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Directorate of Urban Estate**

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Directorate of Urban Estate**

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Court : Punjab and Haryana

Decided On : May-20-1994

Reported in : (1994)108PLR178

Judge : N.C. Jain, J.

Acts : [Land Acquisition Act, 1894](#) - Sections 18

Appeal No. : Regular First Appeal No. 1875 of 1991

Appellant : Sushma

**Respondent : State of Haryana Through Land Acquisition Collector Directorate of
Urban Estate**

Advocate for Def. : H.L. Sibal, A.G. and; Gulab Singh, A.A.G.

Advocate for Pet/Ap. : M.L. Sharma, Adv.

Disposition : Appeal Allowed

Judgement :

N.C. Jain, J.

1. This judgment of mine would dispose of R.F.A. Nos. 1605 to 1611, 1875 to 1886, 1943 to 1945, 1965, 2016, 2025, 2308 of 1991, 2298 and 3959 of 1992 as they arise out of a common award of the District Judge, Ambala, dated 18.5.1991. All these appeals have been filed by the landowners.

2. The facts of the case in brief are that the State of Haryana by virtue of issuance of notification dated 6.6.1983 under Section 4 of the [Land Acquisition Act, 1894](#) (hereinafter referred to as 'the Act') sought to acquire 200.71 acres of land situated in village Maheshpur, Tehsil Kalka, District Ambala for a public Purpose namely development and utilisation for industrial area. Under Section 6 of the Act, land measuring 194.92 acres was acquired. However, on measurement the land was found to be 154.44 acres only. The Land Acquisition Collector by his award dated 17.9.1986 has assessed the market value of the acquired-Chahi land @ 57,280/-, Barani @ Rs. 38,240/-, Banjar @ Rs. 19040/- and Gair Mumkin Rasta @ Rs. 9440/- per acre. The landowners feeling dissatisfied, sought references under Section 18 of the Act. The District Judge by his award under challenge before this Court has determined the market value of the acquired land at a flat rate i.e. Rs. 1,50,000/- per acre. The land-owners feeling dissatisfied with the award of the District Judge have filed these appeals before this Court. During the pendency of the aforementioned appeals before this Court learned counsel for the landowners in R.F.A.No. 1944 of 1991, Guljar Singh v. State of Haryana. have filed an application under Order 41 Rule 27 of the Code of Civil Procedure for production of four awards given by the land Acquisition Courts evaluating the acquired land in villages Fatehpur, Rally and Judian. Since the application has been given in the case of Guljar Singh whereas the main judgment has been given in case of Sushma v. State, I would be giving the main award in the case of Suhshma v. State, only but as regards additional evidence, the same would, stand allowed in RFA No. 1944 of 1991, Guljar Singh v. State of Haryana. The additional evidence is being allowed by me on the short ground that it is subsequent event and law is well settled that any subsequent event be taken into consideration by a Court of law. The four awards are therefore, ordered to be exhibited as Exhibits C-1 to C-4. As to what evidentiary value these awards carry, the same would be seen in the latter part of the judgment.

3. In order to determine the market value of the acquired land, it is necessary to have a look at the evidence brought on the record of the case. The landowners produced as many as 11 witnesses. Besides this, they have also produced site plan Ex. P.1, sale deeds Exhibits P-3 to P-7 and some awards including the ones produced before this Court.

PW-1 Darbara Singh one of the claimants has stated that before the acquisition of the land in question the land of village Maheshpur was acquired along with the land of village Majra, Haripur, Ralli, Abheypur, Dhillan, Tensu, Judian, Ferozepur Kalan and Ferozepur. Village Maheshpur and the acquired land are situated on Ambala-Kalka Road. Sectors 2, 4, 5, 7, 12 and 12-A, according to this witness, were situated in front of the acquired land. The distance between the acquired land and the aforementioned Sectors was 100 yards. Ambala-Kalka road, it has been deposed, goes between Sector 12 and the acquired land. It has further been deposed that three roads of Panchkula connects the acquired land. Sectors 4, 12 and 12-A, according to this witness, were fully developed. It Has further been stated by him that Sector-4 was situated in village Haripur and Sector 5 was situated in village Judian and Ferozepur. The distance between Sectors 11 and the acquired land is 1/2 Kilometre. Bus-stand, according to the witness, was situated in Sector-5 which in turn is situated adjacent to Sectors-11 and 4. He has further stated that Sector-5 was fully developed having Cinema Hall and Commercial Establishments. According to this witness, Sector-11 is one kilometre away from the acquired land. He has further stated that village Maheshpur adjoins the boundaries of village Haripur, Devi Nagar, Ralli, Ralla and that village judian is situated at a distance of 1-1/2 kilometres from the acquired land. The market value, according to the witness, at the time of the notification was Rs. 5000/- per marla. He has further stated that abadi land was being sold at the rate of Rs. 10000/- per marla and that on the date of the making of statement the market value of the abadi land was Rs. 50,000/- per marla. The existence of shops of Property Dealers, Doctors, Flour Mill, Tea Vendors, Dhabas etc. in village Maheshpur was also stated. Notified Area Committee Manimajra was situated at a distance of 2-1/2 kilometres from the acquired land, according to this witness. In cross-examination the witness was constrained to admit that the acquired land was purely agricultural in nature at the time of the notification. It was denied by him

in cross-examination that there was no development in the area at the time of the notification and that all developments took place after the acquisition of the land. It was further denied that the development of Sectors 11, 12, 12-A and 14 was not there at the time of the acquisition of the land. It was further denied by him that Sector 5 was not developed. PW-2 Vijay Dhawan is a property dealer who after describing the location of the acquired land stated that in the year 1982 plot of 10 marlas in Sectors 4, 12, 12-A were being sold at the rate of Rs. 55,000/- to Rs. 65,000/-. He has stated that the acquired land was being sold at the rate of Rs. 2000/- per marla whereas the rate of abadi land of the village at the time of the acquisition was Rs. 4000/- per marla. This witness further stated that at present rate was Rs. 25,000/- to Rs. 55,000/- per marla. He further stated that he had also negotiated the deal of some abadi plots and the average price per marla came to Rs. 35,000/-. He further deposed that Panchkula Urban Estate was developed towards the acquired land as there was no other land which could be acquired. The value of the land situated on Ambala-Kalka Road, according to the witness, was higher than the land situated at Simla-Chandigarh road. The witness further stated that the disputed land was acquired for Sectors 20 and 21. Plots of Sector-21 according to him, have already been carved out whereas the plots of Sector 20 had not been carved out. He further stated that the State of Haryana had advertised the rate of the plots of Sector 21 at Rs. 250/- per square yard. In cross-examination, the witness had to admit that the acquired land was purely agricultural in nature. He was further constrained to admit that the prices quoted by him in the examination-in-Chief were there at the time of development of the sectors. He pleaded ignorance about the development charges by the Haryana Urban Development Authority. He could not produce any sale deed. He denied the suggestion that there was no development at the time of issuance of notification under Section 4 of the Land Acquisition Act. Kamal Krishan PW. 3 another claimant has stepped into the witness box and has deposed virtually on the same lines as has been the statement of PW-1. In examination-in-chief he has deposed about the location of some Sectors and dividing roads with reference to the site plan Exh. P.1. In Cross-examination the witness was constrained to admit that Sector 5 was situated at a distance of 1-1/2 kilometre from the acquired land. He further admitted that on the right side of the road which leads from Zirakpur to

Kalka there was no development. He further admitted that the acquired land was purely agricultural in nature except the village abadi. He has given the length of one Sector as 3/4th of a Kilometre. Ram Kumar Assistant Estate Officer, PW 5 produced the master plan of Panchkula showing the location of Sectors 1 to 2. Jagir Singh another claimant who appeared as PW-6 stated that he sold, twelve marlas of land in the abadi of village Maheshpur for Rs. 24,000/- vide sale deed Exh. P.2. He stated that there was no shop near the land sold by him. In Cross-examination he admitted that he sold the land vide Exh. P.2 in the year 1987.

4. Statement of Angrej Singh claimant PW-7 is also similar to the statements of other claimants. Som Nath Patwari PW-8 has deposed that Urban Estate Panchkula was developed in the year 1971. The land of about fifteen villages including the land of village Maheshpur was notified for acquisition in the year 1971 for the first time. Later on, fresh notification was issued in the year 1973. Only part of revenue estate of village Maheshpur was acquired. Notification, according to this witness, was quashed in respect of the remaining part of revenue estate of Maheshpur and fresh notification was issued on 6.6.1983. He has further stated that land belonging to village Judian was also acquired for urbanestate Panchkula. In cross-examination, the witness was constrained to admit that the land of village Judian was situated at a distance of four to five kilometres from the land in question of village Maheshpur. He has further stated in cross-examination that Dhillon Cinema was on the land of village Judian. The Said land of village Judian was close to Union Territory of Chandigarh. According to him the land of village Judian was better situated than the acquired land.

5. PW-9 Sheo Ram is another Patwari of Halka Majri whose statement does not need much reference. Virender Singh, PW-10 is another claimant who had residential house, cattle shed, poultry shed and shed for factory on the acquired land. He deposed that he had spent Rs. 1,65,000/- on the contraction of the house and Rs. 2,00,000/- for other construction in the year 1967. The distance. between the Dhillon Cinema and the acquired land according to him was 2 kilometres by crow fly. He deposed that the land has been acquired for Sector 21 which adjoins Sector-12. In cross-examination he stated that he received compensation for the super structures and that the acquired land was partly used for agricultural

purpose and partly for allied industries. He denied the suggestion that there was difference in the potentiality of the land situated on Ambala-Kalka road at the time of acquisition.

6. Ram Kumar Assistant Estate Officer who appeared earlier again appeared as PW-11.

7. On behalf of the State Dhoon Singh Patwari Land Acquisition Office, Panchkula, appeared as RW-1 and stated that the acquired land was situated on Zirakpur-Kalka Road. There was no development around the acquired land. Devi Nagar and Fatehpur villages are at a distance of 1-1/2 kilometre from the acquired land. Dhilion theatre was at a distance of 5-6 kilometres from the acquired land and the Bus Stand of Panchkula was at a distance of 1-1/2 kilometre from the acquired land. He produced the original copy of the sale deed Exh. R-1 wherein 4 marlas of land was sold for a sum of Rs. 1000/-. According to the witness, the land sold vide Exh.R-1 was a part of the acquired land. He has produced map Exh. R-2 showing the acquired land in red colour and the land sold vide Exh.R-1 in green colour. He has further produced, Exh. R-3 a judgment of the Additional District Judge, Ambala, regarding which the land of village Maheshpur was evaluated. In cross-examination he has stated that the acquired land was situated on the right hand side of the road if one proceeds from Ambala to Kalka. In cross-examination he admitted that the acquired land regarding which Exh. R-3 was given pertains to the acquisition of the year 1973 and that Sectors 12 and 4 were not fully developed according to him.

8. The District Judge after considering the oral and documentary evidence determined the market value of the acquired land at the rate of Rs. 1,50,000/- per acre by placing reliance upon Exhibits P-3 and P-4 the two sale deeds dated 8.10.1982 evidencing the sale of 4 Kanals of land in each sale deed at the rate of Rs. 49,000/- bringing out the sale price at Rs. 98,000/- per acre. The District Judge observed that the sale transactions Exh. P-5 to P-7 pertaining to the sale of land in the year 1988 and 1989 have got no relevance as the date of the notification under Section 4 of the Act is 6.6.1988. The District Judge added a premium of Rs. 52,000/- per acre over the price of Rs. 98,000/- by observing that there had been

an increase in the price of land of village Maheshpur at the rate of Rs. 3000/- per acre per month. The learned District Judge. did not agree with the arguments of the counsel for the claimants that compensation should be determined at the same rate which was granted in the case of acquisition of village Judian because the land acquired in village Judian where Urban Complex and ManiMajra have come up was situated on Chandigarh-Kalka road. The valuation given in the case of village Bhainsa Tibba at the rate of Rs. 120/- per sq. yards also did not find favour with the District Judge on the ground that die aforesaid village is situate on the linking Manimajra Mansa Devi road. The exact reasoning of the District Judge rejecting the awards of village Judian and Bhainsa Tibba is reproduced as under:-

'The learned counsel for claimants had strongly stressed that compensation may be awarded at the rate at which land at village Judian has been awarded compensation. Village Judian on which Urban Complex besides Mani Majra has come up was situate on Chandigarh-Kalka road. Village Bhainsa Tibba situate on die linking Mani Majra Mansa Devi road in respect of which compensation has been enhanced to Rs. 120/- per square yard. Village Judian over which Dhillon theatre and Motor Market of Mani Majra have been developed was situate towards North-West of Urban Estate of Panchkula. The land in question forming part of revenue Estate of village Maheshpur is situate towards East of Urban Estate Panchkula. The compensation awarded in respect of land situate on Chandigarh-Kalka road where Dhillon Theatre and other urban complex has come up, is in no way guiding factor for compensation to be awarded in respect of land situate 5-6 Kms a way on Ambala-Kalka road towards East of Urban Estate, Panchkula.'

9. Shri M.L. Sharma, learned counsel for the landowners has vehemently argued that the learned District Judge should have placed reliance upon the Award pertaining to the acquisition of land of village Judian, Bhainsa Tibba, Fatehpur and Rally as they lie in close proximity with the acquired land. It has further been argued that the awards the afore-mentioned villages are relevant and comparable because, the notification acquiring the land in dispute in the present cases was issued a few months earlier to the notification issued in the case of acquisition of land of theafore mentioned villages. In other words, he has argued that the awards pertaining to the notifications which were issued in close proximity from time point

of view should be relied upon. It has further been argued that other evidence produced by the landowners proves that the acquired land although agricultural in nature had acquired the potentiality for urbanisation. Mr. Sharma in support of his argument has relied upon a judgment given by Letters Patent Bench in Harchal Singh v. The State of Punjab, 1991 P.L.J. 20. On the other hand, the counsel for the State has argued that none of the awards given by the Land Acquisition Court is relevant as they pertain to the issuance of notification after the notification was issued in the present cases under Section 4 of the Act. The State counsel further argued that the land sought to be evaluated in other awards was much, better situated as compared to the acquired land. He went to the extent of submitting that even the grant of compensation at the rate of Rs. 1,50,000/- per acre is on the higher side because there was no justification on the part of the learned District Judge to give enhancement of Rs. 52,000/- per acre over and above the amount of Rs. 98,000/- which was the average price fetched by the sale of land in Exhibits P-3 and P-4. The counsel for the State has drawn my pointed attention to the reasoning of the District Judge and submitted that the finding is not intelligible as no rational basis is forthcoming in the findings on the basis of which increase of Rs. 52,000/- per acre could be given.

10. I have given my deep thought to the respective arguments of the Counsel for the parties. Taking up the last argument first, this Court at the very out-set must observe that the reasoning is not intelligible. There is miscalculation as well. However, no infirmity in the findings so recorded would detain this Court any longer as the State has not filed any appeal against the impugned award and, therefore, it is not open to the counsel for the State to challenge the valuation of Rs. 150,000/-.

11. Before recording a finding as to which award is relevant for evaluating the acquired land, it is necessary to have a look at the potentialities of the acquired land. After examining the entire oral evidence, I am of the view that there cannot be two views that huge land was sought to be acquired in several villages by the State of Haryana for developing Panchkula in the year 1971. The land in village Maheshpur was acquired in the year 1973. But the acquisition was quashed and thereafter the land in dispute has been acquired in the year 1983. It appears that with the passage of time the entire land whether situated in village Maheshpur or

Judian or Bhainsa Tibba or Fatehpur or Rally did acquire the potentialities for urbanisation and, therefore, the disputed land could not be evaluated on the basis as if the-same was agricultural in nature particularly when it has been held in Har Chal Singh's case (supra) that once the acquired land has gained potentialities for urbanisation it was wrong to classify the same on the basis of agricultural quality. In fact, case of Har Chal Singh appears to be on all fours inasmuch as Division Bench granted the compensation for the entire acquired land of as many as four villages at the same rates for the land acquired by. two notifications issued under Section 4 of the Act at different times i.e. 20.11.1980 and 4.2.1981. Following the observations made by the Division Bench in paragraphs 7, 8 and 9 which are relevant, are being reproduced below:-

Para :7

The four villages are in the near vicinity of each other and are part of SAS Nagar/Mohali and this town is adjoining Union Territory of Chandigarh on one side and, therefore, has acquired potential for urbanisation. In Mohali itself lot of construction had come up before the acquisitions in dispute and therefore contiguous villages on this ground had also gained potential for urbanisation. Once urbanisation has come up and the acquired land has gained potential for that purpose it will be wholly wrong to classify the land on the basis of agricultural quality. Therefore, we are of the view that the entire land including those which are Gair Mumkin and Banjar Qadim cannot be kept in a separate category for fixing price. However, if it is found that the land is in depression because of Chappar (Pond) or because at Khatan, lesser price may have to be fixed.

Para:8

Before this Court, cases relating to acquisition of numerous villages in the Union Territory Chandigarh, for extension of Sectors came up for consideration in Letters Patent Appeal No. 1207 of 1981, Jaswant Singh v. Union of India, decided on 22.9.1982 wherein it was urged that there was hardly any scope for giving different/varied market price of land in different villages on the basis of its potentiality, it was held that it was appropriate to fix uniform rate for the land acquired in all the villages. The facts in these cases are similar and for the reasons

recorded in Jaswant Singh's case (Supra) we are of the view that the land acquired in all the four villages deserves to be allowed market rate at the uniform rate of Rs. 1,75,000/- per acre. We order accordingly.

Para:9

For some land situated in village Kambala the learned Single Judge has allowed compensation at the rate of Rs. 1,16,700/- per acre on the ground that it was Gair Mumkin and Banjar Qadim. It is true that the Collector had made these two categories, but once we have come to the conclusion that the acquired land had potential for urbanisation, the fixation of market price on the basis of agricultural quality loses its significance. Accordingly, for Gair Mumkin and Banjar Qadim land situated in village Kambala, we fix compensation at the rate of Rs. 1,75,000/- per acre and modify the judgment of the learned Single Judge accordingly.'

12. This leads me to decide as to what should be the market value of the acquired land on the date of the notification in the light of the sale transactions and the awards given by the Land Acquisition Courts. The awards of the acquired land in villages Judian and Bhanisa Tibba cannot, at all, be relied upon as die same are neither relevant nor comparable vis-a-vis the acquired land. It has come in the oral evidence that village Judian was situated away from village Maheshpur. Even PW-8 Som Nath Patwari, a witness produced by the claimants was constrained to admit that Dhillon Complex situated in the aforesaid village, was at a distance of 4/5 kilometres from village Maheshpur. The award of village Bhainsa Tibba can also be not relied upon as the same is situated on the Unking Manimajra-Mansa Devi road. In fact, the aforementioned villages are situated on Chandigarh-Kalka road whereas village Maheshpur is situated on Ambala-Kalka road i.e. somewhere near Zirakpur. In view thereof, the Awards of the Land Acquisition Courts evaluating the acquired of village Judian and Village Bhainsa Tibba cannot be held to be safe guide for determining the market value of the acquired land.

13. As regards the awards pertaining to the acquisition of villages Fetehpur and Rally, the same can be held to be relevant and comparable vis-a-vis the acquired land. Notification under Section 4 of the Act acquiring the land in dispute has been issued on 6.6.1983 and the notification under section 4 of the Act acquiring the

lands in villages Fatehpur and Rally were issued on 19.9.1983 as is clear from the perusal of Awards Exhibits C-2 and C-4. The perusal of the site plan Exhibit P-1 makes it clear that the two villages Fatehpur and Ratty are situated adjacent to the acquired land. In view of the close proximity of the acquired land in village Maheshpur and the acquired land of villages Fatehpur and Rally, this Court is inclined to hold that they are relevant and comparable vis-a-vis the acquired land. The Awards Exhibits C-2 and C-4 cannot be held to be irrelevant simply because the notifications were issued after the date of the notification in the present cases as notification acquiring the land of villages Fatehpur and Rally were issued three months after the notification in the present cases and during this period there was no price rise in the vicinity of the acquired land. No evidence has been led by the State of Haryana wherefrom it could be gathered that the prices had shot up after the notification was issued acquiring the land in village Maheshpur. Nothing was suggested either to any claimants or to their witnesses that after the land was notified for acquisition in village Maheshpur, there was rise in the prices of the lands. It appears to me that many sales did not take place in the vicinity of the acquired land and it was for this precise reason that the claimants could lay their hands upon only on two sale deeds. Had large number of sale transactions taken place, the State would have produced them as they were more accessible to the State than to the claimants. Therefore, the Court is of the firm view that many vendors were not coming forward to sell their lands as they expected price rise or in other words many purchasers may not be available on account of impending acquisition. Consequently, there is no justifiable reason to deprive the landowners of the valuation which has been given to the landowners whose lands have been acquired in adjacent villages simply because of some difference in the dates of the notifications. As has been observed above, the difference is only nominal i.e. of three months.

14. Once the Awards Exhibits C-2 and C-4 are held to be relevant, the market value of acquired land, in my considered view, should be determined after, taking out the average from the sale transactions Exhibits P-3 and P-4 and the Awards C-2 and C-4. By virtue of Exh. P3 and P-4, the two sale deeds, land in village Maheshpur was sold prior to the date of notification at the rate of Rs. 98,000/- per acre. In awards Exh. C-2 and C-4, Shri V.P. Aggarwal, Additional District Judge,

Ambala and Shri B.L. Gulati, District Judge, Ambala, granted commensation at the rate of Rs. 2,25,000/- and Rs. 3,63,00/- per acre respectively, for the land acquired in villages Fatehpur and Rally pertaining to the two notifications dated 19.9.1983. When both the transactions of Sale are to be clubbed together with the awards Exh. C-2 and C-4 and average sale price is taken out, it comes to Rs. 1,96,000/- per acre. This much compensation the landowners are entitled to for the acquired land in view of the sale deeds, awards of the Land Acquisition Courts and in view of the high potentialities of the acquired land. Accordingly, I determine the market value of the acquired land at the rate of Rs. 1,96,00/-per acre.

15. For the reasons recorded above, the appeals of the landowners-claimants are allowed to the extent indicated above with proportionate costs and they are further held entitled to the statutory benefits of the amended provisions of Sections 23(1A), 23(2) and 28 of the Land Acquisition Act.

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