

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-2674-2019(O&M)
Reserved on: 23.11.2022
Date of decision: 07.12.2022

KANTA DEVI

..Appellant

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 The landowners, while praying for modification of the market value assessed in the award passed by the Reference Court (hereinafter referred to as 'the RC') with respect to assessment of the market value of the acquired land, have filed this batch of appeals (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 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.	Title	Particulars
1.	Preliminary notification under Section 4 of the 1894 Act	05.04.2011
2.	Area of land	32 kanals and 10 marlas
3.	Location of land	Village Rasulpur, Tehsil Narnaul
4.	Purpose of acquisition	Widening and four-laning of Major District Road-129 from village Rai Malikpur to Narnaul
5.	Declaration under Section 6 was issued.	19.07.2011
6.	Number and date of LAC award	Award No.23 dated 26.04.2012
7.	Amount assessed by the LAC	The LAC offered to pay the market value of the acquired land measuring 32 kanals and 10 marlas at the rate of Rs.30,00,000/- per acre along with all the statutory benefits.
8.	Date of RC's award	30.03.2019
9.	Amount assessed by the RC	The RC has upheld the amount assessed by the LAC at the rate of Rs.30,00,000/- 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 LAC has not inquired into the quality and prevalent price of acquired land. The award passed by the LAC is arbitrary as the acquired land abuts the road and is located in a commercial area, therefore, the market value of the acquired land was not less than Rs.50,000/- per sq. yard, at the relevant time, whereas, the LAC has assessed the market value while observing that the acquired land is agricultural in nature. The LAC has failed to consider the development potential of the land while assessing its market value.

1.4 On the other hand, the State of Haryana while contesting the petitions, claimed that the amount offered by the LAC is just, fair, adequate and reasonable.

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

- “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 petitioners are entitled to any enhanced compensation, if so at what rate? OPP
3. Whether the petitioners are entitled to get the compensation on account of bifurcation of land? OPP
4. Whether the petitioners are entitled to get compensation on account of superstructures, trees etc? OPP
5. Relief.”

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

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

PW-1	Smt. Kanta Devi
PW-2 to PW-4	Sh. Hitesh, Sh. Jai Parkash, Sh. Radhay Shayam (petitoners)
PW-5	Sh. Ram Chander, Registry Clerk
PW-6	Sh. Pawan Kumar, Draftsman
PW-7	Sh. Rajpal, Draftsman
PW-8	Sh. Gajender Lambardar

2.2 In 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 4.5:-

Ex.PW1/B	General Power of attorney
Ex.PW1/C	Sale deed No.6933 dated 17.11.2011
Ex.PW1/D	Site Plan attached with sale deed No.6933
Ex.PW1/E	Sale deed dated 06.04.2010
Ex.PW1/F	Site plan of sale deed dated 06.04.2010
Ex.PW1/G	Existing Land use plan 1994 of Controller area Narnaul
Ex.PW1/H	Copy of award dated 29.01.2018 passed in case titled Ram Kumar Vs. State

<i>Ex.PW1/K</i>	<i>Copy of award dated 07.10.2016 passed in case titled Ramotar etc. Vs. State</i>
<i>Ex.PW2/B</i>	<i>Copy of General Power of Attorney</i>
<i>Ex.PW2/C</i>	<i>Copy of General Power of Attorney</i>
<i>Ex.PW5/A</i>	<i>Copy of vasika No.6933 dated 17.11.2011</i>
<i>Ex.PW5/B</i>	<i>Site plan attached with sale deed No.6933</i>
<i>Ex.PW5/C</i>	<i>Copy of vasika No.38 dated 06.04.2010</i>
<i>Ex.PW5/D</i>	<i>Site plan attached with sale deed No.38</i>
<i>Ex.P1</i>	<i>Site map</i>
<i>Ex.P2</i>	<i>Copy of award dated 29.01.2018 passed in case titled Raj Kumar Vs. State</i>
<i>Ex.P3</i>	<i>Memo of cost dated 29.01.2018 passed in case titled Raj Kumar etc. Vs. State</i>
<i>Ex.P4</i>	<i>Copy of award dated 07.02.2018 passed in case titled Ramesh Kumar etc. Vs. State</i>
<i>Ex.P5</i>	<i>Copy of memo of cost dated 07.02.2018 passed in case titled Ramesh Kumar etc. Vs. State</i>

2.3 On the other hand, in oral evidence, the State of Haryana examined RW-1 Sh. Gajender, Sub-Divisional Engineer.

2.4 In documentary evidence, the State of Haryana produced the following documents apart from the sale deeds, a tabulated compilation of which is given in para 4.5:-

<i>Ex.R-1 to R-8</i>	<i>Copies of sale deeds</i>
<i>Ex.R-9</i>	<i>Copy of Govt. Gazette</i>
<i>Ex.R-10</i>	<i>Copy of proposal</i>
<i>Ex.R-11</i>	<i>Copy of site plan</i>

3. **Reasons recorded in RC's award:**

3.1 The RC, after examining the evidence, dismissed the petition. It was held that none of the sale deeds produced by the landowners is with respect to a comparable parcel of land. The various RC's award Ex.PW1/H, Ex.PW1/J, Ex.PW1/K, Ex.P-2 and Ex.P-4 produced in evidence were not relied upon by the RC on the ground that these pertain to acquisition in different villages, and no evidence has been brought to prove the comparative location of the acquired land in the aforesaid cases with the acquired land in these petitions.

4. Discussion by this Court:

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

4.2 On the one hand, the learned counsel representing the landowners contend that the RC has committed an error in refusing to rely upon the awards Ex.PW1/H, Ex.PW1/J, Ex.PW1/K, Ex.P-2 and Ex.P-4. They submit that village Rasulpur is located on the outskirts of Narnaul town and by way of the same notification, the market value of Narnaul Town has been assessed at the rate of Rs.58,66,084/- per acre. It is contended that the Court should rely upon the same while assessing the market value of the acquired land. Whereas, on the other hand, the learned counsel representing the State while referring to the sale deeds Ex.R-1 to Ex.R-5 contends that the market value of the acquired land was not more than Rs.30,00,000/- per acre which has already been awarded by the LAC and upheld by the RC. This Court has analysed the arguments of the learned counsel representing the parties.

4.3 It may be noted here that the landowners have not produced any sale instance of a comparable parcel of land. In fact, though four sale instances have been produced by the landowners, however, the copies of the same sale deeds have been exhibited twice. The sale deed Ex.PW1/C and Ex.PW5/A are copies of the same sale deed. Similarly, Ex.PW1/E and Ex.PW5/C are copies of the same sale deed. In substance, the landowners rely upon only two sale deeds. Ex.PW1/C is with respect to a residential plot measuring 150.05 sq. yards. This is with respect to a residential plot located in Narnaul, hence, the same is not comparable. The second sale deed

produced by the landowners Ex.PW1/A is with respect to a residential plot measuring 200 sq. yards, though, located in village Rasulpur, however, it is also not comparable with the acquired land which is agricultural in nature.

4.4 In Regular First Appeal No.2676 of 2019, an application for permission to lead additional evidence has been filed in order to produce sale deed No.29 dated 05.04.2010 with respect to a residential house of 590 sq. yards. The same is allowed and the sale deed is taken on record as Ex.HC-1. On a careful perusal of the sale deed, it is evident that it pertains to a residential plot with 80 sq. feet construction. Hence, the same is not comparable with the acquired land, which is measuring more than 32 kanals, particularly when the sale deeds Ex.R-1 to Ex.R-5, which are comparable to the acquired land, are available on record. Hence, the sale deed which has been taken on record as Ex.HC-1, cannot be relied upon to assess the market value of the acquired land in preference to sale deeds Ex.R-1 to Ex.R-5

4.5 On the other hand, the State of Haryana has also produced various sale deeds.

4.6 At this stage, it is considered appropriate to compile the complete information in respect of various sale deeds produced by the parties in a tabulated form in order to have a bird's-eye view of the matter, which is as follows:-

SALE DEED PRODUCED BY THE LANDOWNERS							
Sr. No.	Exhib it Nos.	Sale Deed No.	Date	Total Area	Amount (in Rs.)	Amount Per Acre (in Rs.)	Village
1	PW1/C PW5/A	6933	17.11.2011	150.5 sq. yards	3,50,000/-	1,12,55,813/-	157 Kultajpur road
2	PW1/E PW5/C	38	06.04.2010	200 sq. yards	2,00,000/-	48,40,000/-	Rasulpur
3	HC-1	29	05.04.2010	590 sq. yards	6,00,000/-	49,22,034/-	Rasulpur

SALE DEED PRODUCED BY THE STATE							
1	R-1	519	19.05.2010	4K-5M	9,29,687/-	17,49,999/-	Rasulpur
2	R-2	59	07.04.2011	25K-13M	30,00,000/-	9,35,672/-	Rasulpur
3	R-3	778	17.06.2010	20K	18,50,000/-	7,40,000/-	Rasulpur
4	R-4	7134	29.11.2011	5K-6M-6 Sarsai	11,37,000/-	17,05,504/-	Rasulpur
5	R-5	889	20.06.2011	4K-4M	5,77,500/-	11,00,000/-	Rasulpur
6	R-6	2491	20.12.2010	2B-02B-10 biswansi	39,80,000/-	29,96,717/-	Narnaul
7	R-7	3091	10.02.2011	15 Biswa-7 Biswansi	10,00,000/-	20,84,706/-	Narnaul
8	R-8	2782	08.01.2010	8 Biswa- 8 Biswansi	4,56,000/-	17,37,170/-	Narnaul

4.7 It is evident from a bare perusal of the aforesaid tabulated compilation that sale deeds Ex.R1 to Ex.R-5 are with respect to various parcels of land located in village Rasulpur. The sale instance Ex.R-1 is executed during contemporaneous period. It is of more than half (½) acre of land. Its price per acre is not above Rs.30,00,000/-. Similarly, sale instance Ex.R-2 has been executed merely two days after the date of notification under Section 4 of the 1894 Act and is of a sufficiently big parcel of land. The per acre price of the aforesaid land is also not more than Rs.30,00,000/-. A similar observation can be drawn from the perusal of the sale instances Ex.R-3 to Ex.R-5. Though, these sale instances are with respect to the period post the date of notification under Section 4 of the 1894 Act, however, these sale instances, at the least, prove that the price of the land was nowhere near the amount offered by the LAC for the acquisition of the land in the same village.

4.8 As regards the reliance placed by the learned counsel representing the landowners on various awards of the RC, it may be noted that none of the aforesaid awards is with respect to the acquired land in village Rasulpur. Moreover, out of the five awards passed by the RC, four are relating to acquisition of land in the town of Narnaul. Hence, the same are not comparable with the acquired land in village Rasulpur. The fifth

award is also with respect to a different village. Hence, the same also cannot be relied upon, particularly when as many as five sale deeds of the village Rasulpur, itself, have been produced by the State to help the Court in assessing the market value.

5. Decision:

5.1 Keeping in view the aforesaid discussion, it is apparent the attention of this Court has not been drawn to any evidence which may compel the High Court to interfere with the judgment passed by the RC. Hence, the appeals filed by the landowners are dismissed.

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

07th December, 2022

(ANIL KSHETARPAL)
JUDG

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

SR. NO.	CASE NO.	PARTIES DETAILS
1	RFA-2674-2019	KANTA DEVI V/S HARYANA GOVT. AND OTHERS
2	RFA-2676-2019	VED PARKASH (SINCE DECEASED) THROUGH LRS AND ORS
3	RFA-3486-2019	VED PRAKASH AND ORS V/S STATE OF HARYANA AND ORS
4	RFA-3487-2019	RADHAY SHAYAM V/S STATE OF HARYANA AND ORS

(ANIL KSHETARPAL)

JUDGE