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

407 **RFA No.4379 of 2013 (O&M) and other connected appeals**
Reserved on : 15 & 17.10.2019
Pronounced on : 23.10.2019

Smt. Sudesh

... Appellant

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 and
Mr. Sidharath Goyal, Advocate,
Mr. S.S. Kaliramna, Advocate,
Mr. Aditya Jain, Advocate, for the landowners.

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

G.S. Sandhawalia, J.

The present judgment shall dispose of 17 appeals i.e. **RFA Nos.4379, 6864 of 2013 and RFA No.2819 of 2014 and RFA Nos. 610 to 612, 616 to 620 and 569 to 574 of 2019**, filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') by the landowners against the Award dated 17.04.2013 passed by the Reference Court, Gurgaon. The notification dated 13.01.2010 was issued under Section 4 of the Act wherein the market value had been fixed @ ₹2,10,00,000/- per acre for the land which was acquired of village Basai, measuring 10 acres for the development and utilization of the same for sector roads of Sectors 99 to 115, at Gurgaon.

2. The Land Acquisition Collector had granted ₹60 lakhs per acre, vide his Award No.80 dated 31.03.2010. The enhancement by the Reference Court was granted while placing reliance upon an earlier

Award dated 29.09.2012 passed in **LA Case No.579 of 2010 'Birbal and others Vs. State of Haryana and another'** (Ex.P12), whereby for the notification dated 25.01.2008 a sum of ₹1,75,00,000/- had been awarded in the said case. Accordingly, 20% enhancement was granted due to the intervening period to fix the market value @ ₹2,10,00,000/-per acre. Similarly, another Award dated 15.10.2012 passed in **LA Case No.415 of 2010 'Samender Singh Vs. State of Haryana and another'** (Ex.P13) for the notification dated 04.02.2008 was also kept in mind, wherein market value had also been fixed at the same rate while acquiring the same for water works, keeping in view the Award passed in **Birbal's case (supra).**

3. A perusal of the paper-book and record would go on to show that there were sale deeds dated 30.10.2007 (Ex.P8 and P9) of village Basai which were before the date of notification and the landowners have thus relied upon the same. The sale deeds of the adjoining village were rightly discarded and sale deed dated 29.07.2011 (Ex.P1) was discarded being post notification by 1 year and 6 months having been sold @ ₹6,35,70,974/- per acre to M/s Drujba Overseas Pvt. Ltd. The Award passed in **Birbal's case (supra)** (Ex.P12) would go on to show that the said sale exemplars (Ex.P8 and Ex.P9) were also available on an earlier occasion with the Reference Court, which was the land sold in favour of M/s Jubiliant Malls Private Limited, whereby 4 bighas 12 biswas 12 biswansi and 2 bighas 8 biswas of land had been sold @ ₹2.50 crores per acre. The Reference Court on an earlier occasion for the notification dated 25.01.2008 had put a 30% cut on the same to cut down the value @

₹1,75,00,000/- per acre.

4. A Coordinate Bench of this Court in **RFA No.4475 of 2012 'Ram Chander and another Vs. State of Haryana and others'** and other connected cases decided on 20.05.2016, for village Basai had come to the conclusion that the land sold in the said sale deeds was more than 2 acres and, therefore, the cut imposed was not justified and held entitled the landowners of the said village the compensation @ ₹2,50,00,000/-. The relevant portion of the said judgment read as under:-

> **<u>"Village Basai</u>**
>
> **..**
>
> As far as the evidence produced by the land owners is concerned, the learned reference court discussed the same in paras 18 and 21 of the impugned award. Although learned reference court has correctly recorded the findings about the genuineness of the sale-deeds produced by the land owners, yet it fell in serious error of law, while taking the average market price of more than one sale-deeds, i.e. Ex.P7 and Ex.P9 and then illegally applied a cut thereon. It is pertinent to note here that the land was sold, vide these two sale-deeds Ex.P7 and Ex.P9 almost simultaneously, Ex.P7 being dated 29.10.2007 and Ex.P9 being dated 30.10.2007. Land was sold out of the revenue estate of village Basai itself and was measuring more than two acres. Under these circumstances, no cut was warranted to be imposed, therefore, the patently illegal finding recorded by the learned reference court cannot be sustained and the same is hereby set aside.
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> Consequently, sale-deeds Ex.P7 and Ex.P9 being the only relevant sale-deeds, the same can be made the basis for assessing the market value of the acquired land. An area of more than two acres, out of revenue estate of Basai itself, was sold at the rate of Rs.2,50,00,000/- per acre. Accordingly, land

owners of village Basai are held entitled to receive the compensation for their acquired land, at the uniform rate of Rs.2,50,00,000/- per acre, from the date of notification under Section 4 of the Act."

5. The Apex Court in **Civil Appeal No.11814-11864 of 2017 'State of Haryana Vs. Ram Chander and another'** decided on 05.09.2017 has reduced the amount of compensation by 15% for the said village to fix the market value @ ₹2,12,50,000/- per acre. Relevant portion of the said judgment reads as under:-

> "10. In our opinion, the deduction of 15% towards development would have been sufficient, which ought to have been made in the instant cases, in the peculiar facts of the case, considering the potentiality of the area in question and the development which has taken place all around. This order not to be treated as a precedent in any other case. Thus, we modify the determination made by the High Court to the above extent only. Let deduction be made accordingly."

6. Resultantly, the Apex Court as such has fixed the market value for village Basai by reducing the same by 15% and the basis for assessment right from the Reference Court onwards was the same sale deeds. The landowners as such can have no better sale exemplars of the village which were pre-notification.

7. A perusal of the sale deed dated 29.07.2011 (Ex.P1) would go on to show that the land measuring 2 bighas 1 biswa 0.7 biswansi had been sold for ₹8 crores per acre and which was in favour of M/s Drujba Overseas Pvt. Ltd. The said sale deed though post notification would only show the escalation in the prices and it has only been kept in mind for the purpose of the potentiality and the 12% enhancement has to be

granted.

8. Accordingly, keeping in view the principle laid down by the Apex Court in **'Oil and Natural Gas Corporation Limited Vs. Rameshbhai Jivanbhai Patel and another' 2008 (14) SCC 745**, the benefit of cumulative increase @ 12% is granted on the amount which has now been finalized by the Apex Court @ ₹2,12,50,000/- per acre. The relevant portion of the said judgment reads 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.”

9. Resultantly, the market value for village Basai is assessed @ ₹2,66,56,000/- per acre alongwith all statutory benefits. The present appeals stand allowed, accordingly.

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

(G.S. SANDHAWALIA)
JUDGE

OCTOBER 23, 2019
Naveen

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No