



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

RFA-3120-2006

Date of Decision: September 03, 2025

SAHAB KAUR AND ORS.Appellants
Versus
STATE OF HARYANA AND ANR.Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. R.A. Sheoran, Advocate for the appellants.
Mr. Abhishek Yadav, DAG, Haryana.

HARKESH MANUJA, J. (ORAL)

A batch of 5 connected Regular First Appeals (details whereof are given on the foot of the judgment) shall stand disposed of by this common order, as they involve common question of law and facts.

For convenience, the facts are being taken from RFA-3120-2006.

By way of present appeal, challenge has been laid to the award dated 07.02.2006 passed by the learned Additional District Judge, Bhiwani, whereby the petitions filed under Section 18 of the Land Acquisition Act, 1894 by the appellants-petitioners seeking enhancement of compensation were dismissed.

2. Briefly stating, the land of the appellants situated in Village Balkara, Tehsil Charkhi Dadri, District Bhiwani was acquired for the public purpose i.e. construction of Dadhi Chhillar Sub Minor, vide notification issued under Sections 4 and 6 of the Land Acquisition Act 1894 (hereinafter referred to as 1894 Act) dated 08.07.2002 and

09.07.2002 respectively. The Land Acquisition Collector passed Award No. 34-B dated 06.09.2002, assessing the compensation at the rate of ₹1,30,000/- per acre for Chahi land along with statutory benefits.

3. The appellants-petitioners, feeling dissatisfied with the award, sought reference under Section 18 of the 1894 Act before the learned Additional District Judge, Bhiwani, pleading that the acquired land was fertile; possession of which had been taken over by the respondents long back in the year 1987, and that due compensation for severance of land besides for the standing trees and crops were not awarded.

4. Upon notice, a joint written statement was filed by respondents pleading that the compensation awarded by the Collector was just, fair and adequate as it included solatium, additional market value and interest as per provisions of law, and therefore there was merit in the reference.

5. On the basis of pleadings of the parties, the following issues were framed for consideration:

- “1. What was the market value of the acquired land at the time of issuance of notification under Section 4 of the Land Acquisition Act? OPP
2. Whether the petitioners are entitled to enhanced compensation, and if so, to what amount? OPP
3. Whether the petitioners are entitled to compensation on account of severance of their unacquired land? OPP
4. Whether possession of the acquired land was taken in the year 1987, and if so, to what effect? OPP
5. Relief.”

6. In order to prove their case, the petitioners examined witnesses including PW-1 namely S.S. Kadiyan, Junior Engineer, PW-2

Ram Kumar, Kanungo, and PW-3 Khushi Ram and tendered documents such as work order (Ex.P1), measurement book (Ex.P2), affidavit (Ex. P-4), Gazette notifications (Mark A and Mark B) etc. On the other hand, the respondents examined RW-1 Bijender Singh, SDO, and RW-2 Ranbir Singh, Patwari, and tendered the award (Ex.RW1/A).

8. After considering the evidence, the learned Additional District Judge, Bhiwani, vide award dated 07.02.2006, dismissed the petitions filed by the appellants, holding that the compensation awarded by the Collector was proper as the petitioners failed to prove that the possession of land was taken over from them in 1987 besides holding that no evidence was led to prove severance of land or existence of trees and crops etc.

9. Aggrieved of the aforesaid award dated 07.02.2006, the present Regular First Appeal (RFA) has been filed by the appellants-petitioners.

10. No challenge has been laid on the point of assessment of market value, however, learned counsel for the appellants submits that the learned Reference Court failed to award compensation in favour of landowners on account of severance of their land. He also submits that the bifurcation of land in two parts was established on record from the pleading and the evidence led by the land owners and thus, suitable compensation in this regard was required to be assessed. He also submits that the learned Reference Court went wrong having failed to award damages in favour of landowners with effect from 09/07/1987, i.e. the date of the first notification under Section 4 of 1894 Act pertaining to the land in question was issued and possession thereof

was taken over by the respondent till the date of final notification under section 4 in the present case issued on 08/07/2002, and as such the award passed by the learned Reference Court was required to be modified accordingly.

11. On the other hand, learned State counsel submits that there was no evidence available on record to establish that the appellants-landowners suffered any damages on account of severance of their land as a result of the present acquisition. He also submits that in exercise of power under Section 18 or even under Section 54 of the 1894 Act, neither the Reference Court nor even this court was empowered to award any damages in favour of appellants-landowners for the period between 09/07/1987 to 08/07/2002 as prayed for in the present appeal. He points out that even otherwise, it was never established on record that the possession of the land in question was obtained from the landowners on 09/07/1987. On the contrary, it has been submitted that the possession of the subject land was taken over only on the passing of the award by the Land Acquisition Collector on 06/09/2002 and thus, the appellants-landowners were not entitled for any such benefit as prayed for and the appeal in hand was liable to be dismissed.

12. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the appellants-landowners.

13. In the present case, the purpose of acquisition had been for construction of Dadhi Chhillar Sub Minor. As such there is no dispute that the land under acquisition was acquired in a horizontal straight line,

definitely resulting into bifurcation of the remaining land on site for all intent and purposes. The factum of loss been suffered by the appellants-landowners on account of severance was specifically and categorically pleaded in their reference petition while stating that on account of creation of the land into two parts, the sources of irrigation already in existence became purposeless, thereby causing loss to the appellants-landowners. In reply to the reference petition, the bifurcation of the land was never denied by the respondent, though it was pleaded that both the portions of land were being cultivated by the landowners. Further, the factum of injury occasioned by the severance of land was specifically stated in the deposition made by PW3-Khushi Ram.

14. In such view of the abovesaid, in the humble opinion of this Court, learned Reference Court went wrong while non-suiting the appellants-landowners, having denied them the benefits of damages towards the severance of their land. Thus, considering the fact that as an effect of severance, the land of the appellants stood bifurcated, thereby causing them damages towards loss of irrigation and the other resources as well, in such circumstances, the appellants-landowners are held entitled for damages to the extent of 20% of the market value. Further, the grievance of the appellants-landowners is that, though, the possession of the land in question was taken over by the respondents on 09-07-1987, whereas no damages were paid to them from the said date till the date of issuance of the last notification under Section 4 of the 1984 Act, in the present case i.e. 08-7-2002. Though, finding has been recorded by the learned Reference Court to the effect that the appellants-landowners failed to prove the factum of taking over of

possession of the land in question by the respondents on 09-07-1987, however, the same appears to be in contradiction with the evidence available on record. The appellants-landowners, in paragraph 2 of their reference petition, specifically and categorically pleaded that the possession of the land was taken over in the year 1987 and Dadhi Chhillar Sub minor was constructed thereupon. In the written statement, the respondents admitted the contents of the said paragraph being a matter of record without controverting anything on facts. Paragraph 2 of the reference petition filed at the instance of appellants-landowners in comparison to paragraph 2 of the written statement filed on behalf of respondents are extracted hereunder:-

Para No.2 of Reference petition	Para No.2 of Written statement
<p>“That the said land was notified for acquisition u/s 4 of the Land Acquisition Act vide notification No.4863/2-L dated 8.7.2002 and u/s 6 of the Act vide Notification No.4887/2-L dated 9.7.2002 published in the Haryana Govt. Gazette. However, possession of the land detailed above was taken into possession in the year 1987 and Dhadhi Chhillar Sub Minor was constructed in the year 1987. Earlier notifications were also published on 15.09.1987 and 28.05.1999 in Haryana Govt. Gazette but no Award was announced.”</p>	<p>“That Para No.2 matter of record.”</p>

15. Furthermore, from the deposition made by PW1-SS Kadian, Junior Engineer, construction Division No.1, Bhiwani, wherein he proved on record the work order as well as the measurement book relating to the construction work of Dadhi Chhillar Sub Minor as Exhibit P1 and Exhibit P2 respectively; it was established on record that the construction work started on 01/04/1997. Though, the aforementioned deposition and the documentary evidence were discarded by the learned Reference Court for the reason that the documents Exs. P1 and

P2 did not contain the Khasra numbers of the acquired land, however, the said finding needs to be set aside on account of misreading of the said evidence for the reason that undisputedly documents Exs. P1 and P2 related to the same construction work of the Dadhi Chhillar Sub Minor for which the subject land was acquired. On the contrary, no material was placed on record by the respondents to the contrary. The complete deposition of PW1-SS Kadian-Junior Engineer, Construction, Division No.1 is extracted here under:-

"I am summoned witness and I have brought the summoned record. Copy of work order is Ex.P1 and copy of measurement book is Ex.P2 which are correct according to my record, which I have brought today. According to this record, construction work of Dhadi Chillar Sub Minor was started on 01.04.1997. The possession of acquired land was taken by the department on 01.04.1997.

XXX by Sh. Balwan Singh, GP, for respondents.

I have no personal knowledge about the acquired land. Documents Ex.P1 and Ex.P2 does not contain any number of kill, khasra etc. It is wrong to suggest that I am deposing falsely."

16. Still further, landowner-Khushi Ram, while appearing as PW3 again went on to depose that the possession of the land under acquisition was taken over by the respondent in the year 1987, and he was never cross-examined on the said aspect meaning thereby that the part of deposition made by the landowner to the effect that the possession of acquired land was taken over by the respondents in the year 1987 was admitted being neither rebutted or controverted. Relevant extract from deposition of PW3-Khushiram in comparison to his cross-examination are extracted hereunder:-

Deposition of PW-3:

“.....However, the possession of the land acquired was taken by the State in the year 1987 without making any compensation for construction of the Dhadi Chillar Sub Minor.....”

Cross Examinations of PW-3:

“...It is wrong to suggest that our land was not bifurcated into two parts due to construction of minor; or that no crops or trees were standing at the time of acquisition of land’ or that government has given the price of land as per market value’ or thant I am deposing falsely.”

17. Be that as it may, the respondents failed to produce on record the Rappat Roznamcha entry made with respect to the taking over of possession of the subject land. Any such document was essentially prepared by the respondents-department and was undisputedly in their custody, being the best proof of taking over of possession. The respondents having withheld the same, adverse inference was required to be drawn against them. Keeping in view the aforesaid, it was more than established on record that the appellants-landowners proved that the possession of land in question was taken over by the respondents in the year 1987 (09-07-1987) and thus, they were entitled for suitable damages for the period between 09-07-1987 till 08-07-2002 i.e. the date of the first notification under Section 4 till the date of final notification under Section 4 of 1894 Act.

18. Having held that, the question now arises as to whether in proceedings arising out of reference under Section 18 of 1894 Act, the appellants-landowners can be awarded the benefits on account of possession being taken over from them on 09-07-1987 till the date of final notification under Section 4 of 1894 Act. This point of law is no more *res integra* in view of exposition of law made by the Hon’ble Apex Court in case of “**Special Land Acquisition Officer vs. Karigowda Vs.**

Others” reported as **2010(5) SCC 708**. Relevant paragraph No.80(iv) thereof is extracted hereunder:-

“Following the principle and the directions stated by this Court in R.L. Jain's case (supra), we grant liberty to the claimants to file applications before the competent authority (State Government/concerned Collector) to claim damages for their dispossession from the lands owned by them as a result of submerging, till the date of issuance of notification under [Section 4](#) of the Act i.e. 4th April, 2002. These applications may be filed within eight weeks from the date of pronouncement of this judgment. If such applications are filed we direct the competent authority to consider the same sympathetically and award such amounts to the claimants as may be payable in accordance with law expeditiously. We make it clear that the amounts, if already paid for this period, shall be adjusted.”

19. In view of the aforesaid position of law, the claim with respect to the quantum of damages sought for by the appellants-landowners from the date of their dispossession from the land till the date of issuance of last notification under Section 4 needs to be dealt with by the Land Acquisition Collector as observed by the Hon'ble Apex Court and by applying the same, the appellants-landowners shall prefer their applications in this regard before the competent authority-cum-Land Acquisition Collector within 8 weeks from today. As observed by the Hon'ble Apex Court, such applications be considered and decided sympathetically by awarding suitable damages in favour of appellants-landowners. Further, considering the fact that the appellants-landowners are suffering since July 1987, the Competent Authority-cum-Land Acquisition Collector, Bhiwani is directed to adjudicate upon their claim towards damages within 4 months of filing of claim petitions by affording adequate opportunity of leading evidence to both the sides. It goes without saying that the Land Acquisition Collector, Bhiwani shall

pass a well-reasoned speaking order and the benefits towards damages to which the appellants-landowners are found entitled with shall be released to them along with interest within 2 months thereafter.

In view of the above, the present appeals are disposed of.

20. Pending application(s), if any, shall also stand disposed of.

03.09.2025

Tejwinder

**(HARKESH MANUJA)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>

CONNECTED APPEALS

Sr No.	Case No.	Title
1.	RFA-3121-2006	BAJRANG AND ORS. V/S STATE OF HRY. AND ANR.
2.	RFA-3122-2006	SHER SINGH AND ANR. V/S STATE OF HRY. AND ANR.
3.	RFA-3123-2006	HARI RAM AND ORS. V/S STATE OF HRY.AND ANR.
4.	RFA-3124-2006	HARI RAM AND ANR. V/S STATE OF HRY. AND ANR.