

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

**RFA No.1475 of 2012 and other connected matters
Date of decision: 11.03.2016**

Ajit Singh

... Appellant

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Ashok Arora, Advocate
for the appellant(s) (in RFA Nos.5264, 5265 of 2011).

Mr. Y.P. Malik, Advocate and
Mr. Ankur Malik, Advocate
for the appellant(s) (in RFA Nos.2847 to 2852, 4839, 6093 to 6095,
6892, 7109, 7118, 7120 of 2011)

Mr. Balraj Gujjar, Advocate
for the appellant(s) (in RFA Nos.2212, 2213, 2439 to 2442 of
2015)

Mr. Raman Chawla, Advocate
for the appellant(s) (in RFA Nos.893 of 2015)

Mr. Amit Jain, Advocate
for the appellant(s) (in RFA Nos.1475 to 1479, 1934, 1942 of
2012)

Mr. Abhinash Jain, AAG, Haryana.

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.

Instant batch of 30 appeals bearing Regular First Appeal Nos.2847
to 2852, 4839, 5264, 5265, 6093 to 6095, 6892, 7109, 7118, 7120 of 2011, 1475
to 1479, 1934, 1942 of 2012, 893, 2212, 2213, 2439 to 2442 of 2015, 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, with the consent of learned counsel for the parties and for the facility of reference, facts are being culled out from RFA No.1475 of 2012 (Ajit Singh Vs. State of Haryana and others).

Facts are hardly in dispute. State of Haryana sought to acquire land measuring 19.32 acres at public expenses for public purpose i.e. for construction of Hansi Multiple Channel. Accordingly, notification dated 27.04.2005 came to be issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act'), which was followed by notification dated 01.07.2005 under Section 6 of the Act. Land Acquisition Collector ('LAC' for short), vide his different but identical awards, including award No.43-H dated 28.02.2006 assessed the market value at the uniform rate of Rs.5,00,000/- per acre for the total land acquired from different revenue estates; namely Sultanpur, Kharar, Kutabpur, Ramayan, Bhagana and Dhandheri.

Dissatisfied with the amount of compensation granted by the LAC, 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. Vide different but identical awards passed by the learned reference Court, the amount of compensation was enhanced. The learned reference Court assessed the market value for the land out of the revenue estate of Village Sultanpur at the uniform rate of Rs.5,00,000/- per acre vide award dated 25.05.2010. Land owners of village Sultanpur were also granted 10% of the abovesaid market value towards severance charges. Regarding village Kharar, learned reference Court awarded the amount of compensation at the uniform rate of Rs.6,00,000/- per acre plus the additional compensation of Rs.1,00,000/- per acre on account of damages.

Similarly, learned reference Court vide impugned award dated 04.09.2014 pertaining to village Kutabpur as well as village Dhandheri, assessed the market value at the uniform rate of Rs.10,00,000/- per acre. However, nothing was granted by the learned reference Court to the land owners of villages Kutabpur and Dhandheri on account of severance charges. Learned counsel for the parties, in the instant set of appeals, have not pointed out to any pending appeal pertaining to the land of village Ramayan, because some appeals of village Ramayan have already been decided by this Court vide order dated 21.05.2012, along with RFA No.3867 of 2011 (Mohan Lal Vs. State of Haryana and others), whereby the amount of compensation was assessed at the uniform rate of Rs.6,50,000/- per acre.

Learned reference Court, vide award No.07.09.2010 decided the land references of village Bhagana, upholding the award of the LAC, whereby Rs.5,00,000/- per acre was granted as compensation to the land owners. However, the learned reference Court granted Rs.50,000/- per acre on account of severance charges as well as for trees, which were existing on the acquired land at the time of its acquisition.

Both the parties felt aggrieved against the different but identical awards passed by the learned reference Court. State of Haryana has filed numerous appeals, which were dismissed by this Court vide order dated 12.01.2012 and remaining appeals filed by the State, arising out of the same acquisition, having been found squarely covered, have been dismissed today by a separate order, after placing reliance on the earlier order dated 12.01.2012 passed by this Court in Balwant's case (supra). Now the appeals which remain to be decided are that of land owners, who are seeking further enhancement in the amount of compensation for their acquired land.

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 totality of facts and circumstances of these cases, the appeals filed by the land owners deserve to be partly allowed, suitably enhancing the amount of compensation for their acquired land. To say so, reasons are more than one, which are being recorded hereinafter.

Twin questions that fall for consideration of this Court are; firstly whether land owners of all these villages could have been treated differently for the purpose of assessing the market value of their acquired land, particularly when the total land was acquired for one and the same purpose and vide same notification. Secondly, whether the amount of compensation granted by the learned reference Court on account of severance charges was adequate or not.

Taking the first question first, it is a matter of record that the land was acquired vide instant acquisition for one and the same purpose, i.e. construction of Hansi Multiple Channel. It is again undisputed before this Court that every inch of the acquired land was going to be put to the same use. In such an undisputed fact situation obtaining in the instant set of appeals, answer to the first question posed hereinabove is and has to be emphatic no. The land owners could not have been treated in the discriminatory manner, as they have been treated. It is so said because once the purpose of acquisition was the same and every parcel of the acquired land was going to be utilized for the same purpose, actual location and quality of land would be hardly of any consequences.

In this regard, reliance can be placed on the judgments rendered by the Hon'ble Supreme Court in **Ashrafi and others Vs. State of Haryana, 2013 (5) SCC 527** and **Kashmir Singh Vs. State of Haryana and others, 2014 (2)**

SCC 165. Further, the abovesaid view taken by this Court also finds support from the following more than one judgments of the Hon'ble Supreme Court as well as this Court: -

1. *Udho Dass Vs. State of Hayana, 2010 (2) SCC 51.*
2. *Ashrafi and others Vs. State of Haryana, 2013 (5) SCC 527.*
3. *Kehar Singh Vs. Punjab State, 1992 (1) RRR 81.*
4. *Harinderpal Singh Vs. Punjab State through the Collector, Amritsar, 1997 (3) RCR (Civil) 431.*
5. *Union of India Vs. Dr. Balbir Singh, 1999 (2) RCR (Civil) 546.*
6. *Pawan Kumar and another Vs. Land Acquisition Collector and others, 2001 (1) RCR (Civil) 598.*
7. *Harjit Singh @ Kaka Singh Vs. State of Punjab and another, 2004 (1) RCR (Civil) 484.*
8. *Smt. Mahabiri Devi and others Vs. State of Haryana and another, 2005 (4) RCR (Civil) 142.*
9. *Gulzar Singh Vs. State of Haryana, 2006 (3) RCR (Civil) 174.*
10. *Kashmir Singh and others Vs. Land Acquisition Tribunal Ludhiana Improvement Trust through its President and others, 2006 (2) LAR 59.*
11. *Gursher Singh and others Vs. President, Improvement Trust Tribunal, Jalandhar and others, 2007 (1) RCR (Civil) 429.*
12. *Baru Ram and others Vs. State of Haryana and another, 2010 (3) RCR (Civil) 754.*

In view of what has been discussed hereinabove, land owners of village Sultanpur, Kharar and Bhagana are held entitled to receive the same amount of compensation, which has been granted by the learned reference Court to the land owners of village Kutabpur. It is pertinent to note here that

learned reference Court itself has treated the land owners of village Dhandheri and village Kutabpur at par. Granting different amount of compensation to the land owners of these villages would run counter to the law laid down by the Hon'ble Supreme Court in **Ashrafi's** case (supra) and **Kashmir Singh's** case (supra).

Coming to the second question regarding inadequacy of the amount of compensation on account of severance charges, the learned reference Court has granted 10% of the market value assessed or a lump-sum amount of Rs.50,000/- per acre, which has been found wholly inadequate. No amount on account of severance charges was granted to the land owners of village Kutabpur and village Dhandheri. No reason much less cogent reasons have been assigned by the learned reference Court in this regard and the impugned awards are liable to be modified.

A bare perusal of the site plan would show that after construction of the Hansi Multiple Channel, the land was bound to be bifurcated. Neither it would be feasible nor practicable for the State authorities to provide culverts or bridges on this multiple channel at short distances, so as to enable the land owners to approach their unacquired land for the purpose of its cultivation. Consequently, the land owners will have to cover long distances to approach their unacquired land. It will considerably increase the transportation charges and other expenses, which will substantially reduce the net profit from the unacquired agricultural land, for all times to come. The land owners would not be in a position to put their unacquired land to its optimum use. Keeping in view the abovesaid material and undisputed fact situation, this Court is of the considered view that granting 30% of the abovesaid market value, on account of severance charges, would meet the ends of justice. Any lesser amount in this

regard would be wholly inadequate.

Another equally important aspect of the matter is that some of the appeals filed by the land owners of village Ramayan, including RFA N.3867 of 2011 (Mohan Lal Vs. State of Haryana and others) were disposed of by this Court vide order dated 21.05.2012, assessing the market value of the acquired land at the uniform rate of Rs.6,50,000/- per acre. A careful perusal of this order would show that neither the land owners of village Ramayan claimed parity with the land owners of village Kutabpur nor they pressed their claim for severance charges. No such issue has either been referred or considered by this Court in its order dated 21.05.2012 passed in Mohan Lal's case (supra).

This is the strong and apparent reason that once none of the abovesaid issues was neither raised nor pressed before this Court, there was no scope of considering and deciding the same. This being a matter of record, the order dated 21.05.2012 passed by this Court in Mohan Lal's case (supra) would not be a binding precedent against the land owners, whose appeals are being decided vide instant order. It is the settled proposition of law that each case is to be decided as per its own peculiar facts and circumstances. If the land owners of village Ramayan did not claim the abovesaid benefits despite the fact that same were available to them, the land owners of other adjoining villages cannot be made to suffer for none of their fault.

So far as the prayer made on behalf of the land owners for further enhancement in the amount of compensation for their acquired land is concerned, learned counsel for the land owners-appellants have failed to point out any relevant piece of evidence, so as to substantiate their arguments in this regard. Although learned counsel for the appellants sought to place reliance on some sale deeds, which were marked documents but the same were found of no

relevance, because the sale deeds were post-acquisition. There was a time gap of about four years between the acquisition and the sale deeds, which was sought to be relied upon by learned counsel for the land owners. No other evidence was found available on record in favour of the land owners nor any such was pointed out by learned counsel for the appellants-land owners.

Let it be specifically recorded here that no other better evidence or judicial precedent was pressed into service nor any other argument was raised on behalf of either of the parties.

Considering the peculiar facts and circumstances of the cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that the appeals filed by the land owners deserve to be partly accepted and the same are hereby allowed to the extent indicated above. The land owners of villages Sultanpur, Kharar and Bhagana are also held entitled to receive the same amount of compensation i.e. Rs.10,00,000/- per acre, which has been granted by the learned reference Court to the land owners of village Kutabpur and village Dhandheri. Further, the land owners of village Sultanpur, Kharar, Bhagana, Kutabpur and Dhandheri are also held entitled to receive 30% of the abovesaid 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 abovesaid observations made, all these 30 appeals stand disposed of, in the abovesaid terms, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

11.03.2016
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