

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

RFA No. 1761 of 2001 (O & M)

Date of decision: 18.01.2018

Gurmukh Singh

....Appellant(s)

Versus

U.T., Chandigarh

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. P.C. Dhiman, Advocate,
for the appellant.

Mr. Suvir Sehgal, Advocate,
Mr. Vikas Chatrath, Advocate,
Mr. Tarun Walia, Advocate,
and Mr. Akshay Sethi, Advocate,
for the respondent-U.T., Chandigarh.

G.S.SANDHAWALIA, J. (Oral)

The present judgment shall dispose of 5 appeals i.e. RFA Nos. 1761, 2676 and 2677 of 2001; 1860 and 1972 of 2002, as common questions of facts and law are involved in all the appeals. Reference is being made to ***RFA No. 1761 of 2001, Gurmukh Singh vs. U.T., Chandigarh.***

The land owners, vide the present appeals, challenge the orders dated 10.02.2001 and 06.11.2001 passed by the Additional District Judges, Chandigarh whereby, they disposed of 5 references under Section 18 of the Land Acquisition Act, 1894 (in short 'the Act') and assessed the compensation of the fruit bearing trees on the acquired land by granting increase of 80% on account of the increase in the All India Wholesale Price Index. Similarly, 10% benefit was granted on the compensation on account of the nearness of the market since the fruit and vegetable market of

Chandigarh was within 8 kilometers from the place of the trees. The notification in question is under Section 4 of the Act which was issued on 27.05.1992 for land measuring 51.15 acres in village, Kajheri, U.T., Chandigarh. The award for compensation for the trees was announced on 14.06.1992.

The issue in question before the Reference Court was as to what was the market value of the trees standing on the acquired land at the time of issuance of notification. The landowners had produced the retired Deputy Director, Horticulture, Jasbir Singh as PW-1 who had given his separate evaluations Exs. A-1 to A-4, Ex.A-2/1, Ex.A-3/1 and Ex.P-14 to Ex. P-16 and other claimants had also appeared as PW-2 to submit that the fruit bearing trees had been planted 4 to 5 years prior to the acquisition.

In contrast, the State had also produced Mohinder Singh, Assistant Land Acquisition Officer of the Horticulture Div. No. II of the Municipal Corporation, Chandigarh who had also visited the spot and prepared his report Ex.R-1 on the basis of the fair assessment report Ex.R-2. He accordingly made the assessment on the basis of Nijjer Formula, 1985 Ex. R-4 and the said assessment was made by him in pursuance of the letter of Land Acquisition Officer Ex.R-5 and as per the copy of the list of the trees prepared by the Patwari Ex.R-6.

The Reference Court as such came to the conclusion that the report of the land owners could not be straight away accepted to be correct since the dispute was qua the age of the trees whereas, the age of the trees was shown to be lesser as per Ex.R-1 and it was between 1 to 8 years in contrast to 4 to 7 years as per the land owners. The benefit was granted to the State on account of the fact that the report was prepared by the official

witnesses in discharge of their duties and, therefore, keeping in view the fact that the State reports had not given the benefit of increase of price in accordance with Dr. Nijjer's Formula, 1985, the benefit of enhancement was given as noticed to the extent of 80% on the wholesale price index and 10% increase on the compensation given on account of nearness of the market.

The said approach of the Reference Court could not be seriously opposed by the counsel for the land owners. The dispute as such was only that the parties were at variance regarding the age of the fruit bearing trees since the value as such would be accordingly on the basis of the age. There was no dispute as such regarding the number of trees and, therefore, if the Reference Court has preferred the report of the Government officials in the absence of any mala fides and the fall back on the report Ex.R-1 as such cannot be held to be bad. In the cross examination itself, it has come that the Government officials have not given the increase as per the formula of Dr. Nijjer and, therefore, the Court has rightly given the said benefit. It has also come forward in the cross examination that verbal notice had been issued to the claimants regarding the visit and Kulwinder Singh and other claimants were present at the spot and Mohinder Singh had asked about the age of the plants from the claimants. The expert of the land owners had never given any notice to the department and made assessment at the back of the State officials and, therefore, the approach of the Reference Court as such cannot be faulted. In the statement of Joginder Singh, it has also come that he had planted the trees in the year 1992 and, therefore, the claim as such that the trees were 4 to 7 years old has been rightly repelled and it has been rightly held that the trees were only between 1 to 8 years of age.

In such circumstances, there is no scope for interference in the present set of appeals and no ground for enhancement is made out and the present appeals are dismissed.

18.01.2018 shivani	(G.S. SANDHAWALIA) JUDGE
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Whether reasoned/speaking	Yes/No
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Whether reportable	Yes/No
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