

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

**(1) CWP No.12568 of 2013
Date of Decision: 28.02.2017**

Manjit Singh Petitioner

Versus

1. The Land Acquisition Collector, Jalandhar Improvement Trust, Jalandhar
2. The Jalandhar Improvement Trust, Jalandhar
3. State of Punjab through Secretary.

..... Respondents

(2) CWP No.2921 of 2014

Jalandhar Improvement Trust, Jalandhar through its Chairman

..... Petitioner

Versus

1. Land Acquisition Tribunal, Jalandhar Improvement Trust, Jalandhar
2. State of Punjab through its Collector
3. Karam Singh s/o Ujjagar Singh (deceased) through power of attorney Kartar Singh.

..... Respondents

(Cross cases)

(3) CWP No.21338 of 2013

Avtar Singh Petitioner

Versus

1. The Land Acquisition Collector, Jalandhar Improvement Trust, Jalandhar
2. The Jalandhar Improvement Trust, Jalandhar
3. The Punjab State through Collector.

..... Respondents

(4) CWP No.2885 of 2014 (O&M)

Jalandhar Improvement Trust, Jalandhar through its Chairman

..... Petitioner

Versus

1. Land Acquisition Tribunal, Jalandhar Improvement Trust, Jalandhar
2. State of Punjab through its Collector
3. Avtar Singh

..... Respondents

(Cross cases)

(5) CWP No.21341 of 2013

Ajit Singh and others

..... Petitioners

Versus

1. The Land Acquisition Collector, Jalandhar Improvement Trust,
Jalandhar
2. The Jalandhar Improvement Trust, Jalandhar
3. The Punjab State through Collector.

..... Respondents

(6) CWP No.2910 of 2014

Jalandhar Improvement Trust, Jalandhar through its Chairman

..... Petitioner

Versus

1. Land Acquisition Tribunal, Jalandhar Improvement Trust, Jalandhar
2. State of Punjab through its Collector
3. Ajit Singh and four others.

..... Respondents

(Cross cases)

(7) CWP No.21374 of 2013

Manjit Singh

..... Petitioner

Versus

1. The Land Acquisition Collector, Jalandhar Improvement Trust
Jalandhar
2. The Jalandhar Improvement Trust, Jalandhar
3. The Punjab State through Collector.

..... Respondents

(8) CWP No.2922 of 2014

Jalandhar Improvement Trust, Jalandhar through its Chairman

..... Petitioner

Versus

1. Land Acquisition Tribunal, Jalandhar Improvement Trust, Jalandhar
2. State of Punjab through its Collector
3. Manjit Singh

..... Respondents

(Cross cases)

(9) CWP No.21536 of 2013

Adarsh Sondhi and another Petitioners

Versus

1. The Land Acquisition Collector, Jalandhar Improvement Trust,
Jalandhar
2. The Jalandhar Improvement Trust, Jalandhar
3. The Punjab State through Secretary.

..... Respondents

(10) CWP No.2891 of 2014

Jalandhar Improvement Trust, Jalandhar through its Chairman

..... Petitioner

Versus

1. Land Acquisition Tribunal, Jalandhar Improvement Trust, Jalandhar
2. State of Punjab through its Collector
3. Adarsh Sondhi and three others

..... Respondents

(Cross cases)

(11) CWP No.21556 of 2013

Sewa Kaur and others

..... Petitioners

Versus

1. The Land Acquisition Collector, Jalandhar Improvement Trust,
Jalandhar
2. The Jalandhar Improvement Trust, Jalandhar
3. The Punjab State through Secretary

..... Respondents

(12) CWP No.2912 of 2014

Jalandhar Improvement Trust, Jalandhar through its Chairman

..... Petitioner

Versus

1. Land Acquisition Tribunal, Jalandhar Improvement Trust, Jalandhar
2. State of Punjab through its Collector
3. Sewa Kaur and five others

..... Respondents

(Cross cases)

(13) CWP No.21581 of 2013

Avtar Singh and others Petitioners

Versus

1. The Land Acquisition Collector, Jalandhar Improvement Trust,
Jalandhar
2. The Jalandhar Improvement Trust, Jalandhar
3. The Punjab State through Secretary

..... Respondents

(14) CWP No.2898 of 2014

Jalandhar Improvement Trust, Jalandhar through its Chairman

..... Petitioner

Versus

1. Land Acquisition Tribunal, Jalandhar Improvement Trust, Jalandhar
2. State of Punjab through its Collector
3. Avtar Singh and four others

..... Respondents

(Cross cases)

(15) CWP No.18967 of 2013

Prem Kumar @ Prem Nath

..... Petitioner

Versus

Tribunal Improvement Trust, Jalandhar through its President and others

..... Respondents

(16) CWP No.21322 of 2013

Karamjit Singh and others

.... Petitioners

Versus

The Land Acquisition Collector, Jalandhar Improvement
Trust, Jalandhar and others

..... Respondents

(17) CWP No.3045 of 2015

Teja Singh

..... Petitioner

Versus

The Land Acquisition Collector, Jalandhar Improvement
Trust, Jalandhar and others

..... Respondents

(18) CWP No.3052 of 2015

Kartar Singh Petitioner
Versus
The Land Acquisition Collector, Jalandhar Improvement
Trust, Jalandhar and others Respondents

(19) CWP No.3070 of 2015

Lachman Singh Petitioner
Versus
The Land Acquisition Collector, Jalandhar Improvement
Trust, Jalandhar and others Respondents

(20) CWP No.3345 of 2015

Pavittar Singh and another Petitioners
Versus
The Land Acquisition Collector, Jalandhar Improvement
Trust, Jalandhar and others Respondents

(21) CWP No.2897 of 2014

Jalandhar Improvement Trust, Jalandhar through its Chairman
..... Petitioner
Versus
Land Acquisition Tribunal, Jalandhar Improvement Trust, Jalandhar & ors.
..... Respondents

(22) CWP No.2926 of 2014

Jalandhar Improvement Trust, Jalandhar through its Chairman
..... Petitioner
Versus
Land Acquisition Tribunal, Jalandhar Improvement Trust, Jalandhar & ors.
..... Respondents

(23) CWP No.2927 of 2014

Jalandhar Improvement Trust, Jalandhar through its Chairman
..... Petitioner
Versus
Land Acquisition Tribunal, Jalandhar Improvement Trust, Jalandhar & ors.
..... Respondents

**CORAM: HONBLE MR. JUSTICE SURYA KANT
HONBLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr. J.S.Mehndiratta, Advocate for the petitioners in CWP Nos.12568, 21322, 21338, 21341, 21374, 21536, 21556, 21581 of 2013, CWP Nos.3045, 3052, 3345, 3070 of 2015 & for respondent No.3 in CWP Nos.2885 & 2922 of 2014, for respondent Nos.3 to 7 in CWP No.2910 of 2014, for respondent Nos.3 to 6 in CWP No.2891 of 2014 for respondent Nos.3 to 7 in CWP No.2898 of 2014 and for respondent Nos.3 to 8 in CWP No.2912 of 2014.

Mr. Sanjeev Pandit, Advocate for the petitioner in CWP No.18967 of 2013.

Mr. G.S.Attariwala, Advocate for the petitioner in CWP Nos.2885, 2891, 2897, 2898, 2910, 2912, 2921, 2922, 2926 and 2927 of 2014,

Mr. Rajesh Bhardwaj, Addl. AG Punjab.

Mr. Sandeep Khunger, Advocate for Improvement Trust.

Mr. Sandeep Kumar, Advocate for the LR of respondent No.3 in CWP No.2921 of 2014.

SUDIP AHLUWALIA, J.

Thirteen out of these twenty three Writ Petitions have been filed by various petitioners whose lands had been acquired by the principal respondent/Jalandhar Improvement Trust (for short 'J.I.T.') by Notification No.6(4) IC II/88/18952 dated 30.10.1987.

2) The Scheme was for development of a 'Truck Stand' along the National Highway-1 over an area measuring 74.9 acres, for which the Award was passed by the Land Acquisition Collector on 27.10.1990.

Thereafter some of the petitioners filed their Reference Petitions for

enhancement of the compensation awarded in which they challenged the determination of market value of the acquired land at ₹ 2,000/- Per Marla by placing their objections under Section 18 of the Land Acquisition Act (L.A. Act). But the Award of the Collector was upheld by the President, I.T., Jalandhar, after which some of the aggrieved petitioners filed various Writ Petitions in this Court. The list of those eleven Writ Petitions with their relevant dates of Awards passed by President, I.T., Jalandhar are detailed as under -

Sr. Nos.	Civil Writ Petition Nos.	Dates of the award
1	17845 of 1997	27.8.1997
2	1161 of 1998	17.9.1997
3	1174 of 1998	17.9.1997
4	12456 of 1998	17.9.1997
5	11490 of 2000	17.5.2000
6	11729 of 2000	17.5.2000
7	11730 of 2000	17.5.2000
8	11731 of 2000	17.5.2000
9	17626 of 2000	27.9.2000
10	3227 of 2000	9.2.2000
11	3228 of 2001	9.2.2000

3) Those Petitions were disposed of by a Division Bench vide its detailed judgment dated 2.11.2011 in terms of which the matter was remanded back to the Ld. Tribunal, Jalandhar for re-adjudication. The Ld. Tribunal thereafter passed a fresh Award on 21.2.2013 in which the compensation was enhanced at the rate of ₹ 4,500/- Per Marla. But the Writ Petitioners are still not satisfied with this fresh Award and have therefore, filed these Writ Petitions.

4) On the other hand, the J.I.T., being also dissatisfied with the Award in respect of some of the land owners, has filed the remaining ten Writ Petitions impugning the same. Seven out of those ten Writ Petitions are treated as Cross Cases, and have been depicted as such in the Cause Title Heading of this Judgment, since the land owners have also challenged the same Award passed by the Tribunal, Improvement Trust, Jalandhar.

5) The basic reliance in support of the land owners' claim for enhanced compensation is on an earlier Division Bench judgment of this Court dated 31.10.2013 passed in CWP No.11257 of 2013, in which one of us (Surya Kant, J.) was a member, and the J.I.T. was again the principal respondent. The land acquired under the Scheme which was subject matter of the aforesaid CWP No. 11257 of 2013, is claimed to be located in direct proximity of the land covered in the 74.9 acres Scheme, being only intervened by the National Highway No.1. It is contended that in the given circumstances, the assessment of compensation determined in the aforesaid CWP No.11257 of 2013 ought to be the proper yardstick for assessing the value of the lands covered in the present two Schemes, on account of their direct/very close proximity to the earlier assessed land, but of course, after factoring into account any distinct features which could otherwise have the effect of altering the assessment.

6) We have heard the submissions of the Ld. counsel for contesting sides and gone through the records including the judgment rendered in CWP No.11257 of 2013, as well as the site maps depicting location and other features of the lands in question.

7) It is seen that the land, which was the subject matter of the earlier proceeding, had been acquired for the development of 'Surya Enclave' within the urban area of Jalandhar Town. It is located on the left/southern side of the National Highway. Only a part of its South Eastern fringe abuts the National Highway, and hence it curves down towards the south from where it moves in north-westwards. Its north-western side is flanked by 'New Development Scheme, Surya Enclave Extension Area', while the direct north-western horizontal edge abuts the south-western strip of 'Maharaja Ranjit Singh Avenue' which is the name/purport of a separate Development Scheme in respect of an area measuring 70.5 Acres. The northern edge of the aforesaid land then proceeds eastwards along the 120 feet wide road which falls within the acquired area of the separate 70.5 Acres Scheme, and then begins to abut the zigzag boundary of 'Guru Gobind Singh Avenue' (94.5 Acre Development Scheme area), till its north-eastern tip touches the NH-1.

8) The land which is subject matter of the present '74.9 Acres Scheme', is seen to be located on the eastern side of NH-1. Its South-western tip appears to originate from the junction point of NH-1 and "Bulandpur Road", which runs east to west. As this stretch of land was acquired for the purpose of 'Truck Stand', so understandably its entire Southern boundary directly abuts the "Bulandpur Road". In totality therefore, we can safely conclude that the land covered in the notification which is subject matter of the present proceedings is similarly placed in direct/very close proximity of the National Highway, like the land acquired under the "170 Acres Scheme" in respect of which the previous judgment in

CWP No.11257 of 2013 was passed.

9) We therefore propose to base our decision on the data and reasoning adopted in the aforesaid earlier decision for the purpose of determining the valuation/appropriate compensation in respect of the lands acquired under the 74.9 Acres Notification.

10) We may first of all note that the value assessment in the previous case was arrived at by applying enhancement at the rate of 12% per annum, (as approved by the Supreme Court in '*Asharfi Vs. State of Haryana*' [2013(5) SCC 527]) over the earlier assessed value of land situated in close vicinity of the land acquired. For this purpose, the Court had taken into account valuation of the acquired land in the nearby "Mohalla Bashirpura", for which the acquisition proceedings had been initiated in 1991. Consequently enhancement at the rate of 12% per annum for the intervening 8½ years in respect of the "170 Acre Scheme" initiated in 1999 was made, after allowing a cut of 10% in the market value for the Water Works over the final valuation determined at ₹ 12,000/- per marla. In this manner the valuation/compensation was determined at ₹ 21,816/- per marla = ₹ 34,90,560/- per Acre.

11) For determining the valuation of the lands in the matters before us, however, we are inclined to treat the actual dates of the respective Awards as being material in comparison to the original dates on which, the Schemes in question were simply initiated. Of course, the time factor for the purpose of annual enhancement or reduction depending on whether the

Awards in the present cases were announced before or after the Awards concerning the previous land falling under the '170 Acres Scheme' must have to be taken into account.

12) Before proceeding to make final calculations in this manner, it would also be pertinent to take note of certain other factors adopted in the final judgment in relation to the '170 Acres Scheme' land. It is first of all to be remembered that in that land, a 'Sullen' Pond was located on a substantial portion of the area where foul water would accumulate on account of which, its valuation had to be down graded as against the remaining land acquired in the said Scheme, which admittedly was in a better levelled condition, and did not suffer any disability due to the foul smell, which was the distinguishing negative feature of Sullen Pond area, as well as the land located in its close vicinity. Secondly, 'Belting System' was adopted in the previous adjudication so as to award additional compensation in respect of the land located directly along the NH-1. In this manner, the compensation in respect of the land abutting the Bye-Pass (NH-1) to the extent of 240 feet depth was enhanced by 20% on the assessed valuation of ₹ 21816/- per Marla, while the same was reduced by 15% in respect of the land falling in the Sullen Pond area recorded as 'Gairmumkin Chhappar' and the final compensation for these three Classifications of lands was determined as follows -

“(i) For the land abutting by-pass to the extent of 240 feet depth, the compensation is allowed @ ₹ 26180/- per Marla i.e. ₹ 41,88,800/- per acre.

(ii) For the land recorded as gairmumkin chappar (pond), the compensation is awarded @ ₹ 18545/- per Marla i.e. ₹ 29,67,200/- per acre.

(iii) For the remaining land the compensation is allowed @ ₹ 21816/- per Marla i.e. ₹ 3490560/- per acre."

13) In addition, the other statutory benefits as provided under sections 23 & 28 of the L.A. Act on the difference of compensation were also granted to the land holders, although enhancement on account of existence of trees and super-structure was declined.

14) The date of passing the relevant award in the aforesaid case was 27.10.1990, and we therefore, treat this as the base date for enhancing or reducing the compensation due to time span difference for deciding the matter before us.

15) The Award in the '74.9 Acres Scheme' for Truck Stand was passed as far back as on 27.10.1990 which is exactly 12½ years before the Award in the '170 Acres Scheme'. Therefore, the valuation as on 27.4.2003 is deducted at the rate of 12% per annum for these 12½ years, which comes to exactly 40%. Consequently, the valuation as on the date of the earlier Award (27.10.1990) would be exactly 2/5th (40%) of that as on 27.4.2003, which comes to ₹ 8,727/- per Marla i.e. ₹ 13,96,320/- per acre. An enhancement of 20% to the extent of 240 feet depth is also awarded to any acquired portion of the land which may be so located in the '74.9 Acres Scheme'. At the same time, no deduction for any other reason is also made, since the J.I.T. could not show that any portion of the land covered in the present Scheme to be affiliated with any disability, such as by way of low lying area or location of Sullen Pond etc. in the present case. Apart from the compensation as assessed here, the land owners would also be entitled to

interest on the balance payable as prescribed, as well as, all other benefits under sections 23 and 28 of the L.A. Act.

16) Thus the Writ Petitions filed on behalf of the landowners in the circumstances stand Partially Allowed, while those filed by the JIT stand dismissed.

**(SURYA KANT)
JUDGE**

**(SUDIP AHLUWALIA)
JUDGE**

28.02.2017

AS

1. Whether speaking/reasoned ? Yes/No

2. Whether reportable ? Yes/No