IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA-4101-2008 (O&M)
alongwith other connected cases
Pronounced on : 05.07.2019

HSIDC (now Haryana State Industrial & Infrastructure Development Corporation)

....Appellant

Versus

Rajesh Kumar-II & others ...Respondents

Appeal filed by the landowners	**Appeal filed by the State**	**Appeal filed by HSIIDC**	**Cross-objections**	**Date of Award**	**Village**
Date of notification:13.08.2004					
RFA Nos.4144, 4783, 4784, 4785, 4862 **of 2008** RFA Nos.1793, 1794, 1795, 1796 **of 2009** RFA No.5052 **of 2010** RFA Nos.4726, 4727, 4729, 5281, 5282, 5371, 5372, 5373, 5377, 6137, 6739, 6740, 6741, 6742, 6743, 6744, 6745, 6746, 6784, 6785, 6786, 6906, 7105, 7571, 7572, 7593, 7594, 7595, 7596, 7839, 7840, 7886, 7900, 7903, **of 2011** RFA Nos.294, 418, 419, 420, 555, 784, 806, 807, 898, 908, 1583, 1595, 1596, 1941, 2767, 2768, 3075, 3083, 3289, 3290, 4057, 4058, 4376, 4704, 4881, 4882, 6678 **of 2012** RFA Nos.481, 498 **of 2013** RFA Nos.2162 **of 2015**		RFA Nos. 4101, 4102, 4103, 4104, 4105, 4106, 4107, 4108, 4109, 4110, 4111, 4112, 4113, 4114 **of 2008** RFA Nos.2100 **of 2011** RFA Nos.7435, 7436, 7437, 7438, 7439, 7440, 7441, 7442, 7443, 7444, 7445, 7446, 7447, 7448, 7449, 7450, 7451,		18.01.2008 12.08.2011 09.04.2011 04.05.2011 27.04.2011 06.05.2011 23.11.2009	Badh Malik Jatheri Pritampura Akbarpur-Barota Barhi

		7452, 7453, 7454, 7455, 7456, 7457, 7458, 7459, 7460, 7461 **of 2012**			
Date of notification:27.08.2004					
RFA No.2015 **of 2016** RFA No.1976, 3130, 4034, 4035, 4036, 4037, 5164 **of 2017** RFA No.304 **of 2018**				24.02.2010 19.01.2011	Chhatera Bahadur Abaspur
Date of notification:30.06.2005					
RFA Nos.1172, 1173, 1174, 1175, 1176, 1177, 1178, 1179, 1180, 1181, 1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1190, 1191, 1192, 1193, 1194, 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1488, 1489, 1490, 1491, 1492, 1983, 1984, 1996, 1997, 2214, 2215, 2216, 2217, 2277, 2278, 2279, 2280, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2589, 2590, 2736, 2737, 2738, 2739, 2740, 2741, 2742, 2743, 2744, 2752, 2753, 2754, 2755, 2756, 2796, 2797, 2802, 2803, 2867, 3499, 3931, 3932, 3933, 3934, 3935, 3936, 3937, 3938, 4416, 4436, 4493, 4982, 5070, 5416, 6841 **of 2013**		RFA No.5270, 5271, 5272, 5273, 5274, 5275, 5276, 5277, 5278, 5279, 5280, 5281, 5282, 5283, 5284, 5285, 5286, 5287, 5288, 5289, 7137 of 2013		07.11.2012 15.03.2013 15.01.2013	Badh Malik Pritampur a Rasoi
Date of Notification:16.11.2005					
RFA No.3819 **of 2014**				21.09.2013	Rasoi

Date of notification: 17.11.2005					
RFA Nos.1208, 3349, 3350, 3352, 3353, 3354, 3355, 3357, 3358, 3359, 3360, 3361, 3362, 3363, 3364, 3365, 3366, 3368, 3369, 3370, 3371, 3372, 3373, 3375, 3376, 3377, 3378, 3379, 3380, 3381, 3382, 3383, 3384, 3385, 3386, 3387, 3388, 3389, 3390, 3391, 3392, 3393, 4191, 4193, 4196, 4197, 4198, 4199, 4200, 4202, 4203, 4204, 4205, 4206, 4208, 4211, 4212, 4213, 4214, 4215, 4216, 4219, 4281, 4282, 4283, 4284, 4285, 4286, 4287, 4288, 4290, 4291, 4292, 4294, 4295, 4296, 4297, 4298, 4299, 4302, 4303, 4305, 4306, 4307, 4309, 4310, 4311, 4312, 4313, 4316, 4317, 4318, 4319, 4320, 4321, 4322, 4323, 4324, 4325, 4326, 4327, 4328, 4329, 4330, 4331, 4332, 4333, 4334, 4335, 4336, 4337, 4338, 4340, 4341, 4569, 4570, 4573, 4574, 4575, 4576, 4578, 4579, 4580, 4581, 4582, 4584, 4585, 4586, 4587, 4588, 4589, 4590, 4591, 4592, 4631, 4637, 4672, 4675, 4685, 4686, 4849, 4850, 4851, 4852, 4853, 4856, 4857, 4859, 4860, 4861, 4862, 4863, 4864, 4865, 4866, 4868, 4871, 4872, 4874, 4875, 4897, 5152, 5155, 5156, 5157, 5158, 5160, 5161, 5162, 5163, 5164, 5166, 5167, 5168, 5169, 5170, 5171, 5172, 5173, 5174, 5175, 5176, 5180, 5182, 5183, 5184, 5185, 5186, 5187, 5188, 5189, 5195, 5199, 5425, 5426, 5427, 5430, 5431, 5432, 5433, 5435, 5436, 5503, 5505, 5506, 5508, 5509, 5512, 5513, 5515,	RFA Nos. 3216, 3248, 3519, 3523, 3923, 3760, 3848, 3846, 3904 **of 2012**		XOBJR-70-CI-2014 in RFA-3248-2012 XOBJR-49-CI-2015 in RFA-3523-2012 XOBJR-52-CI- 2015 in RFA-3519-2012 XOBJR-97-CI- 2014 in RFA-3923-2012 XOBJR-48-CI-2015 in RFA-3760-2012 XOBJR-51-CI-2015 in RFA-3216-2012 XOBJR-47-CI-2015 in RFA-3904-2012	11.05.2011 31.03.2012 27.09.2012 29.09.2012 14.11.2013 19.11.2015	Badh Khalsa Sewli Asawarpur Jakholi Khewda Firozepur Patla Badhmalik

5517, 5608, 5612, 5613, 5614, 5615, 5727, 5728, 5729, 5731, 5732, 5733, 5734, 5735, 6046, 6047, 6404, 6492, 6493, 6494, 6495, 6496, 6497, 6499, 6501, 6502, 6503, 6504, 6505, 6506, 6508, 6510, 6511, 6512, 6514, 6515, 7462, 7463, 7465, 7464, 7469 **of 2012** RFA Nos.490, 509, 512, 513, 514, 516, 518, 519, 521, 523, 526, 527, 531, 532, 533, 534, 535, 536, 1117, 1118, 1642, 1643, 1644, 1645, 1646, 1647, 3192, 3193, 3198, 3537, 3538, 3844, 3846, 3845, 3848, 4286, 4284, 4285, 4287, 4507, 5249, 5250, 5415, 6544, 6786, 6787 **of 2013** RFA No.209, 388, 2056, 2122, 2915, 3846, 3851, 3852, 3856, 3859, 4246, 4685, 4247, 7205, 9042, 9133, 9693, 10447 **of 2014** RFA No.338 **of 2015** RFA No.642, 737, 742, 1132, 1133, 1134, 1135, 1136, 1138, 1139, 1141, 1530, 2213, 2813, 3163, 3979, 4560 **of 2016** RFA No.13615 and 13616 **of 2018**					

Date of notification:28.03.2006					
RFA Nos.129, 130, 131, 132, 133, 134, 135, 136, 525, 640, 641, 642, 889, 1940 **of 2012** RFA No.3698 **of 2014**		RFA Nos.5817, 5818, 5819, 5820, 5821, 5822, 5823, 5824, 5825, 5826, 5827, 5829, 5830, 5831, 5832, 5833, 5834	XOBJR -5-CI-2013 in RFA-5826-2012 XOBJR -4-CI-2013 in	16.09.2011 04.09.2012 09.05.2013 02.05.2014	Jatheri

		of 2012	RFA-5818-2012		
Date of notification:22.06.2006					
RFA No.7958, 7959 **of 2011** RFA Nos.84, 85, 86, 87, 88, 89, 263, 649, 650, 651, 652, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 780, 808, 912, 1485, 1486, 1487, 1488, 1901, 1927, 2836, 2843, 6680, 6768, 6769, 7152, 7153, 7184 **of 2012** RFA Nos.474, 480, 486, 541, 542, 543, 544, 545, 926, 927, 928, 930, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 945, 949, 950, 951, 952, 953, 954, 955, 957, 1069, 1219, 1365, 1366, 1367, 1368, 1369, 1370, 1371, 1372, 1373, 1390, 1391, 1393, 1394, 1395, 1396, 1397, 2307, 2464, 2605, 2794, 2825, 2842, 3377, 3494, 4004, 4005, 4410, 6842, 6983 **of 2013** RFA Nos.2824, 3689 **of 2014** RFA Nos.815, 827, 2315, 4438 **of 2015** RFA No.1934 **of 2016** RFA No.3213 **of 2018**				04.09.2012 19.10.2011 25.09.2012 04.09.2012 30.07.2012 15.10.2012 30.07.2012 11.09.2012 28.10.2014 03.12.2014	Liwan Jatheri Rai Liwan Badh Malik Prita-mpura
Date of notification: 05.03.2007					
RFA No.558, 559, 560, 561, 562, 563, 2201, 3706, 8695, 8696, 8697 and 8698 **of 2014** RFA No.885 **of 2015**		RFA Nos.8786, 8787, 8788, 8789, 8790, 8791, 8792 and 8793 **of 2014**		12.02.2014 26.07.2013 31.05.2013	Rasoi Pritampura Bad-Malik

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

Present: Mr.Arun Jain, Sr.Advocate
with Mr.Amit Jain, Advocate
Mr.Neeraj Jain, Sr.Advocate with
Mr.Ajit Malik, Advocate
Mr.Ashwani Talwar, Advocate and
Mr. Aakash Shreedhar, Advocate
Mr.Navneet Singh, Advocate
Mr.Alok Jain, Advocate
Mr.Manoj Yadav, Advocate
Mr.R.S.Malik, Advocate
Mr.R.S.Yadav, Advocate
Mr.S.R.Hooda, Advocate
Mr.S.P.Khatri, Advocate
Mr.Virender Khatri, Advocate
Mr.Gaurav Tyagi, Advocate for
Mr.Ashok Tyagi, Advocate
Mr.Ajit Singh Lamba, Advocate
Mr.Gautam Kaile, Advocate for
Mr. Ashwani Antil,Advocate
Mr.Virender Rana, Advocate
Ms.Parveen, Advocate for
Mr.R.S. Budhwar, Advocate
Mr.Praful Rana, Advocate for
Mr. R.K. Arya, Advocate
Mr.Chirag Kundu, Advocate
Mr.Rambir Yadav, Advocate
Mr.Sushil Jain, Advocate
Mr.Suchin Kadyan, Advocate
Mr.Ashwani Gaur, Advocate
Mr.Vikram Punia, Advocate
Mr. S.K. Sharma, Advocate for
Mr. M.L. Sharma, Advocate
Mr.Ramesh Hooda, Advocate
Mr.Rahul Vats, Advocate, for the landowners.

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

Mr.Pritam Singh Saini, Advocate
Mr. Vishal Garg, Advocate for the HSIIDC.

G.S. SANDHAWALIA, J.

The present judgment shall dispose of 784 number of appeals, filed under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act'), out of which, 678 number of appeals have been filed by the landowners alongwith 9 cross-objections and 97 number of appeals have been filed by the State. The 8 notifications issued under Section 4 in question for acquisition of land in District Sonepat, Haryana & situated in close vicinity of the National Highway No.1, are:

(i) 13.08.2004

(ii) 27.08.2004

(iii) 30.06.2005

(iv) 16.11.2005

(v) 17.11.2005

(vi) 28.03.2006

(vii) 22.06.2006 and

(viii) 05.03.2007

2. The land of Badh Malik, Jatheri, Pritampura and Akbarpur Barota was acquired by the first notification dated 13.08.2004 and from Chattera Bahadur and Abaspur by the second notification dated 27.08.2004, for the purpose of construction of the Express Highway known as the Kundli-Manesar-Palwal Highway (KMP) connecting National Highway No.1 in District Sonepat. By the notification dated 30.06.2005, the land of Rasoi, Pritampura & Badh Malik was acquired for the public purpose of development of Industrial Sector 39, Sonepat. Vide notification dated 16.11.2005, 5 kanals 3 marlas of land was acquired of Village Rasoi, for public purpose of construction of road of

Sectors 61 & 62, Sonepat. By notification dated 17.11.2005, land of Jakholi, Sewli, Patla, Badh Khalsa, Ferozpur Khadar, Asawarpur, Khewra, Bahalgarh and Badh Malik, measuring 2006.50 acres was acquired for the development and utilization of land for commercial, institutional and residential purposes for Sectors 65 to 68, Sonepat known as the Rajiv Gandhi Educational City, Phase-I. On 28.03.2006, 20 acres of land of village Jatheri was acquired for the public purpose of construction of Disposal Channel for Sewer and Drain Water, for Industrial Estate, Rai, falling in Sector 38. On 22.06.2006, 216 acres 7 kanals 11 marlas of land was acquired of 6 villages namely Jatheri, Badh Malik, Liwan, Pritampura, Rai, Badhkhalsa for the public purpose of development of Sector 38. On 05.03.2007, land of the 3 villages namely Badh Malik, Pritampura and Rasoi was acquired for the public purpose of development of Sector 39.

3. On 03.11.2015, while deciding the cases pertaining to Rajiv Gandhi Educational City, while dealing with the notifications dated 16.11.2005 & 17.11.2005 in **RFA-5360-2011** titled ***Kehar Singh Vs. State of Haryana & others***, the market value for the land abutting the GT road was fixed @ Rs.42,00,000/- per acre and @ Rs.32,00,000/- per acre for the remaining land situated away from the National Highway by the Coordinate Bench.

4. Similarly, in **RFA-4101-2008** titled ***HSIDC (now HSIIDC) Vs. Rajesh Kumar & others*** decided on the same day for the notification dated 13.08.2004, while relying upon **Kehar Singh** (supra) the market

value was fixed @ Rs.35,70,000/- per acre for the land abutting GT road upto the depth of 4 acres. Rs.27,20,000/- per acre was awarded for the land upto the boundary of Sector 38. Beyond the boundary of Sector 38 upto the length of 1 km, further cut was imposed to fix the market value @ Rs.18,20,000/- and beyond the said length of 1 km, another 1/3rd cut was put, to fix the market value @ Rs.12,20,000/- per acre. This assessment was done by putting a 15% cut on what had been awarded in Kehar Singh's case.

5. Similarly, in **RFA-1172-2013** titled ***Satpal & others Vs. State of Haryana & others,*** for the notification dated 30.06.2005, while placing reliance upon **Kehar Singh** (supra) and putting reverse cut of 12% per annum for the difference of 5 months, the market value was fixed @ Rs.40,00,000/- per acre, upto the depth of 4 acres and Rs.30,40,000/- per acre, for the land beyond that depth.

6. For the notifications dated 28.03.2006, in **RFA-7958-2011** titled ***Sultan Singh & others Vs. State of Haryana,*** while placing reliance upon **Kehar Singh** (supra), market value was enhanced to Rs.32,00,000/- per acre for the notification dated 28.03.2006 keeping in mind that the land was away from the highway. Similarly, for the notification dated 22.06.2006, Rs.45,00,000/- per acre for the land abutting the GT road upto the depth of 4 acres and Rs.36,00,000/- per acre, for the remaining land was granted by granting 12% annual increase for the difference of 7 months.

7. For the notification dated 05.03.2007 in **RFA-558-2014**

titled ***Raghbir Singh Vs. State of Haryana,*** benefit of enhancement was granted on the notification dated 30.06.2005, which was for Sector 39, and for the difference of 20 months period, 15% enhancement was granted to fix the market value @ Rs.50,00,000/- for the land abutting GT road upto 4 acres and Rs.38,00,000/- per acre for the land falling beyond that.

8. On 06.09.2017 in **CA-12847-2017** titled '**Rajbir & others Vs. State of Haryana & others (2017) 16 SCC 554**', firstly the judgment pertaining to the notification dated 13.08.2004 in **Rajesh Kumar's case** (supra) of the KMP Express was set aside, mainly on the ground that reliance had been placed upon the subsequent notification dated 17.11.2005, for the Rajiv Gandhi Education City [**Kehar Singh** (supra)] and reverse cut had been applied and secondly that it was for the Expressway and there was no justification for adopting the belting system. The relevant part of the order reads as under:

> "4. In the nature of order we propose to pass, it is not necessary to go into the various contentions except to note that, in our view, the High Court has gone wrong in placing reliance on a subsequent acquisition for which Section 4(1) Notification was issued on 17.11.2005 for Rajiv Gandhi Education City and fixing the land value for the KMP Project by introducing the method of an appropriate reduction. Another error, in our opinion, is in adopting the belting system. Being an acquisition for an Express Way passing through different parcel of land, there is no need or justification for adopting the belting system. Further, the High Court committed a mistake in introducing cuts. If the land

value is to be fixed for KMP Project acquisition, the relevant factors which are to be noted are mainly the value that was prevalent in the locality prior to 13.08.2004.

5. We are informed that several documents are available for fixing the land value. We are also of the view that the High Court should bear in mind, while fixing the land value, that the road brings development and the value of the land on either side of the Highway increases and the land owners on either side of the land are also benefited by the construction of a new road. However, the High Court has also to take into consideration the reconstructions (sic. restrictions) on use of the land to an extent of 200 feet on either side of the road.

6. We are also informed that certain matters pertaining to the very same acquisition have already been remitted by this Court.

7. For all the above reasons, we set aside the impugned order and remit the matters to the High Court for consideration afresh."

9. Similarly, on 28.11.2017 in **CA-20050-2017** titled '**Rajbir & others Vs. State of Haryana & others**', the judgment passed in Satpal (supra) and the quantification fixed by this Court in Sultan Singh (supra) was set aside for the notifications dated 28.03.2006 and 22.06.2006 in view of the earlier order passed in **CA-12847-2017**. The judgment passed by this Court in **Raghbir Singh** (supra) pertaining to the notification dated 05.03.2007 was also remanded in the same terms, on consent and all the cases were remanded to this Court for fresh decision and all the matters were to be heard together. Said order reads as under:

"Permission to file special leave petition(s) is granted.

Delay condoned.

Application for setting aside the abatement is allowed.

> Substitution application(s) is allowed.
>
> Leave granted.
>
> As agreed to by the learned counsel for the parties, these cases are remitted to the High Court to decide these matters afresh. The High Court shall hear all the matters together.
>
> The impugned judgment is set aside. The appeals are disposed of accordingly.”

10. Similarly, on 12.01.2018, in **SLP (C)-33232-33233-2017 Civil Appeal No.471-472 of 2018** titled '**Mange (deceased) th LRs Vs. State of Haryana & others**', matter had been remanded regarding the main judgment in Kehar Singh (supra) pertaining to the notifications dated 16.11.2005 and 17.11.2005. The order reads as under:

> “1. Delay condoned.
>
> 2. Leave granted.
>
> 3. In terms of the order dated 28th November, 2017, passed by this Court in C.A.No.20050/2017 (Rajbir & Ors. Vs. State of Haryana & Ors.) & batch, the instant matters are remitted to the High Court to be decided afresh, after hearing the parties.
>
> 4. The impugned judgment and orders are set aside. The appeals are allowed. Pending application, if any, stands disposed of.”

11. In **CA-10936-10945-2017** titled **Hawa Singh & others Vs. State of Haryana** on 13.11.2018, for the notification dated 22.06.2006, the quantification fixed by this Court in <u>Sultan Singh</u> (supra) was set aside, in view of the earlier order passed in CA-12847-2017. The relvant part reads as under:

> “5. In the nature of order we propose to pass, it is not necessary to issue notice to the respondent(s). The appellants are before this Court, aggrieved by the fixation of the land

> value. In Civil Appeal No. 12847 of 2017 & other connected matters, arising out of the common Judgment, this Court has set aside the impugned Judgment and remitted the matters to the High Court.
>
> 6. We are informed that the matters, which have been remitted, are pending before the High Court. In that view of the matter, these appeals are disposed of by setting aside the impugned Judgment and remitting the matters to the High Court, to be taken up along with the matters referred to above."

12. It is, in such circumstances, that the matters have come up for hearing before this Court. Therefore, keeping in view the fact that the acquisition is of District Sonepat surrounding the GT road for different public purposes, for the notifications which are spread over a period of 2½ years, the matters are being clubbed. The lands are common of five villages, like Badh Malik, Badh Khalsa, Pritampura, Jatheri and Rasoi and the other revenue estates are of adjoining villages. Therefore, it would be appropriate if by a common judgment, the market value is assessed of all the different notifications in question as the benefits of the sale exemplars, led in one case, would also flow to all the landowners. Only the cases of notification dated 27.08.2004 are being heard for the first time and are not subject matter of remand. Similarly, the evidence led by the State would also help this Court in determining the correct market value. More so, as per the Apex Court's directions also, as reproduced above that the cases should be decided together the said exercise is being conducted.

<u>Facts of the 1st notification dated 13.08.2004</u>:-

13. For the notification dated 13.08.2004, issued under Section 4, the land of the following 4 villages were acquired for the construction of the Express Highway connecting National Highway No.1 in District Sonepat:

Sr. No.	Village	Hadbast No.	Land measuring
1.	Badh Malik	68	18 acres 4 kanals 8 marlas
2.	Jatheri	66	42 acres 11 marlas
3.	Pritampura	67	14 acres 8 marlas
4.	Akbarpur Barota	62	49 acres 6 kanals 17 marlas
		Total Area	**124 acres 4 kanals 4 marlas**

14. Vide award dated 25.11.2004, the Land Acquisition Collector (for short, 'LAC'), for village Badh Malik, assessed compensation @ Rs.17,00,000/- per acre upto the depth of 2 acres from the National Highway for every kind of land. Rs.6,00,000/- per acre was granted for the remaining land, being Nehri/Chahi land and Rs.5,00,000/- per acre, for Barani and other types of land. However, on 30.08.2005, a sum of Rs.12,50,000/- per acre was awarded for all kinds of land falling in Villages Jatheri, Pritampura and Akbarpur Barota.

15. The Reference Court on 18.01.2008, while deciding 33 land references, lead case being LAC-467-2007 titled *Rajesh Kumar Vs. State of Haryana,* fixed the market value @ Rs.17,00,000/- per acre upto the depth of 2 acres from the National Highway but did not grant any benefit for severance on Rs.17,00,000/- and fixed the market value for the

balance land @ Rs.12,50,000/- per acre along with all statutory benefits. The sale instances of Village Rasoi, Rai and Badh Khalsa were discarded being not of the same villages and having better location. However, the benefit of the amount awarded for the 3 villages @ Rs.12,50,000/- per acre as awarded by the LAC was also granted to the landowners of Village Badh Malik for other types of land. Sale deeds (Exs.P-9 & P-10) of Badh Khalsa of land measuring 12 kanals 8 marlas and 15 kanals 12 marlas, which were of the adjoining village of Badh Malik were taken into consideration to come the conclusion the land of the two villages fell on both sides of the highway. The same had been sold at Rs.21,00,000/- per acre on 20.02.2004 and 23.02.2004 but were not taken into consideration as the location, as such, could not be traced on the site-plan (Ex.P-1). Ex.P-11 measuring 1 kanal 4 marlas dated 09.01.2004 was noticed which was sold for Rs.19,36,666/- per acre of Village Badh Malik and was shown in the site-plan and the land was on the eastern side after crossing National Highway. A finding was recorded that the difference was a distance of 7-8 acres from the suit land. Keeping in view the smallness of the size of the land, a 20% deduction was applied to bring the market value @ Rs.15,50,000/- and in view of the 7 months difference 12% increase was granted, to hike-up the price to Rs.16,58,500/- per acre.

16. Similarly, Ex.P-4 dated 08.06.2004 for 4 kanals 2 marlas of land was kept in mind whereby the market value would come to Rs.15,00,487/-, which was of Village Badh Malik itself and 2 months

prior to the date of notification. Giving a 12% increase of the 2 months would take the price to Rs.15.30 lacs and it was noticed that Rs.17,00,000/- had also been awarded upto the depth of 2 acres by the LAC and therefore, enhancement was denied for the said patch of land. Exs.P-2, P-5 & P-27 were stated to be more than 2 acres away from the National Highway though pertaining to Village Badh Malik and therefore, were ignored. Similarly, Exs.P-6 & P-7 were ignored as they were pertaining to the plots having rooms built on the same. Ex.P-2 was also kept out of consideration being 16 marlas having been sold in September, 2003 at Rs.19,40,000/- and Ex.P-5 being of 15 marlas which was sold at Rs.30,50,666/- on 19.03.2004. The land of Ex.P-2 was stated to be 4-5 acres away from the GT road on the west-side and 8 acres away from the suit land. Similarly, land of Ex.P-5 was 2 acres away from the National Highway on the west-side and 9 acres away from the suit land. Resultantly, Ex.P-5, being later in time, having been executed in March, 2004, was held to be more relevant. A 60% cut was granted on the same to bring the market value down to Rs.12,20,000/- per acre and the increase of 12% was granted for a period of 5 months, to cover the gap, to bring the market value @ Rs.12,80,000/- per acre. Similarly, Ex.P-27 dated 02.06.2003, for 11 kanals 14 marlas of land of Village Badh Malik, whereby the market value worked out to Rs.11,86,287/-, was kept in mind and therefore, the market value was assessed around Rs.12,50,000/- to Rs.12,75,000/- per acre, to fix the market value, as noticed above.

17. The said award was, thereafter, followed on 23.11.2009. On

06.05.2011 for Village Badh Malik however, the benefit of severance, as such, was granted @ 50% while noting that the Express Highway was constructed at the height of 8-9/10' and there was no way for outgress and ingress and there would be restrictions on the usage of land adjoining the highway qua construction.

18. On 09.04.2011, 27 land references, pertaining to Village Jatheri, were dismissed, lead case of which was LAC-708-2007 titled *Dhan Singh Vs. State of Haryana.* The reasoning which prevailed was that the sale deeds were very small in nature and some of them were after the acquisition of the land, i.e., after the issuance of the Section 4 notification and neither any severance benefits were granted and the amount awarded in Rajesh Kumar (supra) was also kept in mind.

19. However on 12.08.2011, while deciding 27 land references, lead case of which was LAC-735-2007 titled *Raj Kumar Vs. State of Haryana,* Rs.17,00,000/- per acre + 50% severance charge, was granted for the land falling in Village Jatheri. Reliance was placed upon Exs.PW-8/6 and PW-8/7 dated 02.01.2004 and 12.02.2004, which were of 202 sq.yards and 42 sq.yards and the value was assessed at Rs.24,20,000/- per acre and by applying 50% cut, the market value was worked out to Rs.12,10,000/- per acre. Sale instance dated 09.06.2005 (Ex.P-4) was taken into consideration of 4 marlas, after noticing that it was post-notification and 12% deduction was made to assess the value @ Rs.29,32,000/- per acre and a 50% cut was applied to fix the market value @ Rs.14,66,000/- per acre. Sale deeds (Exs.R-5 & R-6) of the State were

ignored being of Rs.6 lakhs and less than what was awarded by the LAC. Resultantly, the market rate was worked out to Rs.14,66,000/- per acre after taking out the average.

20. The site-plan (Ex.PW-8/1) was examined that the acquired land was adjacent to abadi of Village Jatheri and the industries adjacent to the acquired land was shown in green colour. Statement of witnesses were taken into consideration that there were industries namely Everest Tools Lmt., M/s Chokhani Industry, M/s Kalinga Cables, NVS Kanodia Hosiery, MJs/ Ribble Industry and other industries in the revenue estate of Village Jatheri. Hari Dass Public School was also situated in Village Jatheri and thus, applying a thumb rule and keeping in view the potentiality, the market value value was fixed @ Rs.17,00,000/- per acre.

21. On 27.04.2011, for Village Akbarpur Barota, 23 land references, lead case of which was LAC-785-2007 titled *Rajbir Singh Vs. State of Haryana,* were dismissed on account of lack of evidence and the sale deeds relied upon being of Villages Barota, Jatheri, Badh Malik, Kundli and Rasoi. The sale deeds of Exs.R-5 to R-9 of the State showed the market value ranging between Rs.5,00,000/- to Rs.6,00,000/- per acre and the judgment in Rajesh Kumar (supra) was taken into consideration.

22. On 04.05.2011, while deciding 10 land references, lead case of which was LAC-675-2007 titled *Rajbir Singh & others Vs. State of Haryana,* pertaining to Village Pritampura, only severance charges were granted @ 50% of the market value, in view of the evidence led by the landowners and the market value was not enhanced since the sale deeds

were post-notification and the other sale deeds were of different villages.

Facts of the 2nd notification dated 27.08.2004

23. For the second notification under Section 4 dated 27.08.2004, land of the following 2 villages was acquired, for the public purpose of the KMP Express Highway:

Sr. No.	Village	Hadbast No.	Land measuring
1.	Chattera Bahadur	229	32 acres 5 kanals 8 marlas
2.	Abaspur	228	66 acres 5 kanals 1 marla
		Total Area	**99 acres 2 kanals 9 marlas**

24. The LAC vide award No.5 & 6 dated 20.10.2005 determined the market value of Rs.12.50 lacs per acre for both the villages. The Reference Court, on 24.02.2010, dismissed 40 reference petitions, lead case of which was LAC-787-2007 titled *Tara Chand Vs. State of Haryana & others,* since the sale deed (Ex.P-1) was of 13 marlas of land, sold on 27.05.2004 for Rs.2,34,000/-. The sale exemplar being small, was rejected. Exs.P-2 & P-3 were of Village Rasoi, which were at a distance of 2 kms. Exts.R-4 to R-7, produced by the State, showed the market value ranging from Rs.2,00,000/- to Rs.3,36,000/- and therefore, no enhancement was granted.

25. Similarly, on 19.01.2011, the Reference Court dismissed 22 reference petitions for Villages Chhatera Bahadur, lead case being LAC-764-2007 titled *Shri Krishan Vs. State of Haryana & others.* The

reasoning given was that the land pertaining to the sale deeds (Exs.P-2 to P-12) were of Nangal Kalan, Kundli and Rasoi and were at a considerable distance from Chhatera Bahadur. Some other sale deeds were executed after the publication of the notice under Section 4 and therefore, were of no relevance. Moreover, the benefit of severance, as such, was also not granted.

Facts of the 3rd notification dated 30.06.2005

26. For the 3rd notification dated 30.06.2005, land of 3 villages was acquired as per the chart below, for the public purpose of Development of Industrial Sector 39:

Sr. No.	Village	Hadbast No.	Land measuring
1.	Rasoi	42	118 acres 3 kanals 11 marlas
2.	Pritampura	67	228 acres 2 kanals 0 marla
3	Badh Malik	68	32 acres 2 kanals 9 marlas
		Total Area	**379 acres 1 kanal**

27. Vide award No.3 dated 27.06.2008, the LAC awarded Rs.16,00,000/- per acre. The Reference Court decided 114 reference petitions on 07.11.2012, lead case of which was LAC-790-2009 titled ***Bhim Singh (deceased) th LRs & others Vs. State of Haryana & others***, and the market value was enhanced to Rs.19,00,000/- per acre for Villages Badh Malik and Rasoi by placing reliance upon the earlier award passed in Rajesh Kumar for the notification dated 13.08.2004 and

12% increase was granted for the intervening period. The Reference Court noticed that the 3 villages, Badh Malik, Rasoi and Pritampura were on the western side of the GT road if one is coming from Delhi to Chandigarh. Village Pritampura was at a depth from the GT road and the boundary of 3 villages are touching each other and adjoining. The site-plan (Ex.P-3) would show that on the eastern side, there was more development and Rajiv Gandhi Education City, Sushant City, Moti Lal Nehru Sports School, Rai and TDI city existed. Ansal, Parkar City and TDI city were also on the eastern side of the GT road. It was noticed that on 22.06.2006, a year later, compensation had been awarded @ Rs.25,00,000/- for Village Pritampura. Similarly, for Badh Malik, compensation was awarded @ Rs.35,00,000/-, by the LAC which was for development of Sector 38. It was, accordingly, noticed that there was a difference of market value of Villages Pritampura and Badh Malik. Resultantly, conclusion was arrived at that the value of land of Pritampura was less than that of Badh Malik. Badh Malik and Rasoi were on similar footing as they were located on the GT road. Sale deeds of Village Jatheri (Exs.P-5 to P-9) therefore, were not taken into consideration whereas sale deeds (Exs.P-24 to P-40) were of Akbarpur Barota, Badh Khalsa, Patla, Jatheri, Nangal Kala, Aterna, Sersa, Kundli and Rai. Therefore, the said sale deeds were not relevant.

28. Ex.P-4 was for 10 marlas of land dated 10.12.2003, whereby market value worked out to Rs.19,20,000/-, for Village Pritampura, was discarded on the ground that it was much prior in point of time, i.e., 1½

years and not a useful piece of evidence. Exs.P-10 to P-13 of Badh Malik were discarded on the ground of being post notification. Similar was the position of Exs.P-15 which was also Ex.P-62. Sale instances (Exs.P-49 to P-53) pertaining to Village Rasoi, being post-dated, were also rejected. Ex.P-42/P-106 pertained to land of Village Rasoi and was dated 07.03.2005 whereby land measuring 32 kanals 3 marlas had been sold at Rs.48,02,239/-. On account of being purchased by private builders and on account of lack of evidence, showing the proximity to the acquired land, as per the Aks-Sijra (Ex.P-3), the said sale deed was ignored. Similarly, Exs.P-43 & P-44 were sale deeds in favour of M/s Parkar dated 15.04.2005 wherein land measuring 37 kanals 16 marlas and 21 kanals 4 marlas for Rs.50 lakhs and Rs.47,74,775/- had been sold. On account of it being on the other side of the GT road, it was held not to be a relevant piece of evidence. Ex.P-3, the Aks Sijra showed the location of the land and therefore, Ex.P-14 dated 20.06.2005 for 13 marlas of land was sold for Rs.92,32,760/- showed that it was on the link road beyond the Express Highway whereas the acquired land was on the other side of the Express Highway and was acquired for the purpose of Sector 39 and could not be a comparable sale instance.

29. Similarly, Exs.P-15/Ex.P-62 and P-16/Ex.63, in favour of M/s Parkar dated 24.10.2005, being post notification were not taken into consideration even though the agreement to sell had been executed prior to the issuance of notification under Section 4. Keeping in view the location across the road also they were, accordingly, ignored. However,

it was noticed that Ex.R-14 was a award dated 18.01.2008, Rajesh Kumar (supra) also of Badh Malik, the land of which was acquired for the purpose of Express Highway. It was adjacent to the present acquisition and was a relevant piece of evidence to determine the market value as Badh Malik and Rasoi were adjoining villages and 12% increase was given for the difference of 10 months from the date of the 2 notifications and the market value was, accordingly, assessed at Rs.19,00,000/- per acre, for Badh Malik and Rasoi. For Village Pritampura, it was noticed that vide Ex.R-13, award of Reference Court of Pritampura dated 04.05.2011 was of Rs.12,50,000/- pertaining to notification dated 13.08.2004 and 12% increase would take it to Rs.14,00,000/- on 30.06.2005 and the LAC had already awarded Rs.16,00,000/- and therefore, no interference was made for enhancement.

30. Similarly, on 15.03.2013, 11 reference petitions of Village Pritampura were dismissed, in view of the judgment passed in Bhim Singh (Ex.R-1) the lead case of which was LAC 603/13, Narender Singh and others Vs. State of Haryana

Facts of 4th notification dated 16.11.2005

31. For notification dated 16.11.2005 land measuring 5 kanals 3 marlas of Village Rasoi was acquired for the public purpose of construction of roads between Sectors 61 & 62. The Land Acquisition Collector granted Rs.16 lakhs per acre vide award No.23 dated 18.03.2008.

32. The Reference Court vide its award dated 21.09.2013 while

deciding 2 reference petitions the lead case of which was LAC 261/09.11.2011 **Om Parkash vs. State of Haryana** enhanced the compensation @ Rs.32 lakhs per acre. Ex.P8 dated 03.05.2005 of 11 kanals 19 marlas was discarded being of village Nangal and not of village Rasoi. Ex.P6 was post notification i.e. dated 10.02.2006 pertaining to 2 acres. Ex.P1 to P3 were taken into consideration to come to the conclusion that the land was being sold @ Rs.39,92,880/-, Rs.40 lakhs and Rs.48 lakhs, per acre, respectively. The price rise as such was noticed that between one year the prices have jumped from Rs.40 lakhs per acre to Rs.48 lakhs per acre. Ex.P4 to P5 and P7 were referred to whereby land had been sold @ Rs.1,11,00,401/-. The State sale deeds Ex.R2 & R3 showed market value ranging between Rs.5 lakhs to Rs.15 lakhs per acre. Keeping in view the Ex.P1, P3, P4, P5 & P7 and that three of the sale deeds pertained to North of the acquired land and other three were south of the acquired land as per Ex.P9, the site plan, Ex.P3 was relied upon whereby land had been sold @ Rs.48 lakhs a year and a half earlier and 1/3rd cut was put as such to determine the market value of land @ Rs.32 lakhs. It was also kept in mind that for the notification dated 17.11.2005 land of Badkhalsa and 8 other villages were acquired by the State Government wherein also Rs.32 lakhs had been awarded in LAC case No.398 titled Mauji Ram vs. State of Haryaan. The sale deeds of the State as such being below to what was awarded by the Land Acquisition Collector were discarded. Ex.P4 to P7 were discarded on account of being close to village Rasoi and having better advantage over the acquired land and thus the Reference Court came to the conclusion that there was no evidence to show that other projects were in existence at the time of notification.

Facts of the 5th notification dated 17.11.2005

33. Vide notification dated 17.11.2005, a total of 2006.50 acres of land was acquired from 9 villages, the details of which are tabulated below:-

Sr. No.	Village	Hadbast No.	Land measuring
1.	Jakholi		54.13 acres
2.	Sewli		643.79 acres
3	Patla		370.67 acres
4	Badh Khalsa	41	282.33 acres
5	Firozepur Khadar		121.37 acres
6	Asawarpur		515.13 acres
7	Khewra		8.47 acres
8	Bahalgarh		4.83 acres
9	Badh Malik	68	5.93 acres
		Total Area	**2006.50 acres**

34. The said acquisition was for the public purpose for development and utilization of land for commercial, institutional and residential purposes for Sectors 65 to 68. The development was to be done under the name and title of Rajiv Gandhi Education City Ph-I. The Land Acquisition Collector awarded Rs.12.50 lakhs per acre for all the villages vide award dated 02.03.2006. On 10.03.2011 the award was upheld of village Jakholi for the reasons recorded in LAC-47 to 49 & 57

of 2007 and in RFA-5360-2011, decided on 03.11.2015, Rs.32 lakhs was fixed as market value.

35. On 11.05.2011 of village Ferozepur Khaddar, the Reference Court dismissed the LAC No.540 of 2007 titled Ran Singh vs. State of Haryana. The sale deeds Ex.P5 to P7 were post notification pertaining to the village Badkhalsa and therefore were not taken into consideration. The sale deeds of the State Ex.R1 to R3 showed the market value ranging between Rs.6 lakhs to Rs.7.42 lakhs per acre and therefore reference was declined.

36. However during the pendency of some of the reference petitions, vide letter dated 05.01.2012 (Mark 'A') Rs.24.5 lakhs per acre was offered to the landowners by a letter of the Director General of Urban Estates addressed to the Administrator, HUDA, Rohtak.

37. On 31.03.2012 while deciding as many as 577 reference petitions, the main case of which was LAC No.398 titled Mauji Ram vs. State of Haryana, the Reference Court awarded Rs.32 lakhs per acre for 6 villages and Rs.28 lakhs for the other 3 villages namely, Sewli, Patla and Jakholi. The said award was followed by Reference Court in awards dated 27.09.2012, 29.09.2012, 14.11.2013, 19.11.2015, 30.11.2015 & 17.12.2015.

38. The basis for fixing the market value was by averaging all the sale deeds including those of the State and fixing the market value @ Rs.42 lakhs per acre. Thereafter a cut of 33% was put for the 3 villages at the back and 23% for the villages on the highway by taking average of

various sale deeds.

Facts of 6th Notification dated 28.03.2006

39. For the notification dated 28.03.2006 the land of village Jatheri, 20 acres 1 marla of land was acquired for the public purpose for construction of Disposal Channel for Sewer and Storm Water for Industrial Estate, Rai falling in Sector 38. Vide award No.1 dated 22.05.2007, the Land Acquisition Collector awarded Rs.16 lakhs per acre.

40. The Reference Court vide award dated 16.09.2011 while deciding 19 references the lead case of which was LAC No.26/2008 titled Sanjay vs. State of Haryana through Collector, enhanced the compensation on the strength of the award passed by the Collector for subsequent notification dated 22.06.2006, Ex.P28 whereby the compensation had been assessed @ Rs.35 lakhs per acre by the LAC. The reverse cut of 12% was put to assess the market value @ Rs.30 lakhs per acre. The Reference Court discounted the sale instances Ex.P7 to P19 as they were of different villages namely, Badmalik, Rasoi, Badkhalsa, Rai and Akbarpur Barota to come to the conclusion that the sale instances were to be looked into of adjoining villages in case of non-availability of sale instances of the land of village whose land had been acquired. Ex.P2 to P6 pertaining to village Jatheri were thus taken into account. Ex.P2 & P3 dated 13.04.2006 were rejected being post notification wherein land had been sold @ Rs.45 lakhs per acre. Ex.P32 dated 18.05.2006 of 11 marlas of land was sold @ Rs.72,45,836/- per acre was rejected on

account of high increase in rates within short span. Ex.P4 to P6 were of April, 2007 vide which the land had been sold @ Rs.1.19 crore per acre and being post notification, the same were discounted. It was noticed that before execution of sale deeds award, Ex.P-28 had been passed for expansion of Sector 38 vide notification dated 22.06.2006 which would be the reason for execution of sale deeds at a higher rate. The sale deeds Ex.P4 to P6 were in favour of builders and had a note that in case the cheques which had been given got dishonoured the sale deeds would be considered to be cancelled. It was held that no evidence had been brought forward by the landowners that the cheques were in fact encashed. Thus it was noticed that compensation was granted for notification dated 22.06.2006 @ Rs.35 lakhs per acre and thus deduction of 12% was made to fix the market rate @ Rs.30,00,000/- per acre. The average rate in *Chhant Intekal* i.e. the average of sale deeds of one year was Rs.30 lakhs per acre. Therefore the post notification award as such was taken into consideration by looking at the *aks shajra* Ex.P1 wherein the land acquired was in green colour and adjacent to land of Udyog Kunj and HSIIDC shown in dark purple colour with blue boundaries. Thus adequate compensation not having been awarded by the Collector, the amount was enhanced to Rs.30,00,000/- per acre. The said award was followed on 09.05.2013 in LAC No.83/2012 Smt. Sonia vs. State of Haryana.

Facts of the 7th Notification dated 22.06.2006

41. For the notification dated 22.06.2006 the land of 6 villages

was acquired for the public purpose for development of Sector 38. The details of the 6 villages are tabulated as under:-

Sr. No.	Village	Hadbast No.	Land measuring
1.	Jatheri	66	216 acres 7 kanals 11 marlas
2.	Badh Malik	68	85 acres 6 kanals 7 marlas
3	Badh Khalsa	41	3 acres 1 kanal
4	Liwan	10	13 acres 5 kanals
5	Pritampura	67	10 acres 6 kanals 6 marlas
6	Rai	46	14 acres 4 kanals 8 marlas
		Total Area	**343 acres 6 kanals 12 marlas**

42. Vide awards No.18 & 20 dated 28.11.2008 the Land Acquisition Collector awarded Rs.35 lakhs per acre for villages Badh Malik and Jatheri and Rs.25 lakhs for village Pritampura, vide award No.22 dated 28.11.2008 was given. Liwan and Rai were awarded by Award No.21 & 23 @ Rs.30 lakhs. The Reference Court vide award dated 19.10.2011 while deciding 46 reference petitions, the lead case of which was <u>LAC No.357/2009</u> <u>Pratap Singh vs. State of Haryana</u> enhanced the compensation of Jatheri, Badh Malik, Badkhalsa to Rs.36 lakhs per acre. Reliance was placed on Ex.P5 & P6 dated 13.04.2006 wherein the land measuring 10 marlas & 12 kanals 14 marlas was sold and the value was worked out @ Rs.45 lakhs per acre. The deduction of 20% was put however, no enhancement was granted for village Liwan

and Rai.

43. On 30.07.2012 while deciding 36 cases the lead case of which was LAC No.1/2009 Dalel Singh (D) thru. LRs vs. State of Haryana, Pratap Singh was followed granting Rs.36,00,000/- per acre, ignoring Ex.P34 of 6 kanals 12 marlas whereby land had been sold on 01.08.2005 for Rs.31 lakhs per acre. The said view was followed on 28.10.2014 in LAC No.1863/2018 Krishan vs. State of Haryana and on 03.12.2014.

44. On 04.09.2012, the Reference Court dismissed 3 reference petitions the lead case of which was LAC No.556/2009 titled Smt. Sumitra vs. State of Haryana on the ground that the location of other land was on GT road and that no sale deeds were available of village Liwan.

45. On 11.09.2012 the Reference Court while deciding 8 reference petitions bearing LAC No.6/2009 Inder Singh (D) thru. LRs vs. State of Haryana upheld the award of village Pritampura for Rs.25 lakhs per acre.

46. On 25.09.2012 the Reference Court dismissed 4 petitions the lead case of which was LAC No.552/2009 Ramphal vs. LAC DRO for village Rai and upheld the award @ Rs.30 lakhs per acre on account of lack of sale deeds. Area of the sale deed had been shown in Ex.P-9 in red colour and of the acquired land in dark blue colour at point A in Ex.P-9.

47. On 15.10.2012 while deciding 50 reference petitions of Jatheri the lead case of which was LAC No.584/2009 Satpal vs. State of Haryana the same amount was assessed @ Rs.36 lakhs per acre.

48. On 03.12.2014, in LAC No.16 titled Saroj (deceased) Vs. State of Haryana for Village Rai and for land falling in Village Badh Malik, same amount of compensation was awarded taking the earlier award dated 30.07.2012 into consideration and the evidence being similar.

Facts of the 8th notification dated 05.03.2007

49. For the notification dated 05.03.2007, the land of Badh Malik and Pritampura was acquired for the public purpose of development of Sector 39, Sonepat. The tabulated chart qua the area of the land which was subject matter of acquisition is under:-

Sr. No.	Village	Hadbast No.	Land measuring
1.	Badh Malik	68	2 acres 7 kanals 4 marlas
2.	Pritampura	67	16 acres 6 kanals 13 marlas
3	Rasoi	42	15 acres 6 kanals 13 marlas
		Total Area	**35 acres 5 kanals 9 marlas**

50. The Land Acquisition Collector vide award dated 23.02.2010 awarded a sum of Rs.16 lakhs per acre for all three villages. The Reference Court dismissed the reference petitions on 31.05.2013 while deciding the three reference petitions of village Badmalik the lead case of which was LAC No.481/2010 Dayawati vs. State of Haryana. The basis for declining the reference was that the sale instance, Ex.P-3 was only of 2 kanals 14 marlas dated 29.12.2006 which had been sold at

Rs.2,36,85,750/-. Ex.P4 dated 02.11.2006 was of 2 acres 18 marlas whereby the land had been sold @ Rs.50 lakhs per acre. The value of Ex.P3 was calculated to come to the conclusion that the land was sold @ Rs.7 crores per acre and there was large disparity which had not been explained. The purchasers in both the sale instances were not private individuals but a builder. The sale deeds were situated near the highway and on account of the location of the aquired land and the petitioners having not earmarked in the *aks shajra* (Ex.P9) showing the distance from the highway or distance from the sale instances, the sale instances were rejected that they did not seem to be genuine though relating to same village and thus were not relied upon. The award dated 26.08.2009 (Ex.P2) which pertained to the notification dated 17.04.2008 whereby the market value had been assessed @ Rs.35 lakhs being post notification was not taken into consideration vide which some more land in Villages Badh Malik, Badh Khalsa & Rasoi was acquired for KMP Expressway. Similarly, award dated 28.11.2008 by the LAC (Ex.P1) pertained to the notification dated 22.06.2006 for development of Industrial Sector 38 in village Badmalik, Badkhalsa, Jatheri, Liwan, Pritampura and Rai whereby compensation had been awarded of Rs.35 lakhs per acre. The distance between the acquired land and the land which was subject matter of the notification dated 22.06.2006 having not been clarified the award was not taken into consideration for determining the market value. The location of the land in proximity of the earlier developed land being a material factor it was held that the landowners had failed to prove the location of the two chunks of land and the distance in between. Ex.R2 to R5 of Badmalik were taken into consideration which pertained from the period of June, 2004 to March, 2005. The rate varied between Rs.6 lakhs to Rs.12.7 lakhs which was less than what had been given by the LAC.

51. Similarly on 26.07.2013 the Reference Court dismissed 6 reference petitions the lead case of which was LAC 80/2010 Raghbir Singh vs. State of Haryana pertaining to village Pritampura on account of no evidence having been led by the landowners qua the 16 acres and 6 kanals 13 marlas of land. Counsel accordingly argued that the market value of the adjoining village should have been taken into consideration and the market value as assessed on 22.06.2006 would have a valid bearing.

52. Similarly, vide award dated 12.02.2014 of village Rasoi the Reference Court while deciding 8 petitions noticed award in **Bhim Singh** (supra) by the Reference Court Ex.P5 dated 07.11.2012 pertaining to the notification dated 30.06.2005 wherein Rs.19 lakhs had been awarded for Rasoi. A 12% increase was accordingly given for the period of 20 months intervening to fix the market value @ Rs.23 lakhs as on 05.03.2007.

Arguments and evidence of 1st and 2nd notifications dated 13.08.2004 & 27.08.2004

53. Counsels for the landowners, accordingly, argued that the benefit of Exs.P-2 to P-8 should be granted and averaging should be done, to fix the market value. Reliance was placed upon Ex.P-5 dated

19.03.2004 mainly for 15 marlas of land of Village Badh Malik, to submit that if a 40% cut was applied for smallness of plot, the value would be Rs.18,30,400/-. Similarly, Ex.P-11 dated 09.01.2004 was relied upon of 1 kanal 4 marlas of land of Village Badh Khasla that the market value of the said sale exemplar would come to Rs.19,36,666/-, to submit that the enhancement @ 12% for 7 months would take the value to Rs.20,72,232/-.

Pleadings in LAC-467-2007 titled Raj Kumar Vs. State of Haryana

54. In the pleadings, apart from claiming further market value to the extent of Rs.2 crores per acre and severance charges, the landowners in the petitions filed under Section 18, specifically averred that the land had been severed and divided into two parts. The remaining land which was on the southern side, had become useless as the road for which the land had been acquired was to be constructed at a higher level. No way was left for ingress and outgress for the remaining land and the remaining land being less could not be cultivated and there was no availability of water for irrigating the said land. Necessary averments were also put regarding the fact that construction would not be allowed to be raised within the radius of 100 mts. from the said road and the remaining land of the landowners on both sides-southern and eastern sides were also covered within 100 mts from the road, which was not cultivable nor could be used for construction purposes and thus, severance charges were demanded.

55. In support of the said pleadings, site-plan (Ex.P-1) was

brought on record. PW-1, Kanwar Singh, Architect deposed that the acquired land had been shown in light green colour and the boundary of Village Badh Malik and Badh Khalsa adjoins each other. Village Rasoi, Jatheri and Pritampura had also joined Badh Malik. In cross-examination, it further came on record that the land was covered by the sale instances of Village Rasoi, at distances ranging between 15-30 acres from the acquired land. PW-3, Krishan Kumar, in cross-examination, stated that his land was at a distance of 10 acres from GT road and that Village Jatheri was on the western side of Village Badh Malik. It was further stated that in Village Rasoi, M/s Ansal Builders had established Sushant City and developed common facilities like roads, sewerage, parks electrification etc. He, however, admitted that no private colonizer had established any authorized colony in the village. Similarly, PW-4, Sarup Singh stated that the land was at a distance of 8 acres from the GT road and also the presence of M/s Ansal Builders in the same terms.

56. RW-1, Surender Verma, Draftsman of the HSIIDC deposed that there was market around the bus-stop of Biswan Meel within the area of Village Badh Malik. The land falling between Biswan Meel and National Highway had some land vacant but on most of the land residential colonies existed. There were many industries and hospitals, Telephone Exchange, Government Schools and petrol pump. Across the road, Moti Lal Sports School of Rai was there and that adjoining the limit of Badh Malik, existed M/s Ansal Builders, Sushant City and TDI City. He admitted that the entire area from Expressway Highway to Kundli was

fully developed. He further admitted that due to the acquisition of land, the remaining land of the landowners had become uninhabitable and uncultivable being divided into two parts and that landowners could not cross the land from one side to the other. He could not depose whether the road was to be built at how much height. He admitted that there was power house, petrol pump, schools, industries, residential colonies etc but the same had not been shown in the site-plan (Ex.R-2) and there were modern facilities like water, electricity, telephone, sewerage, street etc around the acquired land and that the entire acquired land fell within the National Capital Region prior to the notification under Section 4.

Pleadings in LAC-708-2007 titled Dhan Singh Vs. State of Haryana

57. The pleadings would go on to show that similar plea was taken and the stand of the HSIIDC was that the Punjab Scheduled Road & Controlled Area (Restriction of Unregulated Development) Act, 1963 was applicable and the land suffered a disability in its usage. It was further admitted that the National Capital Region Planning Board Act, 1985 was also applicable and CLU had to be obtained, as such. Bhupender Kumar, PW-1 stood by his pleadings by deposing that the remaining land of 2 kanals was not cultivable and proper path had also not been given for egress and ingress. PW-2, Om Parkash, Assistant Town Planner, Sonepat deposed that persons who constructed structure on agriculture land were given notice under Section 12 and also placed on record a copy of the notification and declaration of controlled area under the Punjab Scheduled Road Act (Ex.P-1). He admitted that Sushant

City and Ansal were developed in the year 2003-04 and M/s TDI, Rajdarbar, Parsav Nath etc had come up and purchased the land for development of residential and commercial purpose in the vicinity. Balwan Singh, PW-3, Patwari of Village Badh Malik deposed about the presence of the industries and the development in the same terms and of Biswan Mill Market in the area of Village Badh Malik. Expressway Highway was stated to be 2-3 acres away from the Lal Dora of Village Badh Malik and the land of the landowners was 7-8 acres away from the GT road, 6-7 acres away from village abadi and 3-4 acres away from Power House. He had stated regarding the Durga Colony being 6-7 acres away from the Power House. The land of the landowners in the width of 6 karams had been left out from acquisition and the other land in 30 karams had been acquired and the Express Highway was constructed by the HSIIDC upto the height of 9-10' and no access was given to the landowners for egress and ingress. The Aks Sajra was proved as Ex.P-7 and that Sushant City of Ansals was developed in the year 2003-04 in the area of Village Rasoi and Badh Khalsa and was just adjacent to the boundary line of Village Badh Malik.

58. PW-4, Sat Parkash, from the DC office Sonepat also deposed on the affect of severance and the village abadi was on the northern side of the Expressway Highway and the land of the landowners which was left from the acquisition was on the southern side of the Expressway Highway. PW-5, Madan Sangwan, Architect stated that land of Sushant City was harly 7-8 acres away from the acquired land of the landowners

and the land of the landowners being only 3 acres away from the GT road and one acre away from Power House. RW-1, Karan Singh Punia, Manager, HSIIDC, in cross-examination, admitted that the toll tax was to be levied upon the owners of the vehicles and the money invested on the KMP Expressway was to be recovered through the toll tax. He admitted that the land of Village Badh Malik abuts the NH-1 and KMP was to start from NH-1 and that the land of the petitioner was within 4 acres depth from GT road. The Sports School, Rai and JBT Centre etc and the industries fell within the area of Badh Malik and village boundary of Badh Malik touched the boundaries of Villages Pritampura, Rasoi, Barh Khalsa, Firojpur Khadar, Rai and Jatheri. He admitted that the industries and other types of buildings in the area of the said villages and that the area fell from Rai Industrial area to Kundli border. He also admitted that there was bifurcation due to the acquisition for the KMP Expressway. He further admitted that area abutting to the KMP upto 100 mts was to be kept for the purpose of green belt and no person was to construct building in the said land.

Pleadings and evidence of LAC-735-2007 Raj Kumar's case (supra)

59. The pleadings and evidence of the said case would go on to show that it was specifically averred that an official thoroughfare/path of width of 6 karams had existed on the eastern side of the land owned by the petitioners. The link main rasta between the Villages Jatheri to Pritampura had passed through the same and therefore, the value of the land was more. PW-2, Randhir Singh, Patwari had stated that there was

presence of Sushant City, Sports School, TDI and Ansal and link road was about ½ km from the acquired land. That the Sports School, Rai was situated in the land of Badh Khalsa and Ferozepur Khadar. PW-7, Devi Lal, Junior Engineer of the Office of DTP, Sonepat deposed that HSIIDC had developed Phase-I between Villages Rai, Jatheri and Badh Khalsa and there was Udyog Kunj which was part of the HSIIDC. Industries had come up since 1968 and the Expressway Highway was only 2-3 acres away from the village abadi of Jatheri. Presence of Sushant City developed by Ansals was stated to be there since 2003. Similarly, Kalinga Cables had been established in the revenue estate of Village Badh Malik and that the Sports School was situated in the revenue estate of Village Civilian Rai. PW-10, Randhir Singh, in cross-examination, confirmed the fact that Hindustan Everest Tools Ltd. was only 10 acres from the acquired land and abadi of Village Jatheri was 1 acre from the Expressway Highway and denied that there was no bifurcation and the landowners were not entitled for severance. He also denied that there was no restrictions of 100 mts of the Expressway Highway under the provisions of the Scheduled Act and also deposed of presence of industries, residential houses in the abadi area and Sushant City being only 1.5 kms from the acquired land. PW-11, Gopi Chand, Kanungo confirmed the bifurcation and denied the fact that there was proper path given to the landowners for egress and ingress.

60. RW-3, Yogesh Mehta, Executive Engineer of the HSIIDC deposed that he was visiting the site to see the progress of the

Expressway and also admitted about the bifurcation and that Village Jatheri fell on the northern side of the Expressway Highway. He also admitted that the land of the landowners was on the southern side of the Expressway and fell within 100 mts of the controlled area, as per the Punjab Scheduled Act, 1963. He also admitted about the presence of various industries in Village Jatheri along with Hari Das Public School and the shops in front of the industries. In cross-examination, it spilled out that land of Jatheri had been transferred to the HSIIDC and Phase I of HSIIDC had started developing in the area of Villages Badh Malik and Rai along with Village Jatheri. There was JBT Training Centre and Durga Colony and residential colonies. RW-4, Daya Ram, Manger of the Corporation also admitted about the presence of the industries in Jatheri towards Badh Malik and in the revenue estate of Akbarpur Barota and Jatheri and there were also industries in the said village. The Sports School at Rai was stated to be situated in the area of Badh Khalsa, Ferozepur Khadar, Badh Malik and Sewli. He also admitted that the construction of the Expressway was made at a higher level from the acquired land. RW-5, Joginder Singh, Mining Inspector deposed that the maximum permissible limit for quarrying would be 10' and deposed regarding the contracts given.

61. Mr.Pritam Saini, on the other hand, pointed out that Ex.P-5 was a set of labour quarters and was not liable to be taken into consideration and the market value had rightly been fixed.

62. Reference is made to the evidence of PW-1 Madan Sangwan,

to show that the distance between village Pritampura and GT road was about 10 killas and that between the GT road and Village Pritampura land of Badh Malik falls. Distance between Rasoi and Pritampura was about 10-12 killas and Badh Malik was situated near the GT road. PW-2, Jai Bhagwan, Patwari stated that on account of the Express Highway, there was severance of land of Inder Singh, Jagbir and Amar Singh and the landowners had not been provided passage and thus, the land had been bifurcated. PW-3, Inder Singh had stated that the distance of his land was 3 acres from the GT road and that there was industry in Village Pritampura and that TDI and Ansal Builders were situated towards the eastern side of the GT road and Ansal had come up in the year 2003. Similarly, the witness had deposed that 2 acres of land had been left and the total land fell under 100 mts. distance. Similarly, Ramphal stated that his land fell between 10 to 12 acres away from the GT road and denied that there was no industry in Village Pritampura. Kiran Enterprises, H.N.Industry, one rubber factory, one fan belt factory and some other factories were situated in Pritampura. He had also deposed that due to the bifurcation of his land into small parts, the same had also not been cultivated. It is stated that Sahara India, Raj Darbar had purchased land in the revenue estate of Villages Pritampura and Badh Malik and also of Jatheri on the western side of the GT road. Ansal which had come in the year 2003 was situated 10 to 12 acres from the acquired land. He had further deposed that the land which was left, fell under the 100 mts of the Expressway Highway. Kundli border was situated at a distance of 4 kms from the acquired land. Similarly, PW-5, Balwan Singh, Patwari stated that the acquired land of the petitioner was just 3-3 ½ acres from the village abadi of Badh Malik. The acquired land of Village Pritampura was in the vicinity of Badh Malik and away from the abadi of Pritampura. PW-6, Devi Lal, JE from the DTP, Sonepat, in cross-examination, admitted that revenue estate of Village Pritampura fall on the western side of the GT road whereas the malls were situated on the eastern side of the Highway. PW-7, Sat Parkash from the DC office, in cross-examination, admitted that as per the Aks Sijra plan, land was bifurcated and left in small pieces.

63. Mr. Navneet Singh, Advocate has, accordingly, argued that even if 50% cut is granted on the said sale exemplar dated 17.05.2004 (Ex.P-1), the market value would still work out to Rs.14,46,000/- of Abaspur and Chhitera Bahadur and the same was wrongly discarded. Mr. Pritam Singh Saini, Advocate, for HSIIDC has referred to the site-plan to show that the sale deeds exhibited by the State were on the both sides of the land acquired which would show the true market value. Accordingly, it was argued that Ex.P-1 was close to the abadi and therefore, would not be, as such, relevant for assessing the market value.

64. Counsel for the landowners, however, pointed out from the statement of the Clerk (PW-1) that Ex.P-1 was for Chahi land. It was further pointed out that PW-2, Suraj Mal had only stated that he was a witness of the said sale deed and the land in nearby villages of Villages Rasoi and Kundli was worth about 2 crores which were situated on the

GT road on the eastern-side. It was, accordingly, argued that the evidence had been misread to this extent that the sale deed (Ex.P-1) was near Rasoi and Kundli and the witness had never said so and which is apparently incorrect and therefore, the said sale deed could not have been totally ignored for the purpose of assessing the market value, as such.

65. Mr.Navneet Singh, accordingly, referred to the record, to submit that the Expressway passed at a distance of 5-6 killas from the village abadi, as per the statement of PW-1, Madan Sangwan and village Akbarpur Barota was about 7-8 kms from GT road. Reliance was placed upon PW-2, Surinder Singh to submit that distance between the GT road and the acquired land was 2 kms and of PW-3, Sharvan Singh, Draftsman, to submit that the distance between Akbarpur Barota and GT road was about 5-6 kms. It was, accordingly, argued that Nursing Home, Bank, Hotel and Telephone Exchange were situated in the area of Village Badh Malik and Sports School, Rai was situated in Badh Khalsa, Ferozepur Khadar, Badh Malik and Sewli. As per the Manager, Karan Singh Punia, RW-1 of HSIIDC, the KMP National Highway No.1 from Badh Malik on the Jatheri road was about 4 acres away from the acquired land. The boundary of village Rasoi was 22 killas from Village Akbarpur Barota and there was Sushant City in Village Rasoi. Sector 38 was carved out from the revenue estate of Jatheri, Liwan, Badh Malik, Badh Khalsa and Rai and there was construction of residential colonies, commercial complexes and industries on both sides of the road except 4-5 acres which was used for agriculture purposes. KMP was to be

constructed 10 to 14 feet above the ground level and the witness did not know whether the authorities would permit any person to cross the National Highway through roads. He did not know whether the Express Highway would be connected by the roads which are about 20 kms away from each other and that the connection of the land would be cut off and there would be severance of land. He had volunteered that the authority would provide underpass but he did not know the distance between the two underpasses and that there would be restriction from raising construction upto the depth of 150 mts on both sides of the KMP. He admitted about the location of the O.P.Jindal Global University but could not say it was constructed within the revenue estate of Villages Barota, Jagdishpur and Rathdhana.

Arguments and evidence of 3rd Notification dated 30.06.2005

66. Mr.Amit Jain, counsel for the landowners has, accordingly, argued that Ex.P-60, which is the Aks Sijra, showed that the eastern side of the land of the Highway was developed and there were industries on the western side along the Highway and it is wrong that there was no development on the other side. The statement of the witnesses, as per PW-7, Balwan Singh, Patwari has been relied upon, to this effect. Similarly, the statement of PW-11, Manager/Executive Sales and Managing Market, Ansals, is relied upon to show the extent of development in the area. Statement of PW-5, Mukesh Gupta, AGM of HSIIDC was also relied upon wherein, in cross-examination, reliance was made to the Aks Sijra plan whereby the acquired land has been shown in

yellow colour, which is in the form of farm houses, poultry farm, industries, residential houses and sheds of the industries and that the land fell within the NCR. Reliance was placed upon the location of Exs.P-43 & P-44 shown in the site-plan (Ex.P-3) to show that it was not agricultural land and it was closer to Delhi and therefore, builders' sale-deeds had wrongly been discarded. Land value had doubled to Rs.35 lakhs of Badh Malik. Reference was made to Sr.No.39 to 42 of the index of the site-plan (Ex.P-3) which are Exs.P-42 to P-44 of Village Rasoi and even the abadi area had been shown opposite the acquired land but was away from the abadi area of Village Pritampura whereas the land acquired is closer to the Highway. Similarly, Exs.P-43 to P-46 were shown below the abadi area of Village Rasoi. Exs.P-15 & P-16 were shown at Sr.Nos.13 & 14, in favour of M/s Intime Builders Pvt. Ltd. and therefore, the rates were higher, being on the National Highway. It was, accordingly, argued that the patch of land of Village Pritampura was behind the industries, as per Ex.P-60, the Aks Shajra.

67. Mr.Pritam Saini, accordingly, submitted that as per Ex.R-1, no sale exemplar was located on the western side. It was, accordingly, submitted that Exs.P-43 & P-46 were closer to the abadi of Village Rasoi and development had taken place and therefore, could not be taken into consideration.

68. Mr.Amit Jain, accordingly, has placed reliance upon **Mehta Ravindran Ajitrai (dead) th. Lrs Vs. State of Gujrat 1987 (3) SCR 743** that Agreement to Sell should be considered for the purpose of

considering post dated sale deeds, Exs.P-15 & P-16. Reliance is placed upon **Trishla Jain & another Vs. State of Uttranchal (2011) 6 SCC 47**, to submit that 50% cut could be applied. Reliance has been placed upon **Special Land Acquisition Collector Vs. Rafiq Sahib (2011) 7 SCC 714**, to submit that once developed lands are situated close-by land should not be treated as agriculture land. Reliance is placed upon **Mehrawal Khewaji Trust (Regd.) Faridkot Vs. State of Punjab & others 2012 (4) SCR 24** to submit that highest sale exemplar should be taken into consideration. Reliance was also placed upon the judgment of the Apex Court in **AIR 2019 SC 12345, Balwan Singh**, to submit that reverse cut could be applied.

Arguments and evidence of 4th & 5th Notifications dated 16.11.2005 & 17.11.2005

69. Mr. Gaurav Tyagi, Advocate as such accordingly argued that once sale exemplar Ex.P3 dated 07.03.2005 was of 32 kanals 3 marlas of Village Rasoi, no cut was liable to be put and rather enhancement was liable to be given since sale deed was 8 months earlier to the notification in question. It is submitted that the land was acquired for roads and therefore development cut should not have been imposed by placing reliance upon the judgment in **Himmat Singh & others Vs. State of M.P. & another (2013) 16 SCC 392** and **Anjani Molu Dessai Vs. State of Goa (2010) 13 SCC 710.**

70. RW1 Suresh Kumar Patwari admitted that Rasoi village was situated at a distance of 5 kms from Delhi border and could not clarify the

distance of Kundli from Village Rasoi. He could not say that it was at a distance of 2-3 kms.

71. The cross-examination of Ranbir Singh would show that the acquired land was 2 acres from the national highway and he denied that it was 7 acres from NH-I. He admitted that the land was being used for agricultural purposes and around the acquired land the land was being used for the said purpose. The distance of Moti Lal School was 2 kms and HSIDC Rai Complex was also at the same distance. He denied the suggestion that the private colonizers were around 1 km from the acquired land and stated that the same adjoined the acquired land.

72. Similarly, Satpal, Sarpanch, Gram Panchayat in his cross-examination denied that the land was 7 acres away from the NH-I. He admitted that the entire acquired land was being used for agricultural purposes and around the acquired land agriculture was being done. He stated that Moti Lal Nehru School was 2 km away from the acquired land and HSIDC Rai complex was also at the same distance. He also confirmed that the colonizers were present adjoining the acquired land.

73. Ravinder Singh Draftsman proved Ex.P9 and the location of sale deed Ex.P1 to P8 and confirmed about his visit one month prior to preparing the site plan. The sale deeds of Rect.No.32 was 15 acres away from the acquired land and Rect.No.2 was 8 acres away from the acquired land.

74. PW-1, Ran Singh in LAC-540-2007, for the notification dated 17.11.2005, stated that his land was situated just at a distance of 2-

3 killas on the GT road and that Moti Lal Nehru Sports School was close to the said land. Village Badh Khalsa was at a distance of ½ km. In cross-examination, he admitted that on the eastern side of the acquired land was agricultural land and on the western side was Coral Chemical factory and was also on the south side. The land fell in the controlled area and Badh Khalsa was at a distance of 3 kms from the acquired land. The sale deed pertaining to the Village Badh Khalsa fell on the southern side of the acquired land.

Pleadings and evidence of LAC-398-2007 Mauji Ram Vs. State of Haryana

75. From the pleadings and evidence, the location of the land was stressed and the presence of residential colonies and industries in the vicinity. PW-1, Dayanand, resident of Asawarpur stated that there were thousand factories running in Industrial Area Rai and the acquired land was 4 kms away from the Delhi border and the land was parallel and the availability of sweet water was there. The land of Village Badh Khalsa was adjoining. The acquired land was adjoining the National Highway and the Industrial Area was on the western side of the GT road and the acquired land was on the eastern side of the GT road. Village Badh Khalsa fell on the southern side of the village. PW-6 Devi Lal, Junior Engineer, Office of District Town Planner, Sonepat admitted about the presence of industries, shops and other commercial industries, petrol pump and institutions in existence before the Section 4 notification. The boundary of Village Badh Khalsa was adjoining to Village Ferozepur

Khadar and Village Asawarpur and Sewli. Sports School Rai was stated to be in the revenue estate of Ferozepur Khadar and Badh Khalsa and Sector 36 Industrial Area of HSIIDC was on the opposite side. It was admitted that at the time of the acquisition, the area was developing as a commercial one. PW-10, Ravinder Singh, Draftsman proved Ex.P-31, depicting the sale deeds and the land of the landowners was situated 6-7 acres from the GT road. There were factories shown in red colour along with the main roads. Abadi of Asawarpur and Badh Khalsa was stated to be at a distance of 1 km and the distance between both villages was 100 acres. PW-12, Balwan Singh, Patwari stated that abadi of Village Badh Khalsa was 1 km from the GT road and he had prepared the Aks Sajra (Ex.P-45).

76. RW-1, Satbir Singh, Kanungo, in cross-examination, admitted that on the eastern side of the acquired land, land of Village Sewli was situated which was acquired for the Education City. HSIIDC, Rai was also situated at a distance of 1 km after crossing the GT road and Sports School Rai was adjoining Village Asawarpur. He admitted that many landowners had received compensation to the extent of Rs.24.5 lakhs per acre without prejudice to their rights. Ferozepur Khadar was stated to be an uninhabited village adjoining the revenue estate of Asawarpur and Kundli Manesar Expressway was situated in the land of Asawarpur. Delhi border was stated to be at a distance of 15 kms and the suggestion that it was at a distance of 4 kms was denied. The development had already taken place on the opposite side of the Highway

before the Section 4 notification and that the acquired land fell within the 9 villages. RW-2, Patwari admitted the presence of M/s Hilton Rubber Factory and had shown the boundary walls and specific killa numbers and similarly of KV industry and Suman Service Station (petrol pump) along with Toyo Spring Factory, which were situated in close vicinity of the acquired land. He being Patwari of the revenue estate of Kundli on an earlier occasion, admitted that the area of revenue estate of Kundli was adjoining Village Nathupur and Rasoi and that there were industrial units in existence in the villages. Biswa Mill Market was situated at a distance of 20 miles from Delhi Kashmiri Gate Bus Stand.

77. Mr. Neeraj Jain, Sr.Advocate has submitted that the averaging of sale instances relied upon by the State and claimants was not justified. The highest of the sale instances of the landowners should have been taken into consideration since there was no plea that the sale instances are not genuine or *bona fide*. It is submitted that sale exemplars of large tracts of land measuring around 3 acres had been exhibited. Reliance was placed upon Ex.P52 & P53 which was in favour of Ansals wherein land was sold on 31.10.2005. It is submitted that same was equivalent to Ex.P27 & P28 and were mentioned at Sr.No.18 & 19 at the index of the site plan. Reference was made to Sr.No.18 & 19 of the site plan (Ex.P-35) to submit that 2 sale deeds dated 31.10.2005 in favour of M/s Ansal Project and Developers were situated just outside the land acquired and part of the said sale deeds was subject matter of acquisition. It is accordingly submitted that the land situated at Badkhalsa had been

sold @ Rs.70 lakhs per acre. Similarly, Ex.P36 at Sr.no.1 of site-plan was referred to measuring 23 kanals 7 marlas dated 17.02.2005 in favour of M/s Genuine Properties Ltd. which had been sold @ Rs.52 lakhs per acre. Ex.P44 was shown at Sr.No.9 in the site-plan (Ex.P-35) in favour of M/s Harmony Buildtech P.Ltd. dated 31.05.2005 of land measuring 12 kanals 19 marlas sold @ Rs.58 lakhs per acre. It was accordingly argued that the land was adjoining the land which was acquired of village Patla. Similarly, reliance was placed upon two sale deeds, Ex.P50 & P51 which figured at Sr.No.16 & 17 in favour of M/s Kalka Properties dated 10.09.2004 sold @ Rs.43 lakhs for land measuring 14kanals 4 marlas and 18 kanals 9 marlas falling in village Badkhalsa and behind M/s Ansal Mall and close to boundaries of the land which was acquired.

78. It was submitted that if 12% enhancement is granted for 14 months intervening, the value would go to Rs.49 lakhs per acre. It was accordingly submitted that vide sale deed dated 31.10.2005 Ex.P52 & P53 the market rate had gone from Rs.43 lakhs to Rs.70 lakhs per acre. Ex.P68 of Awaspur whereby the land was sold by M/s Strategic Overseas to Sandeep Kukreja on 06.10.2005 of land measuring 21 kanals (2 acres 5 kanals) @ Rs.27,42,857/- per acre which would take the market value of the land to Rs.35,44,615/- per acre. Resultantly, reliance was placed on **Himmat Singh** (supra) to say that the benefit of highest sale exemplar was to be seen and averaging is not to be done. It is only in a narrowband width the said procedure should be followed. Reliance was placed upon the judgment of ***HSIIDC vs. Pran Sukh, (2010) 11 SCC 175*** to submit

that no deduction should be made and only a uniform compensation should be granted, as per observations of the Supreme Court while remanding the matter and only a maximum of 10% deduction should be imposed.

79. Mr. Sudeep Mahajan, Addl. AG Haryana argued that the Court did not commit any error in taking the sale deeds of the State for averaging even if they were below the LAC amount. Reliance was placed upon the judgment of the Apex Court in **Lal Chand v. Union of India and Another (2009) 15 SCC 769.** Distinguishing **Himmat Singh's** case (supra) wherein it was held that in a narrow bandwidth, it can be done and higher price means a dis-similar piece of land and therefore the benefit of averaging as such would work out the correct market value. The judgment in **RFA No.7876 of 2011 Basant Singh vs. State of Haryana & Anr.** decided on 26.04.2019 by this Court was relied upon to submit that 50% cut was given on builder sale deeds. Similarly, reliance was placed on **Ram Kanwar & Ors. vs. State of Haryana & Ors. 2015(1) RCR (Civil) 234** [para-19] that 25% cut should be put where there is abnormal increase in land prices as the land had been dealt with by builders. Reliance was placed upon judgment in **Haridwar Development Authority, Haridwar vs. Raghubir Singh etc. (2010) 11 SCC 581**, to say that the land falling on the Highway as such would command a better value and that belting should be done. Similarly, judgment of **Wazir Singh vs. State of Haryana 2019 (1) RCR (Civil) 702** was relied upon wherein it was held that where large tracts of land

were there belting system should be resorted to. Ex.R1 was referred to submit that the area was spread over large portion measuring 2006 acres of land for the notification dated 17.11.2005 and therefore uniform compensation was not liable to be paid.

Arguments and evidence of 6th & 7th Notifications dated 28.03.2006 & 22.06.2006

80. From the record of the case, it appears that PW3, Qumar Jaidi, Project Manager, Tulip Infratech Pvt. Ltd. had deposed that the company had obtained licence from the Town & Country Planning (Ex.P-2) and one Group Housing Colony had been developed. The housing colony was on the Jatheri Mor which falls in between Jatheri road, Sonepat Narela road and Liwan road. Sugra Leather Industry was opposite to the complex just across Liwan road. After crossing the Liwan road, there was another housing colony of M/s Ansal Group and thereafter, another group housing colony was being developed by M/s Max Height Pvt. Ltd. The group housing colony was situated within the area of Village Akbarpur Barota just adjacent to the area of Village Jatheri. There were numerious industries towards Sonepat Side, towards Narela side and towards Biswamill Bus Stop side. The 20th Milestone Bus Stop was situated in the area of Village Barh Malik. There were many shops and residential houses near bus stop towards Village Jatheri. The Express Highway was just 2-3 acres away from the housing colony and there was petrol pump adjacent to the colony. The land was purchased for developing a group housing colony in the year 2005-06. In

cross-examination, it transpires that the project was at a distance of about 3.5 kms from the GT road and situated at Village Akbarpur Barota. The witness had knowledge of all the land of the said village along with the land of Villages Badh Malik and Jatheri. The Ansal Housing Colony and Max Housing Colony was near the area of the village Jatheri. The project was at a distance of 3/4th of a km from the acquired land.

81. Similarly, PW-3, Gopi Chand, Kanungo, stated that there was well developed industrial colony known as Industrial Area, Rai, which is adjacent to Industrial Area 38 and the Moti Lal Nehru Sports Complex was in the vicinity and the KMP was adjacent. PW-4, Devi Lal, JE of the DTP office, Sonepat, deposed that the Rajiv Gandhi Education City fell in the controlled area as per Ex.P-18. Maximum land acquired also fell within the controlled area. Sushant City and area of Parkar and Ansal Group, all fell in the controlled area. There were many industries near Village Nathupur, Rasoi and Kundli which were close to the Delhi border. There were some industries in the area of Village Akbarpur Barota and Rathdhana which were surrounding village Jatheri. Private builders had purchased the land for development of residential sector/group housing societies/colonies and obtainining licences for the area of Village Rath Dhana, Akbarpur Barota, Ahmadpur, Raipur, Sultanpur etc. HUDA had acquired land for the development of Rajiv Gandhi Education City in Sectors 65 to 68 whereas other sectors were being developed for residential and commercial purposes.

82. M/s Ansals and M/s Parkar were stated to be situated in the

revenue estate of Village Rasoi whereas TDI city was situated in the revenue estate of Kundli, Rasoi and Nangal Kalan and others were at a distance of 2.5 kms from Village Jatheri. Sectors of Sonepat from 2 to 9 etc. were situated more than 10 kms from the acquired land. PW-5 Hardev Singh Gill, Senior Land Officer Ansal Properties, New Delhi deposed regarding authority to produce the documents. Copy of the applications and licences were Exs.P-20 to P-29 were brought on record. Copy of the flat buyers agreement pertaining to the green estate of Akbarpur Barota and copy of plot buyers agreement pertaining to the Sushant City and Rasoi and Badh Khalsa were produced as Exs.P-31 & P-32. The Group Housing Colony "Green Escape" was situated in the area of Village Akbarpur Barota just adjacent to Village Jatheri and there were flats of M/s Max Heights towards eastern side of the colony in the area of Village Jatheri. The colony was situated on the main Jatheri road and also on main Liwan road. There were numerous industries towards Sonepat side, towards Narela side and towards Biswal Mil Bus stop side, in the area of Village Badh Malik. The Expressway Highway was 2-3 acres away from the GT road.

83. PW-6, Madan Sangwan, Architect proved the Aks Sijra as Ex.P-33 of Village Jatheri which was at a distance of about 1 km from GT road. He stated that the acquired land was surrounded by industries and denied the suggestion that the distance between the acquired land and Rathdhana road was about 5 kms. PW-7, Ramesh, land-loser, in his cross-examination, denied that there was no industry near the acquired

land. He stated that the land was just along the boundary of M/s Chokhan Industries. PW-9, Balwan Singh, Patwari Halqa, Badh Malik also stated about the presence of industries in Village Rasoi and Ansal/Sushant City were in existence since 2003-04. The distance of the abadi of Villages Badh Malik and Jatheri were about 2 kms and the boundary was attached. PW-10, Ajit Kumar, Patwari, Halqa Rai, stated that the abadi of Badh Malik was attached with the area of Jatheri and Pritampura and there were many industries, namely, Hindustan Everest Tools Ltd., M/s Kanodia Hosiery, M/s Chhokhani, R.K.Electrics, M/s Ribal Industry, Modern Industry, M/s Haryana Actilame Manufacturing Ltd. were situated in the area. M/s Hindustan Everest Tools Ltd was situated in the area of about 22-23 acres, M/s Chokhani Industries had area of about 4-5 acres area, Kanodia Hosiery had about 2 acres area, M/s Haryana Actilame had about 3 acres of land. The boundary line of Jatheri touched the Lal Dora of Village Badh Malik and also touched the village boundary of Village Pritampura. Max Heights Company had started the construction of flats and villas in the area. There were buildings of Ansal Societies and Tulip Company in the adjoining area which pertainined to Village Barota. Village Liwan was stated to be at a distance of 4-5 kms from Village Pritampura. In cross-examination, he also proved that Tulip was situated 4-5 kms from Village Jatheri.

84. RW-1, Mukesh Gupta, AGM, HSIIDC, Rai, denied that area in sale instance (Ex.R-7) also fell in the mining area. He admitted that towards the eastern side towards the GT road there was Phase-I of

HSIIDC. He further stated that in Ex.R-1, Aks Sijra plan, Phase-I had not been depicted. He admitted that there were industries on Jatheri road and that Udyog Kunj was in Village Jatheri. He admitted that the acquired area marked Point C to B was between Jatheri road and KMP. He further admitted that the area shown at point A B D & E, which are uncolored, was the area left out from acquisition being residential houses, running industries and running school. He admitted that Jindal Law University was across the drain and flats were constructed by Tulip on Jatheri road. The area adjoining village Jatheri was in the area of Badh Malik and Rai, towards eastern side. Pritampura was adjoining towards Jatheri, towards south-eastern side and that the acquired land fell within the NCR. He could not tell whether the State had acquired land for Rajiv Gandhi Education City in front of Phase-I and Sector 38, after crossing the GT road in the area of Badh Malik, Badh Khalsa, Asawarpur, Firozpur Khadar, Patla and Sewli etc. He admitted that the land of Villages Jatheri and Rai had been acquired. He could not say whether the area of Firozpur Khadar falls within the GT road and was shown in Ex.P-33. He could not tell out of the 2 sectors notified under Section 4, only 266 acres was acquired for Village Jatheri and the rest had been left out being developed area.

85. From the record, similar statement of Qumar Jaidi, Project Manager, who appeared as PW-2, was made about the location of the land and development of the complex side and the area near the Liwan road would show that the potentiality of the land was well proved. PW-4,

Rakesh, Project Manager, Max Heights, however, deposed that he had been authorized to appear for the company. The company had applied for the grant of licence for setting up group housing colonies (Ex.P-18). The licence was Ex.P-19 and the details of the land was mentioned in Ex.P-20, for Village Jatheri. The Ansal Group Housing Colony was adjacent to the housing colony which fell in Village Akbarpur Barota and Jatheri and mention was also made of Tulip and KMP was at the same distance. Ex.P-25 was the site-plan which was proved by Madan Sangwan, Draftsman, who appeared as PW-7. Satish, RW-1, from the DC office proved the Intekal Chhat of Village Badh Khalsa and Liwan which was Rs.50,59,627/- and Rs.43,58,522/- (Ex.R-1). RW-2, Yogesh Mehra, Executive manager/Sr.Manager, HSIIDC admitted that part of the land touched Badh Malik and Badh Khalsa towards the GT road. He admitted that the area shown in Ex.P-25 in red with blue boundary was of Sector 38 and the area shown in red boundary after crossing the area of Express Highway was of Sector 39. After crossing the GT road, the area of Rajiv Gandhi Education city starts. From the site-plan, it transpires that Exs.P-34 & P-36 figured at Sr.No.10 & 11. The land was sold on 28.09.2005 and 28.07.2005, which are in close vicinity of abadi of Badh Malik and on the western side of the Expressway Highway. The land were sold for a value of Rs.2,18,18,182 and Rs.72,00,000/-. At Sr.No.1, Pritam Singh, sold his land on 12.09.2007 of Village Pritampura for Rs.19,33,2000/- measuring 10 marlas, which was right next to the abadi of Village Pritampura. At Sr.No.5, Sukhbir Singh sold his land to M/s Parkar measuring 16 kanals on 10.02.2006 for Rs.2,78,00,000/-, which is opposite Sectors 39 and 31 and at a considerable distance from the acquired land.

86. From the evidence of PW-1, Madan Sangwan, Draftsman, it was pointed out that the acquired land was at a distance to Rai Industrial area which abutted the National Highway No.1 and suggestion that the revenue estate of Village Liwan was situated at 10 kms away from the GT Karnal road was denied by the said witness. PW-2, Jawahar, in cross-examination, clarified that the revenue estate of Village Liwan did not touch the GT road but Rai Industrial Area abutted the said road and that abutted the acquired land on the western side. It was stated that the private builders like Mungira, TDI and Parkar were situated within 1 km from the acquired land. Exs.P-2 & P-3 were the sale deeds of the land of relevant period situated in Village Liwan. RW-1, Yogesh Mehra, Executive Engineer/Sr.Manager, HSIIDC Rai, deposed that distance of the acquired land and the land shown in Ex.R-2 was about 1 km and the land shown in Ex.R-3 was situated at a distance of 15 acres from the acquired land. The acquired land was situated at a distance of 2 ½ km from the GT road.

87. A perusal of the evidence would go on to show that the same set of witnesses were there in other case, namely, Qumar Jaidi, the Project Manager, Tulip Infratech Pvt. Ltd., Rakesh Vermani, Executive, Max Height and Aswani Kumar, Assistant Manager of Ansal Projects and therefore, the evidence are similar, which has already been discussed

earlier. PW-8 Balwan Singh, Patwari Halqa clarified that the land fell within the abadi area of Badh Malik and KMP Expressway and therefore, it has been argued by the counsel that the value for Badh Malik which had been granted should be granted for the land of Pritampura also, as Badh Malik and Jatheri had been granted Rs.35,00,000/- by the LAC. Reliance was placed upon the statement of RW-2, Rajinder Mehta to show that the acquired land of Badh Malik and Jatheri was adjacent to the acquired land of Pritampura whereby Rs.35,00,000/- was awarded and therefore, no valid reason, as such, is there to grant lessor compensation for Village Pritampura.

Arguments and evidence of 8th notification dated 05.03.2007

88. Mr. Amit Jain, Advocate pointed out from the site plan Ex.P9 that the land was only 2 acres from the highway and close to village Pritampura. While placing reliance upon the statement of RW1 itself, he submitted that Ex.P4 which was dated 02.11.2006 and in close proximity to the notification dated 05.03.2007 showed that 2 acres 18 marlas of land had been sold @ Rs.50 lakhs per acre and there was no valid reason to discount the said sale exemplar. Therefore the Reference Court was not justified in declining the references and not granting the commensurate enhancement. It was submitted that vide notification dated 30.06.2005 the land had already been acquired for the development of Sector 39 to the tune of 379 acres of land. The present notification was only for small chunk of land which was left and there was difference of 20 months between the two notifications. Way back on 07.11.2012 the

Reference Court for the said notification had already fixed the market value for Badmalik and Rasoi @ Rs.19 lakhs and therefore appropriate increase should have been granted on the said amount for the difference of 20 months. It was further submitted that on what basis Ex.P4 had been declared not reliable since that was not the stand as such of the respondents. It was but natural that the larger chunks of land would sell at a lower price whereas smaller chunks of land would fetch much more value and therefore Ex.P3 had been executed at a far higher rate. It was accordingly submitted that merely because these sale deeds were executed in favour of builders was not a good ground as such to discard the same and an appropriate cut could have been put. It was accordingly argued that the land which was subject matter of acquisition would be more valuable being closer towards Delhi whereas the land for the notification dated 22.06.2006 was situated farther away on the northern side whereby vide award dated 19.10.2011 of the Reference Court, the market value had been fixed @ Rs.36 lakhs per acre for Villages Jatheri, Badmalik and Badkhalsa.

89. A perusal of the evidence would show that there is substance in the arguments raised by counsel for the landowners.

90. PW1 Devi Lal JE himself stated that shajra of Sectors 61, 62 & 63 indicated the licensed land of Ansal API and M/s Parker Estate, M/s Prestige Associates Pvt. Ltd. and Narang Construction Company. He stated that the acquired land was on the western side of the GT Road whereas Education City was on the eastern side of the GT Road. He

admitted that distance between Sector 58 and Sector 39 was about 4 kilometers and the distance between Sector 39 and Sectors 61 to Sector 63 was about 200 meters. He also admitted that the land of village Rasoi, Kundli and Nangal Kalan fell within Sector 58 and the distance between Sector 39 and Sector 66 was about 500 meters and both the sectors were on the National Highway.

91. PW3 Ashok landowner admitted that the land was agricultural in nature and he deposed that it fell within the National Capital Region and had lot of potential. Apart from that there was large number of industries. He deposed that other commercial colonizers i.e. Parker Builders Pvt. Ltd., TDI, Ansal Sushant had been purchasing land @ Rs.2/2.5 crores per acre for developing shopping malls, restaurants, hotels, bank, hospitals, school markets, parks etc. near the acquired land. The Land Acquisition Collector had awarded Rs.35 lakhs for Sector 38 but now for Sector 39, he had awarded only Rs.16 lakhs per acre. He admitted that the sale deeds tendered as Ex.P3 to P8 were of a prime location which was situated near Highway. He denied the suggestion that his land in question was situated at some distance from Highway where rates were very low. He admitted that before constructing in NCR area any type of land CLU is necessary from the competent authority. He denied the suggestion that the acquired land was situated at a distance of 6 acres away from the GT road. He rather clarified that the land in question fell at a distance of 400-500 meter from NH-I. He further clarified that some of the industries had been established before

acquisition and some had been established after acquisition.

92. Similarly, PW4 Raj Singh admitted that the Everest Tool factory was situated in the revenue estate of village Jatheri and denied the suggestion that the land in question was situated at a distance of 7 acres away from NH-I. He clarified that 20th Milestone was away from acquired land at about ½ kilometer and Plaza Cable, Sunder & Sons Company, Sanjiwni, Kay International, Ethnic India and Anantraj Hotel and JBT Centre were situated in the revenue estate of village Badhmalik.

93. PW5 Draftsman Ravinder Singh proved Ex.P9 Shajra plan whereby the area of sale deeds had been shown in red colour and the acquired land of the petitioner was in dark blue colour at Point A in Ex.P9 which would show that the land of the petitioner was situated 3 & 5 acres from the depth of the highway. The site plan also shows complete detail of industrial, residential colony, village abadi, industrial area HSIDC, Moti Lal Nehru School School, Sushant City, TDI City, Power House, institutions and other area of industries etc. which was CLU passed and also the area of HSIDC, Kundli in different colours. In the site plan, the acquired land and Rajiv Gandhi Education City were shown in patches and boundary in light coffee color. He deposed that the entire area in the vicinity had already developed by the Government authorities as well as private industrialists and builders much prior to the notification of the acquired land. In cross-examination he denied the suggestion that he did not visit the spot and had prepared the Shejra plan.

94. RW1 Yogesh Mehra, XEN, HSIDC, Rai while proving

Ex.R1 to R5 admitted that the National Highway No.1 adjoined the acquired land but the same did not fall on the National Highway No.1 as it was situated at a distance of 2-1/2 acres from the acquired land of the petitioners i.e. Killa No.24/9. He denied the suggestions that Ansal or Sushant City had developed plots and flats on the opposite side of the acquired land and there were industries around the acquired land.

95. RW3 Vijay Singh Clerk, HRC Branch DC Office Sonepat deposed that the Collector rate in the year 2007-08 of village Badhmalik was Rs.36 lakhs per acre on the GT road upto the depth of two acres and thereafter @ Rs.16 lakhs per acre as per Ex.R7. For Nehri/Chahi land the Collector rate was Rs.12.50 lakhs per acre.

96. A perusal of Ex.P3 would show that it was sold by M/s Singhal Builders to Dharampal Malik. Similarly, Ex.P4 would show that Sushil Kumar resident of Ansal Bhawan, Kastuba Gandhi, New Delhi had sold the land to Singhal Builders Pvt.Ltd. Pritampura, Netaji Subhash Palace, Delhi. Ex.P5 to P7 were pertaining to village Badkhalsa and therefore would not be relevant as the said village is situated across the highway more towards the developed portion on the eastern side.

97. Statement of PW1 Jagdish would show that in cross-examination he admitted that acquired land was two killas away from the GT Road.

98. PW2 Khushi Ram also deposed in the same terms. In cross-examination, it came across that Moti Lal Nehru School was at a distance of 2.5 kms from the acquired land as was HSIIDC Industrial Area Rai.

He denied the suggestion that the land acquired by the LAC was situated at a distance of 7.5 k.m. from the industrial area Kundli but clarified that it was merely 2.5 K.M. from the land in question.

99. Ravinder Singh Draftsman PW3 who proved Ex.P6 stated that the land was acquired for development of Sector 39 and the GT Road was shown in green colour. The acquired land mentioned in the sale deed in red colour was abutting with the GT Road on the eastern side. The acquired land was at a distance of 2 acres from the land which was sold and subject matter of sale deed Ex.P4. Abadi of village Rasoi was in pink colour. Ansal City road which bifurcated from GT road was shown in blue colour and TDI city road which also bifurcated from GT road was also shown in blue colour. The distance between the acquired land and Delhi was approximately 5/6 KM and the distance of Sonepat city and acquired land was approximately 8-10 km. The distance between Sonepat and ISBT, Delhi border was approximately 40 KM. Out of the acquired land some land was commercial as well as agricultural.

100. RW1 Robin Bhatla Assistant Manager, HSIIDC Rai in his cross examination denied that Ex.R1 had been prepared by him. He admitted that the link road from GT road and the acquired land was abutting Pritampura from GT road. He denied the suggestion that the sale instances of the land was at Rs.1,11,00,000,/- on the eastern side of the GT road just opposite the acquired land. He admitted that the acquired land is near to the GT road and fell within NCR. He admitted that in Bhim Singh & Ors. vs. State decided on 07.11.2012 (Ex.P-5) pertaining

to village Rasoi vide notification dated 30.06.2005, the market value had been enhanced to Rs.19 lakhs. The Delhi border was at a distance of 9-10 kms. He denied the suggestion that Rai Sports School of international level was at a distance of one and half kilometer from the acquired land but the same was a distance of 3-4 KM. He denied that there were flats and malls developed by TDI and Jindal Global International Law University was at a distance of 5 km from the acquired land.

101. A perusal of the evidence would show that by Ex.P4 dated 03.05.2005, 4 acres 3 kanals 8 marlas of land was sold @ Rs.1.20 crores of Rasoi. Reliance placed upon the said sale deed has been opposed by the State on the ground that the same was in favour of the builder and was at a far better location. The Reference Court while examining the statement of witnesses came to the conclusion that as per the site plan Ex.P6 acquired land had been shown in brown colour and the land shown in red colour was abutting the GT road on the eastern side and was at a distance of 2 acres from the land. Keeping in view the fact that the sale deed was in favour of M/s Intime Promoters P.Ltd. which was towards the southern side towards Delhi and was at considerable distance sale deed as such was rejected.

102. Keeping in view the evidence which has been led and the facts, the following questions, thus, would arise for consideration before this Court:

(i) Whether there was potentiality of the land, acquired vide the said 8 notifications, in question or can the land be treated as simple agricultural land, for the purpose of assessing the market value on the date of the Section 4 notifications?

(ii) Whether any benefit of severance is to be granted under Section 23(3), on account of the damage sustained by the person interested at the time of the acquisition and on account of the fact that restrictions would be imposed on the balance land left which fell within the restricted area being adjoining to the newly carved out Expressway and thus, severely affected the usage of the balance land for other purposes for the first two notifications, pertaining to the acquisition of land for the KMP Expressway?

(iii) Whether uniform compensation is liable to be given on account of large scale acquisition or whether Court should resort to belting system, in the facts and circumstances, especially keeping in view the earlier orders passed by the Apex Court?

(iv) Whether the builders sale deeds could be ignored on the basis of which the landowners sought the market value or the same could be considered after putting appropriate cut on the same, for the purposes of development cut and the fact that the builders would purchase the land at a higher price for the vested interests, for carrying out development in the area?

(v) What would be the market value of the land on the basis of the sale exemplars which have been brought on record for the relevant dates of the notifications in question?

(i) **Whether there was potentiality of the land, acquired vide the said 8 notifications, in question or can the land be treated as simple agricultural land, for the purpose of assessing the market value on the date of the Section 4 notifications**?

103. The evidence which has been discussed in detail would go on to show that the land acquired vide the notifications in question was falling around the GT road leading from Delhi to Chandigarh, just short of the city of Sonepat and barely 8 kms from the Delhi border and situated in the controlled area of the National Capital Region. On account of this close vicinity to the capital of the country, the potentiality had been fully exploited by the builders who took on to capitalize the connectivity to the capital. The GT road which is also known as the Sher Shah Suri Marg from Mughal times and expansion of which has been made at various stages right from 1982 onwards when Asian Games had began and when 4-laning started taking place on account of some games which were to take place at Rai Sports School, situated in the revenue estate of Badh Khalsa and Ferozepur Khadar. Also keeping in mind the orders of the Apex Court for building an alternative Highway around Delhi to avoid traffic congestion, the Kundli-Manesar Expressway which encircles the capital, was conceptualized, for which the land was acquired vide the first 2 notifications dated 13.08.2004 and 27.08.2004. The

Expressway, if one is proceeding from Delhi to Chandigarh, turns off from the National Highway, at Badh Malik Village left to Jhajjar/Bahadurgarh and encircles New Delhi to Palwal, on the southern side, which is called the Kundli-Manesar Expressway and thus, avoids all the major towns. The land which has been consumed for the construction of the same, with which, this Court is concerned was of Badh Malik, Pritampura, Jatheri, which are in close proximity to the National Highway. The other villages, namely, Akbarpur Barota, Chetera Bahadur and Awaspur come thereafter. The Expressway on the right-hand side/eastern side of the National Highway is called the Eastern Peripheral Expressway which makes its way to Gaziabad, Noida and ends up at Palwal, thus, completing the encircling of New Delhi.

104. Land at Badh Malik and Rai had already been acquired for the purpose of the Industrial Area set up in Sector 36 by the HSIIDC for relocating industries of Delhi and the acquisition thereafter, for sector 39 was in furtherance of the said development whereby land was acquired of Villages Rasoi, Pritampura and Badh Malik, vide notification dated 30.06.2005. Similarly, the left out portion of the land, as such, was subsequently acquired on 05.03.2007. The builders had already come up on the eastern side of the Highway in a big manner which has already come in evidence and the acquisition of 16.11.2005 was only for the purpose of constructing the roads between Sectors 61 & 62, to give proper infrastructure and access to the private colonies which had come up across the National Highway. Vide notification dated 28.03.2006 for

public utilization for the development of Sector 38 of the Industrial Estate Rai, 20 acres of land of village Jatheri was initially acquired for constructing the disposal channel for sewer and storm water on 28.03.2006. Thereafter, the notification was issued 3 months later on 22.06.2006 for the acquisition of the land for development of Sector 38 from 6 villages. In the intervening period, the Collector himself has noticed the value of the land which has jumped many folds on account of its immense potentiality. It is to be noticed that the amount awarded by the LAC on 25.11.2004 was Rs.17 lakhs per acre upto 2 acres from the Highway and only Rs.6 lakhs per acre for Chahi and Nehri land and Rs.5 lakhs for Barani land of village Badh Malik, for the notification of 13.08.2004. However, 9 months later, on 30.08.2005, for the land of other villages which was away from the Highway, a sum of Rs.12,50,000/- per acre was awarded for the same notification. Therefore, one is necessarily to notice the steep rise, in as much as vide award dated 30.08.2005, Rs.12,50,000/- per acre was awarded for Village Jatheri/Pritampura, for the notification dated 13.08.2004, which was also for KMP Expressway. The same amount was awarded on 20.10.2005 for the land of Village Chattera Bahadur and Abaspur, for the notification dated 27.08.2004.

105. For the notification dated 30.06.2005, less than a year later, the LAC awarded Rs.16 lakhs for the land falling in Village Badh Malik, Pritampura and Rasoi, vide award dated 27.06.2008. A little over a year later, for the notification dated 16.11.2005, Village Rasoi was also

granted Rs.16 lakhs per acre vide award dated 18.03.2008 and on the very next day, for the notification dated 16.11.2005 and vide award dated 02.03.2006, though LAC had awarded Rs.12,50,000/- per acre, but the offer was revised by the Director General, Urban Estates, on 05.01.2012 (Mark A), during the pendency of the reference petitions, to Rs.24,50,000/- per acre. Thus, for the effective purposes, in a little over a year, the market value had doubled, even in the eyes of the LAC.

106. For the notification dated 28.03.2006, vide award dated 22.05.2007, the same amount of Rs.16,00,000 was awarded for Village Jatheri which had been awarded for Rasoi though there was a difference of 4 ½ months inter se. On 22.06.2006, less than 2 years later, for Jatheri and Badh Malik, the amount had been enhanced to Rs.35,00,000/- per acre and Rs.25,00,000/- was given for Village Pritampura in comparison to Rs.12,50,000/- which had been awarded earlier for notification dated 13.08.2004 by the LAC. However, for the notification dated 05.03.2007, surprisingly, for Badh Malik, Pritampura and Rasoi, only Rs.16 lakhs was awarded on 23.02.2010 which had initially been granted for the notification dated 16.11.2005, though a period of more than 1 year 3 months had expired. As noticed at an earlier point of time, the LAC himself had granted Rs.35,00,000/- per acre for Badh Malik and Rs.25,00,000/- per acre for Pritampura, for notification dated 22.06.2006.

107. As per the statement of the witnesses, industries had come up in Village Jatheri on account of the development which had already taken place in Village Badh Malik/Badh Khalsa/Rai and since Kundli which

was closer to Delhi, had already been developed. The State, thus, was also developing a new area for almost 2000 acres in the form of Rajiv Gandhi Education City. Admittedly, the builders were already there in the close vicinity of Village Badh Khalsa which was opposite Badh Malik and Rasoi which the Reference Court had also noticed in its award dated 07.11.2012 in **Bhim Singh (deceased)** (Supra) for the notification dated 30.06.2005 and for the notification dated 16.11.2005 award passed in **Om Prakash** (supra) dated 21.09.2013. The builders in the form of Ansal Builders Pvt. Ltd., M/s Parkar, M/s Kalka Properties, M/s Tulip Infrastructure, Max Heights Pvt. Ltd. had already set-up shop and were making housing colonies in the area. Rather the evidence of the notifications dated 13.08.2004 and 22.06.2006 would go on to show that the development had crossed over the Highway and had come up in Village Jatheri and Akbarpur Barota as this patch of land was intervening between Sonepat main town and behind the Industrial Estate and thus, had access also and potentiality in a different manner. The evidence of the witnesses has already been discussed in paragraphs No.80 to 87, regarding the network of link roads in the area. Regarding this aspect, as the road leading from Jatheri to Liwan to Village Rathdhana, the factum of industries which were having huge plots in the form of more than 20 acres, would go on to show that it was no dearth as such of the willing purchaser in the area. Therefore, though the land might have been agricultural in nature, but development had started taking place around the Highway and projects had come inside away from the Highway also at the time of Section 4 notification also when the land was acquired for the KMP Expressway on 13.08.2004 and 27.08.2004. Similarly, the Jindal Global Law University was also located in this hub of activities which was taking place. The Rajiv Gandhi Education City, thus was sought to be developed across the Highway taking the advantage of the vicinity from New Delhi.

108. The main criteria for determining the market value is what the willing purchaser would pay to a willing vendor on the date of the Section 4 notification. The sale which is closest in point of time has, thus, to be examined and reasonable amount which is liable to be paid on that day on the examination what the vendor is willing to take for the land and the genuine sale deeds have to be taken into account to avoid instances of racked up sale deeds. The plus and minus factors were detailed by the Apex Court in **Chimanlal Hargovinddass Vs. Special Land Acquisition Officer, Poona 1988 (3) SCC 751** which can be summarized to the positive factors as smallness of size, proximity to road, frontage of road, nearness to developed area, regular shape, levelled facing land. The minus factors of the acquisition being largeness of the area situated in the interior and at a distance from the road, narrow frontage, lower level and remoteness from the developed localities. In **Printers House Pvt. Ltd. Vs. Mst. Saiyadan 1994 (2) SCC 133** the comparable sale method was considered as the most favoured method and the best evidence for determining the market value. Relevant paras read as under:

"8.Where there is evidence of sales or awards of land(s), which could be compared with the acquired land(s), the Court, as a matter of course, adopts the 'Comparable Sales Method of valuation of land', in preference to other recognised methods of valuation of lands, such as 'Capitalisation of Net Income Method' or 'Expert Opinion Method' for determining the market value of the acquired land(s). 'Comparable Sales Method' is the most favored method, since the prices paid within a reasonable time in bona fide transactions of purchase or sale of the very acquired land or a portion thereof, or of the lands adjacent to those acquired and possessing similar advantages, could furnish to the court the 'price basis' for determination of the market value of the acquired land, in that, there can be no better evidence of what the willing purchaser would pay for the acquired land if it had been sold in 'the open market at the time of publication of preliminary notification'. Evidence of prices fetched by sales of lands similar to the acquired land will be taken by the Court to be the price which a willing purchaser would have paid for the acquired land, if the same had been sold to him in the open market. However, if the price under comparable sale is to be taken by the Court, as furnishing the 'price basis' for determination of the market value of the acquired land, the comparable sale must, firstly be genuine, secondly it must have taken place at a time proximate to the date of publication of the preliminary notification under Section 4(1) of the Act, thirdly the land sold under the sale must be similar to the acquired land, and fourthly the land sold under the sale must be in the vicinity of the acquired land. It has, therefore, to be noted that the location, size, shape, tenure, user or potentiality of land under comparable sale, if do not compare favorably with the acquired land, price fetched in comparable sale cannot furnish the 'price basis' for determining, the market value of the acquired land. However, if any differing feature or factor in a land covered by comparable sale admits of adjustment in terms of money, depending on whether it is plus factor or minus factor, the market value of the acquired land is determined either by increasing its price or decreasing its price vis-a-vis the price fetched for land under comparable sale. What applies to comparable sale, equally applies to comparable award, if such award is relied upon as that furnishing a price basis for determination of the market value of the land, cannot be disputed. Thus, the best evidence for determining the market value of the acquired land could be an authentic transaction of sale relating to the very acquired land or a portion thereof or any other land which could be favorably compared with the acquired land. The same would be the position when the available evidence relates to land covered by a previous award.

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

109. Thus, the plus factors fell in favour of the landowners apparently on the face of the record is that the proximity to the National Highway is of grave importance, giving it immense access and it cannot be disputed that the part of the land is having frontage of the road would be village Badh Malik, Rasoi, Rai, Awaspur etc. Nearness to developed areas in a different form as the private colonies had already come up in Sectors 60 to 62 on the eastern side of the Highway. The land, thus, had a regular shape in the sense that it fell on both the sides of the Highway. The land acquired vide notification dated 17.11.2005 for Rajiv Gandhi Education City fell on the same side being developed by private builders. Therefore, uniformity, as such, with the National Highway, bifurcating the development and being sandwiched on both sides would give the potentiality of regular shape and for planned development. The minus factors in comparison to the land is that the land acquired was substantial though there might be largeness of the areas being carved out for development purposes, which are the factors to be taken into consideration. The acquired land was not at much of a distance from the National Highway as being within 4-5 kms and nothing was brought on record to show that the land suffered from any disability in the form of deep drains and could not be utilized for the purposes of urban infrastructure or that it was a remote area and far away from the developed localities.

110. The Court, thus, has to consider the same while sitting in arm-chair of a prudent purchaser and would necessarily come to the

conclusion that the land had immense potential on account of its location. Therefore, merely because it was being used for agricultural purposes, as such, the scope of development would be but natural and thus, on this account a large number of sale exemplars are also there on the record which are in favour of the builders. In **P. Ram Reddy Vs. Land Acquisition Officer, Hydrabad Urban Development Authority, Hydrabad 1995 (2) SCC 305**, it was held that the building potentiality of the acquired land is to be seen on the hypothetical lay-out of building plots in the acquired land similar to that of the layout of building plots actually made in the other similar land. Therefore, keeping in mind the situation of the acquired land and the suitability for putting up buildings and the benefits and advantages of the land which are acquired, all have to be kept in mind while assessing the market value. In **Special Land Acquisition Officer Vs. Karigowda & others 2010 (5) SCC 708**, it was held that the provisions of Sections 23 & 24 have to be kept in mind and the price is payable to a person after complete appraisal of the land with its peculiar advantages and disadvantages which are to be kept in mind. If the land had potentiality which is directly relatable to the capacity of the acquired land, same has to be taken into consideration for assessing the market value.

111. In **M.K.Rafiq Saheb** (supra) it was held that where land was cultivable and being used for residential or industrial site, as per the evidence on record, it would cease to be agricultural land. Once the land was situated nearby the residential locality and was in the midst of a

highly developed industrial locality, the acquired land being capable for non-agricultural purposes. The dispute, as such, which arose out of the acquisition of the land which was in the midst of heavy industry or in immediate vicinity of already developed residential locality on the road leading to the Airport in the city of Bangalore. The argument raised that sale transactions of similar portions could not be relied upon as the area acquired was not comparable was rejected by the Apex Court. It was held that it was not possible for the claimants to produce sale instances of large tracks of land which are largely far and few and limitation of sale transactions, could not operate to the disadvantage of the claimants. The land was 2 kms from the sale exemplar and the benefit of the same was given and the decisions of the Courts below was upheld whereby a deduction had been made on the said sale exemplar. Relevant portion of the judgment read as under:

> "15. The appellant has challenged the finding of the High Court that the land ceased to be agricultural land. It contended that the land was agricultural land, as was clearly seen from the records and no conversion charges were paid to convert it into non-agricultural land. We reject this contention of the appellant. That the land has ceased to be agricultural land and is capable of being used as a residential or industrial site is a concurrent finding of fact by both the Courts below and is amply supported by the evidence on record. We uphold the same.
>
> 16. The appellant did not file any appeal impugning the finding of the Reference Court that the land could not be treated as agricultural land. Not having done so, it is not open

> to the appellant to question the finding of the High Court that the land is not agricultural land. Otherwise also, we are of the opinion that in light of the fact that the land was situated by the side of a residential locality and was in the midst of a highly developed industrial locality, the acquired land was capable of being used for non-agricultural purposes and should be considered as non-agricultural land in determination of compensation."

112. Resultantly, question No.(i) is decided in favour of the landowners that the land had immense potential for being used for the purposes other than agriculture and the land around the area was already being used for the purpose of residential, commercial, institutional and industrial purposes both by private builders and Government agencies and was in the "cusp" of development. It is, in such circumstances also, the LAC had noticed the value which is surging northwards and the compensation had, accordingly, been assessed at more than three times within the first and the seventh notification.

(ii) **Whether any benefit of severance is to be granted under Section 23(3), on account of the damage sustained by the person interested at the time of the acquisition and on account of the fact that restrictions would be imposed on the balance land left which fell within the restricted area being adjoining to the newly carved out Expressway and thus, severely affected the usage of the balance land**

for other purposes for the first two notifications, pertaining to the acquisition of land for the KMP Expressway?

113. On the issue of 50% severance on account of the Express Highway cutting through the land of the villages has already been noticed that in some cases, severance has been granted whereas in others, it has been denied on account of lack of proper evidence being furnished. While remanding the case, the Apex Court has already noticed that the belting method could not be adopted to grant compensation for the notification dated 13.08.2004 and this Court was in error in introducing reverse cuts on the basis of valuation for the notification dated 17.11.2005. It was also further noticed that the road, though would bring development and the value on either side would increase, but there would be restrictions on the use of the land, to the extent of 200 feet on either side of the road. Sufficient evidence has also come on record on this aspect that the KMP was to be constructed at a height of 10-14' from the ground level and the authorities would not permit any person to cross the Highway through roads as discussed in para Nos. 54 to 65. The other roads connecting to Highway would be 20 kms away from each other and the connection of the land would be cut-off and the underpaths would also be at a considerable distances and therefore, there would be restrictions upto the depth of 150 mts. from both sides of the KMP. The purpose of the Expressway, as noticed, was to reduce the congestion in capital and to provide an alternative route for heavy traffic to avoid Delhi and de-congest Delhi. The Expressway is an epitome of engineering and

has been constructed in a unique manner that it does not pass through any major city and remains far-off from the towns/villages and therefore, provides unfettered and free flow of traffic at high speed in comparison to the traffic which one faces on the other Highways which may be bumper-to-bumper which pass through various towns. The reason for this free flow of traffic is that there is no urban area in the close vicinity and the Expressway Highway is also at a considerable distance from the village abadis and has been planned in such a manner. It is, in such circumstances, the land usage has further been restricted along the Expressway for the landlosers and balance land cannot be put to any commercial or residential use if it falls within the restricted portions. Therefore, the provisions of Section 23(3) & (4) which talks about injurious affect of the other properties regarding the earning aspect and on account of the severance of the land from the other property would come into play. The relevant clauses read as under:

> 23 Matters to be considered in determining compensation.
> (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration
> First, the market value of the land at the date of the publication of the [notification under section 4, sub-section (1)];
> xxxx xxxx xxxx
> thirdly, the damage (if any), sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;
> fourthly, the damage (if any), sustained by the person interested, at the time of the Collector's taking possession of

> the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;
>
> xxxx xxxx xxxx”

114. In such circumstances, the landowners would be entitled for a 50% severance benefit on the amount of market value for the land which has been acquired. This would be irrespective of the fact that all of them had not pleaded the said fact but it has been specifically proved by the statement of the official witnesses that they had been adversely affected on account of the land being bifurcated. Once the usage of land has been restricted and not being able to construct on the other portion on account of the statutory conditions being adjoining to the Expressway and on account of some portions of land being left on the other side and thus, no longer viable for cultivation of land on lack of access. This Court in **Tehal Singh & others Vs. The State of Punjab th the Collector, Land Acquisition, Drainage Circle, Patiala 1987 RRR 495**, while noticing the affects of severance on account of Satluj-Yamuna link water channel being cut through the land, noticed the difficulties which the landowners would face and which principles would be directly applicable to the facts and circumstances of the present case, on account of the land which was acquired for development purposes of the Expressway Highway. The relevant portion reads as under:

> "10. The compensation for severance thus awarded does not appear to be based on sound reasoning. The loss which has

> been caused by severance includes loss on account of uneconomic agricultural holding, which has been left after acquisition, bifurcation of a big economical holding into two small holdings which may not be any longer viable for profitable cultivation, loss of access to the land where the canal intervenes between the village and the land or availability of a bridge over the canal in the course of time which may be quite distant from the village as also the land on the other side of the canal, loss of irrigation facilities in case the well or the canal watercourse which is the source of irrigation is located on the other side of the S.Y.L. Canal. It is well known that agricultural based habitations i.e. the villages, are located and in the course of time get established at a place where access to the agricultural land is easy; the agriculturists barter or sell small uneconomical holdings which are purchased by the adjoining landowners though the price fetched is comparatively less than its market value. Where land is canal irrigated the authorities of the Irrigation Department re-frame schemes for the watercourse to command the area for irrigation purposes taking due account of the obstruction caused by the construction for which the land has been acquired. Land measuring more than two acres normally makes a viable agricultural holding in the tehsil of Rajpura where the mode of cultivation and harvesting is by and large conventional and is yet to be mechanized."

(iii) **Whether uniform compensation is liable to be given on account of large scale acquisition or whether Court should resort to belting system, in the facts and circumstances, especially keeping in view the earlier orders passed by the Apex Court**?

115. The discussion of the evidence would go on to show that for the notification dated 17.11.2005 that land of as many as 9 villages had

been acquired in the year 2005 by the one notification alone. In the two notifications for the KMP Expressway 129 acres, 4 kanals and 4 marlas was being acquired for the first notification and 99 acres, 2 kanals 9 marlas was being acquired for the second notification. It has already been noticed that in **Rajkumar** (supra), the Apex Court had not appreciated the factum of applying the belting system for the land acquired for the said purpose, relying upon the valuation of the land fixed for the notification dated 17.11.2005, especially once sale exemplars had been brought on record by the landowners, in the relevant references. The Collector had also apart from the land which was next to the Highway awarded uniform market value for Rs.12,50,000/- per acre for all other villages. It has already come in evidence as discussed in para No.80 to 87 that just next to the KMP Express, the colonizers of Max, Ansal and Tulip had already started building their housing complexes which were stretching upto Village Akbarpur Barota. The adjoining villages, as such, of Chattera Bahadur and Abaspur have also contributed to the land which has been acquired for the Expressway and the 2 villages fell on either side of the Expressway have to be necessarily granted the benefit of compensation in relation to what was awarded to that of Villages Jatheri, Akbarpur Barota and Pritampura keeping in view the potentiality of the land. Close to the Expressway, the road leading to Jatheri and then to Liwan and Narela, to Sonepat, was situated being more connected even though in the interior. Therefore, the landowners would be entitled for the proportionate amount of compensation as what is to be awarded to the adjoining villages which are closer to the National Highway.

116. The principle of belting would have to be specifically applied, keeping in view the fact that it is a new main Highway which has come up and therefore, it is not that the market value on the Highway would be uniform for the land abutting the road and for usage of the same. Access to this land which was not connected by any road, as such, has been granted on account of the new Highway coming into being and therefore, some of the villages have benefitted by the Expressway Highway passing in their close vicinity. The market value would, accordingly, increase on account of the Expressway Highway coming into usage. In similar circumstances, for the acquisition of the KMP Express in Delhi-Gurugram, the Apex Court in **Surender Singh Vs. State of Haryana AIR 2018 SC 1013**, set aside the uniform compensation granted for the villages falling in District Gurugram, on account of the fact that it was an acquisition of 330 acres wherein uniform rate was granted. It was, accordingly, set aside and the matter was remanded on the ground that the same should not be universally applied to the other villages on account of assessment of one village, namely, Kasan. The land value of other villages have to be seen and the distinct factors, nearby development, cities and towns and whether any activity had been carrying on in the nearby area. The relevant para reads as under:

> "35. First, the acquired land, in these cases, was a huge chunk

> of land measuring around 520 acres, 2 kanals and 13.5.marlas. Second, the entire acquired land was not situated in village Kasan but it was spread over in 15 villages as detailed above. Third, there is no evidence to show much less any finding of the High Court as to what was the actual distance among the 15 villages against one another, the location, situation/area of each village, whether any development had taken place and, if so, its type, nature and when it took place in any of these villages, the potentiality and the quality of the acquired land situated in each village, its nature and the basis, the market rate of the land situated in each village prior to the date of acquisition or in its near proximity, whether small piece of land or preferably big chunk of land, the actual distance of each village qua any other nearby big developed city, town or a place, whether any activity is being carried on in the nearby areas, their details. Fourth, whether the acquired land in the case of Pran Sukh (supra) in village Kasan and the acquired land in question are similar in nature or different and, if so, how and on what basis, their total distance etc."

117. It has already come on record that the villages Abaspur and Chhatera Bahadur are 6-7 kms in the interior from the GT road and therefore, cannot seek the same value of compensation which has been granted for Badh Malik, Rasoi and Badh Khalsa, land of which falls parallel to the National Highway No.1.

118. Similar would also be the principle to be kept in mind for the landowners of Villages Badh Malik, Jatheri and Pritampura once the land was being acquired for the same purpose. The land of Pritampura and Jatheri, as such, which was acquired for the same purpose, was closer to Badh Malik and away from the abadi of the villages of the revenue estate

in which the land is falling. Once the adjoining villages are getting higher amount of compensation, merely because the abadi area of the said village was further away, would not divest the landowners of the higher rate as the land was situated closer to the developed portion of Badh Malik and therefore also, the Reference Court was in error in not granting appropriate compensation by holding out that the land was far away from the abadi area. The location of the land, as such, was closer to the National Highway and was closer to the turn of point of the Expressway, for which it was acquired and it would necessarily give it an added advantage. Similarly, once land was being acquired for the development of Sector 39 of Villages Rasoi, Pritampura and Badh Malik, the land was situated further away from the abadi portion of Badh Malik and therefore, since the three revenue estates were contributing to the development of Sector 39 and it was a uniform compact area, just on the western side of the Highway, the market value would necessarily be same for all the three villages. Reliance can be placed upon the judgment of the Apex Court in **Haridwar Development Authority** (supra) wherein it has been held that once a compact area, as such, is being developed and is contiguous in nature, the same amount of compensation is liable to be granted. The Apex Court in **Pran Sukh** (supra) also came to the same conclusion.

119. In **Subh Ram & another Vs. State of Haryana 2010 (3) SCC 444** and **Atma Singh (died) through LRs & others Vs. State of Haryana & another 2008 (2) SCC 568**, the principles of granting uniform compensation have been duly discussed. The land which had the

common proximity to the main highway pertaining to Sector 39 and has a common frontage and merely because it falls in a different revenue estate, would not disentitle the landowners for same amount of compensation.

120. However, the principles would not be applicable for the notification dated 16.11.2005, as rightly pointed out by the State Counsel also. It is submitted that the Apex Court, while remanding the matter, firstly on 06.09.2017, was dealing with the KMP notification at that point of time in **Rajbir** (supra). Thereafter, directions were issued on 28.11.2017 that the High Court would hear all the matters together. Similar orders were passed on 12.01.2018 and 13.11.2018. However, it was not specifically held that uniform compensation is to be awarded and therefore, keeping in view the largeness of the acquisition of 2006 acres, this Court is of the opinion that the landowners cannot ask for blanket uniform compensation for the land which is situated away from Highway and at a considerable distance for land which does not have the complete access and there was no such observation of the Apex Court regarding this aspect. Resultantly, the principles laid down in the judgment of **Haridwar Development Authority** (supra) would apply. The principles were culled out in the said judgment and it was held that belting can be resorted to in certain circumstances and uniform compensation is not liable to be granted where a large track of land is acquired and some land is facing the road and the other lands are in the interior. Principle B would thus, be applicable and even Principle C, as such, would be applicable since Sonepat town is on the eastern side of the Highway and

therefore, the land which has been acquired of the 9 villages for the Rajiv Gandhi Education City, vide notification dated 17.11.2005 the belting system would have to be adopted. The market value of the land on the highway and ones which are situated close to the eastern portion which has already developed and where the land is abutting the land of the private builders, though might be a little distance away from the Highway has to be kept in mind. Similar would be the position of the land acquired by the notification dated 13.08.2004 and 27.08.2004 for the purpose of the construction of the Expressway. Relevant paragraphs read as under:

> "6. The question whether the acquired lands have to be valued uniformly at the same rate, or whether different areas in the acquired lands have to be valued at different rates, depends upon the extent of the land acquired, the location, proximity to an access road/Main Road/Highway or to a City/Town/Village, and other relevant circumstances. We may illustrate :
>
> (A). When a small and compact extent of land is acquired and the entire area is similarly situated, it will be appropriate to value the acquired land at a single uniform rate.
>
> (B). If a large tract of land is acquired with some lands facing a main road or a national highway and other lands being in the interior, the normal procedure is to value the lands adjacent to the main road at a higher rate and the interior lands which do not have road access, at a lesser rate.
>
> (C) Where a very large tract of land on the outskirts of a town is acquired, one end of the acquired lands adjoining the town boundary, the other end being two to three kilometres away, obviously, the rate that is adopted for the land nearest to the town cannot be adopted for the land which is farther away

> from the town. In such a situation, what is known as a belting method is adopted and the belt or strip adjacent to the town boundary will be given the highest price, the remotest belt will be awarded the lowest rate, the belts/strips of lands falling in between, will be awarded gradually reducing rates from the highest to the lowest.
>
> (D) Where a very large tract of land with a radius of one to two kilometres is acquired, but the entire land acquired is far away from any town or city limits, without any special Main road access, then it is logical to award the entire land, one uniform rate. The fact that the distance between one point to another point in the acquired lands, may be as much as two to three kilometres may not make any difference."

121. In **Union of India Vs. Mangat (dead) by LRs & others 2001 (1) PLJ 461** large chunk of land was acquired for the purpose of National Security Guards at Gurgaon, measuring over 1130 acres in Village Manesar. Some portion of the land abutted the National Highway leading to Jaipur and the balance of the land was situated far away and accordingly, the Apex Court held that land further away could not be granted the same amount. It was, accordingly, held that the price of the land which was located away from the National Highway could not be same as the one abutting the National Highway. Relevant portion of the judgment reads as under:

> "8. We see no warrant in law for the formula indicated above being applicable while finding the market value of acquired land as on the date the said notification under Section 4. This mathematical formula completely disregards the location of the land which is acquired vis-a-vis the instance sale, the difference in the area acquired and the area of the sale

> instance and several other relevant factors in this regard. As has already been indicated hereinabove, the area which was acquired was 1130 acres and 4 marlas, only a small portion of which abutted on the National Highway No.8. Even if one was to disregard the quality of the land i.e. irrigated, semi irrigated or barren, one cannot be oblivious of the fact that the market value of land which abuts on the National Highway would be much more than the land which is away from it. A price of the land which is land-locked and which is farther away from the National Highway cannot be the same as that which abuts on the National Highway. The formula which had been applied by the High Court, however, seems to indicate that the price of the entire land irrespective of the location of different parcels of land is the same. The formula which was applied by the learned Single Judge of the High Court is obviously incorrect."

122. Similar view was taken in **V.Hanumantha Reddy (dead) by LRs Vs. The Land Acquisition Officer & Mandal R. Officer 2003 (12) SCC 642** wherein it was held that the exhibit which was on the National Highway would fetch much higher price than the land falling in the interior and the sale exemplars which were taken for determination were not abutting the National Highway and the acquired land stretched away from the National Highway and was intervened by the petrol pump and the premises of the State Bank of India and there were also houses, shops and hotels and therefore, interference was not made.

123. In **Ashok Kumar & another Vs. State of Haryana 2016 (4) SCC 544**, land which was 375 yards away from the National Highway, was given an appropriate cut as to what had been awarded for

the land which was falling on the Highway.

124. Resultantly, this Court is of the opinion that the belting system is fit to be adopted for some of the villages in question which are situated away from the National Highway and did not have any peculiar factors for getting higher market value, especially in the absence of any sale deeds showing the market rate, as such, which are liable to be awarded to the landowners who are closer to the National Highway No.1 and developed portions.

(iv) **Whether the builders sale deeds could be ignored on the basis of which the landowners sought the market value or the same could be considered after putting appropriate cut on the same, for the purposes of development cut and the fact that the builders would purchase the land at a higher price for the vested interests, for carrying out development in the area**?

125. The argument raised by the State, as such, to oppose the builders sale deeds is not liable to be accepted. This Court has consistently been noticing that the sale deeds are executed in favour of the builders which would only go on to show that there was immense potentiality of the land due to its location and positive factors which has already been recorded, as such, under question No.(i).

126. If there is a potentiality, the builders activity starts picking up and therefore, there was always a willing vendee and vendor available. Even this Court has also to circumspect and fix the market value that the

sale deeds of the builders are at the same level and not a solitary sale deed, as such, in favour of one builder which would not depict the correct market value. The sale deeds, thus, which have to be kept in mind are from the proximity time angle of Section 4 notification and also the proximity of the situation angle. The land which has been acquired on both sides of the National Highway No.1 and from the perusal of the site-plan, would go on to show that keeping in view the builders sale deeds, 50% cut would be liable to be imposed as was done in the case of an acquisition of Faridabad in RFA-2035-2012 titled Sohan Lal & others Vs. State of Haryana & another, wherein 50% cut had been applied upon the sale exemplar of the sale deed and the same was upheld in **Ram Kanwar** (supra) by a Three Judges Bench of the Apex Court, wherein it was held that necessary reductions have to be made upon the sale deeds of the builders, to bring it at par with the estimated market value. Relevant portions read as under:

> "19. In the instant case, though the sale deeds were for part of lands which were acquired by the acquiring authority under the notification, the said sale deeds indicated an abnormal increase of more than 100% in less than four months. It is not a far reaching implication of the said land being in the vicinity of area under development or already developed, which attributed additional locational advantages leading to escalation of the sale price at which a buyer would purchase the lands. Another fact noticed by the High Court is that the buyers for all these sale transactions had vested interest in the land adjoining or around the properties in such transaction.
>
> 20. In light of the aforesaid, it can be concluded that the

> buyers would not have hesitated in offering higher prices to purchase the lands than the market rate of such lands and, therefore, in determination of compensation payable to the land-losers, such price could not be relied upon without making necessary deductions bringing it at par with the estimated fair market value of the acquired lands. In our considered view, the High Court has correctly made appropriate deductions to the consideration offered under the sale deeds produced and marked in the evidence while assessing fair and true market value of the acquired lands on the date of issuance of Section 4 notification."

127. This Court in **RFA-7876-2011** titled **Basant Singh Vs. State of Haryana & another**, decided on 26.04.2019 and in **RFA-7108-2012** titled **Rampal & others (II) Vs. State of Haryana**, decided on 31.05.2019, pertaining to the acquisition of the land for development of Sectors 75 to 80 and the sector roads of Faridabad, also held to the same extent. The basic principle for assessing the market value is that on the date of the publication of the Section 4 notification is what a willing purchaser would pay to the willing vendor. It has been repeatedly held that sale instances of similarly situated land would be the best criteria to assess the market value, under Section 23. The Court has just to examine the recent sale deeds of comparable land to assess the market value and to find out what is the correct market value. The genuine and bona fide sale instances are to be kept in mind and instances which are used for shoreing up the market value and which are not bona fide and genuine are to be ignored and therefore, the proximity in time from the date of the Section 4 notification has to be seen. The deduction factor is then to be

introduced where large tracks of land are developed for carving out roads for development purposes which might range upto 10 to 75% on the principle how long the development of the land had been held up.

128. The Apex Court has recently in **Union of India Vs. Dyagala Devamma & others (2018) 8 SCC 485**, upheld the 50% deduction, as such, which has been made by the Reference Court and set aside the reduction of 25% of development charges which had been reduced by the High Court. It was held that in the absence of sale exemplars in acres and the land was being acquired of 100 acres for public purpose, the fall-back on small pieces of land of 19 guntas was not justified, by placing reliance upon the judgments in **Chimanlal** (supra). Reliance was also placed upon **Trishla Jain** (supra) and **Vithal Rao Vs. Land Acquisition Officer 2017 (8) SCC 558**. Relevant portion reads as under:

> "19) In addition to these principles, this Court in several cases have laid down that while determining the true market value of the acquired land especially when the acquired land is a large chunk of undeveloped land, it is just and reasonable to make appropriate deduction towards expenses for development of acquired land. It has also been consistently held that at what percentage the deduction should be made varies from 10% to 86% and, therefore, the deduction should be made keeping in mind the nature of the land, area under acquisition, whether the land is developed or not and, if so, to what extent, the purpose of acquisition, etc. It has also been held that while determining the market value of the large chunk of land, the value of smaller pieces of land can be taken into consideration after making proper deduction in the value of lands especially when sale deeds of larger parcel of

land are not available. This Court has also laid down that the Court should also take into consideration the potentiality of the acquired land apart from other relevant considerations. This Court has also recognized that the Courts can always apply reasonable amount of guesswork to balance the equities in order to fix a just and fair market value in terms of parameters specified under Section 23 of the Act. (See Trishala Jain & Anr. Vs. State of Uttaranchal & Anr., (2011) 6 SCC 47 and Vithal Rao & Anr. Vs. Special Land Acquisition Officer, (2017) 8 SCC 558)

20) Keeping in mind the aforementioned principles, when we take note of the facts of the case at hand, we find that firstly, the land acquired in question is a large chunk of land (101 acres approx.); Secondly, it is not fully developed; Thirdly, the respondents (landowners) have not filed any exemplar sale deed relating to large pieces of land sold in acres to prove the market value of the acquired land; Fourthly, exemplar relied on by the respondents, especially Ex.P18 pertains to very small pieces of land (19 guntas); Fifthly, the three distinguishing features noticed in the land in sale deed (Ex.P-18) are not present in the acquired land.

21) It was for the aforementioned reasons, in our opinion, the Reference Court was justified in making deduction of 50% towards developmental charges from the market value. The High Court, in our opinion, did not assign any good reason as to why and on what basis, it considered proper to make deduction towards developmental charges at the rate of 25% in place of 50%."

129. Reliance can also be placed upon the judgments of the Apex Court in **P Ram Reddy & others Vs. Land Acquisition Officer 1995 (2) SCC 305**, **Kasturi Vs. State of Haryana 2003 (1) SCC 354**, **Lal**

Chand Vs. Union of India (2009) 15 SCC 769 and **Chandershekhar (D) by LRs Vs. Land Acquisition Officer (2012) 1 SCC 390**, wherein the principle of deduction has been thrashed out time and again by the Apex Court to hold that development cut can go upto 75%.

(v) **The market values of the land for Villages Badh Malik, Pritampura, Jatheri, Akbarpur Barota, Chattera Bahadur and Abaspur, for the notifications dated 13.08.2004 and 27.08.2004**.

130. Relevant sale deeds which have to be kept in mind which are close to the date of notification and in proximity to the land acquired and in question and which are liable to be considered, are tabulated as under:

Exhibit	**Vasika No/ Date of sale deed**	**Area K-M**	**Sale Price (in Rs.)**	**Sale Price Per acre (in Rs.)**	**Location/ Village**
Ex.P-2	2867/3.9.2003	0-16	1,94,000	19,40,000	Badh Malik
Ex.P-3	4319/30.10.03	6-8	9,25,000	11,56,250	Do
Ex.P-4	2442/8.6.04	4-2	7,69,000	15,00487	Do
Ex.P-5	7832/19.03.04	0-15	2,86,000	30,50,666	Do
Ex.P-6	1811/24.5.04	0-7	3,53,000	80,68,571	Do
Ex.P-7	1812/24.5.04	0-5	2,47,000	79,04,000	Do
Ex.P-8	1266/14.5.04	0-9	6,00,000	1,06,66,000	Do
Ex.P-9	6892/20.2.04	12-8	32,55,000	21,00,000	Badh Khalsa
Ex.P-10	6923/23.2.04	15-12	40,95,000	21,00,000	Do
Ex.P-11	6106/9.1.04	1-4	2,90,500	19,36,666	Do
Ex.P-27	1404/2.6.03	11-4	16,60,800	11,86,287	Badh Malik

131. Out of the above sale deeds, Exs.P-6 to P-8 can be discounted on account of being of very small areas ranging from 5 to 9 marlas only, keeping in view the fact that acquisition for the first notification is of 124 acres 4 kanals 4 marlas and for the second notification, of 99 acres 2 kanals 9 marlas and therefore, said sale deeds would not depict the correct market value. P-8 has also been rightly ignored since it is a sale exemplar for 9 marlas of land and there was also construction raised on the same. Thus, this Court proposes to ignore the sale deeds below 250 sq.yards (10 marlas) on account of the largeness of acquisition proceedings for the purpose of assessing the market value as larger sale deeds are available. Ex.P-3 dated 30.10.2003 and Ex.P27 dated 02.06.2003 are liable to be ignored being not in that proximity of time to the Section 4 notification having been executed more than 9 months earlier and 1 year 2 months, therefore, keeping in view the paradigm rise in prices which was taking place in the locality, as discussed under Question No.(i).

132. Similarly, relevant sale deeds also of Village Jatheri are as under:

Ex.No.	**Sale Deed No.**	**Date**	**Area**	**Amount**	**Revenue estate**
PW8/2	3292	18.09.2003	318 yards	1,59,000	Jatheri
PW8/3	4417	03.11.2003	235 yards	1,17,1500	Jatheri
PW8/4	4751	14.11.2003	200 yards	1,00,000	Jatheri

Ex.No.	Sale Deed No.	Date	Area	Amount	Revenue estate
PW8/5	5349	9.12.2003	200 yards	1,00,000	Jatheri
PW8/6	5915	2.1.2004	202 yards	1,01,000	Jatheri
PW8/7	6726	12.2.2004	42 yards	21,000	Jatheri
PW8/11	2442	8.6.2004	4 K 2 M	769000	Badh Malik
PW8/12	7832	19.3.2004	465 yards	2,86,000	Badh Malik

133. However, PW-8/2 to PW-8/7 would be liable to be discarded for merely being in the range of 42 sq.yards to 318 sq.yards and four of the exemplars being of the year 2003 and not in close proximity of time.

134. However, PW-8/11 measures 4 kanals 2 marlas and was executed on 08.06.2004 for Rs.7,69,000/-, for Village Badh Malik, just 2 months before the notification in question in favour of Smt. Neeta Jain, sold by Harnarayan & Sons and the market value would work out to approximately Rs.15,00,000/- per acre. A perusal of the site-plan (Ex.PW-8/1) would go on to show that the location of the said plot is situated just below the turn-off point for the Expressway and is in close vicinity of the land which was acquired and therefore, the said sale exemplar (Ex.PW-8/11) is to be kept in mind, as the area is just a little over half an acre.

135. Reliance has been placed upon Ex.P-11 dated 09.01.2004 which was of 1 kanal 4 marlas Badh Khalsa, to fix the market value and a cut of 20% was rightly applied upon the same, keeping in view the smallness of the plot. Ex.P-2 depicted at point No.1 of site-plan (Ex.P-1),

would go on to show that the value works out to Rs.19,40,000/- and was wrongly ignored on the ground that it was away from the Highway, pertaining to Badh Malik by 4-5 acres and 8 acres from the acquired land. It is but natural that land falling away from the Highway would be cheaper and therefore, the said sale exemplar should have been kept into consideration for fixing the market value. Similarly, Ex.P-5 which is equivalent to Ex.P-8/12 was also ignored on the same ground.

136. Rather, if a 40% cut is granted instead of 60% cut on Ex.P-5 dated 19.03.2004, measuring 15 marlas, which was sold @ Rs.30,50,666/- per acre, the market value would work out to Rs.18,30,400/- per acre. Giving the benefit of 5 months increase @ 15%, keeping in mind the law laid down in **Rameshbhai** (supra), the market value would come to Rs.19,44,800/-, which is in close proximity to what is the market value of the land shown by Exs.P-9 & P-10 of Badh Khalsa @ Rs.21,00,000/-, which is on the eastern side of the Highway. A perusal of the site-plans would go on to show that Ex.P-5 and Ex.P-8/12 of Badh Malik was sold by Babita to Mahabir Singh, wherein the land is situated on the road leading to the abadi of Pritampura and away from the Highway and therefore,would command a lessor market value. Appreciation of at least 10% is liable to be granted on the said sale exemplar for enhancing the amount, to bring it at par with the rate which would fetch on the Highway and which would increase the market price and thus, take the value to Rs.21,39,280/-. Merely because labour quarters were constructed on the same, the same would not take away the

market value as it is not that there was an A-class construction raised on the said plot which had enhanced the market value and rather the said fact goes against the State.

137. Merely because Exs.P-9 & P-10 are of adjoining village would not, as such, be a ground to reject the said sale deeds. Just because the land is across the Highway and falls in a different revenue estate, as such, does not mean that the market value of the area has to be ignored. The development was spilling across the Highway for which the acquisition has taken place on account of the lack of availability of land on the other side and therefore, the potentiality of the land, as such, has been discussed above under Question No.(i) and therefore, the principle of the sale deeds of the adjoining revenue estates also have to be kept in mind. Reliance can be placed upon the **Union of India Vs. Harinderpal Singh & others (2005) 2 SCC 564**. In the said case, acquisition was for the Cantonment at Amritsar and the 5 villages were concerned wherein same rate was fixed for all the villages. The argument raised that the belting system was wrongly rejected and adoption of the uniform rate, was rejected by the Apex Court by taking the view that the High Court had taken a pragmatic view in granting uniform compensation for all the 5 villages, keeping in view the facts and circumstances.

138. Similarly, in **Charan Dass (dead) by LRs Vs. Himachal Pradesh Housing & Urban Development Authority & others 2010 (13) SCC 398** it was noticed that there was element of guess work involved in the entire exercise and in the absence of sale deeds of the

same village, the sale deeds of the neighbouring village could be accepted.

139. In **Premwati Vs. Union of India & others 2013 (7) SCC 57** it was held that once the acquisition was for establishing Delhi Technological University, same amount of compensation should be granted to the 2 villages in question.

140. In **Karigowda** (supra), it was also noticed that if there was no sale instance available, sale instances of the adjoining villages could be taken into consideration, once the situation and potentiality of the land was same. Relevant portion of the judgment read as under:

> "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."

141. Reference Court had also noticed and which would be clear from the site-plan that the land of both the villages of Badh Malik and Badh Khalsa falls on both sides of the Highway and therefore, the sale instances, Exs.P-9 & P-10 dated 20.02.2004 and 21.04.2004 of land measuring 12 kanals 8 marlas and 15 kanals 12 marlas @ Rs.21,00,000/- should be kept in mind to assess the market value along with Ex.P-5. Said sale exemplars are for more than an acre and therefore, once the land is being acquired for the purpose of Highway, no cut is liable to be imposed upon the same and the same has wrongly been ignored by the Reference Court.

142. Thus, if Ex.P-11 of Village Badh Khalsa is taken into account which is dated 09.01.2004 and the benefit of enhancement for 7 months @15% is granted, the market value would work out to just over Rs.21 lakhs. A perusal of Ex.P-1 the site-plan would go on to show that the said sale exemplar (Ex.P-11) is shown at Sr.No.10 and is situated bang on the Highway, on the other side and therefore, would depict the true value, as such of the land in question which is abutting the Highway. As noticed, the land is being acquired for the Expressway and there is no question of development cut to be applied, in view of the law laid down in **Nelson Fernandes & others Vs. Special Land Acquisition Officer, South Goa & others 2007 (9) SCC 447** wherein the land was acquired for the broad-gauge line of the Konkan Railways. Accordingly, it was held that the question of development there would not arise and the deduction applied by the High Court was, accordingly, set aside.

143. In **C.R.Nagaraja Shetty Vs. Special Land Acquisition Officer & Estate Officer & another 2009 (11) SCC 75** the land was acquired for the widening of the National Highway and accordingly, on account of the said principles, it was held that there was no question of any development and neither there was any evidence in support of the proposed development and therefore, deduction of Rs.25/- per sq.feet, which was ordered by the High Court, was set aside.

144. In **Anjani Molu Dessai** (supra), the land which was again acquired for the purpose of the new broad-gauge line for the Konkan Railways, the sale exemplar was of ½ acre and deduction, as such,

applied by the Land Acquisition Collector was set aside while fixing the market value.

145. In **Himmat Singh** (supra), acquisition was again for broad gauge line for the Konkan Railways and the deduction was towards the development costs to the extent of 25% by the Courts below, was set aside. Relevant portion reads as under:

> "26. The next issue which merits consideration is whether the Reference Court and the High Court had correctly made deductions in the name of development charges/cost of development. The Reference Court made three- tier deduction. In the first place, 25% was deducted in the name of leaving out portions of the acquired land for the purpose of laying roads, drains, sewer line, parks, electricity line etc. Thereafter, 25% deduction was made towards expenses for development work. Finally, 50% deduction was made because of smallness of the plots sold vide Exhibits P1 to P12. The learned Single Judge of the High Court approved the deduction and determined market value of the acquired land at the rate of Re.1 per sq. ft.
>
> 27. The approach adopted by the Reference Court and the High Court in making deductions towards the cost of development / development charges from the market value determined on the basis of the sale deeds produced by the appellants was clearly wrong. The respondents had not even suggested that the development envisaged by the Reference Court, i.e., laying of roads, drains, sewer lines, parks, electricity lines etc. or any other development work was required to be undertaken for laying the Railway line. Therefore, 25% deduction made by the Reference Court and approved by the High Court under two different heads is legally unsustainable."

146. The argument is of Mr.Pritam Saini, Advocate, for HSIIDC that for the subsequent notifications dated 03.09.2004 and 02.11.2004, the market value has been maintained @ Rs.12,50,000/- in RFA-5266-2011 titled *Mahender & others Vs. State of Haryana & others*, decided on 07.02.2017 and RFA-3406-2011 titled *Sona Dei & others Vs. State of Haryana & others*, decided on 08.02.2017. The acquisition was also for the same Expressway of Villages Turkpur, Thana Kalan and Mandora, Tehsil Kharkhoda, in District Sonepat. A perusal of the said orders would go on to show that the enhancement had been given to the tune of Rs.50,000/- by the Reference Court on the ground that there were no sale instances and therefore, the enhancement was held not to be justified, in the facts and circumstances. However, the grant of severance to the tune of 50% was upheld. Similarly, for Villages Pai, Barona, Pipli, Gopalpur in District Sonepat, which were subject matter of Sona Dei (supra), the market value as allowed by the LAC was upheld and only 50% was granted on account of severance of the holdings.

147. This Court had dismissed the appeals in the absence of evidence on record, as such led by the landowners and the market value had not been maintained. In the present case, this Court has considered the relevant sale exemplars to grant enhancement and merely because other landowners of the different villages had not led sufficient evidence, the landlosers cannot be put at a disadvantage on account of the fact that the landowners of the adjoining villages had failed to lead requisite evidence. Reference can be made to the judgment of the Apex Court in

Manoj Kumar & others Vs. State of Haryana & others 2018 (2) RCR (Civil) 815 wherein it has been held that awards are only a piece of evidence and the Court has to apply judicial mind and even a difference of 2-3 kms would make material difference in the value of the land. In case better evidence is adduced in a said case, same amount of compensation inter se, is not liable to be awarded. It is also a fact that the said villages are situated further in the interior from the land which is subject matter of appeals and therefore also, the market value of the said villages would be less. Relevant portion of the judgment read as under:

> "14. In our opinion, the High Court could not have placed an outright reliance on the decision of Swaran Singh's case, without considering the nature of transaction relied upon in the said decision. The decision could not have been applied ipso facto to the facts of the instant case. In such cases, where such judgments/awards are relied on as evidence, though they are relevant, but cannot be said to be binding with respect to the determination of the price, that has to depend on the evidence adduced in the case. However, in the instant case, it appears that the land in Swaran Singh's case was situated just across the road as observed by the High Court as such it is relevant evidence but not binding. As such it could have been taken into consideration due to the nearness of the area, but at the same time what was the nature of the transaction relied upon in the said case was also required to be looked into in an objective manner. Such decisions in other cases cannot be adopted without examining the basis for determining compensation whether sale transaction referred to therein can be relied upon or not and what was the distance, size and also bonafide nature of transaction before such judgments/awards are relied on for deciding the subsequent cases. It is not open to accepting

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

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

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

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

18. To base determination of compensation on a previous award/ judgment, the evidence considered in the previous judgment/ award and its acceptability on judicial parameters has to be necessarily gone into, otherwise, /gross injustice may be caused to any of the parties. In case some gross mistake or illegality has been committed in previous award/judgment of not making deduction etc. and/or sufficient evidence had not been adduced and better evidence is adduced in case at hand, previous award/judgment being not inter-parties cannot be

followed and if land is not similar in nature in all aspects it has to be out-rightly rejected as done in the case of comparative exemplars. Sale deeds are at par for evidentiary value with such awards of the court as court bases its conclusions on such transaction only, to ultimately determine the value of the property."

148. The sale deeds produced by the State are way below to what has been awarded by the LAC, as noticed above and therefore, are not liable to be taken into consideration, in view of Section 25 of 1894 Act. The chart showing the sale deeds produced by the State, read as under:

Sr. No.	**Exhibit**	**Vasika N:/Date of sale deed**	**Area K-M**	**Sale Price (in Rs.)**	**Sale Price per acre (In Rs.)**	**Location/ Village**
1.	Ex.R2	7576/15.3.2004	5-13	3,54,000	5,01,238	Badh Malik
2.	Ex.R3	630/23.4.2004	8-0	5,00,000	5,00,000	Do
3.	Ex.R4	233/8.4.2004	19-19	12,50,000	5,01,253	Do
4.	Ex.R5	3167/12.9.2003	3-11	2,22,000	5,00,281	Do
5.	Ex.R6	5111/25.8.04	17-8	13,05,00	6,00,000	Do
6.	Ex.R7	4587/7.11.03	3-6	2,07,000	5,01,818	Do
7.	Ex.R8	6274/19.1.2004	6-8	4,00,000	5,00,000	Do
8.	Ex.R9	4589/7.11.03	8-0	5,00,000	5,00,000	Do

149. Similarly, for the notification dated 27.08.2004 for Villages Abaspur and Chattera Bahadur, the chart showing the relevant sale deeds produced by the State are as under:

Sr. No.	**Ex.No.**	**Sale-deed No.**	**Date of sale-deed**	**Total area of Sale deed**	**Total considerat ion amount of sale-deed**	**Amount per acre**
1.	Ex.R4	3893	9.10.2003	6K 19M	1,74,000	2,00,287.77
2.	Ex.R5	3894	9.10.2003	8K 0M	2,00,000	2,00,000
3.	Ex.R6	3895	9.10.2003	5K 0M	1,25,000	2,00,000
4.	Ex.R6/A	4066	20.10.2003	2K 10M	63,000	3,36,000

Sr. No.	Ex.No.	Sale-deed No.	Date of sale-deed	Total area of Sale deed	Total consideration amount of sale-deed	Amount per acre
5.	Ex.R7	4596	10.11.2003	10K 10M	2,63,000	2,00,380.95

150. Resultantly, this Court is of the opinion that the market value for the land of Villages Badh Malik and Pritampura would be @ Rs.21,00,000/- per acre. However, for Jatheri and Akbarpur Barota, which are away from the Highway, by giving a 10% cut on the same, the market value would come down to Rs.18,90,000/- rounded of to Rs.19,00,000/-. Similarly, for Villages Abaspur, Chattera Bahadur which are the next villages in question, the market value will have to be correspondingly reduced by putting a similar cut of 10% which works out to Rs.17,10,000/-, rounded of to Rs.17,00,000/-.

151. For the lands of Villages Abaspur and Chattera Bahadur, acquired by notification dated 27.08.2004, Ex.P-1 dated 27.05.2004 which is of 390 sq.yards (13 marlas) of Village Abaspur, was wrongly discarded on account of misreading of evidence on the ground that it was close to Villages Rasoi and Kundli. As noticed above, in para No.64, the witness, PW-2, Suraj Mal had merely stated that Villages Rasoi and Kundli are close by, whereby value was Rs.2 crores and not that Ex.P-1 was relating to the said villages. By the said sale deed which was proved by PW-1, Kuldeep Singh, Registration Clerk of S.R., Sonepat, land was sold at Rs.28,98,000/-. If a 40% cut is put on the same, on account of

smallness, the same would work out to Rs.11,59,200/- and the market value would, thus, work out to Rs.17,38,800/-, which would be roughly the same as has been assessed above on the principle of the value dwindling as one goes away from the National Highway. Resultantly, this Court assesses the market value of the notifications dated 13.08.2004 and 27.08.2004, as above. Needless to say, as discussed under Question No.(ii), the landowners would also be entitled to 50% severance on the above amounts on account of the statutory restrictions imposed on the balance land and the expressway making the other portion of the land non-viable for cultivation on account of denial of access.

152. However, it is made clear that on amount of severance, the landowners would not be entitled for the statutory benefits of solatium under Section 23(1-A) & (2), in view of the law laid down by the Apex Court in **State of Punjab Vs. Amarjit Singh & another (2011) 4 SCC 734**, wherein it has been specifically held that market value is a specific component under Section 23 and the other components under various clauses are separate upon which the said benefit of solatium cannot be granted. Relevant portion reads as under:

> "6. Section 23(1) refers to market value of the land on the date of publication of the notification under Section 4(1) of the Act as a relevant factor for determining the amount of compensation to be awarded for land acquired under the Act. Sub-section (2) provides that in addition to the market value of the land determined under Section 23(1), the Court shall, in every case, award a sum of 30% on such market value in consideration of the compulsory nature of acquisition. Sub-

section (1A) of Section 23, inserted by Act 68 of 1984 provides that in addition to the market value of the land, as provided under Section 23(1), the Court shall, in every case, award an amount calculated at the rate of 12% per annum on such market value for the period commencing on or from the date of publication of the notification under Section 4(1) in respect of such land to the date of award of the collector or the date of taking possession of the land, whichever is earlier. The additional amount under Section 23(1A) and solatium under Section 23(2) are both payable only on the market value determined under Section 23(1) of the Act and not on any other amount. Solatium under Section 23(2) is not payable on the additional amount nor additional amount under Section 23(1A) payable on solatium. Solatium and additional amount are also not payable on the damages/expenses that may be awarded under second to sixth factors under Section 23(1) of the Act.

7. Thus a person whose land is acquired is entitled to the following amounts under the Act.

(a) Compensation determined under Section 23(1) of the Act (comprising the market value of the land referred to as the first factor and any damages/expenses referred to as the second to sixth factors under the said sub-section).

(b) Solatium at 30% on the market value determined as the first factor under section 23(1) of the Act.

(c) Additional amount at 12% per annum of the market value of the land referred to as the first factor under Section 23(1) of the Act, for the period specified in Section 23(2).

(d) Interest on the aggregate of (a), (b) and (c) above for the period between the date of taking possession to date of payment/deposit at the rate of 9% per annum for the first year and 15% per annum for the remaining period."

Market value for the notification dated 30.06.2005 in Badh Malik,

Pritampura & Rasoi

153. Relevant sale deeds which are to be taken into consideration are tabulated as under:

Exhibit	Sale deed/ conveyance No.	Date of sale deed	Area sold in sale deed	Sale consideration	Amount per acre	Village
Ex.P-4	5368	10.12.03	0-10	656000	19,20,000	Pritampura
Ex.P-14	2931	2.6.05	0-13	7500000	92,30,769	Badh Malik
Ex.P42 & 106	12387	7.3.05	32-3	19290000	4802239	Rasoi
Ex.P43 & 108	516	15.4.05	37-16	23625000	5000000	Do
Ex.P44	517	15.4.05	21-4	13250000	4774775	Do
Ex.P45	871	25.4.2005	24-0	14400000	4800000	Do
Ex.P46	2755	30.5.05	5-2	3060000	4800000	Do
Ex.P47	3342	13.6.05	47-5	23625000	4473373	Do
Ex.P48	3358	13.6.05	21-5	11953200	4722252	Do
Ex.P-15 & P-62	8811	24.10.05	35-8	49123700	11101401	Do
Ex.P-16 & P63	8812	24.10.05	35-8	49123700	11101401	Do

154. A perusal of Ex.P-60, the Aks Shijra would go on to show that the acquired land had been shown in yellow colour and the part of which was in the occupation of Kiran Overseas Ind.Promotor Pvt. Ltd., Latthar Factory, Rasoi Dhaba, Minda Auto Industries Pvt. Ltd., Mercury Rubber Mile Pvt., Shanti Properties and Goel Spinning Mills etc. had also been shown. Apart from that, Ansal, Sushant City, Raheja Mall and Parkar Housing Pvt. Ltd., which were across the Highway had also been shown. It has also come across in the statement of PW-5, Mukesh Gupta,

AGM of HSIIDC as discussed in para No.66, regarding their presence. Similarly, the registered sale deed of property of Jai Narain had been shown in red colour, which is just behind the Ansal Highway Plaza.

155. If one is to look at the site-plan, Ex.P-3, the sale deeds have been depicted on the site-plan at Sr.Nos.40 & 41. The land was sold to M/s Parkar by Ishwar Singh vide Exs.P-43 & 44 dated 15.04.2005, measuring 37 kanals 16 marlas and 21 kanals 4 marlas, which falls in Village Rasoi and which is just above the abadi of Village Rasoi and on the eastern side of the land in question. Thus, the average market value would be around Rs.49 lakhs for the said two sale exemplars. Giving a 50% cut on the said sale deeds, on the ground that they are in favour of a builder, the amount would work out to Rs.29,54,000/-. Exs.P-46 to P-48 are further away and below Village Rasoi and their average, if considered, are in the same range to Exs.P-43 & P-44, of around Rs.46,66,000/- per acre and are also in favour of builders. Similarly, Exs.P-42/Ex.P-106 dated 07.03.2005 for land measuring 32 kanals 3 marlas had been sold at Rs.1,92,90,000 @ Rs.48,02,239/- per acre, which is a sale deed by Dharma Singh to M/s Mungipa which is also in close vicinity of Exs.P-43 & P-44 and shown at Sr.No.39 and thus, would be a safe sale exemplars to fall back upon. Similar is the position of Ex.P45 dated 25.04.2005, whereby 24 kanals (3 acres) of land was sold by Sultan to Ramesh Kumar which is shown at Sr.No.42 on the site-plan and in close vicinity to the sale deeds also.

156. As noticed and discussed in detail, merely because the land

was across the Highway and development had taken place on the other side and there was no vacant land, as such, and thus, Sector 39 was being developed for industrial purposes. The appreciation has also to be noticed if one looks at Exs.P-15 & P-16, shown at Sr.No.13 & 14 in favour of M/s Intime Promoters. The post-notification sale deeds dated 24.10.2005 would go on to show that the market value had gone up to Rs.1,11,01,401/- per ace in 4 months time which is in close proximity situation-wise to the sale deeds of M/s Intime Promoters, Exs.P-46 & P-47 and rather situated smack on the Highway and therefore, the market value would be much more. Thus, the sale deeds would show that in 4 months time, market value had doubled in the said area on account of huge development which was taking place. Resultantly, this Court is of the opinion that for the land acquired vide the notification dated 30.06.2005, uniform compensation is liable to be granted for 379 acres 1 kanal @ Rs.29,54,000/- per acre.

157. Similarly, the sale deeds produced by the State for the notification dated 30.06.2006 shows the market value much below what has been awarded by the LAC, i.e., @ Rs.16,00,000/- per acre and therefore, the same would not require much serious consideration, in view of Section 25 of the 1894 Act. The chart showing the sale deeds produced by the State read as under:

Sr.No.	**Sale deed No.**	**Date**	**Area**	**Amount per acre**	**Amount**	**Revenue estate**
R2	4936	20.8.2004	11K 13M	600000	873750	Badh Malik

Sr.No.	Sale deed No.	Date	Area	Amount per acre	Amount	Revenue estate
R3	13193	22.3.2005	1K 16M	830679	135000	Badh Malik
R4	5111	20.8.2004	17K 8M	600000	13,05,000	Badh Malik
R5	3082	23.6.2004	5K 10M	1277192	910000	Badh Malik
R6	4554	6.8.2004	14K 5M	800000	550000	Rasoi
R7	11079	10.2.2005	62K 17M	450023	3535500	Pritampura
R8	13035	18.3.2005	3K 4M	450000	18,00,000	-do-
R9	1574	19.5.2004	3K 18M	581176	247000	-do-
R10	7890	17.11.2004	7K 10M	450133	422000	-do-
R11	3303	29.6.2004	7K 4M	450000	405000	-do-
R12	1722	12.5.2005	3K 15M	700800	328500	-do-

158. The principle of uniform compensation has already been discussed above where a compact block, as such, is being acquired and in the present case, for the notification in question, for the development of Industrial Sector 39, the land which was being acquired measures 379 acres 1 kanal and had the development advantage at that point of time that the Kundli Manesar Expressway had already been conceptualized and the land had been acquired earlier in August, 2004. The Expressway was, thus, bifurcating Sectors 38 and 39 and the land on the northern side of the acquisition was abutting the Expressway whereas on the eastern side, the National Highway was situated. Resultantly, the potentiality, as such, for commercial purpose was immense as has already been discussed earlier and therefore, the argument raised that uniform compensation should be granted, would be applicable. In similar circumstances, land was acquired for the development of the Industrial Modern Township of Manesar also. The Apex Court in **Pran Sukh's case** (supra) upheld uniform compensation granted of Rs.20 lakhs by noticing that the plots

are to be sold at a higher price to entrepreneurs and the landowners, as such, are entitled for uniform compensation as the amount is to be recovered from the allottees in question.

Market value for the notification dated 16.11.2005, for the land falling in Village Rasoi

159. The discussion above in paras No.69 to 74 would go on to show that sale exemplar (Ex.P3) dated 07.03.2005 was available wherein 32 kanals 3 marlas of land was available of Village Rasoi for which the land had been acquired wherein land had been sold @ Rs.48,00,000/-. One third cut had been put to determine the market value @ Rs.32,00,000/- per acre, on account of the fact that it was in the middle of the developed area and had been acquired for the purpose of roads.

160. A perusal of Ex.P9 would show that the land is situated between Badkhalsa and Rasoi and was acquired for the purpose of construction of road between sectors 61 & 62 and thus provide access from the highway. The sale exemplar relied upon is also of 4 acres of land and therefore was large chunk in comparison to the small area which was acquired of 5 kanals 3 marlas. The cut was liable to be discarded in such circumstances keeping in view the law laid down in the judgments of **Himmat Singh** (supra) **C.R.Nagraja Shetty** (supra), **Nelson Fernandes** (supra) and **Anjani Molu Dessai** (supra). The acquired land is in the middle of the developed portion of land and therefore also Reference Court was in error in awarding a cut as such of 33%.

161. The land was acquired in a strip running from the GT road to

the interior for developing the sectors of the private builders and for the benefit of the private builders also whose colonies were abutting on both sides of the acquired land. Therefore, the benefit of the complete market value, as such, of the said sale exemplar should have been granted rather than applying the cut. It has already been noticed also by the Reference Court that Village Rasoi is the area which is developed to its maximum extent and therefore, the benefit had to go to the landowners.

162. The table of the relevant sale deeds as such which were produced are reproduced as under:-

Ex.	Sale deed No.	Date	Area	Consideration amount	Name of village	Value per acre
P-1	3304	29.06.04	28K-2M	1,40,25,000/-	Rasoi	39,92,882/-
P-2	3855	15.07.04	12K	60,00,000/-	Rasoi	40,00,000/-
P-3	12387	07.03.05	32K-3M	1,92,90,000/-	Rasoi	48,00,000/-
P-4	8811	24.10.05	4 acre 3K-8M	4,91,23,700/-	Rasoi	1,11,01,401/-
P-5	8812	24.10.05	4 acre 3K-8M	4,91,23,700/-	Rasoi	1,11,01,401/-

163. The sale deeds, Exs.R2 & R3, produced by the State, show the amount which is below the market value of Rs.16,00,000/-, as awarded by the LAC and the higher sale deeds having been produced by the landowners and the same have not to be considered. The chart showing the sale deeds produced by the State read as under:

Ex.	**Sale deed No.**	**Date**	**Area**	**Consideration amount**	**Name of Village**	**Value per acre**
R-2	5695	11.08.05	5K-10M	10,32,000/-	Rasoi	15,01,090/-
R-3	234	08.04.04	4K-7M	2,75,000/-	Rasoi	5,05,747/-

164. The benefit of Annexures P-4 & P-5 which are dated 24.10.2005, however, cannot be granted since these sale deeds are in favour of M/s Intime Promoters by Rajbir and Rajroop and noticed in the discussion for the notification dated 30.06.2005. From the site-plan it is clear that they are situated smack on the Highway. The location of the sale deeds has already been noticed in the discussion regarding the notification dated 30.06.2005. The said sale deeds are below the abadi area of Village Rasoi and reasonably far away from the land which has been acquired and are towards Delhi and between Village Rasoi and the land developed by the TDI builders and also on the Highway. Therefore, the benefit of the sale deeds executed just before the Section 4 notification is not liable to be granted. Ex.P-3 dated 07.03.2005 is situated in close vicinity to the land which has been acquired and is going inside on the eastern side of the Highway and therefore, the said sale exemplar was rightly relied upon. However, the additional benefit of 8 months intervening period, applying cumulative increase method, approved by the Apex Court, in **General Manager, Oil & Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel 2008 (4) RCR (Civil) 487** is likely to be granted in view of the huge development which is taking place in the area and the landowners cannot be denied the said benefit. Resultantly, the benefit of intervening period of 8 months @ 15% has to be granted which adds upto Rs.4,80,000/-, taking the market value to Rs.52,80,000/-.

<u>Market value for the notification dated 17.11.2005 for villages</u>

<u>Jakholi, Sewli, Patla, Badh Khalsa, Firozepur Khadar, Asawarpur, Khewra, Bahalgarh and Badh Malik</u>

165. The relevant sale deeds for the notification in question are as under:

Ex. No.	Sale Deed No.	Date	Area	Amount	Rate per acre	Revenue estate
P-50	5706	10.09.2004	14 K 4 M	76,32,500/-	49,45,000/-	Badh Khalsa
P-51	5704	10.09.2004	18 K 9 M	99,16,875/-	49,45,000/-	Badh Khalsa
P-30	9876	07.01.2005	9K 12 M	60,00,000/-	50,00,000/-	Badh Khalsa
P-27/ 52	9088	31.10.2005	3 Acre 4 K 11 M	2,49,81,250/-	70,00,000/-	Badh Khalsa
P-28/ 53	9089	31.10.2005	6 K 19 M	60,81,260/-	70,00,012/-	Badh Khalsa
P-46	9690	03.01.2005	29 K 6 M	1,20,86,250/-	33,00,000/-	Patla
P-36	11458	17.02.2005	23 K 7 M	1,51,77,500/-	52,00,000/-	Patla
P-41	11502	18.02.2005	16 K 2 M	1,04,65,000/-	52,00,000/-	Patla
P-42	13321	23.03.2005	36 K 6 M	2,35,95,000/-	52,00,000/-	Patla
P-44	2736	30.05.2005	12 K 19 M	93,88,750/-	58,00,000/-	Patla
P-45	2735	30.05.2005	4 K 5 M	30,81,250/-	58,00,000/-	Patla
P-68	8012	06.10.2005	2 Acre 5 K	72,00,000/-	35,44,615/-	Asawar pur

166. From the perusal of the above sale deeds, it would be clear that the value of the land on 07.01.2005 (Ex.P-30) in Village Badh Khalsa was Rs.50,00,000/- per acre whereby 9 kanals 12 marlas of land had been sold by Harnath in favour of Delhi Tower and Estate which is shown at Sr.No.25 of the site-plan (Ex.P-35) and is close to the abadi area of Badh Khalsa and also to the acquisition in question. Similarly, Ex.P-

36 dated 17.02.2005, Ex.P-41 dated 18.02.2005 and Ex.P-42 dated 23.03.2005, whereby land measuring 23 kanals 7 marlas, 16 kanals 2 marlas and 36 kanals 6 marlas in Village Patla was sold @ Rs.52,00,000/-. In the month of May, 2005, the value went upto Rs.58,00,000/- which would be clear from Ex.P-44 & P-45.

167. Ex.P-36 is shown at Sr.No.1 in the site-plan whereas Ex.P-41 & P-42 are shown at Sr.No.6 & 7, respectively. The said sr.nos. also are situated closer to the abadi of Village Patla and between the revenue estate of Nangal Kalan and close to the boundary line of the acquired land. Similarly, the land which was sold vide Ex.P-27/52 & P-28/53 on 31.10.2005 in favour of Ansal Developers would go on to show that in the intervening period, market value has climbed upto Rs.70,00,000/- in Village Badh Khalsa. The said sale deeds have been shown at Sr.No.18 & 19 which were sold by Kartar Singh and Tara Chand and are also abutting the boundary line of the land which had been acquired. Thus, from the site-plan it would be apparent that on account of the development which had taken place on the eastern side of the Highway for Sectors 62 & 61, the market value has also got enhanced for Village Patla though it is situated in the interior but had the advantage that it was adjoining the developed portion which was being worked upon by the private builders which has come on record. Thus, Village Patla, though situated away from the Highway is likely to be granted the same amount of compensation for the land falling in Badh Khalsa and cannot be put at any disadvantage.

168. The position, however, cannot be same regarding Village Sewli which is tucked behind the Sports School Rai and thus, does not have the added advantage of access to the Highway. Thus, in the opinion of this Court, applying the principle of reduction, the market value of land falling in Badh Khalsa and Patla can be valued on the basis of the sale exemplar dated 31.10.2005. It has to be kept in note from the other sale exemplars from January, 2005 onwards therein has been consistent growth and therefore, these sale exemplars cannot be discounted merely being in favour of builders. 50% cut on account of keen interest shown by the builders to buy the land which is close to the land acquired and which was adjoining the developed portion and on account of the capacity to develop vertically and pay extra price, would thus, offset the extra interest which might have been shown by the builders in purchasing the property. Resultantly, the market value is assessed @ Rs.35,00,000/- per acre along with all statutory benefits.

169. However, the land which is falling on the Highway upto the depth of 2 acres (440 feet), is liable to be granted the benefit of additional enhancement on the ground that market value of land falling on the Highway always commands a higher premium. Resultantly, if 10% amount is granted on the same, the market value would work out to Rs.38,50,000/- per acre. Relevant judgments in support of the view taken are **Himmat Singh** (supra), **Ashok Kumar** (supra), **Birjender Singh Vs. State of Haryana 2016 AIR SC 5811**.

170. Similarly, Ex.P-68 of Village Asawarpur of 2 acres 5 kanals

falls on the Highway and was sold at Rs.72 lakhs by M/s Strategic Builders in favour of Sandeep Kukreja on 06.10.2015, which is just over a month prior to the date of notification. The land in question is situated ahead of the Moti Lal Nehru Sports School, on the northern side and opposite Village Rai which was sold at Rs.35,44,615/- per acre and the benefit of the sale exemplar, as such, can be kept in mind. Therefore, even for Village Asawarpur, the market value would work out @ Rs.38,50,000/- for the land falling on the Highway upto the depth of 2 acres (440 feet). However, the benefit cannot be granted to Village Sewli in view of the peculiar location and not having access to the Highway and in view of the large area of Moti Lal Sports School Rai, blocking the direct access to the Highway. Similar would be the position of Villages Khewra and Bahalgarh which are also situated closer to Village Asawarpur, further north and the land is away from the Highway. However, if any land of Village Bahalgarh and Khewda falls within the depth of 2 acres (440 feet) from the Highway, the benefit of higher compensation would be granted. Otherwise, the land would be at considerable distance than the land of Badh Malik and Expressway Highway which has come up around and would not command the similar premium, keeping in view the principle of belting. Therefore, the value would be assessed at 10% less than Rs.35,00,000/-, to the tune of Rs.31,50,000/- per acre along with statutory benefits. Same would be the position of Village Jakholi which is situated beyond Village Patla, on the eastern side and well away from the National Highway.

171. The chart showing the sale deeds produced by the State for the notification dated 17.11.2005 read as under:

Ex.No.	Sale Deed No.	Date	Area	Amount	Revenue estate
R-2	1477	06.05.2005	11K-5M	6,00,000/-	Badhkhalsa
R-3	10211	17.01.2005	3K-2M	2,33,000/-	Badhkhalsa
R-4	7336	29.10.2004	1K-16M	1,85,000/-	Badhkhalsa
R-5	7337	29.10.2004	2K-16M	3,15,000/-	Badhkhalsa
R-6	9195	07.11.2005	4K	5,00,000/-	Badhkhalsa
R-7	2265	23.05.2005	14K-12M	18,25,000/-	Badhkhalsa
R-8	3994	20.07.2004	2K-15M	1,03,500/-	Sewli
R-9	10902	07.02.2005	39K-13M	20,00,000/-	Sewli
R-10	7731	03.10.2005	2K-18M	1,82,000/-	Sewli
R-11	2888	01.06.2005	4K-1M	2,53,500/-	Sewli
R-12	5399	03.08.2005	8K	7,00,000/-	Sewli

172. A perusal of the above sale deeds would go on to show that the value is way below in most of them to what has been awarded by the LAC, i.e., @ Rs.16,00,000/- per acre and thereafter, revised its rate vide letter dated 05.01.2012, issued by the Director General, Urban Estates to the Arbitrator, HUDA and therefore, the State sale deeds would not have value worth its salt being way below to what the State itself had offered, keeping in view the development which had taken place.

Market Value for the notification dated 28.03.2006

173. The reference Court as noticed, has applied a reverse cut of 12%, to assess the market value @ Rs.30,00,000/- per acre, keeping in view the subsequent notification dated 22.06.2006 wherein Rs.35,00,000/- had been awarded for Village Jatheri. The discounting of the sale deeds Ex.P-7 to P-19 on the ground being of the adjoining

villages, as such, was justified as the table depicted below would show that most of the sale deeds were also post notification and therefore, were rightly discounted. The table reads as under:

Ex.No.	Sale deed No.	Date	Area	Amount	Revenue estate
P2	653	13.4.2006	10 Marlas	2,81,250	Jatheri
P3	652	13.4.2006	12K-14M	71,43,750	Jatheri
P4	880	26.4.2007	34 K-11M	5,13,41,785	Jatheri
P5	904	26.4.2007	40K-16M	6,06,29,370	Jatheri
P6	845	25.4.2007	39K-1M	5,80,28,845	Jatheri
P7	3890	31.8.2006	13 Marlas	30,00,000	Badh Malik
P8	3457	2.7.2004	32K-15M	1,63,75,000	Rasoi
P9	3555	6.7.2004	38K-11M	1,92,75,000	Rasoi
P10	10842	13.12.2005	4 Kanals	67,00,000	Badh Khalsa
P11	9876	7.1.2005	12 Marlas	60,00,000	Badh Khalsa
P12	9088	31.10.2005	28K-11M	2,49,81,250	Badh Khalsa
P13	5082	24.8.2004	1012 Yards	19,74,375	HSIDC Rai
P14	4238	27.7.2004	450 Yards	6,75,000	HSIDC Rai
P16	2062	5.6.2006	3K-4M	16,00,000	Akharpur Barota
P17	1709	24.5.2007	2 Kanals	12,10,000	Akharpur Barota
P18	1966	31.5.2007	2K-2M	14,10,000	Akbarpur Barota
P25	4238	27.7.2004	450 Yards	6,75,000	HSIDC Rai
P30	799	21.4.2006	21K-15M	70,00,000	Akbarpur Barota
P31	800	21.4.2006	21K-15M	1,89,43,750	Akbarpur Barota

Ex.No.	Sale deed No.	Date	Area	Amount	Revenue estate
P32	1576	18.5.2006	11 Marlas	4,98,000	Jatheri

174. However, sale deeds Ex.P-10 and P-11 dated 13.12.2005 and 07.01.2005 would show that market value of Badh Khalsa. From Ex.P1, the site-plan, it would be clear that they are in the midst of the developed area of the private colonizers, shown at Sr.No.9 & 12 and are also small chunks of land. It is not disputed that 3 months later, for Village Jatheri itself, for the notification dated 22.06.2006, Rs.35,00,000/- had been awarded in comparison to what LAC had awarded i.e., Rs.16,00,000/- per acre, earlier. The acquisition is for the purpose of development of the land, as such, by providing sewer and storm water for the Industrial Estate, Rai. The evidence which has been discussed between para Nos.71 to 76 would go on to show that on account of the location of the land the area had also developed since housing colonies had come up and Akbarpur Barota and Jatheri was situated beyond that. Apart from that the link roads was snaking from Jatheri connecting the Highway to Sonepat and therefore, the potentiality could not be disputed. Sector 36 had already been developed on an earlier occasion by the HSIIDC and therefore, the LAC was absolutely not justified in granting the meagre amount of Rs.16,00,000/- per acre. However, if one looks at Ex.P-3 which is dated 13.04.2006, just 15 days post notification, the land was sold @ Rs.45 lakhs per acre by Anil Kumar to M/s Rama Krishan Electric

and from the Site-plan (Ex.P-1) would show that the said sale deeds are on the southern side of the KMP Expressway. Ex.P32 dated 18.05.2006 for 11 marlas which was sold @ Rs.72,45,836/- per acre has rightly been discarded on the ground that a phenomenal increase, as such, has been shown for Village Jatheri whereas on 13.04.2006, land had been sold @ Rs.45,00,000/- vide Exs.P2 & P3. Even otherwise, the sale deed is barely 11 marlas and could not be considered as showing true market value as it could have been executed for shoreing up the market value. The sale deed is further away than the land which was acquired for the purpose of sewer and Storm water and therefore, the market value on the basis of the same is not justified, in any manner. Therefore, keeping in view the fact that for the notification dated 13.08.2004 for the KMP Expressway, a sum of Rs.21,00,000/- has been assessed and keeping in view the difference of 1 year 7 months, this Court is of the opinion that even if the benefit of cumulative enhancement @ 15% is granted, the same would work out to Rs.26,26,312/-. The astronomical growth which was taking place in the area would, however, entitle the landowners for more because 3 months later, the adjoining land had been assessed @ Rs.35,00,000/- per acre by the LAC. Resultantly, the amount which has been granted across the Highway for six villages, for the notification dated 17.11.2005 land of which is also similarly situated, @ Rs.35,00,000/- per acre would be the adequate amount of compensation which has to be granted for the land falling in Village Jatheri for the notification dated 28.03.2006.

175. State produced 2 sale deeds in evidence which were only marked. Same read as under:

Sr.No.	Sale deed No.	Date	Area	Amount	Rate per acre in lacs
Mark-A	1515	18.5.2004	2K-14M	2,02,500	Rs.6.00
Mark-B	658	26.4.2004	4K-0M	2,50,000	Rs.5.00

176. The same were never duly exhibited and proved in evidence and neither certified copies of the same were produced as required under Sectoin 51-A of the Act and therefore, they cannot be considered. Similarly, the market value is also much below to Rs.16,00,000/- per acre, as awarded by the LAC and in view of better evidence being available, the sale deeds produced by the State would have no such relevance.

Market value for the notification dated 22.06.2006

177. For Villages Badh Malik, Pritampura, Jatheri, Liwan, Rai and Badh Khalsa, the chart of the sale deeds of the concerned villages are as under:

Ex.No.	Sale deed No.	Date	Area	Amount	Revenue estate
P12	2297	13.8.2003	100 Yards	1,20,000	Jatheri
P5, P14 & P15	11170	19.12.2005	2K-17M	13,02,000	Jatheri
P6 & P3 of LAC No.322	652	13.04.2006	12K-14M	71,43,750	Jatheri
P5 of LAC No.322	653	13.04.2006	10 Marlas	2,81,250	Jatheri

Ex.No.	Sale deed No.	Date	Area	Amount	Revenue estate
P7, P11, P31, P1 of LAC No.322 and P4 of LAC No.349	1576	18.5.2006	11 Marlas	4,98,000	Jatheri
P4 of LAC No.322	2518	2.11.2006	121 Yards	1,81,500	Jatheri
P9, P19, P22 and P2 of LAC No.322	880	26.4.2007	34K-11M	5,13,41,785	Jatheri
P18 and P23	904	26.4.2007	40K-16M	6,06,29,370	Jatheri
P34 of LAC No.1 of 2009	5309	1.8.2005	6K-12M	31,00,000	Badh Malik
P24 & P1 of LAC No.325 P28	6899	21.12.2006	2K-14M	2,36,85,750	Badh Malik
P27 and P2 of LAC No.325	2520	22.6.2006	8K-10M	1,90,00,000	Badh Khalsa

178. The sale deeds produced by the State for the notification dated 22.06.2006 read as under:

Ex.No.	Sale Deed No.	Date	Area	Amount	Rate as per acre	Revenue estate
R2	3514	15.6.2005	1Acre	12,00,000	12,00,000	Jatheri
R3	3859	23.6.2005	15K-17M	23,77,500	12,00,000	Jatheri
R4	11986	2.1.2006	7K-12M	11,40,000	12,00,000	Jatheri
R5	10109	24.11.2005	15K-15M	23,62,500	12,00,000	Jatheri
R6	8558	19.10.2005	3K-1M	4,57,500	12,00,000	Jatheri
R7	7582	26.9.2005	3K-7M	5,03,000	12,01,194	Jatheri
R4 of LAC-1-2009	12784	14.3.2005	6K-8M	4,80,000	6,00,000	Badh Malik
R5 of LAC-1-2009	3088	7.6.2005	1K-5M	2,40,000	5,00,000	Badh Malik

179. LAC had awarded Rs.35,00,000/- per acre for Villages

Jatheri & Badh Malik and Rs.30,00,000/Rs.25,00,000/- per acre for the other villages. The sale deeds which have been executed are in the range of Rs.12 lakhs per acre, produced by the State and for Badh Malik, a paltry amount of Rs.6,00,000/- per acre has been shown vide the sale deeds in question.

180. A perusal of the sale deeds produced by the landowners would go on to show that Ex.P5 dated 13.04.2006 of LAC No.322, which is 2 months prior to the Section 4 notification, the land measuring 10 marlas was sold and the value of the same would work out @ Rs.45,00,000/- per acre. After imposing a 10% cut on account of smallness, the value would come to Rs.40,50,000/-. Similarly, Ex.P6 of the same date would show that 12 kanals 14 marlas of land was sold in favour of M/s Rama Krishan Electric and the rate of which would work out to Rs.45,00,000/-. Ex.P7 dated 18.05.2006, was only executed a month earlier and is only measuring 11 marlas, was sold @ Rs.72,43,636/- per acre and is an industrial plot and therefore, is liable to be ignored, both on account of very high value and to be ignored on account of smallness of size, for which NOC has been taken by the DTP, as pointed out by Mr.Vishal Garg, counsel for the HSIIDC. Ex.P-9/P19/P22 dated 26.04.2007 being post notification along with P18/P23, P1/P24/P28 dated 21.12.2006 and P4 dated 02.11.2006 are liable to be ignored being post notification. The sale deed dated 22.06.2006 (Ex.P-27/P2) measuring 8 kanals 10 marlas is of Badh Khalsa whereby the land

has been sold @ Rs.1,90,00,000/-. The location of the sale deed in Badh Khalsa has already been considered which is mainly on the eastern side of the Highway and in a fully developed portion developed by the private colonizers and therefore, the market value of the said sale exemplar is not liable to be taken into consideration. Ex.P12 measures barely 100 yards and therefore, it is also liable to be ignored once the land acquired is 216 acres 7 kanals 11 marlas and would not be true indicator of the market price. The sale deed dated 13.04.2006 of 12 kanals 14 marlas (Ex.P3/P6) has wrongly been ignored, as such, only on the ground that it was 2 months prior to the notification. Nothing has come on record that it is not a genuine sale deed. The area also is over an acre and therefore, the said sale deed can be taken as a valid sale exemplar. The judgment in **Salaha Begaum Vs. Special Land Acquisition Officer 2013 (1) RCR (Civil) 607**, is not applicable that no deduction is liable to be made for development costs. In the said case, development cut had been put on account of the value of the farm-house and electric connection, while fixing the market value on the basis of the sale deed dated 07.01.1993. It was noticed that on an earlier occasion, no such deduction had been made while assessing the market value for the earlier notification dated 20.01.1993 and therefore, deduction was held not to be justified.

181. The law regarding deduction stands well settled, as discussed above also, once development of large tracks of land are developed for residential, commercial and industrial purposes. In the present case, the

land is acquired for the industrial purpose and a cut of 10% would be appropriate as less wastage of land is there and the sale exemplar is of one and half acre. In **Kasturi Vs. State of Haryana 2003 (1) SCC 354** 20% cut was applied in similar circumstances. A cut, as noticed, could go upto 75%, in the facts and circumstances. The evidence has already been discussed in detail regarding the potentiality of the area in para No.84 for the two notifications and the uniqueness of the land. It has also come on record that on account of the development which has taken place in the said area, land which has been acquired and if used for the same purpose i.e. industrial in the acquisition had been left out, as per the statement of RW-1, Rakesh Gupta, AGM of HSIIDC. However, for the land abutting the Highway, the benefit of 10% enhancement would necessarily have to be granted.

182. Similarly, if Ex.P34 of LAC-1-2009 dated 01.08.2005 for 6 kanals 12 marlas is kept in mind, whereby the land was sold for Rs.31,00,000/- by Gurwinder Singh in favour of M/s Spring Water, the amount per acre would work out to Rs.35,57,576/-. A perusal of the site-plan, Ex.P25 would go on to show that it is situated on the western side of the Highway, right opposite the Expressway Highway and being across the National Highway No.1 and therefore, would show the correct market value of the land of Village Badh Malik for the notification dated 22.06.2006. The said sale exemplar is 10 months prior in time to the notification in question. If the 10 months' enhancement is, thus, granted for the intervening period @ 15%, keeping in view the phenomenal

growth which was taking place, the market value would work out to Rs.42,27,271/- per acre. Same is in the range as Ex.P6 dated 13.04.2006, since the market value comes to Rs.45,00,000/- and after applying 10% cut, the value would come to Rs.40,50,000/-. The said sale exemplar is further away from the National Highway and therefore, it would be appropriate and just if for the land abutting the Highway, upto the depth of 2 acres (440 feet), the market value is assessed @ Rs.42,30,000/-, especially keeping in mind that across the road, for the notification dated 17.11.2005, Rs.38,50,000/- has been granted. The benefit of the intervening period has also to be granted to the landowners on account of the rapid development of the industrial site undertaken by the HSIIDC.

183. A perusal of Ex.P34 dated 01.08.2005 for 6 kanals 12 marlas would also go on to show that the market value would be @ Rs.37,57,576/- per acre and if 10 months enhancement is granted for the intervening period, the market value would range around Rs.42,27,271/- per acre, which is in the same range of Ex.P6, by granting uniform compensation, as discussed above, except for the land which is abutting the Highway. Resultantly, the market value is assessed @ Rs.42,30,000/- for the land falling upto the depth of 2 acres (440 feet) and for the land falling beyond that, the market value is assessed @ Rs.40,50,000/-, for the notification dated 22.06.2006.

Market value for the notification dated 05.03.2007 for Villages Badh Malik, Pritampura and Rasoi

184. The relevant sale deeds, as such, are as under:

Ex.No.	Sale deed No.	Date	Area	Amount	Revenue estate
P4	5211	2.11.2006	2Acres-18M	1,05,62,500	Badh Malik
P3	6899	29.12.2006	2K-14M	2,36,85,750	Badh Malik
P6	9088	31.10.2005	3A-4K-11M	2,49,81,250	Badh Khalsa
P7	10720	9.12.2005	1A-3M	1,36,09,375	Badh Khalsa
P5	2520	22.6.2006	1A-10M	1,90,00,000	Badh Khalsa

185. The Reference Court has declined to place reliance upon Ex.P4 even though it was substantial chunk of land and sold 4 months earlier dated 02.11.2006 and the market value would come to Rs.50,00,000/- per acre. Ex.P3 has rightly been discarded being of smaller patch of only 2 kanals 14 marlas and would not depict correct market value. Similarly, Exs.P5 to P7 were of Badh Khalsa which was across the Highway wherein it was noticed that private colonizers had set up shops and were making housing colonies in the area. On account of the limited land available, sale deeds would have been executed at a higher amount and therefore, would not depict the correct market value. It is to be noticed that on an earlier occasion, on 30.06.2005, land had already been acquired for the same purpose, for development of Sector 39 for which the assessment for the villages in question has been done @ Rs.29,54,000/- per acre, at an uniform rate. Ex.P9, site plan would also show that the sale exemplar (Ex.P4) has been shown marked in 'red colour', abutting the Highway and in close proximity of the land acquired,

which is 4-6 acres behind. If a 10% cut is applied on the same exemplar, Ex.P4, market price would come to Rs.45,00,000/-. Keeping in view the principle that development cut on the same would be applicable and the same exemplar is also large, this Court is of the opinion that market value of the land for the notification dated 05.03.2007, is to be appropriately assessed at the said rate. Even otherwise, looking it from another angle, if cumulative enhancement @ 15% for the intervening period of 19 months is granted on the amount awarded for the notification dated 30.06.2005, whereby Rs.29,54,000/- has now been awarded, the enhancement would work out to Rs.36,94,346/-. The said method would not be a safe method to assess the market value which has gone up in the said area on account of the massive development which has been noted above and therefore, it would be more safe to fall back on the sale exemplar rather than fall back on the principle of cumulative enhancement, in view of the availability of Ex.P4.

186. Accordingly, the market value is worked out @ Rs.45,00,000/- per acre along with all statutory benefits, for the balance land which has been acquired, vide notification dated 05.03.2007. It is also to be noticed that this Court has now awarded Rs.42,30,000/- for the notification dated 22.06.2006 and the present land in question is situated on the southern side of the said land and is closer to Delhi and opposite the developed portion which has been developed by the private builders. Therefore, keeping in view the rising trend also, the market value which is just and appropriate is worked out @ Rs.45,00,000/- for the balance

land which was left out for the development of Sector 39.

187. The chart showing the sale deeds produced by the State for the notification dated 05.03.2007 read as under:

Ex. No.	**Sale deed No.**	**Date**	**Area**	**Amount**	**Revenue estate**
R2	4936	20.8.2004	11K-13M	8,73,750	Badh Malik
R3	13193	22.3.2005	1K-16M	1,35,000	Badh Malik
R4	5111	25.8.2004	17K-8M	13,05,000	Badh Malik
R5	3082	23.6.2004	5K-14M	9,14,000	Badh Malik

188. The LAC having awarded Rs.16,00,000/- per acre for the land in question, the sale deeds Exs.R2 to R5, produced by the State, would have no value. Moresoever, as noticed on an earlier occasion, Rs.35,00,000/- had been awarded for Village Badh Malik, for the notification dated 22.06.2006 and therefore, there would be no relevance of the above sale deeds produced by the State.

189. Keeping in view the above, the market value alongwith all statutory benefits is fixed as under:-

(i) For the first notification dated 13.08.2004, for the land falling in Villages Badh Malik and Pritampura, the market value would be Rs.21,00,000/- per acre. For Jatheri and Akbarpur Barota, Rs.19,00,000/-. For the lands of Villages Abaspur and Chattera Bahadur, acquired by second notification dated 27.08.2004, the market value would work out to Rs.17,00,000/-. The landowners would also be entitled to 50% severance on the market value on account of the statutory restrictions imposed on the balance land and the expressway making the other portion of the land non-viable for cultivation on account of denial of access. However, the benefit of solatium and interest element under Section 23(1-A) and Section 23(2) would not be payable on the amount of severance.

(ii) For the third notification dated 30.06.2005, for Villages Badh Malik, Pritampura and Rasoi, uniform compensation @ Rs.29,54,000/- per acre along with all statutory benefits, is granted.

(iii) For the fourth notification dated 16.11.2005, for Villages Rasoi, Rs.52,80,000/- per acre along with all statutory benefits, is granted.

(iv) For the fifth notification dated 17.11.2005, for the land falling upto the depth of 2 acres (440 feet) of the National Highway, market value is assessed @ Rs.38,50,000. For the other land falling in Villages Badh Khalsa, Firozepur Khadar, Abaspur, Badh Malik and Patla, the market value is assessed @ Rs.35,00,000/- along with all statutory benefits. For Villages Jakholi, Sewli, Khewda and Bahalgarh, the market value is assessed @ Rs.31,50,000/- per acre along with all statutory benefits.

(v) For the sixth notification dated 28.03.2006, for Villages Jatheri, Rs.35,00,000/- per acre is granted along with all statutory benefits.

(vi) For the seventh notification dated 22.06.2006 for Villages Badh Malik, Pritampura, Jatheri, Liwan, Rai and Badh Khalsa, Rs.42,30,000/- per acre is granted upto the depth of 2 acres (440 feet) and for the balance land, market value is assessed @ Rs.40,50,000/- per acre, along with all statutory benefits.

(vii) For the eighth notification dated 05.03.2007, for Villages Badh Malik, Pritampura and Rasoi, the market value is assessed @ Rs.45,00,000/- per acre along with all statutory benefits.

(viii) Resultantly, the appeals alongwith cross-objections filed by both the landowners and the State are disposed of. In appeals where delay has been condoned conditionally, the benefit of interest on the enhanced compensation for the period of delay in filing the appeals shall not be granted to the landowners, as specified in the orders condoning the delay. All the pending civil miscellaneous applications also stand disposed of.

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

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

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

(c) The bank account numbers of the land owners should be given to the Land Acquisition Collector within three months.

(d) The Land Acquisition Collector shall deposit the cheques of compensation in the bank accounts of the land owners.

05.07.2019 **(G.S. SANDHAWALIA)**
Sailesh **JUDGE**

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*