IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

Date of decision: 22.01.2018

R.F.A. Nos. 3374 of 2015

Balbir Singh and others ***...APPELLANTS***

VS.

State of Punjab and another ***...RESPONDENTS***

and RFA Nos. 1043 to 1047, 1408 to 1452, 1467 to 1470, 1593 to 1595, 1957 to 1959, 1967 to 1973, 1975 to 2010, 2061, 2111, 2157, 2172, 2189, 2216, 2217, 2261, 2316, 2328, 2329, 2358, 2715 to 2719, 2930, 3279 to 3281, 3375 to 3388, 3423, 3439 to 3449, 4434, 4445, 4483, 4524, 4526, 4527, 5405, 5639, 6258, 7152 to 7241 and 7414 of 2015 (O&M), 1152, 2054 & 2239 of 2016 (O&M), XOBJR-63-CI-2015 in RFA No. 1982 of 2015, XOBJR-64-CI-2015 in RFA No. 1984 of 2015 and XOBJR-243-CI-2016 in RFA No. 1996 of 2015 (O&M).

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. M. L. Sarin, Sr. Advocate with
Mr. Nitin Sarin & Mr. Ritesh Aggarwal, Advocates,
(in R.F.A Nos.2358, 3374 to 3388 of 2015 for the appellant(s)
(in R.F.A. Nos.1414, 1441, 1450, 1967, 1968, 1969, 1989, 1993, 1995, 1996, 1999, 2002, 2005, 2009 of 2015 for the private respondents.

Mr. Binderjit Singh, Advocate,
for the appellant(s) in R.F.A. Nos.1982 and 1984 of 2015 and
for the respondents in R.F.A. Nos.7152 to 7241 of 2015 and
for the claimants in XOBJR-63-CI-2015 & XOBJR-64-CI-2015

Mr. Kamaljeet Singh Sidhu, Advocate,
for the appellant in R.F.A. Nos.4445 and 5405 of 2015 and
for the respondent(s) in R.F.A. No.1446 of 2015.

Mr. Rajan Bansal, Advocate,
for the appellant(s) in RFA Nos. 1469, 1470, 1593 to 1595, 2157, 2261, 2328, 2329, 2715, 2716, 2717, 2718 and 2719 of 2015 and for the respondents-landlords in RFA Nos. 1417, 1408, 1442, 1983, 1447, 1411, 1439, 1970, 1448, 1438, 1449, 1413, 1418, 2111 of 2015.

Mr. Tribhuvan Singla, Advocate,
for the appellant(s) in RFA No. 2189 of 2015.

Mr. Amit Aggarwal, Advocate,
for the appellant(s) in RFA Nos. 1043 to 1047, 1957, 1958, 1959, 2216, 2217, 4483, 4524, 4526, 4527 of 2015.

Mr. Manish Bansal, Advocate,
for the appellant(s) in RFA No. 2172 of 2015.

Mr. Bhavyadeep Walia, Advocate,
for the appellant(s) in RFA No. 5639 of 2015.

Mr. Tushar Sharma, Advocate,
for the appellant(s) in RFA Nos. 1467 and 1468 of 2015.
Ms. Manju Goyal, Advocate,
for Mr. Sumeet Goel, Advocate,
for the appellant(s) in RFA Nos. 4434 and 6258 of 2015
for the respondent(s) in R.F.A. No.1444 and 1972 of 2015.

Mr. Pankaj Katia, Advocate,
for the appellant(s) in RFA No. 2054, 2239 of 2016, .

Mr. Kashish Garg, Advocate,
for the appellant(s) in RFA No. 3423 of 2015.

Mr. Manjit Singh, Advocate, for
Ms. Harmanpreet Kaur (Simmi), Advocate,
for the appellant(s) in R.F.A. Nos.3279 to 3281 of 2015 and
for respondent No.1 in R.F.A. Nos.1411 and 1419 of 2015 and
for respondent Nos.1 to 3 in R.F.A. No.2003 of 2015.

Mr. Sukhdeep Singh Bhinder, Advocate,
for the appellants in RFA No. 3439 to 3449 of 2015 and
for the respondents in RFA Nos. 1422, 1423, 1428, 1971, 1973, 1975, 1978, 1980, 1988, 1190, 1991, 1992, 1994, 1998, 2061 of 2015.

Mr. P.K.S.Phoolka, Advocate,
for the appellant(s) in RFA No. 1152, 7414 of 2015 and
for the respondent(s) in RFA Nos. 1410 and 1420 of 2015.

Mr. Nafees Ahmed, Advocate,
for Mr. Rajesh Narang, Advocate,
for the appellant(s) in RFA No. 2316 of 2015.

Mr. Deepak Aggarwal, Advocate,
for the appellant(s) in RFA No. 2930 of 2015.

Mr. Rakesh Gupta, Advocate,
for Bathinda Development Authority.

Mr. J. S. Puri, Addl. A.G., Punjab, for the State.

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AUGUSTINE GEORGE MASIH, J.

By this common order, I propose to dispose of the above-said Regular First Appeals and Cross Objections, wherein challenge is to the

Award passed by the learned Tribunal, Bathinda dated 16.10.2014, wherein the claimants are dissatisfied with the enhanced amount of compensation granted to them in their references whereas the Bathinda Development Authority (hereinafter referred to as 'B.D.A.') has prayed for reduction of the enhanced compensation granted.

2. Briefly, the facts are that the Punjab Government issued a notification under Section 4 of the Land Acquisition Act, 1984 (hereinafter referred to as 'L.A. Act') on 06.10.2004 seeking to acquire 1153 Bighas i.e. 240.20 Acres of land for setting up of residential Urban Estate, Phase 4 and 5 in the area of Village Bathinda. Notification under Section 6 of the L.A. Act was issued on 07.03.2005 for land measuring 924 Bighas and 10 Biswas i.e. 192.60 Acres. Award was announced on 06.03.2007 by the Land Acquisition Collector-cum-Additional Chief Administrator, Bathinda for land measuring 891 Bighas 41 Biswas i.e. 185.77 Acres. Out of this land, Nehri land was 771 Bighas and 17 Biswas, Barani was 11 Bighas and 0 Biswas, Banjar 2 Bighas and 02 Biswas and Gair Mumkin 106 Bighas and 15 Biswas but uniform compensation of ₹620 per sq. yard was granted for the acquired land.

3. On reference filed by the claimants, the compensation has been enhanced from ₹30 lacs per acre i.e. ₹620 per sq. yard to ₹48.40 lacs per acre i.e. ₹1000/- per sq. yard by the Additional District Judge, Bathinda. The claimants as well as the B.D.A. being dissatisfied have filed these Regular First Appeals and some claimants the Cross Objections.

4. For the claimants, it has been argued that the amount of compensation, as has been assessed by the Tribunal, is inadequate as the market value of the land acquired has been determined without taking into consideration the well established principles, as provided for in the Act and spelt out by Courts including the Supreme Court in various judgments. The market value of the land acquired on the date of the notification was much higher than what has been awarded by the learned Tribunal ignoring the fact that the acquired land is located in a fully developed and prime location which is now within the revenue limits of the Municipal Corporation. The learned Court below has failed to appreciate the developments, which had already taken place and the development which was in progress, in the acquired land itself prior to coming into existence of the notification under Section 4 of the L.A. Act. The acquired land is of great potential value including commercial and residential especially in the light of the fact that it is surrounded by fully developed commercial and residential areas. The land acquired is situated near to and surrounded by Thermal Plant, Thermal Colony, Army Cantonment, Polytechnic College, Rose Garden and residential/commercial areas such as Teachers Colony, Guru Gobind Singh Nagar, Farid Nagar, Kamla Nehru Colony, Balla Ram Nagar and various marriage palaces such as Green Palace, Kohinoor Palace and Jeet Palace. The land in question is on the head of Bathinda Corporation i.e. Bathinda-Barnala by-pass road, which adjoins the Patiala-Chandigarh Road and is on the opposite side of the land which adjoins Bathinda-Faridkot Road as well as Bathinda-Muktsar and Bathinda-Abohar Road. The claim, which has been made, is on the lower side as the compensation has been claimed @ ₹6,000/- per sq. yard., whereas evidence has been led to the effect that the value of the land in the vicinity at the time of acquisition was not less than ₹15,000/- per sq. yard. The sale deeds, which have been brought on record, came into existence prior to the date of notification and in near future but they have not been taken note of correctly for assessment of the market value of the land acquired. The error, which has been committed by the learned Court below in determining the value of the land, is by applying the principle of broad guess work, which could not have been resorted to, as there is specific and extensive evidence brought on record which should have been taken into consideration for determining the market value. There were houses built up on the acquired land, which were provided with basic amenities such as electric connection, metalled roads and even street lights. Since the land acquired had fallen within the municipal limits of Bathinda, all basic civil amenities were available to the acquired land and thus, had great potentiality for being developed as residential and commercial area, which aspect has not been taken into consideration by the Court below and has merely gone by the broad guess work. On this basis, counsel for the claimants pressed for the enhancement of compensation amount to ₹6,000/- per sq. yard, as claimed. In support of this contention, learned counsel for the claimants has referred to the Site Plan Ex. A3, photographs relating to the constructions around the acquired land, sale deeds before and after the acquisition and the statements of the claimants with an intention to indicate and support his contentions regarding the potentiality of the land and for proper assessment of the market value.

5. Mr. M.L.Sarin, learned senior counsel for the appellant(s) has placed reliance upon the following judgments in support of his submissions i.e. RFA No. 985 of 1981 titled as **Pala Singh and others** vs. **State of Haryana, Atma Singh (Dead) through LRs and others** vs. **State of Haryana and another,** (2008) 2 SCC 568, **Raghubans Narain Singh** v. **The Uttar Pradesh Government through Collector of Bijnor,** AIR 1967

SCC 465, **P.Ram Reddy and other**s vs. **Land Acquisition Officer, Hyderabad, Urban Development Authority, Hyderabad and others**, (1995) 2 Supreme Court Cases 305, **A. Natesam Pillai** vs. **Spl. Tehsildar, Land Acquisition, Tiruchy,** (2010) 9 Supreme Court Cases 118, **Ashrafi and others** vs. **State of Haryana and others**, (2013) 5 Supreme Court Cases 527, **Indraj Singh (Dead) through LRs and others** vs. **State of Haryana and another,** 2013 (6) Supreme 228, **Mohinder Singh and others** vs. **State of Haryana,** 2014 (6) Supreme 443, **Mehrawal Khewaji Trust (Registered)** vs. **State of Punjab and others,** (2012) 5 Supreme Court Cases 432, **Haryana State Industrial Development Corporation** vs. **Pran Sukh and others,** (2010) 11 Supreme Court Cases 175, **Shri Tara Singh (deceased)** vs. **The State of Punjab,** 1983 PLR 286, **Chimanlal Hargovinddas** vs. **Special Land Acquisition Officer, Poona and another,** (1988) 3 Supreme Court Cases 751, **Mehta Ravindrarai Ajitrai (deceased) through his heirs and LRs and others** vs. **State of Gujarat,** (1989) 4 Supreme Court Cases 250, **Subash Chander** vs. **State of Haryana and others,** 2004 (2) PLR 97 and **Prem Singh and others** vs. **State of Haryana and others,** 2012 (3) PLR 626.

6. On the other hand, counsel for the B.D.A. as also the State have asserted that the sale deeds, which have been produced on record which are relevant for the purpose of the assessment of the market value and a part of the record, indicate that the market value of the land is much lower than what has been awarded by the Tribunal. In fact, the Award, as has been passed by the Collector, was the correct assessment of the market value of the land. The sale deeds, which pertain to the subsequent period cannot be taken into consideration for the purpose of determination of the market value which has to be assessed on the date of notification issued under Section 4 of the L.A. Act. While determining compensation, firstly, the Price Fixation Committee, at the district level, had assessed the market value as ₹15 lacs per acre i.e. ₹310 per sq. yard on 13.07.2006, which was sent to the competent authority for approval. The Cabinet Sub-Committee of the Urban Development Authority, on consideration, enhanced the amount to ₹30 lacs per acre i.e. ₹620/- per sq. yard on 07.11.2006, which was accepted by the Collector and the Award announced on 06.03.2007. It is further asserted that the sale deeds Ex. CX1, CX/4 to CX/8 although pertain to similar plots but are of the period after the notification for acquisition was issued and, therefore, are liable to be ignored. Sale Deeds Ex. CX1/A and Ex. CX/17 are of no use as Ex. CX1/A is purely a commercial venture and that too, situated at a far off distance from the land acquired whereas CX/17 is a plot measuring 306 sq. yard, price whereof per sq. yard comes to ₹490/- where the sale deed is dated 14.06.2004. Even the claimants, who had appeared as witnesses, have admitted that the land was being used for agricultural purposes and was not being used for any commercial or residential purposes. They, on this basis, contend that the land did not have any potential value and was only an agricultural land, which was situated far off from the residential and commercial ventures. Reliance has been placed on Masair Ex. R-192. It is further asserted that the distance of the land acquired from the Refinery was 45 Kms., Giani Zail Singh College of Engineering and Technology and a dump of Bharat Petroleum and Indian Oil were more than 10 Kms. away, Adesh Institute of Medical Science & Research was 9.1 Kms. away, National Fertilizer Limited was 7.7 Kms., Regional Centre of Punjabi University, Patiala was

6.10 Kms., Railway Station, Bus-Stand as well as Guru Nanak Thermal Plant were 4.5 Kms. away, Cloth Market was 3.75 Kms., Bharat Nagar and Kamla Nehru Colony were more than 2 Kms.,away, Vishwakarma Motor Market was 1.4 Kms., Marriage Palace was 1.2 Kms away from the periphery of the acquired land. Counsel for the B.D.A. and State, have admitted that the Green City Colony and Teachers Colony were adjoining the land acquired. They, however, asserted that the learned Tribunal has wrongly enhanced the amount of compensation when the sale deeds indicate the value of the land being much lesser than what has been now enhanced.

7. Learned counsel for the B.D.A. has relied upon the following judgments of Supreme Court in support of his submissions i.e. **Pehlad Ram and others** vs. **Haryana Urban Development Authority and others,** 2014 (14) SCC 778, **Dollar Company, Madras** vs. **Collector of Madras,** 1975 (2) SCC 730, **Ram Kanwar and others** vs. **State of Haryana and another**, 2015 (1) RCR (Civil) 234, **A. Natesam Pillai** vs. **Spl. Tehsildar, Land Acquisition, Tiruchy,** 2010 (4) RCR (Civil) 76, **Himmat Singh and others** vs. **State of M.P. and another,** 2014 (1) Civil Court Cases 301, **Karnataka Urban Water Supply and Drainage Board and others** vs. **K.S. Gangadharappa and another,** (2009) 11 Supreme Court Cases 164, **Special Land Acquisition Officer and another** vs. **M.K. Rafiq Saheb**, (2011) 7 Supreme Court Cases 714 and **Lal Chand** vs. **Union of India and another**, (2009) 15 Supreme Court Cases 769.

8. Learned counsel for the State has placed reliance upon various judgments of the Supreme Court in support of his submissions i.e. **Sagunthala (dead) through LRs** vs. **Special Tehsildar (L.A.) and others,** 2010 (3) SCC 661, **Major Pakhar Singh Atwal** vs. **State of Punjab**, 1995

(4) SCC 746, **Ramanlal Deochand Shah vs. State of Maharashtra and another,** 2013 (14) SCC 50, **Lal Chand vs. Union of India and another,** 2009 (15) SCC 769, **Haridwar Development Authority, Haridwar** vs. **Raghubir Singh etc.,** 2010 (11) SCC 581 and **Chandrashekar (D) by LRs and others** vs. **Land Acquisition Officer and another,** 2012 (1) SCC 390. Prayer has, thus, been made for reducing the amount of compensation as granted by the Tribunal.

9. I have considered the submissions made by the counsel for the parties and have gone through the pleadings, evidence as well as the records of the case with the able assistance of the counsel.

10. The principles, which have been carved out by the Courts in the various judgments over a period of time for assessment and determination of the market value of the land acquired, stand spelt out and settled. The Hon'ble Supreme Court in **Atma Singh (Dead) through LRs and others** vs. **State of Haryana and another**, (2008) 2 SCC 568 in para-5 has observed as follows:-

> "5. For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into state of actuality. It is well settled that market value of a property has to be determined having due regard to its existing condition with all its existing advantages and its potential possibility when led out in its most advantageous manner. The question whether a land has potential value or not, is primarily one of fact depending upon its condition, situation, user to which it is put or is reasonably

capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like water, electricity, possibility of their further extension, whether near about Town is developing or has prospect of development have to be taken into consideration. Collector, Raigarh v. Dr. Harisingh Thakur, AIR 1979 Supreme Court 472, Raghubans Narain Singh v. Uttar Pradesh Government, through Collector of Bijnor, AIR 1967 Supreme Court 465, Govt. and Administrator General, W.B. v. Collector Varanasi, (1988) 2 SCC 150. It has been held in Kaushalya Devi Bogra v. Land Acquisition Officer, (1984) 2 SCC 324 and Suresh Kumar v. Town Improvement Trust, (1989) 2 SCC 329 that failing to consider potential value of the acquired land is an error of principle."

11. In **P.Ram Reddy and others** vs. **Land Acquisition Officer, Hyderabad, Urband Development Authority, Hyderabad and others**, (1995) 2 Supreme Court Cases 305, the Hon'ble Supreme Court has held that although the market value of the acquired land must relate to the last date of publication of the notification under Section 4 of the L.A. Act but the value with reference to the better use to which it is reasonably capable of being put in the immediate or near future, would be its potentiality. The possibility of it becoming available for better use in immediate or near future would also play an important role in determining the market value. Even a barren and waste land, if has the potential for putting up residential, commercial, industrial or other buildings and houses, would also add to its potentiality. A word of caution was also added that the price, which is fetched by sale of small plot as comparison to a large expanse of land acquired, cannot be taken as the market value for determination thereof.

12. The Hon'ble Supreme Court in the case of **Ashrafi and others** vs. **State of Haryana and others**, (2013) 5 Supreme Court Cases 527, has also emphasized upon the fact that the comparison with the size of the plot acquired of the instances of the sale deeds for determination of the market value would not be fair and, therefore, under such circumstances, cut can be imposed on the value of the similar plot.

13. In the light of the above principles which have been reiterated in subsequent judgments and given effect to dependent on the facts and circumstances of each case as is apparent from the judgments cited by the counsel for the parties referred to above, it can be said that normally the potentiality of the acquired land is the price of land which a willing purchaser is ready to pay to a willing seller. The Court, for making a fair assessment, looks into the bona fide transactions regarding adjacent lands subject to considerations like location, size and potential etc. While doing so, the proximity of time is execution of the sale deeds of surrounding land and the quality of land are also taken into consideration. This much for looking into and taking into consideration the sale instances of same/adjacent land. Broadly speaking, the first and foremost is the nature of the land and the purpose, for which it was being utilized on the date of the issuance of the notification under Section 4 of the L.A. Act with a further consideration with regard to the potentiality of the acquired land. The purpose primarily is to determine the market value of the acquired land which would be the price that a willing purchaser would pay to the willing seller. It is also required to be taken into consideration that when the land is acquired, generally, the owner is not interested in parting with his land rather it is being compulsorily acquired. In such circumstances, potentiality of the land acquires a pre-eminent position.

14. The basic principles having been spelt out with regard to the determination of the market value, now we proceed with the case in hand.

15. It is not in dispute that the Bathinda is rapidly developing and growing city towards the acquired land and is a major town of Malwa Belt of the State of Punjab having biggest Railway Junction in Northern India. It can be said to be a hub for education as there are various educational centers established by the Universities such as Regional Center of Punjabi University, Patiala, Giani Zail Singh College of Engineering and Technology, Adesh Insitute of Medical Science and Research. It has a biggest cloth market in the Northern Region. There is also a major oil storage dump of Bharat Petroleum and Indian Oil with Oil Refinery, Factory of National Fertilizer Limited, Guru Nanak Thermal Plant and the distances from the land acquired to these institutes/organizations have already been spelt out by the counsel for the respondents in their arguments, recorded above, which indicated that acquired land is not near these entities, this, however, would amount to admitting their existence and location in Bathinda Municipal Corporation or its periphery. It is also not disputed that the land is acquired for setting up Residential Urban Estate 4 and 5 Bathinda. All these point towards the only conclusion that the acquired land had great potentiality at least for growing into a residential area and, therefore, the conclusion of the Tribunal that nature of land would not be of much relevance leading to assessing the market value of the land at the same rate is fully justified and correct.

16. A perusal of the statements of the claimants would show that they had asserted the market value of the acquired land to be between ₹4,000/- to ₹15,000/- per sq. yard. AW3 Ved Parkash and AW4 Jagdish Chander claimed the market value to be ₹4,000/- per sq. yard whereas AW1 Gurdev Singh, AW2 Maninder Singh, AW7 Jagdev Singh and AW8 Nazar Singh have claimed that the market value is ₹6,000/- per sq. yard. However, AW5 Manmohan Singh, AW6 Hardev Singh, AW10 Gurmail Kaur, AW11 Rajwant Kaur and AW12 Baldev Krishan stated that the market value is ₹10,000/- per sq. yard.

17. In these circumstances when the disparity in the value of the land has been asserted and claimed by the claimants, consideration has to be shifted to the sale instances and the sale deeds produced on record. The sale deeds, which have been referred and reliance whereon has been placed by the counsel for the parties, which are as follows:-

Sr. No.	***Exhibit***	***Sale Deed No./Dated***	***Area***	***Price Paid***	***Price Per Sq. Yards***	***Khasra No.***	***Location***
1	2	3	4	5	6	7	8
1.	CX1/A-27	3081 of 13.7.2007 346	13 Bigha 7 Biswas 13350 Sq. Yards	36,97,40,000/-	Rs. 27695/-	2150, 2151 etc.	Village Patti Mehna, Bathinda Barnala Road, National Highway, Hadbast No. 70
2.	CX2/A-23	1504 of 16.5.2002 362	250 Sq. Yards	2,20,000	Rs. 880/-	1881, 1879	Village Patti Mehna, Bathinda
3.	CX3/A-24	6253 of 10.12.1999 365	250 Sq. Yards 0 Bigha 5 Biswas	2,45,000/-	Rs. 980/- (constructed rooms)	1873 min	National Colony, Bathinda

Sr. No.	*Exhibit*	*Sale Deed No./Dated*	*Area*	*Price Paid*	*Price Per Sq. Yards*	*Khasra No.*	*Location*
4.	CX4	14022 of 22.02.2005 367	50 Sq. Yards	2,50,000/-	Rs. 5000/-	2196, 2197, 2198	Shakti Vihar Phase-II, Bathinda
5.	CX5	1089 of 05.05.2010 370	0 Bigha 2 Biswas i.e. 98 Sq. Yards	2,69,500/-	Rs. 2750/-	2196, 2197, 2198	Village Patti Mehna, Bathinda
6.	CX6	14022 of 22.02.2005 373	50 Sq. Yards	2,50,000/-	Rs. 5000/-	2196, 2197, 2198	Shakti Vihar, Phase-II, Bathinda
7.	CX7	14022 of 22.02.2005 376	50 Sq. Yards	2,50,000/-	Rs. 5000/-	2196, 2197, 2198	Shakti Vihar, Phase-II, Bathinda
8.	CX8	14176 of 25.02.2005 379	20 Sq. Yards	1,10,000	Rs. 5500/-	2196, 2197, 2198	Village Patti, Mehna, Bathinda
9.	CX17	3515 dated 14.06.2004 395	34x81 plot 306 Sq. Yard	1,50,000	Rs. 490/-	2100, 2098, 2099 & 2101	Plot No. 90 Engineer Colony, Bathinda (Balla Ram Nagar)

18. A perusal of the above sale deeds would show that the sale deeds at Sr. Nos. 2 to 9 are of very small plots compared to the area of land acquired, out of which, Sr. No. 5 is dated 05.05.2010, which is after a period of almost 6 years from the date of issuance of the notification i.e. 06.10.2004 under Section 4 of the L.A. Act. Sale deed at Sr. No. 1 dated 13.07.2007 although, may be said to be of reasonable size but it was purely a commercial venture and that too, located at some distance from the land acquired and is almost 3 years after the date of issuance of the notification and, therefore, cannot be taken into consideration. Another aspect, which needs to be taken note of, is that the said land is situated on the National

Highway, which would be another factor not relevant for the purpose of the present land acquired as far as the vicinity is concerned.

19. The other instances of sale deeds, although of small plots, would be relevant as far as the same being almost of the same period when either the land was acquired or the acquisition process was in progress but they are not situated in close vicinity except for Sr. Nos. 8, 5 and 2. Sr. No. 8 is merely a plot measuring 20 Sq. Yard, value of which per sq. yard is assessed at ₹5500/- and similarly Sr. No. 5 where the value for a 98 Sq. Yards plot has been assessed at ₹2750 per sq. yard. As regards Sr. No. 2, the plot is 250 sq. yards value whereof comes to ₹880/- per sq. yard. These plots are situated in the land, which was initially included in the notification under Section 4 of the L.A. Act but was released as per the orders passed by the Court in a writ petition, which has been put to commercial use as per the location and, therefore, cannot be taken as the basic parameter for determining the market value of the land as a whole as such.

20. It has also come in evidence especially in RFA No. 3386 of 2015 (which is being decided along with these cases) which pertains to the claim for superstructures, wherein certain photographs have also been produced indicating that there was a built up house with two storeys, which was connected with a metalled road. There were some other residential houses also with electricity connection and street lights in operation. It was also stated that the house of Gurmail Kaur-the claimant was allotted a number and was in Ward No. 4 near Teachers Colony, Bathinda. Even the counsel for the respondents could not dispute the fact that the acquired land was adjoining Green City Colony and Teachers Colony which had houses built therein where people were residing. This shows that the acquired land had potential and the population was growing towards the acquired area with people moving in. Even a society has been formed, namely, Engineering Co-operative House Building Society Ltd. in the acquired land measuring 23 Bigha 11 Biswa comprising of Khasra No 2098 (11-10), 2099 (1-15), 2100 (10-6). The Jamabandi of this land was also produced on the file as Ex. CX14 where one of the claimants, namely, Sarabjit Kaur, CW27, had asserted that the Society had carved out the plots and sold out the same to different persons including her. She, in her statement, has also stated that the house was connected with a metalled road and there were other civil amenities also provided by the society.

21. The value of the land primarily is dependent upon the factors, which have been referred to above, and the instances of the sale deeds in and near the acquired land would be an indicating factor. Since none of the sale deeds, which have been produced on record, as discussed above, throw clear light, keeping in view the fact that the area of these sale deeds is very minute as compared to the acquired land nor does it point towards the prevalent rate of the land in the area and the acquiring authority having itself granted ₹620 per sq. yard. When seen in the context of the potential of the land acquired, the above discussed evidence which has come on record and the purpose for which the same is to be put to use, the value of the land would not be more than what has been assessed by the Tribunal in the impugned award. Keeping in view the fact that it is a huge chunk of land, which has been acquired, resorting to an approximation and applying the well established and settled mode of estimation i.e. cut in value, the value of the acquired land is assessed at ₹1150/- per sq. yard at the time of the acquisition of land. The claimants are thus, held entitled to compensation

@ ₹1150/- per sq. yard (Rupees One Thousand One Hundred and Fifty only per square yard) of the acquired land from the date of acquisition.

22. In RFA No. 3386 of 2015 titled as **Gurmail Kaur** vs. **State of Punjab,** learned counsel has prayed for enhancement of compensation granted for the superstructures, which is primarily claimed to be a house which contain A-Class construction.

23. Learned senior counsel for the appellant has referred to the pleadings and the evidence on record to assert that the house owned by the appellant was assigned a number i.e. 16334 with Ward No. 4 situated at Barnala By-Pass road near an already established and occupied Teachers Colony, Bathinda. Total area of the house was 6145 Sq. Ft. with covered area at ground floor 2614 Sq. Ft. and on the first floor 70 Sq.Ft. The Valuation Report has been produced on record Ex. A1 in LAC 262/2013 by AW1 Rajinder Kumar Gupta, Approved Draftsman, Municipal Corporation, Bathinda, according to which, the total construction cost was ₹5,60,000/-. Statement of AW2 Swaran Singh, who is a Photographer and similar was the assessment made by AW1 Rajinder Kumar Gupta, Draftsman. Ex. A2 is the Site Plan. Despite the fact of the house being constructed there with electricity connection, with a metalled road and other amenities, the Land Acquisition Collector has awarded a meager amount. Grant of compensation acknowledges the fact that the house was already constructed and the appellant was residing therein along with her family. He has referred to the statement of AW8 Mohinder Singh, who is the husband of the appellant. Learned Tribunal has not granted any enhancement. He, therefore, claims enhancement of the amount of ₹5,60,000/- for the house and ₹5 lacs for displacement.

24. Counsel for the appellant has asserted that once expert evidence has been produced, due credence should have been given to it and in support thereof, he has placed reliance upon a judgment of this Court in **Jarnail Singh and others** vs. **Union of India,** 2004 (2) PLR 79.

25. On the other hand, counsel for the B.D.A. has asserted that the Award, as granted by the Collector, is fully justified, which does not call for any enhancement.

26. I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the pleadings and the evidence on record.

27. As per the statement of AW8 Mohinder Singh, the cost of construction of the house was ₹5,60,000/-. As per the statement of Mohinder Singh, the house was constructed in the year 2002 and, therefore, the value of the house, so constructed, shall not be more than ₹2,00,000/- (Rupees Two Lakhs only) keeping in view the covered area of the house at the time of acquisition of land especially when no receipts have been produced by the claimants relating to the construction carried out in the house.

28. In view of the above, the Regular First Appeals preferred by the claimants i.e. RFA Nos. 3374, 2261, 1594, 2157, 2358, 1959, 1957, 1958, 2172, 2189, 2328, 2329, 2216, 2217, 1593, 1595, 5405, 4483, 3444, 3447, 4524, 4526, 4527, 4434, 4445, 2316, 3388, 3423, 2715, 3442, 3279, 2716, 2717, 2719, 3378, 3439, 3440, 3443, 3445, 3446, 3448, 2930, 3441, 3449, 2718, 3280, 3281, 3375, 3376, 3377, 3379, 3380, 3381, 3382, 3383, 3384, 3385, 3387, 5639, 7414, 6258, 1045, 1046, 1044, 1043, 1047, 1469, 1470, 1467, 1468 of 2015, 1152, 2239, 2054 of 2016 as also the Cross Objections of the claimants i.e. XOBJR-63-CI-2015 in RFA No. 1982 of 2015, XOBJR-64-CI-2015 in RFA No. 1984 of 2015 and XOBJR-243-CI-2016 in RFA No. 1996 of 2015 (O&M) are partly allowed to the extent referred to above. The claimants are held entitled to compensation of the acquired land @ ₹1150/-per sq. yard (Rupees One Thousand One Hundred and Fifty only per square yard) from the date of acquisition. The claimants are also held entitled to the other statutory benefits as per the provisions of the L.A. Act. 1894.

29. Regular First Appeals preferred by the PUDA now Bathinda Development Authority i.e. RFA Nos. 1967, 1973, 1984, 1997, 1999, 2009, 2010, 2061, 1979, 1988, 1991, 1992, 2006, 2007, 1994, 1995, 2111, 1971, 1983, 1985, 1977, 2005, 1989, 2003, 1975, 1978, 1986, 1993, 1996, 1998, 2000, 2001, 2002, 1968, 1969, 1970, 1980, 1982, 1990, 2008, 1443, 1972, 1976, 1987, 2004, 7183, 7202, 7191, 7163, 7153, 7197, 7200, 7195, 7206, 7211, 7213, 7219, 7222, 7225, 7155, 7179, 7196, 7199, 7180, 7216, 7231, 7189, 7190, 7193, 7203, 7228, 7204, 7217, 7232, 7240, 7224, 7175, 7185, 7188, 7220, 7221, 7226, 7239, 7229, 7233, 7234, 7164, 7167, 7176, 7177, 7168, 7171, 7201, 7218, 7230, 7235, 7236, 7237, 7152, 7154, 7173, 7174, 7178, 7194, 7184, 7186, 7187, 7160, 7214, 7223, 7157, 7158, 7159, 7238, 7241, 7161, 7162, 7165, 7169, 7170, 7172, 7181, 7192, 7198, 7205, 7207, 7208, 1434, 1435, 1437, 1440, 1417, 1412, 1413, 1426, 1431, 1442, 1414, 1415, 1416, 1418, 1419, 1445, 1420, 1421, 1422, 1423, 1452, 1408, 1409, 1424, 1427, 1428, 1429, 1436, 1438, 1439, 1450, 1425, 1430, 1433, 1441, 1447, 1448, 1449, 1410, 1411, 1432, 1451, 7215, 7156, 7166, 7227, 7182, 7210, 7209, 7212, 1444, 1446, 1981 of 2015 stand dismissed.

30. ***RFA No. 3386 of 2015*** is partly allowed. The appellant is held entitled to the compensation of ₹2,00,000/-(Rupees Two Lakhs only) for the superstructures along with the other statutory benefits as per the provisions of the L.A. Act. 1894.

31. Hon'ble Supreme Court in **Haryana State Industrial Development Corporation** vs. **Pran Sukh and others**, (2010) 11 Supreme Court Cases 175, has, with an intent to ensure early rather prompt payment of the compensation amount to the land owners and to avoid any harassment by the middlemen which includes fleecing the landowners, issued certain directions.

32. This Court is also satisfied that similar directions are required to be issued in these cases as well. The following directions are issued:-

(i) The Bathinda Development Authority shall deposit the balance amount of compensation, as assessed by this Court with the Land Acquisition Collector, on or before 31.03.2018.

(ii) The Land Acquisition Collector shall depute officers subordinate to him, not below the rank of Naib Tehsildar, who shall get in touch with all the landowners and/or their legal representatives and inform them about their entitlement and right to receive enhanced compensation.

(iii) The officers concerned shall also instruct the landowners and/or their legal representatives to open savings bank account in case they already do not have such account.

(iv) The bank account numbers of the landowners should be given to the Land Acquisition Collector within a period of two months from today.

(v) The Land Acquisition Collector shall deposit the cheques of compensation in the bank accounts of the landowners before 31.05.2018 positively.

January 22, 2018 **(AUGUSTINE GEORGE MASIH)**
pj **JUDGE**

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