

RAMESH KUMAR

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v.

BHATINDA INTEGRATED COOPERATIVE
COTTON SPINNING MILL AND ORS.

(Civil Appeal Nos. 3875 – 3876 of 2009)

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SEPTEMBER 13, 2021

[M. R. SHAH AND ANIRUDDHA BOSE, JJ.]

Land Acquisition Act, 1894 – ss. 4 and 23 – Compensation – Enhancement of – A Notification u/s.4 was issued on 06.06.1988 and the land in question was acquired for public purposes for establishing Cotton Spinning and Ginning Mills – The Land Acquisition Officer awarded compensation considering the value of the land at the rate of Rs.25,000/- per acre – The Reference Court relying upon the sale deed dated 24.05.1979 as Ex. AW6/C by which the land admeasuring 43 kanals 13 marlas out of the acquired at the rate of Rs.50,000/- per acre and thereafter granted the increase of 12% per acre and thereafter adopting the cut of 25% determined the compensation at Rs.1,12,000/- per acre – However, the High Court determined the value at Rs.88,400/- per acre after adopting cut of 15% – On appeal, held: In the present case both, the Reference Court as well as the High Court, have determined the value of the land considering the sale deed dated 24.05.1979 which is more than 9 years before the notification of the acquisition – Considering the observations made by the Supreme Court in the case of Rameshbhai Jivanbhai Patel that it is reasonably safe to determine the market value by providing appropriate escalation over the approved market value of nearby lands in the previous years, when relied on sale transactions/acquisitions precede the subject acquisition by only a few years, i.e., upto 4-5 years and beyond that it may be unsafe – The fact that time gap between the sale deed relied upon and the date of notification of acquisition is more than 9 years in the instant case, the courts below ought to have been very cautious in relying upon the sale deed dated 24.05.1979 – Be that it may and assuming that the sale deed dated 24.05.1979 was the best evidence available to determine the value of land acquired, in that case also taking annual increase at the rate of 12% is not justified – In the instant case, in the facts and circumstances of the

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A *case the annual increase/escalation ought to have been at the rate of 10% maximum – The High Court rightly adopted the cut of 15%, which in the facts and circumstances of the case is not required to be interfered with – Therefore, there is no reason to interfere with the impugned judgment of the High Court.*

B **Dismissing the Appeals, the Court**

HELD: 1. The questions which are posed for consideration of this Court are :

C **(i) Whether in the facts and circumstances of the case the Courts below have erred in taking annual increase at the rate of 12% at the flat rate and not applying the cumulative rate?**

(ii) Whether in the facts and circumstances of the case the High Court has erred in adopting the cut/deduction of 15%, while determining the value of the land acquired?

D **2. In the case of *Rameshbhai Jivanbhai Patel*, it is specifically observed and held that when market value is sought to be ascertained with reference to transactions which took place before the acquisition, the law adopted is to collect the year to year increase. It is further observed and held that as the percentage of increase is always with reference to the previous year's market value, the appropriate method is to adopt the increase cumulatively and not applying a flat rate. However, at the same time it is also observed and held in the said decision that it is reasonably safe to determine the market value by providing appropriate escalation over the approved market value of nearby lands in the previous years, when relied on sale transactions/acquisitions precede the subject acquisition by only a few years, i.e., upto 4-5 years. It is further observed in the said decision that beyond that it may be unsafe, even if it relates to a neighbouring land. In the present case both, the Reference Court as well as the High Court, have determined the value of the land considering the Sale Deed dated 24.05.1979 which is more than 9 years before the notification of the acquisition. Therefore, considering the observations made by this Court in the case of *Rameshbhai Jivanbhai Patel* and considering the fact that time gap between the sale deed relied upon and the date of notification of acquisition is more than 9 years, the courts below ought to**

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have been very cautious in relying upon the Sale Deed dated 24.05.1979. Be that it may and assuming that the Sale Deed dated 24.05.1979 was the best evidence available to determine the value of land acquired in that case also taking annual increase at the rate of 12% is not justified. This Court is of the opinion that, in the facts and circumstances of the case the annual increase/escalation ought to have been at the rate of 10% maximum. Even otherwise, it is required to be noted that State of Punjab suffered due to militancy from 1979 onwards till 1992 and because of that the prices would have crashed. Therefore, to grant the escalation/price rise at the rate of 12% would not be justified at all. After considering the case of *Rameshbhai Jivanbhai Patel*, it is observed and held by this Court in the case of *Lal Chand* that even if the transaction is 2 to 3 years prior to the acquisition, the Court should, before adopting a standard escalation satisfy itself that there were no adverse circumstances. It is further observed and held that the question is therefore, necessary before increasing the price with reference to the old transactions. Therefore, assuming that the appellants are right in submitting that the increase in land value should have been adopted on cumulative basis, in the peculiar facts and circumstances of the case noted hereinabove, there is no reason to interfere with the impugned judgment and order passed by the High Court. [Para 6.3][796-H; 797-A-C; 797-G-H; 798-A-E]

3. Now so far as the deduction at the rate of 15% towards the development charges, it also does not call for any interference of this Court considering the fact that the land in question at the relevant time was an agricultural land. However, taking into consideration the fact that the sale instance dated 24.07.1979 relied upon was a quite big chunk of land and the location of the acquired land and the land was acquired for spinning mill, the High Court has rightly adopted 15% cut, which in the facts and circumstances of the case is not required to be interfered with. [Para 6.5][798-F-G]

ONGC Ltd. v. Rameshbhai Jivanbhai Patel & Anr. (2008)
14 SCC 745 : [2008] 11 SCR 927 – relied on.

Mehrawal Khewaji Trust, Faridkot and Ors. v. State of Punjab and Ors. (2012) 5 SCC 432 : [2012] 4 SCR

- A **24; *Ashok Kumar and Ors. v. State of Haryana and Ors.* (2015) 15 SCC 200; *Atma Singh v. State of Haryana* (2008) 2 SCC 568 : [2007] 12 SCR 1120; *Anjani Molu Dessai v. State of Goa and Anr.* (2010) 13 SCC 710 : [2010] 14 SCR 997; *Trishala Jain and Anr. v. State of Uttaranchal and Anr.* (2011) 6 SCC 47 : [2011] 8 SCR 520; *Lal Chand v. Union of India* (2009) 15 SCC 769 : [2009] 13 SCR 622 – referred to.**
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Case Law Reference

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|---|--------------------|-------------|-------------|
| | [2012] 4 SCR 24 | referred to | Para 4(i) |
| C | [2008] 11 SCR 927 | relied on | Para 4(iii) |
| | (2015) 15 SCC 200 | referred to | Para 4(iii) |
| | [2007] 12 SCR 1120 | referred to | Para 4(v) |
| | [2010] 14 SCR 997 | referred to | Para 4.1 |
| D | [2011] 8 SCR 520 | referred to | Para 4.1 |
| | [2009] 13 SCR 622 | referred to | Para 5.1 |

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos.3875-3876 of 2009.

- E From the Judgment and Order dated 19.09.2008 of the High Court of Punjab and Haryana at Chandigarh in RFA Nos.1507 and 3476 of 1999.

With

- F Civil Appeal Nos. 5669, 5670 of 2021 and Civil Appeal Nos.9185-9196 of 2017.

- G Nikhil Goel, Naveen Goel, Vinay Mathew, Yadav Narender Singh, Vijay Kumar Sharma, Jagdish Prashad, Rameshwar Prasad Goyal, Sridhar Potaraju, Ms. Shiwani Tushir, Aayush Kumar, Advs. for the Appellant.

Ms. Kumud Lata Das, Puneet Kansal, Ms. Anita Pandey, Ms. Indu Kaul, Advs. for the Respondents.

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The Judgment of the Court was delivered by
M. R. SHAH, J. A

Civil Appeal Nos. 3875-3876 OF 2009

1. Arising out of the impugned common judgment and order dated 19.09.2008 passed by the High Court in RFA No.3476 of 1999 filed by the original claimants for enhancement and RFA No.1507 of 1999 filed by the Bhatinda Integrated Co-operative Cotton Spinning & Ginning Mills Ltd. B

Special Leave Petition No.9470 of 2010

Leave granted. C

Arising out of RFAs No.2648 of 1999 (Bant Singh and Ors. vs. State of Punjab and Ors.), the appeal which was filed by the original claimants for enhancement of the compensation. However, it is required to be noted that RFA No.1505 of 1999 filed by the Bhatinda Integrated Co-Operative Cotton Spinning & Ginning Mills Ltd. vs. Bant Singh and others is not under challenge. D

Special Leave Petition No.15117 of 2010

Leave granted.

Arising out of RFA No.2645 of 1999 which was filed by the original claimants Gurbachan Singh and others for enhancement of compensation. It is required to be noted that no appeal has been preferred by the original claimants (Gurbachan Singh and others) challenging the order passed in RFA No.1505 of 2019 which was filed by the Bhatinda Integrated Co-Operative Cotton Spinning & Ginning Mills Ltd. which has been allowed by the High Court and the amount of compensation has been reduced. E F

CIVIL APPEAL NOS.9185-9196 of 2017

Civil Appeal Nos.9895-9897 of 2017 arising out of RFA Nos.2642, 2643, 2644, 2645, 2646, 2648 of 1999 and RFA Nos. 1505, 1508, 1509, 1510, 1515 and 1516 of 1999. G

2. As common question of law and facts arise in this group of appeals, all these appeals are decided and disposed of together by this common Judgment and Order.

2.1 Vide notification dated 06.06.1988 issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the lands owned by H

- A the original claimants admeasuring 297 Kanals and 1 Marla situated in the revenue estate of Jassi Pau Wali, Distt. Bhatinda, Punjab came to be acquired for public purpose, namely, establishment of Bhatinda Integrated Cooperative Cotton Spinning and Ginning Mills Ltd. (for short, 'the Spinning Mill'). The same was followed by a notification under Section 6 of the Act on 08.06.1988. The Land Acquisition Officer vide Award
- B dated 05.10.1989 determined the value of the land at Rs.25,000/- per acre and awarded the compensation accordingly. At the instance of the land owners the references were made to the Reference Court. Vide common Judgment and Award dated 27.02.1999, the Reference Court determined the market value of the land at Rs.1,12,000/- per acre. Before
- C the Reference Court it was the case on behalf of the land owners that the acquired land is situated just on the main Bhatinda Mansa Road and has a very potential value of being used for commercial and residential purposes as well as the industrial purposes. Before the Reference Court the land owners heavily relied upon the registered Sale Deeds Ex.A.W.6/
- D C to Ex. A.W.6/H executed on or about 24.05.1979 at the rate of Rs.50,000/- per acre. The Reference Court took into account the aforesaid sale deed Ex.A.W.6/C to determine the market value of the lands acquired and considering the time gap of about 9 years between the date of the execution of the aforesaid sale deeds and Section 4 Notification thereby granted the increase of 12% in the price of the land per year and applied
- E the cut of 25% and finally determined the value of the land at Rs.1,12,000/-per acre and accordingly enhanced the award of compensation by common Judgment and Order dated 27.02.1999.

- 2.2 Feeling aggrieved and dissatisfied with the common Judgment and Award passed by the Learned Reference Court whereby it enhanced the amount of compensation considering the market value of the land at
- F Rs.1,12,000/- per acre, both, the original claimants as well as the Spinning Mill preferred the appeals before the High Court. The land owners preferred the appeals for enhancement of the compensation. By impugned common Judgment and Order the High Court has allowed the appeals preferred by the Spinning Mill reducing the amount of compensation and
- G determining the value of acquired land at Rs.88,400/- per acre. The High Court also considered the Sale Deed Ex.AW6/C as a base for determining the value of the acquired land and also added 12% annual increase. However, the High Court imposed the cut of 15% instead of 25% as adopted by Learned Reference Court. Thus, the appeals
- H preferred by the Spinning Mill came to be partly allowed. Consequently,

the appeals preferred by the original land owners which were filed for the enhancement of the compensation came to be dismissed by the High Court. A

2.3 Feeling aggrieved and dissatisfied with the common impugned Judgment passed by the High Court partly allowing the appeals preferred by the Spinning Mill and dismissing the appeals preferred by the land owners for enhancement of compensation and determining the value of the acquired land at Rs.88,400/- per acre, the land owners have preferred the present appeals. B

3. Shri Vinay Mathew, Shri Yadav Narender Singh and Shri Sridhar Potaraju, Learned Advocates appearing on behalf of the appellants – original land owners and Shri Puneet Kansal, Learned Advocate appearing on behalf of the Respondent – Spinning Mill. At this stage, it is required to be noted that so far as the Bhatinda Integrated Co-operative Cotton Spinning & Ginning Mills Ltd. is concerned, it has been ordered to be wound up and the Liquidator has been appointed and Shri Puneet Kansal, Learned Advocate has appeared on behalf of Liquidator of the Spinning Mill. C D

4. Learned Counsel appearing on behalf of the land owners have made the following submissions:

- (i) that both, the Learned Reference Court as well as the High Court have failed to consider the exemplar being the sale deed dated 04.05.1981 by which the land admeasuring 70 meters away from the acquired land was sold at Rs.1,17,600/- per acre. It is submitted that as held by this Court in the case of **Mehrawal Khewaji Trust, Faridkot and Ors. Vs. State of Punjab and Ors.**, (2012) 5 SCC 432 the highest of the exemplars which is a bona fide transaction has to be considered. It is submitted that the said sale deed was executed in the year 1981 and considering the time given of 7 years the annual increase of 7 years was required to be taken; E F G
- (ii) that the High Court has erred in taking annual increase at the rate of 12% at the flat rate which would lead to anomalous results as opposed to cumulative rate;
- (iii) it is submitted that exemplar sale deed that was accepted by the courts below is dated 24.05.1979 which is more than H

- A 9 years before the notification of acquisition was made and thus 9 years of cumulative increase has to be applied to the value of the land at Rs.50,000/- per acre. Heavy reliance is placed on the decision of this Court in **ONGC Ltd. vs. Rameshbhai Jivanbhai Patel & Anr.**, (2008) 14 SCC 745.
- B In the aforesaid decision, it is categorically held by this Court that it is logical, practical and appropriate to apply cumulative rate as opposed to flat rate. It is submitted that aforesaid decision has been subsequently followed and/or applied in the case of **Ashok Kumar and Ors. vs. State of Haryana and Ors.**, (2015) 15 SCC 200;
- C (iv) that Reference Court as well as the High Court both have erred in adopting cut of 25%/15% of the value towards development. It is submitted that while the Reference Court has adopted cut of 25% of the market price, the High Court deducted 15%. It is submitted that considering the location and nature of the land that was acquired as well as the purpose for which it was acquired (for commercial purpose for spinning mill) no cut from the market price should have been made and the land owners were entitled to the market price without any cut. It is further submitted that the acquired land is only 30 acres and the nature of the land is semi urban and the same was adjoining the municipal limits of Bhatinda and it was further found that the area surrounding the acquired land consisted of factories, go-downs, residential houses and the cantonment areas thus no deduction on account of any development charges should have been made;
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- F (v) that the land was acquired for setting up profit making enterprise i.e. cotton spinning mill and therefore, also no deduction should have been made in the price of the exemplar. Reliance is placed on the decision of this Court in the case of **Atma Singh vs. State of Haryana**, (2008) 2 SCC 568.
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4.1 Making the above submissions and further relying the decisions of this Court in the cases of **Anjani Molu Dessai vs. State of Goa and Anr.**, (2010) 13 SCC 710 and **Trishala Jain and Anr. Vs. State of**

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Uttaranchal and Anr., (2011) 6 SCC 47, it is prayed to allow the present appeals and enhance the amount of compensation considering the value of the land of Rs.1,50,000/- per acre. A

5. All the appeals are opposed by Learned Counsel appearing on behalf of the Liquidator of Spinning Mill. It is submitted on behalf of the Learned Counsel for Liquidator - Spinning Mill that the mill was a Co-operative Society and became operational only in 1992. The mill went into huge losses because of various factors which resulted in complete erosion of the capital on account of which the mill was brought into winding up vide orders dated 09.05.2003. All the land owners have been paid in full as per the High Court Judgment. B

5.1 Now so far as reliance placed upon the decision in the case of *Rameshbhai Jivanbhai Patel (Supra)* by the land owners to apply the rate of 12% increase cumulatively; it is submitted that the said decision is distinguishable on facts. It is submitted that in the subsequent decision in the case of **Lal Chand vs. Union of India**, (2009) 15 SCC 769, this Court has held that the Court should, before adopting a standard escalation, satisfy itself that there were no adverse circumstances. It is submitted in the present case that the State of Punjab was engulfed in militancy from 1979 onwards till 1992. There was large scale exodus of families belonging to one particular community from the State on account of which there were practically no buyers for the land. It is submitted that as such on account of militancy prices had crashed to around Rs.25,000/- per acre. C D E

5.2 It is submitted that therefore, even the compensation granted to the land owners is already on the higher side. It is submitted therefore in the facts and circumstances of the case the submission on behalf of the land owners that there should not be any deduction at all may not be accepted. F

5.3 Now so far as the reliance placed upon the Sale Deed dated 04.05.1981, it is submitted that the sale deed was for small portion of land being 1 Kanal 14 Marlas against 297 Kanal 1 Marla of land and therefore, the same has not been rightly accepted by the Reference Court as well as the High Court. G

5.4 It is further submitted that even otherwise the cut of 15% towards development charges does not require any interference as the land was agricultural (soft soil) acquired for industrial purpose. H

A 5.5 It is submitted that therefore, considering the oral facts and circumstances of the case no interference of this Court is called for. Therefore, it is prayed to dismiss the present appeals.

6. Heard Learned Counsel for the parties respectively at length.

B 6.1 In the present case the Notification under Section 4 of the Act has been issued on 06.06.1988. The land in question was acquired for the public purpose for establishing Bhatinda Integrated Cooperative Cotton Spinning and Ginning Mills Ltd. The Land Acquisition Officer, Bhatinda awarded the compensation considering the value of the land at the rate of Rs.25,000/- per acre. The Reference Court relying upon the
C sale deed dated 24.05.1979 as Ex. AW6/C by which the land admeasuring 43 kanals 13 marlas out of the acquired land was purchased by Shri Sudarshan Kumar and Mrs. Surinder Anand at the rate of Rs.50,000/- per acre and thereafter adding 12% per acre and thereafter adopting the cut of 25% determined the compensation at Rs.1,12,000/- per acre. Thereafter the High Court by the impugned common Judgment and Order
D has allowed the appeals preferred by the spinning mills and dismissed the appeals preferred by the land owners, by determining the value at Rs.88,400/- per acre after adopting cut of 15%.

6.2 Having heard the Learned Counsel for the respective parties the questions which are posed for consideration of this Court are:

- E (i) Whether in the facts and circumstances of the case the Courts below have erred in taking annual increase at the rate of 12% at the flat rate and not applying the cumulative rate?
- F (ii) Whether in the facts and circumstances of the case the High Court has erred in adopting the cut/deduction of 15%, while determining the value of the land acquired?

G 6.3 Now so far as the submission on behalf of the land owners that while considering the annual increase at the rate of 12%, the High Court ought to have applied the cumulative rate and reliance placed upon the decision of this Court in **Rameshbhai Jivanbhai Patel** (*Supra*) and in the case of **Ashok Kumar** (*Supra*) are concerned, it is true that as held by this Court in aforesaid two decisions increase in the market value should be at a cumulative rate and not at a flat rate. In the case of **Rameshbhai Jivanbhai Patel** (*Supra*) in paragraph 18, it is specifically observed and held that when market value is sought to be ascertained
H with reference to transactions which took place before the acquisition,

the law adopted is to collect the year to year increase. It is further observed and held that as the percentage of increase is always with reference to the previous year's market value, the appropriate method is to adopt the increase cumulatively and not applying a flat rate. However, at the same time it is also observed and held in the said decision that it is reasonably safe to determine the market value by providing appropriate escalation over the approved market value of nearby lands in the previous years, when relied on sale transactions/acquisitions precede the subject acquisition by only a few years, i.e., upto 4-5 years. It is further observed in the said decision in para 15 that beyond that it may be unsafe, even if it relates to a neighbouring land. In para 15 it is observed and held as under:

“Normally, recourse is taken to the mode of determining the market value by providing appropriate escalation over the proved market value of nearby lands in previous years (as evidenced by sale transactions or acquisition), where there is no evidence of any contemporaneous sale transactions or acquisitions of comparable lands in the neighbourhood. The said method is reasonably safe where the relied-on-sale transactions/acquisitions precedes the subject acquisition by only a few years, that is upto four to five years. Beyond that it may be unsafe, even if it relates to a neighbouring land. What may be a reliable standard if the gap is only a few years, may become unsafe and unreliable standard where the gap is larger. For example, for determining the market value of a land acquired in 1992, adopting the annual increase method with reference to a sale or acquisition in 1970 or 1980 may have many pitfalls. This is because, over the course of years, the ‘rate’ of annual increase may itself undergo drastic change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices affecting the very standard of increase.

In the present case both, the Reference Court as well as the High Court, have determined the value of the land considering the Sale Deed dated 24.05.1979 which is more than 9 years before the notification of the acquisition. Therefore, considering the observations made by this Court in para 15 in the case of *Rameshbhai Jivanbhai Patel (Supra)* reproduced hereinabove and considering the fact that time gap between the sale deed relied upon and the date of notification of acquisition is

- A more than 9 years, the courts below ought to have been very cautious in relying upon the Sale Deed dated 24.05.1979. Be that it may and assuming that the Sale Deed dated 24.05.1979 was the best evidence available to determine the value of land acquired in that case also taking annual increase at the rate of 12% is not justified. We are of the opinion that, in the facts and circumstances of the case the annual increase/
- B escalation ought to have been at the rate of 10% maximum. Even otherwise, it is required to be noted that State of Punjab suffered due to militancy from 1979 onwards till 1992 and because of that the prices would have crashed. Therefore, to grant the escalation/price rise at the rate of 12% would not be justified at all. After considering the case of
- C **Rameshbhai Jivanbhai Patel** (*Supra*), it is observed and held by this Court in the case of **Lal Chand** (*Supra*) that even if the transaction is 2 to 3 years prior to the acquisition, the Court should, before adopting a standard escalation satisfy itself that there were no adverse circumstances. It is further observed and held that the question is therefore, necessary before increasing the price with reference to the
- D old transactions. Therefore, assuming that the appellants are right in submitting that the increase in land value should have been adopted on cumulative basis, in the peculiar facts and circumstances of the case noted hereinabove, we see no reason to interfere with the impugned judgment and order passed by the High Court.

- E 6.4 Now so far as the submission on behalf of the appellants of not taking into consideration the other sale deeds, it is required to be noted that those sale deeds are with respect to small portions of land and thereafter rightly discarded.

- F 6.5 Now so far as the deduction at the rate of 15% towards the development charges, it also does not call for any interference of this Court considering the fact that the land in question at the relevant time was an agricultural land. However, taking into consideration the fact that the sale instance dated 24.07.1979 relied upon was a quite big chunk of land and the location of the acquired land and the land was acquired
- G for spinning mill, the High Court has rightly adopted 15% cut, which in the facts and circumstances of the case is not required to be interfered with.

- H 7. At this stage, it is also required to be noted that though the land was acquired in the year 1988, the same was made operational only in the year 1992 and therefore, has gone into liquidation in the year 2003.

The entire amount of compensation as determined by the High Court A
has been paid.

We see no reason to interfere with the common Judgment and
Order passed by the High Court. In view of the reasons stated
hereinabove all these appeals fail and deserve to be dismissed. The
appeals are dismissed accordingly. B

However, no order as to costs.

Ankit Gyan

Appeals dismissed.