

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO(s).1990 OF 2008

TULE RAM (DEAD) THR. L.R.S. & ANR.

Appellant (s)

VERSUS

STATE OF HARYANA

Respondent(s)

WITH C.A.No.1956/2008

C.A.No.1991/2008

C.A.No.1961/2008

C.A.No.1992/2008

C.A.No.1945/2008

C.A.No.1944/2008

C.A.No.1949/2008

C.A.No.1943/2008

C.A.No.1947/2008

C.A.No.2738/2008

C.A.No.1955/2008

C.A.No.1988/2008

C.A.No.2067/2008

C.A.No.5184/2009

C.A.No.5205-5207/2009

C.A.No.5172-5174/2009

C.A.No.5185-5187/2009

C.A.No.6960-6964/2009

C.A.No.7806-7815/2009

C.A.No.8695-8699/2009

C.A.No.3977/2011

2

C.A.No.3979/2011

C.A.No.3980/2011

C.A.No.3981/2011

C.A.No.9788-9793/2011

O R D E R

Common questions arise for consideration in these appeals which were heard together and shall stand disposed of by this common order.

The appeals broadly speaking comprise three batches.

In the first batch fall Civil Appeal No.1956 of 2008 -

Mangal s/o Neki Ram vs. The State of Haryana Thr. Collector, Gurgaon and connected matters in which the appellants assail a judgment and order dated 7th April, 2004 passed by the High Court of Punjab and Haryana at Chandigarh whereby Regular First Appeals No.386 to 394 and 757 of 1990, 143 and 599 of 1991 have been dismissed, affirming the order passed by the Reference Court enhancing the compensation payable to the appellant-landowners to Rs.19.20 per square yard.

In the second batch of appeals fall Civil Appeals

No.8695-8699 of 2009 and connected matters arising out of a common judgment and order dated 22nd September, 2008 passed by the High Court whereby a batch of Regular First Appeals R.F.A.No.795 of 1990 - Devi Singh (D) Thr. Lrs. and Ors vs.

The Land Acquisition Collector and Anr. and connected matters, filed by the appellant-landowners for enhancement

3

of compensation have been partly allowed and the amount of compensation determined by the Reference Court enhanced from Rs.19.81 per square yard to Rs.33 per square yard on a uniform basis for all kinds of land.

The third batch of civil appeals comprise Civil

Appeals No.2067 of 2008 and connected matters arising out

of a judgment and order passed by the High Court of Punjab and Haryana on 28th July, 2004 in a batch of Regular First

Appeals (R.F.A. No.2612 of 1989 and connected matters)

whereby the High Court has following its judgment and order in R.F.A. No.386 of 1990- Mangal s/o Neki Ram vs. The State of Haryana, dismissed the appeals filed by the landowners

and affirmed the order passed by the Reference Court,

determining the amount of compensation payable to them at the rate of Rs.19.20 per square yard.

The facts giving rise to the filing of the present appeals may be summarised as under:

A large extent of land measuring 193.80 acres situate in villages Kadipur and Khandsa, in Tehsil and District Gurgaon of the State of Haryana, was notified for acquisition by the State Government in terms of a preliminary Notification dated 14th September, 1983 issued under Section 4 of the Land Acquisition Act, 1894. The

proposed acquisition was for a residential-cum-commercial lay-out comprising Sector 10-A of the Gurgaon Township. A declaration under Section 6 of the said Act followed in due course eventually culminating in the making of an award

4

dated 16th July, 1985 by the Collector concerned. On the basis of the sales statics available to the Collector compensation payable to the expropriated landowners, was determined at the rate of Rs.45,000/- per acre for Chahi, Rs.35,000/- for Magda, Rs.20,000/- for Banjar and Rs.16,000/- for Gair Mumkin land. It is noteworthy that

although the initial notification was for an area measuring 193.80 acres, the Award finally made by the Collector was limited to an extent of 131.29 acres of land only.

Dissatisfied with the compensation assessed by the Collector, the landowners sought references to the Civil Court for determination of the true market value of their lands. These references were disposed of by the Reference Court concerned in three different batches of appeals. In

the first batch of cases relating to Civil Appeal No.1956 of 2008 and connected matters the landowners relied upon sale deeds dated 14th May, 1981 and 16th May, 1981 in regard to two parcels of land one measuring 17 marlas and the other measuring only 8 marlas. In the first mentioned sale

transaction the land was sold at the rate of Rs.22.28 per

square yard while the latter piece of land was sold at the rate of Rs.20 per square yard only. Reliance was also placed by the landowners upon the judgment of the Reference Court in LAC No.37 of 1988 (marked Exhibit P-3) decided on 18th September, 1989 according to which land acquired from village Kadipur and covered by the same notification was determined at the rate of Rs.19.20 per square yard.

5

Relying upon the said judgment and the sales statistics available on record, the Reference Court enhanced the compensation payable to the landowners in the said reference but limited the enhancement to Rs.19.20 per square yard only.

The second batch of references relevant to Civil Appeals No.8695-8699 of 2009 comprise LAC No(s).795 of 1990 and connected matters. In support of their claim for enhancement of compensation the appellant-landowners in this batch placed reliance upon as many as 10 different sale transactions that took place between January 1982 and August, 1983. In addition, reliance was placed upon the

judgments of the Reference court in LAC No.44 of 1988 and LAC No(s).34, 35 and 38-40 of 1989 decided on 6th November, 1989 relating to land situate in the very same village. The

Reference Court appraised the evidence and came to the conclusion that the true market value of the land acquired from the landowners in those references was not more than Rs.19.81 per square yard on the date of issue of the preliminary notification and accordingly enhanced the amount of compensation payable to them i.e. Rs.19.81 per square yard.

The third batch of references relevant to Civil

Appeal No.2067 of 2008 and connected matters comprise LAC

No(s).1-5, 13-20, 25 of 1989 and other cases. The

appellant-landowners in those cases placed reliance upon
six sale deeds (marked Exhibit P-1 to P-6) executed between
6

May 1982 to May 1985 in respect of several parcels of land
of different sizes. The Reference Court assessed the said
sale transactions also and determined the market value of
the land acquired from the landowners in the said batch at
the rate of Rs.19.20 per square yard in terms of its
judgment and order dated 22nd July, 1989.

Aggrieved by the judgments and orders passed by the
Reference Court, the landowners filed Regular First
Appeals, RFAs No.386-394, 757 of 1990, before the High
Court of Punjab and Haryana at Chandigarh. RFAs No.143 and

599 of 1991 also preferred against the very same judgment
were heard and disposed of by the High Court in terms of
its judgment and order dated 7th April, 2004 (impugned in
the first batch of Civil Appeal No.1956 of 2008 and
connected matters).

The High Court took the view that the
Reference Court had correctly assessed the market value of
the land acquired from the landowners at the rate of
Rs.19.20 per square yard and that reliance placed by the
landowners upon the decision of the Division Bench of the
High Court in RFA No.2 of 1991 - Azad Singh vs. State of
Haryana (decided on 30th September, 1997) was misplaced. It

also declined to place any reliance upon another decision
delivered by the High Court in RFA No.763 of 1989 - Bhup
Singh and others vs. State of Haryana (decided on 19th
November, 2003). The High Court was of the opinion that

since the landowners had not produced any Akas sajra or
site plan to show the comparative locational advantage or
7

disadvantage enjoyed by their lands vis-a-vis land acquired
in Azad Singh's case(supra), they could not claim the

amount of compensation, awarded in the Azad Singh's case (supra). Affirming the view taken by the Reference Court, Regular First Appeals, mentioned above, were dismissed by the High Court. The judgment and order passed by the High Court in the said appeals is now assailed before us in Civil Appeal No.1956 of 2008 and connected matters, as already mentioned earlier.

Appeals arising out of the second batch of references relevant to Civil Appeals No.8695-8699 of 2009 and connected matters arising out of RFA No.795 of 1990 and connected cases also came to be filed by the aggrieved landowners before the High Court. The High Court in those

cases took a view different from that taken by the Reference Court.

In the said regular first appeals an application was filed by the appellant-landowners for permission to adduce additional evidence in the form of a site plan, certain judgments delivered on the subject in the earlier cases and certain official letters and communications regarding sale of land by Haryana Urban development Authority ("HUDA", for short) after development.

The High Court however declined to entertain the letters and communications sought to be relied upon by the appellant-landowners relating to the sale/transfer of land in favour of Indian Oil Corporation and Housing Board, subsequent to the acquisition of the land in 1986 and 1988

8

respectively. The High Court held and in our opinion rightly so that the transfer, by way of sale or utilisation of land subsequent to the acquisition thereof was not a factor relevant to the question of determining the true market value of the land acquired from the landowners. The

High Court however permitted the landowners to place on record the site plan showing the location of the land acquired from them, the correctness whereof was not disputed by learned Advocate General appearing for the

State of Haryana. The High Court also permitted the landowners to file copies of the judgments delivered in similar other cases which according to them bore relevance to the question of the true market value of the land in dispute.

On a conspectus of the evidence available before it the High Court eventually came to the conclusion that its judgment in Azad Singh's Case (supra) assessing the amount of compensation at the rate of Rs.68 per square yard had no application to the cases at hand.

The High Court was of the view that the site plan clearly revealed that the acquisition in that case had been made from village Jharsa which was closer to National Highway no.8 whereas lands from the landowners in the cases at hand was at a distance from the said highway.

So also the High Court held that reliance upon sale deeds (Exhibits P-6, P-9 and P-10) was not justified having regard to the fact that the acquired land in the cases at hand was at a distance from the lands

9

covered by those transactions. Sale instances evidenced by sale deeds marked Exhibits P-11 and P-12 were however found by the High Court to be safer and worthy of reliance to determine the market value of the property in question.

Reliance was also placed by the High Court upon sale deeds

marked Exhibits P-5, P-7 and P-8 forming part of or contiguous to the acquired land.

Taking into consideration all these transactions, the High Court came to the conclusion that the market value of the land, acquired from the landowners at the relevant point of time, was not less than Rs.66 per square yard based on the average sale price reflected in the sale deeds, referred to above.

Keeping

however in view the fact that the sale deeds relate to smaller plots of land, the High Court imposed a cut of 50% and determined the actual market value of the land at Rs.33

per square yard. Regular First Appeals filed by the

appellant-landowners in that view were allowed in part and to that extent with proportionate statutory benefits. Dissatisfied with the enhancement granted by the High Court the landowners have filed Civil Appeals No.8695-8699 of 2009 and connected matters in this Court, as already noticed above.

That leaves us with the third batch of references comprising Civil Appeal No.2067 of 2008 and connected matters in which regular first appeals, RFA No.2612 and connected cases, preferred by the landowners against the refusal by the Reference Court to enhance the compensation

10

in their favour beyond 19.20 per square yard came to be dismissed in terms of the judgment and order impugned before us.

We have heard learned counsel for the appellant-landowners and learned counsel for the State of Haryana and the Haryana Urban Development Authority (HUDA)-the beneficiary of the said acquisition.

As noticed in the earlier paragraphs of this judgment, the references were disposed of broadly in three batches. Evidence in each one of these batches was separately adduced by the expropriated landowners. In the first batch of references the evidence comprised two sale deeds dated 14th and 16th May, 1981 executed almost two and a half years earlier to the notification issued in these cases. The sale price worked out on the basis of those two sale deeds comes to Rs.22.28 and Rs.20 per square yard respectively. In the third batch of references also the sale deeds relied upon by the landowners indicate the sale consideration to be ranging between Rs.24 per square yard and Rs.45 per square yard. These sale deeds, as mentioned earlier, were executed between 06th May, 1982 to 17th May, 1985. The plot size sold by and under those deeds ranged between 4 biswas and 4 kanals.

The second batch of cases which by far was the only successful attempt made by the landowners for proving a higher market value placed reliance upon sale deeds executed proximate in point of time to Notification under

11

Section 4 of the Act issued in September, 1983 in these cases. These sale deeds were marked Exhibits No.P-5, P-7, P-8, P-11 and P-12 between 16th March, 1983 and 8th August, 1983. There is no doubt that, in terms of proximity in

point of time the sale deeds chosen by the Reference Court were relevant and could be taken into consideration for purposes of determining the market value of the lands acquired from the appellants in terms of Notification issued in September, 1983. Having said so, we cannot help

observing that the sale consideration reflected in those sale deeds cannot be accepted for an outright application to the cases at hand. We say so because the sale deeds, mentioned above, relate to relatively smaller parcels of land ranging between 100 to 450 square yards only.

In

comparison to the total extent of land acquired from the appellants in these appeals, the size of the plots of land covered by these sale transactions is indeed very small.

The consideration paid for these smaller parcels of lands would therefore be understandably higher than the one which a willing buyer would offer for a larger extent of land in the same area. The consideration offered in these sale

deeds ranges between Rs.55 and Rs.81 per square yard.

The

High Court has, considering the size of the plots sold in these sale transactions, taken the average of the sale consideration and deducted 50% from the same on account of the smallness of the size of the plots covered by these transactions. The average of the sale consideration for

12

the said transactions has been determined at Rs.66 per square yard while the amount awarded to the appellants in

the second batch of cases is only 50% of the said amount i.e. to Rs.33 per square yard.

It was contended by learned counsel for the appellants that the imposition of a cut of 50% on the average price determined by the High Court on the basis of the above sale transactions was much too high to be fair and reasonable. It was argued that a lower cut, preferably 20%, would have met the ends of justice. It was also

contended that the High Court was in error in declining to grant relief to the appellants on the basis of the decision in Azad Singh's case (supra) which related to a notification issued in November, 1982 and in which the value of the land had been assessed at the rate of Rs.68 per square yard. Relying upon the site plan filed before the High Court and also before us it was contended that Sector 15 carved out of the land acquired in Azad Singh's case (supra) was quite near to the land acquired in these cases which was used to lay out HUDA Sector 10-A in Gurgaon township.

On behalf of the respondents-State it was contended by Mr. Narender Hooda, learned Additional Advocate General and Dr. Monica Gosain, Advocate, that the High Court was justified in ignoring the decision in Azad Singh's case (supra) especially when the land in that case was acquired from a different village situated in close proximity to

13

National Highway No.8 which were two distinguishing features that would render Azad Singh's case (supra) inapplicable to the present cases. It was also submitted that the deduction of 50% towards size of the plot was also not excessive having regard to the fact that the land acquired from the appellants was a very large extent used at the time of acquisition for agricultural purposes thereby requiring extensive development before the same could be sold for residential or commercial use. It was urged that the view

taken by the High Court, being a plausible one, there was no compelling reason for this Court to interfere with or enhance the amount awarded towards compensation.

Determination of the market value acquired for a public purpose is not always an easy task especially in cases where the parties are unable to bring on record sale instances of property that has similar non-agriculture potential as the property acquired. Sale transactions relating to the property of a comparable extent with comparable advantages or disadvantages are not easy to get or prove. It is also well known that sale transactions relating to smaller plots of land fetch higher consideration for the seller not only because the size is small which casts a lesser burden on the purchaser in terms of consideration but also because such parcels of land may be purchased for specific commercial or other purposes which may not present a true picture relating to the actual market value of larger extents of land situate in the area.

14

Having said that there is no legal impediment for the courts in taking note of such transactions with a view to assessing the true market value of the property compulsorily acquired in the absence of better evidence on the subject. That precisely happens to be the position in the instant cases also. The parties have been able to assemble in their favour sale transactions relating to smaller parcels of land which the Reference Court and so also the High Court have considered and depending upon the evidence adduced in each batch, determined the market value of the land. That is perhaps the reason why even when the land-in-question is acquired by a single notification, the amount of compensation determined for the same has varied in each batch depending upon the evidence adduced by the owners in a given batch. As noticed earlier in batches I and III, the Reference Court had determined the market

value of the acquired land at the rate of Rs.19.20 per square yard. In batch II, the Reference Court has determined the value of the land at the rate of Rs.19.81 per square yard. Even in the appeals before the High Court, since the matters appear to have been argued on different dates, the rate awarded in appeals arising out of batches I and III remains Rs.19.20 per square yard but in cases arising out of batch II the rate has been enhanced to Rs.33 per square yard.

The difference in rates at which the acquired land has been valued no matter the land was acquired under the same Notification, is not on account of

15

any real advantage or disadvantage which one parcel of land enjoys over the other but because of the nature of evidence that has been produced by the concerned landowners in support of their respective claims.

We have however no manner of doubt that since the acquisition is for the same purpose, has been completed in pursuance to the same notification and is covered by the very same award, the landowners may be entitled to uniformity in terms of compensation based on the evidence placed/available in any one of these batches.

The best of evidence it was conceded at the Bar is in batch II references where the landowners have proved several sale transactions, at an average of Rs.66 per square yard.

The only question that was in that view debated at the Bar with considerable tenacity on both sides was whether the rates so proved ought to be awarded to the landowners without any deduction and if deduction was inevitable on account of the size of the plots, what could be the extent thereof.

That the sale transactions relied upon by the appellant-landowners are on an average @Rs.66 per square yard, has not been questioned before us.

It is also not disputed that the the average extent of the land covered by the relied upon sale deeds works out to Rs.240 per square yard.

This is not a very big area,

compared to 131.29 acres of land acquired from the landowners. We therefore have no hesitation in holding

that the rate at which the sale transactions were finalized cannot ipso facto be taken as a good basis for determining

16

the compensation payable to the landowners for the large extent acquired by the respondents.

Deduction on account

of the size of the plot thus becomes inevitable.

What

should be the deduction may not also detain us for long.

We say so because a similar question fell for consideration

before this Court in Ashrafi v. State of Haryana-(2013) 5

SCC 527. There too the landowners relied upon sale

transactions relating to smaller parcels of land.

The High

Court had looking to the size of the plots covered by such

sale transaction in comparison to the extent of the area

acquired, imposed a cut of 60% and awarded compensation to

the landowners accordingly.

This Court found that such a

cut was not entirely justified especially when the acquired

lands were already within the developed municipal limits of

the city. That reasoning in our opinion applies with equal

force to the cases at hand also.

The lands-in-question

also comprise an urbanised area.

This is evident from the

fact that the lands-in-question are situated close to the

civil hospital, the secretariat and the District Courts

Complex at Gurgaon. This aspect has been noticed even by

the High Court in the judgment delivered by it in the

second batch of cases. Such being the position, the

deduction of 50% from the rate determined on the basis of

the sale transactions would be on a parity of reasoning the

higher side. Relying upon the view taken by this Court in

Ashrafi's case (supra) we are of the view that a deduction

of 33% should suffice.

Applying a cut of 33%

to the sale

17

instances relied upon by the appellant-landowners shall be

entitled to compensation @Rs.44.22 per square yard which

can be rounded off to Rs.45 per square yard.

Inasmuch as

the High Court declined that amount and remained content with a lesser figure it committed an error that needs to be corrected.

We accordingly allow these appeals, set aside the impugned judgments and orders passed by the High Court and direct that the appellants shall be entitled to compensation for the lands acquired from their ownership at the rate of Rs.45 per square yard together with proportionate statutory benefits including solatium, additional compensation and interests in accordance with the provisions of the Land Acquisition Act, 1894.

The parties are left to bear their own costs.

.....J.
(T.S. THAKUR)

.....J.
(KURIAN JOSEPH)

NEW DELHI
DATED 27th February, 2014.

18

ITEM NO.101 COURT NO.6 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). 1990 OF 2008

TULE RAM (DEAD) THR. L.RS. & ANR. Appellant (s)

VERSUS

STATE OF HARYANA Respondent(s)

(With Appl.(s) for permission to file additional documents and with office report)

WITH C.A.No.1956/2008
(With Appl.(s) for permission to file additional documents and with office report)

C.A.No.1991/2008
(With Appl.(s) for permission to file additional documents and with office report)

C.A.No.1961/2008
(With Appl.(s) for permission to file addl. Documents)

C.A.No.1992/2008
(With Appl.(s) for permission to file additional documents and with office report)

office report)

C.A.No.1945/2008
(With Appl.(s) for permission to file additional documents and
with office report)

C.A.No.1944/2008
(With Appl.(s) for permission to file additional documents and with
office report)

C.A.No.1949/2008

C.A.No.1943/2008

C.A.No.1947/2008
(With with office report)

C.A.No.2738/2008
(With Appl.(s) for permission to file additional documents and with
office report)

C.A.No.1955/2008
(With Appl.(s) for permission to file additional documents and with
office report)

19

C.A.No.1988/2008
(With Office Report)

C.A.No.2067/2008
(With Appl.(s) for substitution of deceased petitioner/appellant and
substitution and with office report)

C.A.No.5184/2009
(With Office Report)

C.A.No.5205-5207/2009
(With Appl.(s) for permission to file SLP and with office report)

C.A.No.5172-5174/2009
(With Appl.(s) for permission to file SLP and with office report)

C.A.No.5185-5187/2009
(With Appl.(s) for permission to file SLP and with office report)

C.A.No.6960-6964/2009

C.A.No.7806-7815/2009
(With Office Report)

C.A.No.8695-8699/2009
(With Appl.(s) for c/delay in refiling SLP and with office report)

C.A.No.3977/2011

C.A.No.3979/2011
(With Office Report)

C.A.No.3980/2011
With Office Report)

C.A.No.3981/2011
(With Office Report)

C.A.No.9788-9793/2011

Date: 27/02/2014 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE KURIAN JOSEPH

For Appellant(s) Mrs.Amita Gupta,Adv.
Mr. Ramakant Tripathi,Adv.
Mr. Abhimanu Kumar Singh,Adv.
Ms. Girishika Singla,Adv.

20

Mr. Ranbir Singh Yadav,Adv.
Ms. Anzu K. Varkey,Adv.
Mr. P. Kakra,Adv.
Mr. Puran Mal Saini,Adv.

Mr. Varun Goswami,Adv.
Mr. Rajesh Singh,Adv.
Mr. R.C. Kaushik,Adv.

Mr. Naresh Kaushik,Adv.
Ms. Saroj Kumari Aggarwal,Adv.
Mr. Sanjeev K. Bhardwaj,Adv.
Mrs Lalita Kaushik,Adv.

Mr. Gyanesha Singh,Adv.
Mr. Vishwa Pal Singh,Adv.

For Respondent(s) Mr. Narender Hooda,AAG
Dr. Monika Gusain,Adv.

Ms. Nupur Chaudhary,Adv.
Ms. Vivekta Singh,Adv.
Mr. Kamal Mohan Gupta,Adv.

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

Permission granted. Delay condoned.
Application(s) for substitution is allowed.
Cause title be amended accordingly.
In terms of the signed order, appeals are allowed.

"We accordingly allow these appeals, set aside the impugned judgments and orders passed by the High Court and direct that the appellants shall be entitled to compensation for the lands acquired from their ownership at the rate of Rs.45 per square yard together with proportionate statutory benefits including solatium, additional compensation and interests in accordance with the provisions of the Land Acquisition Act, 1894.

The parties are left to bear their own costs."

(Mahabir Singh) (Sneh Lata Sharma)
Court Master Court Master
(Signed order is placed on the file)