IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.F.A. No. 6950 of 2012 (O&M)
Date of decision: October 15, 2015

**M/s Guru Gobind Singh Refineries Ltd.**

**.. Appellant**

**v.**

**The Punjab State and others**

**.. Respondents**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Ashok Aggarwal, Senior Advocate with
Mr. Tushar Sharma, Advocate for
M/s Guru Gobind Singh Refineries Ltd.

Mr. Ashok Aggarwal, Advocate General, Punjab with
Mr. Nilesh Bhardwaj, Deputy Advocate General, Punjab.

Mr. Sunil Chadha, Senior Advocate with
Mr. M. S. Atwal, Mr. Amit Aggarwal and
Mr. S. P. Garg, Advocates for the landowners.

Rajesh Bindal J.

1. This order will dispose of a bunch of appeals bearing

RFA No. 6950 of **2012;**

RFA Nos. 1 to 130, 1470, 1683, 1684, 1796 to 1923, 2873, 4166 to 4223, 6433 to 6465, 6635 to 6640, 6883 of **2013;**

RFA Nos. 859, 1236 to 1238, 4064, 4065, 6609, 9767 of 2014;

RFA Nos.288, 365 and 366 of **2015,**

as common questions of law and facts are involved.

2. In the appeals filed by the landowners, they are seeking enhancement of compensation awarded to them for the acquired land, whereas in the appeals filed by the State and M/s Guru Gobind Singh Refineries Ltd., which is now known as HPCL-Mittal Energy Limited (hereinafter referred to as 'the Company'), the prayer is for reduction thereof.

3. Briefly, the facts are that land measuring 1992.575 acres situated in Villages Phulo Khari, Kanakwal, Ramsra and Raman, Tehsil Talwandi Sabo, District Bathinda was acquired vide notification dated 27.8.1997, published on 28.8.1997 issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act') for the purpose of setting up of Oil Refinery and Liquid Fuel based Power Plant. The same was followed by notification dated 14.10.1997 issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector') categorised the land of different villages as under:

| “Sr. | Name of village | Kind of land Nehri K M | Barani K M | G.M. K M | Total K M | Area in Acres K M |
|---|---|---|---|---|---|---|
| 1. | Phulokhari | 518.02 | 1724.01 | 60.17 | 2303.03 | 287.875 |
| 2. | Kanakwal | 4002.08 | 6165.12 | 140.06 | 10308.06 | 1288.5375 |
| 3. | Ramsra | 1848.08 | 1318.03 | 76.17 | 3243.08 | 405.425 |
| 4. | Raman | 40.11 | 41.18 | 3.09 | 85.18 | 10.7375 |
| | Total | 6469.09 | 9219.14 | 281.09 | 15940.12 | 1992.575.” |

4. Vide his award dated 4.6.1999, the Collector determined the value of the acquired land as under:

| “Sr. No. | Type of land | Price (per acre) in ₹ |
|---|---|---|
| 1. | Nehri/Chahi | 3,50,000/- |
| 2. | Barani | 2,75,000/- |
| 3. | Gair Mumkin | 5,00,000/- |

5. Dissatisfied with the award, the land owners filed objections which were referred to the learned Court below, who considering the material placed on record by the parties, in the first round of litigation, vide award dated 29.11.2005, determined the value of the land @ ₹ 3,50,000/- per acre for Nehri/Chahi/Barani, ₹ 5,00,000/- per acre for Gair Mumkin land and ₹ 3,75,000/- per acre for land abutting metalled road except Gair-Mumkin leading from Raman to Kalianwalia via Gian upto the depth of 500 meters. Aggrieved against the aforesaid award, the landowners as well as the Company filed appeals before this Court. In RFA No. 1963 of 2006—M/s Guru Gobind Singh Refineries Ltd. v. The Punjab State and

others, decided on 22.10.2008, while upholding the valuation of the land and belting, the matter was remitted to the court below for fresh consideration as regards the change in the category of land from Barani to Nehri. The said order was challenged by the Company before Hon'ble the Supreme Court. In Civil Appeal Nos. 8986-9012 of 2010—M/s Guru Gobind Singh Refineries Ltd. v. Punjab State and others etc. etc., decided on 20.10.2010, reported as (2010) 10 SCC 401, Hon'ble the Supreme Court set aside the judgment of this court and remanded the matter back to the Reference Court with the direction to pass fresh award after giving opportunity to the parties to produce additional evidence on all the issues. Vide impugned award dated 29.9.2012, the Reference Court determined the market value of the acquired land as under:

| “Kind of land | Rate per acre in ₹ |
|---|---|
| A) Gair Mumkin land | 5,00,000/- |
| B) Nehri and Chahi land | 4,25,000/- |
| C) Barani land | 3,50,000/- |
| D) Land on both sides of road Raman to Kalian Wali through villages Phulokhari and Kanakwal upto the depth of 60 karams | 5,00,000/- |

6. Learned counsel for the State as well as the Company submitted that the principles, which have been adopted by the learned Reference Court for the purpose of assessment of compensation cannot stand in judicial scrutiny. The award of the Collector in the present case was just and reasonable. The State was already benevolent as the land was being acquired for use by the Company in terms of the provisions of Chapter-VII of the Act. Most of the land acquired was barani, as is evident from the award. That was the reason that it was chosen for setting up of Oil Refinery and Liquid Fuel based Power Plant. The value of the land, in the area was much less than the award of the Collector, as is evident from various sale deeds produced on record by the State and the Company. The learned Reference Court had not even referred to all the sale deeds produced by the State. The sale deeds were not only for the period before the issuance of notification under Section 4 of the Act, but also pertained to the period

thereafter. There was no upward trend in the prices. The land pertained to revenue estates of villages Phulokhari, Kanakwal, Ramsra and Raman. It was specifically referred that for village Raman, the land acquired was rural and as part of the land of that village is also categorised as urban. The ground on which the sale deeds produced by the State and the Company have been rejected, is not tenable in law, namely, that those were less than the award of the Collector. Those were required to be considered for the purpose of assessment of compensation. In case, the final determination by the court was less than the amount awarded by the Collector, the compensation as awarded to the landowners could not be less than the award of the Collector. Referring to the earlier order passed by this Court and Hon'ble the Supreme Court, it was submitted that the principle that for different categories of land, different amount of compensation was to be awarded, was upheld. The matters were remitted only for the purpose of seeing as to whether any part of the land, which was nehri or chahi was categorised as banjar? No evidence was led by the landowners to substantiate that claim. He further submitted that even for application of guess, there has to be some material on record. It cannot be in air.

7. Learned counsel further submitted that assessment of compensation by the Reference Court at a higher rate for the land abutting the road was also totally uncalled for as the entire chunk of land should have been assessed at the same rate. The kind of area where the land was located, there was no special advantage available even to those landowners.

8. Learned counsel further submitted that though the Reference Court in the second round of litigation had recorded specific findings considering the evidence produced on record by the landowners regarding the quality of land, those findings have not been challenged. The landowners have not been able to establish in evidence produced on record that even one khasra number of the land, which had been categorised as Barani by the Reference Court was, in fact, chahi. The arguments in general are sought to be raised by referring to number of documents produced on record. That will not establish the case of the landowners, whose pleadings have been referred to. After the award was announced by the Collector and

if land of any of the landowner was categorised wrongly, he was required to raise objection there and then and establish before the Reference Court the case set up by him in the objections, which is a kind of plaint. It is a factual aspect, which is sought to be disputed by the landowners for which evidence was required. He further submitted that the learned Reference Court was quite fair even after considering half-hearted evidence led by the landowners that the court is determining the value of the land category-wise and still in case any landowner has a dispute about the category, the same can be established during the course of execution proceedings. There could not be a more fair observation in this regard. He further submitted that the sale deeds produced by the landowners were rightly discarded by the Reference Court, as those were got registered either on the date of issuance of notification under Section 4 of the Act or a few days prior thereto. There was no agreement to sell. Some were between the relations. The value shown therein was also in the close range, much more than the value depicted in large number of sale deeds produced by the State and the Company. He further submitted that even if for argument's sake, it is admitted that the sale deeds produced by the landowners are genuine, still those being for one kanal and two kanals, i.e., small plots which have also not been pointed out on any site plan produced by the landowners and the acquisition being for an area of 1992.575 acres, cut of atleast 50% is required to be applied. Even applying that principle, the value of land will be far less than the award of the Collector, which was already much more than the value of the land in the area. In support of his arguments, reliance was placed upon Lal Chand v. Union of India and another, (2009) 15 SCC 769 and Trishala Jain and another v. State of Uttaranchal and another, (2011) 6 SCC 47.

9. On the other hand, learned counsel for the landowners submitted that in the bunch of appeals, there are three sets, namely, the appeals filed by the landowners seeking enhancement of compensation, the appeals filed by the State seeking reduction of compensation and the appeals filed by the Company, for whose benefit the land was acquired invoking the emergency provisions. He further submitted that though this

court had remitted the cases only to the limited extent of categorisation of land, however, Hon'ble the Supreme Court remitted the matters leaving all the issues open by even permitting the parties to lead further evidence including belting of the land and fixation of flat rate keeping in view the rates fixed by the State Government for gair mumkin land. In fact, the value of the acquired land assessed by the court below should have been at flat rate, at which the Collector assessed the compensation for gair mumkin kind of land, which was far inferior in quality as compared to the land, which was described as chahi or even banjar.

10. He further submitted that all the sale deeds produced by the landowners were relevant for the purpose of assessment of compensation, as those were genuine sale transactions and registered in close proximity to the acquisition. The findings of the learned Reference Court that the sale deeds were got registered by the landowners with a view to create evidence to claim more compensation are totally perverse as no such statement was made by any of the landowner. The area dealt with in those sale deeds was also quite large. Highest sale exemplar has to be relied upon for the purpose of assessment of compensation. However, he was unable to point out the location of the land pertaining to any of the sale deeds sought to be relied upon except claiming that all pertained to the revenue estates, the land of which was acquired.

11. Learned counsel further relied upon sale deeds (Ex. A1 to Ex. A3) dated 19.2.2010, 19.2.2010 and 30.9.2011, respectively, which were produced in evidence after remand by Hon'ble the Supreme Court. The submission is that the aforesaid transactions were between the landowners and the Company. The value shown therein is from ₹ 30,00,000/- to ₹ 40,00,000/- per acre, which shows potentiality of the land. May be the sale deeds were registered 12-1/2 years after the issuance of notification under Section 4 of the Act, but still are relevant as even post acquisition sale transactions can also be considered.

12. Further, referring the judgment of Hon'ble the Supreme Court in U. P. Awas Evam Vikas Parishad v. Gyan Devi (Dead) by L.Rs. and others, AIR 1995 SC 724, it was submitted that the Company, being the

beneficiary of acquisition of land, it could file appeal only with the leave of the Court, in case the State had not filed the appeal. If the State files appeal, then leave of the court is not required. In the case in hand, first appeal was filed by the Company, hence, leave of the court was required. The same having not been sought, the Company cannot be heard and those appeals are liable to be dismissed. Only the counsel be heard in the appeals filed by the State.

13. Learned counsel further submitted that the sale deeds (Ex. A13, Ex. A15, Ex. A17 and Ex. A18) produced on record by the landowners in the first round of litigation clearly establish the price range of ₹ 4,00,000/- to ₹ 5,00,000/- per acre. These were wrongly ignored by the court below opining that the same were got registered with a view to jack up the prices having come to know about the acquisition of land. Reference to the evidence made by the court below for that purpose is wrong as none of the landowner, while appearing as a witness, admitted this fact. He further referred to the statement of AW1-Harjit Singh, Assessment Clerk in Irrigation Branch, who said that the entire area was command area. He also referred to khasra girdawari (Ex. A4) showing that some of the land was shown to be Nehri. There was no rebuttal to the evidence led by the landowners, hence, it had to be accepted that the entire land was nehri and had to be awarded compensation accordingly. The distance of the land from the city and quality was clearly stated by AW2-Jagdip Singh Patwari, AW3-Jagtar Singh, Clerk Municipal Council, Raman and AW4-Sukhmander Singh Patwari. There were certain factories located close by. He further submitted that all the sale deeds produced by the landowners clearly show the value of the land in the area. Those, even if not directly relevant for the assessment of compensation but certainly, have persuasive value. Even if the land dealt with therein is small or it was urban land, a reasonable cut can be applied. The sale deeds cannot be rejected in entirety.

14. The document (Ex. AK1) shows the command area. The document was prepared by Irrigation Department. Coupled with the jamabandis produced on record, if read together, it is established that the crops were being sown and the area was irrigated. Further reference was

made to meeting of a Committee before the award was announced by the Collector, wherein it was stated that the entire area was command area, however, the water supply may be less as it was at tail-end. The Committee recommended for award of compensation as well, but the same was not apparently accepted by the Government. Referring to the sale deeds produced by the Company, it was submitted that these do not depict true value of the land in the area. There is lot of variation in the consideration paid if seen in the light of the sale deeds produced by the landowners, where uniformity in the value is there which ranges from ₹ 4,00,000/- per acre to ₹ 5,00,000/- per acre immediately before acquisition of land.

15. Learned counsel further referring to the award of the Collector submitted that compensation of ₹ 5,00,000/- per acre was granted for gair mumkin kind of land, which is of inferior quality. Even as per the evidence on record, the same was gair mumkin rasta and choe. If that was the compensation assessed for worst quality of land, the compensation for nehri/chahi and even for barani kind of land deserves to be assessed at least at the same rate, if not higher rate. In support of his arguments, reliance was placed upon Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona, AIR 1988 SC 1652; Zora Singh v. Unionh of India an another, 1988 (1) RRR 43; Kallettor Singhy and others v. State of Punjab and another, 1989(1) CurLJ 585 (P&H); State of Punjab v. Surjan Singh etc., 1990(1) PLR 278; Baldev Singh and others v. State of Punjab through Collector, AIR 1996 SC 3498; Harinderpal Singh v. Punjab State through the Collector, Amritsar, 1997(2) PLR 447 (P&H); Himmat Singh and others v. State of M. P. and another, 2014(1) RCR (Civil) 592 and M/s Mahamaya Gen. Finance Co. Ltd. v. State of U. P. and others, 2014(3) RCR (Civil) 311.

16. Heard learned counsel for the parties and perused the relevant referred record.

**Background of the case**

17. The land in question was acquired vide notification dated 27.8.1997, while invoking emergency provisions of Section 17 of the Act for setting up of Oil Refinery and Liquid Fuel based Power Plant. The land

pertained to revenue estates of Phulokhari, Kanakwal, Ramsra and Raman (Rural). The Collector announced the award on 4.6.1999 assessing the value of the land as under:

| "Sr. No. | Type of land | Price (per acre) in ₹ |
|---|---|---|
| 1. | Nehri/Chahi | 3,50,000/- |
| 2. | Barani | 2,75,000/- |
| 3. | Gair Mumkin | 5,00,000/- |

18. In the first round of litigation, the Reference Court, vide award dated 29.11.2005, upheld the award pertaining to gair mumkin land. For the entire remaining land, the compensation was assessed at flat rate of ₹ 3,50,000/- per acre, except that for the land upto 500 meters on road compensation was assessed @ ₹ 3,75,000/- per acre. Both the parties preferred appeals before this Court. Vide judgment dated 22.10.2008 in RFA No. 1963 of 2006—M/s Guru Gobind Singh Refineries Ltd. v. The Punjab State and others, this court remitted the matters back to the Reference Court, as the plea sought to be raised by the Company/State was that there was no material before the Reference Court to opine that the entire land was nehri and chahi. The judgment of this court was challenged before Hon'ble the Supreme Court by both the parties. Hon'ble the Supreme Court in Civil Appeal Nos. 8986-9012 of 2010—M/s Guru Gobind Singh Refineries Ltd. v. Punjab State and others etc. etc., decided on 20.10.2010, while upholding the judgment of this court, remanding the matters to examine the quality of land, observed that remand shall not be limited, rather, open giving liberty to the parties to lead further evidence. After remand, the Reference Court, vide award dated 29.9.2012, assessed the compensation at the following rates:

| "Kind of land | Rate per acre in ₹ |
|---|---|
| A) Gair Mumkin land | 5,00,000/- |
| B) Nehri and Chahi land | 4,25,000/- |
| C) Barani land | 3,50,000/- |
| D) Land on both sides of road Raman to Kalian Wali through villages Phulokhari and Kanakwal upto the depth of 60 karams | 5,00,000/- |

**Location of the land**

19. The land was acquired for setting up of Oil Refinery and Liquid Fuel based Power Plant. As per site plan (Ex. A16) produced on record, Railway Line Bathinda-Hisar is passing through the acquired land. Small portion of the acquired land abuts the road from Rama Mandi to Kalianwali, which is a link road between the villages. In the minutes of the meeting of the committee dated 18.10.1997 (Annexure-P3), it has been noticed that the acquired land is located at a distance of 16 kilometres from Talwandi Sabo in the backward area of the State. The land is located close to Rama Town.

**Regarding quality of land**

20. In the first round of litigation, the Reference Court made general observations regarding availability of irrigation facilities in the State of Punjab, referred to some data and opined that the entire land was nehri/chahi and accordingly uniform rate of compensation was granted. This Court in RFA No. 1963 of 2006—M/s Guru Gobind Singh Refineries Ltd. v. The Punjab State and others, decided on 22.10.2008, while observing that the material produced on record and referred to by both the parties at the time of hearing was not minutely examined by the court below to enable it to record a finding regarding quality of the land, the matter was remitted back with the following observations:

> "A perusal of the material produced on record shows that the Collector in his award had mentioned the quality of land as Nehri, Barani and Gair Mumkin giving specific area pertaining to that quality in four villages, the land of which was acquired. The land owners in the present case had produced evidence in the form of records regarding Chakbandi etc. showing the land to be Nehri, whereas on the other hand the Refinery had produced jamabandis and khasra girdawaris to show that the area, as mentioned in the award, with regard to Barani land is correct description thereof which did not call for any interference by the learned Court below. The learned court below had merely referred to Ex.A1, Ex. A2, Ex. A25 and Ex.

A37 in Land Reference No. 103 of 2000 and has not referred to any other material in other land references produced by the land owners regarding quality of land. The total of the land which was allegedly found to be Nehri in terms of exhibits, as referred to above, is also not tallying with the area mentioned in the exhibits. Even it has not been recorded as to in what area the alleged 19 tubewells were installed and as to whether those were forming part of the land which was considered as Nehri by the Collector or those were found in the area which was recorded as Barani. In addition to this, the learned Court below has recorded certain facts in paragraph 55 of the award regarding the total area sown in Punjab and the percentage thereof which is irrigated. Similar facts regarding the area of Bhatinda were also mentioned. No evidence in that regard has either been discussed by the learned Court below or has been referred to. At the time of hearing, nothing had been referred to substantiate the plea that the khasra numbers, which were recorded as Barani by the Collector and the corresponding evidence regarding the same showing them to be Nehri. All what has been referred to at the time of hearing was that the total area shown in the evidence led by the land owners in Land Reference No. 103 of 2000 is that the land forming part of the documents (Chakbandi) etc. is more than the area which is shown to be Barani by the Collector, but the same is not showing that it is the same land which was shown as Barani by connecting it with khasra numbers. Merely on the basis of the figure taken by the learned Court below from certain publications or elsewhere without there being any evidence to that effect on record cannot be made the basis for changing the category of the land, once the same was being contested by the Refinery.

Accordingly, in my opinion, on this issue a further detailed examination is required by the learned Court below by recording a specific finding with regard to the area with reference to khasra numbers which were shown as Barani by the Collector. It has to be considered as to whether there exists any source of irrigation in the land which has been recorded as Barani in the revenue record to change the category thereof from Barani to Nehri."

21. The aforesaid judgment was subject-matter of appeal before Hon'ble the Supreme Court on that issue, wherein the same was upheld with the following observations:

> "14. We have considered the respective submissions. The reasons recorded by the High Court for remanding the case to the Reference Court for deciding the issue of clubbing the land categorized as Nehri/Chahi with Barani and tube well irrigated land do not appear to be flawed. In our view, the Reference Court was not justified in deciding the issue relating to fixation of market value of the acquired land by presuming that irrigation facilities are available throughout the State of Punjabeither through canals or through tube wells. The Reference Court should have referred to the substantive evidence produced by the parties and then decided whether it was just and proper to club the land categorized as Nehri/Chahi with Barani and tube well irrigated land. Therefore, we do not find any error in the direction given by the High Court to the Reference Court to decide issue relating to clubbing of different categories of land."

22. Even after remand, learned counsel for the landowners before this court has not been able to refer to any specific khasra number with reference to the quality of land showing that it had wrongly been recorded in the award of the Collector if compared with other revenue record or the ground situation. Some evidence, as was led earlier, was sought to be referred to, which is in general. In the absence thereof, it is not possible for this court to record a finding that the entire land or major portion thereof was nehri or chahi at the time of acquisition. Even otherwise, the learned

Reference Court had been quite fair in this regard, wherein it had observed in the impugned award that the landowners can claim the price of land as per nature of their land at the time of filing the execution petitions.

**Maintainability of appeal filed by the Company**

23. In the case in hand, the land in question was acquired for setting up of Oil Refinery and Liquid Fuel based Power Plant by the Company. In terms of Section 50(2) of the Act, in case the land is acquired for use by a company, it has a right to be heard from the stage of announcement of award by the Collector. It can intervene and seek impleadment as a party in proceedings before the Reference Court. In the case in hand, it is not in dispute that the company was party before the Reference Court. A party aggrieved can always prefer appeal to the higher court.

24. In support of the argument, learned counsel for the landowners sought to refer to para No. 56 of the judgment of Hon'ble the Supreme Court in U.P. Awas Evam Vikas Parishad's case (supra). Along with that, paragraphs 55, 57 and 58 are also to be read. Paras 56 to 58 of the judgment are extracted below:

> "55. The local authority is a proper party in the proceedings before the reference court and is entitled to be impleaded as a party in those proceedings wherein it can defend the determination of the amount of compensation by the Collector and oppose enhancement of the said amount and also adduce evidence in that regard.
>
> 56. In the event of enhancement of the amount of compensation by the reference court if the Government does not file an appeal the local authority can file an appeal against the award in the High Court after obtaining leave of the Court."
>
> 57. In an appeal by the person having an interest in land seeking enhancement of the amount of compensation awarded by the reference court the local authority should be impleaded

as a party and is entitled to be served notice of the said appeal. This would apply to an appeal in the High Court as well as this court.

58. Since a company for whom land is being acquired has the same right as a local authority under Section 50(2), whatever has been said with regard to the local authority would apply to a company too.”

25. Section 50 of the Act is extracted below:

“**50. Acquisition of land at cost of a local authority or company.-** (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or company shall be entitled to demand a reference under Section 18.”

26. A composite reading of paragraphs 55 to 58 and the scheme of the Act shows that the local authority or the company, for whose benefit the land is acquired, is a proper party before the Reference Court and is entitled to be impleaded as such to enable it to defend determination of compensation. In case local authority or company as such is before the Reference Court, no leave or condition can be attached to enable it to avail of the remedy of appeal. Paragraph 56 of the aforesaid judgment envisages a situation where the local authority or the company, for whose benefit the land is acquired, is not party before the Reference Court. Only in those circumstances, it is required to seek leave of the court to file appeal. It may also be noticed that even in the first round of litigation, only the Company was before this court impugning the award of the Reference Court and not the State. As in the case in hand, the company was already before the

Reference Court, no leave of the court was required to enable it to file appeal, hence, the contention raised by learned counsel for the landowners is rejected, being misconceived.

**Status of the sale deeds produced by the Company showing the value less than the award of the Collector**

27. The contention sought to be raised by learned counsel for the landowners that the sale deeds produced by the Company showing value less than the award of the Collector deserved to be rejected as such, for the purpose reference was made to Section 25 of the Act. The aforesaid Section only provides that the amount of compensation awarded by the court shall not be less than the amount awarded by the Collector. It does not discard them from consideration altogether. Similar issue came up for consideration before Hon'ble the Supreme Court in Lal Chand's case (supra), wherein it was opined as under:

> "23. The High Court also rejected Ex. R3 to R7 relied upon by the respondents, solely on the ground that the prices therein were lower than the market value offered by Land Acquisition Collector and therefore, they had to be excluded under Section 25 of the LA Act. Section 25 provides that the amount of compensation awarded by the reference court shall not be less than the amount awarded by the Collector under section 11. We fail to see how the said section has any relevance in regard to determination of market value as contrasted from award of compensation. If the sale deeds relied on by the respondents showed a particular market value, they cannot be ignored merely because the Collector had awarded compensation at a higher rate in regard to the acquired land. All what section 25 requires is that the courts should not award an amount which is less than what is awarded by the Land Acquisition Collector, even if the evidence may show a lesser market value. So, the bar under Section 25 of the LA Act is not in regard to determination of a market value, which is less than what was awarded by the LAO. The bar is only upon the reference court (or any higher court) reducing the compensation awarded by

the Land Acquisition Collector. The fact that the Land Acquisition Collector has awarded compensation at a particular rate does not mean that the sale deeds which are otherwise reliable, cannot be relied upon to find out what was the real market value............"

28. In view of the aforesaid authoritative enunciation of law by Hon'ble the Supreme Court, the contention raised by learned counsel for the landowners that the sale deeds produced by the Company showing value less than the award of the Collector should be rejected outrightly, has no merit as the same can also be considered for the purpose of assessment of compensation.

**Post-acquisition sale transactions**

29. Learned counsel for the landowners sought to rely upon sale transactions (Ex. A1, Ex. A2 and Ex. A3), for the purpose of assessment of compensation, which are as under:

| Ex. | Dated | Area sold<br>K M | Sale consideration in ₹ | Price per acre in ₹ |
|---|---|---|---|---|
| A1 | 19.2.2010 | 20 – 14 | 98,32,500/- | 38,00,000/- |
| A2 | 19.2.2010 | 18 - 19 | 61,51,250/- | 25,96,833/- |
| A3 | 30.9.2011 | 8 – 16 | 66,00,000/- | 60,00,000/- |

30. The aforesaid sale transactions were produced in evidence after Hon'ble the Supreme Court remitted the matters back to the Reference Court to enable the landowners to lead further evidence. Notification under Section 4 of the Act in the present case was issued on 27.8.1997. Two of the sale transactions were registered more than 12-1/2 years thereafter and one was registered more than 14 years thereafter. In support of the argument, reliance was placed upon the judgment of Hon'ble the Supreme Court in Chimanlal Hargovinddas's case (supra). In the aforesaid judgment, it was opined that even post-notification instances can be taken into account if the same are genuine and proximate to the acquisition. In the case in hand, by

no stretch of imagination, it can be opined that post-acquisition sale deeds sought to be relied upon by the landowners are proximate to the acquisition, as these were registered more than 12-1/2 and 14 years, after issuance of notification under Section 4 of the Act. No other judgment has been cited by learned counsel for the landowners, which could enable this court to accept the plea raised by him to the extent that post-acquisition sale deeds having been registered even 12-1/2 and 14 years after the issuance of notification under Section 4 of the Act can also be considered for the purpose of assessment of fair value of the acquired land.

31. In Himmat Singh's case (supra), Hon'ble the Supreme Court opined that the sale deeds registered after the issuance of notification under Section 4 of the Act will not be relevant. In that case, the date of notification under Section 4 of the Act is 28.5.1997. The sale deeds sought to be relied upon by the landowners were 17.2.1992 and 13.10.1992. Hon'ble the Supreme Court held that 'notwithstanding the above conclusion, we are of the view that Exhibits P2 and P10 cannot be relied upon for determination of the amount of compensation because the same were executed after the issue of notification under Section 4'.

32. Hence, the sale deeds (Ex. A1 to Ex.A3) sought to be relied upon by the landowners cannot be considered as a relevant piece of evidence for the purpose of assessment of fair value of the acquired land.

**Assessment of compensation**

33. The measurement and classification of the land, as provided in the award of the Collector, is extracted below:

| “Sr. No. | Name of the villages | Kind of land Nehri K M | Barani K M | G.M. K M | Total K M | Area in acres |
|---|---|---|---|---|---|---|
| 1. | Phulokhari | 518-02 | 1724-01 | 60- 17 | 2303-00 | 287-875 |
| 2. | Kanakwal | 4002-08 | 6165-12 | 140-06 | 10308-06 | 1288-5375 |
| 3. | Ramsra | 1848.-08 | 1318-03 | 76-17 | 3243-08 | 405-425 |
| 4. | Raman | 40-11 | 40-11 | 3-09 | 85-18 | 10-7375 |
| | Total | 6409-09 | 9249-14 | 281-09 | 15940-12 | 1992-575” |

34. A perusal of the aforesaid figure shows that apparently the land was acquired considering that substantial part of the same was barani as the

purpose was to set up Oil Refinery and Liquid Fuel based Power Plant. The Collector assessed the compensation as follows:

| “Sr. No. | Type of land | Price (per acre) in ₹ |
|---|---|---|
| 1. | Nehri/Chahi | 3,50,000/- |
| 2. | Barani | 2,75,000/- |
| 3. | Gair Mumkin | 5,00,000/- |

35. In the first round of litigation, vide award dated 29.11.2005, learned Court below determined the value of the land @ ₹ 3,50,000/- per acre for Nehri/Chahi/Barani land, ₹ 5,00,000/- per acre for Gair Mumkin land and ₹ 3,75,000/- per acre for land abutting metalled road except Gair-Mumkin kind of land leading from Raman to Kalianwalia via Gian upto the depth of 500 meters. This Court, while upholding the assessment of compensation for the land abutting the road, remanded the matters back to the Reference Court to reconsider the issue regarding change of category of land from barani to nehri. Hon'ble the Supreme Court, while upholding that part of the judgment of this court, left all the issues open to be decided by the Reference Court. The parties were even permitted to lead further evidence. In the second round of litigation, the learned Reference Court assessed the compensation at the following rates:

| “Kind of land | Rate per acre in ₹ |
|---|---|
| A) Gair Mumkin land | 5,00,000/- |
| B) Nehri and Chahi land | 4,25,000/- |
| C) Barani land | 3,50,000/- |
| D) Land on both sides of road Raman to Kalian Wali through villages Phulokhari and Kanakwal upto the depth of 60 karams | 5,00,000/- |

36. While doing this exercise, it applied a novice formula, whereby cut was applied on the value of gair mumkin kind of land, as assessed by the Collector, for assessing the value of chahi/nehri and barani kind of land. The cut @ 15% and 30%, respectively, was applied. No other material was referred to.

37. Even before this court, learned counsel for the landowners sought to argue that gair mumkin land is a worst quality of land and the Collector having assessed the value thereof at a higher rate, the other quality of land should be assessed at least at the same rate, if not more. However, there is no such principle. The award of the Collector is one thing. If a landowner is aggrieved of the same, the onus is on him. For the purpose, reference can be made to the judgment of Hon'ble the Supreme Court in – Special Land Acquisition Officer v. Karigowda and others, (2010) 5 SCC 708. In the case in hand, the landowners are seeking higher compensation for nehri, chahi and barani kind of land or that there there was no barani kind of land, in fact the entire land was nehri and chahi. That issue has been dealt with in preceding paragraph of the judgment.

38. Now the question is the assessment of value of the aforesaid two categories of land. The landowners need to produce evidence to show the value of the category of land, which they are disputing. For that purpose, award of the Collector may not be sufficient. In the evidence led by the landowners, they have produced following sale deeds:

| Ex. | Dated | Area sold | Quality of land Revenue Estate | Sale consideration per acre in ₹ | Price per acre in ₹ |
|---|---|---|---|---|---|
| A13 | 4.8.1997 | 4 – 0 | Barani (Rural) Ramsra | 2,00,000/- | 4,00,000/- |
| A14 | 29.8.1997 | 1 – 0 | Nehri (Urban) Raman | 50,000/- | 4,00,000/- |
| A15 | 28.8.1997 | 8 – 0 | Nehri (Rural) Ramsra | 4,99,500/- | 4,99,500/- |
| A17 | 27.8.1997 | 8 – 08 | Barani (Rural) Ramsra | 4,25,000/- | 4,25,000/- |
| A18 | 28.8.1997 | 1 – 0 | Urban Raman | 50,000/- | 4,00,000/- |

| | | | | | |
|---|---|---|---|---|---|
| A19 | 17.1.1991 | 0- 19 | Urban Raman | 69,000/- | 5,79,489/- |
| A20 | 4.2.1993 | 0 -08 | Urban Raman | 30,000/- | 4,80,000/- |
| A21 | 7.7.1997 | 1 – 5-1/2 | Nehri (Urban) Raman | 72,000/- | 4,35,000/- |
| A22 | 21.7.1997 | 1 -0 | Barani (Urban) Raman | 95,000/- | 7,60,000/- |
| A23 | 28.8.1997 | 1- 0 | Barani (Urban area) Ramsra | 50,000/- | 4,00,000/- |
| A24 | 16.1.2001 | 0 -10 | Barani (Urban area) Ramsra | 50,000/- | 4,00,000/- |

39. A perusal of the aforesaid sale deeds shows that the same pertained to either Raman or Ramsra. The acquired land pertain to four revenue estates. Raman had two revenue estates, i.e., Raman (Urban) and Raman (Rural). A very small portion of land of Raman was acquired. Learned counsel for the landowners had not referred to any site plan on record to show the exact location of the land pertaining to the aforesaid sale deeds to be compared with the location of the acquired land. Primarily, sale deeds (Ex. A13, Ex. A14, Ex. A15, Ex. A17 and Ex. A18) were sought to be relied upon, which were registered in close proximity to the acquisition. The learned Reference Court had rejected these sale deeds opining them to be not genuine transactions. The findings have been challenged by the landowners. A perusal of four out of five sale deeds, shows that these were registered either on the date of issuance of notification under Section 4 of the Act, a day prior thereto or subsequent thereto. Sale deed (Ex. A13) was registered about 23 days prior to the issuance of notification under Section 4 of the Act. Though the learned Reference Court had rejected the sale deeds opining that the landowners therein were in knowledge of the acquisition proceedings, hence, these were got registered to create evidence. However, in the evidence of AW5-Major Singh, AW6-Mithu Singh, AW7-Amrik Singh, AW9-Balbir Singh and AW10-Godha Singh, who were either

vendors or vendees to the sale deeds, there is no such line. However, a perusal of the document (Ex. P2) placed on record shows that the Selection Committee constituted for selecting the site for location of the Refinery, had visited 8 sites in the State between 12.8.1996 to 14.8.1996. The site in question was found to be the best one. The land in village Phulokhari was found to be barren with no construction. The site was approved in principle by the then Chief Minister, as is evident from the note dated 18.10.1996, hence, to claim that residents of the area will not be knowing about the selection of site for construction of the Refinery cannot be accepted.

40. In none of the sale deeds, agreement to sell was entered into prior to the registration of the sale deed. The witnesses produced by the landowners also stated that the entire money was paid to the vendees in cash either at home or elsewhere. One of the witnesses stated that he is distinctly related to the vendee. In the sale deeds (Ex. A13 and Ex. A17), 4 kanals and 8 kanals of barani (rural) land was sold at an average price of ₹ 4,00,000/- and ₹ 4,25,000/- per acre, respectively, whereas vide sale deeds (Ex. A14 and Ex. A18), 1 kanal of nehri (urban) land was sold @ ₹ 4,00,000/- per acre. In sale deed (Ex. A15), nehri (rural) land was sold at an average price of ₹ 4,99,600/- per acre. Vide sale deed (Ex. A23), barani (urban) kind of land was sold at an average price of ₹ 4,00,000/- per acre. The trend of prices shown in the aforesaid sale deeds pertaining to barani (rural and urban) land runs totally contrary to the contentions raised by learned counsel for the landowners, whereby he had sought higher rate of compensation claiming that gair mumkin kind of land is of the inferior most quality and therefore, compensation of other categories of land be assessed at a higher rate. Even sale deed (Ex. A24), which was registered 2 years and 5 months after the acquisition of land also shows the average sale consideration to be ₹ 4,00,000/- per acre for barani (urban) land. The area sold was merely 10 marlas. Sale deeds (Ex. A19, Ex. A20 and Ex. A22) pertain to Raman (Urban), whereby small plots were sold abutting road in commercial/ residential area. The price variation and the years in which the aforesaid sale deeds were got registered also established the fact that the price depended on the location of the land. As against that, the Company

had produced number of sale deeds pertaining to all the villages showing value far less than the award of the Collector. The area dealt with therein is small as well as substantial. The highest transaction is at an average price of ₹ 3,25,000/- per acre.

41. There is another document produced on record by the Company with its appeal as (Annexure P-3), i.e., proceedings of meeting held on 18.10.1997 under the Chairmanship of Deputy Commissioner, Bathinda, which was attended by the then Member Parliament, Bathinda; the then MLA, Talwandi Sabo Constituency; Chairman, Block Samiti, Talwandi Sabo, Sub Divisional Magistrate, Talwandi Sabo and one Co-opted Member. It mentions that NOC for acquiring the land in the area for the purpose of setting up of the Company was issued on 4.8.1997. In fact, that is the date, on which first sale deed (Ex. A13) sought to be relied upon by the landowners was got registered. The Committee noticed the sale transactions registered in the area immediately preceding the acquisition of land. It also noticed that it is 16 kilometers away from historic town of Talwandi Sabo and was a backward area of Punjab. It also noticed that most of the land, comes under the canal network, however, the site being near the tail-end, does not get any supply of water and the area being not irrigated is barani. The Committee which consisted of representatives of the public recommended that rates be given for the acquired land of different categories:

> "8. Command Area
>
> This area is under Canal irrigation as most of the land comes under Canal network. However site being near the tail a end of the canal all the command area is not canal irrigation. Area not being irrigated is just like Barani area. However, if canal water get augmented the area being acquired will come under Canal irrigation. There are strong representation, from the farmers to equate their land under command with land under active irrigation.
>
> Committee after discussing the matter in detail is of the view that though there is no such provision under the FAR's

Standing Order No. 28 on the subject to consider such command area for evaluation but in all fairness such cultural command areas which at the moment is not being irrigated should be given separate rates under the category of CCA.

xx xx xx

Keeping all the factors in view i.e. collectors rate location of the site, quality of the land, prevailing market rates, occupation of the people, and number of farmers involved, the below mentioned rates are recommended to the Punjab Govt. for approval.

| Kind of land | Rates per acre in ₹ |
|---|---|
| Nehri/Chahi | 3,50,000/- |
| Command | 3,00,000/- |
| Brani | 2,25,000/- |
| Gair Mumkin | 5,00,000/-” |

42. The different rate was recommended for command area land keeping in view the fact that canal based irrigation facilities, though were available, however, being at the tail-end, there was rarely any water supply and the same could be augmented, hence, a little higher rate as compared to Barani rate was recommended. In my opinion, for that category of land, the landowners deserve to be granted higher compensation than what was assessed by the Collector.

43. As far as value of the land located on both sides of road-Raman to Kalian Wali through villages Phulokhari and Kanakwal upto the depth of 60 karams is concerned, I do not find any reason to interfere as the land located to road is always more valuable as compared to the land behind that.

44. For the reasons mentioned above, the compensation, which the landowners are held entitled to, is assessed as under:

| Type of land | Price (per acre) in ₹ |
|---|---|
| (i) Nehri/Chahi | 3,50,000/- |
| (ii) For command area | 3,00,000/- |

| | | |
|---|---|---|
| (iii) | Barani | 2,75,000/- |
| (iv) | Gair Mumkin | 5,00,000/- |
| (v) | Land on both sides of road Raman to Kalian Wali through villages Phulokhari and Kankwal upto the depth of 60 karams | 5,00,000/- |

45. The appeals filed by the State and the Company are allowed, whereas the appeals filed by the landowners are dismissed.

(Rajesh Bindal)
Judge

October 15, 2015
mk

(Refer to reporter)