

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: December 12, 2016

Sr. No.	Case No.	Title	
		Appellant(s)	Respondent(s)
1.	RFA-510-2001	Union of India and another	Karam Singh
2.	RFA-514-2001	Union of India and another	Shabar Hussain
3.	RFA-561-2001	Union of India and another	Ramjan Ali
4.	RFA-562-2001	Union of India and another	Brahmo Devi
5.	RFA-563-2001	Union of India and another	Karnail Singh
6.	RFA-564-2001	Union of India and another	Sarista Devi and another
7.	RFA-565-2001	Union of India and another	Jaishi Ram
8.	RFA-566-2001	Union of India and another	Ramesh Chand
9.	RFA-567-2001	Union of India and another	Manjar Hussain
10.	RFA-1386-2002	Union of India and another	Puran Singh and another
11.	RFA-1387-2002	Union of India and another	Gram Panchayat Phangtoli and another
12.	RFA-1388-2002	Union of India and another	Hoshiar Singh and others
13.	RFA-3447-2003	Union of India and another	Hadet and another
14.	RFA-3448-2003	Union of India and another	Ruldu Ram and another
15.	RFA-3449-2003	Union of India and another	Kalo Bibi and another
16.	RFA-3450-2003	Union of India and another	Thuru Din and another
17.	RFA-3451-2003	Union of India and another	Bir Singh and another
18.	RFA-3452-2003	Union of India and another	Gurcharan Singh and another

19.	RFA-3453-2003	Union of India and another	Onkar Singh and another
20.	RFA-3454-2003	Union of India and another	Swaran Singh and others
21.	RFA-3455-2003	Union of India and another	Saqid Mohd. and another
22.	RFA-3456-2003	Union of India and another	Swaran Singh and another
23.	RFA-3457-2003	Union of India and another	Nand Lal and another
24.	RFA-3458-2003	Union of India and another	Harnam Singh and another
25.	RFA-3459-2003	Union of India and another	Jaan Mohd. and another
26.	RFA-3460-2003	Union of India and another	Ram Lal and others
27.	RFA-4536-2003	Union of India and others	Vijay Kumar
28.	RFA-4537-2003	Union of India and others	Jagan Nath
29.	RFA-4538-2003	Union of India and others	Agya Ram
30.	RFA-4539-2003	Union of India and others	Onkar Singh
31.	RFA-4540-2003	Union of India and others	Desh Raj
32.	RFA-4541-2003	Union of India and others	Tarsem Lal
33.	RFA-4542-2003	Union of India and others	Dhian Singh
34.	RFA-4543-2003	Union of India and others	Santokh Singh
35.	RFA-4544-2003	Union of India and others	Avtar Singh
36.	RFA-4765-2003	Union of India and others	Rumalo and another
37.	RFA-4766-2003	Union of India and others	Girdhari Lal
38.	RFA-4767-2003	Union of India and others	Kanail Singh
39.	RFA-264-2004	Balwant Singh	Union of India and others

40.	RFA-265-2004	Shamsher Singh and others	Union of India and others
41.	RFA-628-2004	Karam Chand	Union of India and others
42.	RFA-871-2004	Union of India and another	Sambar Singh and another
43.	RFA-872-2004	Union of India and another	Parkash Chand and another
44.	RFA-873-2004	Union of India and another	Farid and another
45.	RFA-874-2004	Union of India and another	Bimla Devi and another
46.	RFA-875-2004	Union of India and another	Kehar Singh and another
47.	RFA-876-2004	Union of India and another	Julfi Ram and another
48.	RFA-877-2004	Union of India and another	Karam Chand and another
49.	RFA-878-2004	Union of India and another	Mohammad Din and another
50.	RFA-879-2004	Union of India and another	Ruldu Ram and another
51.	RFA-880-2004	Union of India and another	Bakshi and another
52.	RFA-881-2004	Union of India and another	Bukhi Devi and others
53.	RFA-1299-2004	Hans Raj	Union of India and others
54.	RFA-1554-2004	Roda Ram	Union of India and others
55.	RFA-1944-2004	Dharam Singh	Union of India and others
56.	RFA-1946-2004	Pritam Singh @ Primat Singh	Union of India and others
57.	RFA-2059-2004	Union of India and another	Dilwar Singh and another
58.	RFA-2060-2004	Union of India and another	Charan Dass and another
59.	RFA-2061-2004	Union of India and another	Mangal Singh and another
60.	RFA-2062-2004	Union of India and another	Jaan Mohammad and another

61.	RFA-2063-2004	Union of India and another	Dhian Chand and another
62.	RFA-2064-2004	Union of India and another	Babu Ram and another
63.	RFA-2065-2004	Union of India and another	Bua Ditta and another
64.	RFA-2194-2004	Union of India and another	Asha Rani and others
65.	RFA-2196-2004	Union of India and another	Labhu Ram and another
66.	RFA-2235-2004	Dhian Singh and another	Union of India and others
67.	RFA-5-2005	Union of India and others	Vidya Devi and another
68.	RFA-6-2005	Union of India and others	Dharam Chand
69.	RFA-7-2005	Union of India and others	Subhash Chand
70.	RFA-122-2005	Union of India and others	Ravinder Kumar
71.	RFA-123-2005	Union of India and others	Balbir Singh
72.	RFA-240-2009	Union of India and another	Sheela Devi and another

CORAM: HON’BLE MR. JUSTICE ARUN PALLI

Present: Mr. R.S. Manhas, Advocate, for the land-owners
(in RFA Nos. 1386 to 1388 of 2002; 264, 265, 628, 873, 874, 876, 877, 1299, 1554, 1944, 1946 and 2235 of 2004).

Mr. Chetan Mittal, Senior Advocate and Assistant Solicitor General of India, with Mr. Vivek Singla, Senior Panel Counsel, and Mr. Varun Issar, Central Government Counsel,
(in RFA Nos. 510, 561 to 567 of 2001; 1386 to 1388 of 2002; 3447 to 3460, 4536 to 4544 & 4765 to 4767 of 2003; 871 to 881; 2059 to 2065, 2194 and 2196 of 2004; 5 to 7, 122 & 123 of 2005; and 240 of 2009)
Ms. Seema, Advocate for Ms. Ranjana Shahi, Advocate,
(in RFA Nos. 514 of 2001; and 264, 265, 628, 1299, 1554, 1944, 1946 & 2235 of 2004),
for Union of India.

ARUN PALLI, J. (ORAL)

Vide this judgment, I shall decide a batch of aforementioned 72 appeals, for, the facts involved in all the appeals are similar and the question that requires determination is common. However, the facts are being culled out from RFA No. 510 of 2001.

Vide notification issued under Section 4 of the Land Acquisition Act, 1894 (for brevity, 'the Act'), dated 22.2.1991, published on 6.3.1991, land situated in different villages, i.e. Karoli, Kiari, Kuther, Tihari Teeka Phangtoli, Tihari Tikka Nagrota, Nagrota, Seunti, Phangoli, Gagroli and Bungal, was acquired for defence purposes. However, the land that formed part of the revenue estate of village Karoli was de-notified later on 31.5.1994. The Land Acquisition Collector vide a common award, dated 15.3.1993, awarded compensation for the land that was recorded as *Chahi* @ Rs. 35,000/- per acre; *Barani-I* @ Rs. 30,000/- per acre; *Barani-II* @ Rs. 25,000/- per acre; *Banjar Jadid* @ Rs. 15,000/- per acre; *Banjar Qadim* @ Rs. 10,000/- per acre; *Gair Mumkin* @ Rs. 5,000/- per acre; and *Gair Mumkin Abadi* @ Rs. 35,000/- per acre. Separate compensation as regards superstructures was awarded by the Collector to the respective landowners.

Being aggrieved by the compensation awarded by the Collector, the landowners filed objections, under Section 18 of the Act, and sought a reference to the Civil Court. Vide three identical awards, learned Reference Court granted different amount of compensation to the landowners. Vide award dated 22.3.1999, compensation @ Rs. 1,400/- per marla was awarded, uniformly, to the landowners whereas, vide award dated 29.1.2002, the Reference Court assessed the compensation, for the land that was recorded

as *Barani* @ Rs. 42,000/- per acre (Rs.263/- per marla), and for *Banjar Qadim* @ Rs. 16,800/- (Rs. 105 per marla) and the land that was categorized as *Gair Mumkin* was assessed @ Rs. 7,000/- per acre (Rs. 44/- per marla) and *Gair Mumkin Abadi* @ Rs. 42,000/- per acre (Rs. 263/- per marla). Similarly, vide third award dated 17.7.2007, the Reference Court, uniformly, awarded the compensation @ Rs.1,600/- per marla and after including the benefits envisaged under Section 23(1)(a) of the Act, it granted the amount of Rs. 1,830/- per marla.

Both the parties, aggrieved by the compensation assessed and awarded by the Reference Court, preferred appeals to this Court. All those appeals were decided by this Court, vide judgment and order dated 17.2.2016, rendered in RFA No. 2902 of 1999 (Union of India and another v. Major Pritam Singh and another) and other connected matters, vide which this Court enhanced the compensation awarded to the land owners to Rs. 2,300/- per marla. All the appeals were accordingly disposed of. I am reminded to point out at this stage that the appeals involving exclusively the issues as regards compensation for superstructures, were segregated by an order of even date, and that is how these appeals are placed before this Court.

Of the 72 appeals, 64 appeals have been preferred by the Union of India, whereas the rest 8 have been filed by the landowners, seeking enhancement.

Learned counsel for the parties are *ad idem* that the Reference Court vide different awards, which are being assailed in these appeals, had enhanced the compensation for superstructures by 10% 15% and in certain

matters upto 25%, upon the amount awarded by the Collector, whereas in RFA No. 240 of 2009 (Union of India and another v. Sheela Devi and another), the Reference Court had awarded merely Rs. 15,000/- to the claimant for the superstructure. It is clarified that Sheela Devi is not in appeal before this Court.

Ordinarily, the landowners claim an exaggerated amount as regards construction that exists on the acquired land. Likewise, the assessment of compensation for superstructure by the State is generally conservative, and is not reflective of its true value or worth. For, the exact value of the structure can never be determined with mathematical precision, therefore, this Court in various decisions has been awarding 25% increase on the value of the superstructure assessed by the Collector as a thumb rule.

Faced with this situation and having argued the matter at some length, learned counsel for the parties have reached a consensus; that let 25% increase/enhancement upon the compensation awarded by the Collector be, unilaterally, granted to all the landowners. Meaning thereby the matters in which the Reference Court itself has awarded 25% increase, the claimants shall not be entitled to any further enhancement whereas, in cases in which no enhancement was granted or the Reference Court awarded 10% or 15% increase upon the compensation assessed by the Collector, the landowners shall be entitled to enhancement, the balance 15% or 10%, as the case may be, but not beyond 25% of the amount assessed or awarded by the Collector.

That being so, the landowners shall be entitled to 25% enhancement upon the compensation awarded by the Collector in the manner indicated above. Accordingly, the appeals preferred by the

landowners are disposed of in the manner indicated above. And, as a necessary consequence the appeals filed by the Union of India are dismissed.

(ARUN PALLI)
JUDGE

December 12, 2016

P Kapoor

Whether Speaking/Reasoned:

Whether Reportable:

YES / NO

YES / NO