IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5598 OF 2011

Ram Kanwar & Ors. .. Appellant(s)

Versus

State of Haryana & Anr. .. Respondent(s)

W I T H

CIVIL APPEAL NO. 5599/2011

CIVIL APPEAL NO. 5600/2011

CIVIL APPEAL NO. 5601/2011

CIVIL APPEAL NO. 5602/2011

CIVIL APPEAL NO. 5609/2011

CIVIL APPEAL NO. 5612/2011

CIVIL APPEAL NO. 5613/2011

CIVIL APPEAL Nos. 5615-5616/2011

CIVIL APPEAL Nos. 5617-5652/2011

CIVIL APPEAL Nos. 5653-5676/2011

CIVIL APPEAL Nos. 5679-5712/2011

CIVIL APPEAL No. 5775/2011

CIVIL APPEAL No. 6321/2011

CIVIL APPEAL No. 6322/2011

CIVIL APPEAL No. 6323/2011

CIVIL APPEAL No. 6969/2011

CIVIL APPEAL No. 6970/2011

CIVIL APPEAL No. 6971/2011

CIVIL APPEAL No. 6972/2011

CIVIL APPEAL No. 6973/2011

CIVIL APPEAL No. 7183/2011

CIVIL APPEAL Nos. 7184-7186/2011

CIVIL APPEAL Nos. 7187-7189/2011

CIVIL APPEAL Nos. 7190/2011

CIVIL APPEAL Nos. 7191/2011

CIVIL APPEAL Nos. 7192-7196/2011

CIVIL APPEAL Nos. 7197-7198/2011

CIVIL APPEAL No. 7199/2011

CIVIL APPEAL No. 7200/2011

CIVIL APPEAL Nos. 7201-7202/2011

CIVIL APPEAL No. 7203/2011

CIVIL APPEAL No. 7204/2011

CIVIL APPEAL No. 7205/2011

CIVIL APPEAL No. 7206/2011

CIVIL APPEAL No. 7207/2011

CIVIL APPEAL Nos. 7335-7365/2011

CIVIL APPEAL Nos. 8465-8466/2011

CIVIL APPEAL Nos. 9620-9628/2011

CIVIL APPEAL No. 9955/2011

CIVIL APPEAL Nos. 9956-9959/2011

CIVIL APPEAL Nos. 10197-10198/2011

CIVIL APPEAL Nos. 10199-10200/2011

CIVIL APPEAL No. 1617/2012

CIVIL APPEAL Nos. 1951-1952/2012

CIVIL APPEAL Nos. 2043-2048/2012

CIVIL APPEAL No. 6239/2012

CIVIL APPEAL No. 9184/2012

CIVIL APPEAL No. 9210/2012

CIVIL APPEAL No. 3870/2013

CIVIL APPEAL No. 4610/2013

CIVIL APPEAL No. 7151/2013

SPECIAL LEAVE PETITION (C) No. 28090/2012

SPECIAL LEAVE PETITION(C) No. 37815/2013

SPECIAL LEAVE PETITION(C) No. 4649/2014

SPECIAL LEAVE PETITION(C) Nos. 5029-5030/2014

SPECIAL LEAVE PETITION(C) No. 5031/2014

SPECIAL LEAVE PETITION(C) No. 5032/2014

SPECIAL LEAVE PETITION(C) No. 13976/2014

SPECIAL LEAVE PETITION(C) No. 13978/2014

SPECIAL LEAVE PETITION(C) No. 19344/2014

SPECIAL LEAVE PETITION(C) No. 31676/2014

O R D E R

1. Delay condoned in filing Appeals/Special leave petitions and in application(s) for substitution, if any.

2. Application(s) for substitution is/are allowed, if any.

3. These appeals are directed against the

common judgment and order passed by the High Court of Punjab and Haryana in Regular First Appeal No. 1824 of 2006, dated 01.10.2010, whereby and whereunder, the High Court while modifying the order passed by the Reference Court has enhanced the compensation awarded by the Reference Court.

4. For disposal of these appeals, we would only notice the facts in Civil Appeal No. 5598 OF 2011.

5. Brief facts of the case : The acquiring authority had issued Notification No. LAC(G)-97/455 under Section 4 of the Land Acquisition Act, 1894 (for short "the Act") to acquire certain extent of

lands in villages Kanhai, Wazirabad, Chakerpur and Sikanderpur for the public purpose viz. development and utilization of land for residential, commercial, institutional and open-space area. After due consideration of the objections filed by the land-losers under Section 5-A of the Act, the

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acquiring authority had recommended issuance of a notification under Section 6 of the Act to the State Government. Accordingly, the State Government had issued Notification No. LAC(G)-NTLA-98/498, declaring that the said land would be acquired for the notified public purpose.

6. After issuance of the aforesaid notification, the Land Acquisition Officer (for short, "the LAO"), determined the compensation payable to the acquired land belonging to the appellants at Rs. 12 lacs per acre for Chahi Land, Rs. 9.6 per acre for Allabarani Land, Rs. 8.4 lacs per acre for Bhood Land and Rs. 7.2 lacs for Banjar Land, by award dated 06.09.2000.

7. The claimants, not being satisfied with the compensation so awarded by the LAO, approached the latter and sought for a reference under Section 18 of the Act to the Civil Court for determination of

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the fair market value of the land acquired by the State Government. The LAO had referred the case of the land-losers to the Reference Court, where it was registered as L.A. Case No. 06 of 2003. The appellants had contended that since the acquired

land was situated in the main commercial and residential sectors' area of Gurgaon, Haryana and at a close proximity to the National Highway No. 8, the International Airport and National Capital Territory of Delhi, its value was not less that Rs. 50,000/- per sq. yard at the time of issuance of Section 4 Notification, the land has been erroneously treated by LAO as barren land and accordingly had fixed the market value of the land. The respondent-State, resisting the aforesaid plea, had stated that the market value assessed by the LAO is the fair market value of land, reached after due consideration of all relevant factors including potentiality of the land and thus, the compensation awarded is not only fair, just and reasonable

requiring no further enhancement. The Reference Court took notice of earlier award where acquisition of lands in same area was in question under Section 4 notification for similar public purpose and concluded that the two notifications being proximate in time, for same purpose, the potential and location of the acquired lands in both cases could be equated for the purpose of determination of market value of the acquired lands herein. Accordingly, the Reference Court calculated the market value of the acquired land and allowed an enhanced compensation of Rs. 717/- per sq. yard by order dated 31.07.2009.

8. Aggrieved by the order so passed by the Reference Court, the land-losers had preferred a Regular First Appeal before the High Court. The High Court rejected the reasoning of Reference

Court and observed that since in the present case the land owners have produced various sale deeds

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which indicate sale of substantial portion of their non-acquired lands being sold to the private builders in the said vicinity, during the period between the earlier Section 4 notification (considered by the Reference Court) and the notification in the present case, the said sale deeds ought to be considered for determining the market value of the acquired lands. The Court observed that the said sale deeds indicated an abnormal increase of more than 100% within less than four months and even if the lands were bought for extra price, the same could not be said to be the fair market value of the said lands. Accordingly, the High Court, awarded escalation of 25% in the compensation awarded by the LAO, that is maximum compensation of Rs. 1520/- per sq yard, along with the statutory benefits under the Act.

9. Aggrieved by the order so passed by the High

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Court, the appellant/land-losers are before us in these appeals.

10. We have heard learned counsel for the parties to the lis and also carefully perused documents on record.

11. It is not in dispute that the land acquired in the instant case is situated closer to the National Capital Region and the National Highway

No. 8 and so lay in small pockets between such area which was already under development before the acquisition. While both the Courts below have noticed the sale deeds produced by the appellants for sale transactions in the vicinity of acquired lands, the Reference Court, erroneously without going into the increase in prices that the sale deeds reflect, has considered the compensation granted under a comparable award for an earlier Section 4 notification where the same sale deeds

were relied upon as reliable evidence in quantifying compensation payable to the acquired lands.

12. It is settled law that prices fetched for similar lands with similar advantages and potentialities under bona fide transactions of sale at or about the time of the preliminary notification are the usual and, indeed the best, evidences of market value of lands.

13. In Bangaru Narasingha Rao Naidu v. Revenue Divisional Officer, (1980) 1 SCC 575, this Court observed :

> "2. There cannot be any doubt that the best evidence of the market value of the acquired land is afforded by transactions of sale in respect of the very acquired land, provided of course there is nothing to doubt the authenticity of the transactions."

14. This Court in Charan Dass v. H.P. Housing &

Urban Development Authority, (2010) 13 SCC 398 has reiterated its aforesaid view and further observed:

> "21. One of the preferred and well-accepted methods adopted for ascertaining the market value of the land in acquisition cases is the

sale transactions on or about the date of issue of notification under Section 4 of the Act. But here again finding a transaction of sale on or a few days before the said notification is not an easy exercise. In the absence of such evidence contemporaneous transactions in respect of the lands which have similar advantages and disadvantages are considered as a good piece of evidence for determining the market value of the acquired land.

22. It needs little emphasis that the contemporaneous transactions or the comparable sales have to be in respect of lands which are contiguous to the acquired land and are similar in nature and potentiality. Again, in the absence of sale deeds, the judgments and awards passed in respect of acquisition of lands, made in the same village and/or neighbouring villages can be accepted as valid

piece of evidence and provide a sound basis to work out the market value of the land after suitable adjustments with regard to positive and negative factors enumerated in Sections 23 and 24 of the Act. Undoubtedly, an element of some guesswork is involved in the entire exercise, yet the authority charged with the duty to award compensation is bound to make an estimate judged by an objective standard."

15. The Reference Court, therefore, was not justified in ignoring the best piece of evidence- the sale deeds and instead, relying on the comparable award which would otherwise be the best evidence should such sale deeds not been bona fide or be for lands that did not lay proximate to the acquired lands. The High Court, in our considered opinion, has rightly rejected the reasoning of Reference Court and considered the un-assailed sale deeds as true estimate of market value of acquired lands.

16. It is also settled law that such market

value of the acquired land which has to be determined by the courts ought to be the price which a willing vendor of the land might reasonably

expect to obtain from a willing purchaser. This has been a well accepted principle of valuation of acquired lands, ever since that principle was expounded by the Privy Council in the case of Vyricherala Narayana Gajapatiraju Bahadur Garu v. Revenue Divisional Officer, Vizagapatnam, AIR 1939 PC 98 known as 'Chemudu case'. This Court has approved the correctness of that principle by stating that the market value means the price that a willing purchaser would pay to the willing seller for a property, having due regard to its existing condition, with all its existing advantages and its potential possibilities when laid out in the most advantageous manner excluding any advantage due to the carrying out of the scheme for which the property is compulsorily acquired.(Raghubans Narain Singh v. U.P. Govt., (1967) 1 SCR 489, Prithvi Raj

Taneja v. State of M.P, (1977) 1 SCC 684, Printers House (P) Ltd. v. Saiyadan, (1994) 2 SCC 133, Union of India v. Pramod Gupta, (2005) 12 SCC 1)

17. In Administrator General of W.B. v. Collector, Varanasi, (1988) 2 SCC 150, this Court observed that the market value of a piece of property for purposes of Section 23 of the Act is stated to be the price at which the property changes hands from a willing seller to a willing dealer at an arms length price. This Court cautioned that it must always be taken into account that such buyer should not be an anxious buyer who would be so willing to deal beyond the arms length price.

18. This Court in Mehta Ravindrarai Ajitrai v. State of Gujarat, (1989) 4 SCC 250 observed that in estimating the market value of the acquired land, while considering such appropriate and bona fide

sale deeds between buyers and purchasers, certain factors require to be taken into account and appropriate deductions made from the rate disclosed in the said sale deeds. In the words of this Court:

> "5. Keeping these factors in mind, we feel that although the instance reflected in the sale deed (Ext. 152) and the agreement for sale in connection with that land, pertains to a sale after the acquisition, it can be fairly regarded as reasonably proximate to the acquisition and, in the absence of any evidence to show that there was any speculative or sharp rise in the prices after the acquisition, the agreement to sell dated 21-1-1957 must be regarded as furnishing some light on the market value of the land on the date of publication of Section 4 notification. However, certain factors have to be taken into account and appropriate deductions made from the rate disclosed in the said agreement to sell in estimating the market value of the land with which we are concerned at the date of the acquisition. One of these factors is that there seems to have been some rise in the

price of land on account of the acquisition of the land in question before us for purposes of constructing an industrial estate. Another factor is that the land proposed to be purchased under the said agreement to sell was adjoining the land of the purchaser and the purchaser might have paid some extra amount for the convenience of getting the neighbouring land.

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8. In our view, the only comparable instance on the basis of which the market value at the time of the Section 4 notification in respect of the acquired land can be determined is the sale proved by the sale deed (Ext. 152) and the preceding agreement for sale in respect of the land sold which was entered into about five months after the notification. The price thereunder is Rs 3 per square yard. From that price certain deductions have to be made on account of the various factors which have been

enumerated earlier such as the rise in prices of land after the acquisition and so on. Taking into account all these factors

including the situation and potentialities of the acquired land, it appears to us that it would be proper to fix the market value of the acquired land at Rs 8800 per acre which comes to about Rs 1.80 per square yard and we direct accordingly. The decree passed by the Civil Judge, Senior Division, Bhavnagar will be amended accordingly."

19. In the instant case, though the sale deeds were for part of lands which were acquired by the acquiring authority under the notification, the said sale deeds indicated an abnormal increase of more than 100% in less than four months. It is not a far reaching implication of the said land being in the vicinity of area under development or already developed, which attributed additional locational advantages leading to escalation of the sale price at which a buyer would purchase the lands. Another fact noticed by the High Court is that the buyers for all these sale transactions had

vested interest in the land adjoining or around the properties in such transaction.

20. In light of the aforesaid, it can be concluded that the buyers would not have hesitated in offering higher prices to purchase the lands than the market rate of such lands and, therefore, in determination of compensation payable to the land-losers, such price could not be relied upon without making necessary deductions brining it at par with the estimated fair market value of the acquired lands. In our considered view, the High

Court has correctly made appropriate deductions to the consideration offered under the sale deeds produced and marked in the evidence while assessing fair and true market value of the acquired lands on the date of issuance of Section 4 Notification.

21. In view of the above, we are of the considered opinion that the High Court has not

committed any error, whatsoever, that requires our interference and decision in these appeals and special leave petitions.

22. In the result, these appeals and special leave petitions being devoid of any merit, are liable to be dismissed and, are dismissed accordingly. No costs.

Ordered accordingly.

.....CJI.
[H.L. DATTU]

.....J.
[MADAN B. LOKUR]

.....J.
[A.K. SIKRI]

NEW DELHI,
NOVEMBER 27, 2014.

ITEM NO.1 COURT NO.1 SECTION IV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 5598/2011

RAM KANWAR & ORS. Appellant(s)

VERSUS

STATE OF HARYANA & ANR Respondent(s)

WITH
C.A. No. 5599/2011
C.A. No. 5600/2011
C.A. No. 5601/2011

C.A. No. 5602/2011
C.A. No. 5609/2011
C.A. No. 5612/2011
C.A. No. 5613/2011
C.A. No. 5615-5616/2011
C.A. No. 5617-5652/2011
C.A. No. 5653-5676/2011
C.A. No. 5679-5712/2011
C.A. No. 5775/2011
C.A. No. 6321/2011
C.A. No. 6322/2011
C.A. No. 6323/2011
C.A. No. 6969/2011
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C.A. No. 6971/2011
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C.A. No. 8465-8466/2011
C.A. No. 9620-9628/2011

C.A. No. 9955/2011
C.A. No. 9956-9959/2011
C.A. No. 10197-10198/2011
C.A. No. 10199-10200/2011
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SLP(C) No. 13976/2014
SLP(C) No. 13978/2014
SLP(C) No. 19344/2014
SLP(C) No. 31676/2014
(With appln.(s) for c/delay in filing Appeals/SLPs., c/delay in filing substitution, substitution,prayer for interim relief, exemption from filing O.T. and appln.(s) for permission to file additional documents and Office Report, if any in respective matters)

Date : 27/11/2014 These appeals/SLPS. were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE A.K. SIKRI

For Appellant(s) Mr. Mahabir Singh, Sr. Adv.
Mr. Rohit Kr. Yadav, Adv.
Mr. Ankit Sibbal, Adv.
Ms. Sharmila Upadhyay,Adv.

Mr. S.S. Shamshery, Adv.
Mr. Sandeep Singh, Adv.
Ms. Ruchi Kohli,Adv.

Ms. S. Janani,Adv.

Mr. Gyanendra Singh, Adv.
Mr. Vishwa Pal Singh,Adv.

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Mr. Gagan Gupta,Adv.

Mr. Ranbir Singh Yadav,Adv.
Mr. Puran Mal Saini, Adv.
Mr. P. Kakra, Adv.
Ms. Anzu K Varkey, Adv.

Mr. S.K. Sabharwal,Adv.

Ms. Usha Rathore, Adv.
Ms. Rekha Singh, Adv.
Mr. S.L. Aneja,Adv.

Mr. Anil Mittal, Adv.
Mr. V. Sushant, Adv.
for Dr. Kailash Chand,Adv.

Mr. Mahesh Srivastava, Adv.
Mr. Vaibhav M. Srivastava, Adv.
Mr. P.N. Puri,Adv.

For Appellant(s)/ Respondent(s) Mr. Rohit Kumar Singh,Adv.

For Respondent(s) Mr. Ankit Swarup, Adv.
Ms. Tanya Swarup, Adv.
Mr. Monika Gusain,Adv.

Ms. Anubha Agrawal,Adv.

Mr. Manjit Singh, AAG, haryana
Mrs. Nupur Choudhary, Adv.
Mrs. Vivekta Singh, Adv.
Mr. Kamal Mohan Gupta,Adv.

Mr. Subhro Sanyal, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Delay condoned in filing Appeals/special leave petitions and in application(s) for substitution, if any.

Application(s) for substitution is/are allowed, if any.

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The civil appeals and special leave petitions are dismissed in terms of the signed order.

No costs.

[Charanjeet Kaur]
Court Master

[Vinod Kulvi]
Asstt. Registrar

[Signed order is placed on the file]