

257(12 cases) **IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

DECIDED ON:-22.09.2023

1. RFA-2928-2018

Suresh Chander (since deceased) thr. his LR.
vs.
State of Haryana and others

...Appellants..

...Respondents.

2. RFA-1849-2018

Nirmal Devi and others
vs.
State of Haryana and others

....Appellants..

....Respondents..

3. RFA-1881-2018

Babli
vs
State of Haryana and others

...Appellant

...Respondents

4. RFA-2078-2018

Ganga Ram
vs
State of Haryana and others

...Appellant

...Respondents

5. RFA-2329-2018

Vedwati and others
vs
State of Haryana and others

...Appellants

...Respondents

6. RFA-2330-2018

Sajjan Singh
vs
State of Haryana and others

...Appellant

...Respondents

7. RFA-2331-2018

Rajwanti and others
Vs
...Appellants

RFA-2928-2018 and connected matters

State of Haryana and others ...Respondents

8. RFA-2332-2018

Ram Singh (since deceased) thr. Lrs. and others ...Appellants
vs

State of Haryana and others ...Respondents

9. RFA-2669-2018

Pahlad Singh and others ...Appellants
vs

State of Haryana and others ...Respondents

10. RFA-3503-2018 (O&M)

Rajender Parsad ...Appellant
vs

State of Haryana and others ...Respondents

11. RFA-4151-2018

Baljeet Singh and another ...Appellants
vs

State of Haryana and others ...Respondents

12. RFA-5107-2018

Dharambir Singh and others ...Appellants
vs

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. S.P. Chahar, Advocate,
for the appellants(in RFA-2329, 1881, 2330, 2331, 2332-2018).

Mr. Lovepreet Singh, Advocate for
Mr. Sanjeev Kodan, Advocate,
for the appellants (in RFA-2928-2018).

Mr. R.K. Girdhwal, Advocate,
for the appellant(s) (in RFA-2078-2018).

Mr. Arun Yadav, Advocate,
for the appellants (in RFA-1849-2018).

Mr. Sankalp, Advocate for Mr. Saurabh Dalal, Advocate,
for the appellant (in RFA-2669-2018).

Mr. Vikas Rana, Advocate for Mr. Ravinder Rana, Advocate,
for the appellant(in RFA-3503 & 5107 of 2018).

Mr. Roopak Bansal, Advocate,
for the appellant (RFA-4151-2018).

Mr. Shivendra Swaroop, DAG, Haryana.

HARKESH MANUJA J. (Oral)

CM-8584-CI-2019 in RFA-3503-2018

Prayer in this application is for condonation of delay of 569 days in filing the appeal.

Having gone through the contents of the application duly supported by an affidavit as well as reply, sufficient cause has been made out for the purpose of condoning the delay of 569 days in filing the appeal. Accordingly, application is allowed and delay of 569 days in filing the appeal is condoned.

Main appeals

1. This judgment shall dispose of, aforementioned 12 appeals which involve similar facts and controversy. For reference, facts are taken from RFA-2928-2018.
2. By way of present appeal, challenge has been laid to an award dated 13.11.2017 passed by the reference Court, whereby reference petition filed under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as “1894 Act”) at the instance of appellants-landowners was partly allowed and the compensation against the acquired land stood enhanced from Rs.39,00,000/- per acre to Rs.55,23,148/- per acre, besides all other statutory benefits.

3. Briefly stating, land owned by the appellants, situated in the revenue estate of Village Jhajjar came to be acquired for the purpose of construction of new Bus Stand Jhajjar, vide notifications dated 23.08.2012 and 07.05.2013, issued under Sections 4 and 6, respectively, of the 1894 Act, followed by an award dated 29.05.2014 passed by the Land Acquisition Collector, in exercise of its powers under Section 11 of the 1894 Act, thereby, making assessment of compensation @ Rs.39,00,000/- per acre besides other benefits.

4. Being dissatisfied, the appellants-landowners filed reference petition under Section 18 of the 1894 Act, seeking enhancement of compensation.

5. Upon notice, respondents supported the determination of compensation as assessed vide award dated 29.05.2014 and contested the claim made for enhancement at the instance of appellants-landowners.

6. Thereafter, issues were framed and parties were granted opportunity to lead evidence their respective evidence. Upon consideration of the material available on records, the reference Court vide its award dated 13.11.2017, determined the compensation @ Rs.55,23,148/- per acre as on 23.08.2012 i.e. the date of another notification issued under Section 4(1) of the 1894 Act, besides holding the appellants-landowners to be entitled for other statutory benefits provided under Sections 23 (1)(a), 23(2) as well as 28, thereof while granting solatium @ 30%.

7. Still aggrieved, the appellants-landowners filed present appeal for seeking further enhancement. Though in grounds of appeal, various pleas were taken to claim enhancement of market value of the land, however

during arguments, learned counsel for the appellants-landowners on instructions restricted their claim in the present appeal(s) only to the extent of seeking solatium @ 100% while relying upon Section 30 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “2013 Act”) while submitting that the award in the present acquisition proceedings was made on 29.05.2014 i.e. after coming into operation of 2013 Act w.e.f. 01.01.2014 and thus the provisions of 2013 Act were to be made applicable relating to determination of compensation as envisaged under clause (a) to sub-Section 1 to Section 24 of 2013 Act. He further submits that though the entire award was required to be passed under the provisions of 2013 Act, however, the appellants having approached the reference Court invoking Section 18 of the 1894 Act and having led their evidence, followed by determination made thereupon by the reference Court, it would be disadvantageous at this stage, in case, the matter is now remanded back to the reference Court for the determination of compensation afresh in accordance with the provisions of 2013 Act. Drawing attention of the Court towards the fact that in that scenario of sending the matter back to the reference Court, unnecessary procedural difficulties would be faced by the appellants-landowners which would further delay the disbursement of the valid claim of the appellants-landowners and would also burden the State Exchequer of huge liability towards interest, learned counsel thus, restricts his claim only with regard to the award of 100% solatium in terms of Section 30 of 2013 Act on the amount of market value already assessed vide award dated 13.11.2017, passed by the reference Court. Section 24 (1)(a)

and Section 30(1) are reproduced hereunder for reference:-

“Section 24(1(a):- Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.

(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply;”

Section 30(1): Award of solatium

(1) The Collector having determined the total compensation to be paid, shall, to arrive at the final award, impose a “Solatium” amount equivalent to one hundred per cent of the compensation amount.

8. On the other hand, prayer made herein-above has been vehemently opposed by learned State counsel while relying upon decision dated 19.04.2022 passed by this Court in RFA No. 309 of 2021 (and connected cases) titled as ***“State of Haryana vs. Rajbir”*** and submits that once no award was passed in the present case till 01.01.2014, the provisions of 2013 Act were required to be followed for the purpose of determination of compensation in terms of Section 24 (1)(a) of 2013 Act and the award was liable to be set aside while remanding the matter to the reference Court, so as to redetermine the amount of compensation by following the provisions of Section 26 of 2013 Act.

9. As regards the award of solatium @ 100% in terms of Section 30 of 2013 Act, learned State counsel has not been able to put forth any serious opposition.

10. I have heard learned counsel for the parties and gone through the paper book.

11. At the outset, it may be relevant to point out here that the appeals filed at the instance of respondent-State, challenging the award passed by the reference Court pertaining to this very acquisition proceedings already stand dismissed by this Court vide its judgment dated 09.05.2018 passed in RFA-1946 of 2018 (O&M) (and other connected cases), titled as ***“State of Haryana and others vs. Dharambir Singh and others”***. No details of any further challenge to the aforementioned judgment has been brought to the notice of this Court, thereby resulting into finality of the assessment of compensation made by the reference Court in its award dated 13.11.2017 against the respondents-State. Relevant portion of para from the decision dated 09.05.2018 passed by this Court is reproduced hereunder:-

“Resultantly, no ground is made out to interfere in the well reasoned award and the appeals are dismissed.

It is made clear that nothing said herein will affect the rights of the landowners in their set of appeals as that aspect has not been taken into consideration by this Court while dismissing the present appeals filed by the State.”

12. Moreover, the appellants-landowners though having claimed enhancement of compensation in the prayer clause of the grounds of appeal through their counsels have restricted their claim only with regard to enhancement of solatium from 30% to 100% as envisaged under Section 30 of 2013 Act and have not agitated the issue of enhancement of compensation/market value. The claim made by the appellants-landowners as regards 100% solatium, relying upon Section 30 of 2013 Act is clearly

made out as the award in the present case has been passed on 29.05.2014 i.e. post applicability of 2013 Act (w.e.f. 01.01.2014) and thus, for the purpose of determination of compensation, the provision of 2013 Act were to be made applicable as envisaged under clause (a) to sub-Section 1 of Section 24 of 2013 Act.

13. Though, learned State counsel appears to be justified having placed reliance upon decision dated 19.04.2022 passed in *Rajbir's* case (supra) and the connected matters to contend that the case in hand was required to be remanded to the reference Court for determination of compensation in terms of Section 24 (1) (a) of the 2013 Act, however, in the peculiar facts and circumstances of the present case, wherein the appellants-landowners have not agitated the issue of market value/compensation and even about the award dated 29.05.2014 passed by the Collector, but, have restricted their claim merely with regard to the enhancement of solatium from 30% to 100%, as per the statutory mandate of Section 30(1) of 2013 Act, the remand at this stage in the present facts may not be justified. Above all, it would delay the determination as well as disbursement of compensation in favour of appellants-landowners unnecessarily to large extent which would even otherwise burden the State Exchequer to a large extent about payment of needless and unwarranted huge statutory interest for no justified reasons.

14. Additionally, in the circumstance when appellants-landowners deciding not to press the issue with respect to the market value besides the State appeal already having been dismissed, thereby upholding the determination made vide award dated 13.11.2017 passed by the reference

Court while setting it aside in toto would amount to unsettled the settled issues and also of setting aside/recalling the decision dated 09.05.2018 passed by this Court in RFA No.1946-2018 which has become final by now qua the right of respondents-State so as to question the determination of market value made by the reference Court vide its award dated 13.11.2017 and thus, on this aspect, ***Rajbir's*** case (supra) cannot be made applicable in the peculiar facts and circumstances of the present case, as in the said case determination of market value of the land was also in contention. On the other hand, in the present case, no judicial determination is required to be done and after having assessed the compensation, grant of 100% solatium is only an enabling act in view of the statutory mandate as envisaged under Section 30(1) of 2013 Act and therefore, remanding the matter back would be an exercise in futility.

15. Accordingly, in view of the discussion made herein-above, the award dated 13.11.2017 passed by the reference Court as regards the determination of market value @ Rs.55,23,148/- per acre is upheld with modification as regards the grant of benefit of solatium by enhancing it from 30% to 100%, besides granting them all other statutory benefits and interests under the provisions of 2013 Act.

16. In view thereof, the above-mentioned appeals are disposed of.

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

22.09.2023

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/ No