

In the High Court of Punjab and Haryana at Chandigarh

**1. Regular First Appeal No. 2512 of 1999
Date of Decision: 06.5.2015.**

Krishan SinghAppellant

Versus

State of Punjab and othersRespondents

2. Regular First Appeal No. 2513 of 1999

FaquirAppellant

Versus

State of Punjab and othersRespondents

3. Regular First Appeal No. 2514 of 1999

Kulbir SinghAppellant

Versus

State of Punjab and othersRespondents

4. Regular First Appeal No. 2515 of 1999

Mehar SinghAppellant

Versus

State of Punjab and othersRespondents

5. Regular First Appeal No. 2516 of 1999

Varinder NathAppellant

Versus

State of Punjab and othersRespondents

6. Regular First Appeal No. 2680 of 1999

Kaushalya and anotherAppellants

Versus

State of Punjab and othersRespondents

7. Regular First Appeal No. 2681 of 1999

Diwan ChandAppellant

Versus

State of Punjab and othersRespondents

8. Regular First Appeal No. 2682 of 1999

Thakurdwara NarshingaAppellant

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. R.S.Manhas, Advocate and
Mr. Vinay Saini, Advocate for
Mr. G.S.Nagra, Advocate and
for the appellants/ land owners.

Mr. P.S.Mattewal, Addl. A.G., Punjab.

SABINA, J.

Vide this judgment, above mentioned eight appeals would be disposed of as the point in controversy involved in all the cases is the same.

Land belonging to the land owners, was sought to be acquired along with trees standing on the acquired land for construction of Hydel channel. Vide the supplementary award, the Collector awarded compensation qua trees standing on the acquired land. Being dissatisfied with the amount of compensation awarded by the Collector qua the standing trees over the acquired land, the land owners sought references under Section 18 of the Land Acquisition Act, 1894 ('Act' for short). The learned Reference Court dismissed the references by basing reliance on decision of the Apex Court in '**State of Haryana versus Gurcharan Singh**', **AIR 1996 Supreme Court 106**. Hence, the present appeals by the land owners.

Learned counsel for the appellants have submitted that the judgment passed by the Apex Court in *Gurcharan Singh's* case (supra), was not applicable to the facts of the present case. In fact, in the present case, the value of the land had not been assessed as orchard. Hence, in the present case, the land owners were entitled to receive compensation qua the standing trees on the acquired land. In support of his arguments, learned counsel have placed reliance on '**Shri Ambya Kalya Mhatre(d) Through legal heirs and others versus State of Maharashtra, 2011(9) SCC 325**', wherein it was held as under:-

“21. The High Court has also held that once the

compensation is awarded for the land, there cannot be additional or separate compensation for the trees. For this purpose, the High Court has relied upon the following observations of this Court in [State of Haryana vs. Gurcharan Singh](#) - 1995 (2) R.R.R. 209 : 1995 Supp (2) SCC 637:

"It is settled law that the Collector or the court who determines the compensation for the land as well as fruit bearing trees cannot determine them separately. The compensation is to the value of the acquired land. The market value is determined on the basis of the yield. Then necessarily applying suitable multiplier, the compensation needs to be awarded. Under no circumstances the court should allow the compensation on the basis of the nature of the land as well as fruit- bearing trees. In other words, market value of the land is determined twice over; once on the basis of the value of the land and again on the basis of the yield got from the fruit-bearing trees. The definition of land includes the benefits which accrue from the land as defined in section 3(a) of the Act. After compensation is determined on the basis of the value of the land as distinct from the income applying suitable multiplier, then the trees would be valued only as firewood and necessary compensation would be given."

22. We are afraid that the High Court has misread the said decision in regard of valuing the land and trees

separately. If the land value had been determined with reference to the sale statistics or compensation awarded for a nearby vacant land, then necessarily, the trees will have to be valued separately. But if the value of the land has been determined on the basis of the sale statistics or compensation awarded for an orchard, that is land with fruit-bearing trees, then there is no question of again adding the value of the trees. Further, if the market value has been determined by capitalizing the income with reference to yield, then also the question of making any addition either for the land or for the trees separately does not arise. In this case, the determination of market value was not with reference to the yield. Nor was the determination of market value in regard to the land with reference to the value of any orchard but was with reference to vacant agricultural land. In the circumstances, the value of the trees could be added to the value of the land.”

Learned counsel for the appellants have also placed reliance on the decision given by this Court in **RFA No. 819 of 1993** titled **Subhash Chander and others versus State of Punjab**, wherein it was held as under:-

“2. The question of assessment of compensation for trees have come to Courts in several cases in the past and they have adopted different modes. (i) Where a property is sold as orchard and where there are fruit yielding trees, the value of the orchard itself takes the component of the value of the land plus the value of the trees and their

possible yield. In such an event there is no requirement of having to determine either the value of the land or the value of the trees separately; (ii) Where a land is acquired over which the trees exist, which are not fruit yielding but they have a potential for use as timber for furniture etc., the assessment would be made with reference to the land plus the value of the timber minus the cost of felling the trees and transportation of trees to the market for sale; (iii) Where trees are fruit yielding and they have recurrent crops over a period of time say 10-20 years or the trees themselves have a long life span such as when it is a mango tope where the mango trees which can have long life span of 60 or 70 years, the assessment of timber value would be inappropriate. The potential for the trees to yield fruits recurrently for several years would themselves be the appropriate method of determining compensation. ”

Learned State counsel, on the other hand, has submitted that the land owners were not entitled to receive compensation at the enhanced rate qua the standing trees as the reports submitted by the expert examined by the land owners could not be relied upon. In fact, the report submitted by the expert examined by the State, was just and fair. The said expert was acting in discharge of his official duty and there was no reason to doubt the report submitted by the said expert.

In the present case, there is nothing on record to suggest that the value of the land was assessed as orchard. Rather, it is evident that in the present case, the land which was acquired,

was having fruit bearing trees standing on it. Consequently, the value of the acquired land was separately assessed by the Collector and the value of the trees, standing on the acquired land, was assessed separately by the Collector. In the facts of the present case, the judgment of the Apex Court in *Gurcharan Singh's* case (supra) was not applicable. The land owners were entitled to claim compensation qua the standing trees on the acquired land. Apparently due to this reason, the Collector had also granted compensation to the land owners qua the standing trees on the acquired land. The Reference Court had not decided the references on merits but had dismissed the same on the ground that they were not maintainable.

Accordingly, all these appeals are allowed. Impugned awards passed by the Reference Court, are set aside and the references are remanded to the Reference Court to be decided on merits. Parties are directed to appear before the Reference Court on 6.7.2015.

**(SABINA)
JUDGE**

May 06, 2015
Gurpreet