

122-2

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

**RFA No. 22 of 2023 (O&M)
Date of Decision: 18.10.2023**

M/s. New Bharat Brickline Company and others

...Appellants

Versus

The State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Chirag Kundu, Advocate
for the appellants-landowners.

Mr. Shivendra Swaroop, Deputy Advocate General, Haryana

HARKESH MANUJA, J.

CMs-102-103-CI-2023

CM-102-CI-2023 is for condonation of delay of 1183 days in re-filing the appeal, whereas CM-103-CI-2023 for condonation of delay of 315 days in filing the appeal.

Upon notice, no reply has been filed; however, learned State Counsel opposes the prayer made in the applications.

I have heard learned counsel for the parties and gone through the contents of the applications, which have been supported by the affidavits.

Concededly, the other similarly situated landowners pertaining to the same acquisition proceedings have already been held entitled for the modified amount of compensation pertaining to the

acquired land falling in the same revenue estate, i.e. **Village Mawai, Tehsil & District Faridabad**, in view of judgment dated 13/14.07.2021 passed by Hon'ble Supreme Court in **Civil Appeal No. 2903 of 2021**, titled **"Banwari Lal & Anr. Versus State of Haryana & Ors."**.

Based thereupon, applying the principle of parity, besides awarding just and fair compensation and relying upon the decision of Hon'ble Supreme Court in case of **"Ningappa Thotappa Angadi (Dead) through LRs Versus Special Land Acquisition Officer and Another"**, **2020 (19) SCC 599** as well as in view of the contents of applications, the applications are **allowed** and the delay in re-filing & filing the appeal, as mentioned above, is hereby condoned.

MAIN APPEAL

Present appeal has been preferred under Section 54 of the Land Acquisition Act, 1894 (for short "the Act") to modify the award dated 05.01.2016 passed by learned Additional District Judge, Faridabad (hereinafter to be referred as "Reference Court") seeking enhancement of compensation amount.

[2] Briefly, the facts are that in pursuance of Haryana Government Notification under Section 4 of the Act on 14.08.2008, followed by Notification dated 30.08.2008 under Section 6 thereof, the land measuring 16.98 acres, including the land of appellants, situated in **Village Mawai, 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. 2, dated 27.08.2010, assessed the market value

of acquired land @ Rs. 42,00,000/- per acre alongwith other statutory benefits.

[3] Dissatisfied with the aforesaid Award, landowners / interested persons filed objections under Section 18 of the Act, which were decided vide award dated 05.01.2016 by learned Reference Court, whereby the market value of the acquired land was assessed @ Rs. 2000/- per square yard besides granting statutory benefits, in view of judgment dated 16.09.2015 passed by this Court in ***RFA-7108-2012***, titled ***“Rampal and others Versus Land Acquisition Collector and another”***

[4] Later on, some other landowners challenged the judgment dated 16.09.2015 passed in ***Ram Pal’s case (supra)*** before the Hon’ble Supreme Court, which came to be set aside on 06.12.2017 in ***Civil Appeal No(s) 21014-21016 of 2017***, titled ***“Premwati & Ors. Versus State of Haryana & Anr.”***, thereby remanding the matter back for fresh adjudication.

[5] Again the matter was decided by Single Bench of this Court vide judgment dated 31.05.2019 in ***Ram Pal’s case (supra)***, whereby the market value with regard to the notification dated 14.08.2008 for the land falling within the limits of Municipal Corporation, Fardiabad of Villages Budhena, Baselwa and **Mawai**, was fixed @ Rs. 3,300/- per square yard (Rs.1,59,72,000/- per acre), while for the other land of the said villages, the market value was fixed @ Rs.2970/- per square yard (Rs.1,43,74,800/- 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 appellants that present appeal is squarely covered with the judgment of **Banwari Lal’s case (supra)**, arising out of the same notification vide which the land of appellants had been acquired.

[8] Learned State Counsel is not in a position to controvert the afore-stated factual aspect that the main appeal is covered in terms of judgment of **Banwari Lal’s case (supra)**; however, opposes payment of interest for the period, the appellants failed to approach this Court after the decision of Reference Court.

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

[10] Concededly, the present appeal is squarely covered with the judgment of **Banwari Lal’s case (supra)**, which is arising out of the same acquisition / Notification dated 14.08.2008 covering the same revenue estate i.e. **Village Mawai, Tehsil & District Faridabad**, whereby the landowners have been held entitled for the modified amount of compensation @ Rs. 2000/- 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. 40 to 42) read as under:-

“ Village : Mawai

Heard Dr. Monika Gusain, learned counsel for the State of Haryana and Mr. Sanchar Anand, and Mr. Kulbhushan Sharma, learned counsel appearing for the claimants-landowners.

Reverting to the lands situated in village Mawai, covered under the third notification dated 14.08.2008, in all, 10 sale instances have been relied upon by the parties.

The High Court discarded those sale instances and then went on to determine the market price of the lands in question at Rs.3300/- per sq.yd. and Rs.2970/- per sq.yd., on the analogy of applying market price of the lands in the neighbouring villages.

After hearing the counsel appearing for the respective parties, in our opinion, the High Court has not given tangible reason to discard the market price indicated in the 10 sale instances, which were relied upon by the claimants themselves.

The consideration amount mentioned in all the 10 sale instances executed at different point of time after the third notification is mentioned at Rs.2500/- per sq.yd.

The claimants having relied upon those sale instances, ought to be reckoned for determining the market price of land situated at village Mawai covered under the third notification. We hold that the High Court has committed error in applying the principle stated in Charandas (Dead) By LRs versus HP Housing and Urban Development Authority and Others, reported in (2010) 13 SCC 398, which has no application when the claimants themselves come forward with the sale instances in support of their claim stating that they should get market price at the rate of Rs.2500/- per sq.yd.

*It is not the case of the claimants that the sale instances are not registered sale deeds as such. Hence, taking note of those sale deeds, we **determine the market price for the lands situated at village Mawai, covered under the third notification at Rs.2500/- per sq.yd. minus 20% towards development charges. That works out to Rs.2000/- (Rupees two thousand only) per sq.yd. (i.e., Rs.2500/- minus Rs.500/-) payable to the claimants, in addition to the other benefits including the statutory benefits awarded by the High Court. The award shall stand modified to that extent for the Village Mawai.***

Accordingly, the appeals filed by the State as well as by the claimants are disposed of in the above terms. ”

[10.1] 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 others vide judgment dated 13/14.07.2021 in case of **Banwari Lal (supra)**, alongwith all other statutory benefits and interest thereupon as provided under the Act, except interest for the period the appellants did not approach this Court after passing of Reference Court's Award.

[11] **Disposed off** in the above terms.
Pending application(s), if any, shall stand(s) disposed off.

October 18, 2023 (**HARKESH MANUJA**)
'dk kamra' JUDGE

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