

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

Date of decision: 23.02.2017

1. CR No.4193 of 2016 (O&M)

Punjab State Agriculture Marketing Board

... Petitioner

Vs.

Land Acquisition Collector, Colonization Department, Punjab and others

... Respondents

2. CR No.5134 of 2016 (O&M)

Punjab State Agriculture Marketing Board

... Petitioner

Vs.

Land Acquisition Collector, Colonization Department, Punjab and others

... Respondents

3. CR No.5135 of 2016 (O&M)

Punjab State Agriculture Marketing Board

... Petitioner

Vs.

Land Acquisition Collector, Colonization Department, Punjab and others

... Respondents

4. CR No.5136 of 2016 (O&M)

Punjab State Agriculture Marketing Board

... Petitioner

Vs.

Land Acquisition Collector, Colonization Department, Punjab and others

... Respondents

5. CR No.5137 of 2016 (O&M)

Punjab State Agriculture Marketing Board

... Petitioner

Vs.

Land Acquisition Collector, Colonization Department, Punjab and others

... Respondents

6. CR No.5138 of 2016 (O&M)

Punjab State Agriculture Marketing Board

... Petitioner

Vs.

Land Acquisition Collector, Colonization Department, Punjab and others

... Respondents

7. CR No.5139 of 2016 (O&M)

Punjab State Agriculture Marketing Board

... Petitioner

Vs.

Land Acquisition Collector, Colonization Department, Punjab and others

... Respondents

8. CR No.5140 of 2016 (O&M)

Punjab State Agriculture Marketing Board

... Petitioner

Vs.

Land Acquisition Collector, Colonization Department, Punjab and others

... Respondents

9. CR No.5141 of 2016 (O&M)

Punjab State Agriculture Marketing Board

... Petitioner

Vs.

Land Acquisition Collector, Colonization Department, Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sameer Sachdeva, Advocate
for the petitioner.

Mr. Baljinder Singh Sra, Addl. AG, Punjab.

Mr. S.K. Singla, Advocate and
Mr. G.S. Sidhu, Advocate
for respondent No.3 (in CR-4193-2016)

Mr. P.K. Bansal, Advocate
for respondents No.3 to 8 (in CR-5137-2016)

Mr. Satnam Chauhan, Advocate for
Mr. J.S. Toor, Advocate
for respondent No.4(b) (in CR-5135-2016) and
for respondent No.3(b) (in CR-5138-2016).

RAMESHWAR SINGH MALIK, J. (ORAL)

These nine identical civil revisions are being disposed of, vide this common order, with the consent of learned counsel for the parties, as all these revision petitions arise out of similar set of facts. However, for the facility of reference, facts are being culled out from CR No.4193 of 2016 (Punjab State Agriculture Marketing Board Vs. Land Acquisition Collector, Colonization Department, Punjab and others).

Facts necessary for disposal of this batch of revision petitions are that land measuring 79 acres, 05 kanal, 03 marla was acquired by the Land Acquisition Collector ('LAC' for short) of State of Punjab for public purpose i.e.

for setting up of a New Grain Market at Talwandi Bhai, District Ferozepur. Punjab State Agriculture Marketing Board was the beneficiary department as the New Grain Market was to be set up by the petitioner. Award dated 02.06.1988 was passed by the LAC, assessing the market value of the acquired land @Rs.40,000/- per acre. Dissatisfied with the market value assessed by the LAC, land owners filed their references under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act'). Learned reference Court enhanced the amount of compensation to Rs.4,60,000/- per acre. Applying the belting system market value was assessed at the rate of Rs.4,60,000/- per acre for the land abutting the main road upto one killa depth. Market value for the remaining land was assessed at Rs.4,00,000/- per acre, in addition to the statutory benefits. Both the parties approached this Court by filing regular first appeals. This Court reduced the market value to Rs.3,74,400/- per acre upto depth of one killa on the main road and Rs.2,24,640/- per acre for the remaining land beyond one killa inside the main road. Land owners approached the Hon'ble Supreme Court and the Hon'ble Supreme Court vide its order dated 11.04.2013 passed in **Civil Appeal Nos.3279-3287 of 2013 arising out of SLP (C) Nos.24704-24712 of 2007 (Ashrafi and others Vs. State of Haryana and others)**, while deciding the big bunch of cases, assessed the market of the land in Sucha Singh's case, covering the cases in hand, at the rate of Rs.7,25,000/- per acre.

The relevant part of the judgment of the Hon'ble Supreme Court in para 39 of **Ashrafi's** case (supra), covering the cases in hand, reads as under: -

“In Sucha Singh's case, Mr. Kapoor had submitted that the Land Acquisition Collector had awarded the compensation at the rate of Rs.40,000/- per acre, which was enhanced by the Reference Court

to Rs.4,60,000/- up to one killa and to Rs.4,00,000/- beyond one killa. On appeal to the High Court, the amounts were reduced to Rs.3,74,400/- per acre up to one acre and Rs.2,24,640/- per acre beyond one acre. According to Mr. Kapoor, while the average sale price had been found to be Rs.6,23,997/- per acre, together with increase of 12% per annum, the figure would amount to Rs.7,82,746/- per acre. However, although the land belonging to Mr. Kapoor's clients fell within the municipal limits of Talwandi Bhai, a deduction of 40% was unjustified. On the other hand, a cut of 33 1/3 per cent would be more realistic. Accordingly, the compensation for the said lands, after taking into consideration the deduction of 33 1/3 per cent is assessed at Rs.7,25,000/- per acre.”

Later on, another identical order was passed by the Hon'ble Supreme Court in other left over connected matters, in terms of the **Ashrafi's** case (supra). One such order dated 08.08.2013 passed by the Hon'ble Supreme Court in **Civil Appeal No.6775 of 2013 arising out of SLP (C) No.1281 of 2013 (Harbhajan Kumar (D) through LRs and others Vs. Collector Land Acquisition & Colonization Department and another)** reads as under: -

“Application for substitution is allowed. Leave granted.

Heard Mr. R.K. Kapoor, learned counsel in support of this appeal and learned counsel appearing for the Collector, Land Acquisition Department of the State of Punjab. The appellants are seeking enhancement of compensation for the acquisition of their land. When this appeal came up for hearing before this Court earlier on 4.1.2013, it was directed to be tagged with SLP(C)

No.1678-1697 of 2010. The appeals arising out of those special leave petitions and some other petitions have come to be allowed by this Court by its judgment in Ashrafi and Ors. Vs. State of Haryana and Ors., reported in (2013) 5 SCC 527. In paragraph 40 of the said judgment to which one of us (Chelameswar, J.) is a party, the compensation amount has been enhanced to Rs.7,25,000/- per acre.

Since the present appeal is against a similar order passed by the Land Acquisition Officer, we allow this appeal. The award of the Land Acquisition Officer will stand modified and the appellants will be entitled to compensation at par at the rate of Rs.7,25,000/- per acre. This appeal is disposed of accordingly.”

When the execution of abovesaid orders passed by the Hon'ble Supreme Court came to be filed by the land owners and amount was not being deposited by the beneficiary department-petitioner herein, the learned Additional District Judge-executing Court passed the impugned order on 31.05.2016, which reads as under: -

“Summons to Sh. T.P.S. Sidhu Secretary Punjab State Agricultural Marketing Board, Chandigarh thereby calling upon him to explain as to why his salary be not attached not received back. He be now summoned for 14.07.2016 along with complete record to avoid any further delay. The counsel for the DH stated that the present execution application was pending and the official who were i.e. Patwari appearing in the present case had no authority to move forwarded. Now, director colonization namely S. Daljeet Singh, shop cum office 2437-38, Sector 22-C, Punjab Chandigarh be

summoned along with record of the present execution application.”

The only argument raised by learned counsel for the petitioner is that since the actual amount for which the land owners were entitled was Rs.5,25,000/- per acre instead of Rs.7,25,000/- per acre, it being a typographical error in the abovesaid orders passed by the Hon'ble Supreme Court, the learned executing Court should have ordered said correction before passing the impugned order.

This solitary contention raised on behalf of the petitioner in all these cases was vehemently opposed by learned counsel for the landowners-respondents, contending that it was not only the first order dated 11.04.2013 in **Ashrafi's** case (supra) but the Hon'ble Supreme Court has passed identical order even at a later point of time i.e. on 08.08.2013 in **Harbhajan Kumar's** case (supra).

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 the petitioner ought to have moved the appropriate application before the Hon'ble Supreme Court, seeking modification/clarification in the abovesaid order dated 11.04.2013 passed in **Ashrafi's** case (supra) as well as in order dated 08.08.2013 passed in **Harbhajan Kumar's** case (supra).

During the course of hearing, when specifically and repeatedly asked to point out any difficulty, whatsoever, with the petitioner-beneficiary department in approaching the Hon'ble Supreme Court by moving the appropriate application, seeking modification/clarification in the abovesaid orders, learned counsel for the petitioner-Punjab State Agriculture Marketing

Board had no answer and rightly so, it being a matter of record. Instead of seeking the necessary clarification/modification, if so required, from the Hon'ble Supreme Court, petitioner is unnecessarily delaying the matter and the net result is that the land owners are not being paid their amount of compensation in their execution applications, wherein they are seeking execution of the abovesaid orders passed by the Hon'ble Supreme court. This serious omission on the part of the petitioner is totally unwarranted and under these circumstances, the impugned order does not call for any interference at the hands of this Court.

The abovesaid orders dated 11.04.2013 and 08.08.2013 were passed by the Hon'ble Supreme Court more than three and half years ago. However, the petitioner did not move any such application for clarification/modification of the abovesaid orders before the Hon'ble Supreme Court, for the reasons best known to it. Having said that, this Court feels no hesitation to conclude that learned executing Court committed no error of law, while passing the impugned order and the same deserves to be upheld.

Coming to the judgments relied upon by learned counsel for the petitioner in **Guda Sanjeeva Reddy Vs. Kodathala Sujatamina, 2007 (5) RCR (Civil) 271** and **V.I.P. Emporium, rep. by its Proprietor and another Vs. M/s. TCI Finance Ltd., Secunderabad, 2012 (3) ALT 165**, there is no dispute about the observations made therein. However, on close perusal of the cited judgments, none of them has been found of any help to the petitioner, being distinguishable on facts. It is settled proposition of law that peculiar facts and circumstances of each case are to be examined, considered and appreciated first before applying any codified or judgemade law thereto. Sometimes, difference of even one additional fact or circumstance can make the world of

difference, as held by the Hon'ble Supreme Court in **Padmausundrao Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533, Union of India Vs. Amrit Lal Manchanda and others, 2004 (3) SCC 75, State of Orissa Vs. Md. Illiyas, 2006 (1) SCC 275 and State of Rajasthan VS. Ganeshi Lal, 2008 (2) SCC 533.**

Had the alleged typographical error been not disputed by the respondents herein, matter would have been different. Learned counsel for the respondents have vehemently contended that when the Hon'ble Supreme Court has passed the orders not once but twice, assessing the market value at the rate of Rs.7,25,000/- per acre, neither the petitioner nor the learned executing Court or even this Court would have any jurisdiction to sit over the judgment of the Hon'ble Supreme Court, under the garb of a typographical error. In this view of the matter, the only way out left with the petitioner, as noticed hereinabove, was to approach the Hon'ble Supreme Court by moving an appropriate application seeking clarification/modification in the abovesaid orders dated 11.04.2013 and 08.08.2013 passed by the Hon'ble Supreme Court in **Ashrafi's** case (supra) and **Harbhajan Kumar's** case (supra).

Further, it does not appeal to reason as to why the petitioner was shying away in approaching the Hon'ble Supreme Court for seeking the clarification in the abovesaid orders, if any such clarification was required. Keeping in view the totality of facts and circumstances of the case discussed hereinabove, this Court is of the considered view that the order passed by the learned executing Court cannot be said to be an order without jurisdiction and the same deserves to be upheld, for this reason also.

Learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order passed by the learned executing

Court, warranting interference at the hands of this Court, while exercising its revisional jurisdiction. As noticed hereinabove, he also failed to point out any difficulty, whatsoever, at the hands of the petitioner, in approaching the Hon'ble Supreme Court by moving an appropriate application, seeking clarification/modification in the abovesaid orders passed by the Hon'ble Supreme Court, if so required. Thus, no fault can be found with the impugned order.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has not been found suffering from any patent illegality, the same deserves to be upheld. The revision petitions having been found wholly misconceived, bereft of merit and without any substance, must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, all these nine revision petitions stand dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

23.02.2017
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No