

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-4900-2016 (O&M)
Reserved on: 21.11.2022
Date of decision: 07.12.2022

STATE OF HARYANA AND ORS.

..Appellants

Versus

SAT PARKASH AND ANR.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shivendra Swaroop, AAG, Haryana.

Mr. J.P. Sharma, Advocate
Mr. Kunal Mulwani, Advocate
Mr. Aditya Sanghi, Advocate
Mr. Shaveta Sanghi, Advocate
for the landowners.

ANIL KSHETARPAL, J.

1. Introduction and background:

1.1 While praying for modification of the market value assessed in the award passed by the Reference Court (hereinafter referred to as 'the RC') on account of compulsory acquisition of land, the State of Haryana as well as the landowners have filed this batch of appeals (details whereof are at the foot of the judgment). The notification under Section 4, 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 RC, are common. The learned counsel representing the parties are *ad idem* that this batch of appeals can conveniently be disposed of by a common judgment.

1.2 The relevant particulars of this batch of appeals are as under:

Sr. No.	Particulars	Relevant Date
1.	Preliminary notification under Section 4 of the 1894 Act	08.02.2011
2.	Area of land	28 kanals 11 marlas
3.	Location of land	Village Thanwas
4.	Purpose of acquisition	Widening of existing road in village Thanwas
5.	Number and date of LAC award	Award No.2 dated 29.11.2011
6.	Amount assessed by the LAC	The LAC offered to pay the market value of the acquired land measuring 28 kanals and 11 marlas at the rate of Rs.20,00,000/- per acre along with all the statutory benefits.
7.	Date of RC's award	16.09.2016
8.	Amount assessed by the RC	The RC assessed the market value of the acquired land at the rate of Rs.60,47,058/- per acre.

FACTS:

1.3 Dissatisfied with the amount offered by the LAC, on the applications filed by the landowners under Section 18 of the 1894 Act, the cases were referred to the RC for assessing the market value of the acquired land. The landowners claimed that they had installed a fuel station after constructing a boundary wall, two rooms, a well and a passage. It is claimed that the acquired land has compulsorily been acquired for commercial purposes and the market value of the acquired land was not less than Rs.50,00,000/- per sq. yard on the relevant date.

1.4 On the other hand, while contesting the petitions, the State of Haryana claim that the LAC, after taking into consideration all the prevailing facts and circumstances, has offered a just, fair, reasonable and

adequate market value.

1.5 The RC, on appreciation of the pleadings, culled out the following issues:-

- “1. What was the market value of the acquired land on the date of publication of notification under Section4 of the Land Acquisition Act, 1894? OPP
2. Whether the petitioners are entitled to any enhanced compensation. If so. At what rate? OPP
3. Whether the petitioners are entitled to interest at what rate and from the date of possession? OPP
4. Relief.”

2. **Evidence produced by the parties:**

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

PW-1	Sh. Krishan Kumar
PW-2	Sh. Sat Prakash
PW-3	Sh. Bipin Kumar

2.2 In documentary evidence, the landowners produced the following evidence in support of their case apart from the sale deeds, a tabulated compilation of which is given in para 4.2:-

Ex.P-1	Bank Statement
Ex.P-2	Copy of cheque
Ex.P-3	Form Vat-GI
Ex.P-4	Form B
Ex.P-5	Receipt
Ex.P-6	Tax Invoice
Ex.P-7	Aks-shijra
Ex.P-8 & P-9	Copy of Khata
Ex.P-10 to P-12	Copies of sale deeds
Ex.P-13	Copy of proposed retail outlet
Ex.P-14	Receipt
Ex.P-15	Documents (Receipts)
Ex.P-16	Copy of order

<i>Ex.P-17 & P-18</i>	<i>Form Vat-C4</i>
<i>Ex.P-19 to P-21</i>	<i>Copies of letter</i>
<i>Ex.P-22</i>	<i>Copy of field investigation report</i>
<i>Ex.P-23</i>	<i>Copy of tax invoice</i>
<i>Ex.P-24</i>	<i>Copy of delivery challan</i>
<i>Ex.P25</i>	<i>Copy of mutation</i>

2.3 On the other hand, the State of Haryana did not lead any oral evidence.

2.4 In documentary evidence, the State of Haryana produced the following documents apart from the sale deeds, a tabulated compilation of which is given in para 4.2:-

<i>Ex.R-1</i>	<i>copy of sale deeds</i>
<i>Ex.R-2</i>	<i>copy of aks-shijra</i>

3 The RC, after relying upon the sale deed bearing No.684 dated 20.10.2010 (Ex.P-1), assessed the market value of the acquired land by applying 50% development cut on Rs.1,20,94,117/- per acre. Thus, the RC held that the landowners are entitled to Rs.60,47,058/- per acre.

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 lower Court record, which was requisitioned.

4.2 At this stage, it is considered appropriate to compile the complete information in respect of various sale deeds produced by the parties a tabulated form, in order to have a bird's eye view of the matter, which is as follows:-

SALE DEED PRODUCED BY THE LANDOWNERS							
Sr. No.	Exhibit Nos.	Sale Deed No.	Date	Total Area	Amount (in Rs.)	Amount Per Acre (in Rs.)	Village
1	P-10	184	31.05.2010	1 Marla	75,000/-	1,20,00,000/-	Thanwas
2	P-11	684	20.10.2010	510 sq. yard	12,85,000/-	1,21,94,902/-	Thanwas
SALE DEED PRODUCED BY THE STATE							
1	R-1	375	19.07.2010	4 Acre 4 kanal	70,00,000/-	15,55,556/-	Thanwas

4.3 On the one hand, the learned counsel representing the landowners submits that the RC has erred in applying 50% development cut particularly when the land is sought to be acquired for widening of an existing road. It has been contended that 50% cut is excessive and in fact, no cut should be applied because a narrow strip of land, having road on both of its sides, has been acquired which is itself commercial in nature.

4.4 Per contra, the learned counsel representing the State of Haryana contends that the RC has erred in not even discussing the sale deed produced by the State.

4.5 While analysing the arguments of the learned counsels representing the parties, it may be noted that as per the record, only one application for referring the matter to the RC was filed.

4.6 The landowners have relied upon two sale deeds Ex.P-10 and Ex.P-11. The sale deed Ex.P-10 bearing No.184 is with respect to 1 marla of plot for running a shop. The total area is around 30 sq. yards. Hence, the aforesaid sale instance is not comparable with the acquired land. The sale deed Ex.P-11 bearing No.684 is again with respect to 510 sq. yard residential plot. On a careful perusal of the sale deed Ex.P-11, it is evident that 510 sq. yards of residential plot which has been sold at the rate of Rs.12,85,000/-. Hence, the aforesaid sale instance is also not comparable.

On the other hand, the State of Haryana has produced a sale deed Ex.R-1

bearing No.375 dated 19.07.2010. From a bare perusal of the layout plan Ex.R-2 produced by the State of Haryana, it is evident that four and a half (4 ½) acres of land abutting the acquired land on the Southern side has been sold at the rate of Rs.15,55,520/- per acre. The landowners have not produced any evidence to prove that the aforesaid sale instance is either undervalued or is not comparable with the acquired land. In fact, this sale instance is only 6 month's prior to the date of notification under Section 4 of the 1894 Act. This is a sufficiently big parcel of land. In fact, the area of land covered in Ex.R-1 is more than the acquired land in the present case.

4.7 The RC has committed an error in overlooking the sale deed Ex.R-1. Other than merely noting that a sale deed has been produced in evidence by the State, the RC has failed to discuss or analyse the same. The RC has also committed an error in relying upon a sale deed of a residential plot without properly examining the same.

4.8 The attention of the Court has not been drawn to any other evidence to prove that the price offered by the LAC was not adequate.

4.9 It may be noted here that the landowners have admitted that they purchased 6 kanals and 3 marlas of land for Rs.1,25,000/- in the year 2003. Out of the aforesaid land measuring 6 kanals and 3 marlas, only 1 kanal and 13 marlas of land has been acquired by the State for widening the road. There is no evidence to prove that with the acquisition of a narrow strip of land measuring 1 kanal and 13 marlas, the working of the fuel station has been adversely impacted.

5. **Decision:**

5.1 Hence, the conclusion is inevitable. The award passed by the

RC is set aside and the LAC's award is upheld.

5.2 Consequently, the appeals filed by the State are allowed and the appeals of the landowners are dismissed.

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

07th December, 2022

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No

SR. NO.	CASE NO.	PARTIES DETAILS
1.	RFA-4900-201	STATE OF HARYANA AND ORS V/S SATPARKASH AND ANR.
2.	RFA-1264-2017	SATPARKASH AND ANR. VS STATE OF HARYANA AND ORS

(ANIL KSHETARPAL)
JUDGE