
(2015) 09 P&H CK 0058

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 6719 of 2013 (O&M)

Surat Singh and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 22-09-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 23, 4, 6

Citation : (2016) 1 RCR(Civil) 504

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : Sumit Sangwan, Vikrant Rana, R.A. Sheoran, M.K. Mittal, Kuldip Singh Yadav, Ajay Vijarania, Sushil Sheoran, Maninder Singh for Mohit Garg, Ravinder Phogat and Bhupender Ghangas, for the Appellant; Vishal Garg, Additional Advocate General and Shivendra Swa

Final Decision : Disposed off

Judgement

Rajesh Bindal, J—This order will dispose of a bunch of appeals bearing RFA Nos. 6719 to 6730, 6975 to 6977, 7395 to 7497 and 8006 of 2013; RFA Nos. 480 to 501, 790 to 793, 818, 828, 835, 972, 986 to 993, 1820 to 1838, 2092, 2244, 2245, 2755, 3880 to 3884, 5212, 7663, 8819, 9765 of 2014; RFA Nos. 3413, 3450, 3451, 3745 to 3764, 3789 to 3797, 3812 to 3836, 4176 to 4202, 4309, 4310, 4320 to 4327, 4545, 4634, 4635, 4647 to 4652, 4679 to 4682, 4722 to 4726, 4736 to 4738, 4863 to 4866, 4895 to 4906, 5090 to 5093 of 2015, as common questions of law and facts are involved.

2. In the appeals filed by the landowners, they are seeking further enhancement of compensation for the acquired land, whereas in the appeals filed by the State, the prayer is for reduction thereof.

3. Briefly, the facts of the case are that vide notification dated 22.2.2007, issued under Section 4 of the Land Acquisition Act, 1894 (for short, "the Act"), State of Haryana sought to acquire 154.50 acres of land in the revenue estate of village Dadri, District Bhiwani for development and utilization thereof as Residential and

Recreational Sectors 8 and 9, Dadri. The same was followed by notification dated 20.2.2008, issued under Section 6 of the Act. Ultimately, 139.238 acres of land was acquired. The Land Acquisition Collector (for short, "the Collector"), vide award dated 18.1.2010, assessed the compensation @ Rs. 15,00,000/- per acre for Nehri and Chahi land and Rs. 14,00,000/- per acre for Barani, Banjar & Gair Mumkin kind of land. Aggrieved against the award of the Collector, the land owners filed objections which were referred to the learned court below, who keeping in view the material placed on record by the parties, determined the fair value of the acquired land @ Rs. 29,00,000/- per acre for Chahi and Nehri land and Rs. 28,00,000/- per acre for Barani, Gairmumkin and Banjar land.

4. Vide other notifications dated 18.12.2008, issued under Section 4 of the Act, State of Haryana sought to acquire 130.60 acres and 67.19 acres of land, respectively in the revenue estate of village Dadri, Tehsil Dadri, District Bhiwani for Sectors 9 and 10P (Residential) and Sector 10-P (Commercial) for Transport, Commercial & Communication and Road Sector-10, Dadri. The same were followed by notifications dated 17.12.2009, issued under Section 6 of the Act. The Collector, vide awards dated 16.12.2011, assessed the compensation @ Rs. 40,00,000/- per acre. Aggrieved against the awards of the Collector, the land owners filed objections which were referred to the learned court below, who keeping in view the material placed on record by the parties, determined the fair value of the acquired land @ Rs. 61,49,212/- per acre for the entire land.

5. It is pertinent to mention here that the award of the Reference Court pertaining to the acquisition of land vide notification dated 22.2.2007 has been challenged by the landowners as well as the State, whereas the State has not challenged the award of the Reference Court pertaining to acquisition of land vide notification dated 18.12.2008 in the present set of appeals.

Arguments of landowners regarding notification dated 22.2.2007

6. Learned counsel for the landowners submitted that the acquired land is situated within the municipal limits of Dadri and adjoining to the existing city. It had great future potential. In fact, the people had already constructed their houses in the area. Part of the land was released from acquisition for that reason. All civic amenities and other important establishments were located in the vicinity. It was surrounded by residential colonies already developed. Assailing the award of the court below and seeking further enhancement of compensation, learned counsel submitted that vide sale deed Ex. P17 (LAC No. 377 of 2010), registered on 4.12.2006, land measuring 3 kanals and 7 marlas was sold at an average price of Rs. 35,82,090/- per acre. The same is located quite close to the acquired land and is comparable. The area dealt with therein being quite big, the same deserves to be relied upon. Further reference was made to sale deeds Ex. PW1/B dated 6.2.2006, Ex. PW1/C dated 27.9.2006 and Ex. PW1/D dated 20.6.2007 (LAC No. 377 of 2010), vide which plots were sold at an average price of Rs. 1,57,00,587/-; Rs. 72,00,000/- and Rs. 73,84,615/- per acre, respectively. Further reference was made to proceedings of meeting of

Land Price Assessment Committee dated 4.3.2008 Ex. P23/G (LAC No. 377 of 2010), in which though it was recorded that average sale consideration paid in different sale deeds registered during the last one year in the revenue estate of Dadri was Rs. 51,13,904/- per acre, but still the compensation was granted at the rates fixed by the Collector, which was totally erroneous as the department having already noticed the fact regarding average sale consideration paid in different sale deeds registered in the year, should have at least granted the same compensation. Reference was also made to document Ex. P46 (LAC No. 377 of 2010), vide which minimum rates were fixed by the Collector for registration of sale deeds. Copies of award and proceedings of meeting of Land Price Assessment Committee dated 14.11.2008 Ex. PW9/B and Ex. PW9/C, respectively (LAC No. 377 of 2010) were also referred to in support of the argument that for the land acquired for construction of a bye-pass located close to the acquired land and where notification under Section 4 of the Act was issued on 8.1.2008, the Collector himself awarded Rs. 30,00,000/- per acre as the compensation. The aforesaid land was located far off from the city as compared to the land in question.

7. It was further submitted that classification of land on the basis of its quality, once the entire land was falling within the municipal limits of Dadri, was totally erroneous as the land was fit for urbanisation and in that eventuality, the classification loses significance. Reference was also made to acquisition of land adjoining to the acquired land, where notification under Section 4 of the Act was issued on 18.12.2008, where just after a time-gap of one year and 10 months, the Collector himself had awarded compensation of Rs. 40,00,000/- per acre. It was further submitted that Haryana Urban Development Authority, for the benefit of which the land in question was acquired, is selling the plots at the rate of Rs. 16,000/- per square yard.

Arguments of landowners regarding notification dated 18.12.2008

8. Learned counsel for the landowners submitted that sale deeds Ex. P1 to Ex. P14 (LAC No. 466 of 2013) forming part of the acquired land, as was even admitted by the Patwari, were not given due weightage. Substantial portion of the land, which was initially notified under Section 4 of the Act, was released as there were houses already constructed. The acquired land falls within the municipal limits of Dadri. Even while considering sale deed Ex. P12 (LAC No. 466 of 2013), increase for the time-gap has been granted at flat rate of 10% per annum, which should have been at least 20% per annum with cumulative effect.

Arguments on behalf of the State

9. Learned counsel for the State submitted that the State in the present case had produced various sale deeds on record, which were forming part of the acquired land or just adjoining thereto. One of the sale deeds was registered even after the issuance of notification under Section 4 of the Act. The trend of prices was same. The area dealt with in the sale deeds produced by the landowners was

quite small and the same were located in already developed area. As the compensation awarded by the Collector was already much more than the value depicted in the sale-deeds produced by the State, there was no scope for any enhancement by the Reference Court. As the land pertaining to none of the sale-deeds produced by the landowners was comparable in location, reliance thereon could not be placed for the purpose of assessment of compensation. The rates fixed by the Collector for registration of the sale-deeds are not relevant for the purpose of assessment of compensation. Even proceedings of meeting of Land Price Assessment Committee dated 4.3.2008 Ex. P23/G (LAC No. 377 of 2010), sought to be relied upon by the landowners, has no evidentiary value considering the fact that average sale consideration in last one year in the revenue estate of Dadri has been shown. It is not clear as to whether the sale deeds pertain to the houses, shops or the plots and further the location of the land dealt with therein. The entire land at the time of acquisition was merely agricultural, hence, it cannot be compared with portions of land where abadi already existed. Reliance on any other acquisition subsequent to the first acquisition in the area is not relevant for the reason that pace of development started with first acquisition for planned development at Dadri. The rates may have gone up thereafter.

10. As far as acquisition of land vide notification dated 18.12.2008 is concerned, learned counsel for the State submitted that though the award has not been challenged by the State, but still there is no scope for any enhancement. The award of the Reference Court is self-contradictory. On the one hand, all the sale deeds produced by the landowners have been rejected, whereas on the other hand sale deed Ex. P12 (LAC No. 466 of 2013) has been relied upon. All the sale deeds produced by the State were discarded, even though, those were forming part of the acquired land. The sale deeds produced by the State clearly established that the award of the Collector was just and fair. Even otherwise, the area dealt with in the sale deeds, was quite small and cut was required to be applied for the purpose of assessment of compensation. However, he did not dispute the fact that part of the land dealt with in the sale deed was part of the acquired land. Considering the totality of material placed on record, there is no scope for enhancement of compensation.

11. Heard learned counsel for the parties and perused the relevant referred record.

Discussion

12. As far as location of the acquired land is concerned, it is evident from site plan Ex. P78 (LAC No. 377 of 2010), produced on record. It is located close to old abadi of Dadri town abutting Narnaul-Mohindergarh road. There were development activities close to the acquired land. It was forming part of municipal limits of Dadri. As submitted by learned counsel for the State, it was the first acquisition by the State for planned development of city. Development plan was prepared. All around the existing abadi of the town, Sectors 1 to 13 were planned. The acquisition in question is for Sectors 8, 9, 10-P (Residential)

and 10-P (Commercial). It cannot be disputed that land had potential for urbanisation.

13. Now coming to the evidence led by the landowners seeking enhancement of compensation, the landowners relied upon document Ex. P23/G (LAC No. 377 of 2010) to submit that at the time of assessment of compensation for the acquired land, a Committee of Officers constituted with Commissioner, Hisar as Chairman, it was found that average sale consideration paid in different sale deeds registered in Dadri village during 2006-07 was Rs. 51,13,904/- per acre, hence, the same is the reasonable amount of compensation. However, I do not find any reason to place reliance thereupon. First of all, there are no details of different sale deeds available from which it could be seen as to whether those transactions were pertaining to small plots or big chunk of land and further those were pertaining to plain land or plots with construction, residential or commercial. Location thereof is also not available to enable this court to compare the same vis-?-vis the acquired land.

14. Next reliance was on document Ex. P46 (LAC No. 377 of 2010), whereby minimum rates were fixed by the Collector for registration of sale deeds in the area. The issue regarding evidentiary value of the minimum Collector's rates fixed for registration of the sale deeds came up for consideration before Hon"ble the Supreme Court with reference to assessment of compensation for the acquired land in the area and it was opined that both operate in different fields. Minimum Collector's rates could not be made the basis for assessment of compensation, as the object thereof is only for collection of stamp duty. Reference can be made to *Krishi Utpadan Mandi Samiti Sahaswan District Badaun through its Secretary Vs. Bipin Kumar and Another*, (2004) 137 PLR 70 : (2004) 1 SCALE 332 : (2004) 2 SCC 283 : (2004) AIRSCW 533 : (2004) 1 Supreme 448 . In the aforesaid case, while relying upon its earlier judgment in *Jawajee Nagnatham Vs. Revenue Divisional Officer, Adilabad, A.P. and Others*, (1994) 2 JT 604 : (1994) 2 SCALE 298 : (1994) 4 SCC 595 : (1994) 1 SCR 368 : (1994) 2 UJ 17 , Hon"ble the Supreme Court opined that reliance by the Reference Court on the value fixed by the District Magistrate for payment of stamp duty for registration of sale-deed is clearly erroneous. The relevant part is extracted below:

"7. It has been held by this court in the case of *Jawajee Nagatham v. Revenue Divisional Officer, Adilabad, A.P. and others* (supra) that market value under Section 23 of the Land Acquisition Act, 1894 cannot be fixed on the basis of a basic valuation register maintained by the registering authority for collection of stamp duty. Therefore, the reliance by the Reference Court on the value of land fixed by the District Magistrate for stamp duty purposes is clearly erroneous. For the purpose of Land Acquisition Act the market value must be determined on the basis of sale deeds of comparable lands..... "

15. The issue was later considered by Hon"ble the Supreme Court in *Lal Chand Vs. Union of India (UOI) and Another*, AIR 2010 SC 170 : (2009) 11 JT 490 :

(2009) 11 SCALE 627 : (2009) 15 SCC 769 : (2009) 13 SCR 622 , wherein it was opined that in case the parties are able to place before the court the material showing that Collector's rates were fixed in the area after taking into consideration various sale deeds registered immediately preceding the period by a specially constituted Committee of experts from different departments and the rates so determined are published for inviting objections/suggestions from the public and if final rates so determined are published in the Gazette, which are revised periodically, this can be a piece of evidence for determination of compensation, but still even the presumption therein is rebuttable. Relevant paras thereof are extracted below:

"16. It should however be noted that as contrasted from the assessment of market value contained in non-statutory Basic Value Registers, the position may be different, where the guideline market values are determined by Expert Committees constituted under the State Stamp Law, by following the detailed procedure laid down under the relevant rules, and are published in the State Gazette. Such stamp Acts and the Rules thereunder, provide for scientific and methodical assessment of market value in different areas by Expert Committees. These statutes provide that such committees will be constituted with officers from the Department of Revenue, Public Works, Survey & Settlement, Local Authority and an expert in the field of valuation of properties, with the sub-registrar of the sub-registration district as the member secretary. They also provide for different methods of valuation for lands, plots, houses and other buildings. They require determination of the market value of agricultural lands by classifying them with reference to soil, rate of revenue assessment, value of lands in the vicinity and locality, nature of crop yield for specified number of years, and situation (with reference to roads, markets etc.). The rates assessed by the committee are required to be published inviting objections/suggestions from the members of public. After considering such objections/suggestions, the final rates are published in the Gazette. Such published rates, are revised and updated periodically. When the guideline market values, that is, minimum rates for registration of properties, are so evaluated and determined by expert committees as per statutory procedure, there is no reason why such rates should not be a relevant piece of evidence for determination of market value. One of the recognised methods for determination of market value is with reference to opinion of experts. The estimation of market value by such statutorily constituted expert committees, as expert evidence can therefore form the basis for determining the market value in land acquisition cases, as a relevant piece of evidence. It will be however open to either party to place evidence to dislodge the presumption that may flow from such guideline market value. We however hasten to add that the guideline market value can be a relevant piece of evidence only if they are assessed by statutorily appointed Expert Committees, in accordance with the prescribed assessment procedure (either street-wise, or road-wise, or area-wise, or village-wise) and finalised after inviting objections and published in the Gazette. Be that as it may. We have

referred to this aspect only to show that there are different categories of Basic Valuation Registers in different states and what is stated with reference to the stamp law in Andhra Pradesh or Uttar Pradesh, may not apply with reference to other states where state stamp laws have prescribed the procedure for determination of market value, referred to above.

17. In this case, there is nothing to show the circle rates have been determined by any statutorily appointed committee by adopting scientific basis. Hence, the principle in *Jawajee Naganatham* will apply and they will not be of any assistance for determining the market value. Further, they do not purport to be the market value for lands in rural areas on the outskirts of Delhi, nor the market values relating to Rithala village. The circle rates relate to urban/city areas in Delhi and are wholly irrelevant."

16. In the case in hand, except producing copy of the circular fixing minimum rates fixed for registration of sale deeds, nothing has been produced on record as to the manner applied for determination of the rates and that the procedure as envisaged in the aforesaid judgment was followed, hence, the same cannot be considered to be the basis for determination of compensation for the acquired land.

17. Reliance was also sought to be placed upon copies of award and proceedings of Land Price Assessment Committee dated 14.11.2008 Ex. PW9/B and Ex. PW9/C, respectively (LAC No. 377 of 2010) pertaining to acquisition of land for construction of bye-pass, where notification under Section 4 of the Act was issued on 8.1.2008 and the Collector assessed the compensation for the land pertaining to revenue estate of Dadri at Rs. 30,00,000/- per acre. The same cannot be considered reliable for the reason that firstly there is no site plan to show location of the two lands for comparison and secondly, the acquisition is more than one year after the acquisition in question.

18. Sale deed Ex. PW1/B (LAC No. 377 of 2010) is not relevant for the reason that it pertains to a constructed house measuring 41 square yards in a thickly populated area. Similarly, sale deed Ex. PW1/C (LAC No. 377 of 2010) pertains to a plot measuring 10 marlas located in a populated area abutting Ghikara road. Similar is the position with regard to sale deed Ex. PW1/D (LAC No. 377 of 2010) which pertains to 400 square yards of plot located on road from Badhwana Gate to Gamri. The location otherwise is also not evident on any site plan. Further reference had been made to sale deed Ex. P17 (LAC No. 377 of 2010) dated 4.12.2006, vide which 3 kanals and 7 marlas of land was sold for a consideration of Rs. 15,00,000/- at an average price of Rs. 35,82,090/- per acre. The aforesaid land is pointed out in site plan Ex. P78 (LAC No. 377 of 2010) in already constructed area of the abadi of Dadri.

19. Reference was made to assessment of compensation for the adjoining land acquired vide notification dated 18.12.2008, where the Collector himself assessed the compensation @ Rs. 40,00,000/- per acre and the Reference Court

enhanced the same to Rs. 61,49,212/- per acre. The landowners are in appeal seeking enhancement, whereas the State is not in appeal. The submission is that within a span of one year and 10 months, even the Collector enhanced the compensation from Rs. 15,00,000/- per acre to Rs. 40,00,000/- per acre. Such was the value and potentiality of the land there.

20. Learned counsel for the landowners for the acquisition carried out vide notification dated 18.12.2008 pertaining to the land adjoining to the land already acquired placed reliance upon sale deeds Ex. P1 to Ex. P14 and Ex. PW15/D (LAC No. 466 of 2013). The land in question was acquired for development as Sectors 9 and 10P (Residential) and Sector 10P (Commercial). The submission is that even though the entire land pertaining to the sale deeds relied upon by the landowners was forming part of the acquired land, but still the court below rejected all the sale deeds and placed reliance upon sale deed Ex. P6 (LAC No. 466 of 2013) dated 31.3.2006 and assessed the compensation after awarding increase for the time gap. The fact that the land pertaining to all the sale deeds was forming part of the acquired land was not disputed. Details of all the sale deeds relied upon by learned counsel for the landowners are as under:

21. A perusal of the aforesaid sale deeds shows that as early as on 26.5.2005, a plot measuring 7-2/3 marlas was sold at an average price of Rs. 96,41,739/- per acre, whereas subsequently on 31.3.2006, plot measuring 11-1/4 marlas was sold at an average price of Rs. 48,35,555/- per acre. In the year 2007, the price ranged from Rs. 1,44,00,000/- per acre to Rs. 2,40,00,000/- per acre, whereas in the year 2008, four sale deeds were registered at an average price of Rs. 81,60,000/- per acre and in other two sale deeds, the rates were Rs. 1,60,00,000/- per acre. The aforesaid variation of rates establishes a fact that there were certain locational advantages to the plots or preference of a buyer, for which higher price was paid. These cannot be termed to be the rates prevailing in the market. In my pinion, the transactions, which were registered in the years 2005 to 2007 deserve to be ignored for the reason that there are sale transactions available in the year 2008. In the year 2008 as well, out of seven, four sale transactions are at an average price of Rs. 81,60,000/- per acre. These can be termed to be normal prices of small plots in the area at that time. Otherwise, the highest was for an average price of Rs. 1,60,00,000/- per acre, just the double. The court below though applying a different formula and relying upon sale deed Ex. P6 (LAC No. 466 of 2013) assessed the value of the land @ Rs. 61,49,212/- per acre. However, in my opinion, considering the fact that in the acquired land in question, small plots were being sold, meaning thereby some development activities were there and the infrastructure had been provided. The State is not in appeal against the award of the Reference Court. If the aforesaid sale transactions of land at an average price of Rs. 81,60,000/- per acre are considered and cut of 25% is applied thereon, the value shall come out to Rs. 61,20,000/- per acre, which is close to the amount already assessed by the court below. Hence, in my opinion, no interference is called for as far as the award pertaining to assessment of compensation for the land acquired vide

notification dated 18.12.2008 is concerned, especially considering the fact that the State is not in appeal.

22. Now coming back to the assessment of compensation for the land, where notification under Section 4 of the Act was issued on 22.2.2007, in my opinion, though there is no direct evidence on record, but still the fact is not disputed that Sectors 8, 9, 10 and 10P are located in the periphery of old abadi of Dadri town. The process of acquisition in the area started with this notification. No doubt, with that the pace of development accelerated, but still even the Collector increased the compensation from Rs. 15,00,000/- per acre to Rs. 40,00,000/- per acre for almost similarly situated land in the periphery of old town within a span of one year and 10 months. The assessment of compensation for that acquisition by the Reference Court @ Rs. 61,49,212/- per acre was not even challenged by the State. The same has been upheld by this court in preceding paragraph of the judgment. The amount of compensation awarded to the landowners for the acquisition in question is Rs. 29,00,000/- per acre for Chahi and Nehri land and Rs. 28,00,000/- per acre for Barani, Gairmumkin and Banjar land.

23. Considering the aforesaid factual matrix and applying a thumb rule, in my opinion, the landowners for the land, where notification under Section 4 of the Act was issued on 22.2.2007 deserve to be granted compensation @ Rs. 35,00,000/- per acre for the entire chunk of land.

24. To sum up, it is held that for the land where notification under Section 4 of the Act was issued on 22.2.2007, the landowners are held entitled to compensation @ Rs. 35,00,000/- per acre. They shall also be entitled to all statutory benefits available to them under the Act. For the land, where notification under Section 4 of the Act was issued on 18.12.2008, the award of the learned court below assessing compensation @ Rs. 61,49,212/- per acre is upheld.

25. The appeals filed by the landowners as well as the State are disposed of in the manner indicated above.