

SUPREME COURT OF INDIA

Om Parkash & Ors.

Vs.

State of Haryana

C.A.No.1071-1073 of 2012

(Kurian Joseph and R.F.Nariman,JJ.)

17.02.2016

JUDGMENT

Kurian Joseph,J.

1. Delay in filing the application for substitution is condoned and the application for substitution is allowed in Civil Appeal Nos. 4261-4262 of 2012.

2. An extent of 233.09 acres of land situated in the Revenue Estate of Village Devi Nagar, Sub-Division Kalka, District Ambala was acquired for the development and utilization of the land as recreational and commercial for Sector 3, Urban Estate, Panchkula.

3. Section 4(1) Notification was issued on 31.03.1987. By an Award dated 13.03.1997, the Reference Court fixed the land value at the rate of Rs. 31 per sq. yard, which has been affirmed by the High Court and thus, aggrieved by the impugned Judgment and order of the High Court, the appellants are before this Court.

4. The appellants have mainly placed reliance on a Judgment of the Punjab and Haryana High Court in *Prakash Rani & Ors. Vs. State of Haryana & Ors*¹. in RFA No. 41 of 1997 in LAC No. 38 of 1993, decided on 29.10.2009. The said land is in village Kharak Mangoli and Majri, Tehsil Kalka. The High Court confirmed the land value fixed by the Reference Court at the rate of Rs. 250 per sq. yard. In that, the Section 4(1) Notification dated 02.07.1985 was almost two years prior to that of the appellants. That value at the rate of Rs. 250 per sq. yard has been confirmed by this Court in *Prakash Rani's* case in Civil Appeal No. 5134 of 2012 decided on 10.07.2012. According to the appellants, though they are entitled to claim escalation of two years on the value fixed in *Prakash Rani's* case, in having not taken such a ground before the High Court, they have limited their claim at the rate of Rs.250 per sq. yard.

5. The learned counsel appearing for the State contends that there was no evidence before the Reference Court that the land of the appellants situated in Village Devi Nagar are adjoining to the land of *Prakash Rani* in Village Kharak Mangoli and the lands have the same potential

value. Our special attention has been invited to the following observations made by the High Court in the impugned Judgment :-

"However, there is no connecting evidence to demonstrate that the acquired land as well as the land under acquisition in Parkash Rani's case (supra), has the similar potential value. Even the location of the land under reference and the land in Parkash Rani's case could not be identified. There is no site plan/map of the area to demonstrate that lands in both the cases are having the same potential value. A perusal of the judgment in Parkash Rani's case (supra) would show that the land under acquisition of village Kharag Mangoli and Majri was just opposite a fully developed Sector 1, Panchkula which was just opposite the acquired land and in fact the whole of the area was already a business center whereas the land in question is admittedly on the banks of Ghaggar river and on the other side some jhuggis are in existence."

6. The learned counsel for the appellants has drawn our attention to the Award passed by the Collector in their case which is produced as Annexure P1. On a discussion on market value, the Collector has observed as follows :-

"The location of the land under acquisition is like this. On the southern side is Sector-21, Panchkula. In the Northern side is the land of village Majri and Kharag Mangoli which is already acquired. On the Western side, across the National Highway No. 22 are Sector 2 and 4 and on the Eastern side is river Ghaggar. In order to determine the value of the land the date of notification u/s 4 which is material date is to be kept in view. This date is 31.8.1987. The District Collector, Deputy Commissioner, Ambala was requested to supply Collector rate as required under Para 12 of Financial Commissioner's Standing Order No. 28. The Collector rates supplied by the Deputy Commissioner, Ambala vide his Memo No. LA[153]/87/DRA/881 dated 21.3.1989 are Rs. 1 lac per acre for the entire area to be acquired.. The land under acquisition is very advantageously situated and has a great potential value as on the entire length of it on the Western side it is abutting the national highway No. 22 [Ambala-Kalka] and across this road are fully developed sectors 2 and 4 of the prestigious Urban Estate of Panchkula. On the northern and Southern sides of this land, the lands of village Majri/Kharag Mangoli and village Maheshpur [Sector 21] have already been acquired for residential and commercial purposes for the Urban Estate, Panchkula. On the Eastern side flows River Ghaggar and beyond that Shivalik and Morni hills present a very beautiful panoramic view."

7. Therefore, the Land Acquisition Collector himself having found that the acquired land has much potential and that the same is adjoining the village Kharak Mangoli, we fail to understand how the High Court could observe that there was no evidence available regarding the similarity or potentiality.

8. The map for the acquired land would also show that the land had access not only to the National Highway No. 22, but also to National Highway No. 73.

9. In that view of the matter, we do not find any justification at all in not granting the same land value as has been given to the land owners covered in Prakash Rani's case and other adjoining lands.

10. Not only that, it is seen from the records that except the case of the appellants, all others in village Kharak Mangoli, Kharak Majri, Village Nadian, Village Fatehpur etc. have been granted Rs. 250 per sq. yard and more. In the case of acquisition of village Kharak Mangoli and Kharak Majri, the Notification, as a matter of fact, is of the year 1985, whereas in the case of the appellants, it is of the year 1987.

11. Therefore, we allow these appeals. The appellants shall be entitled to their land value fixed at the rate of Rs. 250 per sq. yard along with all statutory benefits. The amount due to the appellants shall be computed on that basis and deposited by the respondent-State before the Executing Court within a period of four months from today.

No costs.