IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA No. 1626 of 2011 (O&M)
Date of decision: August 31, 2015

Puran Chand Wadhwa (deceased) through LRs

.. Appellants

v.

Land Acquisition Collector and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Chetan Mittal, Senior Advocate with
Ms. Anita Balyan, Mr. Rakesh Nehra,
Mr. Chanderhas Yadav, Mr. Rakesh Dhiman,
Mr. Vikrant Hooda, Advocates for the landowner(s).

Mr. Randhir Singh, Additional Advocate General, Haryana and
Ms. Vibha Tewari, Assistant Advocate General, Haryana.

...

Rajesh Bindal J.

1. This order will dispose of a bunch of appeals bearing

RFA Nos. 1626, 2336, 3899 to 3903, 5449, 6145, 7199 to 7201, 7263 to 7268, 7364, 7427 to 7429, 7847 to 7849 of 2011;

RFA Nos. 208 to 212, 408 to 413, 682, 683, 1186, 1503, 1504, 1540, 2083 to 2090, 2675, 2883 to 2899, 2908 to 2913, 2938, 2939, 3023 to 3027, 3079, 4157 to 4189, 4516, 4517, 4702, 4742, 4753, 4878, 5404, 5417, 5688, 5689, 5700, 5701, 5781, 5798, 6538, 7159 to 7162, 7498 of 2012;

RFA Nos. 489, 506, 1933, 2442 to 2450, 2617, 2634, 2816, 3368, 3506, 3918, 4433, 4488, 4874, 4875, 4977, 4981, 4986, 5594, 5595, 5659, 6351, 6535, 7283 of 2013;

RFA Nos. 2317, 2320, 2324, 2419 to 2421, 3414, 3679, 3821, 4306, 4649, 4957, 4958, 4985, 5042, 5043, 5230, 5311, 5324 to 5326, 5551, 5554, 5568 to 5570, 6254, 6255, 6689, 6959, 6960, 7228, 7232, 7233, 7339, 7656, 7659, 7709, 7764, 7803 to 7805, 7815 to 7818, 7857 to 7862, 7880 to 7888, 8066, 8087, 8090, 8528, 8529, 8660, 8681, 8814, 8856, 8969, 9007, 9008, 9098, 9431, 9434, 9652, 9694, 9729, 9740, 9753, 9762, 9763, 9822, 10065, 10076, 10344 of 2014;

RFA Nos. 193 to 196, 281, 312, 749 to 752, 891 2137, 2377, 3191 and 3501 of 2015;

as common questions of law and facts are involved.

2. The landowners are in appeal seeking further enhancement of compensation for the acquired land.

3. Briefly, the facts of the case are that vide notification dated 17.4.2002, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), State of Haryana sought to acquire the land, situated in villages Sarai Aurangabad, Balore, Bir Barktabad and Bahadurgarh, District Jhajjar for development and utilization thereof as residential, institutional and commercial areas for Sectors 1 (Part), 10, 11 (Part), 12 and 13, Bahadurgarh. The same was followed by notification dated 10.4.2003, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide different awards assessed the market value of the acquired land as under:

Revenue Estate	Award No. and dated	Total land	Amount awarded per acre in ₹
Sarai Aurangabad	6 dated 25.6.2004	88.55 acres	3,50,000/- for Chahi and Nehri and 2,50,000/- for Barani and Gair Mumkin and low lying land (khada)
Balore	7 dated 26.6.2004	498.19 acres	3,00,000/- for Chahi, Nehri and Gair Mumkin and 2,50,000/- for Barani and low lying land

Bir Barktabad	8 dated 25.6.2004	298.68 acres	4,68,789/- for Chahi 3,90,657/- for Barani 2,67,000/- for Gadda
Bahadurgarh	9 dated 25.6.2004	343.09 acres	6,00,000/- for Chahi, Nehri, and Gair Mumkin 5,50,000/- for Barani and Banjar 2,50,000/- for Gadda Khada

4. Aggrieved against the awards of the Collector, the landowners filed objections which were referred to the learned court below, who keeping in view the material placed on record by the parties, determined the fair value of the acquired land as under:

Revenue Estate	Award(s) dated	Amount per acre in ₹
Sarai Aurangabad	14.6.2011	4,50,000/- for Chahi and Nehri 3,50,000/- for Barani, Gair Mumkin and low lying land (khada)
Balore	14.3.2012	4,50,000/- for Chahi and Nehri; 3,50,000/- for Barani, Gair Mumkin and low lying land (khada)
Bir Barktabad	29.1.2011] 4.8.2011] 2.2.2012]	6,02,000/- per acre for Chahi, Nehri and Gair Mumkin land and 5,50,000/- per acre for Barani land.
	30.8.2013	9,86,114/- per acre
Bahadurgarh	31.8.2010 18.9.2010 18.2.2014	8,53,470/- 9,10,350/- 11,31,000/-

5. The aforesaid awards have been challenged by the landowners in the present set of appeals.

6. To put the record straight, it may be added here that the State did not prefer any appeal against the awards pertaining to acquisition of

land in villages Sarai Aurangabad, Balore, Bir Barktabad and Bahadurgarh.

7. The set of appeals filed by the State against the award dated 29.1.2011 pertaining to the revenue estate of village Bir Barktabad, passed by the Reference Court, were dismissed by this court in RFA No. 4649 of 2011—State of Haryana v. Hukam Chand and others, decided on 16.9.2011. The order was upheld by Hon'ble the Supreme Court in CC Nos. 22760-22798 of 2012—State of Haryana v. Hukam Chand and others, decided on 15.1.2013.

8. Learned counsel for the landowners submitted that the acquired land was strategically located in fast developing town of Bahadurgarh, where there was lot of pressure for urbanisation for the reason that the city is located on Delhi Border. Lot of industries had shifted from Delhi on this side. The acquired land abutted the already existing old Bahadurgarh township on one side and road leading to Nazafgarh from Bahadurgarh on other side and to Jhajjar on the other. The land located on the other side of the road leading from Bahadurgarh to Nazafgarh was already acquired for development as Sector 9-A, where notification under Section 4 of the Act was issued on 12.5.1995. For the aforesaid acquisition, this Court in RFA No. 1 of 2006—State of Haryana and another v. Jagbir Singh and others, decided on 10.2.2009, had assessed the compensation @ ₹ 150/- per square yard for the land located on NH-10 Delhi-Hissar road upto a depth of three acres from the main road; ₹ 100/- per square yard for the land located on Nazafgarh-Bahadurgarh road and ₹ 65/- per square yard for the land situated behind that. Hon'ble the Supreme Court in Civil Appeal Nos. 6837-6851 of 2009—Roop Chand and another etc. v. State of Haryana and others, decided on 18.9.2013 remanded the matters back for fresh consideration. It was specifically admitted by learned counsel for the State before Hon'ble the Supreme Court that the land had great future potential for being developed as residential and commercial area. He further submitted that the evidence led by the landowners in the cases in hand was not properly appreciated by the court below. In fact, the compensation deserves to be enhanced considering the value of the land acquired for Sectors 9 and 9-A. There is a time gap of about 7 years in the two acquisitions, for which

increase @ 12% per annum be granted with cumulative effect.

9. Referring to the evidence led by the landowners pertaining to the land of revenue estate of village Sarai Aurangabad, learned counsel for the landowners submitted that sale deeds (Exs. P-1, P-2, P-7, P-8, P-9 to P-11 in LAC No. 200 of 2009) have not been considered by the learned Reference Court, which clearly depicted that value of the land in the area was much more than what had been granted.

10. As far as revenue estate of village Balore is concerned, reference was made to sale deeds (Ex. P1 to Ex. P-3 and Ex. R2 to Ex. R4 in LAC No. 307 of 2010) and auction sale (Ex. PY in LAC No. 307 of 2010). The Reference Court had merely relied upon the award pertaining to village Sarai Aurangabad and assessed the compensation.

11. In the cases of revenue estate of village Bir Barktabad, sale deeds Ex. PW1/12, Ex. PW1/3, Ex.PW1/4 and Ex. PW1/15 in LAC No. 152 of 2008) were relied upon. In one set of cases pertaining to the aforesaid revenue estate, the Reference Court assessed the compensation @ ₹ 6,02,000/- per acre for Chahi, Nehri and Gair Mumkin land and ₹ 5,50,000/- per acre for Barani land vide award dated 29.1.2011. The set of appeals filed by the State against the aforesaid award were dismissed by this court in RFA No. 4649 of 2011—State of Haryana v. Hukam Chand and others (supra). The order was upheld by Hon'ble the Supreme Court in CC Nos. 22760-22798 of 2012—State of Haryana v. Hukam Chand and others, (supra). He further submitted that in some of the left over cases pertaining to the same revenue estate, the Reference Court had assessed the compensation @ ₹ 6,09,114/- per acre. The State is not in appeal in those cases. Though there are sale transactions on record showing value more than that, however, the same were discarded by the court below without any good reason.

12. For the land pertaining to revenue estate of village Bahadurgarh, reference was made to letter for disposal of surplus land (Ex. P-2 in LAC No. 653 of 2010), letter for transfer of land in favour of highest bidder (Ex. P-3 in LAC No. 653 of 2010), sale deeds (Ex. P-14 to Ex. P18 in LAC No. 653 of 2010). He further submitted that the acquired land falls

within National Capital Region, hence, had great future potential. The compensation assessed by the court below deserves to be increased further.

13. On the other hand, learned counsel for the State submitted that the acquired land was located on the side of city of Bahadurgarh, where there was no development at the time of issuance of notification under Section 4 of the Act. The entire development activities were close to NH-10. The acquired land was in the direction of Nazafgarh and Jhajjar from the city of Bahadurgarh. A perusal of the award of the Collector shows that substantial portion of the land did not have irrigation facilities. The evidence led by the landowners was properly appreciated by the court below. In all the cases except a bunch of cases pertaining to revenue estate of villages Bir Barktabad and Bahadurgarh, policy of the Government prescribing minimum rates was applied which, in fact, was effective from 5.3.2005 with no retrospectivity, the award in the present case was announced by the Collector on 25.6.2004. Learned counsel further submitted that valuation of land for any earlier acquisition can be considered as a guiding factor only if there are no sale transactions available during the intervening period, otherwise the best evidence is the sale transaction. Hon'ble the Supreme Court has otherwise also held that it is not safe to grant increase for the time gap in two acquisitions for a period of more than five years. In the award pertaining to earlier acquisition, which is sought to be relied upon, notification under Section 4 of the Act was issued on 12.5.1995, whereas in the present case, the same was issued on 17.4.2002 and there is a time gap of seven years.

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

Principles of law settled for determination of compensation

15. 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) through LRs and others, (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 of 2000, 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."

16. 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:

"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."

22. xx xx

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. State of U. P. 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."

17. In Charan Dass (dead) by LRs v. Himachal Pradesh Housing & Urban Development Authority and others, 2009(4) RCR (Civil) 740, Hon'ble the Supreme Court opined that preferred method for determination of compensation for the acquired land is the sale transaction on or about the date of notification under Section 4 of the Act. In the absence of sale deed, the judgments and awards passed in respect of acquisition of the land of the same or neighbouring village/area can be accepted. Relevant paras thereof are extracted below:

> "10..... One of the preferred and well-accepted methods adopted for ascertaining the market value of the land in acquisition cases is the sale transactions on or about the date of issue of notification under Section 4 of the Act. But here again finding a transaction of sale on or a few days before the said notification

is not an easy exercise. In the absence of such evidence contemporaneous transactions in respect of the lands, which have similar advantages and disadvantages are considered as a good piece of evidence for determining the market value of the acquired land. It needs little emphasis that the contemporaneous transactions or the comparable sales have to be in respect of lands which are contiguous to the acquired land and are similar in nature and potentiality. Again, in the absence of sale deeds, the judgments and awards passed in respect of acquisition of lands, made in the same village and/or neighbouring villages can be accepted as valid piece of evidence and provide a sound basis to work out the market value of the land after suitable adjustments with regard to positive and negative factors enumerated in Sections 23 and 24 of the Act. Undoubtedly, an element of some guesswork is involved in the entire exercise, yet the authority charged with the duty to award compensation is bound to make an estimate judged by an objective standard."

18. While reiterating the law, referred to above, Hon'ble the Supreme Court in Trishala Jain and another v. State of Uttaranchal and another, (2011) 6 SCC 47, laid down certain principles for controlling the application of guesstimate. Relevant paras thereof are extracted below:

"56. More often than not, it is not possible to fix the compensation with exactitude or arithmetic accuracy. Depending on the facts and circumstances of the case, the Court may have to take recourse to some guesswork while determining the fair market value of the land and the consequential amount of compensation that is required to be paid to the persons interested in the acquired land.

57. 'Guess' as understood in its common parlance is an estimate without any specific information while 'calculations' are always made with reference to specific data. 'Guesstimate' is an estimate based on a mixture of guesswork and calculations and it is a process in itself. At the same time 'guess' cannot be

treated synonymous to 'conjecture'. 'Guess' by itself may be a statement or result based on unknown factors while 'conjecture' is made with a very slight amount of knowledge, which is just sufficient to incline the scale of probability. 'Guesstimate' is with higher certainty than mere 'guess' or a 'conjecture' per se.

58. The concept of 'guesswork' is not unknown to various fields of law. It has been applied in cases relating to insurance, taxation, compensation under the Motor Vehicles Act as well as under the Labour Laws. All that is required from a Court is that such guesswork has to be used with greater element of caution and within the determinants of law declared by the Legislature or by the Courts from time to time.

xx xx xx

64. These precedents clearly demonstrate that the Court may apply some guesswork before it could arrive at a final determination, which is in consonance with the statutory law as well as the principles stated in the judicial pronouncements. As already noticed, the guesswork has to be used for determination of compensation with greater element of caution and the principle of guesstimation will have no application to the case of 'no evidence'. This principle is only intended to bridge the gap between the calculated compensation and the actual compensation that the claimants may be entitled to receive as per the facts of a given case to meet the ends of justice.

65. It will be appropriate for us to state certain principles controlling the application of 'guesstimate:

(a) Wherever the evidence produced by the parties is not sufficient to determine the compensation with exactitude, this principle can be resorted to.

(b)Discretion of the court in applying guesswork to the facts of a given case is not unfettered but has to be

> reasonable and should have a connection to the data on record produced by the parties by way of evidence. Further, this entire exercise has to be within the limitations specified under Sections 23 and 24 of the Act and cannot be made in detriment thereto."

Location of the land

19. The acquired land pertains to four revenue estates, namely, Sarai Aurangabad, Balore, Bir Barktabad and Bahadurgarh. It abuts Bahadurgarh-Nazafgarh road on one side and Bahadurgarh-Jhajjar road on the other side. On one side, the acquired land abuts old Bahadurgarh town. Moving away from Bahadurgarh town is revenue estate of village Balore and thereafter village Bir Barktabad towards Badli side, whereas the revenue estate of village Sarai Aurangabad is on the side of a road leading from Bahadurgarh to Jhajjar. The land for Sectors 9 and 9-A, Bahadurgarh was acquired earlier, for which notification under Section 4 of the Act was issued on 12.5.1995. Sector 9-A is located on the other side of Bahadurgarh-Nazafgarh road. Meaning thereby on one side of the aforesaid road is the boundary of the acquired land, whereas on the other side is Sector 9-A. Bahadurgarh is located close to Delhi border, where there is development activity.

Basis for assessment of compensation by the Reference Court

Sarai Aurangabad

20. Though number of sale deeds were produced by the landowners pertaining to the revenue estate in question, however, one sale deed (Ex. P11 in LAC No. 200 of 2009) dated 19.12.2001 was found to be relevant as other sale deeds were quite old and one was registered more than two years after the issuance of notification under Section 4 of the Act. The average sale consideration paid in the sale deed (Ex. P11) dated 19.12.2001, where 15 kanals and 12 marlas was sold, was ₹ 5,00,000/- per acre. Applying a cut of 10%, the value of Chahi and Nehri kind of land was assessed @ ₹ 4,50,000/- per acre, whereas for Barani and Gair Mumkin and low lying land (khada), the value was assessed @ ₹ 3,50,000/- per acre.

21. Even before this court, learned counsel for the landowners has referred to only the aforesaid sale deed as the relevant piece of evidence. He could not point out the location of the land of the sale deed on any site plan.

22. For the aforesaid revenue estate, only the landowners have filed appeals. The State has not preferred any appeal.

Balore

23. For the aforesaid revenue estate, two sale deeds produced on record were 10 years old and were not found to be relevant. One auction sale pertaining to land of revenue estate of Bahadurgarh was referred to, which was rejected by the learned Reference Court being not comparable. The aforesaid land was located within the municipal limits. The same has not been relied upon before this court. Reliance was placed upon the award of the Reference Court passed in the case of land pertaining to revenue estate of village Sarai Aurangabad assessing compensation @ ₹ 4,50,000/- per acre for Chahi and Nehri kind of land and @ ₹ 3,50,000/- per acre for Barani and Gair Mumkin kind of land and the Reference Court awarded the same amount of compensation.

24. For the revenue estate of village Balore, only the landowners have filed appeals. The State has not preferred any appeal.

Bir Barktabad (Award dated 29.1.2011)

25. The learned Reference Court averaged the sale consideration paid in three sale deeds produced by the State (Ex. R1 to Ex. R3 in LAC No. 119 of 2008) at ₹ 1,65,000/- per acre, considered one sale deed (Ex. P4 in LAC No. 119 of 2008), produced by the landowners, which was pertaining to revenue estate of Bahadurgarh and stated to be located at a distance of 890 feet away from the acquired land, adding increase @ 12% per annum thereon for the time gap, averaging the figure so arrived at ₹ 9,25,500/- and thereafter applied a cut of 35% to assess the compensation @ ₹ 6,02,000/- per acre for Chahi, Nehri and Gair Mumkin kind of land and ₹ 5,50,000/- per acre for Barani kind of land.

26. The State preferred appeals against the aforesaid award, which were dismissed by this Court on 16.9.2011 in RFA No. 4649 of 2011—State

of Haryana v. Hukam Chand and others on account of delay. The order was upheld by Hon'ble the Supreme Court in CC Nos. 22760-22798 of 2012—State of Haryana v. Hukam Chand and others, decided on 15.1.2013.

27. Before this court as well, learned counsel for the landowners has not referred to any other evidence except the sale deeds, which have been considered by the learned Reference Court.

Bir Barktabad (Award dated 30.8.2013)

28. The learned Reference Court, while rejecting all the sale deeds produced by the landowners on record, as none of them pertained to the revenue estate in question or were quite old, determined the compensation while relying upon the policy issued by the Government providing for minimum rates for acquisition of land. The aforesaid policy was effective with reference to the awards announced by the Collector on or after 5.3.2005. The learned Reference Court adopted a strange formula, which cannot stand in judicial scrutiny even for a second, rather, it shows total non-application of mind. The court below referred to the award passed by the Collector and the policy of the Government and observed that the Collector in the present case awarded compensation of ₹ 3,00,000/- per acre vide award dated 25.6.2004 and the notification under Section 4 of the Act was issued on 17.4.2002, the policy having been notified by the Government on 28.4.2005, there being a time gap of 3 years from the date of notification under Section 4 of the Act and the policy of the Government and for this period there is enhancement of ₹ 9,50,000/- per acre, i.e., from ₹ 3,00,000/- per acre, as assessed by the Collector and ₹ 12,50,000/- per acre provided for in the policy as the minimum rate and calculating average monthly enhancement and there being time gap of 26 months, increase of ₹ 6,86,114/- per acre was granted, assessing the compensation @ ₹ 9,86,114/- per acre.

29. A perusal of the manner in which the court below assessed the compensation establishes the fact that the policy, which has been relied upon, was not even gone into before its application.

30. Against the aforesaid award, the landowners are in appeal seeking further enhancement of compensation, whereas the State, in its wisdom, has not filed any appeal despite the fact that in earlier bunch of cases decided by the Reference Court pertaining to the same acquisition, where the compensation was assessed @ ₹ 6,02,000/- per acre for Chahi, Nehri and Gair Mumkin kind of land and ₹ 5,50,000/- per acre for Barani kind of land, the State filed appeals, which were dismissed by this Court on delay and the order was upheld by Hon'ble the Supreme Court.

Bahadurgarh (Award dated 31.8.2010)

31. In LAC No. 69 of 2006, the learned Reference Court, while averaging the sale consideration shown in the sale deeds produced by the landowners as well as the State and applying a cut of 25% thereon, assessed the compensation @ ₹ 8,53,470/- per acre.

Award dated 18.9.2010

32. In LAC No. 70 of 2006, the learned Reference Court while averaging the sale consideration shown in the sale deeds produced by the landowners as well as the State and applying a cut of 10%, assessed the compensation @ ₹ 9,10,350/- per acre.

Award dated 18.2.2014

33. In LAC No. 653 of 2010, none of the sale deeds produced on record by the landowners was found to be relevant as two of them pertained to small residential plots located within the City, whereas one sale deed was more than 12 years old. The learned Reference Court in this case also applied a different formula, as compared to what was applied in the second set of cases pertaining to revenue estate of village Bir Barktabad. Though the bunch of cases pertaining to the revenue estate of village Bahadurgarh were decided by the same officer, who decided second bunch of cases pertaining to the revenue estate of village Bir Barktabad placing reliance upon the policy of the Government providing for minimum rates. In the case in hand, a different formula was applied, namely, reverse cut. The learned court below referred to the policy dated 28.4.2005 providing for minimum rates in the area @ ₹ 12,50,000/- per acre, then referred to the subsequent

policy dated 7.5.2007 revising the minimum rates from ₹ 12,50,000/- per acre to ₹ 16,00,000/- per acre in the area in question, taking the average increase per month for the aforesaid period from 28.4.2005 to 7.5.2007, considering that there was time gap of 8 months and 10 days from the date of award of the Collector in the case in hand and the date of issuance of the policy, reduced the amount of compensation accordingly by applying a reverse cut. The amount of compensation was assessed @ ₹ 11,31,000/- per acre. The important aspect is that the court below noticed the earlier award passed by it in the case of revenue estate of village Bir Barktabad assessing compensation @ ₹ 9,86,114/- per acre by wrong application of the policy, but still the method and the manner in which the policy was applied in the case in hand was altogether different. The aforesaid assessment of compensation @ ₹ 11,31,000/- per acre was sought to be justified by stating that if 15% is added on the compensation awarded for the revenue estate of village Bir Barktabad on account of the fact that the land pertaining to the revenue estate of village Bahadurgarh was close to city, the compensation is justifiable. Though the earlier award of the Reference Court pertaining to the same acquisition has been referred to in the award, however, the learned Reference Court had failed to discuss the impact thereof.

34. For the aforesaid revenue estate, the landowners are in appeal. The State has not filed any appeal for the reasons best known to it.

Conduct of the State

35. The case in hand is not isolated, where the State had not discharged its duty, especially in the sense that it has not taken due care of the cases, whether at the trial stage by producing relevant evidence or even at the time of taking of decision for filing appeals against the award of the Reference Court.

36. Though for the award passed in the case of revenue estate of village Bir Baraktabad, where the compensation was assessed @ 6,02,000/- per acre for Chahi, Nehri and Gair Mumkin land and 5,50,000/- per acre for Barani land, the State preferred appeals along with application seeking condonation of delay. The delay having not been condoned, the appeals

were dismissed vide order dated 16.9.2011 passed in RFA No. 4649 of 2011 —State of Haryana v. Hukam Chand and others. The order was upheld by Hon'ble the Supreme Court in CC No. 22760-22798 of 2012---State of Haryana v. Hukam Chand and others, decided on 15.1.2013.

37. Subsequent to that, for the same revenue estate, the Reference Court assessed the compensation @ ₹ 9,86,114/- per acre, vide different award dated 30.8.2013, but the State, in its wisdom, did not prefer any appeal against that. Similar is the position with regard to the award pertaining to the revenue estate of village Bahadurgarh, where compensation was assessed @ ₹ 11,31,000/- per acre. There also, the State did not prefer any appeal. In most of the cases, wherever even the appeals are filed, those are beyond the period of limitation. Many of them are dismissed as no ground is made out for condoning the delay. As to whether this is a lapse, casualness, irresponsible attitude or connivance is a matter, which is required to be gone into by the State authorities, but the experience shows that in many cases, this court had tried to find out the reasons and even after the officers/officials were found responsible for gross negligence, appropriate action was not taken against them. This is encouraging indiscipline and irresponsible attitude. Merely because the State acquired the land for the purpose of utilisation by Haryana Urban Development Authority and the plots carved out of the land are ultimately sold to the prospective allottees with a condition that any enhancement of compensation on account of acquisition of land is to be borne out by them, the State cannot be absolved of its responsibility to defend the cases properly with an object to be fair to the landowner, whose land is acquired, and also to the person, who is allotted the land.

Clubbing of all references pertaining to same acquisition

38. To avoid an anomalous position, as has arisen in the case in hand, where for the revenue estates of villages Bir Barktabad and Bahadurgarh, the Reference Court in two sets of cases had awarded different amounts of compensation and similar situation having come before this court earlier, this Court in Smt. Maya and others v. State of Haryana and others, 2013(2) RCR (Civil) 518, issued certain guide-lines, which 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."

39. Apparently, the aforesaid directions are not being followed.

40. Learned counsel for the State was requested to apprise the court whether there was or is any other acquisition of land in the area close to the acquired land so that cases pertaining to earlier acquisition can be taken earlier and then the cases pertaining to subsequent acquisition are considered, but nothing was pointed out except the information as has been noticed in this judgment.

Assessment of compensation by the Reference Court pertaining to the land of villages Bir Baraktabad and Bahadurgarh referring to the policies framed by the Govt.

41. Notification under Section 4 of the Act in the present case was issued on 17.4.2002 and the award was announced by the Collector on 25.6.2004. The compensation was assessed. The landowners, being aggrieved, filed objections, which were referred to the court below. In one set of cases pertaining to the revenue estate of village Bir Baraktabad, the learned Reference Court relied upon the policy issued by the Government providing for minimum rates for award of compensation for the acquired land, as circulated on 28.4.2005, and assessed the compensation, whereas for the land pertaining to the revenue estate of village Bahadurgarh, policies dated 28.4.2005 and as revised vide memo dated 6.4.2007, were relied upon and the compensation was assessed. The relevant parts of the policies, as circulated vide memo dated 28.4.2005, as clarified vide memo dated 25.5.2005 and policy dated 6.4.2007 are extracted below:

> **"Policy dated 28.4.2005**
>
> Subject:- Fixation of floor rates for acquisition of land for public purpose in the State of Haryana.
>
> Sir,
>
> I am directed to refer to the subject cited and to state that the State Government has been acquiring land for public purposes for various departments as well as other State Agencies. Under the present system compensation is paid to the land owners based on the rate fixed by the Committee constituted under the

Chairmanship of Divisional Commissioner vide this department letter No. 3670-R-5-95/8943, dated 20.6.1995. This Committee had been recommending rates based on the quality, category and location of the land under acquisition.

2. It has been the general experience that the rates of compensation fixed for acquisition are quite low as compared to the market rates prevalent in that area. Consequently, the land owners have to approach the Courts for enhancing the compensation paid to them and this process of litigation takes a substantial time. Agricultural land all over the State has become very valuable and more so in the region surrounding Delhi. The farmer who is deprived of his only livelihood is entitled to a fair compensation based on the market rates prevalent in the area.

3. The question of bringing about an improvement in the system by fixing a minimum floor rate and thereby ensure payment of fair compensation to the farmers based on the market rates, has been under the active consideration of the State Government. The system of acquisition followed by the Delhi Administration as well as by the NOIDA operating in the NCR has also been studied.

4. It has now been decided by the Government that the State be divided into following Zones for the purpose of fixing floor rates of land acquisition:-

i) The urbanisable area as shown in the Gurgaon Development Plan.

ii) Rest of the NCR sub-region of Haryana including Panchkula and periphery of Chandigarh forming part of Haryana State.

iii) Rest of the State outside Haryana sub-region of NCR.

5. After due consideration, it has further been decided to fix the following floor rates for the above three Zones for acquisition of land for public purpose:

i) The urbanisable area of Gurgaon will have a minimum floor rates of Rs. 15.00 lacs per acre.

ii) Rest of the Haryana sub-region of NCR including Panchkula and area of Chandigarh periphery in the Haryana State will have a minimum floor rate of Rs. 12.50 lacs per acre.

iii) For the rest of the State minimum floor rate will be Rs. 5.00 lacs per acre.

iv) These rates do not include the solatium and interest payable under the provisions of the Land Acquisition Act.

6. The Committee headed by the Divisional Commissioner will continue to perform its duties while fixing the rate of compensation for various categories of land under acquisition based on these floor rates. It will continue to take into account all these parameters for working out the land acquisition rate being followed at present while communicating the rate to the Acquiring Departments/ Agencies in the State."

Clarification dated 25.5.2005

"After a careful and detailed consideration, it has been decided that no award for acquisition of land to be announced on/ after 5th March 2005 shall be on rates lower than the floor rates, communicated to you vide this department letter dated 28-4-2005. The other provisions of the communication dated 28-4-05 will remained unchanged."

Policy dated 6.4.2007

"Sub: Fixation of floor rates for the acquisition of land for public purpose in the State of Haryana.

Ref: This Department Memo No. 2025-R-5-2005/4299, dated 28.4.2005.

Vide this Department Memo. under reference, minimum floor rates for acquiring land for public purposes for various Departments as well as other State Agencies were fixed by the Haryana Government as follows:

i) Minimum floor rate for urbanisable area of Gurgaon.	Rs. 15.00 lacs per acre
ii) Minimum floor rate for rest of the Haryana Sub-Region of NCR inlcuding Panchkula and area of Chandigarh periphery in the Haryana State.	Rs. 12.50 lacs per acre
iii) Minimum floor rate for the rest of the Haryana State.	Rs. 05.00 lacs per acre

(These floor rates did not include the solatium and interest payable under the provisions of the Land Acquisition Act, 1894).

2. Now it has been observed that with the passage of time market rates of the land have increased substantially. Therefore, Haryana Government has re-considered this matter and has decided to re-fix these floor rates as follows:

i) Minimum floor rate for urbanisable area of Gurgaon.	Rs. 20.00 lacs per acre
ii) Minimum floor rate for rest of the Haryana Sub-Region of NCR inlcuding Panchkula and area of Chandigarh periphery in the Haryana State.	Rs. 16.00 lacs per acre
iii) Minimum floor rate for the rest of the Haryana State.	Rs. 08.00 lacs per acre

3. These floor rates do not include the solatium and interest payable under the provisions of the Land Acquisition Act, 1894.

4. These revised rates will be applicable on all those acquisitions where awards have been announced on or after 22.3.2007 irrespective of the date of notification under Section 4 of the Land Acquisition Act, 1894."

42. A perusal of the policy, as issued vide memo dated 28.4.2005 and clarified vide memo dated 25.5.2005, shows that assessment of minimum rates of compensation to be paid to the landowners for the land situated in three different zones in the State of Haryana was to be paid where the award by the Collector was announced on or after 5.3.2005. The revised policy circulated vide memo dated 6.4.2007 prescribed for revised

minimum rates. It was effective for the awards passed on or after 22.3.2007.

43. It has no where been provided in the aforesaid policies that the same are retrospective in operation. Meaning thereby, for any award passed by the Collector, which is about nine months prior to the issuance of the policy, the minimum rates, as provided in the policies, are not to be applied. The date of notification issued under Section 4 of the Act has no relevance for valuation of the land in terms of the policies, as it is the date of the award, which is relevant, though that may not be the date relevant for valuation of the land if considered in terms of the provisions of the Act.

44. In the set of cases pertaining to revenue estate of village Bir Barktabad, the learned Reference Court applied a unique self-devised formula taking the date from the date of issuance of notification under Section 4 of the Act, i.e., 17.4.2002, till the issuance of policy dated 28.4.2005 providing for minimum rates. It found that there was a gap of three years in between. The amount of compensation assessed by the Collector was ₹ 3,00,000/- per acre, whereas as per the policy framed by the Government, the amount payable to the landowners was ₹ 12,50,000/- per acre. Finding that there was increase of ₹ 9,50,000/- per acre within a period of three years, average increase per month was calculated. The same was multiplied by 26, i.e., the period from the issuance of notification under Section 4 of the Act, i.e., 17.4.2002 till the announcement of award by the Collector, i.e., 25.6.2004. The formula adopted has no basis whatsoever and cannot possibly be result of a judicial mind, which is trained to be analytical and reasonable in approach.

45. The same officer applied a different formula referring to the same policies while assessing compensation for the land pertaining to the revenue estate of village Bahadurgarh. Here, instead of going backward, the officer referred to the policies issued, as revised on 6.4.2007 and finding that within a period of two years, there was increase of ₹ 3,50,000/- per acre, average increase per month was calculated and reverse cut at that rate was applied from ₹ 12,50,000/- per acre to arrive at a figure of ₹ 11,31,000/- per acre. The aforesaid amount was sought to be justified further by mentioning that if considered the award pertaining to the revenue

estate of village Bir Barktabad, where the compensation was assessed @ ₹ 9,86,114/- per acre, the award in the present case with addition of 15% thereon is justifiable as the land in question is located closer to the old city of Bahadurgarh. The method adopted, besides being different than which was adopted by the officer earlier, cannot stand judicial scrutiny. Apparently, the officer concerned was not aware of the settled principles of law.

Valuation of the land in the case in hand

46. At the cost of repetition, it is mentioned here that the land pertaining to four revenue estates, namely, Sarai Aurangabad, Balore, Bir Barktabad and Bahadurgarh was acquired. The rates at which the compensation was assessed by the learned Reference Court for the aforesaid revenue estates is as under:

Revenue Estate	Award(s) dated	Amount per acre in ₹
Sarai Aurangabad	14.6.2011	4,50,000/- for Chahi and Nehri 3,50,000/- for Barani, Gair Mumkin and low lying land (khada)
Balore	14.3.2012	4,50,000/- for Chahi and Nehri; 3,50,000/- for Barani, Gair Mumkin and low lying land (khada)
Bir Baraktabad	29.1.2011] 4.8.2011] 2.2.2012]	6,02,000/- per acre for Chahi, Nehri and Gair Mumkin land and 5,50,000/- per acre for Barani land.
	30.8.2013	9,86,114/- per acre
Bahadurgarh	31.8.2010 18.9.2010 18.2.2014	8,53,470/- 9,10,350/- 11,31,000/-

47. As far as the land pertaining to the revenue estate of village Bahadurgarh is concerned, the landowners as well as the State produced the following sale instances:

Sale instances produced by the landowners

Sr. No.	Exhibit	Date	Area	Sale consideration in ₹	Average price per acre in ₹
1.	A.3	22.4.1999	4 Bighas & 16 Biswas	36,00,000/-	30,00,000/-
2.	A.4	19.5.1999	3 Bighas & 4 Biswas	24,00,000/-	30,00,000/-
3.	A.5	2.7.1999	2 Bighas & 5 Biswas	16,87,500/-	30,00,000/-

Sale instances produced by the State

Sr. No.	Exhibit	Date	Area	Sale consideration in ₹	Average price per acre in ₹
1.	R.2	22.6.2001	2 Bighas & 3 Biswas	7,33,000/-	6,10,947/-
2.	R.3	23.5.2001	12 Biswas	1,87,000/-	5,58,507/-
3.	R.4	20.9.2001	07 Biswas	1,25,000/-	6,40,000/-
4.	R.5	9.1.2002	15 Biswas	2,58,000/-	5,50,500/-

48. Though there is no site plan produced by the landowners showing the location of the land pertaining to the sale-deeds vis-a-vis the acquired land, however, it was stated in the affidavit filed in evidence that the same is located at a distance of 150-200 feet from the acquired land A perusal of the sale deeds produced by the landowners shows that the land pertaining thereto is situated within the municipal limits. From the site plan (Ex. R7 in LAC No. 69 of 2006), it is evident that even the sale deeds produced by the State, which were registered quite close to the acquisition of land were also in the vicinity of the acquired land towards the populated area. (In RFA No. 1626 of 2011 in which the aforesaid evidence had been led, none has appeared for the landowner, however, the record was perused).

49. In other set of cases pertaining to the revenue estate of village Bahadurgarh, reference was made to earlier award dated 17.9.2008 pertaining to acquisition of land of village Bahadurgarh, where notification

under Section 4 of the Act was issued on 7.3.2002 and following sale-deeds:

Sr. No.	Exhibit	Date	Area	Sale consideration in ₹	Average price per acre in ₹
1.	P.14	15.6.2000	240 sq. yards	1,32,000/-	22,00,000/-
2.	P.15	15.6.2000	280 sq. yards	1,34,000/-	22,00,000/-
3.	P.16	28.2.1989	17 Biswas	5,87,500/-	11,05,882/-

50. No site plan was produced on record by the landowners to show the location of the land in the sale deeds. Appeal against the award dated 17.9.2008 is stated to be pending in this court. A perusal of the award dated 17.9.2008 shows that acquisition of land therein was for a small piece acquired for construction of road between Delhi-Rohtak road and Nazafgarh road. The land pertained to three revenue estates, namely, Bahadurgarh, Hassanpur and Parnala. The reference court without there being any clinching evidence on record applied thumb rule and assessed the compensation @ ₹ 24,00,000/- per acre as against ₹ 13,00,000/- per acre assessed by the Collector. The land was found to be within the populated area, whereas the two sale deeds produced by the landowners pertained to small plots in some residential colony and one was registered more than 13 years prior to the date of issuance of notification under Section 4 of the Act.

51. Regarding acquisition of land in the revenue estate of village Bir Barktabad, no sale deed was referred to by the landowners pertaining to the aforesaid revenue estate.

52. Regarding acquisition of land pertaining to the revenue estate of village Balor, the landowners produced on record following two sale deeds:

Sr. No.	Exhibit	Date	Area	Sale consideration in ₹	Average price per acre in ₹
1.	P.1	27.6.1991	1 Kanal & 6 Marlas	1,60,000/-	9,84,615/-
2.	P.2	28.2.1989	17 Biswas	5,87,500/-	27,64,705/-

53. The aforesaid sale deeds were registered much prior to the acquisition in the present case. No other evidence was referred to by the landowners.

54. Regarding acquisition of land pertaining to the revenue estate of village Sarai Aurangabad, learned counsel for the landowners relied upon sale deed (Ex. P11 in LAC No. 200 of 2009) dated 19.12.2001, whereby 15 kanals and 12 marlas of land in village Sarai Aurangabad was sold for ₹ 9,75,000/- at an average price of ₹ 5,00,000/- per acre. The learned court below, while relying upon the aforesaid sale deed, had assessed the compensation in the present case.

55. Nothing has been referred to from the record as to whether Sectors 9 and 9-A, Bahadurgarh had been developed after acquisition of land about 7 years prior to the acquisition in question and plots had been sold therein. This Court in RFA No. 8 of 2005—Devinder Singh and others v. State of Haryana and others, considered the valuation of land acquired for development as Sectors 9 and 9-A, Bahadurgarh, where notification under Section 4 of the Act was issued on 12.5.1995. Vide separate judgment of even date, the compensation therein was assessed @ ₹ 8,00,000/- per acre for the land located on NH-10 Delhi-Hissar road upto the depth of three acres from the main road; ₹ 5,50,000/- per acre for the land located on Nazafgarh-Bahadurgarh road upto the depth of three acres and for rest of the land @ ₹ 4,00,000/- per acre.

56. A perusal of the various sale transactions produced on record by the parties show a lot of variation in the price range. In fact, apparently the parties had not been fair in producing the relevant evidence on record, which could be clinching for assessment of compensation. The fact cannot be denied that the acquired land on one side is abutting old Bahadurgarh town and on the other side, the land for development as Sectors 9 and 9-A was acquired about 7 years back, in my opinion, in this case to balance the equities, guess work has to be applied.

57. Keeping in view the totality of circumstances and material placed on record, coupled with the fact that the land pertaining to the revenue estate of village Bahadurgarh is close to old city of

Bahadurgarh and the land of other revenue estates, namely, Bir Barktabad, Sarai Aurangabad and Balore is away from that, in my opinion, the value of the land of revenue estate of village Bahadurgarh is assessed @ ₹ 13,00,000/- per acre and for the land pertaining to other revenue estates, namely, Sarai Aurangabad, Balore and Bir Barktabad, the value is assessed @ ₹ 10,00,000/- per acre. Ordered accordingly. The landowners shall also be entitled to all statutory benefits available to them under the Act.

58. For the reasons mentioned above, the awards passed by the court below are modified to the extent indicated above. The appeals are disposed of accordingly.

(Rajesh Bindal)
Judge

August 31, 2015
mk

(Refer to Reporter)