

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

**CWP No.403 of 2007 (O&M)
Date of decision: 24.3.2015**

Rajdeep Singh

.....Petitioner

Vs.

**The District Judge, (Exercising the powers of Tribunal under the
Improvement Trust Act), District Kapurthala, Punjab and others**

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Jagtar Singh, Advocate for Mr. R.S.Athwal, Advocate
for the petitioner.

Mr. Rajesh Bhardwaj, Addl.A.G.Punjab.

Mr. Hari Om Verma and Mr. K.S.Mamrat, Advocates for
for respondent Nos. 2 and 4.

Ajay Kumar Mittal,J.

CM No.15782 of 2014

1. This is an application under Article 227 of the Constitution of
India read with section 151 CPC for disposing the case in the same terms as

in CWP No.12183 of 2007, ***Tej Kaur vs. State of Punjab and others***, decided on 9.5.2014.

2. After hearing learned counsel for the parties, CM is disposed of and at the joint request of learned counsel for the parties, the main case is taken up for hearing.

3. Prayer in this petition filed under Articles 226/227 of the Constitution of India is for setting aside the award dated 3.4.2006, Annexure P.1 passed by respondent No.1 – the Tribunal and for enhancing the compensation of the land owned by the petitioner.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Vide notifications dated 14.7.2000 under section 36 and dated 20.6.2001 under Section 42 of the Punjab Town Improvement Act, 1922 (in short, “the 1922 Act”), the State Government acquired land measuring 140 kanals 17 marlas in the area of Village Phagwara Shirki for development scheme No.10 including the land of the petitioner measuring 4 kanals 18 marlas. The Land Acquisition Collector vide award dated 19.6.2003 assessed the market value of *Chahi* land at the rate of ₹ 12,850/- per marla and of *Gair mumkin Abadi* at the rate of ₹ 25,700/- per marla. Compensation was awarded to the petitioner at that rate. Dissatisfied with the award, the petitioner filed petition under section 18 of the Land Acquisition Act, 1894 (in short, “the 1894 Act”) before the Land Acquisition Collector. Accordingly, the matter was referred to the Tribunal. It was pleaded that market value of the land at the time of issuance of notification was not less than rupees one lac per marla and residential houses were wrongly acquired as the same were exempt from acquisition. Vide order dated 3.4.2006, the Tribunal dismissed the petition

being devoid of any merit and held that the compensation awarded was sufficient. Hence the instant writ petition by the petitioner.

3. We have heard learned counsel for the parties and perused the record.

4. It was not disputed by learned counsel for the petitioner that the matter is squarely covered by the decision of this Court dated 9.5.2014 in **Tej Kaur's** case (supra) wherein same notifications were under challenge.

After examining the matter, it was recorded thus:-

“7. Having heard learned counsel for the parties and on perusal of the impugned award, it appears to us that the Tribunal has failed to make out any intelligible distinction between two parcels of land for awarding compensation at different rates. It is pertinent to mention that the Land Acquisition Collector had bifurcated the acquired land only on the basis of entries in the revenue record which cannot be a valid ground to bring in artificial classification within a small compact piece of land acquired for one and the same public purpose.

8) Things would have been different if keeping in view the advantages or disadvantages of location of the *gair mumkin abadi* land viz a viz the *chahi* land, that the compensation was awarded at different rates. However, in the absence of any such reasons assigned by either the Land Acquisition Collector or the Tribunal, it is difficult to accept that there was any qualitative difference in potentiality of the two parcels of acquired land.

9) The distinction, if any, can possibly be drawn on the basis of the site plan of the area or, if need be, on consideration of the additional evidence that may be adduced by the parties. In this view of the matter, it may not be expedient for us to express any final view on merits rather we deem it appropriate to remand the case to the Tribunal for fresh adjudication.”

5. Learned counsel for the respondents have no objection if the present writ petition is disposed of in the same terms as in *Tej Kaur's* case (supra). Ordered accordingly.

(Ajay Kumar Mittal)
Judge

March 24, 2015
'gs'

(Rekha Mittal)
Judge