

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-2091-2017 (O&M)
Reserved on: 21.11.2022
Date of decision: 15.12.2022

STATE OF HARYANA AND ORS.

..Appellants

Versus

THE SHANTI SHIKSHA SAMITI THROUGH PRESIDENT

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shivendra Swaroop, AAG, Haryana.

Mr. Sanjiv Gupta, Advocate
Mr. J.P. Sharma, Advocate
Mr. Sanjay Mittal, Advocate
for the landowners.

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') on account of the compulsory acquisition of land, the State of Haryana as well as the landowners 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	01.03.2011
2.	Area of land	13 kanals and 18 marlas
3.	Location of land	Village Riwasa
4.	Purpose of acquisition	Construction of road (widening etc) from Narnaul to Khudana
5.	Declaration under Section 6 was issued.	19.07.2011
6.	Number and date of LAC award	Award No.32, dated 05.10.2012
7.	Amount assessed by the LAC	The LAC offered to pay the market value of the acquired land measuring 13 kanals and 18 marlas at the rate of Rs.40,00,000/- per acre.
8.	Date of RC's award	26.09.2016
9.	Amount assessed by the RC	The RC assessed the market value of the acquired land at the rate of Rs.3,50,00,000/- per acre.

FACTS:

1.3 Dissatisfied with the amount offered by the LAC for involuntary acquisition of their land, on the applications filed by the landowners under Section 18 of the 1894 Act, the cases were referred to the RC for assessing the market value of the acquired land. The landowners claimed that the acquired land is abutting the Narnaul-Dadri State Highway No.17 and the acquired land is located near the flyover of Rao Tularam Chowk, Mahendergarh. The acquired land could have been put to the residential and commercial use and the potentiality of the land in the vicinity has not been examined by the LAC. It was claimed that the proposed Housing Board Colony is likely to come up in the area, therefore, the price of the land was not less than Rs.3,00,00,000/- per acre. There are shops, restaurants, hotels, petrol pump etc. in the vicinity. New grain market is also

likely to be constructed in this area.

1.4 On the other hand, while contesting the petitions, the State of Haryana claims that the market value of the acquired land has been assessed by the LAC as well as Divisional Level Committee after taking into consideration all aspects of the matter and the amount offered by the LAC is just, fair and reasonable.

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

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

<i>PW-1</i>	<i>Sh. Satpal</i>
<i>PW-2</i>	<i>Sh. Joginder, Draftsman</i>

2.2 In the documentary evidence, the landowners produced the following evidence in support of their case apart from the sale deeds, a tabulated compilation of which is given in para 4.2 of the judgment:-

<i>Ex.P-1 to P-4</i>	<i>Copies of sale deeds</i>
<i>Ex.P-5</i>	<i>Copy of collector's rate of the year 2010-11</i>
<i>Ex.P-6</i>	<i>Certified copy of the controlled area plan of Mahendergarh</i>

2.3 On the other hand, in oral evidence, the State of Haryana examined RW-1 Sh. Kamaldeep Rana, SDO.

2.4 In the documentary evidence, the State of Haryana produced the following documents apart from the sale deeds, a tabulated compilation of which is given in para 4.2 of the judgment:-

<i>Ex.R-1 to Ex.R-4</i>	<i>Copies of sale deeds</i>
<i>Ex.R-5</i>	<i>Divisional level report</i>
<i>Ex.R-6</i>	<i>Copy of jamabandi for the year</i>

	2013, 2016
Ex.R-7	Copy of the award
Ex.R-8	Copy of aks-shijra
Ex.R-9 to Ex.R-11	Copies of mutations

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

Ex.P-7	Copy of the gazette notification
Ex.P-8	Photocopy of notification issued by Town and Country Planner
Ex.P-9	Photocopy of letter
Ex.P-10	Copy of jamabandi for the year 2003-04

3. **Analysis of the reasons recorded by the RC's award:**

3.1 The RC, on 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 the compensation on account of bifurcation of land? OPP
4. Relief.”

3.2 The RC has held that the sale deeds produced by the State of Haryana Ex.R-1 (bearing No.990), Ex.R-2 (bearing No.1524), Ex.R-3 (bearing No.7075) and Ex.R-4 (bearing No.7458) are liable to be excluded from consideration in view of Section 25 of the 1894 Act. Thereafter, the RC selected the exemplar sale deed (bearing No.1476) Ex.P-4 dated 13.09.2010 with respect to 6 marlas plot to be the guiding star for assessment of the market value of the acquired land. The RC although refused to grant any escalation for the period of gap between the date of sale deed and the date of

notification under Section 4 of the 1894 Act, however, proceeded to apply 50% development cut to assess the market value at the rate of Rs.3,50,00,000/- per acre.

4. Discussion and analysis of the arguments of the learned counsel representing the parties by this Court:

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 lower Court record, which was requisitioned.

4.2 At this stage, it is considered appropriate to compile the complete information in respect of various sale deeds produced by the parties in order to have a birds eye view of the matter, in a tabulated form:-

SALE DEED PRODUCED BY THE LANDOWNERS							
Sr. No.	Exhibit Nos.	Sale Deed No.	Date	Total Area	Amount (in Rs.)	Amount Per Acre (in Rs.)	Village
1	P-1	2942	10.02.2011	22.22 sq. yards	2,40,000/-	5,22,77,228/-	Ward No.1 Mahendergarh
2	P-2	439	21.05.2010	70 sq. yards	11,00,000/-	7,60,57,43/-	Ward No.15 Mahendergarh
3	P-3	947	19.07.2010	44 sq. yards	8,80,000/-	9,68,00,000/-	Ward No.2 Mahendergarh
4	P-4	1476	13.09.2010	163.52 sq. yards	27,50,000/-	8,13,96,771/-	Ward No.2 Mahendergarh
SALE DEED PRODUCED BY THE STATE							
1	R-1	990	26.07.2010	4 Acre 1K-12M	96,60,000/-	20,98,361/-	Riwasa
2	R-2	1524	21.08.2009	1200 sq. yards	3,60,000/-	14,52,000/-	Riwasa
3	R-3	7075	03.11.2011	2K-10M	7,82,000/-	25,02,400/-	Riwasa
4	R-4	7458	22.11.2011	3K-19M	12,35,000/-	25,01,266/-	Riwasa

4.3 On the one hand, the learned counsel representing the landowners contends that 50% development cut has wrongly been applied by the RC. They claim that the acquired land is part of the Mahendergarh City, therefore, the market value assessed by the RC is erroneous.

4.4 On the other hand, the learned counsel representing the State of Haryana while referring to layout plan Ex.R-8 contends that the market value of the acquired land was below Rs.40,00,000/- per acre, as is evident

from the sale deed Ex.R-1 (bearing No.990), Ex.R-3 (bearing No.7075) and Ex.R-4 (bearing No.7458). He further contends that the RC has erred in ignoring the sale deeds while incorrectly interpreting Section 25 of the 1894 Act.

4.5 At the outset, it must be noticed that the RC has committed patent error in incorrectly interpreting Section 25 of the 1894 Act, which is extracted as under:-

“25. Amount of compensation awarded by Court not to be lower than the amount awarded by the Collector – The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11.”

4.6 It is evident that Section 25 only debars the RC from awarding the amount lower than the amount offered by the LAC. It does not prohibit or debar the Court from taking into account the sale deeds of a price lesser than the amount offered by the LAC into consideration while assessing the market value of the acquired land. This issue 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.**

4.7 It may be noted here that there are three layout plans produced by the parties. Ex.P-6 is a controlled area plan under Section 4(1)(a) of the The Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963, as applicable in Haryana. This plan was issued on 01.02.1999. A bare look at the aforesaid plan, it is evident that residential area of village Riwasa is located across the railway line coming from Loharu and going towards Rewari. Mahendergarh town is located towards the South of the railway line. The expansion of the city is upto the

railway line.

4.8 The landowners have produced the notification Ex.P-7 issued by the government on 06.10.1988. while expanding the boundary of the Municipal Committee, Mahendergarh, certain part of the land located in village Rewasa was included. Although, the landowners claimed that the acquired land was within the municipal limits, however, no corroborative material has been produced. The landowners have produced a copy of the resolution passed by the office bearers of the Municipal Committee recommending extension of the municipal limits, however, no evidence has been produced to prove that the municipal limits were extended by the government before 01.03.2011.

4.9 Once, the layout plan Ex.P-6, Ex.PW2/A and Ex.R-8 are kept side by side, the picture becomes clear. The entire area of village Riwasa was not included in the municipal limits upto 01.03.2011. A careful perusal of Ex.PW2/A, it is evident that the Rao Tularam Chowk and flyover constructed thereon is located near the city, however, it is at a significant distance from the residential area of village Riwasa. In fact, the distance between the railway line and flyover of Rao Tularam Chowk is more than 250 yards.

4.10 The sale deeds produced by the landowners Ex.P-1 (bearing No.2942), Ex.P-2 (bearing No.439), Ex.P-3 (bearing No.947) and Ex.P-4 (bearing No.1476) are with respect to the area which is located on the South of Loharu-Rewari railway line. These sale deeds not only pertain to a developed area but they are also with respect to the significantly tiny sized plots. In fact, the RC has erred in relying upon sale deed bearing No.1496,

dated 13.09.2010 (Ex.P-4) to assess the market value of the acquired land.

On a careful reading of sale deed (bearing No.1476) Ex.P-4, it is evident that this plot of 6 marlas is a part of the Adarsh Colony, Ward No.II, Mahendergarh. This sale deed is with respect to a constructed house having a covered area of 2060 sq. feet. The size of the plot is 163.52 sq. yards only. As per the layout plan Ex.PW2/A, it is evident that the aforesaid sale deed is with respect to the parcel of land located towards the South of the railway line, whereas, the acquired land is located towards the North of the railway line. There is no material to conclude that the commercial activity towards the North of the railway line had picked up. Towards North of the railway line, there are only two landmarks, one is the BJRD School and another is the Shanti College. The remaining land is the agricultural land. It may be noted here that after crossing the railway line from Mahendergarh City and then going towards the North direction, the residential area of village Riwasa is located on the left hand side. There is a road which goes to village Kanina, whereas, the straight road towards the North direction goes to Dadri. The acquired land is abutting the road going towards Dadri.

4.11 The sale deeds Ex.P-1 (bearing No.2942), Ex.P-2 (bearing No.439) and Ex.P-3 (bearing No.947) produced by the landowners are all with respect to the small plots of shops or commercial area abutting the Mahendergarh town. Hence, these sale instances are neither comparable in size nor in location. On a careful perusal of the layout plan Ex.R-8, it is evident that the sale deed (bearing No.990, dated 26.07.2010) Ex.R-1 with respect to the land located in rectangles No.7, 8, 14 and 15, less than 2 acres away from the road, is sought to be widened by acquiring the land. Thus, the

exemplar sale deed (bearing No.990) Ex.R-1 is with respect to the land which is less than 2 acres away from the acquired land.

4.12 Similarly, the sale deed (bearing No.7458 dated 22.12.2011) Ex.R-4 is with respect to the parcel of land which is less than 2 acres away from the same road. The sale instances Ex.R-1 and Ex.R-4 are with respect to the parcels of land which are adjoining each other. Thus, it is evident that even after the issuance of notification under Section 4 of the 1894 Act on 01.03.2011, the prices of land did not notice any exponential increase. The sale instances Ex.R-3 and Ex.R-4 are approximately eight months after the date of notification under Section 4 of the 1894 Act.

4.13 The sale deed (bearing No.7075, dated 03.11.2011) Ex.R-3 is also four acres away from the main road.

4.14 Thus, it is evident that the RC has committed a patent error resulting in material irregularity while relying upon the sale deed (bearing No.1476) Ex.P-4, which is with respect to a constructed residence located in Adarsh Colony, Mahendergarh. It is also evident that the entire land of village Riwas was not within the municipal limits of Mahendergarh upto 01.03.2011. The sale instance Ex.R-1 is with respect to more than 4 acres of land, whereas, the total acquired land in village Riwas is less than 2 acres. In fact, a narrow strip of land located on both sides of the existing Narnaul-Dadri road has been acquired to widen the existing road. Moreover, it is proved on the file that the Gram Panchayat of village Riwas continues to exist. In fact, on reading of the judgment passed by the RC, it is evident that the lead case was filed by the Gram Panchayat, Village Riwas in the year 2014 through its Sarpanch.

5. Decision:

5.1 Keeping in view the aforesaid discussion, it is evident that the landowners have failed to produce any sale instance of comparable parcel of land during the contemporaneous period to help the Court to hold that the market value offered by the LAC was not adequate. The sale deeds Ex.R-1, Ex.R-3 and Ex.R-4 consistently prove that the price of the land during the contemporaneous period of comparable parcel of land was in the range of Rs.22,00,000/- to Rs.25,00,000/- per acre. The LAC has already offered Rs.40,00,000/- for the acquired land, to the landowners.

5.2 Consequently, the appeals filed by the State of Haryana are allowed, whereas, appeals filed by the landowners shall stand dismissed. Resultantly, the reference applications filed by the landowners under Section 18 of the 1894 Act shall stand dismissed.

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

15th December, 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-2091-2017	STATE OF HARYANA AND ORS V/S THE SHANTI SHIKSHA SAMITI
2.	RFA-2092-2017	STATE OF HARYANA AND ORS V/S SHER SINGH AND ORS
3.	RFA-2093-2017	STATE OF HARYANA AND ORS V/S OM PARKASH AND ORS
4.	RFA-2094-2017	STATE OF HARYANA AND OTHERS V/S GRAM PANCHAYAT VILLAGE REWASA
5.	RFA-2096-2017	STATE OF HARYANA AND ORS V/S BANWARI LAL AND ORS
6.	RFA-2097-2017	STATE OF HARYANA AND ORS V/S OM PARKASH

7.	RFA-2098-2017	STATE OF HARYANA AND ORS V/S BABU LAL AND ANR
8.	RFA-2099-2017	STATE OF HARYANA AND ORS V/S NEERAJ AND ORS
9.	RFA-2100-2017	STATE OF HARYANA AND ORS V/S SANTOSH DEVI AND ANR
10.	RFA-2146-2017	STATE OF HARYANA AND ORS V/S SATYAPAL AND ORS
11.	RFA-2164-2017	STATE OF HARYANA AND ORS V/S DHARAMPAL AND ORS
12.	RFA-2676-2017	SANTOSH DEVI AND ANR. V/S STATE OF HARYANA AND ORS.
13.	RFA-2677-2017	BABU LAL AND ANR. V/S STATE OF HARYANA AND ORS.
14.	RFA-2678-2017	SHISH RAM AND ORS. V/S STATE OF HARYANA AND ORS.
15.	RFA-2679-2017	SHER SINGH AND ORS. V/S STATE OF HARYANA AND ORS.
16.	RFA-2680-2017	NEERAJ AND ORS. V/S STATE OF HARYANA AND ORS.
17.	RFA-2681-2017	SATYAPAL AND ORS. V/S STATE OF HARYANA AND ORS.
18.	RFA-3313-2017	CHIRANJI LAL AND ORS V/S STATE OF HARYANA AND ORS
19.	RFA-4821-2017	STATE OF HARYANA AND ORS V/S SISH RAM AND ORS
20.	RFA-4888-2017	STATE OF HARYANA AND ORS V/S CHIRANJI LAL AND ORS
21.	RFA-5027-2017	STATE OF HARYANA AND ORS V/S JAGMAL AND ANR

(ANIL KSHETARPAL)
JUDGE