



2023INSC759

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). _____ OF 2023
(Arising out of SLP(C) No(S).4487 OF 2022)

BESCO LIMITED . . . APPELLANT(S)

VERSUS

STATE OF HARYANA & OTHERS . . . RESPONDENT(S)

With

Civil Appeal No. _____ of 2023
(Arising out of SLP (C) No.4872/2022)

Civil Appeal No. _____ of 2023
(Arising out of SLP (C) No.4996/2022)

Civil Appeal No. _____ of 2023
(Arising out of SLP (C) No.14506/2022)

Civil Appeal No. _____ of 2023
(Arising out of SLP (C) No.6893/2023)

Civil Appeal No. _____ of 2023
(Arising out of SLP (C) No.14507/2022)

Civil Appeal No. _____ of 2023
(Arising out of SLP (C) No.5574/2023)

Civil Appeal No. _____ of 2023
(Arising out of SLP (C) No.5546/2023)

Civil Appeal No. _____ of 2023
(Arising out of SLP (C) No.5549/2023)

Civil Appeal No. _____ of 2023
(Arising out of SLP (C) No. _____)
(@ Dy. No(s). 10986/2023)

J U D G M E N T

S.V.N. BHATTI, J.

1. Leave granted.
2. The Civil Appeals arise from the Common Judgment and Decree dt. 02.11.2021 in RFA No. 1232 of 2019, in the High Court of Punjab and Haryana at Chandigarh. The landowners covered by Sec. 4(1) Notification dt. 13.05.2010 issued under the Land Acquisition Act, 1893 (for short, "the Act"), are appellants before us. The appeals are filed claiming enhanced compensation. Appeals relate to the Notification dt. 13.05.2010. The acquired lands

are located in (i) Village Malpura, (ii) Village Kapriwas and Sidhrawali. Hence, they are disposed of by the Common Judgment.

2.1. The State of Haryana, through the District Collector, District Rewari, issued Sec. 4(1) Notification under the Act, proposing to acquire land measuring 1222 Kanal, 6 Marla for establishing and developing an integrated industrial complex and other public utilities in Village Malpura, Sub Tehsil Dharuhera, District Rewari. The Industrial Complex is administered and run by Haryana State Industrial Development Corporation (HSIDC), Tehsil - Bawal, District - Rewari. The Land Acquisition Officer (LAO) by the award dt. 10.05.2013 determined the compensation payable to the landowners. The parties are called landowners, the State, LAO and the HSIDC for convenience. The details of the appellants/

landowners, etc., are stated in the following table:

NAME OF THE APPELLANTS	CASE NO.	IDENTITY OF THE LAND	EXTENT OF LAND	LOCATION
Besco Ltd. (Formerly Bhartia Electric Steel Co. Ltd.)	SLP(C)No. 4487/22	Musteel No. 26 Khasra No. 1/1; Musteel No. 28, Khasra Nos. 1, 2, 3, 8, 9, 10	47 Kanals, 13 Marlas (28,828.3 sq. yd. or 5.95 acres)	Village Malpura
1. M/s Rajdhani Nurseries Ltd. (Formerly known as M/s Sidharth Mercantile Ltd.)	SLP(C)No.6 893/23	Khewat No. 64/64, Rect No. 31, Killa No. 11 (9-13), 12 (7-18), 13 (7-13), 17 (8-0), 19 (8-0), 20 (8-0), Killa No. 21/2 (4-8), 22 (8-0), 23 (8-0), 24/1 (1-4)	178 kanals 17 Marlas (1,08,204.5 sq. yd. or 22.35 acres)	Villages Kapriwas and Sidhrawali
2. M/s Tower Leasingg & Finance Ltd.		Khewat No. 135/140, Rect. No. 33, Killa No. 11/1 (5-5) Khewat No. 63/63, Rect. No. 31, Killa No. 16 (8-0), 24/2 (6-16), 25 (8-0), Rect. No. 32, Killa No. 20/2 (2-0), 21 (8-0), 22 (4-8), Rect. No. 33, Killa No. 1 (10-0), 10 (7-12), Rect. No. 34, Killa No. 2(8-0), 3(8-0), 4 (8-0), 5 (8-0), 6 (8-0)		

VERDICTUM.IN

<p>1. Ramesh Kumar</p> <p>2. Ashok Kumar</p> <p>3. Rajender Prasad(Dea d)</p> <p>4. Surender Singh</p> <p>5. Amit</p>	SLP(C)No. 14507/22	Khewat No. 129, Rect. No. 43 Kila No. 21/2(5-16), 22/2(5-15), Kitat 2	11 Kanals, 11 Marlas (6,987.76 sq. yd. or 1.44 acres)	Village Malpura
Surender Singh	SLP(C)No. 14506/22	Khewat No. 109, Khatoni No. 110, Rect. No. 43, Kila No. 13/2(2-9), 18/1(3-10), Kitat 2	5 Kanals, 19 Marlas (3,599.76 sq. yd. or 0.74 acres)	Village Malpura
<p>1. Smt. Premlata w/o Randhir Singh</p> <p>2. Randhir Singh</p> <p>3. Hari Prakash</p> <p>4. Dharam -chand</p>	SLP(C)No.5 574/23	Financial Commisioner's standing order describes the identity from	Extent not indicated	Village Malpura
<p>1. Gaurav (now major) s/o Jagdish</p> <p>2. Rahul (now major) s/o Jagdish</p> <p>3. Prapti (now major) s/o</p>	Dy. No. 10986/23	Khewat No.128 khatoni 132 Rect. No.45 Killa No.1/2/1 (3-19), 2/2 (3-16), 9/1/2 (4-0) Kita 3.	11 kanals and 15 marla. (7,108 sq. yd. or 1.4 acres)	Village Malpura

Jagdish				
M/s Delton Cables Limited	SLP(C)No. 4996/22	Rect. No.41 Killa No.3,4/1,4/2,5/1,5/2,6,7,8/1,13/2/1, 14/1,15/1 Rect. No. 29 Killa No.24,25	74 kanals (44,770 sq. yd. or 9.25 acres)	Village Malpura
Bhram Dutt s/o Hari Singh s/o Gopal	SLP(C)No. 5546/22	Khewat No.126 khatoni 130 Rect. No.43 Killa No.21/1 (2-4), 22/1 (2-5), Rect. No.45 Killa No.1/1 (4-4), 2/1.	12 kanal 17 Marla (7774.26 sq. yd. or 1.6 acres)	Village Malpura
M/s ARS Enterprises Private Limited	SLP(C)No. 4872/22	Identity of land not indicated.	83,296.4 sq. yd. or 17.21 acres.	Village Malpura
Laxmi Narayan s/o Hari Singh.	SLP(C)No.5 549/23	Khewat No. 126, Khatoni 130, Rect. No. 43, Killa No. 21/1 (2-4), 22/1 (2-5), Rect. No. 45, Killa No. 1/1 (4-4), 2/1 (4-4)	12 Kanals, 17 Marlas (7,774.26 sq. yd. or 1.6 acres)	Village Malpura

3. The circumstances preceding the passing of the award, the claim of landowners, and documents relied on for claiming compensation in considerable detail are referred to both, by

the High Court and the Reference Court. Therefore, the circumstances necessary for disposing of the batch appeals are adverted to in the judgment.

4. The landowners based on the potential of the acquired land claim commensurate market value as of 13.05.2010. The acquired land is in a controlled area declared by the State of Haryana. Industrial Estate Dharuhera, Primary School at Village Maheshwari, Ghatal Mehnias and Aakera are at a proximate distance. The acquired land is claimed as situated in the industrial zone at Sector 15, Dharuhera. Apart from the advantageous neighbourhood of establishments and industries, the land under acquisition is located alongside National Highway No. 8, i.e., Delhi-Jaipur Highway and Industrial Sectors 15, 16 & 17. Further, land sectors 8, 9, 10, 12 & 13 are opposite the

industrial sectors of 17 and 16 across National Highway No. 8. Many development activities have occurred in and around the land acquired. The landowners refer to the existence of industrial units such as Penam Labs, U.B. Group, Capsu Gel, Weston, Hero Motors Ltd., RIICO, Omax, Sona Koya, M. Teck, Bestech, Utility Engineering, Luthra, IST etc within a radius of 1 k.m. of the acquired land. The acquired land had change in land use (CLU) under the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963. The gist is that the acquired land cannot be treated as an agricultural land.

5. The second Respondent/ LAO in the award enquiring primarily accepted the market rate determined by a Divisional Level Land Rates Fixation Committee under the Chairmanship of the Commissioner of the Division. The Chairman

furnished the data on the request made by the LAO. The rates determined by the said Committee are excerpted hereunder:

(a)Chahi/GM land Rs.40,00,000/- per acre.

(b)approach road upto depth 2 1/2 acres Rs.48,00,000/- .

(c)NH-8 up to depth of 2 1/2 acres Rs.50,00,000/- .

6. The award dt. 10.05.2013 determined the market value of the land acquired through Notification dt. 13.05.2010 as follows:-

MARKET VALUE

"To arrive at a conclusion to determine the market value of the land under acquisition, Haryana Govt., has constituted a Divisional Level Land rates Fixation Committee under the Chairmanship of concerned Commissioner of the Division. The District Collector, Rewari who is the member of the said committee, was requested to supply the market rate of the land under award and the same was supplied by the District Collector Chahi/GM Land Rs. 40,00,000/- per acre, Approach Road up to Depth 2 ½ acres Rs. 48,00,000/- and N.H.- 8 Up to Depth of 2 ½

acres Rs. 50,00,000/- vide his office Memo No. 2049-63/DRA dt. 29-04-2013. In view, of the above discussion, market rates fixed by the Divisional Level Land Rates Fixation Committee, are just and fair, so, I award the same accordingly".

Applying the above mentioned rates the land under acquisition has been worked as under:

(Emphasis added)

Name of the Village	Class of land	Area under Acquisition	Amount
Malpura	Chahi/ GM	801K-1M	40,05,25,000/-
	Approach Road Up to Depth 2½ Acre	66K-2M	03,96,60,000/-
	N.H.-8 to Depth 2½ Acre	355K-3M	22,19,68,750/-
	Total	1222K-6M	66,21,53,750/-

7. The excerpted portion discloses that the LAO has not determined the market value/ compensation to the land acquired in compliance with Sections 23 and 24 of the Act. The rates determined by the Divisional Level Land Rates

Fixation Committee, which is no more *res integra*, do not reflect the market value of the property acquired or basis for awarding compensation. It is a matter of record on the protest by the landowners; the determination of compensation was referred to the Additional District and Sessions Judge, Rewari.

7.1. The Reference Court, through the award dt. 21.11.2018, enhanced the compensation from Rs. 66,00,000/- to Rs. 67,12,050/- per acre. The Reference Court relied upon the exemplar in Ex. PW 4/3 dt. 13.08.2008 for an extent of 12 Kanal and 2 Marlas in Malpura Village, sale consideration of Rs. 2,16,00,000/- at Rs. 1,42,80,991/- per acre. The Reference Court refers to the judgments reported in "Smt. Basavva and Ors. v. Special Land Acquisition, (1996) 9 SCC, 640; Bhagwathula Samanna and others v. Special Tahsildar and

Land Acquisition Officer, Visakhapatnam Municipality (1991)4 SCC 506; Viluben Jhalejar Contractor v. State of Gujarat, (2005)4 SCC 789; Dilbagh Singh and others Vs State of Haryana, 1016(1) RCR (Civil) 736", deducted 60 per cent of the value in Ex. PW 4/3 and granted 10 per cent increment per annum from the date of sale till the date of Sec. 4 (1) Notification.

7.2. The landowners aggrieved by the deduction of 60 per cent from exemplar; and non-consideration of available sale exemplars of developed lands and grant of a minimum increase in value at 10 per cent per annum, filed regular first appeals before the Punjab and Haryana High Court in R.F.A No. 1232 of 2019 and batch. The High Court through the Impugned Judgment determined the market value for the lands at Malpura at Rs. 1,21,33,320/- .

The brief consideration or conclusion of the High Court for arriving at Rs. 1,21,33,320/- per acre is excerpted here under:

“Since the most appropriate sale exemplar appears to be Ex. P2, which is not only abutting the acquired land but also forms a part of the acquired land, therefore, it is safe to rely upon the same. However, the sale instance is of 19.06.2008, whereas the Notification under Section 4 of the 1894 Act was issued on 13.05.2010. The Court is required to determine the market value of the acquired land as on 13.05.2010. From a careful perusal of the sale exemplar (Exh. PW 4/3) and the sale deed produced in additional evidence (Ex. PY), it becomes evident that the price of the land was increasing quite rapidly. The location of the acquired land is prime. In fact, the Industrial Estate of Dharuhera has already been developed and a lot of builders/ developers/ industrialists have already started purchasing the properties in and around the Industrial Estate of Dharuhera. Hence, it will be safe to assume that the market value of the land was increasing @ 10% per annum. Taking into consideration the aforesaid facts, the amount arrived at comes to Rs. 1,21,33,320/- per acre. The Court is expected to take a pragmatic view while assessing the market value, particularly when the parcel of land covered by Ex. P2, although situated in village Kapriwas, is abutting the acquired land of village Malpura. The land sold through Ex. P2 has

also been acquired. Hence, the market value of the land is assessed at Rs. 1,21,33,320/- per acre".

Hence, the appeals for determination of market value and compensation payable for the land acquired.

8. We have perused the judgment under appeal and noted the rival contentions of the parties. The point for decision is in a very narrow compass.

9. The Learned Counsel appearing for the landowners contend that the High Court committed a serious illegality in referring to and applying the principle laid down in Lal Chand v. Union of India¹, for arriving at the market value of Rs. 1,21,33,320/-. The determination is without a reason. The High Court taking note of the potentiality of the land acquired; the development in the

¹ (2009) 15 SCC 769

neighbourhood and the purpose of acquisition rightly held that a 60 per cent deduction on the exemplar relied on by the trial court in Ex. P-4/3, is illegal and untenable. The Lal Chand case (supra) refers to permissible deduction between 20 to 75 per cent on exemplar sales, while arriving at the market value of the acquired land. In other words, the percentage of deduction the court adopts must be practical, pragmatic and realistic.

9.1 The Counsel invites our attention to the overall development of the neighbourhood as on Sec. 4(1) Notification dt. 13.05.2010 to claim enhanced compensation. The High Court, having held that the deduction of 60 per cent from the exemplar in Ex. P-4/3 is illegal, still did not adopt a correct percentage of deduction for arriving at the market value. It is pointed out that the High Court examined Ex. P-4/3 dt.

13.08.2008, a sale transaction of a property located in Village Malpura. The High Court recorded a finding of fact that there is no clear-cut boundary or division between Malpura and Kapriwas villages, and on another hand, the land acquired through the Notification and the land covered by Ex. P-4/3 dt. 13.08.2008. To sum up, the argument is even by applying the principle laid down in the Lal Chand case (supra), the determination of market value payable as compensation by the High Court suffers from serious flaws. The breach of mandate of Sec. 23 of the Act is manifested both in adopting exemplar Ex. P-4/3 or making a wrong deduction on the sale consideration recorded by the exemplar. The High Court ought to have accepted Ex. P-Y, upward land value increase in the locality for determining the

compensation payable under the subject land acquisition.

10. The Learned Counsel appearing for the Respondents contends that the market value determined by the High Court is completely on the higher side. The High Court lost sight of the total extent acquired through Sec. 4(1) Notification dt. 13.05.2010. The extent acquired through the acquisition proceedings is 153 acres. The Reference Court has examined all the relevant circumstances and applied the very principle laid in the Lal Chand case (supra) and determined the correct compensation payable for the subject land. The Learned Counsel commends to the Court to apply the belting system in determining compensation to the lands abutting the National Highway and lesser compensation to the lands situated away from the National Highway. He invites our attention

to the finding recorded by the Reference Court and argues that the compensation determined by the High Court is on the higher side. He prays for either modifying the compensation determined by the High Court or confirm the compensation awarded by the Reference Court.

11. We have taken note of rival contentions and perused the record. *Prima facie* we are of the view that the appeals on hand do not present laying down a principle for determining compensation for the subject acquisition. The appeals on the other hand call upon us to apply the very precedents and rely on the same exemplars, however, by adopting a correct method and mode. The following sale exemplars are taken note of as located in and around or nearer to the land under acquisition.

Sale exemplars

VERDICTUM.IN

Sr	Exhibit	Village & Extent of land.	Total Sale Consideration	Per acre	Remarks
1.	P-2 dt. 19.06.08	Kapriwas & 6 Kanal 19 Marlas	Rs. 90,35,000	Rs. 1,04,00,000	<p>(i) The exemplar is nearly two years before Sec. 4(i) Notification.</p> <p>(ii) The sale deed relates to a property in Kapriwas village.</p> <p>(iii) The sale deed can be relied on if no other exemplar is available.</p>
2.	P-4/3 dt. 13.08.08	Malpura & 1 Acre 4 Kanal 2 Marlas	Rs. 2,16,00,000	Rs. 1,42,80,991	<p>(i) The sale deed is from the same village.</p> <p>(ii) The sale deed covers an extent of 1 Acre 4 Kanal.</p> <p>(iii) The sale deed is two years prior to Sec. 4(1) Notification.</p> <p>(iv) The exemplar Could be relied upon subject to conditions such as location of both the lands, their development, applicable deduction etc.</p> <p>(v) The exemplar is relied on to appreciate the value two years back and the upward escalation in the village.</p>

3.	P-Y dt. 15.02.10	Malpura & 5 Kanal, 2 Marla	Rs. 1,42,62,445	Rs. 2,23,72,463	<p>(i) Exemplar from the same village.</p> <p>(ii) The extent covered by the exemplar is 5 Kanal 2 Marla = 60.5 square yards.</p> <p>(iii) The location is at a distance 500 mtrs on western side inside the main road.</p> <p>(iv) The exemplar is immediately preceding Sec. 4(1) Notification.</p> <p>(v) The exemplar is not contested as collusive etc.</p> <p>(vi) The exemplar of all the three sale deeds, represents comparable market value of plots.</p>
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12. A careful perusal of the above table makes one argument for the appellants, i.e., the High Court failed to stipulate the percentage of deduction while determining the market value. The reasoning must be complete in arriving at the compensation payable as Rs. 1,21,33,320/-. We are convinced that the conclusion of the High Court does not satisfy

the requirements stipulated by Sec. 23 of the Act in determining the compensation.

12.1. (i) The High Court substantially accepted that the land under acquisition is in the neighbourhood of a developing area;

(ii) the sale exemplars do not deal with small plots or parcels of land;

(iii) the deduction of 60 per cent on sale consideration covered by Ex. P-4/3 is erroneous;

(iv) that the land values in the locality are showing an upward increase, still in an abstract way arrived at Rs. 1,21,33,320/- for the land situated at Village Malpura, yet failed to give sufficient reasons for determining the market rate as Rs.

1,21,33,320/- on a reference for determination of market value, the Judgment substantially decides the method, mode and the final market value payable to the lands under acquisition.

The Impugned Judgment missed one or the other. Before embarking the market value of the lands under acquisition, the following principles are kept in our view.

A. Tehsildar Land Acquisition, Vishakhapatnam v. Smt. A Mangala Gowri²: "Where acquired land is in the midst of already developed land with amenities of roads, drainage, electricity etc., then deduction of 1/3 would not be justified. In the rural areas housing schemes relating to weaker sections, deduction of 1/4 may be justified."

B. Tribeni Devi v. Collector of Ranchi³: "In order to develop that area atleast the value of 1/3 of the land will have to be deducted for roads, drainage and other amenities."

2 (1991) 4 SCC 218

3 (1972) 1 SCC 480

C. Kasturi v. State of Haryana⁴: “Maybe the acquired land with potentiality for construction of residential and commercial buildings had some advantages, which aspect is taken note of by the High Court in giving cut of only 20% as against 1/3 normal deduction.”

D. Lal Chand (supra): “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, playgrounds 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

4 (2003) 1 SCC 354

percentage of 'deduction for development' may be far less. This is because in an unauthorized layout, usually no land will be set apart for parks, playgrounds 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 measuring 100 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 an 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). Therefore, the deduction for the

'development factor' to be made with reference to the price of a small plot in a developed layout, 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 layout 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%.

E. Haryana State Agricultural Market Board v. Krishan Kumar⁵: "Having regard to the fact that the acquired lands were in a semi-developed area within the Ganaur municipal limits, we are of the view that it would be appropriate to apply an aggregate deduction of 45% from the value of residential plots

⁵ (2011) 15 SCC 297

(towards the land for development and the cost of development) to arrive at the market value of the acquired lands. The High Court has taken the highest of the rates for residential plots. Such a rate will apply to residential plots in developed layouts adjoining the main road, in prime areas. There is no evidence to show the situation of the plots which fetched Rs 425 per square yard and situation of the plots which fetched Rs 225 per square yard. In the absence of any evidence, the deduction of 45% should be made from Rs 225 per square yard which necessarily will apply to residential plots in outlying areas like the acquired lands. Therefore, the market value will be Rs 225 less 45% per square yard, that is, Rs 140 per square yard or Rs 6,77,600 per acre."

F. In the case Acquainted Realtors LLP v. The State of Haryana⁶, this Court granted 8% flat increase over the market value assessed by the High Court, in respect of lands from villages which were found to be comparable, observing the slight developmental changes affecting increase in valuation.

G. In the case of Nelson Fernandes v. Special LAO⁷, this Court increased the High Court's evaluation of the land from Rs. 38 to Rs. 250 per sq. m. and reduced the deductions from 85% to 20%, holding the High Court's deductions impermissible in law.

H. In Shaji Kuriakose And Anr vs Indian Oil Corpn. Ltd. And Ors⁸, this Court has held that

6 (2021) 11 SCC 177

7 (2007) 9 SCC 447

8 (2001) 7 SCC 650

in case of a dissimilarity in respect of locality, shape, size or value of the land between the land covered by the sale exemplar under the land acquired, the court can proportionately reduce the value. This Court noticed the following 5 factors while assessing a fair market value of the acquired land:

(i) the sale must be a genuine transaction,

(ii) that the sale deed must have been executed at the time proximate to the date of 14 issue of Notification under Section 4 of the Act,

(iii) that the land covered by the sale must be in the vicinity of the acquired land,

(iv) that the land covered by the sales must be similar to the acquired land, and

(v) that the size of plot of the land covered by the sales be comparable to the land acquired.

13. A court, in determining the market value of acquired land as one of the factors, relies on exemplar sale deeds, decides the location/potentiality of the land sold through a private sale, and compares the nature and neighbourhood of the land acquired. The court is guided by relevant and admissible evidence and practical or pragmatic ways of commercial transactions,

suitable adjustment towards deduction for development charges and developed area.

13.1. The Reference Court relied on Ex. P-4/3 dt. 13.08.2008. Ex. P-4/3 is in respect of land situated in Village Malpura. The Sec. 4(1) Notification is dt. 13.05.2010. Ex. P-4/3 is anterior in point of time, and the extent of land is 12 Kanal 2 Marlas, which cannot be treated as a small residential or commercial plot. The Reference Court determined compensation after deducting 60 per cent towards development. The High Court, in our considered view, has rightly disagreed with the approach of the Reference Court. But the High Court failed by arriving at a market value of Rs. 1,21,33,320/- without factoring in an applicable deduction. We are convinced that Ex P-2 and P-4/3 are not appropriate exemplars to rely on and are taken into consideration for

appreciating the upward increase in market value in the subject village.

14. The findings of fact recorded both by the Reference Court and the High Court are kept in our perspective viz that as on the date of acquisition, the lands under acquisition were having CLU certificate under Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963. The land under acquisition cannot be completely treated as agricultural land, and at the same time, the land cannot also be treated as forming part of a developed or approved layout. The land has been in the hands of the landowners for industrial use, and therefore, the applicable deduction to the cases on hand could be 33 per cent. The incremental value of land from admitted or proved exemplars till the

acquisition is evident from Ex. P-4/3 and Ex. P-Y.

15. We are convinced that the land values in Malpura Village as evidenced in Ex. P-Y dt. 15.02.2010 are increasing. Ex P-Y has been brought on record as additional evidence before the High Court. The Map filed as Annexure P-1 in SLP No. 4487 of 2022 presents a quick view of the location, distance etc. of both, the acquired land and the land covered by private sale. The extent of land covered by Ex. P-Y is 5 Kanal, 2 Marla. The land in Ex. P-Y is on the western side beyond National Highway No. 8 [Delhi-Jaipur Highway]. The land in sale exemplar Ex. P-Y is in Malpura Village. The sale consideration in P-Y is Rs. 1,42,62,445/- for 5 Kanal, 2 Marla, per acre works out to Rs. 2,23,72,463. Ex. P-Y dt. 15.02.2010 is immediately preceding Sec. 4(1) Notification

dt. 13.05.2010. Therefore, we place reliance on Ex. P-Y and is an applicable exemplar for determining the market value of the land under acquisition. The above discussion takes us to the next aspect viz applicable deduction on the exemplar.

16. The acquired lands are not shown or established as agricultural land. Admittedly, substantial portions of the land under acquisition is abutting the National Highway No. 8. The area, even by the date of acquisition, is developed with industries in the proximity and has good potential for industrial use. CLU certificate discharges the initial burden of establishing that the land under acquisition is not agricultural land. Therefore, we apply the standard deduction 1/3 on exemplar value and are not persuaded to factor incremental increase on the exemplar in

as much as the time gap between Ex. P-Y and Sec. 4(1) Notification is brief. Assessed as above, the market value payable to 1 acre in Malpura village is arrived as follows:

$$2,23,72,463 \times 1/3 = \text{Rs. } 74,57,488/-$$

$$2,23,72,463 \quad - \quad 74,57,488 \quad = \quad \text{Rs.}$$

$$1,49,14,975/-$$

17. The subject lands are acquired under one notification and the plan brought on record evidences the location and proximity to development in and around the acquired land. The belting of area for valuation would be incorrect. We reject the argument of the State. Since we have not applied incremental value on the exemplar, we deem it just to determine uniform market value to the lands under acquisition.

18. Hence, for the above reasons and discussion we allow the appeals in part and determine the market value at Rs. 1,49,14,975/- per acre for the acquired lands with standard statutory benefits. Appeals allowed in part. No order as to costs.

.....J.
[B.R. GAVAI]

.....J.
[S.V.N. BHATTI]

NEW DELHI;
AUGUST 23, 2023.