IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**RFA-3161-2009 (O&M) &
other connected cases
Pronounced on: 07.12.2019**

Jasmer Singh & another (II) ....Appellants

Versus

State of Punjab ....Respondent

Appeals filed by the landowners	**Appeals filed by the Railways**	**Cross-objections**
RFA Nos.2921 to 2938, 4397 to 4424 & 4490 to 4493 of **2007** RFA Nos.447, 659, 676, 1358, 1720 to 1722, 1772 to 1779, 1785 to 1787, 1888, 1895 to 1898, 1902 to 1905, 1907 to 1912, 1927 to 1929, 1951 to 1953, 2458 to 2465, 2543 to 2555, 2632 to 2635, 2667, 2668, 2868, 3021, 3022, 3241, 3587, 3588, 3719 to 3725, 3783, 3975, 4565, 4596 to 4600, 4836, 4851, 4854, 4954, 5201, 5219 to 5225, 5366 to 5380, 5494, 5502 to 5508 & 5573 of **2008** RFA Nos.366 to 371, 373 to 377, 396 to 398, 407, 414, 415, 416, 417, 434, 435, 436, 437, 438, 439, 440, 441, 1954, 2082, 2259, 2260, 2888, 2926, 2927, 3127, 3128, 3129, 3130, 3131, 3161, 3278, 3279, 3354, 3400, 3410, 3411, 3581, 3582, 3583, 3584, 3585, 3586, 3712, 3713, 3793, 3794, 3795, 3796, 3797, 3798, 3815, 3816, 3817, 4896, 5043, 5044, 5151, 5152, 5153, 5154, 5155, 5156, 5157, 5158, 5159, 5160, 5918 **of 2009** RFA Nos.494, 513, 1812 to 1815, 2356, 2357, 3251, 3284, 3489, 4193, 4194, 4196 to 4200, 4640 to 4645, 4650 to 4652, 4893, 4973, 5049, 5206 to 5210, 5212, 5498 5576, 5577 **of 2010** RFA Nos.2006 to 2016, 3691 to 3693, 4325, 7272 **of 2011** RFA Nos.781, 5349 to 5351, 6618 to 6620 **of 2012** RFA Nos.1660, 1780, 1788, 2375, 3816, 3817, 3818, 3819, 3820, 3821, 4282, 4283, 4344 **of 2013** RFA Nos.948, 949, 950, 951, 952, 953, 954, 955, 2882, 2883, 2884, 2885, 5007, 9793 **of 2014** RFA Nos.1634, 1635 **of 2017**	RFA Nos.2491 to 2507, 2610, 2926, 3229 to 3272, **of 2007** RFA Nos.1, 2, 3, 5, 366, 367, 559 to 568, 1087 to 1104, 1112, 1289, 1639 to 1669, 2702 to 2706, 3419 to 3432, 3445 to 3453, 3499 to 3515, 3730 to 3738, 5327 to 5348, 5351, 5352 **of 2008** RFA Nos.2688, 3767 to 3772, 3850 to 3872, 5461 to 5491, 5493, 5753, 5754, 5755 **of 2009** **RFA Nos.1100 to 1127, 1154 to 1165, 5778 of 2010** RFA Nos.2366 to 2380, **of 2011** RFA No.7194 **of 2012** RFA Nos.1279, 1283 to 1289, 2108 to 2112, 3052 to 3055, 3088 to 3097, 4562, 8300 **of 2014** RFA No.427 **of 2016** RFA No.429 **of 2018**	XOBJR-30-CI-2008 in RFA-3237-2007 XOBJR-28-CI-2008 in RFA-3242-2007 XOBJR-29-CI-2008 in RFA-3269-2007 XOBJR-244-CI-2016 in RFA-2006-2011 XOBJR-70-CI-2017 in RFA-2007-2011 XOBJR-67-CI-2017 in RFA-2008-2011 XOBJR -62-CI-2016 in RFA-2009-2011 XOBJR-74-CI-2016 in RFA-2010-2011 XOBJR-66-CI-2016 in RFA-2011-2011 XOBJR-63-CI-2016 in RFA-2012-2011 XOBJR-73-CI-2016 in RFA-2013-2011 XOBJR-68-CI-2016 in RFA-2014-2011 XOBJR-235-CI-2016 in RFA-2015-2011 XOBJR-69-CI-2016 in RFA-4282-2013 XOBJR-65-CI-2016 in RFA-4283-2013 XOBJR-72-CI-2009 in RFA-5330-2008 XOBJR-254-CI-2016 in RFA-427-2016 XOBJR-330-CI-2016 in RFA-2702-2009 XOBJR-90-CI-2011 in RFA-5778-2010 XOBJR-5-CI-2015 in RFA-2108-2014 XOBJR-10-CI-2015 in RFA-3096-2014 XOBJR-9-CI-2015 in RFA-3097-2014 XOBJR-10-CI-2017 in RFA-3053-2014 XOBJR-84-CI-2009 in RFA-3508-2008 XOBJR-39-CI-2009 in RFA-3506-2008 XOBJR-83-CI-2009 in RFA-3503-2008 XOBJR-236-CI-2016 in RFA-3853-2009 XOBJR-237-CI-2016 in RFA-3860-2009 XOBJR-28-CI-2014 in RFA-3868-2009 XOBJR-5-CI-2009 in RFA-3501-2008 XOBJR-164-CI-2010 in RFA-1105-2010 XOBJR-56-CI-2019 in RFA-1117-2010 XOBJR-71-CI-2016 in RFA-2016-2011 XOBJR-25-2019 in RFA-3052-2014

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

Present: Mr. S.S. Swaich, Advocate,
Mr. Naresh Kaushal, Advocate &
Mr. R.K. Rathore, Advocate,
Mr. P.L. Singla, Advocate,
Mr. P.C. Dhiman, Advocate,
Mr. Vijay Lath, Advocate
Mr. Amit Jain, Advocate,
Ms. Sukhmani Patwalia, Advocate,
Mr. H.K. Brinda, Advocate,
Mr. Balram Prashar, Advocate for
Mr. Gurvinder Sandhu, Advocate
Mr. Sham Lal Bhalla, Advocate,
Mr. I.D. Singla, Advocate,
Mr. Harsh Manocha, Advocate for
Mr. R.K. Dhiman, Advocate
Mr. Harpreet Singh, Advocate
for the landowners.

Mr. Puneet Jindal, Sr. Advocate
with Mr. Amandeep Singh Meho, Advocate,
Mr. Sandeep Vermani, Advocate,
Mr. Bhupinder Ghai, Advocate,
Mr. Banni Thomas, Advocate,
Mr. Rajiv Sharma, Advocate for UOI (Railways).

Ms. Anju Arora, Addl. AG, Punjab.
Ms. Ambika Luthra, Sr. DAG, Punjab.
Ms. Jasleen Kaur Sidhu, AAG, Punjab.

****

G.S. SANDHAWALIA, J.

The present judgment shall dispose of 702 appeals out of which 341 have been filed by the landowners and 364 have been filed by the Railways along with 34 cross-objections filed by the landowners.

2. The public purpose for acquisition of the notifications under Section 4 of the Land Acquisition Act, 1894 (for short, the 'Act') dated

16.06.1999, 24.06.2000, 24.10.2000, 28.11.2000, 06.02.2001 and 01.07.2004, is for laying down of the Broad Gauge Railway line from Chandigarh to Ludhiana, wherein, land falling in 28 different villages, which fell in the erstwhile district of Roopnagar were acquired. The awards were passed by the Reference Court at Roopnagar for the villages, namely.

(i) Jagatpura, H.B.No.261, land acquired 17 kanals 3 marlas by notification dated 24.06.2000

(ii) Kambali, H.B.No.225, land acquired 45 kanals and 11 kanals 3 marlas by notifications dated 24.06.2000 and 06.02.2001

(iii) Kambala, H.B.No.226 land acquired 258 kanals 8 marlas by notification dated 16.06.1999

(iv) Chilla, H.B.No.3, land acquired 59 bighas 13 biswas and 14 bighas 11 biswas by notifications dated 24.06.2000 and 06.02.2001

(v) Manauli, H.B.No.270, land acquired 23 bighas 10 biswas and 5 bighas 10 biswas by notifications dated 24.06.2000 and 06.02.2001

(vi) Raipur Khurd, H.B.No.2, land acquired 27 bighas 3 biswas and 21 bighas 4 biswas by notifications dated 24.06.2000 and 06.02.2001

(vii) Dharali, H.B.No.1, land acquired 276 bighas 19 biswas by notification dated 24.10.2000

(viii) Sukhgarh, H.B.No.289, land acquired 2 kanals 10 marlas by notification dated 24.10.2000

(ix) Saneta, H.B.No.288, land acquired 134 kanals 7 marlas by notification dated 24.10.2000

(x) Raipur Kalan, H.B.No.294, land acquired 113 kanals 3 marlas by notification dated 24.10.2000

(xi) Maujpur, H.B.No.42, land acquired 182 kanals 3 marlas by notification dated 24.10.2000

(xii) Ledi, H.B.No.41, land acquired 82 kanals 18 marlas by notification dated 24.10.2000

(xiii) Sawara, H.B.No.45, 12 acres 4 kanals 4 marlas of land acquired by notification dated 28.11.2000

(xiv) Landran. No appeal listed.

(xv) Kailon, H.B.No.193 land acquired 170 kanals by notification dated 24.10.2000

(xvi) Tole Majra, H.B. No.192, 12 acres 3 kanals 5 marlas of land acquired by notification dated 28.11.2000

(xvii) Khooni Majra, H.B. No.187, 17 acres 5 kanals 3 marlas and 12 kanals 8 marlas of land acquired by notifications dated 28.11.2000 and 01.07.2004

(xviii) Badala Nayashahar, H.B.No.188, 17 acres 6 kanals 8 marlas; 4 bighas 16 biswas of land and 4 kanals and 16 marlas acquired by notifications dated 28.11.2000, 01.07.2004 and 17.01.2005

(xix) Khanpur, H.B. No.183, 5 acres 5 kanals 2 marlas and 5 bighas 19 biswas of land acquired by notifications dated 28.11.2000 and 01.07.2004

(xx) Bhagomajra H.B. No.75, 5 acres 5 kanals 5 marlas of land acquired by notification dated 28.11.2000

(xxi) Badali H.B.No.72, 3 acres 3 kanals 19 marlas of land acquired, but no appeal listed.

(xxii) Peer Sohana H.B.No.72 land acquired 9 acres 1 kanal 9 marlas and 7 kanals 4 marlas by notifications dated 28.11.2000 and 01.07.2004

(xxiii) Simbal Majra, H.B.No.73, 6 acres 4 kanals 17 marlas of land acquired by notification dated 28.11.2000

(xxiv) Gharuan H.B. No.377, 28 acres 6 kanals 2 marlas and 15 kanals 18 marlas of land acquired by notifications dated 28.11.2000 and 01.07.2004

(xxv) Shukrulla Pur, H.B. No.69, 7 kanals 11 marlas of land acquired by notification dated 28.11.2000

(xxvi) Marauli Kalan H.B. No.248, 86 kanals 8 marlas of land acquired by notification dated 28.11.2000

(xxvii) Marauli Khurd H.B. No.249 39 kanals 15 marlas of land acquired by notification dated 28.11.2000

(xxviii) Ramgarh Manda but no appeal listed

3. Thereafter, on account of the town of Mohali being developed and the district being carved out, which is now known as the

Sahibjada Ajit Singh Nagar (SAS Nagar), some of the awards have been passed by the concerned District & Sessions Judge. The awards passed by the Land Acquisition Collector had valued the land ranging from Rs.10 lakhs for Village Kambala on one hand to Rs.4 lakhs on the far end, if one is to look at from the proximity point of view with Chandigarh/Mohali. The Reference Court, correspondingly, had fixed the market value ranging from Rs.17 lakhs per acre to Rs.5 lakhs per acre and even the severance charges qua various awards was given to the extent of ranging from 20% to 50%.

4. A Coordinate Bench of this Court had decided the said bunch of cases in **Jasmer Singh Vs. State of Punjab through Land Acquisition Collector, Chandigarh 2017 (5) RCR (Civil) 281**, decided on 01.06.2016 and in **RFA-5463-2009** titled ***Deputy Chief Engineer, Construction, Northern Railways, Chandigarh & another Vs. Jagir Singh & others*** and enhanced the compensation from the above-said amounts, to the amounts ranging from Rs.1,70,54,630/- per acre to Rs.62,16,415/- along with 50% severance charges, for the villages close to Chandigarh and decreasing on the further end.

5. The Apex Court in **CA-23530-23531-2017** titled ***Union of India Vs. Jasmer Singh & others***, decided on 01.02.2017, allowed the appeals filed by the Railways and remitted the matter to this Court for re-decision. Interim arrangements were also made qua payments of some amounts whereby withdrawals were permitted upto Rs.17 lakhs from Rs.4 lakhs. The amounts awarded by the Reference Court and additional

amounts ranging from Rs.5 lakhs to Rs.12 lakhs had been granted for the villages which have been granted lessor compensation. The amount of severance was also tentatively fixed @ 20%. Relevant portion of the judgment reads as under:

> "6. The High Court has, for determining the compensation in all the cases; relied upon the allotment letter (Exhibit P-4) whereby the plot measuring 16.6 x 82.6 feet was allotted, certain deductions have been made. The sale deed P-4 could not be said to much relevance as it was for developed and very small plot for determining the value of land that has been acquired. We are of the considered opinion that the entire other evidence ought not (sic.) have been taken into consideration for determination of the value of the land. The way value has been determined for different villages also is highly unsatisfactory. Severance has also been granted on extremely higher side. 50% severance was not at all warranted. Least commented on merits is better. We remit the cases to the High Court to decide appeals afresh, and request the Chief Justice preferably to hear the matters himself or to assign them to some other appropriate Bench. However, as interim arrangement, we modify the impugned judgment passed by the High Court as follows:
>
> xxxx xxxx xxxx
>
> 7. It is made emphatically clear, that aforesaid is purely an interim arrangement, and does not reflect the value of the land which has to be determined by the High Court. Those who have already withdrawn more amount than aforesaid shall furnish an undertaking as well as a security to the satisfaction of the Reference Court for making refund of the amount if necessary. The amount shall be deposited within a period of two months in case the same has not been deposited so far.

> 8. It was submitted that the value of the land in the village Kambala was more. That has to be considered by the High Court, and it would be open to the High Court to look into the entire evidence that is on record, including the document Exhibit-P4. However, not in the method and manner it has been done earlier. The parties are permitted to adduce additional evidence, if any. We request the High Court to take up the hearing of the matters as expeditiously as possible.
>
> 9. In view of the above, the appeals are disposed of."

6. Resultantly, the present appeals are being re-heard. It is pertinent to notice that the appeals pertaining to Village Jagatpura are being heard for the first time along with the appeals also pertaining to Section 4 notifications dated 01.07.2004, which is also pertaining to some of the same villages and for the same purpose. Since the purpose of the acquisition is the same, thus, the said set of appeals are being heard together, as even the evidence which has been brought on record in the connected cases would also have a bearing, as such, as to what is the market value of the land in question around the time when the Section 4 notification was issued, as the villages are contiguous to each other at many places being situated on both sides of the Railway line.

7. After remand from the Apex Court, the landowners have filed applications for additional evidence in several appeals of different villages.

Potentiality Issues :

8. It is pertinent to notice that the Railway line, as such, connects to the Chandigarh Railway Station. Mohali/SAS Nagar is situated at the southern end of Chandigarh, in a contiguous manner,

falling in line of the Grid-system of Chandigarh as designed by Le Corbusier, the famous French Architect. On account of the growth of the tri-city, due to the scarcity of land falling in 114 sq.kms area of Chandigarh, development has mushroomed on both sides. Two towns, Mohali/SAS Nagar in Punjab on the southern end has come up and Panchkula in Haryana falling on the eastern side of Chandigarh. Part of Mohali (SAS Nagar) district has come up developing on the western side of Chandigarh also. With the northern side being relatively protected on account of the reserved forest area on top and the Sukhna Lake protecting the town from further mushrooming of growth on that side and the divide in the Chandigarh town between the north and south is well-known. The land value, thus, has to be calculated keeping in mind the fact that it is but natural that the land on the northern side is going to be more expensive in comparison to the southern side which is further away from the town of Chandigarh. Also the last leg is beyond the developed area of Mohali also whereby the sectors have been cut out but closer to Kharar, a small Municipality wherein the National Highway goes into the State of Punjab. Similarly, from Mohali, another State Highway branches off to meet National Highway No.1, from Village Landran to Fatehgarh Sahib (Sirhind), being State Highway No.12-A, on the southern side. On account of the State Highway, development is also there in that area, on the higher side, due to the natural access on account of important roads. Similarly another important State Highway from Banur to Kharar brings up the southern boundary of Mohali.

9. In order to complete this exercise, the satellite plan/map, produced by the Railways and the graded plan of the town of Mohali/SAS Nagar and the sectors through which the Railway line has cut through, have also been taken on record as Mark-A, B, C, D, E, F, G, H, I, J & K in **RFA No.5778 of 2010 'Deputy Chief Engineer Construction-II and another Vs. Harbinder Singh and others'** pertaining to village Raipur Kalan and **RFA No.2543 of 2008 'Charan Singh Vs. State of Punjab and others'** pertaining to village Marauli Kalan. More so, because it is necessary for pronouncement of the judgment and secondly, the awards are different for the various notifications. The Reference Courts, at that point of time, did not deal with the acquisition at one point of time and different officers have dealt with the awards of the villages separately, at different points of time ranging from 2007 to 2014 and therefore, did not have the benefit of the awards of the adjoining villages, which this Court has, while deciding all the said notifications together. Resultantly, the first village, closest to area of Chandigarh will be dealt with, firstly and thereafter, in a descending manner, the discussion will be qua the market value of the other villages, falling further away, rather than date of notifications. More so, because there are 2 notifications of the same villages also, especially of 24.06.2000/06.02.2001 and 28.11.2000/01.07.2004 since vide the second notification, of the same village, electrification of the track was done and additional land along with the land already acquired was further acquired by the Railways.

10. It is settled principle that the market value is to be seen on the date of the Section 4 notification, under Section 23 of the 1894 Act. However, the potentiality of the land is one aspect which is to be kept in mind, on the basis of which market value is to be assessed. The land being in close vicinity of the developed urban area and several of the villages falling within the Master-plan of Mohali, is an aspect which is to be kept in mind. The land might be agricultural in nature but the potentiality of development and usage for urban area cannot be lost sight of. The Master-plan (Ex.P-12) dated 04.12.2006 has been brought on record in the case of Village Kailon which shows the sectors which have been carved out for Mohali, SAS Nagar for 1996-2016. The main criteria to determine the market value is what a willing purchaser would pay to a willing vendor. Proximity to Highways is another factor which is to be kept in mind and the best guiding factors are the sale exemplars, close to the date of the publication of the notification under Section 4. The genuine instances of sale have to be taken into account and not the ones which had been shored-up on account of the pending acquisition. The minus factors are remoteness from the developed locality or situation in the interior at a distance from the road and largeness of the acquisition. In the present case, as would be clear from the satellite plans, which have been taken on record as Mark A to H and from the Master-plan, Mark I & J, along with the Railway Index Plan, showing the distances of the villages from U.T.Chandigarh, would show that the villages, as such, are falling in a straight line, going down south till Saneta. Villages Kambali,

Kambala, Chilla, Raipur Khurd, are falling in various sectors, Sectors 81, 83, 84 and going down to Sectors 103/Saneta. Sectors 108 to 115 fall on the southern side of the Kharar-Banur road and on the northern side of the Railway line and therefore, development and potentiality of the land was immense. The Railway line crossed the Kharar-Landran-Banur road in village Saneta and thereafter, the Railway line start running south of all the sectors of Mohali at a distance of 1 km approximately to the Kharar-Landran road and parallel to it. The Sectors have been cut across the said road also. The Sirhind-Fatehgarh Sahib road also crosses the Railway line while going south.

11. The principles laid down by the Apex Court in **Raghubans Narayan Singh Vs. State of U.P. 1962 (2) SCR 489** is that the Court has to see that there was record of building activity being carried out in the neighborhood or in the direction of development, which is also to be seen while keeping in view the potentiality and the possibility of the land usage at the time it is compulsorily acquired. In **P.Ram Reddy & others Vs. Land Acquisition Officer, Hydrabad 1995 (2) SCC 305**, it was held that the market value has to be assessed on the hypothetical lay-out of the building plan of the acquired land similar to the building plan actually made on the similar lands. Relevant portion of the judgment reads as under:

> "12. Then, comes the question of determining the market value of the acquired land with building potentiality. Undoubtedly such market value of the acquired land with building potentiality comprises of the market value of the land

having regard to the use to which it was put on the relevant date envisaged under Section 4(1) of the LA Act plus the increase in that market value because of the possibility of the acquired land being used for putting up buildings, in the immediate or near future. If there is any other land with building potentiality similar to the acquired land which had been sold for a price obtained by a willing seller from a willing purchaser, such price could be taken to be the market value of the acquired land, in that, it would have comprised of the market value of the land as was being actually used plus increase in price attributable to its building potentiality. If the prices fetched by sale of similar land with building potentiality in the neighbourhood or vicinity of the acquired lands with building potentiality, as on the relevant date envisaged under Section 4(1) of the LA Act, are unavailable, it becomes necessary to find out whether any building plots laid out in a land similar to the acquired land had been sold by a willing seller to a willing buyer on or near about the relevant date under Section 4(1) when the acquired land had been proposed for acquisition and then to find out what would be the price which the acquired land would have fetched if had been sold by making it into building plots similar to those sold. In other words, an 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, has to be prepared, and the price fetched by sale of building plots in the lay-out actually made should form the basis for fixing the total price of the acquired land with building potentiality, to be got if plots similar to other plots had been made in the latter land and sold by taking into account plus factors and minus factors involved in the process."

12. In **Suresh Kumar Vs. Town Improvement Trust, Bhopal 1989 (2) SCC 329** the Apex Court dealt with the issues that there should

neither be unjust enrichment on the part of the acquirer nor undue deprivation on the part of the owner. It was held that future use for factory or building sites and institutions, college, tremendous increase in prices in the the neighboring areas, could not be ignored in determining compensation. Relevant portion of the judgment reads as under:

> "9. It is true that the market value of the land acquired has to be correctly determined and paid so that there is neither unjust enrichment on the part of the acquirer nor undue deprivation on the part of the owner. Dr. Singhvi argues that failing to consider potential value is an error of principle. It is an accepted principle as was laid down in Gajapatiraju v. Rev. Divisional Officer, A.I.R. 1939 P.C. 98 that the compensation must be determined by reference to the price which a willing vendor might reasonably expect to obtain from willing purchaser. The disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy it must alike be disregarded. Neither must be considered as acting under compulsion. The value of the land is not to be estimated at its value to the purchaser but this does not mean that the fact that some particular purchaser might desire the land more than others is to be disregarded. The wish of a particular purchaser, though not his compulsion, may always be taken into consideration for what it is worth. Any sentimental value for the vendor need not be taken into account. The vendor is to be treated as a vendor willing to sell at the market price. Section 23 of the Land Acquisition Act, 1894, enumerates the matters to be considered in determining compensation- The first to be taken into consideration is the market value of the land on the date of the publication of the Notification under Section 4(1). Market value is that of a willing vendor and a willing purchaser. A willing vendor would naturally take into consideration such factors as would contribute to the value of

his land including its unearned increment. A willing purchaser would also consider more or less the same factors. There may be many ponderable and imponderable factors in such estimation or guess work. Section 24 of the Act enumerates the matters which the Court shall not take into consideration in determining compensation. Section 25 provides that the amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11. As was observed in Gajapatiraju (supra) sometimes, it happens that the land to be valued possesses some unusual, and it may be, unique features, as regards its position or its potentiality. In such a case the court has to ascertain as best as possible from the materials before it what a willing vendor might reasonably expect to obtain from a willing purchaser, for the land in that particular position and with that particular potentiality. In the instant case also the acquired land possesses Some important features being located within the Corporation area and its potentiality for being developed as a residential area. In such a situation in determining its market value, where there was no sufficient direct evidence of market price, the Court was required to ascertain as best as possible from the materials before it, what a willing vendor would reasonably have expected to obtain from a willing purchaser from the land in this particular position and with this particular potentiality. It is an accepted principle that the land is not to be valued, merely by reference to the use to which it has been put at the time at which its value has to be determined, that is, the date of the notification under Section 4, but also by reference to the use to which it is reasonably capable of being put in the future. A land which is certainly or likely to be used in the immediate or reasonably near future for building purposes but which at the valuation date is waste land or has been used for agricultural purposes, the owner, however willing a vendor he is. is not likely to be content to sell the land for its value as waste or agricultural land as the case may be. The possibility of its being used for building purposes would have to be taken into account. However, it must not be valued as though it had already been built upon. It is the possibilities of the land and not its realised possibilities that must be taken into consideration, In other words, the value of the land should be deter- mined not necessarily according to its present disposition but laid out in its lucrative and advantageous way in which the owner can dispose it of. It is well established that the special, though natural, adaptability of the land for the purpose for which it is taken, is an important element to be taken into consideration in determining the market value of the land. In such a situation the land might have already been valued at more than its value as agricultural land, if it had any other capabilities. However, only reasonable and fair capabilities but not far-fetched and hypothetical capabilities are to be taken into consideration. In sum, in estimating the market value of the land all of the capabilities of the land, and all its legitimate purposes to which it may be applied or for which it may be adapted are to be considered and not merely the condition it is in and the use to which it is at the time applied by the owner. The proper principle is to ascertain the market value of the land taking into consideration the special value which ought to be attached to the special advantage possessed by the land; namely, its proximity to developed urbanised areas."

13. Later in point of time, in **Special Land Acquisition Officer Vs. M.F.Rafiq Sahib 2011 (7) SCC 714** it was held that once the land was situated close by the site of the residential locality, it should be considered for being used for non-agricultural purposes.

<u>Highway Advantages and Development Cut</u> :

14. Keeping in view the above-said factors in mind, this Court is

of the opinion that market value is to be assessed, accordingly, in view of the immense potentiality of the land, as such and development for urban area. The second factor that has to be kept in mind that the land not only was adjoining to towns of Chandigarh and Mohali and the factor that the Highways were snaking through in different directions, close to the land and therefore, the potentiality further increased. Keeping in view the law which has been laid down in **V.Hanumantha Reddy (Dead) by LRs Vs, Land Acquisition Officer & Mandal R.Officer (2003) 12 SCC 642**, **Nelson Fernandes & others Vs. Special Land Acquisition Officer, South Goa & others 2007 (9) SCC 447**, **Atma Singh Vs. State of Haryana 2008 (2) SCC 568** and **Haridwar Development Authority Vs. Raghubir Singh & others (2010) 11 SCC 581**, regarding the value of land next to Highways. Another factor which is to be noticed is that the law is clear that no development cut is to be applied where the land is acquired for the Railway tracks or for roads. Reference can be made to **C.R.Nagaraja Shetty Vs. Special Land Acquisition Officer & another 2009 (11) SCC 75** and **Himmat Singh Vs. State of Uttar Pradesh 2012 (10) SCC 392**.

15. In **C.R.Nagaraja Shetty** (supra), the development cut which had been put @ Rs.25/- per sq.feet, for the acquisition of land for widening of the National Highway, was set aside and thus, restoring the market value to Rs.75/- per sq.feet. Similarly, in **Himmat Singh** (supra), wherein land was acquired for construction of Broad-Gauge Railway line by the Central Railways, it was noticed that once the land was not

acquired for carving out residential and commercial activities, 25% deduction made by the Reference Court which had been approved by the High Court, was held not legally sustainable. Thus, if sale exemplars of reasonable size are available, this Court is of the opinion that no deduction is to be put on the said sale exemplars on the ground that there are no development charges to be incurred, as such.

Value of Adjoining Villages :

16. The third factor which is to be kept in mind while deciding the present set of cases is that principle of market value of adjoining villages is a factor which is to be applied in an acquisition like the present one whereby land is being acquired of 28 villages which is situated KM Stone 7.960 to KM 42, as shown in Mark K, the Index Plan of the Railways. As discussed above, the Railway line snakes at some portions, cutting through the planned sectors of Mohali and on the other occasion, is bringing up the southern boundary line of Mohali till Village Tole Majra at KM-25. Thereafter, the Railway line cuts next to the old town of Kharar earlier crossing the road going to Banur and thereafter to Sirhind, which leads to National Highway No.1, leading from Ambala to Amritsar. At Kharar, the Railway line turns and comes parallel to the Chandigarh-Ludhiana National Highway and therefore, is never far from the urban belts and Highways. In such circumstances, the principle which has been laid down by the Apex Court in **Union of India Vs. Harinderpal Singh** that the entire area is in a stage of development and the market value of similarly situated acquired land can be taken as a

comparable unit of the acquired land, forming the subject matter of acquisition.

17. The said principle was further followed in **Charan Dass (Dead) by LR Vs. Himachal Pradesh Housing & Urban Development Authority 2010 (13) SCC 398** wherein it was held that in the absence of sale deeds, the judgments and awards passed in respect of the acquisition made in the same village or in neighboring villages, can be accepted as a valid piece of evidence and provide a sound basis to work out the market value of the land after suitable adjustments. It was held that there is an element of guess work involved but it is to be judged by an objective standard. Relevant portion of the judgment reads as under:

> "10. Section 15 of the Act mandates that in determining the amount of compensation, the Collector shall be guided by the provisions contained in Sections 23 and 24 of the Act. Section 23 provides that in determining the amount of compensation to be awarded for the land acquired under the Act, the Court shall, inter alia, take into consideration the market value of the land at the date of the publication of the Notification under Section 4 of the Act. The Section contains the list of positive factors and Section 24 has a list of negatives, vis-a-vis the land under acquisition, to be taken into consideration while determining the amount of compensation. As already noted, the first step being the determination of the market value of the land on the date of publication of Notification under sub-Section (1) of Section 4 of the Act. One of the principles for determination of the market value of the acquired land would be the price that a willing purchaser would be willing to pay if it is sold in the open market at the time of issue of Notification under Section 4 of the Act. But

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

18. In **Premwati Vs. Union of India**, the market value which was awarded by the High Court by relying upon the adjoining villages was upheld on the same principles. Same was the position in **Ram Kanwar Vs. State of Haryana 2015 (1) RCR (Civil) 234**.

19. The element of guess work would be the common element, as such, after keeping in view all the objective elements, was also held in

Special Land Acquisition Officer Vs. Karigowda & others (2010) 5 SCC 708 wherein it was held that potentiality was directly relatable to the capacity of the acquired land and no remote factor has to be taken into consideration. It was held that if the potentiality of the two lands are same, then they have to be awarded similar compensation as the same would be just and fair.

20. In **Trishala Jain & another Vs. State of Uttaranchal & another 2011 (6) SCC 47** it was observed that while assessing the market value under the 1894 Act, it was not possible to fix it with the exactitude or arithmetic accuracy but the same has to be done by taking recourse to some guess work. Reliance was also placed upon the judgment passed in **Thakur Kamta Prasad Singh (Dead) through LRs v. State of Bihar (1976) 3 SCC 772**.

21. The issue of severance would also be discussed at a separate heading, at the end of the judgment, as this Court is of the opinion that sufficient evidence have come on record to show that the Railway line was at a considerable height from the adjoining land and had been elevated for smooth and fast running of engines and coaches. The heights are varying from village to village and at some point, it is 6-7 meters high whereas in other, it is down to 2-3 meters, from the adjoining land. Photographs have also been shown and exhibited as Ex.P64 to Ex.P66 in the case pertaining to Dharali, **L.R No.69 'Jagir Singh Vs. Punjab State'** The said facts have also been established by evidence by the witnesses of the Railways itself that there are under-passes provided

on the main road-ways and therefore, the said heading would be discussed on the principle of how much and how the landowners have been prejudiced on account of Railway track cutting through their land in question.

22. Thus, keeping in view the settled principles as discussed above, this Court would have to take on the mantle of assessing the market value of the villages in question objectively, keeping in view their location and the potentiality and the fact that there could be sale deeds available in one village showing better market value which may not be available in the adjoining village.

Facts of notification pertaining to (i) Village Jagatpura (Hadbast No.261)

Land measuring 17 kanals 3 marlas (around 2.16 acres) acquired of Village Jagatpura, District Ropar (now Mohali)	
24.06.2000	Section 4 Notification
09.04.2001	LAC vide award No.4, gave market value @ Rs.8 lakhs per acre
25.08.2012	Reference Court dismissed the claim of the landowners for the notification dated 24.06.2000

23. In the petitions filed under Section 18, the landowners claimed compensation @ Rs.50 lakhs per acre and also on account of severance, to the extent of 80% on account of loss of business of dairy farming etc. PW-1, Amar Singh, Draftsman, in affidavit, submitted the valuation report as Ex.P-3 and the site-plan as Ex.P-4. PW-2, Santosh Raj, Patwari submitted the Aks Sijra and deposed that the land of the claimants had been severed into pieces and there was no approach to the

remaining land. The level of the Railway track was 20 feet high. RW-1, Ashok Kumar deposed that there was one road under the bridge at the spot, as per plan exhibited as Ex.RW1/A and the height of the Railway track at the spot of Village Jagatpura was about 6-8 meters. He also admitted that the acquired land touched the boundary of UT Chandigarh and Kambali. He also admitted that for Village Manauli, the market value had been fixed @ Rs.17 lakhs per acre. He denied the fact that for Village Kambali, the market value had been assessed @ Rs.17 lakhs per acre, not having seen the judgment though the award of the Village Kambali was passed on 30.04.2007 and the witness was cross-examined on 20.08.2007.

24. A perusal of Ex.P-1, the site plan would also show that the land of Villages Jhumru and Burail of Chandigarh are depicted also adjoining Village Jagatpura and Sectors 49, 47 & 48 of Chandigarh were across the road of the acquired land and shown in red colour. Reference Court, however, on 25.08.2012 dismissed the five reference petitions inspite of these facts, on the ground that the claimants did not produce by way of secondary evidence that the market value had been fixed @ Rs.17 lakhs per acre. The lead case being **LR-RF-49** titled **Gurdev Singh Vs. Punjab State**. Ex.PW-5/A, the award of the Reference Court pertains to Village Mauli Baidwan whereby **LR-125** titled **Norata Singh & others Vs. State of Punjab** had been decided on 31.07.2006, for the notification dated 21.02.2000, whereby market value fixed @ Rs.17 lakhs per acre, as such, was distinguished on the ground that the landowners had not linked

the land of Mauli Baidwan to that of Jagatpura. Similarly, it was held that since there was an under pass provided, there was no loss of severance, as such.

25. Counsel for the landowners, accordingly, argued that the witness of the Railways himself had admitted that Rs.17 lakhs per acre for village Manauli had been awarded. Similarly on 30.04.2007 for Village Kambali and on 15.12.2008 for Village Kambala, which are adjoining villages same amount had been awarded. Therefore, the Reference Court was not justified in not enhancing the market value as the land of Jagatpura was more valuable, being situated closer to Chandigarh. Reliance was placed upon the judgment in **'Udho Dass Vs. State of Haryana', 2010 (8) SCR 900** that for the last 17 years, complete compensation had not been paid and there was immense potential and therefore, the Reference Court was not justified in dismissing the reference petitions. It was further argued that subsequently, for the notification dated 24.06.2000, in LR-107 titled Gurmukh Singh & others decided on 05.01.2019, Rs.17 lakhs per acre was awarded as market value, while placing reliance upon earlier awards, for the same village.

26. Counsel for the Railways has referred to sale deed Ex.R-2 dated 16.04.1999, which was brought on record in the case of **Jasmer Singh** pertaining to Village Kambali whereby 1 kanal 1 marla of land was sold for Rs.1.50 lakhs and the market value would work out to Rs.11,42,857/- per acre. It is, thus, submitted that even if 15% enhancement is given, the market value would work out to Rs.13,14,285/-

only per acre. The other appeals of Village Kambali, Kambala and Manauli being subject matter of the present set of appeals and the market value had not been finalized could not be relied upon.

27. The reasoning by the Reference Court is apparently flawed to the extent whereby the reference petitions were dismissed inspite of sufficient material on record to show that the landowners were entitled for the enhancement. As noticed, specific plea of the landowners was that the acquired land touched the boundaries of UT Chandigarh and it is the first village adjoining falling in the State of Punjab, which has been acquired for the purpose of Railway line. The witness of the Railways himself had admitted that for Village Manauli, the market value had been fixed @ Rs.17 lakhs per acre. For the next village in question, i.e., Kambali, which was on the southern side of the present village Jagatpura, land value had already been assessed @ Rs.17 lakhs per acre on 30.04.2007. The site-plan (Ex.P-1) which was on record, was not examined in complete earnestness, to see the location of the land and its potentiality, as such, which showed that across the road, Sectors 47 & 48 of U.T.Chandigarh were situated. Up north was land of Village Jhumru and Burail falling in Chandigarh. It is not disputed that sectors of U.T.Chandigarh are fully developed sectors, having all basic amenities of sewerage, electricity and roads and therefore, for the Reference Court to ignore the location of the land was not justified.

28. Ex.PW-5/A was also on record wherein Rs.17 lakhs had been awarded in **Norata Singh's case** (supra) for the land which had been

developed of Sectors 76 to 80 in the urban estate of SAS Nagar (Mohali) which had been acquired from Village Mauli Baidwan, vide notification dated 21.02.2000, which is 4 months prior to the Section 4 notification dated 24.06.2000, which is much further south. The site-plan had been duly proved as Ex.P-4, by summoning the Draftsman-Amar Singh, who stated that he had visited the site and prepared the rough notes. Even the witness-RW-1 admitted that the acquired land of Village Jagatpura touched the boundary of U.T.Chandigarh and that Village Manauli had received Rs.17 lakhs per acre. It is not disputed that for the land falling in Mauli Baidwan, this Court, in **RFA No.3004 of 2006 'Surjit Singh Vs. State of Punjab and another'** enhanced the compensation to Rs.19,85,700/- per acre for the notification dated 21.02.2000. The same has further been enhanced in **CA-331-2014** titled ***Paramjit Panag & others Vs. State of Punjab,*** decided on 15.01.2014, to Rs.21,85,700/- per acre. The assessment of market value has been done on the basis of Exs.P-7 & P-8, 2 sale deeds dated 14.08.1996 of one acre of land sold for Rs.20 lakhs and another sale deed (Ex.P-8) dated 22.07.1996 of 10 kanals 1 marla of land of village Sohana, sold for Rs.20 lakhs also. The average of the sale deeds was earlier worked out to Rs.17,77,780/- and if an cumulative increase @ 12% for the intervening period is to be given, for 3 years 10 months, the market value would come to Rs.27,47,418/-. It is to be noted that the said plots are of substantial size and therefore, since the land acquired is merely 17 kanals 3 marlas in the present case, no cut is liable to be imposed, either on account of smallness or on account of development, in the present facts and circumstances, as discussed in para No.14 & 15.

29. Another way of assessing the market value would also be as pointed out by counsel for the landowners by keeping in view the market value assessed for the adjoining villages i.e., Jhumru and Burail, situated in U.T. Chandigarh. This Court in **RFA-2400-2005 titled** ***Dharambir Singh & others Vs. Union of India*****,** decided on 04.05.2009, whereby land had been acquired for the same purpose, i.e., construction of the Chandigarh-Ludhiana Broad Gauge Railway Line, for the notification dated 22.01.2001 had enhanced the compensation to Rs.22,51,600/- per acre, on the strength of an earlier acquisition dated 20.08.1998, wherein the market value had been fixed @ Rs.17,32,000/-, following the principle of cumulative increase of an earlier award. The Reference Court at Chandigarh had assessed the market value @ Rs.17,46,000/- per acre, on the basis of an earlier award rendered whereby land had been acquired in the same villages on 03.07.1997. However, once there is the benefit of sale exemplar in the close vicinity and keeping in view the fact that the land of Village Sohana is further away from Chandigarh and the Apex Court has enhanced the compensation in **Paramjit Panag's case (supra),** this Court is of the opinion that the market value is liable to be fixed @ Rs.27,47,418/- per acre, on the basis of the cumulative increase from the year 1996, alongwith all statutory benefits.

<u>Facts of notification pertaining to Village Kambali (Hadbast No.225)</u>

Land measuring 45 kanals (around 5.6 acres acquired of Village Kambali, District Ropar (now Mohali)	
24.06.2000	Section 4 Notification
09.04.2001	LAC vide award No.6, gave market value @ Rs.8 lakhs per acre.
30.04.2007	Reference Court awarded Rs.17 lakhs per acre + 50% severance charge.

Land measuring 11 kanals 3 marlas (around 1.4 acres) acquired of Village Kambali, District Ropar (now Mohali)	
06.02.2001	Section 4 Notification
19.03.2002	LAC vide award No.17, gave market value @ Rs.8 lakhs per acre.
30.04.2007	Reference Court awarded Rs.17 lakhs per acre + 50% severance charge.

30. In the petitions filed under Section 18, the landowners took the plea that they were doing dairy farming and running flour mill in the acquired land but they had to close their business. The land had good potential, being situated adjacent to Chandigarh and Mohali town and was being sold @ Rs.5000-20,000/- per sq.yard and the market price was not less than Rs.1 crore per acre. Severance was also pleaded as the land had fallen on both sides of the Railway line and the applicant claimed 80% severance charges. Tej Ram, appeared as PW-1, in support of his case and PW-2, Daljit Singh, Patwari was examined, to show the location of the severed land, who produced the Aks Sijra (Ex.P-1). He deposed that on the one side was Chandigarh and one side was Phase XI and another side was Phase IX. City Mohali was extending towards the acquired land. Sector 48 of Chandigarh was also abutting the acquired

land. Due to the acquisition of the land, the land of the residents of the village had been divided into 2 portions. Site-plans of claimants showing division of properties were placed on record as Exs.P-2 to P-14. It was stated that the Railway line was 24 feet higher than the level of the remaining land of the claimants and there was no passage going to the remaining acquired land. In cross-examination, the width of the acquired property was stated to be 10 to 16 gathas (55 to 88 feet). On the top, the width of the Railway line was stated to be 10 to 20 feet. PW-3, Chuhar Singh, in cross-examination, also stated that before the acquisition, land was being cultivated but after the acquisition of the land, the remaining land had become useless and there was no outlet of water. He denied the suggestion that the Railway Department had left passage adjoining to Railway line on both sides. It was denied that pipeline was laid for outlet of the water by Railway Department and that it had left passages to the remaining land and that adequate compensation had been awarded. PW-4, Gurmail Singh, also stated and was cross-examined on the same line.

31. RW-1, Jaspreet Singh, Senior Assistant from the Office of Tehsildar, produced the award of the Collector and the rate fixed (Ex.R-2) and as per the Committee (Ex.R-3). He admitted that he had not seen Village Kambali and had also not seen the Railway line connecting Mohali. He did not know the width of the Railway track and neither he had seen the villages through which the Railway line passed. He stated that land of 14 villages had been acquired for installing the Railway line. He did not know if the land abutted Mohali or Chandigarh and also could

not state whether the land of Kambali was more valuable than the other villages, on account of its location.

32. The Reference Court, vide its award dated 30.04.2007, while deciding 18 references, lead case of which was **LR-153** titled **Chuhar Singh Vs. Punjab State**, awarded Rs.17,00,000/- per acre plus 50% severance charges, keeping in view the notification dated 21.02.2000, whereby land was acquired of Village Sohana, on the basis of an award titled **Surjit Singh Vs. State of Punjab** (Ex.P-30) wherein land had been acquired for setting up of the Urban Estate. The sale exemplars (Exs.P-26, P-27 & P-29) were not discussed, which were pertaining to Villages Sohana and Kambala. Ex.P-28 was rejected on the ground that it was only of 1 marla and on account of being post-notification, while dealing with the notification dated 24.06.2000. The table of sale instances read as under:

Ex./date	**Village**	**Area**	**Sale consideration (in Rs.)**	**Rate/acre (in Rs.)**
P-26/14.08.1996	Sohana	1 acre	20,00,000/-	20,00,000/-
P-27/22.07.1996	Sohana	10 kanals 10 marlas	20,00,000/-	19,00,000/-
P-28/05/10.10.2000	Kambala	1 marla	40,000/-	64,00,000/-
P-29/26.07.2000	Kambala	1.5 marlas	30,000/-	32,00,000/-

33. It is pertinent to notice that Exs.P-28 & P-29 are very small pieces of land, measuring only 25 to 35 sq.yards and are also post notification qua the notification dated 24.06.2000 and only can be considered for the purposes of the notification dated 06.02.2001.

34. However, 50% was granted as severance charges, keeping in view the height of the track and the statement of RW-2, as discussed

above. Contention that 30 meters wide stretches on both sides of the tracks were left, was also rightly rejected on the ground that it was the property of the Railways and that did not connect the claimants with the left out land. Site-plan was also examined that there was an under-bridge at one place and culverts were only for ensuring that water from one side could go to the other side and was for preventing any harm to the Railway track. The same could not be alternative for public passages as energy and time would have to be spent for reaching the land lying across the Railway line, which could not be calculated in man-hours. The sale deeds relied upon by the Railways (Exs.R-6 to R-14) were rightly rejected on account of the fact that they were of villages Raipur, Maujpur, Durali and Bole Majra and there was nothing to show that they adjoined the village in question. Reference was also made to the judgment of the Division Bench in **Harchal Singh Vs. State of Punjab 1991 PLJ 20**.

35. Counsel for the landowners is well justified to submit that there was sufficient evidence, as on the one side of the acquired land was U.T.Chandigarh, as per Ex.P-1. The site-plan produced by the Railway official, the Patwari showed that Sector 48 was also abutting the acquired land. The official of the Railways, Jaspreet Singh, Senior Assistant had not seen the village and therefore, was not in a position to deny the location of the land and whether the land of Village Kambala was more valuable than the land of Village Mauli Baidwan. It is also a matter of record that LAC had also awarded a sum of Rs.8 lakhs for Village Kambala, which is also equivalent to Village Jagatpura. Therefore, on

account of their close location, the market value is liable to be enhanced from Rs.17 lakhs per acre.

36. The sale deeds (Exs.P-26 & P-27) have already been discussed in detail regarding Village Jagatpura and the enhancement has, accordingly, been granted on the basis of the difference of time-period of 3 years 10 months. Exs.P-28 & P-29 being miniscule areas of land are not liable to be taken into consideration for assessing the market value which have been sold for commercial purpose apart from the fact that they have been executed after the notification dated 24.06.2000, though they may not be post-notification for the second set of acquisition dated 06.02.2001. The fall-back on the lands of Sohana would also be justified, in view of the observation of the Division Bench in **Harchal Singh's case** (supra) regarding the closeness of Villages Kambali and Sohana, vide earlier notification of 1981, which have been reproduced in paragraph No.37 the discussion pertaining to the next village, i.e., Kambala. The Division Bench, on an earlier occasion, had granted the same amount of compensation for Villages Kambali, Kambala, Mataur and Sohana and thus, there would be no justifiable reason as such, to take a different view and this Court is bound by the said observations. Resultantly, this Court is of the opinion that same amount of compensation is liable to be awarded to the landowners i.e. Rs.27,47,418/- per acre alongwith all statutory benefits, as has been awarded for Village Jagatpura, for the notification dated 24.06.2000. Thus, keeping in view the land acquired is only 45 kanals, no cut is liable

to be applied, in view of the reasoning given in para Nos.14 & 15 However, for the notification dated 06.02.2001, the added benefit of 7 months is liable to be granted @ 12% annually in view of the principle laid down in **'Oil and Natural Gas Corporation Limited Vs. Rameshbhai Jivanbhai Patel and another' 2008 (14) SCC 745** which comes to Rs.1,92,319/-. Resultantly, the market value, for the notification dated 06.02.2001 would work out to Rs.29,39,737/- per acre alongwith all statutory benefits.

<u>Facts of notification pertaining to (iii) Village Kambala (Hadbast No.226)</u>

Land measuring 258 kanals 8 marlas (around 32.25 acres) acquired of Village Kambala, District Ropar (now Mohali/SAS Nagar)	
16.06.1999	Section 4 Notification
14.06.2000	Section 6 Notification
04.06.2001	LAC gave market value @ Rs.10 lakhs per acre.
15.12.2008	Reference Court enhanced the market value to Rs.17 lakhs per acre plus 20% severance charges.
30.11.2016	Reference Court fixed market value at Rs.1,70,54,630/- per acre, on the basis of judgment passed in **RFA No.3161 of 2009 Jasmer Singh (supra).**

37. The landowners, being aggrieved, filed petitions under Section 18 of the Act, for redetermination of the market value of the land on the ground that it was being acquired for the Railway Station and the railway line. The same was situated within the vicinity of the Industrial Area Phase-IX, SAS Nagar and having a common boundary. In January, 1999, land had been sold in Industrial Area in open auction, for showrooms and booths and average auction price was Rs.4,26,59,482/-.

Resultantly, by applying a 1/3rd deduction, the market value was claimed to be Rs.2,84,39,655/- per acre. Dr.Jasmer Singh also claimed that there were 6 rooms of 10'x10' dimension falling in Khasra No.14/33/1, which was rented out and the value of the said rooms standing in 5 marlas was Rs.11 lakhs. Similarly, in Khasra No.14/27, 14 marlas of land was left unacquired towards the Industrial Area and there was a building on it which had become a Cul-desac as there was no path left for it and it was useless. On the other side of the Railway line, land measuring 3 kanals 17 marlas in khasra No.14/28/1/1 was left unacquired. Similar piece of land measuring 3 kanals 6 marlas was also left unacquired between the Railway line and Swaraj Engine Ltd. Resultantly, compensation @ 50% was sought for on account of severance apart from loss of privacy of the unacquired building on both sides of the Railway line. Damages were also sought on account of the Railway line and also on account of loss of the fruit trees.

38. As many as 11 witnesses were examined on behalf of the landowners. On the basis of the evidence on record, the Reference Court, while deciding 20 cases, the lead case being **LR-173** titled **Jasmer Singh Vs. Punjab State** on 15.12.2008, enhanced the compensation to Rs.17,00,000/- per acre, on account of the fact that there were 3 awards (Exs.PA, PB & PX), pertaining to Village Sohana, which was in the close vicinity. Same market value, vide award dated 14.11.2006 (Ex.PA), in Land Reference titled **Smt.Gurmail Kaur Vs. State of Punjab** for the notification dated 21.02.2000 had been fixed @ Rs.17,00,000/- per acre

for the land of Village Sohana, which was being acquired for developing Sectors 76 to 80. Similarly, vide award dated 04.05.2006 (Ex.PB), in the Land Reference of **Surjit Singh (supra)**, for the notification dated 21.02.2000, for Village Sohana, the purpose was for setting up of residential Urban Estate, land had been acquired and market value had been fixed @ Rs.17,00,000/- per acre. Similarly, Ex.PX award dated 30.04.2007 in Land Reference titled **Chuhar Singh** (supra) was taken into consideration, wherein for the notification dated 24.06.2000, for the adjoining Village Kambali, market value had been assessed @ Rs.17 lakhs per acre. The same was kept in mind in view of the judgment of the Division Bench in **Harchal Singh's case** (supra), whereby the location of 4 villages namely, Kambali, Kambala, Mataur and Sohana was noted, which land was acquired vide notification dated 04.02.1981 and it had been held that they would have the same market value. Relevant portion of the judgment reads as under:

> "The State of Punjab acquired huge chunk of land in villages Kambali and Kambala for extension of industrial focal point Mohali (S.A.S. Nagar) which is on the outskirts of Union Territory of Chandigarh vide notification under Section 4 of the Land Acquisition Act (for short the 'Act') dated 4.2.1981. In village Mataur and Sohana the State Government vide notification under Section 4 of the Act dated 20.11.1980 acquired another chunk of huge area for residential-cum-commercial urban estate Mohali. The Land Acquisition Collector for the acquisition of the first two aforesaid villages namely Kambali and Kambala gave his award dated 22.12.1983 fixing compensation at different rates according to

the agricultural quality vary from Rs. 85,000/- per acre to Rs. 7,500/- per acre and for the remaining two villages namely Mataur and Sohana gave award on 12.7.1984 at rates varying from Rs. 34,000/- per acre to Rs. 10,000/- per acre.

xxxx xxxx xxxx

7. The four villages are in the near vicinity of each other and are part of S.A.S. Nagar/Mohali and this town is adjoining Union Territory of Chandigarh on one side and, therefore, has acquired potential for urbanisation. In Mohali itself lot of construction had come up before the acquisitions in dispute and therefore contiguous villages on this ground that also gained potential for urbanisation. Once urbanisation has come up and the acquired land has gained potential for that purpose it will be wholly wrong to classify the land on the basis of agricultural quality. Therefore, we are of the view that the entire land including those which are Gair Mumkin and Banjar Qadim cannot be kept in a separate category for fixing price. However, if it is found that the land is in depression because of Chhappar (Pond) or because of Khatan, lesser price may have to be fixed.

xxxx xxxx xxxx

9. For some land situated in village Kambala the learned Single Judge has allowed compensation at the rate of Rs. 1,16,700/- per acre on the ground that it was Gair Mumkin and Banjar Qadim. It is true that the Collector had made these two categories but once we have come to the conclusion that the acquired land had potential for urbanisation, the fixing of market price on the basis of agricultural quality loses its significance. Accordingly for Gair Mumkin and Banjar Qadim land situated in village Kambala we fix compensation at the rate of Rs. 1,75,000/- per acre and modify the judgment of the learned Single Judge accordingly.

10. In view of the above, for all qualities of land other than land in Chhapar (Pond) or in Khatan (in depression) in

villages Kambala, Mataur and Sohana we fix compensation at the rate of Rs.1,75,000/- per acre and the award of the District Judge or the judgment of the learned Single Judge, as the case may be, stands modified accordingly."

39. 20% severance was also granted for land shown in green colour in the site-plan (Ex.PW2/A) apart from amount of Rs.1263/- and Rs.2841/- for the tubewell/structure in the land of Chhajju Ram and Babu Singh. The claim of Jasmer Singh for constructed area in which he was stated to be running a hospital, was rejected on the ground that there was no well/structure and neither any structure expert had been examined to assess its value. The Income Tax returns exhibited had also been filed in August, 1999 and 2000, after the publication of the notification. No photograph of the building had been placed on record, and therefore, Rs.9 lakhs by the LAC given in respect of the building was held to be sufficient.

40. Application bearing CM-10868-CI-2018 in RFA-3161-2009 was also filed by applicant-Jasmer Singh, for placing on record documents as Annexures A-1 to A-5 and A-6 (Colly.) as additional evidence. Notice was issued in the said application on 15.11.2018 but no reply has been filed, though the same has been opposed verbally.

41. Mr. Swaich has placed reliance upon Ex. P-4, the auction instance dated 15.01.1999, whereby plot measuring 16'.6" x 82'.6" in Phase IX, Industrial Focal Point, SAS Nagar was sold @ Rs.13,39,000/- (per acre price comes to Rs.4,27,95,280/-), which is a site of a built-up showroom and stated to be commercial SCO No.13. Reliance was

placed upon the communication dated 25.09.2017, to submit that the record was not available, as per information received from the Punjab Small Industries & Export Corporation Ltd. but the allottee had made the entire payment. The certificate of allotment and no dues stood issued on 14.01.2004. Similarly, reliance was placed upon similar auction held on the same date, for SCO No.31 of the same area at the same market value, to show that allotment had been done on free-hold basis. Thereafter, Deed of Conveyance had also been executed on 28.05.2009 between the Corporation and the auction purchaser. It was, accordingly, argued that the Reference Court was not justified in rejecting the said sale exemplar. Even if a 75% cut was put on the same, the market value of land worked out to Rs.1,06,98,820/- per acre. Reliance was placed upon the judgment of the Apex Court in **Major General Kapil Mehra Vs. Union of India 2015 (2) SCC 262**. It was further argued that the Apex Court, in its remand order, also noticed that the market value of Kambala was also to be more than other villages. It was, accordingly, argued that the Industrial Area had already been developed since the year 1981 and therefore, once the acquired land was situated in close vicinity of the developed area, the benefit of auction sales also should have been granted. Reliance was also placed upon the judgments of the Apex Court in **Raj Kumar & others Vs. Haryana State & others (2007) 7 SCC 609** and **Karnataka Housing Board Vs. Land Acquisition Collector, Gadag & others 2011 (2) SCC 246**.

42. Similarly, claim for compensation for hospital building was

sought against the amount of Rs.9 lakhs which had been awarded. Reliance was also placed upon the site-plan (Annexure A-5) produced in additional evidence, to show the location of the acquired land shown in blue colour and the severed land in green colour, falling on the eastern and western sides of the track, measuring 3 kanals 17 marlas and 14 marlas, respectively, for which, severance was prayed for, as it had become useless in the absence of any approach. It was, thus, pointed out that the potential for development was immense. It was further argued that in the case of **Surjit Singh (supra**) the amount of compensation for Village Sohana had been increased to Rs.19,85,700/- per acre, for the notification dated 21.02.2000, which was the basis for awarding Rs.17 lakhs. The Apex Court in ***Paramjit Panag*** (supra), had further enhanced the market value by Rs.2 lakhs to Rs.21,85,700/- per acre. It was submitted in the alternative that it would be a relevant piece of evidence, as such, since the same arose out of the award (Ex.PB) and there is only a difference of 4 months between the 2 notifications and the market value could not be less than what has been awarded for Village Sohana.

43. Mr. Puneet Jindal, Sr. Advocate, appearing for the Railways, while referring to the statement of PW-1, Jasmer Singh and the cross-examination, submitted that the plans were not sanctioned of the building in question. Therefore, the claim for compensation on account of the building, over and above what had been given, was not liable to be granted. The building had been regularized thereafter and for the unauthorized construction, the landowners could not benefit. It is

submitted that the sale deed dated 29.12.1997 (Ex.P-3) of 2 marlas of land, which had been sold for Rs.20,000/- and of 9 marlas of land sold for Rs.94,000/-, on 28.07.1997 (Ex.P-4) which had been exhibited in **LR No.62** (**RFA-3870-2009** titled **Dy. CE Vs. Dhanna Singh**), even if taken into consideration, the market value would work out to Rs.16 lakhs per acre. A cut had to be put and thus, there was no scope for enhancement, on account of smallness, against a sum of Rs.17 lakhs, which had been awarded by the Reference Court. Similarly, reliance was placed upon sale deed dated 26.04.1999 (Ex.R-2 in the main case) for land measuring 1 kanal 1 marla of Village Jagatpura, to submit it was to be more valuable, which had been sold for Rs.1.5 lakhs and the market value works out to Rs.11,42,857/- and the said village was better located, being closer to Chandigarh. It is submitted that for Villages Jhumru and Burail, which were in Chandigarh, wherein by the notification dated 02.03.2001, for the land acquired for the same purpose, i.e., for construction of the Chandigarh-Ludhiana Broad Gauge Railway Line, a sum of Rs.22,51,600/- per acre had been awarded in **Dharambir Singh** (supra). It was submitted that the basis of the said assessment was the notification dated 20.08.1998 whereby market value had been fixed @ Rs.17,32,000/- per acre. While referring to the site-plan, it was submitted that higher compensation could not be awarded for the villages beyond that point as claimed for.

44. The judgment of **Major General Kapil Mehra** (supra) was sought to be distinguished on account of the fact that it was a case of an

auction sale and therefore, it was dangerous to rely upon the same, in view of the settled principles of law. It was sought to be distinguished on the ground that it was a case relating to lease deed of residential areas which had similar advantages, which is not the case herein. The land was not situated in developed portion and also it was agricultural land. It was argued that on earlier occasion, the same had been relied upon and the auction sale had been made the basis for the enhancement which was not approved by the Apex Court, leading to the remand of the cases.

45. Similarly, the question of severance was also argued on the ground that benefit of severance was only to be given where it is pleaded and proved and not in all places @ 50%. Reliance was placed upon the judgment passed in **RFA-5579-2010** titled ***Swaran Singh Vs. State of Punjab & others****,* decided on 11.07.2019, which is also pertaining to the acquisition of the land for construction of Chandigarh-Ludhiana Broad Gauge Railway Line for the adjoining District Fatehgarh Sahib wherein 30% severance was granted. Reliance was placed upon the judgment of the Apex Court in **State of Punjab Vs. Amarjit Singh 2011 (4) SCC 734**, to contend that on the severance amount, the benefit of solatium and the statutory amount, under Sections 23(1A) and 23(2) of the Act was not liable to be granted.

46. The argument of Mr.Swaich, to claim enhancement on the basis of Ex.P-4, the auction instance dated 15.01.1999 and the fall-back on the additional evidence that similarly situated properties had been auctioned for the same price on 15.01.1999 and therefore, the same

should be the basis for fixing the market value, is not liable to be accepted. As noticed above, the said example is of a developed plot measuring 16.6 x 82.6 feet in a developed area of SAS Nagar (Mohali), the Industrial Focal Point, Phase IX, being a commercial site. The land which is being acquired measures around 32.25 acres. It is settled principle that auction instances do not depict the correct market value, which is to be assessed. The auction bidders always have a sense of competition amongst themselves since and earnestness to buy the property on which account they would be interested to pay much more than what the normal market value would be.

47. In **Bhim Sain Vs. State of Haryana' (2003) 10 SCC 529**, the Apex Court held that the prices fetched after full development could not be the basis for fixing compensation in respect of land which was agricultural, which would directly be applicable in the present case. This Court in '**Tara Devi Vs. State of Haryana and another 2005 (3) PLR 606** also rejected the argument that plots sold by HUDA in Panchkula after development could be the basis for assessing the market value. The relevant paragraph of the said judgment reads as under:-

> "15. The appellants have placed reliance upon the sale of plots by HUDA at the rate of Rs. 1,172/- per sq. yard in Sector 25 in the month of January, 1994. It has been contended that the aforesaid price should be taken into consideration for assessing the market value in the present proceedings. However, in my considered view, the aforesaid sale price of the plots of HUDA cannot be taken to be reflecting the market value of the acquired land at the time of

> notification inasmuch as the aforesaid plots were sold by HUDA after developing the same externally as well as internally. Various amenities have been provided. Roads have been laid down. Parks have been developed. In the face of the other material available on the record the said sale price could not be taken into consideration for determining the market value."

48. In **Lal Chand Vs. Union of India 2009 (15) SCC 769,** the Apex Court also held that it was not safe or advisable to rely upon the allotments rates/auction rate in regard to the plots allotted by DDA in a developed lay out. In **'Ranvir Singh and others Vs. Union of India 2005 (12) SCC 59**, the brochures of the Delhi Development Authority were not accepted upon which the High Court had placed reliance to fix the market value. Similar was the position in **'Raj Kumar and others Vs. Haryana State and others' 2007 (7) SCC 609**. In **K.R.Mohan Reddy Vs. M/s Net Work Inc Rep. th. M.D. 2007 (10) SCR 872** and **'Karnataka Housing Board Vs. Land Acquisition Officer, Gadag and others' 2011 (2) SCC 246** the said principle was reiterated.

49. The said judgments had been relied upon by this Court in **RFA-2373-2010** titled **Madan Pal (III) Vs. State of Haryana & another***,* decided on 09.03.2018, in the cases pertaining to the IMT Manesar at Gurugram. The said principle was upheld in **'Wazir & another Vs. State of Haryana', 2019 (1) RCR (Civil) 702.**

50. Another aspect which is to be seen was that on an earlier occasion, this Court had already relied upon the said sale instances of auction to fix the market value on the basis of the allotment letter and the

said judgment was upset and the matters have been remanded, for examining the other evidence which was available. It was also observed that the said exhibit was not of much relevance which was developed and was of very small plot. Once the Apex Court had also not approved the said sale exemplar to be made basis, it would not lie in the mouth of the landowners to again fall-back on the same having not been able to defend the earlier fixation of the market price on the said basis.

51. The judgment passed in **Major General Kapil Mehra** (supra) is also liable to be distinguished that since the Apex Court had relied upon the lease deeds of the residential areas and the land was also being developed for residential purposes. In the present case, it is not disputed that the land is situated beyond the developed area as would be clear from the site-plan also and though in close vicinity of the Industrial Area, Mohali. A perusal of the site-plan (Ex.A-5) which has been placed on record vide the application for additional evidence, would also go on to show that the land is situated close to the industrial units of Philips India, Punjab Tractors, Hill Top Ltd. and the godowns of the Central Warehousing Corporation. Abadi area of village Kambala, as such, is situated beyond the Railway track and the acquired land is between the abadi area and the Industrial Area falling in Phase IX of Mohali. The potentiality of the land, thus, cannot be disputed as the area has been developed for industrial purposes by the Government developers-PUDA/GMADA. In such circumstances, the claim of the Railways that the market value is liable to be reduced in this set of appeals, is not liable

to be accepted. The Division Bench in **Harchal Singh's case** (supra) as reproduced above, has also noticed the similarity of the 4 villages and therefore, the Reference Court is well justified to fall-back on the market value fixed for the land acquired of Village Sohana, the market value of which has been enhanced to Rs.21,85,700/- per acre. Since the notification is dated 16.06.1999, the fall-back is made on the sale deeds of Sohana of July & August, 1996 and the averaging of which would work out to Rs.17,77,780/-. The enhancement for 3 years cumulatively @ 12% would take the market value to Rs.24,97,653/- per acre.

52. It is also pertinent to notice that the LAC has granted Rs.10 lakhs per acre for the notification which was a year earlier in comparison to Rs.8 lakhs given for Jagatpura & Kambali and therefore, has recognized the fact that the market value for Kambala is more in view of its peculiar location, being close to the developed Industrial Area. As noticed, the acquisition had taken place way-back in 1981, for the development of the Industrial Area when the land was acquired and thereafter, on account of the said fact, the market value of the area would be correspondingly higher. The claim of the counsel for the Railways that the land would only be valued @ Rs.16 lakhs per acre, on the basis of the sale deeds (Ex.P-3 & P-4), is not liable to be accepted as those sale deeds are also miniscule in nature and cannot be made basis for calculating the market value. Therefore, this Court is of the opinion that in such facts and circumstances, it would be just and appropriate if the same market value is granted to Village Kambala as has been granted to

the landowners of Village Jagatpura and Kambali, i.e., @ Rs.27,47,418/- per acre, though the acquisition is a year earlier in point of time. Resultantly, the appeals filed by the landowners are allowed, whereas those of the Railways are dismissed except **RFA No.429 of 2018 'Union of India and another Vs. Shiv Charan Singh and others'** and the Award dated 30.11.2016 is, accordingly, modified.

53. Coming to the claim of Dr.Jasmer Singh in RFA-3161-2009, for the structures and the fact that it was being used for hospital. The defence of the Railways is that the building was not sanctioned and no permission was taken at the initial stage but the building was regularized later, which would be clear from the statement of PW-1, would not mean that the owner was not entitled for the cost of the super-structures. It is not disputed that the LAC has given Rs.9 lakhs for the hospital building. Chajju Ram had also examined PW-2-Amar Singh, Draftsman, regarding the tubewells installed. The said landowners have only got Rs.12,631/- and Rs.12,416/-. Similarly, Jasmer Singh also had claimed the value of the fruit bearing trees @ Rs.1,25,000/-. but had only been granted Rs.1,07,045/-. He examined Jasbir Singh, Deputy Director (Retd.) Horticulture Department, who submitted his report as Ex.PW11/A and PW11/B. The Collector, vide award dated 05.12.2001, noticed that the appellant-Jasmer Singh was stated to be running a hospital for heart ailment and therefore, awarded the said amount. Resultantly, apart from awarding a sum of Rs.9 lakhs, he had also recommended that the appellant be allowed to construct hospital building in one piece of land

which was left unacquired. He similarly noticed that the tubewells of Gurdev Singh and Gurnam Singh were left unacquired with small chunk of land and the electricity connection was to be provided. Relevant portions read as under:

> "Dr.Jasmer Singh claimed that he is running a hospital "Amrit Heart & General Hospital" in Khasra no 14//27 measuring 3K 6M since 1984. All the land owners mentioned in Appendix A have confirmed the existence of hospital on above said land and Dr. Jasmer Singh has attached certificate from sarpanch & Nambardar of V. Kambala in this respect. In Jamabandi also there is entry of gair-mumkin makaan on this khasra no 14//27 measuring 2K. But out of this 2K only 1K 6M is being acquired with hospital building and other structures on it. He has demanded that the building and structures of the hospital should be evaluated as one unit as land under it has commercial value. He has claimed that the hospital abuts the main road and main gate of hospital opens on the main road and the plot is fully developed. He claims that there is fall of income during current year due to hospital building being acquired. He is justified for asking for valuation of hospital as one unit because his demand falls under the preview of section 23 of Land Acquisition Act 1894. But he has demanded a very high and unreasonable price of Rs.1,25,00,000/- [rupees one crore twenty five lac only]. More over the building is situated on 1K 6M land only. After considering all aspects and claims put by him I am of the opinion that Rs.9,00,000/- [rupees nine lac only] is the right price for said hospital unit on 1K 6M land and same is therefore, allowed accordingly. This price makes up for severance charges, injurious affect and other damages claimed by him. Dr. Jasmer Singh will not be entitled to get separate compensation for land measuring 1k 6m of khasra no 14//27,

and building as assessed separately. Dr. Jasmer Singh has also demanded that he should be allowed to construct his hospital building on land left unacquired. His demand is genuine and he deserves to be compensated in this way for loss of livelihood. Thus I recommend that he be allowed to construct hospital building on piece of land left unacquired and electric connection be provided to that building on priority basis.

Xxxx xxxx xxxx

PROVISION OF PERMISSION FOR ELECTRIC CONNECTIONS

Hospital building of Dr.Jasmer Singh's Amrit Heart & General Hospital is being acquired. He will have to construct a new building for hospital on his adjoining land. He should be given permission to construct new building and should be provided electric connection on priority for the same. The farmers whose tube wells have been acquired will have to dig tube wells in the land left unacquired. Thus, these farmers should be provided with electric connections for new tube wells. The tube well of Sh. Gurdev Singh & Gurnam Singh has been left unacquired with small chunk of land and has become useless whereas their big piece has been acquired and other piece is left unacquired on the other side of railway station. They will have to install new tube wells for irrigation of land left unacquired on other side of railway station and will need electric connection for the same. Their old existing connections be transferred to new site."

54. A perusal of the record would also go on to show that the appellant-Jasmer Singh had placed on record the Income-Tax Returns as Ex.P1, for the assessment year 1999-2000 and 2000-2001, wherein he has mentioned that there was a business in the form of a clinic. The balance-sheets were also exhibited to show that he was running a unit at Kambala from where he was drawing professional income to the tune of

Rs.2,00,150/- vide return dated 31.03.1999 and similarly, for the year ending 31.03.2000, he had shown Rs.1,74,200/- as income shown for the unit at Mohali. Therefore, the Reference Court was not justified in brushing aside his claim for the structures and on account of the loss due to the change of venue of hospital. In affidavit, he has also pleaded that his son, Dr.Jasdeep Parkash Singh and daughter were also specialists working in the hospital. Resultantly, this Court is of the opinion that the award of compensation for the structures in Jasmer Singh's case for the hospital built in 3 kanals 6 marlas of land, is liable to be enhanced and doubled to Rs.18 lakhs. Similarly, the claim of the tubewell of Chajju Ram is liable to be increased to Rs.50,000/-, as shifting of electricity connection is one aspect and boring of new tubewell is another aspect. The estimate of Amar Singh, valuer, which has been placed on record as Ex.PW1/2 is Rs.65,000/- for the tubewell and for the construction and keeping in view the fact that such claims are liable to be exaggerated only Rs.50,000/- is awarded.

55. The claim for further enhancement for fruit trees as such is liable to be denied as admittedly Jasmer Singh had been granted Rs.1,07,045/- as noticed by the Reference Court. It has also been recorded that the expert had not given prior notice to visit to the respondents and therefore reliance has been placed upon the judgment passed in **'Kalawati Vs. State of Haryana' 1996 (2) PLR 471**, which factual aspect counsel for the appellants as such had not refuted.

<u>Facts of notification pertaining to (iv) Village Chilla (Hadbast No.3)</u>

Land measuring 59 bighas 13 biswas, acquired of Village Chilla, District Ropar (now Mohali/SAS Nagar)	
24.06.2000	Section 4 Notification
09.04.2001	LAC gave market value @ Rs.6 lakhs per acre by Award No.5.
09.01.2009	Reference Court enhanced the market value to Rs.17 lakhs per acre.

Land measuring 14 bighas 11 biswas, acquired of Village Chilla, District Ropar (now Mohali/SAS Nagar)	
06.02.2001	Section 4 Notification
19.03.2002	LAC gave market value @ Rs.6 lakhs per acre by Award No.18.
31.07.2009	Reference Court enhanced the market value to Rs.17 lakhs per acre.

56. The landowners of Village Chilla, in the petition filed under Section 18, took the plea that the land was at a distance of ½ km from Phase XI of SAS Nagar whereas Chandigarh was at a distance of 2 kms. The Bus Stand of SAS Nagar and Phase VIII was at a distance of 1.5 kms. Railway Station had been constructed at Village Kambala, which was at a distance of ½ km. The land of Village Chilla had earlier been acquired for development of Urban Estate, SAS Nagar and it was in the vicinity of the village. Resultantly, market value was claimed to be Rs.1,60,00,000/-. Severance was also prayed for @ 100% on account of land having been cut and having become uncultivable and uneconomical.

57. Resultantly, the Reference Court, while deciding **LAC-421** titled **Gurdev Singh** along with 27 other cases, on 09.01.2009, granted Rs.17,00,000/-, by placing reliance upon the award dated 21.07.2006 (Ex.P-7) pertaining to Village Mauli Baidwan in **LR-125** titled **Norata**

Singh (supra), for the notification dated 21.02.2000, for development of Sectors 76 to 80 of Mohali. The award passed in **Surjit Singh's case** was also kept in mind dated 21.05.2006 (Ex.P-8) for the notification dated 21.02.2000 for land of Village Sohana. However, severance was not granted on account of the fact that claimant had not stepped into the witness-box, though as noticed, there was an admission from the side of the Railway official. Ex.P-3 dated 18.04.2001 of 4 bighas 8 biswas (2.7 acres) was sold for Rs.18,00,000/-, the market value of which would work out to Rs.6,55,000/- per acre, was ignored, on the ground of being after the date of the acquisition. Similarly, Ex.P-4 dated 25.02.2004 was also ignored, being post notification. Similarly, on 31.07.2009, while deciding 3 land references, lead case of which was **Anokh Singh**, the same view was taken as in **Gurdev Singh (supra)** on 09.01.2009.

58. RW-1 Ashok Kumar, Assistant Executive Engineer admitted that the height of the Railway track at Village Chilla was 6.5 meters and that they had left 25 meters vacant land on either side. Road under-passes had been built which had been shown at Points-I & J in Ex.RW-1/A, through which vehicles could pass. He admitted that the culverts were at a distance of 200-400 meters and no agricultural machinery could pass through these culverts but persons could pass through. Bridges on Railway lines were constructed only on pucca roads but no provision had been made to go across the Railway line by building Railway over-bridges. He admitted that Village Chilla touched the boundary of Village Kambala and Manauli. The land of all these villages were of the same

category. Daljit Singh, Patwari produced the site-plan to show that Railway line had cut through the khasra numbers and there was no bridge going to the acquired property. He also stated that the acquired land was lying vacant and not under cultivation. Industrial Area, Mohali IX was abutting Village Chilla and Phase XI and XII area and Sector 47 of Chandigarh was at a distance of 1 km from the acquired land. The quality and value of the land of Chilla and Manauli were the same. He had prepared the site-plan (Ex.PW-1/A), which was correct as per the revenue record.

59. As per the evidence it has already come on record pertaining to village Chilla that the land was at a distance of 1 ½ Kms from Phase XI of SAS Nagar whereas Chandigarh was at a distance of 2 kms. The plea was taken that the land has also been acquired for the development of the Urban Estate, Mohali.

60. A perusal of the Master Plan of Mohali would go on to show that village Chilla and Mauli Baidwan are situated at the southern point from the Chandigarh boundary and would fall in the same line of sectors, Sectors 76 to 81.

61. Counsels have also pointed out that the land which was acquired for the Sewerage Treatment Plant in village Manauli vide notification dated 21.11.2002, the same amount of compensation had been awarded in **Surjit Singh's case (supra)** pertaining to the land of village Sohana, Mauli Baidwan and Raipur Khurd @ Rs.19,85,700/- per acre in **RFA No.3941 of 2007 'Harpal Singh and another Vs. State of**

Punjab' decided on 01.05.2012. The matter is stated to be pending before the Apex Court at the instance of the landowners for further enhancement.

62. For village Mauli Baidwan, in the case of **Norata Singh (supra)** for the notification dated 21.02.2000, the market value had been enhanced and the award passed in **Surjit Singh's case** was also kept in mind dated 21.05.2006. The Apex Court in **Paramjit Panag' case (supra)** decided on 15.01.2014, had enhanced and fixed the market value @ Rs.21,85,700/- per acre for the notification dated 21.02.2000 for the development of Sectors 76 to 80. There is no tenable reason not to grant same amount of compensation, keeping in view the location of the land, which is further south but on the eastern fringe of development. It has already been come on record in cases pertaining to village Manauli that land in village Chilla had been acquired for residential Urban Estate later on 23.01.2004, wherein the LAC had himself given Rs.40 lakhs per acre.

63. RW-1, the railway witness also admitted that the boundary of village Chilla touched the boundary of Kambala which is situated on the northern end and Manauli, which is on the southern side. He admitted that the land of all these villages was of same category. The revenue official Daljit Singh, Patwari also deposed that the quality and value of the land of Chilla and Manauli were the same. Chilla thus being adjoining to village Kambala and the railway station having been set up in Kambala, the landowners are thus entitled for the amount of compensation which had been assessed as noticed above @

Rs.27,47,418/- per acre, but putting a cut of 10% on the same. The market value, thus, works out @ Rs.24,72,677/- per acre alongwith all statutory benefits for the notification dated 24.06.2000. For the corresponding notification dated 06.02.2001 10% reduction is granted on Rs.29,39,737/- which has been granted for village Kambali for the same notification, thus, fixing the market value @ Rs.26,45,764/- per acre alongwith all statutory benefits.

<u>Facts of notification pertaining to (v) Village Manauli (Hadbast No.270)</u>

Land measuring 5 bighas 10 biswas, falling in Village Manauli, District Ropar (now Mohali/SAS Nagar)	
06.02.2001	Section 4 Notification
19.03.2002	LAC gave market value @ Rs.6 lakhs per acre vide Award No.19.
13.03.2008	Reference Court enhanced the market value to Rs.13,43,000/- per acre plus 50% severance charges.

64. The landowners, in the petitions filed under Section 18, claimed that market value was Rs.1 crore per acre and also sought compensation for dairy farming and flour mill which were stated to be running. Landowners examined 5 witnesses in **LR-453 titled as 'Labh Singh and others Vs. State of Punjab'.** PW-1, Bachitar Singh, in his statement, submitted that land had been severed into 2 pieces and the acquired land was higher than the land acquired by 15-20 feet. Aks Sijra was also exhibited as Ex.P-1. In cross-examination, he stated that the acquired land was 26 gathas. RW-1, Ashok Kumar, Executive Engineer, Railways, admitted that the height of the Railway track was 5-7 meters in Manauli and there were 2 roads under the bridge at the spot, which have

been shown at points C & D in Ex.RW-1/A. He admitted that the boundary of Village Manauli touched the boundaries of Villages Chilla and Raipur. Similarly, the boundary of Mauli Baidwan was also adjacent. He further admitted that for Village Chilla, vide award No.496 dated 26.12.2006, market price had been given @ Rs.40 lakhs per acre, for setting up residential Urban Estate in Mohali, for notification dated 23.01.2004, which was exhibited as Mark-A.

65. The Reference Court, while deciding 17 cases, on 13.03.2008, lead case of which was **LR-444** titled **Gian Singh & others Vs. Punjab State & others**, for the notification dated 06.02.2001, observed that Rs.17 lakhs had been awarded for Village Manauli, for acquisition of a Sewerage Treatment Plant. Reliance was placed upon the award dated 15.06.2007 in **LR-130** titled **Harpal Singh Vs. Punjab State** (Ex.PY), in which case the notification was issued on 21.11.2002, whereby Rs.17,00,000/- per acre was awarded for the land falling in Village Manauli. Accordingly, keeping in view the fact that the market value was assessed on 21.11.2002, a reverse cut was applied @ 12% for 21 months, to reduce the amount by Rs.3,57,000/- and fix the market value at Rs.13,43,000/- per acre. However, the Reference Court did not notice the decision in **LR-289** titled **Balbir Singh Vs. State of Punjab & others** (Ex.PZ) which was for Village Raipur Khurd, for the same notification dated 06.02.2001 and for the same purpose, wherein he had fixed the market value @ Rs.19,04,000/- per acre along with 50% severance charges on 13.09.2007 and which is subject matter of **RFA-**

1772-2008 titled **Balbir Singh Vs. State of Punjab** and **Cross-Appeal No.3730-2008**.

66. The evidence of case pertaining to village Manauli would go on to show that boundaries of village Manauli touched the boundaries of Villages Chilla and Raipur Khurd. It is further pertinent to notice that it has also come on record vide Award No.496 dated 26.12.2006 for Village Chilla which was exhibited as Mark-A the Land Acquisition Collector had awarded Rs.40 lakhs per acre, for setting up residential Urban Estate in Mohali. A perusal of the said document would go on to show that the notification in question was dated 23.01.2004. Thus, even the Land Acquisition Collector as such had noticed that the jump in the market value as such between the 4 years was from Rs.6 lakhs to Rs.40 lakhs which had been awarded in the year 2000 and 2001 which further confirms the fact of potentiality of the land to be utilized for an urban purpose.

67. The land of village Manauli as such would fall in the next line of sectors which were below to Sectors 76 to 80 namely Sectors 84 to 89. The land was thus further down on the south side and the value as such could be calculated at a reducing scale.

68. It is not disputed that for village Manauli also the land had been acquired for Sewerage Treatment Plant vide notification dated 21.11.2002. The Land Acquisition Collector vide Award No.488 dated 04.02.2004 had awarded Rs.5 lakhs per acre. However, vide Award Ex.PZ, in the case of **Balbir Singh (supra)** Rs.19,04,000/- had already

been awarded for village Raipur Khurd. Thus, if 10% discount as such is given as what has been awarded to village Chilla i.e. Rs.24,72,677/- for the notification dated 24.06.2000, the market value would work out @ Rs.22,25,410/- per acre and for notification dated 06.02.2001, on account of the land being further away on the south eastern side, 10% cut on Rs.26,45,764/-, the value would work out to Rs.23,81,188/- per acre which would be the appropriate market value, alongwith all statutory benefits. It is pertinent to notice that village Manauli and Raipur Khurd are situated approximately at a equal distance from the railway line which cuts through land but closer to Raipur Khurd. The land acquired is situated closer to abadi of village Raipur Khurd, but is at a distance from Manauli and, therefore, the valuation of two villages can be assessed at the same level.

<u>Facts of notification pertaining to (vi) Village Raipur Khurd (Hadbast No.2)</u>

Land measuring 27 bighas 3 biswas, falling in Village Raipur Khurd, District Ropar (now Mohali/SAS Nagar)	
24.06.2000	Section 4 Notification
09.04.2001	LAC gave market value @ Rs.6 lakhs per acre as per Award No.3.
22.12.2007	Reference Court enhanced the market value to Rs.17,68,000/- per acre.

Land measuring 21 bighas 4 biswas, falling in Village Raipur Khurd, District Ropar (now Mohali/SAS Nagar)	
06.02.2001	Section 4 Notifications
19.03.2002	LAC gave market value @ Rs.6 lakhs per acre as per Award No.15.

Land measuring 21 bighas 4 biswas, falling in Village Raipur Khurd, District Ropar (now Mohali/SAS Nagar)	
13.09.2007	Reference Court enhanced the market value to Rs.19,04,000/- per acre.

69. The landowners of Village Raipur Khurd, in the petitions filed under Section 18, claimed that Chandigarh was 4 kms and the Bus Stand situated in Phase VIII of Mohali was 1.5 kms. Road leading from Chandigarh to Sirhind was at a distance of 2 kms. Resultantly, market value was claimed to be Rs.1,60,00,000/- per acre. Apart from that, trees were stated to be standing on the land and for the orchard, Rs.10 lakhs was sought, in the lead case of **Sadhu Singh** for the notification dated 24.06.2000. As many as 6 witnesses were examined including PW-6, Devinder Singh, Lambardar of the village, to show that the boundary of Raipur Khurd adjoined boundary of Village Chilla, Manuali, Dharauli, Sukhgarh, Mauli and Sohana. The land was of the same value and the Bus Stand of Mohali was at a distance of 2 kms from the acquired land. Cricket Stadium was stated to be at a distance of 2 kms and the boundary of Chandigarh was at a distance of 4 kms. On account of the bifurcation, severance was also sought as paths had been cut-off from the fields due to the Railway line. In cross-examination, it was admitted that before the acquisition, land was being used for agricultural purposes. RW-1, Ashok Kumar, Assistant Executive Engineer of the Railways produced on record the site-plan (Ex.RW-1/A) to show the culverts and the drains and the 2 roads and bridges at points G & H, showing that vehicles could pass under the same. He stated that the height of the Railway track at the spot

of Raipur Khurd was 3-5 meters and denied the suggestion that it was 20-25 feet from the ground level. He also admitted that no agricultural machinery or vehicle or tractor could pass through the culverts. He also admitted that as per the site-plan, the boundary of the village touched Villages Manauli and Dharauli.

70. The Reference Court, keeping in view the evidence on record, came to the conclusion that vide the award dated 28.02.2007 (Ex.P-22) in **Kewal Singh Vs. State of Punjab** for the notification dated 21.02.2000, wherein land had been acquired of Village Raipur Khurd, the market value had been assessed @ Rs.17,00,000/- per acre, for the development of Sectors 76 & 80. Resultantly, giving 4% increase, for the time-gap, the market value was fixed @ Rs.17,68,000/- per acre, apart from giving 50% compensation on account of severance.

71. Similarly, for the notification dated 06.02.2001, same pleas were taken in the petition filed under Section 18 and the expert examined was Jasbir Singh, who appeared as PW-1 and had given the evaluation report of Rs.1,44,400/-, as per Ex.P-1 and the valuation report Ex.P-2, for the standing trees, which was stated to have been prepared on the basis of the Nijjar formula. RW-1, Paramjit Singh, Assistant Executive Engineer, Railways had produced the site-plan (Ex.R-1) to show the location of the drains and the bridge at point D, for the four-lane road, to be provided by the Railways. In the cross-examination, it came forth that Ex.R-1 was not prepared by him personally and he had not seen the Aks Sijra of the acquired land. He, however, admitted that the boundaries were adjoining

to Mauli Baidwan, Chilla and Manauli, which were acquired vide the same notification. Between the Railway line, stretch was of 20-50 feet and it was stated that the distance from the Mohali Bus Stand was 6 kms.

72. The Reference Court, vide award dated 13.09.2007, while deciding 9 reference petitions, the lead case of which was **LR-289** titled **Balbir Singh Vs. State of Punjab**, also relied upon the award passed in **Kewal Singh** (supra) and keeping in view the difference in the notifications of 21.02.2000 and 06.02.2001, granted additional 12% increase, to fix the market value @ Rs.19,04,000/- and rejected the claim of the value of the trees. The same was on the ground rightly that the experts tend to give exaggerated rate in their favour and that Jasbir Singh, PW-1, Deputy Director (Retd.) Horticulture Department, inspected the spot, without having issued any notice to the officials and the Aks Sijra and Jamabandis of the land were not inspected by him. However, 50% severance was granted for the acquired land, on account of severance charges.

73. From the evidence pertaining to village Raipur Khurd also it is clear that boundaries are adjoining to village Mauli Baidwan, Chilla and Manauli, which is also clear from the site plan alongwith satellite map submitted by the railways.

74. The market value for village Raipur Khurd would be at par with village Manauli since the land is situated on the eastern side of the abadi of Raipur Khurd and away from the developed areas of Mohali from Sectors 76 to 80 and 85. The land is situated towards village

Manauli which is on the eastern side of Raipur Khurd and, therefore as discussed above the market value would be of the same range. Accordingly, the market value as such for the land acquired is worked out @ Rs.22,25,410/- per acre alongwith all statutory benefits after giving 10% deduction on what has been awarded for village Chilla i.e. Rs.24,72,677/- per acre for the notification dated 24.06.2000. Similarly, for the notification dated 06.02.2001, 10% cut is put on Rs.26,45,764/- to fix the market value @ Rs.23,81,188/- per acre alongwith all statutory benefits.

Facts pertaining to village (vii) Dharali Hadbast No.1

Land Measuring 149 kanals 17 marlas falling in village Dharali, Tehsil SAS Nagar, District Ropar	
24.10.2000	Section 4 Notification
25.07.2001	LAC gave market value ₹4 lakhs per acre, vide Award No.9.
05.05.2009	Reference Court awarded 40% compensation on account of severance only while upholding the award of the LAC.

75. The landowners in their petition filed under Section 18 of the Act claimed Rs.50 lakhs per acre on the ground that plots are being sold for village Sohana @ Rs.2 crores per acre and also sought severance @ 80%. Claim for running Diary Farms as such were also raised by the landowners.

76. The landowners examined 11 witnesses in support of their claim in the lead case **Land Reference No.RT-69 of 'Jagir Singh Vs. Punjab State and others'.** The respondents placed on record site plan

Ex.RW1/B and examined Ashok Kumar, Executive Engineer and also sale deeds Ex.R1 to R10.

77. PW-5 Gurmukh Singh in his cross-examination stated that the land acquired was of 135 feet width and the width of railway track was about 3-4 feet. He denied the suggestion that land had been left on both sides and claimed severance which has also came forth in the cross-examination of PW-6 Mohinder Singh and PW-7 Jawala Singh.

78. The Railways witness RW-1, Ashok Kumar, Executive Engineer, as per the site plan clarified that there was a road under the bridge which had been shown in Ex.RW1/B at Point 'H' and as per Ex.RW1/A there was a bridge of 2 x 12.2 meter, which was used for the agricultural machinery and vehicles. He admitted in cross-examination that the height of the track was upto 4 to 5½ meters and the land had been acquired from Center from 15 to 20 meters from one side and 20 to 25 meters on the other side in width. Village Chilla was 4 to 5 kms from village Dharali, whereas Raipur Khurd adjoined village Dharali and Sukhgarh. He did not remember the compensation awarded to village Chilla. He did not remember whether the compensation determined by the Court was Rs.17 lakhs per acre, though he had appeared as a witness in the cases of village Kambali in the case titled **Chuhar Singh (supra)**. On being confronted with the said fact, he admitted that Rs.17 lakhs per acre had been awarded and 50% severance allowance had also been awarded. He did not know that vide award pertaining to the notification dated 23.01.2004 in the LA Case No.496 of 26.12.2006 for village Chilla

the land had been acquired for setting up of residential Urban Estate, a sum of Rs.40 lakhs per acre had been awarded by the State.

79. Resultantly, the Reference Court while deciding 29 cases on 05.05.2009 came to the conclusion that reference petitions were filed in the same format and as per the evidence the acquired land in question was being cultivated and the balance land was still being cultivated. The sale deeds Ex.P58 and P59 pertained to village Kambala which were of 1½ marla and 1 marla and, therefore, could not be taken into consideration. Out of the 9 sale deeds of the village Dharali referred to by the respondents, Ex.R2 was relied upon dated 06.06.2000 for 10 kanals 4 marlas sold for Rs.4,28,000/- and Ex.R3 dated 17.07.2000 for 8 kanals of land for Rs.3,25,000/-. Therefore, adequate market value having been awarded, the benefit as such was not granted. 50% severance was awarded, keeping in view the height of the railway track and on account of severance factor as the balance land was cut off.

80. The evidence as such would go on to show that village Dharali is further down on the southern side. Village Chilla was 4 to 5 kms away from village Dharali, whereas Raipur Khurd was coming in between adjoining village Dharali and Sukhgarh. The land situated as such would fall in the Master Plan pertaining to Sectors 100 and 101, but the development as such does not come close to any of the highways.

81. It was in such circumstances, the Land Acquisition Collector as such also awarded a sum of Rs.4 lakhs only in comparison to the land of other villages which had been granted higher amount of compensation

@ Rs.6 lakhs to Rs.8 lakhs per acre. In such circumstances and keeping in view the distance as such from the developed portion of Chandigarh and Mohali/Sohana, it would require further cut on the principles of the development being further away and the land being in the interior. Accordingly, by applying another 10% cut as such on the market value which has been awarded for village Manauli and Raipur Khurd i.e. Rs.22,25,410/- the market value as such would work out @ Rs.20,02,869/- per acre alongwith all statutory benefits for village Dharali. No benefit is being awarded for the 4 months difference, however, as the land was primarily agricultural and there is no evidence of spurt in prices, in the intervening period.

<u>Facts pertaining to village (viii) Sukhgarh Hadbast No.289</u>

Land Measuring 2 kanals 10 marlas falling in village Sukhgarh, Tehsil SAS Nagar District Ropar	
24.10.2000	Section 4 Notification
25.07.2001	LAC gave market value ₹4 lakhs per acre, vie Award No.14.
09.09.2009	Reference Court awarded Rs.4 lakhs per acre + 40% on account of severance.

82. In the petition filed under Section 18, the landowners claimed Rs.50 lakhs per acre by taking the plea that plots in village Sohana were being sold @ Rs.2 crores per acre and there was a loss of income on account of closing of business. Severance was sought @ 80%.

83. The landowners examined PW-1 Hakam Singh and PW-2 Devi Dass. PW-2 Devi Dayal in his statement on 06.02.2007 had stated that the railway line had been installed by raising the level more than 20

feet. The land adjoining the railway line was 20 feet low than the railway line. In cross-examination he denied the suggestion that the railway line was 5 feet above at some places and at some places it was 20 feet. He stated that 110 feet wide strip had been acquired by the State for installation of railway line and there was a land vacant on both sides. People used to go across from the land in question, but after construction of the railway track the people had to go to the main road by moving along the track.

84. RW-1, Ashok Kumar, Executive Engineer of the Northern Railway, stated that height of the railway track was 3 meters at village Sukhgarh. He admitted that the acquired land of village Sukhgarh touches the boundaries of Dharali and Saneta. He admitted that the Court had granted compensation for village Manauli @ Rs.17 lakhs per acre and also for village Kambali by giving 50% severance on account of severance for the remaining unacquired land. He further admitted that Jagatpura, Kambali, Kambala, Sukhgarh, Chilla, Manauli are in a straight line and land of all these villages had been acquired for the construction of railway track and all the villages are adjacent to Mohali.

85. The Reference Court while deciding 3 reference petitions, lead case of which was **Land Reference No.RT-26 of 20.03.2003 'Karam Singh and another Vs. Punjab State and others'** enhanced the compensation by Rs.1 lakh per acre by relying upon Ex.R3 which was of the said village dated 09.05.2000, whereby land measuring 7 kanals 18 marlas had been sold for Rs.4,84,000/- by coming to the conclusion that

the market value was around Rs.5 lakhs per acre. The sale deeds Ex.P1 and P2 were ignored as they were of 1 and 1 ½ marlas and of village Kambala. The Award dated 31.07.2006 passed in the case of **Norata Singh (supra)** of village Mauli Baidwan (Ex.P3), wherein Rs.17 lakhs per acre had been awarded for the acquisition of the year 21.02.2000 and similarly, Award dated 30.04.2007 passed in the case of **Chuhar Singh (supra)** of village Kambali (Ex.PX) wherein Rs.17 lakhs per acre awarded were ignored on the ground that they were not of village Sukhgarh and the proximity of villages was not depicted as per the Aks Shijera.

86. The evidence as such and the site plan would go on to show that the land of village Sukhgarh which was acquired is closer towards village Dharali and situated on the eastern side of village Sukhgarh. As per the discussion above for village Dharali, the market value is already assessed @ Rs.20,02,869/- per acre. The said villages are at a equal distance from the boundaries of Chandigarh and from Kambala and it would be clear from the site plan and satellite map. The railway marking as such also show that Dharali, Sukhgarh at situated at Km 16/16.35. Resultantly, the appeals of the landowners are allowed by fixing the market value at the same rate @ Rs.20,02,869/- per acre alongwith all statutory benefits.

<u>Facts pertaining to village (ix) Saneta Hadbast No.288</u>

Land Measuring 134 kanals 7 marlas falling in village Saneta,, Tehsil SAS Nagar District Ropar

24.10.2000	Section 4 Notification
25.07.2001	LAC gave market value ₹4 lakhs per acre + 10% being land situated on the National Highway, vide Award No.7 (Rs.4,40,000/-)
09.05.2008	Reference Court awarded 30% on account of severance while upholding the award of the LAC.

87. In the petition filed under Section 18 of the Act, it was specifically pleaded that the land was falling near the National Highway leading from Ropar to Ambala, which was a busy road. More than 100 shops of different types were located on the Bus Stand of the village. It was about 3 Kms from Landran which bears all facilities of a developed town. The link road from Sohana to Saneta-Banur passed through the land in question. For village Kambali Rs.11 lakhs per acre had been awarded and the location of village Saneta is better than the said village but Rs.4 lakhs per acre had been awarded.

88. In support of their claim, the landowners examined three witnesses and also placed on record sale deeds Ex.P1 to Ex.P3 and judgments Ex.P4 and Ex.P5 pertaining to village Mauli Baidwan and Sohana.

89. PW-3 Gian Singh Patwari, specifically stated that the land was on the Kharar-Banur road and falls in Sector-104 of Mohali.

90. RW-1, Ashok Kumar, Executive Engineer of the Northern Railway also while referring to Ex.RW1/A, the site plan stated that at Point 'F' a under bridge had been constructed on the road, which connects Kharar to Banur and vehicles could pass through easily. He also admitted

that land acquired touches the boundaries of village Dharali and Raipur and there were several shops of village Saneta. The railway track was 15 to 20 feet high above the level of the adjoining land and no agricultural machinery like tractor could pass over the same.

91. The Reference Court while deciding 15 reference petitions, lead case of which was **Land Reference No.RT-192 of 2003 'Mam Raj and others Vs. State of Punjab and others'** on 09.05.2008, brushed aside the factual aspect of the location on the reasoning that neither any expert from the concerned department nor any such map had been examined or produced on the file. Ex.PW2, the sale deed dated 14.08.1996 whereby 8 kanals of land was sold for Rs.20 lakhs was brushed aside on the ground that it was of village Sohana. Ex.P3, certified copy of the sale deed dated 11/12.11.1999, whereby land measuring 17 marlas was sold for Rs.1,55,000/- (Rs.14,58,823/- per acre) was also brushed aside being a small piece of land. The sale deeds of the railways whereby the value of the land was much below the amount awarded by the Collector were also noticed. Sale deed Ex.RE dated 09.05.2001 for 7 kanals 15 marlas of land which was sold for Rs.4,85,000/- in Sukhgarh the adjoining village was wrongly kept in mind to come to the conclusion that the rate was between Rs.3,50,000/- per acre to Rs.5,00,000/- per acre. The award of the Mauli Baidwan whereby market value had been fixed @ Rs.10 lakhs per acre and of village Sohana Ex.P4 and Ex.P5 whereby land had been acquired for creating Sectors in Urban Estate were also ignored as neither village

Sohana nor Mauli Baidwan were adjacent to village Saneta, as per the site plan Ex.RW1/A.

92. The evidence as such would go on to show that there was sufficient material on the record to show that village Saneta was abutting the Kharar-Banur Road. The Reference Court was not justified as such to ignore this factual aspect by wrongly holding out that neither any expert from the concerned department and nor any map has been examined or produced on the file.

93. A perusal of the Award of the Collector itself would go on to show that the Collector himself had awarded 10% extra as the land was situated on the National Highway. Relevant portion of the Award dated 25.07.2001 of the Collector reads as under:-

> "So I am of the considered opinion that value of all classes of land on the date of notification u/s 4 that is 24/10/2000 and is therefore allowed accordingly. The whole award is based on this rate. According to Standing Order No.28 para no.17 (3) of Land Acquisition Collector had vested power to increase the rate upto 10% in special cases. Since the village Saneta is situated on National Highway the rate of compensation is increased by 10%."

94. It is, thus, apparent that the Reference Court as such has ignored the location of the village. It is a settled principle and as discussed above that the land situated on the highway always commands better premium. It is in such circumstances, the market value as such is liable to be enhanced, keeping in view the location of the land. The evidence of PW-Gian Singh Patwari also is to this effect and even as per

the statement of railways witness there was a under bridge on the road which connects Kharar to Banur, which was ignored by the Reference Court. Resultantly, the market value for village Saneta is correspondingly liable to be enhanced and would thus be at par with the villages of Manauli, Raipur Khurd and more than Dharali and Sukhgarh the same is assessed @ Rs.22,25,410/- per acre alongwith all statutory benefits.

<u>Facts pertaining to village (x) Raipur Kalan Hadbast No.294</u>

Land Measuring 113 kanals 3 marlas falling in village Raipur Kalan, Tehsil SAS Nagar District Ropar	
24.10.2000	Section 4 Notification
25.07.2001	LAC gave market value ₹4 lakhs per acre + 10% being land situated on the National Highway, vide Award No.11 (Rs.4,40,000/-)
04.02.2009	Reference Court only awarded 30% on account of severance.

95. The landowners in the petition filed under Section 18 of the Act submitted that the land was situated on the Ropar-Kharar-Ambala Highway/Kharar-Banur and in vicinity of acquired land for the newly upcoming Sectors 76 to 81, whereby land had been sold @ Rs.3750/- per square yard (Rs.1,81,50,000/- per acre). Resultantly, claim was made for Rs.1,20,76,668/- per acre, apart from severance @ 50%.

96. The landowners examined 9 witnesses in support of their case whereas the Railway examined Ashok Kumar, Executive Engineer alongwith the sale deeds Ex.R1 to R14 of Raipur Kalan, which were brought on record.

97. In cross-examination PW-1 Dial Singh admitted that the

Kharar-Banur road was at a distance of 2 Kms from the acquired land. The village was 7 Kms from Kharar and 7 Kms from Banur, which was also the statement of PW-2 Nahar Singh and PW-3 Ajmer Singh. Similarly, in the cross-examination of other witnesses, the said fact had come.

98. RW-1, Ashok Kumar, Executive Engineer admitted the height of the railway track in the said area was 2.7 to 5 meters and denied that it was about 20 to 25 feet from the ground level.

99. The Reference Court while deciding 16 reference petitions, lead case of which was **Land Reference No.RT-127 of 2003 'Harbinder Singh and another Vs. State of Punjab and others'** on 04.02.2009 came to the conclusion that there was no cogent or reliable evidence on the file to prove that the acquired land was adjacent to Mohali or it was situated on Ropar-Ambala-Kharar highway and, therefore, granted additionally only 30% on account of severance. The finding was in spite of the fact that additional 10% amount had been awarded on this ground by the LAC as per the award itself.

100. The appellants in RFA No.3586 of 2009 have filed an application for additional evidence i.e. CM-8314-CI-2019 whereby the sale deeds of the year 2006 to 2014 were sought to be placed on record vide Annexures A-1 to A-9 and site plan dated 10.01.2018 as Annexure A-10 as additional evidence.

101. The application was opposed on the ground that the evidence sought to be produced should have been produced earlier and the

notification was pertaining to the year 2000. The sale deeds being post notification depicted escalated prices and was not a cogent piece of evidence and could not be relied upon. The Railways also placed on record the satellite imagery maps on 19.09.2019 of the railway line from village Jagatpura to New Morinda Railway Station alongwith 2 other maps showing the Master Plan Development for Greater Mohali Area. The same have already been marked as Mark A to J, respectively.

102. Counsel from the site plan has argued that the development of Mohali had come across the Kharar-Banur road in Sectors 108 and 109 and developers M/s MGF, M/s EMAAR and M/s Unitech had set up colonies in close vicinity of the village and the said road. The Government School had been set up across the road closer to the railway line also. Therefore, the potentiality of the land in question was stressed to show that there was tremendous increase in the prices of land. Land had been sold @ approximately Rs.1 crore per acre in the year 2006 as per Annexure A-1 to A-4, which had been purchased by builders and, therefore, keeping the location of the land, the Reference Court had failed to exercise its jurisdiction by not granting any enhancement on the ground of potentiality. The chart of the sale deeds reads as under:-

Annexures	**Dated**	**Village**	**Total land**	**Consideration amount**
A-1	26.04.2006	Raipur Kalan	18 kanals 13 marlas	Rs.2,52,81,250/-
A-2	10.05.2006	Raipur Kalan	24 kanals 1½ marlas	Rs.4,61,93,910/-
A-3	20.06.2006	Raipur Kalan	39 kanals 4 marlas	Rs.4,90,00,000/-
A-4	28.05.2006	Raipur Kalan	9 kanals 5/6 marla	1,14,15,104/-

103. A perusal of the record as such shows that there was a plea

that the land was situated again on the Kharar-Banur Road. However, in the evidence it has come on record that the said road was at a distance of 2 Kms from the acquired land. It is pertinent to notice here also that the Land Acquisition Collector had awarded 10% extra on account of the land being situated on the National Highway, vide his Award dated 25.07.2001. However, a perusal of the site plan would go on to show that the land is situated further down on the southern side and at the fag end of the Master Plan of the Mohali. The market value is correspondingly to be reduced by putting 10% cut on the market value what has been granted to village Dharali/Sukhgarh i.e. Rs.20,02,869/-. Accordingly, the market value for the land of village Raipur Kalan is assessed @ Rs.18,02,582/-.

104. The potentiality of the land as such is not disputed as private colonizers like M/s MGF, M/s EMAAR and M/s Unitech had set up colonies in close vicinity of the village in Sectors 108 and 109 and the land had been sold @ Rs.1 crore per acre in the year 2006 as per additional evidence. The sale deeds have also been placed on record as Annexure A-1 to A-4 as reproduced above, to show the potentiality of the land and spurt in the prices from 2000 to 2006, which factors have to be kept in mind while assessing the market value, though the said sale deeds are post notification.

<u>Facts pertaining to village (xi) Maujpur Hadbast No.42</u>

Land Measuring 182 kanals 3 marlas falling in village Maujpur, Tehsil SAS Nagar District Ropar	
24.10.2000	Section 4 Notification

25.07.2001	LAC gave market value ₹4 lakhs per acre, vide Award No.12.
10.10.2008	Reference Court granted only 30% on account of severance.

105. The landowners in the petition filed under Section 18 of the Act had claimed Rs.1,20,76,668/- per acre and only Tarlochan Singh PW-1 was examined by the landowners in support of their case. Reliance had been placed upon judgment Ex.PA dated 04.05.2006 in the case of **Surjit Singh (supra)** and sale deeds Ex.P2 to Ex.P8, whereas the Railways had relied upon Ex.R1 to R8.

106. PW Tarlochan Singh had given in detail as to how the railway line passes the khasra numbers and the passage already existing had been closed and now new passages under the bridge have been given to go to the land. Some of the landowners had to travel more distance to approach their land.

107. The witness of the railways RW-1 Ashok Kumar, Executive Engineer, admitted that the track at village Maujpur was about 5 to 6 feet meters high above the level of the adjoining lands. He denied the suggestion that village fell within the municipal limits of Mohali.

108. The Reference Court while deciding 15 reference petitions, lead case of which was **Land Reference No.RT-43 of 2008/2003 'Jit Singh and another VS. State of Punjab and others'** on 10.10.2008 rejected the sale deed dated 25.01.2007 (Ex.P8) being post notification. The other sale deeds were also of the year 2006. Vide Ex.P2 land was sold on 12.06.2006 in favour of M/s Auspicious Realtors Pvt. Ltd, New

Delhi for Rs.1,09,37,500/- measuring 8 kanals 15 marlas and was also rejected on the ground that the relevant date of Section 4 notification was of the year 2000. Ex.PA in the land reference case of Surjit Singh (supra) was discarded being of notification dated 21.02.2000 pertaining to Sohana. Ex.R1 to R3 being of the same village of the year 1999 showed that the market value was less than Rs.4 lakhs which had been awarded by the Collector and resultantly only 30% compensation was awarded on account of severance alongwith statutory benefits.

109. A perusal of the evidence in the case pertaining to village Maujpur would go on to show that the land is situated approximately 1300 meter from the Kharar-Banur Road on the southern side and at the fag end of the developed portion and also away from the developed areas, which was further on the south-western side. The benefit of the land on the highway is also not available to the landowners.

110. In such circumstances only potentiality and spurt in prices can be noticed through Ex.P2 whereby land measuring 8 kanals 15 marlas was sold 6 years later @ Rs.1,09,37,500/- in favour of private builder. Resultantly, by applying decreasing methodology being followed above, another 10% cut is put on the value of Raipur Kalan of Rs.18,02,582/- to fix the market value @ Rs.16,22,325/-per acre alongwith all statutory benefits.

<u>Facts of notification (xii) village Ledi Hadbast No.41 land acquired measuring 82 kanals 18 marlas</u>

24.10.2000	Section 4 notification

25.07.2001	Award No.10, LAC gave market value @ Rs.4 lakhs per acre
23.02.2008	Reference Court granted only 50% severance

111. The landowners in their petition under Section 18 claimed that the land was urban property with great future potential value due to its location and situation as the land of the claimants adjoined the main highway leading from Chandigarh to Sirhind. It was at a distance of only 2 furlong from village Lakhnor and Sohana and was at a distance of 1 km from the big city of SAS Nagar Mohali. The claim was also made in the lead case bearing Land Reference No.192 Balbir Singh & Ors. vs. State of Punjab & Ors. for the trees which were standing.

112. The landowners examined as many as 3 witnesses. Railways examined Paramjit Singh Assistant Executive Engineer as the sole witness. The Reference Court vide its award dated 23.02.2008 while deciding 5 reference petitions discarded Ex.P3 to P8 being of village Sohana and Balomajra and not of the village in question. Sale deeds Ex.RB to RF were also discarded on the same ground. Resultantly, Ex.PW3/A and Ex.RA were kept into consideration. It was noticed that vide sale deed dated 06.04.1999 (Ex.RA) 3 kanals 6 marlas of land had been sold @ Rs.2.52 lakhs per acre and if enhancement @ 12% is given for the difference of time period, the market value would come to Rs.3 lakhs. Therefore State having granted Rs.4 lakhs, no enhancement was granted. Ex.P3/A dated 09/19.06.2006 whereby 24 kanals (3 acres) of land were sold @ Rs.3 crores was rejected on the ground of being executed in the year 2006 which was in favour of the legal entity M/s

R.P.M.Hitech Machines P.Ltd. The claim for trees was accepted at 3 times to what has been awarded by the State since the State had not examined its own valuer.

113. The claim of the landowners of higher compensation cannot be just brushed aside, keeping in view the location of the land, which falls in Sectors 111, Mohali on the southern side of the Kharar-Banur Highway bringing up the fag end of the development. There was spurt in the prices, as it is apparent that the land was purchased by M/s R.P.M.Hitech Machines P.Ltd., vide Ex.P3/A @ Rs.1 crore per acre. The land having no peculiar advantage or disadvantage being similarly situated to village Maujpur would thus be entitled for the same market value @ Rs.16,22,325/- per acre alongwith all statutory benefits.

Facts of notification (xiii) village Sawara Hadbast No.45 land acquired measuring 100 kanals 4 marlas (12 acres 4 kanals 4 marlas)

28.11.2000	Section 4 notification
28.09.2001	Award No.1, LAC gave market value @ Rs.4 lakhs per acre
13.02.2009	Reference Court granted only Rs.12 lakhs per acre and 50% severance

114. The landowners claimed higher compensation on the strength that the acquired land was situated near the National Highway leading from Chandigarh to Sirhind adjoining to Thunder Zone, a amusement park and near to Chandigarh Engineering College, 1 km from Mohali and was commercial land. The rate of the land at the time of acquisition was Rs.40 lakhs to Rs.50 lakhs per acre. It was further averred that since the land had been divided into pieces due to acquisition

and the remaining 15 marlas of land had became useless. No path was provided to the remaining land and it as such was lying vacant, therefore severance was claimed.

115. RW1 Ashok Kumar Assistant Executive Engineer, Northern Railways deposed there was a road under bridge on point E shown in Ex.RW1/A, site-plan on Landran-Sirhind Highway. Vehicles could pass through the same easily. On the eastern side from the railway track 19 to 21 meters vacant place was left and on the other side 24 to 26 meters vacant place was left. The height of the railway track at the spot at village Sawara was about 6/7 meters. In cross examination, he clarified that the railway track was at 5 to 7 feet high above the level of the adjoining lands. He admitted that Thunder Zone International Musical Park, situated at village Sawara was not shown and they had only shown the railway line. He denied that the railway line adjoined the wall of the said Park and the engineering college of Landran was at a distance. He could not say that the same did not fall in the master plan of Mohali.

116. Similarly in **Land Reference No.120** dated 04.03.2003/ 04.06.2008 **Karamjeet Singh vs. Punjab State**, the applicant pleaded that he was owner of 24 kanals 15 marlas of land which fell on main Chandigarh-Sirhind Road which happens to be the State Highway No.12A and was very near to the town of Mohali which was expanding towards the said area. It had high commercial value and even the applicant's house was constructed there. The claimants had examined PW1 Daljit Singh and similarly Karamjit Singh had also appeared in

support of the case. The Reference Court vide award dated 13.02.2009 while deciding the lead case **Land Ref.No.563** titled **Daljit Singh**, awarded a sum of Rs.12 lakhs per acre plus 50% severance, while deciding 6 cases and rejecting Ex.P2 dated 17.06.2005 wherein 16 kanals 4 marlas was sold for Rs.40,50,000/- being post notification but noting that there was a remarkable trend in the market price increasing from 2000 to 2005. It was noticed that the land of 11 villages had been acquired vide the award and Sawara was situated on the road leading from Sirhind to Chandigarh and village Landran was very close to Sawara. The main road from Chandigarh crossed through village Landran. Reliance was placed upon the award of village Khooni Majra which was also part of the acquired land and award passed by the LAC. Since vide award dated 30.04.2008 the Reference Court in Baldev Singh vs. State of Punjab had awarded Rs.12 lakhs (subject matter of RFA-5221-2008) and therefore both the villages being adjoining the same amount of compensation was awarded being similarly situated and abutting the same road. The sale deeds relied upon by the Railways Ex.R3 to R15 did not pertain to village Sawara but belonged to other villages. Ex.R1 & R2 showed that the value of land was in the range of Rs.3,70,000/- and therefore the same were ignored as the Collector had awarded more rightly in view of Section 25 of the Act.

117. Counsel for the landowners had accordingly argued that in view of the peculiar location of village Sawara the land falling on the State Highway they were entitled for higher amount of compensation as

the commercial establishments were close by.

118. RW4 Sucha Singh Patwari Halqa admitted that property of Karamjit Singh was on the Chunni Landran road, which is the road leading to Sirhind and 17 kanals 4 marlas were acquired and 8 kanals 2 marlas was remaining which was being used for cultivation.

119. From the perusal of the record of the reference petition pertaining to village Sawara, it would be clear that it has a unique value as much as the land of the village would fall on the road leading from Sirhind to Chandigarh, which is known as the State Highway No.12-A. Therefore, the additional amount of enhancement of 10% is to be awarded in view of the settled principle of the law that the land situated on the highway always commands higher market value. The distinction between the land of Sawara and Ledi on one side and Kailon on the other side wherein amounts of Rs.16,22,325/- are being awarded is thus apparent. Resultantly, this Court is of the opinion that for village Sawara wherein railway bridge had been built at Point E shown in Ex.R1/A as admitted by the railways witness that the vehicles were passing under the railway track on the Landran-Sirhind road would be more valuable on account of its easy accessibility. Therefore, higher market value @ Rs.17,84,557/- per acre alongwith all statutory benefits is fixed by granting 10% necessary increase on the market value of the adjoining villages.

No appeal for (xiv) Village Landran

Facts of notification (xv) village Kailon Hadbast No.193 land

acquired measuring 170 kanals

24.10.2000	Section 4 notification
25.07.2001	Award No.8, LAC gave market value @ Rs.4 lakhs per acre
12.03.2009	Reference Court granted 35% severance while maintaining the LAC award

120. The landowners in their petition under Section 18 claimed that Swaraj Tractor/Combine Factory was situated near the acquired land which was set up in 1975-76. The amusement park over the big chunk of land was adjoining to the land of the applicant was also coming up. The land in question fell near the Kharar Municipal limit, Kharar and was situated near the Chandigarh-Sirhind road and directly linked to it, which was a very busy road and number of vehicles used to ply on that road. On the other side there was road leading from Kharar to Ambala, which was also a busy road. Landran town was close by hardly at a distance of about 10 acres from the land in question. The land of Landran and Kailon was of the same category whereas the acquired land was at a distance of about 3 kms from the developing town of SAS Nagar Mohali, which was extending towards the acquired land. The boundary of Chandigarh was at a distance of about 6 kms and bus stand of Mohali was at a distance of about 4 kms from the acquired land. Similarly, cricket stadium was also situated at about 4.5 kms from the acquired land.

121. The landowners examined as many as 3 witnesses and also placed on record Ex.P12 the certified copy of the master plan for 1996-2016 dated 04.12.2006 of SAS Nagar. Ex.P3 copy of award dated 26.02.2007 passed in **Land Ref. No.177/3.8.2004 Mehtab Singh & Ors.**

vs. State of Punjab & Ors. wherein land was acquired for Sectors 76 to 80 in the Village Sohana was relied upon wherein Rs.17 lakhs per acre had been awarded. Similarly Ex.P8 award passed in **Land Ref.No.134/2.8.2002 Hardev Singh & Ors. vs. State of Punjab & Ors.** of village Khanpur was also relied upon wherein Rs.10 lakhs per acre had been granted on 31.10.2007. In Land Ref.No.141/2.8.2002 Jagbir Singh vs. State of Punjab & Ors. (Ex.P9) for villages Bhago Majra and Khooni Majra wherein Rs.10 lakhs and Rs.7 lakhs per acre respectively had been awarded on 11.09.2007 was also relied upon. In **Land Ref. No.336/25.4.2003 Baldev Singh vs. State of Punjab & Ors.** (Ex.P10) for Khooni Majra Rs.12 lakhs had been awarded on 30.04.2008. In **Land Ref.No.305/24.12.2002 Randhir Singh vs. State of Punjab & Ors.** (Ex.P11) for village Badala Naya Shahar Rs.10 lakhs per acre had been awarded on 21.11.2007. The Reference Court vide award dated 12.03.2009 while deciding 12 petitions the main case being Land Ref.No.RT-215 of 29.5.2008/29.4.2003 Gurraj Karan Singh vs. State of Punjab awarded only 30% on account of severance. Two sale deeds were rejected on account of being small in nature. They are as under:-

Exhibit	**Area**	**Dated**	**Sale consideration**	**Per acre**	**Village**
Ex.P1	7 Marlas	28.08.1997	Rs.49,000/-	Rs.11.20 lakhs	Kailon
Ex.P2	12 marlas	09.08.1999	Rs.85,000/-	Rs.11.33 lakhs	Kailon
Ex.R4	7 kanals 7 marlas	14.06.2000	Rs.4,83,000/-	-	Kailon
Ex.R5	4 bigha 4 biswa	05.4.2001	Rs.4,25,000/-	-	Landran

122. Sale deeds Ex.P5 to P7 being of the year 2006 to 2008 were rejected on the ground of being post notification. Perusal of Ex.P1 & P2 would go on to show that the same are instances of plots of land sold for residential purpose, close to the abadi area of the village, which is near the railway line.

123. In Land Ref.No.224 Paramjit Singh vs. State of Punjab an application for additional evidence was filed bearing CM No.365-CI-2019 in RFA-3156-2009, to place on record Annexures A1 to A8. It was accordingly pleaded that the land of the appellant has been cut off with no access or thoroughfare. As per Ex.PW3/A the land fell in the Master Plan-1996 of Mohali and was under the development project as envisaged by the Town and Country Planning Department. It was averred that the appellant had been left with no access to his land which has rendered the fertile land uncultivable. Copy of Khasra Girdawari of the years 2002-07 and 2017-18 has been appended as Annexure A3. Map dated 31.08.2018 as Annexure A4 was relied upon to show that the location of the land was on the other side of the Railway line whereas Ansal Developers were on the other side and part of the area had been bought by the Army Welfare Housing Organisation as part of the Group Housing Project. The sale deed dated 21.05.2008 (Annexure A6) in favour of the Army Welfare Housing Organisation was appended wherein plot measuring 64614 sq.yards had been sold for Rs.50,39,62,500/- under the Group Housing Plot B. The photographs as such showing the land being cut off and the location of the developer on the other side of the Railway line and the

water body surrounding the land as such was also appended.

124. The application was opposed by way of reply filed by MP Singh, Executive Engineer (Construction) Northern Railways that the appellants had led no such evidence before the Court below. The respondents had also placed on record the site plan, photographs and the Google Map of the area depicting that there was no severance of the land existing at the spot. Rather while constructing the bridge, the respondents had already left area under the bridge for ingress and egress of the villagers in the area to their field. At the spot there existed path to approach the field of the appellant from either side of the Railway line and cultivation was still going on. 5 more photographs of Google Earth were also taken on record as Annexures R1 to R5 to show that there was a discharge in the sullage thereafter by Ansal Developers Ltd. and at an earlier point of time when possession was taken, there was no such discharge flowing.

125. Ms. Sukhmani Patwalia, Advocate accordingly argued by placing reliance on Section 18 petition (in RFA-5156-2009) that the applicant was owner of 12 acres of land out of which 14 kanals 5 marlas had been acquired. Remaining land had been severed into pieces and as such had become inaccessible, uneconomic and uncultivable and there was no approach left from both sides. In their reply, the Railways maintained that the farmers would enjoy unfettered approach to their left out area and their claim for severance was not justified. Sufficient numbers of bridges and level crossings had been provided on the railway

line for providing unhindered approach to the farmers and for passage of storm/irrigation water.

126. Statement of PW2 Sucha Singh Patwari was also highlighted to show that Thunder Zone amusement park was near the applicant's land and as per Aks Shajra Ex.PW3/A land of the applicant had been severed. The height of railway line was 30 to 32 ft. Reliance was placed upon statement of RW1 Ashok Kumar Executive Engineer, Northern Railways who stated that the height of railway track at the spot at village Kailon was about 3 to 6 meters. Accordingly, counsel has argued that since it was an acquisition for railway line, there should be no development cut, as laid down in **Himmat Singh's case (supra)** and the market value on the basis of sale exemplars should be granted keeping in view the potentiality of the land. Reliance was also placed upon **Udho Dass (supra)**, to submit that the acquisition was from 1999-2000 and 19 years down the line the landowners had not been granted their shares and inflation had eaten into the compensation granted. The potentiality of the land, for being used for urban and commercial aspects was highlighted in view of the renowned developer across the track. Resultantly, it is submitted that at least 50% severance should be granted to the landowners in the peculiar facts and circumstances. Reliance was placed on **State of Punjab vs. Gurbachan Singh & Ors. 1988 (2) PLR 695, State of Punjab vs. Mohan Lal 1997(3) PLR 845, Chanan Singh vs. State of Punjab 2010 (5) RCR (Civil) 283** and the principles laid down in **Smt. Krishna & Anr. vs. the Land Acquisition Collector, Dasuya &**

Ors. 2012(4) PLR 154 which was dealing with acquisition done for the railways industrial siding.

127. The evidence of village Kailon would go on to show that the land as such is falling in Sector 114 of the Master Plan of Mohali. The landowners at that point of time had claimed that the Swaraj Tractor/Combine Factory was situated near the acquired land which was set up in 1975-76 and showed the industrial potentiality. Landran village was also situated closed by. Ex.P2 dated 09.08.1999, as per chart would go on to show that the 12 marlas of land had been sold @ over Rs.11 lakhs per acre. The additional evidence which has brought on record show the potentiality of the land as such being situated just south to the Kharar-Banur road. A reputed builder Ansal Developers had purchased the land adjoining the land which had been acquired. The site plan (Annexure A-2) showing the master plan and the lay out as such of the sectors has also been placed on record alongwith Annexure A-4 and A-5. A perusal of the Annexure A-5 would go on to show that Ansal Developers as such had access to the northern side of the land in question and was lying on the Kharar-Banur road. They had alienated a patch of land out of the land in their possession vide sale deed dated 21.05.2008 for plot measuring 64,614 square yards sold to the Army Welfare Housing Organization. The land has been sold much later may be not relevant to assess the market value, but the potentiality of the land cannot be denied for usage of residential purposes. The southern side of the land in village Sawara where Thunder Zone amusement park is

situated as per the statement of RW-Sucha Singh Patwari, was adjoining. The commercial potentiality of the land apart from the residential development aspects cannot be foreclosed**.** Resultantly, keeping in view the location and close vicinity of the land as such to the Highway leading from Kharar to Banur this Court is of the opinion that the land would have the same potentiality as such which was of village Maujpur and Ledi, which are situated on the eastern side of the land and thus, the market value is assessed @ Rs.16,22,325/- per acre alongwith all statutory benefits for village Kailon.

Facts of notification (xvi) Village Tole Majra Hadbast No.192 land acquired measuring 12 acres 3 kanals 5 marlas

28.11.2000	Section 4 notification
21.08.2001	LAC gave market value @ Rs.4 lakhs per acre
31.10.2007	Reference Court granted Rs.5 lakhs per acre plus 50% severance

128. The landowners in their petition under Section 18 submitted that the land was situated half a kilometer from Kharar-Landran road and near the municipal limits of Kharar Town. Kharar town was developing towards the acquired land. There was a Polytechnic College in the land of village Khooni Majra which was situated near the land of the applicants. The land of big manufacturing unit of Swaraj Tractors/Combines was about half a kilometer from the land in question and the value was not less than Rs.50 lakhs and as such the applicants claimed severance @ Rs.50 lakhs per acre. It was also averred that after construction of Railway line, the value of the remaining land would fall

sharply. In Land Ref.No.88/13.2.2003, the claimants asserted that along with their land, the State had also acquired 68 mango trees, 71 safeda trees, two jamun trees, seven guava trees, seven neem tree and two dek trees. Due to acquisition, the claimants had also to install a tubewell on the other side of the Railway track. Similarly, in Land Ref. Nos.291, 294, 299, the claim was made that there was orchard on the land acquired. The landowners examined 6 witnesses in support of their claim. PW3 Baldev Singh in his evidence stated about the potentiality of the land. The boundary of Tolemajra was adjoining to village Khuni Majra where there was a Polytechnic. The village was at a distance of ¾ km from Kharar Banur road. Swaraj Combine factory was at the same distance and the price of the land was Rs.40 lakhs per acre.

129. AW4 Paramjit Singh Patwari Halqa Rattan Heri proved the site plan Ex.P1 and stated that the acquired property was at a distance of 1km from the Octroi post Kharar and was near to Polytechnic College Kharar.

130. AW5 Balwant Singh Deputy Ranger from Forest Department deposed about the checking done on 30.11.2001 regarding property of Sucha Singh, Jagjit Singh sons of Jagir Singh and proved his report Ex.AW5/A and Ex.AW5B. AW6 Harchand Singh stated the acquired land was 1KM from the MC limits Kharar.

131. The Reference Court while deciding 12 reference petitions on 31.10.2007 lead case being in Land Ref.No.293/10.12.2002 Smt. Labho @ Labh Kaur vs. State of Punjab relied upon sale deeds of

Tolemajra only produced by the respondents while rejecting Ex.P15 & P16 which were of Khooni Majra. Sale deeds Ex.RW4/A, Ex.RW4/B and Ex.R7 wherein land had been sold @ Rs.2.5 lakhs per acre were rightly rejected as the State itself had awarded Rs.4 lakhs per acre keeping in view Section 25 of the Act. The sale deed Ex.R6 was taken into consideration which was dated 09.01.2001 immediately after the date of notification wherein 2 bighas 11 biswas of land had been sold @ Rs.2,66,000/- and the market value was worked out to Rs.5 lakhs per acre and therefore the enhancement was granted on the said basis. Comparison with Khooni Majra was not accepted as the land of village Tole Majra was much father away than the land of village Khooni Majra from the nearby urban area and the main roads and as such their value could not be the same. The claim for enhanced compensation prayed for trees was rejected on the ground that notice had not been served upon the respondents and that expert had not checked the aks shajra of the jamabandi. As regard to the claim of superstructure of Baljinder Singh, the cut was held to be illegal and the claimant was held entitled to recover the amount of Rs.18667/- so deducted by the State on account of depreciation charges.

132. For the land falling in village Tole Majra which is on the parallel line also from the Kharar-Banur road, but having a distance of being further western and sliping out of the area of the Master Plan and not falling in the land which is acquired for the development of Mohali being closer towards Kharar, the market value would necessarily as such

has to be reduced. The only claim that the landowners could put there was a Polytechnic College which was further on the western side and stated to be 1 Km from the municipal limits of Kharar. In such circumstances, the market value is liable to be reduced further 10% from Rs.16,22,325/- granted to Kailon and bringing it down to Rs.14,60,093/- per acre alongwith all statutory benefits.

Facts of notification (xvii) village Khooni Majra Hadbast No.187 land acquired measuring 17 acres 5 kanals 3 marlas

28.11.2000	Section 4 notification
21.08.2001	LAC gave market value @ Rs.5 lakhs per acre
11.09.2007	Reference Court granted Rs.7 lakhs per acre while deciding cases alongwith cases of village Bhago Majra
30.04.2008	Reference Court granted Rs.12 lakhs per acre plus 50% severance

Land acquired measuring 12 kanals 8 marlas

01.07.2004	Section 4 notification
11.08.2010	LAC gave market value @ Rs.7.50 lakhs per acre
25.04.2013 & 05.02.2014	Rs.23,10,660/- and Rs.23,34,000/-

133. The landowners in their petition claimed enhancement on the basis of location that the land was situated adjoining the metalled pucca road leading from village Sante Majra to Village Jhanjeri and further it connected the road leading from Kharar to Landran and Chandigarh to Sirhind. There was a Polytechnic college in the land of village Khooni Majra near the land of the applicant and there was a modern housing complex called Shivalik Enclave. The manufacturing unit of Swaraj

Tractor/Combines was also situated at a distance of about half a kilometer from the land in question and SAS Nagar Mohali was extending towards the village Khooni Majra which was hardly at a distance of about 3 kms. Severance was claimed @ 100% since the ownership was of 6.5 acres by Baldev Singh.

134. The landowners examined 4 witnesses whereas RW1 Ashok Kumar Assistant Executive Engineer, Northern Railways deposed regarding the height of the railway track at the spot at village Khuni Majra was about 1.38 meters to 2.06 meters. In cross-examination it was admitted that it was 5 to 7 feet high above the level of the adjoining land. The Reference Court while deciding the lead case in **Land Ref.No.336/25.4.2003 Baldev Singh vs. State of Punjab & Ors.** granted Rs.12 lakhs per acre as the market value, for the notification dated 28.11.2000, by placing reliance upon 2 sale deeds of 5 marlas each on 30.04.2008. The said sale deeds are as under:-

Sr.No.	**Ex.**	**Date of sale**	**Area**	**Rate**	**Village**
1.	P3	23.10.2000	5M	Rs.48 lakhs per acre	Khooni Majra
2.	P4	19.10.2000	5M	Rs.48 lakhs per acre	Khooni Majra
3.	P5	12.10.2001	5M	Rs.48 lakhs per acre	Kharar

135. The other sale deeds being post notification of the year 2006 whereby land was sold ranging from Rs.1.05 crores to Rs.1.80 crores were rejected. The sale deeds Ex.R13 to R15 being below the amount awarded and in the range of Rs.3,16,000/- were also rightly rejected since

compensation had been awarded @ Rs.5 lakhs per acre by the State, in view of Section 25 of the Act. It was noted that the sale deeds of 2006 would show that there was a remarkable uptrend in the prices of the village Khooni Majra as part of it fell in Kharar town. Resultantly, a cut of 75% was put on Exs.P3 & P4 while keeping in view that in villages Sohana and Raipur Khurd, Rs.17 lakhs had been awarded around the same period. The said award was followed in **LR-338 Balwinder Singh Vs. State of Punjab** on 29.09.2012 by fixing Rs.12 lakhs per acre plus 50% severance.

136. Mr. Naresh Kaushal, argued that a cut is liable to be reduced and also that Kharar railway station falls in the land of village Khooni Majra which shows proximity to Kharar town. Reference was also made to the claim in para 4 that there was a polytechnic college and that Landran Kharar road was half a kilometer from the acquired land as also the manufacturing unit of Swaraj Majda Tractors was half a KM away from the acquired land to stress upon the potentiality.

137. However, while jointly deciding land references of village Bhago Majra and Khooni Majra on 11.09.2007 in **Land Ref. No.141, Jagbir Singh Vs. State of Punjab**, only Rs.7 lakhs had been awarded for Khooni Majra by not putting parity with Bhago Majra, which is subject matter of RFA-2-2008 and other appeals. At a later point of time as noticed on 30.04.2008 for Khooni Majra, a sum of Rs.12 lakhs was awarded. Counsel for the Railways accordingly submitted that Khanpur was further away from Kharar and Bhago Majra was even further away

and therefore grant of Rs.10 lakhs to land owners of Bhago Majra and Rs.7 lakhs to Khooni Majra shows the contradiction as such. The landowners on the other hand submitted that since on subsequent occasion vide award dated 30.04.2008, subject matter of RFA No.5221/2008 a sum of Rs.12 lakhs had been awarded and therefore the market value of Khooni Majra cannot be fixed at a lesser amount.

138. For the notification dated 01.07.2004, the landowners claimed that the market value was not less than Rs.50 lakhs per acre. The defence of the State was that land was 4-5 kms from Kharar city and that the road leading from Bassi Pathana was 3 kms from the acquired land and there was no residential colony in the land in question. The Reference Court, while deciding **LR-23** titled **Nachattar Singh Vs. State of Punjab**, vide award dated 25.04.2013, granted Rs.23,10,660/- as the market value while placing reliance upon award in **LR-93 Sanjeev Kumar Vs. State of Punjab** (Ex.P1), decided on 02.03.2013, which was for the notification dated 12.10.2004 and 14.10.2004, wherein land had also been acquired of the same village, for the construction of New Bridge from Kharar Bassi Road to Railway Station, Kharar. A reverse cut of 1% was put from the amount of Rs.23,34,000/- which had been awarded, keeping in view the difference in time between the 2 notifications. It is pertinent to notice that against the award dated 02.03.2013, the bunch of RFAs were decided along with cross-objections bearing RFA-3066-2014 titled Ex.Chief Engineer, Construction Division Vs. Sanjeev Kumar & others, on 08.03.2016, by the Co-ordinate Bench.

Enhancement was granted on the principle of valuation fixed in **Jasmer Singh** (supra) on 01.06.2016, wherein market value was assessed @ Rs.82,88,550/- for the notification dated 28.11.2000. Resultantly, 12% annual increase had been granted to fix the market value @ Rs.1,28,62,895/-. The matter is pending before the Apex Court and challenge has been raised on the ground that the judgment in **Jasmer Singh** (supra) has been set aside.

139. In **LR-29 Sardara Singh**, decided on 05.02.2014, a sum of Rs.2 lakhs per marla was claimed and PW-1 Sardara Singh had claimed that the land was 3 acres away from the main road, leading from Landran to Banur. While fixing the market value, reliance was placed upon the award dated 02.03.2013, **Sanjeev Kumar** (supra), to award Rs.23,34,000/- without applying the reverse cut, as earlier done.

140. The evidence as such for village Khooni Majra would show that plots were being sold at exorbitant rate in the year 2000-2001 as per the chart produced above @ Rs.48 lakhs per acre in comparison to Rs.5 lakhs per acre as awarded by the Land Acquisition Collector. It is also to be noticed the upward trend again in the prices from Rs.4 lakhs, which had been awarded by the Collector in the year 2000 and Rs.7.5 lakhs in the year 2004. The chart would go on to show that there was increase in the prices on account of the fact that the land is situated in close proximity of Kharar which is a entry point to Punjab from Mohali. The road branches off from Kharar to Ropar and also to Ludhiana and in such circumstances an upward trend as such was noticed in the said area.

Railway Station, Kharar is also situated in the said village.

141. In the adjoining village Badala Naya Shahar, vide sale deed dated 02.02.1999, the land measuring 1 Bigha 2 Biswas had been sold for Rs.3.5 lakhs (Rs.16.97 per acre) and if the benefit of the 21 months is not to be given, as Khooni Majra is further away from Kharar, the market value would come to the close range which this Court is fixing for villages Maujpur, Ledi & Kailon i.e. Rs.16,22,325/- per acre. It is a settled principle that the sale deed of adjoining villages can be used to fix the market value as discussed in the paragraph Nos.17 to 19 above.

142. In such circumstances, the landowners are entitled for the amount which has been awarded by this Court for the adjoining villages i.e. Kailon, Ledi and Maujpur for the notification dated 28.11.2000. Accordingly, the market value is fixed @ Rs.16,22,325/- per acre alongwith all statutory benefits.

143. For the notification dated 01.07.2004, it is to be noticed that in **Sanjeev Kumar's case (supra)** the following sale deeds were kept into consideration:-

Ex.	dated	area	sale consideration	Per acre price
P1	14.02.2003	8 K 1/3 M (Kharar)	Rs.79,01,234/-	Rs.79 lakhs
P2	14.05.2004	4 K 1 M (Kharar)	Rs.22,50,000/-	Rs.44,44,444/-
P3	10.05.2006	4 K (Khooni Majra)	Rs.52,50,000/-	Rs.1,05,00,000/-

144. The above rates as such would go on to show that there was potentiality and development taking place in and around the area and the adjoining urban area is Kharar. The corresponding enhancement as such

has to be granted for the difference of almost 4 years between two notifications. Resultantly, keeping in mind the above the sale deed dated 14.05.2004 (Ex.P2), which was closest in point of time, this Court is of the opinion that if 50% cut is granted on the same, keeping in view that it was only for 4 kanals of land falling in the urban area of Kharar and the land acquired was 12 kanals and 8 marlas, the market value as such would work out @ Rs.22,22,222/- per acre alongwith all statutory benefits.

145. The appeals of the railways are thus allowed and the amounts awarded to the tune of Rs.23,10,660/- and Rs.23,34,000/- per acre granted by the Reference Court vide Award dated 25.04.2013 and 05.02.2014 are set aside for the notification dated 01.07.2004.

146. Another method of working out the market value would be to grant 10% cumulative enhancement on the amount awarded for the notification dated 28.11.2000 for the same village i.e. Rs.16,22,325/- Accordingly, if 10% enhancement for 3 ½ years is calculated, the market value would come to Rs.22,67,280/- per acre, which is in close range of which is being awarded by granting 50% cut on the sale exemplar (Ex.P2). However, since the benefit of sale exemplar is available, it would be better to fall back on the same and to assess the market value @ Rs.22,22,222/- per acre alongwith all statutory benefits for the notification dated 01.07.2004.

<u>Facts of notification (xviii) village Badala Naya Shahar Hadbast No.188</u>
<u>Land acquired measuring 17 acres 6 kanals 8 marlas (142 kanals 8</u>

marlas)

28.11.2000	Section 4 notification
21.08.2001	LAC gave market value @ Rs.5 lakhs per acre
21.11.2007 22.02.2002	Reference Court granted Rs.10 lakhs per acre plus 50% severance

Land acquired measuring 4 bighas 16 biswas

01.07.2004	Section 4 notification
11.08.2010	LAC gave market value @ Rs.7.5 lakhs per acre
4.7.2013/ 6.9.2013	Rs.8,90,000/- Rs.22,63,980/-

Land acquired measuring 4 kanals 16marlas

17.01.2005	Section 4 notification
11.08.2010	LAC gave market value @ Rs.7.5 lakhs per acre
4.7.2013/ 25.4.2013	Rs.23,10,660/-

147. The landowners in their petition under Section 18 claimed the market value of Rs. 80 lakhs per acre on the ground that the land adjoined the municipal limits of Kharar town, ward No.6. There was pucca metalled road leading from Kharar to Sirhind/Bassi and the same was surrounded by number of residential houses and shops etc. of various types. There were number of shops, cement stores, Anaj stores, sugar stores, ghee stores situated in the vicinity of the land which were located on the road leading from Kharar to Badala. Gurudwara Pipli Sahib was located in the land of village Badala and adjoined the acquired land. The acquired land was situated at a distance of about half kilometer from Kharar Landran road and also from the centre of the city. The National Highway from Chandigarh to Ropar-Ludhiana was also at a distance of

about half kilometer from the land in question. Thus severance was sought by describing the area as such which had been acquired and what had been left out.

148. RW2 Ashok Kumar Assistant Executive Engineer, Northern Railways in his cross examination stated that the railway track was 5 to 7 feet high above the level of the adjoining land. As per site plan Ex.RW2/A culverts shown at point G&H had been made which were 2 meters wide and two meters high. The Reference Court while deciding 20 reference petitions on 21.11.2007, lead case being Land Ref.No.305/24.12.2002 Randhir Singh vs. State of Punjab & Ors. enhanced the compensation to Rs.10 lakhs by taking into consideration Ex.P15 and Ex.R5. The details are as under:-

Sr.No.	**Ex.**	**Date of sale**	**Area**	**Consideration**	**Village**
1.	P15	2.2.1999	1B-2B	Rs.3.5 lakhs	Badala Naya Shahar
2.	R5	1.3.2001	2B-2B	Rs.2.85 lakhs	Badala Naya Shahar

149. It was accordingly noticed that vide Ex.P15 land was sold @ **Rs.16.97 lakhs** per acre and by giving 12% annual increase for the time gap of 18 months the market value came to Rs.20 lakhs. Similarly, vide Ex.R5, the land was sold @ Rs.7.2 lakhs per acre and resultantly average of the two was taken to fix the market value @ Rs.13.62 lakhs. Keeping in view for village Sohana Rs.17 lakhs had been awarded, the market value was fixed @ Rs.10 lakhs. The said reduction has been opposed by Mr. Kaushal on the ground that the best sale deed should have been taken into consideration as landowners were entitled for the benefit of Ex.P15.

The market value should have been fixed @ Rs.20 lakhs once better evidence has come on record, than the valuation of village Sohana. It is submitted that clubbing could not have been done once the bandwidth was different. The said award was followed on 22.02.2012 by the subsequent Reference Court being of same village.

150. For the notification dated 01.07.2004, landowners claimed Rs.1.60 crores against Rs.7.5 lakhs, which had been awarded by the LAC. Reference Court, while deciding 10 reference petitions, lead case being **LR-14 Narinder Kumar Singh**, on 04.07.2013, determined the market value @ Rs.8,90,000/- per acre, while also clubbing the lands of Village Gharuan, in the said decision. Sale deed dated 02.02.1999 for 1 bigha 2 biswas (Ex.P18) sold for Rs.3,50,000/- was rejected on the ground of being a small chunk of land. Exs.P10 & P11 were taken into consideration wherein land had been sold in favour of Pasricha Charitable Trust. The details are as under:

Ex.	**Dated**	**Land**	**Sale consideration**	**Village**
P10	06.04.2004	10 bigha 4 biswas (2.08 acres)	Rs.30,60,000/-	Gharuan
P11	06.04.2004	9 bighas 13 biswas	Rs.28,95,000/-	Gharuan

151. Average of both the sale deeds was taken to fix the market value @ Rs.14,40,000/- and 3% increase was given, keeping in view the time difference between the notifications, to enhance the amount to Rs.14,83,000/- and thereafter, 40% cut was applied, to fix the market value @ Rs.8,90,000/-.

152. For the notification dated 17.01.2005, whereby land

measuring 4 kanals 16 marlas was acquired, the landowners have placed reliance upon the earlier Award passed in **LR No.93 of 2009 'Sanjiv Kumar and others Vs. State of Punjab'** decided on 02.03.2013(Ex.P1), wherein notification under Section 4 had been issued on 12.10.2004 and 14.10.2004 and a sum of ₹23,34,000/- had been awarded, while applying reverse cut of 1% to award compensation @ Rs.23,10,660/- per acre.

153. Counsel for the landowners has, accordingly, argued that the sale exemplars were of reasonable chunks of land of around 2 acres each and therefore, the cut for the smallness of the plot was not liable to be imposed and full compensation amount of Rs.15 lakhs should have been awarded.

54. Counsel for the Railways, on the other hand, submitted that the land of the Trust, Ex.P10 & Ex.P11 was located on the Highway in village Gharuan whereas the land acquired was 1200 meters away from the National Highway, Chandigarh-Ludhiana road. Therefore, they would not depict the market value of acquired land, which was, admittedly, at a distance from the Railway line, Villages Khanpur, Bhago Majra, Peer Sohana, Simbal Majra and Sakrullapur intervened Gharuan and villages were not abutting in any manner. Reliance was placed upon the earlier award of Village Gharuan in **Sewak Singh Vs. State of Punjab** (Ex.P1), wherein only Rs.6 lakhs had been awarded for the notification dated 28.11.2000. Similarly, **LR-336 Baldev Singh** (Ex.P13) for the notification dated 28.11.2000 was relied upon that for Village Khooni Majra, wherein Rs.12 lakhs had been awarded on

30.04.2008. The landowners submitted that on 21.11.2007, the Reference Court had granted Rs.10 lakhs for village Badala Naya Shahar.

155. Similarly, on 06.09.2013, while deciding 5 land references, lead case being **LR-24 Harpal Singh Vs. Union of India**, Reference Court awarded Rs.22,63,980/- plus 50% severance for Villages Badala Nayashahar and Peer Sohana. Reliance was placed upon the award dated 02.03.2013 in **Sanjeev Kumar** (supra), passed for the notification dated 12.10.2004 and 14.10.2004 and thus, reverse cut of 3% was applied.

156. Counsels for the landowners have placed reliance upon Exs.P2 to P5 to claim market value at the said level whereas counsel for the Railways has argued that the village is away from the Kharar town and two of the sale deeds were of Kharar town, which is an urban area and could not be a valid sale exemplar to claim the same amount. Same reads as under:

Ex.	Date	Amount	Area	Per/Acre
P-2	14.05.2004	22,50,000/-	4K-1M (Kharar Town)	44,44,444/-
P-3	22.05.1999	1,40,000/-	1K-0M (Kharar)	11,20,000/-
P-4	27.01.1999	30,000/-	1 ½ Marla (Kurali)	32,00,000/-
P-5	02.02.1999	3,50,000/-	1B-2Biswa (Badala Naya Shahar)	15,27,272/-

157. The evidence of village Badala Naya Shahar would go on to show that vide sale deed dated 02.02.1999 (Ex.P5), the land was sold @ Rs.15,27,520/- per acre and by giving 12% annual increase for the 18 months, the market value would come to Rs.18,13,472/- per acre for the notification dated 28.11.2000. The average formula which was followed by clubbing Ex.R5 dated 01.03.2001 was not justified, as the land vide

Ex.R5 was only sold @ Rs.7.2 lakhs per acre. Keeping in view the law laid down in the case of **Maj. Gen. Kapil Mehra (supra),** where there was wide bandwidth in the prices and the law laid in **'Mehrawal Khewaji Trust (Regd.), Faridkot and others Vs. State of Punjab and others' 2012 AIR (SC) 2721,** the benefit of the higher sale deed is to be granted. Thus, this Court is of the opinion that the market value would not be less than Rs.18 lakhs per acre for village Badala Naya Shahar. It has already been noticed that for the adjoining village Khooni Majra Rs.16,22,325/- per acre has been fixed for the same notification and keeping in view the fact that sale deed as such Ex.P5/Ex.P15 would be a good sale exemplar, the market value is fixed @ Rs.18,13,472/- per acre alongwith all statutory benefits for the notification dated 28.11.2000, which would be the market value for village Badala Naya Shahar.

158. For the notification dated 01.07.2004 two separate amounts had been awarded by the Reference Court i.e. Rs.8,90,000/- and Rs.22,63,980/- per acre. Reliance upon the sale deeds of village Gharuan would not be appropriate, as admittedly it was not an adjoining village. The Reference Court as such vide Award dated 04.07.2013 was not correct in clubbing the two villages together as they had no connectivity as such and there were several intervening villages like Khanpur, Bhago Majra, Peer Sohana, Simbal Majra and Sakrallapur.

159. Counsel for the railways was well justified that the sale deeds Ex.P10 & P11 would not be relevant for deciding the market value for village Badala Naya Shahar, as they were of village Gharuan which is

far away and not contiguous to the present village.

160. Resultantly, this Court is of the opinion that once for the adjoining village Khooni Majra for the notifications dated 01.07.2004, 17.01.2005, the market value is fixed @ Rs.22,22,222/- per acre by relying upon the sale deed as such of the adjoining village Kharar by granting 50% cut, the landowners of village Badala Naya Shahar would be entitled for the compensation by applying a lessor cut of 40% on Ex.P2. The market value would thus work out to Rs.26,66,667/-per acre alongwith all statutory benefits for the notification dated 01.07.2004 and 17.01.2005.

Facts of notification (xix) village Khanpur Hadbast No.183

Land acquired measuring 5 acres 5 kanals 7 marlas (27 bighas 1 biswa)

28.11.2000	Section 4 notification
21.08.2001	LAC gave market value @ Rs.5 lakhs per acre
31.10.2007	Reference Court granted Rs.10 lakhs per acre plus 50% severance

Land acquired measuring 5 bighas 19 biswas

1.7.2004	Section 4 notification
11.08.2010	LAC gave market value @ Rs.7.5 lakhs per acre
25.042013	Reference Court granted Rs.22,63,980/- per acre.

161. The landowners claimed compensation @ Rs.80 lakhs on the ground that the land was on the Randhawa road leading from Kharar to Bassi Pathana/Sirhind and it had regular bus service. Village Khanpur was in municipal limits of Kharar town since 04.03.1975. The Judicial

Court Complex and Civil Hospital, Kharar were also located in the land of village Khanpur and there were number of poultry farms in the surrounding area and industries like Pesticides Plants, Kharar Woollen Mills and Kiran Vanaspati Factory were also located in the vicinity of village Khanpur and acquired land. The land in village Khanpur very close to the acquired land had been sold @ Rs.42 lakhs per acre and the sale deeds were executed in February and June, 2000. It was claimed that the land of the applicants had been severed into pieces due to present acquisition. The applicants being owner of total land measuring 12 acres out of which the land measuring 3 bighas 17 biswas had been acquired and the remaining land had been severed and as such had become inaccessible, uneconomic, uncultivable and unirrigated. Ex.P2 was the site plan placed on record and duly proved by PW3 Jasbir Singh Patwari Halqa Khanpur who stated that the land was located on Randhawa road. Similarly, PW4 Tirath Singh Lamberdar also stated to the same effect and that the land had come within the municipal limits of Kharar from 1975. RW2 Ashok Kumar Assistant Executive Engineer, Northern Railways stated about the height of the railway track at the spot at village Khanpur which was about 2 to 2.5 meters and denied the suggestion that it was within the municipal limits of Kharar.

162. The Reference Court vide award dated 31.10.2007 while deciding 10 reference petitions the lead case being Land Ref.No.134/2.8.2002 Hardev Singh & Ors. Vs. State of Punjab & Ors. placed reliance upon Ex.P3 to P5 whereby it came to the conclusion that

the value of 1 acre of land was Rs.66 lakhs. However, the sale deeds were pertaining to the residential areas and the land being agricultural in nature the market value was pegged at Rs.10 lakhs. The argument that 20% cut should be put and market value assessed was accordingly rejected. The sale deeds of the said Ex.RW16 to Ex.RW18 were rightly rejected being below the amount awarded by LAC, in view of Section 25 of the Act.

Sr. No.	Ex.	Date of sale	Area	Consideration	Village	Per acre value
1.	P3	3.5.2000	1 biswa	Rs.one lac	Khanpur	Rs.96,00,000/-
2.	P4	21.6.2000	6 biswa (12 Marlas)	Rs.2,60,000/-	-do-	Rs.41,60,000/-
3.	P5	7.2.2000	4-3/4 biswa	Rs.2,08,000/-	-do-	Rs.42,03,789/-
4.	P10	27.3.2006	8 kanals	Rs.1.3 crores	Kharar	
5.	P11	31.10.2005	10 ¼ Biswa	Rs.15.4 lacs	Khanpur	
6.	R16	24.5.2K	19 bigha	Rs.70,000/-	-do-	
7.	R17	28.3.2K	3B-8 biswa	Rs.3.7 lacs	-do-	
8	R18	20.9.1999	5B-2 biswa	Rs.4.6 lacs	-do-	

163. The sale deeds of 2005-2006 (Ex.P10) whereby land had been sold @ Rs.1.3 crore dated 27.03.2006 for 8 kanals of land was rejected being of Kharar and post notification.

164. Mr. Amit Jain, Advocate accordingly argued that the benefit of sale deed dated 21.06.2000 (Ex.P4) should have been granted wherein the plot of 6 biswas (12 marlas) had been sold @ Rs.2,60,000/- the market value of which would come to Rs.41,59,000/- per acre. The perusal of the same would go on to show that is in a form of a plot for residential purposes, on which construction had been raised and these factors have to be kept in mind.

165. For the notification dated 01.07.2004, landowners claimed market value @ Rs.1 lakh per marla on the ground that there were 2

colleges, namely, GGS College and Sukhmani College in addition to Shaheed Kanshi Ram Memorial School along with grid stations, hospitals and schools located at Village Khanpur. Mention of industrial units was also averred. Landowners produced Amar Singh, Draftsman to prove Ex.PW1/B, which showed the acquired land of Satwant Singh in mud-red colour. The existing Railway Station was shown in yellow colour and abadi of village Khanpur was above the GT road. The site-plan also showed the development done by various institutions in the form of schools, housing colonies etc., which were shown in blue crossed area with commercial belt adjoining the GT road. The distance from the acquired land and the GT road was ranging from 800 meters to 1 km. GGS College and Sukhmani College were on the northern side with the Highway closer to the village whereas Shaheed Kanshi Ram Memorial School in Bhago Majra was closer to the acquired land and below the Highway. The sale deeds exhibited of Khanpur are as under:

Sr.No.	Ex	Date of sale	Area	Consideration	Village
1.	P3	3.5.2000	1 Biswa	Rs.one lac	Khanpur
2.	P4	21.6.2000	6 Biswa (12 Marlas)	Rs.2,60,000/-	Khanpur
3.	P5	7.2.2000	4-3/4 Biswa	Rs.2,08,000/-	Khanpur
4.	R16	24.5.2000	19 Bigha	Rs.70,000/-	Khanpur
5.	R17	28.3.2000	3B-8Biswa	Rs.3.7 lacs	Khanpur
6.	R18	20.9.1999	5B-2Biswa	Rs.4.6 lacs	Khanpur

166. Out of the said sale deeds, in Ex.P4 dated 21.06.2000, there is construction raised and therefore, cannot be taken into consideration for assessing the market value of agricultural land. Similarly, Ex.P5 was also in a shape of plot abutting the road and the same would have to be

kept in mind, to assess the market value.

167. The consolidated chart of the sale deeds reproduced above would go on to show that reliance can be placed upon sale deed dated 07.02.2000 (Ex.P5) whereby plot measuring approximately 240 square yards was sold for Rs.2,08,000/-. The market value would be around Rs.42 lakhs per acre and if 50% cut is put on the same, keeping in view the facts that it is a plot abutting a road and the size of the same being of 240 square yards, the market value would work out to Rs.21,00,000/- per acre. It is also to be noticed that sufficient evidence has come on record that village Khanpur is adjoining to village Kharar where the Judicial Court Complex and Civil Hospital were also located and the market value would be in the same range as has been granted to village Badala Naya Shahar @ Rs.18,13,472/- per acre, which is on the other side of Kharar.

168. In the **Land Reference No.25 'Satwant Singh Vs. State of Punjab'** which was decided on 25.04.2013, the following sale deeds came on record.

Sr.No.	Ex.	Date of Sale	Area	Consideration	Per Acre Value	Village
1	P3	13.01.2005	15 Biswas	Rs.4,25,000/-	Rs.27,19,999/-	Khanpur
2	P4	17.12.2004	0 Bigha 05 ¾ Biswas	Rs.7,30,000/-	Rs.1,21,87,826/-	Khanpur
3	P5	18.07.2002	1 Bigha 0 Biswa	Rs.11,50,000/-	Rs.55,20,000/-	Khanpur
4	P6	14.01.2005	0 Bigha 1½ Biswas	Rs.1,00,000/-	Rs.63,99,999/-	Khanpur

169. The Reference Court has placed reliance upon the Award (Ex.P7) in Sanjeev Kumar's case to fix the market value as Rs.22,63,980/- per acre by applying a reverse cut of 3%, since the notification in that case was of 12.10.2004 and the amount awarded was Rs.23,34,000/- per

acre. Out of the above sale deeds Ex.P3, P4 and P6 all are post notification. Only Ex.P5 can be considered which was 2 years prior in point of time from 01.07.2004 and was of a reasonable chunk of land.

170. A perusal of Ex.P5 whereby 1 Bigha of land was sold @ Rs.11,50,000/-, the market value would work out @ Rs.55,20,000/- per acre. Though it was a sale deed of a plot falling on a road and if 50% cut as such is put on the same, the market value would work out Rs.27,60,000/- per acre, which is in close range of the market value awarded of the adjoining village Badala Naya Shahar i.e. Rs.26,66,667/- per acre, which is also fixed for Khanpur. Thus, Rs.18,13,472/- and Rs.26,66,667/- per acre are fixed for the two notifications.

Facts of notification pertaining to (xx) Village Bhago Majra (Hadbast No.75)

Land measuring 45 kanals 5 marlas (5 acres 5 kanals 5 marlas) falling in Village Bhago Majra, District Ropar (now Mohali/SAS Nagar)	
28.11.2000	Section 4 Notification
28.09.2001	LAC gave market value @ Rs.5 lakhs per acre.
11.09.2007/ 10.02.2011	Reference Court enhanced the market value to Rs.10,00,000/- per acre.

171. The landowners of village Bhago Majra, in the petitions filed under Section 18, claimed compensation on account of the land being situated on the Randhawa Road, leading from Kharar to Bassi-Pathana-Sirhind and the sale deeds had been executed @ Rs.42 lakhs per acre, in February and June, 2000. Two Degree Colleges, namely, Shahid Kansi Ram Memorial College and Bachelor of Physical Education College, were situated in the village, which were close to the acquired land and accordingly, Rs.80 lakhs per acre was claimed as compensation. The

details of severance was also given in the petition under Section 18. The landowners examined 5 witnesses in support of their claim whereas the State examined 3 witnesses. Jagbir Singh, Deputy Director had appeared as PW-1, to depose that he had inspected the garden of Jagbir Singh for assessment and evaluation of the fruit trees in the orchard on 01.01.2001. Garden was of A category and was located 1 km from the Kharar Town and as per the evaluation report and applying Nijjar's formula, an amount of Rs.68,900/- was assessed. The photographs were exhibited as Ex.P-3. PW-5, Narinder Pal, in his cross-examination, stated that the property was at a distance of 150-200 yards from the main Ludhiana-Chandigarh road. Bhago Majra and Khanpur were the two villages and their boundaries were abutting each other and the rate was denied to be Rs.3-4 lakhs per acre at the time of the acquisition. Narinder Pal Singh, in **LR-139**, examined same witness who stated that he had inspected his garden on the same date and the Draftsman as PW-1. The evaluation sheet was Exhibited as Ex.P-2, for Rs.52,200/-.

172. Nirmaljit Kaur, the landowner in **LR-1**, examined herself as PW-1 and stated that the height of the Railway line was more than 20 feet and on account of the severance, the value of the remaining land had decreased. The potentiality was claimed on account of the location of the land that it was situated at Randhawa Road leading from Kharar to Bassi Pathana and the educational institutions were very near to the acquired land. In the case of **Jagbir Singh**, amount granted as the market value was @ Rs.10 lakhs, for Village Bhago Majra. The Reference Court

came to the conclusion that sale deeds dated 03.05.2000 and 21.06.2000, exhibited as Exs.P-10 & P-11, were pertaining to Khanpur, for the land measuring 1 biswa and 6 biswas, respectively, which showed that the market value of the land was Rs.48 lakhs for residential area. Therefore, it came to the conclusion that the location of Village Bhago Majra was close to Kharar and Khanpur and granted the amount of Rs.10 lakhs as compensation on 11.09.2007. The report of the expert was discounted for the same reason, for not associating the State and not being aware of the revenue record. In a subsequent reference decided on 10.02.2011, the earlier award dated 11.09.2007 was relied upon.

173. The said evaluation has, thus, been objected to by Mr.Jindal, on the ground that Bhago Majra was further away from Kharar and Village Khanpur was in between and the value would be lesser and cannot be compared to the market value of land closer to Kharar or to Mohali. It was submitted that the land references of Villages Khooni Majra and Bhago Majra were wrongly decided together and if Rs.7 lakhs per acre is awarded to Khooni Majra, the value could not be more for Bhago Majra @ Rs.10 lakhs.

174. Counsel for the landowners, on the other hand, claimed Rs.52,000/- in the case of **Narinder Pal (supra)** and similarly, Rs.68,900/- for the value of trees in the case of **Jagbir Singh (supra)**, on the ground of the expert having been examined, had wrongly been not taken into consideration.

175. The claim was validly rejected on the ground that experts

had visited the place without serving any notice upon the respondents and, therefore, there was an admission as such of the claimant itself to this extent and, therefore, the report of the Horticulture Officer who had given his assessment report was rightly upheld.

176. A perusal of the site plan would go on to show that Bhago Majra is situated further away from Kharar and Khanpur. The land acquired is approximately 525 meters from abadi and approximately 1000 meters from the highway. It is identically situated as Peer Sohana, but being closer to the municipal limits of Kharar then Peer Sohana and, therefore, the value would necessarily have to be scaled up correspondingly. Resultantly, by giving 20% reduction on Rs.18,13,472/-, which has been fixed for village Khanpur, the market value would work out to Rs.14,50,778/- per acre alongwith all statutory benefits.

177. Counsel for the railways is well justified to submit that the Reference Court should not have decided the reference petitions both of Khooni Majra and Bhago Majra together, since four revenue estate intervene. However, it is to be noticed that though the land of Bhago Majra is closer to the National Highway, but the acquired land is on the southern side of the Abadi and the Abadi is sandwiched between the highway and railway line. The land being away from the village towards the railway line is not that well located, thus 20% reduction is being granted to assess the market value.

<u>No appeals for (xxi) Village Badali</u>

Facts of notification pertaining to (xxii) Village Peer Sohana (Hadbast No.72)

Land measuring 9 acres 1 kanal 9 marlas, falling in Village Peer Sohana, District Ropar (now Mohali/SAS Nagar)	
28.11.2000	Section 4 Notification
21.08.2001	LAC gave market value @ Rs.4 lakhs per acre.
24.12.2007	Reference Court enhanced the market value to Rs.4,60,000/- per acre and 50% severance charges.

Land measuring 7 kanals 4 marlas, falling in Village Peer Sohana, District Ropar (now Mohali/SAS Nagar)	
01.07.2004	Section 4 Notification
11.08.2010	LAC gave market value @ Rs.6.50 lakhs per acre.
06.09.2013	Reference Court enhanced the market value to Rs.22,63,980/- per acre.

178. The landowners of Village Peer Sohana, in the petitions filed under Section 18, prayed for compensation @ Rs.50 lakhs per acre, on the ground that it was close to the National Highway Chandigarh-Ludhiana and Kharar town was very near. Boundaries of Villages Simbal Majra and Peer Sohana touched the Kharar town, which was on the main line. The land had been divided into 2 parts on account of the Railway line and therefore, it was difficult to go from one side to the other.

179. 5 witnesses were examined in support of their claim. Ashok Kumar, Assistant Exeuctive Engineer from the Railways was examined, who stated that at site of Village Peer Sohana, the height of the Railway track was 1.7 to 2.01 meters. There was a Railway crossing which was shown at point H in site-plan (Ex.RW-1/A) and the Railway track was 5-

7 feet high above the level of the adjoining lands.

180. The Reference Court, vide award date 24.12.2007, while deciding 15 petitions, the lead case of which is **LR-489** titled **Piara Singh Vs. State of Punjab & others**, enhanced the compensation @ Rs.4,60,000/-, by placing reliance upon Ex.R-3, which was dated 22.05.2000, whereby 8 kanals 17 marlas of land was sold for Rs.4,18,000/-. But instead of giving 6% increase, for the time-lag, 14% was granted by wrongly taking the relevant date as 16.07.2001, while deciding the cases for the notification dated 28.11.2000 also. The correction in the date in the main award was also done in Red Ink on 04.01.2010 but the compensation was not reduced. It was noticed that the land falls between Village Kharar and Peer Sohana and therefore, it did not abut Kharar and could not be treated as urban land. 50% on account of severance was also granted.

181. In CM-6820-CI-2019 in RFA-5378-2008, the landowners, by way of additional evidence, brought on record award dated 06.09.2013 titled **Hardial Singh & others Vs. Union of India & others**, which was an award passed whereby the land was acquired for the public purpose, vide notification dated 01.7.2004, for the same purpose. The land had been acquired @ Rs.6,50,000/- per acre, for Village Peer Sohana and @ Rs.7,50,000/- per acre, for Village Badala Naya Shahar, by the LAC. The Reference Court had enhanced the market value to Rs.22,63,980/- per acre, which is subject matter of appeal in RFA-2109-2014, filed by the Railways.

182. Railways, in its reply, took the plea that the notification was 4 years later and therefore, the relevant date would be issuance of Section 4 notification and therefore, the award was of no help and would not be relevant.

183. Mr.Amit Jain has argued to that extent, in support of the application for additional evidence that it showed increasing trend in the market value, as such.

184. Landowners, in the petitions filed under Section 18, for the notification dated 01.07.2004, claimed compensation @ Rs.1 crore per acre against Rs.6.5 lakhs awarded, on the ground of location of the land and potentiality and development, both which were taking place by way of commercial establishments, departmental stores, petrol pumps, showrooms, engineering colleges and High School and College. It was also averred that Government was giving Rs.1.5 crores for the construction of Mohali Airport and the Aerocity. The Railway track was stated to be 20-25 feet high from the level of the adjoining land. On account of the absence of bridges, severance was also claimed @ 80%.

185. Counsel for the Railways, accordingly, argued that sale deeds Ex.P2 to P5 which were subject matter of consideration, pertained to Kharar and Badala Nayashahar. Therefore, Peer Sohana, as such, not being a contiguous village, could not be given the benefits of the market value of Badala Nayashahar and Kharar. It is submitted that the reasoning in **Sanjeev Kumar's case** (supra), as such, to place reliance upon the 2 sale deeds dated 14.02.2003 (Ex.P1) and 14.05.2004 (Ex.P2)

were flawed, to the extent that the land was situated at Kharar and therefore, the market value of the said sale deeds could not be the basis for assessing the market value of the adjoining villages of Peer Sohana and Badala Nayashahar.

186. The record shows that the abadi of village Peer Sohana is further beyond the railway line on the southern side. The land, thus, is similarly situated as of Bhago Majra for the notification dated 28.11.2000 being the next revenue estate. The village being in the middle from the municipal limits of Kharar and is also no way close to Morinda. Therefore, the market value perforce would have to be reduced at the same value i.e. 10% for which has been awarded to its neighbour Bhago Majra i.e. Rs.14,50,778/-. The market value is fixed @ Rs.13,05,700/- per acre alongwith all statutory benefits.

187. For the notification dated 01.07.2004, the Reference Court had granted compensation @ Rs.22,63,980/- per acre by placing reliance upon the sale deed dated 14.02.2003, whereby 8 kanals 1/3 marla of land situated in Kharar was sold for Rs.79,01,234/-. As noticed Kharar municipality is at a considerable distance from Peer Sohana with Bhago Majra and Khanpur intervening and therefore, the said sale deed would not be a relevant sale exemplar for assessing the market value of village Peer Sohana. However, looking at it from another angle for the notification dated 28.11.2000, the market value has been fixed @ Rs.13,05,700/-, after giving 10% cut on account of market value of village Bhago Majra. Therefore, 20% cut on what has been awarded for

the notification dated 01.07.2004 for village Khanpur i.e. Rs.26,66,667/- per acre has to be done on account of village Bhago Majra intervening, the market value as such would work out at Rs.21,33,334/-. Therefore, this Court is of the opinion that there is no further scope for enhancement in the market value which has been awarded for the notification dated 01.07.2004. The appeals of the Railways have thus to be allowed and the compensation fixed @ Rs.22,63,980/-is reduced, fixing the market value @ Rs.21,33,334/- per acre alongwith all statutory benefits.

Facts of notification pertaining to (xxiii) Village Simbal Majra (Hadbast No.73)

Land measuring 6 acres 4 kanals 17 marlas (52 kanals 17 marlas), falling in Village Simbal Majra, District Ropar (now Mohali/SAS Nagar)	
28.11.2000	Section 4 Notification
21.08.2001	LAC gave market value @ Rs.4 lakhs per acre.
26.03.2008	Reference Court enhanced the market value to Rs.6 lakhs per acre plus 50% severance charges.

188. The landowners of Village Simbal Majra, in the petitions filed under Section 18, claimed compensation @ Rs.50 lakhs per acre, on the ground that the land was situated adjoining the National Highway from Chandigarh to Ludhiana and Kharar town was nearby and the land had been divided into 2 parts and therefore, the approach, as such, had been hindered.

189. The landowners examined 5 witnesses. Ex.PW3/B, site-plan was also brought on record and proved through PW-3, Draftsman, Amar Singh. The Reference Court decided as many as 14 reference petitions,

on 26.03.2008, lead case of which was **LR-113** titled **Karnail Singh Vs. State of Punjab**, and enhanced the amount by Rs.2 lakhs and granted 50% severance, on the strength of Ex.P-19, pertaining to Simbal Majra dated 08.06.2000 (Ex.R-7). The details of which are as under:

Ex./date	Village	Area	Rate/acre Rs.
P-19/08.06.2000	Simbal Majra	3 Bighas 4 Biswas	5,92,000/-
R-7/07.06.1999	Simbal Majra	1 Bigha 13 Biswas	3,02,500/-

190. Enhancement was granted on Ex.P-19, to the tune of 5%, on account of the difference of the time period for the notification and therefore, Rs.6,28,000/- per acre was assessed as the market value, but keeping in view only one sale deed was available only Rs.6 lakhs was granted. Similarly, on Ex.R-7, there being a difference of 17 months, 17% increase was granted at average rate of 1% per month, to add Rs.51,000/- to the sale deed of Rs.3,02,500/- to assess the market value @ Rs.3,53,500/-. The said sale deed was rightly rejected as the amount came lower than what had been awarded by the LAC, in view of Section 25 of the Act

191. In the application for additional evidence bearing CM-8380-CI-2019 in RFA-2008-2011, sale deeds of Village Khanpur were sought to be placed on record, whereby land had been sold, as under:

Sale deed	Village	Area	Sale consideration Rs.	Value/acre Rs.
07.02.2000	Khanpur	4.75 Biswas	2,08,000/-	42,03,789/-
21.06.2000	Khanpur	6 Biswas	2,60,000/-	41,60,000/-

192. The said application has been rightly opposed by filing the reply by the Railways, on the ground that Village Khanpur did not adjoin the village in question and therefore, would not be relevant evidence for assessing the market value, as village Peer Sohana and Bhago Majra intervened and Khanpur had it own peculiar advantage.

193. A perusal of the sale deeds would also go on to show that the said sale deeds were also exhibited as Ex.P4 and Ex.P5 in the reference pertaining to Khanpur.

194. The landowners of village Simbal Majra which is the next village from Peer Sohana having no peculiar advantages as such would necessarily have its compensation assessed on the principle that for the adjoining village Sakrullapur, the market value has been assessed at Rs.12,09,600/-per acre. The land is not located near the municipality or a big village and the land which was acquired was at a distance of 1270 meters from the highway, though the abadi area was situated below the railway line. The land was as such closer to the abadi area and therefore the same value is being granted @ Rs.12,09,600/- per acre alongwith all statutory benefits.

195. The application for additional evidence would also go on to show that the sale deeds which are sought to be placed on record are of village Khanpur and which is not the adjoining village, as villages Bhago Majra and Peer Sohana are intervening and thus would not be relevant. Therefore, the market value assessed would be appropriate in the facts and circumstances.

Facts of notification pertaining to (xiv) Village Sakrullapur (Hadbast No.69)

Land measuring 7 Kanals 11 Marlas, falling in Village Sakrullapur, District Ropar (now Mohali/SAS Nagar)	
28.11.2000	Section 4 Notification
21.08.2001	LAC gave market value @ Rs.3.5 lakhs per acre.
30.05.2007	Reference Court enhanced the market value to Rs.6,00,000/- per acre.

196. The land references for Village Sakrullapur were decided along with the land references of Village Gharuan on 30.05.2007 and the same amount of compensation had been awarded. The landowners in the petitions filed under 18 had claimed market value @ Rs.50 lakhs per acre, on the ground that the village was situated between two Municipal Corporations, Kharar town on the one side and Morinda on the other side. The Municipal limits had been extended upto the boundary of the village till Gharuan.

197. Village Sakrullapur acquired land is approximately 1400 meter from the National Highway and 1100 meter from the abadi area which is further south and, therefore, would command as such no extra premium. Resultantly 10% cut would have to be applied bringing down the market value from Gharuan i.e Rs.13,44,000/- in consonance on the principles of market value reducing as one goes further away from the developed area. Resultantly, the market value is assessed @ Rs.12,09,600/- per acre alongwith all statutory benefits.

Facts of notification pertaining to (xv) Village Gharuan (Hadbast No.377)

Land measuring 28 acres 6 kanals 2 marlas, falling in Village Gharuan, District Ropar (now Mohali/SAS Nagar)	
28.11.2000	Section 4 Notification
21.08.2001	LAC gave market value @ Rs.4 lakhs per acre.
30.05.2007	Reference Court enhanced the market value to Rs.6 lakhs per acre plus 50% severance charges.

Land measuring 15 kanals 18 marlas, falling in Village Gharuan, District Ropar (now Mohali/SAS Nagar)	
01.07.2004	Section 4 Notification
11.08.2010	LAC gave market value @ Rs.5.5lakhs per acre.
04.07.2013/ 05.12.2013	Rs.8.90 lakhs was granted and Rs.22,63,980/- was granted as market value.

198. **LR-339** titled **Jaswant Singh**, was dismissed on 23.08.2006, since no evidence had been led. However, for similarly situated landowners, the cases are being decided, the landowners would also be entitled for the same benefit, on account of the fixation of the market value. The landowners, have claimed only Rs.30 lakhs per acre in their claim petition, filed under Section 18.

199. The landowners claimed a sum of Rs.40-50 lakhs as compensation, on the ground that the land was being used for commercial activities on account of being situated on the National Highway. The village was situated between the 2 Municipal towns, Kharar town on the one side and Morinda on the other side. The Railway line divided the land into two parts. As many as 6 witnesses were examined in support of their case. PW-4, Amar Singh, Draftsman had proved the site-plan as Ex.P-1. PW-5, Bhagat Singh, Patwari had prepared the Aks Latha showing the Railway line on Ex.PW-5/A. He stated that Village Gharuan

was ½ km from Chandigarh-Ludhiana road and the acquired property was 1 km from the road. Morinda was 5 kms whereas Kharar was 7 kms away from the village. The land was Chahi in nature and the Aks Sijra showed the severance of the land of the individual landowner and also the Jamabandi of the acquired land. which showed width of the Railway line was 18 gatha. The raised level from where the Railway line passed was 10 feet wide. RW-2, Ashok Kumar, Railway witness stated that there were 3 railway crossings at the spot, shown in the site-plan (Ex.RW-2/A). Railway track was 5-7 feet high and he admitted that there were several shops in Village Gharuan.

200. The Reference Court, while deciding 46 land references on 30.05.2007, lead case of which was **LR-79** titled **Sewak Singh Vs. State of Punjab & others**, fixed the market value @ Rs.6 lakhs per acre for the notification dated 28.11.2000. The reasoning, as such, for fixing the market value has been strongly opposed by the landowners since various sale deeds pertaining from 1997 to 1999 were clubbed together and the total market value was taken to be Rs.36 lakhs, which was divided by the number of sale deeds, to come to the average of Rs.6 lakhs. The reasoning, as such, was stated to be flawed and that the benefit of the best sale deed should have been granted rather than the averaging which was resorted to, keeping in view the wide band-width inter se the sale deeds. 50% was also granted on account of severance. Similarly, vide award dated 28.09.2012, the Reference Court followed the earlier award dated 30.05.2007, to grant the same amount of compensation.

201. An application for additional evidence bearing CM-8379-CI-2019 in RFA-4406-2007 whereby two sale deeds have been sought to brought on record as additional evidence has been filed, details of which are as under:

Sale deed	Village	Area	Sale consideration Rs.	Value/acre Rs.
03.07.2000 (A-1)	Gharuan	5 Biswas	1,00,000/-	19,20,000/-
03.05.2000 (A-2)	Khanpur	1 Biswas	1,00,000/-	96,00,000/-

202. Same has been opposed by the Railways in as much as Annexure A-1 is stated to be already exhibited as Ex.P-3 and the second on account of being of Village Khanpur and not relevant and also on account of smallness. Ex.P-3/Annexure A-1 would show that land falls in Khasra No.2913 of Village Gharuan, measuring 5 Biswas and which had been sold and it could not be pointed out that it was part of a plotted portion.

203. Similarly, CM-4489-CI-2019 in RFA-4405-2007 was filed for additional evidence, for placing on record the site-plan as Annexure A-1 and certified copy of the sale deeds as Annexures A-2 & A-3, dated 02.05.2007 and 24.04.2009, details of which are as under:

Sale deed	Village	Area	Sale consideration Rs.	Value/acre Rs.
02.05.2007/A2	Gharuan	10 Biswas	5,50,000/-	52,80,000/-
24.04.2009/A3	Gharuan	8 Bigha 13 Biswas	1,26,00,000/-	69,91,907/-

204. Same has been opposed by counsel for the Railways for good reasons, on account of being post-notification and thus, not relevant for the purpose of decision of the present case.

205. CM-6813-CI-2019 in RFA-4404-2007 has also been filed for additional evidence, for placing on record award dated 05.12.2013 as Annexure A-1 and the site-plan as Annexure A-2. Vide the said award, land falling in Village Gharuan was acquired for the same purpose on 01.07.2004 and the market value has been fixed by the Reference Court @ Rs.22,63,980/- per acre, which is also subject matter of appeals.

206. Same has been opposed on the ground of being post notification.

207. Mr. S.S.Swaich and Mr. Amit Jain, counsels for the landowners, accordingly, placed reliance upon the following sale deeds:

Sr. No.	**Exhibit**	**Date of sale deed**	**Area in Bigha Biswas**	**Total consideration amount**	**Rate per acre = 96 Biswas**
1	Ex.P1	4.8.1997	30-16	Rs.43,12,000/-	Rs.6,12,355/-
2	Ex.P2	4.2.1998	2-3	Rs.3,00,000/-	Rs.6,69,767/-
3	Ex.P3	3.7.2000	0-5	Rs.1,00,000/-	Rs.19,20,000/-

208. It is, accordingly, submitted that the same were wrongly ignored whereas the market value was as high as Rs.19,20,000/- and the land was close to the Railway track, by referring to the site-plan wherein khasra numbers were depicted. It was further submitted that there were industries situated close to the acquired land and that the sale deeds, being of the year 2000, should have been kept into consideration.

209. Counsel for the Railways, on the other hand, submitted that there was major discrepancy in the value between Ex.P1 & Ex.P2 and the one shown in Ex.P3 whereas counsel for the landowners submitted that it only showed the rising trend wherein after 3 years, the land value had tripled. Exs.P1 & P2 were also shown to be on the Highway and it was,

accordingly, submitted that if 12% increase is granted on the same, the market value would be in the range of Rs.9 lakhs per acre. Ex.P1 was stated to be 30 Bighas 16 Biswas and it was a large chunk of land and therefore, the same should be used as a good sale exemplar.

210. For the notification dated 01.07.2004, for Village Gharuan, the landowners claimed Rs.1 crore per acre against Rs.5.50 lakhs as awarded by the LAC. Same was on the basis that for the Airport, Rs.1.5 crores had been granted for the land falling in Aerocity, Mohali and the boundaries of Village Gharuan touched boundary of Kharar town. There were engineering colleges, institutes, Information Technology Institute adjacent to the acquired land. Severance was sought on the ground that Railway track was 15-20 feet high. Nirbhay Singh, PW1, Patwari of the Village deposed that due to construction of the Railway line, the land of the landowners was divided into two pieces and Railway track was 5 feet high and that agricultural vehicles from one side could not be brought to the other side. Railway line was at a distance of 1.5 km from Kharar to Ludhiana and civic amenities like hospital, colleges, schools were at a distance of 5 kms from Gharuan and 10 kms from Kharar. In cross-examination, he admitted that the Railway Station had been built in the land and Railway crossing was built for the landowners. PW3, Shamsher Singh, in cross-examination, also stated that out of the 9 acres of land, 2 ½ acres was left on one side and the remaining was on the other side. Kharar was stated to be 5 kms from Village Gharuan and the Highway was 1 km from the acquired land.

211. The Reference Court while deciding 10 reference petitions on 04.07.2013 lead case of which was **Land Reference No.14 of 2010 'Narender Kumar Singh Vs. State of Punjab and others'** granted Rs.8.90 lakhs per acre by placing reliance upon Ex.P10 and Ex.P11 dated 17.03.2004 and 05.04.2004, respectively in favour of Pasricha Charitable Trust. The average of the two sale deeds of land measuring 10 bighas 4 biswas and 9 bighas 13 biswas was calculated to take out the average price of Rs.14,40,000/-. Thereafter, by giving the benefit of 3% increase the market value was assessed @ Rs.14,83,200/- per acre. A 40% cut was then put to work out the market value @ Rs.8.90 lakhs per acre.

212. Counsels for the landowners, accordingly, placed reliance upon the 2 sale deeds in favour of Pasricha Charitable Trust dated 17.03.2004 and 05.04.2004 (Ex.P10 & P11), to submit that the market value, as such, was around Rs.15 lakhs per acre and no cut was liable to be imposed. It was, thus, submitted by the counsel for the Railways that the sale deeds, as such, in favour of Pasricha Charitable Trust were on the Highway and therefore, the market value of the land 1 km inside, cannot be assessed at the same value. Reliance was placed upon Ex.P9 to show the distance from the Highway, which shows the development in the area and though the Draftsman had visited the site much later than the issuance of Section 4 notification. Vide award dated 05.12.2013, a sum of Rs.22,63,980/- per acre was awarded in **LR-159 Jagjit Singh Vs. State of Punjab**, placing reliance upon Ex.P1 dated 06.09.2013, the

decision in **LR-24 Harpal Singh (supra)** wherein Rs.22,63,980/- per acre had been awarded for land of Village Peer Sohana and Badala Nayashahar. Therefore, the landowners claimed the said compensation for the notification dated 01.07.2004 in all cases.

213. For village Gharuan which is situated abutting the National Highway and the railway line being situated on the southern side of the abadi area, the village being sandwiched between two, would get extra premium in comparison being situated closer to the National Highway. The various sale deeds were available showing the phenomenal growth as such. The landowners are well justified by holding that the sale deeds from 1997 to 1999 could not have been clubbed together to take out the average rate of Rs.6 lakhs per acre. The benefit of the best sale deed as such had to go and which are closest in proximity of time to the notification dated 2000. Resultantly, the benefit of Ex.P3 would flow to the landowners whereby 5 biswas of land had been sold 4 months prior to the date of notification on 03.07.2000. The chart of sale deeds Ex.P1 to P3 would also go on to show that the market value as such was going up steadily on account of the potentiality of the land as such in the rising trend.

214. Counsel for the railways though has relied upon Ex.P1 to submit that it was a large tract of land. The same cannot be taken into consideration firstly it was executed 3 years prior to the date of notification. The benefit of the price rise has to be granted to the landowners. Secondly, the site plan (Annexure A-1) alongwith

CM-4489-CI-2019 in RFA No.4405 of 2007 referred to would show that the land of Ex.P1 was situated away from the land acquired whereas land pertaining to Ex.P3 was stated to be closer by referring to the field numbers which are depicted on Annexure A-1 in correspondence to the field numbers on Ex.P1 to P3. Reliance has been placed upon the site plan Ex.P1 in **Sewak Singh's case (supra)** to submit that Khasra No.485-492 would be across the highway and which was part of Ex.P1. Similarly, Ex.P2 land was falling in Khasra No.651/2, which was adjoining the highway. In comparison Ex.P3 of Khasra No.2953/2 were closer to the railway line and rather behind the same. Therefore, keeping in view the location of Ex.P3 which is more closer to the land acquired, it would be a relevant sale exemplar.

215. The observations as such of the Reference Court that the sale deed was executed with the view of creating evidence was without any basis and no such witness had stated so. The sale deeds relied upon by the railways Ex.R3 to R6 by showing rate below Rs.4 lakhs as what had been awarded by the Land Acquisition Collector would be of no help as such since nothing has been brought on record to show the location of the said sale exemplars. Annexure A-2 & A-3 which are now brought on record are pertaining to year 2007 to 2009 would only go on to show that the increase in prices is as such taking place for the said village.

216. As per Ex.P9 in **Land Reference No.14 of 2020 Narinder Kumar Singh Vs. State of Punjab and others**, pertaining to the notification dated 01.07.2004, various commercial establishments,

veterinary hospital, police post, State Bank of Patiala, Punjab National Bank and National School of Nursing and industry in the form of cold storages and Spun Pipes etc. were there. The said site plan was produced by Amar Singh, Drafsman, who proved the same.

217. PW-5 Bhagat Singh Patwari had also stated that the office of the PSEB, School, Post Office, Hospital are there and also given the details of Aks Sijra showing the severance of the land of the individual landowner. As noticed the witness of the railways also stated that there were several shops in village Gharuan and as many as 3 railway crossings. The site plan Annexure A-1 produced on record by way of additional evidence would also go on to show that the village has developed on account of the college known as Chandigarh University being set up alongwith Aadesh College and various other educational institutions such as Sachdeva Engineering College. Entries of hospital and medical college was there, which has led to exorbitant development as such on account of its location on the main road. The development might be subsequent point of time, but potentiality of the land cannot be lost sight off in the facts and circumstances of the present case. Resultantly, keeping in mind the fact that the land sold was only 5 biswas whereas the land acquired was 28 acres 6 kanals 2 marlas and keeping in view the smallness of the sale exemplar, the argument of the railways counsel is accepted by applying, 30% cut on Ex.P3 and the market value is assessed @ Rs.13,44,000/- per acre for the notification dated 28.11.2000.

218. For the land acquired vide notification dated 01.07.2004, the landowners are well justified to hold on in view of the two sale deeds Ex.P10 and Ex.P11 dated 17.03.2004 and 05.04.2004, respectively in favour of Pasricha Charitable Trust, which were executed 4 months prior to the date of Section 4 notification, the market value as such would work out @ Rs.14,40,000/- per acre. Keeping in view the fact that the sale deeds as such were of approximately 2 acres each, the Reference Court was not justified in granting 40% cut on the same and the same should have been used as basis as such for fixing the market value, as the land acquired was 15 kanals 18 marlas for the notification dated 01.07.2004. Since the average price works out @ Rs.14,40,000/- for the sale deeds dated 17.03.2004 and 05.04.2004, the benefit @ 12% for the intervening period of 3 months, which is liable to be granted, on account of overall development taking place, the argument as such of the railway since the land is situated closer to the highway is, accordingly, denied.

219. The grant of compensation @ Rs.22,63,980/- per acre cannot be held to be justified in any manner for the notification dated 01.07.2004 once there was sale exemplars of village Gharuan available, which were close to the date of notification. It is a settled principle sale exemplars which are close to the Section 4 notification are better methodology to assess the market value, rather than falling back on an award. The said award has also been kept in mind while granting compensation for village Peer Sohana and the appeals of the railways have also been allowed and the market value has been reduced from Rs.22,63,980/- per acre which

was granted for the same reasons. Resultantly, the findings recorded in the Award dated 05.12.2013 whereby the said amounts had been awarded cannot be held to be justified. However, as noticed the development had taken place in and around and land was falling on the highway and the land would necessarily be of higher value in comparison to the land away from the highway.

220. Resultantly, the appeals of the railways as such are allowed by bringing down the market value from Rs.22,63,980/- per acre to Rs.14,40,000/- per acre for the notification dated 01.07.2004 whereas the appeals of the Railways pertaining to the Award dated 04.07.2013 whereby Rs.8.90 lakhs was granted are dismissed and those of the landowners are allowed by fixing the market value @ Rs.13,44,000/- per acre alongwith all statutory benefits for the notification dated 28.11.2000.

<u>Facts of notification pertaining to (xxvi) Village Marauli Kalan and Marauli Khurd (Hadbast No.248 & 249)</u>

Land measuring 86 Kanals 8 Marlas, falling in Village Marauli Kalan and 39 kanals 15 marlas in Marauli Khurd, District Ropar (now Mohali/SAS Nagar)	
28.11.2000	Section 4 Notification
15.04.2002	LAC gave market value @ Rs.4 lakhs per acre.
24.12.2007	Reference Court enhanced the market value to Rs.6,18,000/- per acre alongwith 50% severance charges.

221. The landowners, in the petitions filed under Section 18, claimed Rs.50 lakhs per acre as market value on the ground that the land had immense potential and it was adjoining the National Highway from Chandigarh-Ludhiana Road. The land was falling in the Municipal

Corporation of Morinda. Municipal Corporation, Morinda had been extended upto the boundary of Village Marauli Kalan and Marauli Khurd. Punjab Government had acquired land for the purpose of bye-pass from Marauli Kalan to Morinda. The over-bridge and Railway line had divided the land into two parts. Landowners examined 5 witnesses in support of their case. The witness of Railways, Ashok Kumar, Executive Engineer deposed that the height of the Railway track was 2 meters and as per RW-1/A, there were two level crossings at the spot which have been shown at Points G & J, which is the bye-pass for Morinda town for which land was acquired on 04.08.2000.

222. Resultantly, the Reference Court, while deciding as many as 31 land references on 24.12.2007, lead case being **LR-128** titled **Charan Singh Vs. State of Punjab & others**, enhanced the compensation to Rs.6,18,000/- per acre. Reliance was placed upon the earlier award dated 30.11.2007, for the notification dated 04.08.2000, in **LR-17**1 titled **Sajjan Singh Vs. State of Punjab**, whereby land had been acquired for the bye-pass of the Morinda town. 3% enhancement was granted on account of the fact that the notification was passed 3 months prior to the present notification, to fix the market value and 50% compensation was given on account of severance.

223. Application has been filed for additional evidence, bearing CM-8330-CI-2019 in RFA-2543-2008, for placing on record Annexures A-1 to A-5. Annexure A-1 being sale deed dated 27.11.2016, whereby 8 kanals 3 marlas of land was sold to Class India Ltd. @ Rs.58 lakhs per

acre, for a sum of Rs.88,26,875/-, would have no relevance since it is much subsequent to the date of Section 4 notification. However, reliance was placed upon judgment passed in **RFA-2207-2008 titled *Ajit Singh Vs. State of Punjab,*** decided on 18.01.2016 (Annexure A-2) whereby for the award dated 04.08.2000 in the case of **Sajjan Singh (supra)** market value had been fixed @ Rs.8 lakhs per acre, while placing reliance upon sale deed dated 08.09.2003 (Ex.P6) which was for 2 kanals 5 marlas and the land had been sold @ Rs.5,40,000/-. It is submitted that the appeal filed by the State of Punjab against the said judgment has been dismissed in SLP-19770-19828-2016 on 09.12.2016. Similarly, reliance has been placed upon the award dated 05.12.2013 passed in **LR-159** titled ***Jagjit Singh Vs. State of Punjab & others*** (Annexure A-4), pertaining to Village Gharuan, for the notification dated 01.07.2004, wherein LAC had awarded Rs.5,50,000/- per acre and the Reference Court had enhanced the amount to Rs.22,63,980/- per acre. The appeal pertaining to the said award is **RFA-5378-2008 'Piara Singh Vs. State of Punjab and others'** Similarly, award dated 03.06.2019 (Annexure A-5) passed for the acquisition for the notification dated 16.06.2018, issued under the National Highway Act, 1956, for the said village was also relied upon to submit that market value was assessed @ Rs.2,85,00,000/- per acre. The same would be of no relevance since the same had been passed at a much later point of time of 18 years. It is also not disputed that the appeal against the said award is still pending before the District Judge, Rupnagar.

224. Mr. Harsh Manocha submits that in another set of cases, the order dated 18.01.2016 (Annexuure A-2) was recalled on 13.03.2019, on the ground that there was an error in calculating the market value, both by the Reference Court and by this Court, for the sale deed dated 08.09.2003. It is submitted that the value did not work out for land measuring 2 kanals 5 marlas to Rs.5,40,000/- but would work out to Rs.29,19,000/- and not Rs.11.52 lakhs. By giving a reverse cut for the period of 3 years as calculated, the market value would be Rs.13,50,000/- per acre. It is submitted that the award passed in those set of appeals which have been recalled, would be relevant to assess the market value.

225. Reliance is placed upon **Ravinder Narain & another Vs. Union of India 2003 (2) SCR 424**, that sale deeds within a reasonable time of the notification can be taken into consideration. It is submitted that the sale deed of the year 2003 would be relevant as it could not be said that it was not a bona fide transaction. It was submitted that once the development had started in the year 2003. It would be apparent from the satellite map (Mark-H), whereby the Highway was crossing over the Railway line, the value would, thus, increase tremendously once the land was being acquired for the bye-pass and the land was closely intermingled. Reliance was placed upon the statement of Charan Singh that the land was adjoining Morinda and even RW-1 submitted that there was a fly-over on the Railway line.

226. The application was opposed by filing reply by the Railways

that the sale deeds and the awards are post-dated and cannot be relied upon and pertains to acquisition of the land for bye-pass road around Morinda town and would not be relevant for determining the price of agricultural land. The land acquired was located on or near the National Highway and would always command higher value than the agricultural land and therefore, it would not depict the correct value.

227. Mr. Puneet Jindal, Senior Counsel for the Railways, submitted that Kalan and Khurd were separate abadi areas of Marauli. One being located on the National Highway and would have more market value and therefore, the uniform compensation as awarded was not correct. It was, accordingly, contended that P-24 could not be relied upon being post notification by almost 3 years and the location of the land was not known. The quantum of land was also 2 kanals 5 marlas whereas huge chunk of land of 86 kanals 8 marlas had been acquired in comparison. It is submitted that Ex.DW-1/C to DW1/E would show that market value was touching around Rs.4 lakhs to Rs.5 lakhs per acre and therefore, the award had rightly been passed. The judgment in **Ajit Singh's case** (supra) whereby the market value had been assessed @ Rs.8 lakhs, could not be relied upon as the order dated 18.01.2016 had been recalled in certain set of cases. The sale deeds of the land for the Villages Marauli Kalan and Marauli Khurd, produced by the Railways and the landowners are as under:

<u>Sale deeds produced by the landowners</u>:

Ex.	**Date**	**Amount**	**Area**	**Rate/acre 1 acre = 96 biswa**
Ex.P-1	9.11.2000	1,82,000/-	0B-7B Morinda	24,96,000/-
Ex.P-2	18.4.2001	1,50,000/-	0B-4B Morinda	36,00,000/-
Ex.P-22	4.8.1997	43,12,000/-	30B-16B Gharuan	6,72,000/-
Ex.P-23	03.07.2000	1,00,000/-	0B-5B Gharuan	19,20,000/-
Ex.P-24	08.09.2003	5,40,000/-	2K-5M Badi Madauli	19,20,000/-

<u>Sale deeds produced by the Railways</u>:

Ex.	**Date**	**Amount**	**Area**	**Rate/acre 1 acre = 96 biswa**
Ex.DW1/C	8.2.2000	1,63,000/-	4K-5M Madauli	3,06,823/-
Ex.DW1/D	27.4.2000	3,50,000/-	7K-3M Badi Madauli	3,91,608/-
Ex.DW1/E	09.5.2000	75,000/-	3K-1M Madauli	1,96,721/-

228. For villages Marauli Kalan and Marauli Khurd, it is pertinent to notice that on an earlier occasion on 04.08.2000, the land was acquired for the purpose of bye-pass of Morinda which had to pass through two villages in question. The evidence has come on record that the bye-pass and the railway line as such criss-cross and the bye-pass goes over the railway line. The land as such thus is situated in close vicinity to each other. Vide judgment of even date passed in **RFA No.2208 of 2008 'Bhag Singh Vs. State of Punjab'**, the appeals arising out of the Award dated 30.11.2007 passed in **Land Reference No.171 of 2004 'Sajjan Singh Vs. State of Punjab'** have been allowed by fixing the market value as such @ Rs.10,46,742/- per acre on account of the development which had taken place due to the cutting of the bye-pass through the land of the villages. The present acquisition which is also for the railway line

3 months later, thus, merits additional benefit to the landowners, to the land which was acquired on an earlier occasion.

229. Another methodology as such to fix the market value would be to give a 20% cut to the land which was away from the land of village Gharuan. For the notification dated 28.11.2000, since this Court has assessed the market value for the said village @ Rs.13,44,000/- per acre, keeping in view the fact that it is further away from Chandigarh and was the last village in District Ropar. By applying 20% cut the market value would work out @ Rs.10,75,200/- per acre which in close range of what has already been fixed in the connected appeal. In **Bhag Singh (supra)** @ Rs.10,46,742/- per acre has also been awarded by applying the principle of reverse cut on the sale deed dated 08.09.2003 and keeping the present fixation in mind. The principle of reverse cut was upheld by the Apex Court in **Chandrashekar (D) by LRs & others Vs. Land Acquisition Officer & another 2012 (1) SCC 390.**

230. Resultantly, the landowners are entitled for the amount of compensation of Rs.10,75,200/- per acre alongwith all statutory benefits for the notification dated 28.11.2000. The sale deeds as such relied upon by the landowners are of Gharuan apart from one sale deed which was post notification as much as 3 years later, which has been relied upon by the Reference Court by applying a reverse cut. The other sale deeds of the railways as such would not show that the value was more than what had been awarded by the Land Acquisition Collector and therefore, have to be

discarded in view of Section 25 of the Act, keeping in view the location and potentiality of the land, specially after the Bye-Pass has come in place. Accordingly, the appeals of the landowners are allowed by granting the same market value as granted for the notification dated 04.08.2000, which was issued three months earlier.

No appeals for (xxviii) Village Ramgarh Manda

Severance Issue

231. On the issue of severance it is to be noticed that different Reference Courts have fixed severance charge at a different rate ranging from 20% to 50%. This Court while dealing with the acquisition of same railway line, but for the adjoining villages of District Fatehgarh Sahib had granted a uniform rate of severance @ 30% in **RFA No.5579 of 2010 Swaran Singh (supra)** by enhancing it from 10% which had been granted in that set of cases. While noticing the third factor of Section 23 of the Act, which provides for severance which has to be kept in mind while determining the compensation. The evidence has already been discussed in detail in the present case also and the witness of the railways itself had admitted that the height of the railway track for which the land was acquired is ranging from 6 to 7 meters at some villages and whereas is at a minimum height of 2 to 3 meters from the adjoining land from which the track had been carved out. The said witness had also admitted that there are under-passes at certain places provided on the main road and at other places there are crossings over the railway track. The prejudice as such to the landowners on account of the railway track not

allowing them to move their agricultural implements from one side to the other side gives valid ground to grant severance as the land on the other side of the track cannot be accessed and neither agricultural implements can move from one patch of the land across the track easily. The landowners thus have to go along the track to look for under passes which have been provided at a considerable distance leading to loss of man time and additional expenses. The evidence in the case of village Kailon which has been brought on record by way of additional evidence also shows that the landowners would face difficulties on account of the railway track. The same has been carved out in a straight line unforgivingly for the benefit of the track, as it has to be kept in such a manner for the fast movement of the railway coaches.

232. Resultantly, this Court is of the opinion that 30% of amount of compensation on account of severance of land is liable to be granted, as it is not a case of water channel, but of a railway track and restricted access has been provided at considerable distance. It is a settled principle that the land being left on the other side, the viability of cultivating it would be reduced, which has been specifically pleaded and also proved by the revenue records produced. The loss of access to such agricultural land also would make it unviable to cultivate and the landowners may have to sell the land at a price lower than the market value to the adjoining landowners. Reliance has thus rightly been placed upon in the judgments passed in **Gurbachan Singh, Mohan Lal, Chanan Singh and Smt. Krishna (supra)** in regard to the loss on account of the severance.

233. In **'Tehal Singh Vs. State of Punjab through Collector Land Acquisition Drainage Circle Patiala, 1987 RRR 495**, the following observations came forth:-

> "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."

234. Similarly, the Apex Court in **Wazir & another (supra)** has discussed the issue of severance and the loss which could be caused on

account of the railway track. The relevant portion of the said judgment read as under:-

> "29. We, however, find it difficult to accept grant of further 30% as severance charges to M/s. Kohli Holdings Private Limited. Normally the additional component of compensation in terms of Section 23(1) (thirdly) of the Act is granted when, a landholder suffers damage as a result of acquisition to the extent that the holding that he is left with stands comparatively diminished in terms of quality and value. For instance, if a railway track is to be built through an agricultural land held by a person, leaving two different halves with him, it would be impossible for him to carry on agricultural operations at an optimum level. This would lead to reduction in the value of the halves that he is left with."

Relief

235. Resultantly, a uniform amount of compensation to the tune of 30% on account of severance of land is granted on the market value which has been assessed for different villages and for different notifications. However, it is made clear that on the amount of 30% severance charge, the landowners would not be entitled for the benefits of Section 23 (1A) and Section 23 (2) as it has been held not to be the market value as such by the Apex Court in **'State of Punjab Vs. Amarjit Singh', 2011 (4) SCC 734.**

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

(a) **Qua notification dated 16.06.1999**

For village Kambala, the market value is assessed @

Rs.27,47,418/- per acre alongwith all statutory benefits.

(b) **Qua notification dated 24.06.2000**

(i) For villages Jagatpura, Kambali the market value is fixed @ Rs.27,47,418/- per acre alongwith all statutory benefits, whereas for village Chilla the same is fixed @ Rs.24,72,677/- per acre alongwith all statutory benefits. For villages Manauli and Raipur Khurd, the market value is fixed @ Rs.22,25,410/- per acre alongwith all statutory benefits.

(c) **Qua notification dated 24.10.2000**

(i) For villages Dharali, Sukhgarh the market value is fixed @ Rs.20,02,869/- per acre alongwith all statutory benefits. For village Saneta the market value is fixed @ Rs.22,25,410/- per acre alongwith all statutory benefits, whereas for village Raipur Kalan the same is fixed @ Rs.18,02,582/- per acre alongwith all statutory benefits. For village Sawara market value is fixed @ Rs.17,84,557/- per acre alongwith all statutory benefits. For villages Maujpur, Ledi and Kailon the market value is fixed @ Rs.16,22,325/- per acre alongwith all statutory benefits.

(d) **Qua notification dated 28.11.2000**

(i) For village Tole Majra the market value is fixed @ Rs.14,60,093/- per acre alongwith all statutory benefits. For village Khooni Majra the market value is fixed @ Rs.16,22,325/- per acre alongwith all statutory benefits. For villages Badala Naya Shahar and Khanpur the market value is fixed @ Rs.18,13,472/- per acre alongwith all statutory benefits. For village Bhago Majra, the market value is fixed @ Rs.14,50,778/- per acre alongwith all statutory benefits.

(ii) For village Peer Sohana the market value is fixed @ Rs.13,05,700/- per acre alongwith all statutory benefits, whereas for villages Simbal Majra and Sakrullapur the market value is fixed @ Rs.12,09,600/- per acre alongwith all statutory benefits. For village Gharuan the market value is fixed @ Rs.13,44,000/- per acre alongwith all statutory benefits. For village Marauli Kalan and Marauli Khurd the market value is fixed @ Rs.10,75,200/- per acre alongwith all statutory benefits.

(e) **Qua notification dated 06.02.2001**

(i) For village Kambali the market value is fixed @ Rs.29,39,737/- per acre alongwith all statutory benefits, whereas for village Chilla the same is fixed @ Rs.26,45,764/- per acre alongwith all statutory benefits. For villages Manauli and Raipur Khurd the market value is fixed @ Rs.23,81,188/- per acre alongwith all statutory benefits.

(f) **Qua notification dated 01.07.2004 & 17.01.2005**

(i) For village Khooni Majra, the market value is fixed @ Rs.22,22,222/- per acre alongwith all statutory benefits, whereas for villages Badala Naya Shahar and Khanpur the same is fixed @ Rs.26,66,667/- per acre alongwith all statutory benefits. For village Peer Sohana the market value is fixed @ Rs.21,33,334/- per acre alongwith all statutory benefits and for village Gharuan the market value is fixed @ Rs.14,40,000/- per acre alongwith all statutory benefits.

237. Resultantly, the appeals alongwith cross-objections filed by both the landowners and the Railways are disposed of. All the pending civil miscellaneous applications also stand disposed of.

238. 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.

239. 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.

07.12.2019
Sailesh/Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No