

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

RFA-2627-2003
Date of decision:12.1.2016

Manjit Kaur and others

...Appellants

Versus

State of Punjab 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.G.S.Nagra, Advocate for the appellants and for the
respondents in RFA Nos.1862 to 1870 of 2004.
Mr.Yatinder Sharma, Addl.A.G., Punjab.

RAMESHWAR SINGH MALIK, J. (Oral)

Instant order proposes to decide together, 18 regular first appeals, out of which 9 appeals bearing RFA Nos.2627 to 2635 of 2003 have been filed by the land owners and 9 appeals bearing RFA Nos.1862 to 1870 of 2004 have been filed by the State of Punjab, arising out of the same acquisition, as these appeals raise identical questions of law and facts. However, for the facility of reference, facts are being culled out from RFA No.2627 of 2003.

Brief facts of the case are that State of Punjab sought to acquire 29.32 acres of land at public expense for the public purpose, i.e. for construction of Abul Khurana Rajbaha. Accordingly, notification under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) was issued on 3.12.1997, which was followed by notification under Section 6 of the Act issued on 19.12.1997. The Collector vide his award dated 21.6.2000

granted compensation to the land owners @Rs.2,70,000/- per acre. Dissatisfied, land owners filed their objections under Section 18 of the Act and as a consequence thereof, nine land references were forwarded to the learned Reference Court. All the nine land references were decided together by the learned Reference Court vide its common award dated 7.12.2002, granting compensation @Rs.2,97,000/- per acre. Both the parties felt aggrieved and they have approached this Court by way of above-said 18 regular first appeals, which are being decided together.

Learned counsel for the appellants-land owners has raised only one argument, placing reliance on an identical award announced by the Collector on the same date, i.e. 21.6.2000, which has been placed on record before this Court in the form of Annexure A-1 by way of CM-17524-CI-2014 filed in RFA No.2627 of 2003. This application for additional evidence has been allowed vide separate order. He submits that the land owners in this batch of cases are also entitled for the same amount of compensation @Rs.3,50,000/- per acre, which has been granted to the identically placed co-villagers of the appellants-land owners. He submits that another chunk of land measuring 6.89 acres was acquired for the same purpose, i.e. for construction of Pucca Abul Khurana village Rajbaha Burji No.RD No.30000 to 36000, vide notification dated 18.1.1998 under Section 4 of the Act, followed by notification dated 18.3.1998 under Section 6 of the Act, whereas award in both the cases was announced by the Collector on the same day, i.e. 21.6.2000. The Collector awarded an amount of Rs.3,50,000/- to the land owners of this later acquisition. Time gap between both these acquisitions was just six weeks. Both chunks of land, which were acquired, were from the same village and for the same purpose.

Learned counsel for the appellants also submits that so far as the possession is concerned, it was taken by the State of Punjab in the month of September 1978, whereas the notification under Section 4 of the Act came to be issued as late as on 3.12.1997. In the later acquisition by way of notification dated 18.1.1998 under Section 4 of the Act, possession of the acquired land was taken in the year 1988-89. He submits that both these material facts have gone undisputed on record. Thus, he prays for allowing the appeals filed by the land owners and dismissing the appeals filed by the State of Punjab, granting the same amount of compensation @Rs.3.50,000/- per acre to the land owners in these appeals.

On the other hand, learned counsel for the State submits that the land owners in these appeals are not entitled for further enhancement for the reason that their land had been acquired earlier. He also submits that land owners failed to produce on record any sale-deed. He prays for dismissing all the appeals filed by the land owners and for allowing the appeals filed by the State of Punjab.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that keeping in view the totality of facts and circumstances of the cases in hand, the appeals filed by the State of Punjab are liable to be dismissed, whereas appeals filed by the land owners deserve to be partly allowed, for the following more than one reasons.

It is a matter of record and not in dispute that possession from the appellants-land owners had been taken by the State of Punjab way back in the month of September 1978, whereas notification under Section 4 of the

Act came to be issued on 3.12.1997, i.e. after more than 19 long years. It is also not in dispute that another chunk of land from this very village came to be acquired just after six weeks by way of notification dated 18.1.1998 under Section 4 of the Act and land owners have been granted the compensation @ Rs.3.50,000/- per acre, whereas the present land owners have been granted compensation @Rs.2,97,000/- per acre.

Further, a bare perusal of Exhibits P1 and P2 at pages 99 and 101 of the lower court record ('LCR' for short) would show that that the State authorities, i.e. Deputy Commissioner, Muktsar vide his two communications dated 28.8.1998 and 11.1.1999 have recommended that the land owners of earlier acquisition, i.e. appellants in these cases, be also granted the compensation @Rs.3,50,000/- per acre which had been granted to the land owners of slightly later acquisition by way of notification under Section 4 of the Act, issued on 18.1.1998.

During the course of hearing, when confronted with the above-said undisputed evidence available in the case file, learned counsel for the State had no answer and rightly so, it being a matter of record. Thus, after giving anxious consideration to the contentions raised and going through the relevant record, this Court is of the considered view that the land owners in these appeals are also entitled to receive the same amount of compensation @Rs.3,50,000/- per acre, which has been granted to their identically placed co-villagers, whose land was also acquired for the same purpose.

No other argument was raised.

Considering the peculiar facts and circumstances of the cases in hand, coupled with the reasons aforementioned, this Court is of the

considered view that the appeals filed by the State of Punjab have since been found wholly misconceived, bereft of merit and without any substance, these must fail and the same are hereby dismissed. The appeals filed by the land owners are allowed and they are held entitled to receive the compensation @ Rs.3,50,000/- per acre from the date of notification under Section 4 of the Act. Lest there be any ambiguity, it is clarified that land owners shall also be entitled for the statutory benefits, as granted to them by the learned Reference Court, even qua enhanced amount of compensation, as granted by this Court.

Resultantly, with the observations made above, all these appeal stand disposed of, in the above-said terms, however, with no order as to costs.

12.1.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE