

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision: 23.11.2023

1.

RFA No.999 of 1996 (O&M)

Ram Piari and others

.....Appellants

Vs

Punjab State through Collector and others

....Respondents

2.

RFA No.1119 of 1996 (O&M)

Ram Piari

.....Appellant

Vs

Punjab State through Collector and others

....Respondents

3.

RFA No.1120 of 1996 (O&M)

Babu Ram

.....Appellant

Vs

Punjab State through Collector and others

....Respondents

4.

RFA No.1121 of 1996 (O&M)

Smt. Brahmo Devi and another

.....Appellants

Vs

Punjab State through Collector and others

....Respondents

5.

RFA No.2278 of 1996 (O&M)

Smt. Brahmo Devi

.....Appellant

Vs

Punjab State through Collector and others

....Respondents

6.

RFA No.1417 of 1996 (O&M)

State of Punjab through Collector Gurdaspur and Ors

.....Appellants

Vs

Ram Piari and others

....Respondents

7.

RFA No.1418 of 1996 (O&M)

State of Punjab and others

.....Appellants

Vs

Smt. Brahmo Devi and another

....Respondents

8. RFA No.1419 of 1996 (O&M)

Punjab State through Collector & Ors.Appellants
Vs
Smt. Brahmo DeviRespondent

9. RFA No.1420 of 1996 (O&M)

The State of Punjab through Collector, Gurdaspur & Ors
.....Appellants
Vs
Smt. Ram PiariRespondent

10. RFA No.1416 of 1996 (O&M)

The Punjab State through Collector, Gurdaspur & Ors
.....Appellants
Vs
Babu RamRespondent

11. RFA No.1738 of 1997 (O&M)

Parshotam and othersAppellants
Vs
State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. R.S. Manhas, Advocate with
Mr. Mrinal Dewan, Advocate
for the appellants.

Mr. Navneet Singh Kaliraman, Sr. D.A.G., Punjab.

HARKESH MANUJA, J. (Oral)

[1]. Vide this common order, RFA Nos.999, 1119, 1120, 1121, 2278, 1417, 1418, 1419, 1420, 1416 of 1996 (O&M) and RFA No.1738 of 1997 (O&M) are being decided as similar question of law and facts is involved in all these appeals. For brevity, the facts are being noticed from RFA No.999 of 1996 (O&M).

[2]. By way of present appeal(s), challenge has been laid to an award dated 08.02.1996 passed by the Addl. District Judge, Gurdaspur (hereinafter to be referred as the ‘Reference Court’) whereby the reference petition filed at the instance of the appellants/landowners, invoking Section 18 of the Land Acquisition Act, 1894 (hereinafter to be referred as ‘the 1894 Act’) was accepted and the compensation was assessed @ Rs.60,000/- per acre for *Abbi* land and Rs.50,000/- per acre for all kinds of *Barani* land, besides awarding other statutory benefits and interest payable under the 1894 Act, whereas in RFA No.1738 of 1997 the award was passed on 10.03.1997 by the Reference Court.

[3]. Briefly stated, the land owned by the appellants, situated within the revenue estate of Village Phangota, Teeka Kattal, Tehsil Pathankot, District Gurdaspur (now District Pathankot) was sought to be acquired vide notification dated 12.03.1992 issued under Section 4 of the 1894 Act followed by notification dated 27.07.1992, under Section 6 thereof. Thereafter, an award dated 20.04.1994 was passed by the Land Acquisition Collector, Ranjit Sagar Dam Project, Shahpur Kandi (hereinafter to be referred as ‘the LAC’) whereby the compensation was assessed in the following manner:-

<u>“Kind of Land</u>	<u>Area acquired in Kls and Mls.</u>	<u>Rates Awarded</u>
Abbi	44 Kls. 10 Mls.	Rs.24,000/- per acre
Barani Deom	132 Kls. 16 Mls.	Rs.20,000/- per acre”
Barani Soem	6 Kls. 13 Mls.	

[4]. In total, 182 *Kanals* of land was acquired in pursuance of the aforementioned notification(s) for the public purpose namely; Test Fill Experiment in impervious material of the Ranjit Sagar Dam Project at Public expenses.

[5]. Feeling aggrieved thereof, the appellants/landowners filed Reference Petitions under Section 18 of the 1894 Act seeking enhancement of compensation. The Reference Court vide order dated 08.02.1996 determined the market value @ Rs.60,000/- per acre for *Abbi* land and Rs.50,000/- per acre for all kinds of *Barani* land, besides awarding other statutory benefits/interests payable under the 1894 Act. In RFA No.1738 of 1997, the award was passed on 10.03.1997 by the Reference Court in the same manner.

[6]. Still aggrieved, the appellants/landowners preferred the present appeals seeking modification/enhancement of the awards dated 08.02.1996/10.03.1997 passed by the Reference Court, whereas in the appeals filed at the instance of State of Punjab, the prayer was for setting aside of the aforesaid award(s).

[7]. Learned counsel for the appellant(s) while placing reliance upon the decision dated 02.11.2018 passed in **RFA No.1006 of 2010** titled as '**State of Punjab and others vs. Usha Rani (II)** submits that the compensation *qua* this very revenue estate i.e. Village Phangota Teeka Kattal, Tehsil Dhar Kalan, District Gurdaspur, relating to acquisition of land vide Notification dated 06.01.1992/30.01.1992 already stands determined and thus prays for grant of similar amount of compensation in favour of the appellant(s)/landowners, whose land forming part of the same revenue estate i.e. Village Phangota Teeka Kattal, Tehsil Pathankot, District Gurdaspur (now District Pathankot) was later on acquired vide subsequent Notification dated 12.03.1992.

[8]. On the other hand, learned State counsel submits that the enhancement already awarded by the Reference Court was without any basis and

thus he prays that the impugned awards dated 08.02.1996 and 10.03.1997 be set aside and the award passed by the LAC be restored, however learned State counsel has not been able to controvert the factual aspect of the matter that this Court vide detailed decision dated 02.11.2018 passed in **RFA No.1006 of 2010** titled as '**State of Punjab and others vs. Usha Rani (II)** has already assessed the market value of the land falling within the revenue estate of Village Phangota Teeka Kattal, Tehsil Dhar Kalan, District Gurdaspur acquired vide notifications dated 06.01.1992/30.01.1992, in the following manner:-

“(v) For notifications dated 06.01.1992/30.01.1992, landowners’ appeals/cross-objections are allowed and the State appeals are dismissed and the amount per acre is assessed as under:-

<i>(a) All kinds of Barani land:</i>	<i>Rs.90,462/-</i>
<i>(b) Banjar Qadim/Jadid:</i>	<i>Rs.44,000/-</i>
<i>(c) Gair Mumkin Abadi:</i>	<i>Rs.1,60,000/-</i>
<i>(d) Chahi</i>	<i>Rs.1,00,000/-”</i>

[9]. I have heard learned counsel for the parties and gone through the paper book as well as the records of these appeals. I find substance in the submissions made on behalf of the appellants/landowners.

[10]. Vide decision dated 02.11.2018 passed in case of **Usha Rani (II)’s** case (supra) this Court, for all kinds of *Barani* land assessed the compensation @ Rs.90,462/- per acre, whereas for *Chahi* land, it was assessed @ Rs.1,00,000/- per acre. In the present appeals, the nature of land acquired formed part of two categories i.e. *Abbi and Barani Doem*. Regarding *Barani*, there has been a specific determination @ Rs.90,462/- per acre made by this Court vide its decision dated 02.11.2018. For *Abbi* nature of land, the same not forming part of notifications dated 06.01.1992/30.01.1992, the valuable guidance can be drawn by taking into

account the compensation assessed @ Rs.1,00,000/- per acre pertaining to *Chahi* nature of land.

[11]. Undisputedly, as per the Punjab Settlement Manual, 1930, the classes of land in this part of the country have been divided, based on the source of irrigation. Paragraph No.259 of the said Manual being relevant to the facts of the present case is reproduced hereunder:-

“259. Classes of land. — In a country of small rainfall the most important division of land into classes is that founded on the source from which the moisture required for the growth of the crops is derived. Thus land is classified as —

- (a) barani- dependent on rainfall;*
- (b) sailab- flooded or kept permanently moist by rivers;*
- (c) abi-watered by lift from tanks, jhils, or streams. This term is also applicable to land watered from springs ;*
- (d) nahri-irrigated from canals. Where a Government canal and small private canals exist in the same district the land served by the former is sometimes distinguished as shah nahri;*
- (e) chahi-watered from wells. The term is sometimes sketched so as to include irrigation from jhalars erected on the bank of a stream. It is better to describe land dependent on jhalars as jhalari or abi*

The first two classes fall under the general head of unirrigated, and the last three under that of irrigated land.”

From the aforesaid paragraph, it can be discerned that more or less, the land falling under the classification of *Abbi* and *Chahi* are having their own independent source of irrigation. It being tanks, *jhils* or streams, canal or well and thus for the purpose of determination of compensation, *Chahi* and *Abbi* can be treated under the same category and the compensation thus can be determined as per decision dated 02.11.2018 made in case of **Usha Rani (II)’s** case (supra).

[12]. Furthermore, in terms of law laid down by the Hon'ble Apex Court in **Haryana State Industrial Development Corporation vs. Pran Sukh & others, 2010(1) SCC 175**, the State shall also comply with the directions laid down therein to ensure that landowners are not fleeced by the middlemen, which read as under:-

(a) *The Land Acquisition Collector shall depute officers subordinate to him not below the rank of Naib Tahsildar, who shall get in touch with all the land owners and/or their legal representatives and inform them about their entitlement and right to receive enhanced compensation.*

(b) *The concerned officers shall also instruct the land owners and/or their legal representatives to open savings bank account in case they already do not have such account.*

(c) *The bank account numbers of the land owners should be given to the Land Acquisition Collector within three months.*

(d) *The Land Acquisition Collector shall deposit the cheques of compensation in the bank accounts of the land owners.*

[13]. In view of above, considering the fact that the compensation *qua* the land situated within the revenue estate of Village Phangota Teeka Kattal, Tehsil Dhar Kalan, District Gurdaspur (now District Pathankot) relating to notifications dated 06.01.1992 and 30.01.1992 already stands determined @ Rs.90,462/- for all kinds of *Barani* land, the appellants/landowners herein are also held entitled to the same amount of compensation for *Barani Doyam* category and for *Abbi* nature of land the compensation is assessed @ Rs.1,00,000/- per acre besides grant of all other statutory benefits/interest payable under the 1894 Act, while relying upon decision dated 02.11.2018 made in case of **Usha Rani (II)'s** case (supra). Consequently, the appeals filed by the appellants/landowners are allowed and the appeals filed by the State are dismissed.

[14]. All pending applications, if any, shall also stand disposed of.

November 23, 2023

Atik

Whether speaking/reasoned

Whether reportable

(HARKESH MANUJA)

JUDGE

Yes/No

Yes/No