
(2011) 04 P&H CK 0257

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 1688 of 2009 (O and M)

Tarlochan Singh and Another

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 01-04-2011

Acts Referred:

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

Citation : (2011) 04 P&H CK 0257

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Judgement

Rajesh Bindal, J.—This order shall dispose of appeals bearing RFA Nos. 1688 to 1692, 2269 to 2291, 2560 to 2564, 2586, 2745, 2988, 5036 to 5041, 5072 of 2009, 453, 5167 to 5172, 5497 of 2010, as common questions of law and facts are involved therein.

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

3. The bunch of appeals pertain to the valuation of land acquired for construction of BML Hansi Branch-Bhutana Branch Multipurpose Link Channel from RD 91 to 156 off taking RD 340300-L Bhakra Main Line vide notification dated 23.8.2005 issued u/s 4 of the Land Acquisition Act, 1894 (for short "the Act") by the State of Haryana, situated within the revenue estate of village Theh Banera, Hadbast No. 29, Tehsil and District Kaithal. Notification u/s 6 of the Act was issued on 13.9.2005. The Land Acquisition Collector (for short "the Collector") assessed the market value of the acquired land @ Rs. 5,00,000/- per acre vide awards dated 11.5.2006, 7.7.2006 and 11.9.2006. The land owners being dissatisfied with the award of the Collector filed objections which were referred to the learned Court below. On reference u/s 18 of the Act, the learned Court below assessed the compensation of the acquired land @ Rs. 6,00,000/- per acre vide award dated 2.1.2009. Aggrieved against the award of the learned Court below, both the parties are in appeal before this Court.

4. Learned Counsel for the landowners submitted that the learned Court below has not awarded just and fair compensation for the acquired land. The landowners have produced on record sale-deeds, Ex. P.W. 1/B and Ex. P.W. 2/B, showing the market value of the acquired land. But the learned Court below without any basis had applied cut of 50% which could be at the most 20%. It was further submitted that the value of the acquired land was not less than Rs. 2,000/- per square yard.

5. Learned Counsel for the landowners further submitted that due to construction of channel the land of the landowners has been divided into two parts but only those landowners have been awarded Rs. 50,000/- per acre, who appeared as witnesses and rest of the landowners have not been awarded any amount on account of severance.

6. Learned Counsel for the State submitted that learned Court below has not given any reasoning while determining the amount of compensation payable for the acquired land which was being used only for agricultural purposes. The evidence led by the State was totally ignored. He further argued that the value of the land of each area is different keeping in view the location and other advantages. But in the present case, the learned Court below without there being any site plan produced on record by the land owners assessed the compensation for the acquired land. State was quite generous while assessing the value of the acquired land @ Rs. 5,00,000/- per acre, otherwise the value of the land in the area was Rs. 3,00,000/- per acre. The prayer was for restoration of award of the Collector. As regards severance, the submission was that the land owners had not suffered loss on account of acquisition of land for channel, rather they had been benefited by the construction of channel.

7. Heard learned Counsel for the parties and perused the paper-book.

8. In evidence to show the value of the land, the landowners have produced on record, sale-deeds, Ex. P.W. 1/B and Ex. P.W. 2/B, and the State has produced Ex. R1. The sale-deed Ex. P.W. 2/B, vide which a small portion of 6 marlas of land was sold on 29.8.2005 for a sale consideration of Rs. 40,00,000/- was rightly not considered as it was got registered after the issuance of notification u/s 4 of the Act, which was issued on 23.8.2005. It was not of village Theh Banera. The sale-deed, Ex. P.W. 1/B, vide which small portion of land measuring 15 marlas was sold on 14.7.2005 for an average consideration of Rs. 12,00,000/- per acre. Moreover, no site plan was placed on record showing the location of these sale-deeds viz-a-viz the location of the acquired land. As regards sale-deed, Ex. R-1, the same was got registered on 18.8.2005. As the award of the Collector was more than the price in sale-deed, Ex. R-1, the learned Court below has rightly discarded the same. In spite of the fact there is no site plan showing the location of the sale-deeds, viz-a-viz the acquired land the Court below has relied upon sale-deed, Ex. P.W. 1/B, produced on record by the landowners, vide which 15 marlas of land was sold for an average price of Rs. 12,00,000/- per acre. The learned Court below keeping in view the fact that the acquired land is a

big chunk of land and the sale-deed, Ex.P.W. 1/B is for small portion of land applied cut of 50% and assessed the market value of the acquired land.

9. There is no dispute that Government had issued a policy on 6.4.2007, whereby the minimum rates as were fixed in the year 2005 for acquisition of land were revised. The relevant extract of policy, dated 6.4.2007, is as under:

Sub: Fixation of floor rates for the acquisition of land for public purpose in the State of Haryana.

Ref: This Department Memo No. 2025-R-5-2005/4299, dated 28.4.2005.

1. Vide this Department Memo. under reference, minimum floor rates for acquiring land for public purposes for various Departments as well as other State Agencies were fixed by the Haryana Government as follows:

- i) Minimum floor rate for urbanisable area of Gurgaon. Rs. 15.00 lacs per acre
- ii) Minimum floor rate for rest of the Haryana Sub-Region of NCR including Panchkula and area of Chandigarh periphery in the Haryana State. Rs.12.50 lacs per acre.
- i) Minimum floor rate for urbanisable area of Gurgaon. Rs. 15.00 lacs per acre
- iii) Minimum floor rate for the rest of the Haryana State. Rs. 05.00 lacs per acre.

(These floor rates did not include the solatium and interest payable under the provisions of the Land Acquisition Act, 1894).

2. Now it has been observed that with the passage of time market rates of the land have increased substantially. Therefore, Haryana Government has re-considered this matter and has decided to re-fix these floor rates as follows:

- i) Minimum floor rate for urbanisable area of Gurgaon. Rs. 20.00 lacs per acre
- ii) Minimum floor rate for rest of the Haryana Sub-Region of NCR including Panchkula and area of Chandigarh periphery in the Haryana State. Rs.16.00 lacs per acre.
- iii) Minimum floor rate for the rest of the Haryana State. Rs. 08.00 lacs per acre.

3. These floor rates do not include the solatium and interest payable under the provisions of the Land Acquisition Act, 1894.

4. These revised rates will be applicable on all those acquisitions where awards have been announced on or after 22.3.2007 irrespective of the date of notification u/s 4 of the Land Acquisition Act, 1894.

10. As per the aforesaid letter dated 6.4.2007 the minimum floor rate for the rest of the Haryana State was fixed @ Rs. 8,00,000/- per acre and the rates are applicable to all those acquisitions where awards have been announced on or after 22.3.2007 irrespective of date of notification u/s 4 of the Act. In the

present case, the awards were announced by the Collector on 11.5.2006, 7.7.2006 and 11.9.2006 whereas the policy dated 6.4.2007 comes into force with effect on 22.3.2007.

11. A perusal of aforesaid policies shows that from the year 2005 to 2007 the State of Haryana itself had increased the value of the land by 60% in the area in question i.e. from Rs. 5,00,000/- to Rs. 8,00,000/- per acre. These revised rates are applicable on the awards announced on or after 22.3.2007 irrespective of the date of notification u/s 4 of the Act. Notification u/s 4 of the Act in the present case was issued on 23.8.2005 and the awards by the Collector were announced on 11.5.2006, 7.7.2006 and 11.9.2006.

12. A perusal of the aforesaid policies shows that after a gap of nearly two years, the minimum compensation payable for acquisition of land was enhanced @ 30% per annum or the price as shown in 2005 is 37.5% less than the price shown in the year 2007. This is evident of rising prices of land on which there is lot of pressure in recent times because of demand for urbanisation and other infrastructural facilities. The aforesaid policy letter, in my opinion, can also be considered as a piece of evidence showing the value of the land and considering the fact that the award in the present case was announced about one year prior thereto, a reasonable cut can be applied.

13. Keeping in view the increase shown by the Government itself in the prices of land, the value of the land in the present set of appeals is determined @ Rs. 6,50,000/- per acre. The landowners are also be held entitled to all the statutory benefits available under the Act.

14. As far as grant of severance on account of bifurcation of land, the Court has rightly granted compensation to the landowners who have led evidence in that regard, accordingly, the same does not call for any interference.

15. The appeals are disposed of accordingly.