

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

**RFA No. 3367 of 2011 and other connected matters
Date of decision: 27.01.2016**

Sadhu Ram

... Appellant

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Kulwinder Singh, Advocate for
Mr. Rajbir Singh, Advocate
for the appellants (in RFA No.5382 of 2011).

Mr. R.K. Bansal, Advocate
for the appellant(s) (in RFA Nos.3964 to 3969 of 2011)

Mr. M.K. Singla, Advocate
for the appellant(s) (in RFA Nos.2825 to 2828, 3415, 6118, 2758,
2764, 2776 to 2782, 2790, 2913, 2914, 2969, 4106, 4107, 2751 to
2757, 2759 to 2761, 2763, 2765 to 2767, 2791, 2912, 2915, 2916,
4108, 4315, 4215, 2762, 2768 to 2775, 2792 to 2796, 3505, 3421,
3422, 3423 & 3500 of 2011)

Mr. Tarunveer Vashisht, Advocate
for the appellant(s) (in RFA Nos.3367, 4102 to 4105, 4467, 4847,
4848, 6136 of 2011)

Mr. Jai Bhagwan Sharma, Advocate
for the appellants (in RFA No.6886 of 2011)

Mr. Suman Jain, Advocate for
Mr. Gaurav Mohunta, Advocate
for the appellant(s) (in RFA Nos.6862 to 6877 of 2011)

Mr. Vipin Mahajan, Advocate
for the appellant(s) (in RFA Nos.5378, 5379 of 2011)

None for the appellants (in RFA Nos.3381 to 3383, 4217, 3416,
3417, 2783 to 2789, 4216 of 2011)

Mr. Amit Chaudhary, Addl. AG, 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

RAMESHWAR SINGH MALIK, J.

This batch of 110 appeals bearing Regular First Appeal Nos.2751 to 2796, 2825 to 2828, 2912 to 2916, 2969, 3367, 3381 to 3383, 3415 to 3417, 3421 to 3423, 3500, 3505, 3964 to 3969, 4102 to 4108, 4215 to 4217, 4315, 4467, 4847, 4848, 5378, 5379, 5382, 6118, 6136, 6862 to 6877, 6886 of 2011 filed by the land owners, is being decided vide this common order, as all these appeals arise out of the same acquisition and raise identical questions of law and facts. However, for the facility of reference and with the consent of learned counsel for the parties, facts are being culled out from RFA No.3367 of 2011 (Sadhu Ram Vs. State of Punjab).

Briefly put, facts necessary for disposal of this batch of appeals, are that the State of Punjab sought to acquire land measuring 592 acres, 7 kanal and 16 marla out of revenue estate of 10 villages namely Shahpur Nau Abad Their, Andana, Mandvi, Chandu, Makror Sahib, Nawangaun, Jaswantpur @ Hotipur, Baupur, Banarsi and Khanori Kalan, at public expenses for public purpose namely; for embankment and widening of Ghaggar river. Accordingly, Notification dated 20.11.2006 under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) was issued, which was followed by notification dated 29.04.2007 under Section 6 of the Act. Land Acquisition Collector, vide his common award dated 12.04.2008 granted the compensation at the rate of Rs.6,00,000/- per acre including solatium qua the land of nine villages at flat

rate and Rs.10,00,000/- per acre qua the land of village Khanouri. It is pertinent to note here that Rs.7,00,000/- per acre was awarded for the land abutting the road, however, no land was abutting the road in this batch of cases.

Dissatisfied, the 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, who vide common award dated 15.12.2010 dismissed all the references. Feeling aggrieved against the impugned award passed by the learned reference Court, the land owners have approached this Court by way of this batch of appeals, seeking enhancement in the compensation for their acquired land. It is also pertinent to note here that since the learned reference Court dismissed all the references, no appeal has been filed by the State of Punjab.

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 keeping in view the peculiar facts and circumstances of the cases, appeals filed by the land owners deserve to be partly allowed, for the following more than one reasons.

It is a matter of record and not in dispute that the land of all the abovesaid villages was acquired vide same notification and for the same purpose. It is also not in dispute that the land of village Khanouri alone was within the municipal area. Since all these villages were adjoining each other and the acquired land was going to be utilized for the same purpose, the Land Acquisition Collector was justified in granting the compensation at flat rate for the land of all these abovesaid nine villages except village Khanouri, whose land was found situated within the municipal limits. However, the learned

reference Court misdirected itself, while proceeding on a wholly misconceived and perverse approach, in not relying upon the sale instances, duly proved on record by the land owners.

On 02.09.2015, this Court passed the following order: -

“Learned counsel for the State seeks time to produce on record site plan showing acquisition of the entire land and the cities, villages and roads etc. coming on the way and close to the acquired land, along with distance therefrom.

Adjourned to 9.9.2015.

A copy of this order be placed on the file of each connected case.”

Despite having availed sufficient time of more than four and half months, respondent-State of Punjab did not comply with the abovesaid order for the reasons best known to it. So far as the sale instances available on record in the form of sale deeds Ex.A1 dated 04.05.2005 and Ex.A2 dated 06.06.2005 are concerned, these were very much discussed in paras 11 and 16 of the impugned award passed by the learned reference Court. However, these sale instances were ignored and that too for no good reasons. In the absence of any better evidence produced by either of the parties, learned reference Court ought to have considered these two sale deeds for assessing the market value of the acquired land. Learned counsel for both the parties have not referred to any other better or relevant piece of evidence even before this Court, except the abovesaid two sale deeds available on the record in the form of Ex.A1 and ExA2.

Land measuring 1 kanal was sold for Rs.2,40,000/- at the rate of Rs.19,20,000/- per acre by way of sale deed Ex.A1 dated 04.05.2005. Similarly,

vide sale deed Ex.A2 dated 06.06.2005, land measuring 8 marla was sold for Rs.96,000/- at the rate of Rs.19,20,000/- per acre. In view of the law laid down by the Hon'ble Supreme Court in **Mehrawal Khewaji Trust (Regd.), Faridkot and others Vs. State of Punjab and others, 2012 (5) SCC 432**, the land owners are entitled to receive the best price for their acquired land.

Following the law laid down by the Hon'ble Supreme Court, while striking a balance and taking a holistic view of the matter, to do complete and substantial justice between the parties, this Court is of the considered view that it would be just and expedient to take the average of both these sale deeds, for the purpose of assessing the market value for the acquired land. The average market value of both the abovesaid sale deeds comes to Rs.19,20,000/- per acre. At this stage, this Court would hasten to add that since both these sale deeds were relating to smaller pieces of land in comparison to the total acquired land, a reasonable cut has to be applied.

Looking to the nature and location of the acquired land, coupled with the other relevant and positive determinative factors, it would be just and reasonable to apply 30% cut on the market value disclosed in the abovesaid two sale deeds. After applying 30% cut on Rs.19,20,000/- per acre, the amount comes to Rs.13,44,000/- per acre.

Then comes the time gap between the sale instance and the date of acquisition. The time gap was one year and six months. Following the settled proposition of law, the land owners, in these appeals, are held entitled for 12% annual increase. Granting the benefit of 12% annual increase on the basis of cumulative method, as held by the Hon'ble Supreme Court in **Ashok Kumar Vs. State of Haryana, 2015 (3) Scale 242**, the total amount comes to Rs.15,95,596/- per acre, which is rounded off to Rs.15,95,600/- per acre.

Having said that, this Court feels no hesitation to conclude that the land owners of all the abovesaid nine villages, except the land owners of village Khanouri, would be entitled to receive the compensation for their acquired land at the uniform rate of Rs.15,95,600/- per acre, from the date of notification under Section 4 of the Act.

Coming to village Khanouri, since the Land Acquisition Collector himself has granted Rs.4,00,000/- per acre more to the land owners of village Khanouri, this Court is of the view that it would be just and reasonable to grant the compensation to the land owners of village Khanouri at the rate of Rs.21,00,000/- per acre. It is so said because this increase would be almost in the same proportion, which was granted by the Land Acquisition Collector himself and also because the acquired land of this village was situated within municipal area, thus, was having much higher potentiality.

No other argument was raised on behalf of either side.

Considering the peculiar facts and circumstances of the cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that all these appeals deserve to be partly allowed and the same are hereby allowed to the extent indicated above. The land owners of all the abovesaid nine villages namely Shahpur Nau Abad Their, Andana, Mandvi, Chandu, Makror Sahib, Nawangaun, Jaswantpur @ Hotipur, Baupur and Banarsi are held entitled to receive the compensation at the uniform rate of Rs.15,95,600/- per acre for their acquired land, from the date of notification under Section 4 of the Act.

Similarly, the land owners of village Khanouri are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.21,00,000/- per acre, from the date of notification under Section 4 of the Act.

Besides this, the land owners of all the abovesaid 10 villages shall also be entitled for all other statutory benefits available to them, under the relevant provisions of the Act.

Resultantly, with the observations made above, all the abovesaid 110 appeals stand disposed of, in the abovesaid terms, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

27.01.2016
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