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**(2008) 04 P&H CK 0058**  
**In the Punjab And Haryana At Chandigarh**

Surjit Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

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**Date of Decision :** 09-04-2008

**Acts Referred:**

Land Acquisition Act, 1894 — Section 4, 6

**Citation :** (2008) 2 PLR 763

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

**Bench :** Single Bench

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## Judgement

Rakesh Kumar Jain, J.—This order shall dispose of R.F.A. Nos. 1337, 1327, 1338, 1339, 1340, 1341, 1342, 1486, of 1991 filed by the claimants, and 2794, 2795, 2796, 2797, 2798, 2799, 2800, 2801, 2802 and 2803 of 1992, filed by the State of Punjab, as common questions of law and facts are involved in these appeals. However, the facts are being taken from R.F.A. No. 1337 of 1991.

2. Vide notification dated 1.10.1985, issued u/s 4 of the Land Acquisition Act, 1894 (for short, "the Act") followed by notification dated 4.10.1985 issued u/s 6 of the Act, land in Village Sil Kapra was acquired for the construction of S.Y.L. Canal. About 73.16 acres of land was notified. On actual measurement, 72.08 acres of land was found at the spot.

3. The Land Acquisition Collector, vide his award No. 121/R-SYL dated 2.7.1986, awarded compensation at the following rates:

1. Chahi : Rs. 72,500/- per acre 2. Barani : Rs. 50,000/- per acre 3. Banjar Kadim : Rs. 45,000/- per acre 4. Gair Mumkin : Rs. 40,000/- per acre.

4. On reference, the learned District Judge, vide his award dated 02.1.1991, assessed the market value of the land @ Rs. 80,000/- per acre for Chahi land and awarded compensation @ 40% of the market value as severance allowance to the claimants whose lands had been severed into two parts.

5. Mr. M.L. Sharma, learned Counsel for the appellants/claimants has made two-

fold submissions that not only the market value, that has been assessed of the acquired land but also the severance allowance is highly inadequate. It has been argued that the land in village Batta, which is stated to be adjoining to the village Sil Kapra was also acquired for the purpose of construction of SYL Canal vide notification dated 18.9.1985 in which the learned District Judge had awarded Rs. 90,000/- per acre and 25% of the market value as compensation payable for severance allowance, which was further enhanced by this Court in R.F.A. No. 1151 of 1991 (Jaswant Singh v. State of Punjab) decided on 10.2.2000 from Rs. 90,000/- to Rs. One lakh per acre. Therefore, learned Counsel for the appellants/claimants contended that since the land in the adjoining village has been acquired for the same purpose where the market value of the land has been assessed @ Rs. One lakh, the same should also be awarded to the appellants/claimants in the present appeals as well. In respect of severance allowance, learned Counsel for the appellants/claimants has submitted that the appellants are entitled to at least 50% of the market value as severance allowance. In this regard, he relied upon decision in the case of State of Haryana and Others Vs. Rajinder Kumar and Others, , Punjab State v. Gurbachan Singh 1988 P.L.J. 490, Smt. Narinder Kaur v. The State of Punjab (1980) 82 P.L.R. 473, State of Punjab through Collector, Hoshiarpur v. Gopal Singh 2002 131 P.L.R. 843 and State of Punjab Vs. Shri Radha Krishan, , Tehal Singh v. The State of Punjab 1987 All LR 491 and Bishan Dass Vs. State of Punjab, .

6. On the other hand, Mr. P.C. Goyal, learned Senior Deputy Advocate general, Punjab, appearing of behalf of the respondents as well as appellant in State Appeals has argued that the learned District Judge has erred in assessing the compensation at uniform rate without taking into consideration the nature of land which has been taken care of by the Collector in his award. It has been submitted that the compensation awarded in the case of Jaswant Singh v. State of Punjab R.F.A. No. 1151 of 1991 decided on 10.2.2000 by this Court cannot be made the basis for the assessment of compensation as the same pertains to a different village, whereas the Court below has relied upon a sale deed Ex. P-6 pertaining to the same village Kapra which was executed on 9.8.1985 only a month prior to the date of notification issued u/s 4 of the Act. In respect of severance allowance, it has been argued that award of 40% on the market value is adequate and does not call for any interference.

7. I have heard learned Counsel for the parties and have perused the record with their assistance. It is undisputed that the appellants have placed on record Ex. P-6, which is a sale deed pertaining to 1 kanal 16 marlas of land situated in village Sil Kapra sold for Rs. 18,000/- which comes to Rs. 80,000/- per acre. The compensation rendered in Jaswant Singh's case aforesaid renders no assistance to the appellants as there is no evidence on record to show that the land situated in village Sil Kapra was similar to that of the land situated in village Batta and also there is no evidence to show that potentiality of the land in village Batta was similar to that of village Sil Kapra, except for a statement of PW-4 that the land of village Batta and Sil Kapra adjoins the acquired land. Therefore, in my view,

this could not be a guiding factor for the purposes of determination of compensation for the acquired land, especially in view of the fact that there is already evidence on record tendered by the appellants themselves in the nature of Ex. P-6 of village Sil Kapra, where the sale was effected on 9.8.1985 only about a month prior to the acquisition which is the best piece of evidence for the purpose of assessing the market value of the acquired land. Thus, the argument raised by learned Counsel for the claimants/appellants for the enhancement of compensation in respect of the land is hereby rejected.

8. So far as severance allowance is concerned, indeed, there is merit in the argument of learned Counsel for the claimants/appellants, who has cited a catena of judgments referred here-in-above in which this Court has repeatedly awarded 50% of the market value for severance allowance. In my view, the appellants are also entitled to 50% of the market value for severance allowance in view of the decision rendered in Rajinder Kumar's case (supra), Gurbachan Singh's case (supra), Smt. Narinder Kaur's (supra), Gopal Singh's case (supra), Radha Krishan's Cases (supra), Tehal Singh's case (supra) and Bishan Dass's case (supra).

9. So far as the argument of learned Counsel for the respondents that the learned Court below has erred in assessing the market value of all categories of land uniformly is concerned, I do not find any merit in it because purpose of acquisition of all types of land is same. Therefore, the Court below has committed no error in granting uniform rates.

10. In view of my above discussion, the present appeals filed by the appellants/claimants are partly allowed and that of the State of Punjab are hereby dismissed. The appellant/s-claimants are held entitled to 50% severance allowance on market value together with all statutory benefits as envisaged under the Act amended up-to-date. The appellants/claimants are also entitled to the costs of these appeals.