

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-7085-CII-2023 IN/AND FAO-1045-1995
Date of Decision: July 27, 2023

SITA DEVI AND ORS Appellants
Versus
UNION OF INDIA AND ORS Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vikram Singh, Advocate for applicants-appellants.
Mr. Udit Garg, Advocate for respondents.

HARKESH MANUJA, J. (ORAL)

CM-7085-CII-2023

This is an application for fixing of the actual date of hearing
in the main case.

Notice of application.

Mr. Udit Garg, Advocate accepts notice of application.

For the reasons mentioned in the application, the same is
allowed and the main case is taken up on board today itself.

MAIN CASE

1. By way of present appeal, challenge has been laid to an
award dated 24.12.1994 passed by the Arbitrator-cum-Additional
District Judge, Gurdaspur in exercise of power under Section 8(1)(e) of
Punjab Requisitioning and Acquisition of Immovable Properties Act,
1952 (hereinafter to be referred as '1952 Act').

2. Briefly stating, in the facts of the present case, land owned
by the appellants, situated in village Bungal, District Gurdaspur formed
part of notification dated 26.03.1970 issued under the provisions of
1952 Act. An Award under Section 7(i) of 1952 Act was passed by Land

Acquisition Collector on 17.02.1993, whereby compensation @ Rs.210 per kanal was awarded.

2. Aggrieved thereof, the appellants sought arbitration invoking Section 8(1)(C) of the 1952 Act, wherein award was passed on 24.12.1994 and the compensation was enhanced to Rs.1,000/- per kanal. The aforesaid award came to be challenged by way of present appeal.

3. Learned counsel for the appellants submits that the amount of compensation already stands determined @RS.350/- per marla by the Apex Court, besides awarding of solatium and interest in favour of similarly situated landowners vide judgment dated 25.01.2011 passed in FAO-264-1987 titled as **“Beli Ram (deceased) through LRs and Others Vs. Union of India and Ors.”**, which even pertained to the same village i.e. Bungal, Hadbast No.39, Tehsil, Pathankot, District Gurdaspur, pertaining to the same notification dated 26.03.1970. The operative part from the judgment dated 25.01.2011 is reproduced hereunder:-

“Learned counsel for the Union of India fairly submitted that the issue regarding valuation of land and also grant of interest and solatium pertaining to the same acquisition has been gone into by Hon'ble the Supreme Court in Dilawar Singh and others vs Union of India and others JT 2010 (11) SC 556, wherein award of ` 350/- per marla as compensation for the acquired land and award of interest and solatium has been upheld.

As the land in question which is the subject matter in the aforesaid appeal also pertains to the same acquisition which was considered by Hon'ble the Supreme Court in Dilawar Singh's case (supra), I do not find any reason

to differ with what has been awarded to the other landowners by Hon'ble the Supreme Court in the aforesaid case.

Accordingly, the present appeal is disposed of in the same terms.”

Learned counsel further points out that initially the present appeal was filed with deficient Court fee, however, during its pendency, the said deficiency has been made good.

4. On the other hand, learned counsel for the respondent-Union of India vehemently opposes the prayer made in this appeal. Learned counsel for respondent submits that there has been an inordinate delay on the part of appellants-landowners in making good the deficiency of Court fee. He further submits that once the appellants-landowners themselves quantified their demand qua the value of compensation of their land, they were estopped from raising any enhancement in excess thereto, In support, he places reliance upon decision made by this Court in “**Mohinder Singh Vs. Union Territory, Chandigarh 2007 AIR(Punjab and Haryana) 149**”. Para 7 thereof is reproduced hereunder:-

“7. In the aforesaid case, the appellant has paid lesser Court fee and thereby restricted the value of the appeal. It must be taken that the appellant's claim was restricted to the amount the Court fee was paid. The judgment of the Hon'ble Supreme Court in The Scheduled Caste Co-operative Land Owning Society Ltd., Bhatinda's case (AIR 1991 Supreme Court 730) (supra) was considered and it was found that the aforesaid judgment was not meant to lay down that in spite of choosing to pay a particular Court fee, the claimants would still be entitled to pay deficient Court fee on the doubtful claim after the appeals are allowed. Similarly, in M. Govinda Raju v. Special and Additional Land Acquisition Officer and another etc. AIR 1996 Supreme Court 2660, the Court considered the question whether the party would be permitted to pay the deficient Court fee at a later stage on the difference of amount claimed in appeal. It was found that a party makes a conscious

decision and fixes the valuation and the Court fee paid, it would be unhealthy practice and it will not be conducive to encourage the practice to keep or changing the valuation and then to pay deficit Court fee thereon.”

5. I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made by learned counsel for the appellants.

6. In the present case as regards determination/assessment of compensation, the same already stands covered vide judgment dated 25.01.2011 passed in “**Beli Ram’s case (supra)**”, whereby the other similarly situated landowners whose land was acquired vide same notification dated 26.03.1970, have already been awarded compensation @ Rs.350 per marla, besides grant of interest and solatium thereupon and thus, the appellants herein shall also be entitled for similar amount of compensation as awarded in “**Beli Ram’s case (Supra)**”.

7. Further, I do not find merit in the submissions made on behalf of respondents as regards the landowners having made themselves disentitled for enhanced compensation on account of they having restricted their claim qua the quantum of compensation. In fact, the concept of grant of compensation against compulsory acquisition or requisition of land is primarily to be of just and fair compensation besides maintaining parity among the similarly situated landowners and thus, the claim of appellants towards compensation cannot be restricted merely on account of they having quantified and restricted their claim, while invoking arbitration particularly when other landowners have been given the benefit of enhancement. My aforesaid view is also derived

from law laid down by Hon'ble Supreme Court in case of **“Narendra and Ors. Vs. State of Uttar Pradesh and Ors.” 2017(4) RCR 828.**

Relevant Para 7 thereof is reproduced hereunder:-

7) The purpose and objective behind the aforesaid provision is salutary in nature. It is kept in mind that those land owners who are agriculturist in most of the cases, and whose land is acquired for public purpose should get fair compensation. Once a particular rate of compensation is judicially determined, which becomes a fair compensation, benefit thereof is to be given even to those who could not approach the court. It is with this aim the aforesaid provision is incorporated by the Legislature. Once we keep the aforesaid purpose in mind, the mere fact that the compensation which was claimed by some of the villagers was at lesser rate than the compensation which is ultimately determined to be fair compensation, should not be a ground to deny such persons appropriate and fair compensation on the ground that they claimed compensation at a lesser rate. In such cases, strict rule of pleadings are not to be made applicable and rendering substantial justice to the parties has to be the paramount consideration. It is to be kept in mind that in the matter of compulsory acquisition of lands by the Government, the villagers whose land gets acquired are not willing parties. It was not their voluntary act to sell of their land. They were compelled to give the land to the State for public purpose. For this purpose, the consideration which is to be paid to them is also not of their choice. On the contrary, as per the scheme of the Act, the rate at which compensation should be paid to the persons divested of their land is determined by the Land Acquisition Collector. Scheme further provides that his determination is subject to judicial scrutiny in the form of reference to the District Judge and appeal to the High Court etc. In order to ensure that the land owners are given proper compensation, the Act provides for 'fair compensation'. Once such a fair compensation is determined judicially, all land owners whose land was taken away by the same Notification should become the beneficiary thereof. Not only it is an aspect of good governance, failing to do so would also amount to discrimination by giving different treatment to the persons though identically situated. On technical grounds, like the one adopted by the High Court in the impugned judgment, this fair treatment cannot be denied to them.

8. In view of the discussions made hereinabove, the appellants are held entitled for award of Rs.350/- per marla as compensation

besides granting of interest and solatium in terms of decision dated 25.01.2011 passed in “**Beli Ram’s case** (Supra).

9. The present petition is disposed of accordingly.

27.07.2023
tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>