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

**Cross-Objection No.126-CI of 2016 and**
**RFA Nos.2037 of 2000 and other connected matters**
**Date of decision:4.4.2016**

Union of India and another

...Appellants

**Versus**

Pardan 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.R.S.Manhas, Advocate for the appellants
in RFA No. 1155-1997 and 2229-1997 and for respondent/cross-objectors
Mr.Gautam Kaile, Advocate for
Mr.O.P.Sharma, Advocate for cross-objector in
RFA Nos.1905 and 1942 of 2000
Mr.Vishal Munjal, Advocate for respondent in
RFA No.1530 of 2001
Mr.Vivek Singla, Advocate, Mr.Rajiv Sharma, Advocate,
Mr.IPS Doabia, Advocate, Mr.Arun Gosain, Advocate and
Ms.Ranjana Shahi, Advocate for UOI.

**RAMESHWAR SINGH MALIK, J. (Oral)**

This batch of 294 appeals, out of which appeals bearing RFA Nos. 2437 of **1995**, 1998 of **1997**, 839 to 844, 879 to 881, 936 to 944, 1006 to 1009, 1011 to 1023, 1130 to 1136, 1141 to 1144, 1146 to 1148, 2859, 2879 to 2882, 2885, 2886, 3108, 3109, 3233 to 3238, 3304, 3368 of **1999,** 1899 to 1969, 2031 to 2042, 2097 to 2141, 2152 to 2169, 2299, 2300 to 2310 of **2000**, 1442 to 1446, 1522 to 1534, 1558, 1559, 1914, 2565, 3861 to 3866 of **2001**, 3554 of **2002**, 848 to 852 of **2006,** 5461 and 7686 of **2011**, filed by the Union of India and remaining appeals bearing RFA Nos. 1155, 2229, 2332 of **1997**, 4472, 4649 of **1998**, 2230, 2554 of **2000,** 1396 to 1408, 2162, 2455 to 2458, 3428, 4497 to 4499, 5763 of **2001,** 2428 of **2002** and 915 of **2016** as well as

Cross-objection Nos.116-CI-2016 to 124-CI-2016, 126-CI-2016 to 139-CI-2016, 142-CI-2016 to 146-CI-2016, 148-CI-2016 to 152-CI-2016, 158-CI-2016 to 169-CI-2016, 173-CI-2016, 178-CI-2016 to 203-CI-2016, 206-CI-2016 to 221-CI-2016, filed by the land owners, is being decided vide this common order, as all these appeals as well as cross-objections, arise out of the same acquisition and raise identical questions of law and facts. However, with the consent of learned counsel for the parties and for the facility of reference, facts are being culled out from RFA No.2037 of 2000 (Union of India and others v.Pardan Singh and others).

Brief facts of the case are that State of Punjab sought to acquire the land for Union of India, for the defence purposes, out of as many as 8 revenue estates; namely Najo Chak, Beas Lahri, Simbli Gurjan, Naushehra Nal Bandan, Lahri, Panjupur, Mirzapur and Fatehgarh Churian. Accordingly, notifications under Sections 4 and 6 read with Section 17 of the Land Acquisition Act, 1894 (`the Act' for short) came to be issued on 15.7.1987.

Land Acquisition Collector, vide his one composite award dated 31.7.1989, assessed the market value of the acquired land @Rs.35,000/- per acre for Nehri/Chahi. Rs.25,000/- per acre was assessed for Barani-I and II. Rs.12,500/- per acre was assessed for Banjar Jadid. Rs.1,000/- per acre was assessed for Gair Mumkin and Rs.35,000/- per acre was assessed for Gair Mumkin Abadi.

Dissatisfied, land owners filed their objections under Section 18 of the Act and as a consequence thereof, land references were forwarded to the learned reference court. The learned reference court assessed the market value of the acquired land at Rs.1,44,000/- per acre for Nehri/Chahi land and other land was assessed at Rs.1,12,000/- per acre. (Rs.900/- per marla for Nehri/Chahi land and Rs.700/- per marla in respect of other land). Said award came to be challenged before this Court in a number of regular first appeals filed by the Union of India including **RFA No.2177 of 1991 (Union of India and another v. Puran Banti and others)**. Said Bunch of regular first appeals along with **Puran Banti's** case (supra) came to be decided by this Court vide order dated 19.11.1998 and the matter was remanded back for fresh decision by the learned reference court, after considering all the evidence available on record.

In compliance of the remand order dated 19.11.1998 passed by this Court in **Puran Banti's** case (supra), the learned reference court passed the fresh awards which are subject matter of consideration in the instant set of appeals. The learned reference court did not make any change qua market value for the first category of land, i.e. Nehri/Chahi as well as Gair Mumkin Abadi. Same amount of compensation, i.e., at the rate of Rs.900/- per marla was granted. However, learned reference court granted Rs.720/- instead of Rs.700/- per marla for Barani-I and II. Rs.600/- per marla was granted for Banjar Kadim and Gair Mumkin. The impugned award came to be passed by the learned reference court on 24.1.2000.

It is pertinent to note here that the two appeals bearing RFA Nos.2437 of 1995 titled as `Union of India and another Vs. Gurdeep Singh and another' and 4472 of 1998 titled as 'Shakuntala Devi Vs. Union of India & others' remained pending before this Court and were not remanded back by the above-said order dated 19.11.1998. It is also added here that RFA Nos.3861 to 3866 of 2001 were filed along with application for condonation of delay against the award dated 6.4.1998 of the learned reference court, after the other connected appeals earlier filed by Union of India had already been decided vide remand order dated 19.11.1998. However, Union of India has filed seven Regular First Appeals bearing Nos.1913, 1915, 1949, 2035, 2039, 2114 and 2165 of 2000 and land owners has filed one appeal bearing RFA No.2458 of 2001, even against the impugned award dated 24.1.2000 passed by learned reference court in compliance of remand order dated 19.11.1998 passed by this Court.

In this view of the matter, although the appeals bearing RFA Nos.3861 to 3866 of 2001 were not even maintainable after the remand order dated 19.11.1998, yet the same have been rendered infructuous after filing of the above-said fresh appeals in the year 2000. Accordingly, RFA Nos.2437 of 1995, 4472 of 1998 and 3861 to 3866 of 2001 are ordered to be disposed of, as having been rendered infructuous.

Both the parties felt aggrieved against the impugned award passed by the learned reference court. Union of India has filed numerous appeals, seeking reduction in the amount of compensation, granted to the land owners, whereas the land owners by way of their appeals as well as cross objections, are seeking further enhancement in the compensation for their acquired land. That is how, all these appeals and cross objections are being decided together.

Learned counsel for the appellant-Union of India vehemently contended that the learned reference court proceeded on a misconceived approach, while altogether ignoring the numerous sale instances, relied upon by the beneficiary department. In this regard, he refers to para 38 of the impugned award passed by the learned reference court, to contend that in view of the law laid down by the Hon'ble Supreme Court in **Lal Chand**

**v. Union of India and another, 2009(15) SCC 769,** these sale deeds deserve to be considered by this Court for the purpose of assessing the market value of the acquired land. He next contended that if the sale-deeds, referred in para 38 of the impugned award, are considered, taking the average market value thereof, then the amount of compensation granted to the land owners would be liable to be reduced.

In the alternative, learned counsel for Union of India contended that a reasonable percentage of cut deserves to be applied on the market value disclosed in the earlier award Ex.P6, referred in paras 45 to 47 of the impugned award passed by the learned reference court. He also contended that since the acquired land was simple agriculture land having no potentiality attached thereto, there was hardly any scope for the learned reference court to enhance the amount over and above what had been granted by the land acquisition collector. He also places reliance on the judgments of the Hon'ble Supreme Court in **Ram Kanwar and others v. State of Haryana and another, 2015 (1) RCR (Civil) 234, Charan Dass (dead) by LRs. v. Himachal Pradesh Housing and Urban Development Authority and others, 2010 (13) SCC 398** and **Lucknow Development Authority v. Krishna Gopal Lhori, 2008(1) SCC 554**. Finally, learned counsel for the Union of India prays for allowing the appeals, suitably reducing the amount of compensation awarded by the learned reference court.

Per contra, learned counsel for the land owners submits that vide award Ex.P6 dated 23.10.1981, which has attained finality between the parties upto the Hon'ble Supreme Court, land was acquired for similar purpose, i.e., for the defence purposes, out of the revenue estate of just adjoining villages namely Dhakki and Najo Chak. Both these revenue estates were adjoining each other. Revenue estates of Village Panjupur and Fatehgarh Churian were adjoining the revenue estates of abovesaid villages. Land was acquired vide award Ex.P6 pursuant to notification dated 14.3.1972. The Hon'ble Supreme Court has assessed the market value at the rate of Rs.400/- per marla for the land acquired vide award Ex.P6. He further submits that there could not be any better piece of evidence than the award Ex.P6. He would next contend that so far as the sale instances, relied upon by the beneficiary department and referred to in para 38 of the impugned award passed by the learned reference court, are concerned, the same were rightly ignored by the learned reference court, being hit by the provisions of Section 25 of the Act.

In this regard, learned counsel for the land owners submits that since the market value disclosed in these sale-deeds was less than what was granted by the land acquisition collector, these sale-deeds are bound to be excluded from consideration, these being either under valued or distress sales. On this issue, he places reliance on the judgment of the Hon'ble Supreme Court in **Lal Chand's** case (supra). The land owners would be entitled for 12% annual increase for the time gap between the acquisition vide award Ex.P6 and the instant acquisition, contended the learned counsel for the land owners. He concluded by submitting that in view of the law laid down by the Hon'ble Supreme Court in **The General Manager, Oil & Natural Gas Corporation Ltd. v. Rameshbhai Jivanbhai Patel & another, 2008(14) SCC 745** and **Ashok Kumar and others v. State of Haryana and others, 2015 (3) Scale 242,** land owners would be entitled for 12% annual increase on cumulative basis, for the time gap between above-said two acquisitions. He prays for dismissal of the appeals filed by the Union of India and for allowing the appeals as well as the cross-objections filed by the land-owners, modifying the impugned award passed by the learned reference court, suitably enhancing the amount of compensation for the acquired land.

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 the appeals filed by the Union of India have been found bereft of merit and the same are liable to be dismissed, whereas the appeals filed by the land owners deserve to be partly allowed, suitably enhancing the amount of compensation for their acquired land, for the following more than one reasons.

Taking the first argument raised by the learned counsel for the Union of India first, the sale-deeds, referred in para 38 of the impugned award, cannot be excluded from consideration, as rightly argued by the learned counsel for Union of India, simply because these were hit by the provisions of Section 25 of the Act. However, despite making his best efforts, learned counsel for the beneficiary department could not substantiate his arguments on merits of these sale-deeds and rightly so, it being a matter of record. A bare glance at the market value disclosed in these sale-deeds would leave no manner of doubt that the market value disclosed thereunder was much less than the market value assessed by the land acquisition collector.

In view of what has been discussed hereinabove, these sale instances are not being excluded out of consideration only because these are hit by Section 25 of the Act but the same are not being taken into consideration on their individual merits, because all these sale-deeds Ex.RW2/1, Ex.RW2/2 and Ex.RW2/9 were either under valued or were distress sales. In either of the two situations, the only inevitable conclusion is that these sale-deeds cannot be safely relied upon, for assessing the market value of the acquired land.

The above-said view taken by this Court also finds support from the law laid down by the Hon'ble Supreme Court in **Lal Chand's** case (supra). The relevant observations made by the Hon'ble Supreme Court in para 32 of its judgment, which contains ratio of the judgment and can be gainfully followed in the present case, read as under:-

> *"The existence of several other sale deeds showing a much higher value and the fact that the Land Acquisition Collector chose to award a higher rate in regard to some of the acquired lands, leads to an inevitable inference that Ex.R3 to R7 were either undervalued or were distress sales. Whatever be the reason, they are liable to be excluded from consideration."*

Coming to the next argument raised by the learned counsel for Union of India that a reasonable cut has to be applied in the present set of cases, the argument has been found wholly misplaced and the same is liable to be rejected. It is so said, because applying any particular percentage of cut on a given market value is not an absolute rule. Neither it is desirable nor it is possible to lay down any straight jacket formula in this regard, which might be made applicable in every given situation. It is equally true that each case is to be decided on the basis of its own peculiar facts and circumstances.

So far as the judgments relied upon by the learned counsel for the beneficiary department are concerned, there is no dispute about the law laid down therein. However, on close perusal of the cited judgments, none of them has been found to be of any help to the respondents, being distinguishable on facts. It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmasundra (Dead) Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

Further, it is not the case here that a very small piece of land was purchased or sold by way of award Ex.P6. Land measuring hundreds of kanals was acquired vide this award Ex.P6, which had been subject matter of consideration before this Court as well as before the Hon'ble Supreme Court and the litigation has attained finality between the parties. It is also a matter of record that the land was acquired vide Ex.P6 for this very beneficiary department and for the same purpose, that too from just adjoining revenue estates. In fact, the land has been acquired by way of instant acquisition only for the purpose of extension of already set up cantonment. In this view of the matter, instant one has not been found to be a fit case warranting imposition of any particular percentage of cut on the market value assessed by the Hon'ble Supreme Court vide award Ex.P6.

The view taken by this Court on the abovesaid issue, is also supported by the Division Bench judgment of this Court, rendered in **Harbans Singh and others v. State of Punjab through the Land Acquisition Collector, Patiala 2006(1) RCR (Civil) 634,** which was, in turn, based on the law laid down by the Hon'ble Supreme Court.

The relevant observations made by the Division Bench of this Court in paras 12 and 13 of the judgment in **Harbans Singh's** case (supra), which aptly apply to the facts of the present case, read as under:-

> *"12. There is no quarrel with the proposition, as has been laid down by the Hon'ble Apex Court in **Administrator General of West Bengal v. Collector's case** (supra), that where the sale instance relied upon by the claimants comprised of small plot of land, then a cut has to be applied while evaluating a large tract of land. However, in our considered view, the aforesaid proposition of law would not be attracted to the present case. As has been noticed by the learned reference court as well as by the learned Single Judge, it is clear that the acquired land was situated within the municipal limits. G.T. Road was situated on one side of the acquired land whereas on the other side of the acquired land a by-pass road connecting Sirhind town with the G.T. Road was situated. There were certain shops, workshops, and petrol-pumps near the acquired land. In this view of the matter, certain observations made by the Hon'ble Apex Court in **Bhagwathula Samanna and others v. Special Tehsildar and Land Acquisition Officer, Visakhapatnam Municipality 1992(1) RRR 257** may be noticed :*
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>> *"The proposition that large area of land cannot possibly fetch a price at the same rate at which small plots are sold is not absolute proposition and in given circumstances it would be permissible to take into account the price fetched by the small plots of land. If the larger tract of land because of advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not warranted. With regard to the nature of the plots involved in these two cases, it has*

> *been satisfactorily shown on the evidence on record that the land has facilities of road and other amenities and is adjacent to a developed colony and in such circumstances it is possible to utilise the entire area in question as house sites. In respect of the land acquired for the road, the same advantages are available and it did not require any further development. We are, therefore, of the view that the High Court has erred in applying the principle of deduction and reducing the fair market value of land from Rs. 10/- per sq. yard to Rs. 6.50 per sq. yard. In our opinion, no such deduction is justified in the facts and circumstances of these cases."*

*13. Following the aforesaid dictum laid down by the Hon'ble Supreme Court of India, a Division Bench of Madras High Court in* ***Special Tehsildar (Adi Dravidar Welfare) v. Abdul Reguman, 1996 L.A.C.C. 394*** *held as follows :*

> *"In our view the observation made by the Supreme Court is squarely applicable to the case in hand. Admittedly, the land in question is already in a developed area and situated in an advantageous position and quite suitable for building purpose. It is also proved in evidence that the land in question has all the amenities such as roads, drainage, electricity, communications etc. Therefore, we are of the view that the learned Subordinate Judge is not justified in deducting 20% from the market value. We, therefore, set aside that part of the order of the learned Subordinate Judge, fixing the market value at Rs. 1325/- less 20%. The cross-objection is, therefore, allowed and the order of the Subordinate Judge is modified to this extent."*

That brings this Court to the argument raised by the learned counsel for the land owners, who has been found well justified in contending that in the peculiar facts and circumstances of the case in hand, award Ex.P6 is the best piece of evidence available on record, which can be safely relied upon for the purpose of assessing the market value of the acquired land. Further, the land owners would be entitled for 12% annual increase, for the time gap, which by now, is a settled principle of law. The relevant time gap is between these two acquisitions, i.e. under award Ex.P6 and the present one.

In view of the law laid down by the Hon'ble Supreme Court in **Rameshbhai Jivanbhai Patel's case (supra ) and Ashok Kumar's case (supra),** the land owners are entitled for 12% annual increase for the time gap on cumulative basis. It is equally pertinent to note here that time gap between these two acquisitions is more than 15 years, to be precise 15 years and 4 months. The date of notification in the award Ex.P6 was 14.3.1972, whereas in the instant case, it is 15.7.1987.

Following the law laid down by the Hon'ble Supreme Court in **Smt.Ashrafi and others v. State of Haryana and others, 2013 (5) SCC 527**, this Court feels no hesitation to conclude that the land owners are entitled for 12% annual increase on cumulative basis for the above-said time gap of 15 years. The market value assessed by the Hon'ble Supreme Court in the award Ex.P6 was Rs.400/- per marla. Granting the benefit of 12% annual increase on cumulative basis for the above-said time gap, the amount comes to Rs.2452.04/- which is rounded of to Rs.2453/- per marla, and the land owners would be entitled for this amount of compensation for their acquired land, from the date of notification under Section 4 of the Act.

Although, as per the site plan placed before the Court by the learned counsel for the Union of India, the land acquired vide award Ex.P6 out of revenue estates of villages Dhakki and Najo Chak, was adjoining to the revenue estates of above-said villages whose land has been acquired by way of instant acquisition, yet even if the distance between village Panjupur and village Dhakki is to be taken as it is, the land owners would still be entitled for the benefit of award Ex.P6, in view of the law laid down by the Hon'ble Supreme Court in **Ashrafi's** case **(supra), Thakarsibhai Devjibhai and others v. Executive Engineer, Gujarat and another, AIR 2001 SC 2424** as well as in **Kashmir Singh Vs. State of Haryana, 2014 (2) SCC 165.**

As regards belting system, this Court is of the view that no belting system was warranted in the present case. It is so said because every inch of acquired land was going to be put to the same use. Purpose of acquisition was the same. In such an undisputed fact situation, it can be safely held that the belting system was wrongly adopted by the land acquisition collector and illegally upheld by the learned reference court, which cannot be upheld.

The above-said view taken by this Court on the belting system also finds support from the more than one following judgments of the Hon'ble Supreme Court as well as this Court: -

1. **Union of India Vs. Harinder Pal Singh and others, 2005 (12) SCC 564;**
2. **Udho Dass Vs. State of Haryana, 2010 (12) SCC 51**
3. **Ashrafi and others Vs. State of Haryana and others, 2013 (5) SCC 527.**

4. ***Kehar Singh Vs. Punjab State, 1992 (1) R.R.R. 81 (P&H)***
5. ***Harinderpal Singh Vs. Punjab State through the Collector, Amritsar, 1997 (3) RCR (Civil) 431 (P&H)***
6. ***Union of India Vs. Dr. Balbir Singh, 1999 (2) RCR (Civil) 546 (P&H)***
7. ***Pawan Kumar and another Vs. Land Acquisition Collector and others, 2001 (1) RCR (Civil) 598. (P&H)***
8. ***Harjit Singh @ Kaka Singh (died) Vs. State of Punjab and another, 2004 (1) RCR (Civil) 484 (P&H)***
9. ***Smt. Mahabiri Devi and others Vs. State of Haryana and another, 2005 (4) RCR (Civil) 142 (P&H)***
10. ***Gulzar Singh Vs. State of Haryana, 2006 (3) RCR (Civil) 174 (P&H)***
11. ***Kashmira Singh and others Vs. Land Acquisition Tribunal Ludhiana Improvement Trust through its President and others, 2006 (2) L.A.R. 69.(P&H)***
12. ***Gursher Singh and others Vs. President, Improvement Trust Tribunal, Jalandhar and others, 2007 (1) RCR (Civil) 429 (P&H)***
13. ***Baru Ram and others Vs. State of Haryana and another, 2010 (3) RCR (Civil) 754. (P&H.***

In **RFA No.2162 of 2001** (Surain Singh and others v. Union of India and others), learned reference court has gone wrong, while dismissing the reference only on the ground of delay. Learned counsel for the appellants-land owners submits that as a matter of fact, parties had been litigating for getting the title decided and once the title was decided in favour of appellants, they immediately approached the learned reference court. In this regard, he places reliance on the judgment of the Hon'ble Supreme Court in **Madan and another v. State of Maharashtra, 2014 (2) SCC 720.**

When confronted with the abovesaid fact situation, learned counsel for Union of India had no answer and rightly so, it being a matter of record and the issue being squarely covered by the judgment of the Hon'ble Supreme Court in **Madan's** case (supra). In this view of the matter, the finding recorded by the learned reference court cannot be sustained and the impugned award dismissing the land references of the appellants only on the ground of delay, is hereby set aside. The appeal stands allowed and the appellants-landowners would be entitled for the same amount of compensation for their acquired land, which has been granted to other similarly situated land owners.

Let it be specifically recorded here that no other better evidence or judicial precedents were pressed into service nor any other argument was raised on behalf of either of the parties.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the appeals filed by the Union of India are wholly misconceived, bereft of merit and without any substance, thus, these must fail and the same are hereby dismissed.

However, the appeals as well as cross objections filed by the land owners deserve to be partly accepted and the same are allowed to the extent indicated above. The land owners are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.2453/- per marla from the date of notification under Section 4 of the Act. Besides this, the land owners shall also be entitled to all the statutory benefits available to them under the relevant provisions of the Act.

Resultantly, with the above-said observations made, all the above-said appeals and cross-objections stand disposed of, however, with no order as to costs.

**4.4.2016** **(RAMESHWAR SINGH MALIK)**
**mks** **JUDGE**