IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RFA No.5620 of 2013(O&M)
and other connected cases
Date of Decision:05.10. 2021.

HSIDC (Now Haryana State Industrial & Infrastureture Development Corporation Ltd.) through its Division Town Planner, HSIIDC, C-13-14, Sector 6, Panchkula, Haryana.

....Appellant

Versus

Rattan Singh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pritam Singh Saini, Advocate,
for the HSIIDC.

Mr. Sandeep Parkash Chahar, Advocate,
for the appellants in RFA Nos.2116, 2117, 2119, 2120, 2122, 2333 and 2799 of 2018.
for the respondents/landowners in RFA Nos.5611, 5614, 5616, 5617, 5618 of 2013
for the cross-objectors in XOBJR-44 and 78-CI of 2018.

Mr. Harkaran Singh, Advocate,
for the appellants in RFA-1666 and 1668 of 2018,
for the respondents/landowners in RFA-5611, 5613, 5615, 5620, 5621 of 2013 and XOBJR-33-2020 in RFA-5620-2013.

Ms. Anita Balyan, Advocate,
for the appellants-landowners in RFA Nos.5620 of 2013, RFA Nos.7909, 7910, 7911, 7912, 7913, 7914, 8107, 8703, 8704, 8705, 8706, 8707, 8708, 8709, 9050, 9668, 9690, 9801 of 2014, RFA No.3179 of 2015, RFA No.313 of 2016, RFA No.3430 of 2018, RFA Nos.1004 and 1783 of 2019.

Mr. Ramesh Hooda, Advocate,
for the appellants in RFA-2547 and 3089 of 2018 and RFA-2056-2019.

Mr. Kamal Mor, Advocate,
for the appellants in RFA Nos.1665, 1666, 1667 and 1668 of 2018.

**Mr. Saurabh Dalal, Advocate,**
**for the appellants in RFA No.3400 of 2015.**
**Mr. Shivendra Swaroop, AAG, Haryana.**

***ANIL KSHETARPAL, J.***

Through this bunch of appeals (detail whereof is at the end of judgment) filed u/s 54 the Land Acquisition Act 1894 ( hereinafter referred to as 'the 1894 Act'), the correctness of an assessment made by the Reference Court in 4 separate awards, which are interconnected, while determining the market value of the acquired land and damages for severance of remaining land in two different parts have been called in question. Learned counsels are ad idem that these appeals can be conveniently disposed of by a common judgment.

This judgment relates to the various pieces of the land acquired, located in the revenue estates of villages Daboda Khurd, Mehndipur, Jassaur Kheri and Kheri Jassaur, Tehsil Bahadurgarh, District Jhajjar. In order to utilize the aforesaid land for the construction of the Eastern Peripheral Road surrounding Delhi ( Which is commonly known as Kundli-Manesar-Palwal Expressway-KMP), the Government issued notification under Section 4 of the Land Acquisition Act, 1894, on 17.11.2004 that is common in all the four abovementioned villages. The necessary particulars of each case are being noticed as under:-

| ***Sr. No.*** | ***Village*** | ***Quantity of Land*** | ***Award by the Land Acquisition Collector*** | ***Assessed Market Value per acre*** |
|---|---|---|---|---|
| 1 | Daboda Khurd | 50 acres 6 kanals 2 marlas | Award No.14, dated 01.02.2006, by the Land Acquisition Collector, Jhajjar | Rs.12,50,000/- |
| 2 | Mehndipur | 32 acres 6 kanals 2 | Award No.15, dated | Rs.12,50,000/- |

| *Sr. No.* | *Village* | *Quantity of Land* | *Award by the Land Acquisition Collector* | *Assessed Market Value per acre* |
|---|---|---|---|---|
| | | marlas | 21.02.2006 | |
| 3 | Jassaur Kheri | 44 acres 8 marlas | Award No.20, dated 02.03.2006 | Rs.12,50,000/- |
| 4 | Kheri Jassaur | 27 acres 6 kanals 2 marlas | Award No.11, dated 20.02.2006 | Rs.12,50,000/- |

While feeling dissatisfied with the assessment of the Land Acquisition Collector with respect to the market value of the acquired land as well as denial of the severance charges, the land owners filed various applications under Section 18 of the 1894 Act with a request to refer the matter to the Reference Court. On being forwarded, the Reference Court through 4 separate awards has assessed the market value in the following manner:-

1. With respect to the land located at Village Daboda Khurd, the Reference Court vide judgment dated 07.04.2014 has assessed the market value @ Rs.14,14,765/-per acre. The owners shall be also be entitled to compensation for severance of the land @ 20% of the market value of the acquired or the unacquired land whichever is less.
2. With respect to the acquired land located at Village Mehndipur, the Reference Court has assessed the market value @ Rs.12.50,000/- vide judgment dated 28.02.2013. The owners shall also be entitled to 50%

of the market value of the acquired land towards the compensation for severance of the unacquired land.

3. While deciding reference applications arising from the acquisition of land located at village Jassaur Kheri, the Reference Court has maintained the award of the Land Acquisition Collector vide judgment dated 06.02.2012, i.e., Rs. 12,50,000/-per acre.

4. Even with regard to reference applications arising from the acquisition of land located at Village Kheri Jassaur, the Reference Court has upheld the award of the Land Acquisition Collector vide judgment dated 11.05.2011, i.e., Rs. 12,50,000/-per acre.

It may be noted here that the landowners in any of these appeals have not relied upon the sale deed exemplars. With respect to the reference application of village Daboda Khurd, the land owners did not lead any oral evidence. They produced two policy decisions of the State of Haryana. The first policy decision, the owners produced is dated 28.04.2005, which has been made applicable with effect from the date 05.03.2005. In this policy decision, the Government has decided that irrespective of date of notification under Section 4, if any award pertaining to acquisition of land is required to be passed in the area specified in the policy decision, the Land Acquisition Collector shall assess the minimum market value given in the policy decision. For that purpose the State Government has differently classified the various areas/zones. The aforesaid 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-regionof*

*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."*

Thereafter, the Government of Haryana modified the aforementioned policy decision dated 28.04.2005 while revising the minimum floor rate, for rest of Haryana Sub division of NCR including Panchkula and of Chandigarh periphery in Haryana State @ Rs.16,00,000/- per acre. The aforesaid modified policy decision 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 re-considered 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."*

In the appeals arising from the acquisition of land located at village Daboda Khurd the reference court while relying upon the policy decisions made by the State of Haryana has held that the landowners shall be entitled to the market value of the acquired land @ Rs.14,14,765/- per acre. The acquired land in all the aforesaid 4 villages is located in the National Capital Region and hence the acquired land falls in the category of Rs. 12,50,000/- per acre which has been later on revised to Rs. 16,00,000/- per acre.

With respect to cases arising from the acquisition of the land located at village Daboda Khurd, Haryana State Industrial and Infrastructure Development Corporation ( HSIIDC) (beneficiary of the acquisition) has produced a sale deed dated 08.05.2003, through which 2 kanals 1 marla land was sold for Rs.64,500/-. HSIIDC also examined Mr. Rajiv Kumar, one of their officials in evidence.

In reference applications arising from the acquisition of land located at village Mehndipur, unfortunately reliance was not placed on the policy decisions of the Haryana Government. The land owners examined Chand Singh as PW1, whereas the HSIIDC examined Bhawan Singh Rana, Senior Manager, HSIIDC as RW1. The HSIIDC also produced sale deeds with respect to land measuring 1 acre on 05.07.2002 for a sum of Rs.1,75,000/-. The Reference Court upheld the assessment made by the Land Acquisition Collector but directed that the land owners shall be entitled to the 50% market value of the acquired land as the compensation for severance.

In reference applications arising from the acquisition of the land located at the village Jassaur Kheri, the land owners examined Hari Om as PW1, whereas HSIIDC examined Bhawan Singh Rana, its Senior Manager. The land owners did not produce any sale deed, whereas HSIIDC produced a sale deed dated 11.06.2013 with respect to land measuring 7 marlas for a sum of Rs.42,000/-. The per acre price of this sale deed exemplar is Rs.9,60,000/-The Reference Court dismissed the reference applications made by the landowners while upholding the award passed by the Land Acquisition Collector.

With respect to reference applications arising from the acquisition of the land located at the village Kheri Jassaur, the owners examined Ram Singh, a retired Patwari, who proved the site plan and Satya Narayana as PW2. In this case also, no sale deed was produced by the owners or HSIIDC and therefore, the court upheld the reference award passed by the Land Acquisition Collector.

It may be noted here that all these appeals have come up for hearing together before this Bench.

The learned counsels appearing for the owners have submitted that the Reference Court committed an error in awarding 20% of the market value as compensation for severance. They rely upon the judgments passed in ***Narender Kaur vs. State of Punjab, 1980 PLR 479*** and ***State of Punjab vs. Gurbachan Singh, 1988, PLJ 490*** to contend that the Reference Court should have awarded 50% of the market value of the un-acquired land as severance charges. It may be noted here that the learned counsels representing the owners of the land acquired, located at villages Mehndipur, Jassaur Kheri and Kheri Jassaur contend that since the determination of the market value has been made by the Reference Court on the basis of a policy decision taken by the Haryana Government, as a result, the owners of these three villages are entitled to the same amount of market value on parity.

Per contra, HSIIDC has also filed as many as 12 appeals against the judgment passed by the Reference Court with respect to cases arising from village Mehndipur challenging the award of damages @ 50% on account of severance/bisection of land.

After heaving heard the learned counsels for the parties at length, this Bench is of the considered view that the following two issues need adjudication: -

(1) Is the market value of the land acquired, assessed by the reference Court, just and appropriate, if not, what should be the just and appropriate market value?

(2) Whether the land owners are entitled to damages/compensation on account of severance charges or not? If the answer to aforesaid question is in affirmative, what would be the appropriate percentage?

As regards the just and appropriate market value, it may be noticed that Section 15, 23 and 24 of the Land Acquisition Act, 1894, lay down a certain parameters for the fair determination of the equitable amount which are extracted as under:-

> ***15. Matters to be considered and neglected***. - *In determining the amount of compensation, the collector shall be guided by the provisions contained in section 23 and 24.*

*__15A Power to call for records, etc__. - The appropriate Government may at any time before the award is made by the Collector under section 11 call for any record of any proceedings (whether by way of inquiry or otherwise) for the purpose of satisfying itself as to the legality or propriety of any findings or order passed or as to the regularity of such proceedings and may pass such order or issue such direction in relation thereto as it may think fit:*

*Provided that the appropriate Government shall not pass or issue any order or direction prejudicial to any person without affording such person a reasonable opportunity of being heard.*

*__23. Matters to be considered on 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 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 serving 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__, 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.*

*(1A) In addition to the market value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value for the period commencing on and from the date of the publication of the notification under section 4, sub-section (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 sub-section, 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 law or opposed to public policy."*

While deciding a bunch of appeals in RFA No.4163 of 2017 ( ***Haryana State Industrial & Infrastructure Development Corporation vs. Kulbir and others)***, this court has, after examining the specific provisions of the related laws and the case laws has held as under:-

> *"4.4 Before this bench examines the contention of the learned counsel representing the parties, it would be appropriate to notice the relevant provisions of the 1894 Act. Section 15 of the 1894 Act provides that while determining the amount of compensation, the Collector shall be guided by the provisions contained in Section 23 and 24 of the 1894 Act. Hence, Section 23 to 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, subsection (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 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, sub-section (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 sub-section, 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."*

*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."*

The Court is expected to strike a proper balance while determining the amount, for the land so acquired, payable to the owners. The court is also required to confer complete and substantial justice to the owners as well as the acquiring agency(body).

As noticed, the owners have not produced the copies of the sale deeds in order to prove their case. In the matters arising from the land acquired located at village Daboda Khurd, the owners rely upon the two policy decisions by the State of Haryana, which have been extracted above. A Coordinate Bench while deciding appeal in ***OM Parkash and others vs. State of Haryana and others (RFA 7450 of 2011 decided on 30.03.2012***) has held that as the Government has revised the minimum market value of the land from Rs.12,50,000/- in the year 2005 to Rs.16,00,000/- with effect from 22.03.2007, therefore, there is increase of 3.5 lac during the period of 24 and a half months. In the absence of any other evidence, the Court would be justified in increasing the amount on the basis of the aforesaid policy decision by proportionally increasing the rates, as per the policy with reference to the date of award of the Land Acquisition Collector. Unequivocally, the Land Acquisition Act, 1894 provides that the amount of market value is to be adjudicated upon as per the value of the land on the date of notification under Section 4, which in the present cases is on 17.11.2004. However, the government vide policy decisions noted above has taken a decision that irrespective of date of notification under Section 4 of the Land Acquisition Act, 1894, if the award for acquisition of land is announced by the Land Acquisition Collector on or after 05.04.2005, under policy decision dated 28.04.2005 and on or after 22.03.2007 under the policy decision dated 06.05.2007, the minimum floor rate for acquired land shall be Rs.12,50,000/- and Rs.16,00,000/-, respectively in this area. Thus, in ***Om Parkash (supra)*** the Coordinate Bench increased the amount by granting proportionate increase for a period of 19 months. In the appeals arising from the acquisition of land of village Daboda Khurd, the Reference Court after noticing that the difference in the period is 11 months and 16 days, increased the market value by Rs.1,64,765/- over and above Rs.12,50,000/-. HSIIDC or the State of Haryana have not filed any appeals. They have accepted the correctness of the aforesaid findings.

Keeping in view the aforesaid facts, now the question arises whether the land owners of villages Mehndipur, Jassaur Kheri and Kheri Jassaur should be deprived of the same amount, particularly when the policy decision is universally applicable to all the acquisitions across the State of Haryana depending upon the area in which the acquired land is located and these three villages are covered by the category of NCR region.

The Land Acquisition Act, 1894, requires that the Court while assessing the amount is required to determine the market value which is just and reasonable. In order to do complete and substantial justice, the court is required to innovate and explore the ways to make the legislations beneficial for the parties in dispute. Undoubtedly, the owners of these villages have not relied upon the aforesaid policy decisions, even then, these policies are universally applicable, accordingly, the benefit of the aforesaid policy decision is required to be extended to the appeals filed by the owners with respect to the aforesaid three villages. This decision has been taken to advance the cause of justice. The landowners who already stand deprived of their land should not be put into a disadvantageous position for their lack of knowledge or ignorance.

In the recent judgment, the Hon'ble Supreme Court while deciding ***Narendra and others vs. State of Uttar Pradesh and others (2017) 9 SCC 426***, held that the Court has to be not only sensitive to inequalities of parties involved but also positively inclined to the weaker party to avoid the miscarriage of justice. The Court while referring to the theory of social justice adjudication held that even if the landowners claimed a lesser amount while filing an application under Section 18 of the Land Acquisition Act, 1894, even in that case, if the Court comes to a conclusion that the market value of the land was more than the amount claimed, the Court should not deprive the owners of the appropriate amount.

Accordingly, while upholding the award with regard the market value of appeals arising from the acquisition of land of the village Daboda Khurd, the appeals of the landowners of the remaining three villages namely Mehndipur, Jassaur Kheri and Kheri Jassaur are liable to be allowed and the market value of the acquired land is assessed @ Rs.14,14, 765/- per acre**.**

The next issue which requires adjudication is regarding the proper and appropriate compensation/damages for the severance of the land in two parts. Clause (3) of Section 23 of the Land Acquisition Act, 1894, enables the Court to order the payment of the damage sustained by the person on account of severance from other land. In the present case, the acquisition of the aforementioned land is for the construction of the express highway. A long strip of land has been acquired. In the cases arising from village Mehndipur, the official of the HSIIDC has himself admitted that the land of various owners stands divided in two independent unconnected parcels due to the compulsory acquisition of the land. Although, the land owners have failed to lead any evidence to prove the extent of loss/damage suffered by them, even in that case, it is clear cut/indisputable that the owners would have difficulty in accessing the parcels of separate land across the road. Some of the land owners may have been left with only a small portion on one side of the road, whereas remaining part is on the other side of the road. In any case, it would become uneconomical and hard to cultivate and irrigate a small piece of land which is left on the one side of the Road. It may be noted here that in the appeals arising from the reference applications of the acquisition of the land located at village Daboda Khurd, the reference court has assessed the damages for severance of the land to the extent of 20% with regard to market value of the acquired or unacquired land whichever is less. The State or the HSIIDC have not filed any appeals. In other words, they have accepted the judgments. The HSIIDC has filed appeals in the cases arising from the acquisition made at village Mehndipur, where surprisingly the same Presiding Judge has ordered the 50% of the market value of the acquired land towards the severance charges. In this case, Chand Singh appeared as PW1 on behalf of the land owners. He did not depose about the loss suffered by the owners on account of severance of the unacquired land. However, when Bhagwan Singh Rana deposed on behalf of HSIIDC, he admitted that Smt. Bala, Balraj, Dharam Singh, Kapoor Singh, Dilbagh Singh, Ram Singh, Priti Singh and Munshi etc. have suffered loss on account of the fact that their unacquired/remaining land stands sundered due to the construction of the road (Expressway). In other words, these owners are now left with unacquired land which is in two separate independent parcels. They will be required to make special arrangements for irrigation and cultivation of land in the both the parcels of land situated on both the sides of the road which will be a hardship to them. Hence, the Court cannot deprive the owners from damages on account of the severance, merely because the owners have failed to lead any evidence to prove the extent of loss/damages suffered by them. However, there is no evidence to prove that the owners have suffered damages to the extent of 50% of the market value of the acquired land. Furthermore, there is no appeal by the State and the HSIIDC in the appeals arising from the acquisition made at village Daboda Khurd.

Keeping in view the aforesaid facts, the appeals filed by the HSIIDC are allowed to the extent that the owners of villages Mehendipur shall also be entitled to the damages for severance of the land to the extent of 20% of the market value of the acquired or unacquired land whichever is less. However, the Executing Court is directed to ascertain as to whether the land of a particular owner stood bisected or not, before ordering the payment of damages for the severance of the land.

The learned counsel representing the owners have relied upon the judgments passed in ***Narender Kaur and Gurbachan Singh (supra).*** In both the judgments, the Court after coming to a conclusion that some part of the acquired land is virtually lost as it is rendered inaccessible and uneconomical, assessed the severance charges at @ 50%. As already noticed in this case, no such evidence has been led by the landowners to prove that fact. In these cases, it has come on record that the unacquired land of certain owners stands separated/bisected into two different parcels due to construction of the road.

It is clarified that in the acquisition made at villages Jassaur Kheri and Kheri Jassaur, the land owners have not claimed compensation for severance of their land, therefore, they shall not be entitled to the amount of compensation for severance, for that reason. The learned counsel appearing for the landowners of these two villages have not drawn the attention of the Court to this aspect.

In view of the aforesaid discussions, all the appeals/cross-objections are disposed of. The appeals filed by HSIIDC with respect to cases arising from Mehndipur shall stand allowed to the extent of reduction in compensation on account of severance of land. Whereas the appeals filed by the owners of village Mehndipur, Jassaur Kheri and Kheri Jassaur shall stand allowed to the extent of enhancement in the market value of the land by Rs.1,64,765/- per acre. In other words, the market value of the acquired land in all the four villages shall be uniform, i.e., @ 14,14,765/- per acre.

**05th October, 2021** **(ANIL KSHETARPAL)**
**nt** **JUDGE**

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

| Sr. No. | Case No. | Party Name |
|---|---|---|
| 1. | RFA-5620-2013 | HSIDC (NOW HSIIDC) V/S RATTAN SINGH AND OTHERS |
| 2. | XOBJR-79-CI-2018 | H.S.I.D.C. V/S RATTAN SINGH AND OTHERS |
| 3. | XOBJR-33-2020 | HARYANA STATE INDUSTRIAL AND INFRASTRUCTURE DEVELOPMENT CORPORATION LTD V/S RATTAN SINGH AND OTHERS |
| 4. | RFA-5611-2013 | HSIDC V/S SMT. BALA & OTHERS |
| 5. | XOBJR-78-CI-2018 | H.S.I.D.C. V/S BALA AND OTHERS |
| 6. | RFA-5613-2013 | HSIDC (NOW HSIIDC) V/S BALRAJ AND OTHERS |
| 7. | RFA-5614-2013 | HSIDC (NOW HSIIDC) V/S RAM SINGH AND OTHERS |
| 8. | RFA-5615-2013 | HSIDC (NOW HSIIDC) V/S DHARM SINGH AND OTHERS |
| 9. | RFA-5616-2013 | HSIDC (NOW HSIIDC) V/S SATPAL AND OTHERS |
| 10. | RFA-5617-2013 | HSIDC (NOW HSIIDC) V/S RANVIR SINGH AND OTHERS |
| 11. | XOBJR-44-CI-2018 | H.S.I.D.C. V/S RANVIR SINGH AND OTHERS |
| 12. | RFA-5618-2013 | HSIDC (NOW HSIIDC) V/S PIRTHI AND OTHERS |
| 13. | RFA-5619-2013 | HSIDC (NOW HSIIDC) V/S SMT. DHANPATI AND OTHERS |
| 14. | RFA-5621-2013 | HSIDC (NOW HSIIDC) V/S RATTAN SINGH AND OTHERS |
| 15. | XOBJR-45-CI-2018 | H.S.I.D.C. V/S RATTAN SINGH AND OTHERS |
| 16. | RFA-1665-2018 | RAM SINGH V/S STATE OF HARYANA AND OTHERS |
| 17. | RFA-1666-2018 | BALRAJ V/S STATE OF HARYANA AND OTHERS |
| 18. | RFA-1667-2018 | SATPAL AND OTHERS V/S STATE OF HARYANA & OTHERS |
| 19. | RFA-1668-2018 | DHARAM SINGH AND OTHERS V/S STATE OF HARYANA AND OTHERS |
| 20. | RFA-7909-2014 | RAM DHARI V/S STATE OF HARYANA & OTHERS |
| 21. | RFA-7910-2014 | HANS RAJ V/S STATE OF HARYANA & OTHERS |
| 22. | RFA-7911-2014 | SMT. SARJO V/S STATE OF HARYANA & OTHERS |
| 23. | RFA-7912-2014 | RANDHIR V/S STATE OF HARYANA & OTHERS |
| 24. | RFA-7913-2014 | SH. LEKH RAM V/S STATE OF HARYANA & OTHERS |
| 25. | RFA-7914-2014 | SARDARE & OTHERS V/S STATE OF HARYANA & OTHERS |
| 26. | RFA-8107-2014 | RAM CHANDER & OTHERS V/S STATE OF |

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|---|---|---|
| | | HARYANA & ANOTHER |
| 27. | RFA-8703-2014 | BIRMATI & OTHERS V/S STATE OF HARYANA & OTHERS |
| 28. | RFA-8704-2014 | DARSHAN SINGH V/S STATE OF HARYANA & OTHERS |
| 29. | RFA-8705-2014 | RAM PHAL & ANOTHER V/S STATE OF HARYANA & OTHERS |
| 30. | RFA-8706-2014 | HEMANT V/S STATE OF HARYANA & OTHERS |
| 31. | RFA-8707-2014 | MANJEET SINGH V/S STATE OF HARYANA & OTHERS |
| 32. | RFA-8708-2014 | SMT. KASTURI & OTHERS V/S STATE OF HARYANA & ANOTHER |
| 33. | RFA-8709-2014 | OM PARKASH & ANOTHER V/S STATE OF HARYANA & ANOTHER |
| 34. | RFA-9050-2014 | RAKESH & OTHERS V/S STATE OF HARYANA & ANOTHER |
| 35. | RFA-9668-2014 | FATEH SINGH AND OTHERS V/S STATE OF HARYANA & OTHERS |
| 36. | RFA-9690-2014 | SURAT SINGH & OTHERS V/S STATE OF HARYANA & ANOTHER |
| 37. | RFA-9801-2014 | BALBIR SINGH V/S STATE OF HARYANA & ANOTHER |
| 38. | RFA-3179-2015 | SARDAR SINGH DECEASED THROUGH LRS V/S STATE OF HARYANA & ANOTHER |
| 39. | RFA-313-2016 | SHRI KRISHAN AND OTHERS V/S STATE OF HARYANA AND OTHERS |
| 40. | RFA-3430-2018 | PREM SINGH AND OS V/S STATE OF HARYANA AND OTHERS |
| 41. | RFA-1004-2019 | HARI CHAND AND OTHERS V/S STATE OF HARYANA AND OTHERS |
| 42. | RFA-2547-2018 | BHARTE V/S LAND ACQUISITION COLLECTOR-CUM-DISTRICT REVENUE OFFICER AND OTHERS |
| 43. | RFA-3089-2018 | PARMANAND AND ANOTHER V/S LAND ACQUISITION COLLECTOR AND OTHERS |
| 44. | RFA-3400-2015 | MUNSHI V/S STATE OF HARYANA AND OTHERS |
| 45. | RFA-2116-2018 | RAVINDER KUMAR AND OTHERS V/S STATE OF HARYANA AND OTHERS |
| 46. | RFA-2117-2018 | SMT.ISHARI DEVI AND OTHERS V/S STATE OF HARYANA AND OTHERS |
| 47. | RFA-2119-2018 | SURJE AND OTHERS V/S STATE OF HARYANA AND OTHERS |
| 48. | RFA-2120-2018 | RANBIR SINGH V/S STATE OF HARYANA AND OTHERS |
| 49. | RFA-2122-2018 | MEHAR SINGH (SINCE DECEASED) THROUGH HIS LRs AND OTHERS V/S STATE OF HARYANA AND OTHERS |
| 50. | RFA-2333-2018 | SMT. PYARI (SINCE DECEASED) THROUGH LRs AND OTHERS V/S STATE OF HARYANA AND OTHERS |

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| 51. | RFA-2799-2018 | RAJENDER SINGH AND OTHERS V/S STATE OF HARYANA AND ANOTHER |
| 52. | RFA-2056-2019 | AZAD SINGH (NOW DECEASED) THROUGH HIS LRS AND OTHERS V/S STATE OF HARYANA AND OTHERS |
| 53. | RFA-1783-2019 | PARTAP SINGH AND ANOTHER V/S STATE OF HARYANA |
| 54. | RFA-5612-2013 | HSIDC (NOW HSIIDC) V/S SMT. DHANPATI AND OTHERS |
| 55. | XOBJR-69-CI-2018 | HSIDC V/S DHANPATI AND OTHERS |
| 56. | RFA-5622-2013 | HSIDC (NOW HSIIDC) V/S JAI SINGH AND OTHERS |
| 57. | XOBJR-77-CI-2018 | H.S.I.D.C. V/S JAI SINGH AND OTHERS |