

In the High Court of Punjab and Haryana, at Chandigarh

**Regular First Appeal No. 5228 of 2017 (O&M)
And Other Connected Cases**

**Date of Decision: 11.11.2022
Reserved On: 29.10.2022**

The State of Haryana and Another

... Appellant(s)

Versus

Jagdish and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. P.K.Ganga, Mr. Jagjot Singh Gill,
Mr. Khushman Dandiwal, Mr. J.S.Thind,
Mr. Balsher Singh, Mr. Ajay Sharma, Mr. K.S.Godara,
Mr. Dheeraj narula, Mr. S.K.Jain, Mr. Deepak Jain,
and Mr. Akshay Jain, Advocates for the landowners.

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 Reference Court's (hereinafter referred to as "the RC") award dated 05.08.2017, the State of Haryana as well as the landowners have filed this batch of appeals (details whereof are at the foot of the judgment).

1.2 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 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.

deciding this batch of 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 Acquisition.	For the construction of Rattakhera Kharif Channel (Drain)
4.	Location, area and nature of the acquired land	The acquired land is located in village Ratta Khera, District Sirsa.
5.	Number and Date of the Award of the Land Acquisition Collector.	The LAC vide Award No. 09 dated 13.11.2013, the land measuring 43 kanals, located in village Ratta Khera 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 Ratta Khera, District Sirsa @ ₹12,00,000/- per acre.
7.	Date of the judgment of the Reference Court.	05.08.2017
8.	Amount determined by the Reference Court.	The RC has enhanced the market value of the acquired land from ₹12,00,000/- to ₹25,00,000/- per acre.

2. **Facts**

2.1 Dissatisfied with the amount offered by the LAC, on the application filed by the landowners, the cases were referred to the RC. The landowners claim that the LAC has awarded rates with respect to the acquisition of the land in different villages arbitrarily and illegally and he has failed to make an independent inquiry in respect of the actual market value of the said acquired land. The RC has decided the award on the basis of the rate recommended by the Divisional Level Committee, headed by the Divisional Commissioner, Hisar Division, Hisar. As per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “the 2013 Act”), the

landowners are required to be paid four times the Collector's rate. The situation, kind, quality and location of the land has not been taken into consideration while passing the award by the LAC because the acquired land is located near the pucca road and is also located near the residential area of the village. Claiming that the market value of the acquired land was ₹1,00,00,000/- per acre at the time of acquisition, they prayed for the reassessment. The landowners also claimed compensation for the bifurcation of the land on account of the construction of the drain.

2.2 On the other hand, the State of Haryana, while contesting the cases, has claimed that the market value of the acquired land has been assessed by the LAC in accordance with law after adopting the procedure which is just, fair and adequate.

2.3 From the pleadings of the parties, the following issues were framed by the RC 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 petition prayed for?OPP.*
- 3. Whether the petitions of the petitioners are not maintainable?*
- 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 Ram Parkash	Kanungo
2.	PW.2 Banwari son of Harphool	Petitioner
3.	PW.3 Indraj son of Hari Ram	Petitioner
4.	PW.4 Tarsem Kumar	Patwari
5.	PW.5 Banwari son of Ram Rakh	Petitioner

3.2 In the documentary evidence, the landowners have produced the following documents:

Sr. No.	Exhibit Number	Description of the document
1.	Ex.P1	Certified copy of the LAC’s Award No.9 dated 13.11.2013 of village Rattakhera
2.	Ex.P2	Certified copy of the LAC’s Award dated 27.9.2013 of village Jodhpuria with respect to the assessment of the market value of the acquired land measuring 57 Kanals and 17 Marlas @ ₹16,00,000/- per acre.
3.	Ex.P3	Certified copy of the LAC’s Award dated 27.9.2013 of village Peerkhera with respect to the assessment of the market value of the acquired land measuring 89 Kanals and 2 Marlas @ ₹16,00,000/- per acre.
4.	Ex.P4	Certified copy of the LAC’s Award dated 27.9.2013 of village Modanwali with respect to the assessment of the market value of the acquired land measuring 14 Kanals and 9 Marlas @ ₹16,00,000/- per acre.
5.	Ex.P5	Certified copy of LAC’s Award dated 10.9 . 2014 of village Kussar with respect to the assessment of the market value of the acquired land measuring 12.89 acres @ ₹7,00,000/- per acre.
6.	Ex.P6	Certified copy of the LAC’s Award dated 10.9.2014 of village Fatehpuriaa with respect to the assessment of the market value of the acquired land measuring 14.46 acres @ ₹7,00,000/- per acre.
7.	Ex.P7	Certified copy of the LAC’s Award dated 7.10.2014 of village Nanuana with respect to the assessment of the market value of the acquired land measuring 23.03 acres @ ₹7,00,000/- per acre.
8.	Ex.P8	LAC’s Notice

Sr. No.	Exhibit Number	Description of the document
9.	Ex.P9	Application for seeking Collector rate of village Ratta Khera.
10.	Ex.P10	Collector rate for Chahi land @ ₹15,00,000/- per acre
11.	Ex.P11	Jamabandi for the years 2012-2013
12.	Ex.P12	Jamabandi for the years 2012-2013
13.	Ex.P13	Aks Sizra of village Ratta Khera
14.	Ex.P14	Jamabandi for the years 2012-2013
15.	Ex.P15	Aks Sizra of village Ratta Khera
16.	Ex.P16	Aks Sizra of village Ratta Khera
17.	Ex.P17	LAC's Notice
18.	Ex.P18	Certified copy of the RC's Award dated 17.7.2013 with respect to the assessment of the acquired land measuring 84 kanals and 19 marlas for the construction of Water Works for Sirsa, vide notification dated 07.08.2009 under Section 4 of the 1894 Act @ ₹45,00,000/- per acre.
19.	Ex.P19	Certified copy of the LAC's Award dt. 16.10.2013 with respect to the assessment of the acquired land measuring 364 kanals and 6 marlas for the construction of Third Water Works for Sirsa, vide notification dated 29.04.2010 under Section 4 of the 1894 Act @ ₹45,00,000/- per acre.
20.	Ex.P20	Collector rate of village Rattakhera - Nil
21.	Ex.P21	Certified copy of Sale deed dated 25.11.2013 regarding sale of 10 marlas of land in village Chamal, Tehsil and District Sirsa.
22.	Ex.P22	Statement No.19
23.	Ex.P23	Statement No.19
24.	Ex.PW4/A	Aks Sizra of village Ratta Khera.

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

4. Analysis of the Reasons Recorded by the RC

4.1 The RC, while refusing to rely upon the LAC's awards (Ex.P5 to Ex.P7) with respect to the acquisition of the land, has held that the

acquisition falls under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “the 2013 Act”). Thereafter, the RC, while relying upon a communication sent by the Tehsildar, Dabwali informing that the Collector’s rate in the year 2013-2014 was ₹15,00,000/- per acre, proceeded to assess the market value of the acquired land @ ₹25,00,000/- per acre. The RC has referred to the statement of PW.1 Sh.Ram Parkash, Kanungo, posted in the office of the District Revenue Officer, Sirsa and PW.4 Sh.Tarsem Singh, Patwari. On reading of para 19 of the RC’s award, it is evident that the RC has not recorded any reason as to how it came to a conclusion that the market value of the acquired land was ₹25,00,000/- per acre as on 19.02.2013.

4.2 The RC has also awarded 40% of the market value of the acquired land as the severance charges on account of bifurcation of their land after placing reliance on the judgment rendered by this Court in *State of Haryana and Another v. Sudrashan Kumar and Others 2017(1) RCR (Civil) 478 (P&H)*.

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 Though the learned counsel representing the landowners have failed to address any significant argument for the enhancement of the market value from the award passed by the RC, however, they made a persuasive

with respect to acquisition of the land in various other connected villages by the same preliminary notification under Section 4 of the 1894 Act, the State of Haryana has not filed the appeals.

5.3 Per contra, the learned counsel representing the State contends that the Court is required to decide the cases on the basis of the evidence produced and in this batch of appeals, no evidence to prove that the market value of the acquired land on 19.02.2013 was ₹25,00,000/- per acre has been produced by the landowners.

5.4 This Bench now proceeds to discuss the evidence. Ex.P1 to Ex.P7 are the various awards passed by the LAC's with respect to the various villages. Award No.9 (dated 13.11.2013) is with respect to the present acquisition. Ex.P10 is the information supplied by the office of the District Revenue Officer in response to an application submitted wherein it has been intimated that the Collector's rate for the year 2012-13 for the *chahi* land was ₹15,00,000/- per acre. Besides producing the copies of jamabandies and layout plan, the landowners have also produced copies of the RC's awards (Ex.P18 and Ex.P19). Both these awards are with regard to the acquisition of land for Third Water Works, Sirsa, vide different notifications. Ex.P20 is the notification issued by the Collector notifying the Collector's rate, however, the said notification is not with respect to village Ratta Khera. The landowners have only produced one sale deed dated 25.11.2013 (Ex.P21) with respect to the residential plot measuring 10 marlas located in village Chamal, Rania Road. This sale deed is not only post the date of notification under Section 4 of the 1894 Act, but also not

comparable with the acquired land.

5.5 It is significant to note that the RC has not given any plausible reason to assess ₹25,00,000/- per acre. The RC has just referred to the statement of PW.1-Sh.Ram Parkash, Kanungo, in the office of the District Revenue Officer, Sirsa, who stated that the price of the acquired land was around ₹18,00,000/- per acre. PW.4-Sh.Tarsem Singh, Patwari, has proved the site plan (Ex.PW.4/A) while admitting that the acquired land is located near the Kasturba Gandhi College, Gaushala and Grain Market. The distance between the proposed drain and the residential area is 1100 feet. In the considered view of the Court, such an oral evidence, while assessing the market value of the acquired land in the cases pertaining to the land acquisition, cannot be treated as a gospel truth. Even otherwise, none of the aforesaid witnesses has stated that the market value of the acquired land on the date of notification under Section 4 of the 1894 Act was ₹25,00,000/- per acre. In such circumstances, the RC has erred in determining the market value of the acquired land @ ₹25,00,000/- per acre.

5.6 As regards the impassioned plea of the learned counsel representing the landowners, it would be noted here that the Court is required to assess the market value of the acquired land on the basis of the material evidence produced. The non-filing of appeals by the State of Haryana with respect to the acquisition of the land of other villages cannot operate as an estoppel against the State of Haryana. The appellants/landowners have not changed their position on account of misrepresentation of the State of Haryana. It depends upon the evaluation of the officials of the State of Haryana with regard to proper assessment of the market value of the acquired land in different villages. There is no evidence

that all these villages are having the comparable parcels of the lands pertaining to contemporaneous period. It is evident that the LAC, while assessing the market value of the acquired land, has assessed different amounts for different villages involved in the acquisition under a similar notification. For the construction of a drain, a narrow strip of land was acquired. In such circumstances, the acquired land in each village is acquired for separate purposes. Hence, it would not be appropriate to hold that the non-filing of appeal by the State of Haryana challenging the awards with respect to various other villages is sufficient to dismiss the appeals filed by the State of Haryana in this particular village.

6. Decision

6.1 Keeping in view the aforesaid discussion, this Court has no choice but to accept the appeals filed by the State of Haryana, while dismissing that of the landowners. The learned counsel representing the parties have not challenged the correctness of the assessment made by the RC with regard to the bifurcation of the land on account of the construction of drain. Hence, the correctness thereof has not been examined. The amount assessed by the RC with respect to assessing the market value of the acquired land is set aside while restoring the LAC's award.

6.2 It would be noted here that the learned counsel representing the landowners are not correct in contending that the State of Haryana has filed appeals only with respect to the acquired land in village Ratta Khera. With respect to the acquisition of the land for the construction of Naiwala Kharif Channel in villages, namely Dhottar, Khaja Khera and Balasar, the appeals filed by the State of Haryana were allowed.

6.3 The miscellaneous application(s) pending, if any, in all the appeals, shall stand disposed of.

(Anil Kshetarpal)
Judge

November 11, 2022
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No

Sr. No.	Case No.	Party’s Name
1.	RFA-5229-2017	THE STATE OF HARYANA AND ANOTHER V/S RANJEET AND OTHERS
2.	RFA-5230-2017	THE STATE OF HARYANA AND ANOTHER V/S HIRA
3.	RFA-5231-2017	THE STATE OF HARYANA AND ANOTHER V/S VINOD KUMAR AND ANOTHER
4.	RFA-5232-2017	THE STATE OF HARYANA AND ANOTHER V/S BANWARI LAL
5.	RFA-5233-2017	THE STATE OF HARYANA AND ANOTHER V/S JAGDISH
6.	RFA-5234-2017	THE STATE OF HARYANA AND ANOTHER V/S DES RAJ AND OTHERS
7.	RFA-5235-2017	THE STATE OF HARYANA AND ANOTHER V/S SURJEET
8.	RFA-5236-2017	THE STATE OF HARYANA AND ANOTHER V/S KAMLA DEVI AND OTHERS
9.	RFA-5237-2017	THE STATE OF HARYANA AND ANOTHER V/S GRAM PANCHAYAT RATTI KHERA
10.	RFA-5243-2017	THE STATE OF HARYANA AND ANOTHER V/S BHURA AND OTHERS
11.	RFA-1506-2018	BHURA AND ORS V/S STATE OF HARYANA AND ANR
12.	RFA-1507-2018	RANJEET AND ORS V/S STATE OF HARYANA AND ANR
13.	RFA-1555-2018	JAGDISH & ORS V/S THE STATE OF HARYANA AND ANR
14.	RFA-1558-2018	BANWARI LAL V/S THE STATE OF HARYANA AND ANR
15.	RFA-2325-2018	HIRA V/S THE STATE OF HARYANA AND ANR

(Anil Kshetarpal)
Judge

November 11, 2022
“DK”