

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.1386 OF 2007

ISHWARI DEVI ETC. ETC. ...Appellant(s)

VERSUS

STATE OF HARYANA ETC. ETC. ...Respondent(s)

WITH  
CIVIL APPEAL No.1380 OF 2007  
CIVIL APPEAL No.1385 OF 2007  
CIVIL APPEAL No.1387 OF 2007  
CIVIL APPEAL No.1341 OF 2007  
CIVIL APPEAL NO.5989 OF 2010  
(Arising out of S.L.P.(C)No.12518 OF 2007)

J U D G M E N T

G.S. Singhvi, J.

1.Delay in filing S.L.P.(C) No.12518/2007 is condoned and leave granted.

2.Delay in filing substitution applications is also condoned and the applications for substitution are allowed.

3.Feeing dissatisfied with the enhancement granted by the  
2

learned Single Judge of the Punjab and Haryana High Court in the market value of the acquired land, the appellants (some of whom have died and are represented by their L.Rs.) have filed these appeals.

4.By notification dated 20.4.1982 issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the Government of Haryana proposed acquisition of 216.05 acres of land of villages Sonapat, Jamapur Kalan and Shahjahanpur, Tehsil and District Sonapat (Haryana) for development and utilization

thereof as residential and commercial area in Sector 15, Urban Estate, Sonapat. The declaration under Section 6 of the Act was published on 16.5.1984. The Land Acquisition Collector passed award dated 7.12.1984 and fixed the market value of the irrigated land at Rs.42,720/- per acre and of barani and gairmumkin land at Rs.21,120/- per acre. The Reference Court fixed the market value of the entire land at Rs.25/- per sq.yd.

5. The appellants challenged the judgment of the Reference Court by filing appeals under Section 54 of the Act. The learned Single Judge disposed of the same by enhancing the compensation from Rs.25/- per sq.yd. to Rs.30/- per sq.yd. with consequential benefits. The relevant portions of judgment dated

20.8.2004 rendered by the learned Single Judge are extracted

3

below:

"There is no dispute that acquired land is adjacent to the land acquired for Sector 14 in the year 1979 for which compensation at the rate of Rs.40/- per square yard is given. Once this is so, taking compensation as awarded in the year 1969 as the basis and thereafter awarding higher compensation on that basis, was not justified. Instead of that, compensation awarded in the year 1979 can be taken into account and thereafter compensation in the year 1982 could be determined. Compensation in the year 1989 has been fixed at the rate of Rs.40/- per square yard. Though adjoining location of the acquired land cannot be said to be having same potential as on the date of acquisition as that of Sector 14, which was being developed in the earlier phase. In absence of any particular evidence, determination has to be made on the basis of some amount of guess work and taking over all view of the matter. There is no dispute with the proposition laid down in the judgment relied upon by the learned counsel for the appellants that determination of market value of adjacent land can be taken into account but it does not mean that the said value has to be followed without determining the question whether land covered by such adjudication was same or similar in all relevant aspects. In the present case, land acquired in Sector 15 cannot be held to be for the same potential as in Sector 14. As already observed, Sector 14 was developed in earlier phase and was closer to the town. The reference court has also held that location of Sector 15 was not comparable to Sector 14, though Sector 15 is separated only by a road. I hold that market value of Sector 14 can be taken into account but the land owners are not entitled to same rate as has been awarded in Sector 14. It is clear that if land had been acquired in

Sector 14, on the date of acquisition, in the present case, the land owners would have been entitled to compensation at a rate higher than Rs.40/- per square yard which has been awarded in respect of acquisition in the year 1979. I am inclined to hold that price of land in Sector 15 on the date of acquisition has to be assessed at least 30% lower to the price of land assessed for Sector

4

14.

Taking into account the market value determined for Sector 14 and accepting the fact that the potential for acquired land was not the same, as that of Sector 14 but having regard to the fact that acquisition was three years later, during which some increase in prices may have taken place, it will be fair to determine market value at Rs.30/- per square yard. The land owners will also be entitled to interest unless the State is able to show that possession was not taken on rendering of award or soon thereafter. Denial of interest by the reference court was not justified. If there is a gap in taking of possession, calculation of interest will be made from the date of possession. The land owners will also be entitled to all statutory benefits."

6. Shri Mahabir Singh, learned senior counsel and other learned counsel appearing for the appellants relied upon Ex.A-50 by which market value of the land acquired in 1979 for Civil Hospital in Sector 14, Sonapat was fixed at Rs.40/- per sq.yd and argued that the learned Single Judge should have fixed the market value of the acquired land by applying the rule of 10% increase per annum and directed payment of compensation at the rate of Rs.52/- per sq.yd. irrespective of the fact that the land in question was acquired for Sector 15, Sonapat. Learned senior counsel pointed out that Sectors 14 and 15, Sonapat are divided only by a 60 ft. wide road and submitted that the learned Single Judge was not justified in applying the cut of 30% on the market value of the land acquired for Sector 14.

5

7. Shri Manjit Singh Dalal, learned Additional Advocate General appearing for the State of Haryana, supported the impugned judgment and argued that the learned Single Judge did not commit any error by applying the cut of 30% because Sector

14, Sonapat is fully developed, whereas Sector 15 is yet to be developed and a substantial amount will have to be spent for carrying out improvements and making it fit for being used for residential and commercial purposes.

8. We have considered the respective submissions and carefully perused the entire record. In *Karan Singh v. Union of India* (1997) 8 SCC 186, this Court summed up the legal principles for determination of the market value of the acquired land in the following words:

"When a land is compulsorily acquired, what is basically required to be done for awarding compensation is to arrive at the market value of the land on the date of the notification under Section 4 of the Act. The market value of a piece of land for determining compensation under Section 23 of the Act would be the price at which the vendor and the vendee (buyer and seller) are willing to sell or purchase the land. The consideration in terms of price received for land under bona fide transaction on the date of notification issued under Section 4 of the Act or a few days before or after the issue of notification under Section 4 of the Act generally shows the market value of the acquired land and the market value of the acquired land has to be assessed in terms of those transactions. The sale of land on or about the issue of notification

6

under Section 4 of the Act is stated to be the best piece of evidence for determining the market value of the acquired land. Often evidence on transaction of sale of land on or a few days before the notification under Section 4 is not available. In the absence of such evidence contemporaneous transactions in respect of lands which had similar advantages and disadvantages would be a good piece of evidence for determining the market value of the acquired land. In case the same is not also available, the other transaction of land having similar advantages nearer to the date of notification under Section 4 of the Act would guide in determination of the market value of acquired land. In the present case, in the absence of evidence of any transaction or sale of land on the date of issue of notification under Section 4 of the Act, the Court would be justified in relying upon the transaction of sale of land having similar advantages nearer to the notification issued under Section 4 of the Act which can be taken as a guide for determining the market value of the acquired land and compensation to be awarded to the claimants. Thus the transaction of sale of land after the issue of notification under Section 4 of the Act can guide the court in fixing the market value of the acquired lands under certain conditions."

It was further observed in *Karan Singh's* case that a judgment

rendered in respect of the similarly situated land can be taken into consideration for fixing the market value of the acquired land.

9. In *Ranjit Singh v. Union Territory of Chandigarh* (1992) 3 SCC 659, this Court applied the rule of 10% yearly increase for award of higher compensation.

10. In *Delhi Development Authority v. Bali Ram Sharma and*  
7

others (2004) 6 SCC 533, the Court considered a batch of appeals and applied rule of annual increase for grant of higher compensation. In Civil Appeal No.4157/2003 which was decided along with other matters, the Court held:

"The land which is the subject-matter of this appeal is acquired for the same purpose as in the aforementioned appeals, but the notification under Section 4(1) of the Act was issued on 24.11.1981 i.e. subsequent to Section 4(1) notification dated 17.11.1980. Obviously, there would be escalation of price in regard to this land. Hence, we think it just and appropriate to give 10% increase in the market value in respect of the land in this appeal. In the result this appeal is also allowed and the impugned judgment is modified by reducing the amount of compensation from Rs.345 per sq yard (amounting to Rs.3,45,000 per bigha) to Rs.76,550 per bigha + 10% escalation."

11. In *ONGC Ltd. v. Rameshbhai Jivanbhai Patel* (2008) 14 SCC 745, the Court held that where the acquired land is in urban/semi-urban areas, increase can be to the tune of 10% to 15% per annum and if the acquired land is situated in rural areas, increase can be between 5% to 7.5% per annum.

12. In *Union of India v. Harpat Singh and others* (2009) 14 SCC 375, this Court applied the rule of 10% increase per annum.

13. We may now revert to the cases in hand. It is not in dispute that the land for Sector 14, Sonapat was acquired in different stages. The first acquisition is shown to have been made vide notification dated 29.4.1969. The market value of the

land acquired under that notification was fixed at Rs.10/- per sq.yd. except for the areas adjacent to Sonapat-Bahalgarh Road upto the depth of 10 ft. for which the market value was fixed at Rs. 20/- per sq.yd. For the land acquired by notification issued in August, 1976, the market value was fixed at Rs.30/- per sq.yd. For the acquisition made in April, 1979, the market value was fixed at Rs.40/- per sq.yd. It is also not in dispute that Sectors 14 and 15 of Sonapat are divided only by a 60 feet road. This is clearly evident from the site plan produced by learned counsel for the appellants, the genuineness of which has not been questioned by the learned Additional Advocate General, Haryana. If the market value fixed for payment of compensation in respect of the land acquired for Civil Hospital in Sector 14 is made the benchmark for payment of compensation in respect of the land acquired for Sector 15 and the rule of 10% increase is applied, the appellants would be entitled to compensation at the rate of Rs.52/- per square yard. The impugned judgment does not contain any cogent reason why the said rule was not applied for fixing the market value of the acquired land. That apart, in the absence of any cogent and convincing reason having been produced by the respondents, there does not appear any justification for applying a flat cut of 30% on the market value of the land determined with reference to the award passed in respect of the land acquired for Civil Hospital in 1979.

9

14. Ordinarily, we would have remitted the case to the Reference Court for fresh determination of the market value of the acquired land, but keeping in view the fact that the matter is already 18 years old, we feel that the ends of justice would be met by fixing the market value of the land at the rate of Rs.45/- per square yard.

15. In the result, the appeals are partly allowed. The

impugned judgment is modified by directing that the appellants shall be entitled to compensation at the rate of Rs.45/- per sq.yd. They shall also be entitled to all other consequential benefits. The respondents are directed to pay compensation and other benefits to the appellants in terms of this judgment within a period of 3 months from the date of receipt/production of copy of this judgment.

.....J.  
(G.S. SINGHVI)

.....J.  
(ASOK KUMAR GANGULY)

NEW DELHI,  
JULY 22, 2010.

10

ITEM NO.102

COURT NO.11

SECTION IV

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 1386 OF 2007

ISHWARI DEVI & ORS.

Appellant (s)

VERSUS

STATE OF HARYANA & ANR.

Respondent(s)

(With appln(s) for substitution,c/delay in filing substitution  
appln.,permission to file additional documents and office report )  
WITH

Civil Appeal NO. 1380 of 2007

(With appln.(s) for permission to place addl.documents on record)

Civil Appeal NO. 1385 of 2007

(With appln.(s) for substitution and deletion of the name of the  
petitioner and declaring petitioneer as major and with office  
report)

Civil Appeal NO. 1374 of 2007

(With appln.(s) for bringing Lrs. on record and c/delay in filing  
substitution appln. and with office report)

Civil Appeal NO. 1387 of 2007

(With office report)

Civil Appeal NO. 1341 of 2007

(With office report)

SLP(C) NO. 12518 of 2007

(With appln.(s) for c/delay in filing SLP and substitution of LRs.  
of the deceased respondent and c/delay in filing substitution appln.  
and with office report)

Date: 22/07/2010 These Appeals/Petition were called on for hearing  
today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Appellant(s) Mr. Mahabir Singh, Sr. Adv.  
Mr. Rakesh Dahiya, Adv.  
Mr. Nikhil Jain, Adv.  
Mr. Gagan Deep Sharma, Adv.  
Mr. Rutwik Panda, Adv.

11

Mr. S.K. Bansal, Adv.  
Mrs. Savitri Bansal, Adv.  
Mr. Roopak Bansal, Adv.  
Dr. Kailash Chand, Adv.  
Dr. Vipin Gupta, Adv.

Mr. R.C. Kaushik, Adv.  
Mr. S.K. Verma, Adv.  
Dr. (Mrs.) Vipin Gupta, Adv.

For Respondent(s) Mr. Manjit Singh, Adv.  
Mr. Kamal Mohan Gupta, A.O.R.  
[for State of Haryana]

UPON hearing counsel the Court made the following  
O R D E R

C.A. No.1374/2007

arising out of SLP(C)Nos.6004-6005/2005:

Learned counsel for the appellants states  
that Gyan Parkash and Ved Parkash, appellants in the appeal have died in the month of April, 2010. He  
requests for an adjournment to enable him to bring on  
record their legal representatives.

List as and when application for bringing on  
record legal representatives of the deceased is filed.

CIVIL APPEAL NO.1386 OF 2007, CIVIL APPEAL No.1380 OF 2007,  
CIVIL APPEAL No.1385 OF 2007, CIVIL APPEAL No.1387 OF 2007  
CIVIL APPEAL No.1341 OF 2007, S.L.P.(C)No.12518 OF 2007:

Leave granted in S.L.P.(C) No.12518 of 2007  
condoning delay in filing the special leave petition. Delay  
in filing substitution application is also condoned and the  
applications for substitution are allowed and other

12

interlocutory applications stand disposed of.

The appeals are partly allowed in terms of signed  
judgment. The impugned judgment is modified by directing  
that the appellant shall be entitled to compensation at the  
rate of Rs.45/- per sq.yd. They shall also be entitled to  
interest and all other consequential benefits.

The respondents are directed to pay compensation to  
the appellants in terms of this judgment within a period of  
3 months from the date of receipt/production of copy of  
this judgment.

(A.D. Sharma)

(Phoolan Wati Arora)

Court Master  
(Signed Judgment is placed on the file)

Court Master