

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

RFA No. 24/2024

Reserved on :04.09.2025

Pronounced on: 16.10.2025

Uploaded on:16.10.2025

Whether the operative part or full judgment is pronounced: YES

Union of India

.... Petitioner/Appellant(s)

Through:- Mr. Vishal Sharma, DSGI with
Mr. Eishaan Dadhichi, CGSC

V/s

Kuldeep Kour & ors.

.....Respondent(s)

Through:- Mr. M. A. Bhat, Advocate

CORAM : HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL, JUDGE

JUDGMENT

01. Against the award dated 06.03.2024 passed by the learned Additional District Judge, (Arbitrator under RAIP Act), Jammu in an Arbitration proceedings under the J&K Requisition & Acquisition of Immovable Property Act, 1968 in File No. 3/2007/Arbitration (Civil), the appellant has filed this appeal under Section 10 of the J&K Requisition & Acquisition of Immovable Property Act (for short, 'RAIP Act'), whereby the award passed by the Arbitrator has been challenged.

02. The land measuring 557 Kanals 17 Marlas situated at village Deeli, Tehsil & District Jammu was requisitioned by Deputy Commissioner, Jammu in the year 1970 as the land was permanently acquired by the Army and the case was processed for obtaining NOC for the acquisition of requisitioned land and also the NOC of the State Government was issued vide J&K Govt. Home Department Letter No. Home/C1-33/89 dated 20.03.1990 for acquisition of requisitioned land measuring 547 Kanals 03

Marlas situated in Village Deeli, Tehsil & District Jammu. Vide communication dated 31.03.1990, the Deputy Commissioner as District Collector has conveyed a tentative rate of Rs. 60,000/- per kanal to the DEO for obtaining sanction to the acquisition of the requisitioned land from the Defence Ministry. The Board of Officers in the Ministry of Defence recommended for requisition of land measuring 544 Kanals 15 Marlas in village Deeli, vide communication dated 04.10.1990. The matter remained pending for quite considerable time and again the Defence Estates officer, Jammu vide his letter dated 17.04.2001 requested the Deputy Commissioner Jammu for issuance of Form-“I” under the provisions of J&K RAIP Act at an estimated cost of Rs.3,26,85,000/- for land measuring 544 Kanals 15 Marlas. The District Collector (Deputy Commissioner), Jammu directed the Tehsildar Settlement, Jammu to furnish Assami-wise list of owners/allottees in respect of the land in question and the Tehsildar Settlement, Jammu vide his letter No. STJ/N/559 dated 11.10.2001 furnished the Assami-wise list for the land in question. The District Collector, Jammu issued notice in form-“I”, in the year 2003 and the claimants conveyed their no objection for the acquisition of their land provided that they are paid compensation at the prevalent and present market rate of the land. The District Collector recommended the case to the Home Department for issuance of Form-“J” on 12.03.2003 and the Home Department issued the Form-“J” in January, 2005, which was notified by the Deputy Commissioner, Jammu on 25.02.2005 to the owners to file their respective claims with regard to their compensation of the land in question within 15 days. The claimants and other owners filed their claims/objections in response to the notice form-“J” and demanded a rate of Rs.10,00,000/- per kanal.

03. The Tehsildar Settlement, Jammu conveyed an average sale rate of village Deeli for last 3 years as Rs. 65,900/- and prevailing market rate as Rs. 6,00,000/- per kanal vide his letter dated 20.07.2005 on the ground that the land under acquisition is situated at Kunjwani-Nagrota Bye-pass Road and the land is having commercial Value. This report was submitted by him on the basis of the report of the Patwari, the Girdawar and Naib Tehsildar concerned. The Patwari had reported that an average sale rate as per the sale deeds executed for last three years comes to Rs.65,900/- and the prevailing market rate was quantified by him at Rs.6 lacs per kanal. He had further stated that the land in question is situated on roadside of Kunjwani-Nagrota Bye-pass. The Girdawar concerned reported that the land can be used for commercial purposes and being on the roadside, the prevailing market rate for the land in question shall not be less than Rs.1.5 lakhs per marla, which comes to Rs.30,00,000/- per kanal.

04. The Naib Tehsildar in his report while agreeing with the Patwari and Girdawar concerned has further reported that an average sale rate on the basis of sale deeds cannot be taken to be authentic because the people while executing sale deeds usually do not disclose the actual rate of the land with a view to save the stamp duty. The site plan was also enclosed.

05. The Nodal Officer, Assistant Commissioner (Rev.) at the time also made the spot verification and certified that the land is commercial one surrounded by Channi Himmat and Trikuta Nagar Housing Colonies from the back and on the front side is National Highway across which Posh Greater Kailash and Sainik Colony have been developed. He has further reported that the land is situated between Santro Show Room and City Forms/Utsav Banquet Halls and Lajwanti Hospital and opposite to Fair Deal

Motors showroom. He recommended a meager and unacceptable rate of Rs.3,50,000/- despite the above observations.

06. The Deputy Commissioner, Jammu convened a meeting of the Collectors of the District in presence of the Defence Estates Officer, Jammu and approved a dismal rate of Rs. 2,75,000/- per kanal for the land in question. The said rate was arrived at by the Deputy Commissioner, Jammu considering average sale rate, rates given in previous acquisitions in the vicinity and other factors mentioned in the draft award. The draft Award submitted by the District Collector to the Defence Estates Officer, Jammu on 15.12.2005 for obtaining approval of the rate from the competent authority which is again totally in contravention of the provisions of the RAIP Act. The Ministry of Defence Govt. of India further slashed the rate of compensation of land to Rs. 2.60 lakhs per kanal at their own level and granted sanction for payment of compensation to the claimants /land owners and also furnished cheque for an amount of Rs. 14,11,67 ,000/-.

07. Notice to receive compensation was given by the Deputy Commissioner, to the claimants vide his No. DCJ/LHS/RAIP/JMU/D/ Notice-71/88 dated 15.04.2006 and Final Assessment Report was prepared by District Collector Jammu vide No.DCJ/LHS/ Army/RAIP/JMU/D-71/88 dated 21.04.2006 and apportionment statement was chalked out for land measuring 542 kanals 19 marlas. The claimants filed their written objections for the rate fixed by the District Collector in which they claimed Rs.10,00,000/- per kanal and agreed to receive the payment UNDER PROTEST and requested for appointment of Arbitrator for determining the appropriate and reasonable rate of the land requisitioned by the Defence forces.

08. The Government of Jammu and Kashmir in the Home Department appointed Additional District Judge Jammu as Arbitrator under the provisions of RAIP Act vide notification SRO No. 297 dated 10th August, 2007 for land measuring 374 kanals 05 marlas only. The Arbitrator was not appointed for whole of the land because there was some dispute with regard to disbursement of compensation in respect of some land amongst the land owners. Before the Arbitrator, witnesses were examined and the Arbitrator, considering all the factors, came to the conclusion that Rs. 7,00,000/- per kanal was awarded in favour of the claimant families with the provision for payment of interest on the whole amount of compensation at the rate of 12% per annum.

09. The award so passed by the Arbitrator has been challenged in this appeal on the ground that the impugned award is contrary to law and facts and is highly perverse, as such, is liable to be set aside. The assessment of the market rate of the land under acquisition measuring 542 kanals 19 marlas at a uniform rate of Rs.7,00,000/- per kanal, that too, at the commercial rates, is contrary to the facts as well as evidence as on record which has resulted into perversity as even on the basis of the evidence led by the respondents, the conclusion drawn by the Arbitrator that the entire land under acquisition has acquired tremendous commercial potential is highly erroneous and perverse. The Arbitrator has also erred in completely ignoring the average sale rates of the subject land for the last three years preceding the date of notification which was Rs.65,900/- per kanal and enhancing the compensation ranging from 4.5 times of the average sale rates is contrary to settled law of assessing the compensation in cases of acquisition of requisitioned land under the RAIP Act.

10. The Arbitrator has also erred in applying the principles of Land Acquisition Act, while assessing the value of the land under acquisition ignoring the fact that the present acquisition of land is under J&K Requisition and Acquisition of Immovable Property Act 1962 and the compensation had to be assessed in terms of Section 8(3) of the J&K Requisition and Acquisition of Immovable Property Act 1962. While assessing the just compensation, the Arbitrator was bound to determine the price of the land which it would have fetched in open market on the date of acquisition but taking the condition of the land as it was at the time of requisition but while assessing the compensation, the Arbitrator has taken the condition of the acquired land as it stood developed on the date of acquisition which is erroneous and contrary to law and the impugned award is, thus, liable to be set aside.

11. The finding recorded by the Arbitrator that the land under acquisition has tremendous commercial potential is perverse and is completely misreading of the evidence on record, both oral and documentary. The Arbitrator has failed to appreciate that even on date of acquisition of the land, the land was not used for any commercial activity. Further, the Arbitrator has failed to appreciate that for such huge chunk of land acquired, even though having great development potential, the entire area cannot be treated as commercial. The claimants have also failed to prove the price of the land under acquisition by any exemplar sales and without proving any sale deed on record and some sale deeds pertaining to very small pieces of land and the price assessed by the Arbitrator is highly inflated.

12. Reliance placed by the Arbitrator is totally misplaced as the said judgments have no applicability to the facts of the case as most of them pertain to the acquisitions under the Land Acquisition Act and it is settled law that the provisions of the Land Acquisition Act are not applicable for determination of compensation under the RAIP Act.

13. The Arbitrator has noticed the exemplar Sale Deeds in the impugned award but has finally based his assessment of the market price of the land on his own assumptions and ignoring the average sale data of the land for the last three preceding years. He has also failed to follow the settled principle of deduction applied in cases of acquisition of huge chunk of land as development charges towards the area to be used for roads, drains, and common facilities like park, open space, parking's etc and further deduction has to be made towards the cost of development, that is, the cost of leveling the land, cost of laying roads and drains, and the cost of drawing electrical, water and sewer lines.

14. The Arbitrator has erred in not applying the deduction on account of development charges and he has also erred in holding that Belting System is a judicially accepted method for determining the fair market value of the acquired land and in appropriate cases when different parcels of lands with different survey numbers belonging to different owners and having different locations are acquired which put together comprises of a large chunk of land. Such chunk cannot be taken as a compact block. The Arbitrator has erred in holding that the size of the land in acquisition is just an aggregate of different small size holdings belonging to the different claimants" ignoring that a large number of the respondents owned land more than 10 kanals so much so one of the land owner, owned 51 kanals of land

alone and it is a common knowledge that a chunk of land over and above 04 - 05 kanals of land cannot be developed without wastage of at least 30% to 50% of the total land for the purposes of roads and drains.

15. The Arbitrator has also failed to appreciate that even if the acquired land is believed to be having commercial potential, even then by no stretch of imagination, the entire land measuring 542 kanals 19 marlas can be held to have commercial potential and in such cases, Belting Method/System is to be applied to assess the fair market value of the land as held by the Hon'ble Supreme Court in case of **Bijender vs State of Haryana** reported as **AIR 2017 SC 5811** wherein it has been held as under:-

34. One cannot dispute that the Belting System is a judicially accepted method for determining the fair market value of the acquired land. It is applied in appropriate cases when different parcels of lands with different survey numbers belonging to different owners and having different locations are acquired which put together comprises of a large chunk of land. Such chunk cannot be taken as a compact block.

35) The acquired land having a frontage abutting the highway/main road always has a better value as compared to the land, which is away from the highway/main road. Indeed, the land from the highway/main road, lesser the value of such land. In such a situation, where large pieces of land having different locations are acquired, Belting System is considered apposite for determining the market value of the lands. (see - Union of India & Ors. vs. Mangatu Ram & Ors. 1997 (6) SCC 59 and Andhra Pradesh Industrial Infrastructure Corporation Limited vs. G. Mohan Reddy & Ors. 2010 (15) SCC 412).

16. The Arbitrator has also erred in awarding interest @ 12% p.a. on the enhanced compensation against the settled proposition of law that no interest is payable under the RAIP Act. The Arbitrator has also acted beyond jurisdiction in awarding the interest as the only reference was to assess the just and fair compensation of the acquired land. The Arbitrator has also grossly erred in awarding such an excessive and arbitrary rate of interest @ 12% p.a. when even the J&K Land Acquisition Act only provides statutory

rate of interest @ 6% & 10% p.a., as such, the award of interest is also liable to be set aside.

17. Heard learned counsel for the parties and perused the record available on file.

18. The dispute which was to be determined by the Arbitrator in this case was with regard to the rate of land which was in possession of the Army in respect of which acquisition proceedings were taken and the District Collector submitted the draft assessment award to the Defence Estates Officer, Jammu on 15.12.2005 for obtaining approval of the rate from the competent authority. The rate which was determined by the District Collector was Rs. 2.75 lac per kanal. The Ministry of Defence Government of India slashed the rate of compensation of land to Rs. 2.60 lac per kanal and granted sanction for the payment of compensation on such rate. The land owners disputed the rate so arrived at and they claimed the compensation for the land at the rate of Rs.10 lac per kanal and so the Arbitrator was to determine the rate for determining the reasonable compensation per kanal in respect of the land so acquired.

19. The Arbitrator for determination of the dispute framed following issues:-

- (i) What should be the reasonable compensation per kanal in respect of the acquired land (OPP) and
- (ii) Relief.

20. The evidence was produced by both the parties. The claimant produced Shafiq-ur-Rehman; Baldev Singh; Baisakhi Ram; Pardeep Singh and Dilip Singh whereas the appellant/Union of India produced Rakesh Kumar; Ashok Kumar and Balbir Singh as witnesses.

21. The Arbitrator has given brief resume of the evidence in the award so passed, on the basis of evidence so recorded and has come to the conclusion that the reasonable rate for determination of the compensation of the land so acquired to be Rs. 7 lac per kanal, therefore, the awarded compensation for such land at the rate of Rs. 7 lac per kanal and also awarded interest at the rate of 12% on the awarded compensation. The evidence, on the basis of which the Arbitrator has come to the aforesaid conclusion, is briefly given hereunder : -

“**PW-Shafiq-ur-Rehman**, was ACR, Jammu from June 2005 to 31st October, 2006. During his tenure as ACR Jammu and before his posting as such, the Army had acquired the land in village Deeli. The District Collector called for a report from him about the rate of the land in question, for which, he visited on spot and also called report from the Subordinate Revenue Officer. He stated that the land in question situated on road side at Kujwani Bye-Pass near Santro Car Showroom, City Farms/Utsav Banquet Hall, Lajwanti Hospital, Fairdeal showroom and also Greater Kailash is situated at the other side of the road in front of the land in question. He had submitted his report to the District Collector and he recommended the rate of Rs. 3.50 lac per kanal for the land in question. He stated that before 2003, the Army had acquired the land at Deeli, for which, draft award was issued and compensation has been awarded at the rate of 02 lac per kanal. One km alongside the National Highway is the front of the land in question and industrial estate is towards back side of the land whereas Trikuta Nagar Extension is on the right side. Tehsildar has proposed the rate of Rs. 6 lac or Rs. 10 lac per kanal while proposing the rate of Rs. 3.5 lac per kanal. He has taken into consideration the average sale rate, last acquisition as market value”.

“**PW-Baldev Singh**, who was posted as Girdawar Digiana and remained posted from the year 2003 till the end of year 2005. In July, 2005, report regarding the market rate of the land in possession of the defence department situated at village Deeli was sought from him by

the Higher officer. He visited the spot made enquiries and also sought report from the Patwari Halqa Deeli, who proposed the rate of Rs. 6 lac per kanal for the land in question. On his enquiries from the spot and regarding the rate of land in question, he found that the land could be used for commercial purpose and would fetch the market rate of Rs. 1.50 per marla and rest of the land, rate was proposed at Rs. 6 lac per kanal. He has furnished a report to the Higher Officer in this regard and report exhibited as Exb. P III. He has also stated that the land in question is situated on the roadside and runs alongside Kunjwani-Nagrota Bye pass road and the portion of land out of the land in question runs alongside Kunjwani-Nagrota Bye Pass road and the portion of the land which runs alongside the road can be used for commercial purpose. He has also stated about the fact that Santro showroom, City Farms/Utsav Banquet-Hall are situated there and residential colonies on the back side of the said land. Before preparing Exhibit P III, he made spot verification and could not however say that how much land regarding which he has submitted report is on the road side and how much is away from the road. He also cannot say whether the land in question was towards the back of the land measuring 37 kanals and 18 marlas earlier required by the Army. He had seen the average sale rate of last three years which was based on the mutations of preceding three years. He cannot say how much land has been acquired in the present case and after going through the record, he has submitted that 542 Kanals 19 Marlas of land had been acquired. The average sale rate on the basis of mutation of last three years in the present case was Rs. 65,900/- per kanal and the rate of Rs. 6 lac per kanal has been proposed by him after making enquiries from the local people. He did not record any statement of any of such witnesses”.

“**P.W. Baisakhi Ram**, who was posted as Tehsildar (S) Jammu in 2005, deposed that in 2005, he was directed by the Deputy Commissioner, Jammu to submit a report regarding the market rate of land under the occupation of the Defence Department at village Deeli, situated along the Kunjwani–Nagrota Bye-pass road. He obtained

reports from the subordinate staff and the Patwari suggested a rate of Rs. 6 lakhs per kanal, while the Girdawar recommended Rs. 1.5 lakhs per marla for roadside land and Rs. 6 lakhs per kanal for the rest. After visiting the site and considering these reports, he forwarded his recommendation to the Deputy Commissioner vide No. 568/STJ dated 20.07.2005, which was exhibited as Exb. P-II/1. He admitted there is no fixed rule for fixing market value and it is based on spot enquiries and field staff inputs. The field staff had also prepared a list of average 3-year sale transactions showing Rs. 65,900/- per kanal, which he forwarded along with his report. However, he still proposed Rs. 6 lakhs per kanal based on spot enquiries, though he did not record or remember the names of persons consulted. During cross-examination, he conceded that he had no documentary proof to support the Rs. 6 lakhs rate, nor did he know the exact Khasra numbers involved or their location (front or back). He also lacked knowledge of the rate fixed by the Collector in earlier acquisitions in the vicinity. He confirmed that the land was under Army possession, partly built upon and partly vacant.”

“**P.W. Pardeep Singh** stated that his father owned land in village Deeli which was acquired by the Army along with land of other villagers, totaling about 542 kanals. Rent was initially paid after requisition. Form “I” under RAIP Act was issued in December 2004, seeking rates from landowners, who claimed ₹10 lakhs per kanal. Form “J” notice of acquisition followed in January 2005. The land situated near the National Highway at Kunjwani bypass with a frontage of about 2600 feet, surrounded by showrooms, banquet halls, and colonies. On 16.07.2005, Patwari visited the spot and made enquiries from locals, shopkeepers, showroom and banquet hall owners, who quoted land rates of ₹ 30 lakhs per kanal and on 18.07.2005, Girdawar also inspected and proposed a rate of ₹1.5 lakhs per marla, while Naib Tehsildar and Tehsildar suggested ₹6 lakhs per kanal. However, Deputy Commissioner fixed the rate at ₹2.60 lakhs per kanal, which landowners accepted under protest and filed objections, followed by an arbitration claim. He stated his father died

on 24.07.2006. Their family owned about 9 kanals 16 marlas in Khasra No. 684 and 9 kanals in Khasra No. 707 jointly with his uncle. He admitted not knowing precise ownership shares or compensation details of earlier acquisitions. He denied that only his father was aware of the proceedings and claimed, he himself attended them. He confirmed knowledge of other acquisitions in the locality by Housing Board (26 kanals 1 marla in 1994), Water Works Department (tube wells in Khasra No. 755 in 2002–2003), but had no details of compensation.”

“**PW Dilip Singh** deposed that he owned 10 kanals 4 marlas of land in village Deeli. Form "J" was issued in 2005 and compensation was paid in 2006, but he and others rejected the same in writing as the same was inadequate. He had claimed ₹10 lakhs per kanal, while the Collector fixed ₹2.60 lakhs per kanal. The land, under Army occupation, formed part of total 554 kanals 19 marlas acquired. Patwari visited the spot on 16.07.2005 and the claimants told him their land was worth ₹10–30 lakhs per kanal. He noted down rates after making enquiries, including from the Santro showroom owners. The land has 2600 feet frontage on National Highway. He also referred to past acquisition of 26 kanals in 1994 at the rate of ₹2.30 lakhs per kanal, contending that after 12 years, ₹2.60 lakhs was unjustified. He also pointed out that the Deputy Commissioner, Jammu fixed ₹30 lakhs per kanal under Roshni Act and produced sale deeds of nearby land. In cross-examination, he admitted limited knowledge of other acquisitions in Deeli/Sunjwan (tube wells, sub-station, defense land). He further stated that his land falls inside Army barbed wire fencing with 40–50 feet road frontage, in Khasra Nos. 630, 644, 645. He accepted that ownership vested under Agrarian Reforms Act, Section 3(A). A concrete irrigation canal (20–25 years old) runs through the land. He showed ignorance about issuance of Form "I" and comparative plot measurements.”

“**DW Rakesh Kumar**, working in the Defense Department since 1979, deposed that he has knowledge of the local area, including

Deeli. He stated that the Army requisitioned the land in question in 1970, measuring 542 kanals 19 marlas, and acquisition proceedings started in 1990. Form "I" under RAIP Act was issued in May 2005 and Form "J" thereafter. The DC Jammu obtained reports on average sale rates, which were calculated at about Rs. 65,900/- per kanal, but the committee of collectors proposed Rs. 2.70 lakhs per kanal. The DC fixed Rs. 2.75 lakhs per kanal but the Ministry of Defense approved Rs. 2.60 lakhs. While fixing the rate, the DC considered earlier acquisitions in Deeli and Kunjwani. At that time, market value was between Rs. 2–2.5 lakhs per kanal. He personally enquired about nearby land rates but bought in Muthi at a lower price. He mentioned that land prices increased after the construction of the National Highway and earlier, the rate was only Rs. 10,000/- per kanal. He supported the approved rate of Rs. 2.60 lakhs as correct. In cross-examination, he admitted his postings in different places (Rajouri, Jammu) and clarified that his knowledge is mainly based on records. He confirmed Patwari's rate of Rs. 65,900/- per kanal but no direct record of Patwari's market rate report was found. He also admitted he could not read Urdu and had no knowledge of rates fixed under the Stamps Act or Roshni Act, nor of claims made by landowners. He acknowledged that prominent establishments (Santro showroom, Vishal Mega Mart, City Farms, and Channi Himmat colony) are around the land in question, which also has an 800-metre frontage on National Highway bypass."

“DW Ashok Kumar S/o late Bihari Lal stated in his examination-in-chief that he is dealing with requisition, acquisition, and rent cases of Army land. He also monitors sale rates and prevents outside interference. He is well aware of the land in question situated at village Deeli, measuring 541 kanals 19 marlas, under Army possession since 1970. Rent was paid to owners during requisition. Later, for permanent requirement, the case was taken up for acquisition and the State Government issued NOC in 1990. Form “F” was issued in December 2002 and acquisition notice came in 2005. He further stated that initially, Rs. 60,000/- per kanal was filed, and

average sale rate of preceding three years was assessed at Rs.65,900/-. However, the DC/committee proposed Rs. 2.75 lakhs per kanal, considering earlier acquisition of 37 kanals 18 marlas in 2002–03 at Rs. 2 lakhs. The final award was prepared at Rs. 2.75 lakhs and forwarded for sanction. The Ministry of Defence, being the competent authority, approved Rs. 2.60 lakhs per kanal and compensation was paid accordingly. He added that in 2005, land rates in Channi Himmat, Greater Kailash and Deeli were about Rs. 7,000–8,000 per marla (i.e. much below Rs. 2 lakhs per kanal). He also clarified that the land is not touching the bye-pass road, though situated between Santro Showroom and Banquet Halls. In cross-examination, he admitted that he is a resident of Pathankot with diploma in civil engineering. He joined as SDO in Jammu in 2006 and earlier he was posted at Rajouri during the acquisition process, though his family stayed in Jammu. He admitted that the Collector fixed the rate subject to Ministry of Defence approval, which can reduce the rate. Though no sanction by Defence Minister is on record, sanction letters of Defence Secretary dated 2001 and 2006 exist, including sanction dated 22-03-2006 for Rs. 14,11,67,000/-. He also mentioned that his friend Bhutta Ram accompanied him for land purchase but did not buy. He denied suggestions that the front of the land is 800 meters along National Highway or that the market value of land in Deeli was Rs. 1 crore per kanal. He expressed ignorance about claimants' compensation claims, pending arbitration, or specific cases before this Court."

“DW Balbir Singh S/o Ajit Singh in his examination-in-chief stated that the land measuring 542 kanals 19 marlas is situated in village Deeli, about 1 km away from Jammu–Pathankot National Highway over the Bye-pass Road. He deposed that this land is situated behind 37 kanals 18 marlas which had earlier been acquired by the Army. The entrance of this land touches the Bye-pass road. He further stated that the final assessment award for 37 kanals 18 marlas was prepared in 2006 at the rate of Rs. 2,00,000 per kanal. The Collector fixed the compensation in January 2005 at Rs. 2 lakhs per

kanal, but the Ministry of Defence approved Rs. 2.60 lakhs per kanal, and the compensation was disbursed to landowners accordingly. He deposed that the average sale rate of preceding 3 years, as calculated by the Revenue Department on the basis of sale data and records of Deeli and adjoining areas, came to Rs. 65,900 per kanal. He personally enquired about land prices in 2006 in Deeli and Greater Kailash for building a house and found land available at Rs. 1.40 lakhs to 1.70 lakhs per kanal. He did not purchase as construction would require heavy expenditure. According to him, the compensation of Rs. 2.75 lakhs per kanal fixed by the Collector was more than the prevailing market rate. He also mentioned that the land in question lies between a banquet hall and a Maruti showroom, both commercial establishments on the Bye-pass, set up on smaller land portions. On cross-examination by counsel for the claimants, he admitted that he is posted as a clerk in the DEO office since November 2006, and earlier served in the AOC Department as clerk/typist. He cannot read or write Urdu. He denied that the Marble Market was located at the back or left of the land but admitted it may be about 1 km away. He clarified that only 37 kanals 18 marlas touches the Bye-pass, with a 15 ft approach road, but denied that the frontage is 800 meters. He expressed ignorance about whether the land touches Channi Himmat Extension or Trikuta Nagar Extension, or whether Gangyal Industrial Extension lies on its right side. He admitted that the Tehsildar proposed Rs. 6 lakhs per kanal as market rate and average sale rate of Rs. 65,900 per kanal, but he was not aware of rates proposed by the Girdawar, Naib-Tehsildar, or Assistant Collector. He denied the suggestion that the Girdawar reported Rs. 1.50 lakhs per marla or that the rate in Deeli was Rs. 1–2 lakhs per marla in 2005–06. He was unaware of land values in 2002–2004 or whether the land was within Municipal Limits. He also denied knowledge of the DC fixing Rs. 30 lakhs per kanal under Roshni Act, or the rates under J&K Stamps Rules, or whether landowners claimed Rs. 10 lakhs per kanal. He further stated that the Collector fixes rates under RAIP Act, but he did not know under which provisions the Indenting Department (Ministry

of Defence) approves rates, nor who in Defence is authorized to sanction the same. He also did not know how many khasra numbers were acquired.”

22. One of the principles for determination of the amount of compensation for acquisition of land would be the willingness of an informed buyer to offer the price, therefore, the market value is ordinarily the price, the property may fetch in the open market if sold by a willing seller unaffected by the special needs of a particular purchase.

23. All the evidence on record shows that the land in question which was acquired has commercial potential keeping in view the distance from the highway and the land in question is surrounded by well developed colonies where the rates have sky rocketed. These factors are to be considered while considering the question of compensation.

24. The Hon’ble Apex Court in ***Sabha Mohammed Yusuf Abdul Hamid Mulla (Dead) By Lrs. And Others v. Special Land Acquisition Officer And Others*** AIR 2012 SC 2709 aptly delineates the principles and the guidelines applicable on the case while fixing market value of the acquired land, the Land Acquisition Collector is required to keep in mind the following factors:

- (i) Existing geographical situation of the land.
- (ii) Existing use of the land.
- (iii) Already available advantages like proximity to National or State High Way or road and/or developed area.
- (iv) Market value of other land situated in the same Locality/village/area or adjacent or very near the acquired land.

25. For determination of the market value of the land potential is important. Once it is found that the land is in the area which is a commercial hub, the use or its distance from the main road, is rendered immaterial. The

Defence Estates Officer has stated that the land is on the main road, which shows that it has a tremendous commercial potential and as per the arguments now submitted the land is a hub of commercial and residential activities and many commercial enlistments has been established around this land.

26. The Hon'ble Apex Court in ***Viluben Jhalejar Contractor (Dead)***

By Lrs. v. State Of Gujarat 2005 AIR SC 2214 held that

“20 The amount of compensation cannot be ascertained with mathematical accuracy. A comparable instance has to be identified having regard to the proximity from time angle as well as proximity from situation angle. For determining the market value of the land under acquisition, suitable adjustment has to be made having regard to various positive and negative factors vis-à-vis the land under acquisition by placing the two in juxtaposition. The positive and negative factors are as under:

Positive factors	Negative factors
(i) smallness of size	(i) largeness of area
(ii) proximity to a road	(ii) situation in the interior at a distance from the road
(iii) frontage on a road	(iii) narrow strip of land with very small frontage compared to depth
(iv) nearness to developed area	(iv) lower level requiring the depressed portion to be filled up
(v) regular shape	(v) remoteness from developed locality
(vi) level vis-à-vis land under acquisition	(vi) some special disadvantageous factors which would deter a purchaser
(vii) special value for an owner of an adjoining property to whom it may have some very special advantage	

21 Whereas a smaller plot may be within the reach of many, a large block of land will have to be developed preparing a layout plan, carving out roads, leaving open spaces, plotting out smaller plots, waiting for purchasers and the hazards of an entrepreneur. Such development charges may range between 20% and 50% of the total price.”

27. It also remarked that although deduction for development is generally permissible, it is inappropriate where the land is practically “readymade” for non-agricultural use and minimal development is needed.

28. Argument of the learned counsel for Defence Estates Officer that the land was agricultural at the time of requisition and deduction in cases of acquisition of huge chunk of land as development charges towards the area needs to be made as such is not supported by an evidence. Evidence on record shows that army had constructed residential premises in the year 1985 and the nature of the land immediately changed. The argument of the learned counsel for Defence Estates Officer that three lacs per kanal as compensation which was asked by the claimants as perform J is not supported by the record no document has been produced to prove this fact that initially the compensation which was claimed by the claimants/beneficiaries was 3.00 lacs only. Learned counsel for the claimants has submitted that in view of the land which is yet to be developed, only there the decision will be made for development and where the area is already developed as is in the present case there is no need to deduct the development charges.

29. Learned Arbitrator based on apex court judgments held that there are 45 claimants and small chunks of land are being acquired from each of the claimants who are the beneficiaries from some claimants. Even 19 marlas of land is being acquired and from some more than 20 Kanals is being acquired. The land has not been used for development purposes as was acquired and it is individuals whose land has been acquired from 19 marlas to 25 kanals at the most. The arguments of the Ld. Counsel for the defence estates officer can be considered for development.

30. The witnesses, who appeared on behalf of the respondents i.e. Defence Estates Officer, have not disclosed the basis on which Ministry of Defence has fixed it and there is no justification for such a low rate. On the

evidence and material as it is on the record the rate of compensation fixed by the ministry of defence is clearly arbitrary and un-reasonable. There is no justification offered on behalf of the Collector and there is absolutely no material in that behalf on that record for ignorance of the recommendation of the concerned Tehsildar on the market rate of land being rate 6 lac per kanal. District collected thereafter toned down the same to 2.75 lac which itself is arbitrary as the same has no valid basis and is not supported by any evidence or material. The land cannot be said to be agricultural and its commercial potential has not been taken into account which is evidenced by the position on spot as on today as the land in question is today rated at Rs. 1 crore 50 lac per kanal as the land is now surrounded by commercial hubs and many posh colonies.

31. When the demand for land was soaring at and around the area of the Airport, and the land of the claimants, being just at the distance of 3 KM from the main gate of the Airport, and, thus, for all practical purposes, is included within the area of Airport. There is a flourishing market up to the said land, and beyond. The geographical situation impacting favourably on the rising rate of compensation cannot be ignored. The market rate recommended by the Tehsildar too cannot, as contended by the claimants, be the real market rate. In quest for actual market rate, the rate recommended by the Tehsildar will have to be suitably enhanced. In consideration of the aforesaid factors, and, at the same time, denial of lawful compensation to the claimant over a long period of 2 decades, which too must weigh in on equitable considerations, the market rate has to be determined.

32. The evidence of the claimants as to rate of compensation may not be ignored, but in the absence of documentary evidence, the same may not

be wholly acceptable. Considering all the factors together, it is just and fair that compensation at the rate of 7,00,000/- per Kanal is awarded in favour of the claimant families.

33. The size of the land in acquisition is not of a consequence in the present case; the land acquired is just an aggregate of different small size holdings belonging to different claimants. The geographical location of the land, the tremendous commercial potential thereof. The principles of equity being in favour of the claimants by reason of denial to them their due over such a long period of time and in the meantime jump in the market rate, and the area being already developed, all together render, in any case, the large size of the land in acquisition into relevance in the matter of determination of the market rate. Since, as stated earlier, the point of reference in terms of time for the purposes of such determination is, in the facts and circumstances of the present case, not fixed, the present rate of land cannot be lost sight of as a legal and equitable consideration for arriving at the genuine market rate, and that by itself reduces the weight of consideration on account of land in acquisition being a larger chunk. The idea underlying the consideration on account of large chunk being under acquisition is to provide for the cost of development; but where the land is already developed, no deduction on account of such consideration is permissible

34. In concluding the matter, it can be said that Ld. Arbitrator did not err in increasing the price of compensation in said property from Rs. 2,60,000 to Rs. 7,00,000 per kanal at commercial rate. The property in question is not agricultural property and its value for compensation has to be deduced based on it being of commercial nature this was supported by the fact that the said land is surrounded by Channi Himmat and Trikuta Nagar

Housing Colonies from the back and on the front side is National Highway across which Posh Greater Kailash and Sainik Colony have been developed. The land is situated between Santro Show Room and City Farms/Utsav Banquet Halls and Lajwanti Hospital and opposite to Fair Deal Motors showroom. The averment in relation to development charges being reduced is also denied as the land cannot be considered to be under developed due to the investment made by the army. The amount of compensation at Rs. 7,00,000/- per kanal awarded by the Arbitrator is just and reasonable.

35. Having regard what has been stated hereinabove, this appeal shall stand disposed of by upholding the amount of compensation at Rs.7,00,000/- (Rupees Seven Lakh) per kanal awarded by the Arbitrator. However, interest awarded by the Arbitrator at the rate of 12% per annum is reduced by 6% per annum.

36. This appeal is **disposed of** in the above terms.

(VINOD CHATTERJI KOUL)
Judge

JAMMU
16.10.2025
RAM MURTI/PS