

Raj Kumar & Ors vs Haryana State & Ors on 27 August, 2007

Equivalent citations: AIR 2007 SUPREME COURT 3124, 2007 (7) SCC 609, 2007 AIR SCW 5625, (2008) 1 MAD LW 181, (2008) 104 REVDEC 111, 2007 (10) SCALE 375, (2007) 2 LACC 228, (2007) 3 LANDLR 446, (2007) 6 MAD LJ 1083, (2007) 4 ICC 713, (2007) 4 PAT LJR 120, (2007) 69 ALL LR 508, (2007) 4 JCR 72 (SC), (2007) 58 ALLINDCAS 222 (SC), (2007) 6 SUPREME 73, (2007) 3 LANDLR 283, (2007) 6 ANDHLD 5, (2007) 10 SCALE 375, (2007) 4 RECCIVR 175, (2007) 4 JLJR 112, (2007) 4 ALL WC 3562, (2007) 3 CURCC 372, (2008) 1 CAL LJ 27

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Bench: G.P. Mathur, P.K. Balasubramanyan

CASE NO.:

Appeal (civil) 3262-3270 of 2002

PETITIONER:

RAJ KUMAR & ORS

RESPONDENT:

HARYANA STATE & ORS

DATE OF JUDGMENT: 27/08/2007

BENCH:

G.P. MATHUR & P.K. BALASUBRAMANYAN

JUDGMENT:

J U D G M E N T WITH {C.A. No. 3271/2002, C.A. No. 3279/2002, C.A. Nos. 3272-3278/2002, C.A. No. 1512/2004, C.A. No. 1513/2004, C.A. No. 5527/2005, C.A. No. 5833/2005, C.A. No. 3923/2007 [SLP (C) No. 8161/2007], C.A. No. 3924/2007 [SLP (C) No. 9355/2007], C.A. No. 3929/2007 [SLP (C) No. 9283/2007], C.A. No. 3925/2007 [SLP (C) No. 9362/2007], C.A. No. 3926/2007 [SLP (C) No. 9364/2007], C.A. No. 3927/2007 [SLP (C) No. 9281/2007] and C.A. No. 3928/2007 [SLP (C) No. 9357/2007]} P.K. BALASUBRAMANYAN, J.

1. Leave granted in Petitions for Special Leave to Appeal. Delay condoned in filing application for Substitution in Civil Appeal arising out of Petition for Special Leave to Appeal (Civil) No. 9355 of 2007 and application for substitution is allowed. Heard learned counsel on all sides.

2. A Notification under Section 4 of the Land Acquisition Act was issued on 19.5.1992 notifying the proposal for acquisition of an extent of 504.27 acres of land in the revenue estates of Hisar, Satrod

Khurd and Satrod Khas in District Hisar. The public purpose put forward was the development and utilization of land as residential in Sectors 9 and 11 by the Haryana Urban Development Authority. On 18.5.1993, a declaration under Section 6 of the Land Acquisition Act was made. The area in respect of which the declaration was made was of 478.44 acres.

3. The Land Acquisition Collector passed an award on 17.5.1995 adjudging the compensation payable to the land owners at Rs. 3 lakhs per acre. On a claim for enhancement by various claimants, the Reference Court enhanced the compensation to Rs. 235/- per square yard for the lands in the revenue estate of Hisar and to Rs.135/- per square yard in the revenue estates of Satrod Khurd and Satrod Khas. The Reference Court found that the lands were agricultural lands and were being used for agricultural purposes. But still it found that the acquired lands were within the municipal limits of the town and it took note of the potentialities of the lands with reference to its location, its lie, and the potentialities in view of the availability of civic amenities. In other words, all the relevant aspects were taken into consideration by the Reference Court while fixing the land value at Rs. 235/- per square yard for the lands in the revenue estate of Hisar and at Rs. 135/- per square yard for the lands in the revenue estates of Satrod Khurd and Satrod Khas.

4. The State as well as the claimants appealed against this award. According to the State, the lands being agricultural lands, the enhancement awarded was exorbitant and the rate per square yard accepted was too high. No case for such enhancement had been made out by the claimants. According to the claimants, the land value should have been awarded at a higher rate and even going by the valuation adopted by the Reference Court something more than Rs. 235/- per square yard should have been awarded. As far as the lands situate in Satrod Khurd and Satrod Khas were concerned, it was contended that there was no justification in not adopting the same rate as land value for them as for the lands in estate Hisar and the fixing of the compensation at Rs.135/- per square yard for those lands was unjustified. The learned single judge of the High Court dismissed the appeals by the State. He also found in the appeals by the claimants in respect of lands in estate Hisar, that the land value of Rs. 235/- per square yard for the lands comprised therein was correct and called for no interference. But, the learned judge found that though there was distinction between the lands in estate in Hisar and those in estates Satrod Khurd and Satrod Khas, the disparity in the value awarded was not justified and that it would be appropriate to enhance the compensation for the lands in Satrod Khurd and Satrod Khas to Rs. 175/- per square yard. Thus, the claim for enhancement in respect of those lands was partly accepted. Feeling dissatisfied, the claimants went up in further appeal. It was argued before the Division Bench that even on his own reasoning, the learned single judge ought to have awarded a higher compensation for the lands in estate Hisar. As regards the lands in Satrod Khurd and Satrod Khas, it was contended that the compensation should have been awarded at a rate equal to the rate adopted for the lands in estate Hisar. The Division Bench found that the learned single judge was fully justified in awarding land value for the lands in Hisar at Rs. 235/- per square yard and in awarding land value of Rs. 175/- per square yard for the lands in Satrod Khurd and Satrod Khas. The court particularly found that even though the lands acquired in Satrod Khurd and Satrod Khas were within the municipality, they were agricultural lands being used for agricultural purposes and they were away from the town whereas the lands in estate Hisar were abutting the town and they had better amenities. It was noticed by the Division Bench that the lands in Satrod Khurd and Satrod Khas were on the outer periphery on the

far eastern side of the township. It was found that it was not developed land. The Division Bench therefore found that the compensation awarded for the lands in Hisar, Satrod Khurd and Satrod Khas by the learned single judge were just and fair and called for no interference. It is feeling aggrieved by the compensation thus awarded that the claimants have come up with these appeals.

5. As regards the lands in estate Hisar, it is clear that the Awarding Officer has considered the potentiality of the land and all other relevant aspects in fixing the compensation. On the evidence, it could be said that he was more than fair to the claimants. The learned single judge, on a re-appreciation of the circumstances, came to the conclusion that the value awarded was justified on the facts and in the circumstances of the case. The Division Bench again, after a careful consideration of the relevant aspects, came to the conclusion that the land value awarded was fair and there was no scope for further enhancement.

6. Normally, this Court interferes with the award made under the Act by the High Court only if any error in principle is involved in the adjudging of the compensation. After all, every award involves some guess work. It is true that the lands in Hisar are situate within the municipal limits. This aspect has been taken note of by the Awarding Officer, by the learned single judge and by the Division Bench. The potentialities of the lands, its location, the amenities available have all been taken note of again by the Awarding Officer, by the learned single judge and by the Division Bench. The method adopted for adjudging the compensation cannot also be said to be incorrect or unreasonable. The most acceptable rate has been taken and a suitable reduction has been made and it cannot certainly be said that anything arbitrary has been done either by the learned single judge or by the Division Bench. There is no material on the basis of which further enhancement could be granted. It is seen from the award that all the relevant aspects had been noticed by the Awarding Officer when he fixed the compensation. It is seen that all the relevant sale instances relied on and detailed in paragraph 39 of the award were all instances of sale of small extents and therefore could not form the basis of adjudging the compensation when the acquisition of a larger extent is involved. May be the lands are held in severalty by several owners. Even then suitable adjustments had to be made while determining the land value. Lands in the periphery of a municipal town have been acquired and while adjudging the compensation, the necessary adjustments will have to be made for determining the compensation payable while taking note of such sale instances. On going through the award, it is difficult, if not impossible, to say that anything relevant has been omitted by the Reference Court.

7. What is relied upon is that Reference Court made a statement that it was making a conservative estimate. On the materials, it is seen that the use of that expression has not resulted in any under-assessment of either the potentialities of the lands or the compensation payable. The argument that the residential potential should be taken note of does not carry the appellants far, since that aspect has also been taken note of while adjudging the compensation at Rs. 235/- per square yard. On the whole, it cannot be said that the compensation adjudged is unjust. It has to be held that there is no material on the basis of which the same could be enhanced by us in this third appeal. There may be some justification in the argument on behalf of the State that the award was a generous one, but then, the State is bound by the award in the light of Section 25 of the Act. Suffice it to say that, we are not satisfied that any enhancement of land value for the lands in estate Hisar is

justified.

8. Coming to the lands in Satrod Khurd and Satrod Khas, it is seen that they are agricultural lands being used for agricultural purposes on the relevant date. They were in the outer periphery of the municipal town, away from the centre. They did not enjoy the same potential as the lands in estate Hisar. It was in that context that the Awarding Officer awarded compensation at the rate of Rs. 135/- per square yard. But on appeal, the learned single judge felt that though there was disparity in the nature of the lands and the potential, the disparity in the award of compensation was a bit too much and that an enhancement in value for the lands in Satrod Khurd and Satrod Khas was justified. The learned single judge enhanced the compensation to Rs. 175/- per square yard. The Division Bench also found that there was no scope for any further enhancement.

9. It is contended before us that the lands lay in a block and there was no reason for not awarding compensation at an equal rate for the lands in Satrod Khurd and Satrod Khas. But as noticed by the Awarding Officer, Reference Court and the High Court, the nature of the land, its present state, its present location, its comparative advantages and disadvantages, all justify the difference in the rate of compensation awarded. In any event, it cannot be said that there is any irrationality in the position adopted by the Reference Court and by the learned single judge and by the Division Bench while determining the compensation payable for the lands in Satrod Khurd and Satrod Khas. All the relevant aspects have been taken into consideration and we do not find any error in principle committed by the High Court justifying our interference in appeal. An argument was raised that the prices of lands fetched in auction had been ignored on the basis that prices fetched in auction sales cannot form the basis. It was submitted that there was no general rule that such prices cannot be adopted. On considering the relevant facts disclosed, it cannot be said that the High Court has committed any error in discarding those auction sales while determining the compensation payable. The element of competition in auction sales makes them not safe guides. Similarly, the argument that when a compact piece of land is acquired there cannot be adoption of separate rates cannot be accepted in the light of the decision of this Court in *Union of India & others Vs. Mangatu Ram, etc.* [AIR 1997 S.C. 2704]. That case related to acquisition of lands in the vicinity of the present properties. The ratio of that decision also supports the distinction made by the Awarding Officer and the High Court in the matter of fixing the land value for the lands in Satrod Khurd and Satrod Khas.

10. On the whole, it cannot be said that there is any error in principle committed by the High Court justifying our interference. Tested in the light of the approach commended in *Thakur Kanta Prasad Singh (dead) by L.Rs. Vs. State of Bihar* [AIR 1976 S.C. 2219], we are not satisfied that sufficient grounds are made out for interference. Thus, we decline to interfere with the decision of the Division Bench of the High Court. We confirm the decisions of the High Court and dismiss these appeals. We direct the parties to suffer their respective costs.