

256 (11th, 12th & 13th cases)

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

(1)

**RFA No. 2419 of 2021 (O&M)
Date of Decision: 05.10.2023**

M/s. BPTP Parklands Pride Limited, New Delhi

...Appellant

Versus

State of Haryana and others

...Respondents

(2)

RFA No. 2426 of 2021 (O&M)

M/s. BPTP Parklands Pride Limited, New Delhi

...Appellant

Versus

State of Haryana and others

...Respondents

(3)

RFA No. 2418 of 2021 (O&M)

M/s. BPTP Parklands Pride Limited, New Delhi

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Adarsh Jain, Advocate
for the appellant(s)-landowner(s) (in all cases).

Mr. Abhinash Jain, Deputy Advocate General, Haryana

HARKESH MANUJA, J.

CM-5619-CI-2021 in RFA-2419-2021;

CM-5629-CI-2021 in RFA-2426-2021;

CM-5620-CI-2021 in RFA-2418-2021

Present three applications bearing (i) CM-5619-CI-2021; (ii) CM-5629-CI-2021 are for condonation of delay of 1580 days in filing the respective appeals; and (iii) CM-5620-CI-2021 for condonation of 2266 days' delay in filing the appeal.

Upon notice, no reply has been filed; however, learned State Counsel vehemently 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 duly supported by the affidavit(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 the same revenue estate, i.e. ***Village Neemka, Tehsil & District Faridabad***, to the tune of Rs. 2186/- per square yard, 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 prayer is **allowed** and delay in filing the respective appeals, which, to some extent can be attributed to the COVID-19 situation, is hereby condoned, subject to denial of interest for the period of delay in filing the respective appeals.

MAIN APPEAL(S)

This order shall dispose off present three (03) appeals bearing RFA Nos. 2419, 2426 & 2418 of 2021, as the same arise out of common acquisition / award.

[2] The appellant(s) / landowner(s), by instituting the present appeals preferred under Section 54 of the Land Acquisition Act, 1894 (for short “the Act”), are seeking modification of the awards dated 13.08.2015 & 27.09.2013 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 07.02.2008, followed by Notification dated 06.02.2009 under Section 6 thereof, the land measuring 53.17 acres, including the land of appellant(s), situated in the revenue estate of Village **Neemka**, Tehsil & District Faridabad, was acquired. The public purpose for acquisition of the land was stated to be Development & Utilization of land for residential and commercial purposes in Sectors 76, 77 & 78, Faridabad. The Land Acquisition Collector, Faridabad (for short “LAC”), vide Award No. 28, dated 04.02.2011, 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 awards dated 13.08.2015 & 27.09.2013 by Reference Court, whereby the market value of the acquired land was enhanced / assessed @ Rs. 1,052/- per square yard, besides granting statutory benefits.

[5] It is pertinent to mention here that the matters pertaining to the enhancement were remanded by the 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 in the first round by a Coordinate Bench of this Court on 16.09.2015 in ***'Rampal and others Versus Land Acquisition Collector and another', 2016 (1) RCR (Civil) 494***. Thereafter, the matter was again decided by learned Single Bench of this Court vide judgment dated 31.05.2019 in ***Ram Pal's case (supra)*** and the market value for the acquired land with regard to the notification dated 07.02.2008 pertaining to Villages Fajjupur Majra Neemka, **Neemka**, Faridpur, was fixed @ Rs.1410/- per square yard (Rs.68,24,400/- 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, i.e. 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 appellant(s) was acquired.

[8] Learned State Counsel is not in a position to controvert the said factual aspect that the determination of compensation in case of judgment of **Banwari Lal's case (supra)** pertains to the same acquisition proceedings; 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] 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 07.02.2008 covering the same revenue estate i.e. **Village Neemka, Tehsil & District Faridabad**, whereby the landowners have been held entitled for the enhanced amount of compensation @ Rs. 2186/- 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. 28 to 30) read as under:-

“ Village : Neemka

Heard Dr. Monika Gusain, learned counsel for the State of Haryana and Mr. Rana Mukherjee, learned senior counsel appearing for the claimants-landowners.

Coming to lands situated in Village Neemka, referred to in the second notification, the High Court has determined fair market price at Rs.1410/- per sq.yd.

At least, eight sale instances have been relied upon by the parties. Out of the eight sale instances, we find that the market rate of Rs.2542/- per sq. yd. has been mentioned in the

sale instance dated 19.03.2007, which had been executed much before the draft proposal was circulated and the date of second notification.

The other sale instances, however, are for relatively lower price and executed in 2006, between Rs.1922/- and Rs.2272/- per sq.yd. There is one sale instance dated 05.09.2008 for Rs.3099/- per sq.yd., however, that is executed after the second notification was issued. Hence, even that sale instance need not be reckoned for determining fair market price on the date of second notification.

In other words, reliance can be safely placed on sale instance Exhibit P-22 dated 19.03.2007, mentioning the market price at Rs.2542/- per sq.yd. concerning 105 Kanals 15 Marlas of land. Taking that as the base price, increase at the rate of 7.5% per annum needs to be granted considering the fact that there is a gap of almost one year between the sale instance and the second notification and thereafter, a deduction of 20% towards development charges. Thus, the fair market price of lands in question in Village Neemka covered under second notification ought to be taken at Rs.2186/- per sq.yd.

Accordingly, we modify the award to the extent of providing fair market price of land situated in Village Neemka at Rs.2186/- (Rupees two thousand one hundred eighty-six only) per sq.yd. (i.e., Rs.2542/- plus Rs.191/- minus Rs.547/-).

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

[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 other landowners 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 payment of interest for the period the appellants / landowners 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 also stand(s) disposed off.

October 05, 2023

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**(HARKESH MANUJA)
JUDGE**

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