

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-4437-2014(O&M)
Reserved on: 09.12.2021
Date of decision: 30.05.2022

KANWAR SAIN JAIN AND ANR.

..Appellants

Versus

STATE OF HARYANA AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANILKSHETARPAL

Present: Mr. Shailendra Jain, Sr. Advocate
with Mr. Romil Tyagi, Advocate
Mr. Deepak Balyan, Advocate and
Mr. Vishesh Dahiya, Advocate
Mr. Aditya Jain, Advocate
Ms. Balpreet K. Sidhu, Advocate
Mr. H.L. Tikku, Sr. Advocate with
Ms. Yashmeet, Advocate, and
Mr. Manav Bajaj, Advocate
Mr. Yashmeet, Advocate
Mr. Sudhir Aggarwal, Advocate
Mr. Ravinder K. Yadav, Advocate
Ms. Geeta Devi, Advocate
Mr. P.R. Yadav, Advocate
Mr. Sandeep Yadav, Advocate for
Mr. Sandeep Sharma, Advocate
Mr. Ashish Gupta, Advocate
Mr. Sanjay Verma, Advocate for
Mr. Vikrant Verma, Advocate

Mr. Shivendra Swaroop, AAG, Haryana and
Ms. Vibha Tewari, 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. BACKGROUND AND INTRODUCTION:

1.1 Through this judgment, a batch of Regular First Appeals

(details whereof are at 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 on 19.10.2013, by the Reference Court (hereinafter referred to as 'the RC'), shall stand decided.

1.2 The landowners as well as Haryana State Industrial and Infrastructure Development Corporation (hereinafter referred to as 'the HSIIDC') 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') are common. The judgment passed by the RC is same. The learned counsel representing the parties are *ad idem* that these appeals can conveniently be disposed of by a common judgment.

2. RELEVANT PARTICULARS:

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

Date of Notification under Section 4	25.04.2008
Date of Notification under Section 6	09.03.2009
Total land acquired	435K-14M
Village	Fazalwas
District	Gurugram
Purpose	For Ch. Devi Lal Model Township for the development as integrated complex for Industrial Commercial and other public utility.
LAC Award No.20	24.08.2009
Market value assessed by LAC	Rs.30 lacs per acre for all kind of land
Impugned Reference Court Award	15.11.2013
Market Value Assessed by Reference Court	Rs.62,14,421/- per acre.

2.2 The landowners claims that the market value of the acquired land is not less than Rs.5000/- per square yard as a fully developed industrial model township already exists in the area and multinational companies like

Honda Scooters and Motorcycles, Mitsubishi Electricals, Motorola, Minda Industries, Lispo, Riico and Omaxe have already set up their factories or projects in the area. It has also been stated that the office of National Security Guards is located nearby.

3. ORAL AND DOCUMENTARY EVIDENCE:

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

Sr. No.	Exhibit	Particular
1.	PW-1	Sh. Lakshman, Patwari, who produced the revenue layout plan of the village Fazalwas.
2.	PW-2	Sh. Ram Karan, Assistant in the Office of Joint Director, District Industries Centre, Gurugram, has proved Ex.P-1 and Ex.P-2, certificates issued while registering M/s Verma AC Pipes Factory and Anchal Spun Pipe Factory as small scale industries Ex.P-1 and Ex.P-2, respectively.
3.	PW-3	Sh. Ashok Kumar, ARC from the Office of Sub-Registrar, Gurugram, proved sale deeds Ex.P-3 to Ex.P-5.
4.	PW3/A	Sh. Ajay Saini, Patwari, produced Award No.2, dated 21.04.2011, with respect to the acquisition of the land in Village Fazalwas and Award No.20, dated 24.08.2009.
5.	PW4	Sh. Suresh Kumar, Assistant Draftsman from the Office of District Town Planner, Gurugram, produced blueprint of the final development of plan for control area Gurugram-Manesar Urban Complex 2021 AD and 2025 AD, as Ex.P-8 and Ex.P-9, respectively.
6.	PW5	Sh. K.S. Jain is one of the landowners.
7.	PW-6	Sh. Banwari Lal is also one of the landowners.

3.2 On the other hand HSIIDC examined Sh. B.S. Rana, Senior Manager, HSIIDC.

3.3 Besides the sale deeds details of which have been compiled in para 3.5, the landowners have produced the following documentary

evidence:-

Sr. No.	Exhibit	Particular
1.	Ex.P-1	Registration of M/s Verma AC Pipe Factory, dated 01.06.1979, certifying it to be a small scale industry.
2.	Ex.P-2	A similar certificate issued to M/s Anchal Spun Pipes on 06.11.1980.
3.	Ex.P-6	Award No.2, dated 21.04.2011, with respect to the acquisition of the land in Village Fazalwas in respect of notification under Section 4 of the 1894 on 25.04.2008, in order to acquire land measuring 1912 kanals and 17 marlas.
4.	Ex.P-7	Award No.20, dated 24.08.2009.
5.	Ex.P-8	Final development plan for control area Gurugram-Manesar Urban Complex for the year 2021 AD.
6.	Ex.P-9	Final development plan for control area Gurugram-Manesar Urban Complex for the year 2025 AD.
7.	Ex.P-11	Khasra Girdawri
8.	Ex.P-12	Khasra Girdawri
9.	Ex.P-13	Khasra Girdawri
10.	Ex.P-16	Award dated 17.04.2013, passed by the RC assessing market value of the acquired land while issuing notification under Section 4 of the 1894 Act on 13.01.2000, with respect to the land acquired in village Basai at the rate of Rupees Two Crore Ten Lakh per acre.
11.	Ex.P-17	Award dated 30.11.2012, passed by the RC assessing market value of the acquired land while issuing notification under Section 4 of the 1894 Act on 24.06.2008, with respect to the land acquired in village Medawas at the rate of Rupees One Crore Ninety Nine Lakh Eighty Thousand per acre.
12.	Ex.P-18	Award dated 08.01.2013, passed by the RC assessing market value of the acquired land while issuing notification under Section 4 of the 1894 Act on 18.03.2008, with respect to the land acquired in village Hasaru for periphery road at the rate of

		Rupees One Crore Twenty Lakh Fourteen Thousand per acre.
13.	Ex.P-19	Award dated 31.10.2012, passed by the RC assessing market value of the acquired land while issuing notification under Section 4 of the 1894 Act on 25.01.2008, with respect to the land acquired in village Dhanwapur for periphery road at the rate of Rupees One Crore Fifty Five Lakh per acre.
14.	Ex.P20	Copy of jamabandi,
15.	Ex.P22	Copy of jamabandi
16.	Ex.P14	Layout plan
17.	Ex.P15	Layout plan
18.	Ex.PX-1 to Ex.PX-5	Documents to prove that Zeitiline has merged with M/s Viroma Infrastructure Pvt. Ltd.

3.4 On the other hand, HSIIDC has produced the following documentary evidence (apart from the sale deeds, relevant details of which have been compiled in para 3.5):-

Sr. No.	Exhibit	Particular
1.	Ex.R1/X	Judgment of the RC dated 19.10.2013, with respect to the acquisition of the land in village Kukrola from the same acquisition.
2.	Ex.R-2	Award No.20, dated 24.08.2009, with respect to the village Fazalwas.
3.	Ex.R-2	Copy of the proceedings of the Divisional Level Committee for fixation of market value.
4.	Ex.R-3	Rehabilitation and Resettlement Policy of the Government for oustee landlords.

3.5 At this stage, it would be appropriate to draw a tabulated information of the sale deeds produced by the parties:-

Sale Deeds produced by the Landowners

Sr. No.	Vendor	Vendee	Ex.	Date	Area	Sale amount (in Rs.)	Rate per acre (in Rs.)	Khasra Nos./Village
1.	Sh. Satish Nandal s/o Sh.	Rising Reality Pvt.	P-3	04.12.2006	14K-5M	1,78,12,500/-	1 Crore	Khewat No.26 khata No.40,

	Sumer Singh Nandal	Ltd. through Sh. Anil Mahendra						Rect. No.11, Kila No.12/2/2(0-18), 11/3/2 (0-4), 12/1/2/2 (4-14) and 19/2 (3-14), Fazalwas
2.	Sh. Kanwar Sain Jain and Sh. Rajesh Jain both sons of Sh. Ram Singh	M/s Viroma Infrastructure Pvt. Ltd. through its director Mr. Rohit Raj Modi	P-4	13.04.2006	17K-11M	2,19,37,500/-	1 Crore	Khewat/Khata No.21/33, Rect. No.12, Kila No.16/3/2 (2-8), 17/2/1 (1-13), 17/2/2 (6-13) and Khewat/Khata No.122/148, Khasra No.12, Killa No.18/1 (5-7), 19 Min(2-0), Fazalwas
3.	Sh. Shripal Agarwal s/o Sh. Ramdhari Agarwal	Rising Reality Pvt. Ltd. through Sh. Surender Yadav	P-5	07.12.2006	12K-17M	1,66,87,500/-	1,03,89,105/-	Khewat No.24/57, Khata No.38, Rect. No.11, Kila No.8/2/1/2/2 (0-11), 19/1(3-14), 18/2 (6-8), 18/1(1-2), 13/1 (1-2), Fazalwas
4.	Sh. Jitender Kumar & Surender Kumar s/o Sh. Gopi Ram, Ramesh Kumar & Naresh Kumar s/o Sh. Rajender Kumar and Smt. Snehlata & Anju d/o Sh. Rajender Kumar s/o Gopi Ram	Ramesh Devi w/o Sikandar Yadav	P-10	25.07.2008	1K-8M	36,00,000/-	2,05,71,428/-	Khewat/Khata No.44/58, Rect. No.7, Kila No.11/1/2(2-16), Fazalwas

Sale Deeds produced by the Respondents

Sr. No.	Vendor	Vendee	Ex.	Date	Area	Sale amount (in Rs.)	Rate per acre (in Rs.)	Khasra Nos./Village
1.	M/s Flosyin Fragrances Pvt. Ltd. Through authorized signatory Sh. Satpal Singh s/o Sh. Nathu Singh	Sh. Preetam Singh	R-4	20.12.2007	20K-18M	78 lacs	29,85,645/-	Khewat/Khata No.137/167, Rect./Kila No.25//6 (8-0), 14/1(4-18), 15(8-0), Fazalwas
2.	Sh. Satpal Yadav s/o Sh. Nathu Singh	Sh. Randhir Singh s/o Sh. Tek Chand through Ashu Arora	R-5	05.12.2007	1K-6M	4,35,000/-	26,76,923/-	Khewat/Khata No.165/124, Rect. No.27, Kila No.13/2 (1-11), 18 (6-2), Fazalwas

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook as well as the various records of the RC while deciding various reference petitions.

The respective learned counsels have also submitted synopsis along with the gist of their arguments.

5. It may be noted here that there is a separate award passed by the RC on 10.02.2014, in the case filed by Martin and Harris Laboratories and others with respect to a supplementary award passed by the LAC assessing the market value of a structure. The RC has assessed the market value of the structure at the rate of Rupees Three Crore Forty One Lakh Thirteen Thousand.

6. **ARGUMENTS ADDRESSED BY THE RESPECTIVE
COUNSELS:**

6.1 The learned Senior counsels representing the landowners very ably assisted by the other counsels have contended that the RC has erred in ignoring the sale deed Ex.P-3 and Ex.P-4, with respect to 14 kanals 5 marlas and 17 kanals 11 marlas of the land, respectively. It has been contended that out of the land measuring 14 kanals 5 marlas vide Ex.P-3 on 04.12.2006, the land comprised in Rectangle No.11, Killa No.12/2/2, 11/3/2 and 12/1/2/2, has been acquired. Similarly, out of the land measuring 17 kanals 11 marlas purchased by Viroma Infrastructure Pvt. Ltd. vide Ex.P-4 dated 13.04.2006, the land comprised in Rectangle No.12, Killa No.16/3/2 and 17/2/1, has been acquired.

6.2 It has been pointed out that the price in the area was much more than the amount awarded by the RC. They further contend that the RC has wrongly applied development cut of 30% while assessing the market value of the land in village Kukrola which has been relied upon to assess the market value of the acquired land in village Fazalwas.

6.3 Per contra, the learned counsel representing the HSIIDC, while drawing the attention of the Court to sale deeds (Ex.R-4 dated 20.12.2007) and (Ex.R-5 dated 05.12.2007), with respect to 20 kanals 18 marlas and 1 kanal 6 marlas of the land comprised in Rectangle No.25 and 27, respectively, contends that the market value assessed by RC is more than the market value prevailing on the relevant date.

7. DISCUSSION:

7.1 No doubt, the RC erred in ignoring the sale instances Ex.R-4 and Ex.R-5, which reflect a price lower than the amount assessed by the LAC, however, the aforesaid finding is given on account of misreading of Section 25 of the 1894 Act. It is well settled that the exemplar sale deeds produced in evidence reflecting a price lower than the amount assessed by the LAC are required to be taken into account while assessing the market value, however, the RC cannot determine an amount which is lower than the amount assessed by the LAC. This matter is no longer *res integra* in view the judgment passed in **Lal Chand Vs. Union of India, 2009(15) SCC 769.**

7.2 Foremost, the Court proceeds to carefully examine the layout plan produced by the parties Ex.P-14 and Ex.P-15. It is evident that the acquired land is located near the proposed four-legged intersection between Kundli-Manesar-Palwal Expressway (hereinafter referred to as 'the KMP Expressway') and NH-8 (Delhi-Jaipur Road). In fact, as per the findings arrived at by the RC, KMP Expressway was not developed on the date of notification under Section 4 of the 1894 Act i.e. 25.04.2008, although, the land for constructing KMP Expressway had already been acquired and the proposal to construct four legged intersection had been planned before

25.04.2008. Some part of the land in village Fazalwas abuts NH-8. On a comparative analysis of sale deed Ex.P-3 and P-4, it is evident that this is with respect to parcels of land located on the NH-8. Through Ex.P-3, Rising Realty Pvt. Ltd. has purchased the land, whereas, through Ex.P-4 M/s Viroma Infrastructure Pvt. Ltd. has purchased the land. Ex.P-5 is also a plot purchased by Rising Realty Pvt. Ltd., Whereas, Ex.R-4, is with respect to the land comprised in Rectangle No.28, which, though, is not a part of the acquired land, however, located in the village Fazalwas. Some part of the land comprised in Rectangle No.25 and 27 has been acquired. On careful examination of the award, it is evident that the acquired land does not cover upto the land comprised in Rectangle No.23. However, the acquired land located in Rectangle No.25, is not far away from the land located in Rectangle No.23.

7.3 From the perusal of the various layout plans along with the various exemplar sale deeds produced by the respective parties, it is evident that the land abutting NH-8 has fetched a higher market price as compared to the land which is located in the interiors i.e. far away from the NH-8. This fact stands proved from comparative analysis of exemplar sale deeds Ex.P-3, P-4, P-5 and Ex.R-4. In fact, Ex.R-4, is a sale instance dated 20.12.2007, which is just four months before the date of the notification under Section 4 of the 1894 Act, in the present case.

7.4 The RC has committed an error in ignoring the sale instance Ex.P-3 and Ex.P-4, on the ground that these are with respect to small parcels of land. The land measuring 17 kanals 11 marlas, which is more than 2 acres of land has been sold by sale deed Ex.P-4. The total acquisition of the land

in village Fazalwas is around 55 acres. Hence, the parcel of land measuring more than 2 acres cannot be stated to be small. However, at the same time, the Court cannot ignore the fact that the aforesaid parcels of land are located on the NH-8.

7.5 Keeping in view the aforesaid facts, the land upto the depth of 5 acres from the NH-8 is required to be assessed separately. The Ex.P-4 is dated 13.04.2006. There is a gap of nearly 2 years between Ex.P-4 and the date of notification under Section 4 of the 1894 (25.04.2008). It is evident that on account of acquisition of the land for KMP Expressway, the prices of the land started increasing. Thus, it is safe to assume that the prices increased by 10% cumulatively.

7.6 Accordingly, the amount is assessed at Rupees One Crore Twenty One Lakh per acre, upto the depth of 5 acres from the NH-8. However, there is no evidence to prove that the market value of the land, beyond the depth of 5 acres from the NH-8, was also the same. In fact, the sale deed Ex.R-4, which is with respect to more than two and half acres of land, establishes that the market value prevailing at the relevant time was Rs.30,00,000/- per acre. Though, the aforesaid parcel of the land is not a part of the acquisition, however, it is located nearby. Ex.R-4, also, cannot be entirely relied upon because the land has been acquired after the KMP Expressway has been planned. Accordingly, the price is bound to increase. Further, the HSIIDC has not filed any appeal. In these circumstances, the amount assessed by the RC with respect to remaining land beyond the depth of 5 acres is maintained at the rate of Rs. 62,14,421/-.

7.7 On a careful perusal of the various layout plans, produced by

the respective parties, it is evident that the acquired land is not in a compact block. The acquired land in villages Fazalwas and Kukrola is located alongside the existing NH-8. Whereas, the acquired land located in village Baslambi, Kharkhari, Mokalwas, Fakharpur is located at a distance from NH-8. The land of these villages would come on the road once the construction of KMP Expressway is completed. Hence, the market value of the acquired land cannot be assessed uniformly for all the villages, particularly when there is evidence to the effect that the market value of land located alongside the NH-8 is more than the land in the interiors. Hence, it was considered appropriate to decide the cases village wise.

7.8. As regards the evidence produced by the landowners while relying upon the various awards passed by the RC with respect to the acquisition of land in village Hasaru, Dhanwapur and assessment made by the Court with respect to village Fazalwas, Basai and Medawas, the same are not considered relevant because there is no evidence to prove the comparative location of the acquired land in the aforesaid cases viz-a-viz the acquired land in the present case.

7.9 Further, the learned counsel representing the parties have failed to address any convincing argument with regard to enhancement of the compensation for structure awarded in favour of Martin and Harris Laboratories Pvt. Ltd.

8. DECISION:

8.1 Keeping in view the aforesaid discussion, the market value of the acquired land upto the depth of 5 acres on both sides of the NH-8 (Delhi-Jaipur Road) is assessed at the rate of Rupees One Crore Twenty One Lakhs

per acre, whereas, the amount assessed by the RC with respect to the remaining land located beyond the depth of 5 acres is maintained.

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

30th May, 2022

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

Sr. No.	Case No.	Party Name
1.	RFA-4961-2015	HSIIDC V/S KRISHAN KUMAR AND ORS.
2.	RFA-3389-2014	GOPALA AGRI FARMS PVT LTD V/S STATE OF HARYANA & ORS
3.	RFA-4436-2014	KANWAR SAIN JAIN & ANR V/S STATE OF HARYANA & ORS
4.	RFA-4437-2014	KANWAR SAIN JAIN & ANR V/S STATE OF HARYANA & ORS
5.	RFA-4639-2014	SONA DEVI V/S STATE OF HARYANA & ORS
6.	RFA-5288-2014	RAM RATTAN AND ORS V/S STATE OF HARYANA AND ORS
7.	RFA-3811-2015	HSIIDC V/S SMT. RUKKAMNI DEVI & ORS
8.	RFA-1608-2014	SUNDER LAL GARG AND OTHERS V/S STATE OF HARYANA AND OTHERS
9.	RFA-1734-2017	MARTIN & HARRIS LAB LTD & ORS V/S STATE OF HARYANA & ORS
10.	RFA-6574-2014	SURESH AND ORS V/S STATE OF HARYANA & ORS
11.	RFA-2450-2014	SMT. SANTOSH DEVI V/S STATE OF HARYANA AND ORS
12.	RFA-2286-2014	GEETA DEVI V/S STATE OF HARYANA & ORS
13.	RFA-2285-2014	RAVINDER KUMAR YADAV AND ANRS V/S STATE OF HARYANA & ORS
14.	RFA-7969-2014	M/S ZEITLINE SOFTWARE PVT LTD V/S

		STATE OF HARYANA & ORS
15.	RFA-2280-2018	HSIIDC V/S RAVINDER KUMAR YADAV AND ORS
16.	RFA-2279-2018	HSIIDC V/S LAL CHAND AND ORS
17.	RFA-7102-2015	RADHEY SHAM V/S STATE OF HARYANA & ORS
18.	RFA-3805-2015	HSIIDC V/S M/S ZEITLINE SOFTWARE PVT LTD & ORS
19.	RFA-2980-2016	SMT. PREM DEVI & ORS V/S STATE OF HARYANA & ORS
20.	RFA-3810-2015	HSIIDC UDYOG VIHAR V/S BANWARI LAL AND ORS
21.	RFA-3809-2015	HSIIDC V/S SOMA DEVI & ORS
22.	RFA-3804-2015	HSIIDC V/S BANWARI LAL & ORS
23.	RFA-3806-2015	HSIIDC UDYOG VIHAR V/S RADHEY SHAM AND ORS
24.	RFA-3802-2015	HSIIDC V/S SURESH & ORS
25.	RFA-3803-2015	HSIIDC V/S GOPALA AGRI FARMS PVT LTD & ORS
26.	RFA-3807-2015	HSIIDC V/S KANWAR LAL & ORS
27.	RFA-3808-2015	HSIIDC UDYOG VIHAR V/S SMT. PREM DEVI AND ORS
28.	RFA-3801-2015	HSIIDC V/S BISHAMBER & ORS
29.	RFA-6065-2015	LAL CHAND AND ORS V/S STATE OF HARYANA AND ORS
30.	RFA-2449-2014	DEVENDER AND ANR V/S STATE OF HARYANA AND ORS
31.	RFA-2175-2015	BANWARI LAL AND ORS V/S STATE OF HARYANA AND ORS
32.	RFA-3725-2015	HSIIDC V/S RAMESHWAR AND ORS

33.	RFA-128-2015	YORK OIL & FATS LTD V/S STATE OF HARYANA & ORS
34.	RFA-8785-2014	JHABAR SINGH AND OTHERS V/S STATE OF HARYANA AND OTHERS
35.	RFA-4329-2014	SMT. RUKKAMNI DEVI AND ANR V/S STATE OF HARYANA & ORS
36.	RFA-1492-2015	SHANTI DEVI AND ORS V/S STATE OF HARYANA AND ORS
37.	RFA-5555-2014	RAM KRISHAN V/S STATE OF HARYANA & ORS
38.	RFA-3766-2015	HSI IDC V/S SHANTI DEVI & ORS
39.	RFA-3768-2015	HSI IDC V/S YORK OIL & FATS LTD & ORS
40.	RFA-3724-2015	HSI IDC V/S RAM KISHAN AND ANR
41.	RFA-3767-2015	HSI IDC V/S SANTOSH DEVI & ORS
42.	RFA-3765-2015	HSI IDC V/S GEETA DEVI & ORS
43.	RFA-3787-2015	HSI IDC UDYOG VIHAR V/S DEVENDER AND ORS
44.	RFA-3786-2015	HSI IDC UDYOG VIHAR V/S MARTIN AND HARRIS LABORATORY AND ORS
45.	RFA-3726-2015	HSI IDC V/S JHABAR SINGH AND ORS
46.	RFA-3723-2015	HSI IDC V/S ISHWAR AND ANR
47.	RFA-3727-2015	HSI IDC V/S SUNDER LAL AND ORS

**(ANIL KSHETARPAL)
JUDGE**