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

**RFA-3555-2016 (O&M) and
other connected cases
Reserved on: 19.02.2025
Date of decision: 11.03.2025**

HARYANA STATE INDUSTRIAL DEVELOPMENT CORPORATION (NOW HARYANA STATE INDUSTRIAL AND INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED)

..Appellants

Versus

NAFE SINGH AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pritam Singh Saini, Advocate
Ms. Aakanksha Sawhney, Advocate
Ms. Parul Saini, Advocate
for HSIIDC.

Ms. Vibha Tewari, AAG, Haryana.

Mr. Sanjay Mittal, Advocate
for the landowners.

ANIL KSHETARPAL, J.

1. Brief facts:-

1.1 With the consent of learned counsel representing the parties, a batch of 37 connected cross regular first appeals (detail whereof is given at the foot of the judgment) shall stand disposed of by this common order. The only issue in these appeals is with respect to assessment of market value of the acquired land.

1.2 The relevant details of the acquisition are as under:-

Sr. No.	*Particulars*	*Important dates and details*
1.	*Date of Notification under Section 4 of the Land Acquisition Act, 1894 (in short '1894 Act')*	*30.04.2008*
2	*Date of Notification under Section 6 of the 1894 Act.*	*14.08.2008*
3.	*Award No.*	*20 dated 18.12.2008*
4.	*Total land acquired*	*41 acre, 1 kanal and 10 marlas*
5.	*Purpose of acquisition*	*For construction of express highway, 1, 10, 8 and 2 in village Mandothi, Tehsil Bahadurgarh, District Jhajjar.*
6.	*Market value assessed in the Award passed by the Land Acquisition Collector (in short 'LAC')*	*Rs.16,00,000/- per acre along with all statutory benefits.*
7.	*The RC has assessed the market value at the rate of Rs.1,000/- per sq. Yard i.e. Rs.48,40,000/- per acre.*	*18.12.2008*

1.3 The Reference Court (in short 'RC') has assessed the market value of the acquired land in the following manner:-

(i) Base value: Rs.21,60,000/- per acre

(ii) Upto the depth of half acre from Kundli Manesar Palwal Expressway (in short 'KMP Expressway'), the landowners shall be entitled to Rs.25,20,000/- per acre by addition of 40%.

(iii) The acquired land located between the depth of half acre to one acre, the landowners were held entitled to @ Rs.23,40,000/- per acre after 30% addition on Rs.21,60,000/- the base value.

(iv) The acquired land located upto the depth of half acre on National Highway-10 (in short 'NH-10') @ Rs.30,60,000/- per acre after 70% addition on the base value.

(v) The acquired land located between the depth of half to one acre abutting NH-10 @ Rs.25,20,000/- after 40% addition on the base value.

1.4 The landowners were also held entitled to damages @ 25% of the market value of acquired or unacquired land on account of their unacquired land into more than one part due to acquisition, whichever is less along with interest.

1.5 Dissatisfied with the award passed by the RC, Haryana State Industrial And Infrastructure Development Corporation (in short 'HSIIDC'), the beneficiary of the acquisition and landowners have come up in appeal. During the pendency of the appeal, while allowing an application for additional evidence, the landowners were permitted to produce the copies of judgments passed in Mahavir and others Vs. State of Haryana, RFA-564-2004 and other connected cases, decided on 12.02.2016 by the High Court and also the judgment of the Supreme Court in civil appeal arising out of SLP(Civil) No.16063 of 2016, (Jag Mahender and others Vs. State of Haryana), decided on 21.09.2017 and a layout plan. These documents were marked as Mark A-1 to Mark A-3.

1.6 In counter evidence, HSIIDC has produced a layout plan, which is a copy of an official village map while marking the location of various sale exemplars produced by the parties, the acquired land as well as NH-10 and KMP Expressway.

2. <u>Evidence adduced by the respective parties:-</u>

2.1 The landowners in order to prove their case have examined the following witnesses, in oral evidence:-

PW-1	*Vedpal*
PW-2	*Om Parkash, Registration Clerk*
PW-3	*Jogender Singh, Patwari*
PW-4	*Ram Mehar*
PW-5	*Dharampal*
PW-6	*Baljit*
PW-7	*Om Parkash, Draftsman*
PW-8	*Sanjay Kumar, Revenue Patwari*

2.2 Apart from the sale deeds, the landowners have produced the following documentary evidence:-

Ex.P-10	*Site plan*
Ex.P-11	*R & R Policy of Govt. of Haryana, 2007*
Ex.P-12	*R & R Policy of Govt. of Haryana, 2010*
Ex.P-13	*Mutation No.10610*
Ex.P-14	*Site plan*
Ex.P-15	*Aks-Shizra*

2.3 RW-1 Rajiv Kumar, Manager, was examined by the HSIIDC and tendered sale deed Ex.R-1.

3. <u>Reasons recorded by the Reference Court (RC):-</u>

3.1 The RC has first of all examined and analyzed the government's policy decision issued on 06.04.2007 and 09.11.2010, notifying the minimum floor rates for determining compensation payable to the landowners. According to the RC, the minimum floor rate for acquisition of land as on 30.04.2008 comes to Rs.18,01,135/-, which has been rounded off to Rs.18,00,000/- per acre. Thereafter, the RC has made addition of 20% on the base amount of Rs.18,00,000/- on the basis of location. It has been held that the acquired land was located in an area, which had the potential to be utilized for industrial and commercial purpose. Thus, the RC worked out an amount of Rs.21,60,000/-. Sale deed Ex.P-8 and Ex.P-9 also corroborate with the price of Rs.21,60,000/-. Thereafter, the parcels of land located upto the depth of half acre on KMP Expressway, have been assessed at the rate of Rs.25,20,000/- by making addition of 40%, whereas, between the depth of half to one acre from KMP Expressway, the amount has been assessed at the rate of Rs.23,40,000/- by addition of 30%. Similarly, the parcels of land upto the depth of half acre abutting NH-10, have been held entitled to at the rate of Rs.30,60,000/- per acre 70% addition on the base value i.e. at the rate of Rs.30,60,000/-, whereas, similar addition has been made upto 40% with respect to parcels of land located between half to one acre depth from NH-10, while calculating amount of Rs.25,20,000/-.

4. <u>Arguments addressed:-</u>

4.1 Learned counsel for the landowners claim that the Supreme Court with respect to acquisition of land as on 29.05.2005 for KMP Expressway in village Mandhoti has assessed the market value @ Rs.32,62,500/- per acre. In these cases in hand, the notification under Section 4 of the '1894 Act' was issued on 30.04.2008, hence, they claim that there is a gap of 2 years and 6 months and the landowners are entitled to 12% per annum cumulative increase by taking the base value at Rs.32,62,500/-. They submit that there is a declaration by the Supreme Court that the market value of the acquired land in the village as on 29.05.2005 is Rs.32,62,500/-, hence, the Court should grant suitable increase on the aforesaid base value.

4.2 Per contra, HSIIDC's counsel while drawing the attention of the Court to sale instances to Ex.P-8 and Ex.P-9, submits that even after KMP highway was planned in the year 2005, the land in the vicinity was being sold at the rate of Rs.20,00,000/- per acre. It is submitted that in the presence of comparable sale instances during contemporaneous period, it would not be appropriate to rely upon the assessment of the market value by the Court.

5. **Analysis and Discussion:-**

5.1 First of all, it would be appropriate to extract tabulated compilation of the various sale deeds produced by the landowners as well as the State of Haryana:-

SALE DEEDS PRODUCED BY THE LANDOWNERS						
Sr. No.	**Exhibits**	**Sale deed Dated**	**Total Area**	**Sale price (in Rs.)**	**Per acre rate (in Rs.)**	**Village**
1	Ex.P-1	24.09.2004	0B-13B	8,00,000/-	19,69,230/-	Mandothi
2	Ex.P-2	05.05.2005	2B-16B	31,19,000/-	17,82,285/-	Mandothi
3	Ex.P-3	21.01.2006	0B-4B	3,00,000/-	24,00,000/-	Mandothi
4	Ex.P-4	28.03.2006	0B-1B	82,500/-	26,40,000/-	Mandothi
5	Ex.P-5	13.11.2006	0B-4B	2,92,000/-	23,36,000/-	Mandothi
6	Ex.P-6	14.05.2007	0B-2B	5,85,000/-	93,60,000/-	Mandothi
7	Ex.P-7	22.05.2007	0B-2B	6,27,000/-	1,00,32,000/-	Mandothi
8	Ex.P-8	21.08.2007	1B-16B	22,50,000/-	20,00,000/-	Mandothi
9	Ex.P-9	21.08.2007	1B-19B	24,37,500/-	20,00,000/-	Mandothi
SALE DEED PRODUCED BY THE STATE						
1	Ex.R-1	16.01.2007	0-19B	4,75,000/-	8,00,000/-	Mandothi

Note: *The aforesaid table has been extracted from the RC's award correctness whereof is not disputed by learned counsel for the parties.*

5.2 On a bare look at the various layout plans produced by both the parties, it is evident that NH-10 (from Rohtak to Delhi) passes close to the acquired land. Ex.P-8 and Ex.P-9 are copies of two sale deeds of more than one acre of land. In fact, sale deed Ex.P-9 is with respect to area more than 6000 sq. yards. It is pertinent to note that one acre consists of 4840 sq. yards.

5.3 Sale deed dated 21.08.2007 (Ex.P-8) with respect to parcel of land sold to M/s Masu Auto Industries. In other words, parcel in the vicinity of the acquired land located on NH-10 was sold at the rate of Rs.20,00,000/-

per acre two years after 30.04.2008, the date of the preliminary notification proposing to construct KMP Expressway was issued.

5.4 The assessment of market value by the Court is dependent upon the nature/quality of evidence produced by the parties. The Courts while assessing the market value of the acquired land do not make a declaration with respect to the value of the land and the market value needs to be determined with respect to the evidence adduced.

5.5 While assessing the market value of the acquired land, the Court is required to keep in consideration the following 17 factors as laid down by the Supreme Court in ***Chimanlal Hargovinddass Vs. Special Land Acquisition Officer, Poona, (1988) 3 SCC 751***:-

> *"4. The following factors must be etched on the mental screen:*
> *(1) A reference under Section 18 of the Land Acquisition Act is not an appeal against the award and the court cannot take into account the material relied upon by the Land Acquisition Officer in his award unless the same material is produced and proved before the court.*
> *(2) So also the award of the Land Acquisition Officer is not to be treated as a judgment of the trial court open or exposed to challenge before the court hearing the reference. It is merely an offer made by the Land Acquisition Officer and the material utilised by him for making his valuation cannot be utilised by the court unless produced and proved before it. It is not the function of the court to sit in appeal against the award, approve or disapprove its reasoning, or correct its error or affirm, modify or reverse the conclusion reached by the Land Acquisition Officer, as if it were an appellate court.*
> *(3) The court has to treat the reference as an original proceeding before it and determine the market value afresh on the basis of the material produced before it.*
> *(4) The claimant is in the position of a plaintiff who has to show that the price offered for his land in the award is inadequate on the basis of the materials produced in the court. Of course the materials placed and proved by the other side can also be taken into account for this purpose.*
> *(5) The market value of land under acquisition has to be determined as on the crucial date of publication of the*

notification under Section 4 of the Land Acquisition Act (dates of notifications under Sections 6 and 9 are irrelevant).

(6) The determination has to be made standing on the date line of valuation (date of publication of notification under Section 4) as if the valuer is a hypothetical purchaser willing to purchase land from the open market and is prepared to pay a reasonable price as on that day. It has also to be assumed that the vendor is willing to sell the land at a reasonable price.

(7) In doing so by the instances method, the court has to correlate the market value reflected in the most comparable instance which provides the index of market value.

(8) Only genuine instances have to be taken into account. (Sometimes instances are rigged up in anticipation of acquisition of land.)

(9) Even post-notification instances can be taken into account (1) if they are very proximate, (2) genuine and (3) the acquisition itself has not motivated the purchaser to pay a higher price on account of the resultant improvement in development prospects.

(10) The most comparable instances out of the genuine instances have to be identified on the following considerations:

(i) proximity from time angle,

(ii) proximity from situation angle.

(11) Having identified the instances which provide the index of market value the price reflected therein may be taken as the norm and the market value of the land under acquisition may be deduced by making suitable adjustments for the plus and minus factors vis-à-vis land under acquisition by placing the two in juxtaposition.

(12) A balance-sheet of plus and minus factors may be drawn for this purpose and the relevant factors may be evaluated in terms of price variation as a prudent purchaser would do.

(13) The market value of the land under acquisition has thereafter to be deduced by loading the price reflected in the instance taken as norm for plus factors and unloading it for minus factors.

(14) The exercise indicated in clauses (11) to (13) has to be undertaken in a common sense manner as a prudent man of the world of business would do. We may illustrate some such illustrative (not exhaustive) factors:

	Plus factors		*Minus factors*
1	*smallness of size*	*1*	*largeness of area*
2	*proximity to a road*	*2*	*situation in the interior at a distance from the road*

3	*frontage on a road*	*3*	*narrow strip of land with very small frontage compared to depth*
4	*nearness to developed area*	*4*	*lower level requiring the depressed portion to be filled up*
5	*regular shape*	*5*	*remoteness from developed locality*
6	*level vis-à-vis land under acquisition*	*6*	*some special disadvantageous factor which would deter a purchaser*
7	*special value for an owner of an adjoining property to whom it may have some very special advantage*		

> ***(15) The evaluation of these factors of course depends on the facts of each case. There cannot be any hard and fast or rigid rule. Common sense is the best and most reliable guide. For instance, take the factor regarding the size. A building plot of land say 500 to 1000 sq. yds. cannot be compared with a large tract or block of land of say 10,000 sq. yds. or more. Firstly while a smaller plot is within the reach of many, a large block of land will have to be developed by preparing a lay out, carving out roads, leaving open space, plotting out smaller plots, waiting for purchasers (meanwhile the invested money will be blocked up) and the hazards of an entrepreneur. The factor can be discounted by making a deduction by way of an allowance at an appropriate rate ranging approximately between 20 per cent to 50 per cent to account for land required to be set apart for carving out lands and plotting out small plots. The discounting will to some extent also depend on whether it is a rural area or urban area, whether building activity is picking up, and whether waiting period during which the capital of the entrepreneur would be locked up, will be longer or shorter and the attendant hazards.***
>
> *(16) Every case must be dealt with on its own fact pattern bearing in mind all these factors as a prudent purchaser of land in which position the judge must place himself.*
>
> *(17) These are general guidelines to be applied with understanding informed with common sense."*

5.6 Keeping in view the aforesaid discussion, it would not be appropriate to treat base value of the acquired land at the rate of Rs.32,60,500/- and thereafter, grant 12% increase for a period of 2 and ½ (half) years particularly when sale exemplars 'Ex.P-8' and 'Ex.P-9' proves the price @ Rs.20,00,000/- per acre in the area. The location of parcels of land sold through sale instances Ex.P-8 and Ex.P-9 is abutting NH-10 and is close to the acquired land. Hence, these sale instances are found comparable with the acquired land.

5.7 Alongside, the proposed KMP Expressway, a narrow strip of land has been acquired in order to facilitate connectivity to the vehicles shifting from NH-10 to KMP Expressway (also known as Eastern Peripheral Road). This road has been constructed to divert traffic, which was coming from North and going past Delhi. Eastern Peripheral Road starts from Kundly Located on G.T. Road and goes upto Palwal via Manesar. This peripheral road is also helping traffic coming from South of Delhi to enter Haryana without entering Delhi. Similarly, the traffic coming from Western Side i.e. Jaipur and Gujarat can go to Haryana and Punjab without entering Delhi. After analysing the potentiality of land in the area. The RC has erred in granting 70% increase with respect to parcels of land having depth of half acre from NH-10 while overlooking that sale exemplars Ex.P-8 and Ex.P-9 are also located on NH-10. Similar mistake has been committed while granting additional amount of 40% and 30% with respect to parcels of land abutting KMP Expressway without realizing that KMP Expressway is an elevated road and the land abutting the KMP Expressway would not fetch a higher price unless there is an exit from KMP Expressway.

5.8 On the basis of the policy decision taken by the State, the RC has calculated the base value of the acquired land at the rate of Rs.21,60,000/- per acre. While relying upon sale deed Ex.P-8 and P-9, the base value is Rs.20,00,000/-. There is a gap of 7 and ½ months between the sale deed and notification under Section 4 of the ‘1894 Act’ if we grant 15% increase per annum on Rs.20,00,000/-, the amount comes to Rs.21,87,500/-

per acre. The 15% increase has been calculated in view of the judgment passed by the Supreme Court.

5.9 The traffic coming from Delhi can shift to KMP Expressway while using this small strip of land. There is no exit from this side.

5.10 Hence, while opting to award, higher amount between the base value as per policy and sale instances, the market value of the acquired land is assessed at Rs.21,87,500/- per acre.

5.11 There is no challenge to award of damages on account of severance of unacquired land to the extent of 25%, the correctness of which has not been challenged before this Court.

6. <u>Decision:-</u>

6.1 Keeping in view the aforesaid discussion, the appeals are disposed of while assessing the market value at the rate of Rs.21,87,500/- per acre.

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

11th March, 2025 **(ANIL KSHETARPAL)**
JUDGE

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

Sr. No.	Case No.	Appellant(s)	Respondent(s)
1.	**RFA-3555-2016**	**HARYANA STATE INDUSTRIAL DEVELOPMENT CORPORATION (NOW HARYANA STATE INDUSTRIAL AND INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED)**	**NAFE SINGH AND OTHERS**
2.	RFA-3556-2016	HSIIDC	JAI PARKASH AND ORS

3.	RFA-3557-2016	HSIIDC	RAM CHANDER AND ORS
4.	RFA-3558-2016	HSIIDC	BRAHMA AND ORS
5.	RFA-3559-2016	HSIIDC	MURTI AND ORS
6.	RFA-3560-2016	HSIIDC	RAMKANWAR AND ORS
7.	RFA-3561-2016	HSIIDC	SAROJ AND ORS
8.	RFA-3562-2016	HSIIDC	BHOOP SINGH AND ORS
9.	RFA-3563-2016	HSIIDC	MAUJI RAM AND ORS
10.	RFA-3564-2016	HSIIDC	CHANDRAM AND ORS
11.	RFA-3565-2016	HSIIDC	KAPOOR AND ORS
12.	RFA-3566-2016	HSIIDC	NAND KAUR AND ORS
13.	RFA-3567-2016	HSIIDC	SANTOSH AND ORS
14.	RFA-3568-2016	HSIIDC	KITABO AND ORS
15.	RFA-3569-2016	HSIIDC	RAMDHAN AND ORS
16.	RFA-3570-2016	HSIIDC	KITABO AND ORS
17.	RFA-3571-2016	HSIIDC	RAJENDER AND ORS
18.	RFA-3572-2016	HSIIDC	VIRENDER AND ORS
19.	RFA-3599-2016	HSIIDC	HI TECH AMUSEMENT & RECREATIONS LTD & ORS
20.	RFA-238-2015	RAM CHANDER AND ORS.	STATE OF HARYANA AND ORS.
21.	RFA-239-2015	CHANDRAM AND ORS.	STATE OF HARYANA AND ORS.
22.	RFA-240-2015	JAI PARKASH AND ORS.	STATE OF HARYANA AND ORS.
23.	RFA-241-2015	SAROJ AND ORS.	STATE OF HARYANA AND ORS.
24.	RFA-242-2015	SANTOSH AND ORS	STATE OF HARYANA AND ORS.
25.	RFA-745-2015	NAND KAUR DECEASED TH LRS	STATE OF HARYANA AND ORS.
26.	RFA-746-2015	NAFE SINGH AND ORS.	STATE OF HARYANA AND ORS.
27.	RFA-747-2015	VIRENDER AND ORS.	STATE OF HARYANA AND ORS.
28.	RFA-748-2015	KAPOOR AND ORS.	STATE OF HARYANA AND ORS.
29.	RFA-1032-2015	BHOOP SINGH & ORS	STATE OF HARYANA & ORS
30.	RFA-1033-2015	RAMKAWAR & ORS	STATE OF HARYANA & ORS
31.	RFA-1034-2015	MURTI & ORS	STATE OF HARYANA & ORS
32.	RFA-1035-2015	KITABO & ORS	STATE OF HARYANA & ORS
33.	RFA-1379-2015	BRAHMA DECEASED TH LRS & ORS	STATE OF HARYANA AND ORS.
34.	RFA-2048-2015	KITABO & ORS	STATE OF HARYANA &

			ORS
35.	RFA-2049-2015	RAJENDER & ORS	STATE OF HARYANA & ORS
36.	RFA-5417-2015	RAMDHAN AND ORS	STATE OF HARYANA AND ORS
37.	RFA-6006-2015	HI-TECH AMUSEMENT & RECREATIONS (INDIA) LTD	STATE OF HARYANA & ORS

11th March, 2025 **(ANIL KSHETARPAL)**
Ayub **JUDGE**