

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

RFA-692-2021 (O&M)

Date of decision: 22.12.2021

HSI IDC

....Appellant

Versus

Narender and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harkesh Manuja, Advocate
Mr. Gaurav Aggarwal, Advocate
Mr. Nitin Jain, Advocate
Mr. Atul Yadav, Advocate
Mr. Neeraj Saini, Advocate
Mr. Deepak Saini, Advocate
for the landowners

Mr. Shivendra Swaroop, AAG, Haryana and
Ms. Vibha Tewari, AAG, Haryana

Mr. Baldev Raj Mahajan, Sr. Advocate with
Mr. Pritam S Saini, Advocate for HSI IDC

ANIL KSHETARPAL, J

By this order, a batch of appeals, (details whereof are on the foot of the judgment), shall stand disposed of.

1. Through these appeals filed under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act'), the Haryana State Industrial Infrastructure Development Corporation Limited (the beneficiary of the acquisition) and 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 06.04.2021. The learned counsel representing the parties are ad idem that this bunch of appeals can be conveniently disposed of by a common judgment.

2. 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 judgments. Hence, certain extracts from the previous judgments, have been reproduced in this judgment, 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 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 judgments arising from the same notification under Section 4 of the 1894 Act. Hence, there is some amount of reproduction.

3. FACTS

3.1. 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 No.1, 10, 8 and 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.19 was announced on 10.05.2006 with respect the acquired land located in village Baslambi, Haryana. The landowners were held entitled to a uniform market value of the acquired land at the rate of Rs.12,50,000 per acre. In the first round, on 22.04.2013, the Reference Court assessed the market value of the acquired land at the rate of Rs.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 Rs.62,11,700/- per acre. However, the Supreme Court vide 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 wherein the parties were permitted to lead further evidence. In the second round, the Reference Court has held that the landowners are entitled to market value at the rate of Rs.49,20,237/- per acre vide judgment dated 06.04.2021.

3.2 At this stage, it is important to note that in the village Baslambi itself, 313 kanals and 7 marlas of land, in other words, 39 acres of land, approximately, has been acquired. Normally, each acre of land consist of 4840 sq. yards of the land which is further equal to 8 kanals. Each kanal of land normally has 605 sq. yards area which is further equivalent to 20 marlas. Ordinarily, each marla of an agricultural

land consists of a little more than 30 sq. yards of land. In the cities, normally, 500 sq. yards of land is considered equivalent to 1 kanal of land. However, in the Northern India, one acre of agricultural land consists of 160 marlas of land, generally.

3.3. 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.Whether any structure was existing on the acquired land and if so, its market value ? OPP

3. Whether petitioners are entitled to any severance and if so, to what extent ? OPP

4. Relief’

4. Oral Evidence

4.1 The landowners, in order to prove the market value of the acquired land, have examined the following witnesses in their oral evidence :-

- 1.Narinder Kumar as PW1.
2. Parveen Kumar, Patwari, as PW2
- 3.Sumender Singh, Patwari, as PW3

4.2 After the remand of the case, from the Supreme Court, the landowners have examined the following witnesses:-

1. Jai Bhagwan as PW4
2. Parveen Patwari was examined again, as PW5 (earlier he was examined as PW2.
3. Sanjay Kumar, as PW6.

4.3 The Reference Court, while noticing the documentary, evidence produced by the landowners has compiled the same in the

following manner:-

Ex.P1	Award dated 18.12.2010 passed in LAC case no. 131 of 2008.
Ex.P2	Award dated 27.2.2012 passed in LAC case no. 762 of 2009/2011
Ex.P3	Award dated 10.11.2012 passed in LAC case no. 305 of 2009/2011.
Ex.P4	Award dated 20.1.2012 passed in LAC case no. 246 of 2007/2011.
Ex.P5	Award dated 20.1.2012 passed in LAC case no. 248 of 2007/2011.
Ex.P6	Order dated 21.3.2012 passed in LAC case no. 249 of 2007/2011.
Ex.P4 (should be Ex.P7)	Copy of sale deed no. 1771 dated 2.4.2004
Ex.P5 (should be Ex.P8)	Copy of sale deed no. 1772 dated 23.4.2004
Ex.P6 (should be Ex.P9)	Copy of sale deed no . 1773. dated 23.4.2004
Ex.P7 (should be Ex.P10)	Copy of Sale Deed no. 8725 dated 20.9.1996
Ex.P8 (should be Ex.P11)	Copy of Sale Deed no. 8727 dated 20.9.1996
Ex.P9 (should be Ex.P12)	Copy of Sale Deed no.8728 dated 20.9.1996
Ex.P10	Judgment dated 1.6.2018 passed by Hon’ble High Court in RFA no. 384 of 2013
Ex.P11	Judgment dated 11.1.2019 passed by Hon’ble Supreme Court in Civil Appeal no. 264-270 of 2019
Ex.P12	Site Plan
Ex.P13	Aks Shijra
Ex.P13 (wrongly numbered)	Copy of sale deed no. 1499 dated 27.6.2006
Ex.P14	Notice issued by DRO-cum-LAC Gurugram to one Jai Bhagwan son of Ram Chander.
Ex.P15	Judgment dated 17.8.2010 passed by Hon’ble Supreme Court in civil appeal no.6515 of 2009
Ex.P16	Sale deed no. 2412 dated 5.12.2005
Ex.P17	Layout plan
Ex.P18	Judgment dated 14.1.2020 passed in LAC case no. 762 of 2009.

4.4 The HSIIDC has examined Sh. Dhani Ram, Patwari, HSIIDC, Udyog Vihar, Gurugram as RW1, and produced the following documentary evidence:-

Ex.R1	Award no. 22 dated 10.5.2006
Ex.R2	Copy of sale deed no. 26 dated 6.4.2004
Ex.R3	Copy of sale deed no. 1923 dated 18.10.2005
Ex.R4	Letter no. 2578 dated 3.11.2005
Ex.R5	Policy of rehabilitation and resettlement
Ex.R6	Map of KMP Expressway
Ex.R7	Copy of sale deed no. 26 dated 6.4.2004
Ex.R8	Copy of sale deed no. 915 dated 6.7.2005
Ex.R9	Copy of sale deed no. 1923 dated 18.10.2005
Ex.R10	Copy of sale deed no. 2559 dated 25.2.2005.

4.5 The Reference Court has compiled the details of the sale deeds relied upon by the landowners in a tabulated form. It is evident on the careful perusal thereof that there are certain discrepancies in the same, therefore, a modified table has been reproduced as under for clarity.

Sr .n o	Exhibit Nos.	Sale Deed No. & Date	Total Area	Land Calcu lated in Marla s	Total Price	Price calculated in Per Acre	Village
1	Ex.P-4	1771 23.04.2004	7M	7	3,60,000	82,28,571	Naharpur Kasan
2	Ex.P-5	1772 23.04.2004	7M	7	3,60,000	82,28,571	Naharpur Kasan
3	Ex.P-6	1773 23.04.2004	7M	7	3,60,000	82,28,571	Naharpur Kasan
4	Ex.P-7	8725 20.09.1996	1K-1½ M	21.5	3,55,000	26,41,860	Naharpur Kasan
5	Ex.P-8	8727 20.09.1996	1K-1½ M	21.5	3,53,000	26,26,976	Naharpur Kasan
6	Ex.P-9	8728 20.09.1006	1K-5M	25	4,06,000	25,98,400	Naharpur Kasan
7	Ex.P-13	1499 27.06.2006	39K-11M	791	1,23,59,375	25,00,000	Bas Lambi
8	Ex.P-16	2412 05.12.2005	6½ M	6.5	2,00,000	49,23,077	Bas Lambi

4.6 On the contrary, the Reference Court has also compiled the details of the sale deeds relied upon by the HSIIDC in a tabulated form. On a careful perusal thereof, certain errors have been found in the same, therefore, a modified table has been produced as under, for more clarity:-

Exhibit Nos.	Sale Deed No. & Date	Total Area	Land Calculated in Marlas	Total Price	Price calculated in Per Acre	Village
Ex.R-2 (same as R-7)	26 06.04.2004	8K	160	3,60,000	82,28,571	Bas Lambi
Ex.R-3 (same as R-9)	1923 18.10.2005	2K-5M	45	1,12,500	4,00,000	Bas Lambi
R-8	915 06.07.2005	4K	80	2,00,000	4,00,000	Bas Lambi
R-10	2559 25.02.2005	2K-14M	54	1,21,500	3,60,000	Bas Lambi

4.7 Thereafter, the Reference Court, as already noticed, has relied upon the assessment of the market value of the acquired land by another Reference Court with respect to the land acquired by the same notification located in village Kasan in **Hari Mohan and others vs. State of Haryana** decided on 14.01.2020. While relying upon it, the Reference Court has held that since the purpose of acquisition and the date of notification under Section 4 of the 1894 Act is the same, both the villages are adjoining to each other and previously, also, the High Court through judgment dated 01.06.2018, with respect to the acquisition of land by same notification has assessed the same amount, therefore, the Court has opted to follow the assessment made in the afore-mentioned judgment of the Reference Court. It may be noted here that the Reference Court has erred in overlooking the judgment passed by the Supreme Court in *Surender Singh* (supra) while remanding back the

cases, after setting aside the judgment of the High court in this very acquisition, has 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.”

4.8 The Reference Court has also relied upon various precedents to hold that if the notification is same and the villages are adjoining, then the same amount should be awarded. First judgment is in **Ram Kanwar and others vs. State of Haryana and others, 2015 (1) RCR (Civil) 234**. On a careful reading of the judgment, it is apparent that this is an order in which the Supreme Court in para 15 has, itself, observed that the comparable sale deeds are the best and preferred method for assessing the market value. The next judgment relied upon is in **Manoj Kumar vs. State of Haryana and others (2018) 13 SCC 96**. In this judgment, again the Supreme Court has held that an outright reliance by the Court on a previous assessment made by the Court, is not a safe method to assess the market value. This aspect has already been

examined by this Bench while deciding RFA-684-2021, which is with respect to the land acquired in village Kasan. The relevant discussion is extracted as under:-

*“9.16 Furthermore, while assessing the market value of the acquired land under the 1894 Act, the Court is required to apply the test of preponderance of probabilities. Thus, the Court assesses the market value on the basis of the evidence produced. If the parties fail to produce sufficient evidence or the best evidence, the assessment of the court has to be on the basis of whatever evidence has been produced. In such circumstances, it may not be a true reflection of the market value prevailing at the relevant time. Hence, reliance on the previous judicial decision/determination may not be a safe method to calculate the market value particularly in a case where the direct evidence like sale exemplars of the relevant period have been produced. In such an eventuality, the court should prefer to assess the market value on the basis of the sale exemplars. Undoubtedly, under Article 142 of The Constitution of India, the law declared by the Hon’ble Supreme Court is binding on all the courts, however, assessment of market value of the acquired land in a particular case in the absence of any declaration of law made on a particular point, is only a decision given on the facts of that particular case and such a decision merely on the question of fact is not binding. What is binding is the ratio of the decision and not any finding on facts, or the opinion of the court on any question which was only incidental in nature or was not required to be decided in a particular case. While assessing the market value of the acquire land, with highest respect, the Hon’ble Supreme Court does not as a ratio decidendi lays down a principle of law which is binding on all the courts. As correctly observed by the Hon’ble Supreme Court in Manoj Kumar’s case (supra), such decision is only a piece of evidence produced for consideration of the court. However, in the appropriate cases, in the absence of any other evidence, the Presiding Judge may not be left with any choice but to rely upon the same in the absence of any other reliable or relevant evidence. The Hon’ble Supreme Court in **Krishena Kumar vs. Union of India and others (1990) 4 SCC 207**, while expounding on the phrase 'Ratio Decidendi' has held as under:-*

“20. In other words, the enunciation of the reason or principle upon which a question before a court has been decided is alone binding as a precedent. The ratio decidendi is the underlying principle, namely, the general reasons or the general grounds upon which the decision is based on the test or abstract from the specific peculiarities of the particular case which gives rise to the decision. The ratio decidendi has to be ascertained by an analysis of the facts of the case and the process of reasoning involving the major premise consisting of a pre-existing rule of law, either statutory or judge-made, and a minor premise consisting of the material facts of the case under immediate consideration. If it is not clear, it is not the duty of the court to spell it out with difficulty in order to be bound by it. In the words of Halsbury (4th edn., Vol. 26, para 573)

“The concrete decision alone is binding between the parties to it but it is the abstract ratio decidendi, as ascertained on a consideration of the judgment in relation to the subject matter of the decision, which alone has the force of law and which when it is clear it is not part of a tribunal's duty to spell out with difficulty a ratio decidendi in order to bound by it, and it is always dangerous to take one or two observations out of a long judgment and treat them as if they gave the ratio decidendi of the case. If more reasons than one are given by a tribunal for its judgment, all are taken as forming the ratio decidendi.”

9.17 This Court has carefully read the judgment passed in Wazir (supra). In that case, Ex.P4 was a sale deed dated 18.08.2008 relating to the sale of a plot measuring 1 kanal and 4 marlas in village Kasan, which has not been produced in the present case. The Supreme Court, while considering the matter, has assessed the market value of the

acquired land. In the absence of the sale deed dated 18.08.2003, it is not appropriate to rely upon the assessment made in Wazir's case (supra) while ignoring the sale exemplars produced by the State.”

4.9 Furthermore, the Reference Court has erred in ignoring the sale exemplars produced by the HSIIDC on the ground that the market value reflected in the aforesaid sale instances is lower than the assessment made by the LAC dated 10.05.2006. On a careful reading of Section 25 of the 1894 Act, it is evident that the Reference Court is only prohibited from reducing the amount of the market value below the award made by the LAC. It does not provide that the Reference Court is debarred from taking into consideration the sale instances reflecting a price lower than the award passed by the Reference Court. Hence, the Reference Court has erred in ignoring the relevant sale instances.

4.10 Heard learned counsel representing the parties at length and with their able assistance perused the record, which was requisitioned. Learned counsel representing the landowners, on realising that the market value for the acquired land located in village Kasan has already been re-assessed, have submitted that this court should uphold the award. On the other hand, learned counsel representing HSIIDC has contended that once the market value, for the land acquired through the same notification located in village Kasan, has already been re-assessed therefore, the appeals filed by the HSIIDC be allowed.

5. DISCUSSION

ISSUE NO.1

5.1 From the tabulated compilation in para 4.6, it is evident that

the landowners have produced only two sale instances ie. Ex.P13 and P16 with respect to the sale of land in village Baslambi. Both the sale instances are post the date of notification under Section 4 of the 1894 Act. The landowners have also not led any evidence to prove how the various parcels of land transacted by sale exemplars P4, P5, P6, P7, P8, P9, (with respect to various parcels of the land located in village Naharpur Kasan), are comparable. In fact, the sale instances Ex.P7, P8, P9 are approximately 10 years prior to the date of notification under Section 4 of the 1894 Act. Hence, in the absence of any relevant evidence, the sale instances produced by the landowners cannot be relied upon.

5.2 Now, the Bench proceeds to examine the sale instances produced by HSIIDC, the tabulated compilation of which is provided in para 4.6. On a careful comparison of the location of sale exemplar Ex.R7 dated 6.4.2004, viz a viz the layout plan Ex.R11, it is evident that the aforesaid sale exemplar is with respect to a parcel of land which is at a distance of 22 acres from the acquired land. Thus, the aforesaid sale instance is not only of the same village but is also comparable parcel of land sold during the contemporaneous period. The opinion of the court gets strengthened from the sale instances Ex.R8, R9 and R10. All these sale instances are with respect to the land located in village Baslambi, itself. In the present case, the crucial date for determination of market value is 11.01.2005 whereas the sale instance Ex.R10 is with respect to sale deed dated 25.02.2005. The market price of the land in Ex.R7 as well as Ex.R10 is at the rate of Rs.3,60,000/- per acre. Hence, there is

no reliable evidence produced by the landowners to hold that the assessment made by the LAC was erroneous. The counsels have failed to draw the attention of the Court to any other evidence to prove that the market value of the acquired land is more than what was assessed by the LAC. It may be noted here that the landowners have produced a large number of awards passed by the various Reference Courts for the consideration of the court. The first award Ex.P-1 is in LAC no.131 of 2008 decided on 18.12.2010 with respect to the land acquired in village Dhana. The land was acquired for setting up Chandhari Devi Lal Industrial Model Township. No evidence to prove comparative location of the acquired land in that case and this case has been produced. Ex.P-2 is a copy of award passed by the Reference Court which has already been set aside by the Supreme Court in **Surender Singh (supra)**. The next award relied upon is, in LAC no.305-2009, in **Smt. Laxmi Devi vs. State of Haryana**, pertaining to the land acquired in village Baslambi. The concerned notification under Section 4 of the 1894 Act was issued on 27.09.2005. Hence, the same being post the date of notification, under Section 4 of the 1894 Act, in the present case, cannot be relied upon. Moreover, there is no evidence to the comparable location of the acquired land in the aforesaid case and the present acquisition for highway. Next reliance is placed upon the judgment of the Reference Court in LAC-1024-2018 titled as **Hari Mohan vs. State of Haryana** decided on 14.01.2020, pertaining to the acquired land in village Kasan. As already noticed, the judgment passed with respect to village Kasan has already been set aside vide decision dated 14.10.2021, in **Mahender**

Singh's case (supra). Therefore, the said award also cannot be taken into consideration.

ISSUE NO.2

6. 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 **RFA No.421 of 2021, titled as “HSI IDC Vs. Om Dutt and others”**, decided on 07.10.2021, 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) Minimum floor rate for urbanisable area of Gurgaon	Rs. 15.00 lacs per acre
ii) Minimum floor rate for rest of the Haryana Sub-Region of NCR including Panchkula and area of Chandigarh periphery in the Haryana State.	Rs.12.50 lacs per acre.
iii) Minimum floor rate for the rest of the Haryana State.	Rs.05.00 lacs per acre.

(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 reconsidered this matter and has decided to re-fix these floor rates as follows:

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

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

ISSUE NO.3

7. 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 ***HSI IDC Vs. Om Dutt and Ors. RFA-421/2021***, decided on 07.10.2021. 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 HSI IDC 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, HSI IDC 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.

8 In the conclusion, it is held as under:-

(1) The landowners who stand deprived of the land shall be entitled to market value of the acquired land at the rate of Rs.14,52,480/- per acre alongwith all the statutory benefits as per the amended Land Acquisition Act, 1894.

(2) The landowners shall also be entitled to 20% of the market value assessed by the Court for the smaller parcel of the un-acquired land left with the landowner, if due to the compulsory acquisition, the remaining landholding left with the landowner has been split up into two or more parts. However, the damages for severance shall be restricted only to those owners who are left with less than 5 acres of land in smaller parcels.

9. Consequently, the appeals filed by the HSIIDC are allowed whereas the appeals filed by the landowners are hereby dismissed.

22.12.2021

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE

1.	RFA-701-2021	HSI IDC V/S JAI BHAGWAN AND OTHERS
2.	RFA-694-2021	HARYANA STATE INDUSTRIAL AND INFRASTRUCTURE DEVELOPMENT CORPORATION LTD V/S VED PARKASH AND OTHERS
3.	RFA-697-2021	HARYANA STATE INDUSTRIAL AND INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED V/S MAHA RAM AND OTHERS
4.	RFA-707-2021	HSI IDC V/S UDAI RAM AND OTHERS
5.	RFA-711-2021	HSI IDC V/S BUDHI PARKASH AND OTHERS
6.	RFA-912-2021	VED PARKASH AND ANOTHER V/S STATE OF HARYANA AND OTHERS
7.	RFA-739-2021	HARYANA STATE INDUSTRIAL AND INFRASTRUCTURE DEVELOPMENT CORPORATION LTD V/S VED PARKASH AND OTHERS
8.	RFA-915-2021	VED PARKASH AND ANOTHER V/S STATE OF HARYANA AND OTHERS
9.	RFA-695-2021	HSI IDC V/S RAM NATH (DECEASED) THROUGH LRS AND OTHERS
10.	RFA-696-2021	HSI IDC V/S ISHWAR SINGH AND OTHERS
11.	RFA-698-2021	HSI IDC V/S MUNI KUMAR AND OTHERS
12.	RFA-699-2021	HSI IDC V/S VED PARKASH AND OTHERS
13.	RFA-700-2021	HSI IDC V/S ANARO @ ANAR DEVI, DECEASED THROUGH LRS AND OTHERS
14.	RFA-692-2021	HSI IDC V/S NARENDER AND OTHERS
15.	RFA-709-2021	HSI IDC V/S HAR KISHAN AND OTHERS
16.	RFA-710-2021	HSI IDC V/S RAM MEHAR AND OTHERS
17.	RFA-914-2021	VED PARKASH AND OTHERS V/S STATE OF HARYANA AND OTHERS
18.	RFA-735-2021	HSI IDC V/S BUDHI PARKASH AND OTHERS
19.	RFA-738-2021	HSI IDC V/S DHARAM SINGH AND OTHERS
20.	RFA-913-2021	VED PARKASH AND ANOTHER V/S STATE OF HARYANA AND OTHERS
21.	RFA-736-2021	HSI IDC V/S GOPI CHAND AND OTHERS
22.	RFA-708-2021	HSI IDC V/S RAJESH AND OTHERS
23.	RFA-2367-2021	DHARAM SINGH V/S STATE OF HARYANA THROUGH COLLECTOR GURGAON AND OTHERS
24.	RFA-693-2021	HSI IDC V/S VED PARKASH AND OTHERS

22.12.2021
rekha

(ANIL KSHETARPAL)
JUDGE