

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9553 OF 2011

HARYANA STATE INDUSTRIAL DEVELOPMENT
CORPORATION, HARYANA . . . APPELLANT (S)

VERSUS

NAND RAM AND ORS. . . RESPONDENT (S)

WITH

CIVIL APPEAL NO.9558 OF 2011

CIVIL APPEAL NO.9372 OF 2011

CIVIL APPEAL NO.9542 OF 2011

CIVIL APPEAL NO.9543 OF 2011

CIVIL APPEAL NO.9544 OF 2011

CIVIL APPEAL NO.9545 OF 2011

CIVIL APPEAL NO.9546 OF 2011

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CIVIL APPEAL NO. 2479 OF 2012

CIVIL APPEAL NO. 2013 OF 2012

CIVIL APPEAL NO. 1591 OF 2012

CIVIL APPEAL NO.802 OF 2012

CIVIL APPEAL NOS.10149-10177 OF 2011

SPECIAL LEAVE PETITION(CIVIL) NO. 11864 OF 2012

O R D E R

1. Delay, in filing of re-filing of the Special Leave Petition(s), is condoned.

2. Delay, in filing the application(s) for substitution, if any, is condoned.

3. Application(s) for substitution, if any, is allowed.

4. Application(s) for impleadment, if any, is allowed.

Matters filed by the Authority:

5. We have heard learned counsel for the parties to the *lis*.

6. We find no merit in these appeals. Accordingly, the Civil Appeals as well as the Special Leave Petitions are dismissed.

Matters filed by individuals:

C.A. No.9372/2011, C.A. No.9566/2011,
C.A. No.9557/2011, C.A. No.9547/2011,
C.A. No.9546/2011, C.A. No.9545/2011,
C.A. No.9543/2011, C.A. No.9560/2011,
C.A. No.9558/2011, C.A. No.9542/2011,
C.A. No.9552/2011, C.A. No.9551/2011,
C.A. No.9550/2011, C.A. No.9544/2011,
C.A. No.9548/2011, C.A. No.9549/2011):

7. Since the facts involved in all these appeals are similar, for the sake of convenience, this Court would notice the facts only in Civil Appeal No. 9372 of 2011 while deciding these connected matters.

Civil Appeal No.9372 of 2011:

8. The land-loosers, aggrieved by the common judgment(s) and order(s) passed by the High Court of Punjab and Haryana at Chandigarh in RFA No. 403 of 2010 (O&M), dated 14.09.2010, are before us in this appeal.

9. Briefly stated, the facts in the present appeal are: the *lis* pertains to the acquisition of certain lands, belonging to the claimants/land-loosers, by the authority-herein in six villages including Jaliawas, Suthana, Suthani, Asalwas, Jalalpur and Chirhara at Tehsil Bawal in District Rewari, Hayana. The State Government *vide* Notification No.37/7/95-4IB(1) under Section 4 of the Land Acquisition Act, 1894 (for short "the Act") had proposed to acquire 1458 Kanals and 17 Marlas of land for public purpose of developing Industrial Growth Center at Bawal, dated 11.12.1995.

10. After due consideration of the objections filed by the land-loosers under Section 5-A of the Act, the acquiring authority had recommended issuance of a notification under Section 6 of the Act to the State Government. Accordingly, the State Government had issued a notification, declaring that the said land would be acquired for public purpose, dated 24.01.1996.

11. After issuance of the aforesaid notification, the Land Acquisition Officer (for short, "the LAO"), determined the compensation payable in terms of market value of the Chahi and Gair Mumkin lands at Rs.1,43,000/- per acre, Barani lands at Rs.1,15,000/- per acre, Rs.1,65,000/- per acre for depth of two acres upto the road and Rs.6,00,000/- per acre upto the depth of two acres on both sides of National Highway (for short, "the NH") No.8 in village Chirhara and more or less on the same lines in respect of other villages, by award dated 15.09.1997.

12. The land-loosers/claimants, not being satisfied with the compensation so awarded by the LAO, approached the latter and sought for a reference under Section 18 of

the Act to the Civil Court for determination of the actual market value of the land acquired by the State Government. The LAO had referred the case of the land-loosers to the Reference Court.

13. The Reference Court, after registering a reference so made by the LAO, had quantified the compensation payable at the market value of Rs.8/- lacs per acre for the suit land upto the depth of 500 yards on both sides of NH No.8 and Rewari-Bawal Road (State Highway) and Rs.4/- lacs per acre for the remaining land alongwith statutory benefits as on 11.12.1995, i.e. the date of publication of Notification under Section 4(1) of the Act along with Costs of Rs.1,000/-, by order dated 27.08.2002.

14. Aggrieved by the order so passed by the Reference Court, the claimants/land-loosers had preferred a Regular First Appeal before the High Court. On the basis of the evidence led by the parties, in *Haryana State Industrial Development Corporation & Ors. v. Mehar Chand & Ors.* (RFA No. 703 of 2003), by judgment and order dated 06.09.2002, the High Court remanded the matter back to the Reference

Court for fresh determination of the market value of the land in question.

15. The reference petitions of the claimants/land-loosers were restored to their original numbers before the Learned Additional District Judge, Rewari (the Reference Court). On remand, the Reference Court awarded compensation to the claimants at the rate of Rs.8/- lacs per acre for the suit land upto the depth of 500 yards on both sides of NH No.8 and Rewari-Bawal Road (State Highway) and Rs.6 lacs per acre for the remaining land, alongwith statutory benefits as on 11.12.1995, i.e. the date of publication of Notification under Section 4(1) of the Act along with Costs of Rs.1,000/-, by award dated 28.02.2009.

16. Aggrieved by the aforesaid award, the claimants/land-loosers filed regular first appeals before the High Court of Punjab and Haryana. The High Court for determining the market value of the land has considered the increase in amount of compensation awarded for acquisition of lands vide notification issued under Section 4, dated 12.09.1992, which were situated in close

proximity to the lands in *lis* and has noticed that the increase in such amount of compensation awarded under the Section 4 notification, dated 11.12.1995 is 30% for Chahi and Gair Mumkin lands, 35.29% for Barani lands, 32% for land close to State Highway No.71 (Rewari-Bawal Road) and 200% for the lands situated adjacent to NH No. 8. While considering the potentiality of the land in dispute herein, the High Court has noticed the compensation awarded for acquisition of land in the same area *vide* another Section 4 notification, dated 24.05.1996, and accordingly, observed that within a period of six intervening months between the two notifications, the value (a) of lands situated near NH No. 8 increased by 50%; (b) for Chahi kind of land situated behind that the increase was to the extent of 173% and (c) for rest of the lands substantial increase which varied from 2.67% to 80%. Keeping in mind the aforesaid, the High Court though enhanced compensation payable for the lands adjoining NH No. 8 to Rs.12/- lacs per acre, reduced the compensation awarded for (a) lands on the Rewari-Bawal road to Rs.7.5/- lacs per acre as against Rs.8/- lacs per acre and for the rest of the land from Rs.6/- lacs per acre to

Rs.4/- lacs per acre, by order dated 14.09.2010.

17. Aggrieved by the order so passed by the High Court, the appellant/land-loosers are before us in these appeals.

18. We have heard the learned counsel for the parties to the *lis*. We have also perused the judgment(s) and order(s) passed by the High Court and the courts below.

19. It is settled law that a fair assessment of potentiality of the acquired lands, when led out in its most advantageous manner, is *sine qua non* for determination of their market value and thus, a requisite for calculation of justiciable compensation.

20. In *Sabhia Mohammed Yusuf Abdul Hamid Mulla*, (2012) 7 SCC 595, this Court reiterated the settled law that while fixing the market value of the acquired land, the Land Acquisition Collector is required to keep in mind the following factors:

“(i) Existing geographical situation of the land.

(ii) Existing use of the land.

(iii) Already available advantages like proximity to National or State Highway or

road and/or developed area.

(iv) Market value of other land situated in the same locality/village/area or adjacent or very near the acquired land."

21. In *Atma Singh v. State of Haryana*, (2008) 2 SCC 568, this Court observed that for ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. It said as under:

"Potentiality means capacity or possibility for changing or developing into state of actuality. It is well settled that market value of a property has to be determined having due regard to its existing condition with all its existing advantages and its potential possibility when led out in its most advantageous manner. The question whether a land has potential value or not, is primarily one of fact depending upon its condition, situation, uses to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like water, electricity, possibility of their further extension, whether nearabout town is developing or has prospect of development have to be taken into consideration."

22. In *Land Acquisition Officer v. L. Kamamma*, (1998) 2 SCC 385, it was observed that when a land is

acquired which has the potentiality of being developed into an urban land, then merely because some portion of it abuts the main road, higher rate of compensation should be paid while in respect of the lands on the interior side it should be at lower rate may not stand to reason because when sites are formed those abutting the main road may have its advantages as well as disadvantages. This Court further observed that while many a discerning customer may prefer to stay in the interior and far away from the main road and may be willing to pay a reasonably higher price for that site, one cannot rely on the mere possibility so as to indulge in a meticulous exercise of classification of the land into different categories when such classification does not stand to reason.

23. The High Court, in our considered opinion, has not taken into consideration the potentiality of the acquired lands in determination of its market value uniformly to all the acquired lands and erroneously reduced the compensation which was awarded to the claimants/land-loosers by the Reference Court.

24. In the instant case, the acquired lands have the benefit of being situated in an area the vicinity of which has an upcoming Industrial Growth Centre. Therefore, on account of development in adjoining area, these lands are naturally bound to be positively affected, in terms of both- their market value and potentiality. The said lands also lay proximate to the National Highway and the State Highway. This further enhances potentiality of the said lands. While the same has been sufficiently noticed by the High Court in respect of lands situate closer to National Highway and Chahi lands, the High Court has erred by failing to appropriately determine the potentiality and market value of the lands which lay closer to the State Highway No.71 (Rewari-Bawal road) and other lands. The same ought to have been noticed by the High Court while determining the compensation and in absence of the said exercise, the amount awarded as compensation is not justified in law.

25. Further, it is settled law that while in determination of market value of lands certain guesswork is permissible, the element of speculation must be

reduced to a minimum by placing reliance upon the sale instances which were made within a reasonable time from the date of Section 4 notification and were bona fide transactions of land adjacent to the acquired lands. In *Viluben Jhalejar Contractor v. State of Gujarat*, (2005) 4 SCC 789, this Court laid down the following principle for determination of market value of the acquired land in cases where the true value to be paid by the acquiring authority is not forthcoming:

"19. Market value is ordinarily the price the property may fetch in the open market if sold by a willing seller unaffected by the special needs of a particular purchase. Where definite material is not forthcoming either in the shape of sales of similar lands in the neighborhood at or about the date of notification under Section 4(1) or otherwise, other sale instances as well as other evidences have to be considered."

The aforesaid view of this Court has been emphatically reiterated in *Digamber v. State of Maharashtra*, (2013) 14 SCC 406.

26. Herein, since all the lands were situated close to the National Highway and Industrial Growth Centre at varied distances, while arriving at the increase ratio of

150% for the lands situated closer to State Highway No.71 (Rewari- Bawal road) and other lands, the High Court ought to have considered the sale deeds produced by the appellants, relied upon by the Reference Court, which are proximate in time of notification, for lands closer to the location of acquired land and were *bona fide* sold to private parties for sale consideration ranging between Rs.7.20/- lacs to Rs.8/- lacs per acre. The said sale instances were proved by the appellants and remain unassailed. Therefore, the sale amount was considered by the Reference Court and accordingly, it had justifiably calculated the market value for award of compensation to Rs.8/- lacs per acre for lands situated closer to National Highway No.71 (Rewari- Bawal Road) and Rs.6/- lacs per acre for land other than the said lands. The High Court was not justified in ignoring the relevant evidence available on record and reducing the compensation awarded by the Reference Court in awarding an unrealistic and comparatively meager compensation to the appellants herein.

27. In light of the aforesaid, we are of the considered opinion, that the impugned order passed by the

High Court is liable to be set aside and the order passed by the Reference Court requires to be upheld by enhancing the compensation awarded from Rs.7.5/- lacs per acre to Rs.8/- lacs and from Rs.4/- lacs to Rs.6/- lacs per acre, as the case may be. It is further directed that the appellants are entitled interest @ 6% per annum on the enhanced amount from the date of the notification passed under Section 4 of the Act. The Civil Appeal is allowed to the extent indicated above.

28. In view of the order passed in C.A.No.9372 of 2011, the connected appeals are also allowed and disposed of, in the same terms, conditions, observations and directions. No order as to costs.

Ordered accordingly.

.....CJI.
(H.L. DATTU)

.....J.
(MADAN B. LOKUR)

.....J.
(A.K. SIKRI)

NEW DELHI,
NOVEMBER 26, 2014.

ITEM NO.2

COURT NO.1

SECTION IV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 9553/2011

HARYANA STATE INDUS.DEV. CORP, HARYANA

Appellant(s)

VERSUS

NAND RAM & ORS.

Respondent(s)

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(With Office Report)

C.A. No. 1591/2012
(With Office Report)

SLP(C) No. 11864/2012
(With Office Report)

Date : 26/11/2014 These appeals/petition were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE KURIAN JOSEPH

For Appellant(s) Mr. Shubham Bhalla, Adv.
Mr. Rahul Gupta, Adv.

Dr. Vinod Kumar Tewari, Adv.

Mr. B. V. Balaram Das, Adv.

Mr. Satinder S. Gulati, Adv.
Mrs. Kamaldeep Gulati, Adv.

Mr. Gagan Gupta, Adv.
Mr. Mohinder S. Yadav, Adv.

For Respondent(s) Mr. Gagan Gupta, Adv.
Mr. Mohinder S. Yadav, Adv.

Mr. Shish Pal Laler, Adv.
Mr. Sonit, Adv.
Mr. Balbir Singh Gupta, Adv.

Mr. Manjit Singh, AAG
Ms. Nupur Choudhary, Adv.
For Mr. Kamal Mohan Gupta, Adv.

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

1. Delay, in filing of re-filing of the Special Leave Petition(s), is condoned.
2. Delay, in filing the application(s) for substitution, if any, is condoned.
3. Application(s) for substitution, if any, is allowed.
4. Application(s) for impleadment, if any, is allowed.

Matters filed by the Authority:

5. We have heard learned counsel for the parties to the *lis*.

6. We find no merit in these appeals. Accordingly, the Civil Appeals as well as the Special Leave Petitions are dismissed.

Matters filed by individuals:

C.A. No.9372/2011, C.A. No.9566/2011,
C.A. No.9557/2011, C.A. No.9547/2011,
C.A. No.9546/2011, C.A. No.9545/2011,
C.A. No.9543/2011, C.A. No.9560/2011,
C.A. No.9558/2011, C.A. No.9542/2011,
C.A. No.9552/2011, C.A. No.9551/2011,
C.A. No.9550/2011, C.A. No.9544/2011,
C.A. No.9548/2011, C.A. No.9549/2011):

All these appeals are allowed and disposed of with no order as to costs, in terms of the signed order.

(G.V.Ramana)
Court Master

(Vinod Kulvi)
Asstt.Registrar

(Signed order is placed on the file)