

**SUPREME COURT OF INDIA**

Pehlad Ram & Ors.

Vs.

Haryana Urban Development Authority

C.A.No.10438 of 2013

(B.S.Chauhan and S.A.Bobde, JJ.)

18.11.2013

**ORDER**

**B.S. Chauhan, J.**

1. Leave granted.

2. This appeal has been preferred against the impugned judgment and order dated 28.9.2012 passed by the High Court of Punjab and Haryana at Chandigarh in Civil Revision No. 1631 of 2011 (O & M) allowing the revision filed by the respondents.

3. Facts and circumstances giving rise to this appeal are that:

A. The appellants claim to have purchased a plot in Khasra No. 159/3 situate in revenue estate of Village Lohar, Tehsil & District Bhiwani (Haryana) on 20.3.1972 from its registered owner Ugar Ram but the mutation of the same had not been made in favour of the appellants.

B. A large area of land including the land in dispute was notified under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act') which was published in the Official Gazette on 19.6.1973.

C. The appellants along with others filed claim petition. The Land Acquisition

Collector assessed the market value of the land at the rate of Rs.24/- per Marla vide award dated 20.3.1975.

D. On the basis of the other judgments and assessment orders, the value of the land of the appellants had been determined by the Reference Court as well as by the High Court, taking in view the provisions of Section 28-A of the Act, at the rate of Rs. 9 per Square Yard.

4. The appellants preferred an appeal before this Court and when the matter was heard by this Court on 28.10.2013, the Court after hearing learned counsel for the appellants, as well for the State, issued show cause notice to the appellants, why the amount of compensation awarded to the appellants be not reduced. The relevant part of the said order dated 28.10.2013 reads as under: "Issue show cause notice to the petitioners why this Court should not reduce the amount of compensation awarded by the Reference Court in view of the judgment of this Court in *The Dollar Company vs. Collector of Madras*<sup>1</sup>, which clearly stipulates that in case the land acquisition proceedings stood initiated in close proximity of purchase, then the consideration paid by the purchaser is the best evidence of land's valuation. In the instant case, the petitioners have purchased the land on 20.3.1972 and stood notified under Section 4 of the Land Acquisition Act, 1894 on 19.6.1973 i.e. after 15 months of purchase. The petitioners have not disclosed anywhere what was the amount of consideration they have paid for the said land as on 20.3.1972. Therefore, everything had been decided on extraneous consideration by all the courts till now. In view thereof, petitioners are directed to show cause why this Court should not re-determine the whole amount of compensation as required under the aforesaid judgment of this Court..."

5. In response thereto, the appellants submitted a reply to the said show cause notice dated 28.10.2013 and tried to persuade the Court that the amount of compensation should not be reduced. However, Shri Sukhdev Sharma, learned counsel for the appellants, has fairly conceded that in view of judgment of this Court in *The Dollar Company* (Supra), the award amount has to be reduced.

6. It is further submitted by the learned counsel for the appellants that this Court may award the compensation taking note of annual increase in the market value of the land at the rate of 15 per cent. Such a view taken by the learned counsel for the appellants stands fully justified in terms of the judgments as referred herein below.

7. In *Hindustan Oil Mills Ltd. vs. Special Deputy Collector (Land Acquisition)*<sup>2</sup>, this Court held that generally the value of the land doubles in five years and opined that increase of 20% per year is a normal formula.

8. In *State of Haryana v. Gurbax Singh & Anr* <sup>3</sup>, this Court approved the principle adopted by the High Court while assessing the market value under Section 23 of the Act,

or giving marginal enhancement of compensation @12% per annum for two years since acquisition, comparing the value with the land notified under Section 4 of the Act, two years prior to the notification under Section 4 involved in the case.

9. In *The General Manager, ONGC Ltd. vs. Rameshbhai Jivanbhai Patel & Anr*<sup>4</sup>, this Court has applied the same formula giving cumulative rate of escalation @7.5% per annum, though found that cumulative increase of 10 to 15% was permissible.

10. Similarly, in *Sardar Jogender Singh vs. State of U.P*<sup>5</sup>, the same principle had been applied by this Court giving 10% increment per year. Thus, total increase in ten years to the tune of 100% was found justified.

11. In *Lal Chand vs. Union of India*<sup>6</sup>, a similar formula had been applied, however, as the previous sale or acquisition was not available for last 20 years, this Court did not approve the formula giving annual increment for 20 years continuously.

12. In *Satish & Ors. vs. State of U.P. & Ors*<sup>7</sup>, the same principle was followed adopting the formula of 10% increase per year.

13. This Court in *The Dollar Company* (Supra) has categorically laid down that in case the land of the claimant has been acquired in close vicinity of the purchase, the consideration paid by such claimant to the vendor is the best evidence of the market value of the land. The court should not award more unless it is possible to reach a different conclusion. Even the appellate court should not interfere in such a fact situation unless the judgment is based on wrong application of principle or because some important point affecting valuation has been overlooked or misapplied. The consideration paid by the owner only a few months ago presents bonafide evidence of value subject to certain exceptions such as relationship of the parties, market conditions and terms of sale and the date of sale.

14. We are also of the view that in case a purchaser has not shown the exact amount of consideration paid by him in the sale deed to save the stamp duty under the Registration Act, 1908, such dishonest vendee is not required to be protected by the court.

15. It is also evident from the law referred to hereinabove that a cumulative increase of 10 to 15 per cent per year in the market value of the land may be accepted unless the State agencies or acquiring authority prove otherwise.

16. In view of above, the award as modified to the extent that the appellants would be entitled to a sum of Rs. 5.90/- per Sq.Yd. or it may be taken as Rs. 6.00/- per Sq.Yd., as the property had been acquired only after 15 months from the date of purchase. The

appeal is disposed of accordingly.

*Judgment referred*

<sup>1</sup>*AIR 1975 SC 1670*

<sup>2</sup>*AIR 1990 SC 0731*

<sup>3</sup>*2008 (11) SCC 0065*

<sup>4</sup>*2008 (14) SCC 0745*

<sup>5</sup>*2008 (17) SCC 0133*

<sup>6</sup>*2009 (15) SCC 0769*

<sup>7</sup>*2009 (14) SCC 0758*