

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE**

HON'BLE SHRI JUSTICE VIVEK RUSIA

FIRST APPEAL No. 575 of 2005

BETWEEN:-

SMT. SHAHNAZ KHAN W/O MR. NASIR AHMED KHAN, AGED ABOUT
1. 36 YEARS, OCCUPATION: AGRICULTURIST AND HOUSEWIFE 169/2,
JUNA RISALA, INDORE (MADHYA PRADESH)

SMT. IQBAL RABIA W/O DR. MASOOD AHMAD KHAN, AGED ABOUT
2. 65 YEARS, OCCUPATION: AGRICULTURE HOUSEWIFE 169/2, JUNA
RISALA, INDORE (MADHYA PRADESH)

SMT. AFSAH KHAN W/O AYUB AHMED KHAN, AGED ABOUT 36
3. YEARS, OCCUPATION: AGRICULTURE HOUSEWIFE 169/2, JUNA
RISALA, INDORE (MADHYA PRADESH)

.....APPELLANT

(BY SHRI YOGESH MITTAL, ADVOCATE)

AND

HINDUSTAN PETROLEUM CORPORATION LTD. L.P.G. BOTTLING
1. PLANT, GRAM MANGLIA, TAHSIL SANWER, DISTRICT INDORE
(MADHYA PRADESH)

STATE OF MADHYA PRADESH THROUGH LAND ACQUISITION
OFFICER S.D.O. SANWER THE STATE OF MADHYA PRADESH
2. VASHNIVI KIRANA VILLAGE DHARAMPURI, IN FRONT OF INDIAN
OIL PETROL PUMP TEH. SANWER, DIST. INDORE (MADHYA
PRADESH)

.....RESPONDENTS

(RESPONDENT NO.1 BY SHRI SANDEEP KOCHATTA, ADVOCATE)

(RESPONDENT NO.2 / STATE BY SHRI KRATIK MANDLOI, PANEL LAWYER)

FIRST APPEAL No. 576 of 2005

BETWEEN:-

1. SMT.IQBAL RABIA (MADHYA PRADESH)

AYUB AHMED KHAN S/O DR. MASOOD AHMED KHAN, AGED ABOUT
2. 42 YEARS, OCCUPATION: AGRICULTURE 169/2, JUNA RISALA,
INDORE (MADHYA PRADESH)

NASIR AHMED KHAN S/O DR. MASOOD AHMED KHAN, AGED ABOUT
3. 40 YEARS, OCCUPATION: AGRICULTURE 169/2, JUNA RISALA,
INDORE (MADHYA PRADESH)

DR. MASOOD AHMAD KHAN S/O YUSUF KHAN (DELETED AS PER C.O.
4. DT.26/02/2024), AGED ABOUT 67 YEARS, OCCUPATION: AGRICULTURE
169/2, JUNA RISALA, INDORE (MADHYA PRADESH)

.....APPELLANT

(BY SHRI YOGESH MITTAL, ADVOCATE)

AND

1. HINDUSTAN PETROLEUM (MADHYA PRADESH)

2. STATE OF MADHYA PRADESH THROUGH LAND ACQUISITION
OFFICER S.D.O. , SANWER, DISTRICT- INDORE (MADHYA PRADESH)

.....RESPONDENTS

(RESPONDENT NO.1 BY SHRI SANDEEP KOCHATTA, ADVOCATE)

(RESPONDENT NO.2 / STATE BY SHRI KRATIK MANDLOI, PANEL LAWYER)

FIRST APPEAL No. 591 of 2005

BETWEEN:-

BHAGWAN S/O JAGNNATHJI KHATI, AGED ABOUT 72 YEARS,
OCCUPATION: AGRICULTURIST GRAM DAKACHYA, A.B. ROAD, TEHSIL
SANWER, DISTRICT INDORE (MADHYA PRADESH)

.....APPELLANT

(BY SHRI NILESH AGRAWAL, ADVOCATE)

AND

HINDUSTAN PETROLIUM CORPORATION LTD. .P.G. BOTTLING
1. PLANT, MANGLYA ROAD, TEHSIL SANWER, DISTRICT INDORE
(MADHYA PRADESH)

THE STATE OF MADHYA PRADESH THROUGH COLLECTOR THE
2. STATE OF MADHYA PRADESH INDORE DIVISION SETTELITE
BHAWAN, COLLECTORATE INDORE (MADHYA PRADESH)

.....RESPONDENTS

(RESPONDENT NO.1 BY SHRI SANDEEP KOCHATTA, ADVOCATE)

(RESPONDENT NO.2 / STATE BY SHRI KRATIK MANDLOI, PANEL LAWYER)

Reserved on : **15th April, 2024**

Delivered on : **02nd May, 2024**

These appeals having been heard and reserved for order coming on for pronouncement this day, the court pronounced the following:

O R D E R

Regard being had to the similitude of the controversy involved in these case, with the joint request of the parties, these appeals were analogously heard and decided by this common order. Facts of First Appeal No.575 of 2005 are narrated hereunder.

01. The appellants have filed the present appeals under Section 54 of the Land Acquisition Act, 1894 (in short 'the Act of 1894') r/w section 96 of the Code of Civil Procedure, 1908 against the award dated 04.07.2005 passed by the VII Additional District Judge, Indore in Land Acquisition Reference Case No.16/2003, whereby their claim for enhancement of the compensation has been declined.

02. Facts of the case in short are as under:-

2.1. Hindustan Petroleum Corporation Limited requested the State Government to acquire private land for the establishment of a Liquid Petroleum Gas (LPG) Filling Unit at Manglia Road, District – Sanver. The Government of Madhya Pradesh issued a notification dated 10.08.2001 under Section 4(1) of the of 1894 for the acquisition of land bearing Halka No.26/2, Village – Rahukhedi, Tehsil – Sanver adjacent to Manglia Road. The notification was published in the two newspapers on 24.08.2001 and also affixed in the Tehsil Office, Sanver. An opportunity was given to the landowners to submit objections under Section 5 of the

Act of 1894. Thereafter, notification under Section 6 of the Act of 1894 was published in the gazette dated 27.07.2001 and the same was published in two local Hindi newspapers on 09.04.2002, in which the details of the following land was given:-

Name of Village	Khasra Number	Area in Hectare
Rahukhedi	81	1.032
Rahukhedi	82/1	2.064
Rahukhedi	82/4	0.607
Rahukhedi	83/1	2.327
Rahukhedi	83/2	0.656
Total Area	5	6.686 Hectare

2.2. The Land Acquisition Officer requested the Tehsildar, Kshipra, Assistant Director, Horticulture, Indore, Forest Officer, Indore and Executive Engineer, Public Works Department, Indore to send the valuation report of houses, animals, trees, tube wells etc. A letter dated 10.12.2002 was also written to the Deputy Registrar, Sanver for the market guidelines of the properties of Village – Rahukhedi. Thereafter, notice under Section 9 of the Act of 1894 was issued on 18.11.2002 to the landowners for submitting an objection. The appellants submitted objections on 10.12.2002, 20.12.2002 and 27.12.2002.

2.3. After considering the objections and all other documentary evidence, the Land Acquisition Officer passed an award dated 06.09.2003 under Section 11 of the Act of 1894 granting compensation to the appellants for their irrigated land, house, tube well, trees etc. with interest and solatium. The Land Acquisition Officer assessed the market value of the land @ Rs.5,72,766/- per hectare.

2.4. Being aggrieved by the aforesaid compensation assessment, especially in respect of the land, the appellants/landowners sought a reference under Section 18 of the Land Acquisition Act. The Collector accepted their reference and sent it to the District Court for adjudication.

According to the appellants, the market value of their land is Rs.15,00,000/- per acre and the Land Acquisition Officer assessed the market value of the land @ Rs.5,72,766/- per hectare without any basis or material. According to the appellants, their land is 100 meters away from National Highway No.3, AB Road, Indore. Nearby land has been developed for commercial purposes. It is further submitted that they were getting the 2-3 crops, vegetables, fruits etc. from the said land, therefore, the compensation is liable to be enhanced.

2.5. Respondent No.1 / HPCL submitted objected to the enhancement of the compensation on the ground that the Land Acquisition Officer has awarded just and fair compensation on the basis of the rates and materials collected from various Government Offices in respect of the value of nearby lands and other properties and no further enhancement is possible in it.

2.6. The land owners by way of evidence produced a copy of the sale deed dated 14.10.1999 of the land bearing Survey No.67/10A, area 15000 sq.ft. Village – Rahukhedhi sold @ Rs.2,25,000/- executed just before the date of issuance of notification under Section 4 of the Act of 1894. They have also produced another sale deed dated 21.09.2001, whereby land of Patwari Halka No.26/2, Survey No.10/1B, Rahukhedhi, area 0.405 hectare was sold @ Rs.15,00,000/- per acre.

2.7. The appellants and respondents both examined their witnesses and they were cross-examined. After appreciating the evidence/documents that came on record vide impugned **award dated 04.07.2005** the learned Reference Court dismissed the reference and maintained the award passed by the Land Acquisition Officer. Hence, the present appeal is before this Court.

03. Shri Yogesh Mittal, and Nilesh Agrawal learned counsel for the

appellants submitted that the learned District Court wrongly discarded the sale deed (Ex-P/7) dated 21.09.2001 as the same is situated near the National Highway and diverted for the godown purpose, whereas the acquired land of these appellants only 500 – 600 meter away from the highway. The Sale deed dated 14.10.1999 has been discarded because it is a small plot of 15000 sq.ft. And diversion took place in the year 1992. It is further submitted that the Land Acquisition Officer did not consider any of the sale deeds and arbitrarily assessed the compensation @ Rs.5,72,766/- per hectare for irrigated land. In support of his contention, learned counsels placed reliance upon several judgments delivered by the Apex Court in the cases of *Printers House Private Limited v/s Mst Saiyadan (Deceased) By LRs. & Others* reported in (1994) 2 SCC 133, *Mehrawal Khewaji Trust (Registered) Faridkot & Others v/s State of Punjab & Others* reported in (2012) 5 SCC 432, *Panna Lal Ghosh & Others v/s Land Acquisition Collector & Others* reported in (2004) 1 SCC 467 and *Mehta Ravindrarai Ajitrai (Deceased) Through His Heirs And LRs. & Others v/s State of Gujarat* reported in (1989) 4 SCC 250, in which the Apex Court has held that if the comparable sale method of valuation of land is adopted for determining the market value of the acquired plot of land which it generally holds good for determination of market value.

04. *Per contra*, Shri Kochatta, learned counsel for the HPCL rebutted that the answering respondent exhibited the sale deeds of the same village executed on 17.06.1999, 02.03.2002 and 28.03.2002 i.e. one year prior or after the date of issuance of notification under Section 4 of the Act of 1894, in the year 2001. They have also produced the Collector Guidelines of 2000 – 01 to show that the Land Acquisition Officer has correctly assessed the market value for the purpose of

compensation. The burden to give evidence always lies on the land owners to adduce cogent and reliable evidence that the compensation offered by the Land Acquisition Officer is inadequate. Mere production of the sale deed is not sufficient and the claimant has to lead evidence to show the vicinity, quality of land and amenities are similar to those acquired land. To buttress his submission, learned counsel for HPCL has placed reliance upon several judgments delivered in the cases of *The State of Madhya Pradesh v/s Shantaram Through LRs.* reported in 2019 SCC OnLine MP 5455, *Sudarshan Ahuja & Others v/s The State of Madhya Pradesh & Others* reported in 2014 (1) M.P.L.J. 653, *The State of Madhya Pradesh v/s Umrao & Others* reported in 2014 (2) M.P.L.J. 28, *Mukesh S/o Late Badamilal & Others v/s The State of Madhya Pradesh & Others* reported in 2017 (1) M.P.L.J. 706, *Maya Devi (Dead) Through Legal Representatives & Others v/s State of Haryana & Another* reported in (2018) 2 SCC 474, *Bhupal Singh & Others v/s State of Haryana* reported in (2015) 5 SCC 801 and *Nirmal Singh & Others v/s State of Haryana Through Collector* reported in (2015) 2 SCC 160.

05. I have heard learned counsel for the parties at length and perused the record.

06. The appellants/landowners placed reliance on only one sale deed (Ex-P/6), as an exemplar by which only 15000 sq.ft. Land was sold @ Rs.2,25,000/- of Survey No.67/10 situated at Village – Rahukhedi. Although the sale deed was executed on 14.10.1999, the notification under Section 4 of the Act of 1894 was issued in the year 2001. By way of the said notification, 6.686 hectares of land was acquired, therefore, a market value of 15000 per sq.ft. smaller size of the land cannot be used as an exemplar. Another sale deed (Ex-P/7), whereby the land bearing

Survey No.10/1B area 0.405 hectares was sold @ Rs.15,00,000/- on 21.09.2001 only after one month from the date of issuance of notification under Section 4 of the Act of 1894. This land is adjacent to the road on the east side but the acquired land is far away from the Highway hence there cannot be any comparison to take value of the land from enhancement.

07. In rebuttal the respondent / HPCL also produced the sale deeds of nearby land of the same village, whereby the land was sold at a much lower rate vide the sale deed dated 16.06.1999. An agricultural land area of 0.890 hectares was sold @ Rs.2,51,000/- vide sale deed dated 02.03.2002, an agricultural land area of 0.074 hectares was sold @ Rs.32,000/- only vide sale deed dated 23.03.2002 and agricultural land area 1.109RA was sold @ Rs.4,66,000/-. The respondent also produced a copy of guidelines issued by the Sub Registrar, according to which the value of the land of Village – Rahukhedi in the year 2000 – 01 was Rs.3,20,000/- per hectare. Village – Rahukhedi is 17 km away from Indore and in the year 1999, there was no commercial as well as residential development in the said area. The suit land is 600 – 800 feet inside the A.B. Road and there is no direct connecting road in between as admitted by the claimants in cross-examination.

08. The main reliance of the appellants is on Ex-P/7, sale deed dated 21.09.2001, by which 0.405 hectares of land was sold for Rs.15,00,000/- and in cross-examination, seller Vaibhav Rao admitted that his land is adjacent to A.B. Road, seller/ owner got it diverted for godown purpose i.e. other than agriculture purpose and area is much less as compared to the acquired land, therefore, such sale deed has rightly been discarded by the Reference Court.

09. The sale deed produced by the respondent / HPCL was of the

relevant period, by which the nearby land was sold as per the guidelines fixed by the Collector, therefore, the learned District Judge rightly did not find any ground to enhance the value of the land. Learned Land Acquisition Officer has rightly granted compensation @ Rs.5,72,766/- which is much more than the value of the land as compared to the sale deed produced by the respondents. The appellants have also got interest, solatium and additional compensation for trees, tube wells, houses etc. No case for enhancement of award is made out in the matter.

10. In view of the above, the First Appeal stands dismissed. The order passed by this Court in the present appeal shall govern the connected appeals also, therefore, connected First Appeals also stand dismissed.

Let a copy of this order be kept in the connected appeals also.

The original records be sent back to the Court of the District Judge.

(VIVEK RUSIA)
J U D G E