

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

**RFA No.2953 of 2005
Decided on : 30.08.2019**

Mohinder Singh

... Appellant

Versus

State of Punjab and others

... Respondents

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

Present: None for the appellant.

Ms. Jasleen Kaur Sidhu, AAG, Punjab.

G.S. Sandhawalia, J. (Oral)

The present appeal filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') is directed against the Award dated 19.03.2005 passed by the Reference Court, Rupnagar, whereby while deciding the claim of the appellants, the amount of compensation for the trees was enhanced by 20% as per the valuation report (Ex.R3) given by the State.

The reasoning as such to enhance the compensation was that Eucalyptus trees normally yields three crops, which fact had not been kept in mind by the State while giving report (Ex.R3). The land had been acquired vide notification dated 18.09.1985 issued under Section 4 of the Act for the purpose of construction of the Sutlej Yamuna Link Canal Project and vide the supplementary award dated 17.03.1987, the Land Acquisition Collector awarded compensation regarding acquired trees.

The claim had been made for 1300 Eucalyptus trees, 163 Guava trees and 170 Sheesham trees to the extent of value of ₹1,50,000/-,

₹1,20,000/- and ₹50,000/-, respectively for the three categories. The expert PW-3, Jasbir Singh, retired Deputy Director, Horticulture, Punjab was examined who had inspected the land of the claimants on 01.12.1985 and proved inspection report (Ex.PW3/A) and valuation report (Ex.PW3/A-1) and quantified the amount @ ₹15,10,100/-.

The State had also examined RW-1, Jagdeep Singh, Horticulture Development Officer, who proved valuation report (Ex.R1) relating to fruit bearing trees and there was a letter (Ex.R2) and valuation report (Ex.R3) relating to non-fruit bearing trees, which were proved by RW-2 Gagandeep Singh, Forest Range Officer, Kharar.

The Reference Court had noticed that the claimants had failed to produce any bill regarding purchase of said plants. However, it was noticed as per report (Ex.PW3/A-1) that the Guava trees were of five years of age and the Eucalyptus trees had girth of 100 to 120 cm and Sheesham trees had girth of 60 to 80 cm. Keeping in view the oral evidence as such that the trees had been planted in the year 1984 and the land had been acquired two years later, the age as such of the trees stated by the claimant was disbelieved. The report of the expert as such had not been taken into consideration and it was held that private experts normally give their reports in favour of the party who engages them. Resultantly, fall back was made on report (Ex.R3) given by the respondents, it was held that there were 870 Eucalyptus trees of three years of age, 165 Eucalyptus trees of two years of age and 43 Sheesham trees. No benefit as such was granted regarding the valuation of the

Sheesham trees.

Reliance had rightly been placed upon the judgment of this Court passed in '**Mohinder Singh Vs. Land Acquisition Collector, Patiala, 1996 LACC, 95** to enhance the compensation by 20%, and it was held that Eucalyptus trees normally yield three crops. The said decision followed judgment passed in '**Sukhdev Singh Vs. State of Punjab and another' 1990 (1) RRR 2**, wherein the said view was taken.

The relevant portion reads as under:-

“7..... The question then arises whether the above referred amount has to be multiplied by three per tree as admittedly the eucalyptus plant can yield three crops. In this regard it is noteworthy that the claimant had to wait for at least 35 years more for getting all the three crops as according to Sukhdev Singh, claimant, these trees were sown in the years 1978 to 1979 i.e. four or five years prior to their acquisition. Taking into consideration that the compensation is being paid in lumpsum and about twenty-five years prior to the actual yield of all the three crops, it can be well said that the compensation of two crops would meet the ends of justice and amount to fixing fair compensation of the acquired trees. The market value for two crops per tree would work up to Rs.377.30 p. at the rate of Rs.188.65 p. as awarded by the Land Acquisition Collector.”

In such circumstances, this Court is of the opinion that the amount as such of enhancement to the 20% is on the lower side as the Eucalyptus trees yield three crops. However, since the amount is being received in lumpsum for all three crops, the amount is liable to be awarded accordingly. In such circumstances, as per the report of the

respondents itself, the appellant has not been granted the said benefit. The amount of compensation as per Annexure R3, which has been enhanced by 20% is further enhanced to the extent of 50%, as it would be adequate compensation as such for the Eucalyptus trees, which were standing on the land, which was acquired.

The appeal is, accordingly, partly allowed to this extent. Copy of the judgment be sent to the appellant as none has put in appearance on his behalf.

AUGUST 30, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No