

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-3285-2018 (O&M)
Reserved on:- 23.11.2022
Date of decision: 15.12.2022

STATE OF HARYANA & ORS.

..Appellants

Versus

MATADEEN & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shivendra Swaroop, AAG, Haryana.

Mr. Sanjay Mittal, Advocate
Mr. Varun Gupta, Advocate
for the landowners.

ANIL KSHETARPAL, J.

1. Introduction and background:

1.1 While praying for modification of the market value assessed in the award passed by the Reference Court (hereinafter referred to as 'the RC') on account of compulsory acquisition of land, the State of Haryana has filed this batch of appeals (details whereof are at the foot of the judgment). 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 the 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.	Title	Particulars
1.	Preliminary notification under Section 4 of the 1894 Act	01.03.2011
2.	Area of the acquired land	47 kanals and 3 marlas
3.	Location of the acquired land	Village Jonawas
4.	Purpose of acquisition	Construction of road (widening/four laning etc) maintenance, management and operation of Major District Road-129 from Narnaul to village Khudana.
5.	Declaration under Section 6 of the 1894 Act was issued.	19.07.2011
6.	Number and date of LAC award	Award No.33 dated 09.10.2012
7.	Amount assessed by the LAC	The LAC offered to pay the market value of the acquired land measuring 47 kanals and 3 marlas at the rate of Rs.30,00,000/- per acre.
8.	Date of RC's award	01.02.2017
9.	Amount assessed by the RC	The RC assessed the market value of the acquired land at the rate of Rs.58,80,000/- per acre.

FACTS:

1.3 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 for assessing the market value of the acquired land. The landowners claimed that inadequate compensation has been awarded as the LAC has failed to take into consideration the fact that the parcel of land having potentiality to be utilised for commercial purpose, has been acquired. The LAC has neither taken into account the various sale deeds nor noticed that the acquired land is located in Mohindergarh-Narnaul State Highway. There were superstructures and construction on the land but the same has not been taken into consideration. A famous historical temple of Hanuman Ji is located nearby where annual congregation takes place

every year. The Angawadi Centre, Government Middle School, Government Primary School and 3-4 famous private Senior Secondary Schools are located in the village. A Technical College and B.Ed. College have also been opened in village Jonawas.

1.4 On the other hand, while contesting the petitions, the State of Haryana claimed that the LAC has offered fair, reasonable and adequate market value. It is submitted that the LAC has taken into consideration all factors including the sale deeds before offering the amount.

1.5 The RC, on appreciation of the pleadings, culled out the following issues:-

- “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 superstructures, trees etc? OPD

4. Relief.”

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

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

PW-1	Sh. Ram Singh
PW-2	Sh. Rajesh Kumar
PW-3	Sh. Mahesh Kumar
PW-4	Sh. Rajender Verma
PW-5	Sh. Murari Lal

2.2 In documentary evidence, the landowners produced the following evidence in support of their case apart from the sale deeds, a tabulated compilation of which is given in para 4.5:-

Ex.P-1 and Ex.P-2	Copies of sale deeds
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<i>Ex.P-3</i>	<i>Copy of award</i>
<i>Ex.P-4 and Ex.P-5</i>	<i>Copies of sale deeds</i>
<i>Ex.P-6</i>	<i>Copy of award dated 15.12.2016</i>
<i>Ex.P-7</i>	<i>Copy of gazette notification under Section 4</i>
<i>Ex.P-8</i>	<i>Copy of gazette notification under Section 6</i>

2.3 On the other hand, in oral evidence, the State of Haryana examined RW-1 Sh. Kamaldeep Singh Rana, Sub-Divisional Engineer and Sh. Navneet Singh, Junior Engineer.

2.4 In documentary evidence, the State of Haryana produced the following documents apart from the sale deeds, a tabulated compilation of which is given in para 4.5:-

<i>Ex.R-1 to Ex.R-4</i>	<i>Copies of sale deeds</i>
<i>Ex.R-5</i>	<i>Copy of gazette notification</i>
<i>Ex.R-6</i>	<i>Copy of commissioner basic rate</i>
<i>Ex.R-7</i>	<i>Copy of award No.33 dated 09.12.2012</i>
<i>Ex.R-8</i>	<i>Copy of Aks-shijra (revenue layout plan)</i>

3. The RC while relying upon a previous RC's award Ex.P-6 in **Banshi Etc. Vs. State of Haryana**, with respect to the acquisition of land in village Bhandor Nichi, has assessed the market value of the acquired land at the rate of Rs.58,88,000/- on the ground that both the villages are adjacent and the purpose of acquisition is also same.

4. **Discussion and analysis by this Court:-**

4.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the impugned

judgments along with the lower Court record, which was requisitioned.

4.2 On the one hand, the learned counsel representing the landowners contends that the amount assessed by the RC is required to be enhanced.

4.3 On the other hand, the learned counsel representing the State of Haryana contends that the RC has committed an error in proceeding to assess the market value of the acquired land on the basis of its previous judgment without there being any evidence to the effect that the market value of the acquired land in both the villages was identical. He submits that merely because the villages are adjacent, it is not necessary that the market value in both the villages will be same and identical.

4.4 After having heard the learned counsel representing the parties at length, this Court is of the opinion that the impugned judgment suffers from errors. It is not necessary that the market value of the acquired land in both the adjacent villages would be same. Moreover, the award passed by the RC Ex.P-6 has been challenged before the High Court, hence, the aforesaid award is not even final. Moreover, the RC has also committed an error while observing that the assessment of the market value by the Court is the best evidence. In fact, the assessment of the market value of the acquired land by the Court is based upon appreciation of evidence which is brought on record. There may be times when, the best evidence is not brought on record and the award of the RC may not reflect the true market value of the land at the relevant time. Hence, the assessment of the market value by the Court is entirely dependent upon the evidence produced by the parties. Moreover, there is a certain element of assumptions, projections and guess

work while assessing the market value. Consequently, the Court should not rely upon the previous market value assessed by the Court unless the Court examines the judgment and finds that the acquired land in both the villages are comparable with regard to their potentiality, nature and location. Recently, the Supreme Court in Manoj Kumar and others Vs. State of Haryana and others (2018) 13 SCC 96, held that the Court should not blindly follow the previous assessments made by the Court. It was held that the judgment passed by the Court with respect to a different acquisition is only a piece of evidence produced for appreciation of the Court and is not a binding precedent.

4.5 At this stage, it is considered appropriate to compile the complete information in respect of 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	Amount (in Rs.)	Amount Per Acre (in Rs.)	Village
1	P-1	1378	07.08.2009	42 Sq. yard	40,000/-	46,09,524/-	Jatwas
2	P-2	1977	07.10.2009	1 Kanal	8,25,000/-	66,00,000/-	Jatwas
3	P-4	3074	25.02.2011	500 sq. yards	3,90,000/-	37,75,200/-	Bhandor Nichi
4	P-5	2502	27.12.2010	605 sq. yards	6,05,000/-	48,40,000/-	Nangal Sirohi
SALE DEED PRODUCED BY THE STATE							
1	R-1	184	29.04.2009	1 kanal	1,81,500/-	14,52,000/-	Jonawas
2	R-2	3118	11.02.2010	5K-5M	4,60,000/-	7,00,952/-	Jonawas
3	R-3	690	13.06.2011	1 Acre 3K-16M	13,27,500/-	9,00,000/-	Jonawas
4	R-4	931	28.06.2011	3K-15M	4,21,875/-	9,00,000/-	Jonawas

4.6 It may be noted here that the landowners have produced four sale deeds, however, none of them is with respect to the land in village Jonawas. Ex.P-1 and Ex.P-2 relate to a parcel of land located in village Jatwas, whereas, Ex.P-4 relates to plot in village Bhandor Nichi, Ex.P-5 relates to a plot in village Nangal Sirohi. These sale instances are also with respect to small parcels of land which ordinarily are not used for agricultural

purpose. These plots can be used for commercial, residential or industrial purposes. The State of Haryana has produced four sale deeds of various parcels of land located in village Jonawas itself. The sale instance bearing No.690 (Ex.R-3) is with respect to 11 kanals and 16 marlas of land, which is nearly one and a half (1 ½) acres of land. Similarly, sale instance bearing No.3118 (Ex.R-2) is with respect to 5 kanals and 5 marlas of land located in village Jonawas itself. This is again with respect to more than half (½) acre of land. On a bare perusal of the layout plan Ex.R-8, it is evident that a narrow strip of land located on both sides of the existing road has been acquired.

4.7 Once the landowners have claimed that the amount offered by the LAC is inadequate, it was incumbent upon them to produce relevant material to prove their case. In absence thereof, the RC has committed an error in assessing the market value on the basis of a previous judgment Ex.P-6.

5. **Decision:**

4.1 Keeping in view the aforesaid discussion, the RC impugned award dated 01.02.2017, is set aside and the LAC's award is upheld. The appeals filed by the State of Haryana are allowed.

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

15th December, 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-3285-2018	STATE OF HARYANA & ORS V/S MATA DEEN

		& ORS
2.	RFA-3286-2018	STATE OF HARYANA & ORS V/S MAHABIR & ORS
3.	RFA-3287-2018	STATE OF HARYANA & ORS V/S RAJENDER & ORS
4.	RFA-3288-2018	STATE OF HARYANA & ORS V/S BHAG SINGH & ORS
5.	RFA-3289-2018	STATE OF HARYANA & ORS V/S KAILASH KUMAR & ORS
6.	XOBJR-156-CI-2018	STATE OF HARYANA & ORS V/S KAILASH KUMAR & ORS
7.	RFA-3290-2018	STATE OF HARYANA & ORS V/S DHARAMBIR AND ORS
8.	RFA-3291-2018	STATE OF HARYANA & ORS V/S MANOJ KUMAR
9.	RFA-3292-2018	STATE OF HARYANA & ORS V/S AMAR SINGH & ORS
10.	RFA-3293-2018	STATE OF HARYANA & ORS V/S SMT. SANTRA DEVI & ORS
11.	XOBJR-164-CI-2018	STATE OF HARYANA & ORS V/S SMT. SANTRA DEVI & ORS
12.	RFA-3294-2018	STATE OF HARYANA & ORS V/S RAJESH KUMAR
13.	XOBJR-161-CI-2018	STATE OF HARYANA & ORS V/S RAJESH KUMAR
14.	RFA-3295-2018	STATE OF HARYANA & ORS V/S RAM SINGH & ORS
15.	RFA-3303-2018	STATE OF HARYANA & ORS V/S RAM NIWASH
16.	XOBJR-160-CI-2018	STATE OF HARYANA & ORS V/S RAM NIWASH
17.	RFA-3326-2018	STATE OF HARYANA & ORS V/S JILE SINGH & ORS
18.	RFA-3327-2018	STATE OF HARYANA & ORS V/S RAM SINGH AND OTHERS
19.	XOBJR-162-CI-2018	STATE OF HARYANA & ORS V/S RAM SINGH AND OTHERS
20.	RFA-3336-2018	STATE OF HARYANA & ORS V/S JILE SINGH & ORS
21.	RFA-3338-2018	STATE OF HARYANA & ORS V/S RAMAVTAR & ORS
22.	RFA-3339-2018	STATE OF HARYANA & ORS V/S LAXMINARAYAN & ORS
23.	RFA-3340-2018	STATE OF HARYANA & ORS V/S RAGVEER SINGH & ORS
24.	RFA-3343-2018	STATE OF HARYANA & ORS V/S SHRI RAM DECEASED THR. HIS LRS & ORS
25.	XOBJR-130-2021	STATE OF HARYANA AND OTHERS V/S SHRI RAM DECEASED THR. HIS LRS AND ORS

26.	RFA-3344-2018	STATE OF HARYANA & ORS V/S HOSHIYAR SINGH (DECEASED) THR. HIS LRS & ORS
27.	RFA-3346-2018	STATE OF HARYANA & ORS V/S SURENDER & ORS
28.	XOBJR-21-2021	STATE OF HARYANA AND OTHERS V/S SURENDER AND ORS
29.	RFA-3348-2018	STATE OF HARYANA AND ORS V/S SH. DALIP SINGH DECEASED THR. HIS LRS AND ORS
30.	RFA-3349-2018	STATE OF HARYANA AND ORS V/S HANUMAN
31.	RFA-3350-2018	STATE OF HARYANA AND ORS V/S DHANPAT AND ORS
32.	RFA-3351-2018	STATE OF HARYANA AND ORS V/S KISHORI LAL AND ORS
33.	RFA-3383-2018	STATE OF HARYANA AND ORS V/S MURARI LAL AND ORS
34.	RFA-3337-2018	STATE OF HARYANA & ORS V/S SHAMSHER SINGH & ORS
35.	XOBJR-159-CI-2018	STATE OF HARYANA & ORS V/S SHAMSHER SINGH & ORS
36.	RFA-3341-2018	STATE OF HARYANA & ORS V/S ASHOK KUMAR & ORS
37.	XOBJR-157-CI-2018	STATE OF HARYANA & ORS V/S ASHOK KUMAR & ORS
38.	RFA-3342-2018	STATE OF HARYANA & ORS V/S SMT. DHARMA DEVI & ORS
39.	XOBJR-178-CI-2018	STATE OF HARYANA & ORS V/S SMT. DHARMA DEVI & ORS
40.	RFA-3345-2018	STATE OF HARYANA & ORS V/S JAGDISH & ORS
41.	XOBJR-163-CI-2018	STATE OF HARYANA & ORS V/S JAGDISH & ORS
42.	RFA-3347-2018	STATE OF HARYANA AND OTHERS V/S SHYAM LAL
43.	XOBJR-158-CI-2018	STATE OF HARYANA AND OTHERS V/S SHYAM LAL

(ANIL KSHETARPAL)
JUDGE