

A

RADHEY SHAM

v.

THE STATE OF HARYANA AND OTHERS

(Civil Appeal No. 7391 of 2022)

B

OCTOBER 17, 2022

[M. R. SHAH AND C. T. RAVIKUMAR, JJ.]

- Land Acquisition: s.4 notification issued on 29.08.2005 – Award made under s.11 – Reference made at the instance of land owners for enhancement of compensation - Reference court by judgment dated 31.05.2014 assessed market value at Rs.1000 per square yard – Dissatisfied land owners filed appeals before High Court for enhancement of compensation – State accepted judgment dated 31.05.2014 – High Court allowed appeals filed by land owners and assessed the market value of acquired land at Rs.4173 per square yard – Both landowners as well as the State preferred appeals before this Court – By judgment dated 16.05.2018, this Court allowed the appeals preferred by the State and set aside the judgment passed by the High Court and remitted the matter to the High Court for fresh consideration – On remand, High Court remitted matter to Reference Court by observing that some sale instances/sale exemplars relied upon on behalf of the landowners were not taken into consideration by Reference Court – On remand, Reference Court assessed amount of compensation at Rs. 750/- per square yard – Landowners as well as the State filed appeals before High Court – By the impugned judgment, High Court dismissed landowners appeals and allowed the State's appeals and restored the award passed by the Land Acquisition Collector and the amount of compensation reduced between Rs. 166/- per square yard to Rs. 200/- per square yard – Hence instant appeals by the original landowners – Held: It is not in dispute that so far as the State Government is concerned, the State did not challenge the common judgment dated 31.05.2014 passed by the Reference Court assessing the market value of the acquired land at Rs. 1,000/- per square yard and it was the landowners who preferred appeals before the High Court for enhancement of the amount of compensation – Non-filing of the appeals by the State against the common judgment dated 31.05.2014 was also taken note of by this Court while disposing of*

the appeals by common judgment dated 16.05.2018 – Even A otherwise, on a fair reading of the judgment and order dated 16.05.2018 passed by this Court and the subsequent order dated 28.08.2019 passed by the High Court, the matter was remanded to the Reference Court to consider the sale deeds for the purpose of enhancement of the amount of compensation, while considering the sale deeds relied upon by the landowners – In any case, once the judgment and order passed by the Reference Court dated 31.05.2014 determining the compensation at Rs. 1,000/- per square yard attained finality so far as the State is concerned, the landowners shall be entitled to the compensation at least at Rs. 1,000/- per square yard – Now so far as the submission on behalf of the original landowners to enhance the amount of compensation beyond Rs. 1,000/- per square yard is concerned, most of the sale deeds relied upon by the landowners were much prior to the date of s.4 notification (ranging between 1992 to 1994) – Some of the sale deeds were post s.4 notification – Only three to four sale deeds were nearer to s.4 notification – However, all those sale deeds were with respect to small area of lands and even the price is also at variance – Therefore, it was not safe to determine the compensation relying upon those sale deeds which are nearer to s.4 notification – The claimants/ landowners entitled to compensation of the acquired land at least at Rs. 1,000/- per square yard.

Partly allowing the appeals, the Court

HELD: 1. The landowners shall be entitled to the compensation considering the market value of the acquired land at least at Rs. 1,000/- per square yard as per the earlier judgment and order dated 31.05.2014 passed by the Reference Court. It is not in dispute that so far as the State Government is concerned, the State did not challenge the common judgment and order dated 31.05.2014 passed by the Reference Court assessing the market value of the acquired land at Rs. 1,000/- per square yard and it was the landowners who preferred appeals before the High Court for enhancement of the amount of compensation. Non-filing of the appeals by the State against the common judgment and order dated 31.05.2014 was also taken note of by this Court while disposing of the appeals *vide* common judgment and order dated 16.05.2018. Even otherwise, on a fair reading of the judgment

B

C

D

E

F

G

H

- A and order dated 16.05.2018 passed by this Court and the subsequent order dated 28.08.2019 passed by the High Court, the matter was remanded to the Reference Court to consider the sale deeds for the purpose of enhancement of the amount of compensation, while considering the sale deeds relied upon by the landowners. In any case, once the judgment and order passed by the Reference Court dated 31.05.2014 determining the compensation at Rs. 1,000/- per square yard attained finality so far as the State is concerned, the landowners shall be entitled to the compensation at least at Rs. 1,000/- per square yard. [Paras 5, 6][1089-B-F]
- B
- C 2. Now so far as the submission on behalf of the original landowners to enhance the amount of compensation beyond Rs. 1,000/- per square yard is concerned, most of the sale deeds relied upon by the landowners are much prior to the date of Section 4 notification (ranging between 1992 to 1994). Some of the sale
- D deeds are post Section 4 notification. Only three to four sale deeds are nearer to Section 4 notification. However, all those sale deeds are with respect to small area of lands and even the price is also at variance. Therefore, it is not safe to determine the compensation relying upon those sale deeds which are nearer to Section 4 notification. The claimants/landowners shall be entitled to compensation of the acquired land at least at Rs. 1,000/- per square yard. [Paras 7, 8][1029-F-H; 1030-A-B]
- E

Ashrafi and Others v. State of Haryana and Others
 (2013) 5 SCC 527 : [2013] 6 SCR 148 – referred to.

F	<u>Case Law Reference</u>	
	[2013] 6 SCR 148	referred to

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 7391 of 2022.

- G From the Judgment and Orders dated 04.03.2022 of the High Court of Punjab and Haryana at Chandigarh in Regular First Appeal No. 2016 of 2021 (O&M).

With

- H Civil Appeal Nos. 7372, 7371, 7204-7222, 7346-7349, 7223-7230, 7233-7234, 7373-7390, 7350, 7351-7370 of 2022.

Abhinash Jain, Dy. AG, Alok Sangwan, AAG, Dr. Bharat Bhushan Parsoon, Neeraj Kishan Kaul, Manoj Swarup, Sr. Advs., Dinesh K. Garg, Abhishek Garg, Dhananjay Garg, Ishaan Tiwari, Dr. Monika Gusain, Hari Om Yaduvanshi, Miss. S. Harini, Sumit Kumar Sharma, Anurag Kulharia, Sandeep, Apoorv Yadav, Vipul Dahiya, Ms. Sonam Priya, Ayush Kumar Singh, Anurag Mishra for M/s. Bakshi & Associates, Siddharth Batra, Ms. Aarzoo Aneja, Ms. Ira S. Mahajan, Ms. Shilpa Ohri, Ms. Archna Yadav, Ms. Shivani Chawla, Chinmay Dubey, Rhythm Katyal, Ms. Sakshi Shukla, Aniket Jain, Umang Shankar, Vidyut Kayarkar, Sanjay Singh, Ankit Swarup, Neelmani Pant, Ms. Kanti Day, Aditya Jain, Mohan Lal Sharma, Sukant Vikram, M/s V. Maheshwari & Co., Advs. for the Appellant.

A

B

C

The Judgment of the Court was delivered by

M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned common judgment and order dated 04.03.2022 passed by the High Court of Punjab & Haryana at Chandigarh in R.F.A. No. 2016/2021 and other allied First Appeals, by which the High Court has allowed the said First Appeals preferred by the respondents herein – State of Haryana and others and has quashed and set aside the judgment and order dated 31.05.2014 passed by the Reference Court and has restored the awards declared by the Land Acquisition Collector determining the amount of compensation with respect to the lands acquired at village Hansi and Dhana, District Hisar, Haryana, the original landowners have preferred the present appeals.

D

E

F

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

That the land situated at village Hansi and Dhana, District Hisar, Haryana admeasuring 229.13 acres and 20.77 acres respectively came to be acquired under the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as the ‘Act 1894’) for development of the residential and commercial sectors – Sectors 3, 5 & 6 at Hansi. A common notification under Section 4 of the Act 1894 was issued on 29.08.2005. That declaration under Section 6 of the Act 1894 was issued on 29.08.2006. The land Acquisition Collector declared the award under Section 11 of the Act 1894 on 3.8.2007, *vide* award Nos. 1 & 2 for both villages, Hansi & Dhana, by adopting the belting method/system and

G

H

- A assessed the market value of the land abutting the G.T. Road (Delhi-Hisar Road) at Rs. 12,00,000/- per acre up to the depth of 2 acres and for the land abutting the Jind By-pass Road, at Rs. 10,00,000/- per acre up to the depth of 2 acres and for the remaining land, the market value was assessed at Rs. 8,00,000/- per acre.
- B 2.1 That at the instance of the landowners, the references were made to the Reference Court. By common judgment and order dated 31.05.2014, the Reference Court allowed the respective reference petitions filed by the landowners and assessed the market value at Rs.1,000/- per square yard (Rs. 48,20,000/- per acre).
- C 2.2 Having not satisfied with the amount of compensation determined by the Reference Court, the landowners preferred first appeals before the High Court for enhancement of compensation. At this stage, it is required to be noted that so far as the State is concerned, the State accepted the common judgment and order dated 31.05.2014 passed by the Reference Court determining the amount of compensation/ market value of the acquired land at Rs. 1,000/- per square yard. That the High Court, by common judgment and order dated 28.05.2016 passed in RFA No. 7324/2014 and other allied first appeals, allowed the said first appeals preferred by the landowners and assessed the market value of the acquired land at Rs. 4,173/- per square yard, relying upon the decision of this Court in the case of *Ashrafi and Others v. State of Haryana and Others, (2013) 5 SCC 527*.
- D 2.3 Feeling aggrieved and dissatisfied with the common judgment and order passed by the High Court dated 28.05.2016 passed in RFA No. 7324/2014 and other allied first appeals, the original landowners as well as the State preferred appeals before this Court. By judgment and order dated 16.05.2018, this Court allowed the appeals preferred by the State and set aside the judgment and order dated 28.05.2016 passed by the High Court and remitted the matter to the High Court for fresh consideration. While setting aside the judgment and order dated 28.05.2016 passed by the High Court, this Court observed that the High Court committed an error in determining compensation at Rs. 4,173/- per square yard, considering the decision of this Court in the case of *Ashrafi (supra)*. This Court observed that as the land in the case of *Ashrafi (supra)* was acquired in the year 1995 and was a very small piece of land and it was for a commercial purpose and in the present case the land has been acquired in the year 2005 and thus there is a gap

of about 10 years between the two acquisitions, relying on such an A acquisition of a decade ago may be unsafe.

2.4 That thereafter on remand, the High Court *vide* common judgment and order dated 28.08.2019 remitted the matter to the Reference Court by observing that some sale instances/sale exemplars relied upon on behalf of the landowners were not taken into consideration by the Reference Court. Therefore, the High Court remanded the matter to the Reference Court by observing that it would be appropriate that the Reference Court as such examines the issue threadbare and after examining the sale deeds produced from both sides comes to the conclusion that what is the correct market value. B C

2.5 That thereafter on remand, the Reference Court assessed the amount of compensation at Rs. 750/- per square yard. The common judgment and order passed by the Reference Court on remand assessing the compensation/market value at Rs. 750/- per square yard was the subject matter before the High Court at the instance of the landowners as well as the State. By the impugned common judgment and order, the High Court has dismissed the appeals preferred by the landowners and allowed the appeals preferred by the State and has restored the award passed by the Land Acquisition Collector. By the impugned common judgment and order passed by the High Court, the amount of compensation is reduced between Rs. 166/- per square yard to Rs. 200/- per square yard. D E

2.6 Feeling aggrieved and dissatisfied with the impugned common judgment and order passed by the High Court, the original landowners have preferred the present appeals.

3. We have heard learned Senior Advocates/counsel appearing on behalf of the respective original landowners and Shri Alok Sangwan, learned Additional Advocate General along with Dr. Monilka Gusain, learned counsel for the State of Haryana. F

3.1 Learned Senior Advocates/counsel appearing on behalf of the original landowners have vehemently submitted that as such the State accepted the earlier judgment and order dated 31.05.2014 passed by the Reference Court determining the market value at Rs. 1,000/- per square yard and the landowners preferred appeals before the High Court for enhancement of compensation. It is submitted that once the State accepted the earlier judgment and order passed by the Reference Court, allowing G H

- A the reference petitions, and determining the market value at Rs.1,000/- per square yard, the landowners are entitled to the compensation at least at Rs. 1,000/- per square yard.
 - 3.2 It is submitted that even while disposing of the appeals by this Court in the common judgment and order dated 16.05.2018, this Court also specifically observed that the State had not preferred appeals and/or challenged the judgment and order dated 31.05.2014 passed by the Reference Court and the original landowners preferred appeals for enhancement. It is therefore submitted that in that view of the matter, the High Court ought not to have allowed the appeals preferred by the State and reduced the amount of compensation below Rs. 1,000/- per square yard, which as such was accepted by the State Government by not preferring appeals at the relevant time.
 - 3.3 Some of the learned Senior Advocates/counsel appearing on behalf of the original landowners have taken us to the sale deeds produced by the landowners. Relying upon those sale deeds, it is submitted that the claimants shall be entitled to the amount of compensation at more than Rs.1,000/- per square yard.
- 4. While opposing the present appeals, learned Additional Advocate General appearing on behalf of the State has vehemently submitted that once the matter was remanded by this Court to the High Court and thereafter by the High Court to the Reference Court for fresh decision, even thereafter the Reference Court assessed the amount of compensation at Rs. 750/- per square yard, *vide* common judgment and order dated 29.01.2020. It is therefore submitted that merely because at the relevant time and for whatever reasons the State did not prefer appeals against the judgment and order passed by the Reference Court dated 31.05.2014 determining the compensation/market value at Rs. 1,000/- per square yard, the original landowners shall not be entitled to the compensation at Rs. 1,000/- per square yard.
- 4.1 It is submitted that by the impugned common judgment and order, the High Court has considered the sale deeds relied upon by the State as well as the sale deeds relied upon by the landowners and thereafter has come to the conclusion that the landowners have failed to produce any convincing evidence to prove that the award passed by the Land Acquisition Collector was erroneous. It is submitted that therefore no error has been committed by the High Court in allowing the appeals

H

preferred by the State and in upholding the two different awards passed A by the Land Acquisition Collector.

5. Having heard learned counsel for the respective parties at length and considering the facts and circumstances narrated hereinabove, we are of the firm opinion that the landowners shall be entitled to the compensation considering the market value of the acquired land at least at Rs. 1,000/- per square yard as per the earlier judgment and order dated 31.05.2014 passed by the Reference Court. It is required to be noted and it is not in dispute that so far as the State Government is concerned, the State did not challenge the common judgment and order dated 31.05.2014 passed by the Reference Court assessing the market value of the acquired land at Rs. 1,000/- per square yard and it was the landowners who preferred appeals before the High Court for enhancement of the amount of compensation. It is also required to be noted that non-filing of the appeals by the State against the common judgment and order dated 31.05.2014 was also taken note of by this Court while disposing of the appeals *vide* common judgment and order dated 16.05.2018. B C D

6. Even otherwise, on a fair reading of the judgment and order dated 16.05.2018 passed by this Court and the subsequent order dated 28.08.2019 passed by the High Court, the matter was remanded to the Reference Court to consider the sale deeds for the purpose of enhancement of the amount of compensation, while considering the sale deeds relied upon by the landowners. In any case, once the judgment and order passed by the Reference Court dated 31.05.2014 determining the compensation at Rs. 1,000/- per square yard attained finality so far as the State is concerned, the landowners shall be entitled to the compensation at least at Rs. 1,000/- per square yard. E F

7. Now so far as the submission on behalf of the original landowners to enhance the amount of compensation beyond Rs. 1,000/- per square yard is concerned, we have gone through and considered the sale deeds relied upon on behalf of the landowners. Most of the sale deeds relied upon by the landowners are much prior to the date of Section 4 notification (ranging between 1992 to 1994). Some of the sale deeds are post Section 4 notification. Only three to four sale deeds are nearer to Section 4 notification. However, all those sale deeds are with respect to small area of lands and even the price is also at G

H

- A variance. Therefore, it is not safe to determine the compensation relying upon those sale deeds which are nearer to Section 4 notification.
8. In view of the above and for the reasons state above, we are of the firm opinion that the claimants/landowners shall be entitled to compensation of the acquired land at least at Rs. 1,000/- per square yard. It is reported that the State has already deposited/paid the compensation at the rate of Rs. 1,000/- per square yard which is now sought to be recovered pursuant to the impugned common judgment and order passed by the High Court restoring the awards passed by the Land Acquisition Collector determining the compensation/market value ranging from Rs. 166/- per square yard to Rs. 200/- per square yard.
- C 9. In view of the above and for the reasons stated above, all these appeals succeed in part. The impugned common judgment and order dated 4.3.2022 restoring the awards passed by the Land Acquisition Collector dated 3.8.2007 is hereby quashed and set aside. It is held that the original landowners/claimants shall be entitled to the compensation considering the market value of the acquired land at Rs. 1,000/- per square yard.
- D 10. All these appeals are allowed to the aforesaid extent. No costs.

Devika Gujral

Appeals partly allowed.