

In the High Court of Punjab and Haryana, at Chandigarh

**Regular First Appeal No. 4698 of 2018 (O&M)
And Other Connected Cases**

**Date of Decision: 28.10.2022
Reserved On: 14.09.2022**

Lakhbir Singh

... Appellant(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Akshay Jain, Mr. S.K.Jain, Mr. Deepak Kumar Jain,
Mr. Munish Kamboj, Mr. P.K.Ganga, Mr. Sushil K. Verma,
Mr. Gaurav Aggarwal, Mr. M.M.Pandey, and Mr. Sandeep
Punchi, Advocates, for the landowners.

Mr. Shivendra Swaroop, Assistant Advocate General,
Hayana, for the respondents.

Anil Kshetarpal, J.

1. Introduction and Background

1.1 While questioning the correctness of the market value assessed by the Reference Court (hereinafter referred to as “the RC”), the landowners as well as the State of Haryana 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”) are common, whereas, three separate awards were passed by the Land Acquisition Collector (hereinafter referred to as “the LAC”) assessing the market value of the acquired land located in villages Dhottar, Khaja Khera and Balasar. The

RC, by a consolidated judgment, has assessed the market value of the acquired land located in all the three villages. The learned counsel representing the parties are *ad idem* that this batch of appeals can conveniently be disposed of by a common judgment.

1.3 The relevant particulars of the acquisition are as under:-

S.NO.	TITLE	DETAILS
1.	Date of Notification under Section 4 of the 1894 Act.	04.11.2011
2.	Date of Notification under Section 6 of the 1894 Act.	23.10.2012
3.	Purpose of Acquisition.	For the construction of Naiwala Kharif Channel.
4.	Location, area and nature of the acquired land	The acquired land is located in three different villages, namely Dhottar, Khaja Khera and Balasar.
5.	Number and Date of the Award of the Land Acquisition Collector.	No. 07 dated 30.10.2013 acquiring the land measuring 2 acres 1 kanal and 19 marlas in the revenue estate of village Khaja Khera has been acquired. No. 08 dated 30.10.2013 acquiring the land measuring 7 kanals in the revenue estate of village Balasar has been acquired.. No. 16 dated 11.12.2013 acquiring the land measuring 86 kanals and 1 marla in the revenue estate of village Dhottar has been acquired.
6.	Amount assessed by the Land Acquisition Collector.	The LAC has offered to pay the market value of the acquired land located in villages Khaja Khera and Dhottar @ ₹17,50,000/- per acre. The LAC has offered to pay the market value of the acquired land located in village Balasar @ ₹20,35,000/- per acre.
7.	Date of the judgment of the Reference Court.	01.12.2017
8.	Amount determined by the Reference Court.	The RC has assessed the market value of the acquired land located in

S.NO.	TITLE	DETAILS
		villages Dhottar and Khaja Khera @ ₹30,00,000/- per acre, whereas, the market value of the acquired land located in village Balasar @ ₹35,00,000/- per acre.

1.4 Dissatisfied with the amount offered by the LAC, on the application of the landowners, as many as 18 land acquisition petitions under Section 18 of the 1894 Act were referred to the RC. The landowners claim that prime land near the residential area of the village has been acquired and the market value offered by the LAC is lower than the actual price. They also claim damages for severance of the land as well as the standing crops. While claiming that the market value of the acquired land was not less than ₹90,00,000/- per acre at the relevant time, the landowners filed applications under Section 18 of the 1894 Act.

1.5 On the other hand, the State of Haryana, while contesting the claim petitions, alleged that the Divisional Level Committee, headed by the Divisional Commissioner, Hisar Division, Hisar, after going through the factual aspects, has recommended the market value, which is fair, reasonable and adequate. It has been pointed out that vide the supplementary award, the compensation with regard to trees and structures has already been given to the landowners.

1.6 From the pleadings of the parties, the following issues were framed by the RC:-

- “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 petitions as prayed for?OPP.*
3. *Whether the petitioners are not maintainable ?OPR*
4. *Relief.”*

2. **Evidence Produced by the Parties**

2.1 The landowners, in oral evidence, examined the following witnesses:-

Sr. No.	Name of the Witness	Particulars of the Witness
1.	PW.1 Ram Partap	Kanungo, L.A. Branch, Sirsa
2.	PW.2 Wazir Singh	--
3.	PW.3 Rajinder	--
4.	PW.4 Manohar Lal	--
5.	PW.5 Vijay	--
6.	PW.6 Malkeet Singh	--
7.	PW.7 Ravinder Kumar	Retired Patwari

2.2 The landowners have also produced the following documents:

Sr. No.	Exhibit Number	Description of the document
1.	Ex.P1	Certified copy of Award No.3 dt. 10.9.2014
2.	Ex.P2	Certified copy of Award No.4 dated 10.9.2014
3.	Ex.P3	Certified copy of Award No.5 dated 7.10.2014
4.	Ex.P4	Certified copy of Award No.16 dt. 11.12.2013
5.	Ex.P5	Certified Copy of Award dated 17.7.2013 passed by the court of Sh. Sandeep Singh the then Additional District Judge, Sirsa
6.	Ex.P6	Certified Copy of Award dated 16.10.2013 passed by the court of Sh. Sandeep Singh the then Additional District Judge, Sirsa
7.	Ex.P7	Collector rate for the years 2011-2012
8.	Ex.P8	Certified copy of sale deed no5498 dt. 25.11.2013
9.	Ex.P9 and Ex.P13	Certified copy of Award No.7 dt.30.10.2013
10.	Ex.P10	Copy of Jamabandi for the years 2012-2013
11.	Ex.P11	Copy of Jamabandi for the years 2012-2013
12.	Ex.P12	Certified copy of Gazette Notification dt.4.11.2011

Sr. No.	Exhibit Number	Description of the document
13.	Ex.P13	Certified copy of Award no.7 dated 30.10.2013
14.	Ex.P15	Copy of mutation no.1089
15.	Ex.PW.5/B	Copy of jamabandi for the years 2007-2008
16.	Ex,PW.5/C	Site plan
17.	Mark A	Form L
18.	Mark B	Form L

2.3 On the other hand, the State has examined RW.1 Sh.M.K.Suthar, Sub Divisional Officer, Bani Water, in oral evidence.

2.4 In documentary evidence, the State has produced the following documents:-

Sr. No.	Exhibit Number	Description of the document
1.	ExR1	Photo copy of Award no.16 dt. 11.12.2013
2.	ExR2	Photo copy of report of Divisional Level Committee
3.	ExR3	Photo copy of Award no.7 dated 30.10.2013
4.	ExR4	Photo copy of Award no.8 dated 30.10.2013

3. The RC has proceeded to assess the market value of the acquired land on the basis of the recommendations of the Divisional Level Committee (Ex.R2) in its proceedings dated 21.09.2013.

4. Discussion and Analysis

4.1 Heard the learned counsel representing the parties, at length and with their able assistance, perused the judgment passed by the RC along with its record, which was requisitioned.

4.2 On the one hand, the learned counsel representing the landowners contend that the RC has erred while ignoring the various awards passed by the LAC with respect to the acquisition in the adjoining villages.

Whereas, on the other hand, the learned State counsel contends that the RC has committed an error in partially reading the recommendations of the

Divisional Level Committee (Ex.R2).

4.3 It would be noted here that in these cases, the landowners and the State have failed to produce the sale deeds of the comparable parcels of the land during the contemporaneous period. The landowners have produced only two sale deeds (Ex.P8 and Ex.P14). Both these sale deeds are post the date of notification under Section 4 of the 1894 Act. These sale deeds are dated 25.11.2013 and 16.07.2015, respectively. The parcels of plots sold through the aforesaid sale deed are also very small and the landowners have not produced any evidence to prove its comparative location with the acquired land. Hence, the RC was correct in refusing to assess the market value on the basis of the aforesaid sale deeds.

4.4 Besides oral evidence, the landowners have produced the LAC's award No. 3 dated 10.09.2014 with respect to the acquisition of land in village Kussar, award No. 4 dated 10.09.2014 with respect to the acquired land in village Fatehpuria and award No. 5 dated 07.10.2014 with respect to the acquired land in village Nanwana and the market value has been assessed at a uniform rate of ₹7,00,000/- per acre in all the three awards. Ex.P4 is a copy of award No. 16 dated 11.12.2013 with respect to the acquisition of land in village Dhottar. The awards (Ex.P1 to Ex.P3) depict the assessment of the market value in three different villages @ ₹9,00,000/- per acre. In the absence of the evidence to prove that the aforesaid parcels of land are comparable with the acquired land in this acquisition, the RC has correctly ignored the same. Ex.P5 is an award passed by the RC on 10.02.2016 in respect of the notification under Section 4 of the 1894 Act

in the aforesaid award, the RC has assessed the market value of the acquired land @ ₹45,00,000/- per acre in respect of land in villages, namely Vaidwala, Kanganpur and Panjuana, respectively. Ex.P6 is another award passed by the RC on 16.10.2013 in respect of the preliminary notification under Section 4 of the 1894 Act dated 07.08.2009 with respect to the land situated in village Panjuana. The RC has assessed the market value @ ₹45,00,000/- per acre. Both these awards have correctly been kept out of consideration as there is no evidence to compare the parcels of land in both the awards and the acquisition under the present notification. As already noticed, the landowners have produced (Ex.P8 and Ex.P14) the copies of the sale deeds which are post the date of notification under Section 4 of the 1894 Act and these sale exemplars are with respect to tiny sized plots. Ex.P9 is award No. 7 dated 30.10.2013 in respect of village Khaja Khera, which is the subject matter of acquisition in the present case. Ex.P10 is a certified copy of jamabandi for the year 2012-2013. Ex.P11 is again a copy of the jamabandi for the year 2012-2013. Ex.P12 is a copy of notification under Section 4 of the 1894 Act dated 04.11.2011 including village Dhottar, Balasar and Khaja Khera. Ex.P13 is an award No. 7 dated 30.10.2013 in respect of the acquired land in village Khaja Khera in this acquisition. Ex.P15 is a copy of mutation No. 1089, whereas, Ex.P5/B is a copy of jamabandi for the year 2007-2008. Ex.PW.5/C is a copy of small portion of *Aks Shijra* (layout plan).

4.5 The RC has relied upon Ex.R2 to assess the market value of the acquired land @ ₹30,00,000/- each for the acquired land located in villages, namely Dhottar and Khaja Khera, whereas the market value of the acquired

land in village Balasar has been assessed @ ₹35,00,000/- per acre. On a careful reading of Ex.R2, it is evident that these are minutes of the meetings of the Divisional Level Committee, held under the Chairmanship of the Commissioner, Hisar Division, Hisar, on 21.09.2013. The RC has committed an error in partially reading the aforesaid document (Ex.R2). The District Revenue Officer, Sirsa, has only read over the Collector's rates issued for guidance of the Registration Authority to collect the stamp duty for the purpose of registration of the documents to the members of the Committee. In these proceedings, the Committee has recommended the LAC to award the market value of the acquired land in villages, namely Dhottar and Khaja Khera @ ₹17,50,000/- per acre and in village Balasar @ ₹20,35,000/- per acre. The LAC while accepting the recommendations of the Divisional Level Committee, has pronounced the awards. Thus, the RC's impugned award is a result of selective reading of (Ex.R2). The Collector's rates have not been produced on the file. Even otherwise, the Collector's rates are guidelines for the purpose of collection of the stamp duty at the time of registration of the documents. These recommendations do not have the backing of any Statute and these are not binding on the Court. In fact, the Supreme Court in its recent judgment rendered in *Bharat Sanchar Nigam Limited v. Nimi Chand Damodar Dass and Another* 2022 AIR (Supreme Court) 3458 has held that the RC cannot assess the market value of the acquired land on the basis of the recommendations of the Collector's rates.

5. Decision

5.1 Keeping in view the aforesaid facts, it is evident that the RC has committed material illegality/irregularity in assessing the market value on

the basis of partial reading of Ex.P2. Hence, the same is set aside and the various awards passed by the LAC are upheld. The appeals filed by the State of Haryana shall stand allowed, whereas, that of the landowners shall stand dismissed.

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

(Anil Kshetarpal)
Judge

October 28, 2022
“DK”

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

Sr. No.	Case No.	Party’s Name
1.	RFA-582-2019	State Of Haryana And Anr V/S Amar Singh And Ors
2.	RFA-13555-2018	Jeet Singh And Others V/S State Of Haryana And Ors
3.	RFA-579-2019	State Of Haryana And Others V/S Vijay
4.	RFA-583-2019	State Of Haryana And Anr V/S Kanni Ram
5.	RFA-580-2019	State Of Haryana And Others V/S Wazir Singh
6.	RFA-585-2019	State Of Haryana And Anr V/S Bishna Ram
7.	RFA-586-2019	State Of Haryana And Anr V/S Balwant And Anr
8.	RFA-581-2019	State Of Haryana And Others V/S Manohar Lal And Ors
9.	RFA-584-2019	State Of Haryana And Others V/S Indra And Ors
10.	RFA-1891-2018	Raja Ram V/S State Of Haryana And Anr
11.	RFA-1883-2018	Jagdish And Ors V/S State Of Haryana And Anr
12.	RFA-1886-2018	Indira And Ors V/S State Of Haryana And Anr
13.	RFA-1662-2018	Balwant And Anr V/S State Of Haryana And Anr
14.	RFA-1661-2018	Kalawati And Ors V/S State Of Haryana And Anr
15.	RFA-1904-2018	Lal Chand And Ors V/S State Of Haryana And Anr
16.	RFA-1659-2018	Bimla Devi And Anr V/S State Of Haryana And Anr
17.	RFA-1874-2018	Amar Singh And Ors V/S State Of Haryana And Anr
18.	RFA-1889-2018	Kanni Ram V/S State Of Haryana And Anr
19.	RFA-2191-2018	Dhanna Ram And Ors V/S State Of Haryana And Anr
20.	RFA-1660-2018	Kalawati And Ors V/S State Of Haryana And Anr
21.	RFA-1885-2018	Devi Lal V/S State Of Haryana And Anr
22.	RFA-13606-2018	Vijay V/S State Of Haryana And Ors.
23.	RFA-590-2019	State Of Haryana And Anr V/S Kalawati And Ors
24.	RFA-592-2019	State Of Haryana And Anr V/S Jagdish And Ors

Sr. No.	Case No.	Party’s Name
25.	RFA-593-2019	State Of Haryana And Anr V/S Lal Chand (DECEASED) Thr. Lrs And Ors
26.	RFA-596-2019	State Of Haryana And Others V/S Lakhbir Singh
27.	RFA-591-2019	State Of Haryana And Anr V/S Devi Lal
28.	RFA-594-2019	State Of Haryana And Anr V/S Dhanna Ram And Ors
29.	RFA-595-2019	State Of Haryana And Others V/S Jeet Singh And Ors
30.	RFA-589-2019	State Of Haryana And Anr V/S Kalawati And Ors
31.	RFA-588-2019	State Of Haryana And Anr V/S Bimla Devi And Anr
32.	RFA-587-2019	State Of Haryana And Anr V/S Raja Ram

October 28, 2022
“DK”

(Anil Kshetarpal)
Judge