IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RFA No.7185 of 2013 (O&M) and other connected appeals & cross-objections (O&M)
Reserved on : 16.10.2019 & 17.10.2019
Pronounced on : 23.10.2019

Subhash Kumar

... Appellants

Versus

State of Haryana and others

... Respondents

Appeals filed by landowners	Appeals filed by the State
RFA Nos.7185 to 7191, 7247, 7248, 7287, 7297 of 2013 and RFA Nos.40, 47, 76, 77, 216, 363, 591, 788, 789, 1010, 1415, 1483, 1566 to 1569, 2267, 2445, 2446, 2766, 3826, 3885 to 3890, 4248, 4249, 9048, 9383, 9384, 4244, 4245, 9686, 9751 of 2014 and RFA Nos.2117, 3101, 2376, 4388, 4389, 7082 of 2015 and RFA Nos.40, 41, 644 645, 1356 and 1357 of 2016 of 2016, RFA No.6326 of 2018	RFA Nos.2433, 2497, 2476, 2560, 2530, 2480, 2463, 2422, 2423, 2494, 2435, 2431, 2430, 2424, 2432, 2479, 2478, 2550, 2527, 2558, 2499, 2445, 2486, 2549, 2491, 2537, 2536, 2469, 2534, 2465, 2557, 2546, 2538, 2496, 2489, 2461, 2444, 2467, 2481, 2490 of 2016 alongwith XOBJR-345-CI-2016 in RFA-2461-2016 XOBJR-346-CI-2016 in RFA-2469-2016 and XOBJR-6-CI-2017 in RFA-2537-2016

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

Present: Mr. Shailendra Jain, Sr. Advocate with
Mr. Vikrant Rana, Advocate,
Ms. Anupama Arigala, Advocate,
Ms. Anita Balyan, Advocate,
Mr. Amit Jain, Advocate,
Mr. P.R. Yadav, Advocate,
Mr. Sandeep Sharma, Advocate,
Mr. Chirag Kundu, Advocate,
Mr. Nitika Sharma, Advocate for
Mr. Aashish Chopra, Advocate,
Mr. Ashok Tyagi, Advocate,
Ms. Sunita Saini, Advocate for
Mr. Aditya Jain, Advocate,
Mr. Rakesh Dhiman, Advocate,
Mr. Rajiv Sharma, Advocate,
Mr. R.A. Yadav, 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 above referred 109 appeals and 3 cross-objections filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') out of which 60 appeals and 3 cross-objections have been filed by the landowners and 40 appeals have been filed by the State. The Award dated 17.08.2013 passed by the Reference Court, Gurgaon is for the land acquired in village Dhankot pertaining to the notification dated 13.01.2010 issued under Section 4 of the Act. The said award has been followed by the subsequent Awards dated 06.02.2014, 11.08.2014 and 18.05.2018 and the same market value had been fixed.

2. The Reference Court while deciding 112 cases, lead case of which was **LA Case No.947 of 2010 'Smt. Narender Kaur Sahani Vs. State of Haryana and others'** enhanced the market value to ₹2,11,75,000/- per acre alongwith all statutory benefits. The basis of the enhancement as such is the earlier Award dated 18.07.2013 passed in **LA Case No.944 of 2010 'Mahender Singh Vs. State of Haryana and another'** (Ex.PX) for the notification dated 25.01.2008, whereby the land was 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. Resultantly, a 10% cumulative increase on ₹1,75,00,000/- as such was given on the same for 2 years to assess the market value.

3. The notification under Section 4 in question was dated

13.01.2010, whereby the land measuring 81.99 acres falling in village Dhankot 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.82 dated 31.03.2010 for the land of village Dhankot had awarded ₹60 lakhs per acre.

4. A perusal of the Reference Court award would go on to show that there were various sale deeds of the year 2007 and 2008 available with the Reference Court wherein the market value as such was ranging between ₹2,80,00,000/- to ₹3,00,00,000/-. The Reference Court, however, relied upon the earlier award passed in Mahender Singh's case (supra) and discarded the sale deeds dated 24.01.2008 and 21.11.2007 on the ground that they were executed more than 2 years before the issuance of the Section 4 notification.

5. Counsel for the landowners have placed reliance upon the judgment of this Court passed in **RA-RF-3-CI-2018 in/and RFA-5872-2013 'Dharambir and another Vs. State of Haryana and another'** and the connected review applications bearing RA-RF-1-CI-2018 in/and RFA-5873-2013, RA-RF-2-CI-2018 in/and RFA-3380-2014 and RA-RF-39-CI-2018 in/and RFA-2170-2015, which were decided on 17.12.2018. It is submitted that on an earlier occasion for village Dhankot while dealing with the same acquisition of 25.01.2008, this Court had enhanced the compensation to ₹2,55,00,000/-. It is, thus, argued that as the market value has been fixed at the said rate the benefit of cumulative increase @ 12% for the intervening period of 2 years should be granted instead of

₹1,75,00,000/- as granted by the Reference Court.

6. Counsel for the State on the other hand has submitted that the claim for further enhancement as such is not tenable in the facts and circumstances as there is no perceptible surge in the prices, as it is clear even from the chart. Reliance has been placed upon the judgment of the Apex Court passed in **'Oil and Natural Gas Corporation Limited Vs. Rameshbhai Jivanbhai Patel and another' 2008 (14) SCC 745** to submit that circumstances have to be made out to show from the record as such, which the landowners have to failed to do so. The onus of the market value being upon them. Therefore, question of granting 12% cumulative increase does not arise. It is further argued that once there were sale exemplars as such on the record, the question of fall back on the earlier Award dated 18.07.2013 (Ex.PX) should not have been resorted to.

7. This Court while deciding the appeals in **Dharambir's case (supra)** had relied upon Ex.P5 and P6, which are dated 21.11.2007, which were also present before the Reference Court, whereby the land has been sold @ ₹3 crores per acre. Keeping in view the said sale deeds and the other sale deed dated Ex.P4 which is dated 24.10.2006, the market value had been enhanced to ₹2,55,00,000/- per acre by imposing 15% cut as had been done by the Apex Court in **Civil Appeal No.11814-11864 of 2017 'State of Haryana Vs. Ram Chander and another'** decided on 05.09.2017, in which the litigation has been finalized qua the other villages for the acquisition dated 25.01.2008.

8. Though, village Dhankot had also been subject matter of consideration of same set of acquisition, but the Coordinate Bench while deciding **RFA No.4475 of 2012 'Ram Chander and another Vs. State of Haryana and others'** and other connected cases decided on 20.05.2016 had not referred from the record to the sale deeds of village Dhankot and the award of the Land Acquisition Collector. There was another village called Kherki Majra Dhankot but no discussion had taken place for Dhankot and then cases had been decided. Resultantly, to which the review applications had been filed only for village Dhankot and allowed and the market value then fixed on 17.12.2018. The location has already been noted of village Dhankot while assessing the market value in the earlier litigation and the relevant portion of the judgment passed in the case of **Dharambir (supra)** reads as under:-

> "In the present case, the Reference Court had the benefit of a large number of sale deeds which were prior to the date of the Section 4 notification. The relevant tables reads as under:

Sr. No.	Exh	Vasika No.	Date	Land Area			Total sale consideration Rs.	Rate per Acre Rs.	Revenue estate
				K	M	Sarsai			
1.	Ex.P4	15130	24.10.2006	1	5		73,00,000/-	4,67,20,000/-	Dhankot
2.	Ex.P5	17315	21.11.2007	9	1	2	3,41,25,000/-	3,00,00,000/-	Dhankot
3.	Ex.P6	17137	21.11.2007	20		18	7,83,75,000/-	3,00,00,000/-	Dhankot
4.	Ex.P7	24377	24.01.2008	30	-	-	10,50,00,000/-	3,00,00,000/-	Dhankot
5.	Ex.P8	24379	24.01.2008	39		18-1/2	13,97,37,500/-	2,80,00,000/-	Dhankot
6.	Ex.P9	24380	24.01.2008	9		18-1/2	3,47,37,500/-	2,80,00,000/-	Dhankot

Sr. No.	Exh	Vasika No.	Date	Land Area		Total sale consideration Rs.	Rate per Acre Rs.	Revenue estate
				K	M			
1.	Ex.R1	17201	16.11.2006	0	15	4,50,000/-	48,40,000/-	Dhankot

2.	Ex.R2	23317	15.1.2008	1	6	3,59,500/-	22,12,308/-	Dhankot
3.	Ex.R3	13007	19.05.2008	7	6	54,56,250/-	59,79,452/-	Dhankot

A perusal of the above chart would go on to show that Ex.P-4 is comparatively smaller sale exemplar of 1 kanal 5 marlas only, though the sale consideration is Rs.4,67,20,000/-. This Court has the benefit of a larger chunk of land which is in the form of Ex.P-5 to P-8 and therefore, it would be safer to rely upon the larger chunk of land to get the correct picture of the market value. Ex.P-7 to P-9 are liable to be ignored also as they were executed on 24.01.2008 just one day prior to the date of Section 4 notification in question. If, this Court takes into consideration Ex.P-5 & P-6, it is apparent that on 21.11.2007, the sale deeds were executed. A perusal of the same would go on to show that the same had been executed by Mr.Vijay Shines Pvt. Ltd. and M/s Namarta Marketting Pvt. Ltd., both having its office at 726/727, Guru Ram Das Nagar Extn., Laxmi Nagar, New Delhi and the vendor is also Shri Arun Kumar who was duly authorized by the Board of Directors. The vendee of both the sale deeds is also common, namely, M/s Agrim Realtech Pvt. Ltd., whose address is S39-A, Panchsheel Park, New Delhi. Thus, the purchaser, by virtue of the two sale deeds, was purchasing a large chunk of land which would measure 29 kanals 1 marla (approximately 3.6 acres), which reasonably cannot be said to be a small chunk of land, as such, and therefore, no cut is liable to be imposed on the sale deed, as such, on account of the smallness of the exemplar. Therefore, the argument of the State Counsel that a cut on account of the smallness of the size of the sale deeds, is liable to be rejected.

A perusal of the said sale deed would go on to show that consistent market value works out to ₹3 crores per acre, which would be clear from the table. Even if on account of Ex.P-4, a cut is put on account of the smallness, the market value would come down to a sum of Rs.3,11,00,000/- per acre and is of the same range whereas even if Exts.P-8 & P-9 are considered, it is to be noticed an average of ₹3 crores would work out on the same and the market value would hover around the same.

In such circumstances, this Court is of the opinion that the said sale exemplars were wrongly ignored by the Reference Court and can be taken as a safe guideline for assessing the market value. The

Reference Court also noticed that Village Basai is on the southern side of the road and near to the old city. But it has come in evidence that the land of Dhankot is falling in the developed Sector 99 & 102 which are adjoining. A perusal of the site-plan would go on to show that the Metro route runs next to the sectors which is coming from Delhi into Gurugram and therefore, the potentiality of the land of the said village cannot, but be doubted. Village Kerki Majra Dhankot having Hadbast No.52, in comparison from the perusal of the site-plan, is situated a little away from the Highway and, therefore, the land of Dhankot is apparently better situated than its immediate neighbour and namesake.

The Apex Court has already granted a 15% development cut on the amount assessed in **Ram Chander's case (supra).** Relevant para of the 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.

Resultantly, this Court is of the opinion that if the same principle is applied to the present set of cases also, the market value would work out to ₹2,55,00,000/- per acre along with all statutory benefits, by granting 15% cut on account of development cut, as admittedly, for a large chunk of land, there would be wastage also, which this Court has not applied in the earlier round of litigation qua the adjoining villages.

The appeals are allowed, accordingly."

9. The table of the sale deeds exhibited in the present case is as under:-

Sr. No.	Exh.	Vasika No. & dated	Period before notification on u.s. 4 dated 13.01.2010	Land Area	Total sale consideration Rs.	Rate per Acre Rs.
1	P19 & 14	2455 dated 24.1.08	2 years 11 days	30 K 0 M	10,50,00,000	2,80,00,000

2	P7	24380 dated 24.1.08	2 years 11 days	9 K 18.5 M	3,47,37,500	2,80,00,583
3	P10	24379 dated 24.1.08	2 years 11 days	39 K 18. 5 M	13,97,37,500	2,80,00,145
4	PW2/X	24478 dated 29.1.08	2 years 16 days	7 K 10 M	2,62,50,000	2,80,00,000
5	P6	17135 dated 21.11.07	2 years 2 months 8 days	9 K 02 M	3,41,25,000	3,00,00,000
6	P8	17137 dated 21.11.07	2 years 2 months 8 days	20 K 18 M	7,83,75,000	3,00,00,000
7	P5	15130 dated 24.10.06	3 years 2 months 11 days	1 K 05 M	73,00,000	4,67,20,000/-
8	P15	2317 dated 28.4.11	After 1 year 3 months 15 days	0 K 13 M	24,37,500	2,80,00,000
9	P16	4983 dated 26.5.11	After 1 year 4 months 13 days	0 K 13 M 02	25,11,346	3,06,74,863/-
10	P17	3101 dated 6.5.11	After 1 year 3 months 23 days	2 K 12 M	1,17,86,500	3,62,66,154
11	P18	4973 dated 20.5.11	After 1 year 4 months 7 days	1K 15 M 02	67,19,533	3,06,31,071
12	P19	4975 dated 26.5.11	After 1 year 4 months 13 days	0 K 3 M 5	6,78,740	3,28,0439

10. A perusal of the above chart would thus go on to show that the market value as such was hovering around between 2,80,00,000/- to ₹3,00,00,000/- per acre between November, 2007 to January, 2008 and rather had dipped at that point of time. Ex.P5 which is dated 24.10.2006 is only for 1 kanal 5 marals and, therefore, the high value can be discounted on ₹4,67,20,000/- per acre and neither the sale deed is proximate in point of time with a difference of over 3 years. Thereafter, there has been a nominal increase in the sale deed executed on 26.05.2011 (Ex.P16) whereby land measuring 13 kanals 2 marals had been sold @ ₹3,06,74,863/- per acre. Similarly, on 20.05.2011 (Ex.P18)

even after 1 year 4 months, the increase is only nominal to the extent of ₹3,06,31,071/- per acre. The sale deed dated 06.05.2011 (Ex.P17) shows a higher increase @ ₹3,62,66,154/- per acre, but it was only for 2 kanals 12 marlas of land and on account of the smallness, it is liable to be discounted.

11. Counsel for the State is well justified to submit that the enhancement for the intervening period in the present set of facts and circumstances and the lack of evidence regarding the increase in prices would not entitle the landowners for more than 10% enhancement on cumulative basis.

12. Accordingly, 10% cumulative increase is granted on ₹2,55,00,000/- for the intervening period of 2 years, whereby the market value would work out @ ₹3,08,55,000/- per acre alongwith all statutory benefits.

13. Resultantly, the appeals and cross-objections of the landowners are allowed and the appeals of the State are dismissed.

14. 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