

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-1609-2014 (O&M)
Reserved on: 26.08.2022
Date of decision: 07.09.2022

RAM MEHAR AND ORS.

..Appellants

Versus

STATE OF HARYANA AND ANR.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Kumar Jain, Advocate
Mr. S.K. Bhardwaj, Advocate
Mr. Ashok K. Sharma (Bhana), Advocate
Mr. V.D. Sharma, Advocate
Mr. Govind Mor, Advocate
Mr. Jasbir Mor, Advocate
Mr. Sansar Kundu, Advocate
Mr. S.K. Verma, Advocate
Mr. Manoj Kakkar, Advocate
Mr. Vineet Dhanda, Advocate
Mr. Arvind Seth, Advocate
for the landowners.

Mr. Shivendra Swaroop, AAG, Haryana.

ANIL KSHETARPAL, J.

1. **Introduction and background:**

1.1 While praying for the modification of the market value of the acquired land assessed by the Reference Court (hereinafter referred to as 'the RC') vide award dated 02.04.2013, the landowners have filed the various appeals. The learned counsel representing the parties are *ad idem* that the notifications under Section 4 and 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 the RC, are common, therefore these appeals can conveniently be disposed of by

a common judgment.

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

Sr. No.	Title	Details
1.	Date of notification under Section 4	08.10.2008
2.	Declaration under Section 6	12.11.2008
3.	Date of LAC's award and number	Award No.5 dated 05.06.2009
4.	Amount awarded by LAC	The LAC offered to pay to the landowners Rs.8,00,000/- per acre for <i>Nehri and Chahi</i> land, whereas, Rs.8,00,000/- per acre for acquired land upto the depth of 2 acres on Jind-Gohana Road, Rs.19,36,000/- per acre for <i>gair mumkin abadi deh</i> (Residential area).
5.	Area	18.23 Acre
6.	Village	Village Kharak Ramji
7.	District	Jind, Haryana
8.	Purpose	Jind-Gohana-Sonepat New Railway Line
9.	RC's award	02.07.2013
10.	Amount awarded by RC	Rs.10,00,000/- per acre for the <i>Nehri and Chahi</i> land. Rs.80,000/- per acre for bifurcation of the land and for the land upto the depth of 2 acres on Jind-Gohana Road at the rate of Rs.10,80,000/- per acre. Rs.20,00,000/- per acre for <i>gair mumkin abadi deh</i> (Residential area).

1.3 Dissatisfied with the amount offered by the LAC, on the applications of the landowners, the cases were referred to the Court. The landowners claim that the market value of the acquired land was Rs.50,00,000/- per acre and the amount awarded is unfair, unjustified, illegal and contrary to the prevailing market rate in village Kharak Ramji. They

also claim damages for bifurcation of the land and lack of passages. It has been asserted that the land under the water channels has also been acquired, therefore, it has become difficult to cultivate/irrigate the land. Per contra, the State of Haryana claims that the amount assessed by the LAC in its award dated 05.06.2019, is just, fair and adequate compensation for the acquired land.

2. Evidence produced by the respective parties:

2.1 In order to prove their case, the landowners examined the following witnesses, in the oral evidence:-

<i>PW-1</i>	<i>Shyam Lal</i>
<i>PW-2</i>	<i>Nafe Singh</i>
<i>PW-3</i>	<i>Balwant</i>
<i>PW-4</i>	<i>Suresh</i>
<i>PW-5</i>	<i>Balbir</i>
<i>PW-6</i>	<i>Ram Kumar</i>
<i>PW-7</i>	<i>Zile Singh</i>
<i>PW-8</i>	<i>Ram Kumar</i>
<i>PW-9</i>	<i>Lichhman</i>
<i>PW-10</i>	<i>Baljit</i>
<i>PW-11</i>	<i>Ram Kumar</i>
<i>PW-12</i>	<i>Prem Singh</i>
<i>PW-13</i>	<i>Ram Mehar</i>
<i>PW-14</i>	<i>Santro</i>
<i>PW-15</i>	<i>Balwant</i>
<i>PW-16</i>	<i>Chander</i>
<i>PW-17</i>	<i>Hokma</i>
<i>PW-18</i>	<i>Ramesh</i>
<i>PW-19</i>	<i>Sanjay</i>
<i>PW-20</i>	<i>Dharambir</i>
<i>PW-21</i>	<i>Bijender</i>
<i>PW-22</i>	<i>Inder Singh</i>
<i>PW-23</i>	<i>Ved Pal</i>
<i>PW-24</i>	<i>Balbir</i>

<i>PW-25</i>	<i>Pala Ram</i>
<i>PW-26</i>	<i>Ramesh</i>
<i>PW-27</i>	<i>Rajpal</i>
<i>PW-28</i>	<i>Bijender</i>
<i>PW-29</i>	<i>Rakhia</i>

2.2 In documentary evidence, the landowners have relied upon the following documents, apart from the sale deeds a tabulated compilation of which is incorporated in para 3.2 of the judgment:-

<i>Ex.P-1</i>	<i>Award No.2 dated 28.12.2011 annouced by District Revenue-cum-Land Acquisition Collector, Sonapat.</i>
<i>Ex.P-4/P-8</i>	<i>Computer generated copy of the notification dated 09.10.2010</i>
<i>Ex.P-7</i>	<i>Copy of Aks-Shijra (revenue layout plan)</i>

2.3 On the other hand, in the oral evidence the State of Haryana examined RW-1 Sh. K.S. Saini, Sub-Divisional Engineer, Provincial Sub-Division No.1.

2.4 The State of Haryana in the documentary evidence produced the sale deeds Ex.R-1 and Ex.R-2.

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

3.1 The RC while adjudicating culled out the following issues:-

- “(1) What was the market value of acquired land? OPP*
- (2) Whether the petitioner is entitled to enhanced amount of compensation, if so to what amount? OPP*
- (3) Whether no statutory benefits under the Land Acquisition Act has been given to the petitioners, if so to what benefits? OPP*
- (4) Whether no compensation for standing crops, kotha, trees, tubewell structure and bifurcation of the land etc. has been given if so to what amount? OPP*
- (5) Whether the petitions are time barred? OPR*
- (6) Relief.”*

3.2 The RC after relying upon the various policies of the State, assessed the market value of the acquired land while observing that the sale exemplars produced by the landowners are not of any help in determining the appropriate market value because Ex.P-2 (bearing No.3451) is with respect to the land located in village Chabri, whereas, Ex.P-3 (bearing No.3520) is a sale instance in favour of the Company Amazon, located in village Pindori on the State Highway, whereas, sale instance Ex.P-6 (bearing No.2879) is post the date of notification under Section 4 of the 1894 Act.

4. **Discussion and the analysis of the arguments of 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 along with the record, which was requisitioned.

4.2 At this stage, it will be appropriate to compile the tabulated information of the sale deeds relied upon by the respective parties:-

SALE DEED PRODUCED BY THE LANDOWNERS								
Sr. No.	Exhibit Nos.	Sale Deed No.	Date	Total Area	Land calculated in Marlas	Price (in Rs.)	Price Per Acre	Village
1	P-2	3451	05.12.2008	3K	60 M	4,50,000/-	12,00,000/-	Chabri
2	P-3	3520	27.11.2006	12 Acre 5K-4M	2024 M	8,47,55,000/-	67,00,000/-	Pindara
3	P-5	3804	02.02.2010	3 Marlas	3 M	36,000/-	19,20,000/-	Kharak Ramji
4	P-6	2879	14.08.2012	1K-14M	34 M	9,56,000/-	44,98,824/-	Jind
SALE DEED PRODUCED BY THE STATE								
1	R-1	977	09.06.2008	2 Acre 1K-9M	349 M	10,94,000/-	5,01,547/-	Kharak Ramji
2	R-2	1100	16.06.2008	6K-8M	128 M	4,00,000/-	5,00,000/-	Kharak Ramji

4.3 It may be noted here that on the basis of the sale instances produced by the State of Haryana, it is evident that the price of the land in village Kharak Ramji was around Rs.5,00,000/- per acre during the contemporaneous period i.e. during the period of the relevant notification.

4.4 On the other hand, the landowners have relied upon three sale instances. Ex.P-2 (bearing No.3451) is a sale instance of the land located in village Chabri and there is no evidence to prove that it is with respect to a comparable parcels of land. Ex.P-3 (bearing No.3520) is a sale instance with respect to the land measuring 101K-4M (2024 marlas) located in village Pindori. This parcel of land purchased by the Amazon Enterprises is located on State Highway No.19, Jind-Gohana Road. Hence, there is no evidence to prove that the land sold to the Amazon Enterprises was comparable with the price of the acquired land. The next sale instance relied upon by the landowners is Ex.P-5 (bearing No.3804) with respect to a tiny plot measuring 3 marlas located in village Kharak Ramji. Such small plot can only be used either for the commercial purpose or for residential purposes and is not normally purchased for the agricultural purposes. Hence, there is no evidence to prove that the price of the aforesaid land is comparable with the price of the acquired land. The last sale instance relied upon by the landowners is Ex.P-6 (bearing No.2879), by which the land located in City Jind has been sold on 14.08.2012. This sale instance is not only pertains to post the date of notification under Section 4 of the 1894 Act but is also located in the City, whereas, the acquired land is located in a village. Hence, the parcels of land vide Ex.P-2, P-3, P-5 & P-6 are not comparable as they are not similarly situated. Both the sale instances produced by the State of Haryana are with respect to the land located in village Kharak Ramji. Ex.R-1 (bearing No.977) is a sale instance of more than 2 acres of land.

4.5 Hence, the RC has correctly held that the sale instances produced by the parties do not support the claim of the landowners.

4.6 The learned counsel representing the landowners while relying upon the judgment passed in **Regular First Appeal No.4918-2013, titled as "Ishwar Singh and others Vs. State of Haryana and others", decided on 20.10.2015,** submits that the Government vide a policy decision dated 28.05.2007, held that the minimum compensation for the compulsory acquisition of the land shall be Rs.5,00,000/- per acre which was revised to Rs.8,00,000/- vide the policy decision dated 06.04.2007, whereas, it was further revised to Rs.12,00,000/- vide the policy decision dated 09.11.2010. He submits that the landowners are entitled to enhancement of the said amount as per the view taken in **Ishwar Singh 's case (supra).**

4.7 On the other hand, the learned counsel representing the State of Haryana contests the aforesaid position.

4.8 On a careful reading of the judgment passed in **Ishwar Singh 's case (supra)**, it is evident that the Court after noticing that the Government itself has recognized increase in the price of the land between 22.03.2007 till 07.09.2010 from Rs.8,00,000/- to Rs.12,00,000/- (the effective dates of two different policies). The per month increase was calculated at Rs.8,988/- and, thereafter, the Court held that since in the aforesaid case was decided on 31.07.2009, therefore, the landowners were held entitled to increase for about 28 months. Thus, the amount of market value was assessed at the rate of Rs.10,52,000/- per acre.

4.9 The attention of the Bench in **Ishwar Singh's case (supra)** was not drawn to Section 23(1)(i) of the 1894 Act which requires the market value of the acquired land is to be assessed as on the date of notification under Section 4 of the 1894 Act. In the present case, it will be 08.10.2008

and not 05.06.2009, as held in the aforesaid case.

4.10 Section 23 of the 1894 Act is extracted as under:-

“23. Matters to be considered on determining compensation. - (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration- first, the market-value of the land at the date of the publication of the [notification under section 4, sub-section (1)]; secondly, the damage sustained by the person interested, by reason of the taking of any standing crops trees which may be on the land at the time of the Collector's taking possession thereof; thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of serving such land from his other land; fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings; fifthly, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change, and sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land. [(1A) In addition to the market value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value for the period commencing on and from the date of the publication of the notification under section 4, sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier. Explanation. - In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded.] (2) In addition to the market value of the land as above provided, the Court shall in every case award a sum of [thirty per centum] on such market value, in consideration of the compulsory nature of the acquisition.”

4.11 Once the statute itself provides that the amount is required to be assessed on the date of the notification under Section 4 of the 1894 Act and the policy issued by the Government does not specifically provide that the amount should be assessed on the date of award, it would be inappropriate for the Court to assess the market value of the acquired land.

4.12 With the greatest respect, this Court holds that the view taken in *Ishwar Singh 's case (supra)* is *per incuriam* particularly when the attention of the Bench was not drawn particularly to Section 23 of the 1894 Act.

4.13 Keeping in view the aforesaid facts, the increase, if any, is to be calculated from 22.03.2007 till 08.10.2008, which comes to roughly a period of 1 year and 6 ½ months. In *Ishwar Singh 's case (supra)*, the Court has calculated the increased amount to Rs.8,988/- per month. So, if increase for seven months is calculated it comes to Rs.1,52,796/-. After adding Rs.8,00,000/- which has already been awarded by the LAC, the amount comes to Rs.9,52,796/- or in other words Rs.9,52,800/-. The RC has already awarded an amount of Rs.10,00,000/-.

5. **Decision:**

5.1 Keeping in view the aforesaid discussion, finding no merit in the landowners appeals. Hence, the same are dismissed.

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

7th September, 2022

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

SR. NO.	CASE NO.	PARTY NAME
1.	RFA-1609 OF 2014	RAM MEHAR AND ORS. VS. STATE OF HARYANA AND ANR.

2.	RFA-10320 OF 2014	SARUPA & ORS. VERSUS STATE OF HARYANA & ANR.
3.	RFA-8311 OF 2014	BALBIR & ORS. VERSUS STATE OF HARYANA & ANR.
4.	RFA-8310 OF 2014	NAFE SINGH & ANR. VERSUS STATE OF HARYANA & ORS.
5.	RFA-8309 OF 2014	BALWANT VERSUS STATE OF HARYANA & ANR.
6.	RFA-8307 OF 2014	RAM KUMAR & ORS. VERSUS STATE OF HARYANA
7.	RFA-2049 OF 2014	VEDPAL VERSUS STATE OF HARYANA
8.	RFA-5486 OF 2014	SURESH KUMAR AND ORS. VERSUS STATE OF HARYANA & ANR.
9.	RFA-8308 OF 2014	SHAMSHER SINGH & ORS. VERSUS STATE OF HARYANA & ANR.
10.	RFA-2050 OF 2014	SANJAY AND ORS. VERSUS STATE OF HARYANA
11.	RFA-2580 OF 2014	LICHHMAN AND ANR. VERSUS STATE OF HARYANA & ORS.
12.	RFA-2579 OF 2014	RAMRATI AND ORS. VERSUS STATE OF HARYANA & ANR.
13.	RFA-2051 OF 2014	TARA AND ORS. VERSUS STATE OF HARYANA & ORS.
14.	RFA-2584 OF 2014	SURAJMAL AND ANR. VERSUS STATE OF HARYANA & ANR.
15.	RFA-2583 OF 2014	SURTA AND ORS. VERSUS STATE OF HARYANA
16.	RFA-2582 OF 2014	SANTOSH AND ORS. VERSUS STATE OF HARYANA
17.	RFA-2581 OF 2014	TEKA AND ORS. VERSUS STATE OF HARYANA & ANR.
18.	RFA-2585 OF 2014	MAHABIR AND ORS. VERSUS STATE OF HARYANA
19.	RFA-2586 OF 2014	RAM KUMAR AND ORS. VERSUS STATE OF HARYANA & ANR.
20.	RFA-2587 OF 2014	JAGMENDER AND ORS VERSUS STATE OF HARYANA
21.	RFA-2588 OF 2014	PREM SINGH AND ANR. VERSUS STATE OF HARYANA
22.	RFA-2589 OF 2014	BIRU AND ORS. VERSUS STATE OF HARYANA & ORS.
23.	RFA-2590 OF 2014	BALBIR AND ANR. VERSUS STATE OF HARYANA

**(ANIL KSHETARPAL)
JUDGE**