

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

**RFA No. 3642 of 1998 (O&M)
Date of decision: 6.1.2016**

Malkiat Singh

.. Appellant

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Arun Gupta, Advocate
for the appellant in RFA No. 3642 of 1998.

Mr. Naresh Kumar, Advocate,
for respondents No. 2 and 3 in RFA No. 3130 of 1998
and for respondents in RFA No. 2139 of 1998.

Mr. Yatinder Sharma, Additional A.G. Punjab.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J.

These six regular first appeals bearing RFA Nos. 3642, 3129, 3130, 2252 of 1998, RFA Nos. 547 and 548 of 2005, as well as cross objections filed by the land owners in the appeals filed by the State of Punjab, are being decided together vide this common order, as all the appeals are arising out of the same acquisition, raising identical questions of law and facts. However, for the facility of

reference, facts are being culled out from RFA No. 3642 of 1998 (Malkiat Singh Vs. State of Punjab).

Briefly put, basic facts necessary for disposal of this batch of six appeals, are that State of Punjab sought to acquire land in question at public expenses for the public purpose, i.e. construction of Dholbaha Dam, Kandi Canal. Accordingly, notification dated 26.7.1988 came to be issued under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short), which was followed by notification dated 6.9.1988 under Section 6 of the Act. The Land Acquisition Collector, vide his award No. 102-A dated 5.10.1990 awarded an amount of ₹17,000/- per acre for *Chahi* land, ₹7,000/- per acre for *Jhangi Darakhatan* and ₹5,000/- per acre for *Gair Mumkin Khad*. The acquired land was of three villages namely Bhaliala, Bassi Kale Khan and Shahzadpur. However, these cases are pertaining to villages Bhaliala and Shahzadpur only.

Dissatisfied with the award of the Collector, land owners filed their objections under Section 18 of the Act, whereupon the cases were referred to the learned reference court. Parties led their respective evidence. After hearing learned counsel for the parties and going through the evidence brought on record, learned reference court, vide its award dated 5.5.1998, awarded the compensation @ of ₹24,000/- per acre for *Chahi* land, ₹10,000/- per acre for *Jhangi Darakhatan* land and ₹7,000/- for *Gair Mumkin Khad*.

Feeling aggrieved, land owners as well as State of Punjab filed their respective appeals against the impugned award

dated 5.5.1998. The land owners have also filed their cross objections in the appeals filed by the State of Punjab. That is how, all these cases are being decided together.

Having heard the learned counsel for the parties at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that appeals filed by State of Punjab are without any merit, whereas appeals as well as cross objections filed by the land owners deserve to be allowed partly, granting them the benefit of award dated 23.5.1996 rendered by the learned reference court in LA case No. 5 of 28.3.1995 (Kashmir Kaur Vs. Land Acquisition Officer and another). To say so, reasons are more than one, which are being recorded hereinafter.

It is a matter of record and not in dispute that land of the present appellants and that of Smt. Kashmir Kaur was acquired vide same notifications and common award No. 102-A dated 5.10.1990. The entire land was acquired for the same purpose. The land of Smt. Kashmir Kaur was situated in village Bhaliala and land of the present appellants-cross objectors is situated in village Bhaliala as well as village Shahzadpur which are adjoining with each other.

The land owners placed reliance on the award passed in favour of Smt. Kashmir Kaur (supra) before the learned reference court, as Ex. A-4 which is available at page 46 of the lower court record. However, the learned reference court has illegally ignored the said award of Kashmir Kaur (supra), while passing the impugned

award dated 5.5.1998. It is also not in dispute that Smt. Kashmir Kaur was granted the compensation @ ₹74,400/- per acre. Having said that, this Court feels no hesitation to conclude that the land owners, in these cases, could not have been discriminated and they are also entitled for the same amount of compensation at par with Smt. Kashmir Kaur.

During the course of hearing, when confronted with the award dated 23.5.1996 passed by the learned reference court in Kashmir Kaur's case (supra), learned counsel for the State had no answer and rightly so, it being a matter of record. In such a situation, there is no reason to deny the benefit of award passed in favour of Kashmir Kaur (supra) to the appellants as well as to the cross objectors in this batch of appeals.

Similar appeals filed by the State of Punjab arising out of this very acquisition have already been dismissed by this Court vide order dated 1.7.2015 passed in RFA No. 3126 of 1998 (State of Punjab an another Vs. Harbans Lal). In the case of Harbans Lal (supra), learned reference court, vide award dated 3.4.1988, had rightly followed the award of Smt. Kashmir Kaur (supra), granting the same amount of compensation to Harbans Lal who was also from village Bhaliala. In this view of the matter, it can be safely concluded that the land owners as well as cross objectors, in these cases, are also entitled for the same amount of compensation for their acquired land, bringing them at par with Harbans Lal, whose land was also acquired vide same notifications and for the same purpose.

Further, statement of Malkiat Singh-AW1, available at page 67 of the lower court record, has gone unrebutted on all the material aspects of the matter. The relevant part of the statement of Malkiat Singh, who claims himself to be better placed than Smt. Kashmir Kaur, reads as under:-

"In village Bhaliala the land has been acquired for the construction of the same canal vide the same notification. Land of Kashmir Kaur which was acquired was on the boundary line of village Bhaliala. My land is situated on metalled road whereas the land of Kashmir Kaur was not situated on any main road. My land is also near Abadi. I produce copy of Jamabandi Ex. A.2. The site plan is Ex.A.1 Copy of Akas, Ex.A.3 and copy of the judgment regarding the land of Kashmir Kaur is Ex.A.4. Whole of my land Chahi."

Similarly, statement of Kewal Singh-RW1, Patwari, also goes in favour of the land owners and the relevant part thereof, reads as under:-

"The land acquired was situated on metalled road leading to Hariana. The boundary of village Bhaliala abuts village Sajadpur on northern side. The said village also the land was acquired for the same canal and by the same notification and same award."

Once the abovesaid evidence speaks volumes in favour of the land owners, there remains no room for doubt about the entitlement of the land owners in these appeals and cross objectors to receive same amount of compensation which has been granted to Smt. Kashmir Kaur. Further, since the land was acquired for the same purpose and category thereof would be hardly of any consequence, there is no reason to deny the uniform rate of compensation to the land owners. Accordingly, the cross-objectors as well as appellants-land owners, in all these cases, are held entitled for the uniform rate of compensation to the tune of ₹74,400/- per acre, for their acquired land.

The abovesaid view taken by this Court also finds support from the Division Bench judgment of this Court in **Harinderpal Singh Vs. Punjab State through the Collector, Amritsar, 1997 (3) RCR (civil) 431**, which was upheld by the Hon'ble Supreme Court in **Union of India Vs. Harinderpal Singh and others, JT 2005 (9) SC 280**.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since appeals filed by the State of Punjab are misconceived, bereft of merit and without any substance, they must fail and same are dismissed. Appeals as well as cross objections filed by the land owners are hereby allowed and they are held entitled to receive the compensation for their acquired

land at the uniform rate of ₹74,400/- per acre.

So far as severance charges on different pieces of land granted to the land owners is concerned, the land owners shall be entitled for the same percentage of severance charges on the enhanced compensation as well. It goes without saying that the land owners-appellants as well as cross objectors shall also be entitled for all the statutory benefits available to them under the relevant provision of the Act.

Resultantly, with the abovesaid observations made, appeals as well as cross objections stand disposed, in the abovesaid terms, however, with no order as to costs.

**(RAMESHWAR SINGH MALIK)
JUDGE**

6.1.2016
AK Sharma