

RFA No.1674 of 1997 (O&M)

2013:PHHC:018095



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

217

**RFA No.1674 of 1997 (O&M)
Date of Decision: 10.07.2024**

JOGINDER SINGH**.....Appellant(s)****Vs****STATE OF PUNJAB AND ORS.****....Respondent(s)****CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

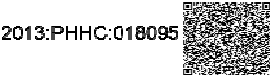
Present: Mr. Pritam Saini, Advocate
for the appellant

Mr. Siddharth Sandhu, Asstt. A.G., Punjab.

HARKESH MANUJA, J. (Oral)

[1]. By way of present appeal, challenge has been laid to an award dated 21.04.1997 passed by the Additional District Judge, Rupnagar (hereinafter to be referred as "Reference Court"), whereby petition under Section 18 of the Land Acquisition Act, 1894 (hereinafter to be referred as '1894 Act') filed at the instance of the appellants-landowners seeking enhancement of compensation was partly allowed.

[2]. Briefly stating, certain land owned by the appellant/landowner situated within the revenue estate of village Sotal, Tehsil Kharar, District SAS Nagar (Mohali) came to be acquired vide Notifications dated 03.11.1989 and 29.11.1989 under Sections 4 and 6 of the 1894 Act respectively for the purpose of construction of SYL Canal, followed by an award passed by the Land Acquisition Collector in terms of Section 11 of the 1894 Act, fixing the market value to the following effect:-



“Chahi	Rs.86,800/- per acre
Barani	Rs.70,000/- per acre
Gair Mumkin	Rs.49,000/- per acre”

[3]. Aggrieved thereof, the appellant/landowner filed Reference under Section 18 of the 1894 Act seeking enhancement of market value of acquired land to the tune of Rs.2 lakhs per acre besides claiming compensation qua 200 guava trees. The Reference Court vide award dated 21.04.1997 though declined relief against guava trees to the appellant/landowner, yet enhanced the market value of the land to the following effect:-

“Chahi land	Rs.1,00,000/- per acre
Barani land	Rs.75,000/- per acre
Banjar Jadid land	Rs.65,000/- per acre
Gair Mumkin land	Rs.60,000/- per acre”

[4]. By way of present appeal, the aforesaid Award dated 21.04.1997 has been assailed while submitting that on an earlier occasion vide Notification dated 18.09.1985 land pertaining to the same revenue estate i.e. village Sotal, Tehsil Kharar, District SAS Nagar (Mohali) was acquired by the respondents for the same purpose i.e. construction of SYL Canal and compensation was determined by this Court vide judgment dated 26.11.2008 passed in RFA No.2267 of 1990. The concluding part of the said judgment is reproduced hereunder:-

“In view of the above, I have no hesitation to hold that the market price of the acquired land at the relevant time was Rs.2,00,000/- per acre for Chahi land, Rs.1,60,000/- for Barani land and Rs.1,20,000/- per acre for Gair Mumkin land.

Resultantly, all the appeals filed by the land owners are accepted to the extent that the market value of the acquired land is determined at the rate of Rs.2,00,000/- per acre for Chahi land, Rs.1,60,000/- per acre for Barani land and Rs.1,20,000/- per acre for Gair Mumkin land. The land owners shall also be entitled to other statutory benefits as awarded by the



RFA No.1674 of 1997 (O&M)

Additional District Judge, Rupnagar. The appeals filed by the State of Punjab are hereby, dismissed.”

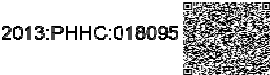
[4.1]. In view thereof, learned counsel for the appellant submits that an appropriate escalation needs to be awarded in favour of the appellant/landowner for the period of difference between the notifications issued under Section 4 of 1894 Act pertaining to the two separate acquisitions regarding the same revenue estate and percentage of appreciation can be drawn from the increase of market value awarded by the Collector in relation to two acquisitions.

[4.2]. Learned counsel further submits that an appropriate increase on the yield based for the guava fruit trees was required to be awarded in favour of the appellant/landowner, while relying upon the report made by the Horticulture expert and produced on record by the appellant/landowner as Ex.PW-1/A.

[5]. On the other hand, the prayer made on behalf of the appellant/landowner has been vehemently opposed by learned State counsel while submitting that the amount of compensation was adequately assessed by the Reference Court in its impugned award upon appreciation of evidence available on record and the same, thus, calls for no interference.

[6]. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of learned counsel for the appellant/landowner.

[7]. In the given facts and circumstances of the case and upon perusal of records as well as the discussion made hereinabove, it is apparent that land pertaining to the same village Sotal, Tehsil Kharar, District SAS Nagar (Mohali) for the same public purpose of construction of SYL Canal was acquired on previous occasion vide Notification dated 18.09.1985 issued under Section 4 of



1894 Act and again it came to be acquired for the same purpose vide Notification dated 03.11.1989 (in the present case).

As per records while assessing the market value of the acquired land, the Collector deemed it appropriate to award appreciation to the tune of around 39% on the market price pertaining to two acquisitions which is clearly visible from the table given as below:-

Nature of Land	Market value assessed by the LAC pertaining to Notification dated 18.09.1985	Market value assessed by the LAC pertaining to Notification dated 03.11.1989
Chahi	Rs.62,000/- per acre	Rs.86,800/- per acre
Barani	Rs.50,000/- per acre	Rs.70,000/- per acre
Bagh Barani	Rs.50,000/- per acre	
Gair Mumkin	Rs.35,000/- per acre	Rs.49,000/- per acre

[8]. Further, this Court vide decision dated 26.11.2008 passed in RFA No.2267 of 1990 enhanced the market value in relation to the land acquired vide Notification dated 18.09.1985 to the following effect:-

Nature of Land	Market value assessed/enhanced by this Court vide decision dated 26.11.2008 passed in FAO No.2267 of 1990
Chahi	Rs.2,00,000/- per acre
Barani	Rs.1,60,000/- per acre
Gair Mumkin	Rs.1,20,000/- per acre

In such circumstances, in humble opinion of this Court for the acquisition of land under present acquisition which relates to notification dated 03.11.1989, it would be appropriate, in case the appellant/landowner is awarded similar appreciation of around 40% over and above the market value fixed by this



RFA No.1674 of 1997 (O&M)

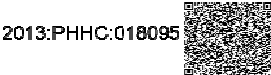
Court in relation to the acquisition of land in terms of Notification dated 18.09.1985 along with other statutory benefits and interest as provided under the 1894 Act.

[9]. As regards compensation *qua* guava trees, there is no dispute between the two sides about the number of trees which even as per report of the respondents are 200. The only dispute is about the assessment of compensation for which by relying upon the decision dated 08.02.2013 passed in **RFA No.3038 of 1992** titled '**Nagar Singh and others vs. The State of Punjab**', learned counsel for the appellant submits that the assessment of compensation should have been made on the basis of same formula adopted therein which goes to the following effect:-

“xxx the basic value of trees + the number of remaining years that it could bear fruit x the income per year x the multiplying factor.”

The operative part from the aforementioned judgment is extracted hereunder:-

“On the other hand, I find from the report of PW1 that the assessment has been made by taking the basic value of the trees + the number of remaining years that it could bear fruit x the income per year x the multiplying factor. The income per tree has been taken as ₹50/- per annum and the assessment is that they would have yielded income for another 19 years. By taking the total number of trees as 350, the witness has taken the income, which could have fetched ₹1,96,350/-. The only modification, which I will make is to substitute 350 trees as 266 trees in view of the better particulars regarding the number of trees that I have gained in the report Ex.R1. In all other respects as regards the value of yield per tree per year, I adopt the valuation as taken in the report of PW1 brought through Ex.P2. So reckoned the total amount will be ₹1,64,080/-. I also add 10% premium in the manner assessed by the PW1 by its nearness to the market and assess the total value to be ₹1,80,488/-. The landowners will also be entitled to the benefit under Sections 23(2) and 28 of the Land Acquisition Act.”



[10]. In such circumstances, taking the number of Guava trees to be 200 at the time of acquisition of land as per report prepared by the respondents and while taking income per tree @ Rs.50 per annum for a period of around 16 years (the age of trees at the time of acquisition being 2 to 4 years) income fetched would come to Rs.1,50,000/-. Further, 10% premium is also added towards proximity of the land under acquisition with the local vegetable fruit market and the total market value for the trees thus comes out to be Rs.1,65,000/-. The landowner shall also be entitled to other statutory benefits and interest as provided under the 1894 Act.

[11]. With the aforesaid modification of the award of the Reference Court, the present appeal is disposed of.

[12]. All pending application(s), if any, shall stand disposed of.

July 10, 2024
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No