IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

407 **RFA No.5244 of 2013 (O&M) and other connected appeals**
Reserved on : 16.10.2019
Pronounced on : 01.11.2019

Satbir Singh & others
... Appellants

Versus

State of Haryana and others
... Respondents

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

Present: Mr. Sandeep Sharma, Advocate,
Mr. Amit Jain, Advocate
Mr. Kamal Mor, Advocate
Mr.N.D.Achint, Advocate
Mr. Ashok Tyagi, Advocate,
Mr. Ashish Rawal, Advocate
Ms. Sunita Saini, 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 28 appeals bearing RFA-5244, 5459, 5460, 5461, 5767, 5768, 5769, 6172, 6368, 6550, 7280, 7285, 7897 & 7899-2013, RFA-1583, 4992, 7408, 7409, 7410, 7411, 7412, 7413, 7414, 7415, 7416, 7417 & 7418-2014 and RFA-36-2015, filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') by the landowners against the Award dated 25.04.2013 passed by the Reference Court, Gurgaon, for the land acquired in village Daultabad.

2. The notification dated 13.01.2010 was issued under Section 4 of the Act and the market value was enhanced to Rs.1,40,62,500/- per acre from Rs.50 lakhs, on the basis of Exs.P1 to P3, P5 & P11, sale deeds dated

20.07.2007 and 07.10.2007. By taking the average the market price was fixed @ Rs.2,50,00,000/-. Thereafter, an increase of 25% was given, for the difference of the time-period of the sale deeds and the date of notification, to fix the market value at Rs.3,12,50,000/- and thereafter, a cut was applied of 55%, to fix the said market value.

3. The notification under Section 4 in question is dated 13.01.2010, wherein land measuring 47.78 acres was sought to be acquired for the public purpose of utilization of land for road Sectors 99 to 115, Gurgaon. Vide award No.78 dated 31.03.2010, the Land Acquisition Collector fixed the market value @ Rs.50,00,000/- per acre. Dissatisfied with the same, petitions under Section 18 were filed. The following sale instances were produced by the landowners:

Sr. No.	**Exh.**	**Vasika No.**	**Date**	**Land Area**			**Total Sale considera-tion**	**Rate per acre**	**Revenue estate**
				K	M	Sar sai			
1.	**P1 & PW5/D**	**7995**	**07.10.07**	**40**	**16**		**12,75,00,000**	**2,50,00,000**	**Daultabad**
2.	**P2 & PW5/B**	**7992**	**07.10.07**	**10**	**11**		**6,10,93,750**	**2,50,00,000**	**Daultabad**
3.	P3	7996	07.10.07	0	15		23,43,750	2,50,00,000	Daultabad
4.	**P6**	**628**	**04.11.12**	**27**	**17**	**2**	**13,33,85,090**	**3,83,15,286**	**Daultabad**
5.	**P7**	**19597**	**10.05.11**	**27**	**5**		**8,72,18,750**	**2,56,05,504**	**Daultabad**
6.	P8	18774	29.9.11	0	15	6	43,03,910	4,50,08,209	Daultabad
7.	P9	22753	11.09.11	8	5		4,43,43,750	4,30,00,000	Daultabad
8.	**P10**	**8725**	**20.07.07**	**44**	**9**		**13,89,06,250**	**2,50,00,000**	**Daultabad**
9.	**P11 & PW5/C**	**7993**	**07.10.07**	**11**	**16**		**3,68,75,000**	**2,50,00,000**	**Daultabad**
10.	P12	18000	21.9.11	233.3 Sq. yard			13,99,800	2,90,40,000	Daultabad
11	P13	20407	13.10.11		15	6	43,03,910	4,50,08,209	Daultabad

Sr. No.	**Exh.**	**Vasika No.**	**Date**	**Land Area**			**Total Sale considera-tion**	**Rate per acre**	**Revenue estate**
12	PW5/A	7991	07.10.07	19	6		6,03,12,500	2,50,00,000	Daultabad

4. Exs.R1 to R3, produced by the State, were rejected, on the ground that they were below the amount awarded by the LAC, keeping in view the provisions of Section 25 of the Act. The State has not filed appeals challenging fixing of the market value. As noticed, reliance had been placed upon Exs.P1 to P3, P5/A & P11, vide which, lands were sold at Rs.2,50,00,000/- on 07.10.2007. Similar was the value of the land sold on 20.07.2007 (Ex.P5/A). The sale deeds dated 10.05.2011 (Ex.P-7), 29.09.2011 (Ex.P-8) and 11.09.2011 (Ex.P-9) whereby land of Village Daultabad had been sold at Rs.2,56,05,504/-, Rs.4,50,08,209/- and Rs.4,30,00,000/-, shows the increasing trend, as such, of the land values in the intervening period of 4 years. The said trend is not strange since the Northern Periphery Road which comes from Dwarka, New Delhi to Gurgaon and is carved out of the land of the said village.

5. Counsel for the landowners is, thus, justified to submit that cumulative increase should be granted for the 2 years 3 months intervening period. It is contended that 50% cut is on the excessive side since reasonably large chunks of land had been sold of around 5 acres, vide Exs.P1 and P10, which cannot be said to be small instances. It is, accordingly, submitted that value has been going up consistently and therefore, the minimum enhancement which the landowners are entitled to is 12%, on the basis of the principles laid down 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.

6. State Counsel, on the other side, contended that the Reference Court was well justified by applying the cut since the sale deeds are in favour of M/s Selene Construction Pvt. Ltd. and 50% cut is just and reasonable cut on the said sale deeds on account of the builders'

showing the keen interest to pay an extra price for the land in question.

7. The argument that 50% cut on the sale deeds as such should be imposed on account of the builders showing a keen interest and pay a extra amount is not justified, since the location of the land of Daultabad and the abadi which falls in Sector 103 is of strategic location and would be similar to what is of Dhanwapur which is across the road. The only difference that it has is that it is a little away from heart of Gurgaon, but has an advantage of its location falling on the Northern Periphery Road which is coming from Dwarka, New Delhi. Once Dhanwapur has been granted Rs.3,19,87,200/- per acre in **RFA No.3996 of 2013 'Naresh and others Vs. State of Haryana and others'**, it would not fair as such to award a price which is in complete variance to the value of Dhanwapur. The southern portion of Dhanwapur would be closer to Gurgaon, which would command more value, but keeping in view 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**, reference can also be made to the said Award being a relevant piece of evidence. The lands acquired of both the villages are situated in similar locations and having identical locational advantages.

8. Accordingly, the appeals of the landowners are allowed. The market value is fixed @ Rs.3,19,87,200/- per acre alongwith all statutory benefits.

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

(G.S. SANDHAWALIA)
JUDGE

NOVEMBER 1st, 2019
SAILESH/NAVEEN

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*