226-Urgent

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No. 436 of 1995 (O&M)
Date of Decision: 28.11.2025

Nand Kishore

...Appellant

Versus

The Land Acquisition Collector, Phase 'A', Amritsar

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Kunal Soni, Advocate for
Mr. Prateek Mahajan, Advocate
for the appellant-landowner.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab
for the respondent.

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HARKESH MANUJA, J. (ORAL)

The appellant-landowner, by instituting the present appeal preferred under Section 54 of the Land Acquisition Act, 1894 **(for short "1894 Act")**, seeks modification of the award dated 15.11.1994 passed by learned Additional District Judge, Amritsar **(hereinafter to be referred as "Reference Court")** for enhancement of compensation amount.

FACTS

[2] Briefly, the facts are that in pursuance of Punjab Govt. Notification under Section 4 of the 1894 Act issued on 02.06.1988, followed by Notification dated 04.06.1988 under Section 6 thereof, certain land of the appellant-landowner, situated within the periphery of Lal Lakir and comprised of land of Bazar / Gali Thara Sahib, around Golden Temple Complex, Amritsar, was acquired. The acquisition was made for public purpose, namely, "Beautification Scheme / Galiara Yojna around Golden Temple, Amritsar". The Land Acquisition Collector, Amritsar **(for short "LAC")** vide Award dated 27.06.1989, assessed the market value at the rate of Rs. 4,400/- per square yard for commercial sites, while assessing Rs. 2,200/- per square yard for residential sites besides grant of other statutory benefits.

[3] Aggrieved thereof, reference petition under Section 18 of the 1894 Act was preferred, wherein besides claiming enhancement of market value, dispute with respect to the area under acquisition was also raised.

[4] Learned Reference Court, vide award dated 15.11.1994, dismissed the claim / reference petition made by the appellant-landowner. Hence, the present appeal.

CONTENTION(S):

ON BEHALF OF THE APPELLANT-LANDOWNER

[5] At the outset, learned counsel for the appellant-landowner, on instructions, submits that the appellant was not agitating the issue / dispute about the area / measurement of the acquired land. However, with respect to the quantum of market value, learned counsel for the appellant(s) submits that vide Award dated 27.06.1989, the LAC assessed the market value at the rate of Rs.4,400/- per square yard and Rs. 2,200/- per square yard for commercial and residential sites respectively by applying annual appreciation at the rate of 12.5% over the base price of Rs. 3,000/- per square yard for commercial and Rs. 1,500/- per square yard for residential, being prevalent during the year 1984 in relation to the properties around the Golden Temple Complex. Relevant portion from the award dated 27.06.1989 passed by the LAC is extracted hereunder:-

> *" <u>COLLECTOR'S RATE</u>*
>
> *The learned Financial Commissioner, Revenue, Punjab vide his letter No. 1/76/88-LRI/11313 dated 22.6.1988 has approved the Collector's rate @ Rs. 3000/- per sq. Yard and Rs. 1500/- per Sq. Yard for commercial and residential sites, respectively, in respect of acquisition of Land/properties around Golden Temple Complex, Amritsar.*
>
> *<u>MARKET VALUE</u>*
>
> *The market value of the land/structure/property has been pragmatically worked out by the Acquiring Deptt. To arrive at near genuine market value the Acquiring Deptt. i.e. Department of Local Govt. Punjab has taken the compensation of Rs. 3000/- for commercial and Rs. 1500/- per Sq. Yard for residential site paid as compensation on the strength of advice of the Land Acquisition Collector for taking over property around the Golden Temple Complex during 1984 as basis for computing the market price. The Acquiring Deptt. has added 12.5% increase in the price of land in four years and 30% solatium. In this way the compensation cost works out to Rs. 4400/- and 2200/- Per Sq. Yard approximately for commercial and residential sites, respectively."*

[5.1] In view of the above, learned counsel thus submits that considering the fact that the acquired land formed part of the centre of the Amritsar City, as such, instead of 12.5%, an appreciation of 15% was required to be awarded. In support, he places reliance upon a decision rendered by the Hon'ble Supreme Court in case ***"Krishi Utpadan Mandi Samiti Sahaswan Distt. Badaun through its***

Secretary <u>Versus</u> Bipin Kumar & Anr.", *reported as* ***2004 (1) SCC 283***, whereby an increase of 15% per annum was approved by the Hon'ble Apex Court. Relevant para-8 of the said decision is extracted hereunder:-

> *" 8. However there is evidence of high potentiality. The increase of 15% given by the High Court cannot therefore be said to be unreasonable. Of course, the 15% increase has to be on Rs. 15.40 which is the figure shown in the sale deed. It cannot be on Rs. 120 as wrongly taken by the High Court. The High Court also erred in considering only three years increase whereas in fact there is four years difference between the respondent's sale deed and the acquisition proceedings. Thus taking an increase of 60% over the price of Rs. 15.40 per sq. yard the value comes to Rs. 24.64 per sq. yard. We accordingly set aside the order of the Reference Court and the High Court and fix value at the rate of Rs. 24.64 per sq. yard. The respondent will also to be entitled to solatium and other statutory benefits under the Land Acquisition Act, 1894.*

<u>ON BEHALF OF RESPONDENT(S)-STATE OF PUNJAB</u>

[6] On the other hand, learned counsel for the respondent-State submits that there was no evidence available on record with respect to the potential value attached to the acquired land and as such, the impugned award passed by the learned Reference Court called for no interference, the same being based upon proper appreciation of pleadings and the evidence available on record.

<u>DISCUSSION AND REASONING</u>

[7] After hearing learned counsel for the parties and having gone through the paper-book / records, I find substance in the submission(s) made on behalf of the appellant(s)-landowner(s).

[8] Admittedly, the acquisition in hand was for the public purpose, namely, "Beautification Scheme / Galiara Yojna around Golden Temple, Amritsar". A perusal of the Award dated 27.06.1989 passed by the LAC itself shows that the acquired land forms part of Bazar Akaliana and is situated in the close vicinity around Golden Temple Complex. The very purpose of acquisition being for widening of streets and providing for parking places; beautification and re-development of area around Golden Temple Complex ensures that the land under acquisition is abutting and adjoining the Golden Temple Complex. Furthermore, the award passed by the LAC assesses separate market value for commercial area and residential area, which further re-ensures that the part of the acquired land was also being used for commercial activities.

[9] In the wake of the above, it is clearly established that the land under acquisition was having locational and potential advantage attached to it on account of its locational and geographical proximity with the Golden Temple Complex, Amritsar. As such, the LAC while adding simple increase of 12.5% per annum over the price of the property around the Golden Temple Complex during the year 1984 was required to award the same at least on compound basis.

[10] Accordingly, in view of the discussion made hereinabove, by applying the increase per annum at the rate of 12.5% per annum on compound basis, the market price of the acquired land as on the date of notification under Section 4 of the 1894 Act, i.e. 02.06.1988, comes to **Rs. 4,805/- per square yard** and **Rs. 2,403 per square yard** for commercial and residential sites, respectively, as per calculation below:-

Description	**Amount per square yard (in Rs.)**			
	Commercial		**Residential**	
Compensation assessed by the Deptt. of Local Govt. Punjab during 1984		3,000.00		1,500.00
Add: 12.5% @ 12% per annum (1984-1985)	3,000 x 12.5%	375.00	1500 x 12.5%	187.50
		3,375.00		1,687.50
Add: Appreciation @ 12% per annum (1985-1986)	3,375 x 12.5%	421.88	1,687.50 x 12.5%	210.94
		3,796.88		1,898.44
Add: Appreciation @ 12% per annum (1986-1987)	3,796.88 x 12.5%	474.61	1,898.44 x 12.5%	237.30
		4,271.49		2,135.74
Add: Appreciation @ 12% per annum (1987-1988)	4,271.49 x 12.5%	533.94	2,135.74 x 12.5%	266.97
		4,805.43		2,402.71
Net Compensation		**4,805.00 (Round off)**		**2,403.00 (Round off)**

[11] In addition, it may be noted here that in the present case, the reference petition preferred at the instance of appellant-landowner was dismissed on the ground of limitation while recording that the Award under Section 11 by the LAC was passed on 27.06.1989, whereas the reference petition was preferred on 19.10.1989, i.e. beyond six weeks and thus, the same was liable to be dismissed.

[11.1] As per settled law, the burden to prove any petition / suit being barred by limitation lies upon the respondent-defendant. In the present case though the appellant while appearing as PW-2 deposed that the Award was orally announced by the Land Acquisition Collector in his presence, however, there is no evidence led by the respondent that the appellant-landowner was ever made aware of the contents of the Award or any copy thereof was ever served upon him in terms of Section 12(2) of the 1894 Act.

[11.2] In such circumstances mere knowledge of passing of the Award was not to be taken the date on which the contents thereof came to the knowledge of the appellant-landowner and, as such, learned Reference Court went wrong having rejected the petition preferred under Section 18 of the 1894 Act by the appellant-landowner. Accordingly, the finding to the aforesaid effect as recorded by learned Reference Court is hereby set aside and the reference petition filed at the instance of the appellant-landowner is treated to have filed within limitation.

DECISION

[12] In view of the aforesaid discussion, impugned award dated 15.11.1994 passed by the learned Reference Court is modified and the appellant-landowner is held entitled for award of market value at the rate of **Rs. 4,805/- per square yard** and **Rs. 2,403 per square yard** for commercial and residential sites, respectively. The appellant-landowner is 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] **Disposed off** accordingly.

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

November 28, 2025 **(HARKESH MANUJA)**

'dk kamra' **JUDGE**

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