IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA-5316-2017 (O&M)
Reserved on: 19.04.2022
Date of decision: 11.07.2022

STATE OF HARYANA AND ORS. **..Appellants**

Versus

DHARAMPAL SINGH **..Respondent**

CORAM: HON'BLE MR. JUSTICE ANILKSHETARPAL
Present: Ms. Vibha Tewari, AAG, Haryana.

Mr. Gopal Sharma, Advocate
Mr. C.B. Goel, Advocate
for the landowner.

ANIL KSHETARPAL, J.

1. **INTRODUCTION AND BACKGROUND**

1.1 While praying for modification of the award passed by the Reference Court (hereinafter referred to as 'the RC') on 17.08.2017, the State of Haryana as well as the landowners have filed this batch of appeals, details whereof are at the foot of the judgment. The notification under Section 4, 6 and the awards passed by the Land Acquisition Collector (hereinafter referred to as 'the LAC') and 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 brief and relevant particulars of the case are as under:-

Date of notification under Section 4	09.04.2007 Area: 8.88 Acre
Date of notification under Section 6	10.04.2007
Area	8.88 Acre
Village	Village Sarai Aurangabad, Tehsil Bahadurgarh, District Jhajjar, Haryana

District	Jhajjar, Haryana
Public Purpose	For the construction of master sewerage treatment plant and sector dividing road.
LAC Award	Award No.13 dated 18.12.2007
Amount awarded by LAC	Rs. 16 lac per acre
Main reference Court Award	LA case No.36 of 2015 titled as "Dharan Pal Singh Vs. State of Haryana etc." Date of decision 17.08.2017
Amount awarded vide above awards	Rs.42,00,000/- per acre.

1.3 In order to describe the potential and location of land, the pleadings of the parties are common with the adjoining village Kassar, which is extracted as under:-

> *"The State of Haryana in order to construct master sewerage treatment plant and sector dividing roads, issued a consolidated notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') seeking to acquire land in three different villages namely Kassar, Sarai Aurangabad and Kherka Musalman. The land located in village Kherka Musalman has been utilized partially for construction of master sewerage treatment plant and remaining for construction of the sector dividing roads, whereas, the land in villages Kassar and Sarai Aurangabad, has been acquired for constructing sector dividing roads.*
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> *Per contra, the State of Haryana has filed reply claiming that the market value offered by the LAC is correct.*
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> *The landowners being dissatisfied with the amount offered, applied to the LAC for referring the matter to the Court. It was asserted that the acquired land is not only located in the national capital region but is located near to Tehsil Bahadurgarh, District Jhajjar. It is claimed that industrial units of international level like M/s Somini Ltd., Schablona Pvt. Ltd., M/s Parle Biscuits, M/s Arti Udyog, PDM School and Engineering College are located in and around the area. It has also been asserted that many real estate companies like OMAXE, KLG Heights, Karni Group, Time Square and New Era have purchased land near the acquired land at the rate not less than Rs.1.5 Crore per acre. The acquired land is located near to Sector 6 and 2 of the Bahadurgarh and*

the value of the land in the residential sector is not less than Rs.20,000/- per square yard."

The RC after appreciating the pleadings, framed the following issues:-

"1. What was the market value of the acquired land at the time of notification under Section 4 of the Land Acquisition Act, 1894? OPP
2. Whether the petitioner is entitled for any enhanced compensation, if yes, how much? OPP
3. Relief."

2. **EVIDENCE PRODUCED BY THE PARTIES**

2.1 In order to prove their case, the landowners examined PW-1 Jai Bhagwan, Registry Clerk, Office of Sub-Registrar, Bahadurgarh and PW-2 Ranbir.

2.2 They also produced the following documents:-

Ex.P1	*Sale deed No.8374 dated 24.03.2006*
Ex.P2	*Sale deed No.8487 dated 30.03.2006*
Ex.P3	*Sale deed No.8372 dated 24.03.2006*
Ex.P4	*Copy of award dated 06.04.2015*

2.3 On the other hands, the respondents examined Ashok Kumar, Patwari.

2.4 The following documents were tendered by the State in documentary evidence:-

Ex.RW1/A	*Affidavit of Ashok Kumar*
Ex.RW1-A	*Authority letter*
Ex.R1	*Sale deed No.8145 dated 22.03.2005*
Ex.R2	*Sale deed No.812 dated 05.05.2005*
Ex.R3	*Sale deed No.813 dated 05.05.2005*
Ex.R4	*Sale deed No.1041 dated 16.05.2005*
Ex.R5	*Sale deed No.811 dated 05.05.2005*
Ex.R6	*Sale deed No.1093 dated 18.05.2005*

Ex.R7	*Sale deed No.1094 dated 18.05.2005*
Ex.R8	*Sale deed No.1095 dated 18.05.2005*
Ex.R9	*Sale deed No.173 dated 08.04.2005*
Ex.R10	*Policy dated 07.12.2007*
Ex.R11	*Shijra plan*
Ex.R12	*List of sale deeds*

3. The RC, after analysing the evidence, recorded the following reasons to assess the market value of the acquired land:-

a). The sale deeds Ex.R-1 to Ex.R-9, reflecting price lesser than the amount assessed by the LAC cannot be taken into consideration in view of the bar under Section 25 of the 1894 Act.

b). The landowners have produced Ex.P-1 to Ex.P-3, three exemplar sale deeds reflecting a price of Rs.63,00,000/- per acre. The Court, after applying a deduction of 1/3rd towards development, de-escalation and waiting period, assessed the compensation at the rate of Rs.42,00,000/- per acre.

c). The award dated 06.04.2015, passed by the RC Ex.P-4 relates to acquired land in villages Kassar and Saidpur, consequently, they cannot be relied upon for the purpose of assessment of the market value.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. The synopsis along with the gist of their respective arguments, filed by the learned counsel have also been examined.

6. With the consent of the learned counsel representing the

respective parties, the State of Haryana was requested to produce a proper layout plan identifying the location of the acquired land viz-a-viz the location of respective parcels of land which have been sold through various sale exemplars, in order to make a comparative evaluation of both the lands. Pursuant thereto, a *shajra* plan of Sector 3-A, 3-B, Bahadurgarh, prepared by Department of Town and Country Planning, Haryana, has been produced, which has been marked as Mark HC1. On a careful perusal thereof, it is evident that the parcels of land sold through sale deeds Ex.R-1 to Ex.R-9, are near the acquired land. In fact, Ex.R-1, is a sale deed of the acquired land. Whereas, the sale deeds Ex.P-1 to Ex.P-3, are at a distance of around 10 to 12 acres from the acquired land. In village Sarai Aurangabad, the land has been acquired for constructing a sector dividing road. On one side of the road, there are Sector 3 and 3-A, whereas, on the other side there are Sector 2 and 4-A.

7. This Bench now proceeds to examine the sale deeds produced by the State of Haryana, which cannot be kept out of consideration while assessing the market value because the reason assigned by the RC is the result of wrong interpretation of Section 25 of the 1894 Act Section 25 of the 1894 Act only debars the Court from assessing a lower market value than the amount offered by the LAC. There is no prohibition in taking into account the sale deeds reflecting a price lower than the amount offered by the LAC. This matter 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***.

8. The sale exemplar Ex.R-1 to Ex.R-9, are of the same village,

however, they relate to the period which is more than two years prior to date of the notification under Section 4 of the 1894 Act. In the present case, the assessment is to be made as on 09.04.2007. It is evident from the perusal of the record that in the adjoining villages there was acquisition of land measuring 1433 kanals and 6 marlas vide notification dated 25.07.2006. As already noticed, the aforesaid land was acquired for setting up an Industrial Estate, Bahadurgarh. The High Court vide judgment passed in ***Regular First Appeal No.6066 of 2015, titled as "Bhagwat Swaroop and others Vs. State of Haryana and others", decided on 31.07.2017***, assessed the market value of the acquired land in that acquisition at the rate of Rs.61,94,097.45/- per acre. Once there is an acquisition of the land in the area, then, the prices of the land are likely to increase. In that context, the sale deeds produced by the State of Haryana are not safe to be relied upon, whereas, that of the landowners become important. Ex.P-1 to Ex.P-3, relate to various parcels of land which are located, hardly, 10 to 12 acres away from the acquired land. These sale instances are consistently showing the price of the land at the rate of Rs.63,00,000/- in March, 2006, which is one year prior to the issuance of notification under Section 4 of the 1894 Act. A careful perusal of the layout plan (Ex.HC1) proves that the aforesaid parcels of land are not located on any National Highway or sector dividing road. Thus, it is safe to conclude that there was increase in the prices of land after the issuance of notification in the year 2006, for acquiring more than 1400 kanals of land in the adjoining village. Moreover, sale deeds Ex.P-1 to Ex.P-3, are purchases made by the real estate developers. Around 50 kanals and 5 marlas land in total has been purchased by the developers at the rate of Rs.63,00,000/-. In fact, sale deed Ex.P-2 is with respect to land measuring nearly 4 acres. The total acquisition, in the present case is 8.88 acres. This parcel of land cannot be said to be small. In area, it is nearly equivalent to half of the total acquired land.

9. Keeping in view the aforesaid facts, the deduction towards development to the extent of 1/3rd applied by the RC is erroneous. By a judgment of even date, the acquired land for the same purpose by same notification located in village Kassar has been assessed at a much higher rate. The village Kassar and Sarai Aurangabad are adjoining villages. Therefore, the development cut of 1/3rd, in the present case, does not appear to be justified.

10. Furthermore, if one examines the increase from sale deed Ex.R-1 to Ex.R-9, executed in the year 2005 to sale deeds Ex.P-1 to Ex.P-3 executed in the year 2006, it is evident that within one year, there has been exponential increase in the market value of the land in that area. There is a gap of nearly one year between the sale exemplars Ex.P-1 to Ex.P-3 till the date of notification under Section 4 of the 1894 Act in the present case i.e. 09.04.2007. Thus, the prices would have to be increased at the rate of 10% per annum in order to arrive at an appropriate amount. Thus, by increasing the amount of Rs.63,00,000/- by 10% comes to Rs.69,30,000/- per acre. In the humble opinion of the Court, the development cut ordered by the Court is not justified on account of another reason, as well. A narrow strip of land has been acquired for construction of a sector dividing road. The area has already been developed. In view of the detailed reasons recorded in judgment passed in ***Regular First Appeal No.3000 of 2016, titled as "Jai***

Singh Vs. State of Haryana and others", decided on 15.11.2011, any rate of deduction is not found appropriate in such cases.

11. The learned counsel representing the State of Haryana has submitted that parcel of land sold through Ex.P-1 is part of the acquired land. This matter has already been examined. The second argument is with regard to the location of parcels of land represented by sale exemplar Ex.R-2 to Ex.R-9. It is claimed that these exemplars are close to the acquired land. No doubt, the parcels of land represented by sale exemplar Ex.R-2 to Ex.R-9, are close to the acquired land as compared to Ex.P-1 to Ex.P-3, however, there is a gap of more than two years and there has been escalation in the price. The location of the sale exemplar Ex.P-1 to Ex.P-3 is also not far away from the acquired land.

12. The learned counsel also relies upon the judgment passed by the Supreme Court in ***Banwari Lal and another Vs. State of Haryana and others, 2021 (3) RCR (Civil) 843***, to contend that the sale deed executed in favour of a builder after the proposal for acquisition has been made, is liable to be ignored. In the present case, this is not reflected in the record. The sale deeds Ex.P-1 to Ex.P-3, are more than one year prior to the date of notification under Section 4 of the 1894 Act and there is no evidence that these sale deeds were executed after the proposal of acquisition has come to the knowledge of the developers. In the absence of evidence, there is no reason to assume this fact.

13. The next argument of the learned counsel representing the State is that the alignment of the sewerage treatment plant had already been shown in the development plan dated 07.06.2006. It may be noted here that the

sewerage treatment plant is located in village Kherka Musalman, whereas, the acquired land is located in village Sarai Aurangabad. Hence, the argument has no substance.

14. The next argument of the learned counsel representing the appellants is with respect to sale exemplar Ex.P-4, which has not been relied upon by this Court. The Ex.P-4 is a judgment passed by the RC while assessing the market value of the acquired land in villages Kassar and Saidpur at the rate of Rs.50,00,000/-. This has already been considered. Hence, it requires no further elaboration.

15. **DECISION**

15.1 Keeping in view the aforesaid discussion, the market value of the acquired land is assessed at the rate of Rs.69,30,000/- per acre as on 09.04.2007. Even otherwise, the landowners are entitled to the best price because they have no other option but for to give away their precious land as a result of compulsory acquisition. The State, in exercise of its powers of eminent domain, compulsorily acquires the land, most of the times, against the will of the landowners. The landowners should not be made to suffer on account of such acquisition and should be offered a reasonable compensation to mitigate the loss, as far as possible.

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

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

11th July, 2022 **(ANIL KSHETARPAL)**
Ay **JUDGE**

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

Sr. No.	**Case No.**	**Appellants**	**Respondents**
1.	RFA No. 5316 of 2017	State of Haryana and others	Dharampal Singh
2.	RFA No. 1228 of 2019	Azad Singh and others	State of Haryana and others
3.	RFA No. 2812 of 2019	Ranbir	State of Haryana and others
4.	RFA No. 2813 of 2018	Dharampal Singh	State of Haryana and others
5.	RFA No. 5402 of 2017	State of Haryana and others	Ranbir
6.	RFA N0. 5430 of 2017	State of Haryana and others	Sahab Singh and others
7.	RFA No. 1562 of 2018	Dalip Singh (deceased) through LRs	State of Haryana and others
8.	RFA No. 5405 of 2017	State of Haryana and others	Jodha Ram and others
9.	RFA No. 5406 of 2017	State of Haryana and others	Om Parkash and others
10.	RFA No. 5403 of 2017	State of Haryana and others	Azad Singh and others
11.	RFA No. 2074 of 2018	Balbir Singh (deceased) through LRs and others	State of Haryana and others
12.	RFA No. 5429 of 2017	State of Haryana and others	Balbir Singh and others
13.	RFA No. 2825 of 2018	Sahab Singh (deceased) through LRs and others	State of Haryana and others
14.	RFA No. 2808 of 2018	Darshan and another	State of Haryana and others
15.	RFA No. 2807 of 2018	Om Parkash and others	State of Haryana and others
16.	RFA No. 1876 of 2018	Jodha Ram (deceased) through LRs and others	State of Haryana and others
17.	RFA No. 5404 of 2017	State of Haryana and others	Darshan and anothers

(ANIL KSHETARPAL)
JUDGE