

A M/S ACQUAINTED REALTORS LLP ETC. ETC.

v.

STATE OF HARYANA & OTHERS

(Civil Appeal Nos. 1330-1332 of 2021)

B APRIL 08, 2021

**[UDAY UMESH LALIT AND VINEET SARAN, JJ.]**

- Land Acquisition Act, 1894: Compensation – Land agricultural in nature and away from Highway – In the year 2002, C in respect of Phases II, III and IV of the Industrial Model Township, Manesar, Gurgaon, acquisition proceedings under s.4 of the Act were initiated with regard to lands falling in villages Naharpur Kasan, Kasan, Bas Kusla, Bas Haria, Dhana and Manesar – High Court vide its decision dated 09.03.2018 in Madan Pal III v. State of Haryana assessed the market value in respect of lands from villages D Naharpur Kasan, Kasan, Bas Kusla, Bas Haria, and Dhana (covered by Phases II and III) at Rs.41.40 lakhs per acre; while compensation for lands from village Manesar (covered by Phase IV) was assessed at Rs.62.10 lakhs per acre – Appeals arising therefrom were decided by this Court vide its Judgment dated 11.01.2019 as modified by E Order dated 08.02.2019 in Wazir and Another vs. State of Haryana i.e., after the decision of the High Court which is presently under appeal – The decision of the High Court in HSIIDC v. Roshan Lal and others, which was the basis of the decision in the present matters, had in turn relied upon the assessment made by the High Court in its earlier in Madan Pal III – Since the assessment in Madan Pal III F was scaled down by this Court in Wazir and Another v. State of Haryana, theoretically, the market value arrived at by the High Court in Roshan Lal case would be on the higher side – The acquisition in Roshan Lal case was a year before the present acquisition – If the lands in both cases were otherwise identical in material terms, the G valuation found with respect to the former in the year 2004, must have undergone some upward change when the valuation of the latter set of lands is to be considered for the year 2005 – Although, the decision in Roshan Lal was not challenged by the State, the fact remains that the values assessed in that decision were theoretically on a higher scale and the landholders, on that score, have received H an advantage – In totality of circumstances, the landholders must*

*be held entitled to 8% flat increase over the market value assessed in HSIIDC v. Roshan Lal and others in respect of lands from villages which were found to be comparable – The landholders must therefore get enhancement to the tune of 8% over Rs.43.61 lakhs per acre – They shall also be entitled to all the statutory benefits.*

**Allowing the appeals, the Court**

**HELD:** 1. *Wazir and another vs. State of Haryana* had considered the value by annual increase as one of the alternatives. Secondly, the rate adopted in that case was only 8%. The valuation in *Wazir and another vs. State of Haryana*, by itself, cannot therefore be taken as the basis in preference to what could possibly be concluded on the basis of Sale Deeds on record. The submission therefore does not merit acceptance. However, two aspects of the matter are quite striking and distinguish the instant acquisition from the one that was under consideration in *HSIIDC vs. Roshan Lal and others*. A) The notification for acquiring the lands for Kondli Manesar Palwal Expressway was issued prior in point of time. It is true that according to the record, except for certain exits, the Expressway would otherwise be unapproachable as stated by Assistant Manager, HSIIDC. However, a dimension distinguishing the instant case certainly got added in that, even if there was to be no direct approach to the acquired lands from the Expressway, in terms of potential, the lands in the instant case definitely got closer to development. B) Secondly, the acquisition in the case of *HSIIDC vs. Roshan Lal and others* was a year before the present acquisition. If the lands in both cases were otherwise identical in material terms, the valuation found with respect to the former in the year 2004, must have undergone some upward change when the valuation of the latter set of lands is to be considered for the year 2005. [Paras 11, 12, 13][388-F-H; 389-A-D]

*Wazir and Another v. State of Haryana (2019) 13 SCC 101 : [2019] 2 SCR 571 – referred to.*

2. The lands in the instant case were agricultural in nature and away from the Highway. At the same time, it cannot be ignored that the values arrived at in *HSIIDC vs. Roshan Lal and others* (in the light of subsequent decision in *Wazir and another vs. State of*

- A *Haryana) were themselves on the higher side. Although, the decision in HSIIDC vs. Roshan Lal and others was not challenged by the State, the fact remains that the values assessed is that decision were theoretically on a higher scale and the landholders, on that score, have received an advantage. In the totality of circumstances, the landholders must be held entitled to 8% flat increase over the market value assessed in HSIIDC vs. Roshan Lal and others. in respect of lands from villages which were found to be comparable. The landholders must therefore get enhancement to the tune of 8% over Rs.43,61,400 per acre. They shall also be entitled to all the statutory benefits. [Paras 14, 15][390-C-F]*
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*General Manager, Oil and Natural Gas Corporation Limited v. Rameshbhai Jivanbhai Patel and Another (2008) 14 SCC 745 : [2008] 11 SCR 927; Madan Pal III v. State of Haryana (2018) SCC Online P & H 2871 – referred to.*

#### Case Law Reference

- |   |                   |             |            |
|---|-------------------|-------------|------------|
| D | [2008] 11 SCR 927 | referred to | Para 3 (f) |
| E | [2019] 2 SCR 571  | referred to | Para 5 (d) |

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 1330-1332 of 2021.

- F From the Judgment and Order dated 01.06.2018 of the High Court of Punjab and Haryana at Chandigarh in RFA Nos. 2119, 2542 and 2543 of 2014 (O&M).

With

- G Civil Appeal Nos.1347-1355 of 2021, 1393-1400 of 2021, 1401 of 2021, 1402 of 2021, 1403 of 2021, 1404 of 2021, 1405 of 2021, 1408 of 2021, 1333-1335 of 2021, 1336-1341 of 2021, 1342-1346 of 2021, 1356-1362 of 2021, 1363-1364 of 2021, 1365-1366 of 2021, 1367-1372 of 2021, 1373-1375 of 2021, 1376-1388 of 2021, 1389-1392 of 2021, 1406 of 2021, 1407 of 2021, 1409-1436 of 2021, 1501-1502 of 2021, 1503-1507 of 2021
- H and 1437-1500 of 2021.

Narender Hooda, Rameshwar Singh Malik, Sushil Kr. Jain, Sr. A  
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  
Shantanu, Pratap Shanker, Sanjiv Kr. Choudhary, Ms. Shilpi Shrivastav,  
Ms. Vanshaja Shukla, Parmanand Yadav, Ahuja Pethia, Suresh Kr. C  
Kaushik, Daramvir Sharma, Ravi Panwar, B. Rajesh, Narender Kumar  
Verma, Advs. for the appearing parties.

The Judgment of the Court was delivered by

**UDAY UMESH LALIT, J.**

1. Delay condoned. Leave granted in all matters.
2. These appeals challenge the judgment and order date 01.06.2018 passed by the High Court<sup>1</sup> in RFA No.384 of 2013 (O&M) [Tej Singh and another v. State of Haryana and others], based on which the individual appeals were disposed of.
3. The facts leading to the instant appeals, in brief, are as under:-

A) The proceedings for acquisition of lands were initiated *vide* F  
Notification dated 27.09.2005 issued under Section 4 of the Act<sup>2</sup> for the purpose of setting up Industrial Model Township, Phase-VI, 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 G  
02.06.2006 issued under Section 6 of the Act. The lands sought to be acquired, admeasured 465 acres 5 Kanals 7 Marlas, the details of which as tabulated by the High Court were:-

<sup>1</sup> The High Court of Punjab and Haryana at Chandigarh

<sup>2</sup> The Land Acquisition Act, 1894

	“Scheme	Villages	Area Kanal	Marla
A	Transport Hub	Bas Khusla	427	15
		Bas Huria	177	8
		Dhana	961	13
		Kasan	458	10
		Bas Lambi	829	18
B	Transport Hub-II	Dhana	509	7
		Kasan	360	16”

C) By Awards dated 24.01.2007, the Land Acquisition Collector assessed the market value of the lands at the rate of Rs.12.50 lakhs per acre.

- C D) References initiated at the instance of land-holders were discussed by the High Court in its decision under challenge as follows:
- “Different reference courts at Gurugram dealt with the matter at different points of time and the first award in question was dated 18.12.2010, pertaining to Village Dhana, wherein a sum of Rs.46,07,890/- per acre was awarded as market value of the land while deciding 2 reference petitions, which is subject matter of RFA No.2453 of 2011 titled HSIIDC v. Ram Niwas and others. Similarly, on 04.09.2012, 26 reference petitions were decided for the said village, awarding the same amount of compensation, which is subject matter of RFA No.384 of 2013 titled Tej Singh v. State of Haryana and others. On 04.12.2012, another award was passed for the said village, wherein also, same amount of compensation was given, which is subject matter of RFA No.2874 of 2013 titled Marwan and others v. State of Haryana and others and which was followed by another award dated 22.03.2013, which is subject matter in RFA No.402 of 2016 titled Sunita Devi v. State of Haryana and others. On 09.05.2013, another award was passed wherein also, same amount of compensation was granted, which is subject matter of RFA No.6369 of 2013 titled Ranbir Singh v. State of Haryana.
- G However, vide award dated 07.10.2013, Reference Court granted a sum of Rs.50,70,359/- which is subject matter of RFA No.7913 of 2013 titled M/s Asylum Estate Pvt. Ltd. v. State of Haryana and others, whereas vide award dated 23.11.2013, which is subject matter of RFA No.2091 of 2014 titled Siri Chand and others v. State of Haryana and others, a sum of Rs.46,07,890/-

which had been granted earlier, was maintained. Another award was passed on 17.03.2015, which is subject matter in RFA No.3743 of 2015 titled Udey Singh and others v. State of Haryana and others for village Dhana wherein also Rs.46,07,890/- was awarded.

For Village Kasan, vide award dated 03.10.2012, which is subject matter of RFA No.2086 of 2013 titled Lal Singh v. State of Haryana and others, a sum of Rs.50,70,359/- was awarded while deciding 24 reference petitions.

For land falling in Village Bas Huria, vide award dated 09.11.2011, which is subject matter of RFA No.3426 of 2014 titled Sarup and another v. State of Haryana and others, a sum of Rs.46,07,890/- was granted. Reference Court vide award dated 10.11.2012, in RFA No.1971 of 2013 titled Sohan Lal and others v. State of Haryana and others, has also granted same compensation. Vide another award dated 29.04.2013, for Village Bas Huria, which is subject matter of RFA No.7119 of 2013 titled HSIIDC and others v. Chunni Lal and others, same amount of compensation was assessed. Thereafter, vide award passed on 01.09.2015, Reference Court, which is subject matter in RFA No.16 of 2016 titled Jai Pal Singh and others v. State of Haryana and others, fixed the compensation at the same amount.

Another Reference Court on 10.11.2012, while deciding 32 reference petitions, for Village Bas Lambi, which is subject matter of RFA No.958 of 2013 titlted Balbir v. State of Haryana and others, granted compensation of Rs.46,07,890/- whereby 829 kanals, 18 marlas of land was acquired.

For village Bas Khusla, while deciding 54 reference petitions on 28.09.2013, a sum of Rs.68,32,893/- was granted by applying the cumulative method, which is subject matter of RFA No.4004 of 2014 titled HSIIDC v. Amar Pal and others. Similarly, RFA No.4424 of 2015 titled Ishwar @ State of Haryana and others, deals with award dated 01.10.2014 wherein also, Rs.68,32,893/- was granted.

While assessing the market value, vide award dated 18.12.20110, for village Dhana, for the first time, the Reference Court kept in mind compensation awarded in HSIIDC v. Pran

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- A Sukh (2010) 11 SCC 175 whereby a sum of Rs.20 lacs has been awarded as compensation for the notification dated 15.11.1994, for setting up the Industrial Model Township, Phase-I, Manesar. It was further noticed that for notification dated 07.03.2002 of Village Dhana, besides land of Village Kasan, Bas Kusla, Bas Huria, which was also for the development of Phase-III, one Reference Court had awarded a sum of Rs.28,15,849/- by giving increase of 12% on Rs.15 lacs, as had been assessed by this Court. Since the Apex Court had enhanced the value @ Rs.20 lacs in Pran Sukh's case (*supra*), the same was relied upon by granting 12% increase for the time-gap of 10 years, 10 months and 12 days between the 2 notifications dated 15.11.1994 and the one in question dated 27.09.2005, to assess the market value of Rs.46,07,890/- . The apportionment claimed, as such, was also decided in favour of the claimants and the claim of Gram Panchayat was denied.
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- D However, for the same Village Dhana, vide award dated 07.10.2013, another Reference Court relied upon the award dated 03.10.2012 for Village Kasan, which is subject matter of RFA No.2086 of 2013, to grant higher compensation of Rs.50,70,359/- , on the ground that it was pertaining to the same notification and the public purpose was the same, i.e., for completing the infrastructural facilities and other public utilities such as roads, water supply, sewerage, electrification etc.
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- F Thus, it is apparent that for the same acquisition, Rs.46,07,890/- and Rs.50,70,359/- have been awarded for Village Dhana and similarly, for Village Kasan also, Rs.50,70,359/- has been awarded. However, Village Bas Khusla, Rs.68,32,893/- was awarded, without the Reference Court having, in any manner, recorded a finding, as such, that the lands situated in those villages were superior or were better placed and without making any reference to the site-plans in question.”
- G E) For facility, the brief details of the orders in References and the amounts awarded as compensation are tabulated:-

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“Sr. No.	Date	Amount as compensation per acre (in Lacs)
<b>Re: Village Dhana</b>		
1	18.12.2010	46.07
2	04.09.2012	46.07
3	04.12.2012	46.07
4	22.03.2013	46.07
5	09.05.2013	46.07
6	07.10.2013	50.70
7	23.11.2013	46.07
8	17.03.2015	46.07
<b>Re: Village Kasan</b>		
9	03.10.2012	50.70
<b>Re: Village Bas Huria</b>		
10	09.11.2011	46.07
11	10.11.2012	46.07
12	29.04.2013	46.07
13	01.09.2015	46.07
<b>Re: Village Bas Lambi</b>		
14	10.11.2012	46.07
<b>Re: Village Bas Kusla</b>		
15	28.09.2013	68.32
16	01.10.2014	68.32”

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Thus, except for cases at serial Nos.6,9,15 and 16, the market value was consistently fixed at Rs.46.07 lakhs per acre.

F) The acquiring body, namely, HSIIDC<sup>3</sup> as well as land-holders approached the High Court by filing 114 Appeals and 19 cross Objections. The High Court framed the following questions for consideration:

“(i) Whether cumulative increase was liable to be granted on the basis of an Award for the notification dated 15.11.1994 for the acquisition dated 27.09.2005 where there was a gap of 10 years and 10 months between two notifications and whether the Awards are sustainable on that account;

(i) Whether the sale deed dated 16.08.2004 in favour of M/s Conway Developers Ltd., which was subject matter of consideration in a bunch of appeals lead case in which was RFA No.3381 of 2013 ‘HSIIDC v. Roshan Lal and others’ decided on 25.05.2018 are liable to be taken into consideration pertaining to village Naurangpur which was for Phase-V of the IMT Manesar,

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<sup>3</sup> Haryana State Industrial and Infrastructure Development Corporation

- A whereas the present acquisition is for the Transport Hub, which is Phase-IV of the IMT Manesar.
- (ii) What is the relevant market value of the land situated in Villages Dhana, Kasan, Bas Huria, Bas Khulsa and Bas Lambi as on the date of Section 4 notification dated 27.09.2005.”
- B Relying on the decision in *General Manager, Oil and Natural Gas Corporation Limited v. Rameshbhai Jivanbhai Patel and another*<sup>4</sup> the High Court answered the first question against the land-holders. While dealing with the evidence on record the High Court relied upon its decision rendered on 25.05.2018 in *HSIIDC v. Roshan Lal and others*. It was found in that case that sale deed dated 17.08.2003 [Ext.P-13] was the most appropriate sale instance, based on which valuation at Rs.48,46,000/- per acre was arrived at for lands from Villages Naurangpur and Lakhnoula falling on the National Highway whereas the lands falling inside and away from the Highway were subjected to a cut of 10% and the market value for lands falling in the villages Shikohpur, Nawada Fatehpur and Naharpur Kasan was arrived at Rs.43,61,400/- per acre.
- Finding that the lands in the instant case were comparable with the lands from Villages Shikohpur, Nawada Fatehpur and Naharpur Kasan, the High Court fixed market value in respect of the lands concerning E present acquisition at Rs.43,61,400/-. The relevant discussion was as under:-
- “50. The argument raised by Mr. Shailender Jain, Sr. Advocate that the sale deed dated 16.08.2004, in favour of M/s Conway Developers Pvt. Ltd. which fall in Village Naurangpur, wherein F land was sold for Rs.57,60,000/- per acre should be the relevant sale exemplar and should be taken into consideration to fix the market value of the present 5 villages, though attractive at the first blush, but is not liable to be accepted. While deciding the cases of adjoining village, i.e. Naurangpur, Shikohpur, Nawada Fatehpur, Naharpur Kasan and Lakhnoula, wherein land had been G acquired for Phase-II of the Industrial Model township, for industrial, commercial, recreational and other public utilities, the said sale deed had been taken into consideration for the notification dated 17.09.2004 in RFA No.3381 of 2013 – HSIIDC now HSIIDC

H <sup>4</sup>(2008) 14 SCC 745

v. Roshan Lal and others, decided on 25.05.2018. The market value of the 2 villages, namely, Lakhnoula and Naurangpur has been assessed at Rs.48,46,000/- since they were falling on the Highway for the notification dated 17.09.2004. The land falling in the interior and away from the Highway, in Villages Naharpur Kasan, Nawada Fatehpur and Shikohpur were given Rs.43,61,400/- per acre. Even in the said case, it was noticed that the location of the said sale deed had not been brought on record on the siteplans and from the evidence, it would be clear that it was falling on the main road on the National Highway No.8 and abutting the same and was in favour of a Developer. Accordingly, the sale deed was taken into consideration for assessing the market value of the said villges, especially Naurangpur and Lakhnoula, as such, which were abutting the main highway also, as per the site-plan in question. The market value, as such was found that it was hovering around Rs.57 lacs, as such. However on the basis of sake deed dated 17.08.2003 (Ext.P13), in the said set of cases, whereby land measuring 8 kanals 8 marlas wa sold in favour of M/s Reliance Industries Ltd. in Village Lakhnoula with the frontage of 75.8 meters on the National Highway No.8 on its southern side, as per the description given in the site plan, the value was , thus, worked out at Rs.50,90,238/- per acre by granting 12% enhancement Rs.6,10,828/-, keeping in view the development which was taking place in the said area. The per acre value had thus worked out at Rs.57,01,066/- and thereafter, 15% cut had been applied to assess the market value at Rs.48,45,907/- (rounded off to Rs.48,46,000/-) for the land falling on the highway for Village Naurangpur and Lakhnoula. The lands falling inside and away from the Highway were assessed by granting another 10% cut and accordingly, for land falling in Village Shikohpur, Nawada Fatehpur and Naharpur Kasan, the amount was further reduced to Rs.43,61,400/-.

51. The pleadings and evidence have already been discussed in detail in the above paras and it is amply clear that the land in question is located at a considerable distance ranging from 7 to 10 kms from National Highway aNo.8 and therefore, cannot be granted the benefits of the land which is abutting the Highway and closure to the main town of Gurgaon since Naurangpur is

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- A situated ahead of Manesar towards Gurgaon. The argument that the market value of the land adjoining villages could also be taken into consideration while assessing the market value, would not apply in the present case, as a perusal of the site plans would go on to show that there are several revenue estates between the lands which have been acquired of he 5 villages and village Naurangpur. The site plan (Ext.P222 and Ext.R1, in RFA No.384 of 2013 – Tej Singh's case) would show that the land is on the fag end of the development which is taking place on the Highway and away from the National Highway. Village Naharpur Kasan, Lakhnoula and Maneswar's revenue estates would come in between the lands of the acquired villags. The distance though pleaded in several cases that it was close to the National Highway No.8, has been clarified time and again by the appellant-Corporation that it is ranging between 7-10 kms from the National Highway. In such circumstances the sale deed in favour of M/s Conway Developers Pvt. Ltd. could not be safe exemplar for fixing the market value and, therefore, the said judgment is rejected.
52. The issue of assessing the market value would, thus, necessarily have to be on the basis of a closer sale deeds of the villages in question or of the adjoining villages. As noticed earlier, in RFA No.3381 of 2013 titled HSIDC now HSIIDC v. Roshan Lal and others, the sale deed in favour of M/s Reliance Industries was kept in mind for assessing the market value which fell in the revenue estate of Village Lakhnoula. The land acquired in Village Naharpur Kasan, market value was accordingly, fixed at Rs.43,61,400/- after giving the necessary cut. The said award, as such, can be treated as relevant piece of evidence to assess the market value of he acquired land also since Naharpur Kasan is the adjoining village. The difference between the two notifications in question was for a period of one year as the earlier notification was dated 17.09.2004 whereas the present notification is dated 27.09.2005. It has already been noticed on an earlier occasion in Maqdan Pal-III (*supra*) that major developments was taking place in the area in the form of industry being encouraged and the big names had already come in like Maruti Suzuki Ltd. The 10% increase, thus, can be safely granted which would enhance the market value to Rs.47,96,540/- per acre. However, the said benefit,

as such, is also not liable to be granted, keeping in view the location of the land which is deeper inside and would not fetch the same value though a period of one year might have gone by which the subsequent Section 4 notification had been issued. Accordingly, this Court is of the opinion that the market value for the lands of the 5 villages in question, namely, Dhana, Kasan, Bas Huria, Bas Lambi and Bas Khusla is liable to be assessed at the same amount as what was granted to Naharpur Kasan, @ Rs.43,61,400/- per acre along with situatory benefits.”

Going by the location, the High Court found that the lands involved in the instant acquisition were identical to the lands from Villages Shikohpur, Nawada Fatehabad and Naharpur Kasan. It relied on site plan Ext.P22. It also considered the difference of about a year between two notifications i.e. to say the notification dated 17.09.2004 under Section 4 of the Act in the earlier case and notification dated 27.09.2005 in the present case. It was observed that logically 10% increase could safely be granted. However, considering the location of the lands and being satisfied that there would not be any difference in the value despite lapse of a year, it assessed the market value for the lands in question at Rs.43,61,400/- per acre.

The appeals preferred by HSIIDC<sup>3</sup> were thus allowed while the challenge raised by the landholders was rejected.

4. 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.

5. It was submitted on behalf of the land holders: -

(a) The lands in the instant appeals abutted the Kundli-Manesar-Palwal Expressway, in respect of which notification under Section 4 of the Act was issued on 11.01.2005 i.e. even prior to the initiation of acquisition in the instant case. The lands in the instant case, therefore, had huge potential;

(b) Sale deed dated 28.04.2004 (Ext.P27 in the instant case) was wrongly rejected by the High Court. This sale deed pertained to an extent of 12 acres of land which was sold at the rate of Rs.1.13 crores per acre;

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- A (c) Even post acquisition sale deeds, namely, Ext.P11 to P14 and P28 to P30 were erroneously rejected by the High Court and the compensation for the lands in the instant case could easily have been arrived at by applying de-escalation on the post-acquisition sale deeds; and
- B (d) Going by the valuation arrived at by this Court in *Wazir and another v. State of Haryana*<sup>5</sup>, cumulative annual increase at 12% per annum could appropriately have been granted.
- 6. It was submitted on behalf of the State *inter alia* that the High Court was right in relying upon Sale Deed dated 17.08.2003 to arrive at the valuation in respect of villages Shikohpur, Nawada Fatehpur and Naharpur Kasan and thereafter adopting same valuation for the lands involved in the instant case.
- 7. It must be stated here at the outset that in respect of Phases II, III and IV of the Industrial Model Township, Manesar, Gurgaon, acquisition proceedings were initiated with regard to 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*<sup>6</sup> 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 compensation 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<sup>7</sup> as modified by Order dated 08.02.2019<sup>8</sup> in Civil Appeal Nos.264-270 of 2019 and other connected matters (*Wazir and Another vs. State of Haryana*<sup>5</sup>) i.e., after the decision of the High Court which is presently under appeal. The relevant operative directions issued by this Court were:-
- “32. In the circumstances, we direct:
- G 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.

<sup>5</sup>(2019) 13 SCC 101

<sup>6</sup>2018 SCC Online P & H 2871

<sup>7</sup>(2019) 13 SCC 101

H <sup>8</sup>(2019) 13 SCC 123

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. A

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.” B

Pertinently, the decision of the High Court in **HSIIDC v. Roshan Lal and others**, which was the basis of the decision in the present matters, had in turn relied upon the assessment made by the High Court in its earlier decision dated 09.03.2018 in **Madan Pal III v. State of Haryana**<sup>6</sup>. Since the assessment in **Madan Pal III vs. State of Haryana**<sup>6</sup> was scaled down by this Court in **Wazir and Another vs. State of Haryana**<sup>5</sup>, theoretically, the market value arrived at by the High Court in **HSIIDC v. Roshan Lal and others** would be on the higher side. C

8. We, however proceed to consider the material on record to see whether the landholders are right in their contentions and are entitled to enhanced compensation. D

9. Sale Deed dated 28.04.2004 (Exhibit P-27 in the instant case) was considered by the High Court as under:-

“The sale deed dated 28.04.2004 by M/s Gillette India whereby land measuring 12.08125 acres was sold in Naharpur Kasan which is developed portion of the village with a industrial unit running on it, which would be clear from Schedule-II and therefore, the value of the said sale deed in favour of Lotto Finance & Investment for a sum of Rs.13.62 crores, would not be correct exemplar, which could be taken into consideration to assess the market value.” E F

Schedule II to the Sale Deed shows that apart from the land described in Schedule I, constructed area, machinery including canteen, kitchen, offices, 7 air handling units, air colling units, centrifugal chillers of 400 tons each, LAN networking with extensive cabling, fire fighting implements also formed part of the price. G

This document was therefore rightly ruled out.

10. Post-acquisition sale deeds have, at times, been relied upon by Courts. But in a case where pre-acquisition sale instances are H

- A otherwise found to be adequate and appropriate, post-acquisition instances, by themselves, cannot outweigh and discard such pre-acquisition sale instances. The pre-acquisition pointer in the form of Sale Deed dated 17.08.2003 in favour of Reliance Industries Limited with adequate frontage on National Highway was rightly found to be appropriate. No fault can be found with such exercise.
- B 11. While answering question No.1 against the landholders, the High Court relied upon following observations in the decision in **ONGC Ltd.**<sup>4</sup>
  - C “15. Normally, recourse is taken to the mode of determining the market value by providing appropriate escalation over the proved market value of nearby lands in previous years (as evidenced by sale transactions or acquisitions), where there is no evidence of any contemporaneous sale transactions or acquisitions of comparable lands in the neighbourhood. The said method is reasonably safe where the relied-on sale transactions/acquisitions precede the subject acquisition by only a few years, that is, up to four to five years. Beyond that it may be unsafe, even if it relates to a neighbouring land. What may be a reliable standard if the gap is of only a few years, may become unsafe and unreliable standard where the gap is larger. For example, for determining the market value of a land acquired in 1992, adopting the annual increase method with reference to a sale or acquisition in 1970 or 1980 may have many pitfalls. This is because, over the course of years, the “rate” of annual increase may itself undergo drastic change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices affecting the very standard of increase.”
  - E
  - F
- G **Wazir and another vs. State of Haryana**<sup>5</sup> had considered the value by annual increase as one of the alternatives. Secondly, the rate adopted in that case was only 8%. The valuation in **Wazir and another vs. State of Haryana**<sup>5</sup>, by itself, cannot therefore be taken as the basis in preference to what could possibly be concluded on the basis of Sale Deeds on record. The submission therefore does not merit acceptance.
- H 12. However, two aspects of the matter are quite striking and distinguish the instant acquisition from the one that was under consideration in **HSIIDC vs. Roshan Lal and others**.

A) The notification for acquiring the lands for Kondli Manesar Palwal Expressway was issued prior in point of time. It is true that according to the record, except for certain exits, the Expressway would otherwise be unapproachable as stated by PW3 Ranbir Singh Yadav, Assistant Manager, HSIIDC. However, a dimension distinguishing the instant case certainly got added in that, even if there was to be no direct approach to the acquired lands from the Expressway, in terms of potential, the lands in the instant case definitely got closer to development.

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B) Secondly, the acquisition in the case of *HSIIDC vs. Roshan Lal and others* was a year before the present acquisition. If the lands in both cases were otherwise identical in material terms, the valuation found with respect to the former in the year 2004, must have undergone some upward change when the valuation of the latter set of lands is to be considered for the year 2005.

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13. The High Court was right to a certain extent that there was nothing on record to indicate such upward movement. At this stage, we may refer to the principles laid down by this Court in *ONGC Ltd.*<sup>4</sup>:-

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

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14. On the other extreme, in remote rural areas where there was no chance of any development and hardly any buyers, the prices stagnated for years or rose marginally at a nominal rate of 1% or 2% per annum. There is thus a significant difference in increases in market value of lands in urban/semi-urban areas and increases in market value of lands in the rural areas. Therefore, if the

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- A increase in market value in urban/semi-urban areas is about 10% to 15% per annum, the corresponding increases in rural areas would at best be only around half of it, that is, about 5% to 7.5% per annum. This rule of thumb refers to the general trend in the nineties, to be adopted in the absence of clear and specific evidence relating to increase in prices. Where there are special reasons for applying a higher rate of increase, or any specific evidence relating to the actual increase in prices, then the increase to be applied would depend upon the same.”

14. Guided by the rule of thumb stated in said decision, and even while considering that the lands in the instant case were agricultural in nature and away from the Highway, in our considered view, two aspects detailed hereinabove, definitely weigh in favour of the landholders. At the same time, it cannot be ignored that the values arrived at in ***HSIIDC vs. Roshan Lal and others*** (in the light of subsequent decision in ***Wazir and another vs. State of Haryana***<sup>5</sup>) were themselves on the higher side. Although, the decision in ***HSIIDC vs. Roshan Lal and others*** was not challenged by the State, the fact remains that the values assessed is that decision were theoretically on a higher scale and the landholders, on that score, have received an advantage.

15. In the totality of circumstances, in our view, the landholders must be held entitled to 8% flat increase over the market value assessed in ***HSIIDC vs. Roshan Lal and others***, in respect of lands from villages which were found to be comparable. The landholders must therefore get enhancement to the tune of 8% over Rs.43,61,400 per acre that is to say Rs.47,10,312 per acre (rounded off to Rs.47,10,500 per acre). Needless to say that they shall also be entitled to all the statutory benefits.

- F 16. These appeals are allowed to the extent indicated above, without any order as to costs.