

CM Nos. 539 & 541-CI of 2023;
CM Nos. 3184 & 6018-CI of 2021 in/and
RFA No. 5393 of 2015 (O&M)

Neutral Citation No. 2023:PHHC:125749

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM Nos. 539 & 541-CI of 2023;
CM Nos. 3184 & 6018-CI of 2021 in/and
RFA No. 5393 of 2015 (O&M)
Date of Decision: 22.09.2023

M/s. Giltz Builders & Promoters Pvt. Ltd., New Delhi

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Adarsh Jain, Advocate
for the applicant-appellant / landowner.

Mr. Shivendra Swaroop, Deputy Advocate General, Haryana

HARKESH MANUJA, J.

The appellant-landowner / private builder, by instituting the present appeal preferred under Section 54 of the Land Acquisition Act, 1894 (for short “the Act”), is seeking modification of the award dated 26.03.2014 passed by learned Additional District Judge, Faridabad (hereinafter to be referred as “Reference Court”) for enhancement of compensation amount.

[2] In pursuance of Haryana Govt. Notification under Section 4 of the Act issued on 07.02.2008, followed by Notification dated 06.02.2009 under Section 6 thereof, the land measuring 33.22 acres, including the land of appellant, situated in the revenue estate of Village **Murtzapur**, Tehsil & District Faridabad, was acquired. The public purpose for acquisition of the

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land was stated to be development and utilization of land as residential and commercial for Sectors 76 to 78, Faridabad. The Land Acquisition Collector, Urban Estate, Faridabad, Haryana (for short "LAC"), vide Award No. 26, dated 04.02.2011, assessed the market value of acquired land @ Rs. 42,00,000/- per acre alongwith other statutory benefits.

[3] Dissatisfied with the aforesaid Award, landowners / interested persons filed objections under Section 18 of the Act, which were decided vide award dated 26.03.2014 by Reference Court, whereby the market value of the acquired land was enhanced / assessed @ Rs. 1052/- per square yard besides granting statutory benefits.

[4] Aggrieved thereof, the landowner preferred the present appeal, which was disposed off on by this Court on 15.10.2015 in terms of judgment dated 16.09.2015 passed in **RFA-7108-2012**, titled "**Rampal and others Versus Land Acquisition Collector and another**", thereby awarding compensation @ Rs. 1700/- per square. Later on, some other landowners challenged the judgment passed in **Ram Pal's case (supra)** before the Hon'ble Supreme Court, which came to be set aside on 06.12.2017 in **Civil Appeal No(s) 21014-21016 of 2017**, titled "**Premwati & Ors. Versus State of Haryana & Anr.**", thereby remanding the matter back for fresh adjudication.

[5] Again the matter was decided by 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 07.02.2008 pertaining to Villages Bhatola, **Murtazapur** and Badoli/Baroli, was fixed @ Rs.1551/- per square yard (Rs.75,06,840/- per acre) and for other three villages i.e. Fajjupur Majra Neemka, Neemka, Faridpur, the market value was fixed @ Rs.1410/- per square yard (Rs. 68,24,400/- per acre).

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[6] Against the judgment dated 31.05.2019 (supra), parties 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] Now, by way of application bearing **CM No. 541-CI of 2023** moved on behalf of the applicant-appellant / landowner, who did not approach the Hon'ble Apex Court, prayer has been made for disposal of the main appeal in terms of judgment dated 14.07.2021 rendered by the Hon'ble Supreme Court in ***Banwari Lal's case (supra)***.

[8] It is contended by learned counsel for the applicant-appellant / landowner that present appeal is squarely covered with the judgment of ***Banwari Lal's case (supra)***, arising out of the same notification vide which the land of applicant-appellant had been acquired.

[9] Notice of the aforesaid application.

[10] Learned State Counsel accepts notice and does not dispute the afore-stated factual position about judgment dated 14.07.2021 passed in ***Banwari Lal's case (supra)***; however, opposes payment of interest for the period, the applicant-appellant failed to approach this Court after the decision of Reference Court.

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

[12] From the records, it is apparent that the present appeal is squarely covered with the judgment of ***Banwari Lal's case (supra)***, which is arising out of the same acquisition / Notification dated 07.02.2008 covering the same revenue estate i.e. **Village Murtzapur, Tehsil & District Faridabad**, whereby the landowners have been held entitled for the enhanced amount of compensation @ Rs. 2376/- per square yard. For

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reference, the relevant paras of judgment dated 13/14.07.2021 passed in case of **Banwari Lal's (supra)** (at page Nos. 22 to 26) read as under:-

“ Village : Murtazapur

Heard Dr. Monika Gusain, learned counsel for the State of Haryana and Mr. V. Giri, learned senior counsel appearing for the claimants-landowners.

As regards village Murtazapur, the High Court has determined the market value of lands of Village Murtazapur, referred to in the second notification at Rs.1551/- per sq.yd.

However, the relied upon sale instances pertaining to lands in Village Murtazapur would indicate that the market price referred to therein is ranging between Rs.2892.50 and Rs.2272/- per sq.yd., respectively.

These two sale instances pertain to the same period i.e., dated 09.05.2006 and 13.06.2006. The subsequent sale instance is for relatively lesser value.

Accordingly, we would prefer to take the mean value of the two sale instances, which would work out to Rs.2582/- (rounded off) per sq.yd. As there is roughly two years' time gap between sale instances and the second notification dated 07.02.2008, additional increase of 15% can be safely granted for determining the fair market price of the stated lands. After adding that amount, deduction of 20% will have to be provided as given in other cases dealt with earlier pertaining to first notification dated 01.05.2006. On applying that analogy, the fair market price of land situated in village Murtazapur, referred to in the second notification, comes to Rs.2376/- (rounded off) per sq.yd.

Learned counsel for the State has placed reliance on the decision in General Manager, Oil & Natural Gas Corporation Ltd. vs. Rameshbhai Jivanbhai Patel & Anr., reported in (2008) 14 SCC 745, to contend that the increase could be only around 5% to 7.5% per annum, as the lands in question are situated in rural areas.

This decision, in our view, is of no avail to the State. For, paragraphs Nos. 13 and 14 of the same decision makes it amply clear that where there are special reasons for applying the higher rate of increase or any specific evidence to the actual

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increase in prices, then the increase to be applied would depend upon such factors.

In the present case, as aforesaid, the sale instances brought on record have been executed immediately after the date of first notification (issued on 01.05.2006), including in respect of village in question. There would be natural rise in price of surrounding areas, in particular within the village. Thus, the higher rate of price in the sale instances referred to earlier cannot be doubted much less discarded. Further, the market price referred to therein being consistent, the same can certainly be reckoned for the purpose of determining fair market price, which exercise has already been undertaken hitherto. Hence, nothing more is required to be said in this matter at the instance of the State.

Learned counsel for the State then relies on the decision in Chandrashekar (D) by LRs & Anr. vs. Land Acquisition Officer and Anr., reported in (2012) 1 SCC 390, in particular, paragraph 18, to contend that the deduction should be upto 40% of the value of the land situated in rural areas.

In our opinion, this decision does not provide for any straight jacket formula but clearly observes that in the matter of deduction, multiple factors need to be taken into account. In respect of first notification pertaining to the same village, we have already provided for deduction at the rate of 20% per annum, after taking over all view of the matter. We see no reason to differ from adopting the same scale for the second notification - as the principle ought to be consistent with regard to the lands situated in the same village, albeit forming part of two different notifications. We may further add that reliance was not placed on this reported decision when the earlier determination was done.

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 by determining the fair market price for the lands in Murtzapur village concerned under the second notification at Rs.2376/- (Rupees two thousand three hundred seventy-six only) (rounded off) per sq.yd. (i.e., Rs.2582/- plus Rs.387/- minus Rs.593/-). In

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addition, the other benefits including statutory benefits awarded by the High Court shall remain undisturbed. ”

[12.1] Further, in terms of decision dated 13.11.2021 passed in **Civil Appeal No. 6827-6828 of 2021**, titled **“Rakesh Kumar Versus State of Haryana and another”** (Diary No. 23358 of 2021), the appellant-landowner shall not be entitled for interest on the enhanced amount of compensation for the period from 90th day of judgment dated 15.10.2015 (*supra*) passed in the main appeal, till the filing of its application bearing CM No. 541-CI of 2023, i.e. beyond 12.01.2016.

[12.2] Based upon the above, applying the principle of parity, besides award of just and fair compensation, the landowner / appellant being similarly situated is 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 from 90th day of judgment dated 15.10.2015 (*supra*), till the filing of aforesaid application.

[13] In view of the above discussion, application bearing **CM No. 541-CI of 2023** is **allowed**; the earlier order dated 15.10.2015 is recalled; the main **appeal** is taken on board today itself and **disposed off** in the above terms.

Pending applications shall also stand disposed off.

September 22, 2023

‘dk kamra’

**(HARKESH MANUJA)
JUDGE**

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