

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

**RFA No.2902 of 1999 & connected matters**  
**Date of decision:17.2.2016**

Union of India and another

...Appellants

**Versus**

Major Pritam Singh and another

...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.Chetan Mittal, Sr. Advocate with  
Mr.Vivek Singla, Advocate, Mr.Rajiv Sharma, Advocate,  
Mr.R.S.Longia,  
Mr.Pankaj Jain, Advocate, Mr.O.P.Dabla, Advocate,  
Mr.Deepak Malhotra, Advocate, Mr.Prateek Gupta,  
Mr.Abhinav Gupta, Advocate, Mr.Arun Gosain, Advocate,  
Mr.Nimarpreet Sidhu, Advocate, Ms.Gehna Vaishnavi,  
Mr.Varun Issar, Advocate and Mr.Udit Garg,  
Mr.Ashwani Kumar, Advocate for Union of India.

Mr. R.S.Chauhan, Advocate,  
for the appellant in RFA No.2534 of 2002 and 3020 of 2002.

Mr. Rajeev Dev Sharma, Advocate,  
for the appellant(s) in RFA No. 2584 to 2592 of 2008 and 2594  
of 2008.

Mr. Vishal Aggarwal, Advocate,  
for the appellant(s) in RFA No. 3405 of 2008, 63 of  
2009, 3498 of 2009.

Mr. R.S.Manhas, Advocate with  
Mr. Gaurav Partap Singh Pathania, Advocate,  
and Mr. Abhimanyu Singla, Advocate,  
for the appellant(s) in RFA Nos.3057 to 3075 of 2002,  
264, 265, 1299, 1554, 1944 to 1946 of 2004,  
2234 to 2236 of 2004, 1794 to 1801 of 2007  
and for respondent(s) in RFA No.553 of 2001.

Mr.Vikram Singh, Advocate for the appellant(s) in  
RFA Nos.5065 and 5066 of 2009 and  
for the respondent(s) in RFA Nos. 4141 and 4142 of 2009.

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

This batch of 485 appeals, out of which 346 appeals bearing RFA Nos. 2902 to 2916 of 1999, 1972 and 1973 of 2000, 511 to 513 of 2001, 548 to 560 of 2001, 1129 to 1137 of 2001, 1830 of 2001, 1389 to 1391 of 2002, 2477 to 2485 of 2002, 2991 to 3026 of 2002, 3813 to 3815 of 2002, 3819 to 3823 of 2002, 1481 of 2003 and 1482 of 2003, 3533 of 2003, 5165 to 5176 of 2008, 5234 of 2008, 5721 to 5724 of 2008, 136 and 137 of 2009, 241 to 243 of 2009, 294 and 295 of 2009, 492 and 493 of 2009, 528 to 530 of 2009, 907 to 909 of 2009, 914 to 919 of 2009, 960 to 967 of 2009, 999 to 1010 of 2009, 1013 of 2009, 1239 to 1242 of 2009, 1439 to 1482 of 2009 and 1565 of 2009, 1566 to 1573 of 2009, 2996 to 2999 of 2009, 4139 to 4143 of 2009, 4298 of 2009, 4931 to 4933 of 2009, 4945 and 4946 of 2009, 5013 of 2009, 5422 to 5430 of 2009, 227 of 2010, 1168 of 2010, 3187 to 3190 of 2010, 4454 of 2011, 4512 of 2011, 4536 of 2011 and 4543 of 2011, 4544 to 4585 of 2011, 5907 to 5915 of 2011 and 6096 of 2011, 6097 of 2011, 6919 of 2011, 7805 to 7819 of 2011, 7870 of 2011, 111 to 113 of 2012, 534 of 2012, 557 to 561 of 2012, 674 to 676 of 2012, 746 to 750 of 2012, 756 of 2012, 796 of 2012, 886 of 2012, 1558 of 2012, 6640 of 2012 and 6641 of 2012 have been filed by the Union of India and remaining 139 appeals bearing RFA Nos 1744 to 1749 of 1999, 1815 and 1816 of 1999, 2433 and 2434 of 1999, 2666 to 2668 of 1999, 2798 of 1999, 2799 of 1999, 235 to 238 of 2000, 522 and 523 of 2000, 640 of 2000, 1449 of 2001 and 1450 of 2001, 2938 to 2942 of 2001, 2003 to 2005 of 2002, 2534 of 2002, 2733 of 2002, 2775 to 2780 of 2002, 3057 to 3075 of 2002, 3608 to 3612 of 2002, 4139 of 2002, 2216 of 2003, 4715 of 2003, 2234 and 2236 of 2004, 1794 to 1801 of 2007, 2550

of 2007 to 2552 of 2007, 669 to 675 of 2008, 763 to 777 of 2008, 1036 of 2008, 1989 to 2001 of 2008, 2584 to 2594 of 2008, 3238 of 2008, 3405 of 2008, 5759 of 2008, 63 of 2009, 2036 to 2039 of 2009, 3498 of 2009, 3790 of 2009, 5065 and 5066 of 2009 have been filed by the land owners, is being decided vide this common order, as all these appeals and cross objections arise out of 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.2902 of 1999 (Union of India and another v. Major Pritam Singh and another)**.

Facts necessary for disposal of instant batch of appeals are that 2954.47 acres of land was sought to be acquired by State of Punjab at public expenses for public purpose i.e. for defence purposes. Accordingly, notifications under Sections 4 as well as 6 of the Land Acquisition Act, 1894 ('the Act' for short) were issued on 22.2.1991, invoking the urgency clause under Section 17 of the Act. Village-wise details of the land acquired from different revenue estates, is as under:-

| <i>Sr.No.</i> | <i>Name of village</i> | <i>Total area (in acres)</i> |
|---------------|------------------------|------------------------------|
| 1             | Pangoli                | 242.98750                    |
| 2             | Bungal                 | 39.21                        |
| 3             | Nagrota                | 425.61                       |
| 4             | Kuther                 | 45.84                        |
| 5             | Kehari                 | 132.06                       |
| 6             | Gagroli                | 275.02                       |
| 7             | Seunti                 | 60.85                        |

| <i>Sr.No.</i> | <i>Name of village</i> | <i>Total area (in acres)</i> |
|---------------|------------------------|------------------------------|
| 8             | Tehari Tikka Nagrota   | 557.76                       |
| 9             | Terhari Tikka Phangoli | 216.65                       |
| 10            | Karoli                 | 972.26                       |

Learned counsel for the parties are ad idem that later on, land of above-said village Karoli was denotified vide notification dated 31.5.1994. Land acquisition collector, vide his common award for all the above-said villages, announced on 15.3.1993, granted the compensation to the land owners for their acquired land, at the following rates:-

| <i>Type of land</i> | <i>Compensation per acre</i> |
|---------------------|------------------------------|
| Chahi               | Rs.35,000/-                  |
| Barani-I            | Rs.30,000/-                  |
| Barani-II           | Rs.25,000/-                  |
| B/Jadid             | Rs.15,000/-                  |
| Banjar Qadim        | Rs.10,000/-                  |
| Gair Mumkin         | Rs.5,000/-                   |
| Gair Mumkin Abadi   | Rs.35,000/-                  |

Dissatisfied with the amount of compensation granted by the land acquisition collector, 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. Vide its three identical awards, the learned reference court granted the different amounts of compensation to the land owners. Vide award dated 22.3.1999, the amount of Rs.1400/- per marla was granted at the uniform rate. Vide award dated 29.1.2002, the learned reference court awarded the compensation as under:-

| <i>Type of land</i> | <i>Compensation per acre</i>   |
|---------------------|--------------------------------|
| Barani land         | Rs.42,000/- (Rs.263 per marla) |
| Banjar Qadim        | Rs.16,800/- (Rs.105 per marla) |

| <i>Type of land</i> | <i>Compensation per acre</i>   |
|---------------------|--------------------------------|
| Gair Mumkin         | Rs.7,000/- (Rs.44 per marla)   |
| Gair Mumkin Abadi   | Rs.42,000/- (Rs.263 per marla) |

Similarly, vide third award dated 17.7.2007, learned reference court awarded the amount of compensation at the uniform rate of Rs.1600/- per marla, however, after including all the benefits of under Section 23 (1) (a) of the Act, it granted the amount of Rs.1830/- per marla.

Both the parties felt aggrieved against the above-said three identical impugned awards passed by the learned reference court. Union of India has filed 346 appeals, seeking reduction in the compensation awarded by the learned reference court. Land owners have filed 139 appeals and cross objections seeking further enhancement in the amount of compensation for their acquired land. That is how, all these appeals and cross-objections are being decided together.

It is undisputed on record that the learned reference court has also passed numerous later awards, including the awards dated 3.11.2006, 16.5.2007, 22.8.2007, 8.9.2007, 11.9.2007, 14.9.2007, 17.9.2007, 21.9.2007, 29.9.2007, 6.10.2007, 11.12.2007, 12.12.2007, 13.12.2007, 17.1.2008, 18.1.2008, 2.2.2008, 5.2.2008, 13.2.2008, 1.3.2008, 5.4.2008, 12.4.2008, 6.8.2008, 18.8.2008, 22.8.2008, 21.11.2008, 9.8.2010, 21.2.2011, 6.12.2013, 6.1.2014. However, the amount of compensation awarded vide these different awards was the same, which has been noticed hereinabove.

Learned counsel for the Union of India submits that the learned reference court has wrongly placed reliance on an earlier award Ex.A6 in the case of **Jagir Singh and another v. Union of India and others (LAC No.76 of 1989)**. They further submit that since the land under award Ex.A6

and the present acquired land were not adjoining with each other, the award in **Jagir Singh's** case (supra) should not have been made the basis for assessing the market value of the acquired land. They pray for allowing the appeals filed by Union of India.

Per contra, learned counsel for the land owners and cross objectors would vehemently contend that although there were numerous sale instances available on record in favour of the land owners, which would entitle them for much higher compensation, yet the learned reference court was justified in following the earlier award Ex.A6 in **Jagir Singh's** case (supra). They would further submit that the learned reference court fell in serious error of law, while not granting the benefit of annual increase to the land owners for the time gap between acquisition in **Jagir Singh's** case (supra) and the present acquisition. Learned counsel for the land owners would also submit that the learned reference court committed another serious error of law, while including the statutory benefits into the basic market value assessed. They concluded by submitting that the appeals as well as the cross objections filed by the land owners may be allowed, 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 since the appeals filed by the Union of India have been found bereft of merit, the same are liable to be dismissed. So far as the appeals and cross objections filed by the land owners are concerned, the same deserve to be partly allowed, suitably enhancing the amount of compensation for their acquired land. To say so, reasons are more than one, which are being

recorded hereinafter.

A careful perusal of the impugned awards passed by the learned reference court would show that the same are primarily based on earlier award Ex.A6, available at page 129 of the lower court record ('LCR' for short). It is also a matter of record that the learned reference court had granted the compensation at the rate of Rs.1400 per marla in **Jagir Singh's** case (supra), decided on 2.5.1990. Since the land owners have not produced any clinching evidence including the sale instances which may be claimed to be better evidence than the award Ex.A6 in **Jagir Singh's** case (supra), the learned reference court committed no error of law, while passing the identical but different impugned awards based on earlier award passed in **Jagir Singh's** case (supra).

In **Jagir Singh's** case (supra), the land of adjoining village Mamoon was acquired vide earlier notification dated 14.1.1987, whereas the notification in the instant acquisition came to be issued on 22.2.1991, thus, there was a time gap of more than 4 years and 1 month between these two acquisitions. Learned counsel for the land owners have been found justified in contending that the learned reference court failed to grant the benefit of annual increase to the land owners and that too without recording any reasons.

Hon'ble the Supreme Court in **Mehrawal Khewaji Trust (Registered), Faridkot and others v. State of Punjab and others, (2012) 5 SCC 432** has held that the land owners are entitled to receive the best price for their acquired land. Similarly, in the case of **Udho Dass v. State of Haryana, 2010 (12) SCC 51**, Hon'ble the Supreme Court observed that the land owners are hardly compensated in the real sense of the term, by

awarding the compensation by the courts, because some times annual increase in the prices may be up to 100%. The relevant observations made by the Hon'ble Supreme Court in paras 17 and 18 of its judgment in **Udho Dass's** case (supra), which can be gainfully followed in the present case, read as under:-

*“Although, in the present matter, sale instances around or near abouts the date of Notification of the present acquisition are available yet these cannot justify or explain the potential of a particular piece of land on the date of acquisition as the potential can be recognized only some time in the future and it is open to a landowner claimant to contend that the potential can be examined first at the time of the Section 18 Reference, the first Appeal in the High Court or in the Supreme Court in appeal as well. We must also highlight that Collectors, as agents of the State Government, are extraordinarily chary in awarding compensation and the land owners have to fight for decades before they are able to get their due. We take the present case as an example. The land was notified for acquisition in May 1990. The collector rendered his award in May 1990 awarding a sum of Rs. 2,00,000/- per acre. The Reference Court by its award dated January 2001 increased the compensation to Rs. 125 per square yard for the land of the road behind the ECE factory and Rs. 150 per square yard for the land abutting the road which would come to Rs. 6,05,000/- and Rs. 7,26,000/- respectively for the two pieces of land. This itself is a huge increase vis-a-vis the Collector's award. The High Court in First Appeal by its judgment of 24th September 2007 enhanced the compensation for the two categories to Rs. 135 and 160 respectively making it Rs. 6,53,400/- and Rs. 7,74,400/-. In other words, this is the compensation which ought to have been awarded by the Collector at the time of his award on 12th May 1993. This has, however, come to the land owner for the first*

*time as a result of the judgment of the High Court which is under challenge in this appeal; in other words, a full 17 years from the date of Notification under Section 4 and 14 years from the date of the award of the Collector on which date the possession of the land must have been taken from the landowner. Concededly, the Act also provides for the payment of the solatium, interest and an additional amount but we are of the opinion, and it is common knowledge, that even these payments do not keep pace with the astronomical rise in prices in many parts of India, and most certainly in North India, in the land price and cannot fully compensate for the acquisition of the land and the payment of the compensation in dribbles. The 12% per annum increase which Courts have often found to be adequate in compensation matters hardly does justice to those land owners whose land have been acquired as judicial notice can be taken of the fact that the increase is not 10 or 12 or 15% per year but is often upto 100% a year for land which has the potential of being urbanized and commercialized such as in the present case. Be that as it may, we must assume that the landowners were entitled to the compensation fixed by the High Court on the date of the award of the Collector and had this amount been made available to the landowners on that date, it would have been possible for them to rehabilitate their holdings in some other place. This exercise has been defeated for the simple reason that the payment of compensation has been spread over almost two decades. In this view of the matter, we are of the opinion that a landowner is entitled to say that if the compensation proceedings continued over a period of almost 20 years as in the present case, the potential of the land acquired from him must also be adjudged keeping in view the development in the area spread over the period of 20 years if the evidence so permits and cannot be limited to the near future alone. We, therefore, feel that in the circumstances, the appellants herein were fully entitled to say that the potential of*

*the acquired land had not been fully recognized by the High Court or by the Reference Court. We must add a word of caution here and emphasize that this broad principle would be applicable where the possession of the land has been taken pursuant to proceedings under an acquiring Act and not to those cases where land is already in possession of the Government and is subsequently acquired.*

*There is another unfortunate aspect which is for all to see and to which the Courts turn a Nelson's eye and pretend as if the problem does not exist. This is a factor which creates an extremely grim situation in a case of compensation based exclusively on sale instances. This is the wide spread tendency to under value sale prices. The provision of Collector's rates has only marginally corrected the anomaly, as these rates are also abnormally low and do not reflect the true value. Where does all this leave a landowner whose land is being compulsorily acquired as he has no control over the price on which some other landowner sells his property which is often the basis for compensation?"*

In view of what has been discussed hereinabove, this Court is of the considered view that it would be just and expedient to grant the benefit of annual increase at the rate of 12%, to the land owners in the instant matter, for the above-said time gap of 4 years and 1 month. As per the law laid down by the Hon'ble Supreme Court in **Ashok Kumar and others v. State of Haryana, 2015 (3) Scale 242**, the cumulative method of annual increase has to be adopted.

Thus, granting the benefit of annual increase with cumulative effect, for the time gap of 4 years, on the above-said market value of Rs.1400/- per marla already granted vide earlier award Ex.A6 in **Jagir Singh's** case (supra), the land owners in these cases would be entitled for

Rs.2002.93 paise per marla which is rounded off to Rs.2003/-. Adding the benefit of annual increase for the remaining period of more than one month and also taking into consideration all the positive and negative determinative factors, as per the law laid down by the Hon'ble Supreme Court in **Viluben Jhalejar Contractor (D) by LRs v. State of Gujarat 2005 (4) SCC 789** and also the observations made in **Udho Dass's case (supra)**, this figure is rounded off to Rs.2300/- per marla. Accordingly, the land owners are held entitled to receive the compensation for their acquired land at this uniform rate of Rs.2300/- per marla from the date of notification under Section 4 of the Act.

Now, the question that falls for consideration of this Court is: whether the belting system adopted by the land acquisition collector and the learned reference court deserves to be upheld or not? It is a matter of record that the land from the different revenue estates of all the above-said villages was acquired for one and the same purpose. On a pointed question having been put to the learned counsel for the Union of India, they have failed to support the finding recorded in the impugned awards, on the belting system. Once the beneficiary department was going to put every inch of the acquired land to one and the same purpose, belting system was not warranted in the present cases and the same is liable to be discarded. Again, the finding recorded by the learned reference court including the statutory benefits in the assessed market value, is patently illegal and the same cannot be upheld.

The view taken by this Court in this regard, also finds support from the 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, 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 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).***

Although, on earlier points of time, instant bunch of cases was

being adjourned to await the decision of the Hon'ble Supreme Court in

**Civil Appeal No.6289-6322 of 2008 (Union of India v. Jagir Singh and others)**, yet learned counsel for the Union of India have brought to the notice of this Court an order dated 14.7.2015 passed in **SLP (C) No.19540-19541 of 2011 (Union of India and others v. Basant Singh and others)**. The relevant part of the order dated 14.7.2015 passed by the Hon'ble Supreme Court, reads as under:-

*“In our view, at this stage, if we direct the High Court to decide the appeals on merits and continue the interim order granted by this Court till the disposal of the appeals, it would satisfy the interest of both the parties.*

*In that view of the matter, we dispose of these Special Leave Petitions with a request to the High Court to decide the pending First Appeals as early as possible. The interim order granted by this Court shall ensure to the benefit of the petitioners till the disposal of the appeals by the High Court.”*

In view of the above-said order passed by the Hon'ble Supreme Court and with the consent of learned counsel for the parties, this bunch of cases was taken up for final disposal. This has been noticed only to avoid any kind of confusion in this regard.

No 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 have been found wholly misconceived, bereft of merit and without any substance, thus, these must fail and the same are hereby dismissed.

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.2300/- 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 observations made above, all the afore-said appeals stand disposed of, in the afore-said terms, however, with no order as to costs.

**17.2.2016**  
**mks**

**(RAMESHWAR SINGH MALIK)**  
**JUDGE**