

## Hari Singh Vs Land And Building Department And Anr

**Court:** Delhi High Court

**Date of Decision:** Aug. 18, 2022

**Acts Referred:** Constitution Of India, 1950 – Article 14, 226  
Land Acquisition Act, 1894 – Section 4

**Hon'ble Judges:** Chandra Dhari Singh, J

**Bench:** Single Bench

**Advocate:** N.S. Dalal, Devesh Pratap Singh, Alok Kumar, Rachana Dalal, Vishvender Balhora, Ranjeet Singh, Yeeshu Jain, Jyoti Tyagi, Vivek Goyal, Anuj Chaturvedi

**Final Decision:** Disposed Of

### Judgement

Chandra Dhari Singh, J

1. The present writ petitions are filed under Article 226 of the Constitution of India with a common prayer for issuance of appropriate writ directing

the respondent: -

(a) to pay the amount of Special Rehabilitation Package (hereinafter, referred to as S.R.P.) to the petitioners in the same manner and on same terms

as has been paid to similarly situated villages, namely, Pooth Khurd, Sultanpur, Karala and Kanjhawala, whose land had been acquired at the same

time;

(b) as well as claiming interest over delayed payment of S.R.P. specifically from the date when the award had been announced till the date amount of

S.R.P has been paid to the petitioners.

2. All these writ petitions have similar issues for adjudication and therefore, all writ petitions shall be disposed of by common judgment.

#### FACTUAL MATRIX

3. The factual matrix has been taken from W.P. (C) bearing number 8823/2017.

4. The land of the petitioners situated in the revenue estate of Village Tikri Khurd was acquired vide award dated 16th February 2009 by the

appropriate government. Along with the land of petitioners, land of various other villages was also acquired at the instance of Delhi State Industrial

and Infrastructure Development Corporation Ltd. (hereinafter referred to as "DSIIDC").

5. On 1st October 2008, the Government of NCT of Delhi (hereinafter referred to as GNCTD) announced the grant of S.R.P, for the people

who were affected by the land acquisition in respect of cases in which the land acquisition awards had not been announced till 18th December 2017

and whose land had been acquired from the year 2005 onwards. The condition subject to which S.R.P. was granted was that the person concerned

should not have filed a reference and should have accepted the amount. If a reference had already been filed, then S.R.P. could only be granted if the

reference was withdrawn.

6. In the instant case, it is not disputed that compensation amount as well as the S.R.P. was not paid till the year 2011. Compensation was paid to the

villagers only after some of them approached this Court seeking a direction to make payment of compensation amount and the amount of S.R.P. It

must be noted that no payment of S.R.P was made until now.

7. A co-ordinate bench of this court vide its Judgment and Order dated 27th September 2011, directed the Respondent Land Acquisition Collector

(LAC) to make the payment of S.R.P. on or before 01st December 2011. However, it is not disputed that the payment of S.R.P was not made despite

the order dated 27th September 2011. As a corollary, Contempt Petitions, titled, Ashwani Kumar & Ors. Vs Lal Singh & Anr. (Contempt Case (Civil)

No. 929/2011 and Rohtas vs Vijay Dev & Anr. (Contempt Case (Civil) No. 201/2012, were filed before a co-ordinate bench of this court for non-

compliance of order dated 27th September 2011 passed by this court.

8. The Contempt Petitions were disposed of vide order dated 21st September 2015, with the following observations: -

"Today, Mr. N.S. Dalal, learned counsel for petitioners states that he is willing to accept the special rehabilitation package without

prejudice to his rights and contentions to claim interest as well as to urge that the package now being paid to petitioners is different from

that which was paid to other similarly situated villagers whose land had been acquired at the same time.

Mr. Sanjay Poddar, learned senior counsel for respondent-GNCTD states that special rehabilitation package being offered to the

petitioners is in terms of the policy announced on 1 October, 2008 as well as in accordance with the subsequent Cabinet decision.

Consequently, present contempt petitions are disposed of accepting Mr. Dalal's offer to accept the package without prejudice to his rights

and contentions and with liberty to raise the aforesaid claims. However, it is clarified that this Court has not expressed any opinion on the

merits of the claims. Rights and contentions of all parties are left open.

9. Hence, aggrieved by the S.R.P not offered on the same basis and on same terms as that of other similarly situated villages, this instant writ petition

has been filed by the petitioners seeking directions to the respondent that they are entitled to S.R.P in the same manner and on the same basis as has

been paid to the persons of villages Karala, Kanjhawala, Sultanpur and Pooth Khurd as well as interest over delayed payment of S.R.P.

## SUBMISSIONS

10. Learned counsel appearing on behalf of the petitioners has contended that there could not have been any differentiation in the payment of the

S.R.P., as it is a Government order and the S.R.P. has to be paid in the same manner and on the same basis irrespective of the fact whether the land

has been acquired for the benefit of DDA or for the DSIIDC.

11. It is submitted that the language of S.R.P. is that it has to be offered to every person who foregoes the right of challenging the acquisition

proceedings or the amount offered by the award. It is submitted that the only condition of the S.R.P. is that the payment offered by the award should

not be challenged by way of reference or if challenged then the same has to be withdrawn for claiming S.R.P. There is no other condition. If there is

no other condition, then there cannot be any differentiation in the payment of S.R.P.

12. It is further submitted that this differentiation in treatment of villagers who are similarly situated had led to the violation of Article 14 of the

Constitution of India, and as a result such an approach on the part of the authorities which is writ large is not sustainable in the eyes of law. The

learned counsel has also contended that the petitioners are also entitled for payment of interest thereon as the petitioners have been deprived of the

amount of S.R.P. since the date of making of the award i.e., since the year 2009. It has also been demonstrated that discounting has to be on yearly

basis and months cannot be counted. In the cases of other villages, where the land has been acquired for the benefit of DSIIDC, discounting has been

done on yearly basis only but the same has not been done on yearly basis so far as the petitioners or other villagers of village Tikri Khurd are

concerned.

13. Per Contra, learned counsel for the respondents vehemently opposed the instant writ petitions and submitted that the same are devoid of any merit

and are liable to be dismissed. He contended that the petitioners have not come to the court with clean hands and hence are guilty for misinterpretation

of truth by suppressing certain important facts of the case.

14. The learned counsel contended that the land of five villages namely, Singhu, Alipur, Bakoli, Mamoorpur, Tikri Khurd, measuring 1959 Bigha 09

Biswa 15 biswansi (408.23 acres), was acquired by the Land Acquisition Collector/ L&B Department of the GNCTD on request of Delhi

Development Authority (hereinafter, referred to as "DDA"). Out of the said land measuring 1863 Bigha 01 Biswa 15 Biswansi (388.15 acres).

Possession of land has been handed over to DDA by LAC/L&B Dept., GNCTD. The land of the petitioners comprised in various khasra numbers in

the revenue estate of village Tikri Khurd, Delhi was also part of the land acquired by DDA vide various awards. Payment of awards for Rs. 117.82

lakhs had been made by DDA on 5th November 2009.

15. It is further submitted that the GNCTD decided to give S.R.P. for the people affected by Land Acquisition in respect of the cases in which the

land acquisition awards had not been announced till December 18, 2007. The S.R.P. policy was brought in to benefit landowners/interested persons

and to avoid unnecessary litigation. The S.R.P. qua the land acquired vide the aforesaid award was granted by GNCTD and the petitioners had also

received the benefits of the same amongst other landowners. Further the petitioners were paid compensation as per the S.R.P. policy which provided

that the amount of compensation effective from 18th December 2007, would be discounted by Rs 11.80 lakhs per acre per year for those lands

notified under section 4 for acquisition in 2005 & 2006.

16. Learned counsel for the respondent has further contended that the other villages namely, Karala, Kanjhawala, Sultanpur, Pooth Khurd notification

under section 4 was issued on 25th August 2005. The period for deduction at the rate of Rs 11.80 lakh was for 2 years and 4 months. Thus, the period

for deduction of the said amount has been taken for 2 years. In case of village Tikri Khurd, where the land of the petitioners was situated the date of

notification under section 4 of Land Acquisition Act, 1894 was 23rd February 2006. The period for deduction at rate of Rs 11.80 lakhs has been taken

as 1 year and 301 days. Thus, the period for deduction of the said amount has been taken as 1 year and 301 days.

17. Lastly, the learned counsel contends that period for payment of S.R.P. from the cut-off date is 18th December 2007 is different for Tikri Khurd

from Karala, Kanjhawala, Sultanpur, Pooth Khurd. Therefore, the case of petitioners cannot be equated to others, and it cannot be claimed that

computation & calculation of Tikri Khurd is unconstitutional as the same has been done after following all formalities and due compliance of the

mandate of law as required under Land Acquisition Act, 1894. Hence, the steps taken do not suffer from any infirmity and the same is valid.

#### ANALYSIS AND FINDINGS

18. Counter affidavit has been filed in Shri Satpal and Ors. Vs. Land and Building Department and Ors., W.P. (C) 8833/2017. Learned Counsel

appearing on behalf of the respondent in the matter where counter affidavit has not been filed has adopted the counter affidavit filed in the other

matter. It must be noted that the main grievance of the petitioners is that their S.R.P. has not been considered on the same basis as that of other

villages.

#### SPECIAL REHABILITATION PACKAGE

19. S.R.P was announced by the Land & Building Department of the GNCTD by order dated 1st October 2008. The quintessential purpose of S.R.P.

was to avoid any further litigation qua acquisition of land and this policy decision was taken by taking into consideration the general rise in prices of

land and the inequity of giving compensation based on procedure followed under the Land Acquisition Act, 1894.

20. The relevant portion of S.R.P. is reproduced below for proper adjudication: -

“The Government of the NCT of Delhi have taken into consideration the general increase in prices of land and the inequity of giving

compensation based on the procedure followed under the Land Acquisition Act, 1894. Therefore, the government have decided to give a

Special Rehabilitation package for the people affected by the land acquisition in respect of the cases in which the land acquisition awards

have not been announced till December 18, 2007 details of which are:-

a) The amount of compensation effective from December 18, 2007 would be discounted by Rupees 11.80 lakhs per acre per year for those

lands which were notified under section 4 for acquisition in 2006 and 2005.

b) Though this Special Rehabilitation Package would involve additional funds for making payment of compensation to the farmers, the

amount would be recovered while determining the cost of land allotted to other government agencies.

c) The other elements of the award namely solatium and interest would be allowed as per rules.

d) The Special Rehabilitation Package would not be treated as precedent for the future.

e) The payment of compensation should be done in a time bound manner.

f) The package would apply to all agricultural lands.,

g) The Special Rehabilitation Package should be accepted by individual farmers and made applicable in each case only, if they do not

mount a challenge to the award already announced by the LAC, if they have challenged the award they must withdraw the petition to avail

of the benefits of the Special Rehabilitation Package.”

21. The conditions subject to which S.R.P. was to be granted are reproduced hereunder: -

(a) Land acquisition awards should not have been announced till December 18, 2007, and

(b) The S.R.P. should have been accepted by individual farmers and made applicable in each case only, if they do not mount a challenge to the award

already announced by the LAC. If they challenged the award, they must withdraw the petition to avail the benefit of the S.R.P.

22. Therefore, dual method of calculation, discriminatory to the petitioners under the same policy could not have been undertaken by the Land

Acquisition Collector.

23. In the instant case, it is not the case of respondents that the petitioners before this Court have made challenge to the award so announced on 16th

February 2009, on the contrary payment of S.R.P. has already been made to the petitioners and it is only the methodology of calculation which has

been made subject to challenge before this Court.

24. The petitioners have vehemently relied on the methodology of calculation for the purpose of S.R.P. in case of Pooth Khurd, Sultanpur, Karala and

Kanjhawala. For the sake of clarity, the calculation formula which has been adopted by DSIIIDC for awarding S.R.P. to the villagers of the

abovementioned villages has been delineated below: -

Ã, A. Date of Notification under section 4 of the Land Acquisition Act, 1894:Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, 25th August

2005Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã,

a. Market Value (M.V.) (Effective rate as on 18th December 2007 for Agriculture land): Rs.

53,00,000 /-

b. M.V. as per order dated 01st October 2008 for the year 2006 discounted for the year 2006 i.e., for

the period 18th December 2007 to 18th December 2006: (-) Rs 11,80,000/-

c. M.V. as per order dated 01st October 2008 for the year 2005 discounted for the year 2005 i.e., for

the period 18th December 2006 to 18th December 2005: (-) Rs. 11,80,000/- Ã,

d. Proposed rate of package per acre: Rs. 29,40,000/-

e. Already paid by the LAC per acre: (-) Rs. 15,70,000/-

f. Balance Amount: Rs. 13, 70, 000/-

g. 30% Solatium of MV: Rs. 4, 11, 000/-

h. 12% additional amount of MV for the period w.e.f. 25th August 2005 to 26th May 2008 (1006

days): Rs. 4, 53, 113/-Ã,

i. Total amount of S.R.P.: Rs. 22,34, 113/-

a. Market Value (M.V.) (Effective rate as on 18th December 2007 for Agriculture land): Rs.

53,00,000 /-

b. M.V. as per order dated 01st October 2008 for the year 2007 discounted for the year 2007 i.e., for

the period 18th December 2006 to 18th December 2007: (-) Rs 11,80,000/-

d. Proposed rate of package per acre: Rs. 41,20,000/-

e. Already paid by the LAC per acre: (-)Rs. 17,58,400/-

f. Balance Amount: Rs. 23,61,600/-

g. 30% Solatium of MV: Rs. 7,08,480/-

h. 12% additional amount of MV for the period w.e.f. 23rd February 2006 to 16th February 2009

(1089 days): Rs. 8,45,518/-  
Ã, Ã,

i. Total amount of S.R.P.: Rs. 39,15,598/-