

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-13730-2018(O&M)
Reserved on: 23.11.2022
Date of decision: 07.12.2022

SAHDEV AND ORS.

..Appellants

Versus

STATE OF HARYANA AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.P. Sharma, Advocate
for the landowners.

Mr. Shivendra Swaroop, AAG, Haryana.

ANIL KSHETARPAL, J.

1. Introduction and background:

1.1 While praying for modification of the market value assessed in the award passed by the Reference Court (hereinafter referred to as 'the RC') on account of compulsory acquisition of land, the landowners have filed this batch of appeals (details whereof are at the foot of the judgment). The notification under Section 4, 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 RC, are common. 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 this batch of appeals, in brief, are as under:

Sr. No.	Title	Particulars
1.	Preliminary notification under Section 4 of the 1894 Act	08.02.2011
2.	Area of acquired land	28 kanals
3.	Location of acquired land	Village Nolayaja
4.	Purpose of acquisition	Widening and four-laning of Major District Road-129 from village Rai Malikpur to Narnaul
5.	Declaration under Section 6 of the 1894 Act was issued.	13.05.2011
6.	Number and date of LAC award	Award No.10 dated 10.02.2012
7.	Amount assessed by the LAC	The LAC offered to pay the market value of the acquired land measuring 28 kanals at the rate of Rs.20,00,000/- per acre.
8.	Date of RC's award	08.05.2017
9.	Amount assessed by the RC	The RC, while relying upon its decision Ex.P-6, i.e. a determination with respect to acquired land in village Nangal Chaudhary, has proceeded to assess the market value of the acquired land at the rate of Rs.30,00,000/- per acre.

FACTS:

1.3 Dissatisfied with the amount offered by the LAC, on the applications filed by the landowners under Section 18 of the 1894 Act, the cases were referred to the RC for assessing the market value of the acquired land. The landowners claimed that the acquired land is located on Hisar-Jaipur Road and the LAC has not taken into consideration the commercial value of the acquired land along with the value for its structures. It is claimed that the acquired land has great potential to be used for commercial purposes and the market value of the acquired land was not less than Rs.50,000/- per sq. yard, at the relevant time. The LAC has also inquired

into the development potential, existing situation and use and nature of the property while ignoring the relevant and necessary facts. While claiming that the acquired land is located near the residential area, grain market, college and bus stand of village Nangal Chaudhary, the landowners claimed that this is an industrial area where warehouses and godowns have been constructed.

1.4 On the other hand, while contesting the petitions, the State of Haryana claimed that the LAC after taking into consideration all the prevailing facts and circumstances of the area, has offered a fair, proper and adequate market value.

1.5 The RC, on appreciation of the pleadings, culled out the following issues:-

- “What was the market value of the acquired land at the time of issuing notification under Section 4 of the Land Acquisition Act? OPP*
- 2. Whether the petitioners are entitled for enhanced compensation, if so, at what rate? OPP*
- 3. Whether the petitioners are entitled to get compensation on account of superstructures, trees etc.? OPp*
- 4. Relief.”*

2. **Evidence produced by the parties:**

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

<i>PW-1</i>	<i>Sh. Kanwar Singh</i>
<i>PW-2</i>	<i>Sh. Lila Ram</i>
<i>PW-3</i>	<i>Sh. Amit Kumar</i>
<i>PW-4</i>	<i>Sh. Raghbir</i>
<i>PW-5</i>	<i>Smt. Bimla Devi</i>
<i>PW-6</i>	<i>Sh. Subhash Chand</i>
<i>PW-7</i>	<i>Sh. Rameshwar</i>
<i>PW-8</i>	<i>Smt. Gindori</i>
<i>PW-9</i>	<i>Sh. Sita Ram</i>

<i>PW-10</i>	<i>Sh. Yogender Singh, Clerk</i>
<i>PW-11</i>	<i>Sh. Mahesh Kumar</i>

2.2 In documentary evidence, the landowners produced the following evidence in support of their case apart from the sale deeds, a tabulated compilation of which is given in para 3.7:-

<i>Ex.P-1</i>	<i>Copy of award</i>
<i>Ex.P-2 to Ex.P-12</i>	<i>Statement of award</i>
<i>Ex.P-13 to Ex.P-19</i>	<i>Certified copies of sale deeds</i>
<i>Ex.P-20 & Ex.P-21</i>	<i>Certified copies of jamabandi</i>
<i>Ex.P-22</i>	<i>Certified copy of mutation</i>
<i>Mark P-1 to P-7</i>	<i>Photocopies of jamabandies</i>
<i>Mark P-8</i>	<i>Photocopy of mutation</i>
<i>Mark P-9</i>	<i>Copy of gazette</i>
<i>Mark P-10 to P-12</i>	<i>Photocopies of site plan</i>
<i>Mark P-13 & P-14</i>	<i>Photocopies of jamabandi</i>
<i>Mark P-15</i>	<i>Power of attorney</i>
<i>Mark P-16</i>	<i>Photocopy of mutation</i>
<i>Mark P-17 to P-19</i>	<i>Photocopies of jamabandi</i>

2.3 On the other hand, in oral evidence, the State of Haryana examined RW-1 Sh. Sajan Singh, Sub-Divisional Engineer.

2.4 In documentary evidence, the State of Haryana produced the following documents apart from the sale deeds, a tabulated compilation of which is given in para 3.7:-

<i>Ex.RW2/A & RW2/B</i>	<i>Copies of sale deeds</i>
<i>Ex.RW2/C</i>	<i>Copy of aks-shijra</i>
<i>Ex.RW2/D</i>	<i>Photocopy of Collector's rate</i>
<i>Ex.RW2/E</i>	<i>Copy of gazette notification under Section 4 of the 1894 Act</i>
<i>Ex.RW2/F & RW2/G</i>	<i>Copies of mutation</i>

3 **Discussion and analysis by this Court:**

3.1 On a careful reading of the award passed by the RC, it is evident that the RC has placed reliance on another award Ex.P-X passed by the RC in **Shera Ram Vs. State of haryana decided on 01.03.2017**. The Court has observed that PW-10 Jogender Singh (Clerk) has stated that according to the notification Ex.PW10/A in the area of Municipal Committee Nangal Chaudhary, the area of village Nangal Kalia, Sirohi Bahali, Mohanpur, Nangal Chaudhary and Nolayaja abuts the Narnaul Kotputli road. Thus, the Court concluded that village Nolayaja is adjacent to village Nangal Chaudhary. The Court also observed that the assessment of the market value of the similarly situated acquired land is the best available evidence which should be ordinarily relied upon.

3.2 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the judgments in lead case passed by the RC as well as the lower Court record, which was requisitioned.

3.3 First of all, the RC has committed a material irregularity in relying upon the award Ex.PX with respect to the acquired land in village Nangal Chaudhary. By a judgment of the even date passed in **RFA-3420-2017**, the judgment Ex.PX has also been set aside.

3.4 Moreover, an assessment of the market value of the acquired land by the Court is a good piece of evidence, however, it cannot be blindly relied upon unless the Court comes to a conclusion that both the acquired land in the judgment to be relied upon and the acquired land, in the case before it, are of the same potentiality and reflects the same market value. For

assessing the market value, the location, quality, connectivity, availability of water for irrigation of the land and its proximity with the town are some relevant factors amongst others which guide the Court. The Hon'ble Supreme Court in **Manoj Kumar and others Vs. State of Haryana and others (2018) 13 SCC 96**, has held as under:-

“11. 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.

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. 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 unequal's. As per situation of a village, nature of land its value differ from the distance to distance even two to three-kilometer 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 at 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 out rightly 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.”

3.5 Moreover, in my view, the best evidence is the sale instance of comparable parcel of land sold during the contemporaneous period with respect to the acquired land. In fact, the assessment by the Court is based on certain assumptions, projections and the nature of evidence produced before the Court. Sometimes, a valuable piece of evidence is not brought on the record resulting in calculation of the market value based on assumptions which may not be the correct reflection of the actual price. Hence, before

relying upon any previous assessment made by the Court while assessing the market value, the afore-mentioned relevant factors must be taken into consideration

3.6 The RC has also committed an error in overlooking the sale deeds produced on the record. The landowners produced as many as seven sale deeds which are relating to small parcels of land located in village Nangal Chaudhary. However, the RC was required to examine the same before proceeding with the matter. From the judgment, it is evident that except noting that some sale deeds have been produced in evidence, the RC has failed to examine the same.

3.7 At this stage, it is considered appropriate to compile the complete information in respect of various sale deeds produced by the parties in a tabulated form, in order to have a bird's-eye view of the matter, which is as under:-

SALE DEED PRODUCED BY THE LANDOWNERS							
Sr. No.	Exhibit Nos.	Sale Deed No.	Date	Total Area	Amount (in Rs.)	Amount Per Acre (in Rs.)	Village
1	P-13	922	16.10.2008	1 kanal	4,70,000/-	37,60,000/-	Nangal Chaudhary
2	P-14	1131	20.11.2009	215 sq. yards	3,23,000/-	72,71,256/-	Nangal Chaudhary
3	P-15	442	20.07.2005	1K-6M	7,85,000/-	48,30,769/-	Nangal Chaudhary
4	P-16	791	14.08.2006	3 marla	80,000/-	42,66,667/-	Nangal Chaudhary
5	P-17	1892	28.01.2008	1 marla	1,80,000/-	2,88,00,000/-	Nangal Chaudhary
6	P-18	360	04.06.2007	300 sq. yards	2,50,000/-	40,33,333/-	Nangal Chaudhary
7	P-19	407	07.06.2007	420 sq. yards	4,25,000/-	48,97,619/-	Nangal Chaudhary
SALE DEED PRODUCED BY THE STATE							
1	RW2/A	625	06.08.2009	3 kanal	2,60,000/-	6,93,333-	Nolayaja
2	RW2/B	2019	13.02.2008	13K-13M	12,00,000/-	7,03,297/-	Nolayaja

3.8 It is evident that the sale exemplars Ex.P-13 to Ex.P-19, produced by the landowners, are not only related to a tiny parcel of land located in village Nangal Chaudhary but there is also no evidence to prove that these sale exemplars are comparable with the acquired land. The Court

cannot rely upon the sale instance even if such sale deed is with respect to a similar parcel of acquired land. It may be noted here that the State of Haryana has produced a layout plan Ex.RW2/C. The sale deed bearing No.625 dated 06.08.2009 (Ex.RW2/A) is with respect to 14 kanals and 15 marlas of land which has been sold out of the land comprised in rectangle No.21, Khasra No. 8 and 9. The aforesaid land measuring nearly 2 acres has been sold for Rs.2,60,000/- and the per acre rate comes to Rs.1,41,017/-. This parcel of land is just one acre away from the acquired land. The parcel of land represented by sale deed bearing No.2019 dated 13.02.2008 (Ex.RW2/B) is with respect to the acquired land located in rectangle No.6, 7 and 20. The per acre rate of the aforesaid land would come to Rs.70,330/-. This parcel of land is of more than 1 and ½ acres and is abutting the Major District Road-129.

3.9 The RC has also erred in relying upon the notification issued by the State of Haryana on 17.01.2013 constituting the municipality of village Nangal Chaudhary. The aforesaid development being post the date of notification under Section 4 of the 1894 Act could not be taken into consideration while assessing the market value. Though, the acquired land may be located adjoining to village Nangal Chaudhary, however, the Court is required to assess the market value on the basis of the prevalent rate. In view of the aforesaid discussion, although the amount assessed by the RC is excessive, however, the State of Haryana has not filed any appeal/cross-objection.

4. **Decision:**

4.1 Keeping in view the aforesaid discussion, no ground for

awarding enhanced compensation has been made out.

4.2 Consequently, the appeals filed by the landowners are dismissed.

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

07th December, 2022

(ANIL KSHETARPAL)
JUDGE

Ay

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No

Sr. No.	Case No.	Parties Details
1	RFA-13730-2018	SAHDEV AND ORS V/S STATE OF HARYANA AND ORS
2	RFA-2-2020	SITA RAM AND OTHERS V/S STATE OF HARYANA AND OTHERS
3	RFA-4326-2019	SMT. BIMLA DEVI V/S STATE OF HARYANA AND OTHERS
4	RFA-4327-2019	KUSHAL RAM AND OTHERS V/S STATE OF HARYANA AND OTHERS
5	RFA-4328-2019	AMIT KUMAR AND OTHERS V/S STATE OF HARYANA AND OTHERS
6	RFA-4329-2019	RAMESHWAR AND OTHERS V/S STATE OF HARYANA AND OTHERS
7	RFA-4330-2019	ANOOP SINGH V/S STATE OF HARYANA AND OTHERS
8	RFA-4331-2019	JAG RAM AND ANOTHER V/S STATE OF HARYANA AND OTHERS
9	RFA-4464-2019	SMT. GINDORI DEVI V/S STATE OF HARYANA AND OTHERS
10	RFA-4465-2019	LILA RAM AND ANOTHER V/S STATE OFHARYANA AND OTHERS
11	RFA-4466-2019	NET RAM AND ANR V/S STATE OFHARYANA AND OTHERS

(ANIL KSHETARPAL)

JUDGE