In the High Court of Punjab and Haryana, at Chandigarh

Regular First Appeal No. 123 of 2021 (O&M)

Date of Decision: 07.07.2022
Reserved On: 07.05.2022

Haryana State Industrial and Infrastructure Development Corporation Limited

... Appellant(s)

Versus

Ram Kumar 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. Shailendra Jain, Senior Advocate with Mr. Satyendra Chauhan and Mr. Jagtar Singh, Advocates.

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. Ashish Gupta, 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.

<u>Anil Kshetarpal, J.</u>

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 around

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Delhi. All these cases have been decided by the same Presiding Judge of the Reference Court (hereinafter referred to as "the RC"). All the cases are connected, however, since the evidence produced by the parties is separate, hence, these are being decided by separate judgments, though there are certain common issues. Consequently, this Court has opted to frame issues and decide the cases. In order to avoid repetition and for the sake of clarity and brevity, certain amount of reproduction, 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 29.09.2005 i.e. the date of notification under Section 4 of the 1894 Act?

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 from the notification under Section 4 of the 1894 Act in the present cases, more particularly when neither a copy of judgment passed by the Court while deciding those cases is a part of the record nor there is evidence to prove the comparative location of both the parcels of the acquired land acquired through different notifications?

iii) What should be the compensation for severance in case the remaining acquired land left with the owner stands

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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, filed under Section 54 of the 1894 Act, 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 16.03.2020, passed by the Reference Court (hereinafter referred to as “the RC”). The notification under Section 4 and 6 of the 1894 Act and the award 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 of 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 141 kanals and 16 marlas of land located in village Gogjaka, Tehsil Tauru, District Mewat.
5.	Number and Date of the Award of the Land Acquisition Collector.	No.4 dated 22.05.2006 acquiring the lands comprised in Rectangle No. 3, 4, 5, 6 and 13.
6.	Amount assessed by the Land Acquisition Collector.	₹12,50,000/- per acre.

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S.NO.	TITLE	DETAILS
7.	Amount determined by the Reference Court.	The RC, on 21.11.2009, in the 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 16.03.2020, the RC has assessed the market value of the acquired land @ ₹17,50,000/- per acre while relying upon its previous judgment dated 12.09.2012 in ***LA case No.21 of 2009/2011 titled as Jitender etc. Vs. State of Haryana etc.*** with respect to the acquisition of the land of village Dhulawat vide notification under Section 4 of the 1894 Act dated 11.12.2007.

1.5 In order to depict the potential of the acquired land, the pleadings of the parties are common with the cases arising from 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,

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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."

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1.7 The RC, on appreciation of the 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. <u>Evidence Produced by the Parties</u>

2.1 The landowners, in their oral evidence, have examined the following witnesses:

Sr. No.	Name of the Witness	Particulars of the Witness
1.	PW1 Surender Kumar	Petitioner
2.	PW2 Mohammad Assam	Registration Clerk
3.	PW3 Kamal Singh	--
4.	PW4 Sher Mohammad	Halqa Patwari
5.	PW5 Surender Kumar	Petitioner
6.	PW6 Suresh Kumar	Halqa Patwari
7.	PW7 Sajjan Singh	Petitioner
8.	PW8 Mahabir Singh Panwar	Draftsman

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

Sr. No.	Exhibit Number	Description of the document
1.	Exh.P1	Sale deed Vasika No.850 dated 20.7.2005
2.	Exh.P2	Sale deed Vasika No.1612 dated 8.11.2005
3.	Exh.P3	Sale deed Vasika No.248 dated 8.5.2008
4.	Exh.P4	Aks Sizra of village Gogjaka
5.	Exh.P5	Jamabandi for the year 1999-2000
6.	Exh.P6	Jamabandi for the year 2009-10
7.	Exh.P7	Jamabandi for the year 1999-2000
8.	Exh.P8	Jamabandi for the year 2009-10

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Sr. No.	Exhibit Number	Description of the document
9.	Exh.P9	Mutation No.1003
10.	Exh.P10	Mutation
11.	Exh.P11	List
12.	Exh.P12	List
13.	Exh.P13	Site plan of village Gogjaka
14.	Exh.P14	Mutation No.1003
15.	Exh.P15	Aks Sizra of mutation No.1003 of village Gogjaka
16.	Exh.P16	Location Plan land of Surender Kumar of village Gogjaka
17.	Exh.P17	Sale deed Vasika No.1524 dated 26.10.2005
18.	Exh.P18	Sale deed Vasika No.2008 dated 28.12.2005
19.	Exh.P19	Sale deed Vasika No.1409 dated 26.7.2006
20.	Exh.P20	Sale deed Vasika No.1355 dated 27.9.2017
21.	Exh.P21	Sale deed Vasika No.1356 dated 27.9.2017
22.	Exh.P22	Sale deed Vasika No.2989 dated 26.3.2019
23.	Exh.P23	Sale deed Vasika No.3025 dated 29.3.2019
24.	Exh.P24	Draft Development Plan
25.	Exh.P25	Site plan of the land of village Padheni
26.	Exh.PX	Certified copy of award dated 5.2.2020

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

Sr. No.	Name of the Witness	Particulars of the Witness
1.	RW.1 Raj Singh	Patwari.
2.	RW.2 Subash	Registration Clerk

2.4 In documentary evidence, the HSIIDC has also produced the following documents:-

Sr. No.	Exhibit Number	Description of the document
1.	Exh.R1	Sale deed Vasika No.1270 dated 27.10.2004
2.	Exh.R2	Sale deed Vasika No.1550 dated 06.01.2005
3.	Exh.R3	Sale deed Vasika No.2187 dated 12.10.2004
4.	Exh.R4	Sale deed Vasika No.2118 dated 18.08.2005
5.	Exh.R5	Sale deed Vasika No.1183 dated 07.10.2004

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Sr. No.	Exhibit Number	Description of the document
6.	Exh.R6	Sale deed Vasika No.962 dated 11.08.2005
7.	Exh.R7	Proceedings of the Divisional Level Committee's meeting for fixation of market rates of the land to be acquired
8.	Exh.R8	Certified copy of judgment dated 13.6.2009
9.	Exh.R9	Certified copy of order dated 13.6.2009
10.	Exh.R7 (marked twice)	Sale deed Vasika No.2123 dated 10.01.2006
11.	Exh.R8 (marked twice)	Sale deed Vasika No.2155 dated 13.01.2006
12.	Exh.R9 (marked twice)	Sale deed Vasika No.1449 dated 31.07.2006
13.	Exh.R10	Sale deed Vasika No.1568 dated 31.10.2005
14.	Exh.R11	Sale deed Vasika No.2121 dated 10.01.2006
15.	Exh.R12	Sale deed Vasika No.540 dated 13.06.2005
16.	Exh.R13	Sale deed Vasika No.1409 dated 14.10.2005
17.	Exh.R14	Sale deed Vasika No.1093 dated 12.07.2006
18.	Exh.R15	Sale deed Vasika No.2080 dated 06.01.2006
19.	Exh.R16	Sale deed Vasika No.1154 dated 18.07.2006
20.	Exh.R17	Sale deed Vasika No.541 dated 13.06.2005
21.	Exh.R18	Aks Sizra of village Gogjaka

3. The RC has compiled a tabulated information of the various sale exemplars produced by both the parties, which 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.	*P1*	*850*	*20.07.2005*	*18,96,875*	*12-0-0*	*50,58,333*	*Gangani*
2.	*P2*	*1612*	*08.11.2005*	*3,18,750*	*0-6-0*	*85,00,000*	*Dadu*
3.	*P3*	*248*	*08.05.2008*	*3,23,43,750*	*34-10-0*	*75,00,000*	*Jhamuwas*
4.	*P17*	*1524*	*26.10.2005*	*3,00,000*	*100 sq yards*	*1,45,20,000*	*Tauru*
5.	*P18*	*2008*	*28.12.2005*	*6,70,000*	*1-1-0*	*51,04,761*	*Tauru*
6.	*P19*	*1409*	*26.07.2006*	*65,00,000*	*3-8-0*	*1,52,94,117*	*Tauru*
7.	*P20*	*1355*	*27.09.2017*	*23,02,00,000*	*40-0-0*	*4,60,40,000*	*Tauru*
8.	*P21*	*1356*	*27.09.2017*	*14,98,00,000*	*26-0-0*	*4,60,92,307*	*Tauru*
9.	*P22*	*2989*	*26.03.2019*	*9,68,000*	*0-8-0*	*1,93,60,000*	*Tauru*
10.	*P23*	*3025*	*29.03.2019*	*17,28,000*	*0-12-0*	*2,30,40,000*	*Tauru*

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Sr. No.	*Exhibit No.*	*Vasika No.*	*Dated*	*Sale Consideration (In Rs.)*	*Land Sold (K M S)*	*Rate per acre*	*Village*
11.	*R1*	*1270*	*27.10.2004*	*19,71,000*	*32-10-0*	*4,71,876*	*Gogjaka*
12.	*R2*	*1550*	*06.01.2005*	*7,12,500*	*11-8-0*	*5,00,000*	*Gogjaka*
13.	*R3*	*2187*	*12.10.2004*	*1,43,500*	*13-10-0*	*85,037*	*Kherli Kankar*
14.	*R4*	*2118*	*18.08.2005*	*4,50,467*	*27-18-0*	*1,29,166*	*Kherli Kankar*
15.	*R5*	*1183*	*07.10.2004*	*4,60,000*	*21-0-0*	*1,75,238*	*Sehsola*
16.	*R6*	*962*	*11.08.2005*	*4,00,000*	*23-9-0*	*1,36,460*	*Sehsola*
17.	*R7*	*2123*	*10.01.2006*	*4,50,000*	*6-7-0*	*5,66,929*	*Tauru*
18.	*R8*	*2155*	*13.01.2006*	*1,83,000*	*5-5-0*	*2,78,857*	*Padheni*
19.	*R9*	*1449*	*31.07.2006*	*3,35,000*	*3-6-0*	*8,12,121*	*Kaliyaka*
20.	*R10*	*1568*	*31.10.2005*	*1,40,000*	*3-6-0*	*3,39,393*	*Padheni*
21.	*R11*	*2121*	*10.01.2006*	*58,000*	*0-19-0*	*4,88,421*	*Dingerheri*
22.	*R12*	*540*	*13.06.2005*	*15,00,000*	*39-10-0*	*3,03,797*	*Padheni*
23.	*R13*	*1409*	*14.10.2005*	*2,31,875*	*5-6-0*	*3,50,000*	*Tauru*
24.	*R14*	*1093*	*12.07.2006*	*18,40,000*	*14-13-0*	*10,04,778*	*Gogjaka*
25.	*R15*	*2080*	*06.01.2006*	*4,61,000*	*16-0-0*	*2,30,500*	*Gogjaka*
26.	*R16*	*1154*	*18.07.2006*	*5,00,000*	*4-0-0*	*2,50,000*	*Gogjaka*
27.	*R17*	*541*	*13.06.2005*	*12,00,000*	*31-4-0*	*3,07,692*	*Padheni*

Note: The correctness of the above extracted tabulated compilation of the sale deeds by the RC, has not been disputed by the learned counsel representing the parties.

4. At this stage, it is important to note the reasons recorded by the RC, which are as under:-

i) The assessment made by the LAC is contradicted by the evidence led by the HSIIDC which do not justify the assessment of the market value of the acquired land @ ₹12,50,000/- per acre because the sale deeds are in the range of the sale consideration of ₹2,30,000/- per acre to ₹10,04,000/- per acre.

ii) The minutes of the proceedings of the Divisional Level Price Fixation Committee held on 26.04.2006 does not show the application of mind with reference to the

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various sale deeds produced by the parties.

iii) The sale exemplars (Ex.R1 to Ex.R17) cannot be relied upon in view of the bar of Section 25 of the 1894 Act.

iv) The judgment passed by the RC on 12.09.2012 while deciding the ***LA case No.21 of 2009/2011 titled as Jitender etc. Vs. State of Haryana etc.*** with respect to the acquisition of the land vide notification dated 11.12.2007 under Section 4 of the 1894 Act concerning the land located in village Dhulawat has been found reliable.

v) The compensation for severance of the land shall be calculated to @ 50% if the remnant land or the unacquired land is less than 1 acre.

5. Heard the learned counsel representing the parties, at length and with their able assistance, perused the judgments passed by the RC as well as the record of the RC, which was requisitioned.

6. The learned counsel representing the landowners contend that the RC has committed an error in overlooking the sale instances produced by the parties which clearly prove that the market value of the acquired land was much more than what was assessed by the LAC. Per contra, the learned counsel representing the HSIIDC has contended that the RC has committed an error in relying upon the judgment passed in the ***Jitender's case*** *(supra)* which neither forms part of the record nor exhibited. He submits that no evidence to compare the location of the acquired land in village Dhulawat and Gogjaka has been led.

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7. <u>Discussion by this Court</u>

7.1 At this stage, it is appropriate to analyze the reasons recorded by the RC. It would be noted here that a long strip of land for the development and construction of Express Highway has been acquired. The notifications under Section 4 and 6 of the 1894 Act are common. The LAC also announced the award within a period of few days spread over in the months of May and June, 2006. A uniform rate was proposed by the Divisional Level Price Fixation Committee which was accepted by the LAC. The landowners are not making a grievance that the amount awarded by the LAC is on the higher side.

7.2 The second reason assigned by the Court with regard to the observations made regarding the minutes of the meeting of the Divisional Level Price Fixation Committee, no interference is required as the observations made are correct.

7.3 As regards the next reason assigned by the RC while refusing to take into consideration the sale instances (Ex.R1 to Ex.R17), it would be noticed that the aforesaid observations are the result of incorrect reading of Section 25 of the 1894 Act, which debars the Court from assessing the amount lower than the amount assessed by the LAC. However, there is no prohibition to take into account the sale deed produced by the various parties. 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***.

7.4 The last reason assigned by the RC relates to the grounds for placing reliance on the judgment rendered in ***Jitender's case*** *(supra)* which

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shall be discussed subsequently.

8. **Determination of Issues**

Issue No.(i)

8.1 From a bare perusal of the tabulated compilation of the sale deeds produced by the respective parties, as provided in para 3 of this judgment, it is evident that the landowners have not produced any sale instance of the sale of land in village Gogjaka. In fact, the sale deed (Ex.P1) is with respect to the village Gangani, whereas the sale deed (Ex.P2) is with respect to village Dadu and the sale instance (Ex.P3) is with respect to village Jamuwas. The sale instances (Ex.P17 to Ex.P23) are with respect to the urban area of Tauru. On the careful perusal of the layout plan (Ex.R18), produced by the HSIIDC, it is evident that the sale instance (Ex.R2) is a part of the land comprised in rectangle No. 16.

8.2 In terms of the agricultural land, the expression "rectangle" denotes a compact parcel of land comprised of 25 acres (5x5 acres). In Northern India, at the time of consolidation of holdings, the land of the village was divided into rectangles, killa/khasra numbers, kanals and marlas. A glossary of the words is extracted as under:-

27.	1 Rectangle	=	5 X 5 = 25 Acre
28.	1 Acre	=	160 Marlas
29.	8 Kanal	=	1 Acre
30.	1 Kanal	=	20 Marlas
31.	1 Acre	=	4840 Sq. Yards
32.	1 Marla	=	272.251 Sq. Feet = 30.25 Sq. Yards
33.	"//" denotes Rectangle Number.		
34.	"/" denotes Khasra/Killa Number.		
35.	"A" denotes Acre		

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36.	"K" denotes Kanal
37.	"M" denotes Marla

8.3 Some part of the land comprised in rectangle No.16 has been acquired. Similarly, the sale instance (Ex.R1) is with respect to the land comprised in rectangle No. 13 which has also been partly acquired. Thus, the sale instances produced by the HSIIDC (Ex.R1 and Ex.R2) are comparable sale instances, wrongly ignored by the RC. The parcel of land sold through the sale deed (Ex.P16) is also not far away from the acquired land.

8.4 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.

Issue No.(ii)

8.5 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*

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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.

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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.

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

Issue No. (iii)

8.7 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

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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.*

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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*

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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

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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

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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."

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

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9. <u>Decision</u>

9.1 Therefore, in view of the aforesaid discussion, the award passed by the RC is set aside and the market value as assessed by the LAC is maintained, except the modification in the amount of damages on account of severance of the land.

9.2 Consequently, the appeals filed by the HSIIDC are allowed, whereas, that of the landowners shall stand dismissed.

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

(Anil Kshetarpal)
Judge

July 07, 2022
"DK"

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

Sr. No.	Case No.	Party's Name
1.	RFA 124 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Smt. Sarla Bajaj and others
2.	RFA 152 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Sajjan Singh and others
3.	RFA 125 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Manbhari (deceased) through his LRs and others
4.	RFA 126 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Gaurav and others
5.	RFA 127 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Pushpa Devi and others
6.	RFA 128 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Smt. Shakuntla and others
7.	RFA 129 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Surender Kumar and others

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8.	RFA 130 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Smt. Babita Khanduja and others
9.	RFA 131 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Baljeet Singh and others
10.	RFA 132 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Bhagwan Singh (deceased) through his LRs and others
11.	RFA 133 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Prem Parkash and others
12.	RFA 137 of 2021	Haryana State Industrial and Infrastructure Development Corporation Limited V.s Chander Singh (deceased) through his LRs and others
13.	RFA 2382 of 2021	Sajjan Singh and another V.s State of Haryana & others

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