

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

**Date of Decision : 08.12.2016.
Cross Objection-152-CI of 2015 (O&M) in/and
RFA No.3066 of 2014 (O&M)**

**Deputy Chief Engineer, Construction-II, Northern Railway,
Chandigarh.**

.....Appellant

Versus

Sanjiv Kumar and others

..... Respondents

2nd

**Cross Objection-297-CI of 2016 (O&M) in/and
RFA No.3067 of 2014 (O&M)**

**Deputy Chief Engineer, Construction-II, Northern Railway,
Chandigarh.**

.....Appellant

Versus

Ajaib Singh and others

..... Respondents

3rd

**Cross Objection-271-CI of 2016 (O&M) in/and
RFA No.3068 of 2014 (O&M)**

**Deputy Chief Engineer, Construction-II, Northern Railway,
Chandigarh.**

.....Appellant

Versus

Swaran Singh and others

..... Respondents

4th

RFA No.3069 of 2014 (O&M)

**Deputy Chief Engineer, Construction-II, Northern Railway,
Chandigarh.**

.....Appellant

Versus

Balwinder Singh and another

..... Respondents

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and other connected cases**

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5th

**Cross Objection-273-CI of 2016 (O&M) in/and
RFA No.3070 of 2014 (O&M)**

**Deputy Chief Engineer, Construction-II, Northern Railway,
Chandigarh.**

.....Appellant

Versus

Sardara Singh and another

..... Respondents

6th

**Cross Objection-272-CI of 2016 (O&M) in/and
RFA No.3071 of 2014 (O&M)**

**Deputy Chief Engineer, Construction-II, Northern Railway,
Chandigarh.**

.....Appellant

Versus

Dalbara Singh and others

..... Respondents

7th

RFA No.3072 of 2014 (O&M)

**Deputy Chief Engineer, Construction-II, Northern Railway,
Chandigarh.**

.....Appellant

Versus

Nachhattar Singh and another

..... Respondents

8th

**Cross Objection-151-CI of 2015 (O&M) in/and
RFA No.3073 of 2014 (O&M)**

**Deputy Chief Engineer, Construction-II, Northern Railway,
Chandigarh.**

.....Appellant

Versus

Ajit Singh and others

..... Respondents

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and other connected cases** **-3-**

9th

**Cross Objection-270-CI of 2016 (O&M) in/and
RFA No.3074 of 2014 (O&M)**

**Deputy Chief Engineer, Construction-II, Northern Railway,
Chandigarh.**

.....Appellant

Versus

Hardeep Singh and others

..... Respondents

10th

**Cross Objection-298-CI of 2016 (O&M) in/and
RFA No.3075 of 2014 (O&M)**

**Deputy Chief Engineer, Construction-II, Northern Railway,
Chandigarh.**

.....Appellant

Versus

Chattan Singh and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Rajiv Sharma, Advocate for the appellant.

Mr. Naresh Kaushal, Advocate for the cross-objectors.

ARUN PALLI, J. (Oral)

CM-4924-CI-2014 in RFA No.3066 of 2014

For the reasons set out in the application, the delay of 8 days
that has occurred in re-filing the accompanying appeal is condoned.

C.M. disposed of.

CM-4925-CI-2014 in RFA No.3066 of 2014

This is an application for condonation of delay of 204 days in
filing the accompanying appeal. Prayer is not opposed.

**Cross Objection-152-CI of 2015 (O&M) in/and RFA No.3066 of 2014
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Consequently, the delay in filing the accompanying appeal is condoned.

CM-4926-CI-2014 in RFA No.3066 of 2014

For the reasons set out in the application, which is duly supported by an affidavit, the same is allowed, subject to all just exceptions. Consequently, leave is granted to the applicant to institute and maintain the present appeal.

CM No. 10877 to 79-CI of 2015 in Cross Objection No.152-CI of 2015

For the reasons set out in these applications, which are supported by affidavits, the same are allowed, subject to all just exceptions. Accordingly, legal representatives of deceased/respondents, as depicted in paragraph 2 of the applications, are brought on record for the purpose of pursuing the present appeal only.

Main cases

For, the facts involved in all these appeals are similar, and so is the question that requires determination, vide a common order, I shall decide a batch of 10 appeals, bearing RFA Nos. 3066, 3067, 3068, 3069, 3070, 3071, 3072, 3073, 3074 and 3075 of 2014, preferred by the Deputy Chief Engineer, Construction-II, Northern Railway, Chandigarh, as also the cross objections, that is, Cross Objection No.152-CI of 2015 in RFA No.3066 of 2014, Cross Objection No.297-CI of 2016 in RFA No.3067 of 2014, Cross Objection No.271-CI of 2016 in RFA No.3068 of 2014, Cross Objection No.273-CI of 2016 in RFA No.3070 of 2014, Cross Objection No.272-CI of 2016 in RFA No.3071 of 2014, Cross Objection No.151-CI of

2015 in RFA No.3073 of 2014, Cross Objection No.270-CI of 2016 in RFA No.3074 of 2014 and Cross Objection No.298-CI of 2016 in RFA No.3075 of 2014, filed by the landowners. However, the facts are being culled out from RFA No.3066 of 2014.

Vide notification issued under Section 4 of the Land Acquisition Act (for short 'the Act'), dated 12.10.2004, published on 14.10.2004, a land measuring 34 kanals 15 marlas, and 3 bighas 14 biswas, situated in the revenue estate of village Khooni Majra, Kharar and Badala Naya Shahar, Tehsil Kharar, District SAS Nagar, was sought to be acquired for construction of New Approach Road from Kharar Bassi Road to Railway Station Kharar. A declaration under Section 6 of the Act, was made on 25.02.2005. The Land Acquisition Collector, vide award No.1, dated 10.02.2009, assessed the market value of the land that formed part of revenue estate of village Kharar, and was classified as chahi and gair mumkin at ₹8,50,000/-per acre. The land situated in village Khooni Majra, and was categorized as chahi and gair mumkin was assessed at ₹7,50,000/- per acre whereas, the same quality of land as regards village Badala Naya Sahar was assessed at ₹6,50,000/- per acre. Being aggrieved by the assessment and the compensation awarded by the Collector, the landowners filed their respective objections, under Section 18 of the Act, and sought a reference to the Civil Court. On an analysis of the material and the evidence on record, the reference Court, vide its award dated 2.3.2013, arrived at a conclusion that since all the villages, that is, Khooni Majra, Kharar and Badala Naya Shahar were adjacent or abutted each other, all the

landowners were entitled to the same compensation. And, in reference to a sale instance i.e. sale deed dated 14.05.2004 (Ex.P2), it was observed, for, the said sale deed was executed just about five months before the issuance of notification under Section 4 of the Act, it was crucial for determination of the market value of the acquired land. However, for the time gap between the execution of the said sale deed and the notification under Section 4 of the Act, the Reference Court awarded 5% increase upon the sale consideration, for, which the sale deed Ex.P2 was executed. But as the said sale instance was relatively of a smaller area i.e. 4 kanal 1 marla, the Court imposed 50% cut to work out the value of the acquired land; ₹23,34,000/- per acre. Accordingly, the landowners were awarded compensation at the said rate, as also all the statutory benefits, admissible in law. That is how, both the parties are before this Court. Naturally, the appellants have prayed for reduction in the compensation, whereas the cross-objectors-landowners seek further enhancement.

At the outset, learned counsel for the claimants-landowners submits that vide another notification issued under Section 4 of the Act, dated 28.11.2000, a land that also formed part of the revenue estate of village Khooni Majra and Badala Naya Shahar was acquired for laying down the railway line from Chandigarh to Ludhiana, as also for construction of Railway Station at Mohali. And, in the appeals arising out of the said acquisition, this Court, vide judgment dated 01.06.2016, rendered in RFA No.3161 of 2009 (Jasmer Singh Vs. State of Punjab through Land Acquisition Collector, Chandigarh-Ludhiana Broad Gauge Rail Line, SAS

Nagar, Mohali) and other connected matters, had assessed the market value at ₹82,88,550/- per acre. Thus, it is submitted that the landowners even in the matter in hand are not only entitled to the same compensation but also to 12% annual increase, on cumulative basis, upon the compensation awarded by this Court for the time difference between the two notifications issued under Section 4. Further, he points out that although, in the earlier acquisition the land that forms part of village Kharar was not a part of the acquisition proceedings, but still the landowners whose lands were situated in the said revenue estate would be entitled to the same compensation. For, the land situated in village Kharar was far more valuable and prime in comparison. And that is how even the Collector had awarded higher compensation for the land situate in village Kharar than in the other two villages.

The factual position as sketched out above is not disputed by the learned counsel for the appellant(s). And rather there is a consensus that as this Court had already assessed the market value of the land situated in village Khooni Majra and Badala Naya Shahar in the case of Jasmer Singh (supra), the landowners even in the present acquisition could be awarded the same compensation. However, learned counsel for the appellant disputes that the landowners were/are also entitled to any further increase.

I have heard learned counsel for the parties and perused the records.

Concededly, vide a notification issued under Section 4, published on 28.11.2000, land that formed part of revenue estate of village

Khooni Majra and Badala Naya Shahar was acquired for laying down the railway line and construction of Railway Station at Mohali. And, acquisition proceedings were initiated, in the present case, pursuant to a notification issued under Section 4, published on 14.10.2004, for the land that too was situate in the same revenue estates. And, for the same department (appellant), for construction of a new approach road to railway Station Kharar. *Ex facie*, there was a difference of nearly four years between the two notifications. Learned counsel for the appellant could not point out anything on record to show that post publication of the notification under Section 4, in the earlier acquisition, the prices or value of the real estate, in the area concerned, had de-escalated or dropped. On the contrary learned counsel for the landowners relied upon a decision of a co-ordinate Bench of this Court in RFA No.2322 of 2011 (Usha Rani and others Vs. State of Haryana and others), rendered on 28.03.2016, where, with reference to the decisions of the Hon'ble Supreme Court as regards the principle of awarding annual increase, to mark out the true value of the acquired land, it was concluded:-

“Thus, the land-owners would be entitled for benefit of annual increase of this time gap of two years. By now, it is the general principle to grant the benefit of 12% annual increase, for the time gap.

The Hon'ble Supreme Court in Mehrawal Khewaji Trust (Regd.) Faridkot and others' case (supra) has held that the landowners are entitled for best price of their land acquired. Again, in “Udho Dass vs. State of Haryana and others” 2010 (12) SCC 51, the Hon'ble

Supreme Court has held that land-owners hardly get duly compensated in the matters of compulsory acquisition. In General Manager, Oil and Natural Gas Corporation Limited's case (supra), the Hon'ble Supreme Court has held that annual increase for urban and semi urban areas could be upto 15% whereas for rural areas 12% annual increase would be reasonable. It was also held in General Manager, Oil and Natural Gas Corporation Limited's case (supra) as well as in “Ashok Kumar and others vs State of Haryana and others” 2015 (3) Scale 242, that the land-owners would be entitled for annual increase on cumulative basis.

In view of the above said law laid down by the Hon'ble Supreme Court and while striking a balance between the parties, this Court is of the considered view that the land-owners in the instant set of appeals, would be entitled for the benefit of only 12% annual increase for the above said time gap. After granting 12% annual increase on cumulative basis, on the market value disclosed in sale deed Exhibit P-1, the amount comes to ₹48,57,000/- per acre. Accordingly, the land-owners are held entitled to receive the amount of compensation at the uniform rate of ₹48,57,000/- per acre, from the date of notification of Section 4 of the Act”.

No other argument was advanced.

In conspectus of the above position, the only and the inevitable conclusion one could reach is that; landowners shall be entitled to the same compensation i.e. ₹82,88,550/- that was awarded by this Court in the case of Jasmer Singh (supra) as also 12% annual increase on cumulative basis, upon the said amount (₹82,88,550/- per acre X 12% annual increase on

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cumulative basis). Thus, the claimant-landowners are held entitled to compensation @ ₹1,28,62,895/- per acre with all the statutory benefits as admissible in law.

In the wake of the above, the appeals are dismissed whereas, the cross-objection preferred by the landowners are disposed of in the above terms.

08.12.2016

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned/non-speaking

Whether reportable: Yes/No