

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**RFA-125-1988 and
X-Objc-69-C1-1990
Date of decision:6.1.2016**

Union of India

...Appellant

Versus

Hazara Singh (died) through LRs and others

...Respondents

**RFA-2424-1995 and
X-Objc-28-C1-1997**

Union of India and another

...Appellant

Versus

Santokh Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Vivek Singla, Advocate for appellant-Union of India.
Mr.M.L.Sarin, Sr. Advocate with
Mr.Ritesh Aggarwal, Advocate,
Mr.Akhilesh Viyas, Advocate for the cross-objectors.

RAMESHWAR SINGH MALIK, J. (Oral)

These two regular first appeals filed by the Union of India and cross objections filed therein by the land owners bearing No.RFA-125-1988 and cross objection No.69-C1 of 1990 filed therein, RFA No.2424 of 1995 and Cross Objection No.28-C1 of 1997 filed therein, are being decided together vide this common order, as the same raise the similar question of facts and law, arising out of same acquisition. However, for the facility of reference, the facts are being culled out from RFA No.125 of 1988.

The factual matrix has been put into narrow compass by a Division Bench judgment of this Court reported as **1997 (3) RCR (Civil) 431**, which was upheld by the Hon'ble Supreme Court of India in **Union of India v. Harinder Pal Singh and others, JT 2005(9) SC 280**. Pursuant to the notification dated 11.7.1977 under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short), which was followed by notification dated 19.7.1980 under Section 6 of the Act, whereby a large chunk of land was sought to be acquired for extension of Amritsar Cantonment, Special Land Acquisition Collector, vide his Award No.4 dated 20.5.1982 awarded different amounts for different kinds of land. The learned Reference Court vide its award dated 18.3.1986 granted the flat rate of Rs.36,000/- per acre and also granted the statutory benefits to the land owners under Section 23 (1A) of the Act. Very many regular first appeals came to be filed by the Union of India as well as by land owners which were finally decided by the LPA Bench of this Court with LPA No.729 of 1985 (Harinderpal Singh v. Punjab State through the Collector, Amritsar). However, these two regular first appeals and cross objections filed therein, could not be decided with said bunch of the appeals.

The only argument raised by the learned senior counsel for the cross objectors-land owners is that these cases are squarely covered by the Division Bench judgment of this Court in **Harinderpal Singh's** case (supra), which has been upheld by the Hon'ble Supreme Court in its judgment reported as **JT 2005(9) SC 280**. On the other hand, learned counsel for the appellants-Union of India sought to distinguish these cases from the judgments rendered by a Division Bench of this Court as well as by Hon'ble the Supreme Court in **Harinderpal Singh's** case (supra).

After hearing the learned counsel for the parties and going through the record, this Court is of the considered opinion that since these cases have been found squarely covered by the judgment in **Harinderpal Singh's** case (supra), which has been upheld by the Hon'ble Supreme Court as well, both the appeals filed by Union of India are liable to be dismissed and the cross-objections filed by the land owners deserve to be allowed.

It is a matter of record that land measuring 11513 kanals from village Kathania was acquired along with some other land from adjoining villages. Public purpose of the acquisition was the same, that is for extension of cantonment at Amritsar. Ignoring the belting system, Division Bench of this Court granted the uniform rate for different kinds of land at Rs.40,000/- per acre. It is also not in dispute that since the Collector gave his award regarding village Kathania after 30.4.1992, the land owners, similarly situated with the present cross-objectors, were also granted the statutory benefits under Section 23 (1A) of the Act by the learned Reference Court, Division Bench of this Court as well as by the Hon'ble Supreme Court.

The relevant observations made by the Division Bench of this Court in paras 7 and 10 of its judgment in **Harinderpal Singh's** case (supra), which can be gainfully followed in the present case, read as under:-

“The counsel for the parties have fairly conceded that the benefit of provision of Section 23 (1-A) would be available only to the claimants of the villages Kathania wherein award was given by the Collector on 22.5.1982. Thus, the claimants of the said villages would be entitled to interest at the rate of 12 per cent per annum on the amount of the market value assessed

from the date of notification under Section 4 of the Act dated 22.7.1977 and 5.5.1978 to 20.5.1982 and 22.6.1983 respectively.

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Thus, in view of the observations made above, the appeals are disposed of and the awards of the learned District Judge are modified to the extent that the claimants of all the five villages would be entitled to the compensation at the rate of Rs.40,000/- per acre irrespective of the nature of the land. The claimants would be entitled to statutory interest as provided by the Land Acquisition Act, as amended. They would also be entitled solatium at the rate of 30%. The claimants with respect to village Kathania and Wadala Bhitewad would be entitled to 12% per annum on the market value assessed viz. Rs.40,000/- per acre from the date of notification under Section 4 i.e. 22.7.1977 and 5.5.1978 to the dates of award of the Collector i.e.20.5.1982 and 22.6.1996 respectively.

During the course of hearing, when confronted with the judgments rendered by the LPA Bench of this Court as well as by the Hon'ble Supreme Court in **Harinderpal Singh's** case (supra), learned counsel for the appellants-Union of India could not distinguish the present cases, despite making his best efforts, because it was a matter of record. Once the controversy has already been set at rest by a Division Bench of this Court, which was upheld by the Hon'ble Supreme Court in **Harinderpal Singh's** case (supra), the cross objectors in both these cases are entitled for the same amount of compensation, i.e. Rs.40,000/- per acre which has been granted to exactly similarly situated land owners.

No other argument was raised.

Considering the peculiar facts and circumstances of the cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that both the appeals bearing RFA No.125 of 1988 and RFA No.2424 of 1995 filed by the Union of India are bereft of any merit and the same are hereby dismissed. Cross Objection No. 69-C1 of 1990 filed by land owners in RFA No.125 of 1988 is hereby allowed. Similarly, Cross Objection No.28-C1 of 1997 filed in RFA No.2424 of 1995 is also allowed.

Cross objectors-land owners in both these cases are held entitled to receive the compensation at the uniform rate of Rs.40,000/- per acre from the date of notification under Section 4 of the Act. Cross objectors-land owners shall also be entitled for all the statutory benefits, available to them including under Section 23 (1A) of the Act, in terms of Division Bench judgment of this Court in **Harinderpal Singh's** case (supra), which has been upheld by the Hon'ble Supreme Court.

Resultantly, with the above-said observations made, both these appeals as well as cross-objections filed therein stand disposed of, however, with no order as to costs.

6.1.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE