

277 (2 cases)

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

(1) **RFA No. 2514 of 2021 (O&M)**
Date of Decision: 08.08.2023

Kuldeep Singh and others
...Appellants

Versus

State of Haryana and others
...Respondents

(2) **RFA No. 2515 of 2021 (O&M)**

Nawab Singh
...Appellant

Versus

State of Haryana and others
...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Abhimanyu Singh, Advocate
for the applicant(s)-appellant(s) (in both cases).

Mr. Shivendra Swaroop, Deputy Advocate General, Haryana

Mr. Pritam Singh Saini, Advocate
for respondent-HSIIDC.

HARKESH MANUJA, J. (ORAL)

CM-5706-CI-2021 in RFA-2515-2021

Application is **allowed**, as prayed for, subject to all just exceptions.

Exemption from filing the certified copy of impugned award dated 19.01.2011 passed by learned Additional District Judge, Sonapat, is granted.

CM-5705-CI-2021 in RFA-2514-2021;
CM-5707-CI-2021 in RFA-2515-2021

Prayer in the present applications under Section 151 CPC, are for condonation of delay of 3252 & 3253 days in filing the respective appeals.

Upon notice in CM-5705-CI of 2021, reply on behalf of respondent-HSIIDC has been filed.

Learned State Counsel as well as counsel for respondent-HSIIDC oppose the prayer made in the present applications.

I have heard learned counsel for the parties and gone through the contents of the applications, which have been supported by affidavit(s) of the applicant(s)-appellant(s).

Concededly, the other similarly situated landowners pertaining to the same acquisition proceedings have already been held entitled for the enhanced amount of compensation pertaining to the acquired land falling in same revenue estate, i.e. Village Chhatera Bahadur, Tehsil & District Sonapat, to the tune of Rs. 17 lakhs per acre, besides grant of 50% severance on the market value on account of statutory restrictions and on account of the Expressway cutting through the land, in view of judgment dated 05.07.2019 passed in ***RFA-4101-2008***, titled ***“HSIDC (now Haryana State Industrial & Infrastructure Development Corporation) Versus Rajesh Kumar-II and others”***.

Based thereupon, applying the principles of parity, besides awarding of 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 same are **allowed** and delay of 3252 & 3253 days in filing the respective appeals are hereby condoned.

MAIN APPEAL(S)

This order shall dispose off present two appeals bearing RFA Nos. 2514 & 2515 of 2021, as the same arise out of common acquisition / award.

[2] Present appeals preferred under Section 54 of the Land Acquisition Act, 1894 (for short “the Act”) to modify the impugned award dated 19.01.2011 passed by learned Additional District Judge, Sonipat (hereinafter to be referred as “Reference Court”) and are for enhancement of the compensation.

[3] In pursuance of Haryana Govt. Notification dated 27.08.2004 issued under Section 4 of the Act, followed by Notification dated 03.09.2004 under Section 6 thereof, the land measuring 32 acres 5 kanals 8 marlas situated in **Village Chhatera Bahadur Hadbast No. 229, Tehsil & District Sonapat**, including the land of appellants, was acquired. The public purpose for acquisition of land was stated to be for construction and development of Express Highway known as the Kundli-Manesar-Palwal Highway (KMP) connecting National Highway No. 1 in District Sonapat.

[4] The Land Acquisition Collector, Sonapat (for short “LAC”), assessed the market value of acquired land @ Rs. 12.50 lakhs per acre alongwith statutory benefits.

[5] Dissatisfied with the aforesaid Award, landowners / interested persons filed objections under Section 18 of the Act, which was decided vide award dated 19.01.2011 by learned Reference Court, whereby the market value of the acquired land assessed @ Rs. 12.50 lakhs per acre by LAC, was upheld. Aggrieved thereof, the appellant(s) preferred the present appeal(s).

[6] It is contended by learned counsel for the appellant(s) that present appeals are squarely covered with the judgment dated 05.07.2019 passed in **RFA-4101-2008**, titled **“HSIDC (now Haryana State Industrial & Infrastructure Development Corporation) Versus Rajesh Kumar-II and others”**, arising out of the same notification, vide which the land of appellant(s) had been acquired.

[7] Learned State Counsel as well counsel for respondent-HSIIDC are not in a position to controvert the above factual position; however, oppose the payment of interest for the period, the appellant(s) failed to approach this Court after the decision of Reference Court.

[8] After hearing learned counsel for the parties and gone through the records, I find substance in the submissions made on behalf of the appellant(s).

[9] It is not in dispute that present appeals are squarely covered with the judgment dated 05.07.2019 passed in case of **Rajesh Kumar-II & others (supra)**, which is arising out of the same acquisition / Notification dated 27.08.2004 covering the same revenue estate i.e. **Village Chhatera Bahadur, Hadbast No. 229, Tehsil & District Sonapat**, whereby the landowners have been held entitled

for the enhanced amount of compensation @ Rs. 17 lakhs per acre.

For reference, the relevant para-189 of judgment dated 05.07.2019 (*supra*) reads as under:-

“ 189. Keeping in view the above, the market value alongwith all statutory benefits is fixed as under:-

- (i) For the first notification dated 13.08.2004, for the land falling in Villages Badh Malik and Pritampura, the market value would be Rs.21,00,000/- per acre. For Jatheri and Akbarpur Barota, Rs.19,00,000/-. For the lands of Villages Abaspur and Chattera Bahadur, acquired by second notification dated 27.08.2004, the market value would work out to Rs.17,00,000/-. The landowners would also be entitled to 50% severance on the market value on account of the statutory restrictions imposed on the balance land and the expressway making the other portion of the land non-viable for cultivation on account of denial of access. However, the benefit of solatium and interest element under Section 23 (1-A) and Section 23(2) would not be payable on the amount of severance.**
- (ii) For the third notification dated 30.06.2005, for Villages Badh Malik, Pritampura and Rasoi, uniform compensation @ Rs.29,54,000/- per acre along with all statutory benefits, is granted.**
- (iii) For the fourth notification dated 16.11.2005, for Villages Rasoi, Rs.52,80,000/- per acre along with all statutory benefits, is granted.**
- (iv) For the fifth notification dated 17.11.2005, for the land falling upto the depth of 2 acres (440 feet) of the National Highway, market value is assessed @ Rs.38,50,000. For the other land falling in Villages Badh Khalsa, Firozpur Khadar, Abaspur, Badh Malik and Patla, the market value is assessed @ Rs.35,00,000/- along with all statutory benefits. For**

Villages Jakholi, Sewli, Khewda and Bahalgarh, the market value is assessed @ Rs.31,50,000/- per acre along with all statutory benefits.

- (v) For the sixth notification dated 28.03.2006, for Villages Jatheri, Rs.35,00,000/- per acre is granted along with all statutory benefits.*
- (vi) For the seventh notification dated 22.06.2006 for Villages Badh Malik, Pritampura, Jatheri, Liwan, Rai and Badh Khalsa, Rs.42,30,000/- per acre is granted upto the depth of 2 acres (440 feet) and for the balance land, market value is assessed @ Rs.40,50,000/- per acre, along with all statutory benefits.*
- (vii) For the eighth notification dated 05.03.2007, for Villages Badh Malik, Pritampura and Rasoi, the market value is assessed @ Rs.45,00,000/- per acre along with all statutory benefits.*
- (viii) Resultantly, the appeals alongwith cross-objections filed by both the landowners and the State are disposed of. In appeals where delay has been condoned conditionally, the benefit of interest on the enhanced compensation for the period of delay in filing the appeals shall not be granted to the landowners, as specified in the orders condoning the delay. All the pending civil miscellaneous applications also stand disposed of.*
- (ix) The State shall also comply with the directions laid down by the Apex Court in 'HSIIDC Vs. Pran Sukh' (2010) 11 SCC 175, to ensure that the landowners are not fleeced by the middleman, 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. ”

[9.1] Based upon the above, applying the principle of parity, 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 05.07.2019 in case of **Rajesh Kumar-II & others (supra)**, besides 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.

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

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

August 08, 2023

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**(HARKESH MANUJA)
JUDGE**

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