

**RFA-2179-2021 (O&M)
and connected cases**

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

RFA-2179-2021 (O&M)
Date of decision: 09.02.2022

Union of India, Ministry of Railway (Northern Railway) through its
Deputy Chief Engineer/Construction, Shivaji Bridge, New Delhi

....Appellant

Versus

Sunita and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sandeep Vermani, Advocate for UOI

Mr. S.P.Khatri, Advocate
Mr. Surender Saini, Advocate
Mr. S.R.Hooda, Advocate
Mr. Gourav Verma, Advocate
Mr. Mayank Aggarwal, Advocate
Mr. S.S.Gill, Advocate
Mr. Navneet Singh, Advocate
Mr. Ashwani Gaur, Advocate
Mr. Anil Dutt, Advocate
Ms. Pooja Jaglan, Advocate for
Mr. Mohit Rathee, Advocate
Mr. Viresh Dahiya, Advocate
for the landowners.

ANIL KSHETARPAL, J

1. This judgment shall dispose of a batch of Regular First Appeals/cross objection, detail whereof is given on the foot of the judgment, filed under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') while assailing the correctness

of the award passed by the Reference Court on 03.01.2021. All these appeals emanate from a notification under Section 4 of the 1894 Act dated 19.10.2012 issued by the State of Haryana in order to acquire the land for construction of Jind-Gohana-Sonipat New Railway line. Learned counsel representing the parties are ad idem that these appeals can conveniently be decided by a common judgment.

2. The relevant particulars of the acquisition are as under:-

1.	Date of notification U/s 4 of 1894 Act	dated 19.10.2012
2.	Date of notification U/s 6 of 1894 Act	dated 16.11.2012
3.	No.& date of award	Award no.74 dated 16.07.2013
4.	Total land acquired	152 Bigha 18 Biswa
5.	Name of village	Patti Jattan
6.	Purpose	For construction of Jind- Gohana- Sonepat New Railway Line
7.	Rate awarded by LAC Land Acquisition Collector	Rs.70.00 lacs per acre for every kind of land
8.	Rate assessed by the Reference Court	Rs.84,70,000/- per acre by award dated 03.01.2021

3. In the present case, since the acquisition is for laying down a Railway line, therefore, a narrow long strip of land has been acquired. These appeals are with respect to the acquired land located in the revenue estate of village Patti Jattan, Tehsil and District Sonapat.

4. The landowners in order to prove that the market value assessed by the Land Acquisition Collector (hereinafter referred to 'the LAC') is not appropriate, examined PW1 Suman, PW2 Balwan Singh, PW3 Mehtab Singh, PW4 Ashish, PW5 Kusum and PW6 Nirmala. On the other hand, the respondents examined RW1 Naresh Kumar, SSE/W/C.

5. The landowners, in order to prove that the market value of the land has not been properly assessed by the LAC, produced the following the sale exemplars:-

Sr . N o.	Ex.	Sale deed no.	Date	Area	Amount Rs.	Name of village	Approximate value per acre
1.	PW3/B	13445	13.12.2012	150 sq. yards	10,50,000/-	Sonepat	Rs.3,38,80,000/-
2.	PW3/C	11073	02.11.2012	100 sq. yards	7,00,000/-	Sonepat	Rs.3,38,80,000/-
3.	PW3/D	14115	31.12.2012	100 sq. yards	7,00,000/-	Sonepat	Rs.3,38,80,000/-
4.	PW3/E	12068	26.11.2012	175 sq. yards	12,25,000/-	Sonepat	Rs.3,38,80,000/-
5.	PW4/C	6357	12.12.2006	500 sq. yards	12,50,000/-	Sonepat	Rs.1,21,00,000/-
6.	PW4/D & PW4/H	1211	07.05.2006	782 sq. yards	56,00,00/-	Sonepat	Rs.3,46,59,845/-
7.	PW4/E	7159	21.08/2012	324 sq. yards	23,18,000/-	Sonepat	Rs.3,46,26,913/-
8.	PW4/P and Ex.PW4/G	7569	07.10.2014	350 sq. yards	28,70,000/-	Sonepat	Rs.3,96,88,000/-
9.	Ex.P7	9516	01.10.2012	320 sq. yards	22,40,000/-	Sonepat	Rs.3,38,80,000/-

6. The Reference Court, after finding that the various sale deeds produced by the landowners prove that the approximate per acre value of the land in the area Rs Rs.3,38,80,000/-, considered it appropriate to apply a deduction of 75% to arrive at a figure of Rs.84,70,000/- per acre. The Reference Court has also held that those landowners whose land has been severed shall be entitled to 50% severance charges on the market value as assessed.

7. Heard learned counsel representing the parties at length and with their able assistance perused the judgment passed by the Reference Court alongwith the record which was requisitioned. The Union of India as well as the landowners have filed their respective appeals. On the one

hand, the landowners pray for enhancement in the market value of the acquired land, whereas, on the other hand, the Union of India prays for its reduction.

8. Learned counsel representing the landowners contend that the Reference Court has unreasonably applied a deduction of 75% which is without basis. They contend that at the most, a deduction of 1/3rd on account of dissimilarity between in the acquired land and the land in the sale exemplars would be reasonable. They further contend that the Reference Court has overlooked the fact that the acquired land has the potential to be used for residential and commercial purposes. They contend that the city has expanded and now, police lines, a police colony, sugar mill, South Point College, Indian Colony and Indian School have come up in the area. They also submit that Shastri Colony and Pragati Vihar is near the acquired land. They further contend that the Reference Court erred in refusing to rely upon the sale exemplar reflecting the highest price.

9. Per contra, learned counsel representing the Union of India contends that the Reference Court has committed an error while relying upon the sale exemplar of a very small sized developed plots to assess the market value of the agricultural land. It is further contended that the various plots sold through the sale exemplars produced by the landowners are not comparable with the acquired land. He further contend that the Reference Court has committed an error while assessing 50% as severance charges on the market value assessed. While drawing the attention of the Court to para 29 of the impugned judgment, the

learned counsel contend that the directions given are vague. It has not been specified as to whether 50% severance charges are to be calculated on the acquired land or the land remaining with the landowners after acquisition.

10. This Court has analyzed the arguments of the learned counsel representing the parties and now, proceeds to decide the dispute.

11. It is evident that the landowners have produced sale exemplar of sale deeds with respect to small plots, which are already a part of the developed colonies. It is important to note that the Union of India has not produced any sale instance to prove their case.

12. In this case, learned counsel representing the landowners assert that the Reference Court has erred in applying a deduction of 75% on the base value assessed on the ground that dissimilarity in the plot of land acquired viz-a-viz the land in the sale exemplars produced by the landowners.

13. On a careful reading of the statement of Ashish, who appeared as PW4, it is evident that he purchased 500 sq.yards plot on 12.12.2006 for Rs.12,50,000/-. The per acre rate of the aforesaid transaction is Rs.1,21,00,000/-. Sh. Ashish appeared as PW4 and states that the plot measuring 500 sq. yards purchased by him vide sale deed dated 12.12.2006 has been acquired. He purchased the plot for a sum of Rs.12,50,000/- on 12.12.2006 i.e approximately 6 years before the date of notification under Section 4 of the 1894 Act. There is no evidence that the prices of the land in the area have dwindled. In other words, there is no evidence that there is reduction in the price of the land. The

land is located in District Sonapat, which abuts the NCT of Delhi. The area falls in the “National Capital Region.” It has also come in evidence that near the acquired land there is a police line, a police colony, sugar mill, South Point College, Indian Colony, Shastri Nagar, Pragati Nagar, Jatwara Colony etc.. As per the judgment passed by the LAC, Sh. Ashish has been held entitled to market value at the rate of Rs.8,75,000/- apart from the statutory benefits. In other words, the market value of the plot has been reduced by Rs.3,75,000/- after a period of 6 years.

14. On a careful reading of the statement of the witnesses, it is evident that the acquired land consist of developed as well as undeveloped area. It is also evident that the acquired land is in a narrow long strip and is not in a compact block. It is obvious that the market value of the acquired land in block strip is not expected to be uniform, particularly, when it starts near the city and goes the towards rural area where the land is predominantly used for agricultural purposes. In the city the prices of the land are expected to be higher as compared to the land which is at a distance from the city. Hence, it may not be appropriate to assess the market value of the acquired land uniformly.

15. Furthermore, LAC has awarded 50% severance charges by relying upon the judgment passed by the High Court in **State of Haryana vs. Kartar Singh, 2010 (2) RCR (Civil) 443**. The relevant discussion of the Reference court is in para 29, which is extracted as under:-

“29. RW1 Naresh Kumar, SSE has admitted that petitioners' land has been bifurcated severed on account of the acquisition due to which

the value of the land has been diminished and its user has become difficult. Thus, as per law laid down in State of Harayna Vs. Kartar Singh (P&H) Law Finder doc id3 204009 the petitioners whose land has been severed are further entitled to 50% severance charges on the market value as assessed. Issue No.1 is, therefore, accordingly decided in favour of the petitioners and against the respondents.”

16. It is evident that the compensation for severance of the land has been awarded without discussing the evidence. The damages for severance can be of various types. There may be cases where there is bifurcation of the remaining land after acquisition with the owner. The damages for severance changes can also be for the truncation of the size of the parcel of land left after the acquisition. Such left out parcel of land may not be of any use. However, the Reference Court has failed to take note of these considerations in the facts and circumstances of the present case.

17. This Bench has carefully read the judgment passed by the High Court in Kartar Singh's case (supra). In the aforesaid judgment, the Court relied upon the judgment passed in **Surjit Singh and another vs. State of Punjab through LAC and others 2008 (2) RCR (Civil) 78**. In Kartar Singh's case and Surjit Singh's case (supra), the acquisition was for construction of a canal/distributary. In those cases, the severance charges at the rate of 50% was awarded as the remaining land of the landowners stood bifurcated in two different parcels and it was not convenient to cultivate on both sides of the canal/distributary. In the present case, a Railway line has been constructed. The Reference Court has not recorded any finding that it is not possible to cross over to the

other side of the Railway line. The Reference Court has also failed to take note of the fact that whether there is any underpass provided or not in the nearby area. Thus, the assessment made by the Reference Court with regard to the compensation for severance of land is not proper. The Reference Court has also failed to take note of the fact that whether the severance charges are to be calculated with respect to the remaining other land available with the landowner or the acquired land.

18. Keeping in view the aforesaid facts, this Court finds it appropriate to remand the case back to the Reference Court for fresh decision. This order has been passed as this Bench finds that in the absence of sufficient material, it would not be appropriate to assess the market value. The statute confers a responsibility on the Court to assess proper and fair market value of the acquired land. A pragmatic and balanced approach is required to be adopted by the court while assessing the market value. In the present case, this Court finds that in the absence of relevant material even the thumb rule cannot be applied.

19. Consequently, after setting aside the award passed by the Reference Court, the cases are remitted back with liberty to the parties to lead further evidence. It is expected that the Reference Court will re-decide the matter on individual basis or in short batches because the acquired land is in a narrow long strip of land. The parties through their counsel are directed to appear before the Court on 09.03.2022.

09.02.2022
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

**RFA-2179-2021 (O&M)
and connected cases**

Sr. No.	Case No.	Petitioner's name	Respondent's name
1.	RFA No.2179 of 2021	Union of India	Sunita and others.
2.	RFA No.2212 of 2021	Union of India	Savitri and others
3.	RFA No.2211 of 2021	Union of India and another	Jagdish and others
4.	RFA No.2210 of 2021	Union of India and another	Kanwar Singh and others
5.	RFA No.2209 of 2021	Union of India	Santosh and others
6.	RFA No.2208 of 2021	Union of India and another	Kanwar Singh and others
7.	RFA No.2207 of 2021	Union of India and another	Rai Singh and others
8.	RFA No.2220 of 2021	Union of India and another	Rai Singh and others
9.	RFA No.2219 of 2021	Union of India	Vikash and others
10.	RFA No.2218 of 2021	Union of India	Har Dayal (deceased) thr. LRs and others
11.	RFA No.2217 of 2021	Union of India and another	Kamaljeet and others
12.	RFA No.2216 of 2021	Union of India	Vivekanand Siksha Samiti and others
13.	RFA No.2215 of 2021	Union of India	Vivekanand Siksha Samiti and others
14.	RFA No.2214 of 2021	Union of India and another	Omparkash and others
15.	RFA No.2213 of 2021	Union of India and another	Smt. Sushama Devi and others
16.	RFA No.2228 of 2021	Union of India and another	Smt. Indirawati and others
17.	RFA No.2227 of 2021	Union of India and another	Dilbag Singh and others
18.	RFA No.2226 of 2021	Union of India	Smt. Hardei and others
19.	RFA No.2225 of 2021	Union of India and another	Mahabir Singh and others
20.	RFA No.2223 of 2021	Union of India and another	Satpal and others

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21.	RFA No.2221 of 2021	Union of India and another	Smt. Urmila Devi and others
22.	RFA No.951 of 2020	Kanwar Singh and others	State of Haryana and others
23.	RFA No.2257 of 2021	Union of India and another	Mahabir and others
24.	RFA No.2241 of 2021	Union of India and another	Om Parkash and others
25.	RFA No.2240 of 2021	Union of India and another	Satpal and others
26.	RFA No.2238 of 2021	Union of India and another	Mahabir and others
27.	RFA No.2237 of 2021	Union of India and another	Mehtab and others
28.	RFA No.2236 of 2021	Union of India	Smt. Bimla and others
29.	RFA No.2235 of 2021	Union of India and another	Sat Parkash and others
30.	RFA No.2234 of 2021	Union of India	Balwan Singh and others
31.	RFA No.2233 of 2021	Union of India	Balwan Singh and others
32.	RFA No.2232 of 2021	Union of India and another	Jai Narain (deceased) thr. LRs and others
33.	RFA No.2231 of 2021	Union of India and another	Smt. Vidhya Devi and others
34.	RFA No.2230 of 2021	Union of India and another	Mehtab and others
35.	RFA No.2229 of 2021	Union of India	Roopchand and others
36.	RFA No.952 of 2020	Vivekanand Siksha Samiti	State of Haryana and others
37.	RFA No.1007 of 2020	Smt. Vidhya Devi and others	State of Haryana and others
38.	RFA No.1008 of 2020	Mehtab and others	State of Haryana and others
39.	RFA No.1009 of 2020	Mehtab and others	State of Haryana and others

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40.	RFA No.1022 of 2020	Kanwar Singh and others	State of Haryana and others
41.	RFA No.1024 of 2020	Vivekanand Siksha Samiti	State of Haryana and others
42.	RFA No.1032 of 2020	Kamaljeet and others	State of Haryana and others
43.	RFA No.1034 of 2020	Vivekanand Siksha Samiti and another	State of Haryana and others
44.	RFA No.1035 of 2020	Savitri	State of Haryana and others
45.	RFA No.1036 of 2020	Kamaljeet and others	State of Haryana and others
46.	RFA No.1037 of 2020	Kanwar Singh and others	State of Haryana and others
47.	RFA No.1038 of 2020	Savitri and another	State of Haryana and others
48.	RFA No.1343 of 2021	Sunita and another	Union of India and others
49.	RFA No.2148 of 2021	Om Parkash and others	State of Haryana and others
50.	RFA No.6289 of 2018	Ajay Kumar and others	State of Haryana and others
51.	RFA No.1413 of 2021	Virender Singh and others	State of Haryana and others
52.	RFA No.2476 of 2021	Surender Singh and others	State of Haryana and others
53.	RFA No.2478 of 2021	Rai Singh and others	State of Haryana and others
54.	RFA No.2481 of 2021	Sanju	State of Haryana and others
55.	RFA No.2510 of 2021	Rai Singh and others	State of Haryana and others
56.	RFA No.2512 of 2021	Urmila Devi	State of Haryana and others
57.	RFA No.2513 of 2021	Mahabir Singh and others	State of Haryana and others
58.	RFA No.2516 of 2021	Satpal and others	State of Haryana and others

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59.	RFA No.2517 of 2021	Satpal and others	State of Haryana and others
60.	RFA No.2538 of 2021	Santosh	State of Haryana and others
61.	RFA No.2539 of 2021	Santosh	State of Haryana and others
62.	RFA No.2678 of 2021	Dilbag Singh	State of Haryana and others
63.	RFA No.2180 of 2021	Union of India	Balwan Singh and others
64.	RFA No.2181 of 2021	Union of India	Smt. Om Devi and others
65.	RFA No.2182 of 2021	Union of India	Smt. Suman and others
66.	RFA No.2183 of 2021	Union of India	Savitri and others
67.	RFA No.2184 of 2021	Union of India and another	Smt. Nirmla and others
68.	RFA No.2185 of 2021	Union of India	Balwan Singh and others
69.	RFA No.2186 of 2021	Union of India	Om Parkash and others
70.	RFA No.2187 of 2021	Union of India and another	Karambir and others
71.	RFA No.2188 of 2021	Union of India	Smt. Rattan Kaur and others
72.	RFA No.2189 of 2021	Union of India	Rajinder Singh and others
73.	RFA No.2190 of 2021	Union of India	Smt. Kamlesh and others
74.	RFA No.2191 of 2021	Union of India	Dharambir Singh and others
75.	RFA No.2192 of 2021	Union of India and another	Anand Singh and others
76.	RFA No.2193 of 2021	Union of India and another	Sanju and others
77.	RFA No.2194 of 2021	Union of India	Mrs. Rakesh and others
78.	RFA No.2195 of 2021	Union of India	Kitabo and others

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79.	RFA No.2196 of 2021	Union of India	Satbir Singh and others
80.	RFA No.2197 of 2021	Union of India and another	Kanwar Singh and others
81.	RFA No.2198 of 2021	Union of India	Vivekanand Siksha Samiti and others
82.	RFA No.2199 of 2021	Union of India	Smt. Shakuntla and others
83.	RFA No.2200 of 2021	Union of India and another	Pardeep and others
84.	RFA No.2201 of 2021	Union of India and another	Kamaljeet and others
85.	RFA No.2202 of 2021	Union of India and another	Surender Singh and others
86.	RFA No.2203 of 2021	Union of India	Balwan Singh and others
87.	RFA No.2204 of 2021	Union of India	Indra Devi and others
88.	RFA No.2205 of 2021	Union of India and another	Kanwar Singh and others
89.	RFA No.2206 of 2021	Union of India	Roopchand and others
90.	RFA No.2222 of 2021	Union of India and another	Ram Kishan (deceased) thr LRs and others
91.	RFA No.2239 of 2021	Union of India and another	Ram Kishan (deceased) thr LRs and others
92.	RFA No.2224 of 2021	Union of India	Jagmehar Singh (deceased) thr LRs and others
93.	Cross objections-161-2021	Union of India	Jagmehar Singh (deceased) thr LRs and others
94.	RFA No.2533 of 2021	Bimla and others	State of Haryana and others
95.	RFA No.171 of 2020	Rattan Singh (deceased) thr LRs and others	State of Haryana and others

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96.	RFA No.1430 of 2021	Dharmbir Singh (deceased) thr LRs and others	State of Haryana and others
97.	RFA No.954 of 2020	Balwan Singh (deceased) thr. Lrs and others	State of Haryana and others
98.	RFA No.1004 of 2020	Balwan Singh (deceased) thr. Lrs and others	State of Haryana and others
99.	RFA No.1014 of 2020	Balwan Singh (deceased) thr. Lrs and others	State of Haryana and others
100.	RFA No.1033 of 2020	Balwan Singh (deceased) thr. Lrs and others	State of Haryana and others
101.	RFA No.953 of 2020	Balwan Singh (deceased) thr. Lrs and others	State of Haryana and others

09.02.2022
rekha

(ANIL KSHETARPAL)
JUDGE