that Garib Dass, petitioner, caused a sword blow on the person of Gurdev Singh complainant and also there are the statements made against him by the eye-witnesses under section 161, Criminal Procedure Code. The impugned order of the learned Magistrate is perfectly legal and valid.

(11) As a result, it is held that there is no substance in this petition and the same is dismissed.
October 6, 1975.

*N. K. S.*

APPELLATE CIVIL

THE STATE OF PUNJAB,—*Appellant.*

*versus*

PRITAM SINGH ETC,—*Respondents.*

Regular First Appeal No. 193 of 1965 with Cross Objection No. 24-C of 1965.

*October* 6, 1975.

*Land Acquisition Act* (1 *of* 1894)—*Sections* 9 *and* 25—*Claim to compensation for land—Whether must be made in writing.*

*Held*, that from the general scheme and the provisions of the land Acquisition Act. 1894 as a whole it becomes manifest that the mode and manner of the payment of compensation for the acquired land is an integral part if not the very core of this statute. Compensation has obviously to be paid on the basis of the claims made therefor either by the owners or any other class of persons having some legal title or interest in the acquired land. The four clauses of section 9 which repeatedly refer to various classes of persons who may be interested in the compensation for land do not provide anywhere in terms that the claim for compensation should be made in writing. No form or particular mode of making the claim for compensation has been provided in sub-clause (1) of section 9 of the Act. The public notice envisaged under the provision merely says that claims for all interests in the land have to be made to the Collector. On the other hand the provisions of sub-clause (2) of section 9 show that a claim for compensation may well be an oral one before the Collector. The very opening part of sub-clause (2) of section 9 requires that the public notice should specify that all persons interested in the land should

appear personally or by agent before the Collector at the fixed time in order to state both the nature of their respective interests in the land and the particulars of their claims to compensation therefor. This requirement shows that indeed the law postulates an appearance in person or through an agent for setting out both the nature of the interest and the quantum of the claim. If a written claim was intended then perhaps personal appearance either simpliciter or through an agent could hardly be deemed necessary. The last sentence of sub-clause (2) of section 9 again shows that a claim for compensation had been visualised in the eye of law as an oral one. This provides that the Collector may in a particular case require that such a statement to be made in writing and signed by the party or his agent. The use of word 'may' implies that this is an enabling and a directory provision. In his discretion, the Collector has been empowered to call upon the claimants to make their respective claims in writing and ask them to affix their signatures either in person or through an agent. Thus the statute envisages a claim to be made orally in person or through an agent before the Land Acquisition Collector and in case the latter deems it necessary he may require the same to be made in writing and duly signed.

(Paras 7, 8 and 9)

*Regular First Appeal from the order of the Court of Shri Gurbachan Singh, District Judge, Patiala, dated 3rd September, 1964, holding that the claimants are entitled to compensation amounting to Rs. 1,54,170 at the rate of Rs. 1,800 per bigha and further entitled to solatium at 15% on that amount amounting to Rs. 23,125.50 N.P. Total Rs. 1,77,295.50 N.P., less the amount which has been awarded and paid to the claimants already by the land acquisition Collector, and further ordering that the claimants are further entitled to interest at the rate of 4% on the amount enhanced from the date possession of their land was taken up to the date of payment and also claimants shall further be entitled to the costs of these proceedings.*

*Claim : Reference under section 18 of the Land Acquisition Act.*

*Claim in Appeal : For reversal of the order of the lower Court.*

*Cross Objection No. 24 of 1965.*

*Cross-objections under order 41, Rule 22 C.P.C. praying that the amount of compensation be raised by a sum calculated on the basis of Rs. 2,000 per bigha instead of Rs. 1,800 per bigha as done by the learned District Judge and further praying that 15% solatium and interest be also awarded on the enhanced amount and the appeal of the state be dismissed.*

D. N. Awasthy, Advocate, *for the appellant.*

K. N. Tewari, Advocate, *for the respondents.*

*S. S. Sandhawalia, J.*—(1) Whether the claim to compensation for land envisaged in Sections 9 and 25 of the Land Acquisition Act, 1894, must necessarily be made in writing is the interesting question that arises in this regular first appeal. The facts giving rise to the same are not in serious dispute.

(2) The State of Punjab issued the notification under section 4 of the Land Acquisition Act for acquiring 19.72 acres of land situated in the revenue estate of village Nasroli for the public purpose of constructing a 132 K. V. Grid Sub-Station at Gobindgarh. On actual demarcation and measurement at site, the area of the land came to 35 Bighas and 13 Biswas. The land-owners claimed compensation at the rate of Rs. 5,000 per Bigha which would work out to about Rs. 24,000 per *acre*. The District Collector had estimated the value of this land at a rate of Rs. 4,800 per *acre*. However, the Land Acquisition Collector whilst giving his award on the 17th of August, 1962, marginally raised this assessment and directed the payment of compensation at a flat rate of Rs. 5,000 per acre to the owners. The land-owners under section 18 of the Land Acquisition Act sought a reference to the District Judge claiming that the true assessment of the value of the land was certainly not less than Rs. 5,000 per Bigha. In particular it was alleged that the Land Acquisition Collector had wholly failed to take into account the potential value of the land for building and industrial purposes because it virtually adjoined the flourishing township of Gobindgarh, which was developing on all sides and in particular towards the land in dispute. In opposing the claim of the land-owners, the State of Punjab pleaded that the Land Acquisition Collector had in fact already awarded more than ample compensation for the land. A legal objection against the claims for compensation was also taken on the ground that a notice under section 9 of the Land Acquisition Act had been duly served on the land-owners but they had not filed written claims in pursuance thereof and consequently they were not entitled to any enhancement because of the provisions of section 25 of the Land Acquisition Act. On the pleadings of the parties, the following issues were framed :—

(1) Whether the compensation awarded is inadequate. If so, what should be the proper compensation ?

(2) Whether the reference is barred under Section 25 of the Land Acquisition Act ?

(2-A) What is the area of the land belonging to the claimants which has been acquired ?

(3) Relief.

Under issue No. 1, the District Judge assessed the market price of the land at an enhanced rate of Rs. 1,800 per Bigha and directed the compensation to be paid accordingly. On issue No. 2, the District Judge repelled the objection of the State on the ground that the statements of the land-owners recorded before the Land Acquisition Collector and signed by them were sufficient compliance with the requirements of Section 9 and Section 25 of the Act. This issue was consequently decided against the respondent-State. No evidence having been led in support of issue No. 2-A, it was said against the claimants. In the result the landowners were held entitled to compensation at the rate of Rs. 1,800 per Bigha along with a solatium at 15 per cent and interest for the excess amount at the rate of 4 per cent.

(3) The State of Punjab has appealed against the enhancement of the compensation whilst on the other hand cross-objections have been filed by the land-owners. Though originally the claim of the landowners during the proceedings before the District Judge was pegged at as high a figure as Rs. 5,000 per Bigha, in the cross-objections a relatively marginal enhancement of compensation at the rate of Rs. 2,000 per Bigha only has been sought.

(4) It is obviously expedient to first take up the challenge on behalf of the appellant-State to the finding on issue No. 2 and this is so because if this legal issue is decided in favour of the appellants then hardly anything else arises. Mr. Awasthy's contention on behalf of the State is that the landowners in response to a notice under section 9 of the Land Acquisition Act had not filed written claims before the Collector and were, therefore, precluded from claiming any enhancement of the compensation by virtue of the provisions of section 25 of the Act. In essence the argument was that both section 9 and section 25 postulate a formal written claim by the land-owner and unless it is so made in writing it would be no claim in the eye of law, and, therefore, the stringent rules as to the amount of compensation laid in section 25 would become applicable.

(5) To appreciate the above-said contention, the factual ground may first be cleared. It is not in dispute that the notice under section 9 issued by the Collector required the claimants to file their claims by the 17th of August, 1962. In compliance therewith, the persons interested did put in appearance before the Land Acquisition Collector on the date above-said and demanded compensation at the rate of Rs. 5,000 per Bigha Kham. Acting apparently under the penultimate part of sub-clause (2) of section 9 of the Act, the Collector recorded the statements of all these persons and obtained their signatures or thumb-impressions thereto. The District Judge held this to be a sufficient compliance with the requirements of section 9 of the Act.

(6) As the contention revolves essentially around the provisions of section 9, it may first be set down for facility of reference:—

"9(1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 9. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and registered under Part III of the Indian Post Offices Act, 1866.

(7) Adverting first to the general scheme and the provisions of the Land Acquisition Act as a whole it becomes manifest that the mode and manner of the payment of compensation for the acquired land is an integral part if not the very core of this statute. Compensation has obviously to be paid on the basis of the claims made therefor either by the owners or any other class of persons having some legal title or interest in the acquired land. With this background in mind it is of significance to notice that the four clauses of Section 9 which repeatedly refer to various classes of persons who may be interested in the compensation for land (namely, owners, occupiers, absentee landlords and all other persons interested in the land) do not provide anywhere in terms that the claim for compensation should be made in writing. This is particularly and indeed pointedly so in sub-clause (1) of section 9. No form or particular mode for making the claim for compensation has been provided therein. The public notice envisaged under the provision merely says that claims for all interests in the land have to be made to the Collector. If ever the intention of the legislature was to insist upon a formal claim in writing then nothing could have been simpler than to provide by the addition of a solitary word that such a claim must be a written one. The plain language of the statute, therefore, does not lend the least support to the contention on behalf of the appellants that section 9 envisages a claim in writing only and not otherwise.

(8) On the other hand the provisions of sub-clause (2) of section 9, when properly construed, seem to lend patent support to the argument on behalf of the respondents that a claim for compensation may well be an oral one before the Collector. The very opening part of this provision requires that the public notice should specify that all persons interested in the land should appear personally or by agent before the Collector at the fixed time in order to state both the nature of their respective interests in the land and the particulars of their claims to compensation therefor. This requirement would show that indeed the law postulates an appearance in person or through an agent for setting out both the nature of the

interest and the quantum of the claim. If a written claim was intended then perhaps personal appearance either simpliciter or through an agent could hardly be deemed necessary. Particular emphasis may be also placed on the word 'state' used in this provision. It appears that the apparent intent of the legislature was that either in person or through an agent, the nature of the interest and the quantum was to be stated orally before the Collector. In the case of a written claim the proper terminology would well have been to say that the persons interested under the law should file a claim or submit or present one to the Collector. Construing the provision broadly, it appears to my mind that in fact the legislative intent was that the claim both as regards title and as regards its quantum may well be made orally in person or through an agent before the Collector.

(9) The last sentence of sub-clause (2) of section 9 again seems to be consistent only with the construction that a claim for compensation had been visualised in the eye of law as an oral one. This provides that the Collector may in a particular case require that such a statement (obviously the reference is to the statement regarding the nature of the interest and the amount as also the particulars of claim for compensation) to be made in writing and signed by the party or his agent. The use of word 'may' would *prima facie* imply that this is an enabing and a directory provision. In his discretion, the Collector has been empowered to call upon the claimants to make their respective claims in writing and ask them to affix their signatures either in person or through an agent. If the very original public notice under sub-clause (1) were to be construed as necessarily requiring a claim in writing then this provision would be rendered both a surplusage and otherwise tautologous. A plausible construction, therefore, of sub-clause (2) would show that the statute envisages a claim to be made orally in person or through an agent before the Land Acquisition Collector and in case the latter deems it necessary, he may require the same to be made in writing and duly signed.

(10) On principle also it is to be borne in mind that the Land Acquisition Act was promulgated more than 80 years ago. The intent, therefore, appears to be that persons having any interest in the land may be able to make their claims informally before the Land Acquisition Collector. Section 25 of the Act lays down stringent conditions

for a failure to make a claim in the eye of law. In a predominantly illiterate country, the framers of the Act obviously did not think that a written claim was the essence of the matter and probably deemed it sufficient that this may be made in person or through an agent before the Collector. Even if two constructions in such a situation were possible it would obviously be desirable to lean towards the one favourable to the subject which would avoid the stringent results of barring a claim for compensation at its market value before the District Judge in the reference under section 18 which may ensue.

(11) Apart from the fact that I am inclined to the view that even an oral claim is sufficient compliance, it is patent that where the Collector has directed or reduced the same to a writing, duly signed by the party or his agent, under section 9(2) then this would more than amply satisfy the requirements of the law. When this provision empowers the reducing of a claim to writing and having the same signed by the claimant then it is plain that this cannot be deemed as a useless formality or mere redundancy. When so done, this would tantamount to a formal written claim.

(12) Learned counsel for the parties stated before us that there was no authority directly covering the point at issue. That appears to be so, but a reference to *Koya Haji* v. *Special Tahsildar L. A.* (1), and *Revenue Divisional Officer* v. *Appalaswami* (2), would show that observations therein by way of analogy lend support to the view I am inclined to take.

(13) I hold, therefore, that the claim for compensation envisaged under sections 9 and 25 of the Act need not necessarily be in writing. I further hold that in those cases where the Collector records the signed statements of the claimants under sub-clause (2) of section 9 of the Act, the same is an adequate and substantial compliance with the law.

Repelled on the primary point of his challenge to the finding on issue No. 2, the learned counsel for the appellant did not have much to say against the quantum of compensation awarded to the claimant under issue No. 1. No argument, worth the name, was even raised

(1) A.I.R. 1963 Kerala 194.

(2) A.I.R. 1967 A.P. 56.

to show that the compensation awarded was in any way excessive. Indeed as would appear hereinafter, the only reasonable conclusion possible on the evidence before the learned District Judge merits an enhancement of the compensation awarded rather than any reduction therein. The State appeal thus appears to be without merit and is hereby dismissed without any order as to costs.

(14) Coming to the cross-objections it has first to be borne in mind that the claimants had originally pegged their valuation at a rather high figure of Rs. 5,000 per Bigha. However, in the cross-objection filed in this Court they were content to claim compensation at a modest rate of Rs. 2,000 per Bigha only and court-fee has been paid accordingly.

(15) Mr. K. N. Tewari, learned counsel for the respondents after taking us through the evidence adduced in support of the claim of the landholders had forcefully contended that the learned District Judge had failed to notice a number of salient features which entitled his clients to a higher assessment of market value for the acquired land. I have found considerable merit in this submission.

(16) The land-owners had put as many as seven persons in the witness-box in support of their claim apart from bringing on record a number of registered deeds regarding the sales of adjoining and similar lands. On behalf of the State, only one witness Norata Ram had appeared and that also merely on the point of the service of notice upon the landowners. Copies of four mutation entries, Exhibits R. 3 to R. 5 pertaining to the sales of land in the vicinity or slightly remoter villages were also relied upon on behalf of the State.

(17) It is not necessary to advert in very great detail to the evidence adduced on behalf of the parties. The learned District Judge after an adequate discussion arrived at the conclusion that so far as the documentary evidence was concerned, only Exhibits P. 5, P. 6 and P. 7 were relevant to the issue of compensation. The other documents were held to pertain to lands of dissimilar quality and location and, therefore, as rather wide of the mark. This finding of the learned Judge indeed could not be seriously assailed on behalf of the respondents by Mr. Tewari. However, he contended that even relying on only these three documents, namely, Exhibits P. 5 to P. 7, the

land-owners would still be entitled to a higher rate of compensation when their claim is viewed against the proper context of the potentiality of their land for the purposes of residential and industrial development.

(18) Exhibit P. 5 is a certified copy of the sale-deed dated the 5th of October, 1960, under which land bearing Khasra No. 296 measuring 9 Bighas and 11 Biswas was sold for Rs. 10,000 by Pritam Singh, respondent himself. This works out to a figure of nearly Rs. 1,046 per Bigha. What, however, has to be particularly borne in mind is the fact that this sale is wellnigh 2½ years prior to the date of the notification acquiring the respondents' land. Exhibit P. 6 evidences a sale dated the 19th of May, 1960, that is, a little less than two years prior to the present acquisition and admittedly the rate would work out to a figure of Rs. 2,045 per Bigha. Lastly Exhibit P. 7 is a certified copy of a sale-deed dated the 18th of October, 1960, of similar, if not identical land and herein the rate works out at a figure of Rs. 2008 per Bigha.

(19) Considering the impact of the above-said evidence it is patent that even a year and a half or two years ago, the price of adjoining and similar land was at a rate bordering or exceeding Rs. 2,000 per Bigha. It is not in dispute that the revenue estate of village Nasroli in which the land is situated not merely adjoins but has gradually merged in the nearby developing township of Mandi Gobind Garh. It is equally not in doubt that in such a situation and even otherwise land prices have been exhibiting a consistent uptrend during this period and in fact their Lordships of the Supreme Court in *Smt. Tribeni Devi* v. *Collector of Ranchi vice versa* (3), have remarked that judicial notice may be taken of this fact. I, therefore, am inclined to the view that the learned District Judge appears to have lost sight of the fact that Exhibits P. 5, P. 6 and P. 7 related to a period considerably earlier than the 13th of February, 1962, when the notification under section 4 in the present case was issued and the landowners were hence entitled to take advantage of the rise in the market prices. The learned Judge also did not add enough weight to the fact that the two of the sales, namely, Exhibits P. 6 and P. 7 had themselves evidenced a rate much higher than Rs. 2,000 and his reasons

(3) 1972 (1) S.C. cases 480.

for not even awarding this quantum to the landowners do not appear to be justifiable.

(20) The highly favourable location of the land under acquisition and its potential for industrial and residential development also does not seem to have received any adequate attention in the judgment under appeal. P.W. 7 Ram Lal, the Patwari of the Halqa was categorical that the distance of Mandi Gobind Garh from the acquired land was merely two furlongs. He was also emphatic that the said township was expanding on all sides including the area under acquisition. No serious challenge was posed to his evidence in cross-examination. P.W. 9 another Patwari of the nearby Halqa stated that the factory which had been set up in the adjoining Killa No. 296 bears the address of Mandi Gobindgarh. It is the common case of the parties that the land is situated along the premier highway in the State, namely, the Grand Trunk Road and has a very considerable frontage thereon. The acquisition is for the purpose of building K. V. Grid Sub-Station for the township of Gobindgarh and the overall effect of the evidence produced on behalf of the claimants is that the land though technically falling within the revenue estates of Nasroli has in actual effect become part and parcel of the expanding industrial town of Gobindgarh. In this context, Mr. Tewari has further drawn our attention to the notification under section 4 itself which whilst describing the lands shows that it is bounded by the roads to village Nasroli on one side and the Steel Rolling Mill on the other. The evidence of the witnesses produced would show that in close proximity of the land, considerable area has been taken over for the purpose of setting up Iron and Steel Foundries and other industrial units. Viewing all these factors together it is manifest that the land under acquisition had a great potential for industrial development and to assess it merely as agricultural land whilst losing sight of its potentialities would hardly be justified.

(21) I am, therefore, of the view that the marginal enhancement made by the District Judge is inadequate and the respondent landowners are certainly entitled to their very fair and if one may say so the modest claim of compensation at the rate of Rs. 2,000 per Bigha only. The cross-objections are hence allowed and it is directed that the compensation be paid to the landowners at the rate above-mentioned along with the statutory solatium at 15 per cent thereon. They shall also be entitled to claim interest at the rate of 6 per cent of the

enhanced amount from the date when the possession of their land was taken up to the date of payment. I, however, leave the parties to bear their own costs, both in the appeal and in the cross-objections.

S. C. MITTAL, J.—I agree.

*H. S. B.*

CIVIL MISCELLANEOUS

*Before S. P. Goyal, J.*

SATPAL SINGH AND OTHERS,—*Petitioners*

*versus*

THE UNION OF INDIA ETC.,—*Respondents.*

Civil Writ No. 1235 of 1972.

October 15, 1975.

*Punjab Civil Services (Revised Scale of Pay) Rules* 1969—*Rules* 6(2), 7 *Proviso (i) and (ii)—Proviso (ii) to rule* 7—*Whether subject to Proviso (i)—Scope of the two provisos—Stated—Punjab Civil Services Rules, Volume I, Part I—Rule* 1.8—*Constitution of India* 1950—*Article* 229—*Persons serving on the staff of the High Court—Power of interpreting, changing and relaxing rules in the case of such persons—Whether vests in the Chief Justice.*

*Held*, that the purpose and field of operation of proviso (ii) to rule 7 of the Punjab Civil Services (Revised Scale of Pay) Rules 1969 is wholly independent and distinct from that of proviso (i) to rule 7 of the Rules. The second proviso is in the nature of a further proviso and has been made to meet the anomaly and the discrimination which is likely to occur by the operation of rule 6(2) and proviso (i) to rule 7 of the Rules in certain cases like the one where a person drawing lesser pay would be put at par with a person drawing higher salary in the same time scale. It was with a view to avoid this anomaly that the second proviso was added to grant the next increment to such employees whose pay fixed on the appointed date in the revised scale was at the same stage as fixed for another employee drawing pay at a lower stage in the existing scale. Thus, the operation of proviso (ii) to rule 7 of the Rules is not subject to proviso (i).

(Para 4)