

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.2307 of 1998 (O&M)

Date of decision: 29.04.2015

Union of India

..... Appellant

versus

Dr.Asket Singh and others

.....Respondents

FAO No.2673 of 1998 (O&M)

Dr.Asket Singh

..... Appellant

versus

Union of India and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Arun Gosain, Advocate for the appellant
in FAO No.2307 of 1998 and for respondent
in FAO No.2673 of 1998
Mr.Deepak Basatia, Advocate for
Mr.Amit Jain, Advocate for the appellant
in FAO No.2673 of 1998 and for respondent No.1
in FAO No.2307 of 1998
Ms.Rajshree Bhatnagar, Advocate for the intervenor –
Mrs.Harpreet Singh

1. Whether Reporters of Local Newspapers may be allowed to see the judgment ? Yes

2. To be referred to the Reporters or not ? Yes

3. Whether the judgment should be reported in the Digest? Yes

Kuldip Singh, J. (Oral)

This order will dispose of two cross appeals bearing FAO Nos.2307 of 1998 filed by Union of India and 2673 of 1998 filed by land owners. For facility of reference, facts are being taken from

FAO No.2307 of 1998.

Challenged in the present appeal is the award dated 8.5.1998 passed by the Arbitrator (learned District Judge, Gurdaspur), whereby the value of the land acquired under the Requisition and Acquisition of Immovable Properties Act, 1952 (for short, 'the Act') by the Union of India was determined to be Rs.150/- per marla. In addition to this, solatium @ 30% and interest @ 9% per annum for the first year and @ 15% per annum thereafter was also ordered to be paid from the date of acquisition till its realization.

The brief controversy is that the land in question which is stated to about 28.856 acres i.e. 29 acres situated in village Jammu Kaliari, Tehsil Pathankot was acquired by the Union of India for military purposes i.e. construction of Jammu and Kashmir Highway on 26.3.1964 as per gazette notification dated 3.4.1964. The petitioner claimed before the Arbitrator that the value of the land is Rs.1000/- per marla. They also claimed compensation for the trees, haveli, cow shed and persian wheels.

The Arbitrator, after discussing the evidence, passed the above noted award.

I have heard the learned counsel for the parties and have gone through the written submissions made by the intervenor- Mrs.Harpreet Singh, who was allowed to file written submissions vide order dated 20.4.2015 passed in CM No.19324-CII of 2013, as he is to be affected by this judgment.

Learned counsel for the appellant– Union of India has argued that the solatium and interest was wrongly awarded.

The controversy regarding grant of solatium and interest has been set at rest by the Hon'ble Supreme Court of India in Dilawar Singh and others v. Union of India and others, 2012(3) RCR (Civil) 16, wherein it was held as under:-

*“It is noteworthy that the High Court of Punjab and Haryana has in **Union of India v. Inder Singh and Anr.** In LPA No. 1918 of 1989 and connected matters upheld grant of solatium and interest in regard to a similar acquisition made in terms of a notification issued in January 1970. While doing so the High Court placed reliance upon its decision in **Shankar Singh and Others v. Union of India** 1988 (1) PLR 163 Mr. Subramaniam, learned Solicitor General fairly conceded that no appeal has been preferred by the Union of India against the decision in **Shankar Singh’s** case (supra) or that delivered in **Union of India v. Inder Singh and Anr** (supra). In that view of the matter therefore and having regard to the fact that there was an inordinate delay of 16 years in the appointment of an Arbitrator in the present cases, we have no hesitation in 11 holding that the principle laid down by this Court in the decisions referred to above would entitle the land owners to the benefit of solatium and interest especially when the owners who have lost land in similar circumstances and for the same purpose have been given such a benefit.”*

In view of above, solatium and interest granted is justified.

The next contention of Learned counsel for the appellant – Union of India is in relation to the compensation calculated per marla whereas it should have been calculated per acre, as it was agricultural land. A perusal of the award shows that the land is situated in just few meters away from the Jammu-Pathankot highway.

Learned counsel for the appellant has relied upon the authority Smt.Indumati Chitaley v. Government of India and another, 1996 AIR (SC) 531.

I am of the view that in this case if per marla compensation is converted into per acre, it comes to Rs.24,000/- per acre. Therefore, even if compensation is mentioned per marla, it does not make any difference. The Arbitrator had taken into consideration the site plan regarding the location of the land and other facts to determine the compensation. The land owners had claimed compensation @ Rs.1000/- per marla. They were awarded compensation only Rs.150/- per marla.

The unfortunate aspect of this case is that the land was acquired for military purposes in the year 1964 and since then the matter is lingering on before one or the other Court. The Arbitrator had passed the award on 8.5.1998 and thereafter, the appeal filed before this Court has consumed about 17 years. In this way, the land owners have made to run from pillar to post to get real value of their land. In the similar matter, relating to same area, Supreme Court awarded compensation @ Rs.350/- per marla in Dilawar Singh's case (supra).

The relevant extract from the judgment of the Hon'ble Supreme Court in Dilawar Singh's case (supra), holding that the land owners are entitled to compensation of Rs.350/- per marla is reproduced as under:-

“In the present batch of cases except the case the notification for acquisition was issued in February 1970

*which is proximate in point of time to those issued in the **Shanker Singh and Inder Singh's** cases (supra). The notification in **Union of India v. Mohinder Singh (Civil Appeal No. 9204/2010)** was issued on 12.5.1964 and published on 12.6.1964. That apart the lands in question were all acquired for the very same purpose and are situated on the outskirts of a growing town like Pathankot. The growing non-agriculture potential of such lands is also not in serious dispute. The High Court has failed to notice all these aspects apparently because the decisions in **Shanker Singh's** case and that delivered in **Inder Singh's** case (supra) were handed down subsequent to the impugned order. Suffice it to say that on the material available before us we see no reason why the amount of compensation payable to the landowners appellants in these appeals should also not be enhanced to Rs.350/- per marla with proportionate benefits towards solatium and interest as awarded by the Arbitrator and upheld by the High Court in those cases and in similar other cases to which we have referred in the earlier part of this order. In so far as **Mohinder Singh's** case (supra) is concerned, the appeal has been filed by the Union of India against grant of solatium and interest. No appeal has been filed by the owners in that case for enhancement of the amount of compensation. Even otherwise in the absence of any cogent evidence to justify any such enhancement, there is no room for directing payment of a large amount of compensation.*

In the result, we allow Civil Appeals Nos.9198-9202/2010 and Civil Appeals Nos.9218-9219/2010 filed by the owners and modify the award made by the Arbitrator to the extent that instead of Rs.200/- per marla, the owners shall be entitled to 350/- per marla towards compensation with proportionate benefits like solatium

and interest on the said amount. The appellants-owners shall also be entitled to proportionate costs in this Court and the Courts below.”

Accordingly, the compensation was awarded Rs.350/- per marla along with the solatium and interest.

In the present case also, the notification is of the year 1964 and it pertains to the same area. Therefore, the compensation as determined by the Apex Court in Dilawar Singh's case (supra) is to be allowed. Consequently, I hold that land owners in the present case shall also be entitled to compensation @ Rs.350/- per marla along with the solatium and interest as determined by the Arbitrator.

Consequently, the appeal filed by the Union of India i.e. FAO No.2307 of 1998 is dismissed and that of land owners i.e. FAO No.2673 of 1998 is allowed.

29.04.2015
gk

(Kuldip Singh)
Judge