HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

****

XOBJR-126-CI-2017 (O&M) IN/AND
RFA No.2122 of 2003 (O&M)
and other connected appeals and cross-objections
Reserved on: 06.02.2019
Pronounced on: 25.04.2019

****

Punjab Small Industries & Export Corporation ... Appellant

VS.

Chuhar Singh & Ors. ... Respondents

Appeals filed by the landowners	RFA Nos.2042, 2043, 2564, 2590, 3047, 3339, 3578, 3580, 3581, 3582, 3583, 3584, 3585, 3586, 3587 and 3588 of 2006 RFA No.2891 of 2007 RFA No.4560 of 2008 RFA Nos.4822 of 2009 RFA No.1202 of 2012 RFA Nos.1717, 1718, 1719, 1984 and 4548 of 2017 RFA No.74 of 2018
Appeals filed by the State	RFA Nos.2122, 2123, 2124, 2125, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2145, 2146, 2147, 2149 and 2150 of 2003 RFA Nos.82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 185, 186 and 187 of 2009 RFA Nos.1963, 1964, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 2358, 2359, 3062, 3063, 3065 and 3066 of 2010 RFA Nos.1294 of 2011 RFA Nos.3499, 3500, 3501, 3502 and 3503 of 2016
Cross-objections	XOBJR-8-CI-2018 IN RFA-1979-2010 XOBJR-9-CI-2018 IN RFA-2145-2003 XOBJR-10-CI-2018 IN RFA-2130-2003 XOBJR-126-CI-2017 IN RFA-2122-2003 XOBJR-127-CI-2017 IN RFA-2128-2003 XOBJR-128-CI-2017 IN RFA-2125-2003 XOBJR-130-CI-2017 IN RFA-2146-2003 XOBJR-131-CI-2017 IN RFA-2134-2003 XOBJR-132-CI-2017 IN RFA-2136-2003 XOBJR-133-CI-2017 IN RFA-2142-2003 XOBJR-134-CI-2017 IN RFA-2150-2003 XOBJR-135-CI-2017 IN RFA-2141-2003 XOBJR-137-CI-2017 IN RFA-2138-2003 XOBJR-143-CI-2017 IN RFA-2124-2003 XOBJR-144-CI-2017 IN RFA-2149-2003 XOBJR-14-CI-2018 IN RFA-2132-2008 XOBJR-15-CI-2018 IN RFA-2129-2003

****

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

****

Present: Mr. NS Rapri, Advocate;
Mr. Abhinav Sood, Advocate;
Mr. Vishal Aggarwal, Advocate;
Mr. DS Kahlon, Advocate;
Mr. Vikram Singh, Advocate;
for the landowners/cross-objectors

Ms. Simran Grewal Randhawa, AAG Punjab

Mr. Abhilaksh Grover, Advocate and
Mr. Pankaj Gupta, Advocate for the PSIEC

****

G.S. SANDHAWALIA, J.

(1) The present set of 87 appeals and 17 cross-objections arising out of Section 54 of the Land Acquisition Act, 1894 pertain to the notification dated 06/10.04.1992 whereby land was acquired for four villages in erstwhile Tehsil Pathankot of District Gurdaspur. The villages in question are Ranipur, Gho, Ghanjali and Mutfarka but no appeals of village Ghanjali have been filed. The purpose of acquisition was for setting up of Industrial Growth Centre.

(2) The Land Acquisition Collector vide award dated 30.05.1994 of village Ranipur whereby 113.96 acres land was acquired for setting up of Industrial Growth Centre, awarded compensation at the following rates and which was enhanced by the Reference Court vide award dated 13.01.2003 the lead case of which is **Chuhar Singh vs. The Collector, LA Industries Dept.** while deciding the 34 reference petitions, as per the table given below:-

	Land Acquisition Collector	**Reference Court**
Barani Doam	45000/-	56250/-
Nehri	40000/-	50000/-
Banjar Kadim	10000/-	12500/-
Gair Mumkin	5000/-	6250/-

(3) Similarly for village Gho the land measuring 2280 kanals around 285 acres was sought to be acquired for the same purpose and the compensation was assessed by the Collector vide Award No.1 dated 30.05.1994 as under:-

Chahi	₹ 54,700/-
Barani/Abbal	₹ 54,700/-
Gair Mumkin Abadi	₹ 54,700/-
Banjar Doam	₹ 40320/-
Banjar Jadid	₹ 20000/-
Gair Mumkin	₹ 5000/-

(4) Vide award dated 19.11.2005 the lead case being Parkash Chand vs. State of Punjab, Reference Court dismissed 11 references pertaining to village Gho on the ground that the sale deeds Ex.A5 and A8 pertaining to the village could not be considered on account of smallness of the area for the huge chunk of land which was being acquired. Ex. A4 & A7 pertained to village Mamoon and not being of the same village were rejected. The sale deeds produced by the respondents being bigger chunk of land of 6 kanals and 18 kanals 4 marlas were of the same village of Barani Doam and being of the year 1991 and the notification having been issued one year after sale deeds, were duly considered. The market value of village Kiari being determined at ₹ 1400/- per marla and for village Kuther for the notification dated 16.02.1991 and for village Tharial pertained to a different village were the reasons that prevailed to maintain the amount awarded. The enhancement was denied on the ground that the sale deeds which had been produced were minuscule in nature measuring ranging between 5 marlas to 1

kanal. Sale deeds of the State as such were taken into consideration to hold that the amounts were closer to what the Collector had awarded and that Gho village was not connected by road.

(5) Vide award dated 22.11.2005 while deciding as many as 13 land references, the lead case of which was Parsino & Ors. vs. The Collector, LA Industries Department, Punjab & Ors. the same reasoning prevailed and the view followed in the award dated 19.11.2005 Parkash Chand vs. State of Punjab (Ex.C1) was kept in mind.

(6) Similarly 3 days later on 25.11.2005, 3 more cases were decided of the land falling in village Gho wherein same set of sale deeds measuring 5 marlas to 1 kanal had been produced in evidence along with sale deeds of villages Mamoon and Phangota. The enhancement was denied keeping in view the earlier award in LAC-1029 (Prakash Chand vs. State of Punjab).

(7) Similarly for the land measuring 9.62 acres falling in village Mutfarka, vide award dated 26.11.2005, the Reference Court declined to grant any enhancement for the amount awarded by the Land Acquisition Collector in the lead case titled **Hardip Singh vs. The Collector, LA Industries Dept.** for which the market value had been assessed as under:-

Barani Doam	₹ 62000/-
Gair Mumkin	₹ 5000/-

(8) Vide award dated 07.03.2007 for the land falling in village Mutfarka reference was declined on the ground that evidence had not been produced for three years after framing of issues.

(9) Thereafter on 17.01.2008 while deciding 6 reference petitions the lead case of which was **Rajbir Kaur vs. The State of Punjab**, the Reference Court for villages Gho and Mutfarka granted ₹ 1600/- per marla (₹ 2,56,000/- per acre) by apparently taking into consideration that ₹ 1400/- per marla had been awarded 10 years earlier and, therefore, on account of inflation and devaluation, the market value was assessed. Similarly, while deciding another bunch of 10 LAC cases the lead case in **Bachan Singh vs. State of Punjab LAC Case No.634 of 31.5.2000** decided on 17.01.2008, the said Officer also granted the same amount of compensation by wrongly noticing the purpose of acquisition and confusing it to the land which was acquired for Ranjit Sagar Dam.

(10) It is pertinent to mention that the said officer was also dealing with the said bunch of acquisition pertaining to as many as 12 notifications which had been issued for the purposes of acquisition for Ranjit Sagar Dam Reservoir which was in the same district. The acquisition was for different villages of an altogether different area but unfortunately, the same criteria as such was kept in mind. This Court in **RFA-1006-2010 State of Punjab & Ors. vs. Usha Rani (II)** decided on 02.11.2018 has also set aside the awards passed by the said Officer wherein he had granted ₹ 1600/- to ₹ 1830/- per marla for the notifications dated 07.08.1995 and 20.09.1995. In the said cases also, it would be noticed that reliance has been placed upon the villages Rajpura and Jugial which was again a construction site for Shahpur Kandi which was far away from Ranjit Sagar Dam and in the plains and no reference as such had been made to the material placed on record on account of which it had led to cascading effect of enhancement, in those set of cases.

(11) This was done in spite of the fact that Ex.R7 the earlier award in LAC No.981 of 29-11-2000 Parsino & Ors. vs. The Collector, Land Acquisition Industries Department, Punjab & Ors. dated 22.11.2005 was on record whereby the land references had been declined but no such reason was given to differ from the said reasoning. The said judgment has led to a cascading effect in the subsequent reference also decided whereby the same amount of compensation has been assessed by the Reference Courts on 02.02.2008, 06.02.2008, 07.02.2008, 09.04.2008, 21.05.2008.

(12) Subsequently on 28.01.2016 the same view was taken by another officer and the market value was assessed @ ₹ 1600/- per marla (₹ 2,56,000/- per acre). Strangely enough Ex.A8 which is on record being LAC case No.4 of 28.7.2003 Jagdish vs. State of Punjab & Ors. decided on 18.11.2008 would go on to show that it is a case pertaining to village Phangota Teeka Kattal which was subject matter of Ranjit Sagar Dam acquisition. Similarly, **LAC 306 Mahesh Dutt vs. Punjab State** (Ex.A6) was also pertaining to the acquisition of Ranjit Sagar Dam vide award dated 25.08.1998 passed by Land Acquisition Collector.

(13) The market value has thus again been fixed at the same rate keeping in view the awards passed on earlier occasion dated 09.04.2008 **LAC case No.942 of 4.11.2000 Dev Dutt Sharma vs. Punjab State & Ors.** dated 01.03.2014 **LAC Case No.1002 of 26.02.2001 Brij Lal vs. Punjab State & Ors.** A perusal of the same would go to show that on the basis of earlier award dated 07.02.2008 titled **Dhruv Singh vs. Punjab State,** and on the basis of award titled **Balbir Singh & Ors. vs. Collector & Ors**. dated 17.09.2011, the market value as such had been fixed @ ₹ 1600/- per marla.

(14) Resultantly, the landowners are in appeal on account of the declining their land references while the Corporation is aggrieved against the enhancement granted on 13.01.2003, 17.01.2008, 02.02.2008, 06.02.2008, 07.02.2008, 09.04.2008, 21.05.2008 and 28.01.2016.

(15) Cross-appeals have also been filed by the landowners seeking further increase from the nominal enhancement granted vide award dated 13.03.2003.

(16) Counsel for the appellant-Corporation has accordingly argued that firstly, the award dated 13.01.2003 wherein the enhancement was granted for land falling in village Ranipur was not justified in the absence of any valid sale exemplar as such and the enhancement has also been done on the basis of guess work and thus challenged the nominal enhancement granted apart from raising the strenuous challenge to the uniform rate of compensation @ ₹ 2,56,000/- per acre by the subsequent awards.

(17) Counsel for the landowners, on the other hand, has argued that three villages as such were adjoining each other as is apparent from the evidence/site plan and the deposition of the witnesses. There was immense potentiality as such as there were industrial units situated in the land which was subject matter of acquisition. The land was situated abutting the Defence Road and set up for the purpose of Industrial Growth Centre and not very far from the town of Pathankot and for village Kiari, ₹ 1400/- per marla had been granted. He therefore justified the market value which has been assessed by the subsequent awards saying that the appropriate enhancement had been granted for the intervening period. It is further argued that once the villages were adjoining each other, there was no valid reason as such not to rely upon the sale exemplars of the adjoining villages as such

and therefore once the land of the village was being acquired for common purposes in compact block, the uniform rate of compensation had rightly been granted.

(18) A perusal of the award dated 13.01.2003 would go on to show that the Reference Court noticed that there was a Railway line abutting the acquired land towards the western/northern side whereas the Defence Road was on the western side. It was noticed that Pathankot city was at the distance of about 3 kms from the acquired land and the land was purely agricultural in nature and cultivation was dependent upon rainfall. The sale deeds ranging from 5 marlas to 1 kanal were rejected for village Gho on two grounds firstly that they were pertaining to small portions and secondly they were not of village Ranipur. The awards which had been relied upon were of different villages Kiari and Mamoon. The Pathankot Bus Stand was situated around 8.9 kms from the acquired land and the land as such had been sold in the form of industrial and residential plots and it was held that the award of Land Acquisition Collector was towards the lower side.

(19) It is pertinent to mention that this award was never brought before in evidence either by the landowners or by the Corporation when on 19.11.2005 another officer decided the cases pertaining to village Gho. However, on the principle that the sale deeds were pertaining to village Gho were ranging between 5 marlas to 1 kanal the sale instances were rejected and one's produced by the respondents ranging between 6 kanals to 21 kanals 6 marlas were relied upon wherein the price ranged between ₹ 26,661/- to ₹ 29,0671/- for Barani Doam for the year 1991. Resultantly, the award awarded by Land Acquisition Collector ranging between ₹ 5000/- to ₹ 54,700/- per acre was upheld. The awards pertaining to village Kiari

and Kother wherein the market value was fixed @ ₹ 1400/- per marla was accordingly rejected on the ground that it was for a different village.

(20) A perusal of the award dated 26.11.2005 would go on to show that though the Reference Court has gone into the issue in detail but lost sight of one aspect of the principle that the price of the adjoining land falling in adjoining village can be the basis for assessing the market value of other village also. While recording this fact also that villages Gho and Ranipur were adjoining each other and the type and quality of land were also same after referring to the site plan (Ex.R5). Reference can be made to the judgments of the Apex Court in this context to **Union of India vs. Harinder Pal Singh (2005) 12 SCC 564**; **Special Land Acquisition Officer vs. Karigowda (2010) 5 SCC 708** and **Charan Dass vs. Himachal Pradesh Housing and Urban Development Authority (2010) 13 SCC 398** wherein it has been held that the market value of the adjoining village can also be taken into consideration for assessing the compensation which is to be paid on account of acquisition especially where large area is being acquired for development purposes.

(21) In **Harinder Pal Singh** case (supra), the Reference Court had adopted the belting method for awarding compensation which was for extension of Cantonment area at Amritsar. Learned Single Judge of this Court then fixed a uniform rate which was upheld by the Division Bench by noticing that the acquisition of 5 villages which were more or less of similar nature and character. Resultantly, the said principle was upheld. The Apex Court came to the conclusion that this Court took a pragmatic approach in fixing the market value of the lands forming the subject matter of the acquisition proceedings at a uniform rate and the lands can be consolidated

into one single unit with little to choose between one stretch of land from the other and thus no interference was done.

(22) Similarly, in **Charan Dass** case (supra), the acquisition was also for Housing Board Colony at Shimla. The Reference Court had granted uniform rate of compensation since the Land Acquisition Collector had granted the compensation as per the type of land. Apart from the fact that it considered only 3 sale deeds which were found relevant. The Apex Court thus went on to hold that in the absence of sale deeds, the judgments and awards passed in respect of the acquisition of land made in the neighbouring villages could also be accepted as a valid piece of evidence and provide a sound basis for assessing the market value. It was noticed that guess work as such is also a factor which would come into play and interference would only be made on the principle that there was some glaring infirmity in the assessment of evidence. The relevant portion reads as under:-

> *"As already noted, the first step being the determination of the market value of the land on the date of publication of Notification under sub-Section (1) of* Section 4 *of the Act. One of the principles for determination of the market value of the acquired land would be the price that a willing purchaser would be willing to pay if it is sold in the open market at the time of issue of Notification under* Section 4 *of the Act. But finding direct evidence in this behalf is not an easy task and, therefore, the Court has to take recourse to other known methods for arriving at the market value of the land acquired. One of the preferred and well accepted methods adopted for ascertaining the market value of the land in acquisition cases is*

the sale transactions on or about the date of issue of Notification under Section 4 of the Act. But here again finding a transaction of sale on or a few days before the said Notification is not an easy exercise. In the absence of such evidence contemporaneous transactions in respect of the lands, which have similar advantages and disadvantages is considered as a good piece of evidence for determining the market value of the acquired land. It needs little emphasis that the contemporaneous transactions or the comparable sales have to be in respect of lands which are contiguous to the acquired land and are similar in nature and potentiality. Again, in the absence of sale deeds, the judgments and awards passed in respect of acquisition of lands, made in the same village and/or neighbouring villages can be accepted as valid piece of evidence and provide a sound basis to work out the market value of the land after suitable adjustments with regard to positive and negative factors enumerated in Sections 23 and 24 of the Act. Undoubtedly, an element of some guess work is involved in the entire exercise, yet the authority charged with the duty to award compensation is bound to make an estimate judged by an objective standard."

(23) In **Karigowda's** case (supra), the issue was that for village in question the sale deeds were not available. However, the land adjacent village which had also been utilized for the said public purpose was held to be appropriate for determining the fair market value as they were comparable instances. It was held that where such evidence is not available

court can safely rely upon the sales statistics of adjoining lands provided the instances are comparable and the potentiality and location of the land is somewhat similar. It was further held that it was not only permissible but even more practical for the courts to take into consideration the sale statistics of the adjacent villages for determining the fair market value of the acquired land. The relevant paragraphs read as under:-

> *"…Secondly, we are also of the firm view that the Reference Court fell in error of law in stating that the lands of the adjacent or nearby villages could not have been taken into consideration and compensation could be determined with reference to the sales statistics.*
>
> *63. It is not in dispute before us that the entire land was acquired for the same purpose and, in fact, the entire land including the land of the adjacent villages had submerged or was utilized for the purposes of construction and operation of the Hemavathi Dam. This Court has held in number of judgments that the lands of the adjacent villages can be taken into consideration for determining the fair market value of the land, provided they are comparable instances and satisfy the other ingredients stated in this judgment. It can hardly be disputed that the land in the area of village Sanaba and the adjacent village is being used for growing mulberry crops which is supplied by the agriculturists to the silk factories or they use the same for their own benefit of manufacturing silk. The lands were given two classification i.e. wet land and lands*

which were not having their own regular source of irrigation (dry lands).

64. It is a settled principle of law that lands of adjacent villages can be made the basis for determining the fair market value of the acquired land. This principle of law is qualified by clear dictum of this Court itself that whenever direct evidence i.e. instances of the same villages are available, then it is most desirable that the court should consider that evidence. But where such evidence is not available court can safely rely upon the sales statistics of adjoining lands provided the instances are comparable and the potentiality and location of the land is somewhat similar. The evidence tendered in relation to the land of the adjacent villages would be a relevant piece of evidence for such determination. Once it is shown that situation and potential of the land in two different villages are the same then they could be awarded similar compensation or such other compensation as would be just and fair.

65. The cases of acquisition are not unknown to our legal system where lands of a number of villages are acquired for the same public purpose or different schemes but on the commonality of purpose and unite development. The parties are expected to place documentary evidence on record that price of the land of adjoining village has an increasing trend and the court may adopt such a price as the same is not impermissible. Where there is commonality of purpose and common development, compensation based on statistical data *of adjacent villages was held to be proper. Usefully, reference can be made to the judgments of this Court to the cases of **Kanwar Singh & Ors. v. Union of India [JT 1998 (7) SC 397]** and **Union of India v. Bal Ram & Anr. [AIR 2004 SC 3981].***

*66. In this regard we may also make a reference to the judgment of this Court in the case of **Kanwar Singh & Ors. v. Union of India [AIR 1999 SC 317]**, where sale instance of the adjacent villages were taken into consideration for the purpose of determining the fair market value of the land in question and their comparability, potential and acquisition for the same purpose was hardly in dispute. It was not only permissible but even more practical for the courts to take into consideration the sale statistics of the adjacent villages for determining the fair market value of the acquired land."*

(24) Similarly in **Premwati vs. Union of India (2013) 7 SCC 57**, the benefit of market value which had been fixed for the adjacent village was kept in mind.

(25) The principles of assessment have been laid down time and again by the Apex Court as the amount which was fixed as market value would be on the relevant date which is the date of publication of Section 4 notification. The criteria which is to be kept in mind is what a willing purchaser would pay to a willing vendor and the best evidence would be the value of the property for sale of the very property to which the claimant is a party or any sale of a recent date which was not long ago and was bona fide. The potentiality as such is a factor which is to be kept in mind for determining the market value also and the best examples are sale exemplars

of a similarly situated land situated at close distance and similar in nature. Reference can be made to the observations made by the Apex Court in **Ranvir Singh vs. Union of India (2005) 12 SCC 59** wherein it was held that the market value for a fully developed land cannot be compared with wholly under-developed land although it is adjoining and situated at a little distance.

(26) In **Goa Housing Board vs. Rameshchandra Govind Pawaskar (2011) 10 SCC 371**, while examining the provisions of Section 23 & 24 keeping in mind the principles laid down in **Chimanlal Hargovinddas vs. Special Land Acquisition Collector, Poona, (1988) 3 SCC 751**, it was held that under Section 24, the Court is not to take into consideration any increased value of the land acquired which is likely to accrue from the use to which it till be put when acquired. The argument thus raised by the landowners as such that the land was to be put to use for industrial purposes and therefore they should be duly compensated on a higher scale is not liable to be accepted on the face of it.

(27) The building potentiality of the land and the situation of the land and whether it had any commercial or industrial potentiality for purposes of residential, commercial or industrial usage had to be kept in mind. The possibility of obtaining water/electricity supply connections and whether there was a highway or public road in close vicinity and other advantages of educational institutions, health care centres were factors which have to be kept into account. This aspect was never kept in mind by the Reference Court while granting compensation @ ₹ 1600/- per marla and merely because Kiari & Kuther villages which are closer and closer to Cantonment had been awarded the said amount would not be a ground as such to grant the same amount of compensation. This Court in **R.F.A. No. 686 of 1991 –Lokeshwar Dutt v. The State of Haryana and another**, decided on 16.8.2010 has held that landowners have to produce adequate evidence to show that the area which is being acquired is similar to the one relied upon by producing site plans and by making reference of the sale deeds which show the value of the adjoining lands. It is settled principle that the onus of proving the market value lies upon the landowners as has been held by the Apex Court in **Basant Kumar & Ors. vs. UOI (1996) 11 SCC 542**, **Gafar vs. Moradabad Development Authority (2007) 7 SCC 614** and **Special Land Acquisition Officer vs. Karigowda (2010) 5 SCC 708.**

(28) The sale deeds dated 08.04.1992 and 21.09.1992 were rejected rightly wherein ₹ 1,92,000/- had been shown as a sale price for 8 kanals of land. The reason was on account of fact that they were after the date of notification and Ex.A10 was executed by landowner/petitioners themselves and therefore the finding was recorded that they were manipulated to create evidence of inflated market value and no fault can be found as such in the said reasoning. However, the location of village Gho in correlation to villages Ranipur and Mutarfa was not considered in proper perspective. From the site plan, it would be clear that majority of land of village Gho is situated away from the Defence Road whereas for Mutarfa the land was falling adjoining the Defence Road itself and apparently on this account also the market value even by the Land Acquisition Collector was at higher level. However, the fact remains that for village Gho also the market value had been granted at a higher level than Ranipur though Ranipur land is more strategically located and land abuts the main road in comparison to Gho. If one is to examine the site plans the land of village Ranipur falls immediately

after the Railway line and it had a huge frontage in comparison to the land of Gho which was as recorded by the Reference Court also not having access as such by the roads. But the fact remains that land of village Gho was acquired and categorized at a higher rate for Nehri/Chahi land/Barani by Land Acquisition Collector which would be clear from the tables reproduced above.

(29) In such circumstances, this Court is of the opinion that the evidence has to be examined afresh to re-compute the market value which has been awarded.

(30) Pleadings and evidence of the main case LAC No.4696/98 Chuhar Singh vs. Collector, Land Acquisition & Ors. would show that the plea taken was that the acquired land was having lot of potential and was located in a rapidly developing and prospering area. It abutted the Defence Road and was in the vicinity of the Post Office, High School, Bank Branch, Dispensary, Telephone facility being situated in the heart of the area of commercial activities surrounded by shopping complex as well as Industries like Seema Pipe Factory/Industries, Ghove Pipe Industries, Wine Bottling Plant, Scientific and Mini Gas Agency along with Syal Alloys Foundry, Dalda Ghee Factory, Kee Mee Blended and Bottling plant was in the centre of the acquired land. There was also a poultry farm which was known as the biggest Poultry farm in Asia. Village Ranipur was very well connected by roads and had regular bus, tempo services and catered to the heads of adjoining villages i.e. Mutfarka, Gho, Chanjali, Madhopur etc. and Pathankot was expanding towards the side where the village was situated and within the centre abutting on the Defence Road, which goes to Himachal Pradesh and J&K. The Railway line leading to Madhopur Cantt and

Shahpur Kandi (RSD) adjoined the acquired land and accordingly the applicant claimed ₹ 20000/- per marla along with statutory benefits.

(31) The defence of the Department of Industries was that the latest jamabandi was taken into consideration in the Award for classification of the land and the acquired land was purely agriculture and had no potential value such as industrial and residential. The land was far away from the alleged sites and the requisite benefits had already been awarded. The appellant-Corporation in its written statement also justified the amount awarded for setting up Industrial Focal Point and on 'no profit no loss' basis. The rates had been fixed keeping in view the location and quality of land and at the prevailing prices in the year 1992 after getting the same assessed by the Deputy Commissioner, Gurdaspur which had been also approved by the Financial Commissioner, Revenue, Punjab.

(32) AW1 Vijay Kumar, Patwari, Halqa Dadwan, appeared and proved the Aks-shajra as Ex.A1 wherein the acquired land was shown in green colour. The metalled roads were depicted in red colour, the commercial establishments in yellow colour and light green colour depicted the abadi, the brown colour depicted the location of the distillery. There were facilities of veterinary hospital, dispensary etc. in the village. The Defence Road abutted the acquired property and which ran from Mamoon to Madhopur. There was a distance of 4 KMs between the boundaries of acquired land and city of Pathankot. The land of village Gho adjoined the acquired which was earlier acquired under the same notification for the same very purpose. In the yellow portion of Ex.A1, there were around 30/40 shops and the entire acquired land was barren in nature and village Pangoli adjoined the acquired land of village Gho. The main Pathankot

Dalhousie/Chamba road as well as Pathankot-Jammu road adjoined the Defence Road shown in Ex.A1. He deposed that due to heavy rush of traffic on account of inter-State trade, tourism and other potentialities of the acquired land, the place was commercially very important and on account of the same there was mushrooming of commercial establishments in the vicinity of the acquired land. In cross-examination, it was admitted that the acquired land was dependent on rainfall and the commercial area shown in yellow abutted the acquired land only on the eastern side and the other sides of the acquired land are at great distance. The city of Pathankot was at a distance of 4 KMs from the acquired land.

(33) Sale deeds Ex.A3 to A5 were proved by Mukesh Saini, Patwari Halqa who prepared the extracts of aks shajra Ex.A6 whereby the acquired land was depicted in bluish green colour, red colour depicted the metalled as well as un-metalled roads. The Defence Road between Pathankot to Madhopur was shown in light red colour and was in the axis of north-eastern to south-western and abutted the acquired land. The light green colour depicted the abadi. The factory area was at point A to A1 in dark green colour. The yellow colour showed the commercial area consisting of shops, offices, etc. The Defence Road at Madhopur joined the Amritsar Srinagar National Highway. The acquired land was abutting village Pangoli on one side and village Ranipur on the other side. Some of the acquired was barani doam and a part of it was chahi but plain. The distance was confirmed to be 3KMs to the municipal limits of Pathankot. The land was acquired for the same purpose and maximum development was taking place towards the direction of village Gho. He admitted that he was not posted in the area

when the acquired land was notified and he had seen the land only after his posting in the year 2001 and the same was lying barren.

(34) The landowner Chuhar Singh AW4 deposed as per the terms of the Section 18 petition. He admitted that the distance to the municipal limits was 2 ½ KMs. It was claimed that due to its strategic location, it had great potential for commercial, residential and tourist purposes. The land of village Ranipur, Pangoli, Kiari, Siunti, Mamoon were touching each other and had been acquired prior to the acquisition. ₹ 1400/- per marla had been awarded for one of these lands vide Ex.A7 and for Mamoon, ₹ 1400/- per marla had been given as flat rate Ex.A8. In cross-examination he admitted that the respondents had to spend money on leveling and development of the acquired land for plotting. The shops were only on the road side and the acquired land was purely being used for agricultural purposes. He denied that the land was banjar and was uneven and the city was at a distance of more than 4 kms.

(35) RW1 Mohan Singh Patwari prepared *aks shajra* Ex.R1 and deposed that the land was shown in red line encircled over the acquired land. The red colour on Ex.R1 depicted the land subject matter of sale instances Ex.R2 to Ex.R4 which had been duly executed. The agricultural land was purely agricultural and there was no commercial establishment or any town or city in the vicinity except two factories which had closed down much prior to the acquisition. The municipal limits were stated to be 3 ½ km from the acquired land. He admitted that the land acquired were of village Phoh, Ranipur, Mutfarka, Chacheli under the same notification but were located at distance from each other. He admitted that the land of villages abutted each other. Some of these lands were Barani, Chahi, Banjar etc. There were 2/3

shops in village Ranipur near the Defence Road. He denied there were large number of industries at the time of acquisition in the area and the acquired land was strategically located from commercial and tourist point of view.

(36) RW2 Vijay Kumar Sharma, Senior Assistant of the Corporation produced sale deeds Ex.R5 to R12 but in cross-examination, he admitted that he had not witnessed all the sale instances nor was aware of the background of the same and neither the vendors or vendees were known. The brochure Ex.A9 was issued by the Department wherein the tentative price of the plots in Pathankot had been fixed ₹ 600//- per sq.yard which depicted only residential plots.

(37) RW3 Swaran Singh Divisional Head Draftsman of the Corporation identified the site plan (Ex.R14) and deposed that out of 413.56 acres of land, 230.28 acre was meant for industry, 20.37 acre was for residential. He admitted that Pathankot-Madhopur road touched the land in question from eastern side and did not know whether it further joined the Jammu highway. He did not know about the location of Mamoon Cantt. qua the property in question and the distance of Pathankot from the property acquired. He did not know whether Seema Pipe Industries and MS Globe Industries and Maini Pipes were also acquired along with the land in question. The Railway line also touched the land acquired. The residential plots were stated to be more expensive than commercial plots. Site plan Ex.R5 was also proved by RW5 Kamaljit JE and the award dated 27.07.1998 Dhado vs. Union of India Ex.A7 pertained to village Kiari whereby land had been acquired for urbanization process and the Defence Road was passing through the village. The village was at a distance of 1KM from Pathankot and the notification was issued on 22.02.1991. Keeping in view that the

notification of Mamoon for which land had been acquired on 14.01.1987, the same amount of market value had been fixed in spite of the difference of 4 years inter se two notifications. Similarly, Ex.A8 dated 17.09.1990 Jagat Singh & ors. vs. Union of India & Ors., was for the land falling in village Mamoon which was acquired vide notification dated 14.01.1987 the market value was fixed @ ₹ 1400/- per marla on account of the fact that for earlier notification dated 22.12.1969, the compensation had been enhanced to ₹ 360 per marla by this Court (Mark AX/1).

(38) Similarly, vide Ex.AX/1 dated 24.01.2000 Puran Banti widow & Ors. vs. Union of India & Ors, the market value was fixed of the land which was acquired for defence purposes/extension of Pathankot Cantonment i.e. villages Najo Chak, Beas Lahri, Simbli-Gujran, Naushera Nal Bandan, Lahri, Panjupur, Mirzapur, for which value had been fixed @ ₹ 600 to ₹ 900 per marla for various types of land.

(39) The evidence of award dated 22.11.2005 LAC No.981 of 29-11-2000 Parsino & Ors. vs. The Collector, Land Acquisition Industries Department, Punjab & Ors., the pleadings of which were identical to the one in Chuhar Singh would show that Joginder Singh AW1 admitted that the land was at a distance of 4 KMs from Mamoon which was a defence area. He denied the suggestion that it was at a distance of 6-7 KMs from Pathankot and volunteered that it is at a distance of 4KMs from Pathankot. He denied that Village Ranipur is situated in a mountainous area but admitted that the same was barani and dependant upon rain. A part of the village Gho was adjoining the land of Ranipur.

(40) As per Ramesh Kumar Patwari Halqa AW2 who produced Aks Shajra (Ex.A3), the acquired land was shown in yellow, green, blue and

brown colours. The metalled roads along with Defence Road which was 100 ft. wide were depicted in red colour. The commercial establishment as well as Pole Factory had been shown in green and black colours. He also admitted that there was difference of 3-4 KMs between the boundaries of acquired land city of Pathankot. The boundary of Municipal Committee Sujanpur adjoined the acquired land and there was market in village Gho. The boundary of the village Kahanpur Pangoli also adjoined the acquired land. The land of villages Gho, Kahanpur, Pangoli, Kiari, Kuther, Siunti and Mamoon adjoined each other and the land of village Gho was stated to be better than the land of other villages. In cross-examination in the year 2003, he admitted that at the time of notification he was not posted at Gho village and could not tell about the condition of the land. He did not know when the Khamba factory shown in aks shajra came into existence. At point P road shown in red colour was the Defence Road leading from Mamoon to Madhopur and he was not aware that there was ammunition dump. He admitted that acquired land via road was at a distance of 7/8 KMs from Pathankot and was at a distance of 4KMs as the crow flies.

(41) Ranjit Singh AW3 denied the suggestion that the land was at a distance of 6/7 KMs in cross-examination but stated that it was at a distance of 2 ½ KMs. He further admitted that some area of village Gho was mountainous and the remaining was plain.

(42) Mohan Singh RW1 Patwari Industry Department deposed in the same terms as the earlier deposition that the industries had closed down at the time of acquisition and the city was at a distance of 3 ½ KMs from the land in question. Ex.A11 decision dated 28.07.2000 in Smt. Nanko & Ors. vs. Union of India & Ors. was an award to the notification 22.02.1991 for

the land falling in village Kuther wherein ₹ 1400/- per marla had been awarded on account of earlier award dated 15.03.1993 of village Kiari. Ex.C1 was an award passed on 19.11.2005 Prakash Chand vs. State of Punjab, on earlier occasion, for the same acquisition.

(43) From the award dated 25.11.2005, as per the statement of AW1 Joginder Singh, in cross-examination, it was elicited that the acquired land was at a distance of 3 KMs from bus stand Pathankot. In cross-examination of AW2 Kuldip Singh, it was admitted that Panchayat of Khoh and Aukhawana was different of which he was member Panchayat in the year 1993. The type of land was similar but was situated in hilly area. He admitted that boundary of the village did not touch the boundary of village Mamoon neither the village Gho touched the boundary of Mamoon. The same was at a distance of 5KMs from Mamoon Cantt. which was at a distance of about 10 KMs from Pathankot. He denied that the acquired land was at a distance of 8 KMs from Pathankot and volunteered that it was 3 KMs from Pathankot.

(44) Ramesh Kumar Patwari Halqa Gho AW3 proved Ex.A4 Aks Shajra which was not the copy of the original latha brought by him and the industries had not been shown in the same original latha. The roads and the abadi was at a distance of 15-20 acres. The acquired land was shown in green colour and at a distance of 1 KM from the main road. RW2 Mohan Singh Patwari of the Corporation deposed that the land of the acquired villages was same and were adjoining each other and the factories had closed down at the time of acquisition.

(45) The record of award dated 26.11.2005 would show that the AW1 Ravinder Kumar Patwari Halqa Ranipur proved Aks Shajra Ex.A2 and

the Defence Road was shown in green colour and there was Railway line abutting on the north of the land in question. AW3 Hardip Singh landowner admitted that Kiari was at a distance of 4 KMs from the land in question in cross-examination since he had relied upon the award dated 27.07.1998.

(46) For the award dated 07.03.2007, no evidence was led but since the notification is common, the appellant in the present appeal would follow the fate of other landowners who have led the evidence as such, as the reference should have been clubbed with the connected matters.

(47) For the award dated 06.02.2008 AW1 Santokh Raj admitted that the land was at a distance of 3-5 KMs from Municipal Committee Pathankot whereas AW2 Ramesh Kumar in cross-examination admitted that it was at a distance of 10KM from the municipal limits.

(48) Thus in spite of Ex.R7 being on record dated 22.11.2005 Parsino & Ors. vs. The Collector, Land Acquisition Industries Department, Punjab & Ors., the Reference Court proceeded to grant compensation @ ₹ 1600/- per marla without even discussing the evidence on record with proper perspective.

(49) Rakesh Kumar Patwari proved Aks Shajra Ex.A4 and stated that the acquired land was barani in nature and similarly acquired land of Village Gho was also barani in nature and village Phangoli, village Kiari adjoined the acquired land of village Gho, Ranipur and Mutfarka.

(50) In the absence of any material evidence having been placed on record that the land of village Kiari, Kuther and Thariyal were adjoining as such the Reference Court was not justified in awarding ₹ 1600/- per marla. It has already been noticed that the reliance had also been placed upon large acquisitions made in same district for Ranjit Sagar Dam and for Shahpur

Kandi project apart from the acquisitions for the defence purposes in Pathankot. The lands were situated at different places and acquired for different public purposes and blind reliance could not have been placed as has been done by the Reference Court and therefore the awards as such have been rightly challenged by appellant-Corporation.

(51) From the evidence discussed in detail would show that the land in question was situated at a distance of 4-5 KMs from the municipal limits and therefore there would be many intervening villages before the development at Mamoon cantonment would come in play and in such circumstances the claim for similarity and the market value at the same rate cannot be accepted. It is settled principle that the market value would decrease as the land goes away from the municipal limits and the land has been primarily as noticed of all the villages are similarly placed and are far away from the developed portion and being used for agricultural purpose.

(52) Reliance can be as such placed upon the judgment of the Apex Court in **Manoj Kumar vs. State of Haryana (2017) 12 SCALE 731** wherein it has been held that blind reliance upon awards is not called for and the best methodology to fix the market value would be the sale exemplars of the same revenue estate. The Apex Court held that similarity of the land covered by previous judgment/award is required to be proved like any other comparative exemplar and the situation of the village and the nature of land might differ on account of distance of 2-3 KMs. The relevant portion reads as under:-

> *"15. The awards and judgment in the cases of others not being inter parties are not binding as precedents. Recently, we have seen the trend of the courts to follow them blindly probably*

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

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

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

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

(53) The said view was further reiterated in **Loveleen Kumar etc. vs. State of Haryana & Ors. (2018) 7 SCALE 596**, wherein it was held

that the sale deeds have to be taken into consideration and placing reliance upon the awards was not justified.

(54) Regarding fixing of market value it is to be seen that the following sale deeds as such were available with the Reference Court which have been discarded. The table of sale deeds produced is as under:-

Sr.No.	Exhibits	Date	Area	Location	Sale price
1	Ex.A4	6.12.90	0-16M	Mamoon	Rs.40,000/-
2	Ex.A5	26.9.90	1K-0M	Gho	Rs.58,000/-
3	Ex.A6	3.9.90	0-5M	Gho	Rs.20,000/-
4	Ex.A7	23.8.89	0-21M	Mamoon	Rs.90,000/-
5	Ex.A8	29.5.90	1K-0M	Gho	Rs.50,000/-

(55) Similarly sale Ex.A4 dated 26.09.1990 is also available in the case of Chuhar Singh for village Gho of 1 kanal which was executed for ₹ 70000/-.

(56) A perusal of the above sale deeds would show that 2 years prior in time for land falling in village Gho the same had been sold in the price range of ₹ 50000/- to ₹ 58000/-. Merely because sale deeds of larger chunks of land were not available as such was not a good ground to discard the sale exemplars which were available with the landowners on account of acquisition which was large scale in nature. The genuineness of the sale deeds as such could not be denied as such the gap period is also substantial in as much as Section 4 notification is dated 06.04.1992. In such circumstances, it would have been appropriate for the Reference Court as such to take the same into consideration by granting the appropriate cut upon the same on account of smallness. The market price if considered @ ₹ 55000/- for 1 kanal, the per acre value as such would work out to ₹ 4,40,000/-. A cut thus could have to be applied on account of smallness and for development charges to the maximum extent permissible of 75% as

per **Chandrashekar (D) By Lrs. & Ors vs Land Acquisition Officer & Anr. (2012) 1 SCC 390**.

(57) This Court is thus taking into consideration the two sale deeds of Gho Ex.A5 & A8 which are of 1 kanal and the sale consideration of the said sale deeds is not bearing much difference which is only of ₹ 8000/- for the same acre of land. Ex.A4 the other sale deed for 1 kanal of land was also executed on the same day i.e. 26.09.1990 but there is a categorical difference in the market value and it has been executed @ ₹ 70000/- and there is thus considerable variance. Perusal of the same would go on to show that the advantage it had was that it was abutting a metalled road. Thus it would be safer to rely upon the other two sale deeds and take out the average of the same which is accordingly assessed @ ₹ 55000/- for 1 kanal.

(58) The increase on account of difference between the two sale deeds of 1990 and the Section 4 notification which is of 06.04.1992 is not being granted as such to the landowners and no cumulative increase is being granted consciously on account of the fact that nothing has been placed on record to show that the values of the land had been increasing during the intervening period.

(59) Reliance can be placed upon the ***The General Manager, Oil and Natural Gas Corporation Ltd. vs. Rameshbhai Jivanbhai Patel & Anr. (2008) 14 SCC 745*** wherein it has been noticed that 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. The said principle is thus to be applied only where the landowners could have shown that the prices were increasing gradually on account of development taking place in their vicinity regarding which there is no evidence.

(60) In **M/s Hasanali Khanbhai & Sons vs. State of Gujarat (1995) 5 SCC 422**, it was held that necessary deduction can be applied for the formation of the roads and other civic amenities upto 50% and merely because small pieces of land were available would not be as such a ground to reject the sale deeds. Accordingly 60% cut applied by the High Court was approved. Reliance can be placed upon the judgment in **Lal Chand vs. Union of India (2009) 15 SCC 769** wherein the issue of factor of undeveloped agricultural land was taken into consideration. Resultantly, it was held that even though the sale exemplars were only small of 7 biswas 350 sq.yards but in the absence of any material to show that they were sham documents 40% cut could be applied towards development and resultantly market rate was enhanced from ₹ 25000/- to ₹ 28000/- by following the said principle.

(61) Similarly if 75% is put on account of two factors of smallness of exemplars and development cost the amount would work out to ₹ 1,10,000/- per acre. Thus once Ex.A5 & A8 were available the Reference Court was not justified in discarding the same in view of the judgment in **Trishala Jain & Anr. vs. State of Uttaranchal & Anr. (2011) 6 SCC 47**. The relevant portion reads as under:-

> *"18. The law with regard to applying the principle of deduction to the determined market value of the acquired land is quite consistent, though, of course, the extent of deduction has varied very widely depending on the facts and circumstances of a given case. In other words, it is not possible to state precisely the exact deduction which could be made uniformly applicable to all the cases. Normally the rule stated by this Court*

consistently, in its different judgments, is that deduction is to be applied on account of carrying out development activities like providing roads or civic amenities such as electricity, water etc. when the land has been acquired for construction of residential, commercial or institutional projects. It shall also be applied where the sale instances (exemplars) relate to smaller pieces of land and in comparison the acquisition relates to a large tract of land. In addition thereto, deduction can also be applied on account of wastage of land. This Court in the case of Land Acquisition Officer, Kammarapally Village v. Nookala Rajamallu [(2003) 12 SCC 334], had also observed that it is advisable to apply some deduction on account of exemplars of plots of smaller size relied upon by way of evidence by the parties. This is the normal rule stated by the Court but is not free of exceptions."

(62) The sale deeds which had been relied upon by the State Ex.R2&R3 in comparison, rate per acre was working out to ₹ 26,661/- and ₹ 29,671/- which was much lower than what was awarded by the Land Acquisition Collector and therefore under Section 25 of the Land Acquisition Act, 1894 was wrongly as such relied upon to uphold the amount of compensation as awarded.

(63) Accordingly, this Court is of the opinion that it would be just and fair, if the market value of the land which is similarly situated of the 3 villages and which were acquired for the same purpose is liable to be assessed @ ₹ 1,10,000/- per acre at a uniform rate along with all statutory

benefits. Resultantly, the appeals and cross-objections are disposed of and the market value is accordingly modified.

(64) Another aspect which is to be noticed is that Corporation has been remiss in prosecuting the present litigation and proceeded at a snail's pace. In certain instances even where 4 references had been decided, it had chosen to file appeals in two cases only. Reference can be made to the award dated 07.02.2008 wherein four references were decided but only 2 appeals have been filed i.e. RFA Nos.1963 & 1964 of 2010 against Gandharbh Singh and Gian Singh by leaving out the landowners of the other two references pertaining to LAC No.582 Dhruv Singh and LAC No.110 Rita Rani Malhotra. Similarly, the appeals against the awards dated 17.09.2011 (in RFA No.6510 to 6516 of 2015) and 13.03.2012 (in RFA No.623 of 2016) have also been dismissed on account of limitation on 16.04.2018 and 10.01.2018 by this Court as there was inordinate delay (966 days delay in one case and 1278 days in the other, respectively) for filing the appeals. Resultantly, it is apparent that some landowners have benefited on account of the laxity on the part of the Corporation and have got higher compensation than other landowners which is the matter the Managing Director should examine and take action against the concerned officials for the negligent prosecution of the litigation.

(65) Similarly the award dated 01.03.2014 Brij Lal vs. Punjab State & Ors. has not been challenged before this Court which has been relied upon in other set of proceedings to grant the same market value.

(66) It is further made clear that the appeals which have been filed after considerable delay and in which specific orders have been passed that the landowners would not be entitled for the benefit of interest on the

enhanced compensation and the delay has been condoned conditionally, the benefit of interest would not go to such landowners who had filed appeals belatedly. Reference can be made to 2 cases being RFA No.4548 of 2017 & RFA No.74 of 2018 against the awards dated 19.11.2005.

(67) All Civil Misc. Applications in which no separate orders have been passed, also stand disposed of accordingly.

25.04.2019
vvishal

(G.S. Sandhawalia)
Judge

1. Whether speaking/reasoned? ***Yes***
2. Whether reportable? *No*