

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

Date of decision:17.8.2015

1. CWP No.10869 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Ashok Kumar and othersRespondents

2. CWP No.13197 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Ram Singh and othersRespondents

3. CWP No.15003 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Jagdish Rai and othersRespondents

4. CWP No.13205 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Harnam Singh and othersRespondents

5. CWP No.13206 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Ram Ji Dass and othersRespondents

6. CWP No.13214 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Renu and othersRespondents

7. CWP No.13215 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Darshan Kumar and othersRespondents

8. CWP No.13249 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Jagdev Singh and othersRespondents

9. CWP No.13279 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Joginder Singh and othersRespondents

10. CWP No.13283 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Roop Singh and othersRespondents

11. CWP No.13285 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Surjit Kaur wd/o Surjit Singh and othersRespondents

12. CWP No.13287 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Avtar Kaur and othersRespondents

13. CWP No.13302 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Chuhar Singh and othersRespondents

14. CWP No.13311 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Sant Ram and othersRespondents

15. CWP No.13458 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Lakshami Devi and othersRespondents

16. CWP No.13566 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Ujjagar Singh @ Jaggar Singh through Lrs and others
.....Respondents

17. CWP No.13581 of 2015(O&M)

Improvement Trust Bathinda through its Chairman ...Petitioner

VERSUS

Jatinder Kaur and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Gian Chand Garg, Advocate for the petitioner.

HEMANT GUPTA, J.

By this order we shall dispose of CWP No.10869 of 2015 along with aforementioned 16 writ petitions wherein the challenge is to an award of Land Acquisition Tribunal (Improvement Trust) Bathinda (for short 'Tribunal') dated 17.10.2014. Since the award is common in all the 17 writ petitions, therefore, all the petitions are taken up and being decided together.

However, for the facility of reference the facts are being taken from CWP No.10869 of 2015 wherein the challenge is

to an award of Land Acquisition Tribunal (Improvement Trust) Bathinda dated 17.10.2014 whereby Rs.23/- per square yard was awarded compensation of the land acquired.

The petitioner prepared a housing scheme for development of an area measuring 30.5 acres situated within the Municipal Limits of Bathinda known as “Kamla Nehru Nagar” notified under Section 36 of the Punjab Town Improvement Act, 1922 (for short ‘the Act’) on 01.10.1976. Later, land measuring 12 bighas 12 biswas covered by the factory of Krishan Lal etc was excluded from the purview of acquisition. Resultantly, land measuring 148 bighas 3 biswas was acquired by the petitioner for 30.5 acres Scheme when the notification under Section 42(1) of the Act was published on 20.11.1978. The Land Acquisition Collector awarded Rs.17/- per square yard as compensation in its award dated 02.07.1979.

On a reference made, learned Tribunal vide award dated 29.08.1997 enhanced the amount of compensation to Rs.20/- per square yard. In a writ petition on behalf of the land-owners, this Court set aside the award of the Tribunal and remanded the matter to Tribunal for fresh consideration after taking into consideration the amended provisions of Section 51-A of the Land Acquisition Act, 1894 whereby the sale deeds were made admissible in evidence without examining the vendor or vendee. It is thereafter, the Tribunal awarded the compensation at the rate of Rs.23/- per square yard.

The sale instances produced by the land-owners are to the following effect:-

Exhibit No.	Sale Deed No./Date	Area sold in Sq. yard	Khasra No.	Total Sale Consideration	Rate per sq. yard.
A-6	5327/2.1.1974	1008	2253	30,000/-	26.76P
A-7	3559/12.1.1976	143-3/4	2446, 2447	9,000/-	62.60 P
A-8	2404/12.8.1976	200	2391	8,000/-	40/-
A-9	2686/ 30.6.1973	4000	2394	1,00,000/-	25/-
A-10	637/ 25.1.1982	250	2152	31,000/-	124/-

The sale instances produced by the present petitioners are of lesser value ranging from Rs.10.62p to 18.60p per square yard.

It may be noticed that the petitioner did not challenge the earlier award of the Tribunal determining compensation to Rs.20/- per square yard. It may also be noticed that neither the Land Acquisition Collector nor the Land Acquisition Tribunal (Improvement Trust) Bathinda adverted to belting system for determining the amount of compensation to be awarded to the land-owners.

Learned Tribunal referred to a judgment of Hon'ble Supreme Court reported as (1995) 5 SCC 433 titled Municipal Committee, Bathinda and others v. Balwant Singh and others, whereby the Court has awarded Rs.1,50,000/- per acre as compensation for the land up to depth of 100 yards and Rs.80,000/- per acre for the remaining land. A perusal of the said judgment

shows that the notification under Section 4 of the Land Acquisition Act, 1894 was published on 09.04.1976 and the Land Acquisition Collector announced its award on 20.03.1979.

Learned Tribunal found that the acquired land as well as land in Balwant Singh's case (supra) are located on Bathinda – Barnala road but the acquired land was further towards the East. The land was said to be possessing potential value as per the finding given by the High Court and accepted by Hon'ble Supreme Court. The Tribunal found that existence of potential of the land in question is witnessed by presence of Guru Nanak Ice Factory, which was in existence at the time of acquisition and there was also an Oil Factory near the acquired land.

The Court noticed that land in Balwant Singh's case (supra), was notified six months prior to the notification of land in question. The Tribunal found that there is no evidence that the land on the main road was being sold at a much higher price than the land in interior in the acquisition under consideration. Thus, the belting system was not adopted by the Tribunal. Learned Tribunal awarded Rs.23/- per square yard on the basis of Ex.A-6 to Ex.A-10 and Ex.R-1 to Ex.R-22 except Ex.R-11 and also awarded statutory solatium and interest. The Court also considered average of Rs.1,50,000/- per acre and Rs.80,000/- per acre awarded by Hon'ble Supreme Court to award compensation of Rs.1,15,000/- i.e. Rs.23/- per square yard.

Learned counsel for the petitioner vehemently argued that the compensation has been enhanced illegally and arbitrarily which could not be sustainable in law.

We do not find any merit in the said argument. The Tribunal has awarded Rs.17/- per square yard for the entire land. Such compensation is more than the sale value as per the sale instances produced by the petitioner. Therefore, it is apparent that even the Land Acquisition Collector has not found the sale instances produced by the petitioner as relevant to determine the amount of compensation. The sale instances except exhibit A-10, produced by the land-owners pertains to prior to the date of notification under Section 36 of the Land Acquisition Act, 1894. The sale price in the sale deeds produced by the land-owners ranges from Rs.25/- per square yard to Rs.62.60/- per square yard. Even by giving allowance of acquisition of large track of land as against the smaller area sold by the aforesaid sale instances, we find that the compensation at the rate of Rs.23/- per square yard cannot be said to be unfair, unjust or arbitrary.

In fact, the belting system was not resorted to even by the Land Acquisition Collector or even by the Tribunal in its earlier award dated 29.08.1997.

In Balwant Singh's case (supra), Hon'ble Supreme Court has awarded compensation of Rs.1,50,000/- for the land up to depth of 100 yards and Rs.80,000/- per acre for the remaining land. Not only the notification in the aforesaid case is earlier in point of

time but the location of the present land seems to have a better potential. Therefore, the method of adopting average of the compensation awarded in the earlier acquisition as well as on the basis of sale instances produced by the claimants cannot be said to be illegal warranting interference in exercise of writ jurisdiction of this Court.

In view of the above, all the writ petitions are dismissed.

(HEMANT GUPTA)
JUDGE

AUGUST 17, 2015
‘D. Gulati’

(RAJ RAHUL GARG)
JUDGE