

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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- (1) **CM-3146-CWP-2018 in/and**
CWP-23021-2011
- Sameer Kapur & anotherPetitioners
- Versus
- State of Punjab & others ...Respondents
- (2) **CM-2146-CWP-2018 in/and**
CWP-11194-2012
- Bawa Harbhajan Singh (deceased) th. LRsPetitioners
- Versus
- State of Punjab & others ...Respondents
- (3) **CM-2150-CWP-2018 in/and**
CWP-11324-2012
- Vikram Bawa & anotherPetitioners
- Versus
- State of Punjab & others ...Respondents

Date of decision: 25.07.2018

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

Present: Mr.Vishal Sodhi, Advocate, for the applicant/petitioners.

Mr.P.S.Bajwa, Addl.A.G., Punjab, for respondents No.1 & 2.

Mr.Gopesh Dwivedi, Advocate, for respondent No.3.

G.S. SANDHAWALIA, J. (Oral)

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CM-2150-CWP-2018 in CWP-11324-2012

The present applications have been filed for disposal of the writ petitions.

Accordingly, in view of the averments made in the applications, duly supported by affidavit, same are allowed.

With the consent of counsels for the parties, the main cases which are listed at Sr.No.475 of the Regular Board, are disposed of today itself.

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Main cases

This order shall dispose of three writ petitions, bearing CWP-23021-2011, 11194 & 11324-2012, as common questions of law and facts are involved. However, to dictate orders, facts have been taken from CWP-23021-2011 titled *Sameer Kapoor & another vs. State of Punjab & others*.

The present writ petitions, filed by the landowners, are directed against the order dated 16.09.2011 (Annexure P-3), passed by respondent No.2, the Land Acquisition Collector on an application under Section 28-A of the Land Acquisition Act, 1894. Vide the impugned order, on account of pendency of RFA-4163 & 4164-2006 and RFA-1394-2009, the applications were held not to be proceeded further and liberty was granted to the landowners to move the said respondent, after the decision of the said appeals, pending before this Court and also before the Apex Court in case the petitioners approached the Apex Court, for determination of the compensation, if need be.

Counsel for the petitioners has primarily argued that firstly, the order itself is not tenable on account of the fact that respondent No.2 should have kept the applications pending till the final decision and should not have disposed of the same as the valuable interest of the parties were involved. Counsel has also placed reliance upon the judgment of the Apex Court in ***U.P. State Industrial Development Corpn. Ltd. Vs. State of U.P. & others 1995 (2) SCC 766***, wherein it has

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been held that the Collector should keep the applications filed under Section 28-A(1) pending till the disposal of the appeals and on receipt of the judgment of the High Court, the re-determination of the compensation has to be done. The said view has been followed recently in ***Bharatsing & others Vs. State of Maharashtra & others 2018 (1) RCR (Civil) 497.***

Relevant portion reads as under:

“17. The [Section 28A](#) application dated 31.12.1992 based on the awards in LAR Nos. 123 and 129 of 1983 was decided on 25.10.2000 when the appeals therefrom were pending. The Collector ought to have kept the application pending till the appeals were decided on 23.03.2009. On principle, the High Court is correct and justified in the view taken in the impugned judgment that there cannot be successive applications under [Section 28A](#) in view of Pradeep Kumar (supra). But that is not the point arising for consideration here. No doubt, the second application dated 27.05.2009 for re-fixation in light of the appellate court judgment is not maintainable. However, since the Collector is also at fault in deciding the application when the matter was pending in appeal, we are of the view that in the peculiar facts of the instant case, the application dated 31.12.1992 should be considered afresh. Accordingly, the appeal is disposed of as follows. The Land Acquisition Collector is directed to consider afresh the [Section 28A](#) application dated 31.12.1992 and pass orders in the light of the judgment of the High Court dated 23.03.2009 in First Appeal Nos.569 and 570 of 1997 on the file of the High Court of Bombay, Bench at Aurangabad. For enabling the Collector to pass orders as above, the order dated 25.10.2000 is set aside. However, the amounts already paid are to be duly adjusted.”

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Resultantly, the said order dated 16.09.2011 (Annexure P-3), cannot be sustained and the same is, accordingly, quashed. However, in order to cut short the litigation and remand the matter, this Court is also of the opinion that since the Apex Court has already finalized the rate of compensation @ Rs.110/- per sq.yard, for the notification dated 29.06.1988, in CA-2041-2051-2016 titled *Punjab Small Industries & Export Corporation Ltd. Vs. Dharamsala Pukhta Village Khak & others*, decided on 21.11.2017 (Annexure P-6). The said order was again modified on 16.07.2018, by clarifying that it was only dealing with the acquisition for the notification dated 29.06.1988. by upholding the amount awarded by this Court in RFA-4241-2006 titled *Vijay & another Vs. State of Punjab & others*, decided on 27.02.2015 (Annexure P-5). Relevant portion of order dated 21.11.2017 reads as under:

“In our opinion, the decision had been taken by the High Court on the basis of premium of the lease, is appropriate in the facts of the case. The compensation that has been awarded by the High Court comes to a figure of Rs.110/- per square yard for the year 1988 which cannot be said either excessive or on a lower side. Appropriate cut has been applied. Thus, we are not inclined to interfere with the compensation determined for the acquisition made in the year 1988. The determination made by the High Court, for the notification issued on 20.04.1988, is upheld.

Coming to the notification issued in the year 1981, considering the facts and circumstances of the case, compensation at the same rate of Rs.110/- could not be said to be proper as that rate was prevailing in the year 1988 and

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value would be less before six years. Considering the peculiar facts and material on record, it would be appropriate to grant compensation at the rate of Rs.40/- per square yard instead of Rs.110/-, as said acquisition was made more than six years before in 1981.

In view of the above, the appeals filed by the Punjab Small Industries and Export Corporation Ltd., in regard to Notification issued on 20th January, 1981, are allowed to the aforesaid extent and the appeals of land owners are dismissed. The appeals filed by the parties, pertaining to compensation with respect to Notification issued on 20th April, 1988, are also dismissed.

The amount that has been deposited before the Registry of this Court shall be remitted to the Reference Court for disbursement, along with interest, if any, accrued thereupon. The balance amount, if any, shall be deposited within three months from today.”

Resultantly, the present writ petitions are allowed and the landowners are, accordingly, held entitled to the benefit of market value of Rs.110/- per sq.yard, along with all statutory benefits.

25.07.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*