

**RFA-830-2021 (O&M)
and connected case**

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

1.RFA-830-2021 (O&M)

Lal Chand and others

....Appellants

Versus

State of Haryana and others

..Respondents

2.RFA-835-2021 (O&M)

Dharam Singh

....Appellant

Versus

State of Haryana and others

..Respondents

Date of decision:28.07.2022

Reserved on: 20.07.2022

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashish Gupta, Advocate
for the appellants in RFA-830-2021

Mr. Gaurav Aggarwal, Advocate for the appellant
in RFA-835-2021

Mr. B.R.Mahajan, Sr. Advocate with
Mr. P.S.Saini, Advocate for the HSIIDC

Ms. Vibha Tewari, AAG, Haryana

ANIL KSHETARPAL, J

1 Background and Introduction:-

1.1 By this order, two Regular First Appeals i.e RFA-830-2021
and RFA-835-2021 shall stand disposed of.

1.2 Through these two Regular First Appeals filed under
Section 54 of the Land Acquisition Act, 1894 (hereinafter referred as
'the 1894 Act'), the landowners who stand deprived of their land, due to

its compulsory acquisition, assail the correctness of the award passed by the Reference Court (hereinafter referred as ‘the RC’) on 12.12.2019.

1.3 Some peculiar facts are required to be noticed. The State of Haryana in order to utilize the land for developing and constructing Kundali Manesar Palwal Express Highway (KMP Highway) for connecting NH-1, NH-10, NH-8 and NH-2 issued notification under Section 4 of the 1894 Act on 11.01.2005 proposing to acquire the land measuring 520 acres 2 kanals 30.5 marlas spread over a total of 15 villages. The declaration under Section 6 of the 1894 Act was published on 31.05.2005 whereas award no. 26 was announced on 10.05.2006 declaring that the landowners shall be entitled to the uniform market value at the rate of Rs.12,50,000/- alongwith the statutory benefits. In the first round, on 12.10.2012, the RC while assessing the market value of the acquired land at the rate of Rs.43,17,841/- per acre held that the LAC has erred in assessing the market value of the acquired land on the date of notification under Section 4 of the 1894 Act. The High Court vide judgment 05.02.2016 revised the market value of the acquired land to Rs.62,11,700/- per acre, however, the Supreme Court vide judgment dated 25.01.2018 in **Surinder Singh vs. State of Haryana and others 2018 (3) SCC 278** set aside the judgments of the High Court as well as the RC while remitting the matter back to the RC for deciding afresh. In the second round, the RC has dismissed the reference applications.

1.4 At this stage, it is important to note that in Village Kukrola itself the land measuring 97 kanals 4 marlas has been acquired for the aforesaid purpose.

2. Oral and Documentary Evidence:-

2.1 The RC has compiled the information with regard to the evidence led by the owners in the following manner:-

Ex.P1	Map of KMP Express Highway
Ex.P2	Copy of award dated 27.2.2012 passed by the Court of Shri Vikram Aggarwal, the then ADJ, Gurugram in LA Case titled as ' <i>Hari Mohan and others Vs. State of Haryana and others</i> ,
Ex.P3	Copy of sale deed dated 15.6.2005 vide which land measuring 138K-6M situated in Village Kukrola was sold for Rs.93725000/-
Ex.P4	Copy of sale deed dated 8.7.2005 vide which land measuring 41K-8M situated in Village Kukrola was sold for Rs.26666000/-
Ex.P5	Copy of sale deed dated 5.6.2006 vide which land measuring 36K-6M situated in Village Kukrola was sold for Rs.33123750/-
Ex.P6	Copy of sale deed dated 7.12.2006 vide which land measuring 12K-17M situated in Village Fazilwas was sold for Rs.16687500/-
Ex.P7	Copy of sale deed dated 21.11.2005 vide which land measuring 45 sq. yard situated in Village Fazilwas was sold for Rs.182500/-
Ex.P8	Copy of sale deed dated 21.12.2005 vide which land measuring 45 sq. yard situated in Village Fazilwas was sold for Rs.182500/-
Ex.P9	Copy of sale deed dated 11.2.2005 vide which land measuring 27 sq. yard situated in Village Fazilwas was sold for Rs.50,000/-
Ex.P10	Copy of sale deed dated 19.10.2004 vide which land measuring 0K-3M situated in Village Fazilwas was sold for Rs.166000/-
Ex.P11	Copy of sale deed dated 15.11.2006 vide which land measuring 3K-17M situated in Village Fazilwas was sold for Rs.4646670/-
Ex.P12	Copy of sale deed dated 17.10.2006 vide which land measuring 1K-19M situated in Village Fazilwas was sold for Rs.2323335/-
Ex.P13	Copy of sale deed dated 12.5.2004 vide which land measuring 38 sq. yard situated in Village Kukrola was sold for Rs.1 lakh
Ex.P14	Copy of sale deed dated 27.3.2006 vide which land measuring 0K-4M situated in Village Kukrola was sold for Rs.7 lakh
Ex.P15	Copy of sale deed dated 9.12.2005 vide which land measuring 1K-12M situated in Village Fazilwas was sold for Rs.1296000/-
Ex.P16	Copy of award dated 29.11.2009 passed by this Court in L.A case No.366-2018 titled as ' <i>Ravi Dutt Vs. State of Haryana and others</i> '
Mark-A	Copy of sale deed dated 13.4.2006 vide which land measuring 17K-11M situated in Village Fazilwas was sold for Rs.21937500/-
Mark-B	Copy of LAC award No.12 dated 11.8.2009 of Village Fazilwas
Mark-C	Copy of LAC award No.13 dated 13.8.2009 of Village Kukrola
Mark-D	Copy of LAC award No.21 dated 24.8.2009 of Village Kukrola
Mark-E	Site Plan/Aksh shijra

2.2 The landowner also examined PW1-Suresh on their behalf.

On the other hand, Sh.B.S.Rana, Manager (IA KMP Cell, HSIIDC, Udyog Vihar, Gurugram) appeared on behalf of HSIIDC and produced the following documentary evidence:-

Ex.RW1/1	Copy of LAC award No.26 dated 10.5.2006 of Village Kukrola
Ex.RW1/2	Copy of Letter sent by Deputy Commissioner to Sub Divisional Officer (Civil) Gurugram
Ex.RW1/3	Copy of sale deed dated 4.6.2004 vide which land measuring 6K-18M situated in Village Kukrola was sold for Rs.225000/-
Ex.RW1/4	Copy of sale deed dated 4.6.2004 vide which land measuring 13K-5M situated in Village Kukrola was sold for Rs.425000/-
Ex.RW1/5	Copy of sale deed dated 6.7.2004 vide which land measuring 13K-3M situated in Village Kukrola was sold for Rs.480000/-
Ex.RW1/6	Copy of Site Plan
Ex.RW1/7	Copy of Policy for Rehabilitation and Resettlement of landowners
Ex.RW1/8	Copy of Award dated 7.1.2012 passed by the Court of Shri. S.K. Khanduja, the then learned ADJ, Nuh in case titled as ' <i>Roshni and ors. Vs. State of Haryana and Ors.</i> '
Ex.RW1/9	Copy of Award dated 13.1.2012 passed by the Court of Shri. S.K. Khanduja, the then learned ADJ, Nuh in case titled as ' <i>Sanjay and ors. Vs. State of Haryana and Ors.</i> '
Ex.R10	Copy of sale deed dated 3.3.2005 vide which land measuring 4K-0M situated in Village Kukrola was sold for Rs.275000/-
Ex.R11	Copy of sale deed dated 23.2.2005 vide which land measuring 8K-0M situated in Village Kukrola was sold for Rs.550000/-
Ex.R12	Copy of sale deed dated 9.6.2005 vide which land measuring 9K-14M situated in Village Kukrola was sold for Rs.867000/-
Ex.R13	Copy of sale deed dated 4.4.2005 vide which land measuring 119K-9M situated in Village Kukrola was sold for Rs.8212500/-
Ex.R14	Integrated Shijra Plan of Village Kukrola

2.3 At this stage, it would be worthwhile to reflect the details of the sale deeds relied upon by both the parties, which are extracted as under:-

Sr. No.	Exhibits	Date of execution of sale deed	Revenue Estate of Village	Area K-M	Sale Consideration (in Rs.)	Rate per acre (in Rs.)
1	Ex.P3	15.6.2005	Kukrola	138-6	9,37,25,000/-	54,21,547/-
2	Ex.P4	8.7.2005	Kukrola	41-08	2,66,66,000/-	51,52,850/-
3	Ex.P5	5.6.2006	Kukrola	36-06	3,31,23,750/-	73 lakhs
4	Ex.P6	7.12.2006	Fazilwas	12-17	1,66,87,500/-	1,03,89,105/-

5	Ex.P7	21.11.2005	Fazilwas	45 sq.yard	1,82,500/-	1,96,28,888/-
6	Ex.P8	21.11.2005	Fazilwas	45 sq.yard	1,82,500/-	1,96,28,888/-
7	Ex.P9	11.2.2005	Fazilwas	27 sq.yard	50,000/-	89,62,962/-
8	Ex.P10	19.10.2004	Fazilwas	0-3	1,66,000/-	88,53,333/-
9	Ex.P11	15.11.2006	Fazilwas	3-17	46,46,670/-	96,55,418/-
10	Ex.P12	17.10.2006	Fazilwas	1-19	23,23,335/-	95,31,630/-
11	Ex.P13	12.5.2004	Kukrola	38 sq.yard	1 lakh	1,27,36,842/-
12	Ex.P14	27.3.2006	Kukrola	0-4	7 lakh	2,80,00,000/-
13	Ex.P15	9.12.2005	Fazilwas	1-12	12,96,000/-	64,80,000/-
14	Mark-A	13.4.2006	Fazilwas	17-11	2,19,37,500/-	One crore

Sr. No.	Exhibits	Date of execution of sale deed	Revenue Estate of Village	Area of K-M	Sale Consideration (in Rs.)	Rate per acre (in Rs.)
1	Ex.RW1/3	4.6.2004	Kukrola	6-18	2,25,000/-	2,60,869/-
2	Ex.RW1/4	4.6.2006	Kukrola	13-5	4,25,000/-	2,56,603/-
3	Ex.RW1/5	6.7.2004	Kukrola	13-3	4,80,000/-	2,92,015/-
4	Ex.R10	3.3.2005	Kukrola	4-0	2,75,000/-	5.5 lakh
5	Ex.R11	23.2.2005	Kukrola	8-0	5.5 lakh	5.5 lakh
6	Ex.R12	9.6.2005	Kukrola	9-14	8,67,000/-	7,15,051/-
7	Ex.R13	4.4.2005	Kukrola	119-9	82,12,500/-	5,50,020/-

3. Arguments made by learned counsels representing the parties:-

3.1 Heard the learned counsel representing the parties at length and with their able assistance perused the judgment passed by the RC alongwith its record, which was requisitioned.

3.2 Learned counsel representing the appellant contends that the RC has erred in refusing to rely upon the sale instance Ex.P-13 and P-14, which are with respect to the same village. They further contends that the RC could have applied the reverse cut while relying upon the sale exemplars Ex.P3, P4 and P5.

3.3 Per contra, learned counsel representing the respondent-State has submitted that the RC has correctly dismissed the reference applications.

4. Analysis by this Court:-

4.1 It is evident from the tabulated information compiled in the table that the landowners have failed to produce any comparable sale deed exemplar of the contemporaneous period. The crucial date for asserting the market value of the acquired land in the present cases is 11.01.2005. Sale deeds Ex.P3, P4 and P5 and P14 are post the date of notification under Section 4 of the 1894 Act. Ex.P13 is a sale instance of a tiny plot, a size of plot which can ordinarily be used for constructing a shop. The acquired land is the agricultural land. Hence, the aforesaid sale instance Ex.P13 is not found appropriate as it is a tiny portion of land. Furthermore, HSIIDC has produced two sale instances of village Kukrola itself namely Ex.RW1/3 and RW1/5 to help the court to assess the market value of the agricultural land. The land has been sold at less than Rs.3,00,000/- per acre. The remaining sale deeds of village Fazilwas are not considered appropriate, particularly, in the absence of evidence to prove that those sale instances are of comparable parcels of land sold during contemporaneous period. In fact, Ex.P6, P7, P8, P9, P11 and P12 are post the date of notification under Section 4 of the 1894 Act, whereas Ex.P10 is with respect to a very small parcel of land measuring 3 marlas only, which means that 90.75 sq. yards land has been sold. Again this tiny parcel of land can ordinarily be used either for residential or commercial purpose.

4.2 For assessing the market value of the acquired land, the court is required to look at the comparable sale instances during contemporaneous period.

4.3 Apart from the sale deeds produced, the landowners have also produced, a copy of the award dated 27.02.2012 in **Harimohan and others vs. State of Haryana and others** passed by the RC. The aforesaid judgment has already been set aside in **Surinder Singh's case (supra)**. A copy of the award passed by the RC on 29.11.2019 in LA No.366 of 2018 titled as **Ravi Dutt vs. State of Haryana and others** has been relied upon. The RC after examining the aforesaid award has observed that in the aforementioned case, the value of the acquired land has been assessed by the Court on the basis of a sale instance which is post the date of notification under Section 4 of the 1894 Act. This is with respect to another village. In these circumstances, Ex.P16 is not found appropriate for the purpose of assessing the market value of the acquired land.

4.4 There is another issue which requires adjudication. While deciding the various appeals filed by the parties arising from acquisition of land in village Sultanpur, this Court in **HSI IDC vs. Om Dutt and others (RFA-421-2021)**, observed as under:-

“8.19 The aforesaid policy decision has been revised on 06.04.2007 while increasing the minimum floor rates in the State of Haryana for the acquisition of the land in the State of Haryana, which is extracted as under:-

"Sub: Fixation of floor rates for the acquisition of land for public purpose in the State of Haryana.

Ref: This Department Memo No. 2025-R-5-2005/4299, dated 28.4.2005.

Vide this Department Memo. under reference, minimum floor rates for acquiring land for public purposes for various Departments as well as other State Agencies were fixed by the Haryana Government as

follows:

i) Minimum floor rate for urbanisable area of Gurgaon	Rs. 15.00 lacs per acre
ii) Minimum floor rate for rest of the Haryana Sub-Region of NCR including Panchkula and area of Chandigarh periphery in the Haryana State. Rs.12.50 lacs per acre.	Rs.12.50 lacs per acre.
iii) Minimum floor rate for the rest of the Haryana State.	Rs. 05.00 lacs per acre.

(These floor rates did not include the solatium and interest payable under the provisions of the Land Acquisition Act, 1894).

2. Now it has been observed that with the passage of time market rates of the land have increased substantially. Therefore, Haryana Government has re-considered this matter and has decided to re-fix these floor rates as follows:

i) Minimum floor rate for urbanisable area of Gurgaon.	Rs. 20.00 lacs per acre
ii) Minimum floor rate for rest of the Haryana Sub-Region of NCR including Panchkula and area of Chandigarh periphery in the Haryana State.	Rs.16.00 lacs per acre.
iii) Minimum floor rate for the rest of the Haryana State.	Rs. 08.00 lacs per acre.

3. These floor rates do not include the solatium and interest payable under the provisions of the Land Acquisition Act, 1894.

4. These revised rates will be applicable on all those acquisitions where awards have been announced on or after 22.3.2007 irrespective of the date of notification under Section 4 of the Land Acquisition Act, 1894."

8.20 It has also been noticed that the Reference Court while deciding the cases of the villages Daboda Khurd and various other villages in District Jhajjar, the Reference Court relied upon such policy decision and the State did not assail the correctness of the aforesaid finding. This Court has decided the aforesaid appeals on 05.10.2021. In that case also the acquisition of land was for the same purpose i.e constructing Kundli-Manesar-Palwal Expressway. Furthermore, a coordinate Bench

while deciding the appeals in **Om Parkash and others vs. State of Haryana and others** in RFA-7450-2011 and connected cases decided on 30.03.2012 took a view that the State has recognized the enhancement of the land's market value over the period of time due to various contributing factors, the prices of the land have been increasing. The Court after calculating the difference of Rs.3,50,000/- from 05.03.2005 and 22.03.2007, calculated proportionate per day increase and appropriately tweaked the market value. This Bench is in respectful agreement with the aforesaid view. In the present case, the increase in the market value per day comes to Rs.469.79 per day. There is a huge difference of 430 days from 05.03.2005. Thus, the additional amount works out to Rs.2,02,009.70 which is rounded to Rs.2,02,010/-. As in this case the award was passed on 10.05.2006 accordingly, taking the proportionate increase the amount as the market value works out to Rs.14,52,010/- per acre.”

5. Decision:-

5.1 However, it may be noticed that in the case of **Om Dutt (supra)**, this Court overlooked Section 23 of the 1894 Act, which prescribes that the market value of the acquired land is on the date of publication of the notification under Section 4 of the 1894 Act. The policy issued by the State does not lay down that the market value of the acquired land is to be examined on the date of the award. Hence, the amount is not required to be reworked on the principle adopted in **Om Dutt (supra)**. Consequently, both the appeals are dismissed.

28.07.2022

rekha

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

**(ANIL KSHETARPAL)
JUDGE**