

(2014) 07 P&H CK 0121
In the Punjab And Haryana At Chandigarh
Case No : RFA No. 1040 of 1998

Kapoor Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 16-07-2014

Acts Referred:

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

Citation : (2014) 07 P&H CK 0121

Hon'ble Judges : Bharat Bhushan Parsoon, J

Bench : Single Bench

Advocate : Arun Kumar Singal and Aman Chaudhary, Advocates, D.D. Gupta, Additional Advocate General, Anand Chhibbar, Sr. Advocate and Vaibhav Narang, Advocate for the Appellant; Pawan Kumar Mutneja, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Dr. Bharat Bhushan Parsoon, J.—RFA Nos. 542 to 547 and 863, 902, 903 and 904 of 1999 by the State of Haryana, RFA No. 108 to 117 of 1999 by the Indian Oil Corporation Limited (hereinafter referred to as the IOLC), whereas RFAs No. 1040, 1041 & 1042 of 1998 with Cross Objections No. 175-176-CI of 1999 and 148-CI of 1999 are by the land owners.

2. For the construction of diversion drain from RD 13700 to 29000 in the area of village Baholi, 43 kanal 5 marla of land of village Baholi Hadbast 12 of Tehsil and District Panipat, was acquired vide notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) of 31.7.1993 and 23.8.1993 respectively.

3. Land Acquisition Collector vide Award No. 3 dated 7.2.1994 awarded compensation at the following rates:-

4. When the references (based on the petitions made by aggrieved land owners) u/s 18 of the Act were adjudicated, Additional District & Sessions Judge, Panipat had awarded compensation at the uniform rate of Rs. 1.65 lacs per acre.

5. Whereas the land owners have sought modification of the Award of the reference court claiming compensation @ Rs. 10 lacs per acre, IOCL, for which the land was acquired by the State of Haryana, and the State of Haryana as well, have sought reduction in compensation.

6. The landowners have claimed that the reference court had merely relied on an earlier Award (Ex. P2) given in LAC No. 49 of 1993, titled as Shanti Devi v. State of Haryana vide which Rs. 1.65 lacs per acre had been given as compensation whereas other evidence available on record was completely ignored resulting in awarding of inadequate compensation to the landowners even though the land had great potential for its utilization for commercial and industrial purposes. It is averred that the reference court completely ignored the fact that the acquired land is situated on the link road leading from village Baholi to village Kutana and even residential colony of Central Security Force, State Bank of India, post office and police post etc. were located in the close vicinity. It is also explained that the land in the vicinity had also been acquired for the purposes of a refinery where compensation @ Rs. 2.50 lacs had been given.

7. In RFAs No. 542, 546 and 547 of 1999, there are cross objections by the appellants wherein the same pleas as taken by the landowners in their independent and separate appeals preferred against the order of the reference court, have been taken.

8. In the appeals preferred by IOCL and the State of Haryana, it is claimed that the reference court wrongly applied the principle of treating the entire land of the village as one unit as also in allowing compensation thereof on unit basis whereas even in the same village, no two lands command the same market value. Only lands possessing similar potentiality or value or similar advantage or comparable parity could have been taken together for valuation purposes. It is claimed that evidence led by the respondent-State which clearly disclosed that average rate at the relevant time was Rs. 1.15 lacs per acre had not been considered at all. It is explained further that the acquired land was being used for agricultural purposes and had neither any potential nor any special advantage. It is claimed that there was no material or evidence before the reference court to increase the compensation.

9. It is also claimed that testimony of Mangli Ram Patwari (PW1) was wrongly appreciated as he had never deposed that residential colony of Central Industrial Security Force was adjoining the acquired land. In addition, it is also pointed out that the reference court neither considered statement of Rajbir Patwari (RW1) nor appreciated two instances of sale enlisted in document (Ex. RA). It is claimed that there was no material with the reference court to grant any enhancement of compensation over or above the Award of the Land Acquisition Collector.

10. Arguments have been heard while perusing the grounds of appeal, impugned Award and the evidence on record.

11. Market value of the acquired land which is to form foundation for payment of

compensation to the landowners in fact means the price which a willing purchaser would pay as a consideration for his land to a willing seller keeping into account location, advantages and potentiality of the land. Many factors require consideration. Suitability of the land for commercial, industrial or residential purposes or its conversion for educational or medical institutions also is to be looked into. Availability of amenities such as water, electricity, telephone, drainage are also relevant considerations.

12. Notification u/s 4 of the Act in this case is of 31.7.1993.

13. Landowner Sajjan Singh (PW2) had proved sale deed (Ex. P1) of 16.5.1994 whereby his land was purchased for the refinery project @ Rs. 2.50 lacs per acre. Respondent-State, however, had given sale instances, i.e., Exs. RC to RE. Sale deed (Ex. P1) is of about one year later than the date of notification of Section 4 of the Act and thus does not carry any probative value. Sale instances given by the State of Haryana (Ex. RC to RE) proved by Pirthi Singh (RW3), Dalel Singh (RW4) and Subhash Mehta (RW6) not only pertain to the year subsequent to the date of notification u/s 4 of the Act but also are of rates even lower than the rate at which the Collector had awarded compensation.

14. Statement of Mangli Ram Patwari (RW2) leaves no manner of doubt that the acquired land abuts the link road leading from village Baholi to village Kutana. While considering the entire spectrum as also another Award of 10.5.1995 rendered by another reference court in LAC No. 49 of 1993, titled "Shanti Devi v. State of Haryana" where land measuring 34 kanal 4 marla relating to village Baholi was acquired by notification of 9.10.1991 for installation of oil refinery project. In this Award uniform rate of Rs. 1.65 lacs per acre had been granted.

15. When acceptable instances of increase or decrease of price of land as compared to the one awarded in Award (Ex. P2) were not available with the reference court, relying upon the Award Ex. P2 rendered with respect to land of the present village, compensation was given @ Rs. 1.65 lacs per acre by the reference court.

16. Neither counsel for IOCL nor counsel for the State of Haryana have been able to point out as to how the land acquired as one chunk could be taken differently for different land owners particularly when the entire land was put to agricultural use and had been acquired for development of a refinery project. Rather, treating different parcels of land differently when earlier use and the purpose of acquisition was the same in respect of land acquired from different landowners, would have been improper.

17. Entire chunk of acquired land had formed one unit as a whole and it was so clearly and absolutely and there were similar advantages and potentiality and thus the land within the said sweep could not have been treated differently. Thus, the reference court did not commit any error either on facts or in law in arriving at a uniform rate of compensation for the entire acquired land.

18. Claim of the appellants when is interfaced with the oral as well as documentary evidence on record, is found to be hollow on merits. Entire evidence was evaluated and appraised closely as also meticulously by the reference court in the given set of facts and circumstances and also of inputs of evidence available with the Collector.

19. After appreciation of entire evidence, conclusion of payment of compensation at the uniform rate of Rs. 1.65 lacs per acre rendered in the impugned Award cannot be faltered for the reasons explained earlier.

20. Consequently, there being no merit in the appeals of either set of the appellants, all the appeals together with the Cross Objections are hereby dismissed.