# In the High Court of Punjab and Haryana at Chandigarh

**Regular First Appeal No. 1590 of 2011**
**Date of Decision: 08.7.2015.**

Roshan Lal and another .......Appellants

Versus

State of Haryana and another ........Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

Present: Mr. J.S.Cooner, Advocate,

Mr. Ranjit Saini, Advocate,

Mr. Naresh Kaushal, Advocate,

Mr. Yogesh Saini, Advocate,

Mr. Vaneet Chaudhary, Advocate

Mr. Surinder Mohan Sharma, Advocate,

Mr. M.L.Sharma, Advocate,

Mr. Bhag Singh, Advocate
for the land owners.

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

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**SABINA, J.**

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

**Appeals against acquisition pertaining to village Janetpur**

1. RFA No. 1666 of 2011
2. RFA No. 1667 of 2011
3. RFA No. 1668 of 2011
4. RFA No. 3711 of 2011

5. RFA No. 1056 of 2011
6. RFA No. 1591 of 2011
7. RFA No. 1579 of 2011
8. RFA No. 1580 of 2011
9. RFA No. 1583 of 2011
10. RFA No. 1584 of 2011
11. RFA No. 2271 of 2011
12. RFA No. 2857 of 2011
13. RFA No. 5795 of 2012
14. RFA No. 2741 of 2014

**Appeals against acquisition pertaining to village Tundla**

1. RFA No. 1581 of 2011
2. RFA No. 1582 of 2011

**Appeals against acquisition pertaining to village Tundli**

1. RFA No. 433 of 2008
2. RFA No. 434 of 2008
3. RFA No. 435 of 2008
4. RFA No. 436 of 2008
5. RFA No. 437 of 2008
6. RFA No. 1461 of 2008
7. RFA No. 1462 of 2008
8. RFA No. 2662 of 2008
9. RFA No. 2663 of 2008
10. RFA No. 2838 of 2008
11. RFA No. 3010 of 2008
12. RFA No. 3113 of 2008
13. RFA No. 5254 of 2008
14. RFA No. 433 of 2011
15. RFA No. 3293 of 2012

Vide notification dated 3.2.2000 under Section 4 of the Land Acquisition Act, 1894 ('Act' for short), land situated in villages Tundli, Tundla and Janetpur was sought to be acquired for defence purposes. Declaration under Section 6 of the Act was issued on 17.8.2000. The Land Acquisition Collector vide separate awards dated 10.9.2001 qua both the villages awarded compensation at the rate of ₹ 2,40,000/- per acre qua chahi land and at the rate of ₹ 1,80,000/- per acre qua other kinds of land. The land owners were further held entitled to receive the statutory benefits under the Act.

Being dissatisfied with the amount of compensation awarded by the Land Acquisition Collector, land owners sought references under Section 18 of the Act. So far as the 22 land references qua village Tundli are concerned, the same were consolidated and were dismissed by the Reference Court vide order dated 11.9.2007. So far as the land references pertaining to villages Janetpur and Tundla are concerned, 6 land references were allowed by the Reference Court vide award dated 7.9.2013 and 30 land references were allowed by the Reference Court vide order dated 30.9.2010. The Reference Court vide orders dated 7.9.2013 and 30.9.2010 assessed the market value of the acquired land at the rate of ₹ 198/- per square yard qua all kinds of land. Hence, the present appeals by the appellants-land owners.

Learned counsel for the land owners have submitted that so far as the villages Tundli, Tundla and Janetpur are concerned, the land had been acquired for the same purpose i.e. defence purposes vide notification under Section 4 of the Act dated 3.2.2000. So far as the land references relating to village Janetpur and Tundla are concerned, the same were allowed whereas the land references qua village Tundli were dismissed. In fact, the land references sought by the land owners of village Tundli were also liable to be allowed. Learned counsel have further submitted that while allowing the land references qua village Janetpur and Tundla, the Reference Court had based reliance on awards passed by the Reference Court qua village Tundla and Tundli relating to notification issued under Section 4 of the Act on 27.8.1997 for acquisition of land for defence purposes. As per the said awards dated 5.5.2010 and 17.7.2010, the market value of the land was assessed as ₹ 198/- per square yard. The land owners were also held entitled to 12% increase on cumulative basis for the intervening period as notification in the present appeals under Section 4 of the Act was issued on 3.2.2000 whereas so far as awards dated 5.5.2010/17.7.2010 were passed qua acquisition made vide notification dated 27.8.1997.

Learned Advocate General, on the other hand, has submitted that the appeals filed by the land owners were liable to be dismissed as there was no occasion to enhance the amount of compensation. Learned Advocate General has further submitted that in the appeals filed by the Municipal Council against the orders Exhibit P-7 and Exhibit P-8, the market value of the acquired land was assessed at ₹ 146/- per square yard by this Court while disposing of RFA No. 1318 of 2011 and other connected appeals.

It has been held in '***Om Parkash (D) by LRs and others versus Union of India and another' The Punjab Law Reporter Vol. CXXXVIII (2004-3), 727***, wherein it was held as under:-

*"In the circumstances, the High Court was justified in*

*working out the fair market value of the lands in question on the basis of Rs. 16,750/- per bigha as on 30.10.1963. The High Court noticed that in several judgments of this Court escalation at different and varying rates i.e. 6% per annum from 1959 to 1965, @ 10% per annum for every year from 1966 to 1973 and @ 12% per annum from 1975 had been considered to be reasonable increase to arrive at the fair market value, assuming that the pace of escalation during this period was normal for the entire period from 1959 onwards. Since no material was placed on record to show that there was any abnormality during the period, the High Court applied the same principle to the facts and circumstances before it, and accepted increase of 10% every year progressively from 1963 to 1973 and thereafter @ 12% every year progressively upto the date of acquisition. The High Court noticed in the judgment that if escalation is allowed on the basis, the fair market value, would be Rs. 1,28,889/- per bigha. In case progressive increase is allowed @ 10% for the entire period, the amount will work out to Rs. 1,08,397/- per bigha. Allowing appreciation @ 12% per annum from 1963 to 1983, the amount would work out to Rs. 56,11/- per bigha. The High Court in its judgment under appeal pointed out that the market value of Rs. 16,750/- per bigha fixed in the case of Dharambir and others v. Union of India was not in respect of commercial land but only of agricultural land. That the market value of agricultural land is much lower than that of land suitable for* *commercial purposes, is trite. After having worked out the market value of the lands on various bases and keeping in view the fact that between 8.12.1992 and 2.6.1983, the lands in question had at least some commercial potentiality, the High Court decided that the fair market value of all categories of lands situated in the villages in question as on the date of acquisition should be fixed at Rs. 82,225/- per bigha."*

So far as the land references qua villages Tundla Janetpur are concerned, 30 references under Section 18 of the Act were disposed of vide order dated 30.9.2010. The land owners had based reliance on sale deeds Exhibit P-1 dated 12.10.1992, Exhibit P-3 sale deed dated 5.10.1999 and Exhibit P-4 sale deed dated 11.12.1995. The land owners had also based reliance on the orders passed by the Reference Court dated 5.5.2010 (Exhibit P-7) and 17.7.2010 (Exhibit P-8) relating to acquisition of land of villages Tundla and Tundli vide notification dated 27.8.1997 under Section 4 of the Act for defence purposes. As per the said orders, the market value of the land was assessed at the rate of ₹ 198/- per square yard basing reliance on sale deed dated 12.10.1992 (Exhibit P-1 in the present case). The learned Reference Court while disposing of the references vide order dated 30.9.2010 rightly assessed the market value of the land by basing reliance on orders Exhibit P-7 and Exhibit P-8.

During the course of arguments, it has transpired that the appeals filed by the Municipal Council against the orders Exhibit P-7 and Exhibit P-8 have been allowed by this Court and the market value of the land has been assessed as ₹ 146/- per square yard. Thus, the market value of the land in the present case is liable to be treated as ₹ 146/- per square yard as on 27.8.1997. Since in the present case, the notification under Section 4 of the Act was issued on 3.2.2000, the appellants are entitled to 12% increase on cumulative basis for the intervening period of 2½ years.

Apparently, by treating the market value of the land at ₹ 146/- per square yard and by giving 12% increase on cumulative basis for due 2½ years, the market value of the land would come to approximately ₹ 195/- per square yard. Hence, the appeals filed by the land owners of village Janetpur and Tundla seeking enhancement of compensation amount are liable to be dismissed. The appeals filed by the land owners of village Tundli are liable to be allowed as they are also entitled to receive the compensation at par with the land owners of village Janetpur and Tundla.

Accordingly, the appeals filed by the land owners of village Janetpur and Tundla are dismissed, whereas the appeals filed by the land owners of village Tundli are allowed. The land owners of village Tundli are also entitled to receive compensation by treating the market value of all kinds of land as ₹ 198/- per square yard. The said land owners would also be entitled to receive statutory benefits as admissible under Section 23(1-A), 23(2) and 28 of the Act.

**(SABINA)**
**JUDGE**

**July 08, 2015**
**Gurpreet**