

RFA No. 1320 of 2021 (O&M)

RFA No. 2603 of 2021 (O&M)

Neutral Citation No. 2023:PHHC:134043

274 (1st & 2nd)

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(1)

RFA No. 1320 of 2021 (O&M)

Date of Decision: 13.10.2023

Rajender Prakash (deceased) through his LRs

...Appellants

Versus

State of Haryana and another

...Respondents

(2)

RFA No. 2603 of 2021(O&M)

Jai Pal

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Amit Gupta, Advocate
for the appellant(s) / landowner(s) (in both cases).

Mr. Shivendra Swaroop, Deputy Advocate General, Haryana

HARKESH MANUJA, J.

CM-2883-CI-2021 in RFA-1320-2021; and
CM-5872-CI-2021 in RFA-2603-2021

Prayer in the present two applications moved on behalf of the applicants-appellants, i.e. (i) CM-2883-CI-2021 is for condonation of delay of 39 days; and (ii) CM-5872-CI-2021 is for condonation of delay of 47 days in filing the respective appeals.

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Notice of both the applications.

Learned State Counsel accepts notice on behalf of the non-applicants/respondents-State.

In view of the averments made in the applications, duly supported by respective affidavits, the prayer is allowed and delay, as mentioned above in filing the respective appeals, are hereby condoned.

Applications are **disposed off**.

CM-2884-CI-2021 in RFA-1320-2021

Prayer in the present application is for bringing on record the legal representatives of appellant-Rajender Prakash, who died on 26.12.2019.

Notice of the application.

Learned State Counsel accepts notice on behalf of the non-applicant(s)-State and has no objection against the prayer made in the application.

In view of the above and for the reasons mentioned in the application, the same is **allowed**, subject to all just exceptions. The applicants mentioned in para-2 of the application are ordered to be brought on record as legal representatives of the above appellant-deceased.

MAIN APPEAL(S)

This order shall dispose off present two appeals bearing RFA Nos. 1320 & 2603 of 2021, as the same arise out of common acquisition / award.

[2] The landowners, by instituting the aforementioned appeals preferred under Section 54 of the Land Acquisition Act, 1894 (for short “the Act”), are seeking modification of the award dated 24.10.2019 passed by learned Additional District Judge, Faridabad (hereinafter to be referred as “Reference Court”) for enhancement of compensation amount.

[3] Briefly, the facts are that in pursuance of Haryana Govt. Notification under Section 4 of the Act issued on 14.08.2008, followed by Notification dated 30.08.2008 under Section 6 thereof, the land measuring 94.67 acre, including the land of appellants, situated in the revenue estate of Village Kheri Kalan, Tehsil & District Faridabad, was acquired. The public purpose for acquisition of the land was stated to be Development & Utilization of Master Plan Roads of Sectors 75 to 89, Faridabad. The Land Acquisition Collector, Urban Estate, Faridabad, Haryana (for short "LAC"), vide Award No. 16, dated 27.08.2010, assessed the market value of acquired land @ Rs. 42,00,000/- per acre alongwith other statutory benefits.

[4] Dissatisfied with the aforesaid Award, landowners / interested persons filed references under Section 18 of the Act, which were decided vide award dated 24.10.2019 by Reference Court, whereby the market value of the acquired land was enhanced / assessed @ Rs. 1760/- besides granting statutory benefits, in view of judgment dated 31.05.2019 passed by this Court in ***RFA-7108-2012***, titled "***Ram Pal and others (II) Versus Land Acquisition Collector and another***".

[5] It is pertinent to mention here that the matters pertaining to the enhancement were remanded by the Hon'ble Apex Court in ***Civil Appeal No(s) 21014-21016 of 2017***, titled "***Premwati & Ors. Versus State of Haryana & Anr.***", decided on **06.12.2017**, after those were decided by Coordinate Bench of this Court in the first round on 16.09.2015 in case of '***Rampal and others Versus Land Acquisition Collector and another***', **2016 (1) RCR (Civil) 494**. Thereafter, the matter was again decided by Single Bench of this Court vide judgment dated 31.05.2019 in case of ***Ram Pal and others (II) (supra)***, whereby the market value for the acquired land with regard to the notification dated 14.08.2008 pertaining to Villages Neemka, Fajjupur Majra Neemka, Kheri Khurd, Faridpur, Kheri Kalan,

Bhupani, Riwajpur and Tikawali, was fixed @ Rs. 1760/- per square yard (Rs. 85,18,400/- per acre).

[6] Against the judgment dated 31.05.2019 (supra), parties approached Hon'ble Supreme Court in a batch of appeals, lead case of which was Civil Appeal No. 2903 of 2021, titled "**Banwari Lal & Anr. Versus State of Haryana & Ors.**", which have been decided on three different dates, 08.07.2021, 13.07.2021 & 14.07.2021.

[7] It is contended by learned counsel for the appellant(s) that present appeals are squarely covered with the judgment of **Banwari Lal's case (supra)**, arising out of the same notification vide which the land of appellants was acquired.

[8] Notice of motion.

[9] Learned State Counsel accepts notice and not in a position to controvert the aforesaid factual aspect that the main appeals are covered in terms of judgment of **Banwari Lal's case (supra)**.

[10] I have heard learned counsel for the parties and gone through the paper-book.

[11] From the records, it is apparent that the present appeals are squarely covered with the judgment of **Banwari Lal's case (supra)**, which are arising out of the same acquisition / Notification dated 14.08.2008 covering the same revenue estate i.e. **Village Kheri Kalan, Tehsil & District Faridabad**, whereby the landowners have been held entitled for the enhanced amount of compensation @ Rs. 2,665/- per square yard. For reference, the relevant paras of judgment dated 13/14.07.2021 passed in case of **Banwari Lal's (supra)** (at page Nos. 59 to 61) read as under:-

" Village : Kheri Kalan

As regards Village Kheri Kalan, covered under the third notification, the High Court has determined the fair market price of lands at Rs.1760/- per sq.yd.

While doing so, the High Court excluded the sale instances pertaining to year 2006, and took note of the sale instances of year 2007. We find that approach is correct. The sale instances in close proximity ought to be reckoned for determining the fair market price.

Reverting to the sale instances of year 2007, it is true that, although, the same have been executed on different dates, the consideration amount is common at Rs.3099/- per sq.yd. That by itself does not make the transaction suspect for being discarded.

If the sale instance of 2006 is taken into account, the consideration was Rs.2273/- per sq.yd. By 2007, particularly, after the first notification was issued in respect of neighboring villages on 01.05.2006, there was bound to be cascading effect on the transactions in the neighboring villages. Perhaps, that may be the reason for rise in the price, referred to in the sale instances of 2007. The first such sale instance is of 12.06.2007 for Rs.3099/- per sq.yd. The other four sale instances of the same year around the same time are also for the same amount. The fact that those sale instances pertain to some developer, cannot be the basis to discard the same by itself, unless there is evidence to suggest that the same have been entered into to get more compensation amount in the event of acquisition of land.

In other words, it is not a speculative transaction. That evidence is lacking in the present case. Hence, we take the sale consideration at Rs.3099/- per sq.yd. as the base price and add 7.5% per annum thereon, as the third notification was issued after one year from the date on which the sale instance was executed.

We further provide deduction at the rate of 20% towards development charges as in the other cases.

As a result, the fair market price for the lands situated in the village Kheri Kalan, covered under the third notification will work out to Rs.2665/- (Rupees two thousand six hundred sixty-five only) per sq.yd. (Rs.3099/- plus Rs.232 minus Rs.666/-).

Hence, the appeal(s) filed by the State challenging the enhancement by the High Court stand rejected, whereas the appeal(s) filed by the claimant(s) for enhancement are partly

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allowed to the above extent. Rest of the benefits including statutory benefits awarded by the High Court shall remain undisturbed. ”

[11.1] Based upon the above, applying the principle of parity, besides award of just and fair compensation, the landowners / appellants being similarly situated are held entitled for grant of similar amount of compensation as has been awarded to other landowners vide decision dated 13/14.07.2021 in case of **Banwari Lal (supra)**, alongwith all other statutory benefits and interest thereupon as provided under the Act.

[12] **Disposed off** in the above terms.

Pending application(s), if any, shall stand(s) disposed off.

October 13, 2023

‘dk kamra’

(HARKESH MANUJA)
JUDGE

Whether Speaking / Reasoned :	Yes	No
Whether Reportable :	Yes	No