

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-7896-2014 (O&M)
Reserved on 30.11.2022
Date of decision: 20.12.2022

RAJBIR AND ORS.

..Appellants

Versus

STATE OF HARYANA AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Saurabh Savara, Advocate
for Mr. Sandeep Prakash Chahar, Advocate
for the appellants (in RFA-7896, 7897, 7898, 7999,
7901, 7902, 7903, 7904, 9619 of 2014.

Mr. Shivendra Swaroop, AAG, Haryana.

Mr. N.K. Vashisht, Advocate
for Union of India.

ANIL KSHETARPAL, J.

1. **Introduction and background:**

1.1 While praying for the modification of the market value assessed in the award passed by the Reference Court (hereinafter referred to as 'the RC') for the involuntary acquisition of the land, the landowners as well as the Union of India have filed this batch of appeals (details whereof are at the foot of the judgment). The notification under Section 4 and 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 Clause (C) of Section 17(2) of the 1894 Act	27.06.2007
2.	Area of the land	88.138 acres
3.	Location of land	Village Dighal
4.	Purpose of acquisition	Laying of Rohtak-Jhajjar-Rewari railway line in village Dighal, Gangtan and Lakaria.
5.	Declaration under Section 6 was issued.	13.07.2007
6.	Number and date of LAC award	Award No.53 dated 11.10.2007
7.	Amount assessed by the LAC	The LAC offered to pay the market value of the acquired land measuring 88.138 acres at the rate of Rs.16,00,000/- per acre along with all the statutory benefits.
8.	Date of RC's award	30.01.2014
9.	Amount assessed by the RC	The RC assessed the market value of the acquired land at the rate of Rs.16,64,260/- per acre.

FACTS:

1.3 Dissatisfied with the amount offered by the LAC for the involuntary acquisition of their land, and on the applications of the landowners, the cases were referred to the RC. The landowners claimed that the amount offered by the LAC is inadequate and the various sales deeds in the area have not been considered by the LAC. Reliance company has purchased land at the rate of Rs.20,60,000/- per acre and the acquired land is located near the National Highway No.71. The landowners allege that the acquired land is located in the middle of the city Jhajjar and a large number of the multinational companies are having their factories or their establishments in the acquired area. Thus, the landowners claimed that the

amount offered by the LAC is not appropriate/adequate.

1.4 While contesting the cases, the State of Haryana asserted that the amount offered by the LAC is appropriate, reasonable and adequate. The acquired land was an agricultural land and could not be used for any other purpose without development. A separate written statement was filed by the Railways while contending that the amount offered by the LAC does not require any interference.

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

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

PW-1	Sh. Ram Kawar
PW-2	Sh. Om Parkash, Revenue Patwari
PW-3	Sh. Sanjeet Kumar, Patwari
PW-4	Sh. Surje
PW-5	Sh. Gulab

2.2 In the 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 4.3 of the judgment:-

Ex.P-1	Mutation No.400(b) dated 02.05.2008
Ex.P-2 & Ex.P-3	Aks-shijra of Railway Line
Ex.P-4	Award No.53 dated 11.10.2007
Ex.P-5	Copy of R & R Policy No.3212-R-5-2010/12140 dated 09.11.2010.

2.3 On the other hand, in the oral evidence, the State of Haryana or Railways did not examine any witness.

2.4 In documentary evidence, the Railways produced the following

documents apart from the sale deeds, a tabulated compilation of which is given in para 4.3 of the judgment:-

Ex.R-1 to Ex.R-3	Certified copies of sale deeds
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3. **Analysis of the reasons recorded by the RC:**

3.1 The RC, on the appreciation of the pleadings, culled out the following issues for adjudication:-

- “1. What is the market value of the acquired land? OPP
- 2. Whether the petitioner(s) is/are entitled for enhancement, if so, to what extent? OPP
- 3. Relief”

3.2 The RC after noticing that the landowners have not produced any sale deed to prove their case, enhanced the market value on the basis of the various policy decisions taken by the State while refusing the minimum floor rates and the policy for the rehabilitation and resettlement of the landowners. The sale deed produced by the Railways was ignored on the ground that the record from the Office of the Registrar pertaining to sale deeds has not been summoned.

4. **Discussion and analysis of the arguments of the the learned counsel representing the 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 lower Court record, which was requisitioned.

4.2 The learned counsel representing the landowners has also filed the written arguments. As already noticed, the landowners have not produced any other sale deed to prove that the market value of the acquired land on 27.06.2007 was more than Rs.16,00,000/- per acre. The landowners are required to prove that the amount offered by the LAC does not reflect the

correct market value of the acquired land. For proving the aforesaid facts, ordinarily, the landowners rely upon the comparable sale deeds during the contemporaneous period. In the absence thereof, it is not possible to assess the market value of the acquired land on the comparable sale method. The reference Court has erred in observing that the sale deed produced by the Railways could not be read in evidence unless the record from the Office of Sub-Registrar is produced. Section 51A of the 1894 Act was inserted by the Act 68 of 1894 Act to enable the Court to admit in evidence a certified copy of document registered under the Registration Act, 1908. Such provision has been made in order to facilitate the production of evidence. Thus, the RC committed an error in keeping the sale deeds out of the consideration.

4.3 At this stage, it is considered appropriate to compile the complete information in respect of the various sale deeds produced by the parties in a tabulated form:-

SALE DEED PRODUCED BY THE STATE							
Sr. No.	Exhibit Nos.	Sale Deed No.	Date	Total Area	Amount (in Rs.)	Amount Per Acre (in Rs.)	Village
1	R-1		30.10.2007	11K-2M (1 Acre 3K-2M)	11,10,000/-	8,00,000/-	Dighal
2	R-2		11.09.2006	1 Acre (8 kanal)	3,00,000/-	3,00,000/-	Dighal
3	R-3		30.10.2007	12K-16M (1 Acre 4K-16M)	12,80,000/-	8,00,000/-	Dighal

4.4 It is evident from the perusal of the tabulated compilation that in village Dighal itself, the land was being sold during the contemporaneous period at a rate below Rs.3,00,000/- per acre. Even post the date of notification under Section 4 of the 1894 Act, the land was being sold at the rate of around Rs.8,00,000/- per acre.

4.5 The State of Haryana has been issuing the policy decisions in order to fix the minimum floor rates for the acquisition of land in different

parts of the States. One policy was issued in the year 2007, which was applicable with effect from 22.03.2007.

4.6 The minimum floor rate of the acquired land situated in the NCR Region was assessed at Rs.16,00,000/- per acre, whereas, for remaining land, the amount was assessed @ of Rs.8,00,000/- per acre. The State of Haryana has been issuing the policy decisions notifying the minimum floor rates for the acquisition of the land. Vide policy issued on 16.05.2007, which was applicable from 22.03.2007, the minimum floor rates of the acquired land was Rs.12,50,000/- per acre. The policy is extracted as under:-

“8.19 *The aforesaid policy decision has been revised on 06.04.2007 while increasing the minimum floor rates in the State of Haryana for the acquisition of the land in the State of Haryana, which is extracted as under:-*

"Sub: Fixation of floor rates for the acquisition of land for public purpose in the State of Haryana.
Ref: This Department Memo No. 2025-R-5-2005/4299,dated 28.4.2005.
Vide this Department Memo. under reference, minimum floor rates for acquiring land for public purposes for various Departments as well as other State Agencies were fixed by the Haryana Government as follows:

<i>i) Minimum floor rate for urbanisable area of Gurgaon</i>	<i>Rs. 15.00 lacs per acre</i>
<i>ii) Minimum floor rate for rest of the Haryana Sub-Region of NCR including Panchkula and area of Chandigarh periphery in the Haryana State. Rs.12.50 lacs per acre.</i>	<i>Rs.12.50 lacs per acre.</i>

iii) Minimum floor rate for the rest of the Haryana State.	Rs. 05.00 lacs per acre.
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(These floor rates did not include the solatium and interest payable under the provisions of the Land Acquisition Act, 1894).

2. Now it has been observed that with the passage of time market rates of the land have increased substantially. Therefore, Haryana Government has re-considered this matter and has decided to re-fix these floor rates as follows:

i) Minimum floor rate for urbanisable area of Gurgaon.	Rs. 20.00 lacs per acre
ii) Minimum floor rate for rest of the Haryana Sub-Region of NCR including Panchkula and area of Chandigarh periphery in the Haryana State.	Rs.16.00 lacs per acre.
iii) Minimum floor rate for the rest of the Haryana State.	Rs. 08.00 lacs per acre.

3. These floor rates do not include the solatium and interest payable under the provisions of the Land Acquisition Act, 1894.

4. These revised rates will be applicable on all those acquisitions where awards have been announced on or after 22.3.2007 irrespective of the date of notification under Section 4 of the Land Acquisition Act, 1894."

8.20 It has also been noticed that the Reference Court while deciding the cases of the villages Daboda Khurd and various other villages in District Jhajjar, the Reference Court relied upon such policy decision and the State did not assail the correctness of the aforesaid finding. This Court has decided the aforesaid appeals on 05.10.2021. In that case also the acquisition of land was for the same purpose i.e constructing Kundli-Manesar-Palwal Expressway. Furthermore, a coordinate Bench while deciding the appeals in **Om Parkash and others vs. State of Haryana and others** in RFA-7450-2011 and connected cases decided on 30.03.2012 took a view that the State has recognized the enhancement of the land's market value over the period of time due to various contributing factors, the prices of the land have been increasing. The Court after

calculating the difference of Rs.3,50,000/- from 05.03.2005 and 22.03.2007, calculated proportionate per day increase and appropriately tweaked the market value. This Bench is in respectful agreement with the aforesaid view. In the present case, the increase in the market value per day comes to Rs.469.79 per day. There is a huge difference of 430 days from 05.03.2005. Thus, the additional amount works out to Rs.2,02,009.70 which is rounded to Rs.2,02,010/-. As in this case the award was passed on 10.05.2006 accordingly, taking the proportionate increase the amount as the market value works out to Rs.14,52,010/- per acre.”

4.7 Vide the revised policy dated 09.11.2010, the aforesaid amount of Rs.12,50,000/- was revised to Rs.16,00,000/- per acre.

4.8 Vide the notification dated 16.05.2007, which was applicable from 22.03.2007, the minimum floor rates of rest of the Haryana Sub-Region NCR including Panchkula and area of Chandigarh periphery in State of Haryana was put in the category of Rs.16,00,000/- per acre. The aforesaid State policy was subsequently revised by the communication dated 09.11.2010. The minimum floor rates were revised from Rs.16,00,000/- to Rs.20,00,000/- per acre. The RC taking note of increase of Rs.4,00,000/- has calculated that the amount of per month increase comes at Rs.9,639/-. However, the RC has committed an error in calculating the amount after noticing that there is a time gap of 6 months and 20 days between the applicability of policy i.e. 22.03.2007 to 11.10.2007. Thus, the RC has assessed the market value of the acquired land on the date of award which is in violation of Section 23(1) of the 1894 Act. It is provided in the 1894 Act that the market value of the acquired land is required to be assessed on the date of the preliminary notification under Section 4 of the 1894 Act. Hence, the RC has calculated the gap between 22.03.2007 to 27.09.2006, which

comes to 3 months and 5 days. Even if the opinion formed by the RC is accepted, the amount for 3 months and 5 days would be Rs.30,850/-. Thus, the total market value comes to Rs.16,30,850/- per acre.

4.9 The learned counsel representing the landowners have submitted that the RC has committed an error in awarding the damages for the severance of the land to the extent of 20%, if the unacquired land stands bifurcated on account of the acquisition of the land. The learned counsel contends that the landowners are entitled to at least 50% of the unacquired land.

4.10 As per Section 23 of the 1894 Act, the landowners are entitled to the damages for severance of the acquired land due to the bifurcation or trifurcation. However, to prove that fact, the proper evidence is required to be led. The RC has held that the the landowners will be entitled to 20% of the acquired land or the unacquired land, whichever is less, if the unacquired land of the landowners stand bifurcated or trifurcated. The learned counsel contends that the severance damages should be 50% of the acquired land. In the written arguments, it has been projected that if on the acquisition of the land only a small parcel of few kanals of land remains with the landowners, he shall not be able to utilize the same but he will not be entitled to any amount. This Court has considered the submissions of the learned counsel, however, it is required to be noticed that the landowners were to lead evidence to prove this fact. In fact, on reading of the award passed by the RC, it is evident that 20% damages on account of the bifurcation of the unacquired land has been awarded. The aforesaid amount is required to be calculated on the acquired land or the unacquired land, whichever is less. It

may be noted here that the landowners were required to lead evidence to prove that fact. In any case, the damages for the severance of the land can be under various categories like the bifurcation or trifurcation of unacquired land. The remaining unacquired land left with the landowners is a small parcel having no passage. However, in the present case the attention of the Court has not been drawn to any evidence to that effect.

5. **Decision:**

5.1 Keeping in view the aforesaid facts, the amount assessed by the RC qua damages or severance is maintained. It is evident that the RC has erred in assessing the market value of the acquired land at the rate of Rs.16,64,260/-. The correct figure comes to Rs.16,30,850/- per acre.

5.2 With these observations, the appeals filed by the Union of India are allowed, whereas that of the landowners are dismissed.

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

20th 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-7896-2014	RAJBIR AND ORS V/S STATE OF HARYANA AND ORS
2.	RFA-7897-2014	JASBIR AND ORS V/S STATE OF HARYANA AND ORS
3.	RFA-7898-2014	SAHAB SINGH AND ORS V/S STATE OF HARYANA & ORS
4.	RFA-7899-2014	OM PARKASH AND ORS V/S STATE OF HARYANA AND ORS
5.	RFA-7900-2014	SATBIR AND ORS V/S STATE OF HARYANA & ORS
6.	RFA-7901-2014	ISHWAR SINGH AND ORS V/S STATE OF

		HARYANA & ORS
7.	RFA-7902-2014	BALBIR AND ORS V/S STATE OF HARYANA AND ORS
8.	RFA-7903-2014	BHOOP SINGH AND ORS V/S STATE OF HARYANA & ORS
9.	RFA-7904-2014	BALWAN SINGH AND ORS V/S STATE OF HARYANA AND ORS
10.	RFA-9619-2014	NARENDER AND ORS V/S STATE OF HARYANA AND ORS
11.	RFA-9620-2014	SUKHBIR AND ORS V/S STATE OF HARYANA AND ORS
12.	RFA-9689-2014	JASBIR AND ORS V/S STATE OF HARYANA AND ORS
13.	RFA-1533-2015	UNION OF INDIA V/S RAJBIR AND ORS
14.	RFA-1534-2015	UNION OF INDIA V/S ISHWAR SINGH AND ORS
15.	RFA-1535-2015	UNION OF INDIA V/S TASVIR AND ORS
16.	RFA-1536-2015	UNION OF INDIA V/S NAURANG AND ORS
17.	RFA-1537-2015	UNION OF INDIA V/S RANBIR AND ORS
18.	RFA-1538-2015	UNION OF INDIA V/S BALWANT SINGH AND ORS
19.	RFA-1539-2015	UNION OF INDIA V/S OM PARKASH AND ORS
20.	RFA-1540-2015	UNION OF INDIA V/S BALBIR AND ORS
21.	RFA-1541-2015	UNION OF INDIA V/S ASHOK AND ORS
22.	RFA-1542-2015	UNION OF INDIA V/S SHEESPAL AND ORS
23.	RFA-1543-2015	UNION OF INDIA V/S SATBIR AND ORS
24.	RFA-1544-2015	UNION OF INDIA V/S MANJEET KUMAR AND ORS
25.	RFA-1545-2015	UNION OF INDIA V/S JASBIR ANR ORS
26.	RFA-1546-2015	UNION OF INDIA V/S CHANDER SINGH AND ORS
27.	RFA-1547-2015	UNION OF INDIA V/S SAHAB SINGH AND ORS
28.	RFA-1548-2015	UNION OF INDIA V/S SAT NARAYAN AND ORS
29.	RFA-1549-2015	UNION OF INDIA V/S DHARAM SINGH AND ANR
30.	RFA-1550-2015	UNION OF INDIA V/S HARDWARI SINGH AND ANR
31.	RFA-1551-2015	UNION OF INDIA V/S SARUP SINGH AND ANR
32.	RFA-1552-2015	UNION OF INDIA V/S RAJBIR AND ORS
33.	RFA-1553-2015	UNION OF INDIA V/S RAM KANWAR AND ORS
34.	RFA-1554-2015	UNION OF INDIA V/S SANT RAM AND ORS
35.	RFA-1555-2015	UNION OF INDIA V/S BHOOP SINGH AND ORS
36.	RFA-1556-2015	UNION OF INDIA V/S RAJ SINGH AND ORS
37.	RFA-1557-2015	UNION OF INDIA V/S ZALI SINGH AND ORS
38.	RFA-1558-2015	UNION OF INDIA V/S HET RAM AND ORS
39.	RFA-1559-2015	UNION OF INDIA V/S NARENDER AND ORS
40.	RFA-1560-2015	UNION OF INDIA V/S RAMESH AND ORS
41.	RFA-1561-2015	UNION OF INDIA V/S BIJENDER AND ORS
42.	RFA-1562-2015	UNION OF INDIA V/S SUKHBIR AND ORS
43.	RFA-1563-2015	UNION OF INDIA V/S JASMER AND ORS
44.	RFA-1564-2015	UNION OF INDIA V/S TEJ SINGH AND ORS
45.	RFA-1565-2015	UNION OF INDIA V/S JASBIR AND ORS
46.	RFA-1566-2015	UNION OF INDIA V/S GULAB SINGH AND ORS
47.	RFA-1567-2015	UNION OF INDIA V/S PARASRAM AND ORS

48.	RFA-1568-2015	UNION OF INDIA V/S UMRAO SINGH AND ORS
49.	RFA-1569-2015	UNION OF INDIA V/S OM PARKASH AND ORS
50.	RFA-1570-2015	UNION OF INDIA V/S TEK CHAND AND ORS
51.	RFA-1571-2015	UNION OF INDIA V/S SATPAL AND ORS
52.	RFA-2126-2015	UNION OF INDIA V/S DHARE AND ANR
53.	RFA-2127-2015	UNION OF INDIA V/S AZAD SINGH AND ORS
54.	RFA-2128-2015	UNION OF INDIA V/S DHARE AND ORS
55.	RFA-5885-2015	MANJEET KUMAR & ORS V/S STATE OF HARYANA & ORS
56.	RFA-5886-2015	GULAB SINGH V/S STATE OF HARYANA & ORS
57.	RFA-3617-2017	RAJBIR AND ORS. V/S STATE OF HARYANA AND ORS.
58.	RFA-3618-2017	RAMESH AND ORS. V/S STATE OF HARYANA AND ORS.
59.	RFA-3619-2017	CHANDER SINGH (SINCE DECEASED) THR. HIS LRS AND ANR V/S STATE OF HARYANA AND ORS.
60.	RFA-3620-2017	OM PARKASH (SINCE DECEASED) THRU HIS LRS V/S STATE OF HARYANA AND ORS.
61.	RFA-3621-2017	NAURANG (SINCE DECEASED) THRU HIS LRS AND ORS V/S STATE OF HARYANA AND ORS.

(ANIL KSHETARPAL)
JUDGE