

In the High Court of Punjab and Haryana, at Chandigarh

1. Regular First Appeal No. 3661 of 2018 (O&M)

Sadhu Singh

... Appellant(s)

Versus

The State of Haryana and Another

... Respondent(s)

AND

2. Regular First Appeal No. 5109 of 2018 (O&M)

Rajinder Singh and Others

... Appellant(s)

Versus

State of Haryana and Others

... Respondent(s)

DATE OF DECISION: 11.11.2022

RESERVED ON: 29.10.2022

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. P.K.Ganga, Advocate
for the appellant(s).

Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana, for the respondents.

Anil Kshetarpal, J.

1. Introduction and Background

1.1 While praying for the modification of the market value of the acquired land assessed in the award dated 10.04.2018 passed by the Reference Court (hereinafter referred to as “the RC”), the landowners have filed two appeals i.e. Regular First Appeal No. 3661 of 2018 and 5109 of 2018, respectively.

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 both these appeals can conveniently be disposed of by a common judgment.

1.3 The relevant particulars of the acquisition for the purpose of deciding these two appeals, in brief, are as under:-

S.NO.	TITLE	DETAILS
1.	Date of Notification under Section 4 of the 1894 Act.	19.02.2013
2.	Date of Notification under Section 6 of the 1894 Act.	26.08.2013
3.	Purpose of the Acquisition.	For the construction of Rattakhara Kharif Channel (Drain)
4.	Location, area and nature of the acquired land	The acquired land is located in village Ghukanwali, Tehsil Dabwali and District Sirsa.
5.	Number and Date of the Award of the Land Acquisition Collector.	The LAC vide Award No. 17 dated 30.12.2013, has assessed the market value of the acquired land measuring 78 kanals and 19 marlas, located in village Ghukanwali, Tehsil Dabwali and District Sirsa.
6.	Amount assessed by the Land Acquisition Collector.	The LAC has offered to pay the market value of the acquired land located in village Ghukanwali, Tehsil Dabwali and District Sirsa. @ ₹12,00,000/- per acre.
7.	Amount determined by the Reference Court.	The RC, vide a common award dated 10.04.2018, has assessed the market value of the acquired land @ ₹18,00,000/- per acre along with 40% of the market value of the acquired land on account of bifurcation of the unacquired land.

2. **Facts**

2.1 Dissatisfied with the amount offered as market value of the

acquired land by the LAC, on the application filed by the landowners under

Section 18 of the 1894 Act, the cases were referred to the Court (RC) for assessing of the market value of the acquired land. It was claimed that fertile, canal irrigated land, giving sufficient crops, located near the residential area of the village and a pucca road having market value of not less than ₹1,00,00,000/- has been acquired without sufficiently compensating the land owners.

2.2 On the other hand, the State of Haryana, while defending the petitions, claimed that a Divisional Level Committee, headed by the Commissioner, Hisar Division, Hisar, after going through the factual position, location and nature of the land, recommended the market value of the acquired land which was accepted by the LAC after considering all the important and relevant factors. It was claimed that the amount offered by the LAC is fair, reasonable and adequate.

2.3 The RC, on appreciation of pleadings, has culled out the following issues for adjudication:-

- “1. What was the prevailing market price of the acquired land as on the date of notification under section 4 of the Land Acquisition Act?OPP.*
- 2. Whether the petitioners are entitled to enhancement of compensation on the grounds mentioned in the petitions as prayed for?OPP.*
- 3. Whether the petitioners are not maintainable ?OPR*
- 4. Relief.”*

3. Evidence Produced by the Respective Parties

In the oral evidence, the landowners have examined the

following witnesses:-

Sr. No.	Name of the Witness	Particulars of the Witness
1.	PW.1 Sadhu Singh	Petitioner
2.	PW.2 Gurnam Parsad	HRC, Office of Deputy Commissioner, Sirsa.
3.	PW.3 Ajaib Singh	Petitioner
4.	PW.4 Gurnam Singh	Patwari
5.	PW.5 Madan Lal	Petitioner
6.	PW.6 Kirpa Ram	Petitioner

3.2 The landowners have also produced the following documentary evidence:-

Sr. No.	Exhibit Number	Description of the document
1.	Ex.P1	Certified copy of Collector’s rate for the years 2013-2014
2.	Ex.P2	Certified copy of Collector’s rate for the years 2014-2015
3.	Ex.P3	Certified copy of LAC’s Award no.1 dt. 27.9.2013 in respect of the acquired land in village Jodhpuria.
4.	Ex.P4	Certified copy of LAC’s Award no.3 dated 27.9.2013 in respect of the acquired land in village Modanwali
5.	Ex.P5	Certified copy of LAC’s Award no.4 dated 10.9.2014 in respect of the acquired land in village Fatehpuria.
6.	Ex.P6	Certified copy of LAC’s Award no.5 dated 7.10.2014 in respect of the acquired land in village Nanuana.
7.	Ex.P7	Certified copy of LAC’s Award no.6 dated 14.10.2014 in respect of the acquired land in village in respect of the acquired land in village Karamgarh.
8.	Ex.P8	Certified copy of LAC’s Award no.12 dated 22.11..2013 in respect of the acquired land in village Shekhupuria.
9.	Ex.P9	Certified copy of LAC’s Award no.13 dt. 11.12.2013 in respect of the acquired land in village Ram Nagar.
10.	Ex.P10 or Ex.PW.3/C	Certified copy of LAC’s Award no.17 dated 30.12.2013 in respect of the acquired land in village Ghukanwali.
11.	Ex.P11	Certified copy of LAC’s Award no. 3 dated

Sr. No.	Exhibit Number	Description of the document
		10.9.2014 in respect of the acquired land in village Kussar.
12.	Ex.P12	Certified copy of LAC's Award no. 11 dated 22.11.2013 in respect of the acquired land in village Paniwala Mota.
13.	Ex.P13	Certified copy of LAC's Award no. 20 dated 10.1.2014 in respect of the acquired land in village Chamal
14.	Ex.P14	Photostat Copy of mutation no.4803
15.	Ex.PW.2/A	Certified copy of Collector rate for the years 2013-2014
16.	Ex.PW.3/B	Certified copy of Jamabandi for the years 2011-2012
17.	Ex.PW.3/C	Certified copy of LAC's Award no.17 dt. 30.12.2013 in respect of the acquired land in village Ghukanwali.
18.	Ex.PW.4/A	Aks Sizra
19.	Ex.PW.4/B	Aks Sizra
20.	Ex.PW.4/C	Aks Sizra

3.3 On the other hand, in the oral evidence, the State of Haryana has examined RW.1 Sh.Kamal Singh Solanki, Sub Divisional Officer, Kalanwali.

3.4 In the documentary evidence, the State of Haryana has produced and proved two sale deeds, a tabulated compilation of which is incorporated in para 5.4 of the judgment.

3.5 In the rebuttal evidence, the landowners have also tendered the following documents:-

Sr. No.	Exhibit Number	Description of the document
1.	Ex.PX & Ex.PZ/1	Report of Divisional Committee, Hisar
2.	Ex.PX/1	Report of Divisional Committee dated 21.9.2013
3.	Ex.PY	Certified copy of LAC's Award no.7 dated 8.11.2016 in respect of the acquired land in village Shekhupuria.
4.	Ex.PY/1	Certified copy of LAC's Award No.10 dated 8.11.2016 in respect of the acquired land in

Sr. No.	Exhibit Number	Description of the document
		village Ghukanwali.

4. Analysis of the Reasons Recorded by the RC

4.1 The RC, while observing that certain amount of guess work is inevitable in assessing the market value of the acquired land, has held that the award passed by the LAC does not contain any reasons as to how the price of the acquired land has been evaluated. The sale deeds produced by the State of Haryana being one year prior to the date of notification under Section 4 of the 1894 Act, are not worth placing reliance for assessing the market value as on 19.02.2013. Thereafter, the RC, while relying upon Ex.PX and Ex.PZ/1, has held that the Divisional Level Committee has already assessed the market value of the acquired land @ ₹18,00,000/- per acre. Consequently, while assessing the market value @ ₹18,00,000/- per acre, the RC has also awarded the compensation to the landowner @ 40% of the market value of the acquired land as damages for the bifurcation of their land on account of the construction of canal.

5. Discussion and Analysis of the arguments of the learned counsel representing the parties.

5.1 Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book as well as the record of the RC, which was requisitioned.

5.2 On the one hand, the learned counsel representing the landowners contend that the RC should have enhanced the market value of the acquired land keeping in view its potential. Whereas, on the other hand, the learned counsel representing the State of Haryana contends that from the

careful perusal of the sale deeds Ex.R1 (bearing No. 15250) and Ex.R2

(bearing No. 14672), it is evident that in village Ghukanwali, the price of the land was not above ₹6,06,000/- per acre.

5.3 It would be noted here that the landowners has not produced any sale instance in support of their case. He has relied upon the various awards passed by the LAC with respect to the acquisition of the land in various different villages. Apart from that, he has also produced the certified copy of the Collector’s rates and the layout plan.

5.4 On the other hand, the State of Haryana has produced two sale deeds, the tabulated compilation thereof is extracted as under:-

<i>Sr. No.</i>	<i>Exhibit No.</i>	<i>Sale Deed No.</i>	<i>Dated</i>	<i>Area</i>	<i>Amount (In ₹)</i>	<i>Name of Village</i>	<i>6,60,316</i>
1.	R1	15250	15.02.2012	4K-15	3,60,000	Ghukanwali	6,06,316
2.	R2	14672	18.01.2012	8K	6,00,000	Ghukanwali	6,00,000

5.5 The RC has relied upon Ex.PX/PZ to assess the market value @ ₹18,00,000/- per acre. It would be noted here that the RC has erred in failing to completely read the minutes of the meeting held on 21.09.2013 of the Divisional Level Committee under the Chairmanship of the Commissioner, Hisar Division, Hisar. From the reading of para 2 thereof, it is evident that the District Revenue Officer, Sirsa, was requested to read out the Collector’s rates fixed for the purpose of registration of the documents and the average rates in the period upto one year prior to the date of notification under Section 4 of the 1894 Act in respect of the land located in various villages. The District Revenue Officer, Sirsa, has informed that in village Ghukanwali, the Collector’s rate is ₹12,00,000/- per acre, whereas the market rate is ₹18,00,000/-. However, the Divisional Level Committee did

not accept the statement of the District Revenue Officer and proceeded to

make its recommendation to the LAC that the market value of the acquired land in village Ghukanwali should be assessed @ ₹12,00,000/- per acre. Thus, it is evident that the opinion formed by the RC is on account of the selective/partial reading of Ex.PX/Ex.PZ/1. Moreover, the RC has erred in ignoring the sale deeds (Ex.R1 and Ex.R2) on the ground that these sale instances are more than one year prior to 19.02.2013, the date of preliminary notification under Section 4 of the 1894 Act. As per Section 23 of the 1894 Act, the market value is required to be assessed as on the date of notification under Section 4 of the 1894 Act which, in this case, the assessment date will be 19.02.2013. The sale instances of comparable parcels of land during previous three to four years are relevant being the contemporaneous period. Hence, the RC has erred in ignoring the sale instances produced by the State of Haryana. However, the State of Haryana has not filed any appeal.

6. Decision

6.1 The correctness of the findings of the RC with regard to the damages for the bifurcation of land has not been challenged before this Court. Consequently, both these appeals are dismissed.

6.2 The miscellaneous application(s) pending, if any, in both these appeals, shall stand disposed of.

**(Anil Kshetarpal)
Judge**

**November 11, 2022
“DK”**

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