

RFA No.2065 of 1995 (O&M)

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

**RFA No.2065 of 1995 (O&M)
Date of decision:24.02.2015**

Ajaib Singh (deceased) through his LRs and others ...Appellants

Versus

State of Haryana ...Respondent

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. A.S.Virk, Advocate,
for the appellants.

Mr. Vishal Garg, Addl. A.G., Haryana.

Rakesh Kumar Jain, J.

The appellants have challenged the award of the Reference Court dated 01.03.1995.

In brief, the land measuring 46.93 acres in village Fatehpur, Hadbast No.367, Tehsil Kalka, District Ambala was acquired vide notification issued under Section 4 of the Land Acquisition Act, 1894 (here-in-after referred to as the “Act”) dated 19.09.1983, followed by notification issued under Section 6 of the Act dated 03.01.1994, for the public purpose, namely, development of residential and commercial area in the Urban Estate of Kalka. The Land Acquisition Collector (here-in-after referred to as the “Collector”), vide his award dated 17.09.1986, assessed market value of the acquired land @ ₹76,500/- per acre for Chahi, ₹45,000/- per acre for Barani, ₹22,500/- per acre for Banjar and ₹12,250/- per acre for Gair Mumkin.

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Since the appellants were not satisfied with the award, therefore, filed objections under Section 18 of the Act to the Collector for further enhancement of compensation. The Collector referred the said objections to the Reference Court under Section 18 of the Act for determination of compensation of the acquired land and the trees standing on it. The Reference Court re-assessed the market value of the acquired land of all kinds @ ₹2,25,000/- per acre and while deciding issues no.5 and 1-A, did not enhance the compensation in respect of the trees and maintained the award of the Collector in that regard.

The parties are *ad idem* that insofar as the market value of the acquired land is concerned, that has been re-assessed by this Court in RFA No.2358 of 1993 titled as “Ashok Kumar and another v. The State of Haryana”, decided on 30.10.2008, to the tune of ₹2,40,000/- per acre.

Accordingly, the issue regarding the market value of the acquired land is decided in favour of the appellants, the award of the Reference Court is modified and the amount of compensation is assessed @ ₹2,40,000/- per acre in terms of the order passed by this Court in the aforesaid RFA No.2358 of 1993.

As regards issues no.5 and 1-A, the Reference Court has held that the appellants have failed to prove the number of trees on their land acquired by the State at the time of issuance of notification under Section 4 of the Act and have also failed to prove their value and in the absence of any evidence, it was held that the appellants were not entitled to any compensation over and above the compensation awarded by the Collector.

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I have found from the perusal of the record that statement no.19 under the Act has been produced on record in which number of trees, both fruit bearing and non-fruit bearing, have been mentioned and the value has been assessed by the Collector. Besides that, the appellants have also produced the reports Ex.P1 and Ex.P2 prepared by Jasbir Singh (PW1) supported by the statement of PW2, whereas while deciding these issues in para No.13 of its judgment, the Reference Court had observed that except for the statement of PW1 Jasbir Singh and PW2 Swaran Singh, no other evidence, either oral or documentary, has been led. It is also observed that the appellants have failed to prove the number of trees on their land acquired by the State and the value thereof. The number of trees have already been mentioned by the Collector in the statement no.19 under the Act on the basis of which he has awarded the compensation also, though the dispute was only with regard to exact market value of the trees.

In these facts and circumstances, I am of the considered opinion that the matter requires re-consideration by the Reference Court on issue no.5 and 1-A, therefore, the finding recorded by the Reference Court on these two issues is hereby set aside and the case is remanded back to the Reference Court to decide both these issues afresh after considering the available evidence, in accordance with law.

The parties are directed to appear before the Reference Court on 20.03.2015.

February 24, 2015
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(**Rakesh Kumar Jain**)
Judge