**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

125

RFA-1471-2017(O&M)
Date of decision: 01.09.2022

PARAS RAM AND ORS. ..Appellants

Versus

STATE OF HARYANA AND ORS. ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sudhir Kumar Hooda, Advocate
Mr. N.K. Malhotra, Advocate
Mr. Dalip Kumar Tuteja, Advocate
Mr. Deepak Girotra, Advocate
for the landowners.

Ms. Vibha Tewari, AAG, Haryana.

ANIL KSHETARPAL, J(Oral)

1. **INTRODUCTION AND BACKGROUND:-**

1.1 A batch of 8 appeals (details whereof are at the foot of the judgment) is filed by the landowners assailing the correctness of market value assessed in the award passed on 29.01.2016, by the Reference Court (hereinafter referred to as 'the RC'). The notifications 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') and 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 case, in brief, are as under:-

Sr. No.	*Particulars*	*Date*
1.	*Date of Notification under Section 4*	*24.12.2007*
2.	*Village/City/Hadbast No.*	*Rohtak-74*

3.	*Total land acquired*	*80.59 Acre*
4	*Purpose of acquisition*	*Semi Public & residential & Transport communication zone, Sector 18, 18-A, Rohtak.*
5.	*Collector's Award*	*Rs.30,00,000/- Per Acre*

1.3 The RC assessed the market value of the acquired land at the rate of Rs.33,00,000/- per acre after applying deduction of 59% on the price reflected in the sale instances Ex.PW5/A and Ex.PW5/B.

FACTS:

1.4 The landowners have projected that the LAC has not offered just and fair compensation to them. It has been claimed that the acquired land is a residential property abutting the main Circular Road Opposite the Sugar Mill, Rohtak. It is situated near a colony, Railway Junction, Government Offices, Courts, Hospitals, Schools and Colleges, Lake etc. The landowners claim that the acquired land was not less than Rs.40,000/- per sq. yard.

1.5 Per contra, the learned counsel representing the State while contesting the reference petition contends that the LAC has offered a fair and adequate compensation and the landowners shall be entitled to the benefit of payment of annuity for a period of 33 years over and above the usual land compensation as assessed by the Court.

1.6 The RC had culled out the following issues for adjudication:-

> *"(1) What was the market value of the acquired land at the time of issuance of notification under Section 4 of the Land Acquisition Act, 1894?*

(2) Whether the petitioners are entitled to any amount as enhanced compensation as alleged, if so to what extent? OPP
(3) Whether the petitioners are estopped from filing the petitions by their own act and conduct? OPR
(4) Whether the petitions are barred by limitation? OPR
(5) Whether the petition does not disclose any cause of action? OPR
(6) Relief"

2. **ORAL AND DOCUMENTARY EVIDENCE:-**

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

PW-1	*Sh. Paras Ram*
PW-2	*Smt. Ritu wife of Sh. Anil Kumar*
PW-3	*Smt. Ritu wife of Sh. Rajiv Kumar*
PW-4	*Sh. Jai Singh*

2.2 In documentary evidence, the landowners produced the following documents except the sale deeds, detailed information of which is compiled in para 3.2 of the judgment:-

Ex.PW5/A	*Sale Deed No.6428 dated 26.10.2006*
Ex.PW5/B	*Sale Deed No.6427 dated 26.10.2006*
Ex.PW5/C	*Collector Rate*
Ex.PW5/D	*Collector Rate*
Ex.PW5/E	*Collector Rate*
Ex.PW5/F	*Collector Rate*
Ex.PW5/G	*Collector Rate*
Ex.PW5/H	*Collector Rate*
Ex.PW6/A	*Notification under Section 4*
Mark-C	*Mutation No.11138*
Mark-D	*Mutation No.11137*

Mark-E	*Award No.7 dated 23.06.2010*
Mark-F	*Jamabandi for the year 2002-2003*
Ex.PA	*Information under RTI Act*
Ex.PB	*Information under RTI Act*
Ex.PC	*Information under RTI Act*
Ex.PD	*Lay-out Plan of Sector 18, 18-A, 21 and 21-A*
Ex.PA/1	*Aks-Shizra*
Ex.PB/1	*Jamabandi for the year 2002-2003*

2.3 The State of Haryana examined RW-1 Sh. Suresh Kumar, Patwari in the Office of LAC, Rohtak and produced the following documentary evidence:-

Ex.R1	*Minutes of the meeting of Divisional Level Committee held under the chairmanship of Commissioner*
Ex.R2	*Outees Scheme*
Ex.R3	*Notification under Section 4 of the Act*
Ex.R4	*Notification under Section 6 of the Act*
Ex.R5	*Award No.7 dated 23.06.2010*
Ex.R10	*Aks-Shizra*
Ex.RX	*Information under RTI Act*

3. **REASONS GIVEN BY THE REFERENCE COURT:-**

3.1 The RC on the one hand refused to rely upon the sale deed Ex.R-6 to Ex.R-9, produced by the State of Haryana on the ground that the price reflected in the aforesaid sale deeds is less than the value offered by the LAC, therefore, in view of Section 25 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act'), such sale deeds cannot be taken into consideration for deciding the compensation amount. The RC further held that the sale deeds Ex.PW5/A and Ex.PW5/B pertain to very small pieces of land, however, since the aforesaid sale deeds are quite proximate to the date of acquisition, therefore these instances can be relied upon after applying the appropriate deduction. Thus, the RC after noticing that the average sale price of sale deeds Ex.PW5/A and Ex.PW5/B arrived at an amount of Rs.73,83,000/- per acre, at the first stage. Therefter, increased the price at the rate of 9% per annum to cover the time gap between the date of the said sale deeds and the date of notification under Section 4 of the 1894 Act and, then proceeded to apply deduction of 59% on the base value. Thus, the RC has assessed the market value at Rs.33,00,000/- per acre.

3.2 At this stage, it will be appropriate to compile the detail of the various sale deeds produced by both the parties:-

Sr. No.	***Exhibit***	***Sale deed No.***	***Date***	***Land Area***	***Total Sale consideration***	***Revenue Estate***
1	*P-1*	*7768*	*16.11.2007*	*620 Sq. yards*	*15,50,000/-*	*Mauja Kutana*
2	*P-2*	*4393*	*24.07.2007*	*333.5 Sq. yards*	*6,68,000/-*	*Mauja Kutana*
3	*P-3*	*7706*	*15.11.2007*	*582 Sq. yards*	*14,55,000/-*	*Mauja Kutana*
4	*P-4*	*7796*	*19.11.2007*	*206.66 Sq. yards*	*5,17,000/-*	*Mauja Kutana*
5	*PW5/A*	*6428*	*26.10.2006*	*182.75 Sq. yards*	*2,75,000/-*	*Mauja Rohtak*
6	*PW5/B*	*6427*	*26.10.2006*	*182.75 Sq. yards*	*2,75,000/-*	*Mauja Rohtak*
7	*R-6*	*8918*	*10.01.2007*	*1 Biswa*	*50,000/-*	*Mauja Rohtak*
8	*R-7*	*11895*	*21.03.2007*	*2 Bigha 0.37 Biswa*	*19,05,000/-*	*Mauja Rohtak*
9	*R-8*	*4506*	*23.08.2006*	*1 Bigha 6 Biswa*	*12,18,750/-*	*Mauja Rohtak*
10	*R-9*	*12297*	*29.03.2007*	*2 Bigha 7 Biswa*	*22,04,000/-*	*Mauja Rohtak*

4. **ARGUMENTS OF 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 paper-book along with the record, which was requisitioned.

4.2 All these 8 appeals have been filed by the landowners with a prayer to modify the award while escalating the market value of the acquired land. The learned counsel representing the landowners contend that the RC has erred in unreasonable deducting 59% of the base value. They submit that at the most, deduction @ 20% could be applied particularly when it has come in evidence that the entire area was already developed.

4.3 Per contra, the learned counsel representing the State of Haryana contends that the RC has committed an error in ignoring the sale deeds produced by the State. While relying upon the judgment passed in ***Lal Chand Vs. Union of India, 2009(15) SCC 769,*** she contends that the sale deeds produced by the State, even if reflect a price lower than the amount offered by the LAC, they are even then required to be taken into consideration while assessing the market value of the acquired land. the RC has erred in wrongly interpreting Section 25 of the 1894 Act. She further contends that the sale instances Ex.PW5/A and Ex.PW5/B, were not comparable because these are in respect to tiny plots which ordinarily cannot be used for agricultural purposes.

5. **DISCUSSION MADE BY THIS COURT:-**

5.1 It may be noted here that 80.59 acres of land has been acquired for developing residential, Transport and communication zone, Sector 18, 18-A, Rohtak. Ordinarily, an acre of land consist of 4840 square yards area of land. The sale deed Ex.PW5/A and Ex.PW5/B are with respect to 182.75 square yards each. Thus, the aforesaid parcel of land is a tiny plot when compared with the total acquisition made by the State. The RC has erred in relying upon the sale deed exemplars Ex.PW5/A and Ex.PW5/B, which are not comparable with the acquired land.

5.2 Moreover, the learned counsel representing the State is correct in contending that the RC has erred in refusing to take into consideration the sale instances produced by the State of Haryana reflecting a price lower than the amount offered by the LAC because Section 25 of the 1894 Act only debars the Court from awarding the amount lower than the amount assessed by the LAC, however, there is no prohibition in taking into consideration the sale deeds that reflect a price lower than what is awarded by the LAC. This matter is no longer *res integra* in view of the judgment passed in ***Lal Chand's case (supra)***.

5.3 The remaining sale deeds produced by the landowners pertaiin to various parcels of land located in village Kutana. In absence of the evidence to prove that the aforesaid parcels of land were comparable with the acquired land, no reliance can be placed on those sale deed exemplars.

5.4 Undoubtedly, the learned counsel representing the landowners is correct in contending that the RC has not recorded any specific reason to apply deduction of 59% from the base price assessed by the Court on the basis of Ex.PW5/A and Ex.PW5/B. However, the RC has erred in relyinig upon the sale deeds Ex.PW5/A and Ex.PW5/B while taking these to be the comparable sale instances of the contemporaneous period.

5.5 While assessing the market value of the acquired land, the

Court is required to adopt a pragmatic approach while taking a holistic view of the matter. In such circumstances, the Court is required to look for an appropriate sale exemplar, which helps the Court in precisely assessing the market value of the acquired land. Normally, the Court looks for the comparable sale instances of the contemporaneous period in order to assess the market value of the acquired land. The basic requirement is that such sale instance should not only be comparable with the acquired land but also during the contemporaneous period. The sale instances Ex.PW5/A and Ex.PW5/B relate to tiny parcels of land. A acre of land consist of 160 marlas, whereas, the sale instances Ex.PW5/A and Ex.PW5/B represent only a land measuring 6 marlas each.

5.6 Before assessing the market value of the acquired land on the basis of the sale exemplar, the Court is required to come to a definite conclusion that the amount offered by the LAC was not the correct reflection of market value of the acquired land as on date of notification under Section 4 of the 1894 Act. In the present case, the RC has committed error in relying upon a sale instance pertaining to a significantly small plot.

5.7 Undoubtedly, the sale instances Ex.R-6, Ex.R-7, Ex.R-8 and Ex.R-9, produced by the State of Haryana are also of small parcels of land, however, they are still of reasonable size when compared with the sale instances produced by the landowners. The price reflected in these sale instances is lower than the amount offered by the LAC. These sale instances pertain to the land of the same revenue estate, though located at some distance.

5.8 The landowners are required to produce the evidence in order to prove that the amount offered by the LAC was not adequate. Once they have failed, the Court is not expected to interfere with the award passed by the LAC. The State of Haryana has not filed appeals challenging the RC's assessment.

5.9 The next argument of the learned counsel representing the landowners is with reference to an auction held of the land of old Sugar Mill located in Sector 21, at the rate of 80,00,000/- per acre. The land measuring 113.5 acre was sold to M/s Antriksh Engineers Constructions Corporation, New Delhi. It has come on record that the aforesaid firm did not deposit the remaining amount apart from the payment of earnest money of Rs.25,00,000/-. Ultimately, the amount of earnest money was forfeited. No conveyance deed was ever executed. Hence, such auction cannot be relied upon particularly when the purchaser itself has backed out.

6. **DECISION:-**

6.1 Keeping in view the aforesaid facts, no ground to modify the award passed by the RC is made out.

6.2 Hence all the appeals are dismissed.

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

September 01st, 2022 **(ANIL KSHETARPAL)**
Ay **JUDGE**

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

Sr. No.	Case No.	Title
1	**RFA-1471-2017 (O&M)**	**PARAS RAM AND ORS. V/S STATE OF HARYANA AND ORS.**
2	RFA-733-2017 (O&M)	SMT. MUNNI DEVI V/S STATE OF

		HARYANA AND ORS
3	RFA-1124-2017 (O&M)	KASMIRI SINGH V/S STATE OF HARYANA AND ANR.
4	RFA-3359-2018 (O&M)	SURAN SINGH (DECEASED) THROUGH LRS AND ORS V/S STATE OF HARYANA AND OTHERS
5	RFA-5240-2017 (O&M)	RAJPAL AND ANR. V/S STATE OF HARYANA AND OTHERS
6	RFA-531-2019 (O&M)	SAT NARAIN AND ORS. V/S STATE OF HARYANA AND OTHERS
7	RFA-2682-2018 (O&M)	SHANTI DEVI V/S STATE OF HARYANA AND ANR.
8	RFA-2639-2021 (O&M)	RAM RATTAN (DECEASED) THROUGH LRS AND ORS. V/S STATE OF HARYANA AND ORS.

(ANIL KSHETARPAL)
JUDGE