

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12933 of 2013

Date of Decision: 9.4.2015

Executive Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh

....Petitioner.

Versus

Chet Ram and others

...Respondents.

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

PRESENT: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the petitioner.

Mr. Sandeep Kumar Yadav, Advocate,
for the private respondents in CWP Nos. 12550, 12596 and
14385 of 2013.

Mr. Devender Arya, Advocate for
Mr. Mukesh Yadav, Advocate for the private respondents in
CWP Nos. 12563, 12567, 12579, 12588, 12606, 12607,
12609, 12637, 12933, 12955, 13001 and 14393 of 2013.

AJAY KUMAR MITTAL, J.

1. This order shall dispose of a bunch of 15 petitions bearing CWP Nos. 12550, 12563, 12567, 12579, 12588, 12596, 12606, 12607, 12609, 12637, 12933, 12955, 13001, 14385 and 14393 of 2013 as according to learned counsel for the parties the issue involved therein is identical. For brevity, the facts are being extracted from CWP No. 12933 of 2013.

2. In this petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in

the nature of certiorari for quashing the orders dated 21.10.2011 (Annexure P-3) passed by respondent No.5 allowing the application for damages moved by the landowners and dated 31.7.2012 (Annexure P-4) dismissing the review petition filed by the petitioners.

3. Put shortly, the facts necessary for adjudication of the writ petition as narrated therein are that the State Government vide notifications dated 25.7.2001 issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 25.7.2001 (Annexure P-1 Colly) under Section 6 of the Act acquired land situated within the revenue estates of villages Jhagroli and Nangal Harnath, Tehsil Narnaul District Mahendergarh for construction of Kapoori distributory. The Land Acquisition Collector vide different awards dated 16.12.2002 assessed the market value of the acquired land @ ₹ 2,00,000/- per acre for chahi, ₹ 1,20,000/- per acre for bhood and ₹ 1,50,000/- per acre for rosli kind of land of village Jhagroli and ₹ 2,00,000/- per acre for chahi, ₹ 1,50,000/- per acre for rosli, ₹ 1,20,000/- per acre for bhood and ₹ 1,00,000/- per acre for gair mumkin kind of land of village Nangal Harnath. Being dissatisfied with the award, the claimants filed references under Section 18 of the Act. The reference court assessed the market value @ ₹ 6,78,781/- per acre for chahi, ₹ 5,01,586/- per acre for rosli, ₹ 3,51,000/- per acre for bhood and ₹ 3,34,390/- per acre for gair mumkin kind of land. The landowners as well as the State filed appeals before this Court against the references. One of the appeals was registered as RFA No. 4609 of 2006. This Court vide order dated 11.5.2011 disposed of the said appeal and other connected appeals directing the landowners to file an application before the Land Acquisition Collector to claim the damages/rent for their dispossession from the land for the period from

the date of their dispossession to the date of issuance of notification under Section 4 of the Act. In pursuance thereto, the land owners moved an application before the District Revenue Officer-cum-Land Acquisition Collector for damages for their dispossession from the land which was allowed vide order dated 21.10.2011 (Annexure P-3) and they were held entitled to the additional amount @ 12% per annum on the compensation amount on that account from the date of possession to the date of issue of notification under Section 4 of the Act, i.e. 20.1.1979 to 25.7.2001. Against the order dated 21.10.2011 (Annexure P-3), the State filed review petition before the Land Acquisition Collector who vide order dated 31.7.2012 (Annexure P-4) dismissed the review petition. Thereafter, the landowners initiated execution proceedings in which warrant of attachment has been issued vide order dated 15.1.2013 (Annexure P-6). Hence, the present writ petitions.

4. Learned State counsel has relied upon the judgment of the Apex Court in **Special Land Acquisition Officer v. Karigowda and others (2010) 5 SCC 708** to submit that the award of interest as additional amount @ 12% per annum on the compensation amount for the period prior to the date of issuance of notification under Section 4 of the Act dated 25.7.2001 was unsustainable. According to the learned State counsel, the landowners were entitled to only charges for use and occupation of their property from 1979 till it was validly acquired by the State. In such circumstances, it was prayed that the order awarding interest as special compensation prior to 2001 deserves to be set aside and the matter be remanded to the Collector to pass fresh order for determining the amount for use and occupation of the land for the period from 1979 till it was validly acquired by the State.

5. On the other hand, learned counsel appearing for the private respondents supported the order passed by the Land Acquisition Collector.

6. After hearing learned counsel for the parties, we find merit in the submission of learned State counsel.

7. The question herein relates to whether the Land Acquisition Collector can award interest @ 12% per annum as additional amount on account of compensation for use and occupation of the land in dispute anterior to the issuance of notification under Section 4 of the Act.

8. The answer to the question arising herein is in the negative. In a case where the landowner is dispossessed prior to the issuance of notification under Section 4 of the Act, the Government merely takes possession of the land but the title thereof continues to vest with the landowner. In such a situation, it is open for the landowner to recover the possession of the land by taking appropriate legal proceedings. The landowner is only entitled to get rent or damages for use and occupation for the period the Government retains such possession of the property prior to acquisition. Further, the Collector can determine the rent or damages for use and occupation of the property to which the landowner was entitled while determining the compensation payable to the landowner for the acquisition of the property. The Land Acquisition Collector cannot grant interest for any period prior to the issuance of notification under Section 4 of the Act where the possession has been taken or assumed to have been taken dehors the provisions of the Act. The award of interest @ 12% as additional compensation by the Collector in the present case was improper.

9. The Apex Court considering similar situation in

Karigowda's case (supra) had held as under:-

“78. We are bound by the decision of the larger Bench, which had considered the case of Satinder Singh (supra), on which reliance has even been placed by the claimants in the present appeal. The larger Bench after detailed discussion on the subject, rejected the claim for payment of interest claimed by the respondents in those cases, prior to the date of issuance of the Notification under Section 4 of the Act. As is evident from the above dictum of the Court, despite dispossession, the title continues to vest in the land owners and it is open for the land owners to take action in accordance with law. Once notification under Section 4 (1) of the Act has been issued and the acquisition proceedings culminated into an award in terms of Section 11, then alone the land vests in the State free of any encumbrance or restriction in terms of provisions of Section 16 of the Act. The Court, in situations where possessions has been taken prior to issuance of notification under Section 4(1) of the Act, can direct the Collector to examine the extent of rent or damage that the owners of land would be entitled to the provisions of Section 48 of the Act would come to aid and the Court would also be justified in issuing appropriate direction. This was the unequivocal view expressed by the Court in R.L. Jain case (supra) as well. This legal question is no more open to

controversy and stands settled by this Court. We would follow the view taken and accept the contention of the appellant-State that the Reference Court as well as the High Court could not have granted any interest under the provisions of the Act, for a date anterior to the issuance of Notification under Section 4 of the Act. However, following the dictum of the Bench, we direct the Collector to examine the question of payment of rent/damages to the claimants, from the period when their respective lands were submerged under the back water of the river, till the date of issuance of the Notification under Section 4(1) of the Act, from which date, they would be entitled to the statutory benefits on the enhanced compensation.”

10. In view of the above, the impugned orders dated 21.10.2011 (Annexure P-3), dated 31.7.2012 (Annexure P-4) awarding interest @ 12% as additional amount on account of compensation from 1979 to 2001 and consequential order dated 15.1.2013 (Annexure P-6) are set aside and the matter is remanded to the Land Acquisition Collector to pass a fresh order with regard to the payment of rent/damages for the said period, i.e., from 20.1.1979 to 25.7.2001 in accordance with law.

11. Writ petitions stand disposed of accordingly.

(AJAY KUMAR MITTAL)
JUDGE

April 9, 2015
gbs

(REKHA MITTAL)
JUDGE

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12550 of 2013

Date of Decision: 9.4.2015

Executive Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh

....Petitioner.

Versus

Babu Lal and others

...Respondents.

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

PRESENT: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the petitioner.

Mr. Sandeep Kumar Yadav, Advocate,
for the private respondents.

AJAY KUMAR MITTAL, J.

For orders, see **CWP No. 12933 of 2013 (Executive
Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh v. Chet Ram and others).**

**(AJAY KUMAR MITTAL)
JUDGE**

April 9, 2015
gbs

**(REKHA MITTAL)
JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12563 of 2013

Date of Decision: 9.4.2015

Executive Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh

....Petitioner.

Versus

Shri Chand and others

...Respondents.

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

PRESENT: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the petitioner.

Mr. Devender Arya, Advocate for
Mr. Mukesh Yadav, Advocate for the private respondents.

AJAY KUMAR MITTAL, J.

For orders, see **CWP No. 12933 of 2013 (Executive
Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh v. Chet Ram and others).**

**(AJAY KUMAR MITTAL)
JUDGE**

April 9, 2015
gbs

**(REKHA MITTAL)
JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12567 of 2013

Date of Decision: 9.4.2015

Executive Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh

....Petitioner.

Versus

Phool Chand and others

...Respondents.

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

PRESENT: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the petitioner.

Mr. Devender Arya, Advocate for
Mr. Mukesh Yadav, Advocate for the private respondents.

AJAY KUMAR MITTAL, J.

For orders, see **CWP No. 12933 of 2013 (Executive
Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh v. Chet Ram and others).**

**(AJAY KUMAR MITTAL)
JUDGE**

April 9, 2015
gbs

**(REKHA MITTAL)
JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12579 of 2013

Date of Decision: 9.4.2015

Executive Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh

....Petitioner.

Versus

Hosiyar Singh and others

...Respondents.

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

PRESENT: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the petitioner.

Mr. Devender Arya, Advocate for
Mr. Mukesh Yadav, Advocate for the private respondents.

AJAY KUMAR MITTAL, J.

For orders, see **CWP No. 12933 of 2013 (Executive
Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh v. Chet Ram and others).**

**(AJAY KUMAR MITTAL)
JUDGE**

April 9, 2015
gbs

**(REKHA MITTAL)
JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12588 of 2013

Date of Decision: 9.4.2015

Executive Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh

....Petitioner.

Versus

Maruram and others

...Respondents.

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

PRESENT: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the petitioner.

Mr. Devender Arya, Advocate for
Mr. Mukesh Yadav, Advocate for the private respondents.

AJAY KUMAR MITTAL, J.

For orders, see **CWP No. 12933 of 2013 (Executive
Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh v. Chet Ram and others).**

**(AJAY KUMAR MITTAL)
JUDGE**

April 9, 2015
gbs

**(REKHA MITTAL)
JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12596 of 2013

Date of Decision: 9.4.2015

Executive Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh

....Petitioner.

Versus

Gugan and others

...Respondents.

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

PRESENT: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the petitioner.

Mr. Sandeep Kumar Yadav, Advocate,
for the private respondents.

AJAY KUMAR MITTAL, J.

For orders, see **CWP No. 12933 of 2013 (Executive
Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh v. Chet Ram and others).**

**(AJAY KUMAR MITTAL)
JUDGE**

April 9, 2015
gbs

**(REKHA MITTAL)
JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12606 of 2013

Date of Decision: 9.4.2015

Executive Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh

....Petitioner.

Versus

Ram Kumar and others

...Respondents.

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

PRESENT: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the petitioner.

Mr. Devender Arya, Advocate for
Mr. Mukesh Yadav, Advocate for the private respondents.

AJAY KUMAR MITTAL, J.

For orders, see **CWP No. 12933 of 2013 (Executive
Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh v. Chet Ram and others).**

**(AJAY KUMAR MITTAL)
JUDGE**

April 9, 2015
gbs

**(REKHA MITTAL)
JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12607 of 2013

Date of Decision: 9.4.2015

Executive Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh

....Petitioner.

Versus

Singh Ram and others

...Respondents.

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

PRESENT: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the petitioner.

Mr. Devender Arya, Advocate for
Mr. Mukesh Yadav, Advocate for the private respondents.

AJAY KUMAR MITTAL, J.

For orders, see **CWP No. 12933 of 2013 (Executive
Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh v. Chet Ram and others).**

**(AJAY KUMAR MITTAL)
JUDGE**

April 9, 2015
gbs

**(REKHA MITTAL)
JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12609 of 2013

Date of Decision: 9.4.2015

Executive Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh

....Petitioner.

Versus

Parbhu Dayal and others

...Respondents.

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

PRESENT: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the petitioner.

Mr. Devender Arya, Advocate for
Mr. Mukesh Yadav, Advocate for the private respondents.

AJAY KUMAR MITTAL, J.

For orders, see **CWP No. 12933 of 2013 (Executive
Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh v. Chet Ram and others).**

**(AJAY KUMAR MITTAL)
JUDGE**

April 9, 2015
gbs

**(REKHA MITTAL)
JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12637 of 2013

Date of Decision: 9.4.2015

Executive Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh

....Petitioner.

Versus

Basti Ram and others

...Respondents.

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

PRESENT: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the petitioner.

Mr. Devender Arya, Advocate for
Mr. Mukesh Yadav, Advocate for the private respondents.

AJAY KUMAR MITTAL, J.

For orders, see **CWP No. 12933 of 2013 (Executive
Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh v. Chet Ram and others).**

**(AJAY KUMAR MITTAL)
JUDGE**

April 9, 2015
gbs

**(REKHA MITTAL)
JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 14385 of 2013

Date of Decision: 9.4.2015

Executive Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh

....Petitioner.

Versus

Surender and others

...Respondents.

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

PRESENT: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the petitioner.

Mr. Sandeep Kumar Yadav, Advocate,
for the private respondents.

AJAY KUMAR MITTAL, J.

For orders, see **CWP No. 12933 of 2013 (Executive
Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh v. Chet Ram and others).**

**(AJAY KUMAR MITTAL)
JUDGE**

April 9, 2015
gbs

**(REKHA MITTAL)
JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 14393 of 2013

Date of Decision: 9.4.2015

Executive Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh

....Petitioner.

Versus

Hanuman Prasad and others

...Respondents.

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

PRESENT: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the petitioner.

Mr. Devender Arya, Advocate for
Mr. Mukesh Yadav, Advocate for the private respondents.

AJAY KUMAR MITTAL, J.

For orders, see **CWP No. 12933 of 2013 (Executive
Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh v. Chet Ram and others).**

**(AJAY KUMAR MITTAL)
JUDGE**

April 9, 2015
gbs

**(REKHA MITTAL)
JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12955 of 2013

Date of Decision: 9.4.2015

Executive Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh

....Petitioner.

Versus

Jagmal and others

...Respondents.

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

PRESENT: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the petitioner.

Mr. Devender Arya, Advocate for
Mr. Mukesh Yadav, Advocate for the private respondents.

AJAY KUMAR MITTAL, J.

For orders, see **CWP No. 12933 of 2013 (Executive
Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh v. Chet Ram and others).**

**(AJAY KUMAR MITTAL)
JUDGE**

April 9, 2015
gbs

**(REKHA MITTAL)
JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 13001 of 2013

Date of Decision: 9.4.2015

Executive Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh

....Petitioner.

Versus

Pharbati Ram and others

...Respondents.

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

PRESENT: Mr. Sudeep Mahajan, Addl. Advocate General, Haryana,
for the petitioner.

Mr. Devender Arya, Advocate for
Mr. Mukesh Yadav, Advocate for the private respondents.

AJAY KUMAR MITTAL, J.

For orders, see **CWP No. 12933 of 2013 (Executive
Engineer, Mahendergarh Canal Water Services Division,
Mahendergarh v. Chet Ram and others).**

**(AJAY KUMAR MITTAL)
JUDGE**

April 9, 2015
gbs

**(REKHA MITTAL)
JUDGE**