

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 23.11.2023

1. CR-4272-2012 (O&M)

Union of India and another

....Petitioners

vs.

Jarnail Singh (since deceased) thr. his LRs
and another

....Respondents

2. CR-4329-2012 (O&M)

Union of India

....Petitioner

vs.

Basant Kaur and others

....Respondents

3. CR-4350-2012 (O&M)

Union of India

....Petitioner

vs.

Gulzara Singh (since deceased) thr. his LRs
and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Chander Mohan Sharma, Senior Panel Counsel,
for petitioner(s)-UOI.

None for the respondents.

HARKESH MANUJA J.

CM-16485-CII-2018 in CR-4272-2012

CM-16773-CII-2018 in CR-4329-2012

CM-16801-CII-2018 in CR-4350-2012

Prayer in the aforementioned applications is for fixing actual
date of hearing in the main revision petitions.

Despite service, no one has chosen to appear on behalf of respondents No.1 (i, iii, iv, v, vi) and 2.

In view of the averments made in the applications, the prayer made herein is allowed and aforementioned three revision petitions are taken up for hearing today itself.

Main case(s)

1. This order of mine shall dispose of the abovementioned civil revision petitions as the same involve common question of law and facts. For convenience, facts are being taken from CR-4272-2012.

2. By way of present revision petition, challenge has been laid to an order dated 06.03.2012 (Annexure P-3), passed by the Executing Court-cum-Additional District Judge, Bathinda, whereby the Executing Court directed the petitioner(s) to pay compensation amount to the respondents-landowners after calculating interest on solatium and after adjusting the payment of award amount made from the date of award i.e. 31.03.1981 till 31.01.2010.

3. Briefly stated, the land owned by the private respondents, situated in the revenue estate of Village Mehna, Tehsil & Distt Bathinda was sought to be acquired vide notifications dated 08.06.1979 and 26.10.1979, issued under Sections 4 and 6 respectively of the Land Acquisition Act, 1894 (hereinafter referred to as "1894 Act") for the purpose of establishment of Cantonment and thereafter, award under Section 11 of the 1894 Act was passed by the Special Land Acquisition Collector, Jalandhar (for short, 'SLAC') on 31.03.1981, whereas, the supplementary award pertaining to the existing structures was passed on 27.05.1982.

4. Being dissatisfied with the award dated 27.05.1982, the landowners invoked Section 18 of the 1894 Act and the said reference was decided by the Additional District Judge, Bathinda vide award dated 29.07.1985, thereby enhancing the value of structure to Rs.20,062/-, besides a sum of Rs.1000/- towards expenses against transportation.

5. Still aggrieved, the respondents/landowners filed RFA No.2324 of 1985, titled as ***“Jarnail Singh vs. Union of India and another”*** which was decided by this Court vide judgment dated 10.12.2003, thereby granting further enhancement of Rs.13,475.52. Relevant portion thereof, is reproduced hereunder:-

“In view of the above, the appeal filed by the appellant is allowed and the appellant-claimant is held entitled for the enhanced amount of Rs.13,475.52 for the acquired property over and above what has been awarded to them by the Court below. On this enhanced amount, the appellant shall be entitled to 30% solatium under Section 23(2) of the Act, 12% per annum additional amount on the enhanced market value of the acquired land under Section 23(1-A) of the Act for the period commencing on and from the date of the publication of the notification under Section 4 of the Act to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier, and interest at the rate of 9% for one year and 15% for subsequent years till its payment under Section 28 of the Act.”

6. In view of the aforesaid determination, the respondents filed execution for the release of enhanced amount and during its pendency, provided their calculations wherein they even claimed interest on solatium

and also on the additional amount.

7. As per learned counsel, petitioner-UOI was directed to release the interest thereof in favour of respondents-landowners as ordered by the Executing Court on 08.02.2013, which has been impugned by way of present revision petition.

8. Learned counsel further submits that respondents/ landowners were not entitled for grant of benefit of additional amount of 12% over market value as provided under Section 23(1-A) of 1894 Act, as the award in the present case was passed by the SLAC on 31.03.1981 i.e. much prior to the date of applicability of the amended Land Acquisition Act, 1984 i.e. 30.04.1982. In support, he places reliance upon the judgment of the Hon'ble Supreme Court in ***“Union of India vs. Swaran Singh and others, AIR 1997 SC 462”***.

9. Learned counsel further submits that land-owners could not have been held entitled for interest on the amount of solatium as well as upon the component of additional market value by the Executing Court for the period prior to 19.09.2001 i.e. the date when the issue of interest on solatium was finally adjudicated upon by the Hon'ble Supreme Court in ***“Sunder vs. Union of India, AIR 2001 SC 3516***. In this regard, he places reliance upon judgments of the Hon'ble Supreme Court in case titled as ***“Gurpreet Singh vs. Union of India, 2006 AIR SCW 5813, “Tamil Nadu Housing Board vs. Abdul Salam Sarkar, 2021(1) RCR (Civil) page 668*** and ***“Central Govt. of India vs. Raj Devi @ Raj Kumari and another” Law Finder Document I.D. No.1868068 in CA No.4623 of 2021, decided on 05.08.2021.***

10. Despite service, no one has chosen to appear on behalf of respondents No.1 (i, iii, iv, v, vi) and 2.

11. I have heard learned counsel for the petitioners and gone through the paper book. I do not find any substance in the submissions made on behalf of the petitioners.

12. Once the final determination of compensation was made in the present case vide judgment dated 10.12.2003 passed by this Court in RFA-2324-1985 and the same was post decision in *Sunder's case (supra)*, the observations made by the Hon'ble Supreme Court in *Gurpreet Singh's case (supra)* were not applicable as in the said case, the Hon'ble Supreme Court was primarily dealing with the powers of the Executing Court to grant interest on the amount of solatium to the landowners in the cases where there was no specific mention about it by the Reference Court or the higher Courts while determining the quantum of market value, finally, prior to the date of decision in *Sunder's case (supra)*. This issue has already been dealt with by this Court in detail vide its decision dated 11.07.2023 passed in CR-1497-2013, titled as "*Union of India and another vs. Ajaib Singh and others*", while relying upon decision in the case of "*Land Acquisition Officer and Assistant Commissioner and another vs. Shivappa Mallappa Jigalur and others*", (2010) 12 SCC 387 and *Bhanushankar Oghadbhai Mehta (D) by LRs. Vs. Gujarat Industrial Development Corporation Limited*, (2018) 13 SCC 722. Relevant portion from para 14 of *Ajaib Singh's case (supra)*, is reproduced hereunder for reference:-

"It is important to note here that the above proposition was laid down while dealing with the rule of appropriation in execution of money decree in land

acquisition matters, thus, the same was in fact only to enlarge the scope of the execution proceedings in a certain way to confer powers upon the Executing Court to grant benefit of interest on solatium in cases where determination on the question of market value and compensation was finally over before the reference Court as well as the Appellate Court.

Needless to repeat that the entire discussion in Gurpreet Singh's case (supra) was about cases, wherein the final determination of compensation was over by the time, judgment in Sunder's case (supra) was rendered and the same could not be made applicable to the claims made by the landowners in the cases, where the question of quantum of market value and compensation was pending, but determined finally, post decision in the case of Sunder's (supra), by reading and applying the text from the judgment in case of Gurpreet Singh's (supra) in absolute terms as a statute; rather than reading the point of law it lays down by reference to the issue involved."

13. Moreover, the other contention raised by learned counsel for the petitioners is not even made out as the award in the present case qua the existing structures was passed on 27.05.1982 i.e. after 30.04.1982; coming into force of Amended Land Acquisition Act, 1984.

14. In view of the discussion made herein above, no interference is warranted in the order dated 06.03.2012, passed by the Executing Court, resultantly, all the present petitions are therefore, dismissed.

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

23.11.2023

sonika

(HARKESH MANUJA)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/ No