

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-21-2018 (O&M)
Reserved on: 21.10.2022
Date of decision: 04.11.2022

STATE OF HARYANA AND ORS. ..Appellants

Versus

NEELAM ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shivendra Swaroop, AAG, Haryana.
Mr. Harsh Vardhan, AAG, Haryana.

Mr. Sandeep Kumar Yadav, Advocate
for the landowners.

ANIL KSHETARPAL, J.

1. Introduction and background:

1.1 While praying for the modification of the market value assessed in Reference Court's award, the landowners as well as the State of Haryana have filed this batch of appeals and a cross-objection bearing No.XOBJR-127-2021 (details whereof are at the foot of the judgment) has been filed. 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 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 along with a cross-objection bearing No. XOBJR-127-2021, 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 proposing to acquire land measuring 74 kanals and 15 marlas located in village Kharkhara under Section 4 of the 1894 Act was issued for a public purpose namely for widening and for four-laning of Major District Road-129 from Narnaul to Khudana.	15.03.2011
2.	Declaration under Section 6 was issued.	15.07.2011
3.	Vide award No.36, the LAC offered to pay the market value with all the statutory benefits of the acquired land measuring 74 kanals and 15 marlas at the rate of Rs.30,00,000/- per acre.	26.10.2012
4.	The RC while disposing of as many as 31 reference petitions, has assessed the market value with all the statutory benefits at the rate of Rs.38,72,000/- per acre.	22.11.2016

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 redetermination of amount. The landowners claimed that their precious land with market value at the rate of Rs.5,00,00,000/- per acre having potential to be used for residential and commercial purpose has been involuntarily taken away.

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

2. Evidence produced by the respective parties:

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

<i>PW1</i>	<i>Saneh Lata</i>
<i>PW2</i>	<i>Neelam</i>
<i>PW3</i>	<i>Rajesh</i>
<i>PW4</i>	<i>Rajesh</i>
<i>PW5</i>	<i>Rajender</i>
<i>PW6</i>	<i>Paras Ram</i>

2.2 In the documentary evidence, the following documents were produced by the landowners (apart from the sale deeds, a tabulated compilation of which is provided in para 4.2 of the judgment):-

<i>Ex.P-1, Ex.P-3 to Ex.P-6 and Ex.P6A to Ex.P-25</i>	<i>Copies of the statements No.19 of the 1894 Act.</i>
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2.3 On the other hand, the State of Haryana in their oral evidence examined RW-1 Sh. Sajan Singh, the Sub-Divisional Engineer.

2.4 In the documentary evidence, the State of Haryana produced the following documents:-

Ex.RW1/B to Ex.RW1/F	Copies of sale deeds
Ex.RW1/G to Ex.RW1/L	Copies of mutations
Ex.RW1/M	Copy of jamabandi for the year 2013-2014
Ex.RW/N	Copy of notification under Section 4 of the 1894 Act
Ex.RW1/O	Rate list fixed by the Committee
Ex.RW1/P1	<i>aks-shijra</i> (Revenue layout plan)

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

3.1 The RC, on the appreciation of the pleadings, culled out the following issues for determination:-

“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.”

3.2 The RC while relying upon the sale deed Ex.PB bearing No.2153, (dated 29.11.2010), in respect to the parcel of a tiny plot measuring 9 marlas, has assessed the market value of the land by applying deduction of 20% on account of disparity in the size of the plot represented by sale deed Ex.PB bearing No.2153, when compared with the acquired land. Thus, the RC has assessed the market value at Rs.38,72,000/- per acre. The sale deeds produced by the State of Haryana were not taken into consideration on the ground that these sale deeds are with respect to sale price which is below the amount offered by the LAC and cannot be taken into consideration in view of the bar under Section 25 of the 1894 Act.

4. **Discussion and analysis by this Court 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 along with the requisitioned record of the Courts below.

4.2 At this stage, it is considered appropriate to compile the complete information with respect to 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	PA	2152	29.11.2010	244 sq. yards	2,44,000/-	48,40,000/-	Kharkhara
2	PB	2153	29.11.2010	274.5 sq. yards	2,74,500/-	48,40,000/-	Kharkhara
3	PC	375	20.05.2011	605sq. Yards	6,05,000/-	48,40,000/-	Kharkhara
SALE DEED PRODUCED BY THE STATE							
1	RW1/B	194	29.04.2010	1 kanal	2,00,000/-	16,09,000/-	Kharkhara
2	RW1/C	238	04.05.2010	2K-7M	1,76,250/-	6,00,000/-	Kharkhara
3	RW1/D	2794	24.01.2011	1K-16M	2,00,000/-	8,88,889/-	Kharkhara
4	RW1/E	437	25.05.2011	2 kanal	2.25,000/-	9,00,000/-	Kharkhara
5	RW1/F	1353	08.07.2011	2K-6M	2,59,000/-	9,00,870/-	Kharkhara

4.3. On the one hand, the learned counsel representing the landowners contends that there was no occasion for the RC to apply 20% deduction on account of the development cut because the acquisition is meant for the purpose of widening of the road, therefore no development is to take place in the particular acquired land.

4.4. Upon careful study of the RC's impugned judgment, it is evident that the following errors have been committed:-

(i). The RC has relied upon the sale deed Ex.PB bearing No.2153 with respect to a 9 marla plot. On a careful perusal of the aforesaid sale deed, it is evident that it is with respect to a residential plot measuring 275.5 sq. yards. The involuntary acquisition is meant for the purpose of widening and four laning of the existing road. There is no evidence that there was any residential area surrounding the road. In such circumstances, it was not appropriate to assess the market value of agricultural land on the basis of sale deed Ex.PB, that relates to a tiny sized residential plot. Hence, the same was not comparable with the acquired land.

(ii). It has also committed an error in incorrectly interpreting Section 25 of the 1894 Act while refusing to take into consideration the sale deeds Ex.R1/B to Ex.RW1/F produced by the State on the ground that these sale deeds pertain to the sale 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 was 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 except that the landowners shall not be offered the market value 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.

(iii). The RC has overlooked the layout plan Ex.RW1/B. It is evident that the sale deed Ex.RW1/C bearing No.238, dated 04.05.2010, is with respect to parcel of the land located on the Major District Road-129, abutting the acquired land. The land has been sold at the rate of Rs.6,00,000/- per acre. Though, this plot is with respect to an area measuring 2 kanals and 7 marlas which is approximately 1/3rd of an acre of land. However, as compared to the other sale deeds, this is the largest plot

amongst all the sale deeds that have been produced by all the parties. Moreover, the sale deed Ex.RW1/B to Ex.RW1/F clearly depict that the land located in the village Kharkhara was not beyond Rs.16,00,000/- per acre even when a small parcel of agricultural land is sold. The three sale deeds Ex.PA (bearing No.2153), Ex.PB (bearing No.2152) and Ex.PC (bearing No.375) produced by the landowners are with respect to the residential plots which are considerably small. Ordinarily, an acre of land consists of 4840 sq. yards. There are 8 kanals in one acre of land. In other words, each kanal consists of 605 sq. yards area. There are as many as 20 marlas in each kanal. In general, each marla of land consists of 30.25 sq. yards of area. Thus, the plots Ex.PA (bearing No.2152) and Ex.PB (bearing No.2153), are not even with respect to one and a half (1½) kanal of land. There is no evidence of the comparable location of the parcel of land represented by the sale instance Ex.PC (bearing No.375). This again relates to only 1 kanal (605 sq. yards) of land. These types of parcels of land are not ordinarily sold or purchased for using the land for the agriculture purposes. Thus, one of the various sale deeds produced in evidence as Ex.RW1/C (bearing No.238), is not only abutting the acquired land but its location is also comparable with the acquired land. The most relevant sale instance is

Ex.RW1/C (bearing No.238), as it is abutting the
acquired land.

5. **Conclusion:**

5.1 Keeping in view the aforesaid discussion, the RC has
committed a material irregularity in relying upon the sale instance Ex.PB
(bearing No.2153). Consequently, in absence of a clear and definite evidence
to prove that the market value offered by the LAC was not in consonance
with the actual market value of the acquired land, the RC has committed an
error in assessing the market value at the rate of Rs.38,72,000/- per acre.

6. **Decision:**

6.1 Keeping in view the aforesaid facts, the award passed by the RC
is set aside while upholding the LAC's award No.36 dated 26.10.2012.

6.2 Consequently, the appeals filed by the State of Haryana are
accepted/allowed, whereas, the cross-appeals as well as cross-objections
filed by the landowners shall stand dismissed.

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

04th November, 2022
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

SR. NO.	CASE NO.	PARTIES NAME
1.	RFA-21-2018	STATE OF HARYANA AND OTHERS V/S NEELAM
2.	RFA-22-2018	STATE OF HARYANA AND OTHERS V/S SHER SINGH AND ORS
3.	RFA-23-2018	STATE OF HARYANA AND OTHERS V/S SANJAY KUMAR

4.	RFA-24-2018	STATE OF HARYANA AND OTHERS V/S RAJ KUMAR
5.	RFA-25-2018	STATE OF HARYANA AND OTHERS V/S GRAM PANCHAYAT
6.	RFA-26-2018	STATE OF HARYANA AND OTHERS V/S OM PARKASH
7.	RFA-41-2018	STATE OF HARYANA AND OTHERS V/S SUBE SINGH AND ANR.
8.	RFA-42-2018	STATE OF HARYANA AND OTHERS V/S SANEH LATA AND ORS
9.	RFA-44-2018	STATE OF HARYANA AND OTHERS V/S SANT LAL
10.	RFA-33-2018	STATE OF HARYANA AND OTHERS V/S SMT. BIMLA DEVI AND OTHERS
11.	RFA-105-2018	STATE OF HARYANA AND OTHERS V/S VEDPAL
12.	RFA-109-2018	STATE OF HARYANA AND OTHERS V/S BANSI RAM AND ANR
13.	RFA-235-2018	STATE OF HARYANA AND OTHERS V/S BAHADUR SINGH AND OTHERS
14.	RFA-108-2018	STATE OF HARYANA AND OTHERS V/S KIRODI AND OTHERS
15.	RFA-34-2018	STATE OF HARYANA AND OTHERS V/S SMT. SUMAN & ORS
16.	RFA-43-2018	STATE OF HARYANA AND OTHERS V/S HARI SINGH AND OTHERS
17.	RFA-30-2018	STATE OF HARYANA AND OTHERS V/S SUBE SINGH AND OTHERS
18.	RFA-31-2018	STATE OF HARYANA AND OTHERS V/S SMT. SAVITA DEVI AND ANR.
19.	RFA-35-2018	STATE OF HARYANA AND OTHERS V/S RAJESH AND OTHERS
20.	RFA-36-2018	STATE OF HARYANA AND OTHERS V/S AMAR SINGH AND ORS
21.	RFA-38-2018	STATE OF HARYANA AND OTHERS V/S MANGE RAM AND ANR.
22.	RFA-40-2018	STATE OF HARYANA AND OTHERS V/S HAZARI LAL AND OTHERS
23.	RFA-37-2018	STATE OF HARYANA AND OTHERS V/S GRAM PANCHAYAT
24.	RFA-39-2018	STATE OF HARYANA AND OTHERS V/S SHISH RAM AND OTHERS
25.	RFA-107-2018	STATE OF HARYANA AND OTHERS V/S ROSHAN LAL AND OTHERS
26.	RFA-32-2018	STATE OF HARYANA AND OTHERS V/S SMT. BIMLA DEVI AND OTHERS
27.	RFA-147-2018	STATE OF HARYANA AND OTHERS V/S HANUMAN AND ORS

28.	RFA-104-2018	STATE OF HARYANA AND OTHERS V/S MAHIPAL SINGH AND ORS
29.	RFA-27-2018	STATE OF HARYANA AND OTHERS V/S RAM PARSHAD AND ORS
30.	XOBJR-127-2021	STATE OF HARYANA AND OTHERS V/S SUBE SINGH AND ANR
31.	RFA-106-2018	STATE OF HARYANA AND OTHERS V/S SUBH RAM AND OTHERS
32.	RFA-181-2018	STATE OF HARYANA AND OTHERS V/S SADHU RAM AND OTHERS

(ANIL KSHETARPAL)
JUDGE