

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-2941-2018 (O&M)
Reserved on: 21.10.2022
Date of decision: 10.11.2022

STATE OF HARYANA & ORS.

..Appellants

Versus

SMT. SULOCHNA

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. Jai Vir Yadav, Sr. Advocate
with Mr. Harshvardhan Ranga, Advocate
Mr. Nitish Sharma, Advocate

Mr. J.P. Sharma, Advocate
Mr. Aditya Sanghi, Advocate
Ms. Shaveta Sanghi, Advocate
Mr. Mukesh Yadav, Advocate
Mr. S.K. Yadav, Advocate
Mr. D.S. Nain, Advocate
Mr. Subhash Chander, Advocate
for the landowners.

ANIL KSHETARPAL, J.

1. **Introduction and background:**

1.1 While praying for the modification of the market value assessed in the impugned award passed by the Reference Court (hereinafter referred to as 'the RC') on account of the involuntary acquisition of the land, the landowners as well as the State of Haryana have filed this batch of appeals (details whereof are at the foot of the judgment). The notifications 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 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	29 kanals and 5 marlas
3.	Location of land	Village Paiga/Pyaga
4.	Purpose of acquisition	Widening and four-laning of Major District Road-139 from Narnaul to village Khudana.
5.	Declaration under Section 6 was issued.	19.07.2011
6.	Date and number of LAC award	Award No.29 dated 24.08.2012
7.	Amount assessed by the LAC	The LAC offered to pay Rs.40,00,000/- per acre as the market value along with all statutory benefits for the acquired land measuring 29 kanals and 5 marlas.
8.	Date of RC's award	24.07.2017
9.	Amount assessed by the RC	The RC assessed the market value at the rate of Rs.82,62,291/-.

2 **Facts:**

2.1 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. The landowners claimed that their precious land having the potential to be used for commercial purposes has been compulsorily acquired and the market value of the acquired land was not less than Rs.4,00,00,000/- per acre. It has been alleged that the acquired land is located on the Mohindergarh-Narnaul State Highway.

2.2 On the other hand, while contesting the petitions, the State of

Haryana claims that the LAC has offered just, fair and adequate market value.

2.3 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? 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 severance/bifurcation of their land as alleged? OPP
4. Relief.”

3. **Evidence produced by the respective parties:**

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

PW1	Sh. Net Ram
PW2	Sh. Jagmal Singh
PW3	Sh. Devpal
PW4	Sh. Subha Nand
PW5	Smt. Sulochna
PW6	Smt. Laxmi Devi
PW7	Sh. Shyam Singh
PW8	Sh. Amar Singh
PW9	Smt. Bimla Devi
PW10	Sh. Jagdish
PW11	Sh. Lila Ram
PW12	Sh. Mahesh Kumar
PW13	Sh. Jogender Singh, Draftsman

3.2 In documentary evidence, the landowners produced the following documentary evidence in support of their case apart from the sale deeds, a tabulated compilation of which is incorporated in para 5.2 of the judgment:-

<i>Ex.P-1 to Ex.P-4</i>	<i>Copies of sale deeds</i>
<i>Ex.P-5</i>	<i>Gazette notification dated 06.10.1988 showing municipal area of Mohindergarh</i>
<i>Ex.P-6</i>	<i>Gazette notification dated 14.08.2012</i>

3.3 On the other hand, the State of Haryana in the oral evidence, examined RW-1 Sh. Kamaldeep Singh Rana and RW-2 Sh. Navneet Singh, Junior Engineer, PWD (B&R), Mohindergarh.

3.4 The State of Haryana produced the following documentary evidence apart from the sale deeds, a tabulated compilation of which is incorporated in para 5.2 of the judgment:-

<i>Ex.R-2 to Ex.R-6</i>	<i>Copies of sale deeds</i>
<i>Ex.R-7</i>	<i>Copy of the Commissioner basic rate divisions, Gurugram</i>
<i>Ex.R-8</i>	<i>Copy of the gazette notification under Section 4 of the 1894 Act dated 01.03.2012</i>
<i>Ex.R-9</i>	<i>Copy of award No.29 dated 24.08.2012</i>
<i>Ex.R-10</i>	<i>Aksh-sijra (Revenue layout plan)</i>

3.5 In the additional evidence, the landowners examined PW-14 Sh. P.R. Gupta, Building Expert, the site plan of the house of Sh. Dev Pal Ex.R-11 and its valuation Ex.R-12 were produced.

4. **Analysis of the impugned Reference Court's judgment:**

4.1 In the considered view of this Court, the RC committed has committed the following errors which adjudicating:-

4.2 While refusing to take into account the sale deeds produced by the State of Haryana on the ground that these sale deeds pertain to the price

lower than the amount offered by the LAC. The RC has incorrectly interpreted Section 25 of the 1894 Act. 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 already 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.

4.3 Even after noticing that the sale deed Ex.P-3 (bearing No.67) is post the date of notification under Section 4 of the 1894 Act, the RC proceeds to rely upon the same while applying deduction of 20% to arrive at a market value of Rs.82,62,291/- per acre.

4.4 The RC identified Ex.P-3 to be the appropriate sale exemplar for assessing the market value of the acquired land without recording any reason whatsoever, though this was post the date of notification under Section 4 of the 1894 Act. The sale deeds produced by the State of Haryana were kept out of consideration on the ground that these sale deeds reflect a price lower than the amount offered by the LAC by misinterpreting Section 25 of the 1894 Act.

5. **Discussion and analysis of the arguments of the the learned counsel representing the parties:**

5.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook along the record of the Courts below, which was requisitioned.

5.2 At this stage, it is considered appropriate to compile the relevant information in respect of 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	P-1	2034	03.10.2008	210 sq. yards	5,00,000/-	1,15,23,810/-	Payga
2	P-2	2300	22.10.2008	233 sq. yards	6,00,000/-	1,24,63,519/-	Payga
3	P-3	67	13.04.2011	2K-0.5M	25,50,000/-	1,00,74,074/-	Payga
4	P-4	9063	20.01.2012	1K-0M	36,30,000/-	2,90,40,000/-	Payga
SALE DEED PRODUCED BY THE STATE							
1	R-1	1413	08.09.2010	2K-0.5M	10,00,000/-	39,50,617/-	Mahendergarh
2	R-2	2312	13.12.2010	2 acre 4 kanal	37,50,000/-	15,00,000/-	Payga
3	R-3	2521	29.12.2010	5 kanal 6 marla	21,05,623/-	31,78,299/-	Payga
4	R-4	600	07.06.2011	11K-10M	57,50,000/-	40,00,000/-	Payga
5	R-5	3135	02.11.2012	2 acre 2 marla	1,20,75,000/-	60,00,000/-	Payga
6	R-6	2549	17.10.2013	1 kanal 13 marla	7,21,875/-	35,00,000/-	Payga

5.3 On the one hand, the learned Senior counsel representing the landowners contends that the acquired land was a commercial land as it was abutting the Mohindergarh City. It was projected that M/s Badarwal Infra Projects Pvt. Ltd. after getting licence from the Government had developed a commercial colony abutting the road. The learned counsel also submitted that 20% deduction is on the higher side. On the other hand, the learned counsel representing the State of Haryana contends that the RC has erred while relying upon the sale deed Ex.P-3 (bearing No.67) which is post the date of notification under Section 4 of the 1894 Act. While referring to the layout plan Ex.R-10, it has been projected that the market value of the acquired land was at the rate of Rs.15,00,000/- per acre and the sale instance Ex.R-2 (bearing No.2312) dated 13.12.2010, with respect to 20 kanals of land is abutting the road in question. He submits that this is the best sale exemplar which should have been relied upon by the Court while adjudicating.

5.4 The RC while interpreting Section 25 of the 1894 Act has erred

and the matter does not need any elaborate discussion in view of Supreme Court's judgment in **Lal Chand Vs. Union of India, (2009) 15 SCC 769.**

5.5 The sale deeds Ex.P-1 (bearing No.2034) and Ex.P-2 (bearing No.2300) are with respect to residential plots. These plots measuring 210 sq. yards and 233 sq. yards are tiny sized residential plots as compared to the agricultural land. These sale instances have correctly been ignored by the RC to assess the market value of the acquired agricultural land. However, the RC has erred in overlooking the fact that sale deed Ex.P-3 (bearing No.67) relates to a period which is post the date of notification under Section 4 of the 1894 Act. In fact, on a careful perusal of the sale deed Ex.P-3 and Ex.R-1, it is evident that on 08.09.2010, the same parcel of land was sold for Rs.10,00,000/- by sale deed Ex.R-1. In the other words, after purchasing a parcel of land on 08.10.2010 for Rs.10,00,000/-, Sh. D.P. Singh and Sh. Rattan Lal sold the same parcel to the builder vide a sale deed dated 13.04.2011. It is evident that after purchasing the land for Rs.10,00,000/- on 08.09.2010, the vendees sold the same plot to M/s Badarwal Infra Projects Pvt. Ltd. for Rs.25,50,000/-. Thus, within a period of six months, they made a profit of Rs.15,50,000/-. It is also evident that the aforesaid parcel of land is located abutting the colony developed or to be developed by M/s Badarwal Infra Projects Pvt. Ltd. In other words M/s Badarwal Infra Projects Pvt. Ltd. had no option but to purchase the adjoining piece of land in order to expand. Hence, Ex.P-3 has been wrongly relied upon by the RC. Apart from the fact that Ex.P-3 (bearing No.67) is post the date of notification under Section 4 of the 1894 Act, it is evident that only a small parcel of land measuring 2 kanal 0.5 marlas abutting the alleged colony developed or to be

developed by M/s Badarwal Infra Projects Pvt. Ltd. has been sold. In the other words, during the contemporaneous period i.e 08.09.2010, the property was sold for Rs.10,00,000/-. Its per acre rate comes to Rs.40,50,210/-, which is nearly the same as awarded by the LAC. This Court would have granted an increase of Rs.50,000/- per acre while relying upon Ex.R-1 (bearing No.1413), however, it is a tiny plot of 1210.5 sq. yards (2K-0.5M), though, ordinarily an acre of land consists of 4840 sq. yards. Moreover, the sale deed Ex.R-2 dated 13.12.2010, which is again with respect to land measuring 20 kanals (2 acre 4 kanals) a parcel of land located on the road, has been sold at the rate of Rs.15,00,000/- per acre. Thereafter, on 07.06.2011, sale deed Ex.R-4 (bearing No.600) proves that 905 sq. yards of plot has been sold at the average rate of Rs.40,00,000/- per acre. This sale instance is not only with respect to period post the date of notification under Section 4 of the 1894 Act but it also relates to the land abutting the road.

5.6 The RC has also committed a material irregularity in failing to notice the sale deed Ex.R-1, which is very much the part of the record. Even while preparing the tabulated information of the sale deeds, the RC has not even noticed the aforesaid sale deed.

5.7 It is also pertinent to observe that there is no evidence on record to prove that the entire property abutting the road was commercial. Rather, on a careful perusal of sale deed Ex.R-1 it is clear that during the contemporaneous period even near the alleged commercial colony 2 kanal 0.5 marlas have been sold for R.10,00,000/-.

5.8 Even if the sale instance Ex.R-1 is relied upon, though it is comparatively of a smaller area, the price will be nearly Rs.40,00,000/- per

acre which has already been offered by the LAC. If we take into consideration Ex.R-2, which is sufficiently a bigger parcel of land, the market value of the acquired land was nearly Rs.15,00,000/- per acre. Moreover, it is evident from sale deeds Ex.R-4 (bearing No.600), Ex.R-5 (bearing No.3135) and Ex.R-6 (bearing No.2549) that the market value of the acquired land was not more than Rs.40,00,000/- even after the government expressed its intention to acquire by issuing the notification under Section 4 of the 1894 Act.

5.9 Keeping in view the aforesaid facts, the RC has committed multiple errors while assessing the market value of the acquired land at the rate of Rs.82,62,291/- per acre. In substance, the landowners have failed to lead sufficient reliable evidence to prove that the market value of the acquired land on 01.03.2011 was more than Rs.40,00,000/- per acre.

6. **DECISION**

6.1 Consequently, the market value assessed by the RC in the impugned judgment is set aside.

6.2 The appeals filed by the State of Haryana are accepted, whereas, that of the landowners shall stand dismissed. Consequently, the various applications under Section 18 of the 1894 Act, shall stand dismissed.

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

10th November, 2022

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

SR. NO.	CASE NO.	PARTIES DETAILS
1.	RFA-2941-2018	STATE OF HARYANA & ORS V/S SMT. SULOCHNA

2.	RFA-5515-2017	DULI CHAND V/S STATE OF HARYANA AND ORS
3.	RFA-3443-2018	SUBH RAM V/S STATE OF HARYANA AND ORS.
4.	RFA-3444-2018	CHHAJU (DECEASED) THR. LRS AND ORS. V/S STATE OF HARYANA AND ORS.
5.	RFA-3435-2018	CHANDER KALA V/S STATE OF HARYANA AND ORS.
6.	RFA-3446-2018	SUBHA NAND AND ORS. V/S STATE OF HARYANA AND ORS.
7.	RFA-3447-2018	VIR BADHAR SINGH AND ANR. V/S STATE OF HARYANA AND ORS.
8.	RFA-3436-2018	SANDEEP V/S STATE OF HARYANA AND ORS.
9.	RFA-3445-2018	RAJBIR SINGH AND ANR. V/S STATE OF HARYANA AND ORS.
10.	RFA-3438-2018	BIJENDER AND ORS. V/S STATE OF HARYANA AND ORS.
11.	RFA-3440-2018	RAJENDER KUMAR AND ORS. V/S STATE OF HARYANA AND ORS.
12.	RFA-3448-2018	BANSI SINGH AND ORS. V/S STATE OF HARYANA AND ORS.
13.	RFA-3441-2018	VED PAL SINGH AND ORS. V/S STATE OF HARYANA AND ORS.
14.	RFA-3437-2018	JAGRAM AND ORS. V/S STATE OF HARYANA AND ORS.
15.	RFA-3442-2018	GHAN SHYAM AND ORS. V/S STATE OF HARYANA AND ORS.
16.	RFA-2344-2018	JAGMAL SINGH V/S STATE OF HARYANA AND ORS
17.	RFA-3118-2018	STATE OF HARYANA & ORS V/S VIR BADHAR SINGH & ANR
18.	RFA-2960-2018	STATE OF HARYANA & ORS V/S GRAM PANCHYAT VILLAGE PAYGA
19.	RFA-2970-2018	STATE OF HARYANA & ORS V/S JAGRAM & ORS
20.	RFA-2973-2018	STATE OF HARYANA & ORS V/S GHAN SHYAM & ORS
21.	RFA-2971-2018	STATE OF HARYANA & ORS V/S SUBHA NAND & ORS
22.	RFA-2950-2018	STATE OF HARYANA & ORS V/S JAI PAL @ JAI DAYAL & ORS
23.	RFA-2952-2018	STATE OF HARYANA & ORS V/S DULI CHAND
24.	RFA-2959-2018	STATE OF HARYANA & ORS V/S RAJBIR SINGH & ANR
25.	RFA-2965-2018	STATE OF HARYANA & ORS V/S LAL CHAND AND ORS
26.	RFA-2969-2018	STATE OF HARYANA & ORS V/S KRISHANA DEVI
27.	RFA-2948-2018	STATE OF HARYANA & ORS V/S SUBH RAM
28.	RFA-2975-2018	STATE OF HARYANA & ORS V/S JAGDEEP SINGH
29.	RFA-2945-2018	STATE OF HARYANA & ORS V/S CHHAJU & ORS
30.	RFA-2953-2018	STATE OF HARYANA & ORS V/S YOGENDER CHOUHAN

31.	RFA-3117-2018	STATE OF HARYANA & ORS V/S GINDORI & ORS
32.	RFA-661-2018	KESHO RAM @ KESHAV RAM V/S STATE OF HARYANA AND ORS.
33.	RFA-4817-2017	STATE OF HARYANA AND ORS V/S MAHABIR AND ORS
34.	RFA-2980-2018	STATE OF HARYANA & ORS V/S NATHA RAM
35.	RFA-2822-2018	AMAR SINGH AND ORS V/S STATE OF HARYANA AND ORS
36.	RFA-2951-2018	STATE OF HARYANA & ORS V/S RAJENDER KUMAR & ORS
37.	RFA-2954-2018	STATE OF HARYANA & ORS V/S JAGDISH PARSHAD & ANR
38.	RFA-2956-2018	STATE OF HARYANA & ORS V/S SHANTI DEVI & ORS
39.	RFA-2972-2018	STATE OF HARYANA & ORS V/S RAMOTAR
40.	RFA-2974-2018	STATE OF HARYANA & ORS V/S LEELA RAM
41.	RFA-2976-2018	STATE OF HARYANA & ORS V/S RAM CHANDER & ORS
42.	RFA-2977-2018	STATE OF HARYANA & ORS V/S NET RAM & ORS
43.	RFA-2978-2018	STATE OF HARYANA & ORS V/S BIJENDER & ORS
44.	RFA-2944-2018	STATE OF HARYANA & ORS V/S NATHA RAM
45.	RFA-2946-2018	STATE OF HARYANA & ORS V/S KESHO RAM @ KESHAV RAM
46.	RFA-2947-2018	STATE OF HARYANA & ORS V/S CHHAJU RAM AND ORS
47.	RFA-2949-2018	STATE OF HARYANA & ORS V/S SHEO CHAND & ORS
48.	RFA-3116-2018	STATE OF HARYANA & ORS V/S SMT. LAXMI DEVI AND ORS
49.	RFA-2958-2018	STATE OF HARYANA & ORS V/S ATTAR SINGH & ORS
50.	RFA-2961-2018	STATE OF HARYANA & ORS V/S CHANDERKALA
51.	RFA-2962-2018	STATE OF HARYANA & ORS V/S SANDEEP
52.	RFA-2967-2018	STATE OF HARYANA & ORS V/S SUBH RAM
53.	RFA-2968-2018	STATE OF HARYANA & ORS V/S RATTAN SINGH & ORS
54.	RFA-2943-2018	STATE OF HARYANA & ORS V/S MUNESH DEVI
55.	RFA-2942-2018	STATE OF HARYANA & ORS V/S JAGMAL SINGH
56.	RFA-1825-2018	SULOCHNA V/S STATE OF HARYANA AND ORS
57.	RFA-2979-2018	STATE OF HARYANA & ORS V/S SMT. BIMLA DEVI
58.	RFA-505-2018	LEELA RAM V/S STATE OF HARYANA AND ORS
59.	RFA-2981-2018	STATE OF HARYANA & ORS V/S JAI PAL @ JAI DAYAL DECEASED THR. HIS LRS & ORS
60.	RFA-2957-2018	STATE OF HARYANA & ORS V/S VED PAL SINGH & ORS
61.	RFA-2963-2018	STATE OF HARYANA & ORS V/S AMAR SINGH & ORS
62.	RFA-2964-2018	STATE OF HARYANA & ORS V/S BANSHI SINGH & ORS

63.	XOBJR-96-2019	STATE OF HARYANA AND ORS V/S JAGDEEP SINGH
64.	XOBJR-91-2019	STATE OF HARYANA AND OHTERS V/S GRAM PANCHAYAT PAYGA
65.	XOBJR-92-2019	STATE OF HARYNA AND ORS V/S JAGRAM AND ORS
66.	XOBJR-93-2019	STATE OF HARYANA AND ORS V/S RATTAN SINGH AND ORS
67.	XOBJR-97-2019	STATE OF HARYANA AND ORS V/S JAI PAL @ JAI DAYAL AND ORS
68.	XOBJR-94-2019	STATE OF HARYANA AND ORS V/S NATHU RAM
69.	XOBJR-141-2021	STATE OF HARYANA AND ORS V/S SHEO CHAND AND ORS
70.	XOBJR-18-2021	STATE OF HARYANA AND ORS V/S CHANGI RAM AND ORS
71.	XOBJR-25-2021	STATE OF HARYANA AND ORS V/S RAMOTAR
72.	XOBJR-89-2021	STATE OF HARYANA AND ORS V/S RAMJI LAL AND ORS
73.	XOBJR-140-2021	STATE OF HARYANA AND ORS V/S YOGENDER CHAUDHAN
74.	XOBJR-95-2019	STATE OF HARYANA & ORS V/S NATHA RAM

(ANIL KSHETARPAL)
JUDGE