In the High Court of Punjab and Haryana, at Chandigarh

Regular First Appeal No. 920 of 2022 (O&M)
And Other Connected Cases

Date of Decision: 09.01.2023
Reserved On: 21.12.2022

Haryana State Industrial and Infrastructure Development Corporation Limited

... Appellant(s)

Versus

Jaipal Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Pritam Singh Saini, Advocate
for the HSIIDC.

Mr. Amit Jain, Senior Advocate
with Mr. Dhruv Mittal, Advocate,
Mr. Pawan Kumar, Senior Advocate
with Mr. Surya Kumar, Mr. Ranvijay Singh Yadav,
Mr. Dharamvir Sharma, Mr. Ashwani Gaur,
Mr. Deepkaran Dalal, Advocates and
Mr. O.P.Goyal, Senior Advocate with
Ms. Parul Aggarwal, Advocate, for the landowners.

Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana.

Anil Kshetarpal, J.

1. Introduction and Background

1.1 While praying for modification of the market value assessed by the Reference Court (hereinafter referred to as “the RC”), the landowners as well as the Haryana State Industrial Infrastructure and Development Corporation (hereinafter referred to as “the HSIIDC”) (the beneficiary of the acquisition), have filed this batch of appeals (details whereof are given at the foot of the judgment). The notifications 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 LAC are common. The learned counsel reprsenting the parties are also *ad idem* that this batch of appeal can, conveniently, be decided by a common judgment. In fact, the RC has ALSO consolidated the 18 cases and the evidence was led in LAC-603-2015 (Jaipal Singh and Others v. State of Haryana and Others").

1.2 The relevant particulars, for the purpose of decision of the present case, are as under:-

S.NO.	TITLE	DETAILS
1.	Date of Notification under Section 4 of the 1894 Act.	05.02.2010
2.	Date of Notification under Section 6 of the 1894 Act.	11.02.2011
3.	Purpose of Acquisition.	For the construction of Integrated Complex for Industrial Storage Space, Railway Siding, Institutional public-semi public use and other public utilities.
4.	Location, area and nature of the acquired land	The acquired land is located in the villages, namely Patli Hazipur, Bawra Bakipur and Dhana, Tehsil Farrukh Nagar, District Gurugram.
5.	Number and Date of the Award of the Land Acquisition Collector.	Vide Award No. 27 dated 08.02.2013 the land measuring 285 acres, located in the villages, namely Patli Hazipur, Bawra Bakipur and Dhana, Tehsil Farrukh Nagar, District Gurugram was acquired.
6.	Amount assessed by the Land Acquisition Collector.	The LAC has offered to pay the market value of the acquired land located in village Patli Hazipur, Tehsil Farrukh Nagar, District Gurugram., @ ₹75,00,000/- per acre.
7.	Date of the judgment of the Reference Court.	15.03.2022
8.	Amount determined by the	The RC has re-assessed the market

S.NO.	TITLE	DETAILS
	Reference Court.	value of the acquired land @ ₹87,84,600/- per acre.

2. Facts

2.1 Not satisfied with the amount offered by the LAC for involuntary acquisition of their lands, on the applications of the landowners, the cases were referred to the RC. The landowners claim that the market value offered by the LAC is grossly inadequate, which at the time of issuance of notification under Section 4 of the 1894 Act was not less than ₹1,00,000/- per square yard. It is claimed that the acquired land in question has a great potential value as it is located in the Gurugram-Manesar Urban Control. In the adjoining villages, namely Manesar, Kasan, Khoh, Aliar Dhana, Nakhrola, Naharpur Kasan, Nawada Fatehpur, Bhangrola, Kakrola etc., the Industrial Model Township, Manesar, has already been developed by the HSIIDC. The acquired land is hardly 5 kms. away from the Gurugram City and much before 05.02.2010, many big industries, hotels, hospitals, colleges etc. are already in existence. The acquired land is also adjacent to the KMP Expressway and is hardly 2 kms. away from National Highway-8 and 12 kms. away from the national capital of India (Delhi) and the Indira Gandhi International Airport. While claiming the damages for severance of their lands, the landowners pray for suitable enhancement.

2.2 In the written statement, the HSIIDC has claimed that the acquired land has no potential value and no development can be carried out without obtaining the change of land user from the District Town and Country Planner, Haryana. It is submitted that the acquired land of the landowners is not situated within the Gurugam Manesar Urban Control and the LAC has awarded the just, fair and adequate compensation.

2.3 From the pleadings of the parties, the RC has culled out the following issues:-

> *"1. What was the market value of the acquired land at the time of acquisition vide notification u/s 4 of Land Acquisition Act 1894? OPP*
>
> *2. Whether the petitions are time barred? OPP*
>
> *3. Relief."*

3. <u>Evidence Produced by the Respective Parties</u>

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

Sr. No.	Name of the Witness	Particulars of the Witness
1.	PW.1 Sh.Sumer Singh	Petitioner .
2.	PW.2 Sh.Pawan Kumar	Petitioner.
3.	PW.3 Sh.Yogesh Sharma	Clerk in the office of Sub Registrar, Farrukh Nagar, Gurugram.
4.	PW.4 Sh.Agya Ram	Clerk, Planning Department, HSIIDC, Manesar.
5.	PW.5 Sh.Kanshi Ram Dahiya	Draftsman.
6.	PW.6 Sh.Anil Mahendra	Petitioner.
7.	PW.7 Sh.Deepak Ahuja	Authorized Signatory of M/s Acquainted Realtors, New Delhi.
8.	PW.8 Sh. Ajay	Patwari.
9.	PW.9 Sh.Satish Kumar	Clerk, Sub Registrar Office, Gurugram.

3.2 In the documentary evidence, the landowners have produced the following documents:-

Sr. No.	Exhibit Number	Description of the document
1.	Ex.P1	Sale deed bearing document no. 26732 dated 21.12.2011
2.	Ex.P2	Sale deed bearing document no. 6724 dated

Sr. No.	Exhibit Number	Description of the document
		10.6.2011
3.	Ex.P3	Sale deed bearing document no.3475 dated 16.3.2009
4.	Ex.P4	Sale deed bearing document no. 2737 dated 28.1.2010
5.	Ex.P5	Sale deed bearing document no. 735 dated 28.5.2007
6.	Ex.P6	Certified copy of judgment of LA case no. 338/2008 titled as Saggu Vs. State decided on 7.3.2011
7.	Ex.P7	Certified copy of judgment of LA case no. 929/2011 titled as Ram Chander Vs. State decided on 17.5.2017
8.	Ex.P8	Certified copy of judgment of LA case no. 177/2009 titled as Ram Niwas Vs. State decided on 31.8.2013
9.	Ex.P9	Certified copy of judgment of LA case no. 1403/2009/ 2011 titled as Sher Singh Vs. State decided on 31.7.2012
10.	Ex.P10	Certified copy of judgment of LA case no. 169/2009 titled as Amar Pal Vs. State decided on 28.9.2013
11.	Ex.P11	Certified copy of judgment of LA case no. 1282/2010 titled as Devender Pal Vs. State decided on 23.11.2013
12.	Ex.P12	Sale deed bearing document no.171 dated 30.4.2009
13.	Ex.P13	Sale deed bearing document no.1542 dated 15.9.2009
14.	Ex.P14	Sale deed bearing document no.21475 dated 13.10.2008
15.	Ex.P15	Sale deed bearing document no.7440 dated 14.6.2016
16.	Ex.P16	Certified copy of judgment of LA case no. 18/2013 titled as M/s. Arlie Builder and Developers Pvt. Ltd. Vs. State decided on 23.11.2013
17.	Ex.P17	Certified copy of judgment of LA case no. 826/2008/2011 titled as M/s. S. M. Manufacturing Co. Vs. State decided on 13.5.2013
18.	Ex.P18	Certified copy of judgment of LA case no. 422/2011 titled as Nanka Vs. State decided on 25.1.2013
19.	Ex.P19	Certified copy of judgment of LA case no.

Sr. No.	Exhibit Number	Description of the document
		1148/2010 titled as M/s. Base Exports Pvt. Ltd. Vs. State decided on 30.10.2013
20.	Ex.P20	Certified copy of judgment of LA case no. 263/2008 titled as Hari Singh Vs. State decided on 30.11.2010
21.	Ex.P21	Certified copy of judgment of LA case no. 890/2008 titled as Prem Parkash Vs. State decided on 3.3.2011
22.	Ex.P22	Revised layout plan, HSIIDC, Manesar Transport Hub Sector M-11
23.	Ex.P23	Site plan
24.	Ex.P24	Aks Sizra of village Dhana
25.	Ex.P25	Aks Sizra of village Bawra Bakipur
26.	Ex.P26	Aks Sizra of village Patli Hazipur
27.	Ex.P27	Aks Sizra of village Juraula
28.	Ex.P28	Sale deed bearing document no.26094 dated 3.5.2006
29.	Ex.P29	Sale deed bearing document no.26097 dated 3.3.2006
30.	Ex.P30	Copy of award dated 9.3.2018 in the title as 'Madan Pal (III) Vs. State of Haryana passed by the Hon'ble High Court of Punjab and Haryana.
31.	Ex.P31	Sale deed bearing document no.14342 dated 19.10.2005
32.	Ex.P32	Sale deed bearing document no.20142 dated 27.12.2006
33.	Ex.P33	Copy of RFA No. 5316 of 2014 of case titled as Pushpender Kumar and others Vs. State of Haryana and others decided on 27.5.2016 by the Hon'ble Punjab and Haryana High Court.
34.	Ex.P34	Sale deed bearing document no.17926 dated 11.11.2008
35.	Ex.P35	Sale deed bearing document no.18220 dated 14.11.2008
36.	Ex.PW6/1	Copy of certificate of incorporation of M/s. Monarch Buildtech Pvt. Ltd.
37.	Ex.PW6/2	Copy of memorandum and article of association of M/s. Monarch Buildtech Pvt. Ltd.
38.	Ex.PW6/3	Copy of resolution dated 18.10.2016 of M/s. Monarch Buildtech Pvt. Ltd.
39.	Ex.PW6/4	Copy of certificate of incorporation of M/s. Greatways Buildtech Pvt. Ltd.

Sr. No.	Exhibit Number	Description of the document
40.	Ex.PW6/5	Copy of memorandum and article of association of M/s. Greatways Buildtech Pvt. Ltd.
41.	Ex.PW6/6	Copy of resolution dated 18.10.2016 of M/s. Greatways Buildtech Pvt. Ltd.
42.	Ex.PW6/7	Copy of certificate of incorporation of M/s. Pipillon Buildcon Pvt. Ltd.
43.	Ex.PW6/8	Copy of memorandum and article of association of M/s. Pipillon Buildcon Pvt. Ltd.
44.	Ex.PW6/9	Copy of resolution dated 18.10.2016 of M/s. Pipillon Buildcon Pvt. Ltd.
45.	Ex.PW6/10	Copy of letter dated 28.12.2017 issued to the Manager, Allahabad Bank, Udyog Vihar, Gurugram.
46.	Ex.PW6/11	Sale deed bearing document no.17891 dated 22.9.2010
47.	Ex.PW6/12	Sale deed bearing document no.22389 dated 10.11.2010
48.	Ex.PW6/13	Sale deed bearing document no.11671 dated 1.10.2009
49.	Ex.PW6/14	Sale deed bearing document no.7100 dated 16.6.2011
50.	Ex.PW6/15	Sale deed bearing document no.8687 dated 30.6.2011
51.	Ex.PW6/16	Sale deed bearing document no.6743 dated 10.6.2011
52.	Ex.PW6/17	Sale deed bearing document no.31119 dated 4.2.2011
53.	Ex.PW6/18	Sale deed bearing document no.7308 dated 17.6.2011
54.	Ex.PW6/19	Sale deed bearing document no.36425 dated 25.3.2011
55.	Ex.PW6/20	Sale deed bearing document no.28521 dated 10.1.2011
56.	Ex.PW6/21	Sale deed bearing document no.4137 dated 18.5.2011
57.	Ex.PW6/22	Sale deed bearing document no.28518 dated 10.1.2011
58.	Ex.PW6/23	Sale deed bearing document no.16981 dated 9.9.2011
59.	Ex.PW6/24	Sale deed bearing document no.6418 dated 8.6.2011
60.	Ex.PW6/25	Sale deed bearing document no.21420 dated 28.1.2010

Sr. No.	Exhibit Number	Description of the document
61.	Ex.PW6/26	Sale deed bearing document no.18311 dated 27.9.2010
62.	Ex.PW6/27	Sale deed bearing document no.22861 dated 15.11.2010
63.	Ex.PW6/28	Sale deed bearing document no.9841 dated 3.9.2009
64.	Ex.PW6/29	Sale deed bearing document no.13441 dated 13.8.2010
65.	Ex.PW6/30	Sale deed bearing document no.21132 dated 22.1.2010
66.	Ex.PW6/31	Sale deed bearing document no.22887 dated 15.11.2010
67.	Ex.PW6/32	Sale deed bearing document no.11398 dated 26.7.2010
68.	Ex.PW6/33	Sale deed bearing document no.26623 dated 19.3.2010
69.	Ex.PW6/34	Sale deed bearing document no.8641 dated 28.6.2010
70.	Ex.PW6/35	Sale deed bearing document no.3559 dated 7.3.2011
71.	Ex.PW6/36	Sale deed bearing document no.3572 dated 9.3.2011
72.	Ex.PW6/37	Sale deed bearing document no.3540 dated 1.3.2011
73.	Ex.PW6/38	Sale deed bearing document no.3541 dated 1.3.2011
74.	Ex.PW6/39	Sale deed bearing document no.3539 dated 1.3.2011
75.	Ex.PW6/40	Sale deed bearing document no.3538 dated 1.3.2011
76.	Ex.PW6/41	Sale deed bearing document no.3115 dated 27.1.2011
77.	Ex.PW6/42	Sale deed bearing document no.1283 dated 2.8.2010
78.	Ex.PW6/43	Sale deed bearing document no.2900 dated 7.1.2011
79.	Ex.PW6/44	Sale deed bearing document no.1009 dated 28.5.2013
80.	Ex.PW6/45	Sale deed bearing document no.1709 dated 29.8.2008
81.	Ex.PW6/46	Sale deed bearing document no.2755 dated 17.12.2008
82.	Ex.PW6/47	Sale deed bearing document no.2220 dated 21.10.2008

Sr. No.	Exhibit Number	Description of the document
83.	Ex.PW6/48	Sale deed bearing document no.2772 dated 27.12.2010
84.	Ex.PW7/1	Copy of certificate of incorporation of M/s. Acquainted Realtors LLP
85.	Ex.PW7/2	Copy of memorandum and article of association of M/s. Acquainted Realtors LLP
86.	Ex.PW7/3	Copy of certificate of registration on conversion
87.	Ex.PW7/4	Copy of Form 15 i.e. notice for change of place of registered office filed with registrar.
88.	Ex.PW7/5	Copy of agreement
89.	Ex.PW7/6	Copy of resolution dated 25.10.2018 of M/s. Acquainted Realtors LLP
90.	Ex.PW7/7	Copy of cheque no. 455022 dated 6.8.2013 drawn on Oriental Bank of Commerce, New Railway Road, Gurugram.
91.	Ex.PW8/1	Copy of letter bearing reference no. 1076 dated 28.12.2017 written to the Bank Manager, Allahabad Bank, Udyog Vihar, Gurugram
92.	Ex.PW8/2 to Ex.PW8/4	Copies of APR-CC/enhancement, award no. 27 of 8.2.2013 of village Dhana
93.	Ex.PW8/5	Copy of letter bearing reference no. 278 dated 21.7.2017 written to the Bank Manager, Kotak Mahindra Bank, Sector-31, Huda Market, Gurugram
94.	Ex.PW8/6	Copy of cheque bearing no. 455022 dated 6.8.2013 amounting to Rs. 30891562/-
95.	Ex.PW8/7	Copy of award statement of Village Dhana, Tehsil and Distt. Gurugram.

3.3 In the oral evidence, the HSIIDC has examined RW.1 Sh.Dalbir Singh Bhatti, Senior Manager, HSIIDC.

3.4 In the documentary evidence, the HSIIDC has produced the following documents:-

Sr. No.	Exhibit Number	Description of the document
1.	Ex.R1	Copy of award no. 27 of 2013 dated 8.2.2013
2.	Ex.R2	Copy of Haryana Government Gazette dated 9.11.2010
3.	Ex.R3	Sale deed bearing document no.28574 dated 31.3.2006

Sr. No.	Exhibit Number	Description of the document
4.	Ex.R4	Sale deed bearing document no.11736 dated 11.8.2008
5.	Ex.R5	Sale deed bearing document no.15837 dated 7.10.2008
6.	Ex.R6	Sale deed bearing document no.15467 dated 25.10.2007
7.	Ex.R7	Sale deed bearing document no.17926 dated 11.11.2008
8.	Ex.R8	Sale deed bearing document no.18220 dated 14.11.2008
9.	Ex.R9	Sale deed bearing document no.19488 dated 5.12.2008
10.	Ex.R10	Copy of minutes of meeting held on 4.2.2013
11.	Mark-A	Copy of revised rates for agricultural land and plots for the year 2009-2010
12.	Mark-B	Copy of revised rates for agricultural land and plots for the year 2010-2011

4. Analysis of the Reasons Recorded by the RC

4.1 The RC, after noticing that majority of the sale deeds produced by the landowners are either with respect to the period post 05.02.2010 or pertain to the parcels of the lands in various other villages, found that the sale deeds (Ex.PW.6/13, Ex.P32 and Ex.P33) are during the contemporaneous period which are worth some consideration. Thereafter, the sale deeds (Ex.P32 and Ex.P33) were excluded from consideration as the sale deed (Ex.PW.6/13) was considered more reliable. The RC, after noticing that the sale deed (Ex.PW.6/13) is with respect to a small parcel of plot measuring 200 square yards, applied deduction of 45% to assess the market value of the acquired land @ ₹87,84,600/- per acre. The sale deeds produced by the HSIIDC were kept out of consideration by the RC on the ground that the price reflected in the aforesaid sale deeds is lower than the amount offered by the LAC.

4.2 Heard the learned counsel representing the parties at length and with their able assistance, carefully perused the judgment passed by the RC along with the requisitioned record.

5. <u>Discussion and Analysis of the arguments of the learned counsel representing the parties.</u>

5.1 The learned senior counsels representing the landowners have also filed their written arguments which have been carefully examined.

5.2 On the one hand, the learned counsels representing the landowners contend that the sale deeds bearing Nos. 3475 (Ex.P3), 2737 (Ex.P4), 8687 (Ex.PW.6/15), 11671 (Ex.PW.6/13), 171 (Ex.P12), 1542 (Ex.P13), 20142 (Ex.P32), 17926 (Ex.P33) and 11736 (Ex.P34) should have been taken into consideration. The average price of all these sale deeds would be around ₹3,00,00,000/- per acre. While relying upon the judgments passed in ***Trishala Jain v. State of Uttranchal (2011) 6 SCC 47*** and ***Haryana State Agricultural Marketing Board and Another v. Krishan Kumar and Others 2011 (15) SCC 297***, htey contend that the sale deed of the small pieces of land can be taken into consideration by applying appropriate deduction while considering the purpose of acquisition. It is contended that that no development is required as the area is already developed. They also contend that the RC has ignored the statement of PW.4 Sh.Agya Ram, Clerk, working in the Planning Department, HSIIDC, Manesar, who has proved the layout plan (Ex.P22), PW.2 Sh.Kanshi Ram Dahiya, Draftsman, and PW.6 Sh.Anil Malhotra. It is further contended that the railway line connecting Delhi to Rewari is located towards the Northern side of the acquired land and M/s Adani Logistics Limited has already constructed its warehouse and stores on the Western side of the acquired land. The RC has also ignored the sale deed dated 08.06.2009 with respect to the land measuring 94 kanals and 14 marlas sold @ ₹9,65,00,000/- per acre in Patli Hazipur which abuts village Dhana. It is also claimed that the area measuring 140 acres out of the acquired land has also been auctioned by the HSIIDC in favour of M/s Instakart Services Private Limited, a sister concern of M/s Flipkart Services Limited @ ₹3,22,00,000/- per acre even without incurring a single penny on the development of this land. Thus, the landowners claim that the appeals filed by the landowners should be accepted, whereas that of the HSIIDC should be dismissed.

5.3 The learned counsel representing the HSIIDC has submitted that the RC has erred in keeping the sale deeds produced by the HSIIDC out of consideration by wrongly interpreting the Section 25 of the 1894 Act. He has further contended that the sale instance bearing No. 19488 (Ex.R9) is with respect to a comparable adjoining parcel of a land which proves that the market value of the land was around ₹36,00,000/- per acre.

5.4 This Court has evaluated the arguments of the learned counsel representing the parties and analyzed the requisitioned record. The RC has committed the following errors while passing the impugned judgment:-

A) The sale deeds bearing Nos. 28574 (Ex.R3), 11736 (Ex.R4), 15837 (Ex.R5), 15467 (Ex.R6), 17926 (Ex.R7), 18220 (Ex.R8) and 19488 (Ex.R9) have wrongly been kept out of consideration while incorrectly interpreting Section 25 of the 1894 Act, which does not debar the Court from taking into account the sale deeds reflecting price lower than the amount offered by the LAC. This issue is no longer *res integra* in view of the judgment passed in ***Lal Chand vs. Union of India (2009) 15 SCC 769***.

B) The RC has wrongly observed that the sale deed (Ex.PW.6/13) is the only sale instance of comparable parcel of land. It would be noted here that the aforesaid sale instance is pertaining to the residential plot measuring 200 square yards located in rectangle No. 30, khasra No.21/2/1, whereas the acquired land is in rectangle No. 2, 3, 4, 5, 7 and 8.

C) The RC has also erred in failing to examine the geographical location of the acquired land visa-a-vis the parcels of land sold through the various sale deeds.

5.5 Fortunately, the landowners have produced a layout plan (Ex.P23) which is based upon the revenue layout plan of the village. From the careful perusal thereof, it is evident that a long strip of land upto the depth of 2 acres approximately along the Kundali-Manesar-Palwal Expressway in village Dhana has been acquired. From the perusal of the award No.27 dated 08.02.2013 (Ex.R1), it is evident that the land comprised in rectangle No. 2, 3, 4, 5, 7 and 8 has been acquired. The acquired land consists of khasra No. 5/1/2, 5/2 and 6 (min) in rectangle No. 5 in village Dhana. The sale deed No. 19488 dated 05.12.2008 (Ex.R9) is with respect to the land measuring 8 kanals purchased out of the land comprised in rectangle No. 5, khasra No. 6, 7, 14, 15, 16/1 and 17/1. Thus, out of the land comprised in khasra no. 6, rectangle No.5, some part of the land has been acquired by the

Government. Hence, it is safe to conclude that the sale deed (Ex.R9) pertains to a parcel of land abutting the acquired land. The RC has committed an error in relying upon the sale instance (Ex.PW.6/13) which pertains to a residential plot comprised in rectangle No. 30 killa No. 21/2/1. This is not only far away from the acquired land but also located in the residential area of the village. The sale instance (Ex.PW.6/13) pertains to a residential plot located on a street. Hence, the sale instance (Ex.P.6/13) was not comparable with the acquired land.

5.6 From a careful perusal of the tabulated compilation of the acquired land, it is evident that the sale deeds bearing Nos. 3475 (Ex.P3), 2737 (Ex.P4), 735 (Ex.P5), 171 (Ex.P12), 1542 (Ex.P13), 21475 (Ex.P14), 7440 (Ex.P15), 26094 (Ex.P28), 26097 (Ex.P29), 14342 (Ex.P31), 21420 (Ex.PW.6/25), 9841 (Ex.PW.6/28), 21132 (Ex.PW.6/30), 1709 (Ex.PW.6/45), 2755 (Ex.PW.6/46) and 2220 (Ex.PW.6/47) pertain to the parcels of the land located in various other villages. Thus, the sale instances with respect to village Dhana are only Ex.P32, Ex.P33, Ex.P34, Ex.P35, Ex.PW.6/13, Ex.R3, Ex.R4, Ex.R5, Ex.R6, Ex.R7, Ex.R8 and Ex.R9). In fact, the sale instances (Ex.P33 and Ex.R7, Ex.P34 and Ex.R4, Ex.P35 and Ex.R8) are the copies of the same sale deeds. Multiple copies of these sale deeds have been produced.

5.7 It is also evident that in respect of the parcel of land located in village Dhana, the landowners have not produced any sale instance of a comparable parcel of the land which can be compared with the acquired land. On the other hand, the HSIIDC has produced the sale instance (Ex.R9) which pertains to the land measuring 8 kanals (ordinarily equivalent to 4840 square yards) which is abutting the acquired land. Hence, the RC has erred in overlooking the sale instance (Ex.R9). This sale instance pertains to the period approximately one year prior to the date of notification under Section 4 of the 1894 Act. Even if it is assumed that the prices of the land in the area were increasing @ 10% to 15% per annum, still the LAC has already offered to pay ₹75,00,000/- which is more than double to the price of the sale instance (Ex.R9). The landowners have not led any evidence to prove that this sale instance has been under priced in order to save the stamp duty. There is also no evidence that there was some development of Kundli-Manesar-Palwal Expressway, though already planned, before 05.02.2010.

5.8 Now, let us examine the arguments of the learned counsel representing the landowners. There is no substance in the arguments of the learned counsels that the average of the various sale deeds which are not comparable should be made the basis to assess the market value of the acquired land. This Court has carefully read the judgments passed in ***Trishala Jain's case*** *(supra)* and ***Haryana State Agricultural Marketing Board's case*** *(supra)*. In the aforesaid case, the Supreme Court held that the small piece of land can be taken into consideration by applying a deduction particularly when there is no comparable parcel of land. In this case, there is a comparable parcel of land and hence, the aforesaid judgments are not applicable.

5.9 The next argument of the learned counsel representing the landowners is to the effect that no development is required. The argument is fallacious. An undeveloped land has been acquired for the purpose of construction of integrated complex for industrial, storage space, railway siding, institutional public -semi public use and other public utilities in village Dhana, Tehsil and District Gurugram. The HSIIDC will have to construct the roads, streets, paths and make available the various other common facilities like electricity, sewage etc. in order to develop the land.

5.10 The next argument of the learned counsels representing the landowners is with respect to the layout plans (Ex.P22 and Ex.P23). The layout plan (Ex.P23) has already been discussed. The layout plan (Ex.P22) is prepared by the HSIIDC with respect to the Industrial Model Township, Manesar Transport Hub, Sector M-11. Whereas, the layout plans (Ex.P24 to Ex.P27) are the copies of the Aks Shijra of the villages, namely Dhana, Judola and Patli Hazipur. The Aks Shijra (Ex.P27) is related to village Bawra Bakipur.

5.11 The next argument of the learned counsels representing the landowners is with reference to the documents (Ex.PW.6/1 to Ex.Pw.6/48). From the list of the documentary evidence, it is evident that the documents (Ex.PW.6/1 to Ex.PW.6/9) are the copies of the Certificates of Incorporation of the companies, Memorandum of Articles of Association, Resolutions etc. The document (Ex.PW.6/10) is a letter issued to the Manager, Allahabad Bank. The copies of the sale deeds have already been discussed. These documents are not relevant for assessing the market value of the acquired land.

5.12 The next argument of the learned counsel representing the landowners is with respect to a layout plan produced by Sh.Kanshi Ram

Dahiya (Ex.P23). From the careful perusal thereof, it is evident that some part of the land located in the villages namely, Jhuruala and Bawra Bakipur, has been purchased by M/s Adani Logistics Limited. From the careful perusal thereof, it is evident that the acquired land of village Dhana is far away from the parcels of land purchased by M/s Adani Logistics Limited.

5.13 In the written arguments, the learned counsels representing the landowners have also referred to the sale deed dated 08.06.2009 with respect to the land measuring 94 kanals and 14 marlas located in village Patli Hazipur. This is not a part of the evidence and hence, cannot be relied upon. Moreover, there is no evidence to prove that the aforesaid parcel of land is comparable with the acquired land.

5.14 The next argument of the learned counsels representing the landowners is with respect to the sale of the land measuring 140 acres out of the acquired land. From the written arguments, it appears the HSIIDC, after acquiring the land, had auctioned the land measuring 140 acres to M/s Instacard Services Limited @ ₹3,22,00,000/- per acre. It would be noted here that the subsequent auction of the property of the part of the acquired land cannot be taken into consideration in view of Section 23 of the 1894 Act which provides that the market value of the land at date of publication of the preliminary notification under Section 4 of the 1894 Act is required to be assessed. Section 24 of the 1894 Act specifically provides that while assessing the market value of the acquired land, the Collector or the Court shall not take into consideration any increase to the value of the acquired land which is likely to accrue from the use to which it will be put when acquired. Section 24 of the 1894 Act is extracted as under:-

> *"**24. Matters to be neglected in determining compensation**. -*
> *But the Court shall not take into consideration -*
> *first, the degree of urgency which has led to the acquisition;*
> *secondly, any disinclination of the person interested to part with the land acquired;*
> *thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;*
> *fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;*
> *fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;*
> *sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put;*
> *seventhly, any outlay or improvements on, or disposal of the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the notification under section 4, sub-section (1); or*
> *eighthly, any increase to the value of the land on account of its being put to any use, which is forbidden by law or opposed to public policy."*

5.15 The landowners have also relied upon the various judgments passed by the RC assessing the market value of the different parcels of the acquired land from time to time. In the absence of evidence to prove that the aforesaid judgments pertaining to the comparable parcels of land with the acquired land in this case, the same have rightly been kept out of consideration by the RC while assessing the market value. Moreover, the sale instance of the adjoining parcel to the acquired land is required to be preferred in place of the assessment of the market value by the RC which is based on the appreciation of the evidence.

6. <u>Decision</u>

6.1 Resultantly, it is evident that the RC has committed an error in increasing the market value of the acquired land to ₹87,84,600/-. Consequently, the appeals filed by the HSIIDC are allowed, whereas, that of the landowners are dismissed. The award passed by the LAC requires no modification. All the applications, filed by the landowners, under Section 18 of the 1894 Act shall stand dismissed. The award dated 15.03.2022 shall stand set aside.

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

(Anil Kshetarpal)
Judge

January 09, 2023
"DK"

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

Sr. No.	Case No.	Party's Name
1.	RFA-920-2022	HSIIDC V/S JAIPAL SINGH AND ORS.
2.	RFA-921-2022	HSIIDC V/S RATAN @ RATTAN AND ORS.
3.	RFA-922-2022	HSIIDC V/S PRITHI SINGH AND ORS.

Sr. No.	Case No.	Party's Name
4.	RFA-923-2022	HSIIDC V/S ACQUAINTED REALTORS LLP AND ORS.
5.	RFA-924-2022	HSIIDC V/S DHARAMPAL AND ORS.
6.	RFA-925-2022	HSIIDC V/S RAJBIR SINGH AND ORS.
7.	RFA-926-2022	HSIIDC V/S BHAGWAN SINGH AND ORS.
8.	RFA-928-2022	HSIIDC V/S RAM MEHAR AND ORS.
9.	RFA-929-2022	HSIIDC V/S BALRAJ SINGH AND ORS.
10.	RFA-930-2022	HSIIDC V/S SHANTI DEVI DECEASED THROUGH HER LRS AND ORS
11.	RFA-931-2022	HSIIDC V/S JASWANT SINGH AND ORS.
12.	RFA-932-2022	HSIIDC V/S MONARCH BUILDTECH PVT. LTD. AND ORS.
13.	RFA-933-2022	HSIIDC V/S HARI PAL RANA AND ORS.
14.	RFA-934-2022	HSIIDC V/S M/S PAPILLON BUILDCON PVTL LTD. AND ORS.
15.	RFA-935-2022	HSIIDC V/S JAI BHAGWAN AND ORS.
16.	RFA-936-2022	HSIIDC V/S ARUN KUMAR AND ORS.
17.	RFA-937-2022	HSIIDC V/S RANBIR SINGH AND ORS.
18.	RFA-938-2022	HSIIDC V/S GREATWAYS BUILDTECH PVT. LTD. AND ORS.
19.	RFA-947-2022	DHARAMPAL AND ORS V/S STATE OF HARYANA AND ORS
20.	RFA-948-2022	RAJBIR SINGH AND ORS V/S STATE OF HARYANA AND ORS
21.	RFA-949-2022	JAIPAL SINGH (SINCE DECEASED) THROUGH HIS LRS AND ORS V/S STATE OF HARYANA AND ORS
22.	RFA-950-2022	PRITHI SINGH V/S STATE OF HARYANA AND ORS
23.	RFA-951-2022	ARUN KUMAR AND ANOTHER V/S STATE OF HARYANA AND ORS
24.	RFA-952-2022	JAI BHAGWAN AND ANOTHER V/S STATE OF HARYANA AND ORS
25.	RFA-953-2022	RATAN SINGH AND ORS V/S STATE OF HARYANA AND ORS
26.	RFA-954-2022	RAM MEHAR (DECEASED) THROUGH LRS AND ANOTHER V/S STATE OF HARYANA AND ORS
27.	RFA-969-2022	BALRAJ SINGH AND ORS V/S STATE OF HARYANA AND ORS

(Anil Kshetarpal)
Judge

January 09, 2023
"DK"