IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XOBJR-139-2021 in/and
RFA-4759-2017 (O&M)
Reserved on 24.11.2022
Date of decision: 15.12.2022

STATE OF HARYANA AND ORS. ..Appellants

Versus

DINESH KUMAR AND ORS. ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shivendra Swaroop, AAG, Haryana.

None for the landowners.

ANIL KSHETARPAL, J.

1. **Introduction and background:**

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 this batch of appeals and cross-objections (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 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, in brief, are as under:

Sr. No.	**Particulars**	**Relevant Date**
1.	Preliminary notification under Section 4 of the 1894 Act	01.03.2011
2.	Area of land	59 kanals and 3 marlas
3.	Location of land	Village Jatwas
4.	Purpose of acquisition	Widening and for four-laning of Major District Road-129 from Narnaul to Khudana.
5.	Declaration under Section 6 was issued.	08.07.2011
6.	Number and date of LAC award	Award No.26 dated 19.07.2012
7.	Amount assessed by the LAC	The LAC offered to pay the market value of the acquired land measuring 59 kanals and 3 marlas at the rate of Rs.30,00,000/- per acre.
8.	Date of RC's award	10.03.2017
9.	Amount assessed by the RC	The RC assessed the market value of the acquired land at the rate of Rs.58,08,000/- per acre with all the statutory benefits.

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 the acquired land has the potential to be used for the commercial purpose. It has been projected that the acquired land is located on the Mahendergarh-Narnaul State Highway No.17. The State of Rajasthan via Bhuhana road is also located nearby the acquired land and there is another main road going from Mahendergarh to Ateli located near the acquired land. An Anganwadi centre, Govt. Primary School and 3-4 other famous private Senior Secondary Schools are located in the village. The various prominent private Technical Colleges and B.Ed. Colleges are also located in village Jatwas such as MD ITI Technical Education College etc. The village has its own bus stop and various training institutes and centres have also been developed in the vicinity such as Govt. College Mahendergarh, Model School, NRB College of Education. Punjab National Bank, Gurgaon Gramin Bank, Mahendergarh Central Cooperative Bank, State Bank of India, State Bank of Patiala, Oriental Bank of Commerce, Canara Bank, Post Office, Mahendergarh are located near the Mahendergarh. There is a veterinary hospital in village Jatwas and there are number of hospitals in the said village. The newly built mini Secretariat and Civil Court has also been established near the acquired land, hence, the market value of the acquired land was not less than Rs.3,00,00,000/- per acre on the date of notification under Section 4 of the 1894 Act.

1.4 On the other hand, while contesting the petitions, the State of Haryana claims that the LAC has considered all aspects of the matter while offering Rs.30,00,000/- per acre. It has been claimed that the value of the acquired land has been assessed fairly and adequately.

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

> *"1.What was the market value of the acquired land at the time of publication of 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. Whether the petitioners are entitled to get compensation on account of superstructures, trees etc? OPP*
> *4. Relief."*

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

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

PW-1 and PW-2	*Sh. Vikash Kumar*
PW-3, PW-9 & PW-10	*Sh. R.P. Gupta, Building Expert*
PW-4 and PW-11	*Sh. Satyapal, Building Expert*
PW-5	*Sh. Ganga Sagar*
PW-6 and PW-12	*Sh. Joginder Singh, Draftsman*
PW-7	*Sh. Ramesh Kumar*
PW-8	*Sh. Mahabir*

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

Ex.P-1 to Ex.P-3	*Copies of sale deeds*
Ex.P-4	*Copy of collector's rate for the year 2010-11*
Ex.P-5	*Site plan*
Ex.P-6	*Gazette notification*
Ex.P-7 and Ex.P-21	*Copy of aks-shijra*
Ex.P-8	*Local Commisioner report*
Ex.P-9	*Site plan*
Ex.P-10 and P-12	*Copies of judgment dated 14.08.2012*
Ex.P-13	*Copy of letter dated 20.07.2012*
Ex.P-14	*Aks-shijra of village Jatwas*
Ex.P-15	*Aks-shijra of village Bhandor Nichi*
Ex.P-16	*Copy of award No.29 dated 24.08.2012*
Ex.P-17	*Copy of resolution No.2*
Ex.P-18	*Site plan*
Ex.P-19	*Copy of no dues certificate*
Ex.P-20	*Copy of provisional registration*
Ex.P-22	*Copy of licence*
Ex.P-23	*No dues certificate*

Ex.P-24 (in rebuttal evidence)	*Copy of sale deed*

2.3 On the other hand, in the oral evidence, the State of Haryana examined RW-1 Sh. Kuldeep Singh Rana, Sub-Divisional Engineer and Sh. Navneet Singh, Junior Engineer, PWD B&R, Mahendergarh.

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

Ex.R-1 to Ex.R-4	*Copies of sale deeds*
Ex.R-5	*Photocopy of gazette notification under Section 4*
Ex.R-6	*Photocopy of Gurgaon Commissioner Committee basic report*
Ex.R-7	*Photocopy of award No.26 dated 19.07.2012*
Ex.R-8	*Photocopy of aks-shijra*

3. **<u>Analysis of the reasons recorded by the RC:</u>**

3.1 The RC has relied upon sale instance Ex.P-2 (bearing No.1977) to assess the market value of the acquired land. After granting 10% increase to cover the gap period, the RC deducted 20% in order to arrive at a figure of Rs.58,08,000/-. The sale deeds produced by the State of Haryana were excluded from consideration in view of Section 25 of the 1894 Act. It may be noted here that the acquisition of the land for widening of the road involved a lot of shops and residential houses located in Jatwas. Hence, the RC has devoted a large portion of discussion in the judgment on the market value of the structures existing on the acquired land.

4. **<u>Discussion and analysis of the arguments of the the learned counsel representing the parties:</u>**

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 claimed that the RC has committed an error in failing to grant appropriate escalation on the sale deed Ex.P-2 (bearing No.1977). It has been pointed out that the sale instance Ex.P-2 is dated 07.10.2009, whereas the preliminary notification under Section 4 of the 1894 Act in this case was issued on 01.03.2011. It has been contended out that there is a gap period of nearly one year and six months but the RC has only taken it to be only one year. They also contend that 20% deduction is not appropriate particularly when their residential houses and shops have been acquired.

4.3 On the other hand, the learned counsel representing the State of Haryana contends that while incorrectly interpreting Section 25 of the 1894 Act the sale deeds produced by the State of Haryana have wrongly been ignored. It is further submitted that the RC has erred in relying upon the sale instance Ex.P-2 (bearing No.1977) of 1 kanal residential plot, which is not comparable.

4.4 There are various layout plans produced by the parties. Ex.PW3/B, a layout plan proves that the acquired land is located on a three way junction/intersection. The land has been acquired for the existing Narnaul-Mahendergarh road. Then, there is a PWD road which goes to the residential area of village Jatwas. Moreover, the layout plan Ex.PW4/B shows that there is a passage to the Chidawa city near the acquired land.

Additionally, there is a layout plan of Mahendergarh Municipal area, which has unfortunately not been exhibited. It has been prepared by the government. A careful perusal thereof clearly shows that the residential area of village Jatwas is hardly three to four acres away from the municipal boundary of Mahendergarh city. The landowners have produced and proved the various photographs which establish that the acquired land was being used either for the residential purpose or for running small shops/commercial establishment. The State of Haryana has also produced a layout plan Ex.R-8, which also proves that the acquired land is located near the three way junction.

4.5 At this stage, it is considered appropriate to compile the complete information in respect of various sale deeds produced by the parties to have 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-1	1378	07.08.2009	42 sq. yard	40,000/-	42,66,560/-	Jatwas
2	P-2	1977	07.10.2009	1 kanal	8,25,000/-	66,00,000/-	Jatwas
3	P-3	4345	04.02.2008	1 marla	55,000/-	88,00,000/-	Jatwas
4	P-24	2300	22.10.2008	8 marla	6,00,000/-	1,20,00,000/-	Jatwas
SALE DEED PRODUCED BY THE STATE							
1	R-1	874	26.06.2009	2K-1M	2,31,000/-	17,60,000/-	Jatwas
2	R-2	1581	27.08.2009	338 sq. yards	1,10,000/-	16,00,000/-	Jatwas
3	R-3	747	16.06.2011	3K-4M	4,80,000/-	12,00,000/-	Jatwas
4	R-4	911	18.06.2012	1K-14M	3,30,000/-	15,52,000/-	Jatwas

4.6 On a perusal of notification under Section 4 of the 1894 Act, it is evident that the acquired land is located in rectangle No.13, 15, 16, 27 and 28. The sale instance Ex.P-2 (bearing No.1977) is with respect to 1 kanal plot comprised in rectangle No.16, khasra No.22/2 and 23/1/2. On a perusal of layout plan Ex.R-8, it is evident that the aforesaid parcel is located at the three way junction. The sale instances Ex.P-1 (bearing No.1378) is also with respect to a tiny plot located in rectangle No.16, khasra No.18/1, which is located 2 acres away from the three way junction, however, on the road which goes to village Jatwas. It is significant to note that the State Highway is heading from South towards the North direction, whereas the PWD village road starts from the aforesaid State Highway and goes towards the West where the residential area of the village is situated. The sale instance Ex.P-1 (bearing No.1378) is with respect to a plot on the PWD road leading to the village. Similarly, sale instance Ex.R-2 (bearing No.1581) is with respect to 11 marlas of tiny plot of residential area comprised in rectangle No.18, khasra No.18/1 and 19/2/1. The State of Haryana has not produced any evidence to prove the location of the remaining sale instances Ex.R-1 (bearing No.874), Ex.R-3 (bearing No.747) and Ex.R-4 (bearing No.911). The sale deeds also do not refer to any rectangle or khasra number in order to locate the parcel of land which has been sold in the said sale instances. In such circumstances, this Court has two relevant sale instances namely Ex.P-2 (bearing No.1977) and Ex.R-2 (bearing No.1581). Ex.P-2 is with respect to a larger plot when compared with Ex.R-2. Ordinarily, each kanal of land has 20 marlas of land. Ex.R-2 is with respect to 11 marlas, whereas, Ex.P-2 is with respect to 1 kanal.

4.7 Keeping in view the said facts, it is safe to conclude that the acquired land was predominantly residential or commercial particularly when it is not only located on a three way junction or intersection but also located near the municipal boundary of Mahendergarh.

4.8 Though, the learned counsel representing the landowners contends that there is a gap of nearly 1 year and 5 months between the sale deed Ex.P-2 and the date of notification under Section 4 of the 1894 Act, however, the calculation sought to be made cannot be permitted because the gap period is one year and less than 5 months. Hence, it would not be appropriate to grant further escalation on account of the gap period.

4.9 The RC has applied deduction of 20%, keeping in view the size of the acquired land and size of parcel of land sold through Ex.P-2 (bearing No.1977). The aforesaid deduction is neither excessive nor inappropriate.

4.10 No doubt, the RC has erred in keeping the sale deeds Ex.R-1 (bearing No.874) Ex.R-2 (bearing No.1581), Ex.R-3 (bearing No.747) and Ex.R-4 (bearing No.911) out of consideration by wrongly interpreting Section 25 of the 1894 Act. 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***.

5. **Conclusion:**

5.1 Keeping in view the aforesaid facts, there is no scope for interference in the amount assessed by the RC qua market value of the acquired land. As already noticed, in the appeals, the enhancement has been sought for the structures. On a careful perusal of the award passed by the RC, it is evident that the market value of the superstructures has been assessed on the basis of the reports and deposition of the building experts and valuers. The learned counsel representing the landowners failed to draw the attention of the Court to any error in the appreciation of evidence in this respect.

6. **Decision:**

6.1 Keeping in view the aforesaid facts, the appeals filed by the landowners as well as cross-objections are dismissed.

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

15th December, 2022 **(ANIL KSHETARPAL)**
Ay **JUDGE**

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

Sr. No.	**Case No.**	**Parties Details**
1.	**RFA-4759-2017**	**STATE OF HARYANA & ORS V/S DINESH KUMAR & ORS**
2.	XOBJR-139-2021	STATE OF HARYANA & ORS **V/S** DINESH KUMAR & ORS
3.	RFA-4760-2017	STATE OF HARYANA & ORS **V/S** NARENDER KUMAR & ORS
4.	RFA-4761-2017	STATE OF HARYANA & ORS **V/S** RAMNIWAS & ORS
5.	XOBJR-129-2021	STATE OF HARYANA & ORS **V/S** RAMNIWAS & ORS
6.	RFA-4818-2017	STATE OF HARYANA & ORS **V/S** MURLIDHAR DECEASED THR. LRS. & ORS
7.	XOBJR-128-2021	STATE OF HARYANA & ORS **V/S** MURLIDHAR DECEASED THR. LRS. & ORS
8.	RFA-4887-2017	STATE OF HARYANA & ORS **V/S** CHANGI RAM & ORS
9.	XOBJR-18-2021	STATE OF HARYANA & ORS **V/S** CHANGI RAM & ORS
10.	RFA-471-2018	STATE OF HARYANA & ORS **V/S** RAMESH KUMAR & ORS
11.	XOBJR-29-2020	STATE OF HARYANA & ORS **V/S** RAMESH KUMAR & ORS
12.	RFA-472-2018	STATE OF HARYANA & ORS **V/S** SMT. TARAMANI & ORS
13.	XOBJR-88-2021	STATE OF HARYANA & ORS **V/S** SMT. TARAMANI & ORS
14.	RFA-473-2018	STATE OF HARYANA & ORS **V/S** MOOL CHAND (DECEASED) THR. HIS LRS
15.	XOBJR-83-2021	STATE OF HARYANA & ORS **V/S** MOOL CHAND (DECEASED) THR. HIS LRS
16.	RFA-474-2018	STATE OF HARYANA & ORS **V/S** SHEODAI @ RAMDAI & ORS
17.	XOBJR-142-2021	STATE OF HARYANA & ORS **V/S** SHEODAI @ RAMDAI & ORS

18.	RFA-475-2018	STATE OF HARYANA & ORS **V/S** RAMJI LAL & ORS
19.	XOBJR-89-2021	STATE OF HARYANA & ORS **V/S** RAMJI LAL AND ORS
20.	RFA-4817-2017	STATE OF HARYANA & ORS **V/S** MAHABIR & ANR

(ANIL KSHETARPAL)
JUDGE