IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA-1053-2015 (O&M)
Date of decision: 14.12.2022
Reserved on 17.11.2022

Rohtas and others
....Appellants

Versus

State of Haryana and others
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.P.Chahar, Advocate
for the landowners

Sh.Shivendra Swaroop, AAG, Haryana

Mr. Pritam Singh Saini, Advocate for the HSIIDC

ANIL KSHETARPAL, J

1.Background and Introduction:-

1.1 While praying for the modification of the assessment of the market value by the Reference Court's (hereinafter referred to as 'RC') Award, dated 27th October, 2014, the landowners have filed this batch of appeals. The notifications under Sections 4 & 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') and the RC are common. Learned representing the parties are ad idem that this batch of appeals (details whereof are at the foot of the judgment) can conveniently be disposed of by a common order.

1.2 The relevant particulars of the acquisition, in brief, are as under:-

Sr. No.	Particulars	Details
1.	Date of notification under Section 4	07.02.2008
2.	Declaration under Section 6	23.06.2008
3.	Date of LAC's award & number	23.12.2008 (21)
4.	Amount awarded by LAC	Rs.16,00,000/- per acre alongwith all the statutory benefits
5.	Area	23 acres, 2 kanal, 8 marlas comprised in Rectangle no. 147, 157, 158, 175, 186, 212 and 213
6.	Village	Badli
7.	District	Jhajjar
8.	Purpose	Construction of Expressway Highway no.1, 10, 8 and 2
9.	Date of RC award	27.10.2014
10.	Amount awarded by RC	Rs.18,02,740/- per acre alongwith all the statutory benefits. The landowners have also been held entitled to 20% market value as additional compensation for bifurcation of the land.

1.3 Dissatisfied with the amount offered by the LAC for the involuntary acquisition of the land, on the applications of the landowners, as many as 30 reference petitions were referred to the RC for re-assessment of the market value. The landowners claim that the acquired land falls within National Capital Region Project area and forms part of the Jhajjar District, which is located near the Jhajjar Delhi State Highway. The acquired land had the potential to be used for the Industrial and Commercial purposes, and its market value was not less than Rs.1.5 crore per acre. The acquired land was fertile, capable of giving three crops a year. Many industries of international name and fame, like Bharat Udyog Limited, Parle Limited, Somany, Pilkingdons Limited etc. are located near the acquired land. The acquired land is surrounded by many other factories and facilities like streets, water, road, transport, hospitals, schools, etc. are available in and around the area. It has been projected that with the construction of Kundali Manesar Expressway (hereinafter referred to as 'KMP Expressway'), new avenues of industrial and infrastructure development in the area would open up. The market value of the land has experience sudden spur for the last two years after the launch of Special economic zone policy by the Central Government. Reliance India Company is developing a special economic zone near the acquired land. The acquired land is located near the Garhi Harsaru Railway Junction and the Gandhi International Airport, Delhi.

1.4 On the other hand, HSIIDC, while contesting the petitions claimed that the LAC has examined all aspects of the matter before offering the amount at the rate of Rs.16,00,000/- per acre, which is just, fair and adequate.

2.<u>Evidence produced by the respective parties:-</u>

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

PW1	Mahabir
PW2	Dayanand
PW3	Ram Kumar
PW4	Satbir
PW5	Ram Mehar
PW6	Rohtash
PW7	Jagbir

PW8	Samunder Singh, Registry Clerk

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

Ex.P1	Certified copy of sale deed
Ex.P2	Mutation No.5587-A
Ex.P3	Proceedings of meeting dated 18.11.2008
Ex.P4	R&R Policy of Govt. of Haryana, 2007
Ex.P5	R & R Policy of Govt. of Haryana, 2010
Ex.P6	Certified copy of sale deed dated 17.3.2008
Ex.P7	Site plan
Ex.P8 to P25	Sale deeds
Ex.P26 to P29	Certified copies of sale deeds

2.3 In the oral evidence, HSIIDC examined RW1 Rajeev Kumar Manager.

<u>3. Analysis of the reasons recorded in the impugned judgment:-</u>

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

> *"1. What is the market value of the acquired land? OPP*
> *2. Whether the petitioner (s) is/are entitled for enhancement, if so, to what amount? OPP.*
> *3. Relief."*

3.2 The sale deeds Ex. P6, P7, P8, P9, P10, P11, P12, P13, P14, P20, P21, P24, P25 were excluded from consideration by the RC as these were the small sized properties relating to residential, commercial plots and manure pits. The sale instances Ex.P 26 to P 29 were kept out of consideration on the ground that these sale deeds relate to the parcels of land located in Village Kassar. The sale instances Ex. P15 to P19, P21 to P23 were kept out of consideration on the ground that these parcels have been purchased by the Reliance Haryana Limited. and normally these big business houses purchase the property at a higher price than the market value. Thereafter the RC relied upon the policy of the State issued from time to time, while revising the floor rates of the land for assessing the compensation. On the aforesaid basis the RC assessed the market value of the acquired land at the rate of Rs.18,02,740/- per acre.

4. Discussion and Analysis of the arguments of 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 requisitioned record. On 17th November, 2022, with the consent of the learned counsel representing the parties, a layout plan prepared by an official of HSIIDC, indicating the location of the various sale deeds produced by the parties vis-a-vis the acquired land was taken on record as Ex. at HC1.

4.2 At this stage, it will be appropriate to draw a tabulated compilation of the sale deeds produced by the landowners, which is extracted as under:-

Sr. No.	Ex.No	Sale deed and date	Description of the land	Area sold	Sale consideration	Rate per acre	Village
1.	P-1	5766 19.12.2006	51// 1/2	2K 19 M	8,11,250	22,00,000	Dariyapur
2.	P-6	10403 17.3.2008	4/23 12/3 8/1 4/22 12/22	15 K 17 M	50,00,000	25,23,659	Dariyapur

3.	P-6	51 5.4.2002	209// 8 Min	41 Sq.yards	21,000	24,79,024	Badli
4.	P-7	1337 26.5.2005	210// 9/1 10/1	56.38 Sq.yards	1,00,000	85,84,604	Badli
5.	P-8	351 25.4.2006	143// 3/1	200 Sq.yards	3,00,000	72,60,000	Badli
6.	P-9	517 3.5.2006	173// 20/2	100 sq yards	1,50,000	72,60,000	Badli
7.	P-10	1619 23.6.2006	801// ½	220 Sq.yards	3,50,000	77,00,000	Badli
8.	P-11	1722 28.6.2006	1013	2 marlas	90,000	72,00,0000	Badli
9.	P-12	1946 7.7.2006	188// 3/2	8 marlas	3,60,000	72,00,000	Badli
10.	P-13	2761 21.8.2006	143// 3/1	8 marlas	3,75,000	75,00,000	Badli
11.	P-14	3417 27.9.2006	456	16 marlas	7,20,000	72,00,000	Badli
12.	P-15	5235 4.12.2006	276// 9 12	8 Kanal	22,00,000	22,00,000	Badli
13.	P-16	5542 12.12.2006	198// 25 199// 5 200// 1 9 10/1 267// 7 8 8/1 13 18 23 281// 3	79 K 11M	2,18,76,250	22,00,000	Badli
14.	P-17	5642 15.12.2006	257// 2 3 4 5 6 7 8 9 13/2 14/1 14/2 15/1 258// 1 10 26	13 K 12 M	37,40,000	22,00,000	Badli

15.	P-18	6382 8.1.2007	239// 18/2	1 K 18 M	5,22,500	22,00,000	Badli
16.	P-19	6686 15.1.2007	305// 11/2 11/3 12	11 K	30,25,000	22,00,000	Badli
17.	P-20	8217 22.2.2007	452	17 marlas 514 sq.yds	7,71,000	72,60,000	Badli
18.	P-21	1607 17.5.2007	1417 1481	4 marlas 100 sq.yds	1,80,000	87,12,000	Badli
19.	P-22	2323 7.6.2007	306// 25/3 310// 1 2/1 311// 4 5 348// 4 5 6	9 K 12 M	26,40,000	22,00,000	Badli
20.	P-23	6489 31.10.2007	229// 19/3 20/1 20/2 230// 15 16/2	10 K 8 M	28,60,000	22,00,000	Badli
21.	P-24	6751 12.11.2007	1340	1 marla	54,000	86,40,000	Badli
22.	P-25	10054 3.3.2008	188// 6 15/1 15/2	7 marlas	3,78,000	86,40,000	Badli
23.	P-26	7836 24.2.2006	31// 8 13	8 Kanal	60,00,000	60,00,000	Kassar
24.	P-27	7840 24.2.2006	35// 8 9/1 13 14/1 26 32// 6 7/1 14/2 15/1 16/1 17/1	20 K 7 M	1,52,62,500	60,00,000	Kassar

25.	P-28	7914 1.3.2006	55// 21/1 56// 25 26 65// 1 2	4 K 19 M	38,33,022	61,94,783	Kassar
26.	P-29	7913 1.3.2006	55// 21/1 56// 25 26 65// 1 2	24 K 14 M	1,91,65,105	62,07,321	Kassar

4.3 On the one hand, the learned counsel representing the landowners contend that the RC has wrongly ignored the sale deeds in favour of the Reliance Haryana SEZ Limited. They contend that two years before the acquisition of the land was proposed, Reliance SEZ decided to develop a Special Economic Zone in the acquired area. They submit that such sale deeds cannot be kept out of consideration, particularly when there is no basis to prove that the price of the land in the area has been artificially jacked up. Moreover, there was no evidence to prove that the Reliance is purchasing the property at a rate more than the market price of the said area. While referring to Ex HC1, the layout plan, they submit that the sale instances Ex.P16 (bearing no.5542) and P19 (bearing no.6686) and P22 (bearing no.2323) are near the Kundali Manesar Highway and the RC has erred in excluding these sale deeds from consideration. In the alternative, the learned counsel representing the landowners rely upon the judgment passed in **Rajit and another versus State of Haryana and others** RFA-1427 of 2014 and other connected cases decided on 12th February, 2016. They contend that on 19th November, 2004, the preliminary notification to acquire 151 acres, 1 kanal and 11 marlas of land was proposed, to be acquired from the revenue estate of Village Badli for the construction and development of the KMP Expressway. They submit that the High Court assessed the market value at the rate of Rs.19,91,300/- per acre on 19th, November, 2004. They pray for grant of appropriate escalation in the amount for a period of three years before assessing the market value on the basis of the aforesaid judgment.

4.4 On the other hand, learned State counsel has submitted that the RC has committed an error in applying the State policy from the date of award, though, the market value is required to be determined on the date of preliminary notification under Section 4 of the 1894 Act, i.e 7th. February, 2008.

4.5 This Court has considered the submissions of the learned counsels representing the parties. It is important to note that on 19th November, 2004 HSIIDC while proposing to construct the KMP Expressway the government issued a preliminary notification under Section 4 read with Section 17 of the 1894 Act. In these appeals, the acquisition, is for the construction and development of entry/exit roads from the KMP Expressway at Badli. The notification under Section 4 of the 1894 Act has been issued after a period of nearly three years. From a bare look at the layout plan, it is evident that the land has been acquired on both the sides of the already proposed KMP Expressway. The acquired land was located near the National Capital, Delhi. On the Western side of the proposed Highway, the residential area of Village

Badli is located. It has also come in evidence that the Reliance Company started purchasing the land in the village Badli and the surrounding villages in the year 2006 itself. In other words, once the KMP Expressway was planned, there was a spike in the demand for the agricultural land for development. It is also evident that Reliance while executing as many as six sale deeds, which have been produced in evidence, purchased nearly 17 acres of land at the rate of Rs. 22,00,000/- per acre. Thus, the landowners had a willing customer, who could purchase the property at the rate of Rs.22,00,000/- per acre. Though the parcels of the land representing the aforesaid sale deeds are located at some distance from the acquired land but the acquired land is near the already proposed KMP Expressway. Once after planning the construction of expressway, the acquisition of the land started in the year 2004, the prices of the adjoining land started increasing. The price would have been counter balanced even if there would have been some distance in the acquired land. The RC has erred in ignoring the sale deeds in favor of Reliance on the ground that Reliance offered a higher price than the actual market price. It may be noted here that there is no evidence to this effect. HSIIDC has not examined any official of the Reliance Company or the vendor to prove this particular fact. The Reliance has purchased the property by executing the registered sale deed while paying the sale consideration through the Bank transactions. In the absence of the cogent evidence to prove that the Reliance had purchased the land at a rate more than the market value, it was not appropriate for the court to ignore the sale deeds, particularly when these were of the comparable parcels of land located nearby.

4.6 It is evident that the sale instances Ex. P 15 to P. 19 and P 22 and P23 pertain to the period from 4th December, 2006 to 31st October, 2007. The sale deed Ex. P23 (bearing no.6489) is just three months before the date of preliminary notification ie.7th. February 2008. In other words, there is no evidence to prove that after 4th, December, 2006 i.e. the date of first purchase by the Reliance SEZ till 31st October. 2007, there was any increase in the price of the market value of the land. Hence, the market value of the land is assessed at the rate of Rs.22,00,000/-per acre. It may be noted here that from a perusal of the sale deeds in favour of Reliance Company, it is evident that the land comprised in rectangle No. 199, 899, 200, 267, 281, 239, 305, 306, 348 and 229 has been purchased whereas the acquired land includes the land comprised in rectangle No. 186, 212 and 230. In terms of the size of the agricultural land, the unit rectangle is a compact parcel of 25 acres.

4.7 The alternative argument of learned counsel representing that appellants while referring to the judgment in **Rajit's case (supra)** is not substantive. It is evident on the careful reading of the judgment that the court on the basis of a State policy calculated the amount of Rs.4,41,293/- by taking the date of award to be the date of assessment of the market value, which is in violation of the Section 23 of the 1894 Act. Moreover, the court, after taking into account, the location, awarded another sum of Rs.3,00,000/- per acre. Though Special Leave Petitions filed by the landowners were dismissed by the Supreme Court, however, the assessment of the market value of the land by the court is not a ratio decidendi to be followed in a subsequent judgment, unless the court comes to a conclusion that the facts were identical and both the parcels of the acquired land were comparable. While assessing the market value, the court only decides the cases on the basis of evidence produced before it. Hence, reliance on a previous judgment, should not be given priority over the sale instances of contemporaneous period and other related evidence.

4.8 As far as the argument of the learned counsel representing the State with regard to the date of assessment is concerned, the argument needs no discussion, particularly when the market value has been determined only on the basis of sale deeds produced by the parties.

<u>5. Decision:-</u>

5.1 With all these observations, the appeals filed by the landowners are allowed. The market value of acquired land is assessed at Rs.22,00,000/- per acre, along with all the statutory benefits. As regards the additional compensation for the bifurcation of land at the rate of 20 % of the market , there is no scope for interference in the award passed by the Reference Court.

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

14.12.2022 **(ANIL KSHETARPAL)**
rekha **JUDGE**
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

Sr. No.	Case No.	Parties Details
1.	RFA-1053-2015	ROHTAS AND ORS V/S STATE OF HARYANA AND ORS
2.	RFA-1054-2015	SUKHBIR AND ORS V/S STATE OF HARYANA AND ORS
3.	RFA-1055-2015	ROHTASH V/S STATE OF HARYANA AND ORS
4.	RFA-1056-2015	SHRI BHAGWAN AND ORS V/S STATE OF HARYANA AND ORS
5.	RFA-1057-2015	SMT. MURTI AND ORS V/S STATE OF HARYANA AND ORS
6.	RFA-8392-2018	RAM KISHAN AND ORS V/S STATE OF HARYANA AND ORS
7.	RFA-8457-2018	DAYANAND AND ORS V/S STATE OF HARYANA AND ORS
8.	RFA-495-2016	HARI RAM (NOW DECEASED) THROUGH HIS LRS V/S STATE OF HARYANA AND ORS
9.	RFA-496-2016	SMT. SRIYA (NOW DECEASED) THR. HER LRS V/S STATE OF HARYANA AND ORS
10.	RFA-497-2016	SMT. INDRAWATI AND ORS V/S STATE OF HARYANA AND ORS
11.	RFA-498-2016	SMT. INDRAWATI AND ORS V/S STATE OF HARYANA AND ORS
12.	RFA-499-2016	SMT. INDRAWATI V/S STATE OF HARYANA AND ORS
13.	RFA-500-2016	SAMPOORAN SINGH V/S STATE OF HARYANA AND ORS
14.	RFA-501-2016	AMIT V/S STATE OF HARYANA AND ORS
15.	RFA-502-2016	SMT. INDRAWATI AND ANR V/S STATE OF HARYANA AND ORS
16.	RFA-503-2016	SMT. SRIYA (NOW DECEASED) THR. HER LRS V/S STATE OF HARYANA AND ORS
17.	RFA-504-2016	SHYAM SINGH AND ANR V/S STATE OF HARYANA AND ORS
18.	RFA-505-2016	NAVEEN AND ORS V/S STATE OF HARYANA AND ORS
19.	RFA-506-2016	SMT. SRIYA (NOW DECEASED) THR. HER LRS V/S STATE OF HARYANA AND ORS
20.	RFA-507-2016	CHANDAN SINGH AND ORS V/S STATE OF HARYANA AND ORS
21.	RFA-508-2016	SURJEET SINGH V/S STATE OF HARYANA AND ORS
22.	RFA-509-2016	SMT. INDRAWATI AND ORS V/S STATE OF HARYANA AND ORS
23.	RFA-510-2016	ANIL KUMAR AND ORS V/S STATE OF HARYANA AND ORS
24.	RFA-511-2016	JAIPAL AND ORS V/S STATE OF HARYANA AND ORS
25.	RFA-512-2016	SMT. INDRAWATI AND ORS V/S STATE OF HARYANA AND ORS

26.	RFA-513-2016	CHANDERBIR SINGH V/S STATE OF HARYANA AND ORS
27.	RFA-2901-2019	MAHABIR AND ORS V/S STATE OF HARYANA AND ORS

14.12.2022 **(ANIL KSHETARPAL)**
rekha **JUDGE**