

In the High Court of Punjab and Haryana, at Chandigarh

1. Regular First Appeal No. 889 of 2021 (O&M)

Birender and Others
Versus
... Appellant(s)

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

2. Regular First Appeal No. 869 of 2021 (O&M)

Rajinder Kumar and Others
Versus
... Appellant(s)

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

3. Regular First Appeal No. 873 of 2021 (O&M)

Lala
Versus
... Appellant(s)

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

4. Regular First Appeal No. 880 of 2021 (O&M)

Kalu Ram
Versus
... Appellant(s)

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

5. Regular First Appeal No. 884 of 2021 (O&M)

Nawal Singh and Others
Versus
... Appellant(s)

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

**Regular First Appeal No. 889 of 2021 (O&M)
And Other Connected Cases**

2

6. Regular First Appeal No. 887 of 2021 (O&M)

Ram Avtar

... Appellant(s)

Versus

State of Haryana and Others

... Respondent(s)

AND

7. Regular First Appeal No. 890 of 2021 (O&M)

Amit Kumar

... Appellant(s)

Versus

State of Haryana and Others

... Respondent(s)

DATE OF DECISION: 29.11.2021

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Jai Vir Yadav, Senior Advocate
with Mr. Nitish Sharma, Advocate
for the appellant(s).

Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana and Ms. Vibha Tewari, Assistant Advocate
General, Haryana for the respondent No.1 and 2.

Mr. Baldev Raj Mahajan, Senior Advocate
with Mr. Pritam Singh Saini, Advocate
for the respondent No.3.

Anil Kshetarpal, J.

1. By this order a bunch of seven appeals, (details whereof are on the foot of the judgement), 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 award passed by the Reference Court on

03.01.2020. The learned counsel representing the parties are *ad idem* that this bunch of appeals can be conveniently disposed of by a common judgement.

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 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 judgements, 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 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?*

The discussion on issue number 2 and 3 involves common questions which have been, comprehensively, answered in the previous judgements arising from the same notification under Section 4 of the 1894 Act.

4. FACTS

4.1. 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 (hereinafter referred to as “KMP”) Phase VII connecting NH-1, NH-10, NH-8 and NH-2, issued a notification under Section 4 of the 1894 Act on 11.01.2005 proposing to acquire land measuring 520 acres, 2 kanals and 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 the award No.25 was announced on 10.05.2006 with respect the acquired land located in Fakharpur. The landowners were held entitled to a uniform market value of the acquired land at the rate of ₹12,50,000/- per acre. In the first round, on 08.10.2012 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 a judgement dated 05.02.2016 revised the market value of the acquired land to ₹62,11,700/- per acre. However, the Hon’ble Supreme Court vide judgement dated 25.1.2018 in ***Surender Singh vs. State of Haryana and others (2018) 3 CC 278*** remanded all the cases back to the Reference Court wherein the parties were permitted to lead further evidence. In the second round, the Reference Court has dismissed the various reference petitions while upholding the assessment made by the

₹12,50,000/- per acre.

4.2 At this stage, it would be important to note that in the village Fakharpur itself, 182 kanals and 11 marlas of land, in other words, 23 acres of land, approximately, has been acquired.

4.3. The reference Court, on appreciating the pleadings, framed the following issues:-

- “1. *What was the market value of the acquired land on the date of notification u/s 4 of Land Acquisition Act? OPP*
2. *Relief.”*

5. **EVIDENCE PRODUCED BY THE RESPECTIVE PARTIES**

5.1 The landowners, in order to prove their case, examined Pohp Singh as PW.1. After remand of the case, the landowners have examined Subhash Chand, Halqa Patwari of village Fakharpur as PW.2 and Ajay Hooda, Halqa Patarwari of village Chandla Doongerwas as PW.3. Apart from the oral evidence, the landowners have also tendered the following documents:

Ex.P1	Copy of Sale Deed 24.2.2006 vide which the land measuring 32 kanal 00 marla situated in Village Fakharpur was sold for ₹14000000/-
Ex.P2	Copy of Sale Deed 19.4.2006 vide which the land measuring 10 kanal 02 marla situated in Village Fakharpur was sold for ₹4418750/-
Ex.P3	Copy of Sale Deed dated 13.4.2006 vide which the land measuring 17 kanal 11 marla situated in Village Fazilwas was sold for ₹ 21937500/-
Ex.P4	Copy of Award dated 27.2.2012 passed by the Court of Shri. Vikram Aggarwal the then learned ADJ, Gurugram in LA case titled as ‘Hari Mohan and ors. Vs. State of Haryana and ors.’

Ex.P5	Site Plan
Ex.P6	Copy of Sale Deed dated 15.6.2005 vide which the land measuring 138 Kanal 06 marla situated in Village Kukrola was sold for ₹93725000/-
Ex.P7	Copy of Sale Deed dated 8.7.2005 vide which the land measuring 41 Kanal 8 marla situated in Village Kukrola was sold for ₹26666000/-
Ex.P8	Copy of Sale Deed dated 5.6.2006 vide which the land measuring 36 Kanal 6 marla situated in Village Kukrola was sold for ₹33123750/-
Ex.P9	Copy of Sale Deed dated 24.6.2005 vide which the land measuring 0 kanal 14marla situated in Village Fakharpur was sold for ₹437500/-
Ex.P10	Copy of Sale Deed dated 21.11.2005 vide which the land measuring 45 sq. yard situated in Village Fazilwas was sold for ₹182500/-
Ex.P11	Copy of Sale Deed dated 22.12.2005 vide which the land measuring 0 kanal 10marla situated in Village Fakharpur was sold for ₹450000/-
Ex.P12	Copy of Award dated 29.11.2019 passed by the Court of Ms.Bhawna Jain, learned ADJ, Gurugram in case titled as ‘Ravi Dutt. Vs. State of Haryana and ors.’
Mark AX	Site Plan

5.2

The HSIIDC has examined Sh. B.S.Rana, Manager (IA), KMP Cell, HSIIDC, Udhyog Vihar, Gurugram as RW.1. The HSIIDC has also relied upon the following documents:

Ex.R1	Copy of LAC award no.25 dated 10.5.2006 of Village Fakharpur
Ex.R2	Copy of Policy for Rehabilitation and resettlement of landowners
Ex.R3	Copy of Letter Sent by Deputy Commissioner to Sub Divisional Officer (Civil) Gurugram
Ex.R4	Copy of letter written by SDO cum LAC Gurugram to Financial Commissioner and Principal Secretary to Government of Haryana
Ex.R5/ Ex.R13	Copy of Sale Deed dated 28.6.2004 vide which the land measuring 9 kanal 17 Marla situated in Village Fakharpur was sold for ₹680625/-
Ex.R6/	Copy of Sale Deed dated 21.4.2004 vide which the

Ex.R11	land measuring 4 kanal 17 Marla situated in Village Fakarpur was sold for ₹346000/-
Ex.R7/ Ex.R12	Copy of Sale Deed dated 11.8.2004 vide which the land measuring 8 kanal 0 Marla situated in Village Fakharpur was sold for ₹580000/-
Ex.R8/ Ex/R14	Copy of Sale Deed dated 21.7.2004 vide which the land measuring 4 kanal 8.5 Marla situated in Village Fakharpur was sold for ₹304300/-
Ex.R9	Copy of Award dated 2.4.2011 passed by the Court of Shri. S.K. Kaushik, ADJ, Palwal in case titled as ‘Roop Chand and ors. Vs. State of Haryana and Ors.
Ex.R10	Copy of Map of KMP Expressway

6.
Heard learned counsel representing the parties at length and with their able assistance perused the judgment passed by the reference Court along with the record of the reference Court which was requisitioned.
7.
The Reference Court has compiled the sale exemplars produced by the respective parties, correctness whereof is not disputed. The sale exemplars, produced by the landowners and the HSIIDC are enumerated as under in Table “A” and Table “B”, respectively:-

TABLE “A”

S.No.	Exhibits	Date of Execution of Sale Deed	Area K-M		Sale Consideration (In ₹)	Rate per acre (In ₹)	Revenue Estate of Village
1.	P1	24.02.2006	32	0	1,40,00,000/-	35,00,000/-	Fakharpur
2.	P2	19.04.2006	10	2	44,18,750/-	35,00,000/-	Fakharpur
3.	P3	13.04.2006	17	11	2,19,37,500/-	1,00,00,000/-	Fazalwas
4.	P6	15.06.2005	138	6	9,37,25,000/-	54,21,547/-	Kukdola
5.	P7	08.07.2005	41	8	2,66,66,000/-	51,52,850/-	Kukdola
6.	P8	05.06.2006	36	6	3,31,23,750/-	73,00,000/-	Kukdola
7.	P9	24.06.2005	0	14	4,37,500/-	50,00,000/-	Fakarpur
8.	P10	21.11.2005	45 Square yard		1,82,500	1,96,28,893/-	Fazalwas
9.	P11	22.12.2005	0	10	4,50,000/-	72,00,000/-	Fakarpur

TABLE “B”

S. No.	Exhibits	Date of Execution of Sale Deed	Area of K-M	Sale Consideration (In ₹)	Rate per acre (In ₹)	Revenue Estate of Village
1.	R5/R13	28.06.2004	9-17	6,80,625/-	5,52,792/-	Fakharpur
2.	R6/R11	21.04.2004	4-17	3,46,000/-	5,70,722/-	Fakharpur
3.	R7/R12	11.08.2004	8.0	5,80,000/-	5,80,000/-	Fakharpur
4.	R8/R14	21.07.2004	4-8.5	3,04,300/-	5,50,147/-	Fakharpur

8. ARGUMENTS OF THE LEARNED COUNSEL REPRESENTING THE PARTIES

8.1 The learned senior counsel appearing for the appellants, while referring to the statements of PW.2 and PW.3, has submitted that the boundaries of village Fakharpur are surrounded by the revenue estate of village Kasan on the north-east direction, village Kukrola on the east direction, village Bilola on the south direction and village Fazilpur alias Fazilwas on the south-east direction. Besides that, the land comprised in Rectangle No.3 and Killa No. 25 of the acquired land touches the boundaries of village Kasan. He further submitted that undoubtedly the sale exemplars (Ex.P1, Ex.P2, Ex.P9 and Ex.P11) are of the various parcels of the land located in village Fakharpur and therefore, the Reference Court should have determined the market value by applying method No.1 as depicted in para 23 of the judgment in *Wazir and Another v. Union of India 2019 (1) RCR (Civil) 702*. He further submitted that from the sale exemplars produced by the landowners that relate to the period post the date of notification under Section 4 of the 1894 Act, deduction can be made proportionately to work out the amount, relevant to the acquisition date. In the end, he submitted that the sale deed (Ex.P11) dated 22.12.2005 is with respect to the land located in village Fakharpur and even after applying 40% deduction, the

Reference Court should take average of the sale exemplars (Ex.P1, Ex.P2, Ex.P9, Ex.P11, Ex.R5/R13, Ex.R5/R11, Ex.R7/R12, Ex.R8/R14) which would come to ₹26,81,708/-.

8.2 Per contra, the learned counsel representing the respondent-State has submitted that the sale exemplars produced by the HSIIDC are relevant and with respect to the period before the date of notification under Section 4 of the 1894 Act. He, hence contended that the Reference Court has correctly dismissed the appeals.

9. **ISSUE NO.1**

9.1 As far as the location of the village and the acquired land, there is no dispute between the parties. However, those factors are not sufficient to assess the market value. The location has to be corroborated by some sale exemplars in order to arrive at the market value. From a careful perusal of Table “A”, it is apparent that the landowners have produced as many as 11 sale exemplars out of which four, namely P1, Ex.P2, Ex.P9 and Ex.P11 are with respect to the land located in village Fakharpur. All these sale deeds are with respect to the period subsequent to the notification under Section 4 of the 1894 Act which, in the present case, was issued on 11.01.2005. In the considered opinion of this Court, such sale deeds which are post the date of notification under Section 4 of the 1894 Act cannot be considered unless the Court comes to a conclusion that there is no other evidence. This Court has carefully read the judgment passed in *Wazir’s case (supra)*. The Hon’ble Supreme Court assessed the market value of the acquired land through various notifications. In that judgment, the Court adjudicated the market value of the acquired land located in the villages Kasan, Bas khosla,

Naharpur Kasan, Manesar, Basharia and Dhana. The State had issued the various notifications under Section 4 of the 1894 Act to acquire the land for the development of the Industrial Model Township at Manesar in District Gurugram which were clubbed to assess the market value of the acquired land.

9.2 With greatest respect, the aforesaid judgment is not applicable in the facts of the present case. It may be noted here that the Supreme Court itself, in innumerable judgments, has held that outright reliance on the assessment made by any Court, as regards the market value with respect to acquisition of the nearby land, should be avoided and the Court must endeavour to determine the market value on the basis of the evidence produced before it. While deciding ***HSI IDC v. Mahender Singh and Others (Regular First Appeal No. 684 of 2021, decided on 14.10.2021)***, the appeals arising from compulsory acquisition of the land located in village Kasan by the same notification, this aspect has been examined in-depth and the relevant discussion has been reproduced as under:-

“9.14 This issue is no longer res-integra. Recently, in Manoj Kumar etc. vs. State of Haryana and others (2018) 13 SCC 96, the Supreme Court has held that while assessing the market value, the Court is required to evaluate the various factors which goes to impact such a determination depending upon the peculiar facts governing each case. There cannot be any hard or fast rule for assessment of the market value. Common sense is the best and most reliable guide. While denouncing the practice of the courts to place an outright reliance on the previous judgments, the Supreme Court has declared that the decision cannot be applied ipso facto to the facts of the subsequent cases neglecting the other evidence. The Court has

further warned of the ill effects of such an approach. The relevant discussion is in paras 11 to 14, which are extracted as under:-

“11. In our opinion, the High Court could not have placed an outright reliance on Swaran Singh case [Swaran Singh v. State of Haryana, 2012 SCC OnLine P&H 19044], without considering the nature of transaction relied upon in the said decision. The decision could not have been applied ipso facto to the facts of the instant case. In such cases, where such judgments/awards are relied on as evidence, though they are relevant, but cannot be said to be binding with respect to the determination of the price, that has to depend on the evidence adduced in the case. However, in the instant case, it appears that the land in Swaran Singh case [Swaran Singh v. State of Haryana, 2012 SCC OnLine P&H 19044] was situated just across the road as observed by the High Court as such it is relevant evidence but not binding. As such it could have been taken into consideration due to the nearness of the area, but at the same time what was the nature of the transaction relied upon in the said case was also required to be looked into in an objective manner. Such decisions in other cases cannot be adopted without examining the basis for determining compensation whether sale transaction referred to therein can be relied upon or not and what was the distance, size and also bona fide nature of transaction before such judgments/awards are relied on for deciding the subsequent cases. It is not open to accepting determination in a mechanical manner without considering the merit. Such determination cannot be said to be binding.

12. We have come across several decisions where the High Court is adopting the previous decisions as binding. The determination of compensation in each case depends upon the nature of land and what is the evidence adduced in each case, may be that better evidence has been adduced in later case regarding the actual value of property and subsequent sale deeds after the award and before preliminary notification under Section 4 are also to be considered, if filed. It is not proper to ignore the evidence adduced in the case at hand. The compensation cannot be determined by blindly following the previous award/judgment. It has to be considered only a piece of evidence, not beyond that. The court has to apply the judicial mind and is supposed not to follow the previous awards without due consideration of the facts and circumstances and evidence adduced in the case in question. The current value reflected by comparable sale deeds is more reliable and binding for determination of compensation in such cases award/judgment relating to an acquisition made before 5 to 10 years cannot form the safe basis for determining compensation. 13. The awards and judgment in the cases of others not being inter parties are not binding as precedents. Recently, we have seen the trend of the courts to follow them blindly probably under the misconception of the concept of equality and fair treatment. The courts are being swayed away and this approach in the absence of and similar nature and situation of land is causing more injustice and tantamount to giving equal treatment in the case of unequals. As per situation of a village, nature of land, its value differ from distance to distance, even two to three kilometre distance may also make the material difference in value. Land abutting highway may fetch higher value

but not land situated in interior villages.

14. The previous awards/judgments are the only piece of evidence on a par with comparative sale transactions. The similarity of the land covered by previous judgment/award is required to be proved like any other comparative exemplar. In case previous award/judgment is based on exemplar, which is not similar or acceptable, previous award/judgment of court cannot be said to be binding. Such determination has to be outrightly rejected. In case some mistake has been done in awarding compensation, it cannot be followed; on the ground of parity an illegality cannot be perpetuated. Such award/judgment would be wholly irrelevant.”

9.15 In the considered view of this Court, the determination of the market value of the land on the basis of comparable sale exemplars of the contemporaneous period is the most preferred and logical method to arrive at a fair and true market value. While deciding such cases, the Court is required to adopt a holistic approach. The Court is expected to assess a just and appropriate market value on the basis of the evidence produced. In such circumstances, comparable sale deeds offer a good solution to the problem. They are considered as the best evidence to prove a fact being in the nature of direct evidence and help the Court to assess the market value more accurately and realistically. Once comparable sale deeds of the contemporaneous period are available to guide the court, it is not safe to rely upon a previous judicial assessment of the market value while ignoring the sale deeds which reflect the most accurate market value of the property on which a seller voluntarily offers to sell the property on receipt of the amount from a willing purchaser. Unless the correctness of the price, reflected in these sale deeds, is disputed on any ground duly proved, the court can safely rely upon the same for assessing

the market value. If there are a large number of comparable sale deeds of the contemporaneous period, the Court can, with reasonable certainty, assess the market value while relying upon such sale instances”.

9.3 In view of the aforesaid opinion of the Hon’ble Supreme Court, it would not be appropriate to outrightly rely upon the assessment made in the judgment passed in *Wazir’s case (supra)*.

9.4 As regards the next argument of the learned counsel that the sale deed (Ex.P11) should be relied upon, it may be noted that not only the aforesaid sale exemplar is subsequent to the date of notification under Section 4 of the 1894 Act but that is also of a significantly small area. In this sale instance, a plot measuring 10 marlas which is equivalent to 300 square yards approximately has been sold. Furthermore, on a careful perusal of the award No.25 passed by the LAC with regard to the acquired land, it is evident that the land has been acquired from Rectangle No. 3, 4, 6, 7, 14 and 17, whereas the sale deeds produced by the HSIIDC are with respect to the land comprised in Rectangle No. 10, 11, 20, 21, 24 and 28. The word “Rectangle” in terms of the size of the agricultural land denotes an area in rectangular shape, consisting of 25 acres (5 acres x5 acres) of the land. Thus, it is safe to conclude that the various parcels of land sold by the sale exemplars produced by the HSIIDC were with respect to the nearby parcels of the land to the acquired land.

9.5 The landowners have also produced Ex.A1 and Ex.A2, respectively, as an additional evidence. Ex.A1 is a layout plan, depicting the location of village Fakharpur.

9.6 Ex.A2, the award passed by the Reference Court with respect to village Baslambi, has been produced. As per the layout plan, village

Baslambi adjoins village Kasan. The compensation for the acquisition of the land with respect to the acquired land through the same notification has been assessed at ₹14,52,480/-. There is a huge distance between the villages Baslambi and Fakharpur. The village Fakharpur is towards the southern side and then comes the villages Mokalwas and Khar Kheri. The village Baslambi does not adjoin the village Fakharpur from any direction. In fact, two other villages are located in between the both two villages i.e. Baslambi and Fakharpur. These are the comparable sale exemplars of contemporaneous period. Hence, the assessment made by the Reference court with respect to the land located at a far off place cannot be given preference to the sale exemplars of the nearby land.

9.7 Hence, there is no substance in the argument of the learned senior counsel representing the landowners.

10. **ISSUE NO.2**

10.1 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 ***HSI IDC Vs. Om Dutt and Others (Regular First Appeal No. 421 of 2021)***, decided on 07.10.2021, it has been observed as under:-

“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 Panchkula and area of Chandigarh periphery in the Haryana State.</i>	<i>₹ 12.50 lacs per acre.</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-</i>	<i>₹ 16.00 lacs per acre.</i>

Region of NCR including Panchkula and area of Chandigarh periphery in the Haryana State.	
iii) Minimum floor rate for the rest of the Haryana State.	₹ 08.00 lacs per acre.

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.”

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

11. **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 an owner is left with a very small parcel of land, he may be forced to indulge in distress sale thereof”.

12. **CONCLUSION**

12.1 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 ₹14,52,010/- per acre. In other words, the market value is increased by ₹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 smaller parcel of the unacquired land left with the owner, if due to the compulsory acquisition, the remaining land holding left

damages for severance shall be restricted only to those owners who are left with less than 5 acres of land in the smaller parcels.

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

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

**(Anil Kshetarpal)
Judge**

November 29, 2021

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No