Before Rameshwar Singh Malik, J.

NATIONAL FERTILIZER LIMITED — *Petitioner*

versus

DAVINDER LAL BANSAL AND ANOTHER — *Respondents*

CR No. 1183 of 2016

February 28, 2017

Constitution of India, 1950 — Art. 227 — Land Acquisition Act, 1894 — Code of Civil Procedure, 1908 — S.151, O.21 Rl.II — Compensation assessed by Single Judge in RFA — Respondent landowner did not file an appeal, but petitioner department and other landowners filed LPAs, and compensation enhanced — In execution proceedings, petitioner filed objections that since respondent did not file appeal, he is not entitled to Compensation as determined by LPA Bench — Objection rejected by executing Court — In revisional jurisdiction, High Court held that Respondent landowner entitled to enhanced compensation, though he did not file appeal, because land of Respondent and other landowners acquired under same notification — Similarly situated person cannot be treated differently — Civil Revision dismissed.

Held, that the Hon'ble Supreme Court has made it crystal clear that in the matters of land acquisition where land of peasants is acquired, a different approach has to be adopted. These persons should not be deprived of the reasonable compensation for their lands. It was also held that if similarly situated land-owners are given compensation at a particular rate, there is no reason to pay the compensation to other similarly situated land-owners at much lesser rate. The Hon'ble Supreme Court concluded that equities can be balanced by the Courts. The substantive rights of the parties should not be allowed to be defeated on technical grounds by taking hyper technical view of self-imposed limitations. In the matters of compensation for acquired land, the Hon'ble Supreme Court observed that approach of the Courts has to be pragmatic and not pedantic.

(Para 15)

Further held, that it is the settled proposition of law that every Court must make an endeavour to do complete and substantial justice between the parties and also to avoid multiplicity of litigation. As noticed here-in-above, it is not in dispute that the land of respondent

No.1 was acquired for the benefit of the petitioner. It is also not in dispute that similarly situated land-owners including abovesaid Jagga Singh have received the compensation @ Rs. 120/- per sq. yard, as assessed by the LPA Bench of this Court vide its abovesaid order dated 13.07.2005, whereas land-owner-respondent No.1 in the present case has been granted the compensation only @ Rs. 32.50 Ps. per sq. yard. In view of the abovesaid law laid down by the Hon'ble Supreme Court, this type of discrimination is not at all permissible. Under these undisputed facts and circumstances of the case, it can be safely concluded that the learned executing Court committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

(Para 20)

Kanwaljit Singh, Senior Advocate with
Parunjeet Singh, Advocate
for the petitioner.

Santosh Sharma, Advocate
for respondent No.1.

RAMESHWAR SINGH MALIK, J. oral

(1) Present revision petition is directed against the order dated 14.01.2016 (Annexure P-10) passed by the learned Additional District Judge, whereby objections filed by the petitioner under Order 21 Rule 11 CPC read with Section 151 of the Code of Civil Procedure (for short "the CPC") were dismissed and respondent No.1 was held entitled to receive the compensation for his acquired land, as assessed by the LPA Bench of this Court on 13.07.2005 in ***LPA No.207 of 1995*** titled as ***National Fertilizers Limited*** Versus ***State of Punjab and another***.

(2) Notice of motion was issued.

(3) Heard learned counsel for the parties.

(4) Learned Senior Counsel for the petitioner, while placing reliance on the judgments of the Hon'ble Supreme Court in ***Hukam Chand*** versus ***State of Haryana***[1], ***Ramesh Singh (Died) by LRs*** versus ***State of Haryana***[2]and ***The Scheduled Caste Co-operative Land Owning Society Limited*** versus ***Union of India***[3] and judgment of this

[1] 1996(5) SCC 164
[2] 1996(4) SCC 469
[3] 1991(1) SCC 174

Court in ***Dalbir Singh and another*** versus ***State of Punjab and others***[4] contends that once respondent No.1, namely, Davinder Lal Bansal did not file any LPA against the order of dismissal of his regular first appeal, he cannot be granted any benefit of dismissal of LPA of the petitioner. He further submits that since respondent No.1-land-owner felt satisfied with the order of dismissal of his regular first appeal, he would not be entitled for the benefit of the order dated 13.07.2005 passed by LPA Bench of this Court in LPA No.73 of 1995 (***Jagga Singh and others*** versus ***State of Punjab***). He also submits that the judgment of the Hon'ble Supreme Court in ***Samiyathal and others*** versus ***Special Tehsildar and others***[5] does not apply to the facts of the present case. He prays for setting aside the impugned order by allowing the present revision petition.

(5) Per contra, learned counsel for the land-owner-respondent No.1 places reliance on the judgment of Hon'ble Supreme Court in ***Samiyathal and others*** case (supra). He also places reliance on the judgments of the Hon'ble Supreme Court in ***Dhiraj Singh (Died) through LRs etc.*** versus ***Haryana State and others***[6]**,** ***Ramo Bai and others*** versus ***State of Haryana and others*** **(Civil Appeal No.4255 of 2016)** decided by the Hon'ble Supreme Court vide order dated 19.04.2016, ***M/s Arti Spinning Mills Etc.*** versus ***State of Haryana and another*** **(Civil Appeal Nos.1863-1865 of 2016)** decided by the Hon'ble Supreme Court on 26.02.2016 and ***Ajay Pal*** versus ***State of Haryana***[7] to contend that since respondent No.1 was also a similarly situated land-owner, as was Jagga Singh in LPA No.73 of 1995, respondent No.1 shall also be entitled to receive the same amount of compensation which has been paid to Jagga Singh. He prays for dismissal of the present revision petition.

(6) Having heard the learned counsel for the parties at considerable length, after going through record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that keeping in view the law laid down by the Hon'ble Supreme Court in ***Samiyathal and others*** case(supra) which has been followed in ***Dhiraj Singh's*** case (supra), no fault could be found with the impugned order passed by the learned executing Court

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[4] 2015(3) PLR 583
[5] 2015 (2) RCR (Civil) 441
[6] 2014(14) SCC 127
[7] 2015(2) RCR (Civil) 439

and the same deserves to be upheld. Present revision petition is liable to be dismissed for the following more than one reasons.

(7) It has gone undisputed before this Court that the land of respondent No.1, namely, Davinder Lal Bansal was also acquired with the land of abovesaid Jagga Singh, vide same notification and for the same purpose. Respondent No.1 filed regular first appeal before this Court which was dismissed. However, beneficiary Department i.e. petitioner-National Fertilizer Limited filed LPA No.207 of 1995. In fact, beneficiary Department as well as land-owners filed their separate RFAs. Both sets of RFAs were dismissed by this Court.

(8) Feeling aggrieved, some of the land-owners as well as beneficiary Department filed their respective LPAs before this Court. However, land-owner-respondent No.1 herein did not file any LPA. LPAs of land-owners were allowed by the LPA Bench of this Court vide order dated 13.07.2005 Annexure P-6, whereas LPAs filed by the beneficiary Department were dismissed.

(9) The operative part of the order dated 13.07.2005 passed by LPA Bench of this Court in **LPA No.73 of 1995** (***Jagga Singh and others*** versus ***State of Punjab***) available at pages 88-89 of the paper-book reads as under:-

> "Since we have already held that Rs.120/- per sq. yard is the just and reasonable market value for the present acquired land, therefore, we do not find any merit in the appeal filed by the company i.e. National Fertilizer Limited for reduction of the compensation.
>
> For the reasons recorded above, the appeals filed by the claimant-landowners are allowed and it is held that the claimant-landowners shall be entitled to the market value of Rs.120/- per sq. yard for the acquired land. The claimant-landowners would also be entitled to other statutory benefits as admissible to them in law as per the amended provisions of the Act. Consequently, the appeals filed by the National Fertilizers Limited are dismissed. Both the parties shall bear their own costs."

(10) The only dispute between the parties is whether in view of the judgments of the Hon'ble Supreme Court in ***Samiyathal and others*** case (supra) and ***Dhiraj Singh's*** case (supra), respondent No.1-land-owner Davinder Lal Bansal is also entitled for the same amount of compensation, as assessed by the LPA Bench of this Court in ***Jagga***

Singh's case (supra) or he would be entitled only for the amount already received by him on the basis of award of the reference Court.

(11) The operative para 12 of the order of the Hon'ble Supreme Court in ***Samiyathal and others'*** case(supra), which can be gainfully followed in the present case reads as under:-

> "We further direct the respondents and the State of Tamil Nadu to pay the same amount of compensation to other landowners whose land was acquired by notification dated 22.05.1991, but who may have on account of ignorance, poverty and other similar handicaps, not been able to approach the Reference Court or may not have been able to contest the matter before the High Court and this Court. The needful be done in respect of other landowners within a period of six months. This direction has been given in exercise of the power vested in this Court under Article 142 of the Constitution."

(12) The abovesaid observations made by the Hon'ble Supreme Court in ***Samiyathal and others'*** case (supra) came to be reiterated and followed by the Hon'ble Supreme Court in ***Dhiraj Singh's*** case (supra). The law laid down by the Hon'ble Supreme Court in para 11 of its judgment in ***Dhiraj Singh's*** case (supra), which squarely covered the case in hand in favour of the land-owner, reads as under:-

> "In the matter of land acquisition where land of peasants is acquired, a different approach has to be taken. These persons should not be deprived of the reasonable compensation for their lands. If other similarly situated land owners are given the compensation @ Rs.200/- square yard, there is no reason to pay the compensation to the appellants at much lesser rate. In this context, we would like to quote the following observations from the judgment **dated November 29, 2013 in the case of Imrat Lal and others Vs. Land Acquisition Collector & others (2012(2) R.C.R.(Civil) 437 : Civil Appeal No.10799 of 2013).**
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> "While we agree with Shri Narender Hooda that the averments contained in the application for condonation of delay were extremely vague and did not provide satisfactory explanation for the long delay of 1110 days, but it cannot be ignored that in identical matters another learned Single Judge had grated relief to the landowners by

enhancing the compensation and this factor should not have been overlooked by the learned Single Judge while deciding the application for condonation of delay.

We can take judicial notice of the fact that villagers in our country are by and large illiterate and are not conversant with the intricacies of law. They are usually guided by their co-villagers, who are familiar with the proceedings in the Courts or the advocates with whom they get in touch for redressal of their grievance. Affidavits filed in support of the applications for condonation of delay are usually drafted by the advocates on the basis of half baked information made available by the affected persons. Therefore, in the acquisition matter involving claim for award of just compensation, the Court should adopt a liberal approach and either grant time to the party to file better affidavit to explain delay or suo motu take cognizance of the fact that large number of other similarly situated persons who were affected by the determination of compensation by the Land Acquisition Officer or the Reference Court have been granted relief.

In **2012(2) R.C.R.(Civil) 441: Civil Appeal Nos.5335-5336 of 2013 titled Samiyathal and others Vs. Special Tahsildar and others decided on 5.7.2013,** this Court took cognizance of the fact that many landowners may not have been able to seek intervention of this Court for grant of enhanced compensation due to illiteracy, poverty and ignorance and issued direction that those who have not filed special leave petition should be given enhanced compensation. The relevant portion of the judgment passed in that case is extracted below:

"We further direct the respondents and the State of Tamil Nadu to pay the same amount of compensation to other landowners whose land was acquired by notification dated 22.05.1991, but who may have on account of ignorance, poverty and other similar handicaps, not been able to approach the Reference Court or may not have been able to contest the matter before the High Court and this Court. The needful be done in respect of other landowners within a period of six months. This direction has been given in exercise of the power vested in this Court under Article 142

of the Constitution."

In view of the above discussion, the appeal is allowed, the impugned order is set aside and the delay in filing RFA No.5477/2011 by the appellants is condoned."

(13) The observations made by the Hon'ble Supreme Court in para 15 in ***Dhiraj Singh's*** case (supra), are also relevant for the decision of the instant revision petition and the same reads as under:-

"Equities can be balanced by denying the appellants' interest for the period for which they did not approach the Court. The substantive rights of the appellants should not be allowed to be defeated on technical grounds by taking hyper technical view of self-imposed limitations. In the matter of compensation for land acquisition, we are of the view that approach of the Court has to be pragmatic and not pedantic."

(14) After giving due consideration to the contentions raised by learned senior counsel for the petitioner, this Court was unable to persuade itself to discriminate with this land-owner-respondent No.1, while denying the same amount of compensation to him, which has been assessed by the LPA Bench of this Court in ***Jagga Singh's*** case (supra). It is so said because denying the said benefit of equal amount of compensation of this land-owner-respondent No.1 would run counter to the judgments of the Hon'ble Supreme Court in ***Samiyathal and others*** and ***Dhiraj Singh's*** cases (supra).

(15) The Hon'ble Supreme Court has made it crystal clear that in the matters of land acquisition where land of peasants is acquired, a different approach has to be adopted. These persons should not be deprived of the reasonable compensation for their lands. It was also held that if similarly situated land-owners are given compensation at a particular rate, there is no reason to pay the compensation to other similarly situated land-owners at much lesser rate. The Hon'ble Supreme Court concluded that equities can be balanced by the Courts. The substantive rights of the parties should not be allowed to be defeated on technical grounds by taking hyper technical view of self-imposed limitations. In the matters of compensation for acquired land, the Hon'ble Supreme Court observed that approach of the Courts has to be pragmatic and not pedantic.

(16) Coming to the judgments relied upon by the learned senior counsel for the petitioner, there is no dispute about the observations made and law laid down therein. However, on a close perusal of the

cited judgments, none of them has been found to be of any help to the petitioner, being distinguishable on facts.

(17) It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in ***Padmasundara Rao (Dead)*** versus ***State of Tamil Nadu and others***[8]***, Union of India*** versus ***Amrit Lal Manchanda and others***[9]***, State of Orissa*** versus ***Md. Illiyas***[10] and ***State of Rajasthan*** versus ***Ganeshi Lal***[11]**.**

(18) With a view to avoid repetition and also for the sake of brevity, the observations made by the Hon'ble Supreme Court in para 11 and 12 of its later judgment in ***Ganeshi Lal's*** case (supra), reiterating its view taken in ***Amrit Lal Manchanda's*** case (supra) and ***Mohd. Illiyas's*** case (supra), which can be gainfully followed in the present case, read as under:-

> 11. "12….Reliance on the decision without looking into the factual background of the case before it is clearly impermissible. A decision is a precedent on its own facts. Each case presents its own features. It is not everything said by a Judge while giving a judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. According to the well- settled theory of precedents, every decision contains three basic postulates; (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made

[8] 2002 (3) SCC 533
[9] 2004 (3) SCC 75
[10] 2006 (1) SCC 275
[11] 2008 (2) SCC 533

in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. (See: State of Orissa v. Sudhansu Sekhar Misra and Ors. (AIR 1968 SC 647) and Union of India and Ors. v. Dhanwanti Devi and Ors. (1996 (6) SCC 44). A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in Act of Parliament. In Quinn v. Leathem (1901) AC 495 (H.L.), Earl of Halsbury LC observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides. Coming to the peculiar fact situation obtaining on record of the present case, it is unhesitatingly held that learned Permanent Lok Adalat discussed, considered and appreciated each and every relevant aspect of the matter, before passing the impugned award. The only endeavour made by the learned Permanent Lok Adalat was to do complete and substantial justice between the parties and this approach adopted by learned Permanent Lok Adalat has been found well justified on facts as well as in law. Ed. See State of Orissa Vs. Mohd. Illiyas, (2006) 1 SCC 275 at p.282, para 12.

12. 15….Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. V. Horton (1951 AC 737 at p.761), Lord Mac Dermot

observed: (AII ER p. 14 C-D)

> "The matter cannot, of course, be settled merely by treating the ipsissima vertra of Willes, J as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge."

16. In Home Office v. Dorset Yacht Co. (1970 (2) All ER 294) Lord Reid said (at All ER p.297g-h), "Lord Atkin's speech.....is not to be treated as if it was a statute definition. It will require qualification in new circumstances." Megarry, J in Shepherd Homes Ltd. V. Sandham (No.2) (1971) 1 WLR 1062 observed: (AII ER p. 1274d-e) "One must not, of course, construe even a reserved judgment of Russell L.J. as if it were an Act of Parliament." And, in Herrington v. British Railways Board (1972 (2) WLR 537) Lord Morris said: (AII ER p. 761c)

> "There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular case."

17. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.

15. The following words of Lord Denning in the matter of applying precedents have become locus classicus: (Abdul Kayoom v. CIT, AIR 1962 SC 680

> "Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

"Precedent should be followed only so far as it marks the

> path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it Ed. See Union of India VS. Amrit Lal Manchanda, (2004) 3 SCC 75, pp. 83-84, paras 15-18."

(19) Reverting to the facts of the case in hand and respectfully following the law laid down by the Hon'ble Supreme Court in ***Samiyathal and others*** and ***Dhiraj Singh's*** cases (supra), it is unhesitatingly held that the learned Additional District Judge was well within his jurisdiction to pass the impugned order and the same deserves to be upheld, for this reason also.

(20) It is the settled proposition of law that every Court must make an endeavour to do complete and substantial justice between the parties and also to avoid multiplicity of litigation. As noticed here-in-above, it is not in dispute that the land of respondent No.1 was acquired for the benefit of the petitioner. It is also not in dispute that similarly situated land-owners including abovesaid Jagga Singh have received the compensation @ *Rs.*120/- per sq. yard, as assessed by the LPA Bench of this Court vide its abovesaid order dated 13.07.2005, whereas land-owner-respondent No.1 in the present case has been granted the compensation only @ f32.50 Ps. per sq. yard. In view of the abovesaid law laid down by the Hon'ble Supreme Court, this type of discrimination is not at all permissible. Under these undisputed facts and circumstances of the case, it can be safely concluded that the learned executing Court committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

(21) No other argument was raised.

(22) Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that no fault can be found with the impugned order passed by the learned executing Court and the same deserves to be upheld. The present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

(23) Resultantly, with the above-said observations made, the instant revision petition stands dismissed, however, with no order as to costs.

P.S. Bajwa