

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

RFA-2618-2021 (O&M)
Date of decision: 08.12.2022

Shanti Devi and others
.....Appellants
Versus
State of Haryana and others
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jaivir Yadav, Sr. Advocate with
Mr. Nitesh Sharma and
Mr. Harshvardhan Ranga, Advocate
Mr. Amit Jain, Advocate
Mr. Govind Rana, Advocate for the landowners

Mr. Shivendra Swaroop, AAG, Haryana

Mr. Pritam Singh Saini, Advocate for HSIIDC

ANIL KSHETARPAL, J (Oral)

1. Background and Introduction:-

- 1.1 By this order a bunch of 19 appeals, (details whereof are at the foot of the judgment), shall stand disposed of.
- 1.2 Through these appeals filed under Section 54 of the Land Acquisition Act, 1894, (hereinafter referred to as ‘the 1894 Act’) the landowners who stand deprived of their land due to the compulsory acquisition, assail the correctness of award passed by the Reference Court on 14.07.2021. The learned counsel representing the parties are ad idem that this bunch of appeals can be conveniently disposed of by a common judgment.
- 1.3 With highest regard to the direction of the Hon'ble Supreme Court to avoid reproduction and individually record the adjudication

upon questions pertaining to land acquired in different villages, it is observed that in a significant number of appeals listed before this Bench, the land has been acquired through a common notification involving identical issues, which have already been sufficiently and elaborately dealt with, in the previous judgments. Hence, certain extracts from the previous judgments, have been reproduced in this judgment, for the sake of convenience, clarity and judicious use of time. In all these cases, the following issues arise for consideration:-

1. Whether the parties have produced comparable sale exemplars of the contemporaneous period to enable the Court to assess the market value of the acquired land as prevalent on the date of notification under Section 4 of the Land Acquisition Act, 1894?

2. Whether the landowners of the acquired land can be deprived of just, fair and reasonable compensation, on the ground that they have failed to claim the amount as per the policy decision of the State?

3. Whether the Court is required to assess the severance damages suffered by the landowners with regard to the bifurcation of their unacquired land into different parcels due to the compulsory acquisition of a narrow strip of the land for constructing an elevated express highway?

1.4 The discussion on issue number 2 and 3 involves common questions which have been, comprehensively, answered in the previous

judgments arising from the same notification under Section 4 of the 1894 Act.

2. FACTS

2.1 Some relevant facts, in brief, are required to be noticed. The State of Haryana in order to use the land for developing and constructing the Kundali Manesar Express Highway (hereinafter referred to as “KMP”) Phase VII connecting NH-1, NH-10, NH-8 and NH-2, issued a preliminary notification under Section 4 of the 1894 Act on 11.01.2005 proposing to acquire land measuring 520 acres, 2 kanals and 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 the award No.24 was announced on 10.05.2006 with respect the acquired land located in Mokalwas. The landowners were held entitled to a uniform market value of the acquired land at the rate of ₹12,50,000/- per acre. In the first round, on 08.10.2012 the Reference Court (hereinafter referred to as ‘RC’), assessed the market value of the acquired land at the rate of ₹43,17,841/- per acre. While deciding appeals, the High Court vide a judgment dated 05.02.2016 revised the market value of the acquired land to ₹62,11,700/- per acre. However, the Hon’ble Supreme Court vide judgment dated 25.01.2018 in *Surender Singh vs. State of Haryana and others* (2018) 3 CC 278 remanded all the cases back to the RC wherein the parties were permitted to lead the further evidence. In the second round, the RC has dismissed the various reference petitions while upholding the assessment made by the Land Acquisition Collector (hereinafter referred to as “LAC”) at ₹12,50,000/- per acre.

2.2 At this stage, it would be important to note that in the village Mokalwas itself, 184 kanals and 7 marlas of land, in other words, 23 acres of land, approximately, has been acquired.

2.3. The reference Court, on appreciating the pleadings, framed the following issues for adjudication:-

- “1. What was the market value of the acquired land on the date of notification u/s 4 of Land Acquisition Act? OPP
2. Relief.”

3. Evidence produced by the respective parties:-

3.1 In oral evidence, the landowners, in order to prove their case, examined Rajpal as PW1 and Chhattar Singh as PW2. After remand of the case, the landowners have examined Subhash Chander, Halqa Patwari, as PW3.

3.2 In the documentary evidence, the landowners produced the following documents, apart from the sale deeds, a tabulated compilation whereof is incorporated in para 4.2 of the judgment:-

Ex.P32	Award dated 14.1.2020 passed in LA case no.1042/2018
Ex.P33	Mutation No.1209
Ex.P1	Award no.24 dated 10.5.2006
Ex.P2	Copy of jamabandi for the year 2002-2003
EX.P3 (wrongly numbered)	Mutation no.1276
Ex.P3/1	Aks Shizra
Ex.P5	Site plan
Ex.P6	Request letter dated 13.12.2010
Ex.P7	Application dated 16.12.2010 under RTI Act
Ex.P8	Information given under RTI Act

Ex.P9	Title of LA case no.762 of 2009/2011
Ex.P10	Award dated 16.11.2011 passed in LA case no.261 of 2010
Ex.P11	Award dated 27.2.2012 passed in LA case no.762 of 2009/2011
Ex.P12 & Ex.P13	Jamabandi for the year 2002-2003
Ex.P14	Jamabandi for the year 2007-2008
Ex.P-16	Map of Village Kasan

3.3 In oral evidence, the HSIIDC has examined Sh.B.S.Rana, Senior Manager, KMP Cell, Uyog Vihar, Gurugram, as RW1.

3.4 In the documentary evidence, the State relied upon the following documentary evidence, apart from the sale deeds, a tabulated compilation whereof is incorporated in para 4.2 of the judgment:-

Ex.R1	Award no.24 dated 10.5.2006
Ex.R6	Letter dated 3.11.2005 bearing document no.1391
Ex.R7	Policy dated 7.12.2007 for rehabilitation and resettlement
Ex.R8	Map of KMP Express Highway
Ex.R14	Shizra plan

4. Discussion and Analysis of the arguments of the learned counsel representing the parties:-

4.1 Heard learned counsel representing the parties at length and with their able assistance perused the judgment passed by the reference Court along with the record of the reference Court which was requisitioned.

4.2 At this stage, it would be appropriate to compile the details of the various sale deeds produced by both the parties in evidence and a tabulated compilation is produced as under:-

Sale deeds produced by the landowners

Sr. No.	Exhibits	Sale deed No.	Date	Total Area	Sale consideration Rs.	Price per acre Rs.	Village
1.	Ex.P2	18742	05.12.2006	5K-13M	1,13,00,000/-	1,60,00,000/-	Naharpur Kasan
2.	Ex.P3	18743	05.12.2006	3K-14M	74,00,000/-	1,60,00,000/-	Naharpur Kasan
3.	Ex.P3	951	13.04.2006	2A-1K-11M	2,19,37,500/-	98,87,324/-	Fazilwas
4.	Ex.P4	19350	14.12.2006	5K-13M	1,13,00,000	1,60,00,000/-	Naharpur Kasan
5.	Ex.P4	3182	01.12.2006	17M	13,00,000/-	1,22,35,294/-	Fakharpur
6.	Ex.P5	18135	28.11.2006	2A-6K-16M	4,56,00,000/-	1,60,00,000/-	Naharpur Kasan
7.	Ex.P6	1771	23.04.2004	7M	3,60,000/-	82,28,571/-	Naharpur Kasan
8.	Ex.P7	1772	23.04.2004	7M	3,60,000/-	82,28,571/-	Naharpur Kasan
9.	Ex.P8	1773	23.04.2004	7M	3,60,000/-	82,28,571/-	Naharpur Kasan
10.	Ex.P9	13654	10.10.2005	1000 Sq.yards	15,00,000/-	72,60,000/-	Naharpur Kasan
11.	Ex.P10	5837	12.06.2006	1K-2.5M	13,66,000/-	97,13,778/-	Kasan
12.	Ex.P11	18628	04.12.2006	1A-4K-16.5M	2,56,50,000/-	1,60,00,000/-	Nawada Fatehpur
13.	Ex.P12	8725	20.09.1996	1K-1.5M	3,55,000/-	26,41,860/-	Naharpur Kasan
14.	Ex.P13	8727	20.09.1996	1K-1.5M	3,53,000/-	26,26,977/-	Naharpur Kasan
15.	Ex.P14	8728	20.09.1996	1K-5M	4,06,000/-	25,98,400/-	Naharpur Kasan
16.	Ex.P15	8825	20.09.1996	1K-1M	3,53,000/-	26,89,524/-	Naharpur Kasan
17.	Ex.P16	8807	20.09.1996	1K-5M	4,06,000/-	25,98,400/-	Naharpur Kasan
18.	Ex.P17	8815	20.09.1996	1K-6M	4,08,000/-	25,10,769/-	Naharpur Kasan
19.	Ex.P18	8839	20.09.1996	1K-6M	4,08,000/-	25,10,769/-	Naharpur Kasan
20.	Ex.P19	8861	20.09.1996	0K-17M	2,75,000/-	25,88,235/-	Naharpur Kasan
21.	Ex.P20	8854	20.09.1996	1K-1M	3,55,000/-	27,04,762/-	Naharpur Kasan
22.	Ex.P21	8832	20.09.1996	0K-17M	2,75,000/-	25,88,235/-	Naharpur Kasan
23.	Ex.P22	7269	24.08.1996	1K-11M	4,84,375/-	25,00,000/-	Naharpur Kasan
24.	Ex.P23	5431	17.07.1996	1K-11M	4,84,375/-	25,00,000/-	Naharpur Kasan
25.	Ex.P24	26094	03.03.2006	1K-9M	36,40,588/-	2,00,86,003/-	Baans Kushla
26.	Ex.P25	26097	03.03.2006	1K-4M	30,12,900/-	2,00,86,000/-	Baans Kushla
27.	Ex.P26	1772	23.04.2004	7M	3,60,000/-	82,28,571/-	Naharpur Kasan
28.	Ex.P27	1771	23.04.2004	7M	3,60,000/-	82,28,571/-	Naharpur Kasan

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29.	Ex.P28	1773	23.04.2004	7M	3,60,000/-	82,28,571/-	Naharpur Kasan
30.	Ex.P29	6280	18.08.2003	1K-4M	7,30,000/-	48,66,667/-	Baans Kushla
31.	Ex.P30	11551	30.08.2004	4032 Sq. Mtrs.	3,21,50,000/-	3,22,68,460/-	Manesar
32.	Ex.P31	13654	10.10.2005	1000 Sq.yards	15,00,000/-	72,60,000/-	Naharpur Kasan

Sale deeds produced by the HSIIDC

Sr. No.	Exhibits	Sale deed No.	dated	Area	Sale consideration Rs.	Price per Acre Rs.	Village
1.	Ex.R2	1825	12.03.2004	2K-10M	1,78,500/-	5,71,200/-	Mokalwas
2.	Ex.R3	1844	15.03.2004	4K-8M	3,13,500/-	5,70,000/-	Mokalwas
3.	Ex.R4	276	17.05.2004	11K-15M	8,40,000/-	5,71,915/-	Mokalwas
4.	Ex.R5	1391	14.09.2004	2K	1,42,500/-	5,70,000/-	Mokalwas
5.	Ex.R9	1449	05.09.2005	2K	1,50,000/-	6,00,000/-	Mokalwas
6.	Ex.R10	639	08.06.2005	6K-8M	4,56,000/-	5,70,000/-	Mokalwas
7.	Ex.R11	894	04.07.2005	6K-19M	3,46,000/-	3,98,273/-	Mokalwas
8.	Ex.R12	893	04.07.2005	2K-13M	1,89,000/-	5,70,566/-	Mokalwas
9.	Ex.R13	1363	29.08.2005	4K-5M	3,19,000/-	6,00,471/-	Mokalwas

4.3 On the one hand, the learned senior counsel while referring to the various policies issued by the State of Haryana submits that in the absence of the definite evidence to prove the market value of the acquired land, the RC should have relied upon the State policy and should have awarded increase as ordered in RFA-421-2021 titled as ‘HSIIDC vs. Om Dutt and others’ decided on 07.10.2021.

4.4 On the other hand, learned counsel representing the HSIIDC submits that the attention of the Court was not drawn to Section 23 of the 1894 Act, which enables the court to assess the market value on the date

of preliminary notification under Section 4 of the 1894 Act and not on the date of award passed by the LAC.

4.5 In para 29, the RC has noticed that the sale instances Ex.P1 to P10, P13 to P23, P26 to P28, P31 pertain to the various parcels of land located in Village Naharpur Kasan whereas the sale deed Ex.P12 is with respect to parcel of land located in village Kasan and the sale deed Ex.P29 is pertaining to the parcel of land located in Village Bas Lambi. Hence, it is evident that the landowners did not produce any sale instance of Village Mokalwas. Thus, the RC has correctly refused to rely upon the sale instances produced by the landowners.

4.6 The sale deeds produced by the HSIIDC were kept out of consideration by the RC on the ground that these sale deeds reflect a price lower than the amount offered by the LAC. There was an obvious error in the interpretation of Section 25 of the 1894 Act. This issue is no longer res integra in **Lal Chand vs. Union of India (2009) 15 SCC 769**.

4.7 It is evident from perusal of the tabulated compilation in para 4.2 that the HSIIDC produced as many as 9 sale deeds, out of which 4 sale deeds are with respect to the comparable parcels of land during the contemporaneous period. Moreover, even after 11.01.2005, the date of the preliminary notification under Section 4 of the 1894 Act, the prices of the land in the village Mokalwas did witness any substantial increase. Hence, the learned counsel representing the landowners have not made any submission on the basis of the sale deeds.

4.8 The issue with regard to the benefit of policy has been discussed in detail in RFA-7819-2013 titled as ‘**Dharan Chand @**

Dharambir and others vs. State of Haryana and others' decided on 21.03.2022 whereas in RFA-889-2021 titled as '**Birender and others vs. State of Haryana and others'** decided on 29.11.2021, the court had calculated the increase as per the State policy upto the date of award, however, subsequently, in RFA-7819-2013, the attention of the Court was drawn to Section 23 of the 1894 Act, which mandates the court to assess the market value on the date of preliminary notification under Section 4 of the 1894 Act.

4.9. The issue with regard to the severance damages with regard to the bifurcation of the acquired land into different parcels due to compulsory acquisition is discussed in detail in **RFA-889-2021 titled as 'Birender and others vs. State of Haryana and others' decided on 29.11.2021**. The relevant paragraphs are reproduced as under:-

"11. ISSUE NO.3

As regards the claim of the landowners for damages on account of severance of their remaining/unacquired land into two different parcels due to compulsory acquisition of land in a narrow strip, the matter has already been discussed at length in Om Dutt's case (supra). In this case also, this Court was called upon to examine the issue of severance charges arising from the acquisition of land under the same notification issued for the same purpose. The relevant discussion is extracted as under:-

"8.14 The next argument of the learned counsel representing the owners is with regard to damages for severance/splitting of the unacquired land in two parcels. It may be noted here that the land owners have not produced any evidence to prove the extent of land left on one side of the road as compared to the other side of the road. The owners may have suffered a loss due to splitting of their remaining unacquired land, however, in the absence of proper evidence to prove the extent of unacquired land which stands split up on both the sides of road and to what extent they have suffered a loss, it

becomes very difficult for the court to assess the damages on account of severance. Unequivocally, Section 23 of the 1894 Act recognizes and permits the court to grant damages sustained by the person interested by reason of severance of such land from his other land. In the aforesaid situation, ordinarily this Court might have remitted the matter back to the Reference Court, however, keeping in view the fact that matter has already been once remitted by the Hon'ble Supreme Court, it is considered appropriate to use thumb rule and assess the damages on account of severance of the land on the basis of precedents. Recently, while deciding appeals arising from acquisition of land for KMP Expressway from villages Daboda Khurd and others (RFA-5620-2013 titled as HSIIDC vs. Rattan Singh and others decided on 05.10.2021) this Court after noticing that the Reference Court awarded 20% of the acquired or un-acquired land, whichever is less, as damages for severance of the land, upheld the aforesaid view. In the cases arising from acquisition of land in one of the villages i.e Daboda Khurd, HSIIDC did not file any appeal.

8.15 Keeping in view the aforesaid facts, it is declared that if on account of acquisition of a land the remaining land holding of the landowner has been split into two or more parts, then the landowners shall be entitled to 20% of the smaller parcel of unacquired land. However, the damages for severance shall be restricted only to those owners who are left with less than 5 acres land in the smaller parcel. This assumption has been made, particularly, in view of the fact that due to splitting of the land, the landowner will have to not only cultivate his land in two independent parcels but also make a provision for irrigation of the land located in each parcel of land. Even the agricultural implements have to be carried to the other side of the road by going through underpasses, which may be at a distance. If an owner is left with a very small parcel of land, he may be forced to indulge in distress sale thereof”.

5. Decision:-

5.1 Keeping in view the aforesaid facts, the landowners are not entitled to any increase as per the State policy, because the notification under Section 4 of the 1894 Act is prior to the policy dated 28.04.2005

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but effective from 03.03.2005. Therefore, the appeals are hereby dismissed.

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

08.12.2022
rekha

(ANIL KSHETARPAL)
JUDGE

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

SR. NO.	CASE NO.	PARTIES DETAILS
1.	RFA-2618-2021	SHANTI DEVI AND ORS V/S STATE OF HARYANA AND ORS
2.	RFA-2621-2021	RAJ PAL AND ORS V/S STATE OF HARYANA AND ORS
3.	RFA-2622-2021	CHATTER SINGH V/S STATE OF HARYANA AND ORS
4.	RFA-2623-2021	MAN SINGH AND ORS V/S STATE OF HARYANA AND ORS
5.	RFA-2674-2021	BALJIT SINGH YADAV (SINCE DECEASED) THR LRS V/S STATE OF HARYANA AND ORS
6.	RFA-105-2022	RAM DUTT @ RAM DUTT YADAV AND ORS V/S STATE OF HARYANA AND ORS
7.	RFA-106-2022	BHUP SINGH AND ORS V/S STATE OF HARYANA AND ORS
8.	RFA-107-2022	RAM KISHAN V/S STATE HARYANA AND ORS
9.	RFA-798-2022	RAVISH AND ORS. V/S STATE OF HARYANA AND ORS
10.	RFA-799-2022	RAVINSH @ RAVISH AND ORS. V/S STATE OF HARYANA AND ORS
11.	RFA-800-2022	RAM DUTT AND ANR. V/S STATE OF HARYANA AND ORS
12.	RFA-801-2022	BADAN SINGH V/S STATE OF HARYANA AND ORS
13.	RFA-813-2022	RAM AVTAR V/S STATE OF HARYANA AND ORS

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14.	RFA-819-2022	RAVISH AND ORS. V/S STATE OF HARYANA AND ORS
15.	RFA-820-2022	RAJBIR AND ORS. V/S STATE OF HARYANA AND ORS
16.	RFA-986-2022	DHARAM SINGH AND ORS. V/S STATE OF HARYANA AND ORS
17.	RFA-997-2022	RAI SINGH @ RAJ SINGH AND ORS. V/S STATE OF HARYANA AND ORS
18.	RFA-1041-2022	RAM NARAIN THR. HIS LRS AND ORS V/S STATE OF HARYANA AND ORS
19.	RFA-1174-2022	SHANTI AND ORS V/S STATE OF HARYANA AND ORS

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