

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

**RFA No.4247 of 2016
& other connected cases
Decided on : 08.01.2020**

State of Haryana & others ... Appellants
Versus
Bhup Singh ... Respondent

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

Present: Mr.Sudeep Mahajan, Addl.A.G., Haryana.
Ms.Vibha Tewari, AAG, Haryana.

Mr.R.P.Verma, Advocate, for
Mr.R.S.Sharma, Advocate, for the landowners.

G.S. Sandhawalia, J. (Oral) :-

The present set of appeals bearing RFA No.4247 to 4250, 3825, 3826, 4780 & 4805-2016, RFA-1052 & 2843 of 2017, filed under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act') both by the landowners and the State, are directed against the award of the Reference Court, Fatehabad dated 31.03.2016. The Reference Court has enhanced the compensation of Rs.20 lakhs per acre, as awarded by the Land Acquisition Collector, vide award dated 30.09.2013, to Rs.58,08,000/- per acre, for the land measuring 7 kanals 17 marlas, of Village Dhanger acquired for the public purpose of the already constructed Dhanger Minor.

The ground for enhancement by the Reference court is the market value of the sale deeds dated 14.09.2011/07.10.2011(Exs.P-7 & P-8) whereby land had been sold at the above-said rate which has been granted to the landowners wherein 10 marlas of land had been sold for Rs.3,63,000/- and the market value was, thus, worked out on 10.05.2013, the date Section 4 notification was issued.

Counsel for the State has vehemently argued that keeping in view the fact that the sale exemplar was only of 10 marlas, therefore appropriate cut, on account of smallness of the plot, should have been granted and therefore, the amount awarded is liable to be decreased.

A perusal of the paperbook would go on to show that the landowners, in their petition filed under Section 18 of the Act, had submitted that Village Dhanger was on the National Highway No.10 and was very near to District Fatehabad and the urban area of Fatehabad was expanding towards Village Dhanger, towards National Highway No.10. Private companies namely SOMA and ALPHA had already raised construction of residential colonies near the village and the prices were higher than plots in HUDA sectors. Police lines, police colony and electric power house were situated near the village. There was bye-pass near the acquired land leading from Hisar-Fatehabad road to Bhuna-Chandigarh road and there were petrol pumps and the value of the land was claimed to be Rs.1 crore per acre. Resultantly, enhancement, as such, has been sought. Affidavit had been tendered in support of the evidence.

Cross-examination of PW-1, Krishan showed that the acquired land was 1 ½ kms away from Village Dhanger and 8 kms from Fatehabad and the land was agricultural in nature. Cross-examination of PW-2, Sita Ram would go on to show that the acquired land was 8-10 acres away from the village whereas cross-examination of PW-3 Bhup Singh showed that Village Dhanger had merged in the area of Fatehabad city. Similarly, RW-1, P.P.Chopra, Sub Divisional Canal Officer, in

cross-examination, also admitted that Village Dhanger was situated at a distance of 7 kms from Fatehabad on National Highway No.10 and that development of Fatehabad city was expanding towards the said village. He also admitted that the land was acquired by HUDA for bye-pass in the area of Village Dhanger. The power house was also situated in the area of the said village.

The landowners had also brought on record Ex.P-12 which was an award passed by the Addl.District Judge, Fatehabad titled as Ghamandi Lal & others Vs. State of Haryana & others, decided on 16.08.2014, wherein the land was acquired for the bye-pass road adjacent to Sectors 4, 5, 5-Part and 7A-Part, Fatehabad wherein the market value was assessed @ Rs.43,20,000/- per acre. The said amount had further been enhanced in **RFA-9626-2014** titled *Hanuman Singh Vs. State of Haryana & others*, on 22.09.2015, to Rs.50 lakhs per acre by this Court and the SLPs filed by the landowners were dismissed by the Apex Court on 29.07.2016. It was also noticed that the land was situated only 8-10 acres from the village on the National Highway No.10. Ex.P-19 is the Google map produced by the landowners whereby the Dhanger Minor road is also shown and the presence of the petrol pumps on the Hisar bye-pass. It has already come on record that the land was acquired by HUDA for the bye-pass road which was situated in Village Dhanger.

The earlier award (Ex.P-12) was for the notification dated 12.02.2008 whereby land was acquired for the construction of the bye-pass road, adjacent to Sectors 4, 5, 5-Part and 7A-Part and also pertained

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to Village Dhanger and as noticed, the market value has been fixed @ Rs.50 lakhs per acre. The judgment passed by this Court would go on to show that reliance was placed upon various sale deeds wherein the market value was ranging between Rs.40-50 lakhs per acre in the year 2008. Similarly, for the three sale deeds of the years 2006-2007 (Exs.P-20, P-31 & P-37), the value ranged between Rs.42,27,520/- to Rs.47,60,000/- per acre. Accordingly, market value had been enhanced to Rs.50 lakhs per acre, on the basis of the said sale deeds, though they were post notification but keeping in view the sale deeds (Exs.P-20, P-31 & P-37) on which if a cumulative enhancement is granted, the market value would come to the same range.

The notification in question, as such, is dated 10.05.2013 which is more than 6 years subsequent in point of time. Resultantly, this Court is of the opinion that there would be appreciation of the market value for the intervening period also and if the benefit of the same is to be granted, it would offset the higher cut on Exs.P-7 & P-8, which is to be made on account of the smallness of the land, if any.

Resultantly, the amount awarded by the Reference Court does not seem to be in excess of the market value which has rightly been judged and there is no illegality in the award, as such as the principle that the sale exemplars of close proximity and of the same revenue estate, have to be taken, has been kept in mind while assessing the market value granting the enhancement. In such circumstances, the claim for enhancement by the landowners also is not liable to be granted as there is

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no material on record to show that the market value was higher than what has been awarded by the Reference Court.

Resultantly, in view of the above discussion, the present appeals stand dismissed.

January 8th, 2020
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No