

In the High Court of Punjab and Haryana, at Chandigarh

Regular First Appeal No. 5416 of 2017 (O&M)

Date of Decision: 17.10.2022

Reserved On: 05.09.2022

Haryana State Infrastructure and Industrial Development Corporation
Limited

... Appellant(s)

Versus

Kaptan and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Pritam Singh Saini, Advocate
for the appellant(s).

Mr. Rakesh Nehra, Senior Advocate
with Mr. Sauhard Singh, Advocate
for the landowners.

Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana.

Anil Kshetarpal, J.

1. Introduction and Background

1.1 While praying for modification of the market value assessed by the Reference Court (hereinafter referred to as “the RC”) through a common award dated 25.10.2016, the landowners as well as the Haryana State Infrastructure and Industrial Development Corporation (hereinafter referred to as “HSIIDC”) have filed this batch appeals (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 the RC are common. The purpose of acquisition is

same. 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 the acquisition, for the purpose of the decision of this batch of appeals, are as under:-

S.NO.	TITLE	DETAILS
1.	Date of Notification under Section 4 of the 1894 Act.	02.02.2010
2.	Date of Notification under Section 6 of the 1894 Act.	18.10.2010
3.	Purpose of Acquisition.	For a Common Effluent Treatment Plant in Industrial Model Township, Rohtak.
4.	Location, area and nature of the acquired land	Proposing to acquire the land measuring 541 kanals and 2 marlas of land located in village Nonand , Tehsil Sampla, District Rohtak.
5.	Number and Date of the Award of the Land Acquisition Collector.	Award No.4 dated 01.07.2011.
6.	Amount assessed by the Land Acquisition Collector.	The LAC has offered to pay the market value of the acquired land @ ₹25,00,000/- per acre, along with all statutory benefits i.e. solatium @ 30% and additional amount under Section 23 (1-A) of the 1894 Act.
7.	Amount determined by the Reference Court.	The RC, vide a common award dated 25.10.2016, has assessed the market value of the acquired land @ ₹30,00,000/- per acre along with all the statutory benefits.

1.3 On the request of the landowners, the matter was referred to the RC. The landowners have claimed that the market value of the acquired land was not less than ₹7,50,00,000/- per acre as not only the Industrial Model Township is located nearby, but even the National Highway-10 (Delhi-Rohtak Road) is passing in the vicinity. They have claimed that

several residential sectors have been carved out and many private real estate companies have come up with their projects in the area. The HSIIDC, while contesting the cases, contended that the LAC has assessed a fair, adequate and appropriate compensation for the acquired land which needs no interference.

1.4 On appreciation of the evidence, the RC has culled out the following issues:-

- “1.

What was the market value of the acquired land at the time of issuance of notification under Section 4 of the Land Acquisition Act, 1894? OPP
2.

Whether the petitioners are entitled to any amount as enhanced compensation as alleged, if so, to what extent? OPP
3.

Whether the petitions are not maintainable? OPR
4.

Whether the petitioners have got no locus standi to file the petitions? OPR
5.

Whether the petitions are bad for non-joinder of necessary party? OPR
6.

Whether the petitions are barred by limitation? OPR
7.

Relief.”

2. **Evidence Produced by the Parties**

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

Sr. No.	Name of the Witness
1.	PW.1 Ram Chander
2.	PW.2 Chander Bhan

Sr. No.	Name of the Witness
3.	PW.3 Raghbir
4.	PW.4 Bhagwana
5.	PW.5 Ramdhan
6.	PW.6 Azad Singh

2.2 In documentary evidence, the landowners have produced the following documents (apart from the sale deeds, tabulated compilation of which is given in para 3.6 of this judgment):-

Sr. No.	Exhibit Number	Description of the document
1.	Mark-A	Notification under Section 9 of the Act
2.	Mark-B	Notification under Section 9 of the Act
3.	Mark-C	Notification under Section 9 of the Act
4.	Mark-D	Notification under Section 9 of the Act
5.	Ex.PX	Aks-Shizra
6.	Ex.PY	Copy of Jamabandi for the year 2009-2010
7.	Ex.PZ	Copy of Award No. 17 dated 03.01.2013

2.3 In oral evidence, the HSIIDC has examined Sh.Krishan Kumar, Patwari, as RW.1. In documentary evidence, the HSIIDC has produced the following documents (apart from the sale deeds, tabulated compilation of which is given in para 3.6 of this judgment):-

Sr. No.	Exhibit Number	Description of the document
1.	Ex.R1/1	Authority Letter
2.	Ex.R1/6	Notification dated 09.11.2010
3.	Ex.R1/7	Village & Skill Development Scheme of HSIIDC
4.	Ex.R1/8	Award No. 4 datd 01.07.2011
5.	Ex.R1/9	Statement No. 19

3. Discussion and Analysis

3.1 At this stage, it would be appropriate to refer to the reasons recorded by the RC. The RC has refused to take into consideration the sale

deeds produced by the State (Ex.RW.1/2 to Ex.RW.1/5) to assess the market value of the acquired land on the ground that such sale deeds reflect a lesser price than the amount offered by the LAC. The RC has discarded all the sale deeds produced by the landowners on the pretext that they are subsequent to the notification under Section 4 of the 1894 Act, hence, not relevant for assessing the market value. Thereafter, the RC shifted its focus on the LAC's award No.17 dated 03.01.2013 with respect to the acquisition of land vide preliminary notification dated 11.01.2010 for acquisition of the land for Industrial Model Township in village Nonand. The RC, after recording a finding that the acquired land for the Industrial Model Township vide award dated 03.01.2013 (Ex.PZ) is better located, chose to assess the market value of the acquired land @ ₹30,00,000/- per acre without giving any reason. On a careful reading of the judgment, it is evident that the RC has found that the different parcels of land acquired vide different notification, for developing Industrial Model Township and Common Effluent Treatment Plant are located nearby. Thus, on the basis of the aforesaid observation, the RC has assessed the market value of the acquired land @ ₹30,00,000/- per acre.

3.2 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 Reference Court, which was requisitioned.

3.3 At the outset, it must be noticed that in the lower Court record, three sale deeds, produced by the landowners have been marked as Ex.R1, Ex.R2 and Ex.R3, however, on perusal of the statement of Sh.Krishan

deeds. The RC has also not referred to the aforesaid three sale deeds. On a careful perusal of the aforesaid three sale deeds, it is evident that Ex.R2 is the same sale deed as produced by the landowners as Ex.P2 bearing sale deed No. 1757 whereas, the sale deed Ex.R3 is the same sale deed which was produced by the landowners as Ex.P3 bearing sale deed No. 1749. Ex.R1 is a sale deed No. 575 dated 12.06.2014 with respect to the land measuring 7 kanals and 5 marlas sold for a total sale consideration of ₹41,70,000/-, whereas, Ex.R1 is the same sale deed as is Ex.P1 (sale deed No. 575) produced by the landowners. It appears that the aforesaid three sale deeds have been inadvertently marked as Ex.R1, Ex.R2 and Ex.R3, respectively. During their arguments, the learned counsel representing the parties also did not rely upon the sale deeds (Ex.R1 to Ex.R3).

3.4 The learned senior counsel representing the landowners contend that the RC has erred in ignoring the award (Ex.PZ), particularly when the location of the acquired land for setting up of the Industrial Model Township as well as the Common Effluent Treatment Plant is comparable and there is a difference of only 2 acres of land between these two parcels. Both these parcels are located in the same village and there is no evidence to prove that there is a difference in their potentiality or geographical location or market value.

3.5 Per contra, the learned counsel representing the HSIIDC contends that the RC has erred in relying upon the LAC's award dated 03.01.2013 for acquiring a different parcel of land by a different notification.

He submits that in the absence of evidence to prove that both the parcels of land are comparable, it was not appropriate for the Court to assess the

market value of the acquired land @ ₹30,00,000/- per acre.

3.6 At this stage, it would be appropriate to compile the information of various sale deeds produced by the respective parties in order to have a bird’s eye view of the evidence led by the parties.

<i>Sr. No.</i>	<i>Exhibit No.</i>	<i>Vasika No.</i>	<i>Dated</i>	<i>Sale Consideration (In Rs.)</i>	<i>Land Sold (K M S)</i>	<i>Rate per acre</i>	<i>Village</i>
1.	P1	575	12.06.2014	41,70,000	7K-5M	--	Baliyana
2.	P2	1757	02.11.2012	2,38,77,562	1A-3K-7M	--	Kheri Sadh
3.	P3	1749	31.10.2012	3,36,60,000	2 A	--	Kheri Sadh
4.	R1/2	378	26.05.2011	13,71,000	6 K-9M	--	Nonand
5.	R1/3	2823	15.01.2010	19,66,250	12K-2M	7,11,765	Nonand
6.	R1/4	91	15.04.2011	17,00,000	8K	--	Nonand
7.	R1/5	783	05.09.2008	7,10,000	8K	--	Nonand

3.7 Ex.PX is a revenue layout plan (Aksh Shijra) of village Nonand, Tehsil Sampla, District Rohtak. The acquired land for the Common Effluent Treatment Plant in village Nonand is located on the North side of a drain which flows from East to West, whereas, the acquired land for Industrial Model Township (vide preliminary notification dated 11.01.2010) is located towards the Southern side of the drain. The width of the drain is 9 karams which is equivalent to 9x5.5 feet, nearly 49.5 feet. The RC, itself, has found that the acquired land for Industrial Model Township vide notification dated 11.01.2010 which was the subject matter of award dated 03.01.2013 (Ex.PZ) is better located when compared with the acquired land for the Common Effluent Treatment Plant. It has been found that the acquired land for the Industrial Model Township is on the road going from village Nonand to village Kheri Sadh.

evidence before adjudicating the dispute. Moreover, the RC has erred in wrongly interpreting Section 25 of the 1894 Act which is extracted as under:-

“25. Amount of compensation awarded by Court not to be lower than the amount awarded by the Collector. - The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under section 11.”

3.9 On a careful reading of the aforementioned provision, it is evident that there is no prohibition or bar upon the Court in taking into consideration the sale deeds produced by the parties reflecting the price lower than the amount offered by the LAC. The Court is only debarred from awarding the landowners an amount below the amount offered by the LAC. In other words, the landowners cannot be deprived of or offered an amount lower than the amount already offered by the LAC. However, there is no restriction from taking into consideration the copies of various sale deeds produced in evidence, even if, the price reflected in a few of these is lower than the amount offered by the LAC. This issue is no longer *res integra* in view of the judgment passed in ***Lal Chand vs. Union of India and Another, (2009) 15 SCC 769.***

3.10 On a careful perusal of the sale deeds produced by the landowners, it is evident that all the sale deeds are with respect to the period post the date of notification under Section 4 of the 1894 Act i.e. 02.02.2010. These sale deeds are with respect to the various parcels of the land located in different villages, namely Baliyana and Kheri Sadh, whereas, the acquired land is located in village Nonand.

3.11 The HSIIDC has produced as many as four sale deeds as Ex.RW.1/2 to Ex.RW.1/5. These sale instances (Ex.RW.1/2 to Ex.RW.1/4) are also post the date of notification under Section 4 of the 1894 Act i.e. 02.02.2010. However, the sale deed No. 2823 dated 05.01.2010 (Ex.RW.1/3) is with respect to the land measuring 12 kanals and 2 marlas which has been sold for ₹19,66,250/-. The land has been sold out of the land comprised in rectangle No. 25, khasra No. 22/2, 23/2/2 and rectangle No. 25, khasra no. 2/1 and 3/2, located in village Nonand. The per acre price comes to ₹7,11,765/-. Further, two sale deeds (Ex.RW.1/2 and Ex.RW.1/4) produced by the State of Haryana reflect that the price of the land in village Nonand in range of ₹13,00,000/- to ₹17,00,000/-, even after issuance of notification under Section 4 of the 1894 Act.

3.12 On a careful perusal of the award No. 4 dated 01.07.2011 passed, while acquiring the land for developing the Common Effluent Treatment plant, it is evident that the land comprised in rectangle No. 12, 13, 14, 15, 33 and 34 has been acquired. The parcel of land sold vide sale deed (Ex.RW.1/3) is with respect to the land comprised in rectangle No. 22 and 25. Both these parcels of land are located on the same side of the drain where the acquired land is located. A drain having a width of 49.5 feet is sufficiently a large drain. There is no evidence that the acquired land has the same connectivity with the road as the parcel of land acquired, for developing the Industrial Model Township, vide notification dated 11.01.2010. Even as per the findings of the RC, the land acquired for developing the Industrial Model Township is better located. The comparable

passed by the LAC with respect to a different acquisition of a separate parcel of land. The award passed by the LAC is not conclusive and binding but is subject to scrutiny by the Court. In such circumstances, the RC has erred in relying upon the award No. 17 dated 03.01.2013 (Ex.PZ). It is further significant to note that on perusal of Ex.PX, the revenue layout plan, it is evident that the land acquired for developing the Industrial Model Township in village Nonand is comprised in rectangle No. 59 and 60. Only a small parcel of land from village Nonand measuring 45 kanals and 11 marlas has been acquired along with the other parcels of land situated in the nearby villages.

3.13 Further, the Court is required to assess the market value on the basis of preponderance of probabilities. Although, no doubt, while assessing the market value of the acquired land, the Court is permitted to make reasonable assumptions, however, such conjunctures are required to be based upon logic, reasoning and satisfaction of the Presiding Judge of the Court. The price of the entire land in a particular village is not expected to be uniform. There can be a huge difference in the price of different parcels of land. In the present case, there are various sale deeds which prove that the parcels of land located nearby were being sold between ₹7,00,000/- to ₹17,00,000/- per acre, whereas, the LAC has already offered ₹25,00,000/- per acre which is generous price.

4. Decision

4.1 Keeping in view the aforesaid discussion, the conclusion is inevitable. The appeals filed by the HSIIDC are allowed, whereas, that of the landowners are dismissed. The amount offered by the LAC is upheld

while setting aside the award passed by the RC on 25.10.2016.

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

(Anil Kshetarpal)
Judge

October 17, 2022
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No

Sr. No.	Case No.	Party’s Name
1.	RFA-5417-2017	HSIIDC VS. SMT. CHANDRAWATI AND OTHERS
2.	RFA-5418-2017	HSIIDC VS. BHAGWANA AND OTHERS
3.	RFA-5419-2017	HSIIDC VS. RAM CHANDER AND OTHERS
4.	RFA-5420-2017	HSIIDC VS. SH. CHANDER BHAN AND OTHERS
5.	RFA-5421-2017	HSIIDC VS. SH. VED PARKASH AND OTHERS
6.	RFA-5422-2017	HSIIDC VS. RAJ SINGH AND OTHERS
7.	RFA-5423-2017	HSIIDC VS. SH. JAI SINGH AND OTHERS
8.	RFA-5426-2017	HSIIDC VS. RAMDHAN AND OTHERS
9.	RFA-5427-2017	HSIIDC VS. SH. RAGHBIR AND OTHERS
10.	RFA-2281-2017	RAJ SINGH AND OTHERS VS STATE OF HARYANA AND OTHERS
11.	RFA-2282-2017	KAPTAN AND ANR VS STATE OF HARYANA AND OTHERS
12.	RFA-2283-2017	CHANDERWATI AND OTHERS VS STATE OF HARYANA AND OTHERS
13.	RFA-2284-2017	RAMDHAN AND OTHERSVS STATE OF HARYANA AND OTHERS
14.	RFA-2286-2017	VED PARKASH AND ORS VS STATE OF HARYANA AND OTHERS
15.	RFA-2287-2017	BHAGWANA AND OTHERSVS STATE OF HARYANA AND OTHERS

Sr. No.	Case No.	Party’s Name
16.	RFA-2288-2017	SH. RAGHBIR AND OTHERS VS STATE OF HARYANA AND OTHERS
17.	RFA-2289-2017	SH. CHANDER BHAN AND OTHERS VS STATE OF HARYANA AND OTHERS
18.	RFA-2684-2017	RAMCHANDER AND OTHERS VS STATE OF HARYANA AND OTHERS
19.	RFA-4847-2017	SH. JAI SINGH AND ORS VS STATE OF HARYANA AND OTHERS

October 17, 2022
“DK”

(Anil Kshetarpal)
Judge