

**258-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision: 14.11.2023

1. RFA-2398-2017

DINA NATH(DECEASED) THROUGH HIS LEGAL HEIRS

...APPELLANTS

V/S

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

2. RFA-2558-2017

JASWANT SINGH (DECEASED) THROUGH HIS LEGAL HEIRS

... APPELLANTS

V/S

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

3. RFA-2559-2017

PURAN CHAND AND OTHERS

... APPELLANTS

V/S

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

4. RFA-2562-2017

MUNSHI RAM

... APPELLANT

V/S

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

5. **RFA-4895-2017**

BASANT SINGH

... APPELLANT

V/S

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. R.S. Manhas, Advocate for the appellant(s).

Mr. Navneet Singh Kaliraman, Sr. DAG, Punjab.

Vide this judgment, the abovementioned five appeals are being disposed of as the same involve common points of law and facts. For convenience facts are taken from RFA No.2398 of 2017.

2. Briefly stating, the land owned by the appellants, situated in Village Kamwal, Tehsil & District Pathankot was sought to be acquired vide notification dated 16.12.1993 issued under Section 4 of Land Acquisition Act, 1894 (hereinafter referred to as 1894 Act) followed by notification dated 31.03.1994, issued under Section 6 thereof. At the time of acquisition of land, certain fruit bearing trees as well as non-bearing trees existed over the same and a separate award No.12 dated 09.05.1996 was passed by the Land Acquisition Collector in exercise of its power under Section 11 of the 1894 Act, in this regard.

3. Being dissatisfied, the appellants-landowners filed reference seeking enhancement of compensation by invoking Section 18 of the 1894 Act. The aforementioned reference petition came to be dismissed vide judgment dated 28.11.2016 under the orders of Reference Court-cum-Addl. District Judge, Gurdaspur.

4. By way of present appeal, impugning the same, learned counsel for the appellants submits that the assessment of market value for the fruit bearing as well as the non-fruit bearing trees was made by the Land Acquisition Collector having relied upon formula dated 15.05.1985 prepared by Dr. G.S. Nijjer, Director of Horticulture, Government of Punjab, Chandigarh. Learned counsel also submits that the acquisition proceedings in the present case was initiated vide notification dated 16.12.1993 and thus the assessment of compensation should have been carried out by giving appropriate increase between May 1985 to December, 1993, by relying upon

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the price index prevailing at that point in time. In support, learned counsel for the appellants places reliance upon decision dated 02.08.2012 passed in RFA-3478-1992 in case of ***“Kartar Singh and Karnail Singh sons of Shri Kesar Singh son of Shri Kesar Singh successor in interest of late Shri Kesar, both residents of Village Hardosaran, Tehsil Pathankot Vs. Punjab State through Collector Gurdaspur and Others”***.

5. On the other hand, learned State counsel submits that the assessment of market value as regards the trees was carried out by the Land Acquisition Collector having relied upon the formula dated 15.05.1985 and the time gap between the date of formula and the notification was not much, thus the appellants were not entitled for any appreciation.

6. I have heard learned counsel for the parties and gone through the paperbook. I find substance in the submissions made on behalf of the appellants.

7. Acquisition in the present case was carried out vide notification dated 16.12.1993 issued under Section 4 of the 1894 Act and the assessment of compensation was made on the basis of formula dated 15.05.1985 whereas, undisputedly between 1985-1993 there had been appropriate increase in the price index which had gone from 127 points to 272 points thereby making increase of 145 per cent over the price assessed by Dr. G.S. Nijjer in its formula dated 15.05.1985. The aforementioned increase has even been approved by this Court vide decision dated 02.08.2012 passed in RFA-3478-1992 i.e. in case of Kartar Singh (Supra). Relevant para thereof is reproduced hereunder:-

“The appeal is for enhancement of compensation for value of the trees which were lost to the owner by the acquisition of land. The grievance expressed is that the Reference Court had accepted the valuation of the trees made as per the formula called 'Dr. Nijjar's formula' for

assessing the trees for the year 1985. The learned counsel for the appellants would argue that in Punjab Small Industries and Export Corporation Limited Versus Zail Singh in RFA No.1907 of 2002, decided on 28.09.2010, this Court had factored the increase for assessment of value of trees for the subsequent years by taking note of the increase in price index. In this case, the learned counsel argues that as against the valuation made as per Dr. Nijjar's formula of the year 1985, the price index had gone from 127 points to 150 points in 1987. This, according to him, would mean an increase of 23% over the price assessed by the application of Dr. Nijjar's formula.

2. I adopt the valuation and would provide for 23% increase on the valuation made as per the application of Dr. Nijjar's formula.....”

8. This Court, even in case of ***Union of India and another versus Pritam Singh, 2004(4) RCR 5***, under similar facts, has upheld the increase based on difference of the wholesale price index.

9. Accordingly, in view of the discussion made hereinabove, the impugned award dated 28.11.2016, passed by the Reference Court is set aside and the present appeal is allowed to the extent that the appellant(s)-landowners shall be entitled for increase of 145% over and above the amount assessed by the Collector vide its award dated 27.02.1987 towards compensation for the fruit bearing as well as non-fruit bearing trees besides all other statutory benefits provided and admissible under the 1894 Act.

November 14, 2023
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(HARKESH MANUJA)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |