

In the High Court of Punjab and Haryana, at Chandigarh

**Regular First Appeal No. 13589 of 2018 (O&M)
And Other Connected Cases**

**Date of Decision: 11.11.2022
Reserved On: 29.10.2022**

Sahab Ram (Since Deceased) through his Legal Representatives and Others

... Appellant(s)

Versus

The State of Haryana and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. P.K.Ganga, Mr. Jagjot Singh Gill,
Mr. Khushman Dandiwal, Mr. J.S.Thind,
Mr. Balsher Singh, Mr. Ajay Sharma, Mr. K.S.Godara,
Mr. Dheeraj narula, Mr. S.K.Jain, Mr. Deepak Jain,
and Mr. Akshay Jain, Advocates for the landowners.

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

Anil Kshetarpal, J.

1. Introduction and Background

1.1 While praying for the modification of the market value of the acquired land assessed vide award dated 18.08.2017 passed by the Reference Court (hereinafter referred to as “the RC”), the landowners 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”) and the awards passed by the Land Acquisition Collector (hereinafter referred to as “the LAC”) as well as the 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.

1.3 The relevant particulars of the acquisition for the purpose of deciding this batch of appeals, in brief, are as under:-

S.NO.	TITLE	DETAILS
1.	Date of Notification under Section 4 of the 1894 Act.	19.02.2013
2.	Date of Notification under Section 6 of the 1894 Act.	26.08.2013
3.	Purpose of Acquisition.	For the construction of Ratta Khera Kharif Channel (Drain)
4.	Location, area and nature of the acquired land	The acquired land is located in village Paniwala Mota, Tehsil and District Sirsa.
5.	Number and Date of the Award of the Land Acquisition Collector.	Vide Award No. 11 dated 22.11.2013, the LAC has acquired the land measuring 231 kanals and 7 marlas, located in village Paniwala Mota, Tehsil and District Sirsa.
6.	Amount assessed by the Land Acquisition Collector.	The LAC has offered to pay the market value of the acquired land located in village Paniwala Mota, Tehsil and District Sirsa @ ₹12,75,000/- per acre along with all the statutory benefits.
7.	Date of the judgment of the Reference Court.	11.12.2017
8.	Amount determined by the Reference Court.	The RC, vide a common award dated 11.12.2017, has assessed the market value of the acquired land @ ₹20,00,000/- per acre while enhancing it from ₹12,75,000/- per acre along with 40% of the market value of the acquired land on account of bifurcation of the unacquired land.

2. **Facts**

2.1 Dissatisfied with the amount offered by the LAC, on the applications submitted by the landowners, the cases were referred to the Court for the assessment of the market value as well as the compensation for the acquired land. The landowners claimed that their fertile canal irrigated

land giving sufficient crops in a year has been involuntarily acquired. There were 20 sheesham trees and the LAC has not considered the kind, quality, location, trees and buildings while assessing the market value of the acquired land. It is claimed that the acquired land was located near the residential area and pucca road of the village. Thus, the land was a prime land having the market value @ ₹1,00,00,000/- per acre. It has been claimed that the various sale deeds produced before the LAC have not been considered and the landowners are entitled to four times of the compensation as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “the 2013 Act”). The compensation for the damages suffered on account of bifurcation of the unacquired land has also been sought.

2.2 The State of Haryana, while contesting the petitions, claimed that the Divisional Level Committee, under the Chairmanship of the Commissioner, Hisar Division, Hisar, after considering all the relevant factors, proceeded to assess the market value of the acquired land @ ₹12,75,000/- per acre. On the recommendations of the Committee, the LAC, while announcing the award, has offered to pay the market value of the acquired land @ ₹12,75,000/- per acre. It is stated that the market value of the trees and buildings has been assessed vide the supplementary award on the receipt of the report from the concerned authorities. The amount offered by the LAC is just, fair and adequate.

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

“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.”*

3. **Evidence Produced by the Respective Parties**

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

Sr. No.	Name of the Witness	Particulars of the Witness
1.	PW.1 Subhash Chander	Petitioner
2.	PW.2 Krishan Lal (also appeared as PW.3)	Petitioner
3.	PW.4 Sahab Ram	Petitioner
4.	PW.5 Vinod Kumar	Petitioner
5.	PW.6 Harbans Singh	Patwari
6.	PW.7 Vikas	Patwari
7.	PW.8 Raj Kumar	Petitioner
8.	PW.9 Atma Ram	Petitioner

3.2 The landowners have produced the following documentary evidence:-

Sr. No.	Exhibit Number	Description of the document
1.	Ex.P1	Aks Sizra
2.	Ex.P2	Statement No. 19 of the Land Acquisition Act, 1894
3.	Ex.P3	Form LA
4.	Ex.P4&Ex.P5	Statement No. 19 of the Land Acquisition Act, 1894
5.	Ex.P5	Form LA
6.	Ex.P6	Statement No. 19 of the Land Acquisition Act, 1894
7.	Ex.P7	Form LA

Sr. No.	Exhibit Number	Description of the document
8.	Ex.P8	Statement No. 19 of the Land Acquisition Act, 1894
9.	Ex.P9	Form LA
10.	Ex.P10	Statement No. 19 of the Land Acquisition Act, 1894
11.	Ex.P11	Form LA
12.	Ex.P12	Statement No. 19 of the Land Acquisition Act, 1894
13.	Ex.P13	Form LA
14.	Ex.P14	Resolution of Gram Panchayat Panniwala Mota, authorizing a representative to file the case.
15.	Ex.P15	Statement No. 19 of the Land Acquisition Act, 1894
16.	Ex.P16, Ex.P17 & Ex.PW.4/B	Photo copy of LAC's Award No.11 dt. 22.11.2013 in respect of village Paniwala Mota.
17.	Ex.PW.2/B	Certified copy of Jamabandi for the years 2012- 2013
18.	Ex.PW.2/C	Aks Sizra of village Panniwala Mota,
19.	Ex.PW.3/B	Certified copy of Jamabandi for the years 2012- 2013
20.	Ex.PW.3/C	Aks Sizra of village Panniwala Mota,
21.	Ex.PW.4/C	Certified copy of Jamabandi for the years 2012- 2013
22.	Ex.PW.5/B	Certified copy of Jamabandi for the years 2012- 2013
23.	Ex.PW.5/C	Aks Sizra of village Panniwala Mota
24.	Ex.PW.6/A	Photostat copy of Jamabandi for the years 2012- 2013
25.	Ex.PW.6/B	Aks Sizra of village Panniwala Mota
26.	Ex.P1 to Ex.P3 again repeated	Site plans
27.	Ex.P4	Aks Sizra of village Panniwala Mota
28.	Ex.P5	Aks Sizra of village Panniwala Mota
29.	Ex.P6	Jamabandi for the years 2012-2013
30.	Ex.P7	Aks Sizra of village Panniwala Mota
31.	Ex.P8	Jamabandi for the years 2012-2013
32.	Ex.P9	Aks Sizra of village Panniwala Mota
33.	Ex.PW.7/C	Aks Sizra
34.	Ex.PW.7/D	Aks Sizra

On the other hand, the State of Haryana, in the oral evidence,

has examined RW.1 Sh.Satish Kumar Taneja.

3.4 In the documentary evidence, the State has produced the copies of the sale deeds, a tabulated compilation whereof is incorporated in para 5.6 of the judgment.

3.5 In the rebuttal evidence, the landowners have produced a certified copy of minutes of meeting of the District Level Committee as Ex.PX.

4. Analysis of the Reasons Recorded by the RC

4.1 The RC, while observing that certain amount of guess work is inevitable in assessing the market value of the acquired land, has held that on the reading of the LAC's award, no reason or formula as to how the amount was assessed has been disclosed. The RC has observed that the acquired land is located near the residential area of the village. While discussing the sale deeds produced by the State of Haryana in evidence, it has been observed that the parcels of land sold through Ex.R1 (bearing No. 7673) and Ex.R2 (bearing No. 7787) are with respect to the smaller parcels of land and the location with respect to the acquired land has not been depicted on the layout plan. The sale deeds (Ex.R3 to Ex.R5) being post the date of notification under Section 4 of the 1894 Act were not found to be appropriate to be relied upon.

5. Discussion and Analysis of the arguments of the learned counsel representing the parties.

5.1 Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book as well as the record of the RC, which was requisitioned.

landowners, while praying for the enhancement of the compensation, submit that the RC should appreciate that the acquired land was a prime land located near the residential area of the village.

5.3 Per contra, the learned counsel representing the State of Haryana, while referring to the sale deeds Ex.R1 (bearing No. 7673) and Ex.R2 (bearing No. 7787), submits that these parcels of land are not with respect to the smaller parcels, hence, the RC has erred in keeping it out of consideration on the ground that these sale deeds pertain to a smaller parcel of land. He submits that the sale deed (Ex.R1) is with respect to the land measuring 1 acre of land, which ordinarily consists of 4840 square yards of land. He further submits that the sale instances (Ex.R3 to Ex.R5) prove that even after the issuance of the preliminary notification under Section 4 of the 1894 Act on 19.02.2013, the price of the acquired land was not beyond ₹12,00,000/- per acre.

5.4 The RC has assessed the market value of the acquired land @ ₹20,00,000/- per acre on the basis of the minutes of the meeting (Ex.PX) held on 21.09.2013 of the Divisional Level Price Evaluation Committee, headed by the Commissioner, Hisar Division, Hisar. On the careful reading of the minutes, it is evident that the District Revenue Officer was requested by the members of the Committee to read out the Collector's rates and the average market rates post the date of notification under Section 4 of the 1894 Act. In the aforesaid meeting, the members of the Committee had recommended to the LAC for offering to pay an amount of ₹12,75,000/- per acre as the market price of the acquired land to the landowners. Thus, the

RC has relied upon the indirect evidence which is not admissible. The

primary and the best evidence of sale deeds has not been produced in the evidence by the parties. Moreover, once the members of the aforesaid Committee did not accept the opinion of the District Revenue Officer, it was not appropriate for the RC to rely upon the same without any corroborative evidence. The RC has also indulged in the selective/partial reading of Ex.PX.

5.5 As regards the observation of the RC that certain amount of guess work is inevitable, there may not be any dispute in such observation, however, such guess work has to be based upon some logical reasoning which is reflected in the impugned judgment and not on the basis of conjectures and surmises. The RC was not justified in observing that no reason or formula as to how the amount has been evolved has been disclosed. The RC is required to assess the market value on the basis of the material produced in the evidence. There is a well known principle of the best evidence. In this case, the landowners have failed to produce the primary evidence to prove that the market value of the acquired land was approximately ₹20,00,000/- per acre. There is an obvious error in the judgment passed by the RC while discussing the sale deed produced in evidence by the State of Haryana.

5.6 At this stage, it would be appropriate to draw a tabulated compilation of the sale deeds produced by the State of Haryana, which is extracted as under:-

<i>Sr. No.</i>	<i>Exhibit No.</i>	<i>Sale Deed No.</i>	<i>Dated</i>	<i>Area</i>	<i>Amount (In ₹)</i>	<i>Name of Village</i>	<i>Rate Per acre (In ₹)</i>
<i>1.</i>	<i>R1</i>	<i>7673</i>	<i>27.12.2012</i>	<i>8 K</i>	<i>12,00,000</i>	<i>Paniwala Mota</i>	<i>12,00,000</i>

<i>Sr. No.</i>	<i>Exhibit No.</i>	<i>Sale Deed No.</i>	<i>Dated</i>	<i>Area</i>	<i>Amount (In ₹)</i>	<i>Name of Village</i>	<i>Rate Per acre (In ₹)</i>
2.	R2	7787	28.12.2012	5 K-13 M	8,55,000	Paniwala Mota	12,00,000
3.	R3	9854	05.03.2013	7 K	10,50,000	Paniwala Mota	12,00,000
4.	R4	10071	12.03.2013	15 K-12M	23,40,000	Paniwala Mota	12,00,000
5.	R5	10073	12.03.2013	15 K-12M	23,40,000	Paniwala Mota	12,00,000

5.7 It would be noted here that the expression “Sarsai” refers to a fractional unit of the land measuring 1 marla. There are nine Sarsais in each marla of land.

5.8 It is evident that the sale deed (Ex.R1) is with respect to 1 acre of land. It was not appropriate for the RC to hold that such a sale instance represents a smaller parcel of land particularly when a narrow long strip of land has been acquired for the construction of a drain. In that context, the sale deed (Ex.R1) does not represent a smaller parcel of land. Moreover, on a careful study of all the sale deeds i.e. Ex.R2 to Ex.R5, it is evident that the market value of the land in village Paniwal Mota was in or around ₹12,00,000/- per acre. The LAC has already awarded ₹12,75,000/- per acre. However, the State of Haryana has not filed any appeal. It would be noted here that the learned counsel representing the landowners did not address any argument with regard to the payment of compensation for the structure and the trees allegedly standing on the acquired land at the time of issuance of the notification under Section 4 of the 1894 Act. Though the learned counsel representing the State of Haryana has called upon this Court under Order XLI Rule 33 of the Code of Civil Procedure, 1908, however, in the

facts of the case, this Court does not find it appropriate to exercise such

power in the present case.

6. Decision

6.1 Keeping in view the aforesaid facts, in the appeals filed by the landowners, the result is inevitable. There is no scope of further enhancement of the market value of the acquired land. Therefore, all the appeals filed by the landowners are dismissed.

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

(Anil Kshetarpal)
Judge

November 11, 2022
“DK”

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

Sr. No.	Case No.	Party’s Name
1.	RFA-2105-2018	KRISHAN LAL AND ANR V/S STATE OF HARYANA AND ORS
2.	RFA-2106-2018	TARA CHAND V/S STATE OF HARYANA AND ORS
3.	RFA-2107-2018	BANWARI LAL AND ORS V/S STATE OF HARYANA AND ORS
4.	RFA-2108-2018	CHHOTU RAM AND ANR V/S STATE OF HARYANA AND ANR
5.	RFA-2175-2018	OM PARKASH AND ANR V/S STATE OF HARYANA AND ORS
6.	RFA-2176-2018	SMT. ROSHNI DEVI AND ORS V/S STATE OF HARYANA AND ANR
7.	RFA-2469-2018	SARBATI AND ORS. V/S STATE OF HARYANA AND ANR.
8.	RFA-2680-2018	DEVI LAL AND ORS V/S STATE OF HARYANA AND ORS
9.	RFA-2749-2018	BIMLA V/S STATE OF HARYANA AND ORS
10.	RFA-2929-2018	HARDEEP SINGH NOW DECEASED THR. HIS LRS AND ORS V/S STATE OF HARYANA AND ANR
11.	RFA-3094-2018	RAI SINGH (SINCE DECEASED) THR LRS AND ORS.. V/S STATE OF HARYANA AND ORS.
12.	RFA-3095-2018	RAI SINGH (SINCE DECEASED) THR LRS AND ANR. V/S STATE OF HARYANA AND ORS.
13.	RFA-3214-2018	INDERPAL V/S STATE OF HARYANA AND ANR
14.	RFA-3215-2018	KALAWATI AND ORS V/S STATE OF HARYANA AND ORS
15.	RFA-3473-2018	KRISHAN KUMAR (NOW DECEASED) THR LRS AND

Sr. No.	Case No.	Party’s Name
		ORS V/S STATE OF HARYANA AND ANR
16.	RFA-3474-2018	CHHOTU RAM AND ANR V/S STATE OF HARYANA AND ORS
17.	RFA-5120-2018	RAM PIARI AND ORS V/S STATE OF HARYANA AND ANR
18.	RFA-632-2019	MAAN SINGH (SINCE DECEASED) THR. LRS AND OTHERS V/S THE STATE OF HARYANA AND OTHERS

November 11, 2022
“DK”

(Anil Kshetarpal)
Judge