

In the High Court of Punjab and Haryana, at Chandigarh

1.

Regular First Appeal No. 711 of 2018 (O&M)

Suresh Kumar and Another

... Appellant(s)

Versus

State of Haryana and Others

... Respondent(s)
2.

Regular First Appeal No.712 of 2018 (O&M)

Murti Mandir Luxmi Narain

...Appellant(s)

Versus

State of Haryana and others

...Respondent(s)
3.

Regular First Appeal No.722 of 2018 (O&M)

Sardari Devi (since deceased) through her LRs

...Appellant(s)

Versus

State of Haryana and others

...Respondent(s)
4.

Regular First Appeal No.724 of 2018 (O&M)

Sh. Ramji Lal

...Appellant(s)

Versus

State of Haryana and others

...Respondent(s)
5.

Regular First Appeal No.725 of 2018 (O&M)

Jarnail Singh and others

...Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

6. Regular First Appeal No.726 of 2018 (O&M)

Smt. Ram Piari

...Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

7. Regular First Appeal No.3024 of 2018 (O&M)

State of Haryana and others

...Appellant(s)

Versus

Ram Kishan

...Respondent(s)

8. Regular First Appeal No.3025 of 2018 (O&M)

State of Haryana and others

...Appellant(s)

Versus

Jarnail Singh and others

...Respondent(s)

9. Regular First Appeal No.3026 of 2018 (O&M)

State of Haryana and another

...Appellant(s)

Versus

Mam Raj (since deceased) through his LRs and others

...Respondent(s)

10. Regular First Appeal No.3027 of 2018 (O&M)

State of Haryana and another

...Appellant(s)

Versus

Harish Kumar

...Respondent(s)

**Regular First Appeal No. 711 of 2018 (O&M) And
25 Other Connected Cases**

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11. Regular First Appeal No.3028 of 2018 (O&M)

State of Haryana and others

...Appellant(s)

Versus

Murti Mandir Luxmi Narain

...Respondent(s)

12. Regular First Appeal No.3029 of 2018 (O&M)

State of Haryana and others

...Appellant(s)

Versus

Smt. Ram Piari

...Respondent(s)

13. Regular First Appeal No.3030 of 2018 (O&M)

State of Haryana and others

...Appellant(s)

Versus

Kanwar Bhan Chaudhary (since deceased) through his LRs

...Respondent(s)

14. Regular First Appeal No.3031 of 2018 (O&M)

State of Haryana and another

...Appellant(s)

Versus

Rakhu Ram (since deceased) through his LRs and another

...Respondent(s)

15. Regular First Appeal No.3032 of 2018 (O&M)

State of Haryana and others

...Appellant(s)

Versus

Naresh Kumar and others

...Respondent(s)

**Regular First Appeal No. 711 of 2018 (O&M) And
25 Other Connected Cases**

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16. Regular First Appeal No.1130 of 2018 (O&M)

Ram Rattan

...Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

17. Regular First Appeal No.1129 of 2018 (O&M)

Ram Kishan

...Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

18. Regular First Appeal No.1871 of 2018 (O&M)

Harish Kumar

...Appellant(s)

Versus

State of Haryana and another

...Respondent(s)

19. Regular First Appeal No.723 of 2018 (O&M)

Kanwar Bhan Chaudhary (since deceased) through his LRs

...Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

20. Regular First Appeal No.3034 of 2018 (O&M)

State of Haryana and others

...Appellant(s)

Versus

Ramji Lal

...Respondent(s)

**Regular First Appeal No. 711 of 2018 (O&M) And
25 Other Connected Cases**

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21. Regular First Appeal No.3035 of 2018 (O&M)

State of Haryana and others

...Appellant(s)

Versus

Sardari Devi

...Respondent(s)

22. Regular First Appeal No.3045 of 2018 (O&M)

Rakhu Ram (since deceased) through his LR's and another

...Appellant(s)

Versus

State of Haryana and another

...Respondent(s)

23. Regular First Appeal No.3046 of 2018 (O&M)

Mam Raj (since deceased) through his LR and another

...Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

24. Regular First Appeal No.3068 of 2018 (O&M)

Naresh Kumar and others

...Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

25. Regular First Appeal No.3023 of 2018 (O&M)

State of Haryana and others

...Appellant(s)

Versus

Ram Rattan

...Respondent(s)

AND

26. Regular First Appeal No.3033 of 2018 (O&M)

State of Haryana and others

...Appellant(s)

Versus

Suresh Kumar and another

...Respondent(s)

DATE OF DECISION: 26.08.2021

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Robin Dutt, Mr. S.S.Dinarpur and Mr. V.B.Aggarwal,
Advocates, for the landowners.

Mr. Abhinash Jain, Deputy Advocate General and
Mr. Shivendra Swaroop, Assistant Advocate General, Haryana
for the State.

Anil Kshetarpal, J.

1. This judgment shall dispose of a bunch of Regular First Appeals bearing No. 711, 712, 722 to 726, 1129, 1130, 3023 to 3035, 3045, 3046, 3068 of 2018 and 1871 of 2018, filed under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as “the 1894 Act”), assailing the correctness of the award passed by the Court, while deciding the various reference applications filed by the landowners under Section 18 of the 1894 Act.

2. In the present case, the land measuring 50 acres 2 kanals & 17 marlas located in village Jaroda, has been acquired for the construction of a District Jail. The preliminary notification under Section 4 of the 1894 Act was issued on 04.05.2002. Vide award No. 2 dated 26.10.2004, the Land Acquisition Collector assessed the market value of the prime land

value of the remaining land was assessed at ₹ 6,00,000/- per acre. Being dissatisfied with the market value assessed by the Land Acquisition Collector, the landowners filed applications for forwarding the reference to the court under Section 18 of the 1894 Act for re-determination. In the first round, the reference applications were ordered to be dismissed by the Court on 06.11.2007, however, in various appeals, the matter was remitted back for fresh decision. The Court below, in the impugned judgment, has now re-decided the matter while assessing the market value of the land at ₹1,560/- per square meter, which is equivalent to ₹1,856.76 per square yard and works out to ₹ 63,13,043/- per acre.

3. It has come on record that there have been three different compulsory acquisitions of the land by the State Government in the concerned area from time to time. The first acquisition took place vide notification u/s 4 of 1894 Act dated 28.04.1999 when the land situated in villages Bhatauli and Khera was acquired for the construction of police lines. This acquisition was the subject matter of decision vide judgment Ex.A2 (Swaran Singh Versus State of Haryana) passed by the High Court. Thereafter, the acquisition of land which is the subject matter of the present appeals was initiated on 04.05.2002 vide notification u/s 4 of the 1894 Act. Thereafter, the land located in the revenue estate of Jagadhari, Villages Bhatauli, Gulab Nagar, Jaroda etc. was acquired vide a notification dated 30.05.2005 u/s 4 of the 1894 Act. The market value of the land with respect to the last acquisition has been finally determined by the Supreme Court in *Manoj Kumar and Others v. State of Haryana and Others 2018 (2) RCR (Civil) 815*.

the learned Additional District Judge, while relying upon the judgment passed in Ex.A2 (Arising from the Ist acquisition of land pursuant to notification issued on 28.04.1999), assessed the market value of the acquired land at ₹1,560/- per square meter. The High Court determined the market value of the acquired land of the villages Bhatauli and Khera, which was acquired for the construction of Police Lines (Ex.A2). The aforesaid land is located on the national highway travelling through Jagadhari and Ambala. Subsequently, with respect to the acquisition of land in the revenue estate of Jagadhari, Villages Bhatauli, Gulab Nagar and Jaroda etc, made in the year 2005, for developing the residential-cum-commercial sectors by the Haryana Urban Development Authority, the High Court assessed the market value of the acquired land at the rate of ₹3,610/- per square meter after adding 15% annual increase on cumulative basis, based on the judgment passed in ***Swaran Singh v. State of Haryana*** (Ex.A2). In ***Swaran Singh's case*** (*supra*), the acquisition, as noticed, is of the year 1999. Against the judgment passed by the High Court, with respect to the last acquisition vide notification issued in the year 2005, the matter travelled to the Supreme Court in ***Manoj Kumar and Others*** (*supra*) wherein keeping in view the facts and circumstances of the case, it reduced the market value of the acquired land from ₹ 1,46,09,000/- to ₹95,00,000/- per acre along with the statutory benefits. The Supreme Court, after examining the entire case law, held that it is not appropriate to blindly follow a previous determination by the Court while applying the annual increase on cumulative basis. It has further been held that the sale exemplars, if available, cannot be ignored.

piece of evidence, but the same is not conclusive.

5. In the present case, it is apparent that the Court below ignored the sale exemplars produced by the landowners as well as by the State Government. The landowners in evidence produced the copies of the various sale deeds which can be summarized in the following table:-

<i>Exhibit</i>	<i>Date</i>	<i>Village</i>	<i>Extent</i>	<i>Consideration</i>	<i>Value per acre (In Rs.)</i>	<i>Remarks</i>
<i>P-52</i>	<i>31.08.1992</i>	<i>Bhatauli</i>	<i>48 K (6 acres)</i>	<i>51,00,000/-</i>	<i>8,50,000/-</i>	<i>Agriculture Land</i>
<i>P-53</i>	<i>27.12.1995</i>	<i>Bhatauli</i>	<i>1 K-4M</i>	<i>1,85,000/-</i>	<i>12,33,333/-</i>	<i>Plot in M.C. Area</i>
<i>P-54</i>	<i>11.06.1998</i>	<i>Gulab Nagar</i>	<i>1K-13M</i>	<i>2,25,000/-</i>	<i>10,90,909/-</i>	<i>Plot in M.C. Area</i>
<i>P-55</i>	<i>10.07.2001</i>	<i>Gulab Nagar</i>	<i>200 Sq. Yards</i>	<i>1,20,000/-</i>	<i>29,04,000/-</i>	<i>Plot in M.C. Area</i>
<i>P-56</i>	<i>17.08.2001</i>	<i>Gulab Nagar</i>	<i>16 M</i>	<i>1,70,000/-</i>	<i>17,00,000/-</i>	<i>Plot in M.C. Area</i>
<i>P-57</i>	<i>15.11.2001</i>	<i>Gulab Nagar</i>	<i>8 M</i>	<i>85,000/-</i>	<i>17,00,000/-</i>	<i>Plot in M.C. Area</i>
<i>P-58</i>	<i>14.01.2002</i>	<i>Gulab Nagar</i>	<i>44.44 Sq. Yards</i>	<i>53,500/-</i>	<i>58,26,732.67</i>	<i>Plot in M.C. Area</i>
<i>P-59</i>	<i>10.04.2002</i>	<i>Gulab Nagar</i>	<i>3K-12M</i>	<i>4,50,000/-</i>	<i>10,00,000/-</i>	<i>Plot in M.C. Area</i>
<i>P-60</i>	<i>05.03.2004</i>	<i>Gulab Nagar</i>	<i>2K-2M</i>	<i>5,72,000/-</i>	<i>21,79,047.62</i>	<i>R/Plot</i>
<i>P-61</i>	<i>15.04.2005</i>	<i>Gulab Nagar</i>	<i>15M</i>	<i>2,27,000/-</i>	<i>24,21,333.33</i>	<i>R/Plot</i>
<i>P-62</i>	<i>24.08.2004</i>	<i>Bhatauli</i>	<i>5K</i>	<i>30,00,000/-</i>	<i>48,00,000/-</i>	<i>R/Plot</i>
<i>P-63</i>	<i>25.10.2004</i>	<i>Jaroda</i>	<i>20K- 10M</i>	<i>51,25,000/-</i>	<i>20,00,000/-</i>	<i>A/Land</i>
<i>P-69</i>	<i>25.10.2004</i>	<i>Jaroda</i>	<i>4K-8M</i>	<i>11,00,000/-</i>	<i>20,00,000/-</i>	<i>A/Land</i>
<i>P-72</i>	<i>20.03.2007</i>	<i>Jaroda</i>	<i>77K-9M</i>	<i>96,81,250/-</i>	<i>10,00,000/-</i>	<i>A/Land</i>
<i>P-73</i>	<i>13.04.2007</i>	<i>Jaroda</i>	<i>18K-5M</i>	<i>22,81,250/-</i>	<i>10,00,000/-</i>	<i>A/Land</i>

6. On the other hand, the State Government has produced the sale exemplars of the land situated in the village Jaroda itself, which are extracted as under:-

<i>Exhibit</i>	<i>Date</i>	<i>Village</i>	<i>Extent</i>	<i>Consideration</i>	<i>Value per acre (In Rs.)</i>	<i>Remarks</i>
<i>R-1</i>	<i>29.07.2002</i>	<i>Jaroda</i>	<i>4-Kanal</i>	<i>5,00,000/-</i>	<i>10,00,000/-</i>	<i>Abutting the acquired</i>
<i>R-2</i>	<i>16.09.2002</i>	<i>Jaroda</i>	<i>4-Kanal</i>	<i>3,00,000/-</i>	<i>6,00,000/-</i>	<i>A/Land</i>
<i>R-3</i>	<i>29.10.2002</i>	<i>Jaroda</i>	<i>7K-9M</i>	<i>3,72,000/-</i>	<i>4,00,00/-</i>	<i>A/Land</i>
<i>R-4</i>	<i>27.12.2002</i>	<i>Jaroda</i>	<i>8 Kanal</i>	<i>3,00,000/-</i>	<i>3,00,000/-</i>	<i>A/Land</i>

7. Heard learned counsel for the parties at length and with their able assistance, perused the paper-books of the various appeals as well as the record of the court below, which had been requisitioned.

8. On the one hand, learned counsel representing the State of Haryana assails the correctness of the judgment on the ground that placing reliance on the judgment Ex.A2 was wholly misplaced as the land which was the subject matter of acquisition in the aforesaid case was comparatively much better located being on the national highway and being a part of the city of Jagadhari as compared to the acquired land which is the subject matter of dispute in the present cases. Furthermore, there cannot be any comparison between the acquired land of this case and the land which was acquired for the construction of police lines. While elaborating, the learned counsel has submitted that the amount assessed by the Court vide impugned judgment, comes to ₹ 63,13,043/- per acre, whereas none of the sale exemplars of village Jaroda pertaining to the period anterior to 2002 have been produced by the landowners. He further, while drawing the attention of the Court to Ex.P63 (sale deed), contends that after a period of more than two years from the date of notification under Section 4 of the 1894 Act, the land was sold @ ₹ 20,00,000/- per acre. Hence, it is contended that the

9. On the other hand, learned counsel representing the landowners have contended that in *Manoj Kumar and Others (supra)*, the Supreme Court has also decided the appeals wherein the market value of the land located in village Jaroda has also been assessed at the same rates. They contend that in the acquisition of the land, vide notification dated 30.05.2005, the Supreme Court has already determined the market value of the land at ₹95,00,000/- per acre, whereas in the present case, the market value is assessed at ₹ 63,13,043/-. Hence, they pray that State appeals are liable to be dismissed, whereas the appeals, filed by the landowners, deserve to be allowed. Additionally, it is contented that PW.3 Jai Parkash, Halqa Patwari, while appearing in the witness box, has admitted that the distance between the police lines and the acquired land is only 1 Km.

10. While adjudicating the market value of the acquired land, the Courts are expected to award “just” and “appropriate” amount on the basis of material available on the 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 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 balance has to be drawn guided by the facts of case and to preserve the public interest and public resources as a whole.

However, no doubt, the Court can, in appropriate cases, solely

rely upon the previous determination by the Court in the absence of other evidence like sale exemplars etc. The price in the sale deeds produced helps the Courts to determine the market value of the acquired land in a realistic manner. The price in the sale deed proves the market value of the land which a voluntary vendor is expecting to receive and a willing purchaser is prepared to pay. Hence, the sale deeds which reflects the mind of both the sides, in the absence of special reasons, should not be ignored by the courts in such matters.

12. After having heard the learned counsel for the parties, this Bench is of the considered view that these appeals are required to be remitted back to the Court below for re-decision, for the following reasons:-

- I) Firstly, the Land Acquisition Court, while ignoring the sale exemplars, has solely relied upon the judgment Ex.A2. Prima facie, there cannot be any comparison between the location of the land covered by the judgment Ex.A2 and the piece of land which is the subject matter of the present acquisition. No doubt, in the present case, the acquisition is of the land which is located on the State Highway, however, the land acquired vide notification dated 28.04.1999, which was the subject matter of determination of the judgment Ex.A2 was certainly better located as it was a part of a developed city.
- ii) With regard to the subsequent acquisition carried out vide notification dated 30.05.2005, the Supreme Court, in

Manoj Kumar and Others (supra), reduced the market

value of the acquired land from ₹1,46,09,000/- to ₹95,00,000/- per acre. Prima facie, the acquisition of land vide notification dated 30.05.2005 was comparatively better located as the aforesaid piece of the land falls near the city whereas the acquired land in the present case is located farther away across the Dadupur Nalvi Canal.

- iii) As per Section 23, 24 and 25 of the 1894 Act, while determining the compensation payable, the Court is required to be alive to the matters which are required to be considered or ignored in determining the compensation.
- iv) Furthermore, the Court below has erred in ignoring the sale deeds produced by the State on the ground that the average price is lower than the assessment of the Land Acquisition Collector. From a plain reading of Section 25 of the 1894 Act, it is apparent that while determining the compensation, the Court shall not determine at a price lower than the amount awarded by the Land Acquisition Collector, however, there is no prohibition in taking into consideration the sale exemplars of a price lower than the amount awarded by the Land Acquisition Collector. In ***Manoj Kumar and Others (supra)***, the Supreme Court, after examining the case laws, has held that such sale deeds cannot be ignored.

considered view that the matter is required to be decided afresh by the Court below. Hence, the judgment, under appeal, is set aside. The cases are remitted back to the Court below for re-determination. The parties, through their counsels, are directed to appear before the Court of the Additional District Judge, Jagadhri at Yamuna Nagar, on 17.09.2021 at 10.00 A.M. The concerned Additional District Judge is requested to decide the matter within a period of four months from 17.09.2021.

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

(Anil Kshetarpal)
Judge

August 26, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

123 CM-4449-CI-2021 IN RFA-711-2018

SURESH KUMAR AND ANR VS STATE OF HARYANA AND ORS

Present: Mr. Robin Dutt, Advocate
for the applicant/appellant.

Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana, for the non-applicant/respondents.

Through this application, the landowners pray for correcting the arithmetical mistake in calculating the market value of the acquired land in the judgment dated 26.08.2021.

This Bench, after considering all the aspects, has remanded the matter back to the Reference Court. Although the aforesaid arithmetical calculation error has no bearing in the result of the appeal, however, an error is an error, which needs to be corrected.

It has been pointed out that an acre of the land has 4046.82 square meters. Thus, the market value assessed by the Reference Court comes to ₹ 63,13,043/- per acre and not ₹ 90,30,278.4 per acre. Hence, the necessary correction is ordered to be made in para 2, 8 and 9 of the judgment. The Registry is directed to upload the corrected order after carrying out the necessary corrections.

The application stands disposed of.

(Anil Kshetarpal)
Judge

September 13 2021
“DK”