IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

RFA No.4039 of 2001 (O&M)
with other connected cases
Date of Decision: 13.05.2026

THE GURDASPUR CO-OPERATIVE SUGAR MILLS LTD.
.....Appellant(s)

Vs

GHAN SHAM SINGH AND ORS. ...Respondent(s)

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Karundeep Singh, Advocate
Ms. Simanpreet Kaur Dhawan, Advocate for
Ms. Anamika Sheoran, Advocate
for the appellant(s).

Mr. Om Pal Sharma, Advocate and
Mr. Anmol Sharma Vashisth, Advocate
for the appellant/landowner (RFA-4482-2001).

Ms. Amandeep Kaur, Advocate for
Mr. N.S. Lucky, Advocate for respondent No.2.

Mr. Gunjan Mehta, Addl. A.G., Punjab.

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HARKESH MANUJA, J. (Oral)

[1]. Vide this common order, RFA Nos.4039, 4040, 4041, 4042, 4482, 5543 of 2001 and 3147 of 2010 (O&M) are being decided as the same have arisen out of common acquisition/Award involving identical facts and question of law. For the sake of brevity, facts are being taken from **RFA No.4039 of 2001.**

[2]. By way of present appeal(s), challenge has been laid to the Award dated 18.08.2000 passed by the learned Addl. District Judge, Gurdaspur (hereinafter to be referred as the *'Reference Court'*).

[3]. Briefly stating, in the present case(s), total land measuring 19.65 acres, situated within the revenue estate of village Paniar, Tehsil and District Gurdaspur was acquired vide Notifications dated 10.10.1987 and 31.05.1988 issued under Sections 4 & 6 of the Land Acquisition Act, 1894 (for short the ***'1894 Act'***) respectively for the public purpose, namely, *"for setting up of Effluent Treatment Facility for the Alcohol Project at village Paniar, Tehsil and District Gurdaspur'*. Award under Section 11 of the 1894 Act was passed by the Land Acquisition Collector (for short ***'the LAC'***) on 20.06.1990, whereby the market value of the acquired land was assessed @ Rs.45,714/- per acre for *Chahi and Nehri* land and and Rs.26,700/-per acre for *Barani I* and *Barani II* land along with all other statutory benefits and interests provided under the 1894 Act.

[4]. Dissatisfied with the Award passed by the LAC, the appellants/landowners preferred reference petition(s) under Section 18 of the 1894 Act, which were partly allowed by the learned Reference Court vide its award dated 18.08.2000, while granting them enhanced compensation @ Rs.666/- per marla (Rs.1,06,560/- per acre) besides awarding all other statutory benefits/interest in their favour under the 1894 Act. Aggrieved thereof, the present appeals were preferred at the instance of appellant-Sugar Mill as well as the landowner(s).

CONTENTION(S):

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

[5]. Impugning the aforesaid Award, learned counsel for the appellant(s)/landowner(s) submits that the learned Reference Court erred while discarding the sale instances produced on record by the landowner(s). He further submits that four sale instances (Ex.A-1 to Ex.A-4) were produced by the

appellant(s)/landowner(s) which pertained to the same revenue estate of village Paniar and as such, while placing reliance upon the said sale deeds, the market value was required to be enhanced in favoour of the appellant(s)/landowner(s).

[5.1]. Learned counsel also points out that for the time gap between such sale instances till the date of Notification issued under Section 4 of the 1894 Act, in the present case(s), an appreciation @ 12% per annum over the base price per acre derived from the aforementioned sale deeds was required to be applied and accordingly, the market value ought to be re-assessed in favour of the appellant/landowner. He thus prays that the appeal(s) filed at the instance of appellant(s)/landowner(s) were to be allowed whereas appeal(s) filed by the appellant(s)-Sugar Mill were to be dismissed.

No other argument has been raised on behalf of the appellant(s)/landowner(s).

ON BEHALF OF THE APPELLANT(S)-SUGAR MILL

[6]. Per contra, learned counsel representing the appellant(s)-Sugar Mill submits that the appellant(s)-Sugar Mill was never impleaded as party in the reference petition filed under Section 18 of the 1894 Act at the instance of the landowners and as such, was deprived of the opportunity to lead evidence in rebuttal to the sale instances produced by the landowners. He thus, submits that the award passed by the learned Reference Court being in violation of the principles of natural justice was liable to be set aside. No other argument has been raised on behalf of the appellant(s)-Sugar Mill.

ON BEHALF OF RESPONDENT(S)/STATE

[7]. In addition, learned State counsel submits that a well-reasoned and justified Award was passed by the learned Reference Court upon appreciation of

the pleadings and the evidence available on record which, thus calls for no interference and, thererefore, prays for dismissal of the appeal(s) preferred at the instance of the appellant(s)/landowner(s).

DISCUSSION AND REASONING: -

[8]. I have heard learned counsel for the parties and gone through the paper book as well as records of the case(s). I find substance in the submissions made on behalf of the appellants/landowners.

[9]. At the outset, it may be noticed that although the appellant-Gurdaspur Co-operative Sugar Mills Ltd., was not impleaded as party to the reference petition preferred at the instance of the landowners and was, as such, deprived of the opportunity to lead evidence in order to rebut the material produced by the landowners in support of their claim towards enhancement of compensation, however, a perusal of the record shows that, even in the present appeals preferred by the appellant–Sugar Mill, no material in the form of sale deeds, collector rates, or any other relevant evidence was brought on record to rebut the claim set up by the respondent(s)/landowner(s).

In such circumstances, the award passed by the learned Reference Court cannot be set aside merely on the ground that the appellant–Sugar Mill was not afforded an opportunity to lead evidence before the learned Reference Court, more so, when the appellant itself did not produce any evidence, such as certified copies of sale deeds or other relevant material, to substantiate its stand regarding the valuation of the acquired land even before this Court.

[10]. On the other hand, in the present case(s), following sale deeds have been produced by the landowner(s) in support of their claim:-

Sale deed/document produced by the respondent(s)/landowner(s)

Exhibit	Date	Area	Total Sale Consideration	Base Price Per Acre	Village
Ex.A-1	18.07.1986	11 Marlas	Rs.20,000/-	Rs.2,90,909/-	Paniar
Ex.A-2	21.11.1988	3 Kanals	Rs.38,000/-	Rs. 1,01,333/-	Paniar
Ex.A-3	08.04.1986	3 Marla	Rs.3,000/-	Rs.1,60,000/-	Paniar
Ex.A-4	04.01.1988	8 Marla	Rs.8,000/-	Rs.1,60,000/-	Paniar

[11]. A perusal of the above chart shows that the two sale instances dated 21.11.1988 (Ex.A-2) and 04.01.1988 (Ex.A-4) pertain to the period subsequent to notification under Section 4 of the 1894 Act in the case(s) in hand, thus need not be relied upon whereas, the sale instances dated 18.07.1986 (Ex.A-1) and 08.04.1986 (Ex.A-3) produced on record by the landowners pertained to the period prior to notification under Section 4 of the 1894 Act and belong to the same revenue estate of village Paniar and thus, the same are relevant and need to be taken into account for the purpose of determination of market value in the case(s) in hand being reliable pieces of evidence.

[12]. Since there exists a time gap between the date of aforementioned sale instances (Ex.A-1 and Ex.A-3) and the date of issuance of notification under Section 4 of the 1894 Act in the case(s) in hand which was issued on 10.10.1987, an appreciation @ 8% per annum would be appropriate to be applied over the base price per acre derived from the sale instances (Ex.A-1 and Ex.A-3); which thus comes as under:-

Sale instance	Applying 8% per annum appreciation
Sale instance dated 18.07.1986 (Ex.A-1)	Rs.3,20,000/- per acre (approximately)
sale instance dated 08.04.1986 (Ex.A-3)	Rs.1,80,000/- per acre (approximately)

Moreover, in view of law laid down by the Hon'ble Apex Court in case of the case of ***Horrmal Vs. State of Haryana, reported as '2024(4) R.C.R. (Civil) 758',*** as per which the highest valued sale exemplar was to be considered while assessing the market value in the cases of compulsory land acquisition. Relevant paragraph Nos.27 and 28 from ***Horrmal's*** case (supra) are extracted hereunder:-

> *"27. In the instant case, there are multiple sale deeds of smaller plots, and these represent the best available evidence for estimating compensation. Since there is no legal impediment to considering such sale deeds, the logical progression in the compensation estimation process would be to identify the most suitable sale deed(s) for determining the market value and subsequently, to apply adequate deductions on the same. The solution to this state of flux may thus be found in the case of* ***MehrawalKhewaji Trust v. State of Punjab, (2012) 5 SCC 432*** *where this Court laid down as follows:*
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> > *"....It is clear that when there are several exemplars with reference to similar lands, it is the general rule that the highest of the exemplars, if it is satisfied that it is a bona fide transaction, has to be considered and accepted. When the land is being compulsorily taken away from a person, he is entitled to the highest value which similar land in the locality is shown to have fetched in a bona fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition."*
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> *28. This view has been reiterated in* ***Sh. Himmat Singh v. State of M.P., (2013) 16 SCC 392*** *where a three-judge bench of this Court consolidated various precedents to affirm that in circumstances where there are multiple sale deeds available for consideration, the Court shall rely on the highest valued exemplars unless the prices fall within a narrow range, in which case calculating an average of the values therein may be more congruous."*

Thus, the sale instance dated 18.07.1986 (Ex.A-1) relating to the same revenue estate of village Paniar, vide which 11 Marlas of land was sold at Rs.20,000/- with base price of Rs.2,90,909/- per acre fetching the highest sale price per acre **(**Rs.3,20,000/- after applying appreciation @ 8% per annum for the time gap from the date of sale instance i.e. 18.07.1986 to the date of issuance of notification under Section 4 of the 1894 Act, in the case(s) in hand i.e. 10.10.1987**)** needs to be relied upon for the purpose of determination of market value in the case(s) in hand as the best suitable sale exemplar.

[13]. Further, since the land forming part of the said sale deed dated 18.07.1986 (Ex.A-3) is a small parcel of land measuring 11 Marlas whereas the acquisition in the case(s) in hand pertains to 19.65 acres, a deduction @ 50% towards smallness of area would suffice which comes to Rs.1,60,000/- per acre.

[14]. However, in the given facts since the acquisition in the case(s) in hand was carried out for the public purpose, namely, "*for setting up of Effluent Treatment Facility for the Alcohol Project at village Paniar, Tehsil and District Gurdaspur"*, as such, the respondent(s)/State neither suffered any loss towards optimum utilization of the area acquired nor did it incur expenditure towards providing of additional infrastructural amenities, therefore, no cut towards development cost(s) needs to be imposed.

[15]. At this stage, it may be relevant to mention here that though some of the respondents-landowners in the present case(s) have not approached this Court by way of filing any appeal or cross-objections for seeking further enhancement of compensation, however, in the wake of enhancement been awarded by this Court in favour of similarly situated landowners, in relation to the same acquisition

proceedings, it would be a travesty of justice, in case, the powers under Order 41 Rule 33 CPC are not invoked and similar enhancement is not awarded in favour of the respondents-landowners being identically placed. Reliance in this regard can be placed upon the judgment rendered by the Hon'ble Apex Court in ***"Pralhad and others vs. State of Maharashtra and another",*** reported as ***2010(3) Apex Court Judgments (SC) 653*** and relevant paragraphs thereof are reproduced hereunder:-

> *"17. Now, the only question which remains is whether the landowners, without filing an appeal before the High Court from the order of the Reference Court, are entitled to the aforesaid benefit on the basis of their application under Order 41 Rule 33 of Civil Procedure Code.*
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> *18. The provision of Order 41, Rule 33 of Civil Procedure Code is clearly an enabling provision, whereby the Appellate Court is empowered to pass any decree or make any order which ought to have been passed or made, and to pass or make such further or other decree or order as the case may require. Therefore, the power is very wide and in this enabling provision, the crucial words are that the Appellate Court is empowered to pass any Order which ought to have been made as the case may require. The expression 'Order ought to have been made' would obviously mean an Order which justice of the case requires to be made. This is made clear from the expression used in the said Rule by saying 'the court may pass such further or other Order as the case may require.' This expression 'case' would mean the justice of the case. Of course, this power cannot be exercised ignoring a legal interdict or a prohibition clamped by law.*
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> *19. In fact, the ambit of this provision has come up for consideration in several decisions of this Court. Commenting on this power, Mulla (CPC, 15th Edition, pg. 2647) observed that this Rule is modelled on Order 59, Rule 10(4) of the Supreme Court of Judicature of England, and Mulla further opined that the purpose of this rule is to do complete justice between the parties.*
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> *"20. In* ***Vanarsi v. Ramphal, AIR 2004 Supreme Court 1989,*** *this Court construing the provisions of Order 41 Rule 33 of Civil Procedure Code held*

that this provision confers powers of the widest amplitude on the appellate court so as to do complete justice between the parties. This Court further held that such power is unfettered by considerations as to what is the subject matter of appeal or who has filed the appeal or whether the appeal is being dismissed, allowed or disposed of while modifying the judgments appealed against. The learned Judges held that one of the objects in conferring such power is to avoid inconsistency, inequity and inequality in granting reliefs and the overriding consideration is achieving the ends of justice. The learned Judges also held that the power can be exercised subject to three limitations: firstly, this power cannot be exercised to the prejudice of a person who is not a party before the Court; secondly, this power cannot be exercised in favour of a claim which has been given up or lost; and thirdly, the power cannot be exercised when such part of the decree which has been permitted to become final by a party is reversed to the advantage of that party. It has also been held by this Court in ***Samundra Devi and others v. Narendra Kaur and others, 2008(4) RCR (Civil) 395*** *:* ***2008(5) R.A.J. 441 : 2009(1) AICJ 433 : (2008) 9 SCC 100*** *(para 21) that this power under Order 41, Rule 33 of Civil Procedure Code cannot be exercised ignoring a legal interdict.*

21. In the instant case, the right of the landowner to receive the benefit under section 23(1A) of the Principal Act is legally permissible in view of the majority decision in Paripoornan (supra). Therefore, the law declared by this Court in Paripoornan (supra) is binding on the High Court under Article 141 of the Constitution and High Court is bound to follow the same, especially when an application has been made by the landowner under Order 41 Rule 33 of Civil Procedure Code.

22. In view of the aforesaid interpretation given to Order 41 Rule 33 of Civil Procedure Code by this Court, we are of the opinion that the High Court denied the relief to the appellants to which they are entitled in view of the Constitution Bench decision in Paripoornan (supra), by taking a rather restricted and narrow view of the scope of Order 41 Rule 33 of Civil Procedure Code and also on a misconstruction of the ratio in Paripoornan (supra).”

Furthermore, the aforementioned decision was followed by Hon'ble Division Bench of Madras High Court in case of ***"P.R. Srinivasan vs. The Special Tahsildar, Adi-Dravidar Welfare Department, Tirupattur"*** reported as ***2013(20) RCR (Civil) 624***. Relevant paragraph thereof is reproduced hereunder:-

> *"14. The ratio laid down in the above decision squarely applies to the case on hand. Once the Court has taken the view that claimant is entitled to enhanced compensation, he should not be denied the same on the mere technical grounds of non-filing of the appeal by the claimant. Notwithstanding that the claimant has not preferred any appeal, to award fair and adequate compensation to the claimant, this review application has to be allowed."*

[16]. Accordingly, all the landowners shall be entitled for benefit of award of enhanced **uniform market value at the rate of Rs.1,60,000/- per acre** as no belting method was applied by the appellant(s)-State while issuing notification dated 10.10.1987 or while fixing the floor rate of the area concerned. In addition, the landowners shall also be entitled for award of all statutory benefits and interest as provided under the provisions of the 1894 Act (amended upto date) besides solatium and award of interest thereupon.

[17]. Consequently, in view of the discussion made hereinabove, the appeal(s) preferred at the instance of appellant(s)-Sugar Mill are hereby dismissed and the appeal(s) filed at the instance of the appellant(s)-landowner(s) are hereby partly allowed in the aforesaid terms.

[18]. Wherever the landowner(s) has/have unfortunately expired in the appeal(s)/cross-objection(s) after filing thereof and the legal heirs 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.

[19]. All pending application(s), if any, shall also stand disposed of.

(HARKESH MANUJA)
JUDGE

May 13, 2026
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No