127 (26 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA No. 4150 of 2015 (O&M)
and "25" connected cases
Date of Decision: 14.10.2025

State of Haryana and another

...Appellants

Versus

Rekha Gupta and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Abhinash Jain, Deputy Advocate General, Haryana for the State of Haryana.

Mr. Brijender Kaushik, Advocate;
Mr. U.K. Agnihotri, Advocate with
Mr. Anuj Y. Attri, Advocate, for the landowner(s).

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HARKESH MANUJA, J. (ORAL)

This order shall dispose off a bunch of the present twenty-six (26) appeals bearing RFA Nos. 4150 to 4160, 5366, 6028 to 6032, 6408, 6409 & 7010 of 2015; 139, 784, 808 & 4129 of 2016; 5460 of 2017; and 1 of 2021, as the same arise out of common acquisition / award.

[2] In the appeals filed by the landowners, they are seeking further enhancement of compensation for the acquired land, whereas in the appeals filed by the State of Haryana, the prayer is for reduction thereof. For the sake of convenience, facts are being culled out from RFA No. 4150 of 2015.

[3] Challenge has been made to Award dated 29.04.2015 passed by the learned Additional District Judge, Ambala **(hereinafter to be referred as "Reference Court")**, whereby the reference petition(s) filed by the respondent(s)-landowner(s) were partly accepted, having assessed the market value of the acquired land at the rate of Rs. 48,000/- per square alongwith other statutory benefits.

FACTS

[4] Briefly, the facts are that in pursuance of Haryana Govt. Notification under Section 4 of the Land Acquisition Act, 1894 **(for brevity "1894 Act")** issued on 09.05.2011, followed by Notification dated 28.01.2011 under Section 6 thereof, certain land of the respondents-landowners, situated within the revenue estate of Village Patti Mehar, Hadbast No. 58, Tehsil & District Ambala was acquired. The total land acquired was measuring 01 Kanal, 05 Marla, 15 Square Yard. The acquisition was made for public purpose, namely, for the construction of "Approach Road to New Bust Stand, Ambala City". The Land Acquisition Collector, Ambala **(for short "LAC")** vide Award No. 13 dated 11.11.2011, assessed market value at the rate of Rs. 26 lakhs per acre.

[5] Dissatisfied with the aforesaid Award, landowners / interested persons filed objections under Section 18 of the Act of 1894, which were decided on 29.04.2015 by the learned Reference Court, and the market value of the acquired land was assessed / enhanced at the rate of Rs. 48,000/- per square yard alongwith other statutory benefits.

CONTENTIONS:

ON BEHALF OF LANDOWNER(S)

[6] Impugning the aforementioned award dated 29.04.2015, learned counsel(s) for the respondent(s)-landowner(s) submit(s) that the learned Reference Court, while determining the market value, relied upon the sale instance (Ex. P-2) dated 23.03.2010, whereby 10 square yards of land forming part of Killa No. 394/2 situated in the revenue estate of Village Patti Mehar, Tehsil & District Ambala was sold for Rs. 8 lakhs and the sale price per square yard was Rs.80,000/-. They submit that the determination was made at the rate of Rs.48,000/- per square yard by applying the development cost at the rate of 40% thereupon.

[6.1] Learned counsel(s) further submit(s) that in terms of order dated 24.02.2025 passed by this Court, the Sub-Divisional Magistrate, Ambala City, was appointed as an Enquiry Officer to examine the genuineness of the said sale instance dated 23.03.2010 (Ex. P-2) and the sale instance dated 13.12.2010 (Ex. P-3), which is re-produced hereunder:-

> *" On 14.02.2025, the following order was passed by this Court:-*
>
> > *" Learned State counsel contends that sale deed no.7971 dated 23.03.2010 and sale deed no.5123 dated 13.12.2010 have been executed in order to get enhanced compensation for the acquired land. He submits that the landowners, the vendors and the vendees are related to each other. Prima facie, there appears to be some substance in the argument raised by the learned State counsel. Hence, the Sub Divisional Magistrate, Ambala City, is requested to be present in the Court on the next date of hearing.*
> >
> > *List on 17.02.2025.*
> >
> > *A photocopy of this order be placed on the files of the other connected cases."*
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> *In deference to the aforesaid order, Sh.Darshan Kumar, HCS, Sub Divisional Magistrate, Ambala City, is present in the Court today. He has been apprised about the submissions made by the learned State counsel and is requested to hold an inquiry and submit his report with regard to genuineness of the sale deeds dated 23.03.2010 and 13.12.2010, within a period of 45 days from today. He shall be free to examine other sale deeds with regard to the same parcel of land. It shall be open to the*

landowners to participate in the aforesaid inquiry. The appellants are requested to visit the office of Sub Divisional Magistrate, Ambala City on 17.03.2025 at 10:00 a.m.

List on 22.04.2025.

A photocopy of this order be placed on the files of the other connected cases."

In pursuance of the enquiry, report dated 17.04.2025 made by Sh. Darshan Kumar, HCS, Sub-Divisional Magistrate, Ambala City **(hereinafter referred to as "Enquiry Officer")** was submitted before this Court. The relevant extract therefrom is extracted hereunder:-

" Xxxxx

It is clear from the aforesaid table that the land which was bought by Mrs. Suman Rani was sold by her to Mrs. Promila, wife of Mr. Naresh Kumar, and her son Mr. Om Jandu, as per document no. 7971 serial no. 10) and document no. 5123 (serial no. 11) and document no. 7078 (serial no. 12) and document no. 3459 (serial no. 13).

Thus, only the land purchased by Mr. Naresh Kumar and his family members mentioned at 10 and 11 as per the table was purchased at a rate higher than the collector rate. Rest of all documents of the same land have been registered at the collector rate.

Xxxxx

***Serial No. 10** Buyer Smt. Promila wife of Shri Naresh Kumar and Ramji Lal (father of Naresh Kumar) have purchased area of 10 sq. yard and the same was registered at price of Rs. 80000/- per sq. yard while the collector rate was Rs. 15300/- per sq. yard. Naresh Kumar being G.P.A holder of Seller Suman Rani appeared on behalf of seller Suman Rani.*

***Serial No. 11** Buver Smt. Promila wife of Shri Naresh Kumar has purchased area of 03 sq. yard with and the same was registered at price of Rs. 150000/- per sq yard while the collector rate was Rs. 15300/- per sq yard. Naresh*

Kumar being G.P.A holder of Seller Suman Rani appeared on behalf of seller Suman Rani.

Serial No. 12 *Buyer Om Jandu son of Shri Naresh Kumar has purchased area of 57.10 sq. yard and the same was registered at price of Rs. 15000/-per sq. yard while the collector rate was also Rs. 15000/- per sq yard. Naresh Kumar being G.P.A holder of Seller Suman Rani appeared on behalf of seller Suman Rani.*

Xxxxx

From the above, it is cleared that except registries mentioned at serial no. 11 and 12, i.e. document no. 7971 dated 23.03.2010 and document no. 5123 dated 13.12.2010 remaining all were approximately registered at collector rate.

It is also mentioned here that the Government had acquired the land of 394/2 min (01 kanal 03 marla) out of total land 01 kanal 05 marla 15 yards for the purpose of road construction and award no. 13 dated 11.11.2011 was already made by the District Revenue Officer-cum-Land Acquisition Officer in this regard with the Government notification no. 5/5/2010-5-T(II) dated 09.05.2011.

Keeping the aforesaid fact and records, it is evident that Naresh Kumar and his family members i.e. Ramji Lal father, Promila wife and Om Jandu son are the direct or indirect purchaser in all the registries of khasra no. 394/2 and all the registries (except Sr. no. 7971 dated 23.03.2010 and Sr.no 5123 dated 13.12.2010) were registered at collector rate."

[6.2] Learned counsel(s) for the landowner(s) thus contend that in such circumstances, the sale instances Exhibits P-2 & P-3 need to be discarded for the purpose of re-determination of the market value in relation to the present acquisition.

[6.3] In the wake of above, learned counsel(s) for the landowners have placed reliance upon the auction proceedings Exs. P-4 to P-15 which related to Shop-cum-Office(s) / Cloth market **(for**

short "shopping centre") developed by Haryana Urban Development Authority **(for short "HUDA")**, situated Opposite Bal Bhawan, Sector-7, HUDA, Ambala, whereby auction proceedings were held on 25.11.2002 relating to shops measuring around 150 square yards each and the average valuation was of around Rs.80,502/- per square meter i.e. Rs. 67,325/- per square yard. Learned counsel(s) thus submit that after applying a suitable cut on the average auction price and upon application of appreciation for the time gap between the date of auction and the date of notification under Section 4 of the 1894 Act in the present case, the market value needs to be assessed in the present case.

In support, reliance has been placed upon the site plan (Ex. P-18) which has been proved on record by the Architect-Sh. Surinder Mohan Mittal, who appeared in witness-box as PW-4 so as to depict the location of the land under acquisition in comparison to the land forming part of the shopping centre developed by the HUDA which is existing Opposite Bal Bhawan, Sector-7, Ambala. While referring to the said site plan (Ex. P-18), it has been submitted that both the parcels of land are situated in the same vicinity and adjoining each other; separated by less than 100 feet.

[6.4] In the light of above contention(s), learned counsel(s) for the respondent(s)-landowner(s) thus pray(s) for modification of the award passed by the learned Reference Court.

ON BEHALF OF STATE OF HARYANA

[7] On the other hand, learned State Counsel submits that the auction proceedings Exhibits P-4 to P-15 were not to be relied upon as the same pertained to fully developed commercial area /

shopping centre in an already developed sector of the urban estate department. He also points out that the valuation attained through the process of auction was not to be taken as the standard rate of land in the area for the purpose of determination of market value for the acquired land. In support, he places reliance upon the decision rendered by the Hon'ble Supreme Court in case ***"Lal Chand Versus Union of India & Anr.", 2009 (15) SCC 769***. Relevant paras-7 to 11 & 19 of the said decision are extracted hereunder:-

> *" 7. On careful consideration, we are of the view that such allotment rates of plots adopted by Development Authorities like DDA cannot form the basis for award of compensation for acquisition of undeveloped lands for several reasons. Firstly market value has to be determined with reference to large tracts of undeveloped agricultural lands in a rural area, whereas the allotment rates of development authorities are with reference to small plots in a developed lay out falling within Urbana. Secondly DDA and other statutory authorities adopt different rates for plots in the same area with reference to the economic capacity of the buyer, making it difficult to ascertain the real market value, whereas market value determination for acquisitions is uniform and does not depend upon the economic status of the land loser. Thirdly we are concerned with market value of freehold land, whereas the allotment "rates" in the DDA Brochure refer to the initial premium payable on allotment of plots on leasehold basis. We may elaborate on these three factors.*
>
> *8. First factor: The percentage of 'deduction for development' to be made to arrive at the market value of large tracts of undeveloped agricultural land (with potential for development), with reference to the sale price of small developed plots, varies between 20% to 75% of the price of such developed plots, the percentage depending upon the nature of development of the lay out in which the exemplar plots are situated. The 'deduction for*

development' consists of two components. The first is with reference to the area required to be utilised for developmental works and the second is the cost of the development works. For example if a residential layout is formed by DDA or similar statutory authority, it may utilise around 40% of the land area in the layout, for roads, drains, parks, play grounds and civic amenities (community facilities) etc. The Development Authority will also incur considerable expenditure for development of undeveloped land into a developed layout, which includes the cost of levelling the land, cost of providing roads, underground drainage and sewage facilities, laying waterlines, electricity lines and developing parks and civil amenities, which would be about 35% of the value of the developed plot. The two factors taken together would be the 'deduction for development' and can account for as much as 75% of the cost of the developed plot. On the other hand, if the residential plot is in an unauthorised private residential layout, the percentage of 'deduction for development' may be far less. This is because in an un-authorized lay outs, usually no land will be set apart for parks, play grounds and community facilities. Even if any land is set apart, it is likely to be minimal. The roads and drains will also be narrower, just adequate for movement of vehicles. The amount spent on development work would also be comparatively less and minimal. Thus the deduction on account of the two factors in respect of plots in unauthorised layouts, would be only about 20% plus 20% in all 40% as against 75% in regard to DDA plots. The 'deduction for development' with references to prices of plots in authorised private residential layouts may range between 50% to 65% depending upon the standards and quality of the layout. The position with reference to industrial layouts will be different. As the industrial plots will be large (say of the size of one or two acres or more as contrasted with the size of residential plots measuring100 sq.m. to 200 sq.m.), and as there will be very limited civic amenities and no playgrounds, the area to be set apart for development (for roads, parks, *playgrounds and civic amenities) will be far less; and the cost to be incurred for development will also be marginally less, with the result the deduction to be made from the cost of a industrial plot may range only between 45% to 55% as contrasted from 65 to 75% for residential plots. If the acquired land is in a semi-developed urban area, and not an undeveloped rural area, then the deduction for development may be as much less, that is, as little as 25% to 40%, as some basic infrastructure will already be available. (Note: The percentages mentioned above are tentative standards and subject to proof to the contrary).*

9. Therefore the deduction for the 'development factor' to be made with reference to the price of a small plot in a developed lay out, to arrive at the cost of undeveloped land, will be for more than the deduction with reference to the price of a small plot in an unauthorized private lay out or an industrial layout. It is also well known that the development cost incurred by statutory agencies is much higher than the cost incurred by private developers, having regard to higher overheads and expenditure. Even among the layouts formed by DDA, the percentage of land utilized for roads, civic amenities, parks and play grounds may vary with reference to the nature of layout – whether it is residential, residential-cum-commercial or industrial; and even among residential layouts, the percentage will differ having regard to the size of the plots, width of the roads, extent of community facilities, parks and play grounds provided. Some of the layouts formed by statutory Development Authorities may have large areas earmarked for water/sewage treatment plants, water tanks, electrical sub-stations etc. in addition to the usual areas earmarked for roads, drains, parks, playgrounds and community/civic amenities. The purpose of the aforesaid examples is only to show that the 'deduction for development' factor is a variable percentage and the range of percentage itself being very wide from 20% to 75%.

10. Second factor: DDA and other statutory development authorities adopt different rates for allotment, plots in the same layout, depending upon the economic status of the *allottees, classifying them as high income group, middle income group, low income group, and economically weaker sections. As a consequence, in the same layout, plots may be earmarked for persons belonging to economically weaker section at a price/premium of Rs. 100/- sq.m, whereas the price/premium charged may be Rs.150/- per sq.m for members of low income group, Rs.200/- per sq.m for persons belonging to middle income group and Rs.250/- per sq. m. for persons belonging to High income groups. The ratio of sites in a layout reserved for HIG, MIG, LIG and EWS may also vary. All these varying factors reflect in the rates for allotment. It will be illogical to take the average of the allotment rates, as the 'market value' of those plots, does not depend upon the cost incurred by DDA statutory authority, but upon the paying capacity of the applicants for allotment.*

11. Third factor: Some development authorities allot plots on freehold basis, that is by way of absolute sale. Some development authorities like DDA allot plots on leasehold basis. Some have premium which is almost equal to sale price, with a nominal annual rent, whereas others have lesser premium, and more substantial annual rent. There are standard methods for determining the annual rental value with reference to the value of a freehold property. There are also standard methods for determining the value of freehold (ownership) rights with reference to the annual rental income in regular leases. But it is very difficult to arrive at the market value of a freehold property with reference to the premium for a leasehold plot allotted by DDA. As the period of lease is long, the rent is very nominal, some times there is a tendency among public to equate the lease premium rate (allotment price) charged by DDA, as being equal to the market value of the property. However, in view of the difficulties referred to above, it is not safe or advisable to rely upon the allotment rates/auction rates in regard to the plots formed by DDA in a developed layout, in determining the market value of the adjoining undeveloped freehold lands. The DDA brochure price has therefore to be excluded as being not relevant.

12 to 18 Xxxxx

19. This Court had occasion to examine this issue recently. In The General Manager, Oil & Natural Gas Corporation Ltd. v. Rameshbhai Jivanbhai Patel [2008 (11) SCALE 637], this court held :

> *"Normally, recourse is taken to the mode of determining the market value by providing appropriate escalation over the proved market value of nearby lands in previous years (as evidenced by sale transactions or acquisition), where there is no evidence of any contemporaneous sale transactions or acquisitions of comparable lands in the neighbourhood. The said method is reasonably safe where the relied-on-sale transactions/acquisitions precedes the subject acquisition by only a few years, that is upto four to five years. Beyond that it may be unsafe, even if it relates to a neighbouring land. What may be a reliable standard if the gap is only a few years, may become unsafe and unreliable standard where the gap is larger. For example, for determining the market value of a land acquired in 1992, adopting the annual increase method with reference to a sale or acquisition in 1970 or 1980 may have many pitfalls. This is because, over the course of years, the 'rate' of annual increase may itself undergo drastic change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices affecting the very standard of increase."*

Even if the relied upon transaction is only two to three years prior to the acquisition, court should, before adopting a standard escalation, satisfy that there were no adverse circumstances. For example, if the acquisition is of this year 2009, it may not be possible to determine the market value, based on the 2007 or 2008 prices, by providing an increase of 12% or 15% per year, as the newspaper reports disclose that the price of immovable properties in most areas of the country came down by

> *more than 40% to 50% from the 2007 rates. Caution is therefore necessary before increasing the price with reference to the old transactions. Be that as it may. It is clear that the award made in regard to a 1961 acquisition will not be of any use for determining the market value for a 1981 acquisition."*

[7.1] Learned State Counsel also submits that the findings recorded by the learned Reference Court to the effect that the Collector rate of the area concerned for commercial purpose being Rs.44,000/- per square yard for the financial year 2010-11 and Rs.52,000/- per square yard for the year 2011-12 was also incorrect as the area under acquisition falls on the Aggarsain road to Manav Chowk, Ambala City and the Collector rate as per Ex. P-19 for the commercial area on the said road was around Rs. 15,300/- per square yard only. He further submits that the learned Reference Court should have relied upon the sale instance dated 17.12.2009 (Ex. R-1) which was for an area measuring 370 square yards and as per the same, the sale price per square yard was Rs. 6,786/-. He thus prays that the appeals filed by the State of Haryana deserve to be allowed whereas the appeals preferred by the landowners be dismissed.

No other point has been raised.

<u>DISCUSSION AND REASONING</u>

[8] After hearing learned counsel for the parties and having gone through the paper-book / records, I find substance in the submission(s) made on behalf of the landowner(s).

[9] In the given facts, the learned Reference Court determined the market value based on the sale instance (Ex. P-2) dated 23.03.2010. Having apprehension about the bona fides of the sale exemplars-Exhibits P-2 & P-3, this Court vide order dated 24.02.2025 directed the Sub Divisional Magistrate, Ambala City to enquire into the matter. In pursuance thereof, a report dated 17.04.2025 was produced on record by the then Sub Divisional Magistrate, Ambala with specific and categoric observations that the sale deeds (Ex. P-2 & P-3) were the transactions relating to the close family members, vide which the land was purchased at a rate higher than the Collector's rate.

[10] A perusal of the report dated 17.04.2025 shows that the Enquiry Officer did not examine the following relevant aspects:-

(a) whether there was no other sale deed for the area during the preceding two years from the date of issuance of notification under Section 4 of the 1894 Act, which was registered at rates more than the Collector's rate;

(b) the report nowhere reflects that any opportunity was every afforded to the respondents-landowners, granting them an opportunity to produce any other registered sale deed of the area in question so as to put forth their stand; and

(c) the report nowhere even records that the parcels of land which have been compared in the report with the sale instances (Ex. P-10 & P-11) were comparable in terms of locational or potential value.

[11] Without going any further, in the wake of apprehension expressed by this Court vide its order dated 24.02.2025 and the report dated 17.04.2025, this Court, in its humble opinion, does not deem it appropriate to rely upon such sale instances.

[12] Thus, in the absence of the sale instances (Ex. P-2 & P-3), the other relevant piece of evidence available on record is in the form of Ex. P-4 to P-15 which relate to auction proceedings of Shop-cum-Office(s) measuring 150 square yard each forming part of shopping centre Opposite Bal Bhawan, Sector-7, HUDA, Ambala City and that forms part of the same revenue estate of Village Patti Mehar, of which the land under acquisition forms part of. The detail of auction proceedings dated 25.11.2002 (Ex. P-4 to P-15) is re-produced hereunder:-

Exhibits	Auction Proceedings Site No.	Dimension (Width x Length)	At the rate of Rs.	Per Square Meter (in Rs.)
P-4	41	5.73 x 25	1,27,00,000/-	88,501/-
P-5	42	5.50 x 25	1,30,00,000/-	94,545/-
P-6	43	5.50 x 25	1,16,00,000/-	84,363/-
P-7	44	5.50 x 25	1,06,00,000/-	77,090/-
P-8	45	5.50 x 25	1,10,00,000/-	80,000/-
P-9	46	5.50 x 25	1,09,00,000/-	79,272/-
P-10	47	5.50 x 25	1,01,00,000/-	73,454/-
P-11	48	5.50 x 25	1,06,00,000/-	77,090/-
P-12	49	5.50 x 25	1,08,00,000/-	78,545/-
P-13	50	5.50 x 25	1,15,00,000/-	83,636/-
P-14	51	5.50 x 25	1,08,00,000/-	78,545/-
P-15	52	5.73 x 25	1,02,00,000/-	71,204/-
	TOTAL			**9,66,245/-**

[13] In the humble opinion of this Court, no merit can be found in the contention raised on behalf of the appellants-State of Haryana to the effect that the auctions proceedings *per se* cannot be relied upon for the purposes of determination of market value towards the acquired land. Undoubtedly, there is an element of increase in the price fetched towards a property in the auction proceedings in comparison to its sale or alienation by other modes. However, the said factum, depending upon the facts and circumstances of the present case, can always be neutralized by applying an appropriate cut on the auction price. The reliance in this regard is placed upon the decision of the Hon'ble Apex Court in case ***"Karnataka Housing Board <u>Versus</u> Land Acquisition Officer, Gadag & Ors"*** reported as ***2011(2) SCC 246***, whereby it has been held that where auction sale is the only comparable sale transacton available, the Court may rely upon the same with caution. Relevant para-7 of the said decision is extracted hereunder:-

> *" 7. But where an open auction sale is the only comparable sale transaction available (on account of proximity in situation and proximity in time to the acquired land), the court may have to, with caution, rely upon the price disclosed by such auction sales, by providing an appropriate deduction or cut to off-set the competitive-hike in value. In this case, the Reference Court and High Court, after referring to the evidence relating to other sale transactions, found them to be inapplicable as they related to far away properties. Therefore we are left with only the auction sale transactions. On the facts and circumstances, we are of the view that a deduction or cut of 20% in the auction price disclosed by the relied upon auction transaction towards the factor of 'competitive - price hike' would enable us to arrive at the fair market price."*

[14] Similarly, in the case of ***"Manilal Shamalbhai Patel (Deceased) <u>Versus</u> Officer On Special Duty (Land Acquisition)***

and anr." reported as 2025 All SCR 1133, even the Hon'ble Supreme Court went on to rely upon the rates fixed by the development authority having applied appropriate cut of 40% towards development cut. Relevant paras-8 to 11 of the said decision are extracted hereunder:-

> *"**8.** The letter of allotment of the said Plot No. 7/1 dated 07.06.1988 is on record. It reveals that the land for the purposes of petrol pump was first allotted on 18.07.1984 at a tentative price of Rs. 70/- per sq. mt. with 25% of the frontage charges. Originally, the area of land allotted was 25000 sq. mt. but finally only 1900 sq. mt. was allotted with the condition that the allottee will accept the price whatever is fixed by the GIDC. The GIDC w.e.f. 25.03.1988 revised the premium prices of the lands in Ranoli Industrial Estate to Rs. 180/- per sq. mt. Accordingly, the actual premium price of the said Plot No. 7/1 was worked out and was realised from the allottee.*
>
> ***9.** The aforesaid allotment letter clearly reveals that the land of Plot No. 7/1 having an area of 1900 sq. mt. was allotted for the purposes of establishing a petrol pump initially on 18.07.1984 at a tentative rate of Rs. 70/- per sq. mt. which was revised w.e.f. 25.03.1988 to Rs. 180/- per sq. mt., meaning thereby that the GIDC, for whose benefit the present land had been acquired, itself had fixed the rate of Rs. 180/- per sq. mt. of the land of the Ranoli Industrial Estate w.e.f. 25.03.1988. GIDC admits the premium price of the industrial land in Ranoli village to be Rs. 180/- per sq. mt. from 25.03.1988.*
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> ***10.** The rate of the aforesaid plot fixed by GIDC w.e.f. 25.03.1988 was in close proximity with the acquired land and as such there appears to be no harm in taking it to be the best suitable exemplar. The land of the appellants was notified to be acquired under Section 4 of the Act on 24.07.1989. Thus, there is a gap of over a year between the acquisition of the present land and the allotment of land of Plot No. 7/1 for establishing a petrol pump and fixing its price @ Rs. 180/- per sq. mt. During this period of one year*

> *if the trend of rising prices is taken into account, one can easily say that the prices in this one year may have increased at least by 5%. Thus, increasing the rate of Rs. 180/- per sq. mt. by 5%, the revised rate comes out to Rs. 189/- per sq. mt. rounded off to Rs. 190/- per sq. mt.*
>
> ***11.*** *It is an accepted principle that the land acquired is never used in the form it exists. It has to be first developed and made suitable either for habitation or for industrial purposes. In this connection, obviously roads have to be carved out, some open area has to be left for green belts, water, sewerage and electricity lines have to be laid down and the plots have to be carved out into some regular sizes and shapes. In this way, the transferable/saleable area hardly remains to be 50% of the land acquired. In such a situation, the courts have repeatedly held that 30% to 50% deduction be made from the rate for the purposes of such development. Even assuming that the acquired land is within the vicinity of the developed area or the Ranoli Industrial Estate, nonetheless, it is an agricultural land, may be with a potential of a developed area, which requires development, as mentioned above. One cannot deny that the acquired land had to be developed as aforesaid before making it usable as an industrial site. Therefore, in the facts and circumstances, by applying some amount of guess work, we consider that at least 40% of the amount be deducted for the purposes of development."*

[15] A perusal of the site plan proved as Ex. P-18 shows that both the parcles of land forming part of the shopping centre and the land under acquisition are situated in the same vicinity; in close proximity of less than 100 meters. Both the parcels are abutting the National Highway leading from Ambala City to Hisar. The site plan (Ex. P-18) also shows that the land under acquisition is surrounded by commercial establishments. No site plan has been proved on record by the appellants-State of Haryana to counter the locational comparison of the land under acquisition with that forming part of the shopping centre. Moreover, the site plan (Ex. P-18) has been duly proved on record from the deposition of Architect-Mr. Surinder Mohan Mittal, who appeared in the witness-box as PW-4 and in his cross-examination, the appellant-State of Haryana has not been able to impeach the veracity of his deposition. In such circumstances, the auction proceedings (Exhibits P-4 to P-15) can very well be taken into consideration being relevant piece of evidence for the purpose of determination of the case in hand.

[16] Further, considering the fact that the price gap of the auction proceedings (Ex. P-4 to P-15) which were held on one day i.e. 25.11.2002 is not much, its average needs to be taken and the price comes to Rs. 80,520/- per square meter (Rs. 9,66,245÷12 = Rs.80,520/- per square meter) i.e. Rs. 67,325/- per square yard (Rs. 80,520 x 4046.856 / 4840 = Rs. 67,325 per square yard).

[17] Taking into account the fact that the aforesaid price has been derived of the auction proceedings; so as to make the value practical for all intents and purposes and to mitigate its competitive effect, deduction at the rate of 20% needs to be applied thereupon and the price thus comes to Rs.53,860/- per square yard [Rs. 67,325 x 20/100 = Rs.13,465/-; Rs.67,325-13,465 = Rs.53,860] . Since, there is a time gap of around eight (08) years and four (04) months between the date of auction and the date of notification under Section 4 of the 1894 Act in the present case i.e. from 25.11.2002 to 09.05.2011 and the land under acquisition being situated on the National Highway surrounded by commercial establishment besides forming part of Municipal Corporation, Ambala, an appreciation at the rate of 12% per annum needs to be applied with cumulative effect for such time period between the two events i.e. auction and the acquisition.

[18] Further, since the aforesaid figure has been arrived at by placing reliance upon the auction proceedings pertaining to commercial sites forming part of developed shopping centre carved out by the Urban Development Authority, an appropriate cut @ 40% thereupon needs to be applied towards development cost / expenditure incurred by the concerned agency towards loss of land and also the costs for providing of the infrastructural civil amenities to the said shopping centre(s). Accordingly, the market value of the land of the under acquisition comes to **Rs. 83,214/- per square yard**, besides other statutory benefits / interest as provided in the 1894 Act, as per the calculation below:-

Description	**Amount square yard (in Rs.)**
Market Value of the acquired land [as per average of auction proceedings (Ex. P-4 to P-15)]	67,325.00
Less: Deduction @ 20% (Rs. 67,325 x 20/100 = Rs. 13,465)	13,465.00
	53,860.00
Add:- Interest @12% (First Year) (Rs. 53,860 x 12% = Rs. 6,463.20) (w.e.f. 25.11.2002 to 24.11.2003)	6,463.20
	60,323.20
Add:- Interest @12% (Second Year) (Rs. 60,323.20 x 12% = Rs. 7,238.78) (w.e.f. 25.11.2003 to 24.11.2004)	7,238.78
	67,561.98
Add:- Interest @12% (Third Year) (Rs. 67,561.98 x 12% = Rs. 8,107.44) (w.e.f. 25.11.2004 to 24.11.2005)	8,107.44
	75,669.42
Add:- Interest @12% (Fourth Year) (Rs. 75,669.42 x 12% = Rs. 9,080.33) (w.e.f. 25.11.2005 to 24.11.2006)	9080.33
	84,749.75
Add:- Interest @12% (Fifth Year) (Rs. 84,749.75 x 12% = Rs. 10,169.97) (w.e.f. 25.11.2006 to 24.11.2007)	10,169.97
	94,919.72

Add:- Interest @12% (Sixth Year) (Rs. 94,919.72 x 12% = Rs. 11,390.37) (w.e.f. 25.11.2007 to 24.11.2008)	11,390.37
	1,06,310.09
Add:- Interest @12% (Seventh Year) (Rs. 1,06,310.09 x 12% = Rs. 12,757.21) (w.e.f. 25.11.2008 to 24.11.2009)	12,757.21
	1,19,067.30
Add:- Interest @12% (Eighth Year) (Rs. 1,19,067.30 x 12% = Rs. 14,288.08) (w.e.f. 25.11.2009 to 24.11.2010)	14,288.08
	1,33,355.38
Add:- Interest @12% (Four months) (Rs. 1,33,355.38 x 12% x 4/12 = Rs. 5,334.21) (w.e.f. 25.11.2010 to 09.05.2011 – 4 months)	5,334.21
	1,38,689.59
Less: 40% Development Cut (Rs. 1,38,689.59 x 40/100 = Rs. 55,475.84)	55,475.84
Net Compensation	83,213.75
Round off / Awarded Compensation	**83,214.00**

[19] So far as the contention raised on behalf of learned State Counsel to the effect that the learned Reference Court should have relied upon the sale instance dated 17.12.2009 (Ex.R-1) for an area measuring 370 sq. yards as per which the sale consideration was Rs. 6,786/- per sq. yard is concerned, in the humble opinion of this Court, no merit can be found therein. The sale instance Ex. R-1 apparently relates to abadi of Vijay Nagar, Ambala City, which admittedly and undisputedly is situated at a distance of around 1 km. from the land under acquisition and thus has been rightly discarded by the learned Reference Court.

[20] Moreover, the argument raised by the learned State Counsel to the effect that the collector rate for the year 2011-12 as per Ex. P-19, for the commercial area was at the rate of Rs. 15,300/- per square yard also needs to be discarded. As per decision rendered by the Hon'ble Apex Court in case of ***Lal Chand (supra)***, it was held that the circle/collector rate can be a relevant piece of evidence only if these are assessed by statutorily appointed Expert Committees, in accordance with the prescribed assessment procedure. Relevant para-16 from the decision of ***Lal Chand's case (supra)*** is extracted hereunder:-

> *"**16.** It should however be noted that as contrasted from the assessment of market value contained in non-statutory Basic Value Registers, the position may be different, where the guideline market values are determined by Expert Committees constituted under the State Stamp Law, by following the detailed procedure laid down under the relevant rules, and are published in the State Gazette. Such state stamp Acts and the Rules thereunder, provide for scientific and methodical assessment of market value in different areas by Expert Committees. These statutes provide that such committees will be constituted with officers from the Department of Revenue, Public Works, Survey & Settlement, Local Authority and an expert in the field of valuation of properties, with the sub-registrar of the sub-registration district as the member secretary. They also provide for different methods of valuation for lands, plots, houses and other buildings. They require determination of the market value of agricultural lands by classifying them with reference to soil, rate of revenue assessment, value of lands in the vicinity and locality, nature of crop yield for specified number of years, and situation (with reference to roads, markets etc.). The rates assessed by the committee are required to be published inviting objections/suggestions from the members of public. After considering such objections/suggestions, the final rates are published in the Gazette. Such published rates are revised and updated periodically. When the guideline market values, that is, minimum rates for registration of properties, are so evaluated and determined by expert committees as per statutory procedure, there is no reason why such rates should*

not be a relevant piece of evidence for determination of market value. One of the recognised methods for determination of market value is with reference to opinion of experts. The estimation of market value by such statutorily constituted expert committees, as expert evidence can therefore form the basis for determining the market value in land acquisition cases, as a relevant piece of evidence. It will be however open to either party to place evidence to dislodge the presumption that may flow from such guideline market value. We however hasten to add that the guideline market value can be a relevant piece of evidence only if they are assessed by statutorily appointed Expert Committees, in accordance with the prescribed assessment procedure (either streetwise, or road-wise, or area-wise, or village-wise) and finalised after inviting objections and published in the Gazette. Be that as it may. We have referred to this aspect only to show that there are different categories of Basic Valuation Registers in different states and what is stated with reference to the stamp law in Andhra Pradesh or Uttar Pradesh, may not apply with reference to other states where state stamp laws have prescribed the procedure for determination of market value, referred to above."

In the present case, no evidence has been adduced by the appellant-State to show that the circle rates were determined by any statutorily appointed committee by adopting scientific basis. Thus, the same cannot form basis for determination of market value and warrants to be discarded, especially when the collector rates in relation to the exact location of the acquired land has not been proved.

DECISION

[21] In the light of above, Award dated 29.04.2015 passed by the Reference Court is hereby modified. The landowners are held entitled to the market value as assessed above alongwith consequential / statutory benefits and interest as provided in the Act of 1894 (as amended up-to-date).

[22] Consequently, all the appeals filed by the State of Haryana are dismissed, whereas the appeals filed by the landowner(s) are allowed.

[23] Also, wherever the landowner(s) has/have unfortunately died in the appeal(s) / cross-objection(s) after filing thereof and the legal representatives not been impleaded, they shall be at liberty to seek execution of the present decision by moving appropriate application(s) before the learned Executing Court.

[24] Pending miscellaneous application(s)/IOIN, if any, shall stand(s) disposed off.

October 14, 2025 **(HARKESH MANUJA)**
'dk kamra' **JUDGE**

Whether Speaking / Reasoned :	Yes	No
Whether Reportable :	Yes	No