
(2015) 09 P&H CK 0170

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 411 of 2004 (O&M) and LAC No. 22 of 2001

Mahinder Pal

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 17-09-2015

Acts Referred:

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

Citation : (2015) 180 PLR 537

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : Vikram Singh and Kamal Sharma, for the Appellant; Arun Beniwal, Deputy Advocate General, Advocates for the Respondent

Judgement

Rajesh Bindal, J—This order will dispose of RFA Nos. 3017, 3018, 3019, 3812, 4175 of 2003 and 411 of 2004, as the same arise out of common acquisition.

2. By filing appeal, the landowners are seeking enhancement of compensation for the acquired land, whereas by filing appeals, the State is seeking reduction thereof.

3. Briefly, the facts are that vide notification dated 3.11.1999, issued under Section 4 of the Land Acquisition Act, 1894 (for short, "the Act"), the State of Haryana sought to acquire land situated in village Gudha, Tehsil Indri, District Karnal, for construction of Sewage Treatment Plant Works Kasba Indri. The same was followed by notification under Section 6 of the Act. The Land Acquisition Collector (for short, "the Collector") vide award no. 1 dated 30.1.2001 assessed the market value of the acquired land @ Rs. 2,00,000/- per acre. Dissatisfied with the award of the Collector, the landowners filed objections. On reference, the learned court below determined the market value of the acquired land @ Rs. 2,20,000/- per acre. This award has been impugned in the present set of appeals by both the parties.

4. Learned counsel for the landowners submitted that the acquired land in the present case is located quite close to the Indri city, which was developing fast. After the acquisition in question, more land was acquired for the same purpose i.e. for Sewage Treatment Plant Works Kasba Indri and thereafter the adjoining land was acquired for extension of new Grain Market at Indri as the Grain Market was already existing. This Court in RFA No. 2546 of 2004 State of Haryana and others vs Balwant Singh and others decided on 18.1.2011, assessed the value of the land acquired vide notification under Section 4 of the Act dated 20.8.2001 for Sewage Treatment Plant Works Kasba Indri, @ Rs. 15,00,000/- per acre. As in the case in hand, the acquisition was for the same purpose, though earlier in time, a reasonable cut for the gap be applied and compensation may be assessed. The land in question is prime land. It was fit for urbanization. He further submitted that the assessment of compensation by this Court in Balwant Singh's case (supra), was upheld by Hon'ble the Supreme Court in the appeals filed by the landowners as no enhancement was granted. The State did not prefer any appeal.

5. On the other hand, learned counsel for the State submitted that in the absence of any clinching evidence, no case for enhancement can be made out. In the case in hand, the award pertaining to acquisition of land, which is subsequent in time is not relevant. The landowners in the present case cannot be awarded compensation while placing reliance thereupon. However, he could not explain the fact as to why this Court was not apprised about the factum of cases of earlier acquisition in the same area pending in this Court when the later was being taken up for consideration.

6. Heard learned counsel for the parties and perused the paper book.

7. The case in hand is an example of anomalous situation created before this Court in the cases pertaining to assessment of compensation on account of acquisition of land. As a matter of propriety, any case pertaining to acquisition carried out earlier in the area has to be decided first and then the subsequent acquisitions to follow. When the appeals pertaining to acquisition of land in the same area for the same purpose were listed before this Court where notification under Section 4 of the Act was issued on 20.8.2001, none of the counsels pointed that the appeals pertaining to earlier acquisition in the same area were pending in this Court. In fact, two later acquisitions were decided earlier in time.

8. To take care of such an anomalous situation, with which the Court was faced on many occasions, comprehensive guidelines were issued in RFA No. 2218 of 2007 Smt. Maya and others vs State of Haryana and others dated 4.5.2012, which are extracted below:-

"16. To streamline the dealing of cases under the Land Acquisition Act, with a view to ensure their expeditious disposal, this Court deems it appropriate to issue the following directions:

(1) The Land Acquisition Collector shall ensure that all the land owners who file

objections furnish their complete addresses.

(2) All the objections received by the Collector in land acquisition cases shall be referred to the court for adjudication maximum within three months after receipt thereof. Along with the objections or bunch of objections, a certificate shall be annexed by the Collector to the effect that all the objections received upto that date for the acquisition in question have been sent to the court.

(3) Whenever a land reference is put up before the learned court below, to which it is entrusted, it shall ensure from the District Attorney/Assistant District Attorney and/or the Collector that all the objections received by the Collector upto date have been sent to the court for adjudication. A certificate to the effect has to be placed on record. In case the land references were received on different dates and were put up on different dates either for first hearing or for hearing after notice, the learned court below shall club all the land references arising out of the same acquisition to be heard on one date of hearing before it proceeds further in the matter. Assistance of the office of District Attorney is most relevant on this aspect.

(4) In case some objections are received late by the Collector for any reason whatsoever, he shall be duty bound to refer the same to the court immediately after its receipt so that the same is clubbed with the cases already pending and are disposed of along with that. Information about the cases already sent to the court shall also be furnished by the Collector.

(5) In case any objection is received after the disposal of the land references by the learned Reference Court, the Collector while sending the same to the court for adjudication shall annex a copy of the award/judgment of the court along with that, pertaining to the acquisition in question.

(6) The decision of the land references arising out of the same acquisition in piece-meal on different dates has to be avoided at all cost unless the reference is received late.

(7) The learned courts below to keep in view the directions issued by Hon'ble Supreme Court in Mangat Ram Tanwar's case (supra) pertaining to disposal of land acquisition cases which are extracted below:

"6. We are aware of the problem of back log in most of the Courts. The references under Section 18 should be treated as a class by themselves entitled to priority attention. If care and attention are devoted at the appropriate time, these cases can be easily disposed of by clubbing them groupwise and recording evidence after taking the consent of counsel for the parties. Most of the acquisitions these days relate to large patches of land and ordinarily they are covered under one notification. Cases which are covered by a common notification should be clubbed together for which a statutory foundation is available in the Amending Act of 1984 in extending the benefit of higher compensation to all lands covered by a common notification even if dispute is not

raised. If that is done the total number of cases where evidence would be necessary is likely to be reduced and better attention can perhaps be given. The High Courts should take special note of the pendency of land acquisition references and where it is possible a Court may be set apart for those cases.

7. We expect every referee court to dispose of the references ordinarily within one year of receipt of the reference and the outer limit should be the end of the second year. The High Courts in exercise of their controlling powers should ensure enforcement of this position so that all pending references in the subordinate courts at the original stage may be disposed of within time frame indicated above."

(8) The cases pertaining to acquisition of land for a canal/drain/road/channel/distributory or of similar nature, where the acquired land passes through different villages in the form of a strip, endeavour should always be made to entrust the cases to one court. Even if the same arise out of different notifications, though issued close in time, the learned courts below should also make efforts to decide these cases collectively after perusing site plan for the entire acquired land. It would be in the interest of all the parties concerned that a site plan showing location of the entire acquired land and also the surrounding area is produced by the State in court. The learned courts below to keep in view the observations made by this court in R.F.A. No. 686 of 1991 - Lokeshwar Dutt v. The State of Haryana and another, decided on 16.8.2010, pertaining to the same issue, which are extracted below:

" However, finding that number of cases are coming before this court, where this type of situation is being repeated on account of which the court finds it difficult to determine the fair value of the acquired land, which may result in injustice to either of the party. Not only that, in number of cases, the applications are filed by the land owners for producing additional evidence, which, in fact, should be part of the evidence to be led by the land owners/State at the very first instance. In many cases, the court, in the interest of justice, had to ask the State or the party to produce on record the site plan showing the exact location of the acquired land, sale deeds etc. to avoid injustice to either of the party. This unnecessarily delays the disposal of cases. The basic things, which should be brought on record to enable the court to determine fair value of the acquired land is the notification under Section 4 of the Act, copy of the award, site plan to the scale, showing the acquired boundary vis-a-vis its location such as its closeness to the city, village, highway, internal road with all its positive and negative factors. Another important fact is that such a plan should have the status as on the date of issuance of notification under Section 4 of the Act, the date being crucial for the purpose of determination of fair value of the acquired land. It would be appropriate if the sale instances sought to be produced by the land owners or the State are pointed out on the site plan to be produced on record by either of the party. In the absence of which it is difficult to locate the same and consider its true value. The site plan, which should be taken on record,

should be on butter paper or cloth, as it is seen in a number of cases that when the appeals are heard after 15-20 years, the site plans, which are quite big and may be on thin tracing paper, are torn out making it difficult for the parties to refer to the same and also for the court to consider."

(9) At the time of filing of appeals against the awards of the learned Reference Court pertaining to an acquisition, the Collector/Land Acquisition Officer shall file an affidavit that appeals against all the awards of the learned Reference Court pertaining to the particular acquisition, have been filed.

(10) This court in R.F.A. No. 4742 of 2010-The State of Haryana and another v. Sh. Tek Chand and others, decided on 11.10.2010, wherein the appeal was filed by the State against award of the learned court below despite the fact that the earlier award of the Reference Court, which had been relied upon for the purpose of determination of compensation in that case had already been upheld by this court and there was no merit in the appeal even on the date of filing thereof, had issued following directions:

"To avoid unnecessary adjournments of the cases, I deem it appropriate to direct that in all appeals filed by the land owners or the State following information must be furnished in the appeal itself:

(i) In case the learned Reference Court had relied upon any earlier award pertaining to same or any other acquisition, the fact as to whether any appeal against the same is pending or not, should be mentioned in the grounds of appeal. The number of such appeal and status thereof be also mentioned.

(ii) In case no earlier award is relied upon by the Reference Court, it should be mentioned that the Reference Court has not relied upon any earlier award.

The aforesaid facts should be mentioned in the last para of the grounds of appeal before the prayer clause. The Registry is directed to ensure compliance of the requirement. This may be brought to the notice of the Bar Association for notifying to the learned members of the Bar."

(11) In case the State fails to file appeals in all the cases decided by the Reference Court and ultimately the amount of compensation is reduced by the higher court, the State shall be duty-bound to fix the responsibility of the person(s) concerned for the lapse and also recover the amount of loss suffered from the guilty officer(s)/ official (s).

(12) The learned Reference Court should also ensure from the Collector and/or the District Attorney that no land reference pertaining to the acquisition of land in the area, which is prior in time, is pending for adjudication and in case there was any acquisition of land in the area prior in time, the award passed by the Reference Court or the higher court therein should always be brought to the notice of the court concerned.

(13) It should be ensured by the court that the land references pertaining to

acquisition of land, which is prior in time, are decided first before taking up the cases of the acquisition carried out subsequently."

9. In the case in hand, notification under Section 4 of the Act was issued on 3.11.1999, whereas in the subsequent acquisition in the same area for the same purpose, the notification under Section 4 of the Act was issued on 20.8.2001. For this, the compensation assessed by this Court in Balwant Singh's case (supra), was Rs. 15,00,000/- per acre. Though strictly reverse cut of 1 year 9 months may not be a reasonable principle to be applied for assessment of compensation, especially when it will go further by 9 months as in Balwant Singh's case (supra), reverse cut for a period of 9 months was applied on the value of land assessed by this Court in RFA No. 1957 of 2007 The Market Committee, Indri and another vs Sudhir Kumar and others, decided on 18.3.2010, for the land where notification under Section 4 of the Act was issued on 3.5.2002 for extension of Grain Market. Even in that case, it was not pointed that there were cases pending in this Court pertaining to the earlier acquisition. Still considering the fact that this Court has to solve this anomalous position and the pending appeals being few, applying a thumb rule, a sum of Rs. 10,00,000/- per acre is considered as the reasonable amount of compensation to be paid to the landowners in the present set of appeals. They shall also be entitled to all the statutory benefits available to them under the Act.

10. Before parting with the judgment, this Court would like to direct that the State authorities shall prepare a master plan at district level showing acquisition of land by different departments at different times providing all particulars. It has been informed by the learned State counsel that land is not acquired by one particular department. He submitted that in the State of Haryana, the land is acquired by the Urban Development Department, Department of Industries & Commerce, Department of Irrigation, Department of Agriculture, Department of PWD (B&R), Department of Power, etc. Every department, who independently acquires the land, shall be duty bound to inform the District Collector about the same. As and when required, copy of the master plan shall be produced before the Court in cases pertaining to assessment of compensation for the acquired land. It will also be useful for the State to take care of the acquired land from encroachments. It will also be helpful for the Courts for proper assessment of compensation of the land.

11. The appeals filed by the landowners are allowed and the appeals filed by the State are dismissed.

12. Copy of the order be sent to the Chief Secretaries of States of Punjab, Haryana and Home Secretary, Union Territory, Chandigarh, for compliance.