

Balwan Singh (Dead) Thr. Lr. Etc. vs The State Of Haryana on 18 May, 2022

Author: M.R. Shah

Bench: B.V. Nagarathna, M.R. Shah

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS.3197-3216 OF 2022
(Arising out of SLP(Civil) Nos.7879-7898/2022
@ Diary No. 392/2022)

Balwan Singh (Dead) By Lrs. Etc. Etc. ...Appellant(s)

Versus

The State of Haryana and Others ...Respondent(s)

WITH

CIVIL APPEAL NO. 3226 OF 2022
(Arising out of SLP(Civil) No.4430/2022)
CIVIL APPEAL NO. 3227 OF 2022
(Arising out of SLP(Civil) No.4440/2022)
CIVIL APPEAL NO. 3228 OF 2022
(Arising out of SLP(Civil) No.4718/2022)
CIVIL APPEAL NOS. 3358-3375 OF 2022
(Arising out of SLP(Civil) Nos.7827-7844/2022
@ Diary No. 7303/2022)
CIVIL APPEAL NOS. 3403-3449 OF 2022
(Arising out of SLP(Civil) Nos.7899-7945/2022
@ Diary No. 6160/2022)
CIVIL APPEAL NOS. 3450-3458 OF 2022
(Arising out of SLP(Civil) Nos.7960-7968/2022
@ Diary No. 31210/2021)
CIVIL APPEAL NOS. 3399-3402 OF 2022
(Arising out of SLP(Civil) Nos.7875-7878/2022
@ Diary No. 372/2022)
CIVIL APPEAL NOS. 3376-3398 OF 2022
(Arising out of SLP(Civil) Nos.7850-7872/2022

Signature Not Verified

@ Diary No. 619/2022)

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Natarajan

CIVIL APPEAL NO. 3225 OF 2022

Date: 2022.05.18
17:28:47 IST

Reason:

(Arising out of SLP(Civil) No.2446/2022)
CIVIL APPEAL NO. 3224 OF 2022
(Arising out of SLP(Civil) No.1553/2022)

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CIVIL APPEAL NOS. 3217-3223 OF 2022
(Arising out of SLP(Civil) Nos.1380-1386/2022)
CIVIL APPEAL NOS. 3229-3230 OF 2022
(Arising out of SLP(Civil) Nos.7093-7094/2022)
CIVIL APPEAL NOS. 3233-3234 OF 2022
(Arising out of SLP(Civil) Nos.7369-7370/2022
@ Diary No. 3157/2022)
CIVIL APPEAL NOS. 3231-3232 OF 2022
(Arising out of SLP(Civil) Nos.7355-7356/2022
@ Diary No. 3553/2022)
CIVIL APPEAL NOS. 3235-3357 OF 2022
(Arising out of SLP(Civil) Nos.7553-7675/2022
@ Diary No. 6604/2022)
CIVIL APPEAL NOS. 4068-4070 OF 2022
(Arising out of SLP(Civil) Nos.8666-8668/2022
@ Diary No. 12858/2022)

JUDGMENT

M.R. SHAH, J.

1. Interlocutory Application No. 33721/2022 in Civil Appeals arising from Diary No. 392/2022 is allowed in terms of prayer (a) and the names of the proforma respondents are ordered to be deleted from the array of parties, at the risk and responsibility of the appellants. 1A. As common questions of law and facts arise in this group of appeals and, as such, in respect of the lands acquired of the same village – Kheri Sadh, District Rohtak, Haryana, but in two different phases, and village Baliyana, all these appeals are decided and disposed of together by this common judgment and order.

2. Feeling aggrieved and dissatisfied with the impugned common final judgment and order dated 01.09.2021 passed by the High Court of Punjab and Haryana at Chandigarh in R.F.A. No. 1113/2016 and other allied First Appeals in respect of the lands acquired of village Kheri Sadh, District Rohtak, Haryana, for which notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act') was issued on 9.6.2006 (hereinafter referred to as the 'First Phase Acquisition'), both, the original claimants/landowners as well as the acquiring body/State have preferred the present appeals. 2.1 Feeling aggrieved and dissatisfied with the impugned common judgment and order dated 10.11.2021 passed in R.F.A. No. 1632/2016 and other allied First Appeals in respect of the lands acquired of village Kheri Sadh, District Rohtak, Haryana, for which notification under Section 4 of the Act was issued on 13.02.2008 (hereinafter referred to as the 'Second Phase Acquisition'), the original claimants/landowners have preferred the present appeals.

2.2 Feeling aggrieved and dissatisfied with the impugned common judgment and order dated 1.9.2021 passed by the High Court of Punjab and Haryana at Chandigarh in R.F.A. No. 521/2017 and other allied first appeals in respect of the land acquired of village Baliyana, District Rohtak for which notification under Section 4 of the Act was issued on 9.6.2006, the original claimants/landowners have preferred the present appeals arising out of Special Leave Petition (Civil) Nos. 7850-7872/2022 and 1553/2022.

Facts of the case pertaining to Village Kheri Sadh:

3. The lands situated at village Kheri Sadh, District Rohtak, Haryana (First Phase Acquisition) came to be acquired under the provisions of the Land Acquisition Act for the public purpose, namely, for setting up Industrial Model Township, Rohtak. Notification under Section 4 of the Act was issued on 9.6.2006 proposing to acquire the lands situated in the village Kheri Sadh, totally admeasuring 126 acres, 7 kanals and 10 marlas. The lands were acquired for public purpose, namely for setting up Industrial Model Township, Rohtak. Notification under Section 6 of the Act was issued on 11.01.2007. The Land Acquisition Officer declared the award on 15.05.2007 determining the compensation at Rs.

16,00,000/- per acre.

3.1 References under Section 18 of the Act were made at the instance of the original claimants/landowners. Relying upon the sale instances/sale exemplars produced at Ex. P8 & P9 and after applying a cut of 20% for the lands abutting highway up to depth of one acre and beyond that, applying the cut of 38%, the Reference Court determined the compensation at Rs. 24,00,000/- per acre for the lands up to one acre on highway and for the remaining lands at Rs.19,77,000/- per acre.

3.2 In the appeals preferred by the original claimants/landowners, the High Court, by the impugned common judgment and order dated 1.9.2021, though agreed with the Reference Court as regards the relevant sale exemplars being Ex. P8 & P9, enhanced the compensation for the lands abutting highway up to one acre to Rs. 28,69,910/- per acre by reducing the cut to 10% from 20%. The High Court has dismissed the first appeals preferred by the landowners with respect to remaining lands beyond one acre abutting highway and has also dismissed the first appeals preferred by the State. Consequently, the High Court has upheld the compensation at Rs. 19,77,000/- per acre for the lands beyond one acre on highway.

3.3 Feeling aggrieved and dissatisfied with the impugned common judgment and order passed by the High Court dated 1.9.2021, both, the original claimants/landowners as well as the State have preferred the present appeals.

4. So far as the Second Phase Acquisition is concerned, notification under Section 4 of the Act was issued on 13.02.2008 with respect to the very village Kheri Sadh. Relying upon and considering its earlier judgment and order dated 1.9.2021 passed in R.F. A. No. 1113/2016 and other allied first appeals, with respect to the lands acquired of the same village but for which notification under Section 4 of the Act was issued on 9.6.2006 and considering the time gap of approximately one year

and eight months, the High Court has granted 12% escalation and has determined the compensation at Rs. 30,89,066/- per acre for the lands up to one acre on highway and with respect to the remaining lands, i.e., for the lands beyond one acre from highway, determined the compensation at Rs.28,08,242/- per acre and has partly allowed the appeals preferred by the original claimants/landowners. 4.1 Against the impugned common judgment and order dated 10.11.2021, by which the High Court has determined the compensation at Rs. 30,80,066/- per acre for the lands up to one acre from highway and Rs. 28,08,242/- per acre for the lands beyond one acre from highway, the original claimants/landowners have preferred the present appeals.

Facts of the Appeals pertaining to village Baliyana:

5. So far as the civil appeals arising out of the impugned common judgment and order passed by the High Court with respect to the land acquired at village Baliyana, Tehsil and District Rohtak are concerned, notification under Section 4 of the Act was issued on 9.6.2006 for setting up the Industrial Model Township, Rohtak to be planned and developed as an integrated complex for industrial, residential and other support services etc. Notification under Section 6 was issued on 11.01.2007.

The Land Acquisition Officer declared the award and awarded compensation to the landowners in respect of 5848 kanals 16 marlas of acquired land at the rate of Rs. 16,00,000/- per acre for all types of land. Aggrieved by the amount of compensation awarded by the Land Acquisition Officer at the rate of Rs.16,00,000/- per acre, at the instances of the landowners/original claimants, references under Section 18 of the Act were made to the Reference Court. Before the Reference Court, the original claimants/landowners relied upon a number of sale exemplars at Ex. P1 to P7. However, except one sale exemplar, all were for the period subsequent to the notification issued under Section 4 of the Act and therefore the Reference Court discarded the same. Before the Reference Court, the original claimants/landowners also relied upon the judgment of the Reference Court in the case of Splendour Land v. State of Haryana, decided on 29.09.2015 by way of additional evidence, by which qua the same notification issued under Section 4 of the Act dated 9.6.2006 for the purpose of Industrial Model Township, Rohtak, the Collector awarded Rs. 16,00,000/- per acre, the Reference Court enhanced the same to Rs. 19,77,000/- and Rs. 24,00,000/- per acre. However, it is required to be noted that the said judgment was with respect to the land situated at village Kheri Sadh. Thereafter, having observed that though the boundaries of village Baliyana and village Kheri Sadh are adjacent to each other, the location of village Kheri Sadh is at Rohtak-Delhi National Highway No. 10 and the land situated at village Baliyana is on Rohtak-Sonepat Road and that too, falls at a distance of about 30 acres from Rohtak-Sonepat Road and is at a distance of some acres from National Highway No.10, the Reference Court enhanced the amount of compensation to Rs. 17,00,000/- per acre. The judgment and order passed by the Reference Court enhancing the amount of compensation to Rs.17,00,000/- per acre was challenged by both, the landowners as well as the acquiring body. By the impugned common judgment and order, the High Court has dismissed the appeals preferred by the original claimants/landowners as well as the acquiring body and has confirmed the judgment and award passed by the Reference Court determining the compensation at Rs. 17,00,000/- per acre for all types of land.

6. Feeling aggrieved and dissatisfied with the impugned common judgment and order passed by the High Court enhancing the amount of compensation to Rs. 17,00,000/- per acre only with respect to the land of village Baliyana, the original claimants have preferred the present appeals.

Submissions on behalf of the original claimants/landowners insofar as First Phase Acquisition of Village Kheri Sadh:

7. Learned counsel appearing on behalf of the respective original claimants/landowners have vehemently submitted that as held consistently by this Court, the highest sale exemplar shall be made the basis for determination of compensation. It is submitted that in the present case, though Ex. P3 sale exemplar was available on record, wherein the land was sold at an average rate of Rs.46,45,714.22 per acre, the High Court ought to have determined the compensation considering the sale exemplar at Ex. P3.

7.1 It is submitted that even assuming that the sale exemplar produced at Ex. P3 was with respect to a small plot of land, at least there may be 40% cut. It is submitted that, as such, as held by this Court in the case of Ashrafi & Others v. State of Haryana and others, (2013) 5 SCC 527, generally cut of 33% may be reasonable.

7.2 It is then submitted that as such looking to the potentiality and the overall development of the area and the lands in question were situated in an already developed area, no cut should have been applied. 7.3 It is further submitted that in any case the High Court has failed to grant proportionate increase for the lands beyond one acre from highway. It is submitted that as the High Court has enhanced the compensation from Rs.24,00,000/- per acre to Rs. 28,69,910/- per acre for the lands up to one acre from highway, a proportionate increase ought to have been granted for the lands beyond one acre from highway. It is submitted that the High Court has not given any reasons for not giving proportionate increase as was granted for the lands abutting highway up to one acre.

Submissions on behalf of the original claimants/landowners insofar as Second Phase Acquisition of Village Kheri Sadh:

8. Learned counsel appearing on behalf of the original claimants/landowners in the Second Phase Acquisition, for which notification under Section 4 of the Act was issued on 13.02.2008, have submitted that the High Court has erred in granting an escalation of 12% per annum only, which is grossly inadequate.

8.1 It is submitted that in the areas where fast development and boom in residential and economic activity is expected in the near future, the land appreciates at a much faster rate. It is submitted that therefore the High Court has erred in granting only 12% escalation. Submissions on behalf of the original claimants/landowners insofar as Acquisition of Village Baliyana:

9. Now so far as the land acquired of village Baliyana is concerned, learned counsel appearing on behalf of the original claimants/landowners have vehemently submitted that the land acquired at village Baliyana has been acquired for setting up the Industrial Model Township, Rohtak for

industrial, residential and other support services. It is contended that the acquired land at village Baliyana is having a very great potentiality. It is urged that it is not in dispute that the boundaries of village Baliyana and village Kheri Sadh are adjacent to each other and having a common boundary, both, the Reference Court as well as the High Court ought to have awarded the compensation for the acquired land of village Baliyana at par with the compensation determined and awarded for the land acquired of village Kheri Sadh. It is contended that the High Court has committed a grave error in awarding compensation at the rate of Rs. 17,00,000/- per acre only, though the High Court determined a higher compensation for the acquired land of village Kheri Sadh.

9.1 Learned counsel appearing on behalf of the landowners have heavily relied upon the allotment letter dated 13.08.2009, whereby 700 acres of land situated at village Baliyana was allotted by the acquiring body/HSIIDC to Maruti Suzuki India Limited at the rate of Rs. 75,00,000/- per acre.

Submissions on behalf of the State/Acquiring Body:

10. Learned counsel appearing on behalf of the State/acquiring body – HSIIDC have made the following submissions insofar as the land acquired of village Kheri Sadh is concerned:

i) that the courts below in Phase I acquisition of village Kheri Sadh erroneously refused to take into consideration four sale exemplars produced at Ex. R2, R3, R4 and R5 on the ground that average sale price of these sale exemplars is lower than the amount awarded by the Land Acquisition Officer. It is submitted that, however, Section 25 of the 1894 Act does not prohibit consideration of sale exemplars of the price lower than the amount awarded by the Land Acquisition Officer. That Section 25 only debars the Court from awarding an amount of compensation lower than the amount awarded by the Collector.

ii) It is submitted that Ex. R2 is the closest sale deed prior to the date of notification and thus ought to have been relied upon for the determination of compensation being the best exemplar produced on record. That discarding the same on the ground that it is on lower side as well as of lesser area is not correct in the eye of law.

iii) It is further submitted that the High Court as well as the Reference Court did not consider the fact that Ex. R3, R4 and R5, although were executed after the date of notification but the same provided a good picture of the market value of the acquired land as even after issuance of notification, the market value of the acquired land did not increase to the extent as determined by the Reference Court. It is therefore submitted that both, the Reference Court as well as the High Court have committed a grave error in not taking into consideration the sale exemplars produced at Ex. R3, R4 and R5.

iv) Now so far as the reliance placed upon the sale exemplars produced at Ex. P8 and P9 by the Reference Court as well as the High Court is concerned, it is submitted that in those exemplars, the sale deeds were executed by the private builders. It is

submitted that the reliance placed upon such sale exemplars is not correct since private builders purchase the land at any cost for earning the maximum profit after development of the land. It is submitted that moreover the cut of 10% is not an appropriate cut as applied by the High Court. It is submitted that the High Court as well as the Reference Court have totally ignored the settled principles of law that a cut of 50% to 75% should be imposed on the acquired land and since the acquired land is a large tract of undeveloped land, the department shall have to incur a huge expenditure to develop the said land. Learned counsel appearing on behalf of the State/acquiring body have relied upon the decisions of this Court in the cases of *Basavva v. Land Acquisition Officer*, (1996) 9 SCC 640; *Kanta Devi v. State of Haryana*, (2008) 15 SCC 201; *Subh Ram v. State of Haryana*, (2010) 1 SCC 444; *Chandrashekar v. Land Acquisition Officer*, (2012) 1 SCC 390; *Haryana State Agricultural Market Board v. Krishan Kumar*, (2011) 15 SCC 297; *Lal Chand v. Union of India*, (2009) 15 SCC 769; *A.P. Housing Board v. K. Manohar Reddy*, (2010) 12 SCC 707; *Dy. Director, Land Acquisition v. Malla Atchinaidu*, (2006) 12 SCC 87; *Mummidi Apparao v. Nagarjuna Fertilizers & Chemicals Ltd.*, (2009) 4 SCC 402; *Haridwar Development Authority v. Raghubir Singh*, (2010) 11 SCC 581, in support of their submission that cut of 50% to 75% ought to have been imposed, while determining the compensation.

v) It is further submitted that in the present case, even before the High Court, learned counsel appearing for the landowners themselves submitted that the cut should not be more than 20%, but still the High Court has applied the cut of only 10%, instead of 20%.

vi) It is further submitted that the acquired land of the landowners is an agricultural land and therefore they are not entitled to the compensation of a commercial land.

10.1 Now so far as the compensation determined with respect to the acquired land of village Baliyana is concerned, it is vehemently submitted that the landowners of village Baliyana cannot claim parity with the compensation awarded for the acquired land of village Kheri Sadh as the location of village Kheri Sadh is much better than village Baliyana. It is submitted that the High Court has rightly observed in para 4.2 of the impugned judgment that Village Kheri Sadh falls inside the Peripheral road of Rohtak City, whereas the acquired land of village Baliyana falls outside the Peripheral Road. It is submitted that the High Court has rightly refused to determine the compensation for the acquired land of village Baliyana at par with the land acquired of village Kheri Sadh. It is therefore submitted that the High Court has rightly rejected the appeals filed by the landowners of village Baliyana. 10.1.1 Now so far as the reliance placed upon the allotment letter dated 13.08.2009, whereby 700 acres of the land situated at village Baliyana was allotted by the acquiring body to the Maruti Suzuki India Limited at the rate of Rs.75,00,000/- per acre, relied upon on behalf of the landowners is concerned, it is submitted that the said allotment is three years after issuance of section 4 notification in the present case and therefore the same cannot be made the basis for determining compensation as, for obtaining change of land use, huge amount has to be paid as government charges and then only the potential of land will become commercial or industrial. It is submitted that determination of compensation for the acquired land will rest upon

the nature of land on the date of issuance of section 4 notification, usage of such land for a specific purpose and potential of such land at the time of acquisition. It is urged that any development around the acquired land which is of commercial nature cannot form the basis for determination of compensation of an agricultural land and therefore the landowners cannot claim future commercial potential for their agricultural land. Consideration:

First Phase Acquisition pertaining to village Kheri Sadh:

11. We have heard the learned counsel for the respective parties at length.

At the outset, it is required to be noted that insofar as the “first phase acquisition” with respect to the land acquired in village Kheri Sadh is concerned, notification under Section 4 of the Act was issued on 9.6.2006. Before the Reference Court, the original claimants/landowners relied upon the sale exemplars produced at Ex. P8, P9 and P3. The original claimants relied upon the sale exemplar produced at Ex. P3, under which the land was sold at an average of Rs.46,45,714.22 per acre. However, as the said sale exemplar was of a very small plot of land, the Reference Court discarded the same. The original claimants/landowners also relied upon some other sale instances, however, as the same were post Section 4 notification, the same are rightly discarded both, by the Reference Court and the High Court. Relying upon the sale exemplars produced at Ex. P8 & P9 and applying the cut of 20%, the Reference Court enhanced the amount of compensation to Rs. 24,00,000/- per acre for the land up to the depth of one acre abutting highway, and applying the cut of 38%, the Reference Court enhanced the compensation at Rs. 19,77,000/- per acre for the remaining land in the village Kheri Sadh.

11.1 The High Court in the appeals preferred by the original claimants/landowners, though has also relied upon the sale exemplars produced at Ex. P8 and P9, by the impugned judgment and order, has enhanced the amount of compensation to Rs. 28,69,910/- per acre for the land located up to the depth of one acre from national highway and has confirmed the amount of compensation at Rs. 19,77,000/- per acre for the remaining land of village Kheri Sadh. While enhancing the amount of compensation to Rs. 28,69,910/- per acre of the land located up to the depth of one acre from national highway, the High Court has reduced the cut from 20 % to 10%.

12. Now so far as applying the cut of 10% is concerned, as such, the High Court has not assigned any reasons whatsoever as to why the High Court is applying the cut of 10%. There is no discussion whatsoever on applying the cut of 10%. It appears from the record and it is not in dispute that the lands in question of village Kheri Sadh are agricultural lands. The sale exemplars produced at Ex. P8 & P9 were also with respect to small plots of land, may be, bigger than the sale exemplar produced at Ex. P3. But still both the sale exemplars Ex. P8 & P9 were with respect to small plots of land, even as observed by the High Court. In the present case, a large extent of land admeasuring 126 acres, 7 kanals and 10 marlas came to be acquired. Therefore, as such, the Reference Court was justified in applying the cut of 20% for the acquired land up to the depth of one acre abutting highway and applying the cut of 38% for the acquired land beyond one acre from highway. As per the settled position of law, a cut can be ranging from 20% to 75%.

13. In the case of Lal Chand (supra), it is 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 plots, deductions varying between 20% to 75% of the price of such developed plots could be made.

13.1 In the case of Krishan Kumar (supra), it is observed and held by this Court that if the value of small developed plots should be the basis, appropriate deductions will have to be made therefrom towards the area to be used for roads, drains, and common facilities. Thereafter, further deduction will have to be made towards the cost of development, that is, the case of levelling the land, cost of laying roads and drains etc. Therefore, as such, the High Court has committed a grave error in applying the cut of 10% only instead of 20% as applied by the Reference Court.

14. Now so far as the reliance placed upon sale exemplars produced at Ex. R2, R3, R4 and R5 both, the Reference Court as well as the High Court have rightly discarded the same as the one of the sale exemplars was for the value lower than the amount of compensation determined by the Collector and the other sale exemplars were for the period post section 4 notification.

15. Now so far as the submission on behalf of the acquiring body/State that there shall not be any uniform increase and/or determination of the compensation with respect to the lands acquired and it will depend upon the location of the lands acquired is concerned, it is required to be noted that, as such, neither the original claimants/landowners nor even the acquiring body have produced any map showing the location of the lands in question. However, considering the fact that the lands have been acquired under the very same notification and for the very purpose and in the absence of any map showing the location, in the facts and circumstances of the case, no error has been committed by the Reference Court as well as the High Court in applying the uniform compensation for the lands acquired up to one acre from highway and for the lands beyond it.

16. Therefore, the High Court has erred in enhancing the amount of compensation to Rs.28,69,910/- per acre with respect to the land up to depth of one acre abutting highway. We are of the opinion that the High Court has committed a grave error in applying the cut of 10% instead of 20% applied by the Reference Court. Therefore, the original claimants/landowners shall be entitled to the compensation determined by the Reference Court at the rate of Rs.24,00,000/- per acre for the acquired land up to depth of one acre abutting highway and for the remaining land of village Kheri Sadh, the landowners/original claimants shall be entitled to compensation at the rate of Rs. 19,77,000/- per acre, as determined by the Reference Court after applying the cut of 38%. Therefore, the appeals preferred by the State are required to be partly allowed so far as the “first phase acquisition” of village Kheri Sadh is concerned.

Second Phase Acquisition pertaining to village Kheri Sadh:

17. Now so far as the “second phase acquisition” of village Kheri Sadh, for which notification under Section 4 of the Act was issued on 13.02.2008 is concerned, considering the time gap of approximately one year and eight months (20 months) and considering 12% escalation and as observed hereinabove with respect to the “first phase acquisition” pertaining to the very village

Kheri Sadh the compensation is determined at Rs. 24,00,000/- per acre up to depth of one acre abutting highway and Rs. 19,77,000/- per acre for the remaining land, the original claimants/landowners in the “second phase acquisition” shall be entitled for compensation at the rate of Rs. 28,80,000/- per acre for the acquired land up to depth of one acre abutting highway and for the remaining land of village Kheri Sadh in the “second phase acquisition”, the original claimants/landowners shall be entitled for compensation at the rate of Rs. 23,72,400/- per acre. And to that extent, the impugned judgment and order dated 10.11.2021 passed by the High Court in R.F.A. No. 1632/2016 and other allied appeals is required to be modified to the aforesaid extent, so far as the “second phase acquisition” of village Kheri Sadh is concerned. However, as the acquiring body/State have not preferred any appeals challenging the impugned judgment and order passed by the High Court, at this stage, we do not pass any further order except to dismiss the present appeals preferred by the original landowners.

Acquisition pertaining to village Baliyana:

18. Now so far as the appeals preferred by the original claimants/landowners of village Baliyana for which notification under Section 4 of the Act was issued on 9.6.2006, challenging the impugned judgment and order passed by the High Court, determining the compensation at Rs. 17,00,000/- per acre are concerned, we have gone through the findings recorded by the Reference Court, which have been confirmed by the High Court. It appears that the original claimants relied upon the decision of the Reference Court dated 29.09.2015 in the case of Splendour Land (supra) qua the same notification under Section 4 dated 9.6.2006 pertaining to village Kheri Sadh, by which the Reference Court enhanced the amount of compensation to Rs. 19,77,000/- per acre for the lands acquired beyond one acre from highway. However, it is required to be noted that the judgment and order passed by the Reference Court in the case of Splendour Land (supra) was with respect to village Kheri Sadh. As per the findings recorded by the Reference Court, which are on appreciation of evidence on record, the land situated at village Kheri Sadh and village Baliyana are not comparable at all. The Reference Court has extensively considered the same in paragraphs 20 to 26. It is to be noted that although the boundaries of village Kheri Sadh and village Baliyana are meeting at one point and are adjacent to each other, the location of village Kheri Sadh is on Rohtak-Delhi National Highway No. 10 and so far as the village Baliyana is concerned, the same is on Rohtak-Sonepat Road and that too falls at a distance of about 30 acres from Rohtak-Sonepat Road and is at a distance of some acres from National Highway No. 10. There is a specific finding recorded by the Reference Court that the land of village Baliyana is not having so much potential in terms of proximity to Rohtak city and is not adjacent to National Highway No. 10. Therefore, the original claimants/landowners of village Baliyana cannot claim the same compensation which is awarded to the claimants of village Kheri Sadh (first phase).

18.1 Now so far as the reliance placed by the landowners of village Baliyana upon the allotment letter dated 13.08.2009, whereby 700 acres of the land was allotted by the

HSI IDC to Maruti Suzuki India Limited at the rate of Rs. 75,00,000/- per acre is concerned, at the outset, it is required to be noted that the said allotment was made three years after issuance of section 4 notification in the present case and therefore the same cannot be made the basis for determining the compensation.

What is required to be considered is the nature of the acquiring land on the date of section 4 notification, usage of such land for a specific purpose and potential of such land at the time of acquisition. Even otherwise, it is to be noted that the HSI IDC must have incurred a huge amount for development of the land allotted to Maruti Suzuki and the HSI IDC would have provided infrastructure facilities, such as, supply of electricity lines, sewerage, roads, common area etc. Hence, no reliance can be placed upon the said allotment letter dated 13.08.2009, whereby 700 acres of land were allotted by the HSI IDC to the Maruti Suzuki at the rate of Rs. 75,00,000/- per acre.

19. Therefore, in the facts and circumstances of the case, the High Court has rightly determined the compensation at Rs. 17,00,000/- per acre for the lands acquired of village Baliyana for which the notification under Section 4 of the Act was issued on 9.6.2006. We are in complete agreement with the view taken by the High Court. No interference of this Court is called for. Thus, the appeals preferred by the original claimants/landowners challenging the impugned judgment and order passed by the High Court dated 1.9.2021 in R.F.A. No. 521/2017 and other allied appeals deserve to be dismissed.

Conclusions:

20. In view of the above discussion and for the reasons stated above, the civil appeals preferred by the original claimants/landowners of village Kheri Sadh, arising out of the impugned common judgment and order dated 1.9.2021 passed by the High Court in R.F.A. No. 1113/2016 and other allied first appeals in respect of the 'First Phase Acquisition' for which notification under Section 4 of the Act was issued on 9.6.2006 are hereby dismissed. The Civil Appeals preferred by the State/acquiring body challenging the impugned common judgment and order dated 1.9.2021 passed by the High Court in R.F.A. No. 1113/2016 and other allied first appeals in respect of the 'First Phase Acquisition' for which notification under Section 4 of the Act was issued on 9.6.2006 are hereby partly allowed. It is held that the original claimants/landowners shall be entitled to the compensation at Rs. 24,00,000/- per acre for the acquired lands up to one acre abutting highway and Rs. 19,77,000/- per acre for the remaining lands beyond one acre from highway along with all statutory benefits.

21. In view of the above and for the reasons stated in paragraph 17 above, the civil appeals preferred by the original claimants/landowners arising out of the impugned common judgment and order of the High Court dated 10.11.2021 passed in R.F.A. No. 1632/2016 and other allied first appeals with respect to "Second Phase Acquisition" of Village Kheri Sadh for which notification under Section 4 of the Act was issued on 13.02.2008 stand dismissed as the original claimants/landowners have challenged the said judgment and order for enhancement of compensation and as on today no appeals are preferred by the State/acquiring body – HSI IDC.

22. The civil appeals preferred by the original claimants/landowners challenging the impugned common judgment and order dated 1.9.2021 passed in R.F.A. No. 521/2017 and other allied first appeals for enhancement of compensation in respect of the acquired land of village Baliyana are hereby dismissed. The impugned common judgment and order dated 1.9.2021 passed in R.F.A. No. 521/2017 and other allied first appeals determining the compensation at the rate of Rs. 17,00,000/- per acre is hereby confirmed along with all statutory benefits.

23. However, in the facts and circumstances of the case, there shall be no order as to costs.

.....J.
[M.R. SHAH]

NEW DELHI;
MAY 18, 2022.

.....J.
[B.V. NAGARATHNA]