

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

RFA-701-2022 (O&M)
Date of decision: 20.09.2022

State of Haryana and anotherAppellants

Versus

Inderpal and others ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shivendra Swaroop, AAG, Haryana

Mr. Vikas Chatrath, Advocate and
Ms. Nishtha Grover, Advocate for the landowners
in RFA-701-2022, 296-2022, 300-2022, 4189-2019,
4242-2019 and 4249-2019

Mr. Sanjeev Aggarwal, Advocate

ANIL KSHETARPAL, J (Oral)

1. Background and Introduction:-

1.1 This judgment shall dispose of a batch of 35 appeals (details whereof is at the foot of the judgment) filed by the landowners as well as the State of Haryana, challenging a common award passed by the Reference Court (hereinafter referred to as 'the RC') on 29.07.2019. The notifications under Section 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act') and the awards passed by the Land Acquisition Collector (hereinafter referred to as 'LAC') as well as the RC are common.

1.2 Learned counsel representing the parties are ad idem that this batch of appeals can conveniently be disposed of by a common order.

1.3 The relevant particulars of the case are as under:-

12.12.2008	Notification under Section 4 of the 1894 Act was issued proposing to acquire 33.01 acres of land located in the revenue estate of Village Dharuhera for the development and utilitization of the land as Industrial Sector 5, Dharuhera.
11.12.2009	Declaration under Section 6 of the 1894 Act was published
30.11.2011	Vide award no.44, the LAC offered to pay Rs.21,00,000/- per acre alongwith all the statutory benefits.
28.07.2019	The RC assessed the market value of the acquired land at the rate of Rs.55,71,010/- per acre.

1.4 While filing the present appeals, 18 landowners claim that the amount offered by the LAC is significantly on the lower side. They claim that the acquired land is located on the National Highway no.10 and is surrounded by Multi National Companies (MNC's) like Honda, Sehgal Papers, Cool Beverage, Lumax, Kay Jay Auto Parts and various Real Estate developers namely M2K and Dwarkadish etc. have purchased the area in the vicinity. The acquired land is adjacent to the already developed area by the Haryana State Industrial Infrastructure and Development Corporation. The landowners claim that the market value of the acquired land was not less than Rs.2 crores per acre on the date of notification under Section 4 of the 1894 Act i.e on 12.12.2008. While denying the aforesaid assertions, the State has filed its reply. The RC culled out the following issues:-

- “i) What was the market value of the acquired land on the date of notification No.LAC (G) NTLA-2008/1480 dated 12.12.2008 under Section 4 of Land Acquisition Act, 1894? OPP.
- ii) Whether the petitions are barred by limitation? OPR

iii) Relief.”

2. Oral and Documentary Evidence:-

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

PW1	Pardeep
PW2	Inderpal
PW3	Umed Singh, Parokar, Municipal Committee, Dharuhera
PW4	Narender Kumar, Registration Clerk
PW5	Udai Singh, Draftsman, DTP Office Rewari
PW6	Om Parkash, Draftsman

2.2 On the other hand, State has examined Sh.Moti Ram, Patwari from the office of LAC, Gurugram.

2.3. With the consent of the learned counsel representing the parties, a layout plan produced by the State of Haryana identifying the locations of the acquired land as well as the various sale deeds based upon Aks-sijra of the village is taken on record as Ex.HCI.

3. Analysis of the RC's award

3.1 The RC has refused to take into consideration the sale deeds Ex.R-5 to Ex.R-8 on the ground that these sale deeds reflect the price lower than the amount offered by the LAC. The court examined the various sale deeds produced by the landowners but refused to rely upon the same, on the ground that the vendees in the aforesaid sale deeds are between corporate entities. Thereafter, the court while relying upon the assessment of the market value at the rate of Rs.67,12,050/- in the **Sultan Singh vs State of Haryana and others LAC case no.208/2016 decided on 21.11.2018** proceeded to assess the market value of the

acquired land in this batch of appeals. In **Sultan Singh's case**, the notification under Section 4 of the 1894 Act was issued on 13.05.2010. Thus, the RC while applying reverse deduction, at the rate of 12%, came to the conclusion that the market value of the acquired land is Rs.55,71,010/- per acre.

4.Arguments made by the learned counsel representing the parties:-

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

4.2 Learned counsel representing the landowners submits that this Court in **HSI IDC versus Sultan Singh and another** (RFA-1350 of 2019 decided on 02.11.2021) has assessed the market value of the acquired land at Rs. 1,21,33,320/- per acre along with all the statutory benefits. He submits that the RC has relied upon the judgement passed by the RC, which stands modified by this Court. He, hence, prays for the acceptance of the appeal.

4.3 On the other hand, learned counsel representing the State of Haryana while contesting the claim of the landowners claims that the RC has committed an error in relying upon the judgment passed by the court assessing the market value of the acquired land in a different village by a separate notification. He submits that in the absence of the evidence to prove that the acquired land (which is in a separate village) vide notification dated 13th May, 2010 is comparable with the acquired land in these cases. He prays for setting aside the award passed by the RC while restoring the award passed by the LAC with respect to the amount

offered to the landowners for the compulsory acquisition of land.

5. Discussion by this Court:-

5.1 The assessment of the market value by the court is based upon the appreciation of evidence. It depends upon the material produced before the court. Such assessment by the court is in the nature of indirect evidence whereas the sale deed between the two private parties is in the nature of a direct evidence. It is well known that the court is required to look for the best evidence. This principle has been explained by the Supreme Court in a recent judgement in the case of ***Manoj etc. vs. State of Haryana (2018) 13 SCC 96*** as under:-

“11. In our opinion, the High Court could not have placed an outright reliance on *Swaran Singh case* [*Swaran Singh v. State of Haryana*, 2012 SCC OnLine P&H 19044] , without considering the nature of transaction relied upon in the said decision. The decision could not have been applied ipso facto to the facts of the instant case. In such cases, where such judgments/awards are relied on as evidence, though they are relevant, but cannot be said to be binding with respect to the determination of the price, that has to depend on the evidence adduced in the case. However, in the instant case, it appears that the land in *Swaran Singh case* [*Swaran Singh v. State of Haryana*, 2012 SCC OnLine P&H 19044] was situated just across the road as observed by the High Court as such it is relevant evidence but not binding. As such it could have been taken into consideration due to the nearness of the area, but at the same time what was the nature of the transaction relied upon in the said case was also required to be looked into in an

objective manner. Such decisions in other cases cannot be adopted without examining the basis for determining compensation whether sale transaction referred to therein can be relied upon or not and what was the distance, size and also bona fide nature of transaction before such judgments/awards are relied on for deciding the subsequent cases. It is not open to accepting determination in a mechanical manner without considering the merit. Such determination cannot be said to be binding.

12. We have come across several decisions where the High Court is adopting the previous decisions as binding. The determination of compensation in each case depends upon the nature of land and what is the evidence adduced in each case, may be that better evidence has been adduced in later case regarding the actual value of property and subsequent sale deeds after the award and before preliminary notification under Section 4 are also to be considered, if filed. It is not proper to ignore the evidence adduced in the case at hand. The compensation cannot be determined by blindly following the previous award/judgment. It has to be considered only a piece of evidence, not beyond that. The court has to apply the judicial mind and is supposed not to follow the previous awards without due consideration of the facts and circumstances and evidence adduced in the case in question. The current value reflected by comparable sale deeds is more reliable and binding for determination of compensation in such cases award/judgment relating to an acquisition made before 5 to 10 years cannot form the safe basis for determining compensation.

13. The awards and judgment in the cases of others not being inter parties are not binding as precedents. Recently, we have seen the trend of the courts to follow them blindly probably under the misconception of the concept of equality and fair treatment. The courts are being swayed away and this approach in the absence of and similar nature and situation of land is causing more injustice and tantamount to giving equal treatment in the case of unequals. As per situation of a village, nature of land, its value differ from distance to distance, even two to three kilometre distance may also make the material difference in value. Land abutting highway may fetch higher value but not land situated in interior villages.

14. The previous awards/judgments are the only piece of evidence on a par with comparative sale transactions. The similarity of the land covered by previous judgment/award is required to be proved like any other comparative exemplar. In case previous award/judgment is based on exemplar, which is not similar or acceptable, previous award/judgment of court cannot be said to be binding. Such determination has to be outrightly rejected. In case some mistake has been done in awarding compensation, it cannot be followed; on the ground of parity an illegality cannot be perpetuated. Such award/judgment would be wholly irrelevant.”

5.2 In the absence of evidence to prove that the acquired land in Village Malpura vide notification dated 13th May, 2010 was comparable in its geographical location, valuation and other factors, the RC has erred in placing the reliance thereon. The RC has also committed an error in refusing to rely upon the various sale deeds produced by the respective

parties. As already noticed, the sale deed is in the nature of a direct evidence for determining the market value of the acquired land. The RC has also erred while wrongly interpreting Section 25 of the 1894 Act. The sale deeds produced by the parties are required to be taken into consideration irrespective of the fact that such sale deeds reflect a price lower than the amount offered by the LAC. This issue is no longer res integra in view of the judgement passed by the Supreme Court in case of **Lal Chand vs. Union of India (2009) 15 SCC 769.**

5.3 At the stage, it would be appropriate to compile the information of various sale deeds produced in evidence by both the parties:-

Sale deeds adduced in evidence by the landowners

Sr. No	Exhibit	Sale Deed No.	Date	Area	Sale consideration	Rate per acre	Village
1.	PW4/A	2914	29.12.2005	118K-11M	8,89,12,500/-	60,00,000/-	Dharuhera
2.	PW4/B	2	03.04.2006	91K-11M	9,44,10,940/-	82,50,000/-	Dharuhera
3.	PW4/C	406	17.05.2006	28K-17M	3,60,62,500/-	1,00,00,000/-	Dharuhera
4.	PW4/D	245	02.05.2006	108K-8M	5,49,50,000/-	40,55,350/-	Dharuhera
5.	PW4/E	554	29.05.2006	25K-8M	3,01,62,500/-	95,00,000/-	Garhi Alawalpur
6.	PW4/F	556	29.05.2006	4K-4M	49,87,500/-	95,00,000/-	Garhi Alawalpur
7.	PW4/G	480	13.05.2006	33K-4M	7,70,00,000/-	1,80,72,289/-	Dharuhera
8.	PW4/H	2663	08.01.2007	92K-7M	16,16,12,500/-	1,40,00,000/-	Garhi Alawalpur
9.	PW4/I	1740	10.07.2010	32K-17M	5,33,81,250/-	1,30,00,000/-	Dharuhera

Sale deeds adduced in evidence by the State

Sr. No	Exhibit	Sale Deed No.	Date	Area	Sale consideration	Rate per acre	Village
1.	R-5	683	04.02.2008	3K-7M	8,80,000/-	21,01,492/-	Dharuhera
2.	R-6	1122	18.11.2008	17K-9M	45,81,000/-	21,01,492/-	Dharuhera
3.	R-7	1540	15.02.2009	2K-0M	5,25,000/-	21,00,000/-	Dharuhera
4.	R-8	1657	09.01.2008	8K-0M	19,00,000/-	19,00,000/-	Dharuhera

5.4 A proper layout plan has been produced by the State of Haryana, which has been taken on record as Exhibit HC1. On a careful perusal thereof, it is evident that the acquired land is located in a compact block. In fact, the acquired land is located on the boundary of Village Dharuhera towards its Eastern side. Thereafter, the land of Village Garhi Alawalpur starts. From a perusal of the layout plan, it is evident that some part of the acquired land abuts Rewari-Sohna Road. Sale deed Ex.PW4/D dated 2nd May, 2006 is with respect to 108 kanals and 8 marlas of land, which has been sold for Rs. 5,49,50,000/-. The per acre price comes to Rs.40,55,350/-. Location of the aforesaid parcel of land represented by sale Ex.PW4/D is hardly at the distance of nearly 3 acres from the acquired land. It is a substantial chunk of land measuring more than 13 acres whereas the acquired land is 33.01 acres. Some part of the parcel of land sold through Ex.PW4/C is located near the Rewari Sohna Road. No doubt, the vendee of the sale deed is a corporate entity. However, all the sale deeds produced by the landowners show that vendees are the corporate entities. It has come on record that HSIIDC, which is a Haryana Government owned organization has already developed various industrial sectors.

5.5 The remaining sale deeds produced by the landowners namely Ex.PW4/A, Ex.PW4/B, Ex.PW4/C, Ex.PW4/E, Ex.PW4/F, Ex.PW4/G and Ex.PW4/H are comparatively located distantly from the acquired land. The sale deeds produced by the State of Haryana Ex.R-5, R-6, R-7 and R-8 are also at a distance from the acquired land. Therefore, Ex.PW4/D is the best sale exemplar while considering its

location vis-a-viz the acquired land. However, there is a difference of nearly 2½ years between the sale deed and the date of notification under Section 4 of the 1894 Act. It has come in evidence that the prices of the land in the area were increasing quite steeply. If one carefully looks at the sale deed Ex.PW 4/1, (which is nearly 15 acres away from the acquired land), it comes to notice that within a period of nearly 2 years from the date of acquisition the prices went up to Rs 1,30,00,000/-per acre.

6.Decision:-

6.1 Keeping in view the aforesaid facts, the landowners are held entitled to increase of per acre price represented by Ex.PW 4/D. After taking into consideration the overall evidence it is appropriate to award cumulative increase @ 12% per year on the amount Rs. 40,55,000/-. The increase for a period of 2 years 7 months is required to be calculated. The amount comes to Rs.54,42,653/- which is nearly the same as awarded by the RC. Though for different reasons than what were recorded by the RC, the judgment passed by the RC is upheld. The appeals filed by the landowners and the State of Haryana shall stand dismissed.

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

20.09.2022
rekha

(ANIL KSHETARPAL)
JUDGE

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

Sr. No.	Case No.	Party name
1.	RFA No.300 of 2022	State of Haryana and anr. vs. Inderpal and anr.
2.	RFA No.299 of 2022	State of Haryana and anr. vs. Smt. Ateshwari Devi and anr.
3.	RFA No.298 of 2022	State of Haryana and anr. vs. Pardeep and ors.
4.	RFA No.297 of 2022	State of Haryana and anr. vs. Indu Yadav and anr.
5.	RFA No.296 of 2022	State of Haryana and anr. vs. Inderpal and ors.
6.	RFA No.295 of 2022	State of Haryana and anr. vs. Sanjay and anr.
7.	RFA No.294 of 2022	State of Haryana and anr. vs. Jaipal Singh (deceased) thr Lrs. and anr.
8.	RFA No.293 of 2022	State of Haryana and anr. vs. Jaipal Singh (deceased) thr Lrs. and anr.
9.	RFA No.292 of 2022	State of Haryana and anr. vs. Jaipal Singh (deceased) thr Lrs. and anr.
10.	RFA No.291 of 2022	State of Haryana and anr. vs. Jaipal Singh (deceased) thr Lrs. and anr.
11.	RFA No.290 of 2022	State of Haryana and anr. vs. Smt. Anupma and anr.
12.	RFA No.289 of 2022	State of Haryana and anr. vs. Smt. Chameli Devi and anr.
13.	RFA No.288 of 2022	State of Haryana and anr. vs. Pawan Kumar and ors.
14.	RFA No.287 of 2022	State of Haryana and anr. vs. Jaipal Singh (deceased) thr Lrs. and anr.
15.	RFA No.285 of 2022	State of Haryana and anr. vs. Shiv Rattan Singh and ors.
16.	RFA No.284 of 2022	State of Haryana and anr. vs. Manjeet and ors.
17.	RFA No.281 of 2022	State of Haryana and anr. vs. Ram Kishan (deceased) thr Lrs. and anr.
18.	RFA No.4249 of 2019	Inderpal and ors. vs. State of Haryana and ors.
19.	RFA No.4242 of 2019	Inderpal and ors. vs. State of Haryana and ors.

20.	RFA No.4240 of 2019	Ram Kishan (deceased) thr Lrs. vs. State of Haryana and ors.
21.	RFA No.4236 of 2019	Sh. Pawan Kumar and anr. vs. State of Haryana and ors.
22.	RFA No.4198 of 2019	Smt. Anupma vs. State of Haryana and ors.
23.	RFA No.4197 of 2019	Jaipal Singh (deceased) thr. Lrs. vs. State of Haryana and ors.
24.	RFA No.4196 of 2019	Jaipal Singh (deceased) thr Lrs. vs. State of Haryana and ors.
25.	RFA No.4195 of 2019	Manjeet Singh and anr. vs. State of Haryana and ors.
26.	RFA No.4194 of 2019	Jaipal Singh (deceased) thr Lrs. vs. State of Haryana and ors.
27.	RFA No.4193 of 2019	Indu Yadav vs. State of Haryana and ors.
28.	RFA No.4192 of 2019	Jaipal Singh (deceased) thr Lrs. vs. State of Haryana and ors.
29.	RFA No.4191 of 2019	Jaipal Singh (deceased) thr Lrs. vs. State of Haryana and ors.
30.	RFA No.4190 of 2019	Sanjay vs. State of Haryana and ors.
31.	RFA No.3761 of 2019	Shiv Rattan Singh and ors. vs. State of Haryana and ors.
32.	RFA No.3508 of 2019	Smt. Ateshwari Devi vs. State of Haryana and ors.
33.	RFA No.3507 of 2019	Pardeep and ors. vs. State of Haryana and ors.
34.	RFA No.4189 of 2019	Inderpal vs. State of Haryana and ors.
35.	RFA No.701 of 2022	State of Haryana and anr. vs. Inderpal and ors.

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JUDGE