

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-2810-2018 (O&M)
Reserved on: 19.04.2022
Date of decision: 11.07.2022

SURESH CHANDER SHARMA AND ORS.

..Appellants

Versus

STATE OF HARYANA AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANILKSHETARPAL

Present: Mr. Gopal Sharma, Advocate
Mr. C.B. Goel, Advocate
for the landowners.

Ms. Vibha Tewari, AAG, Haryana

ANIL KSHETARPAL, J.

1 INTRODUCTION AND BACKGROUND

1.1 While praying for modification of the award passed by the Reference Court (hereinafter referred to as 'the RC') on 17.08.2017, the State of Haryana as well as the landowners have filed various appeals, details whereof are at the foot of the judgment. The notification under Section 4 and 6, the awards passed by the Land Acquisition Collector (hereinafter referred to as 'the LAC') and the RC, are common. The learned counsel representing the parties are *ad idem* that this batch of appeals (details whereof are on the foot of the judgment) can conveniently be disposed of by a common judgment.

1.2 The brief and relevant particulars of the case are as under:-

Date of notification under Section 4	09.04.2007 Area: 18.23 Acre
--------------------------------------	--------------------------------

Date of notification under Section 6	10.04.2007
Area	18.23 Acre
Village	Village Kassar, Tehsil Bahadurgarh, District Jhajjar, Haryana
District	Jhajjar, Haryana
Public Purpose	For the construction of master sewerage treatment plant and sector dividing road.
LAC Award	Award No.14 dated 18.12.2007
Amount awarded by LAC	Rs. 16 lac per acre
Main reference Court Award	LA case No.55 of 2015 titled as “Ram Phal Etc. Vs. State of Haryana etc.” Date of decision 17.08.2017
Amount awarded vide above awards	Rs.50,00,000/- per acre.

1.3 The State of Haryana in order to construct master sewerage treatment plant and sector dividing roads, issued a consolidated notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as ‘the 1894 Act’) seeking to acquire land in three different villages namely Kassar, Sarai Aurangabad and Kherka Musalman. The land located in village Kherka Musalman has been utilized partially for construction of master sewerage treatment plant and remaining for construction of the sector dividing roads, whereas, the land in villages Kassar and Sarai Aurangabad, has been acquired for constructing sector dividing roads.

1.4 Per contra, the State of Haryana has filed reply claiming that the market value offered by the LAC is correct.

1.5 The landowners, being dissatisfied with the amount offered, applied to the LAC for referring the matter to the Court. It was asserted that the acquired land is not only located in the national capital region but is located near Tehsil Bahadurgarh, District Jhajjar. It is claimed that industrial

units of international standing like M/s Somini Ltd., Schablona Pvt. Ltd., M/s Parle Biscuits, M/s Arti Udyog, PDM School and Engineering College are located in and around the area. It has also been asserted that many real estate companies like OMAXE, KLG Heights, Karni Group, Time Square and New Era have purchased land near the acquired land at the rate not less than Rs.1.5 Crore per acre. The acquired land is located near Sector 6 and 2 of Bahadurgarh and the value of the land in the residential sector is not less than Rs.20,000/- per square yard.

2. EVIDENCE PRODUCED BY THE PARTIES

2.1 In order to prove their case, the landowners examined the following three witnesses:-

PW1	Ramphal
PW2	Charan Singh
PW3	Sukhbir

2.2 The landowners also produced the following documents in support of their case:-

Ex.P1	Copy of award dated 06.04.2015
Ex.P2	Sale deed No.3770 dated 17.10.2006
Ex.P3	Copy of award dated 06.04.2015

2.3 On the other hand, the State of Haryana examined Patwari of the area as RW-1.

2.4 The State produced as many as four sale deeds, policy decision dated 07.12.2007 and site plan Ex.R-6, to prove its case.

3. At this stage, it will be appropriate to compile the tabulated information of the exemplar sale deeds produced by the respective parties:-

SALE DEED PRODUCED BY THE LANDOWNERS

Ex. No.	Village	Sale Deed No. and Date	Area K/M	Total Amount	Rate Per Acre	Purchaser name	Remarks
P-2	Kasar	3770 17.10.2006	9K-2M	1,10,40,000/-	97,05,500/-	Sankalp Realtors Pvt. Ltd.	Other village

SALE DEED PRODUCED BY THE STATE

Ex. No.	Village	Sale Deed No. and Date	Type	Area K/M	Amount	Rate per Acre	Remarks
R-1	Kadka Muslmaan	3392 16.07.20 07	CHAI	10K-13M	4,60,000	3,45,540	Other village
R-2	Kasar	7250 23.01.20 06	NAHRI	1K-1M	1,00,000	7,61,904	Close to Abadi
R-3	Kasar	8523 31.03.20 06	CHAI	2K-1M	2,05,000	8,00,000	Close to Abadi
R-4	Kasar	8441 28.03.20 06	CHAI	5K-15M	5,75,000	8,00,000	Close to Abadi

4. The RC refused to take into consideration the sale deeds produced by the State of Haryana on the premise that the aforesaid sale deeds reflect a price lower than the amount offered by the LAC while observing that such sale deeds cannot be taken into consideration in view of thebar contained in Section 25 of the 1894 Act.

5. The, RC on appreciation of evidence, assessed the market value of the acquired land at the rate of Rs.50,00,000/- per acre while basing its decision on the award dated 06.04.2015, Ex.P-1 and Ex.P-3, passed by the RC in **Bhagwat Swaroop Etc. Vs. State of Haryana**, with respect to the acquisition of the land in village Kassar and Saidpur vide notification dated 25.07.2006. The sale deed Ex.P-2, dated 07.10.2006 was ignored on the ground that it is with respect to a small parcel of land and deductions were required to be applied.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook along with the record, which was requisitioned. The synopsis along with the gist of their respective arguments filed by the learned counsel have also been examined.

7. The learned counsel representing the landowners contend that the residential area of village Kassar is only 12 to 14 acres away from the acquired land and the parcel of land which is the subject matter of sale deed Ex.P-2, dated 17.10.2006, is only 5 acres away from the acquired land. It has been claimed that industrial area developed by Haryana State Industrial Infrastructure Development Corporation is on the north side of the acquired land at the distance of 18-20 acre. The learned counsel claims that the High Court has assessed the market value at the rate of Rs.61,94,097.45/- per acre while modifying the judgment passed by the RC on 06.04.2015 in **Bhagwat Swaroop's case (supra)** in **Regular First Appeal No.6066 of 2015, titled as "Bhagwat Swaroop and others Vs. State of Haryana and others", decided on 31.07.2017.** It is also contended that Ex.P-2, the exemplar sale deed is of more than 1 acre of land which cannot be said to be a small plot of land particularly when the total area acquired is 18.23 acres and there is no evidence that the sale deed Ex.P-2 is not a genuine sale deed.

8. Per contra, the learned counsel representing the State of Haryana has contended that the RC has failed to take into consideration the sale exemplar deed Ex.R-1 to Ex.R-4. She relies upon the judgment passed by the Supreme Court in **Lal Chand Vs. Union of India, 2009(15) SCC 769,** to contend that the sale exemplars, even if, reflecting a price lower than the

market value offered by the LAC have to be taken into consideration. The RC has committed an error in placing reliance on its previous award arising from a different acquisition of a different parcel of land particularly when there is no evidence to prove its comparative location viz-a-viz the acquired land. She, while drawing attention of the Court to the layout plan produced by the State of Haryana which has been taken on record as Mark HC1, submits that the acquired land is located on the Southern side of the village which is close to the Southern village boundary along with villages Kherka Musalman and Sarai Aurangabad.

9. After having heard the learned counsel representing the parties, this Court is of the view that the RC has committed an error in placing reliance on its previous award passed in **Bhagwat Swaroop's case (supra)**. Once exemplar sale deeds of the nearby area are available, the Court is not justified in placing reliance on the previous assessment made by the Court with respect to a different parcel of land acquired through a different notification, more particularly when there was no evidence to prove the comparative geographical location, its market value viz-a-viz the acquired land in the aforesaid award as well as in the present case.

10. The RC has also committed an error in refusing to take into consideration the sale exemplar produced by the State of Haryana. Section 25 of the 1894 Act does not debar the Court from taking into account the sale exemplar reflecting a price lower than the amount offered by the LAC. The Court is only prohibited from assessing the market value of the acquired land lesser than the amount offered by the LAC. The matter is no longer *res integra* in view of the judgment passed by the Supreme Court in **Lal**

Chand's case (supra).

11. This Bench now proceeds to examine the evidence.

12. It may be noted here that during the pendency of the appeal, with the consent of the learned counsel representing the respective parties, the State of Haryana was requested to produce a proper layout plan identifying the location of the acquired land as well as the various parcels of land representing the sale exemplars, in order to make a comparative analysis. Pursuant thereto, a *shajra* (layout) plan of Sector 3-A, 3-B, Bahadurgarh, prepared by Department of Town and Country Planning, Haryana, has been produced while marking the acquired land as well as the land sold through various sale exemplars. On a careful perusal thereof, it is evident that the parcel of land sold through sale exemplar Ex.P-2, is located 4 to 5 acres away from the acquired land, whereas, the various parcels of land sold through sale exemplar Ex.R-2, Ex.R-3 and Ex.R-4 are near the residential area of the village. Furthermore, sale exemplar Ex.R-2 and Ex.R-3 are with respect to small parcels of land as compared to Ex.P-2. There is no evidence led by the State of Haryana to prove that the sale deed Ex.P-2 is not genuine or has been executed only to secure more payment from the Court. On a careful examination of the sale deed, it is evident that the majority of payment has been made through bank transactions and a corporate entity has purchased the property from the villagers. The parcel of land purchased is measuring 9 kanals and 2 marlas, which is a sufficiently large area, particular when the total acquired land is around 18 acres. Furthermore, it is also evident that the land of village Kassar has been acquired for sector dividing road. The road dividing Sector 3-A and 3-B, has

been planned to be constructed. Furthermore, the official representing the State of Haryana admits that city of Bahadurgarh, which is on the outskirts of Delhi, is located only 2 kms away from the acquired land.

13. Keeping in view the aforesaid facts, it is evident that sale exemplar Ex.P-2, which is nearly 6 months before the date of notification under Section 4 of the 1894 Act is neither with respect to a small area nor with respect to the land which is at a far away distance from the acquired land. Hence, Ex.P-2 is considered more appropriate to assess the market value of the acquired land. However, it is also required to be noticed that the parcel of land purchased by Ex.P-2 is not only by a corporate entity but also located on a passage leading from village Kassar to Sarai Aurangabad.

14. **DECISION**

14.1 Keeping in view the aforesaid facts, it is considered appropriate to apply deduction of 20% in order to neutralize the benefit of the parcel of land located right on the passage. Thus, after applying deduction of 20% on the amount of Rs.97,05,500/-, the amount comes to Rs.77,64,400/- per acre. The sale exemplar Ex.R-1 is with regard to the parcel of land located in village Kherka Musalman and hence, not found appropriate to be relied upon particularly when the sale exemplars of the village in question are available.

14.2 Keeping in view the aforesaid discussion, the award passed by the RC is required to be modified. The market value of the acquired land in village Kassar is assessed at the Rs.77,64,400/- per acre. The landowners shall be entitled to the aforesaid amount along with all statutory benefits of the amended Land Acquisition Act, 1894. Consequently, the appeals filed by the State of Haryana are dismissed, whereas, that of the landowners shall

stand allowed.

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

11th July, 2022

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

Sr. No.	Case No.	Appellants	Respondents
1.	RFA No. 2810 of 2018	Suresh Chander Sharma and others	State of Haryana and others
2.	RFA No. 2811 of 2018	Prem Dutt and others	State of Haryana and others
3.	RFA No. 1963 of 2018	State of Haryana and others	Rajinder Dutt and others
4.	RFA No. 2826 of 2018	Anand Parkash and others	State of Haryana and others
5.	RFA No. 4256 of 2018	Rajender Dutt (deceased) through LRs and others	State of Haryana and others
6.	RFA No. 4267 of 2018	Raj Singh and others	State of Haryana and others
7.	RFA No. 4742 of 2018	Dhara Singh and others	State of Haryana and others
8.	RFA No. 1733 of 2018	State of Haryana and others	Raj Singh and others
9.	RFA No. 2809 of 2018	Sat Narayan and another	State of Haryana and others
10.	RFA No. 2814 of 2018	Bal Kishan and others	State of Haryana and others
11.	RFA No. 1735 of 2018	State of Haryana and others	Suresh Chander Sharma and others
12.	RFA No. 1962 of 2018	State of Haryana and others	Sat Naryan and another
13.	RFA No. 1732 of	State of Haryana and	Bal Kishan and

	2018	others	others
14.	RFA No. 1961 of 2018	State of Haryana and another	Anand Parkash and others
15.	RFA No. 1731 of 2018	State of Haryana and others	Jagdish Parsad and others
16.	RFA No. 3467 of 2018	Jagdish Parsad and others	State of Haryana and others
17.	RFA No. 2586 of 2018	Ramphal and others	State of Haryana and others
18.	RFA No. 1730 of 2018	State of Haryana and others	Prem Dutt and others
19.	RFA No. 1964 of 2018	State of Haryana and another	Dhara Singh and others
20.	RFA No. 1960 of 2018	State of Haryana and another	Somdutt and others

(ANIL KSHETARPAL)
JUDGE