IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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1. RFA No.4482 of 2003 (O&M)
GURMIT SINGH ......Appellant(s)
Vs
COLLECTOR, LAND ACQUISTION-CUM-SDO (CIVIL) KAPURTHALA AND ORS. ...Respondent(s)

2. RFA No.1550 of 2004 (O&M)
KARAM SINGH ......Appellant(s)
Vs
STATE OF PUNJAB AD ORS. ...Respondent(s)

3. RFA No.1582 of 2004 (O&M)
GURNAM SINGH AND ORS. ......Appellant(s)
Vs
STATE OF PUNJAB AD ORS. ...Respondent(s)

4. RFA No.1583 of 2004 (O&M)
TARA SINGH AND ORS. ......Appellant(s)
Vs
STATE OF PUNJAB AD ORS. ...Respondent(s)

5. RFA No.1584 of 2004 (O&M)
MOHAN SINGH AND ORS. ......Appellant(s)
Vs
STATE OF PUNJAB AD ORS. ...Respondent(s)

6. RFA No.1647 of 2004 (O&M)
MOHINDER SINGH AND ANR. ......Appellant(s)
Vs
STATE OF PUNJAB AD ORS. . ..Respondent(s)

7. RFA No.1887 of 2004 (O&M)
CHARAN SINGH AND ANR. ......Appellant(s)
Vs
STATE OF PUNJAB AD ORS. . ..Respondent(s)

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. M.L Sarin, Senior Advocate with
Ms. Hemani Sarin, Advocate
Mr. N.C. Sahni, Advocate(through V.C.)
for the appellant(s)/landowner(s).

Mr. Gunjan Mehta, Addl. A.G., Punjab.
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HARKESH MANUJA, J. (Oral)

[1]. Vide this common order, the aformentioned Regular First Appeals are being decided as all the appeals have arisen out of common acquisition involving identical facts and question of law. For the sake of brevity, facts are being taken from RFA No. 4482 of 2003.

[2]. By way of present appeal(s), challenge has been laid to the Award dated 05.08.2003 passed by the learned Additional District Judge, Kapurthala (hereinafter to be referred as the 'Reference Court'), whereby the Reference Petition filed under Section 18 of the Land Acquisition Act, 1894 (for short 'the 1894 Act') at the instance of the appellant(s)/landowner(s) was dismissed.

[3]. Briefly stating, in the present case(s), land measuring 115 Acres 3 Kanals 1 Marla situated within the revenue estate of villages Wadala Khurd and Dhapai, Tehsil and District Kapurthala, came to be acquired vide notifications dated 28.07.1995 and 17.08.1995 issued under Sections 4 & 6 of the 1894 Act respectively, for the public purpose namely "for setting up of an Airport for providing air services to general public"; followed by an Award passed by the Land Acquisition Collector (for short 'the LAC') on 01.07.1997, thereby alongwith compensation for buildings/superstructure, bores/tubewells, trees, walls and all other benefits under the Act, determined the market value of the acquired land as under:-

Village: Wadala Khurd

(i)	*Chahi land*	*:*	*Rs.1,00,000/- per acre*
(ii)	*Banjar land*	*:*	*Rs.50,000/- per acre*
(iii)	*Gair Mumkin land*	*:*	*Rs.1,20,000/- per acre*

<u>For village Dhapai</u>

Chahi land Rs.1,00,000/- per acre"

[4]. Dissatisfied thereof, the appellant(s)-landowner(s) invoked Reference under Section 18 of the 1894 Act, which was dismissed by the learned Reference Court vide its decision dated 05.08.2003.

Aggrieved by the Award passed by the learned Reference Court, the present appeals were preferred at the instance of appellant(s)/landowner(s).

[5]. Impugning the aforesaid Award, learned Senior Counsel appearing on behalf of the appellant(s)/landowner(s) submitted that, while assessing the market value, the learned Reference Court ought not to have placed reliance on the certified copy of the Award in land Reference No.20 (Ex.R-1), dated 17.01.2001 that related to the notification dated 19.01.1990 under Section 4 of the Act, vide which 131 acres 6 kanals 19 marlas of land was acquired for the same purpose as that of the present case i.e. setting up the Airport on Kapurthala road. Learned Senior Counsel further submitted that the learned Reference Court should instead have relied upon the sale deeds Ex.P-5 and Ex.P-6 under which two separate parcels of land measuring 2 kanals 5 marlas and 2 kanals 9 marlas were sold for Rs.1,12,500/- and Rs.1,22,500/- respectively. Learned Senior Counsel also submitted that the land comprised in Ex.P-5 and Ex.P-6 dated 16.09.1994 and 19.09.1994 respectively even formed part of the land under acquisition, falling in the same revenue estate of village Wadala Khurd, Tehsil, District Kapurthala and thus, such sale deeds constituted the best piece of evidence to assess the market value in the case in hand. In this regard, the learned Senior Counsel placed reliance on the decision of Hon'ble Apex Court, titled ***The Dollar Company, Madras vs.***

Collector of Madras reported as '***AIR 1975 SUPREME COURT 1670'*** whereby it was held that the best piece of evidence while assessing compensation in cases of compulsory acquisition, would be the sale instance of the very property to which the claimant is a party as it fairly reflects the estimate of the price a willing buyer is ready to give to a willing seller in the market. The relevant paragraphs are extracted hereunder:-

> "*5. It is true that compensation for compulsory acquisition, as governed by Section 23, gives high priority to the market value of the land at the date of the publication of the notification under Section 4, sub-section (1). But what is market value? It is a common place of this branch of jurisprudence that the main criterion is what a willing purchaser would pay a willing vendor. Ordinarily a party will be entitled to get the amount that he actually and willingly paid for a particular property, provided the transaction be bond fide and entered into with due regard to the prevalent market conditions and is proximate in time to the relevant date under Section 23. We may even say that the best evidence of the value of property is the sale of the very property to which the claimant is a party. If the sale is of recent date, then all that need normally be proved is that the sale was between a willing purchaser and a willing seller, that there has not been any appreciable rise or fall since and that nothing has been done on the land during the short interval to raise its value (See Parks 'Principles and Practice of Valuations' P. 29 - Eastern Law House, Calcutta - IV Edition, 1970). But if the sale was long ago, may be the court would examine male recent sales of comparable lands as throwing better light on current land value……*"

[5.1] Learned Senior Counsel for the appellant(s)/landowners also submitted that the land under acquisition in the present case was having immense potential as the same was strategically located close to the existing city of Kapurthala; being approximately 2 kms from the municipal limits of Kapurthala. It was also submitted that the land acquired was on the Kapurthala-Jalandhar Road;

only 6 kms from the bus stand. The learned Senior Counsel for the appellants also pointed out that the land under acquisition was surrounded by various factories, school, shopping complex, banks and other commercial establishments which certainly and significantly added to the potentiality of the same. In support, reliance was placed on decision of this court in ***RFA 2174 of 1997*** dated 03.05.2016 titled as ***Baburam (deceased) through LRs versus The Collector, land acquisition cum Sub Divisional Officer Kapurthala and others,*** relating to the previous acquisition for the same purpose. The relevant paragraph thereof has been extracted hereunder:-

> *"So far as the potentiality of the acquired land is concerned, a bare perusal of site plan and aks shajra, available on Lower Court Record ('LCR' for short), would make it crystal clear that the acquired land was abutting the main Kaputhala-Jalandhar road on one side and it was abutting an approach road on the other side. Very many establishments, including commercial establishments, were already existing in and around the acquired land at the time of its acquisition.*
>
> *As noticed hereinabove, three land owners were already having running industries on the acquired land. Grain market was also situated in close proximity of the acquired land. Cold storage, Service Center and School were also situated near the acquired land. Having said that, this Court feels no hesitation to conclude that the acquired land was situated at a prime location and was having immense potentiality."*

[5.2]. Learned Senior Counsel for the appellant(s)/landowner(s) further submitted that there was a time gap between the sale instances Ex.P-5 and Ex.P-6 dated 16.09.1994 and 19.09.1994 respectively, and the date of publication of notification under Section 4 of the 1894 Act in the case(s) in hand i.e. 28.07.1995 was around 10 months, hence, the appellants were also entitled for an appreciation @ 12% per annum over the base price per acre, derived from Ex.P-5 and Ex.P-6 and thereof, the market value was required to the re-determined. Learned Senior Counsel further argued that though the sale exemplars presented by the appellants-landowners were of smaller piece of land as compared to large estate of land under acquisition, however, a cut of 20% towards smallness of land was unjust in the present case especially when the landowners were waiting for their rightful compensation for more than 20 years. In this regard, reliance was placed upon by the learned Senior Council on decision of Hon'ble Apex Court titled ***Valliyammal and another versus Special Tahsildar (Land Acquisition) and another*** reported as '***JT 2011 (8) 442***', the relevant portion thereof has been extracted hereunder:-

> "*25. We may have sustained 20% deduction keeping in view the smallness of the plots which were sold vide sale deeds dated 4.9.1990 and 8.2.1991, but, in the peculiar facts of the case,* ***we think that it*** *will be wholly unjust to allow such deduction. Majority of the appellants have been deprived of their entire land holding and they have waited for 14 to 20 years for getting the compensation. It appears that in compliance of the interim orders passed by the Court, some of the appellants did get 25% and one of them get 35% of the compensation, but majority of them have not received a single penny towards compensation and at this distant point of time, it will be wholly unjust to deprive them of their legitimate right by approving the 20% deduction made by the High Court. In such matters, the Court cannot be oblivious of the fact that the landowners have been deprived of the only source of livelihood, the cost of living has gone up manifold and the purchasing power of rupee has substantially declined.*"

[6]. On the other hand, learned State counsel submitted that no interference was called for with the Award passed by the LAC wherein reliance was rightly placed on the certified copy of the Award in land Reference No.20 (Ex.R-1), dated 17.01.2001 which related to the notification dated 19.01.1990 under Section 4 of the Act, vide which 131 acres 6 kanals 19 marlas of land was

acquired for the same purpose as that of the present case i.e. setting up the Airport on Kapurthala Road. Thus, the learned Reference Court had rightly dismissed the reference petition in the present case(s), especially when the present acquisition was the second phase of acquisition for the construction of the Airport in District Kapurthala, subsequent to the earlier acquisition relating to the Award passed by the learned Reference Court Ex.P-9, for the same area and same purpose and therefore, making it an apt indicator for assessing the market value of the land in the present case. Learned State Counsel further pointed out that the sale exemplars produced by the appellant(s)/landowner(s) pertained to small parcels of land in comparison to the large estate under acquisition and cannot be considered while assessing the market value in the present case and thus, submitted that the appeals in hand were liable to be dismissed being devoid of merits.

[7]. I have heard learned counsel for the parties and gone through the paper book as well as records of the case(s). I find substance in the submissions made on behalf of the appellants/landowners.

[8]. In the present case, the acquisition was carried out for the public purpose namely setting up of an Airport for providing air services to general public. The fact that the State Government had issued a notification dated 19.01.1990 under section 4 of the Act seeking to acquire 132 acres 6 kanals 19 marlas of land in three revenue estates i.e. Wadala Khurd, Rasulpur Brahmna and Budho Punder which even formed part of the first acquisition for setting up an airport on the Jalandhar Kapurthala Road, followed by the subsequent notification dated 28.07.1995 under section 4 of the Act whereby 115 acres 3 kanals 1 marla of land in villages Wadala Khurd and Dhapai was acquired relating to the present appeals, are not disputed. A perusal of the decision of this Court in ***Baburam***

(deceased) through LRs versus The Collector (supra), whereby this Court dealt with the issue of enhancement of compensation under the first acquisition, the issue of the strategic placement of the land under acquisition was positively discussed; whereby it was recorded that the land had various commercial and residential buildings in its vicinity. Since the present case(s) pertains to the land acquisition for the same public purpose and is in the continuation of the aforementioned acquisition, the same is held true for the land in the present case(s) as well, thereby significantly adding to the potential value of the land. The learned Reference Court also recorded the findings that the land under acquisition in the case(s) in hand is close to the existing city of Kapurthala and is in fact approximately 2 kms away from the municipal limits of the same coupled with the fact that the land acquired is on the Kapurthala-Jalandhar Road and is only 6 kms away from the bus stand. All this shows the that the land under acquisition had both potential and locational advantage attached to it.

[9]. Keeping in mind the aforesaid, the details of the sale instances relied upon by the appellants-landowners in support of their claim are extracted hereunder:-

Sr. No.	*Ex.*	*Date of sale deed*	*Land*	*Village*	*Sale consideration*	*Price per acre*
1	*Ex.P-2*	*11.02.1993*	*2 Kanals*	*Wadala Khurd*	*1,68,000/-*	*Rs.6,72,000/-*
2	*Ex.P-3*	*19.02.1992*	*2 Kanals*	*Wadala Khurd*	*1,26,000/-*	*Rs.5,04,000/-*
3	*Ex.P-5*	*16.09.1994*	*2 Kanals 5 Marlas*	*Wadala Khurd*	*1,12,500/-*	*Rs.4,00,000/-*
3	*Ex.P-6*	*19.09.1994*	*2 Kanals 9 Marlas*	*Wadala Khurd*	*1,22,500/-*	*Rs.4,00,000/-*

From perusal of the aforementioned details, it is clear that sale deeds Ex.P-5 and Ex.P-6 dated 16.09.1994 and 19.09.1994 respectively, pertain to larger area as compared to the sale instances Ex. P-2 and P-3; are nearer in time to the notification of acquisition under section 4 of the Act i.e. 28.07.1995 in the present case(s), accompanied with the fact that the learned Reference Court has recorded a positive finding that the sale instances Ex.P-5 and Ex.P-6 relate to the acquired land itself, thus, is the best piece of evidence in the present case in the wake of well settled principles of law laid down in ***The Dollar Company, Madras Case (supra)*** as they fairly reflect the price of the land under acquisition a willing purchaser would have given to a willing seller at that point of time. Thus, the sale instances Ex. P-5 and P-6 sold for Rs.1,12,500/- and Rs.1,22,500/- respectively, whereby the base price is Rs.4,00,000/- per acre are being relied upon in the present case.

[10]. Furthermore, no merit is found in the contention of learned State Counsel that the sale exemplars Ex.P-5 and Ex.P-6 cannot be relied upon due to the area thereunder being smaller as compared to the land under acquisition in view of the latest exposition of law laid down by the Hon'ble Apex Court in titled ***Horrmal Vs. State of Haryana***, reported as ***'2024(4) R.C.R. (Civil) 758'***, as per which, while making assessment of market value, sale instances relating to smaller parcels of land can be relied upon albeit an appropriate cut is applied. Relevant paragraph thereof are extracted hereunder:-

> *"29. In these extenuating circumstances, there exists significant disparity among the sale exemplars presently under consideration. Amongst these sale exemplars, being Ex. P2-P8 and Ex. P10, the highest sale instance values the land at Rupees 1,81,33,867 per acre, whereas the lowest values it at Rupees 16,94,000 per acre. Given this wide range and in light of the judicial precedents cited above, we are of the opinion that we should rely upon the highest sale exemplar, which is Ex. P5, rather than solely depending upon an average of the multiple sale deeds produced before us. Despite the Respondents' vehement contention that Ex. P5 should not be relied upon owing to it being a significantly smaller parcel of land- the*

detailed analysis conducted above indicates no reason why Ex. P5 cannot be utilized to determine the amount of compensation to be awarded to the Appellants for the acquired land.

30. Thus, having established the sale exemplar being relied upon and consequentially the base price to be Rupees 1,81,33,867 per acre, we now proceed to the aspect of deductions to be applied to the amount so determined. In this regard, there is no hard and fast rule on the amount of deduction to be applied towards development charges. Instead, such deductions may, for the purpose of making a small area of land comparable to larger tracts, range from a minimum of 20% to a maximum of 75%..”

[11]. Hence, keeping in mind that the land under acquisition in the present case is 115 acres 3 kanals 1 marla, while sale instances Ex.P-5 and Ex.P-6 pertain to 2 kanals 5 marlas and 2 kanals 9 marlas respectively, a cut @ 20% is held appropriate towards smallness of land. However, in the given facts, since the acquisition in the case(s) in hand has been carried out for the public purpose namely for setting up of an Airport for providing air services to general public and as such the respondent-State did not suffer any loss towards optimum utilization of the area acquired nor did it incur expenditure towards providing of additional infrastructural amenities like parks, green belts, roads and community buildings etc., no cut towards development cost was required to be imposed.

[12]. Furthermore, keeping in mind the aforementioned discussion regarding the high potential of the land under acquisition as well as considering the fact that there has been time gap of around 10 months between the date of sale deed Ex.P-5 (16.09.1994) till the date of issuance of notification under Section 4 of the 1894 Act in the case(s) in hand i.e. 28.07.1995, as such escalation @ 12% per annum needs to be awarded over the base sale price per acre derived from the sale exemplar Ex.P-5 dated 16.09.1994.

[13]. In the wake of aforesaid discussion and for the reasons recorded hereinabove while placing reliance upon the sale exemplar Ex.P-5 dated 16.09.1994 and Ex.P-6 dated 19.09.1994 by granting appreciation @ 12% for the time gap between the date of aforementioned sale exemplar and the date of publication of Notification under Section 4 of the 1894 Act (i.e. around 10 months) and after applying a cut @ 20% thereupon on account of smallness of area involved in the sale exemplar, the market value per acre in the present case(s) comes to Rs. 3,52,000/- (Rs.4,00,000 x 10%, less 20%).

[14]. Accordingly, the market value for the land under acquisition is assessed @ Rs.3,52,000/- per acre. In addition, the appellant(s)/landowner(s) shall also be entitled for award of all other statutory benefits and interest as provided under the provisions of the 1894 Act (amended upto to date) including interest on solatium as well.

[15]. Accordingly, in view of the discussion made herein above, all the appeals preferred at the instance of appellant(s)/landowner(s) are hereby partly allowed in the aforesaid terms.

[16]. Wherever the landowner(s) has/have unfortunately expired in the appeal(s)/cross-objection(s) after filing thereof and the legal heirs have not been impleaded, they shall be at liberty to seek execution of the present decision by moving appropriate application(s) before the learned Executing Court.

[17]. All pending application(s), if any, shall also stand disposed of.

(HARKESH MANUJA)
JUDGE

December 04, 2025
Atik

Whether speaking/reasoned Yes/No
Whether reportable Yes/No