

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

RFA No.384 of 2013 (O&M)  
& other connected cases  
Reserved on: 01.05.2018  
Decided on : 01.06.2018

Tej Singh & another  
... Appellants  
Versus  
State of Haryana and others  
... Respondents

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

| S. No. | Appeals/Cross-objections filed by landowners                                                                                                                                                                                                               | Appeals filed by HSIIDC                                                                                                                                                                                                             | Name of Village(s) |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 1      | RFA-6532, 6942, 6943, 7225, 7261, 7262 -2012<br>Xobj-80-CI-2011 in 2453-2011<br>RFA-384, 385, 1023, 1056, 2142, 2872, 2874, 3378, 3801, 3802, 4556, 6369, 7913 -2013<br>RFA-2089, 2090, 2091, 2119, 2542, 2543-2014<br>RFA-3743, 7066-2015<br>RFA-402-2016 | RFA-2452, 2453-2011<br>RFA-4549, 4550, 4552, 4553, 4554, 4555, 4557, 4558, 4559, 4560, 4561, 4562, 4563, 4564, 4565, 4567, 4566, 4568, 4569, 4570, 4571, 4572, 4573, 4574, 4575, 4751-2013<br>RFA-4631, 4632, 4633, 4634, 4635-2014 | Dhana              |
| 2      | RFA-7150, 7151-2012<br>RFA-399, 400, 462, 465, 959, 1088, 1094, 1355, 1356, 1357, 1358, 1359, 1360, 1361, 1362, 1363, 1656, 2086, 2087, 2088, 2090, 2091, 2126, 2127, 2128, 2138, 2143, 2147, 2360, 3899, 4013, 3901, 6875, 7914, 7915, 7916-2013          | RFA-3469, 3470, 3471, 3472, 3473, 3474, 3475, 3476, 3477, 3478, 3479, 3480, 3481, 3482, 3483, 3484, 3485, 3486, 3487, 3488, 3489, 3490, 3766-2013                                                                                   | Kasan              |
| 3      | RFA-1969, 1970, 1971 1972, 4424, 4487-2013<br>RFA-3425, 3426, 3427-2014<br>RFA-16-2016                                                                                                                                                                     | RFA-7110, 7111, 7112, 7113, 7114, 7115, 7116, 7119, 7135-2013                                                                                                                                                                       | Bas Huria          |

***RFA No.384 of 2013 & other connected cases***

| <b>S. No.</b> | <b>Appeals/Cross-objections filed by landowners</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>Appeals filed by HSIIDC</b>                                                                                                                                                                                                                                                                                       | <b>Name of Village(s)</b> |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| 4             | RFA-7149-2012<br>RFA-958, 1102, 2077, 2078, 2075, 2076, 2079, 2146, 4304, 4334, 4426, 4440, 5414-2013<br>RFA-1014, 8160-2014<br>RFA-243-2016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | RFA-4576, 4577, 4578, 4579, 4580, 4581, 4582, 4583, 4584, 4585, 4586, 4587, 4588, 4589, 4590, 4591, 4592, 4593, 4594, 4595, 4596, 4597, 4598, 4599, 4600, 4602, 4603, 4604, 4605, 4606, 4607-2013                                                                                                                    | Bas Lambi                 |
| 5             | RFA-5420-2013<br>RFA-1272, 1273, 1495, 2155, 2154, 2253, 2304, 2310, 2314, 2422, 2423, 2425, 3731, 3734, 4400, 4973, 5323, 5431, 10385, 10319-2014<br>Xobj-56-CI-2014 in 4036-2014<br>Xobj-61-CI-2014 in 4004-2014<br>Xobj-62-CI-2014 in 4011-2014<br>Xobj-174-CI-2015 in 4012-2014<br>Xobj-95-CI-2014 in 4014-2014<br>Xobj-65-CI-2014 in 4016-2014<br>Xobj-55-CI-2014 in 4018-2014<br>Xobj-67-CI-2014 in 4019-2014<br>Xobj-64-CI-2014 in 4021-2014<br>Xobj-60-CI-2014 in 4024-2014<br>Xobj-175-CI-2015 in 4029-2014<br>Xobj-57-CI-2014 in 4032-2014<br>Xobj-54-CI-2014 in 4033-2014<br>Xobj-58-CI-2014 in 4035-2014<br>Xobj-66-CI-2014 in 4048-2014<br>Xobj-59-CI-2014 in 4050-2014<br>Xobj-65-CI-2015 in 4052-2014<br>Xobj-102-CI-2014 in 4055-2014 | RFA-4004, 4005, 4006, 4007, 4008, 4010, 4011, 4012, 4013, 4014, 4015, 4016, 4018, 4019, 4020, 4021, 4022, 4023, 4024, 4025, 4026, 4027, 4028, 4029, 4030, 4032, 4033, 4034, 4035, 4036, 4037, 4038, 4039, 4040, 4041, 4042, 4043, 4044, 4045, 4048, 4046, 4047, 4049, 4050, 4051, 4052, 4053, 4054, 4055, 4056-2014. | Bas Khusla                |

Present: Mr.Shailendra Jain, Sr.Advocate  
with Mr.Satyendra Jain, Advocate  
and Mr.H.J.Singh, Advocate,

Mr.Pawan Kumar, Sr.Advocate  
with Mr.Rozer Kumar, Advocate,  
Mr.R.A.Yadav, Advocate,  
Mr.Sudhir Aggarwal, Advocate,  
Mr.S.P.Chahar, Advocate,  
Mr.Sandeep Kotla, Advocate,  
Mr.Amit Jain, Advocate  
Mr.Neeraj Jain, Advocate, for  
Mr.Jagmohan Ghumman, Advocate,  
Mr.Kul Bhushan Sharma, Advocate,  
Mr.Pawan Kumar, Advocate, for  
Mr.Saurabh Arora, Advocate,  
Mr.Rakesh Dhiman, Advocate,  
Ms.Mehak Sawhney, Advocate, for  
Mr.Vinod S.Bhardwaj, Advocate,  
Ms.Minakshi Poswal, Advocate, for  
Mr.R.S.Mamli, Advocate,  
Mr.Pawan Malik, Advocate,  
Ms.Nisha, Advocate, for  
Mr.Adarsh Jain, Advocate,  
Mr.Ashok Tyagi, Advocate,  
Mr.Gaurav Arora, Advocate, for  
Mr.Sachin Mittal, Advocate,  
Mr.Ashwani Gaur, Advocate  
Mr.Atul Yadav, Advocate, for the landowners/cross-objectors.

Mr.Sudeep Mahajan, Addl.A.G., Haryana,  
for State as well as for HSIIDC.  
Ms.Safia Gupta, AAG, Haryana.  
Mr.Pritam Saini, Advocate, for HSIIDC.

\*\*\*\*\*

**G.S. Sandhawalia, J.**

The present 114 appeals, filed under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act') and 19 cross-objections, are pertaining to Villages Dhana, Kasan, Bas Huria, Bas Lambi and Bas

***RFA No.384 of 2013 & other connected cases***

Khusla, filed by the landowners who are aggrieved against the compensation fixed by the Reference Courts, Gurugram, vide different awards. The notification under Section 4 in question is dated 27.09.2005, whereby 465 acres 5 kanals 7 marlas of land was sought to be acquired for the purpose of setting up of a Transport Hub, Phase-VI of the Chaudhary Devi Lal Industrial Modern Township, Manesar. Notification of which under Section 6 of the Act was issued on 02.06.2006 and the Collector, vide separate awards No.1 to 5, dated 24.01.2007, awarded Rs.12,50,000/- for all the villages. HSIIDC has also preferred 147 appeals aggrieved by the compensation awarded, in which cross-objections have also been preferred. The description of the total land acquired is as under:

| Scheme           | Villages   | Area  |       |
|------------------|------------|-------|-------|
|                  |            | Kanal | Marla |
| Transport Hub    | Bas Khusla | 427   | 15    |
|                  | Bas Huria  | 177   | 8     |
|                  | Dhana      | 961   | 13    |
|                  | Kasan      | 458   | 10    |
|                  | Bas Lambi  | 829   | 18    |
|                  |            |       |       |
| Transport Hub-II | Dhana      | 509   | 7     |
|                  | Kasan      | 360   | 16    |

2. Different reference Courts at Gurugram dealt with the matter at different points of time and the first award in question was dated 18.12.2010, pertaining to Village Dhana, wherein a sum of Rs.46,07,890/- per acre was awarded as market value of the land while deciding 2 reference petitions, which is subject matter of RFA-2453-2011 titled *HSIIDC Vs. Ram Niwas & others*. Similarly, on 04.09.2012, 26 reference

***RFA No.384 of 2013 & other connected cases***

petitions were decided for the said village, awarding the same amount of compensation, which is subject matter of RFA-384-2013 titled *Tej Singh Vs. State of Haryana & others*. On 04.12.2012, another award was passed for the said village, wherein also, same amount of compensation was given, which is subject matter of RFA-2874-2013 titled *Marwan & others Vs. State of Haryana & others* and which was followed by another award dated 22.03.2013, which is subject matter in RFA-402-2016 titled *Sunita Devi Vs. State of Haryana & others*. On 09.05.2013, another award was passed wherein also, same amount of compensation was granted, which is subject matter of RFA-6369-2013 titled *Ranbir Singh Vs. State of Haryana*.

3. However, vide award dated 07.10.2013, Reference Court granted a sum of Rs.50,70,359/- which is subject matter of RFA-7913-2013 titled *M/s Asylum Estate Pvt. Ltd. Vs. State of Haryana & others*, whereas vide award dated 23.11.2013, which is subject matter of RFA-2091-2014 titled *Siri Chand & others Vs. State of Haryana & others*, a sum of Rs.46,07,890/- which had been granted earlier, was maintained. Another award was passed on 17.03.2015, which is subject matter in RFA-3743-2015 titled *Udey Singh & others Vs. State of Haryana & others* for Village Dhana wherein also Rs.46,07,890/- was awarded.

4. For Village Kasan, vide award dated 03.10.2012, which is subject matter of RFA-2086-2013 titled *Lal Singh Vs. State of Haryana & others*, a sum of Rs.50,70,359/- was awarded while deciding 24 reference petitions.

***RFA No.384 of 2013 & other connected cases***

5. For land falling in Village Bas Huria, vide award dated 09.11.2011, which is subject matter of RFA-3426-2014 titled *Sarup & another Vs. State of Haryana & others*, a sum of Rs.46,07,890/- was granted. Reference Court vide award dated 10.11.2012, in RFA-1971-2013 titled *Sohan Lal & others Vs. State of Haryana & others*, has also granted same compensation. Vide another award dated 29.04.2013, for Village Bas Huria, which is subject matter of RFA-7119-2013 titled *HSI IDC & others Vs. Chunni Lal & others*, same amount of compensation was assessed. Thereafter, vide award passed on 01.09.2015, Reference Court, which is subject matter in RFA-16-2016 titled *Jai Pal Singh & others Vs. State of Haryana & others*, fixed the compensation at the same amount.

6. Another Reference Court on 10.11.2012, while deciding 32 reference petitions, for Village Bas Lambi, which is subject matter of RFA-958-2013 titled *Balbir Vs. State of Haryana & others*, granted compensation of Rs.46,07,890/-, whereby 829 kanals, 18 marlas of land was acquired.

7. For Village Bas Khusla, while deciding 54 reference petitions on 28.09.2013, a sum of Rs.68,32,893/- was awarded by applying the cumulative method, which is subject matter of RFA-4004-2014 titled *HSI IDC Vs. Amar Pal & others*. Similarly, RFA-4424-2015 titled *Ishwar @ Ishar Vs. State of Haryana & others*, deals with award dated 01.10.2014 wherein also, Rs.68,32,893/- was granted.

8. While assessing the market value, vide award dated

***RFA No.384 of 2013 & other connected cases***

18.12.2010, for Village Dhana, for the first time, the Reference Court kept in mind compensation awarded in **HSIDC Vs. Pran Sukh (2010) 11 SCC 175** whereby a sum of Rs.20 lacs has been awarded as compensation for the notification dated 15.11.1994, for setting up the Industrial Model Township, Phase-I, Manesar. It was further noticed that for notification dated 07.03.2002 of Village Dhana, besides land of Village Kasan, Bas Kusla, Bas Huria, which was also for the development of Phase-III, one Reference Court had awarded a sum of Rs.28,15,849/- by giving increase of 12% on Rs.15 lacs, as had been assessed by this Court. Since the Apex Court had enhanced the value @ Rs.20 lacs in **Pran Sukh's case** (supra), the same was relied upon by granting 12% increase for the time-gap of 10 years, 10 months and 12 days between the 2 notifications dated 15.11.1994 and the one in question dated 27.09.2005, to assess the market value of Rs.46,07,890/-. The apportionment claimed, as such, was also decided in favour of the claimants and the claim of Gram Panchayat was denied.

9. However, for the same Village Dhana, vide award dated 07.10.2013, another Reference Court relied upon the award dated 03.10.2012 for Village Kasan, which is subject matter of RFA-2086-2013, to grant higher compensation of Rs.50,70,359/-, on the ground that it was pertaining to the same notification and the public purpose was the same, i.e., for completing the infrastructural facilities and other public utilities such as roads, water supply, sewerage, electrification etc.

10. Thus, it is apparent that for the same acquisition, Rs.46,07,890/- and Rs.50,70,359/- have been awarded for Village Dhana

***RFA No.384 of 2013 & other connected cases***

and similarly, for Village Kasan also, Rs.50,70,359/- has been awarded. However, for Village Bas Khusla, Rs.68,32,893/- was awarded, without the Reference Courts having, in any manner, recorded a finding, as such, that the lands situated in those villages were superior or were better placed and without making any reference to the site-plans in question.

11. It is pertinent to mention that for the notification dated 07.03.2002 wherein the Reference Court had awarded a sum of Rs.28,15,849/-, had been subject matter of decision in RFA-2373-2010 titled *Madan Pal (III) & others Vs. State of Haryana & others*, decided firstly on 11.02.2011, wherein Villages Kasan, Bas Khusla, Bas Huria and Dhana were involved for Phase-III of IMT Manesar. At that point of time, this Court had awarded a sum of Rs.37.40 lacs per acre. The said judgment was set aside in **HSI IDC Limited Vs. Udal and others 2013 (14) SCC 506** decided on 02.07.2013 and the matter was remanded to this Court for fresh decision. The matter was thereafter decided on 06.10.2015 and the Coordinate Bench had remanded the matter to the Reference Court while granting leave to Maruti Suzuki India Limited (MSIL) to be impleaded as party and to lead evidence with other parties to enable the Reference Court to assess fair value of the acquired land.

12. Some of the land owners being dissatisfied with the remand order had approached the Apex Court in **Satish Kumar Gupta and others Vs. State of Haryana and others AIR 2017 SC 1072** wherein the said order dated 06.10.2015 was set aside on 21.02.2017. The Apex Court held that firstly, MSIL, being post acquisition allottee, was not necessary and

***RFA No.384 of 2013 & other connected cases***

proper party and therefore, it could not be permitted to lead evidence at the stage of deciding the market value. The liberty to lead evidence was also not permitted by holding that lacunas could not be permitted to be filled up and the applications did not fall within the ambit of Order 41 Rule 27 CPC. In pursuance to the said remand order, **RFA-2373-2010** titled ***Madan Pal (III) & others Vs. State of Haryana & others***, was decided by this Court on 09.03.2018, regarding the notifications dated 26.02.2002 (Phase-IV), 06.03.2002 (Phase-II) and 07.03.2002 (Phase-III) for the 6 Villages. The appeals filed by the HSIIDC, seeking deduction in compensation and of the MSIL were dismissed and thus, all the appeals filed by the landowners along with the cross-objections, were allowed.

The operative part of the order read as under:

“140. Accordingly, the appeals filed by the HSIIDC seeking reduction in the compensation and of MSIL are dismissed and those of the land owners alongwith cross-objections are allowed.

(i) The market value of the land falling in five village i.e. Naharpur Kasan, Kasan, Bas Huria, Bas Khusla and Dhana is assessed @ Rs.41.40 lakhs per acre alongwith all statutory benefits.

(ii) The market value of land in village Manesar is assessed @ Rs.62.10 lakhs per acre alongwith all statutory benefits.

(iii) The appellant-M/s Kohli Holdings Private Limited in RFA No.4646 of 2010 would be entitled for compensation Rs.62.10 lakhs per acre, on account of it being given benefit of 50% of locational advantage being situated on the highway and in village Manesar apart from that it would be entitled for 30% more compensation on account of severance charges on the abovesaid market value alongwith all statutory benefits.

(iv) The directions of the Apex Court in the case of Pran Sukh

will also be adhered to while disbursing the balance amount of compensation.

(v) Where appeals have been filed by the land owners which were beyond period of limitation and applications have been filed for condoning the delay with a condition that the land owners will not be entitled for the interest during the said period, the Executing Court shall ensure that the amounts are calculated and disbursed, keeping in the view the said condition which has been passed in the case of each and individual land owner.

(vi) The appeals filed by the MSIL are dismissed on account of non-maintainability and in view of the observations of the Apex Court in the case of **Satish Kumar Gupta (supra)** being a post notification allottee.”

13. It is, thus, apparent that the basis of enhancement, as such, has varied as the amount of Rs.37.40 lacs, now, stands enhanced qua Villages Dhana, Kasan, Bas Huria and Bas Khusla, which were also subject matter of acquisition for the earlier notifications dated 26.02.2002, 06.03.2002 and 07.03.2002.

14. The argument raised by the counsels for the appellants is that the notification dated 07.03.2002 has been modified in RFA No.2373 of 2010 titled *Madan Pal-III Vs. State of Haryana & others*, for Village Dhana, Kasan, Bas Huria and Bas Khusla, the amount awarded has been enhanced to Rs.41.40 lacs and therefore, if 12% cumulative increase is granted, the value would increase to Rs.62,23,549/- per acre. In the alternative, reliance has also been placed upon the sale deeds in favour of M/s Conway Developers Pvt. Ltd. dated 16.08.2004, which have been relied upon for the notification dated 17.09.2004, to submit that it would

***RFA No.384 of 2013 & other connected cases***

also be a good exemplar, as such, as it pertained to development of Phase-V of IMT, Manesar, as the land was falling in Village Naurangpur and was 9.75 acres and therefore, the market value of Rs.57,67,000/- should be taken into consideration as it is of close-by and adjoining village.

15. Counsel for HSIIDC and the State, on the other hand, argued that the land is agricultural and it is far away from the main Gurgaon-Jaipur Highway and the cumulative increase if any is granted, should not be more than 7.5% whereby the market value was, thus, liable to be increased only to the amount of Rs.53,71,865/-, in view of the principles laid down in ***General Manager ONGC Vs. Rameshbhai Jiwanbhai Patel & another (2008) 14 SCC 745.***

16. While repelling the argument of sale deeds in favour of M/s Conway Developers Pvt. Ltd. dated 16.08.2004, it was argued that the same was of Village Naurangpur which was situated at a distance and was abutting to the main highway. Keeping in view the fact that the land closer to the main Highway always fetches higher market value, the same could not be a valid exemplar. Resultantly, in the alternative, it is argued that even if the same could be taken into consideration for determining the market value, a cut should be there, in view of the location of the land which is now subject matter of acquisition and therefore, the amount as claimed was not justified.

The questions that arise for consideration are as under:-

- (i) Whether cumulative increase was liable to be granted on the basis of an Award for the notification dated 15.11.1994

for the acquisition dated 27.09.2005 where there was a gap of 10 years and 10 months between two notifications and whether the Awards are sustainable on that account;

(ii) Whether the sale deed dated 16.08.2004 in favour of M/s Conway Developers Ltd., which was subject matter of consideration in a bunch of appeals lead case of which was **RFA No.3381 of 2013 'HSI IDC Vs. Roshan Lal and others'** decided on 25.05.2018 are liable to be take into consideration pertaining to village Naurangpur which was for Phase-V of the IMT Manesar, whereas the present acquisition is for the Transport Hub, which is Phase-IV of the IMT Manesar.

(iii) What is the relevant market value of the land situated in Villages Dhana, Kasan, Bas Huria, Bas Khusla and Bas Lambi as on the date of Section 4 notification dated 27.09.2005.

**Pleadings & Evidence on Record**

17. For the above said exercise, firstly the pleadings and evidence has to be taken into consideration. Reference to the evidence led in **RFA No.2453 of 2011 'HSI IDC Vs. Ram Niwas and others'**, in the claim petition filed by Avtar Singh under Sections 18 and 30 of the Act would go on to show that apart from the fact that landowners were claiming compensation of the land, falling in Village Dhana and the right as such, on account of land being shamlat, compensation was asked @

***RFA No.384 of 2013 & other connected cases***

₹1,500/- per square yard and market value had been claimed @ ₹2 crores per acre as the land was situated near well established colonies/industries and factories. The fact that many prominent builders were developing the land and the National Highway No.8 being in proximity was sought to be highlighted.

18. The stand taken by the HSIIDC was that it was agricultural land and neither utilized nor converted for any other purpose except agricultural purpose and change of land use (CLU) was required in view of the Punjab Scheduled Road & Controlled Areas Restriction of Unregulated Development Act, 1963. The allegation that the land was acquired near well established colonies, industries or falling on National Highway No.8 was denied. It was also denied that residential and commercial complexes were near to the land in question. It was also denied that the land was of same quality.

19. The Gram Panchayat had taken the plea that the petitioners are not co-sharers in Shamlat Patti and they have no concern and the Gram Panchayat was entitled for the compensation of the land. The location of the land was, however, supported in favour of the claimants.

20. Ram Kanwar, PW-1 stated that the acquired land was land of Nala and did not vest in the Gram Panchayat and they were the owners of the land. The land was no longer Shamlat and the proprietors are entitled for compensation. On the eastern side of the land vide notification dated 15.09.1994, 1490 acres 3 kanals 7 marlas of land of villages Kasan, Naharpur Kasan, Khoh and Manesar had been acquired. Similarly land

***RFA No.384 of 2013 & other connected cases***

of Kasan, Bas Khusla, Naharpur Kasan and Manesar had been acquired vide notification dated 06.03.2003 and for villages Dhana, Kasan, Bas Huria and Bas Khusla had been acquired vide notification dated 07.03.2002. Similarly, reference was also made to the notification dated 26.02.2002 to submit that ₹15 lakhs had been awarded by this Court and mention of factories etc. had been given. The land was near to the 60 meters road from Bas Khusla to Manesar and connected to National Highway No.8. Manesar was having Engineering College, Polytechnic College, Senior Secondary School, Government Hospital and about 35 branches of banks and the factum that National Security Guard unit was also at a distance of 4 Km was highlighted. In cross-examination he admitted that the water from village Kasan comes through the land of Nala at the time of rain. The owners/proprietors of Dhana and the industries were about 1Km from the acquired land. The highway were at 3km from the acquired land. He denied the suggestion that the Nala was used for common purpose. Ram Niwas's status as Dholidar was denied and the fact that alleged Surjan was Dholidar and before his death he stopped the services and they were in possession.

21. RW-1 Murari Lal Sharma took the plea that they were in possession as Dholidar and the Gram Panchayat has no right. The land was in possession since long from the time of fore-fathers and the they were still performing religious duties for which the land was given. The Dholi was given to the ancestors and accordingly compensation was prayed for.

***RFA No.384 of 2013 & other connected cases***

22. RW-2 Pyari, Sarpanch in the affidavit staked the claim that the petitioners had no right or title and the so called Dholidars were not residing in the village and not doing any duties. But that they had never challenged the entry before any Revenue Court, whereby Surjan had been recorded in possession as “Dholidar Bila Lagan Bavajah Punarth” and Ram Niwas was son of Surjan, was admitted.

23. Kuldeep Patwari-RW-3 who had appeared on behalf of the Corporation took the stand that the land could not be used without obtaining CLU and the Land Acquisition Collector had assessed more market value of the land than the actual value. He admitted that the Apex Court had awarded ₹20 lakhs for the notification dated 15.11.1994. He further admitted that Court had awarded ₹28,15,849/- per acre for the previous notification of village Dhana and ₹37 lakhs had also been awarded.

24. In RFA-384-2013, arising out of LAC-711-2009/2011- *Tej Singh & others Vs. State of Haryana & others*, wherein Reference Court decided 26 petitions pertaining to Dhana, the pleadings would go on to show that the landowners in their amended petitions had claimed that the land was situated near IMT Manesar and had potential for being used as residential, industrial and commercial complexes and fell on the Kundli-Manesar-Palwal Highway. The market value was stated to be not less than Rs.3 crores per acre and compensation was sought at Rs.8000/- per sq.yard. The stand of the HSIIDC was that apart from the compensation, annuity was also to be granted. The change of land use was highlighted

***RFA No.384 of 2013 & other connected cases***

and it was averred that the Land Acquisition Collector had also over-assessed the market value by adopting uniform compensation by totally disregarding the location, accessibility and proximity with the rural areas. Nearness to the National Highway No.8 and industrial area were denied which were stated to be far off from the land in question and therefore, the landowners were not entitled to seek any enhancement of compensation of the acquired land. The water was not available in the area selected by the Government and even the land had to be levelled and water level was also low and therefore, the land was low yielding. The IMT Manesar was stated to be at a distance of more than 10 kms and Gurugram city, as such, was at a distance of more than 35 kms. It was wrong and denied that the land fell on the KMP Highway and therefore, the value was not Rs.3 crores per acre.

25. Ashok Kumar, PW1 brought the relevant sale deeds (Ext.P15) from the office of the Sub-Registrar, being posted there. PW2, Jagdish Assistant Draftsman brought the Master-plan for Manesar for 2025 AD as Ext.P16. Ram Pal, PW3, in his affidavit, referred to the earlier acquisition from 15.11.1994 and the mention of the industries such as Duracell, Honda, Denso, Orient Crafts Ltd., Sarita Handa, Omaxe Ltd., Subros, Endurance etc., which were in existence for the last 10 years before the acquisition process. In cross-examination, he admitted that in September, 2005, maximum sale consideration of the registered sale deed was Rs.55-56 lacs per acre, which were stated to be at a distance of 200 mts. from the land in dispute. He stated that the acquired land was abutting the Express

***RFA No.384 of 2013 & other connected cases***

Highway which was in existence prior to the land in dispute. The Polytechnic College was at a distance of 2 kms from the acquired land. He denied that the suggestion that the said college was at a distance of 6-7 kms from the acquired land. He denied the Haryana Government's Rehabilitation & Resettlement policy whereby annuity were given.

26. The HSIIDC witness, RW1, Dalbir Singh Bhatti stated that the land was acquired for the purpose of Transport Hub which was for 466 acres and the computerized copy of the lay-out plan was exhibited as Ext.R1, whereby the acquired land had been shown in black dotted acquisition boundary line. He admitted that the land under utilization was 40% but in other cases, the land could be used upto 60%. He stated that HSIIDC was allotting plots on no profit and no loss basis. The acquired land was stated to be more than 25 kms from Gurugram bus-stand and 8 kms from National Highway No.8. He admitted that the area shown in black dotted marks abutting the land was acquired for KMP Express Highway, at the time of issuance of the Section 6 notification. The previous land acquired for Phases I and IV were developed upto 70%. He admitted that the area for development of the Phase IV IMT Manesar abuts the area acquired under the present award and was within 1 ½ kms. The area under acquisition was at 8 kms from the entry point of HSIIDC. He further admitted that the land under the award falls in between the National Highway No.8 and State Highway i.e. Gurugram-Pataudi road.

27. A perusal of the record would go on to show that Ext.P2 to P10 are only copies of the allotment letter and the conveyance deeds by

the development agencies and therefore, cannot be taken into consideration for assessing the market value. As per settled proposition of law in ***Bhim Singh & others Vs. State of Haryana & another (2003) 10 SCC 529, Tara Devi Vs. State of Haryana 2005 (3) PLR 606, Bhagat Singh & others Vs. Union of India & another 2005 (12) SCC 59, Raj Kumar and others Vs. Haryana State and others 2007 (7) SCC 609, K.R.Mohan Reddy Vs. M/s Net Work Inc Rep. th. M.D. 2007 (10) SCR 872, Lal Chand Vs. Union of India (2009) 15 SCC 769*** and ***Executive Engineer, Karnataka Housing Board Vs. Land Acquisition Officer, Gadag & others (2011) 2 SCC 246***, these are not safe exemplars, as such. Exts.P11 to P14 dated 27/28.06.2006 are post-notification and 17.05.2011 (Ext.P22) is the site-plan showing the location of the land of various villages which were subject matter of acquisition of 26.02.2002 [Villages Bas Khusla, Has Huria, Dhana (Phase IV) which are shown in peach colour], 06.03.2002 [Village Bas Khusla (Phase II) is shown in green colour] and 07.03.2002 [Villages Bas Khusla, Bas Huria, Dhana (Phase III) is shown in blue colour].

28. The land in the present notification dated 26.09.2005 falling in Bas Khusla, Bas Huria and Dhana is shown in pink colour and the KMP Expressway was shown in purple colour adjoining the land. Similarly, sale deeds dated 04.12.2006 (Ext.P-28), 05.12.2006 (Ext.P-29) and Ext.P30 are post notification. The sale deed dated 28.04.2004 by M/s Gillette India whereby land measuring 12.08125 acres was sold in Naharpur Kasan which is a developed portion of the village with a industrial unit running

***RFA No.384 of 2013 & other connected cases***

on it, which would be clear from Schedule-II and therefore, the value of the said sale deed in favour of Lotto Finance & Investment for a sum of Rs.13.62 crores, would not be correct exemplar, which could be taken into consideration to assess the market value.

29. Ext.P31 is award in LAC-762-2003 titled *Hari Mohan Vs. State of Haryana*, decided on 27.02.2012, wherein for the acquisition of 11.01.2005, which was for the development of the Express Highway, Phase VII and the National Highway Nos.1, 10, 8 & 2, land of Village Kasan was acquired and the market value was granted at Rs.43,17,841/- per acre. The same was also on the principle of taking the base as Rs.20 lacs as the value of November, 1994 and applying 8% cumulative increase from January, 1995. Ext.R1, the site-plan showed the boundaries of the Transport Hub which is a strip of land on the far side, abutting the upcoming KMP Expressway.

30. Similarly, RFA-2874-2013, arising out of LAC-301-2003 titled *Dharambir Vs. State of Haryana*, wherein petition was filed under Sections 18 and 30, compensation was sought on the basis of potentiality of the land and that all the land of the Village Dhana had been acquired. The stand of the official witness was similar as in the earlier case, to the extent that IMT Manesar was at a distance of more than 10 kms from the acquired land. The parties arrived at some compromise (Ext.C1) whereby the compensation was to be disbursed to the extent of 40% in equal shares to the appellants and 60% to respondents No.3 to 7 and co-sharers and therefore, no argument has been addressed on the issue of Section 30. No

***RFA No.384 of 2013 & other connected cases***

evidence had been brought on record as to the market value, as such, in the form of sale deed in the said case.

31. Similarly, in RFA-402-2016 arising out of LAC-410-2010, *Sunita Devi Vs. State of Haryana*, it was alleged that the land was situated just on the National Highway No.8 and 12 kms from Gurugram city and reference was made to the private colonizers like Ansals, D.L.F., Vatika Uppals, Raheja and big units like Maruti Udyog, Honda Motors, Wipro, Reliance, Tata. The market value was alleged to be of Rs.10 crores per acre in Village Dhana. Stand of the HSIIDC was similar that the National Highway was more than 10 kms away and Gurugram city was more than 35 kms from the acquired land. The industrial units were also at a distance of more than 10 kms from the acquired land and the land being located in the prime location at a huge industrial hub was denied. No evidence was led by the landowners and it was closed by order. Mr.Bhatti appeared and submitted his affidavit and submitted the site-plan as Ext.R1 and annuity policy as Ext.R2. He admitted that Phases I to IV had already been acquired and development was in process. Phases I to III were also interconnected and Phase I was abutting National Highway No.8. In the year 2008, Phase IV was developed. He admitted that KMP Expressway was near to the acquired land there was no way to connect with the acquired land in question and submitted that the market value was not as claimed.

32. In RFA-6369-2013 arising out of LAC-745-2010, *Ranbir Singh Vs. State of Haryana*, Rs.10,000/- per sq.yards had been asked for

***RFA No.384 of 2013 & other connected cases***

on the ground that land was surrounded by so many fully developed factories which were in existence prior to the Section 4 notification and close to abadi of Village Dhana. The land yielded 3 crops in a year and income of Rs.5 lacs were obtained per year and the land was hardly 14 kms away from the Gurugram main city. Stand of the Corporation was similar that the land was 10 kms away from the developed area of HSIIDC and not 14 kms away from the Gurugram main city. The sectors and complex were at a distance of more than 14 kms from the acquired land. Sale deeds (Exts.P1 to P4) dated 10.12.2007, 04.12.2006 and 23.03.2007, brought by Ashok Kumar from the office of the Sub-Registrar are the same were post notification and therefore, do not deserve consideration. Ranbir Singh, in his affidavit, relied upon the earlier awards in **Avtar Singh's** case decided on 18.12.2010 and claimed Rs.4 crores per acre. The Master-plans of Gurugram Manesar of 2021 and 2025 AD were exhibited as Ext.P33 & P34 and were marked as Mark 'A', Mark 'X' and Mark 'Y'. Dalbir Singh, Patwari, PW4, brought the original Aks Shajra of Village Dhana and stated that the revenue estate of Bas Huria was on the northern side of the revenue estate Dhana and the revenue estate of Kasan was on the southern side. He admitted that the acquired land was used for agricultural purposes exclusively till the time of taking possession. He stated that National Highway No.8 was 6 kms from the acquired land and KMP Expressway was passing through the revenue estate of Village Dhana and the land was adjoining the Expressway. He further submitted that there was no approach to the KMP Expressway from one village to the

***RFA No.384 of 2013 & other connected cases***

other. Kuldeep, Patwari appeared as RW1 and stated that the acquired land, to the extent of 80% was to be used as green belt, railway corridor etc. and remaining 20% was only to be developed as Transport Hub. Awards had already been passed of the adjoining land (Exts.P4 to P6). He stated that the Collector's rate of the acquired land was not more than Rs.8-9 lacs per acre.

33. Similarly, in RFA-7913-2013, arising out of LAC-1742-2010, *M/s Pagoda Realtors Pvt. Ltd. Vs. State of Haryana & others*, which was consolidated with M/s Nature Projects Pvt. Ltd., reference was made to various sale deeds again of the year 2006 in the claim petition from March, 2006 to June, 2006, to claim that the value was wrongly fixed and the value of the land was claimed at Rs.2 crores per acre for Village Dhana. The sale deeds were, accordingly, controverted by holding out that they were not pertaining to the relevant time and the rate had rightly been fixed. The land acquired was practically agricultural land and the Land Acquisition Collector assessed the value at an higher amount. Shri Anil Mohindra, who appeared as PW1, claimed that the value was Rs.1.50 crores and referred to the sale deeds in favour of M/s Orient Crafts and other sale deeds which are of post notification. In cross-examination, he admitted that the market value at that time was Rs.30 lacs which was clarified that the same was the rate at the time of purchase of the land in the year 2003-04. He could not tell about who had purchased any land at Rs.1.50 crores per acre. The sale deeds which were referred to were not of Village Dhana but were of adjoining villages. He stated that the acquired

***RFA No.384 of 2013 & other connected cases***

land was 4 kms away from the National Highway No.8 and thereafter, stated that the said land was adjacent to the KMP Expressway. Mr.Bhatti, appearing as witness of the Corporation, admitted that the land was abutting the KMP Expressway but there was no exit for the acquired land and the allottees could not take benefit of the same. The acquired land was to be used for industrial purposes after development of infrastructure. He denied the fact that the value of the land was more than Rs.2 crores per acre. The documents (Exts.R1 to R8) were also appended. The sale deeds dated 29.04.2005 (Ext.R4) for 18 marlas and similarly for 8 kanals 17 marlas of Village Dhana and dated 15.04.2005 for Rs.16,59,375/- in favour of M/s Spiritual Developers Pvt. Ltd. Similarly, 46 kanals 4 marlas which were sold for Rs.86,82,500/- were brought on record. Similarly, Ext.R7 dated 15.04.2005 for 20 kanals 16 marlas which was sold for Rs.39 lacs, Ext.R8 pertains to 15 kanals 12 marlas which was sold for Rs.96,75,000/- on 19.04.2005.

34. In RFA-2091-2014 arising out of LAC-916-2010, *Pehlad Vs. State of Haryana*, for Village Dhana, claim was for Rs.25,000/- per sq.yards on account of the fact that the industry was in the neighbourhood and the Industrial Sector No.8 had been developed. The land in question was surrounded by many societies which were in existence prior to the Section 4 notification and were abutting the Expressway, which was in progress and was under construction. The engineering colleges were near the acquired land and the National Security Guards Camp also existed there. The National Highway No.8 was 4 kms away and NSG camp was

***RFA No.384 of 2013 & other connected cases***

4.5 kms away and the Expressway was less than 0.5 km from the land in question. There were basic amenities like water, sewerage, road, electricity, telephone, Railway Station and container of Garhi Harasaru was also within the vicinity. In the written statement, it has been averred that the Gurugram city was more than 30 kms away and IMT/NSG Manesar were 10-12 kms away and the Expressway was at a distance of more than 8 kms. Lease deed by one Lakhi executed on 08.11.2008, was exhibited as Ext.P2. In terms of the award passed in Tej Singh's case, landowners claimed for compensation and enhancement to Rs.46,07,890/- per acre which was exhibited as Ext.P9, subject to the right of filing the appeal.

35. In RFA-3743-2015 titled *Uday Singh & others Vs. State of Haryana & others*, arising out of LAC-1465-2010, the claim was for land in Village Dhana and the averments were that lands were abutting National Highway No.8, which was specifically denied. Similarly, the claim that it was 10 kms from Gurgaon City, was also denied and that it was not near to IMT and the NSG Complex. The claim of Rs.3 crores per acre also was, accordingly, rebutted. PW1-Savita, in her cross-examination, had deposed that the maximum rate of sale deed was Rs.21 lacs per acre, which was clarified to be Rs.40 lakhs per acre. The said witness could not tell the distance from National Highway No.8 but claimed that the acquired land was part and parcel of the existing IMT.

36. For Village Kasan, the record of RFA-2086-2013, which arises out of LAC-269-Lal Singh Vs. State of Haryana, in the reference petition

***RFA No.384 of 2013 & other connected cases***

filed under Section 18, it was pleaded that the value of the land was not less than Rs.10,000/- per sq.yd. and that it was adjacent to residential and commercial colonies. The distance of National Highway No.8 was stated to be 3 kms and the vicinity of the Kundli-Palwal-Manesar Super Highway was stressed upon, apart from the fact that the land was abutting IMT Manesar, which was stated to be 1 km away. The said factors were again denied by the HSIIDC in its reply and it was averred that the National Highway No.8 was at a distance of 8 kms from the acquired land. IMT had been developed after incurring huge amount as per the Government scheme and there was no development in the acquired land and it was being used for agricultural purposes. PW1, Satish denied the suggestion that the land already developed by the HSIIDC was far away from the acquired land and the suggestion that the Villages Kasan, Manesar, Bas Khusla and Bas Huria do not abut each other.

37. Similarly, for Village Bas Huria, a perusal of the record of RFA-3426-2014 arising out of LAC-722-2009, *Bhagwati Devi Vs. State of Haryana & others*, would go on to show that plea taken was that there were several industries in the neighborhood prior to the date of Section 4 notification. The distance was of 8 kms from IMT Manesar, which had come into existence 14 years ago and Pataudi and Farrukh Nagar towns were within approach from the land in question. Manesar, Pachgaon, Ahrawan, Kasan were 7-8 kms from the acquired land and accordingly, compensation was asked for at Rs.7 crores per acre. The defence of the Corporation was that there was no development in the land in question and

***RFA No.384 of 2013 & other connected cases***

that the factories were situated at 7-8 kms from the acquired land. The said villages were at a distance of 15 kms from the acquired land and the land did not yield three crops. PW1 Vikas Yadav brought the record of circle rate of Village Bas Khusla that on 03.07.2007 Rs.30 lacs per acre, was revised on 14.12.2007 to Rs.40 lacs per acre, as per Exts P1 & P2. PW3, Kalu Ram, husband of Bhagwanti, the landowner, submitted his affidavit in affirmative and in cross-examination, he could not tell the name of the seller and purchaser of the land which had been sold at Rs.2 crores per acre. He submitted that the surrounding land was lying open and no institution, schools, colleges, hospitals, factories were located in that area and Gurugram-Pataudi road was 3 kms from the acquired land. He denied the suggestion that the said road was 5 kms from the acquired land. He further admitted that the acquired land was purely agricultural land and the change of land use was required if the same was used for residential or commercial purposes. National Highway No.8 was 2 kms from the acquired land and he denied the suggestion that it was 4 kms from the acquired land. National Security Guard Camp was also 2 kms from the acquired land and it was denied that it was 5 kms from the acquired land.

38. In RFA-1971-2013 arising out of LAC-300-2009, *Sohan Lal Vs. State of Haryana*, claim was for Rs.4 crores per acre as the location was stated to be 2 kms from the National Highway No.8. Ishwar, PW1, took the plea that the acquired land was 2 kms from the National Highway No.8 and goes upto Village Kasan apart from the earlier development

***RFA No.384 of 2013 & other connected cases***

which had taken place. Maruti Udyog Ltd. was near the acquired land and the National Highway No.8 was near the acquired land. The NSG Centre was 2 ½ miles from the acquired land and Gurugram-Pataudi road was 1 mile away. In cross-examination, Ram Mehar admitted that National Highway was 4 km from the acquired land and 5 kms from the NSG Centre. The lease amount of 1 acre land was about Rs.10,000/- per year and an award was passed with regard to the land situated in the vicinity and the rate was fixed at Rs.46 lacs per acre approximately. Allotment letters of the sites were brought on record by Ranbir Singh Yadav. He admitted that HSIIDC leave 60% of the area and that 40% was utilized in utilities and the effective land use comes to 60%. The auction money was received in 4 years in 8 half-yearly instalments and thus, HSIIDC functions on no profit no loss basis. Sale deeds (Exts.P5 to P33) were brought on record. Ext.R1 was brought on record by Sanjay Kumar, Assistant Manager which showed that the land was near the Transport Hub in red colour. 40% was to be utilized and 60% was left for the green belt, railway corridor. He admitted that all the 6 villages were near to the National Highway No.8 and that Manesar was fully developed. Phase IV was lying vacant but plots of Phase IV had already been allotted to the allottees whereas Phase V was still agricultural land. He admitted that the land for Palwal-Kundli Expressway was already acquired.

39. In RFA-7119-2013 arising out of LAC-712-2013, *Chunni Lal & others Vs. State of Haryana & others*, for Village Bas Huria, it was averred that factories existed on the National Highway No.8 adjacent to

***RFA No.384 of 2013 & other connected cases***

the village which was stressed upon and the existence of IMT for the last 15 years. The institutes, colleges and schools like the IIT Engineering College, public schools, hospitals in Village Bhanglora existed within few kms from the acquired land. Express Highway of Kundli-Manesar also passed from the nearby land and there was provision for State Bus Terminal in the nearby Village Panchgaon which was 5 kms from the land in question. The land was stated to be at a distance of 1 km from the National Highway No.8 and the construction of the new Expressway and the National Highway No.8, to substantiate the claim compensation of Rs.5 crores per acre. The defence of the Corporation was that it was only agricultural land. In evidence, Rajender Singh submitted his affidavit and in cross-examination, stood by the same that the land was situated 1 ½-2 kms from the National Highway No.8 and the total land had been acquired by the Government. Mr.Bhatti brought on record the lay-out plan (RW1/1) and denied that any international company was running in or adjacent to the acquired land. He further denied the suggestion that the land was 5 kms away from the National Highway No.8. He further admitted that the land for KMP Expressway was acquired before the present acquisition of the land. At the time of issuance of Section 4 notification, Sectors 8 & 3A had been developed. Stand was that the land was agricultural in nature and that the land near all the 5 villages was of different potentiality though the Collector had awarded the same rate. He submitted that it was uneven land and he did not know whether the acquired land had connectivity with the roads. The site-plan (Ext.RW1/1)

would show the extent of acquisition and how a strip of land at the fag end which was abutting the KMP Expressway was developed as Transport Hub with one strip going parallel to the Expressway whereas an another one coming in top in the form of a sharp edge into the IMT Manesar over and above Sector 8 which was over and above the land allotted to the Maruti Complex.

40. In RFA-16-2016, arising out of LAC-910-2012, *Jaipal Singh Vs. State of Haryana*, amount claimed was Rs.6000/- per sq.yard, for Village Bas Huria on the ground that it was 3 kms away from National Highway No.8. The distance was stated to be 8 kms by the HSIIDC. Award dated 28.09.2013 for Bas Kusla was exhibited as Ext.P1 wherein Rs.68,32,893/- had been awarded.

41. In RFA-958-2013, wherein 32 cases were decided, arising out of LAC-305, Smt. Laxmi Devi, the claim for the land acquired in Village Bas Lambi was at Rs.1500/- per sq.yd., keeping in view the fact that fully developed sectors were very close to the land adjoining. There were many multiplex buildings, MNCs, and other big industries in the vicinity of the acquired land. The claim again was that the land in dispute abuts the main Highway and the LAC had not taken these aspects in mind and that the distance was ½ km from HSIIDC industrial area. Specific plea taken by the Corporation was that the land of the appellants was at a distance of 10 kms from the HSIIDC Industrial Area and not ½ km, as claimed. It was also denied that the land in dispute abuts the main Highway and resultantly, the claim of Rs.1500/- per sq.yd. was denied. PW1, Ram

***RFA No.384 of 2013 & other connected cases***

Chander, in his affidavit, gave reference of the entries and the acquisitions which have taken place in the area. It was further averred that the acquired land was connected by the road with the National Highway No.8 and Manesar town was close-by. The acquired land was within the National Capital Region. In cross-examination, he stated that the road was adjacent to the acquired land and Maruti Udyog Ltd. was adjoining the acquired land and the market value was stated to be Rs.2 ½ to 3 crores at the time of Section 4 notification. However, he could not tell as to land of which farmer who had sold at this rate and to whom and neither he nor any of his family members had sold land to any private person. Thereafter, he stated that the acquired land was 3-4 kms of the National Highway No.8 and volunteered that the Expressway was adjacent to the acquired land. Similarly, Tej Ram, PW2, in his affidavit, submitted that the land was not ordinary land and was suitable for residential and commercial purposes. The cross-examination was on the same lines as of PW1, Ram Chander and therefore, need not be discussed in detail.

42. PW3, Ranbir Singh Yadav, Assistant Manager, HSIIDC brought the summoned record pertaining to auction of the commercial sites in IMT Manesar. In cross-examination, he stated that 40% of the area was left for commercial purposes. Mr.Bhatti, in his examination, submitted that the acquired land was 8 kms away from the National Highway No.8 and 30 kms away from the District Headquarter, Gurgaon. He admitted that the land was adjoining to Phase-IV, Manesar and the site-plan was Ext.R1 whereby the land had been shown in red colour. He also

***RFA No.384 of 2013 & other connected cases***

stated that 40% of the land is left out for various infrastructural facilities in all cases. But 40% was utilized and 60% was to be left out in the present case. The land was left open to be used for the purposes of green belt, roads, railway corridor and other public utilities. He denied the suggestion that the acquired land was 5 kms from National Highway No.8 but admitted that the land was adjacent to the KMP Expressway but there was no approach to the acquired land from the said Expressway. The land for the said Expressway had been acquired earlier than the present acquisition. He denied the suggestion that at the time of issuance of the notification, Sectors 4, 8 & 3A were fully developed and industries were running in the sectors and only 10-20% of the sectors were developed and he further denied that the value of the land was Rs.1500/- per sq.yd. He also denied the suggestion that 80% of the land was capable for allotment. He also denied that the land of the 5 villages under acquisition had the same potentiality and that the acquisition was of levelled land.

43. In LAC-169, the lead case of which is RFA-4004-2014, Amar Pal, the Reference Court decided 54 petitions. A perusal of the record would go on to show that for Village Bas Kushla, the claim was made on the ground of the industries being started in IMT Manesar and the development of Manesar, to claim the market value at Rs.6000/- per sq.yd. It was their own case of the appellants that the acquired land was at a distance of 3 kms from the National Highway No.8. In the written statement filed, the said factum was also denied by the HSIIDC, apart from the fact of denial of industry in the land or nearby the land. The

***RFA No.384 of 2013 & other connected cases***

Engineering Colleges and the development factors were stated to be not at a small distance from the land and villages Kasan and Manesar were stated to be at far off places. PW1-Dhayan Singh could not tell of any single sale transaction at that rate. He admitted that he had not got prepared any site-plan of the acquired land showing the existing state of affairs. He had further stated that the National Highway was 2 kms from the acquired land and denied the suggestion that it was 4 kms from the acquired land. He volunteered that 60 meters road from National Highway No.8 upto the acquired land was already built by the HSIIDC and Rs.20 lacs per acre had been awarded in **Pran Sukh's case**. Similarly, Devinder Kumar Madan, PW2, in cross-examination, admitted that the land was purely used for agricultural purposes and admitted that a farm house had been developed which was only of one bedroom, for living purposes for Chowkidar room with four-sided fencing boundaries. Ranbir Singh Yadav brought the allotment letters of the IMT whereby land was allotted and auctioned by the Corporation. The site-plan was got exhibited as PW3/A, through Kuldeep, Patwari of the Corporation, who stated that towards the eastern side of the acquired land, there was proposed industrial area of IMT Manesar whereas towards the western side, there was KMP Express Highway, the land of which was acquired prior to the land in question. 100 acres land adjacent to the acquired land was allotted to Maruti Udyog. Out of total 600 acres, 100 acres was stated to be for Phase IV and 500 acres in Phase III and Sector 3 was allotted to Maruti Udyog in a joint block which was undeveloped. DW1, D.S.Bhatti has also deposed about

***RFA No.384 of 2013 & other connected cases***

the 40% usage of the land and that 60% which was to be utilized for roads and public utilities. He admitted that the acquired land of Phase III which was adjacent to the acquired land was already developed whereas land acquired for Phase IV IMT was under-developed and adjacent to acquired land of Phase III. Phases II & I, were already acquired and developed. The acquired land of Naharpur Kasan was at a short distance from the acquired land. The shops and abadi of Village Bas Khusla was at a distance of 2 kms. He also admitted that the land for Express Highway was already acquired before the date of Section 4 notification but there was no entry from the acquired land.

44. In LAC-12-2010, M/s Haryana Metals & Ferro Alloys Vs. State of Haryana, out of which, RFA-4424-2015 has arisen, the claim under Section 18 was of Rs.2 crores per acre, on the ground that the land fell within the IMT Manesar-Pataudi road. PW1, Vijay Singh, Proprietor, had appeared and stated that the land was 15 kms from Gurgaon and it was part of Sector 8, Manesar and placed on record photographs (Exts.P3 to P7) and award of Village Bas Khusla in Amar Pal's case dated 28.09.2013 (Ext.PA) wherein Rs.68,32,893/- had been awarded for the same notification.

**Discussion**

45. Keeping in view the above pleadings and evidence on record, the factual matrix would be clear that the common thread which is running through all the awards and which is the basis of the fixing of the market

***RFA No.384 of 2013 & other connected cases***

value of the 5 villages in question is the earlier award pertaining to the notification dated 07.03.2002. The Reference Court had awarded an amount of Rs.28,15,849/- in the said case and since this Court, on 11.02.2011, at that point of time, had enhanced the compensation to Rs.37.40 lacs for Villages, Kasan, Bas Khusla, Bas Huria and Dhana. The subsequent Reference Court, on 03.10.2012, while deciding cases of Village Kasan, placed reliance upon the same and applying the principle of cumulative increase, fixed the compensation at Rs.50,70,359/-. Similarly, on 07.10.2013, for Village Dhana, similar compensation had been awarded, keeping in view the award dated 03.10.2012 on the ground that it was squarely covered under the same.

46. As discussed in paras 12 to 14, **Madan Pal-III** (supra) has now been decided on 09.03.2018, wherein the market value has been fixed at Rs.41.40 lacs per acre for the lands falling in Villages Kasan, Bas Huria, Bas Khusla and Dhana also and therefore, the only additional village is Bas Lambi in the present case. The acquisition in question is dated 27.09.2005 which is more than 2 ½ years post the notifications dated 26.02.2002, 06.03.2002 and 07.03.2002. In that set of cases, the basis for assessing the market value was sale deed dated 20.09.1996, which is in favour of M/s Time Master India Pvt. Ltd. Resultantly, the cumulative increase has been assessed at both 12% and 15% and also the compensation which had been granted on an earlier occasion by the Apex Court at a sum of Rs.20 lacs for acquisition of 1994, to assess the market value. Thus, if the cumulative method increase is followed, it would

amount to follow said cumulative increase for a period of 9 years, since the acquisition is dated 27.09.1995, which is beyond the principles laid down by the Apex Court in **Rameshbhai Jiwanbhai Patel** (supra) wherein a period of 4-5 years was held to be the outer limit. The methodology of applying the cumulative increase had been discussed on the ground that where there is no evidence of sale transaction or of comparable lands, then for the purpose of determining the market value wherein development is taking place, the principle can be applied by applying the 5% to 10% per annum cumulative increase while giving the escalation. However, it was clarified that it was only wherein the period was 4-5 years and where the gap is large, the rate of annual increase could vary on account of various events and there were large pit-falls in adopting the annual increase method. 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. Whether the increase should be at a cumulative rate or a flat rate?”

47. In **Civil Appeal Nos. 13132 to 13141 of 2017 'Manoj Kumar etc. Vs. State of Haryana and others'** decided on 13.09.2017, the principle of following the earlier award for which there was a 6 years gap by giving an cumulative increase without going into the factual matrix, was not approved while setting aside the earlier judgment of this Court pertaining to Jagadhri. Relevant portion reads 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*

***RFA No.384 of 2013 & other connected cases***

*court bases its conclusions on such transaction only, to ultimately determine the value of the property.”*

48.           Thereafter, in **CA No.17790-17801 of 2017 titled *State of Haryana Vs. Chetin Kaur***, decided on 26.09.2017, the enhancement of 12% cumulative increase granted was also set aside for land of Sirsa as it was on the basis of an earlier award of 1994 whereas the acquisition was of the year 2002.

49.           Accordingly, question No.(i) can be answered against the landowners that the market value of land acquired on 27.09.2005, cannot be fixed solely on the principle of cumulative increase, from the date of Section 4 notifications dated 26.02.2002, 06.03.2002 and 07.03.2002, as it would amount to giving cumulative increase practically from 1994/1996 onwards when the first acquisition was made and the market value was fixed at Rs.20 lacs in **Pran Sukh's case** (supra). It is settled principle that the onus of proving the market value was upon the landowners and it was for them to bring on record relevant material, as such, to show as to what was the market value. Reliance can be placed upon the judgment in ***Basant Kumar & others Vs. State of Haryana & others 1996 (11) SCC 542*** wherein it was held that it was for them to discharge the onus while placing cogent and proper evidence in support of their claim. The view was followed in **Gafar & others Vs. Moradabad Development Authority 2007 (7) SCC 614** that the burden is to be discharged by the claimant and only if the official burden in that behalf is discharged, it would shift to the State, to justify the award that the amount awarded by the Land Acquisition Collector was adequate. Accordingly, the said issue

***RFA No.384 of 2013 & other connected cases***

is decided against the landowners that they are not entitled for the blanket cumulative increase from 2002 onwards solely on the ground that development was taking place in the neighborhood by way of industrialization and development of IMT, due to which land had been acquired on a large scale basis.

**Question No.(ii)**

50. The argument raised by Mr.Shailender Jain, Sr.Advocate that the sale deed dated 16.08.2004, in favour of M/s Conway Developers Pvt. Ltd. which fall in Village Naurangpur, wherein land was sold for Rs.57,60,000/-, per acre should be the relevant sale exemplar and should be taken into consideration to fix the market value of the present 5 villages, though attractive at the first blush, but is not liable to be accepted. While deciding the cases of adjoining village, i.e., Naurangpur, Shikohpur, Nawada Fatehpur, Naharpur Kasan and Lakhnoula, wherein land had been acquired for Phase-II of the Industrial Model Township, for industrial, commercial, recreational and other public utilities, the said sale deed had been taken into consideration for the notification dated 17.09.2004 in RFA-3381-2013-*HSIDC now HSIIDC Vs. Roshan Lal & others*, decided on 25.05.2018. The market value of the 2 villages, namely, Lakhnoula and Naurangpur has been assessed at Rs.48,46,000/- since they were falling on the Highway for the notification dated 17.09.2004. The land falling in the interior and away from the Highway, in Villages Naharpur Kasan, Nawada Fatehpur and Shikhopur were given Rs.43,61,400/- per acre. Even in the said case, it was noticed that the

***RFA No.384 of 2013 & other connected cases***

location of the said sale deed had not been brought on record on the site-plans and from the evidence, it would be clear that it was falling on the main road on the National Highway No.8 and abutting the same and was in favour of a Developer. Accordingly, the said sale deed was taken into consideration for assessing the market value of the said villages, especially Naurangpur and Lakhnoula, as such, which were abutting the main highway also, as per the site-plan in question. The market value, as such, was found that it was hovering around Rs.57 lacs, as such. However, on the basis of sale deed dated 17.08.2003 (Ext.P13), in the said set of cases, whereby land measuring 8 kanals 8 marlas was sold in favour of M/s Reliance Industries Ltd., in Village Lakhnoula with the frontage of 75.8 meters on the National Highway No.8 on its southern side, as per the description given in the site-plan, the value was, thus, worked out at Rs.50,90,238/- per acre by granting 12% enhancement Rs.6,10,828/-, keeping in view the development which was taking place in the said area. The per acre value had, thus, worked out at Rs.57,01,066/- and thereafter, 15% cut had been applied to assess the market value at Rs.48,45,907/- (rounded off to Rs.48,46,000/-) for the land falling on the highway for Village Naurangpur and Lakhnoula. The lands falling inside and away from the Highway were assessed by granting another 10% cut and accordingly, for land falling in Villages Shikohpur, Nawada Fatehpur and Naharpur Kasan, the amount was further reduced to Rs.43,61,400/-.

51. The pleadings and evidence have already been discussed in detail in the above paras and it is amply clear that the land in question is

***RFA No.384 of 2013 & other connected cases***

located at a considerable distance ranging from 7 to 10 kms from National Highway No.8 and therefore, cannot be granted the benefits of the land which is abutting the Highway and closure to the main town of Gurgaon since Naurangpur is situated ahead of Manesar, towards Gurgaon. The argument that the market value of the land adjoining villages could also be taken into consideration while assessing the market value, would not apply in the present case, as a perusal of the site-plans would go on to show that there are several revenue estates between the lands which have been acquired of the 5 villages and Village Naurangpur. The site-plan (Ext. P22 and Ext.R1, in **RFA-384-2013, Tej Singh's case**) would show that the land is on the fag end of the development which is taking place on the Highway and away from the National Highway. Village Naharpur Kasan, Lakhnoula and Manesar's, revenue estates would come in between the lands of the acquired villages. The distance though pleaded in several cases that it was close to the National Highway No.8, has been clarified time and again by the appellant-Corporation that it is ranging between 7-10 kms from the National Highway. In such circumstances, the sale deeds in favour of M/s Conway Developers Pvt. Ltd. could not be safe exemplar for fixing the market value and therefore, the said argument is rejected.

**Question No.(iii)**

52. The issue of assessing the market value would, thus, necessarily have to be on the basis of a closer sale deeds of the villages in question or of the adjoining villages. As noticed earlier, in RFA-3381-2013 titled *HSIDC now HSIIDC Vs. Roshan Lal & others*, the sale deed in

***RFA No.384 of 2013 & other connected cases***

favour of M/s Reliance Industries was kept in mind for assessing the market value which fell in the revenue estate of Village Lakhnoola. The land acquired in Village Naharpur Kasan, market value was, accordingly, fixed at Rs.43,61,400/- after giving the necessary cut. The said award, as such, can be treated as a relevant piece of evidence to assess the market value of the acquired land also since Naharpur Kasan is the adjoining village. The difference between the two notifications in question was for a period of one year as the earlier notification was dated 17.09.2004 whereas the present notification is dated 27.09.2005. It has already been noticed on an earlier occasion in **Madan Pal-III** (supra) that major developments was taking place in the area in the form of industry being encouraged and the big names had already come in like Maruti Suzuki Ltd. The 10% increase, thus, can be safely granted which would enhance the market value to Rs.47,96,540/- per acre. However, the said benefit, as such, is also not liable to be granted, keeping in view the location of the land which is deeper inside and would not fetch the same value though a period of one year might have gone by when the subsequent Section 4 notification had been issued. Accordingly, this Court is of the opinion that the market value for the land of the 5 villages in question, namely, Dhana, Kasan, Bas Huria, Bas Lambi and Bas Khusla is liable to be assessed at the same amount as what was granted to Naharpur Kasan, @ Rs.43,61,400/- per acre along with statutory benefits.

53. In **Haridwar Development Authority, Haridwar Vs. Raghubir Singh and others 2010 (11) SCC 581**, the principles of

adopting the belting method and whether land was to be valued uniformly at the same rate keeping in view its distance and access to the road was discussed. Accordingly, it was held that whether a compact block, as such, is acquired which in that case was 38.68 bighas for a Housing Colony, the uniform compensation which was granted was upheld. It was held that whether the land is away from the main road and which is a large tract of land without any special main road access, then a uniform rate, as such, could be given. Relevant portion of the judgment read as under:

“6. The question whether the acquired lands have to be valued uniformly at the same rate, or whether different areas in the acquired lands have to be valued at different rates, depends upon the extent of the land acquired, the location, proximity to an access road/Main Road/Highway or to a City/Town/Village, and other relevant circumstances. We may illustrate :

(A). When a small and compact extent of land is acquired and the entire area is similarly situated, it will be appropriate to value the acquired land at a single uniform rate.

(B). If a large tract of land is acquired with some lands facing a main road or a national highway and other lands being in the interior, the normal procedure is to value the lands adjacent to the main road at a higher rate and the interior lands which do not have road access, at a lesser rate.

(C) Where a very large tract of land on the outskirts of a town is acquired, one end of the acquired lands adjoining the town boundary, the other end being two to three kilometres away, obviously, the rate that is adopted for the land nearest to the town cannot be adopted for the land which is farther away from the

town. In such a situation, what is known as a belting method is adopted and the belt or strip adjacent to the town boundary will be given the highest price, the remotest belt will be awarded the lowest rate, the belts/strips of lands falling in between, will be awarded gradually reducing rates from the highest to the lowest.

(D) Where a very large tract of land with a radius of one to two kilometres is acquired, but the entire land acquired is far away from any town or city limits, without any special Main road access, then it is logical to award the entire land, one uniform rate. The fact that the distance between one point to another point in the acquired lands, may be as much as two to three kilometres may not make any difference.

7. The acquisition with which we are concerned relates to a comparatively small extent of village land measuring about 38 bighas of compact contiguous land. The High Court was of the view that the size and situation did not warrant any belting and all lands deserved the same rate of compensation. The Authority has not placed any material to show that any area was less advantageously situated. Therefore the view of the High Court that compensation should be awarded at an uniform rate does not call for interference.”

54. Similarly, in ***Ashok Kumar & others Vs. State of Haryana & others 2016 (4) SCC 544***, the plea of the landowners to get the same amount of compensation which was granted to the properties abutting the National Highway, was denied and the market value was fixed at Rs.200 per sq.yd., in comparison to the one adjoining the Highway, which had been granted @ Rs.250/- per sq.yd.

55. In ***Bijender and others Vs. State of Haryana 2017 (8) Supreme Court 1999***, the belting system was considered appropriate

since the land had been acquired for the development of the sectors and one road was abutting the main road where the land was deeper and in the interior from the main road. The High Court had upheld the belting system, which was not interfered by the Apex Court.

56. The factors which have to be etched on the mental screen as per the law laid down in ***Hargobind Dass Chiman Lal Vs. Special Land Acquisition Officer, Poona 1988 (3) SCC 751***, would also go on to show that the minus factors are prominent in the present acquisition on account of the largeness of the area and the land being situated in the interior and far away from the National Highway. The remoteness from the developed locality, in comparison to the positive factors, which would be the frontage on the road and nearness to the developed area and in a regular shape. The site-plan goes on to show that a thin strip of the land which has been left out in the corner and also a thin strip coming in towards the developed portion, over and above the developed sector and therefore, the market value has to be calculated on the said basis, keeping in view the distance from the National Highway where the 10% deduction on such accounts have been approved in ***Bhule Ram Vs. Union of India 2014 (11) SCC 307***. It has been held that land having frontage would have more and better value from the land falling away from the Highway and the geographical situation/location is to be taken into consideration. The land in the said case is also 6 kms away from the Highway and therefore, the benefit of the land falling on the Highway cannot be granted. Relevant portion of the judgment 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).

xxxx            xxxx            xxxx

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.”

57. In **Karnataka Urban Water-Supply & Drainage Board Vs. K.S.Gangadharappa & another 2009 (11) SCC 164**, the principles of fixation of market value were underlined wherein apart from the bona fide transactions which had been conducted within the reasonable time of the

***RFA No.384 of 2013 & other connected cases***

date of Section 4 notification, the land for which the comparison was to be made, had to be adjacent to the land near and it should possess similar advantage before it could merit consideration as a comparable case.

Relevant portion reads as under:

“11. It can be broadly stated that the element of speculation is reduced to minimum if the underlying principles of fixation of market value with reference to comparable sales are made:

- (i) when sale is within a reasonable time of the date of notification under [Section 4\(1\)](#);
- (ii) it should be a bona fide transaction;
- (iii) it should be of the land acquired or of the land adjacent to the land acquired; and
- (iv) it should possess similar advantages.

58. The argument, as such, which is raised that the land is falling on the KMP Expressway and therefore, though away from National Highway No.8, the potentiality of the land, as such, would increase on account of the development of the said Highway, is also not liable to be accepted. The notification in question for the said Highway for Village Kasan was issued on 11.01.2005, which was 8 months prior to the notification in question. In LAC-762-2009, *Hari Mohan Vs. State of Haryana*, Ext.P31, decided on 27.02.2012, the Reference court had granted Rs.43,17,841/- as the market value of Village Kasan and the same was subject matter of **Attar Singh Vs. State of Haryana 2016 SCC Online (P&H) 11618** decided on 05.02.2016, and the market value was enhanced to Rs.62,11,700/- per acre. The same was set aside by the Apex Court in CA-885-2017 titled *Surender Singh Vs. State of Haryana & others*, on 15.02.2017 and the matter has been sent back to the Reference Court.

***RFA No.384 of 2013 & other connected cases***

Thus, the award of the Reference Court itself does not survive in view of the judgment of the Apex Court. The witnesses have also clarified that access to the said Expressway was not available and therefore, keeping in view the settled principle that the potentiality of the land is to be seen on the date of Section 4 notification and the development of the Highway is yet to take place, the market value, as such, cannot be given on account of the fact that it abuts the upcoming KMP Expressway as on the date of notification. The said Expressway only existed in papers and had not seen the light of the day on the date of Section 4 notification and had not started functioning and therefore, no benefit, as such, can be granted.

59. Accordingly, the appeals filed by the HSIIDC are allowed and the awards in question are modified whereas the appeals along with the cross-objections, filed by the landowners are dismissed. The market value is, thus, fixed at Rs.43,61,400/- per acre along with all statutory benefits as on 27.09.2005.

**01.06.2018**  
sailesh

**(G.S. SANDHAWALIA)**  
**JUDGE**

*Whether speaking/reasoned: Yes*

*Whether Reportable: Yes*