

(2009) 02 P&H CK 0218

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Kishori Lal and Others

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: Feb. 3, 2009

Acts Referred:

- Land Acquisition Act, 1894 - Section 4

Hon'ble Judges: Rakesh Kumar Jain, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Rakesh Kumar Jain, J.

This judgment shall dispose of eight Regular First Appeals bearing Nos. 43,184,185, 570 to 573 and 29 of 1992 filed by the landowners/claimants and the State of Haryana, being aggrieved against the award of Additional District Judge, Kurukshetra dated 28.9.1991. Since identical question of law and facts are involved in these appeals, therefore, these are being decided by this common judgment. The facts are taken from RFA No. 43 of 1992.

2. Vide notification issued u/s 4 of the Land Acquisition Act, 1894 (for short, "the Act"), dated 11.3.1981, published in the Haryana Govt. Gazette on the same date, land measuring 53.05 acres in village Pipli, Hadbast No. 360, was acquired for a public purpose, namely for development and utilization of land for residential and commercial area for Sector 5 Urban Estate, Kurukshetra.

3. The Land Acquisition Collector, (for short, "the Collector"), classified the acquired land as under:

Sr. No.	Nature of land	Area in	K	M
1.	Chahi:	385	7	
2.	Gair Mumkin Abadi & Plot:	24	-18	

3. Gair Mumkin Rasta & Tubewell: 14 - 3

Total: 424 -8

4. The Collector awarded compensation for chahi land @ Rs. 34,400/- per acre; Gair Mumkin Abadi and Plot @ Rs. 45,920/- per acre and Gair Mumkin Rasta and Tubewell @ Rs. 13,760/- per acre, besides awarding statutory benefits in terms of the provisions of the Amended Act.

5. Provoked by the inadequacy of compensation awarded by the Collector, the landowners filed objections u/s 18 of the Act and claimed that the market value of the acquired land was not less Rs. 250/- per square yard as it was fully developed much prior to the acquisition. It was also alleged that the plots had the potentiality to be used for commercial and residential purposes. It was also alleged that the acquired land was situated at the main Pipli Kurukshetra Road near the Parakeet Tourist Complex and National Highway, opposite the Police line, Kurukshetra and was surrounded on two sides by developed Urban Estate and industrial area. It was also alleged that the land in question is situated within the Municipal Limits.

6. The State of Haryana/respondent, however, refuted the claim of the landowners on the ground that the compensation awarded by the Collector is well in accordance with the prevailing market rate.

7. Both the parties led their respective evidence to substantiate their claim. Besides leading oral evidence, the claimants tendered following sale deeds which are tabulated as under:

Sr.Exh. No.	Date of sale	Area sold	Sale price	Rate per acre approximately
1. P45	13.7.70	32"x16"	Rs. 2000/-	Rs. 194464/-
2. P-44	19.4.78	33' 'x24"	Rs. 5000/-	Rs. 275000/-
3. P-32	12.3.80	28' 'x14"	Rs. 15,000/-	Rs. 4,84,000/-
4. P-43	8.4.80	53.3 Sq.Y	Rs. 4,000-	Rs. 341220/-
5. P-33	9.4.80	53.3 Sq.Y	Rs. 4000/-	Rs. 341220/-
6. P-34	27.5.80	6 Marlas	Rs. 16,000/-	Rs. 426,666.68
7. P-4	8.9.80	13 Marlas	Rs. 14,000/-	Rs. 172307.70
8. P-5	8.9.80	13 Marlas	Rs. 12,000/-	Rs. 147692.25
9. P-37	21.11.80	14 Marlas	Rs. 24,000/-	Rs. 274285.15
10.P-41	9.12.80	88Sq.Y	Rs. 10,000/	Rs. 5,50,000/-
11.P-42	9.12.80	88Sq.Y	Rs. 10,000/-	Rs. 5,50,000/-
12.P-36	6.3.81	3 ■Marlas	Rs. 20,000/-	Rs. 4,57,142,90

8. It was argued before the learned Reference Court that average of sale instances comes to Rs. 3,72,765/- per acre. The claimants also relied upon previous award of this Court (Ex.P-38) delivered in RFA No. 7 of 1982 dated 14.3.1990 whereby the compensation was assessed @ Rs. 37/- per square yard which comes to Rs. 179,080/- per acre in respect of acquisition of land for Sector 13. They also relied upon judgment Ex.P-26 dated 24.8.1991 which relates to the acquisition of land of Sector 10 where notification u/s 4 of the Act was issued on 11.3.1981 and after relying upon the award in the case of the High Court dated 14.3.1990, the compensation was assessed @ Rs. 3,46,060/- per acre. The learned Reference Court, however, found that insofar as the award Ex.P-26 is concerned, which is fetching the value of Rs. 3,46,060/- per acre is pertaining to Sector 10 which is much better located than the land under acquisition, therefore, taking into consideration all factors including potentiality, locality and rising prices etc. of the acquired land, the learned Reference Court awarded rate of Rs. 2,75,000/- per acre.

9. Mr. P.S. Saini, learned Counsel for the landowners while arguing the appeals of the claimants for the purpose of further enhancement has vehemently contended that the learned Reference Court has committed a palpable error while not awarding the same compensation as that was assessed in the case of acquisition of Sector 10 which is of the same date i.e. 11.3.1981.

10. So far as location and potential is concerned, it is argued by learned Counsel for the claimants that the entire land is within the municipal limits, therefore, it has the same value at least on the date when notification u/s 4 of the Act was issued.

11. As against this, Mr. H.S. Hooda, Learned Advocate General, Haryana, assisted by Mr. Rajiv Kawatra, Senior Deputy Advocate General, Haryana, while opposing the appeals filed by the claimants and pursuing their own appeals, has argued that the compensation which has been assessed by the learned Reference Court is on higher side and deserves to be reduced. It is contended that so far as the land in question is concerned, which might have been acquired on the same date for Sector 10 was acquired but land of Sector 10 is better located which is near the Bus Stand, Housing Board Colony, Red Cross, Panchayat Bhawan, Bal Bhawan, offices of Deputy Commissioner, Superintendent of Police and Judicial Complex as mentioned in the award Ex.P-26.

12. I have heard the learned Counsel for the parties and have perused the record with their assistance.

13. It has come in the award of the learned Reference Court in para 28 that the acquired land is near new bus stand on the main Pipli-Kurukshetra road surrounded on its West now by Sector 7, in North by Police-Line, Power House, Bhagwan Nagar Colony Pipli, District Jail, F.C.I. Godown, Rice Sheller, while in its East, there is G.T. Road, just at a distance of about 10/12 killas and towards its south, it is the abadi of village Devidaspura. In the West, there is Sector. 7.

14. Undisputedly, notifications issued u/s 4 of the Act in respect of the land acquired for Sector 10 and Sector 5 at Kurukshetra are of the same date i.e. 11.3.1981, but in the case of acquisition of Sector 10, compensation has been assessed @ Rs. 3,46,060/- per acre, whereas in respect of land acquired for Sector 5, compensation has been assessed @ Rs. 2,75,000/- per acre. Thus, there is an apparent difference of Rs. 71060/-. It has come on record that the acquired land is fully developed and has been surrounded on all sides by various establishments. The only difference between the land of Sector 10 and Sector 5 is that land of Sector 10 is towards Kurukshetra Town, whereas land of Sector 5 is towards Pipli. Therefore, in my view, the claimants are entitled to at least $\frac{1}{2}$ of the difference of Rs. 71060/- which comes to Rs. 35,530/-. In this manner, the claimants shall also be held entitled to a sum of Rs. 3,10,530/- (i.e. Rs. 2,75,000/- + Rs. 35,530/-) per acre for their land which was acquired on 11.3.1981, with all other statutory benefits in terms of the provisions of the Amended Act along-with costs of these appeals. Insofar as the appeals filed by the State of Haryana are concerned, the same are found to be without any merit and are hereby dismissed with no order as to costs.