

IN THE HON'BLE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

To

The Deputy Registrar (Judicial)

Punjab & Haryana High Court,

Chandigarh.

CWP No.....2022

Haryana Urban Development Authority (Now Haryana Shehri Vikas
Pradhikaran), Hisar through its Administrator

.... Petitioner

Versus

Land Acquisition Collector, Urban Estates, Haryana, HUDA Complex, Sector
13, Hisar and others.

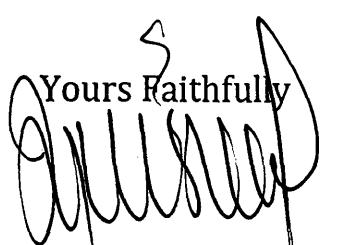
.... Respondents

Sir,

Will you kindly treat the accompanying petition as an urgent
one in accordance with the provision of Rule 9, Chapter 3-A, Rules and
Orders of High Court, Chandigarh Volume V

2. The grounds of urgency are: as prayed for

Place: Chandigarh
Dated: 1202.2022

Yours faithfully

(ANKUR MITTAL)
Advocate
P/1296/01
Counsel for the Petitioner(s)

IN THE HON'BLE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No. of 2022

Haryana Urban Development Authority (now HSVP), Hissar through its
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Land Acquisition Collector, Urban Estates Deptt. Hry, Hisar and Ors

....Respondents

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Sr. No	Particulars	Dated	Page	Court Fees
1.	List of Dates and Events	12.02.2022	01 – 03	0.00
2.	Civil Writ Petition	12.02.2022	04 – 27	50.00
3.	Affidavit	12.02.2022	28 – 29	3.00
4.	Annexure P-1 (Award)	19.08.2010	30 – 36	5.00
5.	Annexure P-2 (Judgment passed by Hon'ble High Court)	22.12.2015	37 – 43	3.00
6.	Annexure P-3 (Judgment passed by Hon'ble Supreme Court of India)	27.10.2017	44 – 76	6.00
7.	Annexure P-4 (Application)	23.01.2018	77 – 87	8.00
8.	Annexure P-5 (Impugned Award)	28.08.2018	88 – 90	2.00
9.	Annexure P-6 (Judgment of High Court)	06.09.2021	91 – 113	3.00
10.	Power of Attorney & Resolution	12.02.2022	114 – 116	3.00

Total Court fee(s): Rs. 83.00

Note: i) The main law point involved in the present writ petition is contained in paragraph no. 9 at page no. 24.

- ii) Relevant Acts & Statute:a. Constitution of India.
- b. Land Acquisition Act, 1894.
- iii) Any other similar case : CWP No. 2520 of 2022 titled as Haryana Urban Development Authority Vs. Land Acquisition Collector, HUDA and others next date of hearing 15.03.2022. Order passed by Hon'ble High Court on 10.02.2022 is reproduced herein below:-

"...The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

The learned counsel representing the petitioner inter-alia contends that the application under Section 28-A of the Land Acquisition Act, 1894, was not maintainable on the basis of the judgment passed by the High Court while deciding an appeal under Section 54 of the Land Acquisition Act, 1894 as well as by the Supreme Court. He contends that the application under Section 28-A of the Land Acquisition Act, 1894, can only be filed if the Reference Court enhances the market value of the acquired land from the award passed by the Land Acquisition Collector. In support of his of arguments, he relies upon the judgment passed in Haryana State Industrial and Infrastructure Development Corporation Limited vs. Smt. Shanti and others (Civil Writ Petition No.8456 of 2020, decided on 06.09.2021).

Notice of motion for 15.03.2022.

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In the meantime, the effect and operation of the respective impugned awards passed by the Land Acquisition Collector in all the writ petitions shall remain stayed.

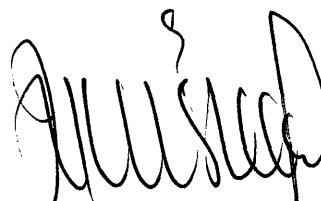
Dasti also.

A photocopy of this order be placed on the other connected files.."

- iv) Whether any Act/law/statute challenged: No
- v) Whether any caveat petition has been: No
- vi) Whether any sitting/formal MP/MLA's involved in this matter or not: No
- vii) Advance Copy of the complete paper book have been supplied to: aghrycivilphhc@gmail.com

Chandigarh
Dated: 12.02.2022

Settled by;
(BALDEV RAJ MAHAJAN)
Sr. Advocate



(ANKUR MITTAL) (KUSHALDEEP KAUR)
P/1296/01, PH/3202/19



(VISHWAJEET SINGH)
D/75560/2020

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IN THE HON'BLE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

30
CWP No. of 2022

Haryana Urban Development Authority (now HSVP), Hissar through its
Administrator

...Petitioner

Versus

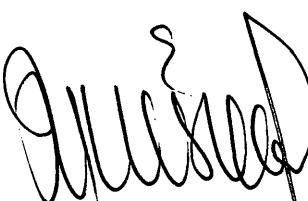
Land Acquisition Collector, Urban Estates Deptt. Hry, Hisar and others

...Respondents

Total Court fee(s): Rs. 83.00

Chandigarh
Dated: 12.02.2022

Settled by;
(BALDEV RAJ MAHAJAN)
Sr. Advocate


(ANKUR MITTAL) (KUSHALDEEP KAUR)
P/1296/01, . PH/3202/19


(VISHWA PRATAP SINGH)
D/7556/2020
A D V O C A T E S
COUNSEL FOR THE PETITIONER
M: 9878699000/8437999999
mittalattorneys@gmail.com

LIST OF DATES & EVENTS

- 23.08.2007 Notification U/s 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued for acquisition of land situated in villages Safidon, District Jind for development and utilization thereof as commercial and residential Sector- 9 Safidon, Jind.
- 21.08.2008 Declaration U/s 6 of the Act was issued pursuant to the aforesaid notification U/s 4 of the Act.
- 19.08.2010 Award No. 5 dated 19.08.2010 (**Annexure P-1**) was announced by the Land Acquisition Collector, Urban Estates, Haryana, Hisar pursuant to the abovesaid notifications and the market value qua the acquired land was determined @ Rs 33 lakh per acre up to the depth of 2 Acres on Safidon-Jind road, Safidon bye-pass road and Gair Mumkin kind of land (hereinafter referred to as 'Category A') and @Rs 18,00,000 per acre for Nehri and Chahi land (hereinafter referred to as 'Category B')
- 22.12.2015 Judgment dated 22.12.2015 (**Annexure P-2**) was passed by this Hon'ble Court in RFA No. 1515 of 2014 titled as Harijan Co. Operative Society Ltd. and others Vs. State of Haryana and others in appeals arising out of references under Section 18 of the Act filed by other land owners

whose land was acquired vide the same acquisition and the market value of the acquired land of Category A was upheld to be Rs 33,00,000 Per Acre and for Category B was enhanced to Rs 24,75,000 Per Acre from Rs.18,00,000 per acre.

- 27.10.2017 Judgment dated 27.10.2017 (**Annexure P-3**) was passed by the Hon'ble Supreme Court in Civil Appeal No.. 2846-2848 of 2017 arising out of SLP(C) No. 29181-29197 of 2016 titled as Bijender & Ors. vs State of Haryana & Anr. and the market value of the acquired land acquired land of Category A was enhanced to Rs. 45,00,000 Per Acre from Rs.33,00,000 and for Category B was enhanced to Rs 35,00,000 Per Acre from Rs. 24,75,000 per acre.
- 23.01.2018 Respondent Nos. 2 to 5, filed application dated 23.01.2018 (**Annexure P-4**) under Section 28-A of the Act on the basis of the above judgment dated 27.10.2017 seeking re-determination of the amount of compensation qua their acquired land on the basis of the above said judgment.
- 28.08.2018 Impugned award dated 28.08.2018 (**Annexure P-5**) was passed by the Respondent No. 1 under Section 28-A (2) of the Act holding the Respondent Nos. 2 to 5, entitled to receive the enhanced compensation as per the above said

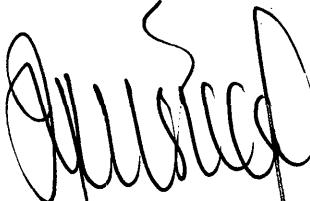
judgment dated 27.10.2017 along with all statutory benefits provided under the Act.

Hence the present Writ Petition.

Chandigarh

Dated: 12.02.2022

Settled by:
(BALDEV RAJ MAHAJAN)
Sr. Advocate


(ANKUR MITTAL) (KUSHALDEEP KAUR)
P/1296/01 PH/3202/19


(VISHWA PRATAP SINGH)

D/7556/2020

A D V O C A T E S

COUNSEL FOR THE PETITIONER

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IN THE HON'BLE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No. of 2022

MEMO OF PARTIES

Haryana Urban Development Authority (now Haryana Shehri Vikas Pradhikaran), Hisar through its Administrator

...Petitioner

Versus

1. Land Acquisition Collector, Urban Estates, Haryana, Huda Complex Sector 13, Hisar
 2. Shyam Lal
 3. Bhagwan Dass S/o Shri Teju
 4. Suraj Bhan (Since deceased) S/o Teju Through his L.Rs
 - i. Anil Kumar S/o Suraj Bhan
 - ii. Sugan Chand S/o Suraj Bhan
 5. Chander Bhan (since deceased) S/o Teju, through his L.Rs.
 - i. Chandro Devi wife of Chander Bhan,
 - ii. Rulda Ram son of Chander Bhan,
 - iii. Pawan Kumar son of Chander Bhan,
 - iv. Raj Kumar son of Chander Bhan
 - v. Vikram son of Chander Bhan
- All residents of Ward no. 8, Saini Mohalla, Safidon, Distt. Jind

...Respondents

6. State of Haryana through its Collector Jind.

...Proforma Respondents

Chandigarh
Dated: 12.02.2022


(ANKUR MITTAL) (KUSHALDEEP KAUR)
~~P/1296/01, PH/3202/19~~


(VISHWA PRATAP SINGH)
D/7556/2020
A D V O C A T E S
COUNSEL FOR THE PETITIONER
M: 9878699000/8437999999
mittalattorneys@gmail.com

Civil Writ Petition under Article 226/227 of the Constitution of India praying for writ of certiorari for quashing the impugned award dated 28.08.2018 (**Annexure P-5**) passed by the Land Acquisition Collector, Urban Estates, Haryana, Hisar (Respondent No. 1), whereby, the application under Section 28-A of the Land Acquisition Act, 1894 filed by the respondents nos. 2 to 5, has been allowed, being illegal, arbitrary and non-Est in the eyes of law and being against the statutory provisions of the Act and also the recent settled judicial pronouncement of this Hon'ble Court vide judgment dated 06.09.2021 (**Annexure P-6**) passed in CWP No. 8456 of 2020 titled as Haryana State Industrial and Infrastructure Development Corporation Vs. Smt. Shanti and others.

Further for issuance of any other writ, order or direction, which this Hon'ble Court may deem fit and proper in the present facts and circumstances of the case, in the interest of justice.

RESPECTFULLY SHOWETH: -

1. That it is respectfully submitted that the petitioner is aggrieved by the order dated 28.08.2018 passed by the respondent no. 1. The subject matter lies within the territorial jurisdiction of this Hon'ble Court, the petitioners being a statutory body, therefore, is entitled to invoke the extra-ordinary jurisdiction of this Hon'ble Court under Article 226/227 of the Constitution of India, 1950 for redressal of the

grievances. The present petition is being filed through the Administrator, H.S.V.P Hisar who is duly authorised to file the present petition.

2. That it is respectfully submitted that the State of Haryana issued notification U/s 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') on 23.08.2007 for acquisition of Land situated in village Safidon, District Jind including the land of the Respondent Nos.. 2 to 5, for development and utilization thereof as commercial and residential Sectors- 9 Safidon, Jind followed by declaration under Section 6 of the Act issued on 21.08.2008.
3. That it is respectfully submitted that the Land Acquisition Collector, Urban Estates, Haryana, Hisar (Respondent No. 1) announced the Award No. 5 dated 19.08.2010 for the above said acquisition and determined the market value of the acquired land @ Rs 33 lakh per acre up to the depth of 2 Acres on Safidon-Jind road, Safidon bye-pass road and Gair Mumkin kind of land (hereinafter referred to as 'Category A') and @Rs 18,00,000 per acre for Nehri and Chahi land (hereinafter referred to as 'Category B')
4. That it is respectfully submitted that other land owners whose land has also been acquired qua the present acquisition filed references under Section 18 of the Act, pursuant to the decision whereof, they assailed the awards passed by the Ld. Reference Court in the said references under Section 18 of the Act by filing Regular First Appeals before this Hon'ble Court, which came to be decided vide main

judgment dated 22.12.2015 in RFA No. 1515 of 2014 titled as Harijan Co. Operative Society Ltd. Vs. State of Haryana and anther. This Hon'ble Court determined the market value of the acquired land of Category A and it was upheld to be Rs 33,00,000 Per Acre for Category A and for Category B market value was raised to Rs 24,75,000 per acre from 18,00,000, Per Acre. The copy of the said judgment dated 22.12.2015 is being annexed herewith as **Annexure P-2** for the kind consideration of this Hon'ble Court.

5. That it is respectfully submitted that the judgment passed by this Hon'ble Court in the case of Harijan Co. Operative Society Ltd. (Supra) was further challenged by the land owners by filing Special Leave Petitions before the Hon'ble Supreme Court which came to be decided vide main judgment dated 27.10.2017 in Civil Appeal Nos. 2846-2848 of 2017 arising out of SLP(C) Nos. 29181-29197 of 2016 titled as Bijender Singh and others Vs. State of Haryana & Anr. The Hon'ble Supreme Court determined the market value of the acquired land of Category A and it was raised to Rs 45,00,000 Per Acre from Rs. 33,00,000 per acre and for Category B, market value was raised to Rs 35,00,000 Per Acre from Rs. 24,75,000 per acre. The copy of the said judgment dated 27.10.2017 is being annexed herewith as **Annexure P-3** for the kind consideration of this Hon'ble Court.
6. That it is respectfully submitted that Respondents nos. 2 to 5 filed petition/application under Section 28-A of the Act on 23.01.2018 before respondent no. 1 praying for redetermination of the amount of compensation qua their acquired land on the basis of the judgment

Annexure P-3 passed by the Hon'ble Supreme Court of India. The copy of the application dated 23.01.2018 is being annexed herewith as **Annexure P-4** for the kind consideration of this Hon'ble Court.

7. That it is respectfully submitted that the respondent no. 1 passed the impugned award dated 28.08.2018 thereby, holding the Respondents nos. 2 to 5 entitled to receive the enhanced compensation @ Rs. 45,00,000/- per acre for Category A and 35,00,000/- per acre for Category B as per the judgment dated 27.10.2017 (**Annexure P-3**) along with all statutory benefits and the above said impugned award dated 28.08.2018, copy whereof is annexed herewith as **Annexure P-5** for the kind consideration of this Hon'ble Court, is liable to be set aside as the same is not legally tenable being against the statutory provisions of the Act as well as the law laid down by this Hon'ble Court and the Hon'ble Supreme Court wherein it has been held that the application under Section 28-A of the Act has to be filed before the Land Acquisition Collector within 3 months from the date of the award of the Court passed under Part-III of the Act meaning thereby, that the application under Section 28A of the Act has to be filed on the basis of the award passed by the Ld. Reference Court and not on the basis of the subsequent judgments passed by the Hon'ble High Court or the Hon'ble Supreme Court in the appeals arising out of the awards passed by the Ld. Reference Court.

8. That it is respectfully submitted that the impugned award dated 28.08.2018 (**Annexure P-5**) is liable to be set aside, amongst others, inter-alia on the following grounds: -

- a. Because it is settled law that the application under Section 28-A of the Act for re-determination of the amount of compensation can only be filed on the basis of the award/judgment passed by the Ld. Reference Court under Section 18 of the Act and not on the basis of the judgment passed by the Hon'ble High Court or the Hon'ble Supreme Court in appeals arising out of the award/judgment passed by the Ld. Reference Court. Section 28-A of the Act is reproduced hereunder for the kind perusal of this Hon'ble Court: -

"28-A Re-determination of the amount of compensation on the basis of the award of the Court: -

(1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court: Provided that

in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

- (2) *The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.*
- (3) *Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18."*

It is submitted that a perusal of the above reproduced provision of Section 28-A of the Act would go on to show that the same lays down that the application to the Collector has to be filed within 3 months from the date of the award of the Court passed under Part-III of the Act meaning thereby, that the application under Section 28A of the Act has to be filed on the basis of the award passed by the Ld. Reference

Court and not on the basis of the subsequent judgments passed by the Hon'ble High Court or the Hon'ble Supreme Court in the appeals arising out of the awards passed by the Ld. Reference Court.

It is further submitted that a perusal of the application under Section 28A (**Annexure P-4**) filed by the Respondent Nos. 2 to 5 would go on to show that the Respondents nos. 2 to 5 had filed the said application seeking re-determination of the amount of compensation on the basis of the judgment of the Hon'ble Supreme Court (**Annexure P-3**) and not on the basis of the award of the Ld. Reference Court and was thus, not maintainable and liable to be dismissed but the respondent no. 1 has erred in allowing the application under Section 28A vide the impugned award dated 28.08.2018 (**Annexure P-5**) which is therefore, liable to be set aside.

- b. Because a similar issue came up for consideration of this Hon'ble Court and this Hon'ble Court vide judgment dated 06.09.2021 passed in CWP No. 8456 of 2020 titled as Haryana State Industrial and Infrastructure Development Corporation Vs. Smt. Shanti and others, copy whereof is annexed herewith as **Annexure P-6** for the kind consideration of this Hon'ble Court, was pleased to hold that the application under Section 28A of the Act can only be entertained on the basis of the award passed by the Ld. Reference Court and not on the basis of the judgment passed by the Hon'ble High Court and the Hon'ble

Supreme Court. The relevant observations made by this Hon'ble Court are as under: -

"27. It is evident that the Land Acquisition Collector has entertained and proceeded to allow the application under Section 28-A of the 1894 Act, on the basis of the orders passed in Usha Rani's case (supra) & other subsequently filed appeals in the High Court, post the final determination of the Supreme Court. On a careful reading of Section 28-A of the 1894 Act, it is obvious that such application for re-determination of the amount of compensation is maintainable only if the reference court under Part-III of the 1894 Act assesses the amount in excess of the amount awarded by the Collector under Section 11 of the 1894 Act. Part-III of the 1894 Act starts with Section 18 and ends with Section 28-A. In the High Court, the regular first appeals are filed under Section 54 of the 1894 Act, which falls in Part-VIII of the 1894 Act. Thus, the application under Section 28-A of the 1894 Act cannot be filed on the basis of the judgment passed in Part-VIII. Unquestionably, in certain judgments, the Supreme Court has held that when an application under Section 28-A has been filed within the period prescribed from the award of the reference court and it comes to the notice of the Collector that a further appeal filed before the High Court or the Supreme Court is pending, at that point of time, the

Collector should keep its decision in abeyance to await for final determination from the Court. Nonetheless, in considered opinion of this bench, it has nowhere been held that the application under Section 28-A can be entertained on the basis of the judgment passed by the High Court or the Supreme Court. In the present case, as noticed above, the applications under Section 18 of the 1894 Act were dismissed by the Reference Court. Thus, the various applications filed under Section 28-A of the 1894 Act, on the basis of various orders passed by the High Court, were not maintainable.

Xxx xxx xxx

34. *Keeping in view the aforesaid exposition of law, it is held that neither the application under Section 28-A of the 1894 Act is maintainable on the basis of the judgment of the Appellate Court nor the limitation to file an application under Section 28-A would begin to run its judgment. Consequently, in all these writ petitions, the respective applications filed by the respondents under Section 28-A of the 1894 Act were not maintainable. Hence, all the 15 writ petitions are allowed and the various awards/orders passed by the District Revenue Officer-cum-Land Acquisition Collector, Palwal, allowing the application under Section 28-A of the 1894 Act, are quashed."*

- c. Because respondent no. 1 has erred in treating the judgment passed by the Hon'ble Supreme Court as a subsequent award passed by the Ld. Reference Court when infact it has been passed in appellate jurisdiction and cannot be treated to be a subsequent award passed by the Ld. Reference Court. It was specifically pleaded before the respondent no. 1 that the application under Section 28-A filed by Respondent No. 2 to 5 is not maintainable as the same has not been filed on the basis of the award of the Ld. Reference Court and the judgment passed by the Hon'ble Supreme Court in ***Union of India and another Vs. Pardeep Kumari and others, 1995 (2) SCC 736*** has not been appreciated by the respondent no. 1. The relevant discussion by the Hon'ble Supreme Court in the case of Pardeep Kumari (supra) is reproduced hereunder for the kind perusal of this Hon'ble Court: -

"10. It is possible to visualise a situation where in the first award that is made by the court after the coming into force of Section 28-A the enhancement in the amount of compensation by the said award is not very significant for the reason that the person who sought the reference was not able to produce adequate evidence in support of his claim and in another reference where the award was made by the court subsequently such evidence is produced before the court and a much higher amount is awarded as compensation in the said award. By restricting the benefit

of Section 28-A to the first award that is made by the court after the coming into force of Section 28-A the benefit of higher amount of compensation on the basis of the subsequent award made by the court would be denied to the persons invoking Section 28-A and the benefit of the said provision would be confined to redetermination of compensation on the basis of lesser amount of compensation awarded under the first award that is made after the coming into force of Section 28-A. There is nothing in the wordings of Section 28-A to indicate that the legislature intended to confer such a limited benefit under Section 28-A. Similarly, there may be a situation, as in the present case, where the notification under Section 4(1) of the Act covers lands falling in different villages and a number of references at the instance of persons having lands in different villages were pending in the court on the date of coming into force of Section 28-A and awards in those references are made by the court on different dates. A person who is entitled to apply under Section 28-A belonging to a particular village may come to know of the first award that is made by the court after the coming into force of Section 28-A in a reference at the instance of a person belonging to another village, after the expiry of the period of three months from the date of the said award but he may come to know of the subsequent award that is made by the court in the reference at the instance of a

person belonging to the same village before the expiry of the period of three months from the date of the said award.

This is more likely to happen in the cases of inarticulate and poor people who cannot be expected to keep track of all the references that were pending in court on the date of coming into force of Section 28-A and may not be in a position to know, in time, about the first award that is made by the court after the coming into force of Section 28-

A. By holding that the award referred to in Section 28-A (1) is the first award made after the coming into force of Section 28-A, such persons would be deprived of the benefit extended by Section 28-A. Such a construction would thus result in perpetuating the inequality in the payment of compensation which the legislature wanted to remove by enacting Section 28-A. The object underlying Section 28-A would be better achieved by giving the expression "an award" in Section 28-A its natural meaning as meaning the award that is made by the court in Part III of the Act after the coming into force of Section 28-A. If the said expression in Section 28-A (1) is thus construed, a person would be able to seek redetermination of the amount of compensation payable to him provided the following conditions are satisfied:

(i) An award has been made by the court under Part III after the coming into force of Section 28-A;

- (ii) *By the said award the amount of compensation in excess of the amount awarded by the Collector under Section 11 has been allowed to the applicant in that reference;*
- (iii) *The person moving the application under Section 28-A is interested in other land covered by the same notification under Section 4(1) to which the said award relates;*
- (iv) *The person moving the application did not make an application to the Collector under Section 18;*
- (v) *The application is moved within three months from the date of the award on the basis of which the redetermination of amount of compensation is sought; and*
- (vi) *Only one application can be moved under Section 28-A for redetermination of compensation by an applicant."*

The issue further came up for consideration before the Larger Bench of the Hon'ble Supreme Court in ***Jose Antonio Cruz Dos R. Rodriguese and Another v. Land Acquisition Collector and Another (1996) 6 SCC 746***, the relevant discussion whereof is reproduced hereunder for the kind perusal of this Hon'ble Court:-

"3. Before examining the decisions of this Court on which the High Court has placed reliance, we deem it appropriate

to first examine the plain language of Section 28-A extracted earlier. Section 28-A was inserted as the last section in Part III entitled "Reference to Court and Procedure thereon" by Act 68 of 1984. Part III begins with Section 18 which provides that if an interested person does not accept the award made by the Collector under Section 11 of the Act, he may, by a written application to the Collector, require that the matter be referred for determination of the court. Section 2(d) defines the expression 'Court' to mean the principal civil court of original jurisdiction unless a Special Judicial Officer has been appointed. Therefore, the court referred to under Section 18 can only mean the principal civil court of original jurisdiction. Section 23 then sets out the matters to be taken into consideration in determining the compensation to be awarded for the acquired land, and Section 24 indicates the matters to be omitted from consideration. Section 26 provides that the award shall be in writing signed by the Judge which shall be deemed to be a decree within the meaning of clauses (2) and (9) of Section 2 of the Civil Procedure Code, 1908. Section 27 provides for costs to be awarded and Section 28 provides for payment of interest on excess compensation. We then come to Section 28-A. The first part of the section begins with the words "Where in an award under this part, Court allows to the applicant any amount of compensation in

excess of the amount awarded by the Collector under Section 11" which clearly indicate that the legislature was talking of an award made under the provisions of Part III, i.e., an award under Section 11 and therefore, in that context, reference to 'Court' can only mean the court to which a reference is made by the Collector under Section 18. This position is further clarified when the section refers to compensation awarded in excess of the amount awarded under Section 11 of the Act. The second part of the section then addresses "the persons interested in all the other land covered by the same notification ... and who are also aggrieved by the award" and permits them to make a written application to the Collector "within three months from the date of the award of the Court" requiring him to redetermine the amount of compensation on the basis of the amount awarded by the Court, notwithstanding the fact that they had not sought a reference under Section 18 of the Act. Thus, the newly added section seeks to give the same benefit, which a person who had sought a reference and had secured the Court's award for a higher amount of compensation had received, to those who had, on account of ignorance or financial constraints, not sought a reference under Section 18. In the latter part of the section also, reference is to the award under Section 11 and later, to the award of the Reference Court under Section 18 of the Act. Therefore, the court referred to therein is again the

court referred to in Section 2(d) of the Act, i.e., the principal civil court of original jurisdiction. The plain language of Section 28-A, therefore, prescribes the three months' period of limitation to be reckoned from the date of the award by the Court disposing of the reference under Section 18, and not the appellate court dealing with the appeal against the award of the Reference Court.

4. *We may now refer to the case-law. A two-Judge Bench of this Court in Babua Ram v. State of U.P. dealt with this precise question and held that the period of limitation begins to run from the date of the first award made on a reference under Section 18 of the Act, and successive awards cannot save the period of limitation; vide paragraphs 19 and 20 of the reporters. This view was reiterated by the same Bench in Union of India v. Karnail Singh wherein this Court held that the limitation of three months for an application for redetermination of compensation must be computed from the date of the earliest award made by a civil court, and not the judgment rendered by an appellate court. This was followed by the decision of a three-Judge Bench in Union of India v. Pradeep Kumari wherein it was held that the benefit under Section 28-A can be had within three months from the date of the award of the Reference Court on the basis whereof redetermination is sought. The earlier two decisions in the case of Babua Ram and Karnail Singh were overruled on*

the limited question that they sought to confine the right to seek redetermination to the earliest award made by the Court under Section 18 of the Act after the introduction of Section 28-A into the Act. There is, however, no doubt that the period of limitation has to be computed from the date of the Court's award under Section 18 on the basis whereof redetermination is sought. Admittedly, in both the cases at hand, the applications for redetermination of compensation under Section 28-A were made long after the expiry of three months from the date of the award of the Court which constituted the basis for seeking redetermination. We are, therefore, of the opinion that the High Court was right in taking the view that both the applications were time-barred."

It is submitted that a perusal of the above judgments passed by the Hon'ble Supreme Court would go on to show that the application for re-determination of the amount of compensation under Section 28-A of the Act can only be filed on the basis of the award passed by the Ld. Reference Court and not on the basis of the subsequent judgments passed by the Hon'ble High Court or the Hon'ble Supreme Court and in view this settled legal position, the present application under Section 28-A of the Act filed by the Respondents nos. 2-5 ought to have been dismissed by the respondent no. 1. It is therefore, submitted that the impugned award dated

28.08.2018(**Annexure P-5**) passed by respondent no. 1 is liable to be set aside being against the provisions of the Act, as well as the law settled by this Hon'ble Court as well as the Hon'ble Supreme Court.

- d. Because the respondent no. 1 has erred in mis-interpreting the provisions of the Act as well as the law laid down by the Hon'ble Supreme Court in the case of Pardeep Kumari (supra) and thereafter allowing the application under Section 28A filed by the respondents nos. 2 to 5 as the said application under Section-28A was not maintainable in view of the settled legal position explained in the preceding paragraphs.
- e. Because the respondent no. 1 erred in law in holding that application moved by respondent no. 2 to 5 was within limitation period and fulfilled all the required conditions. Whereas, the matter of fact is that application filed only on 23.01.2018 much after the decision of the Hon'ble Supreme Court was time barred and did not fulfil the required conditions as per law.
- f. Because the award passed by the respondent no. 1 is based on surmises and conjectures and misreading of evidence and as such is liable to be set aside by this Hon'ble Court.
- g. Because the approach of the respondent no.1 in allowing the application under Section 28-A of the Act is erroneous and as

such the impugned award passed by the respondent no. 1 is bad in the eyes of law.

9. That it is respectfully submitted that the following questions of law are involved in the present writ petition for kind consideration of this Hon'ble Court: -

- (i) Whether the owner of the acquired land is entitled to apply for re-determination of the market value of the acquired land u/s 28-A of the Land Acquisition of Act, 1894 on the basis of the judgment passed by the Hon'ble High Court in exercise of appellate powers under Section 54 of the Act or the judgment passed by the Hon'ble Supreme Court in subsequent SLPs?
- (ii) Whether the owner of the acquired land is required to apply for re-determination of the market value of the acquired land u/s 28-A of the Land Acquisition Act, 1894 only on the basis of the award passed by the Ld. Reference Court in reference arising out of Section 18 of the Act?
- (iii) Whether the limitation for filing an application under section 28-A of the 1894 Act begins to run from the date of the judgment passed by the High Court in exercise of powers under Section 54 of the 1894 Act or the Supreme Court?
- (iv) Whether the application filed under section 28-A of the 1894 Act was time barred?

10. That it is respectfully submitted that the petitioner is left with no other alternative and efficacious remedy of appeal or revision except to approach this Hon'ble Court by way of filing the present writ petition under Article 226/227 of the Constitution of India, 1950 for redressal for the grievances.
11. That it is respectfully submitted that the petitioner has not filed any such or similar writ petition earlier either before this Hon'ble Court or before the Hon'ble Supreme Court of India against the impugned award dated 28.08.2018(**Annexure P-5**) passed by respondent no. 1.

PRAYER

In view of the facts and circumstances narrated herein above, it is most humbly prayed that this Hon'ble Court may kindly be pleased to call the record of the case and be pleased:

- a. To issue a writ, order or direction especially in the nature of certiorari for quashing the impugned award dated 28.08.2018 (**Annexure P-5**) passed by the Land Acquisition Collector, Urban Estates, Haryana, Hisar (Respondent No. 1), whereby, the application under Section 28-A of the Land Acquisition Act, 1894 filed by the Respondent Nos. 2 to 5 has been allowed, being illegal, arbitrary and non-Est in the eyes of law being against the statutory provisions of the Act and also the recent settled judicial pronouncement of this Hon'ble Court vide judgment dated 06.09.2021 (**Annexure P-6**) passed in CWP No. 8456 of 2020 titled as Haryana State Industrial and

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Infrastructure Development Corporation Vs. Smt. Shanti and others and further restore the Award No. 3/4/5 dated 19.08.2010 passed by the Land Acquisition Collector qua the acquired land.

- b. To stay the operation of the impugned award dated 28.08.2018 (**Annexure P-5**) passed by the Land Acquisition Collector, Urban Estates, Haryana, Hisar (Respondent No. 1) and the recovery of the enhanced amount of compensation during the pendency of the present writ petition.
- c. To issue any other writ, order or direction, which this Hon'ble Court may deem fit and proper in the present facts and circumstances of the case, in the interest of justice.
- d. To Exempt filing of certified/ typed copies of Annexures, in the interest of justice.
- e. To Award the costs of petition in favour of petitioner.

BR
PETITIONER

Through Counsel

Hisar
Dated: 24.02.2022

(MOHAMMED
IMRAN RAZA)

Settled by;
(BALDEV RAJ MAHAJAN)
Sr. Advocate

(ANKUR MITTAL) (KUSHALDEEP KAUR)
P/1296/01 PH/3202/19

(VISHWA PRATAP SINGH)
D/7556/2020
A D V O C A T E S
COUNSEL FOR THE PETITIONER
M: 9878699000/8437999999
mittalattorneys@gmail.com

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VERIFICATION: -

Verified that the contents of para-No. 1 to 8, 10&11 of the writ petition are true and correct to my knowledge and belief, whereas para-No. 9 are based on legal advice of the counsel concerned which is believed to be correct. No part of it is false and nothing has been kept concealed therein.

Hisar

DATED: 12.02.2022


PETITIONER

(MOHAMMAD IMRAN
RAZR)

IN THE HON'BLE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No. of 2022

Haryana Urban Development Authority (now Haryana Shehri Vikas Pradhikaran), Hisar through its Administrator

...Petitioner

Versus

Land Acquisition Collector, Urban Estates, Haryana, Huda Complex Sector 13, Hisar and others

...Respondents

Affidavit of Mohammad. Imran Raza, IAS, aged 38 years, Administrator, H.S.V.P, Hisar.

I, the above named deponent do hereby solemnly declare and affirm as under:-

1. That the petitioner is filing the accompanying writ petition and is well conversant with the facts of the case.
2. That the contents of Para No. 1 to 8, 10&11 of the writ petition are true and correct to the knowledge of the petitioner, whereas para No.9 are based on the legal advice of the counsel concerned and the same are believed to be correct and no part of it is false and nothing has been kept concealed therein.
3. That the present petitioner has not filed such or similar petition before this Hon'ble Court or Hon'ble Supreme Court of India against the impugned award dated 28.08.2018. No such or similar appeal is pending adjudication before any competent court of law

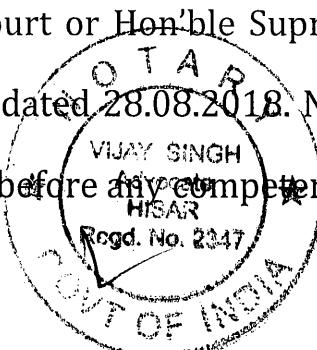
Place: Hisar

Dated: 12.02.2022

Verification

DEPONENT

(MOHAMMAD IMRAN
RAZA)



Verified that the contents of Para No. 1 to 3 of my above affidavit are true and correct to my knowledge. No part of it is false and nothing has been kept concealed therein.

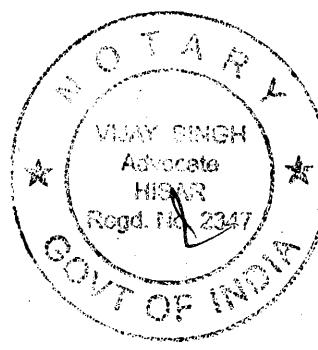
Place: Hisar

Dated: 12.02.2022

of
SH

DEPONENT

(Muhammad
Imran Raza)



ATTESTED

12/21/2022
NOTARY
HISAR



ANNEXURE-P-1

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LAND ACQUISITION AWARD
BY SUJAN SINGH, H.C.S.
LAND ACQUISITION COLLECTOR,
URBAN ESTATE DEPARTMENT HARYANA, HISAR

Award No. - 5	Dated - 19.08.2010
Area of Land: -	150.97 Acres
Purpose of Land Acquisition: -	For the Development and Utilization of Commercial and Residential Sector-9, Safidon.
Village: -	Safidon & Khera Khemawati
Habbast No.: -	54 & 48
Tehsil & District: -	Safidon, Jind

1. AWARD: -

The Haryana Government vide notification No. LAC(H)-2007/NTLA/382 dated 23.08.2007 published in Haryana Government Gazette (Extra-ordinary) u/s-4 of the Land Acquisition Act, 1894 (hereinafter referred as "the Act") notified that the land measuring 167.79 acres was likely to be needed for a public purpose i.e. for the Development and Utilization of Commercial and Residential Sector-9, Safidon under the Haryana Urban Development Authority Act, 1977 by the Haryana Urban Development Authority.

Consequently, declaration u/s-6 of the Act was issued on 21.08.2008 vide notification No. LAC(H)-2008/NTLA/429 vide which land measuring 150.97 acres was declared to be needed for acquisition for the aforesaid purpose. Subsequently, the Land Acquisition Collector, Urban Estate Deptt. Haryana, Hisar was also directed u/s-7 of the Act to exercise powers for the acquisition of land in question.

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2. AREA OF THE LAND:

The area of land given in the above declaration is 150.97 acres after measurement conducted at the spot by the field staff as required u/s-8 of the Act was found correct. The details of this area are given in the Statement No. 1, which has been prepared according to para No. 36(1) of the Financial Commissioner's standing order No. 28 attached with the main acquisition file of the present Award.

3. CLASSIFICATION OF THE LAND:

The classification of the land under acquisition vide this Award as per its Jamabandi for the year 2004-05 is as under: -

Sr. No.	Class of Land	Area (in Acres)
1.	Nehri, Chahi	53 - 65
2.	To the depth of 2 acres from Safidon-Jind Road & Safidon Bye pass Road and Gair-mumkin Land	97 - 32
	Total	150 - 97

The above said classification of land was intimated to the land owners/interested persons through notices issued u/s-9 of the Act and were read over to them before the announcement of Award. None of the interested persons raised any objection regarding the classification of the land under acquisition.

4. **DEMAND OF THE LAND OWNERS AND OTHER INTERESTED PERSONS:**

The land owners and other interested persons who appeared on 11.08.2010 personally or through duly authorized agents to state their interest and nature of their respective interests in land i.e. the amount of compensation and objections regarding as to measurement of land etc. The land owners and other interested persons have filed their claims in writing. According to their claims, the interested persons have claimed compensation in respect of their land under acquisition @ Rs. 80,00,000/- per acre to Rs. 1,50,00,000/- per acre vide their claims filed u/s-9 of the Act. But none of them has produced any documentary evidence in support of their claims.

5. **STATEMENT OF THE ACQUISITION DEPARTMENT:**

The representative of the Acquiring Department pointed out that the claims put-up by the land owners were too high and without documentary proof. The Acquiring Department requested that the market value may be determined as per the rate supplied by the Collector, Jind, District Jind.

6. **MARKET VALUE:**

The Deputy Commissioner-cum-Collector, Jind District was requested to supply the market rate of the land under acquisition vide letter No. 5943 dated 31.10.2008. The Deputy Commissioner-cum-Collector, Jind has supplied the market rate of the land under acquisition vide memo No. 905-08 dated

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09.04.2010 @ Rs. 33,00,000/- per acre for the land up-to the depth of 2 acres from Safidon-Jind Road & Safidon Bye pass Road and Gair-mumkin and @ Rs. 18,00,000/- per acre for Nehri, Chahi land.

I have inspected the land under acquisition along-with the revenue staff of my office before the announcement of Award. Keeping in view the location, situation and all other factors, I observe that the rate supplied by the Ld. Collector, Jind, are just, adequate, reasonable and fair. So, I announce the Award accordingly. Awarded rates are Rs. 33,00,000/- per acre for the land up-to the depth of 2 acres from Safidon-Jind Road & Safidon Bye pass Road and Gair-mumkin and @ Rs. 18,00,000/- per acre for Nehri, Chahi land.

7. STRUCTURES AND TUBE-WELLS ETC.:-

There are some structures/tube-wells in the land, which are also being acquired. An assessment of these structures etc. has been made by Executive Engineer, HUDA Division No. 1, Hisar and he has supplied the assessment report vide his office memo No. 8227 dated 09.06.2010. I agree with the assessment supplied by the Technical Authorities and I allow the same accordingly. The details of acquired structures are attached with the land acquisition file.

8. TREES:-

There were some trees over the acquired land. The assessment of these trees has been made by the Executive

Engineer, HUDA Horticulture Division, Hisar, which has been received vide his office memo No. 8286 dated 08.06.2009. I agree with the assessment supplied by the Technical Authorities and I allow the same accordingly. The details of the assessment are attached with land acquisition file.

9. **CROPS:** -

As per report of the Revenue Staff and spot inspection, there were different kinds of crops standing on the acquired land. On verbal request of the land owners, they were allowed to harvest these crops up to 31 October, 2010.

10. **COMPULSORY ACQUISITION CHARGES AND ADDITIONAL AMOUNT:** -

Due to the compulsory nature of acquisition charges at the rate of 30% admissible under the provisions of the Act are allowed and the right holders will also get an amount of 12% per annum from the date of notification u/s-4 of the Act i.e. 23.08.2007 to the date of announcement of Award i.e. 19.08.2010 under the provisions of section-23 (1-A) of the Act.

11. **POSSESSION OF THE LAND:** -

Up-to the announcement of Award i.e. 19.08.2010, C.W.P. No. 17220/09, 10784/09, 1173/09, 14300/10 and C.W.P. No. 10746/10 Mahendro Devi etc. versus State of Haryana have been received wherein stay dispossession has been granted

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qua the land in dispute by the Hon'ble High Court. Any other Civil Writ Petition in which the Hon'ble Court has ordered stay from dispossession, the possession of land involved in those writ petitions has not been taken vide this Award. The possession of the land acquired vide this Award, has been taken over vide Rapat No. 494 dated 19.08.2010 and No. 500 dated 19.08.2010 entered in the Rojnamcha Waqyati, Patwari Halqua of villages Safidon and Khera Khemawati respectively, except of such land for which the land owners/interested persons have taken stay for dispossession from any court of law till today. As regard the remaining land possession has been taken over after offering the compensation.

Thus, the land, of which the possession has been taken, vests in ownership of Haryana Government and on transfer will be vests in Haryana Urban Development Authority, free from all encumbrances from today i.e. 19.08.2010.

12. MODE OF PAYMENT:-

The payment will be made to the land owners and other interested persons according to their rights and shares as entered in the latest record of rights (Jamabandi year 2004-05) and as per the mutations sanctioned thereafter.

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13. **CONCLUSION:**

Subject to the above remarks, this Award stands as under: -

Sr. No.	Description	Amount
1.	Compensation of Land	Rs. 417726000.00
2.	Compensation for building structures and tube-wells etc.	Rs. 4637200.00
3.	Compensation for trees	Rs. 936818.00
4.	Compulsory Acquisition charges @ 30% on item No. 1 to 3	Rs. 127005005.00
5.	Add amount @ 12% u/s 23 (1-A) on item No. 1 & 2 from 23.8.07 to 19.8.10	Rs. 151459443.00
Total		Rs. 701814466.00

(Rs. Seventy Crores Eighteen Lacs Fourteen Thousand Four Hundred Sixty Six only)

This Award has been announced in the presence of land owners/interested persons on this day.

Place: - Safidon

Wif
Land Acquisition Collector,
Urban Estate Deptt. Hry.

Dated: - 19.08.2010

Hisar.

Announced today i.e. 19.08.2010 in open court to those who appeared before me in response to the notices. The Award is now filed in my office.

Place: - Safidon

Wif
Land Acquisition Collector,
Urban Estate Deptt. Hry.

Dated: - 19.08.2010

Hisar.

True Copy

Wif

RFA No. 1515 of 2014

[1]

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHRFA No. 1515 of 2014 (O&M)
Date of decision: December 22, 2015**Harijan Co-operative Society Ltd.** .. Appellant

v.

State of Haryana and another .. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Akshay Bhan, Senior Advocate with
 Mr. Santosh Sharma, Mr. Ankur Malik for
 Mr. Y. P. Malik, Mr. Amit Kumar Jain for
 Mr. S. N. Pillania, Mr. Amit Kumar Jain,
 Mr. Sursh Kumar Kaushik, Mr. Suresh Ahlawat,
 Mr. Vikram Singh, Mr. Rajesh Goyal,
 Mr. Pritam Singh Saini, Mr. Akshay Jindal,
 Mr. Munish Kumar Garg and Mr. Ved Parkash,
 Advocates for the landowners.

Mr. Abhinash Jain, Assistant Advocate General, Haryana.

Rajesh Bindal J.

1. This order will dispose of
 RFA Nos. 1515, 1516, 2546, 2548 to 2555, 2770 to 2779, 2806
 to 2809, 2940 to 2946, 3084, 3085, 3111, 3120, 3121, 3591 to 3600, 3687,
 3750 to 3772, 3774 to 3806, 3986, 3987, 3989, 3990, 3997 to 4003, 4263,
 4264, 4307, 4402 to 4406, 4414 to 4421, 4648, 4744 to 4774, 4808 to 4810,
 4836 to 4849, 5024, 5226, 5292, 5300, 5327 to 5329, 5338 to 5340, 5542,
 5908 to 5913, 5980, 6068 to 6071, 6283, 6306 to 6309, 7214, 7234, 7299,
 7323, 7655, 7657, 8183, 8756 to 8759, 8901 to 8904, 9005, 9063, 9702 of
 2014;

RFA Nos. 314 and 809 of 2015.

2. The landowners are in appeal seeking further enhancement of
 compensation for the acquired land.

**For Subsequent orders see RFA-5542-2014 Decided by HON'BLE MR. JUSTICE GURMEET SINGH
SANDHAWALIA**

1 of 7

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3. Briefly, the facts of the case are that vide notification dated 23.8.2007, issued under Section 4 of the Land Acquisition Act, 1894 (for short, 'the Act'), the State of Haryana, sought to acquire land in villages Singhpura, Safidon, Rampura, Rattan Khera and Khera Khemawati, District Jind for development and utilisation thereof as commercial and residential Sectors 7, 8 and 9, Safidon. The same was followed by notification dated 21.8.2008, issued under Section 6 of the Act. The Land Acquisition Collector (for short, 'the Collector'), vide award Nos. 3, 4 and 5 dated 19.8.2010, assessed the market value of the acquired land @ ₹ 33,00,000/- per acre upto the depth of two acres on Safidon-Jind road, Safidon Bye-pass road and Gair Mumkin kind of land and @ ₹ 18,00,000/- per acre for Nehri and Chahi land. Dissatisfied with the awards of the Collector, the landowners filed objections, which were referred to the learned reference court. The learned court below dismissed the reference petitions vide award dated 17.12.2013. It is this award which is impugned by the landowners before this court.

4. Learned counsel for the landowners submitted that the acquired land in the case in hand was located in the heart of Safidon city, which was developing fast. Mini Secretariat, Bus Stand and Grain Market were located close to the acquired land. There were schools, colleges and other residential and commercial establishments located close to the acquired land. The sale deeds (Ex. P6 and Ex. P10), which are the most relevant piece of evidence, have been totally ignored. The land pertaining to sale deed (Ex. P6) was located close to the acquired land, whereas the land pertaining to sale deed (Ex. P10) was forming part of the acquired land. As the land was located within the municipal limits, sale instances of small plots only were available, as big chunk of land was not being dealt with. Residents of the city were purchasing the plots for construction of houses in the area. It was further submitted that assessment of compensation by the Collector and by the Reference Court at different rates for the land located on main road and behind that was totally un-called for. The entire area was to be developed as sectors by carving out plots, which were sold at uniform rates without any distinction of rates on main road or otherwise, rather, for

residential purpose, the people do not prefer to buy plots on road on account of disturbance. It was further submitted that the calculation made by the learned court below after application of cut in paragraph 39 of the award is not correct. Further, the sale deeds (Ex. PX and Ex. PY) have been wrongly ignored. There was no material on record to opine that the entire land was agricultural at the time of acquisition. The mere fact that small plots were being sold in the area shows its potentiality. The evidence led by the State was rightly ignored and in fact, deserves to be ignored for the reason that the consideration paid in the sale deeds produced by the State was less than the award of the Collector. Further reliance was placed upon the minimum Collector's rates (Ex. PW1/1) fixed for registration of the sale deeds in the area, which was @ ₹ 8,000/- per square yard.

5. On the other hand, learned counsel for the State submitted that the Collector was quite generous in assessing the compensation in the case in hand, which was more than the market value in the area at that time. The sale deeds sought to be relied upon by the landowners were registered just with a view to create evidence for getting higher compensation as before acquisition, there is always survey and at that time the landowners in the area come to know about the acquisition proceedings and then get the sale deeds pertaining to small plots registered at higher rates with a view to create evidence. No sale deed has been referred to by the landowners, where large area of land had been dealt with. The belting system has rightly been applied by the Collector, as has been upheld by the learned court below, as value of the land abutting the main road and behind that is always different. Learned counsel further referred to sale deed (Ex. P12) produced on record by the landowners, where different rates have been mentioned for the land abutting the main road and behind that. While referring to sale deeds (Ex. PX and Ex. PY), it was submitted that in the aforesaid sale deeds, the Collector's rates have been shown as ₹ 400/- per square yard, but still the transactions were made at the rate of more than ₹ 1,000/- per square yard. The sale deeds produced on record by the State form part of the acquired land, hence, these are the best piece of evidence. Further, replying to the argument raised by learned counsel for the landowners that the Collector

had fixed rates @ ₹ 8,000/- per square yard for registration of the sale deeds in the area, it was submitted that these rates differ for different areas. ₹ 8,000/- per square yard, as is sought to be referred to, is not the rate for the entire area acquired.

6. Heard learned counsel for the parties and perused the paper book and the relevant referred record.

7. As per site plan (Ex. P4) produced on record, the acquired land is shown to be located close to the Bus Stand, Mini Secretariat and Grain Market. It was not disputed that the land for Grain Market was acquired much prior in time to the acquisition of land in the present case. Schools, Colleges and residential colonies have also been shown to be located close to the acquired land. The fact that the acquired land formed part of municipal limits of Safidon was not denied. From the aforesaid facts, it can safely be concluded that the acquired land was fit for urbanisation being located close to the developed areas in the city.

8. At the time of arguments, learned counsel for the landowners sought to place reliance upon two sale deeds (Ex. P6 and Ex. P10). The land pertaining to sale deed (Ex. P6) dated 12.12.2006, whereby one kanal land was sold at an average price of ₹ 1,322/- per square yard, is located beyond the acquired land, whereas the land pertaining to sale deed (Ex. P10) dated 30.12.2005, whereby land measuring 70 square yards was sold at an average price of ₹ 1,500/- per square yard, forms part of the acquired land. Besides this, the landowners have produced on record many other sale deeds, details of which are extracted below:

Ex.	Date of Registration	Area Sold (sq. yards)	Revenue Estate	Total Sale Consideration in ₹	Average per square yard in ₹
P1	10.02.2006	80	Safidon	1,20,000/-	1,500/-
P4	12.12.2006	1K-0M	Rampura	8,00,000/-	1,322/-
PX	05.06.2006	67	Safidon	2,68,000/-	4,000/-
PY	13.12.2005	70	-do-	1,05,000/-	1,500/-
P7	05.06.2006	67	Safidon	2,68,000/-	4,000/-
P8	16.05.2006	177-1/2	-do-	1,78,000/-	1,000/-

RFA No. 1515 of 2014				[5]
P9	16.05.2006	200	-do-	2,00,000/- 1,000/-
P11	09.06.2006	100	-do-	1,00,000/- 1,000/-
P12	24.03.2006	120	-do-	1,20,000/- 1,500/-
P18	27.03.2006	60	Safidon	2,70,000/- 4,500/-
P9/B	09.08.2004	103	-do	2,06,000/- 2,000/-
P14/C	11.04.2007	55	-do-	1,98,000/- 2,500/-
P14/D	21.08.2003	31.6	Singhpura	48,000/- 1,500/-
P14/E	25.08.2006	100	-do-	1,40,000/- 800/-
P14/F	25.04.2000	174	-do-	2,10,000/- 200/-
P14/G	10.03.2005	67	-do-	1,82,000/- 2,000/-
P25/B	15.06.2006	212	Safidon	2,12,500/- 1,000/-
P29/B	27.03.2006	60	-do-	2,70,000/- 4,500/-
P35/B	05.06.2006	67	-do-	2,68,000/- 4,000/-
P70/B	09.04.2007	96	-do-	3,05,000/- 3,177/-
P71/B	09.04.2007	96	-do-	3,05,000/- 3,177/-
P72/B	09.04.2007	402	-do-	6,05,000/- 1,500/-
P74/B	12.01.2006	272	-do-	1,36,000/- 500/-
P75/B	15.06.2006	400	-do-	4,00,000/- 1,000/-
P76/B	17.05.2006	34	-do-	35,000/- 1,000/-
P110	18.08.2005	195	-do-	97,500/- 500/-
P111	28.05.2004	3K-5M	-do-	1,55,000/-
P112	09.06.2006	100	-do-	1,00,000/- 1,000/-
P113	09.06.2006	50	-do-	50,000/- 1,000/-
P114	09.06.2006	50	-do-	50,000/- 1,000/-
P120/B	30.03.2006	200	-do-	1,00,000/- 500/-
P121/B	19.04.2002	126	-do-	1,26,000/- 1,000/-
P139/B	23/24.05.2006	200	-do-	2,00,000/- 1,000/-
P139/C	02/03.05.2005	80	-do-	80,000/- 1,000/-
P139/D	02/03.05.2005	180	-do-	1,80,000/- 2,250/-
P139/E	09.05.2005	240	-do-	2,40,000/- 1,000/-
P139/F	19.01.2006	440	-do-	2,20,000/- 500/-
P139/G	02/03.05.2005	80	-do-	80,000/- 1,000/-
P139/H	16.05.2006	80	-do-	1,60,000/- 2,000/-
P139/I	14.07.2005	41	-do-	62,000/- 1,500/-
P139/J	21.02.2006	160	-do-	1,60,000/- 1,000/-
P139/K	20.06.2005	130	-do-	65,000/- 500/-
P139/K/1	09.05.2005	80	-do-	80,000/- 1,000/-
P139/L	31.05.2005	80	-do-	80,000/- 1,000/-
P139/M	31.05.2005	3K-19M	-do-	4,40,000/-

For Subsequent orders see RFA-5542-2014 Decided by HON'BLE MR. JUSTICE GURMEET SINGH
SANDHAWALIA

<u>RFA No. 1515 of 2014</u>				[6]	
P139/N	09.05.2005	80	-do-	80,000/-	1,000/-
P139/O	03.05.2005	160	-do-	1,30,000/-	812/-
P139/P	13.04.2006	1K-19-M	-do-	3,70,000/-	
P139/Q	09.05.2005	180	-do-	1,80,000/-	1,000/-
P140	02/03.05.2005	80	-do-	80,000/-	1,000/-
P140/2	02/03.05.2005	80	-do-	1,80,000/-	2,250/-
PW229/D	27.03.2006	60	-do-	2,70,000/-	4,500/-
PW235/C	27.03.2006	60	-do-	2,70,000/-	4,500/-
PW239/C	09.12.2005	230	-do-	1,15,000/-	500/-
PW239/D	27.03.2006	60	-do-	2,70,000/-	4,500/-
PW242/B	<u>23.03.2005</u>	230	-do-	92,000/-	400/-
	4.4.2005				
P245/15	27.03.2006	60	-do-	2,70,000/-	4,500/-
PW246/E	27.03.2006	60	-do-	2,70,000/-	4,500/-
PW247/B	27.03.2006	60	-do-	2,70,000/-	4,500/-

9. The sale consideration paid in most of the sale deeds, where the area dealt with is also large as compared to the sale deeds (Ex. P6 and Ex. P10), sought to be relied upon by learned counsel for the landowners, is ₹ 1,000/- per square yard, otherwise the price ranges between ₹ 500/- and ₹ 4,500/- per square yard. A finding has been recorded by the court below that the land pertaining to all the aforesaid sale deeds is located adjacent to or in the vicinity of the acquired land. It was even so argued by learned counsel for the landowners.

10. In the light of number of sale deeds produced on record by the landowners showing the value of the land @ ₹ 1,000/- per square yard, the sale transactions (Ex. P6 and Ex. P10), which are isolated, showing higher value of the land cannot be relied upon and have rightly been ignored even by the court below. There is no error in the finding of the court below in ignoring the sale deeds (Ex. PX and Ex. PY) also, as there is a recital in those sale deeds regarding acquisition of land, which shows that those were got registered at higher prices with a view to create evidence. The Collector had already assessed the compensation of the acquired land @ ₹ 33,00,000/- per acre for the land upto the depth of two acres on Safidon-Jind Road, Safidon Bye-pass Road and Gair Mumkin land and @ ₹ 18,00,000/- per

acre for the land located behind that. If calculated @ ₹ 1,000/- per square yard, the price per acre would come out to ₹ 48,40,000/-. As the aforesaid sale transactions pertain to small plots and a cut of merely 33% is applied thereon considering the fact that these pertain to small plots, the value shall come out to ₹ 32,42,800/- per acre. As the Collector has already awarded the compensation @ ₹ 33,00,000/- per acre for the land upto the depth of two acres on Safidon-Jind road, Safidon Bye-pass road and Gair Mumkin kind of land, hence, the rate already given does not call for any interference.

11. As far as the land located beyond two acres from the road, for which compensation has been awarded @ ₹ 18,00,000/- per acre is concerned, in my opinion, that certainly deserves to be increased considering the fact that difference in the value of land abutting the road and beyond that, especially when the entire land falls within the municipal limits is not that much. There are other small link roads in between. In my opinion, a cut of 25% on the value of the land abutting the main road would be reasonable. After application thereof, the value of the land beyond two acres from the main road would come out to ₹ 24,75,000/- per acre, which the landowners are held entitled to.

12. In view of my aforesaid discussions, the award of the Collector assessing compensation @ ₹ 33,00,000/- per acre for the land upto the depth of two acres on Safidon-Jind road, Safidon Bye-pass road and Gair Mumkin kind of land is upheld and the landowners are held entitled to compensation @ ₹ 24,75,000/- per acre for the land beyond that. They shall also be entitled to all statutory benefits available to them under the Act.

13. The appeals are disposed of in the above terms.

(Rajesh Bindal)
Judge

December 22, 2015
mk

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Abh

**For Subsequent orders see RFA-5542-2014 Decided by HON'BLE MR. JUSTICE GURMEET SINGH
SANDHAWALIA**

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REPORTABLE**IN THE SUPREME COURT OF INDIA****CIVIL APPELLATE JURISDICTION****CIVIL APPEAL No.2846 OF 2017**

Bijender & Ors.

....Appellant(s)

VERSUS

State of Haryana & Anr.

...Respondent(s)

WITH

CIVIL APPEAL Nos.2847-2848,
2849, 2850, 2851, 2852, 2853- 2872,
2873-2877, 2878-2882, 2883-2887,
2888-2893, 2894, 2895, 2896,2897, 2898,
2899, 2900-2904, 2905, 2906, 2907-2910,
2911, 2912, 2913-2914, 2915, 2916,2917,
2918-2929, 2930, 2931-2932, 2933-2950,
2951,2952-2954,2955 OF 2017

AND

CIVIL APPEAL Nos.17338-17354 OF 2017
@ S.L.P.(c) Nos.29181-29197 of 2016

JUDGMENT**Abhay Manohar Sapre, J.**

- 1) Leave granted in the special leave petitions.
- 2) These appeals are directed against the common final judgments and orders dated 22.12.2015, 22.03.2016 and 03.05.2016 passed by the High Court of Punjab and Haryana at Chandigarh in R.F.A. Nos.5300, 2807-2809, 2806, 4762, 4764, 4756, 3751, 3759, 3760, 3766, 3768, 3776, 3777, 3785, 3788, 3794, 3798, 3800, 3805, 4839, 4841, 4842, 4843, 4844, 7299, 8756, 4840, 4846, 4838, 3767, 4757, 4752, 4746, 4744, 7323, 1515, 4753, 5980, 4751, 4745, 4809, 2549, 2548, 5910, 4810, 4754, 5911, 5913, 5912, 6307, 6283, 5542, 5908, 4747, 4760, 4758, 4763, 4759, 6308, 6309, 4748, 4749, 4755, 6306, 5909, 3999/2014, 314 & 809/2015, 3600, 2779, 4750, 3762, 3767, 3791, 3792, 3795, 3797, 3801, 4837, 4838, 4840, 4845, 4846, 4771, 4766, 4767, 2778, 2808, 2940,

2941, 2942, 2943, 2945, 2946, 3085, 3120, 3121, 3997, 3998, 4000, 4001, 4003, 5226, 7214, 4264, 7253, 3988, 2547, 4263, 1516, 2771, 2772, 2773, 2774, 2775, 2777, 3687, 4307, 4416, 4417, 4418, 4419, 4421, 2776, 2778 & 4808/2014 whereby the High Court while disposing of the said appeals partly allowed the appeals and upheld the awards of the Land Acquisition Officer insofar as it relates to assessment of compensation @ Rs.33,00,000/- per acre for the land up to the depth of 2 acres in Safidon-Jind Road, Safidon bye-pass and Gair Mumkin kind of land whereas it enhanced the compensation from Rs.18,00,000/- per acre to Rs.24,75,000/- per acre from for the land beyond 2 acres.

3) Facts of the case are taken from C.A. No.2846 of 2017 (Bijender & Ors. vs. State of Haryana & Anr.) need mention, in detail, to appreciate the controversy involved in these appeals.

4) The land of the appellants measuring 18362 sq. yds. equivalent to 30 kanal 07 marla being 1122/37/15 share out of total acquired land measuring 100 kanal 11 marla from the total land measuring 185 kanal 15 marla of khewat No.1396 khata nos.1658 and 1659 revenue estate of Safidon, situated at a village Saifdon, District Jind, Haryana was acquired. The land was acquired for the development and utilization of commercial and residential for HUDA Sectors 7, 8 and 9 in Safidon City in Distt. Jind vide three Notifications. Along with the land of the appellants, the State also acquired land belonging to several landowners alike the appellants.

5) Notification bearing No.LAC(H)-2007-NTLA/376 on 23.08.2007 under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "the Act") was issued for the acquisition of 142 acres of land in village

Singhpura, for public purpose, namely, for the development of residential, commercial Sector 7, Safidon.

6) Notification bearing No.LAC(H)-2007-NTLA/379 on 23.08.2007 under Section 4 of the Act was issued for the acquisition of 249.49 acres land in villages Safidon, Singhpura, Rampura, Ratta Khera and Khera Khemawati for public purpose, namely, for the development of residential, commercial sector 8 at Safidon.

7) Notification bearing No.LAC(H)-2007-NTLA/382 on 23.08.2007 under Section 4 of the Act was issued for the acquisition of 167.79 acres of land in village Safidon, Khera Khemawati for the public purpose, namely, for the development of residential and commercial sector 9 at Safidon.

8) The said notifications were published in the newspapers. The objections to the said notifications

were also invited. However, the objections filed by the landowners were rejected by Collector finding no merit therein under Section 5A of the Act.

9) This was followed by 3 declarations made and published under Section 6 of the Act on 21.08.2008 bearing No. LAC(H)-2008-NTLA/423 in respect of the land measuring 74.10 acres of land in village Singhpura, LAC(H)-2008-NTLA/426 in respect of the land measuring 199.57 acres of land in village Safidon, Singhpura, Rampura, Ratta Khera and Khera Khemawati and LAC(H)-2008-NTLA/429 in respect of the land measuring 150.97 acres in village Safidon and Khera Khemawati.

10) The Collector held an enquiry. He applied the Belting System for determining the market rate of land and, accordingly, classified the land in parts. On 19.08.2010, the Collector passed 3 Awards. By Award No.3 in respect of the land in village Singhpura, the Land Acquisition Officer awarded

compensation @ Rs.33 lacs per acre for the land up to the depth of 2 acres from Safidon-Jind Road and Safidon Bye-Pass Road and Gair Mumkin and for the land classified as "Nehri, Chahi", he awarded Rs. 18 lacs per acre. The landowners were also awarded 30% solatium and additional amount @ 12% per annum from the date of notification under Section 4 of the Act till the Award as provided under Section 23 of the Act.

11) By Award No.4 in respect of the acquisition of land in village Safidon, Singhpura, Rampura, Ratta Khera and Khera Khemawati, the Land Acquisition Officer awarded compensation @ Rs.33 lacs per acre for the land up to the depth of 2 acres from Safidon-Jind Road and Safidon Bye-Pass Road and Gair Mumkin and @ Rs.18 lacs per acre for "Nehri, Chahi" Land. The landowners were also awarded 30% Solatium and additional amount @ 12% p.a. from the date of notification under Section 4 of the

Act till the award as provided under Section 23 of the Act.

12) By Award No.5 in respect of acquisition of land in village Safidon and Khera Khemawati, the Land Acquisition Officer awarded compensation @ Rs.33 lacs per acre for the land upto the depth of 2 acres from Safidon-Jind Road and Safidon Bye-pass Road and Gair Mumkin and Rs.18 lacs per acre for "Nehri, Chahi" land. The landowners were also awarded 30% Solatium and additional amount @ 12% p.a. from the date of notification under Section 4 of the Act till the Award as provided under Section 23 of the Act.

13) Being dissatisfied with the Awards, the landowners filed Reference Petitions under Section 18 of the Act before the Additional District Judge, Jind praying for enhancement of the compensation contending *inter alia* that the market value of the land at the time of acquisition was much higher

than what was offered by the Collector in his Awards. According to the appellants (landowners), the market value was to the tune of Rs.5000/- per sq. yds.

14) The Additional District Judge by its common Award dated 17.12.2013 dismissed all 305 reference petitions and, in consequence, upheld the Awards passed by the Collector. In other words, the Reference Court was of the view that the rate at which the compensation was determined by the Collector by applying the Belting System in working out the compensation was just and proper and as per Section 23 of the Act. The Reference Court, therefore, did not enhance the compensation awarded by the Collector. All the reference petitions were accordingly dismissed.

15) Aggrieved by the said Awards, the landowners filed separate Regular First Appeals before the High Court praying for enhancement of the

compensation.

16) By impugned judgments dated 22.12.2015, 22.03.2016 and 03.05.2016, the High Court partly allowed the appeals. The High Court held that the Awards of the Collector assessing compensation @Rs.33 lacs per acre for the land up to the depth of 2 acres on Safidon Jind Road, Safidon bye-Pass road does not call for any interference and hence they were upheld. However, so far as the other category of land (Nehri, Chahi) beyond 2 acres from the road was concerned, the High Court modified the Award and enhanced the compensation from Rs.18 lacs to Rs.24,75,000/- per acre. The High Court determined the market rate at Rs. 48,40,000/- per acre and then reducing by 33% worked out to Rs.32,42,800/- per acre, i.e., Rs.33,00,000/- per acre so far as Safidon-Jind land was concerned. So far as other land for which the Collector had awarded Rs.18 lacs per acre, the High

Court deducted 25% and thus worked out to Rs.24,75,000/- per acre.

17) Aggrieved by the said judgments, the landowners have filed these appeals by way of special leave before this Court.

18) Heard learned counsel for the parties.

19) Learned counsel appearing for the appellants (landowners) while assailing the legality and correctness of the impugned judgments mainly argued three points.

20) In the first place, learned counsel argued that the High Court having accepted in principle that the acquired land is a developed land and has potentiality in all respects coupled with the fact that it is surrounded by upcoming activities in any town erred in not properly determining the market value of the land as required under Section 23 of the Act read with law laid down by this Court in several cases.

21) In the second place, learned counsel argued that the appellants (landowners) had filed as many as 59 Sale deeds of the adjacent and nearby areas having a similar quality of land alike the acquired land before the Reference Court. Learned counsel urged that out of 59 sale deeds, two pieces of land were sold at the rate of Rs.4,500/- per square yard whereas remaining lands were also sold at different rates ranging between Rs.200/- to Rs.4,500/- per square yard.

22) It was, therefore, his submission that since the highest rate in the comparable sales is usually preferred for determining the market value of the acquired land, the High Court should have taken Rs.4,500/- per square yard to be the basis for determining the market value of the acquired land.

23) In the third place, learned counsel argued that the Collector, Reference Court and the High Court erred in applying the Belting System for determining

the market value of the acquired land which, according to learned counsel, wrongly resulted in classifying the acquired land in two parts and, in consequence, resulted in applying two rates for two parcels of the lands. One rate was for the land which is abutting the main road, whose rate was more as compared to the other land, and the land which is in interior from the main road, whose rate was less.

24) It was his submission that the Collector and the Reference Court failed to give any justifiable reasons as to why they choose to apply the Belting System for determining the market value of the acquired land. Similarly, according to learned counsel, the High Court also did not deal with this issue though raised by the appellants before the High Court in their appeals.

25) In reply, learned counsel for the respondent (State) supported the impugned judgments and

contended that the market value of the acquired land determined by the High Court which resulted in partially enhancing the rate in relation to one class of land which is in interior from Rs.18 lacs to Rs.24,75,000/- per acre, is just and proper and does not call for any further enhancement and nor the other class of land (Rs.33,00,000/- per acre) calls for any further enhancement and the same was rightly upheld by the High Court.

26) Learned counsel then pointed out several infirmities in the 59 comparable sale deeds relied on by the appellants and contended that these sale deeds should not be relied on for determining the market rate of the acquired land for the following reasons.

27) First, all the 59 sale deeds pertained to very small pieces of land wherein the lands were sold in square yards, whereas the acquired land in question is very large and measures in acres (around 300

acres or so). In other words, according to learned counsel, there is no comparison between the lands, which is the subject matter of the sale deeds relied on by the appellants (claimants), and the acquired land in question.

28) Second, some claimants, whose lands were acquired in these acquisition proceedings, had sold their part of the acquired lands in very small measures few months before the date of acquisition only with an intention to create evidence so that they may get the compensation for their acquired land at the same rate at which they sold their land.

29) In other words, according to the learned counsel, such sales could not be regarded as genuine sales between the seller and the buyer and were, in fact, the bogus sales brought into existence with a sole purpose to claim more compensation for their acquired lands.

30) Learned counsel, lastly, contended that there

is no case made out by the appellants (landowners) to question the Belting System applied by the Courts below for determining the market rates of the acquired land inasmuch as having regard to the nature of the land and other factors, the Belting System was properly applied. Learned counsel, therefore, contended that the impugned judgments deserve to be upheld calling no interference.

31) Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to allow the appeals in part and, in consequence, modify the impugned judgments by partially enhancing the compensation payable to the appellants for their acquired land to the extent indicated below.

32) Coming first to the question as to whether the Courts below were justified in applying the "Belting System" for determining the market rates of the acquired land in question?

33) We are of the considered opinion that keeping in view the nature, extent, size, surrounding and location of the acquired land, the Courts below were justified in applying Belting System for determining the market rate of the acquired land.

34) One cannot dispute that the Belting System is a judicially accepted method for determining the fair market value of the acquired land. It is applied in appropriate cases when different parcels of lands with different survey numbers belonging to different owners and having different locations are acquired which put together comprises of a large chunk of land. Such chunk cannot be taken as a compact block.

35) The acquired land having a frontage abutting the highway/main road always has a better value as compared to the land, which is away from the highway/main road. Indeed, farther the land from the highway/main road, lesser the value of such

land. In such a situation, where large pieces of land having different locations are acquired, Belting System is considered apposite for determining the market value of the lands. (see – **Union of India & Ors. vs. Mangatu Ram & Ors.** 1997 (6) SCC 59 and **Andhra Pradesh Industrial Infrastructure Corporation Limited vs. G. Mohan Reddy & Ors.** 2010 (15) SCC 412).

36) In Belting System, the acquired land is usually divided in two or three belts depending upon the facts of each case. The market value of the front belt abutting the main road is taken to fetch maximum value whereas the second belt fetches two third or so of the rate determined in relation to the first belt and the third belt, if considered proper to carve out, fetches half or so of the maximum. It is again depending upon facts of each case.

37) Similarly, this Court has consistently held on the question as to what is fair and reasonable

market value of any acquired land on the date of its acquisition. It is held that such a question is always a question of fact and its answer depends on the nature of evidence, circumstances and probabilities appearing in each case.

38) It is held that one of the guiding factors in such cases is the conduct of a hypothetical willing vendor, who would offer the land and a willing purchaser in normal human conduct, would be willing to buy the land as a prudent man in normal market condition on the date of the notification under Section 4(1) of the Act but not an anxious buyer dealing at arm's length nor facade or fictitious sales brought about in quick succession or otherwise to inflate the market value.

39) It is held that when the Courts are called upon to fix the market value of the land in compulsory acquisition, one of the types of evidence of the value of the property is the sale of the acquired land to

which the claimant is a party and in its absence, the sale of the neighboring lands.

40) It is held that the transactions relating to acquired land of recent dates or in the neighbourhood lands that possessed of similar potentiality or fertility or other advantageous features are considered to be relevant piece of evidence.

41) It is held that in proof of the sale transactions, the relationship of the parties to the transactions, the market conditions, the terms of the sale and the date of the sale are to be looked into. These features need to be established by examining either the vendor or vendee and if they are not available, the attesting witnesses who have personal knowledge of the transaction etc. The original or certified copies of the sale deeds are required to be tendered in evidence to prove such facts. One of the underlying principles to fix a fair market value with

reference to comparable sale is to reduce the element of speculation.

42) It is held that in comparable sale, the features are (1) it must be within a reasonable time of the date of the notification (2) it should be a *bona fide* transaction (3) it should be a sale of the land acquired or land adjacent to the land acquired and (4) it should possess similar advantages.

43) These factors should be established by adducing material evidence by examining the parties to the sale or persons having personal knowledge of the sale transactions. The proof thereof focuses on the fact whether the transactions relied on are genuine and *bona fide* transactions or not.

44) It is further held that it is the paramount duty of the Courts of facts to subject the evidence to close scrutiny with a view to objectively assess the evidence tendered by the parties on proper

considerations thereof in its correct perspective to arrive at a reasonable market value. The attending facts and circumstances in each case always furnish guidance to arrive at the market value of the acquired land. The neighbourhood lands possessed of similar potentialities or same advantageous features/circumstances available in each case are also to be taken into account.

45) Indeed, it is held that the object of the assessment of the evidence is to enable the Courts to arrive at a fair and reasonable market value of the lands and in that process, sometimes the Courts are required to trench on the border of the guesswork but mechanical assessment has to be eschewed.

46) It is also held that Judges are required to draw from their experience and the normal human conduct of the parties as to which transaction is *bona fide* and genuine sale transaction because that

is one of the guiding factors in evaluating the evidence.

47) It is also held that the amount awarded by the Land Acquisition Collector forms an offer and that it is for the landowners to adduce relevant and material evidence to establish that the acquired lands are capable of fetching higher market value and the amount offered by the Land Acquisition Collector is inadequate and that he proceeded on wrong principle. (See - **Periyar and Pareekanni Rubbers Ltd. vs. State of Kerala** 1991(4) SCC 195).

48) This Court also examined the question as to how the Courts should judge the potentiality of the acquired land and what are the relevant consideration, which should be taken into consideration for deciding the potentiality of the land.

49) It is held that potentiality means capacity or possibility for changing or developing into state of

actuality. The question as to whether the land has a potential value or not is primarily one of fact depending upon its condition, situation, user to which it is put or is reasonably capable of being put and whether it has any proximity to residential, commercial or industrial areas or institutions. The existing amenities such as water, electricity, possibility of their further extension, whether near about town is developing or has prospect of development need to be taken into consideration.

50) It is also held that the value of the smaller plots, which is always on the higher side, is usually not taken into consideration for determining the large block of the land. One of the reasons being that the substantial area of the large block is used for development of sites like laying out the roads, drains sewers, water and electricity lines and several civic amenities and to provide these facilities, lot of time is consumed. The deduction is,

therefore, made, which ranges from 20% to 50% or in appropriate cases even more. (See - **Atma Singh(Dead) Thr. L.Rs. & Ors. vs. State of Haryana & Anr.** 2008 (2) SCC 568).

51) Keeping the aforementioned well settled principles of law in consideration, let us recapitulate the facts of the case hereinbelow to examine the issue arising in the case.

52) As mentioned above, the total land acquired for development and utilization of commercial and residential sector is situated in villages Safidon, Singpura, Rampura, Ratta Khera & Khera Khemawati in District Jind in State of Haryana. The acquired land comprises of more than around 300 acres or so and is thus a very large in chunk. The acquired land belonged to several landowners and obviously so being so large in volume. One side of the acquired land is abutting the road. The land has surrounding with some kind of activities in

nearby areas and this shows that the acquired land has some potential.

53) The Collector, therefore, taking into account all these factors considered it proper to classify the land on the basis of 2004-2005 revenue records in two heads for determining the compensation. The first head was in the name Nehri Chahi, i.e., canalling irrigated/water supplied from pipes in which land measuring 82-49 acres was included whereas the other parcel of land measuring around 117.08 acres, which is abutting the road, was included in other head in the name - To the depth of 2 acres from Safidon-Jind Road & Safidon bye pass Road and Gair Mumkin. - (see Award of the Collector dated 19.8.2010 (annexure P-3). The Collector made this classification by applying the Belting System. It is pertinent to mention that it was not objected by the landowners as would be clear from Para 3 of the Award dated 19.8.2010.

- 54) Since the land included under the head, i.e., Safidon- Jind Road and Safidon Bye pass Road and Gair Mumkin was abutting the road, the Collector fixed its market rate at Rs.33,00,000/- (Thirty Three Lacs) per acre up to the extent of the land going inside 2 acres from the road.
- 55) So far as the land included in the first head, i.e., Nehri- Chahi beyond 2 acres was concerned, the Collector fixed its market rate at Rs.18,00,000/- (Eighteen Lacs) per acre.
- 56) The Reference Court dismissed the reference and upheld the rates fixed by the Collector. The High Court, however, in an appeal filed by the appellants (claimants), in the impugned judgments, upheld the rate, i.e., Rs.33,00,000/- per acre so far as it relates to the land included in the head. - Safidon - Jind Road and Safidon Bye pass Road and Gair Mumkin saying that this does not need any enhancement but enhanced the rate from

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Rs.18,00,000/- per acre to Rs.24,75,000/- per acre insofar as it pertained to land beyond 2 acres included in the head - Nehri Chahi.

57) We are of the considered opinion that the Collector was justified in applying the Belting System to the acquired land in question. Since the acquired land was a large chunk of land having its frontage abutting the roadside, the Belting System was rightly applied to the acquired land for determination of its fair market rate.

58) It is more so because we find that the appellants too did not raise any objection before the Collector and before the High Court and nor they were able to point out to us as to why it was not possible to apply the Belting System and what was illegal in its application.

59) It is for all these reasons, we find no merit in the submission of the learned counsel for the appellants when he questioned the application of

the Belting System to the acquired land for determining its fair market value.

60) This takes us to examine the next question as to whether the highest rate of Rs.4500/- per square yard of the land of the nearby area out of 59 sale deeds should be made basis for determining the market rate of the acquired land. In our opinion, it is not possible to accept this submission of the learned counsel for the appellants though pressed in service vehemently.

61) It is for the reason that firstly, the area sold in each sale deed is very small as compared to the acquired land. Secondly, the lands which were sold by these sale deeds is in square yards and ranges from 31.06 square yards to 440 yards whereas the acquired area in question is in acres and comprises of more than 300 acres. Thirdly, out of 59 sale deeds, there are as many as 31 sale deeds wherein the area comprises of less than 100 square yards.

Fourthly, except two sale deeds where 60 and 67 square yard of land was sold for Rs.4,500/- per square yard, all other sale deeds value ranges between Rs.200/- to Rs.2000/- per square yard.

Fifthly, there can be no comparison between the two lands due to the extent of area which are two extremes and lastly, since no sale deeds were filed by the appellants showing market price of any large chunk of land sold in acres at the relevant time, it is not possible to place reliance on any of these sale deeds for determining the market rate of the acquired land by applying the same rate (Rs.4,500/- per square yard). It is, in our opinion, neither permissible and nor proper to rely solely upon the rates of small plots and then determine the compensation for a large chunk of acquired land as in this case.

62) We have applied our mind keeping in view all the relevant factors coupled with the law laid down

by this Court. Taking into consideration all the relevant factors emerging from the evidence and the findings of the Courts below on the issues such as - the location of the acquired land, its surroundings, nature, potentiality, rates of small plots, the purpose of acquisition, development cost needed, non availability of the sale deeds for large areas sold in acres, etc., we are of the considered opinion that just, fair and proper market value of the acquired land in question on the date of issuance of Section 4 notification is determined at Rs.45,00,000/- (Forty Five Lacs) per acre in place of Rs.33,00,000/- (Thirty Three Lacs) per acre for the lands described in detail in column 2 of the Award of the Collector dated 19.08.2010 (Annexure P-3) at page 32 of the SLP paper book of C.A.No. 2846/2017 and Rs.35,00,000/- (Thirty Five Lacs) per acre in place of Rs.24,75,000/- (Twenty Four Lacs Seventy Five Thousand) per acre for lands described in detail in

column 1 of the said Award. In other words, the appellants are held entitled to receive compensation for the acquired land as described hereunder:

S. No.	Class of Land	Awarded Amount
1.	Nehri, Chahi	Rs.35 lacs
2.	To the depth of 2 acres from Safidon-Jind Road & Safidon Bye Pass Road and Gair-mumkin land	Rs.45 lacs

63) In addition to the aforesaid, the appellants are also held entitled to statutory compensation as provided in the Act and which the Courts below had already awarded to the appellants. We uphold the Award of such compensation. The two rates which we have determined above would apply to entire acquired land of all the appellants.

64) In the light of foregoing discussion, the appeals succeed and are allowed in part. The impugned judgments are partially modified in appellants'

favour by enhancing the compensation payable to appellants (claimants/landowners) in respect of their acquired land to the extent indicated above.

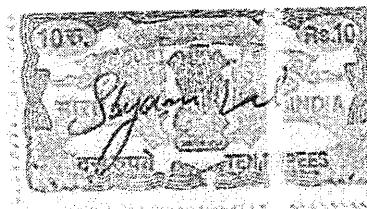
.....J.
[R.K. AGRAWAL]

.....J.
[ABHAY MANOHAR SAPRE]

New Delhi;
October 27, 2017

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Par



293 23/1/18

कुमि अजेंट कार्यालय
राजा राम, रामगढ़, हिस्सर

U.P.
06/7
K.P.

BEFORE THE LAND ACQUISITION COLLECTOR, HISSAR.

1. Shyam Lal, 16
 2. Bhagwan Dass sons of Sh. Teju 16
 3. Suraj Bhan (since deceased) S/o Teju, through his L.Rs.
 - (i) Anil Kumar S/o Suraj Bhan 16
 - (ii) Sugan Chand S/o Suraj Bhan
 4. Chander Bhan (since deceased) S/o Teju, through his L.Rs. 16
 - (i) Chandro Devi wife of Chander Bhan,
 - (ii) Rulda Ram son of Chander Bhan,
 - (iii) Pawan Kumar son of Chander Bhan,
 - (iv) Raj Kumar son of Chander Bhan,
 - (v) Vikram son of Chander Bhan,
- All residents of Ward No.8, Saini Mohalla, Safidon, Distt. Jind.

...Petitioners.

Versus

1. State of Haryana through its Collector, Jind.
2. Land Acquisition Collector, Urban Estate, HUDA Complex, Sector 13, Hissar.
3. Haryana Urban Development Authority, Sector-6, Panchkula, through its Chief Administrator.

...Respondents.

PETITION under section 28-A of the Land Acquisition Act, 1894, as amended up to date for re-determination of the amount of compensation etc. payable to the petitioners on the basis of judgment/award dated 27.10.2017 passed in SLP No.2846/2017 by the Hon'ble Supreme Court of India.

Sir,

The petitioners respectfully submit as under:

1. That the petitioners were owners in possession being co-sharer of land 9 Kanal 18 Marla comprised in Khewat No.1557/1615, Rect No.39, Killa No.23(9-18) situated at village Safidon, Distt. Jind vide Jamabandi for the year 2004-2005, is as under to the depth of 2 acres from Safidon Bypass Road within the revenue estate of Safidon, Distt. Jind.
2. That the above mentioned land of the petitioners along with other right holders was acquired by the State of Haryana vide Notification No.LAC-CH/2007/NTLA/382 dated

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23.08.2007 published in Haryana Govt.
Extraordinary Gazette dated 27.08.2007 under
Section 4 of the Land Acquisition Act
(hereinafter called the "Act") and vide
notification No. LAC (H) -2008/NTLA/429 dated
21.08.2008 under Section 6 of the Land
Acquisition Act, 1894 for public purpose
namely for development of residential and
commercial Sector-9 by the Haryana Urban
Development Authority at Safidon.

3. That the Land Acquisition Collector vide its
award dated 19.08.2010 awarded the
compensation in respect of the acquired land
of the petitioners at the rate of
Rs.33,00,000/- per acre along with solatium at
the rate of 30 percent and additional amount
at the rate of 12 percent per annum as
envisioned under Section 23(1-A) of the Act, as
amended up to date, from the date of
notification under Section 4 of the Act till
the date of award dated 19.08.2010. The Land

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Acquisition Collector has not valued the award of compensation amount according to market value so far in spite of repeated requests and demands of the petitioners. So the petitioners are entitled to get interest on the awarded amount of compensation from the date of notification U/S.4 of the Act till actual realization of the awarded amount.

4. That the award given by the Land Acquisition Collector is not in accordance with law. The award dated 19.09.2010 is invalid, inoperative, illegal, void ab initio and against all canons of natural justice inasmuch as the entire proceedings have been carried out in a summary manner without any regard to law and procedure. The Land Acquisition Collector has not considered the claim of the Petitioners filed by them in response to the notice under Section 9 of the Land Acquisition Act. It is submitted that the prices of the land for the last five years near and around

-5-

Recd

the acquired land of the petitioners has not been less than Rs.1.50 Crores (Rupees One Crore fifty Lacs only) per acre.

5. That the petitioners' co-sharers and other right holders dissatisfied with the above said award given the Land Acquisition Collector, Hissar filed a reference under Section 18 of the Act pleading inter alia that the market value of the acquired land on the date of notification under Section 4 of the Act was more than Rs.2 Crores per acre. The Land Acquisition Collector Hissar on receipt of the said applications of the co-sharers and other land holders made a reference to the Ld. Court of Additional District Judge, Jind for determination of the market value of the acquired land on the date of notification under S.4 of the Act and the Ld. Additional Distt. Judge, Jind by its common award dated 17.12.2013 dismissed all 305 reference Petitions and in consequence upheld the award

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passed by the Land Acquisition Collector, Hissar. In other words, the reference Court therefore, did not enhance the compensation awarded by the Land Acquisition Collector, all the reference petitions were accordingly dismissed.

6. That the petitioners' co-sharers and other right holders/land owners aggrieved/dissatisfied by the said award of Ld. A.D.J., filed separate regular first appeals before the Hon'ble High Court of Punjab and Haryana, Chandigarh praying for enhancement of compensation. But by impugned judgments dated 22.12.2015, 22.03.2016 and 03.05.2016, the Hon'ble High Court of Punjab and Haryana partly allowed the appeals but the Petitioners' co-sharers regular first appeal was dismissed by the Hon'ble High Court. The Hon'ble High Court held that the award of the Collector assessing compensation @ Rs.33 Lacs per acre for the land up to depth of 2 Acres

- 7 -

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on Safidon Bypass road, does not call for any interference, hence they were upheld the land Acquisition Collector award.

7. That thereafter the petitioners' co-sharers and other land/right holder aggrieved and dissatisfied by the said Hon'ble High Court of Punjab and Haryana judgment, filed Special Leave Petition before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India accepted and allowed the Special Leave petition of the petitioners' co-sharers and other land owners and the Hon'ble Supreme Court made an award/judgment dated 27.10.2017 and held the right holders/ land owners entitled to the compensation in respect of the acquired land as described to the depth of 2 acres from Safidon Bypass Road at the rate of Rs.45,00,000/- per acre as on the date of issuance of notification under Section 4 of the Act along with solatium @ 30% and additional amount @ 12% per annum and interest

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9% per annum for the first year and 15% per annum for the subsequent period in accordance with Section 23(1-A), 23(2) and 28 of the Act. The Special Leave Petition accepted and allowed by the Hon'ble Supreme Court of India. The certified copy of the judgment and award is attached with the petition.

8. That the petitioners did not file an application under Section 18 of the Act for their acquired land before the Land Acquisition Collector, Hissar. Although the petitioners were also aggrieved by the award of the Land Acquisition Collector. The petitioners are entitled to the re-determination of the award of compensation for their acquired land as per the award given by the Hon'ble Supreme Court of India @ Rs.45,00,000/- per acre as on the day of issuance of notification under Section 4 of the Act along with solatium at the rate of 30%

(26)

and additional amount @ 12% per annum and interest @ 9% per annum for the first year and @ 15% per annum for the subsequent period in accordance with Sections 23(1-A), 23(2) and 28 of the Act. Hence this petition.

9. That the petitioners have come to know of the award/judgment on the date of judgment dated 27.10.2017 from their co-sharers of the land, then the petitioners applied for certified copy of the judgment dated 27.10.2017 and are filing the present petition within limitation.
10. That necessary court fee of Rs.10/- as provided under the law has been affixed on the petition.

It is, therefore, prayed that the amount of compensation payable to the petitioners may kindly be re-determined on the basis of award/judgment dated 27.10.2017 passed by the Hon'ble Supreme Court of India, New Delhi in the Special Leave Petition No.2846 of 2017 titled as 'Bijender Vs. State of Haryana etc.', at the rate

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of Rs.45,00,000/- per acre as on the day of issuance of notification under Section 4 of the Land Acquisition Act along with solatium @ 30% and additional amount @ 12% per annum and interest @ 9% per annum for the first year and @ 15% per annum for the subsequent period in accordance with Section 23(1-A), 23(2) and 28 of the Act.

It is further prayed that if for some reasons, the Land Acquisition Collector is unable to re-determine the amount of compensation payable to the petitioners in respect of acquired land of the petitioners, then the case of the petitioners may kindly be referred to the Lt. Addl. District Judge, Jind for determination of the amount of compensation awardable/payable to the petitioners in respect of their acquired land as stated in the above paras.

The cost of the application and any other relief to which the petitioners are found entitled,

-11-

may kindly be also granted in the interest of justice.

VERIFICATION

Verified that the contents stated in above paras of the petition are true & correct to the best of my knowledge and belief.

Verified at Hissar on 23.01.2018.

Petitioners

31/1/2018
4907 G 412

23/1/2018, 21/1

1. Shyam Lal,
2. Bhagwan Dass sons
of Sh. Teju
3. Suraj Bhan (since
deceased) S/o
Teju, through his
L.Rs.

(i) Anil Kumar
(ii) Sugan Chand
son of Suraj
Bhan
4. Chander Bhan
(since deceased)
S/o Teju, through
his L.Rs.

(i) Chandro Devi
wife of
Chander Bhan,
(ii) Rulda Ram
(iii) Pawan Kumar
(iv) Raj Kumar
(v) Vikram S/o
Chander Bhan

All residents of Ward
No.8, Saini Mohalla,
Safidon, Distt. Jind.

R.K. BHARGAVA, Advocate
Enr. No. P/2633/2013
Ch. No. 311, 3rd Floor,
Distt. Courts, Panipat
Mob. 9991059682

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ANNEXURE P-5

(172)

IN THE COURT OF SH. RADHEY SHYAM MITTAL,
 LAND ACQUISITION COLLECTOR,
 URBAN ESTATES DEPARTMENT, HARYANA, HISAR.

Case No: R-....., of

1. Shyam Lal, 2. Bhagwan Dass 3. Suraj Bhan etc.Petitioners.

Versus

State of Haryana & others Respondents.

Present: For the petitioner: Sh. R.K. Bhargava, Advocate
 For the E.O, HSVP, Jind: Ex-parti.

Claim in petition: Re-determination of amount of compensation
 under Sub Section 2 of Section-28A of the L.A.Act,
 1894.

ORDER:

By this order, I shall dispose of the present application moved by the petitioner(s) under Section-28A of the L.A. Act (hereinafter referred to as the Act).

Brief facts of the case are that the petitioner(s) moved the present application in this office for re-determination of the amount of compensation of his land mentioned in the present application on the basis of award/judgment dated 27.10.2017 passed by the Hon'ble Supreme Court in Civil Appeal No. 2846 of 2017 titled as Bijender & ors Versus State of Haryana & another. The land of petitioner (s) was acquired vide award dated 19.08.2010 for the development and utilization of residential and commercial Sector-7-8-9, Safidon, Jind. The LAC has awarded compensation Rs. 12,00,000/- and Rs. 33,00,000/- per acre along with all benefits as prescribed.

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(194)

in the L.A. Act, 1894. Aggrieved with award passed by the LAC, the landowners has filed the Reference petitions under Section-18 of the Act and claimed more compensation of the awarded land. The said reference petitions were referred to the reference court Jind. After considering all facts of the case the reference court dismissed all 305 reference petitions on 17.12.2013 and upheld compensation passed by the LAC. Aggrieved/dissatisfied with the award of Ld. ADJ, Jind and landowners have filed the regular first appeal before the Hon'ble High Court of Punjab and Haryana. The Hon'ble High Court set aside the order passed by the reference court and enhanced the compensation of awarded land vide order dated 22.12.2015, 22.03.2016 and 03.05.2016 but the claim of the petitioner(s) was dismissed by the Hon'ble High Court and held that the award of collector assessing compensation @ Rs. lacs per acre for the land up to depth of 2 acre on Safidon Byepass road, does not call for any interference, hence, they were upheld the LAC award. Thereafter, aggrieved and dissatisfied with the order passed by the Hon'ble High Court, the landowner has filed Special Leave Petition. The Hon'ble Supreme Court has allowed the petition and enhanced the compensation in respect of the land as described to the depth of 2 acres from Safidon Byepass Road at the rate of Rs. 45,00,000/- per acre along with all the benefits on 27.10.2017. According the office record, the petitioner(s) is/are owner in possession of 1/4 share (2K-9M), out of total land measuring 9K-18M situated in Patwari Circle, Safidon, Distt. Jind. The land of petitioner was acquired for above mentioned purpose.

Under the provisions of Section-28-A(1) of the Act, the notices of hearing were issued to the petitioner(s) as well as Estate Officer, HSVP, Jind. The petitioner's advocate in his argument submitted that the Hon'ble Supreme

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(195)

Court of India has already decided in Union of India Vs. Pardeep Kumar 95(2) SCC 736 and affirmed in case Jose Antonic Crus Dos R. Rodriguese Vs. Land Acquisition Collector, 1996(1) SCC 88 that the period of limitation of three months for filing application u/s-28A not to run from the date of making of first award but the date of making of award relied upon. He further averred that the rate awarded by the LAC has been enhanced by the Hon'ble Supreme Court vide its award dated 27.10.2017 on the basis on which the present application has been moved by the petitioner. Moreover, the Hon'ble Supreme Court has already held that LAC should decide the claim under section 28A of the Act, when the market value attain finely in other words market value finally decided by the Supreme Court.

I have gone through the facts of the case. The office report clearly shows that the petitioner(s) did not file reference u/s-18 of the Act. The present application is moved within limitation period and fulfills all required conditions and the same is accepted.

I, therefore, re-determine the amount of the compensation in respect of land mentioned as above on the basis of award of dated 27.10.2017 passed/decided by Hon'ble Supreme Court of India and the petitioner shall be entitled to receive the amount of compensation @ Rs. 35,00,000/- and Rs. 45,00,000/- per acre along with all statutory benefits u/s-23(1-A), 23(2) and 28 read with section 34 of the L.A.Act, 1894.

Announced in open Court
Place: Hisar
Dated: 28.08.2018

T25 MUL
Land Acquisition Collector
Urban Estates Deptt, Hry,
Hisar Land Acquisition Collector
Urban Estate Deptt. (Hry.)
HISAR

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Adm

In the High Court of Punjab and Haryana, at Chandigarh

1.

Civil Writ Petition No. 8456 of 2020

Haryana State Industrial and Infrastructure Development Corporation Limited

... Petitioner(s)

Smt. Shanti and Others

Versus

... Respondent(s)

2.

Civil Writ Petition No. 8855 of 2020

Haryana State Industrial and Infrastructure Development Corporation Limited

... Petitioner(s)

Partap Singh and Others

Versus

... Respondent(s)

3.

Civil Writ Petition No. 8856 of 2020

Haryana State Industrial and Infrastructure Development Corporation Limited

... Petitioner(s)

Bhagwan Sahai and Others

Versus

... Respondent(s)

4.

Civil Writ Petition No. 9061 of 2020

Haryana State Industrial and Infrastructure Development Corporation Limited

... Petitioner(s)

Rattan Singh and Another

Versus

... Respondent(s)

5.

Civil Writ Petition No. 9113 of 2020

Haryana State Industrial and Infrastructure Development Corporation Limited

... Petitioner(s)

Versus

**Civil Writ Petition No. 8456 of 2020 AND
14 Other Connected Cases**

2

Panchayat Deh, Gram Panchayat Village Rajokala, Tehsil and District
Palwal and Others

... Respondent(s)

6. Civil Writ Petition No. 9590 of 2020

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

Versus

Bansi and Another

... Respondent(s)

7. Civil Writ Petition No. 11353 of 2020

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

Versus

Smt. Shyamwati and Others

... Respondent(s)

8. Civil Writ Petition No. 11398 of 2020

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

Versus

Jagdish and Another

... Respondent(s)

9. Civil Writ Petition No. 11384 of 2020

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

Versus

Deep Kishor and Others

... Respondent(s)

**Civil Writ Petition No. 8456 of 2020 AND
14 Other Connected Cases**

3

10.

Civil Writ Petition No. 12172 of 2020

Haryana State Industrial and Infrastructure Development Corporation Limited

... Petitioner(s)

Versus

Devi Singh Chauhan and Others

... Respondent(s)

11.

Civil Writ Petition No. 12558 of 2020

Haryana State Industrial and Infrastructure Development Corporation Limited

... Petitioner(s)

Versus

Harpal and Another

... Respondent(s)

12.

Civil Writ Petition No. 12658 of 2020

Haryana State Industrial and Infrastructure Development Corporation Limited

... Petitioner(s)

Versus

Inder Singh and Others

... Respondent(s)

13.

Civil Writ Petition No. 12573 of 2020

Haryana State Industrial and Infrastructure Development Corporation Limited

... Petitioner(s)

Versus

Vijay Anand and Another

... Respondent(s)

14.

Civil Writ Petition No. 13863 of 2020

Haryana State Industrial and Infrastructure Development Corporation Limited

... Petitioner(s)

Versus

**Civil Writ Petition No. 8456 of 2020 AND
14 Other Connected Cases**

4

Gram Panchayat, Ratipur and Others

... Respondent(s)

AND

15.

Civil Writ Petition No. 14602 of 2020

Haryana State Industrial and Infrastructure Development Corporation
Limited

... Petitioner(s)

Versus

Khajan Singh and Others

... Respondent(s)

DATE OF DECISION: 06.09.2021

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Baldev Raj Mahajan, Senior Advocate
with Mr. Pritam Singh Saini, Advocate
for the petitioner(s).

Mr. Shivendra Swaroop, Assistant Advocate General,
Haryana.

Mr. Amandeep Singh Talwar, Advocate
for the respondents.

Mr. Abhishek Jindal, Advocate
for respondent No.1 (In CWP-12573-2020).

Mr. Vipul Sharma, Advocate
for Mr. Kunal Dawar, Advocates
for respondent No.1 and 2 (In CWP-8855-2020).

Mr. Devender Kumar, Advocates
for respondent No.1 (In CWP-9061-2020) and
for respondent No.1 to 5 (In CWP-14602-2020).

Mr. Bharat Bhushan and Mr. Vaibhav Prashar, Advocates
for respondent No.1 to 5 (In CWP-11353-2020).

Mr. Rajiv Sharma, Advocate
for respondent No.1 to 38 (In CWP-12658-2020).

Mr. Manoj Kumar Sood, Advocates

Mr. Adarsh Jain, Advocate.

Anil Kshetarpal, J.

1. In these writ petitions, the following identical questions arise for consideration:-

- I) Whether the owner of the acquired land is entitled to apply for re-determination of the market value of the acquired land u/s 28-A of the Land Acquisition of Act 1894 particularly when the reference court does not enhance the market value of the acquired land of various other owners, however, the High Court in exercise of appellate powers under Section 54 of the 1894 Act or the Supreme Court enhances the market value of acquired land of various other owners?
- II) Whether the limitation for filing an application under section 28-A of the 1894 Act begins to run from the date of the judgment passed by the High Court in exercise of powers under Section 54 of the 1894 Act or the Supreme Court?

2. It would be noted here that while adjudicating the aforesaid issues in *Union of India and Another v. Pardeep Kumari and Others (1995) 2 SCC 736*, the Supreme Court held that the application under Section 28-A of the 1894 Act can be filed within a period of three months only on the basis of any award passed by the reference Court while deciding the reference sent to him under Section 18 of the 1894 Act. The relevant discussion is in para 10, which is extracted as under:-

“10. It is possible to visualise a situation where in the first

award that is made by the court after the coming into force of Section 28-A the enhancement in the amount of compensation by the said award is not very significant for the reason that the person who sought the reference was not able to produce adequate evidence in support of his claim and in another reference where the award was made by the court subsequently such evidence is produced before the court and a much higher amount is awarded as compensation in the said award. By restricting the benefit of Section 28-A to the first award that is made by the court after the coming into force of Section 28-A the benefit of higher amount of compensation on the basis of the subsequent award made by the court would be denied to the persons invoking Section 28-A and the benefit of the said provision would be confined to redetermination of compensation on the basis of lesser amount of compensation awarded under the first award that is made after the coming into force of Section 28-A. There is nothing in the wordings of Section 28-A to indicate that the legislature intended to confer such a limited benefit under Section 28-A. Similarly, there may be a situation, as in the present case, where the notification under Section 4(1) of the Act covers lands falling in different villages and a number of references at the instance of persons having lands in different villages were pending in the court on the date of coming into force of Section 28-A and awards in those references are made by the court on different dates. A

person who is entitled to apply under Section 28-A belonging to a particular village may come to know of the first award that is made by the court after the coming into force of Section 28-A in a reference at the instance of a person belonging to another village, after the expiry of the period of three months from the date of the said award but he may come to know of the subsequent award that is made by the court in the reference at the instance of a person belonging to the same village before the expiry of the period of three months from the date of the said award. This is more likely to happen in the cases of inarticulate and poor people who cannot be expected to keep track of all the references that were pending in court on the date of coming into force of Section 28-A and may not be in a position to know, in time, about the first award that is made by the court after the coming into force of Section 28-A. By holding that the award referred to in Section 28-A(1) is the first award made after the coming into force of Section 28-A, such persons would be deprived of the benefit extended by Section 28-A. Such a construction would thus result in perpetuating the inequality in the payment of compensation which the legislature wanted to remove by enacting Section 28-A. The object underlying Section 28-A would be better achieved by giving the expression "an award" in Section 28-A its natural meaning as meaning the award that is made by the court in Part III of the Act after the coming into force of Section 28-A. If the said

expression in Section 28-A(1) is thus construed, a person would be able to seek redetermination of the amount of compensation payable to him provided the following conditions are satisfied:

- (i) *An award has been made by the court under Part III after the coming into force of Section 28-A;*
- (ii) *By the said award the amount of compensation in excess of the amount awarded by the Collector under Section 11 has been allowed to the applicant in that reference;*
- (iii) *The person moving the application under Section 28-A is interested in other land covered by the same notification under Section 4(1) to which the said award relates;*
- (iv) *The person moving the application did not make an application to the Collector under Section 18;*
- (v) *The application is moved within three months from the date of the award on the basis of which the redetermination of amount of compensation is sought; and*
- (vi) *Only one application can be moved under Section 28-A for redetermination of compensation by an applicant".*

3. Thereafter, again the matter was considered by a larger Bench in *Jose Antonio Cruz Dos R. Rodriguese and Another v. Land Acquisition Collector and Another (1996) 6 SCC 746*. The larger Bench confirmed the opinion of the Court in *Pardeep Kumari's case (supra)*. The relevant discussion is in para 3 and 4, which is extracted as under:

"3. Before examining the decisions of this Court on which

the High Court has placed reliance, we deem it appropriate to first examine the plain language of Section 28-A extracted earlier. Section 28-A was inserted as the last section in Part III entitled "Reference to Court and Procedure thereon" by Act 68 of 1984. Part III begins with Section 18 which provides that if an interested person does not accept the award made by the Collector under Section 11 of the Act, he may, by a written application to the Collector, require that the matter be referred for determination of the court. Section 2(d) defines the expression 'Court' to mean the principal civil court of original jurisdiction unless a Special Judicial Officer has been appointed. Therefore, the court referred to under Section 18 can only mean the principal civil court of original jurisdiction. Section 23 then sets out the matters to be taken into consideration in determining the compensation to be awarded for the acquired land, and Section 24 indicates the matters to be omitted from consideration. Section 26 provides that the award shall be in writing signed by the Judge which shall be deemed to be a decree within the meaning of clauses (2) and (9) of Section 2 of the Civil Procedure Code, 1908. Section 27 provides for costs to be awarded and Section 28 provides for payment of interest on excess compensation. We then come to Section 28-A. The first part of the section begins with the words "Where in an award under this part, Court allows to the applicant any amount of compensation in excess of the amount

awarded by the Collector under Section 11" which clearly indicate that the legislature was talking of an award made under the provisions of Part III, i.e., an award under Section 11 and therefore, in that context, reference to 'Court' can only mean the court to which a reference is made by the Collector under Section 18. This position is further clarified when the section refers to compensation awarded in excess of the amount awarded under Section 11 of the Act. The second part of the section then addresses "the persons interested in all the other land covered by the same notification ... and who are also aggrieved by the award" and permits them to make a written application to the Collector "within three months from the date of the award of the Court" requiring him to redetermine the amount of compensation on the basis of the amount awarded by the Court, notwithstanding the fact that they had not sought a reference under Section 18 of the Act. Thus, the newly added section seeks to give the same benefit, which a person who had sought a reference and had secured the Court's award for a higher amount of compensation had received, to those who had, on account of ignorance or financial constraints, not sought a reference under Section 18. In the latter part of the section also, reference is to the award under Section 11 and later, to the award of the Reference Court under Section 18 of the Act. Therefore, the court referred to therein is again the court referred to in Section 2(d) of the Act, i.e., the principal civil

court of original jurisdiction. The plain language of Section 28-A, therefore, prescribes the three months' period of limitation to be reckoned from the date of the award by the Court disposing of the reference under Section 18, and not the appellate court dealing with the appeal against the award of the Reference Court.

4. *We may now refer to the case-law. A two-Judge Bench of this Court in Babua Ram v. State of U.P. dealt with this precise question and held that the period of limitation begins to run from the date of the first award made on a reference under Section 18 of the Act, and successive awards cannot save the period of limitation; vide paragraphs 19 and 20 of the reporter. This view was reiterated by the same Bench in Union of India v. Karnail Singh wherein this Court held that the limitation of three months for an application for redetermination of compensation must be computed from the date of the earliest award made by a civil court, and not the judgment rendered by an appellate court. This was followed by the decision of a three-Judge Bench in Union of India v. Pradeep Kumari wherein it was held that the benefit under Section 28-A can be had within three months from the date of the award of the Reference Court on the basis whereof redetermination is sought. The earlier two decisions in the case of Babua Ram and Karnail Singh were overruled on the limited question that they sought to confine the right to seek redetermination to the*

earliest award made by the Court under Section 18 of the Act after the introduction of Section 28-A into the Act. There is, however, no doubt that the period of limitation has to be computed from the date of the Court's award under Section 18 on the basis whereof redetermination is sought. Admittedly, in both the cases at hand, the applications for redetermination of compensation under Section 28-A were made long after the expiry of three months from the date of the award of the Court which constituted the basis for seeking redetermination. We are, therefore, of the opinion that the High Court was right in taking the view that both the applications were time-barred".

4. Recently, once again in *Ramsinghbai (Ramsanghbai) Jerambhai v. State of Gujarat and Another AIR 2018 Supreme Court 2629, Bharatsing and Others v. The State of Maharashtra and Others (2017) SCC Online SC 1453* and *Union of India v. Hansali Devi (2010) 15 SCC 483*, the Supreme court has reiterated the opinion expressed in *Pardeep Kumari's case (supra)*.

FACTS:

5. Through these writ petitions given in the caption of the judgment, the petitioner-Haryana State Industrial and Infrastructure Development Corporation Limited (hereinafter referred to as "HSIIDC"), prays for issuance of a writ in the nature of certiorari to quash identical orders passed by the District Revenue Officer-cum-Land Acquisition Collector, Palwal purportedly in exercise of power under Section 28-A of "the 1894 Act" while re-determining the market value of the acquired land

@ ₹ 32,60,500/- per acre on basis of different orders passed by the High Court while following the decision of re-determination by the Supreme Court of India.

Some Common facts in all these writ petitions are as under:-

6. The State of Haryana issued notification under Section 4 of the 1894 Act, proposing to acquire a vast tract of land for the construction of Kundali-Manesar Express Highway. On 24.04.2016, the Land Acquisition Collector announced the award by offering to pay the market value of the acquired land @ ₹12,50,000/- per acre along with the statutory benefits. The contesting respondents did not file the applications under Section 18 of the 1894 Act for referring to the Court to determine the market value, however, certain other landowners applied under Section 18 to refer the matter to the Court. The reference Court dismissed the reference petitions vide a judgment dated 31.03.2011. However, the numerous regular first appeals filed assailing the correctness of judgment of reference court were filed in the High Court, which were decided while delivering the main judgment in

Usha Rani and Others v. State of Haryana and Others (Regular First Appeal No. 2322 of 2011, decided on 28.03.2016). The High Court enhanced the market value of the acquired land from ₹12,50,000/- per acre to ₹48,57,000/- per acre. The landowners as well as the HSIIDC filed appeals before the Supreme Court which were disposed of on 21.09.2017, while reducing the amount of market value of the acquired land from ₹48,57,000/- per acre to ₹32,62,500/- per acre.

7. The High Court entertained certain Regular First Appeals which were filed after the final decision of the Supreme Court on 21.09.2017.

Thereafter, these appeals were disposed of in terms of assessment of the market value as determined by the Supreme Court.

Now let's note the facts of each writ petition:-

8. In Civil Writ Petition No. 8456 of 2020, the contesting respondents filed an application under Section 28-A of the 1894 Act on 28.11.2018 on the basis of the judgment passed by the High Court on 05.10.2018 in *Ved Prakash and others v. The State of Haryana and others (Regular First Appeal No. 4094 of 2018, decided on 05.10.2018)* which was allowed. Although no date on the application has been specified, nevertheless it is clear from the stamp affixed on the reference application as well as the notice sent by the Land Acquisition Collector dated 13.12.2018 that the application was submitted on 28.11.2018. The order dated 03.12.2018 is extracted as under:-

"The applicant has filed the application as per the decision dated 05.10.2018 passed in RFA No. 4094 of 2018 in LAC No. 52 of 2008, which has been received in the office on 29.11.2018. Therefore, the notice of hearing under Section 28-A for 20.12.2018 at 11.00 AM is presented for signature".

9. In Civil Writ Petition No. 8855 of 2020, the date of the reference application under Section 28-A of the 1894 Act has not been disclosed, however, the contesting respondents, while moving an application, relied upon the order passed in *Nand Ram and Another v. State of Haryana and Others (Regular First Appeal No. 3085 of 2018, decided on 17.07.2018)*. The Land Acquisition Collector allowed the application

**Civil Writ Petition No. 8456 of 2020 AND
14 Other Connected Cases**

15

vide an order dated 01.02.2019.

10. In Civil Writ Petition No. 8856 of 2020, on 28.12.2018, the contesting respondents applied to the Land Acquisition Collector, Palwal under Section 28-A of the 1894 Act on the basis of the judgment passed in *Ved Prakash and others v. The State of Haryana and others (Regular First Appeal No. 4094 of 2018, decided on 05.10.2018)* which was allowed on 05.02.2019.

11. In Civil Writ Petition No. 9061 of 2020, on 30.11.2018, the contesting respondents filed an application under Section 28-A of the 1894 Act on the basis of the judgment passed by the High Court on 05.10.2018 in *Ved Prakash's case (supra)* which was allowed by the Land Acquisition Collector on 05.02.2019.

12. In Civil Writ Petition No. 9113 of 2020, on 28.06.2016, the application under Section 28-A of the 1894 Act was filed while placing reliance upon the judgment of the High Court in *Usha Rani and Others v. State of Haryana and Others (Regular First Appeal No. 2322 of 2011, decided on 28.03.2016)* which was allowed on 01.02.2019.

13. In Civil Writ Petition No. 9590 of 2020, on 21.01.2019, the contesting respondents filed an application under Section 28-A of the 1894 Act on the basis of the judgment passed by the High Court on 05.10.2018 in *Ved Prakash's case (supra)* which was allowed by the Land Acquisition Collector on 01.02.2019.

14. In Civil Writ Petition No. 11353 of 2019, on 30.11.2018, the contesting respondents filed an application under Section 28-A while relying upon the judgment passed by the High Court in *Ved Prakash's case (supra)*

**Civil Writ Petition No. 8456 of 2020 AND
14 Other Connected Cases****16**

which was allowed on 01.02.2019.

15. In Civil Writ Petition No. 11384 of 2020, on 21.01.2019, the contesting respondents filed an application under Section 28-A of the 1894 Act on the basis of the judgment passed by the High Court on 05.10.2018 in *Sunder Lal's case (supra)* which was allowed by the Land Acquisition Collector on 03.06.2019.

16. In Civil Writ Petition No. 11398 of 2020, on 21.01.2019, the contesting respondent applied under Section 28-A of the 1894 Act while placing reliance on the order passed in *Sunder Lal's case (supra)* which was allowed on 01.02.2019.

17. In Civil Writ Petition No. 12172 of 2020, on 23.11.2017, the contesting respondents filed an application under Section 28-A of the 1894 Act on the basis of the judgment passed by the Supreme Court in *Special Leave Petition No. 6513-6530 of 2017*, which was decided on 21.09.2017. The application was allowed by the Land Acquisition Collector on 05.02.2019.

18. In Civil Writ Petition No. 12558 of 2020, the contesting respondents filed an application under Section 28-A of the 1894 Act on the basis of the judgment passed by the Supreme Court which was dismissed on 01.02.2019. Thereafter, the Land Acquisition Collector reviewed its own order and redetermined the market value vide an order dated 01.03.2019 while basing its order on the decision in *Sunder Lal's case (supra)*.

19. In Civil Writ Petition No. 12658 of 2020, the date of submitting an application under Section 28-A of the 1894 Act has not been disclosed, however, the contesting respondents filed the application with the

**Civil Writ Petition No. 8456 of 2020 AND
14 Other Connected Cases**

17

assertion that the High Court, while deciding *Usha Rani's case (supra)*, enhanced the market value of the land of various other owners which was acquired vide the same notification. The contesting respondents after getting the certified copy of the judgment of the High Court on 01.07.2016, filed the application before the Land Acquisition Collector which has been allowed vide an order dated 05.02.2019.

20. In Civil Writ Petition No.12753 of 2020, on 21.01.2019, the contesting respondent filed an application under Section 28-A of the 1894 Act, which was dismissed by the Land Acquisition Collector on 01.02.2019. Thereafter, on 01.03.2019, the contesting respondent filed another application for referring the matter to the District Judge under Section 28-A(3) of the 1894 Act. Thereafter, on 27.05.2019 the Land Acquisition Collector reviewed its own order dated 01.02.2019 and allowed the application U/s 28-A the 1894 Act while redetermining the amount of market value by placing reliance upon the order passed *Sunder Lal v. State of Haryana (Regular First Appeal No. 3978 of 2019, decided on 25.10.2018)*.

21. In Civil Writ Petition No. 13863 of 2020, on 23.01.2019, the contesting respondent filed an application under Section 28-A while relying upon the judgment in *Sunder Lal's case (supra)* which has been allowed on 10.12.2019.

22. In Civil Writ Petition No. 14602 of 2020, on 28.12.2018, the contesting respondents filed an application under Section 28-A of the 1894 Act on the basis of the judgment passed by the High Court on 05.10.2018 in *Ved Prakash's case (supra)* which was allowed by the Land Acquisition Collector on 05.02.2019.

23. Heard the learned counsel for the parties and with their able assistance, perused the paper book.

24. Mr. Baldev Raj Mahajan, the Learned Senior Counsel, while drawing the attention of the Court to the language used by the Parliament in Section 28-A of the 1894 Act, contends that the application could be filed only if the Court, while deciding the reference under Section 18, enhances the market value of the acquired land. He submitted that in the present case, the reference Court dismissed the applications. Hence, he contends that the applications under Section 28-A of the 1894 Act were not maintainable.

25. On the other hand, the learned counsel representing the respondents contends that the Land Acquisition Collector has correctly passed the award on the ground that the applications were filed within 90 days of the judgment passed by the High Court in the various appeals noticed above.

26. At this stage for convenience, it is appropriate to extract Section 28-A of the 1894 Act, which reads as under:-

"28A. Re-determination of the amount of compensation on the basis of the award of the Court. -

(1) where in an award under this part, the court allows to the applicant any amount of compensation in excess of the amount awarded by the collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by

written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the court:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) *The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.*

(3) *Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, required that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18".*

27. It is evident that the Land Acquisition Collector has entertained and proceeded to allow the application under Section 28-A of the 1894 Act, on the basis of the orders passed in *Usha Rani's case (supra)* & other subsequently filed appeals in the High Court, post the final determination of the Supreme Court. On a careful reading of Section 28-A of the 1894 Act,

it is obvious that such application for re-determination of the amount of compensation is maintainable only if the reference court under Part-III of the 1894 Act assesses the amount in excess of the amount awarded by the Collector under Section 11 of the 1894 Act. Part-III of the 1894 Act starts with Section 18 and ends with Section 28-A. In the High Court, the regular first appeals are filed under Section 54 of the 1894 Act, which falls in Part-VIII of the 1894 Act. Thus, the application under Section 28-A of the 1894 Act cannot be filed on the basis of the judgment passed in Part-VIII. Unquestionably, in certain judgments, the Supreme Court has held that when an application under Section 28-A has been filed within the period prescribed from the award of the reference court and it comes to the notice of the Collector that a further appeal filed before the High Court or the Supreme Court is pending, at that point of time, the Collector should keep its decision in abeyance to await for final determination from the Court. Nonetheless, in considered opinion of this bench, it has nowhere been held that the application under Section 28-A can be entertained on the basis of the judgment passed by the High Court or the Supreme Court. In the present case, as noticed above, the applications under Section 18 of the 1894 Act were dismissed by the Reference Court. Thus, the various applications filed under Section 28-A of the 1894 Act, on the basis of various orders passed by the High Court, were not maintainable.

28. In all these cases, the Land Acquisition Collectors have also overlooked the fact that neither the applications under Section 28-A have been filed within a period of three months from the date of judgment of the reference Court nor the reference Court enhanced the compensation.

29. The learned counsel representing the respondents relies upon the judgment passed in *Premji Nathu v. State of Gujarat and Another (2012) 5 SCC 250*. This Bench has carefully read the judgment. In this case, the Supreme Court in the context of calculating limitation for filing an application under Section 18 of the 1894 Act, held that unless the State proves the delivery of copy of the award, the limitation for filing an application under Section 18 would not begin to run. Hence, the aforesaid judgment does not lay down that the application under Section 28-A can be filed on the basis of the appellate orders.

30. Similarly, the learned counsel further relies upon the judgment of the Supreme Court in *Samiyathal and Others v. Special Tehsildar and Others 2015 (2) RCR (Civil) 441*. In this case, the reference Court assessed the market value at ₹20/- per square yard, which was reduced in appeal to ₹8/- per square yard by the High Court. Some of the landowners filed the Special Leave Petition, whereas the others did not. In the facts of those cases, the Supreme Court, in exercise of the powers under Article 142 of the Constitution of India, ordered payment of uniform compensation to those owners who did not file Special Leave Petition before the Supreme Court. This case is not with regard to interpretation of Section 28-A of the 1894 Act.

31. The next judgment relied upon by the learned counsel is in *Narendra and Others v. State of Uttar Pradesh and Others 2017(4) RCR (Civil) 828*. In the aforesaid judgment, the High Court restricted the benefits to some of the owners to the extent of ₹ 115/- per square yard, whereas the others identically situated owners were granted ₹297/- per square yard. The

High Court took a view that since the landowners had demanded compensation @ ₹115/- per square yard, consequently, they cannot be granted more than what has been demanded. The Supreme Court, after considering the provisions of the 1894 Act, held that the Court is required to determine the just and appropriate market value and it is not bound by what has been demanded. Thus, the Supreme Court allowed the appeal.

32. The next judgment relied upon by the learned counsel is in *B. Prabhakar Rao and Others v. State of Andhra Pradesh (1985) Suppl. SCC 432*. This judgment is dealing with the question of discrimination with regard to the age of retirement in service law. Hence, it has no application.

33. The learned counsel representing the respondent further relies upon a Five Judge Bench judgment in *Union of India v. Hansoli Devi (2002) 7 SCC 273*. In the aforesaid case, the Supreme Court examined the provisions of Section 28-A of the 1894 Act in the context of the dismissal of an application under Section 18 of the 1894 Act on the ground of delay. It has been held that the dismissal of the application under Section 18 on the ground of delay has the effect as if no application under Section 18 has been filed. The last judgment relied upon by the learned counsel representing the respondents is in *Malluru Malappa (Dead) v. Kuruvathappa and Others (2020) 4 SCC 313*. The Supreme Court, while explaining the scope of Order XLI Rule 31 and Section 96 and 10 of CPC held that the appeal is the continuation of the proceedings of the original Court. The aforesaid judgment also does not deal with the provisions of Section 28-A of the 1894 Act.

34. Keeping in view the aforesaid exposition of law, it is held that

neither the application under Section 28-A of the 1894 Act is maintainable on the basis of the judgment of the Appellate Court nor the limitation to file an application under Section 28-A would begin to run its judgment. Consequently, in all these writ petitions, the respective applications filed by the respondents under Section 28-A of the 1894 Act were not maintainable. Hence, all the 15 writ petitions are allowed and the various awards/orders passed by the District Revenue Officer-cum-Land Acquisition Collector, Palwal, allowing the application under Section 28-A of the 1894 Act, are quashed.

**(Anil Kshetarpal)
Judge**

September 06, 2021
"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

True Copy

VAKALATNAMA

IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH

Case No. C.W.L of 2022

<u>H.U.D.A</u> VERSUS <u>L.A.C. 8 of</u>	<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="flex: 1;"> PLAINTIFF (S) PETITIONER(S) </div> <div style="flex: 1;"> APPELLANT(S) </div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="flex: 1;"> DEFENDANT(S) PLAINTIFF(S) </div> <div style="flex: 1;"> RESPONDENT(S) </div> </div>
---	--

KNOW ALL to whom these presents shall come that I/We the undersigned appoint

ANKUR MITTAL

ADVOCATE

Supreme Court of India &
High Court of Punjab & Haryana

in the above mentioned case to do all the following acts, deeds & all things or any of them that is to say :-

1. To act, appear & plead in the above mentioned case in this Court or any other Court in which the same may be tried or heard in the first instance in appeal, Letters Patent Appeal, Review, Revision, Execution or in any other stage of its progress until its final decision.
2. To present sign & verify pleadings, appeals, Letters Patent Appeals, Cross-Objections or petitions execution review, revision, withdrawal, compromise, other petitions, affidavits, other documents as shall be deemed necessary or advisable for the prosecution of the said case in all its stages.
3. To withdraw or compromise the said case or submit to arbitration any differences or dispute that shall arise touching or in any manner relating to the said cause.
4. To deposit, draw and receive moneys and grant receipts thereof by way of costs, refund or balance of security and other miscellaneous expanses from court or parties and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
5. To employ any other Advocate authorise him to exercise the power and authorities and to confer upon such advocate, whenever he may think fit to do so

AND I/WE hereby agree to ratify whatever the Advocate or his substitute shall do in the premises and in this connection.

AND I/WE hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequences of his absence from the Court when the said case is called up for hearing.

AND I/WE hereby agree not to hold the Advocate responsible for not intimating the date of hearing of the case & for not applying any certified copy of the judgement on the decision of the case.

AND I/WE hereby agree that the Advocate will not be bound to appear for us if the case is transferred to any other Court or the Court sits at any place other than its normal place of sitting and if any application or Petition is to be filed in the case, the Advocate will be entitled to fresh fee as paid in the case.

AND I/WE hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, he shall be entitled to withdraw from the prosecution from the said cause until the same is paid.

IN WITNESS WHERE OF I/WE hereunder set my/our hands of these presents the contents of which have been explained to and understood by me/us this

the 11/02 day of 2022

Accepted

Mittal Attorney & Solicitors
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Enrolment No. P/1296/01
Mobile: 8437999999, 9878699000
E-mail: mittalattorneys@gmail.com

*Vedpal
(Umesh Pratap Singh)*

Signature or thumb impression
Administrator
HSVP, Hisar

*Mohammad
Imran Raza*

HARYANA URBAN DEVELOPMENT AUTHORITY
MANIMAJRA (U.T.), CHANDIGARH.

ORDER

In exercise of powers conferred under Section 51 of the Haryana Urban Development Authority Act, 1977, in the interest of efficiency, speedy development and with a view to decentralize the powers/functions, the delegations at Annexure 'A' (Pages 1-16) are hereby made in favour of various officers of HUDA by the Haryana Urban Development Authority in its meeting held on 8.1.1989.

Dated, Manimajra, the
13th Sept. 1989.

Sd/- R.K. Singh,
Chief Administrator,
Haryana Urban Dev, Authority,

IMMEDIATE/OUT TODAY

Endst. No. ADA(R)/89/

Dated

A copy along with Annexure 'A' is forwarded for information/necessary action to the:-

1. All Administrators, HUDA.
2. Chief Town Planner, HUDA, Panchkula.
3. Chief Engineer, HUDA, Panchkula.
4. Controller of Finance, HUDA.
5. All Superintending Engineers, HUDA.
6. All Estate Officers, HUDA.
7. All Executive Engineers, HUDA.
8. All Officers at Headquarters and in Field of HUDA.
9. All Branch Incharges of Headquarters.

They are requested to implement the new delegation of powers with the existing staff till additional staff is sanctioned.

Sd/- Secretary,
Haryana Urban Development Authority,
Manimajra (UT), Chandigarh

Annexure 'A'

DELEGATION OF FUNCTIONS/POWERS OF AUTHORITY AS
INCORPORATED IN HARYANA URBAN DEVELOPMENT AUTHORITY
ACT, 1977.

S.N.	Sr. No. of item in Annexure II of the proposal	Section of the Act.	Powers of Authority as incorporated in the Act	Officers empowered/authorized to exercise the powers/functions of the Authority
1.	2.	3.	4.	5.
	1.(ii)	3	To sign contracts on behalf of the authority	1. Chief Administrator 2. Administrator /SuperIntending Engineer. 3. Executive Engineer 4. Estate Officers Subject to the policy decision by the Authority and regulations, if any.
	1.(iii)	3	To sue and be sued in legal matters.	1. Chief Administrator 2. Administrator 3. Controlling Officer Estate Officer Executive Engineers. Officers at Sr. 3, 4, 5 will keep the Administrator informed of the stage of the case.

True copy

Adm