

In the High Court of Punjab and Haryana at Chandigarh

Regular First Appeal No. 2303 of 2005 (O&M)
Date of Decision: 01.7.2015.

Fateh Singh and others

.....Appellants

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. S.K.Jain, Advocate,

Mr. Akshay Jain, Advocate and

Mr. K.P.S.Virk, Advocate for
Mr. K.S.Dhaliwal, Advocate
for the land owners.

Ms. Gaganpreet Kaur, AAG, Haryana.

SABINA, J.

Vide this judgment, above mentioned appeal as well as following appeals filed by the land owners as well as State would be disposed of as these have arisen out of the same acquisition/award.

Appeals filed by the land owners-

1. RFA No. 2164 of 2005
2. RFA No. 2165 of 2005
3. RFA No. 2296 of 2005
4. RFA No. 2297 of 2005
5. RFA No. 2298 of 2005
6. RFA No. 2299 of 2005
7. RFA No. 2300 of 2005
8. RFA No. 2301 of 2005

9. RFA No. 2302 of 2005
10. RFA No. 2304 of 2005
11. RFA No. 2305 of 2005
12. RFA No. 3349 of 2005
13. RFA No. 3350 of 2005
14. RFA No. 3351 of 2005

Appeals filed by the State-

1. RFA No. 2088 of 2005
2. RFA No. 2089 of 2005
3. RFA No. 2090 of 2005
4. RFA No. 2091 of 2005
5. RFA No. 2092 of 2005
6. RFA No. 2093 of 2005
7. RFA No. 2094 of 2005
8. RFA No. 2095 of 2005
9. RFA No. 2096 of 2005
10. RFA No. 2097 of 2005
11. RFA No. 2098 of 2005
12. RFA No. 2099 of 2005
13. RFA No. 2100 of 2005
14. RFA No. 2101 of 2005
15. RFA No. 2612 of 2005

80 *kanals* 17 *marlas* of land was sought to be acquired for extension of Shamlo minor vide notification dated 27.5.1997 under Section 4 of the Land Acquisition Act, 1894 ('Act' for short). Declaration under Section 6 of the Act was issued on 21.10.1997. The Land Acquisition Collector vide award dated 11.1.2000 assessed the market value of the acquired land at the rate of ₹ 1,25,000/- per acre. The land owners sought references under

Section 18 of the Act and sought enhancement of the compensation amount. It was further prayed that the minor had been constructed in the year 1966 whereas the land was acquired in the year 1997. The land owners had not been paid any compensation at the time of taking over the possession of the land in question by the State.

The Reference Court vide the impugned award assessed the market value of the land at the rate of ₹ 2,00,000/- per acre. The land owners were further held entitled to a sum of ₹ 35,000/- per acre by way of damages. The land owners were also held entitled to receive the statutory benefits as admissible under the Act. Being dissatisfied with the award passed by the Reference Court, both the State as well as the land owners have filed the present appeals.

Learned counsel for the land owners have submitted that the amount of compensation of the acquired land assessed by the Reference Court, was liable to be enhanced. The possession of the land was taken from the land owners in the year 1966 whereas the notification under Section 4 of the Act was issued in May 1997. The land owners were entitled to receive damages at a higher rate.

Learned State counsel, on the other hand, has submitted that the market value of the acquired land as assessed by the Land Acquisition Collector, was just and fair and did not require any further enhancement. The Reference Court had erred in granting damages to the land owners at the rate of ₹ 35,000/- per acre.

PW-1 Satyawar depoted that the existing rate of *nehri* land was ₹ 3,00,000/- per acre whereas the rate of market value of *barani* land was ₹ 2,50,000/- per acre at the time of acquisition of the land. To the similar effect is the statement of PW-2 Hukam

Singh.

PW-4 Karan Singh deposed that the minor qua which the land in question was acquired, was constructed about 35 years ago and due to this acquisition, their land was bifurcated and they had suffered damages to the tune of ₹ 50,000/-. Market value of the acquired land was at least ₹ 3,00,000/- per acre. To the similar effect is the statement of PW-6 Ram Karan.

The land owners placed on record Exhibit P-38 sale deed dated 10.10.2001 vide which 35 *kanals* 17 *marlas* of land was sold for ₹ 1,33,579/-

RW-1 Lehna Singh deposed that the Land Acquisition Collector had correctly assessed the market value of the land. He further deposed that the minor was constructed in the year 1966 and later it was extended in the year 1997.

Exhibit R-4 is the sale deed dated 15.4.1999 whereby 1 *kanal* 4 *marlas* of land was sold for ₹ 16,000/-. Exhibit R-6 is the list of rate of *chakotas* from the year 1966-1967 to 2004-2005.

In the present case, admittedly, possession of the land in question was taken by the State in the year 1966 whereas the notification under Section 4 of the Act was issued on 27.5.1997. The Land Acquisition Collector assessed the market value of the land at the rate of ₹ 1,25,000/- per acre. The learned Reference Court rightly did not base reliance on the sale deed Exhibit P-38 as the same relates to the year 2001 whereas the notification under Section 4 of the Act was issued in the year 1997. So far as the sale deed Exhibit R-4 is concerned, the same was also liable to be ignored as the market value of the land on the basis of the said sale deed would come to less than the market value of the land

assessed by the Land Acquisition Collector. RW-1 Lehna Singh in his cross-examination deposed that after construction of the minor, the land of the land owners had been bifurcated into two parts. In the facts and circumstances of the present case, by taking in consideration the fact that the land of the land owners had been bifurcated into two parts, the learned Reference Court rightly assessed the market value of the land at the rate of ₹ 2,00,000/- per acre. Since the possession of the land of the land owners was taken in the year 1966 and the notification under Section 4 of the Act was issued in the year 1997, the learned Reference Court rightly granted ₹ 35,000/- per acre to the land owners by way of damages by taking in consideration Exhibit R-6 as there was no other material on record to the contrary.

In the facts and circumstances of the present case, the impugned award calls for no interference.

Accordingly, the appeals filed by the State as well as the land owners are dismissed.

**(SABINA)
JUDGE**

**July 01, 2015
Gurpreet**