

# SUPREME COURT OF INDIA

Balwant Singh

Vs.

State of Haryana

C.A.No.2736 of 2019

(L.Nageshwara Rao and M.R.Shah,JJ.,)

11.03.2019

## JUDGMENT

**L. Nageswara Rao,J.,**

SLP(Civil) No.15098 of 2016

1. Leave granted.

2. These Appeals pertain to the compensation payable for the land acquired under the Notifications issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") for the land situated in Villages Ajronda, Taloribanger and Daulatabad, Tehsil and District Faridabad, State of Haryana.

3. A Notification was issued on 7th April, 1986 under Section 4 of the Act for acquisition of 6.97 acres of land situated in Village Ajronda for the purpose of development and utilization as green belt. The market value of the acquired land was determined as Rs.3,38,800/- per acre by the Collector's award dated 30th March, 1989. The Reference Court determined the market value for the land acquired at Rs.435 per square yard. Another Notification was issued under Section 4 of the Act on 5<sup>th</sup> June, 1992 for acquisition of 7.81 acres of land in Village Ajronda for development and utilization of the same for educational, medical, defence and administrative purposes in Sector 20-B, Faridabad. The Collector passed an award on 2nd June, 1995 determining the market value at Rs.4,50,000/- per acre. The Reference Court assessed the market value of the land at Rs.392.50/- per square yard. The two Notifications were issued on 3rd July, 1995 for acquisition of 98.66, 103.34 and 183.34 acres totaling to 385.34 acres in Village Ajronda, 6.88 acres in Village Taloribanger and 29.58 acres in Village Daulatabad for commercial, institutional, recreational and residential purposes in Sectors 20-A and 20-B, Faridabad. The Collector arrived at the market value of Rs.5,85,000/- per acre vide an award dated 29th June, 1998. In the reference under Section 18 of the Act, the Court fixed the market value at Rs.400 per square yard for some cases. In a few other cases, the market value was determined as Rs.480/- per square yard.

4. Not satisfied with the compensation awarded by the Reference Court, the Claimants filed appeals before the High Court of Punjab and Haryana at Chandigarh. By a judgment dated 6th October, 2010, the High Court finalized the compensation payable to the landowners/Claimants at Rs.435/- per square yard for the land acquired under the Notification dated 7th April, 1986, Rs.566/- per square yard for the land acquired under the Notification dated 5th June, 1992 and Rs.795/- per square yard for the land acquired under the Notifications dated 3rd July, 1995. Though the High Court referred to the location of the land and the future potential of the land being suitable for commercial and industrial purposes, it relied upon on its earlier judgment in State of Haryana v. Escort Dealers Development Association Limited for arriving at the market value. The judgment in Escort's case (supra) is in respect of land in Village Mewla Maharajpur which was acquired for construction of a link road from Delhi- Mathura Road to Sector-46 of the Faridabad-Ballabgarh Controlled Area. The market value was assessed at Rs.337.20/- per square yard in Escort's case (supra). Taking into account the locational advantage of the land involved in the acquisition under the Notifications dated 7th April, 1986, 5th June, 1992 and 3rd July, 1995, the High Court added fifty per cent to Rs.337.20/- awarded to the Claimants in Escort's case (supra) and applied a 15% cut from 1987 to 1986. Thereby, a compensation of Rs.435/- per square yard was fixed for the land acquired under the Notification dated 7<sup>th</sup> April, 1996. In respect of land acquired under the Notification dated 5th June, 1992, the High Court granted 30 per cent increase for the time gap between 1986-1992 and arrived at a compensation of Rs.566/- per square yard. Regarding the compensation payable to the Claimants for acquisition of the land under Notifications dated 3rd July, 1995, the High Court finalized the market value at Rs.795/- per square yard by granting an increase of 12 per cent per annum, on a cumulative basis, on the compensation payable for the land under the Notification dated 5th June, 1992.

5. The Appeals filed by the Claimants and the State against the judgment of the High Court were allowed by this Court and the matters were remitted back for fresh consideration. Finding fault with the judgment of the High Court in determining the compensation only on the basis of Escort's case (supra), this Court requested the High Court to consider the sale instances and the other documentary evidence that may be placed on record by the parties for determination of the market value.

6. On a re-consideration of the matter as requested by this Court, the High Court came to the conclusion that the compensation which was assessed earlier by the High Court does not require any alteration. The High Court referred to Exhibit-P6 dated 31st January, 1984 pertaining to the sale of 194.14 square meters (232 square yards) which was sold at a total price of Rs.10,00,000/- i.e. Rs.4306/- per square yard. The sale transaction is in respect of a plot in an auction. As per the conditions of the auction, only 10 per cent was to be paid at the time of the auction and the balance was payable in instalments. No site plan of the location of the said land was filed. This was the only transaction which pertained to a period prior to the Notification dated 7th April, 1986. The High Court considered Exhibit-P7 which related to the sale of an industrial plot measuring 11,000 square yards at an average price of Rs.1,145/- per square yard. The transaction took place twelve years after the Notification dated 7th April, 1986. The High Court also considered exhibits P-8 and P-9 relating to allotment letters of 14th November, 1994 for a small plot measuring 21 square

yards in Sector 15-A, Faridabad at the rate of Rs.1,666/- per square yard and 8th January, 1992 for a shop measuring 40 square yards in Sector 15-A, Faridabad at the rate of Rs.875/- per square yard respectively. The High Court referred to a judgment of this Court in *Ashrafi & Others v. State of Haryana* in which Rs.325 per square yard was determined as the market value for the land situated in Sector 45, Faridabad which was acquired by a Notification dated 2nd August, 1989. Considering the locational advantage and potentiality of the land acquired under the Notifications in the present Appeals, the High Court was of the opinion that Rs.435/- per square yard which was determined for the land acquired under the Notification dated 7th April, 1986 does not need any alteration. The High Court has taken into account the allotment letters Exhibits P-12 to P-14, by which small booths were sold by way of open auction in Sectors 15-A and 16-A, Faridabad and it was of the opinion that the variation of prices in these allotments made in 1989 made the said transactions unreliable for determining the market value. That apart, the High Court felt that the sales of small plots are not comparable transactions. In the absence of any other material on record, the High Court was of the opinion that granting increase on an yearly basis for the time gap from 1986 to 1992 was the only way in arriving at a fair and just compensation to be paid for acquisition of the land under the Notification dated 5th June, 1992. The High Court, on the said finding, reiterated the market value for the land acquired under the Notification dated 5th June, 1992 at Rs.566/- per square yard. By adding 12 per cent increase for three years from 1992 to 1995, the High Court reaffirmed the compensation to be paid to the Claimants for the land acquired under the Notifications dated 3rd July, 1995 at Rs.795/- per square yard.

7. The Claimants as well as the State are before us, aggrieved by the impugned judgment of the High Court. Submissions made on behalf of the Claimants are that the potentiality of the land for future use was not given proper weight by the High Court, that the comparable sale transactions were not taken into account, and that the cumulative increase method was not properly applied in respect of these Notifications. According to the learned counsel for the State of Haryana, the High Court failed to take into account the documents produced on behalf of the State which showed that comparable sales were made at a lesser price. It was contended on behalf of the learned counsel for the State that the market value arrived at by the High Court was on a higher side.

8. A perusal of the impugned judgment does not show that there were any documents which were filed by the State in addition to those that were already on record. There is no reference to any serious effort made by the State to question the market value which was fixed by the Court earlier. Taking into account the location of the land and its potentiality on the dates of the Notifications and the other material on record, we do not find any reason to entertain the Appeal filed by the State for reduction of the compensation determined by the High Court.

9. We are in agreement with the judgment of the High Court that the comparable sale transactions of small extents of land which were brought on record by the Claimants are not a proper indicia for determining the market value. The High Court was also right in not taking into account the transactions pertaining to auction of small booths. Considering the locational advantage of the land in issue and the market value that was fixed by the

judgment in Escort's (supra) and Ashrafi's case (supra), we are in agreement with the High Court that Rs.435/- per square yard is a just and reasonable compensation for land acquired by the Notification dated 7th April, 1986. It is relevant to refer to the judgment in Escort's case (supra) by which the High Court determined the compensation for 3.59 acres of land situated in Village Mewla Maharajpur acquired pursuant to a Notification under Section 4 of the Act on 30th July, 1987. By placing reliance on documentary evidence, the Reference Court awarded a compensation of Rs.255.49/- per square yard. The High Court taking note of the rise in price of the land enhanced the compensation with an increase of 12 per cent per annum for a period of 32 months between the date of the sale transactions relied upon by the landowners till the Notification dated 30th July, 1987. On that basis, the High Court in Escort's case (supra) held that the Claimants were entitled to a compensation of Rs.337.20/- per square yard. A Notification issued under Section 4 of the Act on 2nd August, 1989 for acquisition of 184.66 acres of land Village Mewla Maharajpur, Faridabad was, inter alia, subject matter of the judgment in Ashrafi's case (supra). The High Court determined compensation of Rs. 220/- per square yard in respect of land situated in the said Village Mewla Maharajpur. This Court enhanced the compensation to Rs.325/- per square yard. It is clear from the record that the land situated in Village Mewla Maharajpur, District Faridabad is not far away from Ajrona where the land covered by the Notifications which are the subject matter of the present Appeals is situated. Moreover, the evidence on record shows that the land in issue has better potential in comparison to the land situated in Village Mewla Maharajpur. Accordingly, in respect of the Notification dated 5th June, 1992, we are of the opinion that the increase at the rate of five per cent per annum granted by the High Court for the period between 1986 to 1992 needs to be enhanced to 12 per cent per annum. It was observed in *ONGC Limited v. Rameshbhai Jivanbhai Patel*<sup>1</sup> as follows:

"13. Primarily, the increase in land prices depends on four factors: situation of the land, nature of development in surrounding area, availability of land for development in the area, and the demand for land in the area. In rural areas, unless there is any prospect of development in the vicinity, increase in prices would be slow, steady and gradual, without any sudden spurts or jumps. On the other hand, in urban or semi-urban areas, where the development is faster, where the demand for land is high and where there is construction activity all around, the escalation in market price is at a much higher rate, as compared to rural areas. In some pockets in big cities, due to rapid development and high demand for land, the escalations in prices have touched even 30% to 50% or more per year, during the nineties."

9. The land acquired under these Notifications is in Sectors 20-A and 20-B, Faridabad. There was a steep increase in the price of land in the 1990s. The material on record suggests that the Secretariat and several other commercial complexes came up just opposite the land acquired during the period. On the basis of the above factors, we are of the opinion that 12 per cent per annum cumulative increase on Rs.435/- per square yard can be granted for the land acquired under the Notification dated 5th June, 1992. In respect of the land acquired under the Notifications dated 3rd July, 1995, the Claimants would be entitled for compensation by taking into account a cumulative increase of 12 per cent per annum on Rs.435/- per square yard from the year 1986 to the year 1995. Though this Court

in ONGC's case (supra) sounded a note of caution in the adoption of annual increase method to be applied only for a few years, this Court after taking into account the facts and circumstances of the case, applied the cumulative increase for eight years in *Wazir v. State of Haryana*<sup>2</sup> and nine years in Ashrafi's case (supra). On an overall appreciation of facts and the material on record, we are of the view that the cumulative increase at the rate of 12% per annum from 1986 to 1995 is just and reasonable.

10. Accordingly, the judgment of the High Court is modified and the Claimants of the land acquired under the Notification dated 7th April, 1986 shall be entitled to compensation at the rate of Rs.435/- per square yard. Compensation at the rate of Rs. 860/- and Rs.1210/- per square yard is payable for land acquired under the Notifications dated 5th June, 1992 and 3rd July, 1995 respectively. The land owners shall be entitled to all other statutory benefits under the Act. Pending application(s), if any, is also disposed.

Judgment Referred.

<sup>1</sup>(1993) 105 (3) PLR 466 – Regular Appeal No. 253 of 1992 decided on 26th November, 1993.

<sup>2</sup>(2013) 5 SCC 0527