

1.	CMs-6905-06-CI-2016; and RFA No.10821 of 2014 Date of decision: 30.01.2017
Kavita and others	... Appellants
	Versus
State of Haryana and others	... Respondents
2.	CMs-6907-08-CI-2016; and RFA No.10822 of 2014
Satbir	... Appellant
	Versus
State of Haryana and others	... Respondents
3.	CMs-6909-10-CI-2016; and RFA No.10823 of 2014
Rajwati and others	... Appellants
	Versus
State of Haryana and others	... Respondents

Present: Mr. Mohit Garg, Advocate for the applicant-appellants.
Mr. Shivendra Swaroop, AAG, Haryana.

CM-6905-CI-2016

This is an application under Order 6 Rule 17 of the Code of Civil Procedure, seeking to amend the claim petition filed under Section 18 of the Land Acquisition Act, 1894 (for short, ‘the Act’), by the applicants.

Notice in the application was issued to the non-applicant/respondents and replies have been filed thereto.

The facts that are required to be noticed are limited.

The land owned by the applicants was acquired for development and utilization of the land for roads for Sectors 81-95, Gurgaon. The Land Acquisition Collector assessed the market value of the acquired land vide award dated 14.06.2010. Being aggrieved of the assessment and the compensation awarded by the Collector, applicants filed objections under Section 18 of the Act and sought a reference to the civil court. The case set out by the applicants in their claim petition was/is that the land of the applicants formed part of the revenue estate of village Sikandarpur Badha and was comprised in rectangle No.57. And, since the compensation assessed by the Collector, vide award No.7, dated 14.06.2010, was highly inadequate, thus, the claimants were entitled to further enhancement. However, the reference court, vide award dated 26.08.2014, being assailed in this appeal, rejected the claim of the applicants, for statement No.19 brought on record by the State proved that the land owned by the applicants never formed part of the acquired land. Likewise, even award No.7, dated 14.06.2010, did not depict the khasra numbers in which the land of the applicants purport to be comprised in.

And now, what is sought to be urged by way of proposed amendment is, that the land owned by the applicants was indeed comprised in rectangle No.51, and was part of the revenue estate of village Sihi, Tehsil Manesar, District Gurgaon and not of the village Sikandarpur Badha. Similarly, the Land Acquisition Collector had assessed the market value of

the land vide award No.8, dated 14.06.2010, and not award No.7 which was of an even date.

The factual position, as set out above, is not disputed by the State in its reply, although the applicants purport to have moved the executing court to claim the same compensation as has been awarded to their co-sharers by the reference court. Therefore, it is alleged that the applicants have concealed the material facts and have not approached the court with clean hands.

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

Concededly, vide two separate notifications under Section 4 of the Act of an even date i.e. 11.02.2010, the land that was situated in village Sikandarpur Badha as also in village Sihi, Tehsil Manesar, District Gurgaon, was sought to be acquired for a common purpose. The Collector, vide award No.8, dated 14.06.2010, assessed the market value of the acquired land including the land owned by the applicants. Statement No.19 (Annexure A-3) prepared by the State duly depicts the necessary particulars and the compensation awarded to the applicants. It appears that while settling the pleadings in the claim petition filed on behalf of the applicants, inadvertently the name of the village, the khasra in which the land of the applicants was comprised in, as also the number of the award rendered by the Collector, was wrongly mentioned. As a result, the reference court arrived at a conclusion that the land of the applicants was never acquired, for statement No.19 as also award No.7, dated 14.06.2010, did not depict the description of the land of the applicants. Thus, the applicants are merely the victims of an accidental omission and a bona fide error. Ex facie, the amendment

prayed for goes to the root of the matter and shall enable the court to arrive at a just and fair decision. The preposition of law; whether a claimant-landowner can seek amendment of his claim petition filed under Section 18 of the Act, is not *res integra*. The Full Bench of Bombay High Court in **State of Maharashtra v. Sitaram Narayan Patil**, 2010(3) RCR (Civil) 383, held that the application seeking amendment in the claim petition under Section 18 of the Act can be allowed by the reference court as also at the stage of an appeal in the High Court. Further, the principle that would govern any such application would be the same as envisaged under Order 6 Rule 17 of the Code of Civil Procedure. In so far as the argument that the applicants have also parallely moved the executing court to claim the enhanced compensation, suffice it to say that learned counsel for the applicants submits that they have already withdrawn the said petition.

In conspectus of the above, the application is allowed. Consequently, the amended claim petition under Section 18 of the Act is taken on record.

CM-6906-CI-2016; and
RFA No.10821 of 2014

In the wake of the averment, set out in the amended claim petition, the award rendered by the reference court being assailed in this appeal, is not sustainable. Learned counsel for the parties are *ad idem* that the landowners who were equally situated and circumstanced as the applicants were awarded enhancement in compensation by the reference court. So much so, in the appeals preferred against the said award, and arising out of the same acquisition, this court vide judgment dated 27.05.2016, rendered in RFA No.5316 of 2014 (**Pushpender Kumar and others v. State of Haryana and another**) has further enhanced the

compensation. It is not disputed that the appellants too shall be entitled to the same compensation and thus, these appeals are required to be disposed of in terms of the said decision.

Accordingly, the impugned award is set aside and the appeal is disposed of in terms of the decision rendered by this court in Pushpender Kumar’s case (supra).

January 30, 2017
Rajan

(Arun Palli)
Judge

Whether speaking / reasoned:	YES/NO
Whether Reportable:	YES/NO