
(2000) 02 P&H CK 0040

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 882 of 1999

Neelam Bala and Others

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 03-02-2000

Acts Referred:

Land Acquisition Act, 1894 — Section 23, 4

Citation : (2000) 126 PLR 176 : (2000) 2 RCR(Civil) 242

Hon'ble Judges : Swatanter Kumar, J

Bench : Single Bench

Advocate : Rohit Suri, Narottam Kaushal, Akash Jain and Ram Chander, for the Appellant; M.L. Sarin, A.G. and D.K. Khanna, A.A.G., for the Respondent

Judgement

Swatanter Kumar, J.—The State Government of Haryana issued two notifications u/s 4 of the Land Acquisition Act (hereinafter referred to as the Act). First notification being No. LAC(P-NITA-90-2223 dated 12th April, 1999 was issued for acquiring 39.29 acres of land situated in the revenue estate of Kasba Karnal and village Budha Khera for development and utilisation of land as residential and commercial area of Sector 9 and part thereof, while other notification being No. LAC(P)-90-2224 dated 12th April, 1990 was issued for acquiring 52.56 acres of land situated in the same revenue estate for development and utilisation of the said land as residential and commercial area of Sector 8 and part thereof. In furtherance thereto, two different notifications u/s 6 of the Act were issued on 9th April, 1991.

2. The land was taken into possession by the State of Haryana and the Collector, vide his award dated 6th April, 1993 after adopting prescribed procedure, awarded compensation to the claimants for acquisition of their respective land at the uniform rate of Rs. 3,00,000/- per acre.

3. As a result of award No. 2 of 1993-94 dated 6th April, 1993 of the Collector 31 claimants - land owners preferred references u/s 18 of the Act, while against LAC award No. 1 of 1992-93 dated 6th April, 1993, 44 references were prepared by

different claimants. Learned Additional District Judge, Karnal, permitted the parties to lead evidence in support of their respective claims and by two different judgments dated 9th November, 1998, answered all 75 references. Award No. 2 relates to the land acquired for Sector 9, Karnal, while Award No. 1 relates to the land acquired for Sector 8, Karnal.

4. It must be noticed at this stage that the learned Collector had awarded identical rate of compensation to all the claimants, whose land had been acquired for the aforestated purposes. The learned Additional District Judge, though pronounced two different judgments on the same date i.e. 9th November, 1998, yet awarded the same rate of compensation to all the claimants. Aggrieved from the judgments and awards of the learned Additional District Judge, the claimants have preferred 40 appeals in all, while no appeal of the State has been listed before this Court as yet. In Regular First Appeal No. 882 of 1999 Neelam Bala's case, the appeal of the claimants arises from the judgment of learned Additional District Judge dated 9th November, 1998 passed in relation to the acquisition of the land for development of Sector 9, Karnal, while Regular First Appeal No. 895 of 1999 Panni Devi's case relates to the judgment of the same date of learned Additional District Judge which has been passed in relation to acquisition of land for development of Sector 8, Karnal. Both these appeals were taken as lead cases by the learned Additional District Judge, where the evidence were recorded and as such it is appropriate for this Court to deal with those appeals as the main cases covering the other connected appeals. It may also be mentioned at this stage that the parties have led more or less similar documentary and oral evidence in both aforestated references. Except Ex.P-4, Copy of judgment, in the case of Panni Devi, all other documentary evidence appears to be the same and in any case nothing to the contrary was brought to the notice of the Court by the learned counsel appearing for the claimants and the learned Advocate General appearing for the State.

5. In order to justify their claim for enhancement of compensation, the claimants have heavily relied upon documentary and oral evidence produced by them before the learned reference Court. The bird's eye view of the evidence produced by the claimants on the record shows that in Neelam Bala's case, six witnesses i.e. PW1 to PW6, had been examined by the claimants. Madan Gopal, Draftsman appeared as PW-2 and proved the site plan Ex.P-1 and Vajinder Kumar appeared as PW-3 and proved sale deed, Ex.P-2, being co-sharer. In addition to the above, the claimants had produced on record Ex.P-3 to Ex.P-7, copies of judgments/awards in relation to the acquisition of land for nearby sectors or even for the same sectors. On the other hand, the respondents produced no documentary or real evidence to rebut the claim and basis of the case of the claimants. Thus, as far as the case of the State is concerned, it is a case of no evidence and claim of the claimants have to be adjudicated upon on the basis of the strength of the evidence produced by the claimants alone. It appears from the record that the evidence of the State was closed by the order dated 22nd September, 1998 and the State has neither availed of any remedy

against the said order nor any appeal has been preferred by the State as yet though notice was accepted by the State as back as on 6th April, 1999 in most of these cases. Ex.P-2, the only sale deed produced by the claimants, relates to sale of an area measuring 1 Kanal in village Budha Khera, Karnal, for a sum of Rs. 1,80,000/- on 16th September, 1992. At this rate, the value of the acquired land would come to nearly Rs. 14,40,000/- per acre. Learned counsel appearing for the claimants contended that Ex.P-2 has been proved in accordance with law in both cases i.e. Neelam Bala and Panni Devi, and the same is admissible and as such they are entitled to this amount of compensation.

6. As already noticed, Ex.P-2 is dated 16th September, 1992 i.e. more than two years subsequent to the date of notifications in the present cases. The land in the present cases was acquired on 12th April, 1990 and as such Ex.P-2 is post notification and the intervening period is so long that it loses its significance in entirety as far as comparability and relevancy of Ex.P-2 to the present cases are concerned. Total acquisition in the present cases is nearly 100 acres and a stray sale instance of 1 Kanal of land cannot be made the sole basis by this Court for determining the fair market value of the land in question at the time of its acquisition. I have no hesitation in rejecting Ex.P-2 from the zone of consideration of relevant piece of evidence for determining the controversy in issue. However, this could, at best, be a relevant factor to show that there has been trend of increase in the cost of land in that area.

7. Ex.P-3 to Ex.P-7 produced in Neelam Bala's case and Ex.P-4 produced in Panni Devi's case, copies of judgments and awards of different Courts, relate to the acquisition of land for development of different sectors in the city of Karnal. These all exhibits can be seen at a glance, as under:-

In the case of Neelam Bala and others.

Sr.No.	Ex.No.	Date of notification	Purpose	Date of Awarded	Compensation	Judgment	Acquisition
1.	Ex.P-3	28.1.97	Grain Market	10.4.89	122/PSY	by ADJ	2.
2.	Ex.P-4	4.12.95	Sector 4 and 5	8.2.89	90/PSY	by ADJ	3.
3.	Ex.P-5	7.8.89	Sector 7	5.7.82	41/PSY	by ADJ	4.
4.	Ex.P-6	2.11.92	Sector 7	20.8.87	66/PSY	by ADJ	5.
5.	Ex.P-7	2.9.92	Sector 7,8 and 9	5.7.82	41/PSY	by HC	

In the case of Panni Devi

1. Ex.P-4 6.5.93 Sector 16 22.2.84 76/-PSY by ADJ

8. The learned Additional District Judge, while awarding compensation to the land owners, vide Ex.P-7 had mainly relied upon the judgments of the learned Single Judge of this court pronounced on 1st June, 1989 in Regular First Appeal No. 281 of 1988 titled as Shamsher Singh and Anr. v. State of Haryana and Anr., , R.F.A. No. 281 of 1988. The Government of Haryana, vide notification dated 5th July, 1982, had acquired 181.12 acres of land for development of Sector 8. The Collector had awarded compensation at the rate of Rs. 86,000/- per acre, which was enhanced to Rs. 35/- per square yard by the learned Additional District Judge vide award dated 2nd September, 1992 and was enhanced to Rs. 41/- per square yard by the learned Single Judge in the above

appeal with statutory benefits. During the course of arguments, it was conceded that letters patent appeal No. 611 of 1993 filed by the claimants against the judgment of the learned Single Judge of this Court was dismissed on 8th December, 1999. Ex.P-7 would, thus, be a very relevant piece of evidence to be considered by this Court, while determining fair market value of the acquired land, payable to the claimants. The land was acquired for the development of the same sector or the adjacent sector. The material question that would arise for consideration is what should be the element of increase payable to the claimants on account of lapse of time between 1982, when the land under Ex.P-7 was acquired, and 12th April, 1990, when the present notification was issued.

9. Shamsher Singh's case (supra) was followed by another Single Bench of this Court in Regular First Appeal No. 2021 of 1989 tilted as Rakesh Kumar and Ors. v. State of Haryana and Anr., R.F.A. No. 2021 of 1989 and the same amount of compensation was awarded i.e. at the rate of Rs. 41/- per square yard. This judgment has been produced on record in Panni Devi's case as Ex. p-7. The land in Rakesh Kumar's case was acquired for development of part of sectors 7, 8 and 9.

10. Learned counsel for the claimants placed reliance upon another judgment of the learned Single Judge of this Court in the case of State of Haryana v. Nishan Singh, Regular First Appeal No. 876 of 1983. In this case, the land was acquired by the State of Haryana by issuing notification u/s 4 of the Act on 4th June, 1980. The land was acquired for development of Sector 6 in the city of Karnal. While relying upon Ex. P-14 of that case, where the land was acquired for development of Sector 13 in the case of Dalip Singh v. State of Haryana, Regular First Appeal No. 991 of 1984, the learned Judge awarded compensation at the rate of Rs. 33/- per square yard. As per Ex.P-1, Sector 6 is at some distance from the acquired land.

11. Learned counsel for the claimants heavily relied upon Ex.P-4, Bindu Garg v. State of Haryana 1999(1) L.A.C.C. 487, where the learned District Judge had awarded compensation at the rate of Rs. 90/- per square yard and the same was enhanced by this Court to Rs. 145/- per square yard and the judgment has been reported as 1999(1) L.A.C.C. 487. While relying upon the judgment of this Court, learned counsel for the claimants contended that the claimants should be entitled to the compensation at the rate of Rs. 145/- per square yard with proper increase for a period of more than one year elapsing between the two notifications. Apparently the contention of the learned counsel for the claimants appears to be very attractive but when examined in some depth, it is without any proper foundation. In Bindu Garg" case besides other documentary evidence relating to the auction of plots by the State the claimants had produced Ex.P-2, P-25 to P-34, P-50-A, P-52 and P-53, the sale deeds which had been proved in accordance with law on record and were admissible. While relying upon the average of the comparable and relevant sale instances, Ex.P-2, P-28 to P-31 and P-34, the aforestated compensation was awarded to the claimants. While in the

present cases, no sale instance is admissible or even produced on record except Ex.P-2. Ex.P-2 is neither relevant nor is comparable instance. Every case has to be determined on the basis of the evidence on record. The instances of judicial pronouncements have to be kept in mind but they cannot, in law and fact, be instrumental in destroying the other preferential admissible documents produced by the parties on record.

12. It was also informed to this Court during the course of hearing that the appeal against the judgment of this Court in Bindu Garg's case had already been filed and fixed for 20th March, 2000 being Letters Patent Appeal No. 725 of 1999. In Bindu Garg's case the land was acquired for development of Sectors 4 and 5 and even the land has a better location in that case. For these reasons, I am of the considered view that the claimants are not entitled to the benefit of Ex.P-4.

13. Ex.P-3 and Ex.P-5 Panni Devi's case are of no consequence and help to the claimants. In those cases, the lands were acquired for construction of grain market and for commercial purposes, as such they cannot derive much advantage from these two judgments.

14. Ex.P-4 Panni Devi's case is the case relating to the acquisition of land for development of Sector 16, where the land was acquired vide notification dated 22nd February, 1984. In this case, compensation was enhanced to Rs. 76/- per square yard by the learned District Judge and appeal against that judgment has already been dismissed by the High Court on 3rd June, 1999. If the due increase is given for the intervening period of six years between that acquisition and the present acquisition, the amount payable would be nearly Rs. 130.72 per square yard. Sector 16 is admittedly little away from Sectors 8 and 9. It has been duly shown in Ex.P-1 that Sectors 8 and 9 as well as Sector 16 and even Sectors 4 and 5 are abutting G.T. Road by pass.

15. From the above discussion, it is clear that Ex.P-7 in Neelam Bala's case, Ex.P-4 in Panni Devi's case and Nishan Singh's case (supra) are guiding factors before this Court for determining the fair market value payable to the claimants for acquisition of their land.

16. Learned Advocate General appearing on behalf of State of Haryana, while relying upon the judgment of Hon'ble Supreme court of India in the case titled as Mehtab Singh and others etc. etc. Vs. State of Haryana, , contended that increase at the rate of 12% is not permissible. Paragraphs of the said judgment makes it clear that from the date of award the interest of the claimants is taken care of by the payment of statutory interest. It is further observed that universal application of 12% increase of all cases was disapproved by the Hon'ble Apex Court. In other words, some principle has to be adopted for providing the increase to the claimants for the intervening period between the date of notification under Section 4 of the Act and the pronouncement of the award. Such period may be much longer and much subsequent to another judicial

instances placed on record. The increasing trend in the value of the land and even in compensation of the acquired land is sufficiently indicated by the evidence on record including Bindu Garg's case. In other words, the Court cannot ignore the fact that there was substantial increase in the costs of the land from 1980 to 1989-90. The claimants, thus, cannot be deprived of the benefit accruing, therefrom. Therefore, keeping in view the above three judgments as guiding factor and by adding the element of increase for the elapsed period between two notifications and counting their average, it would be a safe principle to grant compensation to the claimants. Sector 6 is located on one side of the acquired land while Sector 16 is on the other side. As already noticed, these sectors are abutting GT Road bye-pass and have been developing further and further, sector by sector with the passage of time. As noticed by giving them increase and counting their average, I am of the considered view that by applying certainly reasonable permissible guess work, the claimants should be entitled to get compensation at the rate of Rs. 89/- per square yard while also applying principle of deduction for huge acquisition and other factors, as enunciated by the Hon'ble Supreme Court of India in its various pronouncements.

17. For the reasons aforesaid, the appeals of the claimants are partly allowed limited to the extent afore-indicated. The claimants would be entitled to get compensation at the rate of Rs. 89/- per square yard with statutory benefits u/s 23(1-A), 23(2) and 28 of the Act. The claimants would also be entitled to get proportionate costs.