

CM No. 380-CI of 2023 in/and
RFA No. 3335 of 2014 (O&M)

Neutral Citation No. 2023:PHHC:125546

235-2

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

**CM No. 380-CI of 2023 in/and
RFA No. 3335 of 2014 (O&M)
Date of Decision: 22.09.2023**

Des Raj and others

...Appellants

Versus

Land Acquisition Collector, Faridabad and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ram Bilas Gupta, Advocate
for the applicants-appellants / landowners.

Mr. Shivendra Swaroop, Deputy Advocate General, Haryana
for respondent Nos. 1 & 2.

HARKESH MANUJA, J.

The appellants-landowners, by instituting the present appeal preferred under Section 54 of the Land Acquisition Act, 1894 (for short “the Act”), are seeking modification of the award dated 11.07.2013 passed by learned Additional District Judge, Faridabad (hereinafter to be referred as “Reference Court”) for enhancement of compensation amount.

[2] 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 69.46 acres, including the land of appellants, situated in the revenue estate of Village **Fajipur Majra Neemka**, Tehsil & District Faridabad, was acquired. The

public purpose for acquisition of the land was stated to be development and utilization of land for Master Plan Roads of Sectors 75 to 89, Faridabad. The Land Acquisition Collector, Urban Estate, Faridabad, Haryana (for short "LAC"), vide Award No. 11, 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 11.07.2013 by Reference Court, whereby the market value of the acquired land was enhanced / assessed @ Rs. 1118/- per square yard besides granting statutory benefits.

[4] Aggrieved thereof, the landowners preferred the present appeal, which was disposed off by this Court in terms of judgment dated 16.09.2015 passed in ***RFA-7108-2012***, titled "***Rampal and others Versus Land Acquisition Collector and another***", thereby awarding compensation @ Rs. 1870/- per square yard for the land which falls outside of the municipal limits and Rs. 2000/- per square yard for the land situated within the municipal limits. Later on, some other landowners challenged the judgment 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 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, Riwaypur 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] Now, by way of present application bearing **CM No. 380-CI of 2023** moved on behalf of the applicants-appellants / landowners, who did not approach the Hon'ble Apex Court, prayer has been made for disposal of the main appeal in terms of judgment dated 14.07.2021 rendered by the Hon'ble Supreme Court in ***Banwari Lal's case (supra)***.

[8] It is contended by learned counsel for the applicants-appellants / landowners 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 applicants-appellants had been acquired.

[9] Upon notice of the application, no reply has been filed; however, learned State Counsel is not in a position to dispute the afore-stated factual position about judgment dated 14.07.2021 passed in ***Banwari Lal's case (supra)***; but opposes the payment of interest for the period, the applicants-appellants failed to approach this Court after the decision of Reference Court.

[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 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 Fajjupur Majra Neemka, Tehsil & District Faridabad**, whereby the landowners have been held entitled for the enhanced amount of compensation @ Rs. 2509/- 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. 55 to 57) read as under:-

“ Village : Fajjupur Majra Neemka

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

As regards the lands situated at village Fajjupur Majra Neemka, covered under the third notification dated 14.08.2008, the High Court has awarded Rs.1760/- per sq.yd. as the fair market price.

The claimants have relied on five sale instances executed between May 2006 until May 2008. In our opinion, the thumb rule of mean can be applied, for determining the fair market price of the lands in question. For determining the mean of the five sale instances, we reckon the consideration amount noted therein as follows: -

- (i) dated 10.05.2006 for Rs.1404/- per sq.yd.,*
- (ii) dated 16.05.2006 for Rs.2892/- per sq.yd.,*
- (iii) dated 03.08.2006 for Rs.2685/- per sq.yd.,*
- (iv) dated 08.08.2006 for Rs.2727/- per sq.yd.; and*
- (v) dated 16.05.2008 for Rs.1653/- per sq.yd.*

The mean amount would come to Rs.2272/-. It needs to be underscored that lands in village Fajjupur Majra

Neemka were also covered under the second notification (dated 07.02.2008). In reference to the sale instances relied upon therein, after applying the thumb rule of mean, the amount has been worked out as Rs.2727/- per sq.yd., as can be seen from the earlier part of this order.

Accordingly, we deem it appropriate to apply the same rate to the lands situated in the same village covered under the third notification (dated 14.08.2008), which had been issued only six months after the second notification (dated 07.02.2008).

Thus, applying the same rate to the lands situated in village Fajjupur Majra Neemka covered under the third notification including the computation of fair market price determined in respect of the lands covered under the second notification of the same village, **the fair market price of lands covered under the third notification is also fixed at Rs.2509/- (Rupees two thousand five hundred nine only) per sq.yd.**

The award stands modified to this limited extent while retaining the other benefits including statutory benefits granted to the claimants in respect of the subject lands.

Hence the appeal(s) filed by the State stand dismissed, whereas filed by the claimant(s) are partly allowed in the above terms. ”

[11.1] Further, in terms of decision dated 13.11.2021 passed in **Civil Appeal No. 6827-6828 of 2021**, titled **“Rakesh Kumar Versus State of Haryana and another”** (Diary No. 23358 of 2021), the appellants-landowners shall not be entitled for interest on the enhanced amount of compensation for the period from 90th day of judgment dated 16.09.2015 (*supra*) passed in the main appeal, till the filing of their application bearing CM No. 380-CI of 2023, i.e. 06.02.2023.

[11.2] Based upon the above, applying the principle of parity, besides award of just and fair compensation, the landowners / appellants

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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 from 90th day of judgment dated 16.09.2015 (*supra*), till the filing of aforesaid application.

[12] In view of the above discussion, present application is **allowed**; the earlier order dated 16.09.2015 is recalled; the main **appeal** is taken on board today itself and **disposed off** in the above terms.

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

September 22, 2023

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(HARKESH MANUJA)
JUDGE

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