IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No.1235-2018 (O&M)
& other connected cases
Decided on : 10.01.2020

Smt. Ram Kaur ... Appellant

Versus

State of Haryana & another ... Respondents

Date of notification:30.11.2006			
Regular case No.	Appeals filed by the landowners	Appeals filed by the State	Cross-objection
369	RFA Nos.1235, 1236, 1237, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1265, 1280, 1407, 1408, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1547, 1548, 1549, 1550, 1551, 1552, 1690, 1691, 1692, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1700, 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1736, 1737, 1738, 1739, 1740, 1741, 1742, 1743, 1744, 1745, 1746, 1747, 1748, 1749, 1750, 1751, 1752, 1754, 1755, 1756, 1765, 1766, 1767, 1768, 1769, 1770, 1771, 1772, 1773, 1774, 1775, 1776, 1777, 1778, 1779, 1780, 1781, 1782, 1783, 1784, 1785, 1786, 1788, 1789, 1790, 1791, 1792, 1793, 1794, 1893, 1894, 1896, 1906, 1907, 1909, 1911, 1913, 1914, 1915, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 2002, 2021, 2022, 2024, 2025, 2026, 2028, 2030, 2031, 2132, 2134, 2135, 2136, 2137, 2177, 2178, 2179, 2187, 2211, 2212, 2214, 2215, 2216, 2475, 2476, 2494, 2495, 2496, 2537, 2538, 2539, 2541, 2542, 2543,	RFA Nos.4481, 4482, 4483, 4484, 4485, 4486, 4487, 4488, 4490, 4491, 4492, 4493, 4495, 4496, 4497, 4499, 4500, 4501, 4511, 4512, 4539, 4540, 4542, 4543, 4544, 4545, 4546, 4547, 4548, 4549, 4550, 4551, 4552, 4553, 4554, 4555, 4556, 4557, 4572, 4984, 4985, 4986, 4987, 4988, 4989, 4990, 4991, 4992, 4993, 4994, 4995, 4996, 4997, 4998, 4999, 5000, 5001, 5002, 5042, 8466, 8467, 8468, 8469, 8470, 8471, 8472, 8473, 8474, 8475, 8476, 8477, 8478, 8479, 8480, 8481, 8482, 8483, 8484, 13596 **of 2018** RFA Nos.432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 447, 448, 449, 450, 1677, 1678, 1679, 1680, 1681, 1682, 1683, 1684, 1685, 1686, 1687, 1688, 1689, 1690, 1691, 1692, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1700, 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713, 1714, 1715, 2915, 2916, 2917, 2918, 2919, 2920, 2921, 2922, 2923, 2924, 2925, 2926, 2927,	XOBJR-17-2019 in RFA-4544-2018

	2544, 2545, 2644, 2651, 2652, 2653, 2654, 2708, 2709, 2710, 2711, 2712, 2713, 2714, 2715, 2716, 2717, 2718, 2719, 2720, 2721, 2722, 2723, 2724, 2725, 2726, 2727, 2728, 2729, 2730, 2731, 2732, 2733, 2734, 2735, 2736, 2737, 2738, 2739, 2740, 2741, 2742, 2746, 2766, 2767, 2768, 2879, 2880, 2881, 2882, 2883, 2884, 2885, 2886, 2887, 2888, 2889, 2890, 2891, 2892, 2893, 2894, 2895, 2896, 2897, 2898, 2899, 2900, 2921, 2922, 2923, 3071, 3073, 3074, 3075, 3076, 3077, 3078, 3079, 3080, 3081, 3140, 3141, 3142, 3193, 3260, 3261, 3262, 3263, 3264, 3265, 3266, 3267, 3269, 3274, 3275, 3276, 3277, 3278, 3279, 3280, 3282, 3283, 3284, 3396, 3715, 3652, 3653, 3647, 3714, 3848, 4217, 5136, 5137, 5138, 5139, 5165, 5166, 5167, 6332, 13548, 13549 of **2018** RFA Nos.1322, 1326, 1521, 3103, 3631 **of 2019**	2928, 2929, 2930, 2931, 2932, 2933, 2934, 2935, 2936, 2938, 2940, 2941, 2942, 2943, 2944, 2945, 2946, 2947, 2948, 2949, 2950, 2951, 2952, 2953, 2954, 2955, 3280, 3320, 3322, 3323, 3324, 3325, 3326, 3327, 3328, 3329, 3330, 3331, 3332, 3333, 3334, 3335, 3336, 3337, 3338, 3339, 3389, 3390, 3391, 3392, 3393, 3394, 3395, 3399, 3400, 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413, 3414, 3444, 3445, 3570, 3726, 3727, 3728, 3729, 3730, 3731, 3732, 3733, 3734, 3735, 3736, 3737, 3738, 3739, 3740, 3741, 3742, 3743, 3744, 3745, 3746, 3747, 3748 **of 2019**	
Date of notification:27.08.2007			
	RFA Nos.599, 600, 601, 602, 603, 604, 605, 606, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 692, 693, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 744, 746, 747, 749, 750, 751, 752, 814, 824, 963, 964, 965, 966, 967, 969, 968, 970, 971, 983, 984, 985, 2208, 2209, 2278, 2279, 2910, 2917, 2918, 4250, 4251, 5248, 5425, 5970, 8663, 9102, 9203, 9204, 9205, 9206, 9207,		

	9208, 9209, 9210, 9211, 9212, 9213, 10071, 10262, 10263, 10264, 10439, 10460, 10461, 10462, 10463, 10464, 10465, 10466, 10467, 10468, 10469, 10801, of **2014** RFA Nos.137, 138, 391, 392, 393, 901, 2238, 2451, 2452, 2669, 2670, 2671, 2672, 3154, 3419, 3586, 5391, 6240, 6530, of **2015** RFA Nos.723, 997, 2983 of **2016** RFA No.2920 **of 2018**		

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

Present: Mr. Arun Jain, Senior Advocate with
Mr. Amit Jain, Advocate,
Mr. Shoaib Khan, Advocate,
Mr. M.S.Chauhan, Advocate
Mr. S.K.Arya, Advocate,
Ms. Aruna Sachdeva, Advocate,
Mr. Vineet Chaudhary, Advocate,
Mr.K.K.Chaudhary, Advocate
Mr.B.S.Sudan, Advocate
Mr.J.S.Cooner, Advocate
Mr. Swaran Singh, Advocate,
Mr.S.K.Loura, Advocate,
Mr. Dhiraj Chawla, Advocate,
Mr. Mandeep Singh Kundu, Advocate,
Mr.H.P.S.Ishar, Advocate, for the land owners.

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

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G.S. Sandhawalia, J.

The present judgment shall dispose of the above-said 735 appeals and one cross-objection filed against the awards of the Reference Court, Panchkula, for the 2 notifications, issued under Section 4 of the Land Acquisition Act, 1894 (for short, the 'Act'), dated 30.11.2006 and

27.08.2007. Out of the 9 villages in question, in the first notification dated 30.11.2006, three villages are common and the purpose of acquisition is also inter se related. Therefore, the land being situated in close vicinity of each other, both the notifications are being taken together as the potentiality of the land which is to be seen for assessing the market value, can be kept in mind if the facts and evidence of both the cases are scanned together. It is pertinent to notice that for the second notification in question dated 27.08.2007, the State, as such, is satisfied and has not filed any appeals for decreasing of the market value whereas for the first notification, the State appeals have also been filed.

Facts of the 1st notification dated 30.11.2006 and arguments raised by counsels

2. The land measuring 467.03 acres of 9 Villages Surajpur, Baglana, Pinjore, Abdullapur, Rathpur, Firozpur, Manakpur Devilal, Manakpur Nanakchand and Manakpur Thakardas, Distt Panchkula, was acquired for the public purpose of development of Sectors 27, 28 & 30, Pinjore. The Land Acquisition Collector, vide award No.7 dated 26.11.2009, granted Rs.20 lakhs per acre (Rs.413/- per sq.yard) as uniform compensation. The Reference Court, while deciding 481 cases, lead case being Ram Kaur Vs. State of Haryana and another, on 13.11.2017 enhanced the market value to Rs.1478/- per sq.yard (Rs.71,53,520/- per acre). Thereafter, vide awards dated 09.01.2018, 18.05.2018, 20.07.2018 and 27.08.2018, the earlier award was followed. The ground for enhancing the market value was the basis of 3 sale deeds falling in Villages Ferozepur and Abdullapur (Exs.PW12/D, 12/F &

12/G). The average of the said 3 sale deeds was resorted to after giving cumulative enhancement on the same, to fix the market value @ Rs.2956/- per sq.yard. and thereafter, 50% cut was applied, to fix the market value.

3. Counsels for the landowners have, accordingly, argued qua the potentiality of the land to show that it was sandwiched between the National Highway-22 leading to Shimla, coming from Ambala and Chandigarh and on the northern side of the land, the Pinjore-Baddi -Nalagarh road, which is also National Highway No.21-A, was situated. On the eastern side of the land, the famous Mughal Gardens, namely, Pinjore Gardens were situated and the road going to Baddi-Nalagarh, into Himachal Pradesh was the gateway to the industries. It is, accordingly, argued, while placing reliance upon Ex.PW19/E, the site-plan that Exs.PW-12/D and 12/G, the land of which was falling in Village Ferozepur, was part of the acquired land being of the same khasra number. Resultantly, reliance was placed upon the best sale deed, Ex.PW-12/G to submit that there was only a difference of 6 months from the date of execution of the sale deed which was dated 08.05.2006 and land had been sold @ Rs.2500/- per sq.yard. If 7% enhancement was granted on account of the time difference, the market value would work out to Rs.2675/- per sq.yard and 30% cut would bring the market value to Rs.1800/- per sq.yard. Resultantly, enhancement was prayed for. It was further argued that in the close vicinity for Village Pinjore, land for Bhima Devi Temple was acquired though post notification on

14.11.2007, whereby Rs.2400/- per sq.yard had been granted and even if a reverse cut is applied, the market value would work out to Rs.1700-1800/- per sq.yard. It is submitted that land was having maximum potential and belting should not be resorted to and there is no evidence by the respondents that the nature of the land was different.

4. Counsel for the State, on the other hand, has argued that the Reference Court had not taken into consideration the sale deeds produced by the State in its proper perspective, which showed that the market value of the land was bordering around the same range, as awarded by the LAC and that the findings were wrongly recorded by the Reference Court that the sale deeds of the State were below to what has been awarded and had wrongly been brushed aside, in view of Section 25 of the Act. Reliance was placed upon the judgment of the Apex Court passed in **Lal Chand Vs. Union of India 2009 (15) SCC 769**, to submit that the said sale deeds should have been kept into consideration. It is submitted that Ex.R-14 dated 28.02.2006 showed that the market value was around Rs.28,79,993/- per acre and therefore, was not liable to be rejected, as it was of Village Rathpur. Reference is made to Ex.R-35 to point out that the 2 sale deeds, Exs.R-14 and R-21 were shown on the site-plan and were wrongly ignored and therefore, the market value was liable to be reduced.

5. Reliance is placed upon the judgment passed by the Apex Court in **Haridwar Development Authority, Haridwar Vs. Raghubir Singh 2010 (11) SCC 581**, to submit that belting system should be

adopted as lot of land was situated away from the Nalagarh Highway. The land of the other villages which were not abutting the National Highway could not be compared with the land which was falling on the Highway. It was similarly argued that equation with the acquisition for the Bhima Devi Temple could not be done as the location was different and it was situated in the middle of Pinjore town and the land had been acquired subsequently, vide notification dated 14.11.2007.

<u>Facts of the 2nd notification dated 27.08.2007 and arguments raised by counsels</u>

6. Vide notification dated 27.08.2007, issued under Section 4, land of 7 villages, namely, Rampur Seeyuri, Razipur, Surajpur, Manakpur Nanak Chand, Manakpur Thakur Dass, Lohgarh and Dhamala were acquired. Out of these, three villages, namely, Surajpur, Manakpur Nanak Chand and Manakpur Thakur Dass are common villages, in the first notification which had been issued. Land measuring 231.77 acres was acquired for the public purpose namely to provide access to the residential Sectors 27 to 31, Pinjore and for the purpose of providing a link road starting from NH-22 near Surajpur which was to meet the Nalagarh Road near the Aviation Club, Pinjore. The LAC, vide award dated 28.03.2008, also awarded Rs.20 lakhs per acre. The Reference Court, while deciding 190 reference petitions, lead case of which was LAC-247 titled *Ram Singh Vs. State of Haryana & another,* on 07.09.2013 fixed the market value @ Rs.888/- per sq.yard (Rs.42,97,920/- per acre). Thereafter vide award dated 20.01.2014, 03.07.2014, 09.09.2014, 20.10.2014, 29.10.2014, 22.01.2015,

05.02.2015, 30.03.2015, 15.01.2016 and 08.02.2018, the earlier award was followed. Reliance was placed upon sale deeds-Exs.P-21 to P-23 and P-26 of land falling in Villages Islamnagar and Bhagwanpur, which were adjoining villages and across the National Highway No.22 and the average of the sale deeds worked out to Rs.2219.50 per sq.yard (Rs.1,07,39,960/- per acre). A cut of 60% was imposed on the same to fix the market value @ Rs.888/- per sq.yard.

7. Counsel for the landowners, accordingly, argued that the land was acquired for the purpose of road and there was no cut liable to be imposed on the market value which had been assessed. The sale exemplars were not small plots of land and were of reasonable chunks of land and therefore, the cut was not justified. It was, accordingly, argued that the benefit of the sale deeds of the adjoining villages could be granted as there was immense potential in the land as private builders were in the process of developing the land in the neighbourhood. On the other side, as noticed, the State had itself carved out Sectors 27 to 31 and resultantly, the potentiality was immense.

8. Similarly, the argument raised was that the benefit of the best sale deed whereby land had been sold @ Rs.2357/- per sq.yard and the land measured 25 bighas 17 biswas (5.38 acres) and was situated in Village Bhagwanpur and had been sold on 17.08.2007 (Ex.P-21), only 10 days prior to the notification in question, should be granted. It was also submitted that in Villages Rampur Seeyuri, Razipur and Surajpur, a huge chunk of land measuring 121 acres had been sold by the ACC Cement

Company Ltd., to a developer on 19/21.11.2007, which was post-notification @ Rs.3248/- per sq.yard (Ex.P-31). It was submitted that the registered agreement to sell had been executed on 22.12.2006, prior to the date of the Section 4 notification and the sale had taken place in pursuance of the said agreement and therefore, it was a bona fide sale transaction. Even if it was post-notification, the same should be taken into consideration as market value had already been fixed on an earlier point of time.

9. Counsel for the State, on the other hand, submitted that no case for further enhancement was made out, as the land which was sold by the said sale deeds was across the Highway and was more valuable, i.e., land falling in Village Bhagwanpur and Islamnagar and therefore, reliance upon the same was not justified. Appropriate cut had been fixed @ 60%and the same could go upto 75%, in view of the judgment of Apex Court in **Chandershekhar (D) through LRs & others Vs. Land Acquisition Collector & another (2012) 1 SCC 390**. The sale deed dated 19.11.2007 (Ex.P-31) was in favour of a builder and there was also construction on the said land in question and therefore, the said sale deed was not good exemplar for assessing the market value and had been rightly discarded, as such, by the Reference Court. It was submitted that even the other sale deeds (Exs.P-21 to P-23 and P-26) were also in favour of the builders wherein the market value was ranging between Rs.2083/- per sq.yard to Rs.2357/- per sq.yard. In view of the builders keen-ness to purchase the property at any cost, the cut should be imposed of 75% on

the same and therefore, the market value which had been fixed was not liable to be enhanced.

Pleadings and evidence of 1st notification:-

10. The following land had been acquired vide notification dated 30.11.2006, in tabulated version, as under:

Sr. No.	Village	Hadbast No.	Land Acquired (in acres)
1	Surajpur	109	77.19
2	Baglana	112	1.65
3	Pinjore	113	22.71
4	Abdullapur	115	20.33
5	Rathpur	116	65
6	Firezepur	117	39.88
7	Manakpur Devi Lal	118	129.54
8	Manakpur Nanak Chand	119	59.30
9	Manakpur Thakur Dass	120	51.43

11. The landowners, in their petition filed under Section 18, claimed that the land was situated within the Municipality, Pinjore in a prime location and surrounded by urban, residential and commercial areas and was one entire compact land. The National Highway No.22 ws connecting the Highway leading from Pinjore to Nalagarh Road and further connecting the important locations like Nalagarh, Baddi and linking to the Manali Road. Land measuring 105 acres of Village Razipur had been sold @ Rs.1.25 crores per acre. Multi-millionare industries had been set-up in the border areas of Himachal Pradesh like Baddi, Nalagarh and the land was near the roads and the boundaries of Himachal Pradesh and therefore, there was immense demand of residential and commercial properties. The land in the vicinity was sold

@ Rs.5 lakhs per biswa and thus, market rate was claimed to be @ Rs.10,000/- per sq.yard. The land was adjoining Hindustan Machine Tools Ltd., the world famous machine tool factory of Haryana. Land had also been acquired for the link road from NH-22 near Surajpur to meet the Nalagarh Road near the Aviation Club. The famous Yadvindra Garden, known as the Mughal Garden and the tourist complex and Bhima Devi Temple were very famous and thronged by tourists and visitors. For these reasons, there were residential and commercial properties like the Shiv Shakti Colony, HMT Residential colony also near the land. The surrounding area was already urban and acquired land could not be treated as agricultural land for the purpose of evaluation of the market value.

12. Atam Parkash, PW-1 was examined who submitted his affidavit in terms of Section 18 petition. In cross-examination, it came that the National Highway leading to Pinjore Nalagarh road was 40 feet from the land and the Himachal Pradesh border was about 8 kms from his land. The land of DLF and Amaravati were situated about 1.5 kms away and that of the Baddi of HP was situated about 13 kms away. He denied the suggestion that land was uneven and not levelled and that the land was not residential. PW-2, Meena, Clerk, stated that the minimum sale price for EWS in Amrawati Enclave was Rs.1000/- per sq.yard and for others, it was Rs.3500/- per sq.yard. Rs.1200/- per sq.yard upto 100 feet on both sides of the Pinjore-Nalagarh road upto the Railway line was the minimum rate and thereafter, upto the Kalka Tehsil, it was 600 per

sq.yard. For the lands of Villages Rathpur, Dharampur, Bitna, Abdullapur, Islam Nagar, Bhairo Ki Sair, Naggal, Seeyuri, Ferozpur, the minimum rates were Rs.40,000 per biswa and for commercial land, Rs.60,000/- per biswa. For Khera Sita Ram, Tipra, Lohgarh, Tagra Hansua, Tagra Kaliram, Tagra Hakimpur, Tagra, Sahu, Vasudevpura, Bhogpur, Rajipur @ Jhajra, Manakpur Devi Lal, Manakpur Nanak Chand, Manakpur Thakur Dass, the rate was Rs.25,000/- per biswa and for others, Rs.15,000/- per biswa. For the land of Village Dharampur, Bitna Islam Nagar, Naggal Seeyuri, Bhairo Ki Sair, which were outside the Municipal limits, the minimum rates were Rs.25,000/- per biswa. From Pinjore Garden to the outer limit of Pinjore on both sides upto 100 feet, it was Rs.4000 per sq.yard and from Pinjore Municipal limits, to BDPO office Kalka Rs.3000 per sq.yard and from BDPO office to Shimla Railway Bridge, Rs.3500/- per sq.yard. For Rathpur Colony, Rs.1200/- per sq.yard for residential and Rs.1500/- per sq.yard for commercial and for Vishvakarma Colony, Saini Mohalla, Bairagi Mohalla, Bitna Colony, Lekh Ram Colony, Dashmesh Colony, Bhima Devi Colony, Kabir Panthi Mohalla, Rs.1200/- for residential and Rs.1500/- per sq.yard for commercial land, was the rate.

13. Ram Sharan, Addl.Sub-Divisional Engineer, PW-3, produced the latest lay-out plan of Housing Board Colony, Himshikha at Pinjore on the land of Islam Nagar and Naggal Sodhian and the Aks-Sijra as P-7 & P-6. The Housing Board had developed a colony, which had been acquired vide notification and award (Exs.P-3 to P-5) and the Section 4

notification was dated 01.09.1982 and the Section 6 notification dated 14.02.1983 (Ex.P-4). The award was dated 07.07.1983 (Ex.P-5). Rajesh Kumar, Junior Draftsman, PW-4 produced the Blue-prints of development plan of Pinjore Kalka Urban Complex upto 2025 AD (Ex.P-8). The Blue-print of Aks Sijra of Sectors 27 & 28, Kalka Pinjore Part-II were produced as Ex.P-10. The Amrawati Enclave portion was shown in orange colour as Ex.P-11 and DLF in green colour and IREO in brown and pink colour.

14. PW-5, Vinod Kumar, AGM (Legal), DLF Pvt. Ltd. also appeared and submitted that they had purchased the land of Village Bhagwanpura and Islamnagar from January, 2007 to September, 2007 for development and utilization for residential and commercial colonies by the land owning companies. Some of the land had also been acquired but was subsequently released. Brochures, as such, were also brought on record as Ex.P-13 and location of the site shown in black colour was produced to submit that it was a Government approved plan falling in Kalka Pinjore Urban Complex and companies had purchased land at Rs.1.05 crores per acre approximately.

15. PW-6, Gurmit Singh stated that lands of Rathpur, Ferozepur and Abdullapur were also within the Municipal limits for the last many years and the land of Manakpur Devilal was out of the Municipal limits at the time of the acquisition. It was stated that his land was situated on the National Highway No.22 and HMT was at a distance of 8 kms from Baddi city. He stated that the land of Village Razipur was sold @ Rs.1.2

crores per acre and that the Express Highway adjoined the NH-21 at 1 km before Baddi which was constructed by the Punjab State and the said intersection was 8 kms from the land. His land was adjoining Pinjore, Bhima Devi Colony and Shiv Shakti Colony of Pinjore. Himshikha and Amrawati were situated 500 meters from his land and it was admitted that the land was at a distance of 3 kms from Himshikha and Amrawati colonies. He also denied that HMT Colony and commercial/shopping market complex were not existing at the time of acquisition.

16. PW-7, Rajinder Kumar, Patwari admitted that some of the land had been released as mentioned in PW-7/4 along with the constructions. PW-8, Abinash Kumar, Accounts Officer of M/s Amarnath Aggarwal Pvt. Ltd., brought the record of M/s Amarnath Aggarwal Pvt. Ltd. that the company was the owner-in-possession of the land of Villages Bhagwanpur and Islam Nagar and had applied for licence for the purpose of development into residential and commercial area of Amrawati Enclave. Photocopy of the lay-out plan was submitted as Ex.PW-8/B. In the year 2005-06, the Company had sold plots of 10 marlas @ Rs.5000-6500/- per sq.yard and also for plots measuring 12 and 14 marlas. The details of the plots and the estimates were also exhibited. The Amrawati Colony was shown in orange colour in Sector 2 as per Ex.P-11.

17. PW-9, Mangal Dass, submitted his affidavit and in cross-examination, stated that he had installed a factory in his land without proper sanction. Manakpur Nanakchand, abadi was at a distance of 200

meters from his land and he denied the suggestion that Baddi was situated 12 kms from his land. PW-10, Surinder Singh tendered the site-plan (Ex.PW-10/1) which was prepared by him and also denied that the factory was without sanction and claimed that value of the property in question was not less than Rs.40 lakhs. The abadi of the village was near the land in question.

18. PW-11 Jawala Ram, Patwari produced the summoned record and the Aks-sijra of the said villages, photocopies of which were exhibited as PW-11/B to PW11/J, respectively. The highlighting was done of Sectors 27, 28 & 30 with light-green highlighter. The land of Bhima Devi was falling in Khasra No.147, 162 and 163, out of which, 162 and 163 had been acquired by the Archeological Department in 2007 and belonged to Jarnail Singh. The other land was at a distance of 350 feet from the the acquired land at Khasra No.124. The land developed by HMT in Surajpur had been shown with Orange highlighter and was adjoining the acquired land of Surajpur. Some area of Surajpur was adjoining the revenue boundary of Rajjipur was of ACC cement factory, which had been sold by registered sale deed (Ex.P-1) along with adjoining land of Rajjipur, Rampur Siyuri and Surajpur. The land between Khasra No.147, 162 & 163 were the adjoining residential Colony, namely, Shiv Shakti Colony, Pinjore. In cross-examination, he stated that the Shiv Shakti Colony was a old residential colony already established 15 years prior and houses were existing in the colony. He admitted that the entire land did not abut the National Highway and only

the frontage abutted the National Highway No.21-A.

19. PW-12, Tara Chand submitted his affidavit (Ex.P-12/D) and submitted that he was a co-sharer with Jeet Ram to the extent of 1/8th share but had sold the land (Ex.PW-12/B) to Ashok. Mutation regarding inheritance of the co-owner, Paras Ram in favour of the son, Lajja Ram etc. was also exhibited. Certified copies of PW-12/D to PW-12/G were also brought on record. He submitted that Jeet Ram was his uncle and had died and he had only a married daughter and no son. He was residing with his married daughter in Himachal and Jeet Ram was not in possession of his share and offered to sell @ Rs.3000/- per sq.yard, which he sold to Ashok. PW-13, Joginder Singh stated about the inheritance from his father, late Paras Ram, as per mutation Ex.P-12/C and also that Jeet Ram was his uncle. He also deposed in the same lines that the land was in their possession and that Ashok had purchased the land at a lessor amount i.e. Rs.3000/- per sq.yard and the value was more than Rs.5000/- per sq.yard.

20. PW-14, Mehma Ram, Lambardar was also produced, who had signed the sale deed (Ex.R-21) executed by Jeet Ram in favour of Ashok and stated that he knew Jeet Ram personally, whose wife was pre-deceased and he had no son. He deposed that the vendor had told him that he had no person or family member residing in the village and therefore, he was selling the land at that rate. The Document Writer had told him that the stamp duty would be much more and he had requested him to prepare the sale deed as minimum as possible. He denied the

suggestion that Ex.P-21 bore the correct sale consideration.

21. Bhag Chand, Patwari, appearing as PW-15 brought the Aks-sijra (Ex.PW-15/A to PW-15/D) of Village Rathpur, Abdullapur, Ferozpur, Manakpur Thakurdass and Pinjore. He stated that the lands of the said villages along with Abdullapur were adjoining Pinjore-Nalagarh National Highway and the land of Rathpur was situated near the Railway line was marked-X and the railway line was marked-AB. The said khasra number was about 1 km away from the National Highway and was at a height. The Pinjore-Nalagarh Highway was shown as point C to D. The land of Ex.PW-12/D of Ferozepur was shown at point A on the Aks-Sijra in Ex.PW-11/H. The land of PW-12/G of Khasra No.53 of Ferozepur was shown at point B. The land of Ex.PW-12/F at Khasra Nos.310/289/230/83(2-0) and 228/83 of Abdullapur was marked at point A. The land of Baglana adjoined the NH-22 which was the Shimla road. The land of all the villages was of same nature, quality and potentiality. Attested copies of the brochures (Ex.PW16/A) were produced by the Technical Assistant of the Estate Officer, Panchkula and the blue-print for the development plan of Pinjore-Kalka as Ex.PW-17/A were produced by Praveen Kumar, PW-17, the Assistant Town Planner in the DTP's office, Panchkula. Sunil Dutt produced the HUDA brochure to show the fixing of the market value @ Rs.25,300/- per sq.meters for one kanal of plot etc.

22. PW-19, Jarnail Singh proved the factum that he owned and possessed the land which was acquired by the Archeological Department,

Haryana for the Bhima Devi Temple which was present in Khasra No.691/162 and 163. Compensation @ Rs.1200/- per sq.yard had been awarded vide notification dated 14.11.2007 and in RFA-824-2010, this Court had enhanced it to Rs.2400/- per sq.yard., by doing away with the cut. He had stated that the said acquired land was not situated on any of the Highways whereas the present land was abutting the Highway from Pinjore to Nalagarh but same was not a uniform chunk. He denied the suggestion that the said acquired land was not 300 feet from Sector 27, 28 and that it was 1 km away.

<u>Pleadings and evidence of the 2nd notification</u>

23. The following land had been acquired vide notification dated 27.08.2007, in tabulated version, as under:

Sr. No.	**Village**	**Hadbast No.**	**Land Acquired (in acres)**
1	Rampur Seeyuri	106	38.35
2	Razipur	108	12.97
3	Surajpur	109	8.45
4	Manakpur Nanakchand	119	13.35
5	Manakpur Thakar Dass	120	39.30
6	Lohgarh	121	39.77
7	Dhamala	122	79.58

24. The landowners, in the petition under Section 18, pleaded that the land was situated in Village Lohgarh and same was near to Municipal limit of Pinjore City and the value was not less than Rs.10,000/- per sq.yard at the time of issuance of the Section 4 notification. In the city of Pinjore which was a historical city, the market

value was not less than Rs.30,000/- per sq.yard for residential purpose and Rs.1 lakh per sq.yard for commercial activities. The acquired land was situated within the Municipal limits of Pinjore and surrounding other colonies of Amrawati Enclave and Housing Board of Himsikha were fully developed colonies where the Mall and commercial centre were in existence apart from the Delhi Public School running in the Amrawati Enclave and Radha Devi Amrawati Hospital. DLF had purchased the adjoining khasra numbers @ Rs.1.5 crores per acre for constructing Multi-Storey flats which had not been considered for fixation of the market value. 10,000 employees were working in the HMT Pinjore, which adjoined the acquired land whereby industrial unit had been established for the last 50 years. A tractor division and a residential colony were also in existence in the said township. The land was adjacent to Nolta Resort which was a amusement park. The boundary walls of Mughal Garden Pinjore touched the acquired land which was plain urban land fit for residential purposes. The land was being used for agricultural purpose and there were good water resources for the irrigation of the land and Panchkula was the City Beautiful with urban amenities in the northern region. Resultantly, Rs.10,000/- per sq.yard was claimed along with statutory benefits including right in the Shamlat land etc.

25. PW-1, Parveen Gupta, the Planning Assistant from the office of District Town Planner, Panchkula produced the original Master-plan of Panchkula, Development Plan of Panchkula Extension and the

development plan of the Pinjore Kalka Urban Complex, Sectorial Circulation Plan of Sectors 1 to 5 and the Sizra plan of villages in question were also produced as Exs.P-1 to P-7. He deposed that as per the Master-plan of Panchkula, Sectors 19 & 20 were situated on the southern side of Panchkula towards the end adjoining the Punjab border. Similarly, Sectors 17 & 18 adjoined the boundaries of UT, Chandigarh. The eastern side was of Sector 28 and touched boundary of Ramgarh, ITBP Campus and there was no vacant land available, development was only on the Northern side i.e. Pinjore-Kalka. HUDA had acquired land for Sectors 2-Part to 5, 27, 28 & 30 in Pinjore-Kalka Urban Complex. Sector 1 was proposed for commercial purpose and Sector 2 for Amrawati Enclave and Sector 3 for DLF. As per Ex.P-5, Sizra Plan of the acquired land shown at portion A to A1 by HUDA was for vital link road starting from NH-22 and upto Nalagarh road near Aviation Club for providing proper access to the residential Sectors 27, 28, 30 & 31, Pinjore. The land of Village Rampur Seeyuri touched the boundary of Village Islam Nagar and Bhagwanpur. The acquired land started from NH-22 and adjoined the Amrawati Enclave and HMT and the land was fit for urbanization. In cross-examination, he submitted that Exs.P1 to P7 were proposed site-plans and could be changed as per the wish of the Government. The same was being used for agricultural purposes, prior to its acquisition and fell under the Periphery Control Act. He could not tell the exact distance between the acquired land and Sectors 19-20 Panchkula. However, he stated that the acquired land was approximately

500 meters from Amrawati Enclave.

26. PW-2, Rajinder Singh, Patwari, produced the notification dated 30.11.2006 of Sectors 27, 28 & 30 Pinjore and Sectors 2 Part, 3, 4 & 5, Pinjore dated 26.09.2007 as Ex.P-10. He further stated that the acquired land abutted the NH-22 and adjoined Villages Bhagwanpur, Islam Nagar and Rampur Seeyuri. The Amrawati Enclave was at a distance of 500 meters from the acquired land which was being used for agricultural purposes prior to its acquisition. He admitted that the land of the 3 villages was similar in nature, quality and situation. The boundary of HMT touched the acquired land and Yadwindra Garden, Pinjore was at a distance of about 4 kms. In cross-examination, he admitted that the land was being used for agricultural purposes prior to its acquisition.

27. PW-3, Jawala Ram, Patwari, Halqa Pinjore proved the Aks Sijra for the villages as Exs.P-14 to P-20. The acquisition was for the purpose of link road from NH-22 Panchkula-Kalka road to NH-21A Pinjore Nalagarh Road and to link Sectors 27, 28, 29, 30 & 31 of Pinjore, being developed by HUDA, from Rampur Seeyuri on the NH-22 to NH-21A near Aviation Club/Aerodrome. The land had been highlighted on Ex.P-14 to P-20 in Orange colour and the same was within the Municipal Limit of Panchkula. The land of ACC Cement Company was shown in Ex.P-15 which had been sold. The houses and residential colonies were situated in close proximity of the land acquired and were of villages Rampur Seeyuri, BCW Surajpur, HMT, Dhamala etc. Some of the land which had been acquired including some land of HMT was of urban

nature. The Amrawati Enclave falling in Sector 2, Pinjore was stated to be a posh residential area and opposite the abadi of Rampur Seeyuri from which the link road joined with NH-22. The said colony was residential and commercial and developed many years prior to the acquisition. Islam Nagar revenue also adjoined the revenue estate of Rampur Seeyuri. The land on the other side of the National Highway along with Amrawati Enclave were relating to revenue estates of Bhagwanpur, Naggal Sodian, Islam Nagar, Bhogpur, Bakshiwala were also opposite the revenue estate of Rampur Seeyuri. The land was stated to be of urban nature and of the same quality and potential as of the acquired land. Haryana Housing Boad had developed residential and commercial colonies namely Himshikha Housing Board on the land of Villages Naggal Sodian and Islamnagar in the early 1980s. The land of Villages Bhagwanpur, Naggal Sodian and Islamnagar were also being developed by DLF and IREO. In cross-examination, he stated that Village Razipur was at a distance of 1.5 kms from Amrawati whereas HMT was adjacent. Baddi was at a distance of 15 kms from the village and the boundary of Himachal Pradesh was about 12 kms. The nature of the land at the time of acquisition was rural and Himshikha was situated at about 2 kms from the village. The land was barani in nature.

28. PW-4, Tej Ram submitted his affidavit which was in terms of the petition under Section 18 but in cross-examination, he stated that Razipur was situated on NH-22 and his land was situated at a distance of 500 meters from Amrawati Enclave. He denied the suggestion that the

same was at a distance of 1 km. DLF was at a distance of 1 km from his land and the suggestion that it was 2 kms from his land was denied. He produced the sale deeds (Exs.P-21 to P-25).

29. PW-5, Narota Ram also produced the affidavit in affirmative and in cross-examination, denied that NH-22 was situated at a distance of more than 1km from Village Lohgarh. He denied that Amrawati Enclave and DLF were situated more than ½ kms from the village. The boundaries of Himachal Pradesh started 6 kms from his land. He denied that it was at a distance of 15-16 kms. Punjab border was stated to be 10 kms from his village and that the sale deed (Ex.P-26) was not prepared in connivance with the landowners, to obtain higher amount of compensation.

30. PW-6, Vinod Kumar, AGM, Legal for DLF Homes, Panchkula, produced copy of resolution of the company as Ex.P-27. He admitted that the company had purchased the land at Bhagwanpur, Islam Nagar from January, 2007 to September, 2007, for residential and commercial colonies, after getting approval from the Government. For this purpose, the company had launched individual residential plots and independent floors, commercial and multi-storey scheme in the aforesaid land. The land was stated to be purchased by the land owning companies before acquisition of the land in the vicinity, i.e., before 26.09.2007 and some part was also subject matter of acquisition which was subsequently released by the Government. The brochure of the company was exhibited as Ex.P-29 and plots had been booked in different areas against the basic

sale price as mentioned in Ex.P-28. The location of the Highway was drawn on the third page of Ex.P-29 whereby it was shown in black colour. The same was Government approved plan and fell in Sector 3 Kalka-Pinjore Urban Complex. The land owning companies had purchased the land from the farmers at an average price of Rs.1.05 crores approximately and the range was between Rs.1 crore to Rs.1.05 crores. In cross-examination, he stated that he had not brought the sale deeds vide which their company had purchased the land from the farmers. He admitted that the floors/plots were being offered after including developmental charges and Government levies. The land was used for roads, parks and market area and other services used by all the occupants and the prices of that land was also included in the price of the floors/plots including the profit of the company. He denied that the company's land was better situated than the land acquired by the Government.

31. PW-7, Naresh Kumar, Clerk from the office of the Sub-Registrar, Kalka, proved the copy of the Collector's rates for the period of 2007-08 for the area as Ex.P-30. He stated that the Collector's rates of NH-21A Pinjore to Nalagarh and on NH-22 both sides of the road upto 200 sq.yard, was Rs.50,00,000/- per acre and for the land within the Municipal Committee, Pinjore and Kalka, Rs.80,000/- per biswa. From Pinjore to Nalagarh road, the rate for residential area was Rs.3000/- per sq.yard. The attested copy of the sale deed dated 21.11.2007 (Ex.P-31) was also proved by him. He admitted that the Collector's rate of

agricultural land of Islam Nagar was Rs.35,00,000/- per acre (wrongly mentioned as Rs.35,000/- per acre) and that of Bhagwanpur was at Rs.50,00,000/- per acre (wrongly mentioned as Rs.50,000/- per acre). PW-8, Paras Ram tendered his affidavit along with Jamabandi and copy of Sijra (Ex.P-33). He stated that Dhamala was situated on the NH-21A and denied the suggestion that the Highway was at a distance of more than 1 km from the village. He denied that Amrawati Enclave and DLF were situated more than ½ km and stated that the boundary of HP was 6 kms from his land.

32. PW-9, Ram Niwas, Draftsman, District Courts, Panchkula was produced to prove the Aks Sijra of the land of the villages as Ex.P-34. The acquired land was abutting NH-22 going upto Surajpur uptill points C and D and shown in Sky-blue colour. Land of Village Rampur Seeyuri fell on both sides of NH-22 and the location of Ex.P-21 (wrongly mentioned as Ex.P-9) was shown at points E and F. Similarly, Exs.P-22, P-23, P-24 & P-25 were shown at points G, H, I & J. The said sale deeds pertained to the land of Village Bhagwanpur and Islam Nagar and Amrawati Colony was situated on the land of the said villages in green colour at point K. Some land of the said villages were developed by the DLF, IREO Five Rivers. The remaning land of the villages including the land of Naggal Soddian, Bhogpur and Meerapur Bakshiwala had been acquired by HUDA for developing Sectors 2 to 5, Pinjore-Kalka Urban Complex. In 1981-82, the land of the said villages had been acquired by the Haryana Housing Board for developing Himshikha, a posh residential

and commercial colony. On the western side of NH-22, land had been acquired by HUDA for the construction of bye-pass for connecting NH-22 with Pinjore-Nalagarh National Highway No.21A, which was the acquisition in question. The land acquired adjoined HMT, Sectors 27, 28, 30 and sold vide Ex.P-31 was at point L, which belonged to the three villages of Rampur Seeyuri, Razipur and Surajpur. The land was similar in nature of Bhagwanpur and Islam Nagar, which had been acquired for Sectors 2 to 5 and was of similar situation, location and nature. Market value had already been assessed @ Rs.1343/- per sq.yard by the said Court, which is on record as Ex.P-36. He stated that he was personally aware of the location of the acquired land and other properties mentioned in his statement being a resident of Panchkula and having visited the acquired land and its surroundings. In cross-examination, he stated that he had prepared Ex.P-34 by joining the Aks Sijra of different villages and by compressing the same to make a joint sketch. He denied the suggestion that he had not correctly marked the sale deeds at points.

33. An application for additional evidence was allowed on 17.12.2019 whereby the award dated 13.11.2017 was brought on record for the earlier notification dated 30.11.2006, passed by the Reference Court and the site-plan which had been produced as Annexure A-2. The said award, though for an earlier notification which had been passed after the award in question which is under challenge dated 07.09.2013 and thus, is liable to be brought on record as it was not available when the Reference Court had decided the issue and could not have been produced

by the landowners earlier. Thus, it would fall under the ambit of the provisions of Order 41 Rule 27 CPC and would help the Court in pronouncing judgment also.

Potentiality and reasons for resorting to the belting system:

34. There is no dispute of the proposition of law that the market price has to be assessed on the date of the Section 4 notification and the best methodology, as such, are the relevant sale exemplars on the said date. The sale exemplars, thus, would go on to show that the market value of the land in question which is to be assessed on the price which is to be obtained from a willing seller by the person who wanted to purchase the land. The potentiality of the land is, thus, to be seen by assessing the land as to whether it can be exploited for the purpose of urban development by carving out building residential, commercial or industrial plots and further exploiting it by developing the same. This exercise is, accordingly, to be done objectively by keeping various factors in mind and by noticing as to whether the land is situated close to the Highway and its access, whether it is uniform and that it is large chunk of land, similarly situated and even in nature, as observed by the Apex Court in **Chimanlal Hargovinddas Vs. Special Land Acquisition Collector, Poona & another 1988 (3) SCC 751**. The factors which are to be kept in mind are the smallness of size, proximity to the road, frontage on the road, nearness to a developed area, regular shape, level vis-a-vis land under acquisition. The negative factors would be the largeness of the area, situated in the interior and at a distance from the road, narrow

stretch of land with very narrow frontage compared to the depth, lower level being depressed, to be filled up, remoteness from the developed localities.

35. In the present set of cases, there is no dispute that the portion of the land abuts the NH-22 for the 2nd acquisition in question from where a road is to branch-off to meet the other National Highway No.21A on the Pinjore-Nalagarh Road. The site-plan would show that the land is situated behind the famous Mughal Gardens and part of it falls on side of the road leading to Nalagarh from Pinjore. The part of the land for the 1st notification is also falling in the Municipal limits of Pinjore qua which there is no doubt regarding its potentiality, for the purpose of residential and commercial exploitation. The size of the acquisition also is an aspect which is negative qua the landowners to this extent that as many as 467.03 acres of land in the 1st notification had been acquired for development of the three sectors in as many as 9 villages and 231.77 acres of land in the 2nd notification of 7 villages had been acquired for the purpose of road. Therefore, it is a large area and part of it falls in the interior at a distance from both the Highways and does not have that much of access as HMT factory cuts off the access from the NH-22.

36. The positive factors is nearness to the developed area of Pinjore and the regular shape which is leading to its exploitation for development as residential area, thus, deducting the minus factors of largeness of area and being in the interior and having a narrow stretch of land on the frontage on highways in both acquisition. It has already come

on record by the witnesses produced by the landowners in the 2nd notification qua the exploitation which was of the land which has been done in the area on account of lack of more suitable land available. As per the statement of PW-1, Parveen Gupta, official from the office of the District Town Planner, Panchkula, as per the Master-plan of Panchkula, he had stated that the southern side of Panchkula touched the Punjab border and UT border whereas the eastern side touched Ramgarh ITBP Campus. On account of no other land being available for the development of Panchkula District, the northern side of Panchkula and Kalka was sought to be acquired. In the adjoining villages of Islam Nagar and Bhagwanpur private developers in the form of DLF and IERO had set up shop which had been proved on record by producing the authorized official and the brochures. Amrawati Enclave was already in existence and the land also falls of the said colony in Bhagwanpur and Islam Nagar which is the adjoining villages to Rampur Seeyuri, whose land falls on both sides of NH-22. The sale deeds in favour of the developers which had been executed before the date of Section 4 notification dated 27.08.2007 would, thus, be also of relevant consideration to consider the fact that the potentiality of the land had to be considered to be used for urban purpose though the land might be agricultural at the time of the acquisition. But the potentiality aspect is the factor which has to be kept into consideration. Similarly, sale deed dated 19/21.11.2007 measuring 121.81 acres (Ex.P-31), though post-notification but whose agreement to sell was dated 22.12.2006 and had been duly registered, would show that the land had been alienated in favour of a builder, M/s Odyssey Developers Pvt. Ltd. which was earlier being used for industrial purposes by the ACC Cement Plant. Resultantly, it can be recorded with satisfaction that the potentiality of the land could not be ignored and that the building activity was taking place in the vicinity way-back in 1982-83 and even the Haryana Housing Board had set-up Himshikha Colony in the adjoining villages.

37. The factum of part of the land falling in the Municipal limits of Pinjore, has also come on record, since PW-2, Meena, Clerk also stated that for the villages outside the Municipal limits, the minimum rate was Rs.25,000/- per biswa. The sale deeds which were produced by the State as Exs.R-14 & R-21 are also pertaining to Village Rathpur and would go on to show that they were situated within the Municipal area. PW-6, Gurmit Singh also stated that the land of Firozepur, Rathpur and Abdullapur were also within the Municipal limits for many years whereas the land of Manakpur Devilal were outside the Municipal limits, at the time of the acquisition. Therefore, the land which was within the Municipal limits at the time of acquisition would have all facilities available for development for the purposes of residential area and could not be treated as agricultural land. In **Gurvinder Singh & others Vs. Haryana State 2005 (1) PLR 804**, this Court was dealing with the acquisition for the land which fell within the Municipal area of Village Khairpur of Sirsa. It was noticed that there was a residential colony known as Khairpur Colony and accordingly, it was held that the

classification of the acquired land as per the old revenue record would be unwarranted. The potentiality of the land to be developed as residential or commercial area falling within the Municipal limits, was recognized and resultantly, similar sale exemplars were held to be acceptable and to be taken into consideration for assessing the market value. The said judgment was passed on the principle laid down by the Apex Court in **Bhagwathula Samanna Vs. Special Tahsildar & Land Acquisition Officer, Visakhapatnam Municipality, Visakhapatnam (1991) 4 SCC 506**, whereby the Apex Court held that the price for small plots which were sold cannot be discarded only because large tract of land is acquired. Once the neighbouring area is also developed and houses have been constructed, the land had the potential and value to be used as building sites.

38. It is also settled proposition of law that the value of the adjoining villages can always be kept in mind for assessing the market value of the land acquired once the entire area was in a stage of development and it has come on record that land was similarly situated. Reliance can be placed upon the judgment of the Apex Court in **Union of India Vs. Harinderpal Singh & others (2005) 12 SCC 564**, **Charan Dass (dead) by LRs Vs. Himachal Pradesh Housing & Urban Development Authority & others 2010 (13) SCC 398** and **Premwati Vs. Union of India & others 2013 (7) SCC 57**.

39. Another aspect which is in favour of the landowners is the network of roads in the vicinity in the form of National Highways which

would necessarily lead to the development prospects being on the higher side on account of easy accessibility. The Apex Court has time and again stressed on the fact that the advantages of the Highways have to be given due consideration and reliance can be placed upon the judgments of the Apex Court in **V.Hanumantha Reddy (dead) by LRs Vs. The Land Acquisition Officer & Mandal R. Officer 2003 (12) SCC 642** and **Ashok Kumar & another Vs. State of Haryana 2016 (4) SCC 544**.

40. Thus, keeping in view the site-plans on record, this Court is of the opinion that the argument of the State Counsel is justified that the land falling at the back cannot be assessed with the land which has got frontage on the Highway, either on the NH-22 and on NH-21A, leading to Nalagarh. The observations of the judgment of Apex Court in **Haridwar Development Authority** (supra) would be of relevance. Though the Apex Court in the said case granted uniform compensation since the land was being acquired for the development of a housing colony whereby a little over 38 bighas of land was sought to be acquired and thus, the awarding of uniform compensation, which had been resorted to by the Collector, confirmed by the Reference Court and the High Court, was upheld.

41. However, on the issue of adopting of belting method, for awarding of compensation, the following principles were laid down, whether the land is to be valued uniformly at the same rate would depend upon the proximity and access from the main road:

> "6. The question whether the acquired lands have to be valued uniformly at the same rate, or whether different areas in the

acquired lands have to be valued at different rates, depends upon the extent of the land acquired, the location, proximity to an access road/Main Road/Highway or to a City/Town/Village, and other relevant circumstances. We may illustrate :

(A). When a small and compact extent of land is acquired and the entire area is similarly situated, it will be appropriate to value the acquired land at a single uniform rate.

(B). If a large tract of land is acquired with some lands facing a main road or a national highway and other lands being in the interior, the normal procedure is to value the lands adjacent to the main road at a higher rate and the interior lands which do not have road access, at a lesser rate.

(C) Where a very large tract of land on the outskirts of a town is acquired, one end of the acquired lands adjoining the town boundary, the other end being two to three kilometres away, obviously, the rate that is adopted for the land nearest to the town cannot be adopted for the land which is farther away from the town. In such a situation, what is known as a belting method is adopted and the belt or strip adjacent to the town boundary will be given the highest price, the remotest belt will be awarded the lowest rate, the belts/strips of lands falling in between, will be awarded gradually reducing rates from the highest to the lowest.

(D) Where a very large tract of land with a radius of one to two kilometres is acquired, but the entire land acquired is far away from any town or city limits, without any special Main road access, then it is logical to award the entire land, one uniform rate. The fact that the distance between one point to another point in the acquired lands, may be as much as two to three kilometres may not make any difference.

7. The acquisition with which we are concerned relates to a comparatively small extent of village land measuring about 38 bighas of compact contiguous land. The High Court was of the view that the size and situation did not warrant any belting

> and all lands deserved the same rate of compensation. The Authority has not placed any material to show that any area was less advantageously situated. Therefore the view of the High Court that compensation should be awarded at an uniform rate does not call for interference."

42. The acquisition in question falls under Category-C, as admittedly, it has come on record that if one is to see that Manakpur Nanakchand, Nanakpur Thakurdas and Surajpur are common villages, for both notifications. It has already come on record in the statement of PW-2 Rajinder Singh, Patwari that the boundary of HMT touched the acquired land and the Yadwindra Garden/Mughal Gardens, was at a distance of 4 kms. Resultantly, it can safely be concluded that from one end of the acquisition at NH-22, where the road had to lead off where land of Village Rampur Seeyuri is situated and the land on the other side falling next to Pinjore is situated, there is considerable distance and as much as 3 sectors had been carved out. Similar was the statement of PW-6, Gurmit Singh that the acquired land was at a distance of 3 kms from Amrawati Colony. The land situated in the interior and away from the Highway cannot be commanding the same market value and therefore, resort to belting system will have to be adopted for fixing the appropriate market value.

43. The resorting to the belting system is also to be effected in the present case though the Land Acquisition Collector may have granted uniform compensation @ Rs.20 lakhs per acre for the land acquired. Mr.Khan, counsel for the landowners has vehemently argued, while placing reliance upon the judgment of the Apex Court in **Ali Mohammad**

Beigh & others Vs. State of Jammu & Kashmir 2017 (4) SCC 717, that the same should not be resorted to, to submit that uniform compensation should be granted.

44. A perusal of the said judgment would go on to show that it was on account of the land being developed for resettlement of Dal dwellers and land acquired was 505 kanals 06 marlas (63 acres). The Apex Court had noticed that the inter se distance between the villages was less than ½ km and the 3 villages had been sharing common border and boundary with each other. It was, accordingly, held that the lands were identical and similar and the acquisition was for the same purpose. In such circumstances, uniform compensation was granted.

45. In the present case, it has already come on record that the area of the acquired land is 467.03 acres and 231.77 acres of 9 villages for the 1st notification and 7 villages for the 2nd notification respectively and it cannot be said that the area is miniscule. Part of the land of the first notification falls within the Municipal limit and away from the portion of the land from the National Highway No.22, whereas portions of the land abut the lessor important Highway No.21-A, leading from Pinjore to Nalagarh. Certain stretches of land are in close vicinity though little in the interior to the developed colonies of Pinjore. Other swaths of land are away from the Highways and developed colonies and therefore, the landowners of said land which are not advantageously placed, cannot claim for uniform compensation. This Court is further fortified by the fact that the value of the land totally varies as is apparent from the

Collector's rate which would be clear from Ex.P-30. Relevant part of the same in tabulated version, reads as under:

Village	Hadbast No.	Value of Chahi land 2007-08 (in Rs./acre)
Abdullapur	118	45,00,000
Bhagwanpur	196	50,00,000
Dhamala	122	17,00,000
Firozepur	117	30,00,000
Islam Nagar	192	35,00,000
Kalka	393	35,00,000
Lohgarh	121	15,00,000
Manakpur Nanak Chand	119	15,00,000
Manakpur Thakur Dass	120	15,00,000
Manakpur Devilal	118	15,00,000
Naggal Sodian	191	35,00,000
Pinjore	113	30,00,000
Rampur Seeyuri	106	15,00,000
Rathpur	116	30,00,000
Surajpur	109	10,00,000

46. Thus, it would be clear that while Bhagwanpur and Islam Nagar, where the private developers had set up shops, land was commanding as much as Rs.35,00,000 to Rs.50,00,000/- per acre for Chahi land. On the other hand, Villages Dhamala and Lohgarh, for example, the Collector's rate had been fixed @ Rs.15,00,000/- per acre. Similarly, even Manakpur Nanakchand and Manakpur Thakurdass, the Collector's rate was only Rs.15,00,000/- per acre. The land of Village Pinjore commanded Rs.30,00,000/- per acre whereas Abdullapur was commanding as much as Rs.45,00,000/- per acre, on account of its peculiar location falling on the old Shimla Highway between Pinjore and

Kalka town. The sale deeds of both Abdullapur and Firozepur would also be discussed under the heading of 'Assessment of the market price'. In such circumstances, this Court is of the opinion that resorting to the belting system would be necessary as it is settled principle that though the land is being acquired on the principle of Eminent Domain and the benefit is to go to the landowners but there cannot be any unjust enrichment also at the cost of the State.

47. In similar circumstances, this Court had dealt with acquisitions of IMT Manesar, Gurgaon, whereby 1500 acres of land was notified for acquisition vide 3 different notifications of 6 different villages. This Court had granted uniform compensation of Rs.41.40 lakhs per acre. The same was modified by the Apex Court in **Wazir & another Vs. State of Haryana 2019 (1) Scale 364**, by noting that the LAC had awarded different amounts of compensation for the 6 villages and therefore, differential treatment was, accordingly, granted, while placing reliance upon judgment in **Surinder Singh Vs. State of Haryana & others (2018) 3 SCC 278**. Resultantly, 3 villages were put on one side whereas the other 3 villages were put on the other side, to assess the market value at different rates.

48. In similar circumstances, while dealing with the acquisition pertaining to Faridabad, for development of residential sectors 75 to 78 & 80 and the master-plan roads of Sectors 75 to 89, in **RFA-7108-2012** titled *Rampal & others (II) Vs. Land Acquisition Collector & another*, decided on 31.05.2019 it was kept in mind that over 1600 acres of land

was subject matter of acquisition of the 3 notifications. It was, accordingly, noticed that development was over 4 sectors and there was difference of 4-5 kms of the villages from one end to the other and the market value would, thus, vary. Reliance upon the judgment quoted by the landowners in **Harinderpal Singh** (supra), **Special Land Acquisition Officer Vs. Karigowda and others 2010 (5) SCC 708**, **Charan Dass** (supra), **Premwati** (supra) and **Ram Kanwar and others Vs. State of Haryana and another 2015 (1) RCR (Civil) 234**, was kept in mind. Reliance was, thus, placed upon the judgment of Apex Court in **Union of India Vs. Mangat (dead) by L.Rs, 2001 (1) PLJ 461** wherein it was held that the land which is landlocked and away from the National Highway cannot be equated with the land abutting the highway, which was a acquisition of over 1130 acres. The relevant portion reads as under:-

> "8. We see no warrant in law for the formula indicated above being applicable while finding the market value of acquired land as on the date of the said notification under Section 4. This mathematical formula completely disregards the location of the land which is acquired vis-a-vis the instance sale, the difference in the area acquired and the area of the sale instance and several other relevant factors in this regard. As has already been indicated hereinabove, the area which was acquired was 1130 acres and 4 marlas, only a small portion of which abutted on National Highway 8. Even if one was to disregard the quality of the land i.e. irrigated, semi-irrigated or barren, one cannot be oblivious of the fact that the market value of land which abuts on the National Highway would be much ore than the land which is away from it. The price of the

land which is landlocked and which is farther away from the national highway cannot be the same as that which abuts on the national highway. The formula which had been applied by the High Court, however, seems to indicate that the price of the entire land irrespective of the location of different parcels of land is the same. The formula which was applied by the learned Single Judge of the High Court is obviously incorrect."

49. Resultantly, the question was decided in favour of the State, to this extent that uniform compensation is not liable to be granted, in such circumstances. Similar is the position herein.

<u>Assessment of the market price for the 1st notification</u>:

50. Relevant sale deeds, as reproduced in the award passed by the Reference Court, for the 1st notification, are as under:

Sr. No.	Exhibit	Particulars of sale deed/allotment	Rate Per Sq.Yard (in Rs.)	(+-) 12% per annum as on 30.11.06 (in Rs.)
1.	Ex.PW-12/D	559/1 dated 28.06.04 for 1B-15B i.e. 35 Biswa = 1764 sq.yd. sold for Rs.25.00 lakh of Ferozpur	1417/-	28.06.04 = 1417 28.06.05 (1417 + 12%) = 1587 28.06.06 (1587 + 12%) = 1777.44 28.11.06 (1777.44 + 5%) = 1866.31
2.	Ex.PW-12/F	1793/1 dated 03.01.05 for 800 sq.yd. sold for Rs.28.00 lakh of Abdulapur	3500/-	03.01.05 = 3500 03.01.06 3500+ 12% = 3920.00 30.11.06 3920 + 11% = 4351.00
3.	Ex.PW-12/G	372/1 datd 08.05.06 for 600 sq.yd. sold for Rs.15.00 lakh of Ferozpur	2500/-	30.11.06 2500+7% = 2675.00
4.	Ex.R-14	4698 dated 28.2.2006 of Rathpur 1 Bigha = 1000 sq.yards, Railway line sold for Rs.6,00,000/-	595.04	28,79,993/- per acre

Sr. No.	**Exhibit**	**Particulars of sale deed/allotment**	**Rate Per Sq.Yard (in Rs.)**	**(+-) 12% per annum as on 30.11.06 (in Rs.)**
5.	Ex.R-21	590 dated 31.5.2006 of Rathpur 2 bighas 9 biswas 15 biswansis sold for Rs.10,42,000/-	419	20,27,960/- per acre

51. A perusal of the above first 3 sale deeds, relied upon by the Reference Court, upon which a cumulative increase was given on the basis of the said sale deeds, to fix the market value @ Rs.8866/- and dividing it by 3, the market value had been fixed at Rs.2956/- per sq.yard. Thereafter, a cut of 50% was applied to fix the market value at Rs.1478/- per sq.yard. This has been objected to by the landowners in as much as by holding out that the benefit of the highest sale deed should have been granted. Reliance has rightly been placed upon the judgment of the Apex Court in **Mehrawal Khewaji Trust (Regd.), Faridkot & others Vs. State of Punjab & others 2012 (4) SCR 24** wherein it was held that once the land had been compulsorily acquired, a person is entitled to the highest value in the locality in case of a bona fide transaction and only where there is strong circumstance justifying a different course, deviation was to be done. It was further held that it was not desirable to taking of average of sale deeds for fixing the market price. Relevant portion reads as under:

> "15. It is clear that when there are several exemplars with reference to similar lands, it is the general rule that the highest of the exemplars, if it is satisfied, that it is a bona fide transaction has to be considered and accepted. When the land is being compulsorily taken away from a person, he is entitled to the highest value which similar land in the locality is shown

> to have fetched in a bona fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition. In our view, it seems to be only fair that where sale deeds pertaining to different transactions are relied on behalf of the Government, the transaction representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different course. It is not desirable to take an average of various sale deeds placed before the authority/court for fixing fair compensation."

52. Reliance had been placed upon the earlier judgment passed in **Anjani Molu Dessai Vs. State of Goa & anothr (2010) 13 SCC 710** in this context. Reliance can also be placed upon the judgment in **Maj. Gen. Kapil Mehra & others Vs. Union of India & another 2015 (2) SCC 262**. It was further held that where prices have marginal variation, averaging would be permissible but abnormal high and abnormal low sale value should be discarded. Similarly, the period between the sale deeds should be of short interval. Relevant portion of the 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."

53. In the present case, for the 1st notification, under Section 4 was issued on 30.11.2006. Ex.PW-12/D, was executed on 20.06.2004 and therefore, is almost 2 ½ years earlier and would not depict the correct market value though it might be a bigger chunk of land i.e. 1764 sq.yards in comparison to the other 2 sale deeds. Similarly, Ex.PW-12/F was dated 03.01.2005, wherein 800 sq.yard of land had been sold at Rs.3500/- per sq.yard. Said deed is also over 1 ½ years and shows a contrast in the market value if it is examined in reference to Ex.PW-12/D which was executed 6 months earlier to it. The market price was more than double and therefore, it is obvious that it had some peculiar advantages which can lead to discarding it as it is apparent that it has commercial potentiality as having a unique location. This would be clear from the site-plan (Ex.PW-11/F) wherein the sale deed is shown at Point-A. The situation of the sale deed is on the old National Highway, leading from Pinjore to Kalka and therefore, has immense commercial potential. The said portion of the land is situated between Pinjore town and Kalka town

and before the Railway line and closer to Pinjore and it is of unique location, as such, falling in Village Abdullapur that the market value is more than two times of an earlier sale deed of Village Firozepur, which is also in close vicinity though closer to Pinjore. Thus, Ex.PW-12/F would not be a safe sale exemplar to fall back on.

54. Resultantly, this Court is of the opinion that the best sale exemplar, keeping in view the above principle, is Ex.PW-12/G whereby 600 sq.yards of land had been sold on 08.05.2006 @ Rs.2500/- per sq.yard, merely 7 months prior to the date of acquisition i.e. 30.11.2006 and as per the above table, while granting the benefit of 7 months, the market value would increase to Rs.2675/- per sq.yard. The location of the said sale deed of Village Ferozepur can also be easily traced which is falling in Khasra No.53 and is stated to be part of the acquired land, being of the same khasra number which has been shown at Point-A of Ex.PW-11/H. A recital of the said sale deed would also go on to show that it has been assessed being commercial in nature and 100 feet from the National Highway and within the Municipal limits of Pinjore.

55. Mr.Khan has pointed out from the award (Ex.PW-7/1) that out of the 47.11 acres of land of Village Firozepur, Khasra No.53 was also subject matter of acquisition and therefore, the land can be directly co-related and the location can be traced and it would be the best sale exemplar for assessing the market value.

56. The market value for the 1st notification dated 30.11.2006, as per the above sale deed Ex.PW-12/G, works out to Rs.2675/- per sq.yard

and therefore, the issue of cut to be applied to the said sale exemplar would be the next exercise. It has been argued by the counsels for the landowners that in the adjoining vicinity, a year later, for the land acquired for Bhima Devi Temple on 14.11.2007, Rs.2400/- per sq.yard had been granted, in appeal. It is submitted that a reverse cut should be applied on Rs.2400/- and reducing the said market value by 12%.

57. The said argument is not liable to be accepted. It is to be noticed that on an earlier occasion also, the Reference Court had decided the issue and assessed the market value @ Rs.972/- per sq.yard, vide various awards, the first one of which was dated 18.11.2013, by applying a reverse cut of 10% on Rs.1200/-, as granted by the Reference Court. However, the Co-ordinate Bench in RFA-1854-2015 titled *State of Haryana through Land Acquisition Collector, Urban Estate, Panchkula Vs. Smt. Ram Kaur & another,* decided on 24.05.2017, had set aside the said award on the ground that the notification dated 14.11.2007 pertained to Village Pinjore alone, which was for the protection and preservation of ancient and historical temple which is called as Bhima Devi Temple. Resultantly, it was held that apart from the fact that it was for a different village, the same was also post notification and therefore, had remanded the matter. The principle of reverse cut has been adversely commented upon in the judgment of the Apex Court in **General Manager, Oil & Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel 2008 (4) RCR (Civil) 487**. Relevant portion of the judgment reads as under:

> "13. Much more unsafe is the recent trend to determine the market value of acquired lands with reference to future sale

transactions or acquisitions. To illustrate, if the market value of a land acquired in 1992 has to be determined and if there are no sale transactions/acquisitions of 1991 or 1992 (prior to the date of preliminary notification), the statistics relating to sales/acquisitions in future, say of the years 1994-95 or 1995-96 are taken as the base price and the market value in 1992 is worked back by making deductions at the rate of 10% to 15% per annum. How far is this safe? One of the fundamental principles of valuation is that the transactions subsequent to the acquisition should be ignored for determining the market value of acquired lands, as the very acquisition and the consequential development would accelerate the overall development of the surrounding areas resulting in a sudden or steep spurt in the prices. Let us illustrate. Let us assume there was no development activity in a particular area. The appreciation in market price in such area would be slow and minimal. But if some lands in that area are acquired for a residential/commercial/industrial layout, there will be all round development and improvement in the infrastructure/ amenities/facilities in the next one or two years, as a result of which the surrounding lands will become more valuable. Even if there is no actual improvement in infrastructure, the potential and possibility of improvement on account of the proposed residential/commercial/ industrial layout will result in a higher rate of escalation in prices. As a result, if the annual increase in market value was around 10% per annum before the acquisition, the annual increase of market value of lands in the areas neighbouring the acquired land, will become much more, say 20% to 30%, or even more on account of the development/proposed development. Therefore, if the percentage to be added with reference to previous acquisitions/sale transactions is 10% per annum, the percentage to be deducted to arrive at a market value with reference to future acquisitions/sale transactions should not be 10% per annum, but much more. The percentage of standard increase becomes unreliable. Courts should therefore avoid determination of market value with reference to subsequent/future transactions. Even if it becomes inevitable, there should be greater caution in applying the prices fetched for transactions in future. Be that as it may."

58. Therefore, the judgment passed in **RFA-829-2010** titled *Jarnail Singh & others Vs. State of Haryana & another,* decided on 22.05.2017, whereby Rs.2400/- per sq.yard had been awarded for the land which had been acquired for Bhima Devi Temple, is liable to be ignored, being the market value post notification and of land better situated.

59. The argument of counsels for the landowners that cut should not be applied on the market value of Ex.PW-12/G is not liable to be accepted, since the area of land which has been acquired has already been taken into consideration. The judgment in **Bhagwathula Samanna** (supra) was distinguished by the Apex Court in **Kasturi Vs. State of Haryana (2003) 1 SCC 354** and it was held that where area is acquired for development, civic amenities have to be provided and the reduction can go upto 1/3rd. The relevant part of the judgment reads as under:

"14. On facts and in the light of the legal position emerging from the various decisions referred to above, it is not possible for us to say that cut of 20% adopted by the learned Single Judge as affirmed by the Division Bench in the impugned judgment is wrong or unsustainable. It appears to us having regard to facts and circumstances of the case that the High Court has applied cut of 20% as against the normal 1/3 deduction. We find that the High Court was right and justified in doing so.

15. The decision of Bhagwathula Samanna (supra) does not help the appellants as the said decision was rendered on the

facts of that case. As already noticed above, the said decision was referred to in earlier decisions of this Court and distinguished. That was a case of a fully developed land having all amenities and situated in an advantageous position. In the context of the facts of that case, in para 11, it is stated thus:-

> "The principle of deduction in the land value covered by the comparable sale is thus adopted in order to arrive at the market value of the acquired land. In applying the principle it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition which is the only relevant factor. Even in the vast area there may be land which is fully developed having all amenities and situated in an advantageous position. If smaller area within the large tract is already developed and suitable for building purposes and have in its vicinity roads, drainage, electricity, communications etc. then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified." (emphasis supplied)

16. In that case deduction was not given on the ground that even in the vast area there may be land, which is fully developed having all amenities and situated in an advantageous position; if smaller area within the large tract is already developed and suitable for building purposes and have in its vicinity roads, drainage, electricity, communication, etc., then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified.

17. In the present case the situation is entirely different. The area acquired is not a small area; it was not developed; may be it had some advantages; a small portion of the large tract was abutting the main road; it was also not the case that any smaller area within the large tract of land acquired was fully

developed having all facilities as in the case of Bhagwathula Samanna (supra). The appellants herein did not establish that the entire area of 84 acres of land acquired was fully developed having all the facilities such as roads, drains, sewers, water, electricity lines and civic amenities. In order to convert the land into plots for the purpose of construction of residential and commercial buildings certain area was to be earmarked for the abovementioned purposes in accordance with the law governing in the matter of creating layouts in addition to incurring of expenditure for the development area. Hence the claim of the appellants that there should have been no deduction out of the compensation amount determined for the entire area acquired is unsustainable. May be the acquired land with potentiality for construction of residential and commercial buildings had some advantages, which aspect is taken note of by the High Court in giving cut of only 20% as against 1/3 normal deduction.

18. We do not find any force in the contention that the HUDA has made unjust enrichment by collecting more money from the allottees after the compensation amount was enhanced by the District Judge and that neither the State nor the HUDA will be put to any loss as they have collected money from the allottees. It is not the case where collection of any tax is involved to bring in the theory of unjust enrichment. Be that as it may, we are not concerned in these cases as to what happened between the HUDA and the allottees. The question for consideration is as to the determination of amount of compensation for the acquired land. Once the proper amount of compensation is finally determined, the land owners will be entitled only to that amount."

60. In **Viluben Jhalejar Contractor Vs. State of Gujarat (2005) 4 SCC 789**, the Apex Court has held that where a large block of land is to be developed, development charges for preparing a layout plan,

carving out roads, leaving open spaces, plotting out smaller plots may range between 20% and 50% of the total price. In **Atma Singh Vs. State of Haryana (2008) 2 SCC 568**, deduction of 20% was allowed on the similar piece of land. Similarly, the law of deduction has been discussed in **Lal Chand** (supra), ***Subh Ram & others Vs. State of Haryana & another (2010) 1 SCC 444***, **Andhra Pradesh Housing Board Vs. K.Manohar Reddy & others 2010 (12) SCC 707** and **Special Land Acquisition Officer & another Vs. M.K.Rafiq Sahib (2011) 7 SCC 714**. Thus, deduction has been held permissible between 20% and 50%, which has been further fortified by the judgment passed by the Apex Court in **Chandrashekar** (supra) to take it to the level of 75%.

61. Keeping in view the above facts and circumstances and the location of Ex.PW-12/G, this Court is of the opinion that 30% deduction would be reasonable and therefore, the market value for the land falling within 2 acres (440 feet) from the National Highway No.21-A and within the Municipal limits of Pinjore at the time of the Section 4 notification, would work out to Rs.1873/- per sq.yard (Rs.90,65,320/- per acre). For the land beyond the said distance or outside the Municipal limits, it would be appropriate to put another cut of 20% as it would be a totally raw agricultural land and therefore, the market value would work out to Rs.1500/- per sq.yard (Rs.72,60,000/- per acre). Resultantly, the award passed by the Reference Court is modified to that extent, by resorting to belting system and by enhancing the compensation, to the above-said tune along with all statutory benefits.

62. To be fair to the State Counsel, who has vehemently pointed out contradictions in the award of the Reference Court to the extent that Exs.R-14 & R-21 were ignored, which were sale deeds pertaining to Village Rathpur. The ground was that they were below the amount of Rs.20 lakhs, as awarded by the LAC and therefore, not liable to be taken into consideration. Though the State had produced large number of sale deeds, as many as 34 in number, but apart from the above 2 sale deeds, none is showing the value of more than the amount awarded by the Land Acquisition Collector. The Collector's rate has already been reproduced above to show the market value and keeping in view the provisions of Section 25 of the Act, the other sale deeds are not liable to be taken into consideration. However, Exs.R-14 & R-21 are also liable to be discarded for the following reasons. Admittedly, Ex.R-14, as per Ex.PW-11/G is situated right next to the Railway line which goes from Chandigarh to Kalka. It is situated at a height and it has also come in the evidence that it is far away from all the highways, as would be clear from the site-plan Ex.PW-11/G, where the location is shown at Point-X. Thus, being situated away from the developed portion, it would command less amount.

63. Ex.P-21 dated 31.05.2006, whereby land was sold @ Rs.419/- per sq.yard and the market value would come upto Rs.20,27,960/- per acre, just above to what is the Collector's rate. Sufficient evidence has been examined in the form of co-sharers to show that the land was sold by the owner who was not residing in Pinjore-

Kalka but had joined his daughter in Himachal. The position, as such, was that the other co-sharer, Tara Chand, PW-12 and the vendor was Jeet Ram, his uncle who did not had any son. Similar is the statement of Joginder Singh wherein the purchaser had bought the land at a lessor amount. The witness of the sale deed, Ex.PW-14, Mehma Ram, Lambardar had also been examined regarding this aspect. Thus, counsels for the landowners have been able to bring on record sufficient evidence to discredit Ex.R-21, though the land purchased might not have any locational disadvantage. But keeping in view the fact that other co-sharers were in possession it is but obvious that the land was not sold at the market value but was sold just below the Collector's rate (Ex.P-30), for Village Rathpur, as per the chart reproduced above and resultantly, the said sale deed is liable to be ignored, being a distress sale.

<u>Assessment of the market value for the 2nd notification</u>:-

64. Similarly, for the 2nd notification, the relevant sale deeds in question would be as under:

S. No.	**Sale Deed No. & Dated & Village**	**Area**	**Rate**	**Average rate per acre**	**Exhibits**	**Sale deed mentioned as point in combined Aks Sajra in Ex.P-34**	**Per Sq.yard**
1	1444/1 dated 17.08.07 Village Bhagwan-pur	25 Bigha 17 Biswas 5.38 acres	6,14,46,520/-	1,14,09,748/-	P-21	E & F	2357/- approx
2	424/1 dated 09.05.07 Village Islam Nagar	12 Bigha 15 Biswas 2.65 acres	2,67,75,000/-	1,00,80,000/-	P-22	G	2083/- approx

S. No.	Sale Deed No. & Dated & Village	Area	Rate	Average rate per acre	Exhibits	Sale deed mentioned as point in combined Aks Sajra in Ex.P-34	Per Sq.yard
3	769/1 dated 06.06.2007 Village Islam Nagar	14 Bigha 2 Biswas 2.94 acres	2,96,10,000/-	1,00,80,000/-	P-23	H	2083/- approx
4	718/1 dated 04.06.07 Village Bhagwan-pur	13 Bigha 7 Biswas 2.78 acres	3,17,06,250/-	1,14,00,000/-	P-26		2355/- approx
5.	2120/1 dated 19/21.11.07 Villages Rampur Seeyuri, Razipur and Surajpur	121.81 Acre	191,49,38,515 ACC Factory	1,57,20,700	P-31	L	3248/-

65. The above sale deeds which are admittedly of Villages Bhagwanpur and Islam Nagar would go on to show that large tracts of land had been sold in the range of Rs.1 crore to Rs.1.14 crores per acre. It is not disputed that the said land is across the Highway and closer to Amrawati Enclave which is a developed colony since long and therefore, the market value of the said land would be much more. The Reference court, while fixing the market value, has placed reliance upon the sale deeds- Exs.P-21 to P-23 and P-26, which have been reproduced above, to work out the average of Rs.1,07,39,960/- and putting a 60% cut on the same. It is also to be noticed that M/s Odyssey Developers Pvt. Ltd. had purchased the land from M/s ACC Cement Company Ltd., which land

was in the three villages of Rampur Seeyuri, Razipur and Surajpur and it was running a cement plant which had been sold and the market value was as high as Rs.3248/- per sq.yard, for 121.81 acres, whereby land @ Rs.1,57,27,000/- per acre had been sold.

66. A perusal of the said sale deed would go on to show that there was construction on the said land and the said sale deed, though of post notification, had a registered deed of confirmation with the office of the Sub-Registrar earlier to the issuance of the Section 4 notification which had taken place on 27.12.2006, i.e. 9 months prior to the Section 4 notification. A perusal of the said sale deed would go on to show that there were building and structures on various portions and there were also electric/power sub-station owned and operated by the Haryana Vidyut Prasaran Nigam Limited-Uttar Haryana Bijli Vitran Nigam Limited, partially standing upon a portion of the land measuring approximately 0.394 acres and therefore, the said sale deed is liable to be discarded as the cost of construction has also been included in the cost of acquisition.

67. The statement of the witness has already been discussed about the peculiar advantages of the land which starts from NH-22 towards a more important highway, as such. It has already been recorded that Amrawati Enclave was just 500 meters and part of the land also touched the HMT Complex which was an industrial unit and residential estate of prominence before its shut-down. The sale deed executed (Ex.P-21) which was executed 10 days before the Section 4 notification, thus, could be taken into consideration whereby the land was sold at Rs.2357/-

per sq.yard instead of averaging though it is to be noticed that variance of price is nominal in as much as the other sale deeds are in the range of Rs.2083-2355/-.

68. The argument which has been raised by counsel for the landowners, while placing reliance upon judgments passed by the Apex Court in **C.R.Nagaraja Shetty Vs. Special Land Acquisition Officer & Estate Officer & another 2009 LAC 437 SC**, **Anjani Molu Dessai Vs. State of Goa (2010) 13 SCC 710** and **Nelson Fernandes Vs. Special Land Acquisition Officer, South Goa 2007 (9) SCC 447**, is that since land has been acquired for the road, there should be no development cut and therefore, the full amount, as per Ex.P-21 is to be awarded.

69. However, this Court is not in agreement with the said argument. A perusal of the said sale deed (Ex.P-21) would go on to show that it was in favour of M/s Morina Builders & Developers Pvt. Ltd. Similarly, Ex.P-22 is also in favour of M/s Ascent Township Pvt. Ltd., Ex.P-23 is in favour of M/s Irish Propbuild Pvt. Ltd. and Ex.P-26 is in favour of M/s More One Builders & Developers Pvt. Ltd. From the evidence produced of Vinod Kumar, PW-5 AGM, DLF Pvt. Ltd., it has also come on record that the land had been purchased by their holding companies. Resultantly, necessary cut has to be given on the said sale exemplars as it would not be a true reflection of the market value prevalent at the time of issuance of Section 4 notification. In **Chandershekhar** (supra), the Apex Court held that the cut on all accounts can go up to 75%. This Court has been consistently applying

cut of 50% on the builders sale deeds, as they have the holding power and the capacity to purchase land at higher rates to exploit it at a later point of time, especially keeping in mind the development taking place in the urban vicinity. The said principle was upheld by a three-Judges Bench of the Apex Court in **Ram Kanwar** (supra). Relevant portion of the judgment reads as under:

> "19. In the instant case, though the sale deeds were for part of lands which were acquired by the acquiring authority under the notification, the said sale deeds indicated an abnormal increase of more than 100% in less than four months. It is not a far reaching implication of the said land being in the vicinity of area under development or already developed, which attributed additional locational advantages leading to escalation of the sale price at which a buyer would purchase the lands. Another fact noticed by the High Court is that the buyers for all these sale transactions had vested interest in the land adjoining or around the properties in such transaction.
>
> 20. In light of the aforesaid, it can be concluded that the buyers would not have hesitated in offering higher prices to purchase the lands than the market rate of such lands and, therefore, in determination of compensation payable to the land-losers, such price could not be relied upon without making necessary deductions bringing it at par with the estimated fair market value of the acquired lands. In our considered view, the High Court has correctly made appropriate deductions to the consideration offered under the sale deeds produced and marked in the evidence while assessing fair and true market value of the acquired lands on the date of issuance of Section 4 notification."

70. Resultantly, by applying a 50% cut, the market value works out to Rs.1178.50 per sq.yard (Rs.57,03,940/- per acre) rounded off to Rs.1180/- per sq.yard (Rs.57,11,200/- per acre). The said amount is, accordingly, awarded for the land falling upto the depth of 2 acres (440 feet) from NH-22. Thereafter, by applying a 20% cut, the market value works out to Rs.944/- per sq.yard (Rs.45,68,960/- per acre), for the land beyond the said distance. Similarly, since the land which is abutting the Pinjore-Nalagarh road on the northern end, would also be entitled for higher market value since apart from being on the said Highway, it is also closer to the town of Pinjore. Accordingly, upto the depth of 2 acres (440 feet) from the said highway also, market value of Rs.1180 per sq.yard (Rs.57,11,200/- per acre) is granted along with all statutory benefits.

71. **Relief**:-

(i) Accordingly, for the notification dated 30.11.2006, market value is fixed @ Rs.1873/- per sq.yard (Rs.90,65,320/- per acre), for the land falling within 2 acres (440 feet) from the National Highway No.21-A and within the Municipal limits of Pinjore, at the time of Section 4 notification. For the land beyond the said distance or outside the Municipal limits, the market value would be @ Rs.1500/- per sq.yard (Rs.72,60,000/- per acre), along with all statutory benefits.

(ii) For the notification dated 27.08.2007, market value is fixed @ Rs.1180/- per sq.yard (Rs.57,11,200/- per acre) for the land falling upto the depth of 2 acres (440 feet) from NH-22 and for the land abutting the Pinjore-Nalagarh road on the northern end, upto the same depth. For the land beyond the said depth of 2 acres, from both sides, the market value would work out to Rs.944/- per sq.yard (Rs.45,68,960/- per acre), along with all statutory benefits.

(iii) 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.

(iv) The State shall also comply with the directions laid down by the Apex Court in **Haryana State Industrial Development Corporation Vs. Pran Sukh & others 2010 (11) SCC 175**, to ensure that the landowners are not fleeced by the middleman, which read as under:

> (a) The Land Acquisition Collector shall depute officers subordinate to him not below the rank of Naib Tahsildar, who shall get in touch with all the land owners and/or their legal representatives and inform them about their entitlement and right to receive enhanced compensation.
> (b) The concerned officers shall also instruct the land owners and/or their legal representatives to open savings bank account in case they already do not have such account.
> (c) The bank account numbers of the land owners should be given to the Land Acquisition Collector within three months.
> (d) The Land Acquisition Collector shall deposit the cheques of compensation in the bank accounts of the land owners.

(v) The entitlement of the landowners would be to the amounts awarded above along with statutory benefits. The State would also be entitled to make adjustment of the amounts which have already been paid during the litigation.

Pending miscellaneous applications, if any, in which no separate orders have been passed, stand disposed of accordingly.

10th JANUARY , 2020 **(G.S. SANDHAWALIA)**
SAILESH/PARVEEN **JUDGE**

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