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**(2009) 04 P&H CK 0169**

**In the Punjab And Haryana At Chandigarh**

**Case No : Regular First Appeal No. 3712 of 1999**

Bachan Singh and others

APPELLANT

Vs

Union Territory, Chandigarh, through the Land Acquisition  
Collector, Sector 17, Chandigarh

RESPONDENT

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**Date of Decision : 27-04-2009**

**Acts Referred:**

**Citation : (2009) 3 LLR 483 : (2009) 3 RCR(Civil) 170**

**Hon'ble Judges : Rakesh Kumar Jain, J**

**Advocate :** For the Appellants in RFA Nos. 3712, 3791, 3822, 3823 and 3738 of 1999, 171 of 2000, Mr. P.C. Dhiman, Advocate. For the Appellants in RFA Nos. 632 and 633 of 2000, Mr. R.K. Dhiman, Advocate. For the Appellants in other RFAs, None. For the Respondents/U.T. Chandigarh in RFA Nos. 3712, 3791, 3738, 3814, 3822, 3823 of 1999, 559, 632, 633, 1169, 41 of 2000, Mrs. Lisa Gill, Advocate. For the Respondents/U.T. Chandigarh in RFA No. 171 of 2000, Ms. Alka Chatrath, Advocate., Advocates for appearing Parties

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## Judgement

Rakesh Kumar Jain, J. (Oral)

1. Identical question of law and facts are involved in these 12 Regular First Appeals bearing Nos. 3712, 3791, 3814, 3822, 3823, 3738 of 1999, 559, 632, 633, 1169, 41 and 171 of 2000, filed by the claimants against the award passed by learned Additional District Judge, Chandigarh, dated 24.8.1999, therefore, all the appeals are being decided by a common order. The facts, however, are extracted from RFA No. 3712 of 1991 (Bachan Singh and others v. U.T. Chandigarh).

2. Vide notification dated 8.7.1988, issued under Section 4 of the Land Acquisition Act, 1894 (for short, "the Act"), land measuring 62.97 acres was acquired by the respondent for development of 3rd Phase of Chandigarh City.

3. The Land Acquisition Collector, Chandigarh (for short, "the Collector") vide his award dated 27.3.1991 assessed the market value of the acquired land at the rate of Rs. 1.90 lacs per acre for Chahi, Barani, Banjar Kadim, and Gair Mumkin Tubewell and at the rate of Rs. 75,000/ per acre for Gair Mumkin Nadi.

4. The land owners were not satisfied with the award, therefore, they filed objections under Section 18 of the Act, and sought references. It was alleged in the claim petitions that the acquired land has gained potentiality for urbanization which can be used for commercial as well as residential purposes. It is further submitted that there are developing sectors 4445 on one side of the acquired land in which the Government has auctioned the plot of one kanal @ Rs. 25.00 lacs and the plot of 10 marlas @ Rs. 8/10 lacs respectively and on the other side of the acquired land, there are developed phases 8,9,10 and 11 of Mohali. Thus, the value of the acquired land was alleged to be not less than Rs. 50.00 lacs per acre. It was also averred that the Government has further allotted the land, to various societies after acquiring it, @ Rs. Rs. 665/ to Rs. 750/ per square yard.

5. The landlords' claim was refuted by the respondents and it was averred that the compensation awarded by the Collector is just and adequate. In order to substantiate their cases, both the parties led their oral as well as documentary evidence. The learned reference Court while relying upon the previous awards Exs. A11 and A13 which pertain to acquisition of village Nizampur Kumbra vide notification issued under Section 4 of the Act dated 29.7.1988, assessed the compensation at a flat rate of Rs. 3,87,200/ per acre. Still dissatisfied, the landowners have come up in these appeals before this Court. However, the respondents did not challenge the award of the reference Court.

6. Mr. P.C. Dhiman, learned counsel for the appellants/ claimants has argued that the reference Court has relied upon the award Ex. A11 in L.A.C Case No. 402 in the case of Harchal Singh v. Union of India, which has been further challenged by the claimants in this Court by way of RFA No. 99 of 1998. It is submitted that this Court in RFA No. 99 of 1998 further enhanced the compensation of the land of village Nizampur Kumbra for the acquisition of 29.7.1988 to the tune of Rs. 7,50,000/ per acre at uniform rate besides awarding all the statutory benefits in terms of the provisions of the Amended Act. Learned counsel, thus, prayed that same compensation be awarded to the appellants in these cases also.

7. On the other hand, Mrs. Lisa Gill, learned counsel for U.T.Chandigarh, has vehemently argued that the award rendered in RFA No. 99 of 1998 cannot be relied upon because in those cases, decision in Bhajan Singh's Case has been relied upon which does not pertain to village Nizampur and rather, it pertains to village Kajehri. She also submitted that the compensation of Rs. 7,50,000/ per acre cannot be awarded to the claimants as they have not affixed the proper Court fee.

8. I have heard learned counsel for the parties and have perused the record with their assistance.

9. Admittedly, the present acquisition dated 29.7.1988 relates to village Nizampur Kumbra for the purpose of development of 3rd Phase of Chandigarh City. Similarly, land of village Nizampur Kumbra measuring 283.22 acres, was acquired vide notification dated 29.7.1988 for the purpose of development of 3rd

Phase of Chandigarh City. The reference Court has relied upon the award in L.A.C. Case (Harchal Singh & Others v. Union Territory of Chandigarh and determined compensation at the rate of Rs. 3,87,200/ per acre. The said award of the reference Court was never challenged by the Union Territory, Chandigarh and has attained finality. Now the said award which has been challenged by the claimants by way of RFA No. 99 of 1998 (Harchal Singh & Others v. Union Territory of Chandigarh), has been decided by this Court vide order dated 29.11.2006 and compensation at the rate of Rs. 7,50,000/ per acre has been awarded. Again the award passed in RFA No. 99 of 1998 has not been challenged by the U.T.Chandigarh and it has attained finality. Thus, the present appeals are squarely covered by the decision rendered in RFA No. 99 of 1998 aforesaid and the appellants/claimants are also entitled to the same compensation of Rs. 7,50,000/ per acre. Consequently, the issue with regard to redetermination of the market value is answered in favour of the appellants and they are held entitled to the compensation of Rs. 7,50,000/ per acre for the entire acquired land with all the statutory benefits in terms of the provisions of the amended Act.

10. Insofar as the question of payment of less Court fee is concerned, learned counsel for the appellants has relied upon a decision of the Supreme Court in the case *Bhimasha v. Special Land Acquisition Officer* and another (2008) 10 Supreme Court Cases 797, to contend that in case a party has claimed less market value but the High Court awarded the market value much more than that, the party claiming compensation is not bound by the rate claimed by it. The High Court should have, after taking note of the facts of the case and the market value determined by it, awarded the higher compensation subject to payment of the balance court fee.

11. No contrary judgment has been cited by the learned counsel for the respondents.

12. In view of the above, these appeals are allowed. The appellants/claimants are held entitled to the compensation @ Rs. 7,50,000/ per acre with all the statutory benefits in terms of the provisions of the Amended Act. It is also ordered that in case of any shortfall in respect of the Court fee, the same shall be made good by the claimants within a period of three months from the date of receipt of a certified copy of this order.