

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Reserved on: September 27, 2012
Pronounced on: October 31, 2012
+ **LA.APP. 576/2008 (VILLAGE DHULSIRAS)**

SURAJ BHAN & ORS.

..... Appellants

Through: Mr. Anand Yadav and Ms. Anita Tomar, Advocates
for appellant in LA. App. No. 571-572/2008, 574-
580/2008, 594, 596, 600-601, 664, 684, 686, 690-
692, 694-696, 698-700, 1096/2008, 16, 17, 20, 44,
51, 68, 105, 146, 164, 280, 283, 284, 331, 361-362,
402, 408-409, 416/2009, 157-159/2010, 162-
163/2010, 205-207/2010, 212/2010

Mr. Pankaj Vivek, Advocate for appellant in LA.
App. No. 990/2008

Mr. S.K. Rout, Dr. N. Pradeep Sharma, Mr. Dalip
Mohooria, Mr. Virender Kumar, and Mr. B.K.
Routray, Advocates in LA. App. No. 743-
747/2008, 977, 1117, 1132, 1134, 1160, 1169,
1174, 1180, 1278/2008 and for respondent in LA.
App. No. 1205-1208/2008, 1219/2008; 161/2009,
165, 167, 169, 189, 213, 215, 216, 219, 234, 340,
344, 349, 353, 423/2009 and 27/2010, 653/2010,
135/2012.

Mr. B.D. Sharma, Advocate in LA. App. No. 1205-
1208, 1219/2008; 161, 165, 167, 169, 189, 213,
216, 341, 344, 353, 423/2009; 157-159, 161-163,
166-167, 180-181, 198-199, 205-207, 212/2010

Mr. S.K. Solanki, Advocate for appellant in LA.
App. No. 735/2008; 916-917, 961-965, 987-989,
991/2009

Mr. N.S. Negi and Mr. H.S. Rautela, Advocates for
appellant in LA. App. No. 703/2008, 797, 831,

870-872, 893/2008 and for respondent in LA.
App. No. 328/2009.

Mr.B.S.Maan, Mr.Amit Maan, Mr. Jai Prakash,
Mr.R.S.Verma, Ms.Smita Maan, Mr.Jitin
Tewathia, Advocates for appellant in LA. App. No.
573, 685, 687, 689, 693, 1124, 1132, 1134, 1278 of
2008; 5, 7, 65, 129 of 2009; and for respondent in
LA. App. No. 168, 341, 412, 418 of 2009.

Mr.Atul Tripathi, advocate for appellant in LA.
App. No. 990 of 2008.

Mr.I.S.Dahiya, advocate for appellant in LA. App.
No. 176/2009, 27/2009,

Mr.Raghuvinder Godara, Advocate for appellant in
LA. App. No. 989-991, 1056, 1083, 1085,
1132/2008.

versus

UNION OF INDIA & ANR. Respondents

Through: Mr. Sanjay Poddar, Sr. Advocate with Mr. Sanjay
Pathak, Ms.K.K.Kiran, Ms. Navlin Swain, Mr.
Govind Kumar, Advocates for UOI/LAC.

Mr.Ajay Verma, Mr.Amit Mehra, Mr.B.B.Sharma,
Mr.Kunal Sharma, Mr.S.K.Sethi, Mr.M.K. Singh,
Mr.Bankey Behari Sharma, Mr. Pawan mathur,
advocates for DDA

AND

LA.App. 370/2007	LA.App. 1085/2008	LA.App. 217/2009
LA.App. 378/2007	LA.App. 1096/2008	LA.App. 219/2009
LA.App. 571/2008	LA.App. 1117/2008 & C.M. No. 7805/2009 (Cross Objection)	LA.App. 232/2009
LA.App. 572/2008	LA.App. 1120/2008	LA.App. 233/2009

LA.App. 573/2008	LA.App. 1124/2008	LA.App. 243/2009
LA.App. 574/2008	LA.App. 1132/2008	LA.App. 247/2009
LA.App. 575/2008	LA.App. 1134/2008	LA.App. 255/2009
LA.App. 577/2008	LA.App. 1160/2008	LA.App. 256/2009
LA.App. 578/2008	LA.App. 1169/2008	LA.App. 280/2009
LA.App. 579/2008	LA.App. 1174/2008	LA.App. 282/2009
LA.App. 580/2008	LA.App. 1180/2008	LA.App. 283/2009
LA.App. 594/2008	LA.App. 1205/2008	LA.App. 284/2009
LA.App. 596/2008	LA.App. 1206/2008	LA.App. 328/2009
LA.App. 599/2008 & C.M. No. 7385/2009 (Cross Objection)	LA.App. 1207/2008	LA.App. 331/2009
LA.App. 600/2008	LA.App. 1208/2008	LA.App. 340/2009
LA.App. 601/2008	LA.App. 1219/2008	LA.App. 341/2009 & C.M. No. 15824/2011 (Cross Objection)
LA.App. 602/2008	LA.App. 1231/2008	LA.App. 344/2009
LA.App. 610/2008	LA.App. 1247/2008 & C.M. No. 1560/2011 (Cross Objection)	LA.App. 349/2009
LA.App. 664/2008	LA.App. 1248/2008	LA.App. 352/2009
LA.App. 684/2008	LA.App. 1249/2008	LA.App. 353/2009
LA.App. 685/2008	LA.App. 1253/2008	LA.App. 356/2009
LA.App. 686/2008	LA.App. 1260/2008 & C.M. No. 1919/2009 (Cross Objection)	LA.App. 360/2009
LA.App. 687/2008 & C.M. No. 2780/2009 (Cross Objection)	LA.App. 1265/2008	LA.App. 361/2009
LA.App. 689/2008	LA.App. 1278/2008	LA.App. 362/2009
LA.App. 690/2008	LA.App. 1030/2008	LA.App. 363/2009
LA.App. 691/2008	LA.App. 1251/2008	LA.App. 402/2009
LA.App. 692/2008	LA.App. 4/2009	LA.App. 408/2009
LA.App. 693/2008 & C.M. No. 850/2010 (Cross Objection)	LA.App. 5/2009	LA.App. 409/2009
LA.App. 694/2008	LA.App. 6/2009	LA.App. 412/2009
LA.App. 695/2008	LA.App. 7/2009	LA.App. 416/2009
LA.App. 696/2008	LA.App. 8/2009	LA.App. 418/2009
LA.App. 698/2008	LA.App. 9/2009	LA.App. 422/2009
LA.App. 699/2008	LA.App. 10/2009	LA.App. 423/2009
LA.App. 700/2008	LA.App. 16/2009	LA.App. 429/2009
LA.App. 703/2008	LA.App. 17/2009	LA.App. 445/2009
LA.App. 735/2008	LA.App. 19/2009	LA.App. 462/2009

LA.App. 743/2008	LA.App. 20/2009	LA.App. 479/2009
LA.App. 744/2008	LA.App. 27/2009	LA.App. 27/2010
LA.App. 745/2008	LA.App. 44/2009	LA.App. 157/2010
LA.App. 746/2008	LA.App. 50/2009 & C.M. No. 12537/2009 (Cross Objection)	LA.App. 158/2010
LA.App. 747/2008	LA.App. 51/2009	LA.App. 159/2010
LA.App. 761/2008	LA.App. 65/2009	LA.App. 161/2010
LA.App. 762/2008	LA.App. 66/2009	LA.App. 162/2010
LA.App. 763/2008	LA.App. 68/2009	LA.App. 163/2010
LA.App. 778/2008	LA.App. 71/2009	LA.App. 166/2010
LA.App. 779/2008	LA.App. 84/2009	LA.App. 167/2010
LA.App. 780/2008	LA.App. 93/2009	LA.App. 180/2010
LA.App. 781/2008	LA.App. 94/2009	LA.App. 181/2010
LA.App. 797/2008	LA.App. 105/2009	LA.App. 198/2010
LA.App. 831/2008	LA.App. 117/2009	LA.App. 199/2010
LA.App. 870/2008	LA.App. 125/2009	LA.App. 205/2010
LA.App. 871/2008	LA.App. 129/2009	LA.App. 206/2010
LA.App. 872/2008	LA.App. 146/2009	LA.App. 207/2010
LA.App. 893/2008	LA.App. 157/2009	LA.App. 212/2010
LA.App. 916/2008 & C.M. No. 17277/2008 (Cross Objection)	LA.App. 159/2009	LA.App. 653/2010
LA.App. 917/2008	LA.App. 161/2009	LA.App. 718/2011
LA.App. 961/2008 & C.M. No. 7452/2009 (Cross Objection)	LA.App. 164/2009	LA.App. 721/2011
LA.App. 962/2008 & C.M. No. 7795/2009 (Cross Objection)	LA.App. 165/2009	LA.App. 728/2011
LA.App. 963/2008 & C.M. No. 7396/2009 (Cross Objection)	LA.App. 166/2009	LA.App. 729/2011
LA.App. 964/2008	LA.App. 167/2009	LA.App. 730/2011
LA.App. 965/2008 & C.M. No. 17280/2008 (Cross Objection)	LA.App. 168/2009 & C.M. No. 15815/2009 (Cross Objection)	LA.App. 731/2011
LA.App. 977/2008 & C.M. No. 579/2009 (Cross Objection)	LA.App. 169/2009	LA.App. 732/2011
LA.App. 987/2008	LA.App. 176/2009	LA.App. 815/2011
LA.App. 988/2008 & C.M. No. 7800/2009 (Cross Objection)	LA.App. 185/2009	LA.App. 817/2011

LA.App. 989/2008	LA.App. 189/2009	LA.App. 822/2011
LA.App. 990/2008 & C.M. No. 7764/2009 (Cross Objection)	LA.App. 213/2009	LA.App. 1/2012
LA.App. 991/2008	LA.App. 214/2009	LA.App. 135/2012
LA.App. 1056/2008 & C.M. No. 7814/2009 (Cross Objection)	LA.App. 215/2009	
LA.App. 1083/2008	LA.App. 216/2009	

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR
JUDGMENT

1. Vide Notification of 13th December, 2000 under Section 4 of the Land Acquisition Act, 1894 a large chunk of land of four villages viz. Bharthal, Bijwasan, Pochanpur and Dhulsiras was acquired and compensation assessed for the village in question i.e. Dhulsiras by the Reference Court is @ ₹15 Lacs per acre for 'A' category land and @ ₹13.36 Lacs per acre for 'B' category land, which is under challenge in the above captioned appeals seeking enhancement of compensation.
2. At the hearing, with the consent of counsels present, the above captioned appeals were heard together and are being disposed of by this common judgment.
3. Prior to commencement of hearing in these appeals, learned counsel for appellants - *Suraj Bhan and others* had placed on record written synopsis to claim assessment of market value of subject land at pre-determined rates, average auction rates, circle rates of commercial and residential areas of south-west district of Delhi and by relying upon sale deeds of Radha Swami in village Mamurpur, sale instance of village Samalkha while relying upon decisions in *Lt. Governor of*

Delhi vs. Gurpratap Singh and ors., 113 (2004) DLT 690; *Delhi Science Forum v. DDA*, 112 (2004) DLT 944; W.P.(C) No.4143/2003, *Indu Khorana v. Goan Sabha*, decided on 26th March, 2010; *Tirkha Ram vs. Sahib Ram*, 69 (1997) DLT 749; WP(C) No. 4284/2007, *Surat Singh v. DDA*, decided on 24th April, 2008; *Jai Lal v. Union of India*, 94 (2001) DLT 429; *Om Prakash v. Union of India*, 112 (2004) DLT 891; *Kapil Mehra (Major General) & Ors. Vs. Union of India & Anr.*, 176 (2011) DLT 361; *Delhi Development Authority vs. Land Acquisition Collector and Ors.*, 131 (2006) DLT 194; *Hari Chand v. Union of India*, 91 (2001) DLT 602; *Ranvir Singh and Anr. vs. Union of India*, AIR 2005 SC 3467; *Mahesh Dattatray Thirthkar vs. State of Maharashtra*, AIR 2009 SC 2238; *State of Punjab v. Harchal Singh (Dead) through LRs*, AIR 2006 SC 2122; *Thakur Kuldeep Singh (D) through LR & Ors. v. Union of India and ors*, AIR 2010 SC 1272; *Chakas vs. State of Punjab & Ors.*, 2011 (9) Scale 362; *Haryana State Agri. Market Board and Anr. vs. Krishan Kumar and ors.*, 2011 (5) Scale 111; *Sagunthala (dead) through legal heirs v. Special Tehsildar (L.A.) and ors.*, AIR 2010 SC 984; *Goa Housing Board v. Rameshchandra Govind Pawaskar and anr.*, AIR 2012 SC 193; *Trimala Tirupati Devasthanam vs. N.Munikrishna Reddy & Ors.*, 2005 AIHC 725.

4. During the course of hearing, when it was put to Mr. Anand Yadav, the arguing counsel that relied upon sale instances, average auction rates, circle rates/ pre-determined rates for commercial/ residential areas and afore-noted decisions have been already considered in *Ranbir Sharma and ors. v. Union of India and anr.* 187

(2012) DLT 781 by this Court while determining the market value of the acquired land of adjoining villages i.e. *Bharthal, Bijwasan and Pochanpur*, then nineteen hypothetical questions were posed by learned counsel, which are noted herein below, only to be discarded, for the reason that they are vague and in-comprehensible. These questions are:

- “i) Whether UOI can be permitted to argue which has been decided against it and in particular when SLP is dismissed?*
- ii) Whether the provision of Section 22, 81 of DLR Act, Section 507 of MCD Act and Section 11 of DDA Act in respect of use of land are of no consequence?*
- iii) Whether market value of land is to be given for the use it is being used at the time of acquisition and not for use for which it can be used legally?*
- iv) Whether while deciding market value it is possibility of land and not realized possibility must be taken into consideration?*
- v) Whether the villager can be forced to sell their land as Agricultural land when the area is surrounded by developed colonies and when same is part of urban area and land use of land as per Master Plan is residential/commercial?*
- vi) Whether the market value of land of appellant is to be fixed for Agricultural land or Residential and other uses?*
- vii) Whether market value is to be fixed for the use land is being put at the time of acquisition or the land use it can put at present or in future?*
- viii) Whether rates of Agricultural land in Delhi are same every where?*

- ix) *Whether rates of Agricultural land in Delhi has not increased?*
- x) *Whether Court can ignore the footnote of Notification for fixing minimum rates of market value of Agricultural land?*
- xi) *Whether without evidence the sale can be considered for religious?*
- xii) *Whether UOI can morally and legally can take two different stands in respect of Development of land. When it comes to give compensation stand is taken that land was not developed but when villagers want to developed his land stand is taken that private person cannot develop land?*
- xiii) *Whether land is to be considered as one chunk or larger area of authorities while fixing market value but deny other benefits of larger area when its comes to give benefits to villagers?*
- xiv) *Whether UOI can change stand it has taken before Reference Court and whether argument of UOI can be treated as evidence when no evidence is led?*
- xv) *Whether Court can ignore the evidence lead by the villagers particularly in respect of availability of land, location, urbanization, etc.?*
- xvi) *Whether Court cannot take the judicial notice of the prevailing situation in Delhi and NCR in respect of availability of land and development of land while deciding market value?*
- xvii) *Whether sharp increase of value is abnormal?*
- xviii) *Whether in Delhi villagers has not been exploited and they have not been paid market value of acquired land?*
- xix) *Whether any law provides that vendees are to be*

produced by land owners and Government is not required produced any witness to challenge sale deed?”

5. Arguing counsel for the appellants had endeavoured to show that evidence was led in these matters which was not there in the case of *Ranbir Sharma* (supra) regarding development being there in the area around the acquired land in question which would justify assessment of compensation at the rate higher than the one adopted in *Ranbir Sharma* (supra). In this regard, attention of this Court was drawn to the deposition of PW-1 – *Raj Kumar S/o Shri Jai Lal*, and some photographs to seek adoption of urban rates to assess the compensation and reliance was also placed upon deposition of *Mr. Prahlad Singh* (PW-20), from Delhi Development Authority, to reveal the basis for working out pre-determined rates on cost benefit analysis and to point out that development cost was just @ ₹2,915/- per sq. meter and that allotment of plot was made on cost basis in *Federation of Co-operative Group Housing Society and ors. v. Union of India and ors.*, 1993 (2) Delhi Lawyer 117 (DB).

6. In the absence of comparable sale exemplars, a Coordinate Bench of this Court in LA.A. No. 266/2008 *Jai Singh v. Union of India* decided on 23rd August, 2011 and LA.A No. 656/2008 *Sushil Kumar v. Union of India* decided on 26th September, 2011 had adopted minimum price of agricultural lands in Delhi to assess the market value of the acquired agricultural lands and this Court had found it to be reasonable criteria to assess the market value of acquired lands of adjoining villages in *Ranbir Sharma* (supra), while granting 10% increase to assess the market value by adopting the prevalent pre-

determined market rate for agricultural lands in Delhi.

7. According to learned Senior Counsel for the respondents, the fate of these appeals can be no different than of the appeals in *Ranbir Sharma* (supra) as the evidence led in these matters does not disclose if there was any development around the acquired land, which was not there around adjoining acquired lands in *Ranbir Sharma* (supra) and so the decisions relied upon by appellants are of no avail and these appeals ought to be disposed of in terms of the decision of this Court in *Ranbir Sharma* (supra).

8. Having heard learned counsel for the parties and upon perusal of the record of these appeals and the decisions cited, I find that the appellants herein are required to be treated at par with the claimants of the adjoining villages in *Ranbir Sharma* (supra) because there is no fresh evidence on record to clinchingly establish extraordinary potential of the acquired agricultural lands in question. Adoption of urban land rates has been already discarded by this Court while dealing with assessment of compensation in respect of acquired land of adjoining villages and the same reasoning hold good for not adopting the urban land rates to assess the compensation in respect of acquired land in question. Such a view is being taken because evidence regarding assessment on cost basis and self-serving deposition of claimants/appellants regarding future potential of acquired land in question or some unconnected photographs cannot persuade this Court to grant increase of more than 10% over and above the prevalent minimum price for agricultural lands in Delhi in the absence of comparable sale instances and in view of the fact that

acquired land in question was being put to agricultural use only at the time of commencement of the acquisition in question, despite this village being declared as urbanized.

9. It is true that when agricultural land of different villages is acquired by one Notification then compensation payable is not to be necessarily uniform one but it has to be so, in the absence of any notable development in and around the acquired lands. In the instant appeals, there are no distinguishing features which can persuade this Court to grant higher compensation than the one granted in the case of similarly situated acquired land of adjoining villages in *Ranbir Sharma* (supra).

10. On future potentiality aspect, in *Kapil Mehra (Major General) & Ors. Vs. Union of India & Anr*, 176(2011) DLT 361, it has been ruled that it is the possibility of land and not its realized possibilities that must be taken into consideration. Meaning thereby, advantageous location and the lucrative potential must be kept in mind while determining market value of such acquired land.

11. Being conscious of the legal position as enunciated in *P. Rama Reddi & Ors. vs. Land Acquisition Officer, Hyderabad & Ors*, (1995) 2 SCC 305; *Sagunthala* (supra); *Goa Housing* (supra); *Chakas* (supra); *Mahesh Dattatray* (supra); *Thakur Kuldeep Singh* (supra) and upon taking note of locational advantage of adjoining acquired land of villages viz. *Bharthal*, *Pochanpur* and *Bijwasan* being in Dwarka Phase-II, thus having future potentiality, 10% increase over and above the market value of acquired land as determined by the Reference Court, which is at par with the assessment or market value made in

instant matters, was granted.

12. Aforesaid determination is audaciously assailed by arguing counsel for appellants before this Court only by tacitly distinguishing Apex Court decision in *Lal Chand v. Union of India* (2009) 15 SCC 569 relied upon in *Jai Singh* (supra) & *Ranbir Sharma* (supra), on the premise that pre-determined rates for agricultural lands in Delhi cannot be uniformly applied to determine market value of agricultural lands upon their acquisition.

13. Judicial propriety demands that once determination of market value of acquired land is made by the Court while relying upon minimum price for agricultural lands in Delhi, then in a later similar matter, the criterion for determination cannot be assailed while relying upon judicial precedents which have been taken note of in the earlier decision by the same Court. So, persistence of arguing counsel for appellants to rely upon decisions in *Sagunthala* (supra), *Mahesh Dattatray* (supra), *Chakas* (supra), *Tirumala* (supra) and *Thakur Kuldeep Singh* (supra) to indiscreetly maintain that the Court cannot rely upon ratio of a judgment and to ignore ratio of another judgment, needs to be deprecated. No doubt value of acquired land can be assessed while taking into account land price of developed/urban land after appropriate deduction for development but only in cases where comparable instances are not available and when sale of nearby residential/commercial plot has proximity of time and distance. No such instance is available in the instant matters and so reliance placed upon aforesaid decisions is an exercise in futility. Important factors to determine market value of acquired land as spelt out in the afore-noted

relied upon decisions have been taken into consideration and thereafter only, this Court finds that mere proximity to developed areas, (*which has not been even disclosed in the instant matters*) and rural area being urbanized, would not by itself afford a reasonable basis to assess the market value of the acquired land in question by adopting urban land rates of developed areas.

14. It was preposterously contended on behalf of appellants that seemingly Court was not properly assisted and so the ratio of decisions [with obvious reference to *Jai Singh* (supra) *Sushil Kumar* (supra) and *Ranbir Sharma* (supra)] is contrary to the pronouncement by the Apex Court. It was not disclosed as to which pronouncements of Apex Court were referred to. To say the least, such a stand is imprudently taken by appellants in the written synopsis.

15. Since, there is hardly any evidence regarding any development in and around the acquired land in question, therefore, the case of appellants herein has to be treated at par with *Ranbir Sharma* (supra) and so adopting the reasoning of the decision in *Ranbir Sharma* (supra), I find no hesitation in disposing of these appeals in terms of the decision in *Ranbir Sharma* (supra).

16. Consequentially, the above captioned appeals (*except L.A. Appeal Nos. 378/2007, 728/2011, 729/2011, 730/2011, 732/2011, 815/2011, 817/2011, 822/2011 & 1/2012* of claimants seeking apportionment of compensation) are partly allowed to the extent of awarding 10% increase over and above the market value assessed by the Reference Court towards future potentiality and the cross objections of the respondents are dismissed. Accordingly, the market

value of the acquired lands in question is determined @ ₹16,50,000/- per acre for the category 'A' land and @ ₹14,69,600/- per acre for the category 'B' lands in question. On the aforesaid enhancement in the compensation awarded, statutory benefits as per the Land Acquisition Act, 1894 as explained in the judgment reported in *Sunder v. UOI*, 2001 (93) DLT 569 are granted, except for the period where there is a delay in filing the appeal, for which period of delay, no interest on the enhanced compensation shall be paid. These claimants-appellants would be entitled to proportionate costs.

17. Registry is directed to delink *L.A. Appeal Nos. 378/2007, 728/2011, 729/2011, 730/2011, 732/2011, 815/2011, 817/2011, 822/2011 & 1/2012* from this bunch of appeals and to list them for hearing on 8th November, 2012 in the category of 'Regular Matters'.

18. Before parting with this judgment, with much reluctance, this Court is constrained to record its disapproval of obnoxious advocacy advanced in these matters and to take note of the falling standard of advocacy.

19. The above captioned appeals and cross-objections are disposed of in the aforesaid terms with direction to the Registry to remit the compensation amount, if any, deposited by either side with the Registrar General of this Court, to the concerned Reference Court. Decree sheets be accordingly prepared.

(SUNIL GAUR)
Judge

October 31, 2012
vn/pkb