IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA-4077-2017(O&M)
Date of decision: 15.11.2022
Reserved on: 26.08.2022

Haryana State Industrial Infrastructure Development Corporation Limited

....Appellant

Versus

Umed Singh (deceased) through LRs and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Pritam Singh Saini, Advocate for HSIIDC

Mr. Kulvir Narwal, Advocate
Mr. Satish Kumar, Advocate
Mr. Parveen Kaushik, Advocate
for the landowners

Ms. Vibha Tiwari, AAG, Haryana

ANIL KSHETARPAL, J

1. Background and Introduction:-

1.1 While praying for the modification of the market value assessed vide award passed on 15.09.2016 by the Reference Court (hereinafter referred to as the 'RC'), this batch of appeals (details whereof are at the foot of the judgment) has been filed by the Haryana State Infrastructure and Industrial Development Corporation (hereinafter referred to as the 'HSIIDC') and the landowners. The notifications

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under Section 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the '1894 Act') and the awards passed by the Land Acquisition Collector (hereinafter referred to as the 'LAC') and the RC are common. Learned counsel representing the parties are ad idem that this batch of appeals can conveniently be disposed of by a common judgment.

1.2 The relevant particulars of the case, in brief, are as under:-

Sr.No.	Particulars	Details
1.	Date of notification under Section 4	02.02.2010
2.	Declaration under Section 6	18.10.2010
3.	Date of LAC's award and number	01.07.2011 (Award no.6)
4.	Amount awarded by the LAC	Rs.25,00,000/-
5.	Area	125 kanals and 10 marlas
6.	Village	Kheri Sadh
7.	District	Rohtak
8.	Purpose	Construction of common affluent treatment plant for industrial model township
9.	Date of RC award	15.09.2016
10.	Amount awarded by RC	Rs.33,00,000/- per acre

Facts:-

2.1 Dissatisfied with the amount offered by the LAC, on an application made by the landowners, the cases were referred to the RC. The landowners claim that the market value offered by the LAC is neither just nor fair and he has failed to appreciate the potential of the acquired land. Claiming that the market value of the acquired land was Rs.5 crores per acre on 02.02.2010, the landowners state that the acquired land is situated on National Highway No.10 (Delhi-Rohtak

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Road). Various hotels, banquet halls and Tilyar Lake are adjacent to the acquired land. Various educational institutions namely Baba Mast Nath College of Engineering, an Eye Hospital, an Ayurvedic College, a College of Pharmacy, a College of Physiotherapy, Baba Mast Nath Residential Public School, Indus Public School, DGV Public School and DAV Centenary Public School, Rohtak and other educational and residential colonies are located including the Govt. Employees Cooperative Housing Society Limited, Suncity Project, Omaxe Project and Sector 27 are located nearby the acquired land. The acquired land is situated near the plant of Asian Paints, Maruti Testing and Research Centre, National Highway no.71-A and a footwear institute. While claiming that the acquired land is located within the radius of 4 kms from the Rohtak City, it is claimed to be surrounded by a thickly populated residential and commercial area. Maharishi Dayanand University, PGIMS Rohtak are at a walking distance from the said land. IMT, Baliyana and IMT, Bohar are already under development in the surrounding area.

2.2 On the other hand, the HSIIDC claims that the market value offered by the LAC has been determined after keeping in view the location, situation and potential of the acquired land, which is reasonably just, fair and adequate.

2.3 From the pleadings, the RC culled out the following issues for adjudication:-

"*(1) What was the market value of the acquired land at the time of issuance of notification under Section 4*

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of the Land Acquisition Act, 1894? OPP

(2)Whether the petitioners are entitled to any amount as enhanced compensation as alleged, if so, to what extent? OPP.

(3) Whether the present petition is not maintainable? OPR

(4) Whether the petitioners have no locus-standi to file the present petition.? OPR

(5) Whether the petition is bad for non-joinder of necessary party and mis-joinder of unnecessary parties? OPR

(6) Relief."

3. <u>Evidence produced by the respective parties:-</u>

3.1 In the oral evidence, the landowners examined the following witnesses:-

PW1	Dilbag Singh
PW2	Chander Bhan
PW3	Krishna
PW4	Surender
PW5	Bijender
PW6	Ashok Kumar
PW7	Joginder

3.2 In documentary evidence, the landowners produced the following documents, apart from the sale deeds, a tabulated compilation of which is incorporated in para 5.3 of the judgment:-

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Ex.P1	Copy of award No.6 dated 1.7.2011
Ex.P2	Copy of award No.18 dated 3.1.2013
Ex.P3	Copy of Jamabandi for the year 2010-2011
Ex.P4	Copy of Jamabandi for the year 2010-2011
Ex.P5	Copy of Jamabandi for the year 2010-2011

3.3 In the oral evidence, the HSIIDC examined RW1 Krishan, Patwari.

3.4 In the documentary evidence, the following documents were produced by the HSIIDC, apart from the sale deeds, a tabulated compilation of which is incorporated in para 5.3 of the judgment.

Ex.R1	Authority letter in favour of Krishan, Patwari
Ex.R2	Notification dated 9.11.2010
Ex.R6	Copy of Award No.6 dated 1.7.2011
Ex.R7	Statement No.19

4. <u>Analysis of the RC's award:-</u>

4.1 The RC has refused to take into consideration the sale deeds (Ex.R1 to R3) while concluding that as per Section 25 of the 1894 Act, such sale deeds that reflect a price lower than the amount awarded by the LAC are not required to be looked into for assessing the market value of the acquired land. The RC further held that the sale deeds produced by the landowners i.e. Ex.P1 to P11 are with respect to the period post the date of notification under Section 4 of the 1894 Act. Hence, it would not be appropriate to rely upon the aforesaid sale deeds to assess the market value of the acquired land as on 02.02.2010. Thereafter, the RC relied upon the LAC's award no.18 of 2012-13 with respect to the acquisition

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of land in Village Kheri Sadh. In this particular case, the preliminary notification under Section 4 of the 1894 Act was issued on 11.01.2010. The LAC vide award No.18 offered to pay Rs.33,00,000/- per acre in respect of the land acquired for developing the Industrial Model Township in Village Kheri Sadh. The RC has held that once the Government itself has recognized that the market value of the land in the village is Rs.33,00,000/- per acre, therefore, the landowners in this case are also entitled to the similar amount.

5. <u>Discussion and Analysis of the arguments of the learned counsels representing the parties:-</u>

5.1 Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook. Learned counsel representing the landowners contend that the RC has erred in overlooking the sale deeds Ex.P6 to P11. They submit that the court should have applied reverse deduction in order to arrive at the market value of the acquired land. On the other hand, the learned counsel representing HSIIDC contends that the RC has erred in wrongly interpreting Section 25 of the 1894 Act while refusing to take into consideration sale deeds Ex.R3 to R5 because they reflect a price lower than the amount offered by the LAC.

5.2 This Court has considered the arguments of the learned counsel representing the parties and perused the judgment passed by the RC alongwith its record, which was requisitioned.

5.3 Undoubtedly, the RC has wrongly interpreted Section 25 of the 1894 Act. There is no prohibition or bar from taking into account the

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sale deeds produced in evidence by the parties, which reflect a price lower than the market value offered by the LAC. This issue is no longer res integra in view the judgment passed by the Supreme Court in **Lal Chand vs. Union of India (2009) 15 SCC 769**.

Sale exemplars produced by the landowners

Sr. No.	Exhibits	Sale deed No.	Date	Total Area	Sale consideration Rs.	Price per acre Rs.	Village
1.	Ex.P6	1749	31.10.2012	2 Acre	3,36,60,000/-	1,68,30,000/-	Kheri Sadh
2.	Ex.P7	1750	31.10.2012	1 Acre	1,68,30,000/-	1,68,30,000/-	Kheri Sadh
3.	Ex.P8	1739	30.10.2012	1 Acre	1,68,30,000/-	1,68,30,000/-	Kheri Sadh
4.	Ex.P9	1745	31.10.2012	1 Acre	1,68,30,000/-	1,68,30,000/-	Kheri Sadh
5.	Ex.P10	1738	30.10.2012	1 Acre	1,68,30,000/-	1,68,30,000/-	Kheri Sadh
6.	Ex.P11	1757	02.11.2010	1A. 3K. 7M.	2,38,77,562/-	1,68,30,000/-	Kheri Sadh

Sale exemplars produced by the HSIIDC

Sr. No.	Exhibits	Sale deed No.	dated	Area	Sale consideration Rs.	Price per Acre Rs.	Village
1.	Ex.R3	2983	10.02.2010	4K. 16 M.	7,80,000/-	13,00,000/-	Kheri Sadh
2.	Ex.R4	1735	12.08.2009	1A.5K.14 M	27,40,000/-	16,00,000/-	Kheri Sadh
3.	Ex.R5	2607	18.12.2009	5A.3K.16 M.	71,18,000/-	13,00,091/-	Kheri Sadh

5.4 The sale deeds produced by the landowners Ex.P6 to P11 are with respect to the period, two years post the date of notification under Section 4 of the 1894 Act. It would not be appropriate to rely upon such sale deeds for assessing the market value of the acquired land

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on 02.02.2010.

5.5 On a careful perusal of award no.6 dated 01.07.2011, acquiring the land for the common affluent treatment plant (this acquisition), it is evident that the land comprised in Rectangle No.27, 28, 29 and 30 has been acquired for the said purpose. In terms of unit of agricultural land, the word 'rectangle' denotes a compact block of 25 acres of land (5 x 5 acres). Ordinarily an acre consists of 4840 square yards of land. On a careful perusal of Ex.P2, it is evident that while assessing the market value @ Rs.33,00,000/- per acre, as on 11.01.2010 for the acquired land comprised in Rectangle No.23, 24, 25, 26, 27, 28, 29, 30, 54, 55, 56, 57, 58, 59, 60, 61, 86, 87, 88, 89,91 and 92, the LAC has already set a bench mark. It is obvious that out of the land comprised in Rectangle no.27, 28, 29 and 30, some portion has been acquired vide award no.6, whereas some of the portion has been acquired vide award no. 18. In such circumstances, it is reasonable to presume that both the parcels of land located in Village Kheri Sadh are not only identically located but their market value is also identical. There is a difference of nearly 22 days between the two different acquisitions under Section 4 of the 1894 Act. Though the RC has not gone deep into the matter, however, it is evident that the acquisition of the land for IMT, Kheri Sadh and common affluent treatment plant is on the parcels of land located nearby. Moreover, the sale deeds Ex.R3 (bearing no.2983), R4 (bearing no.1735) and R5 (bearing no.2607) are with respect to sale of parcels of land out of the land comprised in Rectangle no.18, 60, 85, 91, 119 and 120. There is no evidence that the

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aforesaid parcels of land represented by the sale deeds Ex.R3 to R5, were located close to the said acquired land. The HSIIDC has not produced any layout plan to prove that the location of parcel of land sold through Ex.R3 to R5 was comparable with the acquired land. As regards, the argument of learned counsel representing the landowners that reverse deduction should be applied on the sale deeds Ex.P6 to P11, it is sufficient to observe that it would not be appropriate to assess the market value on applying the reverse cut. After the land has been notified for the industrial model township as well as the common affluent treatment plant, the prices of the unacquired land in the area were likely to steeply increase. For the reasons noted above, the sale deeds executed in the months of October and November, 2012 are not the appropriate exemplars for assessing the market value on 02.02.2010.

6. <u>Decision:-</u>

6.1 Keeping in view the aforesaid discussion, this Court does not find it appropriate to interfere with the award passed by the RC. Consequently, all the appeals filed by the landowners as well as the HSIIDC shall stand dismissed.

6.2 All the pending miscellaneous applications, if any, are also disposed of.

15.11.2022 **(ANIL KSHETARPAL)**
rekha **JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

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SR. NO.	CASE NO.	PARTIES DETAILS
1.	RFA-734-2017	JOGINDER & ORS V/S STATE OF HARYANA AND ORS
2.	RFA-3522-2017	CHANDER BHAN AND ORS V/S STATE OF HARYANA AND ORS
3.	RFA-1762-2017	UMED SINGH NOW DECEASED THR LRS V/S STATE OF HARYANA AND ORS
4.	RFA-1761-2017	SURAJ BHAN & ORS V/S STATE OF HARYANA AND ORS
5.	RFA-1763-2017	ASHOK KUMAR & ORS V/S STATE OF HARYANA AND ORS
6.	RFA-1612-2017	RATTAN SINGH V/S STATE OF HARYANA & ORS
7.	RFA-1282-2017	BRAHAM SINGH & ORS V/S STATE OF HARYANA & ORS
8.	RFA-1613-2017	BIJE SINGH DECEASED THR. LR & ORS V/S STATE OF HARYANA & ORS
9.	RFA-4080-2017	HSIIDC V/S SURAJ BHAN AND ORS
10.	RFA-4081-2017	HSIIDC V/S BIJE SINGH SINCE DECEASED THR. HIS LR AND ORS
11.	RFA-4078-2017	HSIIDC V/S CHANDER BHAN AND ORS
12.	RFA-4946-2017	BHIM SINGH (DECEASED) THR. LRS & ORS V/S STATE OF HARYANA AND ORS
13.	RFA-4083-2017	HSIIDC V/S BHIM SINGH DECEASED THR. LRS AND ORS
14.	RFA-4077-2017	HSIIDC V/S UMED SINGH (DECEASED) THROUGH LRS AND ORS
15.	RFA-4079-2017	HSIIDC V/S BRAHAM SINGH AND ORS
16.	RFA-4082-2017	HSIIDC V/S ASHOK KUMAR AND ORS
17.	RFA-4085-2017	HSIIDC V/S JOGINDER AND ORS
18.	RFA-4084-2017	HSIIDC V/S RATTAN SINGH AND ORS

15.11.2022 **(ANIL KSHETARPAL)**
rekha **JUDGE**

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