

In the High Court of Punjab and Haryana, at Chandigarh

**Regular First Appeal No. 6777 of 2014 (O&M)
And Other Connected Cases**

**Date of Decision: 16.12.2022
Reserved on: 30.11.2022**

State of Haryana and Others

... Appellant(s)

Versus

Prabha Rani (Since Deceased) through her Legal Representatives

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana, for the appellant(s).

Mr. Neeraj Gupta, Advocate
for the appellant(s) (In RFA-8939-2014, RFA-8940-2014,
RFA-8941-2014, RFA-8942-2014, RFA-8943-2014 and
RFA-8944-2014).

Mr. Amit Jain, Senior Advocate
with Mr. Varun Parkash, Advocate
for the respondent (In RFA-8939-2014, RFA-8940-2014,
RFA-8942-2014 and RFA-8944-2014).

Anil Kshetarpal, J.

1. Introduction and Background

1.1 While praying for the modification of the market value of the acquired land assessed in the Reference Court's (hereinafter referred to as "the RC") award dated 06.03.2014, the landowners as well as the State of Haryana 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 the 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 the acquisition for the purpose of deciding this batch of appeals, in brief, are as under:-

S.NO.	TITLE	DETAILS
1.	Date of Notification under Section 4 of the 1894 Act.	02.12.2002
2.	Date of Notification under Section 6 of the 1894 Act.	05.11.2003
3.	Purpose of Acquisition.	For the construction of Police Lines and staff quarters.
4.	Location, area and nature of the acquired land	The acquired land is located in village Patti Kayasth Seth, Tehsil and District Kaithal.
5.	Number and Date of the Award of the Land Acquisition Collector.	Vide Award No. 02 dated 17.11.2005, the LAC has acquired the land measuring 55 acres, 7 kanals and 11 marlas located in village Patti Kayasth Seth, Tehsil and District Kaithal.
6.	Amount assessed by the Land Acquisition Collector.	The LAC has offered to pay the market value of the acquired land located in village Patti Kayasth Seth, Tehsil and District Kaithal @ ₹5,00,000/- per acre along with all the statutory benefits. The acquired land is comprised in rectangle No. 120//21, 2/2, 21/12/1, 135//1/2,2, 3/2, 8,9, 10, 11, 12, 9, 20/1, 22/1, 1/11, 15, 16, 23, 24, 25, 13, 14, 18, 10, 22/2, 136//4/3/1, 7/2, 14/1, 17/1, 24/2, 143//6/2, 15/2, 16/2/2, 6/1, 5, 21, 22, 23, 24, 144//2,3,4,5,6,7,8,9,11, 12,13,14, 15, 20/1, 25, 26, 20/2, 1/2, 10,154//1,2,3,4,9/1,10/1, 155/5/3, 6/1.
7.	Date of the judgment of the Reference Court.	30.04.2008

S.NO.	TITLE	DETAILS
8.	Amount determined by the Reference Court.	In the first round, the RC has assessed the market value @ ₹ 350/- per square yards, which comes to ₹ 16,94,000/- per acre. However, vide judgment dated 10.11.2013 passed in Regular First Appeal No. 3406 of 2008 and other connected cases, the High Court set aside the RC’s award dated 30.04.2008 while remitting the case back to the RC for deciding afresh.
9.	Date of re-decision of the RC and the amount re-assessed, after remand.	Vide award dated 06.03.2014, the RC has assessed the market value @ ₹977/- per square yards which is equivalent to ₹47,28,680/- per acre.

1.3 Not satisfied with the amount offered by the Land Acquisition Collector (hereinafter referred to as “the LAC”), on the applications of the landowners, the cases were referred to the Reference Court (hereinafter referred to as “RC”) for the re-assessment of the market value of the acquired land.

2. **Facts**

- 2.1 The landowners claim that the acquired land is adjacent to the State Highway and the minimum market price of the land at the relevant time was not less than ₹2,00,00,000/- per acre. While claiming that the acquired land is located near a rice mill and a poultry farm, the landowners claim that the land is having the potentiality is to be used for the commercial purpose. The compensation has also been claimed for the fruit bearing as well as the other trees.
- 2.2 On the other hand, the State of Haryana has claimed that the amount assessed by the LAC is fair, proper, adequate and reasonable.

3. **Evidence Produced by the Respective Parties**

3.1 In the oral evidence, the landowners, have examined the

following witnesses:-

Sr. No.	Name of the Witness	Particulars of the Witness
1.	PW.1 Yogesh Kumar	--
2.	PW.2 Megha Ram	--
3.	PW.3 Raj Kumar Sharma	--
4.	PW.4 Ramphal Singh	Patwari
5.	PW.5 Lakhi Ram	Clerk
6.	PW.6 Krishan Lal	Patwari
7.	PW.7 Jagdish Rai	--
8.	PW.8 Surender Kumar	--
9.	PW.9 Roshan Lal	--
10.	PW.9 Joginder Grover (Wrong mentioned as PW.9)	--
11.	PW.10 Mangat Ram	Retired SDO
12.	PW.11 Rakesh Kumar Dhiman	Draftsman
13.	PW.12 Birbal Sharma	--
14.	PW.13 Rajinder Shah	--
15.	PW.14 Krishan Kumar	--
16.	PW.15 Joginder Grover	Photographer
17.	PW.16 Yogesh Kumar Dhiman	Civil Engineer

3.2 In documentary evidence, the landowners have produced the following documents, apart from the copies of the sale deeds, detail whereof has been given in the table in para 3.5 of the judgment:-

Sr. No.	Exhibit Number	Description of the document
1.	Ex.P1	Site plan dated 09.07.2007
2.	Ex.P2	Site plan
3.	Ex.P3	Site plan dated 17.02.2004
4.	Ex.P4	Valuation Report
5.	Ex.P5	Site plan
6.	Ex.P6	Copy of notification
7.	Ex.P7	Copy of notification
8.	Ex.P8, Ex.P9 & Ex.P10	Copies of rapat roznamcha
9.	Ex.P11	Notification of allotment of plot
10.	Ex.P12	Collector’s rate
11.	Ex.P13	Copy of award
12.	Ex.P14	Site plan
13.	Ex.P15	Poultry loan proposal

Sr. No.	Exhibit Number	Description of the document
14.	Ex.P16	Site plan
15.	Ex.P17 to 53	Photographs
16.	Ex.P54	Bio-data
17.	Ex.P55	Valuation report
18.	Ex.P55/A to P55/H	Costs of buildings/letters
19.	Ex.P56	Report
20.	Ex.P57	Copy of fixation of floor rates

3.3 In the oral evidence, the State of Haryana, in oral evidence, have examined RW.1-Sh.Birbal Sharma and RW.2 Sh.Ramphal Singh, Patwari.

3.4 In the documentary evidence, the State of Haryana has tendered a copy of award as Ex.R5, apart from the copies of the sale deeds, detail whereof has been given in the table in para 3.5 of the judgment.

4. Discussion and Analysis by this Court

4.1 On the one hand, the RC has failed to discuss the sale instances produced by the State of Haryana, whereas, on the other hand observed that the RC’s previous award (Ex.PA) with respect to the acquisition of the land vide preliminary notification under Section 4 of the 1894 Act, dated 30.06.2006 cannot be relied upon to assess the market value of the acquired land. Thereafter, the RC has held that mean value of the price reflected in the sale instances (Ex.PB and Ex.P59) and the Collector’s rates (Ex.P12) to assess the market value of the acquired land is @ ₹977/- per square yard.

4.2 Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book along with the requisitioned record.

4.3 At this stage, it would be appropriate to draw a tabulated

compilation of the sale deeds produced by the respective parties in support of their respective cases:-

<i>Sr. No.</i>	<i>Exhibit No.</i>	<i>Sale Deed No.</i>	<i>Dated</i>	<i>Area</i>	<i>Amount (In ₹)</i>	<i>Name of Village</i>	<i>Rate Per acre (In ₹)</i>
1.	PB	320	27.04.2000	1K-15M	4,60,000	Patti Kaith Seth	24,53,333
2.	P59	606	19.05.1992	1K-15M1 k-10m	1,74,000	Patti Kaith Seth	7,95,428
3.	R1	649	07.05.2002	8K-8M	3,29,500	Patti Kaith Seth	3,13,809
4.	R2	5887	17.01.2002	7K-10.50 M	2,82,500	Patti Kaith Seth	3,00,332
5.	R3	3006	15.11.2002	28K-6M	12,38,125	Patti Kaith Seth	3,50,000
6.	R4	3009	15.11.2002	11K-7M	4,97,000	Patti Kaith Seth	3,50,308

4.4 The learned senior counsel representing the landowners has filed the written submissions. It has been pointed out that the location of the acquired land was within the municipal limits and the sale instance (Ex.PB) bearing No. 320 is with respect to the adjoining land. Hence, the RC should have calculated the market value of the acquired land after giving the cumulative escalation of 12% per annum for a period of two years and eight months. It is also claimed that the RC should have relied upon the assessment of the market value by the nationalized bank @ ₹70,00,000/- per acre on 23.03.2002. The learned counsel has also relied upon the RC’s award (Ex.PA).

4.5 On the other hand, the learned counsel representing the State of Haryana has submitted that the RC has committed a material error in overlooking the sale instances produced by the State of Haryana. He submits that the sale instance dated 15.11.2002 (Ex.R3) bearing No. 3006 is with

respect to the acquired land. He submits that the parcel of land measuring more than 3½ acres (28 kanals and 6 marlas) has been sold @ ₹3,50,000/- per acre. Whereas the RC has assessed the market value of the acquired land after a period of 17 days from the sale deed ₹47,28,680/- per acre.

4.6 This Court has analyzed the arguments of the learned counsel representing the parties. The RC has committed a patent error in overlooking the sale deeds (Ex.R1 to Ex.R4).

4.7 It is evident that the acquired land is comprised in rectangle No.120, 135, 136, 143, 144, 154 and 155. In terms of the agricultural land, the word “rectangle” denotes 25 acres of rectangular compact block of land. Symbol “//” denotes rectangle. The sale deed Ex.R3 (bearing No. 3006) with respect to the land comprised in rectangle No.135, 144, 145 and 153 is just 17 days before the date of notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “the 1894 Act”) in the present case. Thus, a major part of the property sold through the Ex.R3 is the subject matter of the acquisition. It is evident that the land comprised in killa No. 14/1, 17/1, 18, 22/2, 15, 16, 23, 24, 25 of rectangle No. 35 which was purchased vide sale deed (Ex.R3) was acquired by the Government. Similarly, the land comprised in rectangle No. 144, killa No. 2, 3,4, 5, 6, 7, 8, 9, 11, 12 and 20/1 has also been acquired. Keeping in view the aforesaid facts, it is evident that the RC has committed a blunder in overlooking the sale instance (Ex.R3). The acquired land purchased @ ₹3,50,000/- per acre 17 days before the date of notification under Section 4 of the 1894 Act by the vendees, has been assessed @ ₹47,38,640/- per acre by increasing the

₹12,38,125/- after a period of 17 days, has been assessed @ ₹1,67,62,939/- by the RC besides the amount of solatium @ 30%. The vendees, after purchasing the land on 15.11.2002 @ ₹3,50,000/- per acre by sale deed (Ex.R3) have been held entitled to ₹47,38,640/- per acre after a period of 17 days thereafter.

4.8 The sale instance (Ex.PB) is with respect to the land comprised in rectangle No. 119, khasra No. 3/2, 4, 7, and 8. This is not a part of the acquired land. Since the sale instance (Ex.R3) has been produced, hence, the sale deed (Ex.PB) with respect to a smaller parcel of land cannot be preferred. The sale deed bearing No. 606 (Ex.P59) is with respect to the period more than ten years before the date of notification under Section 4 of the 1894 Act, hence, not worth reliance. This is also with respect to the land comprised in rectangle No. 119. It is also with respect to a smaller parcel of land as compared to the acquired land.

4.9 The landowners have also relied upon the assessment of the market value in RC's award (Ex.PA) with respect to notification under Section 4 of the 1894 Act dated 30.06.2006. This is with respect to the period nearly 3½ years post the date of notification i.e. 02.12.2002. Moreover, the RC's judgment is not final as the appeal is stated to be pending. The landowners have also relied upon the RC's award (Ex.P13) with respect to the notification under Section 4 of the 1894 Act issued on 09.08.2002 assessing the market value of the acquired land @ ₹350/- per square yard. This is also with respect to the period post the date of notification under Section 4 of the 1894 Act. The notifications under Section 4 of the 1894 Act in both the cases are different. Therefore, it would

not be safe to rely upon the same particularly when the sale instance (Ex.R3) with respect to the acquired land has been produced in the evidence. The State of Haryana has also relied upon the RC's award dated 14.05.2009 with respect to the acquisition of the land under Section 4 of the 1894 Act on 09.08.2002, assessing the market value of the acquired land @ ₹280/- per square yard. In view of the sale instance (Ex.R2) bearing No. 5887 it would not be safe to rely upon the RC's award (Ex.RA).

4.10 For assessing the market value of the acquired land, the Court is required to look for the best sale exemplar which is with respect to the comparable parcel of land during the contemporaneous period. In this case, the RC has committed an error in failing to locate the aforesaid sale instance.

4.11 It would be noted here that the landowners have not led any evidence to prove that the sale instance (Ex.R3) was not a genuine transaction or it was under-priced. Moreover, the sale instances (Ex.R1 (bearing No. 649), Ex.R2 (bearing No. 5887) and Ex.R4 (bearing No. 3009) consistently prove that the land was being sold nearly ₹3,50,000/- per acre in the said area. It would be noted here that the landowners claim that a poultry farm was running in the area. A poultry farm is normally located out of the city because of the foul smell it generates.

5. Decision

5.1 Keeping in view the aforesaid facts, this Court is left with no choice but to set aside the award passed by the RC. The appeals filed by the State of Haryana shall stand allowed, whereas, that of the landowners shall stand dismissed.

5.2 The miscellaneous application(s) pending, if any, in all the appeals, shall stand disposed of.

(Anil Kshetarpal)
Judge

December 16, 2022
“DK”

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No

Sr. No.	Case No.	Party’s Name
1.	RFA-6778-2014	State Of Haryana And Ors V/S Bhagat Ram
2.	RFA-6779-2014	State Of Haryana & Anr V/S Smt. Dhan Pati
3.	RFA-6780-2014	State Of Haryana & Anr V/S Smt. Shanti Devi
4.	RFA-6781-2014	State Of Haryana & Anr V/S Bhag Singh
5.	RFA-6782-2014	State Of Haryana And Ors V/S Ajay Kumar
6.	RFA-6783-2014	State Of Haryana And Anr V/S Sunehra
7.	RFA-6784-2014	State Of Haryana And Ors V/S Surender Kumar And Anr
8.	RFA-6785-2014	State Of Haryana And Ors V/S Roop Chand And Ors Substituted By Smt. Krishna Wanti Through Her Lrs
9.	RFA-6786-2014	State Of Haryana And Anr V/S Smt. Om Pati
10.	RFA-6787-2014	State Of Haryana And Anr V/S Ramdhari
11.	RFA-6788-2014	State Of Haryana And Anr V/S Dharma
12.	RFA-6789-2014	State Of Haryana And Ors V/S Veena Rani Subsited By Smt. Krishna Wanti Thr. Her Lrs
13.	RFA-6790-2014	State Of Haryana And Ors V/S Pawan Kumar
14.	RFA-6791-2014	State Of Haryana And Anr V/S Ishwar
15.	RFA-6792-2014	State Of Haryana And Ors V/S Krishana Wanti Through Her Lrs
16.	RFA-6793-2014	State Of Haryana And Ors V/S Pankaj Kumar
17.	RFA-6794-2014	State Of Haryana And Ors V/S Satish Kumar
18.	RFA-6795-2014	State Of Haryana And Ors V/S Subhash Chand
19.	RFA-6797-2014	State Of Haryana And Ors V/S Sanjeev Kumar
20.	RFA-6077-2014	Dhanpati Thr. Gpa V/S State Of Haryana And Anr.
21.	RFA-6078-2014	Bhag Singh V/S State Of Haryana And Anr
22.	RFA-6079-2014	Ishwar V/S State Of Haryana And Anr
23.	RFA-6080-2014	Sunehra V/S State Of Haryana And Anr
24.	RFA-6081-2014	Om Pati Thr. Gpa V/S State Of Haryana And Anr
25.	RFA-6082-2014	Ramdhari V/S State Of Haryana And Anr
26.	RFA-6798-2014	State Of Haryana And Ors V/S Sheela Devi
27.	RFA-6799-2014	State Of Haryana And Ors V/S Naranjan Dass

Sr. No.	Case No.	Party’s Name
28.	RFA-9747-2014	Sunehra And Ors V/S State Of Haryana & Anr
29.	RFA-6800-2014	State Of Haryana And Ors V/S Vikash Nagpal
30.	RFA-7220-2014	Dharma V/S State Of Haryana And Anr
31.	RFA-8939-2014	Smt. Krishana Wanti Thr. Her Lrs V/S State Of Haryana & Ors
32.	RFA-8940-2014	Smt. Krishna Wanti Thr. Her Lrs & Ors V/S State Of Haryana & Ors
33.	RFA-8941-2014	Pawan Kumar V/S Financial Commissioner And Secretary And Ors
34.	RFA-8942-2014	Smt. Krishana Wanti Thr. Her Lrs V/S State Of Haryana & Ors
35.	RFA-8943-2014	Bhagat Ram V/S Financial Commissioner And Secretary And Ors
36.	RFA-8944-2014	Smt. Krishana Wanti Thr. Her Lrs V/S State Of Haryana & Ors

December 16, 2022
“DK”

(Anil Kshetarpal)
Judge