2024:PHHC:090454

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

Decided on:-18.07.2024

1. RFA-1076-1990 (O&M)

Bishan Dass and others ....Appellants.

vs.

Union of India and others ....Respondents.

2. RFA-1112-1990 (O&M)

Bishan Dass and others ....Appellants.

vs.

Union of India and others ....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vishal Aggarwal, Advocate
for the appellant(s)-landowner(s).

Mr.Shivoy Dhir, Sr. Panel Counsel,
for respondents No.1and 3-UOI.

Mr. Siddharth Sandhu, AAG, Punjab.

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HARKESH MANUJA J. (Oral)

1. This common judgment of mine shall dispose of above mentioned two appeals filed by the appellant(s)-landowner(s) as both involve common question of law and facts.

For convenience, the facts are being taken from RFA-1076-1990 (O&M).

2. By way of present appeal, challenge has been laid to an award dated 05.01.1990 passed by the Reference Court-cum-Additional District Judge, Gurdaspur, whereby reference petition(s) filed at the instance of appellant(s)-landowners invoking Section 18 of the Land Acquisition Act, 1894 (herein after called "1894 Act"), was partly allowed.

3. Briefly stating, land measuring 6218 kanals 01 marla including some owned by the appellant(s)-landowners, situated in the revenue estate of village Bungal, Hadbast No.390, Tehsil Pathankot, District Gurdaspur, came to be acquired vide notifications dated 17.11.1979 and 19.11.1982, issued under Sections 4 and 6, respectively, of the 1894 Act, for the purpose of Defence of India under a scheme popularly known as Maroon complex. The Land Acquisition Collector, in exercise of its powers under Section 11 of the 1894 Act, awarded compensation in the following manner along with solatium at the rate of 30%:-

Sr.No.	**Class of land**	**Rates per acre**
1	Barani I	Rs.6200/-
2.	Barani II	Rs.5000/-
3	Barani III	Rs.4000/-
4.	Banjar Jadid	Rs.3000/-
5.	Banja Qadim	Rs.3000/-
6.	Gair Mumkin	Rs.2000/-
7	Gair Mumkin abadi	Rs.6200/-

4. Aggrieved of the award passed by the Land Acquisition Collector, appellants-landowners invoked reference petition(s) under Section 18 of the 1894 Act, seeking enhancement of compensation. Upon

consideration of the material available on record, the Reference Court vide its award dated 05.01.1990 partly allowed the reference petition(s) by awarding enhanced compensation as under along with other statutory benefits:-

Sr.No.	**Class of land**	**Rates per acre**
1	Barani I	Rs.16000/-
2.	Barani II	Rs.15000/-
3	Barani III	Rs.14000/-
4.	Banjar Jadid	Rs.7000/-
5.	Banja Qadim	Rs.7000/-
6.	Gair Mumkin	Rs.4000/-
7	Gair Mumkin abadi	Rs.16000/-

5. By way of present appeal(s), the aforementioned award dated 05.01.1990 was assailed at the instance of appellants-landowners seeking further enhancement.

6. While relying upon a decision rendered by the Hon'ble Apex Court in case of ***"Dilawar Singh and others vs. Union of India and others", 2010 (14) SCC 357***, decided on 26.10.2010, whereby, compensation at the uniform rate of Rs.350/- per marla was assessed in relation to acquired land situated on the outskirts of Pathankot, regarding which the acquisition proceedings commenced in the years 1964 to 1970, learned counsel for the appellants-landowners submits that the land-owners were entitled to enhanced compensation after applying suitable increase @ 10% per annum thereupon upto the date of notification issued under Section 4 of the 1894 Act, regarding the present acquisition proceedings. He submits that Rs.350/- per marla was assessed as compensation towards the land for which acquisition proceedings were carried out in the years 1964 to 1970,

whereas, the acquisition in hand commenced on 17.11.1979 with the issuance of notification under Section 4 of the 1894 Act.

Learned counsel also points out that in some what similar circumstances, compensation @ Rs.350/- per marla was assessed regarding the acquired land situated within the revenue estate of village Bungal, Tehsil Pathankot by this Court in case titled as ***"Sita Devi and others vs. Union of India and others",*** vide CM-7085-CII-2023 in FAO-1045-1995, decided on 27.07.2023 and as such, prays for determination of compensation after applying suitable escalation thereupon for the difference of period between two notifications issued under Section 4 of the 1894 Act in relation to the two acquisition proceedings.

7. On the other hand, prayer made herein has been opposed at the instance of learned counsel representing respondent-UOI while submitting that market value at the uniform rate of Rs.21,000/- per acre regarding the same acquisition proceedings was determined by this Court vide decision dated 26.05.2004 passed in RFA-2045-1990, titled as ***"Union of India and others vs. Khem Raj"***, thus, at best the appellants-landowners were entitled for similar compensation.

8. I have heard learned counsel for the parties and gone through the paper book and find substance in submissions made on behalf of the appellants-landowners.

9. As a matter of fact, the acquisition proceedings in the case in hand commenced in the year 1979 vide notification issued under Section 4 of the 1894 Act. The land under acquisition form part of revenue estate of village Bungal, Tehsil Pathankot, undoubtedly the final determination of

compensation was made by this Court in relation to this very acquisition vide its decision dated 26.05.2004 passed in RFA-2045-1990, holding the market value at the rate of Rs.21,000/- per acre besides other statutory benefits, however, evidently the decision by the Hon'ble Apex Court in ***Dilawar Singh's*** case (supra) came subsequently on 26.10.2010, wherein while dealing with the matters relating to enhancement pertaining to the acquisition of land in and around Pathankot, market value at the uniform rate of Rs.350/- per marla was assessed/determined regarding the land acquired between the years 1964 to 1970. Thus, apparently, the judgment in case of ***Dilawar Singh's*** case (supra) been passed by the Hon'ble Apex Court much after the decision in ***Khem Raj's*** case (supra) was having material bearing in the case in hand. For reference, para 9 of the ***Dilawar Singh's*** case (supra) being relevant is reproduced hereunder:-

> *"In the present batch of cases except the case the notification for acquisition was issued in February 1970 which is proximate in point of time to those issued in the Shanker Singh and Inder Singh's cases (supra). The notification in Union of India v. Mohinder Singh (Civil Appeal No. 9204/2010) was issued on 12.5.1964 and published on 12.6.1964. That apart the lands in question were all acquired for the very same purpose and are situated on the outskirts of a growing town like Pathankot. The growing non-agriculture potential of such lands is also not in serious dispute. The High Court has failed to notice all these aspects apparently because the decisions in Shanker Singh's case and that delivered in Inder Singh's case (supra) were handed down subsequent to the impugned order. Suffice it to say that on the material available before us we see no reason why the amount of compensation payable to the landowners appellants in these appeals should also not be enhanced to Rs.350/- per marla with*

> *proportionate benefits towards solatium and interest as awarded by the Arbitrator and upheld by the High Court in those cases and in similar other cases to which we have referred in the earlier part of this order. In so far as Mohinder Singh's case (supra) is concerned, the appeal has been filed by the Union of India against grant of solatium and interest. No appeal has been filed by the owners in that case for enhancement of the amount of compensation. Even otherwise in the absence of any cogent evidence to justify any such enhancement, there is no room for directing payment of a large amount of compensation."*

10. In such circumstances, the potential value of land situated on the outskirts of the growing town of Pathankot being acknowledged and accepted by the Hon'ble Apex Court in case of ***Dilawar Singh's*** case (supra), taking the base market value of the land in and around Pathankot City to be @ Rs.350/- per marla in the year 1970 as well as considering the fact that large extent of acquisition of land took place on the outskirts of Pathankot city, especially, for the defence purposes which continued for more than two decades between 1960-1980, thereby, adding to the potential value of the area, in the humble opinion of this Court, it is deem fit that a moderate appreciation/escalation @ 6% per year is awarded in favour of appellants-landowners while determining market value in the case in hand, wherein, the acquisition proceedings commenced much after vide notification dated 17.11.1979. Accordingly, the market value is determined @ Rs.591/- per marla. It goes without saying that in addition the appellants-landowners shall also be entitled for all other statutory benefits and interest under the "1894 Act".

11. Resultantly, both the appeals are disposed of in terms of the

aforesaid discussion.

12. Pending application, if any, stands disposed of.

18.07.2024 **(HARKESH MANUJA)**
sonika **JUDGE**

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