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JASPAL SINGH & OTHERS

v.

THE STATE OF HARYANA AND OTHERS

(Civil Appeal Nos. 7516-7521 of 2022)

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OCTOBER 20, 2022

[M. R. SHAH AND M. M. SUNDRESH, JJ.]

- Land Acquisition Act, 1894 – ss. 4, 6, 11 – Compensation – Enhancement of – Lands were acquired for Jhajjar Thermal Power Plant under the provisions of 1894 Act – Acquisition collector C determined and awarded compensation @ Rs. 16,00,000/- per acre – Reference court enhanced amount of compensation @ Rs. 17,64,350 per acre – High Court reduced the amount of compensation to Rs. 16,00,000/- per acre – Before Supreme Court, landowners placed reliance upon the decision of the case Arawali Power Company Private Limited where compensation @ D 25,00,000/- per acre was awarded and contention was raised that the lands acquired in the present case and lands acquired for Arawali Power Company Private Limited are similarly situated – Held: Both the lands in present case and the lands in issue in the case of Arawali Power Project are similarly situated – Further, held that considering E the Evidence on record and sale instances and considering the fact that landowners shall be entitled to just and reasonable compensation and taking in consideration of the Arawali Power Company Private Limited case into account – Compensation @22,00,000/- per acre was awarded – Judgement and order passed by High Court was modified accordingly.*
- F **Allowing the appeals, the Court**
- HELD:** 1. Considering the evidence on record and the sale instances which were relied upon on behalf of the landowners and while considering the fact that the landowners shall be entitled to just and reasonable compensation for the lands acquired and G taking into consideration the decision of this Court in the case of *Arawali Power Company Private Limited*, this Court is of the opinion that if the landowners in the present case are awarded compensation at the rate of Rs. 22,00,000/- per acre, the same can be said to be just and reasonable compensation. [Para 8][676-H C-E]

Arawali Power Company Private Limited (Civil Appeal No. 8757 of 2016 and connected appeals decided on 05.09.2017 by the Supreme Court) – relied on.

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CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 7516-7521 of 2022.

From the Judgment and Order dated 21.03.2022 of the High Court of Punjab and Haryana at Chandigarh in RFA Nos. 484 of 2019, 3480 and 3457 of 2014, 4699 of 2015, 4513 and 4515 of 2018.

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With

Civil Appeal Nos. 7524-7531, 7447-7448, 7449-7477, 7478-7512, 7513, 7545-7579, 7544, 7581-7584 of 2022.

C

Shyam Divan, Rameshwar Singh Malik, Neeraj Kishan Kaul, Sr. Advs., Gaurav Agrawal, Pallav Mongia, Ankush Mangal, Tushar Srivastava, Rakesh Dahiya, Aditya Dahiya, Satyavan Kudalwal, Kapil Dahiya, Akshat Jain, Aditya Dahiya, Deepkarlan Dalal, Raunaq Dalal, Tonish Singh, Dalel Singh, Ajay Pal, Mayank Dahiya, Ms. Priyanka C., Kuldeep Singh Kochaliya, Jitesh Malik, Satish Kumar, Nirnimesh Dube, Ankur S. Kulkarni, Susheel Joseph Cyriac, Ms. Sonia Dube, Ms. Uditha Chakravarthy, M/S. Lex Regis Law Offices, Samar Vijay Singh, Vipin Singh Bansal, Ms. Amrita Verma, Advs. for the appearing parties.

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The Judgment of the Court was delivered by

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M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned common judgment and order dated 21.03.2022 passed by the High Court of Punjab and Haryana at Chandigarh in R.F.A. No. 2086/2016 and other allied first appeals, by which the High Court has allowed the appeals preferred by the respondents herein and has dismissed the appeals preferred by the appellants herein – original claimants/landowners, the original claimants/landowners have preferred the present appeals.

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2. The facts leading to the present appeals in a nutshell are as under:

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That the lands situated at village Jharli, District Jhajjar, Haryana came to be acquired for Jhajjar Thermal Power Plant. Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the ‘Act 1894’) came to be issued on 09.04.2007. Declaration under

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- A Section 6 of the Act, 1894 was issued on 13.11.2007. The Land Acquisition Collector declared the award under Section 11 of the Act, 1894 and determined and awarded compensation at Rs. 16,00,000/- per acre. The Reference Court enhanced the amount of compensation to Rs. 17,64,350/- per acre. The acquiring body/beneficiary as well as the original claimants/landowners both preferred appeals before the High
- B Court challenging the judgment and award passed by the Reference Court, awarding compensation at Rs. 17,64,350/- per acre. By the impugned common judgment and order, the High Court has allowed the appeals preferred by the State/acquiring body and dismissed the appeals preferred by the original claimants/landowners and has reduced the
- C amount of compensation to Rs.16,00,000/- per acre, as determined and awarded by the Land Acquisition Collector. The impugned common judgment and order passed by the High Court is the subject matter of present appeals at the instance of the original claimants/landowners.

2.1 At this stage, it is required to be noted that in the present case

- D the acquiring lands of village Jharli were on the west side of Bahu Road, Jhajjar, Haryana. Simultaneously, the lands of village Jharli situated on the east side of Bahu Road, Jhajjar, Haryana came to be acquired for Arawali Power Company Private Limited. The said lands were just opposite of the land acquired for Jhajjar Thermal Power Plant and in one case – in the case of Jagvir (appellant in Civil Appeal Nos.7447-7448/2022), the lands acquired for both the projects were out of the same survey No. 73. For acquisition of the lands for Arawali Power Company Private Limited, notification under Section 4 of the Act, 1894 was issued on 16.01.2007. Declaration under Section 6 was issued on 12.04.2007. The Land Acquisition Collector determined and awarded
- F compensation at Rs. 16,00,000/- per acre. The Reference Court also determined compensation at Rs.16,00,000/- per acre. However, the High Court enhanced the amount of compensation to Rs. 29,00,400/- per acre. By common judgment and order dated 05.09.2017, this Court allowed the appeals preferred by Arawali Power Company Private Limited and dismissed the appeals preferred by the landowners/original claimants by determining compensation at Rs.25,00,000/- per acre (Civil Appeal No. 8757 of 2016 and connected appeals, decided on 05.09.2017).

2.2 Before the High Court, at the time of hearing of the present appeals, the original claimants/landowners relied upon the decision of this Court in the case of Arawali Power Company Private Limited (*supra*).

However, considering the observations made by this Court while A
awarding compensation at the rate of Rs. 25,00,000/- per acre that “in
the peculiar facts and circumstances of the case and not to be treated as
precedent”, the High Court has not followed the said judgment and has
determined compensation at the rate of Rs. 16,00,000/- per acre, as
determined by the Land Acquisition Collector. Hence, the present appeals
at the instance of the landowners/original claimants.

3. Shri Shyam Divan, learned Senior Advocate appearing on behalf B
of the original claimant/landowner in Civil Appeal Nos. 7447-7448 of
2022, arising out of R.F.A. Nos. 2086 & 2087 of 2016 has vehemently
submitted that the lands acquired in the present case for Jhajjar Thermal C
Power Plant and the lands acquired for Arawali Power Company Private
Limited are similarly situated. It is submitted that even in the case of the
appellant/landowner/original claimant in Civil Appeal Nos. 7447-7448/
2022, the land in both the cases have been acquired out of the very land D
bearing survey No. 73 and in between only one road – Bahu Road is
passing. It is submitted that therefore the appellant shall be entitled to
the compensation at the rate of Rs. 25,00,000/- per acre, as determined
by this Court in the case of *Arawali Power Company Private Limited*
(*supra*).

3.1 It is further submitted that the landowners/original claimants E
are entitled to just compensation. It is submitted that as such there is no
difference between the lands acquired for Jhajjar Thermal Power Plant
and the lands acquired for Arawali Power Company Private Limited,
except that one road – Bahu Road is passing between the lands acquired F
for both the projects. It is submitted that it may not be that for one part
of the land, the compensation will be at Rs. 16,00,000/- per acre and for
another part of the very land/survey No. 73, the compensation will be at
Rs. 25,00,000/- per acre. Therefore, it is prayed to allow the present
appeals accordingly.

3.2 The other learned Senior Advocates/Advocates appearing for G
the respective landowners/original claimants have adopted the
submissions made by Shri Shyam Divan, learned Senior Advocate.

4. All these appeals are opposed by Shri Neeraj Kishan Kaul, H
learned Senior Advocate representing the Jhajjar Thermal Power Plant.

4.1 So far as the reliance placed upon the decision of this Court in
the case of *Arawali Power Company Private Limited* (*supra*) is

- A concerned, it is submitted that the said judgment may not be applied as in the said judgment, it is specifically observed by this Court that the said judgment is in the peculiar facts and circumstances of the case and not to be treated as precedent. It is submitted that therefore the High Court has rightly not awarded compensation as awarded in the case of Arawali Power Company Private Limited (*supra*).
- B 4.2 It is submitted that in the present case the claimants relied upon two sale exemplars/sale deeds which were executed in the year 2010, i.e., post Section 4 notification and one sale deed/sale exemplar dated 16.05.2007 was with respect to small parcel of land. It is submitted that therefore the High Court has rightly not relied upon on the sale exemplars/sale deeds post Section 4 notification. It is submitted that thereafter having observed that the claimants/landowners have not led any evidence to give the comparative geographical location and evidence to the effect that these sale instances are comparable, the High Court has rightly allowed the appeals preferred on behalf of the Jhajjar Thermal Power Plant and has rightly determined the compensation at the rate of Rs. 16,00,000/- per acre.

4.3 Learned counsel representing the State of Haryana has supported the impugned common judgment and order passed by the High Court and has fully endorsed the submissions made by the learned counsel appearing on behalf of the Jhajjar Thermal Power Plant.

5. We have heard learned counsel for the respective parties at length.

- At the outset, it is required to be noted that with respect to the lands acquired for Arawali Power Company Private Limited for which notification under Section 4 of the Act, 1894 was issued on 16.01.2007, this Court had determined the compensation at the rate of Rs. 25,00,000/- per acre. It is required to be noted that the lands acquired in the present case and the lands acquired for Arawali Power Company Private Limited were of the same village Jharli, District Jhajjar, Haryana.
- F The only difference is that the lands acquired for Jhajjar Thermal Power Plant are on the west side of Bahu Road, Jhajjar, whereas the lands acquired for Arawali Power Project were on the east side of Bahu Road, Jhajjar. The lands acquired in both the cases are just across the Bahu Road, Jhajjar, Haryana. At this stage, it is required to be noted that out of the lands acquired, the land bearing survey No. 73 owned by the original landowner – Jagvir (appellant in Civil Appeal Nos. 7447-7448 of 2022)

was also acquired for both the projects. The resultant effect pursuant to the impugned judgment and order passed by the High Court would be that with respect to some portion of land out of survey No. 73 acquired for Jhajjar Thermal Power Plant, the landowner will get compensation at the rate of Rs. 16,00,000/- per acre and with respect to other parcel of land out of survey No. 73 acquired for Arawali Power Project, the landowner will be getting compensation at the rate of Rs. 25,00,000/- per acre.

6. Having considered the location of the lands acquired for Jhajjar Thermal Power Plant as well as Arawali Power Project, we are of the opinion that the lands acquired for both the projects can be said to be similarly situated with some difference in the time gap of issuance of section 4 notification. Once the landowners whose lands have been acquired for Arawali Power Project are held to be entitled to compensation at Rs. 25,00,000/- per acre, the landowners whose lands have been acquired for Jhajjar Thermal Power Plant cannot be denied the just and reasonable compensation. There will be a vast difference in amount of compensation for the lands acquired for Jhajjar Thermal Power Plant and the Arawali Power Project, which as observed hereinabove can be said to be similarly situated. In one case, the landowners/claimants are held to be entitled to compensation at the rate of Rs. 16,00,000/- per acre (in the case of lands acquired for Jhajjar Thermal Power Plant) and with respect to the lands acquired for Arawali Power Project, the landowners/claimants are entitled to compensation at the rate of Rs. 25,00,000/- per acre.

7. It may be true that while determining compensation at the rate of Rs. 25,00,000/- per acre by this Court in the case of *Arawali Power Company Private Limited (supra)*, the words used are “in the peculiar facts of the case and not to be treated as precedent”. However, the said words “in the peculiar facts of the case and not to be treated as precedent” are to be considered in the context in which the same are used. From the observations and order passed by this Court, wherever the words used are “in the peculiar facts of the case and not to be treated as precedent”, the same can be said to be with respect to consideration of the sale deeds which were executed in the year 2010 (post section 4 notification). As the sale deeds/sale exemplars which were considered by this Court were post section 4 notification, this Court had taken into consideration the sale deeds post section 4 notification by observing that

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- A it was agreed between the parties that the subsequent sale deeds were *bona fide* and could be taken into consideration. The observations that “in the peculiar facts of the case and not to be treated as precedent” are to be construed while considering the sale deeds executed post section 4 notification. As per the settled position of law, normally the sale deeds/ sale exemplars post section 4 notification may not be taken into consideration. However, as it was agreed between the parties that the subsequent sale deeds were *bona fide* and could be taken into consideration, to that and in the peculiar facts of the case and not to be treated as precedent, this Court had taken into consideration the subsequent sale deeds and determined compensation at Rs. 25,00,000/- per acre after giving a reasonable deduction, i.e., 15% deduction.

- 8. However, at the same time, considering the evidence on record and the sale instances which were relied upon on behalf of the landowners and while considering the fact that the landowners shall be entitled to just and reasonable compensation for the lands acquired and taking into consideration the decision of this Court in the case of *Arawali Power Company Private Limited (supra)*, we are of the opinion that if the landowners in the present case are awarded compensation at the rate of Rs. 22,00,000/- per acre, the same can be said to be just and reasonable compensation. The impugned common judgment and order is required to be modified to the aforesaid extent.

- E 9. Now so far as the landowners in the appeals arising out of RFA Nos. 4322/2016, 4682/2016, 804/2017 and 805/2017 are concerned, considering the order passed by the High Court dated 17.08.2018 passed while condoning the delay in filing/refiling the appeals on condition that the landowners shall not be entitled to interest on the enhanced amount of compensation, if any, the landowners shall not be entitled to interest for the period of delay in filing/refiling the said appeals before the High Court.

- G 10. In view of the above and for the reasons stated above, the present appeals succeed. The impugned common judgment and order passed by the High Court is hereby modified and it is observed and directed that the landowners whose lands have been acquired for Jhajjar Thermal Power Plant shall be entitled to compensation at the rate of Rs. 22,00,000/- per acre. The landowners shall also be entitled to all the statutory benefits including interest which may be available under the H Act, 1894. However, it is observed and directed that so far as the

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landowners in the appeals arising out of RFA Nos. 4322/2016, 4682/ A
2016, 804/2017 and 805/2017 are concerned, they shall not be entitled to
any interest on the enhanced amount of compensation for the period of
delay in filing/refiling the appeals before the High Court.

11. All these appeals are allowed to the aforesaid extent. However,
in the facts and circumstances of the case, there shall be no order as to B
costs.

Ankit Gyan
(Assisted by : Aarsh Choudhary, LCRA)

Appeals allowed.