

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-3601-2014(O&M)
Reserved on: 09.12.2021
Date of decision: 30.05.2022

BIRENDER AND OTHERS

..Appellants

Versus

STATE OF HARYANA AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shailendra Jain, Sr. Advocate
with Mr. Satyendra Chauhan, Advocate

Mr. H.L. Tikku, Sr. Advocate
with Mr. Yashmeet, Advocate
and Mr. Manav Bajaj, Advocate

Mr. Sudhir Aggarwal, Advocate
Mr. Rajiv Sharma, Advocate
Mr. Rajesh Lamba, Advocate
Mr. Abhimanyu Minhas, Advocate
for Mr. Deepak Balyan, Advocate
Mr. Ankur Bali, Advocate
Mr. Mahavir S. Sharma, Advocate
Mr. Rakesh Dhiman, Advocate
Mr. Sushil Jain, Advocate
and Mr. Sanjay Verma, Advocate
for the landowners.

Mr. Shivendra Swaroop, AAG, Haryana.

Mr. Ashwani Kumar Chopra, Sr. Advocate
with Mr. Pritam Singh Saini, Advocate,
Ms. Vibha Nagar, Advocate and
Mr. Abhishek Goyal, Advocate
for HSIIDC.

ANIL KSHETARPAL, J.

1. INTRODUCTION AND BACKGROUND:

1.1 Through this judgment, a batch of Regular First Appeals
(details whereof are on the foot of the judgment), filed under Section 54 of

the Land Acquisition Act, 1894 (hereinafter referred to as ‘the 1894 Act’), arising from the Award passed by the Reference Court (hereinafter referred to as 'the RC') on 19.10.2013, shall stand decided.

1.2 The landowners have filed the appeals. The notification under Section 4, 6 and the award passed by the Land Acquisition Collector (hereinafter referred to as 'the LAC') is common. The judgment passed by the RC is also common. The learned counsel representing the parties are *ad idem* that these appeals can conveniently be disposed of by a common judgment.

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

Sr. No.	Title	Details
1.	Date of Notification under Section 4 of the 1894 Act, and, area of the land.	25.04.2008, Area:- 221 kanals, 4 marlas Village: Fakharpur
2.	Date of declaration under Section 6 of the 1894 Act.	09.03.2009
3.	Purpose of Acquisition.	Construction of Chaudhary Devi Lal Model Township for the development as integrated complex for industrial, commercial and other public utilities.
4.	Location of the land, village, Tehsil and District.	Villages Kukrola, Fazalwas, Sehrawan, Mokalwas, Kharkhari, Baslambi and Fakharpur.
5.	Number and date of the Award of the Land Acquisition Collector.	Award No.21, dated 24.08.2009.
6.	Amount assessed by the LAC.	Rs.30,00,000/- per acre.
7.	Date of the judgment of the RC.	19.10.2013
8.	Amount assessed by the RC.	Rs.62,14,421/-

1.4 The landowners claimed that the market value of the acquired land is not less than Rs.5000/- per square yards as a fully developed

industrial model township already exists in the area and the multinational companies like Honda Scooters and Motorcycles, Mitsubishi Electricals, Motorola, Minda Industries, Lispo, Riico and Omaxe have already set up their factories in the acquired area. It has also been stated that the office of National Security Guards is situated nearby.

2. ORAL AND DOCUMENTARY EVIDENCE PRODUCED BY THE PARTIES:

2.1 ORAL EVIDENCE

2.1.1 In order to prove their case, the landowners examined the following witnesses:-

1.	PW-1	Sh. Vikas Yadav, Registration Clerk
2.	PW-2	Sh. Pohap Singh, one of the landowner
3.	PW-3	Sh. Ashok Kumar, ARC from the Office of Sub-Registrar, Gurugram

2.2 DOCUMENTARY EVIDENCE:

2.2.1 Besides the sale deeds produced by the landowners, they produced a copy of award passed by the RC in Kishori Lal Vs. LAC Gurugram, with respect to the notification under Section 4 of the 1894 Act, dated 11.01.2005, acquiring the land for the construction of Kundli-Manesar-Palwar Expressway (hereinafter referred to as 'the KMP Expressway') in Village Fakharpur. Apart from that, another award passed on 19.10.2013, by the RC, with regard to the acquisition of the land by the same notification in respect of the land located in Village Kukrola assessing Rs.62,14,421/- per acre, has also been relied upon by the landowners. The information with regard to the sale deeds produced by the parties is

compiled in para 2.2.3 of the judgment.

2.2.2 On the other hand, HSIIDC produced copy of Award No.22, dated 24.08.2009, proceedings of the Divisional Level Committee as Ex.R-6, and Government Policy for Rehabilitation and Resettlement of land oustees as Ex.R-7 and layout plan as Ex.R-8.

2.2.3 At this stage, it would be appropriate to compile the information with regard to the exemplar sale deeds produced by the respective parties in a tabulated form which is as under:-

SALE DEEDS PRODUCED BY THE LANDLOWERS:

Sr. No.	Exhibit Nos.	Sale Deed No.	Date	Area	Land Calculated in Marlas	Price consideration	Price Per Acre	Village
1.	P-1	3138	03.02.2009	158	7K-18M	1,50,00,000	15189873	Fakharpur
2.	P-2	5316	05.06.2006	726	36K-6M	33123750	7300000	Kukdola
3.	P-3	18897	07.12.2006	257	12K-17M	16687500	10389105	Fazalwas
4.	P-4	951	13.04.2006	351	17K-11M	21937500	10000000	Fazalwas

SALE DEEDS PRODUCED BY THE STATE:

5.	R-2	3133	08.11.2007	40	2K	625000	2500000	Fakharpur
6.	R-3	492	20.05.2008	44	2K-4M	300000	1090909	Fakharpur
7.	R-4	3445	05.12.2007	102.5	5K-2.5M	1594000	2488195	Fakharpur
8.	R-5	493	20.05.2008	24	1K-4M	1,00,000	2,50,000	Fakharpur

3. **REASONS AND ANALYSIS OF THE AWARD GIVEN BY THE RC:**

3.1 The RC after finding that none of the exemplar sale deed is relevant, has relied upon its previous award dated 19.10.2013 passed while assessing the market value of the acquired land for the same purpose in village Kukrola.

3.2 The RC has committed an error in refusing to take into consideration the sale deeds produced by the HSIIDC on the ground that these sale deeds are of a price lower than the amount assessed by the LAC. The aforesaid reasoning specified by the RC while giving the award is erroneous, as Section 25 of the 1894 Act does not debar the Court from taking into consideration the exemplar sale deeds produced by any of the parties reflecting the lower price than the market value as assessed by the LAC. It only provides that the Court will not award the amount lesser than the market value assessed by the LAC. In view of the judgment passed by the Supreme Court in *Lal Chand Vs. Union of India, 2009(15) SCC 769*, this matter is no longer *res integra*.

3.3 The landowners have also relied upon an award passed by the RC in the first round with respect to the acquisition of the land in the year 2005 in village Fakharpur itself. The aforesaid judgment of the RC was set aside by the Supreme Court in *Surinder Singh Vs. State of Haryana and other, 2018(3) SCC 278*. Hence, the aforesaid judgment does not help the landowners-appellants.

**4. ARGUMENTS MADE BY THE LEARNED COUNSELS
REPRESENTING THE RESPECTIVE PARTIES:**

4.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook as well as the record of the RC, which was requisitioned.

4.2 The learned counsel representing the landowners contend that the RC has committed an error while refusing to rely upon the exemplar sale deed produced by the landowners. It has been pointed out that the land

located in village Fakharpur was sold at the rate of Rs.1.51 Crore per acre, approximately. They further submitted that the location of acquired land in village Fazalwas as well as the land of village Fakharpur is more or less same as regards the market value.

4.3 Per contra, the learned counsel representing the HSIIDC has submitted that the RC has already awarded the amount higher than the market value as on the date of notification under Section 4 of the 1894 Act, therefore, there is no scope for further enhancement.

5. DISCUSSION BY THIS COURT

5.1 It may be noted here that the landowners have not produced any comparable sale deed during contemporaneous period i.e. before the notification under Section 4 of the 1894 Act, of the land located in village Fakharpur. The landowners have produced only one sale instance of village Fakharpur where land measuring 7 kanals and 18 marlas was sold on 03.02.2009. This is post the date of notification (25.04.2008) under Section 4 of the 1894 Act. The crucial date as per Section 23 for assessing the amount of the market value is the date of notification under Section 4 of the 1894 Act. Hence, the exemplar sale deed Ex.P-1 produced by landowners cannot be relied upon particularly when other evidence is available. The remaining sale instances are with respect to the various parcels of land located in village Kukrola and Fazalwas. With regard to the village Kukrola and Fazalwas, this Court by a judgment of the even date has upheld the assessment made by the RC at the rate of Rs.62,14,421/- per acre with regard to the land located beyond the depth of 5 acres from the national highway. It is evident that only a small part of land located in village

Fakharpur would fall within the aforesaid depth. The acquired land of village Fakharpur is located at a distance from the National Highway No.8 and it has come in evidence and correctly found by the RC that KMP Expressway, although planned but was not developed till the notification under Section 4 of the 1894 Act was issued.

5.2 No doubt, the State has produced four sale deeds in order to prove the market value of the acquired land. These sale deeds are with respect to the land located in village Siwana (Fakharpur). These sale deeds reflect that the market value of the land in village Fakharpur was lower than the amount assessed by the LAC. However, as no appeal has been preferred by the HSIIDC or State of Haryana, therefore, the aforesaid sale deeds do not come to the rescue of the HSIIDC.

6. DECISION

6.1 Keeping in view the aforesaid discussion, finding no merit, the appeals are dismissed.

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

30th May, 2022
Ay

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No

Sr. No.	Case No.	Party Name
1.	XOBJR-187-CI-2015 in/and RFA No.3607 of 2014	BHUPENDER AND ANR. VS. STATE OF HARYANA AND ORS.
2.	XOBJR-182-CI-2015 in/and RFA No.3606	NAWAL SINGH AND ORS. VS. STATE OF HARYANA AND ORS.

	of 2014	
3.	XOBJR-188-CI-2015 in/and RFA No.3604 of 2014	RAJBIR AND ANR. VS. STATE OF HARYANA AND ORS.
4.	XOBJR-184-CI-2015 in/and RFA No.3603 of 2014	RAM AVTAR VS. STATE OF HARYANA AND ORS.
5.	XOBJR-189-CI-2015 in/and RFA No.3602 of 2014	SANJAY AND ORS. VS. STATE OF HARYANA AND ORS.
6.	XOBJR-206-CI-2015 in/and RFA No.4555 of 2014	RAMRATI AND ORS. VS. STATE OF HARYANA AND ANR.
7.	XOBJR-186-CI-2015 in/and RFA No.4554 of 2014	KALU RAM VS. STATE OF HARYANA AND ORS.
8.	XOBJR-183-CI-2015 in/and RFA No.3601 of 2014	BIRENDER AND ORS. VS. STATE OF HARYANA AND ORS.
9.	XOBJR-185-CI-2015 in/and RFA No.3605 of 2014	RAJENDER SINGH AND ANR. VS. STATE OF HARYANA AND ORS.

(ANIL KSHETARPAL)
JUDGE