

# **Bijender vs State Of Haryana on 27 October, 2017**

**Equivalent citations: AIR 2017 SUPREME COURT 5811**

**Author: Abhay Manohar Sapre**

**Bench: Abhay Manohar Sapre, R.K. Agrawal**

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.2846 OF 2017

Bijender & Ors. ....Appellant(s)

VERSUS

State of Haryana & Anr. ...Respondent(s)

WITH

CIVIL APPEAL Nos.2847-2848,  
2849, 2850, 2851, 2852, 2853- 2872,  
2873-2877, 2878-2882, 2883-2887,  
2888-2893, 2894, 2895, 2896,2897, 2898,  
2899, 2900-2904, 2905, 2906, 2907-2910,  
2911, 2912, 2913-2914, 2915, 2916,2917,  
2918-2929, 2930, 2931-2932, 2933-2950,  
2951,2952-2954,2955 OF 2017

AND

CIVIL APPEAL Nos.17338-17354 OF 2017  
@ S.L.P.(c) Nos.29181-29197 of 2016

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ANITA MALHOTRA  
Date: 2017.10.28  
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Reason:

## JUDGMENT

Abhay Manohar Sapre, J.

1) Leave granted in the special leave petitions.

2) These appeals are directed against the common final judgments and orders dated 22.12.2015, 22.03.2016 and 03.05.2016 passed by the High Court of Punjab and Haryana at Chandigarh in R.F.A. Nos.5300, 2807-2809, 2806, 4762, 4764, 4756, 3751, 3759, 3760, 3766, 3768, 3776, 3777, 3785, 3788, 3794, 3798, 3800, 3805, 4839, 4841, 4842, 4843, 4844, 7299, 8756, 4840, 4846, 4838, 3767, 4757, 4752, 4746, 4744, 7323, 1515, 4753, 5980, 4751, 4745, 4809, 2549, 2548, 5910, 4810, 4754, 5911, 5913, 5912, 6307, 6283, 5542, 5908, 4747, 4760, 4758, 4763, 4759, 6308, 6309, 4748, 4749, 4755, 6306, 5909, 3999/2014, 314 & 809/2015, 3600, 2779, 4750, 3762, 3767, 3791, 3792, 3795, 3797, 3801, 4837, 4838, 4840, 4845, 4846, 4771, 4766, 4767, 2778, 2808, 2940, 2941, 2942, 2943, 2945, 2946, 3085, 3120, 3121, 3997, 3998, 4000, 4001, 4003, 5226, 7214, 4264, 7253, 3988, 2547, 4263, 1516, 2771, 2772, 2773, 2774, 2775, 2777, 3687, 4307, 4416, 4417, 4418, 4419, 4421, 2776, 2778 & 4808/2014 whereby the High Court while disposing of the said appeals partly allowed the appeals and upheld the awards of the Land Acquisition Officer insofar as it relates to assessment of compensation @ Rs.33,00,000/- per acre for the land up to the depth of 2 acres in Safidon-Jind Road, Safidon bye-pass and Gair Mumkin kind of land whereas it enhanced the compensation from Rs.18,00,000/- per acre to Rs.24,75,000/- per acre from for the land beyond 2 acres.

3) Facts of the case are taken from C.A. No.2846 of 2017 (Bijender & Ors. vs. State of Haryana & Anr.) need mention, in detail, to appreciate the controversy involved in these appeals.

4) The land of the appellants measuring 18362 sq. yds. equivalent to 30 kanal 07 marla being 1122/37/15 share out of total acquired land measuring 100 kanal 11 marla from the total land measuring 185 kanal 15 marla of khewat No.1396 khata nos.1658 and 1659 revenue estate of Safidon, situated at a village Saifdon, District Jind, Haryana was acquired. The land was acquired for the development and utilization of commercial and residential for HUDA Sectors 7, 8 and 9 in Safidon City in Distt. Jind vide three Notifications. Along with the land of the appellants, the State also acquired land belonging to several landowners alike the appellants.

5) Notification bearing No.LAC(H)-2007-NTLA/376 on 23.08.2007 under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "the Act") was issued for the acquisition of 142 acres of land in village Singhapura, for public purpose, namely, for the development of residential, commercial Sector 7, Safidon.

6) Notification bearing No.LAC(H)-2007-NTLA/379 on 23.08.2007 under Section 4 of the Act was issued for the acquisition of 249.49 acres land in villages Safidon, Singhapura, Rampura, Ratta Khera and Khera Khemawati for public purpose, namely, for the development of residential, commercial sector 8 at Safidon.

7) Notification bearing No.LAC(H)-2007-NTLA/382 on 23.08.2007 under Section 4 of the Act was issued for the acquisition of 167.79 acres of land in village Safidon, Khera Khemawati for the public purpose, namely, for the development of residential and commercial sector 9 at Safidon.

8) The said notifications were published in the newspapers. The objections to the said notifications were also invited. However, the objections filed by the landowners were rejected by Collector finding no merit therein under Section 5A of the Act.

9) This was followed by 3 declarations made and published under Section 6 of the Act on 21.08.2008 bearing No. LAC(H)-2008-NTLA/423 in respect of the land measuring 74.10 acres of land in village Singhpura, LAC(H)-2008-NTLA/426 in respect of the land measuring 199.57 acres of land in village Safidon, Singhpura, Rampura, Ratta Khera and Khera Khemawati and LAC(H)-2008-NTLA/429 in respect of the land measuring 150.97 acres in village Safidon and Khera Khemawati.

10) The Collector held an enquiry. He applied the Belting System for determining the market rate of land and, accordingly, classified the land in parts. On 19.08.2010, the Collector passed 3 Awards. By Award No.3 in respect of the land in village Singhpura, the Land Acquisition Officer awarded compensation @ Rs.33 lacs per acre for the land up to the depth of 2 acres from Safidon-Jind Road and Safidon Bye-Pass Road and Gair Mumkin and for the land classified as "Nehri, Chahi", he awarded Rs. 18 lacs per acre. The landowners were also awarded 30% solatium and additional amount @ 12% per annum from the date of notification under Section 4 of the Act till the Award as provided under Section 23 of the Act.

11) By Award No.4 in respect of the acquisition of land in village Safidon, Singhpura, Rampura, Ratta Khera and Khera Khemawati, the Land Acquisition Officer awarded compensation @ Rs.33 lacs per acre for the land up to the depth of 2 acres from Safidon-Jind Road and Safidon Bye-Pass Road and Gair Mumkin and @ Rs.18 lacs per acre for "Nehri, Chahi" Land. The landowners were also awarded 30% Solatium and additional amount @ 12% p.a. from the date of notification under Section 4 of the Act till the award as provided under Section 23 of the Act.

12) By Award No.5 in respect of acquisition of land in village Safidon and Khera Khemawati, the Land Acquisition Officer awarded compensation @ Rs.33 lacs per acre for the land upto the depth of 2 acres from Safidon-Jind Road and Safidon Bye-pass Road and Gair Mumkin and Rs.18 lacs per acre for "Nehri, Chahi" land. The landowners were also awarded 30% Solatium and additional amount @ 12% p.a. from the date of notification under Section 4 of the Act till the Award as provided under Section 23 of the Act.

13) Being dissatisfied with the Awards, the landowners filed Reference Petitions under Section 18 of the Act before the Additional District Judge, Jind praying for enhancement of the compensation contending inter alia that the market value of the land at the time of acquisition was much higher than what was offered by the Collector in his Awards. According to the appellants (landowners), the market value was to the tune of Rs.5000/- per sq. yds.

14) The Additional District Judge by its common Award dated 17.12.2013 dismissed all 305 reference petitions and, in consequence, upheld the Awards passed by the Collector. In other words, the Reference Court was of the view that the rate at which the compensation was determined by the Collector by applying the Belting System in working out the compensation was just and proper and as per Section 23 of the Act. The Reference Court, therefore, did not enhance the compensation awarded by the Collector. All the reference petitions were accordingly dismissed.

15) Aggrieved by the said Awards, the landowners filed separate Regular First Appeals before the High Court praying for enhancement of the compensation.

16) By impugned judgments dated 22.12.2015, 22.03.2016 and 03.05.2016, the High Court partly allowed the appeals. The High Court held that the Awards of the Collector assessing compensation @Rs.33 lacs per acre for the land up to the depth of 2 acres on Safidon Jind Road, Safidon bye-Pass road does not call for any interference and hence they were upheld. However, so far as the other category of land (Nehri, Chahi) beyond 2 acres from the road was concerned, the High Court modified the Award and enhanced the compensation from Rs.18 lacs to Rs.24,75,000/- per acre. The High Court determined the market rate at Rs. 48,40,000/- per acre and then reducing by 33% worked out to Rs.32,42,800/- per acre, i.e., Rs.33,00,000/- per acre so far as Safidon-Jind land was concerned. So far as other land for which the Collector had awarded Rs.18 lacs per acre, the High Court deducted 25% and thus worked out to Rs.24,75,000/- per acre.

17) Aggrieved by the said judgments, the landowners have filed these appeals by way of special leave before this Court.

18) Heard learned counsel for the parties.

19) Learned counsel appearing for the appellants (landowners) while assailing the legality and correctness of the impugned judgments mainly argued three points.

20) In the first place, learned counsel argued that the High Court having accepted in principle that the acquired land is a developed land and has potentiality in all respects coupled with the fact that it is surrounded by upcoming activities in any town erred in not properly determining the market value of the land as required under Section 23 of the Act read with law laid down by this Court in several cases.

21) In the second place, learned counsel argued that the appellants (landowners) had filed as many as 59 Sale deeds of the adjacent and nearby areas having a similar quality of land alike the acquired land before the Reference Court. Learned counsel urged that out of 59 sale deeds, two pieces of land were sold at the rate of Rs.4,500/- per square yard whereas remaining lands were also sold at different rates ranging between Rs.200/- to Rs.4,500/- per square yard.

22) It was, therefore, his submission that since the highest rate in the comparable sales is usually preferred for determining the market value of the acquired land, the High Court should have taken Rs.4,500/- per square yard to be the basis for determining the market value of the acquired land.

23) In the third place, learned counsel argued that the Collector, Reference Court and the High Court erred in applying the Belting System for determining the market value of the acquired land which, according to learned counsel, wrongly resulted in classifying the acquired land in two parts and, in consequence, resulted in applying two rates for two parcels of the lands. One rate was for the land which is abutting the main road, whose rate was more as compared to the other land, and the land which is in interior from the main road, whose rate was less.

24) It was his submission that the Collector and the Reference Court failed to give any justifiable reasons as to why they choose to apply the Belting System for determining the market value of the acquired land. Similarly, according to learned counsel, the High Court also did not deal with this issue though raised by the appellants before the High Court in their appeals.

25) In reply, learned counsel for the respondent (State) supported the impugned judgments and contended that the market value of the acquired land determined by the High Court which resulted in partially enhancing the rate in relation to one class of land which is in interior from Rs.18 lacs to Rs.24,75,000/- per acre, is just and proper and does not call for any further enhancement and nor the other class of land (Rs.33,00,000/- per acre) calls for any further enhancement and the same was rightly upheld by the High Court.

26) Learned counsel then pointed out several infirmities in the 59 comparable sale deeds relied on by the appellants and contended that these sale deeds should not be relied on for determining the market rate of the acquired land for the following reasons.

27) First, all the 59 sale deeds pertained to very small pieces of land wherein the lands were sold in square yards, whereas the acquired land in question is very large and measures in acres (around 300 acres or so). In other words, according to learned counsel, there is no comparison between the lands, which is the subject matter of the sale deeds relied on by the appellants (claimants), and the acquired land in question.

28) Second, some claimants, whose lands were acquired in these acquisition proceedings, had sold their part of the acquired lands in very small measures few months before the date of acquisition only with an intention to create evidence so that they may get the compensation for their acquired land at the same rate at which they sold their land.

29) In other words, according to the learned counsel, such sales could not be regarded as genuine sales between the seller and the buyer and were, in fact, the bogus sales brought into existence with a sole purpose to claim more compensation for their acquired lands.

30) Learned counsel, lastly, contended that there is no case made out by the appellants (landowners) to question the Belting System applied by the Courts below for determining the market rates of the acquired land inasmuch as having regard to the nature of the land and other factors, the Belting System was properly applied. Learned counsel, therefore, contended that the impugned judgments deserve to be upheld calling no interference.

31) Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to allow the appeals in part and, in consequence, modify the impugned judgments by partially enhancing the compensation payable to the appellants for their acquired land to the extent indicated below.

32) Coming first to the question as to whether the Courts below were justified in applying the "Belting System" for determining the market rates of the acquired land in question?

33) We are of the considered opinion that keeping in view the nature, extent, size, surrounding and location of the acquired land, the Courts below were justified in applying Belting System for determining the market rate of the acquired land.

34) One cannot dispute that the Belting System is a judicially accepted method for determining the fair market value of the acquired land. It is applied in appropriate cases when different parcels of lands with different survey numbers belonging to different owners and having different locations are acquired which put together comprises of a large chunk of land. Such chunk cannot be taken as a compact block.

35) The acquired land having a frontage abutting the highway/main road always has a better value as compared to the land, which is away from the highway/main road. Indeed, farther the land from the highway/main road, lesser the value of such land. In such a situation, where large pieces of land having different locations are acquired, Belting System is considered apposite for determining the market value of the lands. (see – Union of India & Ors. vs. Mangatu Ram & Ors. 1997 (6) SCC 59 and Andhra Pradesh Industrial Infrastructure Corporation Limited vs. G. Mohan Reddy & Ors. 2010 (15) SCC 412).

36) In Belting System, the acquired land is usually divided in two or three belts depending upon the facts of each case. The market value of the front belt abutting the main road is taken to fetch maximum value whereas the second belt fetches two third or so of the rate determined in relation to the first belt and the third belt, if considered proper to carve out, fetches half or so of the maximum. It is again depending upon facts of each case.

37) Similarly, this Court has consistently held on the question as to what is fair and reasonable market value of any acquired land on the date of its acquisition. It is held that such a question is always a question of fact and its answer depends on the nature of evidence, circumstances and probabilities appearing in each case.

38) It is held that one of the guiding factors in such cases is the conduct of a hypothetical willing vendor, who would offer the land and a willing purchaser in normal human conduct, would be willing to buy the land as a prudent man in normal market condition on the date of the notification under Section 4(1) of the Act but not an anxious buyer dealing at arm's length nor facade or fictitious sales brought about in quick succession or otherwise to inflate the market value.

39) It is held that when the Courts are called upon to fix the market value of the land in compulsory acquisition, one of the types of evidence of the value of the property is the sale of the acquired land to which the claimant is a party and in its absence, the sale of the neighboring lands.

40) It is held that the transactions relating to acquired land of recent dates or in the neighbourhood lands that possessed of similar potentiality or fertility or other advantageous features are considered to be relevant piece of evidence.

41) It is held that in proof of the sale transactions, the relationship of the parties to the transactions, the market conditions, the terms of the sale and the date of the sale are to be looked into. These features need to be established by examining either the vendor or vendee and if they are not available, the attesting witnesses who have personal knowledge of the transaction etc. The original or certified copies of the sale deeds are required to be tendered in evidence to prove such facts. One of the underlying principles to fix a fair market value with reference to comparable sale is to reduce the element of speculation.

42) It is held that in comparable sale, the features are (1) it must be within a reasonable time of the date of the notification (2) it should be a bona fide transaction (3) it should be a sale of the land acquired or land adjacent to the land acquired and (4) it should possess similar advantages.

43) These factors should be established by adducing material evidence by examining the parties to the sale or persons having personal knowledge of the sale transactions. The proof thereof focuses on the fact whether the transactions relied on are genuine and bona fide transactions or not.

44) It is further held that it is the paramount duty of the Courts of facts to subject the evidence to close scrutiny with a view to objectively assess the evidence tendered by the parties on proper considerations thereof in its correct perspective to arrive at a reasonable market value. The attending facts and circumstances in each case always furnish guidance to arrive at the market value of the acquired land. The neighbourhood lands possessed of similar potentialities or same advantageous features/circumstances available in each case are also to be taken into account.

45) Indeed, it is held that the object of the assessment of the evidence is to enable the Courts to arrive at a fair and reasonable market value of the lands and in that process, sometimes the Courts are required to trench on the border of the guesswork but mechanical assessment has to be eschewed.

46) It is also held that Judges are required to draw from their experience and the normal human conduct of the parties as to which transaction is bona fide and genuine sale transaction because that is one of the guiding factors in evaluating the evidence.

47) It is also held that the amount awarded by the Land Acquisition Collector forms an offer and that it is for the landowners to adduce relevant and material evidence to establish that the acquired lands are capable of fetching higher market value and the amount offered by the Land Acquisition Collector is inadequate and that he proceeded on wrong principle. (See - Periyar and Pareekanni

Rubbers Ltd. vs. State of Kerala 1991(4) SCC 195).

48) This Court also examined the question as to how the Courts should judge the potentiality of the acquired land and what are the relevant consideration, which should be taken into consideration for deciding the potentiality of the land.

49) It is held that potentiality means capacity or possibility for changing or developing into state of actuality. The question as to whether the land has a potential value or not is primarily one of fact depending upon its condition, situation, user to which it is put or is reasonably capable of being put and whether it has any proximity to residential, commercial or industrial areas or institutions. The existing amenities such as water, electricity, possibility of their further extension, whether near about town is developing or has prospect of development need to be taken into consideration.

50) It is also held that the value of the smaller plots, which is always on the higher side, is usually not taken into consideration for determining the large block of the land. One of the reasons being that the substantial area of the large block is used for development of sites like laying out the roads, drains sewers, water and electricity lines and several civic amenities and to provide these facilities, lot of time is consumed. The deduction is, therefore, made, which ranges from 20% to 50% or in appropriate cases even more. (See – Atma Singh(Dead) Thr. L.Rs. & Ors. vs. State of Haryana & Anr. 2008 (2) SCC 568).

51) Keeping the aforementioned well settled principles of law in consideration, let us recapitulate the facts of the case hereinbelow to examine the issue arising in the case.

52) As mentioned above, the total land acquired for development and utilization of commercial and residential sector is situated in villages Safidon, Singpura, Rampura, Ratta Khera & Khera Khemawati in District Jind in State of Haryana. The acquired land comprises of more than around 300 acres or so and is thus a very large in chunk. The acquired land belonged to several landowners and obviously so being so large in volume. One side of the acquired land is abutting the road. The land has surrounding with some kind of activities in nearby areas and this shows that the acquired land has some potential.

53) The Collector, therefore, taking into account all these factors considered it proper to classify the land on the basis of 2004-2005 revenue records in two heads for determining the compensation. The first head was in the name Nehri Chahi, i.e., canalling irrigated/water supplied from pipes in which land measuring 82-49 acres was included whereas the other parcel of land measuring around 117.08 acres, which is abutting the road, was included in other head in the name - To the depth of 2 acres from Safidon-Jind Road & Safidon bye pass Road and Gair Mumkin. - (see Award of the Collector dated 19.8.2010 (annexure P-3). The Collector made this classification by applying the Belting System. It is pertinent to mention that it was not objected by the landowners as would be clear from Para 3 of the Award dated 19.8.2010.

54) Since the land included under the head, i.e., Safidon- Jind Road and Safidon Bye pass Road and Gair Mumkin was abutting the road, the Collector fixed its market rate at Rs.33,00,000/- (Thirty



Three Lacs) per acre up to the extent of the land going inside 2 acres from the road.

55) So far as the land included in the first head, i.e., Nehri- Chahi beyond 2 acres was concerned, the Collector fixed its market rate at Rs.18,00,000/- (Eighteen Lacs) per acre.

56) The Reference Court dismissed the reference and upheld the rates fixed by the Collector. The High Court, however, in an appeal filed by the appellants (claimants), in the impugned judgments, upheld the rate, i.e., Rs.33,00,000/- per acre so far as it relates to the land included in the head. - Safidon - Jind Road and Safidon Bye pass Road and Gair Mumkin saying that this does not need any enhancement but enhanced the rate from Rs.18,00,000/- per acre to Rs.24,75,000/- per acre insofar as it pertained to land beyond 2 acres included in the head - Nehri Chahi.

57) We are of the considered opinion that the Collector was justified in applying the Belting System to the acquired land in question. Since the acquired land was a large chunk of land having its frontage abutting the roadside, the Belting System was rightly applied to the acquired land for determination of its fair market rate.

58) It is more so because we find that the appellants too did not raise any objection before the Collector and before the High Court and nor they were able to point out to us as to why it was not possible to apply the Belting System and what was illegal in its application.

59) It is for all these reasons, we find no merit in the submission of the learned counsel for the appellants when he questioned the application of the Belting System to the acquired land for determining its fair market value.

60) This takes us to examine the next question as to whether the highest rate of Rs.4500/- per square yard of the land of the nearby area out of 59 sale deeds should be made basis for determining the market rate of the acquired land. In our opinion, it is not possible to accept this submission of the learned counsel for the appellants though pressed in service vehemently.

61) It is for the reason that firstly, the area sold in each sale deed is very small as compared to the acquired land. Secondly, the lands which were sold by these sale deeds is in square yards and ranges from 31.06 square yards to 440 yards whereas the acquired area in question is in acres and comprises of more than 300 acres. Thirdly, out of 59 sale deeds, there are as many as 31 sale deeds wherein the area comprises of less than 100 square yards. Fourthly, except two sale deeds where 60 and 67 square yard of land was sold for Rs.4,500/- per square yard, all other sale deeds value ranges between Rs.200/- to Rs.2000/- per square yard. Fifthly, there can be no comparison between the two lands due to the extent of area which are two extremes and lastly, since no sale deeds were filed by the appellants showing market price of any large chunk of land sold in acres at the relevant time, it is not possible to place reliance on any of these sale deeds for determining the market rate of the acquired land by applying the same rate (Rs.4,500/- per square yard). It is, in our opinion, neither permissible and nor proper to rely solely upon the rates of small plots and then determine the compensation for a large chunk of acquired land as in this case.

62) We have applied our mind keeping in view all the relevant factors coupled with the law laid down by this Court. Taking into consideration all the relevant factors emerging from the evidence and the findings of the Courts below on the issues such as - the location of the acquired land, its surroundings, nature, potentiality, rates of small plots, the purpose of acquisition, development cost needed, non availability of the sale deeds for large areas sold in acres, etc., we are of the considered opinion that just, fair and proper market value of the acquired land in question on the date of issuance of Section 4 notification is determined at Rs.45,00,000/- (Forty Five Lacs) per acre in place of Rs.33,00,000/- (Thirty Three Lacs) per acre for the lands described in detail in column 2 of the Award of the Collector dated 19.08.2010 (Annexure P-3) at page 32 of the SLP paper book of C.A.No. 2846/2017 and Rs.35,00,000/- (Thirty Five Lacs) per acre in place of Rs.24,75,000/- (Twenty Four Lacs Seventy Five Thousand) per acre for lands described in detail in column 1 of the said Award. In other words, the appellants are held entitled to receive compensation for the acquired land as described hereunder:

S. No.	Class of Land	Awarded Amount
1.	Nehri, Chahi	Rs.35 lacs
2.	To the depth of 2 acres from Safidon-Jind Road & Safidon Bye Pass Road and Gair-mumkin land	Rs.45 lacs

63) In addition to the aforesaid, the appellants are

also held entitled to statutory compensation as provided in the Act and which the Courts below had already awarded to the appellants. We uphold the Award of such compensation. The two rates which we have determined above would apply to entire acquired land of all the appellants.

64) In the light of foregoing discussion, the appeals succeed and are allowed in part. The impugned judgments are partially modified in appellants' favour by enhancing the compensation payable to appellants (claimants/landowners) in respect of their acquired land to the extent indicated above.

.....J. [R.K. AGRAWAL] .....J. [ABHAY MANOHAR  
SAPRE] New Delhi;

October 27, 2017