IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.5316 of 2014 (O&M)
and other connected matters
Date of decision: 27.05.2016

Pushpender Kumar and others

... Appellants

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Aditya Jain, Advocate
for the appellant(s) in RFA Nos.2298, 4393, 4397, 5019, 5020, 5022, 5246, 5270, 5314 to 5320, 5466, 6757 to 6771, 7315 to 7318, 7321, 8653, 8868, 8977, 9059, 9734, 9758, 9834, 9835 of 2014, 3097, 3098 of 2015.

Mr. Shailendra Jain, Senior Advocate with
Mr. Sanjiv Gupta, Advocate
for the appellant(s) in RFA Nos.5290, 5507, 6262, 6263, 7006 to 7009, 7327, 8468 to 8470, 9393 to 9395, 10850 to 10853 of 2014, 960, 7375, 7376 of 2015)

Mr. R.S. Rai, Senior Advocate with
Mr. Harsh Bungar, Advocate and Mr. Rajeev Anand, Advocate
for the appellant(s) in RFA Nos.3357, 3358, 5961, 5962, 5981, 8948, 8950, 9163, 9164, 9725, 10060 of 2014, 1069 to 1071 of 2015.

Mr. Chetan Mittal, Senior Advocate with
Mr. Udit Garg, Advocate
for the appellant(s) in RFA No.8949 of 2014

Mr. Amit Jain, Advocate
for the appellant(s) in RFA Nos.6697, 7329 to 7331, 9923 and 10068 of 2014, 216, 320, 517, 813, 3226 of 2015.

Mr. Sanjay Vij, Advocate
for the appellant(s) in RFA Nos.5888 to 5895, 7769 to 7779, 8199 to 8203 of 2014, 2046, 2047, 2100 to 2107, 2697 to 2700, 3498 of 2015.

Mr. H.S. Virk, Advocate for
Mr. N.D. Achint, Advocate
for the appellant(s) in RFA Nos.3705, 5566, 5567, 7965, 8862, 9865 to 9869 of 2014, 77, 206, 210, 324, 330, 895 of 2015.

Mr. Jai Vir Yadav, Advocate
for the appellant(s) in RFA Nos.6089 to 6093 of 2014

Mr. Sandeep Sharma, Advocate
for the appellant(s) in RFA Nos.5009, 5019, 5020, 5044 to 5046, 5965 to 5967, 6136, 7840, 7844, 8111, 8520, 8673, 8683, 9035, 9710, 10379, 10380, 10444 of 2014, 329 of 2015.

Mr. Sachin Mittal, Advocate
for the appellant(s) in RFA Nos.7236 and 9682 of 2014.

Mr. Bhim Singh, Advocate
for the appellant(s) in RFA Nos.6264 to 6266 of 2014.

Mr. Gaurav Gupta, Advocate
for the appellant(s) in RFA Nos.2042 and 2043 of 2015.

Mr. Sushil K.Sharma, Advocate for
Mr. M. L. Sharma, Advocate
for the appellant(s) in RFA Nos.6350, 6351, 6588, 6590, 7915, 7916, 7918, 9731 of 2014, 835, 6552 of 2015.

Mr. Ashok Tyagi, Advocate
for the appellant(s) in RFA Nos.8732, 8733 and 9118 of 2014.

Mr. Ashwani Gaur, Advocate
for the appellant(s) in RFA No.9802 of 2014.

Mr.Vikrant Rana, Advocate
for the appellant(s) in RFA No.3481 of 2015.

Mr. Saurabh Arora, Advocate
for the appellant(s) in RFA Nos.8754, 8755, 9328 to 9331 of 2014, 3411, 1907 to 1910 and 3222 of 2015 and
for the respondent(s) in RFA No.7029 of 2014.

Mr. P.R.Yadav, Advocate and
Ms. Pratibha Yadav, Advocate
for the appellant(s) in RFA Nos.4974, 5438, 6119, 6615, 6201, 6202, 6708, 8178, 8462, 8463 and 9141 of 2014.

Mr. Sudhir Aggarwal, Advocate
for the appellant(s) in RFA Nos.3671, 4659 to 4661, 5261, 5263, 5346 to 5352, 5440, 5903, 5904 to 5907, 5922 to 5926, 6476 to 6480, 6577, 6942, 6943, 6946, 6947, 7222, 7226, 7326,8629, 9023, 9696, 10073, 10665 of 2014 and RFA Nos.47, 54, 205, 231 to 235, 1335 to 1338, 2705 of 2015.

Mr. S. K. Yadav, Advocate and
Mr. K. K. Saini, Advocate
for the appellant(s) in RFA Nos.5534 to 5537, 5937 to 5954, 5880, 5882, 5887, 5888, 5890 to 5893, 6126, 7325, 7842, 8230 to 8264, 8312 to 8316, 9041, 9088, 9106, 9259 to 9261, 9421 to 9423 10663, 10672 of 2014, 211, 520, 541, 757 to 759, 832, 883, 3421, 3491 of 2015 and
for the respondent(s) in RFA No.7108 of 2014.

Mr. Atul Yadav, Advocate
for the appellant(s) in RFA Nos.5881, 5883, 5886, 7387 to 7390, 7683, 8229, 9093, 9665 of 2014 and 952 of 2015.

Mr. Pavan Malik, Advocate
for the appellant(s) in RFA Nos.2196 to 2201 of 2015

Mr. S.S. Khurana, Advocate
for the appellant(s) in RFA Nos.3248 to 3251 of 2015

Mr. Sanjay Verma, Advocate
for the appellant(s) in RFA No.2696 of 2015.

Mr. Rakesh Dhiman, Advocate
for the appellant(s) in RFA No.529 of 2015

Mr. Gunjan Mehta, Advocate,
for the appellant(s) in RFA Nos.9601 to 9605 of 2014,
10782, 10783 of 2014 and 765 of 2015.

Mr. Anil Kumar Rana, Advocate for
Mr. Lokesh Sinhal, Advocate
for the appellant(s) in RFA Nos.7401 to 7407, 8636 of 2014.

Mr. Rajiv Sharma, Advocate
for the appellant(s) (in RFA Nos.916, 964, 1500 of 2015)

Mr. Ashish Gupta, Advocate
for the appellant(s) (in RFA Nos.5453, 8095, 5469 to 5472, 6607, 8466, 8467, 8648 of 2014)

None for the appellant(s) (in RFA Nos.3722 to 3724, 5229, 6711, 7006 to 7008, 7664, 7665, 8083, 8084, 8092, 8468 to 8470, 8766, 9287 to 9289, 9532 to 9538, 9662, 10338 of 2014, 251, 252 of 2015)

Mr. Arun Beniwal, DAG, Haryana.

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

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RAMESHWAR SINGH MALIK, J.

Instant batch of 570 appeals, out of which 126 appeals bearing Regular First Appeal Nos.7029 to 7135 of 2014, 5118 to 5133 & 5231 to 5233 of 2015, filed by the State of Haryana and remaining appeals bearing Regular First Appeal Nos.2298, 3357, 3358, 3671, 3705, 3722 to 3724, 4393, 4397, 4659 to 4661, 4974, 5009, 5019, 5020, 5022, 5044 to 5046, 5229, 5246, 5261, 5263, 5270, 5290, 5314 to 5320, 5346 to 5352, 5438, 5440, 5453, 5466, 5469 to 5472, 5507, 5534 to 5537, 5566, 5567, 5880 to 5895, 5903 to 5907, 5922 to 5926, 5937 to 5954, 5961, 5962, 5965 to 5967, 5981, 6089 to 6093, 6119, 6126, 6136, 6201, 6202, 6262 to 6266, 6350, 6351, 6476 to 6480, 6577, 6588, 6590, 6607, 6615, 6697, 6708, 6711, 6757 to 6771, 6942, 6943, 6946, 6947, 7006 to 7009, 7222, 7226, 7236, 7315 to 7318, 7321, 7325 to 7327, 7329 to 7331, 7387 to 7390, 7401 to 7406, 7664, 7665, 7683, 7769 to 7779, 7840, 7842, 7844, 7915, 7916, 7918, 7965, 8083, 8084, 8092, 8095, 8111, 8178, 8199 to 8203, 8229 to 8264, 8312 to 8316, 8462, 8463, 8466 to 8470, 8520, 8629, 8636, 8648, 8653, 8673, 8683, 8732, 8733, 8754, 8755, 8766, 8862, 8868, 8948 to 8950, 8977, 9023, 9035, 9041, 9059, 9088, 9093, 9106, 9118, 9141, 9163, 9164, 9259 to 9261, 9287 to 9289, 9328 to 9331, 9393 to 9395, 9421, 9422, 9423, 9532 to 9538, 9601 to 9605, 9662, 9665, 9682, 9696, 9710, 9725, 9731, 9733, 9734, 9758, 9802, 9834, 9835, 9865 to 9869, 9923, 10060, 10068, 10073, 10338, 10379, 10380, 10444, 10663, 10665, 10672, 10782, 10783, 10850 to 10853, of **2014**, 47, 54, 77, 205, 206, 210, 211, 216, 231 to 235, 251, 252, 320, 324, 329, 330, 517, 520, 529, 531, 541, 757 to 759, 765, 813, 832, 835, 883, 895, 916, 952, 960, 964, 1069 to 1071, 1335 to 1338, 1500, 1907 to 1910, 2042, 2043, 2046, 2047, 2100 to 2107, 2196 to 2201, 2696 to 2700, 2705, 3097, 3098, 3222, 3226, 3248 to 3251, 3411, 3421, 3481, 3491, 3498, 6552, 7375, 7376 of **2015** filed by the land owners, 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.

In the present case, land was acquired out of as many as 13 revenue estates of different 13 villages. However, purpose of acquisition was same i.e. for utilization of land for Sector Roads for Sectors 81 to Sector 95 in Gurgaon. Accordingly, notification dated 11.02.2010 came to be issued under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short). Different areas of land were acquired from different revenue estates. Land Acquisition Collector ('LAC' for short) pronounced his different 13 awards on same date i.e. 14.06.2010 qua most of the villages. However, the market value of three villages namely; Naharpur Kasan was assessed at Rs.38,00,000/- per acre, land of village Bhangrola was assessed at Rs.50,00,000/- per acre and the land of village Wazirpur was assessed at the rate of Rs.45,00,000/- per acre. Land of all the remaining 10 villages was assessed at the uniform rate of Rs.60,00,000/- per acre. Similarly, after considering the relevant evidence produced by both the parties, learned reference Court assessed the market value of the acquired land at different rates for different villages.

In view of the abovesaid factual position obtaining on record of instant set of appeals, it would be appropriate to refer to the individual facts of each village and decide the appeals pertaining to a particular village, on the basis of evidence available on record. However, before proceeding further for discussing the individual facts of each village, it is pertinent to note here that another bunch of appeals was decided by this Court vide order dated 20.05.2016, whereby land was acquired out of the revenue estate of as many as 11 villages, for an identical public purpose namely; for construction of 150 meter wide road in the adjoining area.

Many revenue estates out of which land was acquired by way of earlier acquisition, wherein the date of notification under Section 4 of the Act was 25.01.2008, were adjoining with the revenue estates, whose land has been acquired by way of present acquisition. In fact, some villages including village Hayatpur and Sihi were common in both these acquisitions. Batch of appeals arising out of earlier acquisition dated 25.01.2008 was decided by this Court vide order dated 20.05.2016 passed in RFA No.4475 of 2012 (Ram Chander and others Vs. State of Haryana and others). In this view of the matter, order dated 20.05.2016 passed by this Court in Ram Chander's case (supra) would have some bearing on the decision of present set of appeals, because except the time gap of about two years, there was hardly any distinguishable feature between both these acquisitions. Now, the cases are being taken up villagewise.

Village Hayatpur

Land measuring 143.56 acres was acquired out of the revenue estate of this village. With the consent of learned counsel for the parties and for the facility of reference, facts are being taken from RFA No.5316 of 2014 (Pushpender Kumar and others Vs. State of Haryana and another). LAC vide award No.7 dated 14.06.2010 assessed the market value of the acquired land at the rate of Rs.60,00,000/- per acre. Dissatisfied with the market value assessed at the hands of LAC, land owners filed their objections under Section 18 of the Act and as a consequence thereof, many land references were forwarded to the learned reference Court for its decision. Learned reference Court, vide its impugned award dated 26.03.2014 decided as many as 102 land references, assessing the market value at the rate of Rs.1,77,71,110/- per acre. State of Haryana has filed no appeal against this impugned award dated 26.03.2014, however, land owners have approached this Court seeking further enhancement in the amount of compensation for their acquired land.

Heard learned counsel for the parties at considerable length.

Thrust of the arguments raised on behalf of the land owners is that the learned reference Court has illegally imposed an unwarranted cut to the extent of 50% on the market price disclosed by relevant sale deed. It has been further argued that the learned reference Court has granted the compensation to the extent of 25% of the market value, on account of severance charges, only to the land owners of one village namely Badha, whereas the total acquired land was identically placed and the similarly situated land owners ought to have been treated equally, granting to all of them just compensation, on account of severance charges. Learned counsel for the land owners concluded by submitting that since learned reference Court has proceeded on a wholly illegal approach, while dismissing some of the land references on account of delay alone, in spite of the fact that these were not actually suffering from any delay, the said land references ought to have been allowed, treating those land owners at par with the land owners whose identical land references have been allowed under Section 18 of the Act by the learned reference Court, while passing the impugned award.

Per contra, learned counsel for the State, while placing reliance on the judgments of the Hon'ble Supreme Court in **Krishan Kumar Vs. Union of India and another, 2015 (2) RCR (Civil) 597** and **Maj. Gen. Kapil Mehra and others Vs. Union of India and another, 2015 (2) SCC 262,** submits that the sale deeds were not disclosing the realistic market price of the acquired land, because sale deeds relied upon by the land owners were showing inflated rates and adverse inference is liable to be drawn against the land owners, as the buyers were uninformed buyers. So far as the claim of the land owners for compensation on account of severance charges is concerned, learned counsel for the State would submit that since no sufficient evidence was led by the land owners in this regard, they were not entitled for any compensation on account of severance charges. Raising his third argument regarding dismissal of the land references on account of delay alone, learned counsel for the State submits that since the learned reference Court had no jurisdiction to condone the delay, the impugned award does not suffer from any illegality and the same deserves to be upheld.

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 so far as the appeals filed by the State of Haryana are concerned, the same are without any merit and liable to be dismissed. The appeals filed by the landowner deserves to be partly allowed, suitably enhancing the amount of compensation for their acquired land. The land owners have also been found entitled for reasonable compensation on account of severance charges. Further, the appeals of those land owners whose land references have been dismissed by the learned reference Court only on account of delay, also deserve to be allowed. To say so, reasons are more than one, which are being recorded hereinafter.

So far as the location and potentiality of the acquired land is concerned, a bare perusal of the site plans Ex.P9, Ex.P9/A at page 630 and Ex.P26 at page 851 coupled with other evidence in the form of statements of witnesses, available on record, would make it crystal clear that the acquired land was situated at a prime location and was having immense potentiality. It is a matter of record that the acquired land had already been included in the municipal area about two years earlier than the instant acquisition. At the time of instant acquisition, the acquired land was situated in a most happening area. Oweing to its location and potentiality, this area had already been declared by the State Government, as residential zone. It is equally pertinent to note here that all these sectors from Sector 81 to Sector 95 had been developed by private builders, who either purchased the land from the land owners or it was allotted to them by the State Government after its acquisition. Because of these undisputed facts available on record, this Court feels no hesitation to conclude that the prices of land in and around the area of acquired land, were the skyrocketing prices in those days. In this regard, some of the relevant observations made by the learned reference Court in para 23 of the impugned award read as under: -

> *"Real estate prices in Gurgaon are surging at astronomical rates as is evident from exemplar sale deeds, placed on record by the petitioners. Gurgaon is a millennium and cyber city, the strategical location of the acquired land is beyond any pale of controversy. Various builders have got licences to develop the agricultural land into house building projects near the acquired land as is evident from copy of licence No.22/2008 Ex.PW4/A, whereby licence of group housing society was granted in favour of Shiv Narain and Laxmi Narain developers by the Town and Country Planning Department of Govt. of Haryana. Similarly licence Ex.P4/B dated 28.3.2008 Ex.P4/C dated 3.12.93 granted in favour of other property developers. Said licences were issued by Govt. of Haryana prior to the issuance of notification under*

Section 4 of the Act, whereas licence Ex.P4/E was issued on 18.3.10 only after about one month 7 days of issuance of notification under Section 4 of the Act. The site plans Ex.P9 and P9/A make the position of the land very clear."

As regards the evidence produced by the State, it has been referred by the learned reference Court in para 19 of the impugned award. All the three sale exemplars relied upon by the State in the form of Ex.R1, Ex.R2 and Ex.R3, were disclosing the market price lower than the one granted by LAC. In fact, this is the common feature about the evidence produced by the State before the learned reference Court qua the land of all the 13 villages. It is so said to avoid any repetition. The sale deeds relied upon by the State in the cases of all the 13 villages, were not only hit by the provisions of Section 25 of the Act but are also liable to be kept out of consideration on their individual merits, as well. The sale instances relied upon by the State were either undervalued transactions or were the result of distress sales. In either of these two situations, such sale instances are liable to be kept out of consideration.

The abovesaid view taken by this Court also finds support from the law laid down by the Hon'ble Supreme court in **Lal Chand Vs. 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 in the present case, 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."

Coming to the evidence produced by the land owners of village Hayatpur, the learned reference Court has referred the same in para 14 and 15 of the impugned award. A close perusal of the 15 sale exemplars would show that sale deed Ex.P10/A dated 06.01.2010, whereby a big chunk of land measuring 90 kanal, 10 marla was sold out of the revenue estate of village Hayatpur itself, at the rate of Rs.3.52 crores per acre, was the best piece of evidence for assessing the market value of the acquired land of this village. It is so said because the vendee of this sale deed Ex.P10/A was a company owned by the Govt. of India.

This abovesaid material fact would be a direct answer to the argument raised by learned counsel for the State that the buyer was uninformed buyer. Further, admittedly authorities concerned of the State of Haryana, for the reasons best known to them, did not make any effort whatsoever to lay down a factual foundation before the learned reference Court, with a view to raise any kind of objection about genuineness of all the sale deeds produced on record on behalf of the land owners. This was the reason which was beyond the control of learned counsel for the State that he could not substantiate his argument despite making his best efforts, because the factual foundation, including any objection to the genuineness of sale deeds produced by the land owners, is conspicuously missing in the instant set of appeals.

In view of what has been discussed hereinabove, it would be impermissible in law to draw an adverse inference against the sale deeds relied upon by the land owners, all these being registered documents and also because of presumption of truth attached thereto. No such adverse inference can be drawn against a registered document simply on asking of the opposite party, without there being any supporting evidence available on record, as drawing such an adverse inference would run counter to the law laid down by the Hon'ble Supreme Court in more than one judgments, including **Haryana State Industrial Development Corporation Vs. Pran Sukh and others, 2010 (11) SCC 175.**

Genuineness of the numerous sale deeds relied upon by the land owners, with a view to substantiate their claim for assessing the market value of the acquired land, out of all the 13 villages, having been duly established on record, next question that arises for consideration of this Court is as to whether any particular percentage of cut was warranted to be imposed on the market price disclosed in the relevant sale deeds. Keeping in view the peculiar fact situation obtaining in the instant set of cases, this Court is of the considered opinion that answer to the question posed hereinabove is and has to be in the negative. It is so said because it was a company of Govt. of India who purchased the land measuring 90 kanal, 10 marla, which was more than 11 acres.

What could be a better sale instance than the present one, whereby such a big chunk was purchased by a company owned by Govt. of India. So far as the imposition of any particular percentage of cut on the market price disclosed by the relevant sale deeds is concerned, it is not an absolute rule. Neither it is desirable nor it is possible to lay down a straight-jacket formula, which might be made applicable in every fact situation. Each case is to be decided as per its own peculiar facts and circumstances. Further, it is the settled proposition of law that 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 additional fact or circumstance can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundra**

Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.

In **Maj. Gen. Kapil Mehra**'s case (supra) relied upon by learned counsel for the State, 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, 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. So far as the present case is concerned, land was acquired only for construction of roads for the residential sectors which had been developed by the private builders and colonizers.

Since the acquired land was situated in the already developed area, neither any kind of further development was required for putting the acquired land to its optimum use for construction of road nor even an inch of land was going to be wasted. So far as imposition of cut on account of smallness of plots sold by way of relevant sale deed is concerned, said ground is also not available to learned counsel for the State, for the reason that the land measuring more than 11 acres was purchased by a company owned by Govt. of India vide abovesaid sale deed Ex.P10/A.

As both these grounds for imposition of cut, as a matter of fact, were not available in favour of the State and there being no third ground either argued or available for the said purpose, learned reference Court has misdirected itself, while imposing 50% cut on the market price disclosed by way of abovesaid sale deed Ex.P10/A. Although learned reference Court did well, while placing reliance on this sale deed Ex.P10/A for assessing the market value of the acquired land yet simultaneously a serious error of law was committed while imposing cut to the extent of 50% on the market price disclosed therein. Such an illegal finding which runs counter to the law laid down by the Division Bench of this Court as well as numerous judgments of the Hon'ble Supreme Court cannot be upheld and the same is hereby set aside.

The view that has been taken by this Court also finds support from a Division Bench judgment of this Court in **Harbans Singh and others Vs. State of Punjab through the Land Acquisition Collector, Patiala, 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 of this Court in paras 12 and 13 of its judgment in **Harbans Singh'**s case (supra), which can be gainfully followed in 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 Vs. Collector's case** (supra), that where the sale instance relied upon by the claimants comprised of small plot of land, than 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 Vs. Special Tehsildar and Land Acquisition***

Officer, 1992 (1) RRR 257: 1992 L.A.C.C. 314 *may be noticed:*

> *"The proposition that large area of land cannot possible fetch a price at the same rate at which small plots are sold is not absolute proposition and in the 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 satisfactory 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 required 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."*

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) Vs. Abdul Reguman, 1996 L.A.C.C. 394** held as follows:*

> *"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 misreading 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 judgements 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 judgements 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 judgement 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.*

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 therefor.*
>
> *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.*

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."*

Viewed from any angle, while proceeding on a holistic, pragmatic and constructive approach with a view to do complete and substantial justice between the parties, this Court is of the considered opinion that imposition of any percentage of cut, on the market price disclosed in the abovesaid sale deed Ex.P10/A, would not only be contrary to the facts and circumstances as well as the 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 (Regd.), Faridkot and others Vs. State of Punjab and others, 2012 (5) SCC 432,** 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 para 17 & 18 of its judgment in **Udho Dass Vs. State of Haryana, 2010 (12) SCC 51** held that the land owners are hardly get compensated 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 compensation for the acquired land and referring to Section 25 of the Act, the Hon'ble Supreme Court in **Civil Appeal No.2714-2721 of 2012 (Ashok Kumar and another etc. Vs. State of Haryana etc.)** decided on 18.02.2016, 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."*

The abovesaid sale deed Ex.P10/A having been found the best piece of evidence, can be safely made the basis for assessing the market value of the acquired land. As noticed hereinabove, land measuring 90 kanal, 10 marla was purchased by a company owned by Govt. of India at the rate of Rs.3.52 crores per acre. This sale deed was registered on 06.01.2010 out of the revenue estate of village Hayatpur itself, whereas the acquired land came to be notified on 11.02.2010. Accordingly, land owners of village Hayatpur are held entitled to receive the compensation for their acquired land at the rate of Rs.3.52 crores per acre, from the date of notification under Section 4 of the Act.

Village Shikohpur

To decide the appeals qua the land acquired out of the revenue estate of this village, facts are being culled out from RFA No.5231 of 2015 (State of Haryana and another Vs. Shiv Narain and others). Land measuring 39.02 acres was acquired from the revenue estate of this village, vide abovesaid common notification dated 11.2.2010. LAC, vide his Award No.9 dated 14.06.2010, assessed the market value of the acquired land at the uniform rate of Rs.60,00,000/- per acre. Learned reference Court decided as many as 24 land references vide its impugned award dated 21.12.2013, assessing the market value of the acquired land at the uniform rate of Rs.12,10,70,693/- per acre. Both the parties felt aggrieved against the abovesaid impugned award dated 21.12.2013. State of Haryana is seeking reduction in the amount of compensation, whereas land owners are seeking further enhancement in the amount of compensation for their acquired land.

State of Haryana did not lead any evidence to controvert the evidence led by the land owners, as recorded by the learned reference Court in para 6 of the impugned award.

Sale exemplars, produced by the land owners, are referred in para

11 of the impugned award. Sale-deeds Ex.P16 and Ex.P18, whereby smaller pieces of land were sold, have disclosed the market price as high as Rs.25,17,33,333/- per acre and Rs.29,21,73,913/- per acre. However, in view of the peculiar facts and circumstances of the case, it would not be safe to make these sale deeds pertaining to very small pieces of land, as the basis for assessing the market value of the land acquired, out of the revenue estate of village Shikohpur. Vide sale deed dated 20.02.2008 Ex.P17, biggest chunk of land measuring 07 Bigha, 02 Biswa was sold out of the revenue estate of this very village. The area sold vide this sale deed Ex.P17 was measuring 4.43 acres and the market price disclosed therein was Rs.13,58,87,324/- per acre.

However, the learned reference Court misdirected itself, while not placing reliance on this best piece of evidence in the form of sale deed Ex.P17 and instead award Ex.PX was made the basis for assessing the market value of the acquired land. Award Ex.PX was pertaining to a different acquisition, whereby land was acquired for Gas Authority of India Limited (`GAIL' for short). It is pertinent to note here that the award Ex.PX was based on the average market price of four sale deeds, including the abovesaid three sale deeds Ex.P16, Ex.P17 and Ex.P18 and on the said average market price, the learned reference Court had applied 50% cut. The learned reference Court, while deciding the cases of GAIL, had applied 50% cut on the average market price disclosed by the abovesaid four sale deeds.

Since the sale deed Ex.P17, whereby a big chunk of land measuring 4.43 acres was sold and genuineness thereof was not in dispute, was available on record the learned reference Court ought to have made this sale deed as the basis for assessing the market value of the acquired land instead of Ex.PX. It is so said because Ex.PX was pertaining to different acquisition. Further, learned reference Court has failed to assign any good reason as to why the sale instance available on record in the form of abovesaid sale deed Ex.P17 was being ignored. Thus, the abovesaid finding recorded by the learned reference Court has been found patently illegal, which cannot be sustained and the same is hereby set aside.

It is also a matter of record that there was a time gap of 01 year and 11 months in sale deed Ex.P17 and the date of notification under Section 4 of the Act. Although the land owners might be entitled for an annual increase at the rate of 15%, as the acquired land was admittedly situated within the municipal area, yet this Court is of the considered view that granting the benefit of 12% annual increase will meet the ends of justice. Granting the benefit of 12% annual increase, for the abovesaid period of 01 year and 11 months, on cumulative basis, in view of the law laid down by the Hon'ble Supreme Court in **Mehrawal Khewaji**'s case (supra) and **Ashok Kumar and others v. State of Haryana, 2015 (3) Scale 242,** amount comes to Rs.16,89,35,120/- per acre.

As discussed in the foregoing paragraphs, no cut was warranted to be imposed on the market price disclosed by way of abovesaid sale deed Ex.P17, for twin reasons. Firstly, as the acquired land was situated in a fully developed area and no further development of any kind, whatsoever, was required to achieve the purpose of acquisition, i.e. construction of road, no cut was liable to be imposed on account of any development costs. Secondly, imposition of any cut on account of smallness of plots sold was also not available because the land measuring 4.43 acres was sold by way of above-said sale-deed Ex.P17. In this view of the matter, the land owners of village Shikohpur are held entitled to receive the compensation for their acquired land, at the uniform rate of Rs.16,89,35,120/- per acre from the date of notification under Section 4 of the Act.

Village Sikanderpur Badha

Land measuring 45.92 acres was acquired vide abovesaid same notification dated 11.02.2010 and for the same purpose. For the facility of reference, facts are being culled out from RFA No.9423 of 2014 (Yashbir Yadav Vs. State of Haryana and others).

LAC vide his award No.6 dated 14.06.2010 assessed the market value of the acquired land at the uniform rate of Rs.60,00,000/- per acre. Learned reference Court, vide impugned award dated 26.08.2014 decided as many as 36 land references, assessing the market value of the acquired at the uniform rate of Rs.1,29,21,393/- per acre. It is pertinent to note here that there was another identical award dated 17.10.2014 passed by the learned reference Court, whereby some other but similar land references were decided, granting same abovesaid amount of compensation for the acquired land. The evidence produced by both the parties has been referred by learned reference Court in para 10 of the impugned award. All the three sale deeds Ex.R1 to Ex.R3 relied upon by the State were found disclosing lesser market price than what was assessed by LAC, because of which these were hit by the provisions of Section 25 of the Act. Reiterating the abovesaid reasons, recorded while deciding the appeals of Village Hayatpur and on the same analogy, evidence produced by the State has to be kept out of consideration.

Coming to the evidence led by the land owners, there were numerous sale instances. Learned reference Court proceeded on a misconceived approach, while making sale deed Ex.P22 as the basis for assessing the market value of the acquired land, because the area sold thereunder was only 01 kanal, 17 marla at the rate of Rs.2,08,36,757/- per acre. It is so said because other sale deeds, whereby much larger area was sold out of the revenue estate of this very village, were available on record, which could not have been ignored. Learned reference Court did not assign any cogent reason as to why the sale deed Ex.P4, whereby land measuring 08 kanal, 12 marla was sold at the rate of Rs.1.5 crores per acre, could not be made basis for assessing the market value of the acquired land. This finding recorded by the learned reference Court having been found based on a misconceived approach, it could not be sustained and the same is hereby set aside.

Following the law laid down by the Hon'ble Supreme Court in **Viluben Jhalejar Contractor (Dead) by LRs Vs. State of Gujarat, 2005 (4) SCC 789** and **Mehrawal Khewaji**'s case (supra), sale deed Ex.P4 dated 29.03.2007 has been found to be the best sale deed which can be safely made the basis for assessing the market value of the acquired land. As noted above, land measuring 08 kanal, 12 marla was sold out of the revenue estate of this very village Sikanderpur Badha, by way of this sale deed Ex.P4 on 29.03.2007, at the rate of Rs.1.50 crores per acre, thus, there was a time gap of 02 years and 10 months between this sale deed and date of notification under Section 4 of the Act.

Granting the benefit of 12% annual increase on cumulative basis for the time gap, in view of the law laid down by the Hon'ble Supreme Court in the cases referred to hereinabove, the market value comes to Rs.2,06,97,600/- per acre. Since area sold by way of Ex.P4 was 08 kanal, 12 marla i.e. more than one acre, no cut was warranted to be imposed on the abovesaid market price disclosed by way of this sale deed Ex.P4, on the same analogy and for same reasons recorded hereinabove. Accordingly, the land owners of village Sikanderpur Badha are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.2,06,97,600/- per acre from the date of notification under Section 4 of the Act.

Village Badha

Land measuring 126.89 acres was acquired out of the revenue estate of this village. With the consent of learned counsel for the parties and for the facility of reference, facts are being extracted from RFA No.5009 of 2014 (Rajpal Singh and others Vs. State of Haryana and others).

LAC vide his award No.5 dated 14.06.2010 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 28.02.2014 decided 114 land references and market value of the acquired was assessed at the uniform rate of Rs.1,81,01,217/- per acre. Learned reference Court granted compensation to the extent of 25% of the abovesaid market value, on account of severance charges. Two sale deeds Ex.R1 and Ex.R2 relied upon by the State were found hit by the provisions of Section 25 of the Act and the learned reference Court rightly excluded the same out of consideration. Since the said finding recorded by the learned reference Court has been found in consonance with the law laid down by the Hon'ble Supreme Court in **Lal Chand**'s case (supra), the same is hereby upheld.

Evidence produced by the land owners has been referred by the learned reference Court in tabulation form in para 16 of the impugned award. There were numerous sale instances relied upon by the land owners. The learned reference Court placed reliance on Ex.P60, as referred in para 20 of the impugned award. It is pertinent to note here that learned reference Court has recorded cogent findings in the impugned award excluding the other sale deeds from consideration, because many of them were found to be the sale transactions between parent company and its subsidiary company. In some cases, shares were sold by the parent company to its subsidiary company. Learned reference Court has recorded its finding in this regard in para 17 to 20 of the impugned award and the same also deserves to be upheld because such sale deeds cannot be said to be genuine sale deeds.

Vide sale deed Ex.P60, land measuring 08 kanal, 16 marla was sold at the rate of Rs.2,93,63,636/- per acre. Although the learned reference Court rightly made this sale deed as the basis for assessing the market value of the acquired land and granted the benefit of 10% annual increase thereon for the time gap, yet a serious error of law was committed at the hands of learned reference Court, while imposing 50% cut on the market price disclosed by this sale deed. Since area sold by way of this sale deed was more than one acre, which could not be said to be a small piece of land, no cut was liable to be imposed, in view of the law laid down by the Hon'ble Supreme Court in the cases referred in the forgoing paragraphs.

Further, finding recorded by the learned reference court for granting compensation to the extent of 25% of the market value on account of severance charges is well founded and the same also deserves to be upheld. It is a matter of record that there was a time gap of 02 years and 02 months between the sale deed Ex.P60 and the date of notification under Section 4 of the Act. The land owners would be entitled for 12% annual increase on cumulative basis for this time gap. Granting the benefit of 12% annual increase on cumulative basis for the time gap of 02 years and 02 months, the amount comes to Rs.3,75,70,419/- per acre. Consequently, land owners of village Badha are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.3,75,70,419/- per acre from the date of notification under Section 4 of the

Act.

Village Bhangrola

With a view to decide the appeals involving the land acquired out of the revenue estate of this village Bhangrola, facts are being taken from RFA No.6126 of 2014 (Rameshwar and others Vs. State of Haryana and others).

LAC vide his award No.14 dated 14.06.2010 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 28.04.2014 decided as many as 25 land references, assessing the market value of the acquired land at the uniform rate of Rs.88,25,208/- per acre. As recorded by the learned reference Court in para 6 of the impugned award, State of Haryana did not produce any evidence on record. Land owners placed reliance on more than one sale deeds. Although the learned reference Court, as per the findings recorded in para 12 of the impugned award, rightly made sale deed Ex.P5/A dated 30.05.2008, as the basis for assessing the market value of the acquired land, yet committed similar error of law, while imposing 50% cut on the market price disclosed therein.

It is pertinent to note here that land measuring 24 kanal, 16 marla was sold by way of sale deed, Ex.P5/A, which would be more than 03 acres and because of this reason, no cut was warranted to be imposed. The finding recorded by the learned reference court to the extent of imposing 50% cut cannot be sustained and the same is hereby set aside, as the said finding runs contrary to the law laid down by the Hon'ble Supreme Court in the cases referred to hereinabove. It is also not in dispute that the land was sold at the rate of Rs.1.5 crores per acre, by way of abovesaid sale deed Ex.P5/A. This was sold on 03.05.2008, thus, there was a time gap of one year and eight months between this sale deed and the date of notification under Section 4 of the Act.

Granting the benefit of 12% annual increase on cumulative basis on the abovesaid market price, for the time gap of one years and eight months, amount comes to Rs.1,81,44,000/- per acre. Resultantly, the land owners of village Bhangrola are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.1,81,44,000/- per acre from the date of notification under Section 4 of the Act.

Village Kankrola

Land measuring 64.39 acres was acquired out of the revenue estate of this village. Facts are being taken from RFA No.7315 of 2014 (Hans Raj and another Vs. State of Haryana and others).

LAC vide his award No.13 dated 14.06.2010 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 21.05.2014 decided 76 land references and assessed the market value of the acquired land at the uniform rate of Rs.1,06,48,000/- per acre. Sale deeds Ex.R3 and Ex.R4 relied upon by the State were found disclosing the lesser market price than assessed by LAC, because of which the sale deeds were hit by the provisions of Section 25 of the Act and were rightly excluded from consideration by the learned reference Court. Since said finding recorded by the learned reference Court is based on the law laid down by the Hon'ble Supreme Court in **Lal Chand**'s case (supra), the same deserves to be upheld.

Coming to the evidence led by the land owners, they placed reliance on very many sale deeds. Although the learned reference Court, while recording its finding in para 13 of the impugned award, rightly made sale deed Ex.P11 dated 29.01.2007, as the basis for assessing the market value of the acquired land and then granted benefit of 10% annual increase for the time gap, yet it again committed identical error of law, while imposing 50% cut on the market price disclosed therein. Since now it is almost an accepted principle of 12% annual increase on the market price disclosed in a particular sale deed, said finding recorded by the learned reference Court granting benefit of only 10% annual increase as well as imposition of 50% cut is patently illegal, which cannot be sustained.

Land measuring 30 kanal, 19 marla was sold by way of sale deed Ex.P11 dated 29.01.2007 at the rate of Rs.1,60,12,923/- per acre, thus, there was a time gap of 03 years. Granting the benefit of 12% annual increase on cumulative basis on the abovesaid market price, for the time gap of 03 years, the amount comes to Rs.2,24,97,003/- per acre. As the area sold by way of this sale deed was slightly less than 04 acres, no cut was liable to be imposed and said finding recorded by the learned reference Court is hereby set aside, having been found running contrary to the law laid down by the Hon'ble Supreme Court in the cases referred to hereinabove. Accordingly, land owners of village Kankrola are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.2,24,97,003/- per acre from the date of notification under Section 4 of the Act.

<u>Village Nakhrola</u>

Land measuring 23.075 acres was acquired out of the revenue estate of this village. Facts are being taken from RFA No.4974 of 2014 (Subhash Vs. State of Haryana and others).

LAC vide his award No.12 dated 14.06.2010 assessed the market value of the acquired land at the uniform rate of Rs.60,00,000/- per acre. Learned reference Court, vide impugned award dated 25.01.2014 decided 23 land references and assessed the market value of the acquired land at the uniform rate of Rs.1,47,03,212/- per acre. As regards the evidence produced by the State and referred by learned reference Court in para 7 and 19 of the impugned award, four sale deeds were relied upon but all were found disclosing lesser market price than what was assessed by LAC. The factual as well as legal position was exactly the same in the present case, as it was in the cases of other villages referred to hereinabove, thus, finding recorded by the learned reference Court in this regard is upheld.

Out of numerous sale deeds relied upon by the land owners, learned reference Court made sale deeds Ex.P18 and Ex.P19 as the basis for assessing the market value of the acquired, as per its finding recorded in para 18 of the impugned award. It is a matter of record that both these sale deeds Ex.P18 and Ex.P19 were registered on the same date i.e. 27.11.2009 and area sold thereunder was also the equal i.e. 33 kanal 09 marla each which could be measuring more than 08 acres. Land was sold at the same market price by both these sale deeds and it was Rs.2,88,14,349/- per acre. Since the time gap was only two and half months, which was not a substantial one, no benefit of annual increase would be available to the land owners, on the market price disclosed in these two sale deeds Ex.P18 and Ex.P19.

However, since the land sold vide Ex.P18 and Ex.P19 was more than 08 acres, no cut was warranted to be imposed. Reason was the same as already recorded in the forgoing paragraphs, which is reiterated here for the sake of brevity. Accordingly, land owners of village Nakhrola are held entitled to receive the compensation for their acquired land at the rate of Rs.2,88,14,349/- per acre from the date of notification under Section 4 of the Act.

Village Mewka

Land measuring 44.84 acres was acquired out of the revenue estate of this village. Facts are being culled out from RFA No.5246 of 2014 (Dharam Singh Vs. State of Haryana and others).

LAC vide his award No.3 dated 14.06.2010 assessed the market value of the acquired land at the uniform rate of Rs.60,00,000/- per acre. Learned reference Court, vide impugned award dated 23.12.2013 decided as many as 42 land references, assessing the market value of the acquired land at the uniform rate of Rs.1,23,95,226/- per acre. State of Haryana did not produce any evidence as recorded by the learned reference Court in para 6 of the impugned award. So far as the evidence produced by the land owners is concerned, they placed reliance on more than one sale transactions. Learned reference Court placed reliance on sale deed Ex.P8 dated 24.06.2008, whereby land measuring 13 kanal, 10.5 marla was sold out of the revenue estate of this very village, at the rate of Rs.2,12,00,000/- per acre.

Learned reference Court rightly excluded other sale deeds from consideration, for one or the other cogent reasons and said finding recorded by the learned reference Court deserves to be upheld. Although the learned reference Court granted 10% annual increase on the abovesaid market price for the time gap of one year and seven months but again 50% cut was illegally imposed, which was not warranted. Reiterating the abovesaid view taken and on the same analogy, finding recorded by the learned reference Court, while imposing 50% cut on the market price disclosed in the sale deed Ex.P8 cannot be sustained and the same is hereby set aside, because area sold thereunder was 13 kanal and 10.5 marla.

Granting the benefit of 12% annual increase on cumulative basis, for the abovesaid time gap of one year and seven months, between the sale deed Ex.P8 and the date of notification under Section 4 of the Act, amount comes to Rs.2,54,06,080/- per acre. Thus, the land owners of village Mewka are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.2,54,06,080/- per acre from the date of notification under Section 4 of the Act.

Village Dhorka

Land measuring 64.39 acres was acquired from the revenue estate of this village. Facts are being taken from RFA No.8862 of 2014 (Satya Pal and another Vs. State of Haryana and another).

LAC vide his award No.4 dated 14.06.2010 assessed the market value of the acquired land at the uniform rate of Rs.60,00,000/- per acre. Learned reference Court, vide impugned award dated 30.07.2014 decided as many as 47 land references and assessed the market value of the acquired land at the uniform rate of Rs.1,39,87,202/- per acre. As recorded by the learned reference Court in para 6 of the impugned award, State of Haryana did not produce any evidence except the LAC award as Ex.R1. As regards the evidence produced by the land owners, they placed reliance on as many as 07 sale deeds referred in para 10 of the impugned award.

In this case, learned reference Court committed another serious error of law, while taking average market price disclosed in as many as six sale deeds. Method of taking average market price runs counter to the law laid down by the Hon'ble Supreme Court in more than one judgments, including in the case of **Mehrawal Khewaji**'s case (supra). As rightly pointed out by learned counsel for the State that biggest chunk was sold by way of sale deed Ex.PB dated 15.01.2007, learned reference Court proceeded on a misconceived approach, while taking the average market price. In the circumstances of the case, sale deed Ex.PB dated 15.01.2007 was the best piece of evidence which could have been safely made the basis for assessing the market value of the acquired land because land measuring 24 kanal, 06 marla was sold by way of this sale deed, from the revenue estate of this very village Dhorka, at the rate of Rs.2,08,53,909/- per acre.

Learned reference Court not only illegally took the average of abovesaid six sale deeds but also illegally applied 50% cut thereon, which was not warranted to be imposed in the present case. It is also a matter of record that there was a time gap of 03 years between the sale deed Ex.PB and the date of notification under Section 4 of the Act. The land owners would be entitled to the benefit of 12% annual increase on cumulative basis and after adding this benefit on the abovesaid market price disclosed, amount comes to Rs.2,92,98,240/- per acre. As noticed hereinabove, since the land sold by way of this sale deed Ex.PB dated 15.01.2007 was more than three acres, no cut could have been applied on the market price disclosed therein. Accordingly, the land owners of village Dhorka are held entitled to receive the compensation for their acquired land, at the uniform rate of Rs.2,92,98,240/- per acre, from the date of notification under Section 4 of the Act.

Village Naharpur Kasan

Land measuring 16.8875 acres was acquired from the revenue estate of this village. Facts are being taken from RFA No.9696 of 2014 (Smt. Omwati and another Vs. State of Haryana and another).

LAC vide his award No.11 dated 14.06.2010 assessed the market value of the acquired land at the uniform rate of Rs.38,00,000/- per acre. Learned reference Court, vide impugned award dated 20.03.2014 decided as many as 19 land references assessing the market value of the acquired land at the uniform rate of Rs.1,09,43,525/- per acre. State of Haryana placed reliance on two sale deeds Ex.R2 and Ex.R3 referred by the learned reference Court in para 5 and 16 of the impugned award. As in the other cases, the evidence relied upon by the State by way of these sale deeds Ex.R2 and Ex.R3 was hit by the provisions of Section 25 of the Act, because of which the learned reference Court rightly excluded these sale deeds out of consideration in view of the law laid down by the Hon'ble Supreme Court in **Lal Chand**'s case (supra). Finding recorded by the learned reference Court is upheld for the same reason as recorded in the cases of other villages.

Learned reference Court has referred to the evidence, including sale instances, produced on behalf of the land owners, in para 13 of the impugned award. Although the learned reference Court rightly placed reliance on sale deed Ex.PW2/8 for assessing the market value of the acquired land, this being the most relevant sale deed and also granted the benefit of annual increase, yet again fell in serious error of law, while imposing 50% cut on the market price disclosed in this sale deed Ex.PW2/8. The finding recorded by the learned reference Court, while imposing 50% cut is patently illegal and the same is hereby set aside. In fact, two sale deeds Ex.PW2/6 and Ex.PW2/8 were registered on the same date i.e. 27.11.2006 and market price disclosed therein was also the same.

Land measuring 07 kanal, 7.5 marla was sold by way of sale deed Ex.PW2/6 and land measuring 14 kanal, 16 marla was sold by way of sale deed Ex.PW2/8 at the uniform rate of Rs.1,61,08,475/- per acre. Other sale deeds, being seven in number, which were registered in the month of November and December, 2006 also disclosed almost the identical market price. Putting the area sold by way of these two sale deeds Ex.PW2/6 and Ex.PW2/8 together, the total land sold thereunder was 22 kanal, 3.5 marla which would be more than two and half acres. There was a time gap of 03 years, 02 months and 15 days between these sale deeds and the date of notification under Section 4 of the Act. Oweing to the location and potentiality of the acquired land, as discussed hereinabove, land owners would be entitled to 12% annual increase on cumulative basis for the abovesaid time gap.

Granting the benefit of 12% annual increase on cumulative basis on the abovesaid market price disclosed in sale deeds Ex.PW2/6 and Ex.PW2/8, amount comes to Rs.2,30,83,872/- per acre. Since no cut was warranted to be applied because of size of the area sold by way of abovesaid two sale deeds and for the reasons recorded hereinabove, land owners of village Naharpur Kasan are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.2,30,83,872/- per acre from the date of notification under Section 4 of the Act.

Village Wazirpur

Land measuring 45.77 acres was acquired from the revenue estate of this village. Facts are being taken from RFA No.5534 of 2014 (Jitender Jain Vs. State of Haryana and another).

LAC vide his award No.17 dated 14.06.2010 assessed the market value of the acquired land at the uniform rate of Rs.45,00,000/- per acre. Learned reference Court, vide impugned award dated 21.03.2014 decided 11 land references and assessed the market value of the acquired land at the uniform rate of Rs.1,18,25,000/- per acre. No evidence was produced on behalf of the State except the LAC award as Ex.PR1, as recorded by the learned reference Court in para 6 of the impugned award. Land owners placed reliance on as many as seven sale exemplars, referred by the learned reference Court in para 12 of the impugned award. Learned reference Court misdirected itself, while preferring a sale deed whereby smaller piece of land was sold, in comparison to another sale deed whereby large chunk of land was sold. No good reason has been assigned to exclude the sale deed Ex.P2 from the consideration. This approach adopted by the learned reference Court has been found misconceived and the finding recorded is hereby set aside.

Vide sale deed Ex.P2 dated 21.11.2007, land measuring 73 kanal, 19 marla was sold whereas vide sale deed Ex.P3 relied upon by learned reference Court, land measuring only 05 kanal, 08 marla was shown. A bare combined reading of all the sale deeds relied upon by the land owners would show that the sale deed Ex.P2 was the best piece of evidence, which can be safely made the basis for assessing the market value of the acquired land. On 21.11.2007, land measuring 73 kanal, 19 marla was sold by this sale deed Ex.P2 at the rate of Rs.2.00 crores per acre. There was a time gap of two years and two months between this sale deed Ex.P2 and the date of notification under Section 4 of the Act.

Granting the benefit of 12% annual increase on cumulative basis on the market price disclosed in this sale deed Ex.P2, amount comes to Rs.2,55,89,760/- per acre. Again, since the area sold was measuring more than 09 acres, no cut was liable to be applied as illegally applied by the learned reference Court. The reasons recorded in the forgoing paragraphs are reiterated for the sake of brevity. Accordingly, the land owners of village Wazirpur are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.2,55,89,760/- per acre from the date of notification under Section 4 of the Act.

Village Nawada Fatehpur

Land measuring 82.48 acres was acquired from the revenue estate of this village. Facts are being taken from RFA No.210 of 2015 (Ishwar Vs. State of Haryana and others).

LAC vide his award No.10 dated 14.06.2010 assessed the market value of the acquired land at the uniform rate of Rs.60,00,000/- per acre. Learned reference Court, vide impugned award dated 01.11.2014 decided 91 land references and assessed the market value of the acquired land at the rate of Rs.1,48,86,729/- per acre. State of Haryana did not lead any evidence, as recorded by the learned reference Court in para 6 of the impugned award. Land owners placed reliance on numerous sale instances referred in para 11 of the impugned award. Learned reference Court made sale deed Ex.P40 as the basis for assessing the market value of the acquired land and then applied 50% cut on the market price disclosed therein.

Learned reference Court illegally ignored the better sale exemplars, whereby much bigger chunks of land were sold including sale deeds Ex.P41, Ex.P42 and Ex.P43. After a comparative study of all the sale instances referred by the learned reference Court in para 11 of the impugned award, sale deed Ex.P41 has been found to be the best sale deed, because maximum area was sold by way of this sale deed, which was measuring 47 kanal, 09 marla. This sale deed was dated 10.03.2008 and the market price disclosed therein was Rs.1,99,99,999/- per acre. This is the safest sale instance which can be made the basis for assessing the market value of the acquired land.

Since there was a time gap of one year and eleven months between this sale deed and the date of notification under Section 4 of the Act, granting the benefit of 12% annual increase on cumulative basis, for this time gap, amount comes to Rs.2,48,63,998.88 per acre, which is rounded off to Rs.2,48,64,000/- per acre. As the area sold vide sale deed Ex.P41 was about six acres, no cut on the market price disclosed therein, was liable to be imposed. Consequently, the land owners of village Nawada Fatehpur are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.2,48,64,000/- per acre from the date of notification under Section 4 of the Act.

Village Sihi

Land measuring 32.98 acres was acquired from the revenue estate of this village. Facts are being taken from RFA No.2697 of 2015 (M/s Monarch Buildcon Pvt. Ltd. Vs. State of Haryana and others).

LAC vide his award No.8 dated 14.06.2010 assessed the market value of the acquired land at the rate of Rs.60,00,000/- per acre. Learned reference Court, vide impugned award dated 12.01.2015 assessed the market value of the acquired land at the uniform rate of Rs.3,33,78,186/- per acre, while deciding 21 land references. As referred by the learned reference Court in para 6 of the impugned award, State of Haryana did not produce any evidence except the copy of LAC award as Ex.R1 and statement attached thereto as Ex.R2.

However, the land owners produced voluminous evidence in support of their claim, including as many as 19 sale deeds from village Sihi itself and two sale deeds from the adjoining villages. A bare perusal of the numerous sale deeds would show that although the learned reference court rightly placed reliance on sale deed Ex.PW4/5 for assessing the market value of the acquired land, yet a similar illegality was committed, while imposing 50% cut on the market price disclosed therein, in spite of the fact that the area sold by way of sale deed Ex.PW4/5 was more than 07 acres.

It is also pertinent to note here that there were as many as three more sale deeds, registered on the same date i.e. 05.05.2009. These were Ex.PW4/6, Ex.PW4/7 and Ex.PW4/8 out of the revenue estate of this very village Sihi and market value disclosed therein was Rs.9.00 crores per acre. However, since the area sold by way of these three sale deeds dated 05.05.2009 was smaller in comparison to the area sold by way of sale deed Ex.PW4/5, learned reference Court was fully justified to place reliance on this sale deed. In fact, in the given fact situation sale deed Ex.PW4/5 has been found to be the best sale deed which can be safely made the basis for assessing the market value of the acquired land.

However, the finding recorded by the learned reference Court regarding imposition of cut on the market price disclosed in this sale deed cannot be upheld and the same is hereby set aside. It is so said because area sold by way of this sale deed was 62 kanal, 01 marla out of the revenue estate of village Sihi itself, which would be 07 acres, 06 kanals and 01 marla. It is also a matter of record that there was a time gap of two years and ten months between this sale deed and the date of notification under Section 4 of the Act.

Granting the benefit of 12% annual increase on cumulative basis on the abovesaid market price disclosed in this sale deed Ex.PW4/5, amount comes to Rs.7,02,70,659/- per acre, therefore, the land owners of village Sihi are held entitled to receive the compensation for their acquired land at the uniform rate of Rs.7,02,70,659/- per acre from the date of notification under Section 4 of the Act.

That brings this Court to the next equally important question as to whether land owners of all other remaining villages are also entitled to be treated at par with the land owners of village Badha, who were granted the compensation at the rate of 25% of the market value assessed for their acquired land, on account of severance charges. After giving anxious consideration to the rival contentions raised by learned counsel for the parties on this issue, this Court has found no reason, much less cogent reasons, to treat the land owners of other villages differently than the land owners of village Badha. It is so said because the land from the revenue estate of all the different villages was acquired vide same notification and for the same purpose i.e. for construction of sector roads.

In the very nature of things, construction of road would bifurcate the land. It has gone undisputed before this court that much before the present acquisition, this area had already been declared as residential zone by the competent authority of the State of Haryana. Small strips of land left unacquired would be hardly of any use to the land owners. The land owners had already been prohibited from using their land for the purpose of agriculture. They will face this disadvantageous position for all times to come and that too for none of their fault. Once the unacquired land has been left virtually useless for the land owners, the learned reference Court has rightly granted compensation to the land owners of village Badha at 25% of the market value assessed, on account of severance charges.

In this view of the matter, land owners of all other villages, as a matter of fact, have been found identically placed with the land owners of village Badha. In this regard, judgment dated 18.02.2016 rendered by the Hon'ble Supreme Court in **Ashok Kumar**'s case (supra) is the direct answer to the argument raised by learned counsel for the State, that the land owners have not led sufficient evidence to claim compensation on account of severance charges. Reference in this regard may also be made to Section 23(1) thirdly, fourthly and fifthly of the Act. Having said that, this Court feels no hesitation to conclude that the land owners of all other 12 villages deserve to be treated at par with the land owners of village Badha, in the matter of granting just compensation to them on account of severance charges. Accordingly, land owners of all the villages are held entitled to receive the compensation at the rate of 25% of the respective market value assessed for their acquired land, on account of severance charges.

Another equally important question of law that falls for consideration of this Court is; whether the learned reference court was justified to dismiss some of the land references, out of abovesaid villages, only on the ground of delay, particularly when the claim and entitlement of the land owners had never been in dispute. A bare combined reading of the observations made by the learned reference Court in para 30 to 37 of its impugned award dated 26.03.2014, in RFA No.5316 of 2014, shall make it crystal clear that the learned reference Court has seriously contradicted itself.

Even after discharging the initial onus by the claimants, learned reference Court did not shift the onus on the Collector to prove that he ensured due compliance of the relevant provisions of the law contained in Section 12 (1) and 12 (2) of the Act, while issuing notice thereunder along with the copy of the award. Although the learned reference Court did well shifting the onus on the Collector in some cases, yet it failed to do so in other cases and that too without any good reason.

Sub Sections (1) and (2) of Section 12 of the Act deserves to be referred here and the same read as under: -

(1) Such award shall be filed in the Collector's office and shall.

except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested. whether they have respectively appeared before the Collector or not. of the true area and value of the land, and the apportionment of the compensation among the person interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

Similarly, Section 18 is also relevant and the same is being reproduced for ready reference, which reads as under: -

18. Reference to court

(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable. or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken: Provided that every such application shall be made,-

(a) if the person making it was present or represented before the Collector at the time when be made bis award, within six weeks from the rote of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2);

> *or, within six months from the date of the Collector's award, whichever period shall first expire."*

It goes without saying that it was bounden duty of the Collector to issue notice to the land owners, along with copy of the award, under Section 12 of the Act. Despite having taken a specific averment in the petition under Section 18 of the Act filed by the land owner that no such notice was ever issued, Collector did not rebut said averment and the same has gone completely uncontroverted. Further, PW1 SC Anshal filed his affidavit Ex.PW1/A, which is available at page 81 of the lower Court record (for short 'LCR') and this witness was put to cross-examination, which is available at page 99 of the LCR, but nothing adverse could be elicited from him. However, the learned reference Court miserably failed to appreciate this crucial aspect of the matter that once the initial onus was discharged by the claimants-land owners, onus ought to have been shifted on the Collector and he should have been called upon to discharge his onus. However, it was not so done in the instant set of appeals and that too for no good reasons.

Further, once the claim and entitlement of the land owners had never been in dispute, it would be wholly unjustified at the hands of this Court to impose another avoidable round of litigation on them, while remanding the matter to the learned reference Court. Even on merits, none of the petitions under Section 18 of the Act filed by the land owners was, as a matter of fact, said to have been barred by limitation, for the reason that the Collector has failed to discharge his legal obligation under Section 12 of the Act.

Notice under Section 12 of the Act is not a mere formality. A valuable right of the land owners would stand defeated. Until and unless Collector makes the land owners aware about the contents of the award passed by him, by issuing a notice along with copy of award under Section 12 of the Act, there would be hardly any scope for the learned reference Court to dismiss the land references only on account of delay, because in such a situation no fault can be found with the claimants-land owners. In the cases in hand, as noticed hereinabove, the initial onus having been discharged on behalf of the land owners, the learned reference Court was duty bound to shift the onus on the Collector. The learned reference Court having failed in its duty to do so, land references could not have been dismissed only on account of delay. In this view of the matter, the land references of the claimants-land owners could not have been treated as barred by limitation and ought to have been decided on merits by the learned reference Court.

So far as the desirability of remanding the matter is concerned, it would serve no purpose. Everybody will be loser, be it the claimants-land owners or the State. Ultimate sufferer would be the justice delivery system. Further, Courts are already overburdened and in such a situation, if another round of litigation is imposed on the land owners, that would serve no purpose, particularly when their entitlement has not been disputed even before this court. The view that has been taken by this Court also finds support from the judgment of the Hon'ble Supreme Court in **K. Krishna Reddy Vs. Special Deputy Collector, Land Acquisition Unit, Andhra Pradesh, 1988 (4) SCC 163.**

The relevant observations made by the Hon'ble Supreme Court in para 12 of its judgment in **K. Krishna Reddy**'s case (supra), read as under: -

> *"We can very well appreciate the anxiety and need of claimants to get compensation here and now. No matter what it is. The lands were acquired as far back in 1977. One decade has already*

passed. Now the remand means another round of litigation. There would be further delay in getting the compensation. After all money is what money buys. What the claimants could have bought with the compensation in 1977 cannot do in 1988. Perhaps, not even one half of it. It is a common experience that the purchasing power of rupee is dwindling. With rising inflation, the delayed payment may, lose all charm and utility of the compensation. In some cases, the delay may be detrimental to the interests of claimants. The Indian agriculturists generally have no avocation. They totally depend upon land. If uprooted, they will find themselves nowhere. They are left high and dry. They have no savings to draw. They have nothing to fall back upon. They know no other work. They may even face starvation unless rehabilitated. In all such cases, it is of utmost importance that the award should be made without delay. The enhanced compensation must be determined without loss of time. The appellate power of remand, at any rate ought not to be exercised lightly. It shall not be resorted to unless the award is wholly unintelligible. It shall not be exercised unless there is total lack of evidence. If remand is imperative, and if the claim for enhance I compensation is tenable, it would be proper for the appellate court to do modest best to mitigate hardships. The appellate court may direct some interim payment to claimants subject t o adjustment in the eventual award."

The Hon'ble Supreme Court in its order dated 17.01.2012 passed in **Civil Appeal No.707 of 2012 (Bhagwan Vs. State of Haryana and others)**, observed as under: -

> *"With a view to obviate further litigation in the matter, we also direct that the official respondents shall pay compensation at the same rate to other similarly situated persons who may not have approached the High Court or this Court on account of illiteracy, ignorance, poverty and other similar reasons."*

Again, while interpreting the scope of Section 12 and Section 18 of the Act, the Hon'ble Supreme Court in **Premji Nathu Vs. State of Gujarat and another, 2012 (2) SCC 250** held as under: -

> *"An analysis of the above reproduced provisions shows that by virtue of Section 12(1), an award made by the Collector is treated final and conclusive evidence of the true area and value of the land and apportionment of the compensation among the persons interested. In terms of Section 12(2), the Collector is required to give notice of his award to the interested persons who are not present either personally or through their representatives at the time of making of award. Section 18(1) provides for making of reference by the Collector to the Court for the determination of the amount of compensation etc. Section 18(2) lays down that an application for reference shall be made within six weeks from the date of the Collector's award, if at the time of making of award the person seeking reference was present or was represented before the Collector. If the person is not present or is not represented before the Collector, then the application for reference has to be made within six weeks of the receipt of notice under Section 12(2) or within six months from the date of the Collector's award,*

whichever period shall first expire.

The reason for providing six months from the date of the award for making an application seeking reference, where the applicant did not receive a notice under Section 12(2) of the Act, while providing only six weeks from the date of receipt of notice under Section 12(2) of the Act for making an application for reference where the applicant has received a notice under Section 12 (2) of the Act is obvious. When a notice under Section 12(2) of the Act is received, the landowner or person interested is made aware of all relevant particulars of the award which enables him to decide whether he should seek reference or not. On the other hand, if he only comes to know that an award has been made, he would require further time to make enquiries or secure copies so that he can ascertain the relevant particulars of the award. What needs to be emphasised is that along with the notice issued under Section 12(2) of the Act, the land owner who is not present or is not represented before the Collector at the time of making of award should be supplied with a copy thereof so that he may effectively exercise his right under Section 18(1) to seek reference to the Court.

In ***Harish Chandra Raj Singh v. Land Acquisition Officer, AIR 1961 SC 1500****, this Court was called upon to decide whether the expression 'date of award' is to be interpreted with reference to the time when the award is signed by the Collector or from the date the affected party comes to know about the same and held as under:*

"Therefore, if the award made by the Collector is in law no more than an offer made on behalf of the Government to the owner of the property then the making of the award as properly understood must involve the communication of the offer to the party concerned. That is the normal requirement under the contract law and its applicability to cases of award made under the Act cannot be reasonably excluded. Thus considered the date of the award cannot be determined solely by reference to the time when the award is signed by the Collector or delivered by him in his office; it must involve the consideration of the question as to when it was known to the party concerned either actually or constructively. If that be the true position then the literal and mechanical construction of the words 'the date of the award' occurring in the relevant section would not be appropriate.

There is yet another point which leads to the same conclusion. If the award is treated as an administrative decision taken by the Collector in the matter of the valuation of the property sought to be acquired it is clear that the said decision ultimately affects the rights of the owner of the property and in that sense, like all decisions which affect persons, it is essentially fair and just that the said decision should be communicated to the said party. The knowledge of the party affected by such a decision, either actual or constructive, is an essential element which must be satisfied *before the decision can be brought into force. Thus considered the making of the award cannot consist merely in the physical act of writing the award or signing it or even filing it in the Office of the Collector; it must involve the communication of the said award to the party concerned either actually or constructively. If the award is pronounced in the presence of the party whose rights are affected by it it can be said to be made when pronounced. If the date for the pronouncement of the award is communicated to the party and it is accordingly pronounced on the date previously announced the award is said to be communicated to the said party even if the said party is not actually present on the date of its pronouncement. Similarly if without notice of the date of its pronouncement an award is pronounced and a party is not present the award can be said to be made when it is communicated to the party later. The knowledge of the party affected by the award, either actual or constructive, being an essential requirement of fair play and natural justice the expression 'the date of the award' used in the proviso must mean the date when the award is either communicated to the party or is known by him either actually or constructively. In our opinion, therefore, it would be unreasonable to construe the words 'from the date of the Collector's award' used in the proviso to Section 18 in a literal or mechanical way."*

(emphasis supplied)

*In **State of Punjab v. Qaisar Jehan Begum, AIR 1963 SC 1604**, the principle laid down in Harish Chandra's case was reiterated and it was held:*

> *"It seems clear to us that the ratio of the decision in Harish Chandra case is that the party affected by the award must know it, actually or constructively, and the period of six months will run from the date of that knowledge. Now, knowledge of the award does not mean a mere knowledge of the fact that an award has been made. The knowledge must relate to the essential contents of the award. These contents may be known either actually or constructively. If the award is communicated to a party under Section 12(2) of the Act, the party must be obviously fixed with knowledge of the contents of the award whether he reads it or not. Similarly when a party is present in court either personally or through his representative when the award is made by the Collector, it must be presumed that he knows the contents of the award. Having regard to the scheme of the Act we think that knowledge of the award must mean knowledge of the essential contents of the award."*
>
> *(emphasis supplied)*

*In **Bhagwan Das v. State of Uttar Pradesh, 2010 (2) RCR (Civil) 290: 2010 (2) RAJ 231: (2010) 3 SCC 545**, this Court interpreted Section 18and laid down the following propositions:*

> *"(i) If the award is made in the presence of the person interested (or his authorised representative), he has to make*

the application within six weeks from the date of the Collector's award itself.

(ii) If the award is not made in the presence of the person interested (or his authorised representative), he has to make the application seeking reference within six weeks of the receipt of the notice from the Collector under Section 12(2).

(iii) If the person interested (or his representative) was not present when the award is made, and if he does not receive the notice under Section 12(2) from the Collector, he has to make the application within six months of the date on which he actually or constructively came to know about the contents of the award.

(iv) If a person interested receives a notice under Section 12(2) *of the Act, after the expiry of six weeks from the date of receipt of such notice, he cannot claim the benefit of the provision for six months for making the application on the ground that the date of receipt of notice under Section 12(2) of the Act was the date of knowledge of the contents of the award."*

The Court then held:

"When a person interested makes an application for reference seeking the benefit of six months' period from the date of knowledge, the initial onus is on him to prove that he (or his representative) was not present when the award was

made, that he did not receive any notice under Section 12(2) *of the Act, and that he did not have the knowledge of the contents of the award during a period of six months prior to the filing the application for reference. This onus is discharged by asserting these facts on oath. He is not expected to prove the negative. Once the initial onus is discharged by the claimant/person interested, it is for the Land Acquisition Collector to establish that the person interested was present either in person or through his representative when the award was made, or that he had received a notice under Section 12(2) of the Act, or that he had knowledge of the contents of the award.*

Actual or constructive knowledge of the contents of the award can be established by the Collector by proving that the person interested had received or drawn the compensation amount for the acquired land, or had attested the mahazar/panchnama/proceedings delivering possession of the acquired land in pursuance of the acquisition, or had filed a case challenging the award or had acknowledged the making of the award in any document or in statement on oath or evidence. The person interested, not being in possession of the acquired land and the name of the State or its transferee being entered in the revenue municipal records coupled with delay, can also lead to an inference of constructive knowledge. In the absence of any such evidence by the Collector, the claim of the person interested that he *did not have knowledge earlier will be accepted, unless there are compelling circumstances not to do so."*

In the light of the above, it is to be seen whether the conclusion recorded by the Reference Court, which has been approved by the High Court that the application filed by the appellant was barred by time is legally sustainable. A careful reading of the averments contained in paragraph 2 of the application filed by the appellant under Section 18(1) shows that the notice issued by the Collector under Section 12(2) was served upon him on 22.2.1985. Thereafter, his advocate obtained certified copy of the award and filed application dated 8.4.1985 for making a reference to the Court. This implies that copy of the award had not been sent to the appellant along with the notice and without that he could not have effectively made an application for seeking reference. On behalf of the State Government, no evidence was produced before the Reference Court to show that copy of the award was sent to the appellant along with the notice. Unfortunately, while deciding issue No.3, this aspect has been totally ignored by the Reference Court which mechanically concluded that the application filed on 8.4.1985 was beyond the time specified in Section 18(2)(b). The learned Single Judge of the High Court also committed serious error by approving the view taken by the Reference Court, albeit without considering the fact that the notice issued by the Collector under Section 12(2) was not accompanied by a copy of the award which was essential for effective exercise of right vested in the appellant to seek reference *under Section 18(1).*

In the result, the appeal is allowed. The impugned judgment and the award passed by the Reference Court are set aside and the respondents are directed to pay enhanced compensation to the appellant at the rate of Rs.450 per Are for the irrigated land and Rs.280 per Are for non-irrigated land with an additional amount of Rs.2 per square meter. The appellant shall also be entitled to other statutory benefits like solatium and interest. The respondent shall calculate the amount payable to the appellant and make payment within three months from today."

To be fair to learned counsel for the State, his contention raised in this regard, based on the order dated 28.07.2015 passed by this Court in **RFA No.3095 of 2015 (M/s K&D Real Estate & Builders Vs. State of Haryana and others)**, is to be noted to be rejected. It is so said because the abovesaid fact situation as well as judgments of the Hon'ble Supreme Court were never brought to the notice of this Court, at the time of passing of the order dated 28.07.2015. In this view of the matter, it can be safely concluded that the order dated 28.07.2015 was passed in a peculiar fact situation obtaining before the Court and the observations made therein would be only an *obiter dicta*. Had the abovesaid judgments of the Hon'ble Supreme Court and the material fact about discharging the initial onus by the land owners, been brought to the notice of this Court, there would have been no scope for passing the order dated 28.07.2015 in RFA No.3095 of 2015.

In view of the abovesaid undisputed fact situation obtaining in the present case, it is unhesitatingly held that the learned reference Court misdirected itself, while dismissing the land references of some of the land owners, by passing patently illegal awards, which can not be upheld and the same are hereby set aside. The land owners, whose land references were dismissed by the learned reference Court, have also been found entitled to be treated at par with other land owners of their respective villages. Ordered accordingly. They shall also be entitled to receive the same amount of compensation for their acquired land for which their similarly situated land owners have been found entitled.

Let it be specifically recorded here that no better evidence or other judicial precedents were pressed into service nor any other argument was raised on behalf of either of the parties.

Before parting with the order, another equally important issue needs to be dealt with. It is a matter of record that the State of Haryana, for some undisclosed reasons best known to it, did not file any appeals against the big number of land owners of about ten villages. Appeals have been filed only against the villagers of a couple of villages. When confronted with this discriminatory, arbitrary and legally unsustainable approach adopted by the authorities of the State of Haryana, learned counsel for the State had no answer and rightly so, it being a matter of record. However, no further comments at the hands of this Court. In this regard, less said is the better.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the appeals filed by the State of Haryana have been found wholly misconceived, bereft of merit and without any substance, thus, these must fail and the same are hereby dismissed. The appeals filed by the land owners deserve to be partly accepted and the same are allowed to the extent indicated above.

Consequently, the respective impugned awards passed by the learned reference Court qua each village, referred hereinabove, would stand modified as per the abovesaid observations. The land owners of all the 13 villages are held entitled to receive the amount of compensation for their acquired land, as assessed qua the land of their respective villages, in the forgoing paragraphs of this order. The land owners shall also be entitled for 25% of the respective market value assessed for their acquired land, as compensation on account of severance charges. Besides this, the land owners shall 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, directions 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 Tahsildar, 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 abovesaid observations made, all the abovesaid appeals stand disposed of, in the abovesaid terms, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

27.05.2016
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