

RFA-5232-2014 (O&M)
and other connected cases

1

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

RFA-5232-2014 (O&M)
Date of decision:09.11.2022

Shiv Charan Singh and others

....Appellants

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.S.Longia, Advocate
Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate
Mr. Madan Pal, Advocate
Mr. Sanjeev Patiyal, Advocate
Mr. Sushil Bhardwaj, Advocate
for the landowners

Sh.Shivendra Swaroop, AAG, Haryana

ANIL KSHETARPAL, J (Oral)

1. Background and Introduction:-

1.1 While praying for modification of the amount assessed for the compulsory acquisition of the land, the landowners have come up in the present appeal. The notifications under Section 4 and 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the '1894 Act'), the

awards passed by the Land Acquisition Collector (hereinafter referred to as the ‘LAC’) as well as the Reference Court (hereinafter referred to as the ‘RC’) are common. This batch of appeals (details whereof are at the foot of the judgment) arises from the common judgment passed by the RC. These appeals pertain to the acquired land in villages Takhana, Shamgarh, Padhana and Dodwa. 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 said acquisition in brief, are as under:-

SrNo	Date	Particulars
1.	30.01.2007	Preliminary notification under Section 4 of the 1894 Act was issued to acquire the land for development and utilization as residential, commercial area for Sector 1, Taraori (District Karnal)
2.	02.01.2008	Declaration under Section 6 of the 1894 Act was published
3.	31.12.2009	LAC vide award no.8 acquired the land at the rate of Rs.24,00,000/- per acre for A class land and Rs.20,00,000/- for the remaining land alongwith all the statutory benefits
4.	13.11.2013	RC has assessed the market value of A class land at the rate of Rs.39,81,706.67 per acre whereas the land with respect to the remaining land the market value has been assessed at Rs.33,18,088.89 per acre

2. Facts:-

2.1 Dissatisfied with the amount offered by the LAC, on the applications filed by the landowners, the cases were referred to the RC for reassessment. The landowners prayed for re-assessment on the ground that the market value of the acquired land was Rs.1 crore per acre while claiming that the acquired land is surrounded by various

commercial and industrial establishments, the landowners claim that the acquired land has great potential to be used for commercial purpose. It is alleged that there is no other land available in the area of Karnal for setting up the industrial or commercial units as the acquired land is located on the National Highway. The State of Haryana as well as the Haryana Urban Development Authority (hereinafter referred to as ‘HUDA’) while contesting the cases claimed that the amount offered by the LAC is just, fair and appropriate.

2.2 It has been pointed out that acquired land is part of the control area in terms of the provisions of the Punjab Act No. 41 of 1963, which was an agricultural land on the date when the notification under Section 4 of the 1894 Act was issued. Separate written statement was filed by respondent No. 3 reiterating the assertions made in the joint written statement, filed by respondent No.1 and 2.

3. **Evidence produced by the respective parties:-**

3.1 In the oral evidence, the landowners examined the following witnesses:-

PW1	Shiv Kumar
PW2	Shiv Charan Singh
PW3	Nand Kishore
PW4	Satpal
PW5	Karambir Registration Clerk
PW6	Architect/Draftsman

3.2 In documentary evidence, the landowners relied upon the following documents in support of their case, apart from the sale deeds, a compiled table whereof is incorporated in Para 5.6 of the judgment:-

Ex.P2	Site plan
Ex.P3	Copy of mutation no.495
Ex.P4	Copy of jamabandi for the year 2003-04
Ex.P5	Copy of roznamcha
Ex.P6 to Ex.P11	Copies of sale deeds
Ex.P12	Copy of site plan

3.3 In the oral evidence HUDA examined RW1 Balbir Singh, Junior Engineer.

3.4 In documentary evidence, HUDA produced the following documents, apart from the sale deeds, a tabulated compilation, whereof is incorporated in para 5.6 of the judgment:-

Ex.R1	Notification dated. 7.12.2007
Ex.R2	Guidelines dated 25.8.2008

4. Analysis of the reasons recorded by the RC.

4.1 The RC, on appreciation of pleadings, culled out the following issues for adjudication:-

“1) *What was the market value of the acquired land and building/ super structure at the time of notification under Section 4 of the Land Acquisition Act? OPP.*

2) *Relief.*”

4.2 In para 18, the RC has noticed that the sale deeds Ex. P9 to P11 are with respect to the parcels of land located at a distance of about 5 kms from the acquired land whereas the parcels of land represented by the sale deeds Ex. P6 and P8 are closer to the acquired land but these are with respect to the period which are post the date of notification under Section 4 of the 1894 Act. Thereafter, the court relied upon sale deed No.1641 dated 09.03.2007 (Ex. P7), with respect to 15 kanals and 8 marlas of land located in village Dodwa. The court, after noticing that the parcel of land sold through the sale deed Ex. P7 is with respect to the developed area located within the municipal limits of Tarori and some construction in form of a Godown and a boundary wall existed on the date of the execution of the sale deed, applied deduction of 1/3rd to arrive at a market value of the land classified as 'A class acquired land' at the rate of Rs.39,81,706.67 per acre whereas the remaining acquired land was assessed at Rs.33,18,088.89 per acre.

4.3 It may be noted here that the LAC while announcing the award classified the acquired land into two classes. In class A, the following land was included:-

“I have considered the Collector’s rate supplied by the Distt. Collector, Karnal vide his Memo No.1645-DRA dated 19-05-2008 for A-Class land of Village Takhana bearing Khasra Nos. 72/4, 72/5, 72/6, 72/15, 73/9, 73/10, 73/11, 73/12, 73/19, 73/20, 73/21, 73/22, 73/23, 74/1, 74/2, 74/3, 75/5 for A-Class land of village Padhana bearing Khasra No.126/1, 126/10, 126/11, 126/12 and 126/13, for A-Class land of Village Shamgarh 5/1, 5/2, 5/3, 5/8, 5/9, 5/10, 5/12, 5/13, 5/14, 5/17, 5/18, 5/19 @ Rs.24 lacs per acre.”

The remaining acquired land was classified as B Class.

5..Discussion and analysis of the arguments of the learned counsels representing the parties :-

5.1 Heard the learned counsel representing the parties at length and with their able assistance perused the judgments passed by the RC as well as the record, which was requisitioned.

5.2 Learned counsel representing the appellants submit that deduction of 1/3 made by the RC was excessive. They also contend that the sale deeds of the parcels of land 5 km away from the acquired land should have been relied upon by the RC. It is further contended that there is no reasonable justification for the LAC or the RC to adopt the belt system in order to classify the land in different categories.

5.3 As regards the first argument, it may be noted here that the sale instance Ex. P7, (bearing no.1641 dated 09.03.2007) being with respect to the period post the date of notification under Section 4 of the 1894 Act as well of constructed building is not relevant for the purpose of assessing the market value of the acquired land. Hence, the question of appropriate percentage of deduction is rendered academic.

5.4 As regards the second argument, it may be noticed that the court while reassessing the market value is required to take into consideration the fact that whether the landowners have produced the comparable sale instances of the contemporaneous period. In the present case the landowners have failed to produce such sale deeds. Village Uchana is at a distance of 5 km, from the acquired land, which is closer to the District headquarter Karnal. Hence, the sale deeds of village

Uchana cannot be relied upon to assess the market value of the acquired land located in villages Takhana, Shamgarh, Padhana and Dodwa.

5.5 The last argument of the learned counsel is with respect to belt system applied to classify the land. This Court has carefully examined the layout plan of the acquired land along with the development which have taken place in the vicinity of the acquired land. The landowners have not produced any evidence to prove that the division of the land in two different belts was wrong or harmful in any way. Before proceeding further, it is observed that the landowners are required to prove that all the acquired land was having the same market value. Some part of the acquired land is located on National Highway No.1 (renumbered as NH-44) whereas the most of the acquired land is located in the interior from the NH-1. The acquired land located on the NH-1 Road is likely to fetch far more better price than the acquired land abutting the railway line. Even the land which is located at a distance from the GT road is likely to fetch a lesser price as compared to the parcel of land located at the GT Road. As already noticed, the landowners have not produced any evidence to prove that the entire acquired land was of the same potential or market value.

5.6. At this stage, it is important to extract the details of the sale deeds produced by the parties. The RC has compiled the relevant information of the various sale deeds produced by the landowners in evidence. The correctness thereof is not disputed before this Court. Hence, the table is extracted as under:-

Sr.	Date	Sale	Ex.	Village	Area	Amount	Rate	Dista
-----	------	------	-----	---------	------	--------	------	-------

N o		deed no.					per sq. yard	nce from acquir ed land
1.	16.2.2010	1682	P1/P6	Takhana	8Acre- marlas	12	6,82,00,000/-	1745/- 0 Mt.
2.	9.3.2007	1641	P7	Dodwa	15 Kanal Marlas alongwith godowns	8	1,15,00,000/-	1234/- 0 Mt.
3.	8.5.2008	127	P8	Dodwa	12 Acre Kanal Marlas	5 10	5,20,18,750	847.10 0 Mt.
4.	17.5.2006	2209	P9	Uchana	2 Acre Kanal Marla	3 9	2,06,65,625	1756.20 5 kms
5.	17.5.2006	2208	P10	Uchana	1 Acre Kanal Marla	3 0	1,16,87,500	1756.20 5 kms
6.	25.4.2006	820	P11	Uchana	2 Acre Kanal Marla	0 4	1,72,12,500	1756.20 5 kms

5.7 It is evident that the sale deeds Ex.P9 (bearing no.2209), P10 (bearing no.2208) and P11 (bearing no.820) are related to the parcels of Land located in village Uchana. Admittedly village Uchana is at a distance of 5 kms from the acquired land. Hence, the RC has correctly refused to rely upon the sale deeds Ex. P9, P10 and P11. The RC has erred in overlooking the fact that the sale deed Ex.P7, dated 09.03.2007 bearing no.1641 is not only with respect to the period post the date of notification (30th January, 2007) under Section 4 of the 1894 Act but also with respect to constructed plot. In other words, it was executed nearly 40 days after the date of notification under Section 4 of the 1894 Act. The RC has committed an error in overlooking this particular fact.

5.8 The sale deeds Ex.P1/P6 and P8 are also with respect to the period post the date of notification i.e 13.01.2007.

5.9 Hence, the landowners have failed to produce any sale deed of comparable parcel of land during the contemporaneous period on record to enable the court to reassess the market value of the involuntarily acquired land.

5.10 Thus, it is obvious that the landowners have failed to produce the comparable sale deeds of contemporaneous period to enable the court to reassess the market value.

6. **Decision:-**

6.1 The State of Haryana has not challenged the award passed by the RC. Consequently finding no merit, the appeals filed by the landowners shall stand dismissed.

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

09.11.2022
rekha
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE

SR. NO.	CASE NO.	PARTIES DETAILS
1.	RFA-5232-2014	SHIV CHARAN SINGH & ORS V/S THE STATE OF HARYANA & ORS
2.	RFA-3309-2014	RANJIT SINGH V/S THE STATE OF HARYANA AND ORS.
3.	RFA-3310-2014	RANJEET SINGH AND ORS V/S THE STATE OF HARYANA & ORS
4.	RFA-3311-2014	S. DARSHAN SINGH V/S THE STATE OF HARYANA AND ORS.

5.	RFA-3312-2014	SAMPURAN SINGH V/S THE STATE OF HARYANA AND ORS.
6.	RFA-3313-2014	AMARJIT SINGH V/S THE STATE OF HARYANA AND ORS.
7.	RFA-3314-2014	RAMESH KUMAR V/S THE STATE OF HARYANA AND ORS
8.	RFA-3315-2014	S. TARA SINGH @ KARTAR SINGH AND ORS V/S THE STATE OF HARYANA AND ORS.
9.	RFA-3316-2014	SH. ROSHAN LAL AND ORS V/S THE STATE OF HARYANA & ORS.
10.	RFA-3317-2014	JASPAL SINGH AND ANR V/S THE STATE OF HARYANA AND ORS
11.	RFA-3318-2014	VINOD KUMAR V/S THE STATE OF HARYANA AND ORS
12.	RFA-3678-2014	SHIV KUMAR V/S STATE OF HARYANA & ORS
13.	RFA-3725-2014	RAKESH AND ANR V/S STATE OF HARYANA & ORS
14.	RFA-3726-2014	SWARAN SINGH V/S STATE OF HARYANA & ORS
15.	RFA-3727-2014	OM PARKASH V/S STATE OF HARYANA AND ORS
16.	RFA-8474-2014	KRISHNA V/S THE STATE OF HARYANA & ORS
17.	RFA-8475-2014	JOGI RAM V/S THE STATE OF HARYANA AND ORS
18.	RFA-8885-2014	LACHHMAN SINGH V/S THE STATE OF HARYANA AND ORS
19.	RFA-8886-2014	SMT. SARLA DEVI AND ORS V/S THE STATE OF HARYANA & ORS
20.	RFA-8937-2014	SMT. DHANNO V/S THE STATE OF HARYANA AND ORS
21.	RFA-8938-2014	RAKESH KUMAR V/S THE STATE OF HARYANA AND ORS
22.	RFA-1108-2014	BALBIR SINGH AND ORS V/S THE STATE OF HARYANA & ORS
23.	RFA-3839-2014	SMT. MAHINDER KAUR V/S STATE OF HARYANA & ORS
24.	RFA-3840-2014	S. JAI SINGH V/S STATE OF HARYANA AND ORS
25.	RFA-3841-2014	RAM BHAJ AND ORS V/S STATE OF HARYANA AND ORS
26.	RFA-9155-2014	KARANDEEP SINGH & ORS V/S THE STATE OF HARYANA & ORS
27.	RFA-9156-2014	NAND KISHORE V/S THE STATE OF HARYANA & ORS

09.11.2022
rekha

(ANIL KSHETARPAL)
JUDGE