

STATE OF HARYANA & ANR.

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V.

SUBHASH CHANDER & ORS.

(Civil Appeal Nos. 859 - 899 of 2023)

B

FEBRUARY 10, 2023

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

*Land Acquisition Act, 1894 – Compensation – Just compensation – Determination of – Acquisition of land for public purpose – High Court awarded compensation for lands acquired vide notification dated 13.01.2010 at Rs.2,98,54,720/- per acre with all statutory benefits – Whether while determining compensation, the High Court materially erred in taking into consideration and/or relying upon the earlier judgment of Supreme Court in State of Haryana Vs. Ram Chander which awarded Rs.2,38,00,000/- per acre for lands acquired vide notification dated 25.01.2008 and then granting a cumulative increase of 12 % – Held: In its' said earlier decision, Supreme Court determined compensation at Rs.2,38,00,000/- per acre with the specific observation that the judgment may not be treated as a precedent – However, even on merits also, the Supreme Court considered and accepted sale instances produced on behalf of land owners ranging between 2007 and 2008 – Therefore, as such determination of compensation at Rs. 2,38,00,000/- per acre with respect to land acquired vide notification issued on 25.01.2008 can be said to be the base and considering the time gap between 2008 notification and 2010 notification, a suitable enhancement ranging between 8% to 15 is permissible – In the facts and circumstances of the case and considering the sale instances produced on record, instead of 12% enhancement on Rs.2,38,00,000/- a 10% increase can be said to be just compensation and may meet the ends of justice – In that view of the matter, market value for the lands acquired vide notification dated 13.01.2010 will be at Rs. 2,87,98,000/- per acre – Land owners concerned accordingly entitled to compensation at Rs. 2,87,98,000/- per acre with all other statutory benefits available under the Land Acquisition Act, 1894.*

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- A *Pehlad Ram v. HUDA (2014) 14 SCC 778 and Ramrao Shankar Tapsevs Maharashtra Industrial Development Corporation & Ors. (2022) 7 SCC 563 – relied on.*

**Case Law Reference**

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|---|-------------------|-----------|----------|
| B | (2022) 7 SCC 563  | relied on | Para 5.2 |
|   | (2014) 14 SCC 778 | relied on | Para 6   |

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 859-899 of 2023.

- C From the Judgment and Order dated 18.10.2019 of the High Court of Punjab and Haryana at Chandigarh in RFA Nos.1100, 1215, 1611, 1612, 1613, 1614, 2455, 2456, 2869, 3332, 3333, 3334, 3360, 3361, 4731, 5589, 5726, 6360 of 2013, 1021, 1022 of 2014, 2350, 7075, 7103 of 2015, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 309, 732 and 1158 of 2016.

D

With

Civil Appeal No.900 of 2023.

- E Nikhil Goel, Sr. AAG, Dr. Monika Gusain, Gagan Gupta, Siddharth Mittal, Kshitiz Chauhan, Ms. Shilpa G. Mittal, Ms. Manju Jetley, Vishnu Kant, Pravin Bahadur, Amir Agarwal, Saurabh Kumar, Ms. Kanika Gomber, Anjani, Pardeep Dahiya, Ms. Mahima Benipuri, Atri Roy Chowdhary, Abhay, Deepak Goel, Advs. for the appearing parties.

- F The Judgment of the Court was delivered by

**M. R. SHAH, J.**

- G 1. Feeling aggrieved and dissatisfied with the impugned common judgment and order dated 18.10.2019 passed by the High Court of Punjab and Haryana at Chandigarh in Regular First Appeal (RFA) No. 1100/2013 and other allied first appeals, by which, the High Court has allowed the said first appeals in part preferred by the original land owners and has enhanced the amount of compensation for the lands acquired at Rs. 2,98,54,720/- per acre with all other statutory benefits, the State of Haryana has preferred the present appeals.

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

2.1 That approximately 58 acres of large chunk of lands situated at village Kherki, Majra came to be acquired for the public purpose under the provisions of the Land Acquisition Act, 1894. The land acquisition officer declared the awards. At the instance of the original land owners, references under Section 18 of the Act, 1894 were made. The reference court enhanced the compensation for notification dated 13.01.2010 to Rs. 1,56,24,000/- per acre from Rs. 60 lakhs per acre as awarded by the land acquisition officer. The appeals preferred by the State against the judgment and award passed by the reference court determining the compensation at Rs. 1,56,24,000/- came to be dismissed. However, by the impugned judgment and order taking into consideration the amount of compensation enhanced by the High Court which came to be modified by this Court to Rs. 2,38,00,000/- per acre with respect to the lands acquired in the month of January, 2008 and granting 12% cumulative increase, the High Court has partly allowed the appeals preferred by the land owners and determined and awarded the compensation at Rs. 2,98,54,720/- per acre. B C D

2.2 Dissatisfied with the impugned judgment and order passed by the High Court determining and awarding the compensation for the lands acquired vide notification dated 13.01.2010 at Rs. 2,98,54,720/- per acre, the State of Haryana has preferred the present appeals. E

3. We have heard Shri Nikhil Goel, learned AAG, appearing on behalf of the State of Haryana and learned counsel appearing on behalf of the respective original land owners. F

4. Shri Nikhil Goel, learned AAG, appearing on behalf of the State has vehemently submitted that while determining the compensation at Rs. 2,98,54,720/- per acre for the lands acquired vide notification dated 13.01.2010, the High Court has materially erred in taking into consideration and/or relying upon the judgment of this Court passed in **Civil Appeal Nos. 11814-11864 of 2017 [State of Haryana Vs. Ram Chander (2017 SCC OnLine SC 1869)]** with respect to the lands acquired vide notification issued in the month of January, 2008. G

4.1 It is submitted that in the judgment and order passed by this Court in Civil Appeal Nos. 11814-11864 of 2017, this Court has specifically H

- A observed and held that the determination of compensation vide the said judgment at Rs. 2,38,00,000/- per acre shall not be treated as a precedent in any other case. It is submitted that therefore, while passing the impugned judgment and order the High Court has materially erred in taking into consideration the amount awarded by this Court vide judgment and order passed in Civil Appeal Nos. 11814-11864 of 2017 at Rs. 2,38,00,000/.
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4.2 It is further submitted by Shri Nikhil Goel, learned AAG, appearing on behalf of the State that in the present case the prices of the land were decreasing which was taken note of by this Court.

- C 4.3 It is further submitted that even otherwise considering the fact that with respect to the very village, lands came to be acquired from 2008 onwards and therefore, the prices of the lands were artificially increased. It is submitted that therefore, the High Court has materially erred in giving 12% rise on Rs. 2,38,00,000/- per acre which has been awarded for notification dated 25.01.2008.
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4.4 Making the above submissions and relying upon the above decision, it is prayed to allow the present appeals.

- E 5. While opposing the present appeals, learned counsel appearing on behalf of the land owners has submitted that once the appeals preferred by the State were dismissed and the impugned common judgment and order was passed in the appeals preferred by the land owners, it is not open for the State now to challenge the impugned common judgment and order passed by the High Court.

- F 5.1 It is further submitted that even otherwise considering the sale instances produced on record right from 09.03.2007 till 31.03.2008 there was increase in prices and therefore, the High Court has not committed any error in granting the enhancement of 12% on Rs. 2,38,00,000/- per acre. It is submitted that as such no concrete evidence has been laid down or no contrary sale instance were placed on record by the acquiring body showing the decrease in the market value between 2008 and 2010.
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- H 5.2 Making the above submissions and relying upon the recent decision of this Court in the case of **Ramrao Shankar Tapse Vs. Maharashtra Industrial Development Corporation and Ors.;**

(2022) 7 SCC 563, by which, it was observed that a cumulative increase of 10 to 15% per year in the market value of land may be accepted, it is prayed to dismiss the present appeals. A

6. We have heard learned counsel appearing on behalf of the respective parties at length. We have gone through the impugned common judgment and order passed by the High Court and we have also gone through and considered the earlier decision of this Court in the case of Civil Appeal Nos. 11814-11864 of 2017 by which with respect to the lands acquired vide notification dated 25.01.2008, this Court determined the compensation at Rs. 2,38,00,000/- per acre. In the said judgment and order, this Court has specifically observed that the said judgment may not be treated as a precedent. However, it is required to be noted that even on merits also, this Court considered and accepted the sale instances produced on behalf of the land owners ranging between 2007 and 2008. Therefore, as such determination of the compensation at Rs. 2,38,00,000/- per acre with respect to the land acquired vide notification issued on 25.01.2008 can be said to be the base and considering the time gap between 2008 notification and 2010 notification, a suitable enhancement ranging between 8% to 15 % is given which is held to be permissible as per the catena of decisions of this Court right from the decision in the case of **Pehlad Ram Vs. HUDA; (2014) 14 SCC 778** up to the recent decision of this Court in the case of **Ramrao Shankar Tapase (supra)**. However, at the same time considering the fact that in the present case with respect to the very village, the acquisition proceedings came to be initiated in the month of January, 2008, it will not be safe and/or prudent to grant the cumulative increase of 12%. In the facts and circumstances of the case and even considering the sale instances produced on record, we are of the opinion that if instead of 12% enhancement on Rs. 2,38,00,000/-, 10% increase is accepted it can be said to be a just compensation and it may meet the ends of justice. B C D E F

7. In that view of the matter, the market value of the land in question for the lands acquired vide notification dated 13.01.2010 will be at Rs. 2,87,98,000/- per acre. G

8. Resultantly, the impugned common judgment and order passed by the High Court is required to be modified to the aforesaid extent by awarding the compensation at Rs. 2,87,98,000/- per acre. Present appeals are partly allowed to the aforesaid extent and it is held that the original H

- A land owners shall be entitled to the compensation at Rs. 2,87,98,000/- per acre with all other statutory benefits which may be available under the Land Acquisition Act, 1894. The appellant – State of Haryana is hereby directed to deposit and/or pay the compensation to the original land owner(s) at the market value of Rs. 2,87,98,000/- along with all other statutory benefits within a period of six weeks from today after deducting whatever amount is already paid. Present appeals are partly allowed to the aforesaid extent. No costs.
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Bibhuti Bhushan Bose  
(Assisted by : Abhishek Pratap Singh, LCRA)

Appeals partly allowed.