

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-148-2018 (O&M)
Reserved on:- 24.11.2022
Date of decision: 15.12.2022

STATE OF HARYANA AND OTHERS

..Appellants

Versus

HAWA SINGH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shivendra Swaroop, AAG, Haryana.

Mr. Manish Mehta, Advocate
Mr. Mukesh Yadav, Advocate
for the landowners.

ANIL KSHETARPAL, J.

1. **Introduction and background:**

1.1 While praying for modification of the market value assessed in the Reference Court's award on account of compulsory acquisition of the land, the State of Haryana as well as the landowners have filed this batch of appeals and cross-appeals, respectively (details whereof are at the foot of the judgment). The notifications 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 by the Reference Court (hereinafter referred to 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, in brief, are as under:

Sr. No.	Title	Particulars
1.	Preliminary notification under Section 4 of the 1894 Act	08.02.2011
2.	Area of the acquired land	69 kanals and 6 marlas
3.	Location of the acquired land	Village Budhwal
4.	Purpose of acquisition	Construction of road (widening/four laning etc.) maintenance, management operation of Major District Road-129 from village Rai Malikpur to Narnaul
5.	Declaration under Section 6 of the 1894 Act was issued.	08.07.2011
6.	Number and date of LAC's award	Award No.4 dated 22.12.2011
7.	Amount assessed by the LAC	The LAC offered to pay the market value of the acquired land measuring 69 kanals and 6 marlas at the rate of Rs.20,00,000/- per acre.
8.	Date of RC's award	11.09.2017
9.	Amount assessed by the RC	The RC assessed the market value of the acquired land at the rate of Rs.36,37,333/- per acre.

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 RC for assessing the market value of the acquired land. The landowners claimed that the market value of the acquired land was not less than Rs.30,000/- per sq. yard, at the relevant time and the LAC has failed to consider the relevant sale deeds as well as the potentiality of the acquired land for utilization as commercial area.

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? OPD
4. Relief.”

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

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

PW-1	Sh. Ran Singh
PW-1 Again wrongly numbered as PW-1	Smt. Geeta Devi
PW-2	Sh. Karan Singh
PW-3	Sh. Bhagirath
PW-4	Sh. Vijay Singh
PW-5	Sh. Umrao
PW-6	Sh. Hawa Singh
PW-7	Sh. Umrao
PW-8	Sh. Ranbir

2.2 In 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 3.6 of the judgment:-

Ex.P-1 and Ex.P-2	Copies of sale deeds
-------------------	----------------------

2.3 On the other hand, in oral evidence, the State of Haryana examined RW-1 Sh. Sajjan Singh, Sub-Divisional Engineer.

2.4 In documentary evidence, the State of Haryana produced the

following documents apart from the sale deeds, a tabulated compilation of which is given in para 3.6 of the judgment:-

<i>Ex.R-1 to R-3</i>	<i>Copies of sale deeds</i>
<i>Ex.R-4</i>	<i>Gazette notification</i>
<i>Ex.R-5</i>	<i>Rate list</i>
<i>Ex.R-6</i>	<i>Aks-shijra (revenue layout plan)</i>

2.5 The RC, while holding that the sale instances produced by the State of Haryana are required to be excluded from consideration in view of Section 25 of the 1894 Act because these sale instances reflect a price lower than the amount offered by the LAC, has taken the average sale price of two sale instances produced by the landowners namely Ex.P-1 (bearing No.1012) and Ex.P-2 (bearing No.1027) and, thereafter, applied 70% deduction and arrived at a figure of Rs.36,37,333/-.

3. **Discussion and analysis by this Court:-**

3.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the impugned judgments along with the lower Court record, which was requisitioned.

3.2 On the one hand, the learned counsel representing the landowners contends that 70% deduction ordered by the RC is excessive particularly when a narrow strip of land on both sides of road has been acquired. They submit that not more than 20% deduction should be applied.

3.3 On the other hand, the learned counsel representing the State of Haryana while contending that Section 25 of the 1894 Act has been wrongly interpreted, submits that the sale instances produced by the State are more reliable piece of evidence being comparable with the acquired land.

3.4 This Court has analysed the arguments of the learned counsel

representing the parties. First of all, the RC has erred in incorrectly interpreting Section 25 of the 1894 Act to hold that the sale instances reflecting a price lower than the amount offered by the LAC are required to be excluded from consideration. 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**. It has been held that there is no bar, prohibition or restriction on taking into account the sale deeds reflecting a price lower than the amount offered by the LAC. The restriction is only to the effect that the landowners shall not be awarded a price which is lower than the amount offered by the LAC.

3.5 The State of Haryana has produced a layout plan Ex.R-6, which is drawn in accordance with a revenue layout plan (aks-shijra).

3.6 At this stage, it is considered appropriate to compile the complete information in respect of various sale deeds produced by the parties in a tabulated form, which is as under:-

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	1012	24.12.2010	900 Sq. yards	22,67,500/-	1,21,94,111/-	Budhwal
2	P-2	1027	27.12.2010	810 Sq. yards	20,40,000/-	1,21,89,629/-	Budhwal
SALE DEED PRODUCED BY THE STATE							
1	R-1	1348	19.10.2012	5K-6M	14,00,000/-	21,13,208/-	Budhwal
2	R-2	1173	04.02.2011	1K-16M	2,25,000/-	10,00,000/-	Budhwal
3	R-3	1102	14.01.2011	6 kanal	15,00,000/-	20,00,000/-	Budhwal

3.7 On a careful perusal of the two sale deeds produced by the landowners, it is evident that both the sale deeds are with respect to the residential plots. The sale deed Ex.P-1 (bearing No.1012) is with respect to a parcel of land located in rectangle No.47, khasra No.17. On a perusal of the layout plan Ex.R-6, it is evident that rectangle No.47, though not depicted in

the layout plan, but is found to be at a sufficient distance from the acquired land. Moreover, this sale instance is of a residential plot.

3.8 Similarly, the sale instance Ex.P-2 (bearing No.1027) is with respect to a parcel of land located in rectangle No.42, khasra No.18/2. On a perusal of a layout plan Ex.R-6, it is evident that this parcel of land is located far away from the acquired land. It is evident that the aforesaid parcel of land is located closer to the residential area of the village. Moreover, it is with respect to a residential plot.

3.9 From a perusal of the notification under Section 4 of the 1894 Act, it is evident that the land comprised in rectangle No.8, 9, 21, 26, 30, 31, 38, 39, 52, 53, 56 and 57, has been acquired. On a perusal of the sale deed Ex.R-1 (bearing No.1348), it is evident that the the land comprised in rectangle No.30, killa No.3 and 4 has been sold. Although, no doubt, the aforesaid sale instance is post the date of notification under Section 4 of the 1894 Act, however, the subject matter of the said sale instance is located adjacent to the acquired land. In fact, some part of the land in rectangle No.30 has also been acquired. In terms of unit of the agricultural land, the term 'rectangle' denotes 25 acres of compact parcel of land in rectangular shape. At the time of consolidation of holdings under the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1953, in accordance with a uniform practice, the entire land of the village is divided into rectangles and each rectangle is assigned a particular numerical number starting from the North-Eastern side of the village. A strip of first five acres on the Eastern side of the village is assigned numbers in ascending order while travelling towards the South-Eastern and then the numbers start

increasing in a spiral manner while shifting to next five acres of land towards the Western side. It is evident that the land comprised in rectangle No.30 has been acquired and a portion thereof has been sold vide sale deed dated 19.10.2012. From a perusal whereof, it is evident that even after a period of nearly 1 year and 8 months from the date of notification under Section 4 of the 1894 Act, the land was being sold at the rate of Rs.18,67,000/- per acre.

3.10 The landowners are required to prove that the amount offered by the LAC is inadequate. If the landowners intend to rely upon the comparable sale deeds of the contemporaneous period, it is their duty/burden to produce such evidence on the record. At the cost of repetition, the landowners have failed to produce any sale deed of comparable parcel of land executed during the contemporaneous period, whereas, sale deed Ex.R-1 (bearing No.1348) produced by the State of Haryana clearly depict that the amount offered by the LAC was not fair and adequate.

3.12 In view of the aforesaid discussion, the arguments of the learned counsel representing the landowners are rendered academic and hence, not required to be elaborated.

4. Decision:

4.1 Keeping in view the aforesaid discussion, this Court is of the considered view that the RC has committed an error in enhancing the per acre price from Rs.20,00,000/- to Rs.36,37,333/-. Hence, the appeals filed by the State of Haryana are allowed, whereas, that of the landowners are dismissed. The applications filed under Section 18 of the 1894 by the landowners shall stand dismissed.

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

15th December, 2022

(ANIL KSHETARPAL)
JUDGE

Ay

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

Sr. No.	Case No.	Parties Details
1.	RFA-148-2018	STATE OF HARYANA AND ANR V/S HAWA SINGH
2.	RFA-149-2018	STATE OF HARYANA AND ANR V/S VIJAY SINGH AND ORS
3.	RFA-150-2018	STATE OF HARYANA AND ANR V/S UMRAO AND OTHERS
4.	RFA-151-2018	STATE OF HARYANA AND ANR V/S KULDEEP AND ORS
5.	RFA-152-2018	STATE OF HARYANA V/S HARI SINGH
6.	RFA-153-2018	STATE OF HARYANA V/S SHRI CHAND AND OTHERS
7.	RFA-154-2018	STATE OF HARYANA AND ANR V/S ANOOP SINGH & ANR
8.	RFA-155-2018	STATE OF HARYANA AND ANR V/S UMRAO
9.	RFA-156-2018	STATE OF HARYANA AND OTHER V/S RAJBIR AND ANR
10.	RFA-157-2018	STATE OF HARYANA AND ANR V/S RAN SINGH
11.	RFA-158-2018	STATE OF HARYANA V/S BEGH RAJ AND ANR
12.	RFA-159-2018	STATE OF HARYANA V/S JAGRAM AND OTHERS
13.	RFA-160-2018	STATE OF HARYANA V/S GHISA RAM
14.	RFA-161-2018	STATE OF HARYANA AND ANR V/S BHAGIRATH AND ANR
15.	RFA-162-2018	STATE OF HARYANA AND ANR V/S KARAN SINGH & ORS
16.	RFA-163-2018	STATE OF HARYANA AND ANR V/S CHHANO DEVI
17.	RFA-164-2018	STATE OF HARYANA V/S RAJESH AND OTHERS
18.	RFA-165-2018	STATE OF HARYANA AND OTHERS V/S SMT. GEETA DEVI
19.	RFA-312-2018	RAJBIR AND ANR V/S STATE OF HARYANA AND ORS
20.	RFA-792-2018	HAWA SINGH V/S STATE OF HARYANA AND ANR
21.	RFA-1469-2018	UMRAO V/S STATE OF HARYANA AND ORS

22.	RFA-1471-2018	ANOOP SINGH AND ANR V/S STATE OF HARYANA & ANR
23.	RFA-1813-2018	CHHANO DEVI V/S STATE OF HARYANA AND ANR
24.	RFA-2199-2018	KARAN SINGH V/S STATE OF HARYANA AND OTHERS
25.	RFA-2200-2018	UMRAO V/S STATE OF HARYANA AND ANR
26.	RFA-2202-2018	RAN SINGH V/S STATE OF HARYANA AND ANR
27.	RFA-2204-2018	VIJAY SINGH V/S STATE OF HARYANA AND ORS
28.	RFA-3119-2018	SHRI CHAND V/S STATE OF HARYANA AND ORS
29.	RFA-3417-2018	BHAGIRATH AND ANR V/S STATE OF HARYANA AND ANR
30.	RFA-3418-2018	GHISA RAM V/S STATE OF HARYANA
31.	RFA-3711-2018	HARI SINGH V/S STATE OF HARYANA

(ANIL KSHETARPAL)
JUDGE