IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.1853 of 2012 and other connected matters
Date of decision: 05.02.2016

Attar Singh

... Appellant

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Pawan Kumar, Senior Advocate with
Mr. Abhimanyu Batra, Advocate
for the appellant(s) (in RFA Nos.1790 to 1793 of 2014)

Mr. Shailendra Jain, Senior Advocate with
Mr. Bhagender, Advocate
for the appellant(s) (in RFA Nos.7239 of 2012, 2154, 3803 to 3807, 4329, 4530 of 2013)

Mr. Rohit Rana, Advocate for
Mr. Kunal Dawar, Advocate
for the appellant(s) (in RFA Nos.2149, 2354, 2555 to 2559, 3138 to 3140, 3375 of 2013)

Mr. Pulkit Dagar, Advocate for
Mr. Rajesh Lamba, Advocate
for the appellant(s) (in RFA No.2620 of 2013)

Mr. Sajjan Singh, Advocate for
Mr. Saurabh Arora, Advocate
for the appellant(s) (in RFA No.367 of 2014)

Mr. Sandeep Sharma, Advocate
for the appellant(s) (in RFA Nos.5736, 5737, 6549, 7231 of 2012, 1081, 1670, 1783, 2363, 2599, 2639, 2860, 3371 of 2013).

Mr. J.P. Ahlawat, Advocate for
Mr. N.D. Achint, Advocate
for the appellant(s) (in RFA Nos.1853, 1854, 6944, 6945, 7221, 7250 to 7252 of 2012, 369 to 373, 1030 to 1032, 1048, 1049, 1209, 3365, 6176 of 2013, 232, 547, 696, 697 of 2014)

Mr. Sudhir Aggarwal, Advocate
for the appellant(s) (in RFA Nos.6561 to 6566 of 2012, 1339 to 1349, 1617 to 1621, 6135 to 6137, 6869, 4274, 4275, 4342, 4453, 5426, 5856 to 5858 of 2013, 3739, 9089 of 2014, 5982 to 5984 of 2015)

Mr. Pavan Malik, Advocate
for the appellant(s) (in RFA No.2242 of 2015)

Mr. Amit Jain, Advocate
for the appellant(s) (in RFA Nos.3310, 3311, 7189, 7195, 7248 of 2012, 4126 to 4128, 4508, 4748, 6371, 6516 of 2013)

Mr. Pankaj Jain, Advocate
for the appellant(s) (in RFA Nos.5740 to 5744 of 2012, 442, 1665 of 2013, 7319 of 2014)

Mr. Rakesh Dhiman, Advocate
for the appellant(s) (in RFA Nos.1019 to 1021, 2489 of 2013, 1008 of 2014)

Mr. Sachin Mittal, Advocate
for the appellant(s) (in RFA Nos.7502, 7503 of 2012, 1668, 6064 to 6068, 6520, 6981 of 2013, 5468 of 2014)

Mr. P.R. Yadav, Advocate
for the appellant(s) (in RFA Nos.1894 to 1900, 5415, 6534, 6650 to 6656 of 2012, 433 to 435, 444, 446, 496, 1098, 1099, 1666, 2811, 3874 to 3878, 4008, 4009, 4262, 4263, 4291, 4292, 6099, 6100, 6173 of 2013, 2123 of 2014) and
for the cross-objectors (in RFA Nos.4758, 4769, 4770 of 2013)

Mr. Sandeep Kotla, Advocate
for the appellant(s) (in RFA Nos.2817 to 2819, 7186 of 2012, 2081 to 2085 of 2013)

Mr. H.R. Chaudhary, Advocate for
Mr. Sanjay Verma, Advocate
for the appellant(s) (in RFA Nos.8057 of 2014, 1367 of 2015)

Mr. Nitin Jain, Advocate
for the appellant(s) (in RFA Nos.4509 to 4511 of 2012)

Mr. Nitin Jain, Advocate for
Mr. Jatinder Kumar Verma, Advocate
for the appellant(s) (in RFA No.6560 of 2012)

Mr. G.C. Shahpuri, Advocate
for the appellant(s) (in RFA No.3709 of 2015)

Mr. Prem Nath Aggarwal, Advocate
for the appellant(s) (in RFA Nos.992 to 997 of 2013)

Mr. Vikrant Rana, Advocate
for the appellant(s) (in RFA Nos.4512, 4513, 4701, 5807 of 2012, 3037 to 3040 of 2013)

Mr. K.K. Saini, Advocate for
Mr. S.K. Yadav, Advocate
for the appellant(s) (in RFA Nos.6353, 6354, 7403 to 7405 of 2012, 1096, 1928, 1929, 2593, 2607, 4862, 4863, 4868 to 4870, 4983, 5673, 6851 of 2013)

Mr. R.A. Yadav, Advocate
for the appellant(s) (in RFA Nos.3020 to 3022, 7395, 7493 of 2012, 2372 of 2013)

Mr. Jagdeep Singh, Advocate for Mr. R.S. Mamli, Advocate
for the appellant(s) (in RFA Nos.5239, 5242, 6844 of 2013, 1487 of 2014, 2344 of 2015)

Mr. Pritam Singh Saini, Advocate
for the appellant(s)-HSIDC (in RFA Nos.5112 to 5151, 5346 of 2012, 3202 to 3218, 3250 to 3319, 3546 to 3600, 3764, 4537, 4538, 4540 to 4548, 4677 to 4693, 4695 to 4698, 4701 to 4705, 4708 to 4712, 4714, 4715, 4718 to 4720, 4722, 4752 to 4772, 4784 to 4802, 4819, 4821 to 4823, 4898 to 4902, 4904 to 4912, 4916, 5604 to 5610, 6881, 7106 to 7109 of 2013, 2175 of 2014).

Mr. Sushil Jain, Advocate
for the appellant(s) (in RFA No.4492 of 2013)

Mr. Aditya Jain, Advocate
for the appellant(s) (in RFA Nos.7249, 7396 of 2012, 3354 to 3356, 4413, 4464 of 2013 & 6122 of 2015)

None for the appellant(s) (in RFA Nos.6901, 6902 of 2012, 499 of 2013, 538, 539, 6692, 7682 of 2014, 2337 of 2015)

Ms. Vibha Tewari, AAG, Haryana.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J.

This batch of 556 appeals, out of which 298 appeals bearing Regular First Appeal Nos.5112 to 5151, 5346 of 2012, 3202 to 3218, 3250 to 3254, 3256 to 3261, 3263 to 3282, 3284, 3286 to 3308, 3310 to 3319, 3546 to 3549, 3551 to 3600, 3764, 4537, 4538, 4540 to 4548, 4677 to 4693, 4695 to 4698, 4701 to 4705, 4708 to 4712, 4714, 4715, 4718 to 4720, 4722, 4752 to 4772, 4784 to 4802, 4819, 4821 to 4823, 4898 to 4902, 4904 to 4912, 4916, 5604 to 5610, 6881, 7106 to 7109 of 2013, 2175 of 2014 have been filed by the

Haryana State Industrial Development Corporation ('HSIDC' for short) (now HSIIDC) and remaining 258 appeals bearing Regular First Appeal Nos.1853, 1854, 1893 to 1900, 2817 to 2819, 3020 to 3022, 3310, 3311, 4509 to 4513, 4701, 5415, 5736, 5737, 5740 to 5744, 5807, 6353, 6354, 6534, 6549, 6560 to 6566, 6650 to 6656, 6901, 6902, 6944, 6945, 7186, 7189, 7195, 7221, 7231, 7239, 7248 to 7252, 7395, 7396, 7403 to 7405, 7493, 7502, 7503 of **2012**, 369 to 373, 433 to 435, 442, 444, 446, 496, 499, 992 to 997, 1019 to 1021, 1030 to 1032, 1048, 1049, 1081, 1096, 1098, 1099, 1209, 1339 to 1349, 1617 to 1621, 1665, 1666, 1668, 1670, 1783, 1928, 1929, 2081 to 2085, 2149, 2154, 2354, 2363, 2372, 2489, 2555 to 2559, 2593, 2599, 2601, 2607, 2620, 2639, 2811, 2860, 3037 to 3040, 3138 to 3140, 3354 to 3356, 3365, 3371, 3375, 3803 to 3807, 3874 to 3878, 4008, 4009, 4126 to 4128, 4262, 4263, 4274, 4275, 4291, 4292, 4329, 4342, 4413, 4453, 4464, 4492, 4508, 4530, 4748, 4862, 4863, 4868 to 4870, 4983, 5239, 5242, 5426, 5673, 5856 to 5858, 6064 to 6068, 6099, 6100, 6135 to 6137, 6173, 6176, 6371, 6516, 6520, 6844, 6851, 6869, 6981 of **2013**, 232, 367, 538, 539, 547, 696, 697, 1008, 1487, 1790 to 1793, 2123, 3739, 5468, 6692, 7319, 7682, 8057, 9089 of **2014**, 1367, 2242, 2337, 2344, 3709, 5982 to 5984, 6122 of **2015** filed by the land owners, is being decided vide this common order, as all these appeals and cross-objections arise out of the same acquisition and raise identical questions of law and facts. With the consent of learned counsel for the parties and for the facility of reference, facts are being culled out from RFA No.1853 of 2012 (Attar Singh Vs. State of Haryana and others).

Facts of the case are hardly in dispute. State of Haryana sought to acquired land measuring 520 Acres, 02 Kanals and 13.5 Marlas out of the revenue estates of as many as 15 villages. The area acquired, village-wise, was as under: -

Sr. No.	*Name of Village*	*Area acquired (per acre)*
1.	*Kasan*	*514 kanal, 13 marla*
2.	*Kukrola*	*97 kanal, 04 marla*
3.	*Khaintawas*	*99 kanal,14 marla*
4.	*Dhana*	*241 kanal, 00 marla*
5.	*Patli Hajipur*	*960 kanal, 04 marla*
6.	*Sultanpur*	*499 kanal, 01 marla*
7.	*Fazilwas*	*11 kanal, 13 marla*
8.	*Mokalwas*	*185 kanal, 18 marla*
9.	*Bas Lambi*	*313 kanal, 07 marla*
10.	*Mubarikpur*	*242 kanal, 13 marla*
11.	*Jhanjhrola*	*117 kanal, 01 marla*
12.	*Babra Bakipur*	*100 kanal, 19 marla*
13.	*Shed Mohammadpur*	*222 kanal, 01 marla*
14.	*Kharkari*	*14 kanal, 11 marla*
15.	*Fakharpur*	*182 kanal, 14 marla*

The land from the abovesaid villages was acquired for the public purpose; namely for the construction and development of Express Highway known as Kundli-Manesar-Palwal Express Highway (KMP). All these villages undisputedly fall in District Gurgaon. Notification under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) was issued on 11.01.2005, which came to be followed by notification dated 31.05.2005 under Section 6 of the Act. Land Acquisition Collector announced different awards for different villages, however, he granted the compensation to all the land owners of these villages at the flat rate of Rs.12,50,000/- per acre for the total acquired land.

Dissatisfied, the land owners filed their objections under Section 18 of the Act and as a consequence thereof, land references were forwarded to the learned reference Court. As many as 41 land references were decided by the learned reference Court vide common award dated 27.02.2012 and the lead case being that of Hari Mohan etc. Vs. State of Haryana and others. The learned reference Court granted the compensation for the total acquired land at the uniform rate of Rs.43,17,841/- per acre. This was the basic award which came to be followed by the learned reference Court in remaining cases also. The abovesaid facts and figures have not been disputed by learned counsel for the parties.

Both the parties felt aggrieved against the abovesaid awards passed by the learned reference Court. HSIIDC-the beneficiary department filed as many as 298 appeals before this Court seeking reduction in the compensation granted to the land owners, whereas 258 appeals and cross-objections have been filed by the land owners seeking further enhancement in the compensation for their acquired land. That is how, these 556 appeals are being decided together.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that keeping in view the totality of facts and circumstances of these cases, the appeals filed by the HSIDC have been found bereft of merit and the same are liable to be dismissed. However, the appeals and cross-objections filed by the land owners deserve to be partly accepted, suitably enhancing the compensation for the acquired land, for the following more than one reasons.

A careful perusal of the impugned award dated 27.02.2012 passed by the learned reference Court would show that the judgment, which was made the basis for assessing the market value of the acquired land, was rendered by the Hon'ble Supreme Court in the case of **Haryana State Industrial Development Corp. Vs. Pran Sukh and others, 2010 (11) SCC 175.** Pran Sukh's case (supra) pertains to the land which was acquired vide notification dated 15.11.1994 under Section 4 of the Act out of the revenue estate of Village Kasan, along with land of other adjoining villages. Land out of the revenue estate of village Kasan, is also part of the acquired land in this batch of cases.

It is also pertinent to note here that the Land Acquisition Collector as well as learned reference Court have rightly ignored the belting system and granted the compensation for the total acquired land at the uniform rate, though the acquired land was scattered in as many as abovesaid 15 villages. This approach adopted by the Land Acquisition Collector as well as learned reference Court seems to be well-justified, for the reason that location and potentiality of the acquired land had never been in dispute and also because boundaries of these villages were touching with each other. In fact, KMP was a project of national importance and in view of this fact alone, potentiality of the acquired land was never in dispute. Further, the total acquired land was going to be used for one and the same purpose.

The view that has been taken by this Court on belting system also finds support from the following judgments of the Hon'ble Supreme Court as well as this Court: -

1. **Udho Dass Vs. State of Haryana, 2010 (12) SCC 51.**
2. **Ashrafi and others Vs. State of Haryana, 2013 (5) SCC 527.**
3. ***Kehar Singh Vs. Punjab State, 1992 (1) R.R.R. 81***
4. ***Harinderpal Singh Vs. Punjab State through the Collector, Amritsar, 1997 (3) RCR (Civil) 431***
5. ***Union of India Vs. Dr. Balbir Singh, 1999 (2) RCR (Civil) 546***
6. ***Pawan Kumar and another Vs. Land Acquisition Collector and others, 2001 (1) RCR (Civil) 598. (P&H)***
7. ***Harjit Singh @ Kaka Singh Vs. State of Punjab and another, 2004 (1) RCR (Civil) 484.***

8. ***Smt. Mahabiri Devi and others Vs. State of Haryana and another, 2005 (4) RCR (Civil) 142.***
9. ***Gulzar Singh Vs. State of Haryana, 2006 (3) RCR (Civil) 174 (P&H)***
10. ***Kashmira Singh and others Vs. Land Acquisition Tribunal Ludhiana Improvement Trust through its President and others, 2006 (2) L.A.R. 69.(P&H)***
11. ***Gursher Singh and others Vs. President, Improvement Trust Tribunal, Jalandhar and others, 2007 (1) RCR (Civil) 429 (P&H)***
12. ***Baru Ram and others Vs. State of Haryana and another, 2010 (3) RCR (Civil) 754. (P&H)***

The only argument raised by learned counsels for the appellants-land owners before this Court was that the learned reference Court has failed to appreciate the real potentiality of the acquired land, while granting benefit of only 8% annual increase for the time gap, taking the base price of Rs.20,00,000/- per acre as per the judgment of the Hon'ble Supreme Court in **Pran Sukh**'s case (supra). On the other hand, learned counsel for the beneficiary department i.e. HSIIDC has vehemently contended that the reference Court has granted the compensation on higher side and the land owners were not entitled for any increase over and above the compensation awarded to them by the Land Acquisition Collector.

Keeping in view the peculiar fact situation obtaining in these cases, coupled with the fact that location and potentiality of the acquired land had never been in dispute, this Court feels no hesitation to conclude that the judgment of the Hon'ble Supreme Court in **Pran Sukh**'s case (supra) is the best piece of evidence and it can be safely made the basis for assessing the market value of the acquired land in these cases. It is so said because no other better piece of evidence has been suggested by either side.

Now the only question that falls for consideration of this Court is whether the land owners would be entitled for 8% annual increase or 15% annual increase on the base price of Rs.20,00,000/- per acre as granted by the Hon'ble Supreme Court in **Pran Sukh**'s case (supra). To be fair to learned counsel for the respondent-HSIIDC, his argument that the annual increase cannot be granted for a period of more than five years, is to be noted to be rejected, as the same has not been found worth acceptance.

The abovesaid view taken by this Court also finds support from judgments of the Hon'ble Supreme Court in **K.S. Shivadevamma and others Vs. Assistant Commissioner and Land Acquisition Officer and another, 1996 (2) SCC 62** and **Spl. L.A.O., City Improvement Trust Board Vs. S.G. Channabasavana Gowda and and etc., 2011 (14) SCC 580.** The Hon'ble Supreme Court has repeatedly reiterated its earlier view and the relevant observations made by the Hon'ble Supreme Court in para 4 of its judgment in **S.G. Channabasavana Gowda**'s case (supra), which can be gainfully followed in the present case, read as under: -

> *"The aforesaid determination made by the Reference Court also did not satisfy the respondents, who filed appeals under Section 54 of the Act. The Division Bench of the High Court referred to the judgments Exhibits P5, P18 and P19 rendered in MFA Nos. 670 of 1971, 7 of 1972, 1426 of 1987 and 1492 of 1990 respectively and the judgment of this Court in* ***K.S. Shivadevamma v. Assistant Commissioner and Land Acquisition Officer (1996) 2 SCC 62*** *and held that the land owners are entitled to compensation at the rate of Rs. 1,74,000/- per acre with proportionate benefits for*

the enhanced portion including the interest on compensation. The reasons assigned by the High Court for fixing higher market value of the acquired land are contained in paragraphs 18 to 22 of the impugned judgment, which are extracted below :

> *"18. In view of the said contention, it is necessary for us to examine as to whether Ex.P.5 could be relied on as the basis for fixing the market value in the present case. In this regard, we have perused the judgment of the Apex court in the case of K.S. Shivadevamma cited supra. While deciding the said case, the Apex court has merely referred to the order passed in MFA No. 670/71 and 7/ 72 which was relied on by the learned counsel for the claimants in that case. Though the Apex court did not decide the correctness or otherwise of the said decision, it has merely observed that the approach adopted by the court is not sound principle to form the basis for determination of compensation in that case. By the said observation, the Supreme Court has not overruled or set aside the findings in MFA No. 670/71. That apart the said decision in MFA No. 670/01 was made as the basis for the subsequent decisions rendered by this Court in MFA No. 1426/87 and 1492/90 which are marked as Ex.P.18 and 19. Though the judgment in MFA No. 1426/87 was also referred to in Shivadevamma's case, the Supreme Court has not chosen to comment on the same. Further the judgment passed in MFA No. 670/71 was not directly in issue before the Supreme Court either in that case or at any*

earlier point of time. On the other hand, the judgment of the reference court would indicate that the order in MFA No. 1490/ 90 Ex.P. 19 though appealed before the Supreme Court has been upheld by the Supreme Court and this fact has not been disputed by the beneficiary. Therefore, what could be deduced is, that the judgment in MFA No. 1492/90 at Ex.P.19 was passed making P.5 herein as the basis and it has been approved by the Supreme Court and as such the compensation awarded in Ex.P.5 could be made as the basis and necessary adjustments/escalation could be granted.

One other reasons for us to make Ex.P.5 as the basis is that apart from the sale deeds, which we have rejected as not the proper basis, what we are left with is only the judgments passed in earlier cases. It is now well settled that the judgment passed in earlier cases is a reliable piece of evidence, which could form a basis for determining the compensation. The beneficiary and the acquiring authority have not produced any other document before the Reference Court so that reliance could be placed and as such even a remand would be without purpose. Therefore, we are of the view that the market value could be fixed in the instance case by placing reliance on Ex.P.5 and also taking into consideration that the Reference Court has thereafter made adjustments and has granted a lower market value than what has been granted in Ex.P.5.

20. That takes us to the question as to what is the proper market value to be fixed in the present case. The market value fixed in Ex.P.5 is at Rs. 35/- per square yard. The Reference Court after taking into consideration all the relevant factors has rightly fixed the market value at Rs. 18/- per square yard. Therefore, we deem it proper to retain the same market value, which has been fixed by the Reference Court by making proper adjustment after keeping Ex.P.5 as the basis. The said market value has been fixed in respect of the preliminary notification dated 24.4.1969. In the instant case, the preliminary notification is of the year 5.7.1979. The fact that there has been development in the surrounding area cannot be disputed since several other bits of lands have been acquired for different purposes. Even the present acquisition is for the second stage of the housing layout. In respect of granting escalation, it is settled law that the same could be granted between 5% to 10%. In the instant case, taking into account the material on record with regard to development, we deem it proper to grant escalation at 10%.

21. The appreciation/escalation on Rs. 18/- per square yard at 10% would be Rs. 1.80 per square yard. The time gap between the two notification is 10 years and as such the total escalation would be in a sum of Rs. 18/- per square yard. Thus, the market value is to be determined and fixed at Rs. 367 per square yard, which would work out to Rs. 1,74,240/- per acre and the same is rounded of to Rs.

1,74,000/- per acre. After having arrived at the said market value, the question that would arise for consideration is as to whether any further deduction is required to be made towards development costs. In this regards, the well established position is that the appropriate deduction towards the development costs is to be made when smaller extent of lands are taken as the basis for determining the market value of the larger extent. In the instant case, while determining the market value in the decision rendered at Ex.P.5, the court had considered the value of smaller extent of lands and after granting deduction towards development costs had fixed the market value. What we have done in the present case is only keeping the same as a basis and granted the escalation at the rate of 10%. Therefore, we are of the view that making further deduction towards development costs would not arise and the market value determined at Rs. 1,74,000/- per acre to be awarded without any further deductions.

22. Even though we have fixed the market value in respect of the properties acquired at Rs. 1,74,000/- per acre, it is noticed that in MFA No. 4742/ 2001 the claimant has sought for enhancement from Rs. 87,000/- to Rs. 1,50,000/- and the appeal memo has been valued accordingly and the court fee has been paid. Since we have decided to fix the market value at Rs. 1,74,000/- the claimant in the said appeal also would be entitled to the market value subject to the appellant in

MFA No. 4741/2001 paying the deficit Court fee within a period of six weeks from today."

In view of the law laid down by the Hon'ble Supreme Court in the cases referred to hereinabove, it can be safely concluded that the learned reference Court was well within its jurisdiction to grant annual increase for a period of 10 years to the land owners in these cases. But the only issue now to be decided is whether 8% annual increase was justified or it was on lower side.

The issue of annual increase fell for consideration of the Hon'ble Supreme Court in **The General Manager, Oil and Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel and another, 2008 (14) SCC 745.** The Hon'ble Supreme Court had an occasion to consider all the relevant factors in this regard and finally it was held that for the land falling in urban and semi-urban areas, the annual increase from 10% to 15% would be justified. So far as the nature and location of land in the cases in hand is concerned, it was certainly falling in semi-urban area, if not in urban area. Since the Hon'ble Supreme Court has put both these categories of semi-urban area and urban area in one category in **Rameshbhai Jivanbhai Patel**'s case (supra), the same analogy can be safely followed in these cases as well.

Again, the law laid down by the Hon'ble Supreme Court in para 17 and 18 of its judgment in **Udho Dass Vs. State of Haryana, 2010 (12) SCC 51,** which aptly applies to the instant case, reads as under: -

"Although, in the present matter, sale instances around or near abouts the date of Notification of the present acquisition are available yet these cannot justify or explain the potential of a particular piece of land on the date of acquisition as the potential can be recognized only some time in the future and it is open to a

landowner claimant to contend that the potential can be examined first at the time of the Section 18 Reference, the first Appeal in the High Court or in the Supreme Court in appeal as well. We must also highlight that Collectors, as agents of the State Government, are extraordinarily chary in awarding compensation and the land owners have to fight for decades before they are able to get their due. We take the present case as an example. The land was notified for acquisition in May 1990. The collector rendered his award in May 1990 awarding a sum of Rs. 2,00,000/- per acre. The Reference Court by its award dated January 2001 increased the compensation to Rs. 125 per square yard for the land of the road behind the ECE factory and Rs. 150 per square yard for the land abutting the road which would come to Rs. 6,05,000/- and Rs. 7,26,000/- respectively for the two pieces of land. This itself is a huge increase vis-a-vis the Collector's award. The High Court in First Appeal by its judgment of 24th September 2007 enhanced the compensation for the two categories to Rs. 135 and 160 respectively making it Rs. 6,53,400/- and Rs. 7,74,400/-. In other words, this is the compensation which ought to have been awarded by the Collector at the time of his award on 12th May 1993. This has, however, come to the land owner for the first time as a result of the judgment of the High Court which is under challenge in this appeal; in other words, a full 17 years from the date of Notification under Section 4 and 14 years from the date of the award of the Collector on which date the possession of the land must have been taken from the landowner. Concededly, the Act *also provides for the payment of the solatium, interest and an additional amount but we are of the opinion, and it is common knowledge, that even these payments do not keep pace with the astronomical rise in prices in many parts of India, and most certainly in North India, in the land price and cannot fully compensate for the acquisition of the land and the payment of the compensation in driblets. The 12% per annum increase which Courts have often found to be adequate in compensation matters hardly does justice to those land owners whose land have been acquired as judicial notice can be taken of the fact that the increase is not 10 or 12 or 15% per year but is often upto 100% a year for land which has the potential of being urbanized and commercialized such as in the present case. Be that as it may, we must assume that the landowners were entitled to the compensation fixed by the High Court on the date of the award of the Collector and had this amount been made available to the landowners on that date, it would have been possible for them to rehabilitate their holdings in some other place. This exercise has been defeated for the simple reason that the payment of compensation has been spread over almost two decades. In this view of the matter, we are of the opinion that a landowner is entitled to say that if the compensation proceedings continued over a period of almost 20 years as in the present case, the potential of the land acquired from him must also be adjudged keeping in view the development in the area spread over the period of 20 years if the evidence so permits and cannot be limited to the near future* *alone. We, therefore, feel that in the circumstances, the appellants herein were fully entitled to say that the potential of the acquired land had not been fully recognized by the High Court or by the Reference Court. We must add a word of caution here and emphasize that this broad principle would be applicable where the possession of the land has been taken pursuant to proceedings under an acquiring Act and not to those cases where land is already in possession of the Government and is subsequently acquired.*

There is another unfortunate aspect which is for all to see and to which the Courts turn a Nelson's eye and pretend as if the problem does not exist. This is a factor which creates an extremely grim situation in a case of compensation based exclusively on sale instances. This is the wide spread tendency to under value sale prices. The provision of Collector's rates has only marginally corrected the anomaly, as these rates are also abnormally low and do not reflect the true value. Where does all this leave a landowner whose land is being compulsorily acquired as he has no control over the price on which some other landowner sells his property which is often the basis for compensation?"

However, to be fair to all concerned and with a view to do complete and substantial justice between the parties, this Court is of the considered view that 12% annual increase on the base price of Rs.20,00,000/- per acre, as assessed by the Hon'ble Supreme Court in the year 1994 in **Pran Sukh's** case (supra), would be just and reasonable. As held by the Hon'ble Supreme Court in **Ashok Kumar and others Vs. State of Haryana and**

others, 2015 (3) Scale 242 the 12% annual increase is to be granted on cumulative basis. It was held by the Hon'ble Supreme Court that granting the annual increase at flat rate may lead to anomalous results and it would not at all be justified. Thus, granting the benefit of 12% annual increase on cumulative basis on the base price of Rs.20,00,000/- per acre for this time gap of 10 years, the market value comes to Rs.62,11,696/- per acre, which is rounded off to Rs.62,11,700/- per acre, therefore, the land owners would be entitled to receive this amount of compensation for their acquired land.

No other contrary evidence or judicial precedents were pressed into service nor any other argument was raised on behalf of either of the parties.

Considering the peculiar facts and circumstances of the cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that the appeals filed by the HSIIDC have been found wholly misconceived, bereft of merit and without any substance, thus, these must fail and the same are hereby dismissed.

The appeals filed by the land owners deserve to be partly accepted and the same are hereby allowed to the extent indicated above. The land owners in all these cases are held entitled to receive the compensation at the rate of Rs.62,11,700/- per acre from the date of notification under Section 4 of the Act. Besides this, the land owners shall also be entitled for all the statutory benefits available to them, under the relevant provisions of the Act.

Resultantly, with the observations made above, all these 556 appeals stand disposed of, in the abovesaid terms, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
05.02.2016 **JUDGE**
vishnu