

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

**CWP No. 11438 OF 2018 (O & M) and  
other connected cases**

**DATE OF DECISION : 28.09.2020**

**Balbir Singh and another**

**...Petitioners**

**Versus**

**Land Acquisition Collector-cum-SDM, Rajpura, District Patiala & others**

**...Respondents**

**CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Kanwal Goyal, Advocate,  
for the petitioner in CWP No. 11438 of 2018.

Mr. Vishal Aggarwal, Advocate,  
for the petitioner (s) in  
CWP Nos. 13258, 13262, 17644 and 18597 of 2018.

Mr. C. M. Munjal, Advocate,  
for the petitioner(s) in  
CWP Nos. 11743, 12692, 13416, 14819 of 2018.

Mr. Karan Garg, Advocate,  
for the petitioner in CWP No. 11825 of 2018.

Mr. J. P. S. Sidhu, Advocate,  
for the petitioner in CWP No. 11882 of 2018.

Mr. Deepak Garg, Advocate,  
for the petitioner (s) in  
CWP No. 15428, 17169 of 2018.

Mr. Tushant Deep Garg, Advocate,  
for the petitioner(s) in  
CWP Nos. 16667, 19304 of 2018,  
CWP No.3657, 5953 of 2019

Mr. Harish Goyal, Advocate,  
for the petitioner in CWP No. 26631 of 2019.

Mr. Rajinder Goyal, Advocate and  
Mr. R. K. Bansal, Advocate,  
for the petitioner in CWP No. 31818 of 2019.

Mr. Mukesh Singla, Advocate,  
for the petitioner in CWP No. 8523 of 2020.

Mr. Shireesh Gupta, Sr. DAG, Punjab.

Mr. D. K. Singal, Advocate and  
Mr. Raghujeet Singh Madan, Advocate,  
for respondent-NHAI.

Mr. Sunil Kumar Sharma, Senior Panel Counsel with  
Ms. Puneet Kaur Sekhon, Advocate and  
Mr. Shobit Phutela, Advocate,  
for respondent-Union of India.

**(Presence marked through video conference).**

**ARUN MONGA, J. (ORAL)**

By this order, all the above mentioned petitions are being disposed of. Common issues are involved therein. Impugned orders are though passed separately in each case, but are based on the same reasoning and similar facts. For convenience, from the bunch, CWP No.11438 of 2018, is being treated as lead case.

2. Succinct factual matrix, per record, is that land of 12 villages vide Notification No. S.O 2429 (E) of 10.10.2012 issued under Section 3-A(1) of the National Highways Act, 1956, was acquired vide Award No.1/MC/NH-64 of 20.12.2013. Said acquired land is required for public purpose to make four lanes by widening National Highway no.64 (Zirakpur-Patiala Section). As per acquaintance rolls prepared by the Circle Revenue Officer, compensation of Rs.27,10,470/- is payable to the objector/petitioner and respondents/beneficiaries at Sr. No.320 to 390, on account of acquisition of land situated in Khasra No.1184/838/2/2 of khewat khata No.159/282 in terms of the Jamabandi. The objectors, inter alia, objected that as the above said land has been acquired only from their exclusive ownership/possession. As such, the

compensation is payable to them alone. No compensation, therefore, be paid to the aforesaid respondents/beneficiaries.

3. It is further submitted that as per acquaintance rolls prepared by the Circle Revenue Officer, compensation determined is Rs.1,30,468 qua Sr.1 to 2 and Sr. No.364 to 365 in the A Roll. Likewise, Compensation of Rs.2,67,99,397/- is payable to the respondents No.1 to 69 being at Sr. No.320 to 363 and 366 to 390 in the acquaintance roll. Respondent No.1 is stated to have already received his compensation amounting to Rs.3,15,134/- being at Sr.320 in the A roll. Remaining compensation amounting to Rs.22,64,805/- payable to respondents No.2 to 69 being at Sr.No.321 to 363 and 366 to 390 was sent through cheque No.701659 of 01.06.2015.

4. The petitioners filed objections before the Land Acquisition Collector-cum Sub-Divisional Magistrate for releasing the entire amount of their acquired land to them alone. However, he in turn sent the same to the reference court i.e Ld. District Judge, Patiala on 01.06.2015 under Section 3 H (4) of the Act, 1956, for deciding the question of apportionment of compensation.

5. Petitioners adduced their respective evidence before the reference court. Vide impugned judgment/order dated 04.10.2017 (P-1), the Ld. Additional District Judge, Patiala dismissed the objections of petitioners, inter alia, relying on the Jamabandis/revenue record, as well as, sale deed dated 06.10.2004. It has been held that petitioners are reflected as co- sharers along with other private respondents. Private respondents are, thus, entitled to equal distribution of the compensation. Reference court disregarded the facts that the plot in question now falls within the Municipal limits; it also bears an independent House Number and; the petitioners are/were exclusive owners in possession of the plot.

6. Hence, the instant petition to assail the judgment of the reference court and seeking mitigation of grievance in terms of the objections, *ibid*.

7. While issuing notice of motion, speaking for this Court my learned Brother G.S.Sandhawalia, J., succinctly summed up the case by passing order dated 07.05.2018, which is reproduced hereunder :-

*“ Inter alia submits that the petitioner was owner of the plot by virtue of a sale deed dated 06.10.2004 (Annexure P-3) whereby the boundary was defined as such with a portion abutting the road falling in Ekta Colony, village Dhakansu Kalan, Tehsil Rajpura. The petitioner was owner in exclusive possession of the said area part of which was subject matter of the acquisition for the expansion of National Highway No.64 from Chandigarh to Patiala. On account of the dispute regarding the apportionment of the compensation, the matter was referred to the Principal Civil Court of original jurisdiction under the provision of Section 3H(4) of the National Highways Act, 1956. Vide the impugned order dated 04.10.2017 (Annexure P-1), the Court has held that the amount will be paid in accordance with the respective shares in the joint land on the ground that property was not partitioned as such.*

*Accordingly, it is submitted that once the petitioner is owner in exclusive possession of a specific plot which falls within the municipal limits of Rajpura under Section 4 of the Punjab Land Revenue Act, 1887 the site in question was not to be deemed to be a site of village and once the house tax has been paid for the said plot, and the joint owners could not stake the claim in the amount awarded.*

*It is further stated that private respondents were ex parte before the Reference Court and only respondent No.5 Ram Gopal has taken the amount of compensation.*

*Notice of motion qua respondent Nos.1 to 5 for 30.07.2018.*

*In the meantime, further disbursement of compensation shall remain stayed.”*

8. I have heard the respective learned counsels.

9. Mr. Kanwal Goyal, Advocate, Learned counsel for petitioners would argue that Reference Court has wrongly held that since the land in question is governed by revenue record i.e Jamabandis; per which there are numerous co-sharers, therefore, the compensation has been rightly distributed amongst all the persons recorded as co-sharers in the revenue record. He points out that as per notification dated 12.12.1994 (P-2), the land in question now falls within the Municipal limits of Municipal Council, Rajpura City, District Patiala. This fact is admitted by the Nagar Council itself, vide its own letter dated 29.01.2018 (P-8).

10. Argument thus is that once the plot in question has come within the Municipal Limits, thereafter, it is not to be governed by the revenue record.

11. The learned counsel would further argue that Reference Court has failed to consider the site plan, Annexure P-4, attached by the petitioners in its right perspective. Site plan clearly shows that the land in question is on the main road and plotted comprehensively on all sides. He would urge that the other so called co- sharers of the acquired land in question are not even on the road. Not even a single inch of land, therefore, is lost to them.

12. Mr. Kanwal Goyal, strenuously emphasizes that Court below has wrongly relied on the case law cited in the impugned judgment. He submits that in all the cases cited by Reference court, not one was a case, where the land fell within the Municipal Limits. Meaning thereby, in none of the said cases similar question arose, as in the case in hand. The said judgments being clearly distinguishable on the facts herein, are hence not at all applicable.

13. As far as the official respondents are concerned, the limited stand taken by them is that they are only concerned with the amount of compensation

to be disbursed to the rightful holders of the property/land. So that tomorrow, there is no unwarranted litigation by persons who may claim themselves to be the co-owners of the property in question. Private respondents, have been arrayed herein on the ground of being the joint owners of the property in question, since it is allegedly an un-partitioned property, in terms of the observations of learned Additional District Judge in his order, impugned herein.

14. A perusal of the record reveals that all the private respondents seem to have abandoned their claim to seek compensation. They were ex parte not only before the Land Acquisition Collector, but even before the Reference Court of learned Additional District Judge. They seem to have abandoned their claim before this Court also, as despite service, they have chosen to be proceeded ex parte. In the premise, they have been ex parte all throughout and ordinarily on this ground alone, the petitions ought to have been allowed, but for the observations/finding of learned Additional District Judge that the land is since un-partitioned, therefore, all the co-owners are supposed to be in joint possession and each one of them are entitled to compensation.

15. The aforesaid reasoning of the learned Additional District Judge flies in the face of the unambiguous statutory provision contained in Section 4 of the Punjab Land Revenue Act, 1887 which is extracted herein below for ready reference :

***4. Exclusion of certain land form operation of Act : - (1) Except so far as may be necessary for the record, recovery and administration of village cesses, nothing in this Act applies to land which is occupied as the site of a 2[ \* \* ] village and is not assessed to land revenue. (2) A Revenue-officer may define, for the purposes of this Act the limits of 3[ the site of a village ] :***

***[Explanation : - For the purposes of this section a site within the limit of a municipality or a notified area shall not be deemed to be the site of a village.]”***

16. A perusal of the above leaves no manner of doubt to its interpretation viz. once a property is duly notified in terms of provision *ibid*, same stands excluded from the applicability of the above statute. It is uncontroverted that vide notification dated 12.12.1994 (Annexure P-2), the land in question had already been notified to fall within the territories of Municipal Council of Rajpura. The said position is also fortified in the light of letter dated 30.01.2018 (Annexure P-9), which states as below :-

***“Subject :*** *For taking number allotted by Nagar Council to Khasra No.1023/832= 3-0, 857= 6-5, 1181/1026/837= 4-2, 1184/838/2/2 =2/9, 1025/837/1= 0-3 of Dhakasu Kalan, Ekta Colony, Chandigarh Road.*

***Reference To :*** *With regard to letter No.2346 dated 19.01.2018 of this office.*

*With respect to the application given by you qua aforementioned subject, it is written that property which comes under the aforementioned subject has been given House No.H H 54, as per the Survey conducted for the purpose of imposing house tax by the Nagar Council, Rajpura.”*

Municipal council, qua the land in question, which was earlier agricultural in nature, once it later became residential, had thus started imposing property tax also. In any case, post notification dated 12.12.1994, the land/property, ceased to be governed under the Punjab Land Revenue Act, 1887, with effect from the date of said notification.

17. As an illustration, even otherwise, the case in hand would reflect that the land/property in question is Municipal House No.54 as per the records maintained by the Municipal Council/Nagar Council, which also conclusively prove that property is not agricultural land any more. Similar is the case in all the other petitions and individual details thereof are not, therefore, being given.

18. Mr. Vishal Aggarwal, Advocate representing the petitioner (s) in CWP Nos. 13258, 13262, 17644 and 18597 of 2018, also argues on the same lines that all the properties in question are either commercial or residential in nature, as per Nagar Council record and fall in a fully developed colony and, by no stretch of imagination, can be termed as agricultural land. Any reliance on the Jamabandies at this stage is, therefore, completely against the statutory mandate, as aforesaid.

19. I am in agreement with arguments addressed by learned counsels for the petitioner(s).

20. Revenue record of agricultural land/property is maintained under the Punjab Land Revenue Act, 1887. Whereas, once the land/property comes within the municipal limits of a city or a town, the same is governed by the provisions of Punjab Municipal Act, 1911 and the other provisions relevant thereto. The reliance on the Jamabandis/revenue record by the Reference Court as well as the authority concerned is, thus, completely misplaced, unfounded and orders passed basis thereof are liable to be set aside. The Reference Court below committed an irregularity in law to not appreciate that the amount of compensation is required to be given to the individual land holders on the basis of their ownership and possession. Not on the basis of revenue record.

21. In the premise, I am of the view that Reference Court wrongly held that the land/property in question is governed by revenue record i.e Jamabandies, leading to erroneous conclusion that the compensation has to be distributed amongst all the co-sharers recorded in jamabandi since the land is un-partitioned.

22. As an upshot of my discussion above, the impugned order dated 04.10.2017 (Annexure P-1 in CWP No.11483 of 2018) is set-aside and the official respondent/competent authority is directed to determine the quantum of

compensation in accordance with law and disburse the same to the owners of the properties/land owners, as per records maintained by the Municipal Council/Nagar Council, Rajpura.

23. All the petitions are allowed in above terms.

24. CM, if any, also stands disposed of accordingly.

**SEPTEMBER 28, 2020**  
shalini

**(ARUN MONGA)**  
**JUDGE**

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No