

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-1480-2018 (O&M)
Date of decision: 29.10.2022

DEVI LAL ALIAS RAJBIR & ANR.

..Appellants

Versus

STATE OF HARYANA AND ANOTHER

..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
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 **Sant Lal and others 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 by 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 134 kanals and 19 marlas of land in village Fatehpur Niyamat Khan, 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.15, the LAC offered to pay the market value at the rate of Rs.12,75,000/- per acre for the acquired land located in village Fatehpur Niyamat Khan.	11.02.2013
4.	The RC has enhanced the market value from Rs.12,75,000/- to Rs.20,00,000/- per acre along with the damages for bifurcation of the unacquired land at the rate of 40%, wherever applicable.	06.10.2017

FACTS:

1.3 Dissatisfied with the amount offered by the LAC, on the request of the landowners, the cases were referred to the RC. The landowners claim that the acquired land is situated at a 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. They have also claimed damages on account of bifurcation of their unacquired land into two parts. The State of Haryana, while contesting the cases, has stated that the amount has been assessed by the LAC after taking into consideration the factual position, location and nature of the land. It has been pointed out that a supplementary award was announced with respect to the amount awarded for trees and structures. The State of Haryana claims that the award has been announced on the basis of recommendation of the Divisional Level Committee headed by the Commissioner, Hisar Division, which went into all aspects of the matter.

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:-

PW-1	Gopal
PW-2	Rajbir
PW-3	Devi Lal alias Rajbir
PW-4	Badri Parshad
PW-5	Sain Ditta
PW-6	Harpal
PW-7	Supari Devi

In documentary evidence, the landowners also produced the

following documentary evidence in support of their case:-

<i>Ex.P-1</i>	<i>Certified copy of LAC's Award No.15 dated 11.12.2013</i>
<i>Ex.P-2</i>	<i>Certified copy of LAC's Award No.4 dated 10.09.2014</i>
<i>Ex.P-3</i>	<i>Certified copy of LAC's Award No.12 dated 22.11.2013</i>
<i>Ex.P-4</i>	<i>Certified copy of LAC's Award No.18 dated 30.12.2013</i>
<i>Ex.P-5</i>	<i>Certified copy of LAC's Award No.3 dated 27.09.2013</i>
<i>Ex.P-6</i>	<i>Certified copy of LAC's Award No.2 dated 27.09.2013</i>
<i>Ex.P-7</i>	<i>Certified copy of LAC's Award No.1 dated 27.09.2013</i>
<i>Ex.P-8</i>	<i>Certified copy of LAC's Award No.3 dated 10.09.2014</i>
<i>Ex.P-9</i>	<i>Certified copy of LAC's Award No.5 dated 07.10.2014</i>
<i>Ex.P-10</i>	<i>Certified copy of LAC's Award No.6 dated 14.10.2013</i>
<i>Ex.P-11</i>	<i>Certified copy of Award No.17.07.2013 dated 11.12.2013 passed by Sh. Sandeep Singh the then learned ADJ, Sirsa.(RC)</i>
<i>Ex.P-12</i>	<i>Certified copy of Award dated 16.10.2013 passed by Sh. Sandeep Singh the then learned ADJ, Sirsa.(RC)</i>
<i>Ex.P-14</i>	<i>Certified copy of Collector rate</i>
<i>Ex.P-15</i>	<i>Certified copy of Collector rate</i>
<i>Ex.P-16</i>	<i>Certified copy of Collector rate</i>
<i>Ex.P-17</i>	<i>Certified copy of Collector rate</i>
<i>Ex.P-18</i>	<i>Certified copy of Collector rate</i>
<i>Ex.PZ</i>	<i>Akash Sizra</i>

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, in their documentary evidence, produced the copies of sale deeds, a tabulated compilation of which is extracted in

para 5.2.

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

<i>Ex.PX</i>	<i>Certified copy of Minutes of meeting of Divisional Committee</i>
<i>Ex.PY</i>	<i>Akash Sizra</i>
<i>Ex.PZ</i>	<i>Certified copy of Mutation No.2373</i>

3. REASONS RECORDED BY THE RC

3.1 The RC has committed an error while observing that the sale deeds produced by the State of Haryana is more than one year prior to the date of notification under Section 4 of the 1894 Act. In fact, the sale deed Ex.R-1 bearing sale deed No.6270, is just 3 and ½ months prior to the date of notification under Section 4 of the 1894 Act. Similarly, the sale deed Ex.R-2 bearing sale deed No.2573, is approximately 8 months prior to the date of notification under Section 4 of the 1894 Act. Both these sale deeds prove that the land located in village Fatehpur Niyamat Khan was being sold at the rate of Rs.12,00,000/- per acre. Admittedly, the landowners have produced the sale deed Ex.P-13 bearing sale deed No.5498, dated 25.11.2013. This is not only with respect to the period post the date of notification under Section 4 of the 1894 Act but also with respect to a tiny plot of 10 marla only. Ordinarily, an acre of land consists of 4840 sq. yards. The area of land covered in Ex.P-13 is around 300 sq. yards of plot. A tiny plot of 10 marlas is not, ordinarily sold/purchased as a parcel of agricultural land. This can only be used either with respect to residential purpose or commercial purpose.

3.2 The landowners relied upon various awards passed by the LAC

with respect to the acquisition of the land in different villages. Ex.P-11 and Ex.P-12 are the awards passed by the RC with respect to the land located in village Panjuana. In the absence of evidence to prove that the various parcels of land which are the subject matter of the awards passed by the LAC or the awards passed by the RC for acquiring land located in different villages were comparable with acquired land in the present case, the RC has correctly refused to rely upon these documents. It is evident that the RC has assessed Rs.20,00,000/- per acre as market value on the basis of Ex.PX (minutes of meeting of the Divisional Level Committee dated 21.09.2013 held under the chairmanship of Commissioner, Hisar Division. The Court held that the landowners are entitled to the market value at the rate of Rs.20,00,000/- per acre on the basis of the information supplied by the District Revenue Officer, Sirsa, to the Committee that the average rate per acre in village Fatehpur Niyamat Khan is Rs.20,00,000/-.

3.2 The landowners pray for enhancement of the market value. In RFA-1480-2018, an application for permission to lead additional evidence has been filed. Through the application, award No.2, dated 26.10.2016, passed by the LAC with respect to the village Fatehpur Niyamat Khan with respect to the notification under Section 11(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the 2013 Act') published on 25.05.2015, has been sought to be produced.

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 contends that while acquiring 13 kanals and 8 marlas of land in village Fatehpur Niyamat Khan itself, the LAC has offered to pay to the landowners market value at the rate of Rs.36,73,779/- per acre. He submits that the LAC's award should be permitted to be produced in evidence. He further submits that the RC has committed an error in refusing to rely upon the previous awards passed by the RC (Ex.P-14 and Ex.P-15). While assessing the market value of the acquired land located in village Panjuana, the RC has assessed the same at the rate of Rs.45,00,000/- per acre. He further submits that though, the sale deed Ex.P-13 bearing sale deed No.5498, is post the date of notification under Section 4 of the 1894 Act, however, the time gap is only of nine months.

4.3 Per contra, the learned counsel representing the State of Haryana contends that the RC has neither discussed the sale deeds produced by the State of Haryana nor carefully read Ex.PX. He submits that the RC has already enhanced the market value without any relevant and admissible evidence.

5. DISCUSSION BY THIS COURT:-

5.1 It is evident that the RC has committed a material irregularity in overlooking the sale deeds produced by the State of Haryana with respect to the various parcels of land located in village Fatehpur Niyamat Khan itself on the ground that these sale deeds are more than 1 year prior to the date of notification in the present case i.e. 19.02.2013. This is factually incorrect.

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-13	5498	25.11.2013	10M	3,03,000/-	48,48,000/-	Chamal
SALE DEED PRODUCED BY THE STATE							
1	R-1	6270	05.11.2012	8-0	12,00,000/-	12,00,000/-	Fatehpur Niyamat Khan
2	R-2	2573	22.06.2012	24-10	36,75,000/-	12,00,000/-	Fatehpur Niyamat Khan

5.3 From a perusal of the sale deeds produced by the State of Haryana, it is evident that the land during contemporaneous period was being sold in the village at the rate of Rs.12,01,000/- to Rs.12,25,000/-.

5.4 From a perusal of the afore-produced table, the landowners produced only a single sale deed i.e Ex.P-13 bearing sale deed No.5498, which is with respect to a tiny plot of 10 marlas located in village Chamal. This sale deed was executed on 25.11.2013 which is post the date of notification under Section 4 of the 1894 Act. Hence, the RC has correctly refused to rely upon the same to assess the market value.

5.5 As far as Ex.P-11 and Ex.P-12 are concerned, it may be noted that both the awards passed by the RC relate to the assessment of the market value of the acquired land in village Panjuana. In the absence of evidence to prove that the acquired land in village Panjuana was comparable with the acquired land in village Fatehpur Niyamat Khan, the RC has correctly refused to rely upon the same.

5.6 In additional evidence, another LAC's award assessing the market value for acquisition of land vide preliminary notification under Section 11 of the 2013 Act dated 25.05.2015 is sought to be produced. The said notification is published after a period of more than two years after the

date of notification in this acquisition. Moreover, it is evident that the aforesaid award is under the 2013 Act which is more beneficial to the landowners. There is a difference in the manner of assessment of the market value of acquired land in the old and new Act. Hence, the same is not relevant for the assessment of the market value of the acquired land as on 19.02.2013.

5. Keeping in view the aforesaid facts, there is no evidence to prove that the market value of the acquired land was higher than Rs.20,00,000/- per acre. In fact, the RC has committed an error in relying upon Ex.PX. On a careful reading of minutes of meeting dated 21.09.2013, it is evident that the District Revenue Officer had read out the collector's rate fixed for the purpose of registration of documents and average rates of the sale deeds with respect to preceding one year from the notification under Section 4 of the 1894 Act to the members of the Committee. The Divisional Level Committee, after considering the facts, made recommendations to the LAC to announce the award with respect to the acquired land in village Fatehpur Niyamat Khan at the rate of Rs.12,75,000/-. In other words, the document Ex.PX has been selectively read by the RC. There is no direct evidence in the form of sale deeds to prove that on the date of notification under Section 4 i.e. 19.02.2013, the market value of the land in village Fatehpur Niyamat Khan was Rs.20,00,000/-. In fact, the sale deeds which have been produced on file prove otherwise. Ex.R-1 & Ex.R-2 depict that the land was being sold at the rate of Rs.12,00,000/- (approximately) per acre. However, the State of Haryana has not come in appeal.

6.

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. The application to produce additional evidence not being relevant, is also dismissed.

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

29th October, 2022
Ay

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

Sr. No.	RFA No.	Year	Party name
1.	728	2018	JASBIR KAUR - V/S - STATE OF HARYANA AND ANOTHER
2.	729	2018	BISHAN DEVI - V/S - STATE OF HARYANA AND ANOTHER
3.	730	2018	SATBIR - V/S - STATE OF HARYANA AND ANOTHER
4.	731	2018	VINOD KUMAR - V/S - STATE OF HARYANA AND ANOTHER
5.	732	2018	MEERA DEVI AND OTHERS - V/S - STATE OF HARYANA AND ANOTHER
6.	766	2018	SANTO SINCE DECEASED THR HER LRS AND ORS - V/S - STATE OF HARYANA AND ANR
7.	767	2018	BIDAMI DEVI - V/S - STATE OF HARYANA AND ANR
8.	802	2018	RUKMA DEVI - V/S - STATE OF HARYANA AND ANOTHER
9.	803	2018	DEVI LAL ALIAS RAJBIR AND ANOTHER - V/S - STATE OF HARYANA AND ANOTHER
10.	804	2018	BIRMA AND OTHERS - V/S - STATE OF HARYANA AND ANOTHER
11.	805	2018	BALWANT - V/S - STATE OF HARYANA AND ANOTHER
12.	806	2018	GHISA RAM AND ANOTHER - V/S - STATE OF HARYANA AND ANOTHER
13.	1205	2018	CHHOTU RAM & OTHERS - V/S - STATE OF

			HARYANA AND ANR
14.	1480	2018	DEVI LAL AND ANOTHER - V/S - STATE OF HARYANA & ANR.
15.	1514	2018	SATPAL AND OTHERS - V/S - STATE OF HARYANA AND ANR.
16.	1554	2018	SHANTI AND ANOTHER - V/S - STATE OF HARYANA AND ANOTHER
17.	1972	2018	BALWANT AND ANR - V/S - STATE OF HARYANA AND ANR
18.	1973	2018	BALWANT - V/S - STATE OF HARYANA AND ANR
19.	1974	2018	BALWANT AND ANR - V/S - STATE OF HARYANA AND ANR
20.	1975	2018	SAIN DITTA - V/S - STATE OF HARYANA AND ANR
21.	1976	2018	JAGGA SINGH AND ORS - V/S - STATE OF HARYANA AND ANR
22.	1977	2018	SANT LAL AND ORS - V/S - STATE OF HARYANA AND ANR
23.	1978	2018	JAI NARAIN AND ANR - V/S - STATE OF HARYANA AND ANR
24.	2112	2018	BIRBAL (DECEASED) THR. LRS. AND ORS - V/S - STATE OF HARYANA AND ANR.
25.	2260	2018	BADRI PARSHAD AND OTHERS - V/S - STATE OF PUNJAB AND ANR
26.	2261	2018	BHIM SAIN THR LRS AND ORS - V/S - STATE OF HARYANA AND ANR
27.	2264	2018	SAHAB RAM AND ANOTHER - V/S - STATE OF HARYANA AND ANOTHER
28.	2551	2018	LADO DEVI (NOW DECEASED) THR. LRS AND OTHERS - V/S - STATE OF HARYANA AND ANOTHER
29.	3475	2018	LICHHMA (NOW DECEASED) THR. LRS AND OTHERS - V/S - THE STATE OF HARYANA AND ANOTHER

(ANIL KSHETARPAL)

JUDGE