village Babupur and, therefore, the landowners would be entitled for the same amount of compensation to the tune of Rs.2,97,35,640/- per acre alongwith all statutory benefits. The appeals are allowed, accordingly.

9. All pending civil miscellaneous applications in which no separate orders have been passed also stand disposed of, accordingly.

(G.S. SANDHAWALIA)
JUDGE

NOVEMBER 01, 2019
SAILESH/NAVEEN

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*