

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

RFA No.2918 of 2006 (O&M)

Date of decision : 03.12.2015

Prem and others

... Appellants

vs

State of Haryana

.. Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. R.N. Lohan, Advocate,
Mr. Munish Kumar Garg, Advocate,
Mr. Amit Kumar Jain,
Ms. Anita Balyan, Advocate,
Mr. Suresh Ahlawat, Advocate,
Mr. Amit Kumar Jain, Advocate for
Mr. S.N Pillania, Advocate,
Mr. S.K. Verma, Advocate and
Mr. Sunil Kumar Bhardwaj, Advocate, for the landowners.
Mr. Abhinash Jain, Assistant Advocate General, Haryana.

Rajesh Bindal, J.

This order will dispose of a bunch of appeals bearing RFA Nos.2918, 2920 of 2006, 3683 of 2007, 462 to 476, 519, 602 to 608, 811, 841 to 846, 926, 1207, 1505, 1506, 1866 to 1870, 1903 to 1905, 1945, 1948, 1950, 1966, 2001, 2070 to 2072, 2149, 2153, 2640 to 2643, 2797 to 2800, 2851, 2854, 4734, 4845, 5393, 6556, 6627 to 6630, 7209, 7241 of 2012, 688 to 691, 4309, 7192, 7193, 9136 and 10357 of 2014, as common questions of law and facts are involved therein.

By filing the appeals, the landowners are only seeking enhancement of damages on account of bifurcation of their land.

Briefly, the facts of the case are that State of Haryana vide notification dated 30.8.2000 published on 31.8.2000, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') sought to acquire land measuring 161 kanals 2 marlas situated in villages Gatauli, Bura Dehar, Kinana, Samlo Khurd, Anupgarh, Biroli, Radhana, Brah Khurd, Brah Kalan, Kharak Ramji, Sewaha, Pillu Khera, Kalwa and Bhuran, Tehsil and

District Jind for construction of Kalwa-Kinana Drain. The same was followed by notification dated 12.1.2001 published on 15.1.2001, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide his different awards, assessed the market value of the acquired land as under:-

Name of Village	Compensation for the acquired land in ₹ (per acre)			
	Nehri	Barani	Near National Highway	Gair Mumkin
Gatauli	1,50,000/-	75,000/-	-	-
Bura Dehar	1,50,000/-	75,000/-	-	-
Kinana	1,80,000/-	-	3,00,000/-	-
Samlo Khurd	1,50,000/-	-	-	-
Anupgarh	1,50,000/-	-	-	-
Biroli	1,50,000/-	-	-	-
Radhana	1,70,000/-	-	2,50,000/-	3,00,000/-
Brah Khurd	1,50,000/-	-	2,00,000/-	-
Brah Kalan	1,50,000/-	-	-	3,00,000/-
Kharak Ramji	1,50,000/-	-	-	-
Sewaha	1,50,000/-	70,000/-	-	3,00,000/-
Pillu Khera	1,50,000/-	-	-	-
Kalwa	1,50,000/-	-	-	2,50,000/-
Bhuran	1,50,000/-	-	-	-

Aggrieved against the awards of the Collector, the landowners filed objections which were referred to the learned court below, who keeping in view the material placed on record by the parties, assessed the market value of the acquired land as under:-

Name of Village	Compensation for the acquired land in ₹ (per acre)			
	Nehri	Barani	Near National Highway	Gair Mumkin
Gatauli	3,00,000/-	1,40,000/-	-	-
Bura Dehar	3,00,000/-	-	-	-
Kinana	-	-	-	-
Samlo Khurd	3,00,000/-	-	-	-
Anupgarh	3,00,000/-	-	-	-
Biroli	3,00,000/-	-	-	-
Radhana	4,00,000/-	-	5,00,000/-	-
Brah Khurd	-	-	-	-
Brah Kalan	3,00,000/-	-	-	-

Name of Village	Compensation for the acquired land in ₹ (per acre)			
Kharak Ramji	3,00,000/-	-	-	-
Sewaha	3,00,000/-	1,40,000/-	-	5,00,000/-
Pillu Khera	-	-	-	-
Kalwa	3,00,000/-	-	-	2,50,000/-
Bhurain	-	-	-	-

These awards had been impugned before this Court. Earlier this Court vide order dated 2.2.2011 passed in RFA No.2106 of 2006—State of Haryana v. Banwari and others, remitted the cases back to the learned court below for taking decision afresh. On remand, the learned court below vide different awards, assessed the market value of the acquired land @ ₹ 3,05,000/- per acre including severance. Still being dissatisfied, the landowners have impugned the awards of the court below before this Court.

Learned counsel for the landowners submitted that the land was acquired for construction of Kalwa-Kinana Drain. The land of the landowners was divided into two parts on both sides of the drain, as a result of which, it became difficult for them to cultivate the same. Learned reference court has merely awarded damages on that account @ 10% of the amount of compensation, which should have been awarded at least @ 50%. The factum of severance of land was admitted even by the SDO of the Department, who appeared as RW-4. In support of his plea reliance was placed upon the judgment of this Court in State of Haryana v. Kartar Singh, 2010 (2) RCR (Civil) 443.

On the other hand, learned counsel for the State submitted that in the absence of the any site plan produced by the landowners, merely on the basis of oral evidence, award of 10% as damages on account of severance is reasonable and it does not call for any interference by this Court. This was the only reason, the State did not prefer any appeal in the present case. The damages on account of severance at higher rate could be granted, if left out portion was inaccessible.

Heard learned counsel for the parties and perused the paper book.

As far as the assessment of compensation for the acquired land is concerned, there is no dispute raised. The only contention raised is with

regard to award of damages on account of severance. Learned reference court in para 15 of the impugned award granted damages on account of severance @ 10% of the value of the land i.e. ₹ 25,000/- per acre, which was included in the total amount of compensation awarded. There was oral evidence led in support of plea that the land of the landowners have been divided into two parts. No site plan was referred to show on what account problems are being faced by the landowners.

This Court in RFA No. 4063 of 2007-- Jagdish and others v. State of Haryana, decided on 8.8.2013, RFA No.4828 of 2012 – Smt. Rajwan and others v. State of Haryana, decided on 23.8.2013 and RFA No.382 of 2013—Laxmi Narain v. State of Haryana and others, decided on 25.9.2013 had granted damages on account of severance @ 20% of the value of the acquired land.

Considering the aforesaid facts, in my opinion, even in this bunch of cases by applying the same principle, damages on account of severance @ 20% of the value of the acquired land would be the reasonable amount, which the land owners in the present cases deserve to be granted. The same is assessed @ ₹ 50,000/- per acre as against ₹ 25,000/- per acre as mentioned in para 15 of the impugned award. Accordingly, the impugned award of the learned court below is modified to the extent mentioned above.

The appeals stand disposed of.

03.12.2015

sharmila

(Rajesh Bindal)

Judge