

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

**(1) RFA No.3516 of 2016 (O&M)**

Gram Panchayat Asalwas ....Appellant  
Versus  
Shadi Ram & others ...Respondents

**(2) RFA No.3531 of 2016 (&M)**

Gram Panchayat Asalwas ....Appellant  
Versus  
Sheo Narain (deceased) th. LRs & others ...Respondents

**Decided on: 22.02.2018**

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

Present: Mr.Ajay Jain, Advocate, for the appellant.

Mr. Sanjay Mittal, Advocate  
for respondent Nos.3(a) to 3(c), 3(e), 3(f)(i) to 3(f)(iii),  
11(a) & 11(b), 11(d)(i), 14(a) to 14(d), 15(b) & 15(c),  
17(a), 20(d)(i) 23(a) to 23(d) and 32(a) (in RFA No.3516-2016)  
and for respondent Nos.1(a)(b), 2(a) to 2(i), 3,4, 5(a),  
6 to 9, 11 to 17 (in RFA-3531-2016).

Mr.Shivendra Swaroop, AAG, Haryana.

Mr.Pritam Saini, Advocate, for HSIDC.

**G.S. SANDHAWALIA, J.**

The present judgment shall dispose of 2 appeals bearing RFA-3516 & 3531-2016, filed by the appellant, directed against the Reference Court award dated 30.03.2016, under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act'), passed by the Addl.District Judge, Rewari, under Section 30 of the Act, whereby the private-respondents, being the proprietors of the village, were held entitled to receive compensation in respect of the acquired land to the extent of their shares. Similarly, in RFA-3531-2016, the award dated 31.03.2015, is also subject matter of challenge by the same Gram Panchayat, wherein similar relief has been granted by another Reference Court.

The case of the private-respondents was that they were permanent residents of village Asalwas and at the time of settlement, the acquired land was kept “Jumla Mustarka Malkan”, after imposing pro-rata cut in the village when consolidation of the village had been done in the year 1959-60. The land was in cultivable possession of the proprietors and was never used for common purposes and the Gram Panchayat had no concern with it. Mutation No.535 dated 07.07.1992, sanctioned in favour of the Gram Panchayat had been set aside, in view of the decision of the Full Bench in **Jai Singh Vs. State of Haryana (2003) 2 RCR (Civil) 578**.

The appellant-Gram Panchayat had contested the petition that the land had been acquired by the State of Haryana and the Panchayat was entitled for the compensation and that the petitioner was not in cultivating possession.

After examining the evidence of as many as 8 witnesses in one case and 10 witnesses in the other case and keeping in view the stand of the Panchayat, which had come on record by way of statement of Badan Singh, Reference Court came to the conclusion that the land in question had never been used for common purposes and the same had neither been leased out.

Similarly, reliance was placed upon Ext.PW-8/3, a reference petition decided on 06.08.2001 wherein an admission had been made in Jai Singh's case that similarly situated proprietors were in continuous possession for more than 12 years prior to 26.01.1950. Similarly, reliance was also placed upon an order passed on an earlier occasion on

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06.08.2001, in the case of Jai Singh & others, wherein the land owners were entitled to compensation as per share and no appeal or revision had been filed and the judgment had attained finality. Similarly, Ext.P-3, which is copy of the judgment in the case of *Kirpa & others Vs. Gram Panchayat, Asalwas* decided on 24.12.2012, wherein also, similar benefits had been granted to other land-owners, was noticed. It is, in such circumstances, the benefit has been given to the private-respondents.

Counsel for the Gram Panchayat has, accordingly, submitted that the notification in question was dated 31.10.2008 for the extension of the Industrial Growth Centre, Bawal and the land was being used for common purposes and therefore, the Gram Panchayat was entitled to the amount of compensation.

Counsel for the private-respondents, Mr.Sanjay Mittal has argued that factual findings have been recorded by the Reference Court and therefore, no fault can be found in the reasoning recorded, as such.

A perusal of the earlier award dated 06.08.2001 also would go on to show that 7 references had been decided at that point of time, wherein Jai Singh and others had taken the plea that they were “Hissedaran”. The earlier Sarpanch also, while appearing as witness, had deposed that the land-owners were in cultivating possession as co-sharers and resultantly, the benefit of compensation had been granted to the land-owners vide Ext.PW-8/4, on 06.08.2001.

Mr.Ajay Jain, counsel for the Gram Panchayat, could not bring to the notice of this Court that the said order dated 06.08.2001 had been set aside. The same reads as under:

“12. From the above discussion, unrebutted and unchallenged documentary evidence as well as oral evidence led by the petitioner and admitting the claim of the petitioners on behalf of the GP while filing written statement, it is established that petitioners are owners of the land in dispute and they are entitled to get the compensation amount of the acquired land in dispute to the extent of their shares.

13. For the reasons recorded above, both issues are decided in favour of the petitioners and against the respondents.

Issue No.3 (Relief)

13. In view of the finding under issues No.1 & 2, all the reference petitions are allowed. However, with no order as to costs. Petitioners are held owners in possession of land in dispute at the time of acquisition of land in dispute and therefore, petitioners are entitled to get compensation amount of the acquired land deposited in their respective reference petitions to the extent of their shares. Memo of costs be prepared accordingly and file be consigned to records.”

Similarly, regarding the acquisition dated 31.10.2008, a similar plea had been taken by as many as 60 land-owners and the benefit had been granted to them on 24.12.2012 while noticing that no appeal had been filed against the earlier order dated 06.08.2001. The same reads as under:

“17. It is not in dispute that Jai Singh etc. filed reference petition under Section 30 of the Land Acquisition Act in respect of the land acquired by the Haryana government. Reference petitions filed under Section 30 of the Land Acquisition Act were decided by the court of Shri Dharamvir Singh, learned Additional District Judge, Rewari vide judgment dated 6.8.2001 (photocopy Ex.P11). No appeal has been preferred against the said judgment by Gram

Panchayat, Asalwas and Dharampal, Sarpanch of village Gram Panchayat, Asalwas has made statement that the Gram Panchayat, Asalwas has not filed any objections regarding the disbursement of amount as Gram Panchayat, Asalwas has no concern with the acquired land and has no objection in allowing the petition of the claimants. In these circumstances, the petitioners are held entitled to get the compensation amount of the acquired land in dispute to the extent of their share.

18. For the reasons recorded above, this issue is decided in favour of the petitioners and against the respondents.

RELIEF

19. In view of the findings under issue no.1, the reference petition is allowed with no order to costs. The petitioners are held entitled to get the compensation amount of the acquired land in dispute to the extent of their share. Memo of costs be prepared accordingly and file be consigned to record room after due compliance.”

In such circumstances, once the Gram Panchayat has not contested the earlier litigation, in similar circumstances and lost out in principle, it now, cannot turn around and say that the private-respondents will not be entitled for their respective shares of compensation and therefore, would be estopped in principle, as such.

Resultantly, this Court is of the opinion that no infirmity, as such, can be found in the orders passed by the Courts below. Accordingly, both the appeals are, hereby, dismissed, upholding the orders passed by the Reference Courts.

22.02.2018  
*Sailesh*

**(G.S. SANDHAWALIA)**  
**JUDGE**

*Whether speaking/reasoned:*                      *Yes/No*

*Whether Reportable:*                              *Yes/No*