

2025:PHHC:170562



102 (13 cases)

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

**RFA No. 1351 of 1995 (O&M)
and “12” connected cases
Date of Decision: 08.12.2025**

Dalip Singh

...Appellant

Versus

The Special Land Acquisition Collector, Shri
Amarjit Singh, Additional Deputy Commissioner,
Competent Authority, Amritsar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sukhbir Singh, Advocate,
for the appellant(s)-landowner(s).

Mr. Gunjan Mehta, Additional Advocate General, Punjab
for the respondent(s)-State of Punjab.

Mr. Vikas Singh, Senior Advocate, assisted by
Ms. Anamika Sheoran, Advocate
for the respondent(s)-Ajnala Cooperative Sugar Mills Ltd.

HARKESH MANUJA, J. (ORAL)

This order shall dispose off the present thirteen (13)
appeals bearing RFA Nos. 1351 to 1360, 1648 & 2136 of 1995, and
1386 of 2005, as the same arise out of common acquisition/award.

[2] All these appeals have been filed by the landowners,
whereby they are seeking further enhancement of compensation for
the acquired land. Since the common question of law and facts are
involved in these appeals, therefore, for the sake of convenience,
facts are being culled out from RFA No. 1351 of 1995.

[3] The appellant-landowner, by instituting the appeal bearing RFA-1351-1995, preferred under Section 54 of the Land Acquisition Act, 1894 (**for short “1894 Act”**), seeks modification of the award dated 28.10.1994 passed by the learned District Judge, Amritsar (**hereinafter to be referred as “Reference Court”**), whereby his claim with respect to enhancement of compensation qua super-structure existing over the acquired land stands dismissed.

FACTS

[4] Briefly stating, certain land situated within the revenue estate of Village Bhalla Pind, Tehsil Ajnala, District Amritsar came to be acquired vide notifications dated 22.02.1988 and 24.02.1988 issued under Sections 4 and 6 of the 1894 Act respectively, for the purpose namely “for setting up of Ajnala Cooperative Sugar Mills Ltd., Village Bhallapind, Tehsil Ajnala, District Amritsar”. Thereafter, land owned by the appellant-landowner forming part of earlier acquired land was also acquired vide notifications under Sections 4 & 6 of the 1894 Act dated 12.05.1988 & 17.05.1988 respectively, followed by an award dated 15.12.1988 with respect to the land value. Later, supplementary award dated 24.10.1990 came to be passed by the Land Acquisition Collector (**for short “LAC”**) regarding the super-structure/houses existing over the acquired land.

[5] Present regular first appeal relates to the adjudication made by the learned Reference Court upon the objections preferred at the instance of appellant-landowner(s) to the supplementary award dated 24.10.1990 which related to the super-structure/house existing over the acquired land. Vide determination dated 28.10.1994, the

learned Reference Court dismissed the objections filed at the instance of appellant-landowner(s). Hence, the present appeal.

CONTENTION(S):

ON BEHALF OF THE APPELLANT(S)-LANDOWNER(S)

[6] Learned counsel for the appellant(s) submits that based on the evidence available on record, the award passed by the learned Reference Court was liable to be modified with grant of further enhancement. He also points out that in terms of Clause-5 to Section 23 (1) of the 1894 Act, the appellant(s)-landowner(s) were entitled for reasonable expenses against change of their residence under compulsive circumstances as a result of the acquisition in hand. Learned counsel thus submits that the impugned award was liable to be modified accordingly.

ON BEHALF OF RESPONDENT(S)

[7] On the other hand, learned counsel representing the respondent(s) submit(s) that the appellant(s)-landowner(s) have already been granted adequate compensation based on the proper appreciation of the evidence available on record and thus, the impugned award calls for no interference. It has further been submitted that since no such reasonable expenses or damages in terms of Clause-5 to Section 23 (1) of the 1894 Act were ever claimed in the objection petition(s) filed under Section 18 of the 1894 Act, preferred at the instance of appellant(s)-landowner(s), therefore, in the absence of any pleadings or evidence to the said effect, they were not entitled for the same.

DISCUSSION AND REASONING

[8] I have heard learned counsel for the parties and gone through the paper-book/relevant records.

[9] Having perused the pleadings and the evidence available on record and also the findings recorded by the learned Reference Court, the appellant(s)-landowner(s) have already been adequately compensated against the cost of super-structure existing over the acquired land and as such, no interference is called for on this count.

[10] However, for the reasonable expenses claimed in terms of Clause-5 to Section 23 (1) of the 1894 Act, the matter needs to be deliberated upon. For the said purpose, Section 23 of the 1894 Act is re-produced hereunder:-

" 23. Matters to be considered in determining compensation

(1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration

first, the market value of the land at the date of the publication of the [notification under section 4, sub-section (1)] [Substituted by Act 38 of 1923, Section 7, for " declaration relating thereto under section 6" .];

secondly , the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collectors taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collectors taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collectors taking possession of the land, by reason of the acquisition

injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, *if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and*

sixthly, *the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collectors taking possession of the land.*

[(1-A) In addition to the market value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value for the period commencing on and from the date of the publication of the notification under section 4, sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation. *In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded.] [Inserted by Act 68 of 1984, Section 15 (w.e.f. 24.9.1984).]”*

[10.1] A perusal of the above Section makes it clear that while determining the amount of compensation to be awarded for the land acquired under the 1894 Act, the Court has to take into consideration the six clauses forming part of Section 23(1) of the 1894 Act. Clause-5 thereof postulates that in case the person interested, is compelled to change his residence or place of business in consequence of the acquisition of land, the reasonable expenses (if any) incidental to

such change, need to be taken into account while determining the amount of compensation to be awarded for the land acquired.

[10.2] In the present case, admittedly a house owned by the appellant-landowner existed over the acquired land and that is why, vide supplementary award, the costs towards super-structure came to be awarded in his favour. However, neither the supplementary award dated 24.10.1990 by the LAC nor the impugned award dated 28.10.1994 passed by the learned Reference Court, contains any reference towards award of reasonable expenses in terms of Clause-5 to Section 23 (1) of the 1894 Act for change of residence by the appellant.

[10.3] No doubt, in the reference petition preferred under Section 18 of the 1894 Act, the appellant-landowner nowhere specifically claimed any such expense towards change of his residence, however, on a plain reading of Section 23(1) of the 1894 Act, it is more than clear that the provision casts an obligation upon the Court to take into consideration the six factors enumerated therein, while determining the amount of compensation to be awarded for the acquired land and out of those, Clause-5 categorically stipulates award of reasonable expenses wherever a person interested is compelled to change his residence or place of business as a consequence of acquisition of land. Undoubtedly, the appellant-landowner neither pleaded nor proved any such expense, however, taking into account the fact that in the objection petition preferred under Section 18 of the 1894 Act, it was categorically pleaded that a residential house belonging to the appellant-landowner was existing over the acquired land and the said fact was nowhere disputed or

denied in the written statement filed at the instance of respondents, therefore, a judicial notice needs to be taken of the fact that the appellant-landowner was compelled to change his residence as a consequence of acquisition of his land and as such, he was entitled for award of reasonable expenses incidental to such change, especially when against the factum of existence of a residential house over the site in question, even compensation towards super-structure was awarded in favour of the appellant-landowner(s) by virtue of supplementary award.

[11] At this stage, the question which arises before this Court is that in the absence of any evidence been led from the side of appellant(s)-landowner(s), how much should be the reasonable expense(s) to which he is entitled for being compelled to change their residence as a consequence of acquisition of land.

[11.1] In this regard, while taking into account the fact that the appellant-landowner was made to build a new accommodation/house by shifting it to a different location, he definitely incurred more cost of construction as compared to the compensation assessed in his favour against the super-structure already existing over the site in question because of the time gap between the valuation made in his favour as on the date of notification under Section 4 of the 1894 Act and the time period taken in the process of taking over of possession of the site in question from the appellant-landowner(s), followed by building of new house. Moreover, the relocation also leads to emotional stress besides other significant financial strains. As such, in the humble opinion of this Court, by adopting a thumb rule method, the appellant(s)-landowner(s) shall be entitled for 25% of the amount of

market value assessed in their favour, towards reasonable expenses against Clause-5 to Section 23(1) of the 1894 Act for shifting of his residence.

DECISION

[12] In view of the aforesaid discussion, impugned award(s) passed by the learned Reference Court is/are modified and the appellant(s)-landowner(s) are held entitled for 25% of the amount of market value awarded to them towards reasonable expenses against Clause-5 to Section 23(1) of the 1894 Act. The appellant(s)-landowner(s) are also awarded consequential / statutory benefits and interest as provided in the 1894 Act (as amended up-to-date), especially the interest on solatium as well.

[13] The appeals stand **disposed off** accordingly.

[14] Also, wherever the landowner(s) has/have unfortunately died in the appeal(s) / cross-objection(s) after filing thereof and the legal representatives have not been impleaded, they shall be at liberty to seek execution of the present decision by moving appropriate application(s) before the learned Executing Court.

[15] Pending miscellaneous application(s), if any, shall stand(s) disposed off.

December 08, 2025

‘dk kamra’

**(HARKESH MANUJA)
JUDGE**

Whether Speaking / Reasoned :	Yes	No
Whether Reportable :	Yes	No