

Delhi High Court Rameshwar Solanki vs Union Of India on 3 February, 1995  
 Equivalent citations: AIR 1995 Delhi 358, 57 (1995) DLT 410, 1995 (32) DRJ 559 Author: M Narain Bench: M Narain, A Srivastava JUDGMENT Mahinder Narain, J. (1) By this judgment we propose to deal with the Regular First Appeals that have arisen out of the acquisition of certain land in village Palam. (2) The relevant notification under section 4 of the Land Acquisition Act (hereinafter referred to as "the Act"), was issued on 27.01.1984. Statement under section 19 of the Act showing the khasra numbers, area of the land and the share of the persons in each of the khasra was also prepared. There is no dispute regarding the extent of the land, or the share of the appellant in the land. The Land Acquisition Collector had divided the land in three blocks "A", "B" and "C", and has given compensation to the appellant land @ Rs.8,400.00 per bigha for block "A", Rs.6,000.00 per bigha for block "B" and Rs.3,000.00 per bigha for block "C". (3) Being dissatisfied with the award of the Land Acquisition Collector, the appellant filed reference under Section 18 of the Act, saying that the land in question which has been acquired, could not be valued at less than Rs.300.00 per sq. yd. on the date of notification under section 4 of the Act. (4) It was the case of the appellant that the land in question is situated near the Indira Gandhi International Air Port, the Palam Air Port and is surrounded by the residential colonies of Janak Puri and Vikas Puri and by Delhi Cantonment. (5) The appellant says that his land is situated in front of Palam Najafgarh pacca 60 ft. wide road, and is very valuable land; that it has great potential value, civic amenities like transport, telephone, electricity, hospital, schools are all available near the land in question. That irrigation wells exist in the land of the appellant, i.e. khasra No.26/4/1 and 26/15, and the appellant claimed Rs.50,000.00 for each of these wells, and says that the price of the land should be Rs.3,00,000.00 per bigha. (6) On the pleadings of the parties, the Additional District Judge before whom the reference was made under section 18 of the Land Acquisition Act, framed two issues, which read as under:- 1.What was the market price of the land at the relevant time? 2.Relief. (7) After framing of the issues, the appellant adduced both oral as well as documentary evidence. In all nine witnesses were produced by the appellant. P.L. Bhatia was produced as A.W.I. He was L.D.C. in the office of the Sub-Registrar, Kashmere Gate, and proved copy of the sale transactions Ex.A.W.1/9 to Ex.A.W.I/10. Certified copies were filed. He was cross-examined, wherein he stated that he has no personal knowledge about the sale transactions. (8) The next witness produced by the appellant was Raj Kumar Sharma, Architect-cum-draftsman who has proved Aksh Sharma Ex.A.W-2/1, which shows the boundaries of the village Palam, location of various khasra numbers and also the boundaries of the villages which are contiguous to the village Palam. (9) A.W.3 was S.C. Mongia, U.D.C. in the office of Group Housing Section, Delhi Development Authority. He produced some summoned record. (10) A.W.4 was Gobind Ram, who deposed about the sale of land belonging to him and his son, being khasra No.83/19/2, each of whom had sold 15 biswas of land to Sulabh International South, Gandhi Maidan, Patna, for Rs.1,01,000.00 each by four sale-deeds Ex.A.W.1/7 to Ex.A.W.1/8 and Ex.A.W.1/9 and Ex.A.W.I/10. In cross-examination he stated that what

he had sold, was agricultural land and not plotted land. He further stated in the cross-examination that he and his sons were bhumidars of the land, and that after sale of the aforesaid land, the land measuring 4-1/2 bighas was left in his ownership and bhumidari. The sale to Sulabh International seems to be the highest price, the evidence of which has been led in this case, according to which the price of the land in Palam village at the time of sale, that is to say between 21.10.1981 to 29.09.1982 comes to Rs-1,34,616 per bigha. (11) A.W.5 was Rishi Ram Patwari, who was summoned to produce Aksh Shajra (revenue map) of the village. He deposed that the boundary of village Bindapur, Matiala, Mirzapur, Lehar-hedi and Palam adjoin each other, as was shown in Ex.A.W.2/1, proved by the witness Raj Kumar Sharma, Architect. The Aksh Shajra was exhibit marked as Ex.A.W-5/1. Rishi Ram also proved that khasra No-83/19/2 measuring 4 bighas 19 biswas was recorded in the ownership of Gobind Ram, A.W.4. Gobind Ram being the person who sold 15 biswas of land for Rs.1,01,000.00 to Sulabh International out of khasra No.83/19/2. (12) Lal Singh, a former Patwari of village Palam was also produced as A.W.6. He deposed that he was working in Land & Building Department, but previously was in Palam Circle for a period of four years. He has deposed that village Palam is governed by Delhi Land Reforms Act and Punjab Land Revenue Act, and jamabandi record was prepared in respect of the land governed by Punjab Land Revenue Act, while Khatauni record was prepared in respect of land governed by Delhi Land Reforms Act. He also deposed that the boundaries of village Palam, Matiala, Lohar Heri, Mirzapur, Bagh Dola, Nasirpur now adjoin each other. He also deposed that village Palam is situated near Janak Puri, Vikas Puri and Indira Gandhi International Airport. He further deposed that 5 or 6 roads pass through the acquired land, and all these are pucca metalled roads. He has also deposed that the land of Delhi Cantonment was also part of Palam village before it was acquired for Delhi Cantonment. (13) A.W.7 Ram Chander Patwari has proved the sale transactions Ex.A.W.7/1 to Ex.A.W.7/10. (14) A.W.8 Lachhey Ram deposed that he, Meer Singh, Hoshiar Singh and Subh Ram were co-bhumidars of the land bearing khasra No-84/18 and 84/17/2, in all measuring 5 bighas 3 biswas, situated in village Palam; that he and his brother Subh Ram and his co-sharers sold 17 biswas of land by two separate sale transactions Ex.A.W.1/3 and Ex.A.W.1/4 for a total consideration of Rs.48,000.00 each, in the year 1981 similarly other co-sharers, namely, Meer Singh and Hoshiar Singh have also received the said consideration money for the sale of the aforesaid land by four separate deeds Ex.A.W.1/1, Ex.A.W.1/6, Ex.A.W.1/2 and Ex.A.W.1/5 for a total consideration of Rs.48,000.00 each. That all had received entire consideration money for the sale of the aforesaid land. He has deposed that no land was left either with him, or with the co-sharers after the sale deeds have been executed. He also deposed that Meer Singh and Hoshiar Singh were dead. According to these sale deeds, the land was sold in the year 1981 at the rate of Rs.5640.00 per bigha. (15) A.W.9 Dalip Singh, former Pradhan of village Palam, deposed that Palam village is surrounded by land of village Mirzapur, Lohar Heri and Matiala; that there are two sets of land in village Palam, one is governed by the Punjab Land Revenue Act for which jamabandi is prepared, and the other

by the Delhi Land Reforms Act; and that killa No.83/19/2 in village Palam belonging to Gobind Ram, was governed by the Punjab Land Revenue Act. He further deposed that Palam colony is situated in village Palam; that the value of the land of Palam colony which is near the road, carries value of Rs.4,000.00 per sq. yd., and the land situated behind it carries value of Rs.1,000.00 per sq. yd.;s that the aforesaid price was prevalent at the time of notification under section 4 of the Land Acquisition Act in the year 1954 in the village. He further deposed that Qutab Enclave and Shushant Vihar are two colonies which are situated at a distance of about 12 km. from Palam village; that at the time when the colonizers sold the land and advertised the land for sale, the same was at the price of Rs.300.00 or Rs.400.00 per sq. yd. He has also deposed that the price of the land at Janak Puri and Vikas Puri at the time of section 4 notification, was not less than Rs.8,000.00 per sq. yd. He has also deposed that the land of village Palam was superior to the land of village Matila (or Matola); and that the entire land which was acquired by section 4 of the Land Acquisition, was cultivable land, and that Qutab Enclave is in District Gurgaon (Haryana). He has also deposed that Janak Puri is a developed colony, and Palam is not developed colony. He has further deposed that one killa is 250 ft. and Janakpuri is only 4 killa or 1000 ft. from Palam village. (16) Copy of the judgment of Mr. R.L. Chugh, Additional District Judge in L.A.Case No.235 of 1987, relating to village Matiala, were filed. According to this judgment, compensation was awarded in village Matiala @ Rs.36,400.00 per bigha, Rs.35,000.00 per bigha and Rs.24,400.00 per bigha. The judgment is dated 22.08.1989. (17) The Union of India has filed judgment in Land Acquisition Case No.153 of 1983, relating to village Kakrola, by which compensation was awarded at Rs.5,000.00 per bigha. Ex.R.2 is the map of village Palam, and Ex.R.3 is copy of the sale-deed dated 29.11.1983, whereby land measuring 3 bighas 9 biswas bearing khasra No.72/13/1 in the revenue estate of village Palam was sold for a total consideration of Rs.11,000.00 . (18) No other document was filed by the Union of India. (19) What is primarily required to be done in case of compulsory acquisition under the Act, is to arrive at the market value of the land. Section 23 of the Act reads 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 firstly, 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, 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 tend from his other land; Fourthly, damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason Of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings; Fifthly, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and Sixthly, damage (if any) bona

fide resulting from diminution of the profits of the land between the time of the publication of the declaration under Section 6 and the time of the Collector's taking possession of the land. (1-A) In addition to the market-value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market-value for the period commencing on and from the date of the publication of the notification under Section 4, sub-section (1), in respect of such land to the date of the award of the Collector, or the date of taking possession of the land, whichever is earlier.

EXPLANATION.-In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any court shall be excluded. (2) In addition to the market-value of the land, as above provided, the Court shall in every case award a sum of thirty per centum on such market-value, in consideration of the compulsory nature of acquisition. (20) Mr. Pawan Behl, who appears for the appellant, has urged that in arriving at the market value of the land, when evidence of sale of land in the same village is available, then that evidence should be looked at, and it is only if no evidence of any sale of land in the same village is available, then the sale price of the land in the other contiguous villages can be taken into account. For this purpose he refers to judgment of Division Bench, reported as (Pt. Jai Ram Singh u. Union of India & others), and contends that inasmuch as the evidence of sale transactions of the Palam village are available, it is such evidence which should be looked at, and the learned Additional District Judge has erred in looking at the price of the land in village Matiala (or Matola, as it is also known), in arriving at the market value of the land in village Palam at Rs.36,400.00 per bigha. (21) It is contended by learned counsel for the appellant that the best evidence which was available in the form of sale-deeds Ex.A.W.1/1, Ex.A.W.1/6, Ex.A.W.1/7 to Ex.A.W.1/IO, has been ignored. It is further contended by him that Ex.A.W.1/1 to Ex.A.W.1/6 relate to sales for the period October, 1981 to September, 1982, and the rate at which the land was sold, was Rs-56,470.60 p. per bigha, and Ex.A.W.1/7 to Ex.A.W.1/IO are the sale deeds relating to sale of land between 20.10.1981 and 29.09.1982, the market rate of land comes to Rs-1,34,666.60 p. per bigha. He contends that the Additional District Judge has erred in considering that the market rate of the land fluctuated in the year 1981-82. He further contends that in accordance with the law laid down by the Supreme Court in Sri Rani M. Vijayalakshnamma Rao Bahadur, Ranees of Vuyyur v. The Collector of Madras, 1968 (2) S.C.J.869, when the land is being compulsorily taken away from the appellant, "he is entitled to say that he should be given the highest value which similar land in the locality is shown to have fetched in a bona fide" transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition". According to the counsel for the appellant, the highest price which has been fetched, is Rs-1,34,666.60 p. per bigha, at which price the land was sold to M/s. Sulabh International during the period September, 1982; that the said sale was bona fide sale; that the sales took place more than two years before the date of notification, and, therefore, have to be taken as bona fide sales. It is the contention of learned

counsel for the appellant that the land which was actually sold to M/s.Sulabh International was located in village Palam, and was also subject matter of the same notification under section 4 of the Land Acquisition Act. However, when the award was delivered, the land sold to Sulabh International, was released from acquisition. In any case, the land sold to M/s. Sulabh International, being the subject matter of acquisition proceedings just as the land in the same village Palam belonging to the appellant, is subject matter of acquisition proceedings, following the principles laid down by the Court in (Jai Narain & others v. Union of India), as very large tracts of land in village Palam has been acquired, the whole of the land in village Palam should be acquired at the same rate. (22) Counsel for the appellant further contends that there has been rising trend in the price of lands in Delhi. In (M/s. D.L.F. Housing & Construction (P) Ltd., F. Block, Connaught Place, New Delhi v. Union of India), a Division Bench comprising D.K. Mahajan and S.K. Kapur, Jj, stated that "it is a matter of common knowledge that prices of land in Delhi have jumped by leaps and bounds progressively since 1950 onwards. Similar observations regarding the rising trend in prices of land in Delhi, are also to be found in Air 1988 Delhi 316, at page 319 (Prakash Chand Kashyapa v. Union of India). (23) In connection with rising trend in prices in Delhi, it is contended that rising trend in prices has now been statutorily recognised under section 23(1-A) of the Act, inasmuch as the said provisions recognise that the delay which occurs during section 4 notification, and the taking over of the possession or making of the award by the Collector, an additional amount should be paid at the rate of 12% per annum, for the market value which has been determined. In other words, what has been contended by the counsel for the appellant, is that the principle which was evolved by the Delhi High Court, that there should be an escalation in land values by Rs.1,000.00 per year, need not be followed any more, and deserves to be replaced by increase in the market value from the date of sale proved till the date of acquisition by 12% per year. The judgment of this Court which dealt with increase in the prices of land by-Rs.1,000.00 , was R.F.A. No.289 of 1990, decided on 08.04.1987, by Division Bench comprising T.P.S. " Chawla, Cj and Sunanda Bhandare, J" and ,(Rupinder Handa v. Union of India) comprising Sunanda Bhandare and Mohd. Shamim, JJ. (24) In connection with the market price of the acquired land, it was contended that the claim in this appeal is confined to Rs.1,16,000.00 per bigha, and in this view of the matter, counsel for the appellant relying up.on (Bhag Singh and others v. Union Territory of Chandigarh), stated that an opportunity be given to the appellant to pay additional court- fee to get the benefit of whatever is the enhanced market price which is fixed by this Court. (25) -COUNSEL for the appellant also relies upon (Smt. Tribeni Devi & others v. The Collector, Rainchi) for the proposition that the learned Additional District Judge was in error in relying upon the market price of the land of village Matola, which was not even situated in the same village Palam, (which was subject matter of acquisition) to arrive at the market price of the land in village Palam. The Supreme Court has observed in that case that, "we do not think that the High Court was justified in adopting the registered sale-deed, Ex.C-1 executed by the Ranchi Club, in

favor of the President of India, because that land is farther away not only from the land acquired but from the town though it is on the main Ranchi- Chaibasa Road.” Besides this. counsel has also referred to and relied upon a judgment of this Court reported as (Pt. Jai Ram Singh v. Union of India and others), which has held that transactions in the adjoining village can be a good guide when instances are not available in the village itself. In this case, according to the appellant, at least two distinct instances of sales are available in the same village, namely, by Ex.A.W.1/1, Ex.A.W.1/6 and Ex.A.W.1/7 to Ex.A.W.1/10, and these examples of sale, though they precede the notification under section 4 of the Land Acquisition Act by more than two years, are sufficient evidence of the sale price of land, particularly in view of the fact that either the executants of the sale-deeds or the attesting witnesses of the sale-deeds were produced for cross-examination to establish that the sales were bona fide sales. (26) In (supra), the Supreme Court has laid down general principles for determination of compensation under section 23 and section 24 of the Land Acquisition Act, as follows:- “THE general principles for determining compensation have been set out in Ss.23 and 24 of the Act. The compensation payable to the owner of the land is the market value which is determined by reference to the price which a seller might reasonably expect to obtain from a willing purchaser, but as this may not be possible to ascertain with any amount of precision, the authority charged with the duty to award compensation is bound to make an estimate judged by an objective standard. The land acquired has, therefore, to be valued not only with reference to its condition at the time of the declaration under section 4 of the Act but its potential value also must be taken into account. The sale-deeds of the lands situated in the vicinity and the comparable benefits and advantages which they have, furnish a rough and ready method of computing the market value. This, however, is not the only method. The rent which an owner was actually receiving at the relevant point of time or the rent which the neighbouring lands of similar nature are fetching can be taken into account by 568 capitalizing the rent which according to the present prevailing . rate of interest is 20 times the annual rent. But this also is not a conclusive method. This Court had in Special Land Acquisition Officer, Bangalore, v. T. Adinarayan Setty, the methods of valuation to be adopted in ascertaining the market value of the land on the date of the notification under Section 4(1) which are: (i) opinion of experts, (ii) the price paid within a reasonable time in bona fide transactions of purchase of the lands acquired or the lands adjacent to the lands acquired and possessing similar advantages; and (iii) a number of years’ purchase of the actual or immediately prospective profits of the lands acquired. These methods, however, do not preclude the Court from taking any other special circumstances into consideration, the requirement being always to arrive as near as possible at an estimate of the market value. In arriving at a reasonable correct market value, it may be necessary to’ take even two or all of those methods into account inasmuch as the exact valuation is not always possible as no two lands may be the same either in respect of the situation or the extent or the potentiality nor is it possible in all cases to have reliable material from which that valuation can be accurately determined.” IT is also

held at page 1421 in the same judgment that when dealing with a question of development of the land that the potential value has to be taken into account, and that certain deductions have to be made, and the Court held, “in order to develop that area, at least the value of 1/3rd of the land will have to be deducted for roads, drainage and other amenities”. (27) On behalf of Union of India we have heard Mr. Sandip Aggarwal, Advocate. He has contended that the market value of the land in village Palam on the date of acquisition was not Rs-1,34,666.60 p. per bigha, as evidenced by Ex.A.W.1/7 to Ex.A.W.1/10, but the market value other land was about Rs.11,000.00 per bigha, as is evidenced by Ex.R.3. The said document was exhibited as Ex.R.3, but neither the executant, nor the attesting witness to the said document, was produced. It is because of this document Ex.R.3 that the Additional District Judge has come to the conclusion that there is “wide fluctuation” in the price, and, therefore, it is appropriate to take the price of land in village Matola, rather than the proved sale price in the village Palam, to arrive at the market price of the land on the date of notification. (28) In view of the provisions of section 51A of the Act, it is permissible to exhibit mark certified copy of sale deed. The question is: what is its evidentiary value? This matter-has been examined by the Supreme Court, once without reference to section 51A of the Act in (Mehta Ravindrari Ajitrai and others v. State of Gujarat), in which case the Supreme Court held at page 2054, that the question was whether Ex.A-118 was correctly discarded by the High Court for arriving at the market value of the land. The Supreme Court found that Veerbhadrasingh on whose behalf, the land was purchased, was minor at the time when the sale-deed was executed. Veerbhadrasingh’s father had purchased the land in Veerbhadrasingh’s name, as he was only 12 years old at that time. The Court held that the evidence of Veerbhadrasingh in these circumstances, has no evidentiary value, as he had no personal information regarding the sale evidenced by Ex.A.118. The Court further held that one Ratilal who prepared the document, gave evidence in Court, but he did not have any personal knowledge about the transaction either. The Supreme Court, therefore, concluded that no reliance can be placed on Ex.118 for arriving at the market value of the land. (29) Counsel for the appellant referred to and relied upon (Inder Singh and others v. Union of India and others), to show that under the provisions of section 51A of the Act certified copy of the sale-deed certified by the Registrar of Assurances, could be exhibit marked. Counsel for the appellant, however, pointed out that, in para 4 of the said judgment, it has been stated that as a person who was examined, had no personal knowledge of the sale deed, though exhibit marked, could not be used as a basis for arriving at a true market value of the land in question on the date of section 4 notification. Counsel for the appellant, therefore, contended that Ex.R.3 had been rightly excluded for consideration. (30) It was contended on behalf of the Union of India, that the sales made to Sulabh International cannot be taken into account, as they related to plots of land which have been excluded from acquisition, as is evidenced by page 3 of the award relating to the village Palam. He was, however, unable to produce any authority for the proposition that merely because the plot is excluded from acquisition, the sale price as evidenced by the sale

deed, ought to be excluded for consideration. -We are, therefore, not inclined to accept this plea. (31) Further plea on behalf of Union of India that the sale to Sulabh International as evidenced by Ex.A.W.1/7 to Ex.A.W.1/10 related to plots of land, and not agricultural land was not borne out from the contents of the' sale-deed which records that the sale was of agricultural land. Besides no cross-examination of the witnesses produced for proving the aforesaid sale-deeds to this effect, has been made, and, therefore, this contention was not available to the respondent Union of India. (32) It has been urged on behalf of Union of India that even taking the evidence as produced by the appellant as it is, they relate to relatively small plots of land, and as such the evidence of the value of small plots of land, cannot be extended to cover the entirety of the acquisition, which has been made by notification under section 4 of the Act, and in any case, the large area of the appellant's land which is 26 bighas of land, particularly the instance of sale to Sulabh International relates to sale of 15 biswas each, that is to say total sale of 3 bighas, whereas the land of the appellant in the appeal before us, is 26 bighas or roughly 9 times size of the land. The evidence of sale of land is of small plots, whereas the total area of the land which was acquired, is 9 times of the size of the plot, and that it is necessary to reduce the price of larger area of land, as the market value of the larger plot is required to be determined. (33) In answer to this contention, counsel for the appellant has referred to the judgment of the Supreme Court, reported as 1991 Land Acquisition Laws 318 (Bhagwatmla Samanna v. Special Talhsildar mid Land Acquisition Officer), wherein Justice Fatima Bibi, speaking for the Court, stated: "THE proposition that large area of land cannot possibly fetch a price at the same rate which the small plots are sold, is not absolute proposition, and in given circumstances it would be permissible to take into account the price fetched by small plots of land. The land in the said case was found to be "even level and fit for construction" without the necessity for levelling or reclamation. The High Court had itself concluded on the evidence that the land covered by acquisition, are located by the side of the National Highway and the southern railway staff quarters with the Town Planning Trust road on the north. The neighbouring areas are already developed ones and houses have been constructed, and the land has potential value for being used as building sites. Having found that the land is to be valued only as a building site and stated the advantageous position in which the land in question lies though forming part of the larger area, a the High Court should not have applied the principles of deduction. It is not in every case that such a deduction is to be allowed. Where the acquired land is in the midst of already developed land with amenities of roads, electricity etc. the deduction in the value of comparable land is not warranted". THE proposition that large area of land cannot possibly fetch a price at the same rate at which small plots are sold is not absolute proposition and in given circumstances it would be permissible to take into account the price fetched by the small plots of land. If the larger tract of land because of advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not



warranted". (34) It is the case of the appellant that the land belonging to the appellant Rameshwar Solanki abuts on one of the roads; that the entire village Palam is part and parcel of areas which have been developed; village Palam is electrified; land of village is levelled; that the award does not state that the land is full of pits and would require extensive development. Therefore, no deduction ought to be made on account of sales, having been proved with respect to small areas of land. (35) As against this proposition advanced by the counsel for the appellant, we have judgment of a coordinate Bench of the Supreme Court, reported as Air 1992 Supreme Court 1407 (supra), in which case the fact that the sale deed which was proved related to 1 kanal of land, which is 0.125 acre, whereas the land acquired was 400 kanals, appears to be one of the factors that was taken into account by the Supreme Court for the purpose of reducing the value of the acquired land from Rs.1,20,000.00 per acre as contended for by the owner of the land, to Rs.80,000.00 per acre which the Food Corporation of India was willing to pay for it. On a calculation being made, it appears that the Supreme Court has deducted 1/3rd from the sale price. It appears that the Supreme Court has considered that the sale price of the larger plot should be reduced by 1/3rd as development cost when compared to the sale price of the smaller plot. (36) The question which we have to address ourselves, is: which of the two prices of land in village Palam that have been proved by the appellant Rameshwar Solanki, has to be accepted as market value of the land, whether it is Rs.56,470.00 per bigha as proved by Ex.A.W.1/1 to Ex.A.W.1/6, or Rs.1,34,666.60 p. per bigha as proved by Ex.A.W.1/7 to Ex.A.W.1/10. It is conceded by counsel that whatever is the price arrived at since the land is undeveloped land, from that 1/3rd has to be deducted on account of developmental costs. Before deduction is made to arrive at the price on the date of notification, we have to add 12% per annum to the price proved, in view of the statutory escalation as provided in the Land Acquisition Act, as amended, since 1984. (37) As the increase in price in one year from Rs-56,470.60 p. per bigha to Rs.1,34,666.60 p. per bigha appeared to be very substantial, i.e. roughly Rs.78,000.00 per bigha in one year, we asked the counsel for Union of India to look into the matter and inform us whether there was any other sale transactions although the same was not on record, to prove the market value of the land on the date of the notification in the year 1984. (38) According to the information which was brought to our notice by the counsel for the Union of India, there were large number of transactions regarding sale of land in village Palam, and the price for the land apparently varied from Rs.11,000.00 per bigha as evidenced by Ex.R-3, to Rs.46,000.00 per bigha in the year 1983. The Union of India has, however, chosen not to bring this evidence on record. Therefore, since it cannot take advantage of its own inaction, the same cannot be used to the disadvantage of the appellant. (39) Counsel for the appellant has stated that in a number of cases, this Court has decided that when large scale acquisition is made and the entire village is acquired for planned development, it would be appropriate to take the entirety of the land of the village as one unit, and not determine the market value of the land, of each of the land holders in the entire village. In other words, that the acquisition price for the village has to be at a uni-

form rate. For this purpose, reference is made to (2992)44 Dlt 342 (DB), (Chet Ram and others v. Union of India). We are in agreement with this contention of the appellant that the land in the village having been acquired for planned development of Delhi, should be paid for at the uniform rate. (40) It is not disputed that the land in village Palam has been subject matter of a number of acquisition. In the first instance, land in the village Palam was acquired for the purpose of building Delhi Cantonment. A good part of village Palam was then acquired, and Delhi Cantonment has been well established a very long time. Thereafter the land of the village was acquired for the purpose of constructing Air Force Station, arid Aerodrome for the Air Force, and thereafter the further acquisition in the village was made for the purpose of building Indira Gandhi International Airport. The Indira Gandhi International Airport, and the land which is now notified for acquisition, is separated by a railway line. (41) Access to the land in question. Which is now acquired, and the village Palam is through Delhi Cantonment, which has got "level crossing" for the purpose of crossing over the railway line, which divides the land acquired from Indira Gandhi International Airport. (42) The judgment reported as (Karan Singh & others u. Union of India) has been brought to our notice. This case related to the acquisition of land in village Gharoli, which is located to the east of Delhi across river Yamuna. In this case, because of the evidence led, the Court did not consider that the location of the land across the river Yamuna would have any effect on the price of the land, which was found to be Rs. 76,550 per bigha. We see no reason why in the case before us, the location of land of village Palam across the railway line should have any material effect on the market value of the land, particularly as the village Palam had access through Janak Puri, and a level crossing built on a road by the side of the Palam Airport. (43) We also find it difficult to accept without any explanation therefore that the price of the land in village Palam has jumped from Rs.56,470.00 to Rs.1,34,666.00 per bigha within a short span of one year, and we consider it more appropriate that the price in village Palam should be more realistically appraised on the basis of the sale deeds Ex.A.W.1/1 to Ex.A.W.1/6 Rs.56,470.00 per bigha. giving an escalation of 12% per year as recognised by a Db judgment of this Court reported as Air 1988 Delhi 316 (Prakash Chand Kashyap v. Union of India), at page 319, instead of past practice of this Court, referred to earlier, @ Rs.1,000.00 per bigha per year. (44) In view of the the judgment reported as Air 1988 Delhi 316 (supra), wherein escalation at the rate of 12% per year has been given following the statutory provisions made by the amendments in the Act, we think it appropriate to discard the practice of this Court to give escalation at the rate of Rs.1,000.00 per bigha, and accordingly, in line with that judgment it is appropriate that from 1981 till the date of notification in January, 1984, i.e. two years, the appellant would be entitled to escalation at the. rate of 12% on the market value proved by him vide Ex.A.W.1/1 to Ex.A.W.1/6, i.e. to say Rs.56,470.00 per bigha. Having accepted the price of land in village Palam at Rs.56,470.00 per bigha in the year 1981, we have to increase the same by 12% per annum twice, as a result of which the price of the land on the date of notification, i.e. in January, 1984, comes to Rs.70,836.00 Deducting 1/3rd from

the price, the market value comes to Rs.47,224.00 . The market price of the land on the date of notification in village Palam is, therefore, Rs.47,224.00 per bigha. In addition, the appellant will also be entitled to solarium at the rate of 30% on such market value in view of compulsory acquisition of land, as also interest at the rate of 9% from the date the Collector took over possession till the date of deposit of the enhanced amount of compensation awarded by the learned Additional District Judge. If the amount was paid into the Court after the date of expiry of the period of one year from the date when the possession was taken, the appellant will also be entitled to interest at the rate of 15% from the date of expiry of one year on the amount of excess or part thereof, which had not been paid into the Court. The appellant will also be entitled to interest at the rate of 9% for the period of one year from the date of taking of possession and at the rate of 15% thereafter on the enhanced amount of compensation till the enhanced amount of compensation is paid in accordance with our judgment. (45) In view of our judgment, the cross-appeal filed by the Union of India is dismissed.