

M/S. Printers House Pvt. Ltd. vs Mst. Saiyadan (Deceased) By L. Rs., And ... on 14 October, 1993

Equivalent citations: AIR1994SC1160, JT1993(6)SC123, 1993(4)SCALE173, (1994)2SCC133, [1993]SUPP3SCR296, AIR 1994 SUPREME COURT 1160, 1994 (2) SCC 133, 1994 AIR SCW 435, 1994 (1) ALL CJ 540, 1994 ALL CJ 1 540, 1994 () BOM CJ 115, (1993) 6 JT 123 (SC), 1993 (6) JT 123, (1994) 1 CIVLJ 1, (1993) 3 CURCC 668, (1994) 1 RRR 288, (1993) 2 RENTLR 612, (1994) LACC 10

Bench: J.S. Verma, B.P. Jeevan Reddy, N. Venkatachala

ORDER

M.N. Venkatachala, J.

1. These appeals arise a common judgment and separate decrees dated August 27, 1975 made by the High Court of Punjab and Haryana, whereby R.F.A.'s Nos. 76, 77 and 78 of 1965 filed by the claimants seeking enhanced compensation for their acquired lands were partly allowed, and R.F.A. Nos. 68, 69 and 70 of 1965 of the State of Haryana seeking reduction in the compensation awarded to the claimants for their acquired lands were dismissed.

2. Civil Appeals Nos. 369-371 of 1976 are not filed by the State of Haryana but are filed by Messrs Printers House Pvt. Ltd. a company for whose benefit the lands were acquired and in them reduction in the amount of compensation awarded by the High Court, is sought. Civil Appeals Nos. 946-948 of 1977 are that of the claimants and in them further enhanced compensation for the acquired lands is sought from the State and the company for whose benefit the State acquired the lands.

3. Material facts which have given rise to these appeals lie in a narrow compass:

(i) Certain land situated in the Village Ranhera, Tehsil Bal-labgarh, District Gurgaon (Haryana), abutting Delhi-Mathura Road (G.T.Road) were needed by Messrs Printers House Pvt. Ltd., hereinafter referred to as 'the Company', to set up its factory for the manufacture of printing machinery. A request was made by the Company to the Punjab Government to acquire the said lands, for its benefit. The Punjab Government, which conceded to the request of the Company, by a preliminary notification under Section 4(1) of the Land Acquisition Act, 1894, hereinafter referred to as 'the Act', published in the Punjab Gazette of April 7, 1961,

proposed the acquisition of the said lands. Those lands measuring about 12 acres 3 kanals 4 marlas, comprised of 8 kanals 6 marlas (5020.50 Sq. Yds.) and 1 kanal 19 marlas (1179. 75 Sq. Yds.) of lands owned by Mst. Saiyandan, 9 kanals 2 marlas (5505.50 Sq. Yds.) and 6 kanals 15 marlas (4083.75 Sq. Yds.) of lands owned by Messrs Cold Storage and Food Products and 73 kanals 2 marlas (44225.50 Sq. Yds.) of the lands owned by the Masjid of Village Ranhera. The possession of the said land was taken over from their owner by the Sub-Divisional Officer-cum- Land Acquisition Collector, hereinafter referred to as 'the L.A.C.', acting under Section 17 of the Act. Notices under Section 9 of the Act were, thereafter, issued by the L.A.C. to the owners of the said lands calling upon them to prefer claims for compensation. The owners, responding to the said notices, preferred their claims before the L.A.C., seeking determination of the market value of the acquired lands at the rate of Rs. 10 per Sq. Yard.

(ii) The L.A.C., by his common award dated August 19,1961 made under Section 12 of the Act, determined the market value of certain acquired lands at the rate of Rs. 3,600 per acre and other acquired land at the rate of Rs. 1,6000 per acre. He awarded 15 per cent solatium on the market value of the acquired lands. He also awarded interest at 4 per cent per annum on the amount of compensation payable to the claimants for their acquired lands from the date of taking their possession until the date of his award.

(iii) Since the claimants did not accept the said award of the L.A.C., they made applications to him under Section 18 of the Act for referring their cases to the Civil Court for granting higher amounts of compensation for their acquired lands. The LA.C, accordingly, sent three References to the Court of Additional District Judge-cum-Land Acquisition Judge, hereinafter referred to as 'the Reference Court', for determination of the just amount of compensation awardable to each of the claimants for the concerned acquired land.

(iv) The Reference Court, on consideration of the evidence adduced be for it by the claimants on one side and the State and the Company on the other side, made a common award and separate decrees dated October 13,1964 determining the market-value of 8 kanals and 6 marlas, of the acquired land of Mst. Saiyadan comprised in Killa No. 13/2 at Rs. 6,000 an acre and of 1 kanal and 19 marlas of acquired land of the same claimant comprised in the same Killa at Rs. 4,803 an acre. By the same common award, it determined the market-value of 9 kanals 2 marlas of the acquired land of Messrs Cold Storage and Food Products comprised in Killas Nos. 11 and 12 at Rs. 6,000 an and of 6 Kanals and 15 marlas of the acquired land of the same claimant comprised in Killa Nos. 21 and 22 at the rate of Rs. 4,800 an acre. Besides, it determined the market-value of 73 kanals and 2 marlas of the acquired land of the Masjid in Village Ranhera at the Rate of Rs. 4,800 an acre. In addition, it awarded solatium at 15 per cent on the enhanced amount of market-value of the acquired lands and interest at 4 per cent per annum on the enhanced compensation

of the acquired lands from the date of taking their possession until the date payment or deposit of the amount of compensation.

(v) However, the claimants as well as the State, who were dissatisfied with the common award and separate decrees of the Reference Court, preferred appeals therefrom in the High Court of Punjab and Haryana, as adverted to by us already.

(vi) The said appeals before the High Court were heard by a Division Bench comprised of Mr. Justice S.S. Sandhawalia and Mr. Justice Man Mohan Singh Gujaral. As the said judges rendered differing judgments on the amount of compensation awardable to the claimants for their acquired lands, the learned Chief Justice of the High Court placed the appeals for hearing before a third judge, Mr. Justice Bhopinder Singh Dhillon. That learned judge, by his Judgment dated August 27, 1975, since rendered a judgment concurring with the judgment of Mr. Justice Man Mohan Singh Gujaral determining the market-value of almost all the acquired lands at an uniform rate of Rs. 3 per Sq. Yd., the appeals of the claimants were partly allowed and the appeals of the State were dismissed, as already adverted to. Although the State did not prefer any appeal against the said judgment, the Company for whose benefit the lands were acquired, preferred three Civil Appeals in this Court. So also, the claimants preferred three Civil Appeals in this Court against the very judgment of the High Court and they are in the nature of cross-appeals.

4. The Civil Appeals which, therefore, required our consideration, are those directed against the judgments of the High Court rendered by Mr. Justice Bhopinder Singh Dhillon and Mr. Justice Man Mohan Singh Gujaral. The oral argument of learned Counsel appearing for the opposing parties in the Civil Appeals were heard. The written submissions filed by respective learned Counsel are also seen.

5. From the oral arguments heard and the written submissions seen, we find that for a proper disposal of the said appeals, consideration and decision is necessary on the following points:

1. Did the High Court apply the correct principle of valuation of land, in proceeding to determine the the market-value of separate plots of acquired lands of the three claimants, with differing features at an uniform rate per unit measure?
2. Did not High Court apply the correct principle of valuation of land in determining the market-value of the acquired plots of land by fixing their unit rate by averaging the market value fetched for different lands under sale deeds and previous awards?
3. If the said two principles of valuation of acquired lands applied by the High Court for determining the market-value of different plots of the acquired lands, were not correct, can such determination of market-value be sustained? If not, is it necessary for this Court to determine the market-value of each plot of the acquired lands and if so, at what rate?

6. We shall now consider and decide the said points in their serial order.

Point - 1:

If the amount of compensation awardable for the lands acquired under the Act is required to be determined by a Civil Court, such amount of compensation has to be determined by taking into consideration the market-value of the lands on the date of publication in Government Gazette, of the preliminary Notification under Sub-section (1) of Section 4 of the Act, as is envisaged under the First Clause of Sub-section (1) of Section 23 of the Act admits of no controversy. Such market-value of the acquired land which has to be determined by the Courts ought to be the price which a willing vendor of the land might reasonably expect to obtain from a willing purchaser, has been a well accepted principle of valuation of acquired lands, ever since that the principle was expounded by the Privy Council in the case of Vyricherala Narayana Gajapatiraju Bahadur v. Revenue Divisional Officer, Vizagapatnam, known as 'Chemudu case'. In fact, this Court has approved the correctness of that principle by stating that the market-value means the price that a willing purchaser would pay to the willing seller for a property, having due regard to its existing condition, with all its existing advantages and its potential possibilities when laid out in the most advantageous manner excluding any advantage due to the carrying out of the scheme for which the property is compulsorily acquired vide: Raghubans Narain v. U.P. Govt. A.I.R. (1967) S.C. 465, Prithvi Raj Taneja v. State of M.P. .

7. Where there is evidence of sales or awards of land(s), which could be compared with the acquired land(s), the Court, as a matter of course, adopts the 'Comparable Sales Method of Valuation of land', in preference to other recognised methods of valuation of lands, such as 'capitalisation of net income method' or 'Expert Opinion Method' for determining the market value of the acquired land(s). 'Comparable Sales Method' is the most favoured method, since the prices paid within a reasonable time in bona fide transactions of purchase or sale of the very acquired land or a portion thereof, or of the land adjacent to those acquired and possessing similar advantages, could furnish to the Court the 'price basis' for determination of the market value of the acquired land, in that, there can be no better evidence of what the willing purchaser would pay for the acquired land if it had been sold in 'the market at the time of publication of preliminary Notification'. Evidence of prices fetched by sale of lands similar to the acquired land will be taken by the Court to be the price which a willing purchaser would have paid for the acquired land, if the same had been sold to him in the open market. However, if the price under comparable sale to be taken by the Court, as furnishing the 'price basis' for determination of the market value of the acquired land, the comparable sale must, firstly be genuine, secondly it must have taken place at a time proximate to the date of publication of the preliminary Notification under Section 4(1) of the Act, thirdly the land sold under the sale must be similar to the acquired land, and fourthly the land sold under the sale must be in the vicinity of the acquired land. It has, therefore, to be noted that the location size, shape, tenure, user or potentiality of land under comparable sale, if do not compare favourably with the acquired land, price fetched in comparable sale cannot furnish the 'prices basis' for determining the market value of the acquired land. However, if any differing feature of factor in a land covered by comparable sale

admits of adjustment in terms of money, depending on whether it is plus factor or minus factor, the market-value of the acquired land is determined either by increasing its price or decreasing its price vis-a-vis the price fetched for land under comparable sale. What applies to comparable sale, equally applies to comparable award, if such award is relied upon as that furnishing a price-basis for determination of the market-value of the land, cannot be disputed. Thus, the best evidence for determining the market-value of the acquired land could be an authentic transaction of sale relating to the very acquired land or a portion thereof of any other land which could be favourably compared with the acquired land. The same would be the position when the available evidence relates to land covered by a previous award.

8. If 'Comparable Sales Method of valuation of land' is adopted for determining the market-value of an acquired plot of land, it generally holds goods determination of the market-value of several acquired plots of land if acquisition of all such plot of land is made pursuant to the same preliminary Notification. But, if any of the factors, such as, location shape, size, potentiality or tenure of one plot of acquired land widely differs from the other plot(s), acquired land(s) then the market-value of each plot of land acquired has to be determined independently of the other(s) even if all of them had been acquired pursuant to the same preliminary Notification. The reason is not far to seek since the differential factors relating to different acquired plots greatly affect their value. Hence, if any salient factors of different acquired plots of land, which greatly affects their value is ignored or is not taken into consideration by the Court while determining the market-value of acquired lands, it will have failed to apply the correct principle of valuation adoptable in valuation of different types of acquired lands.

9. Whether the High Court has, in valuing several plots of acquired lands with differing salient factors, ignored the aforesaid principle of valuation of such acquired lands is the point which needs our consideration now. The locations, sizes and shapes of the several acquired plots of land, the market value of which had to be determined by the High Court were not at all comparable, becomes apparent from its judgments. The concurring judgment of Mr. Justice Bhopinder Singh Dhillon, shows that several acquired plots of land with the market-value of which he was concerned were different, for he states that :

Another relevant question, which has to be considered is whether the entire block of the acquired land could be assessed at a flat rate or there is justification for assessing at a flat rate or there is justification for assessing the market value by dividing the land into blocks.

10. But the learned Judge proceeded to value the different plots of acquired lands, as a compact block on his view that all the plots of acquired lands even if treated as a single block, would be smaller in size than some of the instances of sales with which it has to be compared. In so proceeding to value the different plots of acquired lands, the learned Judge overlooked the important aspect that there were in reality 5 different types of plots of acquired lands belonging to their different persons and the unit rate which each of the owners (Claimants) could have by sale of their respective plots in the open market, could not have been the same, for the features (factors) i.e., advantages and disadvantages, possessed by each plot varied greatly.

11. Mst. Saiyadan (Appellant in C.A. No. 946 of 1977), Masjid of Village Ranhera (Appellant in C.A. No. 947 of 1977) and M/s. Cold Storage & Food Products (Appellant in C.A. NO. 948 of 1977) are the owners of the several acquired plots of land aggregating to 99 kanals and 4 marlas. Relying upon the evidence of C.W.1, Dyal Dass Patwari, Halqua Bal-labgarh, who was called as Court witness to the exact location of the acquired plots of lands with reference to a plan prepared by him, S.S. Sandhawalia, J. has referred to the fact situation in his judgment, thus :

No serious challenge is posed to the correctness of the plan, Exhibit C.1 prepared from the official records and this would show that an Saidyadan, land-owner abuts on the Delhi- Mathura road with a frontage of nearly 23 karems or 44 yards thereon. The southern block of the land of Messrs Cold Storage and Food Products measuring 9 kanals and 2 marlas is in an identical situation because it adjoins the G.T. Road with a frontage of nearly 40 yards. In sharp contrast thereto, however, is the situation of the land of the third claimant the Masjid of village Ranhera. This area of 73 kanals and 2 morals is completely locked on all sides and has no direct ingress to the G.T. Road above-mentioned. Indeed C.W.1, Dayal Das deposed that the distance of the Masjid Ranhera is about 100 to 105 Yards from the main road and no portion thereof adjoins the highway. Similarly, a small portion of Mst. Saiyandan's land comprising 1 Kanals and 19 Marias is situated equally away from the road and thus falls in the same class as the Masjid land. The identical situation exists as regards the northern portion comprising an area of 6 kanals 15 marlas belonging to Messrs Colds Storage and Food Products which also has no proper access to the road and an insignificant corner thereof merely touches the same. This area is also irregular in shape and in no way superior to the land belonging to the Masjid.

12. The fact situation as to the location, size and shape of the acquired plots of lands referred to as above by Sandhawalia, J. is unassailable for it is based on the unrebutted evidence of Court Witness, C.W.I. If that be so, two learned Judges of the High Court, by their judgments under appeals could not have proceeded to determine the market-value of almost all the plots of the acquired lands which varied greatly in situation (location), shape and size, at a uniform rate per unit measure of land.

13. Thus, when the evidence in the case clearly established that the different plots of lands of three claimants acquired, varied greatly as to , their sizes, shapes and location (situation) they could not have fetched a uniform rate, if the same had been sold in the open market by each of the claimants. That being the correct position, two learned Judges of the High Court did err on a principle of valuation applicable to valuation of different types of acquired land, when they by their judgments under present appeals determined the market-value of almost all the acquired plots of lands at a uniform rate, on the wrong assumption that all the 5 plots of acquired lands would have fetched the same rate if sold in the open market.

Point - 2:

This point relates to making the choice of sales when market value of the acquired land has to be determined by 'Comparable Sales Method'. If a land sold under a sale-deed is comparable with the acquired land, then the courts will have, ordinarily, recourse to 'Comparable Sales Method of Valuation' to determine the market value of the acquired land, cannot be doubted. What is done under the 'Comparable Sales Method' of valuation of land is to find out the price fetched for sale of land under the sale-deed claimed to be comparable sale and take that price as that which the acquired land would have fetched, if its sales had been effected in the open market and determine the market value of the acquired land accordingly. The 'Comparable Sales Method of Valuation' of land is preferred to other known methods of valuation of land since the variety of factors appertaining to the land, which require adjustment by the Court (valuer) in determining the market value of the acquired land, would be the least. Where, however, certain factors appertaining to the land in a comparable sale has to be adjusted, it is done by varying the price of land covered by the sale, i.e. by adding certain amount to the price fetched for the land sold or by deducting a certain amount in such price, depending on the nature of the factor concerned being a plus factor or a minus factor. Whatever it be, the genuineness or authenticity of the sale is a factor which permits no adjustment in price.

14. As the price fetched under a genuine Sale-deed could form the basis for determining the market value of the acquired land, the market value determined by an award made under the Act for an earlier acquired land, by either the Land Acquisition Officer or the Court could also form the basis for determining the market value of subsequently acquired land.

15. If the comparable sales or previous awards are more than one, whether the average price fetched by all the comparable sales should form the 'price basis' for determination of the market value of the acquired land or the price fetched by the nearest or closest of the comparable sales should alone form the 'price basis' for determination of the market value of the acquired land, being the real point requiring our consideration here, we shall deal with it. When several sale-deeds or previous awards are produced in Court as evidence of comparable sales, Court has to necessarily examine every sale or award to find out as to what is the land which is the subject of sale or award and as to what is the price fetched by its sale or by the award made therefor.

16. If the sale is found to be a genuine one or the award is an accepted one, and the sale or award pertains to land which was sold or acquired at about the time of publication of preliminary Notification under the Act in respect of the acquired land, the market value of which has to be determined, the Court, has to mark the location and the features (advantages and disadvantages) of the land covered by the sale or the award. This process involves the marking by Court of the size, shape, tenure, potentiality etc. of the land. Keeping in view the various factors marked or noticed respecting the land covered by the sale or award, as the case may be, presence or absence of such factors, degree of presence or degree of absence of such factors in the acquired land the market value of which has to be determined, should be seen. When so seen, if it is found that the land covered by the sale or award, as the case may be, is almost identical with the acquired land under consideration, the land under the sale of the market value determined for the land in the award could be taken by

the Court as the 'price basis' for determining the market value of the acquired land under consideration. If there are more comparable sales or awards of the same type, no difficulty arises since the 'price basis' to be got from them would be common. But, difficulty arises when the comparable sales or awards are not of the same kind and when each of them furnish a different 'price basis'. This difficulty cannot be overcome by averaging the prices fetched by all the comparable sales or awards for getting the 'price basis' on which the market value of the acquired land could be determined. It is so, for the obvious reason that such 'price basis' may very largely depending even on no comparable sales or awards. Moreover, 'price basis' got by averaging comparable sales or awards which are not of the same kind, cannot be a correct reflection of the price which the willing seller would have got from the willing buyer, if the acquired land had been sold in the market. For instance, in the case on hand, there are three claimants. The plots of their acquired land, which are five in numbers, are not similar, in that, their location, size, shape greatly vary. One plot of land of one claimant and another plot of another claimant appear to be one type. Another plot of land of one of them appear to be of a different type. Yet another plot of the second of them appears to be different. If so far as third claimant's plot of land is concerned, it appears to be altogether different from the rest. Therefore, if each of claimants were to sell her/his respective plots of land in the open market, it is impossible to think that they would have got a uniform rate for their land. The position cannot be different if the comparable sales or awards when relate to different lands. Therefore, when there are several comparable sales or awards pertaining to different lands, what is required of the Court is to choose that sale or award relating to a land which closely or nearly compares with the plot of land of market value of which it has to determine, and to take the price of land of such sale or award as the basis for determining the market value of the land under consideration.

17. In the judgments of learned Judges of the High Court, which are under appeals, what is taken as the basis for determining the market value of the acquired plots of lands of the three claimants is to take the average of prices fetched by several sale-deeds and awards relating to different types of lands and determine the market value of the acquired plots of land accordingly. The relevant passage in the concurring judgment of Dhillon, J. which needs to be seen in the context reads.:

While assessing the market value of the acquired land as compared to the instances of sale of acquisition which furnish guide line for assessing the market value, the sizes of the plot of land, subject matter of sale or acquisition, which have been found to be relevant, and their location has to be compared with the acquired land. It would be noticed that the land of Nawal Singh measured 8 kanals only but it similarly situate as the acquired land. However, this being a small plot, the value of this plot also goes quite deep towards the railway lines and its depth is a little less than the acquired land. However, this being a small plot, value of this plot is bound to be higher than the acquired which is quite a big chunk of land. The land purchased by the Globe Motors measures 99 kanals and 4 marlas. The area is thus more or less the same as the same as that of the acquired land. As regards the location, its frontage does not touch the G.T. Road but touches the Ballabhgarh Road. The situation of this plot can not be termed in any way better than the acquired land. The area acquired for the Gurgaon canal is with a very little width the quite a good length, and, therefore, it can

not be compared with the acquired land in the sense of its dimensions. The land sold by Shaha-bu-din (A.W.18) measuring 6 kanals, for Rs. 4,000 is again a small area. It would thus be seen that out of five instances, which have been found to be useful for arriving at the market value of the acquired land, three instances are of small plots whereas two are of big plots. It would thus be appropriate to draw the average and work out the price per square yard on the basis of the said transactions which comes to Rs. 4.60 per Sq. Yard. But some reduction has to be made on account of the acquired land being low lying. It would appear appropriate that the deduction of Rs. 1.60 per square yard be made from the average price as the entire land is 6 or 7 feet below the road. The land fallen in Killa No. 14 Rectangle No. 11, has been proved to be a Jauhar. The market value of Killa No. 14 which is a Jauhar, awarded by the learned Additional District Judges, appears to be a fair compensation. Therefore, Rs. 3 per Sq. Yard would be a reasonable price of the acquired land except the land falling in Killa No. 14 Rectangle No. 11.

18. The comparable sales and awards which are made the basis for finding average price of lands covered by them by Gujaral, J. with whose judgment Dhillon, J. has concurred are 5 number and are these :

Sl. No.	Description of Area	Total Price	Approximate price land per Sq. Yard.
1.	Sale by Nawal 6 Kanals	Rs. 40,000	Rs. 10 Singh (Mutation No. 63)
2.	Land purchased 100 Kanals	Rs.2,84,000	Rs. 5.50 (Only the by Globe amount paid before Motors (Ext. the Sub-Registrar is A.W. 14/1) accepted as the price)
3.	Land acquired Assessed by the Land for Spun Pipe Acquisition Collector Factory at	R s . 4 p e r S q . Y a r d .	
4.	Land acquired The portion situated for the Gurgaon between G.T. Road canal (on 20.9.60 and railway line vide Exhibit P- assessed by the Land 26) Acquisition C o l l e c t o r a t	R s . 3 . 2 5 p e r S q . Y a r d .	
5.	Sale by Shah-bu-din 6 Kanals	Rs. 4,000	Rs. 1.33 dated 11th August, 1959 (Exhibit R - 8)

19. The relevant sentence in his judgment which needs to be seen in the context reads:

I am clearly of the view that the average price worked out on the basis of the five transactions mentioned above would fairly represent the market value of the land in the vicinity of the acquired land on the relevant date

20. When the rate per Sq. Yd. of land in the said 5 instances relied upon by the learned Judge for averaging the price, showed the highest rate in an instance was Rs. 10 per Sq Yd. and the lowest rate in another instance was Rs. 1.33 P., he should have seen that averaging of prices could bring about unrealistic results. For instance, if the sale in item-5 related to 600 kanals of land instead of 6 kanals of land, the average price of all transactions could be even below Rs. 2.

21. The determination of market value of the acquired plots of lands made by the High Court on average price basis, therefore, is incorrect, in that, it overlooks the important principle of valuation that the market value of the acquired land when is determined by adoption of the 'Comparable Sales Method' the same has to be done with reference to the price fetched in a sale or market value given in an award, as the case may be, of a land which is closest or nearest to the acquired land and not with reference to average price fetched by several comparable sale deeds or awards, of different types of lands.

Part-3:

Both the leaned Judges (Gujral, J. and Dhillon, J.) who rendered their judgments under appeals, as is pointed out by us, in dealing with Points 1 and 2, have failed to determine the market value of the acquired lands by applying the warranted two principles of valuation of land - the first of them being that where the acquired plots of land belong to different persons and do not have similar feature they should not be treated as a single unit for awarding a uniform rate of market value and the second of them being that where there are several comparable sales or awards produced for determining the market value of the acquired plots of land by 'Comparable Sales Method of valuation', it is not the average price reflected in such comparable sales or awards which should form the 'price basis' but it is the price reflected in the sale or award pertaining to a land closest or nearest to the acquired land, in all its features. As could be seen from their judgments, an obvious mistake is committed in determining the market value of acquired lands possessed of dissimilar features by applying the unwarranted principle of valuation adaptable in valuation of agricultural lands in a large tract of acquired agricultural land or vast extent of non-agricultural land or strip of agricultural or non-agricultural acquired land comprised of several plots of similar land on the basis of price fetched by a comparable sale of a similar plot of land or amount awarded in a comparable award for a plot of acquired land. Consequently, the market value of the acquired plots of lands with dissimilar features, determined by the two learned Judges of the High Court in their judgments under appeals become unsustainable. This situation, should have, in the normal course, led us to make an order setting aside the judgments under appeals and remitting the cases to the High Court for their fresh disposal by application of the appropriate principles of valuation relating to valuation of dissimilar plots of lands although such plots adjoining each other were acquired pursuant to a common preliminary notification and for a common purpose. But the period of 32 years during which the parties are in litigation has made us feel that we should ourselves decide the matter finally and save the parties from the agony of further litigation.

22. In the judgment of Sandhawalia, J. we find reference to Ex.1 plan prepared from the official records by C.W.1 Dyal Das Patwari and his evidence where the acquired lands, the market value of which is to be determined by us, are described in detail thus:

...This (Ex.C-1) would show that an area of 8 kanals 6 marlas belonging to Mst. Saiyadan, land-owner abuts on the Delhi-Mathura road with a frontage of nearly 28 Kanais of 44 yards thereon. The Southern block of the land of Messrs Cold Storage and Food Products measuring 9 kanals ad 2 marlas is in an identical situation because it adjoins the G.T. Road with a Frontage of nearly 40 yards. In sharp contrast thereto, however, is the situation of the land of the third claimant the Masjid of village Ranhera. This area of 73 kanals and 2 marlas is completely locked on all sides and has no direct ingress to the G.T. Road above-mentioned. Indeed C.W.1, Dyal Das deposed that the distance of the Masjid Ranhera is about 100 to 105 yards from the main road and no portion thereof adjoins the highway. Similarly, a small portion of Mst. Saiyadan's land comprising 1 kanal and 19 marlas is situated equally away from the road and thus falls in the same class as Masjid land. The identical situation exists as regards the northern portion comprising an area of 6 kanals 15 marlas belonging to Messrs Cold Storage and Food Products which also has not proper access to the road and an insignificant corner thereof merely touches the same. This area is also irregular in shape and in no way superior to the land belonging to the Masjid.

23. In the Judgment of Gujaral, J. with which Judgment Dhillon, J. has agreed, reference to acquired plots of land is made thus:

The acquired land measuring 99 kanals 4 marlas belongs to three different land-owners, namely, (1) Mst. Saiyadan widow of Jamal-ud-din, (2) Messrs Cold Storage and Food Products and (3) Masjid of Village Ranhera. The entire land is situated between the Grand Trunk Road, leading from Delhi to Mathura and the railway line connecting these two stations. A substantial part of the land of Mst. Saiyadan is situated on the Grand Trunk Road while only a small portion is at the other end next to the railway line. As regards the land of Messrs Cold Storage and Food Products, it is all situated on the G.T. Road but is in two parts flanking the plot of Mst. Saiyadan. The main plot which is on the south has a good frontage on the G.T. Road but the plot on the north has hardly any frontage and is only accessible to the G.T. Road through a small passage. So far as the land of Masjid is concerned, it is in one block behind the main plot of Mst. Saiyadan and the two plots of the Cold Storage and extends upto the railway line.

24. Plots of lands, the market value of which has to be determined by us are correctly described in the above judgment of learned Judges of the High Court with reference to their location (situation) vis-a-vis Delhi-Mathura Road (Grand Trunk Road) has been, in fact, endorsed by learned Counsel for opposing parties in their respective written submissions filed in this Court. Hence it follows :

(a) That the two acquired plots of lands of Mst. Saiyadan for which market value has to be determined by us are :

(i) 8 kanals 6 marlas (about 105 yards by 44 yards) of land which abuts Delhi-Mathura Grand Trunk Road and has a frontage of 44 yards to that G.T. Road.

(ii) 1 kanal 19 marlas of land far away from the Delhi-Mathura Grand Trunk Road with no access to that G.T. Road.

(b) That the two acquired plots of lands of M/s. Cold Storage and Food Products for which the market value has to be determined by us are :

(i) 9 kanals 2 marlas (about 105 yards by 40 yards) of land which abuts Delhi-Mathura Grand Trunk Road and has a Frontage of 40 yards to that G.T. Road.

(ii) 6 kanals 15 marlas of triangular land, adjoining the land at a (i) but only corner point of the triangular land abutting Delhi-Mathura Grand Trunk Road.

(c) That the acquired plot of land of the Masjid of village Ranhera for which the market-value has to be determined by us is:

(i) 73 kanals 2 marlas of land situated beyond the acquired lands of Mst. Saidayan and M/s. Cold Storage and Food Products - land locked with no access to Delhi-Mathura Grand Trunk Road.

25. Having regard to the common features of the acquired plots of land as to their location, size and shape, they could be grouped thus for the purposes of determining their market-value:

Group (1): a(i) Rectangular plot of 8 kanals 6 marlas of Mst. Saiyadan.

b(i) Rectangular plot of 9 kanals 2 marlas of M/s. Cold Storage & Food Products.

Group (2): b(ii) Triangular Shaped plot 6 kanals 15 marlas or M/s. Cold storage & Food Products.

Group (3): c 73 kanals 2 marlas of land of Masjid of village Ranhera.

26. It is not disputed that the acquired lands were located in Ballabhgarh Industrial and Commercial area and several lands in that area had been acquired for industrial or commercial purposes an year or two earlier to the date of publication of the preliminary Notification in respect of the acquired lands under consideration. The evidence in the case shows that the acquired lands while had been located on one side of Delhi-Mathura Grand Trunk Road, where several industries had been either set up or were being set up, there were on the other side of that Road, General Hospital public part and public offices of the town of Ballabhgarh. It cannot, therefore, be disputed that the acquired

lands had the potentiality for their user for industrial or commercial purposes.

27. Leaned counsel for the claimants, who are appellants in their appeals and respondents in the appeals or the opposite party, mainly relies upon tow sale-deeds Ext. A.W. 14/1 and Ext. A.w. 6/1 to support the claimants' claim for determination by us of the market value of the acquired lands at the rate of Rs. 10 per sq. yd. But, according to learned Counsel for M/s. Printers House Pvt. Ltd., the Company for whose benefit the lands concerned had been acquired and who appellants in their appeals and respondents in the claimants' appeals contends that the sale-deeds relied upon on behalf of the claimants to fix a higher market-value for the acquired land can be of no assistance to this Court in determining the market-value of the acquired lands at the rate so claimed. His submission on the other hand was that this Court has to rely upon the mutation extracts Ext. R-2 and Ext. R-8 to reduce the market value of the lands determined by the High Court.

28. In the said situation, where the parties want the Court to determine the market value of the acquired lands on the evidence of comparable Sales, it becomes necessary for us to have recourse to the 'Comparable Sales Method of valuation of land' for determining the market-value of the acquired plots of lands and we shall proceed, accordingly.

29. To begin with we have to find out which land covered by which sale-deed could be said to closely or nearly compare with one or the other group of acquired plots of lands of the three claimants. Such examination is indispensable since the question of making the price fetched under one or the other of the comparable sales, as the price-basis for determining the market-value of the acquired lands would not be possible without knowing whether the land sold under the sale compared, is closer or nearer to the acquired land in its feature.

30. Ext. A.W. 14/1 is the registration copy of the Sale Deed dated 18.9.1960. The land sold thereunder measures 99 kanals 4 marlas of agricultural and it is of Bisbedari Estate Ballabhgrah. The registration copy, when see, no doubt says that the land sold under the deed is situated within the boundary of village Bhallabhgrah, but does not say in which part of the area of the village the land finds its place. Boundaries of the land sold are not mentioned. This land has been sold by Smt. Dewan Kaur and others in favour of M/s. Globe Motors Pvt. Ltd., for a consideration of Rs. 4,00,000 as mentioned in the sale-deed. Neither the vendors nor any one on behalf of the vendee under the sale-deed is examined to show where exactly the land sold under the sale-deed lies within the boundaries of village Ballabhgrah. A.W. 14, Ami Ram, said to be the attesting witness of this sale-deed, has given evidence in the case on behalf of the claimants. He also does not say anything about the exact location of the land sold under the deed except stating that 'the land sold by Smt. Dewan Kaur adjoins the land of Nawal Singh'. No doubt in the Map produced as Ext. A.W. 4/1, an area therein shaded in orange colour is mentioned as Globe Factory but that land is found on the map at a distant place from that of the land of Nawal Singh and belies the statement of Ami Ram in respect to its location. Moreover, from the said map, it is seen that the said land neither abuts the Delhi-Mathura Grand Trunk Road nor is in the vicinity of the acquired lands. It was argued on behalf of the claimants that the aforesaid land covered by the sale-deed since does not abut the Delhi-Mathura Grand Trunk Road, the market-value of the acquired lands which abut the Delhi-Mathura Grand Trunk Road should be regarded as that of higher value as compared with the

land covered by the sale-deed. When certain facts are shown to exist, certain amount of guess would, no doubt, be there in drawing inferences while determining the market-value of land in acquisition cases. For instance, if the land sold to Globe Factory was shown to adjoin the acquired land or shown to have been situated in the closer vicinity of the acquired land, it was possible to say that the value fetched by land sold to Globe Factory would bear on the value to be given to acquired land. But, as pointed out earlier that is not the case here. Here, the map Ex.A.W.4/1 is not by Courts, as that which correctly reflects the locations of the places shown thereunder. Hence, we are constrained to hold that the land covered under the said sale-deed cannot in any way be compared with the acquired plots of land. In this view of the matter, we find it unnecessary to examine the challenge made on behalf of M/s. Printers House Pvt. Ltd. as to acceptance of the said sale-deed as a genuine sale transaction.

31. Now, we shall deal with the land covered by Ext. A.W.6/1. This is a registration copy of the sale-deed dated 24.4.1961 executed by Nawal Singh in favour of Jaswant Rai. The land sold thereunder measures 8 kanals. It is clarified in the sale deed that the land sold thereunder measure 8 kanals at the spot and it is bounded on the East by Mathura Road, on the West by the land of Vendor, on the North by the land of vendor and on the South by M/s. Cold Storage and Food Products. In the sale-deed, there is a specific mention made of the existence of a tube-well with the necessary electric connection, on the land sold thereunder. The recital reads thus:

Tube-well in working order has been installed in the aforesaid land measuring 8 kanals and it is included in the sold land together with an electric connection.

32. There is also mention in the sale-deed that the land which was being sold thereunder was surrounded by factories and it was sold since the vendor did not have the know-how to set up a factory. There is also a mention in the sale-deed that the land was purchased from its owner in the year 1956 since the vendor was an old tenant. The sale consideration of this land mentioned in the sale-deed is Rs. 40,000. Sub-Registrar's endorsement in the deed is to the effect that Rs. 40,000 was counted in his presence by the vendee and was handed over to the vendor. Nawal Singh is examined in the case as A.W.7 on behalf of the claimants. In his examination-in-chief, it is stated thus :

The boundary of my land and the boundary of the acquired land adjoins. I sold 8 kanals of my land to Dr. Jaswant Rai (A.W.6) for Rs. 40,000 by means of a registered sale-deed. I have heard the original sale-deed, it is correct and bears my signatures as well as my thumb impression. I received the whole of the sale price amounting to Rs. 40,000 before the Sub-Registrar. The vendee paid the expenses of the registration and the stamp paper. The quality of my land sold to A.W.6 is at par with that of the acquired land. A large number of factories have been set up near the acquired land during the last 2 years. The acquired land adjoins the road as well as the railway line.

33. In his cross-examination this is what is elicited as to the amount of Rs. 40,000 received by him:

I had deposited a sum of Rs. 30,000 in Punjab National Bank at Ballabhgrah. I have spent Rs. 5,000 on the marriage of my daughter and a sum of Rs. 5,000 was spent by me on the construction of my pacca house....

34. The purchaser of the said land Dr. Jaswant Rai Chawala (A.W.6) has also been examined on behalf of the claimants. It is stated in his examination-in-chief that sale money of Rs. 40,000 was paid to the vendor before the Sub-Registrar. In his cross-examination, he said :

It is wrong to suggest that only a sum of Rs. 10,000 was paid to Nawal Singh, and the balance was taken back from him.

35. As seen from the copy of the registered sale-deed dated 24.4.1961, the extent of the land sold thereunder is 8 kanals of land and it faces the Delhi-Mathura Grand Trunk Road as the plot of 8 kanals and 6 marlas of Mst. Saiyadan and the plot of 9 kanals 2 marlas of M/s. Cold Storage and Food Products, do. It also adjoins the acquired lands. Thus, the features and location of land covered by the sale-deed well compares with the plot of 8 kanals and 6 marlas of Saiyadan and plot of 9 kanals and 2 marlas of M/s. Cold Storage & Food Products, covered by Group (1) lands above. Execution of the sale-deed and its contents have been duly proved by the vendor and vendee. In fact, the price paid under this sale-deed has been accepted by the learned Judges of the High Court in their judgments under appeals for purposes of averaging the prices of the land.

36. We shall now turn to sales relied upon for M/s. Printers House Pvt. Ltd.

37. Ext. R/8 is the extract taken from the register of mutation of village Ballabhgrah. The entry shows that Shaha-bu-din had sold 6 kanals of land by registered sale-deed dated 11.8.1959 for a sum of Rs. 4,000 out of the field No. 15/1/1 Maghda. An entry in the exhibit mentions about the registration of the sale-deed. On behalf of M/s. Printers House Pvt. Ltd. for whom the lands under consideration were acquired, it was contended that the said entry Ext. R/8 relating to mention of sale of 6 kanals of land by Shaha-bu-din to Ram Chander for Rs. 4,000 in the year 1959 should form the basis for us to determine the market-value of the acquired land at that rate. We find it difficult to accept the contention. Shaha-bu-din, whose name is found in the entry, is, in fact, examined as A.W.18. As seen from his evidence in cross-examination not even a suggestion is made about his sale referred to the entry in Ext. R/8. In the absence of production of sale-deed and its proof by examining the appropriate persons, we cannot say that land sold under the deed compares with the acquired plots of land and the value for which it was sold should form the price-basis for valuing the acquired plots of land. Hence, Ex. R-8 cannot be of any assistance in determining the market-value of the acquired plots of lands.

38. Ext. R/2, relied upon for M/s. Printers House Pvt. Ltd. is the extract from the register of mutation relating to village Ranhera. An entry thereunder shows that on 11.8.60, 5 kanals and 15 marlas of land in Khasra No. 15/17 was sold by Smt. Saidan to Shadi for a sum of Rs. 427.97 according to the order passed by the S.D.O. Palwal. What is argued now is, that the amount of sale consideration mentioned in the extract should form the basis for determination of the market-value of the acquired land and calculations in that regard must be made in accordance with the provisions

of Punjab Security of Land Tenures Act. The argument so put-forth on behalf of M/s. Printers House Pvt. Ltd., in our view, cannot be accepted. When the amount to be awarded for land acquired under the Act has to be just market value to be determined on the basis of well recognised principles of valuations, amounts payable under statutory provisions by cultivating tenants for purchase of lands by them from the landlords, can provide no guidance in the matter. Moreover, Shaha-bu-din, though is the vendor, according to entry, nothing relating to the said transaction is suggested in the course of his cross-examination. Hence, this exhibit also can be of no assistance to M/s. Printers House Pvt. Ltd. for determination of market value of the acquired plots of lands.

39. Thus out of the lands which are the subject-matters of the sales aforesaid, only the lands covered by Ext. A.W.6/1 is comparable with the plot of 8 kanals 6 marlas of Mst. Saiyadan and a plot of 9 kanals and 2 marlas of M/s. Cold Storage and Food Products.

40. Then as seen from the registration copy A.W.6/1 of the sale-deed, 8 kanals of land is sold for Rs. 40,000. This Rs. 40,000 cannot be the value of the land itself for the land was purchased along with a tube-well in working order with electric connections. The Rs. 40,000 includes the value of working tube-well and all its electrical connections. Unfortunately, there is no evidence adduced in the case as to what was the actual value attributable to the working tube-well in the land and the electric connections. Here a some amount of guess work becomes inevitable to find the value of the working tube-well or its electrical connections. We feel that their value could be safely put at Rs. 10,000. If that be so the value of 8 kanals of land sold under the sale-deed, becomes Rs. 30,000. As the sale in the instant case had come into existence after about a month after publication of the preliminary notification in respect of the acquired land with which we are concerned, we may make a deduction of Rs. 2,000 out of Rs. 30,000 for the increased value to earlier acquisition of the adjoining land and the time elapsed. Thus, the market value of the 8 kanals of land could be fixed at Rs. 28,000, i.e., Rs. 3,500 per kanals with reference to the date of publication of preliminary Notification. In our view, this rate of Rs. 3,500 per kanals could be given for the plot of 8 kanals 6 marlas of Mst. Saiyadan and plot of 9 kanals 2 marlas of M/s. Cold Storage & Food Products i.e., Group (1) lands.

41. In so far the triangular plot of 6 kanals 15 marlas of land of M/s. Cold Storage & Food Products covered in Group (2) above, only its corner point touches the Delhi-Mathura Grand Trunk Road. Hence, it cannot stand on par with the plots covered by Group (1) lands above facing G.T. Road to a width of 40 yards or 43 yards. We feel that the value of this land could be fixed at about $\frac{3}{4}$ th the value of the plot of land covered by Group (1) above by making deduction of $\frac{1}{4}$ th value because of minus factors of being triangular in shape and only a corner point of triangular plot alone facing G.T. Road. We accordingly determine the market value of the triangular plot of 6 kanals 15 marlas of land owned by M/s. Cold Storage & Food Products covered by Group (2) at Rs. 2,625 per kanal.

42. Then comes plot of 73 kanals 2 marlas of land of Masjid of village Ranhera and plot of 1 kanal and 19 marlas of land of Mst. Saiyadan, falling under Group (3) above. Though these are two plots of lands, we can consider the market-value of the plot of 73 kanals and 2 marlas of land, for the market-value fixed for it could hold good in respect of an insignificant extent of 1 kanal 19 marlas in the Group. If 73 kanals 2 marlas was to be sold in the market, it could not have fetched the same price as those Group (1) lands as on the date of the publication of the preliminary Notification. The

reasons are obvious:

(i) That its location lies beyond industrial plots facing Delhi-Mathura Grand Trunk Road covered in Group (1) lands which are proper and suitable for setting up medium scale of Industries.

(ii) That it has no access to either G.T. Road or any other road.

(iii) That its extent being as large as 3 kanals 2 marlas it will involve loss of land of roads and expenditure in turning them into industrial plots of the size in Group (1) lands.

(iv) That it would involve also considerable cost in purchasing valuable land for making a road to reach the G.T. Road.

43. The said minus factors, if are taken into account, necessarily they reduce the value of the land considerably and on a rough estimate its reduced value could be put at three fifth value fixed by us for plots of lands in group (1). Therefore, it would be safe and reasonable to determine the market value of this land of 73 kanals 2 marlas of land at Rs. 2,100 per kanal, in that, that could also be regarded to be reasonable whole sale price of the large extent of land. The same rate could be adopted for fixing the value of 1 kanal 19 marlas land since it falls in Group (3) lands above, and the minus factors appertaining to it cannot be any the less, as compared with the other land of 73 kanals 2 marlas in that Group.

44. However, we make it clear that the principles of valuation enunciated hereinbefore are not intended to be exhaustive but are meant to serve as merely guidelines.

45. Thus, we determine the market value of the acquired plots of land of an extent of 8 kanals 6 marlas (5020 Sq. Yds. facing Delhi- Mathura G.T. Road, falling in Group (1), which was owned by Mst. Saiyadan at the rate of Rs. 3,500 per kanal (Rs. 5.79 per Sq. Yd.); of the acquired plot of land of an extent of 1 kanal 19 marlas (1179.75 Sq. Yds.) without access to Delhi-Mathura Road, (falling in Group-0) which was owned by Mst. Saiyadan at the rate of Rs. 2,100 per kanal (Rs. 3.47 per Sq. Yds.); of the acquired plot of land of an extent of 9 kanals 2 marlas (5505.50 Sq. Yds.) facing Delhi-Mathura Grand Trunk Road, (falling in Group-1), which was owned by M/s. Cold Storage and Food Products at the rate of Rs. 3,500 per kanal (Rs. 5.79 per Sq. Yd.); of the acquired triangular plot of land of an extent of 6 kanals 15 marlas (4083.75 Sq. Yds.), its conical point alone facing Delhi- Mathura Grand Trunk Road (falling in Group-2) which was owned by M/s. Cold Storage and Food Products at the rate of Rs. 2,625 per kanal (Rs. 4.34 per Sq. Yd.); and of 73 kanals 2 Marlas (44, 225 Sq. Yds.) situated away from Delhi-Mathura Grand Trunk Road with no access to it (falling in Group-3) which was owned by Masjid of village Ranhera at the rate of Rs. 2,100 per kanal (Rs. 3.47 per Sq. Yds.).

46. In the result we dismiss the Civil Appeals Nos. 369-371 of 1976 and partly allow the Civil Appeals Nos. 946-48 of 1977, enhancing the market-value of the acquired lands as stated above and granting

solatium at the rate of 15 per cent per annum on such enhanced market-value together with interest thereon at the rate of 6 per cent per annum from the date of taking possession of the acquired plots of lands until payment, less the amounts, if any, already paid. No costs.