HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

RFA No.4475 of 2012 and connected matters
Date of decision:20.5.2016

Ram Chander and another

...Appellant(s)

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Shailendra Jain, Sr. Advocate with
Mr.Sanjeev Gupta, Advocate for the appellant(s) in
RFA Nos.305 to 325 of 2012, 319, 355, 1106, 2306, 4333 of 2013, 6800, 6801 of 2013, 852, 1222 to 1224 of 2014.

Mr.Chetan Mittal, Sr. Advocate with
Mr.Harsh Bunger, Advocate, Mr.Rajeev Anand, Advocate and
Mr.Udit Garg, Advocate for the appellant(s) in
RFA Nos.6467 & 6469 of 2013.

Mr.Ashwani Kumar Chopra, Sr.Advocate with
Mr.Akshit Kumar Chaudhary, Advocate for the appellant(s) in
RFA No.1931 and 9131 of 2014.

Mr.Puneet Bali, Sr. Advocate with
Mr.Ranjit Saini, Advocate for the appellant(s) in
RFA Nos.4774 of 2012, 1105, 2596 and 3194 of 2014.

Mr.Randeep Rai, Sr. Advocate with
Mr.Rajeev Anand, Advocate for the appellant(s) in
RFA No.6469 of 2013.

Mr.C.B.Goel, Advocate for the appellant(s) in
RFA Nos.6243, 6293 and 6440 of 2012.

Mr.Vinod S.Bhardwaj, Advocate for the appellant(s) in
RFA Nos.7887, 7888 of 2012 & 1422 of 2014.

Mr.Pankaj Jain, Advocate for the appellant(s) in
RFA No.4321 of 2013.

Mr.P.R.Yadav and Ms.Pratiba Yadav, Advocate for the appellant(s) in RFA Nos.431, 432, 4495 of 2013, 7301 and 7302 of 2014.

Mr.Ashok Kaushik, Advocate for the appellant(s) in RFA No.606 of 2014.

Mr.Gaurav Mohunta, Advocate and Mr.Gaurav Gogna, Advocate for the appellant(s) in RFA No.9820 of 2014.

Mr.Bhim Singh, Advocate for the appellant(s) in RFA Nos.6608 to 6610 of 2012 and 6339, 6340, 6608 to 6611 of 2013 and for respondent(s) in RFA Nos.7282, 7317 and 7341 of 2012.

Mr.Harsh Aggarwal and Mr.Aseem Aggarwal, Advocate for the appellant(s) in RFA Nos. 477 to 479 and 1072 of 2014.

Mr.Saurabh Arora, Advocate for the appellant(s) in RFA No.243 of 2014.

Mr.Karan Singh, Advocate for the appellant(s) in RFA Nos.5552 of 2014.

Mr.Rakesh Kumar Sharma, Advocate for the appellant(s) in RFA Nos. 1116 to 1121, 1585, 1588, 1589, 3219 & 7261 of 2014 and 2182 of 2015

Mr.Shashi Kumar Yadav, Advocate for the appellant(s) in RFA Nos.6060 of 2013, 5434, 8092 and 9662 of 2014.

Mr.Atul Yadav, Advocate for the appellant(s) in RFA Nos.8935 and 8936 of 2014.

Mr.Gurinder Pal Singh, Advocate for the appellant(s) in RFA Nos.1050 to 1054, 2312 of 2014.

Mr.Ashish Gupta, Advocate for the appellant(s) in RFA Nos.2312 of 2015.

Mr.Sanjay Vij, Advocate for the appellant(s) in RFA Nos.854 to 866, 1973, 1974, 2059 to 2065 of 2013, 2471, 2472, 4246 of 2013, 1229 and 1230, 5484 of 2014, 2047, 2100 to 2107 of 2015, 2697 to 2699 of 2015.

Ms.Harpreet Kaur, Advocate for
Mr.Amit Jain, Advocate for the appellant(s) in
RFA Nos.4475 to 4477, 5069, 5070, 5225 to 5227, 5407, 5581, 6537 of 2012, 907 to 914 of 2013, 3904, 3905, 4420, 6372, 6855, 7893 to 7895, 8049, 1414 of 2014, 3811, 3812, 9723, 10061 of 2014 and 319 of 2015 and for the respondents/cross-objectors in RFA Nos.7327 of 2012 and 3156 of 2014.

Mr.Ashok Gupta, Advocate for the appellant(s) in
RFA No.2253 of 2015

Mr.Sudhir Aggarwal, Advocate for the appellant(s) in
RFA Nos. 4364, 5859 to 5861 of 2013.

Mr.H.S.Virk, Advocate for
Mr.N.D.Achint, Advocate for the appellant(s) in
RFA Nos.4832, 5066, 5067, 5068, 5071, 5072, 5585, 6548 of 2012, 6673 of 2012, 1785, 2337, 2775, 2776, 2878, 3366, 4289, 4290, 4308, 6536, 6900 to 6903 of 2013, 6937, 6938 of 2013, 8005 of 2013, 371, 384, 813, 5237 and 5238 of 2014 and for respondent(s) in RFA No.3167 of 2014.

Mr.Aditya Jain, Advocate for the appellant(s) in
RFA Nos.6558 of 2012, 355 to 358, 889, 940, 1654, 2136, 2851, 3856, 3857, 4023, 4026, 4307, 4455, 6468 and 6856, 7889, 7890 of 2013, 237, 364, 1009, 1011, 1012, 2296, 2302, 4395, 4396, 4399, 4994, 5014, 5271 of 2014 and 337 of 2015.

Mr.Sandeep Sharma, Advocate for the appellant(s) in
RFA Nos.4752, 5313 to 5316, 5777, 5814, 6302 of 2012, 960, 961, 1078, 1080, 1784, 2208, 2209, 3372, 3544, 3545 of 2013, 4346 to 4348, 5376, 5423, 5663, 5665, 5840, 6367 of 2013, 2174, 3702, 3707, 8108 of 2014.

Mr.Kamal Mor, Advocate for the appellant(s) in
RFA Nos.4002, 4003, 4144 to 4148, 5696 to 5711 of 2013, 2170, 2171 and 2694 of 2015.

Mr.Rakesh Dhiman, Advocate for the appellant(s) in
RFA No.1382 of 2015.

Mr.Pulkit Dagar, Advocate for the appellant(s) in
RFA No.4354 of 2013.

Mr.Virendra Rana, Advocate for the appellant(s) in
RFA Nos.7658, 8766, 9287 to 9289 of 2014.

Mr.Manoj Sharma, Advocate for the appellant(s) in
RFA No.6293 of 2012.

Mr.Sachin Mittal, Advocate for the appellant(s) in
RFA Nos.1638 to 1641 and 4323 of 2013, 590 of 2014.

Mr.Ashok Tyagi and Mr.Gaurav Tyagi, Advocates for the appellants in RFA Nos. 2821, 4393, 4455, 6352, 6353, 6356, 7852 to 7869 of 2013, 544, 700 to 705, 846, 847, 1594, 1595, 3348, 3349, 4445, 4979, 5439, 7697 of 2014 and for respondent(s) in RFA No.7359 of 2012.

Mr.Rohit Rana, Advocate for
Mr.Kunal Dawar, Advocate for the appellant(s) in
RFA Nos.4094 to 4097 of 2013, 6546 of 2013 and 7348 of 2014.

Mr.M.S.Yadav, Advocate, Mr.J.S.Yadav, Advocate for
Mr.R.S.Hooda, Advocate for the appellant(s) in
RFA No.6854 of 2013.

Mr.S.K.Yadav, Advocate for
Mr.K.K.Saini, Advocate for the appellant(s) in
RFA Nos.3902, 3903, 6060 to 6063, 6504, 6505 of 2013, 3626 and 5434 of 2014.

Mr.J.S.Ghumman, Advocate for the appellant(s) in
RFA Nos.1041, 2101, 3076 to 3082, 3606, 3609 to 3613, 3697, 4300, 4315, 4316, 5218, 5957, 5958, 6117, 9663 of 2014 and 2115 of 2015.

Mr.Surjeet Bhadu and Mr.Veer Singh, Advocates for the appellants in RFA Nos.4929 to 4937, 9253 and 9254 of 2014 and for the respondent(s) in RFA Nos.3165, 3171, 3172, 3178, 3192, 3196, 3198, 3203, 10470 of 2014.

Mr.Saurabh Arora, Advocate for the appellant(s) in
RFA No.243 of 2014.

Mr.Ashwani Gaur, Advocate for the appellant(s) in
RFA No.6428 of 2013.

Mr.Anil Kumar Rana, Advocate for the appellant(s) in
RFA Nos.210 and for respondent(s) in RFA No.3180 of 2014.

Mr.Amit Kumar Jain, Advocate for the appellant(s) in
RFA Nos.794 to 796, 840, 841 and 7230 of 2014.

Mr.Jarnail Singh Saneta, Advocate & Mr.Balvinder Singh Brar, Advocates, for the appellants in RFA Nos.2320 and 3370 of 2013, 1410 to 1412, 3418 to 3420 of 2014.

Mr.Rajneesh Malhotra, Advocate,
for the appellant(s) in RFA No.918 of 2015.

Mr.G.K.Chawla, Advocate for the appellant(s) in
RFA No.4466 of 2013.

Mr.Chirag Kundu, Advocate for the appellant(s) in
RFA Nos.6389 to 6395 of 2013.

Mr.Arun Beniwal, DAG, Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

This batch of 693 Regular First Appeals, out of which appeals bearing RFA No.6437 to 6456, 6660, 6661, 7278 to 7388 of **2012,** 2591 to 2699, 3151 to 3203, 3322, 4057, 4151, 5553, 10470 to 10472 of **2014**, 508 to 515, 537, 2026, 2531 and 2532, 3744, 3865, 4280 of **2015**, filed by the State of Haryana and remaining appeals bearing RFA Nos. 4475 to 4477, 4752, 4774, 4832, 5066 to 5072, 5225 to 5227, 5313 to 5316, 5407, 5581, 5585, 5777, 5814, 5815, 6293 and 6302, 6537, 6548, 6558, 6608 to 6610, 6673 of **2012,** 355 to 358, 431, 432, 854 to 866, 907 to 914, 960, 961, 1078, 1080, 1106, 1638 to 1641, 1654, 1784, 1785, 1973, 1974, 2059 to 2065, 2208, 2209, 2306, 2337, 2471, 2472, 2775, 2776, 2821, 2851, 2878, 3366, 3372, 3544, 3545, 3856, 3857, 3902 to 3905, 4002, 4003, 4025, 4026, 4094 to 4097, 4144 to 4148, 4245, 4246, 4289, 4290, 4307, 4308, 4321, 4323, 4333, 4346 to 4348, 4354, 4364, 4393, 4420, 4455, 4458, 4466, 4495, 5376, 5423, 5663, 5665, 5696 to 5711, 5840, 5859 to 5861, 5872, 5873, 6060 to 6063, 6337 to 6340, 6352, 6353, 6356, 6367, 6372, 6389 to 6395, 6428, 6467 to 6469, 6504, 6505, 6536, 6546, 6800, 6801,6854, 6855, 6856, 6900 to 6903, 6937, 6938, 7852 to 7869, 7887 to

7890, 7893 to 7895, 8005, 8049 of **2013**, 44, 45, 210, 237, 243, 364, 371, 384, 477 to 479, 544, 590, 686, 700 to 705, 794 to 796, 813, 840, 841, 846, 847, 852, 1009, 1011, 1012, 1041, 1050 to 1054, 1072, 1105, 1116 to 1121, 1222 to 1224, 1229, 1230, 1414, 1422, 1585,1588, 1589, 1594, 1595, 2101, 2174, 2200, 2296, 2302, 2312, 3076 to 3082, 3219, 3348, 3349, 3380, 3608 to 3613, 3676, 3697, 3702, 3704, 3707, 3811 and 3812, 4300, 4315, 4316, 4395, 4396, 4399, 4548, 4929 to 4937, 4979, 4994, 5014, 5218, 5237, 5238, 5271, 5434, 5439, 5484, 5552, 5957, 5958, 6117, 7230, 7261, 7301, 7302, 7348, 7658, 7697, 8108, 8935, 8936, 9131, 9253, 9254, 9663, 9723, 9820, 10061 of **2014**, 319, 337, 918, 940, 1382, 2115, 2170, 2171, 2182, 2253, 2312, 2694 of 2015 filed by the landowners and cross-objections Nos.35-CI, 37-CI and 39-CI of 2013, 13-CI to 18-CI of 2015 and 168-CI of 2015 is being decided vide this common order, as all these appeals arise out of the same acquisition and raise identical questions of law and facts.

Briefly put, facts necessary for disposal of instant set of appeals are that the State of Haryana sought to acquire land at public expenses for public purpose; namely for the development and utilization of land for 150 meter wide periphery Road for linking Dawarka Township Delhi from Gurgaon, out of the revenue estates of as many as 11 villages. Accordingly, notification dated 25.01.2008 was issued under Section 4 of the Land Acquisition Act, 1894, (for short 'the Act'), which was followed by notification dated 18.03.2008 under Section 6 of the Act. Land Acquisition Collector (for short 'LAC') announced his different village-wise awards on different dates, assessing the market value of the acquired land at the uniform rate of Rs.50 lacs per acre for some villages, at the uniform rate of

Rs.60 lacs per acre qua the land of other villages and also at the uniform rate of Rs.90 lacs per acre qua the land of remaining villages.

Dissatisfied with the market value assessed by LAC, land owners of all these 11 villages filed their respective objections under Section 18 of the Act and as a consequence thereof, large number of land references were forwarded to the learned reference court for its decision. Learned reference court, vide its different awards, assessed the market value of the acquired land at different rates, as per the evidence available on record, pertaining to the land of each village.

Both the parties felt aggrieved against the awards passed by learned reference court. State of Haryana has filed the appeals, seeking reduction in the amount of compensation, awarded by the learned reference court. The land owners have filed the appeals, seeking further enhancement in the amount of compensation for their acquired land.

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, appeals filed by the State have been found without any merit and the same are liable to be dismissed. However, the appeals filed by the land owners deserve to be partly allowed, suitably enhancing the amount of compensation for their acquired land. To say so, reasons are more than one, which are being recorded hereinafter.

With the consent of learned counsel for the parties, the appeals arising out of different villages, are being dealt with separately, so as to avoid any scope of ambiguity.

Village Gurgaon

Taking the cases of Gurgaon village first, land measuring 51.10 acres, out of revenue estate of village Gurgaon, was acquired vide above-said notification under Section 4 of the Act. LAC, vide his Award No.56 dated 20.11.2009, assessed the market value of the land at the uniform rate of Rs.90 lacs per acre. Facts for the purpose of deciding the appeals of village Gurgaon are being taken from RFA No.4475 of 2012 **(Ram Chander and another Vs. State of Haryana and others)**. As many as 81 land references were decided by the learned reference court, vide its impugned award dated 24.5.2012. The land owners produced voluminous evidence before the learned reference court. As many as 39 witnesses were produced and as many as 51 documents, including sale deeds, were exhibited on record. After considering the evidence available on record, the learned reference court assessed the market value at the rate of Rs.1,64,75,000/- per acre. This market value was arrived at after applying 50% cut on the market price, disclosed by the relevant sale instances.

So far as the location and potentiality of the acquired land out of all these 11 villages is concerned, it had never been in doubt. It has gone undisputed before this Court that immediately after the instant acquisition, the total acquired land came to be included in the municipal area of Gurgaon. Learned counsel for the appellants have also submitted that, as a matter of fact, major part of the acquired land was already in the municipal area at the time of its acquisition. A perusal of site plans (Exhibit P10 and P11) available at pages 797 and 799 of the Lower Courts Record (for short 'LCR') would make it crystal clear that the acquired land was situated at a prime location and was having immense potentiality.

As far as the evidence led by the State of Haryana, qua the land of all the 11 villages, before the learned reference court is concerned, a common thread runs through it to the effect that although in each case separate sale exemplars were produced before the learned reference court, yet the market price disclosed by all the sale-deeds pertaining to all the 11 villages, was admittedly much below the market value assessed by LAC himself. In fact, it is so said for the sake of brevity and to avoid repetition in this regard, while dealing with the cases of each village separately. All the sale-deeds produced by the State, in different land references before the learned reference court, were hit by the provisions of Section 25 of the Act.

However, it is being made clear that the sale instances produced by the State are not being excluded out of consideration by this Court only for the reason that these were hit by the provisions of Section 25 of the Act but also because the same are liable to be ignored even on their individual merits. In fact, all the sale deeds produced by the State were either the result of undervalued transactions or distress sales. In either of these two situations, the inevitable conclusion is the sale instances produced by the State have to be kept out of consideration, in view of the judgment of the Hon'ble Supreme Court passed in **Lal Chand v. Union of India and another, 2009(15) SCC 769**. The relevant observations made by the Hon'ble Supreme Court in paras 30 to 32 of its judgment in **Lal Chand's** case (supra), which can be gainfully followed here, read as under:-

"This takes us to the value of "undervalued" sale deeds. When the respondents rely upon certain sale deeds to justify the value determined by the Land Acquisition Collector or to

show that the market value was less than what is claimed by the claimants, and if the claimants produce satisfactory evidence (which may be either with reference to contemporaneous sale deeds or awards made in respect of acquisition of comparable land or by other acceptable evidence) to show that the market value was much higher, the sale deed relied upon by the respondents showing a lesser value may be inferred to be undervalued, or not showing the true value. Such deeds have to be excluded from consideration as being unreliable evidence. A document which is found to be undervalued cannot be used as evidence.

But we have noticed a disturbing trend in some recent cases, where a court accepts the sale deed exhibited by the claimants as the basis for ascertaining the market value. But then, it also accepts a contention of the claimants that the general tendency of members of public is not to show the real value, but show a lesser value to avoid tax/stamp duty and therefore the sale deeds produced and relied on by them, should be assumed to be under valued. On such assumption, some courts have been adding some fancied percentage to the value shown by the sale deeds to arrive at what they consider to be 'realistic market value'. The addition so made may vary from 10% to 100% depending upon the whims, fancies, and the perception of the learned Judge as to what is the general extent of suppression of the price in sale deeds. Such increase, in the market value disclosed by the sale deeds, on the assumption that all sale deeds show a 'depressed' market value instead of the real value, is impermissible. The Court can either accept the document as showing the prevailing market value, in which event it has to be acted upon. Or the Court may find a document to be undervalued in which it should be rejected straightaway as not reliable. There is no third way of accepting a document, by adding to the market value disclosed by the document, some percentage to off-set the under-valuation.

There is no legal basis to proceed on a general assumption that parties, without exception, fail to reflect the true consideration in the sale deeds, that there is always undervaluation or suppression of the true price and that consequently, all sale deeds reflect a depressed value and not the real market value and therefore, some percentage should be added to arrive at the real value. Such a course also amounts to branding all vendors and purchasers as dishonest persons without any evidence and without hearing them. It ignores the fact that government has fixed minimum guideline values and whenever a registering authority is of the view that a sale deed is undervalued, proceedings are initiated for determination of the true market value. It also ignores the fact that a large number of sale deeds are accepted by the registering authorities as disclosing the current market value. Be that as it may.

Whether valuation by the High Court is proper?

The existence of several other sale deeds showing a much higher value and the fact that the Land Acquisition Collector chose to award a higher rate in regard to some of the acquired lands, leads to an inevitable inference that Ex.R3 to R7 were either undervalued or were distress sales. Whatever be the reason, they are liable to be excluded from consideration."

Now, coming to the evidence produced by the land owners in the land references of village Gurgaon, there was voluminous evidence produced, as noticed hereinabove. The learned reference court in paras 16 to 21 of its impugned award has referred to the relevant sale deeds produced by the land owners. Sale deeds, Exhibits P7 and P8, were the sales pertaining to very small pieces of land and the same cannot be made the basis for assessing the market value of the acquired land. Exhibits P9, P16 and P17 were the other relevant sale deeds, whereby a reasonable size of plot was sold.

In fact, sale deeds, Exhibit P9 and P16 were registered on the same day, i.e. 07.12.2007. Vide Exhibit P9 bearing sale deed No.18967 dated 07.12.2007, land measuring 2 Bigha 10 Biswa (7562 Sq.Yards) was sold at the rate of Rs.3,05,01,680/- per acre. Similarly, vide sale deed No.18968 dated 07.12.2007 (Ex.P16), land measuring 1 Bigha 17 Biswa (5445 Sq. Yards) was sold at the rate of Rs.3,05,01,680/- per acre. When the area sold by way of these two sale deeds, Exhibits P9 and P16, on the same day is put together, the total land would be more than two and half acres and both these sale deeds were disclosed exactly the same market price. Both these sale deeds were pertaining to the land out of the revenue estate of village Gurgaon itself. Having said that, this Court feels no hesitation to conclude that these sale deeds Exhibit P9 and P16, being the best pieces of evidence available on record, can be safely made the basis for assessing the market value of the land.

Although, learned reference court rightly considered the above said sale deeds Exhibits P9 and P16 for the purpose of assessing the market value, yet it committed a serious error of law, while applying 50% cut on the market price, disclosed in the above said two sale deeds. As noticed above, land measuring 4 Bigha and 6 Biswa was sold by the above-said two sale deeds, Exhibit P9 and P16, on the same day i.e. 07.12.2007 and when converted into square yard, it comes to 13007 square yards. In the above said fact situation obtaining in the present case, the important question of law that falls for consideration of this Court is, as to whether any cut was warranted to be imposed on the above-said market price, disclosed by these two sale deeds, i.e. Exhibit P9 and P16. This is the common question in all the cases pertaining to different villages which shall be separately dealt with in later part of this order.

Learned counsel for the State has placed reliance on four judgments of the Hon'ble Supreme Court in support of the impugned award passed by the learned reference court, trying to justify 50% cut imposed, on the market price disclosed in the above-said sale deeds, i.e., Exhibit P9 and P16, and also in the cases of other villages. These judgments are; **Cement Corporation of India Vs. Purya, 2004(8) SCC 270, Valliyammal and another Vs. Special Tahsildar (Land Acquisition) and another, (2011) 8 SCC 91, Maj. Gen. Kapil Mehra and others Vs. Union of India and another, 2015(2) SCC 262 and Krishan Kumar Vs. Union of India and another, 2015(2) RCR (Civil) 597**. While referring to paras 18, 21 and 23 of the judgment in **Krishan Kumar's** case (supra), wherein the Hon'ble Supreme Court has referred to paras 35 and 39 of **Purya's** case (supra), learned counsel for the State sought to argue that since the genuineness of sale transactions was rebuttable, this Court may draw inference against the land owners, who placed reliance on the sale deeds, disclosing much higher market price than disclosed in the sale deeds relied upon by the State. Again while referring to paras 32 and 33 of the judgment in **Maj. Gen. Kapil Mehra's** cases (supra), he submits that a reasonable cut may be applied towards development costs.

After giving anxious consideration to the contentions raised by the learned counsel for the State, this court has found both the contentions to be misplaced and cannot be accepted. It is so said because to raise the objection regarding genuineness of the sale transactions, State was bound to lay factual foundation before the learned reference court, while leading its evidence. However, the authorities concerned of the State of Haryana did not lead any such evidence, for the reasons best known to them. In view of the absence of even semblance of evidence available on record, learned counsel for the State could not substantiate his arguments despite having made his best efforts.

So far as imposition of particular percentage of cut on a market price disclosed by the relevant sale-deed is concerned, it is not an absolute rule. Neither it is desirable nor possible to lay down any straightjacket formula which might be made applicable in every fact situation. It is settled preposition of law that each case is to be decided as per its own peculiar facts and circumstances. In **Major General Kapil Mehra's** case (supra), the land was acquired for residential area of Vasant Kunj, Delhi**,** which was to be developed by Delhi Development Authority (for short 'DDA'). In the very nature of things, the DDA would have to carve out public parks, green belts and would also have to utilize large area for providing other public facilities and amenities like schools, dispensaries etc. In fact, it is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmasundra (Dead) Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

So far as the fact situation obtaining in the instant set of appeals is concerned, the land was acquired for construction of road. A bare perusal of the site plans, referred to hereinabove, would show that the total acquired land was situated in already developed area. It was surrounded by residential colonies, which had already been well connected with metalled roads. All other public amenities were already existing. As per the own submission made by the learned counsel for the State, the acquired land was included in the municipal area just after about 4-5 months of its acquisition, even if the total acquired land was not already within the municipal area, at the time of its acquisition, as submitted by learned counsel for land owners.

Since no development of any kind, whatsoever, as a matter of fact, was required to be carried out by the authorities of the State for achieving the purpose of construction of road, no cut was warranted to be imposed on the market price, disclosed by the above-said sale instances, Exhibit P9 and P16. Exactly similar position is in the cases of remaining villages. In some of the villages, the land sold by way of different sale deeds was 5 acres, 8 acres and 10 acres. In this view of the matter, none of the judgments, cited by the learned counsel for the State, have been found of any help to the State, these being distinguishable on facts.

The view that has been taken by this Court also finds support from a Division Bench judgment of this Court **Harbans Singh and others v. State of Punjab through the Land Acquisition Collector, 2006(1) RCR (Civil) 634,** which was, in turn, based on the law laid down by the Hon'ble Supreme Court. The relevant observations made by the Division Bench in paras 12 and 13 of its judgment in **Harbans Singh's** case (supra), which aptly apply to the facts of the present case, read as under:-

> *"There is no quarrel with the proposition, as has been laid down by the Hon'ble Apex Court in* ***Administrator General of West Bengal v. Collector's case*** *(supra), that where the sale instance relied upon by the claimants comprised of small plot of land, then a cut has to be applied while evaluating a large tract of land. However, in our considered view, the aforesaid proposition of law would not be attracted to the present case. As has been noticed by the learned reference court as well as by the learned Single Judge, it is clear that the acquired land was situated within the municipal limits. G.T. Road was situated on one side of the acquired land whereas on the other side of the acquired land a by-pass road connecting Sirhind town with the G.T. Road was situated. There were certain shops, workshops, and petrol-pumps near the acquired land. In this view of the matter, certain observations made by the Hon'ble Apex Court in* ***Bhagwathula Samanna and others v. Special Tehsildar and Land Acquisition Officer, 1992(1) RRR 257 : 1992 L.A.C.C. 314*** *may be noticed :*
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> > *"The proposition that large area of land cannot possibly fetch a price at the same rate at which small plots are sold is not absolute proposition and in given circumstances it would be permissible to take into account the price fetched by the small plots of land. If the larger tract of land because of advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not warranted. With regard to the nature of the plots involved in these two cases, it has been satisfactorily shown on the evidence on record that the land has facilities of road and other amenities and is*

> *adjacent to a developed colony and in such circumstances it is possible to utilise the entire area in question as house sites. In respect of the land acquired for the road, the same advantages are available and it did not require any further development. We are, therefore, of the view that the High Court has erred in applying the principle of deduction and reducing the fair market value of land from Rs. 10/- per sq. yard to Rs. 6.50 per sq. yard. In our opinion, no such deduction is justified in the facts and circumstances of these cases."*
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> *13. Following the aforesaid dictum laid down by the Hon'ble Supreme Court of India, a Division Bench of Madras High Court in* ***Special Tehsildar (Adi Dravidar Welfare) v. Abdul Reguman, 1996 L.A.C.C. 394*** *held as follows :*
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> *"In our view the observation made by the Supreme Court is squarely applicable to the case in hand. Admittedly, the land in question is already in a developed area and situated in an advantageous position and quite suitable for building purpose. It is also proved in evidence that the land in question has all the amenities such as roads, drainage, electricity, communications etc. Therefore, we are of the view that the learned Subordinate Judge is not justified in deducting 20% from the market value. We, therefore, set aside that part of the order of the learned Subordinate Judge, fixing the market value at Rs. 1325/- less 20%. The cross-objection is, therefore, allowed and the order of the Subordinate Judge is modified to this extent."*

On the issue of imposition of cut, the Hon'ble Supreme Court in paras 28 to 30 of its judgment in **Nelson Fernandes and others Vs. Special Land Acquisition Officer, South Goa and others, 2007(9) SCC 447,** held as under:-

"In our opinion, the High Court has adopted a rough and ready method for making deductions which is impermissible in law. We have already noticed the valuers report. No reason whatsoever was given by the Reference Court or by the High Court as to why the report of the valuer and her evidence cannot be relied on. In our opinion, the compensation awarded by the High Court had no basis whatsoever and was not supported by cogent reasons and that it did not consider the future prospect of the development of the land in question. The High Court also did not assess the injury that the appellant is likely to sustain due to loss of his future earnings from the said land and also did not assess the damage already suffered due to diminution of the profits of the land between the time of publication of the notice and time of the collector taking possession. The Division Bench of the High Court has miserably erred in passing the order impugned thereby reducing the rate of compensation from Rs. 192/- to Rs. 38/- and in utter mis-reading of the evidence on record and acted in a flagrant error of law and facts. In our view, the orders passed by the Division Bench resulted in manifest injustice being caused to the appellants. The High Court also erred in passing the order by holding that the opinion of the government approved valuer was not based on any opinion method of valuation but solely on the basis of facilities available to the land. In our view, the High Court ought to have appreciated that the government approved valuer is an expert in her field and the opinion of such an expert ought not to have been rejected shabbily.

Both the Special Land Acquisition Officer, the District Judge and of the High Court have failed to notice that the purpose of acquisition is for Railways and that the purpose is a relevant factor to be taken into consideration for fixing the compensation. In this context, we may usefully refer the judgment of this Court of ***Viluben Jhalejar Contractor (D) by***

Lrs. v. State of Gujarat reported in 2005(2) RCR(Civil) 492 (SC) : JT 2005(4) SC 282. *This Court held that the purpose for which the land is acquired must also be taken into consideration in fixing the market value and the deduction of development charges. In the above case, the lands were acquired because they were submerged under water of a dam. Owners claimed compensation of Rs. 40/- per sq. ft. LAO awarded compensation ranging from Rs. 35/- to Rs. 60/- per sq. mtr. Reference Court fixed the market value of the land at Rs. 200/- per sq. mtr. and after deduction of development charges, determined the compensation @ Rs. 134/- per sq. mtr. In arriving at the compensation, Reference court placed reliance on the comparative sale of a piece of land measuring 46.30 sq. metre @ Rs. 270 per sq. mtr. On appeal, the High Court awarded compensation of Rs. 180/- per sq. mtr. in respect of large plots and Rs. 200/- per sq. mtr. in respect of smaller plots. On further appeal, this Court held that since the lands were acquired for being submerged in water of dam and had no potential value and the sale instance relied was a small plot measuring 46.30 sq. mtr. whereas the acquisition in the present case was in respect of large area, interest of justice would be subserved by awarding compensation of Rs. 160/- per sq. mtr. in respect of larger plots and Rs. 175/- per sq. mtr. for smaller plots. In* ***Basavva (Smt.) and Ors. v. Spl. LAO and Ors. reported in 1996(2) RRR 653 (SC) : JT (1996)5 SC 580****, this Court held that the purpose by which acquisition is made is also a relevant factor for determining the market value.*

We are not, however, oblivious of the fact that normally 1/3 deduction of further amount of compensation has been directed in some cases. However, the purpose for which the land acquired must also be taken into consideration. In the instant case, the land was acquired for the construction of new BG line for the Konkan Railways. This Court in ***Hasanali Khanbhai & Sons & Ors. v. State of Gujarat, 1995(3) RRR***

> ***283 (SC) : (1995)2 SCC 422*** *and* ***L.A.O. v. Nookala Rajamallu, 2004(1) RCR(Civil) 293 (SC) : 2003(10) Scale 307*** *had noticed that where lands are acquired for specific purposes deduction by way of development charges is permissible. In the instant case, acquisition is for laying a railway line. Therefore, the question of development thereof would not arise. Therefore, the order passed by the High Court is liable to be set aside and in view of the availability of basic civic amenities such as school, bank, police station, water supply, electricity, high way, transport, post, petrol pump, industry, telecommunication and other businesses, the claim of compensation should reasonably be fixed @ Rs. 250/- per sq. mtr. with the deduction of 20%. The appellant shall be entitled to all other statutory benefits such as solatium, interest etc. etc. The appellants also will be entitled to compensation for the trees standing on the said land in a sum of Rs.59,192 as fixed. I.A. No. 1 of 2006 for substitution is ordered as prayed for."*

Again, the Hon'ble Supreme Court in paras 27 to 29 of its judgment in **Himmat Singh and others Vs. State of M.P. and another, 2013(16) SCC 392,** while reiterating its above-said view taken in **Nelson Fernandes's** case (supra), held as under:-

> *"The approach adopted by the Reference Court and the High Court in making deductions towards the cost of development/development charges from the market value determined on the basis of the sale deeds produced by the appellants was clearly wrong. The respondents had not even suggested that the development envisaged by the Reference Court, i.e., laying of roads, drains, sewer lines, parks, electricity lines etc. or any other development work was required to be undertaken for laying the Railway line. Therefore, 25% deduction made by the Reference Court and approved by the High Court under two different heads is*

legally unsustainable.

In ***Nelson Fernandes and others v. Special Land Acquisition Officer, South Goa and others, 2007(2) R.C.R. (Civil) 508 : 2007(2) Recent Apex Judgments (R.A.J.) 463 : (2007) 9 SCC 447,*** *this Court considered the question whether any deduction could be made towards development cost where the land is acquired for laying railway line and answered the same in negative. In that case, the appellant had challenged the judgments of the Reference Court and the Division Bench of the High Court fixing market value of the acquired land and contended that no deduction could be made because the land had been acquired for laying railway line. This Court reversed the judgments of the Reference Court and the High Court and observed :*

> *"29. Both the Special Land Acquisition Officer, the District Judge and of the High Court have failed to notice that the purpose of acquisition is for Railways and that the purpose is a relevant factor to be taken into consideration for fixing the compensation. In this context, we may usefully refer the judgment of this Court in* ***Viluben Jhalejar Contractor v. State of Gujarat.*** *This Court held that the purpose for which the land is acquired must also be taken into consideration in fixing the market value and the deduction of development charges. In the above case, the lands were acquired because they were submerged under water of a dam. Owners claimed compensation of L40 per sq ft. LAO awarded compensation ranging from Rs 35 to Rs 60 per sq m. Reference Court fixed the market value of the land at L 200 per sqm and after deduction of development charges, determined the compensation @ L 134 per sqm. In arriving at the compensation, Reference Court placed reliance on the comparative sale of a piece of land measuring 46.30 sq m @ Rs 270 per sq m. On*

*appeal, the High Court awarded compensation of L 180 per sq m in respect of large plots and L 200 per sq m in respect of smaller plots. On further appeal, this Court held that since the lands were acquired for being submerged in water of dam and had no potential value and the sale instance relied was a small plot measuring 46.30 sq m whereas the acquisition in the present case was in respect of large area, interest of justice would be subserved by awarding compensation of L 160 per sq m in respect of larger plots and L 175 per sq m for smaller plots. In**Basavva v. Spl. Land Acquisition Officer** this Court held that the purpose for which acquisition is made is also a relevant factor for determining the market value.*

*30. We are not, however, oblivious of the fact that normally 1/3rd deduction of further amount of compensation has been directed in some cases. However, the purpose for which the land is acquired must also be taken into consideration. In the instant case, the land was acquired for the construction of new BG line for the Konkan Railways. This Court in **Hasanali Khanbhai & Sons v. State of Gujarat** and **Land Acquisition Officer v. Nookala Rajamallu** had noticed that where lands are acquired for specific purposes, deduction by way of development charges is permissible. In the instant case, acquisition is for laying a railway line. Therefore, the question of development thereof would not arise. Therefore, the order passed by the High Court is liable to be set aside and in view of the availability of basic civic amenities such as school, bank, police station, water supply, electricity, highway, transport, post, petrol pump, industry, telecommunication and other businesses, the claim of compensation should reasonably be fixed @ Rs 250 per sq m with the deduction of 20%. The* *appellant shall be entitled to all other statutory benefits such as solatium, interest, etc. etc. The appellants also will be entitled to compensation for the trees standing on the said land in a sum of L59,192 as fixed. IA No. 1 of 2006 for substitution is ordered as prayed for."*

*In **C.R. Nagaraja Shetty v. Special Land Acquisition Officer and Estate Officer and another 2009(4) R.C.R.(Civil) 460 : 2009(6) Recent Apex Judgments (R.A.J.) 149 : (2009)11 SCC 75,** the Court referred to the judgment in **Nelson Fernandes and others v. Special Land Acquisition Officer, South Goa and others** (supra) and observed :*

"15. The learned counsel appearing on behalf of the respondents was also unable to point out any such evidence regarding the proposed development. We cannot ignore the fact that the land is acquired only for the widening of the national highway. There would, therefore, be no question of any such development or any costs therefore.

*16. In **Nelson Fernandes v. Land Acquisition Officer** this Court has discussed the question of development charges. That was a case where the acquisition was for laying a railway line. This Court found that the land under acquisition was situated in an area which was adjacent to the land already acquired for the same purpose i.e. for laying a railway line. In para 29, the Court observed that the Land Acquisition Officer, the District Judge and the High Court had failed to notice that the purpose of acquisition was for the Railways and that the purpose is a relevant factor to be taken into consideration for fixing the compensation.*

*17. The Court in Nelson Fernandes relied on **Viluben Jhalejar Contractor v. State of Gujarat** where it was held that :*

"29. the purpose for which the land is acquired must also be taken into consideration in fixing the market value and the deduction of development charges."

Further, in para 30, the Court specifically referred to the deduction for the development charges and observed:

"30. We are not, however, oblivious of the fact that normally 1/3rd deduction of further amount of compensation has been directed in some cases. However, the purpose for which the land is acquired must also be taken into consideration. In the instant case, the land was acquired for the construction of new BG line for the Konkan Railways. ... In the instant case, acquisition is for laying a railway line. Therefore, the question of development thereof would not arise."

The Court made a reference to two other cases viz. ***Hasanali Khanbhai & Sons v. State of Gujarat*** *and* ***Land Acquisition Officer v. Nookala Rajamallu*** *where the deduction by way of development charges was held permissible.*

18. The situation is no different in the present case. All that the acquiring body has to achieve is to widen the national highway. There is no further question of any development. We again, even at the cost of repetition, reiterate that no evidence was shown before us in support of the plea of the proposed development. We, therefore, hold that the High Court has erred in directing the deduction on account of the developmental charges at the rate of Rs 25 per square foot out of the ordered compensation at the rate of Rs 75 per square foot. We set aside the judgment to that extent."

Reverting to the peculiar facts and circumstances of the cases in hand and respectfully following the law laid down by the Hon'ble Supreme Court as well as by the Division Bench of this Court, in the cases referred to hereinabove, this Court feels no hesitation to conclude that keeping in view the peculiar fact situation obtaining in the cases in hand, including purpose of acquisition, coupled with the undisputed and material fact that no development of any kind, whatsoever, was required for achieving said purpose of acquisition, i.e., construction of road, no cut was warranted to be imposed on the market price, disclosed by the above-said sale deeds instances, Exhibit P9 and P16. In fact, while proceeding on a holistic, pragmatic and constructive approach, with a view to do complete and substantial justice between the parties, this Court of the considered view that imposition of any percentage of cut on the market price, disclosed in the above-said sale deeds, Exhibits P9 and P16, would not only be contrary to the facts and circumstances, as well as evidence available on record but will also run counter to the law laid down by the Hon'ble Supreme Court in the cases referred to hereinabove and also the law laid down by the Hon'ble Supreme Court in **Mehrawal Khewaji Trust (Registered), Faridkot and others v. State of Punjab and others, (2012) 5 SCC 43**, wherein it was held that the land owners are entitled to receive the best price for their acquired land.

The Hon'ble Supreme Court in paras 17 and 18 of its judgment in **Udho Dass v. State of Haryana, 2010 (12) SCC 5** held that landowners hardly get due compensation in the matters of compulsory acquisition and the relevant observations read 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?"*

Interpreting the scope and ambit of the duty cast on the Court for granting just and fair amount of compensation for the acquired land and referring to Section 25 of the Act, Hon'ble Supreme Court in **Civil Appeal No.2714-2721 of 2012 decided on 18.2.2016 (Ashok Kumar and another etc. v. State of Haryana),** held as under:-

"It is for the Court, in the facts and circumstances of each case, to award just and fair compensation. Prior to amendment Act 68 of 1984, the amount of compensation that could be awarded by the Court was limited to the amount claimed by the applicant.

Section 25 read as under -

"Section 25. Rules as to amount of compensation -

(1) When the applicant has made a claim to compensation, pursuant to any notice given under Section 9, the amount awarded to him by the court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under Section 11.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the court shall not be less than, and may

exceed, the amount awarded by the Collector."

The amended Section 25 reads as under:

> *"Section 25. Amount of compensation awarded by Court not to be lower than the amount awarded by the Collector- The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11."*

The amendment has come into effect on 24.09.1984.

The pre-amended provision put a cap on the maximum; the compensation by court should not be beyond the amount claimed. The amendment in 1984, on the contrary, put a cap on the minimum; compensation cannot be less that what was awarded by the Land Acquisition Collector. The cap on maximum having been expressly omitted, and the cap that is put is only on minimum, it is clear that the amount of compensation that a court can award is no longer restricted to the amount claimed by the applicant.

It is the duty of the Court to award just and fair compensation taking into consideration the true market value and other relevant factors, irrespective of the claim made by the owner. Although in the context of the Motor Vehicles Act, 1988, this Court in Sanjay Batham v. Munna Lal Parihar[1] held that -

> *"17. It is true that in the petition filed by him under Section 166 of the Act, the Appellant had claimed compensation of Rs. 4,20,000/- only, but as held in Nagappa v. Gurudayal Singh, (2003) 2 SCC 274, in the absence of any bar in the Act, the Tribunal and for that reason any competent Court is entitled to award higher compensation to the victim of an accident." In Bhag Singh and Others v. Union Territory of Chandigarh[2], this Court held that there may be situations where the amount higher than claimed may be awarded to the claimant. The Court observed –*

> *"3. … It must be remembered that this was not a dispute*

between two private citizens where it would be quite just and legitimate to confine the claimant to the claim made by him and not to award him any higher amount than that claimed though even in such a case there may be situations where an amount higher than that claimed can be awarded to the claimant as for instance where an amount is claimed as due at the foot of an account. Here was a claim made by the appellants against the State Government for compensation for acquisition of their land and under the law, the State was bound to pay to the appellants compensation on the basis of the market value of the land acquired and if according to the judgments of the learned single Judge and the Division Bench, the market value of the land acquired was higher than that awarded by the Land Acquisition Collector or the Additional District Judge, there is no reason why the appellants should have been denied the benefit of payment of the market value so determined. To deny this benefit to the appellants would tantamount to permitting the State Government to acquire the land of the appellants on payment of less than the true market value. There may be cases where, as for instance, under' agrarian reform legislation, the holder of land may, legitimately, as a matter of social justice with a view to eliminating concentration of land in the hands of a few and bringing about its equitable distribution, be deprived of land which is not being personally cultivated by him or which is in excess of the ceiling area with payment of little compensation or no compensation at all, but where land is acquired under the Land Acquisition Act, 1894, it would not be fair and just to deprive the holder of his land without payment of the true market value when the law, in so many terms, declares that he shall be paid such market value. …"

In Krishi Utpadan Mandi Samiti v. Kanhaiya Lal[3], this Court held that under the amended provisions of Section 25 of the Act, the Court can grant a higher compensation than claimed by the applicant in his pleadings -

"17. Award being in this case between the dates 30th April, 1982 and 24th September, 1984 and as per the Union of India and Anr. v. Raghubir Singh (Dead) by LRs. etc. (Supra), the amended provisions would be applicable under which there is no restriction that award could only be upto the amount claimed by the claimant. Hence High Court order granting compensation more than what is claimed cannot be said to be illegal or contrary to the provisions of the Act.

Hence the review itself, as is confined for the aforesaid reasons, has no merit." Further, in Bhimasha v. Special Land Acquisition Officer and others[4], a three-Judge bench reiterated the principle in Bhag Singh (supra) and rejected the contention that a higher compensation than claimed by the owner in his pleadings cannot be awarded by the Court. In that case, the High Court had concluded that although the market price of the land was Rs 66,550/- per acre, since the appellant had only claimed compensation at the rate of Rs.58,500/- per acre in his pleadings, therefore he could only be awarded compensation limited to his claim.

This Court, while reversing the decision of the High Court, awarded the petitioner the market value, i.e., Rs. 66,550/- per acre thereby holding that the award would not be limited to the claim made by him. In the case of the appellants herein, it is an admitted position that the properties do not abut the national highway. Admittedly, it is situated about 375 yards away from the national highway and it appears that there is only the narrow

> *Nahan Kothi Road connecting the properties of the appellants to the national highway."*

In this regard, it is also relevant to refer to the new Land Acquisition Act known as 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the New Act'). The legislature has found the Land Acquisition Act, 1894 (for short `the Old Act') to be an outdated law, because of which it was thought appropriate to bring the new piece of legislation in the form of the New Act. The statement of objects and reasons for framing the New Act are not being reproduced here for the sake of brevity and only highlights thereof would suffice, which read as under:-

> *"HIGHLIGHTS OF THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABIITATION AND RESETTLEMENT ACT, 2013 (30 OF 2013)*
>
> - *Payment of compensation upto four times the market value in rural area and two times the market value in urban areas.*
> - *To address historical injustices, the Law applies retrospectively to cases where no land acquisition award has been made.*
> - *No one shall be dispossessed until and unless all payments are made and alternative sites for the resettlement and rehabilitation have been prepared.*
> - *Compensation to those who are dependent on the land being acquired for their livelihood.*
> - *In cases where Public-Private Partnership PPP projects are involved or acquisition is taking place for private companies, the Act requires the consent of not less than 70 per cent and 80 per cent respectively (in both cases) of those whose land is sought to be acquired.*

- *To safeguard Food Security and to prevent arbitrary acquisition, the Act directs States to impose limits on the area under agricultural cultivation that can be acquired.*
- *In case, land remains unutilized after acquisition, the new Act empowers State to return the land either to the owner or to the State Land Bank.*
- *No income-tax shall be levied and no stamp duty shall be charged on any amount that accrues to an individual as a result of the provisions of the new Law.*
- *Where acquired land is sold to a third party for a higher price then 40 percent of the appreciated land value (or profit) will be shared with the original owners.*
- *The Act requires a Social Impact Assessment study to be conducted for every acquisition of land."*

Bare reading of abovesaid highlights of the New Act would show that some of its provisions have been made applicable retrospectively with a view to address historical injustices, which were being done to the land owners under the Old Act.

Another common feature in all these appeals, arising out of above-said 11 villages, is that the learned reference court has taken average market price of more than one sale-deeds, which is contrary to the law laid down by the Hon'ble Supreme Court. The practice of taking average market price disclosed by more than one sale-deeds has been disapproved by the Hon'ble Supreme Court more than once, including in the case of **Mehrawal Khewaji Trust** (supra). However, in the instant set of appeals, the learned reference court has committed a serious error of law, while taking average market price of more than one sale-deeds, for the purpose of assessing the market value of the land acquired from different revenue estates of above-said villages. Since such findings recorded by the learned reference court, while deciding the land references of different villages by passing different awards, has been found patently illegal, being violative of the law laid down by the Hon'ble Supreme Court, such illegal findings cannot be upheld and the same are hereby set aside, so as to avoid repetition.

In view of what has been discussed hereinabove, the inevitable conclusion is that since the land sold by way of above-said two sale-deeds Ex.P9 and Ex.P16 on the same date, i.e. 7.12.2007 was measuring more than 4 Bigha 6 Biswa (13,007 square yards) and no further development, as a matter of fact, was required as the land was acquired from already developed area, no cut was warranted to be imposed on the market price, which was exactly the same in both these sale-deeds,i.e. Ex.P9 and P16 and the land owners would be entitled for the said market price for their acquired land. Accordingly, the land owners of village Gurgaon are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.3,05,01,680/- per acre, because granting any lesser amount of compensation would be wholly unjustified.

Village Choma

For the purpose of deciding the appeals of village Choma, facts are being culled out from RFA No.6536 of 2013 (Umed Singh and others Vs. State of Haryana and another). LAC, vide his Award No.66 dated 23.12.2009, assessed the market value of the acquired land at the rate of Rs.60 lacs per acre. It is also pertinent to note here that the learned reference court did not resort to the belting system in any of the cases pertaining to all the 11 villages. Learned reference court, vide its award dated 30.7.2013, decided 57 land references and assessed the market value at the uniform rate of Rs.1,84,00,000/- per acre. Regarding the evidence produced by the State and discussed by the learned reference court in para 33 of the impugned award, it is a matter of record that all the sale-deeds relied upon by the State, were disclosing much less market price than what was granted by the LAC. The above-said view taken by this Court, while deciding the appeals of village Gurgaon, is being reiterated here for the sake of brevity.

Coming to the evidence produced by the land owners and discussed by the learned reference court in para 29 of its impugned award dated 30.7.2013, the market price disclosed by the sale-deed dated 23.3.2007 Ex.P13 was Rs.4,78,05,588/- per acre. It is very pertinent to note here that the land measuring 82 Kanals 1 Marla was sold by way of this sale-deed which was more than 10 acres. As noticed hereinabove, there was not even semblance of evidence produced by the State either before learned reference court or before this Court which may even remotely suggest that any of sale-deeds produced by the land owners was not genuine sale-deed. Once the genuineness of all the sale-deeds pertaining to the land sold from different revenue estates have never been in dispute, no adverse inference is permissible to be drawn at the hands of this Court, as sought to be argued by the learned counsel for the State. Had any factual foundation been laid by the State before the learned reference court in this regard, producing any kind of direct or indirect documentary or oral evidence, raising any doubt about the genuineness of numerous sale-deeds produced by the land owners out of different revenue estates of above-said villages and said evidence might have not been properly discussed or appreciated by the learned reference court, the learned counsel for the State would have been justified to raise this argument.

However, as noticed hereinabove, since no effort, whatsoever, was made by the authorities of the State for producing any kind of evidence in this regard, it would be patently illegal to draw any such adverse inference, at the hands of this Court against the genuineness of sale-deeds which are registered documents and per se admissible in evidence, in view of the provisions of Section 51-A of the Act. Further, drawing such adverse inference shall also run counter to the law laid down by the Hon'ble Supreme Court in **Haryana State Industrial Development Corp. Vs. Pran Sukh and others, 2010 (11) SCC 175.** In fact, such an adverse inference against the genuineness of registered document cannot be drawn by any court just in the air and without there being a sound reason for it, particularly when party praying before the Court for drawing such an adverse inference has miserably failed in its duty to lead any sort of evidence, with a view to rebut the presumption attached to the genuineness of a registered document, numerous sale-deeds in the cases in hand.

Genuineness of the sale-deeds produced by the land owners having been duly established on record, the learned reference court committed a serious error of law, while deciding the cases of village Choma as well, in taking the average market price of more than one sale-deeds. Although the sale-deed Ex.R1 relied upon by the State, was clearly an outcome of a distress sale or was an undervalued transaction, yet it was taken into consideration by the learned reference court for the purpose of taking the average market price, disclosed by more than one sale-deeds. Learned reference court has proceeded contrary to the law laid down by the Hon'ble Supreme Court and such patently illegal approach cannot be upheld, therefore, the finding recorded by the learned reference court in para 31 of the impugned award is hereby set aside.

Since the area sold by way of sale-deed No.26822 dated 23.3.2007 (Ex.P13) was measuring 82 Kanals 1 Marla, which was more than 10 acres and was also disclosing highest market price at the rate of Rs.4,78,05,588/- per acre, this was the only sale-deed which ought to have been made the basis for assessing the market value of the acquired land. Learned reference court took this sale-deed into consideration only for the purpose of taking average market price, which was totally illegal. Once area sold vide this sale-deed Ex.P13 was more than 10 acres, no cut was warranted to be imposed on account of the smallness of land sold through the sale-deed relied upon.

Similarly, since land acquired from this village was also situated in the already developed area and no further development, as such, was required to be carried out by the authorities of the State, with a view to achieve the purpose of acquisition in the instant case, no cut could have been imposed on account of development costs as well. Since the learned reference court has failed to appreciate this material aspect of the matter as well as law laid down by the Hon'ble Supreme Court in the cases referred to hereinabove, the twin findings i.e., for taking the average market price as well as imposing cut thereon, recorded by the learned reference court in para 31 of the impugned award, cannot be sustained and the same are hereby set aside. Consequently, the land owners of village Choma are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.4,78,05,588/- per acre, from the date of notification under Section 4 of the Act.

Village Pawala Khusrupur

Land measuring 48.23 acres was acquired, out of the revenue estate of this village. LAC, vide his Award No.54 dated 5.11.2009, assessed the market value of the acquired land of this village at the uniform rate of Rs.60,00,000/- per acre. Learned reference court, vide its impugned award dated 28.5.2013, decided as many as 110 land references, assessing the market value of the acquired land at the uniform rate of Rs.1,41,37,575/- per acre. With a view to decide the appeals arising out of this village, facts are being extracted from **RFA No.5376 of 2013 (Roshni Devi and others Vs. State of Haryana and others)**.

So far as the evidence produced by the State, the same has been referred by the learned reference court in paras 8 and 13 of the impugned award. All the three sale-deeds Exhibits R1 to R3 relied upon by the State, were found disclosing much less market price than what was assessed by the LAC. As noticed hereinabove, since the above-said sale-deeds relied upon by the State, were not only hit by the provisions of Section 25 of the Act, but were also either undervalued transactions or result of distress sale, the same have to be excluded from consideration, in view of the law laid down by the Hon'ble Supreme Court in **Lal Chand's** case (supra).

Coming to the evidence produced by the land owners and discussed by the learned reference court in para 16 of the impugned award, these were numerous sale-deeds. Learned reference court, while recording its twin but patently illegal findings in para 22 of the impugned award, took the average market price of more than 10 sale-deeds and thereafter applied 55% cut on the said average market price. Such an illegal finding based on wholly misconceived approach, cannot be upheld and the same is hereby set aside. It is so said because learned reference court recorded both the above-said findings in para 22 of the impugned award, contrary to the law laid down by the Hon'ble Supreme Court, in the cases referred to hereinabove. Neither the practice of taking average market price of more than one sale-deeds has been approved by the Hon'ble Supreme Court nor any cut was warranted to be imposed in the facts of the present case.

In the given facts and circumstances of the case, sale-deed Ex.P2/A dated 7.12.2007 was the best sale-deed, which could have been safely made the basis for assessing the market value of the acquired land. The biggest chunk of land was sold vide this sale-deed and the same was measuring 49 Kanals and 2 Marlas. It was more than six acres and was out of the revenue estate of this very village. Ex.P2/A was the sale-deed bearing No.18781 dated 7.12.2007, whereby land measuring 49 Kanals 2 Marlas was sold at the rate of Rs.4,65,52,331/- per acre. Other sale-deeds, whereby smaller pieces of land were sold, disclosed higher market price at the rate of Rs.5,78,95,652/- per acre vide Ex.P77, Rs.6,95,65,217/- per acre vide Ex.P67 and Rs.5,77,77,777/- per acre vide Ex.P66.

Since the land sold by these sale-deeds were smaller pieces of land measuring only in Kanals, the same are not being taken into consideration for the purpose of assessing the market value of the land acquired out of the revenue estate of this village. However, this Court has found no reason, as to why the land owners of this village be not held entitled for the compensation at the same market value, which has been disclosed in this sale-deed Ex.P2/A dated 7.12.2007. Accordingly, while setting aside the above-said illegal findings recorded by the learned reference court, taking the average market price as well as imposition of cut thereon, land owners of this village are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.4,65,52,331/-

per acre, from the date of notification under Section 4 of the Act.

Village Basai

With a view to decide the appeals involving the land acquired out of the revenue estate of this village, facts are being taken from **RFA No.7359 of 2012 (State of Haryana and another Vs. Birbal and others).** Land measuring 18.20 acres was acquired from the revenue estate of this village. LAC, vide his Award No.12 dated 19.9.2008, assessed the market value of the acquired land at the uniform rate of Rs.60,00,000/- per acre. Learned reference court, vide its award dated 29.9.2012, decided 31 land references and assessed the market value at the uniform rate of Rs.1,75,00,000/- per acre. As far as the evidence produced by the State in this case is concerned, it was exactly the similar position as recorded hereinabove about other villages. In this view of the matter, the above-said reasons recorded by this Court are to be reiterated here for the sake of brevity.

As far as the evidence produced by the land owners is concerned, the learned reference court discussed the same in paras 18 and 21 of the impugned award. Although learned reference court has correctly recorded the findings about the genuineness of the sale-deeds produced by the land owners, yet it fell in serious error of law, while taking the average market price of more than one sale-deeds, i.e. Ex.P7 and Ex.P9 and then illegally applied a cut thereon. It is pertinent to note here that the land was sold, vide these two sale-deeds Ex.P7 and Ex.P9 almost simultaneously, Ex.P7 being dated 29.10.2007 and Ex.P9 being dated 30.10.2007. Land was sold out of the revenue estate of village Basai itself and was measuring more than two acres. Under these circumstances, no cut was warranted to be imposed, therefore, the patently illegal finding recorded by the learned reference court cannot be sustained and the same is hereby set aside.

Consequently, sale-deeds Ex.P7 and Ex.P9 being the only relevant sale-deeds, the same can be made the basis for assessing the market value of the acquired land. An area of more than two acres, out of revenue estate of Basai itself, was sold at the rate of Rs.2,50,00,000/- per acre. Accordingly, land owners of village Basai are held entitled to receive the compensation for their acquired land, at the uniform rate of Rs.2,50,00,000/- per acre, from the date of notification under Section 4 of the Act.

Village Kherki Majra Dhankot

To decide the appeals relating to the land acquired out of the revenue estate of this village, facts are being taken from **RFA No.431 of 2013 (Smt.Chameli and others Vs. Land Acquisition Collector and others)**. Land measuring 67.07 acres was acquired from the revenue estate of village Kherki Majra Dhankot. LAC, vide his Award No.13 dated 19.9.2008, assessed the market value of the acquired land at the uniform rate of Rs.60,00,000/- per acre. Learned reference court, vide its award dated 12.11.2012 decided 35 land references, assessing the market value at the uniform rate of Rs.1,26,00,000/- per acre.

Evidence produced by the State, referred and discussed by the learned reference court in paras 11 and 13 of the impugned award, has been rightly kept out of consideration as the sale-deeds were not only hit by Section 25 of the Act, but were also liable to be ignored even on their individual merits, those being the result of either undervalued transactions or distress sale. It is also pertinent to note here that the appeals filed by the State against this award dated 12.11.2012, pertaining to the land of village Kherki Majra Dhankot, have already been dismissed by this Court vide order dated 15.3.2013 passed in RFA No.1690 of 2013 (State of Haryana and another Vs. M/s Ladle Propbuild Pvt. Ltd.) and other connected cases.

So far as the evidence produced by the land owners is concerned, the learned reference court has discussed the same in paras 7, 10 and 14 to 19 of the impugned award. However, the learned reference court has again committed similar but serious error of law, while taking the average market price of more than one sale-deeds and then applied a cut thereon, in spite of the fact that the land sold was measuring more than 10 acres and was situated in the already developed area. Such an illegal finding recorded by the learned reference court in para 17 of the impugned award cannot be sustained and the same is hereby set aside.

It is pertinent to note here that sale-deed Ex.P1, Ex.P2 and Ex.52, all three were registered on 24-25/1/2008 out of the revenue estate of village Kherki Majra Dhankot itself. Area sold was more than four acres at the uniform rate of Rs.2,80,00,000/- per acre because of which these sale-deeds could have been safely made the basis for assessing the market value of the acquired land, without applying any cut thereon. In this view of the matter, no cut was warranted to be imposed, because neither area sold was smaller in size nor any kind of development was required, as the land acquired from the revenue estate of this village was situated in fully developed area, as per the site plans referred to hereinabove. Accordingly, the land owners of village Kherki Majra Dhankot are held entitled to receive the compensation for their acquired land at the uniform rate of

Rs.2,80,00,000/- per acre, from the date of notification under Section 4 of the Act.

Village Dhanwapur

For the purpose of deciding the appeals qua the land acquired out of the revenue estate of this village, facts are being taken from RFA No.907 of 2013(Shri Kant and others Vs. State of Haryana and another). Land measuring 34.81 acres was acquired, out of the revenue estate of this village. LAC, vide his Award No.11 dated 19.9.2008, assessed the market value of the acquired land at the uniform rate of Rs.60,00,000/- per acre. Learned reference court, vide its award dated 31.10.2012 decided 51 land references and assessed the market value at the uniform rate of Rs.1,53,00,000/- per acre. Neither LAC nor learned reference court resorted to the belting system.

Regarding the evidence led by the State and discussed by the learned reference court in paras 11 and 13 of the impugned award, factual as well as legal position is exactly the same as in the cases pertaining to different villages referred to hereinabove, because of which the view already expressed is reiterated to avoid any repetition. It is also pertinent to note here that the appeals filed by the State against the impugned award dated 31.10.2012 passed by the learned reference court have already been dismissed by this Court vide its order dated 18.3.2013 passed in RFA No.556 of 2013 (State of Haryana and another Vs. Babu Ram Gupta) and other connected cases.

As far as the evidence produced by the land owners before the learned reference court is concerned, the learned counsel for the appellants submitted that the sale-deeds Ex.P3 and Ex.P4 were relevant sale-deeds as discussed by the learned reference court in para 17 of the impugned award. However, after considering these sale-deeds, Ex.P4 has been found a post acquisition sale-deed. Once the sale-deed Ex.P3 dated 23.8.2007 was available on record, the post acquisition sale-deed Ex.P4 cannot be made the basis for assessing the market value of the acquired land. In the circumstances of this case, sale-deed Ex.P3 has been to be the best piece of evidence, whereby land measuring 9 Kanals and 16 Marlas was sold at the rate of Rs.3 crores.

As the genuineness of the sale-deeds has been duly established on record, this Court has found no reason to disbelieve the same. Following the law laid down by the Hon'ble Supreme Court in the cases referred to hereinabove, it is held that since the area sold by way of this sale-deed Ex.P3 was more than one acre, no cut was warranted to be imposed on the market price, disclosed in the sale-deed. The findings recorded by the learned reference court in para 19, taking the average of two sale-deeds i.e. Ex.P3 and another post-acquisition sale-deed Ex.P4, as well as the finding imposing cut on the average market price, have been found patently illegal and the same are hereby set aside. Land owners of village Dhanwapur are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.3 crores per acre, from the date of notification under Section 4 of the Act.

Village Teekampur

With a view to decide the appeals pertaining to the land acquired out of the revenue estate of this village, facts are being taken from RFA No.2471 of 2013(M/s Chirayu Buildtech Pvt. Ltd. Vs. The State of Haryana and another). Land measuring 15.28 acres was acquired, out of the revenue estate of this village. LAC, vide his Award No.10 dated 19.9.2008, assessed the market value of the acquired land at the uniform rate of Rs.60,00,000/- per acre. Learned reference court, vide its award dated 23.1.2013 decided 11 land references, while assessing the market value at the uniform rate of Rs,91,87,000/- per acre.

The appeals filed by the State of Haryana against this impugned award dated 23.1.2013 have already been dismissed by this Court vide its order dated 6.5.2013 passed in RFA No.2885 of 2013 (State of Haryana and another Vs. Urmila Dahiya). So far as the evidence led by the State, as discussed by the learned reference court in paras 11 and 13 of its impugned award is concerned, exactly similar is the position as recorded hereinabove qua the appeals arising out of acquisition from other villages and the same view is being reiterated here, for the sake of brevity and to avoid repetition.

Learned reference court again committed similar and serious error of law, while recording its findings in paras 20 and 23 of the impugned award, in taking the average market price, disclosed in the sale-deeds Ex.P12 to Ex.P23, Ex.PW2/1 and Ex.PW5/A, as well as imposition of unwarranted cut thereon. Since the biggest chunk of land was sold vide sale-deed dated 14.11.2007 Ex.P22 at the rate of Rs.1,81,58,768/- per acre from the revenue estate of this village and the land sold was measuring 84 Kanals and 8 Marlas, which was more than 10 acres, neither the principle of average market price was warranted nor any cut was liable to be imposed. Therefore, the patently illegal findings recorded by the learned reference court in this regard cannot be sustained and the same are hereby set aside. Consequently, taking the sale-deed Ex.P22 selling the land measuring 84 Kanals and 8 Marlas at the rate of Rs.1,81,58,768/- per acre, from the revenue estate of this very village, as the safe guide for assessing the market value of the acquired land, land owners of village Teekampur are held entitled to receive the compensation for their acquired land, at the uniform rate of Rs.1,81,58,768/- per acre, from the date of notification under Section 4 of the Act.

Village Harsaru

For deciding the appeals involving the land acquired out of the revenue estate of this village, facts are being extracted from **RFA No.2208 of 2013 (Phool Singh and others Vs. State of Haryana and another)**. Land measuring 88.54 acres was acquired from the revenue estate of this village. LAC, vide his Award No.18 dated 26.9.2008, assessed the market value of the acquired land at the uniform rate of Rs.50,00,000/- per acre. Learned reference court, vide its award dated 8.1.2013, decided 38 land references and assessed the market value at the uniform rate of Rs.1,20,14,000/- per acre. In this case also, the appeals filed by the State of Haryana against this impugned award dated 8.1.2013, have already been dismissed by this Court vide its order dated 6.5.2013 passed in RFA No.2235 of 2013 (State of Haryana Vs. M/s Faridabad Presswell Private Limited). The evidence led by the State and discussed by the learned reference court in paras 11 and 14 of its impugned award, was exactly the same as in the above-said cases and for this reason the above-said view already taken by this Court, is being reiterated here to avoid any repetition.

Coming to the evidence produced by the land owners and discussed by the learned reference court in para 16 of the impugned award, learned reference court again committed a serious error of law, while taking average market price, from the sale-deeds Ex.P4 to Ex.P9 and then applied a

55% cut thereon. This patently illegal finding recorded by the learned reference court in para 21 of the impugned award cannot be sustained and the same is hereby set aside, again for the reasons adopted by this Court in the foregoing paragraphs of this order. In fact, vide sale-deed No.20337 dated 18.12.2007 (Ex.P11), an area measuring 40 Kanals and 5 Marlas was sold at the rate of Rs.3,43,25,310/- per acre, from the revenue estate of village Harsaru itself. This was the reason that sale-deed Ex.P11 could have been safely made the basis for assessing the market value of the acquired land.

However, learned reference court failed to record any reason much less cogent reasons, for adopting method of taking average market price from the sale-deeds Ex.P4 to P9. Similarly, once area sold by way of sale-deed Ex.P11 was measuring more than 5 acres, no cut was warranted to be imposed on the market price, disclosed in this sale-deed Ex.P11. Under these circumstances, considering the sale-deed Ex.P11 dated 18.12.2007 to be the best piece of evidence for assessing the market value of the acquired land, this Court feels no hesitation to conclude that the land owners of this village shall be entitled to receive the compensation for their acquired land at the uniform rate of Rs.3,43,25,310/- per acre, from the date of notification under Section 4 of the Act. Ordered accordingly.

Village Sihi

For the purpose of deciding the appeals involving the land acquired out of the revenue estate of this village, facts are being taken from RFA No.5665 of 2013(Mange Ram Vs. State of Haryana and others). Land measuring 72.19 acres was acquired from the revenue estate of this village. LAC, vide his Award No.17 dated 26.9.2008, assessed the market value of the acquired land at the uniform rate of Rs.60,00,000/- per acre. Learned reference court, vide its impugned award dated 8.5.2013 decided 34 land references and assessed the market value at the uniform rate of Rs.1,51,71,800/- per acre. As noticed in the cases pertaining to above-said different villages, the evidence produced by the State, as discussed by the learned reference court in paras 8, 11 and 13 of the impugned award, has not been found worth consideration, for the same reasons recorded hereinabove. The appeals filed by the State of Haryana against the impugned award dated 8.5.2013, including RFA No.5507 of 2013 (State of Haryana and another Vs.Baljit alias Manjit and others) have already been dismissed by this Court.

Coming to the evidence produced by the land owners and discussed by the learned reference court in paras 16 to 20 of the impugned award, it has again proceeded on similar illegal approach, while taking the average market price disclosed in as many as 10 sale-deeds and then applied 65% cut thereon, as per its illegal finding recorded in para 21 of the impugned award, which cannot be sustained and the same is hereby set aside.

A bare perusal of numerous sale-deeds, referred in para 16 of the impugned award, would show that sale-deed Ex.P19 dated 2.4.2007 was the best sale exampler to be made the basis for assessing the market value of the acquired land. It is so said because biggest chunk of land measuring 62 Kanals and 1 Marla was sold by this sale-deed, out of the revenue estate of village Sihi itself, at the rate of Rs.5,09,26,672/- per acre. Other sale-deeds whereby smaller pieces of land were sold, even at the rate of Rs.9 crores per acre, cannot be taken into consideration for twin reasons. Firstly, those sale-deeds were pertaining to smaller pieces of land and secondly some of them were post acquisition sales.

In the circumstances of the case, sale-deed Ex.P19 was the best piece of evidence, whereby land measuring about 8 acres was sold, is being made the basis for assessing the market value of the acquired land. As noted above, the Hon'ble Supreme Court has held that land owners are entitled to receive the best price for their acquired land. Cut was not warranted to be imposed on the market price disclosed in the sale-deed Ex.P19, for the reason that the land sold thereunder was measuring about 8 acres and the acquired land of this village was situated in the fully developed area. Accordingly, land owners of village Sihi are held entitled to receive the compensation for their acquired land, at the uniform rate of Rs.5,09,26,672/- per acre, from the date of notification under Section 4 of the Act.

Village Kherki Daula

To decide the appeals qua the land acquired out of the revenue estate of this village, facts are being culled out from RFA No.3076 of 2014 (Nathu and others Vs. State of Haryana and another). Land measuring 27.43 acres was acquired from the revenue estate of this village. LAC, vide his Award No.65 dated 23.12.2009, assessed the market value of the acquired land at the uniform rate of Rs.60,00,000/- per acre. Learned reference court, vide its impugned award dated 29.1.2014, assessed the market value at the uniform rate of Rs.1,02,00,000/- per acre, while deciding 26 land references. The evidence produced by the State, as referred in para 15 of the impugned award passed by the learned reference court, was also hit by the provisions of Section 25 of the Act, as in the other cases. The sale-deeds produced by the State are bound to be kept out of consideration, in view of the law laid down by the Hon'ble Supreme Court in **Lal Chand's** case (supra).

So far as the evidence led by the land owners is concerned, there were only two sale-deeds, i.e. Ex.P3 and Ex.P4. Learned reference court has proceeded on a factually incorrect approach, while recording its patently illegal findings in para 17 of the impugned award. The facts and figures of sale-deed Ex.P3 have been read in the other sale-deed Ex.P4 and vice versa. Ex.P4 was the sale-deed dated 13.12.2006, whereby land measuring 11 Kanals and 2 Marlas was sold at the rate of Rs.1,70,00,000/- per acre, out of the revenue estate of village Kherki Daula. This sale-deed is available at page 107 of LCR. Other sale-deed was dated 13.6.2007 Ex.P3 available at page 115 of LCR, whereby an area measuring 9 Kanals was sold at the rate of Rs.4 crores per acre, as referred in para 12 of the impugned award.

Since the larger chunk of land measuring 11 Kanals and 2 Marlas was sold by Ex.P4 on 13.12.2006 at the rate of Rs.1,70,00,000/- per acre, it would be safer to follow this sale-deed, while assessing the market value of the acquired land.

However, this Court would hasten to add that since there was a time gap of 13 months between this sale-deed Ex.P4 dated 13.12.2006 and date of acquisition dated 25.1.2008, land owners shall be entitled for the benefit of 12% annual increase on cumulative basis, as per the law laid down by the Hon'ble Supreme Court in the case of **Mehrawal Khewaji Trust** (supra) and in **Ashok Kumar and others v. State of Haryana, 2015**

(3) Scale 242. Granting the benefit of 12% annual increase on cumulative basis on the above-said market price of Rs.1,70,00,000/- per acre, disclosed in the sale-deed Ex.P4, amount comes to Rs.1,92,30,400/- per acre, which has been counter checked by the learned counsel for the State as well and found correct.

As noticed in the other cases referred to hereinabove, since the land sold by way of this sale-deed Ex.P4 was measuring 11 Kanals and 2 Marlas, which would be about one and half acres, no cut was warranted to be imposed on the market price, disclosed vide sale-deed Ex.P4. Accordingly, land owners of village Kherki Daula are held entitled to receive the compensation for their acquired land, at the uniform rate of Rs.1,92,30,400/-, from the date of notification under Section 4 of the Act.

Village Garauli Kalan

With a view to decide the appeals involving the land acquired out of the revenue estate of this village, facts are being culled out from RFA No.5237 of 2014 (Mahender Singh and another Vs. State of Haryana and another). Land measuring 18.53 acres was acquired from the revenue estate of this village. LAC, vide his Award No.15 dated 26.9.2008, assessed the market value of the acquired land at the uniform rate of Rs.50,00,000/- per acre. Learned reference court, vide its impugned award dated 21.1.2014, assessed the market value at the uniform rate of Rs.1,21,18,503/- per acre, while deciding 4 land references.

The evidence produced by the State and discussed by the learned reference court in para 8 of the impugned award, was again found not worth consideration. The sale-deeds Ex.R1 to R5 relied upon by the State were hit by the provisions of Section 25 of the Act. In fact, these sale-deeds were not only by the provisions of Section 25 of the Act but were also result of either undervalued transactions or the distress sale. In either of these two situations, these sale-deeds were bound to be kept out of consideration, in view of the law laid down by the Hon'ble Supreme Court in **Lal Chand's** case (supra).

Coming to the evidence produced by the land owners and discussed in para 7 of the impugned award, learned reference court illegally took the average of market price, disclosed in sale-deed Ex.P9 dated 27.2.2008 and the award Ex.P10 dated 8.1.2013, which was pertaining to village Harsaru qua this very acquisition. The patently illegal finding recorded by the learned reference court in para 29 of the impugned award cannot be upheld and the same is herby set aside. It is matter of record that Sale-deed No.27518 dated 27.2.2008 Ex.P9 was pertaining to this very village Garauli Kalan and land sold thereunder fetched the market price at the rate of Rs.2,03,71,678/- per acre, as recorded by the learned reference court in para 17 of the impugned award.

Sale examplers in the form of Ex.P3 to Ex.P5 were rightly ignored by the learned reference court, as these were pertaining to other villages. Although this sale-deed Ex.P9 was one month later than the date of notification under Section 4 of the Act, yet this being the only sale-deed from village Garauli Kalan whose land was acquired in the instant case, learned reference court was fully justified in placing reliance on this sale-deed. However, the learned reference court misdirected itself, while taking the average of market price, disclosed in this sale-deed Ex.P9 and award Ex.P10, because of which the said finding is erroneous on the face of it.

In fact, in this case also, the learned reference court illegally adopted the same method of taking average market price, as noticed above, and thereafter applied an unwarranted cut on the average market price. Since both these findings recorded by the learned reference court are contrary to the law laid down by the Hon'ble Supreme Court in the cases referred to hereinabove, these cannot be sustained and the same are hereby set aside. Since the area sold vide this sale-deed Ex.P9 was measuring 2 Bigha and Biswa (7130 square yards) which cannot be said to be a small piece of land, particularly when land measuring 18.53 acres was the total acquired land from this village, no cut was warranted to be imposed on the market price, disclosed in this sale-deed Ex.P9. It is, therefore, held that land owners of village Garauli Kalan shall be entitled to receive the compensation for their acquired land, at the uniform rate of Rs.2,03,71,678/- per acre, from the date of notification under Section 4 of the Act.

Let it be specifically recorded here that no other better 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 State of Haryana are 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 allowed to the extent indicated above. Consequently, the land owners of above-said 11 villages are held entitled to receive the compensation for their acquired land, as per the respective market value assessed village-wise, in the foregoing paragraphs of this order. Besides this, the land owners shall also be entitled to all the statutory benefits available to them under the relevant provisions of the Act.

As prayed by the learned counsel for the land owners, direction issued by the Hon'ble Supreme Court in para 22 of its judgment in **Haryana State Industrial Development Corp. Vs. Pran Sukh and others, 2010 (11) SCC 175** are also issued herein, which read as under:-

> With a view to ensure that the land owners are not fleeced by the middleman, we deem it proper to issue following further directions:-
>
> i. The Land Acquisition Collector shall depute officers subordinate to him not below the rank of Naib Tehsildar, who shall get in touch with all the land owners and/or their legal representatives and inform them about their entitlement and right to receive enhanced compensation.
>
> ii. The concerned officers shall also instruct the land owners and/or their legal representatives to open savings bank account in case they already do not have such account.
>
> iii. The bank account numbers of the land owners should be given to the Land Acquisition Collector within three months.
>
> iv. The Land Acquisition Collector shall deposit the cheques of compensation in the bank accounts of the land owners.

Resultantly, with the observations made above, all the appeals and cross-objections stand disposed of, in the afore-said terms, however, with no order as to costs.

20.5.2016 **(RAMESHWAR SINGH MALIK)**
mks **JUDGE**