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

RFA No.1253 of 2014 & other connected appeals
Reserved on : 21.01.2020
Pronounced on : 31.01.2020

Ranbir Singh and others

... Appellants

Versus

State of Haryana and others

... Respondents

Other connected Appeals filed by the landowners
RFA Nos.1253, 774, 775, 1184 to 1205, 1260, 1315 to 1409, 1424, 1434 to 1441, 2181, 2182, 2764, 2873 to 2876, 2911, 2913, 2914, 2916, 2921 to 2939, 3288 to 3299,3370, 3402, 3490, 4261, 4262, 4296, 4298, 4321, 4322, 4646, 4647, 4652, 4947 to 4949, 4978, 5247, 5305, 5422, 5424, 5443, 5444, 6016 to 6020, 6022, 6094 to 6109, 6267 to 6269, 6719, 6720, 7215, 7354, 8634, 8661, 8680, 8765, 9033, 9124, 9380 to 9382, 9937, 10064, 10070, 10080, 10348 to 10351, 10388, 10457 to 10459 of 2014; **RFA Nos.208, 323, 551, 2058 to 2060, 3561, 6256, 6497, 7004 to 7006, 7022, 7072 of 2015;** **RFA Nos.69, 1854, 2141, 2785, 2984 to 2989, 3271 to 3273, 3732, 3909, 4883, 4884 of 2016;** **RFA Nos.5, 579 to 581, 2714, 1319 of 2017;** **RFA Nos.1515, 2342, 2488, 3761, 8429 of 2018;** **RFA Nos.1624 and 2661 of 2019**

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

Present: Mr. Shoaib Khan, Advocate,
Mr. Manoj Khan Chouhan, Advocate,
Mr. S.K. Laura, Advocate,
Mr. S.K. Sharma, Advocate for
Mr. M.L. Sharma, Advocate,
Mr. Ram Kumar Saini, Advocate,
Mr. Nitin Rathee, Advocate,
Mr. Gopal Sharma, Advocate,
Mr. Gopal Soni, Advocate,
Mr. Anil Kumar Malik, Advocate,

Mr. SPS Ahulawalia, Advocate for
Mr. Akshay Jindal, Advocate,
Mr. Mohit Jaggi, Advocate,
Mr. Arvind Kashyap, Advocate,
Mr. P.C. Yadav, Advocate,
Mr. Gobind Rana, Advocate for
Mr. Harkesh Manuja, Advocate,
Mr. Gobind Dhanda, Advocate,
Mr. Rajiv Kataria, Advocate and
Mr. Ajay Jain, Advocate, for the landowners.

Ms. Aruna Sachdeva, appellant in person
in RFA No.3490 of 2014.

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

G.S. Sandhawalia, J.

The present set of 288 appeals filed under Section 54 of the Land Acquisition Act, 1894 (for short '1894 Act'), by the landowners is directed against the Principal Award of the Reference Court, Panchkula dated 08.08.2013, seeking enhancement of the market value which was acquired from five villages vide notification dated 26.09.2007 issued under Section 4 of the 1894 Act. The market value has been enhanced by the Reference Court to Rs.1343/- per square yard (Rs.65,00,120/- per acre) uniformly.

2. The basis of enhancement in principle was availability of large scale number of sale exemplars as such with the Reference Court, on account of hectic development activity in the area. As many as 50 sale deeds were taken into consideration, the price-band of which were varying between Rs.1785/- to Rs.2480/- per square yard. The total amount thus arrived at was Rs.1,11,881/- and by dividing the same by 50,

the market value was assessed @ Rs.2237.62/-. A cut of 40% was put on the average value to round off the amount to Rs.1343/- per square yard alongwith all statutory benefits.

3. Counsel for the landowners has accordingly submitted that the best of the sale deeds depicting the highest market price should have been taken into consideration and averaging resorted to in such circumstances was not justified, as there was a variation of almost Rs.700/- per square yard between the lowest sale exemplar and the highest one. There was immense development taking place in the area and the sale exemplar which showed the lower pricing @ Rs.1785/- per square yard as such was 4 months earlier in point of time and, therefore, should have been kept out of consideration. The percentage of cut as such of 40% was also contested and it was submitted that once the land was being purchased by builders in the neighbourhood, the market value as such which was paid to the other landowners by them should also be paid to the present appellants @ Rs.2500/- per square yard (Rs.1,21,00,000/- per acre).

4. It is submitted that it is not disputed that there was immense potentiality and way back in 1983 Himshikha Colony was developed by the Haryana Housing Board from two of the villages in question and a private colony namely Amrawati Enclave was already in existence in the adjoining area wherein all facilities like Mall etc. were present. It is further submitted that the builders had succeeded in getting their land released after having purchased it in the range of Rs.1 crore per acre to

Rs.1.4 crores per acre and, therefore, the Reference Court was not justified in granting compensation only to the tune of Rs.65,00,120/- per acre. It is further pointed out that the State had preferred no appeal being well aware of the prevalent market price and the fact that they had released the land of the builders.

5. Counsel for the State on the other hand has submitted that builder sale deeds could not be relied upon and the cut was on the lower side and a 50% cut should have been applied and accordingly submitted that it was not a case of enhancement. It is further submitted that it is a large chunk of land which had been proposed to be acquired and eventually 300 acres had been acquired. The sale exemplars as such which were in the range of 1 acre to 12 acres of the builders did not depict the correct market value and the cut on that account also was liable to be applied.

6. It is further submitted that sale deeds Exs.P20 and P27 which were in favour of the private persons were also liable to be ignored, as they were pertaining to one family of person dealing in property namely Tarlok Singh and his son Ghanshyam etc. Therefore, the sale instances did not depict the correct market value and the said sale deeds also would suffer from the same disadvantage as the sale deed of the builders. It is further pointed out that the land of 5 villages was spread-over in a large area and a uniform compensation had wrongly been granted and the bulk sale deeds were only of two villages Bhagwanpur and Islam Nagar. There are no sale exemplars of Bhogpur and Miranpur Bakshiwala

available and only one of village Naggal Sodhian.

Facts, Pleadings and Evidence of the case

7. The land was acquired vide notification dated 26.09.2007 issued under Section 4 of the 1894 Act, wherein 809.75 acres of land of 5 villages, which are Bhogpur, Naggal Sodhian, Islam Nagar, Bhagwanpuur and Miranpur Bakshiwala, was sought to be acquired, for the public purpose for the development and utilization of land as residential area of Sector 2 part, 3, 4 and 5, Pinjore to be developed by Haryana Urban Development Authority (HUDA). In view of the Section 5-A objections, section 6 notification dated 25.09.2008 was pertaining only to 673.29 acres of land. Eventually the Award was passed by the Land Acquisition Collector on 24.09.2010 for 378.388 acres of land. The collective chart showing the area acquired of the five villages and the compensation granted by the LAC and the Collector rate as per Ex.P1, correspondingly is as under:-

Sr. No.	Villages	Acres	As per award of LAC per acre	Collector rate as per Ex.P1
1.	Bhogpur	26.44	Rs.20 lakhs	Rs.12 lakhs
2.	Naggal Sodhian	28.07	Rs.38 lakhs	Rs.35 lakhs
3.	Islam Nagar	210.49	Rs.38 lakhs	Rs.35 lakhs
4.	Bhagwanpur	99.81	Rs.55 lakhs	Rs.50 lakhs
5.	Miranpur Bakshiwala	7.56	Rs.16 lakhs	Rs.8 lakhs
	Total Land	372.388		

8. The Reference Court clubbed 237 reference petitions which were decided alongwith the main **Reference Case No.272 of 2011**

'Rajinder Kumar Sharma Vs. State of Haryana and another' decided on 08.08.2013. The said Award was thereafter followed by the other Reference Courts on various dates i.e. 14.10.2013, 04.12.2013, 04.01.2014, 18.01.2014, 10.07.2014, 01.10.2014, 13.03.2015, 30.03.2015, 23.04.2015, 29.07.2015, 18.01.2016, 19.01.2016, 20.01.2016, 01.02.2016, 09.02.2016 01.03.2016, 13.12.2016, 29.09.2017, 25.09.2018 and 15.02.2019.

9. In the petition filed under Section 18 of the 1894 Act, claiming enhancement it has been pleaded that at the time of notification under Section 4, the land fell within the municipal limits of M.C., Pinjore. It was adjacent to the already inhabited urban residential colony and had great urban potentiality. The market value was not less than Rs.10,000/- per square yard. Private developers like DLF, Indian Real Estate Organization (IREO) and other builders had been purchasing the land in the vicinity of the acquired land as well as out of the Khasra numbers already notified for acquisition at the rate of Rs.1,25,00,000/- per acre. The location of the land was prime and it was close to National Highway No.22 known as Ambala-Shimla Highway and urbanization had started in the year 1980. The land out of villages Islam Nagar, Naggal Sodhian and the adjoining area was acquired and developed by Housing Board, Haryana as the Him Shikha Colony, Pinjore in 1980. Delhi Public School, installation of CRPF Battalion and their official accommodation as well as residential houses for their officers and Amrawati Enclave etc. were near the acquired land. The land had been notified for the

acquisition and that belonging to private builders had been released and, therefore, the State was not entitled to discriminate in between the builders and developers and landowners were entitled to the same market value prevailing at the time of acquisition. Sector 2 had been earmarked for Amrawati Enclave, Sector 3 for DLF and Sector 4 for IREO Companies and the prime location of the land as such was stressed.

10. The landowners produced PW-1, Mrs. Meena Malhotra, Clerk of the office of District Collector to place on record Collector Rate for the year 2007-2008 as Ex.P1, which has already been mentioned in the tabulated chart above. She stated that the same was on the strength of a committee of revenue officers for fixation of minimum collectoral rates.

11. PW-2, Parveen Kumar Gupta, Planning Assistant in the office of District Town Planner, Panchkula, brought on record the Development Plan of Pinjore-Kalka, Urban Complex dated 18.03.2005 as Ex.P3. He deposed that the land of Sector-1 was reserved for commercial development. Amrawati Enclave was already in existence and the same had been assigned Sector-2. The land of Sector-3 had been assigned to DLF and shown in green colour in Ex.P4. The land of Sector-4 and 4A were shown in red colour was of IREO, Magnolia. He stated that the said colonizers were private colonizers who had purchased the land by way of sale deeds, collaboration agreements etc. and the land had been released from acquisition.

12. He further stated that he did not know that whether the land already released to said three colonizers was also part of acquisition

under Section 4. He deposed that land of these sectors including the land of the private colonizers was adjoining each other and was continuous and similarly situated on the National Highway No.22 i.e. Panchkula-Shimla National Highway. It was located on the same side of the Kaushalya river. Himshikha Colony of the Housing Board, Haryana was shown at Point A in Ex.P4, which had been established in 50 acres of Islam Nagar and Naggal Seuri and was already developed as residential and commercial colony prior to the notification of present acquisition. Ex.P4 was drawn on Akshajra plan dated 07.10.2008 for the Sectoral Circulation Plan of Sectors 1 to 5, Pinjore. He further admitted that part of Naggal Seuri and Islam Nagar were within the territory of M.C., Pinjore.

13. In cross-examination, PW-2, Parveen Kumar Gupta stated that the land under acquisition fell under controlled area and could not be developed without the permission of Director, Town and Country Planning, Panchkula and was in the residential zone. He admitted that he had no record regarding the fact that land to the private colonizers was released after acquisition and was also part of the land under acquisition in the present case. He admitted that DLF and IREO had not developed the land so far. The land was situated at a distance of 150 meters from the National Highway No.22. He admitted that Sector-1 of Pinjore Kalka Urban Complex had not been developed till date.

14. PW-3, Rajinder Kumar tendered into evidence his affidavit as Ex.PW3/A, which was in consonance with the petition under Section

18. In cross-examination he stated that the acquired land was adjoining Himshikha Colony as well as DPS School.

15. PW-4, Ram Sharan, Additional Sub Divisional Engineer, Housing Board, Haryana, produced the summoned record including the notification under Section 4 dated 01.09.1982 (Ex.P8), and notification under Section 6 dated 14.02.1983 (Ex.P9) and the Award dated 07.07.1983 (Ex.P10). The Akshajra had been produced as Ex.P11 and the attested copy of the lay-out plan of the Housing Board Colony Himshikha was proved as Ex.P12.

16. PW-5, Rajinder Singh Patwari, produced the summoned record including the record which pertained to the release of the land. The minutes of the Joint Site Inspection Committee dated 19.08.2008 (Ex.PW5/7) was also produced on record, wherein inspection had been done of the complete area and the residential houses which were constructed prior to Section 4 notification and which were used for inhabitation, were considered for release. He proved the list Ex.PW5/8 of the land/residential houses recommended for release, on the basis of objections raised and the residential houses existing before the issuance of notification under Section 4. He also deposed that land owned by some of the developers had also been released after Section 4 notification and Section 5 notification. He had not brought the record regarding the release of land to the developers, but it was stated to be in the office of Director Town and Country Planner.

17. PW-6, Hargobind Goyal, Director of M/s Amarnath

Aggarwal Investment Pvt. Ltd. tendered his affidavit in evidence as Ex.PW6/A, wherein he stated that residential colony had been developed under the name and style of Amrawati Enclave in Sector-2, vide licence No.33/1996 (Ex.PW6/2) for 102.18 acres and Licence No.186/2008 for 16.156 acres which was developed in the year 1996 onwards and large numbers of houses and flats had been built therein. Situation of the land was stated to be at the bank of Kaushalya river over which a Dam had been constructed. 500 families were stated to be residing in Amrawati Enclave and DLF was developing a residential colony adjoining the said colony. Haryana Housing Board had constructed the colony in the year 1983 of 50 acres which was near the Enclave known as Himshikha Colony. The land had great potentiality market value as the same was abutting to National Highway No.8, Haryana Housing Board Colony and Group Center of Central Reserve Police Force. The land was 6 Kms from Panchkula and was surrounded by various industrial areas and Pinjore Garden. Panchkula was stated to have a great chance to become the Capital of Haryana State and the potentiality of the land was stressed. He stated that Amrawati Enclave was equipped with all modern facilities and amenities. He stated that company had developed the land situated at Bhagwanpur, Islampur and a little area of Chandimandir.

18. The said enclave had been earmarked Sector-2 of Pinjore Kalka Urban Complex in the Development Plan-2025 A.D. The sale deed Ex.PW6/5 dated 04.09.2006 was also proved, whereby land was sold @ Rs.7821/- per square yard. He submitted that minimum market

value had been fixed as value for sale @ Rs.20,000/- per square yard in the year 2012-2013. The rough lay-out plan of the Amrawati Enclave was exhibited as Ex.PW6/6 and the approved lay-out plan was exhibited as Ex.PW6/7. He also submitted that the land of Amrawati Enclave was adjacent to the land of other villages Islam Nagar, Naggal Sodhian, Bhogpur and Miranpur Bakshiwala i.e. the acquired land.

19. In cross-examination he submitted that distance from Kaushalya Dam was 1 km and denied the suggestion that it was more than 3 Kms. He had stated that Ex.PW6/5 was the sale deed after developing the area and the cost of infrastructure was included in the sale of the plot. At the time of acquisition, the Collector rate was Rs.10,000/- per square yard and the Himshikha Colony was situated at a distance of 3-4 Kms from his land. He denied the suggestion that it was more than 8 Kms from his land and that the Pinjore-Parwanoo By-pass was not adjacent to his land. He volunteered that DLF had purchased the land @ Rs.1.3 crores per acre, however, he had not brought the record of such purchase. He denied that the land was 12 Kms from the Amrawati Enclave and also that the land vide sale deed Ex.PW6/5 was in connivance with the buyer and seller to get the enhanced compensation amount.

20. PW-7, Naresh Kumar, Registry Clerk from the office of the Joint Sub-Registrar, Kalka, produced the Collector rate for the year 2006-2007 in Amrawati Enclave. The same Rs.8,000/- per square yard for General and for concessional @ Rs.1,500/- per square yard for the EWS

Category.

21. PW-8, Vikas Yadav, tendered his affidavit in affirmative and deposed regarding the fact that he was dealing in property.

22. PW-9, Som Nath Patwari, Patwar Circle of the villages in question brought the summoned record and stated that the land of DLF situated at Bhagwanpur measuring 172 acres had been released by the Government for development as per the rules and licence and the details had been given as per the *Jamabandi.* The said company had purchased the land through their purchaser companies and joined the same for development into residential and commercial area. He deposed that as per the *Jamabandi* for the year 2008-2009, 172.9 acres of land was pertaining to the said company of village Bhagwanpur. Akshajra of the villages were produced and he deposed that the total area of village Bhagwanpur was 386 acres, that of Islam Nagar was 661 acres and of Naggal Sodhian 219 acres and Miranpur Bakshiwala 835 acres. The said 4 villages were adjoining to each other and formed one compact block. The location of the sale deeds were depicted in the site plans which were proved as Ex.PW9/I to Ex.PW9/J. He further deposed that purchasing companies had not developed the land prior to the Section 4 notification, however, the companies had purchased the land of these villages prior to the notification for development into residential and commercial purposes.

23. PW-10, Rohit Tanwar, Authorized Representative, IREO Five River Pvt. Ltd., proved the resolution in his favour. He deposed that

Licence No.28/2010 granted by DTP was valid upto 22.03.2014 (Ex.P63) and the company owned 198 acres of land in village Islam Nagar, on which township development was being planned. Some of the area having construction of houses had been released, as per the its policy. He submitted that company had purchased the land @ Rs.21,00,000/- per bigha before notification which was issued on 26.09.2007. The brochure for taking plots, flats and villas was exhibited as Ex.P64, in which the location as such has been shown at Point A in red colour. The land for which the company had taken the licence was shown in green colour in the attested copy of the Akshajra, whereas for the land shown in blue and orange colour the company had been granted LOI for developing township alongwith other land. He admitted that company through its land owning companies had purchased agricultural land and intended it to be developed into a township. Land was purchased at the prevailing market rate at that time and Akshajra was proved as Ex.P65.

24. The State produced RW-1, Braham Pal, Kanungo, Land Acquisition Office, Panchkula, who brought on record Ex.R1 to Ex.R33. Ex.R1 was the authority letter and Ex.R2 to Ex.R33 were the sale deeds. He admitted that at the time of notification there were some constructed houses, which had been released from the acquisition. Initially 673.29 acres of land was notified under Section 6 and land measuring 300.90 acres was left out on account of licensed area of private builders and colonizers for development and utilization as residential and commercial colonies. The award was for the land measuring 372.38 acres out of the

total notified land. He also admitted that thereafter 72 acres had been released for residential and commercial purposes from the acquired land. He admitted that companies and other owners had purchased the land of these villages for residential and commercial purpose prior to Section 4 notification. He also admitted that Amrawati Enclave which was a posh residential and commercial approved private colony had already developed the land of Bhagwanpur and Islam Nagar, prior to the present notification. Himshikha which was a residential and commercial colony of the Haryana Housing Board was developed in 1982 on the land of village Naggal Sodhian, Islam Nagar and Bhogpur. The land of the said villages was also subject matter of the present notification. He also deposed regarding the sale deeds which had been impounded as Exs.R4, R11, R11-A, R22, R23, R24, R28, R29 and R31, on the ground that they were lessor than the collector rate and released only after payment of additional stamp duty as per the collector rate. He also deposed that land of different villages was adjoining each other and formed a compact block for utilization and development and same was for residential and commercial area. The big three colonizers had purchased huge land and it was of same nature and situation as the acquired land. He also admitted that the land of DLF was also notified for acquisition under Section 4 and 6 and the Companies had purchased the land by showing the correct sale consideration as they could not conceal the true price to avoid payment of correct stamp duty.

<u>Discussion for the purpose of assessment of Market Value</u>

25 Cumulative assessment as such of the above facts and if objectively taken into consideration would go on to show that the land as such had immense potential for exploiting as residential and commercial purposes on which account there are sale deeds aplenty abutting the area in question, specially in village Bhagwanpur and Islam Nagar, which were close to Amrawati Enclave, which already stood developed. The site plans Exs.P3 & P4 which are the development plans of the area would go on to show that the land is situated on the eastern side of the Kaushalya river which abuts the National Highway No.22, the road leading from Panchkula to Shimla. It is in such circumstances apparently that an attempt was made by the State to acquire as many as 809.75 acres from the land in question at the initial stage. Eventually, keeping in view the construction which had already come up, the reduction had been made in the land which was finally notified under Section 6 on 25.09.2008 to 673.29 acres. Eventually only 300 acres had been acquired.

26. The land of five villages which had been notified for acquisition under Section 4, 6 and eventually acquired is as under:-

Sr. No.	Villages	Under Section 4 (in Acres)	Under Section 6 (in Acres)	Eventually acquired (in Acres)
1.	Bhogpur	36.14	26.44	26.44
2.	Naggal Sodhian	106.64	28.07	28.07
3.	Islam Nagar	440.24	395.34	210.49
4.	Bhagwanpur	270.07	215.87	99.81
5.	Miranpur Bakshiwala	9.66	7.57	7.56
	Total Land			372.37

27. Thus, it would go on to show that a lion's chunk of land

totalling 478 acres, from Islam Nagar (230 acres), Bhagwanpur (170 acres) and Naggal Sodhian (78 acres) did not figure in the final award. It is but for obvious reasons and on account of the land being subject matter of CLUs, which were further released, on account of the large number of sale deeds being in favour of the said builders, for the two villages in question of Bhagwanpur and Islam Nagar. Thereafter, also 72 acres was also released.

28. The evidence which has been led also substantiates this fact that private colonizers had already stepped into the area and purchased land in the abutting area, which would be clear from the chart below in para No.34, well just prior to the Section 4 notification. As noticed in the arguments raised they had started purchasing the land from Rs.1785 to Rs.2480/- per square yard from 04.06.2007 onwards. The latest sale deed in point of time referred above on which no cloud has been cast as such by the State also is Ex.P26 dated 10.09.2007, which had been executed only 16 days before the land was notified on 26.09.2007 and the land of Bhagwanpur was sold to M/s Morvan Builders by Bachna Ram @ Rs.2355/- per square yard, approximately (Rs.1,14,00,000/- per acre) measuring 5 bighas (1.042 acres).

29. A perusal of Ex.PW5/7, the minutes of the Joint Site Inspection Committee dated 19.08.2008 would go on to show that, the land subject matter of acquisition, was part of Sectors 2 (Part), 3, 5 of the development plan of Pinjore-Kalka Urban Complex. The Committee had noticed that certain licences for this area were under consideration at

headquarters and that the area applied by the M/s Amarnath Aggarwal Investment Pvt. Ltd. for CLU had been cancelled, in view of the ongoing land acquisition proceedings. The Committee had inspected the complete area with reference to what had been recommended by the Land Acquisition Officer and given positive recommendations regarding residential houses which were constructed prior to the Section 4 notification and were being used for habitation and were considered for release. The CLU applied area, which had been rejected, was to be acquired except the structures existing before the Section 4 notification alongwith proportionate open area around it. Relevant portion of the minutes of the Joint Site Inspection Committee reads as under:-

> "(i) The CLU applied area, which has been rejected, be acquired except the structure existing before the notification under Section-4 along with proportionate open area around it.
>
> (ii) The area, for which licence is under consideration, may also be notified under section 6.
>
> (iii) The sufficient area for widening of Mallah road along CRPF area in Islam Nagar acquired, so that this road could be made 30.0 meters wide till the T-junction in of CRPF gate.
>
> (iv) The houses situated in cluster form prior to notification under section 4 may not be notified under section 6 as shown in the enclosed shajra plan in blocks A (K. No.49; 3.15 acres), B (K No.97; 1.26 acres), C (K No.281; 1.79 acres), D (K No.68; 0.50 acres) and E (K No.14; 2.16 acres). Block A, B, C & E are situated in village Islam Nagar while Block D is situated in village Naggal Sodian.
>
> (v) The constructed houses existing before section 4 of Hill View Society may not be acquired. However, the open area of said society be notified under section-6, though the same is

recommended by LAO for release after hearing under Section 5-A.

(vi) The houses constructed after the notification under Section 4 be notified under section 6.

(vii) The religious building, if any, notified in Section 4 be excluded from notification under section 6.

(viii) The details of the area notified by the Irrigation Department for construction of Dam and reservoir at Kaushalya river would be obtained by the LAO-Panchkula from the concerned authorities and the same would be excluded from the notification under section-6.

(ix) The videography of the complete area would be got done by DTP, Panchkula in association with office of LAO, Panchkula.

A list of structures/clusters (Annexures-A & B) recommended for exclusion from section-6 by the JSIC as per above decision is enclosed, which forms a part of proceedings. A shajra plan (Annexure-C & D) is also enclosed, which clearly indicates the line of land to be notified under section 6.

In view of above decisions, the Committee decided that land may be recommended for notification under Section-6 of Land Acquisition Act, 1894."

30. It has also come on record that on an earlier occasion the Himshikha Colony of the Housing Board was established in the land falling in Islam Nagar, Naggal Sehori/Sodhian. The said land was also situated on the other side of the Kaushalya River and situated on the northern side of the land which was now sought to be acquired.

31. The land of village Naggal Sodhian was also subject matter of the acquisition for the purpose of Housing Board Colony, notification for which under Section 4 had been issued on 01.09.1982 (Ex.P8). Land of both villages Islam Nagar and Bhagwanpur 263 bighas 14 biswas

measuring approximately 60 acres was sought to be acquired under Section 4 and eventually 261 bighas 8 biswas measuring approximately 54.45 acres was acquired under Section 6 on 14.02.1983 (Ex.P9). The Award by the Land Acquisition Collector was passed on 07.07.1983 (Ex.P10).

32. The said colony was shown at Point A in Ex.P4, which was approved Akshajra Plan and the lay out plan of the said colony was also exhibited as Ex.P12, which is on the northern side of the land which is scattered over 3 Kms on the eastern side of the Kaushalya River. The southern side was brought up by the Amrawati Enclave and the lay out plan was exhibited as PW6/6 and approved lay out plan was exhibited as PW6/7, as proved by the Director of M/s Amarnath Aggarwal Investment Pvt. Ltd., who had got its licence way back in 1996 (Ex.PW6/2) for 102.18 acres and Licence No.186/2008 for 16.15 acres.

33. The sale deed dated 04.09.2006 (Ex.PW6/5) whereby land was sold @ Rs.7821/- per square yard goes on to show that Amrawati Enclave was a fully developed enclave, as the said sale deed was executed by one Major Milap Singh Sandhu who was the vendor, in favour of Smt. Kamlesh Dewan for 358 square yards.

34. Relevant sale deeds from 04.06.2007 till 19.09.2007 are reproduced below:-

Sr. No.	**Ex.**	**Vasika/ Deed no. /Dated**	**Revenue Estate**	**Vendor**	**Vendee**	**Acre**	**Approx. Per Acre in Rs.**	**Approx. Per Square Yard**
1	P-13	718/ 4.6.07	Bhagwanpur	Narinder Singh	M/s Morvan Builders	2.781	11400000	2355.68

2	P-14	720/ 4.6.07	Bhagwanpur	Ghanshyam Singh	M/s Jesan Builders	8.354	11400000	2355.68
3	P-15	764/ 6.6.07	Bhagwanpur	Prit Pal Singh	M/s Geval Builders	3.365	11400000	2355.68
4	P-16	765/ 6.6.07	Bhagwanpur	Prit Pal Singh	M/s Jesan Builders	1.094	11363810	2348.20
5	P-17	1134/ 13.7.07	Bhagwanpur	Prit Pal Singh	M/s Geval Builders	1.344	11400001	2355.68
6	P-18	1199/ 20.7.07	Bhagwanpur	Ghanshyam Singh	M/s Jesan Builders	3.479	11687425	2415.07
7	P-19	1251/ 25.5.07	Bhagwanpur	Prit Pal Singh	M/s Geval Builders	2.268	11576959	2392.25
8	P-20	1331/ 03.8.07	Bhagwanpur	Dhanna	Vivek Singh	2.917	11472000	2370.56
9	P-21	1444/ 17.8.07	Bhagwanpur	Harbans Kaur	M/s Morina Builders	5.385	11409800	2357.70
10	P-22	1583/ 5.9.07	Bhagwanpur	Leela Devi	M/s Morvan Builders	1.458	11400000	2355.68
11	P-23	1584/5. 5.9.07	Bhagwanpur	Karam Singh	M/s Morvan Builders	1.458	11400000	2355.17
12	P-24	1598/ 5.9.07	Bhagwanpur	Prit Pal Singh	M/s Keiana Builders	5.354	11397536	2355.17
13	P-25	1614/ 5.9.07	Bhagwanpur	Kesho	M/s Geval Builders	3.125	10800000	2231.70
14	P-26	1679/1 10.9.07	Bhagwanpur	Bachna Ram	M/s Morvan Builders	1.042	11400000	2355.68
15	P-27	1749/ 17.9.07	Bhagwanpur	Ram Sarup	Ghanshya m Singh	1.042	12000000	2479.66
16	P-28	1750/ 19.9.07	Bhagwanpur	Raj Kumar	M/s Jingal Builders	5.271	11396996	2355.55
17	P-29-Mark E	1752/ 19.9.07	Bhagwanpur	Raj Kumar	M/s Keiana Builders	12.615	11399372	2355.55
18	P-30	1751/ 19.9.07	Bhagwanpur	Raj Kumar	M/s Jingal Builders	5.25	11400000	2355.68
19	P-31	424/ 9.5.07	Islam Nagar	Hans Raj	M/s Assent Township	2.656	10080000	2082.92
20	P-32	451/ 11.5.07	Islam Nagar	Maninder Pal Singh	M/s Era propbuild	1.896	10080000	2082.92
21	P-33	452/ 11.5.07	Islam Nagar	Maninder Pal	M/s Era propbuild	1.115	10080000	2082.92
22	P-34	523/ 18.5.07	Islam Nagar	Harpreet Kaur	M/s Soul Mates Propbuild	1.500	10080000	2082.92
23	P-35	524/ 18.5.07	Islam Nagar	Des Raj	M/s Soul Mates Propbuild	1.635	10080000	2082.92
24	P-36	587/ 23.5.07	Islam Nagar	Gadhu	M/s Soul Mates Propbuild	2.24	10080000	2082.92
25	P-37	589/ 23.5.07	Islam Nagar	Bachna Ram	M/s Swapan Ghar	4.167	9360000	1934.14
26	P-38	590/ 23.5.07	Islam Nagar	Matu	M/s Era Propbild	1.5	10080000	2082.92
27	P-39	628/ 28.5.07	Islam Nagar	Kamal	M/s Veld propbuild	1.625	8640000	1785.36

28	P-40-Mark F	630/ 28.5.07	Islam Nagar	Kishori Lal	M/s Veld propbuild	1.010	10080000	2082.92
29	P-41	642/ 28.5.07	Islam Nagar	Sharif Mohd	M/s Swapan Ghar	1.854	10080000	2082.92
30	P-42	766/ 6.6.07	Islam Nagar	Gurnam Singh	M/s Swapan Ghar	3.229	10296774	2127.71
31	P-43	768/ 6.6.07	Islam Nagar	Baldev Singh	M/s Iris propbuild	2.083	10080000	2082.92
32	P-44	769/ 6.6.07	Islam Nagar	Suresha Devi	M/s Iris propbuild	2.938	10080000	2082.92
33	P-45	804/ 11.6.07	Islam Nagar	Shafi Mohd	M/s Iris propbuild	0.833	10080000	2082.92
34	P-46	805/11. 6.07	Islam Nagar	Garib Dass	M/s Iris propbuild	4.51	10080000	2082.92
35	P-47	806/ 11.6.07	Islam Nagar	Ramzan	M/s Iris propbuild	1.958	10080000	2082.92
36	P-48	890/ 20.6.07	Islam Nagar	Teja Singh	M/s Magnolia Propbuild	3.094	10080000	2082.92
37	P-49	891/ 20.6.07	Islam Nagar	Sampuran Singh	M/s Prong propbuild	2.594	10080000	2082.92
38	P-50	892/20. 20.6.07	Islam Nagar	Sampuran Singh	M/s Prong propbuild	3.344	10080000	2082.92
39	P-51	893/ 20.6.07	Islam Nagar	Sarvjeet Kaur	M/s Magnolia Propbuild	1.729	10080000	2082.92
40	P-52	984/ 29.6.07	Islam Nagar	Chatar Singh	M/s Magnolia Propbuild	2.833	10080000	2082.92
41	P-53	1119/ 11.7.07	Islam Nagar	Nazir Hussain	M/s Magnolia Propbuild	4.156	10339126	2136.46
42	P-54	1220/ 20.7.07	Islam Nagar	Sattar Mohd	M/s Magnolia Propbuild	2.396	10080000	2082.92
43	P-55	1583/ 5.9.07	Bhagwanpur	Leela Devi	M/s Morvan Builders	1.458	11400000	2355.68
44	P-56	1626/5. 5.9.07	Islam Nagar	Babu Singh	M/s Magma Conbuild	3.49	10500000	2169.70
45	P-59	1331/ 3.8.07	Bhagwanpur	Dhanna	Vivek Singh	2.917	11472000	2370.56
46	P-60	1477/ 20.8.07	Islam Nagar	Satwant Kaur	M/s Mogul Conbuild	9.354	10080000	2082.92
47	Mark -G	642/ 28.5.07	Islam Nagar	Sharif Mohd	M/s Swapan Ghar Propbuild	1.854	10080000	2082.92
48	Mark -H	424/ 9.5.07	Islam Nagar	Hans Raj	M/s Assent Township	2.656	10080000	2082.92
49	Mark -I	735/ 4.6.07	Islam Nagar	Babu Khan	M/s Era propbuild	1.911	10080000	2082.92
50	Mark -J	1249/ 25.7.07	Naggal Sodhian	Hans Raj	Ritu	0.115	11520000	2380.48

51	PW 6/5	1446/1/ 04.09.06	Plot No. 134 Amravati Enclave	Major Milap Singh Sandhu	Smt. Kamlesh Dewan	0.074	37854749	7821.23 +12% = 8760 If (+15% = 8994)

35. A perusal of the above sale deeds thus would go on to show that the market value from 09.05.2007 till June, 2007 ranges around Rs.2082/- per square yard. Thereafter, from August, 2007 the price range was in the range of Rs.2355/- per square yard (Exs.P13 to 15, P17, P21, P22 to P24, P26, P28 to P30 & P55). There is a solitary sale deed dated 17.09.2007 (Ex.P27) wherein land was sold @ Rs.2479/- per square yard.

36. Thus, it is apparent that the market value was steadily increasing between May, 2007 to September, 2007 and as such was within the same price band at those points of time. The same was @ Rs.2082/- at one point of time and @ Rs.2355/- at another point of time. The sale exemplars if to be noticed are not miniscule in any manner and range from 1.042 acres to as much as of 12 acres (Ex.P29). In such circumstances, it is apparent that the said sale deeds are reliable sale exemplars, though in favour of builders, who were successful in getting the major chunk of land released and can be relied upon.

37. Arguments raised by the counsel for the landowners as such that Ex.PW6/5, whereby the land had been sold @ Rs.7821/- per square yard, which was a plot of 358 square yards of Amrawati Enclave should be taken as the sale exemplar and 12% increase as such should be granted on the same for the intervening period of one year and then 75% cut should be granted as per the judgment of **Chandrashekar (D) by LRs & others Vs. Land Acquisition Officer & another 2012 (1) SCC 390,** is

not liable to be accepted. It is to be noticed that the plot was in a fully developed colony. The site plan of the colony has also been exhibited as Ex.PW6/6 and approved lay out plan has been exhibited as Ex.PW6/7, which had been duly proved by PW-6, would go on to show that there was a Shopping Mall which was under construction and a Club, apart from the site of High School and a Clinic etc. As noticed the the licence was given in the year 1996 (Ex.PW6/2) and, therefore, for assessing the market value, it would not be a safe exemplar to fall back on. The land which had been acquired is not having the similar advantages and, therefore, it will not be a safe to fall back on the same. The argument as such of the counsel for the landowners is not acceptable.

38. However, argument that averaging of the sale deeds should not have been resorted, to fix the market value is well justified, as there is a variation of approximately Rs.700/- per square yard in the intervening period of 4 months. Therefore, the sale deeds closer in point of time of larger chunks of land can be taken into account to assess the market value. Reliance can be placed upon the judgment of the Apex Court passed in **'Maj. Gen. Kapil Mehra and others Vs. Union of India and another' 2015 (2) SCC 262,** wherein it has been held that averaging is only permissible, if there is marginal variation and should be carefully discarded otherwise. Relevant portion of the said judgment reads as under:-

> "20. Where the lands acquired are of different type and different locations, averaging is not permissible. But where there are several sales of similar lands, more or less, at the

same time, whose prices have marginal variation, averaging thereof is permissible. For the purpose of fixation of fair and reasonable market value of any type of land, abnormally high value or abnormally low value sales should be carefully discarded. If the number of sale deeds of the same locality and the same period with short intervals are available, the average price of the available number of sale deeds shall be considered as a fair and reasonable market price. Ultimately, it is in the interest of justice for the land losers to be awarded fair compensation. All attempts should be taken to award fair compensation to the extent possible on the basis of their accessibility to different kinds of roads, locational advantages etc. Four perpetual lease deeds A-7 to A-10 relied upon by the appellants are of the same locality – Vasant Kunj Residential Scheme and relate to the period ranging from September 1995 to December 1996, but they are just prior to Section 4(1) notification. In our view, the High Court was justified in taking the average of the said four exemplars and approach adopted by the High Court in averaging the sale prices of Exs A7 to A10 cannot be said to be perverse."

39. The principle of the potentiality of the land was settled way-back by the Apex Court in **'Dollar Company, Madras Vs. Collector of Madras' 1975 (2) SCC 730,** wherein it was held that the market value was to be judged on the principle of what a willing purchaser would pay a willing vendor and the best evidence of the value of property is the sale of the property of a recent date. Proximity to the highways and reference to piece of land sold would serve as a guide for fixing the value of the acquired land, which were factors which were necessary to be kept in mind.

40. The said principle was further expounded in **'Chimanlal**

Hargovinddas Vs. Special Land Acquisition Officer, Poona' 1988 (3) SCC 751, whereas the plus and minus factors which had to be kept in mind by the Court were delineated and the genuineness of the sale deeds and avoidance of rigged up instances had to be avoided. The plus factors included proximity to a road, frontage on a road, nearness to the developed area with regular shape and level land, which in the present case are being kept in mind, as the State itself is acquiring the land for the purpose of residential and commercial usage.

41. In **'P.Ram Reddy & others Vs. Land Acquisition Officer, Hydrabad Urban Development Authority, Hyderabad', 1995 (2) SCC 305,** the building potentiality of the acquired land was a relevant factor which had to be kept in mind, which was not only on the date with reference under Section 4, but also with reference to the possibility of become available in the immediate or near future for better use. The situation of the acquired land in proximity to the city and the suitability for using it for residential, commercial and for industrial use and the existence of highways, public roads and benefits of advantages of educational institutions, health care centres and the surrounding areas which would come available were necessary factors which have to be kept in mind. The hypothetical lay-out of the building plan of the acquired land similar to the building plan actually made on the other similar lands had to be kept in mind and which all factors are available in the present set of appeals. Relevant portion of the said 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."

42. Thus, keeping in view the above discussion, this Court is of the opinion that there are large number of sale deeds depicting the market value @ Rs.2355/- per square yard. Reference can be made to Exs.P13 to P15, P22 to P24, P26, P28 to P30 and P55, and, therefore, the said amount of Rs.2355/- per square yard would be the correct figure as such to fix the market value of the land which had been acquired.

Development cut:

43. Coming to the question of the development cut which is to be applied in the above facts and circumstances. Counsel for the State has justified that the 40% cut applied is justified and also held out that for the builders sale deeds this Court in the normal circumstances applies the 50% cut and, therefore, no case for enhancement has been made out. The said argument in the peculiar facts and circumstances is not liable to be accepted.

44. As noticed from the chart tabulated above in para No.34, the builders have been successful in getting their land released in the area and purchased large chunk of land. The landowners as such cannot be held to a disadvantage on account of the fact that the land had been acquired by the State but not purchased by the builders. The large number of sale deeds which would go on to show that the large sale transactions have been taking place in the area and builders were keen to exploit the area and, therefore, merely because the petitioners could not sell the land at that point of time, as similarly situated persons had, the

cut which is to be applied has to be reduced.

45. The argument raised by the counsel for the landowners that the same amount should be paid around @ Rs.2355/- per square yard is not liable to be accepted. Reliance was placed upon Ex.P27 whereby land had been sold @ Rs.2479/- per square yard, is not liable to be accepted. The said sale deed has been discredited by the State at that point of time, the land had earlier been sold by one Ghanshyam Singh to Ram Sarup on 17.01.2005 (Ex.R12) @ Rs.89.25 per square yard (Rs.4,31,950/- per acre). 2 ½ years later the same land was purchased back on 17.09.2007 vide Ex.P27 from Ram Sarup by Ghanshyam Singh himself @ Rs.2480/- per square yard. The chart would also go on to show that there are large number of sale deeds executed by Ghanshyam Singh, his brother Prit Pal Singh and Vivek Singh son of Ghanshyam Singh. In such circumstances, the said sale deed cannot be taken as a true sale exemplar and cannot be treated as a bonafide sale deed having been executed just 10 days before Section 4 notification and it can be said that the same had been executed for the purpose of shoring up the market value.

46. The development cut has been consistently laid down by the Apex Court and reliance can be placed upon the judgment passed in **'Haryana State Agricultural Marketing Board and another Vs. Krishan Kumar and others', 2011 (15) SCC 297**, wherein it was held that appropriate reductions have to be made towards the area to be used for roads, drains and common facilities like park, open space etc. In

'Sabhia Mohammed Yusuf Abdul Hamid Mulla (D) by L.Rs. and others Vs. Special Land Acquisition Officer and others', 2012 (7) SCC 595, the 1/3rd principle was upheld. Similar was the case in **'Ashrafi and others Vs. State of Haryana and others' (2013) 5 SCC 527.** Reductions upto 50 and 60% have also been upheld by the Apex Court and as noticed in **Chandrashekar (supra)** upto the extent of 75%, which is the maximum permissible as such.

47. In the present case as noticed the sale exemplars are of substantial sizes going upto 12 acres (Ex.P29) and, therefore, on account of smallness as such the deduction is not liable to be applied. The only deduction is now liable to be applied as such would be on account of development purpose, which would have to be necessarily incurred by the State to develop the said area for residential and commercial purpose.

48. In such circumstances, this Court is of the opinion that in the facts and circumstances of the present case only 20% is liable to be applied on Rs.2355/-, which would work out to Rs.1884/- rounded off to Rs.1885/- per square yard (Rs.91,23,400/- per acre).

49. Another factor, which is to be taken into consideration is that land was acquired for the purposes of building the road providing the link road from National Highway No.22 near Surajpur to meet the Nalagarh Road near the Aviation Club across the river, vide notification dated 27.08.2007 barely a month prior. In **RFA No.1235 of 2018 'Ram Kaur Vs. State of Haryana and another'** decided on 10.01.2020, this Court while placing reliance upon the sale deeds for the land which has now

been acquired, has enhanced the compensation from Rs.20 lakhs per acre to Rs.1180 per square yard (Rs.57,11,200/- per acre) for the land falling upto the depth of 2 acres (440 feet) from National Highway No.22 and for the land abutting the Pinjore-Nalagarh road on the northern end, upto the same depth. Beyond that depth Rs.944/- per square yard (Rs.45,68,960/- per acre) has been assessed as the market value. The sale deeds of Bhagwanpur and Islam Nagar were taken into consideration which had also been relied upon by the Reference Court, but a cut of 50% had been applied on the builder sale deeds. It was also noticed that the land of the sale deeds was across the highway and closer to Amrawati Enclave, which was a developed colony and market value would be much more on that side, whereas on the other side there was no builder activity.

50. The advantages and the potentialities of the land have already been discussed in detail above. The argument as such of the State that uniform compensation as such should not have been granted is without any basis. Admittedly, no such appeals have been filed by the State and enhanced compensation stands paid, as the State was satisfied with the judgment of the Reference Court. The Apex Court in **'C.R. Nagaraja Shetty Vs. Special Land Acquisition Officer and Estate Officer', 2009 (11) SCC 80** has held that in the absence of the State appeals as such and challenge having not been raised by the State the amount could not have set aside, as awarded by the Reference Court and the High Court could have only dismissed the appeals of the landowners.

51. The landowners as such cannot be placed at a more poorer

situation as what had been awarded by the Reference Court, in the absence of State appeals and the uniform compensation which has been granted cannot be questioned by the State in the appeals filed by the landowners. Even otherwise this Court is of the opinion that a very miniscule area of the land on the northern end of Bhogpur and Miranpur Bakshiwala is subject matter of acquisition, which is closer to the earlier developed portion. Even otherwise it has come on record that the northern portion of the land had been developed wherein Himshikha Colony and the CRPF Colony has also come up alongwith the DPS School. The land on the northern side is closer to the municipal area of Pinjore town and, though further away from the southern end, but being better connected earlier, on account of the bridge across the river and, therefore, the uniform compensation which has been granted is well justified in the facts and circumstances, as it is a composite block which was acquired for the same purpose.

Relief

52. Accordingly, keeping in view the above discussion, the present appeals are allowed and the landowners are held entitled for the compensation @ Rs.1885/- per square yard (Rs.91,23,400/- per acre) alongwith all statutory benefits, as on 26.09.2007. All the pending civil miscellaneous applications also stand disposed of.

53. 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.

54. 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.

(G.S. SANDHAWALIA)
JUDGE

JANUARY 31, 2020
Naveen

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