

2025:PHHC:029962



190 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision:-03.03.2025

1. FAO-1123-1991 (O&M)

Joginder Singh and othersAppellants..
vs.

Union of India, Ministry of Defence and othersRespondents.

2. FAO-1126-1992 (O&M)

Union of IndiaAppellant..
vs.

Sher SinghRespondent.

3. FAO-1127-1992 (O&M)

Union of IndiaAppellant..
vs.

Joginder Singh and othersRespondents..

4. FAO-1128-1992 (O&M)

Union of IndiaAppellant..
vs.

Garib Singh and othersRespondents..

5. FAO-1129-1992 (O&M)

Union of IndiaAppellant..
vs.

MahantiRespondent.

6. FAO-1130-1992(O&M)

Union of IndiaAppellant..
vs.

Baldev Singh ...Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vishal Aggarwal Advocate,
for the appellant/landowners (in FAO-1123-1991)
Mr. R.S. Manhas, Advocate for the appellant(s).

Mr.Dharam Chand Mittal, Senior Panel Counsel,
for UOI.

HARKESH MANUJA J. (Oral)

1. This common judgment of mine shall dispose of above mentioned six appeals as they all involve common question of law and facts.

For convenience, the facts are being culled out from FAO-1123-1991.

2. By way of present appeal, challenge has been laid to an award dated 12.01.1991 passed by the Arbitrator-cum-District Judge, Gurdaspur, whereby, an application under Section 8 of the Requisitioning and Acquisition of the Immovable Property Act, 1952 (for short, "1952 Act") filed at the instance of appellants-landowners seeking determination/re-determination of market value of the acquired land was partially allowed

3. Briefly stating, the land measuring 486 kanals 19 marlas situated in village Nangal, Tehsil Pathankot, District Gurdaspur came to be acquired by respondent-UOI for defence purposes vide J-notice No.846/SLAC dated 30.07.1970 under the 1952 Act. The appellants-landowners being aggrieved filed an application under Section 8 of the 1952 Act before the Arbitrator-cum-District Judge, Gurdaspur; appointed by State of Punjab vide notification No.11/34/82-5H-22578 dated 29.06.1989, seeking determination of compensation, which came to be decided vide

impugned award/decision dated 12.01.1991. Relevant paragraphs 15 and 16 thereof are extracted hereunder:-

15. *For the foregoing reasons, I award Rs.150/- per marla in respect of nehri land, at Rs.125/- per marla for barani awal and at Rs.100/- per marla for barani dam or bajar qadim land.*

16. *Govt. Pleader argued that the applicants are not entitled to solatium as the land had been acquired under the Requisitioning and Acquisition of immovable property Act. There, however, is no force in this argument. A full Bench of our own High Court in Hari Kisha Khosla (deceased) vs. Union of India 1974 P.L.R. 659 has held that solatium and interest at 15% and 6% as envisaged under the Land Acquisition Act are payable even in the case of acquisition for the defence purposes. Other rulings on the subject are Natha Singh vs. Union of India. C.W.P. No.4939 decided on 20.01.1982, Gamdoor Singh vs. Union of India Civil Writ Petition No.2210/1982 decided on 09.09.1985 and reported as 1988 (1) Recent Revenue Reports page 11, and Bhakhtawar Singh vs. Union of India Civil Writ Petition No.2888/1982 decided on 7.8.1987 (reported as 1987 R.C.R. 490). The Govt. Pleader could not cite any ruling to the contrary. I, therefore, award solatium at 15% on the compensation awarded and interest at 6% per annum from the date of notification of acquisition till payment. The award be drawn upon on stamp paper to be furnished by the applicants.”*

4. Aggrieved thereof, appeal bearing FAO-1123-1991 was filed on behalf of appellants-landowners seeking enhancement of market value/compensation, whereas, other 05 appeals bearing FAO Nos.1126, 1127, 1128, 1129 and 1130 of 1992 were filed on behalf of Union of India for setting aside of the order/award dated 12.01.1991.

5. Learned counsel for the appellants-landowners relies upon a decision rendered by the Hon'ble Apex Court in “Dilawar Singh and others

vs. Union of India and others”, reported as 2010(14) SCC 357, to submit that under similar circumstances the market value relating to land situated in the outskirts of Pathankot and pertaining to acquisition for the years 1964 to 1972 was uniformly assessed @ Rs.350/- per marla and thus, the case of appellants-landowners is squarely covered by the said decision. Relevant paras 8 and 9 of the **Dilawar Singh’s** case (supra) as relied upon by the counsels for appellants are extracted hereunder:-

8. “That brings us to the question whether the land-owners are entitled to claim any enhancement in the amount of compensation determined in these cases. In **Union of India etc. v. Inder Singh and Anr. (LPA No.1918 of 1989)** and connected matters to which we have referred earlier the High Court has upheld the enhancement of compensation to Rs.350/- per marla. The High Court was *in that case* dealing with a similar question arising out of the very same acquisition process. Relying upon its decision in **Shanker Singh and Ors. v. Union of India 1988 (1) PLR 163**, a Single Bench of the High Court in **Inder Singh’s** case (supra) enhanced the compensation payable to the land- owners to Rs.350/- per marla. Five appeals were preferred before the Division Bench against the said order out of which two appeals were dismissed by separate orders of the Court while the third was dismissed for non-prosecution. The result was that out of five appeals challenging the order passed by the Single Judge awards in favour of the land-owners in the case of three dismissed appeals attained finality entitling the land-owners respondents in those appeals to compensation @ Rs.350/- per marla. The refusal of a similar relief in the remaining cases was not, therefore, considered just and equitable when there were no distinguishing features to justify such a refusal. The High Court also found that the decision in *Shanker Singh’s* case (supra) was squarely applicable in the case before it on account of the proximity of the acquisitions in point of time. The notification in **Shanker Singh’** case (supra) was issued on

6th March, 1970 whereas that in *Inder Singh*' case (supra) was issued on 9th January, 1970. The amount of compensation determined in *Shanker Singh*'s (supra) was therefore found by the High Court to be relevant for award of compensation in *Inder Singh*'s case (supra) also.

9. 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 *Shankar 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.”

6. On the other hand, learned counsel for the respondents has not been able to controvert the aforesaid factual aspects as well as the

applicability of ***Dilawar Singh's*** case (supra).

7. I have heard learned counsel for the parties and gone through the paper book. Considering the fact that the market value of the land situated on the outskirts of Pathankot has been assessed at Rs.350/- per marla for the acquisition notified in February, 1970, the appeal bearing FAO-1123-1991 filed on behalf of the appellants-landowners stands disposed of while awarding similar compensation i.e. @ Rs.350/- per marla along with other statutory benefits in favour of appellants-landowners in terms of the decision rendered by the Hon'ble Apex Court in ***Dilawar Singh's case*** (supra) and the appeals (bearing FAO No.1126, 1127, 1128, 1129 and 1130 of 1992) filed on behalf of Union of India, are hereby dismissed.

8. Pending application, if any, also stands disposed of.

03.03.2025

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/ No