In the High Court of Punjab and Haryana at Chandigarh

Regular First Appeal No. 5605 of 2009 (O&M)
Date of Decision: 05.8.2015.

State of Haryana ....Appellant

Versus

Gurdeep Singh and another ....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. B.R.Mahajan, Advocate General, Haryana with
Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. Deepak Sharma, Advocate,

Mr. J.S.Cooner, Advocate,

Mr. Bhag Singh, Advocate,

Mr. Bhupinder Bagga, Advocate for
Mr. Mansur Ali, Advocate

Mr. Sushil K. Sharma, Advocate for
Mr. M.L.Sharma, Advocate,

Mr. Sushil Bhardwaj, Advocate,

Mr. S.M.Sharma, Advocate,

Mr. Himanshu Sharma, Advocate for
Mr. Chander Shekhar, Advocate,

Mr. Naresh Prabhakar, Advocate,

Mr. Gulzar Mohd. Advocate,

Mr. Arvind Rajotia, Advocate,

Mr. Amit Jaiswal, Advocate,

Mr. Vineet Chaudhary, Advocate and

Mr. Sanjay Jain, Advocate
for the land owners.

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SABINA, J.

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

Appeals filed by the State

1. RFA No. 99 of 2010
2. RFA No. 1043 of 2010
3. RFA No. 1046 of 2010
4. RFA No. 1846 of 2010
5. RFA No. 2202 of 2010
6. RFA No. 2203 of 2010
7. RFA No. 2204 of 2010
8. RFA No. 4301 of 2011
9. RFA No. 4302 of 2011
10. RFA No. 5606 of 2009
11. RFA No. 5607 of 2009
12. RFA No. 5608 of 2009
13. RFA No. 5609 of 2009
14. RFA No. 5610 of 2009
15. RFA No. 5611 of 2009
16. RFA No. 5612 of 2009
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80. RFA No. 5676 of 2009
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82. RFA No. 5678 of 2009
83. RFA No. 5679 of 2009
84. RFA No. 5680 of 2009
85. RFA No. 5681 of 2009

86. RFA No. 5682 of 2009
87. RFA No. 5682 of 2009
88. RFA No. 5683 of 2009
89. RFA No. 5684 of 2009
90. RFA No. 5685 of 2009
91. RFA No. 5686 of 2009
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104. RFA No. 5699 of 2009
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107. RFA No. 5702 of 2009
108. RFA No. 5703 of 2009
109. RFA No. 5704 of 2009
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146.RFA No. 5741 of 2009

147.RFA No. 5742 of 2009

148.RFA No. 5743 of 2009

149.RFA No. 5744 of 2009

150.RFA No. 5745 of 2009

151.RFA No. 5746 of 2009

152.RFA No. 5749 of 2009

153.RFA No. 5750 of 2009

154.RFA No. 5751 of 2009

155.RFA No. 5752 of 2009

156.RFA No. 2890 of 2014

157.RFA No. 2891 of 2014

158.RFA No. 2892 of 2014

159.RFA No. 2893 of 2014

160.RFA No. 2894 of 2014

161.RFA No. 2895 of 2014

162.RFA No. 2896 of 2014

163.RFA No. 2965 of 2014

Appeals filed by the land owners/Wakf Board

1. RFA No. 177 of 2010
2. RFA No. 178 of 2010
3. RFA No. 179 of 2010
4. RFA No. 180 of 2010
5. RFA No. 181 of 2010
6. RFA No. 182 of 2010
7. RFA No. 183 of 2010
8. RFA No. 184 of 2010

9. RFA No. 185 of 2010
10. RFA No. 232 of 2010
11. RFA No. 233 of 2010
12. RFA No. 234 of 2010
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14. RFA No. 236 of 2010
15. RFA No. 237 of 2010
16. RFA No. 238 of 2010
17. RFA No. 360 of 2010
18. RFA No. 435 of 2010
19. RFA No. 461 of 2010
20. RFA No. 526 of 2010
21. RFA No. 1092 of 2010
22. RFA No. 1512 of 2010
23. RFA No. 1738 of 2010
24. RFA No. 1739 of 2010
25. RFA No. 1740 of 2010
26. RFA No. 1741 of 2010
27. RFA No. 1742 of 2010
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37. RFA No. 1756 of 2010

38. RFA No. 1757 of 2010
39. RFA No. 1758 of 2010
40. RFA No. 2097 of 2010
41. RFA No. 2098 of 2010
42. RFA No. 2099 of 2010
43. RFA No. 2100 of 2010
44. RFA No. 2104 of 2010
45. RFA No. 2105 of 2010
46. RFA No. 2110 of 2010
47. RFA No. 2111 of 2010
48. RFA No. 2408 of 2010
49. RFA No. 2494 of 2010
50. RFA No. 2495 of 2010
51. RFA No. 2496 of 2010
52. RFA No. 2497 of 2010
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56. RFA No. 2635 of 2010
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61. RFA No. 2640 of 2010
62. RFA No. 2641 of 2010
63. RFA No. 2642 of 2010
64. RFA No. 2749 of 2010
65. RFA No. 2781 of 2010
66. RFA No. 2886 of 2010

67. RFA No. 2888 of 2010
68. RFA No. 2989 of 2010
69. RFA No. 2930 of 2009
70. RFA No. 2931 of 2009
71. RFA No. 2962 of 2010
72. RFA No. 2988 of 2010
73. RFA No. 3259 of 2010
74. RFA No. 3260 of 2010
75. RFA No. 3261 of 2010
76. RFA No. 3487 of 2010
77. RFA No. 3488 of 2010
78. RFA No. 3912 of 2010
79. RFA No. 3913 of 2010
80. RFA No. 4224 of 2010
81. RFA No. 4558 of 2010
82. RFA No. 4559 of 2010
83. RFA No. 4578 of 2010
84. RFA No. 4579 of 2010
85. RFA No. 5201 of 2010
86. RFA No. 5291 of 2010
87. RFA No. 5302 of 2010
88. RFA No. 5303 of 2010
89. RFA No. 5304 of 2010
90. RFA No. 572 of 2011
91. RFA No. 612 of 2011
92. RFA No. 678 of 2011
93. RFA No. 1270 of 2011
94. RFA No. 1642 of 2011
95. RFA No. 4840 of 2011

96. RFA No. 6832 of 2011
97. RFA No. 6833 of 2011
98. RFA No. 7128 of 2011
99. RFA No. 7375 of 2011
100. RFA No. 7376 of 2011
101. RFA No. 7377 of 2011
102. RFA No. 762 of 2012
103. RFA No. 1568 of 2012
104. RFA No. 4072 of 2012
105. RFA No. 7258 of 2012
106. RFA No. 7259 of 2012
107. RFA No. 2809 of 2013
108. RFA No. 5078 of 2013
109. RFA No. 1461 of 2014
110. RFA No. 1462 of 2014
111. RFA No. 1463 of 2014
112. RFA No. 2105 of 2014
113. RFA No. 2264 of 2014
114. RFA No. 10384 of 2014
115. RFA No. 949 of 2015

Cross Objections filed by the land owners

1. 16-CI of 2011 in RFA No. 5725 of 2009
2. 22-CI of 2011 in RFA No. 5663 of 2009
3. 91-CI of 2010 in RFA No. 5671 of 2009
4. 93-CI of 2010 in RFA No. 5742 of 2009
5. 92-CI of 2010 in RFA No. 5686 of 2009
6. 130-CI of 2010 in RFA No. 5682 of 2009
7. 168-CI of 2010 in RFA No. 5670 of 2009
8. 123-CI of 2011 in RFA No. 4302 of 2011

Land measuring 47.09 acres was sought to be acquired in village Sonda for the construction of water works as canal based scheme for Urban Estate, Ambala City. Notification under Section 4 of the Land Acquisition Act, 1894 ('Act' for short) was issued on 6.7.2000 and notification under Section 6 of the Act was issued on 7.7.2000. Land Acquisition Collector vide its award dated 9.1.2002 assessed the market value of the land at the rate of ₹ 2,75,000/- per acre for chahi/nehri land, ₹ 1,30,000/- per acre for *gair mumkin* land and ₹ 170/- per square yard for residential land.

Being dissatisfied with the award passed by the Land Acquisition Collector, land owners sought referenced under Section 18 of the Act. The Reference Court vide the impugned award assessed the market value of the land at the rate of ₹ 438/- per square yard. Hence, the present appeals by State as well as the land owners.

Learned counsel for the land owners have submitted that as per the decision of the Apex Court in '***Ashrafi and others versus State of Haryana and others, 2013(2) RCR (Civil) 856***', the market value of the land situated in village Sonda was assessed at ₹ 180/- per square yard while dealing with the notification issued under Section 4 of the Act on 26.5.1981. The market value of the land was liable to be assessed at the rate of ₹ 180/- per square yard as the base value of the land. The land owners were further entitled to receive 12% increase per annum on the said amount on cumulative basis from 26.5.1981 (notification issued in Surinder Kumar and others case) to 6.7.2000 (notification issued under Section 4 of the Act in the present case).

Learned Advocate General, on the other hand, has submitted that the present case was liable to be disposed of in terms of the decision given by the Apex Court in *Asharfi*'s case (supra) as submitted by the counsel for the land owners but the land owners were entitled to receive increase of market value from 26.5.1981 upto 6.7.2000 at the rate of 12% per annum without cumulative effect. Learned Advocate General has further submitted that during the said intervening period, there was a slump in the State of Haryana and, consequently, the price of the land had fallen.

The controversy in the present case is, thus, narrowed down to the effect as to whether the land owners are entitled to receive compensation by treating the base price as ₹ 180/- per square yard and, thereafter, allowing 12% increase per annum on cumulative basis on the said amount during the intervening period of notifications under Section 4 of the Act dated 26.5.1981 and 6.7.2000 or by allowing simple interest.

The relevant paragraphs of the judgment of the Apex Court in '***Ashrafi and others versus State of Haryana and others, 2013(2) RCR (Civil) 856***, read as under:

> *"2. For the sake of convenience, we have taken up the batch matters State- wise. The major number of cases are from the States of Punjab and Haryana and, accordingly, it was decided to take up the said matters first. We have, therefore, heard the matters relating to the State of Haryana before the other matters and for the said purpose, we have also selected some specific matters, the decision wherein would also govern the rest. Since in the*

State of Haryana, the lands acquired were from different districts, such as Faridabad, Ambala, Fatehabad, Hisar, Sonepat and Kurukshetra and under different Notifications published under Section 4 of the 1894 Act, we took up the individual cases of Ashrafi and Others vs. State of Haryana & Ors. Others, being SLP(C)Nos. 24704-24712 of 2007, relating to the Notification dated 2nd August, 2009, and Sailak Ram (D) Tr. LRs. & Ors. vs. State of Haryana & Ors., being SLP(C) No.28686 of 2010, relating to the Notification dated 7th September, 1992, in respect of the lands situated in Faridabad. In addition, we also took up SLP(C)No.18588 of 2006 filed by the State of Haryana against Surinder Kumar and Others, in respect of the Notification dated 26th May, 1981, relating to the lands situated within the District of Ambala. Another matter relating to the District of Ambala, namely,State of Haryana vs. Manohar Lal Khurana, being SLP(C)No.11527 of 2007, relating to the Notification dated 2nd February, 1989, was also taken up separately. As far as the lands relating to the District of Hisar are concerned, the Special Leave Petition filed by the State of Haryana against Partap Singh and Another, being SLP(C) No.21597 of 2006, relating to the Notification dated 21st March, 1991, was taken up for separate hearing as also some of the cases involving lands in Sonepat, Kurukshetra Districts, in respect of the Notifications published under Section 4 of the 1894 Act, dated 20th April, 1982 and 17th September, 1993, respectively. "

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40. As far as the lands within the District of Ambala are concerned, in respect of one set of lands, the Reference Court assessed the market value of the acquired lands to be ₹ 57,000/- per acre. However, another Reference Court assessed the market value of the acquired lands at ₹ 3,38,800/- per acre. In our view, the claim of the land owners, assessed at ₹ 300/- per sq. yard is on the high side but ₹ 110/- per sq. yard, as had been held by the Division Bench of the Punjab and Haryana High Court, is on the low side. On a comparison of the price of lands sold during 1981, or by adding 12% per annum on ₹ 70/- per sq. yard on annual compounded basis, the value of the lands is assessed at ₹ 180/- per sq. yard on a uniform basis for all lands, as also submitted by Ms. Malhotra."

While basing reliance on *Asharfi*'s case (supra), this Court while disposing of RFA No. 5626 of 2010 and other connected appeals on 26.3.2014, has held as under:-

"Thus, the claimants are entitled to receive market value of the land as assessed by the Apex Court at the rate of ₹ 325/- per square yard + 12% increase per year for 10 years and 3 months. The amount of enhancement works out to ₹ 325 x 12% x 10¼ years = ₹ 399.75 paisa. Therefore, the claimants are entitled to receive compensation at the rate of ₹ 325 + ₹ 399.75 paisa = ₹ 724.75 paisa.

Accordingly, the appeals filed by the State are

> *dismissed whereas the appeals and cross objections filed by the claimants are allowed. Claimants are entitled to receive compensation at the rate of ₹ 724.75 paisa per square yard."*

The said order was modified by the Apex Court vide order dated 22.8.2014 in appeal and it was held as under:-

> *"From the impugned judgment of the High Court, it transpires that the High Court has followed the judgment of this Court in Asharfi and others Vs. State of Haryana and others 2013(5) SCC 527 and has given increase at the rate of 12%. This was the demand of the petitioners herein which has been accepted following the ratio in Asharfi case (supra). To the extent there is no quarrel. However, it is pointed out by the learned counsel for the petitioner that in Asharfi case (supra), yearly increase of 12% was granted cumulatively and not at flat rate. This position as contained in Asharfi case (supra) could not be disputed by Mr. Narender Hooda, learned senior counsel for the State. Accordingly, the order of the High Court is modified to the extent that the 12% increase granted by the High Court shall be worked out on cumulative basis."*

The Apex Court had assessed the market value of the land at the rate of ₹ 180/- per square yard while dealing with the case relating to notification issued under Section 4 of the Act on 26.5.1981 relating to village Sonda. The notification under Section 4 of the Act in the present case was issued on 6.7.2000. Thus, there is a gap of 19 years in both the notifications issued under Section 4 of the Act. So far as the price of the land is concerned, it does not remain the same. Sometimes it shows an upward trend whereas sometimes it shows a downward trend. Since the gap between the two notifications under Section 4 of the Act is 19 years, it can be safely assumed that for all the years, the price of land may not have shown an upward trend at the rate of 12% per annum. Hence, in the facts and circumstances of the present case, it would be appropriate to assess the market value of the land by giving 12% increase per annum on cumulative basis for 14 years instead of 19 years. Therefore, by giving 12% increase on cumulative basis by keeping the base price as ₹ 180/- per square yard for 14 years, the market value of the land comes to ₹ 879/- per square yard.

Accordingly, the market value of the land is assessed at the rate of ₹ 879/- per square yard. The remaining part of the award of the Reference Court whereby statutory benefits under the Act were granted to the land owners, is upheld. Consequently, the appeals filed by the State are dismissed and the appeals as well as cross objections filed by the land owners/Wakf Board are allowed.

(SABINA)
JUDGE

August 05, 2015
Gurpreet