

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Sr.No.201

**RFA No.1589 of 2002(O & M)
Date of Decision:05.12.2016**

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant

Versus

Bhajan Singh @ Harbhajan Singh and others

.....Respondents

2.

RFA No.1590 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant

Vs.

Sucha Singh and others

.....Respondents

3.

RFA No.1591 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant

Vs.

Hazoora Singh and others

.....Respondents

4.

RFA No.1592 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant

Vs.

Sucha Singh and others

.....Respondents

5.

RFA No.1593 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant

Vs.

Malkiat Singh and others

.....Respondents

6. RFA No.1676 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
.....Appellant
Vs.
Gurmakh Singh and others
.....Respondents

7. RFA No.1677 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
.....Appellant
Vs.
Sohan Singh and others
.....Respondents

8. RFA No.1679 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
.....Appellant
Vs.
Naginder Singh and others
.....Respondents

9. RFA No.1680 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
.....Appellant
Vs.
Lachhman Singh and others
.....Respondents

10. RFA No.1681 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
.....Appellant
Vs.
Kulbir Singh and others
.....Respondents

11. RFA No.1682 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
.....Appellant
Vs.
Harjit Singh and others
.....Respondents

12. RFA No.1683 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
.....Appellant
Vs.
Charan Singh and others
.....Respondents

13. RFA No.1684 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
.....Appellant
Vs.
Joginder Singh and others
.....Respondents

14. RFA No.1685 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
.....Appellant
Vs.
Sarabjit Singh and others
.....Respondents

15. RFA No.1686 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
.....Appellant
Vs.
Gurmel Singh and others
.....Respondents

16 RFA No.1687 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant

Vs.

Joginder Singh and others

.....Respondents

17. RFA No.1664 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Ajeet Singh and others

.....Respondents

18. RFA No.1665 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Gurdial Singh and others

.....Respondents

19. RFA No.1666 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Iqbal Singh and others

.....Respondents

20. RFA No.1673 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Sukhdev Singh Deol and others

.....Respondents

21. RFA No.1674 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Tarlochan Singh and others

.....Respondents

22. RFA No.1675 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Narwant Kaur and others

.....Respondents

23. RFA No.1688 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Charan Singh and others

.....Respondents

24. RFA No.1689 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Malkiat Singh and others

.....Respondents

25. RFA No.1690 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

 $V_S.$

Kirpal Singh alias Iqbal Singh and others

.....Respondents

26. RFA No.1691 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Raja Singh and others

.....Respondents

27. RFA No.1692 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Pargat Singh and others

.....Respondents

28. RFA No.1693 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Tej Kaur and others

.....Respondents

29. RFA No.1694 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Pritam and others

.....Respondents

30. RFA No.1695 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Mota Singh and others

.....Respondents

31. RFA No.1696 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Harbhajan Singh and others

.....Respondents

32. RFA No.1697 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Sohan Singh and others

.....Respondents

33. RFA No.1698 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Mohinder Singh and others

.....Respondents

34. RFA No.1700 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Darbara Singh and others

.....Respondents

35. RFA No.1702 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi

..... Appellant

Vs.

Sadhu Singh and others

.....Respondents

36. RFA No.1667 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant
Vs.
Tarsem Singh and others
.....Respondents

37. RFA No.1701 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant
Vs.
Gurdeep Singh and others
.....Respondents

38. RFA No.1668 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant
Vs.
Sucha Singh and others
.....Respondents

39. RFA No.1669 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant
Vs.
Surjit Kaur and others
.....Respondents

40. RFA No.1670 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant
Vs.
Resham Singh and others
.....Respondents

41. RFA No.1671 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
.....Appellant
Vs.
Santokh Singh and others
.....Respondents

42. RFA No.1672 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
.....Appellant
Vs.
Hardev Singh and others
.....Respondents

43. RFA No.1678 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
.....Appellant
Vs.
Amrik Singh and others
.....Respondents

44. RFA No.1703 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
.....Appellant
Vs.
Ajit Singh and others
.....Respondents

45. RFA No.1704 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
.....Appellant
Vs.
Paramjit Singh and others
.....Respondents

46. RFA No.1705 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
Vs.Appellant
Amrao Singh and othersRespondents

47. RFA No.1706 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
Vs.Appellant
Pritam Singh and othersRespondents

48. RFA No.1707 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
Vs.Appellant
Mohan Singh and othersRespondents

49. RFA No.1708 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
Vs.Appellant
Mohinder Singh and othersRespondents

50. RFA No.1709 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.
Vs.Appellant
Shiv Singh and othersRespondent

51. RFA No.1710 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant

Vs.

Jagir Singh and others

.....Respondents

52. RFA No.1711 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant

Vs.

Joginder Singh and others

.....Respondents

53. RFA No.1712 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant

Vs.

Rattan Singh and others

.....Respondents

54. RFA No.1713 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant

Vs.

Mohinder Singh and others

.....Respondents

55. **RFA No.1714 of 2002**

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant

Vs.

Gurbachan Singh and others

.....Respondents

56. RFA No.1715 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant

Vs.

Sawaran Singh and others

.....Respondents

57. RFA No.1716 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant

Vs.

Mota Singh and others

.....Respondent

58. RFA No. 1741 of 2002

Union of India through the Secretary, Ministry of Defence, New Delhi.

.....Appellant

Vs.

Col. Harbhajan Singh and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

Present: Mr.Chetan Mittal, Senior Advocate with
 Mr.Varun Issar, Advocate
 Central Government Counsel for UOI

None for the private respondents

Mr.K.K.Gupta, Addl.AG Punjab

ARUN PALLI, J. (ORAL):

Vide this order, I shall decide a bunch of 58 appeals, for, these arise out of the same notification, and the question involved for determination is common in all the appeals. However, the facts are being culled out from RFA No.1589 of 2002.

Vide notification issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act'), dated 19.03.1990, a land measuring 4044 kanals 18 marlas, which formed part of the revenue estate of village Haripur, was sought to be acquired by the Central Government for defence purposes. Declaration under Section 6 of the Act was made on 07.09.1990. However, subsequently, the area proposed to be acquired was revised to 2851 kanals 11 marlas only. The Special Land Acquisition Collector (for short 'the Collector'), vide award, dated 18.02.1993, assessed the market value of the land that was recorded as *chahi* and *nehri* @ ₹ 70,000/- per acre. Whereas, the land that was categorised as *barani* and *ghair mumkin*, was assessed @ ₹ 32,000/- per acre. Additionally, the landowners were also held entitled to the statutory benefits as admissible in law.

Being aggrieved by the assessment and the compensation awarded by the Collector, the landowners filed objections under Section 18 of the Act and sought a reference to the Civil Court.

On a consideration of the matter in issue, and the evidence on record, the reference Court arrived at a conclusion that although the acquired land was being used for agricultural purposes, but still it had the potential for being used for residential and commercial purposes being near to village abadi. Further, vide an award dated 22.11.2001, the reference Court had already awarded compensation @ ₹ 85,000/- per acre, for the land that was acquired, vide the same notification, and, vide yet another award dated 17.10.1995, rendered by Sh.S.S.Arora, learned Addl.District Judge, Jalandhar, compensation @ ₹ 85,000/- per acre was granted for the similar land. For, the entire land was being acquired for the same purpose

i.e. for the need and requirement of the defence department, it was inconsequential that part of the acquired land was *chari/nehri* or *ghair mumkin* and *barani*. Thus, all the landowners were entitled to the compensation at the same rate. The conclusion arrived at reads thus:

The entire disputed land was acquired in this case for a common purpose i.e. for the need and requirement of the defence department. The requirement of the defence department cannot be distinguished as per the type of land recorded in the revenue record. Even otherwise, it is a common knowledge that as and when the priority is fixed for use of land for residential, commercial or industrial purposes, it is the banjar or barani land which is to be first utilised and fetch more price than agriculture land. When the land has been acquired for the purpose other than agriculture fixing of market value on the basis of agriculture quality of land loses its significance and the entire land including those which are ghair mumkin, banjar/barani should be allowed market value at uniform rate. Even otherwise, it appears in this case that the land was irrigated by canal water as well as by tubewell water. By using the modern techniques of cultivation, the agriculturist have been taking yield from the barani/ghair mumkin land equal to the chahi land.

It has been argued by the learned counsel for the petitioner that in the land acquisition reference No.37/96 titled as Darbaara Singh vs. Union of India

regarding the land of village Haripur, decided by this court on 22.11.2001, the compensation @ Rs.85,000/- per acre at flat rate has been allowed. This land has also acquired along with the land of these reference as such this court should allow the amount of compensation as fixed in the set of seventeen cases of land reference decided on 22.11.2001. The learned Government pleader and learned counsel for the respondents have conceded this fact that compensation @ Rs.85000/- per acre has been allowed for the similar land acquired vide the same notification by this Tribunal and even earlier by the court of Sh.S.S.Arora, the learned Additional District Judge, Jalandhar, while disposing of a set of seventy two land references vide order dated 17.10.1995.

This is how, the appellant i.e.Union of India is in appeal against the Awards dated 22.11.2001 and 03.12.2001, for, they arise out of the same acquisition.

I have heard learned counsel for the appellant and perused the records.

Ex facie, the reference Court had relied upon an earlier award dated 17.10.1995, vide which a similar land was acquired @ ₹ 85,000/- per acre. No doubt, the notification under Section 4 of the Act in the said case was issued on 14.03.1989, and, the land that was sought to be acquired, was situated in four different villages i.e.Daroli Khurd, Jalpot, Dhandor and Damunda. But as the purpose of acquisition was the same in both the proceedings, and, so was the nature and quality of land, the

Collector awarded the same compensation in both the matters. As is discernible from the judgment rendered by the reference Court, even the counsel for the appellant had conceded that the acquired land as also the land that was a subject matter of award dated 17.10.1995, was similar. And, this has never been the case of the appellant either before the reference Court or this Court, for, there was a dissimilarity in the lands involved in the two acquisition proceedings, earlier award dated 17.10.1995 ought not to have been relied upon. In fact, it appears that all the four villages i.e. Daroli Khurd, Jalpot, Dhandor and Damunda, and village Haripur are contiguous and abut each other. Nothing to the contrary could be pointed out. No doubt, in the matter that was decided vide award dated 17.10.1995, the notification under Section 4 of the Act was issued on 14.03.1989, whereas, in the present case, it was issued on 19.03.1990. But, that could rather be a concern for the landowners who were granted the same compensation, although, notification in their case was issued a year later.

It would be apposite to point out, at this stage, that the Union of India had assailed the award dated 17.10.1995, rendered by the reference Court, by way of appeal to this Court. And, likewise, the cross appeal/cross objections were preferred by the landowners as well. However, this Court vide its order and judgment dated 17.11.2008 rendered in RFA No.1266 of 1996, “Union of India through Secretary versus Piara Singh” and other connected matters, had dismissed the appeals preferred by the Union of India as also by the landowners. Meaning thereby, the compensation assessed and awarded by the reference Court i.e. ₹ 85,000/- per acre was affirmed by this Court. Learned counsel for the appellant fairly submits that judgment dated 17.11.2008, has since attained finality. That being so, no

interference is warranted in the awards dated 22.11.2001 and 03.12.2001.

Learned counsel for the appellant could not point out as to how the conclusion reached by the reference Court was either perverse or suffered from any material illegality. No other argument was raised.

Accordingly, the appeals being bereft of merit, are dismissed.

05.12.2016

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(ARUN PALLI)
JUDGE

Whether reportable-
Whether speaking/reasoned

Yes/No
Yes/No.