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

407

**RFA No.7824 of 2013 (O&M) and other connected appeals
Reserved on : 15 & 17.10.2019
Pronounced on : 23.10.2019**

Vivek Kumar

... Appellant

Versus

State of Haryana and others

... Respondents

Appeals filed by landowners	Appeals filed by the State
RFA Nos.7824 to 7830, 7896, 7898 of 2013 RFA Nos.376, 767, 768, 863, 1511, 1587, 2197, 2268, 2451, 2452, 3663, 4330, 4392, 7249, 8058, 8512, 8628, 8978 of 2014 RFA Nos.4286 to 4289, 4599, 5363, 5431, 5432, 5627, 5800, 5812, 5813 and 6468 of 2015	RFA Nos.4080 to 4105, 5979 of 2014 RFA Nos.213, 324, 965 to 968, 970, 971, 986 and 1046 of 2016

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. Aditya Jain, Advocate,
Mr. Sandeep Sharma, Advocate,
Mr. Ashok Tyagi, Advocate,
Mr. R.A. Yadav, Advocate,
Mr. Amit Jain, Advocate,
Mr. Rakesh Kumar Sharma, Advocate,
Mr. Vijay Singh Kajla, 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 above referred 77 appeals filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') out of which 40 appeals have been filed by the landowners

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and 37 appeals have been filed by the State against the Awards dated 05.09.2013, 23.11.2013, 15.01.2014, 20.10.2014, 12.05.2015 and 07.10.2015 passed by the Reference Court, Gurgaon, pertaining to village Pawala Khusarpur.

2. The Reference Courts had enhanced the amount of compensation to ₹1,71,06,462/- per acre while placing reliance upon an earlier Award dated 28.05.2013 passed in **LA Case No.785 of 2010 'Arvind Gupta Vs. State of Haryana and another'** (Ex.P6) wherein for the notification dated 25.01.2008 ₹1,41,37,575/- had been awarded. Resultantly, cumulative increase @ 10% was granted for 2 years to fix the market value @ ₹1,71,06,462/- per acre, for the period of time gap while placing reliance upon the judgment of the Apex Court passed in **'Mehrawal Khewaji Trust (Regd.), Faridkot and others Vs. State of Punjab and others' 2012 AIR (SC) 2721.**

3. The acquisition in the present case was for the land measuring 16.37 acres, which was acquired for the development and utilization of the same for sector roads of Sectors 99 to 115, at Gurgaon, which was notified on 13.01.2010 under Section 4 of the Act. As per Award No.75 dated 31.03.2010, the Land Acquisition Collector had awarded ₹60 lakhs per acre.

4. The Reference Court while deciding 25 cases on 05.09.2013, lead case of which was **LA Case No.76 of 2012 'Vivek Kumar Vs. State of Haryana and others'** had fixed the market value @ ₹1,71,06,462/- per acre while placing reliance upon the earlier award passed in **Arvind**

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Gupta's case (supra), as noticed above. The Reference Court vide the other Awards dated 23.11.2013, 15.01.2014, 20.10.2014, 12.05.2015 and 07.10.2015 followed the said view.

5. The sale deeds of the landowners Exs.P1 to P3 of the year 2007 and 2008 were ignored on the ground of long time gap between the execution of the said sale deeds and issuance of the Section 4 notification.

6. A perusal of the award passed in **Arvind Gupta's case (supra)** would go on to show that on an earlier occasion, the sale deeds of 2007 and 2008 which had been executed 2 months prior from the date of Section 4 notification, and most proximate in time were taken into consideration and an average value was worked out @ ₹3,14,16,835/- per acre. Thereafter, deduction of 55% was applied to come to the market value of ₹1,41,37,575/- per acre.

7. A Coordinate Bench of this Cour while enhancing the compensation 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 Pawala Khusrupur, took into consideration only sale deed dated 07.12.2007 (Ex.P2/A) which was for land measuring 49 kanals 2 marlas (more than 6 acres) and which was of the same village, whereby land had been sold @ ₹4,65,52,331/- per acre. The other sale deeds whereby land had been sold at a higher market rate were rejected. The relevant portion of the said judgment read as under:-

<u>"Village Pawala Khusrupur</u>

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....

In the given facts and circumstances of the case, sale-deed Ex.P2/A dated 7.12.2007 was the best sale-deed, which could have been safely made the basis for assessing the market value of the acquired land. The biggest chunk of land was sold vide this sale-deed and the same was measuring 49 Kanals and 2 Marlas. It was more than six acres and was out of the revenue estate of this very village. Ex.P2/A was the sale-deed bearing No.18781 dated 7.12.2007, whereby land measuring 49 Kanals 2 Marlas was sold at the rate of Rs.4,65,52,331/- per acre. Other sale-deeds, whereby smaller pieces of land were sold, disclosed higher market price at the rate of Rs.5,78,95,652/- per acre vide Ex.P77, Rs.6,95,65,217/- per acre vide Ex.P67 and Rs.5,77,77,777/- per acre vide Ex.P66.

Since the land sold by these sale-deeds were smaller pieces of land measuring only in Kanals, the same are not being taken into consideration for the purpose of assessing the market value of the land acquired out of the revenue estate of this village. However, this Court has found no reason, as to why the land owners of this village be not held entitled for the compensation at the same market value, which has been disclosed in this sale-deed Ex.P2/A dated 7.12.2007. Accordingly, while setting aside the above-said illegal findings recorded by the learned reference court, taking the average market price as well as imposition of cut thereon, land owners of this village are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.4,65,52,331/- per acre, from the date of notification under Section 4 of the Act."

8. 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 @ 3,95,69,481.35 per acre. Relevant

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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."

9. Counsel for the landowners have thus prayed for enhancement @ 12% for the intervening period on ₹3,95,69,481/- and submitted that 10% enhancement granted is on the lower side.

10. The said argument is not liable to be accepted on account of the fact that thereafter on 09.05.2008 land measuring 36 kanals 6 marlas was sold @ ₹4,57,32,960/- per acre (Ex.P1) and similarly on 12.11.2008 (Ex.P3) the land was sold @ ₹4,57,38,000/- per acre, which was in favour of developers. If a 15% cut is put on the said sale deeds, it would not depict escalation in prices in the area and, therefore, the benefit of the cumulative increase for the difference of 2 years is necessarily not to be granted at 12% but only at 10%, keeping in view the law laid down by the Apex Court in **'Oil and Natural Gas Corporation Limited Vs. Rameshbhai Jivanbhai Patel and another' 2008 (14) SCC 745**. The relevant portion of the said judgment 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

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> 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."

11. Further more, since the market value has already been fixed by the Apex Court as discussed above, this Court is of the view that the sale deed dated 07.12.2007 (Ex.P2/A) can be made a good basis for assessing the market value, which was fixed for the earlier notification. The site plan has also been examined to see the location as such of the village in question and earlier notification was for 150 meters wide periphery road linking Dwarka Township Delhi from Haryana boundary

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to National Highway No.8 near village Kherki Daula at Gurgaon. The present acquisition is for sector roads of Sectors 99 to 115, at Gurgaon and therefore, sector road of Sectors 106 and 109 would fall within the revenue estate of Pawala Khusarpur, as per the Final Development Plan For Controlled Areas of Gurgaon-Manesar Urban Complex-2021 AD (Ex.P4) and 2025 AD (Ex.P5). The land being in close vicinity of the earlier acquisition, the said award would be a relevant piece of evidence to rely upon.

12. The land of the said village is sandwiched between the road coming from Dwarka which is called as Northern Periphery Road and land being on top, which was subject matter of earlier acquisition for the 150 meters wide road. The sector roads intervening the two would command higher market value and the land is closer to the Delhi boundary.

13. Accordingly, keeping in view the above discussion, the appeals filed by the landowners are allowed and those of the State are dismissed. The market value is fixed @ ₹4,78,79,072/- per acre alongwith statutory benefits (rounded off to ₹4,78,79,070/- per acre).

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