

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-139-2018 (O&M)
Reserved on: 21.10.2022
Date of decision: 04.11.2022

DEVKI NANDAN

..Appellant

Versus

STATE OF HARYANA AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.P. Sharma, Advocate
Mr. Divanshu Jain, Advocate
Mr. Karan Gupta, Advocate
Mr. U.K. Agnihotri, Advocate
Mr. Shashikant Gupta, Advocate
Ms. Priya, Advocate
for Mr. Rohit Mittal, 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 modification of the market value assessed in the award passed by the Reference Court (hereinafter referred to as 'the RC') payable on account of compulsory acquisition of the land, the landowners as well as the State of Haryana have filed this batch of appeals and cross-objections (details whereof are at the foot of the judgment). 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 RC, are common. The learned counsel representing the parties are *ad idem* that this batch of appeals and cross-objections 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 proposing to acquire 74 kanals and 4 marlas of land located in village Sirohi Bahali was issued for extending the width and four-laning of the existing road going from Narnaul to Rai Malikpur.	04.01.2011
2.	Declaration under Section 6 was issued.	06.07.2011
3.	Vide award No.13, the LAC offered to pay the market value at the rate of Rs.20,00,000/- per acre in respect to the land measuring 74 kanal 4 marla.	22.02.2012
	The RC enhanced the market value from Rs.20,00,000/- per acre as awarded by the LAC to Rs.60,52,631/-.	16.02.2017

FACTS:

1.3 Dissatisfied with the amount offered by the LAC, on the applications filed by the landowners under Section 18 of the 1894 Act, the cases were referred to the Court. The landowners claimed that precious land having potential for commercial use has been taken away against their wishes while depriving them of the fair market value which was not less than Rs.50,000/- per sq. yard.

1.4 On the other hand, while contesting the petitions, the State of Haryana claim that the LAC has offered just, fair and adequate market value.

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

- “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 PARTIES

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

<i>PW1</i>	<i>Tara Chand</i>
<i>PW2</i>	<i>Sunil Kumar</i>
<i>PW3</i>	<i>Kartar Singh</i>
<i>PW4</i>	<i>Hem Ram</i>
<i>PW5</i>	<i>Hari Singh</i>
<i>PW6</i>	<i>Yashpal Dhamija</i>
<i>PW7</i>	<i>Mahesh Kumar</i>

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

<i>Ex.P-1</i>	<i>Copy of the award</i>
<i>Ex.P-2 to Ex.P-9</i>	<i>Copies of the statement of award</i>
<i>Ex.P-10</i>	<i>Layout plan</i>
<i>Mark P-1 to Mark P-8</i>	<i>Photocopies of jamabandis.</i>
<i>Mark P-9 and Mark P-10</i>	<i>Photocopies of naksha Masawami</i>
<i>Ex.PW1/A</i>	<i>Sale deed bearing No.72 dated 02.05.2011</i>

2.3 On the other hand, the State of Haryana examined RW-1 Sh. Sajjan Singh, Sub-Divisional Engineer who produced copies of four sale

deed Ex.R1 to Ex.R-4, photocopy of the notification under Section 4 of the 1894 Act (Ex.R-5), rate list fixed by the Committee (Ex.R-6) and *aks-shijra* (Revenue layout plan) (Ex.R-7).

3. DISCUSSION AND ANALYSIS OF RC'S AWARD:

3.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the judgments passed by the RC as well as the record of the Courts below, which was requisitioned.

3.2 The RC ignored the sale deeds Ex.R-1 to Ex.R-4 produced by the State of Haryana on the ground that these reflect a price lower than the market value offered by the LAC while wrongly interpreting Section 25 of the 1894 Act. Thereafter, the RC relied upon the sale instance Ex.PW1/A bearing No.72, dated 02.05.2011, with respect to a tiny residential plot of 19 marlas located in village Akbarpur Sirohi (a different village) to assess the market value of the acquired at the rate of Rs.60,52,631/- per acre on 22.02.2012, after applying deduction of 50% on account of development.

3.3. Upon careful study of the impugned judgment, it is evident that the RC's judgment suffers from the following errors:-

- i. The RC has committed an error in relying upon sale deed Ex.PW1/A bearing No.72 which is with respect to a tiny residential plot measuring 19 marlas, located in a different village i.e. Akbarpur Sirohi. The aforesaid sale deed is neither with respect to a comparable parcel of land nor of contemporaneous period. Moreover, the aforesaid sale deed is with respect to the period post the

date of notification under Section 4 of the 1894 Act.

ii. The RC has committed a material irregularity by assessing the market value of the acquired land as prevalent on the date of passing the award i.e. 22.02.2012. As per Section 23 of the 1894, the market value of the acquired land is to be assessed as prevalent on the date of preliminary notification under Section 4 of the 1894 Act i.e. 04.01.2011, in the present case. Thus, the RC has committed a material illegality in assessing the market value.

iii. The RC has, also, committed an error in misinterpreting Section 25 of the 1894 Act while refusing to take into account the sale deeds produced by the State on the ground that these sale deeds reflect a price lower than the amount offered by the LAC. 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**, wherein, it has been declared that there is no bar in taking into account the sale deeds produced by the parties reflecting a price lower than the amount offered by the LAC. Section 25 only debars the Court from assessing the market value of the acquired land lower than the amount offered by the LAC. In other words, it has been held that there is no prohibition in taking into account the sale deeds reflecting a price lower than the

amount offered by the LAC.

3.4 Before proceeding further, it is considered appropriate to compile the complete information in respect of the various sale deeds produced by the 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	PW1/A	72	02.05.2011	0K-19M	14,37,500/-	1,21,05,263/-	Akbarpur Sirohi
SALE DEED PRODUCED BY THE STATE							
1	R-1	3527	24.10.2011	32K-0M	36,00,000/-	9,00,000/-	Sirohi Bahali
2	R-2	4363	30.03.2012	8K	9,00,000/-	9,00,000/-	Sirohi Bahali
3	R-3	3355	30.09.2011	16K-19M	43,00,000/-	20,00,000/-	Sirohi Bahali
4	R-4	506	18.07.2011	10K	25,00,000/-	20,00,000/-	Sirohi Bahali

3.5 It is evident from a careful perusal of the sale instances produced by the State that comparable parcels of land have been sold at the rate of Rs.20,00,000/- per acre, approximately even post the date of notification under Section 4 of the 1894 Act. Undoubtedly, Ex.R-3 and Ex.R-4 are post the date of notification under Section 4 of the 1894 Act but proves that the prices of the land did not rise, exponentially, in the area even after the notification under Section 4 of the 1894 Act for expansion and four laning of the road was issued.

3.6 The RC has also committed an error in relying upon sale instance Ex.PW1/A bearing sale deed No.72, for more than one reasons. The sale deed is with respect to a tiny parcel of residential plot as per the note appended by the Registrar while registering the sale deed. Moreover, the aforesaid sale deed is with respect to the period post the date of notification under Section 4 of the 1894 and pertains to a plot which is located in a

different village. There is no evidence that the aforesaid parcel of land represented by sale deed No.72 (Ex.PW1/A) is comparable with the acquired land. In fact, while deciding a different judgment of even date with respect to acquisition of land in village Akbarpur Sirohi, the aforesaid sale deed has been discarded from consideration.

4. DECISION

4.1 Keeping in view the aforesaid facts, this Court is left with no choice but to accept the appeals filed by the State of Haryana while dismissing the appeals of the landowners. The award passed by the RC is set aside and that of the LAC is restored.

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

4th 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-139-2018	DEVKI NANDAN V/S STATE OF HARYANA AND ORS
2.	RFA-4478-2018	STATE OF HARYANA AND OTHERS V/S RAM SARUP
3.	RFA-3515-2018	PREM LATA AND ORS V/S STATE OF HARYANA AND ORS
4.	RFA-4480-2018	STATE OF HARYANA & OTHERS V/S SMT.MEENU & ANR
5.	RFA-4477-2018	STATE OF HARYANA & OTHERS V/S RANDHIR & OTHERS
6.	RFA-4444-2018	STATE OF HARYANA AND OTHERS V/S KARAN SINGH AND OTHERS
7.	RFA-4475-2018	STATE OF HARYANA AND OTHER V/S SUSHILA & ORS
8.	RFA-4489-2018	STATE OF HARYANA & OTHERS V/S MAMLA & OTHERS

9.	RFA-4476-2018	STATE OF HARYANA & ORS V/S SUBHASH CHAND & ORS
10.	RFA-3365-2018	RADHEY SHYAM V/S STATE OF HARYANA AND OTHERS
11.	RFA-4405-2018	STATE OF HARYANA AND ORS V/S HARI SINGH AND ORS
12.	RFA-4479-2018	STATE OF HARYANA & OTHERS V/S MAHIPAL & ORS
13.	RFA-1271-2018	STATE OF HARYANA AND OTHERS V/S KASHI RAM AND OTHERS
14.	RFA-1356-2018	STATE OF HARYANA & ORS V/S KHEM RAM (SINCE DECEASED) THR. HIS LRS
15.	RFA-1357-2018	STATE OF HARYANA & ORS V/S GYAN PRAKASH & ANR
16.	RFA-345-2018	GYAN PRAKASH AND ANR. V/S STATE OF HARYANA AND ORS.
17.	RFA-1266-2018	STATE OF HARYANA AND OTHERS V/S NARENDER & OTHERS
18.	RFA-1300-2018	STATE OF HARYANA & ORS V/S SURESH & ORS
19.	RFA-1359-2018	STATE OF HARYANA & OTHERS V/S DEVKI NANDAN
20.	RFA-341-2018	NARENDER & ORS V/S STATE OF HARYANA AND ORS
21.	RFA-1301-2018	STATE OF HARYANA & ORS V/S SURAJ BHAN & ORS
22.	RFA-1303-2018	STATE OF HARYANA & ORS V/S HEM RAJ AND ORS
23.	RFA-1298-2018	STATE OF HARYANA & ORS V/S RADHEY SHYAM
24.	RFA-1302-2018	STATE OF HARYANA & OTHERS V/S SUNIL KUMAR
25.	RFA-1299-2018	STATE OF HARYANA & ORS V/S RANDHIR & ORS
26.	RFA-1267-2018	STATE OF HARYANA & OTHERS V/S RAGHBIR
27.	RFA-1269-2018	STATE OF HARYANA & OTHERS V/S MADHU GOYAL
28.	RFA-1270-2018	STATE OF HARYANA AND OTHERS V/S DHARAM CHAND AND OTHERS
29.	RFA-1358-2018	STATE OF HARYANA & ORS V/S SUBHASH CHAND & ORS
30.	RFA-1424-2018	STATE OF HARYANA AND OTHERS V/S PREM LATA AND ORS
31.	RFA-5199-2017	SUSHILA AND ANR V/S STATE OF HARYANA AND ORS
32.	RFA-1297-2018	STATE OF HARYANA & ORS V/S DHARAPAT
33.	XOBJR-69-2021	STATE OF HARYANA THROUGH COLLECTOR AND ORS V/S KHEM RAM DECEASED THR LRS
34.	RFA-1268-2018	STATE OF HARYANA & OTHERS V/S SURAT SINGH

		& OTHERS
35.	RFA-3059-2018	MEENU AND ANR V/S STATE OF HARYANA AND ORS.
36.	RFA-1305-2021	SURAJBHAN AND ANOTHER V/S STATE OF HARYANA AND OTHERS
37.	RFA-1296-2021	SUNIL KUMAR V/S STATE OF HARYANA AND OTHERS
38.	RFA-1299-2021	HARI SINGH AND OTHERS V/S STATE OF HARYANA AND OTHERS
39.	RFA-1304-2021	HEM RAJ AND OTHERS V/S STATE OF HARYANA AND OTHERS
40.	RFA-346-2018	DHARAM CHAND AND ANR V/S STATE OF HARYANA AND ORS

(ANIL KSHETARPAL)
JUDGE