



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA-2320-1998

Date of Decision: July 23, 2024

SMT PRIYANKA W/O ISH KUMAR & ORSAppellants
Versus
LAC PWD (IB) AMBALARespondent

RFA-4487-1998

STATE OF HARYANAAppellant
Versus
SMT.JIWANI ETCRespondents

RFA- 4488-1998

STATE OF HARYANAAppellant
Versus
SMT PRIYANKARespondent

RFA-1462-1999

SMT.JIWANI AND OTHERSAppellants
Versus
STATE OF HARYANARespondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Ms. Manvi Arora, Advocate for the appellants in
RFA Nos.2320 and for respondent in 4488 of 1998.

Mr. J.P. Dhull, Advocate in RFA-1462-1999
for appellant.

Mr. Shivendra Swaroop, DAG, Haryana.

HARKESH MANUJA, J. (ORAL)

Vide this common judgment, aforementioned four appeals
are being decided. For convenience, the facts are being drawn from
RFA-2320-1998.

2. By way of present appeal(s), challenge has been laid to
an award dated 18.05.1998 passed by the Reference Court-cum-Addl.

District Judge, Kaithal whereby, the petition under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as ‘the Act’) filed at the instance of appellants-landowners seeking enhancement of compensation was partly allowed.

3. In the present case, land owned by the appellants-landowners, falling in the revenue estate of Villages Chanda and Patti Chaudhary, Tehsil and District Kaithal came to be acquired vide notification dated 05.05.1996 issued under Section 4(1) the Act for public purpose of construction of Escape Channel from RD 0 to 2750 at RD 218700-R Sirsa Branch at outfalling into Amin Drain at RD 29785. Award under Section 11 of the Act was passed by the Land Acquisition Collector on 25.04.1997 and the following assessment was made towards compensation:-

<u>Kind of land</u>	<u>Rates per acre allowed.</u>
1. Nehri	Rs.1,50,000/-
2. Chahi	Rs.1,40,000/-

4. Aggrieved thereof, the appellants-landowners filed reference petition under Section 18 of the Act seeking further enhancement. Vide decision dated 18.05.1998, the petitions filed at the instance of appellants-landowners were disposed while awarding a uniform rate of Rs.4,00,000/- per acre for all types of lands. Still aggrieved, the appellants-landowners filed the present appeal besides, state also having filed appeals against the awarding of compensation at uniform rate.

5. Impugning the aforesaid award passed by the Reference Court, learned counsel for the appellants submits that there was no reason with the Reference Court to have differed with the award dated 03.04.1998 passed in LAC-168/1997 and 169/1997 (Ex.P-1) especially when both the chunks of land were abutting each other. Learned counsel also submits that the Reference Court further went wrong while declining the compensation on account of severance of the land belonging to the appellants-landowners in pursuance to the acquisition proceedings and thus, the impugned award was liable to be modified.

6. On the other hand, learned counsel representing respondent-State submits that the Reference Court went wrong while relying upon award Ex.P-1 which pertained to different village without there being any evidence available on record about comparison of the two parcels of land. He further submits that in the absence of there being any parity between the two parcels of lands belonging to the Village Chanda and Patti Chaudhary, no enhancement was to be granted in favour of landowners; both the parcels not being contiguous but being in the shape of long strip.

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

8. In the present case, the acquisition was carried out for the public purpose of construction of Escape Channel from RD 0 to 2750 at RD 218700-R Sirsa Branch at outfalling into Amin Drain at RD 29785. The acquisition of land was made in the shape of long strip. In the case in hand, the acquisition relates to village Chanda District Kaithal,

whereas, the land acquired in pursuance to award dated 25.04.1997 forms part of revenue estate of Village Patti Chaudhary, District Kaithal. From the evidence available on record, it can be easily deciphered that the land of the two revenue estates is abutting each other.

9. Moreover, there is ample evidence produced on record to establish the potential value of the land in question falling in the revenue estate of village Chanda as the same along with the land situated within the revenue estate of village Patti Chaudhary are both situated within the municipal limits of Kaithal City and the land in question is surrounded by various commercial establishments/shops in the form of rice shellers, godowns including one prestigious Sun Shine Convent School as well. It has also come on record that the land forming part of present acquisition is situated on the main Kaithal-Jind Road. In the aforementioned facts and circumstances, in view of the evidence available on record, regarding the close proximity between the two villages i.e. Village Patti Chaudhary and Chanda; both adjoining and abutting each other, similar amount of compensation i.e. @ Rs.4,80,000/- needs to be awarded in favour of appellants-landowners on account of acquisition of their land falling within the revenue estate of village Chandu Hadbast No.18, Tehsil and District Kaithal.

10. It addition, it may also be pointed out here that the learned Reference Court further went wrong while declining the prayer made by the appellants-landowners with regard to severance of their land. Detailed discussion made in para 17 of the impugned award clearly

establishes that the remaining land belonging of the appellants got cut off from the main Kaithal-Jind Road leaving no easy access to it. Relevant discussion made in para 17 of the impugned award in the aforesaid context is extracted hereunder:-

“But at the same time, this Court cannot under section 18 of the Act, direct the authorities to construct any bridge on the escape channel, nor they can be awarded any compensation in this respect. However, the petitioners are advised, if permissible under the law to approach the concerned authorities for the said relief. The department, I presume, would adopt sympathetic attitude towards the request of the petitioners keeping in view the inconvenience and hardship which they will have to face in case no direct access from Jind road is made available to them to reach their remaining land. As such, I provide no compensation on that count and dispose of issue No.2 accordingly against the petitioners and in favour of the respondent-State.”

11. Thus, even as per the above discussion no path was left after acquisition so as to enable the appellants to reach their left over fields from the main highway and on account of the construction of the Escape Channel, the land owners could not directly reach their remaining land from the national highway. In such circumstances, the land owners were necessarily entitled to receive compensation on account of severance of their land so as to make up their losses, towards the inconvenience faced by them regarding access to their unacquired landholdings.

12. Keeping in view the facts and circumstances of the present case, the land owners are also entitled to receive additional amount of compensation to the extent of 20% of the market value of the acquired land on account of severance of their land. The land owners would also be entitled to receive the said amount along with statutory benefits under Section 23(1-A), 23(2) and 28 of the Act.

13. Accordingly, the appeals filed by the land owners stand allowed in the above said terms and the appeals filed by the State, are dismissed

23.07.2024

(HARKESH MANUJA)
JUDGE

Tejwinder

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No