

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**RFA No.2680 of 2012 (O&M)
Pronounced on :11.02.2019**

Ishar Singh

...Appellant

Versus

Union Territory, Chandigarh

...Respondent

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

Present: Mr.M.L.Sarin, Sr.Advocate
with Mr.Ritesh Aggarwal, Advocate
Mr.Shailendra Jain, Sr.Advocate
with Mr.H.J.Singh, Advocate
Mr.M.L.Saggar, Sr.Advocate
with Mr.Rohit Joshi, Advocate
Mr.P.C.Dhiman, Advocate
Mr.Pritam Saini, Advocate
Mr.Naresh Kaushal, Advocate
Mr.Raj Kumar Rathore, Advocate
Ms.Ekta Saini, Advocate, for
Ms.Ekta Thakur, Advocate
Mr.Hardip Singh, Advocate and
Mr.M.S.Rana, Advocate
Mr.Inderjit Sharma, Advocate, for the landowners.

Mr.Pankaj Jain, Sr.Standing Counsel
Mr.Tarun Walia, Advocate
Mr.Daman Dhir, Advocate
Mr.Anil Mehta, Advocate
Ms.Shivangi Sharma, Advocate
Ms.Geeta Sharma, Advocate, for U.T., Chandigarh.

Mr.Sudhir Nar, Advocate, for UOI in RFA-1335 to 1338-2013.

Mr.Satish Singla, Advocate, for UOI in RFA-2154-2012.

G.S.SANDHAWALIA, J.

The present judgment shall dispose of 170 number of appeals, pertaining to as many as 4 notifications, for acquisition of land of Village Manimajra, Hadbast No.375, Chandigarh, all filed by the landowners. The details of the appeals filed are as under:

Year	RFA Nos.
2012	397, 398, 399, 400, 401, 402, 679, 680, 681, 1085, 1086, 1184, 1798, 1799, 1800, 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1891, 1892, 1928, 2063, 2064, 2065, 2066, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2143, 2154, 2680, 2681, 2682, 2683, 2684, 2685, 2686, 2687, 2688, 2689, 2690, 2691, 2692, 2693, 2708, 2709, 2769, 2770, 2801, 2802, 2803, 2804, 2805, 2806, 2855, 2858, 3073, 3089, 3283, 4012, 4013, 4014, 4015, 4016, 4017, 4018, 4501, 4502, 4826, 4833, 5088, 5089, 5090, 5204, 5205, 5206, 5207, 5208, 5209, 5210, 5211, 5212, 5213, 5214, 5215, 5304, 5305, 5394, 5422, 5698, 5699, 5812, 5813, 6216, 6300, 6541, 6956, 6957, 6958, 7268, 7269, 7492 and 7499
2013	359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 393, 394, 466, 548, 549, 1038, 1039, 1091, 1092, 1334, 1335, 1336, 1337, 1338, 1659, 1673, 2827, 3497, 3498, 4361, 4362 and 4478
2014	2134, 3105, 3106, 3107, 3108, 3109, 3320, 3395, 3667, 3815, 3816, 3817 and 6612
2015	80, 2347 and 4480
2016	190, 449 and 451
2017	1691

2. The details of the notifications are as under:

Date of Section 4 Notification	Date of LAC Awards	Amount awarded (Rs./acre)			Enhancement by the Reference Court in Rs./acre
01.10.02	No.569 29.03.04	7,35,056 for low lying uncultivated land	8,46,064 for low lying cultivated land	10,50,080 for normal levelled land	On 21.09.2011, granted uniform compensation @ 12,60,096/-
					On 12.05.12, 07.09.12, 19.09.12, 26.02.13, 16.03.13, 12.02.15, 09.10.15, granted compensation @ 24,14,555/-
20.02.03	No.567 23.03.04			10,50,080	On 22.11.11 & 04.01.2013 granted 22,66,700/-
02.06.04	No.575 10.02.05			12,72,171	On 24.07.12, granted 26,15,771/-
03.08.07	No.592 12.03.09			39,40,326	On 23.10.15 granted 49,34,319/-

Background of 1st Notification dated 01.10.2002

3. The Reference Court, Chandigarh, for the first notification dated 01.10.2002, while deciding 89 references, fixed the market value @ Rs.12,60,096/- per acre, at a flat rate, vide award dated 21.09.2011. It is pertinent to notice that while deciding another batch of cases, vide awards dated 12.05.2012, 07.09.2012, 19.09.2012, 26.02.2013, 16.03.2013, 12.02.2015 and 09.10.2015, for the same notification, higher amount of compensation, to the tune of Rs.24,14,555/- was awarded against the compensation awarded by LAC No.569 by the Land Acquisition Collector vide award dated 29.03.2004. The LAC had awarded Rs.7,35,056/- for low lying and uncultivated land, Rs.8,46,064/- for low lying cultivated land and Rs.10,50,080/- for normal levelled land. The purpose of acquisition, as such, was for the provisions of the City Level Infrastructure Regulated Urban Development Area between Chandigarh and Manimajra of 1690 kanals 9 marlas of land, so acquired.

4. The Reference Court, vide the first award, noticed that the land had lost its character as land being cultivable or un-cultivable. However, in the absence of any sale deed coming on the file pertaining to agriculture land, the sale deeds pertaining to the residential sites of pocket No.405 Phase-III, Manimajra, where also flats were constructed by the Chandigarh Housing Board (Ext.PW-18/A) and one sale deed of House No.84, Sector 8-A, Chandigarh (Ext.PW-18/B) were declared as not relevant to determine the market value of the acquired land. Reliance upon the rates which the Chandigarh Administration fetched by auctioning a site for a hotel or another site to a private developer for

developing residential or commercial building, was rejected, keeping in view the judgment of the Apex Court in **Nelson Fernandes Vs. Special Land Acquisition Officer, Goa 2007 (2) RCR (Civil) 508.**

5. Resultantly, thumb rule of 1/5th increase of the said value was applied, keeping in view the building potential of the land and Rs.2,10,016/- was added to Rs.10,15,080/-, to fix the market rate at a uniform ratio of Rs.12,60,096/-. For the compensation for the trees, proportional increase was given of 224% over and above the compensation awarded by the LAC, along with 10% additional compensation, on account of nearness of the market. Compensation for structures and tubewells was also enhanced by grant of 25% of the actual valuation, keeping in view the difference of the market rates and the scheduled rates (PWD Common Schedule of Rates, 1987).

6. While deciding 32 references on 12.05.2012, in *Nirmal Singh Vs. U.T.Chandigarh*, the issue was discussed more threadbare and various factors were taken into consideration including notification dated 14.02.2001 wherein 2.58 acres of land was acquired for the purpose of alternative route No.3 to Panchkula in Village Manimajra, vide award No.553 dated 02.11.2012 and Rs.9,20,120/- per acre had been granted. The same had been enhanced by the Reference Court to Rs.18,07,000/- (Ext.P-29) on 16.07.2009, in the case titled *Mohinder Singh Vs. U.T. Chandigarh*. Similarly, vide notification dated 15.07.1997, for acquisition of 15.59 acres of land, for construction of 220 KV Sub-Station, it was noticed that from Rs.3 lakhs, granted vide award No.515, by the LAC on 19.12.1997, this Court, in RFA-3485-2002 titled *Hardyal*

Singh Vs. U.T. Chandigarh, decided on 05.10.2010, had enhanced compensation to Rs.14,85,880/- vide Ext.P-32.

7. Similarly, sale deed dated 30.06.2000 (Ext.P-17) for 7 kanals 16 marlas of land, situated in Village Kishangarh, Manimajra and sale deed dated 04.07.2000 (Ext.P-18) of 3 kanals 10 marlas of land, were also taken into consideration wherein the market value of the 2 sale deeds worked out to Rs.18,96,960/- and by giving 12% increase for the difference of 27 months, the amount worked out to Rs.24,09,139/-. It was noticed that if a 12% increase is given on Ext.P-29, the award passed for Rs.18,07,000/- for the notification dated 14.02.2001, the market value worked out to Rs.21,59,365/-. Similarly, if 12% increase was given on the amount in Hardyal Singh's case (supra), Ext.P-32, pertaining to the notification dated 15.07.1997, the market value for the period of 62.5 months would work out to Rs.24,14,555/-. Resultantly, the benefit was applied by giving the 12% increase on Ext.P-32, to fix the market value.

8. For the compensation for the superstructures, the plea of the State that only scrap value should be awarded as the structures had been raised without permission from the competent authority, was rejected on the ground that they were entitled to full value by placing reliance upon various judgments of this Court. It was held that 25% increase was also liable to be granted, keeping in view the difference in the market rates, scheduled rates and higher labour wages. Similarly, for compensation for the fruit trees, the increase of 230% was given on account of increase in wholesale price index and further 10% increase on account of nearness of

the market. However, solatium and additional market value was held not payable on amount of compensation awarded for the fruit bearing trees, non-fruit bearing trees, superstructures and tubewells, in view of the judgment of the Apex Court in **State of Punjab Vs. Amarjit Singh 2011 (2) SCR 617**, in both the awards dated 21.09.2011 and 12.05.2012.

9. The subsequent awards dated 07.09.2012, 26.02.2013, 16.03.2013 and 12.02.2015, have followed the award dated 12.05.2012, but have not granted any other benefits for the compensation qua trees, superstructures etc.

10. Similarly, vide awards dated 12.10.2011, 03.11.2011, 03.03.2012, 07.08.2012 and 17.09.2015, while adjudicating on the issues of fruit trees and structures, compensation of 230% increase was given on the wholesale price index and 10% on account of nearness of the market and the contention of the State that only scrap value could be allowed for the construction, was rejected.

11. Similarly, vide the award dated 19.09.2012, while deciding compensation at the higher amount, as in Nirmal Singh's case, fruit bearing trees and compensation for Nursery plants was granted @ Rs.92,136/-, but on account of the Green House, it was denied. Similarly, vide the award dated 09.10.2015, the amount of Rs.5,33,000/- was also granted in respect of the tubewells installed on the land by rejecting the claim of the State that only the scrap value was likely to be paid, apart from the 25% increase given.

Background of 2nd Notification dated 20.02.2003

12. For the notification dated 20.02.2003, issued under Section

4, an award No.567 had been passed on 23.03.2004, whereby market value was fixed by the LAC @ Rs.10,50,080/-. The acquisition was for 26 kanals 10 marlas of land, situated in Village Manimajra and land was acquired for the purpose of construction of a approach road to the IT Park, Kishangarh, Village Manimajra. The site-plan (Ext.P-59) was kept in mind in **Amit Bakshi Vs. U.T.Chandigarh** to notice that the land was situated near 220 KV Sub-Station, which was acquired vide notification dated 15.07.1997 and the adjoining land had been allotted to various IT companies and therefore, it had building potential. The decision of this Court in RFA-843-2007 on 20.10.2008 titled *R.D.Sharma Vs. U.T., Chandigarh*, whereby vide notification dated 09.08.1991, a sum of Rs.9,48,640/- had been awarded, was kept in mind and increase of 11 ½ years was calculated to assess the market value at Rs.22,57,763.20. Similarly, the acquisition for the Sub-Station on 15.07.1997 was kept in mind and that market value had been enhanced to Rs.14,85,880/- and that increase for a period of 5 ½ years would take the market value to Rs.24,67,060.90. The acquisition for the alternative road was also kept in mind, which was for the notification dated 14.02.2001 and giving a 12% increase on 2 years, the market value was assessed @ Rs.22,66,700/- and it was held that it was situated near the land which was acquired and therefore, the market value was fixed @ Rs.22,66,700, while deciding 20 references. Similarly, vide award dated 04.01.2013, a sum of Rs.22,66,700/- was also fixed as market value, while denying the compensation of any fruit bearing and non-fruit bearing trees on account of lack of evidence regarding the trees standing therein.

Background of 3rd Notification dated 02.06.2004

13. For the notification dated 02.06.2004, award No.575 was passed by the LAC on 10.02.2005, whereby Rs.12,72,171/- was fixed as the market value, for acquisition of 125 kanals 10 marlas of land in Village Manimajra and which was for the purpose of widening the road from the redlight point to Kalka road, leading to IT Park. Accordingly, keeping in view the evidence on record, the Reference Court in *Major General Darshan Singh's* case, came to the conclusion that earlier award for the notification dated 20.02.2003 would be most relevant for determining the compensation as the acquired land touched the road leading to the IT Park, Kishangarh and the land had already been acquired vide award No.567 for which, market value had already been fixed @ Rs.22,66,700/- by the award dated 22.11.2011 in Amit Bakshi's case (Ext.P-65). Therefore, granting 12% increase on the same for 15 months and 12 days, increase of Rs.3,49,031/- was granted to assess the market value @ Rs.26,15,771/-. The benefit of 230% increase was also granted for fruit bearing trees while denying the benefit of additional market value and solatium on the said compensation, in view of the judgment passed in **Amarjit Singh** (supra).

Background of 4th Notification dated 03.08.2007

14. Lastly, for the notification dated 03.08.2007, the LAC, vide award No.592 dated 12.03.2009, fixed the market value @ Rs.39,40,326/- for the land measuring 14 kanals 14 marlas which was

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sought to be acquired for the provision of city level infrastructure for the regulated urban development of the area between Chandigarh and Manimajra and for the planned development and expansion of Chandigarh Technology Park. Reliance was, accordingly, placed upon the award of *Major General Darshan Singh* dated 24.07.2012 for the notification dated 02.06.2004, to give 12% increase to fix the market value @ Rs.49,34,319/-. The same was wrongly added to what had been awarded by the Collector instead of adding it to the amount awarded for the notification dated 02.06.2004 and thus, the amount would have come to Rs.36,0976/- though the compensation had been assessed @ Rs.49,34,319/-, which, counsel for the UT has pointed out. However, the benefit of the sale deed (Ext.P-41) of 17 kanals 19 marlas of land situated in Manimajra, executed on 18.05.2007 for Rs.1,29,75,000/-, the market value of which per acre would come to Rs.57,82,729/-, was ignored.

Arguments of counsels

15. Counsels for the landowners have, accordingly, argued that firstly, in RFA-2680- titled *Ishar Singh Vs. U.T. Chandigarh*, that once for the same notification dated 01.10.2002, higher compensation has been granted, therefore they were also entitled for enhancement from Rs.12,96,096/- to the tune of Rs.24,14,555/-. Further enhancement was liable to be granted by relying upon the judgment in RFA-5519-2009 titled *U.T.Chandigarh Vs. Mohinder Singh*, decided on 17.02.2016, to submit that for the notification dated 14.02.2001 for the alternative route No.3 to Panchkula, the award dated 16.07.2009 had further been

modified and the market value had been enhanced from Rs.18,07,000/- to Rs.27,00,340/-. It is accordingly, contended that 12% increase would, thus, work out to Rs.32,47,428/- and 15% would work out to Rs.33,96,521/-. Stress was laid upon the potentiality and increase in prices around Chandigarh and the location of the land. It was submitted that immediately after the first and the second notifications dated 01.10.2002 and 20.02.2003, respectively, 12.5 acres had been allotted to DLF on 23.12.2003 (Ext. P-28) for Rs.11.2 crores + premium of Rs.22.62 crores, and the market value worked out @ Rs.2.71 crores per acre. Similarly, reliance was placed upon the auction of the hotel site to Kujjal Builders vide Ext.PW-10/A, to submit that land measuring 4.9 acres was leased out for Rs.15 crores on 17.05.2006 and therefore, phenomenal increase was taking place due to the potentiality of the land which should be kept in mind. Similarly, allotment made to Chandigarh Housing Board on 19.05.2006 (Ext.P-5) of 135 acres of land from award No.569 itself was done, which further alienated the land in favour of M/s Parsavnath Developers, for Rs.821,21,21,210/- on 09.06.2006 (Ext.PW-11/C) and which was accepted vide Ext.PW-11/D. Reference was made to the RTI information received on 18.05.2006 that the price of the area was ranging between Rs.8 to Rs.10 crores. Similarly, reliance was placed upon the allotment to UPPAL Housing Pvt. Ltd. of 5.39 acres of land in Pockets No.2 & 3 of Manimajra for Rs.108,01,00,000/-, which worked out to Rs.20.29 crores and therefore, by placing reliance upon the site-plan, it was contended that appropriate enhancement should be granted, keeping in view the potentiality of the land.

16. It was further submitted that the judgment in **Amarjit Singh's case** (supra) is not applicable and reliance is placed upon **Sunder Vs. Union of India 2001 (7) SCC 211**, which was followed by **Gurpreet Singh Vs. Union of India 2006 (8) SCC 457**, to submit that solatium is also to be granted to the compensation awarded for the value of the fruit trees and the structures as the damage sustained by a person under Clause (2) or (3) of Section 23 of taking any standing crop or trees was also to be kept in mind while determining the market value. Therefore, under Section 23(1-A) the amount payable would be part of the market value which was provided above, under Section 23 read with Sub-clause (2) of Section 23 which further provided that solatium is to be awarded as such to the market value and is compulsory.

17. Mr.Pankaj Jain, Sr.Standing Counsel, U.T.Chandigarh, relied upon Section 23 and Section 24, to submit that the market value is only to be determined at the time of the date of publication of the notification. He placed reliance to clauses fourthly and fifthly of Section 24 that any increase to the value of the land acquired or likely to accrue to the use it is to be put when it is acquired, is not to be taken into consideration. It is, accordingly, submitted that for the planned development, if the land had been allotted or leased out, the same would not connote the correct market value, as such, and therefore, those facts and circumstances were not liable to be taken into consideration.

Pleadings of evidence in notification dated 01.10.2002

18. The record of LAC No.219 of 2006 titled *Ishar Singh Vs.*

U.T., Chandigarh, would go on to show that the amount of compensation awarded was challenged on the ground of being inadequate and insufficient due to the provisions of the Punjab New Capital (periphery) Control Act, 1952 (for short, the '1952 Act') there was no sale or purchase of land on account of the restrictions to raise construction. The U.T. Administration was becoming a middleman to earn profits and the land which was being acquired @ Rs.10,55,080/- was being allotted to allottees @ Rs.75.5 lakhs, without any development and internal development. The agriculture land was now to be treated as urban at the hands of the Administration and therefore, the urban potentiality could not be lost. The location of the land, as such, was sought to be highlighted on the ground that it was situated near the Timber Market and transport area on its one side and Sukhna Choe on the other side. Manimajra town had merged in the Municipal Corporation, which fell on the fourth side of the acquired land. In and around the acquired land, commercial activities like gas godowns, saw-mill, transport area, high school and hospitals were already existing in the adjoining land where facilities of sewerage and roads were already provided. Modern Housing Complex was at a distance of ½ km from the acquired land and therefore, the area was surrounded by developed areas on all the four corners and thus the landowners claimed compensation @ Rs.1.50 crores to Rs.2 crores as PUDA was giving licences to colonizers to make colonies and sell plots and therefore, the market price was payable by the Government.

19. In response, the plea taken was that the market value of the land was the value according to the use of the land which the land was

put at the date with reference to which the market value is to be determined under that clause and crores of rupees were spent on development charges. The land was falling within U.T.Chandigarh and the location of the land was not relevant because it was covered under the 1952 Act and therefore, no commercial use or industrial use was permitted.

20. PW-1, Halka Patwari was examined to prove the certified copy of the *Aks Latha* for Village Manimajra (Ext.PA) and testify as to the location of the land as had been averred. He also stated that all pockets of Manimajra were acquired by the U.T.Chandigarh and the acquired land was at a distance of 2 kms from the Kalka National Highway to Manimajra and was fully developed and basic amenities of life etc. were available.

21. PW-2 produced the notification whereby, vide the award dated 29.03.2004 the land was acquired by the U.T.Chandigarh for the IT Park and had been allotted @ Rs.1 crore vide Ext.PB/1 to Ext.PB/12. Letter of allotment dated 06.12.2005 (Ext.PD), to M/s UPPAL Housing Pvt. Ltd., showed that on the basis of an auction held on 28.11.2005 land measuring 5.394 acres was allotted for Rs.108,01,000,00/-. The U.T. Minimum Rates of Commercial & Agricultural land, which had been revised, was brought on record as Ext.P-K1 to P-K4. Ext.P-B1 would go on to show that on 23.12.2003, Rs.11.2 crores was demanded as premium from M/s DLF Info City Developers (Chandigarh) Ltd. for 12.5 acres of land, which was to be prepared for construction of commercial ready built space in terms of the provisions contained in the Capital of Punjab

(Development and Regulation) Act, 1952 and the Chandigarh (Sale of Sites and Building) Rules, 1960 and the Allotment of Campus Sites in Chandigarh Information Service Parks Rules, 2002. Similarly, other Chandigarh Technology Parks' companies land was allotted in December, 2005 for allotment to the I.T. companies on prices of land ranging between Rs.1.3 crores to Rs.1.6 crores at a premium ranging from Rs.1,30,61,779/- to Rs.1,65,92,311/-, which would be clear from Ext.P-B2 to P-B12. Similarly, Tech Mahindra was allotted on 26.02.2006 (Ext.P-B/11) plot No.23 measuring 10 acres at Rs.40 lakhs per acre.

22. Ext.P-J, which is communication from the Finance Secretary, Chandigarh Administration dated 19.05.2006 would go on to show that against the award No.569, for land measuring 211.49 acres, clarification was sought as to whether 129 acres of land in Chandigarh I.T.Park in Kishangarh had to be transferred in favour of the Chandigarh Housing Board and there was a dispute whether the acreage was to be 135 acres or 129 acres, out of the award No.569 dated 29.03.2004, which was, thus, pertaining to the notification dated 01.10.2002. On 15.11.2005 (Ext.P-10), transfer of 135 acres of land was done to the Chandigarh Housing Board on free lease basis by the Finance Secretary, Chandigarh and the Chandigarh Housing Board was designated as a Nodel Agency for executing the project by engaging SBI Caps as consultants while inviting bids. On 17.05.2006 (Ext.P-10/A) in view of the auction held on 09.03.2006, allotment letter was issued to Kujjal Builders Pvt. Ltd. for the hotel site, for 99 years on leasehold basis of 19781.975 sq.yards, which comes to 4.9 acres. It is pertinent to notice that both the allotments

to the Chandigarh Housing Board and Kujjal Builders is out of the land which is part of award No.569. Eventually, the Chandigarh Housing Board, after getting price bid quotation from DLF Universal Ltd. and from Parsvanath Developers Ltd. (Exts.PW-11/B and PW-11/C) dated 25.05.2006, for Rs.567 crores and Rs.821,21,21,210 allotted land to Parsvanath Developers on 09.06.2006 (Ext.PW-11/E) and issued a letter of acceptance which was approved on 26.06.2006 (Ext.PW-11/D) by the Chandigarh Housing Board. Ext.PW-11/F is the lay-out plan for the planned development which was to be carried out.

23. Similarly, the record of LAC 511 titled *Nirmal Singh Vs. U.T.Chandigarh*, would go on to show that similar plea and defence was taken and the evidence is also similar, apart from the extra evidence for the claim of the eucalyptus and fruit bearing trees. Exts.P-17 & P-18, sale deeds were at a distance of 3 murabbas (15 acres) and a perusal of the said site-plan would go on to show their location at the back of the land and adjoining Village Kishangarh/Bhagwanpura. PW-16, Tara Chand, Revenue Patwari would further depose that the acquired land adjoins the boundary of Saketri whereas land of Manimajra was at a distance of 20 acres and which further adjoins Panchkula. Ext.P-29, the judgment passed in Mohinder Singh Vs. U.T. Chandigarh would go on to show that for the alternate route No.3 to Panchkula, the amount awarded by the Reference Court was Rs.18,07,000/- which, as noticed, has been enhanced in RFA-559-2009 to Rs.27,00,340/-.

Pleadings and Evidence in notification dated 20.02.2003

24. Similarly, the record of the case in LAC No.454-2006 titled

Amit Bakshi Vs. U.T. Chandigarh, same plea was taken regarding the location of the land and that the market value had been inadequately awarded and the evidence also, in principle, remains the same. Evidence brought on record was also similar in nature regarding the allotments made to Kujjal Builders, Parsavnath Builders and M/s UPPAL Housing Pvt. Ltd. PW-7 stated that the level of the acquired land was even and the award was passed for the construction of the road to the IT Park and the land was agricultural in nature before acquisition. Amit Bakshi, appearing as PW-12, deposed that without the previous sanction of the U.T.Administration, the land could not have been used for any other purpose other than agriculture. Ext.P-12 would go on to show that for the agricultural land falling in Village Manimajra, Rs.36 lakhs per acre was the fixation of the Collector's rate, which were to be effective from 16.11.2005.

Pleadings and evidence for the notification dated 02.06.2004

25. The main case, i.e., LAC No.142-2006 titled *Major General Darshan Singh Vs. U.T. Chandigarh*, would go on to show that compensation was sought @ Rs.2 crores on account of potentiality and location of the land. The allotment of plots by the Chandigarh Administration was proved by PW-1, Vineet Sayal, Clerk and PW-2, Magi Ram, Assistant, Estate Officer, U.T.Chandigarh, PW-3, Nirmaljit Singh, Clerk, Chandigarh Housing Board and PW-4, Subhash Chander, Clerk, IT Department, Chandigarh Administration. PW-6 confirmed that the land allotted by the Chandigarh Administration to the private developers, was at a distance of 1 ½ kms or 2 kms from the land acquired

and that the boundary of the acquired land adjoins the boundary of Mansa Devi Complex, which had been developed by the Haryana Government in Villages Saketri and Bhainsa Tiba. Similarly, the other record which is overlapping in nature, was produced in the reference which has already been discussed in detail, qua the first notification in question.

Evidence and pleadings for the notification dated 03.08.2007

26. The said pleading gives details of all the acquisitions which have been made around the area from the year 1989 to the year 2008, which read as under:

“10.86 acres of land was acquired for Indra Colony vide award No.412 dated 22.12.89;

39.27 acres of land situated in Pocket No.4, Manimajra, was acquired vide Award No.413 dated 5.1.1990;

29.97 acres of land situated in Manimajra was acquired vide Award No.414 dated 5.1.90 Pocket No.1.

37.55 acres of land situated in Pocket No.2, was acquired vide Award No.416 dated 5.2.1990;

21.51 acres of land situated in Pocket No.4 was acquired vide Award No.420 dated 28.3.1990;

36.37 acres of land situated in Pocket No.5, Manimajra, was acquired under award No.427 dated 18.5.1990;

16.27 acres of land situated in Manimajra was acquired for Artisan village, vide Award No.450 dated 9.10.1992;

80.80 acres of land was acquired for Afforestation in Manimajra vide Award No.469 dated 9.11.1993;

56.14 acres land was acquired for setting up of Nursery in Manimajra vide award No.473 dated 5.2.1993;

40 acres of land situated in Pocket No.11 was acquired vide Award No.475 dated 27.2.1993;

56.53 acres of land situated in Pocket No.9, Manimajra, was

acquired vide Award No.479 dated 21.6.1993;
15.59 acres land situated in Manimajra was acquired for special Gird Station vide Award No.515 dated 19.12.1997;
45.22 acres of land situated in Manimajra was acquired for development of residential cum commercial, municipal park and public utility building No.3 in Manimajra, vide award No.520 dated 10.9.1998;
1.13 acres of land in Pocket No.10, Manimajra was acquired vide Award No.563 dated 27.2.2004;
26 Kanals 10 Marlas land situated in Manimajra was acquired for the construction of approach road to IT Park vide Award No.567 dated 23.3.2004;
1690 Kanals 9 Marlas land situated in Manimajra was acquired for provision of State Level Infrastructure, Regulated Urban Development of the area between Chandigarh and Manimajra vide Award No.569 dated 29.3.2004;
Administration acquired 61.60 acres land in Manimajra vide LAO/Award No.387 dated 27.3.97;
56.63 acres of land situated in Pocket No.9 was acquired vide Award No.479 dated 21.6.93.
104.91 acre land in Manimajra has been acquired vide Award No.586 dated 7.3.2008.”

27. Details were given in the reference petition regarding auction for allotment which was done to Parsavnath Builders for the land which had been acquired vide the notification dated 01.10.2002 for the award No.569 dated 29.03.2004. The same was done to highlight that as per the letter of the Finance Secretary, no capital expenditure would be involved on the part of the Chandigarh Administration for this project and the building and sale of all property would be left to the private party, without any development. Therefore, objection was made on how the

State was profiteering by acquiring the land and further allotting it in raw nature. PW-6, Tara Chand, Patwari depicted the location of the land which was shown in colour (Ext.P-15) and that Village Manimajra was adjacent to Village Darua and Grain Market of Sector 26, U.T. Chandigarh and Mansa Devi Complex fell in Haryana. There were private developers in Phase II and office of the DLF and other private companies on the land allotted by the Government. He also deposed that the land was having urban potential value and could be used for residential and commercial purpose. Ext.P-41, was land measuring 17 kanals 19 marlas in Manimajra sold by Gurjeet Singh, Iqbal Singh and Pritam Singh to one Rajkumar for Rs.1,29,75,000/-. The said sale deed would go on to show that the details of the payments was also duly depicted. State brought on record the sale deed dated 17.05.2002 (Ext.R-1) for 4 kanals 19 marlas, for sale consideration of Rs.3,71,500/-, well below the amount awarded by the Collector.

Findings

28. From the evidence which has been discussed above, one aspect that is to be kept in mind is that there is no dispute regarding the potentiality of the land for urban development. The pleadings for the notification dated 03.08.2007 would go on to show that since 1989, Village Manimajra was subject matter of as many as 15 notifications before the notification dated 01.10.2002 was issued. The market price which has to be paid for the land in question is to be on the settled principles that is the amount which a willing purchaser would pay to a

willing vendor. The date of Section 4 notification is the relevant date under Section 23 to assess the prevalent market rate and the value of the property. The nearness to the developed area, levelled land available for acquisition are plus and minus factors which have to be kept in mind which a prudent purchaser would be considering. Each case is to be assessed from the potential value with reference to the evidence on record and what the willing purchaser is willing to pay to a willing vendor, for assessing the market value. The land in question, thus, was located further behind the Transport Nagar and next to the Sukhna choe. Manimajra town which is part of Chandigarh, is abutting one side and Village Saketri and Mansa Devi Complex which are part of Panchkula, is on the other side of the land, which is all developed area. The only defence of the State, as such, on account of the notifications issued under Sub-section (2) of Section 1 of the 1952 Act, the area mentioned in the Schedule would bring the land within the ambit of the Act and the provisions of the Act would apply and therefore, there was restrictions, as such, for the purpose of construction.

29. The Division Bench of this Court in LPA-113-1978 titled *Union of India Vs. Pritam Singh & others*, decided on 15.02.1979 and in RFA-1550-1977 titled *Shri Ramu @ Ram Singh & another Vs. U.T.Chandigarh* decided on 19.09.1979, discussed the provisions of the 1952 Act. It was held that though there may be a restriction on making actual construction but the potentiality of the land being converted into building site, could not be lost sight of. Relevant portion of the judgment in Pritam Singh (supra) read as under:

“It was also contended by the learned counsel for the appellant that according to the New Capital Periphery Control Act no piece of land could be utilised for a purpose other than the one to which it was already in use on the date of commencement of the Act. In view of the same it was stressed that the owners of land in dispute could not convert the agricultural land into building sites. Therefore, these lands cannot be evaluated as potential building sites. The perusal of this Act shows that the only limitation placed on the lands within the periphery of Chandigarh, as laid down therein, was that the permission of the Capital Project Authorities had to be obtained for making any construction. Besides, though there may be a restriction on making actual construction under the rigours of the Act, but the development of the city of the Chandigarh could not in any way prevent the adjoining lands from being converted into potential buildings sites.”

30. The said view was followed in **Raj Kumar & others Vs. Punjab State & another 1990 (1) PLR 662** wherein, the plea taken was that the Urban Land (Ceiling & Regulation) Act, 1976 would dampen the price of the acquired land in the open market as the user of the land could not be changed without prior permission of the concerned authority. Accordingly, it was held that it could not be said that the future potential of the acquired land had frozen for agricultural purpose and it could not be sold to any other person for residential or commercial purposes. Resultantly, fall back was made upon the observations of the Division Bench and the findings of the Reference Court, who had failed to grant enhancement, as such, was set aside.

31. In similar circumstances, in **RFA-3506-2009** titled **Lokinder Singh & others Vs. State of Haryana & others**, decided on 06.04.2018,

which was pertaining to the development of the adjoining town of Panchkula which is part of the Tricity comprising of Chandigarh and Mohali, this Court had noticed the planned development which was taking place and on account of repeated notifications being issued, a squeeze was put on the landowners who could not get appropriate sale exemplars on account of the fact that the land would fall within the developed Masterplan.

32. Similarly, in **RFA-2350-2005** titled **State of Haryana Vs. Sucha Singh & others**, decided on 01.05.2018, it was held that 15% cumulative increase was liable to be granted for the land which was falling in Village Devinagar, on account of its locational advantage, as development had taken place all around.

33. Thus, the argument, as such, of the counsel for U.T.Administration that on account of the restrictions on land use, there was no potential, as such, is misplaced and cannot be accepted. Rather, the location of the land would go on to show that the land had immense potential and the principles laid down in **General Manager, Oil & Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel & another (2008) 14 SCC 745** would be directly applicable. In the present facts and circumstances, for urban areas and pockets in big cities, on account of rapid development and high demand of land, has resulted in escalation in market value from 10% to 15% per year. Relevant portions of the judgment read as under:

“11. On the other hand, the learned counsel for the respondents/claimants submitted that the rate of escalation in

market value at the relevant time was in the range of 10% to 15% per annum. He relied on the decisions of this Court in [Ranjit Singh v. Union Territory of Chandigarh](#) [1992 (4) SCC 659], and [Land Acquisition Officer and Revenue Divisional Officer v. Ramanjulu & Ors.](#) 2005 (9) SCC 594 wherein this Court had accepted an escalation of ten per cent per annum, and the decision in [Krishi Utpadan Mandi Samiti Sahaswom v. Bipin Kumar](#) 2004 (2) SCC 283 where this Court had accepted an escalation of 15% per annum. He, therefore, submitted that escalation at the rate of 10 per cent adopted by the Reference Court and approved by the High Court is a reasonable and correct standard to be applied.

12. We have examined the facts of the three decisions relied on by the respondents. They all related to acquisitions of lands in urban or semi-urban areas. [Ranjit Singh](#) related to acquisition for development of Sector 41 of Chandigarh. [Ramanjulu](#) related to acquisition of the third phase of an existing and established industrial estate in an urban area. [Bipin Kumar](#) related to an acquisition of lands adjoining Badaun-Delhi Highway in an semi-urban area where building construction activity was going on all around the acquired lands.

13. Primarily, the increase in land prices depends on four factors - situation of the land, nature of development in surrounding area, availability of land for development in the area, and the demand for land in the area. In rural areas unless there is any prospect of development in the vicinity, increase in prices would be slow, steady and gradual, without any sudden spurts or jumps. On the other hand, in urban or semi-urban areas, where the development is faster, where the demand for land is high and where there is construction activity all around, the escalation in market price is at a much higher rate, as compared to rural areas. In some pockets in big cities, due to rapid development and high demand for land, the escalations in prices have touched even 30% to 50% or more per year, during the nineties.

14. On the other extreme, in remote rural areas where there was no chance of any development and hardly any buyers, the prices stagnated for years or rose marginally at a nominal rate of 1% or 2% per annum. There is thus a significant difference in increases in market value of lands in urban/semi-urban areas and increases in market value of lands in the rural areas. Therefore if the increase in market value in urban/semi-urban areas is about 10% to 15% per annum, the corresponding increases in rural areas would at best be only around half of it, that is about 5% to 7.5% per annum. This rule of thumb refers to the general trend in the nineties, to be adopted in the absence of clear and specific evidence relating to increase in prices. Where there are special reasons for applying a higher rate of increase, or any specific evidence relating to the actual increase in prices, then the increase to be applied would depend upon the same.”

34. Rather, the principles laid down in **Udho Dass Vs. State of Haryana & others (2010) 12 SCC 51** would be directly applicable to the facts and circumstances of the present case. The acquisition, as noticed, is between the period from 2002 to 2008 and the landowners still are seeking the adequate compensation which has now been received in instalments. In Udho Dass (supra), it was noticed that increase could be of 100% per year for the land which has the potential of being urbanized. Relevant portions of the judgment read as under:

“17. The land was notified for acquisition in May 1990. The collector rendered his award in May 1993 awarding a sum of Rs.2,00,000/- per acre. The Reference Court by its award dated January 2001 increased the compensation to Rs.125 per square yard for the land of the road behind the ECE factory and Rs.150 per square yard for the land abutting the road which would come to Rs.6,05,000/- and Rs.7,26,000/- respectively for the two pieces of land. This itself is a huge increase vis-a-vis the Collector's award. The High Court in First Appeal by its

judgment of 24th September 2007 enhanced the compensation for the two categories to Rs.135 and 160 respectively making it Rs.6,53,400/- and Rs.7,74,400/-. In other words, this is the compensation which ought to have been awarded by the Collector at the time of his award on 12th May 1993. This has, however, come to the land owner for the first time as a result of the judgment of the High Court which is under challenge in this appeal; in other words, a full 17 years from the date of Notification under [Section 4](#) and 14 years from the date of the award of the Collector on which date the possession of the land must have been taken from the landowner.

18. Concededly, the Act also provides for the payment of the solatium, interest and an additional amount but we are of the opinion, and it is common knowledge, that even these payments do not keep pace with the astronomical rise in prices in many parts of India, and most certainly in North India, in the land price and cannot fully compensate for the acquisition of the land and the payment of the compensation in dribblets. The 12% per annum increase which Courts have often found to be adequate in compensation matters hardly does justice to those land owners whose land have been acquired as judicial notice can be taken of the fact that the increase is not 10 or 12 or 15% per year but is often upto 100% a year for land which has the potential of being urbanized and commercialized such as in the present case. Be that as it may, we must assume that the landowners were entitled to the compensation fixed by the High Court on the date of the award of the Collector and had this amount been made available to the landowners on that date, it would have been possible for them to rehabilitate their holdings in some other place. This exercise has been defeated for the simple reason that the payment of compensation has been spread over almost two decades.”

35. In the present set of cases, the amounts awarded by the Land Acquisition Collector, as reproduced in para No.1 of the judgment, would

go on to show that there was steep rise in prices between the year 2002 to 2008 for Chandigarh, which was acknowledged and granted by the Land Acquisition Collector as from Rs.10,50,080/- assessed in October, 2002, a sum of Rs.39,40,326/- had been assessed in August, 2007.

36. Apart from this, another chart, reproduced below, would depict how the land was being put to use by the State and examples at Sr.Nos.2 & 3 were part of the acquired land for the first award itself, which would go on to show the potentiality of development of the land which was acquired:

Sr. No.	Date of allotment/ auction/lease Exhibit	Amount of land in acres	Consideration in Rs.	Rate in Rs.
1	23.12.2003 (Ext.P-28)	12.5	To M/s DLF for 11.2 crores + premium of 22.62 crores	2.71 crores/acre
2	17.05.2006 (Ext.PW-10/A)	4.9	To M/s Kujjal Builders for 15 crores	3.06 crores/acre
3	09.06.2006 (Ext.PW-11/C)	135	To M/s Parsavnath Developers in auction at Rs.821,21,21,210/-	3.1 crores/acre
4	06.12.2005 (Ext.PD)	5.394	To M/s UPPAI Housing Pvt. Ltd. in auction at Rs.108,01,00,000/-	20.29 crores/acre

37. Similarly, the chart, reproduced below, would depict the potentiality of development as the land was allotted to I.T.Companies at the following rates after the 3rd notification dated 02.06.2004 had been issued but before the issuance of the 4th notification dated 03.08.2007:

RFA-2680-2012 (O&M) & other connected matters

Sr. No.	Date of allotment/ Exhibit	Amount of land in acres	Sale consideration in Rs.	Rate in Rs.
1	28.12.2005 (Ext.PB/2)	1.306175	To M/s Virsa Systems Pvt. Ltd. for 1,30,61,779/-	1 crore/acre
2	29.12.2005 (Ext.PB/3)	1.105999	To M/s KMG Infotech Pvt. Ltd. at 1,10,60,015/-	1 crore/acre
3	02.01.2005 (Ext.PB/4)	1.305514	To M/s Alchemist Ltd. at 1,30,55,168/-	1 crore/acre
4	29.12.2005 (Ext.PB/5)	1.659227	To M/s FCS Software Solutions Ltd. for 1,65,92,311/-	1 crore/acre
5	15.12.2005 (Ext.PB/6)	1.47	To M/s Second Foundation Inc. for 1,47,00,000	1 crore/acre
6	02.01.2005 (Ext.PB/7)	1.3213898	To M/s IDS Info Tech Ltd. for 1,32,13,926/-	1 crore/acre
7	12.06.2006 (Ext.PB/8)	1.50	To M/s R.T. Outsourcing Services Ltd. for 1,50,02,739/-	1 crore/acre
8	01.06.2006 (Ext.PB/9)	1.50	To M/s Karin Informatics Services Pvt. Ltd. for 1,50,03,110	1 crore/acre
9	05.06.2006 (Ext.PB/10)	1.50	To M/s Net Solutions for 1,50,61,477/-	1 crore/acre
10	26.05.2006 (Ext.PB/11)	10	To M/s Tech Mahindra Ltd. for 4 crores	40 lakhs/acre
11	25.11.2005 (Ext.PB/12)	1	To M/s BEBO Technologies Pvt. Ltd. for 1 crore	1 crore/acre

38. This Court is conscious of the fact that auction and post dated allotments are not factors which are to be kept in mind for determining the market value. The above tables would go on to show the

potentiality of the land and how the State has chosen to sell the land at exorbitant rates after having acquired the same at a pittance. On account of the statutory restrictions, the landowners could not get sufficient sale exemplars showing the correct market value on account of the restrictions on the land use. This aspect has, thus, has to be kept in mind while granting the appropriate market value to the landowners by granting enhancement @ 15% as the State is satisfied with the paltry amount which has been awarded to the landowners.

39. The Reference Court has also recorded a finding qua the potentiality, as under, which has not been challenged by the U.T.Administration:

“27. Coming to the facts of the present case, the acquired land is said to be situated about eight kilometers from Madhya Marg and about two kilometers from Railway Station light point. There can be no dispute that the acquired land had building potentiality or urban potentiality. The map of acquired land vis-a-vis other land is Exhibit PM. There was perhaps no other land available with the Chandigarh Administration for undertaking expansion plans. The building activity could not be undertaken earlier due to provisions of Punjab New Capital (Periphery) Control Act, except for limited purposes like Mali Hut, cattle shed, tubewell room, etc.

xxxx xxxx xxxx

36. A big chunk of land became available with Chandigarh Administration after acquisition. The land was acquired for regulated development of area between Chandigarh and Manimajra. The Chandigarh Housing Board is a Chandigarh Administration undertaking. As stated in the introduction part on page 5 of document Exhibit P27 produced by the claimants, the primary objection of the Chandigarh Housing

Board is to provide good quality housing for the persons residing in the U.T.Chandigarh, at affordable prices. By allotting different sites to different companies or developers including Chandigarh Housing Board, it cannot be said that the Chandigarh Administration has not spent any money on the development of the acquired land or providing facilities like roads, highways, making provision for water supply, electricity supply, sewerage, etc. If no development was to be made inside the areas allotted to different persons or companies, it does not mean that there would be no road connecting the different areas or no provision for electricity, etc. to be made. The outer or main connecting each area had to be developed. The evidence thus led by the claimants about the increase in the value of the land or the rates at which the acquired land was either sold or given by draw of lots or auction is of no help to the claimants.”

40. For the notification dated 01.10.2002, the Reference court has relied upon the award dated 16.09.2009, whereby market value of the land for the alternate route No.3 to Panchkula had been fixed @ Rs.18,07,000/- per acre. It is not disputed that the said award has further been modified in **RFA-5519-2009** titled **Union Territory, Chandigarh Vs. Mohinder Singh**, decided on 17.02.2016 and the market value has further been enhanced to Rs.27,00,340/- per acre. Accordingly, if the benefit of 15% enhancement is, thus, granted on the same, the market value can safely be assessed @ Rs.33,96,521/- per acre.

41. However, it is to be noticed that one of the land losers, Shri Bal V.Sehgal, appellant in RFA-3283-2012 titled *Bal V.Sehgal Vs. U.T. of Chandigarh & others*, himself purchased land on 30.06.2000 and 04.07.2000 (Exts.P-17 & P-18), which has been acquired, as already

noticed above. If consolidated, being part of the acquired land, it is over 11 kanals and 7 marlas and has also been identified in the site-plan. The said land forms part of the acquired land as per award No.569 and thus, is the best sale exemplar in preference to the award for route No.2 which, if identified on the site-plan, is considerably at a distance from the acquired land. It is settled principle that sale exemplars are the best piece of evidence rather than falling back on awards and once there is a sale deed from the same piece of land, the observations of the Apex Court in **Special Tehsildar Land Acquisition Vishakapatnam Vs. Smt. A.Mangla Gowri 1992 AIR (SC) 666**, would come into play. Relevant portion of the judgment reads as under:

“It is settled law by catena of decisions that the market value postulated in [s. 23\(1\)](#) of the Act designed to award just and fair compensation for the lands acquired. The word "market value" would postulate price of the land prevailing on the date of the publication of the notification under [section 4\(1\)](#). This Court repeatedly laid the acid test that in determining the market value of the land, the price which a willing vendor might reasonably expect to obtain from a willing purchaser would form the basis to fix the market value. For ascertaining the market rate, the Court can rely upon such transactions which would offer a reasonable basis to fix the price. The price paid in sale or purchase of the land acquired within a reasonable time from the date of the acquisition of the land in question would be the best piece of evidence. In its absence the price paid for a land possessing similar advantages to the land in the neighbourhood of the land acquired in or about the time of the notification would supply the data to assess the market value.”

The said principle has been followed by this Court in **Gian Chand Vs. State of Haryana 2009 (3) PLR 420**.

42. The Apex Court in **Manoj Kumar & others Vs. State of Haryana & others 2018 (2) RCR (Civil) 815** has held that determination of compensation is not to be done by blindly following the earlier awards or judgments. A distance of 1-2 kms may make material difference in value and the best method is the sale transactions, executed before the issuance of the notification under Section 4 of the Act. The previous awards and judgments may suffer from some illegality and before evidence could also be adduced and various factors have to be kept in mind. The said principles would directly be applicable to the facts and circumstances of the present case.

43. Rather, if a fall back is made on the observations made by the Apex Court in **Printers House Pvt. Ltd. Vs. Mst. Saiyadan (deceased) by LRs (1994) 2 SCC 133**, wherein it has been held that the Court is to choose the sale or an award relating to a land which closely or nearly compares with the plot of land of market value of which it has to determined and in such circumstances, this Court is of the opinion that for the first notification, the sale deeds (Exts.P-17 & P-18) would have considerable bearing and would be the best exemplars to assess the market value.

44. Resultantly, if a 15% enhancement is granted for the difference of 2 years and 3 months on the said sale deed, the market value works out @ Rs.26,02,807/- per acre. The relevant table reads as under:

YEAR WISE TABLE IN RESPECT OF ENHANCEMENT @ 15% @

₹ 18,96,960/- FROM 1.7.2000 to 1.10.2002

Year	Principal amount(₹)	Enhanced Amount(₹)	Total amount(₹)
1.7.2000	18,96,960.00	--	18,96,960.00
1.7.2001	18,96,960.00	2,84,544.00	21,81,504.00
1.7.2002	21,81,504.00	3,27,226.00	25,08,730.00
1.10.2002	25,08,730.00	94,077.00	26,02,807.00

45. However, for award No.567, which pertain to the second notification dated 20.02.2003 and similarly, for the third notification dated 02.06.2004, for award No.575, a perusal of the site-plan would go on to show that the lands of the said awards are situated closer to the land acquired for the alternate route No.3 and for the said award, the benefit of enhancement would have to be correspondingly given whereby the amount was quantified as Rs.27,00,340/- per acre on 14.02.2001 in RFA-5519-2009. Resultantly, @ 15%, the market value would work out to Rs.35,71,200/-, for the notification dated 20.02.2003. The relevant table reads as under:

YEAR WISE TABLE IN RESPECT OF ENHANCEMENT @ 15% @

₹ 27,00340/- FROM 14.2.2001 to 20.2.2003

Year	Principal amount(₹)	Enhanced Amount(₹)	Total amount(₹)
14.2.2001	27,00,340.00	--	27,00,340.00
14.2.2002	27,00,340.00	4,05,051.00	31,05,391.00
20.2.2003	31,05,391.00	4,65,809.00	35,71,200.00

46. For the notification dated 02.06.2004, the amount would work out @ Rs.42,41,900/- per acre and the relevant table reads as under:

**YEAR WISE TABLE IN RESPECT OF ENHANCEMENT @ 15% @
₹ 27,00340/- FROM 14.2.2001 to 2.6.2004**

Year	Principal amount(₹)	Enhanced Amount(₹)	Total amount(₹)
14.2.2001	27,00,340.00	--	27,00,340.00
14.2.2002	27,00,340.00	4,05,051.00	31,05,391.00
14.2.2003	31,05,391.00	4,65,809.00	35,71,200.00
14.2.2004	35,71,200.00	5,35,680.00	41,06,880.00
2.6.2004 (109 days)	41,06,880.00	1,35,020.00	42,90,845.00

47. For the fourth notification dated 03.08.2007, the acquisition was for 14 kanals 14 marlas of land which is left out land in Village Manimajra which was further acquired for the provision of city level infrastructure and the same was in scattered pieces. For the said reference, sale deed for 17 kanals, executed on 18.05.2007, almost 3 months prior, in Village Manimajra for Rs.1,29,75,000/- and the value per acre would come to Rs.57,82,729/-, which has wrongly been ignored, as such, without any valid reason. The said sale exemplar is 2 acres in size and a perusal of the same would go on to show that the details of the payments were also duly depicted and nothing, as such, was brought on record by the State that the sale deed was not a *bona fide* transaction. Resultantly, keeping in view the judgment in **Manoj Kumar** (supra) that sale exemplars are best piece of evidence, this Court is of the opinion that the market value for the land acquired on 03.08.2007 can safely be assessed @ Rs.57,82,730/- per acre.

48. The sale deeds, as such, produced by the State dated 17.05.2002 (Ext.R-1) for 4 kanals 19 marlas was for sale consideration of

Rs.3,71,500/- which is 5 years prior to the notification dated 03.08.2007 and the Land Acquisition Collector himself has raised the amount offered, as per the award, from Rs.10,50,080/- in the year 2002 to Rs.39,40,326/- and therefore, the said sale deed would have no relevance, also keeping in view the provisions of Section 25 of the Act.

49. It is to be noted that no further argument was addressed on super-structures, fruit bearing trees, non-fruit bearing trees etc., except that the claim for solatium and additional market value should be payable.

50. Coming to the said argument whether the landowners would also be entitled for the benefit of solatium and additional market value on account of compensation awarded for the fruit bearing trees, non-fruit bearing trees, super-structures and tubewells, is without any reasonable basis and is not liable to be accepted. The Apex Court in **Amarjit Singh** (supra) has discussed in detail the issue that market value under Section 23 of the Act would fall under the first clause and the damage sustained by the person under the second clause to fourth clauses, on account of severance of land or an acquisition injuriously affecting the property or other earnings, would not be part of the market value on which solatium would be payable. The judgment of the Constitutional Bench in **Sunder** (supra) was also discussed while coming to the following conclusion:

“6. [Section 23\(1\)](#) refers to market value of the land on the date of publication of the notification under [Section 4\(1\)](#) of the Act as a relevant factor for determining the amount of compensation to be awarded for land acquired under the Act. Sub-section (2) provides that in addition to the market value

of the land determined under [Section 23\(1\)](#), the Court shall, in every case, award a sum of 30% on such market value in consideration of the compulsory nature of acquisition. Sub-section (1A) of [Section 23](#), inserted by Act 68 of 1984 provides that in addition to the market value of the land, as provided under [Section 23\(1\)](#), the Court shall, in every case, award an amount calculated at the rate of 12% per annum on such market value for the period commencing on or from the date of publication of the notification under [Section 4\(1\)](#) in respect of such land to the date of award of the collector or the date of taking possession of the land, whichever is earlier. The additional amount under [Section 23\(1A\)](#) and solatium under [Section 23\(2\)](#) are both payable only on the market value determined under [Section 23\(1\)](#) of the Act and not on any other amount. Solatium under [Section 23\(2\)](#) is not payable on the additional amount nor additional amount under [Section 23\(1A\)](#) payable on solatium. Solatium and additional amount are also not payable on the damages/expenses that may be awarded under second to sixth factors under [Section 23\(1\)](#) of the Act.

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

- (a) Compensation determined under [Section 23\(1\)](#) of the Act (comprising the market value of the land referred to as the first factor and any damages/expenses referred to as the second to sixth factors under the said sub-section).
- (b) Solatium at 30% on the market value determined as the first factor under [section 23\(1\)](#) of the Act.
- (c) Additional amount at 12% per annum of the market value of the land referred to as the first factor under [Section 23\(1\)](#) of the Act, for the period specified in [Section 23\(2\)](#).
- (d) Interest on the aggregate of (a), (b) and (c) above for the period between the date of taking possession to date of payment/deposit at the rate of 9% per annum for the first year and 15% per annum for the remaining period.

Payments made are to be adjusted and accounted in the manner set out in [Gurpreet Singh v. Union of India](#) (2006) 8 SCC 457.”

51. Resultantly, the argument, as such, is repelled that the landowners are entitled for the benefit of solatium and additional market value and no interference is liable to be made in the observations of the Reference Court.

52. Similarly, the judgment in **Gurpreet Singh** (supra) also does not support the case of the landowners, as it pertains to the judgment of the Constitutional Bench regarding the rule of appropriation in the execution of money decrees and whether the same rule is applicable to the case of an award or decree under the Land Acquisition Act. Accordingly, the answer was that the amount has to be adjusted, first towards interest, then towards costs and then towards principal, while approving the earlier judgment in **Prem Nath Kapur & another Vs. National Fertilizers Corporation of India Ltd. & others** 1996 SCC (2) 71.

Conclusion:

53. Accordingly, the present appeals are allowed, in the following terms:

- (i) Uniform compensation is granted, by modifying the awards dated 21.09.2011, 12.05.2012, 07.09.2012, 19.09.2012, 26.02.2013, 16.03.2013, 12.02.2015 and 09.10.2015, by awarding Rs.26,02,807/- per acre, for the notification dated 01.10.2002.

- (ii) For the notification dated 20.02.2003, the market value is assessed @ Rs.35,71,200/- per acre.
- (iii) For the notification dated 02.06.2004, the market value is assessed @ Rs.42,90,845.
- (iv) Lastly, for the fourth notification dated 03.08.2007, the market value is assessed @ Rs.56,82,730/- per acre.

54. The Administration shall comply with the directions issued in '**HSI IDC Vs. Pran Sukh**' (2010) 11 SCC 175 and the above amount shall carry all the statutory benefits except as denied by the Reference Court qua the amount for the fruit bearing trees, non-fruit bearing trees, super-structures and tubewells.

February 11th, 2019 <i>sailesh</i>	(G.S.SANDHAWALIA) JUDGE
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<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>