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*IN THE HIGH COURT OF DELHI AT NEW DELHI

+ LA.APP. 132/2011

GOPI RAM & ANR ..... Appellants
Through: Mr.N.S.Negi, Advocate.

versus

UNION OF INDIA & ANR ..... Respondents
Through: Mr.Sanjay Poddar, Senior Advocate with Mr.Sanjay Pathak, Advocate for UOI.

CORAM:
HON'BLE MR.JUSTICE PRADEEP NANDRAJOG

ORDER

% **19.09.2011**

For orders, see LA.App.No.999/2010.

PRADEEP NANDRAJOG, J.

SEPTEMBER 19, 2011
mm

Signature Not Verified
Digitally Signed
By:AMULYA

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Judgment Reserved On: 19th August, 2011*
Judgment Delivered On: 19th September, 2011

\+ LA.APP. 999/2010 &
CM No.6549/2011 (Cross-Objection)

RAJ SINGH ... Appellant
Through: Mr.B.S.Mann, Advocate
Mr.Deepak Khosla, Advocate and
Mr.N.S.Negi, Advocate.

Vs.

UOI & ANOTHER ... Respondents
Through: Mr.Sanjay Poddar, Senior Advocate
& Mr.Sanjay Kumar Pathak, Mr.Sachin Nawani, Mr.Siddharth Panda and Ms.K Kaomudi Kiran, Advocates for R-1

AND

\+ LA.APP. 961/2010, LA.APP. 1001/2010 & CM No.12885/2011, LA.APP. 1007/2010 & CM No.15181/2011, LA.APP. 1009/2010, LA.APP. 1010/2010, LA.APP. 1036/2010 & CM No.12865/2011, LA.APP. 5/2011, LA.APP. 6/2011 & CM No.6756/2011, LA.APP. 38/2011 & CM No.6740/2011, LA.APP. 41/2011, LA.APP. 89/2011, LA.APP. 142/2011, LA.APP. 160/2011, LA.APP. 161/2011, LA.APP. 163/2011 LA.APP. 246/2011, LA.APP. 247/2011, LA.APP. 248/2011, LA.APP. 298/2011, LA.APP. 347/2011, LA.APP. 375/2011, LA.APP. 386/2011, LA.APP. 387/2011, LA.APP. 394/2011, LA.APP. 397/2011, LA.APP. 406/2011, LA.APP. 407/2011.

(Relating to Notification u/Sec. 4 dated 15.09.2000 & Award No. 06/2002-2003, Village-Bhalswa Jahangir Puri)

AND

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+ LA.APP. 57/2011 & CM ~~No.12871/2011~~, LA.APP. 88/2011 LA.APP. 130/2011, LA.APP. 132/2011, LA.APP. 164/2011, LA.APP. 200/2011, ~~LA.APP. 201/2011~~, LA.APP. 202/2011, LA.APP. 216/2011, LA.APP. 240/2011, LA.APP. 241/2011, LA.APP. 242/2011, LA.APP. 243/2011, LA.APP. 244/2011, LA.APP. 245/2011, LA.APP. 323/2011, LA.APP.346/2011, LA.APP. 348/2011 & CM No.15194/2011, LA.APP.349/2011 & CM No.15182/2011, LA.APP. 373/2011, LA.APP. 374/2011, LA.APP. 376/2011, LA.APP. 380/2011, LA.APP. 382/2011, LA.APP. 393/2011, LA.APP. 398/2011, LA.APP. 399/2011, LA.APP. 400/2011, LA.APP. 408/2011, LA.APP. 410/2011, LA.APP. 414/2011.

(Relating to Notification u/Sec. 4 dated 30.07.1998 & Award No. 18/2000-2001, Village- Bhalswa Jahangir Puri)

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

PRADEEP NANDRAJOG, J.

1. I proceed with an apology to the reader by referring to a notification issued later in point of time and then to a notification issued prior in point of time; but the reason is that the learned counsel for the land owners had addressed arguments with respect to the notification issued later and had required price to be suitably reduced pertaining to the notification which was issued earlier in point of time.

2. Land measuring 758-01 bigha situated in the revenue estate of village Bhalswa Jahangir Puri was acquired pursuant

to a notification dated 15.09.2000 issued under Section 4 of the Land Acquisition Act 1894, for a public purpose, namely, 'Rehabilitation of JJ Cluster'. This was followed by a declaration under Section 6 of the said Act issued on 17.04.2001. After following the due process, the Land Acquisition Collector announced his award bearing No.6/2002-03 dated 20.04.2002, whereby he assessed the fair market value of the acquired land at ₹2,87,916.66 per bigha, which is equivalent to ₹13.82 lakhs per acre i.e. fair market value as of 15.09.2000 was fixed at ₹13.82 lakhs per acre.

3. Dissatisfied with the assessment made by the Land Acquisition Collector, the land owners sought reference under Section 18 of the said Act. The Learned Reference Court, in the lead matter, being LAC No.112A/2008 titled *Raj Singh Vs. Union of India*, assessed the fair market value of the acquired land at ₹3,03,534 per bigha or ₹14,56,963 per acre.

4. It needs to be highlighted that both i.e. the learned Land Acquisition Collector as well as the Learned Reference Court, while assessing the fair market value of the acquired land, adopted the minimum price for agricultural land fixed by the Government as on 01.04.2000, notified vide Circular dated 11.09.2011. Different destinations were reached inasmuch as the learned Land Acquisition Collector, while assessing the compensation, did not grant appreciation for the period from 01.04.2000 till the date notification under Section 4 of the Land Acquisition Act was issued on 15.09.2000, but the learned Reference Court granted appreciation for the said period of 165 days @ 12% per annum with reference to the base date 1.4.2000 and the price ₹13.82 lakhs per acre.

5. Another parcel of land ad-measuring 929-05 bigha, situated in the same revenue estate of village Bhalswa Jahangir Puri was acquired pursuant to a notification issued under Section 4 of the Land Acquisition Act 1894, dated 30.07.1998, for the same public purpose i.e. 'Rehabilitation of JJ Cluster'. This was followed by a declaration under Section 6 of the Act issued on 04.08.1998. After following the due process, the Land Acquisition Collector announced an award bearing No.18/2000-01 dated 12.03.2001, whereby he assessed the fair market value of the acquired land at ₹2,33,333 per bigha which is equivalent to ₹11.20 lakhs per acre.

6. Dissatisfied with the assessment made by the Land Acquisition Collector, the land owners sought reference under Section 18 of the Act. The Learned Reference Court, in the lead matter being LAC No.111A/2008 titled *Chandrawati Vs. Union of India*, assessed the fair market value of the acquired land at ₹11,46,670/- per acre. The difference in the destination reached is on the same reason as noted hereinabove pertaining to the notification dated 15.9.2000 i.e. the learned Land Acquisition Collector adopting the land rate notified by the Government with effect from 1.4.1997 vide circular dated 25.7.1997 and ignoring that the notification in question was issued on 30.7.1998 and the learned Reference Court granting enhancement @ 11% per annum for the interregnum period.

7. The Union of India as well as the land owners have challenged the assessment made by the Learned Reference

Court by way of the appeals and cross objections mentioned above.

8. On behalf of the land owners, justifying higher compensation, reliance was placed on the following documentary evidence:-

(a) The rate notified by the L&DO vide notification dated 16.04.1999 (Exhibit PW-4/1), whereby it disclosed its intention to charge unearned increase in respect of developed residential and commercial properties owned by L&DO. Relying on this document, it was argued that in the year 1999, the rate of residential land in Azadpur, which is stated to be close to village Bhalaswa Jahangir Puri, was fixed at ₹5830/- per square meter or ₹2,35,92,400.92 per acre and it was urged that if 50% is deducted towards development cost, the land owners should be entitled to enhanced compensation in sum of ₹1,17,96,200/- per acre.

(b) The rate charged by MCD for allotment of commercial plot in Sanjay Gandhi Transport Nagar, in terms of the Resolution No.705 dated 23.11.1987 (Exhibit PW-3/1), whereby MCD decided to allot developed plots to the transporters @ ₹425/- per square meter and Exhibit PW-3/2, a copy of the Resolution No.610 dated 21.02.2005, whereby MCD decided to allot the plots in Sanjay Gandhi Transport Nagar @ ₹4,500/- per square metre were urged to be material and good evidence. Relying on these

documents, learned counsel for the land owners argued that the rate stated in the resolutions aforenoted, which was applicable for the year 1976, would evidence that fair market value of developed land comes to ₹17,19,857/- per acre and it was urged that even if 50% deduction is made on account of the development costs, for undeveloped lands, fair market value would come to ₹8,59,928/- per acre in the year 1976 and increasing the same by 12% per annum, the fair market value as of 15.9.2000 would be ₹24,76,592/- per acre.

(c) Learned counsel for the land owners also placed reliance on the auction record of plots in Rohini Residential Scheme in the year 1997-98 and 1998-99 (Exhibits PW-8/2 and PW-8/3). While relying on the brochure of DDA pertaining to the year 2006, it was argued that as per the advertisement auctions were held qua flats having plinth area of 69 square metre to 71 square metre in Jahangir Puri at a price ranging between ₹23.72 lakh to ₹28.4 lakh, which according to learned counsel translates to a price of ₹14,36,36,363 per acre and counsel urged that suitable deduction could be effected therefrom pertaining to undeveloped agricultural land.

(d) Relying on a sale deed of village Khera Khurd (Exhibit PW-15/1), whereunder land measuring 2-19 bigha was sold @ ₹32,40,300/- on 25.04.2001, learned counsel urged that the price per acre comes to ₹56,93,163/- or ₹11,86,169/- per bigha. It was

contended that this sale deed should be relied upon, after making a reasonable deduction towards development cost to determine the fair market value of undeveloped agricultural land in village Bhalswa Jahangir Puri. Another sale deed dated 24.03.2000 (Exhibit PW-15/2), whereby land measuring 4-16 bigha situated in the revenue estate of village Mamurpur was sold to Radha Swami Satsang Vyas at a price of ₹26,75,000/- per acre was also relied upon.

(e) Learned counsel for the land owners also relied upon an Agreement to Sell (Exhibit PW-6/1) which was executed by one Shri Khushi Ram in favour of a society 'M/s.Butterfly', whereunder land was agreed to be sold on 05.08.1996 @ ₹18 lakhs per acre. It was urged that the land was in the revenue estate of village Bhalswa Jahangir Puri and thus was pressed in aid as good evidence of fair market value of land in the said village as of the date of the agreement to sell i.e. 5.8.1996.

9. Per contra, Sh.Sanjay Poddar learned senior counsel appearing on behalf of Union of India relied on a Sale Deed dated 05.06.1996 (Exhibit R-2), whereunder 1-03 bigha of land in village Bhalswa Jahangir Puri was sold at a price of ₹1,40,000 and urged that even if 12% appreciation per annum is to be given on said value, the price as on the date of the notification under Section 4 comes to ₹1,94,782 per bigha, and thus it was argued that since price of similar land is available in the same village, it would be imprudent to travel to the adjoining village or to adopt the price of developed land for

fixing the market value of undeveloped agricultural land having a vast area. Learned counsel also argued that the learned Land Acquisition Collector has assessed the fair market value of the land at a price much higher than the one reflected in Exhibit R-2 and so has the learned Reference Court.

10. It may be noted that when judgment was reserved in the above captioned matters on 19th August, 2011, decision had been reserved for judgment in a batch of land acquisition appeals, lead matter being LA.App.No.266/2008 titled *Jai Singh Vs. UOI & Anr.* in which similar arguments as were advanced with respect to similar evidence relied upon in the instant appeals and learned senior counsel Sh.Sanjay Poddar submitted that in response to the arguments of learned counsel for the land owners, the arguments which he had advanced on the earlier occasion may be treated as his response.

11. The topography of village Bhalswa Jahangir Puri has come out in the deposition of Shri Trilok Chand (*Halqa Patwari*) who appeared as PW-2 in LAC No.112A/2008 titled *Raj Singh Vs Union of India* in which he has explained the topology of the area while proving the *Aks Sizra* Ex.PW-2/1 of village Bhalswa Jahangir Puri. His testimony would reveal that village Kadipur and Libaspur are situated in the North, villages Mukhmelpur and Burari are situated in the East, villages Samaipur Badli and Haiderpur are situated in the West and villages Bharola and Sarai Pipalthala are situated in the South of village Jahangir Puri.

12. I may additionally note that the lay out plan of the National Capital Territory of Delhi, published by the Government of NCT Delhi would reveal that village Bhalswa Jahangir Puri is situated on the eastern side of G.T.Karnal Road i.e. National Highway No.1. Villages Badli, Samaipur, Libaspur, Khera Kalan, Alipur, Mamoorpur (Narela) are on the western side of National Highway No.1.

13. It needs to be highlighted that whatever development took place in the revenue estate of village Jahangir Puri, post acquisition of agricultural lands in the revenue estate of said village was for re-settlement of slum and J.J. dwellers i.e. the character of urbanization in the area was of a kind where potential price increased due to urbanization was of a weak nature. In the decision reported as *Amar Singh Vs. Union of India* 1998 (V) AD (Delhi) 4*81*, it was noted that there existed a resettlement colony called Jahangir Puri in the area which had sprung up during the period of emergency i.e. the year 1975-76. It has to be remembered that the two subject acquisitions were also for re-settlement of slum and J.J.Clusters.

14. The decision in LA.App.No.266/2008 *Jai Singh Vs. UOI & Anr.* which was reserved on 12.8.2011 and had yet to be pronounced on 19.8.2011, when instant appeals were reserved for judgment, has since been pronounced by me on 23.8.2011 and I would highlight that while assessing the fair market value of the land situated in 10 revenue estates in the same revenue district i.e. North-West Delhi being revenue estate of villages Pooth Khurd, Shahpur Garhi, Sanoth, Alipur, Narela, Rajapur Kalan, Holambi Kalan, Khera Khurd, Holambi Khurd and Bawana, I had noted that the topology of the area

constituted a 'V' at the point of intersection where G.T.Karnal Road i.e. NH-1 and Rohtak Road i.e. NH-10 bifurcated at a common point, proceeding in different directions, at Sabzi Mandi. It needs to be highlighted that village Bhalswa Jahangir Puri is outside the 'V' aforesaid and as explained hereinabove and abuts towards the east of NH-1.

15. In the appeals relating to the said 10 villages where land were acquired pursuant to different notifications issued from time to time I had dealt with notifications issued in the year 2000, 2001, 2002 and 2003. In those cases, learned counsel for the land owners had relied upon the sale deed dated 25.04.2001 (Exhibit PW-15/1) and the sale deed dated 24.03.2000 (Exhibit PW-15/2) i.e. the same sale deeds on which learned counsel for the land owners have placed reliance upon as noted in sub-para (d) of para 8 hereinabove. In the said judgment dated 23.8.2011, I have discarded these two sale deeds for the reasons recorded in paragraphs 21 to 23 which are reproduced hereunder:-

> 21. The first argument is predicated on the 2 sale deeds, Ex.PW-1/3 which is dated 25.3.2000, and the sale deed Ex.PW-1/2 which is dated 25.4.2001. As per the former, fair market value for the former comes to ₹26.75 lakhs per acre and the latter @ ₹63.478 lakhs per acre. The learned Reference Court has rejected the 2 sale deeds as reliable evidence to determine fair market value of agricultural lands, for all the villages in question on the reasoning that the sale deed Ex.PW-1/3 was purchased by a religious trust by the name of 'Radha Swami Satsang' and Suraj Bhan PW-6 who had tendered the sale deed in evidence, while deposing in Court in LAC No.68/2005 had stated that to his knowledge the land was purchased for religious purpose and was being used for a religious purpose. The sale deed Ex.PW-1/2 has likewise

been held not to be reliable evidence to determine fair market value of agricultural lands on the reasoning it was purchased by a Non Government Organization "Christian Organization" and as per the testimony of PW-7 Sister Annie, the secretary of the organization stated that the organization had to pay the price for the said piece of land as it was the only plot of the requisite size suitable for the requirement of the organization and is being used for destitute women i.e. there was a special circumstance, personal to the vendee.

22. As held in the decisions reported as 1995 (1) SCC 717 *Land Acquisition Officer Eluru & Ors. Vs. Jsti Rohini & Anr.* (Refer para 6) and 2009 (14) SCC 369 *Mohd. Raufuddin Vs. Land Acquisition* Officer (Refer para 13) sale transactions evidenced in a sale deed which are tendered in evidence by virtue of Section 51A of the L.A.Act 1894 have not to be ipso facto treated as an exemplar sale deed to determine the market value of land in an area for the reason there may be special circumstances which have led the buyer to pay a higher price. The true test is the price which a well informed willing buyer would pay to an equally well informed seller without being influenced by any special circumstances or the fancy to buy a particular piece of land. An informed buyer would be one who has studied the market and has apprised himself of all available land in the area; has understood the topology of the area and the prevailing prices. If a buyer has a fancy for a particular piece of land, he may pay a much higher price and this would not be a good index of fair market value of the lands in the area. I would be failing if I do not highlight that the Union of India had relied upon the sale deed dated 20.5.2002, which was accepted by the learned Reference Court pertaining to the notification dated 27.1.2003 where-under agricultural land in village Rajapur Kalan was sold by an agriculturist to an agriculturist for a much lesser price i.e. ₹17,74,109/- per acre as against the price which comes to ₹63.478 lakhs per acre for Ex.PW-1/2 and ₹28.89 lakhs per acre for Ex.PW-1/3. The 2 sale deeds

Ex.PW-1/2 and Ex.PW-1/3, themselves are having intrinsic evidence of the fanciful price and ex-facie destroy each other.

23. Thus, apart from the reasoning of the learned Reference Court, with which I concur, afore-noted reasons in para 21 above would be additional reasons to hold that the 2 sale deeds would advisably not be good evidence wherefrom fair market value of subject lands can be determined and more so for the reason I find that under various awards nearly between 7,000 to 8,000 bigha of land have been acquired and when the acquisition is of such large an area, it would make all the more a reason to be circumspect on sale deeds having intrinsic evidence of the transaction being the result of a fancy of the buyer. I would be failing not to note an unreported decision cited by learned counsel Sh.I.S.Dahiya being the decision dated 19.12.2008 disposing of a batch of appeals, lead matter being LA.App.No.193/2006 *Pratap Singh (since deceased) thru LRs Vs. UOI & Ors.* It was highlighted that the sale deed therein by which L&T had purchased 8 bigha and 9 biswa of agricultural land for expansion of its factory which had been ignored by the learned Reference Court on the ground that L&T had a fancy for the said land and hence the price reflected therein could not be treated as a good evidence of value of land in the area, was rejected by the Court and the price in question, with suitable deduction on account of the parcel of land being large, was accepted by the Court and thus even in the instant cases the 2 sale deeds in question i.e. Ex.PW-1/2 and Ex.PW-1/3 should be treated as the basis to determine fair market value. The argument ignores the reasoning in the decision of the Division Bench in paras 37 to 38 wherein the Division Bench, did not accept the value in the sale deed on its own logic as indicative of the market value, but found that if the price therein was reduced by 1/3rd, the price arrived at would be the same as would be price arrived at with reference to the average rate of the sale deeds produced by the Union of India i.e. the sale deeds

> produced by the Government were giving a price of ₹1,37,000/- per bigha and the sale deed under which L&T had purchased the land gave the price ₹3,26,600/- per bigha and the average would come to ₹2,31,800/- which was near about the price of ₹2,15,160/- per bigha, if 1/3rd would be deducted from the sum of ₹3,26,600/-. It may further be highlighted that in the said judgment the year of the sale was 1993 and the notification under Section 4 of the Land Acquisition Act was dated 24.7.1995 and 16.11.1995 and the Court determined fair market value as of the said dates at the same sum arrived at as aforesaid i.e. ₹2,15,160/-. In other words, the reasoning of the Division Bench is not to be read pedantically but meaningfully. It is not that the Court treated the sale deed in question as the basis for if it was so, the appreciation for 2 years had required to be given. I would highlight once again, that I have hereinbefore already noted the inherent contradiction in the value of the land price as per the 2 sale deeds and this itself is intrinsic mutually destructive evidence of the 2 sale deeds reflecting fair market value."

16. For the reasons therein, I reject these two sale deeds in the present case also as reliable and good evidence to determine fair market value of agricultural land in village Bhalswa Jahangir Puri.

17. As regards the agreement to sell (Exhibit PW-6/1), the land situated in village Bhalswa Jahangir Puri has been agreed to be transferred for a sum of ₹18 lakhs per acre. The land owners have also relied upon another sale deed dated 01.07.2003 whereunder 4-16 bigha i.e. 1 acre land was sold at ₹15,70,000/-.

18. Now, if the price, as per the own showing of the land owners was ₹15,70,000/- per acre as on 01.07.2003, it is

difficult to comprehend the abnormally high value as per Ex.PW-6/1 which is dated 8.4.1996 in which the stated price is ₹18 lakhs per acre. It is indeed a puzzle that in 1996 the price was ₹18 lakhs per acre and 7 years down the line the price fell to ₹15.7 lakhs per acre. I need to highlight that in paragraph 39 of its decision, the learned Reference Court, while examining Ex.PW-6/1 has opined that the said price was for special considerations and not the price settled between an informed willing buyer and an informed willing seller and without being influenced by special needs pertaining to a particular land, and had thus discarded the said sale deed as not reliable evidence wherefrom fair market value of a large track of land had to be fixed.

19. I have discussed this issue in my decision dated 23.8.2011 in LA.App.No.266/2008 *Jai Singh Vs. UOI & Anr.* i.e. where an abnormally high price for a parcel of land is with evidence of neither the buyer nor the seller being well-informed and there being a special feature qua the land and have held the same not to be good evidence to determine fair market value of a large part of land, being the fanciful price paid by a buyer smitten with fancy, which observations have already been extracted by me hereinabove i.e. paras 22 and 23 of the said decision. I reiterate the same.

20. As regards auction rates of developed plot of land situated in the Sanjay Gandhi Transport Nagar, I do not find any substance in the arguments of the learned counsel for the land owners and concur with the decision of the learned Reference Court contained in paragraphs 29 and 30 which are premised on the decision of the Supreme Court reported as *Lal*

Chand Vs. Union of India 2009 (15) SCC 769. Similar is the reasoning pertaining to the evidence relating to auction rates of residential plots or flats by DDA.

21. In my decision dated 23.8.2011 in LA.App.No.266/2008 *Jai Singh Vs. UOI & Ors.*, I had extensively discussed the law declared by the Supreme Court in *Lal Chand*'s case with reference to price at which developed plots were allotted by different agencies i.e. DDA and DSIDC. Relevant observations and findings in para 29 to 31 of the decision in *Jai Singh*'s case are extracted hereunder:-

> 29. Now, we do not have evidence as to what was the extent of plotted land sold by DSIDC or DDA with reference to the Bawana Industrial Estate developed by DSIDC and Narela Residential Scheme developed by DDA. Whether it was 20% or 75%, we do not know. The inchoate evidence has resulted in the same factors, being 3 in number which were noted by the Supreme Court in *Lal Chand's* case (supra), which render this evidence as most unreliable to determine the value of land in the subject cases.
>
> 30. It is no doubt true, as held even by the learned Reference Court, that with the development of Bawana Industrial Area, Rohini Residential Scheme and Narela Residential Scheme, the subject lands had acquired a building potentiality, but the question would be what would be the value to which the building potentiality would translate itself.
>
> 31. I hold that the learned Reference Court, keeping in view the observation and the findings of the Supreme Court in *Lal Chand*'s case (supra) has rightly rejected said evidence as reliable. On the issue of potentiality relating itself to the value, I promise the reader of the decision, to deal with the same while I shall be discussing as to what should be the fair market value of the lands.

22. Highlighting that in *Lal Chand*'s case (supra) the Supreme Court held that such raw data was meaningless and was too inchoate wherefrom fair market value could be crystallized.

23. I reiterate the reasoning to hold that price at which MCD allotted developed plots in Sanjay Gandhi Transport Nagar and price at which DDA sold developed plots and flats would be irrelevant to determine fair market value of agricultural land.

24. Pertaining to price notified by L&DO for charging unearned increase when lease-hold property under L&DO is transferred by the perpetual lessee, suffice would it be to state that the same relates to developed plots and on the parity of reasoning in *Lal Chand*'s case (supra) wherein this kind of evidence was specifically discussed and discarded with reference to village Rithala where lands were acquired for Rohini Residential Scheme, I negate the plea for compensation to be enhanced with reference to L&DO rates noting that I am concerned with large tracks of lands ad-measuring 758.01 bigha and 929.05 bigha.

25. From the topology of the area and as per the testimony of Trilok Chand (Halka Patwari) who appeared as PW-2 in LAC No.112A/2008 it emerges that village Burari is on the east of village Bhalswa Jahangir Puri and indeed the plan for Delhi would reveal that the two villages i.e. Bhalswa Jahangir Puri and Burari are separated by the outer ring road as we travel towards Mubarka Chowk from the Tibetan Re-settlement colony adjoining the famous Gurudwara Majnu Ka Tila. The two are adjoining villages separated by 'Outer Ring Road' and

thus the fair market value of land on a particular date in the two villages would be comparable.

26. While assessing the fair market value of the land situated in village Burari, which was acquired pursuant to notifications dated 24.07.1998 and 18.07.2003 issued under Section 4 of the Land Acquisition Act, I had considered the material on record i.e. the evidence in my decision pronounced on 7.6.2011 in a batch of LA.Appeals, lead matter being L.A. Appeal No.971/2008 titled *Rajbal & Ors. Vs. Union of India & Ors.* In the said decision, I had assessed the fair market value of agricultural land at ₹11,60,580.82 per acre for Category A land, ₹10,44,522.73 per acre for Category B land and ₹9,28,464.65 per acre for Category C land pertaining to the notification dated 24.7.1998. The land acquired pursuant to notification dated 18.07.2003 had been assessed by me at ₹19,20,568/- per acre for Category A land and ₹17,28,512/- per acre for Category B land. In *Jai Singh's* case (*supra*), I had assessed the fair market value of land in 10 villages as under:-

S.No.	Village Name	Date of Notification under Section 4	Fair market value (in lakhs per acre)
1.	Pooth Khurd	7.8.2000	₹14.75 for Category 'A' ₹14.3728 for Category 'B'
2.	Holambi Kalan	7.8.2000	₹14.75
3.	Bawana	7.8.2000	₹14.75 for Category 'A' ₹14.38125 for Category 'B'
4.	Khera Khurd	11.9.2000	₹14.835 for Category 'A' ₹14.46413 for Category 'B'

5.	Narela	2.5.2001	₹16.165 for Category 'A' ₹15.76087 for Category 'B'
6.	Holambi Kalan	22.8.2001	₹16.745 for Category 'A' ₹16.43811 for Category 'B'
7.	Alipur	22.8.2001	₹16.745 for Category 'A' ₹16.43811 for Category 'B'
8.	Holambi Khurd	22.8.2001	₹ 16.745 for Category 'A' ₹16.43811 for Category 'B'
9.	Rajapur Kalan	22.8.2001	₹16.745 for Category 'A' ₹16.43811 for Category 'B'
10.	Sanoth	7.12.2001	₹17.295
11.	Shahpur Garhi	16.5.2002	₹18.655
12.	Shahpur Garhi	23.5.2002	₹18.655
13.	Holambi Kalan	23.5.2002	₹18.655
14.	Alipur	23.5.2002	₹18.655
15.	Sanoth	27.1.2003	₹19.435 for Category 'A' ₹18.94912 for Category 'B' ₹18.47539 for Category 'C'
16.	Rajapur Kalan	27.1.2003	₹19.435 for Category 'A' ₹18.94912 for Category 'B' ₹18.47539 for Category 'C'

27. In *Jai Singh*'s case (supra) I had also analyzed the minimum land rates enhanced by the Government from time to time and found the same not to be the *ipse dixit* of the

Government officers and had found not only rationale but a reflection of urbanization impacting such increase. With reference to the decisions of four Division Benches of this Court reported as 2006 IV AD Delhi 13 *Gajraj Singh Vs. UOI & Anr.*, 2004 IV AD Delhi 20 *Ram Chander Vs. UOI*, 111 (2004) DLT 95 *Hukum Singh Vs. UOI* and an unreported decision in LA.App.No.866/2005 *Mahender Singh Vs. UOI & Ors.* decided on 11.5.2006 wherein based on sale deeds and other evidence land price was determined on various dates between the years 1993 to 1996 and in relation to the minimum price fixed by the Government I had highlighted in paras 50 to 53 of the said decision as under:-

> "50. The aforesaid judgments noted in the preceding paragraphs as also the various notifications issued from time to time by the Government of NCT Delhi notifying minimum price for agricultural lands in Delhi as tabulated by me in para 7 above bring out two very important facts relevant to determine the growth/rise in the prices of agricultural land in Delhi over the years commencing from the year 1990. As of 27.4.1990 minimum price was ₹4.65 lakhs per acre which rose to ₹10 lakhs per acre as of 1.4.1997 i.e. the increase is ₹5.35 lakhs spread over 7 years which gives us a 115.054% increase in 7 years and the average price increase would be 16.436%. The price rise over the next 1 year is by 11.2% and thereafter by 11% for the next 2 years and 11.5% for the next year i.e. as of 1.4.2001. It shows that due to urbanization, between the year 1990 and 1997 prices grows fairly sharply and good corroborative evidence for this would be the decision of the Division Bench of this Court in *Gajraj*'s case (supra), which I have discussed in para 49 above.
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> 51. I need to elaborate a little more with respect to the decision in *Gajraj*'s case. Discussing the evidence pertaining to fair market value of agricultural land in village Holambi Kalan as of 15.11.1996, in paras 9 to 17

the Court discussed the valuation on the basis of agricultural yield and found that the gross return per acre per annum was ₹95,000/- for multiple cropped land and having good irrigation facilities and thus capitalized the land price at ₹9.5 lakhs per acre. Discussing the second method of land prices of comparable lands in the surrounding areas including potentiality, in para 19 onwards the Court discussed the matter with reference to land prices in adjoining village Bhorgarh where FCI Godowns had come up and based on sale instances found that based on the said sale instances and giving benefit of industrialization the land price would come to ₹10,03,364/- per acre (Refer para 31). The Court then considered the prices notified by the Government as per policy dated 1.4.1997 and thus worked out the mean average figure of ₹9,76,121/- per acre for Category 'A' lands and ₹9,51,121/- per acre for Category 'B' lands. The decision highlights that the potentiality had been well-factored in when the Government issued the minimum price notification w.e.f. 1.4.1997, evidenced by the fact that even with respect to sale transactions the Court found that as against the minimum price notified as of 1.4.1997 at ₹10 lakhs per acre, sale instances were highlighting that the price was ₹10,03,364/- per acre.

52. The decision in *Mahender Singh*'s case, pertaining to village Bawana, referred to by me in para 49 above, highlights with reference to para 28 to 31 of the decision that the Master Plan for Delhi 1990 had been taken into account by the Court which was projecting residential, commercial and industrial future exploitation of agricultural land in Delhi and on the issue of potentiality had noted that notwithstanding the Master Plan so projecting and the lands theoretically acquiring a potentiality, the same had not translated into a reality evidenced by the fact that till the year 1996 i.e. the date of the notification with which the Division Bench was concerned, virtually no development had taken place in village Bawana and Holambi Kalan and nobody had exploited the potential. As I have already highlighted in para 49 above there is a gap between what would be expected to be the market growth and what the market actually grows. The decisions in *Gajraj*'s case and

Mahender Singh's case highlight that potentiality translated itself into a reality between 1990 and 1997 when prices rose by about 16.5% per annum and thereafter the extended potentiality did not translate with the requisite momentum and the acceleration fell to between 10% per annum to 11% per annum. One reason could be that pursuant to Master Plan for Delhi 1990 a fairly large area came to be developed, both residential, commercial and industrial and probably there was enough availability of developed land and the hunger of the market got saturated.

53. The empirical evidence in the instant case, apart from the 2 sale deeds relied upon by the land owners, in respect whereof the learned Reference Court has given good reasons not to rely upon and for which I have given further reasons in paras 21 and 22 hereinabove for not relying upon, being fanciful sale deeds, to determine fair market value, we have with us the sale deed relied upon by the learned Land Acquisition Collector pursuant whereto in some references in village Rajapur Kalan the learned Reference Court has held that as per the said sale deed Ex.R-2 as of the date of the sale i.e. 20.5.2002 the fair market value of agricultural lands would be ₹19,16,040/- per acre as of 27.1.2003 on the reasoning that 1 bigha and 13 biswa of land which was sold for ₹5,39,690/- and ₹70,160/- was paid as stamp duty would mean that ₹6,09,850/- (₹5,39,690/- + ₹70,160/-) were spent would yield the price ₹17,74,109/- per acre as of the date of the sale i.e. 20.5.2002.

28. In the absence of any cogent evidence placed on record by either parties other than the minimum price notified by the Government from time to time, I hold that the Learned Reference Court has rightly adopted the correct principle and has relied upon the correct evidence and has given the correct appreciations by suitably increasing the price to make up the interregnum period between the dates when minimum prices were notified and the date of the notification issued under

Section 4 of the Land Acquisition Act and finding no scope to further enhance the compensation or to reduce the same I dismiss all appeals and cross objections, whether filed by the land owners or the Union of India.

29. I leave the parties to bear their own cost.

(PRADEEP NANDRAJOG)
JUDGE

SEPTEMBER 19, 2011
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