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

**RFA-9281-2014
along with RFA-9280-2014, RFA-530-2015,
RFA-2083 & 3411-2016 and RFA-917-2017
Decided on : 04.12.2019**

Shivraj & others

... Appellants

Versus

State of Haryana & others ... Respondents

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

Present: Mr.Rajat Garg, Advocate
for Mr.Aditya Jain, Advocate
Mr.Shekhar Verma, Advocate
Mr.Amit Jain, Advocate
Mr.Dharambir Sharma, Advocate
for Mr.S.K.Kaushik, Advocate, for the appellants.

Mr.Sudeep Mahajan, Addl.A.G., Haryana
Mr.Shivendra Swaroop, AAG, Haryana
Ms.Vibha Tewari, AAG, Haryana.

G.S. Sandhawalia, J.

Present appeals, filed by the landowners, bearing RFA-9281 & 9280-2014, RFA-530-2015, RFA-2083 & 3411-2016 and RFA-917-2017, filed under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act') are directed against the awards of the Reference Court, Gurgaon dated 21.07.2014 and 06.02.2016.

Vide the impugned awards, the Reference Court has fixed the market value of the land acquired vide notifications dated 25.11.2008 and 12.12.2008 @ Rs.3.5 crores per acre, for Village Badshahpur. The acquisitions being less than a month apart and of the same village, the appeals are being disposed of together. Even otherwise, vide the subsequent award dated 06.02.2016 passed in Harbhajan Singh Khera & others Vs. State of Haryana & others, to grant the same amount of market value, reliance was placed upon the first award.

For the notification under Section 4 read with Section 17(1) of the Act dated 25.11.2008, the lead case of which is Shivraj & others Vs. State of Haryana & others, land measuring 19.21 acres was acquired for the Development & Utilization of 90 meters wide Southern Periphery road alongwith 30 meters wide Green Belt on both sides from National Highway No.8 upto Sector 72, Gurgaon. The LAC, vide award No.59 dated 24.09.2009, had fixed the amount of market value @ Rs.70 lakhs per acre. Reference Court had the benefit of several sale deeds which were executed prior to the date of the notification and rightly rejected the sale deeds which were post-notification. Similarly, the sale deed (Ex.P-1) was rejected, being over a year, prior in time, having been executed on 16.04.2007/01.05.2007.

For the land falling in same village, acquired vide notification under Section 4 dated 12.12.2008 in Harbhajan Singh's case (supra), 35.32 acres of land was acquired for the public purpose of Development & Utilization of Land for Commercial Belt alongwith Southern Peripheral Road in Sectors 62, 65 & 66 of Gurgaon. The Land Acquisition Collector had granted compensation to the tune of Rs.70 lakhs per acre vide award No.11 dated 23.11.2011.

Keeping in view the settled principles that the relevant date is the issuance of Section 4 notification, for assessing the market value, the issues of sacrosancy of the said date, potentiality of the land and the claim for enhancement, all the relevant sale deeds, keeping in view the proximity from the time and also a reasonable chunk of land, read as under:

Sale deeds of Village Badshahpur	Dated	Land sold in kanals-marlas	For ₹	Rate per acre
Ex.P1	01.05.2007/ 16.04.2007	16-1	13,95,00,000/-	6,95,32,710/-
Ex.P2	02.04.2008	1-8	1,22,50,000/-	7,00,00,000/-
Ex.P3	28.03.2008/ 03.04.2008	18-0	15,75,00,000/-	7,00,00,000/-
Ex.P11	18.07.2008	6-11	3,47,96,875/-	4,25,00,000/-
Ex.P11/1	21.07.2008	16	8,50,00,000/-	4,25,00,000/-

Keeping in view the above chart, it was noticed that the land, as such, was being sold in March-April, 2008 @ Rs.7 crores per acre. However, in July, 2008, closer to the date of Section 4 notification, the market value had dipped to Rs.4,25,00,000/- and keeping in view the decreasing trend and the fact that on an earlier occasion, in Shivraj's case (supra), the amount of Rs.3.5 crores per acre had been awarded and the same amount was granted. The relevant sale deeds which were available with the Reference Court in Shivraj's case (supra) are reproduced as under:

Sale deeds of Village Badshahpur	Dated	Land sold in kanals-marlas	For ₹	Rate per acre
Ex.P22	1.05.2007	16-1	13,95,00,000/-	6,95,32,710/-
Ex.P23	3.04.2008	18-0	15,75,00,000/-	7 crores

The chart would, thus, show that Exs.P-3 & P-23 and Exs. P-1 and P-22 are common and dated 03.04.2008 and 01.05.2007 are the same whereas the subsequent sale deeds of July, 2008 (Ex.P-11 & P-11/1) were not exhibited which shows the dip in the market value.

Reference Court, in Shivraj's case (supra), thus, had also relied upon the sale deed in favour of M/s K.K. Designer Towers Pvt. Ltd. (Ex.P-23) which is the common sale deed wherein land had been sold @ Rs.7 crores per acre. Finding was also recorded that the sale price had remained stagnant for the last over one year and 4 months and therefore, enhancement for the 8 months period was denied, keeping in view the fact that acquired land was 19.21 acres in comparison to the land which had been sold of 18 kanals. Perusal of the sale deeds dated 01.05.2007 and 03.04.2008 would go on to show that market value had not appreciated in the intervening year and the same builder had paid around same amount of sale consideration. It is, in such circumstances, the 50% cut was applied, keeping in view the judgment in **Chandershekhar (D) BY LRs & others Vs. Land Acquisition Collector & another (2012) 1 SCC 390**.

It is to be noticed that the common sale exemplars, Ex.P-1/Ex.P-22 and Ex.P-3 and Ex.P-23 are in favour of the same builder namely K.K.Designer Towers Pvt. Ltd. The 50% cut which has been applied on the basis of the development, though contested by the landowners on the ground that it was for the roads and therefore, no cut should be applied, also is liable to be rejected as it is a builder sale deed. The sudden surge is apparent and the keenness of the builders to buy the land at any cost to enhance its land bank is well known. Therefore, builders sale deeds cannot depict the correct market value and the necessary cut is liable to be applied upon the same. This Court has been consistently applying the relevant cut of 50% on the builder sale deeds as the said sale deeds shows the potentiality of the land and the building activity which is going on in the area. However, it cannot be said that the said sale deeds would depict the correct market value as the builders always prefer to buy the land which is locationally better placed for the purpose of marketing the project at a later point of time. 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.*
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> *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."*

In such circumstances, this Court is of the opinion that the market value which has been fixed for the sale deeds in question is appropriate and the same does not warrant any further enhancement. It is to be noticed that for the notification dated 24.06.2008, for the adjoining village of Medawas, which is stated to be away from the Highway, this Court in **RFA-2199-2011** titled *Jaggan & others Vs. State of Haryana & others*, decided on 25.09.2014, fixed the market value @ Rs.2,22,00,000/- per acre. The land of Badshahpur being closer to the National Highway as the same cuts through the land of the said village, would be more valuable for which appropriate enhancement has been granted. The amount of compensation has been enhanced for the notification dated 24.06.2008 in **RFA-406-2016** titled *Raja Ram (D) th LRs & others Vs. State of Haryana & others*, to Rs.2,66,40,000/- per acre, decided by order of same date. Land of Village Badshahpur being more valuable on account of being on the Highway would fetch more market value, in view of the principles laid down by 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**., and therefore, enhancement has been granted. The sale exemplar of Rs.7 crores has been discounted in the said appeal by holding that the location of the same has not been shown on the site plan and nor the vendor's or vendee's have been examined though the same deed may be read in evidence, under Section 51-A, but with a caveat, in view of the judgment in ***Cement Corporation of India Ltd. Vs. Purya 2004 (8) SCC 270***. The market value having doubled in two months, was also a reason not to accept the said sale exemplar as it did not inspire confidence. The State having not preferred any appeals against the said award, the amount awarded cannot be reduced.

Accordingly, in view of the above discussion, the market value which has been fixed is appropriate and calls for no further enhancement. Resultantly, the present appeals are dismissed.

(G.S. SANDHAWALIA)
JUDGE

DECEMBER 4th, 2019
SAILESH

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*