

FAO No. 233 of 1990 & other connected cases

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1) FAO No. 233 of 1990 (O&M)
Date of Decision: August 26, 2015

Gurdial Singh (deceased) through LRs ...Appellant
Versus
State of Punjab & others ...Respondents

(2) FAO No. 234 of 1990 (O&M)
Date of Decision: August 26, 2015

Gurdial Singh (deceased) through LRs ...Appellant
Versus
State of Punjab & others ...Respondents

(3) FAO No. 235 of 1990 (O&M)
Date of Decision: August 26, 2015

Gurdial Singh (deceased) through LRs & others ...Appellants
Versus
State of Punjab & others ...Respondents

(4) FAO No. 236 of 1990 (O&M)
Date of Decision: August 26, 2015

Dalip Singh (deceased) through LRs & others ...Appellants
Versus
State of Punjab & others ...Respondents

(5) FAO No. 237 of 1990 (O&M)
Date of Decision: August 26, 2015

Gulzar Singh (deceased) through LRs ...Appellant
Versus
State of Punjab & others

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...Respondents

(6)

FAO No. 238 of 1990 (O&M)
Date of Decision: August 26, 2015

Gulzar Singh (deceased) through LRs

...Appellant

Versus

State of Punjab & others

...Respondents

(7)

FAO No. 239 of 1990 (O&M)
Date of Decision: August 26, 2015

Gurpal Singh

...Appellant

Versus

State of Punjab

...Respondent

(8)

FAO No. 240 of 1990 (O&M)
Date of Decision: August 26, 2015

Mukhtiar Singh

...Appellant

Versus

State of Punjab & others

...Respondents

(9)

FAO No. 241 of 1990 (O&M)
Date of Decision: August 26, 2015

Mukhtiar Singh

...Appellant

Versus

State of Punjab & others

...Respondents

(10)

FAO No. 242 of 1990 (O&M)
Date of Decision: August 26, 2015

Gurpal Singh

...Appellant

Versus

State of Punjab & others

...Respondents

FAO No. 233 of 1990 & other connected cases**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Harit Sharma, Advocate
for the appellants.

Mr. Anil Chawla, Advocate
for the respondent-Union of India.

AUGUSTINE GEORGE MASIH, J. (Oral):

By this order, I propose to dispose of FAO Nos.233 to 242 of 1990 as these appeals are preferred by the persons whose land has been initially requisitioned vide order dated 20.04.1963 followed by taking over of possession on 13.05.1963 and thereafter, it was acquired by the respondents on 16.03.1973 under the Requisitioning and Acquisition of Immovable Property Act, 1952. Claim petitions of the appellants for enhancement of compensation were decided by a common award passed by the Additional District Judge, Amritsar, dated 01.06.1989. The facts are taken from FAO No.233 of 1990.

It is the contention of the counsel for the appellants that the compensation as has been assessed by the Court below is on the lower side as they produced sale-deeds of land of their own village, namely, Wadala Bhitewad, according to which, the land was being sold at the rate of ₹18,000/- per acre, whereas, the Court below has only granted just an amount of ₹13,000/- per acre only. His further contention is that the appellants are also entitled to solatium at the rate of 30% and interest at the rate of 15% per annum for the

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compulsory acquisition of their land whereas the Court below has granted 15% solatium and interest 6% . In support of this contention, he has placed reliance upon the Division Bench judgment of this Court in **Shankar Singh & others Vs. Union of India through the Secretary to Government Ministry of Defence, New Delhi, 1988 (1) RRR 143.** Reliance has also been placed upon the judgment of Supreme Court in the case of **Dilawar Singh & others Vs. Union of India & others, 2010 (14) SCC 357,** where again, the solatium and interest has been paid to the similarly placed persons like the appellants. He, thus, contends that these appeals be allowed.

On the other hand, counsel for the respondents has relied upon the judgment of Supreme Court in the case of **Union of India Vs. Hari Krishan Khosla, 1993 (Sup.2) SCC 149,** by which the provisions of the requisitioning and acquisition of the Immovable Property Act, 1952, were upheld and it was held that no solatium and interest is payable. He has further referred to the Five Judge Bench judgment of Supreme Court in **Union of India Vs. Chajju Ram (dead) by Lrs. and others, 2003 (2) RCR (Civil) 682** as also the judgment in **Union of India Vs. Parmal Singh & others, 2009 (1) SCC (Civil) 279,** to contend that the appellants are not entitled to any solatium and the interest which has been granted and therefore, the same should be reduced/not granted.

Respondent counsel, in response to the contention of the

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counsel for the appellants for enhancement of the compensation amount, states that the sale-deeds and the award which have been relied upon, would not be relevant as those were pertaining to the land which were acquired in the year 1978, whereas, in the present case, the acquisition is of the year 1973 and therefore, the Court below has rightly assessed the amount of compensation and granted them the amount of ₹13,000/- per acre.

I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the records of the case.

In the judgment of the Supreme Court in *Union of India Vs. Chajju Ram* (supra) law settled is that solatium and interest cannot be granted unless specifically provided under the Act, according to which, land was acquired and the provisions of Section 23 (1) and 28-A of the Land Acquisition Act, 1894, cannot be read into the other Act, unless so expressly made applicable. In the case of *Union of India Vs. Hari Krishan Khosla* (supra), constitutional validity of Section 8 (3) (a) of the Requisition and Acquisition of Immovable Property Act, 1952, was upheld and there being no provision of solatium and interest, the same could not be granted. In *Dilawar Singh's* case (supra) on which reliance has been placed by the counsel for the appellant, the Hon'ble Supreme Court granted solatium and interest only on the ground that there was extraordinary delay of 16 years in the appointment of the Arbitrator and the land

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owners, who had lost land in similar circumstances and for the same purpose, had been given the benefit.

In the present case, there is a delay of 2 years and 7 months and therefore, the appellants will not be entitled to the enhanced solatium of 30% and interest of 15% as claimed in these appeals. However, the award passed by the Court below granting the appellants benefit of solatium of 15% and interest of 6% cannot be interfered with, especially when the appeals preferred by the Union of India against this very impugned award, have been dismissed by this Court against which no remedy has been availed of and the said orders/judgments have attained finality.

As regards the contention of the counsel for the appellants with regard to the enhancement of the compensation amount, suffice it to say that the Court below has taken into consideration the relevant factors for coming to a conclusion with regard to the market value of the land acquired. The award which has been primarily relied upon and as upheld by this Court also grants compensation at rate of ₹18,150/- per acre of the same village i.e. Wadala Bhitewad, but it pertains to the land acquired in the year 1978, whereas, the acquisition in the present cases of the land is of the year 1973. Thus, the Court below has rightly taken a just and moderate view while coming to a conclusion that the compensation of the land acquired would be ₹13,000/- per acre being the market value of the land. The said findings recorded by the Court below

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cannot be faulted with.

In view of the above, these appeals stand dismissed.

It has been pointed out by the counsel for the appellant that in the impugned order, the Court has not specified as to from which date, the interest granted would be payable. It is clarified that the appellants would be entitled to interest at the rate of 6% per annum from the date of acquisition till the date of payment in terms of the order passed by the Supreme Court in the case of *Union of India Vs. Parmal Singh & others* (supra).

August 26, 2015

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**