

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

RFA No.1685 of 1996

Date of Decision.08.12.2017

Hardeep Singh (since deceased through LRs) and others .....Appellants

Vs

State of Punjab and another .....Respondents

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Karan Gupta, Advocate  
for the appellants.

Mr. IPS Doabia, Addl. A.G., Punjab.

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**AMIT RAWAL J.(ORAL)**

The regular first appeal has arisen out of the decision rendered by reference court i.e. Additional District Judge, Patiala in reference No.1 of 10.1.94/95 whereby the petition under Section 18 of the Land Acquisition Act for the purpose of claiming compensation for Eucalyptus trees was allowed by awarding a compensation of ₹58,521/-. In other words, the appellants have preferred the regular first appeal for seeking enhancement of compensation.

The land measuring 4 bighas 16 biswas was acquired for the purpose of distributory vide award dated 27.2.1990. However, the land acquisition Collector did not envisage or award any compensation for acquired standing Eucalyptus trees but stipulated that the same would be paid by a supplementary award. However, vide supplementary award, compensation for 150 Eucalyptus trees had been given by the Collector, whereas on the acquired land 380 Eucalyptus trees were standing and as such, the appellants sought land reference. The Reference Court vide order

of existence of Eucalyptus trees standing on the acquired land on the date of acquisition/passing of the award, held that there were 380 Eucalyptus trees standing on the land instead of 150 and by assessing the commercial plantation in three types, awarded the aforementioned compensation.

Mr. Karan Gupta, learned counsel appearing on behalf of the appellants submitted that the Land Acquisition Collector had awarded a compensation for the acquired eucalyptus trees numbering 380 to the tune of ₹19,751/- whereas the Ld. Additional District Judge, Patiala awarded a sum of ₹58,521/-. It is settled law that compensation for eucalyptus trees is to be paid in lump sum and compensation for two crops should have been paid as eucalyptus trees gave three crops but the Reference Court has taken into consideration only crop of one year. In support of his contention, he relied upon the ratio decidendi culled out by this Court in **Sukhdev Singh Vs. State of Punjab and another 1990(1) RRR 2** which was also in respect of eucalyptus trees, thus, the Additional District Judge has committed illegality and perversity in taking into account one crop only, therefore, urges this Court for modification of the award by taking in consideration the market value of the eucalyptus trees and assess a compensation of ₹1,17,042/- by doubling the compensation of what has already been awarded by the Additional District Judge, besides other benefits in view of the provisions of Section 23(1A), 23(2) and 28 of the Land Acquisition Act.

On the contrary, Mr. IPS Doabia, Addl. A.G., Punjab submitted that the ratio decidendi culled out in the judgment referred to above do not apply to the facts and circumstances of the present case as in that case the sole basis of granting the benefit was by placing reliance on the judgment rendered by Hon'ble Supreme Court in **State of Madras Vs. Re.v. Brother**

**Joseph AIR 1973 SC 2463** which pertained to fruit bearing trees. The fruit bearing trees are on a different pedestal than of eucalyptus trees. One crop of eucalyptus tree is of ten years and second crop is taken after a gap of another eight years, thus, urges this Court for dismissal of the appeal.

I have heard learned counsel for the parties, appraised the paper book and of the view that the submissions made by Mr. Gupta are fallacious and in agreement with the contentions of the State counsel. The eucalyptus trees as per agrarian knowledge get ready for commercial use only after a period of 10 years. It is used for many purposes like making wooden poles to give support in construction works. The second crop of eucalyptus trees takes almost same time as of first crop is ready for commercial use, thus, in my view the ratio decidendi culled out in **Sukhdev Singh's case** (supra) viz-  
*a-viz* granting benefit of two crops of eucalyptus tree is not a correct appreciation of law. In paragraph 4 of the aforementioned judgment, there is reference of judgment rendered by Hon'ble Supreme Court in **State of Madras Vs. Re.v. Brother Joseph**, which reads as under:-

*“4. There is no dispute regarding the legal position that in the case of fruit bearing trees likely to yield fruits for some years, the capitalisation of the net income had to be taken into consideration for the number of such years. Decision of the Supreme Court in **State of Madras V. Rev. Brother Joseph, AIR 1973 SC 2464**, can safely be referred in this regard. In that case, the decision of the Madras High Court in capitalizing the net income for fruit trees for twenty years was upheld with the following observations:-*

*In this case, the Land Acquisition Officer found in his award that all the fruit bearing trees will yield for more than 20 years. That was the reason which weighed with him to capitalize the net income of these topos at 20 years' purchase to find out their market value. We do not think that the learned Subordinate Judge and the High Court went wrong in accepting this estimate of the average yielding life of coconut and orange trees.*

*Therefore, we do not think that the capitalization of the net yield from these topes at 20 years' purchase was not a fair method to arrive at the market value of these topes. We are not satisfied that the method of valuation adopted for finding out the market value of the topes was in the circumstances, in any way unreasonable.*

*Thus there is no escape but to conclude that for working out the market price of the eucalyptus trees in the case in hand, the yielding of three crops by each tree had to be kept in view."*

For all intents and purposes, the judgment rendered in the case of **State of Madras** (supra) pertained to fruit bearing trees. The fruit crop cannot be considered at par with eucalyptus tree. There are many fruit bearing trees which give fruits twice a year, thus, the opinion and expression given by this Court while granting compensation in **Sukhdev Singh's case** is not correct appreciation of factual aspect. In my view, the compensation awarded by the Reference Court to the tune of ₹58,521/- is just and fair and does not call for any enhancement or modification.

For the reasons aforementioned, I do not find any illegality and perversity in the judgment passed by the Reference Court. No ground for interference is made out. The appeal stands dismissed.

(AMIT RAWAL)  
JUDGE

December 08, 2017  
Pankaj\*

Whether reasoned/speaking      Yes

Whether reportable      No