

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-1276-2021 (O&M)
Reserved on 24.11.2022
Date of decision: 15.12.2022

BISHAMBER DAYAL AND ORS.

..Appellants

Versus

STATE OF HARYANA AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.P. Sharma, Advocate
for the landowners.

Mr. Shivendra Swaroop, AAG, Haryana.

ANIL KSHETARPAL, J.

1. **Introduction and background:**

1.1 While praying for modification of the market value assessed in the award passed by the Reference Court (hereinafter referred to as 'the RC') on account of the compulsory acquisition of land, the State of Haryana as well as the landowners have filed this batch of appeals along with cross-objections (details whereof are at the foot of the judgment). The notification under Section 4, 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 along with cross-objections, 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	11.02.2011
2.	Area of land	72 kanals and 5 marlas
3.	Location of land	Village Adalpur
4.	Purpose of acquisition	Widening and for four-laning of Major District Road-129 from Narnaul to Khudana.
5.	Declaration under Section 6 was issued.	30.05.2011
6.	Number and date of LAC award	Award No.38 dated 21.12.2012
7.	Amount assessed by the LAC	The LAC offered to pay the market value of the acquired land measuring 72 kanals and 5 marlas at the rate of Rs.30,00,000/- per acre.
8.	Date of RC's award	14.12.2016
9.	Amount assessed by the RC	The RC assessed the market value of the acquired land at the rate of Rs.38,85,714/- 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 claim that their precious land with a market value of not less than Rs.3,00,00,000/- per acre has been involuntarily acquired by the State without paying the proper market value. While claiming that the acquired land is adjacent to the main road, the landowners have claimed that the LAC failed to appreciate that the acquired land had a great potential to be developed as a residential and commercial area.

1.4 On the other hand, while contesting the petitions, the State of Haryana claims that the LAC has offered a fair, adequate and reasonable market value.

2. Evidence produced by the respective parties:

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

<i>PW-1</i>	<i>Sh. Jagdish Rai</i>
<i>PW-2</i>	<i>Sh. Sukhbir singh</i>
<i>PW-3</i>	<i>Sh. Jogender Singh, Draftsman</i>

2.2 In the documentary evidence, the landowners produced the following evidence in support of their case apart from the sale deeds, a tabulated compilation of which is given in para 4.2 of the judgment:-

<i>Ex.P-1 to P-4 & P-8</i>	<i>Copies of sale deeds</i>
<i>Ex.P-5</i>	<i>Certified copy of revised rate list</i>

2.3 On the other hand, in the oral evidence, the State of Haryana examined RW-1 Sh. Kamaldeep Rana, SDO, PWD B&R.

2.4 In the documentary evidence, the State of Haryana produced the following documents apart from the sale deeds, a tabulated compilation of which is given in para 4.2 of the judgment:-

<i>Ex.R-1 to Ex.R-5</i>	<i>Certified copies of sale deeds</i>
<i>Ex.R-6</i>	<i>Copy of gazette notification under Section 4</i>
<i>Ex.R-7</i>	<i>Copy of gazette notification under Section 6</i>
<i>Ex.R-8</i>	<i>Report of circle rate assessed by Commissioner</i>
<i>Ex.R-9</i>	<i>Photocopy of award No.38 dated 21.12.2012</i>
<i>Ex.R-10</i>	<i>Photocopy of aks-shijra</i>

3. **Analysis of the reasons recorded by the RC:-**

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

“1. What was the market value of the acquired land at the time of issuing notification under Section 4 of the Land Acquisition Act? OPP

2. Whether the petitioners are entitled for 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.”

3.2 The RC held that the sale deeds Ex.P-1 (bearing No.295), Ex.P-3 (bearing No.4159) and Ex.P-4 (bearing No.9782), being post the date of notification under Section 4 of the 1894 Act cannot be relied upon for assessing the market value of the acquired land.

3.3 All of sudden, the RC holds that sale deed Ex.P-2 (bearing No.1473) is a guiding star for the assessment of the market value of the acquired land and after applying 20% deduction on Ex.P-2, the RC assessed the market value at the rate of Rs.38,85,714/- per acre. The sale deeds produced by the State of Haryana were excluded from consideration in view of Section 25 of the 1894 Act. The RC also held that Sh. Sukhbir, one of the landowners is entitled to Rs.2,98,765/- because he suffered loss on account of a constructed building.

4. **Discussion and analysis of the arguments of the the learned counsel representing the parties:**

4.1 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.

4.2 The RC has compiled a tabulated information of the various sale deeds produced in evidence by the landowners as well as State of Haryana, which is extracted as under:-

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	P-1	295	12.05.2011	150 sq. yards	1,50,000/-	48,40,000/-	Adalpur
2	P-2	1473	13.09.2010	1K-1M	6,37,500/-	48,57,143/-	Pali
3	P-3	4159	09.08.2011	1 kanal	6,05,000/-	48,40,000/-	Adalpur
4	P-4	9782	09.02.2012	2 kanal	21,20,000/-	84,80,000/-	Adalpur
5	P-8		16.08.2010	3 marla	15,90,000/-	3,18,00,000/-	Adalpur
SALE DEED PRODUCED BY THE STATE							
1	R-1	3477	19.03.2010	3 kanal	2,25,000/-	6,00,000/-	Adalpur
2	R-2	1228	23.08.2010	6K-4M	6,90,000/-	8,90,323/-	Adalpur
3	R-3	1806	21.10.2010	6K-13M	6,65,000/-	8,00,000/-	Adalpur
4	R-4	2529	29.12.2010	4K-18M	4,30,000/-	7,02,040/-	Adalpur
5	R-5	3142	07.03.2011	3K-16M	14,25,000/-	30,00,000/-	Adalpur

4.3 The correctness of the calculation in the aforesaid table has not been disputed by the learned counsel representing the parties.

4.4 On the one hand, the learned counsel representing the landowners contends that the RC has wrongly overlooked the sale instance Ex.P-8 to assess the market value of the land. They submit that this sale instance is with respect to a plot located in village Adalpur, therefore, the RC should have relied upon the same. In the alternative, the learned counsel representing the appellant submits that the land has been acquired for the widening of the existing road, therefore, deduction of 20% is not appropriate.

4.5 On the other hand, the learned counsel representing the State of Haryana has submitted that the sale deed Ex.R-1 (bearing No.3477), Ex.R-2 (bearing No.1228), Ex.R-3 (bearing No.1806), Ex.R-4 (bearing No.2529) and Ex.R-5 (bearing No.3142) have been wrongly kept out of consideration

while incorrectly interpreting Section 25 of the 1894 Act. While criticizing the judgment of the RC, he submitted that sale deed, dated 13.09.2010 (bearing No.1473) Ex.P-2, relied upon by the Court is with respect to a small parcel of land located in village Pali and in absence of any evidence to prove that the aforesaid parcel of land was comparable with the acquired land, the RC has erred in relying upon the said sale instance.

4.6 It may be noted here that there are various layout plans produced in evidence by the landowners as well as the State of Haryana. Ex.PW3/A is a layout plan produced by the landowners. In the aforesaid layout plan, the landowners have indicated that this parcel of plot is located on the road itself. However, the location of the remaining sale instances has not been depicted in said layout plan. Ex.P-1 (bearing No.295) is a sale instance of only 5 marlas land, which is equivalent to 150 sq. yards. This sale instance is not only post the date of notification under Section 4 of the 1894 Act but also with respect to a residential plot. Hence, it was correctly kept out of the consideration by the RC. The sale deed 1473 (Ex.P-2) is with respect to a plot located in village Pali. As per the layout plan Ex.PW3/A, it has been depicted that village Pali is located on the South of village Adalpur. However, the location of the aforesaid sale instance Ex.P-2 (bearing No.1473) has not been shown in the layout plan. The RC has also not recorded any reason for selecting the sale deed bearing No.1473 (Ex.P-2) (bearing No.1473) for assessing the market value of the acquired land. Nearly, 9 acres of land in a narrow strip has been acquired. There is another layout plan Ex.R-10 produced by the State of Haryana. This layout plan is based on the revenue layout plan of the area. This sale instance also shows

that a narrow strip of land abutting the existing road has been acquired for its widening and four laning.

4.7 The RC has erred in interpreting Section 25 of the 1894 Act while keeping the sale instances Ex.R-1 (bearing No.3477), Ex.R-2 (bearing No.1228), Ex.R-3 (bearing No.1806), Ex.R-4 (bearing No.2529) and Ex.R-5 (bearing No.3142) out of consideration on the ground that these sale instances reflect a price lower than amount offered by the LAC. This is the incorrect interpretation of Section 25 of the 1894 Act. 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**, wherein it has been held that there is no bar in taking into account the sale deeds reflecting a price lower than the amount offered by the LAC.

4.8 This Court now once again has carefully examined the layout plan Ex.R-10 with the sale deeds Ex.R-1 (bearing No.3477), Ex.R-2 (bearing No.1228), Ex.R-3 (bearing No.1806), Ex.R-4 (bearing No.2529) and Ex.R-5 (bearing No.3142). Sale deed dated 23.08.2010 (bearing No.1228), Ex.R-2 is with respect to 6 kanals and 4 marlas of land which has been sold for Rs.6,90,000/-. The per acre price comes to Rs.8,90,000/-. On a careful perusal of sale deed Ex.R-2 (bearing No.1228), it is evident that the land comprised in rectangle No.22, khasra No.4 has been sold. Now, on a careful examination of Ex.R-10, a layout plan, it is evident that the aforesaid parcel of land which is of nearly $\frac{3}{4}$ of an acre, is located adjacent to the acquired land. In fact, some part of the land comprised in rectangle No.22, khasra No.4 is the subject matter of acquisition.

4.9 Similarly, sale deed dated 21.10.2010 (bearing No.1806),

Ex.R-3, is with respect to 6 kanals and 13 marlas of land out of the land comprised in rectangle No.53, killa No.18/3, 19 and 20. This parcel of land is located 4 acres away from the main road. This parcel of land has been sold for Rs.6,65,000/-. In terms of per acre, the price will be Rs.8,00,000/- per acre.

4.10 In view of the aforesaid overwhelming evidence, it is evident that the RC has erred in placing reliance on sale deed bearing No.1473 (Ex.P-2) without recording a finding that such sale instance is a comparable parcel with the acquired land. The argument of the learned counsel representing the landowners while relying upon sale instance Ex.P-8 is not worth acceptance because it is with respect to a very small parcel of land and there is no evidence to prove that the aforesaid sale instance is comparable with the acquired land. Sale deed Ex.P-8 is not a part of the trial Court record. Despite the best effort made by the learned counsel representing the parties, they failed to locate sale instance Ex.P-8. Though, the remaining sale deeds Ex.P-1 (bearing No.295), Ex.P-2 (bearing No.1473), Ex.P-3 (bearing No.4159) and Ex.P-4 (bearing No.9782) and Ex.R-1 (bearing No.3477), Ex.R-2 (bearing No.1228), Ex.R-3 (bearing No.1806), Ex.R-4 (bearing No.2529) and Ex.R-5 (bearing No.3142) are part of the trial record. In any case, Ex.P-8 is a very small parcel of land. In absence of evidence to prove that the aforesaid parcel of the land was comparable with the acquired land, the same cannot be relied upon.

5. **Decision:**

5.1 Keeping in view the aforesaid discussion, the result is inevitable. The appeals filed by the State of Haryana are allowed, whereas, that of the landowners are dismissed. It may be noted here that the learned

counsel representing the parties failed to draw the attention of the Court to any substantive error in assessing the market value of the structure by the RC, particularly when it has relied upon report of a building expert Sh. J.R. Gupta, Chartered Engineer. Consequently, no ground to interfere is made out.

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

15th December, 2022

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No

Sr. No.	Case No.	Parties Details
1	RFA-1276-2021	BISHAMBER DAYAL & ORS V/S STATE OF HARYANA & ORS
2	RFA-1189-2020	RAJBIR SINGH & ANR V/S STATE OF HARYANA & ORS
3	RFA-1288-2021	BALBIR SNGH & ORS V/S STATE OF HARYANA & ORS
4	RFA-1291-2021	MAHENDER SINGH V/S STATE OF HARYANA & ORS
5	RFA-2457-2021	SURESH KUMAR & ORS V/S STATE OF HARYANA & ORS
6	RFA-2461-2021	SUBE SINGH & ANR V/S STATE OF HARYANA & ORS
7	RFA-2462-2021	KARAMVEER SINGH @ KARAMBIR V/S STATE OF HARYANA & ORS
8	RFA-3663-2018	SUKHBIR SINGH YADAV V/S STATE OF HARYANA & ORS
9	RFA-415-2018	STATE OF HARYANA & ORS V/S JEERAM & ORS
10	RFA-416-2018	STATE OF HARYANA & ORS V/S RAJBIR & ANR
11	RFA-417-2018	STATE OF HARYANA & ORS V/S UMRAO AND ORS
12	RFA-418-2018	STATE OF HARYANA & ORS V/S KARAMBIR & ORS
13	RFA-419-2018	STATE OF HARYANA & ORS V/S BALBIR SINGH & ORS
14	RFA-420-2018	STATE OF HARYANA & ORS V/S SURESH KUMAR & ORS

15	RFA-421-2018	STATE OF HARYANA & ORS V/S BISHAMBER DAYAL & ORS
16	XOBJR-131-2021	STATE OF HARYANA & ORS V/S BISHAMBER DAYAL & ORS
17	RFA-422-2018	STATE OF HARYANA & ORS V/S MAHENDER & ANR
18	RFA-423-2018	STATE OF HARYANA & ORS V/S KARAMVEER SINGH
19	RFA-424-2018	STATE OF HARYANA & ORS V/S SUBE SINGH & ANR
20	RFA-425-2018	STATE OF HARYANA & ORS V/S SMT. SUSHILA & ANR
21	RFA-426-2018	STATE OF HARYANA & ORS V/S PARTAP
22	RFA-427-2018	STATE OF HARYANA & ORS V/S BANWARI
23	RFA-428-2018	STATE OF HARYANA & ORS V/S BISHAMBER DAYAL & ORS
24	RFA-430-2018	STATE OF HARYANA & ORS V/S MAHENDER SINGH & ORS
25	RFA-431-2018	STATE OF HARYANA & ORS V/S RAJ KUMAR AND ANR
26	XOBJR-132-2021	STATE OF HARYANA & ORS V/S RAJ KUMAR AND ANR
27	RFA-432-2018	STATE OF HARYANA & ORS V/S SUKHBIR SINGH
28	RFA-433-2018	STATE OF HARYANA & ORS V/S SURENDER & ORS
29	RFA-434-2018	STATE OF HARYANA & ORS V/S GANI RAM @ MANI RAM
30	RFA-435-2018	STATE OF HARYANA & ORS V/S SMT. UMRAWATI
31	RFA-444-2018	STATE OF HARYANA & ORS V/S SUKHBIR SINGH & ORS
32	RFA-5609-2017	SMT. SUSHILA AND ANR. V/S STATE OF HARYANA AND ORS

(ANIL KSHETARPAL)
JUDGE