



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Reserved on: 4th August, 2022**
Pronounced on: 18th August, 2022

+ **W.P.(C) 8823/2017**

SHRI HARI SINGH

..... Petitioner

Through: Mr. N.S. Dalal, Mr. Devesh Pratap
Singh, Mr. Alok Kumar, Ms.
Rachana Dalal, Mr. Vishvender
Balhora and Mr. Ranjeet Singh,
Advocates

versus

LAND AND BUILDING DEPARTMENT AND ANR

..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
R-1
Mr. Vivek Goyal, CGSC for R-
2/UOI.
Mr. Anuj Chaturvedi, Advocate for
R-4/DDA

+ **W.P.(C) 8825/2017**

SHRI SANJEEV KUMAR

..... Petitioner

Through: Mr. N.S. Dalal, Mr. Devesh Pratap
Singh, Mr. Alok Kumar, Ms.
Rachana Dalal, Mr. Vishvender
Balhora and Mr. Ranjeet Singh,
Advocates

versus

LAND AND BUILDING DEPARTMENT AND ANR



..... Respondents

Through: Mr. Rajneesh K. Sharma, Advocate
for R-1
Mr. Vivek Goyal, CGSC for R-
2/UOI.
Mr. Kunal Sharma and Mr.
Shubhendu Bhattacharyya,
Advocates for DDA

+ W.P.(C) 8826/2017

SHRI ASHWANI KUMAR AND ORS

..... Petitioners

Through: Mr. N.S. Dalal, Mr. Devesh Pratap
Singh, Mr. Alok Kumar, Ms.
Rachana Dalal, Mr. Vishvender
Balhora and Mr. Ranjeet Singh,
Advocates

versus

LAND AND BUILDING DEPARTMENT AND ANR

..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
R-1
Mr. Vivek Goyal, CGSC for R-
2/UOI.
Mr. Kunal Sharma and Mr.
Shubhendu Bhattacharyya,
Advocates for DDA

+ W.P.(C) 8827/2017

SHRI ROHTAS

..... Petitioner

Through: Mr. N.S. Dalal, Mr. Devesh Pratap
Singh, Mr. Alok Kumar, Ms.



NEUTRAL CITATION NO: 2022/DHC/003120

Rachana Dalal, Mr. Vishvender
Balhora and Mr. Ranjeet Singh,
Advocates

versus

LAND AND BUILDING DEPARTMENT AND ANR
..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
R-1
Mr. Vivek Goyal, CGSC for R-
2/UOI.
Mr. Kunal Sharma and Mr.
Shubhendu Bhattacharyya,
Advocates for DDA

+ W.P.(C) 8829/2017

SHRI OM PRAKASH AND ORS Petitioners

Through: Mr. N.S. Dalal, Mr. Devesh Pratap
Singh, Mr. Alok Kumar, Ms.
Rachana Dalal, Mr. Vishvender
Balhora and Mr. Ranjeet Singh,
Advocates

versus

LAND AND BUILDING DEPARTMENT AND ANR
..... Respondents

Through: Mr. Sanjay K. Pathak, Mr. Sunil K.
Jha, Mr. M.S. Akhtar and Mrs.
R.V. Tigga, Advocates for R-
1/L&B
Mr. Vivek Goyal, CGSC for R-
2/UOI.



Mr. Kunal Sharma and Mr.
Shubhendu Bhattacharyya,
Advocates for DDA

+ W.P.(C) 8833/2017

SHRI SATPAL AND ORS Petitioners

Through: Mr. N.S. Dalal, Mr. Devesh Pratap
Singh, Mr. Alok Kumar, Ms.
Rachana Dalal, Mr. Vishvender
Balhora and Mr. Ranjeet Singh,
Advocates

versus

LAND AND BUILDING DEPARTMENT AND ANR
..... Respondents

Through: Mr. Rajneesh K. Sharma, Advocate
for R-1/L&B
Mr. Vivek Goyal, CGSC for R-
2/UOI.
Mr. Kunal Sharma and Mr.
Shubhendu Bhattacharyya,
Advocates for DDA

+ W.P.(C) 8836/2017

SHRI BALLU RAM AND ORS Petitioner

Through: Mr. N.S. Dalal, Mr. Devesh Pratap
Singh, Mr. Alok Kumar, Ms.
Rachana Dalal, Mr. Vishvender
Balhora and Mr. Ranjeet Singh,
Advocates

versus

LAND AND BUILDING DEPARTMENT AND ANR



..... Respondent

Through: Mr. Rajneesh K. Sharma, Advocate
for R-1/L&B
Mr. Vivek Goyal, CGSC for R-
2/UOI
Mr. Kunal Sharma and Mr.
Shubhendu Bhattacharyya,
Advocates for DDA

+ W.P.(C) 8838/2017

SHRI AJAY KUMAR AND ANR

..... Petitioners

Through: Mr. N.S. Dalal, Mr. Devesh Pratap
Singh, Mr. Alok Kumar, Ms.
Rachana Dalal, Mr. Vishvender
Balhora and Mr. Ranjeet Singh,
Advocates

versus

LAND AND BUILDING DEPARTMENT AND ANR

..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
R-1
Mr. Vivek Goyal, CGSC for R-
2/UOI.
Mr. Kunal Sharma and Mr.
Shubhendu Bhattacharyya,
Advocates for DDA

+ W.P.(C) 8840/2017

SHRI PARDEEP KUMAR AND ORS

..... Petitioners

Through: Mr. N.S. Dalal, Mr. Devesh Pratap
Singh, Mr. Alok Kumar, Ms.



Rachana Dalal, Mr. Vishvender
Balhora and Mr. Ranjeet Singh,
Advocates

versus

LAND AND BUILDING DEPARTMENT AND ANR
..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
R-1
Mr. Vivek Goyal, CGSC for R-
2/UOI.
Mr. Kunal Sharma and Mr.
Shubhendu Bhattacharyya,
Advocates for DDA

+ W.P.(C) 8841/2017

SHRI RANBIR SINGH Petitioner

Through: Mr. N.S. Dalal, Mr. Devesh Pratap
Singh, Mr. Alok Kumar, Ms.
Rachana Dalal, Mr. Vishvender
Balhora and Mr. Ranjeet Singh,
Advocates

versus

LAND AND BUILDING DEPARTMENT AND ANR
..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
R-1.
Mr. Vivek Goyal, CGSC for R-
2/UOI.



Mr. Kunal Sharma and Mr.
Shubhendu Bhattacharyya,
Advocates for DDA.

+ W.P.(C) 8854/2017

SHRI ATTAR SINGH AND ORS

..... Petitioners

Through: Mr. N.S. Dalal, Mr. Devesh Pratap
Singh, Mr. Alok Kumar, Ms.
Rachana Dalal, Mr. Vishvender
Balhora and Mr. Ranjeet Singh,
Advocates

versus

LAND AND BUILDING DEPARTMENT AND ANR

..... Respondents

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for
R-1.
Mr. Vivek Goyal, CGSC for R-
2/UOI.
Mr. Kunal Sharma and Mr.
Shubhendu Bhattacharyya,
Advocates for DDA

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

J U D G M E N T

CHANDRA DHARI SINGH, J.

1. The present writ petitions are filed under Article 226 of the Constitution of India with a common prayer for issuance of appropriate writ directing the respondent: -



(a) to pay the amount of Special Rehabilitation Package (hereinafter, referred to as S.R.P.) to the petitioners in the same manner and on same terms as has been paid to similarly situated villages, namely, Pooth Khurd, Sultanpur, Karala and Kanjhawala, whose land had been acquired at the same time;

(b) as well as claiming interest over delayed payment of S.R.P. specifically from the date when the award had been announced till the date amount of S.R.P has been paid to the petitioners.

2. All these writ petitions have similar issues for adjudication and therefore, all writ petitions shall be disposed of by common judgment.

FACTUAL MATRIX

3. The factual matrix has been taken from W.P. (C) bearing number 8823/2017.

4. The land of the petitioners situated in the revenue estate of Village Tikri Khurd was acquired vide award dated 16th February 2009 by the appropriate government. Along with the land of petitioners, land of various other villages was also acquired at the instance of Delhi State Industrial and Infrastructure Development Corporation Ltd. (hereinafter referred to as “DSIIDC”).

5. On 1st October 2008, the Government of NCT of Delhi (hereinafter referred to as “GNCTD”) announced the grant of S.R.P, for the people who were affected by the land acquisition in respect of cases in which the land acquisition awards had not been announced till 18th December 2017



and whose land had been acquired from the year 2005 onwards. The condition subject to which S.R.P. was granted was that the person concerned should not have filed a reference and should have accepted the amount. If a reference had already been filed, then S.R.P. could only be granted if the reference was withdrawn.

6. In the instant case, it is not disputed that compensation amount as well as the S.R.P. was not paid till the year 2011. Compensation was paid to the villagers only after some of them approached this Court seeking a direction to make payment of compensation amount and the amount of S.R.P. It must be noted that no payment of S.R.P was made until now.

7. A co-ordinate bench of this court vide its Judgment and Order dated 27th September 2011, directed the Respondent Land Acquisition Collector (LAC) to make the payment of S.R.P. on or before 01st December 2011. However, it is not disputed that the payment of S.R.P was not made despite the order dated 27th September 2011. As a corollary, Contempt Petitions, titled, ***Ashwani Kumar & Ors. Vs Lal Singh & Anr. (Contempt Case (Civil) No. 929/2011*** and ***Rohtas vs Vijay Dev & Anr. (Contempt Case (Civil) No. 201/2012***, were filed before a co-ordinate bench of this court for non-compliance of order dated 27th September 2011 passed by this court.

8. The Contempt Petitions were disposed of vide order dated 21st September 2015, with the following observations: -

“Today, Mr. N.S. Dalal, learned counsel for petitioners’ states that he is willing to accept the special rehabilitation package without prejudice to his rights and



contentions to claim interest as well as to urge that the package now being paid to petitioners is different from that which was paid to other similarly situated villagers whose land had been acquired at the same time.

Mr. Sanjay Poddar, learned senior counsel for respondent-GNCTD states that special rehabilitation package being offered to the petitioners is in terms of the policy announced on 1 October, 2008 as well as in accordance with the subsequent Cabinet decision.

Consequently, present contempt petitions are disposed of accepting Mr. Dalal's offer to accept the package without prejudice to his rights and contentions and with liberty to raise the aforesaid claims. However, it is clarified that this Court has not expressed any opinion on the merits of the claims. Rights and contentions of all parties are left open.”

9. Hence, aggrieved by the S.R.P not offered on the same basis and on same terms as that of other similarly situated villages, this instant writ petition has been filed by the petitioners seeking directions to the respondent that they are entitled to S.R.P in the same manner and on the same basis as has been paid to the persons of villages Karala, Kanjhawala, Sultanpur and Pooth Khurd as well as interest over delayed payment of S.R.P.

SUBMISSIONS

10. Learned counsel appearing on behalf of the petitioners has contended that there could not have been any differentiation in the payment of the S.R.P., as it is a Government order and the S.R.P. has to be paid in the same manner and on the same basis irrespective of the fact



whether the land has been acquired for the benefit of DDA or for the DSIIDC.

11. It is submitted that the language of S.R.P. is that it has to be offered to every person who foregoes the right of challenging the acquisition proceedings or the amount offered by the award. It is submitted that the only condition of the S.R.P. is that the payment offered by the award should not be challenged by way of reference or if challenged then the same has to be withdrawn for claiming S.R.P. There is no other condition. If there is no other condition, then there cannot be any differentiation in the payment of S.R.P.

12. It is further submitted that this differentiation in treatment of villagers who are similarly situated had led to the violation of Article 14 of the Constitution of India, and as a result such an approach on the part of the authorities which is writ large is not sustainable in the eyes of law. The learned counsel has also contended that the petitioners are also entitled for payment of interest thereon as the petitioners have been deprived of the amount of S.R.P. since the date of making of the award i.e., since the year 2009. It has also been demonstrated that discounting has to be on yearly basis and months cannot be counted. In the cases of other villages, where the land has been acquired for the benefit of DSIIDC, discounting has been done on yearly basis only but the same has not been done on yearly basis so far as the petitioners or other villagers of village Tikri Khurd are concerned.



13. *Per Contra*, learned counsel for the respondents vehemently opposed the instant writ petitions and submitted that the same are devoid of any merit and are liable to be dismissed. He contended that the petitioners have not come to the court with clean hands and hence are guilty for misinterpretation of truth by suppressing certain important facts of the case.

14. The learned counsel contended that the land of five villages namely, Singhu, Alipur, Bakoli, Mamoorpur, Tikri Khurd, measuring 1959 Bigha 09 Biswa 15 biswansi (408.23 acres), was acquired by the Land Acquisition Collector/ L&B Department of the GNCTD on request of Delhi Development Authority (hereinafter, referred to as “DDA”). Out of the said land measuring 1863 Bigha 01 Biswa 15 Biswansi (388.15 acres). Possession of land has been handed over to DDA by LAC/L&B Dept., GNCTD. The land of the petitioners comprised in various khasra numbers in the revenue estate of village Tikri Khurd, Delhi was also part of the land acquired by DDA vide various awards. Payment of awards for Rs. 117.82 lakhs had been made by DDA on 5th November 2009.

15. It is further submitted that the GNCTD decided to give S.R.P. for the people affected by Land Acquisition in respect of the cases in which the land acquisition awards had not been announced till December 18, 2007. The S.R.P. policy was brought in to benefit landowners/interested persons and to avoid unnecessary litigation. The S.R.P. qua the land acquired vide the aforesaid award was granted by GNCTD and the petitioners had also received the benefits of the same amongst other landowners. Further the petitioners were paid compensation as per the



S.R.P. policy which provided that the amount of compensation effective from 18th December 2007, would be discounted by Rs 11.80 lakhs per acre per year for those lands notified under section 4 for acquisition in 2005 & 2006.

16. Learned counsel for the respondent has further contended that the other villages namely, Karala, Kanjhawala, Sultanpur, Pooth Khurd notification under section 4 was issued on 25th August 2005. The period for deduction at the rate of Rs 11.80 lakh was for 2 years and 4 months. Thus, the period for deduction of the said amount has been taken for 2 years. In case of village Tikri Khurd, where the land of the petitioners was situated the date of notification under section 4 of Land Acquisition Act, 1894 was 23rd February 2006. The period for deduction at rate of Rs 11.80 lakhs has been taken as 1 year and 301 days. Thus, the period for deduction of the said amount has been taken as 1 year and 301 days.

17. Lastly, the learned counsel contends that period for payment of S.R.P. from the cut-off date is 18th December 2007 is different for Tikri Khurd from Karala, Kanjhawala, Sultanpur, Pooth Khurd. Therefore, the case of petitioners cannot be equated to others, and it cannot be claimed that computation & calculation of Tikri Khurd is unconstitutional as the same has been done after following all formalities and due compliance of the mandate of law as required under Land Acquisition Act, 1894. Hence, the steps taken do not suffer from any infirmity and the same is valid.

ANALYSIS AND FINDINGS



18. Counter affidavit has been filed in *Shri Satpal and Ors. Vs. Land and Building Department and Ors.*, W.P. (C) 8833/2017. Learned Counsel appearing on behalf of the respondent in the matter where counter affidavit has not been filed has adopted the counter affidavit filed in the other matter. It must be noted that the main grievance of the petitioners is that their S.R.P. has not been considered on the same basis as that of other villages.

SPECIAL REHABILITATION PACKAGE

19. S.R.P was announced by the Land & Building Department of the GNCTD by order dated 1st October 2008. The quintessential purpose of S.R.P. was to avoid any further litigation *qua* acquisition of land and this policy decision was taken by taking into consideration the general rise in prices of land and the inequity of giving compensation based on procedure followed under the Land Acquisition Act, 1894.

20. The relevant portion of S.R.P. is reproduced below for proper adjudication: -

“The Government of the NCT of Delhi have taken into consideration the general increase in prices of land and the inequity of giving compensation based on the procedure followed under the Land Acquisition Act, 1894. Therefore, the government have decided to give a Special Rehabilitation package for the people affected by the land acquisition in respect of the cases in which the land acquisition awards have not been announced till December 18, 2007 details of which are:-



- a) *The amount of compensation effective from December 18, 2007 would be discounted by Rupees 11.80 lakhs per acre per year for those lands which were notified under section 4 for acquisition in 2006 and 2005.*
- b) *Though this Special Rehabilitation Package would involve additional funds for making payment of compensation to the farmers, the amount would be recovered while determining the cost of land allotted to other government agencies.*
- c) *The other elements of the award namely solatium and interest would be allowed as per rules.*
- d) *The Special Rehabilitation Package would not be treated as precedent for the future.*
- e) *The payment of compensation should be done in a time bound manner.*
- f) *The package would apply to all agricultural lands.,*
- g) *The Special Rehabilitation Package should be accepted by individual farmers and made applicable in each case only, if they do not mount a challenge to the award already announced by the LAC, if they have challenged the award they must withdraw the petition to avail of the benefits of the Special Rehabilitation Package”.*

21. The conditions subject to which S.R.P. was to be granted are reproduced hereunder: -

- (a) Land acquisition awards should not have been announced till December 18, 2007, and



(b) The S.R.P. should have been accepted by individual farmers and made applicable in each case only, if they do not mount a challenge to the award already announced by the LAC. If they challenged the award, they must withdraw the petition to avail the benefit of the S.R.P.

22. Therefore, dual method of calculation, discriminatory to the petitioners under the same policy could not have been undertaken by the Land Acquisition Collector.

23. In the instant case, it is not the case of respondents that the petitioners before this Court have made challenge to the award so announced on 16th February 2009, on the contrary payment of S.R.P. has already been made to the petitioners and it is only the methodology of calculation which has been made subject to challenge before this Court.

24. The petitioners have vehemently relied on the methodology of calculation for the purpose of S.R.P. in case of Pooth Khurd, Sultanpur, Karala and Kanjhawala. For the sake of clarity, the calculation formula which has been adopted by DSIIDC for awarding S.R.P. to the villagers of the abovementioned villages has been delineated below: -

A. Date of Notification under section 4 of the Land Acquisition Act, 1894: *25th August 2005*

Award No.: 03/2008-09

Date of Award: 26th May 2008

a. Market Value (M.V.) (Effective rate as on 18th December 2007)



<i>for Agriculture land): Rs. 53,00,000 /-</i>
<i>b. M.V. as per order dated 01st October 2008 for the year 2006 discounted for the year 2006 i.e., for the period 18th December 2007 to 18th December 2006: (-) Rs 11,80,000/-</i>
<i>c. M.V. as per order dated 01st October 2008 for the year 2005 discounted for the year 2005 i.e., for the period 18th December 2006 to 18th December 2005: (-) Rs. 11,80,000/-</i>
<i>d. Proposed rate of package per acre: Rs. 29,40,000/-</i>
<i>e. Already paid by the LAC per acre: (-) Rs. 15,70,000/-</i>
<i>f. Balance Amount: Rs. 13, 70, 000/-</i>
<i>g. 30% Solatium of MV: Rs. 4, 11, 000/-</i>
<i>h. 12% additional amount of MV for the period w.e.f. 25th August 2005 to 26th May 2008 (1006 days): Rs. 4, 53, 113/-</i>
<i>i. Total amount of S.R.P.: Rs. 22,34, 113/-</i>

25. As noted above, the broken period of 4 months has not been considered for the purpose of deduction but the calculation which has been adopted by LAC in the case of petitioners has been delineated below, wherein broken period of 301 days has been considered for the purpose of deduction: -

B. Date of Notification under section 4 of the Land Acquisition Act, 1894: *23rd February 2006*

Date of Award: 16th February 2009

<i>a. Market Value (M.V.) (Effective rate as on 18th December 2007</i>



<i>for Agriculture land): Rs. 53,00,000/-</i>
<i>b. M.V. as per order dated 01st October 2008 for the year 2007 discounted for the year 2007 i.e., for the period 18th December 2006 to 18th December 2007: (-) Rs 11,80,000/-</i>
<i>c. M.V. as per order dated 01st October 2008 for the year 2006 discounted for the year 2006 i.e., for the broken period of 301 days w.e.f. 23rd February 2006 (date of notification u/s 4) to 18th December 2006: (-) Rs. 9, 73, 905/-</i>
<i>d. Proposed rate of package per acre: Rs. 31,46,905/-</i>
<i>e. Already paid by the LAC per acre: (-) Rs. 17,58,400/-</i>
<i>f. Balance Amount: Rs. 13,88,505/-</i>
<i>g. 30% Solatium of MV: Rs. 4,16,551/-</i>
<i>h. 12% additional amount of MV for the period w.e.f. 23rd February 2006 to 16th February 2009 (1089 days): Rs. 4,97,117/-</i>
<i>i. Total amount of S.R.P.: Rs. 23,02,179/-</i>

26. It must be noted that, in the case of petitioners, the LAC has made deduction for the broken period of 301 days on pro-rata basis @ Rs. 11,80,000/- per acre per year w.e.f. 23rd February 2006 (date of notification under section 4) to 18th December 2006 unlike in the case of other villages, wherein DSIIDC has made no such deduction.

27. The order of the Land & Building Department, GNCTD dated 1st October 2008 provides that: -

“The amount of compensation effective from December 18, 2007 would be discounted by Rupees 11.80 lakhs per acre per year for those



lands which were notified under section 4 for acquisition in 2006 and 2005.”

28. It is noted that no particular methodology of calculation of S.R.P has been provided by the GNCTD. The methodology of calculation adopted by the LAC in the case of petitioners was submitted by LAC to the Land & Building Department for their perusal, information and necessary action. The concerned minister L&B Department taking note of the difference in the methodology of calculation vide letter dated 21st October 2015 directed LAC as under: -

“The Delhi Government approved special rehabilitation- package in respect of land acquired for DSIIDC in four villages namely Karala, Sultanpur Dabas, Kanjawala and Pooth Khurd and for DDA in five villages namely Tikri Khurd, Alipur, Bakoli, Singhu and Mamoorpur. The method of calculation for DSIIDC cannot be different from, that of DDA. Therefore, the Department should calculate the amount of special rehabilitation package payable to farmers by DDA on the basis of dates and formula by which the farmers in villages where land was acquired for DSIIDC and direct DDA to provide the necessary rehabilitation package.

Submit a revised proposal accordingly.”

29. From the above calculation it is clear that in the case of villages Pooth Khurd, Sultanpur, Karala and Kanjhawala, the period for deduction at Rs 11.80 lakh was for 2 years and 4 months. Thus, the period for deduction of the said amount has been taken for 2 years and broken period of 4 months was ignored by the LAC. In case of village Tikri Khurd, where the land of the petitioner was situated the date of



notification under section 4 of Land Acquisition Act was 23rd February 2006. The period for deduction at rate of Rs 11.80 lakh has been taken as 1 year and 301 days and the broken period of 301 days has not been ignored.

30. Time and again, the Hon'ble Apex Court has held that, promotion of public purpose has to be balanced with the rights of the individual whose land is acquired, thereby often depriving him of his means of livelihood. The individuals who are unavoidably to be deprived of their property rights in land need to be adequately compensated for the loss keeping in view the sacrifice they have to make for the larger interests of the community.

31. Provisions regarding payment of compensation and other benefits are remedial in nature and it has been noted by the Hon'ble Supreme Court in ***B Shah vs. Presiding Officer, Labour Court***, AIR 1978 SC 12, as under:

"The words of such a statute must be so construed so as to secure that the relief contemplated by the statute shall not be denied to the class intended to be relieved."

32. In interpreting a legislation regulating the relation between a weaker and stronger contracting party, it has been noted by the Hon'ble Supreme Court in ***Sant Ram vs Rajinderlal***, AIR 1978 SC 1601, as reproduced hereunder:

".....in reading the meaning of documents regulating the relations between the weaker and the stronger contracting parties- we must remember what an earlier decision of this Court is, it has been observed, "Where doubts arise the Gandhian talisman becomes a tool of interpretation; "Whenever you are in doubt....



apply the following test. Recall the face of the poorest and the weakest man whom you may have seen, and ask yourself, if the step you contemplate is going to be of any use to him."

33. I have perused the documents. At one stage on 23.12.2015, the LAC (North) in reply to a query by the Land & Building Department regarding payment of S.R.P. to landowners of five villages, including the petitioners from Tikri Khurd, has submitted the difference in the payment of S.R.P to them, when no proportionate deduction for the broken period of 301 days will be made. The calculation is delineated below: -

C. Date of Notification under section 4 of the Land Acquisition Act, 1894: 23rd February 2006.

Date of Award: 16th February 2009

<i>a. Market Value (M.V.) (Effective rate as on 18th December 2007 for Agriculture land): Rs. 53,00,000 /-</i>
<i>b. M.V. as per order dated 01st October 2008 for the year 2007 discounted for the year 2007 i.e., for the period 18th December 2006 to 18th December 2007: (-) Rs 11,80,000/-</i>
<i>d. Proposed rate of package per acre: Rs. 41,20,000/-</i>
<i>e. Already paid by the LAC per acre: (-)Rs. 17,58,400/-</i>
<i>f. Balance Amount: Rs. 23,61,600/-</i>
<i>g. 30% Solatium of MV: Rs. 7,08,480/-</i>
<i>h. 12% additional amount of MV for the period w.e.f. 23rd February 2006 to 16th February 2009 (1089 days): Rs. 8,45,518/-</i>



i. Total amount of S.R.P.: Rs. 39,15,598/-

34. From the above calculations, the difference which will arise in payment of S.R.P. to the petitioners will be Rs. 16,13,419/- (39,15,598 – 23,02,179) per acre. The total payment of S.R.P for all the villages will increase from Rs. 92.28 crores to Rs. 158 crores. As is evident from the documents, the impugned methodology adopted by LAC was objected by the concerned Minister, Land & Building Department, GNCTD as unacceptable and his office had requested the LAC to provide Rs. 39.15 lacs as S.R.P. to the farmers of five villages, including the petitioners. The prayer in these writ petitions was agreed by the Land & Building Department. Therefore, at this stage the respondent cannot claim the contrary.

35. S.R.P policy has been introduced for the welfare of poor farmers whose land has been acquired. The LAC could not have adopted two different methods of calculation in payment of S.R.P. as the villagers who are petitioners before this Court are similarly situated with the Villages of Pooth Khurd, Sultanpur, Karala and Kanjhawala. In the wake of Article 14 of the Constitution of India, such an approach by the LAC is not sustainable in the eyes of law. By no reasoning, the villagers of Tikri Khurd, who are petitioners before this court can have a different treatment *qua* the villagers of Pooth Khurd, Sultanpur, Karala and Kanjhawala as far as the benefit of S.R.P. is concerned on the basis of the order issued by the Land & Building Department, GNCTD dated 01st October 2008.



CONCLUSION

36. The only grievance of the petitioner is regarding the methodology of the calculation of S.R.P and they have assailed the discounting of broken period of 301 days on pro-rata basis which has not been done in cases of other villages.

37. In view of the abovesaid discussion and observations made by this court, it is found that the impugned calculation applied by the Land Acquisition Collector in the case of petitioners is discriminatory. The respondent Land & Building Department, GNCTD is hereby directed to calculate the S.R.P. afresh in case of petitioners, keeping in mind the facts and calculation at par in respect of other villages on which petitioners are relying, i.e., on the same basis and on the same terms as that of other villages, namely, Pooth Khurd, Sultanpur, Karala and Kanjhawala within 3 months from the date of receipt of the certified copy of this judgment. The payment of arrears along with simple interest @ 6% from the date of filing of writ petition till realisation shall be made to the petitioners within a period of 6 months thereafter.

38. Accordingly, the instant writ petitions stand disposed of. Pending application(s), if any, also stands disposed of.

39. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

AUGUST 18, 2022

Aj/Mg