

Before Anil Kshetarpal, J.

**HARYANA STATE INDUSTRIAL AND INFRASTRUCTURE
DEVELOPMENT CORPORATION—Appellant**

versus

OM DUTT AND OTHERS—Respondents

RFA No.421 of 2021 (O&M)

October 07, 2021

Constitution of India, 1950—Land Acquisition Act, 1894—SS.4, 15, 23, 24, 25 and 54—Assessing the market value uniformly of a narrow strip of land acquired for a road which passes through various villages in continuity—For determining market value, matters which are to be considered, are enlisted u/s 23 of the 1894 Act and matters to be ignored are enlisted u/s 24 of the Act—Sale exemplars are good and appropriate instance to rely upon while assessing the market value of the acquired land—Judicial determination cannot be relied upon as it is subject to variation depending upon the evidence produced—Hence, it is not appropriate to assess the market value—If on account of acquisition of land the remaining land holding of the land owner has been split into two or more parts, the land owners shall be entitled to 20% of the smaller parcel of un-acquired land—Reliance on sale of small residential plot cannot form a good basis when acquired land is a large tract of agricultural land.

Held, that on a careful examination of the aforesaid provisions, it becomes crystal clear that while determining the market value, the matters which are required to be considered have been enlisted in Section 23 of the 1894 Act whereas the matters which are to be ignored are enlisted in Section 24 of the 1894 Act.

(Para 8.2)

Further held, that before analyzing/evaluating the contentions of the learned counsel representing the parties, it is appropriate to notice that apart from the sale exemplars, the parties have also produced various judgments passed by the Courts while assessing the market value of the acquired land in the adjoining villages. The Reference Court after discussing each document has held that such assessment made with respect to land situated in various other villages

cannot be made a basis to assess the market value of the land in the village Sultanpur. The correctness of the aforesaid finding has not been questioned by the learned counsel representing the parties. In any case, once sale deed exemplars of the village in question i.e. Sultanpur are available, it would not be appropriate to rely upon a judicial determination of the land located in various other villages. The determination by the court depends upon the evidence produced. Whereas the sale exemplars are good and an appropriate document to rely upon while assessing the market value of the acquired land. The judicial determination can be subject to variation depending upon the evidence produced. Such determinations have certain amount of assumptions.

(Para 8.7)

Further held, that undoubtedly, Section 25 of the 1894 Act provides that the amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11.

(Para 8.8)

Further held, that acquisition of a land the remaining land holding of the landowner has been split into two or more parts, then the landowners shall be entitled to 20% of the smaller parcel of un-acquired land. However, the damages for severance shall be restricted only to those owners who are left with less than 5 acres land in the smaller parcel. This assumption has been made, particularly, in view of the fact that due to splitting of the land, the landowner will have to not only cultivate his land in two independent parcels but also make a provision for irrigation of the land located in each parcel of land. Even the agricultural implements have to be carried to the other side of the road by going through underpasses, which may be at a distance. If an owner is left with a very small parcel of land, he may be forced to indulge in distress sale thereof.

(Para 8.15)

Further held, that it would not be appropriate for the Court to assess the market value uniformly of the narrow strip of land acquired for construction of road. This Court finds support from the judgment passed by the Hon'ble Supreme Court in the case of *Surender* (supra) while remanding the cases back to the Reference court. It is further declared that it was not appropriate for the Reference court to rely upon a sale of plot measuring 5 marlas while assessing the market value of approximately 100 acres of land, particularly, when comparable sale

deeds of contemporaneous period were produced by the HSIIDC in evidence.

(Para 9)

Baldev Raj Mahajan, Sr. Advocate with Pritam Singh Saini, Advocate for the HSIIDC.

Gaurav Aggarwal, Advocate, *for the appellants*-landowners (in RFA-846, 848, 860, 864, 868, 872, 875, 876, 879 and 870 of 2021), and
for the cross-objectors/landowners (in XOBJR-12-2021 in RFA-294-2021, XOBJR-8-2021 in RFA-368-2021, XOBJR-9-2021 in RFA-353-2021 and XOBJR-7-2021 in RFA-298-2021)

Sandeep Sharma, Advocate, for the landowners-respondent No.1 and 2. (in RFA-390-2021), *for the appellants* in RFA-888-2021.

Amandeep Rana, Advocate, for the landowners-respondents. (in RFA-292, 293, 296, 301, 349, 357, 373 and 421 of 2021)

Sudhir Aggarwal, Advocate, for the landowners-respondents (in RFA-302, 350, 359, 381 and 387 of 2021)
for the appellants (in RFA-836, 891, 849, 847 and 845 of 2021)

Rajiv Sharma, Advocate, for the landowners. (in RFA-839, 844, 892, 893 and 910 of 2021)

Amit Jain, Advocate, *for the appellants* (in RFA-833, 882 of 2021)
for respondents-landowners (in RFA-386 and 388 of 2021)

Neeraj Saini, Advocate, for the respondents-landowners (in RFA-308, 356, 371, 295, 303 and 365 of 2021)

Sachin Mittal, Advocate, for the respondents (in RFA-345 of 2021)

Harkesh Manuja, Advocate, for the respondents (in RFA-297, 299, 300, 301, 306, 343, 344, 351, 362, 367, 379 and 382 of 2021)
for the appellants (in RFA-820, 829, 834, 853, 854, 856, 861, 863, 866, 871, 874 and 857 of 2021)

R.A. Yadav, Advocate, *for the appellant* (in RFA-862 of 2021)

Shivendra Swaroop, Addtl.A.G, Haryana.

ANIL KSHETARPAL, J.

By this order a bunch of 102 appeals, (details whereof are on the foot of the judgment), shall stand disposed of.

(1) Through these appeals/cross objections filed under Section 54 of the Land Acquisition Act, 1894, (hereinafter referred to as 'the 1894 Act') the Haryana State Industrial and Infrastructure Development Corporation Limited (hereinafter referred to as 'HSIIDC') (the beneficiary of the acquisition) as well as the landowners who stand deprived of their land due to the compulsory acquisition, assail the correctness of a common award dated 10.01.2020 passed by the Reference Court while deciding 69 reference petitions filed under Section 18 of the 1894 Act. The HSIIDC prays for the reduction of the market value of the acquired land assessed by the Reference Court whereas the landowners pray for the enhancement thereof. The learned counsel representing the parties are ad idem that this bunch of appeals can be conveniently disposed of by a common judgment.

Facts

(2) Some facts are required to be noticed. The State of Haryana in order to use the land for developing and constructing Kundali Manesar Express Highway Phase VII connecting NH no.1, 10, 8 and 2 issued notification under Section 4 on 11.01.2005 proposing to acquire land measuring 520 acres 2 kanals 30.5 marlas spread over a total of 15 villages. The declaration under Section 6 was published on 31.05.2005 whereas award no.15 was announced on 11.05.2006. The landowners were held entitled to the uniform market value of the acquired land at the rate of Rs.12,50,000 per acre. In the first round, on 02.08.2012 the Reference Court, assessed the market value of the acquired land at the rate of Rs.43,17,841/- per acre. While deciding appeals, the High Court vide judgment dated 05.02.2016 revised the market value of the acquired land to Rs.62,11,700/-. However, the Hon'ble Supreme Court vide judgment dated 25.1.2018 in *Surender Singh versus State of Haryana and others*¹ remanded all the cases back to the Reference Court. The parties were permitted to lead further evidence. In the second round, the Reference Court has assessed the market value of the acquired land at Rs.22,00,754/- per acre vide judgment dated 10.01.2020 by solely relying upon sale exemplar Ex.PX with respect to a plot measuring 5 marlas. The Reference Court imposed a development cut of 35% to come to the conclusion that the market

¹ (2018) 3 SCC 278

value of the acquired land on the date of notification under Section 4 was Rs. 22,00,754/- per acre.

Issues which require adjudication

(3) Having heard the learned counsel for the parties at length, this Court is of the considered view that the following two questions need adjudication:-

- i) Whether it would be appropriate to assess the market value uniformly of the narrow strip of land acquired for the construction of a road which passes through the various villages located in continuity?
- ii) Whether it is appropriate to rely upon the sale of plot measuring 5 marlas while assessing the market value of 798 kanals 2 marlas agricultural land, particularly, when comparable sale deed of contemporaneous period have been produced?

(3.1) At this stage, it would be important to note that in village Sultanpur itself, 798 kanals 2 marlas land, in other words approximately 100 acres of land has been acquired. Normally each acre of land consist of 4840 sq. yards of the land which is further equal to 8 kanals. Thus, each kanal of land normally has 605 sq. yards area which is further equivalent into 20 marlas. Ordinarily, each marla of an agricultural land consists of a little more than 30 sq. yards land. In cities, normally, 500 sq. yards are considered equivalent to 1 kanal. However, in the Northern India, for the purpose of agricultural land, in Northern India, normally 1 acre of land consists of 160 marlas of land.

Oral Evidence

(4) At this stage, it would be appropriate to note that the landowners as well as the beneficiary of the acquisition i.e HSIIDC has produced oral as well as documentary evidence. The owners have examined Suraj Pal as PW1. He is one of the landowners. Jagdish, Draftsman from the office of District Town Planner, Gurugram, has been examined as PW2, who proved the blue print of final development plan of controlled area issued on 22.07.2005. Satish Sharma and Inder Singh owners of the acquired land have stepped into the witness box as PW3 and PW4. After the remand of the cases by the Hon'ble Supreme Court, the landowners have further examined Surender Deswal Senior Manager, KMP Project as PW5 to prove the lay out plan of Kundali

Manesar Road starting from Kundali to Palwal and the rehabilitation and re-settlement policy Ex.P5/B. Yet another landowner, Mahi Pal has been examined as PW6 to prove the revenue record and the sale deeds marked as B and C. Inder Singh, who had earlier appeared as PW4, has again stepped into the witness box as PW7. Devender Singh Registration Clerk, Farooq Nagar has been examined as PW7 to prove the certified copies of the certain sale deeds whereas Naresh Kumar, Clerk HSIIDC, IMD, Manesar has been examined as PW9 who brought the summoned record i.e copies of industrial policies and proved the same as Ex.P40 to P45. Veer Singh, Field Kanungo, Farooq Nagar has been examined as PW10 to prove the location of village Sultanpur. He has stated that village Sultanpur is situated at Gurugram-Farooq Nagar-Jhajjar State Highway. Raj Kumar, Halqa Patwari of village Sultanpur has been examined as PW11 to prove certain mutations, sale book and a layout plan. Devender Kumar Goel, Balwan and Maman, owners have stepped into the witness box as PW12, PW13 and PW14. On the other hand, HSIIDC has examined Kheja Ram, Senior Manager (IA) KMP as RW 1.

Documentary evidence

(5) The learned Reference Court has compiled the documentary evidence produced by both the parties in a tabulated manner, correctness whereof is not disputed. Hence the same are extracted as under:-

Ex.P1	Site Plan
Ex.P2	Copy of Jamabandi for the year 2003-04 of Village Sultanpur
Ex.P3	<i>Aksh Shijra</i>
Ex.P4	Copy of Jamabandi for the year 2013-14 of Village Sultanpur
Ex.P5	Copy of Jamabandi for the year 2003-04 of Village Sultanpur
Ex.PW5/A	Site Plan
Ex.PW5/B	Copy of Notification of Policy for Rehabilitation and resettlement of landowners

Ex.P6	Mutation No.5585
Ex.P7/P31/P39	Copy of Sale Deed dated 6.8.2008 vide which the land measuring 00 kanal 07 marla situated in Village Sultanpur was sold for Rs.875000/-
Ex.P8/P30	Copy of Sale Deed dated 16.12.2009 vide which the land measuring 17 kanal 18 marla situated in Village Sultanpur was sold for Rs.13422000/-
Ex.P9	<i>Aksh Shijra</i>
Ex.P10	Copy of Award dated 27.2.2012 passed by the Court of Shri Vikram Aggarwal, the then learned ADJ, Gurugram in case titled as ' <i>Hari Mohan and others Vs. State of Haryana and ors.</i> '
Ex.P11	Copy of Jamabandi for the year 2003-04 of Village Sultanpur
EX.PW11/A	Tatima Field Book of Village Sultanpur
EX.PW11/B	Site Plan
EX.PW11/C	Site Plan
EX.PW11/D	Site Plan
Ex.P12	Copy of Jamabandi for the year 2003-04 of Villae Sultanpur
Ex.PW12/1	Copy of Jamabandi for the year 2013-14 of Village Sultanpur
EX.PW12/2	<i>Aksh shijra</i>
Ex.P13	Copy of Jamabandi for the year 2003-04 of Village Sultanpur
Ex.PW13/1	Copy of Jamabandi for the year 2013-14 of Village Sultanpur

Ex.PW13/2	Mutation No.7920
Ex.PW13/3	<i>Aksh Shijra</i>
Ex.PW13/4	Mutation No.8011
Ex.PW13/5	Mutation No.7261
Ex.PW13/7	<i>Aksh Shijra</i>
Ex.PW13/8	<i>Aksh Shijra</i>
Ex.P14	Copy of Jamabandi for the year 2003-04 of Village Sultanpur
Ex.P14/1	Copy of Jamabandi for the year 2013-14 of Village Sultanpur
Ex.P14/2	<i>Fard Badar</i>
Ex.P14/3	<i>Aksh Shijra</i>
Ex.P15	Copy of Award dated 18.7.2012 passed by ther Court of Shri Lal Chand, the then learned ADJ, Gurugram in case titled as ' <i>Suraj Pal Vs. Competent Authority</i> '
Ex.P16	Copy of Award dated 31.7.2012 passed by the Court of Shri Vikram Aggarwal, the then learned ADJ, Gurugram in case titled as ' <i>Sher Singh and others. Vs. State of Haryana and ors.</i> '
Ex.P17	Copy of Sale Deed dated 18.9.2006 vide which the land measuring 1 kanal 3 marla situated in Village Farrukh Nagar was sold for Rs.700000/-
Ex.P17/1	Copy of Jamabandi for the year 2013-14 of Village Sultanpur
Ex.P18	Copy of Jamabandi for the year 2003-04 of Village Sultanpur
Ex.P19	<i>Aksh Shijra</i>
Ex.P20	Copy of Jamabandi

Ex.P21	<i>Aksh Shijra</i>
Ex.P22	Copy of Jamabandi
Ex.P23	<i>Aksh Shijra</i>
Ex.P24	Copy of Mutation No.5194
Ex.P25	<i>Aksh Shijra</i>
Ex.P26	<i>Aksh Shijra</i>
Ex.P27	Copy of Sale Deed dated 16.2.2004 vide which the land measuring 1 kanal 13 marla 3 Sarsai situated in Village Farrukh Nagar was sold for Rs.2200000/-
Ex.P28	Copy of Sale Deed dated 11.6.2004 vide which the land measuring 1 kanal 3 marla situated in Village Farrukh Nagar was sold for Rs.497000/-
Ex.P29	Copy of Sale Deed dated 25.6.2004 vide which the land measuring 1 kanal 14 marla situated in Village Farrukh Nagar was sold for Rs.724500/-
Ex.P32	Copy of order dated 6.9.2017 passed by the Hon'ble Supreme Court in SLP Nos.12193-12207/2017
Ex.P33	Copy of order dated 24.5.2016 passed by the Hon'ble High Court in RFA No.1580 of 2012
Ex.P40	Notification dated 11.11.1999 of Haryana Government Industries Department
Ex.P41	Copy of Estate Management Procedure 2005
Ex.P42	Notification dated 24.5.2007
Ex.P43	Notification dated 13.3.2007
Ex.P43	Copy of letter sent by HSIIDC to M/s. Right Guard Ruber Pvt. Ltd.

EX.P44	Copy of notice for payment of enhanced cost of Plot No.201 Sector 3 IMT Manesar sent to M/s.Hilux Automotive
Ex.P45	Copy of notice of payment of enhanced cost of Plot No.346 Sector 8 IMT Manesar sent to M/s. VIP Submersible Pumps.
Ex.P46	Copy of Mortgage Deed dated 23.11.2004 vide which land measuring 17 Marla was mortgaged for Rs.6 lakhs.
Ex.P47	Copy of Sale Deed dated 12.1.2006 vide which the land measuring 0 kanal 06 marla situated in Village Sultanpur was sold for Rs.1,50,000/-
Ex.P48/P49	Copies of jamabandis for the yerae 2003-04 of Village Sultanpur
Ex.P50	Copy of jamabandi for the year 2013-14 of Village Sultanpur
Ex.P51	<i>Aksh Shijra</i>
Ex.PX	<i>Aksh Shijra</i>
Ex.PX	Copy of Sale Deed dated 7.12.2004 vide which the land measuring 0 kanal 5 marla situated in Village Sultanpur was sold for Rs.105000/-
Ex.PY	Copy of Sale Deed dated 24.5.2006 vide which the land measuring 24 kanal 0 marla situated in Village Sultanpur was sold for Rs.7575000/-
Mark- A	Death Certificate of Sispal Singh
Mark- A	Site Plan
Mark – B	Copy of Will
Mark- B	Copy of Sale Deed dated 28.12.2007 vide which the land measuring 8 kanal 1 marla situated in Village Khaintawas was sold for Rs.5600000/-

Mark- C	Copy of order dated 6.9.2017 passed by the Hon'ble Supreme Court in SLP No.12193-12207/2017
Mark- D	Copy of order dated 24.5.2016 passed by the Hon'ble High Court in RFA No.1580 of 2012
Ex.R1	Copy of Award dated 3.2.2012 passed by the Court of Shri S.K.Khanduja, the then learned ADJ, Nuh in case titled as ' <i>Om Parkash Vs. State of Haryana and ors.</i> '
Ex.R2	Copy of Award dated 7.1.2012 passed by the Court of Shri S.K.Khanduja, the then learned ADJ, Nuh in case titled as ' <i>Smt. Mariyam and others Vs. State of Haryana and ors.</i> '
Ex.R3	Copy of Letter Sent by Deputy Commissioner to Sub Divisional Officer (Civil) Gurugram/Circle Rate
Ex.R4	Copy of Notification of Policy for Rehabilitation and resettlement of landowners
Ex.R5/ R12	Copy of Sale Deed dated 23.7.2004 vide which the land measuring 10 kanal 00 marla situated in Village Sultanpur was sold for Rs.375000/-
Ex.R6	Copy of Sale Deed dated 21.6.2004 vide which the land measuring 14 kanal 16 marla situated in Village Sultanpur was sold for Rs.460000/-
Ex.R7	Copy of Sale Deed dated 14.6.2004 vide which the land measuring 7 kanal 01 marla situated in Village Sultanpur was sold for Rs.405000/-
Ex.R8	Copy of Sale Deed dated 22.7.2004 vide which the land measuring 3 kanal 08 marla situated in Village Sultanpur was sold for Rs.195000/-

Ex.R9	Copy of Sale Deed dated 27.5.2004 vide which the land measuring 08 kanal 00 marla situated in Village Sultanpur was sold for Rs.460000/-
Ex.R10	LAS award No.15 dated 10.5.2006 of Village Sultanpur
Ex.R11	Map of KMP Expressway
Ex.R13	Copy of Sale Deed dated 24.11.2004 vide which the land measuring 10 kanal 00 marla situated in Village Sultanpur was sold for Rs.1004000/-
Ex.R14	Copy of Sale Deed dated 29.5.2006 vide which the land measuring 15 kanal 02 marla situated in Village Sultanpur was sold for Rs.1644000/-
Ex.R15	Copy of Sale Deed dated 5.12.2006 vide which the land measuring 10 kanal 6.5 marla situated in Village Sultanpur was sold for Rs.1200000/-
Ex.R16	Copy of Sale Deed dated 25.11.2005 vide which the land measuring 32 kanal 16 marla situated in Village Sultanpur was sold for Rs.512500/-
Ex.R17	Integrated Shijra Plan

Issues framed by Reference Court

(6) All the reference applications of village Sultanpur were consolidated and on 06.01.2020, the court framed the following issues:-

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

2. Relief.”

Thereafter, the issues earlier framed were revised on 27.08.2012, which are extracted as under:-

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

2. Whether the petitions are time barred?

OPR

Relief.”

Thereafter, an additional issue was framed on 30.04.2019, which is extracted as under:-

“1A. Whether the petitioners of the petitions No.1758/2010/2011, 1331/2009, 650/2009, 1426/2009 and 654/2018 are also entitled to the severance charges on account of bifurcation of their land due to acquisition in question? OPP.”

Arguments of learned counsels

(7) Heard the learned counsel for the parties at length and with their able assistance perused the paperbooks alongwith the voluminous record produced by the parties before the Reference Court, which had been requisitioned. Learned counsels have also filed written synopsis alongwith the gist of their arguments.

(7.1) Sh. Baldev Raj Mahajan, learned senior Advocate contends that the Reference Court has committed an error in ignoring the sale exemplars produced by the HSIIDC on the ground that the market value of the aforesaid sale exemplars is lower than the amount awarded by the Land Acquisition Collector (hereinafter referred to as the ‘LAC’). While referring to Section 25 of the 1894 Act and the judgment passed by the Supreme Court in *Lal Chand versus UOI*², he contends that there is no bar or prohibition for the Court to take into consideration the sale deed exemplar depicting a price lower than the amount awarded by the LAC. He submits that Section 25 only debars the Court from assessing the market value lower than the amount awarded by the LAC. He further contends that the Reference Court has committed an error in relying upon the sale deed Ex.P6 dated 07.12.2004 with respect to a plot measuring 5 marlas only. He submits that while assessing the market value of the large tract of the agricultural land, the sale deed of a plot which is not with respect to the agricultural land, cannot be relied upon. It was further pointed out that the size of the said plot is 18 feet x 75 feet, which is located near the residential area of Tehsil, Farooq Nagar. It was further pointed out that from the careful reading of the sale deeds Ex.R5, R6, R7 R8 and R9, it is evident that the market value of the acquired land was not more than Rs.5,00,000/- per acre at the time of notification under Section 4 of

² (2019) 50 SCC 769

1894 Act i.e on 11.01.2005 while continuing, he contends that the Court has erred in enhancing the sale consideration by giving an increase of 8% for a difference of 35 days. In the end, he contends that even if the sale deed of the land measuring 5 marlas is to be relied upon then the appropriate cut should be 75%.

(7.2) Per contra, learned counsel representing the owners contend that the Additional District Judge has correctly relied upon the sale deed Ex.PX and the development cut cannot be more than 10% because the land is to be used for constructing an express highway. In other words, the entire land is to be utilized for the construction of the road and therefore, not more than 10% development cut is permissible. Sh. Harkesh Manuja, has also referred to the statement of Peer Singh, PW10, Field Kanungo, Farooq Nagar, who has stated that western side of the revenue estate of Sultanpur touches the boundary of revenue estate of village Mubarakpur and the Farooq Nagar City. Additionally, he referred to the statement of Dhaja Ram, RW1, who has stated that the village Sultanpur is situated on Gurugram-Farooqnagar Road. While referring to the layout plan Ex.P26, it has been contended that the boundary of village Sultanpur also touches the boundary of village Budhera. While referring to the statement of Balwan Singh he submits that the residential area of village Budhera is 2kms from the acquired land. The learned counsel has also referred to the other layout plans to show that revenue estates of Sultanpur and Kasan are at a small distance and all these villages are located in the nearby area. Sh. Sudhir Aggarwal, learned counsel representing some of the landowners contended that the potential of the acquired land has been correctly found by the Reference Court. He submitted that the acquired land is situated near a well known bird sanctuary and Sultanpur lake which is at a distance of 7-8kms from the Gurugram City. He submits that the court has wrongly ignored the sale deeds Ex.P27 to P29 on the ground that these pertain to the land located in a different village. Effort has also been made to distinguish the judgment passed in Lal Chand's case (supra). He further submitted that the Reference Court erred in applying the development cut of 35%. It is submitted that no cut could be applied. He further tried to highlight that the Reference Court wrongly denied damages for severance on account of bisection/separation of the unacquired land. He submitted that merely because the passage has been provided by constructing underpasses, the landowners who have suffered a loss on account of bisection of the unacquired land into two different parcels of land, should not be deprived of compensation for splitting of the unacquired land. Learned counsel has also relied upon

the judgment passed by the Supreme Court in *Chakas* versus *State of Punjab*³ to contend that the development cut applied by the Reference Court is inappropriate.

Discussion

(8.1) 5.1 The market value of the acquired land is to be determined on the date of issuance of the notification under Section 4 of the 1894 Act i.e. 02.12.2005. In other words, the crucial date for determination of the market value of the land in these cases is 02.12.2005. Section 15 of the 1894 Act provides that the Collector shall be guided by the provisions contained in Section 23 and 24 of the 1894 Act in determining the amount of compensation. Section 23, 24 and 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, sub-section (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

³ (2011) 12 SCC 128

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 16 of 54 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, subsection (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 subsection, 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

eightly, 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.”

(8.2) On a careful examination of the aforesaid provisions, it becomes crystal clear that while determining the market value, the matters which are required to be considered have been enlisted in Section 23 of the 1894 Act whereas the matters which are to be ignored are enlisted in Section 24 of the 1894 Act. This Court, while interpreting the provisions in *Haryana State Industrial & Infrastructure Development Corporation versus Kulbir and Others (Regular First Appeal No. 4163 of 2017, decided on 01.09.2017)* has observed as under:-

“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 subsection 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”.

(8.3) Having heard the learned counsel for the parties at length, this Bench now attempts to resolve the dispute. At this stage, it may be noticed that the process of acquiring the land was initiated by a notification dated 11.01.2005 with respect to the following villages:-

The information has been compiled with alongwith area of the land

Sr.No.	Name of village	Area acquired (per acre)
1.	Kasan	514 Kanal 13 Marla
2.	Kukrola	97 Kanal 04 Marla
3.	Khaintawas	99 Kanal 14 Marla
4.	Dhana	241 Kanal 00 Marla
5.	Patli Hajipur	960 Kanal 04 Marla
6.	Sultanpur	798 Kanal 02 Marla
7.	Fazilwas	11 Kanal 13 Marla
8.	Mokalwas	185 Kanal 18 Marla
9.	Bas Lambi	313 Kanal 07 Marla
10.	Mubarikpur	242 Kanal 13 Marla
11.	Jhanjhrola	117 Kanal 01 Marla
12.	Babra Bakipur	100 Kanal 19 Marla
13.	Shed Mohammdpur	222 Kanal 01 Marla
14.	Kharkari	14 Kanal 11 Marla
15.	Fakharpur	182 Kanal 14 Marla

(8.4) The Hon'ble Supreme Court while remanding these matters to the Reference Court has observed as under:-

“34. In our considered opinion, the approach of the High Court in the facts of these cases does not appear to be right inasmuch as the High Court failed to take into consideration several material issues which arose in these cases and had bearing on determination of the fair market rate of the land in question under Section 23 of the Act.

35. First, the acquired land, in these cases, was a huge chunk of land measuring around 520 acres, 2 kanals and 13.5 marlas. Second, the entire acquired land was not situated in village Kasan but it was spread over in 15 villages as detailed above. Third, there is no evidence to show much less any finding of the High Court as to what was the actual distance among the 15 villages against one another, the location, situation/area of each village, whether any development had taken place and, if so, its type, nature and when it took place in any of these villages, the potentiality and the quality of the acquired land situated in each village, its nature and the basis, the market rate of the land situated in each village prior to the date of acquisition or in its near proximity, whether small piece of land or preferably big chunk of land, the actual distance of each village qua any other nearby big developed city, town or a place, whether any activity is being carried on in the nearby areas, their details. Fourth, whether the acquired land in the case of Pran Sukh (supra) in village Kasan and the acquired land in question are similar in nature or different and, if so, how and on what basis, their total distance etc.

36. These were, in our view, the issues which had material bearing while determining the rate of the acquired land in question.

37. The High Court, in the absence of any evidence on any of these issues, could not have determined one flat market rate of the acquired land in question by applying one isolated rate of one land situated in one village Kasan and adding 8% annual increase from 1994 in such rate and made it applicable to the entire lands situated in 15 different villages.

38. In our opinion, it is only when the evidence had been adduced by the parties to the lis on the aforementioned

issues, the Court would have been in a position to apply its mind objectively as to which method should be applied for determination of the rate, i.e., whether belting system or flat rate system or different rates for different lands depending upon the quality of land situated in different villages etc.

39. The fair market value of the acquired land cannot be decided in isolation on the basis of only one factor. There are several other factors, which govern the determination of the rate. These factors need to be proved with sufficient evidence. It must appear that the Courts have made sincere endeavor to determine the fair market rate of the acquired land and while determining has taken into account all relevant aspects of the case. It is the duty of the landowners and the State to adduce proper and sufficient evidence to enable the Courts to arrive at a reasonable and fair market rate of the acquired land prevalent on the date of acquisition.

40. Taking into consideration the aforesaid infirmities, which we have noticed, we have no hesitation in holding that the trial in these cases has not been satisfactory. We cannot countenance the cursory manner in which both the Courts below proceeded to determine the market rate of the acquired land. It has certainly caused prejudice to both the parties.”

(8.5) After receipt of the order of remand, the Reference Court in the 2nd round has compiled the information of sale exemplars relied upon by both the parties, in two separate tables, correctness whereof is not disputed. Hence, the same are extracted as under:-

Sale exemplars produced by the landowners

Sr. No.	Exhibits	Date of Execution of Sale Deed	Area K - M		Sale Consideration (in Rs.)	Rate per acre (in Rs.)	Revenue Estate of Village
1.	P7/ P31/ P39	6.8.2008	0	7	8,75,000/-	2 crore	Sultanpur
2.	P8/P30	16.12.2009	17	18	1,34,22,000/-	59,98,659/-	Sultanpur
3.	P17	18/09/06	1	3	7,00,000/-	48,69,565/-	Farrukh

							Nagar
4.	P27	16.2.2004	1	13.3	22 lakhs	10,57,570/-	Farrukh Nagar
5.	P28	11/06/04	1	3	4,97,000/-	34,57,391/-	Farrukh Nagar
6.	P29	25/06/04	1	14	7,24,500/-	34,09,412/-	Farrukh Nagar
7.	Mark B	28/12/09	8	1	56,00,000/-	55,65,217/-	Khaintawas
8.	Ex.PX	7.12.2004	0	5	1,05,000/-	33,60,000/-	Sultanpur
9.	Ex.PY	24.5.2006	24	0	75,75,000/-	25,25,000/-	Sultanpur
10.	Ex.P46	Mortgage Deed 23.11.2004	0	17	Six Lakh		Sultanpur
11.	Ex.P47	12.1.2006	0	6	1,50,000/-		Sultanpur

Sale exemplars produced by HSIIDC

Sr. No.	Exhibits	Date of Execution of Sale deed	Area K-M		Sale Consideration (in Rs.)	Rate per acre (in Rs.)	Revenue Estate of Village
1.	R5/R12	23/07/04	10	0	3,75,000/-	3,00,000/-	Sultanpur
2.	R6	21/06/04	14	16	4,60,000/-	2,48,649/-	Sultanpur
3.	R7	14/06/04	7	1	4,05,500/-	4,60,142/-	Sultanpur
4.	R8	22/07/04	3	8	1,95,000/-	4,58,824/-	Sultanpur
5.	R9	27/05/04	8	0	4,60,000/-	4,60,000/-	Sultanpur
6.	R13	24/11/04	19	4	10,04,000/-	4,18,333/-	Sultanpur
7.	R14	29/05/06	15	0	16,44,000/-	8,76,800/-	Sultanpur
8.	R15	05/12/06	10	6.5	12,00,000/-	9,29,782/-	Sultanpur
9.	R16	25/11/05	32	16	5,12,500/-	1,25,000/-	Sultanpur

(8.6) It may be noted here that the landowners have relied upon the assessment made by the Reference Court vide an award dated 27.08.2012 while deciding the cases of various other villages.

(8.7) Before analyzing/evaluating the contentions of the learned counsel representing the parties, it is appropriate to notice that apart from the sale exemplars, the parties have also produced various

judgments passed by the Courts while assessing the market value of the acquired land in the adjoining villages. The Reference Court after discussing each document has held that such assessment made with respect to land situated in various other villages cannot be made a basis to assess the market value of the land in the village Sultanpur. The correctness of the aforesaid finding has not been questioned by the learned counsel representing the parties. In any case, once sale deed exemplars of the village in question i.e Sultanpur are available, it would not be appropriate to rely upon a judicial determination of the land located in various other villages. The determination by the court depends upon the evidence produced. Whereas the sale exemplars are good and an appropriate document to rely upon while assessing the market value of the acquired land. The judicial determination can be subject to variation depending upon the evidence produced. Such determinations have certain amount of assumptions.

(8.8) Now let us the first analyse the arguments of the learned counsel representing HSIIDC. The first argument is to the effect that the Reference Court has committed error in including the sale deed exemplars produced by the HSIIDC. Undoubtedly, Section 25 of the 1894 Act provides that the amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11. Learned counsel representing the owners has failed to draw the attention of the Court to any provision which debars the court from taking into consideration the sale deed exemplars of the value lower than the amount awarded by the Collector. In Lal Chand (supra), the Hon'ble Supreme Court after examining the provisions of the 1894 Act has held that such sale deeds cannot be ignored. Hence, the Reference Court has committed an error.

(8.9) The next argument of the learned senior counsel representing HSIIDC is with reference to the Ex.PX, a sale deed with respect to the plot measuring 5 marlas dated 7.12.2004. This is with regard to a residential plot measuring 150 sq. yards, which has been sold for Rs.1,05,000/-. The Reference Court while relying upon such sale deed has increased the price for a period of 3 months on account of difference between the date of notification under Section 4 and the date of sale deed and thereafter applied a development cut at the rate of 35% to arrive at a figure of Rs.22,00,754/-. In the present case, the acquisition is of a vast tract of agricultural land whereas the sale exemplar PX is with respect to a small plot in a residential area. There cannot be any comparison between the price of a residential plot and

agricultural land. Indubitably, in the appropriate cases, the court may be left with no other choice but to rely upon such sale deed, particularly, when other such sale deeds have not been produced. In the present case, there are various other sale exemplars of the same period.

(8.10) The next argument of the learned counsel representing HSIIDC is with respect to the the percentage of cut to be applied for the development. This aspect shall be examined at a later stage, if required.

(8.11) Learned counsel representing the owners have contended that the location of the village Sultanpur is near Budhera and Farooq Nagar. Undoubtedly, the location of the village is near Farooq Nagar, however, that itself is not sufficient to prove the market value of the land in village Sultanpur. Next argument of the learned counsel representing the owners is that the sale deeds produced by the HSIIDC could not be relied upon. This aspect has already been examined and need no further deliberation. The learned counsel representing the landowners have tried to distinguish the judgment passed in *Lal Chand (supra)* but failed to put forth any convincing argument. Learned counsel contends that if the sale price of the sale deeds produced by the HSIIDC are of a lower value than the market value assessed by the LAC then obviously such sale deeds are with respect to the distressed sales and therefore, liable to be excluded. In the considered opinion of this Court, the argument has no substance. In the absence of evidence to prove that the sale exemplars produced by the HSIIDC are representing distressed sales, it would not be appropriate for the court to assume that only because the sale exemplars produced by the HSIIDC are depicting price lower than the assessment made by the LAC, therefore, these sale deeds represent distress sale of various pieces of the land.

(8.12) The next argument of the learned counsel representing the owners is about potential of the acquired land. It may be noted that no doubt, Sultanpur village is known for its bird sanctuary and Lake. It is located near Gurugram city. However, the market value cannot be determined, on the aforesaid basis. These facts may only be a corroborative material to assess the market value of the acquired land.

(8.13) Furthermore, learned counsel representing the owners have submitted while relying upon the judgment passed by the Supreme Court in *Chakas (supra)* that a higher development cut has been applied. This aspect shall be examined at a later stage, if required.

(8.14) The next argument of the learned counsel representing the owners is with regard to damages for severance/splitting of the unacquired land in two parcels. It may be noted here that the land owners have not produced any evidence to prove the extent of land left on one side of the road as compared to the other side of the road. The owners may have suffered a loss due to splitting of their remaining unacquired land, however, in the absence of proper evidence to prove the extent of unacquired land which stands split up on both the sides of road and to what extent they have suffered a loss, it becomes very difficult for the court to assess the damages on account of severance. Unequivocally, Section 23 of the 1894 Act recognizes and permits the court to grant damages sustained by the person interested by reason of severance of such land from his other land. In the aforesaid situation, ordinarily this Court might have remitted the matter back to the Reference Court, however, keeping in view the fact that matter has already been once remitted by the Hon'ble Supreme Court, it is considered appropriate to use thumb rule and assess the damages on account of severance of the land on the basis of precedents. Recently, while deciding appeals arising from acquisition of land for KMP Expressway from villages Daboda Khurd and others (RFA-5620-2013 titled as HSIIDC vs. Rattan Singh and others decided on 05.10.2021) this Court after noticing that the Reference Court awarded 20% of the acquired or un-acquired land, whichever is less, as damages for severance of the land, upheld the aforesaid view. In the cases arising from acquisition of land in one of the villages i.e Daboda Khurd, HSIIDC did not file any appeal.

(8.15) Keeping in view the aforesaid facts, it is declared that if on account of acquisition of a land the remaining land holding of the landowner has been split into two or more parts, then the landowners shall be entitled to 20% of the smaller parcel of un-acquired land. However, the damages for severance shall be restricted only to those owners who are left with less than 5 acres land in the smaller parcel. This assumption has been made, particularly, in view of the fact that due to splitting of the land, the landowner will have to not only cultivate his land in two independent parcels but also make a provision for irrigation of the land located in each parcel of land. Even the agricultural implements have to be carried to the other side of the road by going through underpasses, which may be at a distance. If a owner is left with a very small parcel of land, he may be forced to indulge in distress sale thereof.

(8.16) Now let us examine the judgment in the case of Chakas (supra). In the aforesaid case, the Hon'ble Supreme Court after noticing that major chunk of the acquired land has been allotted to M/s Nahar Industries Infrastructure Corporation Limited held that since the Government was not carrying out the development, ordered that the development cut should be 10%. In the facts of the present case, with highest respect, the aforesaid judgment is not applicable.

(8.17) Now let us carefully examine the sale exemplars produced by the respective parties. It is well settled that the sale deeds subsequent to the date of notification under Section 4 cannot be relied upon in view of Section 24 of the 1894 Act. Thus, the sale deeds post the date of notification under Section 4 of the 1894 Act dated 11.01.2005 cannot be relied upon. Now, the remaining sale deeds before this Court are sale deeds dated 16.02.2004, 11.06.2004, 25.06.2004 and 7.12.2004. Sale deeds dated 16.06.2004, 11.06.2004 and 25.06.2004 relate to the land located in village Farooq Nagar. No doubt, a small portion of the boundary of Farooq Nagar abut the boundary of the land located in village Sultanpur. However, that alone is not sufficient to return a finding that such sale deeds can be relied upon, particularly, when various sale exemplars of the land situated in village Sultanpur have been produced and available for comparison. The sale deed exemplar Ex. PX has already been discussed. Now, let us examine the sale deeds produced by HSIIDC. It is evident that the sale deed at item no. 7, 8 and 9 are post the date of notification for acquisition. Thus, the sale deeds from item no. 1 to 6 can be considered for assessing the market value. Through the sale deed dated 27.05.2004 the land measuring one acre was sold at the rate of Rs.4,60,000/- per acre, 7 months prior to the date of notification under Section 4 of the 1894 Act. This sale deed shows the highest price. Moreover, even the sale deed post the date of notification under Section 4 depict the maximum per acre price of Rs.9,29,792/-. The LAC has already assessed the market value at the rate of Rs.12,50,000/- per acre.

(8.18) There is another aspect of the matter which has come to the notice of the court and in the considered view, the same should not be ignored. The Reference Court or the Appellate Court under the 1894 Act is expected to ensure that the land owners get appropriate just and proper compensation for the compulsory acquisition of the land. It is the responsibility of the Court to assess the market value irrespective of the fact that whether the land owners have claimed appropriate amount or not? In *Narender Singh and others versus State of Uttar Pradesh*

*and others*⁴, the Hon'ble Supreme Court after noticing that the High Court did not grant appropriate amount as assessed on the ground that the land owners failed to claim the amount held that it is the duty of the court to ensure that the land owners get appropriate compensation for the compulsorily acquired land. It has come to the notice of the Court that State of Haryana took a policy decision. The first policy decision by the State was taken on 28.04.2005. Such decision was made applicable w.e.f. 05.03.2005. The land situated in the State was divided into three different zones for the purpose of fixing floor rates for land acquisition. In this policy decision, the Government decided that irrespective of the date of notification under Section 4 if the award of the LAC is made on or after 05.03.2005, the amount to be determined by the LAC shall not be less than what was decided in the aforesaid policy. The present case falls in category (ii) in para 5. The policy decision is extracted as under:-

“Subject:- Fixation of floor rates for acquisition of land for public purpose in the State of Haryana.

Sir,

I am directed to refer to the subject cited

and to state that the State Government has been acquiring land for public purposes for various departments as well as other State Agencies. Under the present system compensation is paid to the land owners based on the rate fixed by the Committee constituted under the Chairmanship of Divisional Commissioner vide this department letter No. 3670- R-5- 95/8943, dated 20.6.1995. This Committee had been recommending rates based on the quality, category and location of the land under acquisition.

2. It has been the general experience that the rates of compensation fixed for acquisition are quite low as compared to the market rates prevalent in that area. Consequently, the land owners have to approach the Courts for enhancing the compensation paid to them and this process of litigation takes a substantial time. Agricultural land all over the State has become very valuable and more so in the region surrounding Delhi. The farmer who is

⁴ (2017) 9 SCC 426

deprived of his only livelihood is entitled to a fair compensation based on the market rates prevalent in the area.

3. The question of bringing about an improvement in the system by fixing a minimum floor rate and thereby ensure payment of fair compensation to the farmers based on the market rates, has been under the active consideration of the State Government. The system of acquisition followed by the Delhi Administration as well as by the NOIDA operating in the NCR has also been studied.

4. It has now been decided by the Government that the State be divided into following Zones for the purpose of fixing floor rates of land acquisition:-

i) The urbanisable area as shown in the Gurgaon Development Plan.

ii) Rest of the NCR sub-region of Haryana including Panchkula and periphery of Chandigarh forming part of Haryana State.

iii) Rest of the State outside Haryana sub-region of NCR.

5. After due consideration, it has further been decided to fix the following floor rates for the above three Zones for acquisition of land for public purpose:

i) The urbanisable area of Gurgaon will have a minimum floor rates of Rs. 15.00 lacs per acre.

ii) Rest of the Haryana sub-region of NCR including Panchkula and area of Chandigarh periphery in the Haryana State will have a minimum floor rate of Rs. 12.50 lacs per acre.

iii) For the rest of the State minimum floor rate will be Rs. 5.00 lacs per acre.

iv) These rates do not include the solatium and interest payable under the provisions of the Land Acquisition Act.

6. The Committee headed by the Divisional Commissioner will continue to perform its duties while fixing the rate of compensation for various categories of land under acquisition based on these floor rates. It will continue to

take into account all these parameters for working out the land acquisition rate being followed at present while communicating the rate to the Acquiring Departments/Agencies in the State.”

9. Thereafter, Government of Haryana, issued letter dated 25.5.2005 clarifying about applicability of the aforesaid instructions/ policy dated 28.4.2005 with regard to fixation of floor price of acquired land for public purposes in the State. The relevant extract thereof is as under:-

“After a careful and detailed consideration, it has been decided that no award for acquisition of land to be announced on/ after 5th March 2005 shall be on rates lower than the floor rates, communicated to you vide this department letter dated 28-4-2005. The other provisions of the communication dated 28-4-05 will remained unchanged.”

(8.19) The aforesaid policy decision has been revised on 06.04.2007 while increasing the minimum floor rates in the State of Haryana for the acquisition of the land in the State of Haryana, which is extracted as under:-

"Sub: Fixation of floor rates for the acquisition of land for public purpose in the State of Haryana.

Ref: This Department Memo No. 2025-R-5-2005/4299, dated 28.4.2005.

Vide this Department Memo. under reference, minimum floor rates for acquiring land for public purposes for various Departments as well as other State Agencies were fixed by the Haryana Government as follows:

i) Minimum floor rate for urbanisable area of Gurgaon	Rs. 15.00 lacs per acre
ii) Minimum floor rate for rest of the Haryana Sub-Region of NCR including Panchkula and area of Chandigarh periphery in the Haryana State. Rs.12.50 lacs per acre.	Rs.12.50 lacs per acre.

iii) Minimum floor rate for the rest of the Haryana State.	Rs. 05.00 lacs per acre.
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(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."

(8.20) It has also been noticed that the Reference Court while deciding the cases of the villages Daboda Khurd and various other villages in District Jhajjar, the Reference Court relied upon such policy decision and the State did not assail the correctness of the aforesaid finding. This Court has decided the aforesaid appeals on 05.10.2021. In that case also the acquisition of land was for the same purpose i.e constructing Kundli-Manesar-Palwal Expressway. Furthermore, a coordinate Bench while deciding the appeals in ***Om Parkash and others versus State of Haryana and others*** in RFA-7450-2011 and connected cases decided on 30.03.2012 took a view that the

State has recognized the enhancement of the land's market value over the period of time due to various contributing factors, the prices of the land have been increasing. The Court after calculating the difference of Rs.3,50,000/- from 05.03.2005 and 22.03.2007, calculated proportionate per day increase and appropriately tweaked the market value. This Bench is in respectful agreement with the aforesaid view. In the present case, the increase in the market value per day comes to Rs.469.79 per day. There is a huge difference of 430 days from 05.03.2005. Thus, the additional amount works out to Rs.2,02,009.70 which is rounded to Rs.2,02,010/-. As in this case the award was passed on 10.05.2006 accordingly, taking the proportionate increase the amount as the market value works out to Rs.14,52,010/- per acre.

(9) In view of the aforesaid discussion, it is held that it would not be appropriate for the Court to assess the market value uniformly of the narrow strip of land acquired for construction of road. This Court finds support from the judgment passed by the Hon'ble Supreme Court in the case of *Surender (supra)* while remanding the cases back to the Reference court. It is further declared that it was not appropriate for the Reference court to rely upon a sale of plot measuring 5 marlas while assessing the market value of approximately 100 acres of land, particularly, when comparable sale deeds of contemporaneous period were produced by the HSIIDC in evidence.

(10) Keeping in view the aforesaid facts, the appeals filed by the HSIIDC are allowed whereas that of the landowners are dismissed. The amount of the market value of the land is re-determined at Rs.14,52,010/- per acre. In view of above, the cross objections also stand disposed of.

(11) All the pending miscellaneous applications, if any, are also disposed of.

Dr. Payel Mehta