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

**RFA-406 of 2016, RFA-6427, 6491 of 2015, RFA-1316 of 2017 and RFA-268 of 2018**
**Date of decision: 04.12.2019**

Raja Ram (D) through L.Rs. and others ....Appellant(s)

Versus

State of Haryana and others ...Respondent(s)

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

Present: Mr. Anil Kumar Sharma, Advocate
for the landowners.

Mr. Sudeep Mahajan, Addl. AG Haryana with
Mr. Abhinash Jain, AAG, Haryana.

**G.S.SANDHAWALIA, J.**

The present judgment shall dispose of 5 appeals, filed by the landowners bearing RFA Nos. RFA Nos. 406 of 2016, 6427, 6491 of 2015, 1316 of 2017 and 268 of 2018 since common questions of facts and law are involved in all the appeals.

The present appeals have been filed under Section 54 of the Land Acquisition Act, 1894 (in short 'the Act') against the award of the Reference Court, Gurugram dated 27.05.2015 and 22.09.2017 for village Badshahpur wherein, market value had been assessed at Rs.1,99,80,000/- per acre by enhancing it from Rs. 70,00,000/- per acre as awarded by the Land Acquisition Collector. Land measuring 11.08 acres was acquired of village Badshahpur vide notification under Section 4 dated 24.06.2008. The Land Acquisition Collector, vide Award No. 40 dated 12.08.2009, had awarded Rs.70,00,000/- per acre which was acquired for the public purpose of construction and development of Sector roads 58 to 67, Gurgaon. The Reference Court vide Award No. 27.05.2015, the lead case of which is LAC No. 238 of 2012, Dr. Munish Bhalla and another vs. State of Haryana and others, placed reliance upon award in Jaggan vs. State of Haryana and others (Ex.P-17) pertaining to the adjoining village Medawas for enhancing the market value. The subsequent award dated 22.09.2017 followed the earlier view. Facts are being taken from ***RFA No. 406 of 2016, Raja Ram (D) through L.Rs. and others vs. State of Haryana and others.***

Counsel for the land owners has submitted that the Reference Court failed to take into consideration that Badshahpur is better located than the adjoining village since the national highway No. 248-A was bisecting the land of village Badshahpur and, therefore, the location of Badshahpur was better than Medawas and the same amount of compensation had been wrongly granted. It is submitted that blind reliance upon the award of the adjoining village is not justified once better sale exemplars were on record.

Counsel for the State, on the other hand, submitted that since notification in question was for the same purpose, therefore, the Reference Court is justified as such to fix the same amount of compensation and there was no ground to enhance the market value as such.

In the petition filed under Section 18, claim of the landowners was that the land had great potential and was situated at the best location of Gurgaon. The residential colonies like Malibu Town, South City, DLF, Unitech Greenwood and Rosewood were within the radius of 1-2 kms. HUDA had already developed Sectors 38 to 41, 44 to 48, 57 etc and houses had been constructed in the land acquired and the same was fully developed. A 200 ft. wide road was going through the Village Sikanderpur towards National Highway No.8 which abuts the land under acquisition. In evidence, PW-1, Bharat Kapur admitted that the area was developed but the land was not fully developed so far. Similarly, Dr.Munish Bhalla, PW-2 also admitted in cross-examination that the land acquired was agricultural in nature. PW-3 was the building expert, Nand Kumar Nagpal, who had given the report (Ex.P-15) and the site-plan was exhibited as Ex.P-16.

The sale deeds which have been relied upon by the land onwers in the claim for enhancement were also relied upon by the land owners of the adjoining village Medawas in their claim for enhancement which have been dealt with in **RFA No. 2129 of 2013** titled *Jaggar & others Vs. State of Haryana & others*. Even in the impugned award, it has been noticed that sale deeds pertaining to village Badshahpur are slightly on the higher side in comparison to village Medawas. However, as noticed, the same amount of market value has been awarded. The sale deeds pertaining to Village Badshahpur which would be relevant from the size point of view and in proximity to the date of Section 4 notification dated 24.06.2008 would be, in the opinion of the Court as under:-

| Ex. | Vasika No. | Date | Land Area K-M | Total sale consideration | Rate per acre |
|---|---|---|---|---|---|
| P1 | 18707 | 6.12.07 | 16-0 | 5,50,00,000 | 2,75,00,000 |
| P2 | 19732 | 13.12.07 | 7-19 | 2,70,30,000 | 2,72,00,000 |
| P3 | 20480 | 19.12.07 | 11-16 | 5,16,25,000 | 3,50,00,000 |
| P4 | 20477 | 19.12.07 | 6-0 | 2,62,50,000 | 3,50,00,000 |
| P5 | 21759 | 28.12.07 | 15-15 | 6,24,42,000 | 3,17,16,571 |
| P6 | 25596 | 06.02.08 | 8-10 | 3,34,68,750 | 3,15,00,000 |
| P7 | 26887 | 20.02.08 | 8-0 | 3,15,00,000 | 3,15,00,000 |
| P18 | 19602 | 12.12.07 | 3-2 | 1,65,00,000 | 4,25,80645 |
| P20 | 2538 | 01.05.07 | 16-1 | 13,95,00,000 | 6,95,32,710 |
| P21 | 20462 | 02.01.07 | 31-18 | 25,81,06,250 | 6,47,28,840 |
| P22 | 28760 | 12.1.11 | 16-11 | 29,25,00,000 | 14,13,89,728 |
| P25/24 | 188 | 03.04.08 | 18-0 | 15,75,00,000 | 7,00,00,000 |

From the above chart, it would be clear that in the first half of 2007, the market value was ranging between Rs.6.47 crores to Rs.6.95 crores, as per Exs.P20 and P21, which are in favour of a builder, namely, M/s K.K.Designer Towers Pvt. Ltd. and M/s Wellworth Project Developers Pvt. Ltd. In December, 2007, the market price had dropped between Rs.3.17 crores to Rs.4.25 crores, as per Exs.P5 & P18, which are in favour of M/s Rational Buildcom and M/s Wellworth Project Developers Pvt. Ltd.

Similarly, M/s Sirur Developers Pvt. Ltd. and M/s Kasi Builder Pvt. Ltd. vide Ex.P-42, had purchased land at around Rs.2.73 crores, the registered office of which is common and at the same address i.e. 6 Community Centre, Saket, New Delhi. On 19.12.2007, 2 sale deeds were executed in favour of M/s Raj Realtech Pvt. Ltd. and M/s Wellworth Project Developers Pvt. Ltd. (Exs.P3 & P4) for Rs.3.50 crores. The price further dropped in February, 2008 to Rs.3.15 crores, vide Exs.P6 & P7, which are also in favour of builder namely, M/s Cadence Real Estates Pvt. Ltd. and which are of reasonable chunks of land of one acre each. The sale deeds Exs.P24/25 upon which reliance is sought to be placed is in favour of M/s K.K.Designer Towers Pvt. Ltd., whereby land was sold at stupendous price of Rs.7 crores. There is no justifiable reason to show the increase which shows that the land price had doubled in 2 months. The said sale deeds were tendered into evidence in rebuttal on 20.04.2015 by counsel and the landowners had never examined the vendor and vendee and therefore, reliance upon the said sale deeds cannot be made as contended by counsel for the landowners.

Though under Section 51A of the Act, the said sale deeds may be read into evidence but since the same are not being depicted on the site-plan to show the exact location of the same, the same cannot be accepted blindly, in view of the judgment of the Apex Court in ***Cement Corporation of India Ltd. Vs. Purya 2004 (8) SCC 270***. Relevant portion of the judgment read as under:

> "25. Section 51A of the Land Acquisition Act seeks to make an exception to the aforementioned rule.
> 26. In the acquisition proceedings, sale deeds are required to be brought on records for the purpose of determining market value payable to the owner of the land when it is sought to be acquired.
> 27. Although by reason of the aforementioned provision the parties are free to produce original documents and prove the same in accordance with the terms of the rules of evidence as envisaged under the Indian Evidence Act, the L.A. Act provides for an alternative

thereto by inserting the said provision in terms whereof the certified copies which are otherwise secondary evidence may be brought on record evidencing a transaction. Such transactions in terms of the aforementioned provision may be accepted in evidence. Acceptance of an evidence is not a term of art. It has an etymological meaning. It envisages exercise of judicial mind to the materials on record. Acceptance of evidence by a court would be dependent upon the facts of the case and other relevant factors. A piece of evidence in a given situation may be accepted by a court of law but in another it may not be.

28. Section 51 A of the L.A. Act may be read literally and having regard to the ordinary meaning which can be attributed to the term 'acceptance of evidence' relating to transaction evidenced by a sale deed, its admissibility in evidence would be beyond any question. We are not oblivious of the fact that only by bringing a documentary evidence in the record it is not automatically brought on the record. For bringing a documentary evidence on the record, the same must not only be admissible but the contents thereof must be proved in accordance with law. But when the statute enables a court to accept a sale deed on the records evidencing a transaction, nothing further is required to be done. The admissibility of a certified copy of sale deed by itself could not be held to be inadmissible as thereby a secondary evidence has been brought on record without proving the absence of primary evidence. Even the vendor or vendee thereof is not required to examine themselves for proving the contents thereof. This, however, would not mean that

contents of the transaction as evidenced by the registered sale deed would automatically be accepted. The legislature advisedly has used the word 'may'. A discretion, therefore, has been conferred upon a court to be exercised judicially, i.e., upon taking into consideration the relevant factors.

29. In V.Narasaiah's case, this Court correctly understood the said scope and object of insertion of Section 51A in the LA Act when it held thus :

> "It was in the wake of the aforesaid practical difficulties that the new Section 51A was introduced in the LA Act. When the section says that certified copy of a registered document "may be accepted as evidence of the transaction recorded in such document" it enables the court to treat what is recorded in the document, in respect of the transactions referred to therein, as evidence."

xxxx xxxx xxxx

37. Having noticed the scope of Section 51A of the LA Act as understood by this Court in V. Narasaiah's case to be the correct interpretation, we will now consider whether such evidence is mandatorily binding on the authority or the court concerned or it is only an enabling provision.

38. In relation to the argument pertaining to Section 13 (5) of the Food Adulteration Act a Constitution Bench of this Court in Mangaldas Raghavji Ruparel & Anr. vs. State of Maharashtra & Anr. AIR 1966 SC 128 stated as follows :-

> "that sub-Section clearly makes the contents of the report of Public Analyst admissible in

> evidence and the prosecution cannot fail solely on the ground that the Public Analyst had not been examined in the case, but what value is to be attached to such report must necessarily be for the court to consider and decide."
>
> (Emphasis supplied)
>
> 39. While it is clear that under Section 51A of the LA Act a presumption as to the genuineness of the contents of the document is permitted to be raised, the same can be relied upon only if the said presumption is not rebutted by other evidence. In the said view of the matter we are of the opinion the decision of this Court in the case of Land Acuisition Officer & Mandal Revenue Officer vs. V. Narasaiah (supra) lays down the correct law."

The landowners have also not explained as to what is the reason for the hike in prices, as such and the price may be on account of unique location of land, also being situated in a commercial belt falling on the highway. A perusal of the record would further go on to show that in **LAC-133** titled Shivraj Vs. State of Haryana an award had been passed on 21.07.2014 regarding the the subsequent notification dated 25.11.2008 which is 5 months post the present notification in which sale deed dated 03.04.2008 was also exhibited and on the basis of which the market value had been awarded @ Rs.3.5 crores per acre. Counsel for the appellants have also relied upon the same and therefore, submitted that the same should be taken into consideration.

The appeals for enhancement in Shivraj's case (supra) has been dealt separately in RFA-9281-2014, by order of even date. In the absence of the State appeal, the said appeal had been dismissed and no further enhancement has been granted. However, as noticed, this Court is of the opinion that blind reliance upon the sale deed dated 03.04.2008 was unnecessarily placed and cannot be, as such, relied upon as it is not a safe sale exemplar. It is settled principle that where the market value has shot-up or the sale exemplar does not inspire confidence and as noticeable, the location has not been pointed out, therefore, it would not be safe to rely upon the same. Sale deeds (Exs.P20 & P21) have also been executed in earlier point of time and more than a year earlier and as noticed, a decreasing trend is also visible and therefore, they cannot be relied upon also, to assess the market value.

However, keeping in view the fact that the land is better situated than Village Medawas, the adjoining village, for which, this Court in RFA-2129-2013 decided on 22.11.2019, enhanced the market value to Rs.2,22,00,000/- per acre, which was acquired for the same purpose, therefore, the market value for the land of Village Badshahpur can be assessed at 20% more, keeping in view the fact that the National Highway No.248-A runs through the revenue estate of the village. Reliance can be placed upon the judgment of the Apex Court in ***Haridwar Development Authority, Haridwar Vs. Raghubir Singh 2010 (11) SCC 581*** and ***Ashok Kumar & another Vs. State of Haryana 2016 (4) SCC 544***, that land which is closer to the Highway will naturally fetch more value. In such circumstances, the market value, as such, would work out to Rs.2,66,40,000/- per acre.

In similar circumstances, the three-Judge Bench of the Apex Court in ***Ram Kanwar and others vs. State of Haryana and another, 2015 (1) RCR (Civil) 234*** upheld the 50% cut which had been applied on account of the abnormal increase which was shown in the sale deeds by holding that necessary deductions had to be applied to bring it at par with the estimated fair market value of the acquired lands. The relevant portion reads thus:-

> *"19. In the instant case, though the sale deeds were for part of lands which were acquired by the acquiring authority under the notification, the said sale deeds indicated an abnormal increase of more than 100% in less than four months. It is not a far reaching implication of the said land being in the vicinity of area under development or already developed, which attributed additional locational advantages leading to escalation of the sale price at which a buyer would purchase the lands. Another fact noticed by the High Court is that the buyers for all these sale transactions had vested interest in the land adjoining or around the properties in such transaction.*
>
> *20. In light of the aforesaid, it can be concluded that the buyers would not have hesitated in offering higher prices to purchase the lands than the market rate of such lands and, therefore, in determination of compensation payable to the land-losers, such price could not be relied upon without making necessary deductions bringing it at par with the estimated fair market value of the acquired lands. In our considered*

> *view, the High Court has correctly made appropriate deductions to the consideration offered under the sale deeds produced and marked in the evidence while assessing fair and true market value of the acquired lands on the date of issuance of Section 4 notification."*

Resultantly, the appeals are allowed to that extent and the market value is enhanced, as above.

04.12.2019 (G.S. SANDHAWALIA)
sailesh JUDGE

Whether reasoned/speaking Yes/No

Whether reportable Yes/No