

**9IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RFA No.1113 of 1998 & other
connected appeals**

Reserved on: 25.05.2018

Pronounced on : 06.07.2018

Savitri Devi and others

... Appellants

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. R.D. Bawa, Advocate for the appellant (s)
in RFA Nos.459 and 1113 of 1998 and
for respondents in RFA Nos.1424 and 1425 of 1998.

Mr. Vishal Garg, Advocate for the appellants
in RFA Nos.1424, 1425 and 1426 of 1998.

Mr. Sudeep Mahajan, Addl. AG Haryana &
Mr. Shivendra Swaroop, AAG, Haryana.

Ms. Chitwan Kaur, Advocate for
Mr. Prateek Mahajan, Advocate for respondents No.2 & 3
in RFA Nos.459 and 1113 of 1998.

Mr. C.S. Singh, Advocate and
Mr. Vivek Gupta, Advocate for the respondents
in RFA No.1426 of 1998.

G.S. Sandhawalia, J.

The present order shall dispose of 5 appeals i.e RFA Nos. 1113, 459, 1424, 1425 and 1426 of 1998 filed under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') directed against the Award dated 03.11.1997, whereby the Reference Court, Sirsa has fixed the market value of the land in village Dhani Jatain, Tehsil Ellenabad, District Sirsa from ₹1,50,000/- for the land nearer to the abadi falling in

Square No.16, Killa No.3, 8 and 13 and ₹1 lakh per acre for the remaining land, which was awarded by the Land Acquisition Collector vide Award No.4 dated 13.08.1993 to ₹6,40,000/- upto the depth of 200 feet. The value beyond that has been assessed @ ₹5,12,000/- per acre as on 30.03.1992 alongwith all statutory benefits. The appeals thus have been filed both by land owners and Haryana State Marketing Board, Panchkula against the assessment of the market value.

The acquisition was for the purpose of the extension of the Market Rest House, Staff Quarters and Fire Fighting Station etc. The landowners had sought enhancement on the ground that the land was situated within the municipal limits of Sector 10 of Ellenabad and the Main Market, Railway Station, Bus Stand and Sub-Divisional offices were near to the acquired land. The same was falling on the Ellenabad-Nohar Road and the potentiality of the land as such of Har Chand Ka Bas which had not been considered by the Land Acquisition Collector was also the case of the landowners and compensation was sought @ ₹50 lakhs per acre. The value should be assessed in one block instead of the belting system and uniform compensation should be awarded. Compensation was also sought for the Kinnu Trees and standing crop.

The same was contested by the Marketing Board on the ground that the land was agricultural in nature and the market value was not more than what was awarded. The Kinnu Trees which were found at the spot and also the crops were got evaluated from the experts and compensation had already been granted for the same.

Keeping in mind that 9 witnesses had been examined by the landowners and the evidence produced, a finding was recorded that the acquired land was within the municipal limits of Ellenabad and was in between the Railway Road and residential area of Ellenabad Town. The presence of factories across the Railway Line towards Nohar Road and the fact there was no other land near to the Ellenabad Town on this road was noticed. The portion of the acquired land namely Killa No.13 as per the site plan Ex.P10 and P11 was abutting the Nohar road and the rest was falling in the interior, which was having depth of 3 killas. The sale deed Ex.P12 to P14 produced by the landowners pertaining to 2 marlas of each, wherein the rate varied from ₹20,000/- per marla to ₹30,000/- per marla and the rate per square yard was coming out to ₹694/- in one case and ₹991 in the other case pertaining to sale deeds of 1991 and 1990, respectively also came on record. Vide the Collector rate Ex.P5 the rate on the Ellenabad-Kishanpura Road had been fixed @ ₹700/- per square yard in the year 1992-1993, which was applicable from 01.04.1992. In similar circumstances Ex.P9 fixed the Collector rate from 1991-1992 between ₹500 to 700 per square yard. Resultantly, a finding was recorded that the land was of great potentiality having commercial as well as residential character.

The sale deeds Ex.P12 to P14 of the year 1990-991 were rejected on the ground that they were of 60.5 square yards each and in the award large chunk of land was acquired which was 9.66 acres. Only a portion fell on the main road and the Collector rate for the interior was

separate ranging from ₹50/- to ₹100/- per square yard for Harchand Ka Baas. The observations of the Collector in the award that the average sale price per acre for Chahi Land was ₹6,39,120/- per acre, whereas as per Ex.P9 the rate per acre would come to ₹4,84,000/- per acre. Resultantly, market value was assessed on this basis. The 20% cut was imposed on the remaining land beyond the depth of 200 feet. The sale deeds Ex.R1 to R3, wherein the amount worked out approximately ₹88,000/- per acre were stated to be of purely agricultural lands which had been transferred on account of avoid the land being declared surplus which were also post notification being registered in March, 1997, 5 years after the notification and were accordingly ignored. The amount awarded regarding the crop and Kinnu Trees was held to be justified, in the absence of any documentary evidence or opinion of the experts produced by the landowners.

Counsel for the landowners Mr. R.D. Bawa, Advocate has, accordingly, argued that the sale deeds Ex.P12 to P14 should have been taken into consideration by applying appropriate cut and the market value has not been correctly fixed which was far higher.

On the contrary, the Market Committee counsel Mr. Vishal Garg, Advocate on the other hand has argued that the compensation was on the excessive side and sale deeds Ex.R1 to R3 have been wrongly ignored

As noticed, keeping in view the above and the evidence which has come on record, it is not disputed that the land fell within the

municipal limits, which had been extended vide notification dated 23.12.1988 more than 3 years prior to the date of the issuance of the Section 4 notification dated 30.03.1992.

It is settled principle that for the land falling within the municipal limits, the potentiality increases to a large extent for development for both residential and commercial purposes. The compensation has to be assessed on the said basis. The said factor is duly proved from the site plans Ex.P10 and P11 which has already been brought on record and a categorical finding has been recorded by the Reference Court, which could not be disputed by the Counsel for the Marketing Board. The relevant part of the Award passed by the Reference Court reads as under:-

“14. Thus from the above evidence it is crystal clear that the acquired land was situated within municipal limits on the date of acquisition. It has great potential value of being carved out as residential colony. It is also well established on the file that no other land was available except the acquired land because there was abadi all around Ellenabad town. It is fully proved on the file that the basic civic amenities and facilities were available around the acquired land. Perusal of site plan Ex.P-10 shows that the acquired land falls on Nohar Road which leads from Ellenabad to Nohar. In this site plan Ex.P10 only a corner of Killa No.13 has been shown abutting this Nohar Road and rest of the acquired land falls interior to Nohar Road but adjoining Killa No.13. It is an admitted fact that the acquired land is a one block having depth of 3 Killas as is admitted by RW1. It is also an admitted fact by the respondents that in front of the acquired land there existed some shops which were left out from the acquisition.”

The Division Bench in 'Sh. Lakhmi Dass Vs. Punjab State

and others' 1977 PLJ 464, held that once the land falls within the municipal limits, the scope of development for residential as well as commercial purpose is to be kept in mind. In '**Suresh Kumar Vs. Improvement Trust, Bhopal'** 1989 (1) SCR 908, the potentiality of the land which could be likely to be used in the immediate or reasonably near future was to be kept in mind while estimating the market value, specially proximity to developed urbanized areas. The relevant portion reads as under:-

*“9. It is true that the market value of the land acquired has to be correctly determined and paid so that there is neither unjust enrichment on the part of the acquirer nor undue deprivation on the part of the owner. Dr. Singhvi argues that failing to consider potential value is an error of principle. It is an accepted principle as was laid down in **Narayana Gajapatiraju v. Rev. Divisional Officer, AIR 1939 PC 98** that the compensation must be determined by reference to the price which a willing vendor might reasonably expect to obtain from willing purchaser. The disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy it must alike be disregarded. Neither must be considered as acting under compulsion. The value of the land is not to be estimated at its value to the purchaser but this does not mean that the fact that some particular purchaser might desire the land more than others is to be disregarded. The wish of a particular purchaser, though not his compulsion, may always be taken into consideration for what it is worth. Any sentimental value for the vendor need not be taken into account. The vendor is to be treated as a vendor willing to sell at the market price. Section 23 of the Land Acquisition Act, 1894, enumerates the matters to be considered in determining compensation. The first to be taken into consideration is the market value of the land on the date of the publication of the Notification under Section 4(1). Market value is that of a willing vendor and a willing purchaser. A*

willing vendor would naturally take into consideration such factors as would contribute to the value of his land including its unearned increment. A willing purchaser would also consider more or less the same factors. There may be many ponderable and imponderable factors in such estimation or guess work. Section 24 of the Act enumerates the matters which the Court shall not take into consideration in determining compensation. Section 25 provides that the amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11. As was observed in N. Gajapatiraju (supra) sometimes, it happens that the land to be valued possesses some unusual, and it may be unique features, as regards its position or its potentiality. In such a case the court has to ascertain as best as possible from the materials before it what a willing vendor might reasonably expect to obtain from a willing purchaser, for the land in that particular position and with that particular potentiality. In the instant case also the acquired land possesses some important features being located within the Corporation area and its potentiality for being developed as a residential area. In such a situation in determining its market value, where there was no sufficient direct evidence of market price, the Court was required to ascertain as, best as possible from the materials before it, what a willing vendor would reasonably have expected to obtain from a willing purchaser from the land in this particular position and with this particular potentiality. It is an accepted principle that the land is not to be valued, merely by reference to the use to which it has been put at the time at which its value has to be determined that is the date of the notification under Section 4, but also by reference to the use to which it is reasonably capable of being put in the future. A land which is certainly or likely to be used in the immediate or reasonably near future for building purposes but which at the valuation date is waste land or has been used for agricultural purposes, the owner, however willing a vendor he is, is not likely to be content to sell the land for its value as waste or agricultural land as the case may be. The possibility of its being used for building purposes would have to be taken into account. However, it must not be valued as though it had already been built upon. It is the possibilities of the land and not its

realised possibilities that must be taken into consideration. In other words, the value of the land should be determined not necessarily according to its present disposition but laid out in its lucrative and advantageous way in which the owner can dispose it of. It is well established that the special, though natural adaptability of the land for the purpose for which it is taken, is an important element to be taken into consideration in determining the market value of the land. In such a situation the land might have already been valued at more than its value as agricultural land, if it had any other capabilities. However, only reasonable and fair capabilities but not far-fetched and hypothetical capabilities are to be taken into consideration. In sum, in estimating the market value of the land all of the capabilities of the land, and all its legitimate purposes to which it may be applied or for which it may be adapted are to be considered and not merely the condition it is in and the use to which it is at the time applied by the owner. The proper principle is to ascertain the market value of the land taking into consideration the special value which ought to be attached to the special advantage possessed by the land : namely, its proximity to developed urbanised areas.”

Similarly in '**Gurvinder Singh and others Vs. Haryana State' 2005 (1) PLR 804**, this Court held that the classification of the acquired land, as per the old revenue record would be unwarranted, if the same fell within the municipal limits. The said factor would show the potentiality of the acquired land to be developed as a residential or commercial area.

In the present case, it is to be noticed that the land was acquired after leaving the area underneath the shops situated on the Kishanpura Road and the land was 1 Km from the existing Marketing Committee and the Courts of the SDM and the Tehsildar were in the Marketing Committee building.

Bhoop Singh-Executive Officer (RW-1) himself has admitted that the land is only 1 km from the existing Mandi and 1 km from Railway Station as well as Bus Stand. It is also 1 km from the Sirsa- Ellenabad Road and the main gate of 40 feet width falls on that link road leading to village Karamsiana, depth of 50-60 feet containing construction was left out at the request of the inhabitants. The claimant had sold their adjoining land @ ₹11,000 per kanal in March, 1997. He denied that fact that the Rukma Devi owner of the land had transferred the area in favour of her collaterals Balwant Singh son of Hari Ram and to Rameshwar son of Hari Ram measuring 20 acres each to avoid the rigours of Ceiling Act. There was an admission made that no area was available abutting the existing Mandi. The Abadi area intervened the acquired land and the existing Mandi and, therefore, could not be acquired. The factum of factories across the Railway line towards Nohar in 1992 was admitted. The depth was also admitted of upto 3 killas by him. He did not bring any site plan showing distance of the sale deeds Ex.R1 to R3 from the acquired land.

Krishan Singh son of Rukma Devi also appeared as PW-1 in L.A Case No.5-LA to state that the land had been transferred by his mother to Sandeep Kumar vide Court decree.

A perusal of the site plan would also go on to show that the Bus Stand is falling on the Sirsa Road, whereby the Setia Cotton Mills and Rest House are located. The Bus Stand also falls on the said main road, whereas the land acquired is situated behind Harchand Ka Baas,

which is abutting the Bus Stand. It would be clear from the statement of the witnesses of the Marketing Board also that industries had come up towards the Railway Line which is also close to the acquired land and the same was acquired only on account of the fact that there was abadi intervening New Mandi and there was no other land available and the potentiality of the land was as such immense. The land sold also was shown in purple colour, which was subject matter of sale deeds exhibited, abutting the land acquired, which is admittedly in the shape of plots.

In such circumstances, this Court is of the opinion that not placing reliance upon the the sale deeds was not justified by the Reference Court as they were best exemplars to determine the market value of the land in question. The detail of the sale deeds are given as under:-

Sr.No.	Ex.	Date of sale deed	Amount of sale in ₹	Rate per square yard in ₹	Area sold
1	P12	06.06.1991	40,000/-	661/-	2 marlas
2	P13	11.03.1991	42,000/-	694/-	2 marlas
3	P14	28.12.1990	60,000/-	991/-	2 marlas

As noticeable the sale deeds as such were executed between 9 months to 1 year 3 months and merely because of the size of the plots were not liable to be discarded. The vendees PW-6 Anand Kumar of sale deed Ex.P12, PW-7 Mahender Singh of sale deed Ex.P13 and PW-7 Prabhu Ram of sale deed Ex.P14 had been duly examined and as noticed the abadi area was abutting the acquired land. In such circumstances the sale deeds of small chunks cannot be held as such to be without any basis and executed for the purpose of enhancement of the market value to get

the benefit of the acquisition.

It is also apparent from the evidence which has come on record that the area was left out of the shops at the time of acquisition at their request and, therefore, the potentiality of the land for commercial/residential purposes cannot be lost sight off. The sale deed Ex.P12 and Ex.P13 were pertaining to the area in and around of Harchand Ka Baas, which as noticed was adjoining the Bus Stand, as clear from the site plan and, therefore, are bonafide transactions. Similarly, the sale deeds produced by the State would not be liable to be taken into account, as large chunk of land were transferred by Hari Ram family and claimants are also belonging to the same family. The same, thus, seem to be sold for the purpose of avoiding the land being declared surplus or for distress as suggested and also accepted by the Reference Court, apart from being post notification.

The acquisition, thus, is for a uniform compact block which is 3 killas away from the road and, therefore, the belting system which has been resorted to as such is also not justified as it is not disputed that the land is of different character and, therefore, the uniform rate of compensation is liable to be granted for all of the land acquired under the same notification.

In '**Union of India Vs. Harinder Pal Singh and others'** **2005 (12) SCC 564**, the land was acquired for the extension of the Cantonment at Amritsar of different villages. This Court had granted uniform rate doing away with the belting method followed by the

Reference Court. The Division Bench had also fixed the uniform rate of compensation ₹40,000/- irrespective the quality of the land, which was also approved by the Apex Court. The said order was, accordingly, upheld on the said principle of granting uniform compensation.

Reliance can be placed upon the judgment in '**Subh Ram Vs. State of Haryana and another**' 2010 (1) SCC 444, wherein the land for the jail was acquired and the compensation was given for the type of the land. The Reference Court had awarded uniform compensation and the principle of deduction was accordingly discussed. It was also held that it could vary upto 20% to 75% depending on several circumstances. The relevant portion reads as under:-

“9. It is no doubt true that this Court in some decisions has observed that purpose of acquisition will also be relevant. But it is made in a different context. The Land Acquisition Collectors in some cases adopt belting methods for valuation of land, with reference to a focal point, that is, either with reference to the distance from the main road, or distance from a developed area. Lands that adjoin a developed area or a main road are given a higher value than a land farther away from the road or the developed area. The Land Acquisition Collectors also award different compensation depending upon whether the acquired land is a dry land or wet/irrigated land. When different categories of lands (or lands with different situational advantages) are acquired for the same purpose, say for forming of a residential layout, courts have sometimes felt that determination of their value with reference to previous status or situation should be avoided and a uniform rate of compensation should be awarded for all lands acquired under the same notification. The logic employed by the court is that categorising the lands acquired for a common purpose, say for a residential colony, into high value irrigated land and low value dry lands is meaningless, as all lands are to be

levelled and used for the same purpose, that is, for formation of a residential layout and once the layout is formed, it makes no difference whether the land was previously a land with irrigation facilities or a dry land. It is in this context, in some cases, to avoid the need to differentiate the lands acquired under a common notification for a common purpose, and to extend the benefit of a uniform compensation, courts have observed that the purpose of acquisition is also a relevant factor. The said observation may not apply in all cases and all circumstances as the general rule is that the landowner is being compensated for what he has lost and not with reference to the purpose of acquisition.”

In '**HSI IDC Vs. Pran Sukh**' (2010) 11 SCC 175, in which the land was acquired for Industrial Estate, Manesar of different villages and, accordingly, uniform rate had been granted @ ₹20 lakhs per acre by approving the modifications, which had been done by the High Court, since a belting system had been adopted by the Reference Court.

Similarly, in '**Ashrafi and others Vs. State of Haryana and others**' (2013) 5 SCC 527, wherein the land was acquired which was situated within the municipal limits, the belting system resorted to was discarded.

Similarly, in '**Ali Mohammad Beigh & others Vs. State of Jammu & Kashmir** 2017 (4) SCC 717, the land had been acquired of different villages for the construction and development of a housing colony for the resettlement of dislocated families of the Dal Lake dwellers. Accordingly, it was held that when the acquired lands were identical and similar and acquisition is for the same purpose and it would not be proper to discriminate between the land owners unless there are

strong reasons. Resultantly, enhanced compensation ₹4 lakhs per kanal to the landowners of two villages had been granted. The relevant portion reads as under:-

*“13. When the lands are more or less situated nearby and when the acquired lands are identical and similar and the acquisition is for the same purpose, it would not be proper to discriminate between the land owners unless there are strong reasons. In **Union of India v. Bal Ram and Another (2010) 5 SCC 747**, this Court held that if the purpose of acquisition is same and when the lands are identical and similar though lying in different villages, there is no justification to make any discrimination between the land owners to pay more to some of the land owners and less compensation to others. The same was the view taken in **Union of India v. Harinder Pal Singh and Others. (2005) 12 SCC 564**, where this Court held as under:-*

"15. We have carefully considered the submissions made on behalf of the respective parties and we see no justification to interfere with the decision of the Division Bench of the Punjab and Haryana High Court which, in our view, took a pragmatic approach in fixing the market value of the lands forming the subject-matter of the acquisition proceedings at a uniform rate. From the sketch plan of the area in question, it appears to us that while the lands in question are situated in five different villages, they can be consolidated into one single unit with little to choose between one stretch of land and another. The entire area is in a stage of development and the different villages are capable of being developed in the same manner as the lands comprised in Kala Ghanu Pur where the market value of the acquired lands was fixed at a uniform rate of ₹40,000 per acre. The Division Bench of the Punjab and Haryana High Court discarded the belting method of valuation having regard to the local circumstances and features and no cogent ground has been made out to interfere with the same.

16. In our view, in the absence of any contemporaneous document, the market value of the acquired lands of Village Kala Ghanu Pur which were acquired at the same time as the lands in the other five villages was correctly taken to be a comparative unit for determination of the market value of the lands comprising the lands forming the subject-matter of the acquisition proceedings under consideration....."

14. When the lands are acquired at the same time and for the same purpose that is for resettlement of Dal dwellers, the lands situated in three different villages namely, Chandapora, Bhagichandpora and Pazwalpora, and since the land is similar land, it would be unfair to discriminate between the land owners and other references and the appellants who are the land owners in Reference No.15 and pay less that is ₹2,50,000/- per Kanal to the appellants and pay more to other land owners that is ₹4,00,000/- per Kanal. Impugned judgments of the High Court in CIA No. 211/2009 and Cross Appeal No. 64/2011 are to be set aside by enhancing the compensation to ₹4,00,000 per Kanal. As a sequel to this, the order passed in review is also to be set aside.

15. In the result, the impugned judgments are set aside and these appeals are allowed. It is held that the appellants are at par with other land owners whose lands were acquired in Bhagichandpora and Pazwalpora in other references, and hence they are also entitled to enhanced compensation of ₹ 4,00,000/- per Kanal with 15% solatium (Jabirana) and all other statutory benefits. No costs."

Coming to the second issue regarding the smallness of the plots and the cut which can be imposed to assess the market value when a larger chunk of land is acquired, reliance can be placed upon the judgment in '**Mehrawal Khewaji Trust (Regd.) Vs. State of Punjab & others'** 2012 (5) SCC 432, wherein 33 acres was acquired for the purpose of Grain Market in Faridkot. The Apex Court held that the

highest value of the similarly situated land in the locality was to be preferred unless there are strong circumstances justifying a different course. Keeping in view the area of sale exemplar was only 1 kanal 3 marlas, a 20% cut was adopted for assessing the market value.

In '**Goa Housing Board Vs. Rameshchandra Govind Pawaskar**' 2011 (10) SCC 371, 50% development cut was imposed. Similarly, '**Valliyammal and another Vs. Special Tahsildar (Land Acquisition) and another**' 2011 (10) SCR 293, the percentage of cut varying between 20% to 75% on the issue of the smallness of the plot by modifying the percentage of deductions was discussed that difference between a developed area and an area having potential value, which is yet to be developed.

In '**Chandrashekar (D) by LRs & others Vs. Land Acquisition Officer & another**' 2012 (1) SCC 390, principles of reduction were discussed to hold that it could go up to 75%. The relevant observations read as under:-

“27. Our conclusions in respect of the quantum of permissible deductions have been recorded in paragraphs 18 and 19 hereinabove. While determining the validity of individual deductions, it is also imperative to examine whether or not the total deductions put together fall within legal parameters. We have upheld 55 percent deduction accorded by the High Court towards "development". We have also individually upheld deduction of 10 percent on account of "de-escalation", as also, the deduction of 5 percent on account of "waiting period". Cumulatively these deductions would amount to 70 percent (55+10+5=70). The outer benchmark for deductions laid down by this Court in Lal Chand's case (supra) and in Andhra Pradesh Housing Board's case (supra)

is 75 percent. Cumulatively also the deduction allowed by the High Court, fall well within the parameters laid down by this Court. We therefore find no infirmity in the quantum of accumulated deductions applied by the High Court during the course of making an assessment of the market value of the acquired land."

In 'Major General Kapil Mehra and others Vs. Union of India and others' 2015 (2) SCC 262, the percentage of deductions to fix the value of the acquired land had been discussed, since the same was to be for the utilization of the land in the lay out of drains, sewers, water and electricity lines etc. The relevant observations read as under:-

*"37. Insofar as the question whether rates fixed for small plots of land can form the basis for fixation of the rate for larger plots of land is concerned, no absolute bar has been laid down in the judicial pronouncements that the said rates cannot form the basis for fixation of the rates of larger plots of land, as a determining factor for deciding the market value thereof. Rather, in the case of **Land Acquisition Officer, Revenue Divisional Officer, Chittor Vs. Smt. L. Kamalamma (Dead) by LRs & Ors. K. Krishnamachari and Others reported as (1998) 2 SCC 385**, the Supreme Court held that when no sales of comparable land were available where large chunks of land had been sold, even land transactions in respect of smaller extent of land could be taken note of as indicative of the price that may be fetched in respect of large tracts of land, by making appropriate deductions such as for development of the land by providing enough space for roads, sewers, drains, expenses involved in formation of a lay out, lump sum payment, as also for the waiting period required for selling the sites that would be formed. As noticed in the case of **Viluben Jhalejar(supra)**:*

"Para 21: Whereas a smaller plot may be within the reach of many, a large block of land will have to be developed preparing a layout plan, carving out roads, leaving open spaces, plotting out smaller plots, waiting for purchasers and the hazards of an entrepreneur. Such development

charges may range between 20% and 50% of the total price."

38. Further, Courts have recognized the fact that there can be two set of deductions, one for the largeness of the land and another for the development costs. The documents placed on record by the appellants indicate that between September 1995 to December 1996, the DDA executed perpetual lease deeds of residential plots in Pocket-C in Vasant Kunj area at rates ranging from ₹28,719/- to ₹47,542/- per sq. yard. For the purpose of ascertaining the fair market value of the acquired land, if an average of the prices of the four perpetual lease deeds is taken, the figure comes to ₹37,433.75 paise per sq.yard. To equalize the factor of the market value of a small plot of land as compared to a large plot of land, a deduction in the range of 30%-50% from the rate calculated at ₹37,433.75 paise per sq.yard can be considered. Having regard to the entire facts and circumstances of the present case, this Court is of the opinion that deduction @40% from the average price of ₹37,433.75 paise per sq.yard shall be a reasonable basis for arriving at the fair market value of the land. If so deducted, the figure would work out to ₹22,460.25 paise per sq. yard.

*39. In so far as the deduction towards development costs is concerned, considering the fact that the acquired land was a tract measuring 12 bighas (i.e. 12096 sq.yards), as against the perpetual lease deeds placed on the record by the appellants (Ex.A-7 to Ex.A-10), which measured anywhere between 218.5 to 242 sq. mtrs. (i.e., between 261 to 290 sq. yards), necessary deductions have also to be made for the extent of land required for the laying of roads and other civic amenities, including expenses on account of development of the site by laying-out roads, drains, sewers, water and electricity lines etc. Such deductions have varied from 20% to 50%, and in the case of **Administrator General of West Bengal Vs. Collector, Varanasi reported as 1988 2 SCR 1025**, deduction to the extent of even 53% was allowed. However, normally the Courts have allowed one third deduction for such purpose. Being mindful of the aforesaid guidelines and also taking into consideration the willingness expressed by the appellants, to suffer one third*

deduction towards development costs, further one third deduction is allowed on ₹22,460.25 paise per.sq.yard and the fair market value of the acquired land, is determined @ ₹14,973.50 paise per sq.yard, which is rounded off to ₹14,974/- per sq.yrd.”

Keeping in view the above, this Court is of the opinion that taking into consideration sale deeds Ex.P12 and P13, whereby the average sale consideration per marla would work out to ₹20,500/- and the market value of these sale deeds would be less than Ex.P14, which was executed on 28.12.1990 at a higher rate of ₹30,000/- per marla. The two sale deeds Ex.P12 and P13 on the other hand, which are between 3 months i.e. 06.06.1991 and 11.03.1991 and both were of two marlas each and are only for ₹40,000/- and ₹42,000/- per marla and, therefore, would be safe to rely upon the same. Rather the trend shows that the market value was on the decrease in the next three months from Ex.P14.

Keeping in view the same, Ex.P13 was a year earlier and the 5% enhancement for the intervening period would be sufficient in such circumstances, as per the judgment in ‘**Oil and Natural Gas Corporation Limited Vs. Rameshbhai Jivanbhai Patel and another**’ **2008 (14) SCC 745**, the same can be added to the above said value, which would amount to ₹1,025/-.

Thus, the market value is assessed at ₹21,525/- per marla, but keeping in view the smallness of the sale deeds, a 75% cut is imposed, which works out to ₹16,143/- per marla and the compensation accordingly works out to be ₹5,382/- per marla (₹8,61,120/- per acre).

Accordingly, keeping in view the above, after deducting 15%

the market value of the acquired land is assessed @ ₹8,61,120/- per acre alongwith all statutory benefits on 30.03.1992. Resultantly, the appeals filed by the landowners are allowed, and they are held entitled for uniform compensation at the said rate, whereas the appeals filed by the Marketing Board are dismissed.

JULY 06, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No