

In the High Court of Punjab and Haryana, at Chandigarh

1. Regular First Appeal No. 885 of 2020 (O&M)

Sumer Singh (deceased) through his Legal Heirs and Others
... Appellant(s)

Versus

State of Haryana and Others
... Respondent(s)

2. Regular First Appeal No. 920 of 2020 (O&M)

Maman Singh and Others
... Appellant(s)

Versus

State of Haryana and Others
... Respondent(s)

3. Regular First Appeal No. 945 of 2020 (O&M)

Maman Singh and Others
... Appellant(s)

Versus

State of Haryana and Others
... Respondent(s)

4. Regular First Appeal No. 971 of 2020 (O&M)

Ram Pal (deceased) through his Legal Heir and Others
... Appellant(s)

Versus

State of Haryana and Others
... Respondent(s)

5. Regular First Appeal No. 877 of 2021 (O&M)

Ajit Singh (deceased) through his Legal Heirs

... Appellant(s)

Versus

State of Haryana and Others

... Respondent(s)

AND

6. Regular First Appeal No. 881 of 2021 (O&M)

Attar Singh and Others

... Appellant(s)

Versus

State of Haryana and Others

... Respondent(s)

DATE OF DECISION: 23.11.2021

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sudhir Aggarwal, Advocate
for the appellant(s).

Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana.

Mr. B.R.Mahajan, Senior Advocate
with Mr. Pritam Singh Saini, Advocate
for the Haryana State Industrial and Infrastructure Development
Corporation Limited.

Anil Kshetarpal, J.

1. By this order a bunch of six appeals shall stand disposed of.

2. Through these appeals filed under Section 54 of the Land Acquisition Act, 1894, (hereinafter referred to as 'the 1894 Act') the landowners who stand deprived of their land due to the compulsory acquisition, assail the correctness of the award passed by the Reference Court on 10.12.2019. The landowners pray for the enhancement of the

this bunch of appeals can be conveniently disposed of by a common judgment.

3. With highest regard to the direction of the Hon'ble Supreme Court to avoid reproduction and individually record the adjudication upon questions pertaining to land acquired in different villages, it is observed that in a significant number of batches of appeals listed before this Bench, the land has been acquired through a common notification involving identical issues, which have already been sufficiently and elaborately dealt with, in the previous judgements. Hence, certain extracts from the previous judgments, have been reproduced in this judgement, for the sake of convenience, clarity and judicious use of time. In all these cases, the following issues arise for consideration:-

1. *Whether the parties have produced comparable sale exemplars of the contemporaneous period, to enable the Court, to assess the market value of the acquired land as prevalent on the date of notification under Section 4 of the Land Acquisition Act, 1894?*
2. *Whether the landowners of the acquired land can be deprived of just, fair and reasonable compensation, although they have failed to claim the compensation amount as per the policy decision of the State?*
3. *Whether the Court is required to assess the severance damages suffered by the landowners with regard to the bifurcation of their unacquired land into different parcels due to the compulsory acquisition of a narrow strip of the land for*

constructing an elevated express highway?

4. The discussion on issue number 2 and 3 involves common questions which have been, comprehensively, answered in the previous judgments arising from the same notification under Section 4 of the 1894 Act. Hence, there is some amount of reproduction made on those issues in the judgement.

5. **FACTS**

5.1 Some facts are required to be noticed. The State of Haryana in order to use the land, for developing and constructing Kundali Manesar Express Highway Phase VII, connecting NH-1, NH-10, NH-8 and NH-2 issued notification under Section 4 of the 1894 Act, on 11.01.2005, proposing to acquire land measuring 520 acres 2 kanals 30.5 marlas spread over a total of 15 villages. The declaration under Section 6 of the 1894 Act, was published on 31.05.2005 whereas award no.14 was announced on 10.05.2006. The landowners were held entitled to the uniform market value of the acquired land at the rate of ₹ 12,50,000 per acre. In the first round, on 18.02.2013 the Reference Court, assessed the market value of the acquired land at the rate of ₹43,17,841/- per acre. While deciding appeals, the High Court vide judgment dated 05.02.2016, revised the market value of the acquired land to ₹62,11,700/-. However, the Hon'ble Supreme Court vide a judgment dated 25.1.2018 in ***Surender Singh vs. State of Haryana and Others (2018) 3 SCC 278*** remanded all the cases back to the Reference Court. The parties were permitted to lead further evidence. In the second round, the Reference Court has dismissed the petitions vide a judgment

5.2 At this stage, it would be important to note that in village Jhanjarola itself, 177 kanals 1 marla land, in other words 22 acres, 1 kanal & 1 marla of land has been acquired. In order to understand the various words used in the judgment while referring to different units with respect to size of agricultural land, it is important to note the following:-

1.	1 Rectangle	=	5 X 5 = 25 Acre
2.	1 Acre	=	160 Marlas
3.	8 Kanal	=	1 Acre
4.	1 Kanal	=	20 Marlas
5.	1 Acre		4840 Sq. Yards
6.	1 Marla		272.251 Sq. Feet = 30.25 Sq. Yards
7.	1 Inch		2.54 cm
8.	1 Foot		12 Inch.
9.	1 Sq. Feet		12 X 12 =144 Inch.
10.	1 Yard		3 Feet
11.	1 Sq. Yard		9 Sq. Feet
12.	100 Sq. Yards		900 Sq. Feet
13.	1 Kanal		0.125 Acre
14.	1 Marla		0.00625001 Acre

6. **EVIDENCE**

6.1 The landowners in order to prove their case have examined the following witnesses:-

PW.1	Sant Lal (Petitioner)
PW.2	Braham Parkash (Petitioner)
PW.3	Ajit Singh (Landowner)
PW.4	Kamal Kumar, Patwari Halqa Kaliawas, Jhanjrola and Sultanpur, Tehsil Farrukh Nagar
PW.5	Ashok Kumar, Patwari Halqa Budhera.

6.2 The landowners also produced the following documents in support of their case:-

Ex.P1	Copy of award dated 27.2.2012 passed by the Court of Shri Vikram Aggarwal, the then ADJ, Gurugram in case titled as ‘Hari Mohan and others Vs. State of Haryana and others’
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**Regular First Appeal No. 885 of 2020 (O&M) And
Five Other Connected Cases**

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Ex.P2	Copy of Award No.1 dated 24.12.2008 of LAC of Village Sultanpur
Ex.P3	Copy of Award No.3 dated 24.12.2008 of LAC of Village Babra Bakipur
Ex.P4	Copy of Award No.2 dated 21.4.2011 of LAC of Village Fazilwas
Ex.P5	Copy of Award No.5 dated 21.4.2011 of LAC of Village Fakharpur
Ex.P6	Copy of Award No.3 dated 21.4.2011 of LAC of Village Kukrola
Ex.P7	Copy of Award dated 16.11.2011 passed by the Reference Court in LA case No.261/2010 titled as 'Anil Kumar Vs. State of Haryana and others'
Ex.P8	Copy of Sale Deed dated 20.10.2005 vide which the land measuring 19K-9.5M situated in Village Patli Hazipur was sold for ₹ 60,00,000/-
Ex.P9	Copy of Sale Deed dated 6.8.2008 vide which the land measuring 0K-7M situated in Village Sultanpur was sold for ₹ 8,75,000/-
Ex.P10	Copy of Sale Deed dated 16.12.2009 vide which the land measuring 17K-18M situated in Village Sultanpur was sold for ₹ 1,34,22,000/-
Ex.P11	Copy of Sale Deed dated 28.12.2007 vide which the land measuring 8 Kanal 1 marla situated in Village Khaintawas was sold for ₹ 56,00,000/-
Ex.P12	Copy of Sale Deed dated 5.5.2009 vide which the land measuring 38 Kanal 19 marla situated in Village Khaintawas was sold for ₹ 5,59,90,625/-
Ex.P13	Copy of Award dated 18.7.2012 passed by the Reference Court in LA case No.5/2010 titled as 'Suraj Pal Vs. Competent Authority'
Ex.P14	Copy of award dated 27.8.2012 passed by the Court of Shri Vikram Aggarwal, the then learned ADJ, Gurugram in case titled as 'Inder Singh and others Vs. State of Haryana and others'
Ex.P15	Copy of Sale Deed dated 16.2.2004 vide which the land measuring 1 Kanal 13 marla 3 Sarsai situated in Village Farrukh Nagar was sold for ₹ 22 lakh
Ex.P16	Copy of Sale Deed dated 11.6.2004 vide which the land measuring 1 Kanal 3 marla situated in Village Farrukh Nagar was sold for ₹ 4,97,000/-
Ex.P17	Copy of Sale Deed dated 31.5.2004 vide which the land measuring 500 sq. yards situated in Village Farrukh Nagar was sold for ₹ 3 lakh

Ex.P18	Copy of Sale Deed dated 25.6.2004 vide which the land measuring 1 Kanal 14 marla situated in Village Farrukh Nagar was sold for ₹ 7,24,500/-
Ex.P19	Copy of Sale Deed dated 6.8.2008 vide which the land measuring 0 Kanal 7 marla situated in Village Sultanpur was sold for ₹ 8,75,000/-
Ex.P20	Copy of order dated 6.9.2017 passed by the Hon’ble Supreme Court in SLP Nos.12193-12207/2017
Ex.P20	Copy of Aksh Shijra of Village Kaliawas
Ex.P21	Copy of order dated 24.5.2016 passed by the Hon’ble High Court in RFA No.1580 of 2012
Ex.P21	Copy of Aksh Shijra of Village Sultanpur
Ex.P22	Copy of statement of PW10 Bir Singh Field Kanungo in case titled as 'Inder Singh Vs. State of Haryana and others'
Ex.P23	Copy of Aksh Shijra of Village Jhanjrola
Mark-X	Site Plan

6.3 On the other hand, the Corporation produced Sh. B.S.Rana, Manager (IA), KMP Cell, HSIIDC, Udhyog Vihar, Gurugram as RW.1 and produced the following documents:

Ex.R1	Copy of Award No.14 dated 10.5.2006 of Village Jhanjrola.
Ex.R2	Copy of Policy for Rehabilitation and Resettlement of landowners
Ex.R3	Copy of letter dated 29.9.2005 sent by LAC Gurugram to Financial Commissioner to Government Haryana Industries Department
Ex.R4	Copy of letter dated 3.11.2005 sent by D.C. Gurugram to LAC Gurugram
Ex.R5	Copy of Sale Deed dated 23.6.2004 vide which the land measuring 8K-16M situated in Village Jhanjrola Khera was sold for ₹ 2,86,000/-
Ex.R6	Copy of Sale Deed dated 19.1.2004 vide which the land measuring 8K-0M situated in Village Jhanjrola was sold for ₹2,60,000/-
Ex.R7	Copy of Sale Deed dated 26.5.2004 vide which the land measuring 8K-0M situated in Village Jhanjrola Khera was sold for ₹2,60,000/-
Ex.R8	Copy of map of KMP Expressway

Ex.R9	Integrated sijra plan of Village Jhanjrola
Ex.P10	Copy of Sale Deed dated 18.7.2005 vide which the land measuring 8K-0M situated in Village Jhanjrola Khera was sold for ₹2,80,000/-
Ex.R11	Copy of Sale Deed dated 8.7.2005 vide which the land measuring 20K-0M situated in Village Jhanjrola was sold for ₹7,00,000/-
Ex.R12	Copy of Sale Deed dated 31.1.2005 vide which the land measuring 8K-0M situated in Village Jhanjrola was sold for ₹2,80,000/-
Ex.R13	Copy of Sale Deed dated 16.6.2005 vide which the land measuring 3K-11M situated in Village Jhanjrola was sold for ₹1,25,000/-
Ex.R14	Copy of Sale Deed dated 6.5.2005 vide which the land measuring 8K-0M situated in Village Jhanjrola was sold for ₹2,80,000/-

7. Heard the learned counsel for the parties at length and with their able assistance perused the judgment of the Reference Court along with the record which had been requisitioned.

8. **ARGUMENTS OF THE LEARNED COUNSEL**

8.1 The learned counsel representing the appellants contends that the village Farukh Nagar adjoins the village Sultanpur which in turn is adjacent to village Jhanjrola. It is further contended that with respect to the acquisition of the land vide a notification dated 19.05.2008 located in village Budhera, the High Court has assessed the market value of the acquired land @ ₹2,80,00,000/- per acre. The learned counsel further relied upon the various awards passed by the Reference Courts with respect to the acquisition of the land in the nearby villages. The learned counsel representing the appellants further relied upon the judgment passed by this Court in ***“HSI IDC Vs. Om Dutt and Others” (Regular First Appeal No.421 of 2021, decided on 07.10.2021)***, while deciding the market value

notification under Section 4 of the 1894 Act, dated 11.01.2005 (the same notification for the same purpose).

8.2 Per contra, the learned senior counsel representing the Corporation has contended that due to the availability of the sale exemplars of the nearby land, the Reference Court has correctly dismissed the reference application.

9. DISCUSSION

9.1 The market value of the acquired land is to be determined on the date of issuance of the notification under Section 4 of the 1894 Act i.e. 02.12.2005. In other words, the crucial date for determination of the market value of the land in these cases is 02.12.2005. Section 15 of the 1894 Act provides that in order to determine the amount of compensation, the Collector shall be guided by the provisions contained in Section 23 and 24 of the 1894 Act. Section 23, 24 and 25 of the 1894 Act are extracted as under:-

“23. Matters to be considered in determining compensation- (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

first the market-value of the land at the date of the publication of the notification under Section 4, sub-section (1).

secondly the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the

Collector's taking possession thereof;

thirdly the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change, and

sixthly the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under Section 6 and the time of the Collector's taking possession of the land.

(1-A) In addition to the market-value of the land, as above 16 of 54 provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum of such market-value for the period commencing on and from the date of the publication of the notification under Section 4, subsection (1), in respect

of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation.—In computing the period referred to in this subsection, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any court shall be excluded.

(2) In addition to the market-value of the land, as above provided, the Court shall in every case award a sum of [thirty per centum] on such market-value, in consideration of the compulsory nature of the acquisition.

24. Matters to be neglected in determining compensation - *But the Court shall not take into consideration—*

first, the degree of urgency which has led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

thirdly, any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit;

fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under Section 6, by or in consequence of

the use to which it will be put;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put;

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the [notification under Section 4, sub-section (1); or

eighthly, any increase to the value of the land on account of its being put to any use which is forbidden by land or opposed to public policy.

25. Amount of compensation awarded by court not to be lower than the amount award by the Collector - The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11.”

9.2 On a careful examination of the aforesaid provisions, it becomes crystal clear that while determining the market value, the matters which are required to be considered have been enlisted in Section 23 of the 1894 Act, whereas the matters which are to be ignored or neglected are enlisted in Section 24 of the 1894 Act. This Court, while interpreting the

provisions in *Haryana State Industrial & Infrastructure Development Corporation v. Kulbir and Others (Regular First Appeal No. 4163 of 2017, decided on 01.09.2017)* has observed as under:-

“4.5 It is apparent from the reading of the first part of Section 23 of the 1894 Act that the market value of the land is required to be determined on the date of publication of the notification under Section 4 (1) of 1894 Act. Hence, the crucial date for determining the market value is 09.06.2006. No further guidelines for assessment of the amount have been provided in the 1894 Act. Sub-section 1-A of section 23 of the 1894 Act provides that while determining the amount of compensation to be awarded for the land acquired, the court apart from the market value of the land, is also required to award an amount calculated at the rate of 12% per annum at such market value for the period commencing on and from the date of publication of notification under Section 4 (1) of the 1894 Act till the date of award passed by the Collector or till the date of taking possession of the land, whichever is earlier. Under sub-section 2 of section 23 of the 1894 Act, the court, in addition to the market value of the land, is required to award a sum of 30% on such market value towards compulsory nature of the acquisition. Section 24 of the 1894 Act enlists the various factors which are required to be ignored while determining the market value. Section 25 of the 1894 Act provides that the court shall not award the

amount of compensation which is lower than the amount awarded by the Collector.

4.6 It is apparent from the reading of the aforesaid statutory provisions that while determining the market value of the acquired land, the court is required to examine the existing geographical location of the acquired land apart from its existing and potential use. The Court is also required to examine as to whether the acquired land has proximity to the National Highway or the State Highway Road or any developed area. The market value of the other land situated in the same locality/area or adjacent to or very near to the acquired land can also be taken into consideration by the Court. While assessing the market value, the Court is required to see as to what would be the price on which a willing seller would sell the land to a willing purchaser. While assessing such compensation, one of the method is to assess the market value by comparable sale method i.e. by referring to contemporaneous transactions.

4.7 While adjudicating the market value of the acquired land, the Courts are expected to award “just” and “appropriate” amount on the basis of the material available on record. The Court is not expected to distribute the public money with largesse. It is the duty of the Court to maintain a proper equilibrium between the interest of the parties and the public interest, in general. If the Courts

lean in favour of the landowners, the government or the allottees are likely to be unnecessarily overburdened and it will result in distributing the public money without limits thereby impacting the public interest, at large whereas if the courts are inclined towards the government, it can result in undermining of just claims. Therefore, a proper balance has to be drawn guided by the facts of case and to preserve the public interest and the public resources, as a whole”.

10. **ISSUE NO.1**

10.1 Having heard the learned counsel for the parties at length, this Bench now attempts to resolve the dispute. At this stage, it may be noticed that the process of acquiring the land was initiated by a notification dated 11.01.2005 with respect to the following villages:-

Sr.No.	Name of village	Area acquired (per acre)
1.	Kasan	514 Kanal 13 Marla
2.	Kukrola	97 Kanal 04 Marla
3.	Khaintawas	99 Kanal 14 Marla
4.	Dhana	241 Kanal 00 Marla
5.	Patli Hajipur	960 Kanal 04 Marla
6.	Sultanpur	798 Kanal 02 Marla
7.	Fazilwas	11 Kanal 13 Marla
8.	Mokalwas	185 Kanal 18 Marla
9.	Bas Lambi	313 Kanal 07 Marla
10.	Mubarikpur	242 Kanal 13 Marla
11.	Jhanjhrola	177 Kanal 01 Marla
12.	Babra Bakipur	100 Kanal 19 Marla
13.	Shed Mohammdpur	222 Kanal 01 Marla
14.	Kharkari	14 Kanal 11 Marla
15.	Fakharpur	182 Kanal 14 Marla

observed as under:-

“34. In our considered opinion, the approach of the High Court in the facts of these cases does not appear to be right inasmuch as the High Court failed to take into consideration several material issues which arose in these cases and had bearing on determination of the fair market rate of the land in question under Section 23 of the Act.

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

land in question are similar in nature or different and, if so, how and on what basis, their total distance etc.

36. *These were, in our view, the issues which had material bearing while determining the rate of the acquired land in question.*

37. *The High Court, in the absence of any evidence on any of these issues, could not have determined one flat market rate of the acquired land in question by applying one isolated rate of one land situated in one village Kasan and adding 8% annual increase from 1994 in such rate and made it applicable to the entire lands situated in 15 different villages.*

38. *In our opinion, it is only when the evidence had been adduced by the parties to the lis on the aforementioned issues, the Court would have been in a position to apply its mind objectively as to which method should be applied for determination of the rate, i.e., whether belting system or flat rate system or different rates for different lands depending upon the quality of land situated in different villages etc.*

39. *The fair market value of the acquired land cannot be decided in isolation on the basis of only one factor. There are several other factors, which govern the determination of the rate. These factors need to be proved with sufficient evidence. It must appear that the Courts have made sincere endeavor to determine the fair market rate of the acquired land and while determining has taken into account all relevant aspects of the*

case. It is the duty of the landowners and the State to adduce proper and sufficient evidence to enable the Courts to arrive at a reasonable and fair market rate of the acquired land prevalent on the date of acquisition.

40. Taking into consideration the aforesaid infirmities, which we have noticed, we have no hesitation in holding that the trial in these cases has not been satisfactory. We cannot countenance the cursory manner in which both the Courts below proceeded to determine the market rate of the acquired land. It has certainly caused prejudice to both the parties.”

10.3 After the Hon’ble Supreme Court remitted the matter, the parties were allowed to lead further evidence. The Reference Court has drawn a table which reflects the details of the sale deeds relied upon by the landowners, the correctness whereof is not disputed. Hence, the same is extracted as under:-

S.No.	Exhibits	Date of Execution of Sale Deed	Revenue Estate of Village	Area of K-M	Sale Consideration (In ₹)	Rate per acre (In ₹)
1.	Ex.P8	20.10.2005	Patli Hazipur	19-9.5	60,00,000/-	24,64,698/-
2.	Ex.P9	6.8.2008	Sultanpur	0-7	87,50,000/-	2,00,00,000/-
3.	Ex.P10	16.12.2009	Sultanpur	17-18	1,34,22,000/-	59,98,659/-
4.	Ex.P11	28.12.2007	Khaintawas	8-1	56,60,000/-	55,65,217/-
5.	Ex.P12	5.5.2009	Khaintawas	38-19	5,59,90,625/-	1,15,00,000/-
6.	Ex.P15	16.2.2006	Farrukh Nagar	1-13.3	22,00,000/-	1,05,70,571/-
7.	Ex.P16	11.6.2006	Farrukh Nagar	1.3	4,97,000/-	34,57,391/-
8.	Ex.P17	31.5.2004	Farrukh Nagar	0-16.5	3,00,000/-	29,09,091/-
9.	Ex.P18	25.6.2004	Farrukh Nagar	1-14	7,24,500/-	34,09,412/-
10.	Ex.P19	6.8.2008	Sultanpur	0-7	8,75,000/-	2,00,00,000/-

10.4 Per contra, the HSIIDC has produced the following sale

exemplars:

S.No.	Exhibits	Date of Execution of Sale Deed	Revenue Estate of Village	Area K-M	Sale Consideration (In ₹)	Rate per acre (In ₹)
1.	Ex.R5	23.6.2004	Jhanjrola Khera	8-16	2,86,000/-	2,60,000/-
2.	Ex.R6	19.1.2004	Jhanjrola Khera	8-0	2,60,000/-	2,60,000/-
3.	Ex.R7	26.5.2004	Jhanjrola Khera	8-0	2,60,000/-	2,60,000/-
4.	Ex.R10	18.7.2005	Jhanjrola Khera	8-0	2,80,000/-	2,80,000/-
5.	Ex.R11	8.7.2005	Jhanjrola	20-0	7,00,000/-	2,80,000/-
6.	Ex.R12	31.1.2005	Jhanjrola	8-0	2,80,000/-	2,80,000/-
7.	Ex.R13	16.6.2005	Jhanjrola	3-11	1,25,000/-	2,81,690/-
8.	Ex.R14	6.5.2005	Jhanjrola	8-0	2,80,000/-	2,80,000/-

10.5 The Reference Court, after referring to the various awards passed by the Reference Court and the judgment passed by the High Court, has held that the acquisition of the land through different notifications for a various different parcels of land cannot be relied upon, particularly when there is no evidence to prove that the aforesaid parcels of the acquired land were comparable in geographical location or the market value with that of the acquired land in the present case. There is no evidence to prove that the acquired land located in village Budhera is comparable with the acquired land in the present case. Hence, the first argument of the learned counsel representing the landowners cannot be accepted.

10.6 The learned counsel have further relied upon the awards passed by the Reference Court while deciding the acquisition of the land for laying down the pipeline under Section 10 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in Land) Act, 1962. This acquisition was with respect to the land situated in village Sultanpur and the Reference Court assessed the market value of the acquired land @ ₹57,21,000/- per acre. The preliminary notification in the abovesaid case was issued on 16.10.2008

which is post the date of notification under Section 4 of the 1894 Act with respect to the present case (11.01.2005) and there is no evidence to prove that the aforesaid parcel of land was comparable in geographical location or market value with the acquired land under this notification dated 10.01.2005.

10.7 Now the focus shifts to the sale exemplars. It is evident that the landowners have failed to produce any sale exemplar of a contemporaneous period with regard to sale of the land in village Jhanjrola, the village in question. All the sale exemplars produced by the landowners are with respect to different parcels of the land located in the different villages. On the other hand, the Corporation has produced as many as eight sale exemplars of the contemporaneous period of the village in question. The sale exemplars (Ex.R5, Ex.R6 and Ex.R7) are prior to the issuance of the notification under Section 4 of the 1894 Act on 11.01.2005. The agricultural land has been consistently sold below ₹3,00,000/- per acre. Even after the issuance of the notification under Section 4 of the 1894 Act on 11.01.2005, the price of the land did not increase exponentially. This conclusion can be drawn after examining the sale exemplars Ex.R10, Ex.R11, Ex.R12, R.13 and Ex.R14. A bare look at the layout plan Ex.R9, it is clear that the parcel of the land sold through the sale exemplar Ex.R10 is only 5-6 acres away from the acquired land, whereas the parcel of the land sold through Ex.R14 is located approximately 16 acres away. Similarly, the parcel of the land sold through Ex.R12 is 25 acres away from the acquired land. In view of the aforesaid consistent evidence that relates to the land acquired or adjacent to the land acquired and possessing similarities, it would not be appropriate to rely upon the sale exemplars or the awards of the acquisition that relate to

the parcel of the lands located in some other villages. Hence, there is no material evidence produced by the landowners to interfere in the finding of the Reference Court.

11. ISSUE NO.2

11.1 In order to avoid repetition, it may be noted here that while deciding the appeals from the same notification under Section 4 of the 1894 Act, relating to the acquired land located in Village Sultanpur, in ***Om Dutt's case (supra)***, it has been observed as under:-

*“8.18 There is another aspect of the matter which has come to the notice of the court and in the considered view, the same should not be ignored. The Reference Court or the Appellate Court under the 1894 Act is expected to ensure that the land owners get appropriate just and proper compensation for the compulsory acquisition of the land. It is the responsibility of the Court to assess the market value irrespective of the fact that whether the land owners have claimed appropriate amount or not? In **Narender Singh and others vs. State of Uttar Pradesh and others (2017) 9 SCC 426**, the Hon'ble Supreme Court after noticing that the High Court did not grant appropriate amount as assessed on the ground that the land owners failed to claim the amount held that it is the duty of the court to ensure that the land owners get appropriate compensation for the compulsorily acquired land. It has come to the notice of the Court that State of Haryana took a policy decision. The first policy decision by the State was taken on 28.04.2005. Such decision was made*

applicable w.e.f. 05.03.2005. The land situated in the State was divided into three different zones for the purpose of fixing floor rates for land acquisition. In this policy decision, the Government decided that irrespective of the date of notification under Section 4 if the award of the LAC is made on or after 05.03.2005, the amount to be determined by the LAC shall not be less than what was decided in the aforesaid policy. The present case falls in category (ii) in para 5. The policy decision is extracted as under:-

“Subject:- Fixation of floor rates for acquisition of land for public purpose in the State of Haryana.

Sir,

I am directed to refer to the subject cited and to state that the State Government has been acquiring land for public purposes for various departments as well as other State Agencies. Under the present system compensation is paid to the land owners based on the rate fixed by the Committee constituted under the Chairmanship of Divisional Commissioner vide this department letter No. 3670-R-5- 95/8943, dated 20.6.1995. This Committee had been recommending rates based on the quality, category and location of the land under acquisition.

2. It has been the general experience that the rates of compensation fixed for acquisition are quite low as compared to the market rates prevalent in that area.

Consequently, the land owners have to approach the Courts for enhancing the compensation paid to them and this process of litigation takes a substantial time. Agricultural land all over the State has become very valuable and more so in the region surrounding Delhi. The farmer who is deprived of his only livelihood is entitled to a fair compensation based on the market rates prevalent in the area.

3. The question of bringing about an improvement in the system by fixing a minimum floor rate and thereby ensure payment of fair compensation to the farmers based on the market rates, has been under the active consideration of the State Government. The system of acquisition followed by the Delhi Administration as well as by the NOIDA operating in the NCR has also been studied.

4. It has now been decided by the Government that the State be divided into following Zones for the purpose of fixing floor rates of land acquisition:-

i) The urbanisable area as shown in the Gurgaon Development Plan.

ii) Rest of the NCR sub-region of Haryana including Panchkula and periphery of Chandigarh forming part of Haryana State.

iii) Rest of the State outside Haryana sub-region

of NCR.

5. *After due consideration, it has further been decided to fix the following floor rates for the above three Zones for acquisition of land for public purpose:*

i) *The urbanisable area of Gurgaon will have a minimum floor rates of Rs. 15.00 lacs per acre.*

ii) *Rest of the Haryana sub-region of NCR including Panchkula and area of Chandigarh periphery in the Haryana State will have a minimum floor rate of Rs. 12.50 lacs per acre.*

iii) *For the rest of the State minimum floor rate will be Rs. 5.00 lacs per acre.*

iv) *These rates do not include the solatium and interest payable under the provisions of the Land Acquisition Act.*

6. *The Committee headed by the Divisional Commissioner will continue to perform its duties while fixing the rate of compensation for various categories of land under acquisition based on these floor rates. It will continue to take into account all these parameters for working out the land acquisition rate being followed at present while communicating the rate to the Acquiring Departments/Agencies in the State.”*

9. *Thereafter, Government of Haryana, issued letter dated 25.5.2005 clarifying about applicability of the aforesaid*

instructions/ policy dated 28.4.2005 with regard to fixation of floor price of acquired land for public purposes in the State. The relevant extract thereof is as under:-

“After a careful and detailed consideration, it has been decided that no award for acquisition of land to be announced on/ after 5th March 2005 shall be on rates lower than the floor rates, communicated to you vide this department letter dated 28-4-2005. The other provisions of the communication dated 28-4-05 will remained unchanged.”

8.19 *The aforesaid policy decision has been revised on 06.04.2007 while increasing the minimum floor rates in the State of Haryana for the acquisition of the land in the State of Haryana, which is extracted as under:-*

"Sub: Fixation of floor rates for the acquisition of land for public purpose in the State of Haryana.

Ref: This Department Memo No. 2025-R-5-2005/4299,dated 28.4.2005.

Vide this Department Memo. under reference, minimum floor rates for acquiring land for public purposes for various Departments as well as other State Agencies were fixed by the Haryana Government as follows:

<i>i) Minimum floor rate for urbanisable area of Gurgaon</i>	<i>₹ 15.00 lacs per acre</i>
<i>ii) Minimum floor rate for rest of the Haryana Sub-Region of NCR including</i>	<i>₹ 12.50 lacs per acre.</i>

<i>Panchkula and area of Chandigarh periphery in the Haryana State.</i>	
<i>iii) Minimum floor rate for the rest of the Haryana State.</i>	<i>₹ 05.00 lacs per acre.</i>

(These floor rates did not include the solatium and interest payable under the provisions of the Land Acquisition Act, 1894).

2. *Now it has been observed that with the passage of time market rates of the land have increased substantially. Therefore, Haryana Government has re-considered this matter and has decided to re-fix these floor rates as follows:*

<i>i) Minimum floor rate for urbanisable area of Gurgaon.</i>	<i>₹ 20.00 lacs per acre</i>
<i>ii) Minimum floor rate for rest of the Haryana Sub-Region of NCR including Panchkula and area of Chandigarh periphery in the Haryana State.</i>	<i>₹ 16.00 lacs per acre.</i>
<i>iii) Minimum floor rate for the rest of the Haryana State.</i>	<i>₹ 08.00 lacs per acre.</i>

3. *These floor rates do not include the solatium and interest payable under the provisions of the Land Acquisition Act, 1894.*

4. *These revised rates will be applicable on all those acquisitions where awards have been announced on or after 22.3.2007 irrespective of the date of notification under Section 4 of the Land Acquisition Act, 1894."*

8.20 *It has also been noticed that the Reference Court while deciding the cases of the villages Daboda Khurd and various other villages in District Jhajjar, the Reference Court relied upon such policy decision and the State did not assail the correctness of the aforesaid finding. This Court has decided the aforesaid appeals on 05.10.2021. In that case also the acquisition of land was for the same purpose i.e constructing Kundli-Manesar-Palwal Expressway. Furthermore, a coordinate Bench while deciding the appeals in **Om Parkash and others vs. State of Haryana and others** in RFA-7450-2011 and connected cases decided on 30.03.2012 took a view that the State has recognized the enhancement of the land's market value over the period of time due to various contributing factors, the prices of the land have been increasing. The Court after calculating the difference of Rs.3,50,000/- from 05.03.2005 and 22.03.2007, calculated proportionate per day increase and appropriately tweaked the market value. This Bench is in respectful agreement with the aforesaid view. In the present case, the increase in the market value per day comes to Rs.469.79 per day. There is a huge difference of 430 days from 05.03.2005. Thus, the additional amount works out to Rs.2,02,009.70 which is rounded to Rs.2,02,010/-. As in this case the award was passed on 10.05.2006 accordingly, taking the proportionate increase the amount as the market value works out to Rs.14,52,010/- per acre.”*

11.2 Accordingly, the issue No.2 has been meticulously answered in the aforesaid reproduction.

12. ISSUE NO.3

As regards the claim of the landowners for damages on account of severance of their remaining/unacquired land into two different parcels due to compulsory acquisition of land in a narrow strip, the matter has already been discussed at length in ***Om Dutt's case (supra)***. In this case also, this Court was called upon to examine the issue of severance charges arising from the acquisition of land under the same notification issued for the same purpose. The relevant discussion is extracted as under:-

“8.14 The next argument of the learned counsel representing the owners is with regard to damages for severance/splitting of the unacquired land in two parcels. It may be noted here that the land owners have not produced any evidence to prove the extent of land left on one side of the road as compared to the other side of the road. The owners may have suffered a loss due to splitting of their remaining unacquired land, however, in the absence of proper evidence to prove the extent of unacquired land which stands split up on both the sides of road and to what extent they have suffered a loss, it becomes very difficult for the court to assess the damages on account of severance. Unequivocally, Section 23 of the 1894 Act recognizes and permits the court to grant damages sustained by the person interested by reason of severance of such land from his other land. In the aforesaid situation, ordinarily this Court

might have remitted the matter back to the Reference Court, however, keeping in view the fact that matter has already been once remitted by the Hon'ble Supreme Court, it is considered appropriate to use thumb rule and assess the damages on account of severance of the land on the basis of precedents. Recently, while deciding appeals arising from acquisition of land for KMP Expressway from villages Daboda Khurd and others (RFA-5620-2013 titled as HSIIDC vs. Rattan Singh and others decided on 05.10.2021) this Court after noticing that the Reference Court awarded 20% of the acquired or un-acquired land, whichever is less, as damages for severance of the land, upheld the aforesaid view. In the cases arising from acquisition of land in one of the villages i.e Daboda Khurd, HSIIDC did not file any appeal.

8.15 Keeping in view the aforesaid facts, it is declared that if on account of acquisition of a land the remaining land holding of the landowner has been split into two or more parts, then the landowners shall be entitled to 20% of the smaller parcel of un-acquired land. However, the damages for severance shall be restricted only to those owners who are left with less than 5 acres land in the smaller parcel. This assumption has been made, particularly, in view of the fact that due to splitting of the land, the landowner will have to not only cultivate his land in two independent parcels but also make a provision for irrigation of the land located in each parcel of land. Even the

agricultural implements have to be carried to the other side of the road by going through underpasses, which may be at a distance. If a owner is left with a very small parcel of land, he may be forced to indulge in distress sale thereof”.

13. Keeping in view the aforesaid discussion, the appeals filed by the landowners are partly allowed and the market value of the acquired land is increased to Rs.14,52,010/- per acre. In other words, the market value is increased by Rs.2,02,010/- per acre. The landowners shall be entitled to the increased amount along with all the statutory benefits as per the amended act of 1894. The landowners shall also be entitled to 20% of the market value assessed by the Court for a smaller parcel of the unacquired land left with the owner, if due to the compulsory acquisition, the remaining land holding left with the landowners has been split into two or more parts. However, the damages for severance shall be restricted only for those owners who are left with less than 5 acres of land in the smaller parcels.

14. Consequently, the appeals filed by the landowners are partly allowed.

15. The miscellaneous applications pending, if any, in all the appeals shall stand disposed of.

**(Anil Kshetarpal)
Judge**

November 23, 2021
“DK”

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No