IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA No.1821 of 1997 & other connected appeals
Decided on : 16.01.2019

Malkiat Singh and another

... Appellants

Versus

The SDO (Civil), Rupnagar-cum-Land Acquisition Collector and another

... Respondents

Filed by	Numbers
Landowners	RFA Nos.1821, 1907, 1908, 1920, 2383 of 1997, RFA Nos.1079, 1080 of 2000, RFA Nos.3175 to 3177, 4185, 4186 of 2001, RFA Nos.65 to 68 of 2002
State of Punjab	RFA Nos. 2082 to 2087 of 1997, RFA Nos. 3407 to 3411, 4325 to 4331, 4791 to 4793, 4887 of 2001

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

Present: Mr. Pritam Singh Saini, Advocate,
Mr. Arvind Mittal, Advocate,
Mr. Jaideep Verma, Advocate,
Mr. H.K. Brinda, Advocate for
Mr. Dharampal, Advocate and
Mr. R.K. Rathore, Advocate for
Mr. S.S. Rathore, Advocate for the landowners.

Ms. Simran Grewal, AAG, Punjab.

G.S. Sandhawalia, J. (Oral)

The present order shall dispose of above referred 38 appeals filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') by the landowners as well as by the State, challenging the Awards passed by the Reference Court, Ropar (Rupnagar) dated 14.05.1997, 04.12.1999 and 16.04.2001.

2. Vide the first Award dated 14.05.1997, while deciding 6

reference petitions, the lead case of which was **'Land Reference No.4 dated 01.02.1995 'Joginder Singh Vs. The SDO (Civil), Rupnagar-cum-Land Acquisition Collector and another'** the Reference Court had granted a sum of ₹5,75,000/- per acre as market value of the acquired land, whereas for the other two Awards i.e. 04.12.1999 and 16.04.2001, the Reference Court opted to award lesser amount of compensation of ₹5 lakhs in spite of the fact that there was an Award available for the same acquisition in question. Resultantly, both the landowners and State are challenging the fixation of the market value on a different rates, whereby the State is wanting reduction and the landowners are seeking enhancement.

3. The land was acquired vide notification dated 18.03.1992 falling in two villages, namely, Nanakpura, Hadbast No.43 and village Ropar, Hadbast No.44. Land measuring 10 acres 6 kanals 12 marlas was acquired from village Ropar and 11 acres 1 kanal 3 marlas was acquired from village Nanakpura and total land was 21 acres 7 kanals and 15 marlas. The public purpose for which the land was acquired was for the construction of building the Government Polytechnic for Women. Award No.1 was passed on 22.04.1992 and the Land Acquisition Collector had awarded a sum or ₹3 lakhs per acre for the land which was Chahi in nature and for Banjar Qadim and for Gair Mumkin ₹1 lakh and ₹2 lakhs per acre, respectively. The market value in the Award dated 14.05.1997 was fixed by the Reference Court on the basis of the earlier market value which had been fixed by the Division Bench in

LPA No.383 to 388 of 1996 'Asra Singh and others Vs. Land Acquisition Officer, Patiala and another' decided on 21.02.1997 for the notification dated 20.03.1985, which was @ ₹4,84,000/- per acre. Similarly, it was held that acquired land was fast approaching urbanization and had potentiality for use of residential and commercial purposes and could be compared to the land of village Kotla Nihang and Thali. Keeping in view the 7 years gap as such between the two notifications of said two villages Thali and Kotla Nihang which was of 03.10.1985 and the fact that there was appreciation in the price of the land, the market value was fixed @ ₹5,75,000/- per acre.

4. Vide the Award dated 04.12.1999, while deciding 7 reference petitions, the lead case of which was **Land Reference No.171/03.06.1995 'Suman Jagota Vs. SDO (Civil) Rupnagar-cum-Land Acquisition Officer and another'**, the Reference Court did not as such give the same benefit on account of the fact that from the year 1984 to 1992 there was terrorism in the Punjab and the value of the land had decreased and nobody was willing to purchase the land on the outskirts of the town. It was further observed that there was slump in the market which was existing till then and there were few buyers and, therefore, a sum of ₹5 lakhs per acre was adjudged as the market value.

5. For the same reasoning vide the Award dated 16.04.2001, while deciding 9 reference petitions, the lead case of which was **Land Reference No.162/03.06.1995 'Gurcharan Singh Vs. State of Punjab and another',** the same amount of compensation of ₹5 lakhs was

awarded.

6. Counsel for the State has, accordingly, argued that the fixation of the market value was on the ground that the acquired land had same potentiality than the land of village Kotla Nihang and apart from the fact that one Court had granted more market value to the tune of ₹5,75,000/- per acre and, accordingly, contended that the value of both revenue estates could not be equated.

7. Counsels for the landowners on the other hand submitted that their appeals are liable to be allowed and parity is liable to be granted, as a uniform rate of compensation should be awarded. Apart from that argument has also been raised that further enhancement is liable to be given, even if 5% enhancement is to be kept in mind on cumulative basis for the difference between the earlier acquisition of 1985. It is further contended that observations of the Reference Court regarding the issue of terrorism is unfounded, as neither any evidence had been led regarding this aspect and nor it was the plea of the State. The acquisition is of the year 1992 and the land had immense potential and the market value is liable to be enhanced.

8. A perusal of the claim petitions, which are in the same format, would go on to show that the case of the landowners of both the villages was that the acquired land was situated within the municipal limits and was situated on the National Highway i.e. Chandigarh-Ropar Road. The Railway Station, Ropar was adjacent to the acquired land and the National Highway was in between the acquired land which fell in two villages. The ITI Ropar was adjacent to the acquired land and town was

surrounded by Canals from three sides and the land in question was open for extension of Ropar Town. The Police Station was near the acquired land and there were residential houses and shops near the acquired land and the land was fit for commercial and residential purposes. Resultantly, ₹15,000/- per square yard was claimed. Apart from that claim of an additional amount for dairy farm and super structure, which were on the acquired land was also claimed.

9. In the reply filed by the State, in the case of **Gurcharan Singh (supra)**, there was an admission that the land was within the municipal limits.

10. In the statement of PW-3 Jagmohan Singh, Patwari in the case of **Joginder Singh (supra)** it has come on record that the acquired land was situated on the Chandigarh Road and ITI of village Sada Barat was adjacent to the acquired land and Police Station, Ropar was just adjacent to the acquired land. The Ropar town was extending towards the acquired land. RW-1 Tek Chand, Junior Assistant appearing in the case of **Suman Jagota (supra)** also admitted in his cross-examination that the acquired land was on the eastern side of the National Highway of Ropar-Nangal Road and there were 30-40 shops on the road and was adjoining Ropar town. Kotla Nihang was adjoining on the other side of the Ropar. Similarly, PW-9 Harmel Singh, Halqa Patwari, in the case of **Gurcharan Singh (supra)** had deposed that the acquired land was situated 100 karams from the Railway Station and the Police Station was situated 40 karams from the acquired land. The ITI was situated at a distance of 108

karams from the acquired land and Shiraj Motors was adjoining the ITI. He also deposed that old Ropar Bus Stand was about 550 karams from the acquired land, whereas Bazaar was at a distance of 200 karams. The new Bus Stand of Ropar was at a distance of 2 Kms. RW-1 Harsimran Singh, Naib Tehsildar in the said case also admitted in his cross-examination that after crossing Ropar-Nangal Road, Railway Station of Ropar was situated and Police Station was half km from the Railway Station, Ropar.

11. The cumulative reading, thus, would go on to show that the finding which have been recorded in the Award dated 14.05.1997 is correct to the extent that the land had immense potential both for residential and commercial purposes being located near the Old Bus Stand, Police Station and the Railway Station. The highway which was leading to Nangal from Chandigarh was passing through Ropar also dividing the land in question. The factum that the land was on the highway itself the scope of potential of the land had been rightly assessed in the first award as such, which is a principle to be kept in mind while assessing the market value. Therefore, the observations made in the Award dated 14.05.1997 cannot be faulted with in any manner, rather the reasoning given in the Awards dated 04.12.1999 and 16.04.2001 to grant lesser compensation cannot be justified in any manner.

12. A perusal of the Award dated 14.05.1997 would also go on to show that the Reference Court had examined large number of sale deeds which are as under:-

Exhibit	Date of sale	Amount (Rs.)	Area	Average
Ex.P16	7.5.1990	54,000/-	0.7	12,34,285/-
Ex.P17	2.12.1991	49,000/-	0.10	7,84,000/-
Ex.A18	25.5.1990	12,000/-	0.1	19,20,000/-
Ex.A19	23.12.1991	60,000/-	0.6	16,00,000/-
Ex.A20	25.3.1992	47,175/-	0.8	9,43,500/-
Ex.A21	5.9.1990	35,000/-	0.7	8,00,000/-
Ex.A22	7.8.1989	44,000/-	0.4	17,60,000/-
Ex.A23	**13.1.1992**	**84,000/-**	**1.3**	**5,84,347/-**
Ex.A24	11.6.1991	40,000/-	0.5	12,80,000/-
Ex.A25	26.2.1988	1,500/-	0.1	2,40,000/-
Ex.A26	22.3.1990	44,690/-	0.8	8,22,400/-
Ex.A27	15.10.1991	32,000/-	0.8	6,40,000/-
Ex.A28	15.10.1991	32,000/-	0.8	6,40,000/-
Ex.A29	24.4.1990	50,000/-	0.6	13,33,333/-
Ex.A30	11.10.1990	1,00,000/-	0.15	10,66,666/-
Ex.A31	18.11.1991	8,000/-	0.1	12,80,000/-
Ex.A32	2.8.1991	40,000/-	0.3	21,33,333/-
Ex.A33	29.10.1990	55,000/-	0.5	17,60,000/-
Ex.A34	20.12.1991	7,75,000/-	0.8	15,50,000/-

13. Reliance upon the same was not placed on account of the smallness of the plot as the same were varied from 1 marla to 15 marlas. The sale Ex.A23 pertaining to a larger chunk of land i.e. 1 kanal 3 marla. The price per acre for the biggest chunk of land works out @ ₹5,84,347/- per acre. A perusal of Ex.A23 which was of 700 square yards would go on to show that the land in question was sold on 13.01.1992, which was approximately two months before the notification in question.

14. In the present acquisition, as noticed the land in question is falling on both sides of the national highway and, therefore, the potentiality is far more, keeping in view the settled principle of law that the land falling on the highway is more valuable than the land situated in the interior. Ex.A23 does not depict that it has any frontage on the

highway and in spite of that it was sold approximately for the value ₹5,84,347/- per acre. The benefit as such of additional market value for the land falling on the highway is to be given to the land in question by granting a cut on account of the smallness of the plot (Ex.A23) and thus, in above circumstances it cannot be said that the amount of compensation of ₹5,75,000/- is on the excessive side.

15. Another factor which can be taken into consideration, as in the evidence it has been found that Kotla Nihang is the adjoining village for which the market value has been fixed @ ₹4,84,000/- per acre vide the Award dated 26.05.1990 by the Reference Court for the notification dated 03.10.1985. There was a difference of approximately 6 years between the two acquisitions and even if 5 years difference is taken into consideration and 5% enhancement is granted on account of the principle of cumulative increase as such, keeping in view the judgment of the Apex Court passed in '**Oil and Natural Gas Corporation Limited Vs. Rameshbhai Jivanbhai Patel and another' 2008 (14) SCC 745,** the market value would work out @ ₹6,48,606/- per acre. The award pertaining to village Kotla Nihang was approved by the Division Bench of this Court in the case of **Asra Singh (supra)**, while fixing the market value of village Thali and even for the said village the compensation @ ₹4,84,000/- per acre was granted.

16. In such circumstances, this Court is of the opinion that keeping in view the cumulative aspects of the market value of Ex.A23 and the assessment of market value of the land falling in village Kotla

Nihang, the market value by applying thumb rule as such for the acquired land which has better potential and location, would work out @ ₹6 lakhs per acre. Since a compact block as such is being acquired, which falls in the Municipal limits of Ropar, the uniform compensation which has been awarded is justified as held in **'Gurvinder Singh and others Vs. Haryana State' 2005 (1) PLR 804.** The relevant portion of the said judgment reads as under:-

> *"10. It is also worthwhile to notice that the land has come within the municipal limits of Sirsa town since 1976 i.e. many years before the notice under Section 4 of the Act was issued. In this regard, statement made by PW-2 Om Parkash, Encroachment Clerk is significant which shows that the site plan of the shops proposed to be constructed by the appellants Exs.P-8 and P-11 were sanctioned by the municipal committee in the year 1977. Reliance could also be placed on Exs.P-13 and P14 where the municipal limits have been delineated by yellow and black lines and the land acquired has been indicated by pink colour. Therefore, the learned Additional District Judge has committed an error in law by proceeding on the assumption that the land is agricultural in character and the rates have been awarded on the basis of classification given by the revenue record. A Division Bench of this Court in the case of Lakshmi Doss (supra) has taken the view that once the land is covered by the municipal limits, then the classification of the acquired land according to old revenue record is held to be unwarranted. In fact the extension of the municipal limits would show the potentials of the land to be developed as a residential or commercial area. On that account also the view taken by the learned Additional District Judge is liable to be modified."*

17. Resultantly, the appeals of the landowners are allowed to that extent by fixing the market value @ ₹6 lakhs per acre alongwith all statutory benefits and the appeals filed by the State are dismissed.

18. As regards the issue of claim for fruit bearing trees and the structures on account of Joginder Singh, Malkiat Singh, Tarlok Singh and Udham Singh, it is to be noticed that the site plan Ex.P6 prepared by PW-2 Jatinder Nath and the value of ₹15,55,200/- of the Cattle shed etc. was rightly rejected by the Reference Court and only ₹3 lakhs compensation was awarded on account of structure against the claim of ₹15,55,200/-.

19. Similarly, against the claim of tubewells/wells, the compensation was given as estimate prepared by RW-3 Balbir Singh, JE, the Government Valuer, in comparison to the amounts of the private valuer. The same has been done, keeping in view the settled principle that the private valuers always come to the favour of the pay masters. In the absence of any evidence led by Malkiat Singh and Tralok Singh, the amount of compensation was denied.

20. Similarly, for the fruit bearing trees, RW-1, Sukhjinder Singh, Horticulture Development Officer prepared the report and it was noticed that there was variation regarding the age and quality of the fruit bearing trees and the interest of valuers was involved and, therefore, falling back on the report prepared by RW-1 Sukhjinder Singh who had prepared the same at the spot, which was counter signed by the Assistant Director, Horticulture, cannot be faulted in any manner. A perusal of the

statement of RW-1 Sukhjinder Singh, who had prepared the report in the case of **Joginder Singh (supra)**, would also go on to show that the trees were not fruit bearing at the spot and they were of third category and only in two cases the trees were of second category. Resultantly, additional compensation ranging from ₹1,000/- to ₹8,000/- was given to the six persons seeking enhancement on account of the compensation of fruit bearing trees.

21. Similarly, for the non fruit bearing trees, it was kept in mind that the eucalyptus trees can give upto three crops and, there was waiting period of 25 years and, therefore, the value of each tree was taken @ ₹250/- to work out the compensation and the benefit was, accordingly, granted, to enhance the compensation for eucalyptus trees. In such circumstances, no fault can be found for the compensation which has been fixed for structure, trees and tubewells etc. No case is made out for interference for the said count.

22. Resultantly, the present appeals are disposed of by fixing the market value @ ₹6 lakhs per acre alongwith all statutory benefits.

(G.S. SANDHAWALIA)
JANUARY 16, 2019 **JUDGE**
Naveen

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*