

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-1143-2018 (O&M)
Date of decision: 29.10.2022

MOHINDER KUMAR AND ANR.

..Appellants

Versus

STATE OF HARYANA AND ANR.

..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
Mr. R.S. Virk, 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 **Mani Ram and othrers 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 11 acre 1 kanal and 2 marlas of land in village Peerkhera, 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.2, the LAC offered to pay the market value at the rate of Rs.16,00,000/- per acre for the acquired land located in village Peerkhera.	27.09.2013
4.	The RC has enhanced the market value from Rs.16,00,000/- to Rs.25,00,000/- per acre along with the damages for bifurcation of the unacquired land at the rate of 40%, wherever applicable.	07.07.2017

FACTS:

1.3 Dissatisfied with the amount offered by the LAC, on the applications filed by 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 prime location which is near village *abadi* (residential area) and pucca road. They claim that the market value of the acquired land, at the relevant time, was not less than Rs.1,00,00,000/- per acre. On the other hand, the State of Haryana while defending, has claimed that the amount offered by the LAC is adequate,

proper and reasonable.

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:-

<i>PW-1</i>	<i>Ram Parkash, Kanungo</i>
<i>PW-2</i>	<i>Kailash Chand, Patwari</i>
<i>PW-3</i>	<i>Krishan Kumar</i>
<i>PW-4</i>	<i>Mahabir</i>

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

<i>Ex.P-1</i>	<i>Certified copy of award No.4 dated 10.09.2014 of village Fatehpuria</i>
<i>Ex.P-2</i>	<i>Akash Sizra of Village Peerkhera</i>
<i>Ex.P-3</i>	<i>Certified copy of LAC's Award No.3 dated 10.09.2014</i>
<i>Ex.P-4</i>	<i>Certified copy of LAC's Award No.4 dated 10.09.2014</i>
<i>Ex.P-5</i>	<i>Certified copy of LAC's Award No.5 dated 07.10.2014</i>
<i>Ex.P-6</i>	<i>Certified copy of judgment passed by the RC dated 17.07.2013</i>
<i>Ex.P-7</i>	<i>Certified copy of judgment passed by the RC dated 16.10.2013</i>
<i>Ex.P-8</i>	<i>Certified copy of collector rate for the years</i>

	2011-2012
Ex.P-9	Certified copy of sale deed dated 25.11.2013
Ex.P-10	Certified copy of award dated 27.09.2013
Ex.P-11	Certified copy of LAC's award No.2 dated 27.09.2013
Ex.P-12	Certified copy of award dated 27.09.2013
Ex.P-13	Akash Sizra of village Peerkhera
Ex.P-14 to Ex.P-16	Jamabandi for the years 2012-2013 of village Peerkhera
Ex.P-17	Certified copy of LAC's award No.2 dated 27.09.2013
Ex.P-18	Photostat copy of judgment dated 02.05.2011
Ex.P-18	Photostat copy of judgment dated 30.09.2011 (repeated)
Ex.P-19	Photostat copy of LAC's award No.7 dated 12.01.2011

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 The State of Haryana has produced sale deeds in there documentary evidence, a tabulated compilation of which is provided in para 5.1.

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

Ex.PX	Certified copy of Minutes of meeting of Divisional Level Committee
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3. REASONS RECORDED BY THE RC

3.1 The RC has refused to rely upon the various awards passed by the LAC with respect to different villages. The RC has also refused to rely upon the awards passed by the RC with regard to the acquisition of the land

in village Panjuana. In absence of evidence to prove that the acquired land in village Panjuana was comparable with the acquired land in village Peerkhera, the RC has correctly refused to assess the market value of the acquired land on the basis of such awards.

**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 submits that the RC in the aforesaid judgments dated 17.07.2013 and 16.10.2013, passed with respect to the acquired land in village Panjuana, had assessed the market value of the acquired land at the rate of Rs.45,00,000/- per acre. He submits that notification under Section 4 of the 1894 Act is common.

4.3 Per contra, the learned counsel representing the State of Haryana contends that a narrow long strip of land has been acquired from different villages for constructing a drain. He submits that in absence of evidence to prove that the acquired land in various other villages was comparable with the acquired land in village Peerkhera. The RC has correctly refused to rely upon the same. He contends that the RC has not only overlooked the sale deeds produced by the State of Haryana but also erred in relying upon Ex.PX.

5. DISCUSSION BY THIS COURT:-

5.1 The RC, although took a note of the sale deeds produced by the State, however, failed to analyse and discuss the same.

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-9	5498	25.11.2013	10M	3,03,000/-	48,48,000/-	Chamal
SALE DEED PRODUCED BY THE STATE							
1	D-1	4566	15.01.2013	10 Acre 4K-15M	1,06,44,000/-	10,04,743/-	Peerkhara
2	D-2	1024	22.05.2012	7K-11.4M	9,50,000/-	10,06,623/-	Peerkhara

5.3 Thereafter, the Court proceeds 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 the Commissioner, Hisar Division).

5.4 This Court has considered the submissions of the learned counsel representing the parties and with their able assistance perused the impugned judgment and the record of the RC, which was requisitioned.

5.5 In the absence of evidence to prove that the market value of the acquired land in village Panjuana or various other villages was comparable with market value of the acquired land in village Peerkhara, at the relevant time, the RC has correctly refused to rely upon the various LAC's awards. While assessing the market value, the RC is required to come to a definite finding on preponderance of probabilities with regard to the market value of the acquired land. The landowners have produced sale deed Ex.P-9 bearing sale deed No.5498, dated 25.11.2013, which is with respect to a tiny plot of 10 marlas located in village Shekhupuria. The aforesaid plot is not only located in a different village but the sale is with respect to a tiny residential plot of 10 marla which is not ordinarily used for agricultural purpose. Ordinarily, an acre consists of 4840 sq. yard. The total area of plot comes to 302 sq. yards. It is only 6% of an acre of agricultural land.

5.6 The RC has relied upon Ex.PX, (minutes of meeting dated 21.09.2013, of Divisional Level Committee held under the chairmanship of Commissioner, Hisar Division). It is evident that District Revenue Officer was called upon by the members of the Committee to read over the collector rate and average sale price in the area. Ultimately, the Committee recommended that Rs.16,00,000/- per acre is the market value of the acquired land in village Peerkhera. In other words, the document Ex.PX has been selectively read by the RC. In the considered view of the Court, the RC should not have ignore the conclusion arrived at by the Committee, particularly when the minutes of the meeting were being considered.

5.7 However, the State of Haryana has not come up in appeal. The RC has already assessed the market value of the acquired land at the rate of Rs.25,00,000/-.

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.

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.	Case No.	Party name
1.	RFA-1143-2018	MOHINDER KUMAR AND ANR - V/S - STATE OF HARYANA AND ANR
2.	RFA-1145-2018	RAM KARAN AND ORS - V/S - STATE OF HARYANA AND ANR

3.	RFA-1149-2018	MANI RAM AND ORS - V/S - STATE OF HARYANA AND ANR
4.	RFA-4070-2018	SULTAN AND ANR. - V/S - STATE OF HARYANA AND ORS
5.	RFA-4071-2018	SHISHPAL - V/S - STATE OF HARYANA AND ORS
6.	RFA-240-2019	RANBIR AND OTHERS - V/S - STATE OF HARYANA THROUGH COLLECTOR,SIRSA AND OTHERS

(ANIL KSHETARPAL)
JUDGE