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**(2016) 04 P&H CK 0228**

**In the Punjab And Haryana At Chandigarh**

**Case No : RFA No. 1389 of 2008 (and other connected matters)**

Diwan Singh and others

APPELLANT

Vs

State of Haryana and others

RESPONDENT

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**Date of Decision : 12-04-2016**

**Acts Referred:**

Land Acquisition Act, 1894 — Section 23, 4

**Citation : (2016) 2 LAR 172**

**Hon'ble Judges : Mr. Rameshwar Singh Malik, J.**

**Bench : Single Bench**

**Advocate :** Mr. Gurcharan Dass, Advocate and Mr. R.S. Madaan, Advocates. in RFA Nos. 1389 to 1393 & 3014 of 2008, Mr. P.K. Ganga, Advocate. in RFA No. 1436 of 2008, Mr. Ashok Verma, Advocate. in RFA Nos. 2579 to 2583 of 2008, for the Appellant; Mr. Rajesh Sheoran, Ad

**Final Decision : Disposed Off**

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## **Judgement**

Rameshwar Singh Malik, J.—This batch of 20 appeals, bearing Regular First Appeal Nos.1389 to 1393, 1436, 2579 to 2583, 2613 to 2619, 3014 of 2008 and 5069 of 2009, filed by the land owners, is being decided vide this common order, as all these appeals arise out of the same acquisition and raise identical questions of law and facts. However, with the consent of learned counsel for the parties and for the facility of reference, facts are being culled out from RFA No.1389 of 2008 (Diwan Singh and others v. State of Haryana and others).

2. Brief facts of the case are that State of Haryana sought to acquire land measuring 35 kanals, 10 marla, out of the revenue estate of Dabwali, District Sirsa at public expenses for public purpose namely; for construction of Integrated Sports Complex at Dabwali. Accordingly, notification dated 23.07.1997 was issued under Section 4 of the Land Acquisition Act, 1894 (for short "the Act"), which came to be followed by notification dated 10.12.1997 under Section 6 of the Act. Land Acquisition Collector (for short "LAC") passed two identical awards No.59 dated 10.11.1998 and No.61 dated 04.02.1999. LAC

assessed the market value of the acquired land @ Rs. 2,75,000/- per acre for the land which was abutting the road and upto 100 feet and Rs. 2,50,000/- per acre for the remaining land situated beyond 100 feet from the road i.e. National Highway No.10.

3. Dissatisfied with the awards passed by the LAC, the land owners filed their objections under Section 18 of the Act and as a consequence thereof, land references came to be dismissed by the learned reference Court vide award dated 13.11.2000. However, said award was set aside by this Court vide its order dated 13.09.2006 passed in RFA No.850 of 2001 (Satpal v. State of Haryana) and other connected RFAs, remanding back to the learned reference Court for fresh decision, reconsidering the entire evidence brought on record.

4. In compliance of the above said remand order passed by this Court, impugned award dated 23.10.2007 has been passed by the learned reference Court. The learned reference Court assessed the market value of the land abutting the road and upto 100 feet @ Rs. 820/- per square yard. The market value of the land beyond 100 feet was assessed @ Rs. 350/- per square yard. State of Haryana did not file any appeal. However, the land owners have approached this Court by way of present set of appeals, seeking further enhancement in the amount of compensation for their acquired land. That is how, all these appeals are being decided together.

5. Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that the appeals filed by the land owners deserve to be partly allowed, suitably enhancing the amount of compensation for their acquired land, for the following more than one reasons.

6. So far as the potentiality of the acquired land is concerned, it was having immense potentiality because the land was situated at a prime location within municipal limits of Dabwali and could have been easily put to residential as well as commercial use. PW3 Baljinder Singh, Patwari Halqa Dabwali was examined by the land owners. He proved the copy of ak-shijra as Ex.P1 showing the location of the acquired land, which has been shown in red colour. This witness deposed before the Court that the acquired land was abutting National Highway No.10 with frontage of 55 karams. He also admitted that Khalsa High School, Dhaliwal Nagar, Chauhan Nagar, Power House of HSEB, petrol pumps and other residential houses were situated in the close vicinity of the acquired land.

7. Similarly, PW2 Zile Singh, Record Keeper, Municipal Committee, Dabwali deposed that the acquired land was situated in Ward No.14 of Municipal Committee, Mandi Dabwali. Very many other establishments, including numerous shops were situated near the acquired land. It is also clear from the scaled site plans Ex.PW3 and Ex.PW3/A. A combined reading of the above said oral as well as documentary evidence would leave no manner of doubt that the acquired land

was situated at a prime location and its potentiality had never been in dispute.

8. Coming to the relevant evidence for assessing the market value of the acquired land, one of the claimants-land owners namely Sat Pal had purchased land measuring 10 marla, vide registered sale deed dated 12.01.1994 (Ex.P2) for an amount of Rs. 1,65,000/- @ Rs. 546/- per square yard. This sale deed Ex.P2 was part of the acquired land itself. Learned counsel for the appellants-land owners also placed heavy reliance on the official document, which is available on record in the form of Ex.P4, whereby Collector's rates were fixed @ Rs. 1,000/- per square yard, for the land falling on National Highway No.10 from Gol Chowk to Chauhan Nagar, Dabwali.

9. Since the acquired land was adjoining Chauhan Nagar, land owners were entitled for assessing the market value of their acquired land not below this rate of Rs. 1,000/- per square yard, contended learned counsel for the appellants. However, this contention by learned counsel for the land owners has not been worth acceptance, because Collector's rates prescribed @Rs. 1,000/- per square yard were meant for the land falling on National Highway No.10 from Gol Chowk to Chauhan Nagar and not beyond that. Admittedly, the acquired land was although situated on National Highway No.10 but beyond Chauhan Nagar, thus, Ex.P4 cannot be made the basis for assessing the market value of the acquired land.

10. No sale instance or any relevant evidence was ever produced on behalf of the State. After a close perusal of the entire evidence available on record, the learned reference Court came to the definite conclusion, while recording its positive and cogent findings in paras 13 to 18 of the impugned award that the sale deed Ex.P2 was most relevant evidence for assessing the market value of the acquired land. This finding recorded by the learned reference Court has been found factually correct and legally sustainable and the same deserves to be upheld. It is so said because the learned reference Court committed no error of law, while placing heavy reliance on this sale instance in the form of Ex.P2, in compliance of the remand order passed by this Court.

11. In fact, since the land sold vide sale deed Ex.P2 was forming part of the acquired land itself, there could not have been any better piece of evidence for assessing the market value of the acquired land, particularly when no contrary evidence was led by the State, either before the learned reference Court or before this Court. Land sold by way of sale deed Ex.P2 was purchased by one of the claimants namely Sat Pal. Since the authenticity and genuineness of this sale deed had never been questioned on behalf of the respondent-State, it can be safely made the basis for assessing the market value of the acquired land.

12. Market value disclosed in the sale deed Ex.P2 was Rs. 546/- per square yard. Since there was a time gap of three years and six months between this sale deed Ex.P2 dated 12.01.1994 and the date of notification under Section 4 of the Act i.e. 23.07.1997, the land owners would be entitled for annual increase @ 15% on

cumulative basis, in view of the law laid down by the Hon''ble Supreme Court in *The General Manager, Oil and Natural Gas Corporation Ltd. v. Rameshbhai Jivanbhai Patel and another*, 2008 (14) SCC 745 and *Ashok Kumar and others v. State of Haryana and others*, 2015 (3) Scale 242.

13. It is so said because the acquired land was admittedly forming part of Ward No.14 of the municipal area of Mandi Dabwali. Further, in *Mehrawal Khewaji Trust (Regd.), Faridkot and others v. State of Punjab and others*, 2012 (5) SCC 432, the Hon''ble Supreme Court has held that the land owners are entitled to receive the best price for their acquired land. Granting the benefit of 15% annual increase on cumulative basis on the above said market value disclosed in Ex.P2, amount comes to Rs. 892.68 per square yard, which is rounded off to Rs. 893/- per square yard.

14. The next question of law that falls for consideration of this Court is, as to whether any particular percentage of cut is to be applied on the above said market value. In fact, applying any particular percentage of cut on the market value disclosed is not an absolute rule. Each case is to be decided on the basis of its own peculiar facts and circumstances. Considering the peculiar facts and circumstances of the present case including all the positive as well as negative determinative factors for the purpose of assessing the market value of the acquired land, this Court feels no hesitation to conclude that no cut is warranted to be imposed in the present case.

15. The view that has been taken by this Court also finds support from a Division Bench judgment in *Harbans Singh and others v. State of Punjab* through the Land Acquisition Collector, Patiala, 2006 (1) RCR (Civil) 634, which was, in turn, based on the law laid down by the Hon''ble Supreme Court. The relevant observations made by the Division Bench referring to the law laid down by the Hon''ble Supreme Court in paras 12 and 13 of its judgment in *Harbans Singh's* case (*supra*), which can be gainfully followed in the present case, read as under:

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"There is no quarrel with the proposition, as has been laid down by the Hon''ble Apex Court in *Administrator General of West Bengal v. Collector's* case (*supra*), that where the sale instance relied upon by the claimants comprised of small plot of land, than a cut has to be applied while evaluating a large tract of land. However, in our considered view, the aforesaid proposition of law would not be attracted to the present case. As has been noticed by the learned reference Court as well as by the learned Single Judge, it is clear that the acquired land was situated within the municipal limits. G.T. Road was situated on one side of the acquired land whereas on the other side of the acquired land a bypass road connecting Sirhind town with the G.T. Road was situated. There were certain shops, workshops, and petrol-pumps near the acquired land. In this view of the matter, certain observations made by the Hon''ble Apex Court in *Bhagwathula Samanna and others v. Special Tehsildar and Land Acquisition Officer*, 1992 L.A.C.C. 314 may be noticed:

"The proposition that large area of land cannot possible fetch a price at the same rate at which small plots are sold is not absolute proposition and in the given circumstances it would be permissible to take into account the price fetched by the small plots of land. If the larger tract of land because of advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not warranted. With regard to the nature of the plots involved in these two cases, it has been satisfactory shown on the evidence on record that the land has facilities of road and other amenities and is adjacent to a developed colony and in such circumstances it is possible to utilise the entire area in question as house sites. In respect of the land acquired for the road, the same advantages are available and it did not required any further development. We are, therefore, of the view that the High Court has erred in applying the principle of deduction and reducing the fair market value of land from Rs. 10/- per sq. yard to Rs. 6.50 per sq. yard. In our opinion, no such deduction is justified in the facts and circumstances of these cases."

Following the aforesaid dictum laid down by the Hon"ble Supreme Court of India, a Division Bench of Madras High Court in Special Tehsildar (Adi Dravidar Welfare) v. Abdul Reguman, 1996 L.A.C.C. 394 held as follows:

"In our view the observation made by the Supreme Court is squarely applicable to the case in hand. Admittedly, the land in question is already in a developed area and situated in an advantageous position and quite suitable for building purpose. It is also proved in evidence that the land in question has all the amenities such as roads, drainage, electricity, communications etc. Therefore, we are of the view that the learned Subordinate Judge is not justified in deducting 20% from the market value. We, therefore, set aside that part of the order of the learned Subordinate Judge, fixing the market value at Rs. 1325/- less 20%. The cross-objection is, therefore, allowed and the order of the Subordinate Judge is modified to this extent."

16. The next equally important question of law that arises for consideration of this Court is, whether the belting system adopted by the LAC and upheld by the learned reference Court deserves to be upheld or not. The answer is and has to be an emphatic no. It is so said because keeping in view the location of the acquired land and purpose of its acquisition, LAC wrongly adopted the belting system, which has been illegally upheld by the learned reference Court. It has gone undisputed before this Court that purpose of acquisition for the total acquired land was same and the land was acquired vide same notification. Keeping in view the public purpose for which the land was acquired, every inch of the acquired land was going to be put to the same use i.e. for construction of Integrated Sports Complex at Dabwali. In such a situation, it can be safely concluded that exact location of any particular piece of land out of the acquired land would be hardly of any consequence. Under these circumstances, belting

system was not at all warranted in the present case and the same has to be ignored. Ordered accordingly.

17. The above said view taken by this Court on the belting system also finds support from the following judgments: -

1. Udho Dass v. State of Haryana, 2010 (2) SCC 51.
2. Ashrafi and others v. State of Haryana, 2013 (5) SCC 527.
3. Kehar Singh v. Punjab State, 1992 (1) RRR 81.
4. Harinderpal Singh v. Punjab State through the Collector, Amritsar, 1997 (3) RCR (Civil) 431.
5. Union of India v. Dr. Balbir Singh, 1999 (2) RCR (Civil) 546.
6. Pawan Kumar and another v. Land Acquisition Collector and others, 2001 (1) RCR (Civil) 598.
7. Harjit Singh @ Kaka Singh v. State of Punjab and another, 2004 (1) RCR (Civil) 484.
8. Smt. Mahabiri Devi and others v. State of Haryana and another, 2005 (4) RCR (Civil) 142.
9. Gulzar Singh v. State of Haryana, 2006 (3) RCR (Civil) 174.
10. Kashmir Singh and others v. Land Acquisition Tribunal Ludhiana Improvement Trust through its President and others, 2006 (2) LAR 59.
11. Gursher Singh and others v. President, Improvement Trust Tribunal, Jalandhar and others, 2007 (1) RCR (Civil) 429.
12. Baru Ram and others v. State of Haryana and another, 2010 (3) RCR (Civil) 754.

18. Reverting to the peculiar fact situation obtaining in the cases in hand and respectfully following the law laid down by the Hon"ble Supreme Court as well as this Court in the cases referred to herein above, it is unhesitatingly held that the impugned award passed by the learned reference Court is liable to be modified to the extent indicated above. The observations made by the Hon"ble Supreme Court in Udho Dass's case (supra) also aptly apply to the facts of present case, because the land owners in the instant set of appeals are fighting for getting the market value of their acquired land, for the last more than 18 long years. In fact, if the law laid down by the Hon"ble Supreme Court in Udho Dass's case (supra) is strictly applied to the facts of the present case, the amount of compensation for the acquired land would be manifold more than what is being granted to the appellants herein. However, proceeding on a holistic and pragmatic approach with a view to do complete and substantial justice between the parties, this Court is of the considered view that the assessment of the market value of the

acquired land, as indicated above, would meet the ends of justice.

19. Let it be specifically recorded here that neither any better evidence or other judicial precedents were pressed into service nor any other argument was raised on behalf of either of the parties.

20. Considering the peculiar facts and circumstances of the cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that the above said appeals filed by the land owners deserve to be partly accepted and the same are hereby allowed to the extent indicated above. The land owners are held entitled to receive the amount of compensation for their acquired land at the uniform rate of Rs. 893/- per square yard, from the date of notification under Section 4 of the Act. Besides this, the land owners shall also be entitled for all the statutory benefits available to them, under the relevant provisions of the Act.

21. Resultantly, with the observations made above, all these appeals stand disposed of, in the above said terms, however, with no order as to costs.