

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).10384/2006

(From the judgement and order dated 24/08/2005 in CWP No.4483/1990 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

PATIALA IMPROVEMENT TRUST THR. CHAIRMAN Petitioner(s)

VERSUS

SEWA RAM & ANR. Respondent(s)

(With prayer for interim relief and office report)

WITH

SLP(C) NO. 10494 of 2006

(With appln.(s) for substitution and c/delay in filing substitution appln. and permission to urge addl.grounds)

SLP(C) NO. 10491 of 2006

(With appln.(s) for substitution and directions and c/delay in filing substitution appln. and permission to file addl.documents and with prayer for interim relief and office report)

SLP(C) NO. 10586 of 2006

(With office report)

SLP(C) NO. 10587 of 2006

(With appln.(s) for directions and office report)

SLP(C) NO. 10588 of 2006

(With prayer for interim relief and office report)

SLP(C) NO. 10591 of 2006

(With appln.(s) for deletion of the name of respondent and urging addl.grounds and with prayer for interim relief and office report)

SLP(C) NO. 10595 of 2006

(With appln.(s) for permission to file addl.documents and with prayer for interim relief and office report)

SLP(C) NO. 10615 of 2006

(With appln.(s) for urging addl.grounds and with prayer for interim relief and office report)

SLP(C) NO. 10699 of 2006

(With appln.(s) for urging addl.grounds and with prayer for interim relief and office report)

SLP(C) NO. 11717 of 2006

(With appln.(s) for substituted service and office report)

SLP(C) NO. 10739 of 2006

(With appln.(s) for urging addl.grounds and with prayer for interim relief and office report)

SLP(C) NO. 10764 of 2006

(With appln.(s) for substitution and c/delay in filing substitution appln. and permission to file addl.documents and with prayer for interim relief and office report)

SLP(C) NO. 11156 of 2006

(With appln.(s) for urging addl.grounds and with prayer for interim relief and office report)

SLP(C) NO. 11725 of 2006

(With office report)

SLP(C) NO. 14127 of 2006

(With appln.(s) for c/delay in filing substitution appln. and substitution of L.Rs of the deceased respondent and office report)

SLP(C) NO. 14101 of 2006

(With office report)

SLP(C) NO. 14049 of 2006

(With office report)

SLP(C) NO. 14102 of 2006

(With office report)

SLP(C) NO. 14104 of 2006

(With office report)

SLP(C) NO. 13352 of 2006

(With appln.(s) for permission to place addl.documents on record and exemption from filing typed copies and office report)

SLP(C) NO. 20425 of 2006

(With appln.(s) for substitution and c/delay in filing substitution appln. and substitution of deceased petitioner and office report)

SLP(C) NO. 20423 of 2006

(With appln.(s) for substitution and exemption from filing O.T.and c/delay in filing substitution appln. and substitution of deceased petitioner and with prayer for interim relief and office report)

SLP(C) NO. 5508 of 2007

(With office report)

Date: 17/09/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr. T.N. Singh, Adv.  
Mr.V.K.Singh, Adv.  
Mr.H.L.Srivastava, Adv.

Mr. H.K. Puri, Adv.

Mr.S.C.Paul, Adv.  
Ms.Anjana Mehra, Adv.  
Ms.Roopaa Paul, Adv.  
Ms. Rekha Pandey, Adv.

Ms. S. Janani, Adv.  
Mr.Deepak Goel, Adv.  
Mr.Sunando Raha, Adv.

Mr.Rajesh Sharma, Adv.  
Mr.Ravinder Kumar, Adv.  
Ms. Shalu Sharma, Adv.

Mrs. Priya Puri, Adv.  
Mr.Sagar Singhal, Adv.  
Mr.S.K.Puri, Adv.

For Respondent(s)

Ms. S. Janani, Adv.

Mr.Sanjay Sarin, Adv.  
Ms.Gagan Deep Kaur, Adv.  
Mr. Ashok Mathur, Adv.

Mr. Praveen Jain, Adv.

Mr. Shiam Narain Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

SLP(C)Nos.10491 of 2006, 10586 of 2006, 10587 of 2006, 10588 of 2006, 10595 of 2006, 13352 of 2006, 14049 of 2006, 20423 of 2006, 20425 of 2006 and 5508 of 2007.

List these cases after six weeks.

SLP(C)Nos.10384 of 2006, 10494 of 2006, 10591 of 2006, 10615 of 2006, 10699 of 2006, 10739 of 2006, 10764 of 2006, 11156 of 2006, 11717 of 2006, 11725 of 2006, 14101 of 2006, 14102 of 2006, 14104 of 2006 and 14127 of 2006.

Delay condoned.

The applications for substitution are allowed.

The application for deleting the name of respondent No.1 - Naginder Kaur in SLP(C)No.10591 of 2006 is allowed.

These petitions are directed against order dated 24.8.2005 of the Division Bench of the Punjab and Haryana High Court vide which the writ petitions filed by the petitioner against the award of the Land Acquisition Tribunal, Patiala (for short, 'the Tribunal') were dismissed and those filed by the claimants (landowners) were partly allowed.

In exercise of the power vested in it under Section 36 of the Punjab Town Improvement Act, 1922 (for short, 'the 1922 Act') the petitioner issued Notification dated 21.6.1974 for the acquisition of land measuring 40.25 Acres situated within the municipal limits of Patiala for the Truck Stand Scheme. After approval of the Scheme by the State Government, the petitioner issued Notification dated 31.3.1976 under Section 42 of the 1922 Act.

The Land Acquisition Collector passed award dated 2.3.1978. He divided the acquired land into four blocks and fixed market value as under:

Block A	Rs.6/- per square yard
Block B	Rs.5.30 per square yard
Block C	Rs.5/- per square yard
Block D	Rs.4.10 per square yard

The landowners did not feel satisfied and filed applications under Section 18 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act'). Thereupon, the Collector made references to District Judge, Patiala, who was also acting as Presiding Officer of the Tribunal for Improvement Trust, Patiala. The Tribunal noted that the acquired land abuts Patiala-Rajpura Road on one side and the Link Road leading from Patiala-Rajpura Road to Police Station, Sadar, Patiala on the other and that Amit Soap Factory, Mathura Colony, Urban Estate Phase-I and Phase-II, Hira Bagh Colony and Panjab University are situated across the road. The Tribunal then referred to the sale deeds - Exhibits A1 to A11 produced by the landowners and Exhibits R1 to R4 produced on behalf of the petitioner and observed as under:

"Ex. R3 relied upon by the respondents is the same sale deed which is Ex. A1 produced by the claimants. The sale deeds Ex. A1 to Ex. A3 pertained to the part of the acquired land and the same were executed earlier to the notification. There is no contrary evidence that these sale-deeds were not bonafide transactions as such the price of the land covered under these sale-instances has to be taken as the same on the date of these sale deeds. Vide sale deed Ex. A1 plot measuring 333 sq. yards was purchased by Dr. Jaswant Singh claimant at the rate of Rs. 14.8 per square yards from Gopal Krishan while another

sale deed is Ex. A2 whereby Harbhajan Kaur wife of Jaswant Singh purchased 250 sq. yards from the same very owner on the same day at the rate of Rs.14.00 per sq. yard, vide sale deed Ex. A3 Harvinder Kaur daughter of Dr. Jaswant Singh purchased 250 sq. yards from the same vendor at the rate of Rs.15/- per square yard. Gopal Krishan PW2 has produced on the file a let out plan Ex. A4 of his land earlier to the notification by which, he had demarcated different plots of his land for sale and claimants Dr. Jaswant Singh, Harbhajan Kaur and Harvinder Kaur had purchased plots No. 2, 3 and 4 as depicted in plan Ex. A4 of the land of Gopal Krishan Puri claimant which has subsequently been acquired. It would sound very reasonable that in the year 1971 the land which was abutting or immediately near to the Patiala Rajpura road could fetch price at the rate of Rs.14/- per square yard. It is also commonly known that the price of the land is appreciating every year and the same had been duly recognized even under the Land Acquisition Act by latest amendment by introducing Section 23(1)(A). It has recently been referred our own High Court in Inder Singh Vs. State of Punjab and others 1988 Shimla Law Journal 501 recognising the appreciation of the price of land every year. Admittedly the notification was published on 21.06.1974 i.e. about 2-1/2 years of the sale deeds Ex. A1 to Ex. A3 which imply that at the time of notification the price of the land covered under these sale instances could fetch more price and at least not less than the one fetched by it in the year 1971. The Collector has assessed the price of this part of the acquired land at Rs. 6/- per square yard as falling in Block 'A' which obviously is much too inadequate. Even relying upon the average price of the land under the sale instances Ex. R1 to R4 produced by the respondents themselves the per sq. yard price comes to Rs.10/- which also contradicts the assessment of the rate of compensation awarded by the Collector. The claimants also produced on the file lease-deed Ex. A10 by which land belonging to Dera Baba Ram Dass measuring 1 bigha 10 biswas i.e. 1500 sq. yards was given on 99 years lease for a sum of Rs.22,500/-. This land has also been acquired under this notification and subject matter of reference. The lease deed was executed on 2.11.1973 i.e. earlier to the date of notification. Admittedly the lease money shows that the land fetched more than Rs.15/- per square yard. The circumstances attending to the acquired land referred to above thus prove that the compensation assessed by the Collector has no relevance to the prevailing market price. It is no doubt true that under the Town Improvement Trust Act, the market value of the land is to be the market value according to use to which the land is put at the date with reference to which the market value is to be determined under clause 3(a) of Section 23 of the Land Acquisition Act. The Collector also has made reference that the entire acquired land has to be taken as agricultural land. However, the Respondents led no evidence to show if the acquired land at the time of notification was under any kind of cultivation so as to assess the same as agricultural land at the time of notification. The situation of the acquired land in its very nature does not show that it was no agricultural land being sandwiched between the residential and commercial buildings all around the same.

Now reverting back to documentary evidence led by the claimants and the respondents, in support of the market price of the land at the time of notification evidence by the sale instance referred to above, it would be seen that the sale instances Ex. A1 to Ex. A3 fixed the price of the land near about the road at the rate of Rs.14/-per square yard. This price being of small plots cannot be applied to a bigger chunk of land around the same and as such applying the usual cut

laid down by the Supreme Court in Administrator General West Bengal vs. Collector Varanasi AIR 1988 Supreme Court 943 it can safely be taken that the land abutting Rajpura Road in the year 1971 could fetch the price of Rs. 10/- per square yard. The acquisition came in the year 1974 and taking in view the possible appreciation of the price of the land the market price at the time of notification so far as falling in Block 'A' can safely be fixed at Rs.14/- per square yard. Considering the over all appreciation in the market price of the land the market price of the acquired land falling in other block 'A' is assessed as under :-

- (i) Block 'B' Rs.9/- per sq. yard.
- (ii) Block 'C' Rs.8/- per sq. yard.
- (iii) Block 'D' Rs.7/- per sq. yard.

and the remaining land if any falling behind block D is also assessed at Rs. 7/- per square yard."

The petitioners and the landowners challenged the award of the Tribunal by filing separate writ petitions. While the petitioner pleaded that the enhancement granted by the Tribunal was legally unsustainable, the landowners pleaded that they were entitled to higher compensation.

It is borne out from the record that another batch of writ petitions was filed by the petitioner and the landowners questioning the award passed by the Tribunal in relation to the acquisition of 180 Acres land situated within the municipal limits of Patiala for "Shaheed Sewa Singh Thikriwala Nagar". The land acquired for that Scheme is adjacent to the land acquired for the Truck Stand along with the Booking Agencies. After considering the evidence produced by the parties, the High Court upheld the award passed by the Tribunal whereby market value of the land was fixed at Rs.15 per square yard (Block A), Rs.12 per square yard (Block B) and Rs.10 per square yard (Block C). The reasons assigned by the Division Bench of the High Court for sustaining the award passed by the Tribunal in respect of the land acquired for "Shaheed Sewa Singh Thikriwala Nagar" are extracted below:

"As far as the situation of the acquired land is concerned, there is no dispute that the land was touching the Patiala-Rajpura but at the same time it is also clear that the land in question was situated within the two bandhs which have been erected for restraining the water from Patiala Nadi to enter the city. In these circumstances, the observations made by the Tribunal that the land was to be treated as agricultural land cannot be held to be erroneous in any manner. The learned Tribunal has based its assessment on the basis of an earlier award dated July 28, 1988 passed by the Land Acquisition Tribunal with regard to assessment of compensation for the land which had been acquired through the same notification dated January 4, 1974 and for the purpose of development of the same scheme namely, Shaheed Sewa Singh Thikriwala Nagar. The aforesaid award dated July 28,1978 had assessed the market value of the entire land in three Blocks namely, Rs. 15/- per square yard, Rs. 12/- per square yard and Rs. 10/- per square yard. As a matter of fact, the Improvement Trust through CM No. 254433 of 2002 has placed a copy of the award dated July 28, 1988 on record as annexure R1. A copy of the order January 16, 1990 passed in Civil Writ Petition No. 463 of 1990, has also been placed on record whereby a Division Bench of this Court had dismissed a writ petition filed by the Improvement Trust, Patiala against the aforesaid award dated July 28,

1988. Even a copy of the order dated January 9, 1991 passed by the Hon'ble Supreme Court of India whereby the Special Leave Petition filed by the Improvement Trust, Patiala had been dismissed is available on the record. In these circumstances, it is apparent that the award dated July 28, 1988 passed by the Land acquisition Tribunal had attained finality. It is not in dispute that the aforesaid award also pertains to these very acquisition proceedings and for the development of the same scheme. Thus when the assessment made by the learned Tribunal in the earlier award has attained finality, then it was only natural for the Tribunal to follow the same in the present proceedings as well. The Improvement Trust cannot be heard to claim that the claimants were entitled to get any lesser compensation than what had been assessed in the earlier proceedings. For the same reasons, the claimants also cannot claim any higher compensation."

When the writ petitions filed against award passed by the Tribunal in respect of the land acquired for the Truck Stand Scheme were taken up for consideration, the High Court referred to the judgment passed in respect of "Shaheed Sewa Singh Thikriwala Nagar Scheme" and held that the landowners shall be entitled to compensation at the rate of Rs.15, Rs.12 and Rs.10 per square yard for the three blocks.

Shri T.N. Singh, learned counsel for the petitioner argued that the sale instance Exhibit A1 (Exhibit R3) relied upon by the Tribunal was in respect of a small piece of land measuring 333 square yards and the same could not be made basis for fixing market value of 40.25 Acres land acquired for the Truck Stand Scheme ignoring other sale instances produced by the parties. He further argued that even if Exhibit A1 (Exhibit R3) could be relied upon for fixing market value of the acquired land, the Tribunal and the High Court should have applied 33% cut towards development charges because that amount was to be spent for construction of roads and providing other amenities like water, electricity, drainage, etc.

Learned counsel for the landowners supported the impugned order and argued that the High Court did not commit any error by awarding enhanced compensation to their clients by relying upon the market value fixed for the adjacent land acquired for "Shaheed Sewa Singh Thikriwala Nagar". They further argued that the landowners are actually entitled to much higher compensation.

We have considered the respective submissions. It has not been disputed before us that the acquired land abuts Patiala-Rajpura Road on one side and Link Road leading from Patiala-Rajpura Road to Police Station, Sadar, Patiala on the other. It is also not in dispute that various establishments and residential colonies are in the vicinity of the acquired land and that the land acquired for "Shaheed Sewa Singh Thikriwala Nagar" is adjacent to the land in question. Therefore, it is not possible to find any fault with the approach adopted by the High Court in granting enhanced compensation to the landowners because the landowners whose land was acquired for "Shaheed Sewa Singh Thikriwala Nagar" were awarded compensation at higher rate.

Though, there appears some merit in the argument of Shri Singh that the Tribunal and the High Court should have applied appropriate cut towards development charges, we do not think that omission in this regard can be made a ground for setting aside the impugned order because while applying appropriate cut in lieu of development charges, the Court is duty bound to keep in view that the sale instance relied upon by the Tribunal was of 1971 and for the time gap of two years the landowners would be entitled to escalation of at least 10% per annum. In Valliyammal and another v. Tahsildar (Land Acquisition) and another (2011) 8 SCC 91, this Court held that 20% cut could be applied towards development charges when there is mismatch of size between exemplars relied upon by the landowners and the acquired land. In the same case,

the Court followed the ratio of the judgments in Ranjit Singh v. UT of Chandigarh (1992) 4 SCC 659, Krishi Utpadan Mandi Samiti v. Bipin Kumar (2004) 2 SCC 283, Land Acquisition Officer v. Ramanjulu (2005) 9 SCC 594, ONGC Ltd. v. Rameshbhai Jivanbhai Patel (2008) 14 SCC 745, Sardar Jogendra Singh v. State of U.P. (2008) 17 SCC 133 and Revenue Divisional Officer-cum-LAO v. Sk. Azam Saheb (2009) 4 SCC 395 and held that the landowners are entitled to the benefit of 10% escalation in the price per annum.

As a result of the above discussion, we hold that the High Court did not commit any error by directing the petitioner to pay enhanced compensation to the landowners. Consequently, the special leave petitions are dismissed.

The respondents-landowners shall be entitled to withdraw the balance of the amount which must have been deposited by the petitioner in terms of this Court's order dated 14.7.2006. If the petitioner had not deposited the entire amount of compensation along with the statutory benefits admissible to the landowners, then it shall pay that amount to the landowners and/or their legal representatives within a period of three months by getting prepared demand drafts in their names.

While disposing of this batch of special leave petitions, we make it clear that this order shall not prejudice the cause of the landowners, who have filed special leave petition for award of higher compensation.

(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master