

Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NOS.4354-4358 OF 2019
(Arising out of Special Leave Petition (C) D.No. 45393 of 2018)

HUKAM SINGH ETC. ETC.Petitioners

VERSUS

STATE OF HARYANA AND ANR. ETC. ETC. Respondents

WITH

M.A. NO. 299 OF 2019 IN CIVIL APPEAL NOS. 264-270 OF 2019
(Wazir and Another vs. State of Haryana)

O R D E R

Uday Umesh Lalit, J.

1. After the judgment dated 11.01.2019 was passed by this Court in Civil Appeal Nos.264-270 of 2019 (*Wazir and Another vs. State of Haryana*) and in all other connected matters (hereinafter referred to as the “Judgment”), these applications for recall of the Judgment have been filed on following grounds:-

- a) The tabular chart extracted in paragraph 11 of the Judgment was not correct and there were mistakes pertaining to various sale deeds mentioned therein namely:
- i) With regard to Ex.P1 the correct sale consideration was Rs.4,00,000/- and thus the value per acre in respect of sale of said Ex.P1 sale deed would be Rs.16,00,000/-.
 - ii) In respect of sale deed Ex.P2 the sale consideration was Rs.3,00,000/- and the value per acre would be Rs.16,00,000/-.
 - iii) In respect of sale deed Ex.P4 the village was wrongly mentioned to be Kasan instead of village Bas Kusla.
- b) Paragraph 20 of the Judgment extracted certain portions of the decision in ***Surender Singh vs. State of Haryana and others***¹ and para 27 of the decision in ***Surender Singh*** had wrongly mentioned annual increase of 8%, whereas, the High Court had actually granted annual increase of 15%.

¹(2018) 3 SCC 278

- c) In paragraph 23 of the Judgment, the figure of Rs.37.54 lakhs was arithmetically incorrect as after deducting Rs.9.12 lakhs from 48.666 lakhs the result would be Rs.39.546 lakhs and as said figure of Rs.37.54 lakhs was the foundation for further calculations, the resultant calculations were also incorrect.
- d) In the earlier round, these matters were dealt with by this Court in ***Haryana State Industrial Development Corporation Limited vs. UDAL and others***² which decision was referred to in para 9 of the Judgment. Paragraphs 32, 33 and 34 of the decision in ***Haryana State Industrial Development Corporation Ltd***² were:-
“32. We also find merit in the argument of the learned counsel for the landowners that while fixing market value of the acquired land the learned Single Judge committed serious error by not considering an important piece of evidence i.e. Ext. PW 9/A dated 23-11-1999 vide which HSIIDC had allotted land to M/s. Honda Motorcycles and Scooters India (P) Ltd. At the rate of Rs.1254.18 per square yard. Although, this document was produced before the Reference Court but the same was not taken into consideration while determining the amount of compensation. The same error has been repeated in the impugned judgment. If this document is taken into consideration, then market value of the acquired land would come to Rs.60,69,360 per acre. By making deduction of 50% towards development cost and granting annual increase of 12/15% (cumulative),

² (2013) 14 SCC 506

market value of the land will be much higher than Rs.37,40,000 per acre.

33. In view of the above conclusions, we do not consider it necessary to deal with the other points argued by the learned counsel for the parties/intervenors and feel that the ends of justice will be served by setting aside the impugned judgment and remitting the matters to the High Court for fresh disposal of the appeals and cross-objections filed by the parties subject to the rider that the State Government/HSIIDC shall pay the balance of Rs.37,40,000 to the landowners along with other statutory benefits.

34. In the result, the appeals are allowed, the impugned judgment³ is set aside and the matter is remitted to the High Court for fresh disposal of the appeals filed by the parties under Section 54 of the Act as also the cross-objections. The parties shall be free to urge all points in support of their respective cause and the High Court shall decide the matter uninfluenced by the observations contained in this judgment.”

Consequently, the landowners had actually received compensation in the sum of Rs.37.40 lakhs per acre, and as a result of the Judgment, they would now be required to return part of the compensation.

³ Madan Pal vs. State of Haryana, RFA No.2373 of 2010, decided on 11-2-2011 (P&H)

2. We have heard learned counsel for the applicants and the State.

3. The tabular chart extracted in paragraph 11 of the Judgment was exact reproduction of the chart set out by the High Court in paragraph 73 of its decision dated 09.03.2018, which was under appeal in this Court. Number of petitions were filed challenging the view taken by the High Court and in none of those petitions any exception was taken or objection was raised that the facts culled out in said tabular chart were, in any way, incorrect or required to be modified. The matter proceeded on the factual basis as was indicated in the chart and it would be difficult at this stage to reconsider that aspect of the matter. However, we have still looked into the matter and seen whether any benefit could be given to the landowners.

4. The sale deeds at Ex.P1, P2 and P4 pertained to small pieces of lands which were less than one acre. The value emanating from said sale deeds would not be correct indicator or exemplar in the context of the extent of 1500 acres of land which was involved in acquisition. Paragraph 21 of the Judgment shows that Ex.P1, P2 and P4 were found to be pertaining to small pieces of lands and that those sales were effected after the acquisition in the present case was initiated. Subsequent paragraphs show that though lands in

relation to sale deeds Ex.P4 and P8 pertained to smaller pieces, they were still taken into account to consider whether they showed any pattern of rise in prices. That was the basis of Method No.1. Under Method Nos. 2 and 3 the valuation, as was given in *Haryana State Industrial Development Corporation vs. Pran Sukh & Ors.*⁴, was taken as the basis to assess what could be the comparable price in the year 2002. Finally, the figures arrived at by three different methods were considered and the highest of the figures was taken to be appropriate compensation. Thus, the assessment made in the Judgment would not, in any way, get affected even if the changes/modifications suggested by the applicants are taken into account. We, therefore, reject the first submission.

5. The submission that paragraphs 26 and 27 of the decision in *Surender Singh*¹ had not correctly recorded annual increase of 8% instead of 15% has no relevance in the present matter. The Judgment was not dependent on that figure of 8% from said decision but it had relied upon said decision only to bring home the point that if large extent of land is involved, reliance on one single sale deed of a very small plot would not be correct indicator or

⁴ (2010) 11 SCC 175

exemplar for assessing the market value of the entire extent of land. We, therefore, reject the second submission.

6. We, however, find force in the submission that there were following arithmetical errors in the Judgment. The correct position ought to be:-

A. In para 23, instead of Rs.48.366 lakhs per acre the figure ought to be Rs.48,66,666/- and after deduction of Rs.9.12 lakhs @ 18.75% from said figure, the resultant figure would be Rs.39,54,666/- per acre.

B. Similarly, in paragraph 26, instead of Rs.37.54 lakhs per acre the figure ought to be Rs.39,54,666/- per acre and in terms of the conclusion arrived at in said paragraph, the appropriate value of lands in Naharpur Kasan and Kasan would be Rs.39,54,666/- per acre.

C. Further calculations ought to be based on the figure of Rs.39,54,666/- per acre and, therefore, that figure must be reflected everywhere in paragraphs 27 onwards and the figure of Rs.8.77 lakhs being the figure of difference over the base figure would be substituted by the figure of Rs.9,77,333/- per acre. Resultantly, the market value of

Villages Bas Kusla, Bas Haria and Dhana would be Rs.29,77,333/- per acre.

D. Similarly, instead of figure of Rs.56.31 lakhs per acre, the compensation in respect of village Manesar as indicated in para 28 would be Rs.59,31,999/-.

7. As regards the last submission, paragraph 32 of the decision in ***Haryana State Industrial Development Corporation Ltd²*** recorded the submission of the learned counsel that on the basis of sale deed Ext.PW 9/A, the value ought to be higher than Rs.37,40,000/- per acre. The matter was not finally decided by this Court and was remitted in paragraph 34 for fresh consideration “*uninfluenced by the observations contained in this judgment*”. We do not agree with the submission that the landowners were assured of minimum compensation at the level of Rs.37,40,000/- per acre. As a matter of fact, in tune with the observation that fresh consideration be uninfluenced by any of the observations contained in the judgment, the matter was left open and the assessment had to be done *de novo*. We, therefore, reject the submission. However, if the amount at the rate of Rs.37,40,000/- per acre or at any rate greater than the entitlement of the landowners as found in the

Judgment as modified by this Order, was actually made over, the only benefit that can be afforded to them is, that the return or refund of the money in excess of their entitlement may not carry any interest till the date of refund or till the expiry of some reasonable period from today, whichever is earlier.

8. Having considered all the submissions, we reject the prayer for recall of the Judgment but accept the submission that certain arithmetical errors occurring in the Judgment need to be corrected.

9. In the result, the Judgment shall stand modified to the extent indicated hereinbelow:-

- i) The expression “Rs.48.366 lakhs per acre” occurring in para 23 of the judgment shall stand substituted by the expression “Rs.48,66,666/- per acre”.
- ii) In para 23 instead of the expression “Rs.37.54 lakhs per acre”, the expression “Rs.39,54,666/- per acre”.
- iii) In para 26 instead of the expression “Rs.37.54 lakhs per acre” occurring at two places, the expression “Rs.39,54,666/- per acre” shall stand substituted at both places.

- iv) In para 27 onwards, for and in place of the expression “Rs.37.54 lakhs per acre” the expression “Rs.39,54,666/- *per acre*” shall stand substituted at every place.
- v) Similarly, in para 27 onwards, in place of the expression “Rs.8.77 lakhs” the expression “Rs.9,77,333/-” shall stand substituted at every place and in place of figure “28.77 lakhs per acre” the expression “Rs.29,77,333/- *per acre*” shall stand substituted.
- vi) For and in place of the expression “Rs.56.31 lakhs per acre” occurring in para 28 onwards, the expression “Rs.59,31,999/- *per acre*” shall stand substituted.
- vii) Para 30 of the Judgment shall also stand substituted by the following:

“30. In the circumstances, we direct:

 - a) In respect of lands under acquisition from villages Naharpur Kasan and Kasan, the market value shall be Rs.39,54,666/- per acre. Additionally, all statutory benefits would be payable.

- b) In respect of lands under acquisition from Villages Bas Kusla, Bas Haria and Dhana, the market value shall be Rs.29,77,333/- per acre. Additionally, all statutory benefits would be payable.
- c) In respect of lands from village Manesar the market value shall be Rs.59,31,999/- per acre. Additionally, all statutory benefits would be payable.
- d) M/s. Kohli Holdings Private Limited shall not be entitled to any severance charges.
- e) If any sum in excess of what has been found in this Judgment to be the entitlement of any landowner from any of the villages under acquisition was made over to him, the same shall be returned by the landowner to the State by 30th June, 2019. If the excess sum is returned by 30th June, 2019, no interest on said sum shall be payable by the landowner. However, if the sum is not returned by said date, the said sum shall carry interest @ 9% per annum from 1st July, 2019 till

realisation and can be realised in a manner known to
law.”

10. The modifications set out in para 9 hereinabove shall be effected in the Judgment and a corrected copy shall again be uploaded by the Registry. Any certified copy of the Judgment issued hereafter must reflect the modifications as set out in para 9 of this order.

11. With the above observations all the Miscellaneous Applications stand disposed of.

.....J.
(Uday Umesh Lalit)

.....J.
(Dr. Dhananjaya Y Chandrachud)

New Delhi,
February 8, 2019.