

In the High Court of Punjab and Haryana, at Chandigarh

**Regular First Appeal No. 2324 of 2018 (O&M)
And Other Connected Cases**

**Date of Decision: 11.11.2022
Reserved On: 29.10.2022**

Rajinder Kumar and Others

... Appellant(s)

Versus

The State of Haryana and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. P.K.Ganga, Mr. Jagjot Singh Gill,
Mr. Khushman Dandiwal, Mr. J.S.Thind,
Mr. Balsher Singh, Mr. Ajay Sharma, Mr. K.S.Godara,
Mr. Dheeraj narula, Mr. S.K.Jain, Mr. Deepak Jain,
and Mr. Akshay Jain, Advocates for the landowners.

Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana, for the respondents.

Anil Kshetarpal, J.

1. Introduction and Background

1.1 While praying for the modification of the market value of the acquired land assessed in the Reference Court's (hereinafter referred to as "the RC") award dated 25.10.2017, the landowners have filed this batch of appeals (details whereof are at the foot of the judgment).

1.2 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 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.

1.3 The relevant particulars of the acquisition for the purpose of deciding this batch of appeals, in brief, are as under:-

S.NO.	TITLE	DETAILS
1.	Date of Notification under Section 4 of the 1894 Act.	19.02.2013
2.	Date of Notification under Section 6 of the 1894 Act.	26.08.2013
3.	Purpose of Acquisition.	For the construction of Rattakhera Kharif Channel (Canal)
4.	Location, area and nature of the acquired land	The acquired land is located in village Bhagsar, Tehsil and District Sirsa.
5.	Number and Date of the Award of the Land Acquisition Collector.	The LAC vide Award No. 14 dated 11.12.2013, has assessed the market value of the acquired land measuring 104 kanals and 15 marlas, located in village Bhagsar, Tehsil and District Sirsa.
6.	Amount assessed by the Land Acquisition Collector.	The LAC has offered to pay the market value of the acquired land located in village Bhagsar, Tehsil and District Sirsa, @ ₹12,75,000/- per acre.
7.	Amount determined by the Reference Court.	The RC, vide award dated 25.10.2017, has assessed the market value of the acquired land @ ₹17,00,000/- per acre along with 40% of the market value of the acquired land on account of bifurcation of the unacquired land.

2. **Facts**

2.1 Dissatisfied with the amount offered as the market value of the acquired land by the LAC, on the applications filed by the landowners, as many as 25 applications under Section 18 of the 1894 Act were referred to the Court for adjudication of the market value. While claiming the acquired land to be fertile and the canal irrigated land, the landowners claim that the market value of the acquired land on 19.02.2013 (the date of notification under Section 4 of the 1894 Act) was not less than ₹1,00,00,000/- per acre.

It is claimed that the landowners have made the land cultivable after persistently putting in their hard labour. The acquired land is not only located near the residential area, but is also near to the pucca road of the village.

2.2 On the other hand, the State of Haryana, while contesting the petitions, claimed that the Divisional Level Committee, under the Chairmanship of the Commissioner, Hisar Division, Hisar, after considering all aspects of the matter, has recommended ₹12,75,000/- per acre as the market value which has been accepted by the LAC. It is claimed that the amount offered by the LAC is just, fair and adequate.

2.3 The RC, on appreciation of pleadings, has culled out the following issues for adjudication:-

- “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.”

3. **Evidence Produced by the Respective Parties**

3.1 In the oral evidence, the landowners have examined the following witnesses:-

Sr. No.	Name of the Witness	Particulars of the Witness
1.	PW.1 Rajinder Singh	Petitioner
2.	PW.2 Amarpal Singh	Petitioner

3.	PW.3 Amar Singh	Petitioner
4.	PW.4 Parveen Raja	Petitioner
5.	PW.5 Om Parkash	Petitioner

3.2 In the documentary evidence, the landowners have produced the following documents:-

Sr. No.	Exhibit Number	Description of the document
1.	Ex.P1	Certified copy of LAC’s Award no.3 dated 10.9.2014 in respect of the acquired land in village Kussar.
2.	Ex.P2	Certified copy of LAC’s Award no.4 dated 10.9.2014 in respect of the acquired land in village Fatehpuria.
3.	Ex.P3	Certified copy of LAC’s Award no.5 dated 7.10.2014 in respect of the acquired land in village Nanuana.
4.	Ex.P4	Certified copy of LAC’s Award no.20 dated 10.1.2014 in respect of the acquired land in village Chamal
5.	Ex.P5	Certified copy of LAC’s Award no.15 dated 11.12.2013 in respect of the acquired land in village Fatehpur Niamathkhan.
6.	Ex.P6	Certified copy of LAC’s Award no.13 dated 11.12.2013 in respect of the acquired land in village Ram Nagar.
7.	Ex.P7	Certified copy of LAC’s Award no.12 dated 22.11.2013 in respect of the acquired land in village Shekhupuria.
8.	Ex.P8	Certified copy of LAC’s Award no.11 dated 22.11.2013 in respect of the acquired land in village Paniwala Mota.
9.	Ex.P9	Certified copy of LAC’s Award no.17 dated 30.12.2013 in respect of the acquired land in village Ghukanwali.
10.	Ex.P10	Certified copy of LAC’s Award no.2 dated 27.9.2013 in respect of the acquired land in village Perkhera.
11.	Ex.P11	Certified copy of LAC’s Award no.6 dated 14.10.2013 in respect of the acquired land in village Karamgarh.
12.	Ex.P12	Certified copy of LAC’s Award no.1 dated 27.9.2013 in respect of the acquired land in village Jodhpuria
13.	Ex.P13	Certified copy of Award dated 17.7.2013

Sr. No.	Exhibit Number	Description of the document
		passed by the Reference Court for the construction of Third Water Works for Sirsa in respect of the acquired land in village
14.	Ex.P14	Certified copy of Award dated 16.10.2013 passed by the Reference Court in respect of the acquired land in village Panjuana.
15.	Ex.P15	Collector's rate for the year 2012-13
16.	Ex.P16	Collector's rate for the years 2013-2014
17.	Ex.P15 (Repeated)	Site plan
18.	Ex.P16(Repeated)	LAC's Award No.7 dated 8.11.2016 in respect of the acquired land in village Shekhupuria.
19.	Ex.PW.3/B	Release deed no. 5729 dated 6.12.2013
20.	Ex.P17	Supplementary Award dated 8.8.2014 passed by the LAC in respect of trees and structures in various villages in District Sirsa.
21.	Ex.P3/C	Aks Sizra
22.	Ex.PW.5/B	Aks Sizra

3.3 On the other hand, in the oral evidence, the State of Haryana has examined Sh.D.K.Garg, Sub Divisional Officer, Panjuana, entered in the witness box as RW.1.

3.4 In documentary evidence, the State of Haryana has produced and proved two sale deeds, a tabulated compilation of which is incorporated in para 5.5 of the judgment.

3.4 In the rebuttal evidence, the landowners have tendered the following documents:-

Sr. No.	Exhibit Number	Description of the document
1.	Ex.PX	LAC's Award No.14 dated 11.12.2013 in respect of village Bhagsar.
2.	Ex.PY	Report of Divisional Committee dated 21.9.2013

4. Analysis of the Reasons Recorded by the RC

4.1 The RC, while observing that certain amount of guess work is inevitable, in assessing the market value of the acquired land, has observed

that the LAC's award is not supported by relevant reasons and the LAC has failed to devolve any formula used to assess the said amount. Thereafter, the RC refused to rely upon the various LAC's awards (Ex.P1 to Ex.P17) due to the reason of being related to different villages. Further, the RC focused its attention to the Ex.PY. The sale deeds (Ex.R1 and Ex.R2) were not considered appropriate for determining the market value of the acquired land because both the sale deeds show amount similar to the Collector's rates, whereas, as per the LAC's award, the landowners are entitled to ₹12,75,000/- per acre. After selectively reading the minutes of the meeting held on 21.09.2013 of the Divisional Level Committee under the Chairmanship of the Commissioner, Hisar Division, Hisar, the RC has assessed the market value of the acquired land @ ₹17,00,000/- per acre. Apart from the market value, the RC has also held that the landowners, who suffered loss on account of bifurcation of the unacquired land due to the construction of the drain, shall be entitled to compensation @ 40% of the market value of the acquired land as the damages for severance.

5. Discussion and Analysis of the arguments of the learned counsel representing the parties.

5.1 Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book as well as the record of the RC, which was requisitioned.

5.2 The learned counsel representing the landowners contend that the RC has erred in refusing to rely upon the RC's assessment vide award dated 17.07.2013 and 16.07.2013.

5.3 On the other hand, the learned counsel representing the State of Haryana, while criticizing the RC's judgment, has submitted that the RC has

committed a material irregularity in selectively/partially reading the minutes of the meeting held on 21.09.2013 of the Divisional Level Committee, under the Chairmanship of the Commissioner, Hisar Division, Hisar. He submits that once the sale deeds (Ex.R1 and Ex.R2) were available, the RC should have assessed the market value of the acquired land after evaluating and analyzing the said sale deeds produced by the State.

5.4 This Court, after having heard the learned counsel representing the parties, has analyzed the facts and evidence of the case. On a careful reading of Ex.PY i.e. the minutes of the meeting held on 21.09.2013 of the Divisional Level Committee, it is evident that the District Revenue Officer, Sirsa, on being requested, has read out the Collector's rates for the purpose of the registration of the documents and average rates in the period upto one year prior to the notification under Section 4 of the 1894 Act. With respect to the village Bhagsar, the Committee was informed that the Collector's rate is ₹15,00,000/- per acre, whereas the market rate is ₹17,00,000/- per acre. It is specifically recorded in the minutes that the Committee has, ultimately, considered it appropriate to recommend that the landowners in village Bhagsar will be offered ₹12,75,000/- per acre. Thus, the RC has committed an error to assess the market value of the acquired land @ ₹17,00,000/- per acre on the basis of an information supplied by the District Revenue Officer to the members of the Divisional Level Committee, headed by the Commissioner, Hisar Division, Hisar particularly when no corroborative evidence has been produced on record, There is no direct evidence to prove that the average market rates on 19.02.2013 were ₹17,00,000/- per acre. The

paragraphs of the minutes. The RC has also partially relied upon the contents of the aforesaid document while overlooking the remaining portion which is unreasonable.

5.5 At this stage, it will be appropriate to compile the details of the sale deeds produced by the State of Haryana in a tabulated manner:-

<i>Sr. No.</i>	<i>Exhibit No.</i>	<i>Sale Deed No.</i>	<i>Dated</i>	<i>Area</i>	<i>Amount (In ₹)</i>	<i>Name of Village</i>	<i>Rate Per acre (In ₹)</i>
1.	R1	6968	05.12.2012	16 K	24,00,000	Bhagsar	12,00,000
2.	R2	1152	16.05.2012	12 K	18,00,000	Bhagsar	12,00,000

5.6 It is evident that in village Bhagsar, the land has been sold @ ₹12,00,000/- per acre during the contemporaneous period. The sale deeds (Ex.R1 and Ex.R2) are with respect to the comparable parcels of the land during the contemporaneous period. Once the direct and best evidence was available on record, the RC has erred in relying upon Ex.PY i.e. the minutes of the meeting. The RC has refused to rely upon the sale deeds (Ex.R1 and Ex.R2) on the ground that these sale instances are similar to the Collector’s rates. It would be noted here that the sale deeds of the same village are in the nature of the direct evidence. In the absence of evidence to prove that the price of the land has been reflected to be lower than the amount actually paid, the RC is required to assess the market value of the acquired land on that basis. The contention of the learned counsel representing the landowners is not worth acceptance, particularly when the sale deeds of the comparable parcels of land of contemporaneous period have been produced on record, therefore, it is not considered appropriate to rely upon Ex.PY due to availability of best evidence on record. However, the State of Haryana has

6. Decision

6.1 Keeping in view the aforesaid discussion, the appeals filed by the landowners shall stand dismissed. Consequently, the RC’s award dated 25.10.2017 does not require any interference.

6.2 The miscellaneous application(s) pending, if any, in all the appeals shall stand disposed of.

(Anil Kshetarpal)
Judge

November 11, 2022
“DK”

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

Sr. No.	Case No.	Party’s Name
1.	RFA-669-2018	BALWINDER KUMAR V/S STATE OF HARYANA AND ANR
2.	RFA-934-2018	RAJINDER SINGH V/S STATE OF HARYANA AND ANR
3.	RFA-969-2018	SMT. RUKMANI DEVI V/S STATE OF HARYANA AND ANR
4.	RFA-1045-2018	RAKESH KUMAR & ORS V/S STATE OF HARYANA AND ANR
5.	RFA-1046-2018	MAHINDER V/S STATE OF HARYANA AND ANR
6.	RFA-1047-2018	GURBACHAN V/S STATE OF HARYANA AND ANR
7.	RFA-1048-2018	GURBACHAN V/S STATE OF HARYANA AND ANR
8.	RFA-1049-2018	LAKHVINDER KAUR V/S STATE OF HARYANA AND ANR
9.	RFA-1375-2018	KAMAL KUMAR AND ORS V/S STATE OF HARYANA AND ANR
10.	RFA-1905-2018	HARI SINGH V/S STATE OF HARYANA AND ANR
11.	RFA-1908-2018	KIKAR SINGH AND ANR V/S STATE OF HARYANA AND ANR
12.	RFA-2048-2018	JALANDHAR SINGH V/S STATE OF HARYANA AND ANR
13.	RFA-2081-2018	MAJOR SINGH AND OTHERS V/S STATE OF HARYANA AND ANR
14.	RFA-2152-2018	MOHAN SINGH NOW DECEASED THR. HIS LRS AND OTHERS V/S STATE OF HARYANA AND ANR
15.	RFA-2323-2018	RAJINDER KUMAR AND ORS V/S STATE OF HARYANA AND ANR
16.	RFA-2326-2018	RAJINDER SINGH AND ORS V/S STATE OF

Sr. No.	Case No.	Party’s Name
		HARYANA AND ANR
17.	RFA-5212-2018	AMAR SINGH AND OTHERS V/S STATE OF HARYANA AND OTHERS

November 11, 2022
“DK”

(Anil Kshetarpal)
Judge