

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-1549-2017 (O&M)
Reserved on: 21.10.2022
Date of decision: 10.11.2022

KANTA DEVI

..Appellant

Versus

STATE OF HARYANA AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.P. Sharma, Advocate
Mr. Sandeep Kumar Yadav, Advocate
Ms. Shalini Sharma, Advocate
Mr. N.S. Gill, Advocate
Mr. Munish Gupta, Advocate
for the landowners.

Mr. Shivendra Swaroop, AAG, Haryana.
Mr. Harsh Vardhan, AAG, Haryana.

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 acquisition of the land, 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 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, in brief, are as

under:

Sr. No.	Particulars	Relevant Date
1.	Preliminary notification under Section 4 of the 1894 Act proposing to acquire land measuring 93 kanals and 1 marla land located in village Kirarod Afgan was issued for widening and four-laning of road from village Rai Malikpur to Narnaul.	10.05.2011
2.	Declaration under Section 6 was issued.	31.08.2011
3.	Vide award No.34, the LAC offered to pay @ Rs.30,00,000/- per acre the market value along with other statutory benefits of the acquired land measuring 93 kanals and 1 marla.	26.04.2012
4.	The RC has assessed the market value at the rate of Rs.54,00,000/-.	07.10.2016

FACTS:

1.3 Dissatisfied with the amount offered by the LAC for the involuntary acquisition of the land, on the applications filed by the landowners under Section 18 of the 1894 Act, the cases were referred to the RC. The landowners claim that the acquired land is located on the main road which connects the land of States of Rajasthan, Maharashtra, Punjab and Jammu and Kashmir and it was not less than Rs.50,000/- per sq. yard.

1.4 On the other hand, while contesting the petitions, the State of Haryana claimed that the LAC has offered fair, adequate and reasonable market value while announcing the award.

1.5 The RC, on the appreciation of the pleadings, culled out the

following issues for adjudication:-

- “1. What was the market value of the acquired land on the date of publication of notification under Section 4 of the Land Acquisition Act? OPP
2. Whether the petitioners are entitled to any enhanced compensation, if so, at what rate? OPP
3. Whether the petitioners are entitled to get compensation on account of superstructures, trees etc.? OPP
4. Relief.”

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

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

PW1	Sh. Subhash
PW2	Sh. Rajender Kumar Saini, Draftsman
PW3	Sh. Ram Chander
PW4	Sh. Babu Lal
PW5	Sh. Ami Lal
PW6	Sh. Pawan Kumar Verma
PW7	Sh. Ami Chand
PW8	Sh. Chhaju Ramavtar
PW9	Sh. Trilok Singh
PW10	Sh. Rajender Kumar, Draftsman
PW11	Sh. Hardev Singh
PW12	Sh. Bishamber Dayal
PW13	Sh. Ramavtar
PW14	Sh. Bhola Ramsss

2.2 In the documentary evidence, the landowners produced the following documentary evidence in support of their case apart from the sale deeds, a tabulated compilation of which is incorporated in para 4.5 of the judgment:-

Ex.PW2/A	Site plan
Ex.PW3/C, Ex.P-5 and	Aksh-sijra

Ex.P-6	
Ex.P-1 to Ex.P-4	Copies of jamabandies
Ex.PW6/A and Ex.PW10/A	Site plan
Ex.PW8/B	Copy of award No.6
Ex.PW8/C	Copy of award No.2
Ex.P-7	Copy of the award passed by the Court
Ex.P-8	Copy of the sale deed

2.3 On the other hand, the State of Haryana did not examine any witness in the oral evidence but produced following documents in the documentary evidence, apart from the sale deeds, a tabulated compilation of which is incorporated in para 4.5 of the judgment:-

Ex.RW1/A, Ex.RW1/B & Ex.RW1/K	Certified copy of sale deeds
Ex.RW1/C	Copy of aksh-sijra
Ex.RW1/D	Rate list assessed by the Committee
Ex.RW1/E	Gazette notification under Section 4 of the 1894 Act
Ex.RW1/F to Ex.RW1/H	Copy of the mutation
Ex.RW1/J	Copy of jamabandi

3. **Analysis of the RC's award:**

3.1 The RC, after observing that the sale deed produced by the landowners Ex.P-8 (bearing No.278), is with respect to a period post the date of notification under Section 4 of the 1894 Act, refused to rely upon the same. However, the Court proceeded to assess the market value of the acquired land on the basis of the RC's previous judgment in Datta Ram Vs. State of Haryana and others, decided on 07.09.2016 (Ex.P-7), in which the

preliminary notification under Section 4 of the 1894 Act dated 17.12.2010 was published and the market value at the rate of Rs.54,00,000/- per acre was assessed. The RC relied upon the aforesaid award while refusing to take into consideration the sale deeds Ex.RW1/A (bearing No.560) and Ex.RW1/B (bearing No.7034) produced by the State of Haryana to prove the market value of the land.

4. **Discussion and analysis of the 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 judgment passed by the RC along with the requisitioned record of trial Court.

4.2 The learned counsel representing the landowners contends that the RC has committed an error in failing to grant increase on the amount assessed for the compulsory acquisition of the land in which preliminary notification under Section of the 1894 Act was issued on 17.12.2010. The RC held that the market value as on 17.10.2010 was Rs.54,00,000/- per acre vide judgment dated 07.09.2016 in Datta Ram Vs. State of Haryana and others, whereas, in these cases the market value is required to be assessed as on 10.05.2011. The RC also erred in refusing to take into consideration the sale deeds produced by the parties. They have also claimed that the amount assessed by the RC needs suitable enhancement/modification.

4.3 Per contra, the learned counsel representing the State of Haryana contends that the RC has committed an error in refusing to take into consideration the sale instance Ex.RW1/A (bearing No.560). He submits that the RC has committed an error in relying upon the award passed by the Court with respect to the different compulsory acquisition of the land vide

the preliminary notification dated 17.10.2010 under Section 4 of the 1894 Act.

4.4 This Court has carefully analysed the arguments of the learned counsel representing the parties and observed the judgment passed by the RC along with the requisitioned record.

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

SALE DEED PRODUCED BY THE LANDOWNERS							
Sr. No.	Exhibit Nos.	Sale Deed No.	Date	Total Area (K-M)	Amount (in Rs.)	Amount Per Acre (in Rs.)	Village
1.	P-8	278	12.10.2012	524 sq. yards	8,60,000/-	80,94,118/-	Kirarod Afgan
SALE DEED PRODUCED BY THE STATE							
1.	RW1/A	560	26.05.2011	2K-4M	3,17,000/-	11,52,727/-	Kirarod Afgan
2.	RW1/B	7034	24.11.2011	1K-15M	2,52,000/-	11,52,800/-	Kirarod Afgan
3.	RW1/K	647	02.06.2010	3K-19M	8,09,750/-	16,40,000/-	Kirarod Afgan

4.6 On a careful perusal of the aforesaid tabulated information, it is evident that the landowners have failed to produce any comparable sale deed pertaining to the contemporaneous period. The sale deed Ex.P-8 (bearing No.278) is more than 1 and ½ year after the date of notification under Section 4 of the 1894 Act. As per Section 23 of the 1894 Act, the amount of the market value is required to be assessed as on date of the preliminary notification under Section 4 of the 1894 Act. The sale deed Ex.P-8 is with respect to the period post the date of notification under Section 4 of the 1894 Act. Hence, the said sale deed is correctly discarded by the RC.

4.7 As regards the wrong interpretation of Section 25 of the 1894 Act, the matter is no longer *res integra* in view of the judgment passed by

the Supreme Court in *Lal Chand Vs. Union of India, (2009) 15 SCC 769.*

The RC's previous award Ex.P-7, passed on 07.12.2016 in Datta Ram Vs. State of Haryana and others, is with respect to the notification dated 17.12.2010 issued under Section 4 of the 1894 Act, proposing to acquire the land from the village Kirarod Afgan. Hence, not relevant.

4.8 On a careful examination of the layout plan Ex.RW1/C, it is evident that the land is compulsorily acquired out of rectangle No.23, 24, 25, 26, 27, 34, 35 and 39. The sale deed Ex.P-8 not only pertains to the period post the date of notification under Section 4 of the 1894 Act but it is with respect to a constructed house located in the residential area of village Kirarod Afgan. It has been depicted that 128 sq. feet is a covered area, whereas, the remaining area is lying vacant in the said plot. The total size of the plot is 524 sq. yards.

4.9 On a careful perusal of RC's award in Datta Ram Vs. State of Haryana and others (Ex.P-7), it is evident that the notification under Section 4 of the 1894 Act was issued on 17.12.2010. In that case after placing reliance on a sale deed relating to 2 kanal plot of village Nasibpur the RC has assessed the market value of the acquired land at the rate of Rs.54,00,000/- per acre after applying deduction of 50%. There is absolutely no evidence to prove that the acquired land situated in village Kirarod Afgan was comparable with the parcel of acquired land vide preliminary notification dated 17.12.2010 under Section 4 of the 1894 Act. Even if both the villages are same, even in that case, every parcel of land in a village cannot be presumed to be commanding a uniform market value. It is evident that there is no evidence that the parcel of land in village Nasibpur is

comparable with the acquired land in this acquisition.

4.10 In *Manoj Kumar and others Vs. State of Haryana and others (2018) 13 SCC 96*, the Supreme Court held that without carefully examining the previous assessment ordered by the Court, it would not be appropriate to blindly rely upon such an assessment. The Court is required to see as to both the parcels of acquired land by different notifications for a different purpose were comparable with the land acquired in the acquisition in question. The relevant observation made by the Supreme Court are extracted as under:-

“11. In our opinion, the High Court could not have placed an outright reliance on the decision of Swaran Singh's case, without considering the nature of transaction relied upon in the said decision. The decision could not have been applied ipso facto to the facts of the instant case. In such cases, where such judgments/awards are relied on as evidence, though they are relevant, but cannot be said to be binding with respect to the determination of the price, that has to depend on the evidence adduced in the case. However, in the instant case, it appears that the land in Swaran Singh's case was situated just across the road as observed by the High Court as such it is relevant evidence but not binding. As such it could have been taken into consideration due to the nearness of the area, but at the same time what was the nature of the transaction relied upon in the said case was also required to be looked into in an objective manner. Such decisions in other cases cannot be adopted without examining the basis for determining compensation whether sale transaction referred to therein can be relied upon or not and what was the distance, size and also bonafide nature of transaction before such judgments/awards are relied on for deciding the subsequent cases. It is not open to accepting determination in a mechanical manner without considering the merit. Such determination cannot be said to be binding.

12. We have come across several decisions where the High Court is adopting the previous decisions as binding. The determination of compensation in each case depends upon the nature of land and what is the evidence adduced in each case, may be that better evidence has been adduced in later case regarding the actual value of

property and subsequent sale deeds after the award and before preliminary notification under section 4 are also to be considered, if filed. It is not proper to ignore the evidence adduced in the case at hand. The compensation cannot be determined by blindly following the previous award/judgment. It has to be considered only a piece of evidence not beyond that. Court has to apply the judicial mind and is supposed not to follow the previous awards without due consideration of the facts and circumstances and evidence adduced in the case in question. The current value reflected by comparable sale deeds is more reliable and binding for determination of compensation in such cases award/judgment relating to an acquisition made before 5 to 10 years cannot form the safe basis for determining compensation.

13. The awards and judgment in the cases of others not being inter parties are not binding as precedents. Recently, we have seen the trend of the courts to follow them blindly probably under the misconception of the concept of equality and fair treatment. The courts are being swayed away and this approach in the absence of and similar nature and situation of land is causing more injustice and tantamount to giving equal treatment in the case of unequal's. As per situation of a village, nature of land its value differ from the distance to distance even two to three-kilometer distance may also make the material difference in value. Land abutting Highway may fetch higher value but not land situated in interior villages.

14. The previous awards/judgments are the only piece of evidence at par with comparative sale transactions. The similarity of the land covered by previous judgment/award is required to be proved like any other comparative exemplar. In case previous award/judgment is based on exemplar, which is not similar or acceptable, previous award/judgment of court cannot be said to be binding. Such determination has to be out rightly rejected. In case some mistake has been done in awarding compensation, it cannot be followed on the ground of parity an illegality cannot be perpetuated. Such award/judgment would be wholly irrelevant.”

4.11 Keeping in view the aforesaid facts, the reliance placed by the RC on Ex.R-7 (judgment dated 07.09.2016), is not appropriate.

4.12. Now, the Court is only left with the sale instances produced by the parties to be analysed. As already noticed, the landowners have not

produced any sale instance of contemporaneous period of the comparable parcel of land. A bare look at the sale deed Ex.RW1/A (bearing No.560) dated 26.05.2011, with respect to land measuring 2 kanals 4 marlas, it is evident that the price of the land in village Kirarod Afgan was below Rs.12,00,000/- per acre. The sale deed Ex.RW1/B (bearing No.703) also proves the same thing. It may be noticed that the parcels of land represented by Ex.RW1/A and Ex.RW1/B are out of the land comprised in rectangle No.10. A bare look at the layout plan Ex.RW1/C, it is evident that the parcels of land represented by Ex.RW1/A and Ex.RW1/B are located near the acquired land. As already noticed, in this notification the land has been acquired from rectangle No.23, 24, 25, 26, 27, 34, 35 and 39. The layout plan Ex.RW1/C proves that the aforesaid parcels of land are at a distance of around 20 acres from the acquired land.

4.13 It is for the landowners to prove that the price offered by the LAC was not appropriate. In absence of evidence, the Court cannot award the amount unless it is in a position to record a positive finding in this regard.

4.14. It may be noted here that the learned counsel representing the State has brought to the notice of the Court that challenging the judgment (Annexure P-7), RFA-1173-2017, is pending. Thus, even the assessment of the market value by the RC is a subject matter of scrutiny before the High Court.

5. **Decision:**

5.1 Keeping in view the aforesaid discussion, this Court is left with no other choice but for to set aside the awards passed by the RC on

27.10.2016.

5.2 Consequently, the appeals filed by the State of Haryana are allowed, whereas, that of the landowners are dismissed. The amount offered by the LAC vide award dated 26.04.2012, is upheld.

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

10th November, 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-1549-2017	KANTA DEVI V/S STATE OF HARYANA AND ORS
2.	RFA-2773-2017	RAM CHANDER AND ORS V/S STATE OF HARYANA AND ORS
3.	RFA-3646-2017	RAMAUTAR AND ORS V/S STATE OF HARYANA AND ORS
4.	RFA-2777-2017	RAM CHANDER AND ORS V/S STATE OF HARYANA AND ORS
5.	RFA-2778-2017	RAM CHANDER AND ORS V/S STATE OF HARYANA AND ORS
6.	RFA-2770-2017	RAMESH KUMAR AND ORS V/S STATE OF HARYANA AND ORS
7.	RFA-2771-2017	RAGHUBIR SINGH AND ANR V/S STATE OF HARYANA AND ORS
8.	RFA-2774-2017	BHOLA RAM V/S STATE OF HARYANA AND ORS
9.	RFA-3464-2017	RAMCHANDER AND ORS V/S STATE OF HARYANA AND ORS
10.	RFA-3643-2017	HARDAWARI (SINCE DECEASED) AND ANR V/S STATE OF HARYANA AND ORS
11.	RFA-3644-2017	HARDAWARI (SINCE DECEASED) AND ORS V/S STATE OF HARYANA AND ORS
12.	RFA-3645-2017	RAMAUTAR AND ORS V/S STATE OF HARYANA AND ORS
13.	RFA-2775-2017	CHHAJU RAM AND ANR V/S STATE OF HARYANA AND ORS
14.	RFA-2776-2017	FATEH SINGH V/S STATE OF HARYANA AND ORS
15.	RFA-679-2019	STATE OF HARYANA AND ORS V/S SMT. BHAGOTI AND ORS

16.	RFA-694-2019	STATE OF HARYANA AND ORS V/S HARDWARI DECEASED THR. LRS AND ANOTHER
17.	RFA-6-2019	STATE OF HARYANA AND ORS V/S SMT. SUMITRA DEVI AND ANR
18.	RFA-49-2019	STATE OF HARYANA AND ORS V/S SMT. SARITA AGGARWAL AND ORS
19.	RFA-919-2019	STATE OF HARYANA AND ORS V/S HARDWARI AND ORS
20.	RFA-51-2019	STATE OF HARYANA AND ORS V/S MAHESH @ MAHESH CHAND AND ORS
21.	RFA-1822-2019	LAL CHAND V/S STATE OF HARYANA AND ORS
22.	RFA-1819-2019	OM PARKASH AND ORS V/S STATE OF HARYANA AND ORS
23.	RFA-918-2019	STATE OF HARYANA AND ORS V/S SMT. KANTA DEVI
24.	RFA-666-2019	STATE OF HARYANA AND ORS V/S CHHAJU RAM AND ANR
25.	RFA-667-2019	STATE OF HARYANA AND ORS V/S FATEH SINGH AND ORS
26.	RFA-54-2019	LAND ACQUISITION COLLECTOR-CUM-DISTRICT REVENUE OFFICER V/S SMT. MADHU GOYAL
27.	RFA-676-2019	STATE OF HARYANA AND ORS V/S RAM CHANDER AND ORS
28.	RFA-672-2019	STATE OF HARYANA AND ORS V/S GYAN SINGH
29.	RFA-669-2019	STATE OF HARYANA AND ORS V/S BHOLA RAM
30.	RFA-673-2019	STATE OF HARYANA AND ORS V/S RAMAUTAR AND ORS
31.	RFA-675-2019	STATE OF HARYANA AND ORS V/S TRILOK SINGH
32.	RFA-678-2019	STATE OF HARYANA AND ORS V/S RADHEY SHYAM
33.	RFA-52-2019	STATE OF HARYANA AND ORS V/S MANISH KUMAR DHAMIJA & ORS
34.	RFA-665-2019	STATE OF HARYANA AND ORS V/S MOTI RAM AND ORS
35.	RFA-668-2019	STATE OF HARYANA AND ORS V/S VIJAY KUMAR AND ORS
36.	RFA-1818-2019	SURAJBHAN V/S STATE OF HARYANA AND ORS
37.	RFA-671-2019	STATE OF HARYANA AND ORS V/S RAMCHANDER AND ORS
38.	RFA-674-2019	STATE OF HARYANA AND ORS V/S SMT. BHAGOTI AND ORS
39.	RFA-677-2019	STATE OF HARYANA AND ORS V/S RAMOTAR AND ORS
40.	RFA-693-2019	STATE OF HARYANA AND ORS V/S SMT. BHAGWATI AND ORS
41.	RFA-695-2019	STATE OF HARYANA AND ORS V/S RAGHUBIR SINGH AND ANOTHER
42.	RFA-696-2019	STATE OF HARYANA AND ORS V/S RAMESH KUMAR AND ORS

43.	RFA-697-2019	STATE OF HARYANA AND ORS V/S FATEH SINGH
44.	RFA-1716-2019	SUMITRA DEVI AND ANR V/S STATE OF HARYANA AND ORS
45.	RFA-1821-2019	KAILASH CHAND V/S STATE OF HARYANA AND ORS
46.	RFA-354-2018	GYAN SINGH THR.GPA V/S STATE OF HARYANA AND ORS.
47.	RFA-494-2018	SMT. BHAGWATI @ BHAGOTI & ORS V/S STATE OF HARYANA & ORS
48.	RFA-5611-2017	SMT. BHAGOTI AND ORS. V/S STATE OF HARYANA AND ORS.
49.	RFA-355-2018	FATEH SINGH AND ORS. V/S STATE OF HARYANA AND ORS.
50.	RFA-2163-2019	SURENDER SINGH V/S STATE OF HARYANA AND ORS
51.	RFA-2377-2019	ASHOK AND ANR V/S STATE OF HARYANA AND ORS
52.	RFA-2291-2019	HANSRAM V/S STATE OF HARYANA AND ORS
53.	RFA-2772-2017	TRILOK SINGH V/S STATE OF HARYANA AND ORS
54.	RFA-50-2019	STATE OF HARYANA AND ORS V/S CHHAJU RAM AND ORS

(ANIL KSHETARPAL)
JUDGE