

(1994) 09 P&H CK 0010

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 3043 of 1989

Mangat and Others

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 01-09-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (1995) 110 PLR 268

Hon'ble Judges : N.C. Jain, J

Bench : Single Bench

Advocate : H.S. Gill, R.A. Yadav, S.D. Bansal and R.K. Jain, for the Appellant;
H.L. Sibal, A.G., Gulab Singh, Asstt. A.G. and D.D. Sharma, for the Respondent

Final Decision : Allowed

Judgement

N.C. Jain, J.—This judgment of mine will dispose of Regular First Appeal No. 2997 to 3000, 3015, 3043 to 3059, 3093 of 1989, 149 to 157, 275, 1585, 1586, 1588, 1607 to 1609, 1642, 1649, 1650 to 1652 all of 1990 and 1049 of 1991 filed by the claimants and Regular First Appeal Nos. 4 to 11, 92 to 127, 129 to 131 of 1990 filed by the Union of India as they arise out of common Award of the Additional District Judge, dated 30.8.1989.

2. In pursuance of notification dated 22.3.1985 u/s 4 of the Land Acquisition Act (hereinafter referred to as "the Act"), the State of Haryana sought to acquire 1130 acres 5 Kanals 4 marlas of land situated in village Manesar, Tehsil and District Gurgaon for public purpose, namely, setting up of National Security Guards Complex. The Land Acquisition Collector vide his Award dated 28.5.1985 assessed the market value of the acquired land at the following rates:

Chahi Rs. 50,000/- per acre Magda Rs. 45,000/- per acre Bhud Rs. 40,000/- per acre Banjar Rs. 35,000/- per acre Gair Mumkin Rs. 20,000/- per acre

3. The land-owners sought reference u/s 18 of the Act and the Additional District Judge by his Award under challenge before this Court has assessed the market

value of the acquired land at a flat rate of Rs. 59,290/- per acre.

4. The land-owners have claimed enhancement in the amount of compensation by way of filing their appeals, whereas Union of India has sought reduction in the amount of compensation in the appeals filed by it.

5. Before evaluating the acquired land, it is necessary to keep in mind the exact location of the land. The land is situated at a distance of about 15 kilometers if one goes from Gurgaon to Rewari side on National Highway No. 8 in village Manesar. The exact location of the land which has not been disputed by the counsel for the parties is noticed by the Additional District Judge in paragraph 16 of his judgment which reads as under:-

" It has also come in the evidence that although there is no Municipal Committee in village Manesar, but it is situated right on National Highway No. 8. There are schools, banks, a bazar, a power house, residential complex of H.S.E.B., many stone crushers, Krishi Vigyan Kendra, a commercial establishment of the Chemical Division of I.B.P. since 1984 and tap water is also available as there is water supply scheme in Manesar. Although it has not been declared as urban area, it has been fast growing into one since last many years. The acquired chunk of land has the National Highway No. 8 on one side and the roads leading to village Naurangpur and Ninwal on the other sides."

6. Before the Additional District Judge, the landowners produced the following sale deeds evidencing the sale of as many as four plots in village Manesar which had been depicted as Table I:

Table I

S.No.	Exhibit No.	Date of sale	Area Sold	Sale Price
1.	Ex. RQ 15.3.1995	2 0		Rs. 49000/-
2.	Ex. PR 5.12.1984	2 18		Rs. 44000/-
3.	Ex. PS 15.3.1985	2 0		Rs. 49000/-
4.	Ex. PT 2.12.1986	2 16		Rs. 1,70,000/-

7. The State of Haryana, produced several sale-deeds but the Additional District Judge prepared a chart in Table II by referring to only those sale deeds by virtue of which some pieces of land situated in village Manesar were sold. Table II reads as under:

S.No.	Exhibit No.	Date of sale	Area Sold	Sale Price
1.	Ex.R. 1	12.3.84	6 17	Rs. 25715/-
2.	Ex.R. 2	16.8.84	8 11	Rs. 49500/-
3.	Ex.R. 3	18.12.85	1 1	Rs. 6000/-
4.	Ex.R. 4	9.12.85	1 19	Rs. 4000/-
5.	Ex.R. 5	2.10.84	2 16	Rs. 15000/-
6.	Ex.R. 6	20.2.85	2 17	Rs. 16500/-
7.	Ex.R. 7	3.12.85	7 16	Rs. 20000/-
8.	Ex.R. 8	19.11.85	1 16	Rs. 6000/-
9.	Ex.R. 9	13.8.84	5 14	Rs. 33000/-
10.	Ex.R. 10	6.3.84	0 7-1/2	Rs. 500/-

The Additional District Judge after noticing the potentialities of the acquired land, to which reference has been made above, and after taking into consideration the sale deeds mentioned at Sr. Nos. 1 to 3 in Table No. 1 and the sale deeds listed at Serial Nos. 2 to 9 in Table No. II has evaluated the acquired land at Rs.

59,289.34. What has precisely been done by the Additional District Judge is like this. He has totalled up the area sold in the aforementioned sale deeds which comes to 39 Kanals and in a similar manner he has totalled up the sale consideration so mentioned in all the sale deeds which comes to Rs. 2,92,000/- and after doing the totalling of the area and the sale price, he has divided the total sale consideration of all the sale deeds with the total area of all the sale deeds and in this way arrived at the figure of Rs. 59,289.34. The aforementioned figure has been rounded off at Rs. 59,290/-.

9. Mr. H.S. Gill Senior Advocate, Shri S.D. Bansal; Advocate, Shri R.K. Jain, Advocate and Sh; R.A. Yadav, Advocate for the claimant-landowners have argued that the Additional District Judge has committed an error in arriving at the figure of Rs. 59,290/- inasmuch as he should not have divided the sale consideration as mentioned in all the 11 sale deeds by the area so sold in several sale deeds for bringing out the exact sale price in the form of an acre. They have argued that the Additional District Judge should have calculated the price of a particular piece of land by converting the same into an acre and after determining as to which sale deeds are relevant, should have divided the price of the sale deeds by the number of sale deeds. It has further been argued by the learned counsel for the claimants that this Court should ignore the sale deed Exh. R.10 as by virtue of which the area situated at a far off distance was sold. On the other hand, learned counsel for the State has argued that in the present case reduction in the amount of compensation is called for as the average price of all the sale transactions mentioned in Table I and II comes to Rs. 81,764/- and after applying the necessary cut the market value of the acquired land should be determined at Rs. 54,500/- per acre. Before discussing the validity of the formula which has been applied by the Additional District Judge, it is necessary to determine as to which sale deeds are relevant.

10. After hearing the counsel for the parties and perusing the entire record including the plan Exhibit R.18 and the one which was placed by the learned counsel for the parties when the case was heard at one stage by S.S. Sodhi, J., I am of the view that the sale deeds Exhibits PQ, PR, PS mentioned in Table No. 1 and sale deeds Exhibits R. 1, R-2, R-5, R.6, R.9 and R.10 mentioned in Table No. II are relevant and comparable vis-a-vis the acquired land. All the aforementioned sale deeds were registered before the notification and the plots by virtue of these sale deeds have been sold in village Manesar. Exhibit PT from Table I deserves to be ignored, the same being post dated notification. Similar is the position of Exhibits R3, R4, R7 and R8. I have not been able to persuade myself to agree with Mr. Gill that I shall ignore the sale deed Exhibit R10 simply because the land sold in this sale deed happens to be situated at some distance in the plan. If the distance is taken into consideration then in that situation even Exhibits PW and PR will have to be ignored inasmuch as the land sold therein also appeared to be situated at a great distance in the plans shown to me by the counsel for the parties. Consequently, the sale deeds Exhibits PQ, PR, PS mentioned in Table No. I and R. 1, R.2, R.5, R.6, R.9, and R.10 are held to be

relevant and comparable vis-a-vis the acquired land.

11. This brings me to the question whether the formula adopted by the Additional District Judge is correct or not. In my considered view the approach of the Additional District Judge is incorrect and unsustainable. No case law has been quoted at the Bar during the course of hearing for the proposition that a court of law in order to evaluate the market value of the land should, in the first instance, total up the entire land sold in various sale deeds and after totalling the entire sale consideration in all such sale deeds should divide the same with the total land mentioned in the sale deeds. The only formula which this Court has been able to conceive and work out is that a court in order to determine the market value of the acquired land should, in the first instance, find out as to which sale transactions are relevant and comparable vis-a-vis the acquired land and thereafter the area sold in a particular sale deed should be converted into one acre. The sale consideration mentioned in that sale deed, the area of which has been converted into one acre, should be mathematically converted for bringing out the price of the land of one acre. In this manner the price of each sale deed is to be taken out. After totalling up the sale considerations of all the comparable sale deeds the same should then be divided by the number of the sale deeds. The figure after such division would be the average price of the land at the rate of per acre. Thereafter the court is obliged to apply a cut in accordance with the facts and circumstances of a particular case. This is the only principle which seems to have been followed in the past while assessing the compensation.

12. Applying the afore-mentioned formula to the facts of the instant case, it is necessary to prepare another chart of the relevant sale deeds which have been found by me to be comparable in the earlier part of the judgment. The chart is reproduced below:

Exhibit	Date of sale	Area sold	Sale price	Sale price per K M acre.
PQ	15.3.85	2 0	Rs. 49000/-	Rs. 1,96,000/-
PR	5.12.84	2 18	Rs. 44000/-	Rs. 1,21,379/-
PS	15.3.85	2 0	Rs. 49000/-	Rs. 1,96,000/-
RI	12.3.84	6 17	Rs. 25715/-	Rs. 30,032/-
R2	16.8.84	8 11	Rs. 49500/-	Rs. 46,315/-
R5	2.10.84	2 16	Rs. 15000/-	Rs. 42,857/-
R6	20.5.85	2 17	Rs. 16500/-	Rs. 46,315/-
R9	13.8.84	5 14	Rs. 33000/-	Rs. 46,315/-
R10	6.3.84	0 7-1/2	Rs. 500/-	Rs. 10,666/-
Total:-			Rs. 7,35,879/-	

13. The sale price, thus, per acre comes to Rs. 81,764/-. Coming to the question as to how much deduction should be made in view of the small area of land sold in the afore-mentioned sale deeds, I am of the view that it would be just and reasonable if a cut of 25 per cent is applied bringing the market value of the "acquired land at Rs. 61,329/- which can be rounded off at Rs. 61,400/- per acre. This Court is not inclined to apply a greater cut in view of the fact that most of the sale deeds which have been taken into consideration by me were registered in the year 1984 and only three sale deeds i.e. Exhibits PQ, PS and R6 were registered in the year 1985. Had I applied a heavier cut than 1/4th, I would naturally have granted some price rise in view of the gap between the dates of

execution of the sale deeds of the year 1984 and the date of the notification acquiring the land in dispute. This apart, a heavier cut is not warranted in view of the potentialities of the acquired land which has been discussed above.

For the reasons a recorded above, the market value of the acquired land stands determined at Rs. 61,400/- per acre. The appeals filed by the landowner-claimants are allowed with proportionate costs. They are also held entitled to the grant of all the statutory benefits of the amended provisions of Section 23(1A) 23(2) and 28 of the Act. The appeals filed by the Union of India are ordered to be dismissed with no order as to costs.