

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-1252-2021 (O&M)
Reserved on: 23.11.2022
Date of decision: 07.12.2022

BANWARI LAL AND ORS.

..Appellants

Versus

STATE OF HARYANA AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Munish Gupta, Advocate
for the landowners.

Mr. Shivendra Swaroop, AAG, Haryana.

ANIL KSHETARPAL, J.

1. Introduction and background:

1.1 While praying for the modification of the market value assessed in the award passed by the Reference Court (hereinafter referred to as 'the RC') on account of compulsory acquisition of land, the landowners have filed this batch of appeals (details whereof are at the foot of the judgment) against a common judgment passed by the RC on 23.10.2019. The notification under Section 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') and the awards passed by the Land Acquisition Collector (hereinafter referred to as 'the LAC') as well as RC, are common. The learned counsel representing the parties are *ad idem* that this batch of appeals can conveniently be disposed of by a common judgment.

1.2 The relevant particulars of this batch of appeals, in brief, are as under:

Sr. No.	Particulars	Relevant Date
1.	Preliminary notification under Section 4 of the 1894 Act	08.02.2011
2.	Area of acquired land	165 kanals and 5 marlas
3.	Location of acquired land	Village Datal
4.	Purpose of acquisition	Constructing/Widening/four-laning of road from village Rai Malikpur-Narnaul-Mohindergarh-Dadri.
5.	Declaration under Section 6 was issued.	31.05.2011
6.	Number and date of LAC award	Award No.9 dated 10.02.2012
7.	Amount assessed by the LAC	The LAC offered to pay the market value of the acquired land measuring 161 kanals and 5 marlas at the rate of Rs.20,00,000/- per acre.
8.	Date of RC's award	23.10.2019
9.	Amount assessed by the RC	The RC assessed the market value of the acquired land at the rate of Rs.23,56,000/- per acre.

FACTS:

1.3 Dissatisfied with the amount offered by the LAC, on the applications filed by the landowners under Section 18 of the 1894 Act, the cases were referred to the RC for assessing the market value of the acquired land. The landowners claimed that the market value of the acquired land was not less than Rs.50,000/- per sq. yard, at the relevant time, as several shops, petrol pumps, schools, hospitals, factories existed at the time of acquisition and the acquired land is commercial in nature. The LAC did not take into the consideration the sale deeds before assessing the market value of the acquired land. The acquired land is located nearby the Hisar-Jaipur Road.

1.4 On the other hand, while contesting the petitions, the State of Haryana claims that the acquired land is an agricultural land and the LAC

after taking into consideration all the prevailing facts and circumstances of the area, has offered a fair, proper and adequate market value for the acquired land.

1.5 The RC, on appreciation of the pleadings, culled out the following issues for adjudication:-

- “1.What was the market value of the acquired land on the date of publication of notification under Section 4 of the Land Acquisition Act? OPP
2. Whether the petitioners are entitled to any enhanced compensation, if so, at what rate? OPP
3. Whether the petitioners are entitled to get compensation on account of superstructures, trees etc.? OPD
4. Relief.”

2. **Evidence produced by the respective parties:**

2.1 In oral evidence, the landowners examined the following witnesses:-

PW-1	Sh. Om prakash
PW-2	Sh. Kailash
PW-3	Sh. Mukesh Kumar, Registry Clerk

2.2 On the other hand, in oral evidence, the State of Haryana examined RW-1 Sh. Sajan Singh, Sub-Divisional Engineer. Thereafter, the petition titled as “Bansi Vs. State of Haryana” was dismissed in default. Similarly, the other connected petitions were also dismissed in default. On restoration of these petitions, once again the issues were framed and the landowners examined the following witnesses:

PW-1	Sh. Kailash
PW-2	Sh. Narain
PW-3	Sh. Vikram Singh
PW-4	Sh. Daya Nand
PW-5	Sh. Rajbir

<i>PW-6</i>	<i>Sh. Banwari Lal</i>
<i>PW-7</i>	<i>Sh. Rajender</i>
<i>PW-8</i>	<i>Sh. Sandeep</i>

2.3 In the documentary evidence, the landowners produced the following documents, apart from the sale deeds, a tabulated compilation whereof is in para 3.2 of the judgment:-

<i>Ex.P-1 to P-32</i>	<i>Documents</i>
<i>Ex.PW3/A</i>	<i>Sale deed</i>
<i>Ex.P-1</i>	<i>Statement No.19</i>
<i>Ex.P-2</i>	<i>Award No.9</i>
<i>Ex.P-3</i>	<i>Jamabandi</i>
<i>Ex.P-4</i>	<i>Statement No.19</i>
<i>Ex.P-5</i>	<i>Copy of award dated 10.02.2012</i>
<i>Ex.P-6</i>	<i>Copy of jamabandi</i>
<i>Ex.P-7</i>	<i>Statement No.19</i>
<i>Ex.P-8</i>	<i>Award dated 10.02.2012</i>
<i>Ex.P-9</i>	<i>Photograph</i>
<i>Ex.P-10</i>	<i>Jamabandi for the year 2008-09</i>
<i>Ex.P-11</i>	<i>Statement No.19</i>
<i>Ex.P-12</i>	<i>Award</i>
<i>Ex.P-13</i>	<i>Statement No.19</i>
<i>Ex.P-14</i>	<i>Award</i>
<i>Ex.P-15</i>	<i>Jamabandi for the year 2008-09</i>
<i>Ex.P-16</i>	<i>Statement No.19</i>
<i>Ex.P-17</i>	<i>Award</i>
<i>Ex.P-18</i>	<i>Jamabandi for the year 2008-09</i>
<i>Ex.P-19</i>	<i>Statement No.19</i>
<i>Ex.P-20</i>	<i>Award No.9 dated 10.02.2012</i>
<i>Ex.P-21</i>	<i>Statement No.19</i>
<i>Ex.P-22</i>	<i>Award No.9 dated 10.02.2012</i>
<i>Ex.P-23</i>	<i>Jamabandi for the year 2008-09</i>
<i>Ex.P-24</i>	<i>Statement No.19</i>
<i>Ex.P-25</i>	<i>Award No.9</i>
<i>Ex.P-26</i>	<i>Copy of award dated 21.01.2017</i>

<i>Ex.P-27</i>	<i>Statement No.19</i>
<i>Ex.P-28</i>	<i>Award No.9</i>
<i>Ex.P-30</i>	<i>Jamabandi for the year 2008-09</i>
<i>Ex.P-31</i>	<i>Jamabandi for the year 2008-09</i>
<i>Ex.P-32</i>	<i>Award dated 11.09.2017</i>

2.4 In the oral evidence, the State of Haryana examined DW-1 Sh. Deen Mohammad, Sub-Divisional Engineer.

2.5 In the documentary evidence, the State of Haryana produced following documents, apart from the sale deeds, a tabulated compilatin whereof is in para 3.2 of the judgment:-

<i>Ex.R-1</i>	<i>Sale deed dated 11.01.2010</i>
<i>Ex.R-2</i>	<i>Mutation No.789 dated 18.01.2010</i>
<i>Ex.R-3</i>	<i>Notifcation under Section 4 dated 08.02.2011</i>
<i>Ex.R-4</i>	<i>Report of Committee</i>
<i>Ex.R-5</i>	<i>Aks-Shijra (Revenue layout plan)</i>

3. **Discussion and analysis of the arguments by the learned counsels representing the parties by this Court:**

3.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook as well as the lower Court record, which was requisitioned.

3.2 At this stage, it is considered appropriate to compile the complete information in respect of various sale deeds produced by the parties in order to have a birds eye view of the matter, in a tabulated form:-

SALE DEED PRODUCED BY THE LANDOWNERS							
Sr. No.	Exhibit Nos.	Sale Deed No.	Date	Total Area	Amount (in Rs.)	Amount Per Acre (in Rs.)	Village
1	PW3/A	1195	14.02.2011	1 kanal	6,00,000/-	48,00,000/-	Datal
SALE DEED PRODUCED BY THE STATE							
1	R-1	1373	11.01.2010	4 kanal	1,75,000/-	3,50,000/-	Datal

3.3 One sale deed each has been produced by the landowners as well as the State of Haryana. Thus, the RC after taking note of average price, has assessed the market value at the rate of Rs.23,56,000/- per acre.

3.4 It may be noted here that the State of Haryana has not filed any appeal. Thus, there is no prayer for the reduction in the market value assessed by the RC.

3.5 It may be noted here that the sale deed produced by the landowners is post the date of notification under Section 4 of the 1894 Act i.e. 08.02.2011. This is also with respect to a small parcel of land measuring 1 kanal only, which is not normally sold/purchased for the agricultural purposes. The State of Haryana has produced sale deed Ex.R-1 with respect to the land measuring 4 kanals, which is equivalent to half ($\frac{1}{2}$) acre of land. This sale instance proves that the land was being sold at the rate of Rs.3,50,000/- per acre, whereas, the LAC has already offered the market value at the rate of Rs.20,00,000/- per acre.

3.6 The RC has also committed an error in overlooking the fact that sale deed Ex.PW3/A is with respect to a residential plot as is evident from the endorsement by the Registering Authority. In village Datal, 161 kanals 5 marlas of land has been acquired.

3.7 The landowners have produced the copies of the statement No.19 as well as the copies of jamabandies, which does not help the RC in assessing the market value of the acquired land. Award no.9, dated 10.02.2012 has also been produced. The landowners have also relied upon RC's judgment dated 11.09.2017, while assessing the market value of the acquired land in village Budhwal, which was acquired by the preliminary

notification under Section 4 of the 1894 Act, dated 08.02.2011. The RC has held that in absence of evidence to prove that the acquired land in village Budhwal and that of village Datal is comparable, the Court should not rely upon the aforesaid assessment in the judgment relied upon by the landowners. Moreover, it has been noticed that the aforesaid judgment is the subject matter of a pending appeal before the High Court. Hence, the RC has correctly refused to rely upon the same.

3.8 From a careful perusal of the layout plan (Ex.R-4) produced by the State of Haryana, it is evident that the parcel of land sold through sale deed Ex.R-1, is located adjacent to the acquired land and is a comparable parcel of the contemporaneous period.

4. **Decision:**

4.1 Keeping in view the aforesaid discussion, there is no further scope for enhancement in the market value as assessed by the RC. Hence, the appeals are dismissed.

4.2 All the pending miscellaneous applications, if any, are also disposed of.

07th December, 2022

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No

Sr. No.	Case No.	Parties details.
1.	RFA-1252-2021	BANWARI LAL AND ORS V/S STATE OF HARYANA & ORS
2.	RFA-1269-2021	KAILASH V/S STATE OF HARYANA AND ORS
3.	RFA-1270-2021	RAJBIR AND ORS V/S STATE OF HARYANA AND ORS
4.	RFA-1290-2021	NARAIAN V/S STATE OF HARYANA AND ORS

5.	RFA-1297-2021	DAYANAND AND ORS V/S STATE OF HARYANA AND ORS
6.	RFA-1301-2021	BANSHI AND ORS V/S STATE OF HARYANA AND ORS
7.	RFA-1403-2021	ASHOK AND ORS V/S STATE OF HARYANA AND ORS
8.	RFA-2496-2021	RAJENDER SINGH AND ORS V/S STATE OF HARYANA & ORS

(ANIL KSHETARPAL)
JUDGE