# Chandrashekar (D) By Lrs. & Ors vs Land Acquisition Officer & Anr on 22 November, 2011

## Equivalent citations: AIR 2012 SUPREME COURT 446, 2012 AIR SCW 73, 2012 (1) AIR KAR R 680, (2011) 108 ALLINDCAS 27 (SC), 2011 (108) ALLINDCAS 27, 2011 (13) SCALE 48, (2012) 1 CLR 57 (SC), (2012) 3 KCCR 2349, 2012 (1) CLR 57, 2012 (1) SCC 390, AIR 2012 SC (CIVIL) 285, 2012 (1) KER LT 7 SN, (2012) 115 REVDEC 302, (2011) 13 SCALE 48, (2012) 4 KANT LJ 18, (2012) 3 MAH LJ 8, (2012) 90 ALL LR 5, (2012) 2 ALL WC 1579

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## Bench: Jagdish Singh Khehar, R.M. Lodha

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"REPORTABLE"

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1743 OF 2006

Chandrashekar (D) by LRs. and Others .... Appellants

Versus

Land Acquisition Officer and Another .... Respondents

With

CIVIL APPEAL NOS. 8899-8901 OF 2011

Basappa (D) & by LRs. and Others .... Appellants

Versus

Special Land Acquisition Officer,

Gulbarga and Another etc. etc. .... Respondents

J U D G M E N T

JAGDISH SINGH KHEHAR, J.

1. Through this common order, we propose to dispose of Civil Appeal no.1743 of 2006, as also, Civil Appeal nos.8899-8901 of 2011. For convenience, the factual position, as has been depicted in Civil Appeal no.1743 of 2006, has been referred to.

2. Gulbarga Development Authority, consequent upon its desire to acquire land for raising a residential layout, issued a preliminary notification under section 15(1) of the City Improvement Trust Board Act, 1976 on 13.5.1982. Through the aforesaid notification, it was proposed to acquire 144 acres of land falling in the revenue estate of villages Rajapur (71 acres) and Badepur (73 acres). The matter in respect of the acquisition of land crystallized, when the final notification was issued on 14.12.1989. Thereby the land of the appellants, measuring 8 acres 4 guntas, situated in survey no.63 of the revenue estate of village Badepur, came to be acquired. Insofar as Civil Appeal nos.8899-8901 of 2011 is concerned, the appellants' land measuring 7 acres 7 guntas, falling in survey no.14/2, in the revenue estate of village Rajapur, was acquired.

3. The Land Acquisition Officer announced his award on 7.7.1990. By the aforesaid award, the market value of the land, falling in the revenue estate of village Badepur, was fixed at the rate of Rs.4,100/- per acre. For the land falling in the revenue estate of village Rajapur, the Land Acquisition Officer, assessed the market value at Rs.13,500/- per acre. The landowner, Chandrashekar (whose LRs. are the appellants in Civil Appeal no.1743 of 2006) filed Writ Petition nos.15489-496 of 1990 to assail the acquisition proceedings initiated by the Gulbarga Development Authority, by finding fault with the procedure adopted. The High Court of Karnataka (hereinafter referred to as the High Court), while issuing notice, passed an interim order staying dispossession for a period of 3 weeks. By a motion bench order dated 10.8.1990, the interim order passed on 23.7.1990 was continued, "till further orders". Writ Petition nos. 15489-496 of 1990 came to be dismissed on 12.8.1991. The notification for acquisition of land as also the procedure adopted was held to be in consonance with law.

4. During the pendency of the writ petition referred to in the foregoing paragraph, the original landowner Chandrashekar, filed a protest petition assailing the quantum of compensation assessed

by the Land Acquisition Officer. In the aforesaid protest petition dated 24.9.1990, reference was also sought, for enhancement of compensation awarded to the appellant. Since the protest petition filed by the landowner was not referred for adjudication, the landowner filed an application under section 18(3)(b) of the Land Acquisition Act, 1894. The aforesaid application was allowed, and the claim raised by the landowner was registered for adjudication.

5. After adjudicating upon the matter, the Reference Court announced its award on 19.6.1999. The compensation determined by the Land Acquisition Collector at Rs.4,100/- per acre, was enhanced to Rs.1,46,000/- per acre. The Gulbarga Development Authority, as also, the Land Acquisition Officer preferred independent appeals before the High Court. By an order dated 3.11.1999, the High Court allowed the appeals, and remitted the matter to the Reference Court for reconsideration, on the issue of deductions to be made from the market value, so as to determine compensation payable to the land losers. In this behalf, it would be relevant to mention, that while determining the compensation payable to the appellant, the Reference Court had based its assessment on a sale deed dated 30.12.1983. From the market value of land assessed, on the basis of the aforesaid sale deed, the Reference Court had applied a deduction of 33 percent. The High Court having concluded, that the aforesaid deduction was inappropriate, had remanded the matter for re- determination. It is the case of the appellants before this Court, that the only issue, which the Reference Court was called upon to settle, after the High Court by its order dated 3.11.1999 had remitted the matter to the Reference Court was, the percentage of deductions to be made from the market value determined on the basis of the exemplar sale transaction, so as to determine the fair compensation payable to the landowners for acquisition of their land.

6. By its order dated 21.12.2002, the Reference Court re-determined the market value of the acquired land at Rs.1,45,000/- per acre. This determination by the Reference Court was again assailed before the High Court. Whilst the Gulbarga Development Authority and the Land Acquisition Officer filed appeals before the High Court for reducing the quantum of compensation awarded, the landowners preferred cross-objections for enhancement thereof. The appeals filed by the Gulbarga Development Authority and the Land Acquisition Officer were partly allowed, inasmuch as, the High Court reduced the compensation awarded by the Reference Court from Rs.1,45,000/- per acre to Rs.65,000/- per acre. The instant order passed by the High Court dated 2.4.2004 has been assailed before this Court through Civil Appeal no. 1743 of 2006, as also, through the connected Civil Appeal nos. 8899-8901 of 2011.

7. It would be relevant to mention, that while determining the controversy, the High Court was satisfied in deducting 55 percent of the market value assessed on the basis of the exemplar sale deed, towards developmental charges, 5 percent towards waiting period, and 10 percent towards de-escalation. By virtue of the aforesaid deductions, the High Court determined the market value of the land at Rs.67,954/- per acre. Having done so, by applying the rule of averages, the High Court held, that compensation for the acquired land was payable at Rs.65,000/- per acre.

8. During the course of hearing, learned counsel for the appellants in both set of appeals contended, that the deduction of 55 percent towards developmental charges, was arbitrary, and without application of mind. It was sought to be asserted, that the High Court did not record any reason(s)

for applying the aforesaid deduction. Likewise, it was contended, that deduction of 10 percent by way of de-escalation was also arbitrary. In this behalf, it was sought to be contended, that the Reference Court had determined 3 percent as deduction on account of de-escalation, whereas, the High Court had enhanced the aforesaid deduction to 10 percent, without recording any reason(s).

9. For the determination of market value of the acquired land, it is apparent that primary reliance has been placed by the appellants, on the exemplar sale deed dated 30.12.1983 (Exhibit P-18, before the Reference Court). It would also be relevant to mention, that through the aforesaid sale deed, land measuring 2400 square feet (40' x 60') falling in survey no.63/1, of the revenue estate of Badepur village, was sold for a total consideration of Rs.12,500/-. It would also be relevant to mention, that the Reference Court on the basis of the aforesaid exemplar sale deed, assessed the value of the land at Rs.5.20 per square foot. Having applied a deduction of 33 percent towards developmental charges, the Reference Court had arrived at the figure of Rs.3.47 per square foot. At the aforesaid rate, the value of the acquired land was assessed at Rs.1,51,153.20 per acre. The Reference Court also allowed de-escalation at the rate of 3 percent per annum, as the exemplar sale deed was executed after the issuance of the preliminary notification. Consequent upon the aforesaid deduction, the Reference Court arrived at the figure of Rs.1,44,552.20 per acre, as compensation payable for the acquired land. The said determination was rounded of to Rs.1,45,000/- per acre.

10. According to the appellants before this Court, the determination rendered by the Reference Court, was in consonance with the law laid down by this Court, and accordingly, the compensation determined by the Reference Court, should be restored to the land losers.

11. The issue which falls for our consideration in the present appeal falls in a narrow compass. As already noticed hereinabove, through the impugned notifications, the Gulbarga Development Authority had sought acquisition of 144 acres of land, falling in the revenue estates of villages Rajapur (71 acres) and Badepur (73 acres). As compared to the acquired land, the exemplar sale deed dated 30.12.1983 reflects sale of a small piece of land measuring 2400 square feet (40' x 60' = 2400 square feet). The aforesaid sale transaction (dated 29.12.1983) was executed 1 year 7 months and 17 days after the date of the preliminary notification (dated 13.5.1982).

12. Insofar as the nature of the acquired land of the appellant measuring 8 acres 4 guntas, in survey no.63 of the revenue estate of village Badepur is concerned, reference may be made to the statement recorded by the landowner before the Reference Court. Chandrashekar recorded his statement before the Reference Court on 16.2.1998. In his statement he asserted, that the acquired land was wet land and was being cultivated by him by taking water from a well situated in survey no.62. It was acknowledged, that the well situated in survey no.62 belonged to his uncle. In his cross-examination, he accepted that he used to grow "jawar" and "togri" in the land. He also affirmed that vegetables were also grown by him on the land in question. He produced 8 bills pertaining to sale of crops grown on the land. In the pleadings filed before this Court, it was sought to be asserted, that the Sedam Gulbarga Highway is located on the northern side of the acquired land. It is also mentioned, that a ring road exists on the southern side of the acquired land. It is also pointed out, that there are some approved residential layouts, in the close vicinity of the acquired land. Based on the statement of the land loser, it is natural to infer, that the appellants' land was

undeveloped agricultural land at time of its acquisition. Furthermore, the appellants land did not have any independent irrigation facilities. Since it is not the case of the appellants, that any layout or road abuts or passes through the appellants' land, it is natural to conclude, that the appellants' land was surrounded on all sides, by similar lands.

13. During the course of hearing, learned counsel for the appellants did not invite our attention to any evidence on the basis of which we could ascertain the nature of the land, which was the subject matter of the sale dated 30.12.1983. From the dimensions of land (40' x 60'), it emerges that the same was a developed site meant for use for some urban purpose. The High Court has recorded, that the exemplar sale is of a developed site. The said factual position is not a subject matter of challenge at the hands of the appellants. We shall therefore assume, that the exemplar sale deed was in respect of a developed site measuring 2400 square feet.

14. From the afore-stated deliberations, the following inferences emerge:

> Firstly, that the acquired land is a large chunk of land measuring 144 acres.
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> Secondly, the acquired land owned by the appellants was un-irrigated agricultural land, surrounded on all sides by similar lands, and as such, unquestionably undeveloped land.
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> Thirdly, the exemplar sale deed dated 30.12.1983, was in respect of a small piece of land measuring 2400 square feet (40' x 60' = 2400 square feet).
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> Fourthly, the exemplar sale deed dated 30.12.1983, constituted sale of a developed site.
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> And fifthly, the exemplar sale deed dated 30.12.1983, was executed 1 year 7 months and 17 days, after the publication of the preliminary notification on 13.5.1982.

15. The present controversy calls for our determination on the quantum of the deductions to be applied, to the market value assessed on the basis of the exemplar sale transaction, so as to ascertain the fair compensation payable to the land loser. The only factual parameters to be kept in mind are, the factual inferences drawn in the foregoing paragraph. On the issue in hand, we shall endeavor to draw our conclusions from past precedent. In the process of consideration hereinafter, we have referred to all the judgments relied upon by the learned counsel for the appellants, as well as, some recent judgments on the issue concerned:

> (i) In Brigadier Sahib Singh Kalha & Ors. v. Amritsar Improvement Trust & Ors., (1982) 1 SCC 419, this Court opined, that where a large area of undeveloped land is acquired, provision has to be made for providing minimum amenities of town-life.

Accordingly it was held, that a deduction of 20 percent of the total acquired land should be made for land over which infrastructure has to be raised (space for roads etc.). Apart from the aforesaid, it

was also held, that the cost of raising infrastructure itself (like roads, electricity, water, underground drainage, etc.) need also to be taken into consideration. To cover the cost component, for raising infrastructure, the Court held, that the deduction to be applied would range between 20 percent to 33 percent. Commutatively viewed, it was held, that deductions would range between 40 and 53 percent.

(ii) Noticing the determination rendered by this Court in Brigadier Sahib Singh Kalha's case (supra), this Court in Administrator General of West Bengal vs. Collector, Varanasi, (1988) 2 SCC 150, upheld deduction of 40 percent (from the acquired land) as had been applied by the High Court.

(iii) In Chimanlal Hargovinddas vs. Special Land Acquisition Officer, Poona & Anr., (1988) 3 SCC 751, while referring to the factors which ought to be taken into consideration while determining the market value of acquired land, it was observed, that a smaller plot was within the reach of many, whereas for a larger block of land there was implicit disadvantages. As a matter of illustration it was mentioned, that a large block of land would first have to be developed by preparing its lay out plan. Thereafter, it would require carving out roads, leaving open spaces, plotting out smaller plots, waiting for purchasers (during which the invested money would remain blocked). Likewise, it was pointed out, that there would be other known hazards of an entrepreneur. Based on the aforesaid likely disadvantages it was held, that these factors could be discounted by making deductions by way of allowance at an appropriate rate, ranging from 20 percent to 50 percent. These deductions, according to the Court, would account for land required to be set apart for developmental activities. It was also sought to be clarified, that the applied deduction would depend on, whether the acquired land was rural or urban, whether building activity was picking up or was stagnant, whether the waiting period during which the capital would remain locked would be short or long; and other like entrepreneurial hazards.

(iv) In Land Acquisition Officer Revenue Divisional Officer, Chottor vs. L. Kamalamma (Smt.) Dead by LRs. & Ors., (1998) 2 SCC 385, this Court arrived at the conclusion, that a deduction of 40 percent as developmental cost from the market value determined by the Reference Court would be just and proper for ascertaining the compensation payable to the landowner.

(v) In Kasturi and others vs. State of Haryana, (2003) 1 SCC 354, this court opined, that in respect of agricultural land or undeveloped land which has potential value for housing or commercial purposes, normally 1/3rd amount of compensation should be deducted, depending upon the location, extent of expenditure involved for development, the area required for roads and other civic amenities etc. It was also opined, that appropriate deductions could be made for making plots for residential and commercial purposes. It was sought to be explained, that the acquired land may be plain or uneven, the soil of the acquired land may be soft and hard, the acquired land may have a hillock or may be low lying or may have deep ditches. Accordingly, it was pointed out, that expenses involved for development would vary keeping in mind the facts and circumstances of each case. In Kasturi's case (supra) it was held, that normal deductions on account of development would be 1/3rd of the amount of compensation. It was however clarified that in some cases the deduction could be more than 1/3rd and in other cases even less than 1/3rd.

(vi) Following the decision rendered by this Court in Brigadier Sahib Singh Kalha's case, this Court in Land Acquisition Officer, Kammarapally Village, Nizamabad District, A.P. vs. Nookala Rajamallu & Ors., (2003) 12 SCC 334, applied a deduction of 53 percent, to determine the compensation payable to the landowners.

(vii) In V. Hanumantha Reddy (Dead) by LRs. vs. Land Acquisition Officer & Mandal R. Officer, (2003) 12 SCC 642, this Court examined the propriety of compensation determined as payable to the land loser by the High Court. The Reference Court had determined the market value of developed land at Rs.78 per sq. yard. The Reference Court then applied a deduction of 1/4th to arrive at Rs.58 per sq. yard as the compensation payable. The High Court however concluded, that compensation at Rs.30 per sq. yard would be appropriate (this would mean a deduction of approximately 37 percent, as against market value of developed land at Rs.78 per sq. yard). This Court having made a reference to Kasturi's case (supra) did not find any infirmity in the order passed by the High Court. In other words, deduction of 37 percent was approved by this Court.

(viii) In para 21 of the judgment in Viluben Jhalejar Contractor (Dead) by LRs. vs. State of Gujarat, (2005) 4 SCC 789, it was held that for development, i.e., preparation of lay out plans, carving out roads, leaving open spaces, plotting out smaller plots, waiting for purchasers, and on account of other hazards of an entrepreneur, the deduction could range between 20 percent and 50 percent of the total market price of the exemplar land.

(ix) In Atma Singh (Dead) through LRs & Ors. vs. State of Haryana and Anr., (2008) 2 SCC 568, this Court after making a reference to a number of decisions on the point, and after taking into consideration the fact that the exemplar sale transaction was of a smaller piece of land concluded, that deductions of 20 percent onwards, depending on the facts and circumstances of each case could be made.

(x) In Lal Chand vs. Union of India & Anr., (2009) 15 SCC 769, it was held that to determine the market value of a large tract of undeveloped agricultural land (with potential for development), with reference to sale price of small developed plot(s), deductions varying between 20 percent to 75 percent of the price of such developed plot(s) could be made.

(xi) In Subh Ram & Ors. vs. State of Haryana & Anr., (2010) 1 SCC 444, this Court opined, that in cases where the valuation of a large area of agricultural or undeveloped land was to be determined on the basis of the sale price of a small developed plot, standard deductions ought to be 1/3rd towards infrastructure space (areas to be left out for roads etc.) and 1/3rd towards infrastructural developmental costs (costs for raising infrastructure), i.e., in all 2/3rd (or 67 percent).

(xii) In Andhra Pradesh Housing Board vs. K. Manohar Reddy & Ors., (2010) 12 SCC 707, having examined the existing case law on the point it was concluded, that deductions on account of development could vary between 20 percent to 75 percent. In the peculiar facts of the case a deduction of 1/3rd towards development charges was made from the awarded amount to determine the compensation payable.

(xiii) In Special Land Acquisition Officer & Anr. vs. M.K. Rafiq Sahib, (2011) 7 SCC 714, this Court after having concluded, that the land which was subject matter of acquisition was not agricultural land for all practical purposes and no agricultural activities could be carried out on it, concluded that in order to determine fair compensation, based on a sale transaction of a small piece of developed land (though the acquired land was a large chunk), the deduction made by the High Court at 50 percent, ought to be increased to 60 percent.

16. Based on the precedents on the issue referred to above it is seen, that as the legal proposition on the point crystallized, this Court divided the quantum of deductions (to be made from the market value determined on the basis of the developed exemplar transaction) on account of development into two components. Firstly, space/area which would have to be left out, for providing indispensable amenities like formation of roads and adjoining pavements, laying of sewers and rain/flood water drains, overhead water tanks and water lines, water and effluent treatment plants, electricity sub-stations, electricity lines and street lights, telecommunication towers etc. Besides the aforesaid, land has also to be kept apart for parks, gardens and playgrounds. Additionally, development includes provision of civic amenities like educational institutions, dispensaries and hospitals, police stations, petrol pumps etc. This "first component", may conveniently be referred to as deductions for keeping aside area/space for providing developmental infrastructure.

Secondly, deduction has to be made for the expenditure/expense which is likely to be incurred in providing and raising the infrastructure and civic amenities referred to above, including costs for levelling hillocks and filling up low lying lands and ditches, plotting out smaller plots and the like. This "second component" may conveniently be referred to as deductions for developmental expenditure/expense.

17. It is essential to earmark appropriate deductions, out of the market value of an exemplar land, for each of the two components referred to above. This would be the first step towards balancing the differential factors. This would pave the way for determining the market value of the undeveloped acquired land on the basis of market value of the developed exemplar land. As far back as in 1982, this Court in Brigadier Sahib Singh Kalha's case (supra) held, that the permissible deduction could be upto 53 percent. This deduction was divided by the Court into two components. For the "first component" referred to in the foregoing paragraph, it was held that a deduction of 20 percent should be made. For the "second component", it was held that the deduction could range between 20 to 33 percent. It is therefore apparent, that a deduction of upto 53 percent was the norm laid down by the Court as far back as in 1982. The aforesaid norm remained unchanged for a long duration of time, even though, keeping in mind the peculiar facts and circumstances emerging from case to case, different deductions were applied by this Court to balance the differential factors between the exemplar land and the acquired land. Recently however, this Court has approved a higher component of deduction. In 2009 in Lal Chand's case (supra) and in 2010 in Andhra Pradesh Housing Board's case (supra), it has been held, that while applying the sale consideration of a small piece of developed land, to determine the market value of a large tract of undeveloped acquired land, deductions between 20 to 75 percent could be made. But in 2009 in Subh Ram's case (supra), this Court restricted deductions on account of the "first component" of development, as also, on account of the "second component" of development to 33-1/3 percent each. The aforesaid

deductions would roughly amount to 67 percent of the component of the sale consideration of the exemplar sale transaction(s).

18. Having given our thoughtful consideration to the analysis of the legal position referred to in the foregoing two paragraphs, we are of the view that there is no discrepancy on the issue, in the recent judgments of this Court. In our view, for the "first component" under the head of "development", deduction of 33-1/3 percent can be made. Likewise, for the "second component" under the head of "development" a further deduction of 33-1/3 percent can additionally be made. The facts and circumstances of each case would determine the actual component of deduction, for each of the two components. Yet under the head of "development", the applied deduction should not exceed 67 percent. That should be treated as the upper benchmark. This would mean, that even if deduction under one or the other of the two components exceeds 33-1/3 percent, the two components under the head of "development" put together, should not exceed the upper benchmark.

19. In Lal Chand's case (supra) and in Andhra Pradesh Housing Board's case (supra), this Court expressed the upper limit of permissible deductions as 75 percent. Deductions upto 67 percent can be made under the head of "development". Under what head then, would the remaining component of deductions fall? Further deductions would obviously pertain to considerations other than the head of "development". Illustratively a deduction could be made keeping in mind the waiting period required to raise infrastructure, as also, the waiting period for sale of developed plots and or built-up areas. This nature of deduction may be placed under the head "waiting period". Illustratively again, deductions could also be made in cases where the exemplar sale transaction, is of a date subsequent to the publication of the preliminary notification. This nature of deduction may be placed under the head "de-escalation". Likewise, deductions may be made for a variety of other causes which may arise in different cases. It is however necessary for us to conclude, in the backdrop of the precedents on the issue, that all deductions should not cumulatively exceed the upper benchmark of 75 percent. A deduction beyond 75 percent would give the impression of being lopsided, or contextually unreal, since the land loser would seemingly get paid for only 25 percent of his land. This impression is unjustified, because deductions are made out of the market value of developed land, whereas, the acquired land is undeveloped (or not fully developed). Differences between the nature of the exemplar land and the acquired land, it should be remembered, is the reason/cause for applying deductions. Another aspect of this matter must also be kept in mind. Market value based on an exemplar sale, from which a deduction in excess of 75 percent has to be made, would not be a relevant sale transaction to be taken into consideration, for determining the compensation of the acquired land. In such a situation the exemplar land and the acquired land would be uncomparable, and therefore, there would be no question of applying the market value of one (exemplar sale) to determine the compensation payable for the other (acquired land). It however needs to be clarified, that even though on account of developmental activities (under the head "development"), we have specified the upper benchmark of 67 percent, it would seem, that for the remaining deduction(s), the permissible range would be upto 8 percent. That however is not the correct position. The range of deductions, other than under the head "development", would depend on the facts and circumstances of each case. Such deductions, may even exceed 8 percent, but that would be so only, where deductions for developmental activities (under the head "development") is less than 67 percent, i.e., as long as the cumulative deductions do not cross the upper benchmark of

75 percent. We therefore hold, that the range for deductions, for issues other than developmental costs, would depend on the facts and circumstances of each case, they may be 8 percent, or even the double thereof, or even further more, as long as, cumulatively all deductions put together do not exceed the upper benchmark of 75 percent.

20. Before applying deductions for ascertaining the market value of the undeveloped acquired land, it would be necessary to classify the nature of the exemplar land, as also, the acquired land. This would constitute the second step in the process of determination of the correct quantum of deductions. The lands under reference may be totally undeveloped, partially developed, substantially developed or fully developed. In arriving at an appropriate classification of the nature of the lands which are to be compared, reference may be made to the developmental activities referred to by us in connection with the "first component", as also, the "second component" (in paragraph 17 above). The presence (or absence) of one or more of the components of development, would lead to an appropriate classification of the exemplar land, and the acquired land. Comparison of the classifications thus arrived, would depict the difference in terms of development, between the exemplar land and the acquired land. This exercise would lead to the final step. In the final step, the absence and presence of developmental components, based on such comparison, would constitute the basis for arriving at an appropriate percentage of deduction, necessary to balance the differential factors between the exemplar land and the acquired land.

21. We shall now apply the aforesaid parameters to determine the veracity of the deductions allowed by the High Court. First and foremost, it has been the contention of the learned counsel for the appellants, that despite strenuous efforts having been made at the hands of the appellants, the respondents failed to divulge the expenses incurred towards developmental costs on the acquired land in question. Insofar as the instant aspect of the matter is concerned, it is relevant to notice, that the appellant submitted an application dated 4.11.1999 to the Commissioner, Gulbarga Development Authority, requiring him to furnish to the appellant, interalia, certified copies of expenditure incurred in developing survey no.63 of the revenue estate of Badepur. The appellant had specially sought, the expenditure incurred in developing 8 acres 4 guntas of the land, acquired from the appellant. The aforesaid communication was responded to vide a letter dated 16.12.1999, whereby, the Commissioner, Gulbarga Development Authority declined to furnish the certificate sought by the appellant. Based on the said denial at the hands of the respondents, it is sought to be inferred, that no developmental expenses came to be incurred on the acquired land. As such, it was the vehement contention of the learned counsel for the appellants, that it was impermissible for the High Court to have made the deduction of 55 percent from the market value determined on the basis of the exemplar sale deed dated 30.12.1983 under the head of "development". In fact, based on the aforesaid inference, it was contended, that no deduction whatsoever was permissible under the head. Alternatively it was contended, that the deduction of 33 percent applied by the Reference Court, would have been appropriate in the facts and circumstances of the case.

22. We have given our thoughtful consideration to the contention advanced at the hands of the learned counsel for the appellants, as has been noticed in the foregoing paragraph. The material sought by the appellant from the Commissioner, Gulbarga Development Authority was irrelevant for the determination of the percentage of deduction to be applied. It is the overall developmental cost,

incurred (or incurrable) on the entire acquired land which has to be apportioned amongst the landholders. Illustratively, in a given case, the developmental cost on a small piece of land, may be far in excess of the cost of the land. That would however not mean, that the landowner in question, would not be entitled to compensation. Illustratively again, if no specific developmental activity is carried out on a particular piece of land, it would be improper to conclude, that no deduction should be made while determining the compensation payable to such landowner, even though the acquired land was undeveloped. What the appellant ought to have ascertained, is the developmental cost (based on the components referred to hereinabove), on the entire acquired land. In such a situation, if the entire developmental activity had been completed, it would be permissible to proportionately apportion the same amongst land holders. Such a situation may not arise in actuality. In most cases development is a continuous and ongoing process, which would be completed over a long stretch of time extending in some cases to a decade or even more. We therefore find no merit in the instant contention advanced by the learned counsel for the appellants, that no deduction should be made in this case under the head of "development" because no expense is shown to have been incurred for development of the land acquired from the appellants.

23. In the absence of the actual expenditure incurred towards development, we shall now endeavor to determine whether the deduction of 55 percent allowed by the High Court towards development of the land, out of the market value determined on the basis of the exemplar sale deed, was just and proper. The determination in question, more often than not, has to be in the absence of inputs as were sought by the appellants from the Commissioner, Gulbarga Development Authority. Obviously, deductions can only be based on reasonable and logical norms. Comparison of the state of development of the exemplar land, as also, that of the acquired land can be the only legitimate basis, for a reasonable and logical determination on the issue. Based on the aforesaid foundation, an assessment has to be made by applying the parameters delineated above. From the inferences drawn by us, on the basis of the statement made by the landowner before the Reference Court in paragraph 12 hereinabove, it is natural to conclude, that the acquired land in question was totally undeveloped. Likewise, even though the High Court had described the exemplar sale transaction as a developed site, the appellants have not disputed the same. We shall therefore proceed on the assumption, that the exemplar sale deed was a fully developed site. In such a situation, keeping in mind the parameters laid down by this Court, and the conclusions drawn by us, as also the facts of this case, a deduction of upto 67 percent may have been justified, and the same would fall within the parameters laid down by this Court because the exemplar land could be classified as fully developed, whereas, the acquired land was totally undeveloped land. As against the aforesaid, the High Court limited deductions under the head of "development" to 55 percent. We therefore find no justifiable reason to interfere with the same, specially in an appeal preferred by the land loser, more so, because no justifiable basis for the same was brought to our notice.

24. The High Court while determining the compensation payable to the appellants on the basis of the sale deed dated 30.12.1983 applied a further deduction of 10 percent under the head of "de-escalation". The contention advanced at the hands of the learned counsel for the appellants was, that the Reference Court had awarded a deduction at the rate of 3 percent per annum, but the same was arbitrarily increased to 10 percent by the High Court, without recording any reasons for the same. It was submitted, that deduction at the rate of 10 percent on account of de-escalation was

arbitrary, and was liable to be set aside.

25. Insofar as the contention advanced at the hands of the learned counsel for the appellants on the issue of deduction under the head of "de-escalation" is concerned, reference may be made to the decision rendered by this Court in Delhi Development Authority Vs. Bali Ram Sharma, (2004) 6 SCC 533, wherein this Court found it appropriate to allow annual escalation, at the rate of 10 per cent, in order to determine the market value of the acquired land. In ONGC Limited Vs. Rameshbhai Jeewanbhai Patel, (2008) 14 SCC 748, this Court held, that provision of 7.5 percent per annum towards escalation of land costs, was appropriate to arrive at the market value of the acquired land. In Valliyammal & Anr. Vs. Special Tehsildar (Land Acquisition) & Anr., (2011) 8 SCC 91, this Court was of the view that 10 percent per annum escalation in price, should be added to the specified price to determine the market value. It is therefore apparent, that escalation in the market value has been determined by this Court at percentages ranging between 7.5 percent per annum to 10 percent per annum. Even though escalation of market price of land is a question of fact, which should ordinarily to be proved through cogent evidence. Yet, keeping in mind ground realities, and taking judicial notice thereof, we are of the view that land prices are on the rise throughout the country. The outskirts of Gulbarga town are certainly not an exception to the rule. The exemplar sale deed dated 30.12.1983 was executed exactly 1 year 7 months and 17 days after the publication of the preliminary notification on 13.5.1982. Keeping in mind the judgments referred to hereinabove, we are of the view, that no fault can be found with the determination rendered by the High Court in making a deduction of 10 percent under the head of "de-escalation", specially when the period in question exceeded one year (as for annual deductions), by 7 months and 17 days.

26. The only other deduction allowed by the High Court was made towards "waiting period". Under this head the High Court allowed a deduction of 5 percent. During the course of hearing, learned counsel for the appellants did not assail the aforesaid deduction. It is therefore not necessary for us to record any finding in respect of the deduction applied by the High Court under the head of "waiting period". Needless to mention, that "waiting period" has been held to be one of the relevant components for making deductions by this Court in Chimanlal Hargovinddas vs. Special Land Acquisition Officer, Poona & Anr., (1988) 3 SCC 751, Land Acquisition Officer Revenue Divisional Officer, Chittor vs. L. Kamalamma (Smt.) Dead by LRs. & Ors., (1998) 2 SCC 385, and Atma Singh (Dead) through LRs & Ors. Vs. State of Haryana and Anr., (2008) 2 SCC 568. We therefore, also uphold the instant deduction of 5 percent applied by the High Court.

27. Our conclusions in respect of the quantum of permissible deductions have been recorded in paragraphs 18 and 19 hereinabove. While determining the validity of individual deductions, it is also imperative to examine whether or not the total deductions put together fall within legal parameters. We have upheld 55 percent deduction accorded by the High Court towards "development". We have also individually upheld deduction of 10 percent on account of "de-escalation", as also, the deduction of 5 percent on account of "waiting period". Cumulatively these deductions would amount to 70 percent (55+10+5=70). The outer benchmark for deductions laid down by this Court in Lal Chand's case (supra) and in Andhra Pradesh Housing Board's case (supra) is 75 percent. Cumulatively also the deduction allowed by the High Court, fall well within the parameters laid down by this Court. We therefore find no infirmity in the quantum of accumulated deductions

applied by the High Court during the course of making an assessment of the market value of the acquired land.

28. Based on the aforesaid deductions, the High Court calculated the market value of the acquired land at Rs.67,954/- per acre. Inspite of the above, the market value of the acquired land for disbursement of compensation to the land losers was fixed by the High Court at Rs.65,000/- per acre. A perusal of the judgment rendered by the High Court reveals, that in allowing final compensation at the rate of Rs.65,000/- per acre to the land losers, the High Court had placed reliance on market value fixed by the High Court itself in an earlier case. In this behalf, it would be pertinent to mention, that the High Court had awarded Rs.65,000/- per acre as compensation payable to the land losers, in an earlier process of litigation pertaining to acquisition of land, out of the same notification (under which the appellants land was acquired). The aforesaid determination was rendered in respect of the land acquired from the revenue estate of Badepur village. While recording its final determination the High Court expressed, that it was desirable to arrive at a uniform value, specially when the land in question came to be acquired out of the same process of acquisition, and had not been shown to be any different from the appellants land. We affirm the aforesaid view expressed by the High Court. This sentiment expressed by the High Court should never be breached. Consistency in judicial determination is of utmost importance. Since we are informed that the judgment relied upon by the High Court has attained finality, we are of the view, that the final compensation determined by the High Court at Rs.65,000/- per acre, was fully justified.

29. The conclusions drawn by us hereinabove, apply equally to Civil Appeal nos.8899-8901 of 2011. In this behalf it would also be pertinent to mention, that the conclusions drawn by us pertain to acquisition of land falling in the revenue estate of village Badepur. In so far as the instant set of appeals are concerned, they pertain to land acquired form the revenue estate of village Rajapur. The High Court, while making a reference to the land acquired from village Rajapur, noticed that village Rajapur had a lower market value as it was farther from the nerve centre of Gulbarga town as compared to village Badepur. As such, we are of the view that in the facts and circumstances of the present case, it would be just and appropriate to affirm the compensation determined by the High Court at Rs.65,000/- per acre, even for the land acquired from the revenue estate of village Rajapur.

30. For the reasons recorded hereinabove, we find no cause or justification to interfere in the impugned order passed by the High Court.

31. Dismissed.

.....J. (R.M. Lodha) .....J. (Jagdish Singh Khehar) New Delhi;

November 22, 2011.