

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

**RFA-1190-2004 & connected matters
Date of decision:25.2.2016**

Sat Narain and others

...Appellants

Versus

State of Haryana 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.Kulwir Narwal, Advocate for the appellants in
RFA Nos.1699 to 1714 and 1886 of 2004.
Mr.Sandeep K. Sharma, Advocate for the appellants in
RFA Nos.2393 and 2394 of 2004.
Mr.Surinder Gandhi, Advocate for the appellants in
RFA Nos.1318 to 1322 of 2004.
Mr.Ashwani Bakshi, Advocate for the appellants in
RFA Nos.1718 to 1720 of 2004.
Mr.S.P.Chahar, Advocate for the appellants in
RFA Nos.1190 to 1192 of 2004 and for the respondents in
RFA Nos.1060, 1073 and 1082 of 2004.
Mr.Dinesh Arora, Advocate for the appellants in RFA Nos.
763, 1219, 1226 to 1232 and 1234 to 1244 of 2004, 1503 to
1506 of 2004 and 1965 of 2004.
Mr.Arun Beniwal, DAG, Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

This batch of 110 appeals, out of which 55 appeals bearing
RFA Nos. 566 to 583, 708 and 1057 to 1092 of 2004, have been filed by the
State of Haryana and remaining 55 appeals bearing RFA Nos.763, 1190 to
1192, 1219, 1226 to 1232, 1234 to 1244, 1318 to 1322, 1503 to 1506, 1699
to 1714, 1718 to 1720, 1886, 1965, 2393 and 2394 of 2004, have been
filed by the land owners, is being decided vide this common order, as all
these appeals 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.1190 of 2004 (Sat Narain and others v. State of Haryana and another).

Brief facts of the case are that State of Haryana sought to acquire the land out of as many as five revenue estates of village Nindana, Anwal, Bainsi, Kalanaur and Jindran. Land measuring 29.15 acres from revenue estate of village Nindana, 46.84 acres from village Anwal, 15.50 acres from village Bainsi, 25.19 acres from village Kalanaur and 15.53 acres from the revenue estate of village Jindran was acquired at public expenses for public purpose, i.e. for construction of Meham Drain. Accordingly, notification dated 28.12.1996 was issued under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) which came to be followed by notification dated 5.2.1997 under Section 6 of the Act.

Land acquisition collector announced his village-wise five awards, i.e. LAC Award No.10 dated 29.4.1997 for village Nindana, LAC Award No.11 dated 8.5.1997 for village Anwal, LAC Award No.20 dated 18.3.1997 for village Bainsi, LAC Award No.1 dated 11.4.1997 for village Kalanaur and LAC Award No.21 dated 28.3.1997 for village Jindran. Adopting the belting system, land acquisition collector awarded Rs.1,10,000/- per acre for Nehri/Chahi land, Rs.70,000/- per acre for Barani land, Rs.60,000/- per acre for Banjar and Gair Mumkin land of village Nindana. Similarly, land acquisition collector awarded Rs.1,10,000/- per acre for Nehri/Chahi land, Rs.70,000/- per acre for Barani land, Rs.60,000/- per acre for Banjar land, Rs.50,000/- per acre for Gair Mumkin land and Rs.40,000/- per acre for Bhur land of village Anwal. Likewise, land acquisition collector awarded Rs.1,10,000/- per acre for Nehri/Chahi land,

Rs.70,000/- per acre for Barani land and Rs.50,000/- per acre for Gair Mumkin land of village Bainsi. Again, land acquisition collector awarded Rs.1,10,000/- per acre for Nehri/Chahi land, Rs.70,000/- for Barani land, Rs.60,000/- per acre for Banjar land and Rs.50,000/- per acre for Gair Mumkin land of village Kalanaur. Land acquisition collector awarded Rs.1,10,000/- per acre for Nehri/Chahi land and for Rs.50,000/- per acre for Gair Mumkin land of village Jindran.

Dissatisfied, land owners filed their objections under Section 18 of the Act and as a consequence thereof, numerous land references were forwarded to the learned reference court. 40 land references of village Anwal were decided together by the learned reference court vide its impugned award dated 9.12.2003, enhancing the amount of Nehri/Chahi land by Rs.10,000/- per acre. No increase was ordered qua other types of land, i.e. Barani, Banjar, Gair Mumkin and Bhur. Similarly, 19 land references from village Nindana were decided together by the learned reference court vide its impugned award dated 28.11.2003, enhancing the amount of Rs.40,000/- per acre but only qua Nehri/Chahi land. No enhancement in the compensation was ordered for other types of land; namely Barani, Banjar and Gair Mumkin of village Nindana. So far as the remaining above-said three villages; namely Bainsi, Kalanaur and Jindran were concerned, all the land references from these three villages were dismissed by the learned reference court vide its separate but identical impugned awards.

Both the parties felt aggrieved against the above-said two impugned awards passed by the learned reference court, pertaining to villages Nindana and Anwal. State of Haryana has filed 36 appeals against

the impugned award of village Anwal passed by the learned reference court, whereas 32 appeals have been filed by the land owners of village Anwal. Similarly, State of Haryana has filed 19 appeals against the impugned award passed by the learned reference court for village Nindana and 18 appeals have been filed by the land owners of village Nindana. State of Haryana is seeking reduction in the amount of compensation awarded by the learned reference court, whereas the land owners are seeking further enhancement in the compensation for their acquired land. Since the land references of remaining three villages, i.e. Bainsi, Kalanaur and Jindran were dismissed by the learned reference court, State of Haryana has filed no appeal but the land owners have approached this Court seeking enhancement in the amount of compensation for their acquired land. That is how, all these 110 appeals are being decided together.

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 State of Haryana have been found bereft of merit and the same are liable to be dismissed. However, 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.

There are numerous sale-deeds, produced by both the parties, with a view to substantiate their respective stands taken. A bare perusal of the impugned awards passed by the learned reference court would show that very many relevant sale instances have been illegally ignored by the learned reference court. However, the sale exemplars which were post acquisition

have been rightly ignored. After a detailed deliberation on the entire evidence, available on record, only two sale-deeds Ex.P3 available at page 49 of lower court record ('LCR' for short) and Ex.PX available at page 97 of LCR, relied upon by the land owners and sale-deed Ex.R3 available at page 115, relied upon by the State, have been found to be the relevant pieces of evidence, which can safely be made the basis for assessing the market value of the acquired land.

It is pertinent to note here that vide sale-deed Ex.PX, a very big chunk of land was sold which was measuring more than 17 acres. Similarly, land measuring two acres was sold vide sale-deed Ex.R3. However, comparatively a smaller piece of land was sold vide sale-deed Ex.P3 but the same also cannot be ignored, because it has been found to be a relevant piece of evidence. To be fair to all concerned, these above-said three sale-deeds are being taken into consideration for assessing the market value of the acquired land so that none of the parties may have any grouse in this regard. When all these three sale-deeds are put together, average market value comes to Rs.1,43,333/- per acre.

The sale-deed Ex.PX, whereby largest chunk of land was sold was dated 6.9.1993, thus, there was a time gap of more than three years (to be precise three years and three months), between this sale-deed and dated 28.12.1996 which was the date of notification under Section 4 of the Act. Since the sale-deed, relied upon by the State, in the form of Annexure R-3 was dated 19.4.1996, giving some benefit to the State in this regard, it would be just and expedient to grant the benefit of annual increase to the land owners only for a period of three years. Granting of 12% annual increase is almost an established rule in the matters of compensation for the

acquired land.

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, Hon'ble the Supreme Court in **Udho Dass v. State of Haryana, 2010 (12) SCC 51**, has held that the land owners are hardly compensated in the true sense of the word. However, it is equally true that each case is to be decided as per its own peculiar facts and circumstances.

In view of what has been discussed hereinabove, the land owners have been found entitled to get the benefit of annual increase on the above-said market value for the time gap of three years on cumulative basis. After granting the benefit of 12% annual increase for a period of three years on cumulative basis, in view of the law laid down by the Hon'ble Supreme Court in **Ashok Kumar and others v. State of Haryana, 2015 (3) Scale 242**, the amount comes to Rs.2,01,373/- per acre. Accordingly, the land owners are held entitled to receive the compensation of Rs.2,01,373/- per acre for their acquired land from the date of notification under Section 4 of the Act.

Since the land of above-said five villages was acquired vide same notification and for the same purpose, land owners of all these five villages are being treated at par for the purpose of granting compensation for their acquired land. It is also a matter of fact that all these villages were adjoining with each other. In this regard, reliance is placed on the judgments of the Hon'ble Supreme Court in **Ashrafi and others Vs. State of Haryana, 2013 (5) SCC 527** and **Kashmir Singh v. State of**

Haryana and others, 2014 (2) SCC 165.

The next important question that falls for consideration of this Court is: whether the belting system adopted by the land acquisition collector and maintained by the learned reference court deserves to be maintained, at the hands of this Court as well or it is to be done away with. After giving anxious consideration to the peculiar fact situation obtaining in the present set of appeals, this Court is of the considered view that answer to the question posed hereinabove is and has to be an emphatic no. It is so said because the total land was acquired for one and the same purpose and vide same notification. Once the State was going to put every inch of the acquired land to the same use, exact location or quality of land would be hardly of any consequence. Further, since the land owners in all these cases have failed to produce any better evidence on record in the form of sale instances, they would receive just a meager amount of Rs.2,01,373/- per acre for their acquired land. Granting any lesser amount or maintaining the belting system would be wholly inadequate and would certainly result in miscarriage of justice.

Having said that, this Court feels no hesitation to conclude that the belting system was wrongly adopted by the land acquisition collector and was illegally maintained by the learned reference court. The findings recorded by the learned reference court in this regard cannot be sustained and the same are hereby set aside. The impugned awards passed by the learned reference court for villages Bainsi, Kalanaur and Jindran, whereby the land references of all these three villages were dismissed, are also set aside. The land owners of these villages are also held entitled to receive the same amount of compensation at a uniform rate of Rs.2,01,373/- per acre,

which has been granted to the land owners of other villages; namely Nindana and Anwal for their acquired land, from the date of notification under Section 4 of the Act.

The view that has been taken by this Court on belting system, also finds support from the following judgments of the Hon'ble Supreme Court as well as of 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).

Respectfully following the law laid down by the Hon'ble Supreme Court as well as by this Court on the belting system in the cases referred to hereinabove, the belting system deserves to be ignored in the present set of appeals. Ordered accordingly.

Learned counsel for the appellant-land owner in RFA No.1719 of 2004 (Ved Parkash v. State of Haryana and others) submits that the learned reference court failed to take into consideration super-structures existing on the acquired land of the appellant. In this regard, he refers to some photographs, available at pages 57 and 59 of the lower court record. He also submits that for one structure, land acquisition collector granted Rs.20,000/- which is on very lower side and for the other which was better super-structure, learned reference court did not grant any amount of compensation. However, learned counsel for the State contended that since the appellant could not co-relate these photographs with his acquired land, there was hardly any cogent evidence for granting any compensation for the alleged super structures.

After hearing the learned counsel for the parties on this issue of granting compensation of super-structure, this Court is of the considered view that the land owner has failed to produce any relevant and cogent evidence on record to substantiate his claim in this regard. The finding recorded by the learned reference court on the issue of granting

compensation for the super-structures cannot be said to be illegal and the same deserves to be upheld. Ordered accordingly.

It also deserves to be noticed that the learned reference court granted only 10,000/- per acre on account of severance charges in favour of only two land owners and in some cases no amount at all was granted to the land owners on account of severance charges. The reasoning recorded by the learned reference court in this regard has been found totally misplaced and the findings thereon cannot be sustained. It goes without saying that after construction of drain, land of land owners would be bifurcated and the unacquired land would not be in a position to put to its optimum use. Should there be any ambiguity, it is clarified that only those land owners would be entitled for the compensation on account of severance charges whose land, as a matter of fact, stood bifurcated because of instant acquisition. Keeping in view the totality of peculiar facts and circumstances of the case noticed hereinabove, the land owners would be entitled to 30% of the above-said market value, on account of severance charges.

Let it be specifically recorded here that 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 hereinabove, coupled with the reasons aforementioned, this Court is of the considered view that the appeals filed by the State of Haryana are wholly misconceived, bereft of merit and without any substance, thus, these must fail and the same are hereby dismissed.

The appeals 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 a uniform rate of Rs.2,01,373/- per acre from the date of notification under Section 4 of the Act. Further, the land owners are held entitled to receive 30% of the above-said market value on account of severance charges. 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.

(RAMESHWAR SINGH MALIK)
JUDGE

25.2.2016
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