IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.F.A. No. 1854 of 2002 (O&M)
Date of decision: November 03, 2015

**Bhim Sain Juneja**

**.. Appellant**

**v.**

**State of Haryana and others**

**.. Respondent**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Argued by: Mr. Birender Singh Rana, Mr. Akshay Bhan, Senior Advocates with Mr. Gagandeep Rana, Ms. Anu Singh, Mr. Alok Mittal, Mr. S. P. Khatri, Mr. Vikrant Hooda, Mr. Navneet Singh, Mr. Rajinder Singh Malik, Mr. Sushil K. Sharma for Mr. M. L. Sharma, Mr. Bhag Singh, Mr. R. S. Kundu, Mr. Rakesh Lathwal, Ms. Vandana Sharma for Mr. Rajesh Lamba, Mr. Ajay Jain, Mr. Harkesh Manuja, Mr. Anil Dutt & Mr. R. S. Malik, Advocates for the landowners.

Mr. Vishal Garg, Advocate for
Mr. Deepak Balyan, Advocate for HSIIDC.

Mr. Abhinash Jain, Assistant Advocate General, Haryana.

Rajesh Bindal J.

1. This order will dispose of

R.F.A. Nos. 1854, 2348, 2551, 2642, 2730, 2737, 2738, 2739, 4002, 4003 of **2002**

RFA No. 4259 and 4472 of **2003**

RFA Nos. 417, 1291, 1292, 2353 of **2004**

RFA Nos. 1527, 2896, 2898 to 2907 of **2005;**

RFA Nos. 98, 142, 307 to 312, 571, 572, 813 to 825, 846, 847, 1837 to 1839, 2734, 2735, 2950, 3095 to 3099, 3100 to 3111, 3151 to 3163, 3243, 3244, 3366, 3425 to 3428, 3482 to 3485, 3498, 3518 to 3526, 3556, 3557, 3948 to 3950, 4019, 4026, 4029, 4110, 4483 to 4500, 4521, 4522, 4591 to 4603, 4627 to 4636, 4717 to 4726, 4740 to 4749, 4817 to 4840 of 2006;

RFA Nos. 7 to 30, 551, 591, 1593, 2354, 2355, 2394, 2395, 2417, 2543, 2544, 2804, 2870, 3790, 4100, 4101 of **2007**

RFA Nos. 290, 1486, 1487 1488, 3350, 3351, 3454 to 3457, 3644, 3645, 4019 to 4021, 4800, 4801, 4834, 4861, 4905, 4907, 4947, 5499 to 5501, 5623, 5647, 5693 of **2008;**

RFA Nos. 109 to 111, 135, 705, 1675, 2538 to 2559, 2736,2737, 2877, 2894, 2995, 3589 to 3592, 4864 to 4868 of **2009;**

RFA Nos. 1036 to 1039, 1819 of **2010;**

RFA Nos. 6898 to 6900, 7163 to 7165, 7224 of **2012;**

Cross Objections No. 47-CI to 58-CI of **2012;**

RFA Nos. 5422 of **2013;**

Cross Objections Nos. 31-CI and 32-CI of **2013;**

Cross Objections No. 27-CI, 30-CI and 71-C of **2015;**

2. In the appeals and the cross objections filed by the land owners, they are seeking further enhancement of compensation for the acquired land, whereas in the appeals filed by Haryana State Industrial & Infrastructure Development Corporation Ltd. ( for short, 'HSIIDC'), the prayer is for reduction thereof. The cases are being taken up together as the acquired land in all the cases is located in vicinity.

**<u>Details of acquisition being dealt with</u>**

**3(i)** Vide notification dated 14.10.1996, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), State of Haryana sought to acquire 68 kanals and 12 marlas of land, situated in village Kundli, Hadbast No. 55, Tehsil and District Sonepat for development as Industrial Estate. On measurement, the land was found to be 68 kanals and 10 marlas. The same was followed by notification dated 4.6.1997, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide award dated 18.11.1998, assessed the market value of the acquired land @ ₹ 2,75,000/- per acre.

Dissatisfied with the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below assessed the market value of the acquired land @ ₹ 3,50,000/- per acre.

(ii) Vide notification dated 24.4.1997, issued under Section 4 of the Act, State of Haryana sought to acquire 95 kanals and 1 marla of chahi land, situated in village Sersa, Tehsil & District Sonepat for expansion of Industrial Estate in village Sersa. The same was followed by notification dated 10.7.1998, published on 15.7.1998, issued under Section 6 of the Act. The Collector, vide his award, assessed the market value of the acquired land @ ₹ 2,60,000/- per acre.

Dissatisfied with the award of the Collector, the landowners filed objections. On reference under Section 18 of the Act, the learned court below assessed the market value of the acquired land @ ₹ 3,00,000/- per acre.

**(iii)** Vide notification dated 24.7.1997, issued under Section 4 of the Act, State of Haryana sought to acquire the land, situated in village Kundli, Tehsil & District Sonepat for expansion of Industrial Estate already set up in village Kundli fruit & vegetable complex at Kundli. The same was followed by notification issued under Section 6 of the Act. The Collector, vide his award No.1 dated 28.10.1998, assessed the market value of the acquired land @ ₹ 2,60,000/- per acre.

Dissatisfied with the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below assessed the market value of the acquired land @ ₹ 3,00,000/- per acre.

**(iv)** Vide notification dated 5.8.1997, published on 11.8.1997, issued under Section 4 of the Act, State of Haryana sought to acquire 303 acres, 7 kanals and 9 marlas of land, situated in village Kundli, Hadbast No. 55, Tehsil and District Sonepat for development as Industrial Estate in villages Kundli, Sersa and Nangal Kalan, Tehsil and District Sonepat. The same was followed by notification dated 29.7.1998, issued under Section 6 of the Act. The Collector, vide his award No. 1 dated 15.12.1998, assessed the market value of the acquired land @ ₹ 4,50,000/- per acre upto the depth of four acres from National Highway No. 1 and @ ₹ 2,25,000/- per acre for the remaining land.

Dissatisfied with the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below assessed the market value of the acquired land @ ₹ 6,00,000/- per acre for the land situated within four acres from National Highway No. 1 and ₹ 4,00,000/- per acre for the land situated beyond that.

**(v)** Vide notification dated 22.10.1997, issued under Section 4 of the Act, State of Haryana sought to acquire 59 kanals and 15 marlas of land, situated in village Kundli, Hadbast No. 55, Tehsil and District Sonepat for construction and development of road linking Export Promotion Industrial Part Kundli with National Highway No. 1 in village Kundli. The same was followed by notification dated 10.8.1998, issued under Section 6 of the Act. The Collector, vide award No. 1 dated 16.11.1998, assessed the market value of the acquired land @ ₹ 4,50,000/- per acre for the land upto the depth of four acres from National Highway No. 1 and ₹ 2,95,000/- per acre for remaining land.

Dissatisfied with the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below assessed the market value of the acquired land @ ₹ 4,10,000/- per acre for the entire land.

**(vi)** Vide notification dated 10.11.2000, published on 5.12.2000, issued under Section 4 of the Act, State of Haryana sought to acquire 20 acres, 7 kanals and 3 marlas of land, situated in village Kundli, Hadbast No. 55, Tehsil and District Sonepat for development of Industrial Estate in village Kundli. The same was followed by notification dated 28.11.2001, issued under Section 6 of the Act. The Collector, vide award No. 3 dated 23.4.2003, assessed the market value of the acquired land @ ₹ 4,50,000/- per acre.

Dissatisfied with the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below assessed the market value of the acquired land @ ₹ 12,00,000/- per acre.

**(vii)** Vide notification dated 30.3.2001, published on 6.8.2001, issued under Section 4 of the Act, State of Haryana sought to acquire 13 acres, 1 kanal and 14 marlas of land, situated in village Sersa, Hadbast No. 54, Tehsil and District Sonepat for development and construction of Solid Waste Disposal Dumping Ground required for Industrial Estate, Kundli at village Janti Kalan and Sersa, Tehsil and District Sonepat. The same was followed by notification dated 15.2.2002, published on 19.2.2002, issued under Section 6 of the Act. The Collector, vide award No. 2 dated 23.4.2003, assessed the market value of the acquired land @ ₹ 2,00,000/- per acre.

Dissatisfied with the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below assessed the market value of the acquired land @ ₹ 4,00,000/- per acre.

**(viii)** Vide notification dated 15.2.2002, issued under Section 4 of the Act, State of Haryana sought to acquire 4 kanals and 18 marlas of land, situated in village Kundli, Hadbast No. 55, Tehsil and District Sonepat for development of Industrial Estate in village Kundli. The same was followed by notification dated 19.6.2002, issued under Section 6 of the Act. The Collector, vide award No. 1 dated 25.4.2003, assessed the market value of the acquired land @ ₹ 5,00,000/- per acre.

Dissatisfied with the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below assessed the market value of the acquired land @ ₹ 10,00,000/- per acre.

4. For the sake of convenience, details of notifications issued under Section 4 of the Act in the present bunch of cases are summed up below in tabulated form:

| Date | Area | Revenue Estate | Amount awarded by the Collector per acre in ₹ | Amount awarded by the Reference Court per acre in ₹ | Date of award of Reference Court |
|---|---|---|---|---|---|
| 14.10.1996 | 68K-12M | Kundli | 2,75,000/- | 3,50,000/- | 10.2.2007 |
| 24.4.1997 | 95K-1M | Sersa | 2,60,000/- | 3,00,000/- | 25.7.2003 |
| 24.7.1997 | 321K-9M | Kundli | 2,60,000/- | 3,00,000/- | 20.2.2002 |
| 5.8.1997 | 303Acres 7K-9M | Kundli | 4,50,000/- upto the depth of four acres from NH-1 & 2,25,000/- for remaining land. | 6,00,000/- within four acres from NH-1 and 4,00,000/- beyond that. | 16.3.2006 |
| 22.10.1997 | 59K-15M | Kundli | 4,50,000/- upto the depth of four acres from NH-1 & 2,95,000/- for remaining land. | 4,10,000/- | 14.2.2007 |
| 10.11.2000 | 20 Acres 7K-3M | Kundli | 4,50,000/- | 12,00,000/- | 16.5.2008 |
| 30.3.2001 | 13Acres 1K-14M | Sersa | 2,00,000/- | 4,00,000/- | 26.5.2007 |
| 15.2.2002 | 4K-18M | Kundli | 5,00,000/- | 10,00,000/- | 10.3.2008 |

5. For the sake of brevity, it is mentioned that, except where particularly mentioned, reference to the exhibits has been made from LAC

No. 16 of 2000.

**Arguments of landowners**

6. Learned counsel for the landowners submitted that the acquired land was strategically located. The State had already acquired land for development of Industrial Estate, Phase-I to Phase-III. The acquisition in question was for development of Phase-IV by HSIIDC. Part of the acquired land was abutting G.T. Road, whereas part was behind that but abutting the land already acquired for development as Industrial Estate. There was lot of pressure in this area for industrialisation for the reason that industries were shifting from Delhi, in view of the order passed by Hon'ble the Supreme Court in M. C. Mehta v. Union of India and others, AIR 1996 SC 3311. The land in question was located close to Delhi border. Even beyond the acquired land, the land was acquired for use as Fruit and Vegetable Market, where notification under Section 4 of the Act was issued on 23.2.1994, however, seeing the requirement of land for industrialisation, even the aforesaid land was transferred to HSIIDC for development as Industrial Estate. This portion of land was located towards Sonepat. For the aforesaid acquisition, this court in RFA No. 1971 of 2001—Asa Ram and others v. The State of Haryana and others, decided on 5.7.2011, had assessed the compensation @ ₹ 210/- per square yard.

7. He further submitted that even beyond that land towards Sonepat, the land was acquired for development as Sectors 3 and 7, Sonepat by HUDA, for which notification under Section 4 of the Act was issued on 9.11.1992. For the acquisition of aforesaid land, this court in RFA No. 2453 of 2000-- Smt. Chanderpati and others v. State of Haryana and others, decided on 30.5.2007, had assessed the compensation @ ₹ 200/- per square yard.

8. He further submitted that even beyond the land, which was already acquired for planned development, private entrepreneurs had purchased the land and had set up industrial units. The learned Reference Court had failed to assess fair value of the acquired land considering its potentiality and the evidence produced on record by the landowners. In

support of the arguments, reliance was placed upon sale deeds Ex. P21, Ex. P24, Ex. P25 and Ex. P31. It was further submitted that the sale deed produced by the landowners as Ex. P21, was produced by the State as Ex. R28. The State cannot be permitted to claim that the aforesaid sale deed is not relevant for the purpose of assessment of compensation. He further referred to agreements to sell (Ex. P1 and Ex. P22). Vide agreement to sell (Ex. P1), land measuring 7 kanals and 11 marlas was agreed to be sold for ₹ 20,00,000/-, whereas vide agreement to sell (Ex. P22), land measuring 7 kanals and 4 marlas was agreed to be sold for ₹ 17,00,000/-. He further referred to solvency certificate (Ex. P2) issued by the revenue authorities showing that value of the land measuring 17 kanals 7 marlas was ₹ 40,00,000/-. He further referred to report (Ex. P32) submitted by the Collector on the objections filed by the landowners under Section 5A of the Act, wherein it was stated that the land being valuable, the State will have to pay crores of rupees as compensation.

9. With reference to the sale-deeds, which are sought to be relied upon by the landowners, he submitted that value of the land as taken by the court below in the sale deed (Ex. P21) is not correct. There were some dilapidated structures existing on the land, for which specific value had been shown. If the same is reduced from the total sale consideration, the value of the land would come out to ₹ 28,71,609/- per acre, i.e., ₹ 572/- per square yard. As the aforesaid sale deed was registered prior to the acquisition of land, the same deserves to be relied upon. As far as sale deeds (Ex. P24 and Ex. P25) are concerned, it was submitted that the same having been registered on 22.3.1993 and 30.4.1993, respectively, i.e., prior to the date of issuance of notification under Section 4 of the Act, if increase @ 15% per annum is granted thereon, the value of the acquired land would come out to ₹ 312/- per square yard. He further submitted that the entire land was part of the controlled area of Sonepat. There being lot of restrictions on construction and permissions required, much sale transactions are not there and the sale transactions showing the highest value should be relied upon for the purpose of assessment of compensation. As the land had great future potential, no belting system was required to be applied and the entire land

deserves to be assessed at the same rate, as Phase-I to Phase-III of the Industrial Estate had already been developed and even the land, which was not abutting GT Road was already having access from the roads connecting the Industrial Estate Phase-I to Phase-III. It is also for the reason that after acquisition, the plots are not sold by HSIIDC at different rates for the land, which is abutting GT road or otherwise, rather, no opening is granted to any plot directly on GT Road.

10. Further, it was submitted that in CM No. 2204-CI of 2015, the landowners have placed on record a chart obtained from the office of HSIIDC showing the rates at which the plots carved out by it in various Industrial Estates at Kundli, were sold at different times. The same should be relied upon for the purpose of assessment of compensation. The plotable area in any Industrial Estate is not less than 60%. There could be some small amount spent there on development activities. He further submitted that drain No. 8, being located adjoining to the acquired land, HSIIDC had to spend very less amount on infrastructure as the effluents generated in the Industrial Estate were to be discharged in drain No. 8. He further submitted that if increase for the time gap is granted on the value, as assessed for acquisition of land for Fruit and Vegetable Complex, where notification under Section 4 of the Act was issued on 23.2.1994, the value will come out close to what has been shown in sale deed (Ex. P21), which was registered near the date of notification under Section 4 of the Act.

11. As regards notification dated 24.7.1997 is concerned, learned counsel for the landowners submitted that the land in question is located adjoining to the land already acquired for Industrial Estate, where notification under Section 4 of the Act was issued on 19.6.1992. That land was part of developed Industrial Estate, Phase-III, which was transferred to HSIIDC. The valuation of the aforesaid land was subject-matter of consideration before this Court in RFA No. 4658 of 2001—Vijay Jyoti Housing Private Limited v. State of Haryana and others, decided on 3.7.2009, where compensation was assessed @ ₹ 79/- per square yard, which was upheld by Hon'ble the Supreme Court. There being time gap of 5 years, the landowners deserve to be granted increase for the aforesaid

period.

12. As regards notification dated 14.10.1996 is concerned, it was submitted by learned counsel for the landowners that the learned court below had placed reliance upon the valuation of land pertaining to acquisition vide notification dated 5.8.1997 and applied a reverse cut. There are sale deeds (Ex. P18 to Ex. P20 in LAC No. 8 of 2001) available on record, which deserve to be relied upon for the purpose of assessment of compensation.

13. As regards notification dated 10.11.2000 is concerned, learned counsel for the landowners submitted that the sale deed (Ex. P9 in LAC No. 15 of 2005), which was registered on 26.11.1999 where 8 kanals and 9 marlas of land was sold at an average price of ₹ 25,56,213/- per acre, deserves to be relied upon for the purpose of assessment of compensation. Even if there were certain popular trees standing on land dealt with in the sale deed, reasonable amount can be deducted for the same. The sale deed is genuine as the agreement to sell therefor was executed much prior to the execution of the sale deed. Even increase for the time gap upto the date of notification under Section 4 of the Act also deserves to be granted.

14. In support of the arguments, learned counsel for the landowners relied upon The Govt. of Andhra Pradesh v. H.E.H., the Nizam, Hyderabad, 1996 LACC 280; Udho Dass v. State of Haryana, (2010) 12 SCC 51; Haryana State Industrial Development Corp. v. Pran Sukh and others, 2011(1) RCR (Civil) 569; Mehrawal Khewaji Trust (Regd.), Faridkot and others v. State of Punjab and others, 2012(2) RCR (Civil) 893 and Ram Kanwar and others v. State of Haryana and another, 2015(1) RCR (Civil) 234.

**Arguments by State/HSIIDC**

15. On the other hand, learned counsel for the State, while referring to site plan (Ex. R1) produced on record, submitted that there are number of sale deeds produced by the State in evidence. Land of some of them is forming part of the acquired land, however, the learned court below has

wrongly not considered those for the purpose of assessment of compensation for the acquired land. Reference was made to sale deeds (Ex. R9 to Ex. R12) showing value in the range of ₹ 1,75,000/- to ₹ 2,24,000/- per acre. There are other sale deeds produced on record by the State, which are located outside the acquired land and even across the road. Even these also show the same value.

16. While referring to the sale deeds produced by the landowners, it was submitted that the land pertaining to sale deed (Ex. P21) is located on GT road on the other side. It was a transaction where super-structure was also existing. It was being used as a marriage palace, hence, the sale consideration paid therein cannot be the reasonable basis for assessment of compensation. He further submitted that the sale deeds (Ex. P24 and Ex. P25) cannot be relied upon for the reason that the same are more than 4 years old, especially when the sale deeds close to the date of acquisition are available. Sale deed (Ex. P31) pertains to a small plot. He submitted that value of the land, as assessed by the court below for acquisition of land for development as Phase-III, where notification under Section 4 of the Act was issued on 19.6.1992, can be relied upon and increase for the time gap can be granted @ 12% per annum.

17. Learned counsel further submitted that the award pertaining to acquisition of land for Fruit and Vegetable Complex, where notification under Section 4 of the Act was issued on 23.2.1994, cannot be relied upon for the reason that the same is located 7 kilometers away from the acquired land. Similarly, the land pertaining to Sectors 3 and 7, Sonepat, where notification under Section 4 of the Act was issued on 19.11.1992 is located close to old city of Sonepat and about 13 kilometers from the acquired land.

18. While referring the judgment of Hon'ble the Supreme Court in Ram Kanwar's case (supra), it was submitted that the sale deeds pertaining to the acquired land or located close by are the best exemplars. Learned counsel further submitted that a plea is sought to be raised by learned counsel for the landowners that the acquired land is situated close to Delhi Border and being in NCR region, it had great future potential, but they have themselves produced on record award of the Collector (Ex.P80) pertaining

to acquisition of land in Delhi, where notification under Section 4 of the Act was issued on 9.3.1992 and the value was assessed @ ₹ 4,65,000/- per acre for 'A' category of land and ₹ 3,00,000/- per acre for 'B' category of land. However, learned counsel for the State was not in a position to state the subsequent proceedings for the aforesaid acquisition with reference to valuation of the acquired land. He further submitted that assessment of compensation by the court below at different rates pertaining to the land located on GT road upto a depth of four acres and the land located behind that is reasonable as the value of the land abutting a road, especially National Highway, is always better as compared to the land located behind that, which may or may not have access.

19. Heard learned counsel for the parties and perused the relevant referred record.

**Location of the land**

20. The acquired land falls in District Sonepat, which is adjoining to Delhi Border. As per the information furnished by learned counsel for HSIIDC, the process for development of Industrial Estate at a place located about 5-6 kilometers from Delhi Border towards Sonepat started with the transfer of land from Colonisation Department to HSIIDC in the year 1980, which was developed as Industrial Estate, Phase-I, abutting GT Road. Industrial Estate, Phase-II was developed again on the land transferred from Colonisation Department in the year 1983. Subsequent thereto, the land was acquired vide notification dated 19.6.1992 for development as Phase-III (EPIP), valuation of which was subject-matter of consideration before this Court in RFA No. 4658 of 2001—Vijay Jyoti Housing Private Ltd. v. State of Haryana and others, decided on 3.7.2009, where compensation was assessed @ ₹ 79/- per square yard, which was upheld by Hon'ble the Supreme Court. The land pertaining to he aforesaid Phase is located behind the land acquired for Phase-I and Phase-II.

21. Vide notification dated 23.2.1994, land was acquired for development as Fruit and Vegetable Complex, which was abutting GT Road, located at a distance of about 7-8 kilometres from Industrial Estate, Phase-I towards Sonepat. The aforesaid land was ultimately transferred to

HSIIDC for development as Industrial Estate, Phase-I (Sector 38). The aforesaid land is located just opposite Moti Lal Nehru School of Sports, Rai and the land subsequently acquired for development as Rajiv Gandhi Education City, Phase-I.

22. Thereafter, vide different notifications dated 14.10.1996, 24.7.1997, 22.10.1997 and 5.8.1997, the land was acquired for development as Industrial Estate, Phase-IV. Major chunk of land for which notification under Section 4 of the Act was issued on 5.8.1997 was partly abutting GT Road adjoining to the land already acquired for Phase-I and Phase-III (EPIP), whereas vide other notifications small-small portions of land were acquired, which were located at different places adjoining to the land already acquired for Phase-I to Phase-III. The assessment of compensation for the land acquired for Phase-IV was subject-matter of consideration before this Court in RFA No. 1854 of 2002—Bhim Sain Juneja v. State of Haryana and others, decided separately today, where notification under Section 4 of the Act was issued on 14.10.1996 and compensation has been assessed therein @ ₹ 10,40,000/- per acre.

23. Continuing with different acquisitions of land adjoining to the aforesaid land, the State vide notification dated 21.12.2005 acquired large chunk of land in the form of Industrial Estate, Phase-V. The aforesaid land is located behind the land already acquired for Phase-III (EPIP) and Phase-IV. The distance of the aforesaid acquired land is almost similar from GT Road and the same is in the form of a strip, which is also shown as Sectors 53 to 56. Thereafter, vide different notifications dated 21.12.2005, 25.5.2007, 1.4.2008 and 5.3.2010, left out portions of land of Phase-V were acquired. There are no appeals pertaining to the acquisition of land vide notification dated 25.5.2007 and 5.3.2010.

24. Vide separate notification dated 30.3.2001, 20 acres, 4 kanals and 15 marlas land was acquired from the revenue estate of Sersa. It is located at a distance of about 2-3 kilometers away from the boundary of land acquired for Phase-IV, away from GT Road.

25. Vide notification dated 5.10.2005, the land ws acquired in pockets for residential and commercial purposes forming part of Sectors 59

and 60. The same was adjoining to the land acquired for development as Phase-V and was located almost at an equal distance from GT Road and in parallel width. The entire land of Sectors 59 and 60 was not acquired, as part of that may have been purchased by private persons.

26. Vide separate notification dated 16.11.2005, the land was acquired for construction of a road leading from GT Road between Sectors 61 and 62 and thereafter touching the boundary of Sector 59.

27. Just adjoining to Sector 62 on the same side of GT Road, large chunk of land was acquired for development as Rajiv Gandhi Education City forming part of Sectors 65 to 68, where notification under Section 4 of the Act was issued on 17.11.2005. The aforesaid land is abutting GT Road.

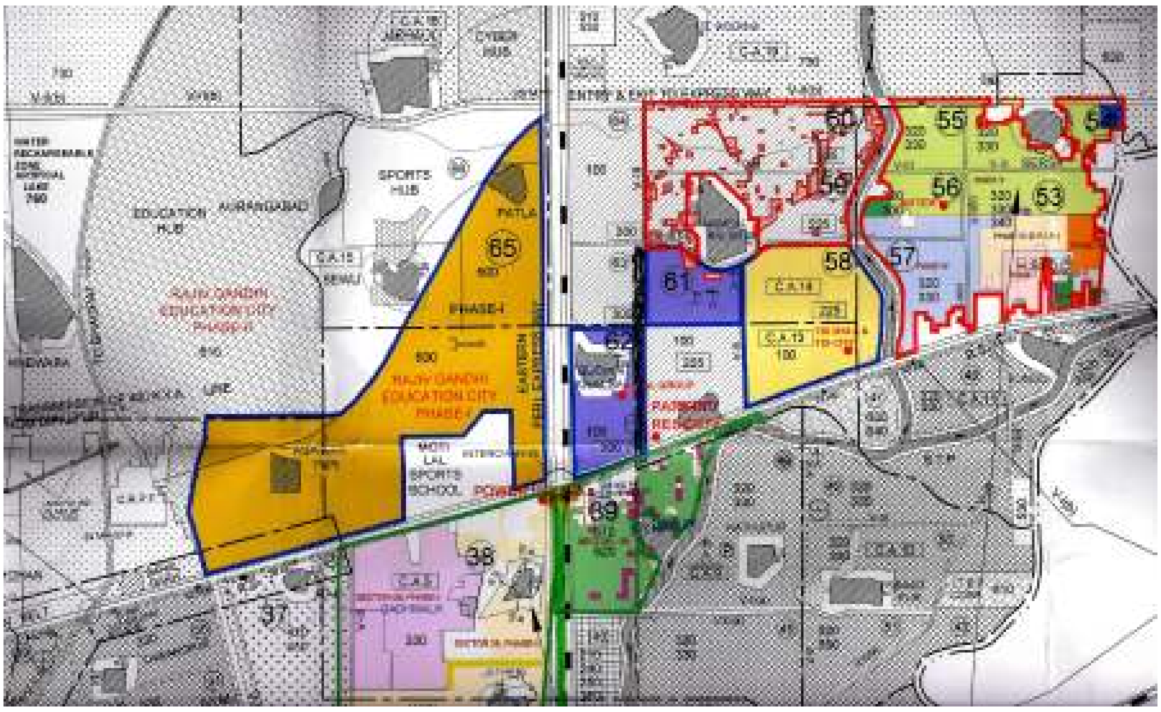
28. On the other side of GT Road, opposite the land acquired vide different notifications, as referred to in the preceding paragraphs, a strip of land was acquired for development as Kundli-Manesar-Palwal Expressway. It is passing in between Sectors 38 and 39 and abutting corner of the land acquired for Rajiv Gandhi Education City, Phase-I on the other side, adjoining to which the land was acquired for Eastern Expressway, which passes in between Rajiv Gandhi Education City and Sector 62.

29. Vide notification dated 30.6.2005, land was acquired for development as Industrial Estate, Sector 39, located on GT Road just opposite Sector 62 and adjoining to Sector 38. Small left out portion in Sector 39 was acquired vide notification dated 5.3.2007.

30. Vide notification dated 22.6.2006, large chunk of land was acquired for development as Industrial Estate, Phase-II (Sector 38). It is sandwitched between Sector 38, Phase-I and Sector 39 and further KMP Expressway in between Sector 38, Phase-II and Sector 39. Part of the aforesaid land is abutting GT Road.

31. Just three months prior in time, vide notification dated 28.3.2006, small strip of land was acquired for development as Phase-III. This is forming part of Sector 38.

32. To have an idea of the portions of land acquired vide different notifications, as mentioned above, scanned copy of the site plan thereof is added hereunder:




## Details of different notifications vide which the land was acquired in the same area and the anomalous situation created with decision at different times

| Date | Area | Revenue Estate | Amount awarded by the Collector per acre in ₹ | Amount awarded by the Reference Court per acre in ₹ | Date of award of Reference Court |
|---|---|---|---|---|---|
| 14.10.1996 | 68K-12M | Kundli | 2,75,000/- | 3,50,000/- | 10.2.2007 |
| 24.4.1997 | 95K-1M | Sersa | 2,60,000/- | 3,00,000/- | 25.7.2003 |
| 24.7.1997 | 321K-9M | Kundli | 2,60,000/- | 3,00,000/- | 20.2.2002 |
| 5.8.1997 | 303Acres 7K-9M | Kundli | 4,50,000/- upto the depth of four acres from NH-1 & 2,25,000/- for remaining land. | 6,00,000/- within four acres from NH-1 and 4,00,000/- beyond that. | 16.3.2006 |
| 22.10.1997 | 59K-15M | Kundli | 4,50,000/- upto the depth of four acres from NH-1 & 2,95,000/- for remaining land. | 4,10,000/- | 14.2.2007 |
| 10.11.2000 | 20 Acres 7K-3M | Kundli | 4,50,000/- | 12,00,000/- | 16.5.2008 |

| | | | | | |
|---|---|---|---|---|---|
| 30.3.2001 | 13Acres 1K-14M | Sersa | 2,00,000/- | 4,00,000/- | 26.5.2007 |
| 15.2.2002 | 4K-18M | Kundli | 5,00,000/- | 10,00,000/- | 10.3.2008 |

33. The aforesaid entire land is located either in a compact block or small-small portions of the land left out from earlier acquisitions. Small portion of land, which was located at separate place was acquired for use as Solid Waste Disposal site. Notification under Section 4 therein was issued on 30.3.2001. Prior to the aforesaid different acquisitions, earlier there had been acquisition for development as Phase-III, where notification under Section 4 of the Act was issued on 19.6.1992. The aforesaid land was not abutting National Highway No. 1, rather, was located behind the land already acquired for Phase-I and Phase-II.

34. A perusal of the aforesaid awards, passed by the learned Reference Court at different times, show that the cases pertaining to acquisition dated 14.10.1996 were decided on 10.2.2007 and the compensation was assessed @ ₹ 3,50,000/- per acre, whereas the cases for the acquisition dated 24.7.1997, were decided earlier on 20.2.2002 assessing compensation @ ₹ 3,00,000/- per acre. Similarly, the cases pertaining to acquisition dated 10.11.2000 were decided on 16.5.2008 assessing the compensation @ ₹ 12,00,000/- per acre, whereas the cases pertaining to acquisition dated 30.3.2001 were decided on 26.5.2007 assessing the compensation @ ₹ 4,00,000/- per acre. The manner in which the cases have been decided created anomalous situation as the compensation assessed for the land acquired earlier was assessed more than the compensation assessed for acquisition carried out later. To avoid such a situation, this Court in Smt. Maya and others v. State of Haryana and others, (2013) 2 RCR (Civil) 518, issued certain directions to take care of such situation. The same are extracted below:

> "16. To streamline the dealing of cases under the Land Acquisition Act, with a view to ensure their expeditious disposal, this Court deems it appropriate to issue the following

directions:

(1) The Land Acquisition Collector shall ensure that all the land owners who file objections furnish their complete addresses.

(2) All the objections received by the Collector in land acquisition cases shall be referred to the court for adjudication maximum within three months after receipt thereof. Along with the objections or bunch of objections, a certificate shall be annexed by the Collector to the effect that all the objections received upto that date for the acquisition in question have been sent to the court.

(3) Whenever a land reference is put up before the learned court below, to which it is entrusted, it shall ensure from the District Attorney/Assistant District Attorney and/or the Collector that all the objections received by the Collector upto date have been sent to the court for adjudication. A certificate to the effect has to be placed on record. In case the land references were received on different dates and were put up on different dates either for first hearing or for hearing after notice, the learned court below shall club all the land references arising out of the same acquisition to be heard on one date of hearing before it proceeds further in the matter. Assistance of the office of District Attorney is most relevant on this aspect.

(4) In case some objections are received late by the Collector for any reason whatsoever, he shall be duty-bound to refer the same to the court immediately after its receipt so that the same is clubbed with the cases already pending and are disposed of along with that. Information about the cases already sent to the court shall also be furnished by the Collector.

(5) In case any objection is received after the disposal of the land references by the learned Reference Court, the Collector while sending the same to the court for adjudication shall annex a copy of the award/judgment of the court along with that, pertaining to the acquisition in question.

(6) The decision of the land references arising out of the same acquisition in piece-meal on different dates has to be avoided at all cost unless the reference is received late.

(7) The learned courts below to keep in view the directions issued by Hon'ble Supreme Court in Mangat Ram Tanwar's case (supra) pertaining to disposal of land acquisition cases which are extracted below:

> "6. We are aware of the problem of back long in most of the Courts. The references under Section 18 should be treated as a class by themselves entitled to priority attention. If care and attention are devoted at the appropriate time, these cases can be easily disposed of by clubbing them groupwise and recording evidence after taking the consent of counsel for the parties. Most of the acquisitions these days relate to large patches of land and ordinarily they are covered under one notification. Cases which are covered by a common notification should be clubbed together for which a statutory foundation is available in the Amending Act of 1984 in extending the benefit of higher compensation to all lands covered by a common notification even if dispute is not raised. If that is done the total number of cases where evidence would be necessary is likely to be reduced and better attention can perhaps be given. The High

Courts should take special note of the pendency of land acquisition references and where it is possible a Court may be set apart for those cases.

7. We expect every referee court to dispose of the references ordinarily within one year of receipt of the reference and the outer limit should be the end of the second year. The High Courts in exercise of their controlling powers should ensure enforcement of this position so that all pending references in the subordinate courts at the original stage may be disposed of within time frame indicated above."

(8) The cases pertaining to acquisition of land for a canal/drain/road/channel/distributory or of similar nature, where the acquired land passes through different villages in the form of a strip, endeavour should always be made to entrust the cases to one court. Even if the same arise out of different notifications, though issued close in time, the learned courts below should also make efforts to decide these cases collectively after perusing site plan for the entire acquired land. It would be in the interest of all the parties concerned that a site plan showing location of the entire acquired land and also the surrounding area is produced by the State in court. The learned courts below to keep in view the observations made by this court in R.F.A. No. 686 of 1991 –Lokeshwar Dutt v. The State of Haryana and another, decided on 16.8.2010, pertaining to the same issue, which are extracted below:

" However, finding that number of cases are coming before this court, where this type of situation is being repeated on account of which the court finds it difficult to determine the fair value of the acquired land, which may result in injustice to either of the party. Not only that, in number of cases, the applications are filed by the land owners for producing additional evidence, which, in fact, should be part of the evidence to be led by the land owners/State at the very first instance. In many cases, the court, in the interest of justice, had to ask the State or the party to produce on record the site plan showing the exact location of the acquired land, sale deeds etc. to avoid injustice to either of the party. This unnecessarily delays the disposal of cases. The basic things, which should be brought on record to enable the court to determine fair value of the acquired land is the notification under Section 4 of the Act, copy of the award, site plan to the scale, showing the acquired boundary vis-a-vis its location such as its closeness to the city, village, highway, internal road with all its positive and negative factors. Another important fact is that such a plan should have the status as on the date of issuance of notification under Section 4 of the Act, the date being crucial for the purpose of determination of fair value of the acquired land. It would be appropriate if the sale instances sought to be produced by the land owners or the State are pointed out on the site plan to be produced on record by either of the party. In the absence of which it is difficult to locate the same and consider its true value. The site plan, which should be taken on record, should be on butter paper or cloth, as it is seen in a number of cases that when the appeals are heard after 15-20 years, the site plans, which are quite big and may be on thin tracing paper, are torn out making it difficult for the parties to refer to the same and also for the court to consider."

(9) At the time of filing of appeals against the awards of the learned Reference Court pertaining to an acquisition, the Collector/Land Acquisition Officer shall file an affidavit that appeals against all the awards of the learned Reference Court pertaining to the particular acquisition, have been filed.

(10) This court in R.F.A. No. 4742 of 2010—The State of Haryana and another v. Sh. Tek Chand and others, decided on 11.10.2010, wherein the appeal was filed by the State against award of the learned court below despite the fact that the earlier award of the Reference Court, which had been relied upon for the purpose of determination of compensation in that case had already been upheld by this court and there was no merit in the appeal even on the date of filing thereof, had issued following directions:

> "To avoid unnecessary adjournments of the cases, I deem it appropriate to direct that in all appeals filed by the land owners or the State following information must be furnished in the appeal itself:
>
> (i) In case the learned Reference Court had relied upon any earlier award pertaining to same or any other acquisition, the fact as to whether any appeal against the same is pending or not, should be mentioned in the grounds of appeal. The number of such appeal and status thereof be also mentioned.
>
> (ii) In case no earlier award is relied upon by the Reference Court, it should be mentioned that

the Reference Court has not relied upon any earlier award.

The aforesaid facts should be mentioned in the last para of the grounds of appeal before the prayer clause. The Registry is directed to ensure compliance of the requirement. This may be brought to the notice of the Bar Association for notifying to the learned members of the Bar."

(11) In case the State fails to file appeals in all the cases decided by the Reference Court and ultimately the amount of compensation is reduced by the higher court, the State shall be duty-bound to fix the responsibility of the person(s) concerned for the lapse and also recover the amount of loss suffered from the guilty officer(s)/official(s).

(12) The learned Reference Court should also ensure from the Collector and/or the District Attorney that no land reference pertaining to the acquisition of land in the area, which is prior in time, is pending for adjudication and in case there was any acquisition of land in the area prior in time, the award passed by the Reference Court or the higher court therein should always be brought to the notice of the court concerned.

(13) It should be ensured by the court that the land references pertaining to acquisition of land, which is prior in time, are decided first before taking up the cases of the acquisition carried out subsequently."

The aforesaid directions were not comprehensive as such, but still need to be taken care of while deciding cases pertaining to assessment of compensation for the acquired land.

**Basis for assessment of compensation by the Reference Court**

For notification dated 5.8.1997 (RFA No. 3102 of 2006)

35. For the purpose of assessment of compensation, the learned Reference Court placed reliance upon sale deeds (Ex. P24 to Ex. P28) and the awards of the Reference Court (Ex. R46 and Ex. R48) pertaining to the acquisition of land in the area. Vide sale deeds (Ex. P24 and Ex. P25)) dated 22.3.1993 and 30.4.1993, respectively, 8 kanals of land was sold at an average price of ₹ 9,00,000/- per acre. Vide sale deed (Ex. P26) dated 18.4.1995, 2 kanals and 2 marlas of land was sold at an average price of ₹ 7,50,000/- per acre. Vide sale deed (Ex. P27) dated 5.6.1995, 6 kanals of land was sold at an average price of ₹ 12,93,333/- per acre and vide sale deed (Ex. P28) dated 19.12.1995, 7 kanals and 12 marlas of land was sold at an average price of ₹ 9,47,368/- per acre. The learned Reference Court after applying a cut on the sale consideration in sale deed (Ex. P26) @ 50% and granting increase @ 10% per annum thereon for the time gap, assessed the compensation for the land abutting GT Road @ ₹ 6,00,000/- per acre upto the depth of four acres and for the land located behind that @ ₹ 4,00,000/- per acre.

For notification dated 24.4.1997 (RFA No. 4472 of 2003)

36. For the purpose of assessment of compensation, the learned Reference Court placed reliance upon the earlier award dated 20.2.2002 (Ex. R9 in LAC No. 193 of 2000) pertaining of acquisition of land in village Kundli. As the boundaries of village Kundli and Sersa adjoin each other, the Reference Court awarded the same amount of compensation, i.e., ₹ 3,00,000/- per acre, which was granted vide award dated 20.2.2002.

For notification dated 24.7.1997 (RFA No.1854 of 2002)

37. For the purpose of assessment of compensation, the learned court below referred to its earlier award pertaining to acquisition vide notification dated 19.6.1992, where the compensation was assessed @ ₹ 1,50,000/- per acre for chahi land; ₹ 1,00,000/- per acre for barani land; 80,000/- per acre for banjar land and ₹ 125/- per square yards for the plots. Reference was also made to earlier award of the Reference Court pertaining to valuation of land, where notification under Section 4 of the Act was

issued on 24.7.1997, where the compensation was assessed @ ₹ 2,00,000/- per acre for chahi land; ₹ 1,30,000/- per acre for barani land; ₹ 1,00,000/- per acre for banjar qadim land and ₹ 200/- per square yard for the plot and assessed the market value of the acquired land in the present case @ ₹ 3,00,000/- per acre.

For notification dated 10.11.2000 (RFA No. 4801 of 2008)

38. For the purpose of assessment of compensation for the land in question, the learned Reference Court placed reliance upon sale deeds (Ex. P2 and Ex. P3 in LAC No. 1 of 2005). Vide sale deed (Ex.P2) dated 4.4.2000, 17 marlas of land was sold at an average price of ₹ 14,11,765/- per acre, whereas vide sale deed (Ex. P3) dated 31.1.2000, 1 kanal and 9 marlas of land was sold at an average price of ₹ 19,14,835/- per acre. After applying a cut of 35% thereon and granting increase for the time gap from the date of registration of the sale deeds till the issuance of notification under Section 4 of the Act, the compensation was assessed @ ₹ 12,00,000/- per acre.

For notification dated 14.10.1996 (RFA No. 2543 of 2007)

39. For the purpose of assessment of compensation for the land in question, the learned Reference Court placed reliance upon its earlier award pertaining to acquisition of land, where notification under Section 4 of the Act was issued on 5.8.1997. Compensation therein was assessed @ ₹ 6,00,000/- per acre for the land upto the depth of four acres from GT Road and ₹ 4,00,000/- per acre for the land beyond that. Considering the fact that acquisition in the present case was 10 months earlier in time, the compensation was assessed @ ₹ 3,50,000/- per acre.

For notification dated 30.3.2001 (RFA No. 4100 of 2007)

40. For the purpose of assessment of compensation for the land in question, the learned Reference Court relied upon sale deed (Ex. R3 in LAC No. 30 of 2005) dated 19.6.2000, vide which one marla of land was sold at an average price of ₹ 11,20,200/- per acre. After granting increase for nine months and considering the location and size of the area dealt with therein, 75% cut was applied and compensation @ ₹ 4,00,000/- per acre, was

assessed.

For notification dated 15.2.2002 (RFA No. 2736 of 2009)

41. For the purpose of assessment of compensation for the land in question, the learned Reference Court relied upon its earlier award (Ex. R4 in LAC 177 of 2004), where notification under Section 4 of the Act was issued on 5.8.1997. For the time gap of 4-1/2 years in between two acquisitions, the Reference Court granted increase @ 15% per annum and assessed the compensation @ ₹ 10,00,000/- per acre.

For notification dated 22.10.1997 (RFA No. 2870 of 2007)

42. For the purpose of assessment of compensation for the land in question, the learned Reference Court relied upon earlier award (Ex. PX), where notification under Section 4 of the Act was issued on 5.8.1997. After granting increase for the time gap of 2-1/2 months between two acquisitions, the learned Reference Court assessed the compensation @ ₹ 4,10,000/- per acre.

**Evidence relied upon by the parties**

43. The landowners have placed reliance on the following evidence:

**Sale deeds**

| Ex. | Date | Area sold | Total sale consideration in ₹ | Average price per acre in ₹ |
|---|---|---|---|---|
| P21<br>R28 | 21.2.1997 | 29K-14M (including construction) | 1,11,00,000/- | 29,89,898/- |
| P24 | 22.3.1993 | 8K-00M | 9,00,000/- | 9,00,000/- |
| P25 | 30.4.1993 | 8K-00M | 9,00,000/- | 9,00,000/- |
| P31 | 16.5.1997 | 2K-00M | 2,60,000/- | 10,40,000/- |

**Agreements to sell**

| Ex. | Date | Area sold | Total sale consideration in ₹ | Average price per acre in ₹ |
|---|---|---|---|---|
| P1 | 14.3.1997 | 7K-11M | 20,00,000/- | 21,19,205/- |
| P22 | 15.5.1997 | 7K-4M | 17,00,000/- | 18,88,888/- |

**Solvency Certificate**

Ex. P2

**Earlier judgments of this court**

(i) R.F.A. No. 2453 of 2000- Smt. Chanderpati and others v. State of Haryana, where notification under Section 4 of the Act was issued on 9.11.1992 acquired for development as Sectors 3 and 7, HUDA, Sonepat. This Court, vide order dated 30.5.2007, assessed the compensation @ ₹ 200/- per square yard.

(ii) R.F.A. No. 1971 of 2001- Asa Ram and others v. The State of Haryana and others, where notification under Section 4 of the Act was issued on 23.2.1994 for development as Fruit & Vegetable Complex, Kundli. This Court, vide order dated 5.7.2011, assessed the compensation @ ₹ 210/- per square yard.

(iii) R.F.A. No. 4658 of 2001—Vijay Jyoti Housing Private Ltd. v. State of Haryana and others, where notification under Section 4 of the Act was issued on 19.6.1992 for development as Industrial Estate. This Court, vide order dated 3.7.2009, assessed the compensation @ ₹ 79/- per square yard. The aforesaid judgment was upheld by Hon'ble the Supreme Court in Civil Appeal No. 3039 of 2014—Haryana State Industrial Development Corporation Ltd. v. Vijay Jyoti Housing Private Ltd. and others, vide order dated 26.2.2014.

**Sale deed in LAC No. 15 of 2005**

| Ex. | Date | Area sold | Total sale consideration in ₹ | Average price per acre in ₹ |
|---|---|---|---|---|
| P9 | 26.11.1999 | 8K-9M | 27,00,000/- | 25,56,213/- |

44. The State has placed reliance on the following sale deeds:

**Sale deeds**

| Ex. | Date | Area sold | Total sale consideration in ₹ | Average price per acre in ₹ |
|---|---|---|---|---|
| R10 | 21.6.1996 | 10K-00M | 2,20,000/- | 1,75,000/- |
| R11 | 14.10.1996 | 15K-14M | 4,40,000/- | 2,24,204/- |

**Location of land pertaining to the sale deeds**

45. Now coming to the location of the land pertaining to the aforesaid sale deeds, firstly as produced by the landowners. The land pertaining to sale deed (Ex. P21) is located on GT Road on the opposite side of the acquired land. Same sale deed has been produced by the State as Ex. R28. As per recital in the sale deed, there was construction of 8,104 square feet area, for which separate value has been shown in the sale deed as ₹ 8,10,400/-. The sale deed also mentions the circle rate @ ₹ 4,00,000/- per acre. It also records that substantial amount as earnest money was paid by way of cheque/demand draft in October, 1996. If the value of construction as shown in the sale deed is reduced from the total sale consideration, the average price per acre would come out to ₹ 27,71,717/-. The land pertaining to sale deeds (Ex. P24 and Ex. P25) dated 22.3.1993 and 30.4.1993, respectively, is forming part of the acquired land. Vide aforesaid two sale deeds, 8 kanals of land was sold at an average price of ₹ 9,00,000/- per acre. The land pertaining to sale deed (Ex. P31) dated 16.5.1997, vide which two kanals of land was sold at an average price of ₹ 10,40,000/- per acre is located close to the abadi of village Garhi Kundli. The land pertaining to agreement to sell (Ex. P1) is located away from GT Road, just outside the acquisition boundary. Vide this agreement to sell, 7 kanals and 11 marlas of land was agreed to be sold at an average price of ₹ 21,19,205/- per acre. Vide agreement to sell (Ex. P22) dated 15.5.1997 , 7 kanals and 4 marlas of land was agreed to be sold at an average price of ₹ 18,88,888/- per acre. The land for which insolvency certificate (Ex. P2) dated 26.8.1997 has been produced on record is shown to be part of the acquired land.

46. The land dealt with in sale deed (Ex. R10) dated 21.6.1996, vide which 10 kanals of land was sold at an average price of ₹ 1,75,000/- per acre, is partly forming part of the acquired land and partly outside the acquired land. The land dealt with in sale deed (Ex. R11) dated 14.10.1996, vide which 15 kanals and 14 marlas of land was sold at an average price of ₹ 2,24,204/- per acre is outside the acquisition boundary.

47. The sale deeds produced by the State may not be relevant for the purpose of assessment of compensation for the acquired land, as in terms of the judgment of Hon'ble the Supreme Court in Mehrawal Khewaji Trust (Regd.), Faridkot and others' case (supra), highest sale exemplar proximate in time and location has to be considered.

48. As far as reliance on the judgments of this Court in Smt. Chanderpati's case (supra) and Asa Ram's case (supra) pertaining to acquisition of land, where notifications under Section 4 of the Act were issued on 9.11.1992 pertaining to Sectors 3 and 7, Sonepat and on 23.2.1994 pertaining to acquisition of land for Fruit & Vegetable Complex, respectively, is concerned, in my opinion, the same will not be comparable piece of land for assessment of fair value of the acquired land, considering the fact that the land pertaining to Sectors 3 and 7 was located on GT Road close to old Sonepat City, 14 kms. away from the acquired land, whereas the land pertaining to Fruit & Vegetable Complex was located just opposite Moti Lal Nehru Sports School, Rai, which was already existing and five kms. away from the acquired land.

49. From the Development Plan, it is revealed that land for development of Section 58, Sonepat was acquired vide notification dated 29.11.2001. Learned counsel for the State submitted that no objections were filed by the landowners with regard to the aforesaid acquisition, hence, no litigation is pending. However, the fact was found to be wrong on verification from the court below, as References were still pending there. The information was sought so that all the cases of acquisition in the area at the same time or close by are decided together.

**General principles laid down for assessment of compensation for the acquired land.**

50. The principles of law laid down for assessment of compensation for acquisition of land are well-settled and have been reiterated by Hon'ble the Supreme Court in Union of India v. Raj Kumar Baghal Singh (Dead), (2014) 10 SCC 422. Relevant paragraph thereof is extracted below:

> “10. It is well settled in determining compensation for the acquired land, price paid in a bona fide transaction of sale by a

willing seller to a willing buyer is adopted subject to such transaction being for land adjacent to acquired land, proximate to the date of acquisition and possessing similar advantages. Of course, there are other well-known methods of valuation like opinion of experts and yield method. In absence of any evidence of a similar transaction, it is permissible to take into account transaction of nearest land around the date of notification under Section 4 of the Act by making a suitable allowance. There can be no fixed criteria as to what would be the suitable addition or substraction from the value of the relied upon transaction. In ***Chimanlal Hargovinddas*** vs. ***Land Acquisition Officer, (1988) 3 SCC 751***, this Court summed up the principle as follows:-

> "4. The following factors must be etched on the mental screen:
> (1) -(4)
>
> (5) The market value of land under acquisition has to be determined as on the crucial date of publication of the notification under Section 4 of the Land Acquisition Act (dates of notifications under Sections 6 and 9 are irrelevant).
>
> (6) The determination has to be made standing on the date line of valuation (date of publication of notification under Section 4) as if the valuer is a hypothetical purchaser willing to purchase land from the open market and is prepared to pay a reasonable price as on that day. It has also to be assumed that the vendor is willing to sell the land at a reasonable price.
>
> (7) In doing so by the instances method, the court has to correlate the market value reflected in the most comparable instance which provides the index of market value.
>
> (8) Only genuine instances have to be taken into account.

(Sometimes instances are rigged up in anticipation of acquisition of land.)

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

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

(i) proximity from time angle,
(ii) proximity from situation angle.

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

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

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

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

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

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

(15) The evaluation of these factors of course depends on the facts of each case. There cannot be any hard-and-fast or rigid rule. Common sense is the best and most reliable guide. For instance, take the factor regarding the size. A building plot of land say 500 to 1000 sq. yds. cannot be compared with a large tract or block of land of say 10,000 sq. yds. or more. Firstly while a smaller plot is within the reach of many, a large block of land will have to be developed by preparing a layout, carving out roads, leaving open space, plotting out smaller plots, waiting for purchasers (meanwhile the invested money will be blocked up) and the hazards of an entrepreneur. The factor can be discounted by making a deduction by way of an allowance at an appropriate rate ranging approximately between 20 per cent to 50 per cent to account for land required to be set apart for carving out lands and plotting out small plots. The discounting will to some extent also depend on whether it is a rural area or

urban area, whether building activity is picking up, and whether waiting period during which the capital of the entrepreneur would be locked up, will be longer or shorter and the attendant hazards.

(16) Every case must be dealt with on its own fact pattern bearing in mind all these factors as a prudent purchaser of land in which position the judge must place himself.

(17) These are general guidelines to be applied with understanding informed with common sense."

Again in **Viluben Jhalejar Contractor** vs. **State of Gujarat, (2005) 4 SCC 789,** it was observed:-

"**24.** The purpose for which acquisition is made is also a relevant factor for determining the market value. In Basavva v. Land Acquisition Officer, (1996) 9 SCC 640, deduction to the extent of 65% was made towards development charges.

**25.** In Bhagwathula Samanna v. Tahsildar & Land Acquisition Officer, (1991) 4 SCC 506, it has been held: (SCC pp. 510-11, para 11)

"11. The principle of deduction in the land value covered by the comparable sale is thus adopted in order to arrive at the market value of the acquired land. In applying the principle it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition which is the only relevant factor. Even in the vast area there may be land which is fully developed having all amenities and situated in an advantageous position. If smaller area within the large tract is already developed and suitable for building purposes and have in its vicinity roads, drainage, electricity, communications, etc. then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified."

**26.** In Land Acquisition Officer v. L. Kamalamma, (1998) 2

SCC 385, this Court held: (SCC p. 387, para 6)

> "6......Ext. B-30 is a sale deed dated 9-8-1976, the transaction having taken place prior to eight months from the issue of the preliminary notification for acquisition of land in the present case. Having found that the piece of land referred in Ext. B-30 is situated very close to the lands that are acquired under the notification in question the Reference Court and the High Court relied upon the said document and, in our view, rightly. Further when no sales of comparable land were available where large chunks of land had been sold, even land transactions in respect of smaller extent of land could be taken note of as indicating the price that it may fetch in respect of large tracts of land by making appropriate deductions such as for development of the land by providing enough space for roads, sewers, drains, expenses involved in formation of a layout, lump sum payment as also the waiting period required for selling the sites that would be formed."

**27.** In Administrator General of W.B. v. Collector, (1988) 2 SCC 150, deduction to the extent of 53% was allowed.

**28.** In K.S. Shivadevamma v. Commr. and Land Acquisition Officer, (1996) 2 SCC 62, it was held: (SCC p. 65, para 10)

> "10. It is then contended that 53% is not automatic but depends upon the nature of the development and the stage of development. We are inclined to agree with the learned counsel that the extent of deduction depends upon development need in each case. Under the Building Rules 53% of land is required to be left out. This Court has laid as a general rule that for laying the roads and other amenities 33-1/3% is required to be deducted. Where the development has already taken place, appropriate deduction needs to be made. In this case, we do not find any development had taken place as on that

date. When we are determining compensation under Section 23(1), as on the date of notification under Section 4(1), we have to consider the situation of the land development, if already made, and other relevant facts as on that date. No doubt, the land possessed potential value, but no development had taken place as on the date. In view of the obligation on the part of the owner to hand over the land to the City Improvement Trust for roads and for other amenities and his requirement to expend money for laying the roads, water supply mains, electricity etc., the deduction of 53% and further deduction towards development charges @ 33-1/3%, as ordered by the High Court, was not illegal."

**29.** In Hasanali Khanbhai & Sons v. State of Gujarat (1995) 5 SCC 422 and Land Acquisition Officer v. Nookala Rajamallu, (2003) 12 SCC 334, it has been noticed that where lands are acquired for specific purposes deduction by way of development charges is permissible.

**30.** We are not, however, oblivious of the fact that normally one-third deduction of further amount of compensation has been directed in some cases. (See Kasturi v. State of Haryana, (2003) 1 SCC 354, Tejumal Bhojwani v. State of U.P., (2003) 10 SCC 525, V. Hanumantha Reddy v. Land Acquisition Officer, (2003) 12 SCC 642, H.P. Housing Board v. Bharat S. Negi, (2004) 2 SCC 184 and Kiran Tandon v. Allahabad Development Authority, (2004) 10 SCC 745.)

**31.** In University of Agricultural Sciences v. Balanagouda, Civil Appeals Nos. 62-65, decided on 10.12.2003 (SC) whereupon Mr Ranjit Kumar placed strong reliance, the Court noticed that if the acquisition is made for agricultural purpose, question of development thereof would not arise; but if the sale instance was in respect of a small piece of land whereas the acquisition is for a large piece of land, although development

> cost may not be deducted, there has to be deduction for largeness of the land and also for the fact that these are agricultural lands. In that view of the matter, deduction at the rate of 33% made by the High Court was upheld. It may not, therefore, be correct to contend, as has been submitted by Mr. Ranjit Kumar, that there cannot be different deductions, one for the largeness of the land and another for development costs."

51. The principles regarding determination of market value of the acquired land were gone into by Hon'ble the Supreme Court earlier in Himmat Singh and others v. State of Madhya Pradesh and another, (2013) 16 SCC 392. Relevant paras thereof are extracted below:

> "21. Before considering the respective arguments, we may notice the principles laid down by this Court for determination of market value of the acquired land. In Shaji Kuriakose v. Indian Oil Corpn. Ltd. (2001) 7 SCC 650*,* this Court held:
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> > "It is no doubt true that courts adopt comparable sales method of valuation of land while fixing the market value of the acquired land. While fixing the market value of the acquired land, comparable sales method of valuation is preferred than other methods of valuation of land such as capitalisation of net income method or expert opinion method. Comparable sales method of valuation is preferred because it furnishes the evidence for determination of the market value of the acquired land at which a willing purchaser would pay for the acquired land if it had been sold in the open market at the time of issue of notification under Section 4 of the Act. However, comparable sales method of valuation of land for fixing the market value of the acquired land is not always conclusive. There are certain factors which are required to be fulfilled and on fulfilment of those factors the compensation can be awarded, according to the value of

the land reflected in the sales. The factors laid down inter alia are: (1) the sale must be a genuine transaction, (2) that the sale deed must have been executed at the time proximate to the date of issue of notification under Section 4 of the Act, (3) that the land covered by the sale must be in the vicinity of the acquired land, (4) that the land covered by the sales must be similar to the acquired land, and (5) that the size of plot of the land covered by the sales be comparable to the land acquired. If all these factors are satisfied, then there is no reason why the sale value of the land covered by the sales be not given for the acquired land. However, if there is a dissimilarity in regard to locality, shape, site or nature of land between land covered by sales and land acquired, it is open to the court to proportionately reduce the compensation for acquired land than what is reflected in the sales depending upon the disadvantages attached with the acquired land."

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23. In Atma Singh v. State of Haryana (2008) 2 SCC 568, the Court held:

"4. In order to determine the compensation which the tenure-holders are entitled to get for their land which has been acquired, the main question to be considered is what is the market value of the land. Section 23(1) of the Act lays down what the court has to take into consideration while Section 24 lays down what the court shall not take into consideration and have to be neglected. The main object of the enquiry before the court is to determine the market value of the land acquired. The expression 'market value' has been the subject-matter of consideration by this Court in several cases. The market value is the price that a willing purchaser would pay to a willing seller for the property having due regard to its existing condition with all its existing advantages and its potential possibilities when led out in most advantageous manner excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. In considering market value disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy should be disregarded. The guiding star would be the conduct of hypothetical willing vendor who would offer the land and a purchaser in normal human conduct would be willing to buy as a prudent man in normal market conditions but not an anxious dealing at arm's length nor facade of sale nor fictitious sale brought about in quick succession or otherwise to inflate the market value. The determination of market value is the prediction of an economic event viz. A price outcome of hypothetical sale expressed in terms of probabilities. See Kamta Prasad Singh v. State of Bihar (1976) 3 SCC 772, Prithvi Raj Taneja v. State of M.P. (1977) 1 SCC 684, Administrator General of W.B. v. Collector (1988) 2 SCC 150 and Periyar Pareekanni Rubbers Ltd. v. State of Kerala (1991) 4 SCC 195.

5. For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into state of actuality. It is well settled that market value of a property has to be determined having due regard to its existing condition with all its existing advantages and its potential possibility when led out in its most advantageous manner. The question whether a land has potential value or not, is

primarily one of fact depending upon its condition, situation, user to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like water, electricity, possibility of their further extension, whether near about a town is developing or has prospect of development have to be taken into consideration. See Collector v. Dr. Harisingh Thakur (1979) 1 SCC 236, Raghubans Narain Singh v. U.P. Govt. AIR 1967 SC 465 and Administrator General of W.B. v. Collector (1988) 2 SCC 150. It has been held in Kausalya Devi Bogra v. Land Acquisition Officer (1984) 2 SCC 324 and Suresh Kumar v. Town Improvement Trust (1989) 2 SCC 329 that failing to consider potential value of the acquired land is an error of principle."

52. A perusal of the aforesaid judgments shows that bona fide sale transactions of the acquired land or adjacent to the acquired land, proximate to the date of acquisition and possessing similar advantages, are the best evidence. The size of the land dealt with in the sale deed is also relevant. If all these factors are satisfied, there is no reason for not placing reliance on those sale transactions. Certain negative and positive factors have also been specified besides the location of the land dealt with in the sale transactions.

53. In Pehlad Ram and others v. Haryana Urban Development Authority and others, 2014(1) RCR (Civil) 316, Hon'ble the Supreme Court, while referring to an earlier judgment of Hon'ble the Supreme Court in The Dollar Company v. Collector of Madras, AIR 1975 SC 1670, opined as under:

"13. This Court in **The Dollar Company** (Supra) has categorically laid down that in case the land of the claimant has been acquired in close vicinity of the purchase, the consideration paid by such claimant to the vendor is the best evidence of the market value of the land. The court should not award more unless it is possible to reach a different conclusion. Even the appellate court should not interfere in such a fact situation unless the judgment is based on wrong application of principle or because some important point affecting valuation has been overlooked or misapplied. The consideration paid by the owner only a few months ago presents bonafide evidence of value subject to certain exceptions such as relationship of the parties, market conditions and terms of sale and the date of sale."

54. Hon'ble the Supreme Court in Ram Kanwar's case (supra) opined that sale deeds pertaining to the acquired land or the adjoining land are the best exemplar. The awards pertaining to earlier acquisition are to be relied upon only in the absence thereof.

**Assessment of compensation of the land acquired vide different notifications dated 14.10.1996, 24.4.1997, 24.7.1997, 5.8.1997, for development as Industrial Estate Phase-IV**

55. As referred to above, there are various sale deeds produced on record by the landowners. The land pertaining to sale deed (Ex. P21) is located on GT Road, whereas the land pertaining to other sale deeds, i.e., Ex. P24, Ex. P25 and Ex. P31 is located beyond that. The land pertaining to notifications dated 14.10.1996 and 24.7.1997 is not abutting GT Road. Small portion of land pertaining to notification dated 5.8.1997 is abutting GT Road, whereas major portion is away from that. The land pertaining to notification dated 10.11.2000 is abutting GT Road, whereas small portion of land acquired vide notification dated 15.2.2002 is at a depth of about two acres from GT Road. The acquired land is located on both sides of the land, which was already deverloped as Phase-III EPIP. Notification under Section 4 of the Act therein was issued on 19.6.1992 and this Court in Vijay Jyoti Housing Private Limited's case (supra) had assessed the compensation @ ₹ 79/- per square yard. Had there been no sale deeds available on record from the earlier acquisition till such time the land in question was acquired, reliance could be placed on the valuation, as determined in Vijay Jyoti Housing Private Limited's case (supra), but, in my opinion, as there are sale deeds available on record, which fall in two categories – one abutting GT

Road and second, which is located in anterior, hence, those are the best examplars. As far as the land, which is located in anterior, for which there is already a categorisation starting even from the award of the Collector, namely, land beyond a depth of four acres from GT Road. There is sale deed (Ex. P31), registered on 16.5.1997 for two kanals of land, at an average price of ₹ 10,40,000/- per acre. The aforesaid land is located on a passage close to village abadi of Garhi Kundli in khasra No. 19//6-1. From a perusal of the site plan (Ex. R1) produced by the State, it is evident that the land dealt with in the aforesaid sale deed was forming part of the acquired land. Though considering the largeness of the area acquired, a cut could be imposed on the sale consideration shown in the aforesaid sale deed, however, if that is seen in the light of other two sale deeds produced on record by the landowners, namely, Ex. P24 and Ex. P25 dated 22.3.1993 and 30.4.1993, respectively, dealing with one acre land each at an average price of ₹ 9,00,000/- per acre, in my opinion, no cut as such is required to be applied and the entire land, which is located beyond four acres from GT Road deserves to be assessed @ ₹ 10,40,000/- per acre. Ordered accordingly.

**Assessment of compensation for the land acquired vide notification dated 22.10.1997**

56. The land acquired vide notification dated 22.10.1997 is a small portion having depth of 4-5 acres from GT Road and width of about 1.5 acres with developed areas all around. Considering that aspect, in my opinion, the entire land acquired vide notification dated 22.10.1997 deserves to be assessed @ ₹ 20,00,000/- per acre. Ordered accordingly.

**Assessment of compensation for the land acquired vide notification dated 10.11.2000**

57. The land acquired vide notification dated 10.11.2000 is 20 acres, 7 kanals and 3 marlas. It is a small acquisition, which is abutting entirely on GT Road having a depth of maximum 4-5 acres. If increase @ 12% per annum with cumulative effect for the time gap between two acquisitions, i.e., 22.10.1997 and 10.11.2000 is granted, the same will come

out to ₹ 28,09,856/- per acre, which is rounded off to ₹ 28,10,000/- per acre. The land owners are held entitled to compensation @ ₹ 28,10,000/- per acre for the land acquired vide notification dated 10.11.2000.

**Assessment of compensation for the land acquired vide notification dated 15.2.2002**

58. Vide notification dated 15.2.2002, 4 kanals and 18 marlas of land was acquired. It is a small portion of land within the depth of four acres from GT Road, surrounded by already developed area. If increase @ 12% per annum with cumulative effect for the time gap between two acquisitions, i.e., 22.10.1997 and 15.2.2002 is granted, the same will come out to ₹ 32,31,500/- per acre, which is rounded off to ₹ 32,40,000/. The land owners are held entitled to compensation @ ₹ 32,40,000/- per acre for the land acquired vide notification dated 15.2.2002.

**Assessment of compensation for the land acquired vide notification dated 30.3.2001**

59. The acquisition of land vide notification dated 30.3.2001 pertains to revenue estate of village Sersa. It was acquired for the purpose of use as Solid Waste Disposal site for the Industrial Estate. It is located at a distance of 2-3 kilometers away from the land acquired for Phase-IV, further away from GT Road. There was no development activity there at that time. The learned Reference Court relied upon sale deed (Ex.R3) and applying a cut of 75% thereon, assessed the compensation @ ₹ 4,00,000/- per acre. In my opinion, for valuation of the aforesaid land, a thumb rule deserves to be applied keeping in view the value of the land assessed for development as Phase-IV pertaining to the land, which was not abutting GT road. Considering the same, the landowners are held entitled to compensation @ ₹ 5,50,000/- per acre for the land acquired vide notification dated 30.3.2001.

60. To sum up, the landowners are held entitled to compensation at the following rates for different notifications:

| Date of notification under Section 4 of the Act | Amount awarded per acre in ₹ |
|---|---|

| | |
|---|---|
| 14.10.1996 ]<br>24.4.1997 ]<br>24.7.1997 ]<br>5.8.1997 ] | 10,40,000/- |
| 22.10.1997 | 20,00,000/- |
| 10.11.2000 | 28,10,000/- |
| 15.2.2002 | 32,40,000/- |
| 30.3.2001 | 5,50,000/- |

61. The landowners shall also be entitled to statutory benefits available to them under the Act.

62. Accordingly, the appeals and cross-objections filed by the landowners are allowed in the manner indicated above, whereas the appeals filed by HSIIDC are dismissed.

(Rajesh Bindal)
Judge

November 03, 2015
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(Refer to Reporter)