

STATE OF HARYANA

v.

GURBAX SINGH (DEAD) BY LRS & ANR. ETC.
Civil Appeal Nos. 2461-2465 of 2000

MAY 8, 2008

[ALTAMAS KABIR AND V.S. SIRPURKAR, JJ.]

Land Acquisition Act, 1894 – s. 23 – Compensation – Quantum of – Land acquired from villages Ratgal, Sunderpur and Palwal for public purpose by Notification dated 08.02.1983 – Award of compensation @ Rs. 40,000/- per acre for Chahi land and Rs. 25,000/- per acre for Gair Mumkin land – Claim for enhancement by land owners – Additional District Judge awarding compensation @ Rs. 72,600/- per acre whereas Single Judge of High Court enhancing it to Rs. 99,668 per acre – In appeal, Division Bench of High Court enhancing 12% p.a. for two years and rounding off the market value of land at Rs. 1,25,000/- per acre – Challenge to, by both land owners and State – Held: Division Bench justified in marginally increasing the compensation to Rs.1,25,000/- per acre – However, it gave a vague finding regarding the distance of the present lands and the lands which were subject matter of documents filed before the court – Lands are abutting Kurukshetra town and can easily be said to be a part and parcel of the town, having great potential – Division Bench should have taken into consideration both the documents while deciding the market price – It approached the matter in a casual way – Thus, that part of the judgment set aside – Matters remanded to Division Bench of High Court for reconsideration.

Appellants in Civil Appeal Nos. 2466-2470 of 2000 are land owners. Their land was acquired for public purpose in Kurukshetra by a Notification dated 08.02.1983. The Collector awarded compensation @ Rs. 40,000/- per acre in respect of Chahi land and Rs. 25,000/- per acre with

A regard to Gair Mumkin land was awarded. The Reference was filed. The Additional District Judge holding the market value of the land being @ of Rs. 15 per sq. yard, awarded compensation @ Rs. 72,6000/- per acre. Some of the land owners were also given additional compensation.

B Aggrieved, appellants filed appeals. The Single Judge of High Court found the land value being Rs. 20.59 per sq. yard and fixed the market value at Rs. 99,668 per acre. Aggrieved, appellants filed LPA before the Division Bench of High Court. Three land owners filed application for permission to enhance claim as also produce additional

C documents consisting of the judgment in RFA No.7 of 1992 and award given by District Judge in land acquisition case No.22/4 of 1990. These documents were produced along with the applications as Annexure A-1 and A-2. The

D Division Bench considered the documents but did not find any justification in the claim. It considered the sale deeds executed in January and March, 1981 and ordered increase of 12% p.a. for two years and rounded off the market value of land at Rs. 1,25,000/- per acre. Hence the

E present appeals.

Dismissing the appeals by the State and allowing the appeals by the private parties and remanding the matter to Division Bench of High Court, the Court

F HELD: 1.1 The Division Bench marginally increased the compensation from Rs.99,668/- per acre to Rs.1,25,000/- per acre. It merely gave the benefit of the two Sale Deeds in a very limited manner by ordering the enhancement at the rate of 12% per annum for two years since the

G acquisition in this case had taken place in the year 1983 whereas those sale deeds were of January and March, 1981. The Division Bench justified this increase by observing that there was continuous rise in the prices of land; that though the two transactions were in respect of

H the small pieces of lands, however, the State did not

challenge the action of the Single Judge in accepting those sales as a valid basis; that there was no evidence that the market value of the land was lesser than the one mentioned in the two sale deeds. There is nothing wrong in this and, therefore, the appeals filed by the Government of Haryana against the marginal increase are dismissed. [Para 7] [1197-D,E,F, 1198-A]

1.2 The Division Bench vaguely mentioned that the present lands are situated at some distance from the lands covered in the above judgments. It is only on this basis that the Division Bench went on to hold that it would not be safe to say that the compensation awarded by the court would be the correct measure for assessing the market value of the land in the present proceedings. Again a statement seems to have been made that despite the acquisition of lands vide notification dated 29.06.1973 and 11.03.1981 and the fact that the city of Kurukshetra was developing, the price of land in the three villages had not shown any upward trend. It is on these grounds the claims of the appellants were rejected holding that the said documents could not be made the basis for deciding the correct market value of the land in question. This is not the right approach. It appears that the application under Order 41 Rule 27 seems to have been allowed since the Division Bench has specifically referred to those two documents in its judgment. It was seen from those judgments that the land was acquired for establishment of an urban estate and was abutting the Pipli-Kurukshetra route. It also noted that it was on this land that part of town of Kurukshetra was established. The Division Bench having considered the documents in question should not have written the vague finding regarding the distance of the land covered in the judgments and the land covered by the present proceedings. Further it should not have casually observed that the prices of lands in the three villages had not showed any upward trend. It would be

A better for the Division Bench to apply its mind to the facts and figures covered in the aforementioned judgments. [Para 9] [1198-G, 1199-A,B,C,D]

B 1.3 The lands are abutting the Kurukshetra town and can easily be said to be a part and parcel of the Kurukshetra town, having a great potential. The Division Bench should have taken into consideration both the Annexures A-1 and A-2 and then should have decided the question of market price. Looking at the judgment of the Division Bench the impression is that the matter has been
C approached rather casually. Therefore, the appeals filed by the private appellants are allowed and the matters are remanded to the Division Bench to reconsider the matter in the light of the observations made above. The first part
D of the judgment of the Division Bench marginally enhancing the market price to Rs.1,25,000/- per acre, having been accepted that portion will remain untouched in the sense that if so considered appropriate in law, there may be only upward revision in the market price. [Paras 12 and 14] [1201-B,C,E,F]

E *Special Land Acquisition Officer, Kheda & Anr. v. Vasudev Chandrashankar and Anr.* 1997 (11) SCC 218; *Union of India v. Harinder Pal Singh and Ors.* 2005 (12) SCC 564 – relied on.

F CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2461-2465 of 2000.

G From the final Judgment and Order dated 5.11.1998 of the High Court of Punjab and Haryana at Chandigarh in L.P.A. Nos. 1213, 1311 & 1312 of 1988, 1019 & 1020 of 1990.

WITH

Civil Appeal Nos. 2467, 2466, 2468, 2469 & 2470 of 2000.

H June Chaudhary, Manjit Singh, T.V. George, Om Pal Singh

tanwar, Monohar Singh Bakshi, Debasis Mishra, Balbir Singh A
Gupta, Anil Kumar Bakshi and Rakesh Kumar for the Appearing
Parties.

The Judgment of the Court was delivered by

V.S. SIRPURKAR, J. 1. This Judgment will dispose of B
Civil Appeal Nos.2461-2465 of 2000 filed by the State of
Haryana as also the other Civil Appeals being Civil Appeal
Nos.2466/2000, Civil Appeal No.2467/2000, Civil Appeal
No.2468/2000, Civil Appeal No.2469/2000 and Civil Appeal C
No.2470/2000 which have been filed by the private parties
against the State of Haryana complaining against the impugned
judgment dated 5th November, 1998 passed by the Division
Bench of the High Court of Punjab and Haryana.

2. The subject matter in all the appeals is common, i.e., D
quantum of compensation payable for the lands acquired from
Villages Ratgal, Sunderpur and Palwal. The total land which was
acquired was 185 Kanals 13 Marlas. The appellants in Civil
Appeal Nos.2466 to 2470 of 2000 are the land owners. The
land was acquired for the public purpose of establishing E
Government Ayurvedic College and Pharmacy at Kurukshetra.
Section 4 Notification under the Land Acquisition Act, 1894
(hereinafter referred to as "the Act") was issued on 8th February,
1983 while notification under Section 6 was published on 11th
May, 1983. The Award was announced by the Collector on F
30th March, 1984 who assessed the compensation at the rate
of Rs.40,000/- per acre in respect of "Chahi" land and
Rs.25,000/- per acre with regard to "Ghair Mumkin" land. The
land owners applied for a Reference under Section 18 of the
Act. The Reference was accordingly placed before the G
Additional District Judge who passed his Award on 27th
February, 1985 and held that the market value should have
been at the rate of Rs.15 per square yard. Thus the
compensation at the rate of Rs.72,600/- per acre was awarded
by the Additional District Judge besides the statutory benefits.
Some of the land owners were given additional compensation H

A at the rate of 25% in respect of their unacquired land on account of severance caused by acquisition. Not satisfied with the Award, the land owners filed appeals before the High Court of Punjab and Haryana at Chandigarh.

B 3. The learned Single Judge vide his judgment dated 26th May, 1988 found that the value of the land was Rs.20.59 per square yard and accordingly fixed the market value at Rs.99,668/- per acre. Further appeals were filed before the Division Bench by the land owners.

C 4. In all five Letter Patent Appeals came to be filed before the Division Bench. Three land owners preferred applications (in the Judgment in RFA No.7 of 1982) for permission to enhance the claim as also to produce additional evidence and the Award given by the District Judge in Land Acquisition Case No.22/4 of 1990. These documents were produced along with applications as Annexures A-1 and A-2. The Division Bench considered both the documents, however, it did not find any justification for the claim made on behalf of the land owners. It, however, considered the two Sale deeds executed in January and March, 1981, which were on record. It was noted that there was no evidence to suggest that the market value of the land was less than the one evidenced in the two sale deeds. Therefore, the Division Bench ordered an increase of 12% per annum for a period of two years and rounded off the market value of the land at Rs.1,25,000/- per acre. The other benefits granted by the learned Single Judge were also maintained.

E 5. Now the Government of Haryana as also the private appellants have come up before us by way of the present appeals.

G 6. We must first consider the appeals filed by the Government of Haryana but before that we must note that though the learned Single Judge has enhanced the compensation payable to the land owners from Rs.72,600/- per acre to

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Rs.99,668/- per acre, the Government of Haryana had accepted that judgment and did not file any Letters Patent Appeal against the same. The learned Single Judge had noted and taken into consideration Exhibits P-8 to P-16 being the Sale Deeds, Exhibit P-17 which was an advertisement issued by HUDA regarding allotment of plots, Exhibits P-28, P-29, R-1, R-2 and R-3 which were the mutations in respect of different pieces of lands in the three villages as also Exhibit P-30 which was the Award dated 8th August, 1984 given by the Additional District Judge, Kurukshetra in respect of the land which was acquired vide notification dated 24.11.1978. Thus it has to be said that the Government of Haryana did not have any objection regarding the market value awarded by the learned Single Judge at Rs.99,668/- per acre.

7. The Division Bench has only marginally increased the compensation from Rs.99,668/- per acre to Rs.1,25,000/- per acre. The Division Bench has merely given the benefit of the two Sale Deeds being Exhibits P-8 and P-9 in a very limited manner by ordering the enhancement at the rate of 12% per annum for two years since the acquisition in this case had taken place in the year 1983 whereas those sale deeds were of January and March, 1981. We do not find anything wrong in this approach. The Division Bench has also justified this increase by observing that there was continuous rise in the prices of land. It has further justified that though the two transactions were in respect of the small pieces of lands, however, the State had not challenged the action of the learned Single Judge in accepting those sales as a valid basis. It has also further observed that there was no evidence that the market value of the land was lesser than the one mentioned in the two sale deeds. All that the Division Bench, however, did was to marginally increase the quantum of compensation by adding 12% per annum for a period of two years and doing so, the Division Bench rounded off the market value for the year 1983 at Rs.1,25,000/-. We do not find anything wrong in this and, therefore, the appeals filed by the Government of Haryana (Civil Appeal Nos.2461-2465 of

A 2000) against this marginal increase would have to be dismissed. They are accordingly dismissed. However, the matters do not stop here.

B 8. The land owners - appellants have, however, filed the appeals as they are not satisfied with the marginal increase ordered by the Division Bench. In fact it is suggested in the judgment that in LPA Nos.1213, 1311 and 1312 of 1988, i.e., the LPAs filed by the land owners, an application was filed for permission to enhance the claim and to produce additional documents consisting of the judgment in RFA No.7 of 1992 and the Award given by the District Judge in Land Acquisition Case No.22/4 of 1990. The two documents were filed as Annexures A-1 and A-2 with an application. Relying on those judgments it was pointed out that the concerned land was close to the Judicial Complex and the official residence of Deputy Commissioner and the Senior Superintendent of Police. A look at the judgment suggests that higher compensation was awarded in the two orders, the copies of which were produced by way of additional evidence. It appears that the said application which was under the provisions of Order 41 Rule 27 seems to have been allowed since the Division Bench has specifically referred to those two documents in its judgment. It was seen from those judgments that the land therein was acquired for establishment of an urban estate and was abutting the Pipli-Kurukshetra route. The Division Bench also noted that it was on this land that part of town of Kurukshetra was established. The acquisition process with regard to this land was completed in 1973, much earlier than the present land acquisition proceedings. So also the land which was the subject matter of Award being Annexure A-2 was acquired in the year 1981. This acquisition was for the development of a City Centre.

H 9. The Division Bench has merely vaguely mentioned that the present lands are situated at some distance from the lands covered in the above judgments. It is only on this basis that the Division Bench went on to hold that it would not be safe to say

that the compensation awarded by the court would be the correct measure for assessing the market value of the land in the present proceedings. Again a statement seems to have been made that despite the acquisition of lands vide notification dated 29th June, 1973 and 11th March, 1981 and the fact that the city of Kurukshetra was developing, the price of land in the three villages had not shown any upward trend. It is on these grounds that the claims made on behalf of the appellants were rejected holding that the said documents could not be made the basis for deciding the correct market value of the land in question. In our opinion this is not the right approach. The Division Bench having allowed the application under Order 41 Rule 27 and having considered the documents in question should not have written the vague finding regarding the distance of the land covered in the judgments and the land covered by the present proceedings. Further the Division Bench should not have casually observed that the prices of lands in the three villages had not showed any upward trend. We do not wish to comment on these aspects as, in our opinion, it would be better for the Division Bench to apply its mind to the facts and figures covered in the aforementioned judgments.

10. It has been held by this Court in *Special Land Acquisition Officer, Kheda & Anr. v. Vasudev Chandrashankar & Anr.* [(1997) 11 SCC 218] that the earlier Awards which were passed prior to about 8 years would provide a reasonable base for arriving at the correct market value. In the reported decision in the earlier Award Rs.2100/- per acre was held to be the proper market value, while in the subsequent Award in question, the market value was increased to Rs.2500/- per acre. This Court approved of the increase by observing that the lands in question were situated in the same village, though on different survey numbers. Some of the claimants are the claimants in the earlier acquisition as well. The Court observed:

"...It is now well settled legal position that the award of the reference court relating to the same village of the similar

A land possessed of same quality of land and potential offers
a comparable base for determination of the compensation.
The reference court also noted in paras 18 and 19 the
similarities of the lands under acquisition and that they
were covered by Ex.43. No doubt, the lands under
B acquisition are situated out the outskirts of the village. In
the absence of any tangible material brought on record,
as regards the distinctive features of differentiation
between the quality of the land situated, the land, subject
matter of Ex.43 and the lands under acquisition Ex.48, it
C is difficult to find out whether the reference court has
applied any wrong principle of law in determination of the
compensation....”

11. In an another decision of this Court in *Union of India*
v. Harinder Pal Singh & Others [(2005) 12 SCC 564] where
D one of us (Altamas Kabir, J.) was a party. This Court while
confirming the judgment of the Punjab and Haryana High Court
observed:

E “...From the sketch plan of the area in question, it appears
to us that while the lands in question are situated in five
different villages, they can be consolidated into one single
unit with little to choose between one stretch of land and
another. The entire area is in a stage of development and
the different villages are capable of being developed in
F the same manner as the lands comprised in Kala Ghanu
Pur where the market value of the acquired land was fixed
at a uniform rate of Rs.40,000 per acre.”

This Court in para 13 of the above judgment took note of
the contentions raised on behalf of the claimants that all the lands
G involved in the acquisition proceedings had similar potential for
commercial exploitation and could be consolidated into a single
unit where the process of development and improvement had
already commenced. It was also noted that there were several
mills and factories along with the residential accommodation
H which had come up in the area and there was little to differentiate

between the lands comprised in either village Kathania or Village Hamidpur and those comprised in the adjacent village of Kala Ghanu Pur, they were equally well connected by arterial roads. The Court, therefore, declined to interfere with the Award.

12. In our opinion, practically the abovesaid consideration could be applied to the lands in question. The lands are abutting the Kurukshetra town and can easily be said to be a part and parcel of the Kurukshetra town, having a great potential. In our opinion, the Division Bench should have taken into consideration both the Annexures A-1 and A-2 and then should have decided the question of market price. Looking at the judgment of the Division Bench we get the impression that the matter has been approached rather casually.

13. Learned counsel took us through the above two Annexures but we are deliberately not making any comments thereupon as, in our opinion, it would be better for the Division Bench to reconsider the matter in the light of what has been stated above.

14. In the above backdrop we allow Civil Appeal Nos.2466, 2467, 2468, 2469 and 2470 of 2000 filed by the private appellants and direct remand of the matters to the Division Bench to reconsider the matter in the light of the observations made above. Needless to mention that since we have accepted the first part of the judgment of the Division Bench marginally enhancing the market price to Rs. 1,25,000/- per acre, that portion will remain untouched in the sense that if so considered appropriate in law, there may be only upward revision in the market price. We accordingly set aside the judgment to the extent that we have indicated above and remand the matter for fresh consideration to the Division Bench. Since the matter has become very old, it would be desirable if the matter is decided as early as possible, preferably within nine months from the date the petitions are presented before the Division Bench.

- A 15. In the result Civil Appeal Nos.2461-2465 of 2000 filed by the State of Haryana are dismissed and Civil Appeal Nos.2466, 2467, 2468, 2469 and 2470 of 2000 are allowed and remanded back to the Division Bench of the Punjab and Haryana High Court for fresh consideration. Under the
- B circumstances we desist from ordering any costs.

N.J. Civil Appeal Nos. 2461-2465 of 2000 dismissed and Civil Appeal Nos. 2466, 2467, 2468, 2469 and 2470 of 2000 allowed.