

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

RFA-112-2022 (O&M)

Date of decision: 08.12.2022

Smt. Bhavna and another

....Appellants

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gagandeep Rana, Advocate
Mr. Bhim Singh, Advocate
Mr. Gaurav Aggarwal, Advocate
Mr. Sandeep Sharma, Advocate
Mr. Amandeep Rana, Advocate
Mr. Amit Jain, Advocate for the landowners

Mr. Shivendra Swaroop, AAG, Haryana

Mr. Pritam Singh Saini, Advocate for HSIIDC

ANIL KSHETARPAL, J (Oral)

1. Background and Introduction:-

1.1 By this order a bunch of 8 appeals, (details whereof are at the foot of the judgment), shall stand disposed of. These appeals pertain to the acquisition of land in Village Mubarakpur.

1.2 Through these appeals filed under Section 54 of the Land Acquisition Act, 1894, (hereinafter referred to as 'the 1894 Act') the landowners who stand deprived of their land due to the compulsory acquisition, assail the correctness of award passed by the Reference Court on 30.09.2021. The learned counsel representing the parties are ad idem that this bunch of appeals can be conveniently disposed of by a common judgment.

1.3 With highest regard to the direction of the Hon'ble Supreme Court to avoid reproduction and individually record the adjudication upon questions pertaining to land acquired in different villages, it is observed that in a significant number of appeals listed before this Bench, the land has been acquired through a common notification involving identical issues, which have already been sufficiently and elaborately dealt with, in the previous judgments. Hence, certain extracts from the previous judgments, have been reproduced in this judgment, for the sake of convenience, clarity and judicious use of time. In all these cases, the following issues arise for consideration:-

1. Whether the parties have produced comparable sale exemplars of the contemporaneous period to enable the Court to assess the market value of the acquired land as prevalent on the date of notification under Section 4 of the Land Acquisition Act, 1894?

2. Whether the landowners of the acquired land can be deprived of just, fair and reasonable compensation, on the ground that they have failed to claim the amount as per the policy decision of the State?

3. Whether the Court is required to assess the severance damages suffered by the landowners with regard to the bifurcation of their unacquired land into different parcels due to the compulsory acquisition of a narrow strip of the land for constructing an elevated express highway?

1.4 The discussion on issue number 2 and 3 involves the common questions which have been, comprehensively, answered in the previous judgments arising from the same preliminary notification under Section 4 of the 1894 Act.

2. FACTS

2.1. Some relevant facts, in brief, are required to be noticed. The State of Haryana in order to use the land for developing and constructing the Kundali Manesar Express Highway (hereinafter referred to as “KMP”) Phase VII connecting NH-1, NH-10, NH-8 and NH-2, issued a notification under Section 4 of the 1894 Act on 11.01.2005 proposing to acquire the land measuring 520 acres, 2 kanals and 30.5 marlas spread over a total of 15 villages. The declaration under Section 6 of the 1894 Act was published on 31.05.2005 whereas the award No.13 by Land Acquisition Collector (hereinafter referred to as ‘LAC’) was announced on 10.05.2006 with respect the acquired land located in Mokalwas. The landowners were held entitled to the market value at the rate of ₹12,50,000/- per acre. In the first round, on 30.01.2013 the Reference Court, assessed the market value of the acquired land at the rate of ₹43,17,841/- per acre. While deciding the appeals, the High Court vide a judgment dated 05.02.2016 revised the market value of the acquired land to ₹62,11,700/- per acre. However, the Hon’ble Supreme Court vide judgment dated 25.1.2018 in *Surender Singh vs. State of Haryana and others* (2018) 3 CC 278 remanded all the cases back to the Reference Court wherein the parties were permitted to lead the further evidence. In the second round, the Reference Court has

dismissed the various reference petitions while upholding the assessment made by the Land Acquisition Collector (hereinafter referred to as “LAC”) at ₹12,50,000/- per acre.

2.2 At this stage, it would be important to note that in the village Mubarakpur itself, 142 kanals and 13.5 marlas of land, in other words, 17.80 acres of land, approximately, has been acquired.

2.3. The reference Court, on appreciating the pleadings, framed the following issues for adjudication:-

“1. What was the market value of the acquired land on the date of notification u/s 4 of Land Acquisition Act? OPP

2. Whether the petition no.793 of 2016 titled as Mange Ram vs. State is time barred? OPR

3. Relief. (this issue has been re-numbered as 3 because issue no.2 had been framed by the learned Predecessor Court in the petition no.793 of 2016 titled as Mange Ram Vs. State which has been consolidated with this main petition)

3. Evidence produced by the respective parties:-

3.1 In oral evidence, the landowners, in order to prove their case, examined the following witnesses:-

PW1	Sunil Kumar
PW2	Dhanna Singh, Draftsman
PW3	Shri Daya Nand
PW4	Kamal Kumar, Patwari, Halqa Mubarikpur

3.2 Apart from the oral evidence, the landowners have also produced the following documentary evidence, apart from the sale deeds, a tabulated compilation whereof, is incorporated in para 4.2 of the judgment:-

Ex.P1		Award dated 27.2.2012 in case titled as ‘Hari Mohan etc. vs. State of Haryana and others’
Ex.P2		Award no.1 dated 24.12.2008
Ex.P3		Award no.3 dated 24.12.2008
Ex.P4		Award no.2 dated 21.04.2011
Ex.P5		Award no.5 dated 21.04.2011
Ex.p6		Award no.3 dated 21.04.2011
Ex.P7		Copy of Aks Shijra of Village Mubarikpur
Ex.P6	and	Map of Gurgaon-Manesar Urban Complex Development Plan 2025 AD
Ex.P8		
Ex.P7	and	Final development plan for the control area I to IV
Ex.P9		
Ex.P10		Award dated 16.11.2011 passed by the Court of Shri J.S.Kundu, the then learned ADJ, Gurugram, in case titled as Anil Kumar Vs. Haryana State and others
Ex.P11		Award dated 27.8.2012 passed by the court of Shri Vikram Aggarwal, the then learned ADJ, Gurugram, in case titled as Inder Singh and another Vs. State of Haryana and others
Ex.P12		Award dated 31.7.2012 passed by the court of Shri Vikram Aggarwal, the then learned ADJ Gurugram in case titled as Sher Singh and others vs. State of Haryana and others
Ex.P13		Aks Shijra of Village Mubarikpur
Ex.P19		Gurgaon-Manesar Urban Complex Final Development Plan 2021 AD
Ex.P20		Gurgaon-Manesar Urban Complex Final Development Plan 2025 AD
Ex.P21		Gurgaon-Manesar Urban Complex Final Development Plan 2031 AD
Ex.P22		Copy of order of Hon’ble High Court passed in RFA No.1580 of 2012 decided on 24.5.2016 in case titled as Moti Ram and others vs. State of Haryana and another
Ex.P23		Copy of order of Hon’ble Supreme Court dated 6.9.2017 passed in civil appeal nos. 11262-11276 of 2017 arising out of SLP (c) nos. 12193-12207/2017 titled as Dharam

	Singh and others vs. State of Haryana and others
Ex.P24	Copy of Aks Shijra of Village Kaliawas, Tehsil Farrukhnagar, Gurugram
Ex.P10/A	Copy of report of construction of the land bearing khewat/khata no.75/81, Mustil no.131/11/2(6-7) 20(8-0) 21(1-0) measuring 15 kanal 7 marlas
Ex.PW11/1	Notification dated 27.10.2005
Ex.PW11/2	Notification dated 27.10.2005
Ex.PW11/3	Copy of Aks Shijra of village Mubarikpur
Ex.PW11/4	Report of Tehsildar Farrukh Nagar regarding damage due to acquisition
Ex.PW11/5	Jamabandi for the year 2001-2002
Ex.PW11/6	Khasra Girdwari of Village Mubarikpur
Ex.PW11/7	Joint Aks Sijra of Village Mubarikpur and Farukh Nagar
Ex.PW11/8	Aks Sijra of Village Mubarikpur
Ex.PW11/16	Notification of Farukh Nagar Master Plan 2031 AD
Ex.PW11/16/A	Development Plan
Ex.PW11/17	Development Plan of Arogya Dham Badhsa
Ex.PW11/17 A	Development Plan
Ex.PW12/A	Draft Development Plan for Arogya Dham Badhsa 2041 AD
Mark A	Copy of Aks Shijra of Village Mubarikpur
Mark A	Copy of order dated 21.9.2017 of Hon’ble Supreme Court arising out of SLP (c) no.20497-20500 of 2016
Mark A1 & Mark A2	Aks Shijra of Village Mubarikpur

3.3 In the oral evidence, the HSIIDC has examined Sh.B.S.Rana, Senior Manager, KMP Cell, Uyog Vihar, Gurugram, as RW1.

3.4 In the documentary evidence, the HSIIDC relied upon the following documentary evidence, apart from the sale deeds, a tabulated compilation whereof is incorporated in para 4.2 of the judgment:-

Ex.R1	Award no.13 dated 10.5.2006
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Ex.R5	Copy of Collector rates
Ex.R6	Copy of Policy for rehabilitation and resettlement of landowners
Ex.R7	Copy of award dated 7.1.2012 passed by Shri K.K.Khanduja, the then learned Additional District Judge, Nuh, in case titled as Smt. Roshni and others vs. State of Haryana and others
Ex.R8	Map of KMP Expressway
Ex.R22	Certified copy of award dated 18.12.2019 passed by the court of Ms. Bhawna Jain, Ld. ADJ, Gurugram, in case titled as Lok Ram and others vs. State of Haryana and others
Ex.R23	Certified copy of award dated 10.12.2019 passed by the court of Ms. Bhawna Jain, Ld. ADJ, Gurugram, in case titled as Braham Parkash and others vs. State of Haryana and others
Ex.R24 & Ex.R35	Copies of rate list of Tehsil Pataudi, Gurugram

4. Discussion and Analysis of the arguments of the learned counsel representing the parties:-

4.1 Heard learned counsel representing the parties at length and with their able assistance perused the judgment passed by the reference Court along with the record of the reference Court which was requisitioned.

Issue No.1 and 2

4.2 At this stage, it would be appropriate to compile the details of the various sale deeds produced by both the parties in evidence and a tabulated compilation is as under:-

Sale deeds produced by the landowners

Sr. No.	Exhibits	Sale deed No.	Dated	Total Area	Sale consideration Rs.	Price per acre Rs.	Village
1.	PW11/1 1 &	658	25.06.2004	1K-14M	7,24,500/-	34,09,411/-	Farrukh Nagar

	P14						
2.	PW 11/9 & P15	1692	16.02.2004	1K-13M-3S	22,00,000/-	1,06,66,666/-	Farrukh Nagar
3.	PW11/1 2 & P18	2304	12.09.2007	12K-0M	62,25,000/-	41,50,000/-	Farrukh Nagar
4.	PW11/1 0 & P16	551	11.06.2004	1K-3M	4,97,000/-	34,57,391/-	Farrukh Nagar
5.	PW 11/13 & P17	4206	09.03.2007	1K-4M	8,32,000/-	55,46,666/-	Farrukh Nagar
6.	PW11/14	3765	28.12.2007	8K-1M	56,00,000/-	55,65,217/-	Farrukh Nagar
7.	PW11/15	1980	07.12.2004	0K-5M	1,05,000/-	33,60,000/-	Sultanpur

Sale deeds produced by the HSIIDC

Sr. No.	Exhibits	Sale deed No.	dated	Area	Sale consideration Rs.	Price per Acre Rs.	Village
1.	Ex R-2	731	05.07.2004	10K-12M	3,71,000/-	2,80,000/-	Mubarikpur
2.	Ex R-3	1498	12.01.2004	0K-3M	20,000/-	10,66,667/-	Mubarikpur
3.	Ex R-4	1499	12.01.2004	5K-7M	37,000/-	55,327/-	Mubarikpur
4.	Ex R-9	2288	28.01.2005	28K-0M	9,80,000/-	2,80,000/-	Mubarikpur
5.	Ex R-10	2870	09.01.2006	28K-19M	21,71,250/-	6,00,000/-	Mubarikpur
6.	Ex R-11	537	27.05.2005	7K-12M	2,66,000/-	2,80,000/-	Mubarikpur
7.	Ex R-12	789	24.06.2005	47K-0M	17,32,500/-	2,94,894/-	Mubarikpur
8.	Ex R-13	2584	21.12.2005	2K-13M	93,000/-	2,80,755/-	Mubarikpur
9.	Ex.R-14	2235	31.05.2005	15K-11M	5,44,250/-	2,80,000/-	Mubarikpur
10.	Ex.R-15	439	19.05.2005	14K-14M	5,14,500/-	2,80,000/-	Mubarikpur
11.	Ex.R-16	131	20.04.2005	8K-4M	2,87,000/-	2,80,000/-	Mubarikpur
12.	Ex.R-17	557	20.05.2005	1K-4M	40,500/-	2,70,000/-	Mubarikpur
13.	Ex.R-18	538	27.05.2005	10K-4M	3,57,000/-	2,80,000/-	Mubarikpur
14.	Ex.R-19	1466	06.01.2004	12K-10M	3,90,000/-	2,49,600	Mubarikpur
15.	Ex.R-20	2097	22.12.2004	41K-9M	14,51,000/-	2,80,048/-	Mubarikpur

16.	Ex.R-21	3051	24.01.2006	18K-2M	14,00,000/-	6,18,784/-	Mubarikpur
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4.3 On the one hand, the learned counsel while referring to the various policies issued by the State of Haryana submits that even in the absence of definite evidence to prove the market value of the acquired land, the RC should have relied upon the policy awarded increased as order in RFA-421-2021 titled as ‘**HSI IDC vs. Om Dutt and others**’ decided on 07.10.2021.

4.4 On the other hand, learned counsel representing the HSI IDC submits that the attention of the Court was not drawn to Section 23 of the 1894 Act, which enables the court to assess the market value on the date of notification under Section 4 of the 1894 Act and not on the date of award passed by the LAC.

4.5 The issue with regard to the benefit of policy has been discussed in detail in RFA-7819-2013 titled as ‘**Dharan Chand @ Dharambir and others vs. State of Haryana and others**’ decided on 21.03.2022 though in RFA-889-2021 titled as ‘**Birender and others vs. State of Haryana and others**’ decided on 29.11.2021, the court had calculated the increase in the market value as per policy upto the date of award, however, subsequently, in RFA-7819-2013, the attention of the Court was drawn to Section 23 of the 1894 Act, which mandates the court to assess the market value on the date of preliminary notification under Section 4 of the 1894 Act.

4.6 The RC has noticed that the landowners have not produced any sale instances of comparable parcel of land of contemporaneous period located in village Mubarikpur. In fact, sale instances

Ex.PW11/11, PW11/9, PW11/12, PW11/10, PW11/13 and PW11/14 are with respect to parcels of land located in village Farukh Nagar, PW11/15 is located with respect to village Sultanpur. This fact is not disputed by the learned counsel representing the parties.

4.7 On the other hand, the sale deeds produced by the HSIIDC were not taken into consideration on the ground that the price reflected in the sale deeds is lesser than the amount offered by the LAC.

4.8 The RC has erred in excluding the sale instances produced by the HSIIDC from consideration on the wrong interpretation of Section 25 of the 1894 Act. This issue is no longer res integra in **Lal Chand vs. Union of India (2009) 15 SCC 769**. It is evident that HSIIDC produced as many as 16 sale instances of parcels of land located in village Mubarikpur to prove that the LAC has awarded fair, reasonable and adequate compensation. The learned counsel representing the parties did not make any other submission.

5. Decision:-

5.1 Keeping in view the aforesaid facts, the landowners are not entitled to any increase even as per policy, because the notification under Section 4 of the 1894 Act is prior to the policy dated 28.04.2005 but effective from 03.03.2005. Therefore, the appeals are hereby dismissed.

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

08.12.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE

Sr. No.	Case No.	Parties Details
1.	RFA-112-2022	BHAVNA AND ANR V/S STATE OF HARYANA AND OTHERS
2.	RFA-113-2022	DAYANAND V/S DISTRICT REVENUE OFFICER-CUM-LAC AND OTHERS
3.	RFA-168-2022	BRAHAM PARKASH AND OTHERS V/S STATE OF HARYANA AND OTHERS
4.	RFA-775-2022	SULTAN SINGH (DECEASED) THR. HIS LRS AND OTHERS V/S STATE OF HARYANA AND OTHERS
5.	RFA-776-2022	BALWAN SINGH (DECEASED) THR. LRS. AND OTHERS V/S STATE OF HARYANA AND OTHERS
6.	RFA-779-2022	SUMITRA DEVI AND ORS V/S STATE OF HARYANA AND OTHERS
7.	RFA-955-2022	SUNIL KUMAR AND OTHERS V/S HARYANA STATE AND OTHERS
8.	RFA-984-2022	SMT. DHANPATI (DECEASED) THROUGH HER LRS V/S STATE OF HARYANA AND ANR

08.12.2022
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(ANIL KSHETARPAL)
JUDGE