

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

RFA-2434-2018 (O&M)  
Reserved on: 24.11.2022  
Date of decision: 07.12.2022

STATE OF HARYANA AND ORS.

..Appellants

Versus

RAJBALA AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shivendra Swaroop, AAG, Haryana.

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 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 | 01.03.2011                                                                                                                             |
| 2.      | Area of land                                             | 15 kanals and 19 marlas                                                                                                                |
| 3.      | Location of land                                         | Village Paldi                                                                                                                          |
| 4.      | Purpose of acquisition                                   | Construction (widening and four-laning) of the road, maintenance and management of Major District Road No.129 from Narnaul to Kudana   |
| 5.      | Declaration under Section 6 was issued.                  | 17.05.2011                                                                                                                             |
| 6.      | Number and date of LAC award                             | Award No.31 dated 13.09.2012                                                                                                           |
| 7.      | Amount assessed by the LAC                               | The LAC offered to pay the market value of the acquired land measuring 15 kanals and 19 marlas at the rate of Rs.30,00,000/- per acre. |
| 8.      | Date of RC's award                                       | 21.02.2017                                                                                                                             |
| 9.      | Amount assessed by the RC                                | The RC assessed the market value of the acquired land at the rate of Rs.1,59,00,000/- 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 redetermination of the market value. The landowners claimed that the price of the land was not less than Rs.2,50,00,000/- per acre as it is located on the State Highway No.17 and the location and situation of the acquired land has not been considered by the LAC. It was also asserted that the remaining unacquired land cannot be properly utilised.

1.4 On the other hand, while contesting the petitions before the RC, the State of Haryana claimed that the LAC has offered just, fair, reasonable 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 Section4 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.”

2.           Evidence produced by the parties:

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

|      |                               |
|------|-------------------------------|
| PW-1 | Sh. Ram Avatar                |
| PW-2 | Sh. Jogender Singh, Draftsman |

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 5.3:-

|        |                                                   |
|--------|---------------------------------------------------|
| Ex.P-1 | Sale deed                                         |
| Ex.P-2 | Collector's rate for the year 2010-11             |
| Ex.P-3 | Sale deed                                         |
| Ex.P-4 | Photocopy of award No.30 dated 11.09.2012         |
| Ex.P-5 | Photocopy of gazette notification under Section 4 |
| Ex.P-6 | Photocopy of award in case No.819 of 2014         |
| Ex.P-7 | Award no.31 dated 13.09.2012                      |

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

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 5.3:-

|               |                                                                   |
|---------------|-------------------------------------------------------------------|
| Ex.R-1 to R-3 | Certified copy of sale deeds                                      |
| Ex.R-4        | Photocopy of gazette notification under Section 4 of the 1894 Act |
| Ex.R-5        | Photocopy of gazette notification under Section 6 of the 1894 Act |
| Ex.R-6        | Photocopy of commissioner basic rate                              |
| Ex.R-7        | Photocopy of award No.31 dated 13.09.2012                         |

3. The RC, without discussing the sale deeds produced by the landowners has relied upon the award Ex.P-6 passed by the RC in **Mukesh Kumar Vs. State of Haryana, decided 16.09.2016**, with respect to the assessment of the market value of land located in village Sisoth. The sale deeds produced by the State of Haryana were kept out of consideration on the ground that the sale deeds reflect a price which is lower than the amount offered by the LAC. In view of Section 25 of the 1894 Act, the RC has held that these sale instances cannot be taken into consideration.

4. It is important to note at the outset that the award passed in **Mukesh Kumar Vs. State of Haryana, decided by the RC 16.09.2016**, has already been set aside in **RFA-2357-2017, titled as “Raghunath Singh and others Vs. State of Haryana and others”** by the Court.

5. **Discussion by this Court:**

5.1 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.

5.2           It is important to note that in village Paldi, the land has been acquired from rectangle No.12, 37, 38, 41, 42 and 69.

5.3           At this stage, glossary of certain revenue terms used while dictating the judgment is extracted as under:-

|     |                                  |   |                                    |
|-----|----------------------------------|---|------------------------------------|
| 1.  | 1 Rectangle                      | = | 5 X 5 = 25 Acre                    |
| 2.  | 1 Acre                           | = | 160 Marlas                         |
| 3.  | 8 Kanal                          | = | 1 Acre                             |
| 4.  | 1 Kanal                          | = | 20 Marlas                          |
| 5.  | 1 Acre                           | = | 4840 Sq. Yards                     |
| 6.  | 1 Marla                          | = | 272.251 Sq. Feet = 30.25 Sq. Yards |
| 7.  | 1 Kanal                          | = | 0.125 Acre                         |
| 8.  | 1 Marla                          | = | 0.00625001 Acre                    |
| 9.  | “/” denotes Rectangle Number.    |   |                                    |
| 10. | “/” denotes Khasra/Killa Number. |   |                                    |
| 11. | “A” denotes Acre                 |   |                                    |
| 12. | “K” denotes Kanal                |   |                                    |
| 13. | “M” denotes Marla                |   |                                    |

5.4           Before proceeding further, it is considered appropriate to compile the complete information in respect of various sale deeds produced by the parties in a tabulated form in order to have a bird's-eye view of the matter, which is as follows:-

| 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          | 1505          | 12.07.2011 | 1 Marla    | 40,000/-        | 64,00,000/-              | Paldi   |
| 2                                    | P-2          | 2269          | 08.12.2010 | 1K-10M     | 9,00,000/-      | 48,00,000/-              | Paldi   |
| SALE DEED PRODUCED BY THE STATE      |              |               |            |            |                 |                          |         |
| 1                                    | R-1          | 1343          | 07.07.2011 | 2K-6M      | 4,30,000/-      | 14,95,652/-              | Paldi   |
| 2                                    | R-2          | 4905          | 20.03.2013 | 2 kanal    | 4,13,000/-      | 16,52,000/-              | Paldi   |
| 3                                    | R-3          | 1652          | 08.08.2013 | 25K-4M     | 50,40,000/-     | 16,00,000/-              | Paldi   |

5.5           From a bare perusal of the aforesaid table, it is evident that the sale deed bearing No.2269 dated 08.12.2010 Ex.P-2, has been executed

prior to the date of notification under Section 4 of the 1894 Act. Further, sale deed bearing No.1505 Ex.P-1 is not only post the date of notification under Section 4 of the 1894 Act but is also with respect to a tiny plot of land.

5.6 On a careful perusal of sale deed Ex.P-3, it is evident that the land has been sold out of the land comprised in rectangle No.118, Khasra No.8/2, 8/3 and 13/1, whereas, the acquired land is from the rectangle numbers 12, 37, 38, 41, 42 & 69. Furthermore, the RC has committed an error in incorrectly interpreting Section 25 of the 1894 Act. The aforesaid 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 has been held that the sale deeds reflecting a price lower than the amount offered by the LAC can be taken into consideration for assessing the market value of the acquired land. The only bar is that the market value cannot be assessed below the price offered by the LAC.

5.7 It is evident from the table compiled in para 5.4 that the State of Haryana has produced three sale instances. Sale instance bearing no.1343 (Ex.R-1) dated 07.07.2011, is with respect to 2 kanals and 6 marlas of land which forms a part of the land comprised in rectangle No.14 (22, 23/1) and rectangle No.15, khasra No.25/2. The land comprised in rectangle no.12 has been acquired. Thus, this parcel of land is located near the acquired land. Similarly, the sale Ex.R-2 is with respect to 2 kanals of land which forms a part of the land comprised in rectangle No.40, khasra No.20 and 21. The land comprised in rectangle No.38, 41 and 42 has been acquired. Thus, again, it is evident that the parcel of land in Ex.R-2 is also located near the acquired land.

5.8 The landowners are required to show how the amount offered by the LAC/RC is inadequate. For that purpose, producing comparable sale instances of the contemporaneous period is the best piece of evidence. It is evident from a perusal of Ex.R-1 and Ex.R-2 that despite acquisition of the land for widening/four-laning of the road, the prices did not see any steep rise. Even post the date of notification under Section 4 of the 1894 Act, the comparable parcels of land were being sold below the price of Rs.17,00,000/- per acre, whereas, the LAC has already awarded Rs.30,00,000/- per acre.

5.9 It may be noted here that the RC has relied upon the observations made in certain judgments of the High Court with regard to evidentiary value of the awards/orders/judgments passed by the Court assessing the market value of land acquired vide different notifications situated in different villages.

5.10 The Supreme Court has propounded the law governing this aspect in **Manoj Kumar and others Vs. State of Haryana and others (2018) 13 SCC 96**. It has been held that without carefully examining the factors affecting the assessment made by the Court in previous judgments, it would not be appropriate to blindly rely upon such an assessment. The Court is required to firstly, satisfy itself that the parcels of land acquired by different notifications for different purposes are comparable with the land acquired in the acquisition in question. The relevant observations, made by the Supreme Court, are extracted as under:-

*“11. In our opinion, the High Court could not have placed an outright reliance on the decision of Swaran Singh's case, without considering the nature of transaction relied upon in the said decision. The decision*

*could not have been applied ipso facto to the facts of the instant case. In such cases, where such judgments/awards are relied on as evidence, though they are relevant, but cannot be said to be binding with respect to the determination of the price, that has to depend on the evidence adduced in the case. However, in the instant case, it appears that the land in Swaran Singh's case was situated just across the road as observed by the High Court as such it is relevant evidence but not binding. As such it could have been taken into consideration due to the nearness of the area, but at the same time what was the nature of the transaction relied upon in the said case was also required to be looked into in an objective manner. Such decisions in other cases cannot be adopted without examining the basis for determining compensation whether sale transaction referred to therein can be relied upon or not and what was the distance, size and also bonafide nature of transaction before such judgments/awards are relied on for deciding the subsequent cases. It is not open to accepting determination in a mechanical manner without considering the merit. Such determination cannot be said to be binding.*

*12. We have come across several decisions where the High Court is adopting the previous decisions as binding. The determination of compensation in each case depends upon the nature of land and what is the evidence adduced in each case, may be that better evidence has been adduced in later case regarding the actual value of property and subsequent sale deeds after the award and before preliminary notification under [section 4](#) are also to be considered, if filed. It is not proper to ignore the evidence adduced in the case at hand. The compensation cannot be determined by blindly following the previous award/judgment. It has to be considered only a piece of evidence not beyond that. Court has to apply the judicial mind and is supposed not to follow the previous awards without due consideration of the facts and circumstances and evidence adduced in the case in question. The current value reflected by comparable sale deeds is more reliable and binding for determination of compensation in such cases award/judgment relating to an acquisition made before 5 to 10 years cannot form the safe basis for determining compensation.*

*13. The awards and judgment in the cases of others not being inter parties are not binding as precedents. Recently, we have seen the trend of the courts to follow them blindly probably under the misconception of the concept of equality and fair treatment. The courts are*

*being swayed away and this approach in the absence of and similar nature and situation of land is causing more injustice and tantamount to giving equal treatment in the case of unequal's. As per situation of a village, nature of land its value differ from the distance to distance even two to three-kilometer distance may also make the material difference in value. Land abutting Highway may fetch higher value but not land situated in interior villages.*

*14. The previous awards/judgments are the only piece of evidence at par with comparative sale transactions. The similarity of the land covered by previous judgment/award is required to be proved like any other comparative exemplar. In case previous award/judgment is based on exemplar, which is not similar or acceptable, previous award/judgment of court cannot be said to be binding. Such determination has to be out rightly rejected. In case some mistake has been done in awarding compensation, it cannot be followed on the ground of parity an illegality cannot be perpetuated. Such award/judgment would be wholly irrelevant.”*

5.11 Keeping in view the binding precedent in **Manoj Kumar's case (supra)**, it would not be appropriate for this Court to rely upon the judgments passed in **Mahaviri Devi and others Vs. State of Haryana, (2008) 1 LACC 315** and **M/s Faridabad Gas Power Project, Faridabad Vs. Narender Kumar and others (2004) 2 LACC 473** for assessing the market value in the present case in the absence of any evidence establishing any material similarity between the present land and the land dealt with in the aforesaid judgments.

5.12 Keeping in view the aforesaid discussion, it is evident that the RC has patently erred in proceeding to assess the market value of the acquired land on the basis of the amount assessed for acquisition of land in village Sisoth. Moreover, as already noticed, the aforesaid award of village Sisoth has already been set aside.

6. Decision:

6.1 Keeping in view the aforesaid facts, this Court is left with no other choice but for to set aside the award passed by the RC on 21.02.2017. The appeals filed by the State of Haryana shall stand allowed, whereas, that of the landowners shall stand dismissed. Accordingly, the award passed by the LAC is upheld.

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

07<sup>th</sup> December, 2022

(ANIL KSHETARPAL)  
JUDGE

Ay

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No

| Sr. No. | Case No.      | Party Details                                      |
|---------|---------------|----------------------------------------------------|
| 1.      | RFA-2434-2018 | STATE OF HARYANA AND ORS V/S RAJBALA AND ORS       |
| 2.      | RFA-2435-2018 | STATE OF HARYANA AND ORS V/S RAM KUMAR AND ANR     |
| 3.      | RFA-2436-2018 | STATE OF HARYANA AND ORS V/S SAJJAN SINGH AND ORS  |
| 4.      | RFA-2437-2018 | STATE OF HARYANA AND ORS V/S SUBE SINGH AND ORS    |
| 5.      | RFA-2438-2018 | STATE OF HARYANA AND ORS V/S DHARMPAL AND ORS      |
| 6.      | RFA-2439-2018 | STATE OF HARYANA AND ORS V/S BHANPATI AND ORS      |
| 7.      | RFA-2440-2018 | STATE OF HARYANA AND ORS V/S SANDEEP               |
| 8.      | RFA-2441-2018 | STATE OF HARYANA AND ORS V/S BANSHI DHAR AND ORS   |
| 9.      | RFA-2442-2018 | STATE OF HARYANA AND ORS V/S SANTOSH KUMAR AND ORS |
| 10.     | RFA-2443-2018 | STATE OF HARYANA AND ORS V/S MUNSHI RAM AND ORS    |
| 11.     | RFA-2444-2018 | STATE OF HARYANA AND ORS V/S RAJ KUMAR AND ORS     |
| 12.     | RFA-2445-2018 | STATE OF HARYANA AND ORS V/S VIJAY SINGH AND ANR   |
| 13.     | RFA-2446-2018 | STATE OF HARYANA AND ORS V/S SUBE SINGH AND ORS    |
| 14.     | RFA-2447-2018 | STATE OF HARYANA AND ORS V/S RAM PARTAP AND ORS    |
| 15.     | RFA-2448-2018 | STATE OF HARYANA AND ORS V/S MOOL                  |

|     |               |                                                     |
|-----|---------------|-----------------------------------------------------|
|     |               | CHAND AND ORS                                       |
| 16. | RFA-2449-2018 | STATE OF HARYANA AND ORS V/S MAHIPAL AND ORS        |
| 17. | RFA-2450-2018 | STATE OF HARYANA AND ORS V/S MAHAVIR PRASAD AND ORS |
| 18. | RFA-2451-2018 | STATE OF HARYANA AND ORS V/S RAJBALA AND ORS        |
| 19. | RFA-2452-2018 | STATE OF HARYANA AND ORS V/S PAT RAM                |
| 20. | RFA-2453-2018 | STATE OF HARYANA AND ORS V/S BHANPATI AND ANR       |

(ANIL KSHETARPAL)  
JUDGE