

(2011) 02 P&H CK 0437

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular First Appeal No. 1050 of 2006 (O and M) .

Harkirat Singh and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision: Feb. 7, 2011

Acts Referred:

- Land Acquisition Act, 1894 - Section 18, 4, 6

Citation: (2011) 162 PLR 566 : (2011) 5 RCR(Civil) 703

Hon'ble Judges: Rajesh Bindal, J

Bench: Single Bench

Judgement

Rajesh Bindal, J.

This order will dispose of.

RFA Nos. 1050 to 1053, 1055 to 1060, 1062 to 1064, 1068 to 1070, 1756 to 1758, 1935, 1952, 2059 to 2064, 2394 to 2396, 2792 to 2794, 3246, 3247, 3423, 3424, 4027, 4028, 4034 to 4057, 4133 to 4142, 4324 to 4345 of 2006; R.F.A. No. 4519 of 2007; R.F.A. No. 3118 of 2009 and Cross Objections No. 37 to 41-CI of 2007 as common questions of law and facts are involved.

2. In the appeals and cross-objections filed by the land owners, they are seeking further enhancement of compensation for the acquired land, whereas in the appeals filed by the Commandant, Indo-Tibetan Border Police, the prayer is for reduction thereof.

3. The facts have been extracted from R.F.A. No. 1050 of 2006.

4. Briefly, the facts of the case are that vide notification dated 19.6.1995, issued u/s 4 of the Land Acquisition Act, 1894 (for short, "the Act"), State of Haryana sought to acquire 229 acres, 7 kanals and 17 marlas of land bearing H.B. No. 234 of village Bhanu and 12 acres, 3 kanals and 5 marlas of land bearing H.B. No. 233 of village Mankiyan, District Panchkula for development and utilisation for basic training

centre for Indo-Tibetan Border Police, Ministry of Home Affairs, Government of India. The same was followed by notification dated 18.6.1996, issued u/s 6 of the Act. The Land Acquisition Collector (for short, "the Collector"), vide award dated 10.7.1997, assessed the market value of the acquired land @ Rs. 1,70,000/- per acre for Chahi and Nehri kind of land and Rs. 1,55,000/- per acre for Barani, Banjar Kadim and Gair Mumkin kind of land of both the villages. Dissatisfied with the award of the Collector, the land owners filed objections. On reference u/s 18 of the Act, the learned court below assessed the market value of the acquired land @ Rs. 2,94,000/- per acre. It is this award, which is impugned by both the parties before this Court.

5. Learned Counsel for the land owners submitted that the learned court below has totally failed to appreciate the evidence produced on record by them. The sale deeds pertaining to land, which is located even beyond the acquired land and far off from, the urban area were totally ignored. The acquired land, in fact, is adjoining to the already existing residential colony of Indo-Tibetan Border Police. It was acquired for expansion thereof. Part of the acquired land is abutting National Highway No. 73, whereas part of the land is located behind the already acquired land. He further submitted that the sale deeds for the area could not be produced as No. transactions were taking place there. The people were not willing to sell the land as there was huge demand, considering the fact that city of Panchkula was expanding in this side. Land of village Ramgarh, which is located just at a distance of about 1-2 Kilometers from the acquired land, had already been acquired for the purpose of development by Haryana Urban development Authority.

6. Learned Counsel further submitted that the learned court below has relied upon the award pertaining to the earlier acquisition of the adjoining land and granted increase @ 12% per annum thereon for the time gap of about 8 years. The value of the land earlier acquired vide notification dated 9.9.1987 has been increased by this Court from Rs. 1,50,000/- per acre to Rs. 2,00,000/- per acre vide judgment dated 24.1.2007, passed in R.F.A. No. 3674 of 1992 - Prem Wati (Died) and Ors. v. State of Haryana and Ors.

7. He further submitted that the mere fact that the State did not lead any evidence in rebuttal to the evidence led by the land owners clearly show that even the State also admitted the fact that value of the land in the area was much more than what was awarded by the Collector. This also corroborated the stand being taken by the land owners that No. sale deeds were registered in the area close to the acquisition of land.

8. As far as potentiality of the land is concerned, it was submitted that on account of development of the adjoining land as residential colony for Indo-Tibetan Border Police, the area in the vicinity had already been developed. There were industries and other commercial establishments also in the vicinity. Even beyond the acquired land, industrial estate was developed by HSIIDC in Barwala. Even the expansion of the city of Panchkula was towards this direction. Considering the aforesaid facts

even if this Court is to award increase in the value of the land, that should be at least @ 15% per annum, as the value of the land in the area had increased at a much more pace because of all around development in the vicinity. Hon"ble the Supreme Court in The General Manager, Oil and Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel and Another, has held that increase for the time gap, if is to be granted to the land owners, should be at cumulative rate and not simple flat rate.

9. On the other hand, learned Counsel for the Respondents submitted that none of the sale deeds produced by the land owners to justify enhancement of compensation in the value of the land acquired, is relevant. The sale deeds were pertaining to village Ramgarh or village Billa. Village Ramgarh was situated towards Panchkula side from the acquired land. The land of village Ramgarh had, in fact, been acquired for development as urban area by the State, whereas village Billa is located at least 3-4 kilometers from the acquired land on the other side, where the area itself is highly developed, a five-star hotel was already existing there. He further submitted that there was, in fact, No. value of the land in the area. The entire land was barren. The farmers used to grow only one crop in a year. Opposite the already existing colony and also the land acquired now, there was a blasting range. All these were negative factors on account of which the area in the vicinity was not being developed. Isolated small industries set up on the road will not mean that the area had great potentiality for being developed as residential, commercial or industrial. Even if beyond the acquired land, some area had been developed, that would mean the development of a localised pocket. The value thereof cannot be said to be the value for the land, which is located at a distance from that pocket, prior to that or even beyond that. As the value of a portion of land would always depend upon the infrastructure facilities available, which were totally lacking in the present case. However, it was not disputed that for the land acquired vide notification dated 9.9.1987 adjoining to the acquired land, this Court in Prem Wati"s case (supra) had assessed the value @ Rs. 2,00,000/- per acre.

10. Heard learned Counsel for the parties and perused the relevant referred record.

11. As far as location of the acquired land is concerned, learned Counsel for the land owners sought to suggest that it is located at a distance of one kilometer from Ramgarh and village Billa, the sale deeds of which have been relied upon is, in fact, located at a distance of two kilometers. This was specifically referred to for the purpose of showing the relevance of the sale deeds produced by the land owners which pertained to the area of Ramgarh and Billa, however, the aforesaid fact was disputed by the State. The submission was that from Ramgarh chowk, the distance of the acquired land is one kilometer and from the acquired land, though the boundary of revenue estate of village Billa may be adjoining to the boundary of village Bhanu, but the land pertaining to the sale deeds relied upon by the land owners is located at a distance of 6 kilometers. In fact, even in site plan (Ex.P3), the distance of the land pertaining to sale deed (Ex.P8) has been shown as 4 kilometers.

Meaning thereby there was discrepancy even in the evidence led by the land owners pertaining to the distance of the land of the sale deeds produced on record.

12. As far as relevance thereof is concerned, in my opinion, those cannot be considered for the purpose of determination of fair value of the acquired land. The reason therefor is that the sale deeds pertaining to village Ramgarh, which have been produced on record by the land owners have been shown to be part of the abadi area of Ramgarh, which was a big village having reasonable infrastructure. In fact, the land pertaining to this village had already been acquired by the State for the purpose of urbanisation. The distance from Ramgarh chowk to the acquired land is three kMs. In between, the large chunk of land was acquired for use of TBRL, which is located on left side of the National Highway, in case we proceed from Ramgarh towards the acquired land.

13. As far as the sale deeds pertaining to the land of village Billa is concerned, I do not find it safe even to place reliance thereupon for the reason that it has not been pointed out on any plan as to what was the surroundings of the land dealt with in the aforesaid sale deeds. The claim made by the State was that it was an area which already had a five star hotel. Even otherwise, the contention sought to be raised by learned Counsel for the land owners that in case we go towards the city from the rural area, the value of the land always increases, but this was totally in contradiction to the evidence produced on record by the land owners. The revenue estate of village Billa and especially the sale deeds produced on record by the land owners show the value in the range of Rs. 251/- to Rs. 661/- per square yard. As compared to this, the value of the land shown in Ramgarh, which is located quite close to Panchkula and rather some of the sectors of Panchkula have been developed in that area, the value shown is in the range of Rs. 220/- to Rs. 323/- per square yard, barring one sale deed of one marla where the value was shown as Rs. 1,322/- per square yard. The aforesaid transactions clearly establish that there was some local advantage available in village Billa on account of which even though the land was located at a far off place from the city but was being sold at a higher price. Accordingly, in my view, none of the sale deeds can be said to be relevant.

14. After finding that the sale deeds produced on record by the land owners are not relevant for the purpose of valuation of the acquired land, the only thing which can be considered is the valuation of the land acquired for the same purpose vide notification dated 9.9.1987. The notification u/s 4 of the Act in the present case was issued on 19.6.1995, after a gap of about 8 years. Though Hon"ble the Supreme Court in *Lal Chand v. Union of India and Anr.* 2010 (3) R.C.R. (Civil) 172 had opined that normally if the increase is to be awarded for the time gap, it should not be more than 5 years, but in my opinion, though the time gap in the present case is 8 years, still the land owners in the present case should be awarded increase for that period considering the fact that with the setting up of a residential colony by Indo-Tibetan Border Police after acquisition of land in the year 1987, some

developments in the vicinity always take place. It is also undisputed fact that the land pertaining to village Ramgarh had been acquired by the State for the purpose of urbanisation way back in the year 1989. The location of the acquired land from Ramgarh Chowk is three kMs. Its location is on National Highway No. 73. The acquired land is in three portions, two of which are located on both sides of the land already acquired in the year 1987, whereas one portion is located behind that. This Court in Prem Wati's case (supra) had assessed the value of the land acquired vide notification dated 9.9.1987 at Rs. 2,00,000/- per acre. It is not in dispute that the same attained finality. The acquisition in the present case is about 8 years thereafter. For the time gap, in my opinion, the land owners deserve to be awarded increase @ 12% per annum. Taking the same for a period of 8 years, the amount of compensation is determined at Rs. 3,92,000/- per acre. However, the fact remains that the land which is located on a Highway certainly carries more value on account of locational advantage. For that reason, I find it reasonable to assess the value thereof at a higher rate. By applying a thumb rule, the value of the land, which is located on the National Highway upto the depth of two acres is assessed @ Rs. 4,50,000/- per acre. The land owners shall also be entitled to the statutory benefits available to them under the Act.

15. To ensure that the landowners are not fleeced by the middleman in the process of disbursement of enhanced compensation, Hon'ble the Supreme Court in Civil Appeal No. 6515 of 2009 - Haryana State Industrial Development Corporation v. Pran Sukh and Ors.,³ decided on 17.8.2010, issued certain directions. I deem it appropriate to issue same directions in the present set of appeals as well. The same are as under:

With a view to ensure that the land owners are not fleeced by the middleman, we deem it appropriate to issue following further directions:

- (i) The Land Acquisition Collector shall depute officers subordinate to him not below the rank of Naib Tehsildar, who shall get in touch with ail the land owners and/ or their legal representatives and inform them about their entitlement and right to receive enhanced compensation.
- (ii) The concerned officers shall also instruct the land owners and/or their legal representatives to open savings bank account in case they already do not have such account.
- (ii) The bank account numbers of the land owners should be given to the Land Acquisition Collector within three months.
- (iv) The Land Acquisition Collector shall deposit the cheques of compensation in the bank accounts of the land owners.

The appeals are disposed of in the manner indicated above.

R.M.S.