

**237 (3 cases) IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**Decided on:-12.10.2023**

**1. CR-4000-2016 (O&M)**

Niranjan Singh (deceased) thr. LRs ....Petitioners..

vs.

Amritsar Improvement Trust, and others ....Respondents

**2. CR-1521-2016 (O&M)**

Tony Kumar and others ....Petitioners.

vs.

The Amritsar Improvement Trust, Amritsar and others ....Respondents.

**3. CR-5047-2018 (O&M)**

Kanwal Kishore (deceased) thr. LRs. ....Petitioners

vs.

The Amritsar Improvement Trust and another ....Respondents.

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Ranjan Lakhanpal, Advocate  
for the petitioner (in CR-1521-2016).

Mr. APS Sandhu, Advocate with  
Mr. Ashish Kaushik, Advocate and  
Mr. G.S. Saggi, Advocate,  
for the petitioner (in CR-4000-2016).

Mr. G.S. Attariwala, Sr. Advocate with  
Mr. Saurabh Singla, Advocate,  
for respondent-Improvement Trust.

Mr. M.K. Dogra, Advocate,  
for the petitioner in CR-5047-2018.

Mr. Navneet Singh, Sr. DAG, Punjab.

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**HARKESH MANUJA J. (Oral)**

1. This common judgment of mine shall dispose of three civil revision petitions bearing CR-1521-2016, CR-4000-2016 and CR-5047-2018, as common question of law and fact are involved therein. For convenience, the facts are being taken from CR-4000-2016.

2. By way of present revision petition, challenge has been laid to an order dated 28.01.2016 (Annexure P-6) passed by the learned Additional Civil Judge (Senior Division), Amritsar, whereby, the benefit of Section 23(1-A) of the Land Acquisition Act, 1894 (hereinafter referred to as “1894 Act”) in favour of petitioners-landowners, has been denied.

3. In the present case, certain land owned by the petitioners, situated in District Amritsar came to be acquired for the benefit of Improvement Trust, Amritsar (for short, “Trust”), vide notification dated 26.06.1970, under Section 36 of the Punjab Town Improvement Act, 1922 (for short, “1922 Act”), followed by an award dated 25.08.1975 passed by the Land Acquisition Collector.

4. Aggrieved of the quantum of compensation, the petitioners-land owners filed reference before the Land Acquisition Claims Tribunal, Amritsar (for short, “Tribunal”) constituted under the 1922 Act. The said reference came to be decided on 17.03.2009, whereby, the compensation was determined @ Rs.312.50/- per marla, besides all other statutory benefits admissible under the 1894 Act. The operative para 131 of the said award is reproduced hereunder:-

*“131. As a result of discussion and findings on the issues, supra, applications are allowed partly with costs, applicants are granted compensation @ Rs.312.50 per marla with all admissible statutory benefits, under the Land Acquisition Act, 1894. Needless to say that in References Nos.17, 19, 46, 59, where, there is dispute between landlords and tenants, they shall apportion compensation in a manner that 75%, thereof, shall go to the tenants and 25% shall go to the landlords. Copies of the award be placed on the record of other consolidated cases and memos of costs be prepared in all the cases separately. File be consigned to the record room.”*

5. Still aggrieved, the petitioners-landowners approached this Court by way of filing CWP-4988-2010, which came to be decided on 17.02.2016 and the compensation was enhanced to Rs.350/- per marla, besides all other statutory benefits under the 1894 Act. Para 5 of the same is being relevant reproduced hereunder:-

*“5. Learned counsel for the parties are agreed that the matter is covered by the decision of this Court dated 07.03.2014 rendered in Laxmi Arora and Gobinder Singh’s cases (supra) and connected petitions. The operative part of the order dated 07.03.2014 reads thus:-*

*“In view of our discussion above, all these petitions are partly allowed. Impugned award dated 17.03.2009 is modified to the extent that the petitioners are allowed compensation @ rupees 350/- per marla with all admissible statutory benefits under the Land Acquisition Act, 1894.”*

6. Based upon the aforesaid decision dated 17.02.2016, passed in CWP No.4988 of 2010 (O&M), the petitioners-landowners filed execution petition, wherein, claim as regards the benefit of Section 23(1-A) of the

1894 Act was made, which was strongly opposed by the respondent-trust. Vide order dated 28.01.2016, the Executing Court rejected the claim made by the petitioners-landowner as regards the release of aforementioned benefit.

7. Impugning the aforesaid order, learned counsel for the petitioners-landowners submits that in the present case, though, the original award was passed by the Land Acquisition Collector on 25.08.1975, yet, the reference filed at the instance of petitioners-landowners was pending as on 30.04.1982 i.e. when the provisions of amended Land Acquisition Act, 1984 were made applicable. The aforesaid reference came to be finally adjudicated upon vide award dated 17.03.2009 passed by the Tribunal and thus, relying upon the decision of Hon'ble the Supreme Court in case ***"K.S. Paripoornan vs. State of Kerala"***, 1995 AIR (Supreme Court) 1012, the petitioners-landowners were entitled for the release of benefit of Section 23 (1-A) of 1894 Act, para 108 of the said judgment being relevant is reproduced hereunder for reference:-

*"108. For all these reasons the questions raised in these petitions are answered as below :*

*(1) [Section 23\(1-A\)](#) providing for additional compensation is attracted in every case where reference was pending under [Section 18](#) before the Court [[Section 23\(1-A\)](#)].*

*(2) No additional compensation is payable in appeals pending on or after 24-9-1984 either in High Court or this Court.*

*(3) Additional compensation under [Section 23\(1-A\)](#) is also payable in all those cases where the proceedings were pending and the award had not been made by the Collector on or before 30-4-1982 [[Section 30\(1\)\(a\)](#)].*

(4) Similarly every landowner is entitled to additional compensation where the land acquiring proceedings started after 24-4-1982 whether the award by the Collector was made before 24-9-1984 or not [[Section 30\(1\)\(b\)](#)].

(5) Additional compensation under [Section 23\(1-A\)](#) is liable to be paid by the Collector as well ([Section 15](#) of the Act). ”

8. On the other hand, prayer at the instance of petitioners has been opposed at the instance of respondent-Trust. It has been submitted that no specific or categoric prayer was made for grant of benefit under Section 23 (1-A) of the 1894 Act by the petitioners-landowners, either before the Reference Court or even before this Court and thus, they were not entitled for grant of any such benefit. Referring to para 105 of **K.S. Paripoornan** (supra), learned counsel for the respondents submits that no such benefit under Section 23(1-A) of the 1894 Act, could be awarded to the petitioners, directly by this Court as the law only enables the Reference Court to grant the said benefit, in case of acquisition proceedings having commenced prior to coming into force of the amended provisions of Land Acquisition Act, 1984. Para 105 of the judgment passed in case of **K.S. Paripoornan** (supra) as has been relied upon by the learned Senior Counsel representing the respondent-Trust is reproduced hereunder for reference:-

“105. What remains to be considered is if the benefit under [Section 23\(1-A\)](#) could be extended even in those cases where appeals were pending in the High Court or Supreme Court against the award made by the Court under [Section 18](#) of the Act. The word 'Court' used in [Section 23\(1-A\)](#) appears to refer to the Court under [Section 18](#), only, as the Court under this provision has been empowered to award additional compensation on such

*market value as is determined by taking into consideration [Section 23](#) of the Act. The word 'Court' in [Section 23](#)(1-A) does not appear to have been used in the wider sense as including the court of appeal or the Court under [Article 136](#) of the Constitution of India. In *Zora Singh* (supra) it was observed rightly by this Court that the Legislature's intention was to award additional compensation only at the stage of award made by the Collector or the Court under [Section 18](#). The construction of the word 'Court' in the wider sense would not be in consonance with the purpose and objective of the legislation the background of which has been traced in detail. It is thus clear that the benefit of [Section 23](#)(1-A) is available only in those cases where the matter was pending for determination of compensation at the stage of reference under [Section 18](#) in respect of acquisitions which had started even before 1982.”*

9. I have heard learned counsel for the parties and gone through the paper book as well as law cited at the bar. I find substance in the submissions made on behalf of the petitioners-landowners.

10. In the present case, a perusal of record shows that though the original award by the Land Acquisition Collector was passed on 25.08.1975, however, the references filed at the instance of landowners came to be decided by the Tribunal on 17.03.2009 and therefore, only being conscious of the law laid down by Hon’ble the Supreme Court in ***K.S. Paripoornan*** (supra), the Reference Court specifically used the words; “*all admissible statutory benefits under the 1894 Act*”, while concluding the judgment. The same was even upheld by this Court vide decision dated 17.02.2016, having adjudicated upon CWP-4988-2010, filed at the instance of petitioners-landowners, wherein also, the amount of compensation was though enhanced to Rs.350/- per marla, besides grant of all admissible statutory

benefits under the 1894 Act. Thus, in view of the specific relief having been awarded in favour of the petitioners-landowners by Reference Court as well as by this Court as regards the grant of all statutory benefits admissible under the 1894 Act, it cannot by any stretch of imagination be recorded or held that the petitioners were not entitled for release of benefit under Section 23 (1-A) of the 1894 Act. Even if, for the sake of argument, it was presumed that the Reference Court did not award the specific benefit under Section 23(1-A) of the 1894 Act in favour of landowners while passing the award dated 17.03.2009, the powers always vested with this Court to award the same to the petitioners-landowners in view of the exposition of law rendered by Hon'ble Apex Court in ***K.S. Paripoornan's*** case (supra), based on which a vested rights accrued in favour of the landowners as regards the same as the reference for enhancement was pending before the Tribunal as on 30.04.1982 i.e. the date when the provisions of amended Land Acquisition Act, 1984 were made applicable. In fact the law laid down by Hon'ble the Apex Court in ***K.S. Paropoornan's*** case (supra) interprets the provisions of amended 1984 Act and lays down that even in case the acquisition proceedings commenced prior to the coming into force of the amended provisions of Land Acquisition Act, 1984, but the reference for enhancement was pending before the Reference Court, the landowners were entitled for the grant of benefit under the provisions of Section 23(1-A) of the 1894 Act.

11. In view of the discussion made hereinabove, the Executing Court while passing the impugned order dated 28.01.2016, totally misinterpreted the law laid down by the Hon'ble Supreme Court in ***K.S.***

***Paripoornan's*** case (supra) and the same is therefore set aside.

13. Pending application(s), if any, shall also stand disposed of.

(HARKESH MANUJA)

**JUDGE**

Yes/No

Yes/ No