

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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1. RFA-1573-2018 (O&M)
Date of decision: 03.08.2022

INDERPAL ..Appellant

Versus

STATE OF PUNJAB AND OTHERS ..Respondents

2. RFA-1574-2018 (O&M)

BADRI RAM ..Appellant

Versus

STATE OF PUNJAB AND OTHERS ..Respondents

3. RFA-1575-2018 (O&M)

OM PARKASH (DECEASED) THROUGH LRS AND ORS

..Appellants

Versus

STATE OF PUNJAB AND OTHERS ..Respondents

4. RFA-1655-2018 (O&M)

RANBIR AND ANOTHER ..Appellants

Versus

STATE OF PUNJAB AND OTHERS ..Respondents

5. RFA-1656-2018 (O&M)

SAHIB RAM AND OTHERS ..Appellants

Versus

STATE OF PUNJAB AND OTHERS ..Respondents

6. RFA-1657-2018 (O&M)

KULDEEP SINGH AND OTHERS ..Appellants

Versus

STATE OF PUNJAB AND OTHERS ..Respondents

7. RFA-1658-2018 (O&M)

SULTAN RAM (DECEASED) THROUGH LRS

..Appellant

Versus

STATE OF PUNJAB AND OTHERS

..Respondents

8. RFA-2046-2018 (O&M)

SHARBATI DEVI (DECEASED) THROUGH LRS & ORS

..Appellants

Versus

STATE OF PUNJAB AND OTHERS

..Respondents

9. RFA-2047-2018 (O&M)

BIMLA DEVI

..Appellant

Versus

STATE OF PUNJAB AND OTHERS

..Respondents

10. RFA-2151-2018 (O&M)

KARTAR SINGH (DECEASED) THROUGH LRS AND ORS

..Appellants

Versus

STATE OF PUNJAB AND OTHERS

..Respondents

11. RFA-2158-2018 18(O&M)

RAM CHAND AND ANOTHER

..Appellants

Versus

STATE OF PUNJAB AND OTHERS

..Respondents

12. RFA-2161-2018 (O&M)

TANNU RAM (DECEASED) THROUGH LRS

..Appellants

Versus

STATE OF PUNJAB AND OTHERS

..Respondents

13. RFA-2172-2018 (O&M)

KRISHAN LAL AND OTHERS

..Appellants

Versus

STATE OF PUNJAB AND OTHERS

..Respondents

14. RFA-2173-2018 (O&M)

LADHU RAM (DECEASED) THROUGH LRS & ORS ..Appellant

Versus

STATE OF PUNJAB AND OTHERS

..Respondents

15. RFA-2174-2018 (O&M)

LADHU RAM (DECEASED) THROUGH LRS & ORS. ..Appellant

Versus

STATE OF PUNJAB AND OTHERS

..Respondents

16. RFA-2704-2018 (O&M)

RAGHBIR SINGH (DECEASED) THROUGH LRS ..Appellant

Versus

STATE OF PUNJAB AND OTHERS

..Respondents

17. RFA-2705-2018 (O&M)

SURINDER SINGH @ BHUPINDER SINGH

..Appellant

Versus

STATE OF PUNJAB AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. C.M. Munjal, Advocate
for the appellant.

Mr. Nikhil Chopra, Addl. A.G., Punjab.

ANIL KSHETARPAL, J(Oral)

1. This Bench has heard the learned counsel representing the

parties at length and with their able assistance perused the paper-book along with the record, which was requisitioned.

2. The appellants are the landowners who stand deprived of their land due to the compulsory acquisition by the State of Punjab. The Reference Court (hereinafter referred to as 'the RC') has decided the various cases under Section 28-A(3) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') while assessing the amount of market value on the basis of a previous award passed by the RC on 24.05.2010. The appellants have a limited grievance. They claim that additional amount as payable under Section 23(1-A) of the 1894 Act is payable from the date of publication of notification under Section 4 of the 1894 Act till the date of award or the date of taking possession.

3. The concluding part of the judgment passed by the RC is extracted as under:-

*“In view of my findings on above issues, the claim petitions are disposed of with the observations that the claimants are held entitled to compensation at the rate of Rs.4,80,000/- per acre. He is also held entitled to solatium at the rate of 30% per annum. He is also held entitled to interest at the rate of 12% per annum on the abovesaid amount from **24.5.2010** till the realization of the entire amount. The amount already received by the claimants, under the aforesaid Award, shall be adjusted out of the said amount. The fee of the counsel of the claimants and the ld. GP coupled with costs are assessed Rs.1000/-. Memos of costs be prepared. File be consigned to the record room.”*

4. There is an apparent error in the award passed by the RC.

5. Section 23, 28 and 34 of the 1894 Act is extracted as under:-

“23. Matters to be considered on determining compensation - (1) *In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration-*

first, the market-value of the land at the date of the publication of the [notification under section 4, sub-section (1)];

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of serving such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change, and

sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

[(1A) In addition to the market value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value for the period commencing on and from the date of the publication of the notification under section 4, sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation. - In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded.]

(2) In addition to the market value of the land as above provided, the Court shall in every case award a sum of [thirty per centum] on such market value, in consideration of the compulsory nature of the acquisition.

28. Collector may be directed to pay interest on excess compensation - *If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of [nine per centum] per annum from the date*

on which he took possession of the land to the date of payment of such excess into Court:

[Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date or expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry.]

34. Payment of interest - *When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of [nine per centum] per annum from the time of so taking possession until it shall have been so paid or deposited: [Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date or expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.] ”*

6. Section 23(1-A) provides that in addition to the market value of the acquired land, the Court shall in every case, award an amount calculated at the rate of 12% per annum on such market value for the period commencing on and from the date of publication of notification under Section 4 of the 1894 Act till the date of award of the Land Acquisition Collector (hereinafter referred to as 'the LAC') or the date of taking possession of the land, whichever is earlier.

7. The RC erred in awarding additional amount from 24.05.2010, i.e. the date of award passed by the RC itself and not from the date of notification under Section 4 of the 1894 Act till the date the award was passed by the LAC or the date of taking possession of the acquired land. Thus, the judgment passed by the RC is modified to that extent. The landowners shall be entitled to the benefit of Section 23(1-A) of the 1894

Act at the rate of 12% from the date of publication of notification under Section 4 of the 1894 Act till the date of award of the LAC or the date of taking possession of the land, whichever is earlier. In addition thereto, the landowners shall be entitled to the interest as provided under Section 28 of the 1894 Act. It is provided that the landowners will be entitled to the payment of excess compensation at the rate of 9% per annum from the date they were dispossessed till the payment for a period of first 12 months and thereafter, they shall be entitled to the interest at the rate of 15% per annum from the date of expiry of one year till the amount is paid/realised.

8. With all these modifications, the appeals are disposed of.

9. All the pending miscellaneous applications, if any, are also disposed of.

August 03rd, 2022

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*