IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA No.1605 of 2005 (O&M)
Date of decision: 28.1.2016

Banka Singh and others

.. Appellants

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Naresh Kaushal, Advocate
for the appellants in
RFA Nos. 521, 223 to 236 of 2004,
RFA Nos. 2174 to 2176, 1927, 2420 of 2004
RFA Nos. 2032, 1605, 384 of 2005.

Mr. Vijay Lath, Advocate
for the appellants in RFA 1622 of 2005.

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

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RAMESHWAR SINGH MALIK, J. (Oral)

These 24 regular first appeals filed by the landowners bearing RFA No. 521, 223 to 236, 2174 to 2176, 1927, 2420 of 2004, 1605, 2032, 384, 1622 of 2005 are being decided together vide this common order, as this batch of appeals raises identical questions of law and facts. However, for the facility of reference, facts are being culled out from RFA No. 1605 of 2005 (Banka Singh and others Vs. State of Punjab and others).

Briefly put, facts necessary for disposal of these cases are that State of Punjab sought to acquire land measuring 170 kanals 13 marlas out of revenue estates of village Jhinjri, Tehsil Anandpur Sahib, District Ropar, at public expenses for public purpose, i.e. for development of permanent parking area. Land measuring 24 kanals 13 marlas was also sought to be acquired for the same purpose out of revenue estate of village Mindhwan. Accordingly, notification under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) was issued on 30.6.1998, which was followed by notification dated 21.9.1998 under Section 6 of the Act. The land Acquisition Collector, vide his award No. 3 dated 24.12.1998 for village Jhinjri and award No. 5 dated 13.2.1999 for village Mindhwan, granted same amount of compensation to the landowners of both the villages.

Dissatisfied, landowners filed their petitions under Section 18 of the Act. As a consequence, 21 land references from village Jhinjri were decided by the learned reference court vide common award dated 7.10.2003, granting the compensation at uniform rate of ₹14 lacs per acre. Similarly, learned reference court decided four land references from village Mindhwan together vide common award dated 28.4.2004, granting compensation to the landowners at the uniform rate of ₹10 lacs per acre, by placing reliance on the abovesaid award dated 7.10.2003 of village Jhinjri. Feeling aggrieved, 19 appeals have been filed by the landowners of village Jhinjri whereas 4 appeals have been filed by the landowners of village Mindhwan. However, no appeal has been filed by the State of Punjab That is how, all these 23 appeals are being decided together.

Having heard the learned counsel for the parties at considerable length, after careful perusal of record of the cases and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in view of the peculiar facts and circumstances of the cases, all these appeals filed by the landowners deserve to be partly allowed. To say so, reasons are more than one, which are being recorded hereinafter.

Learned counsel for the appellants-landowners submits that in an identical fact situation, this Court, vide its judgment dated 28.10.2010 passed in <u>RFA No. 2269 of 2005 (Baldev Singh Vs. State of Punjab),</u> upheld the award of learned reference court, whereby the landowners of adjoining villages namely Anandpur Sahib, Mataur and Lodhipur were granted the compensation of ₹24,200/- per marla. He also places reliance on the judgment dated 5.5.2009 passed by this Court in <u>RFA No. 4176 of 2002 (Harbhajan Singh Vs. State of Punjab)</u>, whereby similarly situated landowners were granted the compensation @ ₹33,750/- per marla. He further submits that since the judgment of this Court in <u>Harbhajan's case</u> (supra) was specifically relied upon by the landowners vide Ex.P11, however, the same was not followed by the learned reference court, the impugned award dated 7.10.2003 pertaining to village Jhinjri and award dated

28.4.2004 pertaining to village Mindhwan are liable to be modified, suitably enhancing the amount of compensation in favour of the landowners. He also placed reliance on another judgment of this Court dated 26.8.2010 passed in <u>RFA No. 146 of 2005 (Jagtar Singh and others Vs. State of Punjab).</u>

On the other hand, learned counsel for the State vehemently contented that <u>Harbhajan Singh's case</u> (supra) cannot be made basis for assessing the market value in these appeals for the reason that, a small piece of land measuring 18 marlas out of the revenue estate of village Mataur, which was part of Ward No.6 Anandpur, was acquired by the Government for construction of Tourist and Reception Centre. Owing to its location and potentiality, compensation at a higher rate, i.e. ₹33,750/- per marla was granted. Learned counsel for the State has been found fully justified in raising this argument and the same deserves acceptance, therefore, judgment in <u>Harbhajan Singh's case</u> (supra) cannot be made the basis for assessing the market value.

Coming to the judgment dated 28.10.2010 in **Baldev Singh's case** (supra), land measuring 422 kanals 17 marlas was acquired out of revenue estate of adjoining village namely Lodhipur vide notification dated 17.7.1997 issued under Section 4 of the Act. Further, vide same notification, land measuring 139 kanals and 3 marlas out of the revenue estate of village Anandpur Sahib was also acquired for the same purpose, i.e. setting up Urban Estate at Anandpur Sahib. It is very pertinent to note here that exactly the same amont of compensation was granted by the Land Acquisition Collector to the landowners of both these villages namely Lodhipur and Anandpur Sahib in Baldev Singh's case (supra), as granted to the landowners in the present set of cases.

The learned reference court assessed the market value in the cases decided alongwith Baldev Singh's case (supra) @ ₹24,200/- per marla, which came to be upheld by this Court, vide its judgment dated 28.10.2010 passed in Baldev Singh's case (supra), whereby appeals filed by the landowners as well as by the State were dismissed. The relevant facts recorded by this Court in para 9 and 10 of its judgment in Baldev Singh's case (supra), which deserve to be noticed here, read as under:-

> *9. Vide another notification dated 12.11.1997, issued under Section 4 of the Act, land measuring 44 kanals and 9 marlas, situated in villages Anandpur Sahib, Mataur and Lodhipur was acquired for the same purpose. The Collector, vide award dated 25.7.1998, assessed the market value of the acquired land as under:*

Sr. No.	*Kind of land*	*Rate per acre in*
1.	*Chahi/Nehri*	*3,00,000/-*
2.	*Barani/Banjar Zadid Kadim*	*1,95,000/-*
3.	*Gair Mumkin Pahar/ choe/khad*	*65,000/-*
4.	*Gair Mumkin abadi area which is under abadi within municipal limit or Lal Dora or out of the*	*4,55,000/-*

	Municipal limit or Lal Dora but within 40 karams from this limit Lal Dora.	
5.	*Gair Mumkin house/ abadi which is outside the limit but under the house only for that khasra No.*	*4,55,000/-*

10. Dissatisfied with the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below assessed the market value of the acquired land @ ₹24,200/- per marla.”

It is also not in dispute that landowners therein, whose land was acquired vide notification dated 12.11.1997 were granted the compensation @ ₹24,200/- per marla for their acquired land and they were from adjoining villages Anandpur Sahib, Mataur and Lodhipur, whereas in the cases in hand, notification under Section 4 of the Act came to be issued on 30.6.1998.

When confronted with this undisputed fact situation, learned counsel for the State had no answer and rightly so, it being a matter of record. Having said that, this Court feels no hesitation to conclude that once the landowners of adjoining villages and whose land was acquired earlier vide notification dated 12.11.1997 were granted the compensation @ ₹24,200/- per marla, the landowners in the present set of cases would also be entitled for the same amount of compensation for their acquired land.

So far as location and potentiality of the acquired land in these cases are concerned, the same are hardly in dispute. It has been made crystal clear by the site plan (Ex.P9) that the entire land was not only abutting Chandigarh-Ropar-Nangal National Highway, but it was also surrounded by already existing establishments, including commercial establishments like shops, petrol pumps, colleges, schools, police station and verka milk plant. In this view of the matter, it can be safely concluded that the entire land could have been easily put to commercial, residential as well as industrial use.

The Hon'ble Supreme Court in **Mehrawal Khewaji Trust (Registered), Faridkot and others Vs. State of Punjab and others, (2012) 5 SCC 432,** has held that the landowners are entitled to receive the best price for their acquired land. In view of what has been discussed hereinabove and while striking a balance between the parties, with a view to do complete and substantial justice, this Court is of the considered view that although there was a time gap of more than seven months between two notifications under Section 4 of the Act, i.e. 12.11.1997 and in the present cases dated 30.6.1998, yet the landowners in the present appeals would not be entitled for any annual increase in the abovesaid market value of ₹24,200/- per marla. It is so said because the exact distance between the land acquired vide these two notifications has not been established on record by way of any documentary evidence. In the absence of any such cogent evidence, some guess work is always involved in assessing the market value and benefit thereof has to go to the State as well.

Since the market value of ₹24,200/- granted by the learned reference court to the landowners, whose land was acquired vide abovesaid notification dated 12.11.1997, has been upheld by this court vide its judgment dated 28.10.2010 in Baldev Singh's case (supra), this Court has found no reason to deny the said benefit to the landowners in the appeals in hand. There is another strong reason to say so and that is, the Land Acquisition Collector himself has granted exactly the same amount of compensation to the landowners of these villages whose land was acquired, either for setting up of Urban Estate, or for developing parking area, or for setting up Tourist and Reception Centre or for the purpose of development Khalsa Heritage Complex. In fact, the Land Acquisition Collector seems to be justified in granting exactly the same amount of compensation to the landowners of all these villages, as the acquired land by way of different notifications, was having almost equal potentiality for its use for commercial, residential and industrial purposes.

Neither any other argument was raised, nor any contrary law was cited by learned counsel for 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 all these appeals deserve to be partly allowed to the extent indicative above and the same are allowed. The landowners in all these appeals are held entitled to receive the compensation for their acquired land at uniform rate of ₹24,200/- per marla from the date of notification under Section 4 of the Act. Besides this, the land owners shall also be entitled for all other statutory benefits available to them under the Act.

Resultantly, with the observations made above, all these appeals stand disposed of in the abovesaid terms, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

28.1.2016
AK Sharma