

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

**RFA No.2026 of 2019 (O&M) alongwith
other connected appeals
Decided on : 23.05.2019**

The State of Haryana and others

... Appellants

Versus

Ramesh and others

... Respondents

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

Present : Mr. Shivendra Swaroop, AAG, Haryana.

G.S. Sandhawalia, J. (Oral)

Exemption applications

Applications are allowed, as prayed for.

CMs stand disposed of.

Delay applications

Applications for condoning the delay of 58 to 62 days in filing the appeals have been preferred by the State against the Award dated 07.12.2018 passed by the Reference Court, Jhajjar.

Keeping in view the averments made in the applications, duly supported by affidavit of the official, the same are allowed. The delay of 58 to 62 days in filing the appeals is condoned.

CMs stand disposed of.

Main appeals (O&M)

The present order shall dispose of 29 appeals i.e. RFA Nos.2026 to 2052, 2134 and 2141 of 2019.

The Reference Court has allowed the petitions to the limited

extent by enhancing the amount of compensation from ₹20 lakhs per acre to ₹20,58,536/- per acre for the land which had been acquired vide notification dated 11.03.2011 issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act'). Apart from that 50% severance charges has been granted, as the land had been acquired for the purpose of the extension of the I.R. Sulodha Minor from RD 4713 to 14900 in village Silana, Tehsil & District Jhajjar.

The enhancement as such is on the basis of the revision of floor rates for determining compensation (Ex.P7). It was, accordingly, noticed that in the year 2007 the floor rates falling in the category of ₹16 lakhs per acre was revised w.e.f. 07.09.2010 to ₹20 lakhs per acre. Thus, during the period of 41 months from 06.04.2007 to 07.09.2010 floor rates were increased @ ₹9756/- per month. The benefit was, accordingly, granted for the period of difference of six months from 07.09.2010 to the date of notification i.e. 11.03.2011.

The enhancement as such, thus, is for the agricultural land, which had been acquired. It is a matter of fact that the Collector usually awards the compensation at a rate which is not commensurate with the market value, since it is usually based itself on the Collector rate, which is always less than prevailing market value. In such circumstances, interference with the nominal enhancement of ₹58,536/- per acre would not be justified.

Regarding the issue of severance of 50%, the Reference Court has relied upon the judgment passed in '**Shakuntla Devi Vs. State**

of Haryana', 1989 (2) RRR 258, 'State of Punjab Vs. Mohan Lal' 1997 (3) RCR (Civil) 693 and 'State of Haryana Vs. Sher Singh' 2009 (5) RCR (Civil) 663

This Court in 'Narinder Kaur Vs. State of Punjab, 1980 RLR 399, 'Tehal Singh Vs. State of Punjab through Collector Land Acquisition Drainage Circle Patiala, 1987 RRR 495, 'State of Punjab Vs. Gopal Singh', 2002 (2) PLR 843, 'Surjit Singh Vs. State of Punjab, Land Acquisition Collector, 2008 (2) PLR 8763, State of Haryana Vs. Kartar Singh 2010 (4) RCR (Civil) 443 and 'Smt. Maya Vs. State of Haryana', 2012 (4) PR 747 has consistently time and again granted 50% severance where the land was acquired for the purpose of Water Channel. The same is on the principle that Water Channels always put the landowners at an disadvantage on account of the land being severed and for approaching the land. The Reference Court has seen *Aksh Shazara* (Ex.P3 and P4) and copy of the field book of village Silana (Ex.P5) to come to the conclusion that the land was bifurcated and there was no approach for going to the land situated to the other side of the Minor.

Thus, keeping in view the above, the additional amount of compensation which has been granted on account of severance, as such cannot be said to be against the settled principles of granting the compensation under Clause three of Section 23 of the Act. The same provides that damage, if any, sustained by the person interested, at the time of Collector taking possession of the land, by reason of severing

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such land from his other land is to be taken into consideration by the Court.

This Court has also been consistent on the said principle giving enhancement on the basis of the floor rates price, specially where the land is situated in deep rural areas and there is lack of sale exemplars.

Resultantly, this Court is of the opinion that the award passed by the Reference Court does not suffer from any illegal infirmity, which would warrant interference by this Court. Accordingly, the present appeals are dismissed in limine.

MAY 23, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No