

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

**(1) CWP No.1058 of 2014
Date of Decision: 26.10.2016**

Prem Nath and another Petitioners

Versus

Tribunal Improvement Trust, Jalandhar through its President and others
..... Respondents

(2) CWP No.1084 of 2014

Ranjit Singh Petitioner

Versus

Tribunal Improvement Trust, Jalandhar through its President and others
..... Respondents

(3) CWP No.1788 of 2014

Karnail Singh and others Petitioners

Versus

State of Punjab and others Respondents

(4) CWP No.2367 of 2014

Tirath Ram Petitioner

Versus

Tribunal Improvement Trust, Jalandhar through its President and others
..... Respondents

(5) CWP No.2370 of 2014

Nachhatar Singh Petitioner

Versus

Tribunal Improvement Trust, Jalandhar through its President and others
..... Respondents

(6) CWP No.2645 of 2014

Sadhu Singh and others Petitioners

Versus

Tribunal Improvement Trust, Jalandhar through its President and others
..... Respondents

(7) CWP No.2901 of 2014

Surinder Singh Petitioner

Versus

Tribunal Improvement Trust, Jalandhar through its President & ors.
..... Respondents

(8) CWP No.3120 of 2014

Joginder Singh and others Petitioners

Versus

Tribunal Improvement Trust, Jalandhar through its President and others
..... Respondents

(9) CWP No.3630 of 2014

Lachhman Singh Petitioner

Versus

Tribunal Improvement Trust, Jalandhar through its President and others
..... Respondents

(10) CWP No.3845 of 2014

Jagtar Singh Petitioner

Versus

Tribunal Improvement Trust, Jalandhar through its President and others
..... Respondents

(11) CWP No.3856 of 2014

Malkiat Singh and others Petitioners

Versus

Tribunal Improvement Trust, Jalandhar through its President and others
..... Respondents

(12) CWP No.3857 of 2014

Mohan Lal and others Petitioners

Versus

Tribunal Improvement Trust, Jalandhar through its President and others

..... Respondents

(13) CWP No.4323 of 2014

Ravi Pal Singh and others Petitioners

Versus

Tribunal Improvement Trust, Jalandhar through its President and others

..... Respondents

(14) CWP No.4324 of 2014

Ramesh Rani and others Petitioners

Versus

Tribunal Improvement Trust, Jalandhar through its President and others

..... Respondents

(15) CWP No.4345 of 2014

Jatinder Kumar Sehgal @ Tejinder Lal Petitioner

Versus

Tribunal Improvement Trust, Jalandhar through its President and others

..... Respondents

(16) CWP No.5028 of 2014

Pritam Singh and others Petitioners

Versus

Tribunal Improvement Trust, Jalandhar through its President and others

..... Respondents

(17) CWP No.5312 of 2014

Mehaga @ Mehanga Singh and others Petitioners

Versus

Tribunal Improvement Trust, Jalandhar through its President and others

..... Respondents

(18) CWP No.6646 of 2014

Jarnail Singh and others Petitioners

Versus

Jalandhar Improvement Trust, Jalandhar through its Chairman and another
..... Respondents

(19) CWP No.6663 of 2014

Harpal Singh Petitioner

Versus

Jalandhar Improvement Trust, Jalandhar through its Chairman and another
..... Respondents

(20) CWP No.6671 of 2014

Jaswinder Kaur Petitioner

Versus

Jalandhar Improvement Trust, Jalandhar through its Chairman and another
..... Respondents

(21) CWP No.6715 of 2014

Darshan Singh Petitioner

Versus

Jalandhar Improvement Trust, Jalandhar through its Chairman and another
..... Respondents

**CORAM: HONBLE MR. JUSTICE SURYA KANT
HONBLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr. Puneet Jindal, Senior Advocate with
Mr. Siddhant Kant, Advocate
Mr. Harsh Bungar, Advocate
Mr. A.S.Gill, Advocate
Mr. Arun K.Bakshi, Advocate
Mr. Nakul Sharma, Advocate for
Mr. M.S.Sachdev, Advocate &
Mr. Surinder Sharma, Advocate
for the petitioners.

Mr. Sandeep Khunger, Advocate for
Improvement Trust.

Mr. Rajesh Bhardwaj, Addl. AG Punjab.

SUDIP AHLUWALIA, J.

The Writ Petitions have been filed by various petitioners whose lands had been acquired by the principal respondent/Jalandhar Improvement Trust (for short “J.I.T.”) by Notification No.3/30/05-3LG-II/7523 dated 27.5.2005.

2) The Scheme was for an area measuring 70.5 acres, for which the Award was passed by the Land Acquisition Collector on 25.7.2007, in which, compensation for the composite land measuring 714 Kanals 17 Marlas was assessed at ₹ 24,000/- Per Marla and separate amounts for compensation in different headings including 30% Solatium on the total thereof apart from 12 % increase from the date of notification till the date of Award coming to a total of ₹ 59,09,23,609.25 P was awarded for being paid to the respective recorded owners.

3) The owners being not satisfied filed their Reference Petitions after which the President of the Tribunal passed his impugned judgment on 27.5.2013, virtually upholding the original Award, however, with a rider that the petitioners were also entitled to recover interest on solatium and additional market value as held by the Constitutional Bench of the Supreme Court. The claimants/Landowners, as well as the J.I.T, being dissatisfied with this adjudication in some cases, have challenged it by filing their separate Writ Petitions against the impugned judgment, seeking alteration in the quantum of the compensation amounts awarded.

4) The basic reliance in support of the petitioners'/Land owners' claim for enhanced compensation is on an earlier Division Bench judgment of this Court dated 31.10.2013 passed in CWP No.11257 of 2013, in which one of us (Surya Kant, J.) was a member, and the J.I.T. was again the principal respondent. The land, which was acquired under the Scheme which was subject matter of the aforesaid CWP No.11257 of 2013, happens to be located in direct proximity of the land covered in the 'Maharaja Ranjit Singh Avenue' (70.5 acres Development) Scheme in the present case. It has therefore, been contended by the claimants that in the given circumstances, the assessment of compensation determined in the aforesaid CWP No.11257 of 2013 ought to be the proper yardstick for assessing the value of the lands covered in the present Scheme, on account of their direct/very close proximity to the earlier assessed land, but of course, after factoring into account any distinct features which could otherwise have the effect of altering the assessment.

5) We have heard the submissions of the Ld. counsel for contesting sides and gone through the records including the judgment rendered in CWP No.11257 of 2013, as well as the site maps depicting location and other features of the lands in question.

6) It is seen that the land, which was subject matter of the earlier proceeding, had been acquired for the development of 'Surya Enclave' within the urban area of Jalandhar Town. It is located on the left/southern side of the National Highway-1. Only a part of its South-Eastern fringe abuts the National Highway, and hence it curves down towards the south

from where it moves in north-westwards. Its north-western side is flanked by “New Development Scheme, Surya Enclave Extension Area”, while the direct north-western horizontal edge abuts the south-western strip of 'Maharaja Ranjit Singh Avenue' which is the name/purport of the Development Scheme in respect of the area measuring 70.5 Acres involved in the matter before us. The northern edge of the aforesaid land then proceeds eastwards along the 120 feet wide road, which falls within the acquired area of the 70.5 Acres Scheme, and then begins to abut the zigzag boundary of “Guru Gobind Singh Avenue” (74.5 Acre Development Scheme area), till its north-eastern tip touches NH-1.

7) On the other hand, 'Maharaja Ranjit Singh Avenue' which pertains to the present 70.5 Acres Scheme, directly abuts 'Guru Gobind Singh Avenue' on its South Eastern flank, while its remaining area on the northern side is located on the west of NH-1. A limited portion on its eastern side is intervened by the existing commercial user sites such as a Petrol Pump, 'Navyug Factory' etc, from the actual Highway.

8) In totality therefore, it can be safely concluded that the land covered in the present case, is placed in close proximity of the National Highway, like the land acquired under the '170 Acres Scheme' in respect of which the previous judgment in CWP No.11257 of 2013 was passed. We therefore, propose to base our decision on the data and reasoning adopted in the aforesaid earlier decision for the purpose of determining the valuation/appropriate compensation in respect of the land acquired under the 70.5 Acres Scheme.

9) We may first of all note that the value assessment in the previous case was arrived at by applying enhancement at the rate of 12% per annum, (as approved by the Supreme Court in “*Asharfi Vs. State of Haryana*” [2013(5) SCC 527]) over the earlier assessed value of land situated in close vicinity of the land acquired. For this purpose, the Court had taken into account valuation of the acquired land in the nearby “Mohalla Bashirpura”, for which the acquisition proceedings had been initiated in 1991. Consequently enhancement at the rate of 12% per annum for the intervening 8½ years in respect of the “170 Acre Scheme” initiated in 1999 was made, after allowing a cut of 10% in the market value for the Water Works over the final valuation determined at ₹ 12,000/- per marla. In this manner, the valuation/compensation was determined at ₹ 21,816/- per marla = ₹ 34,90,560/- per Acre.

10) For determining the valuation of the lands in the matter before us, however, we are inclined to treat the actual dates of the respective Awards as being material in comparison to the original dates on which, the Schemes in question were simply initiated. Of course, the time factor for the purpose of annual enhancement or reduction depending on whether the Awards in the present cases were announced before or after the Awards concerning the previous land falling under the '170 Acres Scheme' must also needs to be taken into account.

11) Before proceeding to make final calculations in this manner, it would also be pertinent to take note of certain other factors adopted in the final judgment in relation to the '170 Acres Scheme' land. It is first of all to

be remembered that in that land, a 'Sullen' Pond was located on a substantial portion of the area where foul water would accumulate on account of which, its valuation had to be down graded as against the remaining land acquired in the said Scheme, which admittedly was in a better levelled condition, and did not suffer any disability due to the foul smell, which was the distinguishing negative feature of Sullen Pond area, as well as the land located in its close vicinity. Secondly, 'Belting System' was adopted in the previous adjudication so as to award additional compensation in respect of the land located directly along side the NH-1. In this manner, the compensation in respect of the land abutting the Bye-Pass (NH-1) to the extent of 240 feet depth was enhanced by 20% on the assessed valuation of ₹ 21816/- per Marla, while the same was reduced by 15% in respect of the land falling in the Sullen Pond area recorded as 'Gairmumkin Chhappar' and the final compensation for these three Classifications of lands was determined as follows -

“(i) For the land abutting by-pass to the extent of 240 feet depth, the compensation is allowed @ ₹ 26180/- per Marla i.e. ₹ 41,88,800/- per acre.

(ii) For the land recorded as gairmumkin chappar (pond), the compensation is awarded @ ₹ 18545/- per Marla i.e. ₹ 29,67,200/- per acre.

(iii) For the remaining land the compensation is allowed @ ₹ 21816/- per Marla i.e. ₹ 3490560/- per acre.”

12) In addition the other statutory benefits as provided under sections 23 & 28 of the L.A. Act on the difference of compensation were also granted to the land holders, although enhancement on account of existence of trees and super-structure was declined.

13) The date of passing the relevant award in the aforesaid case was 27.4.2003 and we therefore, treat this as the base date for enhancing or reducing the compensation due to time span difference for deciding the matters before us. Now Award in respect of the '70.5 Acres Scheme' (Maharaja Ranjit Singh Avenue) was pronounced on 25.7.2007 which is almost exactly 4 years and 3 months later in point of time. The enhanced valuation for this time span at the rate of 12% per annum therefore, comes to 51% on account of which, the compensation on the relevant date comes to ₹ 32,942/- per Marla i.e. ₹ 52,70,720/- per acre. However, as no part of the acquired land directly abuts the National Highway-1, so there is no question of awarding any additional compensation as was done in the previous case. At the same time, no deduction for any other reason is also made, since the J.I.T. could not show that any portion of the land covered in the present Scheme to be afflicted with any disability, such as by way of low lying area or location of Sullen Pond etc. in the present case. Apart from the compensation as assessed here, the land owners would also be entitled to interest on the balance payable as prescribed, as well as, all other benefits under sections 23 & 28 of the L.A. Act.

14) The present Writ Petitions are accordingly Allowed in part.

(SURYA KANT)
JUDGE

(SUDIP AHLUWALIA)
JUDGE

26.10.2016
AS

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|---------------------------------------|---------------|
| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |