

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

407

**RFA No.4987 of 2014 and other
connected appeals (O&M)
Reserved on : 17.10.2019
Pronounced on : 01.11.2019**

Jai Bhagwan and others

... Appellants

Versus

State of Haryana and others

... Respondents

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

Present: Mr. J.K. Goel, Advocate and
Ms. Bhanvi Sood, 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 3 appeals i.e. **RFA Nos. 4987, 9077 and 10322 of 2014** filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') by the landowners against the Award dated 04.03.2014 passed by the Reference Court, Gurgaon, for the land acquired in village Dharampur pertaining to the notification dated 13.01.2010 issued under Section 4 of the Act.

2. The Reference Court while deciding 3 cases, lead case of which was **LA Case No.285 of 2012 'Jai Bhagwan and others'** had awarded a sum of ₹1,20,26,666.40 on a proportionate basis by relying upon the Award dated 16.12.2013 passed in '**Surender Pal Vs. State of Haryana and others'** pertaining to village Bajghera (Ex.C1), which was for the same notification, wherein ₹1,50,33,333/- per acre had been

awarded. The sale instances of the year 2008 had been taken into consideration to fix the market value @ ₹2,73,33,333/- per acre in the said case and, thereafter, a cut of 45% had been put to assess the market value. The Reference Court in the Award noticed that the landowners had only produced post dated sale instances and, therefore, did not rely upon the same on the ground that the market rate at the time of notification had to be seen. The two sale deeds in question produced are as under:-

Sr. No.	Exh.	Vasika No. & dated	Land Area	Total sale consideration Rs.	Rate per Acre Rs.	Revenue estate
1	P4	9651 dated 07.07.2011	41 K 11 M	15,58,12,500	3,00,00,000	Dharampur
2	P5	6944 dated 14.06.2011	67 K 08 M	25,27,18,800	2,99,96,200	Dharampur

3. The notification in question was dated 13.01.2010, whereby the land measuring 11.58 acres falling in village Dharampur 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.76 dated 31.03.2010 for the land of village Dharampur had awarded ₹36 lakhs per acre.

4. Counsel for the State has submitted that the location of the village as such was that it did not have the same advantages as of Bajghera and the Reference Court was not justified in fixing the market value on proportionate basis.

5. A perusal of the record would go on to show that the Reference Court while fixing the market value had kept in mind that

value in village Bajghera was higher and the land had been sold @ ₹3,71,55,692/- per acre, whereas the value was only hovering around ₹3 crores per acre on 07.07.2011 as per the above chart. It was in such circumstances, only a proportionate increase as such had been given by adopting the following formula, since the Land Acquisition Collector had awarded ₹45 lakhs per acre for village Bajghera, whereas it was only ₹36 lakhs per acre for village Dharampur.

“The value has been calculated by adopting formula

If value of the land is assessed as ₹ 45 lacs by LAC, it is enhanced to ₹1,50,33,333/- per acre by Reference Court.

If value of the land is taken as ₹1, the enhancement shall come to ₹1,50,33,333/45

If value of the land is assessed as ₹ 36 lacs by LAC, enhancement shall come to ₹1,50,33,333/45 x 36 = ₹1,20,26,666.40”

6. This Court had the benefit of the deciding the appeals together of the present set of acquisition and the villages in question are twelve in number. While examining the site plan, it would be appropriate to notice that the abadi of village Dharampur falls in Sector 108, which is situated way behind Mohamadheri and Babupur, which falls in Sector 106. Village Daultabad and Pawala Khusarpur are closer to the main road which is coming from Dwarka to Gurgaon and is called as the Northern Periphery Road and is dividing Sectors 103 & 106 on one side and Sectors 104 & 105 on the southern side. The landowners of village Pawala Khusarpur have benefitted from the earlier acquisition dated 25.01.2008 when from villages the land had been acquired for the purpose of 150 meters wide periphery road linking Dwarka Township

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Delhi from Haryana boundary to National Highway No.8 near village Kherki Daula at Gurgaon. Village Dharampur is situated at a considerable depth from village Pawala Khusarpur, which has advantage of being closer to the main Northern Periphery Road, while the abadi is falling in Sector 106. Thereafter, the land of Babupur comes and then Dharampur. From Delhi side the land is situated closer to the Najafgarh Drain and does not have that kind of access which the land situated in village Pawala Khusarpur would have. Similarly, in comparison to the Bajghera which is situated on the border and on the main road the value is much more and would not as such be the right method to fall back and calculate the market value.

7. Bajghera and Choma have an advantage of being the adjoining villages as such and being closest to Delhi, therefore, their value has been fixed by the Land Acquisition Collector also at a higher amount. Choma was given ₹60 lakhs per acre and Bajghera was also given ₹45 lakhs per acre. In comparison village Dharampur has only been awarded ₹36 lakhs per acre, which is similar to what had been granted to village Babupur.

8. This Court vide judgment of even date passed in **RFA No.377 of 2016 'Shri Bhagwan Vs. State of Haryana and others'** and other connected appeals for village Babupur has enhanced the market value to ₹2,97,35,640/- per acre, which would be more commensurate value and a relevant piece of evidence. Similarly in **RFA No.2573 of**

2013 'Hem Chander and others Vs. State of Haryana and others' for village Mohmadheri the same amount has been granted. It is a settled principle that the award of the adjoining village can also be taken into consideration to assess the market value, if the sale deeds are not available for the relevant period. The relevant judgment are **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**.

9. The sale deeds as per chart were of June, 2011 and July, 2011 and were executed a year and six months after the notification. It is apparent that in view of the escalation in the prices in the neighbourhood the value has also increased and, therefore, the value of village Babupur and Mohmadheri, which have been granted ₹2,97,35,640/- per acre is to be taken into consideration. An proportionate cut of 10% is applied, keeping in view the location of the land as such and the amount would work out @ ₹2,67,62,076/- per acre alongwith all statutory benefits. Even otherwise the said method is a safe method in as much as, even as per the sale deeds of 2011, the market value ranges in the bandwidth of ₹3 crores only after a period of one year.

10. Resultantly, the appeals of the landowners are allowed and the market value is fixed @ ₹2,67,62,076/- per acre alongwith all statutory benefits.

11. 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