

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-1775-2014 (O&M)
Reserved on: 26.08.2022
Date of decision: 07.09.2022

NET RAM 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
Mr. Sandeep Lather, Advocate
for the landowners.

Mr. Sandeep Vermani, Advocate
for respondent-Railway.

Mr. Shivendra Swaroop, AAG, Haryana.

ANIL KSHETARPAL, J.

1. **Background and introduction:**

1.1 While praying for modification of the amount assessed in the Reference Court's award passed on 15.10.2013, the landowners have filed various appeals. The learned counsel representing the parties are *ad idem* that notification under Section 4 and 6 and the awards passed by the Land Acquisition Collector (hereinafter referred to as 'the LAC') as well as the

Reference Court (hereinafter referred to 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	Detail
1.	Date of notification under Section 4	08.10.2008
2.	Declaration under Section 6	12.11.2008
3.	Date of LAC's award	05.06.2009
4.	Amount assessed by the LAC	Vide Award No.6, LAC offered to pay to the landowners Rs.8,00,000/- per acre.
5.	Area of the acquired land	18.23 Acre
6.	Village	Village Lalit Khera
7.	District	Jind, Haryana
8.	Purpose	Jind-Gohana-Sonepat New Railway Line
9.	Date of RC's award	15.10.2013
10.	Amount assessed by the RC	The market value has been assessed at the rate of Rs.10,80,000/- per acre.

Facts:

1.3 Dissatisfied with the amount offered by the LAC, on the applications of the landowners, the cases were referred to the RC. It was claimed that the market value offered by the LAC is insufficient and is not a true reflection of the prevalent market value. They claim that the actual market value of a similar parcel of land, at the relevant time, was not less than Rs.45,00,000/- per acre as the *abadi* of the village is located on the State Highway which is called the Military road going from Merut to Ferozepur. They claim that the land is being sold in yards at high prices.

1.4 On the other hand, the State of Haryana claims that the LAC has assessed a fair, proper and reasonable amount.

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

- “(1) What was the market value of acquired land? OPP
- (2) Whether the petitioners are 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 petition is time barred? OPR
- (6) Relief.”

2. **EVIDENCE PRODUCED BY THE PARTIES**

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

PW-1	Rajender
PW-2	Jai Pal
PW-3	Satya Narian
PW-4	Net Ram
PW-5	Satbir
PW-6	Rajesh
PW-7	Jai Parkash
PW-8	Baldeva
PW-9	Ramesh
PW-10	Rajpal
PW-11	Raj Pal
PW-12	Raj Pal
PW-13	Puran
PW-14	Rajender
PW-15	Sardara
PW-17	Ujjala

2.2 In documentary evidence, the landowners also produced the following documents:-

Ex.P-1	Aks-Shijra (Revenue layout plan)
Ex.P-2	Copy of award passed by the District

	Revenue Officer, Jind.
Ex.P-3	Copy of award passed by the District Revenue Officer, Sonapat.

2.3 In oral evidence, the State of Haryana examined Sh. K.S. Saini, Sub-Divisional Engineer, Provincial Sub-Division No.1 as RW-1.

2.4 In documentary evidence, the State of Haryana produced the sale deeds Ex.R-1 to Ex.R-4.

3. The RC, while relying upon the award passed by the RC on 02.07.2013 and 14.01.2013, held that the landowners shall be entitled to Rs.10,00,000/- per acre. Moreover, Rs.80,000/- has been awarded on account of damages for severance of the land.

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 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-4	672	01.09.2008	1 Acre 2K-1M	201	18,85,000/-	15,00,498/-	Bhambhewa
SALE DEED PRODUCED BY THE STATE								
1	R-1	539	13.05.2008	3K	60	2,07,000/-	5,52,000/-	Lalitkhhera
2	R-2	1315	01.07.2008	4K-9M	89	3,09,500/-	5,56,404/-	Lalitkhhera
3	R-3	3432	25.10.2007	1 Acre 6K-3M	283	8,85,000/-	5,00,353/-	Lalitkhhera
4	R-4	5200	14.02.2008	3K	60	1,87,500/-	5,00,000/-	Lalitkhhera

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 prices of the land in village Lalitkhhera were ranging between Rs.5,00,000/- to Rs.5,50,000/- per acre during the contemporaneous period.

4.4 The landowners have produced Ex.P-4, sale deed bearing No.672 dated 01.09.2008, which is with respect to the land located in village bhambhewa measuring 10K-1M, sold for Rs.18,85,000/-. In the absence of evidence to prove its comparative location with the acquired land, the RC has correctly refused to rely upon the same.

4.5 On the other hand, the State of Haryana has produced as many as four sale instances of land located in village Lalitkhera, Ex.R-1, Ex.R-2, Ex.R-3 and Ex.R-4. The highest per acre prices come to Rs.5,56,000/-, whereas, the RC has already awarded Rs.10,00,000/- per acre. The landowners have also relied upon the LAC's award dated 22.06.2012, with respect to the acquired land located in village Khatkar. In that case, the notification under Section 4 was issued on 13.06.2004. Another award Ex.P-4 passed by the LAC has been relied upon by the landowners. This award is with respect to the land located in village Ishapur Kheri, which was acquired vide notification under Section 4 of the 1894 Act dated 14.07.2009. Hence, these awards were correctly ignored by the RC.

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 compulsory acquisition of the land shall be Rs.5,00,000/- per acre which was revised to Rs.8,00,000/- vide policy decision dated 06.04.2007. The amount was further revised to Rs.12,00,000/- vide policy decision dated 09.11.2010. He submits that the landowners are entitled to enhancement of the 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 and Railways contested 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 assessed the market value while observing that the Government itself has recognized the increase in the price of the land between 22.03.2007 till 07.09.2010 (the effective dates of two different policies) from Rs.8,00,000/- till Rs.12,00,000/- per acre, respectively. Thereafter, the Court calculated at the rate of Rs.8,988/- and thereafter, the Court held that since, in the aforesaid case, the award was announced on 31.07.2009, therefore, the landowners are held entitled to increase for about 28 months. Thus, the market value was assessed at the rate of Rs.10,52,000/- per acre.

4.9 With highest respect, the attention of the Bench was not drawn to Section 23(1)(i) of the 1894 Act which requires that the market value of the acquired land is to be assessed as prevalent on the date of notification under Section 4 of the 1894 Act. In the present case, the relevant date is 08.10.2008.

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 determined as prevalent 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 as existing on the date of award, then, it would not be appropriate for the Court to assess the market value as prevalent on the date of award.

4.12 Keeping in view the aforesaid facts, the increase, if any, is to be calculated from 22.03.2007 till 08.10.2008, which roughly comes to a period

of 1 year and 6 ½ months. In Ishwar Singh 's case (supra), the Court has calculated the increased amount at Rs.8,988/- per month. So, if we calculate the increase for seven months, 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/-.

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

5. Decision:

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

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

7th September, 2022
Ay

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

SR. NO.	CASE NO.	PARTY NAME
1.	RFA- 1775 OF 2014	NET RAM AND ORS. VS. STATE OF HARYANA AND ANR.
2.	RFA - 1776 OF 2014	UMED SINGH & ORS. VERSUS STATE OF HARYANA & ANR.
3.	RFA - 1781 OF 2014	PARBHA VERSUS STATE OF HARYANA & ANR.
4.	RFA - 1780 OF 2014	ROHTASH VERSUS STATE OF HARYANA & ANR.
5.	RFA - 1779 OF 2014	RAM KUMAR & ORS. VERSUS STATE OF HARYANA & ANR.
6.	RFA - 1778 OF 2014	VED PAL VERSUS STATE OF HARYANA & ANR.

7.	RFA - 1777 OF 2014	KIDARA & ANR. VERSUS STATE OF HARYANA & ANR.
8.	RFA - 1786 OF 2014	JOGINDER & ORS. VERSUS STATE OF HARYANA & ANR.
9.	RFA - 1785 OF 2014	DEVENDER SINGH VERSUS STATE OF HARYANA & ANR.
10.	RFA - 1784 OF 2014	JOGINDER SINGH VERSUS STATE OF HARYANA & ANR.
11.	RFA - 1783 OF 2014	JAIPAL VERSUS STATE OF HARYANA & ANR.
12.	RFA - 1782 OF 2014	SATBIR & ANR. VERSUS STATE OF HARYANA & ANR.
13.	RFA - 6735 OF 2014	RAJPAL VERSUS STATE OF HARYANA & ANR.
14.	RFA - 6736 OF 2014	RAJPAL VERSUS STATE OF HARYANA & ANR.
15.	RFA - 6737 OF 2014	RAKESH & ORS. VERSUS STATE OF HARYANA & ANR.
16.	RFA - 6738 OF 2014	VIRENDER SINGH VERSUS STATE OF HARYANA & ANR.
17.	RFA - 6734 OF 2014	SARDARA VERSUS STATE OF HARYANA & ANR.
18.	RFA - 6733 OF 2014	PURAN & ORS VERSUS STATE OF HARYANA & ANR.
19.	RFA - 6732 OF 2014	RAJPAL VERSUS STATE OF HARYANA & ANR.
20.	RFA - 6731 OF 2014	DHARAMBIR VERSUS STATE OF HARYANA & ANR.
21.	RFA - 3373 OF 2014	DHARAM PAL & ORS. VERSUS STATE OF HARYANA & ANR.
22.	RFA - 2405 OF 2019	SHAMSHER AND ORS. VERSUS STATE OF HARYANA & ANR.
23.	RFA - 7851 OF 2014	DHARAMENDER SINGH VERSUS STATE OF HARYANA & ANR.
24.	RFA - 7852 OF 2014	RAJ SINGH & ORS. VERSUS STATE OF HARYANA & ANR.
25.	RFA - 7853 OF 2014	JAI SINGH VERSUS STATE OF HARYANA & ANR.
26.	RFA - 7854 OF 2014	BALDEVA & ORS. VERSUS STATE OF HARYANA & ANR.
27.	RFA - 7855 OF 2014	BHATERI DEVI & ORS. VERSUS STATE OF HARYANA & ANR.
28.	RFA - 7921 OF 2014	RAJPAL & ORS. VERSUS STATE OF HARYANA & ANR.

**(ANIL KSHETARPAL)
JUDGE**