
(1999) 01 P&H CK 0016

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 965 of 1992

Baldev Singh and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 14-01-1999

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (1999) 123 PLR 141 : (1999) 3 RCR(Rent) 158

Hon'ble Judges : Swatanter Kumar, J

Bench : Single Bench

Advocate : M.L. Sarin and Hemant Sarin, P. Laler, Mohan Jain, Jasmer Chand, K.P. Sidhu and P.S. Saini, for the Appellant; H.S. Hooda, A.G. and R.K. Arora, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

Swatanter Kumar, J.—For the development and utilisation of land as residential and commercial area in the Urban estate of Ambala, the State Government of Haryana, issued a notification u/s 4 of the Land Acquisition Act, hereinafter referred to as the Act, dated 26.5.1981 intending to acquire a large chunk of land. In furtherance thereto notification u/s 6 of the Act was issued on 10.1.1983 and subsequently on 10.1.1989. The total land sought to be acquired vide this notification was nearly 250.51 acre of land in the revenue estates of the three villages i.e. Patti Mehar, Jandli and Sound of District Ambala. This acquisition of land led to passing of three different awards i.e. Awards No. 4, 11 and 12 respectively. Different amount of compensation was awarded by the Land Acquisition Collector in different awards. Vide Award No. 4 dated 27.6.1984 the Collector awarded a uniform amount of compensation for all kinds of lands at the rate of Rs. 52,000/- per acre. This, however, was in addition to the amount of compensation payable on account of tube-wells, superstructure and trees, if at all, involved in respective cases.

2. The claimants being dissatisfied with the amount of compensation awarded

filed objections and reference was made by the Collector u/s 18 of the Act, to the learned District Judge, Ambala. All these references were disposed of by the four different judgments by the learned District Judge and Additional District Judges, Ambala by passing different judgments. In the first judgment dated 17.3.1987 the learned Additional District Judge enhanced the amount of compensation from Rs. 52,000/- to Rs. 57,000/- per acre in regard to the references covered by that judgment. Identical compensation was awarded by the learned Additional District Judge vide his judgment dated 9.10.1991. However, vide judgment dated 6.5.1992 the learned District Judge, Ambala, awarded compensation at the rate of Rs. 3,38,800/- per acre in the references covered by that judgment. These three judgments passed by the learned District Judge and learned Additional District Judges, Ambala have given rise to several Regular First Appeals which have been preferred by the claimants and/or by the State Government of Haryana.

3. In this judgment I propose to deal with the Regular First Appeals arising from the judgment of the learned Additional District Judge, Ambala dated 9.10.1991 vide which he awarded Rs. 57,000/- per acre as uniform compensation payable to the claimants in all the references covered by the judgment. Vide this judgment the learned Additional District Judge dealt with and disposed of 114 references made to him by the Collector u/s 18 of the Act. These 114 references disposed of by the said common judgment have given rise to 103 Regular First Appeals preferred by the claimants only as the State accepted the judgment dated 9.10.1991 and has also filed no cross objections in any of the first appeals preferred by the claimants. The lead judgment in this bunch of cases is Baldev Singh v. State of Haryana, R.F.A. No. 965 of 1992, arising out of L.A.C. No. 13/4 of 1987/1988. The evidence was led in this case before the learned Additional District Judge, Ambala. Consequently, while dealing with all the Regular First Appeals cumulatively I would be concentrating on the consultation and evidence of Baldev Singh's case.

4. The claimants produced documentary and oral evidence before the learned Additional District Judge, Ambala to substantiate and fortify their claim for enhancement of compensation awarded to them by the Collector. Four sale instances were produced on record Ex.P.7, Ex.P.8, Ex.P.14 and Ex.P.15. In addition to this, 12 witnesses were examined to substantiate the claim. Ex.P.2, Ex.P.9, Ex.P.21, Ex.P.23 and Ex.P.24 were the judgments and awards relied upon by the claimants to press their claim for enhancement. In addition thereto it was contended by the learned counsel appearing for different claimants that the learned District Judge, Ambala vide his judgment dated 6.5.1992 (subsequent to the judgment under appeal in these Regular First Appeals), in any case justifies their enhancement to the extent of Rs. 3,38,000/- per acre.

5. The respondents examined no oral evidence and only produced on record copies of judgments Ex.R.1 and Ex.R.2 and valuation report Ex.P.3. It was contended on behalf of the State that on the basis of the judgments of learned

Additional District Judge, Ambala, dated 17.3.1987 Ex.R.1 and dated 1.6.1991 Ex.R.2, where uniform compensation of Rs. 57,000/ was awarded was to be followed in the present case as well because the said compensation has been paid for the acquisition of the land arising from the same notification. As such the State prayed for dismissal of the appeals and also contended that the instances relied upon by the petitioners are neither admissible nor comparably relevant to the land acquired in the present case.

6. Coming to the sale instances relied upon by the claimants which are Ex.P.7, Ex.P.8, Ex.P.14 and Ex.P.15, I am unable to agree with the contention of the learned Advocate General, Haryana that these sale instances are not admissible. These sale instances were proved by PW4, PW9 and PW10. Once these witnesses have appeared in the witness box and had exhibited the sale deed and have stated that the contents thereof are correct, the sale instances would be admissible and would not fall in the zone of being inadmissible in law. However, a secondary question arises is whether these instances are relevant and can be looked into by this Court for determining the fair market value of the land on the date of notification. Vide Ex.P.7 land measuring 2 marlas was purchased, while vide Ex.P.8 land measuring about 6 marlas was purchased. 80 square yards land was purchased vide Ex.P.14 and vide Ex.P.15 only 39 square metres of land was purchased. All these sale instances were rightly rejected by the learned Additional District Judge as not comparable pieces of land for determining the market value of such a huge land which is subject matter of the present acquisition. In this regard, reference can be made to a judgment of the Hon'ble Supreme Court of India in the case of Agricultural Produce Market Committee by its Secretary and Others Vs. Land Acquisition Officer and Asstt. Commissioner and Another, where the Apex Court held as under:

"XX XX XX XX When a total extent of 7 acres and odd is sought to be acquired no prudent purchaser in open market would refer to purchase the open land on sq. ft. basis that too on the basis of few small sale transactions and small extents would always fetch higher market value and the same will never command such price in respect of large extent. This Court had always rejected such instances as being not comparable sales."

In view of the above well settled principle of law I have no hesitation in affirming the finding of learned Additional District Judge that these sale instances would not constitute a relevant piece of evidence for determining the fair market value of the land in question. These sale instances are, therefore, rejected.

7. Resultantly, the only evidence left for consideration of this Court for determining the fair market value of the land in question at the time of notification is the judgments/awards of the Courts. The judgments and awards of the Court have been held to be relevant factors and give substantive piece of evidence for such final determination. Ex.P.2 is the case of Pala Singh where belting system was adopted by the Court. A compensation of Rs. 70/- per square yard was awarded in relation to the land acquired in village Patti Mehar for the

construction of over-bridge within the Municipal limits of Ambala City at the time of acquisition of that land. The total land acquired in Pala Singh's case was 8.59 acres. Compensation of Rs. 70/- for one kind of land and Rs. 100/- for the other kind of land by adoption of belting system was given by the High Court and was up-held by the Hon'ble Supreme Court of India, which is not disputed by learned counsel for the parties. Judgment Ex.P.9 is passed by learned Additional District Judge, Ambala dated 12.11.1984 where additional land at a subsequent stage was acquired for completing of the over-bridge and only land measuring 1 Kanal 9 Marlas was acquired. In this case, compensation at the rate of Rs. 100/- and Rs. 200/- per square yard was awarded by adoption of belting system again. The notification was dated 17.10.1998.

8. Ex.P.22 is the judgment of learned Additional District Judge, Ambala where he had awarded Rs. 70/- per square yard as compensation for the acquisition of the land in village Patti Mehar vide notification u/s 4 of the Act was issued on 30.1.1973. The land was acquired for development and utilisation of land for commercial and residential purposes. The land acquired was measuring only 3.43 acres. This judgment is stated to have been affirmed by the High Court as the appeal preferred by the State was dismissed vide Ex.P.24.

9. It was contended that even while computing the average of the above awards the claimants would be entitled to a compensation minimum at the rate of Rs. 100/- per square yard. The instances given by the respondents i.e. Ex.R.1 and Ex.R.2 were stated to be irrelevant as they related to different places and were not part of the present acquisition.

10. It was seriously contended by the learned Advocate General, Haryana that the instances given and even the orders/judgments of the court were not directly relevant factors which could form substantial basis for determination of the fair market price of the land at the time of acquisition of the present land.

11. In order to elaborately discuss the respective instances/judgments cited in support of their cases by the respective parties to the present appeal, it will be appropriate to deal with these instances in some elucidation. Ex.P.2 in fact is the foundation of other judgment. Judgments Ex.P.9 and Ex.P.21 are based upon Ex.P.2. Even the judgment of the learned District Judge, Ambala, dated 6.5.1992 is also founded on the judgment Ex.P.2 (Pala Singh's case). Though the judgment dated 6.5.1992 was not produced before the learned trial Court obviously for the reason that it is a judgment subsequent to the impugned judgment in the present appeals. However, reference to this was made during the course of arguments. It must be noticed that the judgment of the learned District Judge, dated 6.5.1992 is a subject matter of appeal before this Court in Regular First Appeal No. 2872 of 1992 titled as Harpal Singh Vs. State of Haryana, the judgment of which had been pronounced prior to the pronouncement of this judgment. In that regard reference to the judgment of the Court in Regular First Appeal No. 2872 of 1992 would also become necessary. Even in that appeal, the Court had the occasion to discuss in great detail the

bearing of Pala Singh's case as well as Ex.P.5 of that case which is Ex.P.6 in this case at some length. The relevant portion of the judgment reads as under :-

"As such, I would proceed to discuss these awards in some elucidation. Vide Ex.P.5 the learned District Judge enhanced the compensation by judgment dated 12.11.1984 to Rs. 200/- and Rs. 100/-per square yard adopting the belting system. This land was acquired in village Patti Mehar. The land acquired under this award was only 1 kanal 9 marlas and was acquired as an additional land for completion of the over-bridge which was being constructed in the crowded city and was on the crossing of Ambala-Hissar Road. The Ex.P.6 on which the basic reliance has been placed by the learned District Judge as well as the claimants before this Court is in relation to the case of Pala Singh where compensation was enhanced by Rs. 70/- and Rs. 100/- by adopting the belting system for an acquisition of the land in May, 1978 measuring only 8.59 acres in village Patti Mehar for the construction of the over-bridge. This land at the time of acquisition was within the municipal limit of Ambala City. It is a conceded case that the land under acquisition in the present case was not in municipal limit at the time of acquisition and also that the land acquired by present notification is of much larger area than the land acquired in Pala Singh's case. As such, the present cases are totally distinct and different from the two cases referred to above. The land was acquired in those cases for the construction of overbridge while in this case it is for development of residential and commercial sectors."

"Thus, reference by this Court to Ex.P.7 becomes necessary. Ex.P.7 depicts that the acquired land which has been shown in red colour is on the one side of the railway track while Prem Nagar, Sessions Court and Market etc. are on the other side of the railway track. The land for which the compensation was paid in Pala Singh and Satish Kumar cases (supra), in relation to construction of over-bridge, is quite at some distance from the present land and is on Hissar road near the railway track."

The learned District Judge has placed total reliance upon Pala Singh's case (supra) but did not notice certain basic distinguishable features which have rendered that case as a relevant piece of evidence but still not as an instance on which the entire evidence could be concluded. In Pala Singh's case, which relates to village Patti Mehar, the land was acquired within the municipal limits of Ambala City and comparatively small pieces of land were acquired for construction of bridge over the railway line passing through Ambala City. The main road leading to Hissar as well as the railway line were the main points which were likely to be covered by the over-bridge. In other words, the land was located within the city's municipal limits and that too at thickly populated place. Thus, it could form sole basis for granting the compensation which has been awarded by the learned District Judge. The instances of judgments in afore-referred awards may be the relevant pieces of evidence but they are not absolutely identical in comparison to the land sought to be acquired by the present notification."

From the above discussion, it is clear that Pala Singh's case was related to the acquisition of land, the situation and potentiality of which was higher than the present land and that land was within Municipal limits. The cumulative effect of the discussion is that Pala Singh's case would be a relevant piece of evidence, but cannot be a determining factor in awarding compensation to the present landowners. The potential of the land, location and its utility all were considerably variable than the land acquired in Pala Singh's case. The acquisition in the present case is of 250.51 acres while in that case it was just 8 acres and in another case it was only 1 Kanal 9 Marlas. The large acquisition of land cannot be equated to small acquisition. Comparatively smaller acquisitions may become relevant pie(sic) of evidence, but they cannot per se become the determining factors. It would be but necessary to reasonably reduce the amount of compensation payable to larger acquisitions in comparison to the smaller acquisitions.

12. Ex.P.21 is another case where the land acquired was within the Municipal Limits of Ambala City. The lands which are located in Municipal limits obviously have a better potential than the land located outside the Municipal Limits of the city.

13. This Court, after detailed discussion and keeping in mind the various aspects had held in the of Union of India v. Dr. Balbir Singh (1992) 122 P.L.R. 613, that principle of averages should be adopted in computing the market value of the land at the time of notification. It further elucidated the need for awarding uniform compensation as far as the lands are reasonably comparable and may be located in different revenue estates of the adjacent village. At this stage I would revert back to the findings recorded by this court in the case of Harpal Singh (supra) as under :-

"10. The principle referred by this Court in the case of Khushi Ram (supra) was also made applicable by a Division Bench of this Court in the case of Surinder Singh v. Punjab State (1995) 109 P.L.R. 533 : A Division Bench of High Court of Delhi in the case of Ram Mehra v. Union of India AIR 1987 Delhi 130 also stressed the need for application of these principles for determination of fair market value of the acquired land.

11. In a very recent judgment the Hon''ble Supreme Court of India in the case of Kanwar Singh and Others Vs. Union of India, observed that courts while applying the market value of the land in the adjacent villages or revenue estates must cautiously follow the same as it is not necessary that compensation granted in adjacent villages would itself be, a deciding factor for other lands. The Supreme Court also applied the principle of average/mean to get the correct market value of the acquired land with some element of conjectures or guess in the case of Krishna Yachendra Bahadurvaru v. The Special Land Acquisition Officer, City Improvement Trust Board, Bangalore and Ors., AIR 1979 S.C. 859.

12. In the case of Karrapa Ranghiya v. Special Deputy Collector Land Acquisition

AIR 1982 S.C. 77 the Hon''ble Apex Court granted uniform compensation on the basis that earlier somewhat similar land which was acquired under the same notification, higher amount of compensation was awarded. Seeing from any point of view the Pala Singh's case (supra) appears to be the nearest in point of time and location, but as already noticed, the land acquired in that case was in municipal limits and was in the city itself, was a distinguishing feature, which would fully justify more potential in that land acquired in Pala Singh's case rather than land acquired in the present case. While applying the principle of averages applied by this Court to the adjacent lands of villages Sounda and Jandli, I would have no hesitation in coming to the conclusion that the land acquired in Pala Singh's case (supra) cannot form an identical comparable land of the same potential. The present land has to be placed at a little lesser value than the value of the land in the case of Pala Singh's (supra)."

Even otherwise to follow the principle of uniformity of compensation, I would prefer to follow the compensation awarded in R.F.A. 716 of 1995.

For the reasoning adopted in RFA 716/1995 and as a result of cumulative effect of aforestated observations, I hold that appeals preferred by the State are liable to be accepted while the appeals for enhancement preferred by the claimants are liable to be dismissed. Resultantly, I hold that the claimants would be entitled to the compensation at a flat rate of Rs. 2,91,800/- per acre. It is an admitted case that a large chunk of land was acquired and it is surrounded by and touches the boundaries of other two villages, by a common notification of the same date."

14. One can hardly trace any element of disparity between the case of Harpal Singh and the present appeals. In both the cases, the lands were acquired by the same notification dated 26.5.1981. Lands were acquired by a common notification in the revenue estates of all the three villages i.e. Patti Mehar, Jandli, and Sounda. It is also an admitted case and is equally reflected by the site plans Ex.P.10 and Ex.P.11. The boundaries of the three revenue estates of these villages is common. In other words, the lands of each of these villages are adjacent to other while part of the land of Patti Mehar prior to the present acquisition was in Municipal limits. This has been so reflected in the cases of Pala Singh and Sudesh Kumar (Ex.P.9). The lands acquired are at a distance from the grain market while those places were fully commercialised and developed when the lands in those areas were acquired. Thus, I find it difficult to plainly follow the said criteria for awarding the compensation in the present case. The necessary corollary thereto would be to make a reasonable deduction/cut from such amounts and to implement the rule of uniform compensation as afore-indicated to award the compensation which has been awarded in other connected cases for such similar lands. The lands in other cases are comparable or even somewhat similar. They have been acquired for one and the same purpose and, thus, difference of part of the land from the other land acquired would not be of great significance.

15. For the reasons afore-stated I allow these appeals and enhance the

compensation for acquisition of the lands of the land owners to Rs. 2,91,800/- per acre. The land owners claimants would be entitled to statutory benefits under Sections 23(1-A), 23(2) and 28 of the Act in accordance with law. However, in the facts and circumstances of the case, there would be no orders as to costs. The appeals are, accordingly, allowed, limited to the above extent.