

VED & ANR.

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v.

STATE OF HARYANA & ANR.

(Civil Appeal No. 1158 of 2021)

APRIL 08, 2021

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[UDAY UMESH LALIT AND VINEET SARAN, JJ.]

Land Acquisition Act, 1894: Enhancement of compensation – Acquisition of land for setting up Industrial Model Township, Phase V, Manesar for development of integrated complex for industrial, commercial, recreational and other public utilities – Award of compensation – Land-owners sought enhancement of compensation – High Court considered Exhibit P13 concerning an extent of land admeasuring 8 Kanals and 8 Marlas in the limits of Village Lakhnoula and two Sale Deeds (Exhibits P24 and P25) – It also considered the assessment of market value made by it in respect of acquisition pertaining to Phases II, III and IV in its decision in Madan Pal III vs. State of Haryana and finally arrived at the market value for the villages in question – The assessment in Madan Pal III vs. State of Haryana which was the foundation of the decision of the High Court in the instant case, was scaled down by this Court in Wazir and Another vs. State of Haryana – Therefore, theoretically, the market value arrived at by the High Court would be on the higher side – The Sale Deeds i.e. Exhibits P-13, P-24 and P-25, the extent of lands involved therein, their location and other features were considered by the High Court in right perspective – No interference called for.

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Dismissing the appeals, the Court

HELD: 1. With regard to Phases II, III and IV of the Industrial Model Township, Manesar, Gurgaon, acquisition proceedings were initiated in respect of lands falling in villages Naharpur Kasan, Kasan, Bas Kusla, Bas Haria, Dhana and Manesar by issuing Notifications dated 06.03.2002, 07.03.2002 and 26.02.2002 under Section 4 of the Act. The High Court vide its decision dated 09.03.2018 in *Madan Pal III vs. State of Haryana*, assessed the market value in respect of lands from villages Naharpur Kasan, Kasan, Bas Kusla, Bas Haria, and Dhana

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- A (covered by Phases II and III) at Rs.41.40 lakhs per acre; while the value for lands from village Manesar (covered by Phase IV) was assessed at Rs.62.10 lakhs per acre. The appeals arising therefrom were decided by this Court *vide* its Judgment dated 11.01.2019 as modified by Order dated 08.02.2019 in Civil Appeal Nos.264-270 of 2019 and other connected matters (*Wazir and Another vs. State of Haryana*) i.e., after the decision of the High Court which is presently under appeal. The relevant operative directions issued by this Court were:- In respect of lands under acquisition from Villages Naharpur Kasan and Kasan the market value shall be Rs.39,54,666 per acre. Additionally, all statutory benefits would be payable. In respect of lands under acquisition from Villages Bas Kusla, Bas Haria and Dhana the market value shall be Rs.29,77,333 per acre. Additionally, all statutory benefits would be payable. In respect of lands from Village Manesar the market value shall be Rs.59,31,999 lakhs per acre. Additionally, all statutory benefits would be payable.” [Para 4][359-G-H; 360-A-E]
- B 2. In the instant case, the High Court considered Exhibit P13 concerning an extent of land admeasuring 8 Kanals and 8 Marlas in the limits of Village Lakhnoula and two Sale Deeds in respect of M/s Conway Developers Private Limited. (Exhibits P24 and P25). It also considered the assessment of market value made by it in respect of acquisition pertaining to Phases II, III and IV in its decision in *Madan Pal III vs. State of Haryana* and finally arrived at the market value for the villages in question. As a matter of fact, the assessment in *Madan Pal III vs. State of Haryana* which was the foundation of the decision of the High Court in the present case, was scaled down by this Court in *Wazir and Another vs. State of Haryana*. Therefore, theoretically, the market value arrived at by the High Court would be on the higher side. [Paras 7, 8][361-D-F]
- C G *Madan Pal III v. State of Haryana (2018) SCC OnLine P & H 2871 – referred to.*
- D 3. Exhibit P-20 Sale Deed was rightly rejected by the Reference Court and the reasoning in that behalf is quite correct. The other Sale Deeds i.e. Exhibits P-13, P-24 and P-25, the extent of lands involved therein, their location and other features were
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considered by the High Court in right perspective and the matter A calls for no interference. [Para 9][361-G]

General Manager, Oil and Natural Gas Corporation Limited v. Rameshbhai Jivanbhai Patel and Another (2008) 14 SCC 745 : [2008] 11 SCR 92; Wazir and Another v. State of Haryana (2019) 13 SCC 101 : [2019] 2 SCR 571 – referred to.

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Case Law Reference

[2019] 2 SCR 571	referred to	Para 4	
[2008] 11 SCR 92	referred to	Para 10	C

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1158 of 2021.

From the Judgment and Order dated 25.05.2018 of the High Court of Punjab and Haryana at Chandigarh in RFA No.1804 of 2014.

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Civil Appeal Nos. 1159 of 2021, 1160-1197 of 2021, 1198-1210 of 2021, 1211-1218 of 2021, 1219-1227 of 2021, 1228 of 2021, 1229 of 2021, 1230 of 2021, 1231 of 2021, 1232-1233 of 2021, 1234-1240 of 2021, 1241-1242 of 2021, 1243-1248 of 2021, 1249-1250 of 2021, 1251 of 2021, 1252-1253 of 2021, 1254 of 2021, 1255-1272 of 2021, 1273-1278 of 2021, 1279-1280 of 2021, 1281 of 2021, 1282 of 2021, 1283-1287 of 2021, 1288-1302 of 2021, 1303 of 2021, 1304 of 2021, 1305 of 2021, 1306 of 2021, 1307 of 2021, 1308 of 2021, 1309-1310 of 2021, 1311 of 2021, 1312 of 2021, 1313-1316 of 2021 and 1317 of 2021.

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Narender Hooda, Rameshwar Singh Malik, Sushil Kr. Jain, Sr. Advs., S.P. Laler, B.K. Bagri, Abhishek Yadav, Devesh Kumar Tripathi, Abhay Pratap, Ms. Manju Jetley, Siddharth Mittal, Rajendra Beniwal, Prabhat Kumar, Ranbir Singh Yadav, Puran Mal Saini, Ms. Anzu K. Varkey, S.P. Goutam, Anil Mittal, Jitesh Malik, Vibhuti Sushant Gupta, Ram Naresh Yadav, Vikas Verma, Yadav Narender Singh, Puneet Jain, Ms. Anisha Jain, R.K. Verma, Nitin Jain, Ms. Sangita Tahbildar, Dr. (Mrs.) Vipin Gupta, Rakesh Kumar Yadav, Rameshwar Prasad Goyal, Gagan Gupta, Jasbir Singh Malik (for Ms. Usha Nandini V.), Dr. Shiva Sharma, Daya Krishan Sharma, Vikas Verma, Vinod Goyal, Swetank

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- A Shantanu, Pratap Shanker, Sanjiv Kr. Choudhary, Ms. Shilpi Shrivastav, Ms. Vanshaja Shukla, Parmanand Yadav, Ahuja Pethia, Suresh Kr. Kaushik, Daramvir Sharma, Ravi Panwar, B. Rajesh, Narendra Kumar Verma, Vibhuti Sushant Gupta, Advs. for the appearing parties.

The Judgment of the Court was delivered by

B **UDAY UMESH LALIT, J.**

1. Delay condoned. Permission to file Special Leave Petitions granted. Leave to appeal granted in all matters. These appeals challenge the Judgment and Order dated 25.05.2018 passed by the High Court¹; based on which the individual appeals were disposed of.

- C 2. The facts leading to the instant appeals, in brief, are as under:-

A) The proceedings for acquisition of lands were initiated *vide* Notification dated 17.09.2004 issued under Section 4 read with Section 17 (2) (c) of the Act² for the purpose of setting up Industrial Model

- D Township, Phase-V, Manesar, Gurgaon for the development of an integrated complex for industrial, commercial, recreational and other public utilities.

B) The aforesaid Notification was followed by Declaration dated 27.10.2004 issued under Section 6 of the Act. The land covered by the

- E Declaration admeasured 956 acres 5 Kanals 18 Marlas, the details of which as tabulated by the High Court were:-

C) By Awards dated 09.03.2006, the Land Acquisition Collector assessed the market value of the lands at the rate of Rs.12.50 lakhs per acre.

F	“Sr. No.	Villages	Area	
			Kanal	Marla
G	1.	Nawada Fatehpur	65	8
	2.	Naurangpur	68	15
	3.	Manesar	114	14
	4.	Lakhnoula	3515	01
	5.	Naharpur Kasan	3672	15
	6	Shikohpur (43B-9B-0B)	217	5
			Total	7653 18
			Or 956 Acre 5 Kanal 18 Marla”	

¹ High Court of Punjab & Haryana At Chandigarh in RFA No.3381 of 2013 (HSIDC now HSIIDC vs. Roshan Lal and Others) and other connected appeals.

H ² The Land Acquisition Act, 1894

D) While dealing with References preferred by the landholders, the Reference Court assessed the compensation at the rate of Rs.50,43,315/- per acre in respect of the villages other than village Manesar. Exhibit P-20 Sale Deed, relied upon by the landholders, was considered by the Reference Court as under:-

“... Sale deed Ex.P20 pertains to village Naharpur Kasan and sale deed Ex.P24 pertains to village Naurangpur. I have gone through the sale deed Ex.P20. In the considered opinion of this Court the sale deed Ex.p20 does not depict the true market value of the land. 96 kanals 13 marlas of land was sold for a total sale consideration of Rs.13,62,00,000/- on 28.04.2004. The price per acre comes to Rs.1.07 crores. A close scrutiny of the sale deed shows that the sale deed was not only with regard to land. There is an assertion in the sale deed Ex.P20 that the first party had good and marketable title to the industrial land and industrial building which consisted of basement, ground floor, first floor and second floor and was desirous of selling its rights, title, interest and liens in the industrial land and the building, structures and machinery imbedded in the earth. Two schedules were also attached with the sale deeds. Schedule-I gives the area of the land and Schedule-II gives the constructed area, machinery etc which includes canteen, kitchen, offices, 7 air handling units, air cooling units, centrifugal chillers comprising of 400 tons each, LAN networking with extensive cabling, fire fighting structure etc. The price was, therefore, for the entire plant and not for the land alone.”

E) The Acquiring Body, namely, HSIDC³ (now known as HSIIDC⁴) as well as some landholders, being aggrieved, filed appeals in the High Court.

F) The High Court assessed the market value in respect of lands falling in villages Naurangpur and Lakhnoula at Rs.48,46,000/- per acre; and in respect of lands falling in villages Nawada Fatehpur, Naharpur Kasan and Shikohpur the market value was assessed at Rs.43,61,400/- per acre. It relied on Sale Deed Exhibit P-13, where the land was having frontage on the National Highway No.8 and, after granting 12% enhancement it arrived at the figure of Rs.57,01,066/-, whereafter 15% cut was applied to assess the market value at Rs.48,45,907 (rounded off)

³ Haryana State Industrial Development Corporation Ltd.

⁴ Haryana State Industrial and Infrastructure Development Corporation Ltd.

- A to Rs.48,46,000/-) for the lands from villages Naurangpur and Lakhnoula falling on the Highway. Since the lands from villages Shikohpur, Nawada Fatehpur and Naharpur were away from the Highway, a further cut of 10% was adopted to arrive at the figure of Rs.43,61,400/- per acre for those three villages. The High Court relied upon the assessment made by it in *Madan Pal III vs. State of Haryana*⁵.
- B The relevant discussion was:-
- “71. The other instance which can be kept into mind is Ex.P13 dated 27.08.2003 for 8 kanals 8 marlas (slightly over one acre) which was executed in favour of M/s Reliance Industries Limited
- C falling in the limits of Lakhnoula. The frontage was on the National Highway No.8 of southern side itself as per description of the plot and the sale deed in question is more than a year prior in point of time. Keeping in view the growth factor and the potentiality of the land in question, which has been discussed in the evidence above that the IMT Manesar was being developed since the year 1994 in the vicinity and market value had already been assessed @ Rs.20 lakhs per acre at that point of time and for the year 2002 the market value had been assessed @ `41.40 lakhs per acre for adjoining village Naharpur Kasan, the pressure of building activity was immense and pace of progress was rapid. The industries had
- D been built up and exempted from acquisition which has been shown in blue colour in the site plans. The distance to Manesar was only 2 Km away, where the main activities were taking place. Gurgaon city was only 11 Kms situated on the other side and the overall picture that can be drawn up was that there was certainable trend of development from both sides towards the land in question. The site plan showed that the land was situated in more advantageous location and the potentiality was immense.
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- G 72. Keeping in view these circumstances, the enhancement of 12% would be required on the sale deed Ex.P13 for which the value of land which was Rs.50,90,238/. The 12% benefit is ‘6,10,828/- and per acre value works out to Rs.57,01,066/- per acre. As noticed Ex.P13 is of one acre of land and, therefore, the smallness of the plot is not applicable in the facts and circumstances, as one acre of land falling on the highway cannot be said to be a small portion of land. The description also shows
- H ⁵(2018) SCC OnLine P&H 2871

that it had a 75.8 meter frontage on the highway as per the dimensions given and, accordingly, this Court is of the opinion that a 15% cut for development would be appropriate in the facts and circumstances, which is liable to be put to assess the market value, which comes to Rs.8,15,159/- Thus, reducing it from '57,01,066/-, the market value works out to Rs.48,45,907/- per acre (rounded off to Rs.48,46,000/-) for the land falling in village Naurangpur and village Lakhnoula,which are abutting the highway. The sale exemplar being of higher value is, thus, being preferred over Ex.P7, which is not falling on the Highway also.

73. In similar circumstances in '*Chakas Vs. State of Punjab and others' 2011 (10) SCR 618*, when the land was being acquired for setting up of industry and infrastructure, it was held that the deduction of 50% of value towards the development charges was not justified by the Reference Court. It was noticed that the land was to be used for the industrial unit for which it was being acquired and, therefore, 10% reduction was upheld.

74. It is pertinent to notice here also that acquisition was for mixed purpose and the Corporation is going to recover the costs as such from the eventual allottees and, therefore, 15% reduction would be justified in the facts and circumstances.

75. In '*Kasturi Vs. State of Haryana' 2003 (1) SCC 354*, the 20% cut was applied when 84.23 acres was acquired for development of residential and commercial area in Bhiwani. The argument that there should be no reduction was repelled by noticing that the sale exemplar was of 3 kanals of land located on the main road itself and resultantly the 20% cut was applied by the Single Judge and which had been upheld by the Division Bench was also kept intact.

76. As noticed that the land which was acquired in the year 2002 is further away and closer to Manesar and away from Gurgaon, the market value of which has been assessed @ Rs.41.40 per acre for village Naharpur Kasan and other villages of the compact block in *Madan Pal (III)⁵ (supra)* on 09.03.2018. The earlier development having taken place in and around village Manesar, it being the hub of development and the IMT Manesar coming around it on the first account way back in the year 1994, the value of land

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- A of village Manesar and its surrounding were a relevant factor, whereby the industry concerned on an earlier occasion, namely, M/s Kohli Holding Pvt. Ltd. has been given a higher rate. Therefore, though the present land might be falling closer to Gurgaon as such, but away from the hub of development which is taking place at Manesar cannot be equated with same compensation, which has been given to M/s Kohli Holdings Pvt. Ltd and the landowners of village Manesar. The acquisition is of 2½ years later and, therefore, keeping in view the said factors also in mind, compensation for the land falling closer to the town of Gurgaon would be liable to be granted which was granted in the earlier acquisition for the land further away and, therefore, the assessment which has been made @ '48,45,907/- per acre (rounding it off to Rs.48,46,000/- per acre) would be a much appropriate market value.
- B 77. For the land of other villages i.e. Nawada Fatehpur, Naharpur Kasan, Shikohpur an other 10% is liable to be reduced on the said compensation assessed and, therefore, the market value is assessed @ Rs.43,61,317/- per acre (rounding it off to Rs.43,61,400/- per acre) for the said villages. From the evidence of witnesses discussed above, it would be clear that village Nawada Fatehpur and Shikohpur are at a distance from the highway. Nawada Fatehpur is at a distance of 4-5 Kms and Shikohpur is situated where the land was acquired for CRPF and also situated behind Naurangpur and not abutting the National Highway.
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- F 78. The evidence which is on record upon which one can safely fall back, in the present set of cases is in the form of the 2 sale deeds in M/s Conway Developers Ltd. (Exts. P24 & P25) in one set of cases, which show that the market value was Rs.57,60,000/- per acre in village Naurangpur. But as noticed above, the location has not been specifically brought to the notice of this Court, though an application for additional evidence has been filed, bringing on record the site-plans. One witness PW has deposed that it is abutting the main Highway and appropriate cut has, thus, to be fixed upon the same and especially since the land was towards Gurgaon, as noticed and abutting the Highway. Thus, if a 15% cut is given on the same, on account of locational advantage,
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it would work out Rs.8,64,000/- and the market rate would be Rs.48,96,000/- per acre which is around the same price as is being fixed @ Rs.48,46,000/- per acre.”

G) The operative part of the directions issued by the High Court was:-

“79. Resultantly, the appeals of the HSIIDC are allowed, whereas the appeals of the landowners for further enhancement and cross-objections for enhancement which are filed are dismissed and the awards passed by the Reference Courts are, accordingly, modified.

- (i) The market value of the land falling in two villages, namely, Naurangpur and Lakhnoula is assessed @ Rs.48,46,000/- per acre alongwith all statutory benefits on 17.09.2004. C
 - (ii) For the land falling in villages Nawada Fatehpur, Naharpur Kasan and Shikohpur, the market value is fixed @ Rs.43,61,400/- per acre along with all statutory benefits on 17.09.2004. D
 - (iii) The directions of the Apex Court in the case of ***Pran Sukh***⁶ (***supra***) will also be adhered to while disbursing the balance amount of compensation.
 - (iv) Where appeals have been filed by the land owners which were beyond period of limitation and applications have been filed for condoning the delay with a condition that the land owners will not be entitled for the interest during the said period, the Executive Court shall ensure that the amounts are calculated and disbursed, keeping in the view the said condition which have been passed in the case of each individual land owner.” F
3. Being aggrieved, these appeals have been preferred by the landholders. No appeal has been preferred by the State or the Acquiring Body and thus, the scope of instant appeals is limited to consider whether the landholders are entitled to any enhancement in compensation.

4. It must be stated at the outset that with regard to Phases II, III and IV of the Industrial Model Township, Manesar, Gurgaon, acquisition proceedings were initiated in respect of lands falling in villages Naharpur Kasan, Kasan, Bas Kusla, Bas Haria, Dhana and Manesar by issuing

⁶(2010) 11 SCC 175

- A Notifications dated 06.03.2002, 07.03.2002 and 26.02.2002 under Section 4 of the Act. The High Court *vide* its decision dated 09.03.2018 in ***Madan Pal III vs. State of Haryana***⁵, assessed the market value in respect of lands from villages Naharpur Kasan, Kasan, Bas Kusla, Bas Haria, and Dhana (covered by Phases II and III) at Rs.41.40 lakhs per acre; while
 - B the value for lands from village Manesar (covered by Phase IV) was assessed at Rs.62.10 lakhs per acre. The appeals arising therefrom were decided by this Court *vide* its Judgment dated 11.01.2019⁷ as modified by Order dated 08.02.2019⁸ in Civil Appeal Nos.264-270 of 2019 and other connected matters (***Wazir and Another vs. State of Haryana***⁷) i.e., after the decision of the High Court which is presently under appeal.
 - C The relevant operative directions issued by this Court were:-

“32. In the circumstances, we direct:

 - D 32.1 In respect of lands under acquisition from Villages Naharpur Kasan and Kasan the market value shall be Rs.39,54,666 per acre. Additionally, all statutory benefits would be payable.
 - D 32.2 In respect of lands under acquisition from Villages Bas Kusla, Bas Haria and Dhana the market value shall be Rs.29,77,333 per acre. Additionally, all statutory benefits would be payable.
 - E 32.3 In respect of lands from Village Manesar the market value shall be Rs.59,31,999 lakhs per acre. Additionally, all statutory benefits would be payable.”

5. In these appeals, it was submitted on behalf of the landholders that:-

 - F a) The lands from villages Naurangpur, Lakhnoula and Shikohpur being abutting National Highway No.8 towards Delhi and closer to Gurgaon than the lands from villages like Manesar, the lands from these villages were on a better footing.
 - G b) The lands had immense potentiality for residential and commercial purposes, being surrounded by many reputed Industrial Units, Resorts, Hotels and Farm houses.
 - G c) Certain Sale Deeds including Exhibit P.20 executed on 28.04.2004 showed value greater than what was assessed by the High Court.
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- H ⁷(2019) 13 SCC 101
H ⁸(2019) 13 SCC 123

d) Even if, the valuation determined in *Wazir and Another vs. State of Haryana*⁷ be taken as the base, after conferring cumulative increase for a period of 2 ½ years, the appropriate valuation for lands from village Naharpur Kasan would be:-

“Notification dated 06.03.2002 in Wazir’s case awarded to Naharpur		Yearly increment/Cumulative Interest for the period 2 years 6 months and 11 days		
Rs.39,54,666/- per acre		8%	10%	12%
		48,08,795	50,39,544	52,787,392”

6. On the other hand, it was submitted by the State that the valuation arrived at and the discussion by the High Court on the point did not call for any interference.

7. In the instant case, the High Court considered Exhibit P13 concerning an extent of land admeasuring 8 Kanals and 8 Marlas in the limits of Village Lakhnoula and two Sale Deeds in respect of M/s Conway Developers Private Limited. (Exhibits P24 and P25). It also considered the assessment of market value made by it in respect of acquisition pertaining to Phases II, III and IV in its decision in *Madan Pal III vs. State of Haryana*⁵ and finally arrived at the market value for the villages in question.

8. As a matter of fact, the assessment in *Madan Pal III vs. State of Haryana*⁵ which was the foundation of the decision of the High Court in the present case, was scaled down by this Court in *Wazir and Another vs. State of Haryana*⁷. Therefore, theoretically, the market value arrived at by the High Court would be on the higher side.

9. Even then we proceed to consider the evidence placed on record to see if the landholders are right in seeking enhancement.

Exhibit P-20 Sale Deed was rightly rejected by the Reference Court and the reasoning in that behalf, as quoted hereinabove is quite correct. The other Sale Deeds i.e. Exhibits P-13, P-24 and P-25, the extent of lands involved therein, their location and other features were considered by the High Court in right perspective and the matter calls for no interference.

That leaves us to consider whether by adopting the method of annual increase over the values determined in connection with acquisition

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- A for Phases II, III and IV any advantage can still be conferred upon the landholders.

10. In *General Manager, Oil and Natural Gas Corporation Limited vs. Rameshbhai Jivanbhai Patel and Another*⁹, this Court dealt with the issue of grant of annual increase and expressed caution in

- B following words:-

“15. Normally, recourse is taken to the mode of determining the market value by providing appropriate escalation over the proved market value of nearby lands in previous years (as evidenced by sale transactions or acquisitions), where there is no evidence of

- C any contemporaneous sale transactions or acquisitions of comparable lands in the neighbourhood. The said method is reasonably safe where the relied-on sale transactions/acquisitions precede the subject acquisition by only a few years, that is, up to four to five years. Beyond that it may be unsafe, even if it relates to a neighbouring land. What may be a reliable standard if the gap is of only a few years, may become unsafe and unreliable standard where the gap is larger. For example, for determining the market value of a land acquired in 1992, adopting the annual increase method with reference to a sale or acquisition in 1970 or 1980 may have many pitfalls. This is because, over the course of years,

- D E the “rate” of annual increase may itself undergo drastic change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices affecting the very standard of increase.”

11. It is true that the process of determining the value by annual increase was considered as one of the alternatives in *Wazir and Another vs. State of Haryana*⁷. But in that case, three methods including one relating to cumulative annual increase were considered and that method which led to the highest valuation was adopted. But the law laid down in *ONGC Ltd.*⁹ is quite clear.

- G In case we go by the method of cumulative annual increase it would mean that cumulative increase over the valuation in *Wazir and Another vs. State of Haryana*⁷ must displace the valuation based on Sale Deed, which is normally the safest method.

H ⁹(2008) 14 SCC 745

12. In the circumstances, the decision of the High Court which is presently under appeal calls for no interference and these appeals are dismissed without any order as to costs. A

Devika Gujral

Appeals dismissed.