

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.3004-3014 OF 2019
(Arising out of S.L.P.(C) Nos.4351-4361 of 2016)

Phuli Devi (Dead) Through Her LRs.,
Etc. Etc. Appellant(s)

Versus

State of Haryana and Others Etc. Etc. Respondent(s)

W I T H

CIVIL APPEAL NOS.3015-3016 OF 2019
(Arising out of S.L.P.(C) Nos.666-667 of 2016)
CIVIL APPEAL NO.3017 OF 2019
(Arising out of S.L.P.(C) No.4349 of 2016)
CIVIL APPEAL NO.3018 OF 2019
(Arising out of S.L.P.(C) No.4348 of 2016)

O R D E R

Leave granted.

What should be the just and adequate measure of compensation for land acquired admeasuring 142.38 acres by a notification dated 15th May, 1979, under Section 4 of the Land Acquisition Act, 1894, is the bone of contention between the parties in this group of appeals. The land sought to be

acquired by the aforesaid notification was for the purposes of development of housing colony by Haryana Urban Development Authority (HUDA) in Hissar, Haryana.

The cases before us have a chequered history. The compensation determined by the High Court in the first round was Rs.23/- per sq. yard. The order of the High Court being challenged in appeal before this Court was set aside by a remand order which resulted in the matter being re-examined by the reference court. The reference court by its orders passed way back in the years 2011 and 2012 thought it proper to quantify the compensation at Rs.365/- per sq. yard, primarily based on compensation paid on acquisition made in the year 1975, in the case of Miss Nirupama Jain vs. The State of Haryana [R.F.A No.2019 of 1979]. The compensation awarded in *Nirupama Jain's* case was Rs.800/- per sq. yard. However, taking into account that the said acquisition was for commercial purpose and in the present case for residential purposes, a cut of 60% was applied by the reference court to fix the compensation at Rs.365/- per sq. yard.

In appeal, the High Court by the impugned order thought it proper to set aside the said order of the

reference court awarding compensation at Rs.365/- per sq. yard, and has scaled down the compensation to Rs.11.25 per sq. yard. In doing so, the High Court seems to have primarily relied on a sale deed executed on 14th April, 1978, by one Mulakh Raj, pertaining to a parcel of land measuring 14 kanal 4 marlas adjacent to the Sapra Hospital, which land itself was a subject matter of acquisition in the present case. The average sale price mentioned in the sale deed was Rs.2.44 per sq. yard. The High Court had also relied on several other sale deeds which were marked as Exhibits P-7 to P-14, the sale price of which was between Rs.5 to Rs.50/- per sq. yard.

The scaled down compensation of Rs.11.25 per sq. yard fixed by the High Court, is coincidentally the compensation initially fixed by the reference court, before the same was enhanced to Rs.23/- per sq. yard by the High Court which order was set aside by this Court and the matter was remanded as noticed above. Impugned order as noticed had placed reliance on the sale deed in the case of *Mulakh Raj*, referred to above.

There are several other facts which need to be taken note of as these cases have remained pending for the last 40

years. The first is that some of the land owners have taken compensation at the rate of Rs.365/- per sq. yard and in the case of an adverse order, they may be required to refund/return the balance amount with interest. Equally, in the event the claim of the land owners to higher compensation is to be sustained, the persons to whom the plots were allotted by the HUDA and have intervened in the present case, may have to pay additional amounts commensurate with the enhanced compensation payable by the HUDA to the land owners in view of the condition of allotment to such allottees.

In the order under challenge, the High Court had set out a precise location of the acquired land in relation to the land of Nirupama Jain which was subject matter of acquisition by notification dated 20.8.1975, wherein compensation of Rs.800/- per sq. yard had been paid, which had been scaled down by the reference court by 60% to Rs.365/- per sq. yard in the present cases. The said description of the lands in the case of Nirupama Jain would definitely suggest that the land therein were strategically located in close proximity, if not within the boundaries of the existing inhabited colonies.

Accordingly, the impugned judgment sets out and elucidates that the location of the acquired land in question was about 1.70 kms. from the land of Nirupama Jain, which was acquired in the year 1975.

The sale deed dated 14th April, 1978 was at Rs.2.44 per sq. yard, albeit the land owners have submitted that identical amount was paid to the tenants who are in the occupation of the land. Accordingly, it was submitted that this was a case of distress sale. Contention was also raised that the sale deed dated 14th April, 1978, was a sequel to the agreement to sell of 1971. The last assertion is disputed. Even if we were accept this argument, at best the value of the land can be judged only at Rs.4.88 per sq. yard i.e. double of the mentioned value of Rs.2.44 per sq. yard, with some addition to compute the market value. This would not support the contention of the land owners that they should be paid compensation @ Rs.365/- per sq. yard. The gap is substantial. Moreover, we have individual sale deeds - Exhibits P-7 to P-14, as per which the market rate of the acquired land was between Rs.5/- to Rs.50/- per sq. yard. These individual sale deeds though for small parcels of land are certainly good and cogent evidence. The individual sale deeds Exhibits P-7 to P-14 were at arm's length between a

willing seller and purchaser and thereby provide an indication as to the true market value. It is not an allegation that these sale deeds were not genuine. Pertinently, some of the sale deeds were produced by the land owners themselves. To us, it is obvious that the land acquired by present Notification (though not in the vicinity and not identical to the land of Nirupama Jain) had locational and strategic advantages that cannot be ignored. An Agricultural University had come up right across the national highway and there were residential colonies and a hospital abutting this land were existing on the date of issue of Section 4 notification. It was obvious that the land had great potential and would have in a short time changed status from agricultural land into residential. Appreciation and increase in value was apparent. The acquisition in question was for 143 acres land for housing colonies.

Taking into account the aforesaid facts, particularly the sale deeds i.e. Exhibits P-7 to P-14 introduced by the land owners themselves and also having regard to the necessity of balancing the situations which have arisen by long efflux of time, as mentioned above, we are of the view that what would be relevant are the highest

sale deeds of Rs.50/- per sq. yard, which was executed in the year 1978. As exhibits P-8 and P-9 give maximum benefit and the acquisition was for much larger area, we are of the view that the ends of justice would be met by enhancing the compensation to double the amount of the highest sale deed i.e. Rs.100/- per sq. yard. It is on the basis of the aforesaid quantification of the compensation that the entitlement of the parties have now to be worked out and proper orders would be passed for adjustment, inclusive of all statutory benefits as required in law.

With the aforesaid modification in the order of the award i.e. Rs.100/- per sq. yard along with all statutory benefits, including solatium, interest, additional interest, etc., we close the appeals.

.....CJI.
[Ranjan Gogoi]

.....J.
[Deepak Gupta]

.....J.
[Sanjiv Khanna]

New Delhi
March 13, 2019.

ITEM NO.2

COURT NO.1

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) Nos.4351-4361/2016

(Arising out of impugned final judgment and order dated 27-08-2015 in RFA No. 1874/2012 27-08-2015 in RFA No. 1875/2012 27-08-2015 in RFA No. 1876/2012 27-08-2015 in RFA No. 1877/2012 27-08-2015 in RFA No. 1878/2012 27-08-2015 in RFA No. 1879/2012 27-08-2015 in RFA No. 4139/2013 27-08-2015 in RFA No. 4140/2013 27-08-2015 in RFA No. 4141/2013 27-08-2015 in RFA No. 4142/2013 27-08-2015 in RFA No. 4143/2013 passed by the High Court Of Punjab & Haryana At Chandigarh)

PHULI DEVI (DEAD) THR. HER LRS., ETC. ETC.

Petitioner(s)

VERSUS

STATE OF HARYANA & ORS. ETC. ETC.

Respondent(s)

(With appln.(s) for permission to file Annexures)

WITH S.L.P.(C) No.4349/2016 (IV-B)

(With appln.(s) for substitution)

S.L.P.(C) No.4348/2016 (IV-B)

S.L.P.(C) Nos.666-667/2016 (IV-B)

Date : 13-03-2019 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) Mr. Manoj Swarup, Adv.
Mr. Ankit Swarup, Adv.
Mr. Saurabh Singh, Adv.
Ms. Vidisha Swarup, Adv.
Mr. Prem Malhotra, AOR

SLP 666-667/16 Mr. Vijay Hansaria, Sr. Adv.
 Mr. K. K. Mohan, AOR

SLP 4348/16 Mr. Vikas Singh Jangra, AOR

For Respondent(s) Mr. Shyam Divan, Sr. Adv.
 Mr. Alok Sangwan, AAG
 Dr. Monika Gusain, Adv.
 Mr. Abhinash Jain, Adv.
 Mr. Sunny Kadiyan, Adv.
 Mr. Samar Vijay Singh, Adv.
 Mr. Manu Rajwanshi, Adv.

 Mr. Manu Mridul, Adv.
 Mr. Sumit Mangain, Adv.
 Mr. Surya Kant, AOR

 Mr. Ashish Gupta, Adv.
 Mr. Gagan Gupta, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are closed in terms of the signed order.

Pending application(s), if any, stand disposed of.

(Chetan Kumar)
A.R.-cum-P.S.

(Anand Prakash)
Court Master

(Signed order is placed on the file)