

In the High Court of Punjab and Haryana, at Chandigarh

1.

Regular First Appeal No.4360 Of 2014 (O&M)

Sardar

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
2.

Regular First Appeal No.4361 Of 2014 (O&M)

Abdul and Another

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
3.

Regular First Appeal No.4362 Of 2014 (O&M)

Gore Khan

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
4.

Regular First Appeal No.4363 Of 2014 (O&M)

Abdul and Another

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
5.

Regular First Appeal No.4364 Of 2014 (O&M)

Khillu and Others

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
6.

Regular First Appeal No.4365 Of 2014 (O&M)

Hurmat and Others

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)

7.

Regular First Appeal No.4366 Of 2014 (O&M)

Firoza and Another

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
8.

Regular First Appeal No.4367 Of 2014 (O&M)

Ashloop

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
9.

Regular First Appeal No.4368 Of 2014 (O&M)

Bashir

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
10.

Regular First Appeal No.4369 Of 2014 (O&M)

Abdul and Others

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
11.

Regular First Appeal No.4370 Of 2014 (O&M)

Hurmat and Others

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
12.

Regular First Appeal No.4371 Of 2014 (O&M)

Rahim Baksh and Another

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)

13.

Regular First Appeal No.4372 Of 2014 (O&M)

Sahid

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
14.

Regular First Appeal No.4657 Of 2014 (O&M)

Rahim and Others

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
15.

Regular First Appeal No.4658 Of 2014 (O&M)

Abdul Karim

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
16.

Regular First Appeal No.4665 Of 2014 (O&M)

Om Parkash and Another

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
17.

Regular First Appeal No.4669 Of 2014 (O&M)

Ran Singh and Others

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
18.

Regular First Appeal No.5307 Of 2014 (O&M)

Abdul Rehman and Another

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)

19.

Regular First Appeal No.6332 Of 2014 (O&M)

Ajit Singh

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
20.

Regular First Appeal No.6656 Of 2014 (O&M)

Khem Chand and Others

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
21.

Regular First Appeal No.7328 Of 2015 (O&M)

Bhupender Goel

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
22.

Regular First Appeal No.7340 Of 2014 (O&M)

Premwati

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
23.

Regular First Appeal No.8067 Of 2014 (O&M)

Narveer and Others

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)
24.

Regular First Appeal No.8657 Of 2014 (O&M)

Hansraj Yadav and Others

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)

25. Regular First Appeal No.8813 Of 2014 (O&M)

Savitri Aggarwal

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)

AND

26. Regular First Appeal No.9666 Of 2014 (O&M)

Lalit Kumar and Others

...Appellant(s)

Versus

State of Haryana and Others

...Respondent(s)

DATE OF DECISION: 07.09.2021

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. S.K.Panwar, Advocate
for the appellant(s).

Mr. M.L.Sharma, Advocate
for the appellant(s) (In RFA-7328-2015).

Mr. Jai Vir Yadav Senior Advocate
with Mr. Tarun Yadav, Advocate
for the appellant(s) (In RFA-8657-2014 and RFA-8813-2014).

Mr. Gurinder Pal Singh, Advocate, for the appellant(s).

Mr. Adarsh Jain, Advocate, for the appellant(s).

Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana, for respondent No.1 and 2.

Mr. Chetan Mittal, Senior Advocate with
Mr. Aman Bansal, Advocate, for respondent No.3.

Anil Kshetarpal, J.

1. All these 26 appeals, filed under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as “the 1894 Act”) seeking modification of a common judgment passed on 26.02.2014 by the reference Court at Palwal shall stand disposed of. Learned counsels representing the

a common judgment.

2. Some facts are required to be noticed. In order to utilize the land for construction of Earth Electrode Station for 4500 KV, 2500 MW of high voltage double circuit Balia-Bhiwandi Transmission Line, 75 acres 3 kanals and 7 marlas of land located in village Khatela, District Faridabad, now Palwal, was acquired by award No. 3 of 2007. The notification under Section 4 of the 1894 Act came to be issued on 23.11.2005, which is the crucial date for determination of the market value. The landowners claim the market value @ ₹1,00,00,000/- per acre, however, in the absence of any documentary evidence, the Land Acquisition Collector assessed the market value @ ₹16,00,000/- per acre. Apart therefrom, the landowners were held entitled to an additional amount under Section 23(1A) of the 1894 Act @ 12% per annum from the date of notification under Section 4 of the 1894 Act till the date of award or possession, whichever is earlier. The landowners were also held entitled to 30% compulsory acquisition charges which is known as solatium on the market value of the land prevailing on the date of notification.

3. On the request of the landowners, the cases were forwarded to the Court for determination of the market value of the acquired land. The landowners claimed that the acquired land is located on the National Highway No.2 and is a part of the developed area. The acquired land is surrounded by various big and small industries, schools and educational institutions etc. They claim that it is a part of a semi-urban area and therefore, the market value of the land, at the relevant time, was not less than

applications by claiming that the Land Acquisition Collector has correctly assessed the market value on the date of notification under Section 4 of the 1894 Act.

4. In order to prove their case, the landowners examined the following witnesses:-

<i>“PW.1</i>	-	<i>Rakesh Yadav</i>
<i>PW.2</i>	-	<i>Abdul</i>
<i>PW.3</i>	-	<i>Ibrahim</i>
<i>PW.4</i>	-	<i>Indraj Singh</i>
<i>PW.5</i>	-	<i>Brij Mohan (Clerk SDMO)</i>
<i>PW.6</i>	-	<i>Balwant Singh</i>
<i>PW.7</i>	-	<i>Kanhiya Lal</i>
<i>PW.8</i>	-	<i>R.S.Dahiya (Draftsman)</i>
<i>PW.9</i>	-	<i>Bhagwan Singh</i>
<i>PW.10</i>	-	<i>Duli Chand”.</i>

5. On the other hand, the respondents examined Mr. B.S.Saraswat as RW.1.

6. The landowners claim the market value on the basis of a comparable sale exemplar. However, no evidence, with regard to the sale exemplar of a time prior to the date of notification under Section 4 of the 1894 Act, has been produced. The Court is required to assess the market value on the basis of the contemporaneous sale transactions in the area. While assessing the market value, the Court is required to examine the comparable sale deeds in order to determine the price a willing seller is prepared to receive from a willing purchaser. In the considered view of this

Bench, this is a safe method to determine the market value. However,

unfortunately, no evidence in this regard has been produced. The landowners have failed to produce even a single sale instance either of the same village from where the land has been acquired or of the surrounding villages.

6. The landowners, in order to prove their case, were able to produce only two sale deeds. First one is a photocopy of the sale deed dated 15.12.2005 with respect to the sale of 2 acres and 10 kanals of land for an amount of ₹ 13,00,000/-. The land has been purchased at ₹ 6,30,303/- per acre. Photocopy of this sale deed has not been exhibited as the landowners have failed to produce the certified or original copy or lead any other evidence to prove the authenticity of the same. Apart therefrom, they have also produced the sale deed Ex.P18 with respect to land measuring 10 Kanals and 2 Marlas for an amount of ₹ 90,00,000/-, executed and registered on 25.07.2007. This piece of land is alleged to be located near the acquired land and at a distance of 3 acres away from the Highway. The per acre rate comes to ₹71,28,717.87. Apart therefrom, they have also relied upon Ex.P7, the proposed circle rate for the year 2013-14 @ ₹40,00,000/- per acre. Further, they have also relied upon the proceedings of the Divisional Level Committee dated 18.03.2010 recommending acquisition of the land for KMP Express Highway with regard to village Mandkola @ ₹23,00,000/- per acre whereas with respect to the land situated at village Kanoli @ ₹16,00,000/- per acre and the proceedings of another Divisional Level Committee dated 27.12.2010 (Ex.P14) have been referred to, showing that the rates fixed by the Committee in the revenue estate of Hodal (within the Municipal Limits) have been fixed as under:-

Industrial and Institutional use - ₹ 5,000/- per sq. yard

Residential use - ₹ 8,000/- per sq. yard

Commercial use - ₹ 35,000/- per sq. yard”.

7. It is apparent that the landowners have failed to produce any sale exemplar before the date of notification under Section 4 of the 1894 Act, which was issued on 23.11.2005. The sale deed Ex.P18 is executed after a period of 1 year and 8 months from the date of notification under Section 4 of the 1894 Act. Hence, the aforesaid sale deed cannot be relied upon. As regards the sale deed “Mark P1”, the same cannot be relied upon because the landowners have failed to prove the same. Furthermore, even if the aforesaid sale deed is taken into consideration, the land has been sold @ ₹6,30,303/- per acre whereas the Land Acquisition Collector had assessed the market value @ ₹16,00,000/- per acre which has been further enhanced to ₹16,50,000/- per acre by the Reference Court. As regards the proposed circle rates and the proceedings of the Divisional Level Committee, these are all subsequent to the date of notification under Section 4 of the 1894 Act. In fact, the proposed circle rate Ex.P7 is after a period of eight years whereas Ex.P13 and P14 are after a period of five years from the date of notification under Section 4 of the 1894 Act.

8. Keeping in view the aforesaid facts, the Court is required to determine the market value. Before this bench examines the contention of the learned counsel representing the parties, it would be appropriate to notice the relevant provisions of the 1894 Act. Section 15 of the 1894 Act provides that while determining the amount of compensation, the Collector

Act. Hence, Section 23 to 25 of the 1894 Act are extracted as under:-

“23. Matters to be considered in determining compensation-

(1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

first the market-value of the land at the date of the publication of the notification under Section 4, sub-section (1).

secondly the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change, and

sixthly the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of

the declaration under Section 6 and the time of the Collector's taking possession of the land.

(1-A) In addition to the market-value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum of such market-value for the period commencing on and from the date of the publication of the notification under Section 4, sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation.—In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any court shall be excluded.

(2) In addition to the market-value of the land, as above provided, the Court shall in every case award a sum of [thirty per centum] on such market-value, in consideration of the compulsory nature of the acquisition.

24. Matters to be neglected in determining compensation

-But the Court shall not take into consideration—

first, the degree of urgency which has led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

thirdly, any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit;

fourthly, any damage which is likely to be caused to the land

acquired, after the date of the publication of the declaration under Section 6, by or in consequence of the use to which it will be put;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put;

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the [notification under Section 4, sub-section (1); or

eighthly, any increase to the value of the land on account of its being put to any use which is forbidden by law or opposed to public policy.

25. Amount of compensation awarded by court not to be lower than the amount awarded by the Collector - The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11.”

9. It is apparent from the reading of the first part of Section 23 of the 1894 Act that the market value of the land is required to be determined on the date of publication of the notification under Section 4 (1) of 1894 Act. Hence, the crucial date for determining market value is 09.06.2006. No further guidelines for assessment of the amount have been provided in Act.

Sub-section 1-A of Section 23 of the 1894 Act provides that while

determining the amount of compensation to be awarded for the land acquired, the court apart from the market value of the land, is also required to award an amount calculated at the rate of 12% per annum at such market value for the period commencing on and from the date of publication of notification under Section 4 (1) of the 1894 Act till the date of award passed by the Collector or till the date of taking possession of the land, whichever is earlier. Under sub-section 2 of section 23 of the 1894 Act, the court, in addition to the market value of the land, is required to award a sum of 30% on such market value towards compulsory nature of the acquisition. Section 24 of the 1894 Act enlists the various factors which are required to be ignored while determining the market value. Section 25 of the 1894 Act provides that the court shall not award the amount of compensation which is lower than the amount awarded by the Collector.

10. It is apparent from the reading of the aforesaid statutory provisions that while determining the market value of the acquired land, the court is required to examine the existing geographical location of the acquired land apart from its existing and potential use. The Court is also required to examine as to whether the acquired land has proximity to the National Highway or the State Highway Road or any developed area. The market value of the other land situated in the same locality/area or adjacent to or very near to the acquired land can also be taken into consideration by the Court. While assessing the market value, the Court is required to see as to what would be the price on which a willing seller would sell the land to a willing purchaser. While assessing such compensation, one of the method is

contemporaneous transactions.

11. While adjudicating the market value of the acquired land, the Courts are expected to award “just” and “appropriate” amount on the basis of the material available on record. The Court is not expected to distribute the public money with largesse. It is the duty of the Court to maintain a proper equilibrium between the interest of the parties and the public interest, in general. If the Courts lean in favour of the landowners, the government or the allottees are likely to be unnecessarily over-burdened and it will result in distributing the public money without limits thereby impacting the public interest, at large whereas if the courts are inclined towards the government, it can result in undermining of just claims. Therefore, a proper balance has to be drawn guided by the facts of case and to preserve the public interest and the public resources, as a whole.

12. The crucial date for the determination of the market value of the acquired land is 23.11.2005. The reference Court has assessed the market value @ ₹16,50,000/- per acre by increasing the market value of the acquired land by ₹50,000/- per acre over and above the amount of 16,00,000/- per acre. The reference Court, after discussing the evidence and finding that the landowners have failed to produce any sale deed to prove the market value, has resorted to make assumptions and proceeded to assess the market value @ ₹16,50,000/- per acre. On perusal of the aforesaid, it is apparent that the landowners have even failed to produce any evidence, in these appeals, to prove their case. The learned counsel representing the appellants contend that the location of the acquired land is on the National

Highway No.2 and the cities of Hodal and Palwal are at a distance of 13

Kms. only from the acquired land. They further contend that the Rundhi Railway Station is at a distance of 4 to 5 Kms., whereas the toll barrier is located near the acquired land. They also pray that the sale deed Ex.P18 be relied upon after applying an appropriate cut.

13. No doubt, the acquired land is situated at a distance of 13 Kms. from Palwal and Hodal. However, there is hardly any evidence to prove the market value of that land. The Court is required to assess the market value on the basis of the evidence. In the absence thereof, the Court cannot assess the market value only on the basis of the oral arguments. Moreover, the sale deed Ex.P18 was executed after a period of nearly two years from the date of notification under Section 4 of the 1894 Act. In such circumstances, it will not be safe to rely upon the same to assess the market value as on 23.11.2005. The reference Court has already granted an increase of ₹50,000/- per acre even in the absence of any direct evidence. Learned counsels for the appellants have failed to produce any relevant and clinching oral evidence to corroborate the claim of the landowners.

14. Keeping in view the aforesaid facts, this Bench does not find it appropriate to interfere with the assessment made by the reference Court. Consequently, all the appeals are dismissed.

15 The miscellaneous application(s) pending, if any, in all the appeals shall disposed of.

**(Anil Kshetarpal)
Judge**

September 07, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No