

Haryana State Industrial Development Corporation

v.

Pran Sukh & Others

(Supreme Court Of India)

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

Haryana State Industrial Development Corporation v. Pran Sukh & Others

Civil Appeal No. 6515 Of 2010 With Civil Appeal No. 6561, 6516, 6528, 6531, 6529, 6526, 6552, 6567, 6535, 6836, 6560, 6571, 6530, 6525, 6527, 6570, 6546, 6565, 6548, 6550, 6563, 6537, 6532, 6569, 6534, 6559, 6572, 6583, 6580, 6573, 6584, 6588, 6590, 6575, 6823, 6853, 6855, 6554, 6566, 6557, 6533, 6558, 6541, 6556, 6562, 6568, 6564, 6539, 6538, 6553, 6540, 6852, 6576, 6587, 6582, 6581, 6577, 6574, 6585, 6578, 6579, 6854, 6666-6667, 6757, 6747 6755, 6831, 6756, 6591, 6651, 6606, 6592, 6658, 6594, 6 | 17-08-2010

Delay condoned. Permission to file SLP is granted in SLP(C) No.8209/2008. Leave granted in all the special leave petitions. These appeals, most of which have been filed by Haryana State Industrial Development Corporation (for short, "the Corporation") and some have been filed by the land owners, are directed against the judgments of the Punjab and Haryana High Court whereby market value of the land acquired for setting up an Industrial Model Township at Manesar has been enhanced and the Corporation has been directed to pay higher compensation to the land owners. While the Corporation is aggrieved by fixation of higher market value by the High Court and has prayed for reducing the same, the land owners have prayed for further enhancement of the compensation. C.A. No.6553/2009, C.A. No.6757/2009, C.A. No.6831/2009, C.A. No.6853/2009 and the appeals arising out of SLP(C) Nos. 16283-16284/2010 are directed against orders passed by High Court dismissing the Regular First Appeals of the land owners as barred by time. For the sake of convenient reference, the appeals have been divided into three groups. The first group comprises of the appeals preferred by the Corporation and the land owners against the judgments of the learned Single Judges by which market value of the acquired land has been fixed at Rs.15 lakhs per acre. The second group comprises of the appeals filed by the Corporation and the land owners against judgment dated 5.9.2008 of the learned Single Judge who fixed market value of the acquired land at Rs.12 lakhs per acre. The third group comprises of the appeals filed by the land owners against the High Court's refusal to condone the delay in filing of appeals under Section 54 of the Land Acquisition Act, 1894 (for short, "the Act").

**FACTS RELATING TO THE FIRST GROUP OF APPEALS:** By notification dated 15.11.1994 issued under Section 4 of the Act, the Government of Haryana proposed acquisition of 1490 acres 3 kanals and 17 marlas of land situated in villages Manesar, Naharpur Kasan, Khoh and Kasan of District Gurgaon for setting up an Industrial Model Township at Manesar. After getting an enquiry conducted under Section 5A of the Act, the State Government issued notification dated 10.11.1995 under Section 6 of the Act in respect of land measuring 1490 acres 2 kanals and 16 marlas. By an award dated 3.4.1997, the Land Acquisition Collector fixed market value of the acquired land as Rs.4,13,600/- per acre and accordingly determined the amount of compensation payable to the land owners. Feeling dissatisfied with the award of the Land Acquisition Collector, the land owners filed applications under Section 18 of the Act. Thereupon, the Collector referred the matter to the concerned court. In support of their claim for award of enhanced compensation, the land owners produced sale instances Exhibits P1 to P13, a copy of Massavi Chakbandi of village Khoh as Exhibit P14 and Aks-shajras of the four villages as Exhibits P15 to P18. On behalf of the State Government, Shri Arun Kumar Pandey, Manager of the Corporation was examined as R.W.1. In addition, documentary evidence in the form of sale deeds Exhibits R1 to R15, site plan Exhibit RX and award Exhibit RY passed by the Reference

Court in earlier references arising out of the same award were produced. By separate but similar orders, the Reference Court fixed market value of the acquired land by dividing the same into two blocks. Block 'A' was carved out for the land falling within 500 yards of the National Highway No.8 and market value thereof was fixed at Rs. 6,89,333/-. The remaining land was included in Block 'B', but market value thereof was not increased. The land owners challenged the orders of the Reference Court by filing appeals under Section 54 of the Act. By the impugned judgments, the High Court fixed market value of the acquired land at Rs.15 lakhs per acre and held that the land owners are entitled to compensation on that basis along with all statutory benefits. **FACTS RELATING TO THE SECOND GROUP OF APPEALS:** By notification dated 30.4.1994 issued under Section 4 of the Act, the Government of Haryana proposed acquisition of 256 Acres 3 Kanals and 17 Marlas land situated in village Manesar for setting up an Industrial Model Township, Manesar. Declaration under Section 6 was published on 30.3.1995. The Land Acquisition Collector passed award dated 28.3.1997 and fixed market value of the acquired land at Rs.3,67,400/- per acre. On a reference made at the instance of the land owners, the Reference Court passed order dated 18.8.2004 whereby it divided the acquired land into two classes i.e., A and B. For the land falling in Class-A, i.e., land situated 500 yards from National Highway No.8, the Reference Court enhanced the compensation by fixing market value at the rate of Rs.6,51,994.13 per acre and for the remaining land categorized as Class-B, market value was fixed at Rs.3,91,196.97 per acre. The land owners challenged the order of the Reference Court by filing appeals under Section 54 of the Act, which were disposed of by the learned Single Judge by common judgment dated 5.9.2008. The learned Single Judge referred to judgment dated 19.5.2006 passed in R.F.A. No. 2699/2003 - Pran Sukh and others v. State of Haryana, but applied 20% cut and fixed market value of the acquired land at the rate of Rs.12 lakhs per acre. **FACTS RELATING TO THIRD GROUP OF APPEALS (CIVIL APPEAL NOS.6553, 6757, 6831, 6853 OF 2009 AND THE APPEALS ARISING OUT OF SLP(C) NOS.1&283-16284 OF 2009):** In these appeals, the land owners have prayed for setting aside the orders passed by the High Court refusing to condone the delay in filing of appeals under Section 54 of the Act and dismissed the appeals as barred by time. **Arguments:** Shri Amrendra Sharan, learned senior counsel and Shri Ravindra Bana, learned counsel appearing for the Corporation argued that the High Court committed serious error by fixing market value of the acquired land at Rs.15 lakhs per acre in one batch of appeals and Rs.12 lakhs in the other batch of appeals by relying upon the sale deed Exhibit P1 excluding other sale transactions, which were produced before the Reference Court. Learned counsel submitted that the value of 12 acres land which was sold by Exhibit P1 was wholly disproportionate to the prevailing market value and, therefore, the same could not be made basis for fixing market value of the acquired land measuring more than 1490 acres. Shri Amrendra Sharan emphasized that actual market value of the acquired land was not more than Rs.7 lakhs and the High Court committed serious error by discarding other sale transactions through which land similar parcels of land were sold for Rs.7 lakhs or less. Learned senior counsel submitted that if the High Court had given due weightage to other sale transactions, market value of the acquired land could not have been fixed at Rs.15 lakhs or even Rs.12 lakhs per acre. Shri Jawahar Lal Gupta, learned senior counsel and other learned counsel appearing for the land owners argued that the High Court did not commit any error by placing reliance on Exhibit P1 except to the extent of applying 1/4th cut qua the average sale price reflected in Exhibit P1. Shri Gupta submitted that when the huge chunk of land was being acquired for setting up an Industrial Model Township and the Corporation has sold the acquired land at much higher price, there could be no justification to deprive the land owners of their legitimate right to get full compensation without any cut. Learned counsel representing the land owners who are appellants in the appeals preferred against the judgment of the learned Single Judge fixing market value of the acquired land at the rate of Rs.12 lakhs per acre argued that there is no valid basis or justification for applying 20% cut qua the market value fixed by the learned Single Judge in other batch of appeals. They submitted that if market value of the land acquired by notification dated 15.11.1994 is further enhanced then similar benefit may be extended to their clients. We have considered the respective submissions. While deciding RFA No.2699 of 2003 and batch of other appeals, the learned Single Judge heavily relied upon sale deed

Exhibit P1 which relates to 12 acres of land situated at village Naharpur Kasan and is adjacent to the acquired land. The sale deed was executed between two corporate entities namely M/s. Heritage Furniture Private Limited and M/s. Dura Cell India Private Limited and was proved by Albel Singh, who was authorised signatory of M/s. Heritage Furniture Pvt. Ltd. The learned Single Judge noted that even though the sale deed Exhibit P1 was actually executed on 16.9.1994, the same was preceded by an agreement dated 31.5.1994 and the entire sale consideration was paid by bank drafts. The learned Single Judge then referred to site plan Exhibit P5, which was produced by the land owners and observed: ".....The aforesaid site plan shows that the land covered under the sale deed Ex.P1 is lying very near, almost adjacent to the acquired land of the four villages. It is also relevant to notice here that the acquired land abuts Gurgaon-Jaipur road i.e. National Highway No.8. It has also come into evidence that the land covered by the sale deed Ex. P1 was only 12 kilometres from District Courts, Gurgaon and was just 300 yards away from National Highway No.8. Therefore, in my considered view, it would be just, fair and appropriate to adopt Ex.P1 as the basis for assessing the market value of the present acquired land. I also notice, on perusal of the site plan Ex.P5, that the land covered under the sale deed Ex.P1, is only 300 yards away from National Highway No.8 whereas the entire acquired land is little further away. . . . ." The learned Single Judge also referred to other sale transactions in which value of the land was shown as Rs.7 lakhs per acre or less but discarded the same by observing that the possibility of undervaluing the same with a view to save stamp duty and registration charges cannot be ruled out. This is clearly borne out from the following portion of the judgment of R.F.A. No.2699 of 2003 and batch of appeals: ". . . . .Although the other sale instances Ex.P2, P3, P7 and P8 reflect the market price of Rs.7 lacs per acre but it is also apparent that the aforesaid transactions pertain to small piece of land and are between private persons. In these circumstances, the possibility of the aforesaid sale deeds being undervalued, with a view to save stamp duty and registration charges, can also not be ruled out. However, there is no justification to prefer the aforesaid sale deeds Ex.P2, P3, P7, and P8 over and above the sale deed Ex.P1 which is a transaction between the two cooperate bodies and wherein the entire sale consideration had been paid through bank drafts....." The learned Single Judge did not approve division of the land in two blocks by observing that when huge chunk of land was acquired for setting up an industrial model township, there could be no valid ground to divide the land in different blocks or classes. In our view, the learned Single Judge did not commit any error by relying upon sale transaction Exhibit P1 for the purpose of fixing market value of the acquired land. Undisputedly, that sale transaction was between two corporate entities and the entire sale price was paid through bank drafts. It is also not in dispute that the land which was subject matter of Exhibit P1 is situated at village Naharpur Kasan and is adjacent to the acquired land. The Corporation and the State Government did not adduce any evidence that to prove the land sold vide any Exhibit P1 was over valued with an oblique motive of helping the land owners to claim higher compensation. Therefore, we do not find any justification to discard or ignore sale deed Exhibit P1. The refusal of the learned Single Judge to rely upon other transactions in which sale price of the land was shown as Rs.7 lakhs per acre also does not, suffer from any legal infirmity because it is well-known that transactions involving transfer of properties are usually undervalued with a view to avoid payment of the requisite stamp duty and registration charges. However, we agree with the learned counsel for the land owners that the High Court should not have imposed cut of 1/4th in one batch of appeals and 20% cut in the other batch of appeals qua the average sale price reflected by Exhibit P1 only on the ground that the area of the land acquired by the State Government was too large as compared to 12 acres land for which sale deed Exhibit P1 was executed. In a matter like the present one, it cannot be ignored that the land was acquired for setting up an Industrial Model Township at Manesar and after developing the land, the Corporation was bound to sell the plots at much higher, price to the existing or prospective industrial entrepreneurs. In this scenario, the learned Single Judges committed an error by applying 1/4th or 20% cut on market value determined for the purpose of payment of compensation to the land owners. This approach is in consonance with the law laid down in *Shubh Ram v. State of Haryana* (2010) 1 SCC 444, the relevant portions of which are extracted below: "16. Therefore, when deduction is made from the value of a

small residential plot towards the development cost, to arrive at the value of a large tract of agricultural or undeveloped land with development potential, the deduction has nothing to do with the purpose for which the land is acquired. The deduction is with reference to the price of the small residential plot, to work back the value of the large tract of undeveloped, land. On the other hand, where the value of acquired agricultural land is determined with reference to the same price of a neighbouring agricultural land, no deduction need be made towards "development cost". 17. It is no doubt true that this Court in some decisions has observed that purpose of acquisition will also be relevant. But it is made in a different context. The Land Acquisition Collectors in some cases adopt belting methods for valuation of land, with reference to a focal point, that is, either with reference to the distance from the main road, or distance from a developed area. Lands that adjoin a developed area or a main road are given a higher value than a land farther away from the road or the developed area. The Land Acquisition Collectors also award different compensation depending upon whether the acquired land is a dry land or wet/irrigated land. 18. When different categories of lands (or lands with different situational advantages) are acquired for the same purpose, say for forming of a residential layout, courts have sometimes felt that determination of their value with reference to previous status or situation should be avoided and a uniform rate of compensation should be awarded for all lands acquired under the same notification." For the reasons stated above, the appeals filed by the Corporation are dismissed and those filed by the land owners are allowed with the direction that the Corporation shall pay market value of the entire acquired land at the rate of Rs.20 lakhs per acre with all statutory benefits. Civil Appeal Nos.6553, 6757, 6831 and 6853 of 2009 as also the Civil Appeals arising out of SLP(C) Nos.16283-16284 of 2010 are allowed. The orders passed by the High Court refusing to condone the delay in filing of the first appeals by the appellants under Section 54 of the Act are condoned and the appeals are disposed of on merits by directing that the appellants shall be entitled to compensation at the rate of Rs.20 lakhs per acre with other statutory benefits. Since this Court had stayed execution of the award subject to the condition of deposit of compensation amount at the rate of Rs.10 lakhs per acre and we are informed that in compliance of the interim orders, the Corporation had deposited the compensation amount at the rate of Rs.10 lakhs per acre, we direct it to deposit the balance amount with the Land Acquisition Collector by 31.1.2011 in the form of cheques drawn in the name of land owners and/or their legal representatives. With a view to ensure that the land owners are not fleeced by the middleman, we deem it proper to issue following further directions: (i) The Land Acquisition Collector shall depute officers subordinate to him not below the rank of Naib Tehsildar, who shall get in touch with all the land owners and/or their legal representatives and inform them about their entitlement and right to receive enhanced compensation. (ii) The concerned officers shall also instruct the land owners and/or their legal representatives to open savings bank account in case they already do not have such account. (iii) The bank account numbers of the land owners should be given to the Land Acquisition Collector within three months. (iv) The Land Acquisition Collector shall deposit the cheques of compensation in the bank accounts of the land owners. As a sequel to disposal of the appeals, all interlocutory applications shall stand disposed of.