

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

RFA-1206-2014

Date of decision: 14.03.2019

Subhash Chander & others

Versus

....Appellants

State of Haryana & others

...Respondents

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

Present: Mr.R.D.Gupta, Advocate
and Mr.Gaurav Gaur, Advocate, for the appellants.

Mr.Sudeep Mahajan, Addl.A.G., Haryana
Ms.Vibha Tewari, AAG, Haryana.

G.S. SANDHAWALIA, J. (Oral)

Present appeals, bearing RFA-1206 to 1211-2014, filed under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act'), are directed against the award of the Reference Court, Karnal dated 08.07.2013, whereby a sum of Rs.76.21 per sq.yard has been fixed as the market value of the land which had been acquired vide notification dated 05.07.1982.

The determination, as such, was done in pursuance of the orders passed by the Apex Court in an earlier round of litigation whereby vide order dated 19.02.2013 in CA-2187-2013 titled *Subhash Chand & others Vs. State of Haryana & another*, filed by the landowners themselves, the Apex Court had allowed the appeal of the present appellants and remitted the matter to the Reference Court to redetermine the compensation payable, in the light of the directions issued, while modifying the order of the Single Judge, wherein the market value had been fixed @ Rs.51.07 per sq.yard.

The sole argument which has been raised by counsel for the appellants is that the Reference Court erred and should have relied upon the sale deeds in question and by fixing the market value on the basis of an

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earlier award (Ext.A-2) for the notification dated 04.09.1980, it has caused prejudice. Reliance has been placed upon the judgment of the Apex Court in **Manoj Kumar & others Vs. State of Haryana & others 2018 (2) RCR (Civil) 815**, in this context.

The said argument is to be noticed and rejected, in the peculiar facts and circumstances of the present case. The market value itself has been fixed by the Apex Court in an earlier round of litigation and the said judgment would be, as such, binding upon the appellants. The factual matrix is that the award was passed on 07.08.1984, for the notification in question whereby market value had been fixed @ Rs.86,000/- per acre along with solatium and the matter had been brought before the Reference Court whereby the market value had been enhanced to Rs.35/- per sq.yard and the Single Judge of this Court further enhanced the amount to Rs.41/- per sq.yard. Matter had been taken in Letters Patent Appeal No.1134 of 1990 and was remitted on 16.12.2004, for redetermination. Resultantly, the market value had been fixed @ Rs.51.07/- per sq.yard.

The landowners, being dissatisfied with the judgment of the Single Judge, took the matter to the Apex Court in **Subhash Chander (supra)** whereby the matter was, in principle, decided on 19.02.2013 and the amount was quantified by coming to the conclusion that there should be no 1/3rd cut on the price towards development, in view of the observations made by the Apex Court in **Krishi Utpadan Mandi Samiti Vs. Bipin Kumar (2004) 2 SCC 283**, by taking the base year as 1973, wherein an earlier acquisition had taken place and market value had been fixed @ Rs.22/- per

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sq.yard. Relevant portion of the judgment reads as under:

“18. In view of the above, while modifying the order passed by the learned Single Judge, we direct the Reference Court to determine the market value of the lands acquired and re-christened as Sectors 3, 6, 7 and 9 at the rate of Rs.58.45/- for the lands acquired under 1980 notification, at Rs.66.21/- for the lands acquired under 1981 notification and Rs.76.21/- per sq.yard for the lands acquired under 1982 notification without deducting 1/3rd of the price towards development costs.

xxxx xxxx xxxx

20. The learned Single Judge, in the impugned judgment and order, has not awarded interest on the solatium amount. We are of the opinion that in view of the Constitution Bench decision of this Court, the learned Judge ought to have granted interest on the solatium amount.

21. In view of the above discussion, we allow these appeals, modify the order passed by the learned Single Judge and remit these appeals to the Reference Court to re-determine the compensation payable to the land owners in the light of the judgment and order passed by us in these appeals. We further direct the Reference Court to complete this exercise as early as possible, at any rate, within an outer limit of six months. Ordered accordingly.”

It is only in pursuance of the above-said observations that the matter has been re-decided by the Reference Court. Once the Apex Court itself *inter se* the same set of parties, has come to the final conclusion that the market value has to be determined at the rate fixed by the Reference Court, the fall back, as such, on **Manoj Kumar** (supra), in the peculiar facts and circumstances, would not arise. The appellants are bound by the observations of the Apex Court and cannot, now, turn around and say that another principle should be adopted and that 1973 should not be adopted as

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the base year.

Accordingly, finding no merit in the present appeals, the same
are hereby dismissed.

14.03.2019

Sailesh

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

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No