In the High Court of Punjab and Haryana, at Chandigarh

Regular First Appeal No. 160 of 2021 (O&M)

Date of Decision: 08.07.2022
Reserved On: 07.05.2022

Haryana State Industrial and Infrastructure Development Corporation Limited

... Appellant(s)

Versus

Ram Jiwan (Deceased) through his Legal Heirs 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. 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 This batch of appeals (detail whereof is at the foot of the judgment) 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 common judgment passed on 02.03.2020,by the Reference Court (hereinafter referred to as "the RC"). The notification under Section 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as "the 1894 Act") and the award passed by the Land Acquisition Collector (hereinafter referred to as "the LAC") as also 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.

1.2 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 320 kanals and 7 marlas of land located in village **Padheni**, Tehsil and District Mewat (Nuh)
5.	Number and Date of the Award of the Land Acquisition Collector.	No.19 dated 01.11.2006 acquiring the lands comprised in Rectangle No.
6.	Amount assessed by the Land Acquisition Collector.	₹12,50,000/- per acre along with all the statutory benefits.
7.	Amount determined by the Reference Court.	The RC, in the first round, dismissed the applications under Section 18 of the 1894 Act, on 31.01.2019. However, the High Court, in ***Om Parkash v. State of Haryana and Others (Regular First Appeal No. 3552 of 2010)***, vide judgment dated 31.01.2019 remitted back the matter to the RC for fresh decision.
8.	Date of re-decision of the RC and the amount re-assessed,	Vide judgment dated 02.03.2020, the RC has re-assessed the market

S.NO.	TITLE	DETAILS
	after remand.	value of the acquired land @ ₹17,50,00/- per acre along with all the statutory benefits while declaring that the compensation for severance of the land for the landowners who are left with less than 1 acre of land shall be 50% of the market value of the acquired land.

1.3 For the purpose of location and potentiality of the acquired land, the pleadings of the landowners as well as the HSIIDC are common with the cases arising from village Dingerheri in ***Haryana State Industrial and Infrastructure Development Corporation Limited v. Suraj Mal and Others (Regular First Appeal No. 11 of 2021, decided on 07.07.2022)***, which is 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"

1.4 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."

1.5 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) Relief".

1.6 In the considered view of this Court, the following issues 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 2 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?

2. **<u>Evidence Produced by the Parties</u>**

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 Mohd. Aasam	RC, office of Sub Registrar Tauru
2.	PW.2 Pyare Lal	Petitioner.
3.	PW2 (marked twice) Pardeep Kumar	Halqa Patwari.
4.	PW.3 Mahipal	--
5.	PW.4 Sajid Ali	--
6.	PW.5 Sher Mohd	Halqa Patwari.
7.	PW.6 Suresh Kumar	Halqa Patwari.
8.	PW.7 Kashi Ram Dahiya	Draftsman
9.	PW.8 Hari Kishan	--

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

Sr. No.	Exhibit Number	Description of the document
1.	Exh.PA	Copy of Award No.32 dated 14.8.2007
2.	Mark A	Fixation of market rate
3.	Mark B	Copy of judgment dated 29.10.2010
4.	Exh.P1	Copy of jamabandi for the year 2001-02
5.	Exh.P2	Copy of jamabandi for the year 2001-02
6.	Exh.P3	Aks Sizra of village Padheni
7.	Exh.P4/A	Development plan 2021, A.D. Tauru
8.	Exh.P5/A	Aks Sizra of village Padheni
9.	Exh.P6/A	Aks Sizra of village Tauru
10.	Exh.P6/B	Aks Sizra of village Tauru
11.	Exh.P7/A	Site plan of village Padheni, Gojaka and Tauru
12.	Exh.PX	Hon'ble High Court order dated 28.3.2016
13.	Exh.P11	K.M.P.Global Corridor Site plan
14.	Exh.P12	K.M.P.Global Corridor Site plan
15.	Exh.P13	Copy of jamabandi for the year 2016-17
16.	Exh.P14	Copy of jamabandi for the year 2016-17
17.	Exh.P15	Copy of jamabandi for the year 2016-17
18.	Exh.P16	Aks Sizra of village Padheni

Sr. No.	Exhibit Number	Description of the document
19.	Exh.P17	Aks Sizra of village Padheni
20.	Exh.P18	Aks Sizra of village Padheni
21.	Exh.P19	Aks Sizra
22.	Exh.PY	Certified copy of award dated 5.2.2020
23.	Exh.PZ	Certified copy of award dated 24.2.2020

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

Sr. No.	Name of the Witness	Particulars of the Witness
1.	RW.1 Deen Mohd.	Patwari.
2.	RW.2 Subash	Registration Clerk.

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

Sr. No.	Exhibit Number	Description of the document
1.	Exh.R4	Judgment dated 13.6.2009
2.	Exh.R5	Judgment dated 15.3.2010
3.	Exh.R17	Aks Sizra of village Padheni

3. On a careful examination of the judgment passed by the RC, it transpires that the following reasons have been recorded while passing the judgment:-

i) The assessment made by the LAC is contradicted by the evidence led by the HSIIDC as all the sale deeds of village Padheni (Ex.R1 to Ex.R3) are in the range of sale consideration of ₹1,14,359/- to ₹2,66,333/- per acre. However, there is no reason as to why the LAC has assessed the amount @ ₹12,50,000/- per acre.

ii) The minutes of the meeting of the Divisional Level Price Fixation Committee held on 26.04.2006 do not show any application of mind with reference to the sale instances.

iii) The sale deeds (Ex.R1 to Ex.R11) being below the amount awarded by the LAC cannot be relied upon in view of Section 25 of the 1894 Act.

iv) After rejecting all the sale deeds, the RC proceeded to assess the market value of the acquired land on the basis of its previous judgment passed on 12.09.2012 in ***L.A. 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.

v) The landowners shall be entitled to compensation for severance of the land if the landowners are left with less than 1 acre of land on account of compulsory acquisition.

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. At this stage, it is considered appropriate to extract the tabulated compilation of the sale deeds, produced by the parties, in order to prove their respective case:

Sr. No.	***Exhibit No.***	***Vasika No.***	***Dated***	***Sale Consideration (In Rs.)***	***Land Sold (K M S)***	***Rate per acre***	***Village***
1.	*PW1/A*	*248*	*8.5.2008*	*3,23,43,750*	*34-10-0*	*66,34,615*	*Jhamuwas*
2.	*PW1/B*	*1612*	*8.11.2005*	*3,18,750*	*0-6-0*	*85,00,000*	*Dadu*
3.	*PW1/C*	*850*	*20.7.2005*	*18,96,875*	*3-0*	*50,58,333*	*Gangani*
4.	*P4*	*1524*	*26.10.2005*	*3,00,000*	*0-3-3*	*1,45,20,000*	*Tauru*
5.	*P5*	*2008*	*28.12.2005*	*6,70,000*	*1-1-0*	*51,04,761*	*Tauru*

Sr. No.	*Exhibit No.*	*Vasika No.*	*Dated*	*Sale Consideration (In Rs.)*	*Land Sold (K M S)*	*Rate per acre*	*Village*
6.	*P6*	*848*	*20.7.2005*	*38,56,250*	*1B-10B-0B*	*41,13,333*	*Gangani*
7.	*P7*	*1409*	*26.7.2006*	*65,00,000*	*3-8-0*	*1,52,94,117*	*Tauru*
8.	*P8*	*3189*	*29.1.2007*	*1,00,09,632*	*2B-7B-0B*	*68,15,068*	*Gangani*
9.	*P9*	*1357*	*21.7.2006*	*55,00,000*	*1B-12B-0*	*55,00,000*	*Gangani*
10.	*P10*	*1467*	*2.8.2006*	*3,49,87,500*	*62-4-0*	*45,00,000*	*Fatehpur*
11.	*R1*	*1568*	*31.10.2005*	*1,40,000*	*3-6-0*	*3,39,393*	*Padheni*
12.	*R2*	*2155*	*13.1.2006*	*1,83,000*	*5-5-0*	*2,78,857*	*Padheni*
13.	*R3*	*2930*	*28.3.2006*	*62,000*	*1-0-0*	*4,96,000*	*Padheni*
14.	*R4*	*2155*	*13.1.2006*	*1,83,000*	*5-5-0*	*2,78,857*	*Padheni*
15.	*R5*	*2123*	*10.1.2006*	*4,50,000*	*6-7-0*	*5,66,929*	*Tauru*
16.	*R6*	*1449*	*31.7.2006*	*3,35,000*	*3-6-0*	*8,12,121*	*Kaliyaka*
17.	*R7*	*2121*	*10.1.2006*	*58,000*	*0-19*	*4,88,421*	*Dingaheri*
18.	*R8*	*1783*	*30.11.2005*	*1,40,000*	*3-6-0*	*3,39,393*	*Padheni*
19.	*R9*	*540*	*13.6.2005*	*15,00,000*	*39-10-0*	*3,03,797*	*Padheni*
20.	*R10*	*1409*	*14.10.2005*	*2,31,875*	*5-6-0*	*3,50,000*	*Tauru*
21.	*R11*	*1093*	*12.7.2006*	*18,40,000*	*14-13-0*	*10,04,778*	*Gogjaka*
22.	*R12*	*2389*	*8.2.2006*	*80,000*	*2-2-0*	*3,04,761*	*Gogjaka*
23.	*R13*	*2080*	*6.1.2006*	*4,61,000*	*16-0-0*	*2,30,500*	*Gogjaka*
24.	*R14*	*1568*	*31.10.2005*	*1,40,000*	*3-6-0*	*3,39,393*	*Padheni*
25.	*R15*	*1154*	*18.7.2006*	*5,00,000*	*4-0-0*	*10,00,000*	*Gogjaka*
26.	*R16*	*541*	*13.6.2005*	*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.

7. The discussion on the reasons recorded by the RC are exactly the same as recorded in the cases arising from acquisition in village Sabras.

8. The learned counsel representing the HSIIDC claim that the RC has committed an error in refusing to take into consideration the sale deeds (Ex.R1 to Ex.R16) by misinterpreting the provisions of Section 25 of the 1894 Act and in relying upon its previous award dated 12.09.2012 in ***L.A. 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. He submits that neither the aforesaid award is a part of the record nor it has been proved to be with respect to a comparable parcel of land. He further submitted that the date of assessment of the compensation with respect to the acquired land in village Dhulawat was 11.12.2007, whereas, in the present case, the assessment is to be made as on 29.09.2005. He further contends that the RC has erred in awarding the compensation for severance of the land in the absence of evidence of damages.

8. Per contra, the learned counsel representing the landowners have contended that the sale deeds produced by the landowners should have been relied upon while assessing the market value of the acquired land.

9. Determination of the Issues

Issue No.(i)

9. 1 At this stage, it would be appropriate to analyze the sale deeds produced by the landowners. It is evident, on the careful perusal of the tabulated information compiled in para 3 of this judgment, that the landowners have not produced any sale deed of the land relating to contemporaneous period with respect to the parcel of land located in village Padheni. The sale deeds (Ex.PW.1/A, Ex.PW.1/B, Ex.P4, Ex.P5, Ex.P7, Ex.P8, Ex.P9 and Ex.P10) are post the date of notification under Section 4 of the 1894 Act. There are only two sale deeds i.e. Ex.PW.1/C and Ex.P6 during the relevant period, but these are only with respect to the land located in village Gangani. Through the sale deed (Ex.P4) the land measuring only 3 kanals has been sold, whereas vide sale deed (Ex.P6) the land measuring

only 1 bigha and 10 biswas has been sold. Both are also with regard to the small parcels of the land. There is no evidence to prove the comparative location of the parcels of the land represented by Ex.PW.1/C and Ex.P6, whereas, compared to the acquired land. Hence, the RC has correctly rejected the same. However, the RC has committed an error in refusing to take into consideration the sale deeds produced by the HSIIDC with respect to village Padheni. Section 25 of the 1894 Act does not debar the Court from taking into consideration the sale deeds which are reflecting a price lower than the amount offered by the LAC. The Court is only prohibited from assessing an amount lesser 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***. Furthermore, the sale deeds (Ex.R1 to Ex.R4, Ex.R8, Ex.R9 and Ex.R24) are with respect to the period post the date of notification under Section 4 of the 1894 Act. It reflects that the prices of the land, even after the notification under Section 4 of the 1894 Act, were not equivalent to the prices offered by the LAC. The sale instance (Ex.R16) is with respect to the land measuring merely 4 acres which has been sold @ ₹3,07,692/- per acre. This sale deed is three months prior to the date of notification under Section 4 of the 1894 Act. Thus, there is no evidence to prove that the market value of the acquired land on the date of notification under Section 4 of the 1894 Act was more than ₹12,50,000/- per acre offered by the LAC.

9.2 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)

9.3 The RC has again committed an error in relying upon its previous judgment on 12.09.2012 in ***Jitender's case*** *(supra)*. Neither the aforesaid judgment is a part of the record nor there is any evidence to record a finding that the acquired land in village Dhulawat was comparable with the acquired land in village Padheni. Furthermore, the relevant date of assessment made by the RC with respect to the acquired land in village Dhulawat is 11.12.2007, whereas, in the present case, the assessment is required to be made as on 29.09.2005. Hence, any assessment post the date of notification under Section 4 of the 1894 Act will not be relevant, particularly when the other evidence has been produced. Consequently, the reasons assigned by the RC assessing the market value of the acquired land @ ₹17,50,000/- per acre suffer from fallibility, therefore, the same is set aside.

9.4 This issue has been elaborately discussed in the cases arising from the acquisition in village Dingerheri in ***Haryana State Industrial and Infrastructure Development Corporation Limited v. Suraj Mal and Others*** *(supra)*. The relevant discussion whereof is 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."*

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

Issue No.(iii)

9.5 As regards the compensation for severance charges, the matter, in detail, has been discussed in the cases arising from village Dingerheri in ***Haryana State Industrial and Infrastructure Development Corporation Limited v. Suraj Mal and Others*** *(supra)*, which is reproduced 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."

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

10. <u>Decision</u>

10.1 Keeping in view the aforesaid facts, the appeals filed by the HSIIDC are allowed, whereas, that of the landowners are dismissed qua the amount of market value of the acquired land. The award passed by the LAC qua the market value of the acquired land is upheld. There shall be slight modification with regard to compensation for grant of damages on account of severance of the land, as indicated above.

10.2 With the observations made above, the appeals are disposed of.

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

(Anil Kshetarpal)
Judge

July 08, 2022
"DK"

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

Sr. No.	Case No.	Party's Name
1.	RFA No.161 of 2021	HSIIDC vs. Om Parkash and ors.
2.	RFA No.164 of 2021	HSIIDC vs. Mahipal and ors.
3.	RFA No.163 of 2021	HSIIDC vs. Smt. Kala Devi and ors.
4.	RFA No.162 of 2021	HSIIDC vs. Ram Jiwan and ors.
5.	RFA No.166 of 2021	HSIIDC vs. Gopi Chand (deceased) thr Lrs. and ors.
6.	RFA No.165 of 2021	HSIIDC vs. Braham Parkash and ors.
7.	RFA No.169 of 2021	HSIIDC vs. Ratan Lal and ors.
8.	RFA No.2292 of 2021	Kala Devi vs. State of Haryana and ors.
9.	RFA No.1218 of 2021	Sheruddin (deceased) thr Lrs. and anr. vs. State of Haryana and ors.
10.	RFA No.773 of 2022	Om Parkash and ors. vs. State of Haryana and ors.
11.	RFA No.1228 of 2021	Sultan (deceased) thr Lrs. and anr. vs. State of Haryana and ors.
12.	RFA No.1226 of 2021	Mahipal and anr. vs. State of Haryana and ors.
13.	RFA No.1222 of 2021	Pyare Lal (deceased) thr Lrs. vs. State of Haryana and ors.
14.	RFA No.2166 of 2021	Ram Jiwan (deceased) thr Lrs. and ors. vs. State of Haryana and ors.
15.	RFA No.1537 of 2021	Rattan Lal and ors. vs. State of Haryana and ors.
16.	RFA No.2167 of 2021	Gopi Chand (deceased) thr Lrs and ors. vs.State of Haryana and ors.
17.	RFA No.168 of 2021	HSIIDC vs.Sultan (deceased) thr Lrs. and ors.
18.	RFA No.167 of 2021	HSIIDC vs.Sheruddin (deceased) thr Lrs. and ors.

(Anil Kshetarpal)
Judge

July 08, 2022
"DK"