THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA No.1935 of 2009 and other connected appeals
Pronounced on : 13.12.2018

Kali Charan

... Appellant

Versus

State of Haryana and another

... Respondents

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

Notification dated 26.06.1998 for the land acquired for Sector 32 of Village Chowki	
Cases filed by the State	**Cases filed by the landowners**
RFA Nos.2259 to 2263 of 2010, RFA Nos. 191 to 229 of 2011 & RFA No.1674 of 2012	RFA Nos.2960 to 2972, 3216 to 3226, 3567, 4518 of 2009, RFA Nos. 826, 2862 to 2865, 5152, 5191, 5218 of 2010, RFA Nos.4502, 4833 to 4835 of 2011, RFA Nos.911, 1962, 4933 to 4936 of 2012, RFA No.7224 of 2013, RFA Nos.3653 & 8187 of 2014

Notification dated 27.03.2001 for the land acquired for Sector 31 of Village Nada	
Cases filed by the State	**Cases filed by the landowners**
RFA Nos.1624 to 1685, 1865 to 1869, 2088 of 2010	RFA Nos. 2783 to 2800, 4113 to 4115, 4249, 4297 to 4311, 4465 to 4468, 4670 to 4673, 4896, 4897, 4969, 4970, 5038 to 5040, 5113 & 5436 of 2010, RFA Nos.2231, 2341, 2343, 3474, 4810, 4811, 7883, 7884 of 2011, RFA No.985, 995, 1351 of 2016

Notification notifications dated 08.12.2003 and 21.01.2004 for the land acquired in Village Jhuriwala for setting up of sewerage plant	
Cases filed by the State	**Cases filed by the landowners**
RFA Nos.1762 to 1778, 1844, 1845, 4995 to 5012 of 2009, RFA Nos.687 to 705, 709 to 727 of 2010	RFA Nos.941 to 951, 1934 to 1937, 1996 to 2007, 2046, 2047, 2793, 2794, 2848, 2849 of 2009, RFA No.5570 of 2010, RFA Nos. 825 and 2411 of 2010, RFA No.1228 of 2011, RFA No. 6290 of 2012

Present : Mr. Shoaib Khan, Advocate
Mr. M.K. Chouhan, Advocate
Mr. K.S. Khehar, Advocate
Mr. DPS Ahluwalia, Advocate
Mr. Neeraj Saini, Advocate
Mr. S.R. Hooda, Advocate
Mr. S.K. Sharma, Advocate for
Mr. M.L. Sharma, Advocate and
Ms. Bhavni Sood, Advocate for
Mr. Aditya Jain, Advocate for the landowners.

Mr. Sudeep Mahajan, Addl. AG, Haryana.
Ms. Vibha Tewari, AAG, Haryana.
Mr. Abhinash Jain, AAG, Haryana.

G.S. Sandhawalia, J.

The present judgment shall dispose of 338 appeals i.e. 188 filed by State and 148 filed by the landowners arising out of four notifications i.e. notification dated 26.06.1998 for the land falling in village Chowki, Hadbast No.198, notification dated 27.03.2001 for the land falling in village Nada, Hadbast No.199 and appeals arising out of notifications dated 08.12.2003 and 21.01.2004 issued under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') for the land falling in village Jhuriwala, Hadbast No.230, which all fall in District Panchkula.

2. Though appeals arise out of different Awards of Reference Court, Panchkula dated 30.10.2008, 18.12.2008, 10.03.2009, 02.06.2009, 21.12.2009, 23.01.2010, 28.1.2010, 05.2.2010, 06.2.2010, 13.5.2010, 04.09.2010, 22.09.2010, 09.11.2010, 15.11.2010, 11.06.2012, 06.3.2013, 14.05.2013 & 16.12.2013, but the location of the land being similarly situated on the eastern bank of Ghaggar river & all villages as such being adjoining, it would be appropriate to keep a larger picture in mind of the lands, which has led to the development of the Tri-City to come to a

justice oriented approach for the benefit of the landowners, since evidence in some cases is more elaborate, whereas in some case the landowners have not been able to get similar evidence on record. Resultantly, reference shall be made to 1st, 2nd and 3rd set of appeals itself.

Facts of 1st set of appeals pertaining to notification dated 26.06.1998 for the land acquired for Sector 32 of Village Chowki

3. The present set of appeals, filed under Section 54 of the Act, both by the State and the landowners, arise out of the notification dated 26.06.1998, issued under Section 4 of the Act, whereby land was acquired for the purpose of recreation, public and semi-public purpose, for setting up of Sector 32, Panchkula, by Haryana Urban Development Authority (HUDA). The Reference Court, Panchkula, vide award dated 10.03.2009, while deciding 39 references awarded a sum of Rs.662/- per sq.yard (Rs.31,04,080/- per acre) for the land falling in Village Chowki, Hadbast No.198. The facts are being taken from **RFA No.3222 of 2009 'State of Haryana and others Vs. Jagpal Singh and others'.** The subsequent Awards dated 23.01.2010, 28.01.2010, 06.02.2010, 04.09.2010, 22.09.2010, 09.11.2010, 11.06.2012, 06.03.2013 and 14.05.2013 have only followed the first Award dated 10.03.2009,

4. The rationale behind assessing the market value of the land acquired was that for the adjoining Village Kharak Mangoli, falling in District Panchkula, land had been acquired on 02.07.1985 @ Rs.250/- per sq.yard. Therefore, by giving cumulative enhancement, to the extent of 165%, for the intervening 13 years, the market value was determined, keeping in view the location and potentiality of the land and for the

purpose for which it was acquired. Resultantly, the State has questioned the rationale and the basis of the enhancement, by applying the said formula, by holding out that the same is not justified and the sale deeds were the best exemplars which were to be kept in mind, while determining the market value on the date of the Section 4 notification and has prayed for setting aside the said award. Reliance has been placed upon the judgment passed by the Apex Court in **CA-2542-2553-2017 titled State of Haryana & others Vs. Chetin Kaur & another**, decided on 26.10.2017, **CA-17022-2017 titled Umesh Gupta Vs. The State of Haryana**, decided on 09.10.2017 and **Manoj Kumar & others Vs. State of Haryana & others 2018 (2) RCR (Civil) 815**.

5. Counsels for the landowners, on the other hand, have pressed for further enhancement in their set of appeals on the ground that in the adjoining villages, i.e., Nada, Jhuriwala and Madanpur, the land of which was acquired on 04.05.1995, this Court, in **RFA-3506-2009 titled Lokinder Singh & others Vs. State of Haryana & others**, decided on 06.04.2018, has awarded compensation @ Rs.746/- per sq.yard and thus, have claimed further enhancement on the basis of the 3 years difference between the 2 notifications. Similarly, from the site-plan, now placed on record with the consent of counsels from both sides, which is similar to the evidence which has already come on record, it is pointed out that for adjoining Village Nada, land was acquired on 05.04.1988, i.e., 10 years earlier, for the purpose of Commando Training Centre and for which, an amount of Rs.332.50/- per sq.yard was awarded and therefore, have

pressed for further enhancement, keeping in view the potentiality, as such, of the land. It is, accordingly, submitted that the sale exemplars (Annexure P-15 & P-17), which pertain to the years 1996 and 1997 respectively, were not correct and do not depict the correct sale price of Village Chowki and on account of the peculiar facts and circumstances that the State Government was, as such while planning Panchkula kept issuing notifications and keeping the prices pegged down. In view of the further planned development in the village for Sector 32, therefore, the sale deeds were not good sale exemplars and thus, the best methodology would be by placing reliance upon the award of the adjoining village.

Facts of 2nd set of appeals pertaining to notification dated 27.03.2001 for the land acquired for Sector 31 of Village Nada

6. The present set of appeals filed under Section 54 of the Act by the State and the landowners are directed against the Award of the Reference Court, Panchkula dated 21.12.2009, 05.02.2010 and 13.05.2010 whereby as many as 68 cases were decided. The Additional District Judge, Panchkula determined the market value @ Rs.340/- per square yard (Rs.16,45,600/- per acre) for the notification dated 27.03.2001 issued under Section 4 of the Act. The purpose of acquisition of the land measuring 84.82 acres was for public purpose for development and utilization of the land for residential and commercial Sector 31, Panchkula area falling in village Nada, Hadbast No.199, Tehsil and District Panchkula. The facts are being taken from **RFA No.2783 of 2010 'Gurbachan Singh and others Vs. State of Haryana and another'.** The Awards dated 05.02.2010 and 13.05.2010 have only

followed the Award dated 21.12.2009.

7. The Land Acquisition Collector had awarded a sum of Rs.4,50,000/- per acre vide Award No.14 dated 22.03.2004. The basis of fixing the market value as such was Ex.P2 which was of 2 ½ biswas of land and sold on 14.09.2000 @ Rs.1,040/- per square yard, on the basis of which 50% cut had been given for construction and 30% being small transaction to come to Rs.364/- per square yard. Similarly, Ex.P3 which was of 6 biswas of land and sold on 01.07.1999 @ Rs.833/- per square yard, similar cut was applied to come to Rs.292/- per square yard and for Ex.P4 which was of 2 ½ biswas, which was sold on 14.09.2000 @ Rs.1,040/- per square yard, the market value worked out @ Rs.364/- per square yard. Taking out an average of the said three sale deeds, accordingly, Rs.340/- per square yard was arrived at. While examining market value from another angle and keeping in mind Ex.P3 which was of 6 biswas of land, sale transaction of the said sale deed after 50% cut for construction, a 12% premium was given from 01.07.1999 to 27.03.2001. The price was assessed @ Rs.336/- per square yard.

8. Similarly, Ex.R8 relied upon by the State an award passed in respect of village Ramgarh for the land acquired on 26.06.1989, whereby the market value was assessed @ Rs.250/- was kept in mind and also awards Ex.P43 to Ex.P45, which are awards of the adjoining villages of Jhuriwala, Bana Madanpur and Kharak Mangoli in respect of notification dated 04.05.1995 and 02.07.1985. From evidence it is clear that the land had potentiality for residential and commercial purposes, as it was

between hilly areas which was acquired upto T-Point of Morni Road, but it did not have the same potentiality for residential purposes as that of villages Bana Madanpur, Ramgarh, Moginand and Chowki and was further away even from villages Kundi, Devi Nagar, Maheshpur and Kharak Mangoli. The allotment letters relied upon by the landowners were not as such relied upon rightly, but while relying upon the sale deeds, the factum of the location of the land as such which was further away 4 KM as such had been acquired was kept in mind which pertained to village Ramgarh, Bana Madanpur and Jhuriwala. The transaction of village Maheshpur towards Panchkula and beyond the Ghaggar river having more potentiality were not relied upon (Ex.P35) and similarly exemplar of Islamnagar was discarded alongwith notification of Bhainsa Tibba and village Kundi. The factum of land in village Chowki acquired vide notification dated 26.06.1998 was also noticed whereby the market value was determined @ Rs.662/- per square yard. The notification dated 04.05.1995 of village Jhuriwala and Bana Madanpur, whereby market value was determined @ Rs.746/- per square yard was not taken into consideration, only on account of the fact that the Award had not attained finality before this Court.

9. A finding was recorded that village Nada adjoins the boundaries of village Chowki and that of village Jhuriwala and the sale deeds relied upon by the State were rightly discarded on account of the fact that the value was below the amount awarded by the Collector. The award of village Ramgarh, whereby the amount was determined @

Rs.250/- per square yard for the notification dated 26.06.1989 on which premium @ 12% was sought to be calculated, however, was not kept in mind. It was held that village was not contiguous to that of Ramgarh and Bana Madanpur.

10. Counsel for the landowners have submitted that the Reference Court was not justified in not relying upon the awards of village Jhuriwala and Bana Madanpur and earlier acquisition made on 04.05.1995 wherein the amount has been assessed @ Rs.746/- per square yard. It is submitted that for the notification dated 04.05.1995, this Court in **RFA No.3506 of 2009 'Lokinder Singh and others Vs. State of Haryana and others**' decided on 06.04.2018 has upheld the said amount and rather granted the same amount of compensation to village Nada also, while the Reference Court had granted only Rs.460/- per square yard. It was, accordingly, argued that the land is situated on the highway and closer than the land falling in villages Naggal Moginand and Ramgarh and has more potentiality. It is further pointed out on 05.04.1988 the land of village Nada had been acquired for Commando Training Centre for which the market value has been fixed by this Court @ Rs.332.50/-per square yard by this Court in **RFA No.2358 of 2002 'Santokh Singh (deceased, through L.Rs.) Vs. State of Haryana and another'**, decided on 14.03.2013 and, therefore, compensation granted 13 years later was inadequate as such. It is submitted that even the Collector as such had fixed the rate Rs.3,800- per square meter which was admitted by PW-4, Balwinder, Registry Clerk and would show that the value was much more

than what was assessed. It is, accordingly, submitted that even if 10% enhancement is granted upon the earlier acquisition of 04.05.1995 and for the almost six years difference, the market value would be Rs.1,332/- per square yard and correspondingly for 12%, it would work out Rs.1,456/- per square yard and, therefore, it was a case of enhancement as such.

11. State on the other hand represented by Mr. Sudeep Mahajan, Addl. Advocate General, submitted that the amount has been rightly assessed on the basis of sale deeds and, therefore, reliance has been placed upon the judgment of the Apex Court passed in the case of **Umesh Gupta (supra)** and **Chetin Kaur (supra)** to submit that the 12% enhancement as such for a long period is not the right method. It is further argued that the area was hilly and development cost was on the higher side and there were no residential sectors around. Reliance was placed upon the judgment of the Apex Court passed in **'Land Acquisition Collector, Eluru Vs. Smt. Jasti Rohini' 1995 (1) SCC 717** to submit that future development is not a aspect to be considered and kept in mind and, accordingly, reference is made to the site plan to submit that this area is surrounded by forest by both sides and was comprising of ditches and the road was leading to Morni, the hill station.

12. Resultantly, reliance was placed upon the judgment of the Apex Court passed in **'Indian Drugs & Pharmaceuticals Ltd. Vs. Workmen, Indian Drugs & Pharmaceuticals Ltd., (2007) 1 SCC 408** to submit that every judgment would not be a precedent and only where the law was laid down the same was to be kept in mind and mere

directions as such were not to be considered as binding precedent. He, accordingly, submitted by placing reliance upon **'Ram Kanwar and others Vs. State of Haryana and another' 2015 (1) RCR (Civil) 234** that the sale deeds were the best piece of evidence and similarly, the judgment in **Civil Appeal No.586 to 591 'Ram Avtar and others Vs. The State of Haryana and others'** decided on 20.09.2017 was also relied upon.

Facts of 3rd set of appeals pertaining to notifications dated 08.12.2003 and 21.01.2004 for the land acquired in Village Jhuriwala for setting up of sewerage plant

13. The present set of appeals arise of the notification dated 08.12.2003 and 21.01.2004 is under Section 4 of the Act, whereby 10.26 and 2.98 acres of land was sought to be acquired in village Jhuriwala for the purpose of Dumping Ground of Solid Waste Management Project Panchkula. Awards No.8 and 10 were passed on 08.12.2005 and 20.01.2006, respectively for the above said notifications and the market value of the acquired land was assessed @ Rs.12.50 lakhs per acre by the Land Acquisition Collector. The Reference Court vide the judgment dated 30.10.2008, 18.12.2008, 02.06.2009 and 15.11.2010 fixed the market value of the acquired land @ Rs.1,386/- per square yard (Rs.67,08,240/- per acre). The facts are being taken from **RFA No.1935 of 2009 'Kali Charan Vs. State of Haryana and another'.**

14. The reasoning given for fixing the rate of the land in question was that the land was uneven and full of ditches and is situated in the foot hills, but it was very close to the posh and urban area of Panchkula and it was adjoining village Maheshpur, for which award had

been passed on 05.08.2004 (Ex.P28) for the notification dated 21.12.1994 and the market value had been fixed @ Rs.500/- per square yard. Resultantly, 12% per annum increase from 1995 to 2003 was given to fix the market value @ Rs.1,386/- per square yard. On the issue of severance, it was held that there was no evidence that the other land which had been left and not acquired had become useless and there was no other way or passage to approach the unacquired land and, therefore, no further benefit as such was given under the said head.

15. Resultantly, Mr. Mahajan has questioned the said awards on the ground that the finding that the land is contiguous to village Maheshpur is baseless and he referred to the site plan to submit that it was a factually incorrect finding and the reasoning cannot be sustained. Similarly, he argued that notification dated 21.12.1994 could not be made the basis for assessing the market value as it was nine years earlier and, therefore, the award as such was not sustainable in view of the settled principles laid down in **General Manager, Oil & Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel 2008 (4) RCR (Civil) 487** that cumulative increase is to be given and there should not be more than 4 to 5 years difference. It is further argued that it was a hilly area and the land was in the nature of forest and even if the principle of the adjoining land has to be seen, then the land of village Nada, the closest village where only Rs.340/- had been awarded for the said village for the notification dated 27.03.2001 could be taken into consideration to assess the market value. The fact that the land was being used for

dumping ground would show that the land was not fit as such for the purpose of urbanization.

16. Counsel for the landowners on the other hand have relied upon the evidence of the witnesses to show the location of the land and submitted that either the basis of assessing should be notification dated 04.05.1995, whereby Rs.746/- had already been fixed in the case of **Lokinder Singh (supra)** for the land falling in village Jhuriwala, Bana Madanpur and Nada or in the alternative for the land falling in village Naggal Moginand, whereby for the notification dated 13.08.1997, this Court has assessed Rs.925/- per square yard the market value. Effort has been made to rely upon the allotment letters of HUDA of adjoining areas and that benefit of severance should also given on account of the fact that the land was going to be used for the purpose of a dumping ground for setting up a sewerage treatment plant.

The evidence in the 1st set of appeals pertaining to notification dated 26.06.1998 for the land acquired for Sector 32 of Village Chowki

17. A perusal of the award of the Reference Court would go on to show that while examining the evidence on record, the Court had arrived at the conclusion that the land of all the adjoining villages had been acquired. The left out land was of Village Chowki and therefore, the land had extraordinary potentiality of growth as there was no land left to be acquired in Panchkula. It was, accordingly, noticed that prices were going up because of the Section 4 notifications and because the urbanization had already come in existence and therefore, the post notification transactions were also kept in mind with the future prospects

keeping in view the rise in prices as such. Keeping in view the said principles and the fact that the transactions of the adjoining village can be taken into consideration since it was of close vicinity, the said methodology had been applied for fixing the market value on the date of the Section 4 notification. The chart, as such, of the sale deeds of the village and the adjoining villages was, thus, also taken into consideration to put-forth the fact that there was a phenomenal growth in the area. The sale deeds (Exts.R-1 to R-6), produced by the State, were also taken into consideration, to notice that the Land Acquisition Collector, vide award No.2 dated 30.07.2003, whereby 224.28 acres of land was acquired, had awarded Rs.4,00,000/- per acre and all the sale transactions, as such, were below that amount and therefore, the same were rejected. While dealing with the claim for superstructure, it was noticed that the 2 valuations of the private valuator and the Government valuator and as such, were at great variance though they were following the same formula, namely the PWD formula. Therefore, blanket 10% increase as made by the Government valuator was given while disposing of the claim of the superstructures. It is pertinent to mention that no argument, as such, had been raised from both the sides regarding the enhancement for the structures and the case is same of the landowners, as the only argument which has been raised is on the market value of the land which is to be fixed on the date of the Section 4 notification i.e. 26.06.1998.

18. A perusal of the record of the case would go on to show that in the petition filed under Section 18 of the Act, it was specifically

pleaded that the land was Chahi land. The same was irrigated by tubewells and water level was high and the land of the adjoining villages was better like Majri, Devi Nagar, Bana Madanpur, Ramgarh etc., which have been subject matter of acquisition for development of Panchkula city which is one of the tri-cities, comprising of Chandigarh and Mohali. It is to be noticed that the three cities are falling in three different states, in as much as, Chandigarh is a Union Territory whereas Panchkula falls in Haryana and Mohali(SAS Nagar) falls in Punjab. The pattern in which it is developed is similar to the National Capital Region wherein also, the development of Delhi has fueled development in the adjoining areas like Gurugram and Noida, both falling in Haryana and Uttar Pradesh respectively. The pleadings were also that there were 6 notifications issued by the State of Haryana time and again, for acquisition of the land but it was withdrawn and transactions had not taken place and the prices had, thus, been pegged down on account of the set of acquisition of surrounding villages in the long run, except Village Chowki. It was pleaded that the village adjoins the boundary of Villages Nada, Devi Nagar, Kharag Mangoli, Majri and old Panchkula and the District Court was hardly 1000 yards by a crow-flight and 1 km by road whereas Majri Chowk was 105 yards from the acquired land. The village was also existing and not *Be Chirag Mauja* (uninhabited area) whereas Village Judian was a *Be Chirag Mauja* wherein land had already been acquired. North Park hotel was in the acquired land though the land had been left out from acquisition and resultantly, compensation @ Rs.5500/- per sq.yard was claimed apart from the compensation for the superstructure.

19. The Senior Draftsman, Dinesh Kumar, who appeared as PW1, exhibited the lay-out plan of Panchkula as Ext.P-1, which is based on the original lay-out plan and which showed the development of Sector 32 for which the land had been acquired. A perusal of the said site-plan would go on to show that the drawing was on the original tracing of the drawing of the DTP dated 03.05.1989, which showed the lay-out of Sector 32. The land of Sector 22 of Nada had already been acquired on 04.05.1995 and given to the IT Park.

20. PW-2, Ashok Kumar Kaushal, Deputy Superintendent of the Marketing Board, Panchkula, was also examined to show that the land was allotted to the Marketing Board at Rs.1356/- per sq.yard which was reduced to Rs.954/-, copy of the IDC and EDC dated 16.05.1997 had been placed on record as Ext.P-2. The Circle Head Draftsman of the office of Chief Engineer, HUDA, who appeared as PW-4, Mohan Mahajan further deposed about the location of the land that it was on the left side of the road and 1 km from Majri Chowk towards Ramgarh on NH-73 and it came immediately after crossing the river Ghaggar bridge. The land on the right side of the road, which pertained to Village Nada, had been given to HSIIDC for IT Park. Rajbir Singh, Patwari who appeared as PW-5, brought the record which showed that the acquisition for Panchkula had started in the year 1973, for Sectors 1 to 21 including Kharak Mangoli and the acquisition for Nada and some part of Jhuriwala, Moginand, Ramgarh and Madanpur was done after some time.

The evidence in the 2nd set of appeals pertaining to notification dated 27.03.2001 for the land acquired for Sector 31 of Village Nada

21. A perusal of the record would go on to show that in the reference petition filed under Section 18 of the Act the location of the land was stressed upon to show that it was closer to the heart of Panchkula than Sectors 24 to 28, which were developed 10 years earlier. The fact that the land acquired was developed upto a depth of 7 KM towards the eastern side and towards village Ramgarh was, accordingly, pleaded. The possession had been taken of land in Ramgarh and plots floated in December, 1992 in pursuance of the notification dated 26.06.1989. Thereafter, that on the highway Tribune Mitter Vihar Colony had been developed in the year 1995-1996 and the Training Centre of ITBP and then Ramgarh, which was falling on National Highway No.73. The land, thus, could not be treated as agricultural land and had vast potentiality. The award would also go on to show that total area notified was 117.52 acres, but 13.71 acres was left out which came in Nada Choe and abadi area of 18.99 acres had been left out, which would be clear from the Award of the Land Acquisition Collector dated 22.03.2004.

22. In cross-examination PW-1 Prem Chand stated that the land was adjoining the National Highway, namely, Panchkula to Naraingarh. PW-2 Banarsi Dass also was cross-examined by the State, who stated that the land is 1 ½ away from the Majri Chowk on the State Highway No.73 leading to Paonta Sahib. He denied the suggestion the land was uneven and non-cultivable and rather volunteered submit to that the land was

irrigated and fertile land. He, however, admitted that the land is at a lower level than the State Highway, though it was plain. PW-3 Prem Singh also stated in the same terms, whereas PW-4 Balwinder, Clerk from the Sub-Registrar Office, deposed regarding the value for registration of documents for the year 2001-2002 for residential plots in Sectors 25 to 28 was @ Rs.2,800/- per square yard. He further submitted that minimum market rates were enhanced by 20% per annum at least every year and registration of the sale of land below 1000 square yard was not permissible.

23. PW-5 Rajbir Singh, Patwari brought the summoned record of notification register regarding acquisition of land of different villages starting from 07.09.1971 to 10.06.2004. He admitted that the acquired land was about 1 KM from the Majri Chowk, Panchkula, which was called District Head Quarter Chowk and Sectors 27 & 28 were beyond, around 7 KM from the acquired land. The acquired land was adjacent to the abadi area of village Nada and was situated opposite Sector 22, Panchkula. The said sector had been transferred to HSIIDC for development of IT Park, Panchkula. The historical Gurudwara of Pat Shahi Dasvin (Nada Sahib) was also situated opposite the acquired land. The land was also between the National Highway and the road leading to Morni. PW-6 Baljinder Singh, Halqa Patwari had also deposed in the same terms and further stated that the entire land upto Ramgarh was fully developed. Firstly there was a Police Complex and Police Lines, Panchkula, then ITBP residential quarters and then the residential colony

of Tribune Mittar Vihar and shops on the road side and then Fort Ramgarh. He also stated that the acquired land was lying 5 to 8 feet below the State Highway and at a 'T' point of Morni Chowk the land was leveled and falling beyond the acquired land was the Police Complex.

24. PW-9 Ramesh Chand, Assistant Drafts Man, produced the blue print of Sector 31 and 32, Panchkula and Ex.P13 and pointed out that sectors were shown on the Akshajara plan. The blue print of Panchkula Ex.P14 showed that the acquired land was at a distance of 1 KM from Majri Chowk and there were Pacca residential houses on the acquired land of Sector 31, which had been released from acquisition. Majri Chowk was marked at point 'A' in Ex.P14 and point 'B' showed the link road to Morni from National Highway No.73. Sector 22 Urban Estate, Panchkula was opposite Sector 32 and prior to the acquired land Sector 22 had been developed for IT Park, Panchkula. Sectors 22 to 28 fell on the right side of the National Highway and Sector 28 was at a distance of of 7.5 Km from Majri Chowk and 6.5 KM from the acquired land. The planing of Sectors 24 to 28, Panchkula had been taken 10 years prior to the present acquisition and land on both sides of National Highway No.73 was the only land and was acquired for the purpose of further development of Panchkula, since it was bounded by Punjab Territory beyond Sector 20 Panchkula and U.T. beyond Sector 17 and 18. The cantonment area lay beyond Sectors 1, 6 and part of Sector 7 and blue print of Panchkula Extension Development Plan was Ex.P15.

25. PW-11 Ram Niwas, Draftsman produced the master plan

Ex.P28 and plan of Panchkula and surrounding area Ex.P29 and showed the abadi of village Nada. He denied the suggestion Ex.P28 and Ex.P29 were not the original plans of the office of DTP and admitted there was a Nala bisecting the acquired land through and through. He stated that shops, truck union and other houses already existed on the land demarcated as 1-A commercial in site plan Ex.P28 and that Sector 22 fell in the revenue estate of village Nada, which had been acquired by HUDA.

26. RW-1 Dhoop Singh, Naib Tehsildar also admitted that land was abutting the National Highway and IT Park was situated just opposite the acquired land. The land of village was adjoining village Chowki and had been acquired for residential and commercial purposes and that there were hills between the two villages. He admitted that vide notification dated 04.05.1995 for Sectors 22 and 23, the land had been acquired by a common notification and that for the acquired land of village Jhuriwala Rs.746/- had been awarded. He further admitted that the acquired land was nearest the land on the National Highway No.73 from National Highway No.22 which is the road leading from Shimla to Ambala.

The evidence in the 3rd set of appeals pertaining to notifications dated 08.12.2003 and 21.01.2004 for the land acquired in Village Jhuriwala for setting up of sewerage plant

27. A perusal of the record would go on to show that in the petition filed under Section 18 of the Act, it was pleaded that the land was having very prime location and part of the same Khasra No.3 had been acquired for development of Sectors 22 and 23, Urban Estate, Panchkula, vide notification dated 04.05.1995 and the value was not less

than Rs.10,000/- per square yard. Outstanding urban development had been taking place since 1989 and in the vicinity residential, commercial, institutional and Group Housing Societies had come up and also Sectors 22 and 23 were opposite the land in question. The residential plots upto a depth of more than 5 KM from the acquired land had been offered by HUDA @ Rs.6578/- per square yard for residential purposes at a tentative cost and price of the commercial sites was much more.

28. PW-1, Faqir Chand in his examination-in-chief submitted that the acquired land was 1.5 to 2 KM away from the Mini Secretariat and Judicial Complex, Panchkula via Majri Chowk towards Ramgarh. The land was only 300 feet from the National Highway No.73 on the north east side of the National Highway, which was marked in the Akshajra (Ex.P1) and was opposite to Sector 22, Urban Estate, Panchkula and that land had been acquired vide notification dated 04.05.1995. In his cross-examination he admitted that the land was low lying and due to its nature was non-cultivable and was lying barren and compensation had been paid on the basis of the DC rates. Similarly, PW-2, Dinesh Kumar, Senior Draftsman brought on record original blue print of drawing of Panchkula as Ex.P2, Ex.P3 was the Akshajra Plan of Panchkula Extension of Sector 25 and Ex.P4 was the true blue print of Panchkula extension plan. He further deposed that there could be no construction of any kind upto 300 feet on the national highway as per Punjab Scheduled Road Act.

29. PW-3-Sandeep Kumar, Halqa Patwari, deposed about

National Highway No.73 passing through Khasra No.3 and bisecting the same on both sides of the national highway and the acquired land was 150 meters away from the link road intercepting National Highway No.73. There was a link road to Sector 24 to 28 and Sectors 23 and 21 and to the rest of the Panchkula on the other side. The acquired land was 300 feet from the National Highway and land measuring 2.98 acres was acquired from Khasra No.3 as a passage by HUDA. The remaining land beyond and in front of the acquired land of Khasra No.3 was lying un-acquired and severed due to acquisition of the land in question. Khasra No.3 on the northern side of the National Highway was 45 acres out of which 13 acres had been acquired and remaining land had been severed being un-acquired. The acquired land was around 200 meters from the corner of Sector 25, Panchkula and on both sides land was similar in nature, situation, location and potentiality. The boundaries of village Jhuriwala touched village Devi Nagar, Bana Madanpur and Maheshpur of District Panchkula and Peer Machala of Punjab. In cross-examination, he stated that land of village Jhuriwala was across the Ghaggar, whereas Devi Nagar was on the other side and Maheshpur was also on the western side of the Ghaggar. He further stated that there was a choe in the land of village Moginand and there was a bridge on National Highway No.73. There was no development like sewerage, water connection, market, residential house, school in Sector 31 and 32 of Panchkula and many plots of Sector 26 to 28 were lying un-constructed. He denied that the boundaries of village Jhuriwala touches Devi Nagar and Maheshpur of

District Panchkula and Peer Machala of Punjab.

30. PW-5, Ram Niwas, Architect deposed that while proceeding from Majri Chowk, Panchkula on National Highway No.73 first came Sector 1-A, then Hotel North Park and Sector 31 and abadi of village Nada and then the acquired land. After that the District Police Lines, Panchkula then ITBP Residential Colony of its officers and training centre and Tribune Mittar Vihar and then abadi of of Kishangarh and then Ramgarh came. The acquired land was 4 KM from Majri Chowk, Panchkula on the National Highway No.73 and had been shown in red colour in Ex.P15, the site plan. In his cross-examination he admitted that the land of Sector 25 was low lying. The Morni Hills were behind Sector 31 and the Ghaggar River was passing in between the land of village Devi Nagar and Jhuriwala.

31. A perusal of evidence of PW-6 Purujit Singh would also go on to show that certified copies of notifications ranging from 1971 onwards were also placed on record. In his cross-examination he had admitted that in Sector 31 near the acquired land there was no residential house, school, market, hospital and sewerage connection. He admitted that Ghaggar River flowed in front of Sectors 23 to 28.

32. RW-1-Dhoop Singh, Naib Tehsildar deposed regarding the depth of acquired land which was 30 to 40 feet on the National Highway No.73. On the western side of the acquired land there was a reserved forest area and after that started Sector 23 and 24. The land of the villages which was acquired vide notification dated 04.05.1995 was

better than acquired land. The land of village Maheshpur, Kundi and Fatehpur were across the River Ghaggar towards west of the acquired land and at a distance of about 2-3 KM. He clarified that the land of village Maheshpur, Kundi, Devi Nagar and Fatehpur could not be equated with the acquired land. To proceed to Devi Nagar there were two ways from the acquired land i.e. one across the Ghaggar Bridge towards Majri and the other across the Ghaggar Bridge on Sector 3 and 21 dividing road and Devi Nagar was about 1 ½ KM from the acquired land. He further clarified that while proceeding from Majri Chowk, Panchkula on the National Highway No.73 towards Ramgarh, fell Sector 32 and then Sector 31 and hilly slope of Nada. Thereafter link road to Moginand and then Police Complex and ITBP Residential Complex for its officers and thereafter Tribune Mittar Vihar followed by the vacant land and hospital and Fort Ramgarh. He further admitted that there were some shops on the left side on the National Highway No.73 and on the right side there was Sector 22, which was now known as the IT Park of Panchkula and then Sector 23 and thereafter road linking the dividing of Sector 3 and 21. He clarified that for Sectors 24 to 28 the land was acquired vide notification dated 26.06.1989. He clarified that the land of village Nada was acquired vide notification dated 04.05.1995 for Sector 22 and Khasra No.4 min Jhuriwala was situated on both sides of National Highway No.73. He also deposed that there were no hill slopes and no khaddas in the acquired land. He could not produce any document or notification to prove that the acquired land was a reserved forest and also that no communication had been received from the Forest Department regarding notification of the land. He admitted that HUDA had also acquired the land measuring 2.98 acres of Khasra No.4 min vide separate notification and that the acquired land was 2 KM from Majri Chowk, Panchkula. Sector 25, Panchkula was 500 meters away from the acquired land.

33. RW-2, Sunder Lal, Patwari in his statement admitted that he had seen and visited the spot of acquired land and he had seen the site plan. The acquired land was adjacent to protected forest and was situated at a depth of 30 to 40 feet from National Highway No.73 and there was a forest cover over the acquired land. The acquired land was not cultivable and was having deep khuds and thick forest cover. The acquired land was inferior to Sectors 22 to 28 and was surrounded by protected forest hill on three sides. Pahari Keekar trees were stated to be situated on the acquired land.

Discussion in 1st set of appeals pertaining to notification dated 26.06.1998 for the land acquired for Sector 32 of Village Chowki

34. An application bearing **CM-10333-CI-2018 in RFA-3222-2009** for placing on record judgments Annexure A-1 to A-6 has been filed, which pertaining to the acquisition of land in District Panchkula.

35. Keeping in view the fact that the judgments pertained to the similarly situated land in District Panchkula, the application for additional evidence was allowed and the judgments have been brought on record, since they would come within the ambit of Order 41 Rule 27 CPC, since they have passed after the award which is now impugned.

The judgments would thus be helpful to this Court to pronounce judgment in the present case and to judge the market value in near vicinity.

36. In the evidence, it has come that the land was acquired for Panchkula, which had remained unacquired after issuance of about 6 notifications and the Department gave the land after possession to HUDA, to allot the same to whom it wanted to. Ext.P-28, the site-plan showed the plan of urban complex Panchkula and that of the land of Village Chowki with the location of Hotel North Park along with the sale deed No.82/1 dated 17.04.1986 which was 34 bighas of land adjoining the river.

37. The acquisition of the adjoining village of Nada bearing Hadbast No.199 has also been subject matter of consideration before this Court in **Lokinder Singh's case (supra**). While deciding the said appeals, this Court was dealing with the acquisition dated 04.05.1995 of Village Jhuriwala and Bana Madanpur Hadbast No.230, 231 and for those two villages, Rs.746/- per sq.yard had been given. Village Nada, however, had only been granted Rs.460/- per sq.yard for the same notification though it also fell on the National Highway No.73 which leads from Panchkula to Yamunanagar. Thus, the land which was subject matter of transfer to HSIIDC in Sector 22 for the IT Park was considered by this Court on the same bank of river Ghaggar and across the bridge away from the main town and heart of Panchkula. It was noticed that Majri Chowk, which is adjoining the District Courts was 1 km from the

said land and development had extended upto 3 kms beyond the acquired land and 7 kms from Zero-Point on NH-73. This Court, at length, delved upon the development of Panchkula and how material had been brought on record, as such, and that there was no land left for the development of Panchkula which is satellite town of Chandigarh and the acquisition had gone upto Village Ramgarh. It was also noticed that 97 acres of land had been transferred of Sector 22 Panchkula for IT Corridor, vide allotment dated 07.11.2005 @ Rs.106.63 lakhs per acre without applying the development cut for the land which had been taken up by the HSIIDC for industrial development and lay-out plan had been undertaken. Apart from that, allotment letters and developments in the adjoining areas and the fact that the old bridge had been constructed in 1996 over river Ghaggar, was kept in mind and thus, Village Nada was also granted the same enhancement to bring it at par with Village Jhuriwala and Madanpur.

38. In the present circumstance, it is to be noticed that the land of Village Chowki is situated adjoining the old bridge and therefore, its potentiality, as such, cannot be denied. Rather, the land across the river of Jhuriwala and Bana Madanpur and its potentiality became dominant only when the second bridge was built in the year 1994. Similarly, on 05.04.1988, for Village Nada, the acquisition for Commando Training Centre, which was also made, was kept in mind. Relevant portion of the judgment passed in the case of Lokinder Singh (supra) read as under:

> *"The location of the land is of utmost importance, which is to be kept into consideration, which would be clear*

from the site-plans which are already on record and from Mark-A, which has now been taken on record and which is identical on all accounts to site-plans Exts.P-23 & P-55. No doubt, the land was situated across the river and there was only a sole lifeline in the form of a bridge on the National Highway No.73, to cross the turbulent river of Ghaggar which becomes dominant during monsoon and continues to entail damage downstream, disgorging its discharge from the hills and enters into the State of Punjab and after heaping misery for some time, enters Haryana. It was in such circumstances, the land in question, as such, could not be immediately developed as it was lying on the other side of the river and the State of Haryana continued developing Panchkula, firstly on the western side of the river, closer to Chandigarh firstly and then thereafter, on the portion abutting National Highway No.22, which would be clear from the statement of the witnesses and from the site-plan. The first development which took place was in 1971 and 1983, which has been marked-A and was on the western-side of the National Highway No.22 which led from Ambala-Zirakpur-Kalka and Shimla and away from the river and to the road leading to Chandigarh.

In view of the land which lay on the other side of Sector 21 & 22 and Ghaggar on the National Highway No.73 from Panchkula to Yamunanagar and onwards leading to Delhi on the alternate road, which is shown as 'D' in purple colour in the site-plan Mark-A, on which came up the ITBP Colony which was developed in the year 1985 and across it, to augment infrastructure, land had been acquired at point 'C', shown in green colour for 220 KV sub-station of the erstwhile Electricity Board in 1984.

Similarly, at that point of time, land abutting the bridge before crossing the Ghaggar, falling in Village Kharak Mangoli was acquired in 1985, which is known as old Panchkula and right across the District Court's complex, *Panchkula and on the National Highway No.22, for which compensation was fixed @ Rs.250/- per sq.yards in* ***CA-10286-2010, Kanti Parkash Bhalla (Dead) through LRs & others Vs. State of Haryana****, decided on 10.07.2012.*

Thereafter, the land adjoining the river on the National Highway No.22 was acquired on 31.03.1987, which fell in Village Devi Nagar, for which, the market value was assessed @ Rs.250/- per sq.yards in ***CA-1074-2012, Om Prakash Vs. State of Haryana,*** *shown at point 'F' in blue colour. The said portion of land also gives access to the road which leads to the new bridge crossing the river Ghaggar, which had been constructed in 1994 and which came in the statement of PW-18, Rakesh Kumar, Patwari. The Youth Hostel and Golf Course, Cricket Stadium and the Sports Complex etc were developed in the said land which is adjoining Village Maheshpur, again situated on National Highway No.22 of which, land also was sought to be acquired in 1990, for the purpose of developing Sector 21.*

A small stretch of land falling in Village Nada was then acquired on 05.04.1988 a portion of which also abuts National Highway No.73 shown at point 'G', for the purpose of construction of Commando Training Centre, whereby the land value was fixed @ Rs.332.50 per sq.yards and the SLP-3179-2013, State of Haryana Vs. Santokh Singh, was dismissed on 01.07.2015 upholding the said amount.

The land in Village Fatehpur, Kundi shown at point 'I' was acquired on 29.01.1990, along with the balance land of Village Maheshpur, for development of Sector 20 and the land is situated towards the boundary of Punjab and again falling on the National Highway No.22 and the rate was finally pegged down @ Rs.394/- per sq.yards, in ***Ashok Kumar's case*** *(supra)."*

39. It was also held in **Lokinder Singh's case (supra)** that HUDA was encashing upon the land in view of its peculiar location, by

developing it on the far side first and thereafter, developing the closer portions at a subsequent point of time and keeping the land, as such, locked up for usage for purpose of allotment and as per development plans, as such, of Panchkula. Resultantly, there were no proper sale exemplars available for determining the compensation. Relevant portions, as such, read as under:

> *"The allotment of 97 acres of land in Sector 22 has been done on 07.11.2003 (Ex.P69) @ Rs.106.63 lakhs per acre which is for the IT Corridor to the HSIIDC, which has been carved out of the land, which has been acquired of Village Nada. Thus, the said factors are all relevant for consideration regarding the development of the land and the potentiality as such and even if the holding period is to be kept in mind from the time the land was acquired, the amount of compensation which has been awarded by the Reference Court does not seem as such to be interfered with in the peculiar facts and circumstances, since development had taken place all around by pincer movement and the land had been kept reserved by the State for its use as envisaged in the Master Plan of Panchkula Town. On providing adequate connectivity it has been able to exploit the location of the land to its utmost and it does not lie in the face of the State to show that the land did not have the potential and could not be utilized for housing purposes. The observations of the Apex Court that the cost of acquisition can always be recovered from the allottees is to be kept in mind and the fact that the landowner should not be short changed by the grant of less compensation. The relevant observations in* ***ONGC*** *(supra) for rate of development, read as under:-*
>
> > *"11. Primarily, the increase in land prices depends on four factors - situation of the land, nature of development in surrounding area, availability of*

land for development in the area, and the demand for land in the area. In rural areas unless there is any prospect of development in the vicinity, increase in prices would be slow, steady and gradual, without any sudden spurts or jumps. On the other hand, in urban or semi-urban areas, where the development is faster, where the demand for land is high and where there is construction activity all around, the escalation in market price is at a much higher rate, as compared to rural areas. In some pockets in big cities, due to rapid development and high demand for land, the escalations in prices have touched even 30% to 50% or more per year, during the nineties. On the other extreme, in remote rural areas where there was no chance of any development and hardly any buyers, the prices stagnated for years or rose marginally at a nominal rate of 1% or 2% per annum. There is thus a significant difference in increases in market value of lands in urban/semi-urban areas and increases in market value of lands in the rural areas. Therefore if the increase in market

value in urban/semi-urban areas is about 10% to 15% per annum, the corresponding increases in rural areas would at best be only around half of it, that is about 5% to 7.5% per annum. This rule of thumb refers to the general trend in the nineties, to be adopted in the absence of clear and specific evidence relating to increase in prices. Where there are special reasons for applying a higher rate of increase, or any specific evidence relating to the actual increase in prices, then the increase to be applied would depend upon the same."

Accordingly, the award dated 31.01.2012, in view of *the above discussion, as such, whereby the market value has been worked out @ Rs.460/-, is not justified. Accordingly, keeping in view the fact that for the notification dated 26.06.1989 for Sectors 24 to 28, the acquisition which had been taken place, compensation had been assessed @ Rs.290 per square yard and the acquired land in question is much closer to the Zero-Centre of the Panchkula, namely, Majri Chowk and on account of the construction of the bridge which is not a case when the land was acquired in the year 1989, the location as such and the potentiality increased manifold. Therefore, keeping in view the growth of Panchkula Town, which has been discussed above, HUDA itself was exploiting the market. The assessment which has been made does not seem to be on a higher side. It is settled principle even otherwise that no precise formula as such exists by which the market value can be fixed with precision and certain element of guess work is involved and keeping in view all these cumulative factors, the 1st Reference Court does not seem to have faulted in any manner.*

The fact that the National Highway No.73 was passing through the land of village Nada and the Gurudwara has also a approach from the main road, would be clear from the site-plan also, Mark-A. Portion of the land of the village was also acquired for the subsequent development of Sector 31, the potentiality, as such, on the face of it, had been lost, by the subsequent Reference Court, vide order dated 31.01.2012.

As noticed, the Apex Court has time and again held that where land is a contiguous plot and for a common purpose and contiguous in location, it would be unfair, as such, for the landowners not to get uniform compensation. Once all these factors are kept in mind and the acquired land abutting National Highway No.73 on one side and having access to the National Highway No.22 on the other side through a newly constructed bridge, it can be safely said that the land fell within the "urbana" and is close to all infrastructure facilities and the

> *acquired land was similar in nature and the fact that a cut was also put to 50%. The distance from the Highway, as such, would not require a belting system to be followed and it would be clear that all the landowners should get equal amount of compensation as some land was falling on the Highway but was further away from the Zero-point whereas land which was closer to the Zero-point, was away from Highway and had different advantages in its own way."*

40. Village Nada was given certain benefits on account of the fact that the land fell on the Highway and it was superior to the land which was subject matter of consideration before the Apex Court in **Umesh Gupta (supra)** wherein Rs.290/- per sq.yard had been awarded, which was for the development of Sectors 27 & 28, pertaining to the notification dated 26.06.1989. It is settled proposition that value of the land of the adjoining villages if it is one of the same quality and identically placed, can be taken into consideration for assessing the market value. Reliance can be placed upon **Union of India Vs. Harinderpal Singh & others (2005) 12 SCC 564**, **Union of India Vs. Bal Ram & another (2010) 5 SCC 747** and recently in **Ali Mohammad Beigh Vs. State of Jammu & Kashmir 2017 (4) SCC 717**.

41. Counsel for the State was, however, well justified in placing reliance upon the judgment in **Umesh Gupta (supra)** to hold that the annual increase method should not be adopted for more than 4-5 years as there can be stagnancy in prices. Relevant portion reads as under:

> *"12. It is also a settled principle of law that when there are comparative sale instances available on record, the Court need not go into the awards which have been passed earlier, and need not apply the annual increase method to work out the compensation.*

The annual increase method; should not be adopted in any case, for more than 4-5 years. It is not safe to adopt it for more than 4-5 years, as there may be stagnancy in the prices since the prices are not bound to increase every year; thus it is not a very safe method to determine the compensation. We see that for the last few years there is no increase in the value of land."

42. Similarly, in **Chetin Kaur's case (supra)**, this Court had applied the cumulative method upon the award of 1994, to assess the market value of the land which was acquired in 2006 and the same was, thus, set aside on the ground that the sale deed should have been taken into consideration.

43. In **Rameshbhai Jivanbhai Patel (supra)** also the increase beyond 4-5 years, was not approved. Relevant portion of the judgment reads as under:

"12. Normally, recourse is taken to the mode of determining the market value by providing appropriate escalation over the proved market value of nearby lands in previous years (as evidenced by sale transactions or acquisition), where there is no evidence of any contemporaneous sale transactions or acquisitions of comparable lands in the neighbourhood. The said method is reasonably safe where the relied-on-sale transactions/acquisitions precedes the subject acquisition by only a few years, that is upto four to five years. Beyond that it may be unsafe, even if it relates to a neighbouring land. What may be a reliable standard if the gap is only a few years, may become unsafe and unreliable standard where the gap is larger. For example, for determining the market value of a land acquired in 1992, adopting the annual increase method with reference to a sale or acquisition in 1970 or 1980 may have many pitfalls. This is because, over the course of years, the `rate' of annual increase may itself undergo drastic

> *change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices affecting the very standard of increase."*

44. In such circumstances, it is apparent that the appreciation, as such, is steady and going up over the years and therefore, the amount which has been assessed also does not seem to be disproportionate in comparison to the development which is taking place in the vicinity of the tricity. However, the State Counsel was well justified, as such, to submit that for the acquisition of 1985, the cumulative enhancement for a period of 13 years should not have been granted and for that reason, the award, as such, is not justifiable.

45. In similar circumstances, the Apex Court in the case of **Manoj Kumar (supra)** has held that awards/judgments relating to an acquisition made before 5 to 10 years cannot made safe basis for determining the compensation. It was held that the situation of the village, nature of the land and the distance whether the land is abutting highway etc. were various factors which had to be taken into consideration, where previous awards or judgments were passed, which is not similar or acceptable, the judgment could not be said to be binding and a mistake done in awarding compensation cannot be followed on the ground of parity. It was noticed that prices of land for the last several years indicate that price of land was more less static and had also gone down and it could not be a very safe method for determining compensation. The relevant portion of the said judgment reads as under:-

> *"15. The awards and judgment in the cases of others not being inter parties are not binding as*

precedents. Recently, we have seen the trend of the courts to follow them blindly probably under the misconception of the concept of equality and fair treatment. The courts are being swayed away and this approach in the absence of and similar nature and situation of land is causing more injustice and tantamount to giving equal treatment in the case of unequal's. As per situation of a village, nature of land its value differ from the distance to distance even two to three-kilometer distance may also make the material difference in value. Land abutting Highway may fetch higher value but not land situated in interior villages.

16. The previous awards/judgments are the only piece of evidence at par with comparative sale transactions. The similarity of the land covered by previous judgment/award is required to be proved like any other comparative exemplar. In case previous award/judgment is based on exemplar, which is not similar or acceptable, previous award/judgment of court cannot be said to be binding. Such determination has to be out rightly rejected. In case some mistake has been done in awarding compensation, it cannot be followed on the ground of parity an illegality cannot be perpetuated. Such award/judgment would be wholly irrelevant.

17. There is yet another serious infirmity seen in following the judgment or award passed in acquisition made before 10 to 12 years and price is being determined on that basis by giving either flat increase or cumulative increase as per the choice of individual Judge without going into the factual scenario. The said method of determining compensation is available only when there is absence of sale transaction before issuance of notification under section 4 of the Act and for giving annual increase, evidence should reflect that price of land had appreciated regularly and did not remain static. The Recent trend for last several years indicates that price of land is more or *less static if it has not gone down. At present, there is no appreciation of value. Thus, in our opinion, it is not a very safe method of determining compensation.*

18. To base determination of compensation on a previous award/ judgment, the evidence considered in the previous judgment/ award and its acceptability on judicial parameters has to be necessarily gone into, otherwise, /gross injustice may be caused to any of the parties. In case some gross mistake or illegality has been committed in previous award/judgment of not making deduction etc. and/or sufficient evidence had not been adduced and better evidence is adduced in case at hand, previous award/judgment being not inter-parties cannot be followed and if land is not similar in nature in all aspects it has to be out-rightly rejected as done in the case of comparative exemplars. Sale deeds are at par for evidentiary value with such awards of the court as court bases its conclusions on such transaction only, to ultimately determine the value of the property."

46. In **Ashok Kumar & another Vs. State of Haryana (2015) 15 SCC 200**, while dealing with the acquisitions dated 29.06.1989, 04.12.1989 and 26.04.1995, the Apex Court had fixed the market value for Villages Fatehpur, Maheshpur, Kundli and Railley, which is on the other side of the river and closer to the heart of the town @ Rs.394/-, Rs.689/- and Rs.715/-, respectively. As discussed in **Lokinder Singh's case (supra)**, for Villages Jhuriwala, Bana Madanpur and Devi Nagar, this Court had fixed the market value @ Rs.746/- per sq.yard for the notification dated 04.05.1995. Land was acquired for the development of roads by notification dated 11.07.1995 within the sectors for Villages Jhuriwala, Bana Madanpur and Devi Nagar and Rs.895/- per sq.yard has

been awarded in **RFA-3788-2013 titled Purujit Singh Vs. State of Haryana & another**, decided on 27.04.2018. Similarly, for the land falling on the main Highway, leading to Delhi, Rs.965/- per sq.yard has been awarded for the notification dated 02.05.1997, in **RFA-2350-2005 titled State of Haryana Vs. Sucha Singh & others** decided on 01.05.2018.

47. Similarly, for the Police Lines, land falling in Village Naggal Moginand, for the notification dated 13.08.1997, Rs.925/- per sq.yard had been awarded in **RFA-615-2005 titled Gurpal Singh & others Vs. State of Haryana & others**, decided on 11.05.2018, wherein land falls on Panchkula-Yamunanagar Highway, NH-73 and is at least 4-5 kms away from the old Ghaggar bridge.

Discussion in 2nd set of appeals pertaining to notification dated 27.03.2001 for the land acquired for Sector 31 of Village Nada

48. The above evidence which has been referred to is for the purpose of co-relating the reality on the ground that the land situated is of high potentiality and was falling closer to District Head Quarter than the land which had been developed 10 years earlier further 6 KM away down the highway. The peculiarities of the acquisition of this area has already been noticed in detail in the case of **Lokinder Singh (supra)** and apart from potentiality of the land, this Court has also observed that the HUDA was also encashing upon the land which was being acquired in a pincer type moment.

49. The evidence which has come on record in the present case is even more startling to the extent of details which had been brought on

record by the landowners from the State itself to show the extent of acquisition which had been taken from the year 1971 to 2004 of this village and the adjoining villages. The said notifications which were entered in the registers brought by PW-5 are as under:-

> *"As per entry at Serial No.10 land measuring 324.18 acres of village Kundi dated 7.9.71 vide notification under section 4.*
>
> *As per entry at Serial No.11 land measuring 218.40 acres of village Fatehpur dated 14.9.71 vide notification under section 4.*
>
> *As per entry at Serial No.12 land measuring 304.69 acres of village Maheshpur dated 7.9.71 vide notification under section 4.*
>
> *As per entry at Serial No.14 land measuring 432.17 acres of village Railey dated 7.9.71 vide notification under section 4.*
>
> *As per entry at Serial No.13 land measuring 447.63 acres of village Abheypur dated 7.9.71 vide notification under section 4.*
>
> *As per entry at Serial No.19 land measuring 513.05 acres of village Devinagar dated 20.9.71 vide notification under section 4.*
>
> *As per entry at Serial No.21 land measuring 214.89 acres of village Majri dated 20.9.71 vide notification under section 4.*
>
> *As per entry at Serial No.24 land measuring 115.64 acres of village Kharak Mangoli dated 20.9.71 vide notification under section 4.*
>
> *As per entry at Serial No.23 land measuring 174.00 acres of village Ferozpur dated 20.9.71 vide notification under section 4.*
>
> *As per entry at Serial No.65 land measuring 304.69 acres of village Maheshpur dated 30.1.73 vide notification under section 4.*

As per entry at Serial No.66 land measuring 510.98 acres of village Devinagar dated 30.1.73 vide notification under section 4.

As per entry at Serial No.68 land measuring 214.89 acres of village Majri dated 30.1.73 vide notification under section 4.

As per entry at Serial No.85 land measuring 342.18 acres of village Kundi dated 22.1.73 vide notification under section 4.

As per entry at Serial No.87 land measuring 0.42 acres of village Kharak Mangoli dated 22.6.73 vide notification under section 4.

As per entry at Serial No.99 land measuring 4.31 acres of village Majri dated 13.12.73 vide notification under section 4.

As per entry at Serial No.149 land measuring 0.21 acres of village Kharak Mangoli dated 24.2.77 vide notification under section 4.

As per entry at Serial No.179 land measuring 335.69 acres of village Kundi dated 24.6.1980 vide notification under section 4.

As per entry at Serial No.244 land measuring 517.5 acres of village Banna Madanpur dated 13.12.82 vide notification under section 4.

As per entry at Serial No.244 land measuring 617.2 acres of village Ramgarh dated 13.12.1982 vide notification under section 4.

As per entry at Serial No.244 land measuring 3.0 acres of village Naggal Moginand dated 13.12.1982 vide notification under section 4.

As per entry at Serial No.244 land measuring 5.0 acres of village Jhuriwala dated 13.12.1982 vide notification under section 4.

As per entry at Serial No.258 land measuring 200.71 acres of village Maheshpur dated 6.6.1983 vide notification under *section 4.*

As per entry at Serial No.259 land measuring 413.99 acres of village Devinagar dated 8.6.1983 vide notification under section 4.

As per entry at Serial No.289 land measuring 233.09 acres of village Devinagar dated 31.8.87 vide notification under section 4.

As per entry at Serial No.303 land measuring 1.00 acres of village Devinagar dated 1.6.1989 vide notification under section 4.

As per entry at Serial No.305 land measuring 486.7 acres of village Madanpur dated 26.6.89 vide notification under section 4.

As per entry at Serial No.305 land measuring 667.1 acres of village Ramgarh dated 26.6.1989 vide notification under section 4.

As per entry at Serial No.305 land measuring 3.00 acres of village Naggal Moginand dated 26.6.1989 vide notification under section 4.

As per entry at Serial No.305 land measuring 5.00 acres of village Jhuriwala dated 26.6.1989 vide notification under section 4.

As per entry at Serial No.311 land measuring 134.39 acres of village Kundi dated 21.1.1990 vide notification under section 4.

As per entry at Serial No.311 land measuring 117.08 acres of village Fatehpur dated 21.1.1990 vide notification under section 4.

As per entry at Serial No.331 land measuring 46.45 acres of village Maheshpur dated 21.12.1994 vide notification under section 4.

As per entry at Serial No.333 land measuring 38.49 acres of village Maheshpur dated 26.4.1995 vide notification under section 4.

As per entry at Serial No.335 land measuring 119.36 acres *of village Kundi dated 26.4.1995 vide notification under section 4.*

As per entry at Serial No.336 land measuring 176.26 acres of village Nada dated 4.5.1995 vide notification under section 4.

As per entry at Serial No.336 land measuring 30.47 acres of village Banna Madanpur dated 4.5.1995 vide notification under section 4.

As per entry at Serial No.336 land measuring 183.95 acres of village Jhuriwala dated 4.5.1995 vide notification under section 4.

As per entry at Serial No.337 land measuring 3.12 acres of village Ramgarh & Banna Madanpur dated 15.7.1995 vide notification under section 4.

As per entry at Serial No.338 land measuring 28.87 acres of village Devinagar dated 11.7.1995 vide notification under section 4.

As per entry at Serial No.338 land measuring 15.91 acres of village Banna Madanpur dated 11.7.1995 vide notification under section 4.

As per entry at Serial No.338 land measuring 19.96 acres of village Jhuriwala dated 11.7.1995 vide notification under section 4.

As per entry at Serial No.395 land measuring 24.71 acres of village Maheshpur dated 28.7.1999 vide notification under section 4.

As per entry at Serial No.399 land measuring 118.46 acres of village Nada dated 27.3.2001 vide notification under section 4.

As per entry at Serial No.409 land measuring 18.98 acres of village Devinagar dated 28.03.2001 vide notification under section 4.

As per entry at Serial No.430-31 land measuring 13.24 acres of village Jhuriwala dated 8.12.2003 and 21.1.2004 vide notification under section 4.

> *As per entry at Serial No.437 land measuring 4.46 acres of village Maheshpur dated 10.6.2004 vide notification under section 4."*

50. Ex.P14, which is the plan drawn up by the District Town Planner from the original tracing 03.05.1999 would go on to show that even before the notification in question dated 27.03.2001 the land had already been shown earmarked for Sector 31. Therefore, the argument which has been raised as such that on account of successive notifications which have been reproduced above, the sale deeds as such which were brought on record were suppressed sale deeds on account of lack of buyers in view of the well known fact that the land was going to be subject matter of planned development of Panchkula which was the Tri-City of Chandigarh, falling in State of Haryana, whereas Mohali, SAS Nagar falls in Punjab. It is well known fact that the Chandigarh has already reached at an bursting point for the development aspect as such, on account of lack of availability of land in Union Territory, Capital of Punjab and Haryana.

51. Similarly, the development plan Ex.P50 would also go on to show that the plan was approved on 25.01.2001, which also showed that Sectors 31 was being carved out of the area of village Nada. Ex.P18 similarly is the allotment letter dated 28.02.2002 for plot measuring 312.500 square meters and which was sold @ Rs.4,060.42 per square meter. Ex.P19 is an allotment letter of residential plot No.12 of 14 marlas in Sector 31 dated 18.10.2007, wherein 305.75 square meter were sold @ Rs.7,400/- per square meter six years down the line. The said allotment

letters are only being referred for the purpose of showing the potentiality which was exploited by HUDA and the land which was sold out of the said acquired lands. Another aspect which was also noticed in the case of **Lokinder Singh (supra)** is also that across the highway land had been offered to the SGPC for extension of Gurdwara Nada Sahib on 21.05.2002 @ Rs.2587/- per square meter, which works to Rs.1,25,21,080/- per acre. Letter dated 21.05.2002 reads as under:-

> *"From*
> *The Chief Administrator,*
> *Haryana Urban Development Authority,*
> *Sector-6, Panchkula.*
> *To*
> *The Secretary,*
> *Shri Shiromani Gurudwara, Parbandhak Committee,*
> *Teja Singh Samundri Hall,*
> *Amritsar.*
> *Memo No.A-II-2002/11441/ dated 21.05.2002*
> *Sub: Allotment of land to Gurudwara Shri Nadha Sahib Panchkula, Haryana.*
> --
>
> *In continuation of this office letter No.A-2-2001/14440 dated 31/5/2001 and 33109 dated 21/12/01 & 2554 dated 5.2.02 on the subject cited above. You were requested vide above letters referred above to send your actual requirement alongwith justification to this office, but the requisite information is still awaited. You are, therefor, once again requested to send the consent regarding current rate @ 2587/- per square yard (Valid upto 31/3/2003) for allotment of land, alongwith justification so that case for allotment of land can be processed further.*
>
> *Administrative Officer,*
> *for Chief Adminstrator, HUDA."*

52. From the award it is also clear that apart from leaving the Choe area which was not habitable, the abadi area of the village was also left out and, therefore, the land had also potential as such for residential and commercial growth.

53. For the purpose of convenience, the site plan Ex.P29 in the record of RFA No.2783 of 2010 would go on to show the location of Sector 32 for which the land of village Chowki was acquired. Similarly, the land marked at point 'A' of Sector 31 of village Nada was acquired and the land falling in Jhuriwala adjoins the National Highway No.73. The said site plan, thus, would go on to show the location of the land and the building potentiality, are the factors, which have to be kept in mind on the date of issuance of Section 4 notification, even if the land was barren or waste. The Apex Court in **'P. Ram Reddy and others Vs. Land Acquisition Office' (1995) 2 SCC 305,** has held in such words that a hypothetical lay out of the building plots in the acquired land similar to that of the lay out of buildings plots actually made in the other similar land had to be prepared and prices has to be fixed on that basis. Thus, what has to be etched on the mental screen of the Court is that in the facts and circumstances, the potentiality of the land in question could not be ignored as it was ripe at the time of acquisition for development from all sides i.e. residential, commercial and institutional.

Discussion in 3rd set of appeals pertaining to notifications dated 08.12.2003 and 21.01.2004 for the land acquired in Village Jhuriwala for setting up of sewerage plant

54. Similarly, application bearing CM-10834-CI-2018 in RFA No.2848 of 2009 and CM-10835-CI-2018 in RFA No.2046 of 2009 under Order 41 Rule 27 CPC for placing on record judgments pertaining to the acquisition of land in District Panchkula as Annexure A-1 to A-6 by way of additional evidence filed, which had been allowed. Since they would come within the ambit of Order 41 Rule 27 CPC, and had been

passed in the awards which are now impugned. The judgments would be helpful to this Court to pronounce judgment in the present case.

55. The argument of the counsel for the State and keeping in view the evidence which have been discussed above qua the present set of appeals and evidence on record from the site plans, one aspect is clear that the basis as such to rely upon the award of village Maheshpur (Ex.P28) of the year 1994 is not justified, in the facts and circumstances, on two accounts. Firstly, village Maheshpur is not an adjoining village and is situated on the National Highway No.22 coming from Kalka passing through Panchkula and going to Ambala. Beyond Maheshpur lies village Devi Nagar and River Ghaggar and village Jhuriwala is situated across the river. The location as such had already been discussed in detail in the case of **Lokinder Singh (supra)** and the land which was acquired was for the purpose of setting up of town of Panchkula. The factum of the village not being adjoining has also been clarified by the witnesses in as much as RW-1 had also specifically in his cross-examination stated that the land of four villages i.e. Maheshpur, Kundi, Devi Nagar and Fatehpur cannot be equated with the acquired land as they were across the hill and River Ghaggar and there was a distance of 2 to 3 KM. The Reference Court seems to be misled on this aspect while placing reliance upon the statement of official witness PW-3, Sandeep Kumar who had stated that boundary of village Jhuriwala touches village Devi Nagar, Bana Madanpur and Maheshpur of District Panchkula. In his cross-examination it had further been elicited that the land of

Jhuriwala is situated across the Ghaggar river, whereas the Devi Nagar is on the other side and Maheshpur is on the western side of Ghaggar River and, therefore, reliance upon the Ex.P28 has wrongly been made and is not liable to be sustained.

56. Similarly, it has to be noticed that the difference between the two notifications one of 21.12.1994 pertaining to village Maheshpur and the present notification dated 08.12.2003 is beyond the prescribed period of 4 to 5 years to apply the principle of cumulative enhancement in view of the settled law in **Manoj Kumar's case (supra)** and, therefore, on that account also the judgment of the Reference Court cannot be sustained and the State appeals are not liable to be accepted. However, one aspect which is pertaining to location, potentiality etc. of the land to which there is no dispute or quarrel as even the official witness have admitted and which is clear from the site plan and it is borne out that the land was situated on the National Highway No.73 leading from Panchkula to Yamuna Nagar, Jagadhri and comes prior in time before the developed sectors of 22 to 28 which are further 3 to 5 KM ahead. Thus, it is much closer as such to the heart of the city, namely, Majri Chowk where the District Head Quarter is located in Sector 1 and, therefore, the potentiality of the land for development as such cannot be lost sight off. The location of the land, however, being lower than the highway is only disadvantage as such, which will have to keep in mind while eventually awarding compensation. The closest village for which the compensation has been assessed in question is of village Nada and for which acquisition had

already been made on 27.03.2001 and the compensation which has been assessed is also subject matter of consideration for the said notification would be a good parameter as such to assess the compensation for the present land in question. Ex.P1 would show that the land as such is on the left side of the highway and towards the north, if one proceeds from Panchkula to Ramgarh. Ex.P14 would also show the location of the land and similarly Ex.P15 would also go on to show the location of the land which comes before village Moginand and the District Police Lines and ITBP Colony which is opposite sectors which are developed on an earlier occasion starting from the notification dated 26.06.1989 for Sectors 27 and 28, whereby Rs.290/- per square yard was awarded by the Apex Court in **Umesh Gupta's case (supra).** However, merely because the land was acquired for the purpose of dumping ground, it would not as such discount the potentiality of the land as the usage of the land is not an aspect which is to be kept in mind by this Court. The site plans would go on to show that the development across the road is coming up and, therefore, the potentiality of the land which is a factor is to be kept in mind. The argument, thus, which is raised that if the adjoining village value is to be taken into consideration, the village Nada was the appropriate village and its market value should be applied.

Conclusion in 1st set of appeals pertaining to notification dated 26.06.1998 for the land acquired for Sector 32 of Village Chowki

57. However, this Court is of the opinion that the judgment in **Lokinder Singh's case (supra)**, in the facts and circumstances and the market value fixed in the said case @ Rs.746/- per sq.yard, for the

notification dated 04.05.1995, would have an important bearing and can be safely relied upon to fix the market value by enhancing the market value @ 12%. Resultantly, a sum of Rs.1048/- per sq.yard is worked out for the difference of 3 years, by giving the benefit of cumulative increase, as per **Rameshbhai (supra)**. The calculation reads as under:

04.05.1995 - Rs.746/- per sq.yard

04.05.1996 - + 89.45 = Rs.835.52 per sq.yard

04.05.1997 - + 100.26 = Rs.935.78 per sq.yard

04.05.1998 - + 112.29 = Rs.1048.08 = 1048/- per sq.yard
(Rs.50,72,320/- per acre)

58. However, one aspect which is to be noticed is that the land of Village Chowki is not situated on the Highway and therefore, cannot be equated, as such, with the land of Village Nada, which has the advantage of the land falling on the Highway and cannot be given parity, as such, to that extent. It is settled principle that the land falling on the Highway always gets higher premium. Reliance can be placed upon the judgment of the Apex Court in **Union of India Vs. Mangat (dead) by LRs and others 2001 (1) PLJ 461**, **V. Hanumantha Reddy (Dead) by Lrs. Vs. The Land Acquisition Officer & Mandal R. Officer 2003 (12) SCC 642**. Similarly, in **Haridwar Development Authority, Haridwar Vs. Raghubir Singh and others 2010 (11) SCC 581**, while keeping in view the issue regarding the adoption of the belting method, it was held that proximity due to access to the main road and highway were factors which were to be taken into consideration. Resultantly, uniform market value was given, since a compact contiguous land had been acquired. The

relevant portion reads as under:-

> *"6. The question whether the acquired lands have to be valued uniformly at the same rate, or whether different areas in the acquired lands have to be valued at different rates, depends upon the extent of the land acquired, the location, proximity to an access road/Main Road/Highway or to a City/Town/Village, and other relevant circumstances. We may illustrate :*
>
> *(A) When a small and compact extent of land is acquired and the entire area is similarly situated, it will be appropriate to value the acquired land at a single uniform rate.*
>
> *(B) If a large tract of land is acquired with some lands facing a main road or a national highway and other lands being in the interior, the normal procedure is to value the lands adjacent to the main road at a higher rate and the interior lands which do not have road access, at a lesser rate.*
>
> *(C) Where a very large tract of land on the outskirts of a town is acquired, one end of the acquired lands adjoining the town boundary, the other end being two to three kilometres away, obviously, the rake that is adopted for the land nearest to the town cannot be adopted for the land which is farther away from the town. In such a situation, what is known as a belting method is adopted and the belt or strip adjacent to the town boundary will be given the highest price, the remotest belt will be awarded the lowest rate, the belts/strips of lands falling in between, will be awarded gradually reducing rates from the highest to the lowest.*
>
> *(D) Where a very large tract of land with a radius of one to two kilometres is acquired, but the entire land acquired is far away from any town or city limits, without any special Main road access, then it is logical to award the entire land, one uniform rate. The fact that the distance between one point to another point in the acquired lands, may be as much as two to*

three kilometres may not make any difference.

7. The acquisition with which we are concerned relates to a comparatively small extent of village land measuring about 38

bighas of compact contiguous land. The High Court was of the view that the size and situation did not warrant any belting and all lands deserved the same rate of compensation. The Authority has not placed any material to show that any area was less advantageously situated. Therefore the view of the High Court that compensation should be awarded at an uniform rate does not call for interference."

59. Thereafter, in **Bhule Ram Vs. Union of India and another 2014 (11) SCC 307**, it was held by the Apex Court that the land which was having frontage on the highway would definitely have a better and higher value.

60. Accordingly, if a 10% deduction is made upon Rs.1048/- per sq.yard, the market value works out to Rs.943.20 per sq.yard (Rs.45,65,088/- per acre). Accordingly, this Court is of the opinion that the said amount would be just and fair amount of compensation for the land acquired on 26.06.1998 and the landowners would also be entitled to other statutory benefits.

Conclusion in 2nd set of appeals pertaining to notification dated 27.03.2001 for the land acquired for Sector 31 of Village Nada

61. It is in such circumstances, this Court is of the opinion that the sale deeds had rightly not been taken into consideration, in view of the exponent growth which had taken place in the area. It is not disputed that on 05.04.1988 the land was acquired for Commando Training Centre and in the case of **Santokh Singh (supra)**, the market value was fixed @ Rs.332.50 per square yard and the SLP was dismissed against the same.

For the notification dated 26.06.1989, the Apex Court finalized the market value @ Rs.290/- per square yard in **Umesh Gupta's case (supra)**. Closer home the notification is dated 04.05.1995 in **Lokinder Singh's case (supra)**, the market value @ Rs.746/- per square yard for the same village had already been assessed (Annexure A-3). For the notification dated 13.08.1997 for the land falling in village Naggal Moginand in **RFA No.615 of 2005 'Gurpal Singh and others Vs. State of Haryana and others'**, this Court awarded Rs.925/- per square yard (Rs.44,77,000/- per acre) (Annexure A-5). Similarly, for the land falling in village Chowki for the notification dated 26.06.1998, now a sum of Rs.943.20 per square yard (Rs.45,65,088/- per acre) is being awarded after giving 10% cut on account of the fact that the land fell away from the highway.

62. Resultantly, this Court is of the opinion that keeping in view the fact that the earlier awards are relevant piece of evidence and from the site plan, it can be determined the adjoining land had been awarded certain amount of compensation, then benefit of that award would also as such be applicable and the sale deeds are not necessarily to kept in mind. Reliance can be placed upon the judgment of the Apex Court passed in **'Loveleen Kumar and others Vs. State of Haryana and others' 2018 (7) SCC 492** that once reasons can be given why the sale exemplars as such are not to be kept in mind. As noticed earlier the counsel are well justified to submit that no proper sale exemplar was available in view of the pending notification of the villages around and in view of the planned

development of Panchkula, the same were few and far to come. Resultantly, this Court is of the opinion that there could be no better exemplar than the adjoining land of village Chowki itself, whereby for an earlier notification dated 26.06.1998 the market value had been assessed @ Rs.943.20 per square yard. Even if one goes to the notification in Gurpal Singh's case, which pertained to village Naggal Moginand, a sum of Rs.925/- per square yard had already been assessed as market value for the notification dated 13.08.1997. It has already come in evidence the said land is 4 KM away from the land in question from the centre point of town and, therefore, market value of the land cannot be less than what had already been awarded in the year 1997. The only disadvantage of the present land as such is that the land was lower than from the highway, though it was also flanked by the Morni road from its back.

63. It is also settled principle that assessment of market value always is on the basis of little guess work and there is no exact formula as such to assess the market value with precision, as has been held in **'Thakur Kamta Prasad Singh (dead) through L.Rs. Vs. State of Bihar' 1976 (3) SCC 772**, **'Special Land Acquisition Officer Vs. Karigowda and others' 2010 (5) SCC 708.** The same has been followed in **'Trishala Jain and another Vs. State of Uttaranchal and another' 2011 (6) SCC 47.** The relevant part of the said judgment reads as under:-

> *"26. Acquisition of land is an act falling in the purview of eminent domain of the State. It essentially relates to the concept of compulsory acquisition as opposed to voluntary*

sale. It is trite that no person can be deprived of his property save by authority of law in terms of Article 300A of the Constitution of India. The provisions of the Act provide a complete mechanism for `deprivation of property in accordance with the law' as stated under the Act. Justifiability and fairness of such compensation is subject to judicial review within the confines of the four corners of the Act. Once the lands are acquired under the Act, the persons interested therein are entitled to compensation as per the provisions of the Act. Thus, in the present case the land in question has been acquired under the provisions of a law which specifically provide that acquisition can only be for a public purpose and upon payment of compensation to the claimants in accordance with law. The compensation payable to the claimants has to be computed in terms of Sections 23 and 24 of the Act. The market value of the land has to be determined at the date of the publication of the notification under Section 4(1) of the Act, after taking into consideration what is stated under Sections 23(1), 23(1A), 23(2) and excluding the considerations stated under Section 24 of the Act. More often than not, it is not possible to fix the compensation with exactitude or arithmetic accuracy. Depending on the facts and circumstances of the case, the Court may have to take recourse to some guesswork while determining the fair market value of the land and the consequential amount of compensation that is required to be paid to the persons interested in the acquired land.

27. 'Guess' as understood in its common parlance is an estimate without any specific information while 'calculations' are always made with reference to specific data. 'Guesstimate' is an estimate based on a mixture of guesswork and calculations and it is a process in itself. At the same time 'guess' cannot be treated synonymous to 'conjecture'. 'Guess' by itself may be a statement or result based on unknown factors while 'conjecture' is made with a very slight amount of knowledge, which is just sufficient to incline the scale of probability. 'Guesstimate' is with higher certainty than mere 'guess' or a 'conjecture' per se."

64. Resultantly, by granting cumulative enhancement from 26.06.1998 @ 12%, the market value would work out as under:-

26.06.1998	26.06.1999 (one year)	26.06.2000 (one year)	26.03.2001 (nine months)
Rs.943.20 per square yard	+113.18= Rs.1056.38 per square yard	+126.76= Rs.1183.14 per square yard	+106.48= Rs.1289.62 per square yard R/O: Rs.1290/-

65. The 10% cut which would, thus, necessarily have to be applied for development costs, thereafter, on account of the land being lower than the highway is off set by the location of the land on the highway. Resultantly, a sum of Rs.1,290/- per square yard (Rs.62,43,600/- per acre) is assessed as the market value alongwith all statutory benefits. Accordingly, the appeals filed by the landowners are allowed and those of the State are dismissed.

Conclusion in 3rd set of appeals pertaining to notifications dated 08.12.2003 and 21.01.2004 for the land acquired in Village Jhuriwala for setting up of sewerage plant

66. Resultantly, keeping in view the above discussion and the fact that for village Nada this Court has assessed Rs.1,290/- per square yard (Rs.62,43,600/- per acre), the enhancement @ 12% would work out as under:-

27.03.2001	27.03.2002 (one year)	27.03.2003 (one year)	08.12.2003 (eight months and 12 days)
Rs.1290/- per square yard	+154.80= Rs.1444.80 per square yard	+173.37= Rs.1618.17 per square yard	+135.92= Rs.1754.09 per square yard (Rs.84,89,795.60 per acre)

67. For the land falling in village Jhuriwala sufficient evidence has come on record that the location of the land was much lower from the highway and it has a depth of 30 to 40 feet. In paragraph No.28 to 33, this discussion has already taken place wherein even the witnesses of the landowners themselves have admitted that the land was not cultivable and lying barren and had a thick forest cover and was inferior to the land falling in Sectors 22 to 28 as Kikar trees were stated to be standing in the land in question. In such circumstances, this Court is of the opinion that though the land is on the highway, but a 20% cut has to be applied upon the same, as the value would much lower than the land which was abutting the highway and at the same level. Resultantly, the market value works out as Rs.1403.27 per square yard (Rs.67,91,826.80 per acre).

68. Similarly, this Court is of the opinion that the Reference Court as such was well justified not to grant any additional amount on account of severance charges on the ground that the land was being used for sewerage treatment plant. It is a settled principle that the provisions of Section 23 and 24 provides what factors have to be kept into consideration and the purpose of land for which it is to be used is not to be taken into consideration.

69. **Relief:**

(i) Resultantly, the appeals of the State pertaining to the first notification of village Chowki dated 26.06.1998 are dismissed and those of landowners are allowed and the market value is worked out @ Rs.943.20 per square yard (Rs.45,65,088/-

per acre) alongwith all statutory benefits.

(ii) For the notification dated 27.03.2001 for the land acquired in village Nada the appeals filed by the State are dismissed and those of landowners are allowed. The amount is assessed @ Rs.1,290/- per square yard (Rs.62,43,600/- per acre) alongwith all statutory benefits.

(iii) For the notification dated 08.12.2003 and 21.01.2004 the appeals filed by the landowners are allowed and those of State are dismissed. The market value is assessed @ Rs.1403.27 per square yard (Rs.67,91,826.80 per acre) alongwith all statutory benefits.

(iv) The State shall also comply with the directions laid down by the Apex Court in **'HSIIDC Vs. Pran Sukh' (2010) 11 SCC 175**, to ensure that the landowners are not fleeced by the middleman, which read as under:

> *(a) 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.*
>
> *(b) 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.*
>
> *(c) The bank account numbers of the land owners should be given to the Land Acquisition Collector within three months.*
>
> *(d) The Land Acquisition Collector shall deposit the cheques of compensation in the bank accounts of the land*

owners.

(v) The entitlement of the landowners would be to the amounts awarded above along with statutory benefits. The State would also be entitled to make adjustment of the amounts which have already been paid during the litigation.

(G.S. SANDHAWALIA)
DECEMBER 13, 2018 **JUDGE**
Naveen

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*