

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**RFA-787-2017 (O&M)
Date of decision: 07.04.2022**

KIRAN PAL

....Appellant

Versus

STATE OF HARYANA AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Devender Kumar, Advocate
Mr. Bhag Singh, Advocate
Mr. Mahendra Singh Tewatia, Advocate
Mr. Rajiv Sharma, Advocate
for the landowners.

Mr. Shivendra Swaroop, AAG, Haryana.

Mr. P.S. Saini, Advocate
for the HSIIDC.

ANIL KSHETARPAL, J.

1. INTRODUCTION

1.1 Through this batch of appeals (details whereof, are given at the foot of the judgment) filed under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act'), the landowners assail the correctness of the award passed on 20.11.2020, by the Reference Court (hereinafter referred to as 'RC'). The notifications under Section 4 and 6 of the 1894 Act and the award passed by the Land Acquisition Collector (hereinafter referred to as "the LAC") are common. The RC has dismissed the applications filed under Section 18 of the 1894 Act. The learned counsel representing the parties are *ad idem* that these appeals can be conveniently disposed of by a common judgment.

(hereinafter referred to as “the KMP Expressway”) connecting National Highways No.1, 10, 8 and 2, the State of Haryana acquired land measuring 1408 kanals and 16 marlas.

1.3 The relevant particulars of the acquisition are compiled in a tabulated form as under:-

Sr. No.	Title	Details
1.	Date of Notification under Section 4 of the 1894 Act, and, area of the land.	12.01.2006, Area-1413 kanals 1 marla.
2.	Date of declaration under Section 6 of the 1894 Act.	13.03.2006
3.	Purpose of Acquisition	Construction of express highway connecting National Highway No.1, 10, 8 and 2..
4.	Location of the land, village, Tehsil and District.	Village Mandkola, Tehsil Hathin, District Mewat (Nuh).
5.	Number and date of the Award of the Land Acquisition Collector.	Award No.17, dated 30.10.2006. While acquiring land measuring 1408 kanals 16 marlas out of land comprised in Rectangle Numbers 36, 37, 38, 39, 40, 41, 42, 43, 44, 62, 63, 64, 65, 66, 67, 86, 87, 88, 89, 90, 97, 98, 99, 100, 101, 102, 135 136, 137 and 138.
6.	Amount assessed by the LAC.	Rs.12,50,000/- per acre.
7.	Date of the judgment of the RC.	20.11.2020
8.	Amount assessed by the RC.	Dismissed

1.4 The landowners have projected that the acquired land has tremendous potential to be used for residential, industrial and commercial purposes. It is alleged to be located close to the industrial area developed by the Haryana State Industrial and Infrastructure Development Corporation

(HSIIDC). It is also alleged that the acquired land is situated 5 kms from Delhi-Agra National Highway and in the adjoining village Rajolka, industrial sector has been developed by the HSIIDC. They also claim damages for severance of the land, due to the compulsory acquisition of the land for the construction of the KMP Expressway. On the other hand, the State of Haryana has taken a stand that the market value of the acquired land has been assessed by the LAC on the basis of report of a multi-member high power price fixation committee and thus, there is no further need for enhancement.

1.5 The RC, after examination of the pleadings, culled out the following issues:-

- “1. What was the market value of the acquired suit land as on the date of publication of notification under Section 4 of the Land Acquisition Act? OPP*
- 2. Whether the petitions are within limitation? OPP*
- 3. Relief”*

2. **ORAL AND DOCUMENTARY EVIDENCE**

2.1 The landowners in order to prove their case, examined the following witnesses:-

PW-1	Shamsher Singh
PW-2	Ami Lal
PW-3	Chajju
PW-4	Rajesh
PW-5	Bachu Singh
PW-6	Kishan Lal

2.2 The landowners did not produce any documentary evidence.

2.3 On the other hand, HSIIDC examined Surender Singh, Manager, Udyog Vihar, Gurugram, as RW-1 in oral evidence, who produced and proved the Sale Deeds, which were produced in its documentary evidence.

2.4 The following sale deeds were produced in documentary evidence:-

Sr. No.	Exhibit Nos.	Sale Deed No. & Date	Total Area	Price (in Rs.)	Price Per Acre (in Rs.)	Village
1.	R-1	2703 05.12.2005	10K-2M	3,78,750/-	3,00,000/-	Mandkola
2.	R-2	2993 30.12.2005	2K-12M	1,23,500/-	3,80,000/-	Mandkola
3.	R-3	3044 04.01.2006	9K-13M	4,60,000/-	3,81,347/-	Mandkola
4.	R-4	3177 17.01.2006	2K-6M	1,09,250/-	3,80,000/-	Mandkola
5.	R-5	3372 03.02.2006	8K	2,40,000/-	2,40,000/-	Bhighawali

3. REASONS GIVEN BY THE REFERENCE COURT

3.1 The RC, after noticing that the landowners have failed to produce any documentary evidence in order to prove their case, while analyzing the sale deeds produced by the HSIIDC, dismissed the various applications filed under Section 18 of the 1894 Act.

4. ARGUMENTS ADDRESSED BY THE RESPECTIVE LEARNED COUNSELS

4.1 This Bench has heard the learned counsel representing the parties and with their able assistance perused the paperbook as well as the record of the RC in lead case *Ramji Lal and others Vs. State of Haryana*, which was requisitioned.

4.2 The learned counsel representing the landowners contends that while deciding *Regular First Appeal No.2322 of 2011, titled as “Usha Rani*

and other Vs. State of Haryana and other”, decided on 28.03.2016, this Court has assessed the market value of the acquired land at a uniform rate of Rs.48,57,000/- per acre. The learned counsel submits that the purpose of acquisition is same, as 299 acres 2 kanals and 5 marlas of land was acquired for construction of the Kundli-Manesar-Palwal Expressway. They contend that in that case, a notification under Section 4 of the 1894 Act was issued on 14.10.2005, in order to acquire the land situated in village Bamnika, Chirawata, Khusrupur, Gelpur, Ratipur, Rajolka, Jodpur and Rehrana and they were awarded a specific amount. Thus, consequently, this Court also should award the same amount, as awarded in the above-said acquisition.

4.3 Per contra, the learned counsel representing the respondents submit that there is no evidence to prove that the geographical location of the acquired land covered by Regular First Appeal No.2322 of 2011, is the same. He submits that in absence of the evidence to prove that the different parcels of land were identically placed with regard to their location, price, fertility and various other factors, the assessment of the Court with respect to a different notification should not be relied upon. He relies upon the judgment passed by the Supreme Court in *Manoj Kumar etc. vs. State of Haryana and others (2018) 13 SCC 96.*

4.4 As already noticed, no documentary evidence/sale exemplar has been produced by the landowners to help the Court in assessing the market value of the acquired land. The oral evidence of the various witnesses produced by the landowners is identical. They have stated that Rojka Meo Industrial Area has been developed by the HSIIDC in the nearby land, therefore, the acquired land has tremendous potential.

5. DISCUSSION BY THIS COURT

5.1 As already noticed, the State has produced as many as five sale exemplars. The market value of the acquired land is required to be assessed as prevalent on 12.01.2006. All the five sale instances are with respect to the various parcels of the land located in village Mandkola. The parties have not produced any layout plan while identifying the comparative location of the acquired land viz-a-viz the parcels of land sold through the various sale exemplars. A narrow strip of land has been acquired for constructing the KMP Highway.

5.2 In the tabulated compilation of relevant particulars in para 1.3, this Court has noticed that the acquired land is comprised in various rectangles. A rectangle is a unit of an agricultural land, measuring 25 acres of land (5 X 5 acres). It is in a rectangular shape. At the time of the consolidation of holdings under the East Punjab (Consolidation of Holdings and the Prevention of Fragmentation) Act, 1948, the entire land in the village is divided into rectangular parcels of land by drawing lines. Each rectangle is assigned a separate numerical value. As per the established practice, rectangle No.1 is located in the North-Eastern part of the village and these numerical values keep ascending when one travels from the North-Eastern side to the South-Eastern side. After reaching at the South-Eastern end, the numbers start increasing in a spiral manner (as in the game of snakes and ladder). In other words, if the last rectangle number on the South-Eastern end is 30, then, while moving towards the Western side in the next row, the numbers will start increasing from South-Eastern corner and accordingly, the first number will be 31, then, the numbers will ascend towards the North-Eastern corner.

5.3 It is evident from a careful perusal of the award passed by the LAC viz-a-viz the sale deed that the land has been acquired from Rectangle No.66 and 88. The sale deed Ex.R-4 and R-5 are also with respect to parcels of land sold from Rectangle No.66 and 88, respectively. Out of Rectangle No.66, the land comprised in Khasra No.1, 2, 3, 4, 5, 6 and 7, is the subject matter of acquisition. The sale exemplar Ex.R-4, proves that the parcel of land measuring 2 kanals and 2 marlas have been purchased from Khasra No.11/2, 12, 17, 20 and 22. In other words, it is evident that the parcel of land represented by Ex.R-4, is close to the acquired land. This sale exemplar is with respect to the period which is five days after the date of notification under Section 4 of the 1894 Act. The per acre price of the land would come to Rs.2,57,143/-.

5.4 Similarly, sale exemplar Ex.R-5, is after a period of 21 days from the date of notification under Section 4 of the 1894 Act. As per the land acquisition award, land comprised in Khasra No.1, 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 25 has been acquired by the authorities. On a careful perusal of sale exemplar Ex.R-5, it is evident that the sale deed is with regard to the land comprised in Rectangle No.88, Khasra Nos.9, 12, 13, 17, 18, 19, 23 and 24/1. Undoubtedly, some part of the land from Rectangle No.103, has also been sold. The land measuring 1 acre, which is an undivided share of the aforesaid land, has been acquired. On 03.02.2006, the land has been sold at the rate of Rs.3,80,000/- per acre, which is 21 days after the date of notification under Section 4 of the 1894 Act. In such circumstances, it is safe to conclude that the prices of the land did not increase even after the issuance of notification under Section 4 of the 1894 Act, proposing to acquire land for construction of

the KMP Expressway.

5.5 As regards the argument of the learned counsel representing the appellant while relying upon the judgment passed in **Usha Rani's case (supra)**, it may be noted that in the absence of evidence to prove the comparative location of the acquired land in the present case viz-a-viz the land covered by the aforesaid judgment, it would not be appropriate to rely upon the same. Reliance in this regard can be placed on **Manoj Kumar's case (supra)**. The Supreme Court has held that while assessing the market value, the Court is required to evaluate various factors which impact such a determination depending upon the peculiar facts governing each case. There cannot be any hard or fast rule for assessment of the market value. Common sense is the best and most reliable guide. While denouncing the practice of the courts to place an outright reliance on the previous judgments, the Supreme Court has declared that the decision cannot be applied ipso facto to the facts of the subsequent cases disregarding the other evidence. The Court has further warned of the ill-effects of such an approach. The relevant discussion is in paras 11 to 14, which are extracted as under:-

“11. In our opinion, the High Court could not have placed an outright reliance on Swaran Singh case [Swaran Singh v. State of Haryana, 2012 SCC OnLine P&H 19044] , without considering the nature of transaction relied upon in the said decision. The decision could not have been applied ipso facto to the facts of the instant case. In such cases, where such judgments/awards are relied on as evidence, though they are relevant, but cannot be said to be binding with respect to the determination of the price, that has to depend on the evidence adduced in the case. However, in the instant case, it appears that the land in Swaran Singh case [Swaran Singh v. State of Haryana, 2012 SCC OnLine P&H 19044] was situated just across the road as observed by the High Court as such it is relevant evidence but not binding. As such it could have been taken into consideration due to

the nearness of the area, but at the same time what was the nature of the transaction relied upon in the said case was also required to be looked into in an objective manner. Such decisions in other cases cannot be adopted without examining the basis for determining compensation whether sale transaction referred to therein can be relied upon or not and what was the distance, size and also bona fide nature of transaction before such judgments/awards are relied on for deciding the subsequent cases. It is not open to accepting determination in a mechanical manner without considering the merit. Such determination cannot be said to be binding.

12. We have come across several decisions where the High Court is adopting the previous decisions as binding. The determination of compensation in each case depends upon the nature of land and what is the evidence adduced in each case, may be that better evidence has been adduced in later case regarding the actual value of property and subsequent sale deeds after the award and before preliminary notification under Section 4 are also to be considered, if filed. It is not proper to ignore the evidence adduced in the case at hand. The compensation cannot be determined by blindly following the previous award/judgment. It has to be considered only a piece of evidence, not beyond that. The court has to apply the judicial mind and is supposed not to follow the previous awards without due consideration of the facts and circumstances and evidence adduced in the case in question. The current value reflected by comparable sale deeds is more reliable and binding for determination of compensation in such cases award/judgment relating to an acquisition made before 5 to 10 years cannot form the safe basis for determining compensation.

13. The awards and judgment in the cases of others not being inter parties are not binding as precedents. Recently, we have seen the trend of the courts to follow them blindly probably under the misconception of the concept of equality and fair treatment. The courts are being swayed away and this approach in the absence of and similar nature and situation of land is causing more injustice and tantamount to giving equal treatment in the case of unequals. As per situation of a village, nature of land, its value differ from distance to distance, even two to three kilometre distance may also make the material difference in value. Land abutting highway may fetch higher value but not land situated in interior villages.

14. The previous awards/judgments are the only piece of evidence on a par with comparative sale transactions. The similarity of the land covered by previous judgment/award is required to be proved like any other comparative exemplar.

In case previous award/judgment is based on exemplar, which is not similar or acceptable, previous award/judgment of court cannot be said to be binding. Such determination has to be outrightly rejected. In case some mistake has been done in awarding compensation, it cannot be followed; on the ground of parity an illegality cannot be perpetuated. Such award/judgment would be wholly irrelevant.”

6. **DECISION**

6.1 Keeping in view the aforesaid discussion, the landowners have failed to make out a case for interference.

Dismissed.

April 07th, 2022

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

SR. NO.	CASE NO.	APPELLANT(S)	RESPONDENT(S)
1.	RFA-787-2017	KIRAN PAL	STATE OF HARYANA AND ORS.
2.	RFA-1990-2017	BACHCHU	STATE OF HARYANA AND ORS.
3.	RFA-2022-2017	NATHI AND ANR.	STATE OF HARYANA AND ORS.
4.	RFA-1577-2017	RAM HETI @ RAM WATI	STATE OF HARYANA AND ORS.
5.	RFA-2642-2016	PARMINDER AND AND ORS.	STATE OF HARYANA AND ORS.
6.	RFA-1989-2017	PEHLAD SINGH AND ORS.	STATE OF HARYANA AND ORS.
7.	RFA-1576-2017	DEVI SINGH	STATE OF HARYANA AND ORS.
8.	RFA-1084-2017	KISHAN LAL THROUGH ITS LRS	STATE OF HARYANA AND ORS.
9.	RFA-1788-2017	NARAIN SINGH AND ORS.	STATE OF HARYANA AND ORS.
10.	RFA-1923-2017	DHEERAJ SINGH	STATE OF HARYANA AND ORS.

**RFA-787-2017 and
other connected cases**

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11.	RFA-3928-2017	JAGDISH CHAND	STATE OF HARYANA AND ORS.
12.	RFA-3969-2017	AMAR SINGH	STATE OF HARYANA AND ORS.
13.	RFA-3764-2017	SRI CHAND THROUGH ITS LRS	STATE OF HARYANA AND ORS.
14.	RFA-3766-2016	DHARAMBIR AND ORS.	STATE OF HARYANA AND ORS.
15.	RFA-3767-2016	SRI CHAND THROUGH HIS LRS	STATE OF HARYANA AND ORS.
16.	RFA_3768-2016	SHAMSHER AND ORS.	STATE OF HARYANA AND ORS.
17.	RFA-1921-2017	BEER SINGH AND ORS.	STATE OF HARYANA AND ORS.
18.	RFA-3770-2016	AMAR CHAND AND ORS.	STATE OF HARYANA AND ORS.
19.	RFA-2035-2017	DHANI RAM THROUGH HIS LRS AND ANR.	STATE OF HARYANA AND ORS.
20.	RFA-3354-2017	JAWAHAR SINGH	STATE OF HARYANA AND ORS.
21.	RFA-1198-2017	SHRI KRISHAN GUPTA AND ORS.	STATE OF HARYANA AND ORS.
22.	RFA-3938-2016	PARTAP SINGH AND ORS.	STATE OF HARYANA AND ORS.
23.	RFA-3937-2016	CHUTTAN AND ORS.	STATE OF HARYANA AND ORS.
24.	RFA-3765-2016	LEKH RAM	STATE OF HARYANA AND ORS.
25.	RFA-3771-2016	JHAMMAN AND ORS.	STATE OF HARYANA AND ORS.
26.	RFA-1548-2017	RAMJI LAL AND ANR.	STATE OF HARYANA AND ORS.
27.	RFA-2641-2016	SUBHASH CHAND AND ORS.	STATE OF HARYANA AND ORS.
28.	RFA-1373-2017	AMAR SINGH	STATE OF HARYANA AND ORS.
29.	RFA-1922-2017	BEER SINGH AND ORS.	STATE OF HARYANA AND ORS.
30.	RFA-721-2017	ZILE SINGH AND ORS.	STATE OF HARYANA AND ORS.

31.	RFA-1995-2017	DHEERAJ SINGH	STATE OF HARYANA AND ORS.
32.	RFA-1019-2017	SHIV SINGH AND ANR.	STATE OF HARYANA AND ORS.
33.	RFA-3763-1016	RAMJI LAL	STATE OF HARYANA AND ORS.
34.	RFA-3762-2016	KAMAL SINGH AND ORS.	STATE OF HARYANA AND ORS.
35.	RFA-1595-2017	SMT. RAM WATI @ RAM HETI	STATE OF HARYANA AND ORS.
36.	RFA-1374-2017	AMAR SINGH AND ANR.	STATE OF HARYANA AND ORS.
37.	RFA-722-2017	AMI LAL AND ORS.	STATE OF HARYANA AND ORS.
38.	RFA-1195-2017	KIRAN PAL AND ANR.	STATE OF HARYANA AND ORS.
39.	RFA-2253-2017	SHIV LAL AND ORS.	STATE OF HARYANA AND ORS.

**(ANIL KSHETARPAL)
JUDGE**