

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. RFA No.3261 of 2015
Date of decision: 14.09.2017

Rajpati ... Appellants
Versus
State of Haryana and others ... Respondents
2. RFA No.2585 of 2015

Haryana State Co-operative Supply and Marketing Federation Limited ... Appellant
Versus
Raj Pati and others ... Respondents
3. RFA No.2586 of 2015

Haryana State Co-operative Supply and Marketing Federation Limited ... Appellant
Versus
Bhalla and others ... Respondents
4. RFA No.2587 of 2015

Haryana State Co-operative Supply and Marketing Federation Limited ... Appellant
Versus
Sampuran and others ... Respondents
5. RFA No.2588 of 2015

Haryana State Co-operative Supply and Marketing Federation Limited ... Appellant
Versus
Surjan Singh and others ... Respondents

6. RFA No.2589 of 2015
- Haryana State Co-operative Supply and Marketing Federation Limited
... Appellant
- Versus
- Chhaju and others
... Respondents
7. RFA No.2590 of 2015
- Haryana State Co-operative Supply and Marketing Federation Limited
... Appellant
- Versus
- Ram Kala and others
... Respondents
8. RFA No.2591 of 2015
- Haryana State Co-operative Supply and Marketing Federation Limited
... Appellant
- Versus
- Shri Chand and others
... Respondents
9. RFA No.2592 of 2015
- Haryana State Co-operative Supply and Marketing Federation Limited
... Appellant
- Versus
- Vijay Singh and others
... Respondents
10. RFA No.2593 of 2015
- Haryana State Co-operative Supply and Marketing Federation Limited
... Appellant
- Versus
- Bimla and others
... Respondents
11. RFA No.3262 of 2015
- Chhaju
... Appellant
- Versus
- State of Haryana and others
... Respondents

12. RFA No.3263 of 2015
- Bimla ... Appellant
- Versus
- State of Haryana and others ... Respondents
13. RFA No.3264 of 2015
- Sampuran and others ... Appellants
- Versus
- State of Haryana and others ... Respondents
14. RFA No.3265 of 2015
- Ram Kala (deceased) through LRs and others ... Appellants
- Versus
- State of Haryana and others ... Respondents
15. RFA No.3266 of 2015
- Sujan Singh (deceased) through LRs and others ... Appellants
- Versus
- State of Haryana and others ... Respondents
16. RFA No.5808 of 2015
- Bhalla (deceased) through LRs and others ... Appellants
- Versus
- State of Haryana and others ... Respondents
17. RFA No.5809 of 2015
- Vijay Singh and others ... Appellants
- Versus
- State of Haryana and others ... Respondents

18.

RFA No.6349 of 2015

Shri Chand (deceased) through LRs and others

... Appellants

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Shamsheer Singh Patter, Advocate and
Mr. Sailender Singh, Advocate for the claimant-land owners.
Mr. Pritam Singh Saini, Advocate for the Haryana State Co-
operative Supply and Marketing Federation Limited.
Mr. Shivendra Swaroop, AAG, Haryana.

ARUN PALLI, J. (Oral)

Vide this order and judgment, I shall decide a batch of 18 appeals of which 9 have been filed by the claimant-land owners and the rest by the beneficiary of the acquisition i.e. Haryana State Co-operative Supply and Marketing Federation Limited. For all these appeals arise out of the same acquisition and have been filed against a common award dated 01.11.2014, rendered by the Reference Court, these are being disposed of by a common judgment. However, by consensus, facts are being culled from RFA No.3261 of 2015 [**Rajpati v. State of Haryana and others**].

Vide notification dated 08.01.2002, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), a land situated in village Surewala, Tehsil Uklana Mandi, District Hisar, was sought to be acquired for construction of godowns. Final declaration under Section 6 was published on 01.04.2002. Vide award No.1, dated 31.03.2004, the Land Acquisition Collector assessed the value of the acquired land, upto the depth of one acre from the main road, @ ₹ 3,50,000/- per acre and the land

situated beyond one acre was assessed @ ₹ 3,00,000/- per acre. Being aggrieved by the assessment as also the compensation awarded by the Collector, the claimant-land owners filed objections under Section 18 of the Act. Resultantly, the dispute was referred to the Civil Court for determination of the true value of the acquired land. Vide impugned award dated 01.11.2014, the Reference Court enhanced the compensation, uniformly, to ₹ 5,00,000/- per acre. The claimants were also awarded all the statutory benefits as admissible in law. That is how, as indicated above, both the parties are before this Court. Of course, the claimant-land owners seek further enhancement in the compensation. And the beneficiaries of the acquisition have appealed to set aside the award rendered by the Reference Court.

Learned counsel for the claimant-land owners submits that the compensation awarded by the Reference Court is apparently inadequate, for the acquired land was situated in front of the Grain Market and its boundaries adjoined various commercial establishments. It was located in close proximity to a Petrol Pump and a School. The acquired land was merely 1.5 kilometers away from Uklana Mandi and was situated on National Highway No.65. Further, it is urged, that claimants had proved on record the sale deed Ex.P4 dated 04.03.2003, vide which a land situated in village Uklana was alienated @ ₹ 42,39,316/- per acre. And vide sale deed dated 01.08.2000, a land measuring 10 marlas, that formed part of the same revenue estate i.e. village Surewala, was sold @ ₹ 12,80,000/- per acre. Thus, he asserts that Reference Court ought to have assessed the value of the acquired land in terms of these sale instances. Particularly, when neither the

veracity of the sale deeds Ex.P4 & Ex.P5 was in question nor the bonafides of these transactions were in doubt.

Per contra, learned counsel for the beneficiaries of the acquisition submits that the award rendered by the Reference Court is palpably erroneous, for there was hardly any basis to enhance the compensation to ₹ 5,00,000/- per acre. He submits that the Reference Court itself recorded that the sale deed Ex.P4 pertained to village Uklana, which was situated at a distance of 2 kilometers from the acquired land and sale deed Ex.P5 would not reflect the distance between the site that was sold and the acquired land. Thus, he asserts that having observed so, it was not feasible to award any enhancement.

I have heard learned counsel for the parties and perused the record.

In the wake of the argument advanced by the learned counsel for the parties and the nature of issue that arises for determination in these appeals, it indeed would be necessary to first set out the conclusion arrived by the Reference Court:

“21. So far as the sale deeds Ex.P4 and Ex.P5 are concerned, the same are helping the petitioners as PW4 Rajbir Poonia has admitted in the cross examination that Ex.P4 belongs to the land situated in village Uklana, which is at the distance of 2 K.M. from acquired land and sale deed Ex.P5 does not reflect about the distance in between land sold vide sale deed Ex.P5 and acquired land. However, one

thing is clear that acquired land was agricultural land and is situated near about the land mentioned in the sale deed produced on record and the land acquired have more potential value for which no proper compensation has been awarded.

22. Thus, for the reasons recorded above and keeping in view all the facts and circumstances of the case, it is held that amount of compensation declared by LAC was not proper in award in question. So, the land owners are entitled for enhanced compensation.

23. As a result of above discussion, the market value of the acquired land is accordingly fixed as Rs 5,00,000/- per acre on the date of notification under Section 4 of the Act.”

Undoubtedly, vide sale deed dated 04.03.2003 (Ex.P4), a land situated in village Uklana was alienated @ ₹ 42,39,316/- per acre. But it is equally true that the Reference Court itself recorded in para 21 of its award that village Uklana was located at a distance of 2 kilometers from the acquired land. And, that being so, the observation “***However, one thing is clear that acquired land was agricultural land and is situated near about the land mentioned in the sale deed produced on record...***” completely loses its relevance. Likewise, vide sale deed dated 01.08.2000 (Ex.P5), a land situated in the same revenue estate i.e. village Surewala, was sold @ ₹ 12,80,000/- per acre, but again the Reference Court observed, in no uncertain terms, “**...sale deed Ex.P5 does not reflect about the distance in**

between land sold vide sale deed Ex.P5 and acquired land.” Having said that, the conclusion arrived at by the Reference Court that acquired land was situated in the same vicinity as the sites that were sold vide sale instances Ex.P4 & Ex.P5, is indeed erroneous. It does not end there, for the observation “... *and the land acquired have more potential value for which no proper compensation has been awarded.*” is not preceded by any reference to the material or evidence on record, least an analysis thereof. Thus, in the given situation, the only and the inevitable conclusion that could be reached; that the award rendered by the Reference Court is perverse and is therefore unsustainable. The matter requires to be remitted to the Reference Court for re-decision.

Learned counsel for the parties apprise the Court that even though the impugned award, dated 01.11.2014, was rendered almost 3 years ago, and despite there being no stay order, the claimant-land owners were unable to execute the same and realize the compensation in terms thereof.

In conspectus of the above, the impugned award dated 01.11.2014 is set aside. The matter is remitted to the Reference Court for re-decision in accordance with law. Parties through their respective counsel shall appear before the District Judge, Hisar on 25.09.2017. And now since the matter is being remanded, both the parties shall be at liberty to adduce any further evidence, if so required. However, the Reference Court shall award only one effective opportunity to each of the parties and in the event of default, their evidence shall be deemed to have been closed. Since the dispute pertains to olden times, for notification under Section 4 was issued in January 2002, the Reference Court is requested to decide the matter afresh within a period of three months from the date the parties shall cause

appearance i.e. 25.09.2017. Needless to assert that it shall be the discretion of the District Judge to either decide the matter himself or assign to another Court of competent jurisdiction. It is clarified that this order shall not constitute any expression of opinion on merits of the case of either party.

Registry is directed to return the LCR forthwith.

(Arun Palli)
Judge

September 14, 2017
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO