

In the High Court of Punjab and Haryana, at Chandigarh

Regular First Appeal No. 652 of 2017 (O&M)

Date of Decision: 08.04.2022

Raj Kumar (Since Deceased) Through his Legal Representatives

... Appellant(s)

Versus

The State of Haryana and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. J.S.Cooner, Advocate
Mr. Pankaj Bali, Advocate
Mr. Kuldeep Sharma, Advocate
for Mr. R.N.Lohan, Advocate.
Mr. Satish Kumar, Advocate
for Mr. Sanjay Jain, Advocate.
Mr. Gopal Sharma, Advocate
Mr. Bhag Singh, Advocate
for the landowners.

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

Anil Kshetarpal, J.

1. INTRODUCTION

1.1 While assailing the correctness of the award passed by the Reference Court (hereinafter referred to as “the RC”) on 29.07.2016, the appellants have filed various appeals under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as “the 1894 Act”). 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. In the first round, the RC, vide judgment dated 22.02.2011,

assessed the market value @ ₹512/- per square yard (₹24,78,080/- per acre).

However, the High Court, on 15.10.2015, set aside the judgment dated 22.02.2011 passed by the RC. The matter was remitted back to the RC. Now, in the second round, the RC has dismissed the reference applications.

1.2 The learned counsel representing the parties are *ad idem* that this batch of the appeals (details whereof are at the foot of the judgment) can be conveniently disposed of by a common judgment.

2. **FACTS**

2.1 The relevant information concerning this bunch of appeals is compiled in a tabulated form, as under:-

Sr. No.	Title	Details
1.	Date of Notification under Section 4 of the 1894 Act.	06.11.2003
2.	Date of Notification under Section 6 of the 1894 Act.	15.07.2004
3.	Purpose of Acquisition.	Development and utilization of land as public utilities area for Sector 10 (Pocket), Ambala City.
4.	Location, area and nature of the acquired land	Land measuring 6.78 acres, located in the revenue estate of Village Sonda, Hadbast No. 114, Tehsil and District Ambala.
5.	Number and Date of the Award of the Land Acquisition Collector.	Award No.1 dated 26.04.2006
6.	Amount assessed by the Land Acquisition Collector.	The LAC assessed market value of the acquired land @ ₹8,00,000/- per acre along with all the statutory benefits.
7.	Date of the judgment of the Reference Court.	02.02.2011
8.	Amount determined by the Reference Court	The RC assessed the market value of the acquired land @ ₹512/- per square yard (₹24,78,080/- per acre)
9.	Date and decision of the High Court	On 15.10.2015, the High Court set aside the award passed by the RC and remitted back the matter to the

Sr. No.	Title	Details
		RC.
10.	Date of re-decision of the RC and the amount re-assessed, after remand	On 29.07.2016, the RC has dismissed the various reference petitions.

2.2 The State Government has acquired the said land in order to develop and utilize the land as public utility area for Sector 10 (Pocket), Ambala City. The landowners claim that the acquired land has immense potential to be used for residential and commercial purposes as Parshuram Nagar, New Durga Colony, Sharda Nagar, Rajpath Nagar, Railway Station etc. are very near to the acquired land. On the other hand, the State of Haryana has claimed that the LAC has correctly assessed the market value.

2.3 The RC, on appreciation of the pleadings, has culled out the following issues:

- “I) What was the market value of the acquired land at the time of issuance of notification under section 4 of Land Acquisition Act, 1894? OPP.
- II) Relief”.

3. **ORAL AND DOCUMENTARY EVIDENCE**

3.1 In the first round, the landowners have examined the following witnesses:-

Sr. No.	Name of the Witness	Particulars of the witness
1.	PW1 Atul Kumar Sharma	Architect, District Courts, Ambala City.
2.	PW.2 Inder Pal Singh son Manohar Singh	
3.	PW.3 Gurbax Singh son of Jeet Ram	
4.	PW.4 Karnail Singh	Halqa Patwari, Village Sonda,

Sr. No.	Name of the Witness	Particulars of the witness
		Tehsil and District Ambala

3.2 No evidence was produced by the State of Haryana.

3.3 Post the order of remand, in the second round, the landowners have examined PW.1 Inder Pal Singh, PW.2 Ranbir Singh, PW.3 Devinder Kaushal, PW.4 Charanjit Singh and relied upon the following documents:-

Sr. No.	Exhibit No.	Description of the document
1.	Ex.P1	Site plan
2.	Ex.P2 and Ex.P3	Certified copies of judgements
3.	Ex.P4	Aks Shijra
4.	Ex.PW4/1	Aks Shijra of village Sonda
5.	Ex.PW4/2	Certified copy of Jamabandi for the years 2004-2005 of village Sonda
6.	Ex.PW4/3	Photocopy of notification dated 7.7.2000
7.	Ex.PW4/4	Photocopy of award No.6 of 9.1.2002 passed by the then Land Acquisition Collector, Panchkula.
8.	Ex.PW4/5	Photocopy of notification dated 6.11.2003
9.	Ex.PW4/6	Photocopy of Award No.1 of 26.4.2006 passed by Land Acquisition Collector,Panchkula
10.	Ex.PX	Photocopy of Judgement passed in case titled as State of Haryana Vs. Gurdeep Singh and another RFA No.5605 of 2009 decided on 5.8.2015.

3.4 On the other hand, the State has examined Rajinder Singh, Patwari, as RW.1 and produced certain sale deeds as compiled in para 3.5 of this judgment.

3.5 For the sake of brevity, a consolidated compilation of the sale deeds/sale exemplars of village Bohar along with the relevant information, produced by the respective parties, is tabulated as under:-

Sr. No.	Exhibit Nos.	Sale Deed No. and Date	Total Area	Price Per Acre/ Total Price (in ₹)
1.	R-1	11314 dt. 24.03.2005	94.44 Sq. Yards	28,500/ 14,60,609
2.	R-2	12025 dt. 01.02.2006	2K-19M	1,00,000/2,71,186
3.	R-3	Only, front page of the sale deed is available in the record.	113 Sq. Yards	30,000/12,84,955

3.6 The RC, after finding that the landowners have not produced any sale deed to prove that the assessment made by the LAC was erroneous dismissed the various applications.

3.7 In order to understand the information compiled in above-noted table, it is appropriate to explain the meaning of the various words/phrases wherein, is as under:-

1.	1 Rectangle	=	5 X 5 = 25 Acre
2.	1 Acre	=	160 Marlas
3.	8 Kanal	=	1 Acre
4.	1 Kanal	=	20 Marlas
5.	1 Acre	=	4840 Sq. Yards
6.	1 Marla	=	272.251 Sq. Feet = 30.25 Sq. Yards
7.	1 Inch	=	2.54 cm
8.	1 Foot	=	12 Inch.
9.	1 Sq. Feet	=	12 X 12 =144 Inch.
10.	1 Yard	=	3 Feet
11.	1 Sq. Yard	=	9 Sq. Feet
12.	100 Sq. Yards	=	900 Sq. Feet
13.	1 Kanal	=	0.125 Acre
14.	1 Marla	=	0.00625001 Acre
15.	“//” denotes Rectangle Number.		
16.	“/” denotes Khasra/Killa Number.		
17.	“A” denotes Acre		
18.	“K” denotes Kanal		

19.	“M” denotes Marla
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4. **ARGUMENTS ADDRESSED BY THE RESPECTIVE COUNSELS**

4.1 Heard the learned counsel representing the parties and with their able assistance, perused both the judgments passed by the RCs along with their respective records, which were requisitioned.

4.2 The learned counsel representing the landowners contend that in village Sonda itself, the land was acquired vide notification under Section 4 of the 1894 Act on 06.07.2000 for the construction of canal based water works. They contend that the High Court that in *State of Haryana v. Gurdeep Singh and Another (Regular First Appeal No. 5605 of 2009 , decided on 5.8.2015)*, has assessed the market value of the acquired land @ ₹819/- per square yard. They submit that in view of the aforesaid, the landowners should be granted escalation @ 12% per annum for a period of 3½ years on the amount of ₹819/- per square yard.

4.3 On the other hand, the learned State counsel has submitted that as per the sale deed No. 12025 dated 01.02.2006 (Ex.R2) 2 kanals and 19 marlas of land has been sold @ ₹2,71,000/- per acre. Hence, he contends that there is no evidence to prove that the price in the area had increased. He further contends that the landowners have failed to produce any sale exemplar to prove their case. It has further been contended that the landowners have failed to prove that the geographical location of the acquired land, which was the subject matter of adjudication in *Gurdeep Singh's case (supra)* and of the acquired land in the present case, is identical.

5. DISCUSSION BY THIS COURT

5.1 Keeping in view the aforesaid arguments, this Court, now, proceeds to analyse the submissions.

5.2 It would be noted here that the assessment made in ***Gurdeep Singh's case (supra)*** is, no doubt, with respect to the acquired land in village Sonda. However, there is no evidence to prove that the geographical location, of both the parcels of land, is identical. There is also no evidence to prove that the price of the acquired land, in the aforesaid two acquisitions, was the same at the relevant time. In the absence of evidence to prove that the market value of the acquired land, in a previous judgment, was identical to the market value of the acquired land in the present case, it is not considered safe to rely upon the assessment made in the said judgment. The Court assesses the market value only on the basis of the evidence produced before it. Such an assessment does not tantamount to a declaration that the market value of the acquired land has been determined for all cases arising from acquisition in the said village. As per the assessment made in ***Gurdeep Singh's case (supra)***, the market value should be ₹42,54,360/- per acre as existing on 06.07.2000, whereas, there is a sale deed (Ex.R2) dated 01.02.2006 with respect to the area measuring 2 kanals and 19 marlas, which is of a reasonably big parcel of land as compared to the acquired land. The land has been sold @ ₹ 2,71,000/- per acre. The Hon'ble Supreme Court in ***Manoj Kumar etc. Vs. State of Haryana and Others (2018) 13 SCC 96***, while deliberating on the evidenciary value of a previous assessment made by the RC, after discussing all the relevant case laws on the subject, has observed as under:-

“14. In our opinion, the High Court could not have placed an outright reliance on the decision of Swaran Singh's case, 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's case 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 bonafide 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. 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. 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”.

5.3 Furthermore, while deciding the case ***State of Haryana and Another v. Baljinder Kaur (Regular First Appeal No. 484 of 2021, decided on 19.01.2021)*** with respect to the acquired land which included the land in village Sonda, this Bench has upheld the award passed by the LAC. In that case, two notifications under Section 4 of the 1894 Act were issued on 28.02.2006 and 20.07.2006.

6. DECISION

Keeping in view the aforesaid facts, no ground to modify the

award passed by the RC is made out. Hence, all the appeals are dismissed.

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

(Anil Kshetarpal)
Judge

April 08, 2022
“DK”

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

Sr. No.	Case No.	Party Name
1.	RFA-1418-2017	Sudarshan Rani Through Her LRs V/S State Of Haryana
2.	RFA-813-2017	Gurbax Singh V/S State Of Haryana
3.	RFA-811-2017	Ram Phal V/S State Of Haryana
4.	RFA-147-2017	Ranbir Singh V/S State Of Haryana
5.	RFA-148-2017	Gurdeep Singh And Anr V/S State Of Haryana
6.	RFA-1292-2017	Ramesh Kumari V/S State Of Haryana
7.	RFA-3322-2017	Atma Ram And Ors V/S State Of Haryana
8.	RFA-3323-2017	Harinder Kumar And Anr V/S State Of Haryana
9.	RFA-991-2017	Bikram Singh And Ors V/S State Of Haryana And Anr
10.	RFA-140-2017	Mehal Singh And Anr V/S State Of Haryana
11.	RFA-475-2017	Devinder Singh And Others V/S State Of Haryana
12.	RFA-143-2017	Raghbir Singh V/S State Of Haryana
13.	RFA-144-2017	Smt. Sharda Bahukhandi V/S State Of Haryana
14.	RFA-3326-2017	Satpal V/S State Of Haryana
15.	RFA-1004-2017	Devinder Kaushal V/S State Of Haryana
16.	RFA-992-2017	Jagtar Kaur And Ors V/S State Of Haryana
17.	RFA-810-2017	Inder Singh V/S State Of Haryana
18.	RFA-3324-2017	Sheela Devi V/S State Of Haryana
19.	RFA-139-2017	Bishan Dass V/S State Of Haryana
20.	RFA-141-2017	Manmohan Singh And Anr V/S State Of Haryana
21.	RFA-1293-2017	Sat Pal And Anr V/S State Of Haryana
22.	RFA-741-2017	Vijay Kumar V/S State Of Haryana
23.	RFA-812-2017	Dharam Chand V/S State Of Haryana
24.	RFA-142-2017	Mohinder Singh And Anr V/S State Of Haryana
25.	RFA-1531-2017	Darshana Since Deceased Thr LRs V/S State Of Haryana And Anr
26.	RFA-3327-2017	Jagan Nath V/S State Of Haryana
27.	RFA-150-2017	Inder Pal Singh And Anr V/S State Of Haryana
28.	RFA-138-2017	Raksha Rani V/S State Of Haryana

29.	RFA-145-2017	Naib Singh V/S State Of Haryana
30.	RFA-146-2017	Rajinder Pal @ Rajinder Parshad V/S State Of Haryana
31.	RFA-149-2017	Narinder Kaur V/S State Of Haryana
32.	RFA-993-2017	Avtar Singh V/S State Of Haryana
33.	RFA-3325-2017	Dhani Ram V/S State Of Haryana
34.	RFA-3328-2017	Smt. Urvashi Devi V/S State Of Haryana
35.	RFA-471-2017	Takdir Singh V/S State Of Haryana And Anr
36.	RFA-1123-2018	Darshna Devi V/S State Of Haryana
37.	RFA-5369-2017	Sanjay Gulati V/S State Of Haryana
38.	RFA-5370-2017	Kewal Kumar V/S State Of Haryana
39.	RFA-1119-2018	Darshna Devi V/S State Of Haryana
40.	RFA-1122-2018	Darshna Devi V/S State Of Haryana
41.	RFA-1120-2018	Smt. Kiranv/S State Of Haryana
42.	RFA-3843-2017	Kamlesh Kaur V/S State Of Haryana
43.	RFA-3870-2017	Dharam Singh V/S State Of Haryana
44.	RFA-3871-2017	Gulab Singh V/S State Of Haryana
45.	RFA-1121-2018	Darshna Devi And Ors. V/S State Of Haryana

April 08, 2022
“DK”

(Anil Kshetarpal)
Judge