

304 (11 cases)

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

**RFA No. 2341 of 2021 (O&M)
alongwith connected cases
Date of Decision: 21.08.2023**

M/s. Tamanna Developers Private Limited

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Adarsh Jain, Advocate
for the appellant(s).

Mr. Shivendra Swaroop, Deputy Advocate General, Haryana

HARKESH MANUJA, J.

CM-23-CI-2022 in RFA-10-2022

Application is **allowed**, as prayed for, subject to all just exceptions. The applicants mentioned in para-2 of the application are ordered to be brought on record as legal representatives of appellant No. 2-Rohtash to pursue the appeal.

Applications for condonation of delay

In RFA Nos. 2341, 2342, 2348, 2350, 2353, 2354, 2356 & 2357 of 2021, applications have been filed for condonation of delay of 1518 days in filing the respective appeals, whereas in RFA Nos. 2346 & 2358 of 2021; 10 of 2022, applications have been filed for

condonation of delay of 1462, 1514 & 1467 days in filing the respective appeals.

Upon notice, no reply has been filed to the above applications, however, learned State Counsel vehemently opposes the prayer made therein.

I have heard learned counsel for the parties and gone through the contents of the applications, which have been supported by affidavit(s).

Concededly, the other similarly situated landowners pertaining to the same acquisition proceedings have already been held entitled for the enhanced amount of compensation pertaining to the acquired land falling in the same revenue estate, i.e. **Village Budena Tehsil & District Faridabad**, to the tune of Rs. 3073/- per square yard, in view of judgment dated 13/14.07.2021 passed by Hon'ble Supreme Court in **Civil Appeal No. 2903 of 2021**, titled **"Banwari Lal & Anr. Versus State of Haryana & Ors."**.

Based thereupon, applying the principle of parity, besides awarding just and fair compensation and relying upon the decision of Hon'ble Supreme Court in case of **"Ningappa Thotappa Angadi (Dead) through LRs Versus Special Land Acquisition Officer and Another", 2020 (19) SCC 599** as well as in view of the contents of applications, the same are **allowed** and delay in filing the respective appeals, as mentioned above, are hereby condoned.

MAIN APPEAL(S)

This order shall dispose off bunch of appeals bearing RFA Nos. 2341, 2342, 2346, 2348, 2350, 2353, 2354, 2356, 2357 &

2358 of 2021 and RFA No. 10 of 2022, as the same arise out of common acquisition / award.

[2] The landowners, by instituting the present appeals preferred under Section 54 of the Land Acquisition Act, 1894 (for short “the Act”), are seeking modification of the award dated 16.10.2015 passed by learned Additional District Judge, Faridabad (hereinafter to be referred as “Reference Court”) for enhancement of compensation amount.

[3] In pursuance to Haryana Govt. Notification dated 14.08.2008 issued under Section 4 of the Act, followed by Notification dated 30.08.2008 under Section 6 thereof, the land measuring 78.99 acres, including the land of appellants, situated in the revenue estate of Village **Budena**, Tehsil & District Faridabad, was acquired. The public purpose for acquisition of the land was stated to be Development & Utilization of Master Plan Roads of Sectors 75 to 89, Faridabad. The Land Acquisition Collector, Urban Estate, Haryana, Faridabad (for short “LAC”), vide Award No. 17, dated 27.08.2010, assessed the market value of acquired land @ Rs. 42,00,000/- per acre alongwith other statutory benefits.

[4] Dissatisfied with the aforesaid Award, landowners / interested persons filed objections under Section 18 of the Act, which was decided vide award dated 16.10.2015 by learned Reference Court, whereby the market value of the acquired land was enhanced / assessed @ Rs. 2000/- per square yard, besides granting statutory benefits.

[5] It is pertinent to mention here that the matters pertaining to the enhancement were remand by the Apex Court in **Civil Appeal No(s) 21014-21016 of 2017**, titled **“Premwati & Ors. Versus State of Haryana & Anr.”**, decided on **06.12.2017**, after those matters were decided by a Coordinate Bench of this Court on 16.09.2015 in **‘Rampal and others Vs. Land Acquisition Collector and another’, 2016 (1) RCR (Civil) 494**. Thereafter, the matter was again decided by learned Single Bench of this Court vide judgment dated 31.05.2019 in **Ram Pal’s case (supra)**, whereby the market value for the acquired land with regard to the notification dated 14.08.2008 pertaining to Villages **Budhena**, Baselwa and Mawai, was fixed @ Rs. 3,300/- per square yard (Rs.1,59,72,000/- per acre) for the land falling within the limits of Municipal Corporation, Faridabad and for the other land of the said villages, the market value was fixed @ Rs.2970/- per square yard (Rs.1,43,74,800/- per acre).

[6] Against the judgment dated 31.05.2019 (supra), parties again approached Hon’ble Supreme Court in a batch of appeals, lead case of which was Civil Appeal No. 2903 of 2021, titled **“Banwari Lal & Anr. Versus State of Haryana & Ors.”**, which have been decided on three different dates, 08.07.2021, 13.07.2021 & 14.07.2021.

[7] It is contended by learned counsel for the appellant(s) that present appeals are squarely covered with the judgment of **Banwari Lal’s case (supra)**, arising out of the same notification vide which the land of appellants was acquired.

[8] Learned State Counsel is not in a position to controvert the factual aspect that the main appeals are covered in terms of

judgment of **Banwari Lal's case (supra)**; however, opposes payment of interest for the period, the appellants failed to approach this Court after the decision of Reference Court.

[9] I have heard learned counsel for the parties and gone through the paper-book.

[10] From the records, it is apparent that the present appeals are squarely covered with the judgment of **Banwari Lal's case (supra)**, which are arising out of the same acquisition / Notification dated 14.08.2008 covering the same revenue estate i.e. **Village Budena / Bhudena, Tehsil & District Faridabad**, whereby the landowners have been held entitled for the enhanced amount of compensation @ Rs. 3073/- per square yard. For reference, the relevant paras of judgment dated 13/14.07.2021 passed in case of **Banwari Lal's (supra)** (at page Nos. 35 to 38) read as under:-

“ Village : Bhudena

As regards the lands situated in village Bhudena, as referred to in the third notification, the High Court has fixed the fair market price at Rs.2970/- per sq.yd.

In all, 7 sale instances have been relied upon by the parties. Two sale instances i.e., Exhibits P-44 and PW8/B, pertain to period before the first notification dated 01.05.2006. The consideration mentioned therein is Rs.1446/- and Rs.1136/- per sq.yd., respectively. These instances can be taken note of only to understand the fair increase in the market price after the first notification.

The sale instances at Exhibits P-39 and P-55 dated 18.5.2006 and 28.5.2006, are immediately after the issuance of the first notification, each for Rs.3512/- per sq.yd.

Obviously, after the first notification there is spurt in the land price. That spurt may not be available to the land owners covered under the first notification, but certainly it can

be reckoned in respect of landowners covered under the subsequent notifications including dated 14.08.2008.

However, it appears that there is yet another sale instance i.e., Exhibit P-2 executed on 19.3.2007, for consideration mentioned as Rs.2996/- per sq.yd. Therefore, we are disposed to take the mean of the three sale instances after the first notification, namely, Exhibits P-39, P-55 and P-2, for arriving at a predictable market price (Rs.3512/-, Rs.3512 and Rs.2996/-), which comes to Rs.3340/- (i.e., addition and divided by three).

This market price can be taken as the base value for determining fair market price to be given to the land owners of village Budhena, covered under the third notification.

Resultantly, we take the mean at Rs.3340/- per sq.yd. and add aggregate 15% rounded off (7.5% per annum), as increase for two years from 2006 till the issuance of the third notification dated 14.08.2008. After adding that amount, deduction of 20% will have to be provided as given in other cases. As a result, the fair market price would work out to Rs.3073/- (Rupees three thousand seventy-three only) per sq.yd. (Rs.3340/- plus Rs.501/- minus Rs.768/-).

In our opinion, therefore, the determination/fair market price by the High Court needs to be modified to Rs.3073/-.

Hence, the appeal(s) filed by the State challenging the enhancement by the High Court stand rejected, whereas the appeal(s) filed by the claimant(s) for enhancement are partly allowed to the above extent. Rest of the benefits including statutory benefits awarded by the High Court shall remain undisturbed. ”

[10.1] Based upon the above, applying the principle of parity, besides award of just and fair compensation, the landowners / appellants being similarly situated are held entitled for grant of similar amount of compensation as has been awarded to other landowners

vide judgment dated 13/14.07.2021 in case of **Banwari Lal (supra)**,
alongwith all other statutory benefits and interest thereupon as
provided under the Act, except payment of interest for the period
the appellants did not approach this Court after passing of
Reference Court's Award.

[11] **Disposed off** in the above terms.

Pending application(s), if any, shall stand(s) disposed off.

August 21, 2023

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**(HARKESH MANUJA)
JUDGE**

Whether Speaking / Reasoned :	Yes	No
Whether Reportable :	Yes	No