

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

**RFA No.1006 of 2010 (O&M) &
XOBJR-82-CI-2017 (O&M) with
other connected appeals and
cross-objections
Pronounced on :02.11.2018**

State of Punjab and others ... Appellants

Versus

Usha Rani (II) ... Respondent

Date of notification 30.10.1986			
S.No.	RFA filed by State	RFA filed by landowners	Cross-objections
306	274 of 1993		Xobjr-124-CI-2017 in RFA-274-1993 Xobjr-95-CI-1994 in RFA-2799-1993
Date of notification 27.02.1987			
305	1617 of 1995	1400 of 1991 1352, 1353, 1356, 3524 of 1992 2095, 2622 of 1997 2168, 3626 of 1998 37, 661 of 1999	Xobjr-19-CI-1995 in RFA-377-1993 Xobjr-68-CI-1997 in RFA-1392-1994
Date of notification 29.06.1989			
249	Nil	3673, 3806 and 4181 of 1998	
Date of notification 22.10.1991			

412	2439, 2436, 2440, 2442, 2450, 2451, 2453 and 2455 of 1997 365 to 367, 723, 1124, 1125, 1126, 1359 of 1998 549 and 550 of 1999	2520, 2535, 2536, 2538, 2539 of 1997 713, 889, 890, 3943 of 1998 2064 and 2331 of 1999	Xobjr-88-CI-2015 in RFA-2442-1997 Xobjr-85-CI-2015 in RFA-2451-1997 Xobjr-86-CI-2015 in RFA-2439-1997 Xobjr-87- CI-2015 in RFA-2453-1997 Xobjr-89-CI-2015 in RFA-2450 -1997 Xobjr-90- CI-2015 in RFA-2440-1997 Xobjr-91-CI-2015 in RFA-2455-1997 Xobjr-126-CI-2015 in RFA-2441-1997 Xobjr-136-CI-2015 in RFA-2436-1997
Date of notifications 02.01.1992/06.01.1992			
311	2613 of 1996 207 to 213 of 1997	1948 of 1996 383 of 1997 2073 to 2076 of 2000 3590 of 2018	Xobjr-99-CI-2018 in RFA-2613-1996 Xobjr-74-CI-2018 in RFA-208-1997
Date of notification 30.01.1992			
1608	897, 898, 901 to 906, 1654 to 1659, 2234 to 2238, 2561 to 2594 of 1996 236 to 253, 782, 970 to 980, 2514, 2515 of 1997 3663, 3705 to 3707, 3814, of 1998 207 of 1999	2560, 2616 of 2018 2103 to 2106, 2137, 2138, 2220, 2225 to 2227, 2374, 2595, 2598, 2599 of 1996 296, 1044, 1045 of 1997	Xobjr-111-CI-2018 in RFA-2514-1997 Xobjr-105-CI-2018 in RFA-2515-1997 Xobjr-113-CI-2018 in RFA-2568-1996 Xobjr-114-CI-2018 in RFA-241-1997 Xobjr-119-CI-2018 in RFA-978-1997 Xobjr-115-CI-2018 in RFA-3706-1998 Xobjr-116-CI-2018 in RFA-3707-1998
Date of notification 16.03.1994			
1638	516, 518, 520, 521 of 2003		Xobjr-121-CI-2018 in RFA-518-2003 Xobjr-128-CI-2018 in RFA-521-2003 Xobjr-129-CI-2018 in RFA-516-2003 Xobjr-138-CI-2018 in RFA-520-2003
Date of notification 18.03.1994			
1609		4141 and 4142 of 1998	

Date of notification 20.12.1994/23.12.1994			
321	1438, 1439, 1454 to 1480, 1482, 1486, 1496 of 2001 4161 to 4164 of 2002	1657 of 2000 416, 417 of 2002 1521, 1522 of 2003 5777, 7055 and 7057 of 2015	Xobjr-41-CI-2015 in RFA-1469-2001 Xobjr-73-CI-2015 in RFA-1471-2001 Xobjr-77-CI-2015 in RFA-1460-2001 Xobjr-79-CI-2015 in RFA-1455-2001 Xobjr-80-CI-2015 in RFA-1456-2001 Xobjr-94-CI-2015 in RFA-1465-2001 Xobjr-98-CI-2015 in RFA-1461-2001 Xobjr-99-CI-2015 in RFA-1473-2001 Xobjr-103-CI-2015 in RFA-1476-2001 Xobjr-104-CI-2018 in RFA-1482-2001 Xobjr-107-CI-2015 in RFA-1467-2001 Xobjr-109-CI-2018 in RFA-1486-2001 Xobjr-112-CI-2018 in RFA-1458-2001 Xobjr-116-CI-2015 in RFA-1472-2001 Xobjr-123-CI-2015 in RFA-1454-2001 Xobjr-127-CI-2015 in RFA-1470-2001 Xobjr-128-CI-2015 in RFA-1477-2001 Xobjr-130-CI-2015 in RFA-1480-2001 Xobjr-131-CI-2015 in RFA-1464-2001 Xobjr-133-CI-2015 in RFA-1463-2001 Xobjr-134-CI-2015 in RFA-1475-2001 Xobjr-138-CI-2015 in RFA-1457-2001 Xobjr-78-CI-2015 in RFA-4163-2002 Xobjr-101-CI-2015 in RFA-4164-2002 Xobjr-125-CI-2015 in RFA-4161-2002
Date of notifications 07.08.1995			
326	4888, 4905 to 4923, 4942 to 4954, 5512, 5513 of 2001 377 of 2002 2737 to 2753, 2756 to 2768, 2799 to 2801 of 2006 5449 to 5451, 5567, 5568 of 2008 2139, 2144, 2146 to 2148, 2150 to 2172, 2721 to 2724 of 2009 2573, 2453, 2454, 2572, 2574 of 2015	1778, 1780, 1782, 1784, 1785, 1788, 1790, 1791, 1794, 1798, 1801, 1804, 1805, 1811, 1812, 1814, to 1821, 2311, 2575, 2585, 2586 of 2001 1549 to 1554, 2662, 2778 of 2003 349, 1195 to 1197 of 2004 2 to 4, 3111, 3310, 3469 to 3472 of 2016 1253 of 2017	Xobjr-56-CI-2009 in RFA-2745-2006 Xobjr-57-CI-2009 in RFA-2746-2006 Xobjr-59-CI-2009 in RFA-2800-2006 Xobjr-63-CI-2009 in RFA-2767-2006 Xobjr-96-CI-2010 in RFA-2757-2006 Xobjr-97-CI-2010 in RFA-2755-2006 Xobjr-60-CI-2018 in RFA-2165-2009 Xobjr-66-CI-2018 in RFA-2151-2009 Xobjr-80-CI-2017 in RFA-2155-2009 Xobjr-138-CI-2017 in RFA-2161-2009 Xobjr-139-CI-2017 in RFA-2170-2009 Xobjr-68-CI-2018 in RFA-2169-2009

Date of notification 07.08.1995			
328	1006 to 1028 of 2010 1597 to 1614, 1616, 1618, 1619, 1621, 1622, 1635, 1638, 1640 to 1658 of 2002 5247 to 5272, 5328 to 5330 of 2009	1772, 2013, 2329, 2330, 2331, 2694, 2696, 2706 to 2711, 2742, 2743, 2745 to 2759, 2943 to 2949, 3357 to 3370, 3405, 3406, 3846, 4665 to 4668 of 2001 49, 50 of 2004 3713 of 2016	Xobjr-82-CI-2017 in RFA-1006-2010 Xobjr-76-CI-2017 in RFA -5253-2009 Xobjr-56-CI-2018 in RFA -5267-2009 Xobjr-75-CI-2017 in RFA-1018-2010 Xobjr-65-CI-2017 in RFA-1021-2010 Xobjr-67-CI-2018 in RFA-1027-2010 Xobjr-71-CI-2017 in RFA-5261-2009 Xobjr-77-CI-2017 in RFA-5247-2009 Xobjr-123-CI-2017 in RFA-1013-2010
Date of notification 20.09.1995			
345	4036, 4038, 4040 to 4048, 4050, 4052 to 4065, 4067 to 4069, 4660 of 2009 2474 to 2511 and 2575 of 2015 2111 to 2113 of 2017	2356 of 2002 4110 to 4120, 4402 of 2003 28 to 34 of 2016	Xobjr-59-CI-2018 in RFA-2497-2015 Xobjr-81-CI-2018 in RFA-4068-2009 Xobjr-117-CI-2018 in RFA-4040-2009 Xobjr-118-CI-2018 in RFA-4060-2009 Xobjr-42-CI-2017 in RFA-2495-2015 Xobjr-59-CI-2017 in RFA-2475-2015 Xobjr-62-CI-2017in RFA-2493-2015 Xobjr-58-CI-2017 in RFA -2498-2015 Xobjr-54-CI-2017 in RFA-2499-2015 Xobjr-43-CI-2017 in RFA-2500-2015 Xobjr-44-CI-2017 in RFA-2501-2015 Xobjr-63-CI-2017 in RFA-2476-2015 Xobjr-49-CI-2017 in RFA-2477-2015 Xobjr-60-CI-2017 in RFA-2478-2015 Xobjr-51-CI-2017 in RFA-2479-2015 Xobjr-61-CI-2017 in RFA-2481-2015 Xobjr-52-CI-2017 in RFA-2482-2015 Xobjr-48-CI-2017 in RFA-2484-2015 Xobjr-39-CI-2017 in RFA-2486-2015 Xobjr-56-CI-2017 in RFA-2487-2015 Xobjr-45-CI-2017 in RFA-2488-2015 Xobjr-66-CI-2017 in RFA-2489-2015 Xobjr-41-CI-2017 in RFA-2491-2015 Xobjr-53-CI-2017 in RFA-2492-2015 Xobjr-74-CI-2017 in RFA-2490-2015 Xobjr-37-CI-2017 in RFA-2504-2015 Xobjr-70-CI-2017 in RFA-2505-2015 Xobjr-38-CI-2017 in RFA-2506-2015 Xobjr-40-CI-2017 in RFA-2509-2015 Xobjr-96-CI-2017 in RFA-2510-2015 Xobjr-139-CI-2018 in RFA-2111-2017

Date of notification 17.09.1998			
306	3809, 3810 and 4253 of 2016		

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

Present: Mr.I.P.S.Doabia, Addl.A.G.,Punjab.

Mr.R.S.Manhas, Advocate
Mr.Jagjit Singh, Advocate
Mr.Balwant Singh Billowria, Advocate
Mr. Sanjiv Sharma, Sr.Advocate
with Mr. Shekhar Verma, Advocate (in RFA-2778-2003)
Mr.Sandeep Singh, Advocate
Mr.Akshay Bhan, Sr.Advocate
with Mr.Sushant Kareer, Advocate (in RFA-274-1993)
for the landowners.

G.S. Sandhawalia, J.

The present judgment shall dispose of 441 appeals, filed by the State of Punjab, 192 appeals filed by the landowners and 103 cross-objections filed by the State and the landowners (total 736 cases), who are aggrieved against the various awards of the Reference Courts, Gurdaspur, passed against 12 notifications, issued under Section 4 of the Land Acquisition Act, 1894 (for short, the 'Act'), ranging between 30.10.1986 to 17.09.1998, for different villages. Though a period of around 13 years is involved in the

notifications in question, but since the common question of law arises and the purpose of acquisition is same, namely, for the construction of the reservoir area of the Ranjit Sagar Dam Project/Thien Dam (RSDP) in District Gurdaspur, therefore, the appeals and the cross-objections are being decided by a common judgment. The cases also have a checkered history in as much as they have been decided by this Court in various appeals, ranging between 15.10.2010 to May, 2016 and eventually, have been remanded by the Apex Court in January, 2017 and the latest orders have now been passed on 14.05.2018 and 17.05.2018. Reference to the background is, thus, necessary to recapitulate the facts, as such.

2. It is, firstly, pertinent to mention that the measurement in this area are not uniform as to the rest of the State of Punjab, since the area is undulating and therefore, instead of an acre comprising of 8 kanals, an acre is comprising of 10 ½ kanals and therefore, compensation is to be assessed on this basis. Another aspect which is to be noticed is that the main villages' name which has a Hadbast Number, has several Tikkas and the smaller abadi of the same village are called Tikkas but carries the same Hadbast Number. For example, Village Phangota which is having Hadbast No.403 but it has another adjoining abadi are which is known as Phangota Tikka Shamlat. Similarly, another is called Phangota Tikka Gulial and Phangota Tikka Katal. The smaller abadies are, thus, in close vicinity of the same village which carries the same Hadbast Number.

3. The acquisition in question, thus, pertains to the construction of a Dam on one of the three rivers which are left in the divided State of Punjab. The State of Punjab literally means 'Panj' (five) 'Aab' (water), the land of five waters/rivers. The three rivers which now remains in the State, as such, are namely the Satluj on which the Bhakra Dam is constructed which forms the Gobind Sagar Reservoir which is 619 kms long and the third largest reservoir in India and is one of the highest gravity Dam in the hill. Similarly, on the river Beas, the Pong Dam was constructed which is a large earthen Dam. Resultantly, the river with which we are concerned is river Ravi which flows from the State of Jammu & Kashmir leaving the hills and coming into the plains of Punjab and carrying on its journey to Pakistan. The construction of this Dam began in 1981 and it was opened in the year 2001. It has an embankment earth filled dam impounding the river Ravi, having a height of 160 mts. and a length of 617 mts. with elevation at the crest of 540 mts. The width on the crest is 14 mts. and width at the base is 669.2 mts. The volume of the dam is 21,920,000 cubic mts.(28,670,278 cubic yds). Same has a spillway type controlled chute with a spillway capacity of 24,637 cubic mts/second (870,047 cu ft/second). The reservoir has a total capacity of 3,280,000,000 cubic mts. (2,659,139 acre ft.) with a capacity of 2,344,000,000 cubic mts. (1,900,312 acre ft.) with a normal elevation of 527.9 mts (1,732 ft). It has a power station which was commissioned in the year 2000, containing 4 turbines

each having capacity of 150 Megawatts with a hydraulic head of 121.9 mts. and an installed capacity of 600 Megawatts and is named after 'Maharaja Ranjit Singh', the renowned ruler of Punjab. It is also known as Thien Dam and 24 kms upstream of Madhopur Head Works and with the reservoir spreading in an area of 87 sq.km., falling in 3 states of Punjab, Jammu & Kashmir and Himachal Pradesh.

4. The project is an embodiment of inter-state relationship and constructed by the Government of Punjab on the Ravi river, on the border of the two states. 60% of the lake is forming part of Jammu & Kashmir and the project is situated near Pathankot city in Pathankot District of Punjab and Kathua town in Basholi tehsil of Kathua District of Jammu & Kashmir. It is one of the largest hydroelectric dams of the State of Punjab and the township where the construction site is located called Shahpur Kandi Township. The feasibility studies for the project began in 1953 and geotechnical studies continued until 1980 and as mentioned, the construction started in 1981 with the generators being commissioned in 2000 and the project being completed in 2001. With the installed capacity of firm power of 162 Megawatt at 100% load factor, 4.6% of energy generated is supplied free of cost to Himachal Pradesh and 20% of energy generated is supplied to Jammu & Kashmir at the generated cost at the Bus Bar. The power, thus, being generated is being fed into the existing 220 KV Grid sub-station at Sarna. The acquisition,

thus, over the period of time, was, as the construction of the dam progressed, leading to the filling up of the reservoir and as would be noticed from elevation level of 406 to 531 mts.

5. In view of the directions issued on 13.07.2018 by this Court, affidavit dated 23.07.2018 has also been filed of the Executive Engineer, Project & R.M.Division, RSD-Shahpurkandi Township, as to the number of villages which were totally submerged in the Reservoir of RSDP. The affidavit would, thus, show that total 7221 acres of land of 44 villages/tikkas had been acquired for the said project and 8 villages/tikkas were totally submerged upto the elevation of 531 meters, on which account the villagers had shifted their residence. Similarly, 36 tikkas were partly acquired but continued to exist on which inhabitants had moved to habitable portion of the villages or had gone elsewhere as per their will. The notifications under Section 4 in question are dated:

- (i) 30.10.1986 for 21.32 acres;
- (ii) 27.02.1987 for 1602 acres;
- (iii) 29.06.1989 for 383.66 acres;
- (iv) 22.10.1991 for 568.97 acres;
- (v) 06.01.1992 for 560.29 acres;
- (vi) 30.01.1992 for 762.10 acres;
- (vii) 16.3.1994 for 5.26 acres;
- (viii) 18.03.1994 for 22.6 acres;
- (ix) 20.12.1994/23.12.1994 for 848.96 acres;

- (x) 07.08.1995 (for which, 2 separate awards, No.117 dated 10.07.1998 and No.118 dated 25.08.1998, for 628.80 and 504.97 acres, had been passed);
- (xi) 20.09.1995 for 362.81 acres and
- (xii) 17.09.1998 for 22.52 acres.

The awards passed by different Reference Courts are 71 in number.

6. In the first set of cases, bearing RFA-274-1993 titled *State of Punjab & others Vs. Geeta Devi*, pertaining to the first notification dated 30.10.1986 under Section 4 arise out of the Reference Court award dated 16.11.1991 and the lands in question falls in Village Hardosaran (Hadbast No.401), Tikka Ralla of Village Dhar Kalan (Hadbast No.400) and Tikka Atharwan of Village Phangota (Hadbast No.403) for 21.32 acres of land which were required for the RSDP upto Elevation Level (EL) 531 mts. The Land Acquisition Collector (LAC) awarded the following amounts, on 04.10.1988, vide award No.80 which were enhanced by the Reference Court on 16.11.1991, as under:

Date of notification under Section 4 of the Act	Type of land	Area acquired Kanal-Marla	Compensation awarded by the Collector in Rs. Per acre on 04.10.88	Award given by the Reference Court in Rs per acre on 16.11.1991	Names of the villages	Tikka

30.10.86	Barani-II		Rs.12,000	Rs.22,400/-	Hardosaran Phangota, Dhar Kalan	Atharwan and Ralla
	Gair Mumkin		Rs.2,000	Rs.16,600/-	Dhar Kalan	

7. The State, aggrieved against the same, came up in appeal, in RFA-274-1993 which was dismissed on 20.12.2011, on account of the fact that for the subsequent notification dated 07.08.1995, the LAC had awarded Rs.10,000/- to Rs.50,000/- per acre, for different qualities of land which was enhanced to Rs.1600/- per marla by the Reference Court and the award had been upheld in RFA-1066-2010 titled *Punjab State & others Vs. Usha Rani*, decided on 27.09.2011. RFA-2799-1993 titled *State of Punjab Vs. Kesar Singh & others*, also pertains to notification dated 30.10.1986 and the landowners had also preferred XOBJR-95-CI-1994 in the said appeals, which was dismissed on 08.08.2012 on merits whereas the cross-objections of the landowners were dismissed in default, which have been restored vide order dated 22.02.2018.

8. Similarly, for the 2nd notification dated 27.02.1987, vide award No.76 dated 29.03.1988, land of Village Tikka Katal, Tikka Shamlat and Tikka Gulial of Village Phangota (Hadbast No.403) along with Tikka Satin of Village Sarti (Hadbast No.404) and Tikka Ladhwal of Village Thara Uparla (Hadbast No.399/2) and Tikka Godwan of Village Darkua Bungla (Hadbast No.405), measuring

1602 acres was sought to be acquired for the RSDP upto EL 406 mts.

The LAC assessed the market value at the following rates, which was enhanced on different dates by various Reference Courts, at different rates:

Sr No	Name of Village	Quality of land	Amount of compensation in ₹	Reference Court Award	Referenc e Court Award
1	Phangota Tikka Katal	Nehri	15,000/-	26,250 (8.5.91)	40,000 on 19.4.91 17.4.97 21.07.97 4.3.98 & 16.4.98
		Barani I	12000/-	21,000 (on 8.5.91)	35,000
		Barani II	11000/-	19,250 (on 8.5.91)	35,000
		Banjar Qadim	6000/-	10,500 (on 8.5.91)	15,000
		Abi	10000/-	17,500 (8.5.91)	40,000
		Gair Mumkin	3,000/-	5,250/- (8.5.91)	15,000
		Gair Mumkin Abadi	20,000/-	35,000 (8.5.91)	80,000
2	Sarti Tikka Satin	Abi	10,000/-		
3	Phangota Tikka Shamlat	Nehri			40,000 (21.7.97)
		Barani II	11,000	35,000 (13.2.91)	35,000 (21.7.97)
		Banjar Qadim	6,000/-	15,000/- (on 13.2.91)	15,000
		Gair Mumkin	3,000/-	15,000/- (on 13.2.91)	15,000

Sr No	Name of Village	Quality of land	Amount of compensation in ₹	Reference Court Award	Referenc e Court Award
4	Phangota Tikka Gulial	Abi	10,000/-		35,000 (22.10.91 28.8.92)
		Barani I	10,000	35,000 (22.10.91 20.8.92)	35,000
		Barani II	10,000/-		35,000
		Banjar Qadim	6,000/-		15,000
		Abi	10,000/-		40,000
		Gair Mumkin	3,000/-		15,000
		Barani III	8,000/-		15,000
		Gair Mumkin Abadi	20,000/-		80,000
5	Darkua Bangla Tikka Godhwan	Barani I	15,000/-	31,800 (on 16.1.91)	35,000 (20.10.91 27.2.92 29.7.97 6.10.98)
		Barani II	12,000/-		35,000
		Banjar Qadim	6,000/-		15,000
		Abi	10000/-		40,000
		Gair Mumkin	3,000/-		15,000
6	Thara Upparla Tikka Ladhwal	Barani II	8,000/-		
		Banjar Qadim	6,000/-		
		Abi	10,000/-		
		Gair Mumkin	3,000/-		

9. For sake of clarity and for purposes of referring to the concerned regular appeals, pertaining to the village and particular awards, the details of the villages and the enhancement which are depicted above, are being given as under yearwise:

10. The Reference Court, vide award dated 16.01.1991, awarded Rs.31,800/- per acre for Village Darkua Bangla. The landowners preferred RFA-1400-1991 titled *Makhan Singh Vs. State of Punjab & others*, which pertained to Village Darkua Bangla. For

Village Tikka Shamlat of Phangota, vide award dated 13.02.1991 of the Reference Court, for Barani-II, a sum of Rs.35,000/- per acre was awarded for Nehri land, Rs.15,000/- for Banjar Qadim and for Gair Mumkin land in RFA-1392-1994 titled *State of Punjab Vs. Karam Chand*.

11. Vide award dated 08.05.1991, for land of Phangota Tikka Katal, the enhancement is subject matter of RFA-1352-1992 titled *Babu Ram & others Vs. State of Punjab & others*, as lesser amounts were awarded.

12. Similarly, the Reference Court, vide award dated 20.08.1992, while assessing the market value of Village Tikka Gulial of Phangota, the market value of Abi land was assessed which is subject matter of RFA-377-1993 titled *State of Punjab Vs. Girdhari Lal*, as per below Table-II:

Table-II		
Sr.No.	Type of land	Amount of (in ₹)
1	Abi land/Nehri	40,000/- per acre
2	Barani land	35,000/- per acre
3	Gair mumkin banjar qadim	15,000/- per acre
4	Gair mumkin abadi	80,000/- per acre

13. For Village Tikka Katal of Phangota, vide award dated 17.04.1997, the same amount of compensation was awarded as in the above Table-II, subject matter in RFA-2095-1997 titled *Hoshiar Singh Vs. State of Punjab*.

14. For Village Tikka Shamlat of Phangota for Nehri & Abi land also, Rs.40,000/- has been granted, as per award dated

21.07.1997 as has been granted above, apart from Rs.35,000/- for Barani and Rs.15,000/- for Gair Mumkin land and Banjar Qadim land, as per subject matter of RFA-661-1999 titled *Karam Chand Vs. State of Punjab*.

15. For Village Phangota Tikka Katal, vide award dated 16.04.1998, the same amount of compensation has been awarded as per the above-said Table-II, subject matter of RFA-3626-1998 titled *Makhan Singh Vs. State of Punjab & others*.

16. Vide award dated 06.10.1998, for Tikka Godhwan of Darkua Bangla, same amount of compensation was awarded, as per the above-said Table-II, subject matter of RFA-37-1999 titled *Darshan Singh Vs. Punjab & others*.

17. The appeals filed by the landowners and the State against awards dated 16.01.1991, 13.02.1991, 08.05.1991, 21.08.1992, 17.04.1997, 21.07.1997, 16.04.1998 & 06.10.1998, were dismissed on 15.10.2010, while rejecting the argument that land had been acquired in the State of Jammu & Kashmir and the State of Himachal Pradesh, whereby more compensation had been awarded than the land falling in the State of Punjab. Parity had been claimed on the ground that both the portions of the land were adjoining each other. The said appeals were dismissed on the ground that various sale deeds had been taken into consideration (Exts.A2 to A14) and therefore, there was no scope for interference in the award. The argument of the landowners was rejected on the ground that the price

of the land falling in one State cannot be made basis for determination of compensation for the land situated in another State. Similarly, it was held that the circumstances in which the compensation had been awarded to the landowners of the other 2 States was not on record and therefore, it would not be safe to place reliance upon, to assess the compensation. Resultantly, both the sets of appeals were dismissed on 15.10.2010, the lead case of which was **RFA-3626-1998** titled ***Makhan Singh Vs. State of Punjab & others.***

Relevant portion reads as under:

“The contention of the learned counsel for the landowners that the landowners should be awarded same compensation, which has been awarded to the landowners of Jammu & Kashmir and Himachal Pradesh for their acquired land, is not sustainable, firstly because the price of the land situated in one State cannot be made basis for the determination of the compensation of the land situated in another State. Moreover, the circumstances under which the compensation was awarded to the landowners of Jammu & Kashmir and Himachal Pradesh are not on the record. So in my opinion, it will not be safe to place reliance thereupon to assess compensation for the acquired land.”

18. The matter was taken to the Apex Court in **Hoshiar Singh (D) thr. LRs & others Vs. State of Punjab & others 2017 (5) SCC 243** wherein the argument raised was that applications under Order 41 Rule 27, pertaining to awards and orders in the cases pertaining to the State of Jammu & Kashmir and Himachal Pradesh, had not been taken into consideration while rejecting the argument.

Resultantly, the matters have been remanded on the ground that the applications under Order Order 41 Rule 27 should have been decided before recording such a finding. Relevant portion of order dated 11.01.2017 reads as under:

“6. We are afraid, the stand taken by the High Court cannot be justified. Unless the Court passes an order on the reception or otherwise on the additional evidence, the Court cannot hold that there was no evidence available on the circumstances under which the compensation was awarded.

7. We do not propose to deal with the merits of the matters since we propose to remand the matters to the High Court for consideration afresh after passing orders on the applications filed by the appellants under Order XLI Rule 27 CPC.

8. Accordingly, the impugned judgments are set aside. The matters are remanded to the High Court for fresh consideration after passing orders on the applications filed by the appellants before the High Court under Order XLI Rule 27 CPC.

9. Being a Notification of 1987, we request the High Court to dispose of the appeals expeditiously and preferably within a period of four months.

10. In view of the above, the appeals are disposed of.”

19. For the 3rd notification dated 29.06.1989, as many as 383.66 acres of land has been sought to be acquired vide award No.97 dated 30.01.1992, regarding village Thara Uparla, Hadbast No.399/2, Tikka Naloh, Tikka Salwal, Tikka Bhango, Tika Ladhwal and Village Phangota Khas Hadbast No.403, from elevation level 460-530 mts. and the Land Acquisition Collector awarded the rate given below. The landowners, accordingly, filed petition under

Section 18, aggrieved against the quantum of compensation and claiming that they are linked to the pucca road from Pathankot Chamba-Dalhousie and there was regular bus service from Pathankot to the village, resultantly, seeking Rs.1,20,000/- per killa as compensation for the land in question. Vide awards dated 02.05.1998, 03.06.1998, 07.06.1998, the Reference Courts enhanced the compensation, as under:

Name of villages	Abi	Barani I	Barani- II	Barani- III	Banjar Jadid	B.Qdm.	Gair Mumkin Beth	G.M. Abadi
Thara Uparla, Tikka Naloh, Tikka Salwal, Tikka Bhango, Tika Ladhwai, Phangota Khas	-	12,000	9,000	-	-	6,000	4,000	24,000
Reference Courts' enhance- ment dated 2.5.98, 3.6.98, 7.6.98	-	45,000	45,000	-	-	20,000	20,000	80,000

20. Vide 4th notification dated 22.10.1991, 568.97 acres of land was sought to be acquired vide award No.185 dated 22.11.1994, for land falling in Village Naloh Khas, Naloh Tikka Nyari, Tikka

Plangi, Sarti Tikka Gunera, Sarti Tikka Marwan, Sarti Tikka Kamyal, Sarti Tikka Satin and the market value was assessed by the LAC and the same was enhanced by the Reference Court vide award dated 25.04.1997, whereby uniform compensation was granted. Same read as under:

Name of village	Barani I	Barani-II	Barani-III	Banjar Jadid	B.Qdm.	Gair Mumkin	G.M. Abadi
Naloh Khas	13,000	13,000	12,000	9,000	6,000	4,000	15,000
Naloh Tikka Niari	13,000	12,000	12,000	-	6,000	4,000	-
Naloh Tikka Plangi	12,000	10,500	-	5,000	5000	3,000	-
Sarti Tikka Gunera	-	15,000	10,000	-	5,000	3,000	-
Sarti Tikka Marwan	-	10,000	-	-	-	3,000	12,000
Sarti Tikka Kamial	-	10,000	-	8,000	5,000	3,000	12,000
Sarti Tikka Satin	20,000	18,000	-	-	-	4,000	-
Reference Courts' enhancement dated 25.04.1997	50,000	50,000	50,000	22,000	22,000	22,000	1,15,000

21. Against the said award, appeals were preferred by both sides, one seeking enhancement whereas the State was seeking reduction, which were dismissed on 16.09.2015 in the lead case bearing RFA-897-1996 titled *Punjab State & others Vs. Ram Singh & others*. Reference was also made to the notification dated 07.08.1995, which was pending before the Apex Court in CA-1949-1966-2016 titled *Punjab State & others Vs. Usha Rani & others*. The said judgment also dealt with other notifications

in question namely 30.01.1992, 18.03.1994, 20.12.1994.

22. For the 5th notification dated 06.01.1992, for which, 560.29 acres of land of revenue estates of Village Hardosaran Hadbast No.401, Dhar Kalan Tikka Ralla Hadbast No.400, Naloh Tikka Jatouli, Phagli Tikka Kulara Hadbast No.410, Bhamlada Tikka Bhatauli Hadbast No.411, respectively, was acquired vide award No.106 dated 02.01.1995.

The Land Acquisition Collector awarded the following rates by classifying the land falling in Village mentioned below, which was enhanced by the Reference Court in the following manner:

Name of village	Abi	Barani I	Barani- II	Barani- III	Banjar Jadid	B.Qdm.	Gair Mumkin	G.M. Abadi
Hardosaran	-	12000	10500	9000	-	5000	3000	13000
Dhar Kalan Tikka Ralla	-	-	10500	9000	-	5000	3000	-
Phagli Tikka Kulara	-	12000	10500	9000	5000	5000	3000	-
Naloh Tikka Jatauli	-	12000	10500	-	-	5000	3000	-
Bhamlada Tikka Bhatauli	-	-	10500	-	-	5000	3000	12000
Reference Courts' enhance-ment dated 16.12.1995 2.04.1996 24.5.1996 4.9.1996 14.10.1996 23.10.1996 1.4.1998 24.4.1998	-	40,000	40,000	40,000	-	14,000	14000	-

Name of village	Abi	Barani I	Barani- II	Barani- III	Banjar Jadid	B.Qdm.	Gair Mumkin	G.M. Abadi
24.04.1996	-	50,000	50,000	50,000	22,000	22,000	22000	1,15,000

23. Reliance was placed upon Ext.A-5 which was an award dated 16.12.1995, titled Ram Singh Vs. State of Punjab, pertaining to the notification dated 30.01.1992 for Villages Phangota Tikkas Dalial, Atharwan and Ladhwal, which is subject matter in RFA-1948-1996 titled *Kartar Singh & others Vs. Punjab State & others*.

24. For the 6th notification dated 30.01.1992, the Land Acquisition Collector, vide award dated 05.04.1995, pertaining to Village Phangota Tikka Dalial, Phangota Tikka Chibber, Phangota Tikka Atarwan, Phangli Tikka Kulara, Thara Uparla Tikka Ladhwal, Sarti Tikka Patralwan and Sarti Tikka Satin, awarded compensation, as given below. The Reference Court, vide its award dated 16.12.1995, enhanced compensation to Rs.50,000/- for all kinds of Barani land, Rs.22,000/- for Gair Mumkin Banjar Qadim and Banjar Jadid land and Rs.1,15,000/- for Gair Mumkin Abadi. The basis of enhancement were sale deeds dated 20.04.1990, for the land measuring 2 kanals 8 marlas in Village Tikka Dalial for Rs.20,000/- (Annexure A-6) dated 28.01.1992 and for the land measuring 3 kanals in Village Tikka Katal for Rs.36,000/- (Annexure A-7), which is subject matter of RFA-897-1996 titled *State of Punjab & others Vs. Ram Singh & others*. Similarly, for awards dated 05.02.1996, 24.05.1996, 04.09.1996, 14.09.1996, 14.10.1996,

23.10.1996, 01.04.1998, 24.04.1998 and 25.05.2000, passed by the Reference Courts are subject matter of RFA-1654-1996 titled *State of Punjab & others Vs. Bharam Dutt*, RFA-2220-1996 titled *Ferozedin & others Vs. State of Punjab & others*, RFA-236-1997 titled *State of Punjab Vs. Kishno*, RFA-2514-1997 titled *State of Punjab & others Vs. Sadhu Ram & others*, RFA-970-1997 titled *State of Punjab & others Vs. Chain Singh*, RFA-296-1997 titled *Makholi Ram & others Vs. State of Punjab*, RFA-3705-1998 titled *State of Punjab Vs. Kishori Lal & others* and RFA-3663-1998 titled *State of Punjab & others Vs. Laxmi & others* and RFA-2560-2018 titled *Kartar Singh & others Vs. Punjab State & others*. The table reads as under:

Name of village	Chahi	Barani I	Barani- II	Barani- III	B.Qdm.	Banjar Jadid	Gair Mumkin	G.M. Abadi
Phangota Tika Dalial	-	16,000	15,000	10,000	6000	-	4000	16,000
Phangota Tika Chibber	16,000	16,000	15,000	10,000	8000	6000	4000	16,000
Phangota Tika Atharwan	-	16,000	15,000	10,000	6000	6000	4000	16,000
Phangli Tikka Kulara	-	-	15,000	-	-	-	-	-
Thara Upperla Tikka Ladhwal	-	-	15,000	-	-	-	-	-
Sarti Tikka Patralwan	-	-	17,600	-	-	-	-	-
Sarti Tikka Satin	-	-	18,000	-	-	-	-	-

Name of village	Chahi	Barani I	Barani- II	Barani- III	B.Qdm.	Banjar Jadid	Gair Mumkin	G.M. Abadi
Reference Courts' enhance-ment dated 16.12.1995 05.02.1996 24.05.1996 04.09.1996 14.09.1996 14.10.1996 23.10.1996 01.04.1998 24.04.1998 25.5.2000	60,000	50,000	50,000	50,000	22,000	22,000	22,000	1,15,000

25. Vide 7th notification dated 16.03.1994, 5.26 acres of land was acquired vide award No.111 dated 26.04.1996 and the Land Acquisition Collector determined Rs.28,000/- per acre for all kinds of land for villages Thara Uparla Tikka Ladwal, Sarti Tikka Kamial, Sarti Tikka Satin and Sarti Tikka Tarotwan, which was enhanced by the Reference Court, in the following manner:

Villages	Barani per acre (Rs.)	Banjar Qadim/ Gair Mumkin per acre (Rs.)	Gair Mumkin Abadi per acre (Rs.)	
Sarti Tikka Kamial Tikka Satin and Tikka Tarotwan	64,500/-	28,380/-	1,47,350	Reference Court's award dated 13.9.2000
Thara Uparla Tikka Ladwal	70,650/-	31,400/-	1,25,600	Reference Court's award dated 22.9.2000

26. Vide 8th notification dated 18.03.1994, which is subject matter of RFA-4141-1998 titled *Kalyan Chand Vs. State of Punjab & others*, the Land Acquisition Collector had awarded Rs.30,000/-

per acre across the board on 12.04.1996 vide award No.110, for the land falling in Village Phangota Tikka Gulial, Darkua Bangla Hadbast No.403, Darkua Bangla Hadbast No.405, Darkua Bangla Khas Hadbast No.405, Darkua Bangla Tikka Godwan Hadbast No.405, Sarti Tikka Kamiyal Hadbast No.404, Sarti Tikka Khas Hadbast No.404, for 22.06 acres of land. While placing reliance upon award of the Reference Court date 15.10.1991 (Annexure A-2), pertaining to the notification dated 27.02.1987, enhancement was granted by the Reference Court vide award dated 27.07.1998 by giving 12% increase for 7 years without referring to any sale deed. Resultantly, compensation of Rs.73,600/- for chahi and abi land was granted, Rs.64,400/- for all kinds of barani land, Rs.30,000/- for gair mumkin and banjar kadim and Rs.1,47,200/- for gair mumkin abadi. Similarly, reliance has also been placed upon award arising out of another notification dated 30.01.1992 (Ext. A-6) to grant the enhanced compensation on the same principle.

27. For the 9th notification dated 20.12.1994, the land measuring 848.96 acres was sought to be acquired falling in as many as 12 villages. The Land Acquisition Collector, vide award No.115 dated 26.11.1997, assessed the market value between Rs.10,000/- to Rs.40,000/-, by classifying the land in various categories, which was further enhanced by the Addl.District Judge, Gurdaspur, vide awards dated 23.02.2000 but claim was dismissed vide awards dated 03.10.2002, 21.02.2004 & 05.06.2007, as under:

Name of Village	Abi	B-I	B-II	B-III	B-Qdm.	G.M.	G.M. Abadi
Phangota Tika Chibber	-	-	36,000	-	-	-	-
Phangota Tika Katal	-	-	36,000	-	-	-	-
Sarti Tika Patralwan	-	40,000	36,000	30,000	15,000	10,000	40,000
Sarti Tika Tanoh	-	-	36,000	-	15,000	10,000	-
Darwan Tika Chound	-	40,000	36,000	30,000	15,000	10,000	40,000
Dukhniali Tika Sarowari	-	-	36,000	-	15,000	10,000	-
Barsudhal Tika Mothwan	20,000	40,000	36,000	30,000	15,000	10,000	40,000
Barsudhal Tika Sudhal	20,000	-	36,000	30,000	15,000	10,000	40,000
Barsudhal Tika Karoon	20,000	40,000	36,000	30,000	15,000	10,000	40,000
Barsudhal Tika Phagli	-	-	36,000	30,000	15,000	10,000	40,000
Bhamlada Tika Panjala	-	40,000	36,000	-	-	10,000	-
Phagli Tika Kangwan	20,000	40,000 (Chahi)	-	-	15,000	10,000	-
Reference Court's enhance-ment 23.2.2000		1,05,000	1,05,000	63,000	31,500	25,000	1,30,000
Dismissed by Reference Courts' order dated 2.8.2001 03.10.02, 21.02.04 05.06.07	No enhancement granted.						

28. The said awards are, thus, under attack in RFA-1657-2000 titled *Sarla Devi Vs. State of Punjab*, by both the sides on the ground that there was no proper basis for enhancement and Mr.Manhas has, accordingly, submitted that Ext.A-13, the award of the Land Acquisition Collector, Himachal Pradesh, pertaining to Mohal Kheri, was wrongly discarded.

29. For 10th notification dated 07.08.1995, the Land Acquisition Collector, vide award No.117 dated 10.07.1998, assessed the market value of 628.80 acres of land, the Reference Court, vide awards dated 29.11.2000, 13.12.2000, 04.12.2002, 04.09.2003 and 16.12.2003, enhanced the market value as under. Similarly, vide award dated 08.10.2007, 05.04.2008 and 13.11.2013, market value was determined @ Rs.1600/- per marla and vide award dated 16.05.2007, market value was determined @ Rs.1830/- per marla. Same is reproduced, as under:

Name of Village	Abi	B-I	B-II	B-III	B-Qdm.	G.M.	G.M. Abadi
Phangota Tika Chibber	-	48,000	-	-	-	-	-
Phangota Tika Katal	60,000	48000	43,200	36,000	18,000	12,000	60,000
Phangota Tika Gulial	60,000	48000	43,200	36,000	18,000	12,000	60,000
Phangota Tika Khas	60,000	48000	43,200	36,000	18,000	12,000	60,000
Thara Upperla Tika Ladhwal	60,000	48000	43,200	-	-	12,000	60,000

Name of Village	Abi	B-I	B-II	B-III	B-Qdm.	G.M.	G.M. Abadi
Thara Upperla Tika Salwal	-	48000	43,200	-	18,000	12,000	-
Thara Upperla Tika Lanoh	-	-	43,200	-	-	-	-
Sarti Tika Satin	-	48000	43,200	-	-	-	-
Sarti Tika Patralwan	-	48000	43,200	36,000	18,000	-	-
Darlia Bangal Tika Godhwan	-	48000	43,200	-	-	-	-
Phagli Tika Kulara	-	48000	43,200	-	-	-	-
Reference Court's enhance-ment on 29.11.2000 13.12.2000	1,80,000	1,60,000	1,60,000	1,00,000	36,000	24,000	1,80,000
Lessor enhance-ment granted on 4.12.2002 4.9.03 16.12.03	-	55200	49680	41400	20700	13800	69000
Vide award dated 2.1.03	Land Reference dismissed in RFA-2662-2003-Pritam Kaur Vs. State of Punjab						
Vide award dated 8.10.07 5.4.08 13.11.13	Reference Court awarded Rs.1600/- per marla						
Vide award dated 16.5.07	Reference Court granted Rs.1830/- per marla						

30. For the same notification dated 07.08.1995, the Land

Acquisition Collector, vide award No.118 dated 25.08.1998 for
504.97 acres, awarded the compensation as follows:

Name of Village	Chahi	Abi	B-I	B-II	B-III	B-Qdm.	G.M.	G.M. Abadi
Darkua Bangla Khas	-	60000	48000	43200	36000	18000	12000	60000
Darkua Bangla Tika Godhwan	60000	60000	48000	43200	36000	18000	12000	60000
Phangota Tika Katal	-	60000	48000	43200	-	18000	-	60000
Phangota Tika Gulial	-	60000	43200	43200	-	-	-	60000
Phangota Tika Dalial	-	-	-	43200	-	-	-	-
Phangota Tika Chibber	-	-	-	43200	-	18000	-	-
Enhancement granted on 10.9.03	-	-	55200	49680	-	-	13800	69000
Enhancement granted vide award dated 15.2.05	-	100000	80000	75000	65000	30000	20000	100000
Reference Court award 30.07.2005 (15% increase)	69000	69000	55200	49680	41400	20700	13800	69000
Reference Court award 30.07.2005 (30% increase)	78000	78000	62400	56160	46800	23400	15600	78000
Reference Court awards 17.1.08 16.2.08 18.8.08 1.11.13 1.2.14	Rs.1,600/- per marla = Rs.3,36,000/- per acre.							

The Reference Court awarded Rs.1600/- per marla against which, time-barred appeals were filed before this Court and 52 appeals were dismissed, the lead case of which was RFA-1006-2010 titled *State of Punjab & others Vs. Usha Rani*, on the ground that higher compensation had been awarded downstream the RSDP pertaining to Jugial, Harur and Rajpura and for the land acquired by the State of Himachal Pradesh. The said matter was carried to the Apex Court by the State which has now been allowed vide order dated 11.01.2017 in CA-1949-1966-2016, on the ground that there was no finding recorded on the material available on the record to sustain the compensation of Rs.1600/- per marla. Accordingly, the delay had been condoned and the matter had been directed to be heard on merits. Relevant portion reads as under:

“5. On going through the merits of the case, as we have already stated above, there is no discussion by the High Court on any of the materials available on record, so as to sustain the compensation of Rs.1,600/- per marla. For that reason also, these appeals are liable to be allowed by remanding the matters to the High Court for consideration on merits. Since, the case of Usha Rani is followed in all other cases, the rest of the appeals are also liable to be allowed, as above.

6. Accordingly, the impugned orders in all these appeals filed by the State are set aside and the appeals are allowed, as above. The delay in filing the appeal (s) before the High Court in the case of Usha Rani is condoned. The matters are remanded to the High Court with a direction to the High Court to consider the matters afresh on merits.

7. We make it clear that we have not considered any matters on merits and, therefore, the parties are free to take all available contentions before the High Court.

8. Being an acquisition pursuant to the notification issued in 1995. We request the High Court to dispose of the appeals expeditiously and preferably within a period of six months.

9. Till the appeals are disposed of, as above, there shall be no recovery of compensation, if any, already paid to the claimants.”

31. Keeping in view the above, various other orders have been passed by the Apex Court on 10.03.2018, 14.03.2018, remanding the connected matters also to this Court. In the last case, the last order received in SLP (C)-2987-2018 titled *State of Punjab & others Vs. Ram Singh & others*, decided on 17.05.2018, the following order has been passed by the Apex Court whereby the whole gamut has been thrown open again, as the petitions have been disposed of, subject to the outcome of Usha Rani's case. The State was, accordingly, directed to seek appropriate clarification/review before this Court:

“Learned counsel appearing on behalf of the petitioners submits that the relied upon matter is still under consideration before the High Court, pursuant to the remand made by this Court in the case of *Punjab State & Ors. vs. Usha Rani Etc.Etc.* Civil Appeal Nos.1949-1966 of 2016.

We find that in these petitions there is no enhancement by the High Court; the High Court has only upheld the rates as fixed by the Reference Court.

Hence, these petitions are disposed of making it clear that subject to the outcome of *Usha Rani's* case supra, it will

be open for the petitioners to seek appropriate clarification/review before the High Court.

The special leave petitions stand disposed of.

Pending application stands disposed of.”

In view of the above orders, CM application was filed by the State for listing of the cases, since hearing was proceeding in RFA-1006-2010 titled *State of Punjab & others Vs. Usha Rani & others*. Accordingly, the petitions which had been disposed of by the Apex Court were taken on Board with the consent of counsels for the landowners, so that all the notifications could be adjudicated upon.

32. Resultantly, in view of the two detailed judgments, one in Makhan Singh (supra) and secondly in Usha Rani (supra), the same view was followed in various other appeals filed by the parties, primarily for the other notifications also, while upholding the orders of the Reference Court.

33. For the 11th notification dated 20.09.1995, vide award No.119 dated 30.09.1998, the Land Acquisition Collector awarded for 362.81 acres of land, the following compensation which was enhanced to 15% vide award of the Reference Court dated 07.06.2003 but to Rs.1600/- per marla, vide awards dated 05.10.2007, 02.06.2008, 29.08.2011 and 12.11.2014, as under:

Name of Village	Abi	B-I	B-II	B-III	Banjar Jadid	B-Qdm.	G.M.	G.M. Abadi
Daruka Bangla Tika Patta	-	-	43,200	38,400	-	-	12,000	48,000

Name of Village	Abi	B-I	B-II	B-III	Banjar Jadid	B-Qdm.	G.M.	G.M. Abadi
Daruka Bangla Tika Godhwan	-	48,000	43,200	-	-	-	12,000	48,000
Daruka Bangla Khas	-	48,000	43,200	-	-	-	12,000	48,000
Phangota Tika Gulial	-	-	43,200	-	-	-	-	-
Phangota Tika Dalial	-	48,000	43,200	-		-	-	48,000
Phangota Tika Chibber	-	48,000	43,200	38,000	-	-	-	48,000
Phantota Tika Khas	-	-	43,200	-	-	-	-	-
Sarti Tika Trotwan	-	48000	43,200	-	-	-	12,000	48,000
Sarti Tika Marwan	-	48,000	43,200	-		-	-	48,000
Sarti Tika Gunera	-	48,000	43,200	-		-	12,000	-
Sarti Tika Patralwan	-	48,000	43,200	-	-	-	12,000	48,000
Sarti Tika Kamial	-	-	43,200	-	-	-	-	-
Sarti Tika Satin	-	48,000	43,200	-	-	-	12,000	-
Sarti Tika Har	-	-	43,200	-	-	-	12,000	-
Sarti Tika Khas	48,000	48,000	43,200	38,400	18,000	18,000	12,000	48,000
Darban Khas	-	-	-	38,400	18,000	-	12,000	-
Bhamlada Khas	-	-	43,200	-	-	-	12,000	-
Dukhniali Tika Lajog	-	-	-	-	24,000	-	-	-
Hardosarn Tika Phalial	-	-	43,200	-	-	-	12,000	-

Name of Village	Abi	B-I	B-II	B-III	Banjar Jadid	B-Qdm.	G.M.	G.M. Abadi
Reference Court's enhancement 7.6.03	15% enhancement across the board							
More enhancement granted 5.10.07 29.8.11 2.6.08 12.11.14	Rs.1600/- per marla = Rs.3,36,000/- per acre.							
Award dated 8.11.01	Reference dismissed for Village Phangota Tikka Dalial on account of lack of evidence.							

Similarly, for 12th notification dated 17.09.1998, for which the Land Acquisition Collector, vide award No.125 dated 13.11.2011, assessed compensation @ Rs.93750/- for Barani-II and Gair Mumkin Jungle for Rs.37,500/-, which pertains only for Village Darban Khas, for which 22.52 acres of land was acquired. The Reference Court, vide award dated 06.07.2015, fixed the market value @ Rs.1600/- per marla.

Arguments qua notification dated 30.10.1986

34. Mr.Manhas, while addressing arguments, placed reliance upon the award dated 06.01.1994, for the village Poonda (Annexure A-3 in RFA-2799-1993 titled *State of Punjab & others Vs. Kesar Singh*) in which XOBJN-95-CI-1994 along with application for additional evidence, bearing CM-12619-CI-2010, had

been filed, pertaining to the notification dated 30.08.1992, indent of which had been sent on 29.04.1986. Similarly, award dated 06.04.1994 (Annexure A-4) for the notification dated 31.05.1986 for the land falling in Village Kothi Tehsil Basholi, was referred to, apart from that award dated 13.06.1994 (Annexure A-5) for Village Plahi, notification for which had been issued on 16.08.1982 and subsequently modified on 03.12.1986, was referred to, to submit that uniform rate of compensation had been awarded, as per the policy of the State of Jammu & Kashmir dated 17.08.1993. Same reads as under:

S. No.	Category	Classification of Soil	Rate per kanal
1	Cultivable	Hehari, Abi, Hail Abi, Nehari, Abi, Hail Barani, Hail Asamani, Bagicha barani, Warhal Awal, Warhal, Doem & Thanger	=Rs.16,000/-
2	Banjar Qadeem	Banjar Jadeed, Banjar Qudeem & Golahi	=Rs.8,000/-
3	Gair Mumkin	Rasta, Earth, Rasta earth, Nallah, Ara bana etc.	=Rs.4,000/-
4	State Land	State Land	=Rs.625/-

It is submitted that sale deed dated 30.12.1986 (Ext.A-2) for 1 kanal 4 marlas land of Village Thara Uperla, have wrongly been ignored, on the ground that it was at a distance of 2-3 kms and the 1/3rd cut was, thus, wrongly applied. Sale deed dated 08.11.1985 (Annexure A-1) in Village Darkua Bangla for the land measuring 1 kanal was sought to be relied upon in XOBJN-24-CI-2017 in RFA-274-1993 and dated 27.06.1986 (Annexure A-3) for Rs.4000/- for 1 kanal of land along with sale deed dated 19.09.1986 (Annexure A-3)

for 10 marlas for Rs.6000/- both for land falling in Thara Uperla, attached along with application for additional evidence CM No.12512/17.

35. It is further submitted that the earlier award dated 19.04.1991 [Prem Kumar Vs. Punjab State (Ext.A-5)] which was being relied upon for Village Tikka Katal for the same notification, the 1/3rd cut had been wrongly applied.

Arguments qua notification dated 27.02.1987

36. Mr.Manhas, accordingly, placed reliance upon the award dated 06.01.1992 (Annexure A-3) for Village Poonda, filed with the applications under Order 41 Rule 27 (in RFA-661-1999 titled *Karam Chand Vs. Punjab State*) pertaining to the notification dated 30.08.1992 and indent of 29.04.1986. Reference is made to RFA-3524-1992, *Sukhchain Singh Vs. Punjab State & others*, to submit that it was fertile land situated in Village Tika Godwan, Darkua Bangla and orchards were planted therein and therefore, compensation has been given on the lower side, while referring to the statement of AW1, Makhan Singh, to submit that the land was irrigated by natural springs which flowed through the area. Accordingly, it is submitted that Ext.A-6 dated 28.11.1986 for 1 kanal 2 marlas of land, situated in Village Darkua Bangla Tikka Godhwan, was sold for Rs.5000/- and therefore, the rate was more than what had been awarded and the value would come to around Rs.52,500/- and the sale deed was prior to the date of notification

dated 27.02.1987. Similarly, the sale deed dated 21.04.1987 (Ext.A-1) for Rs.5600/- for 1 kanal of land falling in Village Phangota Tikka Katal, though executed 2 months later from the notification in question, would show that the value is same.

37. In RFA-2168-1998, *Pritam Singh & others Vs. State of Punjab & others*, it was submitted that the landowners were also entitled for the benefit of interest for the period from 02.09.1992 to 30.09.1997 since the same had been denied on account of the dismissal of the reference in default. It was submitted that the application was filed on 21.12.1992 but the restoration took place only on 30.09.1997 and therefore, interest should have only been denied between 02.09.1992 to 21.12.1992 and for the period thereafter, delay took place only on account of the fact that the evidence was led and therefore, it took almost 5 years to get the dismissal order set aside and therefore, the landowners could not be faulted on this account.

38. Apart from that, reference is also made to various sale deeds (Annexures A1 to A3) which were sought to be brought on record, on the issue of enhancement. Mr.Manhas has further argued that no cut should be imposed since there is no wastage of land and the whole of land was submerged in the reservoir of the RSDP and therefore, places reliance upon the judgment of the Apex Court in *Anjani Molu Dessai Vs. State of Goa & another 2010 (13) SCC 710*. It is, accordingly, submitted that principle of deduction was for

raising a residential and commercial area and therefore, the cut should not be imposed in the present case.

Arguments qua notification dated 29.06.1989

39. While addressing arguments in RFA-3673-1998 titled *Inderjit Singh & others Vs. State of Punjab & others*, the quantum of compensation was challenged on the ground that the amount claimed was Rs.1,20,000/- per acre on the ground that there was link to the pucca road to Pathankot Chamba-Dalhousie and there was regular bus service from Pathankot to the land in question. It was flat, highly productive and fertile land. It was submitted that though reliance has been placed upon LAC-1-*Chatter Singh Vs. State of Punjab*, decided on 03.03.1998, the sale deed should have been taken into consideration, which showed that land measuring 2 kanals in Tikka Katal (Ext.A-7) was sold on 24.02.1989 for Rs.12,000/-. Similarly, 1 kanal of land was sold on 21.04.1987, for Rs.5000/- in the same village, which was adjoining and a tikka of Phangota and therefore, the market value would work out to Rs.60,000/- per acre, as per Ext.A-2, as noticed in LAC-1- *Chatter Singh Vs. State of Punjab*. It was further argued that interest was wrongly denied from 29.02.1995 to 22.10.1997 in RFA-3806-1998 titled *Karmo & others Vs. State of Punjab & others*, on account of the dismissal of the reference petition, holding out that on account of the delay in restoration, the interest element should not have been denied once the application for restoration was filed immediately.

Arguments qua notification dated 22.10.1991

40. While addressing arguments in RFA-889-1998 titled *Puran & others Vs. State of Punjab*, pertaining to the notification dated 22.10.1991, for village Sarti Tikka Marwan, it is submitted that Ext. A-11 had been relied upon which is dated 25.04.1997, to grant uniform compensation of Rs.50,000/- per acre for all kinds of barani land, Rs.22,000/- for gair mumkin and banjar kadim and Rs.1,15,000/- for gair mumkin abadi. The said award of the Reference Court was pertaining to the same notification, to submit that the witness had stated that the boundary of Jammu & Kashmir adjoins the boundary of the village and Village Kothi of Jammu & Kashmir was near the village whereas market value was given @ Rs.16,000/- per kanal.

41. While placing reliance upon award of the Reference Court dated 15.10.1991 (Annexure A-2), pertaining to the notification dated 27.02.1987, enhancement was granted by giving 12% increase for 7 years without referring to any sale deed. Resultantly, compensation of Rs.73,600/- for chahi and abi land was granted, Rs.64,400/- for all kinds of barani land, Rs.30,000/- for gair mumkin and banjar kadim and Rs.1,47,200/- for gair mumkin abadi. Similarly, reliance has also been placed upon award arising out of another notification dated 30.01.1992 (Ext. A-6) to grant the enhanced compensation on the same principle.

42. Resultantly, in RFA-4141-1988 titled *Kalyan Chand Vs. State of Punjab*, the argument raised was that the Land Acquisition Collector awarded Rs.30,000/- per acre for all kinds of land and

therefore, the enhancement vide the award of the Reference Court dated 21.07.1998, granting compensation for different kinds of land and at different rates, by placing reliance upon the earlier award of the Reference Court dated 30.01.1992, was not justifiable and the amount should have been across the board as the Collector himself had found that the market value of the land would be same for all types of land.

Arguments qua notification dated 06.01.1992

43. In RFA-1948-1996 titled *Kartar Singh & others Vs. Punjab State & others*, pertaining to the notification dated 06.01.1992, decided by the award of the Reference Court dated 24.04.1996, it was submitted that the land falling in Village Hardosaran was closer to the main road going to Dalhousie and therefore, as per Ext.A-9 for 1 kanal 6 marlas in Village Hardosaran, sold for Rs.14,000/- on 19.11.1991, the market value would come to Rs.1,12,000/-, which was for Barani-II, had been wrongly ignored. It was, accordingly, submitted that reliance upon the subsequent notification dated 30.01.1992 vide award dated 16.12.1995 (Ext.A-5) was, thus, not justified and the amount should have been suitably enhanced. Accordingly, reliance was placed upon AW-1 that the boundary of Dhar Kalan adjoins the boundary of the village and it was only 2 kms.

44. In XOBJR-99-2018 in RFA-2613-1996 titled *State of Punjab & others Vs. Ram Singh*, it has been argued, while referred to Annexure A-1, award passed in the case of land falling in Village Dhar Kalan, to submit that it was the adjoining village of Village Ralla where the land was situated and Ext.A-7 therein, whereby land measuring 1 kanal 11 marlas was sold for Rs.15,500 on 20.12.1991.

Accordingly, it was submitted that the value of the land would come to Rs.10,000/- per kanal, even if 1/3rd cut was given, the value would be around Rs.70,000/- per acre.

Arguments qua notification dated 30.01.1992

45. In RFA-1654-1996 titled *Punjab State Vs. Bharam Dutt*, wherein Rs.60,000/- was awarded for Chahi land, which was in addition to what had already been awarded to the other types of land. Similarly, reliance was placed upon sale deed dated 10.11.1991 in Village Tikka Chibber, for land measuring 7 marlas of Barani-II land, at Rs.20,000/-, to point out that the same land was also subject matter of acquisition and it was, accordingly, argued that the benefit of the sale deeds should have been granted which were prior in time to the notification dated 30.01.1992.

46. Reliance was, accordingly, placed upon the sale deed dated 24.11.1991 (Ext.A-7) for land measuring 2 kanals 7 marlas for Rs.20,000/- falling in Village Tikka Chibber and also the sale deed dated 28.01.1992, for 3 kanals 1 marla of land in Tikka Katal (Ext. A-7) which was sold for Rs.36,000/- which was Barani Doem in nature and falling in Village Tikka Katal, to submit that the value per acre would come to Rs.1,26,000/-. It was, accordingly, submitted that 1/4th cut which had been put, was not justified, in the facts and circumstances, as the sale instances were not small, as such. It was, accordingly, argued that compensation of Rs.60,000/- per acre for Chahi, Rs.50,000/- for all kinds of Barani land and Rs.25,000/- for Banjar Qadim and Banjar Jadid and Rs.1,15,000/- for Gair Mumkin Abadi, was on the lower end. Similarly, in RFA-2514-1997 titled *State of Punjab & others Vs. Sadhu Ram & others*, it was argued that

sale deed dated 20.04.1990 (Ext.A7) was not taken into consideration, which was also of 2 kanals 8 marlas of Barani land of Tikka Dalial which was sold for Rs.20,000/-. The reasoning, as such, was not justified that the vendors and vendees have not been examined.

47. Mr.Manhas also pointed out from RFA-3705-1998 titled *Punjab State & others Vs. Kishori Lal & others*, that the Reference Court had rightly noticed that compensation had already been awarded more than the average sale price of the sale instances (Mark R-2 to Mark R-7) and there was an average chart (Mark-8). It was submitted that in view of Section 25 of the Land Acquisition Act, 1894 the same was rightly ignored.

48. Reliance was placed upon the statement of RW1 Makhan Singh in RFA-3663-1998 titled *Punjab State & others Vs. Laxmi & others*, that the landowners had lost their source of income by acquisition of land and they were unable to get land anywhere else and the State of Jammu & Kashmir had awarded compensation of Rs.16000/- per kanal.

49. It was pointed out from the record of RFA-1359-1998 titled *Punjab State & others Vs. Subhash Sharma & others*, that the witness of the State-Vijay Kumar, Patwari had admitted that the Collector had given the award at a higher rate than the average rate calculated in Ext.R-1, to contend that reliance upon the sale deeds which had been produced by the State would have no value, in view of Section 25, since the amount was less than what was awarded by the Land Acquisition Collector.

Arguments qua notification dated 16.03.1994 & 18.03.1994

50. While arguing in the XOBJR-128-CI-2018 in RFA-521-

2003 *State of Punjab & others Vs. Karam Chand*, Mr.Manhas justified for further enhancement for the notification dated 16.03.1994 on the ground that the Reference Court vide award dated 13.09.2000, should have given cumulative increase @ 12% instead of just simple increase, while placing reliance upon the earlier award dated 25.04.1997 (Ext.A-5), which was for the notification dated 22.10.1991. It was submitted that the enhancement of Rs.64,500/- per acre for Barani land, Rs.28,380/- for Gair Mumkin and Rs.1,47,350/- for Gair Mumkin Abadi land, were liable to be enhanced wherein cumulative increase was liable to be granted.

51. In XOBJR-121-CI-2018 in RFA-518-2003 *State of Punjab & others Vs. Chattar Singh & others*, similarly further increase was sought on the ground that 12% increase for the notification of 1989 should have been cumulative.

Arguments qua notification dated 20.12.1994

52. Mr.Manhas has, accordingly, argued that land which was falling in Village Hardosaran, could not be wrongly related to the lands falling in Village Phangota Dalial, Atharwan and Ladhwal, which were far away from the road. It was submitted that land of Hardosaran was only 2 kms from the road and was adjoining Village Dhar, which was a Sub-Division and as per the witness, it was closer to the main road and was better located. Reliance was placed upon Ext.A-1, that the location was closer. Mr.Manhas, accordingly, submitted that Ext.A-9, for Village Kothi was wrongly not relied upon and should be applied. He has further argued that the award of Mohal Kheri for the notification dated 09.04.1997 (Ext.A-13) and the evidence, as such, in **RFA-1657-2000** titled **Sarla Devi Vs. State of Punjab**, pertaining to the notification dated 20.12.1994, would go

on to show that the lands were adjoining and since in the State of Himachal Pradesh, the valuation had been done as under, and therefore, similar amount should be granted to the land situated at the adjoining villages:

Classification of land of Mohal Lehari	Area	Amount in Rs. Per bigha
Dhani Doiam	-	2,43,158
Barani Doiam	-	1,62,105
Bagicha Barani Fuldar		2,89,474
Bunjar Jazeed		49,210
Galla		17,369
Bun Sarkar		26,053

Classification of land of Mohal Khairi	Area	Amount in Rs. Per bigha
Barani Abble	107-19-0	1,67,171
Barani Doiam	34-10-0	1,21,576
Ger Moumkin Pvt.	15-15-0	34,737
Barani Soeim	19-2-0	60,790
Bagicha Barani Fuldar	0-3-0	2,17,106
Bunjar Jazeed	34-8-0	36,908
Bunjar Kadeem	8-0-0	34,737
Avadi Deh	6-14-0	2,17,106
Ger Mumkin and Govt. Land	929-11-0	34,737

53. Mr.Manhas, accordingly, submitted that the award of Himachal Pradesh (Ext.A-13), pertaining to Mohal Khairi, should have been taken into consideration. He also referred to sale deed dated 28.01.1992 (Ext.A-8), measuring 3 kanals of land, falling in Village Phangota Tikka Katal, which was sold for Rs.36,000/-, to submit that land value worked out to Rs.12,000/- per kanal and Rs.1.2 lakhs per acre, which was Barani Doiam in nature and

submitted that enhancement had been granted to the tune of Rs.1,30,000/- per acre of Chahi/Gair Mumkin Abadi land to over Rs.40,000/- and similarly Rs.1,05,000/- for Barani-I & II and Rs.63,000/- for Barani-III, Rs.31,500/- for Banjar Qadim and Rs.25,000/- for Gair Mumkin. The Collector had chosen to award same amount of Rs.40,000/- to Gair Mumkin Abadi and Barani-I and therefore, even for Barani, same amount of Rs.1,30,000/- should have been awarded instead of Rs.1,05,000/-. He also relied upon Exts.A-9 and A-11, which are sale deeds and the same had been executed on 02.08.1994, for Rs.30,000/-, for land measuring 7 marlas, which was for the purpose of a house and Ext.A-11, registered on 04.11.1991 is for 5 marlas, for a sum of Rs.8,000/- also for the same purpose, which are miniscule in size.

It was further argued that vide order dated 03.10.2002, the Reference Court was in error in dismissing the claim for enhancement, for the notification dated 20.12.1994, on the ground that appeals were pending. It was submitted that once the Reference Court had awarded enhanced compensation in *Sarla Devi's case* (supra), the landowners of the villages in question were entitled for the benefit of the same notification, as the land was similar in nature. Similarly, in RFA-7055 & 7057-2015, pertaining to the award dated 21.02.2004, reliance was placed upon the earlier award dated 23.02.2000, to submit that the award dated 21.02.2004, whereby 31 cases were decided, had wrongly denied the relief by not relying upon *Sarla Devi's case* (supra) (Ext.A-6). Similarly, in RFA-5777-2015, whereby the award was passed on 05.06.2007, claim was denied on account of no evidence. It was held that the same benefits be given as in *Sarla Devi's case* (supra), as the

notification was same and the village was common.

54. Similarly, Mr.Manhas attacked the order of the Reference Court dated 02.08.2001, in RFA-416-2002 titled *Gurman Singh & others Vs. State of Punjab & others* and RFA-417-2002 titled *Mourtmim Mandir, Village Chounda Vs. Punjab State & others*, whereby the claim for enhancement in Village Barsudhal, Tikka Mothwan, Tikka Darwan and Tikka Chound, had been denied on the ground that the land was sub-mountainous and Pahari. It was submitted that once there was an award on an earlier occasion for the same notification of the adjoining land, therefore, the enhancement should have been granted as the witnesses had stated in unison that the land of all the Tikkas was of the same category and the witness, RW-1, Dharam Pal of the respondents himself had admitted that the land of all the villages was similar in nature, location and quality.

**Arguments qua notification dated 07.08.1995, 20.09.1995
& 17.09.1998**

55. Mr.Manhas, while addressing arguments in RFA-1805-2001 titled *Ram Singh & others Vs. Punjab State & others*, qua the notification dated 07.08.1995, accordingly, while placing reliance upon the application bearing CM-9821-CI-2017, for additional evidence, submitted that sale deed dated 02.08.1994 (Annexure A-1) pertaining to land measuring 7 marlas in Darkua Bungla, showed that sale consideration was Rs.30,000/- and therefore, the value would come to Rs.8,99,999/- per acre, as per the sale deed and thus, submitted that the Reference Court was in error in not granting further enhancement. Resultantly, reliance was placed upon the award passed by the District Judge, Chamba dated 10.12.2009, for Village Mohal Bhutan, pertaining to the notification dated

07.04.1997 wherein a sum of Rs.15,000/- was awarded per biswa and Rs.3 lakhs per bigha. He, accordingly, claimed the market value of Rs.15 lakhs on the said basis as the acquisition was for the same purpose.

56. In RFA-1597-2002 titled *State of Punjab Vs. Rajesh Kumar*, arising out of the award dated 13.12.2000, it is pointed out that there was sufficient evidence to show that the link road had got closed and Phangota Khas had got submerged, which would also be clear from the affidavit dated 23.07.2018 of Shri Anurag Grover, Executive Engineer. It was, accordingly, argued that the approach to come to the main road was only from the side of Dunera and the distance, as such, had increased. Reliance was placed upon the statement of RW-1, Dharam Pal, Canal Patwari, to submit that the residents of Village Phangota Khas had left their houses and were not able to reside in the village on account of being submerged in the water.

57. Similarly, in RFA-349-2004 titled *Sulakhan Singh & others Vs. State of Punjab & others*, pertaining to notification dated 07.08.1995 award of which was passed on 10.09.2003 by the Reference Court, it was pointed out that sale deed dated 24.03.1995 (Ext.A-5) had wrongly been discarded which was of 6 kanals for Rs.90,000/-, for the land falling in Darkua Bangla whereby market value would come to Rs.1,57,500/-. It is submitted that only 15% enhancement had been granted on the amount awarded, which is without any basis, to enhance the compensation from Rs.60,000/- per acre to Rs.69,000/- per acre only for Abadi etc.

58. In RFA-2744-2006 titled *State of Punjab & others Vs. Mayo Devi*, decided on 15.02.2005, it was argued that there were 2

sale deeds by the same vendor dated 10.03.1995 for 5 kanals 17 marlas and on 24.03.1995 for 6 kanals (Exts.A-7 & A-6) which land was also acquired and they were good exemplars and were large chunk of land and therefore, the 20% cut which had been applied to determine the market value under Rs.1 lakh, for Gair Mumkin Abadi, was not justified. It was submitted that average amount should be considered as the market value and the 2 sale deeds, as such, could be clubbed together to assess the market value as it was not a small chunk of land to apply a cut. Reliance is also placed upon the evidence of RW-1 to point out that when the water level came up to 531 mts, Darkua and Godwan villages had been submerged in water.

59. Mr.Manhas, also placed reliance upon statement of AW-1, Dharam Pal, Patwari in RFA-4036-2009 titled *State of Punjab & others Vs. Mahaj Din*, to point out that link road from Dhar to Phangota was submerged and the other road only came from Dunera to Phangota.

60. In RFA-1549-2003 titled *Sulakhan Singh Vs. Punjab State*, the Reference Court, vide award dated 04.12.2002, decided 8 reference petitions. The case of Mr.Manhas is that sale deeds (Exts.A-1 to A-6) were not considered on account of smallness of size and on account of the fact that they were executed just before the notification and therefore, could have been procured with the intention to raise the value of the land. Exts.R-2 to R-4 sale deeds of the State, had wrongly been taken into consideration by the Reference Court which only granted 15% enhancement. Ext.A-9 was an award dated 29.11.2000 (in Ram Singh's case) which was wrongly ignored on the ground that it had not become final wherein compensation had been enhanced, as noticed above. It is further

submitted that Ext.R-6 should have been taken into consideration which was dated 31.03.2011, pertaining to Villages Jugial and Rajpura and pertaining to the notification dated 12.01.1990 as the land was similar in question wherein market value was assessed @ Rs.1290/- per marla, which had been relied upon by the State itself. It is submitted that for the notification of 1993, market value had been enhanced to Rs.1754/- per marla in RFA-4525-2001 titled *Thuru Ram & others Vs. State of Punjab & others*, on 16.03.2009 by this Court. It was further submitted that from the statement of RW-3, it would be clear that there were no residents of Village Phangota and the inhabitants had shifted to the other villages and benefits should have been granted under Clause 5 of Section 23.

61. Similarly, it was argued from the record of RFA-2662-2003 titled *Pritam Kaur & others Vs. State of Punjab & others*, that certified copies had wrongly been held not to be admissible and the award earlier passed, had not been held to be binding and the amount had wrongly been maintained and the reference had been dismissed on 02.01.2003, pertaining to notification dated 07.08.1995. Similarly, in RFA-1195-2004 titled *Smt.Kishno & others Vs. State of Punjab & others*, it was submitted that only 15% enhancement had been granted and the road to Hardosaran had been submerged in water and therefore, approach to Dhar was via Dunera and it had doubled the distance and time to travel on account of submergence. Mr.Manhas has also submitted that there was sufficient material to show that road from Dhar and Phangota had closed due to the Karnal khad filling up on account of the acquisition proceedings and the link road, thus, closed down. Resultantly, the distance between Phangota and Dhar had increased and doubled to around 20 kms and on an

earlier occasion, the road usually was open and only in extreme bad weather, remained closed and the access was closer to Dhar.

62. While attacking the award dated 30.07.2005 whereby 39 reference petitions were decided, pertaining to the notification dated 07.08.1995, for the land falling in Darkua Bangla Khas, the sale deed dated 10.03.1995 (Ext.A-1) was referred to for 5 kanals 17 marlas of land which was sold for Rs,90,000/- falling in Village Phangota Tikka Gulial, the adjoining village. It is, thus, argued that the market value, as such, would work out to Rs.1,59,500/- per acre which was wrongly discarded on the ground that it did not belong to the same village. It is submitted that the main village is Phangota and therefore, Tikka Gulial and Tikka Darkua Bangla was adjoining the abadi areas and keeping in view the settled principles that land in the adjoining villages should be taken into consideration, the sale deed should have been taken into consideration as a valid sale exemplar. The 30% enhancement was granted for 2 acres strip on the road from Dunera to Darkua and 15% for the balance, which was, accordingly, not a valid parameter, as such, for enhancement. Accordingly, reliance was placed upon the statement of AW-2, Jai Kishan that the area was semi hilly but the land in question was plain. It was also pointed out from the statement of RW-1 that the link road to Phangota which is at a distance of 7 kms, was submerged in water and they had to leave the village and their houses when the water filled up.

63. In RFA-49-2004, *Harbans Kaur (deceased) th. LRs Vs. State of Punjab & others*, pertaining to the land falling in Village Phangota Khas, for the notification dated 07.08.1995, wherein only 15% enhancement was granted and the table below would go on to

show that the market value was much more, which reads as under:

Sr.No.	Exhibit	Date of Sale Deed	Area	Amount in Rs.	Village	Market value per acre in Rs.
1	Ex.A-9	26.05.1995	1 Kanal	Rs.16000	Phangota Khas	1,68,000/-
2	Ex.A-10	26.04.1994	1 Kanal 10 marlas	25000	Phangota Tika Katal	1,74,999/-
3	Ex.A-11	31.01.1995	2 Kanals	24000	-do-	1,26,000/-
4	Ex.A-12	10.03.1995	5 kanals 17 Marlas	90000	Phangota Tika Gulial	1,57,500/-

The reasoning was, accordingly, that the land was of different villages and that did not mean that the quality and the location was the same and the land was situated at 3 different villages and far away from the road and was being used for agricultural purposes and therefore, the sale deeds have wrongly been discarded. It was also further argued that the award of the Collector, Jammu & Kashmir dated 06.01.1994 (Ext.A-3), on the other hand, had been exhibited for the land falling in Village Poonda District Kathua for the RSD upto 460 mts. level but had not been taken into consideration. Accordingly, statement of AW1, Amarjit Singh was referred to that the rate was Rs.1,22,000/- per acre.

64. While referring to the record in RFA-4110-2003, *Sulakhan Singh & others Vs. Punjab State & others*, pertaining to the Reference Court award dated 07.06.2003 for the notification dated 20.09.1995, the enhancement of only 15% was again challenged on the ground that Ext.A-5 dated 28.01.1992 was for land measuring 3 kanals falling in Village Tikka Katal and was Barani-II type and the sale value was Rs.1,26,000/-. It was submitted that there was a difference of more than 3 years intervening between the notification

dated 20.09.1995 and therefore, minimum of 12% cumulative increase was to be granted, which had wrongly been denied.

65. In RFA-2356-2002, *Lakha Singh & others Vs. State of Punjab & others*, it was argued that no evidence had been led by the landowners but they were entitled for the benefit of the similar amounts which had been awarded for Village Tikka Dalial and the Reference Court, vide the award dated 08.11.2001, was not justified in dismissing the claim petition. Reference was also made to another award dated 25.08.1998/01.09.1998 (Annexure A-8), passed by the LAC, Dalhousie, District Chamba, Himachal Pradesh, for the notification dated 09.04.1997, wherein for the reservoir of RSDP, for Village Mohal Khairi, value was assessed as under:

Barani Abble	Rs.1,67,171
Barani Doiam	Rs.1,21,576
Gair Momkin Pvt.	Rs.34,737
Barani Soiem	Rs.60,790
Baghicha Barani Fuldar	Rs.2,17,106
Bunjar Jazeed	Rs.36,908
Bunjar Kadeem	Rs.34,737
Avadi Deh	Rs.2,17,106
Gair Mumkin and	
Govt. Land	Rs.34,737

66. Accordingly, reliance was placed upon the decision of the District Judge, Chamba dated 10.12.2009 (Annexure A-9), pertaining to Village Mohal Bhatan Pargana Chuhan Tehsil Dalhousie District Chamba, which was also acquired vide notification dated 07.04.1997, to submit that to compensation awarded for Village Mohal Bhutan, the value of the land for Village Mohal Lehri had been kept in mind and compensation had been awarded @ Rs.15,000/- per biswa (Rs.3 lacs per bigha). Reliance was, accordingly, placed upon the site-plan annexed (Annexure A-

12) to show that the land was situated in the vicinity, as such and therefore, compensation should be on the same lines. Apart from that, the argument raised was that uniform compensation @ Rs.1600/- per marla, which had been awarded by the District Judge vide various awards should be uniformly granted.

67. Mr.Sanjeev Sharma, Sr.Advocate, while addressing arguments in RFA-2778-2003, pertaining to the notification dated 07.08.1995, qua the award of the Reference Court dated 03.03.2003 argued that small plots should not have been ignored and should have been dealt with by the Reference Court. Reference is made to sale deed dated 02.08.1994 (Ext. A9), which was a 7 marlas plot, for Rs.30,000/-, value of which would come to Rs.4285/- per marla. A perusal of the said document would go on to show that it was a plot with a kachha room made on it. Similarly, Ext. A11 was also referred to which was a sale deed for 6 kanals of land, executed on 24.03.1995, for Rs.90,000/-, in which also, the land was described as a plot and the value worked out to Rs.1,57,500/- per acre. The award passed by the Collector at Basohli dated 06.01.1994 wherein Rs.16,000/- was awarded per kanal for certain types of land and Rs.8000/- for Banjar land, as per the above table, was also referred to, to submit that Section 4 notification was dated 30.08.1982, which had been modified on 29.04.1986, to submit that there should be no discrimination amongst the landowners.

68. It was submitted that the land was cultivable and Phangota was well connected and crops were sown in the land in question and reference is made to jamabandi which was sought to be brought on record by way of additional evidence. Clauses 4 & 5 of Section 23 of the Act were also referred to, to submit that the

damage, if any, sustained by the person interested at the time of the possession being taken from him of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, was a factor to be kept into consideration. Similarly, his earnings and if in consequence of the acquisition of the land by the person interested is compelled to change his residence or place of business, reasonable expenses, if any, incidental to such change, should also be taken into consideration.

69. Mr.Sharma also relied upon the awards passed by the Land Acquisition Collector, Himachal Pradesh, whereby the land had been acquired for the same project, i.e., RSDP, whereby land had been acquired in Village Mohal Sandhara and the compensation awarded had been enhanced by 10% by the District Judge, Chamba, pertaining to the notification dated 10.04.1997. It is, accordingly, contended that the acquisition being for the same purpose, the same amount of compensation should be awarded as is awarded to the landowners of the adjoining State, i.e., Himachal Pradesh. Reference is made to **General Manager, Thien Dam Project Vs. Om Prakash & another 2001 SC Online (HP) 1631** in this context, to submit that the amounts have been upheld by the High Court of Himachal Pradesh.

70. Reliance upon **Nelson Fernandes & others Vs. Special Land Acquisition Officer, South Goa & others 2007 (9) SCC 447** was rightly made wherein enhancement was granted on account of the acquisition of the land and that there would be loss of future earnings and diminution of profits.

71. Mr.Sushant Kareer placed reliance upon judgment

passed by the Apex Court in CA No.5105 of 2013 titled Avtar Singh & another Vs. State of Punjab Collector & another, decided on 08.11.2017, to submit that once land had been acquired in a single block, the potentiality would be similar and therefore, uniform compensation should be awarded. Similarly, reliance is placed upon Kapoor Singh & others Vs. State of Haryana & others 2014 (49) RCR (Civil) 460, to submit that this Court had upheld the Reference Court's award whereby uniform rate of compensation had been given for the entire acquired land. Similarly, reliance was also placed upon the judgment of the Himachal Pradesh High Court in Land Acquisition Collector & others Vs. Kanwar Singh 2016 ILR (H.P.) 425, to submit that uniform compensation was granted instead of falling back on the classification of the land.

Arguments of the State

72. State, on the other hand, has also pointed out that as per the additional evidence which has been brought on record, in the Vidhan Sabha also, question had been raised regarding the difference of the rates wherein the answer given was that the rate given by the Punjab State was as per the prevalent market rate and in Jammu & Kashmir was according to the decision of State of Jammu & Kashmir.

73. Mr.I.P.S.Doabia, Addl.A.G. Punjab, on the other hand, has argued that the market value of all types of land per acre had been enhanced and the types of land had not been noticed, which is not justified, in the facts and circumstances. It is submitted that the acquisition was based on a decision of the Jammu & Kashmir Government dated 17.08.1993 (Annexure A-2), whereby they had awarded uniform rates for the 25 villages and therefore, the same

compensation could not be given for the State of Punjab. It was also argued that nothing had been brought on record even in subsequent set of cases also, the award, as such, which had already been exhibited on record, to show that the land was similar in nature to the ones which were acquired. Merely because the amount had been awarded at a higher rate in another State, could not, as such, entitle the landowners to the same amount of compensation in view of the provisions of the Act, whereby the market value as on the date of the notification had to be taken into consideration. It was, accordingly, argued that amounts had been awarded for different villages as per the location of the village. The land was stony in nature and the facilities were not present in the said villages and there was no future potential. The evidence showed that there was khad (gorge) and the land was 200-300 ft. below the adjoining land and therefore, keeping in view the nature of the land, compensation had rightly been awarded by the LAC, which had been wrongly enhanced by the Reference Court.

74. Mr.Doabia, in RFA-1617-1995, *Punjab State & others Vs. Harnam Singh & others*, submits that sale deed dated 21.04.1987 should not have been taken into consideration since the notification was dated 27.02.1987 and sale exemplar was 2 months later and thus, it would not be proper to rely upon the same. He has further relied upon the statement of AW-1, Mohan Lal, to submit that in cross-examination, the said witness had admitted that the land of the landowners was falling near the bank of the river and was lower in level than the adjoining land and after construction of the Dam, the entire land was to be submerged in the acquired land. The witness had further admitted that by regular road, the distance of the colony

of the Dam and Tikka Gulial was about 10 kms. The Karnal khad came in the way if one is to go by foot from the village to the colony which was fairly deep. He had also admitted that no bus goes to Tikka Gulial. Similarly, cross-examination, of Dalip Singh, AW-2, was referred to submit that the khad was very deep and the acquired land was uneven and stony and even the main village Phangota was 3 kms away. The Khasra No.17 at Mark-A on the map was also only 200 mts away from the river Ravi.

75. State also pointed out from the record of RFA-3673-1998, that only Village Phangota was connected and the residential colony of the RSDP was at Thara Uparla, which was again having hospital, bus stand and there was no road adjoining the acquired land and neither there was any water channel or canal and the land was uneven, as per statement of AW-2, Tarsem Lal, Patwari himself. It was further pointed out that a colony was constructed of the RSDP, while referring to the statement of Jaimal, AW-3, Patwari also and thus, there was no potential. Reference was made to the statement of Inderjit, RW-1, who talked about the khad which was 2 kms (sic) in depth but admitted that the tikkas were of the same nature and quality and the land of Chatter Singh was adjoining the acquired land. Similarly, reference is made to evidence in RFA-4181-1998 titled *Interjit Singh Vs. State of Punjab*, that the village abadi consisted of 40-45 scattered houses and there was no road passing through the acquired land. Reference was made to statement of Tarsem Lal, Patwari, AW-2 again that land was hilly and irrigation depended upon rain and the land yielded only one crop. Similarly, RW-1, Inderjit, Patwari had clarified that distance between Thara Uparla and Phangota was 4-5 kms and the Hospital and bus service

was available in Phangota Khas. Bus stand, bank, hospital and senior secondary school were also in Thara Uparla whereby there was a residential colony and it was, accordingly, argued that the said facilities were not available in the Tikkas. Accordingly, the amount of compensation awarded was justified.

76. In RFA-3524-1992 titled *Sukhchain Singh Vs. Punjab State & others*, State Counsel has referred to the statement of the appellant, to submit that in the cross-examination, he admitted that the Karnal Khad was 200 ft. deep and the land of the applicant was on the same level, as per the statement of AW-2, Vijay Kumar, Patwari. Similarly, reference is made to the statement of Tilak Raj, RW-1, to submit that the Karnal khad was 200-250 mts deep and there was no approach over it. Thara Uparla was at a distance of 2 kms from the acquired land.

77. Mr.Doabia, on the other hand, pointed out from the record that witness-AW-1, Pratap Singh admitted that river adjoins the land and the width of the river was 1 km and the witness was not aware whether the amount awarded for the acquired land of the State of Jammu & Kashmir was given at lump sum. Similarly, Satpal, Patwari, appearing as AW-3, had been produced submitted that he had not seen the land of Jammu & Kashmir. He had also admitted that the acquired land was dependent upon rain for yielding the crop and there was no industry or unit near the acquired land. The State witness, RW-1, Vijay Kumar had stated that the acquired land was a khad and he himself stated that the chart where average price was calculated was below the amount awarded by the Collector.

78. Mr.Doabia, while referring to the notification dated 06.01.1992, referred to the record of RFA-2613-1996, *State of*

Punjab & others Vs. Ram Singh, to press on the argument of lack of potentiality of the land and referred to the statement of AW-1, Dharam Singh that there was deep khad near Tikka Ralla. Reliance was again placed upon statement of RW-1, Inderjit Singh, Patwari that the khad was in existence of Tikka Atharwan of Village Phangota, which was 200 mts. deep. There was no road adjoining the acquired land.

79. Mr.Doabia further submitted that award pertained to notification dated 09.04.1997 (Ext.A-13 in Sarla Devi's case) was of no help to the claimants and the landowners in that appeal, since it was almost 2 ½ years post the notification since the same was dated 20.12.1994 and therefore, could not be taken into consideration, as the value of the land would correspondingly keep on going up and even otherwise, from the evidence, it was shown that some of the land was approachable by motorable roads which was not the case of the lands under acquisition in the State of Punjab.

80. Mr.Doabia further pointed out from the record that vide Ext.A-9, 7 marlas of plot had been purchased for the construction of a house and was adjoining the abadi, which would be clear from the statement of AW-9, Raj Kumar, who had purchased the land and therefore, could not be taken into consideration. Similarly, he pointed out from the statement of AW-11, Anant Ram (in RFA-1657-2000) pertaining to the sale deed dated 04.11.1991 (Ext.A-11), who had sold the land of 5 marlas to Bimla Devi for the purpose of construction of a house and in cross-examination, it had come that the land was situated in the village but beyond the abadi. He referred to the cross-examination of AW-1, Subhash Chander to submit that the land was on the bank of river and the level of the land was lower

than the land of Himachal Pradesh. Similar was the deposition of AW-2, Ravinder Singh, Patwari, that the rainy water flows from the side of Himachal Pradesh and comes down to river Ravi and the land of Village Khairi yields 2 crops a year. AW-3, Tarsem Lal, Patwari had also deposed that the amount of land was mixed one of all the Tikkas and there was no pucca road touching the acquired land and the land falls on the left side of Pathankot-Dalhousie road. AW-4, Sat Pal, Patwari also stated that the land of Khairi and Bhuttan was joint with the acquired land of Village Chaunth. He, however, submitted that the crop was dependent upon the rain. AW-5, Mohar Singh, Patwari had also stated in favour of the landowners but in cross-examination, admitted that the crop was dependent upon the rain and the kind of land was different. RW-1 had stated that the land did not have any irrigation facilities and no civic amenities and would yield only one crop. He submitted that the villages were situated on the left side of Pathankot-Dalhousie road and were at some distance from the road. It was, accordingly, argued that small parcels which had been sold for abadi could not be taken into consideration for the purposes of assessing the market value.

81. State Counsel pointed out from the statement of RW-1 in RFA-1948-1996 titled *Kartar Singh & others Vs. State of Punjab & others*, which pertained to the notification dated 06.01.1992 that the land was falling in Village Hardosaran and the same was situated at a distance of 3 kms from the road and therefore, even if Dhar Kalan was Sub-Division, there was considerable distance from the main road. It was further pointed out that even the witness himself admitted that there was khad in Village Phangota. It was further clarified that there was dividing line and Phangota could not be

compared at par with the land situated closer to the road.

82. Mr.Doabia has submitted, with reference to the notification dated 30.01.1992 in the State appeal, bearing RFA-897-1998 titled *State of Punjab & others Vs. Ram Singh & others*, pertaining to the award dated 16.12.1995, wherein as many as 10 references had been decided that the sale instances (Exts.R-1 to R-7) would go on to show that the land value was much lower. Accordingly, reference is made to Ext.R-3 wherein 57 kanals of land, situated in Village Tikka Dalial was sold at Rs.85,000/- on 06.03.1992. Similarly, reference is also made to sale deed dated 06.02.1992 for land measuring 18 kanals, situated in Village Phangota Tikka Khas, for Rs.27,000/-. Similarly, other sale deeds were also referred to in Tikka Atharwan, wherein land had been sold on 13.08.1991 (Ext.R-5) measuring 18 kanals 7 ½ marlas for Rs.7000/- and on 28.08.1991 (Ext.R-6) wherein land measuring 1 kanal 3 marlas had been sold at Rs.1700/-. Similarly, sale deed dated 25.06.1991 (Ext.R-7), land measuring 18 marlas was sold at Rs.1500/-, which showed that the rate was paltry and Exts.R-5 & R-6 had been discarded only on the ground that the land pertained to Village Tikka Throtwan. It was, resultantly, argued that there was nothing to show that the land did not adjoin to land of Village Phangota. Accordingly, reference was made to the site-plan, which has been relied upon by both sides, to contend that it was in close vicinity. It was further submitted that the reasoning in the said award was flawed as there was no clear-cut finding recorded on the basis of which compensation had been enhanced at a uniform rate, for Barani land at Rs. 50,000/-, for Banjar Qadim, Banjar Jadid and Gair Mumkin at Rs.22,000/- whereas Gair Mumkin Abadi had been

awarded Rs.1,15,000/- per acre.

83. Similarly, while referring to the paperbook in RFA-2220-1996 titled *Feroze Din & others Vs. State of Punjab & others* and the Cross-appeal filed by the State in RFA-2571-1997 titled *State of Punjab & others Vs. Feroze Din & others*, State Counsel has pointed out to the award of the Reference Court dated 24.05.1996 and the statement of AW2, Hoshiar Singh. It is submitted that it had been stated that the land was acquired for the same purpose and it was pertaining to the village with the river in between but the sale deeds of Jammu & Kashmir whereby it was held that the rate was Rs.1.5 lakhs per acre, was not produced. It was, accordingly, argued that there was nothing on record to show that the land across the river was sold at the said rate for which compensation has now been sought.

84. On the other hand, in RFA-970-1997 titled *State of Punjab & others Vs. Chain Singh & others*, State Counsel has submitted that the reasoning given that the original sale deeds have not been exhibited and therefore, the Reference Court was justified in discarding the sale deeds in question and in the absence of certified copies, the sale deeds could not be looked into. It was further submitted that Reference Court was not justified in discarding the sale deeds produced by the State, on the ground that they were small in size and rather the principle was reverse on the small sale deeds and a cut would have to be adopted on the small sale deeds and the amount was further liable to be reduced. Reliance was placed upon the statement of AW-2 Rattan Singh, to submit that Pathankot-Dalhousie road was at a distance of 3 kms from the acquired land and Tikka Chibber, Dalial and Atharwan were at a

distance of 3-4 kms from Village Phangota. Similarly, the statement of AW-1, Jaimal Singh, Patwari that some of the land was hilly, some was uneven, some plain and some stony, was referred to. Reliance was also placed upon statement of RW-1 Dharam Pal, Patwari that Village Phangota was at a distance of 3 kms from Tikka Chibber and there was no road leading to the acquired land of the applicants. While referring to the findings recorded by the Reference Court in RFA-296-1997 titled *Makholi Ram & others Vs. State of Punjab & others*, it was pointed out that the Reference Court was not justified by granting 12% increase on the award dated 22.10.1991 in *Harnam Singh Vs. Punjab State* (Ext.A-7) which pertained to the notification dated 27.02.1987. It is submitted that the 12% increase was unjustified as there was no potential in the area in question and it was a rural area and therefore, the enhancement on the basis of an award for the notification whereby there was 5 years' difference, was not justified.

85. State Counsel, on the other hand, placed reliance upon the statement of RW1, Dharam Pal in RFA-3663-1998 titled *Punjab State & others Vs. Laxmi & others*, to submit that in Village Tikka Chibber, there was no amenity available and even the main village Tikka Phangota was at a distance of 3 kms from the acquired land and the land was Barani in nature.

86. State Counsel, on the other hand, in RFA-521-2003 titled *State of Punjab & others Vs. Karam Chand*, submitted that the Reference Court, vide the award dated 13.09.2003, for the notification dated 16.03.1994, had failed to discuss any sale deed and had wrongly granted enhancement on the basis of the award of 1991 notification while taking 12% increase as there was no material on

record to show that there was any potentiality of the land and the increase was not justified. It was further pointed out that increase should not have been more than 5%, in any manner, since it was patently the case of a land falling in the rural area, as per the settled principle of law. Similarly, in RFA-518-2003 titled *State of Punjab & others Vs. Chattar Singh & others*, which was directed against the Reference Court award dated 22.09.2000, it was argued that the enhancement on the basis of the notification dated 29.06.1989 (Ext.A-2) for the notification dated 16.03.1994, was not justified by giving 12% increase for 4 years 9 months, to enhance the amount and sale exemplar should have been referred to.

87. While referring to the notification dated 21.12.1994 and the award of the Reference Court dated 02.08.2001, which is subject mater of RFA-416-2002 titled *Gurnam Singh & others Vs. State of Punjab & others*, it was pointed out that the Reference Court was justified by holding that the land falling in Village Bar-Sudhal, Tikka Mothwan, Tikka Darwan and Tikka Chound that the land was Tafsish Pahari Chak and it was sub-mountainous and therefore, the village was scattered over a large area and merely because in the earlier award dated 23.02.2001, for the same notification, in *Sarla Devi Vs. State of Punjab*, the amount had been enhanced, the same benefit could not be granted to the other landowners.

88. Further, on behalf of the State, it was contended that the land was 13 kms from Dunera, which was falling on the Dalhousie road, which had come in evidence and the Reference Court had wrongly declined to examine the sale deeds purchased by the State, on the ground that the vendor-vendee had not been examined. Reliance is placed upon the judgment of the Apex Court in **Cement**

Corporation of India Ltd. Vs. Purya 2004 (8) SCC 270 to contend that certified copies were sufficient and should have been taken into consideration and the vendors need not be examined. It was further pointed out from the record that Dhar was at a distance of more than 16 kms, as per cross-examination of AW-1, Prem Singh. He had further submitted that there was no tube-well and therefore, they had to fall back on natural resources for purposes of irrigation. AW-2, Gura Ditta Mal, Patwari had also submitted that there was a nala flowing and the land was uneven and some land was plain. The Dalhousie road was at a distance of 6 kms from the acquired land and Dhar Kalan town was at a distance of 11 kms and Dunera was at a distance of 14 kms from the acquired land and no road falls on the acquired land. Inderjit, Canal, Patwari had clarified that there was bus service and dispensary in Village Phangota. Resultantly, it is submitted that the land was situated away from the main road and compensation had been rightly awarded by the Land Acquisition Collector, which had wrongly been varied.

89. State, in its cross-appeal, RFA-4888-2001 titled *Punjab State Vs. Ram Singh*, took the plea that Ext.R-9, which is the comparative table and depicted the sale deeds (Ext.R-6 to R-8), relied upon by the State, had wrongly been discarded on the ground that the vendees and vendors had not been examined. It is, accordingly, contended, as per Ext.R-9, that the average market value worked out to Rs.29,650/- per acre. Similarly, the award dated 10.12.2009 (Ext.A-2), for Village Bhuttan, which has been relied upon, was stated to be pertaining to notification dated 07.04.1997 and therefore, had no relevance to the land acquired on 07.08.1995 and therefore, could not be taken into consideration. He further

submitted that 7 marlas of land which was subject matter of Ext.A-1, which had been filed as additional evidence, could not be taken into consideration as large tract of land measuring 628.80 acres was being acquired. He also placed reliance upon the statement of AW-1, Kartar Singh, that the land had a slope and that there were no tubewells in the said land and the land was at a distance of 1 km from the river belt and that Dunera was at a distance of 15 kms from the acquired land and contended that civic amenities were not available.

90. State Counsel, while referring to the statement of AW-5, Jaimal Singh, Patwari, pointed out that it had been clarified that Dunera was 15 kms away and Jugial was 31 kms from the acquired land.

91. Mr.Doabia, on the other hand, referred to the statement of AW-2 in RFA-49-2004 titled *Harbans Kaur (Deceased) th. LRs Vs. State of Punjab & others*, to point out that the village was not close and did not come on the way to Shahpur Kandi. Reference is also made to the statement of AW-3, Jaimal Singh, that Dhar Kalan was 30 kms through road via Dunera to the acquired land and that the river over-flows the land and was covered by water.

92. Mr.Doabia, referred to the statement of AW-2 in RFA-4110-2003 titled *Sulakhan Singh & others Vs. Punjab State & others*, to point out that even the said witness himself had admitted that Dhar Kalan was at a distance of 25 kms from the acquired land and the civic amenities were available at Dhar Kalan only whereas none was available in the acquired land.

93. In RFA-2111-2017 titled *Punjab State & others Vs. Samitri Devi & others*, it was pointed out that enhancement to

Rs.1600/- per marla by the Reference Court vide award dated 12.11.2014, was without any basis and without referring to any sale deeds in question. It was submitted that reliance by the Reference Court upon the judgment in Usha Rani's case (supra) was not justified. Reliance was placed upon statement of AW-1, to point out that in the cross-examination, the said witness had admitted that the land in question fell at a distance of 30 kms from Jugial and therefore, the argument raised by Mr.Manhas that the amount had been rightly fixed, as such and the other landowners were also entitled for the same benefit, was without any basis. It was submitted that the said village was way downstream of Shahpur Kandi and there was no contiguousness, as such and was not a hilly area as compared to the present land.

94. In reply to the application for additional evidence CM-9821-CI-2017 in RFA-1805-2001, it was stressed upon to submit that the land acquired by Himachal Pradesh was 71 kms from the land which is subject matter of dispute and was uncultivable with deep ditches and had a slope. The land was barren and scanty and crop once in a year was harvested which also depended upon the rain and most of the land had no source of irrigation. The land acquired was for the Reservoir and specifically chosen as it was not fertile and there was little loss of greenery in the State of Punjab. The land for the Reservoir was spread over an area of 54 kms and the gaps in the existing hills were filled by concrete so as to make the Reservoir for water. The land had no potentiality and there was no school, college, hospital, cinema halls and the land fit for cultivation was not more than 10% to 12% of the total land. Similarly, it was pleaded that the land acquired in Himachal was more than 2 years after the

acquisition in the present case and closer to thickly populated areas where there were fruits, trees and orchards and there was no comparability between the land acquired in Himachal Pradesh and the acquisition in question. The sale deed in question (Exts.A-1) was also showing that there was construction of one kachha room which was also sold and it was for residential purpose and not agricultural land. The same had been in the knowledge of the cross-objectors and its veracity was challenged on the ground that Rs.10,000/- had been paid in advance but there was no receipt. The photocopy had been filed and therefore, in the absence of certified copy, it was, accordingly, challenged. The land was stated to be gair mumkin, barani and banjar and a total of 7958 acres of land was acquired. The acquisition of 1995 itself was of 1133 acres. The area was not connected with any roads and one has to pass through kachha path. It was further clarified that the award dated 22.03.1999, pertained to land which was 55 kms away from the present place and it was acquired for making government quarters located just 3/4 kms from Pathankot in Village Sheonti and the land was on either side of 60 meters wide road and therefore, reliance upon the same could not be made.

95. Mr.Doabia, in RFA-5449-2008 titled *State of Punjab & others Vs. Tara Chand & others*, has submitted that the enhancement @ Rs.1830/- per marla was without any basis on account of an award passed on 27.07.1998. Even the evidence had not been discussed while fixing the market value of the villages pertaining to Phangota and its adjoining tikkas and Thara Upperla and Tika Salwal and therefore, the judgment was not sustainable and was not based on any settled legal principles. It is pertinent to notice that in the

evidence in the said case, it has come that the road from Dhar to Phangota has closed down because of the Karnal Khad filling up and there was evidence that there was link road available.

96. Similarly, RFA-2139-2009 titled *State of Punjab & others Vs. Satar Din*, pertaining to the award dated 08.10.2007, it was argued that there was no valid ground to award Rs.1600/- per marla while disposing of 56 references, merely on the ground that one award had been passed on 22.03.1999, which was not even on the record and pertained to a different acquisition of the same District and had no such relevance. Same was the argument raised in RFA-2574-2015 titled *State of Punjab Vs. Shamsher Singh*, and in RFA-2573-2013 titled *State of Punjab Vs. Dharam Singh*, decided on 13.11.2013, which was pertaining to the award No.117 dated 10.07.2008 of the Land Acquisition Collector.

97. State has, accordingly, argued in RFA-4141-1998 that the award dated 27.07.1998 is not sustainable as 12% increase could not have been given blindly for 7 years, without examining the sale deeds on record and also has relied upon the judgment in **General Manager, Oil & Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel 2008 (4) RCR (Civil) 487** and **Manoj Kumar & others Vs. State of Haryana & others 2018 (2) RCR (Civil) 815** that increase cannot be given beyond 4 to 5 years and that also percentage of increase would vary from rural to urban areas and therefore, the enhancement was totally uncalled for. It is also pointed out from the evidence that the acquired land was next to the river which was Abi and Barani-II and was flood prone area and not connected by any road. Village Phangota was at a distance of 4 ½ kms from the acquired land. It is, accordingly, contended that in the absence of

any evidence, as such, increase @ 12% per annum was not called for, as admittedly, the land was situated in a rural area and there was no scope and potential for growth.

98. Mr.Doabia relied upon AW-2, from the record of RFA-2744-2006 titled *State of Punjab & others Vs. Mayo Devi*, to contend that the witness also had admitted that land of Village Jugial was better than the land of Village Godwan and therefore, reliance upon land of Jugial cannot be done, which was way downstream. Similarly, he had referred to the statement of RW-1 that the distance from Jugial to Dunera was 30 kms by road and therefore, there could be no comparison of the land as argued by Mr.Manhas, to seek higher compensation. In RFA-2721-2009 titled *Punjab State Vs. Jagdish* and RFA-2454-2015 titled *Punjab State Vs. Hemant Rai*, the awards dated 16.02.2008 and 01.11.2013, respectively, were attacked on the ground that they were based on Rs.1600/- per marla, which itself was without any basis. Similar was the position in RFA-2572-2015 titled *State of Punjab & others Vs. Avtar Singh & others*, pertaining to the award of the Reference Court dated 01.02.2014 and the award dated 17.01.2008 in RFA-5247-2009 titled *State of Punjab & others Vs. Mahesh Dutt* and award dated 18.8.2008 in RFA-3713-2016 titled *Sushila Devi (deceased) th. LRs Vs. State of Punjab & others*.

99. Similarly, in reference to RFA-4036-2009 titled *State of Punjab & others Vs. Mahaj Din*, it is submitted that the award passed on 05.10.2007 whereby Rs.1600/- was again granted on account of the award dated 22.03.1999, pertaining to Village Sheonti which was close to Pathankot, was without any justification. Mr.Doabia pointed out from the statement of AW-1 that Dhar Kalan was 30-35 kms

from the acquired land by bus, as per AW-1 to AW-3 and therefore, they could not submit that the land had any potential. It was also pointed out that Jugial to Phangota was about 50 kms apart and therefore, the argument, as such, raised that same compensation should be awarded for the land falling downstream the Dam, was without any justification. Similarly, in RFA-2575-2015 titled *State of Punjab Vs. Karnail Singh*, the market value awarded on 02.06.2008 @ Rs.1600/- for Tikka Satin of Sarti, was assailed by the State as was done in RFA-2474-2015 titled *Punjab State Vs. Dharmo*, wherein vide award dated 29.08.1991, another Officer had also followed the earlier awards. The same had also been followed in RFA-3809-2010 and RFA-4253-2016 titled *State of Punjab & others Vs. Kesar Singh & others*, on 06.07.2015, on account of the fact that RFA-1772-2001 titled *Parshotam & others Vs. State of Punjab & others*, decided on 20.12.2011, this Court had upheld the earlier amounts awarded and which now have been remanded by the Apex Court. State Counsel also placed reliance upon Ext.R-6, to contend that the market value was Rs.26,405/- but could not deny the fact that it would fall below the amount as awarded by the Land Acquisition Collector.

100. State accordingly, submitted that there was no ground to enhance the compensation to 15% and there was no justifiable reason for the Reference Court to grant a blanket enhancement across the board. Ext.R-6, pertaining to the land which was situated at Shahpur Kundi was downstream and was agricultural land and therefore, the value given for Jugial and Rajpura villages had no comparison. Reliance was also placed upon the judgment of Apex Court in **Manoj Kumar** (supra), to contend that awards were not binding and

best piece of evidence was the sale deeds.

101. While referring to the records of RFA-5449-2008 titled *State of Punjab & others Vs. Tara Chand & others*, State Counsel has argued that the award of Rs.1830/- per marla was without any basis and neither any evidence or sale deed had been discussed and only reference had been made to an award passed earlier dated 27.07.1998, to come to a conclusion on 16.05.2007 that the landowners were entitled for the said amount. The same was not in consonance to the provisions of Section 23, under the settled principle that market value should be fixed on the basis of sale exemplars and the onus to prove is only upon the landowners. Similarly, in RFA-2139-2009 titled *Punjab State & others Vs. Satar Din*, which pertain to the award dated 08.10.2007, State Counsel submitted that no reason has been given by the Reference Court, presided over by Shri Harjinder Pal Singh, whereby, while deciding 56 land reference cases, Rs.1600/- per marla had been awarded without even referring to the evidence on the record. It is submitted that the position was the same in the awards passed on 05.04.2008 by the same officer which had wrongly been followed by another officer, Shri Gulzar Mohammad, on 13.11.2013, who kept in mind the fact that in RFA-2758-2006 titled *Punjab State & others Vs. Ram Singh*, dated 23.12.2011 whereby market value, as such, had been assessed at the said rate for the said notification and had been upheld, which is subject matter of RFA-2573-2013 titled *Punjab State & others Vs. Dharam Singh*.

102. Mr.Doabia, in rebuttal to the arguments of Mr.Sharma, submitted that Ext.A9 & A11 were plots and therefore, where acquisition is for a large chunks of land, which in the present case,

was for 21.32/1602/568.97/560.29/5.26/22.06/848.96/628.80/504.97/362.81/22.52 acres, such small sale exemplars would not be liable to be taken into consideration. It was submitted that there were no tubewells and reliance was being placed upon natural sources of irrigation. The policy decision of the State of Jammu & Kashmir was referred to, to submit that the same would not be binding upon the other State, as such, and therefore, the enhancement claimed on the said basis was not justified. He further brought to the notice of this Court that vide decision dated 17.08.1993 (Ext.A2), the Government of Jammu & Kashmir had in policy, granted sanction of payment of the entire compensation which eventually finds mention in the award. It was, accordingly, submitted that once if that was so, sanction which had been granted by the Jammu & Kashmir Government, could not be imposed upon the State of Punjab, unilaterally, as such. It was submitted that the land was falling across the river and was different in nature and away from the hilly portion and therefore, was fertile. Nothing has been brought on record to show that it was similar in nature to the ones which was being used for the acquisition by the State of Punjab for the purpose of the reservoir of RSDP, which was in nature of Khad etc. and undulating.

103. Keeping in view the above factual aspects, the following questions arise for consideration:

- 1) Whether the applications for additional evidence filed are to be allowed in the facts and circumstances of the present case, especially keeping in view the fact that for subsequent notifications, the evidence has already come on

record ?

2) Whether the certified copies of the sale deeds by the State, whose vendors and vendees have not been examined, were wrongly rejected by the Reference Court and whether the said reasoning was justifiable or not ?

3) Whether uniform compensation, across the 3 States or parity with the other States, can be asked as a matter of right in a statutory petition filed under Section 18 ?

4) Whether the Reference Courts were correct in denying enhancement on the ground that the awards which were relied upon were pending before superior Courts and coming to a different conclusion and awarding different market rate for the same set of notification and therefore, awarding lower compensation for landowners similarly situated ?

5) What amount of compensation to the landowners are entitled to be awarded for various notifications on the basis of the evidence and the material placed on record, as on the date of the Section 4 notification ?

6) Lastly, whether the landowners of those revenue estates were entitled for additional compensation on account of the fact that they have been forced to move out from their villages and change their residence, under Section 23 Clause five, for determining the amount of compensation ?

1) Whether the applications for additional evidence filed are to be allowed in the facts and circumstances of the present case,

especially keeping in view the fact that for subsequent notifications, the evidence has already come on record ?

104. While coming to issue No.1, the applications for additional evidence which have been filed by the landowners under Order 41 Rule 27 CPC, pertain to various notifications including the ones dated 27.02.1987, whereby the awards passed by the Land Acquisition Collector, Thien Dam, Basholi, pertaining to Jammu & Kashmir dated 06.01.1994 and 06.04.1994, were sought to be brought on record. Similarly, the award dated 13.06.1994 (Ext.A-5) for Village Palahi, Tehsil Basohli District Kothi, for the notification dated 03.12.1986 was also sought to be brought on record. Awards dated 25.08.1998/ 01.09.1998 passed by the Land Acquisition Collector, Dalhousie, Chamba, for the notification dated 09.04.1997, for Village Mohal Khairi and the decision of the District Judge, Chamba dated 10.12.2009, which was also pertaining to the notification dated 07.04.1997, pertaining to Village Mohal Bhatan, are liable to be allowed, more so, because the said documents have already been exhibited and relied upon in the subsequent notifications which this Court is also seized of in the present set of cases. The provisions of Order 41 Rule 27 CPC read as under:

"27. Production of additional evidence in Appellate Court.

(1) The parties to an appeal shall not be entitled to produce additional evidence whether oral or documentary in the Appellate Court, but if:

(a) the court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or

(aa) the party seeking to adduce additional evidence satisfies the Appellate Court that such evidence notwithstanding the exercise of due diligence was not within his knowledge or could not be produced by him at

or before the time when the decree under appeal was passed,

(b) the Appellate Court requires any documents to be produced or any witness to be examined to enable it to pronounce judgment or for any other substantial cause, the appellate court may allow such evidence or document to be produced or witness examined.

(2) Wherever additional evidence is allowed to be produced by an appellate court, the court shall record the reason for its admission."

105. A perusal of the above-said provision would go on to show that under Rule 27 (1)(b), if the Appellate Courts require any document to be produced for it to enable to pronounce judgment or for any other substantial cause, the Appellate Court shall allow such evidence or document to be produced. The landowners are well justified to contend that once the acquisition, as such, was for the same purpose, then this Court would also examine the awards of the adjoining villages whereby land were also acquired for the same purpose. Once the said awards are also subject matter and have already been brought on record as exhibits in the reference petitions pertaining to the subsequent notifications and have also been distinguished, as such, by the Reference Court, on the ground that it related to policy matter of the Government as to regarding how much compensation is to be granted qua the acquired land, keeping in view all the relevant factors. Rather, it was held that the landowners could approach the appropriate authorities/Courts for the desired relief. Thus, there should be no valid reason, as such, not to permit such evidence to come on record. No prejudice, as such, would be caused to the State, in such circumstances, once the evidence is already on record, in the other appeals pertaining to the same acquisition. A

perusal of the record of the case in RFA-1657-2000 titled *Sarla Devi Vs. State of Punjab* would go on to show that Ext.A-13 was produced qua the notification dated 09.04.1997, for acquisition of Mohal Khiari. Even in the averments made in petition filed under Section 18, it had been referred that for the RSD project acquisition of Village Basholi, Jammu & Kashmir was made, wherein compensation to the tune of Rs.16000-18000/- per kanal had been awarded, which had been replied by the State that it related to Jammu & Kashmir Government.

106. It is also noticeable that the said argument was raised on an earlier occasion and it was also rejected on 15.10.2010 in RFA-3626-1998 titled *Makhan Singh & others Vs. Punjab State*, which now has been remanded by the Apex Court in *Hoshiar Singh & others* (supra) and thus, in the above circumstances, this Court is of the opinion that it would be just, proper and fair if the said applications are allowed and the additional evidence, as such, is brought on record. Needless to say that it is for this Court also to see whether the sale deeds, as such, which have been relied upon or the amount of compensation awarded to the landowners of the other States, as a matter of policy, is to be taken into consideration and whether they are to be relied upon as evidence or not, under question No.3.

Reliance can be placed upon the observations of the Apex Court, wherein it has been held that where a question of doubt is to be removed and where it is required to pronounce judgment, application for additional evidence should be allowed. The Apex Court, in *Wadi Vs. Amilal & others 2004 (1) Scale 82* held that the requirement or need of the appellate Court bearing in mind the

interest of justice is the paramount consideration and for pronouncing the judgment and where absence of such evidence would result in defective decision. Relevant portion of the judgment reads as under:

“7. Now it is clear that Rule 27 deals with production of additional evidence in the appellate court. The general principle incorporated in Sub-rule (1) is that the parties to an appeal are not entitled to produce additional evidence (oral or documentary) in the appellate court to cure a lacuna or fill up a gap in a case. The exceptions to that principle are enumerated thereunder in Clauses (a), (aa) and (b). We are concerned here with Clause (b) which is an enabling provision. It says that if the appellate court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, it may allow such document to be produced or witness to be examined. The requirement or need is that of the appellate court bearing in mind that the interest of justice is paramount. If it feels that pronouncing a judgment in the absence of such evidence would result in a defective decision and to pronounce an effective judgment admission of such evidence is necessary, Clause (b) enables it to adopt that course. Invocation of Clause (b) does not depend upon the vigilance or negligence of the parties for it is not meant for them. It is for the appellant to resort to it when on a consideration of material on record it feels that admission of additional evidence is necessary to pronounce a satisfactory judgment in the case.”

107. Similarly, in **North Eastern Railway Administration, Gorakhpur Vs. Bhagwan Das (D) by LRs 2008 (8) SCC 511**, it was held that general rule is that ordinarily the Appellate Court should not travel outside the record of the lower Court but whereby it is necessary to pronounce judgment in a more satisfactory manner, it has to be considered by the Court at the time of hearing of the appeal

on merits.

108. In **Union of India Vs. Ibrahim Uddin & another 2012 (8) SCC 148** it was held that the matter is entirely within the discretion of the court and it is to be used sparingly and the judicial discretion circumscribed by the limitation which has been specified in the rule itself. A party guilty of remissness, as such, would not be entitled for indulgence and the Court has to record reasons as to on what basis such application is to be allowed.

109. Similarly, in **Union of India Vs. K.V.Lakshman & others 2016 AIR (SC) 3139** it was held that for the purpose of substantial justice and where there are justifiable reasons for not filing the evidence at the trial stage, the Appellate Court should give an opportunity. The provisions were also discussed in the judgment in **Satish Kumar Gupta and others Vs. State of Haryana and others AIR 2017 SC 1072** wherein it was held that additional evidence cannot be permitted to fill up the lacuna to patch up the weak point of the case.

110. Another aspect which is to be taken into consideration is that this Court is now dealing with the fixation of the market value of the land in question which have been acquired, under the principle of “Eminent Domain” and the landowners have lost their land and their livelihood also. It is also to be noticed that as per the affidavit filed and as per the evidence on record, it would go on to show that as many as 8 villages got totally submerged in the Reservoir of RSD, which has forced the people to migrate and therefore, the litigation is

against the State and it is not an adversarial form of litigation whereby one party is to gain something by keeping back the evidence. Accordingly, the question No.1 is decided in favour of the landowners by holding that the applications for additional evidence are liable to be allowed.

2) Whether the certified copies of the sale deeds by the State, whose vendors and vendees have not been examined, were wrongly rejected by the Reference Court and whether the said reasoning was justifiable or not ?

111. The reasoning given by the Reference Court whether the certified copies of the sale deeds exhibited by the parties were rejected on the ground that the vendor and vendees have not been examined, is not justified, as per said principle of law, which is now holding the field, in view of the provisions of Section 51-A of the Land Acquisition Act, 1894, which reads as under:

“51A Acceptance of certified copy as evidence. In any proceeding under this Act, a certified copy of a document registered under the Registration Act, 1908 (16 of 1908), including a copy given under section 57 of that Act, may be accepted as evidence of the transaction recorded in such document.”

112. The Constitutional Bench had occasion to deal with the said provisions in **Cement Corporation of India** (supra) and it was held that Section 51-A was an exception to the rules of evidence and there was presumption that there is genuineness in the documents if it is not rebutted by way of any evidence. Accordingly, it was held that the vendor and vendees are not required for proving the sale deeds, is the correct position of law and the certified copies of the sale deeds can be relied upon. However, a caveat was put, as such, that it is discretionary in nature and the Court may not accept the

evidence contained in a deed of sale wherein the material is brought by a person who is party to the lis and would only shift the burden, as such, and the genuineness of the transactions could always fall for adjudication. Relevant portions of the judgment read as under:

“25. Section 51A of the Land Acquisition Act seeks to make an exception to the aforementioned rule.

26. In the acquisition proceedings, sale deeds are required to be brought on records for the purpose of determining market value payable to the owner of the land when it is sought to be acquired.

27. Although by reason of the aforementioned provision the parties are free to produce original documents and prove the same in accordance with the terms of the rules of evidence as envisaged under the Indian Evidence Act, the L.A. Act provides for an alternative thereto by inserting the said provision in terms whereof the certified copies which are otherwise secondary evidence may be brought on record evidencing a transaction. Such transactions in terms of the aforementioned provision may be accepted in evidence. Acceptance of an evidence is not a term of art. It has an etymological meaning. It envisages exercise of judicial mind to the materials on record. Acceptance of evidence by a court would be dependent upon the facts of the case and other relevant factors. A piece of evidence in a given situation may be accepted by a court of law but in another it may not be.

28. Section 51 A of the L.A. Act may be read literally and having regard to the ordinary meaning which can be attributed to the term 'acceptance of evidence' relating to transaction evidenced by a sale deed, its admissibility in evidence would be beyond any

question. We are not oblivious of the fact that only by bringing a documentary evidence in the record it is not automatically brought on the record. For bringing a documentary evidence on the record, the same must not only be admissible but the contents thereof must be proved in accordance with law. But when the statute enables a court to accept a sale deed on the records evidencing a transaction, nothing further is required to be done. The admissibility of a certified copy of sale deed by itself could not be held to be inadmissible as thereby a secondary evidence has been brought on record without proving the absence of primary evidence. Even the vendor or vendee thereof is not required to examine themselves for proving the contents thereof. This, however, would not mean that contents of the transaction as evidenced by the registered sale deed would automatically be accepted. The legislature advisedly has used the word 'may'. A discretion, therefore, has been conferred upon a court to be exercised judicially, i.e., upon taking into consideration the relevant factors.

29. In V.Narasaiah's case, this Court correctly understood the said scope and object of insertion of [Section 51A](#) in the [LA Act](#) when it held thus :

"It was in the wake of the aforesaid practical difficulties that the new [Section 51A](#) was introduced in the [LA Act](#). When the section says that certified copy of a registered document "may be accepted as evidence of the transaction recorded in such document" it enables the court to treat what is recorded in the document, in respect of the transactions referred to therein, as

evidence."

XXXX XXXX XXXX

37. Having noticed the scope of [Section 51A](#) of the LA Act as understood by this Court in V. Narasaiah's case to be the correct interpretation, we will now consider whether such evidence is mandatorily binding on the authority or the court concerned or it is only an enabling provision.

38. In relation to the argument pertaining to [Section 13 \(5\)](#) of the [Food Adulteration Act](#) a Constitution Bench of this Court in [Mangaldas Raghavji Ruparel & Anr. vs. State of Maharashtra & Anr.](#) AIR 1966 SC 128 stated as follows :-

"that sub-Section clearly makes the contents of the report of Public Analyst admissible in evidence and the prosecution cannot fail solely on the ground that the Public Analyst had not been examined in the case, but what value is to be attached to such report must necessarily be for the court to consider and decide."

(Emphasis supplied)

39. While it is clear that under [Section 51A](#) of the LA Act a presumption as to the genuineness of the contents of the document is permitted to be raised, the same can be relied upon only if the said presumption is not rebutted by other evidence. In the said view of the matter we are of the opinion the decision of this Court in the case of [Land Acquisition Officer & Mandal Revenue Officer vs. V. Narasaiah](#) (supra) lays down the correct law."

113. Said view was followed by the Apex Court in [Ranvir](#)

Singh & another Vs. Union of India (2005) 12 SCC 59; Himmat Singh & others Vs. State of Madhya Pradesh & another (2013) 16 SCC 392 and in *Lal Chand Vs. Union of India 2009 (15) SCC 769*, by holding that mere production of some sale exemplars deeds without connecting the subject matter of the instrument, to the acquired lands will be of little assistance in determining the market value as prima facie evidence of the prevailing market value. Even if such land was at the other end of the village at a distance of one or two kms, the principle of the jointness and the difference between the urban and rural land was to be kept in mind and the benefit is to be given in the rural areas, which would apply to the present case.

Relevant portion of the judgment reads as under:

“28. But a word of caution. What Narsaiah and Cement Corporation of India clarified was that a certified copy of a sale deed could be marked as an exhibit and its contents may be relied upon as evidence of the sale transaction, even without examining either the vendor or the vendee, in view of the enabling provision in Section 51 of the LA Act. If the acquisition is in regard to a large area of agricultural lands in a village, and the exemplar sale deed is also in respect of an agricultural land in the same village, it may be possible to rely upon the sale deed as prima facie evidence of the prevailing market value, even if such land is at the other end of the village at a distance of one or two kilometres. But the same may not be the position where the acquisition relates to plots in a town or city where every locality or road has a different value. For example in a place like Delhi there are some areas where the plot value is many times more than the value of plots in a neighbouring middle class locality which in turn may be many time more than the value of plot in a neighbouring slum area. Or the price of a property on a main road may be many times more than the price of a property on

a parallel smaller road, though the two properties may be situated back to back. It cannot be said that merely because two properties adjoin each other or touch each other the value applicable to the property facing a main road, should be applied to the property to its rear facing a service road. Therefore, while a distance of about a kilometre may not make a difference for purposes of market value in a rural village, even a distance of 50 metre may make a huge difference in market value in urban properties.

114. Resultantly, keeping in view the above, this Court is of the opinion that the Reference Court was not correct in rejecting the sale deeds of either sides where vendors and vendees have not been examined by holding that it was worth to be discarded. Reference Court, in its findings, has not recorded that sale deeds could not have been taken into consideration and are not beneficial or the sale deeds are not genuine or in total contradiction of the other sale deeds of the villages. Resultantly, the question No.2, as such, is answered in favour of both the parties to the extent that the same could not have been discarded only on this ground. However, as per the provisions of Section 51-A, it was only the certified copies which can be read into evidence and not attested copies wherein landowners have also produced attested copies in some cases, which necessarily have not to be taken into consideration.

115. Examples can be given to the application for additional evidence filed by the landowners bearing CM-9821-22-CI-2017 in RFA-1805-2001 titled *Ram Singh Vs. State of Punjab & others*, wherein sale deed dated 02.08.1994 was sought to be brought on record as Annexure A-1 by way of additional evidence along with an application for exemption from filing certified copy of the same, bearing CM-9821-CI-2017. Similarly, vide CM-6484-CI-2018 in RFA-2095-1997, sale deeds dated 19.09.1986 and 14.10.1988, were

sought to be placed on record as additional evidence as Annexures A-15 & A-16, respectively and CM-6483-CI-2018 was filed seeking exemption from filing certified copies of the said sale deeds also and only photocopies have been sought to be placed on record. Similarly, in the main case, i.e. RFA-1006-2010 titled *State of Punjab & others Vs. Usha Rani-II*, CM-8950-CI-2018 was filed for placing on record sale deed dated 02.08.1994 as Annexure A-1 and CM-8949-CI-2018 was filed seeking exemption from filing certified copies of the said sale deeds also and only photocopies have been sought to be placed on record. Similarly, in RFA-274-1993, application for additional evidence was filed along with cross-objection bearing XOBJN-124-CI-2017 and application bearing CM-12511-CI-2017, seeking exemption from filing certified copies of the sale deeds (Annexures A-1 to A-3) dated 08.11.1985, 27.06.1986 and 19.09.1986. The State, in such circumstances, had rightly objected in its reply that a photocopy of the same had been filed and objected to the acceptance of the same.

3) Whether uniform compensation, across the 3 States or parity with the other States, can be asked as a matter of right in a statutory petition filed under Section 18 ?

116. The argument which has, thus, been raised by Mr.Manhas is primarily based on the ground that land for the same Ranjit Sagar Dam Project had been acquired in the State of Jammu & Kashmir, across the river Ravi and the State of Himachal and since the land was adjoining the lands which were acquired in the State of Punjab, the same amount of compensation should be awarded. The awards passed by the Land Acquisition Collector, Thien Dam

Project, Basholi dated 06.01.1994 and 06.04.1994 had, thus, been pressed into action to submit that they were for the notifications dated 29.04.1986, 31.05.1986 and 16.08.1982. Similarly, the awards passed by the Land Acquisition Collector, Dalhousie, for District Chamba, Himachal, for the notification dated 09.04.1997, for Village Mohal Khairi was also stressed upon to show that further enhancement had been granted by District Judge, Chamba on 10.12.2009 and compensation had been awarded @ Rs.3 lakhs per bigha.

117. The said argument, though attractive but is not liable to be accepted, as it has already been noticed that the acquisition for the Project in issue is over 7221 acres of land of over 44 villages and tikkas. The villages are situated at different elevations and it would also be noticed that it ranges between 406 to 531 mts. The potentiality of the lands of the villages vary from location to location as some of the villages are close to the main road, namely, the Pathankot-Dalhousie road. The same village, though might be closer to the road but the type of land it possesses, is of a steep undulating area and therefore, even on account of its closeness to the main road, the value of the land would vary. A perusal of the map (Mark-Y, placed on record by consent of counsels for the parties in RFA-2095-1997 titled *Hoshiar Singh Vs. State of Punjab*) would go on to show that the villages which are situated closer to the Highway were noticed to be separated from other villages by khad (deep gorge) called the Karnal Khad which was as much as 300-400 ft deep, which has come in the statement of AW-1, Dharambir (in RFA-2047-1997) and such type of land had no approach from the main

highway. Similarly, the evidence of Prakash Chand, AW-1 (in RFA-550-1997) was to the same effect that the khad was 250 mts. deep and it was close to the land of Village Kamiyal. If one goes through the statement of AW-1, Pawan (in RFA-713-1997), it was clear that there was gorge between the Phangota Tikka Gulial and Phangota Tikka Chibber, which was also admitted by AW-2, Sarup Lal, Patwari that the land of the applicants was situated near the khad.

118. Even a perusal of the record of RFA-897-1996 titled *State of Punjab & others Vs. Ram Singh & others*, would go on to show that landowner-Ram Singh himself, who appeared as PW-1, in cross-examination, admitted that there was a khad in between the Tikkas and Village Phangota. The depth of the khad was about 400 ft. He further admitted that he had not seen the land of Jammu & Kashmir which was acquired and that there is river between both the lands and the width of the river was 2-4 furlongs and some part of the land fell in the river bed. There was no bank in the said Tikka and there were 5-7 shops. Similarly, PW-2, Jaimal Singh, Patwari also admitted that the acquired land was 1 ½ kms from Tikka Gulial, Tikka Dalial was at a distance of ½ km from Village Phangota and the facilities were available in Village Phangota and not in Tikka Dalial. On the other hand, Inderjit, Patwari deposed that the acquired land was uneven and stony and the crop was dependent upon rain and the value of the land was varying in every Tikka. Some area of the acquired land also adjoined the khad which was more than 400 ft deep, between Tikka Dalial and Phangota. It was stated that the boundary of Tikka Dalial adjoin the river and then the boundary of Jammu & Kashmir started.

119. Similarly, Mr.Doabia pointed out from the statement of

AW-1, Jaimal Singh, Patwari (in RFA-1654-1996 titled *Punjab State Vs. Bharam Dutt*, to show that it was admitted that river had a width of ½ km and the said witness could not tell the correct nature of the land across when suggestion was put to him that the land was Chahi in nature, since he had not brought the jamabandi of the land. Reliance was also placed upon the statement of same official witness-Inderjit, Patwari, RW-1 wherein the quality of the land of Jammu & Kashmir was better than the land of their village which had been acquired. Sat Pal, Patwari, Circle Sarti AW-3, in his statement, admitted that he had not seen the land of Jammu & Kashmir which had been acquired and in the cross-examination, he admitted that there was no industry or unit near the acquired land. Vijay Kumar, Canal Patwari had admitted that the land was uneven and in the hilly area and the land was khad. The sale deed of the acquired land had been calculated, as per the average price given and it was stated that the civic amenities were not available. He further stated that the distance of river Ravi from the northern side of the Village Marwan was 3-4 kms and Village Kothi was across the river in Jammu & Kashmir.

120. From a perusal of the record of RFA-2064 titled *Dharmaiz Singh & others Vs. State of Punjab & others*, where the land was acquired for Village Naloh Khas, would go on to show that there were metal roads passing from the land of the village and also the Pathankot-Dalhousie road was passing through the village but he admitted that Phangota was 6-7 kms from the village by road and Palangi was 4-6 kms and there was a ditch/khad near the village, the depth of which was 400-500 ft. He denied the suggestion that the land of his village and Palangi was situated near the khad. In cross-

examination, the witness of the State clarified that the Pathankot-Dalhousie road was passing through the Village Naloh but the said road was at a distance of 3 kms from the acquired land. Similarly, from the record of RFA-550-1999 titled *State of Punjab & others Vs. Parkash Chand & others*, it can be seen that it was admitted by AW-1 Prakash Chand himself, in cross-examination, that the land was low-lying and was acquired for Reservoir. It was denied that his land was stony and uneven. He also denied that his land was near the khad and it was 2 ½ kms from the land and the depth was 280 mts. AW-2, Satpal, Patwari, in cross-examination, deposed that the area of village Basholi (which pertained to Kashmir) was on the lower side and is plain.

121. Going through the statement of AW-1, Pawan (in RFA-713-1997), it would be clear that there is a gorge between Village Phalangi Tikka Gulial and Tikka Chibber. AW-2, Swaroop Lal, Patwari also admitted that some portion of the land was situated near the khad and similar was the statement of Vijay Kumar, Patwari, to this extent. If the statement of Dharmez-landowner is adverted to in RFA-2064-1997 titled *Dharmez Singh & others Vs. State of Punjab & others*, it is apparent that the depth of the khad is 400-500 ft. and there is no approach to the land in question. Evidence further in the form of RW-1 also would go on to show that the Pathankot-Dalhousie road is at a distance of 3 kms from the acquired land of village Naloh and therefore, the argument that the land adjoins the main road and leads to Pathankot-Dalhousie road, cannot be accepted. While going through the evidence of Prakash Chand, AW-1 (in RFA-550-1997), mention is made of the khad of 150 mts. which goes to the Village Kamial which is shown in 'Pink colour' in

the site-plan and Village Phalangi is situated on the other side of the same. Thus, a perusal of the said site-plan would go on to show that Village Gunera, Kamial, Marwan, Dalial, Chibber, Ladhwal, Shamlat, Godhwan, Gulial, Darkua Bangla Khas, Tanoh, Chound, Sarti, Katal, Satin, Tikka Har and Atharwan are situated on the other side of the khad towards the river whereas Village Hardosaran Khas, Tikkas Ralla, Jatoli, Tikka Bhatoli, Tikka Kulara, Naloh Khas, Tikka Niari, Tikka Palangi, Village Bhamlada Khas, Tikka Kangwan and Panjala are situated on the other side of the khad towards the Dalhousie road and therefore, are towards the hilly area and far away from the fertile area, falling towards the river which is more in the shape of a plain.

122. The land which was closer to the river and which would be more plain which is Chahi and Abi in nature and cultivable, as such, would though be more valuable on account of its fertility but would be further away from the main road and its potentiality, as such, would be minimal. The witnesses were not in a position to suggest that the type of land, as such, across the river which was more than 1 km broad and is one of the major rivers of the State, was of the same value. Rather, statement of witnesses would go on to show that they had no personal knowledge as to what was the kind of land which was across the river. Even in the reply to the application for additional evidence, which is the stand of the State that the land acquired for the Reservoir was as much as 56 sq.kms and there were gaps in the existing hills which were filled with water due to the construction of the dam. The area was not connected with any roads and one had to pass through kachha paths to reach the land and therefore, the potentiality of the land in question was missing. The

evidence would go on to show that Village Phangota, which is situated closer to the bank of the river was connected to Dhar from Hardosaran side through the Karnal Khad which had been filled up on account of the Dam and therefore, that approach had got cut-off and now, the approach is only from the other side of Sarti and Dunera and increased the distance from Dhar which is a Sub-Tehsil. Even Phangota was the only village which was connected by a paved road and which also had only 2-3 buses servicing it and was touching the other Tikkas which were further away. Therefore, the value of the land of those villages, as such, would also be on a lower level. Merely because there was a policy decision of the State Government of the Jammu & Kashmir on 17.08.1993 (Ext.A-2), to grant uniform compensation for the land falling across the river, the landowners could not claim compensation on the said basis. The policy decision, as such, reads as under:

“GOVERNMENT OF JAMMU AND KASHMIR
REVENUE DEPARTMENT

Sub: Fixation and approval of rates for land acquired/
being acquired for Ranjit Sagar Dam(Thien Dam)

Reference: (i) Administrative Council Decision No.20 dated
3.1.1992; and

(ii) Endorsement No.CS/R-53/REV/93 dated
6.8.1993 from Chair Secretary

Government Order No.121 – REV (LAJ) of 1993

Dated: 17.08.1993

Sanction is hereby accorded to the :

i/ payment of compensation at the following rates for the entire private land being acquired under compulsory method of acquisition by the State Government for Ranjit Sagar Dam (Thien Dam):-

Category	Classification of Soil	Rate per kanal
Cultivable	Nehri, Abi, Hail, Abi, Pail, Abi, Chall Abi, Hail Barani, Hail Asmani, Baghicha, Birani, Warhal Awal, Warhal Doem and Thanger.	Rs.16,000/-
Banjer Qadeem	Banjar Jadeed, Banjar Qadeem and Golai	Rs.8,000/-
Gair Mumkin	Rasta, Earth, Rasta earth, Nallah, Ara Bana etc.	Rs.4,000/-

ii/ payment of compensation at the rate of Rs.5,000/- per acre/Rs.625 per kanal (as calculated on crop productivity basis) in respect of state land. (The land acquired by the State Government and the state land shall be transferred on lease basis in accordance with the provisions of the agreement entered into between the States of Jamu and Kashmir and Punjab on 20.1.1979) and

iii/ the trees coming under the land to be acquired, either to be compensated separately to the private owners in addition to the land compensation as per the State Land Acquisition Act or else shall be taken over by the Forest Department and on State Forest Corporation and suitably disposed and land owner compensated by the latter.

The compensation shall be paid and apportioned amongst the interested persons, if any, in conformity with the guidelines laid down under Circular Instructions issued by the Revenue Department under endorsement No.REVLB10/80 dated 23.2.1992.

By order of the Government of Jammu and Kashmir.

Sd/-

(H.H.Bag)

Secretary to Government
Revenue Department”

123. The principles of assessment of market value have been provided under the Land Acquisition Act, 1894 under Section 23, as such, which provides that in determining the amount of

compensation to be awarded for the land, the Court is to take into consideration, firstly, the market value of the land at the date of publication of the notification under Section 4. The market value has been crystalized as the amount which the willing purchaser would pay to a willing vendor. Due regard is to be given to the prevalent market conditions and the ones which are in proximity of the time of Section 23 notification which is to be taken into consideration. Proximity to the Highways, roads and prevalent existing industries and development of infrastructure, are issues whereby the value of the land may vary by just 2 or 3 kms. The minus factors are when the land which is acquired and the situation is in the interior at a distance from the road which is remote from a developed locality. The land falling within the Municipal limits fetches more value and restrictions imposed by the State through various statutes are factors which are to be taken into consideration. This Court has to occupy the arm-chair of a prudent and willing buyer but not a too anxious one also, to take into consideration as to what would be the just and fair market value, as per the principles laid down by the Apex Court in **Dollar Company, Madras Vs. Collector of Madras 1975 (2) SCC 730** and **Chimanlal Hargovinddas Vs. Special Land Acquisition Collector, Poona & another 1988 (3) SCC 751**.

124. The evidence which is on record would, thus, go on to show that the land, as such, is scattered over a large area and part of it is close to the river. It has also come on record uniformly through the witnesses of both sides, as such, that the land was only cropped once a year and the landowners were dependent upon the rain for yielding the crop and neither there was industry and other establishments near the acquired land. The landowners were

dependent upon the water which was there in the springs and what they would receive by way of rainfall. The land did not even had any tubewells and even from the revenue records, it has been noticed that the land has been described as Barani, Gair Mumkin, Banjar Kadim etc. The quality of land, thus, was poor and it is settled principle that the landowners are entitled to claim compensation on the basis of sale exemplars to demonstrate as to what was a willing buyer is ready to pay. The Apex Court in *Lal Chand* (supra) held that merely because two properties adjoin or touch each other especially in rural areas, would not be, as such, a ground to grant the same market value. Reliance can be placed upon paras No.28 & 29 of the said judgment, to this extent. Same read as under:

“28. But a word of caution. What Narsaiah and Cement Corporation of India clarified was that a certified copy of a sale deed could be marked as an exhibit and its contents may be relied upon as evidence of the sale transaction, even without examining either the vendor or the vendee, in view of the enabling provision in [Section 51](#) of the LA Act. If the acquisition is in regard to a large area of agricultural lands in a village, and the exemplar sale deed is also in respect of an agricultural land in the same village, it may be possible to rely upon the sale deed as prima facie evidence of the prevailing market value, even if such land is at the other end of the village at a distance of one or two kilometres. But the same may not be the position where the acquisition relates to plots in a town or city where every locality or road has a different value. For example in a place like Delhi there are some areas where the plot value is many times more than the value of plots in a neighbouring middle class locality which in turn may be many time more than the value of plot in a neighbouring slum area. Or the price of a property on a main road may be many times more than the price of a property on

a parallel smaller road, though the two properties may be situated back to back. It cannot be said that merely because two properties adjoin each other or touch each other the value applicable to the property facing a main road, should be applied to the property to its rear facing a service road. Therefore, while a distance of about a kilometre may not make a difference for purposes of market value in a rural village, even a distance of 50 metre may make a huge difference in market value in urban properties.

29. There would be lesser likelihood of rejection of a sale deed exhibited to prove the market value, if some witness speaks about the property which is the subject matter of the exemplar sale deed and explains its situation, potential, as also about the similarities or dissimilarities with the acquired land. The distance between the two properties, the nature and situation of the property, proximity to the village or a road and several other factors may all be relevant in determining the market value. Mere production of some exemplar deeds without 'connecting' the subject matter of the instrument, to the acquired lands will be of little assistance in determining the market value. [Section 51A](#) of the LA Act only exempts the production of the original sale deed and examination of the vendor or vendee.”

125. It is pertinent to notice that it is not a case for a housing project where the land, as such, is situated in a compact block but it is spread over 3 States of different elevations. The land in question which was closer to the Dam has got submerged whereas the land of the State of Jammu & Kashmir is further away from the Dam and thus, in a form of a plain. No evidence, as such, has been brought on record of any witness who could specify that he had visited the land which was acquired in the State of Jammu & Kashmir and that it was identically placed. Merely because it was averred that the land is adjoining and the river was only separating them, it cannot be held

that the value of the land on this account, as such, would be equal to the other. The onus of the market value is always upon the landowners and they have to specifically produce evidence to this effect, which is missing to the extent of such sale exemplars from across the border and only because the State of Jammu & Kashmir has taken a policy decision to award uniform compensation for the land closer, would not give the landowners the same benefit for the State of Punjab. The land in question, as such, was, thus, not being capable for being used for any other purpose, as admittedly, it is not close to any large town and therefore, its potentiality, as such, for further development for any commercial or industrial purposes is vague. Rather, the Apex Court in **Goa Housing Board Vs. Rameshchandra Govind Pawaskar 2011 (10) SCC 371**, while examining the provisions of Sections 23 & 24, has held that usage of the land and the purpose for which it is to be acquired and any increase in the value of the land for the use to it when put to use when it is acquired, is not to be taken into consideration under Section 24. In the absence of any growth taking place by any leaps and bounds and lack of amenities and keeping in view the distance of over 30 kms from the town of Pathankot also and the geographical situation and location of the land, it cannot be held that the landowners would be entitled for the same amount of compensation for the land which was situated in Jammu & Kashmir and Himachal.

126. Reliance can, accordingly, be placed upon the judgment of the Apex Court in **Shri Hemendra Prasad Baruah Vs. The Collector of Sibsagar, Assam 1976 AIR (SC) 908** that fallow and uncultivated land cannot be granted the same amount of compensation in comparison to a Tea Garden and a lower amount of compensation is

payable and therefore, classification has rightly been made by the Land Acquisition Collector.

127. In similar circumstances, in **Ludhiana Improvement Trust Vs. Brijeshwar Singh Chahal & another (1996) 9 SCC 188**, 13 acres of land had been acquired near Ludhiana for commercial-cum-residential purposes and it was held that the High Court was in error in doing away with the belting system as there was difference in the levelled lands and the low lying lands and the same could not command the same market price.

128. In **Viluben Jhalejar Contractor Vs. State of Gujarat (2005) 4 SCC 789**, land had been acquired for the purpose of construction of the Kodana Dam and the land would be submerged. Resultantly, it was held that on account of the fact that river Sukhi intervened between the two towns, the land would not have any potential value and the development of the area where the land was situated had stopped. Similar is the position here as the land in question, as noticed from the evidence which has been brought on record by the landowners themselves which is far away from any developed area and therefore, does not have the potential, as such, for growth and therefore, as per the settled principles, the market value is to be calculated on the basis of the sale exemplars which were available on the date of the Section 4 notification.

129. In **State of Madhya Pradesh Vs. Kashi Ram (2010) 14 SCC 506**, where uniform rate had been awarded and 6 villages which were contiguous to each other and which had been acquired for the purpose of four-laning road while doing away the belting system, the amounts had been awarded and the same had been set aside.

130. In **Bhule Ram Vs. Union of India & another 2014 (11)**

SCC 307, it was held that Court is not to take into consideration the use for which the land is sought to be acquired and assumed potentiality in future. It is also held that the distance of ½ km to 1 km would make considerable difference to the price of the land. Relevant observations read as under:

“11. Where huge tract of land had been acquired and the same is not continuous, the court has always emphasised on applying the principle of belting system for the reason that where different lands with different survey numbers belonging to different owners and having different locations, cannot be considered to be a compact block. Land having frontage on the highway would definitely have better value than lands farther away from highway. (Vide: Andhra Pradesh Industrial Infrastructure Corporation Limited v. G. Mohan Reddy & Ors., (2010) 15 SCC 412).

12. [In Ashrafi & Ors. v. State of Haryana & Ors.](#), AIR 2013 SC 3654, this Court emphasised on belting system and observed that while determining the market value of the land, the court must be satisfied that the land under exemplar is a similar land. (See also: Sher Singh etc. etc. v. State of Haryana & Ors., AIR 1991 SC 2048).

13. In Executive Engineer (Electrical), Karnataka Power Transmission Corporation Ltd. v. Assistant Commissioner & Land Acquisition Officer, Gadag & Ors., (2010) 15 SCC 60, this Court held that in towns and urban areas, distance of half kilometer to one kilometer makes considerable difference in price of the land. Therefore, the court has to determine the market value on the basis of the material produced before it keeping in mind that some of the lands were more advantageously situated.

14. [In Ramanlal Deochand Shah v. State of Maharashtra & Anr.](#), AIR 2013 SC 3452, this Court held that the burden of proof lies on the land owner and in case he does not lead any evidence in support of his claim to prove the inadequance of market value fixed of the land acquired, the court cannot help him.

(See also: [Jawajee Nagnatham v. Revenue Divisional Officer, Adilabad, A.P. & Ors.](#), (1994) 4 SCC 595; and [Land Acquisition Officer & Sub-Collector, Gadwal v. Sreelatha Bhoopal \(Smt\) & Anr.](#), (1997) 9 SCC 628).

15. In view of the above, the law can be summarised to the effect that the market value of the land is to be assessed keeping in mind the limitation prescribed in certain exceptional circumstances under [Section 23](#) of the Act. A guess work, though allowed, is permissible only to a limited extent. The market value of the land is to be determined taking into consideration the existing use of the land, geographical situation/location of the land alongwith the advantages/disadvantages i.e. distance from the National or State Highway or a road situated within a developed area etc. In urban area even a small distance makes a considerable difference in the price of land. However, the court should not take into consideration the use for which the land is sought to be acquired and its remote potential value in future. In arriving at the market value, it is the duty of the party to lead evidence in support of its case, in absence of which the court is not under a legal obligation to determine the market value merely as per the prayer of the claimant.

There may be a case where a huge tract of land is acquired which runs though continuous, but to the whole revenue estate of a village or to various revenue villages or even in two or more states. Someone's land may be adjacent to the main road, others' land may be far away, there may be persons having land abounding the main road but the frontage may be varied. Therefore, the market value of the land is to be determined taking into consideration the geographical situation and in such cases belting system may be applied. In such a fact- situation every claimant cannot claim the same rate of compensation."

131. In **Subh Ram & others Vs. State of Haryana & another** (2010) 1 SCC 444, land was acquired for a Jail and it was held that

the purpose of acquisition can never be a factor to increase the market value of the acquired land. It was further held that the land was used for submergence of the Dam Project, would not mean that irrigated land would be awarded less compensation or equal to the value of the waste land and which was the quality or class and access to the land, which were relevant factors to determine the market value. Relevant observation reads as under:

“21. The purpose of acquisition can never be a factor to increase the market value of the acquired land. We may give two examples. Where irrigated land belonging to 'A' and dry land of 'B' and waste land of 'C' are acquired for purpose of submergence in a dam project, neither 'B' nor 'C' can contend that they are entitled to the same higher compensation which was awarded for the irrigated land, on the ground that all the lands were acquired for the same purpose. Nor can the Land Acquisition Collector hold that in case of acquisition for submergence in a dam project, irrigated land should be awarded lesser compensation equal to the value of waste land, on the ground that purpose of acquisition is the same in regard to both. The principle is that the quality (class) of land, the situation of the land, the access to the land are all relevant factors for determination of the market value.”

132. Similarly in Manoj Kumar (supra), the Apex Court has held that the sale deeds are the best piece of evidence and the location of the land was most important. The award has been held to be relevant piece of evidence but outright reliance upon the same would not be permissible and cannot be followed on the ground of parity. In the said case, the Apex Court was dealing with the decision of this Court wherein the appeal of the landowners was allowed and the enhancement had been granted on the basis of another award which was passed 6 years earlier. Resultantly, by

applying the principle of cumulative increase, the market value had been increased, from Rs.1560/- per sq.meter to Rs.3610 per sq.meter, without taking into consideration the transactions which were on record and which had been entered into before the issuance of the notification under Section 4 of the Act. It was, in such circumstances, it was held that a party may have produced better evidence which may have been adduced in the latter case regarding the actual value of the property and the distance, size, bona fides, nature of transaction, have to be taken into account. The situation of the village and the nature of the land may vary from distance to distance and even 2 kms would make material difference from the land abutting the Highway, which may fetch higher value than the land situated in interior villages. It was further held that various factors have to be taken into consideration as to the quality of the land, time gap, largeness and smallness and deduction which have to be made and lands which were comparable in nature and quality and in such circumstances, the amount was reduced. Relevant portion of the judgment read as under:

“14. In our opinion, the High Court could not have placed an outright reliance on the decision of Swaran Singh's case, without considering the nature of transaction relied upon in the said decision. The decision could not have been applied ipso facto to the facts of the instant case. In such cases, where such judgments/awards are relied on as evidence, though they are relevant, but cannot be said to be binding with respect to the determination of the price, that has to depend on the evidence adduced in the case. However, in the instant case, it appears that the land in Swaran Singh's case was situated just across the road as observed by the High Court as such it is relevant evidence but not binding. As such it could have been taken into consideration due to the nearness of the area, but at the same time what was the nature of the transaction relied upon in the said case was

also required to be looked into in an objective manner. Such decisions in other cases cannot be adopted without examining the basis for determining compensation whether sale transaction referred to therein can be relied upon or not and what was the distance, size and also bonafide nature of transaction before such judgments/awards are relied on for deciding the subsequent cases. It is not open to accepting determination in a mechanical manner without considering the merit. Such determination cannot be said to be binding. We have come across several decisions where the High Court is adopting the previous decisions as binding. The determination of compensation in each case depends upon the nature of land and what is the evidence adduced in each case, may be that better evidence has been adduced in later case regarding the actual value of property and subsequent sale deeds after the award and before preliminary notification under [section 4](#) are also to be considered, if filed. It is not proper to ignore the evidence adduced in the case at hand. The compensation cannot be determined by blindly following the previous award/judgment. It has to be considered only a piece of evidence not beyond that. Court has to apply the judicial mind and is supposed not to follow the previous awards without due consideration of the facts and circumstances and evidence adduced in the case in question. The current value reflected by comparable sale deeds is more reliable and binding for determination of compensation in such cases award/judgment relating to an acquisition made before 5 to 10 years cannot form the safe basis for determining compensation.

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.”

133. In **Maj. Gen. Kapil Mehra & others Vs. Union of India & another 2015 (2) SCC 262** it has been held that land should possess similar advantages and should be adjacent to land acquired and then only, same compensation can be awarded. Keeping in view the law laid down in **Maya Devi (D) th. LRs Vs. State of Haryana & another (2018) 2 SCC 474**, where the Apex Court reduced the cut from 67.5% to 1/3rd, keeping in view the fact that the land was acquired for the warehousing project and therefore, the wastage would be less.

134. Reliance upon the judgment in **Avtar Singh** (supra), thus, would not be of much help since only 67 acres of land was acquired of 2 villages in a single block for housing project and it was in such circumstances, the Apex Court had granted uniform compensation. Similarly, in **Kapoor Singh** (supra) also, the acquisition was of 43 kanals 5 marlas of land for the use of the Indian Oil Corporation and in such circumstances, the Reference Court order was upheld by this Court. In **Kanwar Singh** (supra) 20 biswas of land was acquired for construction of a road and it was in such circumstances, uniform compensation had been granted and it was not a case of huge acquisition of over 7000 acres across three states which involved different types of land at varying levels.

135. Qua the award dated 10.12.2009 (Ext.A-9) passed by the

District Judge, Chamba, pertaining to notification dated 07.04.1997, the same also would not give much help to the landowners since for the acquisition of Village Mohal Bhutan, the compensation had been awarded by noticing the sale exemplars on record in the said village. Nothing has been brought on record, as such, to show that the witnesses were aware as to what was the type of land acquired by the State of Himachal Pradesh and what was the potentiality and the fertility level and whether there were orchards etc. on the land in question which could fetch higher market value. Merely because it was an adjoining village, as such, would not mean that the award had to be blind-foldly accepted.

136. However, further enhancement, as such, on the basis of the award of the Himachal Pradesh is not warranted for, in view of the discussion made above that it is not a matter of right, as such, in the statutory petition filed under Section 18, the potentiality and the location of the land and the evidence brought on record are necessary factors. Keeping in mind the law laid down by the Apex Court *Printers House Pvt. Ltd. Vs. Mst. Saiyadan (deceased) by her LRs 1994 (2) SCC 133*, wherein it was held that while dealing with the previous awards, the Court has to mark the location and the features (advantages and disadvantages) of the land covered by the sale or the award. Only in case it was identical with the acquired land, the award could be taken by the Court as the price basis for determining the market value of the acquired land under consideration. It was, accordingly, held that the Court is to choose the award which is closest relating to the land and compare with the plot of the land and to take the price of the land from such sale or award as the basis of determining the market value. Relevant portion reads as under:

“9. If 'Comparable Sales Method of Valuation of Land is adopted for determining the market-value of an acquired land, it generally holds good for determination of the market-value of several acquired plots of land if acquisition of all such plots of land is made pursuant to the same preliminary notification. But, if any of the factors, such as, location, shape, size, potentiality or tenure of one plot of acquired land widely differs from the other plot(s) of acquired land(s), then the market-value of each plot of land acquired has to be determined independently of the other(s) even if all of them had been acquired pursuant to the same preliminary notification. The reason is not far to seek since the differential factors relating to different acquired plots greatly affect their value. Hence, if any salient factor of different acquired plots of land, which greatly affect their value is ignored or is not taken into consideration by the Court while determining the market-value of acquired lands, it will have failed to apply the correct principle of valuation adoptable in valuation of different types of acquired lands.

xxxx xxxx xxxx

18. If the sale is found to be a genuine one or the award is an accepted one, and the sale or award pertains to land which wits sold or acquired at about the time of publication of preliminary notification under the Act in respect of the acquired land, the market value of which has to be determined, the court has to mark the location and the features (advantages and disadvantages) of the land covered by the sale or the award. This process involves the marking by court of the size, shape, tenure, potentiality etc. of the land. Keeping in view the various factors marked or noticed respecting the land covered by the sale or award, as the case may be, presence or absence of such factors, degree of presence or degree of absence of such factors in the acquired land the market value of which has to be determined, should be seen. When so seen, if it is found that the land covered by the sale or award, as the case may be, is almost identical with the acquired land under consideration, the land tinder the sale or the market value determined for the land in the

award could be taken by the court as the 'price basis' for determining the market value of the acquired land under consideration. If there are more comparable sales or awards of the same type, no difficulty arises since the 'price basis' to be got from them would be common. But, difficulty arises when the comparable sales or awards are not of the same kind and when each of them furnish a different 'price basis'. This difficulty cannot be overcome by averaging the prices fetched by all the comparable sales or awards for getting the 'price basis' on which the market value of the acquired land could be determined. It is so, for the obvious reason that such 'price basis' may vary largely depending even on comparable sales or awards. Moreover, 'price basis' got by averaging comparable sales or awards which are not of the same kind, cannot be correct reflection of the price which the willing seller would have got from the willing buyer, if the acquired land had been sold in the market. For instance, in the case on hand, there are three claimants. The plots of their acquired land, which are five in number, are not similar, in that, their location, size, shape vary greatly. One plot of land of one claimant and another plot of another claimant appear to be of one type. Another plot of land of one of them appears to be of a different type. Yet another plot of the second of them appears to be different. Insofar as third claimant's plot of land is concerned, it appears to be altogether different from the rest. Therefore, if each of the claimants were to sell her/his respective plots of land in the open market, it is impossible to think that they would have got a uniform rate for their lands. The position cannot be different if the comparable sales or awards when relate to different lands. Therefore, when there are several comparable sales or awards pertaining to different lands, what is required of the court is to choose that sale or award relating to a land which closely or nearly compares with the plot of land the market value of which it has to determine, and to take the price of land of such sale or award as the basis for determining the market value of the land under consideration.”

Thus, it would be clear that all attendant facts have to be taken into consideration and keeping in view the location of the land since one of the major river separates the land which is acquired and which is more than 1 km wide and nothing has come on record to show the type of land across the river was identical and one which was acquired in the form of evidence, apart from the awards passed by the Land Acquisition Collector. This Court is of the opinion that the said principles would come into play and therefore, it would not be proper to follow the said awards, especially when they were based on the policy decision of the State of Jammu & Kashmir, which was not the case in the State of Punjab. Even otherwise, the lands were acquired by different notifications, even though they might be for the same purpose.

As noticed, the total acquisition is of 7221 acres in the State of Punjab and the lion's share, as such, is for the State of Punjab and a smaller area of land, in comparison, has been acquired in the other States of Jammu & Kashmir and Himachal Pradesh and therefore also, the claim for uniform compensation, as awarded in the other states, on the basis of a policy, as such, would not be tenable, as the consideration for granting compensation at that rate would be difficult once the acquisition of the area of land being acquired was less in those states.

137. Thus, the argument raised that as per land which was situated in Jammu & Kashmir and Himachal, the compensation should be paid at the same amount without any witness being aware as to what type of land was acquired and the potentiality of the said land or the approach to the land in question and whether it was under orchard cultivation and close to the Highway etc., cannot be

accepted. Accordingly, question No.3, as such, is answered against the landowners to the extent that they are not entitled for uniform compensation only on account of the fact that in a different State, certain amount has been paid whether by way of policy or on account of the evidence which has been brought on record.

4) Whether the Reference Courts were correct in denying enhancement on the ground that the awards which were relied upon were pending before superior Courts and coming to a different conclusion and awarding different market rate for the same notification and therefore, awarding lower compensation for landowners similarly situated ?

138. On the said issue, the pertinent question which crops up is that as would be clear from the tables reproduced above, while giving the facts of the cases in para Nos.8, 12, 22, 25, 27, 29 & 30, it is apparent that Reference Courts have not granted the same amount of compensation for the same notification in question, for the same/adjoining villages. This has led to a disparity, as such, of the amounts being awarded regarding the market value which had been assessed of further lands acquired and cannot be said to be justified, in any manner. The reasoning being varied, with one basic reasoning that the awards have not become final, which, as such, would not be a valid ground to disregard the evidentiary value of the relevant awards in question, especially once the land acquired is of the same village or of the adjoining village and acquired for the same purpose, namely, for the reservoir of RSDP. Once sale deeds have come on record in the other cases, the said awards would necessarily have to be examined, if the judgments are not to be followed, valid reasons, as such, had to be made out as to why such awards would not have

an evidentiary and binding value, which has not been adverted to in the present set of cases. The evidence which has come on record as per sale deeds and the witnesses have been examined, the benefit has to be given to the landowners in the other set of cases also, to maintain judicial discipline. However, a particular officer did not take into consideration the said awards, without giving any valid reasons as such and the same cannot be held to be justified in any circumstances. Even the sale deeds which are the best exemplars, have wrongly been rejected to come to a conclusion that only 15% enhancement is to be granted on an average rate, without any basis, as such, for the increase inspite of valid sale exemplars having brought on record. Therefore, the landowners are right in contending that their fate was different only on account of their case being decided by a different officer. The judgment in **Manoj Kumar** (supra) has already been discussed above whereby in para No.18, it has specifically been held that the determination of compensation of a previous award and the evidence considered in the same and its acceptability on judicial parameters was necessarily to be gone into otherwise, gross injustice would be caused to any of the parties. The mistake which was committed in the earlier award of not making deduction etc. or where sufficient evidence having not been adduced and better evidence having been adduced in case at hand the previous award could not be, as such, held to be binding if the land was not similar in all aspects and would have to be outrightly rejected. It was further held that sale deeds are at par and have evidentiary value as the Court bases the conclusion on such transactions to ultimately come to the proper determination of the value of the property. Reference can be made to the chart in para

No.8, for the 2nd notification dated 27.02.1987, to notice that vide awards dated 16.01.1991, 08.05.1991 and 13.02.1991, lessor amount of compensation was granted whereas vide award dated 19.04.1991, 17.04.1997, 21.07.1997, 04.03.1998 and 16.04.1998, higher amount of compensation had been granted for the land falling in the same villages. Similarly, vide awards dated 21.08.1992, 27.02.1992, 20.10.1991, 29.07.1997 and 06.10.1998, higher amounts were awarded.

139. Similarly, for the 5th & 6th notification dated 06.01.1992 and 30.01.1992 (para 22), vide awards dated 16.12.1995, 02.04.1996, 24.05.1996, 04.09.1996, 14.10.1996, 23.10.1996, 01.04.1998 & 24.04.1998, Rs.40,000/- was awarded for barani land and Rs.14,000/- for banjar kadim/gair mumkin whereas vide award dated 24.04.1996, the Reference Court had awarded for the same types of land for the same villages higher compensation, i.e. Rs.50,000/- and Rs.22,000/-. For the 7th & 8th notifications dated 16.03.1994 and 18.03.1994 (paras 25 & 26) again, different amounts were awarded by two different awards on 13.09.2000 and 22.09.2000. For the 9th notification dated 20.12.1994 (para 27), four references were dismissed on 03.10.1992, 21.02.2004, 05.06.2007 and 02.08.2001 whereas on an earlier occasion on 23.02.2000, the amount had been enhanced by another Reference Court.

If the chart of the 10th notification is perused (paras 29 & 30) pertaining to 07.08.1995 is examined, the disparity is more as enhancement was granted to the same extent, by one Reference court on 29.11.2001 and 13.12.2001, but not granted by the Reference Courts on 04.12.2002, 04.09.2003 and 16.12.2003 and also there was a dismissal of the land reference on 02.01.2003. On the contrary,

vide orders dated 08.10.2007, 05.04.2008 and 13.11.2013, market value was enhanced to Rs.1,600/- per marla, which the State is vehemently opposing and which led to Apex Court remanding the matter in Usha Rani's case. The said awards cannot be sustained in any manner which will be taken up under question No.5. The Addl.District Judge, vide subsequent award dated 16.05.2007, has determined the market value to Rs.1830/- per marla. Similarly, one Court granted 30% increase for the land falling on the road leading from Dunera to Phangota on 30.07.2005 whereas the other Court granted nominal enhancement of 15%. Similarly, other Courts awarded Rs.1600/- per marla vide awards dated 17.01.2008, 16.02.2008, 18.08.2008, 01.11.2013 and 01.02.2014, to grant Rs.3,36,000/- per acre.

It is settled principle that if land is situated in the adjoining village and is of the same quality and evidence is brought on record regarding this aspect that they are identical and similar and the purpose of acquisition is also the same, the same market value is to be awarded. Reliance can be placed upon the judgments of the Apex Court in **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**, wherein it was held that it would not be proper to distinguish between the landowners unless there are strong reasons.

Resultantly, disparity, as such, has occurred amongst the landowners leading to large scale unnecessary and uncalled litigation as sufficient evidence has come on record that land of the villages were similarly situated, as discussed above also, to that extent that

the land which was lying on one side of the Karnal khad was fertile but further away from the main roads whereas the land on the other side of the khad was somewhat mountainous and was closure to the main road but not as fertile. However, if the market value is to be assessed for the said notifications, it would have to be similar for the two sets of villages on different sides of the Khad, which principle the Reference Courts have failed to follow. Therefore, the landowners are justified, as such, to hold out that they were entitled for the same amounts, especially once there is sufficient evidence on record by way of sale exemplars, which will be discussed under question No.5.

5) What amount of compensation to the landowners are entitled to be awarded for various notifications on the basis of the evidence and the material placed on record, as on the date of the Section 4 notification ?

140. Before assessing the compensation, keeping in mind the fact that the Reference Court had resorted to different cuts of 20%, 25% and 33% on different occasions of different villages, this Court is of the opinion that firstly, keeping in view the large scale compensation which, as such, has been made for over 7,221 acres, common deduction factor should be applied on account of the smallness of the plots, which range from 1 kanal to 6 kanals, as sale exemplars. It is to be noticed that though the usage of the land is not to be taken into consideration and the cut is usually to be made on two counts, namely, development cut and on smallness of the sale exemplar. In the present case, it is to be noticed that no development cut is liable to be imposed and therefore, it is only the size of the sale exemplars which is to be kept in mind. Another factor which is to be

noticed is that there is no loss of land to the State for the usage of the land being submerged in the Reservoir and therefore, keeping in view the facts and circumstances, the landowners of the village, as such, have been adversely affected on account of the submergence of the land, 20% deduction would be appropriate across the board, on account of the smallness of the sale exemplars, for which the market value is to be assessed, under the present question which is under consideration.

141. It is to be seen that the State is going to utilize the land in question for the purpose of Ranjit Sagar Dam Reservoir, which is going to generate revenue for it in the form of electricity for years to come and apart from supplying electricity to the three States concerned, it is also going to make money out of the said sale of electricity. In similar circumstances, when land was acquired for the benefit of a private company, only 10% cut was applied by the Apex Court and it was held that once the industry is set up, it would be for the financial gain of the respondents and it would deprive the landowners of the sole livelihood of agriculture and therefore, deduction of 10% on the base price, which was fixed by a sale exemplar (Ext.P-8), was applied.

Similarly, in *Atma Singh Vs. State of Haryana (2008) 2 SCC 568*, the acquisition was of 89 acres of land for the construction of a Cooperative Sugar Mill. Resultantly, it was held that the factory would yield goods for many years and produce by-products in the same process and would run efficiently and earn money and make profit and it would not be proper to make deduction from the price exhibited by the sale exemplars and 10% was fixed as deduction charges. Relevant portions read as under:

“14. The question to be considered is whether in the present case those factors exist which warrant a deduction by way of allowance from the price exhibited by the exemplars of small plots which have been filed by the parties. The land has not been acquired for a Housing Colony or Government Office or an Institution. The land has been acquired for setting up a sugar factory. The factory would produce goods worth many crores in a year. A sugar factory apart from producing sugar also produces many by-product in the same process. One of the by-products is molasses, which is produced in huge quantity. Earlier, it had no utility and its disposal used to be a big problem. But now molasses is used for production of alcohol and ethanol which yield lot of revenue. Another by-product begasse is now used for generation of power and press mud is utilized in manure. Therefore, the profit from a sugar factory is substantial. Moreover, it is not confined to one year but will accrue every year so long as the factory runs. A housing board does not run on business lines. Once plots are carved out after acquisition of land and are sold to public, there is no scope for earning any money in future. An industry established on acquired land, if run efficiently, earns money or makes profit every year. The return from the land acquired for the purpose of Housing Colony, or Offices, or Institution cannot even remotely be compared with the land which has been acquired for the purpose of setting up a factory or industry. After all the factory cannot be set up without land and if such land is giving substantial return, there is no justification for making any deduction from the price exhibited by the exemplars even if they are of small plots. It is possible that a part of the acquired land might be used for construction of residential colony for the staff working in the factory. Nevertheless where the remaining part of the acquired land is contributing to production of goods yielding good profit, it would not be proper to make a deduction in the price of land shown by the exemplars of small plots as the reasons for doing so assigned in various decisions of this Court are not applicable in the case under consideration.

15. Having regard to the entire facts and circumstances of the case, we are of the opinion that a deduction of 10% from the market value of the land, which has been arrived at by the High Court would meet the ends of justice. Therefore, the market value of the acquired land for the purpose of payment of compensation to the land owners has to be assessed at Rs.1,08,000/- per acre.”

The said view was followed by the Apex Court in **Chakas Vs. State of Punjab & others 2011 (10) SCR 618**, by applying 10% cut only. Relevant portions of the judgment read as under:

“19. The Reference Court committed a grave error in deducting 50% of the value assessed by him, towards development charges and further reduced the said amount for the reasons not assigned by him. The learned Single Judge vide the impugned judgment has enhanced the amount of compensation but committed an error in fixing the base price as 2,75,000/- per acre for the acquired land, applying the doctrine of reasonable cut to the average price worked out by him at Rs.3,42,527/- per acre. We do not approve of the reasonings adopted either by the reference Court or by the High Court. How much amount is to be deducted from the base price would depend on various factors.

20. As mentioned hereinabove, in the case in hand the bulk of the land that is almost 525 acres has been given to respondent No.3, the Corporation for setting up its own industry and other infrastructure thereon.

Thus, the lands likely to be used towards roads, sewage and other such facilities would be minimum as most of the vacant land would be utilised by respondent No. 3 for its own benefits.

21. Needless to say, once the industry is set up, it would be for the financial benefit and gain of respondent No.3 year after year. Thus, looking to the matter from all angles, respondent No. 3 - Corporation would be a great beneficiary at the cost of depriving the appellant - land owner of his sole

livelihood of agriculture.

22. Therefore, it is neither desirable nor proper to deduct more than 10% of the amount in the base price fixed by us at Rs. 4,08,000/-. We accordingly do so. ”

In **Haridwar Development Authority, Haridwar Vs. Raghubir Singh 2010 (11) SCC 581**, while deciding the issue of the market value for a housing colony, it was held that deduction from the market value of similar plots could be in the range of 30-25% and the said deduction, as fixed by the Reference Court was affirmed by the High Court.

In **Lal Chand** (supra), the Apex Court fixed the cut at 40% instead of the highest deduction of 60-70% fixed, by noticing that when the market value of small plots is made the basis of determining the market value of large tracks of land, appropriate deduction is to be made. Relevant portion reads as under:

“34. But when the market value of such small plots intended for non-agricultural purposes is made the basis for determining the market value of large tracts of agricultural lands, it is necessary to make an appropriate deduction towards 'development' factor. The evidence shows that the acquired lands were at the relevant time (1981) in a rural area on the outskirts of Delhi, with access to roads and services nearby. In fact the Municipal Corporation of Delhi, within a few months after the acquisition, issued a notification dated 23/4/1982, under section 507(a) of Delhi Municipal Corporation Act, 1957 declaring that Rithala in the northern zone of Delhi shall cease to be a rural area. The appellants have also let in evidence to show that the acquired lands were situated in an area having a potential for development for residential use. The policy resolution dated 27.12.1980 of Delhi Development Authority in regard to development of Zones H7 and H8 (Rohini Scheme) in North-West Delhi shows that the area was earmarked for fast urban development. Some facilities like roads, water,

electricity had reached the area in a limited manner. Therefore, the appropriate deduction towards development, needs to be only 40% instead of the higher standard percentage of 60% to 70%.”

In **Vithal Rao & another Vs. Special Land Acquisition Officer (2017) 8 SCC 558**, it was noticed that deduction could be from 10% to 86% and the High Court had made 50% deduction. Accordingly, it was noticed that 30 acres of land was acquired for construction of rehabilitation centre for displaced persons and the sale deeds pertain to small portions of sq.fts and 40% deduction was levied towards development charges.

Another principle can also be applied for usage which has been followed by the Apex Court in cases of awards pertaining to acquisitions for road and railway lines, since there is no wastage of land in any manner.

In **Nelson Fernandes** (supra), the Apex Court was dealing with land being acquired for the construction of Broad-Gauge Railway-line for the Konkan Railways. The development cut which had been put was, accordingly, set aside and 20% cut was put on the sale exemplar, as such. The said view was followed by a three Judges Bench in **Himmat Singh** (supra), which was also an acquisition for the Central Railways, for the same purpose and a three-tier deduction had been made by the Reference Court and the deduction pertaining to the smallness of plots was to the extent of 50%. The development charges was set aside while placing reliance upon the judgment of **C.R.Nagaraja Shetty Vs. Special Land Acquisition Officer & Estate Officer & another (2009) 11 SCC 75** and the cut was fixed at 50% for the smallness of the plots.

In **Trishala Jain Vs. State of Uttaranchal 2011 (6)**

SCC 47 a 10% deduction was made since the land was being acquired for the purpose of a Government Polytechnic Institute and keeping in view the fact that acquired land was more or less developed than the surrounding areas. Relevant portion of the judgment reads as under:

“43. It is not in dispute before us that sale instance at serial No. 108 falls in the Revenue Estate of the same Village and as recorded by the Reference Court, in LA Case No. 121 of 1994, it is situated at a distance of 1 ½ furlong from the acquired land. The acquired land belonging to the claimants forms part of Khasra No.39/2 while, in the same Revenue Estate, the sale instance at serial No. 108 is part of Khasra No. 410. Thus a sale deed related to a land in such proximity of time and distance cannot be said to be incomparable sale instance, i.e. it has to be taken as a comparable sale instance. Though it relates to the sale of a smaller plot of land but is certainly bigger than the land sold by the claimants between themselves. Its location and potential, if not identical in absolute terms, is certainly comparable for the purposes of determining market value of the land in question. It is a well established principle that the value of sale of small pieces of land can be taken into consideration for determining even the value of a large tract of land but with a rider that the Court while taking such instances into consideration has to make some deduction keeping in view other attendant circumstances and facts of that particular case. We have already held that keeping in view the surrounding developed areas and location and potential of the land it will meet the ends of justice if 10% deduction is made from the estimated market value of the acquired land.”

Similarly, in **Valliyammal & another Vs. Special Tehsildar (Land Acquisition) & another 2011 (10) SCR 293**, 20% deduction done keeping in view the smallness of the plots, in the peculiar facts and circumstances of the case, was not allowed, as on

account of the litigation, the landowners had been deprived the compensation for 14-20 years. Similar is the case here as it is to be noticed that period is even more in as much as the first notification is of the year 1986 and the last acquisition is of 1998. Thus, even a period of 20 years have gone past since the last acquisition whereas more than 32 years have gone past the first acquisition and therefore, the deduction at the minimum would be leviable in the present case.

Relevant portion of the judgment reads as under:

“25. We may have sustained 20% deduction keeping in view the smallness of the plots which were sold vide sale deeds dated 4.9.1990 and 8.2.1991, but, in the peculiar facts of the case, we think that it will be wholly unjust to allow such deduction. Majority of the appellants have been deprived of their entire landholding and they have waited for 14 to 20 years for getting the compensation. It appears that in compliance of the interim orders passed by the Court, some of the appellants did get 25% and one of them get 35% of the compensation, but majority of them have not received a single penny towards compensation and at this distant point of time, it will be wholly unjust to deprive them of their legitimate right by approving the 20% deduction made by the High Court. In such matters, the Court cannot be oblivious of the fact that the landowners have been deprived of the only source of livelihood, the cost of living has gone up manifold and the purchasing power of rupee has substantially declined.”

142. The amount of compensation which is to be assessed, thus, requires a fresh look on account of above findings recorded under question No.4. As noticed, the amounts have been calculated on the basis of 1 acre comprising of 10.5 kanals and not 8 kanals. Accordingly, the chart, as mentioned below, would be necessary to show as to how the market value is to be assessed:

1 kanal = 20 marlas

8 kanals = 160 marlas (1 acre)

(in the present case)

10.5 kanals = 210 marlas (1 acre)

For the 1st notification dated 30.10.1986, apart from stressing upon the awards of Jammu & Kashmir of 1986, no material was brought on record to show as to what would be the market value, as such. The award of Jammu & Kashmir has already been distinguished, as such, being a matter of policy under question No.3 and it has been held that on account of policy decision, as such, by the State of Jammu & Kashmir, the same principle cannot be held applicable to the lands falling in Punjab. Even otherwise, no evidence has come on record to show that the land across the river could not, as such, be proved to be of the same category as the said land of the river bed was stony and uneven and there was no source of irrigation. As per the statements of the witnesses themselves, they were dependent upon rain for irrigation for the yielding of one crop a year and neither there was any industry. Apart from the water from the springs and the rainfall, there was no mention of any tubewell etc. and therefore, the quality of the land in comparison could not be said to be equal than what was stated to be in Jammu & Kashmir. Reliance can also be placed upon statement of Sat Pal, Patwari, AW-2 (in RFA-3121-1994) that he had not seen the land of Jammu & Kashmir. The factum of the land being available on the main road has also come across by way of evidence, to show that even from Dunera, it was 14 kms away to Dhar and therefore, from the Sub-Division Dhar Kalan, it was even further away. The cut was, thus, rightly applied on the sale exemplar of Thara Uperla (upper portion) as the name denotes and the location of the sale deed (Ext.A-2) was rightly distinguished in the facts and circumstances, on account of

the distance from the acquired land and being of a developed portion. It has also come on record that apart from Phangota, the other villages were not even connected by roads and therefore, in the absence of any better sale exemplar, as such, pertaining to the notification dated 30.10.1986, there is no scope for enhancement from what has been awarded. The ones produced in additional evidence cannot be considered, as the certified copies had not been produced and exemption has been sought from filing the same, as discussed under Question No.2. Resultantly, the appeals pertaining to the said notifications, filed by the landowners and State, are dismissed along with the cross-objections.

143. For the 2nd notification dated 27.02.1987, sale deed dated 28.11.1986 (Ext A-6) for 1 kanal 2 marlas of land which was sold for Rs.5000/- can be taken into consideration for valuing the land @ Rs.43,750/- per acre. The sale deed is well prior to the notification in question by more than 3 months and if 20% cut is given on the sale deed, the market value would work out to around Rs.35,000/- per acre for Barani, which is the amount granted by the Reference Court in the subsequent awards in the table in para No.8, since Abi and Nehri land have been given enhancement to Rs.40,000/- whereas Barani land has been given Rs.35,000/-, Banjar Qadim to Rs.15,000/ and Gair Mumkin Abadi, Rs.80,000/-. The sale deed dated 21.04.1987 (Ext.A-1) for Village Phangota Tikka Katal, cannot be taken into consideration, since it is post the notification in question, i.e. 27.02.1987, keeping in view the law laid down in **Maya Devi** (supra). Accordingly, the appeals filed by the landowners pertaining to the awards for the notification dated 27.02.1987 are liable to be allowed and they are to be granted the

same amount of compensation to the tune of Rs.35,000/- for Barani land, Rs.15,000/- for Banjar Qadim and Gair Mumkin and Rs.80,000/- for Gair Mumkin Abadi. Similarly, for the Nehri and Chahi land also, market value would be to the tune of Rs.40,000/- per acre, to bring the awards at parity with the ones passed on 15.10.1991, 22.10.1991, 12.12.1991, 27.02.1992, 21.08.1992, 20.10.1992, 21.07.1997, 29.07.1997 and 06.10.1998.

However, in RFA-2168 & 3806-1998, the landowners shall also be entitled for the amount of compensation for the period the land reference remained dismissed in default on account of the fact that Reference Court had chosen to get the evidence led for the purpose of restoring the reference petition, even though connected matters were still pending and therefore, once the application had been filed within the prescribed period of limitation, the benefit would go to the landowners on the principle of *actus curiae neminem gravabit* that for the fault of the Court, the litigants will not face adverse consequence.

Correspondingly, for the 3rd notification dated 29.06.1989, it is to be kept in mind that first of the award was passed on 31.03.1997 in LAC-1- Chatter Singh, which has led to uniform compensation being granted. The Reference Court, in the said case, had also noticed the earlier notification of 27.02.1987 being the relevant piece of evidence and also taken into consideration the sale deeds exhibited, namely, 21.04.1987, 24.02.1989 and had kept in mind the 1/4th cut, keeping in view the smallness of the sale deeds which were 1 kanal and 2 kanals, respectively. However, keeping in view the fact that on an earlier occasion, compensation had been enhanced for barani land to Rs.35,000/- and 15,000/- for gair

mumkin and banjar kadim and Rs.80,000/- for gair mumkin abadi, vide award dated 13.02.1991, which was of acquired land of Phangota Tikka Shamlat, which had been followed by subsequent awards of Thara Uparla, Ladhwal and Dalial Tikka Godwan. Judicial discipline, as such, had been kept in mind and resultantly, appropriate enhancement was done and no interference is called for, except for Gair Mumkin Abadi which requires enhancement @ 5% for the difference period of 2 years to Rs.88,200/- from Rs.80,000/- per acre, from the notification of 27.02.1987. It is further pertinent to notice that the State has chosen not to file any appeals qua the notification dated 29.06.1989 and thus, has accepted the valuation which can be used for the purpose of further fixation.

144. Similarly, for the 4th notification dated 22.10.1991, the argument that the land was pertaining to Village Hardosaran, which was closer to Dhar Kalan, as such and therefore, closer to the main road and therefore, benefits of higher amount should be awarded, is not acceptable. It is to be noticed that as per the evidence which has come on record, the land falling in the Tikka of the main village Naloh Khas is closer to the Khad and therefore, is somewhat mountainous in nature. Even otherwise, sufficient evidence has come on record that the land was 3 kms away from the said villages and therefore, the argument that enhancement is to be granted as per the lands of Himachal Pradesh does not arise. The land is sandwiched in between and nowhere near the State of Himachal and of the villages of the said State. The potentiality of the land of the villages is totally different and therefore, no thumb rule, as such, could be applicable with the awards of the Himachal Pradesh to the awards passed in the lands in question, as has been argued.

Reference can also be made to the statement of RW-1 (in RFA-1948-1996) that the land falling in Village Hardosaran was at a distance of 3 kms from the road and therefore, the said land was situated even further away from Village Hardosaran and could not be compared at par to the land stated to be closer to the road. Thus, the amount of compensation which has been awarded, as such, does not require any interference.

However, for the 5th and 6th notifications dated 06.01.1992 and 30.01.1992, the landowners were well justified to submit that there was a sale exemplar dated 20.12.1991 (Ext.A-7) of Village Ralla for the land measuring 1 kanal 11 marlas, sold for Rs.15,500/- and therefore, the value of the land would come to Rs.1,05,000/- per acre and if a 20% cut is given, it would be Rs.84,000/- whereas the amounts awarded were only Rs.50,000/- for barani land and in one case, the Reference court had only awarded Rs.22,000/- for banjar qadim. However, sale deed dated 28.01.1992 for 3 kanals 1 marla (Ext.A-7) of Tikka Katal for Rs.36,000/- is being ignored since it is after 06.01.1992 and 2 days prior to 30.01.1992 and could have been executed to enhance the market value and cannot be considered as a *bona fide* transaction to be relied upon. Similarly, Ext.A-9, sale deed for 1 kanal 6 marlas, sold on 19.11.1991 for Rs.14,000/- in Village Hardosaran pertaining to RFA-1948-1996 titled *Kartar Singh Vs. Punjab State*, would also show similar market value to the tune of Rs.1,13,077/- and after 20% cut (Rs.22,615/-), it would work out to Rs.90,462/- per acre. The said argument merits acceptance, as the sale deeds have wrongly been ignored and therefore, the landowners' appeals are allowed for the notification dated 06.01.1992 and the enhancement is granted from

Rs.40,000/-/Rs.50,000/- for barani land to Rs.90,462/- and correspondingly, for banjar qadim land, the amount doubles from Rs.14,000/-/22,000, which is enhanced to Rs.44,000/- per acre. For the gair mumkin abadi, the value is correspondingly enhanced from Rs.1,15,000/- to Rs.1,60,000/- and for Chahi land from Rs.60,000/- per acre to Rs.1 lakh per acre.

While dealing with the 7th and 8th notifications dated 16.03.1994, 18.03.1994 together, granting cumulative increase of 12% is not acceptable, as granted by the Reference Court, as the land is situated in rural areas and the principles of **Rameshbhai Jivanbhai Patel** (supra) would come into play and only 5% increase could be given from the closest notification, i.e., of 30.01.1992 and not of notification dated 22.10.1991. Relevant portion of the judgment 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.

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.

13. Much more unsafe is the recent trend to determine the market value of acquired lands with reference to future sale transactions or acquisitions. To illustrate, if the market value of a land acquired in 1992 has to be determined and if there are no sale transactions/acquisitions of 1991 or 1992 (prior

to the date of preliminary notification), the statistics relating to sales/acquisitions in future, say of the years 1994-95 or 1995-96 are taken as the base price and the market value in 1992 is worked back by making deductions at the rate of 10% to 15% per annum. How far is this safe? One of the fundamental principles of valuation is that the transactions subsequent to the acquisition should be ignored for determining the market value of acquired lands, as the very acquisition and the consequential development would accelerate the overall development of the surrounding areas resulting in a sudden or steep spurt in the prices. Let us illustrate. Let us assume there was no development activity in a particular area. The appreciation in market price in such area would be slow and minimal. But if some lands in that area are acquired for a residential/commercial/industrial layout, there will be all round development and improvement in the infrastructure/ amenities/facilities in the next one or two years, as a result of which the surrounding lands will become more valuable. Even if there is no actual improvement in infrastructure, the potential and possibility of improvement on account of the proposed residential/commercial/ industrial layout will result in a higher rate of escalation in prices. As a result, if the annual increase in market value was around 10% per annum before the acquisition, the annual increase of market value of lands in the areas neighbouring the acquired land, will become much more, say 20% to 30%, or even more on account of the development/proposed development. Therefore, if the percentage to be added with reference to previous acquisitions/sale transactions is 10% per annum, the percentage to be deducted to arrive at a market value with reference to future acquisitions/sale transactions should not be 10% per annum, but much more. The percentage of standard increase becomes unreliable. Courts should therefore avoid determination of market value with reference to subsequent/future transactions. Even if it becomes inevitable, there should be greater caution in applying the prices fetched for transactions in future. Be that as it may.

14. In this case, the acquisition was in a rural area. There was no evidence of any out-of-ordinary developments or increases in prices in the area. We are of the view that providing an escalation of 7.5%per annum over the 1987 price under Ex.15, would be sufficient and appropriate to arrive at the market value of acquired lands.”

Thus, the market value at 5% cumulative enhancement would work out as under:

Type of land	January, 1992	March, 1993 5% enhancement	March, 1994 5% enhancement
Barani	Rs.90,462/-	+4523=Rs.94,985/-	+4749=Rs.99,734/-
Banjar Qadim/ Banjar Jadid/ Gair Mumkin	Rs.44,000	+2200=Rs.46,200	+2310=Rs.48,510
Chahi			Rs.1,20,000/-
Gair Mumkin Abadi	1,60,000	+8000=Rs.1,68,000/-	+8400=1,76,400/-

145. For the 9th notification dated 20.12.1994, the argument which has been raised that once there was an enhancement on 23.02.2000 (in RFA-1657-2000 titled *Sarla Devi Vs. State of Punjab*), by the Reference Court, the subsequent Reference Court was not justified by dismissing the claim petition on 02.08.2001 and 03.10.2002 and similarly, even though no evidence was led in RFA-5777-2015 (Bimla Devi's case) and they were entitled for the same benefits. Also for the award dated 21.02.2004, pertaining to RFA-7055-2015 titled *Faja Singh & others Vs. State of Punjab*, wherein 31 cases were also not given the same benefit as in Sarla Devi's case. The issue has already been discussed in detail under Question No.4 that for the same notification same compensation has not been given

and Reference Court came to the opinion that the award was not justified inspite of there being such evidence. Therefore, the award is patently erroneous in the absence of any finding, as such, recorded and the landowners are entitled for the same benefit and they are entitled for a parity as in Sarla Devi's case.

146. While coming to the 10th notification dated 07.08.1995, the argument of taking into consideration sale deed dated 02.08.1994 (Ext. A-1) for land measuring 7 marlas in Village Darkua Bangla, as argued by Mr.Manhas, Advocate and Mr.Sanjeev Sharma, Sr.Advocate, is not liable to be accepted as the land is miniscule and cannot be taken as a true exemplar for fixing the market value when huge amount of land is being acquired, as noticeable upto 7221 acres and therefore, larger chunk of land would be depicting the real market value. A perusal of the record would also go on to show that the sale deed transaction was qua a plot and a kuccha room was made over it and it would not be a safe transaction, as such, to rely upon. However, sale deed of land measuring 6 kanals on 24.03.1995 (Ext. A-11) for Rs.90,000/-, falling in Village Darkua Bangla was executed at the same time, when sale deed for 5 kanals 17 marlas was executed on 10.03.1995 (Ext. A-7) for Rs.90,000/-, by the same vendor, namely, Dewan Chand and Jai Kishan, for Village Phangota Tikka Gulial. The value would come to Rs.1,57,500/- and if a 20% cut is applied, the market value would come to approximately Rs.1,26,000/-. It was wrongly held that it was not falling in the same village but in the adjoining village and the sale deed could have been taken into consideration. Similarly, a perusal of Ext.A-5, sale deed dated 28.01.1992 for Rs.36,000/- for 3 kanals (in RFA-4110-2003, *Sulakhan Singh & others Vs. Punjab State & others*) would go on to

show that for land in Village Tikka Katal, the sale value was Rs.1,26,000/- per acre. If the benefit of 3 years @ 5% increase is to be given to the said sale deed (Ext.A-5) after putting a 20% cut to the tune of Rs.25,200/-, the market value would come to Rs.1,00,800/- and after giving a cumulative increase, the market value would work out to Rs.1,19,605 (Rs.1,19,600/-). The table reads as under:

Type of land	1993	1994 5% enhancement	1995 5% enhancement	+6 months
Barani-I	1,00,800+5040= 1,05,840	+5292=1,11,132	+5556=1,16,688	+2917= 1,19,605
Abi/Chahi			Rs.1,30,000	
Barani			Rs.1,19,600 (rounded off)	
Banjar Qadim			Rs.40,000	
Gair Mumkin			Rs.30,000	
Gair Mumkin Abadi			Rs.1,50,000	

147. The benefit of the best exemplar is also being given (Ext. A-5) for 3 kanals of land as it is settled principle that the landowners are entitled for the benefit of the best sale deed while assessing the market value, in view of the law laid down by the Apex Court in Anjani Molu Dessai, wherein it had been held that averaging is not to be resorted to.

Relevant portion of the judgment reads as under:

“13. The legal position is that even where there are several exemplars with reference to similar lands, usually the highest of the exemplars, which is a bona fide transaction, will be considered. Where however there are several sales of similar lands whose prices range in a narrow bandwidth, the average thereof can be taken, as representing the market price. But where the values disclosed in respect of two sales are markedly different, it can only lead to an inference that

they are with reference to dissimilar lands or that the lower value sale is on account of under-valuation or other price depressing reasons. Consequently averaging can not be resorted to. We may refer to two decisions of this Court in this behalf.

13.1) In Sri Rani M. Vijayalakshmanna Rao Bahadur, Rane of Vuyyur Vs. The Collector of Madras, 1969 (1) MLJ 45, a three Judge Bench of this Court observed that the proper method for evaluation of market value is by taking the highest of the exemplars and not by averaging of different types of sale transactions. This Court held:

"It seems to us that there is substance in the first contention of Mr. Ram Reddy. After all, when the land is being compulsorily taken away from a person, he is entitled to say that he should be given the highest value which similar land in the locality is shown to have fetched in a bona fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition. It is not disputed that the transaction represented by Exhibit R-19 was a few months prior to the notification under section 4, that it was a bona fide transaction and that it was entered into between a willing purchaser and a willing seller. The land comprised in the sale deed is 11 grounds and was sold at Rs.1,961 per ground. The land covered by Exhibit-27 was also sold before the notification, but after the land comprised in Exhibit R-19 was sold. It is true that this land was sold at Rs.1,096/- per ground. This, however, is apparently because of two circumstances. One is that betterment levy at Rs.500 per ground had to be paid by the vendee and the other that the land comprised in it is very much more extensive, that is about 93 grounds or so. Whatever that may be, it seems to us to be only fair that where sale deed, pertaining to different transactions are relied on behalf of the Government, that representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different

course. In any case we see no reason why an average of two sale deeds should have been taken in this case."

13.2) In State of Punjab Vs. Hans Raj (1994) 5 SCC 734, this court held:

"Having given our anxious consideration to the respective contentions, we are of the considered view that the learned single Judge of the High Court committed a grave error in working out average price paid under the sale transactions to determine the market value of the acquired land on that basis. As the method of averaging the prices fetched by sales of different lands of different kinds at different times, for fixing the market value of the acquired land, if followed, could bring about a figure of price which may not at all be regarded as the price to be fetched by sale of acquired land. One should not have, ordinarily recourse to such method. It is well settled that genuine and bona fide sale transactions in respect of the land under acquisition or in its absence the bona fide sale transactions proximate to the point of acquisition of the lands situated in the neighbourhood of the acquired lands possessing similar value or utility taken place between a willing vendee and the willing vendor which could be expected to reflect the true value, as agreed between reasonable prudent persons acting in the normal market conditions are the real basis to determine the market value."

Therefore, we are of the view that the averaging of the prices under the two Sale Deeds was not justified. The Sale Deed dated 31.1.1990 ought to have been excluded for the reasons stated above. That means compensation for the acquired lands had to be fixed only with reference to the Sale Deed dated 30.8.1989 relied upon by the Land Acquisition Collector which will be Rs.57.50 per sq.m. As the said market value has been fixed with reference to comparable bharad land with fruit trees, the question of again separately awarding any compensation for the trees

situated in the acquired land does not arise.”

The said view was also taken in **Chakas** (supra).

148. State Counsel was justified in holding out that the benefit of 12% increase could not have been given on the sale deed dated 28.01.1992, keeping in view the above discussions, since the land was situated in rural area and there was nothing to show that the prices were going up at the rate of 12%. Resultantly, the Reference Courts awards dated 29.12.2000 and 13.12.2000 will not be sustainable and the amounts granted for the notification dated 07.08.1995 would come to, as above, in para 146.

149. However, the State Counsel is well justified whereby Rs.1600/- per marla was wrongly awarded while placing reliance upon the acquisition, as such, of the land falling in Village Rajpura and Jugial. The site-plan has already been examined and even otherwise, from the evidence, sufficient material has come on record to show that the said villages were at Shahpur Kandi, which is the construction site for the Dam and which is far away and more than 30 kms. and in the plains. Therefore, the same were wrongly taken as sale exemplars upon which the enhancement was granted by the Reference Court, without even referring to the material placed on record and the amount of Rs.1600/- per marla was, thus, granted without any basis and which has led to a cascading effect whereby the market value for the subsequent notification has also been relied upon.

150. For the subsequent 11th notification which is barely 1 ½ months later on 20.09.1995, benefit was given by the Reference Court wrongly by giving Rs.1600/- per marla, cannot be sustained in the said appeals for the reasons given above and the same are liable

to be set aside. For the notification dated 20.09.1995, the same amount would be liable to be paid as per the amount assessed for notification dated 07.08.1995, in view of the difference of only 44 days between the 2 notifications. Reliance upon Exts. A-9 & A-10 which finds mention in para No.46 are not taken as sale exemplars since they are of 1 kanal and 1 kanal 10 marlas whereas larger sale exemplars of 6 kanals and 3 kanals would give a better assessment of the market value, especially keeping in view the large chunk of land which has been acquired.

151. Coming to the notification dated 17.09.1998, for Village Darban Khas which is located on the extreme end towards the river, whereby an amount of Rs.1600/- per marla has been awarded, the same is not sustainable, in view of the reasoning given above. The landowners have not filed any appeal and would have only been entitled for the 5% increase on what has been awarded for the notification dated 07.08.1995, but since they have already been granted Rs.93,750/- per acre for Barani-II and for Gair Mumkin, Rs.75,500/-, by the Land Acquisition Collector, there is no further scope for modification on that account.

152. The sale deeds which have been exhibited by the State are showing the value at a pittance and which is also on the basis of average value of the land by preparing a chart in all the awards. An example can be given from the case of RFA-1657-2000, where the sale deeds produced by the State (Exts.R-4 to R-9) and the average chart of the said sale deeds as Ext.R-10. The charts prepared in the appeal, for example is as under:

Village	Registry No. Dated	Land	Amount
Bar Sudal Tikka Mothwan	246/28.12.93	1-4	Rs.2000/-
Bad Sudal Tikka Sudhal	348/25.3.94	113-4	Rs.90,000/-
Bar Sudhal Tikka Karooon	7/5.4.94	133-9	Rs.1,00,000/-
Badh Sudhal Tikka Bar	296/17.1.94	50-9	Rs.1,75,000/-
Phangota	105/10.6.94	22-0	Rs.52,000/-
Bar Sudhal Tikka Sudhal	33/29.4.94	12-0	Rs.9,000/-
	Total	332 kanal 6 marlas	Rs.4,28,000/-

153. A perusal of the same would go on to show that the said sale deeds depict the rate far below the rate to what was awarded by the Land Acquisition Collector in the present acquisition, pertaining to the notification dated 20.12.1994, Rs.10,000/- to Rs.40,000/- has been given for Barani land across the board and the average rate, thus, would work out at Rs.13,525/- per acre and therefore, the said sale deeds have rightly not been taken into consideration.

Reference can be made to Section 25 of the Act, which reads as under:

“25. Amount of compensation awarded by Court not to be lower than the amount awarded by the Collector:- The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under section 11.”

154. The chart would go on to show that the value of the land was much below the amount awarded by the Land Acquisition Collector and the said exemplars relied upon by the State are not liable to be taken into consideration, keeping in mind the fact that the land is also adjoining the border and was falling in District

Gurdaspur at that point of time and therefore, keeping in view the well known principle that sale exemplars of villages may not depict the correct market value, the same cannot be taken into consideration for fixing the compensation of the land in dispute. The sale deeds were, however, also ignored on the basis that the vendor and vendees have not been examined, which finding itself has been held to be not sustainable under question No.2. In **Lal Chand** (supra), the issue of undervalued sale deeds was kept into consideration and whether the sale deeds was to be a unreliable source of consideration, was also subject matter of discussion. Relevant portions read as under:

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

31. But we have noticed a disturbing trend in some recent cases, where a court accepts the sale deed exhibited by the claimants as the basis for ascertaining the market value. But then, it also accepts a contention of the claimants that the general tendency of members of public is not to show the real value, but show a lesser value to avoid tax/stamp duty and therefore the sale deeds produced and relied on by them, should be assumed to be under valued. On such assumption, some courts have been adding some fancied percentage to

the value shown by the sale deeds to arrive at what they consider to be 'realistic market value'. The addition so made may vary from 10% to 100% depending upon the whims, fancies, and the perception of the learned Judge as to what is the general extent of suppression of the price in sale deeds. Such increase, in the market value disclosed by the sale deeds, on the assumption that all sale deeds show a 'depressed' market value instead of the real value, is impermissible. The Court can either accept the document as showing the prevailing market value, in which event it has to be acted upon. Or the Court may find a document to be undervalued in which it should be rejected straightaway as not reliable. There is no third way of accepting a document, by adding to the market value disclosed by the document, some percentage to off- set the under-valuation. There is no legal basis to proceed on a general assumption that parties, without exception, fail to reflect the true consideration in the sale deeds, that there is always undervaluation or suppression of the true price and that consequently, all sale deeds reflect a depressed value and not the real market value and therefore, some percentage should be added to arrive at the real value. Such a course also amounts to branding all vendors and purchasers as dishonest persons without any evidence and without hearing them. It ignores the fact that government has fixed minimum guideline values and whenever a registering authority is of the view that a sale deed is undervalued, proceedings are initiated for determination of the true market value. It also ignores the fact that a large number of sale deeds are accepted by the registering authorities as disclosing the current market value."

155. Recently, in *Ashok Kumar & another Vs. State of Haryana 2016 (4) SCC 544*, the said factor was also taken into consideration that the Court could not award compensation lessor than that fixed by the Collector and it was the duty of the Court to award just and fair compensation by taking into consideration the

true market value and other relevant factors, irrespective of the claim made by the owner.

156. Reference can be made to the judgment of the Apex Court in *Haryana State Industrial Development Corporation Vs. Pran Sukh & others 2010 (11) SCC 175* wherein it was held that transfer of property is usually undervalued to avoid payment of stamp duty and registration charges.

6) Whether the landowners of those revenue estates were entitled for additional compensation on account of the fact that they have been forced to move out from their villages and change their residence, under Section 23 Clause five, for determining the amount of compensation ?

157. There is sufficient evidence on record to show that as many as 8 villages have been totally submerged and the landowners have been forced to shift from their villages and have become displaced. The provisions of Section 23 Clause 5, read as under:

“23 Matters to be considered in determining compensation-
xxxx xxxx xxxx

(5) if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;”

158. Apart from the evidence which has been discussed, the fact that many villages have been totally submerged in the water of the RSD, affidavit has also been filed dated 23.07.2018, in RFA-1352-1992, in compliance of the order dated 13.07.2018, wherein it would be clear that the following 8 villages have been fully submerged in the Dam waters, having elevation upto 531 mts. and the villagers have been forced to shift their residence, as under:

1. Darkua Bangla Khas
2. Tikka Godwan
3. Phangota Khas
4. Tikka Gulial
5. Tikka Kattal
6. Tikka Shamlat
7. Tikka Ladwal
8. Chakbela

159. Thus, the landowners of the said villages are entitled for the additional benefits, over and above the amount of compensation which has been awarded, below, as they have been forced to shift their residence and Gair Mumkin Abadi land has been acquired.

160. In view of the above provisions, this Court is of the opinion that for such displacement, the landowners of the said 8 villages and tikkas who have been totally forced to move out, would be entitled for an additional benefit of 20% of the compensation awarded for the respective notifications, as mentioned above as they have been compelled to change their residence and would have incurred large amount of expenses for the said purpose and to purchase property elsewhere including their residence, leading to their displacement.

Relief clause:

(i) Accordingly, for the first notification dated 30.10.1986, the amounts awarded by the Reference Court do not need any interference on both sides, i.e., the State and the landowners and the appeals and cross-objections are, accordingly, dismissed.

(ii) For the notification dated 27.02.1987, the appeals/cross-objections filed by the landowners are allowed and those of the State are dismissed and the compensation per acre would be as under:

- (a) All kinds of Barani land: Rs.35,000/-
- (b) Banjar Qadim & Gair Mumkin land: Rs.15,000/-
- (c) Gair Mumkin Abadi: Rs.80,000/-
- (d) Nehri/Chahi Rs.40,000/-

(iii) For notification dated 29.06.1989, appropriate enhancement was given except for Gair Mumkin Abadi, for which 5% cumulative enhancement is given for the difference of 2 years to fix the rate @ Rs.88,200/- per acre. Therefore, the amounts awarded by the Reference Court do not need any interference for the landowners, for the other category and the appeals are, accordingly, disposed of.

(iv) For notification dated 22.10.1991, appropriate enhancement was given and therefore, the amounts awarded by the Reference Court do not need any interference on both sides, i.e., the State and the landowners and the appeals are, accordingly, disposed of.

(v) For notifications dated 06.01.1992/30.01.1992, landowners' appeals/cross-objections are allowed and the State appeals are dismissed and the amount per acre is assessed as under:

(a) All kinds of Barani land : Rs.90,462/-

(b) Banjar Qadim/Jadid: Rs.44,000/-

(c) Gair Mumkin Abadi: Rs.1,60,000/-

(d) Chahi Rs.1,00,000/-

(vi) For notifications dated 16.03.1994 and 18.03.1994, State appeals are allowed and those of landowners/cross-objectors are disposed of. The amount per acre is assessed as under:

(a) All kinds of Barani land : Rs.99,734/-

(b) Banjar Qadim/Banjar Jadid/Gair Mumkin:Rs.48,540/-

(c) Chahi: Rs.1,10,250/-

(d) Gair Mumkin Abadi: Rs.1,76,400/-

(vii) For notification dated 20.12.1994/23.12.1994, appropriate enhancement was given by award dated 23.02.2000 and therefore, the amount awarded by the said Reference Court does not need any interference and the State as well as landowners' appeals are, accordingly, dismissed against the said award. However, appeals against awards dated 03.10.2002, 21.02.2004 and 05.06.2007 are allowed of the landowners and the landowners will get the same amount as in award dated 23.02.2000.

(viii) For notifications dated 07.08.1995/20.09.1995, the appeals are disposed of. The amount per acre is assessed as under:

(a) All kinds of Barani land : Rs.1,19,600/-

(b) Banjar Qadim: Rs.40,000/-

(c) Gair Mumkin:	Rs.30,000/-
(d) Chahi/Abi:	Rs.1,30,000/-
(e) Gair Mumkin Abadi:	Rs.1,50,000/-

Resultantly, the State appeals are allowed and the Reference Courts awards dated 29.11.2000 and 13.12.2000 are set aside along with awards dated 16.05.2007, 05.10.2007, 08.10.2007, 17.01.2008, 16.02.2008, 05.04.2008, 02.06.2008, 18.08.2008, 29.08.2011, 01.11.2013 13.11.2013, 01.02.2014 & 12.11.2014, whereby Rs.1600/- to Rs.1830/- per marla had been awarded. Similarly, the appeals of the landowners are allowed by modifying the awards dated 08.11.2001, 04.12.2002, 02.01.2003, 07.06.2003, 04.09.2003, 10.09.2003, 16.12.2003, 15.02.2005, 30.07.2005, and are disposed of, accordingly.

(ix) For notifications dated 17.09.1998, State appeals are allowed.

(x) In RFA-2168 & 3806-1998 and other similarly situated appeals, landowners would not be denied interest on the basis that references were dismissed in default and thereafter, restored after considerable period, in view of the discussion made above that on account of the fault of the Court, it would not harm the party.

(xi) With the appeals and Cross-objections having been

decided, all misc. applications in which no separate orders have been passed, also stand disposed of.

(xii) Apart from the above, landowners whose land is falling in the following 8 villages, shall also be entitled for the benefit of additional 20%, over and above the compensation awarded to them, on account of they being forced to shift their residence from the said villages: (a) Darkua Bangla Khas, (b) Tikka Godwan, (c) Phangota Khas, (d) Tikka Gulial, (e) Tikka Kattal, (f) Tikka Shamlat, (g) Tikka Ladhwal and (h) Chakbela.

(xiii) The State shall also comply with the directions laid down by the Apex Court in **Pran Sukh's case** (supra), 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.

(xiv) 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.

NOVEMBER 02, 2018
SAILESH

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*