

REPORTABLE

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

Date of Decision: November 03, 2017

- 1. RFA-1303-2009
& CM-12921-22-CI-2016 (O&M)**

Keshav Chand

...Appellant

Versus

State of Haryana

...Respondent

- 2. RFA-2502-2009 (O&M)**

State of Haryana

...Appellant

Versus

Keshav Chand

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. N.S. Swaich, Advocate,
for the claimant/landowner.

Mr. Sudip Mahajan, Additional Advocate General, Haryana,
for the State of Haryana.

ARUN PALLI, J. (ORAL)

Vide this order and judgment, I shall decide two appeals, of which one has been filed by the claimant/landowner and the other by the State of Haryana. For, both these appeals are preferred against a common award, dated 28.07.2008, and arise out of the same acquisition, these are being disposed of by a common judgment. However, by consensus, the facts are being culled from **RFA No. 1303 of 2009 (Keshav Chand v. State of Haryana)**.

Vide notification, dated 21.02.2003, issued under Section 4 of

situated in village Kundi (H.B. No. 366), Tehsil Kalka, District Panchkula, was sought to be acquired for carving out residential and commercial areas for Sector 20, Panchkula. Vide Award No. 1, dated 15.07.2003, the Land Acquisition Collector assessed the market value of the acquired land at Rs.6,00,000/- per acre. Being aggrieved by the assessment as also the compensation awarded, the claimant/landowner 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. On a consideration of the matter in issue and the evidence on record, the Reference Court ruled out of consideration, the award dated 03.06.1993 (Ex. R-2), rendered in the case of **Siria v. State of Haryana and others**, relied upon by the State, vide which a land situated in the same village, i.e. Kundi, acquired vide notification, dated 24.06.1980, was assessed at Rs.1,00,000/- per acre. For, the time gap between the two notifications issued under Section 4, in both the proceedings, was over 23 years. And, for no other evidence existed on record, the Reference Court relied upon a judicial precedent or its previous award, dated 29.07.2006 (Ex.P-1), rendered in the case of **Charan Kaur v. State of Haryana and other**, vide which a land situated in village Bhainsa Tibba (H.B. No. 377), Tehsil and District Panchkula, acquired vide notification dated 02.06.1999, was assessed at Rs.418/- per Sq.Yd. And, since there was a time gap of four years between two notifications, issued under Section 4, in the case of **Charan Kaur (supra)** and the present proceedings, the Reference Court awarded 12% increase to the claimant/landowner to assess the true value of the acquired land. Accordingly, the claimant/landowner was awarded

compensation at Rs.618/- per Sq.Yd., as also all the statutory benefits admissible in law. That is how, as indicated above, both the parties are in appeal before this Court. Of course, the claimant/landowner seeks further enhancement in the compensation. Whereas, the State has appealed to set aside the impugned award.

Learned counsel for the claimant/landowner submits that although the award, dated 29.07.2006 (Ex.P-1), was tendered in evidence on behalf of the claimant/landowner, but since it pertained to the land situated in village Bhainsa Tibba, which was at a distance of 7 Kms. from the acquired land, it was neither suitable nor safe to be relied upon. In reference to the decision of this Court in the case of **Ashok Kumar v. State of Haryana** (RFA No. 2695 of 2002, decided on 05.11.2012, Annexure A-1) **and other connected matters**, he submits that even earlier a major chunk of his land holding, i.e. 37K-4M, situated in Kundi itself, was acquired by the State Government pursuant to a notification, dated 26.04.1995, for development and utilization of land by the Haryana Urban Development Authority, under the Haryana Urban Development Authority Act, 1977. He submits that this Court vide a common judgment in **Ashok Kumar (supra)**, had determined the value of the acquired land in relation to three separate notifications, dated 29.01.1990, 21.12.1994 and 26.04.1995, as regards village Kundi and nine other villages. In so far as, the land situated in village Kundi, this Court had assessed its value @ Rs.600/- per Sq.Yd. However, in the appeals preferred by the claimant/landowners against the decision of this Court, the Supreme Court vide order and judgment, dated 17.02.2015, in **Civil Appeal Nos. 2231-2242 of 2015**

(Ashok Kumar and others v. State of Haryana and others) and other **connected matters**, though dismissed the appeals of the claimants as regards notification, dated 29.01.1990, and affirmed the assessment made by the Reference Court as also this Court in that regard, at Rs.394/- per Sq.Yd. However, as regards notifications, dated 21.12.1994 and 26.04.1995, the Supreme Court while taking the value of the acquired land at Rs.394/- as on 29.01.1990, awarded 12% annual increase on cumulative basis for the time gap between the notifications issued under Section 4. Thus, it is urged that as the value of the acquired land, situated in village Kundi, as on 26.04.1995, has been determined by the Supreme Court, the claimant/landowner even in the present appeal be awarded the same compensation, by awarding 12% cumulative increase for the time difference between the two notifications, i.e. 26.04.1995 and 21.02.2003, issued in the present proceedings.

The factual position, as set out above, is not disputed by the learned State counsel. For, vide notification, dated 26.04.1995, a land situated in village Kundi and adjacent villages was acquired by the State Government and value thereof was finally determined by the Supreme Court in the case of **Ashok Kumar and others (supra)**. However, it is urged that the claimant/landowner be not awarded 12% cumulative increase for the time gap between the two notifications as there is nothing on record to show that even post notification dated 26.04.1995, issued under Section 4, the prices continued to escalate in the vicinity of the acquired land.

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

Ex facie, all what forms basis of the assessment and the award rendered by the Reference Court is a judicial precedent or its previous award dated 29.07.2006 (Ex.P-1) in the case of **Charan Kaur (supra)**. It is not disputed either the land under acquisition in the case of **Charan Kaur (supra)** was situated in village Bhainsa Tibba, which was neither contiguous nor abutted village Kundli. Rather, the contention of the learned counsel for the claimant-landowner is that village Bhainsa Tibba is situated at a distance of 7 Kms. from the acquired land, which has not been controverted by the learned State counsel. In fact, the Reference Court itself concluded, ***“certainly village Bhainsa Tibba is not absolutely adjoining village Kundi.....thus, there is no other remedy before this court but to accept Ex.P-1 as the best piece of evidence to assess the market value of the present acquired land at the time of notification dated 21.2.2003”***. Needless to assert that the award (Ex.P-1) in the case of **Charan Kaur (supra)** was relied upon by the Reference Court, as no other evidence existed on record. Even otherwise, the award, dated 29.07.2006 (Ex.P-1), was set aside by this Court vide order and judgment, dated 25.02.2009, rendered in **RFA No. 3008 of 2008 (Smt. Poonam v. State of Haryana and another)** and other connected matters, and the matter was remitted to the Reference Court for re-decision. Learned counsel for the parties are *ad idem* that the appeals even against the subsequent awards, rendered post remand, are pending before this Court. Be that as it may, the fact remains to determine the true value of the acquired land, to place reliance upon the award in **Charan Kaur (supra)**, was neither safe nor suitable. And, on the contrary pursuant to a notification, dated 26.04.1995, value of the land

situated in the same revenue estate, i.e. village Kundi, has since been determined by the Supreme Court in the case of **Ashok Kumar and others (supra)**. As indicated earlier, the claimant/landowner in the present proceedings was also one of the appellants before the Supreme Court, for, pursuant to the notification, dated 26.04.1995, his land measuring 37K-4M was also acquired. In fact, the total land under acquisition in the present proceedings is just one acre, which indeed was an integral part or fragment of his holding acquired earlier. Significantly, this is not the case of the State that the land under acquisition in the earlier proceedings, in the case of **Ashok Kumar and others (supra)**, was different in nature, quality and value, than the acquired land. Thus, the only and the inevitable conclusion that one could reach; the decision in the case of **Ashok Kumar and others (supra)** was not only most suitable, but also the safest mode to determine the value of the land in these proceedings. Meaning thereby the value of the acquired land as on 26.04.1995 was **Rs.694.24 per Sq.Yd.** Further, the record shows that to evaluate the value of the land under acquisition, pursuant to the notifications, dated 21.12.1994 and 26.04.1995, the claimant/landowners were awarded 12% increase per annum, on cumulative basis by the Supreme Court. And, as concededly, the notification under Section 4 in the present proceedings was issued on 21.02.2003, on the same analogy, the claimant/landowner shall also be entitled to 12% increase per annum on cumulative basis. Particularly, when this is not even suggested by the learned State counsel that value of the land, despite three successive acquisitions in the area, had dropped or de-escalated.

In conspectus of the above, the claimant/landowner shall be

entitled to compensation at **Rs. 1534.66 per Sq.Yd.**, as being depicted below.

Year	Original Value (in Rs. per Sq.Yd.)	Cumulative Increase (@ 12% p.a.)	Value (in Rs. per Sq.Yd.)
1995 (Base year)	694.23	0	694.23
1996	694.23	83.30	777.53
1997	777.53	93.30	870.83
1998	870.83	104.49	975.32
1999	975.32	117.03	1092.35
2000	1092.35	131.08	1223.43
2001	1223.43	146.81	1370.24
2002	1370.24	164.42	1534.66

Accordingly, the appeal filed by the claimant/landowner is disposed of in the above terms. Needless to assert that the claimant/landowner shall also be entitled to all the statutory benefits as admissible in law. Whereas, as a necessary consequence the appeal preferred by the State is dismissed.

(ARUN PALLI)
JUDGE

November 03, 2017
Pkapoor

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO