In the High Court of Punjab and Haryana, at Chandigarh

Regular First Appeal No. 76 of 2021 (O&M)

Date of Decision: 11.07.2022
Reserved On: 09.05.2022

Haryana State Industrial and Infrastructure Development Corporation Limited

... Appellant(s)

Versus

Bhagwan Singh alias Gaddar and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ashwani Kumar Chopra, Senior Advocates
with Mr. Pritam Singh Saini and Mr. Vidul Kapoor,
Advocates, for the HSIIDC.

Mr. Amit Jain, Senior Advocate
with Mr. Varun Parkash, Advocate.

Mr. Karan Nehra, Ms Sandeep Kaur, Mr. Abhay Josan,
Mr. Harvinder Thakur, Mr. Sushil K. Sharma,
Mr. M.L.Sharma, Mr. Varun Gupta, Mr. J.S.Yadav,
Mr. Gulshan Nandwani, Mr. Himanshu Sharma and
Mr. Amit Jain, Advocates, for the landowners.

Mr. Shivendra Swaroop, Assistant Advocate General,
and Ms. Vibha Tewari, Assistant Advocate General,
Haryana.

Anil Kshetarpal, J.

1. Introduction and Background

1.1 Vide a common notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the 1894 Act") dated 29.09.2005, a long narrow strip of land located in as many as 15 villages was sought to be acquired for the construction of Kundli-Manesar-Palwal Expressway, which is also known as the Western Peripheral road. All these cases have been decided by the same Presiding Judge of the Reference Court (hereinafter referred to as "the RC"). Hence, all the cases are connected. However, since the evidence produced by the parties is separate, therefore, these are being decided by separate judgments, though there are certain common issues. Hence, this Court has opted to frame specific issues and decide the cases. In order to avoid repetition and for the sake of clarity and brevity, there is certain amount of reproduction, which is inevitable.

1.2 In the considered view of this Court, the following points need determination:-

i) What was the appropriate market value of the acquired land on the date of notification under Section 4 of the 1894 Act i.e. 29.09.2005?

ii) Is it appropriate to rely upon the assessment made by the RC with respect to the acquisition of a different parcel of land by a separate notification under Section 4 of the 1894 Act, which was issued after a period of more than 1½ years of the notification under Section 4 of the 1894 Act in the present case, more particularly when neither the copy of the judgment passed by the Court while deciding the cases arising from the separate notification is made a part of the record nor there is evidence to prove the comparative location of respective parcels of the acquired land through these notifications?

iii) What should be the compensation for severance in case the land remaining with the owner stands bifurcated in more than two or more parcels due to the acquisition of the land for the construction of a highway?

1.3 This batch of appeals has been filed by the Haryana State Industrial and Infrastructure Development Corporation Limited (hereinafter referred to as "the HSIIDC") as well as the landowners, while questioning the correctness of the judgment dated 02.03.2020, passed by the Reference Court (hereinafter referred to as "the RC"). The notification under Section 4 and 6 of the 1894 Act and the awards passed by the Land Acquisition Collector (hereinafter referred to as "the LAC") as also by the RC are common. Hence, the learned counsel representing the parties are *ad idem* that this batch of appeals can be conveniently disposed of by a common judgment.

1.4 The relevant particulars, for the purpose of decision in the present case, are as under:-

S.NO.	TITLE	DETAILS
1.	Date of Notification under Section 4 of the 1894 Act.	29.09.2005
2.	Date of Notification under Section 6 of the 1894 Act.	15.12.2005
3.	Purpose of Acquisition.	For construction of Express Highway connecting NH-1, 10, 8 and 2.
4.	Location, area and nature of the acquired land	Proposing to acquire the land measuring 720 kanals and 14 marlas of land located in village Indri, Tehsil Nuh, District Mewat.
5.	Number and Date of the Award of the Land Acquisition Collector.	No.15 dated 13.09.2006 acquiring the lands comprised in Rectangle No. 133, 134, 151, 152, 153, 154, 157, 158, 159, 169, 170, 179, 180, 181, 183, 184 and 185.
6.	Amount assessed by the Land Acquisition Collector.	₹12,50,000/- per acre along with all the statutory benefits.
7.	Amount determined by the	The RC, on 26.02.2010, in the

S.NO.	TITLE	DETAILS
	Reference Court.	first round, dismissed the applications under Section 18 of the 1894 Act. However, the High Court remanded the case back to the RC for fresh decision.
8.	Date of re-decision of the RC and the amount re-assessed, after remand.	Vide judgment dated 02.03.2020, the RC has assessed the market value of the acquired land @ ₹17,50,000/- per acre while relying upon a previous judgment dated 12.09.2012 in the LA case **No.21 of 2009/2011** titled as **Jitender etc. Vs. State of Haryana etc.** with respect to the acquisition of of land of village Dhulawat vide notification dated 11.12.2007.

1.5 For the purpose of showing the potential and location of the acquired land, the landowners have relied upon the same pleadings as in the case of village Dingerheri, which are extracted as under:-

> *"On the applications filed under Section 18 of the 1894 Act, the LAC has referred the matter to the RC for assessment of the market value of the acquired land. It was claimed that the market value of the acquired land is approximately ₹1,00,00,000/- per acre and the LAC did not take into consideration the location, nature and the vicinity of the land in question to other landmark places. It is claimed that the National Highway No.8 and 10 are at a distance of only 6 Kms. The Industrial Model Town, Manesar (hereinafter referred to as "the IMT") is 10 kms. away from the village. The Gurugram city is only 20 kms. away from the village. Several industries, residential sectors, commercial institutions, farm houses and*

> *poultry farms surround the village. It is also claimed that there is a pucca road leading to the land in question and the LAC has failed to take notice of the fact that the acquired land is located near Tauru city and there existed tube-wells, rooms, barbed wire fencing, underground water pipe lines, valuable trees etc. The LAC also failed to take into consideration that the State Government has already acquired the land in the revenue estates of villages Manesar, Kasan etc. and these areas are located near the acquired land. The landowners also claim that the townships, namely Pataudi, Sohna, Tauru, Nuh, Bhiwari, Manesar and Gurugram city are within a distance around 5 to 30 kms. from the acquired land and the land has great potential for residential and commercial development. There exist several petrol pumps, markets, resorts, golf courses, factories, farm houses and commercial and educational institutions in Manesar, Pachgaon, Pataudi, Tauru, Bhiwari, Sohna, Nuh, Gurugram and Palwal"*

1.6 The HSIIDC has also taken the same stand as in the pleadings in the case of village Dingerheri, which are extracted as under:-

> *"Per contra, the HSIIDC took a stand that the LAC has already awarded excessive compensation, therefore, there is no scope for re-determination. It is stated that the IMT, Manesar is at a significant distance. Moreover, the acquired land is not chahi (not giving two crops in a year) land in nature."*

1.7 The RC, on the appreciation of pleadings, has culled out the following issues:-

"1) What was the market value of the acquired land on the date of notification under Section 4 of Land Acquisition Act? OPP.

2) Whether petitions are time barred? OPR

3) Relief".

2. Evidence Produced by the Parties

2.1 In oral evidence, the landowners, in order to prove their case, have examined the following witnesses:

Sr. No.	Name of the Witness	Particulars of the Witness
1.	PW.1 Samsuddin	Halqa Patwari.
2.	PW.2 Haseen Ahmed	Draftsman.
3.	PW.3 Brahmjeet	Petitioner.
4.	PW.4 Jaikam Khan	Registration Clerk.

2.2 In documentary evidence, the landowners have also produced the following documents:

Sr. No.	Exhibit Number	Description of the document
1.	Exh.P1	Aks Sizra of village Indri
2.	Exh.P2	Site plan of acquired land of village Indri
3.	Exh.P3	Jamabandi of village Indri for the year 2005-06
4.	Exh.P4	Jamabandi of village Indri for the year 2005-06
5.	Exh.P5	Aks Sizra of village Indri
6.	Exh.P6	Aks Sizra of village Indri
7.	Exh.P15	Certified copy of award dated 5.2.2020

2.3 On the other hand, the HSIIDC, in oral evidence, has examined the following witness:

Sr. No.	Name of the Witness	Particulars of the Witness
1.	RW.1 Jaikam Khan	Registration Clerk.

2.4 The HSIIDC has also produced the following documents in its documentary evidence:-

Sr. No.	Exhibit Number	Description of the document
1.	Exh.R9	Aks Shizra of village Rewasan

3. On the careful examination of the judgment passed by the RC, the following findings emerged:-

I) The assessment made by the LAC is contradicted vide evidence led by the HSIIDC.

II) The minutes of the meeting of the Divisional Level Committee dated 26.04.2006 show that no sale instance has been considered by the Committee.

III) The sale deeds (Ex.R1 to Ex.R8) relied upon by the HSIIDC are liable to be kept out of consideration in view of Section 25 of the 1894 Act on the ground that these reflect a price lower than the amount offered by the LAC.

IV) The sale deed no. 713 dated 23.06.2003 (Ex.P7) cannot be relied upon as the aforesaid land is situated on the national highway in a different village, whereas, the land in question is situated in the interior.

V) The RC relied upon its judgment passed on 12.09.2012 in the ***Jitender's case*** *(supra)* by the RC, Mewat, while assessing the market value of the land in village Dhulawat acquired vide notification dated 11.12.2007.

4. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book as well as the record of the Reference Court, which was requisitioned.

5. The learned senior counsel representing the landowners has also filed synopsis and a brief note of his arguments. The first argument is that the acquired land is *chahi* in nature (capable of growing two crops in a year), which is surrounded by the residential colony, golf course, power house, petrol pump, IMT Rojka Meo and National Highway-248A Delhi-Alwar Road. Hence, there was proper infrastructure and sewage system in the village. The RC should have assessed the market value of the acquired land as commercial. The RC has erred in relying upon the award dated 12.09.2012 in the ***Jitender's case*** *(supra)*. The revenue estate of village Indri abuts the revenue estate of village Rewasan and old industrial area of village Rojka Meo is also located near the acquired land. The circle rate in the area, in the year 2005-2005, was ₹8,00,000/- per acre and thereafter, the rates have arisen sharply and today, the circle rate in village Indri is ₹62,00,000/- per acre upto the depth of 150 meters from the State Highway.

6.. Per contra, the learned counsel representing the HSIIDC contends that the judgment in the ***Jitender's case*** *(supra)* is neither a part of the record nor there is any evidence to prove that the acquired land under both the notifications is identical in market value, potential or geographical location. He further submits that the notification under Section 4 of the 1894 Act in the ***Jitender's case*** *(supra)* is 1 year and 3 months after the date of notification under Section 4 of the 1894 Act in the present case. Hence, the same could not be relied upon.

7. **<u>Discussion by the Court</u>**

7. 1 Now, firstly, let us examine the reasons assigned by the RC. With regard to the first reason, it would be noted that the land spread over 15 different villages was acquired in the shape of a narrow strip of land for the purpose of construction of National Highway. The notification under Section 4 of the 1894 Act dated 29.09.2005 as also notification under Section 6 of the 1894 Act dated 15.12.2005 is common. The LAC offered the market value on a uniform basis. In these circumstances, the RC has erred in observing that the award passed by the LAC is contradicted by the evidence led by the HSIIDC. Undoubtedly, the minutes of the meetings of the proceedings of Divisional Level Price Fixation Committee dated 26.04.2006 do not reflect proper application of mind, however, the Court is required to assess the market value on the basis of the evidence led by the parties. The Court is not bound by the assessment made by the LAC or the Divisional Level Price Fixation Committee, as the case may be.

7.2 The next reason assigned by the Court while refusing to take into consideration the sale deeds (Ex.R1 to Ex.R8) is the result of incorrect interpretation of Section 25 of the 1894 Act which only debars the Court from assessing the market value lower than the amount offered by the LAC. There is no prohibition in taking into consideration the sale deeds produced by either of the parties reflecting a price lower than the amount offered by the LAC. This issue is no longer *res integra* in view of the judgment passed by the Supreme Court in ***Lal Chand vs. Union of India (2009) 15 SCC 769***.

7.3 The reason assigned by the RC, while refusing to rely upon the sale exemplar (Ex.P7) which is with regard to the plot measuring 303 square yards in village Rewasan, is correct.

7.4 The last reason assigned by the RC is based upon the judgment rendered in the ***Jitender's case*** *(supra)*. This matter has been examined, at length, in the case of village Dingerheri and the relevant discussion is extracted under the determination on issue No.(ii), discussed hereinafter.

7.5 Now, let us examine the argument of the learned counsel representing the landowners. The first argument is with respect of the land being *chahi* in nature. The word "*Chahi*" denotes the agricultural land which is capable of giving two crops in a year. Thus, the learned counsel admits that the land was being used for agricultural purposes. As regards the location of the land, it is sufficient to note that such location, even if accepted, does not result in enhancement of the market value unless there is any corroborative evidence to prove the market value.

7.6 The next argument of the learned counsel representing the landowners is to the effect that the reliance placed by the RC upon ***Jitender's case*** *(supra)*, is correct. This Court is of the view that the assessment made by the RC in the ***Jitender's case*** *(supra)*, particularly when the notification under Section 4 of the 1894 Act was issued after a period of more than two years from the date of issuance of the notification under Section 4 of the 1894 Act i.e. 29.09.2005 is erroneous. Hence, the same is set aside.

7.7 The learned counsel representing the landowners has further relied upon the judgment passed with respect to the acquisition of the land in village Rewasan vide same notification. The aforesaid judgment passed by the RC has also been set aside by this Court vide a judgment of even date.

7.8 The next argument of the learned counsel representing the landowners is with regard to the current Collector's rate. The development of the area post the date of notification under Section 4 of the 1894 Act cannot be relied upon.

8. Determination of Issues

Issue No. (i)

8.1 Now, let us proceed to decide upon the issues framed. As regard to the first question, it is noticed that the landowners have failed to produce the comparable sale exemplars of the contemporaneous period. In the present case, the notification under Section 4 of the 1894 Act was issued on 29.09.2005. The sale instances (Ex.P8 to Ex.P14) are post the date of notification under Section 4 of the 1894 Act and hence, correctly, ignored by the RC. The information with respect to various sale exemplars produced by the parties is extracted as under:-

Sr. No.	*Exhibit No.*	*Vasika No.*	*Dated*	*Sale Consideration (In Rs.)*	*Land Sold (K M S)*	*Rate per acre*	*Village*
1.	*P7*	*713*	*23.06.2003*	*2,30,000*	*10 M*	*36,80,000*	*Rewasan*
2.	*P8*	*1801*	*07.07.2014*	*3,51,55,000*	*18K-16M*	*1,49,59,574*	*Indri*
3.	*P9*	*703*	*22.05.2007*	*24,00,000*	*5K-9M*	*35,22,935*	*Indri*
4.	*P10*	*1542*	*19.06.2014*	*70,00,000*	*3K-16M*	*1,47,36,842*	*Indri*
5.	*P11*	*1802*	*07.07.2014*	*1,60,00,000*	*10K-1M*	*1,27,36,318*	*Indri*
6.	*P12*	*2130*	*12.07.2013*	*5,31,00,000*	*47K-4M*	*90,00,000*	*Indri*
7.	*P13*	*1192*	*17.05.2013*	*4,84,000*	*8M*	*96,80,000*	*Indri*
8.	*P14*	*2131*	*12.07.2013*	*37,12,500*	*3K-6M*	*90,00,000*	*Indri*
9.	*R1*	*167*	*26.04.2005*	*10,42,000*	*31K-9M*	*2,65,055*	*Indri*
10.	*R2*	*706*	*25.05.2005*	*7,25,000*	*21K-17M*	*2,65,446*	*Indri*
11.	*R3*	*1722*	*23.07.2005*	*4,06,000*	*12K-5M*	*2,65,142*	*Indri*
12.	*R4*	*764*	*27.05.2005*	*2,97,000*	*8K-19M*	*2,65,474*	*Indri*
13.	*R5*	*2450*	*25.11.2004*	*4,45,031*	*15K-3M*	*2,34,999*	*Indri*
14.	*R6*	*2489*	*14.09.2005*	*6,53,125*	*19K*	*2,75,000*	*Khalilpur*
15.	*R7*	*2050*	*12.08.2005*	*2,80,000*	*8K*	*2,80,000*	*Khalilpur*
16.	*R8*	*77*	*06.04.2007*	*7,73,000*	*5K-3M*	*12,00,776*	*Khalilpur*

<u>Note:</u> It is noted here that there are certain discrepancies in the tabulated compilation of the sale deeds by the RC, therefore, a modified table is reproduced above.

8.2 The sale deed dated 23.06.2003 (Ex.P7) is with respect to the plot measuring 10 marlas located in village Rewasan. The aforesaid piece of land is on the National Highway, whereas the acquired land in village Indri is located in the interior part of the village. Hence, the RC has correctly held that such sale instance cannot be relied upon. On the other hand, the HSIIDC has produced the sale instances (Ex.R1 to Ex.R4) of the sale of agricultural land in village Indri which proves that the price of the land was not more than ₹3,00,000/- per acre.

8.3 Keeping in view the aforesaid discussion, this Court comes to a conclusion that the RC has erred in enhancing the market value of the acquired land from ₹12,50,000/- to ₹ 17,50,000/-. Therefore, the appropriate market value of the acquired land on the date of notification under Section 4 of the 1894 Act i.e. 29.09.2005 is ₹12,50,000/- as assessed by the LAC, which requires no interference. Hence, the issue No.(i) stands answered.

<u>Issue No.(ii)</u>

8.4 Now, let us examine issue No.(ii). This issue has elaborately been discussed in the case of village Dingerheri in Regular First Appeal No. 11 of 2021, which is extracted as under:-

> *"9.9 It is well settled that before the Court relies upon some documentary evidence so as to assess the market value, the Court is required to see as to whether such document is part of the file or not. The Court is also required to see as to whether*

the land sold through the sale deed is comparable with the acquired land or not. In the absence of such finding, it is not safe to rely upon the same. As already noticed, the landowners have failed to produce any sale instance of the acquired land located in village Dingerheri.

9.10 As per the Indian Evidence Act, 1872 (hereinafter referred to as "the 1872 Act"), the judgments of the Courts are relevant only in accordance with Section 40, 41, 42 and 43 of the 1872 Act. Section 40 of the 1872 Act provides that a previous judgment which operates as bar to a second suit or trial is relevant. Section 41 of the 1872 Act provides that the judgments, orders or decrees of a competent Court, in the exercise of probate, matrimonial, admiralty or insolvency jurisdiction, which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any such character, or to be entitled to any specific thing, are relevant when the existence of any such legal character, or the title of any such person to any such thing, is relevant. Section 42 of the 1872 Act is in the nature of a residuary provision, which provides that the judgments, which are not relevant under Section 41, but they relate to the matters of public nature which are relevant to the inquiry, shall be relevant, but shall not be a conclusive proof of the fact which they state. Section 43 of the 1872 Act provides that all other judgments, except those mentioned in Section 40 to 42 of the 1872 Act shall be *irrelevant unless the existence of such judgment is a fact in issue or is relevant under some other provision of the 1872 Act. If we analyze the judgment passed by the RC on 12.09.2012, it is obvious that a previous judgment is not relevant and does not fall within the scope of Section 40, 41, 42 or 43 of the 1872 Act. Furthermore, as per the observations made by the RC, the aforesaid judgment is with respect to notification issued on 11.12.2007, which is more than 2 years after the notification under Section 4 of the 1894 Act was issued vide notification dated 29.09.2005. The aforesaid assessment made by the Court shall not be relevant for assessing the market value of the acquired land on 29.09.2005. Moreover, there is no evidence to prove that the acquired land of village Dhulawat was comparable with the acquired land in the present case. Thus, the second issue is answered in negative.*

8.5 For the reasons recorded above, the issue No. (ii) stands substantially answered.

<u>Issue No. (iii)</u>

8.6 The issue No. (iii) has also been elaborately discussed while deciding the case of village Dingerheri in Regular First Appeal No. 11 of 2021, the relevant discussion is extracted as under:-

"9.11 The third issue which arises for consideration has already been noticed above. A narrow strip of land has been acquired for constructing an express highway. The landowners have claimed damages for severance/bifurcation of their land

*into two or more parcels. It has been projected that due to acquisition of the narrow strip of land, the remaining land of certain landowners is located on both the sides of expressway. The RC, after relying upon the judgments passed in **State of Haryana v. Rajinder Kumar 2000 (1) LACC 360** and **Smt.Bindu Garg v. State of Haryana 1999 (2) RCR (Civil) 261** has assessed the damages on account of severance @ 50%. It would be noted here that there is no clarity as to whether such amount @ 50% is with respect to the acquired land or unacquired land. Moreover, the Court has not analyzed the evidence to prove the damages, if any, suffered by the landowners. The RC has committed an error in blindly following the judgment passed by the Court without analyzing its facts. In **Rajinder Kumar's case** (supra), the land was acquired for construction of a railway over-bridge. The market value of the acquired land located adjacent to the railway over-bridge was substantially reduced due to difficulty in accessing the unacquired remnant land. In that context, the Court awarded 50% compensation for the remaining unacquired land. Similarly, in **Smt.Bindu Garg's case** (supra), the Court found that the remaining unacquired land has been rendered completely inaccessible and has resulted in complete loss. In that context, the Court awarded 50% of the market value on account of damages suffered due to severance of the unacquired land. In the present case, no evidence to assess the* *quantum of damages, on account of severance, has been led. The judgments relied upon by the RC were not applicable. However, this Court cannot overlook that the landowners must have suffered some amount of damages or loss on account of severance or the bifurcation of the unacquired land into two or more parcels. With respect to similar acquisition of land for the same expressway i.e. Kundali-Maneser-Palwal Expressway, this Court, in* ***HSIIDC vs. Rattan Singh and Others (RFA-5620-2013, decided on 05.10.2021)****, held as under:-*

> *"The next issue which requires adjudication is regarding the proper and appropriate compensation/damages for the severance of the land in two parts. Clause (3) of Section 23 of the Land Acquisition Act, 1894, enables the Court to order the payment of the damage sustained by the person on account of severance from other land. In the present case, the acquisition of the aforementioned land is for the construction of the express highway. A long strip of land has been acquired. In the cases arising from village Mehndipur, the official of the HSIIDC has himself admitted that the land of various owners stands divided in two independent unconnected parcels due to the compulsory acquisition of the land. Although, the land owners have failed to lead any evidence to prove the extent of loss/damage suffered by them, even in that case,*

it is clear cut/indisputable that the owners would have difficulty in accessing the parcels of separate land across the road. Some of the land owners may have been left with only a small portion on one side of the road, whereas remaining part is on the other side of the road. In any case, it would become uneconomical and hard to cultivate and irrigate a small piece of land which is left on the one side of the Road. It may be noted here that in the appeals arising from the reference applications of the acquisition of the land located at village Daboda Khurd, the reference court has assessed the damages for severance of the land to the extent of 20% with regard to market value of the acquired or unacquired land whichever is less. The State or the HSIIDC have not filed any appeals. In other words, they have accepted the judgments. The HSIIDC has filed appeals in the cases arising from the acquisition made at village Mehndipur, where surprisingly the same Presiding Judge has ordered the 50% of the market value of the acquired land towards the severance charges. In this case, Chand Singh appeared as PW1 on behalf of the land owners. He did not depose about the loss suffered by the owners on account of severance of the unacquired land. However, when Bhagwan Singh Rana deposed on behalf of HSIIDC, he admitted that Smt. Bala, Balraj, Dharam

Singh, Kapoor Singh, Dilbagh Singh, Ram Singh, Priti Singh and Munshi etc. have suffered loss on account of the fact that their unacquired/remaining land stands sundered due to the construction of the road (Expressway). In other words, these owners are now left with unacquired land which is in two separate independent parcels. They will be required to make special arrangements for irrigation and cultivation of land in the both the parcels of land situated on both the sides of the road which will be a hardship to them. Hence, the Court cannot deprive the owners from damages on account of the severance, merely because the owners have failed to lead any evidence to prove the extent of loss/damages suffered by them. However, there is no evidence to prove that the owners have suffered damages to the extent of 50% of the market value of the acquired land. Furthermore, there is no appeal by the State and the HSIIDC in the appeals arising from the acquisition made at village Daboda Khurd.

Keeping in view the aforesaid facts, the appeals filed by the HSIIDC are allowed to the extent that the owners of villages Mehendipur shall also be entitled to the damages for severance of the land to the extent of 20% of the market value of the acquired or unacquired land whichever is less. However, the Executing Court is *directed to ascertain as to whether the land of a particular owner stood bisected or not, before ordering the payment of damages for the severance of the land.*

*The learned counsel representing the owners have relied upon the judgments passed in **Narender Kaur and Gurbachan Singh (supra).** In both the judgments, the Court after coming to a conclusion that some part of the acquired land is virtually lost as it is rendered inaccessible and uneconomical, assessed the severance charges at @ 50%. As already noticed in this case, no such evidence has been led by the landowners to prove that fact. In these cases, it has come on record that the unacquired land of certain owners stands separated/bisected into two different parcels due to construction of the road".*

9.12 Following the aforesaid view, the landowners shall also be entitled to damages for severance on the same lines. Thus, the third issue is also substantially answered.

9.13 Further, this Court affirm the observation of the RC that damages for severance or the compensation on account of severance shall only be granted in regard to the land comprised in khasra numbers, which have been severed on account of acquisition and the remnant land is less than an acre."

8.7 For the reasons recorded above, the issue No. (iii) stands substantially answered.

9. <u>Decision</u>

9.1 Keeping in view the aforesaid discussion, the conclusion is inevitable. The various appeals filed by the HSIIDC are allowed, whereas that of the landowners are dismissed. Resultantly, the various applications filed under Section 18 of the 1894 Act shall stand dismissed except the damages for severance of unacquired remnant land left with the landowner. The award passed by the LAC is upheld.

<u>Regular First Appeal No. 2151 of 2021</u>

10. It would be noted here that the Regular First Appeal No. 2151 of 2021, titled as "Savita Gupta v. State of Haryana and Others" has been filed challenging the judgment passed by the RC on 16.12.2008. The notifications under Sections 4 and 6 of the 1894 Act are of the same date. The purpose of the acquisition is also same. This appeal has been filed with an application for condonation of delay of 4020 days.

11. Since identical appeals of the same acquisition, although arising from separate award passed by the RC are pending, therefore, it is considered appropriate to condone the delay while denying the benefit of interest for the period of delay, in view of the judgment passed in ***Imrat Lal & Others v. Land Acquisition Collector & Others (2014) 14 SCC 133***. With these observations, the application for condonation of delay is allowed.

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

(Anil Kshetarpal)
Judge

July 11, 2022
"DK"

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

Sr. No.	Case No.	Party's Name
1.	RFA 76 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s bhagwan Singh @ Guddar and Others
2.	RFA 93 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Hari Singh (deceased) though LRs and others
3.	RFA 1434 of 2021	Bhagwan Singh @ Gaddar (deceased) through LRs V.s State of Haryana and others
4.	RFA 77 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Pohap Singh and others
5.	RFA 85 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Brahm Jeet and others
6.	RFA 82 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Vinod Kumar and others
7.	RFA 78 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Fajru(deceased) though LRs and others
8.	RFA 79 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Raguveer (deceased) though LRs and others
9.	RFA 87of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Naresh and others
10.	RFA 86 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Smt. Laxmi Devi and others
11.	RFA 84 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Jitendar and others
12.	RFA 83 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Gyan Chand (deceased) though LRs and others
13.	RFA 2471 of 2021	Nareash and others V.s State of Haryana and others

14.	RFA 2387 of 2021	Brahm Jeet and others V.s State of Haryana and others
15.	RFA 80 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Gyan Chand (deceased) though LRs and others
16.	RFA 2520 of 2021	Om Parkash and others V.s State of Haryana and others
17.	RFA 81 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Akhtar Hussain (deceased) though LRs and others
18.	RFA 94 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Om Parkash and others