

State of Haryana and Another Vs Jagbir Singh and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Feb. 10, 2009

Acts Referred: Land Acquisition Act, 1894 " Section 18, 4

Citation: (2009) 154 PLR 429

Hon'ble Judges: Rajesh Bindal, J

Bench: Single Bench

Judgement

Rajesh Bindal, J.

This order shall dispose of a bunch of 484 appeals, as the same arise out of a common acquisition. R.F.A. Nos. 3223 to

3261 of 2005, 1, 2, 4, 5, 7, 8, 19, 23, 26, 27, 28, 31 to 33, 35, 37 to 39, 41, 42, 44 to 52, 54, 55, 57 to 68, 83 to 85, 92, 95, 114 to 117, 171,

172, 174, 175, 181, 182, 184, 185, 186, 189, 190, 191, 259, 260, 261, 264, 265, 266, 267, 269, 270, 271, 273, 274, 277, 278, 280, 283,

285, 286, 287, 289, 291, 294, 342 to 346, 389 to 392, 394 to 396, 398 to 400, 402, 403, 407, 447, 448, 449, 452 to 456, 458 to 462, 464 to

467, 469, 472 to 476, 536, 537, 722 to 724, 729 to 732, 734, 738 to 740, 742, 743, 745, 746, 752 to 754, 762 to 764, 766, 768, 773 to 776,

779, 781, 783 to 785, 812, 827, 828, 844, 845, 969, 1020 to 1026, 1028, 1029, 1105 to 1110, 1119, 1122, 1126, 1127, 1130 to 1134, 1136

to 1138, 1174, 1212, 1221, 1334, 1435 and 3239 of 2006 by the State of Haryana seeking reduction of the amount of compensation awarded to

the land owners for the acquired land. R.F.A. Nos. 2642 to 2656 of 2004, 8 to 53, 110 to 121, 143, 144, 171 to 193, 195 to 224, 231, 274 to

277, 283 to 289, 347, 349, 393 to 416, 452 to 455, 488 to 494, 496, 508, 509, 517, 550 to 555, 576, 605, 610 to 613, 654 to 673, 684 to

688, 707 to 710, 719, 720, 754, 755, 760, 776, 777, 958, 1119, 1120, 1203 to 1207, 1293 to 1296, 1402, 1745, 3046 and 3295 of 2005,

have been filed by the land owners seeking further enhancement of compensation for the acquired land. The facts have been extracted from R.F.A.

No. 1 of 2006.

2. Briefly, the facts of the case are that the State of Haryana vide notification dated 12.5.1995 issued u/s 4 of the Land Acquisition Act, 1894 (for

short, "the Act"), acquired the land within the revenue estate of Bahadurgarh, Hadbast No. 38, Tehsil Bahadurgarh, District Jhajjar, for

development and utilisation as residential and commercial area in Sector-9 and 9-A, Bahadurgarh. The Land Acquisition Collector assessed the

market value of the land at Rs. 6 lacs per acre for the land situated on Bahadurgarh-Delhi road upto the depth of 3 acres, Rs. 4 lacs per acre for

the land situated on Bahadurgarh-Najafgarh road upto the depth of 3 acres, Rs. 2.50 lacs per acre for nehri and chahi and Rs. 2 lacs per acre for

barani and other kinds of land. The landowners/claimants feeling dissatisfied with the quantum of compensation awarded by the Collector, filed

objections. On reference u/s 18 of the Act, the learned court below determined the market value of the acquired land by granting Rs. 50,000/- per

acre increase for each category. It is this award of the learned Reference Court which is impugned in the present set of appeals.

3. Learned Counsel for the landowners referred to site plan Ex.R-66 placed on record which shows the acquisition boundaries. The land is shown

to be located on one side of the National Highway No. 10 Delhi-Hisar and on the other side, the land abuts the road, namely, Bahadurgarh-

Najafgarh Road. Another site plan, Ex.P-29 was referred to show that the acquired land is quite close to Delhi border. As far as determination of

fair value of the acquired land is concerned, learned Counsel for the landowners primarily relied upon sale-deeds and allotment letters, Ex.P-12, P-

13, P-14, P-30, P-31, P-41 and P-43. In addition to these documents, Ex.P-28 was also relied upon i.e. an award of the Land Acquisition

Collector pertaining to the land of a small portion of land falling in Sector-9A which was subsequently acquired vide notification u/s 4 of the Act

issued on 2.12.1998.

4. As far as the sale-deeds are concerned, it was submitted that vide sale-deed Ex P-12, a big chunk of land measuring 8 kanals 71/2 marlas

falling in Village Hassanpur was sold vide sale-deed dated 22.4.1993 for a sale consideration of Rs. 20,26,800/- i.e. @ Rs. 400/- per square

yard. This land is stated to be about 31/2 acres away from the National-Highway. So far as the sale deed, Ex.P-13 is concerned, it was submitted

that vide sale-deed dated 28.2.1989, land measuring 2550 square yards was sold for Rs. 5,87,500/- at an average price of Rs. 230/- per square

yard. This piece of land is located on Jhajjar road. Referring to the aforesaid sale-deed, it was submitted that when the value of the land near

Bahadurgarh in the year 1989 was Rs. 230/- per square yard, it cannot be lesser in the year 1995 when the present land was acquired. Another

sale-deed, Ex.P-14 dated 23.5.1989 is referred to whereby 410 square yards land was sold for Rs. 80,000/- at an average price of Rs. 195/- per

square yard. This portion of land is stated to be located quite close to the acquisition boundary towards the abadi area. Ex.P-41, is another sale-

deed dated 6.10.1994 which is relied upon whereby 100 square yards of land was sold for Rs. 40,000/- at an average price of Rs. 400/- per

square yard. Though the sale-deed is not located on any of the site plan, however, khasra number which is located on Ex.R-66 shows its location

towards the abadi area from the acquired land. Vide sale deed Ex.P-43 dated 15.3.1995, 30 square yards of land was sold for Rs. 12,000/- at an

average price of Rs. 400/- per square yard. This portion of land is pertaining to Village Parnala and the khasra number which is evident from site

plan, Ex.R-66, is located on the main National-Highway No. 10 Delhi-Hisar Road.

In addition to this, reliance was placed upon Ex. P-28, the award dated 13.7.2001, whereby for small portion of land acquired subsequently vide

notification dated 2.12.1998, the Land Acquisition Collector determined the value of the acquired land therein at Rs. 9,50,000/- per acre. This

land is forming part of Sectors 9/9A, Bahadurgarh. Ex.P-30 is a letter of intent issued by HUDA in favour of Indian Oil Corporation whereby an

undeveloped big chunk of land was sold for Rs. 2,97,30,200/- at an average price of Rs. 1,486.51 square yard. This portion of land is located in

Sector-7, Bahadurgarh which is on the other side of the city abutting the National Highway towards Rohtak side whereas the acquired land is

towards Delhi side. Ex.P-51 is the brochure of Haryana Urban Development Authority for sale of plots in Sectors 9 and 9A, for the development

of which the present land was acquired, was also referred to where the value of plots of different sizes was fixed ranging from Rs. 1,733/- to Rs.

2,118/- per square yard.

5. In addition to the documentary evidence produced on record, learned Counsel for the landowners have also referred to the oral evidence led by

them in the form of statements of PW6 Jagdish Chander, Junior Engineer, Municipal Committee, Bahadurgarh and PW10 Surinder Singh Rathi,

Advocate of Bahadurgarh wherein the location as well as the potentiality was stated. The land is sandwiched between the already existing

Bahadurgarh town and Delhi Border. It has great potential for being developed as industrial and commercial purposes for the reason that it's being

part of National Capital Region and close to Delhi. It is further submitted that the learned court below had not considered the evidence led by the

landowners and merely applied thumb rule by granting increased compensation for all categories of land at Rs. 50,000/- each. If the evidence led

by the landowners is considered in the light of settled principles for determination of value of the land, it has to be assessed at much more rates. It

was further argued that the categorisation of the land into nehri and barani by the learned court below is totally against the principles of law. The

land had great potential for being used as urban area for industrial/residential purposes and in such a situation, it could not be categorised as nehri

and barani and compensation cannot be assessed in terms thereof and for the purpose of urbanisation that categorisation loses its significance.

For that purpose, reliance was placed upon *Shangara Singh v. Punjab State and Ors.* 2006(2) P.L.J. 389 and it was further submitted that the

entire chunk of land was falling within the municipal limits of Bahadurgarh and considering that fact the value thereof should not be assessed in

acres rather it would be in square yards as the land in the urban area is sold in small pieces of plots and not on per acre basis.

6. Judgment, of this Court in R.F.A. No. 2501 of 2001 *Ved Pal and Ors. v. State of Haryana and Ors.* decided on 3.5.2006, was relied upon to

submit that price as was charged by HUDA for the sale of undeveloped plot of measuring 20000 square meters to Indian Oil Corporation (Ex.P-

30 and P-31), two years prior to the acquisition should be relied upon for the purpose of determination of value of the acquired land, In *Ved Pal's*

case (*supra*), the value of the acquired land was assessed on the basis of price charged by HUDA for sale of big chunk of land to M/s Escorts

India Limited. This judgment was upheld by Hon"ble the Supreme Court.

7. In *Pram Sukh and Ors. v. State of Haryana and Ors.* 2006(2) P.L.J. 39, this Court had done away with the categorisation of land by holding

that once the same was within the municipal limits and had great potential for being developed as residential/commercial area. Reference was also

made to the cross examination of RW1 Bhisham Singh, Patwari, Faridabad HUDA, who admitted that the boundary of the acquired land is close

to Delhi border. In addition to this, it is submitted that purpose of the acquisition is for used as residential/commercial, a uniform rate should be

awarded to all the landowners for the acquisition of land irrespective of the land or location thereof.

8. Controverting the contentions raised by the learned Counsel for the landowners, learned Additional Advocate General, Haryana, submitted that

none of the sale-deeds as are sought to be relied upon by the landowners can be relied upon for the purpose of determination of fair value of the

acquired land in the present case as no site plan showing the location has been produced on record to show comparative value thereof. It is only

before this Court that the location of the land pertaining to some of the sale-deeds is shown by referring to their khasra numbers. The sale-deeds

which have been pointed out on the site plan, Ex.R-66, show that those were pertaining to small plots which were quite close to the abadi or the

already developed area. The same for that reason also cannot be relied. Replying to the exhibits relied upon by the learned Counsel for the

landowners, it was submitted that as far as the land pertaining to sale-deed Ex.P-13 is concerned, from the narration of facts, it is shown to be

located on Jhajjar Road which originate from Bahadurgarh side and the location thereof has not been pointed out. It can be quite close to the abadi

area as well. It was further pointed out that the land acquired for Sector-7 in the year 1987 is also on the Jhajjar Road side whereas in Delhi side

the land was acquired in the year 1995 meaning thereby that the other area had already been developed. So far as the plea regarding Ex.P-30 is

concerned, it was submitted that it was sale of 20000 square meters of land by HUDA to the Indian Oil Corporation in Sector-7, Bahadurgarh

which was already developed and all basic infrastructure was available there. Merely if it was a big chunk of land, it cannot be said to be an

undeveloped area. The same cannot be compared vis-a-vis the location of the acquired land and consideration money received by the HUDA

cannot be made basis for determination of fair value of the acquired land.

9. As far as sale-deeds Ex.P41 and P-43 are concerned, it is stated that these are of very small plots measuring 100 square yards and 30 square

yards which are located close to the abadi area or on the road. The same being close to the abadi or on the road and small pieces of land could

not be relied for the purpose of determination of fair value of the acquired land. Similar was the view with regard to the award, Ex.P-28, pertaining

to the acquisition of 0.97 acres of land which is close to the already acquired land for which the value was determined at Rs. 9,50,000/- per acre.

It was submitted that even the award of the Collector for the acquired land shows that the land which was acquired subsequently was close to the

National-Highway and for that reason the compensation was assessed at Rs. 9,50,000/- per acre. Even if that award is considered which is for the

acquisition carried out 21/2 years later in time from the acquisition in the present case, the value of the acquired land cannot be increased further

where it was assessed at Rs. 6,00,000/- per acre for the land located on the National-Highway and was enhanced by the learned Reference Court

to Rs. 6,50,000/- per acre. In addition to this, the reference was made to sale-deeds produced by the State, namely, Ex.R-15, R-59 and R-64.

Referring to site plan, Ex.R-66, it was submitted that the land pertaining to sale-deed, Ex.R-15 which was registered on 9.4.1992 of a small piece

of 6 biswas of land, at an average price of Rs. 2,66,666/- per acre. This land is located close to Najafgarh Road and near the acquisition

boundary.

10. As far as the land pertaining to Ex.R-59 is concerned, it was submitted that 7 biswas of land was sold for a sum of Rs. 32,000/- at an average

price of Rs. 4,38,877.85. This land is located on Jhajjar road whereas the landowners have referred to sale-deed Ex.P-13, showing the value

therein at Rs. 230/- per square yard. It is submitted that in October 1995, the value in that area was not more than Rs. 4,38,877.85 per acre as is

shown in the aforesaid sale-deed. In sale-deed, Ex.R-64, a big area measuring 7 kanals & marlas of land was sold for a total consideration of Rs.

2,10,000/- on 18.4.1994 at an average price of Rs. 2,30,136.97 per acre. This land forms part of the revenue estate of Village Parnala though is

located around 3 acres away from the National Highway quite close to the acquired land.

11. Learned Counsel further submitted that the facts that the land falls within the municipal limits have not been proved by leading any positive

evidence. The site-plan, Ex. P-22, proved by the landowners on record only showed the municipal limits but it does not show whether the

acquired land is in municipal limits. He further submitted that this very small portion of acquired land which is abutting the National Highway though

on the other end it abuts the Najafgarh road. The entire land cannot be valued at the same rate as the land which is located far from the road and is

also not connected with any road, carry less value. Further relying upon Union of India and others etc. Vs. Mangatu Ram, etc., , it is submitted that

belting system as has been applied by the learned court below for determination of fair value of the acquired land on the main road and upto a

depth of 3 acres has rightly been done. Reference was placed on para 30 of the impugned award, where the learned court below without referring

to any of the evidence led by the either of the parties has merely enhanced the compensation by considering the potentiality of the land which is

stated to be totally against the law.

12. In so far as Ex.P-51 referred to by the learned Counsel for the landowners regarding rates fixed by HUDA for sale of plots in Sectors 9 and

9-A is concerned, the submission is that the brochure was issued on 25.5.1999 i.e. 4 years after the acquisition and after the land had already been

developed with all basic infrastructure. As far as the rates of plots which were subsequently sold in the developed area cannot be made basis for

the determination of the fair value of the acquired land. Heard learned Counsel for the parties and perused the relevant referred record.

13. As far as location of the land is concerned, the fact is not in dispute that small portion of it is located on Delhi-Hissar road close to city of

Bahadurgarh towards Delhi. The acquisition boundary does not abut Delhi border, as there is land of another village in between, though it is not far

off from there. It is part of the national capital region. The other end of the acquisition boundary abuts Nazafgarh road originating from

Bahadurgarh. The urbanised area of the city of Bahadurgarh at the relevant time was abutting the acquisition boundary. Some factories were also

situated near the acquired land. A perusal of site plan (Ex.P-29), which is draft development plan for controlled area No. 1, 2 and 3 - 2021 AD

pertaining to the area of Bahadurgarh shows that the acquired land is about two kilometers from Delhi border on one side, i.e., if moving from

Hissar to Delhi on NH-10, whereas its other boundary which falls on Bahadurgarh-Nazafgarh road is also at the same distance. The entire

acquired land falls within the municipal limits extended in the year 1993. Towards the east of the acquired land, MIE industrial area is situated,

which abuts Delhi border. Government College, other commercial establishments and residential colonies are also situated in the vicinity. It is also

evident from the oral statements of the witnesses that some residential colonies were located in the vicinity of the acquired land and even certain

residential houses which were located on the acquired land were released from acquisition. Bus stand of Bahadurgarh is situated about 1-1/2

kilometers from the acquired land. Learned Counsel for the land owners had relied upon sale deeds (Ex.P12, Ex.P13, Ex.P14, Ex.P41 and

Ex.P43). In addition to this, award (Ex.P28) pertaining to the acquisition of small portion of land falling within Sector 9/9-A was also relied upon.

Besides this, letter of intent (Ex.P30 and Ex.P31) issued by Haryana Urban Development Authority to Indian Oil Corporation for allotment of

20,000 square meters of land in Sector 7, Bahadurgarh was also referred to. As regards other evidence on record, no reliance was placed thereon

keeping in view the fact that either the same was after the date of acquisition or much prior thereto. On the other hand, learned State counsel had

referred to and relied upon sale deeds (Ex.R15, Ex.R.59 and Ex.R.64) to submit that the enhancement, which has been made by the learned court

below, was not called for and the award of the Collector deserves to be upheld. 14. As far as sale deed (Ex.P12), relied upon by the land owners

is concerned, it has come on record that the same was part of a developed area in a residential colony and situated towards Delhi side from the

acquired land.

14. As far as sale deed (Ex.P13) is concerned, the land pertaining thereto is located on Bahadurgarh-Jhajjar road but the same has not been

pointed out on any site plan on record. Even otherwise, the sale deed was registered on 28.2.1989, whereas on Jhajjar road, the acquisition for

development as Sector 7, HUDA, Bahadurgarh had already been carried out in the year 1987, meaning thereby some development activity had

started towards that area and therefore, the price as is mentioned in the sale deed, cannot as such be relied upon. As far as land pertaining to sale

deed (Ex.P14) is concerned, the same is dated 23.5.1989, whereby 410 square yards of land was sold at an average price of Rs. 195/- per

square yard. It was sold nearly 6 years prior to the acquisition. The land as such has not been located on any site plan. However, considering the

khasra number, mentioned in the sale deed, learned Counsel for the land owners pointed out the same on the site plan located near the main Delhi-

Hissar road.

15. As far as sale deeds (Ex.P41 and Ex.P.43) are concerned, the same pertain to 100 and 30 square yards respectively, which are located near

the abadi on the road, the already developed area. The same otherwise also being for small piece of land cannot be relied upon as such for

determination of fair value of big chunk of land. As far as reliance on brochure (Ex.P51) issued in 1999 by Haryana Urban Development Authority

for sale of plots in developed Sector 9/9-A, Bahadurgarh, for which the land in question was acquired, is also not relevant for the purpose of

determination of fair value of the acquired land, as by that time in 6-7 years gap, the land in question had been developed after providing all basic

amenities and even the area in the vicinity had been developed. If the award (Ex.P28) pertaining to the acquisition of small left over portion of

Sector 9/9-A, as was notified on 2.12.1998 is concerned, there is a gap of 3-1/2 years in between. It is further noticed in that award that

compensation therefore is being assessed only at the rates at which the land on the main National Highway is assessed, as this portion of the land

was located on the Highway. If the time gap in the two acquisitions is considered, further increase in the value of the acquired land will not be

possible, as in the present case, the Collector himself had assessed the value at Rs. 6,00,000/- per acre for the land abutting the main Highway

which was further increased to Rs. 6,50,000/- per acre by the learned court below. If an increase of 12% per annum is considered thereon, the

value comes the same, as is determined by the Collector.

16. As far as sale deeds relied upon by the State are concerned, the same have merely to be referred and rejected for the simple reason that all of

them are not relevant. Sale deed (Ex.R59) is pertaining to the land, which is located on Jhajjar road on the other side of Bahadurgarh city. The

land forming part of sale deed (Ex.R64), though is located near the acquired land, but the value thereof is less than the award of the Collector.

Similar is the position with regard to sale deed Ex.R.15, the land of which is located on Nazafgarh road beyond the acquisition boundary. The

exact location thereof is not known as it is only the khasra number which is pointed out. The khasra will certainly have much bigger area, whereas

the sale deed is pertaining to only 6 biswas of land. Another document, on which strong reliance was placed upon by the learned Counsel for the

land owners, is letter of intent (Ex.P30 and Ex.P.31) dated 19.1.1993, issued by Haryana Urban Development Authority to Indian Oil

Corporation for allotment of 20,000 square meters of land in Sector 7, Bahadurgarh @ Rs. 1486.51 per square meter. It is not in dispute that this

portion of land is located on the other side of the city towards Hissar. The land for Sector 7 was acquired way back in the year 1987. The area

had been developed in 6 years till the land was allotted to Indian Oil Corporation. Though it is a big chunk of land but cannot be said to be a plain

land with no amenities as such. Accordingly, the same as such cannot be relied upon for the purpose of determination of fair value of the acquired

land. Another factor, which makes this piece of evidence to be not safe enough for the purpose of determination of fair value of the acquired land is

that it was a deed between two entities of State, namely, Haryana Urban Development Authority and Indian Oil Corporation Limited. However,

the same will certainly throw some light on the value of the land and its potential in the area.

17. From the material placed on record by the parties, there is no concrete evidence as such available on record which could be picked up

immediately to be relied upon for the purpose of determination of fair value of the acquired land. However, the transactions of sale in the area may

be even for smaller or bigger plots certainly throw light on the prices of land in the area. As has already been noticed above, the distance of the

acquired land from Delhi border is approximately two kilometers. Though, as discussed above, sale deed (Ex.P12) as such could not be relied

upon, where 8 kanals and 7-1/2 marlas of land was sold @ Rs. 400/- per square yard registered on 22.4.1993 for the reason that this land was

situated close towards Delhi from the acquired land and was within the residential area. This portion of land is also stated to be 3-1/2 acres off the

National Highway. Meaning thereby that there was population even in between the area from the acquired land till Delhi border and a judicial

notice can always be taken of the fact near the border, the immediate area in the vicinity on the road or even behind that is always developed as

Sales Tax Barrier or the security set up, Toll Tax Collection points etc. are not located just at the border, but at some place within the boundaries

of the State. For small piece of land near the acquired land, purchased for shop or residence 5-6 years before the acquisition, the sale

consideration is ranging from Rs. 195/- to Rs. 230/- per square yard in terms of the evidence produced on record.

18. As far as the learned court below is concerned, it has assessed the value of the acquired land upto a depth of three acres on Bahadurgarh-

Delhi road at Rs. 6,50,000/- per acre, i.e., Rs. 134.29 per square yard, if one acre is considered equivalent to 4840 square yards, whereas for the

land, which is situated on Nazafgarh road, the value was assessed at Rs. 4,50,000/- per acre, i.e., @ Rs. 92.97 per square yard. For the land in

between, two rates were fixed, i.e., Rs. 3,00,000/- per acre for nehri and chahi kind of land and Rs. 2,50,000/- per acre for Barani and other kind

of land, which comes to Rs. 61.98 and Rs. 51.65 per square yard, respectively.

19. Considering the aforesaid facts, in my opinion, as far as belting of the land is concerned, i.e., land located on NH-10 - Delhi Hissar road and

Bahadurgarh-Nazafgarh road, the learned court below has not committed any illegality as the land on road upto a certain depth certainly carries

more value and potentiality. As far as the land behind that is concerned, in the present case, the learned court below has upheld the categorisation

thereof as Nehri and Barani which, in my opinion, is not called for in the facts and circumstances of the "present case. That is for the simple reason

that the land, which is strategically located, having potential for being used as urban/commercial/industrial purposes, the classification thereof as

Chahi/Barani loses its significance, as it is to be used for construction activity. Accordingly, the classification of land as Chahi/Barani is done away

with and the entire chunk of land beyond the depth of three acres on the roads is to be assessed at the same rate.

20. Now the issue comes up about the assessment of value thereof. In my opinion, it is a case where certain guess work has to be applied, taking

an over-all view of the factual situation, as discussed above, and accordingly, for the land located on NH-10 Delhi-Hissar road upto a depth of

three acres from the main road, the value is enhanced from Rs. 134.29 per square yard to Rs. 150/- per square yard. For the land located on

Nazafgarh-Bahadurgarh road upto a depth of three acres is enhanced from Rs. 92.97 to Rs. 100/- per square yard, whereas for the land situated

behind that, the compensation is enhanced to Rs. 65/- per square yard. The land owners shall also be entitled to all the statutory benefits available

under the Act.

The appeals are disposed of in the manner indicated above.