

In the High Court of Punjab and Haryana, at Chandigarh

**Regular First Appeal No. 1142 of 2018 (O&M)
And Other Connected Cases**

**Date of Decision: 11.11.2022
Reserved On: 29.10.2022**

Atma Ram and Others

... Appellant(s)

Versus

The State of Haryana and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. P.K.Ganga, Mr. Jagjot Singh Gill,
Mr. Khushman Dandiwal, Mr. J.S.Thind,
Mr. Balsher Singh, Mr. Ajay Sharma, Mr. K.S.Godara,
Mr. Dheeraj narula, Mr. S.K.Jain, Mr. Deepak Jain,
and Mr. Akshay Jain, Advocates for the landowners.

Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana, for the respondents.

Anil Kshetarpal, J.

1. Introduction and Background

1.1 While praying for the modification of the market value of the acquired land assessed vide award dated 18.08.2017 passed by the Reference Court (hereinafter referred to as “the RC”), the landowners have filed this batch of appeals (detail whereof is at the foot of the judgment).

1.2 The notification under Section 4 and 6 of the Land Acquisition Act, 1964 (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

1.3 The relevant particulars of the acquisition for the purpose of deciding this batch of appeals are as under:-

S.NO.	TITLE	DETAILS
1.	Date of Notification under Section 4 of the 1894 Act.	19.02.2013
2.	Date of Notification under Section 6 of the 1894 Act.	26.08.2013
3.	Purpose of Acquisition.	For the construction of Ratta Khera Kharif Channel (Drain)
4.	Location, area and nature of the acquired land	The acquired land is located in village Rajpura, District Sirsa.
5.	Number and Date of the Award of the Land Acquisition Collector.	Vide Award No. 10 dated 13.11.2013, the LAC has acquired the land measuring 67 kanals and 13 marlas, located in village Rajpura, District Sirsa.
6.	Amount assessed by the Land Acquisition Collector.	The LAC has offered to pay the market value of the acquired land located in village Rajpura, District Sirsa @ ₹12,00,000/- per acre.
7.	Date of the judgment of the Reference Court.	18.08.2017
8.	Amount determined by the Reference Court.	The RC has assessed the market value of the acquired land @ ₹18,00,000/- per acre along with all the statutory benefits.

2. **Facts**

2.1 Dissatisfied with the amount offered by the LAC, on the applications filed by the landowners, the cases were referred to the Court. The landowners claimed that the acquired land is not only located near the residential area, but also close to the pucca road and its market price was not less than ₹1,00,00,000/- per acre. While announcing the award, the LAC has not considered the relevant facts and factors.

2.2 On the other hand, the State of Haryana, while contesting the petitions, claimed that the Divisional Level Price Valuation Committee had

LAC. It has been asserted that the LAC has offered to pay fair, reasonable and adequate market value of the acquired land.

2.3 From the pleadings of the parties, the RC has 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 petition prayed for?OPP.
3.

Whether the petitions of the petitioners are not maintainable?
4.

Relief.”

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 Atma Ram	Petitioner
2.	PW.2 Kulwant	Petitioner

3.2 In the documentary evidence, the landowners have produced the following documents:

Sr. No.	Exhibit Number	Description of the document
1.	Ex.P1	Certified copy of LAC’s Award No.3 dated 10.9.2014 in respect of the acquired land in village Kussar
2.	Ex.P2	Certified copy of LAC’s Award No.4 dated 10.9.2014 in respect of the acquired land in village Fatehpuria
3.	Ex.P3	Certified copy of LAC’s Award No.5 dated

Sr. No.	Exhibit Number	Description of the document
		7.10.2014 in respect of the acquired land in village Nanuana.
4.	Ex.P4	Judgment dated 17.7.2013 passed by the RC while assessing the market value of the acquired land for the construction of Third Water Works for Sirsa in village Panjuana.
5.	Ex.P5	Judgment dated 16.10.2013 passed by the RC while assessing the market value of the acquired land for the construction of Water Works for Sirsa in village Panjuana.
6.	Ex.P6	Certified copy of list of rates
7.	Ex.P7	Certified copy of sale deed No. 5498 dated 25.11.2013
8.	Ex.P8	Certified copy of LAC's award dated 27.9.2013 in respect of the acquired land in village Jodhpuria
9.	Ex.P9	Certified copy of LAC's award dated 27.9.2013 in respect of the acquired land in village Peerkhera
10.	Ex.P10	Certified copy of LAC's Award dated 27.9.2013 in respect of the acquired land in village Modanwali
11.	Ex.P11	Certified copy of LAC's Award No. 10 dated 13.11.2013 in respect of the acquired land in village Rajpura.
12.	Ex.X	Certified copy of LAC's Award No. 7 dated 8.11.2016 in respect of the acquired land in village Shekhupuria
13.	ExY	Certified copy of LAC's Award No. 5 dated 26.10.2016 in respect of the acquired land in village Chamal
14.	Mark A	Photo copy of Judgment dated 23.11.2010

3.3 On the other hand, in oral evidence, the State has examined RW.1 Sh.Kamal Singh Solanki, Sub Divisional Officer, Kalanwali Water Service.

3.4 In documentary evidence, the State has not produced any evidence.

3.5 In rebuttal, the landowners have tendered the document (Ex.PX/1).

4. Discussion and Analysis by this Court

4.1 The RC while observing that some amount of guess work is inevitable, has found that the LAC has not recorded any reason while assessing the market value of the acquired land @ ₹12,00,000/- per acre. The LAC has not considered any sale deed. Thereafter, the RC relies upon Ex.PX/1 to assess the market value of the acquired land @ ₹18,00,000/- per acre. Ex.PX/1 is the minutes of the meeting held on 21.09.2013 of the Divisional level Price Evaluation Committee under the Chairmanship of the Commissioner, Hisar Division, Hisar. Taking into account the bifurcation of the unacquired land, the RC has awarded 40% of the market value of the acquired land as damages for severance of the land.

4.2 Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book as well as the record of the Reference Court, which was requisitioned.

4.3 The learned counsel representing the landowners could not advance any significant argument supporting the enhancement of the market value of the acquired land.

4.4 On the other hand, the learned State counsel has prayed for reduction in the amount assessed by the RC.

4.5 On a careful perusal of the record, it is evident that neither the landowners nor the State of Haryana produced any sale deed of comparable parcels of land executed during the contemporaneous period. The RC has correctly held that the various awards of the LAC of different villages cannot be treated as precedents to assess the market value of the acquired land in village Rajpura. However, the RC has erred in relying upon the

minutes of the meeting held on 21.09.2013, under the Chairmanship of the Commissioner, Hisar Division, Hisar. On a careful perusal of Ex.PX/1, it is evident that the District Revenue Officer was directed to read out the Collector's rates fixed for the purpose of registration of the documents and prevailing average rates during the period upto one year prior to the date of notification under Section 4 of the 1894 Act to the members of the Committee. The District Revenue Officer informed that in village Rajpura, the Collector's rate is ₹12,00,000/- per acre, whereas the market rate is ₹18,00,000/- per acre. However, the Committee did not accept the correctness of the statement of the District Revenue Officer but chose to recommend to the LAC that the acquired land in village Rajpura should be assessed @ ₹12,00,000/- per acre. Thus, the RC has committed an error in selectively reading some portion of Ex.PX/1 while ignoring the remaining part. Once the members of the Committee had already found that the statement of the District Revenue Officer is not worth acceptance, there was no occasion for the Court to proceed to assess the market value of the acquired land solely based upon the aforesaid statement.

4.6 The landowners have not produced any relevant direct evidence to prove that the average market value of the acquired land in village Rajpura was ₹18,00,000/- per acre. The landowners have produced a sale deed of plot measuring 10 marlas located in the residential area of village Chamal. However, in the absence of evidence to prove that the aforesaid sale deed was comparable with the acquired land, the Reference Court has correctly refused to rely upon the same. Firstly, the sale deed is
With respect to a residential plot. Secondly, the sale deed is also post the

date of notification under Section 4 of the 1894 Act. Thirdly, there is no evidence to prove that the parcel of land which is the subject matter of aforesaid sale instance is comparable to the acquired land. However, the State of Haryana has not filed any appeal. Though, the learned counsel representing the State of Haryana prays for invoking the powers under Order XLI Rule 33 of the Code of Civil Procedure, 1908, however, in the facts of the case, this Court does not find it appropriate.

5. Decision

5.1 Keeping in view the aforesaid discussion, this Court is left with no choice but to dismiss the appeals filed by the landowners.

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

(Anil Kshetarpal)
Judge

November 11, 2022
“DK”

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

Sr. No.	Case No.	Party’s Name
1.	RFA-1147-2018	KAILASH DEVI AND ORS V/S STATE OF HARYANA AND ANR
2.	RFA-1154-2018	SANTOSH AND ORS V/S STATE OF HARYANA AND ANR
3.	RFA-1155-2018	RAI SINGH AND ORS V/S STATE OF HARYANA AND ANR
4.	RFA-2267-2018	KAMLA DEVI AND ORS V/S STATE OF HARYANA AND ANR

(Anil Kshetarpal)
Judge

November 11, 2022
“DK”