

A MEHRAWAL KHEWAJI TRUST (REGD.), FARIDKOT & ORS.

v.

STATE OF PUNJAB & ORS.
(Civil Appeal No. 4005 of 2012)

B APRIL 27, 2012

[P. SATHASIVAM AND J. CHELAMESWAR, JJ.]

C *Land Acquisition Act, 1894:*

D *Compensation – Interest on solatium and additional market value – Sale exemplars – Annual increase – Deduction – Held: When there are several exemplars with reference to similar lands, it is the general rule that the highest of the exemplars, if it is satisfied that it is a bona fide transaction, has to be considered and accepted – It is not desirable to take an average of various sale deeds placed before the authority/court for fixing fair compensation – Sale exemplar being of 2½ years prior to s.4 Notification in the instant case, annual increase is fixed at 12% - However, the exemplar being of a smaller plot, a 20% deduction will be allowed from the market value – Compensation awarded accordingly – Claimant shall also be entitled to other statutory benefits including interest on solatium and additional market value.*

E *The subject land admeasuring 33 acres, was acquired in terms of Notification dated 22.12.1979 u/s 4 of the Land Acquisition Act, 1894 (the Act). Dissatisfied by the award dated 27.10.1982, passed by the Collector,*

F *the appellants filed an application for reference u/s 18 of the Act. The reference court enhanced the compensation to Rs.1,00,000/- per acre. The High Court declined to interfere.*

In the instant appeals, the appellants claimed compensation in terms of higher exemplar, namely, Ext. A-61, instead of averaging the prices, and interest on solatium. A

Allowing the appeal, the Court B

HELD: 1.1 The reference court failed to take note of the highest exemplar, namely, the sale transaction under Ext. A-61 dated 22.07.1977. When the land is being compulsorily taken away from a person, he is entitled to the highest value which similar land in the locality is shown to have fetched in a *bona fide* transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition. When there are several exemplars with reference to similar lands, it is the general rule that the highest of the exemplars, if it is satisfied that it is a *bona fide* transaction, has to be considered and accepted. It is not desirable to take an average of various sale deeds placed before the authority/court for fixing fair compensation. Therefore, the market value as per Ext.A-61 dated 22.07.1977 was Rs. 1,39,130.43 per acre (approx. Rs.1.40 lakhs per acre). The said sale deed was two and a half years prior in time than s. 4(1) notification dated 22.12.1979. There is no reason to eschew the above sale transaction. It is also pointed out that the lands covered under Ext.A-61 are nearer to the lands of the appellants under acquisition. [para 12 and 15] [32-C-D] C D E F

Sri Rani M. Vijayalakshmamma Rao Bahadur, Ranee of Vuyyur vs. Collector of Madras, (1969) 1 MLJ 45 (SC); State of Punjab and Another vs. Hansraj (Dead) by LRS. Sohan Singh and Others, (1994) 5 SCC 734; Anjani Molu Dessai vs. State of Goa and Another 2010 (14) SCR 997 = (2010) 13 SCC 710 – relied on. G

1.2 This Court has time and again granted 10% to 15% increase per annum. The annual increase is fixed at H

A 12% per annum and with that rate of increase, the market value of the appellants' land would come to Rs.1,82,000 per acre as on the date of notification. [para 16] [32-G; 33-C]

B *Ranjit Singh vs. Union Territory of Chandigarh (1992) 3 SCC 659; Delhi Development Authority vs. Bali Ram Sharma & Ors. (2004) 6 SCC 533; ONGC Ltd. vs. Rameshbhai Jivanbhai Patel 2008 (11) SCR 927 = (2008) 14 SCC 745; Union of India vs. Harpat Singh & Ors. (2009) 14 SCC 375 – relied on*

C 1.3 The exemplar Ext.A-61 dated 22.07.1977 is quite reasonable and acceptable. However, considering the fact that the area of land under Ext. A-61 dated 22.07.1977 is a smaller one, it is but proper that appropriate deduction should be made for the same. Thus, the market value for the acquired land is fixed at Rs.1,82,000/- minus Rs.36,400/- (towards 20% deduction) equivalent to Rs.1,45,600/- rounded at Rs.1,45,000/- per acre which is quite fair, reasonable and acceptable. [para 17] [33-F, H; 34-A]

F *Trishala Jain & Anr. vs. State of Uttaranchal & Anr., 2011 (8) SCR 520 =2011 (6) SCC 47; State of Madhya Pradesh & Ors. vs. Kashiram (dead) by L.Rs. & Ors., 2010 (14) SCC 506 and Prabhakar Raghunath Patil & Ors. vs. State of Maharashtra, 2010 (13) SCR 586 = 2010 (13) SCC 107 – relied on.*

G 2. The claimant is also entitled to get interest on solatium and additional market value. [para 18] [34-B]

H *Sunder vs. Union of India, (2001) 7 SCC 211; Gurpreet Singh vs. Union of India, (2006) 8 SCC 457 – followed.*

State of Haryana vs. Kailashwati, AIR 1980 P&H 117 – referred to.

Case Law Reference:			A
(1969) 1 MLJ 45 (SC)	relied on	para 12	
(1994) 5 SCC 734	relied on	para 12	
2010 (14) SCR 997	relied on	para 14	B
(1992) 3 SCC 659	relied on	para 16	
(2004) 6 SCC 533	relied on	para 16	
2008 (11) SCR 927	relied on	para 16	
(2009) 14 SCC 375	relied on	para 16	C
2011 (8) SCR 520	relied on	para 17	
2010 (14) SCC 506	relied on	para 17	
2010 (13) SCR 586	relied on	para 17	D
(2001) 7 SCC 211	followed	para 18	
(2006) 8 SCC 457	followed	para 18	
AIR 1980 P&H 117	referred to	para 18	E

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4005 of 2012.

From the Judgment & Order dated 06.01.2009 of the High Court of Punjab & Haryana at Chandigarh in R.F.A. No. 998 of 1988 (O & M). F

Dhruv Mehta, Bijoylalshmi, Raghav Pandey, Hema Shekhawat, Shobha for the Appellants.

T.S. Doabia, Vivek Goyal, AAG, Jagjit Singh Chhabra, Manindra Dubey, Ametesh Gaurav, Kuldip Singh for the Respondents. G

The Judgment of the Court was delivered by

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A **P. SATHASIVAM, J.** 1. Leave granted.

2. This appeal is directed against the final judgment and order dated 06.01.2009 passed by the High Court of Punjab and Haryana at Chandigarh in R.F.A. No. 998 of 1988 (O&M) along with seven other appeals by which the High Court declined to interfere with the order dated 11.02.1988 of the Additional District Judge, Faridkot in L.R. No. 20 of 1984.

B 3. Brief facts:

C (a) Colonel Sir Harindar Singh, since deceased, was the former ruler of the State of Faridkot. In 1979, 259 Kanals and 16 Marlas (33 acres) of land owned by him had been acquired by the Punjab Government for extension of existing Grain Market at Faridkot vide Notification No. 14(68)M-iv-78/17315 dated 22.12.1979 under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") which was published in the Punjab Government Gazette. Notification under Section 6 of the Act was issued on 19.02.1982. The award by the Collector was announced on 02.10.1982 and possession of the land was also taken on that day. The Collector awarded compensation at the rate of Rs.15,000/- per acre for Nehri land, Rs.10,000/- per acre for Barani land and Rs.25,000/- per acre for Banjar Kadim land and Ghair Mumkin land. The total compensation awarded including solatium at 15% was Rs.4,85,202.86/-.

D (b) Aggrieved by the award passed by the Collector, on 27.10.1982, the appellants filed an application for reference under Section 18 of the Act. The Additional District Judge, Faridkot, by order dated 11.02.1988 in L.R. No. 20 of 1984 disposed of the reference by enhancing the compensation to Rs.1,00,000/- per acre.

E (c) Against the aforesaid order, the appellants preferred R.F.A. No.998 of 1988 before the High Court. The High Court, by the impugned common order and judgment dated

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06.01.2009, declined to interfere with the order passed by the Additional District Judge and did not enhance the compensation as claimed by the appellants. A

(d) Aggrieved by the order passed by the High Court, the appellants have filed this appeal by way of special leave before this Court. B

4. Heard Mr. Dhruv Mehta, learned senior counsel for the appellants, Mr. Vivek Goyal, learned Additional Advocate General for the State of Punjab and Mr. T.S. Doabia, learned senior counsel for respondent No.2. C

5. The only point for consideration in this appeal is whether the appellants have made out a case for higher compensation as claimed. D

6. The materials placed before the Land Acquisition Collector and the Reference Court show that the land is of great potential value inasmuch as the same being strategically located at a commercial hub abutting main roads and surrounded by commercial building including that of Canal Colony, Godowns of Food Corporation of India, private and Government Residential Colonies, Red Cross Bhawan, Government Medical College, existing Grain Market and Godown of Warehousing Corporation. It was also pointed out that one pocket of the land known as "Tikoni" is having main roads on three sides. E F

7. In support of their claim for higher compensation, the appellants have relied upon various sale deeds in the reference under Section 18 of the Act. It was further seen that the Reference Court discarded all the sale instances related to area less than one kanal and proceeded to consider other sale instances. It was pointed out that the State of Punjab did not challenge the said criteria adopted by the Reference Court. By pointing out the same, it was argued on the side of the G

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A appellants that the exemplars for sale of one kanal or more are available to be relied upon.

8. The Reference Court has taken into consideration three sale exemplars which are Ext.A-48, Ext. A-52 and Ext.A-61. It is the grievance of the appellants that in the place of relying upon the highest exemplars, the Reference Court erroneously determined the market price of the appellants land by averaging the prices of all the three exemplars and thereby awarded a compensation of Rs. 1 lakh per acre. The High Court upheld the said order of the Reference Court.

C 9. The appellants are aggrieved on two aspects, firstly the highest exemplar, namely, Ext. A-61 should have been relied upon in the place of averaging the prices and secondly, the Reference Court did not grant interest on solatium.

D 10. The Reference Court held the following three sale transactions relied upon by the appellants as relevant for determination of the market value of the land in dispute:

E	Sale Deed	Date	Area (K-M)	Price (Rs.K-M)	(Rs./acre)
	Ex. A-48	29.05.1979	3-4	31,000	77,500
F	Ex.A-52	20.03.1978	1- 5.25	19,000	1,21,600
	Ex.A-61	22.07.1977	1-3	20,000	1,39,130

G Considering all these transactions including other references, the Reference Court disposed of the matter by a common order whereby the compensation was enhanced to Rs.1,00,000/- per acre.

H 11. Since the measurements of the land under acquisition

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are in kanals and marlas in the State of Punjab, the conversion A
of these units in acres and square yards is being set out as
under:

20 marlas	=	1 kanal
8 kanals	=	1 acre
160 marlas	=	1 acre
1 acre	=	4840 sq. yds.
1 kanal	=	605 sq. yds.
1 marla	=	30.25 sq. yds.

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12. As pointed out above, the Reference Court failed to take note of the highest exemplar, namely, the sale transaction under Ext.A-61 dated 22.07.1977. In this regard, it is useful to refer the decision of this Court in *Sri Rani M. Vijayalakshmamma Rao Bahadur, Ranee of Vuyur vs. Collector of Madras*, (1969) 1 MLJ 45 (SC). In this case, this Court has held thus:

"... where sale deeds pertaining to different transactions are relied on behalf of the Government, that representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different course. In any case we see no reason why an average of two sale deeds should have been taken in this case."

13. In *State of Punjab and Another vs. Hansraj (Dead) by LRS. Sohan Singh and Others*, (1994) 5 SCC 734, this Court has held that method of working out the 'average price' paid under different sale transactions is not proper and that one should not have, ordinarily recourse to such method. This Court further held that the bona fide sale transactions proximate to the point of acquisition of the lands situated in the neighbourhood of the acquired lands are the real basis to determine the market value.

14. This Court in *Anjani Molu Dessai vs. State of Goa and Another*, (2010) 13 SCC 710, after relying upon the earlier decisions of this Court in *M. Vijayalakshmamma Rao* H

A *Bahadur* (supra) and *Hansraj* (supra) held in para 20 as under:

"20. The legal position is that even where there are several exemplars with reference to similar lands, usually the highest of the exemplars, which is a bona fide transaction, will be considered."

B Again, in para 23, it was held that "the averaging of the prices under the two sale deeds was not justified."

C 15. It is clear that when there are several exemplars with reference to similar lands, it is the general rule that the highest of the exemplars, if it is satisfied, that it is a bona fide transaction has to be considered and accepted. When the land is being compulsorily taken away from a person, he is entitled to the highest value which similar land in the locality is shown

D to have fetched in a bona fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition. In our view, it seems to be only fair that where sale deeds pertaining to different transactions are relied on behalf of the Government, the transaction representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different course. It is not desirable to take an average of various sale deeds placed before the authority/court for fixing fair compensation.

E 16. Based on the above principles, the market value as per Ext.A-61 dated 22.07.1977 was Rs. 1,39,130.43 per acre (approx. Rs. 1.40 lakhs per acre). The said sale deed was two and a half years prior in time than Section 4(1) notification dated 22.12.1979. There is no reason to eschew the above sale transaction. It is also pointed out that the lands covered under

F Ext.A-61 are nearer to the lands of the appellants under acquisition. This Court has time and again granted 10% to 15% increase per annum. In *Ranjit Singh vs. Union Territory of Chandigarh* (1992) 3 SCC 659, this Court applied the rule of 10% yearly increase for award of higher compensation. In *Delhi Development Authority vs. Bali Ram Sharma & Ors.*

(2004) 6 SCC 533, this Court considered a batch of appeals and applied the rule of annual increase for grant of higher compensation. In *ONGC Ltd. vs. Rameshbhai Jivanbhai Patel* (2008) 14 SCC 745, this Court held that where the acquired land is in urban/semi-urban areas, increase can be to the tune of 10% to 15% per annum and if the acquired land is situated in rural areas, increase can be between 5% to 7.5% per annum. In *Union of India vs. Harpat Singh & Ors.* (2009) 14 SCC 375, this Court applied the rule of 10% increase per annum. Based on the above principle, we fix the annual increase at 12% per annum and with that rate of increase, the market value of the appellants' land would come to Rs.1,82,000 per acre as on the date of notification.

17. Though the Reference Court relied on the sale transaction covered under Ex. A-48 dated 29.05.1979 and fixed compensation @ Rs.1 lakh per acre inasmuch as under Ex. A-61 dated 22.07.1977, i.e., even two and a half years prior to notification under Section 4(1) of the Act, the adjacent lands have fetched higher price and in the light of the principles laid down in the above decisions, we are of the view that exemplar Ex.A-61 dated 22.07.1977 is quite reasonable and acceptable. However, as rightly pointed out by the learned counsel for Respondent No.2 and considering the fact that the area of land under Ex. A-61 dated 22.07.1977 is a smaller one, it is but proper that appropriate deduction should be made for the same. In *Trishala Jain & Anr. vs. State of Uttaranchal & Anr.*, 2011 (6) SCC 47, this Court has held that the value of sale of small pieces of land can be taken into consideration for determining the value of large tract of land but with a rider that the Court while taking such instances into consideration has to make a reasonable deduction keeping in view of other attendant circumstances. Similar view has been expressed in *State of Madhya Pradesh & Ors. vs. Kashiram (dead) by L.Rs. & Ors.*, 2010 (14) SCC 506 and *Prabhakar Raghunath Patil & Ors. vs. State of Maharashtra*, 2010 (13) SCC 107. In view of the same, it would be just and reasonable to allow deduction @ 20%. By applying the above method, the market value for the

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A acquired land is fixed at Rs.1,82,000/- minus Rs.36,400/- (towards 20% deduction) equivalent to Rs.1,45,600/- rounded at Rs.1,45,000/- per acre which is quite fair, reasonable and acceptable.

B 18. The other grievance of the appellants is that interest on solatium and additional market value was not granted. This aspect has been considered and answered by the Constitution Bench in the case of *Sunder vs. Union of India*, (2001) 7 SCC 211. While considering various decisions of the High Courts and approving the decision of the Punjab and Haryana High Court rendered in *State of Haryana vs. Kailashwati*, AIR 1980 P&H 117, this Court held that the interest awardable under Section 28 would include within its ambit both the market value and the statutory solatium. In view of the same, it is clear that the person entitled to the compensation awarded is also entitled to get interest on the aggregate amount including solatium. The above position has been further clarified by a subsequent Constitution Bench judgment in *Gurpreet Singh vs. Union of India*, (2006) 8 SCC 457. Based on the earlier Constitution Bench decision in *Sunder* (supra), the present Constitution Bench held that the claimants would be entitled for interest on solatium and additional market value if the award of the Reference Court or that of the appellate Court does not specifically refer to the question of interest on solatium and additional market value or where the claim had not been rejected either expressly or impliedly. In view of the same, we hold that the appellants are entitled to interest on solatium and additional market value as held in the above referred two Constitution Bench judgments.

C 19. In the light of the above discussion, the appellants have made out a case for enhancement of compensation. Accordingly, the same is fixed at Rs.1,45,000/- per acre with all other statutory benefits including interest on solatium and additional market value. The appeal is allowed to the extent mentioned above. No order as to costs.

D H R.P. Appeal allowed.