

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-1828-2018 (O&M)
Reserved on: 23.11.2022
Date of decision: 07.12.2022

STATE OF HARYANA AND ORS.

..Appellants

Versus

HOSHIYAR SINGH AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shivendra Swaroop, AAG, Haryana.

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

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') on account of 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	129 kanals and 18 marlas
3.	Location of land	Village Bhandor Nichi
4.	Purpose of acquisition	Construction of State Highway No.17 (Widening and four-laning of road etc.
5.	Declaration under Section 6 was issued.	17.05.2011
6.	Number and date of LAC award	Award No.35 dated 23.10.2012
7.	Amount assessed by the LAC	The LAC offered to pay the market value of the acquired land measuring 129 kanals and 18 marlas at the rate of Rs.30,00,000/- per acre.
8.	Date of RC's award	15.12.2016
9.	Amount assessed by the RC	The RC assessed the market value of the acquired land at the rate of Rs.58,80,000/- 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. While claiming that the LAC has greatly undervalued the land, it has been claimed that the acquired land is located adjacent to the main road and the market value of the acquired land was not less Rs.5,00,00,000/- per acre, at that relevant time. The acquired land has a great potential to be developed as a residential/commercial area

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

market value for the acquired land.

2. Evidence produced by the respective parties:

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

PW-1	Sh. Sunder Singh
PW-2	Sh. Mahesh Kumar, HRC
PW-3	Mr. Rajender Verma, Draftsman

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 whereof is given in para 4.2 of the judgment:-

Ex.P-1 to P-4	Sale deeds
Ex.P-5	Copy of award No.35

2.3 On the other hand, in the oral evidence, the State of Haryana examined RW-1 Sh. Kamaldeep Singh Rana, Sub-Divisional Engineer and RW-2 Sh. Alok Kumar, Junior Engineer, PWD B&R, Mohindergarh.

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:-

Ex.RW1/B to RW1/E	Certified copies of sale deeds
Ex.RW1/F to Ex.RW1/H and Ex.RW1/J	Copies of mutations
Ex.RW1/K	Certified copy of jamabandi
Ex.RW1/L	Attested copy of collector's rate
Ex.RW1/M	Attested photocopy of gazette notification under Section 4
Ex.RW1/N	Attested photopy of aks-shijra Mouja Bhandor Nichi

3. **Analysis of the reasons recorded by the RC:-**

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, 1894? 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.”

3.2 On a careful reading of the impugned award passed by the RC, it is evident that in para 7, the RC refused to rely upon the sale deeds Ex.P-1 to Ex.P-7 being small parcels of land as compared to the acquired land. Whereas, in para 20 of the said award, the RC holds that sale instance Ex.P-4 is the guiding star for assessing the market value of the acquired land. The Court held that the per acre price comes to Rs.66,00,000/- per acre. The Court increased it by 10% in order to cover the time gap between the sale deed and preliminary notification under Section 4 of the 1894 Act. Thereafter, the Court applied 10% deduction on account of disparity in the size of the parcel of land sold through Ex.P-4 and the acquired land to arrive at a figure of Rs.65,34,000/- per acre. Thereafter, the Court applied 10% deduction on account of the development cost to be incurred by the State in widening and four laning the road.

4. **Discussion and analysis of the arguments of the learned counsel 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 lower Court record, which was requisitioned.

4.2 At this stage, it is considered appropriate to compile the complete information with respect to the various sale deeds produced by the respective parties in a tabulated form:-

SALE DEEDS 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	3074	25.02.2011	500 sq. yards	3,90,000/-	37,75,200/-	Bhandor Nichi
2	P-2	4345	04.02.2008	1 marla	55,000/-	88,00,000/-	Jatwas
3	P-3	1378	07.08.2009	42 sq. yards	40,000/-	46,09,524/-	Jatwas
4	P-4	1977	07.10.2009	1 kanal	8,25,000/-	66,00,000/-	Jatwas
SALE DEEDS PRODUCED BY THE STATE							
1	RW1/B	551	05.06.2009	2K-12M	2,60,000/-	8,00,000/-	Bhandor Nichi
2	RW1/C	1930	03.11.2010	2 kanal	2,25,000/-	9,00,000/-	Bhandor Nichi
3	RW1/D	2291	13.12.2010	1K-17M	2,25,000/-	9,72,973/-	Bhandor Nichi
4	RW1/E	8844	17.01.2012	7K-15M	8,72,000/-	9,00,129/-	Bhandor Nichi

4.3 On the one hand, the learned counsel representing the landowners claim that the RC has committed an error in applying deduction on the amount awarded under two different components. They contend that the cost incurred by the State in construction and widening of the road is not required to be borne by the landowners.

4.4 On the other hand, the learned counsel representing the State of Haryan contends that the RC has wrongly overlooked the sale instances Ex.RW1/B to Ex.RW1/E by wrongly interpreting Section 25 of the 1894 Act. At the outset, it is important to note that the tabulated compilation of the sale deeds produced in para 16 of the impugned judgment suffers from the factual mistakes. Qua Ex.P-1 (bearing No.3074), the amount of sale consideration and the consequential calculation for arriving at the price per acre is incorrect. Similarly, the sale instances Ex.P-2 (bearing No.4345), to Ex.P-4 (bearing No.1977) are with respect to the parcels of land located in

village Jatwas, whereas, the tabulated compilation of the RC depicts them in the village Bhandor Nichi.

4.5 The RC has also overlooked the layout plan Ex.R4/N produced by the State of Haryana. It may be noted that another layout plan Ex.PW3/B is deceptive and is required to be examined with due care and caution. It is evident that the area and the sale deed Ex.P-4 (bearing No.1977) of village Jatwas has been included in the aforesaid layout plan in order to prove that the market value of the acquired land was more than amount offered by the LAC. The RC has erred in overlooking this particular fact.

4.6 The landowners have produced Ex.P-1, the only sale instance of a residential plot measuring 500 sq. yards that is located in village Bhandor Nichi. The remaining sale instances Ex.P-2 to Ex.P-4 are with respect to parcels of land located in village Jatwas. Ex.P-1 is with respect to a residential plot measuring 500 sq. yards, whereas, the acquired land is the agricultural land. It is evident from the layout plan Ex.R4/N that the residential area of village Bhandor Nichi is at a distance from the road and the acquired land. Hence, sale deed Ex.P-1 (bearing No.3074) is not relevant for assessing the market value of the acquired land. On a careful perusal of the sale instance Ex.RW1/B (bearing No.551), it is evident that on 05.06.2009 i.e. 1 year and 9 months before the notification under Section 4 of the 1894 Act was issued, 2 kanal and 10 marlas land abutting the road where the land has been acquired, has been sold at the rate of Rs.8,00,000/- per acre. This sale instance is with respect to land comprised in rectangle No.9, khasra No.13 and 12/2. On a careful perusal of the preliminary notification under Section 4 of the 1894 Act, it is evident that the land from

the aforesaid khasra number has been partially acquired. Thus, the aforesaid sale deed is relevant for assessing the market value of the acquired land.

4.7 The RC has committed an error in wrongly interpreting Section 25 of the 1894 Act. There is no prohibition or restriction in taking into account the sale deeds reflecting a price lower than the amount offered by the LAC. Section 25 of the 1894 Act only debars the Court from assessing the market value of the land lesser than the amount already 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**.

4.8 As already noticed, the sale deed Ex.RW1/B is with respect to the same khasra numbers which have been acquired. Moreover, the sale deed Ex.RW1/C (bearing No.1930) dated 03.11.2010 is with respect to the land measuring 2 kanal, which has been sold for Rs.2,25,000/-. The per acre price comes to Rs.9,00,000/- per acre. This is with respect to the acquired land comprised in rectangle No.22, khasra No.10/1. On a careful perusal of Ex.R4/N, a layout plan, it is evident that this parcel of land is also located abutting the acquired land. A careful perusal of the aforesaid sale deed proves that the land was being sold at the rate of Rs.9,00,000/- per acre just four months before the notification under Section 4 of the 1894 Act was issued. Even, sale deed Ex.RW1/E (bearing No.8844) leads the Court to conclude that after the issuance of notification under Section 4 of the 1894 Act, the prices of the land in the village did not experience any astronomical increase. Nearly, 1 acre of land on 17.01.2012, has been sold at the rate of Rs.9,00,000/- per acre.

4.9 Hence, the impugned award passed by the RC suffers from

multiple errors. In the considered view of this Court, the landowners have failed to bring any reliable evidence to prove that the price offered by the LAC in its award dated 23.10.2012, was inadequate or not correct reflection of the market value of the acquired land. The sale instance Ex.P-4 (bearing No.1977) is not only with respect to a small parcel of land located in a different village but it also pertains to a residential area. Hence, the same cannot be relied upon while determining the market value of the acquired land.

5. **Decision:**

5.1 In view of the aforesaid discussion, the result is inevitable. The award passed by the RC on 15.12.2016, is set aside, while accepting the appeals filed by the State of Haryana, whereas, dismissing that of the landowners. In substance, the various applications filed under Section 18 of the 1894 Act by the landowners shall stand dismissed.

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

7th December, 2022
Ay

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

Sr. No.	Case No.	Appellant(s)	Respondent(s)
1.	RFA-1828-2018	STATE OF HARYANA AND ORS	HOSHIYAR SINGH AND ORS
2.	RFA-1829-2018	STATE OF HARYANA AND ORS	BANSHI AND ORS
3.	RFA-1830-2018	STATE OF HARYANA AND ORS	HOSHIYAR SINGH AND ORS
4.	RFA-1831-2018	STATE OF HARYANA AND ORS	DINESH KUMAR AND ORS

5.	RFA-1832-2018	STATE OF HARYANA AND ORS	PARMAL SINGH AND ORS
6.	RFA-1833-2018	STATE OF HARYANA AND ORS	SANTOSH
7.	RFA-1834-2018	STATE OF HARYANA AND ORS	MAHENDER SINGH AND ORS
8.	RFA-1835-2018	STATE OF HARYANA AND ORS	RAMESH KUMAR
9.	RFA-1836-2018	STATE OF HARYANA AND ORS	HOSHIYAR SINGH AND ORS
10.	RFA-1837-2018	STATE OF HARYANA AND ORS	RAM CHANDER AND ORS
11.	RFA-1839-2018	STATE OF HARYANA AND ORS	UMRAO AND ORS
12.	RFA-1840-2018	STATE OF HARYANA AND ORS	RAM CHANDER AND ORS
13.	RFA-1841-2018	STATE OF HARYANA AND ORS	ROHTASH AND ORS
14.	RFA-1843-2018	STATE OF HARYANA AND ORS	SUNDER SINGH AND ORS
15.	RFA-1845-2018	STATE OF HARYANA AND ORS	SMT. ALKA
16.	RFA-1846-2018	STATE OF HARYANA AND ORS	AJAY KUMAR
17.	RFA-1848-2018	STATE OF HARYANA AND ORS	DEEPAK KUMAR AND ORS
18.	RFA-1875-2018	STATE OF HARYANA AND ORS	MUNESH DEVI
19.	RFA-99-2018	BANSHI (NOW DECEASED THR LR) & ORS	STATE OF HARYANA AND ORS
20.	RFA-3161-2017	RAMESH KUMAR	STATE OF HARYANA AND ORS
21.	RFA-3162-2017	HOSHIYAR SINGH & ORS	STATE OF HARYANA AND ORS
22.	RFA-3163-2017	HOSHIYAR SINGH & ORS	STATE OF HARYANA AND ORS
23.	RFA-3165-2017	SUNDER SINGH & ORS	STATE OF HARYANA AND ORS
24.	RFA-499-2018	SMT. ALKA	STATE OF HARYANA AND ORS
25.	RFA-1268-2021	ROHTASH AND ORS	STATE OF HARYANA AND ORS
26.	RFA-1273-2021	HOSHIYAR SINGH AND ORS	STATE OF HARYANA AND ORS
27.	RFA-1274-2021	RAM CHANDER AND ORS	STATE OF HARYANA AND ORS

28.	RFA-1275-2021	PARMAL SINGH AND ORS	STATE OF HARYANA AND ORS
29.	RFA-1282-2021	DINESH KUMAR AND ORS	STATE OF HARYANA AND ORS
30.	RFA-1293-2021	SANTOSH	STATE OF HARYANA AND ORS
31.	RFA-2662-2021	UMRAO AND ORS	STATE OF HARYANA AND ORS
32.	RFA-2665-2021	MAHENDER SINGH AND ORS	STATE OF HARYANA AND ORS

(ANIL KSHETARPAL)
JUDGE