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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 24.04.2025

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LA.APP. 460/2009

SHREE MALANPUR STEEL LTD.

.....Appellant

Through: Mr. Gaurav Sarin, Sr. Advocate with
Ms. SmitaMaan, Mr.VishalMaan and
Mr.Harish Kumar, Advocates

versus

UOI & ANR.

.....Respondents

Through: Mr. Sanjay Kumar Pathak, Standing
Counsel with Mr.K.K. Karan Pathak,
Mr. Sunil Kumar Jha, Mr. M.S.
Akhtar, Mr.Mayank Madhu and
Mr.Diwakar, Advocates for UOI

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The appellant being aggrieved with the judgment and decree dated 12.05.2009 passed by Ld. ADJ (LAC), West District, Delhi in LAC No. 137/08/05 with respect to Reference under Section 18 of the Land Acquisition Act, 1894 (hereinafter, 'the Act'), has preferred the present appeal seeking enhancement of the market value/compensation in context of acquisition proceedings under which its free hold built up property measuring 673.42 sq meters bearing No. W-3, West Patel Nagar, New Delhi was acquired.

2. Notably, the respondent No.2/DMRC for the purpose of Mass Rapid Transit System Project issued notification dated 04.03.2003 under Section 4 of the Act to acquire total land measuring 1477.74 sq. meters whereas



notification under Section 6 and 17(1) of the Act was issued on 28.04.2003. Possession of the acquired land was taken on 08.09.2003 and vide Award dated 26.08.2004, the Land Acquisition Collector (LAC) fixed the value of the land at Rs.13,280/- per sq. meter. Rates of compensation for built up structures existing on the acquired land were fixed on the basis of report of DMRC duly vetted by PWD. The cost of construction existing on the acquired land was assessed by LAC at Rs.22,01,330/-.

3. The petitioner being aggrieved with the inadequate compensation filed the Reference under Section 18 of the Act. Petitioner being a company examined its director Mr. *Sandeep Jhunjunwala* as PW-1, Mr. *N.K. Dhamija*, Dealing Assistant from DDA as PW-2 to prove some auction of plots, Mr. *Anil Kumar*, Tax Assistant from Income Tax Department as PW-3 to prove NOC regarding sale of property, Mr. *Mahesh Sikka*, LDC from MCD as PW-4 to prove sanctioned plan of construction and two valuers namely, Mr. *Pradeep Rungta* and Mr. *B.P. Singh*, as PW-5 and PW-6 respectively.

Respondent/DMRC defended the Award and further relied upon the sale deeds which were tendered in evidence as Ex. R-2 and ExR-3. Reference Court while reaching the aforesaid conclusion took note into account the respective documents filed by the parties however, found none of them to be of any relevance. The appellant in support of its claim, has relied on the decision of Reference Court in Virender Sood v. Union of India passed on 16.04.2008 under Award No. 16/05 of Village Basai Darapur wherein a Coordinate Court of the Reference Court had taken into account a Sale Deed dated 15.11.1996 (hereinafter, 'the exemplar sale deed') with respect to adjacent plot bearing No. W-7, West Patel Nagar, New Delhi



wherein the sale transaction amount was Rs.59,043/-per sq. meter. The said decision was assailed before the High Court wherein Referral Court judgment was stayed. Noting the aforesaid facts in the present case, the Reference Court did not extend the benefit of judgment in Virender Sood (Supra) passed by the Coordinate Reference Court.

4. Mr. Sarin, Ld. Senior Counsel for the appellant submits that the controversy surrounding the market rate stands resolved by the decision of the Coordinate Bench of this Court in Virender Sood v. Union of India &Ors, reported as **2017 SCC OnLine Del 11663** wherein the Court had relied upon the sale exemplar deed in which sale transaction value of Rs. 59,043/-was mentioned. However, since in Virender Sood (supra)the property in question pertained to land situated at *Basai Darapur* and did not have the same location advantage, lesser amount of compensation was granted. The decision in Virender Sood was assailed before the Supreme Court vide SLP (C) Diary No. 3786/2019 wherein the challenge came to be dismissed vide order dated 25.02.2019. It is further highlighted that the area is fully developed and there are build up structures gainfully occupied and utilized for residential-cum-commercial purposes. It is contended that property in question being W-3, West Patel Nagar is only three houses away from W-7, the property mentioned in the sale exemplar deed, and is in fact, a three-side open corner plot abutting the Main Patel Road on the front and also abutting side and back lanes. It is thus, contended that the market rate of the property in question be fixed at the same value as of W-7, West Patel Nagar. It is further contended that from the year 1996 till the issuance of notification under Section 4 of the Act, annual increment at the rate of 10% to 15% be also granted.



5. The aspect of both the plots being in the same vicinity and rather adjacent having same locational situation, is not disputed by the learned counsel for the respondent/DMRC. Ld. Standing Counsel for the respondent however submits that while in the present case notification under Section 4 was issued on 04.03.2003, the similar notification in Virender Sood (Supra) was issued on 01.04.2004 and thus, contends that market value has to be reduced. While opposing grant of annual increment, Ld. Standing Counsel while relying on the decision of Manik Panjabrao Kalmegh v. Executive Engineer Bembala Project Division Yavatmal & Ors. reported as **2024 SCC OnLine SC 3185** submits that there are no fixed parameters and grant of same market value is not an absolute rule and the same is occasionally granted depending upon the facts and situation in each case. He has further relied on the decision of Central Warehousing Corporation v. Thakur Dwara Kalan ul-Maruf Baraglan Wala (Dead) reported as **2023 SCC OnLine SC 1361**.

6. I have heard learned counsels for the parties as well as gone through the records.

7. The controversy in the present case is really narrow, inasmuch as, on the applicability of Coordinate Bench decision of Virender Sood (Supra) to the facts of the present case. Pertinently, at the time of passing of the impugned judgment, the benefit of the said decision of the Co-ordinate Bench was not available, the appeal in the said case being pending. However, the said decision has since attained finality, the SLP preferred against it having been dismissed. It is noted that the said decision has taken note of vicinity property i.e. W-7, West Patel Nagar in question. Moreover, in the present proceedings, the appellant has placed the sale exemplar deed on



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record vide CM NO. 916/2010 which came to be allowed vide order dated 25.03.2010. There is no serious contest on the issue that the property in question is similarly situated and rather adjacent to property No. W-7, West Patel Nagar forming part of sale exemplar deed, the location parameters being similar, and in fact, better. Additionally, the property in question is also free hold. Respondent's opposition to reliance on exemplar sale deed on the ground that on account of the date of issuance of notification under Section 4 in two cases being different, a lesser market value is to be awarded, is misplaced and rejected. The property concerned in Virender Sood (Supra) was located in *Basai Darapur* which besides having location disadvantage was also 5 km away and located in an old development. In these facts, the Coordinate Bench fixed the lesser market value. Having noted that the property in question and in the exemplar sale deed being adjacent to each other, the sale exemplar deed would qualify to be considered for fixing the same market value. The tabular chart of the properties property in question as well as property mentioned in exemplar sale deed is as under: -

Characteristic	Subject Property	Exemplar Sale Deed property
Location	W-3, Main Patel Road, West Patel Nagar, New Delhi	W-7, Main Patel Road, West Patel Nagar, New Delhi
Bounded by	North: Road. South: Main Patel	North: Service Lane. South: Main Patel Road.



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	Road. East: Road. West: property No.2, West Patel Nagar.	East: Property No.8, West Patel Nagar. West: property no.6, West Patel Nagar.
Type	Freehold	Leasehold
Special features	Corner Plot (three side open)	-
Distance b/w the plots	250 metres	

8. Keeping in view the transaction value in the Sale Exemplar Deed, and considering that the subject property is very close to the property in the Exemplar Deed, with similar, in fact, better characteristics, the prevalent market rate on the date of issuance of notification under Section 4 of the Act i.e., on 04.03.2003, on an over-all assessment, which entails some amount of guess work, in view of this Court, could fairly be assumed to be Rs. 59,403/- per square meter. I have also taken into account the decision of this Court in Virender Sood (Supra), wherein the compensation for a similar property situated in further away area with worse locationality was enhanced to Rs. 52,000/- per square meter. The said notice also took judicial notice of the exemplar sale deed herein. Considering the fact that the subject property has a significant locational advantage - being three side open corner property with opening on the Main Patel Road, coupled with the fact that the plot could be used for residential-cum-commercial purposes, I am of the view that the rate of Rs 59,403/- per square meter on the date of issuance of Section 4



notification is fair and just.

9. Coming to the next issue as to what annual rate of increment is to be fixed, the factors which determine the escalation in price need to be discussed. The land situation, the extent and nature of development in the surrounding area, availability and demand of land. The rate of increases in prices might be slower in rural areas compared to urban or semi-urban areas. For example, if the rate of increase in urban areas is 10-15%, increase in rural area might only be 5-7%. Gainful reference can be made to the decision in Bedi Ram v. Union of India & Anr. reported as **2001 (60) DRJ 1698 (DB)**, wherein it has been held as under :-

“23. Assuming that there has been steep rise in prices of the land in and around Delhi and there has been tremendous pressure of building activities in and around Delhi after 1950 or even after 1959, there ought to have been led some evidence by the claimants about the extent of the rise in prices or the extent of pressure in and around the vicinity of the acquired land. In the absence of which it was not permissible for the Reference Court to have adopted the formula of allowing universal increase of 12% p.a. over and above the market value as had been determined on 13.11.1959. Even for the delayed payment of compensation, the rate of interest allowable during 1959 was not more than 6% p.a. No material was brought on record by the claimants that what would have been the extent of escalation. Assuming that escalation was at the normal pace, the entire period from 1959 to 1973 could not be taken as one slot. It ought to have been split up in portions. This Court had, in the absence of any other material, adopted allowing of 6% p.a. increase over and above the market value fixed in earlier acquisition in order to arrive at a fair market value for subsequent acquisition. On the same analogy for the period from 1959 to 1965, we are of the view that it would be reasonable in case progressive increase at the rate of 6% every year is allowed and for the period from 1965 to 1973 progressive increase at the rate of 10% every year is allowed in order to arrive at a fair market value. Allowing this progressive increase for each year separately over and above the market value of Rs. 8064/- per bigha as on 30.11.1959, we hold that as on 8.2.1973 Rs. 22,850.00 would be the fair market value to which the claimants would be entitled for acquisition of their property acquired through notification dated 8.2.1973.”



10. In Salaha Begum & Ors. v. Special Land Acquisition Officer reported as (2013) 11 SCC 426, it has been held as under :-

9. In *ONGC Ltd. v. Rameshbhai Jivanbhai Patel* (2008) 14 SCC 745, the Court held as under:

“13. Primarily, the increase in land prices depends on four factors: situation of the land, nature of development in surrounding area, availability of land for development in the area, and the demand for land in the area. In rural areas, unless there is any prospect of development in the vicinity, increase in prices would be slow, steady and gradual, without any sudden spurts or jumps. On the other hand, in urban or semi-urban areas, where the development is faster, where the demand for land is high and where there is construction activity all around, the escalation in market price is at a much higher rate, as compared to rural areas. In some pockets in big cities, due to rapid development and high demand for land, the escalations in prices have touched even 30% to 50% or more per year, during the nineties.

14. On the other extreme, in remote rural areas where there was no chance of any development and hardly any buyers, the prices stagnated for years or rose marginally at a nominal rate of 1% or 2% per annum. There is thus a significant difference in increases in market value of lands in urban/semi-urban areas and increases in market value of lands in the rural areas. Therefore, if the increase in market value in urban/semi-urban areas is about 10% to 15% per annum, the corresponding increases in rural areas would at best be only around half of it, that is, about 5% to 7.5% per annum. This rule of thumb refers to the general trend in the nineties, to be adopted in the absence of clear and specific evidence relating to increase in prices. Where there are special reasons for applying a higher rate of increase, or any specific evidence relating to the actual increase in prices, then the increase to be applied would depend upon the same.

15. 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 acquisitions), 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 precede the subject acquisition by only a few years, that is, up to 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 of 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.



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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."

11. The present property being in urban area, more specifically, a corner plot in a Residential cum Commercial Area, on a mixed use street, the annual increment is deemed to be fixed at 12%. The appellant shall also be entitled to all the statutory benefits. Decree Sheet be prepared accordingly. Trial Court Record be sent back.

12. Appeal is disposed of in the above terms.

MANOJ KUMAR OHRI
(JUDGE)

APRIL 24, 2025

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