

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-4919-2017 (O&M)
Reserved on: 21.10.2022
Date of decision: 09.11.2022

STATE OF HARYANA AND ORS. ..Appellant

Versus

DHARAM SINGH AND ORS. ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. S.K. Yadav, Advocate
Mr. Aditya Jain, Advocate
Mr. Rahul Vohra, Advocate
Mr. Munish 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 Reference Court's award on account of compulsory acquisition of the land, the State of Haryana as well as the landowners have filed this batch of appeals and cross-appeals, respectively (details whereof are at the foot of the judgment). The notifications 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 by the Reference Court (hereinafter referred to 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 are as under:

Sr. No.	Particulars	Relevant Date
1.	Preliminary notification under Section 4 of the 1894 Act	24.05.2011
2.	Area of land	54 kanals and 2 marla land
3.	Location of land	Nasibpur
4.	Purpose of acquisition	Expansion and four-laning of village Rai Malikpur to Narnaul
5.	Declaration under Section 6 was issued.	19.07.2011
6.	Date and number of LAC award	Award No.18 dated 27.03.2012
7.	Amount assessed by the LAC	The LAC offered to pay the market value of the acquired land measuring 54 kanals and 2 marla at the rate of Rs.30,00,000/- per acre.
8.	Date of RC's award	03.07.2017
9.	Amount assessed by the RC	The RC has assessed the market value at the rate of Rs.54,00,000/-. Vide another award passed by the RC on 08.10.2017, identical market value i.e. Rs.54,00,000/- per acre was assessed.

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 Court. The landowners claimed that the acquired land is abutting the State Highway and the market value of the acquired land was not less than Rs.1.5 crores per acre. They have stated that that the acquired land has great potential to be developed as a residential/commercial colony.

1.4 On the other hand, while contesting the petitions, the State of Haryana claimed that the amount offered by the LAC is 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:-

<i>PW1</i>	<i>Sh. Subhash</i>
<i>PW2</i>	<i>Sh. Pawan Kumar Verma, Draftsman</i>
<i>PW3</i>	<i>Sh. Bharpoor Singh</i>
<i>PW4</i>	<i>Sh. Bhor Singh @ Bir Singh</i>
<i>PW5</i>	<i>Sh. Bhagwan Singh</i>

2.2 On the other hand, the State of Haryana examined RW-1 Sh. Mahender Singh, Junior Engineer, PWD (B&R).

2.3 In documentary evidence, the landowners produced the sale deeds, a tabulated compilation of which is given in para 4.2.

2.4 The State of Haryana produced certified copies of sale deed (Ex.R-1 and Ex.R-2), copy of gazette notification under Section 4 of the 1894 Act (Ex.R-3), rate list suggested by the Committee (Ex.R-4) and *aks-shijra* (Revenue layout plan) (Ex.R-5).

2.5 In a batch of cases decided by award dated 08.12.2017, the

landowners examined PW-1 Sh. Devki Nandan.

2.6 In documentary evidence, the landowners produced the previous award dated 03.07.2017, another award with respect to acquired of land in village Kirarod Afgan dated 07.10.2016 and a copy of order dated 09.09.2017 as Ex.P-3.

2.7 On the other hand, in oral evidence RW-1 Sh. Gajender Singh, Sub-Divisional Engineer, appeared for the State of Haryana.

2.8. In documentary evidence, the State of Haryana produced certified copies of sale deeds Ex.R-1 & Ex.R-2, copy gazette notification under Section 4 of the 1894 Act (Ex.R-3), rate list suggested by the Committee headed by the Commissioner, Gurgaon Division (Ex.R-4) and *aks-shijra* (Revenue layout plan) (Ex.R-5).

3. On a careful perusal of both the award passed by the RC, it is evident that the sale deeds produced by the State in its evidence, are common. Whereas, the landowners have not produced any sale deed in the file of the award dated 08.12.2017. They have relied upon the previous award dated 03.07.2017.

4. **Discussion by this Court:**

4.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused two different judgments passed by the RC as well as their lower Court record, which was requisitioned.

4.2 At this stage, it is considered appropriate to compile the relevant details 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	PW4/B	2221	01.10.2008	7 marla	5,17,500/-	1,18,28,571/-	Nasibpur
2	PW4/C	2220	22.11.2010	2 kanal	27,00,000/-	1,08,00,000/-	Nasibpur
3	PW4/D	273	29.04.2009	2 kanal	28,00,000/-	1,12,00,000/-	Nasibpur
SALE DEED PRODUCED BY THE STATE							
1	R-1	6906	15.11.2011	11.34 marla	12,00,622/-		Nasibpur
2	R-4	5721	07.10.2011	3K-4M	9,20,000/-	23,00,000/-	Nasibpur

4.3 On perusal of the award dated 03.07.2017, it is evident that the RC has relied upon sale deed bearing No.2220, Ex.P-4/C which is with respect to a plot measuring 2 kanals of land sold vide sale deed dated 22.11.2010. The RC after taking note of disparity in the size of parcel of land between Ex.P-4/C and the acquired land, applied 50% deduction to assess the market value of the acquired land at the rate of Rs.54,00,000/- per acre.

4.4 The sale deeds produced by the State of Haryana were kept out of consideration by incorrectly interpreting Section 25 of the 1894 Act on the ground that the price reflected is lower than the amount offered by the LAC and therefore, these sale deeds cannot be taken into consideration.

4.5. In RC's award dated 08.12.2017, the previous award dated 03.07.2017 was relied upon to assess the market value of the acquired land.

4.6 The learned counsel representing the landowners contend that Village Nasibur is located near Narnaul City and District Jail of Narnaul has been constructed in the area of village Nasibpur. They submit that the acquired land is a part of the Narnaul City, itself, therefore the assessment made by the RC needs appropriate enhancement.

4.7. Per contra, the learned counsel representing the State of Haryana contends that the RC has committed an error in relying upon sale

instance Ex.P-4/C without noticing that it pertains to a very small parcel of land and there is no evidence to prove that the aforesaid parcel of land is comparable with the acquired land.

4.8 It is evident that RC has committed the following errors:-

i. It has incorrectly interpreted Section 25 of the 1894 Act while refusing to take into account the sale deeds Ex.R1/B to Ex.RW1/F produced by the State 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. The only bar is that the landowners shall not be offered the market value 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.

ii. In the file of award dated 03.07.2017, the landowners as well as the State of Hayana have produced layout plans. Notification under Section 4 of the 1894 Act dated 10.05.2011, which was published in the official gazette on 24.05.2011, has been produced as Ex.R-3. On a

careful study of the same, it is evident that the land comprised in rectangle No.9, 12, 13 and 14 located in village Nasibpur has been acquired. In terms of unit of agricultural land, rectangle is a compact block of 25 acres of land (5 X 5). Ordinarily, each acre of land consists of 4840 sq. yards. It is evident, on a careful reading of Ex.PW4/C (sale deed bearing No.2220, dated 22.11.2010 relied upon by the RC) that a plot measuring 2 kanals located on the main road comprised in rectangle No.62, khasra No.12/1/2 has been sold. The layout plan produced by the landowners Ex.PW2/A does not identify the location of the aforesaid parcel of land. There is another layout plan Ex.R-5 produced by the State of Haryana. It is a copy of the revenue layout plan (*aksh-sijra*). On a careful perusal of the layout plan and the notification under Section 4 of the 1894 Act, it is evident that out of the land comprised in rectangle No.9, 12, 13 and 14 some part has been acquired. The sale instance Ex.R-2 in the file of RC's award dated 03.07.2017, shows that the aforesaid parcels of land comprised in rectangle No.5 and 6, which are located, hardly, at a distance of 4 to 5 acres from the acquired land has been sold. In other words, this parcel of land is close to the acquired land. Whereas, the location of the land comprised in rectangle No. 62 (Ex.PW4/C) is not in the *aksh-sijra*. In

consolidation of holdings under the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, each rectangle is assigned a distinct numerical number starting from North-Eastern side of the village. On a careful perusal of *aksh-sijra* (Ex.R-5), it becomes evident that the land comprised in rectangle No.62, would be at a long distance from the acquired land. It is for the landowners to prove that the land covered in the sale exemplars produced by them is located at a comparative location with the acquired land. The RC without applying the aforesaid test has erred in relying upon the sale instance Ex.P4/C. No doubt, Ex.R-2 is post the date of notification under Section 4 of the 1894 Act, however, it is evident that the market value of the land even post the date of notification under Section 4 of the 1894 Act was in the range of Rs.23,00,000/- per acre. Sale deed Ex.R-2 is of 3 kanals and 4 marlas of land which is a parcel of land of reasonable size.

iii. There is no evidence that there was residential or commercial colony or activity in and around the acquired land. On perusal of Ex.R-1, it becomes evident that the land is not a part of the Narnaul City. The landowners have also not produced any evidence to show the location of District Jail. On a careful reading of the deposition of Sh. Subhash (PW-1), it becomes evident that village

Nasibpur is located at a distance of 3 kms from Mahavir Chowk and the acquired land is located 1.5 kms from Mahavir Chowk. He admits that there is no residential colony near the acquired land, though, some houses have been constructed.

iv. In the file of the award dated 08.12.2017, the landowners have also relied upon the RC's award dated 07.10.2016, with respect to the acquired land located in village Kirarod Afgan. However, neither the RC nor this Court has found that the aforesaid parcel of acquired land located in village Kirarod Afgan is comparable with the acquired land in village Nasibpur.

5. **Decision:**

5.1 Keeping in view the aforesaid discussion, this Court is left with no choice but for to set aside the awards passed by the RC on 03.07.2017 and 08.12.2017.

5.2 Consequently, the appeals filed by the State of Haryana are accepted, whereas, the appeals filed by the landowners shall stand dismissed. Resultantly, all the applications filed under Section 18 of the 1894 by the landowners shall stand dismissed.

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

09th November, 2022

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No

SR. NO.	CASE NO.	PARTIES DETAILS
1.	RFA-4919-2017	STATE OF HARYANA AND ORS V/S DHARAM SINGH & ORS
2.	RFA-4924-2017	STATE OF HARYANA & ORS V/S NAROTAM SINGH & ORS
3.	RFA-1564-2018	TARA CHAND V/S STATE OF HARYANA AND OTHERS
4.	RFA-265-2018	BHARPUR SINGH V/S STATE OF HARYANA AND ORS
5.	RFA-4926-2017	STATE OF HARYANA & ORS V/S BHARPUR SINGH
6.	RFA-266-2018	SHIV KUMAR AND ORS V/S STATE OF HARYANA AND ORS
7.	RFA-2249-2018	DR. PANKAJ PARASAR V/S STATE OF HARYANA AND ORS
8.	RFA-4994-2017	STATE OF HARYANA AND OTHERS V/S SMT. SUMAN
9.	RFA-3856-2018	RAKESH & ANOTHER V/S STATE OF HARYANA AND OTHERS
10.	RFA-4121-2018	STATE OF HARYANA & OTHERS V/S RAM KUMAR
11.	RFA-4126-2018	STATE OF HARYANA & OTHERS V/S RAKESH & OTHERS
12.	RFA-4123-2018	STATE OF HARYANA & OTHERS V/S NATHU RAM & OTHER
13.	RFA-3859-2018	DEVKI NANDAN AND ORS V/S STATE OF HARYANA & ORS
14.	RFA-3853-2018	LALARAM & ORS V/S STATE OF HARYANA AND ORS
15.	RFA-4118-2018	STATE OF HARYANA & OTHERS V/S BUDEV
16.	RFA-3857-2018	BUDEV V/S STATE OF HARYANA AND ORS.
17.	RFA-4119-2018	STATE OF HARYANA & ORS V/S DEVKI NANDAN & ORS
18.	RFA-4120-2018	STATE OF HARYANA & ORS V/S DULI CHAND DECEASED THR. LRS & OTHER
19.	RFA-4829-2018	DULI CHAND SINCE DECEASED THR LRS AND ORS V/S STATE OF HARYANA AND ORS.
20.	RFA-4125-2018	STATE OF HARYANA & OTHERS V/S VINOD & OTHERS
21.	RFA-4122-2018	STATE OF HARYANA & OTHERS V/S LALA RAM & OTHER
22.	RFA-3854-2018	RAM KUMAR V/S STATE OF HARYANA AND ORS.
23.	RFA-3858-2018	VINOD & ORS V/S STATE OF HARYANA AND ORS
24.	RFA-3855-2018	NATHU RAM DECEASED THR. LRS & ORS V/S STATE OF HARYANA AND ORS
25.	RFA-4124-2018	STATE OF HARYANA & OTHERS V/S RAMOTAR & OTHER
26.	RFA-4827-2018	RAMOTAR & ORS V/S STATE OF HARYANA AND ORS
27.	RFA-267-2018	NAROTAM SINGH & ORS V/S STATE OF HARYANA & ORS
28.	RFA-4920-2017	STATE OF HARYANA AND ORS V/S DR. PANKAJ

		PARASAR
29.	RFA-4922-2017	STATE OF HARYANA AND OTHERS V/S RAJEEV
30.	RFA-4925-2017	STATE OF HARYANA AND ANR V/S SUBHASH AND OTHERS
31.	RFA-4928-2017	STATE OF HARYANA AND OTHERS V/S BIJENDER AND ORS
32.	RFA-4930-2017	STATE OF HARYANA AND OTHERS V/S SANJEEV KUMAR
33.	RFA-4921-2017	STATE OF HARYANA & ORS V/S NARENDER SINGH & ANR
34.	RFA-4923-2017	STATE OF HARYANA AND ORS V/S SMT. SUMAN
35.	RFA-4929-2017	STATE OF HARYANA AND OTHERS V/S TARA CHAND
36.	RFA-4927-2017	STATE OF HARYANA AND OTHERS V/S SHIV KUMAR & ORS
37.	RFA-264-2018	NARENDER SINGH & ANR V/S STATE OF HARYANA & ORS
38.	RFA-2270-2018	DHARAM SINGH & ORS V/S STATE OF HARYANA AND ORS
39.	XOBJR-28-CI-2018	STATE OF HARYANA AND OTHERS V/S SMT. SUMAN
40.	XOBJR-27-CI-2018	STATE OF HARYANA AND OTHERS V/S RAJEEV
41.	XOBJR-30-CI-2018	STATE OF HARYANA AND ORS V/S SMT. SUMAN
42.	XOBJR-29-CI-2018	STATE OF HARYANA AND OTHERS V/S SANJEEV KUMAR

(ANIL KSHETARPAL)
JUDGE