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**(2013) 08 P&H CK 0794**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : R.F.A. No. 2939 of 2007 (O and M)**

Amin Lal and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

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**Date of Decision :** 12-08-2013

**Acts Referred:**

**Citation :** (2013) 08 P&H CK 0794

**Hon'ble Judges :** Rajesh Bindal, J

**Bench :** Single Bench

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## Judgement

Rajesh Bindal, J.—This order will dispose of RFA Nos. 2939, 2941 to 2958, 3561, 3562, 4104 of 2007, 432 of 2008, 3505, 4589 and 4590 of 2009, as common questions of law and facts are involved. The land owners are in appeal seeking enhancement in the amount of compensation awarded by the learned court below for the acquired land.

2. The facts have been extracted from RFA No. 2939 of 2007. Briefly, the facts of the case are that vide notification dated 5.4.2001, issued u/s 4 of the Land Acquisition Act, 1894 (for short, "the Act"), the State of Haryana sought to acquire 22.60 acres of land falling in villages Bakrianwali, Dhingtanania and Sahidanwali, Tehsil and District Sirsa for construction of Sahidanwali minor. The Land Acquisition Collector (for short, "the Collector"), vide award dated 17.6.2002, determined the market value of the acquired land @ Rs. 1,00,000/- per acre for nehri land; Rs. 90,000/- per acre for chahi land; Rs. 50,000/- per acre for barani land and Rs. 2,90,000/- per acre for gair mumkin kind of land. Dissatisfied with the award of the Collector, the landowners filed objections, which were referred to the learned court below. The learned reference court determined the market value of the acquired land @ Rs. 2,00,000/- per acre for nehri land; Rs. 1,70,000/- per acre for chahi land; Rs. 1,00,000/- per acre for barani land and Rs. 5,00,000/- per acre for gair mumkin kind of land. It is this award which is impugned by the land owners before this court.

3. Learned counsel for the landowners submitted that the value of the land, as

assessed by the court below, is not just and fair considering its location and potentiality. It was high fertile land located quite close to the abadi of the village and near the town. However, learned counsel was not able to refer to any relevant evidence produced on record to show that the compensation, as assessed by the court below, deserves to be enhanced any further. There is no sale deed produced on record. It was further submitted that classification of land as nehri, chahi, barani and gair mumkin is not fair as after the construction of the minor in question, the entire land is well irrigated and even prior thereto, the position was the same. Further, the submission was that acquisition in the present case was for construction of a minor, which had bifurcated the land of the landowners into two parts, however, still the learned court below declined compensation on account of severance.

4. On the other hand, learned counsel for the State submitted that in the absence of any sale deed produced on record by the landowners, the claim for enhancement of compensation is totally misconceived. The onus to prove that the compensation, as assessed by the Collector is not just and fair is always on the landowners. Considering the material produced on record by the landowners, the court below has already awarded just and fair compensation, which does not call for any interference by this court. There is no sale deed produced on record. As far as classification of land is concerned, the submission is that as the land is located in the rural area, it is always valued considering the fact that it has irrigation facility or not. The land, which is in the urban area, loses its significance of being chahi or barani, as it is used for construction. The status of land after acquisition and the purpose for which it was acquired will not be relevant for determination of compensation of the acquired land. As far as bifurcation of land on account of acquisition for construction of minor is concerned, learned counsel did not dispute that the land was bifurcated into two parts.

5. Heard learned counsel for the parties and perused the relevant referred record.

6. As far as value of the land is concerned, in the absence of any sale deed produced on record by the landowners, in my opinion, no case for further enhancement can possibly be made out as the onus to prove that the value of the acquired land is more than what has been determined either by the Collector or by the Reference Court is always on the landowners. In the absence of any relevant evidence produced on record, no case for enhancement can possibly be made out. Therefore, the claim of the landowners seeking enhancement of compensation is without any merit, hence, rejected.

7. The plea raised by learned counsel for the landowners that the acquired land should not be classified into nehri, barani or gair mumkin and the entire land should be assessed at the same rate is also to be merely noticed and rejected for the reason that the land in the rural area is always sold considering the benefits attached to it. The value of the acquired land is to be determined on the date of issuance of notification u/s 4 of the Act considering the price the land could fetch

on that date. It is only once the land is fit for urbanisation that it loses its significance of being chahi or barani, hence, the argument that the entire land should be classified as one is rejected.

8. As far as grant of compensation on account of severance is concerned, on account of acquisition and construction of a minor/drain/distributory, it becomes difficult to cultivate the other portion of the land and to cross over to the other side. The level of the minor is always above the level of the land, which makes it difficult to irrigate or use the divided portions of the land to its optimum and also to approach the other portion of the land. The bridges are provided at a distance and the land owners have to take a longer route to reach other part of the land. On that account, in my opinion, the land owners deserve to be compensated. Considering the aforesaid facts, in my opinion, damages on account of severance @ 20% of the value of the acquired land would be the reasonable amount, which the land owners in the present case deserve to be granted. Accordingly, the impugned award of the learned court below is modified to the extent that the land owners are held entitled to compensation on account of severance of land @ 20% of the value of the acquired land. The land owners shall also be entitled to the statutory benefits available under the Act.

The appeals are disposed of in the manner indicated above.