

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

RFA No.1196 of 2008 (O&M)

Date of Decision : 04.10.2017

Randhir Singh and others

.....Appellants

Versus

State of Haryana and another

..... Respondents

and other connected matters, i.e.

Filed By:	Case No.	Total
Claimant/Landowners	RFA Nos.1191 to 1195, 1197, 1198, 1200, 1375 to 1382, 2566 to 2569, 3780, 1203, 1204, 1690 to 1697, 1700, 1713, 1804, 1967 and 4780 of 2008	36
State of Haryana	RFA Nos.1252 to 1269, 1285 to 1287, 1418, 2329 to 2345 of 2008	39

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: For the Claimant/Landowners

Mr. Rishab Lohan, Advocate for
Mr. R.N.Lohan, Advocate;
Mr. Suresh Ahlawat, Advocate;
Manjeet Singh, Advocate for
Mr. Jasbir Mor, Advocate;

For the respondents

Mr. Sudeep Mahajan, Addl. A.G. Haryana with
Mr. Shivendra Swaroop, AAG, Haryana.

ARUN PALLI, J. (Oral)

Vide this order I shall decide a batch of 76 appeals of which 39 appeals have been filed by the State of Haryana and the rest by the claimant/landowners. For, all these appeals arise out of the same

acquisition and the questions that require determination are common, these are being disposed of by a common judgment. However, by consensus, the facts are being culled from **RFA No.1196 of 2008 (Randhir Singh and others Vs. State of Haryana and another)**.

Vide notification dated 12.12.2003, issued under Section 4 of the Land Acquisition Act, 1894, a land measuring 117 kanals 2 marlas, situated in village Sulehra, and 171 kanals 10 marlas, situated in village Kalwan, Tehsil Narwana, District Jind was sought to be acquired for construction of Link Channel from Bhakhra Main Line. Final declaration under Section 6 was published on 12.01.2004. The Land Acquisition Collector, vide award dated 18.03.2004, assessed the value of the land, categorized as *nehri/gair mumkin*, situated in village Sulehra at Rs.1,50,000/- per acre. Whereas vide a separate award dated 7.4.2004, land situated in village Kalwan was assessed at Rs.1,85,000/- per acre. Being aggrieved by the assessment as also the compensation the claimant/landowners filed objection 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. On a consideration of the matter in issue and the evidence on record, the reference Court relied upon a judicial precedent or its previous award dated 17.07.2007 (Ex.PX) **(Balbir Singh and others Vs. State of Haryana)**, vide which the land situated in village Frain Khurd, acquired for construction of Narwana Minor, pursuant to a notification under Section 4, dated 17.01.2002, was assessed at Rs.3,00,000/- per acre. Accordingly, vide two separate awards

for each of the villages i.e. Sulehra dated 2.11.2007, and Kalwan dated 8.11.2007, value of the acquired land was assessed at Rs.3,00,000/- per acre. That is how, as indicated above, both the parties are in appeal before this Court. Of course, the claimant/landowners seek further enhancement in the compensation. Whereas, the State has appealed to set aside the award rendered by the reference Court.

Learned counsel for the claimant/landowners submit that all what forms basis of the assessment made by the reference Court is the award dated 17.07.2007 (Ex.PX) (**Balbir Singh and others Vs. State of Haryana**), vide which value of the land situated in the adjacent village i.e. Frain Khurd was assessed at Rs.3,00,000/- per acre. And, in fact, the award Ex.PX was in turn based on another award dated 15.04.2006 (**Risala and others Vs. State of Haryana**), vide which, the reference Court had assessed the value of the land situated in the adjacent village i.e. Sedha Majra at Rs.3,00,000/- per acre. And, in the appeals preferred by the claimant/landowners against the award, dated 15.04.2006, in the case of **Risala and others (supra)**, this Court, vide order and judgment dated 19.01.2011, rendered in **RFA No.2564 of 2005 (Kailasho and others Vs. State of Haryana)** and other connected matters, had set aside the said award and remitted the matter to the reference Court for re-decision. Whereupon, vide a subsequent award, dated 22.12.2011, the reference Court, even on re-determination, assessed the value of the land under acquisition at Rs.3,00,000/- per acre. However, he submits that in the appeals preferred against the subsequent award 22.12.2011, this Court vide

order and judgment dated 23.04.2016, rendered in **RFA No.2176 of 2012 (Rajinder Vs. State of Haryana)** and other connected matters, had enhanced the compensation to Rs.3,78,467/- per acre. And, the claimant/landowners whose land stood bifurcated on account of the said acquisition were also awarded compensation on account of severance @ 40% of the market value. It is urged that even against the relied upon acquisition or award, dated 17.07.2007 (Ex.PX) **(Balbir Singh and others Vs. State of Haryana)**, in the appeals preferred by the claimant/landowners, this Court, while relying upon its decision in **Rajinder (supra)**, and awarding 12% increase per annum, vide order and judgment 03.10.2017, rendered in **RFA No.3382 of 2009 (Darbara Singh and others Vs. State of Haryana)**, had awarded compensation at Rs.5,95,525/- per acre. And as in **Rajinder (supra)**, the claimant/landowners were also awarded compensation on account of severance at the rate i.e. 40% of the market value of the land. Thus, he submits that as a necessary consequence, even the claimants/landowners, in the present proceedings, are entitled to the same compensation. And, for, the notifications under Section 4 in the present acquisition was issued on 12.12.2003, and in the relied upon acquisition on 17.01.2002, the claimant/landowners are also entitled to an appropriate increase. Further, although the reference Court did observe that on account of the acquisition, land of few of the claimant/landowners stood bifurcated, but yet did not award any compensation on account of severance.

Per contra, the factual matrix as sketched out above is not

disputed by the learned State counsel. However, he submits that the reference Court erred in ignoring the sale deed, dated 14.05.2003 (Ex.R1) vide which the land situated in the same village i.e. Sulehra was alienated at Rs.1,35,000/- per acre. Further, he submits that although the reference Court had relied upon an acquisition or award dated 17.07.2007 (Ex.PX), which pertained to village Frain Khurd, but the said village neither abuts or adjoins village Sulehra nor Kalwan. Thus, it is urged that reference Court erred in placing reliance upon the award (Ex.PX).

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

Concededly, vide notification dated 12.12.2003, land situated in two villages i.e. Sulehra and Kalwan, Tehsil Narwana, District Jind, was sought to be acquired for construction of Link Channel from Bhakhra Main Line. The reference Court, to assess the true value of the acquired land, relied upon a judicial precedent or its previous award, dated 17.07.2007 (Ex.PX), **(Balbir Singh and others Vs. State of Haryana)**, vide which, the land situated in the adjoining village i.e. Frain Khurd, Tehsil Narwana District Jind, acquired for construction of Narwana Minor, was assessed at Rs.3,00,000/- per acre. It is not disputed either that award (Ex.PX) was in turn based on another award dated 15.04.2006, **Risala and others Vs. State of Haryana (supra)**, vide which the land situated in village Sedha Majra, Tehsil Narwana, District Jind, acquired for Barsola Feeder, was also assessed at Rs.3,00,000/- per acre. Significantly, this was never the case of the State, either before the reference Court or in these proceedings, that the

land situated in village Frain Khurd was dis-similar to the acquired land in nature, quality or value. Although, the argument advanced by the learned State counsel is, that village Frain Khurd does not abut/adjoins village Sulehra or Kalwan, but the records shows that this was not even the case set out by the State before the reference Court. Concededly, no evidence was led by the State in this regard either. So much so, no such ground is raised even in the memorandum of appeal filed by the State. Not just that, neither any site plan nor any other cogent evidence was sought to be led, even by way of additional evidence, in these proceedings to substantiate any such plea. Be that as it may, even if, it is assumed that village Frain Khurd is not contiguous or abuts village Sulehra or village Kalwan, the fact that all these three villages were situated in the same vicinity is not disputed. And, above all nothing indeed exist on the record to show that the land situated in village Frain Khurd was dis-similar in nature, quality and value to the land that formed part of the revenue estate of villages Sulehra and Kalwan. That being so, the argument advanced by the learned State counsel pales into insignificance. Further, the sale deed Ex.R1 was rightly ruled out of consideration by the reference Court, for, it was executed at Rs.1,35,000/- per acre, that is at a rate far less than at which the Collector assessed the acquired land and awarded compensation. Thus, in the absence of any cogent or credible evidence, reliance placed by the reference Court upon an award dated 17.07.2007 (Ex.PX) was not only the most suitable but also the safest mode to assess the true value of the acquired land. It is not disputed that the award Ex.PX was in turn based upon another award dated

15.04.2006 (**Risala and others Vs. State of Haryana**) vide which the land situated in village Sedha Majra was assessed at Rs.3,00,000/- per acre. And, in the appeals arising out of said acquisition, this Court in the case of **Rajinder (supra)** had enhanced the compensation to Rs.3,78,467/- per acre. Significantly, the decision rendered by this Court in the case of **Rajinder (supra)** had since attained finality. Likewise, in the appeals preferred by the claimant/landowners against the award dated 17.07.2007 (Ex.PX), this Court in the case of **Darbara Singh and others (supra)**, while relying upon an earlier decision in **Rajinder (supra)** and awarding 12% annual increase for the time difference between the two notifications under Section 4 in the case of **Rajinder (supra)** and **Darbara Singh and others (supra)**, assessed the value of the acquired land at Rs.5,95,525/- per acre. Therefore, as a necessary consequence even the claimant/landowners in the present acquisition shall be entitled to the compensation at the same rate.

However, a short question that arise here is; for the notifications under Section 4 in the relied upon acquisition i.e. in **Darbara Singh and others (supra)** was issued on 17.01.2002, and in the present acquisition on 12.12.2003, whether the claimant/landowners shall be entitled to any increase, and if yes then at what rate? But the answer to this question is not far to seek. The evidence on record shows that the present acquisition was preceded by numerous acquisitions in the adjacent or adjoining villages, which reveals that the area that surrounded the acquired land was under a rapid development and there indeed was a demand for the

land in the area. Rather, the decision in the case of **Rajinder (supra)** shows that the market value of the land under acquisition in those proceedings was assessed by this Court while awarding 12% annual increase on cumulative basis. Likewise, as indicated above, in the case of **Darbara Singh and others (supra)**, for, the notification dated 17.01.2002, under Section 4 was issued after a time gap of 4 years of the notification in the relied upon acquisition i.e. **Rajinder (supra)**, this Court had awarded 12% annual increase on cumulative basis. Nothing is brought on record by the State to show that post notification, dated 17.01.2002, under Section 4, in the case of **Darbara Singh and others (supra)**, value of the real estate in the vicinity of the acquired land, had indeed dropped or de-escalated. Therefore, absent any evidence to the contrary, the claimant/landowners even in the present acquisition shall be entitled to annual increase @ 12% on cumulative basis, for a period of one year, as being depicted hitherto below, upon Rs. 5,95,525/- per acre, i.e. the value of the land assessed by this Court in the case of **Darbara Singh and others (supra)**.

Year	Original Value in Rupees	Increase (12%)	Value in rupees
2002	Base year	Nil	5,95,525/-
2003	Rs.5,95,525/-	Rs.71,463/-	Rs.6,66,988/-

This brings me to another facet of the matter: the purpose of acquisition was construction/Extension of Narwana Minor. And, as a necessary consequence, the land holdings of a few of the claimant/landowners stood bifurcated into two parts. Although, the reference Court specifically recorded; **“But to my mind due to bifurcation**

of their land the petitioners might have suffered great hardship in cultivating and irrigation of their land”, yet did not award any compensation on account of severance. It is not disputed that this Court in the case of **Rajinder (supra)**, which has since attained finality, had awarded compensation on account of severance @ 40% of the market value of the acquired land. That being so, the claimant/landowners, whose land stood severed or bifurcated owing to the acquisition in question, too would be entitled to compensation at the same rate i.e @ 40% of the market value of the acquired land as determined in the preceding paragraph.

In conspectus of the above, the appeals filed by the claimant/landowners are disposed of in the above terms. Needless to assert that they shall also be entitled to all the statutory benefits as admissible in law. Whereas, as a necessary consequence, the appeals preferred by the State are dismissed.

04.10.2017

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No