

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.F.A. No. 3120 of 2011 (O&M)
Date of decision: October 15, 2015

Harinder Kumar and another

.. Appellants

v.

State of Haryana

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Deepak Sharma, Mr. Jasmer Chand, Mr. Sanjay Jain,
Mr. J. S. Cooner, Mr. Bhag Singh and
Mr. Mukul Aggarwal, Advocates for the landowners.

Mr. Abhinash Jain, Assistant Advocate General, Haryana.

Rajesh Bindal J.

1. This order will dispose of
R.F.A. Nos. 3120 to 3134, 3877 to 3890, 4075 to 4078, 4144,
4796 to 4799, 5432, 5442, 6040 to 6043, 6894, 7539, 7540 of **2011**;
RFA Nos. 1344 to 1403, 3161 to 3200, 3312 to 3314, 4035 to
4038, 4726, 4836, 4841, 4941 to 4992, 4996 to 5059, 5253 to 5257, 5449
to 5502, 6545 of **2012**;
RFA Nos. 421, 422, 441, 469, 1667, 2643 to 2666, 2868, 3357
to 3359, 3508, 3509, 3784 to 3787, 3822 to 3827, 3879 to 3882, 4040,
4041, 4113 to 4117, 4226 to 4238, 4250 to 4254, 4396, 4447, 4499, 4503,
4513, 5035 to 5038, 5044 to 5068, 5080, 5081, 5087, 5412, 5671, 5739,
5740, 5792 to 5798, 5842, 6189, 6192, 6519, 6533, 7075, 7077, 7278, 7505
to 7550, 7698 to 7761, 7885, 7886, 8002 of **2013**;

RFA Nos. 62 to 69, 208, 781 to 783, 1025 to 1028, 1266, 1423, 1596, 1597, 1604 to 1606, 1621 to 1624, 2113, 2141, 2173, 2196, 2235 to 2240, 2437, 2438, 2466 to 2520, 2532, 2820 to 2822, 3112, 3281, 3282, 3339, 3340, 3416, 3417, 3683, 4384 to 4386, 5001, 5239, 5240, 5258, 5376 to 5397, 5972, 6498 to 6506, 6658, 7198, 7821 to 7823, 8656, 8997, 9073, 9074, 9117, 9671, 9819, 10427 of **2014**;

RFA Nos. 48, 52, 139, 140, 185 to 192, 317, 339 to 341, 534 to 536, 543, 546, 548, 553, 635 to 639, 900, 913, 947, 956, 962, 1298 to 1314, 1618 to 1626, 2228, 2263, 2323, 2794, 2883, 2884, 2886 to 2890, 4979 to 5032 and 5420 of **2015**.

2. In the appeals 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.

Acquisition under consideration

3 (i) Vide notification dated 6.11.2003, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), State of Haryana sought to acquire land measuring 6.78 acres in the revenue estate of village Sonda, Hadbast No. 114, Tehsil and District Ambala for development and utilization thereof as public utilities area for Sector 10 (Pocket), Ambala City. The same was followed by notification dated 15.7.2004, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector') vide award No. 1 dated 26.4.2006, assessed the market value of the acquired land @ ₹ 8,00,000/- per acre. (However, in certified copy of the award, it has been wrongly mentioned as ₹ 52,85,500/- per acre.

Dissatisfied with the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below vide award dated 2.2.2011 assessed the market value of the acquired land @ ₹ 512/- per square yard.

(ii) Vide notification dated 28.2.2006, issued under Section 4 of the Act, State of Haryana sought to acquire 65.89 acres of land, situated within the revenue estate of village Jandli, HB No. 113, 10.74 acres in village Kanwali, HB No. 111, 16.80 acres in village Sonda,

HB No. 114 and 1.82 acres in village Sarai Mehdood, HB No. 112 for development and utilisation thereof as residential and industrial area for Sector 23, Ambala City. The same was followed by notification dated 27.2.2007, issued under Section 6 of the Act. The Collector, vide award No. 4 dated 3.3.2009, assessed the market value of the acquired land of village Jandli @ ₹ 10,00,000/- per acre and @ ₹ 8,00,000/- per acre for the remaining three villages.

Dissatisfied with the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below vide award dated 29.8.2014, assessed the market value of the acquired land @ ₹ 2,950/- per square yard.

(iii) Vide notification dated 20.7.2006, issued under Section 4 of the Act, State of Haryana sought to acquire 215.46 acres of land in village Kanwla, HB No. 110, 102.26 acres in village Kanwali, HB No. 111, 12.93 acres in village Jandli, HB No. 113 and 0.13 acres in village Sarai Mehdood, HB No. 112 Tehsil and District Ambala for development and utilisation thereof as Sector 22, HUDA, Ambala City. The same was followed by notification dated 19.7.2007, issued under Section 6 of the Act. The Collector, vide award No. 3 dated 17.7.2009, assessed the market value of the acquired land @ ₹ 8,00,000/- per acre for the land pertaining of villages Kanwla, Kanwli and Sarai Mehdood and @ ₹ 10,00,000/- per acre for the land pertaining to village Jandli.

Dissatisfied with the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below vide award dated 24.4.2012, assessed the market value of the acquired land @ ₹ 499/- per square yard.

(iv) Vide notification dated 18.10.2006, issued under Section 4 of the Act, State of Haryana sought to acquire 2.48 acres of land in village Sarai Mehdood, HB No. 112, 3.06 acres in village Jandli, HB No. 113 and 4.96 acres in village Matheri Jattan, HB No. 120, Tehsil and District Ambala for remodelling of Model Town drain. The same was followed by notification dated 19.10.2006, issued

under Section 6 of the Act. The Collector, vide award No. 31 dated 31.10.2007, assessed the market value of the acquired land @ ₹ 8,00,000/- per acre for all kinds of land of villages Sarai Mehdood & Matheri Jattan and ₹ 10,00,000/- per acre for village Jandli.

Dissatisfied with the award of the Collector, the land owners filed objections. On reference under Section 18 of the Act, the learned court below vide award dated 31.10.2014 assessed the market value of the acquired land @ ₹ 499/- per square yard.

4. The aforesaid awards, except the award where notification under Section 4 of the Act was issued on 18.10.2006, have been challenged by the landowners as well as the State in the present bunch of appeals. No appeal has been filed by the State pertaining to acquisition vide notification dated 18.10.2006.

Arguments on behalf of landowners

5. Learned counsel for the landowners submitted that first acquisition in the bunch of cases was carried out on 6.11.2003 for the purpose of public utilities area for Sector 10 (Pocket), Ambala City, for which a small portion of land adjoining to the already developed area of Sector 10 was acquired. The learned Reference Court in the case in hand awarded compensation @ ₹ 512/- per square yard while granting increase for the time gap of 14 years and 9 months on ₹ 185/- per square yard assessed as compensation for acquisition of land for Sector 10, Ambala City, where notification under Section 4 of the Act was issued on 2.2.1989. The compensation of ₹ 185/- per square yard was assessed by this Court in LPA No. 292 of 1999—Manohar Lal Khurana v. State of Haryana, decided on 22.2.2006. The aforesaid compensation was increased to ₹ 430/- per square yard by Hon'ble the Supreme Court in —Ashrafi and others v. State of Haryana and others, (2013) 5 SCC 527. Considering the principles adopted by Hon'ble the Supreme Court in Ashrafi's case (supra), similar increase to which the landowners are entitled to is @ 12% per annum with cumulative effect. However, considering the pace of development in the area during the aforesaid period, the landowners are entitled to increase @ 15% per annum.

6. He further submitted that Hon'ble the Supreme Court had assessed the value of the land while placing reliance upon acquisition of land for Sector 7, Ambala City, where notification under Section 4 of the Act was issued on 30.1.1973. Placing reliance thereupon and granting increase for the time gap, the compensation for acquisition of land for Sector 9, Ambala City, where notification under Section 4 of the Act was issued on 26.5.1981, was assessed. He further submitted that even after 1989, vide notification dated 6.7.2000 for Sector 10, Ambala City, 47.09 acres of land of village Sonda was acquired for construction of water works as canal based scheme for Urban Estate, Ambala City. For assessment of compensation in that case, this Court in RFA No. 5605 of 2009—State of Haryana v. Gurdeep Singh and another, decided on 5.8.2015, placed reliance upon the award pertaining to assessment of compensation for acquisition of land for Sector 9, Ambala City, where notification under Section 4 of the Act was issued on 26.5.1981. Though there was a time gap of 19 years, but still while granting increase only for a period of 14 years @ 12% per annum with cumulative effect, this court assessed the compensation @ ₹ 879/- per square yard.

7. With reference to acquisition for Sector 23, Ambala City, where notification under Section 4 of the Act was issued on 28.2.2006, the land pertained to four revenue estates. Initially 253.30 acres of land was notified under Section 4 of the Act, however, finally 95.25 acres of land was acquired and 158.05 acres of land was released from acquisition as a private builder, namely, Vatika had purchased major part of the same. He was even granted licence for development as a colony. That itself shows the potentiality of the land, as the private builders had also stepped in. He did not deny the fact that though the land was purchased by the builders close to the acquisition of land, still the sale deeds pertaining thereto have not been produced in evidence claiming that those were distress sales. The learned Reference Court for the purpose of assessment of compensation for this acquisition, while relying upon the assessment made in Ashrafi's case (supra) for acquisition vide notification dated 2.2.1989, granted increase for

the time gap in two acquisitions and assessed the compensation @ ₹ 2,950/- per square yard. He further submitted that though the aforesaid calculation is in terms of the principle adopted by Hon'ble the Supreme Court in Ashrafi's case (supra), however, still considering the pace of development and future potentiality of the land, the landowners deserve to be granted increase at least @ 15% per annum. Site plan Ex. PW7/A (LAC No. 163 of 2011) shows the exact location of the land.

8. With reference to acquisition for Sector 22, Ambala City, where notification under Section 4 of the Act was issued on 20.7.2006, learned counsel for the landowners submitted that the aforesaid land is adjoining to Sector 23, Ambala City and close to Sector 10, Ambala City, already developed. The compensation in the present case was assessed by the Reference Court while placing reliance upon its earlier award pertaining to acquisition, where notification under Section 4 of the Act was issued on 6.11.2003, and the Reference Court had assessed the compensation @ ₹ 512/- per square yard. A cut of 25% was applied thereon and while granting increase for the time gap of 2-1/2 years @ 15% per annum, the amount was assessed @ ₹ 499/- per square yard. The submission is that the principle adopted was totally erroneous. The amount of compensation for the land in question also deserves to be assessed in the same manner while granting increase for the time gap from the earlier acquisition.

9. Learned counsel for the landowners further submitted that the rates at which the compensation had been granted by the Collector for the acquisitions from 1973 onwards clearly establish a fact that there is upward trend in the prices from 1973 onwards. It is only on account of development activities in the area. Had the land been not acquired by the State, the private builders would have stepped in at large scale. This was the only land available for urbanisation. He further submitted that the sale deeds in the area do not depict the correct value, hence, are not being relied upon and only the earlier awards are being referred to.

10. Additional argument raised for acquisition of land vide notification dated 6.11.2003 is that the acquired land is quite small, as there

are only 60 land references. If divided, each of the landowner will own small plots measuring about 547 square yards. In fact, the land in the entire area was being sold in the form of small plots, where people were constructing their houses. It has to be treated in that manner and not simple agricultural land. There were number of colonies already existing close to the acquired land. It was only because of its potentiality. All infrastructural facilities were already available in and around the acquired land, which was well-connected with roads etc.

11. As regards acquisition of land for construction of drain, it was submitted that assessment of compensation by the court below is not just and fair considering the fact that notification under Section 4 of the Act in the present case was issued on 18.10.2006 and the court awarded merely ₹ 499/- per square yard as the compensation. The drain was passing through various villages. For the acquisition carried out vide notification dated 28.2.2006 of villages Jandli, Kanwali, Sonda and Sarai Mehdood, the learned Reference Court assessed the compensation @ ₹ 2,950/- per square yard. In fact, that was the minimum amount of compensation required to be awarded to the landowners pertaining to the aforesaid acquisition.

Arguments on behalf of the State

12. On the other hand, learned counsel for the State submitted that from earlier acquisition for Sector 10, Ambala City, where notification under Section 4 of the Act was issued on 2.2.1989, there is a time gap of 14 years and 9 months till such time notification dated 6.11.2003 was issued seeking to acquire land for public utilities area for Sector 10, Ambala City. The learned court below has wrongly assessed the compensation while awarding increase for the time gap, which was 14 years and 9 months, whereas Hon'ble the Supreme Court in The General Manager, Oil & Natural Gas Corporation Ltd. v. Rameshbhai Jivanbhai Patel and another, (2008) 14 SCC 745 opined that increase for the time gap, if is to be granted, should not be for more than 4 to 5 years. He further submitted that in Ashrafi's case (supra), Hon'ble the Supreme Court has not laid down any proposition of law that increase for time gap of more than 4 to 5 years could be granted. It has only decided the case on facts. Reference to the judgment in The

General Manager, Oil & Natural Gas Corporation Ltd.'s case (supra) was made only for the purpose of grant of increase for the time gap with cumulative effect. There is no discussion with reference to the period for which increase could be granted. He further submitted that in Ashrafi's case (supra), Hon'ble the Supreme Court had not assessed compensation @ ₹ 430/- per square yard for acquisition vide notification dated 2.2.1989, as is sought to be claimed by the landowners. In paragraph No. 42 thereof, it has merely mentioned that the rate, noticed above, i.e., ₹ 325/- per square yard is granted.

13. He further referred to the judgment of Hon'ble the Supreme Court in Kashmir Singh v. State of Haryana and another, 2014(1) RCR (Civil) 512, where though there was time gap of 8 years in two acquisitions, however, increase for a period of 4 years was granted. He further referred to the judgment of Hon'ble the Supreme Court in Ram Kanwar and others v. State of Haryana and another, 2015(1) RCR (Civil) 234 and judgment of this Court in RFA No. 9626 of 2014—Hanuman Singh v. State of Haryana and others, decided on 22.9.2015 in support of his argument that sale deeds are the best exemplars. Those should be preferred as compared to the earlier awards, especially where time gap is too long.

14. Learned counsel further submitted that even while deciding Gurdeep Singh's case (supra), pertaining to acquisition where notification under Section 4 of the Act was issued on 6.7.2000, though there was a time gap of 19 years in between the two acquisitions, however, increase for a period of 14 years only was granted by this court. This demolishes the plea sought to be raised by the landowners that prices had been increasing throughout. He further submitted that the aforesaid judgment of this court is being challenged by the State before Hon'ble the Supreme Court. Summing up the arguments with regard to the aforesaid acquisition, learned counsel submitted that time gap being too long and there being no other evidence referred to by the landowners, there was no question of any increase on the amount of compensation, hence, the appeals filed by the State deserve to be accepted and that of the landowners be dismissed. However, he further submitted that it being a case of no evidence, the cases can also be remitted

back to the court below permitting the parties to lead further evidence to enable the court to assess fair amount of compensation.

15. Learned counsel for the State submitted that the amount of compensation awarded to the landowners for the land acquired for construction of drain is more than what the landowners deserved. However, as the State has not filed appeal, it cannot seek reduction in compensation. No case is made out for grant of any increase.

16. Replying to the contentions raised by learned counsel for the landowners with reference to acquisition of land for development as Sector 22, Ambala City, where notification under Section 4 of the Act was issued on 20.7.2006, learned counsel for the State submitted that though in the aforesaid case both the parties led evidence, which clearly justified the award of the Collector, but still the landowners are not relying upon any of the sale deeds produced on record by them, rather, they are merely basing their claim on the earlier award and seeking increase for the time gap. The period for which increase will be granted in these cases, it related back to the first case where acquisition was carried out in 30.1.1973, will be more than 33 years. This was never envisaged in any of the judgments. There cannot possibly be static increase of price of land @ 12% per annum with cumulative effect for such a long period. He further submitted that some of the sale deeds produced by the State on record form part of the acquired land.

17. Attacking the reasoning given by the court below rejecting all the sale deeds produced by the State as the same were less than the award of the Collector, learned counsel for the State submitted that those could not be ignored altogether. It is only that the court could not grant compensation less than the award of the Collector. Otherwise, these sale deeds could very well be considered for the purpose of assessment of compensation. In support of the plea, reliance was placed upon judgment of Hon'ble the Supreme Court in Lal Chand v. Union of India and another, (2009) 15 SCC 769.

18. With reference to notification dated 28.2.2006, where the land was acquired for development as Sector 23, Ambala City, learned counsel

for the State submitted that even in this case also, though the landowners had produced sale deeds, but none of them is sought to be relied upon as those do not suggest value of the land, as is sought to be claimed. That is the reason that reliance is sought to be placed only on the earlier award and increase for long time gap is being claimed.

19. Heard learned counsel for the parties and perused the paper book.

Principles for assessment of compensation

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

“10. It is well settled in determining compensation for the acquired land, price paid in a bona fide transaction of sale by a willing seller to a willing buyer is adopted subject to such transaction being for land adjacent to acquired land, proximate to the date of acquisition and possessing similar advantages. Of course, there are other well-known methods of valuation like opinion of experts and yield method. In absence of any evidence of a similar transaction, it is permissible to take into account transaction of nearest land around the date of notification under Section 4 of the Act by making a suitable allowance. There can be no fixed criteria as to what would be the suitable addition or subtraction 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:

<i>Plus factors</i>	<i>Minus factors</i>
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, *Tejumaal Bhojwani v. State of U.P.*, (2003) 10 SCC 525, *V. Hanumantha Reddy v. Land Acquisition Officer*, (2003) 12 SCC 642, *H.P. Housing Board v. Bharat S. Negi*, (2004) 2 SCC 184 and *Kiran Tandon v. Allahabad Development Authority*, (2004) 10 SCC 745.)

31. In *University of Agricultural Sciences v. Balanagouda*, Civil Appeals Nos. 62-65, decided on 10.12.2003 (SC) whereupon Mr Ranjit Kumar placed strong reliance, the Court noticed that if the acquisition is made for agricultural purpose, question of development thereof would not arise; but if the sale instance was in respect of a small piece of land whereas the acquisition is for a large piece of land, although development cost may not be deducted, there has to be deduction for largeness of the land and also for the fact that these are agricultural lands. In that view of the matter, deduction at the rate of 33% made by the High Court was upheld. It may not, therefore, be correct to contend, as has been submitted by Mr. Ranjit Kumar, that there cannot be different deductions, one for the largeness of the land and another for development costs.”

21. 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.”

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

“4. In order to determine the compensation which the tenure-holders are entitled to get for their land which has been acquired, the main question to be considered is what is the market value of the land. Section 23(1) of the Act lays down what the court has to take into consideration while Section 24 lays down what the court shall not take into consideration and have to be neglected. The main object of the enquiry before the court is to determine the market value of the land acquired. The expression ‘market value’ has been the subject-matter of consideration by this Court in several cases. The market value is the price that a willing purchaser would pay to a willing seller for the property having due regard to its existing condition with all its existing advantages and its potential possibilities when led out in most advantageous manner excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. In considering market value disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy should be disregarded. The guiding star would be the conduct of hypothetical willing vendor who would offer the land and a purchaser in normal human conduct would be willing to buy as a prudent man in normal market conditions but not an anxious dealing at arm’s length nor facade of sale nor fictitious sale brought about in quick succession or otherwise to inflate the market value. The determination

of market value is the prediction of an economic event viz. A price outcome of hypothetical sale expressed in terms of probabilities. See Kamta Prasad Singh v. State of Bihar (1976) 3 SCC 772, Prithvi Raj Taneja v. State of M.P. (1977) 1 SCC 684, Administrator General of W.B. v. Collector (1988) 2 SCC 150 and Periyar Pareekanni Rubbers Ltd. v. State of Kerala (1991) 4 SCC 195.

5. For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into state of actuality. It is well settled that market value of a property has to be determined having due regard to its existing condition with all its existing advantages and its potential possibility when led out in its most advantageous manner. The question whether a land has potential value or not, is primarily one of fact depending upon its condition, situation, user to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like water, electricity, possibility of their further extension, whether near about a town is developing or has prospect of development have to be taken into consideration. See Collector v. Dr. Harisingh Thakur (1979) 1 SCC 236, Raghubans Narain Singh v. U.P. Govt. AIR 1967 SC 465 and Administrator General of W.B. v. Collector (1988) 2 SCC 150. It has been held in Kausalya Devi Bogra v. Land Acquisition Officer (1984) 2 SCC 324 and Suresh Kumar v. Town Improvement Trust (1989) 2 SCC 329 that failing to consider potential value of the acquired land is an error of principle.”

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

23. The issue regarding application of reasonable cut while considering the sale deeds pertaining to small plots was considered by Hon'ble the Supreme Court in Major General Kapil Mehra and others v. Union of India and another, (2015) 2 SCC 262. The application of cut falls in two categories, namely, the area required to be utilised for development works and infrastructural facilities and the second is regarding cost of development. The principles for the purpose as laid down in Lal Chand's case (supra) were reiterated by Hon'ble the Supreme Court in Major General Kapil Mehra's case (supra). Para 40 thereof is extracted below:

“40. Rule of one third deduction towards development appears to be the general rule. But so far as Delhi Development Authority is concerned, or similar statutory authorities, where well planned layouts are put in place, larger land area may be utilized for forming layout, roads, parks and other common amenities. Percentage of deduction for development of land to be made in DDA or similar statutory authorities with reference to various types of layout was succinctly considered by this Court in Lal Chand's case (supra) and observing that the deduction towards the development range from 20% to 75% of the price of the plots, in paras 13 to 22, this Court held as under:

“13. The percentage of “deduction for development” to be made to arrive at the market value of large tracts of undeveloped agricultural land (with potential for development), with reference to the sale price of small developed plots, varies between 20% to 75% of the price

of such developed plots, the percentage depending upon the nature of development of the layout in which the exemplar plots are situated.

14. The “deduction for development” consists of two components. The first is with reference to the area required to be utilized for developmental works and the second is the cost of the development works. For example, if a residential layout is formed by DDA or similar statutory authority, it may utilize around 40% of the land area in the layout, for roads, drains, parks, playgrounds and civic amenities (community facilities), etc.

15. The development authority will also incur considerable expenditure for development of undeveloped land into a developed layout, which includes the cost of levelling the land, cost of providing roads, underground drainage and sewage facilities, laying water lines, electricity lines and developing parks and civic amenities, which would be about 35% of the value of the developed plot. The two factors taken together would be the “deduction for development” and can account for as much as 75% of the cost of the developed plot.

16. On the other hand, if the residential plot is in an unauthorized private residential layout, the percentage of “deduction for development” may be far less. This is because in an unauthorized layout, usually no land will be set apart for parks, playgrounds and community facilities. Even if any land is set apart, it is likely to be minimal. The roads and drains will also be narrower, just adequate for movement of vehicles. The amount spent on development work would also be comparatively less and minimal. Thus the deduction on account of the two

factors in respect of plots in unauthorized layouts, would be only about 20% plus 20% in all 40% as against 75% in regard to DDA plots.

17. The “deduction for development” with reference to prices of plots in authorized private residential layouts may range between 50% to 65% depending upon the standards and quality of the layout.

18. The position with reference to industrial layouts will be different. As the industrial plots will be large (say of the size of one or two acres or more as contrasted with the size of residential plots measuring 100 sq. m to 200 sq. m), and as there will be very limited civic amenities and no playgrounds, the area to be set apart for development (for roads, parks, playgrounds and civic amenities) will be far less; and the cost to be incurred for development will also be marginally less, with the result the deduction to be made from the cost of an industrial plot may range only between 45% to 55% as contrasted from 65% to 75% for residential plots.

19. If the acquired land is in a semi-developed urban area, and not an undeveloped rural area, then the deduction for development may be as much less, that is, as little as 25% to 40%, as some basic infrastructure will already be available. (Note: The percentages mentioned above are tentative standards and subject to proof to the contrary).

20. Therefore the deduction for the “development factor” to be made with reference to the price of a small plot in a developed layout, to arrive at the cost of undeveloped land, will be far more than the deduction with reference to the price of a small plot in an unauthorized private layout or an industrial layout. It is also well known that the development cost incurred by statutory agencies is

much higher than the cost incurred by private developers, having regard to higher overheads and expenditure.

21. Even among the layouts formed by DDA, the percentage of land utilized for roads, civic amenities, parks and playgrounds may vary with reference to the nature of layout-whether it is residential, residential-cum- commercial or industrial; and even among residential layouts, the percentage will differ having regard to the size of the plots, width of the roads, extent of community facilities, parks and playgrounds provided.

22. Some of the layouts formed by the statutory development authorities may have large areas earmarked for water/sewage treatment plants, water tanks, electrical substations, etc. in addition to the usual areas earmarked for roads, drains, parks, playgrounds and community/civic amenities. The purpose of the aforesaid examples is only to show that the “deduction for development” factor is a variable percentage and the range of percentage itself being very wide from 20% to 75%, Lal Chand's case deals with acquisition of lands by DDA under the Rohini Residential Housing Scheme where 40% deduction was made towards the land area to be utilized for laying down of roads, drains etc. Further deduction of 35% of the value of the developed plot towards cost of levelling the land, cost of providing roads, underground drainage, laying down water lines, electricity lines was made.”

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

as under:

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

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

26. Hon'ble the Supreme Court in General Manager, ONGC Ltd.'s case (supra) opined that increase, if any, to be granted for the time gap in two acquisitions, should normally be not for a period of more than 4 to 5 years. Relevant paragraph thereof is extracted below:

“15. Normally, recourse is taken to the mode of determining the market value by providing appropriate escalation over the proved market value of nearby lands in previous years (as evidenced by sale transactions or acquisitions), where there is no evidence of any contemporaneous sale transactions or acquisitions of comparable lands in the neighbourhood. The said method is reasonably safe where the relied-on sale transactions/ acquisitions precede the subject acquisition by only a few years, that is, up to four to five years. *Beyond that it may be unsafe, even if it relates to a neighbouring land. What*

may be a reliable standard if the gap is of only a few years, may become unsafe and unreliable standard where the gap is larger. For example, for determining the market value of a land acquired in 1992, adopting the annual increase method with reference to a sale or acquisition in 1970 or 1980 may have many pitfalls. This is because, over the course of years, the 'rate' of annual increase may itself undergo drastic change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices affecting the very standard of increase.”

[emphasis supplied]

Evidentiary value of sale deeds produced by the State showing value less than the award of the Collector

27. The contention sought to be raised by learned counsel for the landowners was that the sale deeds produced by the State showing value less than the award of the Collector deserve to be rejected as such. For the purpose reference was made to Section 25 of the Act. The aforesaid Section only provides that the amount of compensation awarded by the court shall not be less than the amount awarded by the Collector, otherwise the same can be considered for assessment of fair value of the land. Similar issue came up for consideration before Hon'ble the Supreme Court in Lal Chand's case (supra), wherein it was opined as under:

“23. The High Court also rejected Ex. R3 to R7 relied upon by the respondents, solely on the ground that the prices therein were lower than the market value offered by Land Acquisition Collector and therefore, they had to be excluded under Section 25 of the LA Act. Section 25 provides that the amount of compensation awarded by the reference court shall not be less than the amount awarded by the Collector under section 11. We fail to see how the said section has any relevance in regard to determination of market value as contrasted from award of compensation. If the sale deeds relied on by the respondents showed a particular market value, they cannot be ignored merely because the Collector had awarded compensation at a

higher rate in regard to the acquired land. All what section 25 requires is that the courts should not award an amount which is less than what is awarded by the Land Acquisition Collector, even if the evidence may show a lesser market value. So, the bar under Section 25 of the LA Act is not in regard to determination of a market value, which is less than what was awarded by the LAO. The bar is only upon the reference court (or any higher court) reducing the compensation awarded by the Land Acquisition Collector. The fact that the Land Acquisition Collector has awarded compensation at a particular rate does not mean that the sale deeds which are otherwise reliable, cannot be relied upon to find out what was the real market value.....”

[Emphasis supplied]

Hence, the contention of the landowners being misconceived, is rejected.

Location of the land, the earlier acquisitions and the awards therein

28. First acquisition in the city, as is evident from the material on record, was made for development as Sector 7, Ambala City, pertaining to revenue estate of Patti Mehar. Notification under Section 4 of the Act therein was issued on 30.1.1973. The aforesaid land was located adjoining to the old city at some distance from bus stand. The compensation therefor was assessed by this Court @ ₹ 70/- per square yard in LPA No. 1340 of 1982—Om Parkash v. State of Haryana, decided on 28.11.1990.

29. Thereafter, the land pertaining to revenue estates of villages Patti Mehar, Sonda and Jandli was acquired for development as Sector 9, Ambala City, which was located moving away from the city on Ambala-Hisar road. There is railway line in between. The acquired land for Sector 9 is not abutting Ambala-Hissar road, rather, in between is Sector 8. Beyond that is Sector 9, which on one side abuts the railway line. Notification under Section 4 of the Act therefor was issued on 26.5.1981. For this acquisition, in LPA No. 366 of 1999—Surinder Kumar v. State of Haryana, decided on 7.12.2005, this court assessed the compensation @ ₹ 110/- per square yard.

In Ashrafi's case (supra), Hon'ble the Supreme Court relying upon the compensation awarded for Sector 7, Ambala City and granting increase for the time gap of 8 years, assessed the compensation @ ₹ 180/- per square yard.

30. Thereafter, the land pertaining to revenue estates of Sonda and Jandli was acquired for development as Sector 10, Ambala City. Notification under Section 4 of the Act therein was issued on 2.2.1989. It is located beyond Sector 9, one side of which does not abut, but is close to Jalbera road emanating from Ambala-Hissar road. For the aforesaid land, the landowners claimed that Hon'ble the Supreme Court awarded compensation @ ₹ 430/- per square yard while granting increase for the time gap, primarily placing reliance on the acquisition of land for development as Sector 7, however, this fact was disputed by learned counsel for the State, as no amount as such has been mentioned in the judgment of Hon'ble the Supreme Court in Ashrafi's case (supra). This court is not opining anything on this, as the issue is subject-matter of dispute pending before the executing court and not in present proceedings. The stand of the State is that Hon'ble the Supreme Court in Ashrafi's case (supra) had awarded the compensation therein @ ₹ 325/- per square yard.

31. Thereafter, vide notification dated 6.7.2000, land pertaining to village Sonda was acquired for construction of water works as canal based scheme for Urban Estate, Ambala City. It is adjoining to Sector 10 but located away from the city. This Court in Gurdeep Singh's case (supra), decided on 5.8.2015, again relying upon the award pertaining to acquisition of land for development as Sector 9, where notification under Section 4 of the Act was issued on 26.5.1981, though there was a time gap of 19 years in between two acquisitions, granted increase for a period of 14 years. The stand of learned counsel for the State was that the State is in the process of filing appeals before Hon'ble the Supreme Court against the aforesaid judgment.

32. Thereafter, vide notification dated 6.11.2003, land pertaining to revenue estate of village Sonda, was acquired for public utilities area for Sector 10, Ambala City. The Reference Court assessed the compensation @

₹ 512/- per square yard. The valuation of land acquired vide aforesaid notification is subject-matter of consideration in the present set of appeals.

33. Vide notification 28.2.2006, land pertaining to villages Jandli, Sonda, Kanwali and Sarai Mehdood was acquired for development as Sector 23, Ambala City. The Reference Court assessed the compensation in that case @ ₹ 2,950/- per square yard. The acquired land is located beyond Sector 10, i.e., further away from the city. The valuation of land acquired vide aforesaid notification is also subject-matter of consideration in the present set of appeals.

34. Vide notification dated 20.7.2006, land pertaining to villages Kanwla, Kanwali, Jandli and Sarai Mehdood, was acquired for development as Sector 22, Ambala City. The acquired land is still further away from the city abutting Railway line on one side and Cantonment boundary on the other side. The Reference court in the aforesaid case assessed the compensation @ ₹ 499/- per square yard. The valuation of land acquired vide aforesaid notification is also subject-matter of consideration in the present set of appeals.

35. A perusal of the aforesaid awards shows that though after the acquisition of land for construction of canal based water supply scheme for Urban Estate, Ambala City, where notification under Section 4 of the Act was issued on 6.7.2000, the land was acquired for public utilities area for Sector 10, vide notification dated 6.11.2003. Thereafter, vide notification dated 28.2.2006, the land was acquired for residential and industrial area for Sector 23, Ambala City and vide notification dated 20.7.2006, the land was acquired for development as Sector 22. However, the learned Reference Court decided the cases pertaining to the acquisition of land vide notification dated 20.7.2006 earlier and thereafter the cases pertaining to acquisition of land vide notification dated 28.2.2006 were decided. For sake of convenience, the same are extracted below in tabulated form:

Date of notification	Amount awarded by the Collector per acre in ₹	Amount awarded by the Reference Court per sq. yard in ₹	Date of award of the Reference Court
6.11.2003	8,00,000/-	512/-	2.2.2011

28.2.2006	10,00,000/- for village Jandli & 8,00,000/- for remaining villages	2,950/-	29.8.2014
20.7.2006	10,00,000/- for village Jandli & 8,00,000/- for remaining villages	499/-	24.4.2012
18.10.2006	8,00,000/- for all kinds of land of villages Sarai Mehdood & Matheri Jattan & 10,00,000/- for village Jandli	499/-	31.10.2014

36. The manner in which the cases have been decided created anomalous situation. The cases, where the acquisition was subsequent in time, the compensation awarded was ₹ 499/- per square yard, whereas for the acquisition which was earlier in time, the compensation awarded was ₹ 2,950/- per square yard. 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.

Evidence produced on record by the landowners & the State

37. Though at the time of hearing, the landowners did not wish to place reliance upon any of the sale deeds produced on record by them and merely placed reliance on the award pertaining to earlier acquisition, where notification under Section 4 of the Act was issued 2.2.1989, however, a perusal of the record shows that in the cases pertaining to acquisition of land for public utilities area for Sector 10, the landowners merely placed reliance upon the earlier award, whereas in the cases pertaining to acquisitions, where notifications under Section 4 of the Act were issued on 28.2.2006 and 20.7.2006, the evidence was led by the landowners as well as the State. The same is extracted below:

Sale deeds produced by the landowners in cases pertaining to acquisition
vide notification dated 28.2.2006

LAC No.69 of 2010

Ex.	Date	Area sold	Village	Total sale consideration in ₹	Average sale consideration per sq. yd. in ₹
P1	17.7.2003	33.33 sq. yds. (plot No. 1)	Jandli	1,00,000/-	3,000.30
P2	18.6.2004	31 sq. yards	-do-	1,30,000/-	4,193.54
P3	16.8.2004	2K-16M (Goverdhan Nagar)	-do-	21,00,000/-	1,239.66
P4	16.8.2004	279 sq. yds. (H.No. 2693/2, Ambala City)	Jalbera	4,24,000/-	1,519.71
P5	10.11.2004	165.76 sq. yds. (H.No. 1157, Sector 9)	Urban Estate	8,00,000/-	4,826.25
P6	14.9.2004	13.88 sq. yds. (plot No. 6)	Jandli	25,000/-	1,081.15
P7	20.9.2004	28 sq. yds. (plot No. 5)	-do-	50,000/-	1,785.71
P8	15.2.2005	27 sq. yds. (shop)	-do-	1,12,500/-	4,166.66
P9	26.4.2005	50 sq. yds. (plot No. 47)	Sonda	1,00,000/-	2,000.00
P10	27.4.2005	80 sq. yds. (plot No. 20-21)	Jandli	3,05,000/-	3,812.05
P11	20.5.2005	104 sq. yds. (H.No. 117)	Kanwla	2,75,000/-	2,644.23
P12	5.8.2005	46 sq. yds. (plot No. 13)	Sonda	50,000/-	1,086.95
P13	7.9.2005	26.38 sq. yds. (shop No. 17)	Jandli	95,000/-	3,601.21
P14	26.9.2005	22.22 sq. yds.	Kanwla	30,000/-	1,350.13
P15	20.12.2005	50 sq. yds.	Sonda	1,10,000/-	2,200.00
P16	30.12.2005	133.33 sq. yds. (plot No. 68)	Jandli	4,55,000/-	3,412.58
P17	30.1.2006	40.33 sq. yds. (plot No. 5)	Sonda	80,000/-	1,983.63
P18	6.2.2006	24.44 sq. yds.	Jandli	50,000/-	2,045.82
P19	21.2.2006	13 sq. yds. (plot No. 9)	-do-	35,000/-	2,692.30
P20	22.3.2006	2K-18M	-do-	20,00,000/-	1,139.92
P21	22.3.2006	2K-17M	-do-	20,00,000/-	1,159.92
P22	22.3.2006	2K-16M	-do-	20,00,000/-	1,180.63
P23	22.3.2006	2K-18M	-do-	20,00,000/-	1,139.92
P24	22.3.2006	2K-18M	-do-	20,00,000/-	1,139.92
P25	22.3.2006	2K-17M	-do-	20,00,000/-	1,159.92

P26	20.4.2006	22.66 sq. yds.	-do-	46,000/-	2,030.00
P27	20.4.2006	22.22 sq. yds.	-do-	45,000/-	2,025.20
		(plot No. 27)			
P28	10.5.2006	36.66 sq. yds.	-do-	73,500/-	2,004.90
		(plot No. 14)			
P29	16.5.2006	295 sq. yds.	-do-	5,31,000/-	1,800.00
		(plot No. 3)			
P30	31.5.2006	36.66 sq. yds.	-do-	74,000/-	2,018.54
		(plot No. 10-11)			
P31	2.6.2006	100 sq. yds.	Kanwla	49,000/-	490.00
P32	2.6.2006	28.11 sq. yds.	Jandli	56,500/-	2,009.96

Sale deeds produced by the landowners in cases pertaining to acquisition
vide notification dated 20.7.2006
in LAC No. 9 of 2010

Ex.	Date	Area sold	Village	Total sale consideration in ₹	Average price per square yard in ₹
PW5/1	17.7.2003	33.33 sq. yds.	Jandli	1,00,000/-	3,000.30
		(plot No.1)			
PW5/2	2.6.2006	100 sq. yds.	Kanwla	4,90,000/-	4,900.00
PW5/3	27.4.2005	80 sq. yds.	Jandli	3,05,000/-	3,812.25
		(plot No.20-21)			
PW5/4	20.5.2005	104 sq. yds.	Kanwla	2,75,000/-	2,644.23
		(H.No.111)			
PW5/5	15.2.2005	27 sq. yds.	Jandli	1,12,500/-	4,166.66
PW5/6	30.12.2005	133.33 sq. yds.	-do-	4,55,000/-	3,412.58
		(plot no.68)			
PW5/7	22.3.2006	2K-18M	-do-	20,00,000/-	1,139.92
PW5/8	22.3.2006	2K-17M	-do-	20,00,000/-	1,159.92
PW5/9	22.3.2006	2K-16M	-do-	20,00,000/-	1,180.63
PW5/10	22.3.2006	2K-17M	-do-	20,00,000/-	1,159.92
PW5/11	22.3.2006	2K-18M	-do-	20,00,000/-	1,139.92
PW5/12	22.3.2006	2K-17M	-do-	20,00,000/-	1,159.92
PW5/13	10.11.2004	165.76 sq. yds.	Urban Estate	8,00,000/-	4,826.25
		(H.No.1157, Sector No.9)			
PW5/14	16.8.2004	2K-16M	Jandli	21,00,000/-	1,180.63
		(Goverdhan Nagar)			
PW5/15	18.6.2004	31 sq. yds.	-do-	1,30,000/-	4,193.54
PW5/16	7.9.2005	26.38 sq. yds.	-do-	95,000/-	3,601.21
		(plot No.17)			
PW5/17	21.2.2006	13 sq. yds.	-do-	35,000/-	2,692.30
		(H.No.4261/2)			

PW5/18	6.2.2006	24.44 sq. yds.	-do-	50,000/-	2,045.82
PW5/19	30.1.2006	40.33 sq. yds.	Sonda (plot No. 5)	80,000/-	1,983.63
PW5/20	20.4.2006	22.66 sq. yds.	Jandli	46,000/-	2,030.00
PW5/21	24.4.2006	22.22 sq. yds.	-do- (plot No. 27)	45,000/-	2,025.20
PW5/22	10.5.2006	36.66 sq. yds.	-do- (plot No. 14)	73,500/-	2,004.90
PW5/23	16.5.2006	295 sq. yds.	-do- (plot No.3)	2,65,500/-	900.00
PW5/24	31.5.2006	36.66 sq. yds.	-do- (plot No. 10-11)	74,000/-	2,018.54
PW5/25	2.6.2006	28.11 sq. yds.	-do-	56,500/-	2,009.96
PW5/26	20.12.2005	50 sq. yds.	Sonda (plot No. 47)	1,10,000/-	2,200.00
PW5/27	26.9.2005	22.22 sq. yds.	Kanwla	30,000/-	1,350.13
PW5/28	5.8.2005	46 sq. yds.	Sonda (plot No. 13)	50,000/-	1,086.95
PW5/29	14.9.2004	13.88 sq. yds.	Jandli (plot No. 6)	25,000/-	1,801.15
PW5/30	20.9.2004	28 sq. yds.	Jandli (plot No. 5)	50,000/-	1,785.71
PW5/31	26.4.2005	50 sq. yds.	Sonda (plot No. 47)	1,00,000/-	2,000.00
PW5/32	16.8.2004	279 sq. yds.	Jalbera	4,24,000/-	1,519.71

Sale deeds produced by the State in LAC No. 9 of 2010

Ex.	Date	Area sold	Village	Total sale consideration in ₹	Average price per sq. yard in ₹
R2	19.7.2007	6K-2M	Kanwla	5,70,000/-	155.73
R3	2.11.2006	18K-11M	Kanwla	16,24,000/-	145.91
R4	4.7.2005	4K-0M	Kanwli	3,00,000/-	125.00
R5	3.7.2006	78K-14M	Kanwli	66,86,250/-	141.59
R6	13.4.2006	4K-17M	Kanwla	4,25,000/-	146.04
R7	16.5.205	5K-7M	Kanwli	4,02,000/-	125.23
R8	31.3.2006	4K-0M	Kanwla	1,10,000/-	45.83

38. For the purpose of development as Sector 23, the land acquired pertained to revenue estates of village Jandli, Kanwali, Sonda and Sarai Mehdood. From the site plan (Ex. PW6/D in LAC No. 9 of 2010), it is evident that the revenue estate of village Jandli is closed to the already developed area, the land of which was earlier acquired for Sector 9. In the

evidence led by the landowners in the cases pertaining to acquisition of land, where notification under Section 4 of the Act was issued on 28.2.2006, the landowners produced on record sale deeds pertaining to villages Jandli, Jalbera, Kanwla and Sonda. The area dealt with in various sale deeds ranges from 13.88 square yards to 2 kanal and 18 marlas. In the aforesaid evidence, in the earliest sale deed (Ex. P1) registered on 17.7.2003 for 33.33 square yards, the average sale consideration is ₹ 3,000.30 per square yard and in the latest sale deed (Ex. P19) dated 21.2.2006 for 13 square yards, the average sale consideration is ₹ 2,692.30 per square yard. Meaning thereby, even for the land, which was about 1/3rd of the land dealt with in sale deed (Ex. P1), the sale consideration after 2-1/2 years was less than the sale consideration paid in that sale deed.

39. Pertaining to land of village Sonda, in the earliest sale deed (Ex. P9) dated 26.4.2005 for 50 square yards, the average sale consideration paid is ₹ 2,000/- per square yard and in the latest sale deed (Ex. P17) dated 30.1.2006, for 40.33 square yards, the average sale consideration is ₹ 1,983.63 per square yard. The landowners have placed on record sale deeds Ex. P20 to Ex. P30 and Ex. P32 pertaining to revenue estate of village Jandli, which were registered after the issuance of notification under Section 4 of the Act. The average sale consideration paid therein ranges from ₹ 1,139.92 (sale deed dated 22.3.2006 for area 2 kanal 18 marlas) to 2,025.20 (sale deed dated 20.4.2006 for area 22.22 square yards). The landowners did not produce any sale deed pertaining to the revenue estates of villages Kanwali and Sarai Mehdood, land of which has been acquired vide aforesaid notification.

40. For the purpose of development as Sector 22, the land acquired pertained to revenue estates of villages Kanwali, Jandli, Kanwla and Sarai Mehdood. The area dealt with in various sale deeds ranges from 13.88 square yards to 2 kanal and 18 marlas. In the aforesaid evidence, pertaining to land of village Jandli, in the earliest sale deed (Ex. PW5/1) registered on 17.7.2003 for 33.33 square yards, the average sale consideration paid is ₹ 3,000.30 per square yard and in the latest sale deed (Ex. PW5/25) dated

2.6.2006 for 28.11 square yards, the average sale consideration paid is ₹ 2,009.96 per square yard. This shows the trend of prices pertaining to land of village Jandli. For the sale deed registered on 17.7.2003, the average sale consideration paid is ₹ 3,000.30 per square yard, whereas for the subsequent sale deed dated 2.6.2006, the average sale consideration paid is ₹ 2,009.96 per square yard. For the land pertaining to village Kanwla, in the earliest sale deed (Ex. PW5/2) dated 2.6.2006, for the plot measuring 100 square yards, the average sale consideration paid is ₹ 4,900/- per square yard, whereas in the sale deed (Ex. PW5/4) dated 20.5.2005, for the plot measuring 104 square yards, the average sale consideration paid is ₹ 2,644.23 per square yard. The landowners have produced sale deeds pertaining to village Jandli and Kanwla. They did not produce any evidence pertaining to the revenue estates of villages Kanwali and Sarai Mehdood, land of which has also been acquired vide aforesaid notification.

41. The learned Reference Court did not refer to any of the sale deed produced by the State in the impugned award, though there are some on record.

42. The landowners for the aforesaid acquisitions are seeking compensation @ ₹ 2,950/- per square yard relying upon the award pertaining to acquisition of land vide notification dated 2.2.1989 by seeking increase for the time gap of 17 years. Further, it was claimed by the landowners that the land was purchased by a private builder adjoining to Sector 23 and close to the notification issued under Section 4 of the Act. Though the landowners did not produce any sale deed pertaining to purchase of land by any builder, however, the State produced one sale deed Ex. R5 (LAC No. 9 of 2010). None of the counsels referred to the same at the time of hearing the arguments.

43. In Ashrafi's case (supra), before Hon'ble the Supreme Court, the issue regarding grant of increase for the time gap was neither referred to nor considered.

44. The site plan (Ex. PW6/D in LAC No. 9 of 2010) produced by the landowners on record is attractive, but can mislead also. On the site

plan, it shows Railway Station and Bus Stand of Ambala Cantt just close to the acquired land. On the index prepared in the site plan, its distance has been shown as 2,636 yards from Railway Station and 2,837 yards from Bus Stand Ambala Cantt. It has not been mentioned as to whether the aforesaid distance is by crow fly or by road. Learned counsel for the State had pointed out all distances mentioned on the plan, which according to him, were by crow fly and not if one moves by road. Hence, that aspect is also required to be considered. It has not been so specified in the index prepared on the site plan produced by the landowners. The site plan does not show as to whether number of establishments referred to therein were existing when the notification under Section 4 of the Act was issued or were later in time.

45. Considering the aforesaid factual matrix and finding that the learned court below has not properly appreciated the principles laid down for assessment of compensation for the acquired land with reference to reliance on the earlier awards or the sale deeds, in my opinion, the matters deserve to be remitted back to the court below, as the object is fair determination of compensation payable to the landowners, whose land has been acquired. As the matters are being remitted back, the parties shall be at liberty to lead even further evidence in support of their respective claims.

The learned court below shall decide the matters afresh in accordance with law on the basis of evidence produced on record.

46. For the purpose of assessment of compensation for remodelling of Model Town Drain, reliance was placed upon the compensation awarded for acquisition of land, where notification under Section 4 of the Act was issued on 18.10.2006 and those cases also having been remitted back, in my opinion, even the cases in hand also deserve to be remitted back as the notification in question is the latest in series and further partly the land falling in the same area has been acquired. The drain runs into few kilometres. For the purpose of assessment of compensation in such like situation, reference can be made to the judgment of this court in State of Haryana and another v. Pala Ram and others, (2013) 4 RCR (Civil) 165.

47. The parties through their counsels are directed to appear before the learned District Judge, Ambala on 15.2.2016 who shall either keep the

references with him or assign to any of the Additional District Judge for disposal.

46. The appeals are disposed of in the manner indicated above.

(Rajesh Bindal)
Judge

October 15, 2015
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(Refer to Reporter)