

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

**RFA No.3011 of 2017 (O&M)
Decided on : 20.03.2018**

The Defence Estate Office, Jalandhar Cantt.

... Appellant

Versus

Mohinder Singh and others

... Respondents

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

Present : Mr. Ashok Kumar Arora, Advocate for the appellant.

Mohd. Yousaf, Advocate for respondents No.1 to 3.

G.S. Sandhawalia, J. (Oral)

The main appeal already stands admitted and today the case is fixed for arguments on stay application.

With the consent of the counsel for the parties, the main case is taken up on board today itself.

The present appeal has been filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') against the Award dated 13.09.2016 passed by the Reference Court, Jalandhar. By virtue of the impugned award compensation has been assessed as ₹35 lakhs per acre for the land which is situated on the road and ₹30 lakhs per acre for the land which is situated away from the road alongwith statutory benefits.

Reference has been made to the Award dated 12.05.2003 '**Udham Singh Vs. Special Acquisition Collector, Jalandhar**' for the fixing the market value. However, perusal of the certified copy of the award in question which is dated 13.05.2003 would go on to show that for the notification under Section 4 of the Act in question dated 19.03.1990 when land was acquired of the village Haripur, Tehsil and District Jalandhar, in

the said award a sum of ₹85,000/- per acre had been awarded at a flat rate. The relevant part reads as under:-

“18. In view of the aforesaid discussion, I am of the considered opinion that the claimants should be allowed compensation @ Rs.85,000/- per acre with all statutory benefits under the Act for their land acquired in this case. This compensation should be allowed without taking into consideration the type of land recorded in the revenue record at uniform pattern. Both these issues are decided in favour of the claimants and against the respondent.

Issue No.3

19. The onus to prove this issue was on the respondents but during the course of arguments, this issue was not pressed by the learned counsel for the respondents as such, it is decided against the respondents and in favour of the claimants.

Relief

20. In view of the above findings on the issues, the claim petition is allowed and the claimants/petitioners are held entitled to compensation regarding their acquired land at the rate of Rs.85,000/- per acre at flat rate, irrespective of classification of the same recorded in the revenue record. The amount already paid to the land owners towards compensation shall be reduced from the amount of compensation allowed by way of enhancement. The claimants shall also be entitled to admissible statutory benefits under Section 23 (1-a), 23 (2) and 28 of the Act. They shall also be entitled to the costs of this petition. Counsel's fee is assessed Rs.500/- in each reference. Memo of costs be prepared. File be consigned.”

In such circumstances, the compensation which has been awarded is totally in contradiction of the award which has been relied upon and cannot be justified in any manner and counsel for the respondents also was not in a position to dispute the said fact.

Similarly, counsel for the appellant has also argued that even the petition under Section 18 of the Act was also time barred and issue

No.3 was also framed on this account. However, issues No.1 to 4 were jointly dealt with by the Reference Court and the limitation issue has been brushed aside on the ground that the co-owner as such had been granted the benefit of enhancement. There is no reference as to when the reference petition was preferred before the Land Acquisition Collector and when the matter was referred to the Reference Court.

The reasons for the delay and neither the evidence has been discussed. Counsel for the appellant has also stressed on the fact that the earlier bunch of cases were of the year 2001 and, therefore, the delay as such has not been properly explained. Similarly, the statements of the witnesses have also not been discussed and the award had been passed in cursory manner.

Considering the Reference Court is dealing with the issues at the first instance and the facts and evidence have not been discussed in entirety, therefore, the order cannot be termed as a speaking order.

Keeping in view the above, this Court is of the opinion that the award is not sustainable and the same is set aside and the appeal is allowed. The matter is remanded to the Reference Court for fresh decision in accordance with law. However, any amount paid to the land owners shall not be recovered till final decision of the reference.

The appeal stands allowed accordingly.

MARCH 20, 2018

Naveen

Whether speaking/reasoned:

Whether Reportable:

(G.S. SANDHAWALIA)
JUDGE

Yes/No

Yes/No