

2025:PHHC:126516



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

RFA-33-2023 (O&M)
Decided on:-12.09.2025

Om Parkash and others

....Appellants..

versus

Executive Engineer, PWD B&R,
Division No.1, Rohtak and others

....Respondents..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. D.K. Tuteja, Advocate,
for the appellants.

Mr. Abhinash Jain, DAG, Haryana for the respondents-State.

HARKESH MANUJA J. (Oral)

1. Vide this common judgment, a batch of total 08 connected Regular First Appeals are being decided as all have arisen out of the same award. The details of the connected cases are given on the foot of the judgment.

1.2 For convenience, the facts are being taken from ***RFA-33-2023 (O&M)***.

2. By way of present appeal, challenge has been laid to an award dated 26.10.2021 passed by the learned Additional District Judge, Rohtak (***for short, Reference Court***), whereby, reference petition(s) preferred at the instance of appellants-landowners having invoked Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition

Rehabilitation and Resettlement Act, 2013 (*for brevity, "2013 Act"*), were dismissed.

3. Brief facts of the case are that some land owned by the appellants-landowners, situated in the revenue estate of Village Bhali Anandpur, Kalanaur, Rohtak was acquired vide notifications dated 22.12.2013 and 26.06.2014, issued under Sections 4 & 6, respectively of the Land Acquisition Act, 1894 Act (*for brevity, "1894 Act"*), for the public purpose, namely, New Railway Line (Rohtak-Meham-Hansi). The total land under acquisition was 140 kanals 19 marlas. The Land Acquisition Collector vide its award dated 01.06.2016 assessed the market value at the rate of Rs.20 lacs per acre.

4. Aggrieved of the award passed by the Land Acquisition Collector, appellants-landowners invoked reference under Section 64 of the 2013 Act, seeking enhancement of compensation. Upon consideration of the material available on record, the Reference Court vide its award dated 26.10.2021, dismissed the reference petition(s).

5. Feeling aggrieved of the aforesaid award passed by the Reference Court, the appellants-landowners preferred the aforementioned appeals, praying for enhancement towards market value and compensation.

6. Impugning the aforementioned award, learned counsel for the appellants-landowners submits that the Reference Court went wrong while discarding the sale instance dated 20.04.2012 (Ex.P6), which was proved on record. He submits that as per the site plan (Ex.P5), the land forming part of sale instance (Ex.P-6) was just abutting the acquired land and thus, was required to be relied upon as comparable sale exemplar. He also contends

that as per the sale consideration under the sale deed (Ex.P-6), the sale price per acre comes to Rs.98 lacs and accordingly, the market value should have been reassessed by the learned Reference Court qua the land under acquisition.

6.1 Learned counsel also points out that Explanation IV to Section 26 (1) of the 2013 Act is not applicable in the given facts as the same only regulates the determination of market value by the Land Acquisition Collector and does not, in any manner, restricts the power of the Ld. Reference Court, which needs to decide the reference petition in terms of the evidence brought before it. He thus, submits that the present appeal deserves to be allowed with grant of further enhancement of the market value in favour of the appellants-landowners.

7. On the other hand, learned counsel for the respondent-State primarily relies upon the reasoning recorded by the learned Reference Court in para 20 of the impugned award dated 26.10.2021, to contend that the sale deed (Ex.P-6) was rightly discarded in view of Explanation IV to Section 26 (1) of the 2013 Act; having recorded that the Collector rate of the area was Rs.20 lacs per acre. He submits that the only sale deed Ex.P6, which was for a much higher price was liable to be ignored being not indicative of the actual prevailing market price. He also submits that the Reference Court went wrong while having failed to rely upon the sale deed dated 14.11.2014 (Ex.R-2), which was for an area measuring 3 kanals 5 marlas and the sale consideration per acre was around Rs.19,98,000/- (approx.). He thus, submits that the ld. Reference Court award was based on the correct appreciation of facts and thus, called for no interference.

8. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the appellants-landowners.

9. Before proceeding further, it may be relevant to take note of Section 26 (1) along with Explanation 1 to 4 and Section 64 of the 2013 Act:-

Section 26(1) of the 2013 Act	Section 64 of the 2013 Act
<p><i>“Determination of market value of land by Collector.—</i> <i>(1) The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely:—</i> <i>(a) the market value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899) for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or</i> <i>(b) the average sale price for similar type of land situated in the nearest village or nearest vicinity area; or</i> <i>(c) consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of lands for private companies or for public private partnership projects, whichever is higher Provided that the date for determination of market value shall be the date on which the notification has been issued under section 11.</i> <i>Explanation 1.—The average sale price referred to in clause (b) shall be determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made.</i> <i>Explanation 2.—For determining the average sale price referred to in</i></p>	<p><i>(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested:</i> <i>-Provided that the Collector shall, within a period of thirty days from the date of receipt of application, make a reference to the appropriate Authority:</i> <i>-Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.</i> <i>(2) The application shall state the grounds on which objection to the award is taken:</i> <i>Provided that every such application shall be made--</i> <i>(a) person making it was present or represented before the Collector at</i></p>

<p><i>Explanation 1, one-half of the total number of sale deeds or the agreements to sell in which the highest sale price has been mentioned shall be taken into account.</i></p> <p><i>Explanation 3.—While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration.</i></p> <p><i>Explanation 4.—While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid, which in the opinion of the Collector is not indicative of actual prevailing market value may be discounted for the purposes of calculating market value.</i></p>	<p><i>the time when he made his award, within six weeks from the date of the Collectors award;</i></p> <p><i>(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collectors award, whichever period shall first expire:</i></p> <p><i>Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.</i></p>
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A perusal of the aforesaid provisions shows that the same has been enacted by the Legislature to provide guidance to the Collector for the purpose of determination of market value at the time of passing of the award. By any stretch of imagination, the said provision cannot regulate or restrict the powers vested with the learned Reference Court which has to reassess/redetermine the market value on the basis of the evidence led before it. The reference petitions for the purpose of seeking enhancement under the 2013 Act are entertained under Section 64 thereof and the language used therein no-where regulates or restricts the powers of the Reference Court through the paramaters laid down under Section 26 of the 2013 Act.

9.1 In such circumstances, the findings recorded by the learned Reference Court as well as the submission made on behalf of the learned

State counsel are wholly misplaced to the effect that the sale deed Ex.P-1/6 was to be discarded in terms of Explaination 4 to Section 26 (1) of the 2013 Act. Moreover, learned State counsel has not been able to point out any document available on record to show that the Collector expressed any opinion before the learned Reference Court to indicate that the sale price mentioned in the sale deed Ex.P-6 was not indicative of the actual prevailing market value of the area.

9.2 As regards, the contention raised on behalf of the learned State counsel to the effect that the sale instance Ex.R-2 needs to be taken into account is also devoid of merits, the same being post notification. The sale deed Ex.R-2 was executed on 14.11.2014, whereas, the notification in the present case under Section 4 was issued on 22.12.2013 i.e. after a gap of almost one year of the acquisition.

9.3 A perusal of the site plan (Ex.P-5) also shows that the land consisting of sale deed Ex.P-6 is at a distance of around 20 acres from the land under acquisition. Besides it, learned State counsel has not been able to point out any evidence been led in order to establish that the sale deed (Ex.P-6) was not a bonafide or genuine transaction but was purposely executed for getting benefit against the acquisition in hand towards the exaggerated market value. Moreover, the sale deed Ex.P-6 was executed on 20.04.2012, whereas, the notification in the present case under Section 4 was issued on 22.12.2013 i.e. after a gap of around 1 year and 8 months and thus, cannot by any stretch of imagination be termed to be a transaction procured for the purpose of getting undue benefit towards the assessment of market value against any future acquisition. Thus, in such circumstances, the sale

instance Ex.P-6 needs to be taken as sale exemplar for the purpose of consideration of the claim made by the appellants-landowners towards enhancement of compensation.

9.4 In the aforesaid reasoning, it is apparent that the learned Reference Court went wrong to discard the sale deed Ex.P-6 merely by placing reliance upon Section 26 of the 2013 Act. Further, in the present case, the sale deed dated 20.04.2012 (Ex.P-6) pertains to an area measuring 6 kanals 16 marlas against sale consideration of Rs.83,30,000/- and the sale price per acre comes to Rs.98 lacs.

9.5 At this stage, it may also be noticed here that the sale exemplar Ex.P-6 is dated 20.04.2012, whereas notification for acquisition in the present case was issued on 20.12.2013 as such there has been a gap of around 20 months, accordingly, an appropriate escalation @ 12% per annum needs to be applied over and above the sale price mentioned in the sale exemplar (Ex.P-6). Thus, the value as on 22.12.2013 i.e. date of notification under Section 4 of the 1894 Act comes to 1,17,60,000/- per acre. In the humble opinion of this Court, it may be noticed here that no cut towards development cost needs to be applied on the sale price Ex.P-6 as the sale exemplar pertains to 6 kanals 16 marlas of land and acquisition in the present case is for the purpose of New Railway Line (Rohtak-Meham-Hisar) and thus, the respondents are not going to suffer any cost towards providing of amenities in the area.

9.6 However, considering the fact that the land forming part of the sale exemplar Ex.P-6 is situated on the road Rohtak -Bhiwani, whereas, the acquired land is situated 5 -10 acres away from the said Rohtak-Bhiwani

road, as such an appropriate cut of 1/3rd needs to be applied. Accordingly, the market value of the acquired land as on 22.12.2013 i.e. on the date of notification 4 of the 1894 Act, thus, comes to Rs.78,40,000/-. In addition, the landowners shall also be entitled for other statutory benefits and interest provided under the 2013 Act.

10. Accordingly, in view of the discussion made herein above, the appeals preferred at the instance of appellants-landowners are hereby partly allowed.

11. Further, in case of unfortunate demise of any of the landowners-crossobjectors, if the legal heirs-legal representative(s) have not been brought on record, they shall be entitled for filing exemption applications in their own names being legal heirs or legal representatives of the deceased-landowners; subject of course to any testamentary document created by the deceased.

12. Pending application, if any, also stands disposed of.

12.09.2025
sonika

(HARKESH MANUJA)
JUDGE

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

Sr. No.	Case No.
1	RFA-33-2023 (O&M)
2	RFA-26-2023 (O&M)
3	RFA-13-2023 (O&M)
4	RFA-14-2023 (O&M)
5	RFA-24-2023 (O&M)
6	RFA-25-2023 (O&M)
7	RFA-27-2023 (O&M)
8.	RFA-29-2023 (O&M)