

CR-685-2018 with
CR-6660-2019 (O & M)

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2023:PHHC:100489

202 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CR-685-2018
Date of decision: 03.08.2023

UNION OF INDIA AND ANR

...Petitioners

V/s

ASHOK KUMAR AND OTHERS

...Respondents

with

2. CR-6660-2019 (O & M)
Date of decision: 03.08.2023

RAGHUNATH SINGH SINCE DECEASED THROUGH LRS AND
OTHERS

...Petitioners

V/s

UNION OF INDIA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Arun Gosain, Senior Panel Counsel and
Ms. Swati Arora, Advocate
for the petitioner-UOI in CR-685-2018 and
for the respondent No.1-UOI in CR-6660-2019.

Mr. Vishal Aggarwal, Advocate
for the petitioners in CR-6660-2019.

Mr. R.S. Manhas, Advocate
for respondent No.1 in CR-685-2018.

HARKESH MANUJA J. (ORAL)

Vide this order, the above-mentioned two revision petitions are
being disposed of as similar issues regarding release of amount of
compensation @ Rs.350/- per marla based on decision dated 21.04.2015
passed by the Hon'ble Supreme Court in SLP (C) No.2570-2576 of 2005

and other connected cases titled as *Union of India versus Annapurana Devi (D) By LRs and others* is involved, which has been declined by the Executing Court. For convenience, facts are taken from Civil Revision No.6660 of 2019, titled as *Raghu Nath Singh Since Deceased Through LRs and others versus Union of India & others*.

2. Briefly stating, facts are that the land owned by predecessors-in-interest of the petitioners, falling within the revenue estate of Village Mamoon, Tehsil and District Pathankot came to be acquired vide notification dated 18.02.1970 published in Punjab State in the official Gazette on 06.03.1970 under the relevant provisions of the Requisitioning and Acquisition of Immovable Property Act, 1952, followed by an award.

3. Being dissatisfied with the award, arbitration was invoked wherein an award was passed on 08.08.1988 and compensation was enhanced to Rs.100/- per marla in favour of landowners.

4. Still aggrieved, FAO No.13 of 1989 was filed, impugning the award passed by the Arbitrator, the same was dismissed by this Court on 03.11.2004.

5. The judgment dated 03.11.2004 was never assailed at the instance of petitioners-landowners, however, the same was challenged at the instance of respondent-Union of India vide SLP(C) No.18743 of 2005 which came to be decided by the Hon'ble Supreme Court vide order dated 21.04.2015, in the following manner:-

“1 The issues raised in these special leave petitions and civil appeals are squarely covered by the decision of this Court in Dilawar Singh & Ors. vs. Union of India & Ors., as reported in (2010) 14 SCC 357.

2. *Therefore, following the observations made in the case of Dilawar Singh (supra), these special leave petitions and civil appeals are also disposed of in the same terms, directions and observations.”*

6. As stated hereinabove, the SLP filed by the respondent-Union of India was disposed of in terms of observations made by the Hon’ble Apex Court in case of ***Dilawar Singh & Ors. vs. Union of India & Ors.***, wherein, landowners were directed to be awarded compensation @ Rs.350/- per marla along with solatium and interest. The operative portion of the judgment passed in ***Dilawar Singh’s*** case (supra) is reproduced hereunder:

“In the present batch of cases except the case the notification for acquisition was issued in February 1970 which is proximate in point of time to those issued in the Shanker Singh and Inder Singh's cases (supra). The notification in Union of India v. Mohinder Singh (Civil Appeal No. 9204/2010) was issued on 12.5.1964 and published on 12.6.1964. That apart the lands in question were all acquired for the very same purpose and are situated on the outskirts of a growing town like Pathankot. The growing non-agriculture potential of such lands is also not in serious dispute. The High Court has failed to notice all these aspects apparently because the decisions in Shanker Singh's case and that delivered in Inder Singh's case (supra) were handed down subsequent to the impugned order. Suffice it to say that on the material available before us we see no reason why the amount of compensation payable to the landowners appellants in these appeals should also not be enhanced to Rs.350/- per marla with proportionate benefits towards solatium and interest as awarded by the Arbitrator and upheld by the High Court in those cases and in similar other cases to which we have referred in the earlier part of this order. In so far as Mohinder Singh's case (supra) is concerned, the appeal has been filed by the Union of India against grant of solatium and interest. No appeal has been filed by the owners in that case for enhancement of the amount of compensation. Even otherwise in the absence of any cogent

evidence to justify any such enhancement, there is no room for directing payment of a large amount of compensation.”

7. In pursuance to the judgment dated 21.04.2015 passed by the Hon’ble Supreme Court in SLP (C) No.18743 of 2005 on an appeal filed by respondent arising out of the arbitration proceedings initiated at the instance of petitioners-landowners, an execution petition for release of compensation @ Rs.350/- per marla came to be filed. The Executing Court vide order dated 09.01.2019 rejected the claim made by the petitioners-landowners, directing the respondents to file their calculations by applying the market value at Rs.100/- per marla besides other benefits.

8. Being aggrieved of the order dated 09.01.2019, learned counsel for the petitioners-landowners submits that; from a perusal of order dated 21.04.2015 passed in SLP(C) No.18743 of 2005, it is apparent that all the landowners pertaining to the acquisitions qua the lands situated on the outskirts of Pathankot were ordered to be granted compensation @ Rs.350/- per marla, thus, the Executing Court went wrong while declining the claim made by the petitioners-landowners

9. On the other hand, learned counsel for respondent-UOI submits that the petitioners-landowners did not challenge the order dated 03.11.2004 passed in FAO No.13 of 1989, which was filed at their instance, whereby, their claim for seeking enhancement beyond Rs.100/- per marla was rejected and thus, they were not entitled for grant of benefit of order dated 21.04.2015 passed by the Hon’ble Apex Court.

10. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made on behalf of the

petitioners-landowners.

11. A conjoint reading of orders dated 26.10.2010 in the case of ***Dalawar Singh*** (*supra*) along with the decision dated 21.04.2015 in the case of ***Annapurana Devi (D) By LRs and others*** (*supra*), it becomes apparent that the landowners, whose land was situated on the outskirts of Pathankot; acquired in pursuance to notification dated 12.05.1964, published on 12.06.1964, were ordered to be granted compensation at the uniform rate of Rs.350/- per marla so as to maintain consistency and parity among the petitioners-landowners.

12. Moreover, order dated 21.04.2015 was passed in SLP (C) No.2570-2576 of 2005 filed at the instance of respondent-Union of India arising out of the decision dated 03.11.2004 passed in FAO No.13 of 1989 pertaining to the proceedings initiated at the instance of petitioners-landowners herein seeking enhancement of compensation. Further, the petitioners-landowners herein were themselves the respondents in SLP(C) No.18743 of 2005, wherein, it was categorically observed that the same besides other connected appeals were squarely covered by the decision of ***Dalawar Singh's case*** (*supra*) and accordingly were disposed of vide decision dated 21.04.2015 in the same terms, which clearly meant that the landowners even though respondents, were held entitled to be paid same amount of compensation @ Rs.350/- per marla and the Executing Court, thus, went wrong while declining the relief claimed by the petitioners-landowners.

13. Equally important, under similar circumstances, the same

Executing Court, while dealing with execution application No.54 of 2016, initiated at the instance of respondents-landowners in Civil revision No.685 of 2018 approved and affirmed their entitlement of compensation @ Rs.350/- per marla, relying upon the decision made in *Dalawar Singh's* case (supra).

14. Resultantly, as per the discussion made hereinabove, besides, applying the principles of parity as well as of just and fair compensastion, the petitioners being entitled for compensation @ Rs.350/- per marla besides other benefits, the Executing Court was required to enforce the same.

15. Accordingly, the impugned order dated 09.01.2019 passed by the Executing Court in Civil Revision No.6660 of 2019 titled as *Raghunath Singh Since Deceased Through LRs and others versus Union of India And Others* is hereby set aside, whereas, the impugned orders dated 24.05.2017 and 12.07.2017 passed by the Executing Court in Civil Revision No.685 of 2018 titled as *Union of India and another versus Ashok Kumar and others* are upheld, thus Civil Revision Petition No.6660 of 2019 is hereby allowed & the Civil Revision Petition No.685 of 2018 stands dismissed.

16. Present petitions are disposed of in the aforesaid terms.

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

03.08.2023
manisha

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No