

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 08.08.2023

1.

CR-1263-2023 (O&M)

Haryana Shehri Vikas Pradhikaranth. its AdministratorPetitioner
vs.
Tara Devi (Deceased) through LRs & OrsRespondents
2.

CR-1304-2023 (O&M)

Haryana Shehri Vikas Pradhikaranth. its AdministratorPetitioner
vs.
Tara Devi (Deceased) through LRs & OrsRespondents
3.

CR-1339-2023 (O&M)

Haryana Shehri Vikas Pradhikaranth. its AdministratorPetitioner
vs.
Anirudh Singh and othersRespondents
4.

CR-1340-2023 (O&M)

Haryana Shehri Vikas Pradhikaranth. its AdministratorPetitioner
vs.
Kanwar Rani Kamla Devi (Deceased) through
LRs & Ors.Respondents
5.

CR-1341-2023 (O&M)

Haryana Shehri Vikas Pradhikaranth. its AdministratorPetitioner
vs.
Anirudh Singh and othersRespondents
6.

CR-1342-2023 (O&M)

Haryana Shehri Vikas Pradhikaranth. its AdministratorPetitioner
vs.
Purujit Singh and anotherRespondents
7.

CR-1343-2023 (O&M)

Haryana Shehri Vikas PradhikaranPetitioner
vs.
Purujit Singh and anotherRespondents

8.

CR-1348-2023 (O&M)

Haryana Shehri Vikas Pradhikaran

....Petitioner

vs.

Kanwar Rani Kamla Devi (Deceased) through
LRs & Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ankur Mittal, Advocate, Ms.Kushaldeep Kaur, &
Mr. Sidhant Arora, Advocate for
for the petitioner(s).

Mr. Sunil Chadha, Sr., Advocate assisted by
Mr. Alok Mittal, Advocate & Mr.Akshay Chadha, Advocate
for private respondent(s).

HARKESH MANUJA J.

1. This order of mine shall dispose of all the above mentioned civil revisions as the same involve common question of law and facts. For convenience, facts are being taken from CR-1263-2023.

2. By way of present revision petition, challenge has been laid to an order dated 30.01.2023, passed by the Executing Court-cum-Additional District Judge, Panchkula, whereby the learned Executing Court directed the petitioner to pay compensation amount to the respondents-landowners after calculating interest on solatium as held by the Hon'ble Supreme Court in the case of "**Sunder v. Union of India**, (2001) 7 SCC 2011" from the date of award i.e. 17.06.1992 till 20.02.2023.

3. Briefly stating, the land owned by the private respondents, situated in the revenue estate of Village Ramgarh, Tehsil & Distt

Panchkula was sought to be acquired vide notification dated 26.06.1989, issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "1894 Act") for the public purpose, namely, development and utilization of the land as Residential, Commercial and Institutional area in the Urban Estate, Panchkula followed by notification dated 25.06.1990 issued under Section 6 thereof and thereafter, award under Section 11 of the 1894 Act was passed by the Land Acquisition Collector, (for short, 'LAC') on 17.06.1992.

4. Being dissatisfied, the landowners invoked Section 18 of the 1894 Act and the said reference was decided vide Award dated 24.08.2009, thereby fixing market value @ Rs.250/- per square yards. Relevant Paragraph 53 of the Reference Court award is reproduced hereunder:-

"53. In view of the above said discussion and finding on issue No.1, I hereby allow the present land reference with costs and the market value of the land acquired is determined at the rate of Rs.250/- per square yard on the date of notification under Section 4 of the Act. The value of the trees and structures in individual cases is fixed as described above. The petitioners shall also be entitled to statutory benefits under Section 23 (1a), 23 (2) and 28 of the Land Acquisition Act. References are accordingly returned in favour of the petitioners with costs. Memo of cost be prepared accordingly. File be consigned to the record room after due compliance."

5. Still aggrieved, the respondents/ landowners filed RFA No.4901 of 2010, which was decided by this Court vide common judgment dated 08.04.2016, lead case of which was RFA No.1956 of

2010, and the market value was enhanced to Rs.380/- per sq. yards.

Relevant portion thereof, is reproduced hereunder:-

“The appeals filed by the land owners deserve to be partly accepted and the same are hereby allowed to the extent indicated above. Accordingly, the land owners are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.380/- per square yard from the date of notification under Section 4 of the Act. Besides this, the land owners shall also be entitled for all other statutory benefits available to them, under the relevant provisions of the Act.”

6. In continuation thereof, the issue regarding determination of compensation finally came to be decided by the Hon'ble Supreme Court vide its decision dated 09.10.2017 passed in CA No. 17022 of 2017 titled as **Umesh Gupta Vs. State of Haryana** and the same was fixed @ Rs.290/- per sq. yards, its operative portion is reproduced hereunder:-

“Considering the comparative sale evidence that has been adduced in the cases of Gurudev and Hansraj (supra) and even otherwise if we work out the price even from the method of adopting the determination made in the awards, certain deductions will have to be made for development and smallness of area as well. Considering entire evidence we deem it appropriate to work out the compensation at the rate of Rs.290/- per sq. yard. The amount granted by the High Court stands reduced to the aforesaid extent.”

7. Based thereupon, the respondents/ landowners filed

execution application. During the pendency thereof, an issue was framed by the Executing Court as regards the payment of interest on solatium for the period prior to 19.09.2001 i.e. the date of decision by Hon'ble the Supreme Court in case of "**Sunder vs. Union of India**", **AIR 2001 SC 3516**, followed by decision in case of "**Gurpreet Singh vs. Union of India, 2006 AIR SCW 5813**."

8. After examining the aforesaid judgments, the Executing Court vide its order dated 30.01.2023, held that the respondents/landowners were entitled for interest on the amount of solatium from the date when possession was taken by the State from the landowners i.e. w.e.f. 18.06.1992.

9. While assailing the aforesaid order by way of present revision petition, learned counsel for the petitioner submits that Executing Court has ignored the mandate of judgment of Hon'ble Supreme Court in case of **Gurpreet Singh's** (supra) as well as in "**Land Acquisition Officer and Assistant Commissioner and another Vs. Shivappa Mallappa Jagalur and others**" reported as (2010) 12 SCC 387, wherein it has been clarified that the Executing Court can award interest from the date of judgment in **Sunder's case** (Supra) and not prior thereto.

10. On the other hand, learned Senior counsel representing the respondents-landowners submits that a well reasoned order has been passed by the learned Executing Court, thus the same warrants no interference.

11. I have heard learned counsel for the parties and gone

through the paper book. I do not find any substance in the submissions made on behalf of the petitioner.

12. Once the final determination of compensation was made in the present case vide judgment dated 09.10.2017 passed by the Hon'ble Supreme Court in **Umesh Gupta's** case (supra) and the same was post decision in **Sunder's case (supra)**, the observations made by Hon'ble the 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 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 **Shivappa Mallappa's** (supra) 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. In view of the discussion made herein above, no interference is warranted in the order dated 30.01.2023, passed by the Executing Court, resultantly, all the present petitions are therefore, dismissed.

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

08.08.2023
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/ No