

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

407

**RFA No.2131 of 2014 and other
connected appeals (O&M)
Reserved on : 16.10.2019 & 17.10.2019
Pronounced on : 01.11.2019**

Satya Narain and another

... Appellants

Versus

State of Haryana and others

... Respondents

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

Present: Mr. Shailendra Jain, Senior Advocate with
Ms. Anupama Arigala, Advocate and
Mr. Vikrant Rana, Advocate
Mr. Sandeep Sharma, Advocate,
Mr. Amit Jain, Advocate,
Mr. P.R. Yadav, Advocate,
Ms. Divya Arora, Advocate for
Mr. Naveen S. Bhardwaj, Advocate
Ms. Sunita Saini, Advocate for
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 27 appeals i.e.
**RFA Nos.2131, 2156, 2157, 2353 to 2367, 2529, 3039, 4394, 5249,
5257, 5268 of 2014, RFA Nos.275 and 276 of 2015 and RFA No.790 of
2016** filed under Section 54 of the Land Acquisition Act, 1894 (for short
'the Act') both by the landowners and the State against the Awards dated
16.12.2013 and 01.12.2015 passed by the Reference Court, Gurgaon, for
the land acquired in village Bajghera pertaining to the notification dated
13.01.2010 issued under Section 4 of the Act.

2. Vide the above said notification dated 13.01.2010 the land

RFA No.2131 of 2014 and other connected appeals (O&M)

measuring 44.86 was acquired for the development and utilization of the same for sector roads of Sectors 99 to 115, at Gurgaon The Land Acquisition Collector vide Award No.72 dated 31.03.2010 for the land of village Bajghera had awarded ₹45 lakhs per acre.

3. The landowners being dissatisfied had filed petitions under Section 18 of the Act and got 8 sale deeds exhibited, whereas the State had produced three another sale deeds, the details of which is as under:-

Sr.No.	Ex.	Dated	Area Sold	Sale consideration in ₹	Rate per acre in ₹	Village
1	P2, P7 and P10	13.04.07	38 K 03 M	16,92,90,625	3,71,55,692	Bajghera
2	P3	07.09.07	26 K 08 M	11,71,50,000	3,55,00,000	Bajghera
3	P4	25.10.07	09 K 17 M	4,12,46,875	3,55,00,000	Bajghera
4	P5	25.10.07	09 K 18 M	4,14,56,250	3,55,00,000	Bajghera
5	P6	25.10.07	09 K 17 M	4,12,46,875	3,55,00,000	Bajghera
6	P8 and P12	26.03.08	01 K 15 M	54,14,080	2,47,50,000	Bajghera
7	P9	19.10.07	9 K 6 M	3,40,00,000	2,92,47,311	Bajghera
8	P11	09.04.08	5 K 12 M	2,27,50,000	3,25,00,000	Bajghera
9	R1	26.05.08	2 K 4 M	3,50,000	12,72,727	Bajghera
10	R2	03.07.09	16 K 0 M	80,00,000	40,00,000	Bajghera
11	R3	02/07/09	2 K 0 M	4,50,000	18,00,000	Bajghera

4. The Reference Court while deciding 27 cases, lead case of which was **LA Case No.331 of 2011 'Surender Pal Vs. State of Haryana and others'** granted ₹1,50,33,333/- per acre by placing reliance upon sale deeds Exs.P8, P9 and P11 of the year 2008 and taking out a average price of ₹2,73,33,333/- and thereafter, putting a cut of 45%. The same view was followed by the Reference Court in the subsequent Award

dated 01.12.2015.

5. Counsel for the landowners have accordingly argued that the benefit of Ex.P11 dated 09.04.2008 should have been granted which was for land measuring 5 kanals 12 marlas and was latest in point of time, whereby the land had been sold @ ₹3,25,00,000/- per acre. It is further submitted that even if Ex.P3 to P6 were taken into consideration, the market value was higher ₹3,55,00,000/- per acre, though the sale deeds pertained to the year 2007. It is also submitted that all sale deeds are in favour of one M/s Blue Chip Realtech Pvt. Ltd. and it was a substantial chunk of land and, therefore, no cut was liable to be imposed and an increase @ 15% was liable to be granted.

6. Parity with village Choma across the road was also sought by submitting that on an earlier occasion for the notification dated 25.01.2008 when the land had been acquired for 150 meters wide periphery road linking Dwarka Township Delhi from Haryana boundary to National Highway No.8 near village Kherki Daula at Gurgaon. The market value had been fixed @ ₹4,78,05,588/- per acre by 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, which was reduced by the Apex Court to ₹4,06,34,749.80 by granting 15% cut in **Civil Appeal No.11814-11864 of 2017 'State of Haryana Vs. Ram Chander and another'** decided on 05.09.2017.

7. It is submitted that the land is identically situated and the7.

RFA No.2131 of 2014 and other connected appeals (O&M)

land is next to the Delhi border with the road coming in from Dwarka. The acquisition is for the Sector roads of 112 to 115 and, therefore, once on an earlier occasion, the market value as such had been assessed for the adjoining village, the same amount of compensation is liable to be granted. It is further submitted that 15% cumulative increase is liable to be granted for the intervening period. It is also submitted that 45% cut was not justified. It is, thus, submitted that for village Bajghera the same value is to be granted. Reliance has also been placed upon the judgment of the Apex Court passed in the case of **Ram Chander (supra)**.

8. State has rightly pointed out that there was a mistake in the calculation on an earlier occasion for village Choma and the market value had wrongly been assessed @ ₹4,78,05,588/- per acre. The same has also been noticed in the appeals pertaining to the said village, which has been decided vide the judgment of even date in **RFA No.4775 of 2014 'Tek Ram and another Vs. State of Haryana and others'**. The market value has now been assessed @ ₹5,01,76,000/- per acre alongwith all statutory benefits.

9. Counsel for the State on the other hand has pointed out that the sale deeds Ex.P4 to P6 are in favour of builders. Therefore, the over eagerness and the interest which has been shown by the builder to purchase the land measuring around 9 kanals 18 marlas each vide three sale deeds dated 25.10.2007 and 25.01.2007 would not depict the correct market value which is ₹3,55,00,000/- per acre. 50% cut should be

granted on account of keen interest as such shown by the builder to purchase the property which is a normal cut applied. It is further pointed out that there was a evidence as such in the market price dripping, which would be clear from Ex.P11.

10. The argument of the State is well justified that a cut as such has to be put on the sale deed Ex.P4 to P6 which are builder sale deeds and the keenness of the builder might have come for creating the land bank cannot be discounted. Resultantly, a cut of 15% is put on ₹3,55,00,000/- and which works out to ₹53,25,000/-. The market value as such would work out @ ₹3,01,75,000/-. It is submitted that if 12% cumulative enhancement is granted on the same for the 2 years intervening period, the additional amount would work out to ₹76,76,520/- and, therefore, the market value would work out to ₹3,78,51,520/- per acre alongwith all statutory benefits.

11. The site plan (Ex.PW5/A) had been proved by Kanshi Ram, Draftsman as per the certified copy of the Akshajra, which shows that acquired land shown in light red colour and acquired land of the petitioner was shown in dark red colour. The sale deeds had been shown in the site plan by green colour. Keeping in view the Final Development Plan For Controlled Areas of Gurgaon-Manesar Urban Complex-2021 AD (Ex.P1), which has also been brought on record, the location of Bajghera as such would go on to show that it is located at the top of the Northern Periphery Road coming from Dwarka. The land situated closest

to Delhi. However, though village Choma is lying across the road, but the fact remains that Choma has an advantage as much as of several roads coming from Delhi and being closer to main town of Gurgaon, therefore, the market value is obviously higher. It has already been noticed in the appeals pertaining to village Choma i.e. **Tek Ram (supra)** and other connected cases that on an earlier occasion the market value had wrongly been assessed @ ₹4,78,05,588/- per acre. The same should have been ₹2,45,00,000/- per acre, as per sale deed dated 23.03.2007, which was in favour of M/s Sahara India Real Estates Pvt. Ltd.

12. A chart of sale deeds of village Choma would also go on to show that vide sale deed dated 16.07.2009 land measuring 42 kanals 2 marlas was being sold @ around ₹4 crores per acre, which was not the market value in Bajghera. Therefore, the peculiarities of Choma as such cannot be incorporated with village Bajghera, as a distance of 2 to 3 Kms can make a whole of a difference. Similarly, vide sale deed dated 23.08.2007 land measuring 16 kanals 8 marlas of village Choma was sold @ ₹4,25,00,000/- per acre. However, the argument of the State that more than 50% cut should be put on the sale deed is not liable to be accepted, keeping in view the fact that the land is situated within the developed portion of Gurgaon. Even if the sale deeds are in favour of builders, the location and the potentiality of the land is immense and, therefore, as per the site plan, which has been examined (Ex.PW5/A), this Court is of the opinion that a 15% cut as such on the sale deed would be sufficient to

RFA No.2131 of 2014 and other connected appeals (O&M)

bring down the market value to relevant level for the keenness the builder might have shown in purchasing the land which is closer to the road.

13. Accordingly, the appeals filed by the landowners are allowed and the market value is assessed @ ₹3,78,51,520/- per acre alongwith all statutory benefits.

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

NOVEMBER 01, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No