

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

**RFA No.1177 of 1993 (O&M)
Date of Decision : 29.09.2017.**

Nirmail Singh and others

.....Appellants

Versus

State of Punjab and another

..... Respondents

and other connected matters i.e. RFA Nos.629 and 3125 of 1993

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Puneet Singla, Advocate for
Mr. Rakesh Chopra, Advocate
(in RFA Nos. 1177 and 629 of 1993);
Mr. Karan Gupta, Advocate for
Mr. R.B.S.Chahal, Advocate (in RFA No.3125 of 1993)
for the appellant(s).

Mr. Jagmohan Ghumman, DAG, Punjab.

ARUN PALLI, J. (Oral)

Vide this order and judgment, I shall decide a batch of three Regular First Appeals that have been preferred by the claimant/landowners against two separate awards, dated 22.12.1990 and 4.8.1992, respectively. Although, the matter arises out of two separate notifications of an even date but as the questions that arise for determination in all these appeals is common, these are being disposed of by a common judgment. However, by consensus, the facts are being culled from **RFA No.1177 of 1993 (Nirmail Singh and others Vs. State of Punjab and another)**.

Vide notification, dated 4.3.1987, issued under Section 4 of the Land Acquisition Act, 1894, a land situated in village Kheri Gurna (H.B.

No.247), Tehsil Rajpura, District Patiala, was sought to be acquired for construction of Gobindgarh Distributory from RD No.4678 to 8.004 K.M. The final declaration under Section 6 was published on 09.03.1987. Vide award No.276/P.S.Y.L. dated 27.04.1988, the Land Acquisition Collector, assessed the value of the land that was *chahi* at Rs.60,000/- per acre, *rausli/dakkar* at Rs.50,000/- per acre and *gair mumkin* at Rs.35,000/- per acre. Being dis-satisfied with the assessment as also the compensation awarded by the Collector, the claimant/landowners filed objections under Section 18 to the award rendered by the Collector. Resultantly, the dispute was referred to the Civil Court for determination of the true value of the acquired land. The reference Court vide impugned award dated 22.12.1990, enhanced the compensation as regards the land that was *chahi* to Rs.1,00,000/- per acre but the land that was classified as *rausli* and *gair mumkin* was assessed at Rs.40,000/- per acre. It is the award dated 22.12.1990, which is in question in RFA Nos.1177 and 629 of 1993.

In respect to RFA No.3125 of 1993, vide notification of an even date i.e. 4.3.1987, issued under Section 4, a land situated in village Basma, H.B. No.227, Tehsil Rajpura, District Patiala, was sought to be acquired for the same purpose that is construction of Gobindgarh Distributory from R.D. No.8.004 to 12.000 K.M. A final declaration under Section 6 was published on 6.3.1987. And vide award No.183-P-SYL dated 11.06.1987, the Land Acquisition Collector assessed the value of the acquired land in terms of its nature and quality and at the same rate as indicated above. However, the reference Court, vide impugned award dated 4.8.1992, held that the land under acquisition in this appeal was assessed as

rausli by the Collector, though its nature was *chahi*. And, thus, while relying upon a judicial precedent or its previous award dated 22.12.1990, the reference Court enhanced/awarded compensation at Rs.1,00,000/- per acre. It is the award dated 4.8.1992, which is in question in RFA No.3125 of 1993.

Learned counsel for the parties have brought to the notice of the Court an order and judgment dated 13.07.2000 rendered by this Court in **RFA No.1579 of 1991, State of Punjab Vs. Nagar Panchayat, Kheri Gurna**, vide which the appeals preferred by the State as also the cross-objections filed by the claimant/landowners against the award dated 22.12.1990 were dismissed. Learned counsel for the claimant/landowners has also referred to another order dated 4.11.2008 passed by this Court in **RFA No.2714 of 1992, State of Punjab and another Vs. Gurbax Singh and another**, vide which this Court had also dismissed the State appeals arising out of an acquisition for the same purpose i.e. for construction of Gobindgarh Distributory from R.D. No.8.00 to 12.00 K.M, qua the land situated in village Luhand (Hadbast No.248), Tehsil Rajpura, District Patiala, vide notification of an even date, dated 4.03.1987. However, it is urged that although the reference Court in the case of **Gurbax Singh and another (supra)** had relied upon its previous award dated 22.12.1990, vide which value of the land that was *Chahi* was assessed at Rs.1,00,000/- per acre, whereas *rausli/gair mumkin* were assessed at Rs.40,000/- per acre. But since the Collector had already awarded Rs.50,000/- per acre for *rausli*, the reference Court was of the view that the claimants could not have been awarded a lesser rate i.e. Rs.40,000/- per acre than what was awarded by the

Collector himself. Accordingly, the value of the land that was *rausli* was evaluated independently at Rs.83,500/- per acre in the same ratio and difference in which the Collector had assessed both the qualities of land i.e. *chahi and rausli*. The observations recorded by this Court in this regard reads thus:-

“The landowners of village Kheri Gurna filed objections to the award of the Collector which were decided by the Reference Court of Sh. K.R.Mahajan, the learned District Judge, Patiala vide his award dated 22.12.1990, copy of which is Ex. A 10, whereby the landowners were awarded compensation @ Rs. 1 lac per acre for Chahi/Nehri land, Rs.40,000/- per acre for Rausli/Gair Mumkin land.

In the present cases, the Land Acquisition Collector has awarded Rs.50,000/- per acre for Rausli type of land and as per the amended Act, the compensation by the Reference Court cannot be less than the award of the Collector. Therefore, the Court below assessed the value of the Rausli type of land separately. The Court below while following the award Ex. A10, assessed the market value of the Chahi land @ Rs. 1 lac per acre and adopting the same ratio fixed value of Rausli type of land @ Rs.83,333/- per acre which was rounded off to Rs. 83,500/- per acre. The learned Court below finally redetermined the compensation for the acquired land @ Rs.1 lac per acre for Chahi, @ Rs.83,500/- per acre for Rausli and @ Rs.40,000/- per acre

for Gair Mumkin”.

The position as sketched out above shows that as regards the compensation assessed and awarded by the reference Court for *chahi* i.e. @ Rs.1,00,000/- per acre, the appeals preferred by the State as also the cross-objections by the claimant/landowners were dismissed by this Court, vide order and judgement dated 13.07.2000, in the case of **Nagar Panchayat Kheri Gurna (supra)**. Likewise, the State appeals in the case of **Gurbax Singh and others (supra)** in respect of village Lohand wherein the reference Court while relying upon its previous award dated 22.12.1990 in respect of Village Kheri Gurna had assessed the value of the land that was *chahi* at Rs.1,00,000/- per acre were also dismissed. However, the assessment as regards *rausli* @ Rs.83,500/- per acre was affirmed by this Court. As a result, the only modification that is warranted in the impugned awards is as regards the value of the land that was classified as *rausli* to Rs.83,500/- per acre. Accordingly, the appeals are disposed of in terms of the decision of this Court, in the case of **Gurbax Singh and others (supra)**. The claimant/landowners whose land was categorized as *rausli* shall be awarded compensation at Rs.83,500/- per acre.

29.09.2017

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No