

**RFA-3894 of 2017 (O&M) and
other connected cases**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RFA-3894 of 2017 (O&M) and
other connected cases.
Date of decision:13.05.2022**

Yashpal and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sarvesh Malik, Advocate
 Mr. N.C. Kinra, Advocate
 Mr. N.K. Malhotra, Advocate
 Mr. Kulvir Narwal, Advocate
 Mr. S.R. Hooda, Advocate
 Mr. Sudhir Hooda, Advocate
 Mr. Parveen Kaushik, Advocate
 Mr. Kamal Mor, Advocate
 Mr. S.K. Sharma, Advocate
 Mr. Saurabh Dalal, Advocate
 Mr. Surinder Gaur, Advocate
 Mr. M.S. Rana, Advocate
 Mr. Sanjeev K. Aggarwal, Advocate
 Mr. Ojas Bansal, Advocate
 Mr. Tejas Bansal, Advocate
 Mr. Anil Dutt, Advocate for
 Mr. S.P. Khatri, Advocate
 for the landowners.

Mr. Shivendra Swaroop, AAG, Haryana and
Ms. Vibha Tewari, AAG, Haryana.

Mr. P.S. Saini, Advocate
for HSIIDC.

ANIL KSHETARPAL, J (Oral)

1. **INTRODUCTION AND BACKGROUND**

The landowners while filing appeals under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act'), pray for modification of the award dated 22.02.2017 passed by the Reference Court (hereinafter referred to as 'the RC'). The notification under Section 4, 6 and the awards passed by the Land Acquisition Collector (hereinafter referred to as 'the LAC') as well as by the RC are common. The learned counsels representing the parties are ad-idem that this batch of appeals can be decided by a common judgment.

2. The relevant particulars of the case are as under:-

Sr.No.	Particulars	Dated	Remarks
1.	Notification under Section 4 of the 1894 Act	11.01.2010	For setting up industrial Model Township, Phase-3, Rohtak, to be planned and developed as integrate complex for industrial, transport, Section 30-C, Sector 30-D, Sector 31-C and other utilities etc. in village Balyana, Tehsil & District Rohtak.
2.	Declaration under Section 6 of the 1894	10.01.2011.	-do-

	Act		
3.	Award No.20, under Section 11 of the 1894 Act.	04.01.2011	Land measuring 2235 kanals 2508 Marlas
4	Assessment of the market value		Rs.33,00,000/- per acre.
5.	Assessment by the RC 22.02.2017.	22.02.2017	All the references were dismissed.

3. The appellants claim that the acquired land is located near National Highway No.10 Rohtak-Delhi Road, Asthal Bohar and various hotels, banquet halls, Tilyar Lake are situated adjacent to the acquired land. Various educational institutions, namely, Baba Mast Nath College of Engineering, Eye Hospital, Ayurvedic College, College of Pharmacy, College of Physiotherapy, Shri Baba Mast Nath Residential Public School, Indus Public School, DAV Public School, and DAV Centary Public School, Rohtak, are located nearby. The residential colonies i.e. The Government Employees Cooperative Housing Society Ltd., Sun City Projects, Omaxe Project, Parsavnath Builder and Sector 27 are also located close by. The acquired land is surrounded by residential colonies and as such, the price of the acquired land is not less than Rs. 5 crore per acre. It is also claimed that in village Balyana, previously, the land has been acquired for setting up Industrial Model Township Phase-1 and II, where many big industrial concerns like Asian Paints, Maruti Testing and Research Central, National Highway No.71-A and Foodwear Institute have come up. The acquired land is situated within the National Capital Region and falls within the limits of Municipal Corporation, Rohtak. The Maharishi Dayanand University and Pandit B.D.Sharma PGIMS, Rohtak, are at a short distance and religious

places like Hanuman Mandir, Sainath Temple, Radha Soami Trust are situated near the acquired land.

4. On the other hand, the respondents claim that the LAC has correctly assessed the market value after taking into consideration the rate supplied by the District Collector and the Price Fixation Divional Level Committee. They claim that the assessment made by the LAC is just fair, adequate and reasonable.

5. On the applications made by the landowners, the matter was referred to the RC. On appreciation of the pleadings, the following issues were culled out:-

- “(1) What was the market value of the acquired land at the time for issuance of notification under Section 4 of the Land Acquisition Act, 1894?OPP
- (2) Whether the petitioners are entitled to any amount of enhanced compensation, as alleged, if so to what extent?OPP
- (3) Whether the petition is not maintainable?OPR
- (4) Whether the petitioners have no locus standi to file the present petition?OPD
- (5) Whether the present petition is bad for non-joinder of necessary party and mis-joinder of unnecessary party?OPR
- (6) Whether the petition is barred by limitation?OPR
- (7) Relief.”

2. **ORAL AND DOCUMENTARY EVIDENCE PRODUCED BY THE PARTIES**

2.1 **ORAL EVIDENCE PRODUCED BY THE LANDOWNERS**

PW1	Sultan
PW2	Satyanarain
PW3	Dharam Singh

PW4	Krishan Kumar Patwari
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2.2 **ORAL EVIDENCE PRODUCED BY THE HSIIDC**

RW1/A	Krishan Kumar Patwari
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2.3 **DOCUMENTARY EVIDENCE PRODUCED BY THE LANDOWNERS (APART FROM THE SALE DEEDS THE DETAILS WHEREOF ARE GIVEN IN PARA 2.5.)**

Ex.PW1/A and Ex.PW4/A	Award No.20, dated 04.01.2013
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DOCUMENTARY EVIDENCE PRODUCED BY THE HSIIDC APART FROM THE SALE DEEDS THE DETAILS ARE GIVEN IN PARA 2.5)

Ex.R1	Authority Letter by HSIIDC in favour of Shri Krishan Patwari
Ex.R8	Minutes of the meeting of the Divisional Level Price Fixation Committee, held on 16.11.2012
Ex.R9	Supplementary award No.3, dated 11.11.2013 with respect to assessment of the market value of the trees standing on the land
Ex.R10	Notification dated 09.11.2010, issued by the State of Haryana providing for no litigation incentive as well as rehabilitation and resettlmeent policy for land acquisition oustees
Ex.R11	Layout-cum-demarcation plan of Phase-I, II and III, Industrial Model Township, Rohtak
Ex.R12	Detailed layout plan identifying the location of various parcels of land sold through sale exemplars produced by both the parties

2.5 In order to determine the market value of the acquired land on the basis of comparable sale method, the most important evidence is the sale exemplars produced by the parties. For brevity and convenience, the information of the various sale deeds produced by the respective parties has

been compiled in a table which is extracted as under:-

Sale Deeds produced by the Landowners						
Sr. No.	Exh. No.	Sale No. and Date	Total Area	Price Consideration	Per Acre price	Village
1.	P-1	1233 03.05.2007	160 Sq. Yds.	40,000/-	12,10,000/-	Rohtak
2	P-2	1234 03.05.2007	200 Sq. Yds	50,000/-	12,10,000 /-	Rohtak
3	P-3	710 01.07.2010	19,668 Sq. Mts.	5,70,37,200/-	1,17,36,049/-	Balayana
4	P-4	2147 06.10.2009	4K	26,00,000/-	52,00,000/-	Balayana
5	P-5	173 28.04.2010	2.5 Acre	1,25,00,000/-	50,00,000 /-	Kheri Sadh
6	PX	3089 03.07.2006	1K-7.5M	6,01,563/-	35,00,002/-	Bohar
7	PY	5095 07.09.2006	3A-7K-14M	1,64,44,375/-	41,50,000/-	Bohar
Sale Deeds produced by the State						
8	R2	1236 24.08.2007	6K-18M 172 ----- 1/2, 2/1, 9/2, 10/1 173 ----- 15/2, 16/1	8,62,500/- acquired	10,00,000/-	Balayana
9	R-3	187 29.04.2010	2K-8M 118 ----- 11, 12/1, 20 119 ----- 15	4,80,000/-	16,00,000/-	Balayana very close to acquired land
10	R-4	2510 04.12.2009	4K 108 ----- 13/1, 18, 19, 22, 23, 24/1 117 ----- 3, 4/1	10,00,000/-	20,00,000 /-	Balayana nearby
11	R-5	348	4K	8,00,000/-	16,00,000/-	Balayana

		18.05.2010	134 8 min			nearby
12	R-6	160 02.05.2008	6K-7M 118 1, 9, 10, 12/2 107 21, 22	9,52,500/-	12,00,000/-	Balayana nearby
13	R-7	1608 09.01.2009	5K-1M 135 7, 8/1, 14/1, 14/2, 15	7,58,000/-	12,00,792/-	Balayana nearby

2.6 The RC, after finding out that none of the sale deeds produced by the landowners is with respect to the comparable parcels of land with that of the acquired land, consequently, held them as not worthy of reliance. The exemplar sale deeds Ex.R3 and R5 are with respect to the period post the date of notification under Section 4 of the 1894 Act, whereas, the exemplar sale deeds Ex.R2, R4, R6 and R7 are of a lesser price than the assessment made by the Collector, therefore, cannot be taken into consideration in view of the provisions of Section 25 of the 1894 Act. Thus, the RC dismissed the reference applications.

3. **ARGUMENTS ADDRESSED BY THE LEARNED COUNSELS**

3.1 This Bench has heard the learned counsels for the parties at length and with their able assistance perused the judgment passed by the RC along with the record of the lower Court which was requisitioned.

3.2 The learned counsel representing the landowners have also filed synopsis along with the gist of their arguments. It is contended that as per the no litigation policy, the landowners could have got extra compensation at the rate of 20% of the market value assessed by the LAC. They claim that

once the State has, itself, offered to pay additional 20% of the market value, therefore, they should not be deprived of the same. It is further claimed that the exemplar sale deed No.2147, dated 10.10.2004, Ex.PR, with respect to land measuring 4 kanals located in village Balyana which is sold at the rate of Rs.52,00,000/- per acre, is a comparable sale instance and the RC committed an error while directing a deduction of 50% towards development of the land to come to a price of Rs.26,00,000/- per acre. It is contended that the deduction of 50% is totally wrong. While relying upon the judgment passed by the Supreme Court in **Bhagawathulla Samanna And Ors vs Special Tahsildar And Land Acquisition Officer Visakhapatnam, AIR 1992 SC 2298**, it is claimed that no development cut should have been applied. They also rely upon **Shaji Kuriakose vs. Indian Oil Corporation Ltd. and others, AIR 2001 SC 3341**. While referring to sale deed No.710, dated 01.07.2010, Ex.P3 with respect to land measuring 19668 Sq. mts. sold at the rate of 1,17,35,894/-, the learned counsels claim that even if the deduction of 50% is applied, the market value of the acquired land comes to Rs.58,67,947/-.

3.3 Per contra, learned counsel representing the HSIIDC while drawing the attention of the Court to the layout plan produced by the HSIIDC, Ex.R12, identifying the location of the various parcels of land sold through sale exemplar/ sale deeds contends that the appeals, having no force, are liable to be dismissed. The acquired land of village Balyana is far away from the National Highway and from the exemplar sale deeds produced by the HSIIDC, it is proved that the market value of the acquired land has been correctly assessed by the LAC which has also been affirmed by the RC.

4. **DISCUSSION**

4.1 At this stage, it is important to carefully examine the layout plan Ex.R12. The acquired land has been depicted in yellow colour. The various parcels of land sold through exemplar sale deeds produced by the landowners have been identified with green colour, whereas, the exemplar sale deeds produced by the HSIIDC have been identified by pink colour. It is evident that the exemplar sale deeds produced by the landowners are located at a distance from the acquired land. Furthermore, sale deeds Ex.P1, and P2 are with respect to developed plots in Rohtak City. Exemplar sale deed Ex.P3 is with respect to the period post the date of notification under Section 4 of the 1894 Act. It is also located at a distance. Hence, the same is not comparable. Similarly, the parcel of land sold through sale exemplar Ex.P4, although, belongs to the land located in village Balyana, but it is at a sufficient distance from the acquired land. The sale exemplar Ex.P5 is not only with respect to the period post the date of notification under Section 4 of the 1894 Act but is also located in a different village i.e. Kheri. Thus, the location of the land is also far away from the acquired land as the aforesaid land is located on the National Highway. The sale exemplar Ex.PX is also with respect to the period post the date of notification under Section 4 of the 1894 Act Ex.P3, though, its location has not been specified, is a parcel of land located in village Bohar, which is a separate revenue estate and in the absence of evidence to prove its comparative location with the acquired land, is not considered safe to be relied upon. The next sale exemplar Ex.PY is with respect to land measuring 31 kanals and 04 marlas sold on 07.09.2006 at the rate of Rs.41,11,093.75/- per acre. This parcel of land is

also in village Bohar, which is a separate revenue estate.

4.2 On the other hand, HSIIDC has produced sale deed Ex.R2 dated 24.08.2007 with respect to land measuring 6 kanals and 18 marlas, comprised in Rect. No.172, Khasra Nos.1/2, 2/1, 9/2, 10/1, Rect. No.173, Khasra No.15/2 and 16/1. This parcel of land has been sold for Rs.8,62,000/-. The land is located in village Balyana, itself. The per acre price comes to Rs.9,99,420/- per acre. Furthermore, the parcel of land sold through sale exemplar Ex.R3, R4, R6, R7 and R5 are with respect to various parcels of land located close to the acquired land. These parcels of land are comparable with the acquired parcels of land. It is evident from the analysis of the exemplar sale deeds Ex.R2 to R7 that the land was being sold in the area at a price lower than the amount assessed by the LAC.

4.3 Now the Bench proceeds to analyse the arguments of the learned counsels representing the landowners.

4.4 The first argument is with respect to the grant of 20% as no litigation incentive as per the notification dated 09.11.2010. On a careful reading of the aforesaid policy, it is evident that an application under the policy was required to be submitted according to Form-I while giving an undertaking not to file any application under Section 18 of the 1894 Act to the LAC. This policy has been introduced by the State of Haryana in order to promote acquisition of the land for public purpose with consent of the landowners. This policy is not applicable once the landowners have already filed an application under Section 18 of the 1894 Act and have further preferred an appeal before this Court. Hence, the benefit of the aforesaid policy cannot be extended to the appellants since they do not qualify under

the conditions laid therein.

4.5 The second argument of the learned counsel is with reference to sale exemplar Ex.P4 sold vide deed no.2147 dated 06.10.2009 which is with respect to 4 kanals of land sold at the rate of Rs.52,00,000/- per acre. On a careful study of the layout plan, it is evident that the parcel of land is located far away from the acquired land. The aforesaid parcel of land is not only with respect to a small plot of land but is also not found comparable due to its distance from the acquired land. The aforesaid parcel of land is also not comparable when compared with the location of land sold through Ex.R2 to Ex.R7.

4.6 The next argument of the learned counsel is with reference to sale deed Ex.P3. This sale deed is with respect to the period post the date of notification under Section 4 of the 1894 Act. As per Section 23 of the 1894 Act, the crucial date for assessment of the market value of the acquired land is 11.01.2010. This sale exemplar is six months after the date of notification under Section 4. Further, as per the layout plan, Ex.R-12, the location of Ex.P3 is not only at a distance but also forms a part of an already developed area. Hence, the aforesaid sale exemplar cannot be relied upon.

4.7 The RC has erred in observing that the sale deeds reflecting lower price than the market value assessed by the LAC cannot be looked into by the Court in view of the provisions of Section 25 of the 1894 Act. The aforesaid observations are incorrect. Section 25 of the 1894 is extracted as under:-

“25. Amount of compensation awarded by Court not to be lower than the amount awarded by the Collector.-The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under

section 11.”

4.8 The matter is no longer res-integra. The Supreme Court, after considering Section 25 of the 1894 Act, in **Lal Chand vs. Union of India, (2009) 15 SCC 769** has conclusively held that the sale deeds reflecting a price lesser than the market value assessed by the LAC can be taken into consideration while assessing the market value but an amount below the amount assessed by LAC cannot be determined.

4.9 Now the Bench proceeds to analyse the judgments relied upon. The first judgment is in **Bhagawathulla Samanna And Ors case(supra)**. The Supreme Court, while assessing the market value of the acquired land, held that the principle of deduction in the market value covered by comparable sale is adopted in order to arrive at the market value of the acquired land. For that purpose, the court is required to consider all the relevant facts. In that case, the Supreme Court resorted to the re-assessment after considering that small plot of land cannot possibly fetch the same rate per square yard as large area of land. Therefore, the aforesaid judgment is given in the peculiar facts of that case. In any case, this court, on reappraisal of evidence, has found that the sale exemplar Ex.P4, which was relied upon by the RC, is not with respect to a comparable parcel of land. In **Shaji Kuriakose case(supra)**, the Supreme Court was considering the assessment of the market value of a large track of land in village Manakunnam, District Cochin, which was acquired for setting up a bottling plant by Indian Oil Corporation. After considering the evidence, the Court laid down five fold test for determining as to whether an exemplar is found comparable for assessing the market value. The five tests are:-

- (1) the sale must be a genuine transaction;
- (2) the sale deed must have been executed at the time which is proximate to the date of notification under Section 4 of the 1894 Act;
- (3) the land covered by the sale must be located in the vicinity of the acquired land;
- (4) the land covered by the sale must be identical in nature to the acquired land;
- (5) the size of the plot of the land covered by the sale must be similar with the land acquired.

4.10 While applying the aforesaid five fold tests in the present case, it is found that none of the sale exemplars produced by the landowners can be relied upon. The sale exemplar Ex.R2 is with respect to the acquired land. The parcels of land sold through sale deeds Ex.R3 to R7 are with respect to land located in close vicinity and hence, are found to be comparable with the acquired land.

4.11 Keeping in view the fact that the acquired land located in villages Balyana, Kheri Sadh is in the close vicinity of the acquired land located in village Kharawar, this Bench has explored the possibility of awarding the same amount of compensation, however, is compelled to denounce the approach for the following reasons:-

- (1) the acquired land located in village Kharawar is located on the National Highway, whereas, the acquired land of village Kheri Sadh starts after the acquired land of village Kharawar comes to an end. The acquired land of village Balyana acquired through the present notification starts after the acquired land of village Kheri Saadh comes to

an end. In other words, the acquired land in villages Kharawar, Kheri Saadh and Balyana are through adjacent, but in a long strip of land.

(2) Furthermore, on a careful perusal of the layout plan produced in evidence (Ex. R12) with respect to village Balyana, it is evident that the market value of the acquired land is nowhere near the market value assessed by the RC with respect to the acquired land located in village Kharawar.

(3) From geographical standpoint, the acquired land of village Kharawar is better located when compared with the acquired land of villages Kheri Sadh and Balyana.

4.12 Further, once the comparable sale deeds of the acquired land as well as of parcels of land located nearby, have been produced by the State of Haryana, the court should not assess the the market value on the basis of mere assumptions while ignoring such relevant exemplar sale deeds.

5. **DECISION**

5.1 In view of the foregoing discussion, the conclusion is inevitable. Finding no merit, the appeals are hereby dismissed.

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

13th May, 2022
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(ANIL KSHETARPAL)
JUDGE

**Whether speaking/reasonable
Whether reportable**

**:YES/NO
:YES/NO**

Sr. No.	Case No.	Party name
1.	RFA-3894-2017	YASHPAL AND ORS V/S STATE OF HARYANA AND ORS
2.	RFA-3895-2017	RAM CHANDER AND ORS V/S STATE OF HARYANA AND ORS
3.	RFA-3896-2017	MAUJI AND ORS V/S STATE OF HARYANA AND ORS
4.	RFA-3897-2017	KULJEET SINGH AND ORS V/S STATE OF HARYANA AND ORS
5.	RFA-3898-2017	OM NARAIN AND ORS V/S STATE OF HARYANA AND ORS
6.	RFA-3899-2017	HAR KISHAN AND ORS V/S STATE OF HARYANA AND ORS
7.	RFA-3924-2017	OMPATI V/S STATE OF HARYANA AND ORS
8.	RFA-3925-2017	JAGBIR SINGH V/S STATE OF HARYANA AND ORS
9.	RFA-3926-2017	MOHJIT SINGH V/S STATE OF HARYANA AND ORS
10.	RFA-3927-2017	RAJPAL V/S STATE OF HARYANA & ORS
11.	RFA-3928-2017	RAJ KUMAR V/S STATE OF HARYANA & ORS
12.	RFA-3929-2017	NARAYAN V/S STATE OF HARYANA & ORS
13.	RFA-3930-2017	SMT. MURTI DEVI V/S STATE OF HARYANA AND OTHERS
14.	RFA-3931-2017	SMT. MURTI DEVI V/S STATE OF HARYANA AND OTHERS
15.	RFA-3955-2017	SULTAN AND ANR V/S STATE OF HARYANA AND ORS
16.	RFA-3956-2017	SULTAN AND ANR V/S STATE OF HARYANA AND ORS
17.	RFA-3957-2017	SULTAN AND ANR V/S STATE OF HARYANA AND ORS
18.	RFA-3958-2017	KAPTAN V/S STATE OF HARYANA AND ORS
19.	RFA-4005-2017	DHARAM SINGH AND ORS V/S STATE OF HARYANA AND ORS
20.	RFA-4006-2017	SHRI CHAND AND ORS V/S

		STATE OF HARYANA AND ORS
21.	RFA-4007-2017	AJIT SINGH & ORS V/S STATE OF HARYANA & ORS
22.	RFA-4008-2017	DHARAM SINGH AND ORS V/S STATE OF HARYANA AND ORS
23.	RFA-4152-2017	BHAGWANI DECEASED THR LRS AND ORS V/S STATE OF HARYANA AND ORS
24.	RFA-4147-2017	OMPATI V/S STATE OF HARYANA AND OTHERS
25.	RFA-4148-2017	OMPATI V/S STATE OF HARYANA AND OTHERS
26.	RFA-4149-2017	RAJPAL AND OTHERS V/S STATE OF HARYANA AND OTHERS
27.	RFA-4150-2017	RAJENDER AND OTHERS V/S STATE OF HARYANA AND OTHERS
28.	RFA-4151-2017	RAJENDER AND OTHERS V/S STATE OF HARYANA AND OTHERS
29.	RFA-4153-2017	SATYAWAN V/S STATE OF HARYANA AND OTHERS
30.	RFA-4154-2017	SATBIR & OTHERS V/S STATE OF HARYANA AND OTHERS
31.	RFA-4155-2017	DHARAM SINGH DECEASED THROUGH LRS AND ORS V/S STATE OF HARYANA AND ORS
32.	RFA-4156-2017	RANBIR AND ANR V/S STATE OF HARYANA AND OTHERS
33.	RFA-4606-2017	DHARAMPAL V/S STATE OF HARYANA AND OTHERS
34.	RFA-4607-2017	SANJEET V/S STATE OF HARYANA & ORS
35.	RFA-4608-2017	PARKASH V/S STATE OF HARYANA & ORS
36.	RFA-4609-2017	DHARAMBIR SINGH V/S STATE OF HARYANA AND OTHERS
37.	RFA-4950-2017	YASHPAL V/S STATE OF HARYANA AND ORS
38.	RFA-4951-2017	SURESH BALA AND ORS V/S STATE OF HARYANA AND ORS
39.	RFA-4952-2017	DHARAM SINGH AND ORS V/S STATE OF HARYANA AND ORS

40.	RFA-4953-2017	SURESH BALA AND ORS V/S STATE OF HARYANA AND ORS
41.	RFA-5060-2017	ANOOP & ORS V/S STATE OF HARYANA & ORS
42.	RFA-5163-2017	RANDHIR SINGH V/S STATE OF HARYANA AND OTHERS
43.	RFA-5313-2017	SATYAVIR AND OTHERS V/S STATE OF HARYANA AND OTHERS
44.	RFA-5314-2017	SATYAVIR AND OTHERS V/S STATE OF HARYANA AND OTHERS
45.	RFA-5455-2017	SURINDER SINGH AND OTHERS V/S STATE OF HARYANA AND OTHERS
46.	RFA-144-2018	BANI SINGH DECEASED THR LRS AND ORS V/S STATE OF HARYANA AND ORS
47.	RFA-2823-2017	HAWA SINGH & ANR V/S STATE OF HARYANA AND ORS
48.	RFA-3058-2018	MEENA KUMARI & ANR V/S STATE OF HARYANA & ORS

(ANIL KSHETARPAL)
JUDGE