IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. RFA-326-2018 (O&M)
Reserved on: 24.11.2022
Date of decision: 07.12.2022

PRABHU DAYAL **..Appellant**

Versus

STATE OF HARYANA AND ORS. **..Respondents**

2. RFA-4886-2017 (O&M)

STATE OF HARYANA AND ORS. **..Appellants**

Versus

PRABHU DAYAL **..Respondent**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Manish Mehta, Advocate
for the landowners.

Mr. Shivendra Swaroop, AAG, Haryana.

<u>ANIL KSHETARPAL, J.</u>

1. **<u>Introduction and background:</u>**

1.1 While praying for the modification of the market value assessed in the award passed by the Reference Court (hereinafter referred to as 'the RC') on account of the compulsory acquisition of land, the State of Haryana as well as the landowners have filed these appeals. 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 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.

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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	05.04.2011
2.	Area of land	15 kanals and 8 marlas
3.	Location of land	Village Buchakpur
4.	Purpose of acquisition	Construction of road (widening/four laning etc) maintenance, management and operation of Major District Road-129 from Rai Malikpur to Narnaul.
5.	Declaration under Section 6 was issued.	19.07.2011
6.	Number and date of LAC award	Award No.22, dated 26.04.2012
7.	Amount assessed by the LAC	The LAC offered to pay the market value of the acquired land measuring 15 kanals and 8 marlas at the rate of Rs.30,00,000/- per acre.
8.	Date of RC's award	21.01.2017
9.	Amount assessed by the RC	The RC assessed the market value of the acquired land at the rate of Rs.59,87,520/- per acre.

FACTS:

1.3 Dissatisfied with the amount offered by the LAC, on the application filed by the landowners under Section 18 of the 1894 Act, the matter was referred to the RC for assessing the market value of the acquired land. It has been claimed by the landowners that the LAC has undervalued the acquired land and failed to comprehend the potentiality of the land to be utilized for the commercial purpose. The parcel of land is adjacent to the main road and its market value is not less than Rs.3,00,00,000/- per acre.

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

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Haryana claims that the LAC has offered just, fair, reasonable and adequate market value of the acquired land.

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

2.1 In the oral evidence, the landowners examined PW-1 Sh. Ramesh Chander.

2.2 In the documentary evidence, the landowners produced the following evidence in support of their case apart from the sale deeds, a tabulated compilation whereof is given in para 4.4 of the judgment:-

Ex.P-1	*Copy of Aks-shijra*
Ex.P-2	*Copy of jamabandi*
Ex.P-3 to P-5	*Copies of mutations*
Ex.P-6	*Site plan*
Ex.P-7	*Valuation report*
Ex.P-8	*Photocopy of GPA*
Ex.P-9 to P-12	*Copies of sale deeds*

2.3 On the other hand, in the oral evidence, the State of Haryana examined RW-1 Sh. Sajjan Singh Rana, Sub-Divisional 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 whereof is given in para 4.4 of the judgment:-

Ex.R-1 and Ex.R-2	*Copies of sale deeds*
Ex.R-3	*Copy of jamabandi*
Ex.R-4	*Copy of mutation*
Ex.R-5	*Copy of gazette notification*
Ex.R-6	*Copy of Collector's rate*

3. **Analysis of the reasons recorded by the RC:**

3.1 The RC, on appreciation of the pleadings, culled out the

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following issues for adjudication:-

> *"1. What was the market value of the acquired land on the date of issuing notification under Section 4 of the Land Acquisition Act? OPP*
> *2. Whether the petitioners are entitled for enhanced compensation, if so, at what rate? OPP*
> *3. Relief."*

3.2 The RC has held that the sale instances produced by the State of Haryana to prove the market value cannot be taken into consideration because these sale instances reflect a price lower than the amount offered by the LAC. Thereafter, while relying upon Ex.P-11, the RC assessed the market value at the rate of Rs.59,87,520/- per acre. At the first instance, the RC has granted a cumulative increase at the rate of 10% per annum in order to cover the time gap between the execution of sale deed Ex.P-11 and the preliminary notification under Section 4 of the 1894 Act. Hence, the Court worked out a figure of Rs.73,92,000/- per acre. Thereafter, the Court applied 10% deduction, on account of parcel of land being small and development cost each. In other words, in total 20% deduction has been applied by the RC on the amount awarded to the landowners.

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

4.1 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.

4.2 On the one hand, the learned counsel representing the landowners submits that the RC has committed an error in applying 10% deduction on account of the development cost. He contends that the land has been acquired for the widening and four laning of the road, hence, no

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development cost is required to be deducted from the landowners at the cost of widening.

4.3 On the other hand, the learned counsel representing the State of Haryana has contended that the RC has committed an error in ignoring the sale instance Ex.R-1 (bearing No.56) and Ex.R-2 (bearing No.4541), which are with respect to the parcels of land located in village Buchakpur itself. He contends that the RC has also erred in relying upon Ex.P-11, which is with respect to a small parcel of land.

4.4 At this stage, it is considered appropriate to compile the complete information in respect of the various sale deeds produced by the parties in order to have a bird's eye view of the matter, in a tabulated form:-

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-9	3815	18.01.2008	200 Sq. yards	2,00,000/-	48,40,000/-	Buchakpur
2	P-10	697	05.06.2009	17.56 Sq. yards	2,80,960/-	7,74,40,000/-	Buchakpur
3	P-11	250	24.04.2009	454 Sq. yards	6,81,000/-	72,60,000/-	Buchakpur
4	P-12	841	30.05.2007	150 Sq. yards	1,50,000/-	48,40,000/-	Buchakpur
SALE DEED PRODUCED BY THE STATE							
1	R-1	56	09.04.2015	1 Acre	28,00,000/-	28,00,000/-	Buchakpur
2	R-2	4541	18.02.2016	2 kanal	7,40,000/-	29,60,000/-	Buchakpur

4.5 It may be noted here that the correctness of the aforesaid tabulated information has not been disputed by the learned counsel representing the parties. With regard to the exclusion of the sale deed Ex.R-1 and Ex.R-2 from consideration by the RC, it is evident that the sale deed Ex.R-1 and Ex.R-2 could not be kept out of consideration only because the said sale deeds reflect a price lower than the amount awarded by the LAC. 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*.**

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4.6 On a careful perusal of the requisitioned record, it is evident that the parties have produced a three layout/site plans. Ex.P-1 is a copy of the *aks-shijra*. Ex.P-6 is a copy of the layout plan of the area that indicates/shows the location of the acquired land. It is evident that the aforesaid land has been acquired for widening of the existing metalled by-pass road of Narnaul. There are residential houses as well as the commercial establishments surrounding the acquired land. In fact, there are two different roads at a smaller distance which form a four-legged intersection near the acquired land. These two roads form a triangle and the main part of the acquired land is located in between the aforesaid triangle.

4.7 There is another layout plan produced by the State of Haryana as Ex.R-7. This layout plan has been drawn on an existing *aks-shijra* (revenue layout plan). It is evident that the acquired land is out of the land comprised in rectangle Nos.6 and 7. In terms of the units of an agricultural land, the word rectangle denotes a compact rectangular parcel of 25 acres of land. Ordinarily, an acre of land consists of 4840 sq. yards area. The State of Haryana relies upon the sale deed Ex.R-1 (bearing No.56) and Ex.R-2 (bearing No.4541). Both the sale deeds are with respect to parcels of land comprised in rectangle No.1, 2 and 4. On a careful perusal of the aforesaid layout plan Ex.R-7, it is evident that the parcels of land sold by sale deeds Ex.R-1 & R-2 are located at a significant distance from the acquired land. On the other hand, the RC has relied upon Ex.P-11 (bearing No.250), which is with respect to a parcel of land comprised in rectangle No.8. In fact, the land of rectangle No.8 is divided into two separate parcels as the Narnaul-Sidhana Road bifurcates the land comprised in rectangle No.8. It is evident

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that the land comprised in rectangle No.8, khasra No.6 and 15 has been purchased vide sale deed Ex.P-11 (bearing No.250). This is with respect to a parcel of land located on Narnaul-Sidhana Road. Undoubtedly, this is with respect to a small parcel of land, however, it is located close to the acquired land. Hence, the RC has correctly preferred the sale instance Ex.P-11 as a comparable sale instance, however, it is with respect to a small parcel of land, but the acquired land is also 15 kanals and 8 marlas only. In other words the total acquired land is less than 2 acres. It has come in evidence that the landowner had constructed a farmhouse on the acquired land by planting an orchard. A perusal of Ex.P-6, a layout plan produced by the landowners, it is evident that the acquired land in village Buchakpur is on Narnaul by-pass road, which goes to Mahendergarh. Narnaul is a city. Hence, it is safe to conclude that in this case the acquired land was located on the outskirts of the Narnaul City.

4.8 The RC has committed an error in applying deduction on the amount awarded to the landowners. On account of smallness of the plot Ex.P-11 (bearing No.250), the Court has applied 10% deduction, which is not adequate because normally 15 marlas plot is either purchased for the residential purpose or for commercial use. The area of the said sale deed is to 454 sq. yards, whereas, the acquired land admittedly was being used as a farmhouse i.e for the agricultural purpose. Hence, 1/3rd deduction will be considered appropriate. No doubt, the RC has applied another deduction of 10% for the development charges which is erroneous. The landowner is not liable to bear the cost of widening the road, particularly when he is paid for the acquisition of an undeveloped land. The RC has held that the basic value

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of the property comes to Rs.73,92,000/- per acre as on 05.04.2011 after giving a cumulative annual increase of 10% on the price of Ex.P-7. This Court feels that the appropriate deduction shall be to the extent of 1/3rd. Hence, the amount comes to Rs.49,28,000/- per acre.

5. **Decision:**

5.1 Consequently, the appeal filed by the State of Haryana are allowed, whereas that of the landowner, is dismissed. The market value of the acquired land in village Buchakpur is assessed at Rs.49,28,000/- per acre.

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

07th December, 2022 **(ANIL KSHETARPAL)**
Ay **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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