

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

R.F.A. No. 2392 of 1997 (O&M)  
Date of decision: December 10, 2015

**Mukhtiar Singh and others**

**.. Appellants**

**v.**

**State of Haryana**

**.. Respondent**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. M. L. Sarin, Senior Advocate with  
Ms. Ankita Sambyal, Mr. Ritesh Aggarwal, Rajiv Sharma,  
Mr. Adish Gupta, Mr. Adarsh Jain, Mr. Surinder Dagar,  
Mr. Pardeep Dahiya, Advocates for the landowners.

Mr. Randhir Singh, Addl. Advocate General, Haryana with  
Mr. Abhinash Jain, Assistant Advocate General, Haryana.

....

Rajesh Bindal, J.

1. This judgment will dispose of a bunch of appeals and cross-objections bearing

RFA Nos. 2392 to 2395, 2401, 2430, 2559 to 2562 of 1997;

RFA Nos. 501, 504 to 506, 549 to 551, 590, 707, 931 2132,  
4090, 4091, 4701 of 1998;

RFA Nos. 166 and 1518 of 1999;

RFA Nos. 182, 237, 247, 253, 254, 256, 258, 261, 285, 288,

290, 292 to 294, 332, 693, 694, 839, 956, 964 to 967, 1065, 1071 to 1082, 1300, 1301, 1506, 1651, 1658 to 1661, 1672, 1687 to 1690, 1999, 2030, 2031, 2113, 2170, 2211, 2212, 2467, 2671, 2673, 2674, 2764, 2785, 3094, 3095, 3100, 3141, 3149, 3167, 3170, 3259, 3295, 3507, 3556, 3841 to 3843, 3868 to 3871, 3951, 3960, 4240 to 4243, 4296, 4959, 4960, 4961, 4978, 5086, 5089, 5090, 5232, 5233, 5474, 5475 of 2001;

RFA Nos. 124, 155, 156, 1419, 1473, 2539, 3557, 3591, 3990, 4001 of 2002;

RFA No. 988 of 2003;

RFA Nos. 53, 769, 861, 887, 1270, 1883, 1884, 2320 of 2004;

RFA Nos. 519, 591, 954, 1189, 1358 of 2005;

RFA Nos. 755 to 761, 2303, 2409, 2707 to 2710, 2841, 2892, 2893, 2977, 2981, 2984, 3227, 3280, 3758, 3890, 3891, 4193, 4307, 4351, 4353, 4354 of 2006;

RFA Nos. 1874, 2212, 3710 of 2007;

RFA Nos. 1849, 2854, 3716, 4721, 5452, 5772 of 2008;

RFA Nos. 146, 587, 1304, 1711, 1784, 2044, 2129, 2817, 2847, 3153 of 2009;

RFA Nos. 1050, 4406, 5273, 5720 of 2010;

RFA Nos. 3439 of 2011;

RFA Nos. 2852, 4342, 6681, 6872, 7236 of 2012;

RFA Nos. 4465 of 2013;

Cross Objections No. 97-CI, 99-CI to 101-CI, 105-CI and 107-CI of 2006;

Cross Objections No. 80-CI and 112-CI of 2007;

Cross Objections Nos. 20-CI, 36-CI to 39-CI, 51-CI and 106-CI of 2008.

2. In the appeals and cross objections filed by the landowners, they are seeking further enhancement of compensation for the acquired land, whereas in the appeals filed by the State, the prayer is for reduction thereof.

3. The matters pertain to three different acquisitions though pertaining to land located in same area, as detailed below:

(i) Vide notification dated 7.4.1986 issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the State of Haryana sought to acquire land measuring 6.97 acres situated in Village Ajronda Hadbast No. 118, Tehsil and District Faridabad, for development and utilisation thereof as Green Belt on the west of Delhi-Mathura Road, Opposite City Centre, Sector 12, Faridabad. The same was followed by notification under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector') vide his award dated 30.3.1989 determined the market value of the acquired land @ ₹ 3,38,800/- per acre. Dissatisfied with the award of the Collector, the landowners filed objections under Section 18 of the Act, which were referred to the learned reference court. The learned court below determined the market value of the acquired land @ ₹ 435/- per square yard in all the cases except in RFA No. 4701 of 1998 wherein the amount of compensation was determined @ ₹ 110/- per square yard.

(ii). Vide notification dated 5.6.1992 issued under Section 4 of the Act, the State of Haryana sought to acquire land measuring 7.81 acres situated in Village Ajronda, Hadbast No. 118, Tehsil and District Faridabad, for development and utilisation thereof for semi public use including institutional use for educational, medical, defence and administrative purposes in Sector 20-B, Faridabad. The same was followed by notification dated 4.6.1993 issued under Section 6 of the Act. The Collector vide his award No. 6 dated 2.6.1995 determined the market value of the acquired land @ ₹ 4,50,000/- per acre. Dissatisfied with the award of the Collector, the landowners filed objections under Section 18 of the Act, which were referred to the learned reference court. The learned court below determined the market value of the acquired land @ ₹ 392.50

per square yard.

(iii). Vide notification dated 3.7.1995 issued under Section 4 of the Act, the State of Haryana sought to acquire the land measuring 98.66 acres Hadbast No. 118, 103.34 acres Hadbast No. 188, 183.34 acres Hadbast No. 121 situated in Village Ajronda, 6.88 acres in Village Taloribanger, 29.58 acres in Village Daultabad, Tehsil and District Faridabad, for commercial, institutional, recreational and residential purposes in conformity with development plan for Sectors 20-A and 20-B, Faridabad. The same was followed by notification under Section 6 of the Act. The Collector vide his award dated 29.6.1998 determined the market value of the acquired land of all the villages @ ₹ 5,85,000/- per acre. Dissatisfied with the award of the Collector, the landowners filed objections under Section 18 of the Act, which were referred to the learned reference court. The learned court below determined the market value of the acquired land of all the villages @ ₹ 400/- per square yard. However, in some cases, the value was assessed @ ₹ 480/- per square yard.

4. To sum up the value pertaining to land as assessed by the Collector for three different acquisitions and the value as assessed by the learned Reference Court, are extracted below in a table:-

| <i><b>Date of notification under Section 4 of the Act</b></i> | <i><b>The compensation assessed by the Collector per acre in ₹</b></i> | <i><b>The compensation assessed by the Reference Court per square yard in ₹</b></i> |
|---------------------------------------------------------------|------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| 07/04/86                                                      | 3,38,800/-                                                             | 435/- in all the references, except in LAC No. 354/31.3.97 wherein 110/-.           |
| 05/06/92                                                      | 4,50,000/-                                                             | 392.50                                                                              |
| 03/07/95                                                      | 5,85,000/-                                                             | 400/- / 480/-                                                                       |

5. In the appeals filed by the landowners as well as State, this court in earlier round of litigation, vide judgment dated 6.10.2010 passed in RFA No. 2392 of 1997 –Mukhtiar Singh and others v. State of Haryana and another, assessed the compensation @ ₹ 435/- per square yard for the acquisition carried out vide notification dated 7.4.1986; @ ₹ 566/- per square yard for the acquisition carried out vide notification dated 5.6.1992 and @ ₹ 795/- per square yard for the acquisition carried out vide notification dated 3.7.1995.

6. Against the judgment of this Court, the landowners as well as State of Haryana preferred Special Leave Petitions before Hon'ble the Supreme Court. Vide judgment dated 6.3.2014, passed in Civil Appeal Nos. 3547-3689 of 2014—State of Haryana v. Mukhtiar Singh and others, Hon'ble the Supreme Court remanded the matters back to this Court for fresh consideration. That is how the present appeals are before this Court.

**Arguments of landowners**

7. Mr. M. L. Sarin, learned senior counsel appearing for some of the landowners submitted that after the matters were decided by this court in the first round of litigation in Mukhtiar Singh's case (supra), both the parties preferred Special Leave Petitions before Hon'ble the Supreme Court. Vide judgment dated 6.3.2014, the matters were remanded back with the observation that the High Court should not have entirely relied upon decision of this Court in State of Haryana v. Escort Dealers Development Association Limited, 1993(3) PLR 466 and should have looked into the sale instances and other evidence produced on record by the landowners. It was observed that the sale deeds (Ex. P5 to Ex. P10) and other documentary evidence produced on record by the landowners is required to be considered. While reiterating reliance on Escort Dealers Development Association Limited's case (supra), learned counsel for the landowners submitted that vide allotment letter (Ex. P6 in LAC No. 57 of 1999), plot measuring 194.14 square meters was sold for a total consideration of ₹ 10,00,000/-, at an average price of ₹ 4,306/- per square yard. Even if the location thereof has not been pointed out on any site plan produced on record, but still it formed part of Sector 12, as is evident from the allotment

letter. As per the development plan (Ex. P10) produced on record, Sector 12 is located just opposite the acquired land, on the other side of National Highway, hence, it is the best sale exemplar to be relied upon. Even if it is by way of auction, two cuts of 50% can be applied. In the area, the sale of agricultural land was not possible. The entire land was forming part of the municipal limits.

8. As far as the land pertaining to the notification, which was subject-matter of valuation in Escort Dealers Development Association Limited's case (supra) is concerned, it was submitted that in that case a very small portion touched the National Highway, as it was acquired for a road, which was a small strip leading from National Highway, whereas the acquired land was abutting the National Highway with large frontage. Escort Dealers Development Association Limited's case (supra) was subject-matter of consideration before this court in Horam v. State of Haryana and another, 2006(1) LACC 435, which was upheld by Hon'ble the Supreme Court. Further reliance was placed upon a judgment of Hon'ble the Supreme Court in Ashrafi and others v. State of Haryana and others, (2013) 5 SCC 527, where acquisition was carried out vide notification dated 2.8.1989 for development as Sector 45, Faridabad. Hon'ble the Supreme Court assessed the compensation @ ₹ 325/- per square yard. The land therein is located at a far off place if compared with the acquired land.

9. For assessment of compensation for the acquisition carried out vide notification dated 7.4.1986, except the sale instance (Ex. P6 in LAC No. 57 of 1999), there is no other evidence on record. For the subsequent acquisition, increase @ 12% per annum with cumulative effect be granted considering the location and potentiality of the land. If the period is more than 5 years, the rate of increase can be reduced from 12% to 9-10% per annum. It was further submitted that even post- acquisition transactions can also be considered after application of reasonable cut, if the genuineness thereof is not in dispute.

10. Mr. Pardeep Dahiya, learned counsel appearing for some of the landowners, submitted that even for assessment of compensation for the land acquired vide notification dated 7.4.1986, no cut is required to be

applied on the value as shown in allotment letter (Ex. P6 in LAC No. 57 of 1999), may be it was an auction sale, as it is only in the auction sale that real value is shown. He further submitted that in Escort Dealers Development Association Limited's case (supra), the Collector had assessed the value @ ₹ 18/- per square yard, which was increased to ₹ 337.20 by this court and upheld by Hon'ble the Supreme Court. In the case in hand, the Collector has assessed the compensation @ ₹ 3,38,800/- per acre pertaining to notification dated 7.4.1986; @ ₹ 4,50,000/- per acre pertaining to notification dated 5.6.1992 and @ ₹ 5,85,000/- per acre pertaining to notification dated 3.7.1995. Increase at the same rate as was granted in Escort Dealers Development Association Limited's case (supra) deserves to be granted. He further referred to allotment letters (Ex. P12 and Ex. P14 in LAC No. 179 of 1998), vide which booths were sold for ₹ 1,89,000/- and ₹ 6,82,000/-, respectively. These are located in Sector 15-A, which is located just opposite the acquired land. He relied upon the judgments of Hon'ble the Supreme Court in Special Land Acquisition Officer and another v. M. K. Rafiq Saheb, (2011) 7 SCC 714; Digamber and others v. State of Maharashtra and others, (2013) 14 SCC 406 and Nirmal Singh and others v. State of Haryana through Collector, (2015) 2 SCC 160.

#### **Arguments of State**

11. On the other hand, learned counsel for the State submitted that Hon'ble the Supreme Court remitted the matters back only with a direction that along with the judgment of this Court in Escort Dealers Development Association Limited's case (supra), the sale deeds be also considered. In fact, those sale instances were considered by this court. The judgment of Escort Dealers Development Association Limited's case (supra) was further explained in Horam's case (supra), wherein it was opined that the compensation awarded in that case was already on the higher side, hence, to state that the landowners in the present case deserve to be granted more compensation than as already assessed in that case is totally misconceived. Reliance on the sale instances pertaining to commercial plots of small sizes in the area already developed, where the acquisition was carried out long back cannot be said to be comparable with the land, which was being used

for agricultural purposes at the time of acquisition. He further submitted that it will not be safe to place reliance upon sale transactions by way of auction, as element of ego and unhealthy competition sometimes steps in. Specific requirement of a person may also raise the price. The variation in rates establishes this fact. Even the sale transaction (Ex. P7 in LAC No. 57 of 1999) amongst two corporates cannot be made the basis as the same was registered much after the issuance of notification under Section 4 of the Act on 7.4.1986. In the case of Escort Dealers Development Association Limited's case (supra), the rate as assessed by the court, has been confirmed upto Hon'ble the Supreme Court. The acquisition in question is later in time, hence, would not be inappropriate to rely upon for the purpose of assessment of compensation.

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

### **Discussion**

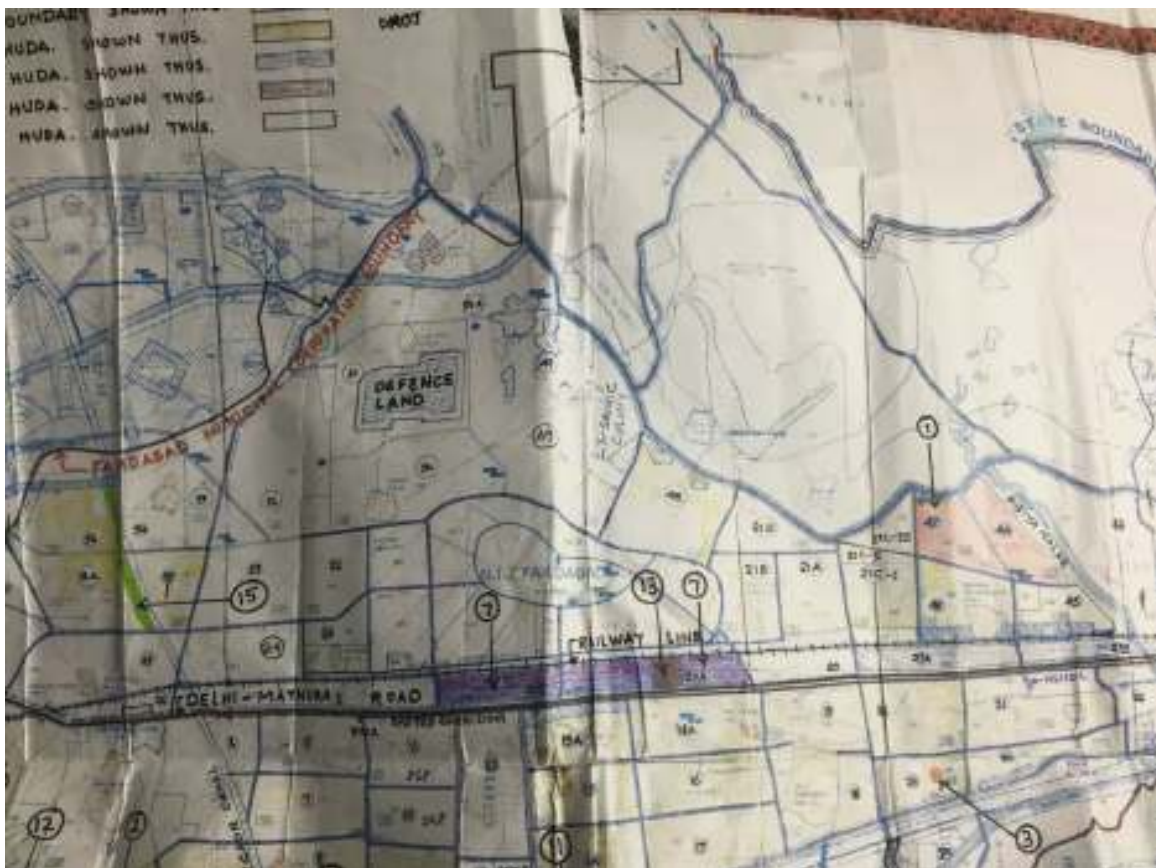
#### **Location of land**

13. As far as location of the acquired land is concerned, the facts, already noticed by this court in the judgment in first round of litigation, which are not in dispute, are extracted below:

“20. As per site plan placed on record as Ex. P10, in LAC No. 57 of 1999, Sectors 20-A and 20-B, Faridabad, for which the land has been acquired vide three notifications under consideration, is located on main National Highway No. 2 (Delhi-Mathura road). Just opposite the same across the National Highway is Sectors 11, 12 and 15-A. On the other side beyond the railway line is the NIT Faridabad Township. If we move from the acquired land towards Delhi crossing the NIT Faridabad Township on the National Highway are Sectors 20-C, 27-A, 27-B and onwards. On the other side of all these sectors beyond the railway line and adjoining to the NIT Faridabad Township are Sectors 21-B, 21-A, 21-C, 46, 45 and others. If we move towards Mathura, on National Highway No. 2 (Delhi-Mathura Road) beyond Sector 20-B, are Sectors 5 and 26 upto

the point till the National Highway crosses the railway line and thereafter Sectors 25 and 55 are located. Beyond the railway line adjoining to the NIT Faridabad Township on this side are some residential colonies besides industrial establishments. A perusal of the site plan shows that it is close to the centre from where New Industrial Township, Faridabad started developing. Considering its location, the fact cannot be disputed that the land had great future potential for being used for commercial and industrial purposes. Abutting the National Highway, there were a lot of commercial and industrial establishments.”

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



### **Observations by Hon'ble the Supreme Court**

15. Hon'ble the Supreme Court remitted the matters back to this court with the following observations:

“20. The High Court in its impugned judgment and order

initially refers to the fact situation in detail and thereafter while coming to the conclusion that the higher rate of compensation requires to be awarded to the land-owners, primarily relies upon the decision of the same High Court in *Escort Dealers'* case (supra). The High Court has not adverted to any other aspect of the matter including the sale instances and other evidences which were brought to its notice by the landowners. In our view, the High Court while passing the impugned judgment and order should have looked into the sale instances relied upon by the land owners before passing the impugned judgment and order.

21. Further, since the *Escort Dealers'* case (supra) has been explained by a larger bench of the same High Court and the said decision has been approved by this Court while dismissing the Special Leave Petition, in our view, there was no reason for the High Court to have entirely relied upon the decision rendered in *Escort Dealers'* case (supra). In a case like this, the High Court ought to have looked into the sale instances and other evidences that were brought on record by the land-owners, for arriving at a fair and proper compensation that requires to be awarded to the land owners for the lands acquired. Since that has not been done by the High Court, in our opinion, the impugned judgment and order passed by the High Court requires to be set aside and the matters requires to be remitted back to the High Court for a fresh consideration.

22. In the result, we allow these appeals, set aside the impugned judgment and order passed by the High Court and remand the matter back to the High Court for fresh consideration. We request the High Court to dispose of the appeals as expeditiously as possible, at any rate, within six months from the date of receipt of a copy of this court's order.

23. We further request the High Court to consider the sale instances, such as Exh. P-5 to P-10 and other documentary

evidence that may be brought on record by both the parties and also to take into consideration the potential value of the land on the date of the issuance of the respective notifications.”

16. A perusal of the aforesaid observations made by Hon'ble the Supreme Court shows that the sale deeds (Ex. P5 to Ex. P10) and any other documentary evidence produced on record by the landowners was to be considered in addition to the judgment of this Court in Escort Dealers Development Association Limited's case (supra).

**Evidence relied upon by the landowners**

17. The evidence referred to by learned counsel for the landowners is as under:

| Ex.                        | Date       | Total price<br>in ₹ | Size                | Rate per square<br>yard in ₹ |
|----------------------------|------------|---------------------|---------------------|------------------------------|
| <u>LAC No. 57 of 1999</u>  |            |                     |                     |                              |
| P6                         | 31.1.1984  | 10,00,000/-         | 194.14<br>sq.meters | 4,306/-                      |
| P7                         | 27.5.1996  | 1,59,00,000/-       | 11,000<br>sq. yards | 1,445/-                      |
| P8                         | 14.11.1994 | 35,000/-            | 21<br>sq. yards     | 1,666/-                      |
| P9                         | 8.1.1992   | 35,000/-            | 40<br>sq. yards     | 875/-                        |
| <u>LAC No. 179 of 1998</u> |            |                     |                     |                              |
| P12                        | 23.10.1989 | 1,89,000/-          | 9'x27'              | 7,000/-                      |
| P13                        | 21.8.1989  | 8,11,000/-          | 12'x33'             | 18,431/-                     |
| P14                        | 17.8.1989  | 6,82,000/-          | 9'x27'              | 25,260/-                     |

**Regarding judgment in Escort Dealers Development Association Limited's case (supra)**

18. In the aforesaid judgment, this court considered the issue regarding assessment of compensation for the land acquired in village Mewla Maharajpur for constructing link road from Delhi-Mathura (the then National Highway No. 2) to Sector 46 of Faridabad-Ballabgarh controlled area. The notification under Section 4 of the Act was issued on 30.7.1987.

The acquired land was 3.59 acres. The learned Single Judge of this court, while relying upon sale deed (Ex. PW7/A), vide which part of the acquired land was purchased by the landowners therein, assessed the compensation by granting increase for the time gap from the date of purchase till the issuance of notification under Section 4 of the Act and finally assessed the compensation @ ₹ 337.20 per square yard.

19. The judgment of Single Judge of this court was referred to before a Division Bench of this Court in Horam's case (supra), wherein issue was assessment of compensation for the land acquired vide notification dated 22.8.1988 for development as Sector 46, Part-II, Faridabad. The land pertained to revenue estate of village Mewla Maharajpur. A Division Bench of this Court rejected the contention raised by learned counsel for the landowners and opined that Escort Dealers Development Association Limited's case (supra) could not be considered as a precedent for the purpose of assessment of compensation for the land acquired subsequently, as the amount spent by a landowner for purchasing the land and award of compensation to him on the basis thereof cannot be made a base universally applicable. The compensation therein was assessed @ ₹ 200/- per square yard. The aforesaid judgment was upheld by Hon'ble the Supreme Court.

20. In Ashrafi's case (supra), Hon'ble the Supreme Court, while dealing with the cases pertaining to valuation of acquired land in six different districts in the State of Haryana, assessed the compensation, pertaining to the land acquired in Faridabad, where notification under Section 4 of the Act was issued on 2.8.1989. The land therein was acquired for development as Sector 45, Faridabad. The compensation was assessed by Hon'ble the Supreme Court @ ₹ 325/- per square yard (para No. 38).

**Anomalous situation created by the Reference Court**

21. The manner in which the cases have been decided by the Reference Court created anomalous situation. The cases, pertaining to different notifications, were decided at different times by the Reference Court awarding compensation at different rates. For the sake of convenience, the date of notification, amount awarded by the Collector,

amount awarded by the Reference Court with date of award are extracted below:

| <i>Date of notification under Section 4 of the Act</i> | <i>The compensation assessed by the Collector per acre in ₹</i> | <i>The compensation assessed by the Reference Court per square yard in ₹</i> |
|--------------------------------------------------------|-----------------------------------------------------------------|------------------------------------------------------------------------------|
| 07/04/86                                               | 3,38,800/-                                                      | 435/- in all the references, except in LAC No. 354/31.3.97 wherein 110/-.    |
| 05/06/92                                               | 4,50,000/-                                                      | 392.50                                                                       |
| 03/07/95                                               | 5,85,000/-                                                      | 400/- / 480/-                                                                |

22. A perusal of the aforesaid details show that for the notification dated 7.4.1986, the learned Reference Court awarded ₹ 435/- per square yard, whereas for the notification dated 5.6.1992, which was later in time, the Reference Court awarded ₹ 392.50 per square yard. For the notification dated 3.7.1995, in some cases, the Reference Court awarded ₹ 400/-, whereas in another set of cases, awarded ₹ 480/- per square yard.

23. To avoid such a situation, this Court in Smt. Maya and others v. State of Haryana and others, (2013) 2 RCR (Civil) 518, issued comprehensive directions. 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 log 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.

**Assessment of compensation**

24. Now coming to the assessment of compensation and consideration of the sale transactions produced on record by the landowners in addition to the assessment of compensation in Escort Dealers Development Association Limited's case (supra). The first acquisition in question is vide notification dated 7.4.1986. Prior to that, there is only one sale transaction (Ex.P6) dated 31.1.1984 produced on record by the landowners, vide which one SCO, measuring 194.14 square meters was sold for a total price of ₹ 10,00,000/-, at an average price of ₹ 4,306/- per square yard. A perusal of the allotment letter (Ex. P6) shows that the sale of

aforesaid plot was on instalment basis, where only 10% was to be paid at the time of auction. Balance was to be paid in instalments. There is no site plan produced on record by the landowners showing location of the aforesaid SCO and status of development in the area, where the aforesaid plot for showroom was located. The only contention was that Sector 12 is located just opposite the acquired land. Learned counsel for State pointed out that notification under Section 4 of the Act for development as Sector 12 was issued long back. This is the only sale transaction relied upon by learned counsel for the landowners for the purpose of assessment of compensation for the land, where notification under Section 4 of the Act was issued on 7.4.1986.

25. As there are many factors, which play their role for sale of property by way of auction, the egoistic competitive bidding or specific requirement step in. It is further evident from other sale transactions relied upon by the landowners, in terms of which industrial plot measuring 11,000 square yards located on National Highway was sold at an average price of ₹ 1,445/- per square yard, i.e., more than 12 years thereafter on 27.5.1996 (Ex. P7). A small plot of 21 square yards was sold @ ₹ 1,666/- per square yard vide allotment letter (Ex. P8) dated 14.11.1994 and further even more than 4 years later, vide allotment letter (Ex. P9) dated 8.1.1992, shop measuring 40 square yards was sold @ ₹ 875/- per square yard.

26. From the aforesaid details, it is evident that many factors play their role in determination of value of a specific portion of land by a buyer. Even in LAC No. 179 of 1998, three allotment letters have been produced on record by the landowners, which though are not relevant for assessment of compensation for the land acquired vide notification dated 7.4.1986, but certainly establish the factum of lot of variation in the prices even at the same time for the plots located in the same area.

27. In my opinion, the allotment letter (Ex. P6), the only sale transaction on record for the purpose of assessment of compensation for the land acquired vide notification dated 7.4.1986 cannot be considered in addition to the judgment in Escort Dealers Development Association

Limited's case (supra). No doubt, while assessing the compensation in Escort Dealers Development Association Limited's case (supra), this court had placed reliance on the sale deed pertaining to part of the acquired land for the purpose. In Horam's case (supra), while assessing the compensation for the land, which was located close to the same, a Division Bench of this court did not place reliance upon the compensation assessed in Escort Dealers Development Association Limited's case (supra) opining that the same was not relevant as in that case, the assessment had been made keeping in view the costs incurred by the purchaser-landowners. This Court, while assessing the compensation, in the first round of litigation, had placed reliance upon the assessment of compensation in Escort Dealers Development Association Limited's case (supra) and granted increase for the time gap plus 50% extra for locational advantage as the acquired land was located at a better place as compared to the land in Escort Dealers Development Association Limited's case (supra), as a result of which the landowners in the present case, in fact, got additional advantage of the valuation of land in Escort Dealers Development Association Limited's case (supra). That has also gone to the benefit of the landowners in the present case, who had been awarded compensation @ ₹ 435/- per square yard in the first round of litigation. Even if considered in the light of compensation assessed by Hon'ble the Supreme Court for acquisition of land for development as Sector 45, Faridabad, where notification under Section 4 of the Act was issued on 2.8.1989, @ ₹ 325/- per square yard in Ashrafi's case (supra), considering the location of land, the amount already assessed does not call for any change. Even if assessment of compensation @ ₹ 435/- per square yard is compared with allotment letter (Ex. P7) dated 27.5.1996, where the plot measuring 11,000 square yard was sold @ ₹ 1,445/- per square yard, the same also seems to be reasonable. In my opinion, the compensation already assessed does not call for any change/alteration.

28. Even for the purpose of assessment of compensation for the land acquired vide notification dated 5.6.1992, which is located just adjoining to the land earlier acquired, the only evidence available is in the form of three allotment letters (Ex. P12 to Ex. P14) in LAC No. 179 of

1998, vide which plots for small booths were sold by way of open auction in Sectors 15-A and 16-A, Faridabad. The variation in prices in the allotment made almost at the same time in August and October, 1989 make these transactions to be totally unsafe for reliance for the purpose of assessment of compensation of a large chunk of land. These were small plots for booths sold by way of auction located inside the market of a developed residential area, uncomparable with the acquired land, the price range being from ₹ 7,000/- to ₹ 25,260/- per square yard. Hence, in the absence thereof, the only option available with this court was to grant increase for the time gap in two acquisitions considering its location and potentiality, which was already done. Accordingly, the compensation already assessed by this court does not require any change/alteration.

29. As far as the acquisition of land vide notification dated 3.7.1995 is concerned, the only additional sale transaction available on record is Ex. P8 dated 14.11.1994, vide which 21 square yards of plot was sold @ ₹ 1,666/- per square yard. Though this court had assessed the compensation while granting increase for the time gap from earlier acquisition, however, even if considered in the light of sale transaction (Ex. P8), vide which a shop measuring 21 square yards was sold at an average price of ₹ 1,666/- per square yard, the grant of compensation @ ₹ 795/- per square yard cannot be said to be lesser, which is almost 50% thereof.

30. In view of my aforesaid discussion, even after considering the allotment letters sought to be relied upon by learned counsel for the landowners, the compensation already assessed by this court does not require any change/alteration. Accordingly, the same is assessed at the following rates:

| <u>Date of notification</u> | <u>Amount assessed per sq. yard in ₹</u> |
|-----------------------------|------------------------------------------|
| 7.4.1986                    | 435/-                                    |
| 5.6.1992                    | 566/-                                    |
| 3.7.1995                    | 795/-                                    |

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

32. The appeals and the cross objections stand disposed of in the manner indicated above.

(Rajesh Bindal)

Judge

December 10, 2015

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(Refer to Reporter)

