

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-3919-2018 (O&M)
Reserved on: 21.10.2022
Date of decision: 04.11.2022

STATE OF HARYANA AND ANR.

..Appellants

Versus

RAJBIR AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shivendra Swaroop, AAG, Haryana.
Mr. Harsh Vardhan, AAG, Haryana.

Mr. J.P. Sharma, Advocate
Mr. Divanshu Jain, Advocate
Mr. Karan Gupta, Advocate
Mr. U.K. Agnihotri, Advocate
Mr. Shashikant Gupta, Advocate
Ms. Priya, Advocate
for Mr. Rohit Mittal, 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 the land, the landowners as well as the State of Haryana have filed this batch of appeals and cross-objections (details whereof are at the foot of the judgment). The notification under Section 4 and 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 and cross-objections can conveniently be disposed of by a common

judgment.

1.2 The relevant particulars of this batch of appeals are as under:

Sr. No.	Particulars	Relevant Date
1.	Preliminary notification proposing to acquire land measuring 73 kanals located in village Akbarpur Sirohi was issued under Section 4 of the 1894 Act for extending the width and four-laning of the existing road going from Narnaul to Rai Malikpur.	04.01.2011
2.	Declaration under Section 6 was issued.	06.07.2011
3.	Vide award No.16, the LAC offered to pay the market value of the acquired land measuring 73 kanals at the rate of Rs.20,00,000/- per acre.	15.03.2016
4.	The RC enhanced the market value from Rs.20,00,000/- per acre to Rs.60,52,631/- per acre.	01.05.2017

FACTS:

1.3 Dissatisfied with the amount offered by the LAC, on the applications filed under Section 18 of the 1894 Act, the cases were referred to the Court. The landowners claimed that precious land having potential to be used for commercial purposes has been compulsorily acquired while depriving them of its fair market value which was not less than Rs.4,000/- per sq. yard.

1.4 On the other hand, while contesting the petitions, the State of Haryana claim that the LAC has offered just fair and adequate market value.

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? OPP
4. Relief.”

2. EVIDENCE PRODUCED BY THE PARTIES

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

PW1	Raghubir Singh, Record keeper
PW2	Tara Chand, Advocate
PW3	Babu Lal
PW4	Yashpal Dhamija
PW5	Subhash Chand
PW6	Om Prakash
PW7	Radhey Shyam
PW8	Shamsher
PW9	Sharwan Kumar
PW10	Ram Chander
PW11	Kartar Singh
PW12	Yashal Dhamija, Draftsman

2.2 In documentary evidence, the landowners produced the following documentary evidence in support of their case:-

Ex.P-1 to Ex.P-3	Copies of the various awards passed by the LAC
Ex.P-4	Copies of award No.16
Mark P-1 to Mark P-4	Copies of jamabandi and mutations
Ex.PW1/A	Sale deed No.72 dated 02.05.2011

2.3 On the other hand, the State of Haryana examined RW-1 Sh. Sajan Singh, Sub-Divisional Engineer and Sh. Mahender Singh, PWD

(B&R).

2.4 In documentary evidence, the State of Haryana produced copies of sale deeds Ex.R1 to Ex.R-3, Gazette notification under Section 4 of the 1894 Act (Ex.R-4), rate list issued by the Committee (Ex.R-5) and *aks-shijra* (Revenue layout plan) (Ex.R-6).

3. DISCUSSION AND ANALYSIS OF RC'S AWARD:

3.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the awards passed by the RC as well as the record of the Courts below, which was requisitioned.

3.2 The RC, while relying upon sale deed Ex.PW1/A dated 02.05.2011, which is with respect to a tiny plot of land measuring 19 marlas, sold at the rate of Rs.1,21,05,263/- per acre, proceeded to apply deduction @ 50% and accordingly, assessed the market value at the rate of Rs.60,62,631/- per acre. The sale deeds produced by the State of Haryana were not taken into consideration on the ground that these sale deeds reflect a price lower than the amount offered by the LAC and, therefore, cannot be taken into consideration in view of the bar under Section 25 of the 1894 Act.

3.3 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 (K-M)	Amount (in Rs.)	Amount Per Acre (in Rs.)	Village
1	PW1/A	72	02.05.2011	0K-19M	14,37,500/-	1,21,05,263/-	Akbarpur Sirohi
SALE DEED PRODUCED BY THE STATE							
1	R-1	1671	26.03.2010	1K-15M	2,00,000/-	9,14,285/-	Akbarpur Sirohi
2	R-2	179	28.05.2010	4K-11M	4,30,000/-	7,56,043/-	Akbarpur Sirohi
3	R-3	415	30.07.2010	3K-10M	4,82,000	11,01,0714/-	Akbarpur Sirohi

3.4. Upon careful study of the impugned judgment, it is evident that RC has committed the following errors:-

- i. Firstly, The RC has committed a material irregularity in assessing the market value as prevalent on 06.07.2011 i.e. the date of declaration under Section 6 of the 1894 Act, which is in violation of Section 23 of the 1894 Act. Section 23 provides that the market value of the acquired land is required to be assessed on the date of preliminary notification under Section 4 of the 1894 Act i.e. 04.01.2011.
- ii. Secondly, the RC has committed an error in wrongly interpreting Section 25 of the 1894 Act while refusing to take into account the sale deeds produced by the State of Haryana on the ground that these sale deeds reflect a price lower than the amount offered by the LAC. This 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.**, wherein, it has been declared that there is no bar in taking into account the sale deeds produced by the parties reflecting a price lower than the amount offered by the LAC except that the landowners cannot be awarded the market value which is lower than the amount offered by the LAC. In other words, it has been held that there is no prohibition in taking into account the sale deeds reflecting a price lower than the

amount offered by the LAC.

iii. The RC has overlooked the fact that the sale deed (Ex.PW1/A) bearing No.72 is with respect of a tiny residential plot of 19 marlas. On a careful study of the sale deed Ex.PW1/A, it is evident that the Registrar, while registering the sale deed, has specifically noted that the sale deed pertains to a residential plot measuring 19 marlas. Thus, the aforesaid sale instance is neither comparable with the acquired land nor of the contemporaneous period. Besides this, the sale instance Ex.PW1/A is also with respect to the period post the date of notification under Section 4 of the 1894 Act i.e it has been executed after a period of five months.

iv. The RC has overlooked Ex.R-6, the layout plan produced by the State of Haryana as Ex.R-6. It is evident that the sale deeds Ex.R-1 (sale deed No.1671) and Ex.R-2 (sale deed No.179) are with respect to the parcels of land which are located at a distance, hardly, 6 acres away from the acquired land. Both the sale deeds prove that the market value of the acquired land during the contemporaneous period was approximately in the range of Rs.7,50,000/- to Rs.9,15,000/-. Even the sale instance Ex.R-3 (sale deed No.415) which is with respect to 3 kanals and 10 marlas located in village Akbarpur Sirohi clearly proves that the market value of the land was not

more than Rs.11,00,000/- per acre.

3.5 Keeping in view the aforesaid discussion, it is evident that the RC erred on account of the various reasons noted above while assessing the market value of the acquired land. The Court is expected to assess the market value based upon evaluation of the evidence produced by the parties. In such circumstances, the Court is required to determine the price of the land at which a willing seller will find a willing buyer to purchase a comparable parcel of the land. No doubt, the land has been acquired for expansion of the existing road, however, in the absence of evidence to prove the market value of the acquired land, the Court cannot simply rely upon a sale instance which is neither comparable with the acquired land nor of the contemporaneous period.

4. DECISION

4.1 Keeping in view the aforesaid facts, the RC's award passed on 01.05.2017, is set aside while upholding the LAC's award dated 15.03.2016.

4.2 Consequently, the appeals filed by the State of Haryana are allowed, whereas, that of the landowners shall stand dismissed.

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

04th November, 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-3919-2018	STATE OF HARYANA & ANR V/S RAJBIR AND ORS
2.	RFA-3981-2018	STATE OF HARYANA & ORS V/S SMT. SHEO BAI
3.	RFA-3969-2018	STATE OF HARYANA & ANR V/S HARI RAM AND ORS

4.	RFA-3956-2018	STATE OF HARYANA & ORS V/S OM PRAKASH AND ORS
5.	RFA-3965-2018	STATE OF HARYANA & ANR V/S RADHEY SHYAM
6.	RFA-3966-2018	STATE OF HARYANA & ORS V/S BABU LAL AND ORS
7.	RFA-3923-2018	STATE OF HARYANA & ANR V/S SURAJ BHAN AND ORS
8.	RFA-3983-2018	STATE OF HARYANA & ANR V/S SMT. KAMLA DEVI
9.	RFA-3954-2018	STATE OF HARYANA & ANR V/S HOSHIYAR SINGH AND ORS
10.	RFA-3924-2018	STATE OF HARYANA & ORS V/S MANDIR HARIDASS JI MAHARAJ
11.	RFA-3963-2018	STATE OF HARYANA & ANR V/S RAJBIR AND ORS
12.	RFA-3921-2018	STATE OF HARYANA & ANR V/S KAMAL SINGH AND ORS
13.	RFA-3959-2018	STATE OF HARYANA & ORS V/S MANDIR HARIDASS JI MAHARAJ
14.	RFA-3920-2018	STATE OF HARYANA & ORS V/S OM PRAKASH AND ORS
15.	RFA-3953-2018	STATE OF HARYANA & ORS V/S BHAGIRATH AND ORS
16.	RFA-891-2019	RAMNATH AND ORS. V/S STATE OF HARYANA AND ORS
17.	RFA-3960-2018	STATE OF HARYANA & ANR V/S HAWA SINGH & ORS
18.	RFA-3958-2018	STATE OF HARYANA & ANR V/S SMT. PARBHATI DEVI AND ORS
19.	RFA-3967-2018	STATE OF HARYANA & ANR V/S PADAM SINGH & ORS
20.	RFA-3961-2018	STATE OF HARYANA & ORS V/S RAM GOPAL GARG AND ANR
21.	RFA-3962-2018	STATE OF HARYANA & ANR V/S SEWA RAM
22.	RFA-3968-2018	STATE OF HARYANA & ANR V/S SURESH CHAND
23.	RFA-1620-2019	RAM GOPAL GARG AND ANR V/S STATE OF HARYANA AND ORS.
24.	RFA-3982-2018	STATE OF HARYANA & ANR V/S RAM SINGH AND ORS
25.	RFA-3952-2018	STATE OF HARYANA & ORS V/S KARTAR SINGH
26.	RFA-3955-2018	STATE OF HARYANA & ANR V/S GANGA RAM AND ORS
27.	RFA-3964-2018	STATE OF HARYANA & ORS V/S RAM NATH & ORS
28.	RFA-3957-2018	STATE OF HARYANA & ORS V/S RAM PRASAD AND ORS
29.	RFA-3980-2018	STATE OF HARYANA & ANR V/S RAJENDER AND ANR

30.	RFA-3922-2018	STATE OF HARYANA & ANR V/S RAM CHANDER & ORS
31.	RFA-3925-2018	STATE OF HARYANA & ANR V/S SHAMSHER SINGH & ORS
32.	RFA-4030-2018	STATE OF HARYANA & ANR V/S HUKAM CHAND AND ORS
33.	XOBJR-92-2021	STATE OF HARYANA THROUGH COLLECTOR MOHINDERGARH AND ORS V/S SHEO BAI
34.	XOBJR-68-2021	STATE OF HARYANA THROUGH COLLECTOR AND ORS V/S KARTAR SINGH

(ANIL KSHETARPAL)
JUDGE