

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

RFA No.1279 of 2005

Balwinder Singh and another

... Appellants

Versus

Punjab State through Collector, Faridkot and others

... Respondents

(2)

RFA No.1298 of 2005

Maghar Singh

... Appellant

Versus

Punjab State through Collector, Faridkot and others

... Respondents

(3)

RFA No.1299 of 2005

Baltej Singh and another

... Appellants

Versus

Punjab State through Collector, Faridkot and others

... Respondents

(4)

RFA No.1816 of 2005

Sarabjit Singh and another

... Appellants

Versus

Punjab State through Collector, Faridkot and others

... Respondents

(5)

RFA No.1817 of 2005

Gurdev Kaur and others

... Appellants

Versus

Punjab State through Collector, Faridkot and others

... Respondents

Decided on : 14.02.2018

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

Present : Mr. Dilraj Brar, Advocate
for the appellants.

Ms. Akshita Chauhan, AAG, Punjab.

G.S. Sandhawalia, J. (Oral)

The present judgment shall dispose 5 appeals, filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') i.e **RFA Nos.1279, 1298, 1299, 1816 and 1817 of 2005**, which arise out of the Award dated 08.01.2005 passed under Section 18 of the Act, by the Additional District Judge, Faridkot, whereby enhancement was granted qua the award of Land Acquisition Collector, Faridkot (for short 'the Collector) dated 22.12.2000. The facts are being taken from **RFA No.1279 of 2005 'Balwinder Singh and another Vs. Punjab State through Collector, Faridkot and others'**.

The table below would also show the rates awarded by the Collector and the enhanced amuont:-

<i>Nature of land</i>	<i>Rate awarded by the Collector</i>	<i>Enhanced Rate</i>
<i>Nahri/Chahi</i>	<i>Rs.1,90,000/-</i>	<i>Rs.2,30,000/-</i>
<i>Barani</i>	<i>Rs.1,30,000/-</i>	<i>Rs.1,60,000/-</i>
<i>Gairmumkin</i>	<i>Rs.1,00,000/-</i>	<i>Rs.1,20,000/-</i>
<i>Makhloot/Banjar</i>	<i>Rs.80,000/-</i>	<i>Rs.1,00,000/-</i>

Dissatisfied with the said enhancement, the present appeals have been filed.

It is to be noticed that the objections were filed under Section 18 of the Act by the land owners, which were consolidated by the

Reference Court and main case was titled as '**Balwinder Singh and another Vs. Punjab State through Collector, Faridkot and others**'.

A perusal of the said objection petition would go on to show that the appellants were owners of the land measuring 3 kanal 8 marlas in village Chet Singh Wala alongwith other co-owners and land had been acquired for the purpose of irrigation and digging up the Dohak Distributory. The notification under Section 4 of the Act was dated 15.10.1998 and the market price claimed was ₹5 lakhs per acre as the land was Nehri. The pleadings were that the land in village Machaki Kalan had been acquired @ ₹3 lakhs per acre to make the Machaki Kalan Distributory, which was adjoining the village and, therefore, they were also entitled for the compensation @ ₹3 lakhs per acre.

In the reply filed by the State the plea was taken that the Dohak Minor had been dug by irrigators including the appellants in Kar Sewa for digging of minor. The expenses for diesel were provided by District Administration. The compensation had been given at the rate fixed by the District Price Fixation Committee for Nehri Land, keeping in view the all parameters. The land acquired was sandy land and no crops of the petitioners were damaged by the department.

Replication was filed denying the contents of the written statement and reiterating as such the claim raised in the objections petition.

Keeping in view the evidence which was brought on record, the Reference Court has noticed that the land of Chet Singh Wala was at

a distance of 11kms from Faridkot and the land acquired in village Machaki Kalan and Kila Nau, whereby compensation had been given @ ₹3 lakhs per acre and ₹1,90,000/- vide Award dated 29.04.2002 was qua different villages and though purpose of acquisition might be same. Village Machaki Kalan was closer to Faridkot, which was a commercial town and, therefore had greater potentiality. Village Kila Nau and Chet Singh Wala had different situations and got less potential because of their geographical situation in respect to town Faridkot. Resultantly, the site plan (Ex.A4) was taken into consideration showing both the minors and the benefit as such was only granted to the extent as noticed above by nominally enhancing the compensation by ₹40,000/-, ₹30,000/-, ₹20,000/- and ₹20,000/- for the four types of the land.

Counsel for the appellant has not been able to demonstrate that whether any sale deed of village Chet Singh Wala was brought on record showing that the market value was higher than what has been granted.

It is settled principle that market value is to be assessed on the basis of what the willing seller is likely to receive from a buyer who is willing to purchase the land. The onus of proof is always upon the land owners as such and only shifts upon State after relevant evidence has been brought on record. Reliance can be placed upon judgment of the Apex Court in '**Gafar & others Vs. Moradabad Development Authority**' 2007 (7) SCC 614 and in '**Special Land Acquisition Officer Vs. Karigowda and others**' 2010 (5) SCC 708.

In the absence of any material having been brought on record by the land owners regarding the market value as such of the land in question by reference to any sale deed pertaining to village Chet Singh Wala, the claim as such for enhancement of compensation is without any basis. Merely because the land was acquired for the same purpose would not also as such give them a right for uniform compensation, as the Reference Court noticed the distance from the Faridkot town and the fact that value had been assessed more for village Machaki Kalan which was closer to Faridkot and, therefore, the land-owners of the said village had been granted @ ₹3 lakhs per acre in contrast to the amount of ₹2,30,000/- which had been awarded for the Nehri/Chahi, for Village Chet Singh Wala.

It is also to be noticed that no such expert has been examined as such to bring on record the factum that the land had been severed by the minor as such and that the land owners would have suffer some damages on account of non-approach of the land on the either side of the minor which would entitle them for compensation on the ground of severance under Clause 3 of Section 23 of the Act. A bare assertion, as such, by the claimants would not entitle them on this account, as the claim was denied by the State in its reply in Maghar Singh's case that pipe culverts and crossings had been provided at State expenses.

It is settled principle that the benefit as such has only to be granted if the pleadings are proved, to show that which portion of the land had been severed and which portion and how much is left on the

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either side. In the absence of any proof having been brought on record and any site plan being exhibited as such to show that which portion of the land or tubewell fell on the either side and the land owners had been adversely affected due to the construction of the minor, no such benefit can be granted to the appellants on that account also.

In such circumstances, there is no scope for interference as such against the order dated 08.01.2005 passed by the Additional District Judge, Faridkot. Accordingly, there is no merit in the present appeals and the same are dismissed.

FEBRUARY 14, 2018
Naveen/sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

Yes