

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7818 of 2018 (O&M)
and connected cases
Reserved on: 14.12.2022
Date of decision: 06.01.2023

Guru Gobind Singh Refineries Ltd.
(now renamed as HPCL-Mittal Energy Limited)

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashok Aggarwal, Sr. Advocate, with
Mr. Tushar Sharma, Advocate
Mr. Mukul Aggarwal, Advocate,
for the applicant-petitioner(s).

Mr. Sunil Chadha, Sr. Advocate, with
Mr. Akshay Chadha, Advocate
for the respondent no.4 (in CR-646 of 2018).

Mr. Sandeep Chopra, DAG, Punjab.

ANIL KSHETARPAL, J(Oral)

1. This batch of 65 revision petitions (details whereof is at the foot of the judgment) has been preferred in order to lay challenge to the correctness of 2 orders of the Executing Court's dated 31.05.2018, while quantifying the total amount payable to the landowners and permitting the petitioner to withdraw the remaining amount as per the order dated 24.04.2018 passed in Civil Revision No.646 of 2018, on furnishing irrevocable bank guarantee equal to the remaining amount which shall be renewed from time to time.

2. The relevant facts, in brief, are required to be stated, which are as follows:-

3. Pursuant to the notification under Section 4 read with Section 17 of the Land Acquisition Act, 1894, issued on 28.08.1997 proposing to acquire 1992.575 acres of land located in villages Phulokhari, Kanakwal, Ramsra and Raman, Tehsil Talwandi Sabi, District Bathinda. On 04.06.1999, the Land Acquisition Collector passed the award while offering to pay the following market value of the acquired land to the landowners along with all the statutory benefits.

(1) Nehri/Chahi Rs.3,50,000/- per acre

(2) Barani Rs.2,75,000/- per acre

(3) Gair Mumkin Rs.5,00,000/- per acre

4. Dissatisfied with the amount offered by the Land Acquisition Collector, on the applications submitted by the landowners, the cases were referred to the Court. All the cases were consolidated. On 29.11.2005, the Reference Court clubbed the land classified as Nahri/Chahi with Barani and tubewell irrigated land while assessing a uniform market value @ Rs.3,50,000/- per acre for such land, whereas with respect to the Gair Mumkin land/plots, the assessment made by the Land Acquisition Collector was upheld. However, a new category was carved out with respect to the belt of land abutting metalled road, except Gair Mumkin land, going from village Raman to village Kalianwali via village Gian upto the depth of 500 meters. The market value of this category of land was assessed @ Rs.3,75,000/- per acre. The petitioner as well as the landowners filed appeals and cross appeals, respectively. The High Court declined to grant interim order.

5. On a Special Leave Petition before the Supreme Court, the petitioner was directed to deposit Rs.7,50,00,000/- in the Executing Court which would be deposited in the form of a Fixed Deposit in a Nationalized Bank and there shall be interim stay of impugned order subject to the fulfillment of the aforesaid condition. The order dated 12.05.2006 is extracted as under:-

“Issue notice.

Without prejudice to the claims involved, let the petitioners deposit Rs.7,50,00,000/ (Rupees Seven Crores and fifty lakhs only) in the trial Court. The amount shall be invested in fixed deposit in a nationalised bank initially for a period of six months. There shall be interim stay of the impugned order subject to the aforesaid condition.”

6. The petitioner is stated to have deposited the aforesaid amount. On 22.04.2008, the Supreme Court disposed of the aforesaid Special Leave Petition with the following order:-

“Heard.

These special leave petitions are against interim orders passed by the Punjab and Haryana High Court. While issuing notice in the appeals, interim protection was denied. By order dated 12.05.2006, this Court, while issuing notice, directed deposit of Rupees 7.5 Crores with the Trial Court, to be invested in a nationalized Bank initially for a period of six months. Since the main matter is pending before the High Court, we do not think it necessary to pass any further orders in the matter. Let the Regular First Appeals be heard by the High Court.

We feel interest of justice would be best served if the amount deposited is permitted to be withdrawn by the land owners on furnishing such security, as may be fixed by the Trial Court.

The special leave petitions are disposed of accordingly.”

7. The main appeals filed by both the parties were disposed of by

the High Court on 22.10.2008, while remanding the matter back to the Reference Court on a limited aspect. The matter, again, reached the Supreme Court which was disposed of on 20.10.2010, the operative part of the order reads as under:-

“17. In the result, the appeals are disposed of in the following terms:

(i) The impugned judgment of the High Court is set aside and the matter is remanded to the Reference Court with the direction that it shall pass fresh award after giving opportunity to the parties to produce additional evidence on all the issues.

(ii) The Reference Court shall not entertain any unreasonable request made by either party for adjournment of the case and shall dispose of the matter within 6 months from the date of receipt/production of this judgment.

(iii) The land owners shall be entitled to withdraw the amount deposited by the Company after furnishing appropriate security to the satisfaction of the Presiding Officer of the Reference Court.”

8. Once again, vide judgment dated 29.09.2012, the Reference Court assessed the market value of the acquired land in the following manner:-

“i) *Gair Mumkin* Rs.5 lakhs per acre.
ii) *Nehri* Rs.4.25 lakhs per acre.
iii) *Barani* Rs.3.5 lakhs per acre.

Reference Court further assessed the market value of the land on both sides of the road from Raman to Kalianwali through villages Phulokhari and Kanakwal upto the depth of 60 karams at Rs.5 lakhs per acre.”

9. Again, the appeals were filed before this Court in which interim stay was granted to the petitioner subject to the deposit of 50% of the enhanced amount as awarded by the Reference Court in its award dated 29.09.2012.

10. On 15.10.2015, the main appeals filed by the petitioner herein were allowed, whereas, that of the landowners were dismissed. The enhancement of the market value ordered by the Reference Court was set aside, whereas, the amount offered by the Land Acquisition Collector was upheld. However, a new category of land termed as “command area” was created and the market value of the aforesaid category of land was assessed @ Rs.3,00,000/- per acre. The relevant discussion on the aforesaid aspect is extracted as under:-

41. There is another document produced on record by the Company with its appeal as (Annexure P-3), i.e., proceedings of meeting held on 18.10.1997 under the Chairmanship of Deputy Commissioner, Bathinda, which was attended by the then Member Parliament, Bathinda; the then MLA, Talwandi Sabo Constituency; Chairman, Block Samiti, Talwandi Sabo, Sub Divisional Magistrate, Talwandi Sabo and one Co-opted Member. It mentions that NOC for acquiring the land in the area for the purpose of setting up of the Company was issued on 4.8.1997. In fact, that is the date, on which first sale deed (Ex. A13) sought to be relied upon by the landowners was got registered. The Committee noticed the sale transactions registered in the area immediately preceding the acquisition of land. It also noticed that it is 16 kilometers away from historic town of Talwandi Sabo and was a backward area of Punjab. It also noticed that most of the land, comes under the canal network, however, the site being near the tail-end, does not get any supply of water and the area being not irrigated is barani. The Committee which consisted of representatives of the public recommended that rates be given for the acquired land of different categories:

“8. Command Area This area is under Canal irrigation as most of the land comes under Canal network. However site being near the tail a end of the canal all the command area is not canal irrigation. Area not being irrigated is just like Barani area. However, if canal water get augmented the area being acquired will come under Canal irrigation. There are strong representation, from the farmers to equate their land under command with land under active irrigation. Committee after discussing the matter in detail is of the view that though there is no such

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Keeping all the factors in view i.e. collectors rate location of the site, quality of the land, prevailing market rates, occupation of the people, and number of farmers involved, the below mentioned rates are recommended to the Punjab Govt. for approval.

<i>Kind of land</i>	<i>Rates per acre in Rs.</i>
<i>Nehri/Chahi</i>	3,50,000/-
<i>Command</i>	3,00,000/-
<i>Brani</i>	2,25,000/-
<i>Gair Mumkin</i>	5,00,000/-”

42. The different rate was recommended for command area land keeping in view the fact that canal based irrigation facilities, though were available, however, being at the tail-end, there was rarely any water supply and the same could be augmented, hence, a little higher rate as compared to Barani rate was recommended. In my opinion, for that category of land, the landowners deserve to be granted higher compensation than what was assessed by the Collector.”

The landowners submitted a calculation before the Reference Court claiming

that the entire Barani land was “command area” and hence, the landowners are liable to be paid Rs.15,50,00,000/-. The Executing Court, pursuant to the aforesaid calculations, directed that the amount of Rs.15,50,00,000/- be retained, whereas, the remaining amount be refunded to the petitioner. The proceedings under Section 340 Cr.P.C were also directed to be initiated against the concerned official of the petitioner company. In Civil Revision No.646 of 2018, the various orders passed by the Executing Court including the order dated 15.01.2018 was challenged. The revision petition was allowed on 24.04.2018 directing the Reference Court to release the deposited amount upon furnishing an irrevocable bank guarantee of an additional amount. In the meantime, the landowners in the 41 execution petitions submitted a list of “command area” restricting the claim of the landowners to Rs.4,67,001,950/-. Ultimately, the Executing Court has passed the impugned orders whereby, on the one hand, the objections filed by the petitioner have been dismissed, whereas, on the other hand, the concerned branch has been directed to release the amount after adjusting Rs.7,23,32,999/- upon submission of the bank guarantee.

12. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

13. In the paper book of Civil Revision No.646 of 2018, after hearing the learned counsels representing the parties, on 15.03.2019, the following order was passed:-

“Learned counsel for the respondents prays for further opportunity to verify the correctness of the documents which have been handed over to him few days back.

It may be noted here that in these set of revision petitions, learned counsel for the petitioner had pointed out that learned Additional District Judge had granted compensation for command area with respect to land

which was not subject matter of acquisition and also for land for which the compensation has been awarded and received as Nehri Chahi land. If the contention of learned counsel for the petitioner is correct, there is grave perversity in the impugned order passed by the learned Additional District Judge. Adjourned to 25.03.2019.

To be listed in the urgent.

It is made clear that no further request for an adjournment shall be granted and Court would be compelled to draw inference that the contention of the learned counsel for the petitioner is correct.

A photocopy of this order be placed on the files of other connected cases.”

14. Thereafter, the learned counsel representing the petitioner has filed various compilations while highlighting the patent errors/mistakes in the calculation of the “command area” and the consequential error in the amount of payment payable to the landowners. The learned counsel representing the respondent was granted an opportunity to controvert the aforesaid facts. He has also filed written arguments. However, the factual averments made by the petitioner's counsel in the calculation sheets could not be controverted. The aforesaid calculation sheets have been categorized in the following manner:-

- (1) Cases where compensation paid for Nehri land has again been included in the “command area”
- (2) “The command area” as per the evidence of Sh. Maghar Singh compared with the compensation awarded by the Reference Court.
- (3) Cases where there is inconsistency in annexures and the orders.
- (4) Cases where the shares are in dispute.
- (5) Cases where the land falling outside the acquired land has

been included to disburse the compensation.

15. The aforesaid tabulated compilations are attached as Annexures A1, A2, A3, A4 and A5, respectively, which shall form a part of this order.

16. On reading of the impugned orders, it is evident that the Executing Court has been swayed by emotions while passing the orders and has failed to meticulously analyze the facts of the case as well as the material produced on record by both the parties. From the tone and tenor of the impugned orders, it is evident that the court has failed to adopt a balanced approach which is a *sine qua non* for adjudicating the disputes. Law is essentially a question of logic and deduction. A Presiding Judge is expected to deliver a dispassionate and objective judgment/order which should fundamentally, be based upon rationality, precision and truth. The Presiding Judges of the Courts are not expected to pass the orders on the basis of mere conjectures and surmises. Quoting Sir Rousseau in the context of judiciary, a superior intelligence beholding all the passions of men without experiencing any of them is expected from a Judicial Officer while hearing cases and passing judgment.

17. In the present case, the facts noticed hereinbefore have not been adverted to in the impugned orders, though, these facts go to the very root of the matter.

18. After having analyzed the factual position with the able assistance of the learned counsels representing the parties, this court is of the considered view that it would be in the interest of justice if the impugned orders passed on 31.05.2018 are set aside while directing the Executing Court to pass fresh orders while considering all the relevant documents placed before it after granting an opportunity to both the parties to furnish

further evidence, if prayed for.

19. With these observations, the revision petitions are disposed of.

20. The parties through their respective counsels are directed to appear before the Executing Court, on 30.01.2023.

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

06th January, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

SR. NO.	CASE NO.	PARTIES DETAILS
1.	CR-4218-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
2.	CR-7018-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
3.	CR-7065-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
4.	CR-7066-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
5.	CR-7067-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
6.	CR-7210-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
7.	CR-7211-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
8.	CR-7212-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
9.	CR-7213-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
10.	CR-7214-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
11.	CR-7215-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
12.	CR-7216-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
13.	CR-7217-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
14.	CR-7218-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
15.	CR-7219-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
16.	CR-6715-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
17.	CR-6716-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS

18.	CR-6717-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
19.	CR-6718-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
20.	CR-6719-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
21.	CR-6720-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
22.	CR-6721-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
23.	CR-6722-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
24.	CR-6723-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
25.	CR-6787-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
26.	CR-6788-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
27.	CR-6789-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
28.	CR-6790-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
29.	CR-6791-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
30.	CR-6792-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
31.	CR-6793-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
32.	CR-6794-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
33.	CR-6795-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
34.	CR-6796-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
35.	CR-6797-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
36.	CR-7667-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
37.	CR-7669-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
38.	CR-7670-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
39.	CR-7671-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
40.	CR-7672-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
41.	CR-7704-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
42.	CR-7706-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
43.	CR-7707-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
44.	CR-7708-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
45.	CR-7709-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
46.	CR-7710-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
47.	CR-7711-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS

48.	CR-7713-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
49.	CR-7813-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
50.	CR-7815-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
51.	CR-7816-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
52.	CR-7817-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
53.	CR-7818-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
54.	CR-7819-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
55.	CR-7820-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
56.	CR-7821-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
57.	CR-7822-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
58.	CR-7823-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
59.	CR-7824-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
60.	CR-7825-2018	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
61.	CR-1181-2019	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
62.	CR-1182-2019	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS
63.	CR-1190-2019	GURU GOBIND SINGH REFINERIES LTD. V/S STATE OF PUNJAB AND ORS

(ANIL KSHETARPAL)
JUDGE