

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-1140-2018 (O&M)
Date of decision: 29.10.2022

JAGDISH

..Appellant

Versus

STATE OF HARYANA AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. P.K. Ganga, Advocate
Mr. Jagjit Singh Gill, Advocate
Mr. Khushman Dandiwal, Advocate
Mr. J.S. Thind, Advocate
Mr. Balsher Singh, Advocate
Mr. Ajay Sharma, Advocate
Mr. K.S. Godara, Advocate
Mr. S.K. Jain, Advocate
Mr. Deepak Jain, Advocate
Mr. Akshay Jain, Advocate
Mr. Dheeraj Narula, Advocate
for the landowners.

Mr. Shivendra Swaroop, AAG, Haryana.

ANIL KSHETARPAL, J.

1. INTRODUCTION AND BACKGROUND

1.1 While praying for the modification of the market value assessed by the Reference Court (hereinafter referred to as 'the RC'), the landowners have come up in appeal. This batch of appeals (details whereof are at the foot of the judgment) has been filed by the landowners against a common award passed by the RC in the lead case. The remaining reference petitions were consolidated and evidence was led in the case titled as **Beg Raj Vs. State of Haryana**. 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 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 this batch of appeals are as under:

Sr. No.	Particulars	Relevant Date
1.	Preliminary notification under Section 4 of the 1894 Act was issued proposing to acquire 208 kanals and 0 marla of land in village Shekhpuria, Tehsil and District Sirsa, for construction of Rattakhera Kharif Channel.	19.02.2013
2.	Declaration under Section 6 of the 1894 Act was published	26.08.2013
3.	Vide award No.12, the LAC offered to pay Rs.12,75,000/- per acre as market value along with all statutory benefits payable under the 1894 Act for the acquired land located in village Shekhupuria.	27.01.2011
4.	The RC has enhanced the market value from Rs.12,75,000/- to Rs.30,00,000/- per acre along with the damages for bifurcation of the unacquired land at the rate of 40%, wherever applicable.	30.08.2017

1.3 Dissatisfied with the amount offered by the LAC, on the request of the landowners, the cases were referred to the RC. The landowners claim that the amount awarded by the LAC is inadequate. They claim that the acquired land is situated at a prime location, which is near village *abadi* (residential area) and pucca road. The market value of the acquired land at

the relevant time, was not less than Rs.1,00,00,000/- per acre. They have also claimed damages on account of bifurcation of their unacquired land into two parts. The State of Haryana, while contesting the cases, has stated that the amount has been assessed by the LAC after taking into consideration the factual position, location and nature of the land. It has been pointed out that a supplementary award was announced with respect to the amount awarded for trees and structures.

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

- “1. What was the prevailing market price of the acquired land as on the date of notification under Section 4 of the Land Acquisition Act? OPP
2. Whether the petitioners are entitled to enhancement of compensation on the grounds mentioned in the petitions as prayed for? OPP
3. Whether the petitions are not maintainable? OPR
4. Relief.”

2. **EVIDENCE PRODUCED BY THE PARTIES**

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

PW-1	Jagdish Kumar
PW-2	Gaja Nand
PW-3	Mange Ram

2.2 In documentary evidence, the landowners produced the following documentary evidence in support of their case:-

Ex.P-1	Certified copy of LAC's Award No.4 dated 10.09.2014
Ex.P-2	Certified copy of LAC's Award No.20 dated 10.01.2014
Ex.P-3	Certified copy of LAC's Award No.5 dated

	<i>07.10.2014</i>
<i>Ex.P-4</i>	<i>Certified copy of LAC's Award No.3 dated 27.09.2013</i>
<i>Ex.P-5</i>	<i>Certified copy of LAC's Award No.2 dated 27.09.2013</i>
<i>Ex.P-6</i>	<i>Certified copy of LAC's Award No.15 dated 11.12.2013</i>
<i>Ex.P-7</i>	<i>Certified copy of LAC's Award No.11 dated 22.11.2013</i>
<i>Ex.P-8</i>	<i>Certified copy of LAC's Award No.6 dated 14.10.2013</i>
<i>Ex.P-9</i>	<i>Certified copy of LAC's Award No.1 dated 27.09.2013</i>
<i>Ex.P-10</i>	<i>Certified copy of LAC's Award No.12 dated 22.11.2013</i>
<i>Ex.P-11</i>	<i>Certified copy of LAC's Award No.13 dated 11.12.2013</i>
<i>Ex.P-12</i>	<i>Certified copy of LAC's Award No.17 dated 30.12.2013</i>
<i>Ex.P-13</i>	<i>Certified copy sale deed No.5498 dated 25.11.2013</i>
<i>Ex.P-14</i>	<i>Certified copy of Award dated 17.07.2013 passed by Sh. Sandeep Singh the then learned ADJ, Sirsa.</i>
<i>Ex.P-15</i>	<i>Certified copy of Award dated 16.10.2013 passed by Sh. Sandeep Singh the then learned ADJ, Sirsa.</i>
<i>Ex.P-16</i>	<i>Certified copy of Collector rate</i>
<i>Ex.P-17</i>	<i>Certified copy of Collector rate for the years 2012-2013</i>
<i>Ex.P-18</i>	<i>Certified copy of Collector rate for the year 2013-2014</i>
<i>Ex.P-19</i>	<i>Certified copy of Collector rate for the year 2014-2015</i>
<i>Ex.P-20</i>	<i>Certified copy of Collector rate for the year 2015-2016</i>
<i>Ex.P-21</i>	<i>Akash Sijra of village Shekhupuria</i>
<i>Ex.P-22</i>	<i>Certified copy of supplementary award</i>
<i>Ex.P-23</i>	<i>Supplementary award dated 08.08.2014</i>
<i>Ex.P-24</i>	<i>Certified copy of Award No.12 dated 22.11.2013</i>
<i>Ex.P-25</i>	<i>Certified copy of Award No.5 dated</i>

	26.10.2016
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2.3 On the other hand, in oral evidence, the State of Haryana examined RW-1 Sh. D.K. Garg, Sub-Divisional Officer, Panjuana.

2.4 In documentary evidence, the following documents were produced by the State of Haryana (apart from the sale deeds, a tabulated compilation of which is provided in para 5.2):-

<i>Ex.R-1</i>	<i>Reference dated 24.03.2015</i>
<i>Ex.R-2</i>	<i>Statement of Acquisition Collector</i>
<i>Ex.R-3</i>	<i>Statement No.19</i>

2.5 In rebuttal evidence, the landowners produced the following evidence:-

<i>Ex.PX</i>	<i>Certified copy of Minutes of meeting of Divisional Level Committee</i>
<i>Mark A</i>	<i>Akash Sizra of village Panjuana</i>

3. **REASONS RECORDED BY THE RC**

3.1 The RC after observing that the sale deed Ex.P-13 bearing sale deed No.5498, relied upon by the landowners is post the date of notification under Section 4 of the 1894 Act, refused to take the same into consideration while assessing the market value of the acquired land. The Court further observed that the awards passed on 17.07.2013 and 16.10.2013 (Ex.P-14 and Ex.P-15) cannot be relied upon as these awards pertain to the acquisition of land in village Panjuana and there is no evidence to prove that the parcels of acquired land in village Shekhupuria and Panjuana were comparable. Thereafter, the Court proceeded to assess the market value on the basis of

Ex.PX (minutes of meeting of Divisional Level Committee dated 21.09.2013

held under the chairmanship of Commissioner, Hisar Division). The Court held that the landowners are entitled to the market value at the rate of Rs.30,00,000/- per acre on the basis of the information supplied by the District Revenue Officer, Sirsa, to the Committee that the average rate per acre in village Shekhupuria is Rs.34,97,000/-.

3.2 The landowners pray for enhancement of the market value. In RFA-1140-2018, an application for permission to lead additional evidence has been filed. Through the application, LAC's award No.7, dated 08.11.2016, with respect to the land acquired in village Shekhupuria vide notification under Section 11(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the 2013 Act') published on 25.05.2015, has been sought to be produced.

**4. ARGUMENTS OF THE LEARNED COUNSELS
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 record in the lead case.

4.2 The learned counsel representing the landowners contends that while acquiring 13 kanals and 8 marlas of land in village Shekhupuria itself, the LAC has offered to pay to the landowners compensation at the rate of Rs.36,73,779/-. He submits that this award should be permitted to be produced in additional evidence. He further submits that the RC has committed an error in refusing to rely upon the RC's previous awards (Ex.P-14 and Ex.P-15). He submits that while assessing the market value of

the acquired land located in village Panjuana, the RC has assessed the

market value of the land at the rate of Rs.45,00,000/- per acre. He further submits that though, the sale deed Ex.P-13 bearing sale deed No.5498, is post the date of notification under Section 4 of the 1894 Act, however, the time gap is only of nine months.

4.3 Per contra, the learned counsel representing the State of Haryana contends that the RC has neither discussed the sale deed produced by the State of Haryana nor carefully read Ex.PX. He submits that the RC has already enhanced the market value without any relevant and admissible evidence.

5. DISCUSSION BY THIS COURT:-

5.1 It is evident that the RC has committed a material irregularity in omitting to discuss the sale deeds produced by the State of Haryana with respect to the various parcels of land located in village Shekhupuria itself.

5.2 At this stage, it is considered important to produce a tabulated compilation of the various sale deeds produced by the respective parties:-

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-13	5498	25.11.2013	10M	3,03,000/-	48,48,000/-	Chamal
SALE DEED PRODUCED BY THE STATE							
1	R-1	8873	30.01.2013	14-1	21,50,000/-	12,24,200/-	Shekhupuria
2	R-2	1085	15.05.2012	14-1	21,10,000/-	12,01,423/-	Shekhupuria
3	R-3	8724	25.01.2013	4-0	6,00,000/-	12,00,000/-	Shekhupuria

5.3 From a perusal of the sale deeds produced by the State of Haryana, it is evident that the land during contemporaneous period was being sold in the village at the rate of Rs.12,01,000/- to Rs.12,25,000/-.

5.4 From a perusal of the afore-produced table, it is evident that the landowners produced only one sale deed i.e Ex.P-13 bearing sale deed No.5498, which is with respect to a tiny plot of 10 marlas. This sale deed is

of 25.11.2013 which is post the date of notification under Section 4 of the 1894 Act. Hence, the RC has correctly refused to rely upon the same to assess the market value.

5.5 As far as Ex.P-14 and Ex.P-15 are concerned, it may be noted that both the awards relate to the assessment of the market value of the acquired land in village Panjuana. In the absence of evidence to prove that the acquired land in village Panjuana was comparable with the acquired land in village Shekhupuria, the RC has correctly refused to rely upon the before-mentioned awards.

5.6 In additional evidence, another award passed by the LAC for acquisition vide preliminary notification under Section 11 of the 2013 Act dated 25.05.2015 is sought to be produced. The said notification is published after a period of more than two years from the date of preliminary notification in this acquisition. Moreover, it is evident that the aforesaid award is under the 2013 Act which is more beneficial to the landowners. Hence, the same is not relevant for the assessment of the market value of the acquired land as on 19.02.2013.

5.7 Keeping in view the aforesaid facts, there is no evidence to prove that the market value of the acquired land was higher than Rs.30,00,000/- per acre. In fact, the RC has committed an error in relying upon Ex.PX. On a careful reading of minutes of meeting dated 21.09.2013, it is evident that the District Revenue Officer had read out the collector's rate fixed for the purpose of registration of documents, and average rates preceding a period of one year from publication of preliminary notification under Section 4 of the 1894 Act to the members of the Committee. The

Divisional Level Committee, after considering the facts, made recommendations to the LAC to announce the award with respect to the acquired land in village Shekhupuria at the rate of Rs.12,75,000/-. In other words, the document Ex.PX has been selectively read by the RC. There is no direct evidence in the form of sale deeds to prove that on the date of notification under Section 4 of the 1894 Act i.e. 19.02.2013, the market value of the land in village Shekhupuria was Rs.34,97,000/-. In fact, the sale deeds, which have been produced, prove otherwise. Ex.R-1 to Ex.R-3 depict that the land was being sold at the rate of Rs.12,25,000/- per acre (approximately). However, the State of Haryana has not come in appeal.

6. DECISION

6.1 Keeping in view the aforesaid facts, this Court is left with no choice but for to dismiss the appeals filed by the landowners. The evidence sought to be produced, in the application for permission to lead additional evidence, being irrelevant the application is also dismissed.

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

29th October, 2022

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No

Sr. No.	RFA No.	Year	Party name
1.	727	2018	JAGDISH - V/S - STATE OF HARYANA AND ANR.
2.	919	2018	BEG RAJ - V/S - STATE OF HARYANA AND ANR
3.	920	2018	PRITHVI - V/S - STATE OF HARYANA AND ANR
4.	921	2018	SAHAB RAM - V/S - STATE OF HARYANA AND ANR

5.	922	2018	JAI SINGH & ORS - V/S - STATE OF HARYANA AND ANR
6.	923	2018	LADHU RAM & ORS - V/S - STATE OF HARYANA AND ANR
7.	924	2018	SUKHKBIR SINGH & ORS - V/S - STATE OF HARYANA & ANR
8.	925	2018	DALIP & ORS - V/S - STATE OF HARYANA AND ANR
9.	926	2018	HARI RAM & ORS - V/S - STATE OF HARYANA AND ANR
10.	927	2018	SHANTI & ORS - V/S - STATE OF HARYANA AND ANR
11.	928	2018	SHEO LAL SINCE DECEASED THR LRS AND ORS - V/S - STATE OF HARYANA AND ANR
12.	929	2018	PRITHVI & ANR - V/S - STATE OF HARYANA AND ANR
13.	930	2018	RADHA KRISHAN - V/S - STATE OF HARYANA AND ANR
14.	931	2018	RAJ PAL & ANR - V/S - STATE OF HARYANA & ANR
15.	1140	2018	JAGDISH - V/S - STATE OF HARYANA AND ANR
16.	1141	2018	BHAL SINGH & ORS - V/S - STATE OF HARYANA AND ANR
17.	1144	2018	RAJ SINGH & ORS - V/S - STATE OF HARYANA AND ANR
18.	1146	2018	DEVI LAL SINCE DECEASED THR LRS AND ORS - V/S - STATE OF HARYANA AND ANR
19.	1148	2018	KALAWATI & ORS - V/S - STATE OF HARYANA AND ANR
20.	1150	2018	SMT. VIRATA & ORS - V/S - STATE OF HARYANA AND ANR
21.	1151	2018	SAHAB RAM & ORS - V/S - STATE OF HARYANA AND ANR
22.	1152	2018	GURDEEP SINGH & ANR - V/S - STATE OF HARYANA AND ANR
23.	1153	2018	RESHMI & ORS - V/S - STATE OF HARYANA AND ANR
24.	1156	2018	SMT. VIRATA & ORS - V/S - STATE OF HARYANA AND ANR
25.	1553	2018	RAI SINGH SINCE DECEASED THR LRS AND ORS - V/S - STATE OF HARYANA AND ANR
26.	1557	2018	DALIP & ORS - V/S - STATE OF HARYANA AND ANR
27.	2262	2018	MANI DEVI DECEASED THR LRS AND ORS - V/S - STATE OF HARYANA AND ANR
28.	3244	2018	PARMESHWARI & ORS - V/S - STATE OF HARYANA AND ANR

29.	3428	2018	LADHU RAM & ORS - V/S - STATE OF HARYANA AND ANR
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(ANIL KSHETARPAL)
JUDGE