
(2010) 03 P&H CK 0194

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 3153 of 2002

Baru Ram & Others

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 23-03-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (2010) 03 P&H CK 0194

Hon'ble Judges : Nawab Singh, J

Judgement

Nawab Singh, J.

1 This judgment would dispose of 23 appeals.

2 RFAs No. 276567, 314654 of 2002 and 101 of 2003 have been filed by the land owners challenging the judgment/Award dated March 27th, 2002 passed by Additional District Judge/Court of Reference, Panipat (Herein after referred to as "the Court of Reference").0

3 RFAsNo. 1616,1891 and2176 of 1998,702 and 705 of 1999 have been filed by the land owners and RFAs No. 285153 and 2855 of 1998 have been filed by the State impugning the Award dated February 24th, 1998 passed by the Court of Reference, Panipat.

4 RFANo. 3955 of 2003 has been filed by land owners challenging the Award dated May 21 st, 2003 of the Court of Reference, Panipat.

5 Pursuant to notification dated June 28th, 1994, about 50 bigas 11 biswas land of village Taraf Rajputan Binjole (for short "Binjole") District Panipat was acquired for construction of sewerage treatment plant by the State Government. The Land Acquisition Collector by Award dated December 9th, 1996 assessed the market value of the acquired land which was situated upto the depth of 3 acres from the canal at the rate of Rs. 6 lacs and Rs. 5 lacs for the remaining land. Dissatisfied therewith, the land owners filed references under Section 18 of the Act and the Court of Reference assessed the market value of the acquired land

upto the depth of 3 acres at the rate of Rs. 170/ per square yard and for the remaining land Rs. 125/ per square yard, that is, Rs. 8,22,800/ and Rs. 6,05,000/ per acre respectively.

6 By notification dated May 11th, 1994 under Section 4 of the Land Acquisition Act, 1984 (for short "the Act") 195 kanals 8 marks land of village Siwah District Panipat was acquired by the State Government for construction of sewerage treatment plant. The Land Acquisition Collector vide Award dated October 5th, 1995 assessed the market value of the acquired land at the rate of Rs. 1,75,000/ per acre. Dissatisfied therewith, the land owners filed references under Section 18 of the Act. By impugned judgment/Award, the Court of Reference dismissed the references.

7 All the appeals are being disposed of by this common judgment because village Siwah and Binjole are situated nearby each other. The purpose of the acquisition was the same. Difference between the two notifications whereby land was acquired is only 47 days.

8 Firstly, topography of both the villages is to be seen. The land of village Siwah abuts the Grand Trunk road (GT road) leading from Panipat to Delhi. The land of village Binjole abuts the road leading from Panipat to Rohtak. Both the villages are surrounded by National Fertilizer Limited, a Public Sector Undertaking, number of other factories such as Pipeline Factory, M/s. Harrison Exports, Sethi Group International, S.P. Spinners, schools and Sector 29 and 29 Part II of Panipat. Both the villages are within the municipal limits of Panipat. Panipat is an industrial hub of State of Haryana. The topography of both the villages is depicted in the site plan Annexure A1 and described by Surinder Kumar (PW1), Adarsh Kumar (PW7) and S.P. Sethi, SubDivisional Officer, Public Health (RW1) who appeared in the cases pertaining to village Binjole. In view of this, the acquired land had great potential value of development for residential, commercial and industrial purpose. In such a situation, there is no justifiable ground that any area could be valued by reason of its location or any of its particular feature so as to form a distinct part of property. Belting may be useful only from that angle when depth and remoteness of areas affect economic considerations and indicate possible variations in prices. Such being the position, the market value of the acquired land should not be assessed by applying the belting system. This being so, this Court rejects the approach of the Court of Reference, whereby, belting patron for the purpose of working out the compensation was applied in case of land situated in village Binjole.

9 The next point for consideration is as to what method should be adopted for determining the market value of the acquired land. The best evidence to assess the market value of the acquired land would be the sale transactions in respect of the acquired land; the time at which the property came to be sold; the purpose for which it is sold; nature of the consideration; and the manner in which the transaction came to be brought out are the relevant factors.

10 Land owners of village Binjole have relied upon four sale deeds Exhibit P1, P9, P10 and P12. For facilitation, the chart of the saledeeds is tabulated as under :

Sr.No.	Exhibit	Date of Sale deed	Area	Amount	Average Per sq.yard	Average Per acre
1	P12	9.3.1993	2 Biswas	13 Biswans Rs. 90000/	Rs. 478/	Rs. 23,17,02
2	P10	19.8.1993	9 Biswas	6 Biswans Rs 190000/	Rs. 408/	Rs 19,77,63
3	PI	9.2.1994	2450 Sq.Yrds.	Rs. 383000/	Rs. 156/	Rs. 755185.:
4	P9	28.4.1994	4 Biswas	5 Biswani Rs. 85000/	Rs. 400/	Rs. 19,36,000/

11 The Court of Reference has taken into consideration the sale deed (Exhibit PI) only ignoring the remaining three saledeeds without assigning any tenable reason, simply observing that there was a spiraling trend towards price escalation of the land situated in and around the acquired land and the same had potential value of development for residential, commercial and industrial purpose.

12 As per aforesaid sale transactions, the average market value of the acquired land comes to Rs. 17,46,460/ per acre. This figure has been calculated by this Court with the assistance of the counsel for the appellant as well as the counsel for the State.

13 Since the aforesaid value has been determined on the basis of the sale instances which relate to small piece of land, therefore, some discount by way of deduction has to be made as the acquired land was a large chunk. In considered opinion of this Court, 30% cut to the aforesaid valuation would be just and appropriate in the given circumstances of the instant case.

14 Now the next question arises as to what should have been the market value of acquired land of village Siwah ? Qua the land of village Binjole, the Land Acquisition Collector assessed the market value at the rate of Rs. 6 lacs per acre upto the depth of 3 acres from the canal and the rest of the land at the rate of Rs. 5 lacs per acre. The purpose of acquisition of the land of both the villages was the same. There is only gap of 47 days in the two notifications. Not with standing that, the Land Acquisition Collector, that is, the functionary of the State Government applied different yardsticks while assessing the market value of the lands situated in village Siwah and Binjole. Unfortunately, the Court of Reference also did not take note of this glaring error on the part of the official of the State Government and rather upheld the price assessed by the Collector. Indisputably, the acquired land of village Siwah is much better situated than village Binjole as described in paragraph No. 8 of this judgment. In this view of the matter, it would be in the fitness of things to determine the market value of the acquired land of village Siwah at the same rate as that of village Binjole.

15 On the basis of the above, the gross market value of the acquired land of both the villages is assessed at the rate of Rs. 17,46,460/ per acre. Applying 30% cut to the aforesaid valuation, the market value of the acquired land is assessed at the rate of Rs. 12,22,550/ per acre.

16 In upshot for the reasons recorded supra, the land owners of village Binjole

and Siwah will be entitled to compensation at the rate of Rs. 12,22,550/ per acre. Besides above, the land owners will also be entitled to the statutory sum in accordance with Section 23(1A) and solatium at the rate of 30% on the market value under Section 23(2) of the Act. They will also be entitled to interest as provided under Section 28 of the Act. Thus, the appeals filed by the land owners are accepted in the manner indicated above and that of the State are dismissed.