

U.P. State Industrial Development ... vs Nazir And Others on 16 April, 2018

Bench: Sudhir Agarwal, Shashi Kant

HIGH COURT OF JUDICATURE AT ALLAHABAD

AFR

Reserved on 28.02.2018

/ 06.03.2018

Delivered on 16.04.2018

Court No. - 34

1. Case :- FIRST APPEAL No. - 161 of 2010

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Nazir and Others

Counsel for Appellant :- Ms. Usha Kiran

Counsel for Respondent :- Ankur Tondon, Gaurav Tripathi

2. Case :- FIRST APPEAL No. - 12 of 2011

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Ram Jeet and Another

Counsel for Appellant :- Smt. Archana Singh

Counsel for Respondent :- S.K.Lal

3. Case :- FIRST APPEAL No. - 257 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Hori Lal and Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- Aditya Kumar Yadav

4. Case :- FIRST APPEAL No. - 64 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Sukhram Pal (Now deceased) & Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- T.N. Tiwari

5. Case :- FIRST APPEAL No. - 313 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Ram Deo and Another

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- R.C.Maurya

6. Case :- FIRST APPEAL No. - 493 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Kanhaiya Lal & Anr.

Counsel for Appellant :- Ms. Usha Kiran

Counsel for Respondent :- K.K. Rajbhar, R.S. Manoj, T.N. Tiwari

7. Case :- FIRST APPEAL No. - 249 of 2005

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd. & Ot

Respondent :- Ram Milan & Others

Counsel for Appellant :- Ms. Usha Kiran

Counsel for Respondent :- T.N.Tiwari

8. Case :- FIRST APPEAL No. - 340 of 2013

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Daya Shankar (Now Deceased) and Others

Counsel for Appellant :- K.S.Ojha

Counsel for Respondent :- Syed Imran Ibrahim, Praveen K. Singh, Rajesh Yadav

9. Case :- FIRST APPEAL No. - 150 of 2005

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Ram Raj Pal & Others

Counsel for Appellant :- Ms. Usha Kiran

10. Case :- FIRST APPEAL No. - 174 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd. and Another

Respondent :- Chandrabali and Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- T.N. Tiwari

11. Case :- FIRST APPEAL No. - 312 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Smt. Isra Devi & Others

Counsel for Appellant :- Ms. Usha Kiran

Counsel for Respondent :- K.S. Shukla

12. Case :- FIRST APPEAL No. - 313 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Harish Chandra

Counsel for Appellant :- Ms. Usha Kiran

Counsel for Respondent :- T.N. Tiwari

13. Case :- FIRST APPEAL No. - 420 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd. & Anr.

Respondent :- Sobhnath Rajbhar and Another

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- T.N. Tiwari

14. Case :- FIRST APPEAL No. - 314 of 2005

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Kettal & Others

Counsel for Appellant :- Ms. Usha Kiran

Counsel for Respondent :- T.N. Tiwari

15. Case :- FIRST APPEAL No. - 1314 of 2004

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Jitendra Singh & Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- T.N.Tiwari

16. Case :- FIRST APPEAL No. - 48 of 2011

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Jawahir & Another

Counsel for Appellant :- Smt. Archana Singh

Counsel for Respondent :- R.C.Maurya

17. Case :- FIRST APPEAL No. - 488 of 2005

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Lalta & Others

Counsel for Appellant :- Ms. Usha Kiran

Counsel for Respondent :- T.N. Tiwari

18. Case :- FIRST APPEAL No. - 311 of 2005

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Sri Mati Devi (Now Deceased) & Others

Counsel for Appellant :- Ms. Usha Kiran

19. Case :- FIRST APPEAL No. - 494 of 2005

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Dulari Devi & Another

Counsel for Appellant :- Ms. Usha Kiran

Counsel for Respondent :-

20. Case :- FIRST APPEAL No. - 258 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd. and Another

Respondent :- Smt. Ukana Devi & Another

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :-

21. Case :- FIRST APPEAL No. - 261 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd. and another

Respondent :- Naurangi Devi & Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- T.N. Tiwari

22. Case :- FIRST APPEAL No. - 274 of 2014

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Chandragupt & Others

Counsel for Appellant :- Anuj Pratap Singh

23. Case :- FIRST APPEAL No. - 286 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Ram Dular & Others

Counsel for Appellant :- Akhileshwar Singh

24. Case :- FIRST APPEAL No. - 290 of 2014

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Manoj Kumar and 2 Others

Counsel for Appellant :- Pratik J. Nagar

Counsel for Respondent :- T.N. Tiwari

25. Case :- FIRST APPEAL No. - 292 of 2015

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Raj Nath @ Raj Narain and Another

Counsel for Appellant :- Satyam Singh, Shiv Nath Singh

26. Case :- FIRST APPEAL No. - 295 of 2012

Appellant :- Executive Engineer, U.P. State Industrial Devp. Corp. Ltd.

Respondent :- Rajendra Prasad and Others

Counsel for Appellant :- M.C.Chaturvedi

Counsel for Respondent :- Tarun Tiwari,S.C.

27. Case :- FIRST APPEAL No. - 296 of 2007

Appellant :- U.P. State Industrial Development Corporation Ltd. & Anr.

Respondent :- Ram Ashrey & Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :-

28. Case :- FIRST APPEAL No. - 325 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd. and Another

Respondent :- Ikhraji Devi and Another

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- S.K.Lal

29. Case :- FIRST APPEAL No. - 326 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Ram Jagat & Others

Counsel for Appellant :- Akhileshwar Singh

30. Case :- FIRST APPEAL No. - 338 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Rameshwar & Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- Aditya Kumar Yadav

31. Case :- FIRST APPEAL No. - 346 of 2015

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Santu and 2 Others

Counsel for Appellant :- Nripendra Mishra

Counsel for Respondent :- Indra Raj Singh, Adarsh Singh

32. Case :- FIRST APPEAL No. - 361 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Manju Ram & Another

Counsel for Appellant :- Akhileshwar Singh

33. Case :- FIRST APPEAL No. - 362 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Mohan Lal & Others

Counsel for Appellant :- Akhileshwar Singh

34. Case :- FIRST APPEAL No. - 365 of 2016

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Arvind Kumar Singh and 6 Ors.

Counsel for Appellant :- Pratik J. Nagar

Counsel for Respondent :- Kamal Dev Singh Chanchal

35. Case :- FIRST APPEAL No. - 367 of 2011

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Uma Shankar

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- V.D. Ojha,R.K. Upadhayay

36. Case :- FIRST APPEAL No. - 380 of 2006

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Ram Dular and Another

Counsel for Appellant :- Ms. Usha Kiran

37. Case :- FIRST APPEAL No. - 38 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Dular and Another

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- T.N. Tiwari

38. Case :- FIRST APPEAL No. - 38 of 2017

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Hem Chand and 2 Others

Counsel for Appellant :- S.K. Mishra,Renu Mishra

39. Case :- FIRST APPEAL No. - 39 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Rajnath Singh alias Bholu Singh & Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- T.N. Tiwari

40. Case :- FIRST APPEAL No. - 40 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Vinod Kr. Singh & Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- Y.S. Bohra

41. Case :- FIRST APPEAL No. - 40 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Paras & Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- Aditya Kumar Yadav

42. Case :- FIRST APPEAL No. - 406 of 2011

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Bhullu & Others

Counsel for Appellant :- Akhileshwar Singh

43. Case :- FIRST APPEAL No. - 41 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Babau & Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- T.N. Tiwari, Aditya Kumar Yadav

44. Case :- FIRST APPEAL No. - 413 of 2014

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Devendu Rai and Another

Counsel for Appellant :- Abhijeet Mukherji

Counsel for Respondent :- S.K. Lal

45. Case :- FIRST APPEAL No. - 416 of 2009

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Virendra Pratap Singh & Another

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- S.K. Lal

46. Case :- FIRST APPEAL No. - 419 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Smt. Bhagwani Devi Alias Bhagwati Devi & Another

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- T.N. Tiwari

47. Case :- FIRST APPEAL No. - 42 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Ram Nath Pal & Another

Counsel for Appellant :- Akhileshwar Singh

48. Case :- FIRST APPEAL No. - 43 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Ashok Kumar & Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :-

49. Case :- FIRST APPEAL No. - 516 of 2015

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Brij Raj Yadav and 10 Others

Counsel for Appellant :- G.P. Gupta

Counsel for Respondent :- Jai Prakash Yadav,Ravindra Kumar Yadav

50. Case :- FIRST APPEAL No. - 52 of 2013

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Devraj Devi and Others

Counsel for Appellant :- Satendra Pratap Singh,V.S.Shukla

Counsel for Respondent :- S.P.Singh

51. Case :- FIRST APPEAL No. - 557 of 2013

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Rajendra and Others

Counsel for Appellant :- Satendra Pratap Singh

Counsel for Respondent :- S.K. Lal

52. Case :- FIRST APPEAL No. - 558 of 2004

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Jai Ram Singh & Another

Counsel for Appellant :- Akhileshwar Singh

53. Case :- FIRST APPEAL No. - 57 of 2017

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Rajbali and 2 Others

Counsel for Appellant :- A.K. Narayana

54. Case :- FIRST APPEAL No. - 581 of 2012

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Smt. Champa Devi & Another

Counsel for Appellant :- Smt. Archana Singh

Counsel for Respondent :- Manu Vardhana, S.K. Lal

55. Case :- FIRST APPEAL No. - 609 of 2013

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Ram Dhani @ Dasai And 10 Others

Counsel for Appellant :- Ashish Agrawal

Counsel for Respondent :- S.C.

56. Case :- FIRST APPEAL No. - 614 of 2004

Appellant :- U.P. State Industrial Development Corporation Ltd.. & Another

Respondent :- Awadh Raj Alias Awadh Narain Singh & Another

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- A.K. Upadhyaya, Ajay Kumar Singh, Ashish Kumar Singh, K.C. Kishan

57. Case :- FIRST APPEAL No. - 618 of 2004

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Ashok Kumar Singh & Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- Y.S. Bohra, K.C. Kishan Srivastava, Shivam Yadav, A.K. Singh

58. Case :- FIRST APPEAL No. - 656 of 2012

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Amar Nath & Another

Counsel for Appellant :- Smt. Archana Singh

Counsel for Respondent :- S.K.Lal

59. Case :- FIRST APPEAL No. - 677 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Kalawati & Others

Counsel for Appellant :- Ms. Usha Kiran

Counsel for Respondent :- T.N. Tiwari

60. Case :- FIRST APPEAL No. - 678 of 2005

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Gorakhnath & Others

Counsel for Appellant :- Ms. Usha Kiran

Counsel for Respondent :- T.N. Tiwari

61. Case :- FIRST APPEAL No. - 681 of 2005

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Smt. Patiraji & Others

Counsel for Appellant :- Ms. Usha Kiran

Counsel for Respondent :- S.K. Lal, M. Vardhan

62. Case :- FIRST APPEAL No. - 722 of 2013

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Rasendra Kumar Singh and 3 Others

Counsel for Appellant :- Mahesh Narain Singh

Counsel for Respondent :- T.N. Tiwari

63. Case :- FIRST APPEAL No. - 8 of 2011

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Shri Raj Nath & Another

Counsel for Appellant :- Smt. Archana Singh

Counsel for Respondent :- S.K.Lal

64. Case :- FIRST APPEAL No. - 830 of 2012

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Kedar Nath Singh and Anr.

Counsel for Appellant :- Archana Singh

65. Case :- FIRST APPEAL No. - 840 of 2014

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Lal Chand

Counsel for Appellant :- Abhijeet Mukherjee

Counsel for Respondent :- K.S. Shukla

66. Case :- FIRST APPEAL No. - 84 of 2011

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Smt. Jeera Devi and Another

Counsel for Appellant :- Smt. Archana Singh

Counsel for Respondent :- S.K.Lal

67. Case :- FIRST APPEAL No. - 842 of 2014

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Chandrabali and 8 Ors.

Counsel for Appellant :- Abhijeet Mukherji

Counsel for Respondent :- T.N. Tiwari

68. Case :- FIRST APPEAL No. - 85 of 2011

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Smt. Guljari Devi and Another

Counsel for Appellant :- Smt. Archana Singh

Counsel for Respondent :- Sri M. Vardhana, Arvind Kumar, S.K.Lal

69. Case :- FIRST APPEAL No. - 874 of 2014

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Sitaram and 5 Others

Counsel for Appellant :- G.P. Gupta

Counsel for Respondent :- S.K.Lal

70. Case :- FIRST APPEAL No. - 90 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Usha Devi & Another

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- Shashank Shekhar Singh

71. Case :- FIRST APPEAL No. - 91 of 2013

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Narottam Bind and Others

Counsel for Appellant :- Satendra Pratap Singh

Counsel for Respondent :- Ashutosh Pandey, T.N. Tiwari

72. Case :- FIRST APPEAL No. - 9 of 2011

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Sumerika Ram & Another

Counsel for Appellant :- Smt. Archana Singh

Counsel for Respondent :- S.K.Lal

73. Case :- FIRST APPEAL No. - 943 of 2014

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Awadh Lal Singh and 5 Others

Counsel for Appellant :- Ashish Agrawal

Counsel for Respondent :- T.N. Tiwari

74. Case :- FIRST APPEAL No. - 182 of 2018

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Harinath And 3 Ors.

Counsel for Appellant :- J.P. Gupta, Nishant Mehrotra

Counsel for Respondent :- Shri Krishna Lal

75. Case :- FIRST APPEAL No. - 181 of 2018

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Ram Bali and 9 Others

Counsel for Appellant :- A.K. Saxena, Ashish Agrawal

Counsel for Respondent :- K.S. Shukla, Kripa Shankar Shukla, Triloki Nath

76. Case :- FIRST APPEAL No. - 180 of 2018

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Panchu (Deceased) and 9 Ors.

Counsel for Respondent :- S.K. Lal

77. Case :- FIRST APPEAL No. - 179 of 2018

Appellant :- U.P. State Industrial Development Corporation Ltd. and Anr.

Respondent :- Uday Bhan and 2 Ors.

Counsel for Appellant :- J.P. Gupta, Arvind Srivastava, Nishant Mehrotra

Counsel for Respondent :- T.N. Tiwari, Uday Bhan

78. Case :- FIRST APPEAL No. - 178 of 2018

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Lal Chand and 4 Ors.

Counsel for Appellant :- Gauri Singh

Counsel for Respondent :- S.K. Lal

79. Case :- FIRST APPEAL No. - 108 of 2007

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Sayeedunnisha & Another

Counsel for Appellant :- Akhileshwar Singh

80. Case :- FIRST APPEAL No. - 129 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Kalpnath Giri & Ors.

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- A.K. Yadav

81. Case :- FIRST APPEAL No. - 130 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Kanti Devi & Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :-

82. Case :- FIRST APPEAL No. - 131 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Rajnath Pal & Another

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :-

83. Case :- FIRST APPEAL No. - 132 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Smt. Duija Devi & Another

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :-

84. Case :- FIRST APPEAL No. - 15 of 2016

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Sukurullah and Another

Counsel for Appellant :- Usha Kiran

Counsel for Respondent :- Ankur Tondon, Gaurav Tripathi, Majahar Ali

85. Case :- FIRST APPEAL No. - 18 of 2016

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Daroga Singh & Others

Counsel for Appellant :- Smt. Archana Singh

86. Case :- FIRST APPEAL No. - 205 of 2015

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Vijay Pratap Dubey and 2 Ors.

Counsel for Appellant :- Satyam Singh, Shiv Nath Singh

Counsel for Respondent :- R.S. Pandey, Rajshree Malviya, T.N. Tiwari

87. Case :- FIRST APPEAL No. - 216 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Vanshraj & Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- T.N.Tiwari

88. Case :- FIRST APPEAL No. - 217 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Pyari Devi

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- T.N.Tiwari

89. Case :- FIRST APPEAL No. - 227 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Ram Dular & Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :-

90. Case :- FIRST APPEAL No. - 229 of 2010

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Baram Devi and Others

Counsel for Appellant :- Arun Kumar Pandey

Counsel for Respondent :- K.S. Shukla

91. Case :- FIRST APPEAL No. - 241 of 2014

Appellant :- U.P. State Industrial Development Corporation Ltd. and Another

Respondent :- Kalpnath Giri and 4 Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :- T.N. Tiwari

92. Case :- FIRST APPEAL No. - 242 of 2006

Appellant :- U.P. State Industrial Development Corporation Ltd. & Another

Respondent :- Rajendra & Others

Counsel for Appellant :- Akhileshwar Singh

Counsel for Respondent :-

93. Case :- FIRST APPEAL No. - 252 of 2016

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Dev Prasad Singh and 5 Ors.

Counsel for Appellant :- Satendra Pratap Singh

Counsel for Respondent :- Tarun Tiwari

94. Case :- FIRST APPEAL No. - 255 of 2005

Appellant :- U.P. State Industrial Development Corporation Ltd.

Respondent :- Ashutosh Kumar Singh And Another

Counsel for Appellant :- Akhileshwar Singh

95. Case :- FIRST APPEAL No. - 505 of 2005

Appellant :- Executive Engineer, U.P. State Industrial Development Corporation Ltd.

Respondent :- Antu Pal & Another

Counsel for Appellant :- Ms. Usha Kiran

Counsel for Respondent :- T.N. Tewari

96. Case :- FIRST APPEAL No. - 368 of 2007

Appellant :- Dulara Devi and Another

Respondent :- Collector Varanasi And Others

Counsel for Appellant :- T.N. Tiwari

Counsel for Respondent :- M.C.Chaturvedi

97. Case :- FIRST APPEAL No. - 39 of 2009

Appellant :- Antu Pal

Respondent :- Collector, Varanasi & Another

Counsel for Appellant :- T.N. Tiwari, Usha Kiran

Counsel for Respondent :- M.C.Chaturvedi

98. Case :- FIRST APPEAL No. - 737 of 2012

Appellant :- Kalawati Devi

Respondent :- State Of U.P. and Others

Counsel for Appellant :- T.N. Tiwari

Counsel for Respondent :- Ajay Kumar Singh, M.C.Chaturvedi

99. Case :- FIRST APPEAL No. - 90 of 2014

Appellant :- Narottam Bind

Respondent :- State of U.P. and Another

Counsel for Appellant :- T.N. Tiwari

Counsel for Respondent :- M.C.Chaturvedi

100. Case :- FIRST APPEAL No. - 782 of 2014

Appellant :- Khattal And Others

Respondent :- Collector Varanasi And Another

Counsel for Appellant :- T.N.Tiwari

Counsel for Respondent :- M.C.Chaturvedi

101. Case :- FIRST APPEAL No. - 251 of 2016

Appellant :- Raj Nath Singh Alias Bhole Singh

Respondent :- Uttar Pradesh State Industrial Development Corporation

Counsel for Appellant :- T.N. Tiwari

Counsel for Respondent :- M.C.Chaturvedi

Hon'ble Sudhir Agarwal,J.

Hon'ble Shashi Kant,J.

(Delivered by Hon'ble Sudhir Agarwal,J.)

1. Learned Counsel for the parties contended that since issues involved in all the appeals are common, therefore, they may be permitted to refer paper book filed in some appeals, in all remaining appeals and preparation and filing of paper books in appeals, wherein the same have not been filed, be dispensed with. We order, as prayed for, and proceed accordingly.

2. The first 95 defendant's appeals have been filed by U.P. State Industrial Development Corporation Limited (hereinafter referred to as "UPSIDCL"), for whose benefit land was acquired by State of Uttar Pradesh under the provision of Land Acquisition Act, 1894 (hereinafter referred to as "Act, 1894"), assailing judgment and award of various dates passed by Courts of District Judge or Additional District Judge (hereinafter referred to as "Reference Court") determining market value of acquired land under Section 23 of Act, 1894 for the purpose of payment of compensation to claimant-landowners.

3. The last six appeals under Section 54 of Act, 1894 have been filed by landowners against judgment and awards of Reference Court and according to them, market value determined by Reference Court is inadequate and/or does not reflect true market value of their land, which have been acquired by State of Uttar Pradesh for the benefit of UPSIDCL.

4. Since all these appeals have arisen from the same acquisition proceedings governed by the same notification issued under Section 4(1) of Act, 1894 and issues therein are common, therefore, these appeals were heard on two dates in bunch and are being decided by this common judgment.

5. On behalf of UPSIDCL, Sri M.C.Chaturvedi, learned Senior Advocate, assisted by Smt. Archana Singh, Ms. Usha Kiran, Sri Ghanshayam Dwivedi, Sri Akhileshwar Singh, Sri K.S.Ojha, Sri Anuj Pratap Singh, Sri Pratik J.Nagar, Sri Shiv Nath Singh, Sri Nripendra Mishra, Sri S.K.Mishra, Sri Abhijeet Mukherji, Sri G.P.Gupta, Sri V.S.Shukla, Sri Satendra Pratap Singh, Sri A.K.Narayana, Sri Ashish Agrawal, Sri Mahesh Narain Singh, Sri Abhijeet Mukherjee, Sri Arvind Srivastava, Sri Nishant Mehrotra, Arun Kumar Pandey, Advocates, and on behalf of claimant-landowners, Sri S.K.Lal, Sri T.N.Tiwari, Sri Tarun Tiwari, Sri Indra Raj Singh, Sri Jai Prakash Yadav, Sri A.K.Singh, Sri A.K.Yadav, Sri Gaurav Tripathi, Sri Ankur Tandon, Advocates have appeared and advanced their arguments.

6. UPSIDCL, a Company registered and wholly owned by State of Uttar Pradesh, for the purpose of developing an Industrial Estate, intended to establish an Industrial Park in District Varanasi. At its instance, State Government proceeded to acquire 261-23-2/3 acres of land at Village Karkhiyanav, Pargana Kolsala, Tehsil Pindra, District Varanasi. A notification dated 19.05.1998 under Section 4(1) read with 17 of Act, 1894 was published in U.P. Gazette (Extraordinary) on 21.05.1998 with the corrigendum published on 11.02.1999. A declaration under Section 6(1) read with Section 17 of Act, 1894 was issued and published in Government Gazette (Extraordinary), dated 31.03.1999 and printed in daily newspapers dated 14.11.1999 and 16.11.1999. Possession of acquired land was taken on 04.01.2001. Special Land Acquisition Officer (hereinafter referred to as "SLAO"), Varanasi made award under Section 11 of Act, 1894 on 04.08.2001 determining compensation at the following rates based on quality of soil/land :

fdLe Hkwfe lfdZy jsV nj izfr ,dM+ vftZr {ks=Qy xks;M+ 3 flafpr 11-55 2,16,397.83
2-22 ,dM+ xks;M+ 3 vflafpr 9-37 1,76,317.19 1-30 ,dM Ikkyks 1 flafpr 9-87
1,85,725.79 10-27-2/3 Ikkyks 1 vflafpr 7-62 1,43,387.09 0-40 Ikkyks 2 flafpr 7-62
1,43,387.09 10-175 Ikkyks 2 vflafpr 6-00 1,12,903.22 3-56 Ikkyks 3 3-87 72,822.58
25-75 /ku[kkj 1 6-00 1,12,903.22 1-97 /ku[kkj 2 4-87 91,639.78 169-12 /ku[kkj 3 3-85
61,155.91 35-545 Ikkyks 2 vflafpr 6-00 1,12,90.22 0-14 ,dM Ikkyks 3 3-67 72,822.58
0-78 ;ksx Hkwfe& 261-23-2/3 ,dM Quality of Land Circle Rate Rate per acre Acquired
Area Goyad 3 irrigated 11-55 2,16,397.83 2-22 Acre Goyad 3 Unirrigated 9-37
1,76,317.19 1-30 Acre Palo 1 Irrigated 9-87 1,85,725.79 10-27-2/3 Palo 1 Unirrigated
7-62 1,43,387.09 0-40 Palo 2 Irrigated 7-62 1,43,387.09 10-175 Palo 2 Unirrigated
6-00 1,12,903.22 3-56 Palo 3 3-87 72,822.58 25-75 Dhankhar 1 6-00 1,12,903.22 1-97
Dhankhar 2 4-87 91,639.78 169-12 Dhankhar 3 3-85 61,155.91 35-545 Palo 2
Unirrigated 6-00 1,12,90.22 0-14 Acre Palo 3 3-67 72,822.58 0-78 Total Land

261-23-2/3 Acre (English Translation by Court)

7. SLAO also made separate determination of compensation for existing construction like house, tube-well, hand-pump etc., as the case may be, on different parts of land as also standing trees. Since that aspect is not under dispute, therefore, we are not giving details of determination of compensation for the said purposes.

8. Besides determining market value of acquired land, SLAO also provided 30% solatium, 12% additional compensation and interest for different period, as per provisions of Act, 1894. Total compensation of 261-23-2/3 acres of land including constructions, trees etc. was determined at Rs.4,18,99,567.81.

9. Almost all the landowners were dissatisfied with determination of market value by SLAO, hence moved application under Section 18 of Act, 1894 to Collector, requesting for making Reference to District Judge to determine market value under Section 23 of Act, 1894. These References were made and answered by different courts, determining market value differently.

10. Details of all 101 appeals giving date of award of SLAO and Reference Court, LAR number, area of land involved in concerned LAR number, landowners' name and rate determined by respective Reference Court, in the form of chart are given as under :

Sl. no.

First Appeal No. LAR No. Date of Award of SLAO/ Reference Court Khata No. / Khasra No./ Arazi No. Area in decimal (Sq. meter) Name of first tenure holder Rate fixed by Reference Court in per decimal (per Sq.Meter)

1. 161 of 2010 03 of 2002 04.08.2001/05.12.2009 (768.74) Nazir 5,115/-

(126.30)

2. 12 of 2011 77C of 2002 04.08.2001/ 08.04.2009 374Mi (2063.460) Sri Ram Jeet 3,838/-

(94.77)

3. 257 of 2005 151 of 2002 04.08.2001/ 14.05.2004 40.67 (1645.51) Hori Lal & Anr.

1,800/-

(44.44)

4. 64 of 2006 129 of 2002 04.08.2001/ 23.04.2004 389, 347 84.33 (3411.99) Sukh Ram Pal (deceased) & others 1700/-

(41.98)

5. 313 of 2006 04.08.2001/ 17.02.2004 3.01/2/3 acre Harish Chandra 1,700/-

(41.98)

6. 493 of 2005 131 of 2002 04.08.2001/17.01.2005 29, 57 (5220.45) Kanhaiya 1,100/-

(27.16)

7. 249 of 2005 78 of 2002 04.08.2001/ 25.10.2004 (2265.760) Ram Milan & others 1,700/-

(41.98)

8. 340 of 2013 158 of 2002 04.08.2001/ 25.09.2008 346, 342, 387, 382, 386 (17802.40) Daya Shankar (deceased) & others 1,700/-

(41.98)

9. 150 of 2005 164 of 2002 04.08.2001/ 13.10.2004 (849.66) Ram Raj Pal & Ors.

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10. 174 of 2006 132 of 2002 04.08.2001/ 20.05.2004 72.5 (2933.35) Chandrabali & Others.

1,800/-

(44.44)

11. 312 of 2005 64 of 2002 04.08.2001/ 14.12.2004 377/1855 (1699.32) Smt. Isra Devi and others 1,700/-

(41.98)

12. 313 of 2005 156 of 2002 04.08.2001/ 12.02.2004 (1699.32) Ram Deo 1,700/-

(41.98)

13. 420 of 2005 92 of 2002 04.08.2001/ 30.04.2004 (3074.96) Sobhnath Rajbhar 1,700/-

(41.98)

14. 314 of 2005 95 of 2002 04.08.2001/ 08.12.2004 360, 369 (5704.86) Kettal Rajbhar and others 1,700/-

(41.98)

15. 1314 of 2004 84 of 2002 04.08.2001/ 23.09.2004 (3681.86) Jitendra Singh & Ors.

1,700/-

(41.98)

16. 48 of 2011 152 of 2002 04.08.2001/ 16.10.2010 82.33 (3331.07) Jawahir & Others 1,857.26
(45.86)

17. 488 of 2005 108 of 2002 04.08.2001/ 28.01.2005 115.11 (4657.12) Lalta & Others 1,100/-

(27.16)

18. 311 of 2005 04.08.2001/ 13.12.2004 (2225.30) Mati Devi (deceased) & Ors.

2,200/-

(54.32)

19. 494 of 2005 142 of 2002 04.08.2001/ 17.05.2005 Dulari Devi 1,100/-

(27.16)

20. 258 of 2005 111 of 2002 04.08.2001/ 21.04.2004 (3803.24) Smt. Ukana Devi 1,700/-

(41.98)

21. 261 of 2005 99 of 2002 04.08.2001/ 14.05.2004 (5178.88) Naurangi Devi & Others 1,800/-

(44.44)

22. 274 of 2014 85 of 2002 04.08.2001/ 21.05.2009 320, 324, 330, 352 658.75 Chandra Gupt &
Others 3,838/-

(94.77)

23. 286 of 2005 86 of 2002 04.08.2001/ 07.02.2004 (1173.34) Ram Daur 1,700/-

(41.98)

24. 290 of 2014 66 of 2002 04.08.2001/ 17.04.2013 (16426.76) Manoj Kumar and others 3,838/-

(94.77)

25. 292 of 2015 18 of 2002 04.08.2001/ 30.10.2012 (3317.72) Raj Nath @ Ran Narain 3,838/-

(94.77)

26. 295 of 2012 15 of 2002 04.08.2001/ 20.10.2011 (19056.66) Rajendra Prasad and others 1,700/-

(41.98)

27. 296 of 2007 94 of 2002 04.08.2001/ 19.01.2004 380Mi 136.5 (5522.79) Ram Ashrey & Others 1,700/-

(41.98)

28. 325 of 2005 171 of 2002 04.08.2001/ 29.03.2004 42,43, 52, 53, 54 Ikharaji & Others 1,700/-

(41.98)

29. 326 of 2006 70 of 2002 04.08.2001/ 16.02.2004 (1780.24) Ram Jagat 1,700/-

(41.98)

30. 338 of 2005 169 of 2002 04.08.2001/ 29.03.2004 102, 103, 108 (5219.34) Rameshwar & Others 1,700/-

(41.98)

31. 346 of 2015 9 of 2002 04.08.2001/ 23.02.2015 (8632.46) Santu & Others 3,838/-

(94.77)

32. 361 of 2005 71 of 2002 04.08.2001/ 28.01.2004 (445.06) Manju Ram 1,700/-

(41.98)

33. 362 of 2005 88 of 2002 04.08.2001/ 24.01.2004 66.5 (2690.59) Mohan Lal 1,700/-

(41.98)

34. 365 of 2016 30 of 2002 04.08.2001/ 17.02.2016 (8617.98) Arvind Kumar Singh & Others 2,000/-

(49.38)

35. 367 of 2011 58 of 2001 04.08.2001/ 31.05.2005 (1456.56) Uma Shankar 1,700/-

(41.98)

36. 380 of 2006 72 of 2002 04.08.2001/ 24.02.2004 (18449.76) Ram Dular 1,700/-

(41.98)

37. 38 of 2006 107 of 2002 04.08.2001/ 22.03.2004 (2508.52) Dular 1,700/-

(41.98)

38. 38 of 2017 128 of 2002 04.08.2001/ 24.12.2014 6.25 (252.88) Hem Chandra 3,838/-

(94.77)

39. 39 of 2006 130 of 2002 04.08.2001/ 22.03.2004 155, 156 98.5 (3985.31) Raj Nath Singh @ Bhole Singh 1,700/-

(41.98)

40. 40 of 2005 73 of 2002 04.08.2001/ 12.02.2004 (11571.56) Vinod Kumar Singh & Others 2,000/-

(49.38)

41. 40 of 2006 65 of 2002 04.08.2001/ 24.02.2004 (1132.88) Paras & Others 1,700/-

(41.98)

42. 406 of 2011 127 of 2002 04.08.2001/ 17.02.2004 31.25 (1264.38) Bhulu & Others 1,800/-

(44.44)

43. 41 of 2006 167 of 2002 04.08.2001/ 29.03.2004 18,19, 20,21, 22,23, 24 (6352.22) Babau & Others 1,700/-

(41.98)

44. 413 of 2014 113 of 2002 04.08.2001/ 20.04.2013 9,11, 47 (21039.20) Devendu Rai 3,838/-

(94.77)

45. 416 of 2009 91 of 2002 04.08.2001/ 28.11.2003 (4814.74) Virendra Pratap Singh 1,670/-

(41.23)

46. 419 of 2005 56 of 2002 04.08.2001/ 06.05.2004 (768.74) Smt. Bhagwani Devi 1,700/-

(41.98)

47. 42 of 2006 116 of 2002 04.08.2001/ 21.04.2004 Ram Nath Pal 1,700/-

(41.98)

48. 43 of 2006 59 of 2002 04.08.2001/ 14.01.2004 317.5 (12846.05) Ashok Kumar & Others 1,700
41.98

49. 516 of 2015 165 of 2002 04.08.2001/ 14.03.2013 148.5 (6008.31) Brij Raj Yadav & Others
3,838/-

(94.77)

50. 52 of 2013 20 of 2002 04.08.2001/ 14.08.2012 (2751.28) Devraji Devi & Others 3,838/-

(94.77)

51. 557 of 2013 24 of 2002 04.08.2001/ 28.08.2012 (11895.24) Rajendra and others 3,838/-

(94.77)

52. 558 of 2004 93 of 2002 04.08.2001/ 29.11.2003 (5502.56) Jai Ram Singh 1,700/-

(41.98)

53. 57 of 2017 38 of 2002 04.08.2001/ 03.01.2004 (10317.30) Rajbali & Anr.

3,838/-

(94.77)

54. 581 of 2012 153 of 2002 04.08.2001/ 06.05.2010 0.99 (40.06) Smt. Champa Devi (deceased) &
Ors.

1,100/-

(27.16)

55. 609 of 2013 13 of 2002 04.08.2001/ 21.01.2013 (2144.38) Ram Dhani and others 3,838/-

(94.77)

56. 614 of 2004 79 of 2002 04.08.2001/ 10.12.2003 (13918.24) Awadh Raj @ Awadh Narain Singh 1,700/-

(41.98)

57. 618 of 2004 57 of 2002 04.08.2001/ 10.12.2003 323, 341 223.33 (9035.93) Ashok Kumar Singh & others 1,700/-

(41.98)

58. 656 of 2012 77A of 2002 04.08.2001/ 08.04.2009 385, 374 121.7 (4923.98) Amar Nath 3,838/-

(94.77)

59. 677 of 2005 74 of 2002 04.08.2001/ 09.05.2005 164, 166 210.5 (8516.83) Kalawati Devi 1,700/-

(41.98)

60. 678 of 2005 170 of 2002 04.08.2001/ 07.05.2005 3 & 4 7.5 (303.45) Gorakhnath Singh and others 3,838/-

(94.77)

61. 681 of 2005 104 of 2002 04.08.2001/ 29.04.2005 0.428 (17.32) Patiraji & Anr.

3,838/-

(94.77)

62. 722 of 2013 148 of 2002 04.08.2001/ 06.12.2012 Rasendra Kumar Singh & others 3,838/-

(94.77)

63. 8 of 2011 77D of 2002 04.08.2001/ 08.04.2009 385, 374, 388/ 1792 143.7 (5814.10) Raj Nath 3,838/-

(94.77)

64. 830 of 2012 114 of 2002 04.08.2001/ 28.04.2011 103.5 Kedar Nath Singh 1,700/-

(41.98)

65. 840 of 2014 115 of 2002 04.08.2001/ 23.08.2013 (4126.92) Lal Chandra 3,838/-

(94.77)

66. 84 of 2011 77 of 2002 04.08.2001/ 08.04.2009 (2063.46) Smt. Jeera Devi 3,838/-

(94.77)

67. 842 of 2014 34 of 2002 04.08.2001/ 25.05.2013 127, 128 129, (6352.22) Chandra Bali & others 3,838/-

(94.77)

68. 85 of 2011 87 of 2002 04.08.2001/ 08.04.2009 124.5 (5037.27) Smt. Gulzari Devi 3,838/-

(94.77)

69. 874 of 2014 60 of 2002 04.08.2001/ 17.07.2013 158, 146 552.5 (22354.15) Sita Ram & Others 3,838/-

(94.77)

70. 90 of 2006 143 of 2002 04.08.2001/ 13.02.2004 (4005.54) Usha Devi 44.44

71. 91 of 2013 10 of 2002 04.08.2001/ 29.09.2012 (2548.98) Narottam Bind 3,838/-

(94.77)

72. 9 of 2011 77B of 2002 04.08.2001/ 08.04.2009 374, 526, 527, 538, 445 Sumerika Ram 3,838/-

(94.77)

73. 943 of 2014 133 of 2002 04.08.2001/ 10.05.2013 Awadh Lal Singh & Others 3,838/-

(94.77)

74. 114 (D) of 2015 6 of 2002 04.08.2001/ 25.05.2013 117, 119, 118, 120 161.33 (6527.41) Harinath & Others 3,838/-

(94.77)

75. 135 (D) of 2015 21 of 2002 04.08.2001/ 05.01.2015 113, 114 337 (out of which compensation of 333 decimal was given) Ram Bali & others 3,838/-

(94.77)

76. 183(D) of 2014 149 of 2002 04.08.2001/ 29.11.2013 159, 160, 400.33 (16197.35) Panchu & others 3,838/-

(94.77)

77. 20 (D) of 2014 76 of 2002 04.08.2001/ 23.04.2013 140, 143M, 143, 326, 335, 336, 140 570.5 (23082.43) Uday Bhan & others 3,838/-

(94.77) 206(D) of 2014 36 of 2002 04.08.2001/ 24.03.2014 (5907.16) Lal Chand & others 3,838/-

(94.77)

79. 108 of 2007 112 of 2002 04.08.2001/ 07.04.2004 8Mi 193.25 (7818.90) Sayeedunnisha 1,800/-

(44.44)

80. 129 of 2006 102 of 2002 04.08.2001/ 11.02.2004 (687.82) Kalpnath Giri & Others 1,800/-

(44.44)

81. 130 of 2006 101 of 2002 04.08.2001/ 11.02.2004 (404.60) Kamti Devi & Others 1,800/-

(44.44)

82. 131 of 2006 100 of 2002 04.08.2001/ 21.04.2004 (1254.26) Rajnath Pal 1,700/-

(41.98)

83. 132 of 2006 140 of 2002 04.08.2001/ 21.04.2004 20.33 (822.55) Smt. Duija Devi 1,700/-

(41.98)

84. 15 of 2016 7 of 2002 04.08.2001/ 26.08.2015 6, 48 (1618.40) Sukurullah 3,838/-

(94.77)

85. 18 of 2016 18 of 2003 04.08.2001/ 30.08.2010 (34148.24) Daroga Singh & Others 1,700/-

(41.98)

86. 205 of 2015 98 of 2002 04.08.2001/ 24.05.2013 560.8 (22689.97) Vijay Pratap Dubey & Anr 3,838/-

(94.77)

87. 216 of 2006 55 of 2002 04.08.2001/ 10.08.2004 (1820.70) Vanshraj & Ors 1,700/-

(41.98)

88. 217 of 2006 85 of 2002 04.08.2001/ 05.08.2004 344 Mi Pyari Devi & Ors.

1,700/-

(41.98)

89. 227 of 2006 75 of 2002 30.01.2004 55.46 (2243.91) Ram Dulare and Ors 1,700/-

(41.98)

90. 229 of 2010 31 of 2002 04.08.2001/ 30.01.2010 (1011.50) Baram Devi 3,225/-

(79.63)

91. 241 of 2014 43 of 2002 04.08.2001/ 10.12.2013 (5057.50) Kalpnath Giri & others 3,838/-

(94.77)

92. 242 of 2006 14 of 2002 04.08.2001/ 12.02.2004 339, 389, 392 72.22 (2922.02) Rajendra & Others 1,700/-

(41.98)

93. 252 of 2016 4 of 2002 04.08.2001/ 16.08.2013 (18165.54) Dev Prasad Singh & Others 3,838/-

(94.77)

94. 255 of 2005 80 of 2002 04.08.2001/ 21.05.2004 (14161) Ashutosh Kumar Singh 1,700/-

(41.98)

95. 505 of 2005 53 of 2002 04.08.2001/28.02.2005 (2509.05) Antu Pal 2,200/-

(54.32) Claimant-landowner's Appeal

96. 368 of 2007 83 of 2002 04.08.2001/11.10.2004 Dulara Devi 1,700/-

(41.98)

97. 39 of 2009 53 of 2002 04.08.2001/28.02.2005 (2509.05) Antu Pal 2,200/-

(54.32)

98. 737 of 2012 74 of 2002 04.08.2001/ 09.05.2005 164, 166 210.5 (8516.83) Kalawati Devi 1,700/-

(41.98)

99. 90 of 2014 10 of 2002 04.08.2001/ 29.09.2012 (2548.98) Narottam Bind 3,838/-

(94.77)

100. 782 of 2014 95 of 2002 04.08.2001/ 24.11.2004 360, 369 Khettal & Ors.

1,700/-

(41.98)

101. 251 of 2016 130 of 2002 04.08.2001/ 22.03.2004 155, 156 98.5 (3985.31) Raj Nath Singh @ Bhole Singh 1,700/-

(41.98)

11. Before SLAO, landowners demanded compensation at different rates varying from Rs.20,000/- per biswa to Rs.50 lakhs per acre. Compensation was claimed at different rates but most claimants prayed for determination of market value at Rs.50,000/- per decimal (Rs.50 lakhs per acre).

12. In different LARs, Reference Courts have determined different market value depending upon area of land, its location and other relevant factors. According to SLAO, acquired land is on Varanasi-Jaunpur Highway and is situated on both sides of the road. It is 25 kms. away from Varanasi city and at the time of acquisition, mainly was being used for agricultural purpose.

13. Landowners have pleaded that even before acquisition of land, there existed several industrial units in nearby area of acquired land besides existence of Hotels, Petrol Pumps, School, Colleges, Hospitals etc. Reference Court has also observed that acquired land has great potential for residential and industrial development. Railway station and Trilochan Township is on a few kilometers from the acquired land. The highest market value has been determined by Reference Court in LAR No.3 of 2002 (First Appeal No.161 of 2010), which is Rs.5,11,500/- per acre i.e. Rs.5,115/- per decimal while in some other LARs, market value was determined at Rs.3,838/- per decimal i.e. Rs.3,83,800/- per acre. In some matters, it has been determined at Rs.1,800/- per decimal (Rs.1,80,000/- per acre) and Rs.1,700/- per decimal i.e. Rs.1,70,000/- per acre and in some even lessor than it.

14. In 95 first appeals filed by UPSIDCL, only in one matter, market value has been determined at Rs.5,115/- per decimal while in 40 appeals, market value has been determined at Rs.1,700/- per decimal and in 34 appeals, market value has been determined at Rs.3,838/- per decimal. In 8 appeals, it is determined at Rs.1,800/- per decimal. The lowest market value determined is in LAR No.131 of 2002 (First Appeal no.493 of 2005); LAR No.108 of 2002 (First Appeal No.488 of 2005); LAR No.142 of 2002 (First Appeal No.494 of 2005; and LAR No.153 of 2002 (LAR No.581 of 2012 wherein Reference Court has determined market value at Rs.1,100/- per decimal (Rs.1,10,000/- per acre), which is the lowest one.

15. In the appeal preferred by claimant-landowners, market value determined by Reference Court is Rs.1,700/-, 2,200/- and 3,838/- per decimal in different LARs.

16. In this bunch, out of six appeals preferred by claimant-landowners we find that in five appeals of claimant-landowners, UPSIDCL has also come in appeal and only in LAR No.83 of 2002 (First Appeal No.368 of 2007) appeal has been preferred only by landowners for enhancement of compensation.

17. In brief, we may say that SLAO determined minimum market value at Rs.611.559 per decimal and highest market value at Rs.2163.978 per decimal. Per contra, minimum market value determined by Reference Court is Rs.1,100/- per decimal and maximum is Rs.5,115/- per decimal.

18. SLAO has selected sale deed exemplar, Serial No.28, whereby non irrigated Palo 3 kind of land was assessed at market value of Rs.728.225 per decimal while Dhankar -3 kind of land was assessed at Rs.611.559 per decimal. In respect of other kind of land, SLAO has determined market value in proportion as per circle rate. Reference Court has not given any consideration to circle rate but after selecting an exemplar, has applied deduction to work out market value.

19. In First Appeal no.161 of 2010 (LAR No.3 of 2002), 19 decimal land of Nazir was acquired. Relying on exemplar sale deed dated 22.12.1995, whereby 6-1/4 decimal land of Arazi No.140 was sold at the rate of Rs.10,880/- per decimal, Reference Court applied 53% deduction for development activities, and has determined market value at Rs.5,115/- per decimal, holding that market value determined by SLAO at Rs.2,830/- per decimal is inadequate.

20. UPSIDCL - defendant has assailed award of Reference Court on the ground that market value determined by Reference Court is highly excessive, exorbitant, based on irrelevant facts and sale deed exemplar relied upon by Reference Court was erroneous, hence, market value, as determined by SLAO, should be restored.

21. In the appeals preferred by landowners, their claim is that market value determined by Reference Court in respect of their land acquired by State for UPSIDCL is highly inadequate and it needs be enhanced.

22. Considering rival submissions, we find that in all the appeals, point for determination, which needs be answered is common, "whether market value determined by Reference Court in different

awards in question is just and adequate or inadequate, as claimed by landowners or excessive and unjust, as claimed by UPSIDCL, and, if contention of landowners and UPSIDCL is found to be correct then what should be the appropriate market value of acquired land of respective different landowners".

23. Taking first appeal No.161 of 2010 as leading case, we may notice that Reference Court therein formulated following issues :

1- D;k lUnHkZdrkZ dh Hkwfe vf/kxzghr djus ds lEcU/k esa /kkjk 4 ¼1½ Hkwfe vtZu vf/kfu;e ds vUrxZr tkjh foKkiu dh frFk dks lUnHkZdrkZ dh vf/kxzghr Hkwfe dk cktkj ewY; D;k Fkk\ 2- D;k lUnHkZdrkZ dks ,lo,yovkso }kjk de izfrdj fn;k x;k gS vkSj mls c<+k gqvk izfrdj feyuk pkfg,\ 3- D;k laUnHkZ la/kk;Z ugha gS\ 4- D;k lUnHkZdrkZ dksbZ vU; izfrdj ikus dk vf/kdkjh gS\ 5- vuqrks"ka** "1. What was the market value of the acquired land of the reference applicant on the date of publication under Section 4(1) of Land Acquisition Act with respect to the said acquired land?

2. Whether reference applicant has been given less compensation by the S.L.O. and whether he should be given enhanced compensation.

3. Whether the reference is not maintainable?

4. Whether the reference applicant is entitled to any other compensation?

5. Any relief."

(English Translation By The Court)

24. Landowners placed reliance on three exemplars sale-deeds i.e. paper no.54C, 47C and 40C and also examined PW-1 Nazir i.e. the landowner while on behalf of defendant-appellants i.e. UPSIDCL, they cited Exemplar sale-deeds Paper no.4C to 35 C/1 i.e. sale-deed dated 24.8.1987 executed by Fauzdar Singh in favour of Smt. Geeta Agrawal and Smt. Savitri Devi in respect of land Arazi No.1, Mauza Karkhiyanav, area 1-64-1/2 acres; and oral deposition made by Sri Kedar Nath (Amin) in the office of SLAO as DW-1. As already observed, Reference Court has determined market value in leading first appeal No.161 of 2010 at Rs.5,115/- per decimal.

25. Before answering aforesaid point for determination, we find it appropriate to have a bird eye-view on the legal principles set out in various authorities, relevant for determination of market value.

26. The authorities laying down principles relevant for determination of market value broadly may be considered under the following head :

(i) Status of the proceeding before Collector/ SLAO in the proceedings before Reference Court.

(ii) Relevance of circle rate determined by Collector / SLAO for the purposes of stamp duty.

(iii) Evidence permissible to be considered by Reference Court for determining market value/ compensation under Section 23(1) of Act, 1894.

27. Collector/ SLAO invites objections from landowners and after hearing them, determine amount of compensation payable to landowners in respect of acquired land. In this process generally it considers sale deeds executed in the area where acquired land situates, by collecting relevant information from the office of Sub-Registrar. Besides, such material as is placed before it by landowners is also considered. It is supposed to consider situation of land, nature and quality of soil and other relevant factors.

28. The award made by Collector/SALO determining market value of acquired land for the purposes of compensation is an offer made to landowners. Statute provides that landowners, if satisfied with said offer, may accept compensation, but if not, they have a remedy of submitting application before Collector for making reference to District Judge for determining market value of acquired land. District Judge then would consider the matter, looking into the principles laid down in Act, 1894 and, in particular, Sections 23 and 24.

29. Before us, it is not disputed that an award made by SLAO is an offer made by Collector to landowners for compensation payable against acquired land. Reference Court does not sit in appeal over award of SLAO to find out whether determination made by SLAO is correct or not. The proceeding before Reference Court is original and treated like a suit. Material considered by SLAO is not to be seen by Reference Court unless such material has been relied and proved in accordance with law before it.

30. In *Chimanlal Hargovinddas vs. Special Land Acquisition Officer* 1988 (3) SCC 751, Court has said that a reference is like a suit which is to be treated as an original proceeding. The claimant is in the position of a plaintiff who has to show that price offered for his land in the Award is inadequate. However, for the said purpose, Court would not consider the material, relied upon by Land Acquisition Officer in Award, unless some material is produced and proved before Court.

31. Thus, Reference Court does not sit in appeal over the Award of Land Acquisition Officer. Material used by Land Acquisition Officer is not open to be used by Court suo motu unless such material is produced by the parties and proved independently before Reference Court. Determination of market value has to be made as per market rates prevailing on the date of publication of notification under section 4 (1) of Act, 1894.

32. It may also be observed that circle rate is not a relevant material to be considered for the purpose of determining market value.

33. Many a times it is seen that Collector / SLAO or even landowners justify a particular market value with reference to circle rate published by Collector which has been determined for the purposes of stamp duty. This approach has not been approved by Courts time and again.

34. In *Jawajee Nagnatham v. Revenue Divisional Officer*, (1994) 4 SCC 595, this question came up for consideration in the matter arisen from State of Andhra Pradesh. The landowners appealed against order of Reference Court before Andhra Pradesh High Court claiming higher compensation on the basis of the basic valuation register maintained by Revenue authorities under Stamp Act, 1899. The claim of landowners failed in High Court, which held that such register had no evidenciary value on statutory basis. In appeal, Apex Court held that basic valuation register was maintained for the purpose of collecting stamp duty under Section 47-A of Stamp Act, 1899 as amended in State of Andhra Pradesh. It did not confer expressly any power upon the Government to determine market value of land prevailing in a particular area, i.e., village, block, district or region. It also did not provide, a statutory obligation upon Revenue authorities to maintain basic valuation register for levy of stamp duty in regard to instruments presented for registration. Therefore, there existed no statutory provision or rule providing for maintaining such valuation register. In the circumstances, such register prepared and maintained for the purpose of collecting stamp duty had no statutory force or basis and cannot form a valid criteria to determine market value of land acquired under Act, 1894. This decision was followed in *Land Acquisition Officer Vs. Jasti Rohini*, 1995 (1) SCC 717.

35. Another matter from State of U.P. came up for consideration involving same issue in *U.P. Jal Nigam Vs. M/s Kalra Properties (P) Ltd.*, (1996) 3 SCC 124. Landowners' demanded compensation in regard to land acquired under Act, 1894 on the basis of market value assessed as per circle rate determined by Collector. It was accepted by High Court, but in appeal, judgment was reversed by Supreme Court following its earlier decision in *Jawajee Nagnatham* (supra). Court held that market value under Section 23 of Act, 1894 cannot be determined on circle rates determined by Collector for the purpose of stamp duty under Stamp Act, 1899. This view was reiterated in *Krishi Utpadan Mandi Samiti Vs. Bipin Kumar*, (2004) 2 SCC 283.

36. The issue has again been considered recently by a larger Bench in *Lal Chand Vs. Union of India* and another 2009 (15) SCC 769 wherein two Judgments of Apex Court taking a view that circle rates may be considered, as prima facie basis, for the purpose of ascertaining the market value were examined. These decisions are *Ramesh Chand Bansal v. District Magistrate/Collector*, (1999) 5 SCC 62 and *R Sai Ram Bharathi v. J Jayalalitha*, (2004) 2 SCC 9. Court resolved controversy holding, if in a particular case, guidelines for market values are determined by an Expert Committee constituted under State Stamp Law for following a detailed procedure laid down under the relevant rules and are published in State Gazette, the same may be considered as a relevant material to determine market value. Court said, when guidelines of market value, i.e., minimum rates for registration of properties, are so evaluated and determined by Expert Committees, as per statutory procedure, there is no reason why such rates should not be a relevant piece of evidence for determination of market value. Having said so, in para 44, Court further said :-

"44. One of the recognised methods for determination of market value is with reference to the opinion of experts. The estimation of market value by such statutorily constituted Expert Committees, as expert evidence can, therefore, form the basis for determining the market value in land acquisition cases, as a relevant piece of evidence. It will be however open to either party to place evidence to dislodge the presumption that may flow from such guideline market value. We, however, hasten to add that the guideline market value can be a relevant piece of evidence only if they are assessed by statutorily appointed Expert Committees, in accordance with the prescribed assessment procedure (either streetwise, or roadwise, or areawise, or villagewise) and finalized after inviting objections and published in the gazette. Be that as it may."

37. It is thus evident that for the purposes of determining market value circle rate fixed by Collector for the purposes of stamp duty would not be a relevant material unless such determination is under a statutory obligation and after following a prescribed procedure.

38. When an exemplar sale-deed is relied on for the purpose of determining market value, Court has to examine the same so as to balance rates mentioned in sale-deeds with the rates which may be determined in respect to acquired land.

39. The relevant material has consensus of precedents so constitute and includes sale deeds of immovable properties situate in area in which acquired land comes, particularly, if it has been executed in proximity of the date of acquisition notification published under Section 4(1). Even "agreement to sell" has been held relevant though with caution and in given circumstances.

40. In *Fort Press Co. Ltd. vs. Municipal Corporation of City of Bombay*, AIR 1922 PC 365, it was held that an agreement between the parties as to the price does not interfere with the jurisdiction of Collector under Act, 1894. Referring to the aforesaid decision in *Assam Railway and Trading Co. Ltd. vs. Collector of Lakhimpur* and another, AIR 1976 SC 1182, Court held "there was an agreement between the parties about the price that is not disputed; whether this amounted to a concluded contract it does not seem to us a question that is required to be decided in this appeal. Assumption to this was an agreement which bound the parties, the Collector had still the jurisdiction to determine the market value of the land." In the aforesaid decisions agreement was not discarded merely for the reason of its being agreement but what the Court said that it is only a material to be considered by statutory authorities but jurisdiction to determine market value lies upon Collector under section 11 of Act, 1894. The document of agreement would not be a conclusive material.

41. Court in *Assam Railway and Trading Co. Ltd* (supra) also referred to another Privy Council decision in *Samiullah vs. Collector of Aligarh*, AIR 1946 PC 75, holding "in assessing compensation he is bound to exercise his own judgment as to the correct basis of valuation and his judgment could not be controlled by an agreement between the parties interested. On a Reference under section 18 the District Judge must also exercise its own judgment and consider among other things whether the award of the Land Acquisition Officer was based on a correct principle".

42. In *Mehta Ravindraraaj Ajjitrai and others vs. State of Gujrat*, AIR 1989 SC 2051, claimants relied on instances by way of agreement of sale dated 21.01.1957 and the sale deed dated 2nd April, 1957. The notification under section 4(1) of the Act, 1894 was published on 6th August, 1956 and agreement for sale was executed about five months thereafter. Court held that such an agreement of sale, per se, could not be rejected for the reason that it was executed posterior to the date of acquisition notification under section 4(1) and said:

"....the agreement for sale in connection with that land, pertains to a sale after the acquisition, it can be fairly regarded as reasonably proximate to the acquisition and, in the absence of any evidence to show that there was any speculative or sharp rise in the prices after the acquisition, the agreement to sell dated January 21, 1957 must be regarded as furnishing some light on the market value of the land on the date of publication of Section 4 notification." (emphasis added)

43. In *Purushotham Pandit Kher vs. Special Deputy Commissioner*, ILR 1989 Karnataka 2042, a Division Bench judgment of Karnataka High Court, an agreement for sale was registered on 22.08.1972. Before it could fructify in to sale, one of the land, referred to in the agreement for sale, was sought to be acquired vide notification dated 21.02.1974, issued under section 4(1) of the Act, 1894. The agreement to sell was relied by the body for whose benefit land was acquired and opposed by purchaser claimant before the High Court. The claimant contended that Reference Court should not have relied upon the value of acquired land as reflected in the registered agreement for sale. The question formulated by Court therein reads as under:

".....whether the Reference Court would be justified in placing reliance on an agreement to sell relating to an acquired land to which the claimant was a party, as reflecting its market value, instead of relying upon the value of sites or lands in the neighborhood of the acquired land as reflecting the value of each of them for determining the market value of the acquired land on a comparable basis. "

44. Court answered the question as under:

".....we are not left in doubt that a Reference Court would be fully justified in relying upon a bonafide, genuine and authentic transaction of an agreement to sell entered into by the claimant for purchase of the very acquired property, as reflecting its market value, instead of relying upon the transactions of sites or lands in the neighbourhood of the acquired land as furnishing proper criteria for determining its (acquired land's) market value on a comparable basis". (emphasis added)

45. In *Special Land Acquisition Officer and another vs. Sidappa Omana Tumari and others*, 1995 Supp. (2) SCC 168 which is a judgment of three Hon'ble Judges, Court, in para 11 of the judgment has said:

"What could be regarded as the near estimate of the acquired land has to be ascertained, be it the Collector or be it the court on the basis of authenticated

transactions of sales or agreements to sell relating to the same land or a portion of it wherever possible because such transactions of sale or agreements to sell are always regarded as the best evidence available for the purpose." (emphasis added)

46. Again, in para 13, Court expressing its view of permissibility to look into an agreement for sale has observed as under:

"However, if sale deed or agreement to sell relating to the small extent of land on the basis of which the market value of the large extent of the agricultural land has to be determined is a portion of the acquired agricultural land itself or other land in its close proximity, it may be made the basis for determining the market value of the acquired large extent of agricultural land but has to be done when there is satisfactory evidence of the absence of sales or agreements to sell off bigger extents of land pertaining to the acquired land or other lands in the vicinity of the acquired land." (emphasis added)

47. Court in Special Land Acquisition Officer and another vs. Sidappa Omana Tumari and others (supra), again in para 14 of judgment, said as under:

"14. Therefore, where a sale deed or an agreement to sell relating to a small extent of land is produced by the claimant, in the enquiry held for determination of compensation payable for his large extent of land, the court is not always bound to determine the market price of such large extent of acquired land on the basis of the price fetched or to be fetched by small extent of land covered by such sale deed or agreement to sell." (emphasis added)

48. In U.P. Avas Evam Vikas Parishad vs. Janul Islam, (1998) 2 SCC 467, a three Judge Bench of Supreme Court, in para 35 of the judgment said:

"[35] We do not find any substance in the submissions urged on behalf of the Parishad regarding rejection of the application for adducing additional evidence by the High Court. The High Court, in our opinion, has rightly held that in the absence of any material that the agreements for sale relied upon had matured into sale transactions not much assistance could be derived from them in the matter of determination of the market value of the acquired land,". (emphasis added)

49. The aforesaid decisions, therefore, do not exclude agreement to sell from being a relevant material for determining market value where it has matured into sale transaction. There are some other authorities earlier to aforesaid judgment in this regard.

50. The authorities under Act, 1894, therefore, while determining rate of compensation payable to land holders may consider material placed before it by the parties. An agreement for sale, relied by any of parties, is not to be discarded merely for the reason that it is an agreement for sale unless there are other reasons justifying its rejection.

51. A Division Bench judgment of this Court also has considered the aforesaid aspect in National Thermal Power Corporation through its G.M. Vs. State of U.P. and others, 2015 (4) ADJ 537 (All.) and in para 48 of judgment, Court has said as under:

"48. In view of the above discussions, we are of the view that there is no inherent anathema to consider a registered agreement of sale, if genuinity of a valid and honest transaction is not disputed but the Court tried otherwise. In the present case, it is admitted position that land which was subject matter of registered agreement of sale was included in the acquisition notification and, therefore, parties could not conclude their transaction into sale. Thus the reason for non-execution of sale deed was something beyond their control."

52. No authority otherwise has been brought to the notice of this Court wherein it has been held that agreement to sell even if reflects bona fide transactions and having not resulted in sale deed for reasons beyond the control of the parties, cannot be taken into account in any circumstance, whatsoever, even if it belongs to same land or constitutes part of the same land which has been acquired and determination of market value whereof is under consideration.

53. The basic principle which has to be followed by Reference Court for determining market value of land, as if, the valuer i.e. Court, is a hypothetical purchaser, willing to purchase land from open market and is prepared to pay a reasonable price, as on the crucial day, i.e., date of publication of notification under section 4 of the Act, 1894. The willingness of vendor to sell land on reasonable price shall be presumed. Court, therefore, would co-relate market value reflected in the most comparable instance which provides the index of market value. Only genuine instances would be taken into account. Sometimes even post-notification instances may be taken into account if they are very proximate, genuine and acquisition itself has not motivated purchaser to pay a higher price on account of the resultant improvement in development prospects. Proximity from time angle and from situation angle would be relevant considerations to find out most comparable instances out of the genuine instances. From identified instances which would provide index of market value, price reflected therein may be taken as norm and thereafter to arrive at the true market value of land under acquisition, suitable adjustment by plus and minus factors has to be made. In other words, a balance sheet of plus and minus factors may be drawn and the relevant factors may be valued in terms of price variation as a prudent purchaser would do. The market value of land under acquisition has to be deduced by loading the price reflected in the instances taken for plus factors and unloading for minus factors.

54. In Kausalya Devi Bogra and others v. Land Acquisition Officer, Aurangabad and another, (1984) 2 SCC 324, about 150 acres of land was acquired. Owners of acquired land were in two groups, i.e. Kaushalya Devi Bogra and Syed Yusufuddin Syed Ziauddin. First group, i.e. Kaushalya Devi Bogra owned 74 acres, while Yusufuddin owned about 15 acres of land. In these facts of case where almost 60% of total acquired land was owned by two sets of owners and exemplar of smaller property was relied, Court said that "when large tracts are acquired, the transaction in respect of small properties do not offer a proper guideline. In certain other cases, for determining market value of a large property on the basis of a sale transaction for smaller property, a deduction should be given.

55. In *Bhagwathula Samnna and others v. Special Tehsildar and Land Acquisition Officer, Visakhapatnam Municipality* (1991) 4 SCC 506, High Court applied deduction of 33.3% observing, when large extent of land was acquired under housing scheme and exemplar is of small land, reasonable deduction can be made. Following the decision in *Tribeni Devi v. Collector, Ranchi*, AIR 1972 SC 1417, it was argued before Apex Court that High Court wrongly applied deduction. Acquired land was fully developed and eminently suitable for being used as house sites and, therefore, there was no justification for making any deduction. The land was acquired for formation of road, High Court applied deduction on the ground that expenses have to be incurred for development, which was not justified. Aforesaid submission was considered by Supreme Court in the light of facts of that case. In para 7 and 11 Court said: -

"7. In awarding compensation in acquisition proceedings, the Court has necessarily to determine the market value of the land as on the date of the relevant notification. It is useful to consider the value paid for similar land at the material time under genuine transactions. The market value envisages the price which a willing purchaser may pay under bona fide transfer to a willing seller. The land value can differ depending upon the extent and nature of the land sold. A fully developed small plot in an important locality may fetch a higher value than a larger area in an undeveloped condition and situated in a remote locality. By comparing the price shown in the transactions all variables have to be taken into consideration. The transaction in regard to smaller property cannot, therefore, be taken as a real basis for fixing the compensation for larger tracts of property. In fixing the market value of a large property on the basis of a sale transaction for smaller property, generally a deduction is given taking into consideration the expenses required for development of the larger tract to make smaller plots within that area in order to compare with the small plots dealt with under the sale transaction.

11. The principle of deduction in the land value covered by the comparable sale is thus adopted in order to arrive at the market value of the acquired land. In applying the principle it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition, the only relevant factor. Even in the vast area there may be land which is fully developed having all amenities and situated in an advantageous position. If smaller area within the large tract is already and suitable for building purposes and have in its vicinity roads, drainage, electricity, communications etc. then the principle of deduction simply for the reasons that it is part of the large tract acquired, may not be justified."

56. Court further held that proposition that large area of land cannot possibly fetch a price at the same rate at which small plots are sold is not absolute proposition and in given circumstances it would be permissible to take into account price fetched by small plots of land. If larger tract of land, because of advantageous position, is capable of being used for the purpose for which smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of value for the purposes of comparison is not warranted. Having said so, Court in para 13 held as under: -

"13. With regard to the nature of the plots involved in these two cases, it has been satisfactorily shown on the evidence on record that the land has facilities of road and other amenities and is adjacent to a developed colony and in such circumstances it is possible to utilize the entire area in question as house sites. In respect of the land acquired for the road, the same advantages are available and it did not require any further development. We are, therefore, of the view that the High Court has erred in applying the principle of deduction and reducing the fair market value of land from Rs.10/- pr square yard to Rs.6.50 paise pr square yard. In our opinion, no such deduction is justified in the facts and circumstances of these cases."

57. The size of land would constitute an important factor to determine market value. It cannot be doubted that small size plot may attract a large number of persons being within their reach which will not be possible in respect of large block of land wherein incumbent will have to incur extra liability in preparing a lay out and carving out roads, leaving open space, plotting out smaller plots, waiting for purchasers etc. Courts have said that in such matters, factors can be discounted by making deduction by way of an allowance at an appropriate rate ranging between 20% to 50%, to account for land, required to be set apart for carving out road etc. and for plotting out small plots.

58. The concept of smaller and larger plots should be looked into not only from the angle as to what area has been acquired, but also the number of land holders and size of their plots.

59. When we talk of concept of prudent seller and prudent buyer, we cannot ignore the fact that in the category of prudent seller, the individual land holder will come. It is the area of his holding which will be relevant for him and not that of actual, total and collective large area, which is sought to be acquired.

60. In *V.M. Salgoacar & brother Ltd. vs. Union of India* (1995) 2 S.C.C 302, land acquired by notification dated 06.07.1970 in village Chicalim near Goa Airport belonged to a single owner. Court observed, when land is sold out in smaller plots, there may be a rising trend in the market, of fetching higher price in comparison to the plot which are much higher in size. Having said so Court further said:

" though the small plots ipso facto may not form the basis per se to determine the compensation, they would provide foundation for determining the market value. On its basis, giving proper deduction, the market value ought to be determined".

61. Again in *Shakuntalabai (Smt.) and others vs. State of Maharashtra*, 1996 (2) S.C.C 152, 20 acres of land in Akola town was sought to be acquired by notification published on 11.08.1965 under section 4(1) of Act, 1894 which was also owned by a single person. It is in this context, Court said, "the Reference Court committed manifest error in determining compensation on the basis of sq. ft. When land of an extent of 20 acres is offered for sale in an open market, no willing and prudent purchaser would come forward to purchase that vast extent of land on sq. ft. basis. Therefore, the Reference Court has to consider valuation sitting on the armchair of a willing prudent hypothetical vendee and to put a question to itself whether in given circumstances, he would agree to purchase

the land on sq. ft. basis. No feat of imagination is necessary to reach the conclusion. The answer is obviously "no".

62. In order to determine market value when exemplars are adduced, normally it is found that exemplars of small land, and that too, in developed area after plotting and development are relied. Sometimes a single exemplar is available and sometimes more than that. It is not the number of exemplars which is important and would determine the question whether burden has been discharged by claimants that offer of compensation made by Collector is inadequate and he is entitled to higher compensation but it is the genuity, authenticity and creditworthiness of the documents. If the document is found most suitable and appropriate for determining compensation in respect of acquired land even a single instance/exemplar cited by landowner may be relied and it can be said that claimant-landowner has succeeded in discharging his burden.

63. In *Gafar vs. Moradabad Development Authority*, 2007 (7) SCC 614, the Court observed that burden is on the claimants to establish that amount awarded to them by Collector is inadequate. That burden has to be discharged by claimants and only if initial burden in that behalf is discharged, the burden would shift to State to justify the compensation offered by SLAO.

64. Further, when there are more than one exemplar, one, which provides highest rate, has to be followed. In *Satish Vs. State of U.P.*, 2009 (14) SCC 758, Court after relying on its earlier decision in *Viluben Jhalenjar Contractor (Dead) by Lrs. Vs. State of Gujarat*, 2005 (4) SCC 789, said :

"...when comparable exemplars are brought on record, the one carrying the highest market value amongst them may be followed."

65. Whenever the area of acquired land is larger than the area of land which is subject matter of the exemplar and smaller in size, Courts have held the same admissible subject to appropriate deduction.

66. In *Basavva (Smt.) and others Vs. Special Land Acquisition Officer and others*, (1996) 9 SCC 640, notification under Section 4(1) of Act, 1894 proposing to acquire 194 acres of land for industrial development near Dharwad was published on 30.10.1981. Collector made award dated 22.8.1985 offering compensation at the rate between Rs. 8,000/- to Rs.8,080/-, which was enhanced by Reference Court vide award dated 11.10.1988 to Rs.1.72/- per square fit (Rs.74,953/- per acre). On appeal High Court reduced compensation to Rs.56,000/- per acre. The appeal preferred by State Government against High Court's judgment was dismissed.

67. In the appeals preferred by landowners, it was contended on behalf of landowners that deduction towards development upto 53% was reasonable but High Court in applying 65% deduction has erred in law. Court observed, while determining compensation, at first instance, it has to be seen whether sales relating to smaller pieces of land are genuine and reliable; and, whether they are in respect of comparable land. If it is found that sales are genuine and reliable and lands have comparable features, sufficient deduction should be made to arrive at a just and fair market value of large tracts of land. The time lag for real development and waiting period for development

are also relevant for determination of just and comparable compensation. For deduction of development charges, nature of development, conditions and nature of land, the land required to be set apart under building rules for roads, sewerage, electricity, parks, water etc. and all other relevant circumstances involved are to be considered.

68. The above principles were also laid down in *D. Vasundara Devi Vs. Revenue Divisional Officer*, (1995) 5 SCC 426 which was relied by Court in *Basavva (Smt.) & Others Vs. Special Land Acquisition Officer and others* (supra). It then found that exemplar sale deed was dependable but in respect of a small plot of land situated at a distance of more than 1 k.m. It also found that the land in area is not developed and there is no development towards that area. It was also noticed that it would take years for development in those lands though lands was capable of user for non-agricultural purpose. It is in this background, Court applied 53% deduction for development. It further held that since a long time would take for development and for that purpose additional 12% deduction was allowed making total as 65% deduction.

69. In *Land Acquisition Officer, Kammarapally Village Vs. Nookala Rajamallu and others*, AIR 2004 SC 1031 and said as under :

"It has been held that the deduction can be made where the land is acquired for residential and commercial purpose with regard to roads and civic amenities, expenses of development of the sites by laying out roads, drains, sewers, water and electricity lines, and the interest on the outlays for the period of deferment of the realization of the price, the profits on the venture etc. So far as this Court is concerned, it has discarded the deduction policy on various grounds. One of the grounds is that if the State or its authority acquires the land for the purpose of selling it to the ultimate purchasers upon making available facilities, they normally recover the price inclusive of common facilities, therefore, a Government or its authority cannot be doubly benefited either by deductions from the payment of compensation in one hand and by collections of price of such development from the ultimate purchasers on the other hand. It also to be seen that no law prescribes deduction in paying compensation. It is to be remembered that deduction is an exception not the rule."

70. In *Udho Dass Vs. State of Haryana and Ors.* 2010 (12) SCC 51, by notification dated 17.5.1990, 162.5 acres of land in village Patti Musalmanan was sought to be acquired for the purposes of housing project in Sonapat (Haryana). Collector determined compensation at the rate of Rs. Two Lacs per acre, but it was enhanced by Additional District Judge on reference under Section 18 of Act, 1894 to Rs.125/- per square yard for the land behind E.C.E. Factory, situated away, and on the left side of the Sonapat Bahalgarh road, and Rs.150/- per square yard on the right side abutting the road. Reference Court held that land on the left side did not abut the road and it had therefore less potential value vis-a-vis land on the right side, which touched the road. In appeal High Court enhanced compensation from Rs.125/- to Rs.135/- and from Rs.150/- to Rs.160/-. Landowner came in appeal before Supreme Court claiming compensation at Rs.200/- per square yard. Court, as a matter of fact, found in that case that even compensation, which was determined by Collector or

Reference Court was not paid to landowners immediately, but payment spread over for two decades. Court said if compensation payment continued over a period of almost 20 years, potential of land acquired from landowners must also be adjudged keeping in view development in the area, spread over the period of 20 years if evidence so permits and cannot be limited to near future alone. Court observed that this broad principle would be applicable where possession of land has been taken pursuant to proceedings under an acquiring Act and not to those cases where land is already in possession of Government and is subsequently acquired.

71. Court also observed that in case where compensation is based exclusively on sale instances, it creates some time a disadvantageous position to landowners, whose land is forcibly acquired. There is wide spread tendency to undervalue sale prices. Circle rates determined by Collector only marginally corrected anomaly, as these rates are also abnormally low and do not reflect true value. These things cause serious disadvantage to landowners, since they have no control over price on which some other landowners sell their property, which is often the basis for compensation payable to landowners, whose land are forcibly acquired. Court also held that there cannot be application of belting system in that case. Normally, land along side the road has more value vis-à-vis the land away from, but that would have been the case where agricultural land, which have no potential for urbanization or commercialization had been acquired and in such a case, belting system is permissible.

72. In *Udho Dass (supra)* Court held that land was acquired in 1990. It had great potential and had been completely urbanized as huge residential complexes, industrial area and estates, huge education city have come up in the last 10 or 15 years. It further held as under:

"Moreover, insofar as land which is to be used for residential purposes is concerned, a plot away from the main road is often of more value as the noise and the air pollution alongside the arterial roads is almost unbearable. It also significant that the land of Jamalpur Kalan was touching the rear side of the ECE factory and the High Court had granted compensation of Rs.250/- per square yard for the acquisition of the year 1992. We have also seen the site plan to satisfy ourselves and find that the land acquired from Jamalpur Kalan and the present land share a common boundary behind the ECE factory. The belting system in the facts of the present case would thus not be permissible."

73. In *Anjani Molu Desai v. State of Goa and another*, (2010) 13 SCC 710, a very large tract comprising 3,65,375 square meter of land in Balli village, Quepem Taulak, Goa was acquired for the purposes of Konkan Railway for laying down broad gauge line. Acquisition notification was issued on 30.7.1991. Appellant Anjani Molu Desai owned 60,343 square meter of land in Survey No.45/1, 45/5, 45/6, 51/1 and 51/2. Collector awarded compensation at the rate of Rs.12/- per square meter for orchard lands and Rs.6/- per square meter for paddy lands. Reference Court and High Court affirmed said valuation by rejecting reference and appeal. Collector determined market value relying upon two exemplars and taking an average thereof. First exemplar sale deed dated 30.8.1989 relates to 2055 square meters of land situated at the distance of 200 meter away from acquired land and sold at the rate of Rs.43.80 per square meter. Collector deducted 45% from sale price towards

"development cost" i.e. for providing approach road and open spaces, expenses relating to development work, conversion charge etc. This reduced price from Rs.24/- per square meter. Since sale deed was of August, 1989 and acquisition commenced in 1991, thus there being gap of 20 months, Collector provided an increase at the rate of 14.5% per annum and thus, arrived at Rs.32.24 per square meter. Exemplar sale deed dated 30.1.1990 relates sale of 7600 square meters of land at the distance of one kilometer from acquired land sale at Rs.3/- per square meter. Here also, gap was of 18 months, thus 14.5% increase was allowed, which made sale price at Rs.3.82 per square meter. Collector then averaged two rates derived from two sale deeds and determined Rs.18/- per square meter ($\text{Rs.32.24} + \text{Rs.3.82}/2$). This method adopted by Collector was not approved by Supreme Court. It was held, where there are more than one exemplar, which could be considered for determining market value, the one providing higher rate should be accepted and followed. It is only in exceptional cases where there are several sales of similar land, whose prices range in a narrow bandwidth, the average can be taken as representing market value. But where values disclosed in respect of two sales are markedly different, it can only lead to an inference that they are with reference to dissimilar land or that lower value sale is on account of under valuation or other price depressing reasons. In respect of orchard land, therefore, Court followed exemplar sale deed dated 30.8.1989 providing sale price at Rs.43.80 per square meter and applying appreciation of 14.5% and odd per annum, Court determined market value at Rs.57.50 and to that extent claim of appellant Anjani Molu Dessai was upheld. Here also proposition laid down by Apex Court is not exceptional but depends on the facts of individual cases.

74. In *Nelson Fernandes and others v. Special Land Acquisition Officer, South Goa and others*, AIR 2007 SC 1414, land was acquired for new broad gauge line of Konkan Railway. Acquisition notification under Section 4 Act, 1894 was issued in August, 1994. SLAO made award of Rs.4/- per square meter. In reference, District and Sessions Judge relying on two sale deeds dated 13.12.1993 enhanced compensation at the rate of Rs.192/- per square meter. Sale price in exemplar sale deed was Rs.449/- per square meter. Landowners as well as acquiring body both preferred appeals. Landowner's appeal was rejected while acquiring body's appeal was allowed to the extent that market value was reduced to Rs.38/- per square meter. Supreme Court found that compensation awarded by High Court by rejecting valuer report is not based on cogent material and not supported by cogent reasons. The injury, which landowner, was likely to sustain due to loss of his future earning from selling land as also damage already suffered due to diminution of profit of land between time of publication of notice and time taken by Collector in possession was not considered. Since land was acquired for the purposes of laying down railway line, no development was to be done. There existed civil amenities like, school, police station, water supply, bank, electricity, highway, transport, petrol pump, industries, telecommunication and other business. Hence it determined compensation at the rate of Rs.250/- per square meter, but then applied 20% deduction, which brings rate at Rs.200/- per square meter.

75. In *Special Land Acquisition Office v. Karigowdo and others*, 2010 (5) SCC 708, total acquired land was 146 acres and 7 guntas. It was owned by 419 claimants owners, whose area vary from 2 to 48 guntas. Acquired land was situated in village Sanaba, Chinakavali Hobli, Pandavapura. These land got submerged in 1993 under backwaters of Tonnur tank due to construction of Hemavathi Dam. Physical possession of land was taken between October, 1996 to December, 1999, while

acquisition notification under Section 4 (1) of Act, 1894 was issued on 4.4.2002. Crops standing on land were damaged. SLAO determined market value at Rs.90,460/- per acre for wet land and Rs.37,200/- per acre for dry land. On reference, compensation was enhanced to Rs.2,92,500/- per acre for wet land (garden land), Rs.1,46,250/- for dry land (lightly irrigated) and Rs.1,20,000/- for dry land (without mulberry crop). In appeal by landowners, High Court enhanced compensation to Rs.5,00,000/- per acre for wet/garden land and Rs.2,53,750/- per acre for dry land. State, therefore, came in appeal before Apex Court. Dispute arose before Court was for computation of compensation payable to claimants and quantum thereof. Argument advanced by State was that method adopted by Reference Court as well as High Court was impermissible in law. Court cannot take into consideration commercial activity, which may result from, and be indirectly incidental to agricultural activity, particularly, when both of them are carried on independent of each other.

76. In that case there were no sale instances from village Sanaba prior to 2002. The exemplars of adjoining villages were produced before Court. After looking into statutory provisions of Act, 1894, Court said (1) provision of Section 23 are mandatory; and (2) it is for claimants to ascertain as a matter of fact - location, potential and quality of land for establishing its fair market value. It is for claimant to show that what is contemplated under conditions attached thereto has been satisfied. It is also for claimant to show that to award compensation payable under statutory provisions, they have brought on record evidence to satisfy criterion and conditions required to be fulfilled for such a claim. Court has to determine compensation strictly in accordance with the provisions of Sections 23 and 24 of Act, 1894. Potentiality of land should be on the date of acquisition i.e. existing potentiality. Further, potentiality has to be directly relatable to capacity of acquired land to produce agricultural products, or its market value relatable to method of compensation. If there is any existing crops or trees or fruit bearing trees, the same can be taken into consideration, but extent of benefit cannot go to the extent that fruits grown in agricultural land would be converted into jam or any other eatable products. This extension of loss of benefits amounts to remote factors, which is not permitted to take into consideration. The Court thus held that compensation determined by Reference Court and High Court was not justified. State appeal was partly allowed and Court provided for compensation at Rs.2,30,000/- per acre for wet/garden land and Rs.1,53,400/- per acre for dry land.

77. In *Mohinder Singh and others v. State of Haryana*, (2014) 8 SCC 897, by notification dated 2.12.1982, 327.52 acres in village Patti Jhambra, Shahabad in District Kurushetra (State of Haryana) was acquired for development and utilization of land for residential, commercial, industrial purposes etc. Notification under Section 6 was issued on 4.7.1984 in relation to 178.62 acres, and ultimate possession taken was found only 90.07 acres. Collector made award at different rates per acre depending upon quality of soil/land. Reference Court awarded uniform compensation at Rs.2,66,400/- per acre. Stated preferred appeal whereupon High Court reduced compensation to Rs.1,83,080/- per acre. Landowner preferred intra court appeal and Division Bench determined market value at Rs.2,19,696/- per acre. Landowners further went in appeal before Supreme Court, which set aside the judgment of High Court and restored award passed by Reference Court determining Rs.2,66,400/- per acre as market value. While restoring award of Reference Court, Supreme Court observed that 40% deduction applied by High Court was not justified. Since land

was within developed Municipal limit, therefore, deduction of 25% applied by Reference Court was justified.

78. In *Union of India v. Raj Kumar Baghal Singh* (deal) through legal representatives and others, (2014) 10 SCC 422, 72.9375 acres of land in village Bir Kheri Gujran, District Patiala in State of Punjab was acquired vide notification dated 14.3.1989. Collector made award of Rs. Two Lacs per acre. Reference Court enhanced amount of compensation to Rs. 9,05,000/- per acre. In appeal, Single Judge of High Court reduced compensation to Rs. 105.80 per square yard and it was confirmed by Division Bench also. Union of India preferred appeal, which was dismissed. Court held that there is no rule of thumb for deduction at a particular rate. It varies and depends on individual case. In para 11 Court said "the extent of cut depends on individual fact situation".

79. Deduction for development is different than deduction permissible in respect of largeness of area vis-a-vis exemplar of small piece of land. Many times, landowners relied on the rates on which development authorities used to offer allotment of developed plots carved out by them in residential or industrial area. Such rates apparently cannot form basis for compensation for acquisition of undeveloped lands for reasons more than one. The market value in respect of large tract of undeveloped agricultural land in a rural area has to be determined in the context of a land similarly situated whereas allotment rates of development authorities are with reference to small plots and in a developed lay out falling within urban or semi-urban area. Statutory authorities including development authorities used to offer rates with reference to economic capacity of buyers like economic Weaker Sections, Low Income Group, Middle Income Group, Higher Income Group etc. Therefore, rates determined by such authorities are not uniform. The market value of acquired land cannot depend upon economic status of land loser and conversely on the economic status of the body at whose instance, land is acquired. Further, normally, land acquired is a freehold land whereas allotment rates determined by development authorities etc. constitute initial premium payable on allotment of plots on leasehold basis.

80. However, where an exemplar of small piece of land is relied, in absence of any other relevant material, Court may determine market value in the light of evidence relating to sale price of small developed plots. In such cases, deduction varying from 20% to 75% is liable to apply depending upon nature of development of lay out in which exemplar plot is situated.

81. In *Shaji Kuriakose and another Vs. Indian Oil Corporation Ltd. and others* 2001 (7) SCC 650, large tract of land in village Manakunnam, District Cochin was proposed to be acquired for setting up a bottling plant by Indian Oil Corporation and notification under Section 4 (1) was issued on 23.08.1990. Acquired land included 7.13 acres of land of claimant/landowner-Shaji Kuriakose. Collector vide award dated 05.05.1992 offered compensation at Rs. 1,225/- per acre i.e. Rs. 500 per cent which was enhanced to Rs. 7,000/- per cent by Reference Court. High Court reduced compensation to Rs. 4,000/- per cent for wet land and Rs. 6,500/- for dry land. Appeal preferred by claimants before Apex Court failed. Court found that land which was sold vide exemplar sale deed was not similarly placed with acquired land inasmuch as there was no access to acquired land, there existed only an internal mud road which belonged to one of the claimants, whose land was acquired, the land covered by exemplar sale deed was a dry land, whereas acquired land was mostly wet land.

After acquisition, acquired land has to be reclaimed and a lot of amount would be spent for filling it. The exemplar sale deed related to a small piece of land while acquired land was quite large. Sale for smaller plot fetches more consideration than larger or bigger piece of land. Looking to all these facts, Court found that determination made by High Court was justified and dismissed appeal.

82. In *Kasturi & others Vs. State of Haryana* 2003 (1) SCC 354, 84.31 acres of land in State of Haryana was proposed to acquire for development of residential and commercial area at Sector 13 and 23 Bhiwani by publishing notification under Section 4 on 04.04.1986. Collector made award dated 10.11.1987 and 31.03.1988 determining compensation at Rs.57,500/- per acre and Rs.55,200/- per acre which comes to around Rs. 11.81 per square yard. Reference Court enhanced compensation to Rs.125/- per square yard. Landowners as well as State, both preferred appeal in High Court. Landowners sought compensation at Rs.500/- per square yard while State appealed for restoration of Collector's award. High Court reduced compensation to Rs.79.98 per square yard applying 20% deduction towards development charges. It partly allowed appeal of State but dismissed appeals preferred by claimants/landowners. Division Bench confirmed judgment of Single Judge hence matter was taken to Apex Court by claimants/ landowners. It was contended that High Court erred in applying deduction of 20% towards development charges and also by not enhancing compensation to Rs.500/- per square yard as claimed by landowners. Supreme Court found that land acquired comprised a large area and was not developed though has potential for residential and commercial purposes. For its development roads were to be laid, provision for drainage was to be made and certain area was to be earmarked for other civic amenities. The acquired land is not a small plot located in such a way that no other development was required at all and it could be utilized as it is, being a developed building site. In respect of agricultural land or undeveloped land which has potential value for housing or commercial purposes, normally 33% amount was processed for deduction subject to variations depending upon nature of land, location, extent of expenditure involved for development and area required for roads and other civic amenities to develop land so as to make plots for residential or commercial purposes. Whether land is plain or uneven, soil of land is soft or hard having bearing on foundation for the purpose of making construction; whether land is situated in the midst of a developed area all around or may have a hillock or may be low lying or may be having deep ditches, are all relevant considerations since that would have consequences in the land to be spent for development. Court relied on various decisions and thereafter upheld deduction of 20% towards development and dismissed appeal of landowners.

83. In *Lal Chand Vs. Union of India* (supra), Court noticed that deduction for development constitutes two components- one is with reference to area required to be utilized for development work and second is the cost of development work. It further held that deduction for development in respect of residential plot may be higher while not so where it is an industrial plot. Similarly, if acquired land is in a semi-developed urban area or in any undeveloped rural area, then deduction for development may be much less and vary from 25 to 40 percent since some basic infrastructure will already be available. The percentage is only indicative and vary depending upon relevant factors. With reference to exemplars of transfer of land between private parties, Court would also look into intrinsic evidence, i.e., the exemplar sale deed where it recites financial difficulties of vendor and urgent need to find money as a reason for sale or other similar factors, like litigation or

existence of some other dispute. These are all the factors constituting intrinsic evidence of a distress sale.

84. In *Lal Chand Vs. Union of India* (supra), Court also observed, if acquisition is in regard to a large area of agricultural land in a village and exemplar sale deed is also in respect of an agricultural land in the same village, it may be possible to rely upon the sale deed as prima facie evidence of prevailing market value even if such land is at the other end of village, at a distance of one or two kilometers. But, the same may not be appropriate where acquisition relates to plots in a town or city where every locality or road has a different value. A distance of about a kilometer may not make a difference for the purpose of market value in a rural area but even a distance of 50 meters may make a huge difference in market value in urban properties. Thus, distance between two properties, the nature and situation of property, proximity to the village or a road and several other factors may all be relevant in determining market value.

85. In *Valliyammal and others v. Special Land Acquisition 2011* (8) JT 442, Court has looked into various earlier judgments laying down guiding principles for determination of market value of acquired land. Court has observed that comparable sales method of valuation is preferred since it furnishes evidence for determination of market value of acquired land at which a willing purchaser would pay for acquired land if it had been sold in open market at the time of acquisition. However, this method is not always conclusive and there are certain factors, which are required to be fulfilled and on fulfillment of those factors, compensation can be determined. Such factors are (a) sale must be a genuine transaction; (b) sale deed must have been executed at the time, proximate to the date of issue of notification under Section 4; (c) land covered by the sale must be in the vicinity of acquired land; (d) land covered by the sales must be similar to acquired land; and (e) size of plot of the land covered by the sales be comparable to the land acquired. If there is dissimilarity in regard to locality, shape and size or nature of land, court can proportionately reduce compensation depending upon disadvantages attached with the acquired land. Further, for determining market value, potentiality of acquired land should also be taken into consideration. The "potentiality" means, capacity or possibility for changing or developing into state of actuality. It is well settled that market value of property has to be determined having due regard to its existing condition, with all its existing advantages and its potential possibility when let out in its most advantageous manner. Court also said, when undeveloped or underdeveloped land is acquired and the exemplar is in respect to developed land, deduction towards deduction can be made. Normally, such deduction is 1/3, but it is not a hard and fast rule.

86. In *Bhule Ram v. Union of India and another*, JT 2014 (5) SC 110, Court in para 7 has observed that valuation of immovable property is not an exact science, nor it can be determined like algebraic problem, as it bounds in uncertainties and no strait-jacket formula can be laid down for arriving at exact market value of the land. There is always a room for conjecture, and thus court must act reluctantly to venture too far in this direction. The factors such as the nature and position of land to be acquired, adaptability and advantages, the purpose for which the land can be used in the most lucrative way, injurious affect resulting in damages to other properties, its potential value, the locality, situation and size and shape of the land, the rise of depression in the value of the land in the locality consequent to the acquisition etc., are relevant factors to be considered. It further said that

value, which has to be assessed, is the value to the owner, who parts with his property, and not the value to the new owner, who takes it over. Fair and reasonable compensation means the price of a willing buyer, which is to be paid to the willing seller. Though the Act does not provide for "just terms" or "just compensation", but market value is to be assessed taking into consideration the use to which it is being put on acquisition and whether the land has unusual or unique features or potentialities. Court then also considered as to what is the concept of "guess work" and observed that it is not unknown to various fields of law as it applies in the cases relating to insurance, taxation, compensation under the Motor Vehicle Act as well as under Labour Laws. Having said so, Court further said:

"The court has a discretion applying the guess work to the facts of the given case but it is not unfettered and has to be reasonable having connection to the facts on record adduced by the parties by way of evidence. The court further held as under:

"'Guess' as understood in its common parlance is an estimate without any specific information while 'calculations' are always made with reference to specific data. 'Guesstimate' is an estimate based on a mixture of guesswork and calculations and it is a process in itself. At the same time 'guess' cannot be treated synonymous to 'conjecture'. 'Guess' by itself may be a statement or result based on unknown factors while 'conjecture' is made with a very slight amount of knowledge, which is just sufficient to incline the scale of probability. 'Guesstimate' is with higher certainty than more 'guess' or a 'conjecture' per se." (para 8)

87. In *Bhupal Singh and others v. State of Haryana*, (2015) 5 SCC 801 while the above principles laid down in various cases were reiterated, Court in para 18 of judgment, said:

"Law on the question as to how the court is required to determine the fair market value of the acquired land is fairly well settled by several decisions of this Court and remains no more res integra. This Court has, inter alia, held that when the acquired land is a large chunk of undeveloped land having potential and was acquired for residential purpose then while determining the fair market value of the lands on the date of acquisition, the appropriate deductions are also required to be made."

88. It is also reaffirmed that an exemplar when relates to small piece of developed land and is sought to be relied to determine market value of large tract of undeveloped acquired land, deduction can be applied ranging between 20% to 75%. The Court in para 20 of judgment relied upon its decision in *Chandrashekar v. Land Acquisition Officer* 2012 (1) SCC 390 stating that deduction has two components, one is "development" and another with respect to the "size of the area". Percentage of deduction was restricted in *Subh Ram v. State of Haryana*, (2010) 1 SCC 444 stating that deduction of both components should be around 1/3 each in its entirety, which would roughly come to 67% of component of sale consideration of exemplar sale transaction.

89. Thus, with respect to escalation of price where exemplar is much earlier in point of time, Court in *K. Devakimma and others v. Tirumala Tirupati Devasthanam and another*, 2015 (111) ALR 241

said that recourse can be taken in appropriate cases to the mode of determining market value by providing appropriate escalation over the proved market value of nearby land in previous years where there is no evidence of any contemporaneous sale transaction or acquisition of comparable lands in neighbourhood. The percentage of escalation may vary from case to case so also the extent of years to determine the rates.

90. In *Trishala Jain and another Vs. State of Uttranchal and another* 2011 (6) SCC 47, for the purposes of construction of Government Polytechnic Institute at Dehradun, notification under Section 4 was published on 30th January, 1992, proposing to acquire 12.85 acres of land situated in village Sewala Kalan, Pargana Kendriya Doon, District Dehradun. The area of land belong to claimants-landowner, Trishala Jain and others, was 4.58 acres and 3.031 acres respectively. Collector offered compensation applying "belting system" and the first belt at Rs.9,78,223.40 per acre, second belt at Rs. 6,52,482.27 per acre and third belt at Rs. 4,39,362.70 per acre. Reference Court held belting system applied by Collector improper observing that entire land having been acquired for one purpose, there was no justification for application of belting system. Relying on two exemplar sale deeds dated 26.11.1991 and 17.11.1991 it awarded compensation at Rs. 5,12,000/- per bigha after applying 20% deduction to gross market value of Rs.6,40,000/- per bigha. In appeal, High Court upheld view taken by Reference Court that there was no justification for applying "belting system" but raised deduction from 20% to 33.33% and hence determined market value at Rs. 4,26,667/- per bigha. The aforesaid deduction was applied on account of "development charges". Appeal was taken to Supreme Court by claimants/landowners. The four questions formulated by Court are as under:

"I. Whether or not the belting system ought to have been applied for determination of fair market value of the acquired land? II. What should be the just and fair market value of the acquired land on the date of issuance of notification under Section of the Act? III. Whether in the facts and circumstances of the present case there ought to be any deduction after determining the fair market value of the land? IV. What compensation and benefits are the claimants entitled to?"

91. Court upheld the view taken by courts below that application of "belting system" was unjustified since land as a whole was similarly placed and surrounded by developed areas and proposed to be used for one purpose, i.e., construction of Government Polytechnic Institute. Court then also held that deduction towards development is justified in certain circumstances but how much deduction is to be applied, will depend upon individual facts of the case. In para 39 of judgment, Court said:

"39. The law with regard to applying the principle of deduction to the determined market value of the acquired land is quite consistent, though, of course, the extent of deduction has varied very widely depending on the facts and circumstances of a given case. In other words, it is not possible to state precisely the exact deduction which could be made uniformly applicable to all the cases. Normally the rule stated by this Court consistently, in its different judgments, is that deduction is to be applied on account of carrying out development activities like providing roads or civic amenities such as electricity, water etc. when the land has been acquired for construction of

residential, commercial or institutional projects. It shall also be applied where the sale instances (exemplars) relate to smaller pieces of land and in comparison the acquisition relates to a large tract of land."

(emphasis added)

92. Further in paras 41 and 44 of judgment, Court said:

"41. The cases where the acquired land itself is fully developed and has all essential amenities, before acquisition, for the purpose for which it is acquired requiring no additional expenditure for its development, falls under the purview of cases of 'no deduction'. Furthermore, where the evidence led by the parties is of such instances where the compensation paid is comparable, i.e. exemplar lands have all the features comparable to the proposed acquired land, including that of size, is another category of cases where principle of 'no deduction' may be applied. These may be the cases where least or no deduction could be made. Such cases are exceptional and/or rare as normally the lands which are proposed to be acquired for development purposes would be agricultural lands and/or semi or haphazardly developed lands at the time of issuance of notification under Section 4(1) of the Act, which is the relevant time to be taken into consideration for all purposes and intents for determining the market value of the land in question."

"44. It is thus evident from the above enunciated principle that the acquired land has to be more or less developed land as its developed surrounding areas, with all amenities and facilities and is fit to be used for the purpose for which it is acquired without any further expenditure, before such land could be considered for no deduction. Similarly the sale instances even of smaller plots could be considered for determining the market value of a larger chunk of land with some deduction unless, there was comparability in potential, utilisation, amenities and infrastructure with hardly any distinction. On such principles each case would have to be considered on its own merits." (emphasis added)

93. In Chandrashekar Vs. Land Acquisition Officer (supra) for residential layout issued by Gulbarga Development Authority acquisition proceedings were initiated by publishing Notification dated 13.5.1982 proposing to acquire 144 acres of land in villages Rajapur (71 acres) and Badepur (73 acres). The land of claimants-appellants measured 8 acres, 4 guntas in village Badepur and in connected appeal it measured 7 acres, 7 guntas. Collector made award determining compensation at Rs.4100/- per acre for land in village Badepur and Rs.13,500/- for land in village Rajapur. Reference Court enhanced compensation to Rs.1,46,000/- per acre in place of Rs.4100/- per acre for land in village Badepur. On appeal, High Court remanded matter, whereafter Reference Court determined compensation at Rs.1,45,000/- per acre vide order dated 21.12.2002. High Court reduced compensation in appeal at Rs. 65,000/-. The view taken by High Court was upheld by Supreme Court by dismissing appeal of landowners. The issue raised before Court was the extent of deduction to be applied while determining market.

94. It would be interesting to notice review of various cases by Supreme Court demonstrating that deduction applied has varied in all cases.

(a) In *Brig. Sahib Singh Kalha Vs. Amritsar Improvement Trust*, (1982) 1 SCC 419, the Court said where a large area of undeveloped land is acquired, provision has to be made for providing minimum amenities of town-life. Accordingly, deduction of 20 percent of total acquired land should be made for land over which infrastructure has to be made (space for roads etc.). Besides, cause of raising infrastructure like roads, electricity, water, underground drainage, etc. is also to be considered and for this purposes deduction would raise from 20% to 33%. Thus, in all the Court upheld deductions between 40% and 53%.

(b) In *Administrator General of West Bengal Vs. Collector, Varanasi*, (1988) 2 SCC 150, the Court upheld deduction of 40%.

(c) In *Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and another (supra)*, the Court upheld deduction between 20% to 50%.

(d) In *Land Acquisition Officer Revenue Divisional Officer, Chottor vs. L. Kamalamma (Smt.) Dead by and others*, (1998) 2 SCC 385, Court upheld deduction of 40% as development cost.

(e) In *Kasturi and others vs. State of Haryana (supra)*, 1/3rd deduction was upheld on development, clarifying that deduction can be more or less of 1/3rd depending upon facts of the case.

(f) In *Land Acquisition Officer vs. Nookala Rajamallu and others*, (2003) 12 SCC 334, Court upheld 53% deduction.

(g) In *V. Hanumantha Reddy (Dead) Versus Land Acquisition Officer*, (2003) 12 SCC 642, Court upheld 37% deduction towards development.

(h) In *Viluben Jhalejar Contractor Versus State of Gujarat*, (2005) 4 SCC 789, Court observed that deduction of 20 to 50% towards development is permissible.

(i) In *Atma Singh Versus State of Haryana and another*, (2008) 2 SCC 568, 20% deduction towards largeness of area was applied.

(j) In *Subh Ram and others Vs. State of Haryana and others (supra)*, Court observed that where valuation of a large area of agricultural or undeveloped land has to be determined on the basis of sale price of a small developed plot, standard deductions would be 1/3rd towards infrastructural space and 1/3 towards infrastructural developmental cost, i.e. 2/3rd % i.e. 67%.

(k) In *Andhra Pradesh Housing Board Versus K. Manohar Reddy and others*, (2010) 12 SCC 707, it was observed that deductions on account of development could vary between 20% to 75%.

(l) In Special Land Acquisition Officer and another Versus M.K. Rafiq Sahib, (2011) 7 SCC 714, Court was upheld 60% deduction.

95. In this background of authorities, Court in Chandrashekar Versus Land Acquisition Officer (supra), observed that quantum of deduction towards development is on account of two components. In this regard it said in para 19.1 and 19.2 as under :

" 19.1. 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. 19.2 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."

96. Having said so Court in para 23 said:-

"23. 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."

97. The above principles have further been followed and reiterated in Atma Singh Versus State of Haryana and another (supra), Nirmal Singh Versus State of Haryana 2015 (2) SCC 160 and Major General Kapil Mehra and others Vs. Union Of India and another 2015 (2) SCC 262.

98. The decisions of this Court in National Thermal Power Corporation through its General Manager 2015 (4) ADJ 537 (All.) and Power Grid Corporation of India Vs. State of U.P. and others 2015 (5) ADJ 138 (All.) also reiterate the said principles.

99. In *Sabha Mohammed Yusuf Abdul Hamid Mulla (d) by LRS and others vs. Special Land Acquisition Officer and others* (2012) 7 SCC 595 Reference Court while determining market value observed that though land was agricultural but had non-agricultural potential and determined market value. High Court made a deduction of 15% towards development charges.

100. Referring to an earlier decision in *Viluben Jhalejar Contractor vs. State of Gujrat*, (2005) 4 SCC 789, Court in *Sabha Mohammed Yusuf Abdul Hamid Mulla (supra)* said that development charges may range between 20% to 50% of the total price. Court further observed:

"in fixing market value of the acquired land which is undeveloped and under-developed the courts have generally approved deduction of 1/3rd of the market value towards development cost except when no development is required to be made for implementation of the public purpose for which land is acquired."
(emphasis added)

101. In making this observation Court relied on its earlier decisions in *Kasturi vs. State of Haryana (supra)*, *Tejumaal Bhojwani vs. State of U.P.*, (2003) 10 SCC 525, *V. Hanumantha Reddy vs. Land Acquisition Officer and Mandal Revenue Officer (supra)*, *H.P. Housing Board vs. Bharat S. Negi*, (2004) 2 SCC 184 and *Kishan Tandon vs. Allahabad Development Authority*, (2004) 10 SCC 745, *Lal Chand vs. Union of India (supra)*, *A.P. Housing Board vs. K. Manohar Reddy*, (2010) 12 SCC 707 and *Subh Ram vs. State of Haryana (supra)*.

102. In *Ashrafi and others Vs. State of Haryana and others*, (2013) 5 SCC 527, Court has observed, if acquired land has potentiality, it would not be justified to apply "belting system".

103. Recently above authorities and several others have been considered in *Major General Kapil Mehra Vs. Union of India* and another (*supra*), and Court has observed that while fixing market value of acquired land, Land Acquisition Collector is required to keep in mind the following factors:-

(i) Existing geographical situation of land.

(ii) Existing use of land.

(iii) Already available advantages, like proximity to National or State Highway or road and/ or developed area,

(iv) Market value of other land situated in the same locality/ village/ area or adjacent or very near the acquired land.

104. Court has further said that market value is determined with reference to the market sale of comparable land in the neighbourhood by a willing seller to a willing buyer on or before the date of preliminary notification i.e. under Section 4(1) of 1894 Act, as that would give a fair indication of market value.

105. With respect to factors of comparable sales, Court in Major General Kapil Mehra Vs. Union of India and another (supra) has referred to its earlier decision in Urban Water Supply and Drainage Board and Others Versus K.S. Gangadharappa and another, (2009) 11 SCC 164, and has observed that element of speculation is reduced to minimum if underlying principles of fixation of market value with reference to comparable sales are satisfied, i.e., (i) when sale is within a reasonable time of the date of notification under Section 4(1); (ii) it should be a bona fide transaction; (iii) it should be of the land acquired or of the land adjacent to the land acquired; and (iv) It should possess similar advantages.

106. Where there are several exemplars showing different rates, it has been said that averaging is not permissible, if land acquired are of different types and different locations. But where there are several sales of similar land, more or less, at the same time, prices whereof have marginal variation, averaging thereof is permissible. It is further held that for the purpose of fixation of fair and reasonable market value of any type of land, abnormally high value or abnormally low value sales should be carefully discarded. If number of sale deeds of the same locality and of same period with short intervals are available, average price of available number of sale deeds shall be considered as a fair and reasonable market price. Ultimately, it is in the interest of justice for land losers to be awarded fair compensation. All attempts should be taken to award fair compensation to the extent possible on the basis of their accessibility to different kinds of roads, locational advantages etc.

107. 'Freehold land' and 'leasehold land', both these terms are conceptually different. If a property, subject to lease and in possession of a lessee, is offered for sale by owner to a prospective private purchaser, the purchaser being aware that on purchase he will get only title and not possession and that the sale in his favour will be subject to encumbrance namely, the lease, he will offer a price taking note of the encumbrances. Naturally, such a price would be less than the price of a property without any encumbrance. But when a land is acquired free from encumbrances, market value of the same will certainly be higher.

108. In Urban Water Supply and Drainage Board (supra), Court also considered deductions towards competitive bidding and development. In paragraph no. 39, Court said:

"We have referred to various decisions of this Court on deduction towards development to stress upon the point that deduction towards development depends upon the nature and location of the acquired land. The deduction includes components of land required to be set apart under the building rules for roads, sewage, electricity, parks and other common facilities and also deduction towards development charges like laying of roads, construction of sewerage."

109. Thus, having gone through all the aforesaid decisions, we find that no absolute principle or Rule of Thumb has been laid down in any of the authorities as to how much deduction should be made. The substance of all the decisions is that deduction should be applied where undeveloped and under-developed land is acquired and it can vary from 10% to 70%, depending upon various factors of each case. Similarly, if area of land exemplar is very small, appropriate deduction can be made.

110. Normally, Courts have held that exemplars should be such which are before the date of notification under Section 4(1) of Act, 1894 but an exemplar sale deed of a subsequent period of date of acquisition notification is not completely ruled out to be relevant document provided circumstances to justify the same are available.

111. In State of U.P. Vs. Major Jitendra Kumar and others, AIR 1982 SC 876, notification under Section 4 was published on 6.1.1948. Court determined rate of compensation relying on a sale deed dated 11.7.1959, i.e., a document executed after almost three and half years after the date of acquisition notification. Court upheld reliance of such document observing, if there is no material to show that there was any fluctuation in market rate between the date of acquisition and the date of concerned sale deed, such document may be considered as a relevant material in absence of any other apt evidence. This view was followed in a subsequent decision, i.e., Administrator General of West Bengal Vs. Collector, Varanasi, AIR 1998 SC 943, where it is held:

"Such subsequent transactions which are not proximate in point of time to the acquisition can be taken into account for purposes of determining whether as on the date of acquisition there was an upward trend in the prices of land in the area. Further under certain circumstances where it is shown that the market was stable and there were no fluctuations in the prices between the date of the preliminary notification and the date of such subsequent transaction, the transaction could also be relied upon to ascertain the market value."

112. Recently a Division Bench decision of this Court Meerut Development Authority through Its Secretary vs. Basheshwar Dayal 2013 (3) UPLBEC 2469 has crystallized legal principles settled in various judgments, relevant for determination of market value, as under:

- (i) Function of the Court in awarding compensation under the Act is to ascertain the market value of the land on the date of the notification under Section 4(1),
- (ii) The method for determination of market value may be :
 - (a) Opinion of experts,
 - (b) the price paid within a reasonable time in bona fide transactions of purchase of the lands acquired or the lands adjacent to the lands acquired and possessing similar advantages,
 - (c) a number of years purchase of the actual or immediately prospective profits of the land acquired.

(Ref. Jawajee Nagnatham Vs. Revenue Divisional Officer & others (supra), para 5).

(iii) While fixing the market value of the acquired land, comparable sales method of valuation is preferred than other methods of valuation of land such as capitalisation of net income method or

expert opinion method. Comparable sales method of valuation is preferred because it furnishes the evidence for determination of the market value of the acquired land at which a willing purchaser would pay for the acquired land if it had been sold in the open market at the time of issue of notification under Section 4 of the Act. However, comparable sales method of valuation of land for fixing the market value of the acquired land is not always conclusive but subject to the following factors:-

- (a) Sale must be a genuine transaction,
- (b) the sale deed must have been executed at the time proximate to the date of issue of notification under Section 4 of the Act,
- (c) the land covered by the sale must be in the vicinity of the acquired land,
- (d) the land covered by the sales must be similar to the acquired land
- (e) the size of plot of the land covered by the sales be comparable to the land acquired.
- (f) if there is dissimilarity in regard to locality, shape, site or nature of land between land covered by sales and land acquired, it is open to the Court to proportionately reduce the compensation for acquired land.
- (iv) The amount of compensation cannot be ascertained with mathematical accuracy. A comparable instance has to be identified having regard to the proximity from time angle as well as proximity from situation angle. For determining the market value of the land under acquisition, suitable adjustment has to be made having regard to various positive and negative factors vis-a-vis the land under acquisition which are as under : -

Positive factors Negative factors

- (i) Smallness of size
- (i) Largeness of area
- (ii) Proximity to a road.
- (ii) Situation in the interior at a distance from the road.
- (iii) Frontage on a road.
- (iii) Narrow strip of land with very small frontage compared to depth.

(iv) Nearness to developed area.

(iv) Lower level requiring the depressed portion to be filled up.

(v) Regular shape.

(v) Lower level requiring the depressed portion to be filled up.

(vi) Level vis-a-vis land under acquisition.

(vi) Some special disadvantageous factor which would deter a purchaser.

(vii) Special value for an owner of an adjoining property to whom it may have some very special advantage.

(v) For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into state of actuality.

(vi) Deduction not to be done when land holders have been deprived of their holding 15 to 20 years back and have not been paid any amount.

(vii) In fixing market value of the acquired land, which is undeveloped or under-developed, the Courts have generally approved deduction of 1/3rd of the market value towards development cost except when no development is required to be made for implementation of the public purpose for which land is acquired. [Ref. Valliyammal and another Vs. Special Tahsildar Land Acquisition (supra)].

(viii) When there are several exemplars with Reference to similar lands, it is the general rule that the highest of the exemplars, if it is satisfied, that it is a bona fide transaction has to be considered and accepted. When the land is being compulsorily taken away from a person, he is entitled to the highest value which similar land in the locality shown to have fetched in a bona fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition. [Ref. Mehrawal Khewaji Trust Vs. State of Punjab 2012 (117) R.D. 289].

(ix) In view of Section 51A of the Act certified copy of sale deed is admissible in evidence, even the vendor or vendee thereof is not required to examine themselves for proving the contents thereof. This, however, would not mean that contents of the transaction as evidenced by the registered sale deed would automatically be accepted. The legislature advisedly has used the word 'may'. A discretion, therefore, has been conferred upon a Court to be exercised judicially, i.e., upon taking into consideration the relevant factors. Only because a document is admissible in evidence, the same by itself would not mean that the contents thereof stand proved. Having regard to the

other materials brought on record, the Court may not accept the evidence contained in a deed of sale. (Ref. Cement Corpn. Of India Ltd. Vs. Purya and others (2004) 8 SCC 270, para 28 and 38,).

(x) While fixing the market value of the acquired land, the Land Acquisition Collector is required to keep in mind the following factors : -

(a) Existing geographical situation of the land.

(b) Existing use of the land.

(c) Already available advantages, like proximity to National or State Highway or road and/ or developed area,

(d) Market value of other land situated in the same locality/ village/ area or adjacent or very near the acquired land.

(xi) Section 23(1) of the Act lays down what the Court has to take into consideration while Section 24 lays down what the Court shall not take into consideration and have to be neglected. The main object of the enquiry before the Court is to determine the market value of the land acquired. The market value is the price that a willing purchaser would pay to a willing seller for the property having due regard to its existing condition with all its existing advantages and its potential possibilities when led out in most advantageous manner excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. The determination of market value is the prediction of an economic event viz. a price outcome of hypothetical sale expressed in terms of probabilities. For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into state of actuality.

(xii) The question whether a land has potential value or not, is primarily one of fact depending upon its condition, situation, user to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like water, electricity, possibility of their further extension, whether near about town is developing.

(xiii) In fixing market value of the acquired land, which is undeveloped or under-developed, the Courts have generally approved deduction of 1/3rd of the market value towards development cost except when no development is required to be made for implementation of the public purpose for which land is acquired. Deduction of "development cost" is the concept used to derive the "wholesale price" of a large undeveloped land with Reference to the "retail price" of a small developed plot. The difference between the value of a small developed plot and the value of a

large undeveloped land is the "development cost". (Ref. paras 16, 17, 18, 21 and 22, Sabhia Mohammed Yusuf Abdul Hamid Mulla (dead) and others (supra).

113. In the light of above exposition of law we may find out whether question of market value of acquired land has rightly been adjudicated by Reference Court or not.

114. Here, we would also like to observe that these appeals have actually arisen from acquisition of land of respondent(s), who is/are basically farmer(s). The State, in exercise of its statutory powers, has taken away valuable source of earning livelihood and rather the only source of livelihood available to respondent(s), and in lieu thereof, compensation is sought to be paid. It is true that acquisition of land is a statutory right of State and therefore, respondent(s), by itself, may not oppose it successfully. But the fact remains that action of State has deprived respondents from having the solitary means of earning livelihood, which is being pursued, by farmer(s), normally from generation to generation. The cash amount, paid to them, does not result, normally, in acquisition of another land by these persons. Experience has shown that most of time, cash money is spent on material luxuries and thereafter these poor farmers, deprived of their land, come on road, find it difficult to sustain a bare two times meal for themselves as also the family. The conflict of development of nation and right of individual relating to his very sustenance, has a long chequered history of litigation as also legislation, giving rise to multifarious amendments in Land Acquisition Act. Now, a new enactment has come up.

115. The fact remains that agricultural land is continuously reducing though population of country is increasing and thereby creating another complication in the field of agricultural produce. The Court also finds that in the matter of compensation, if amount, thought to be adequate by State, is not accepted by Court below and compensation is increased, almost invariably land holders/farmers are dragged to higher Courts with continued litigation, which result in exhaustion of such person(s) not only in respect of their labour and energy but residuary worth and financial capacity etc. also. Sufficient amount of compensation, they are compelled to spend, in such litigation also.

116. The appeals normally are filed by State and its instrumentalities, as a matter of course, without any proper initial scrutiny whether it is worth filing or not and that is how a very huge chunk of appeal, in such matters, are filed by State against land holders/farmers, who are already denuded of their most valuable possession i.e. land/agricultural land. State has constitutional obligation of a welfare State, must think over such aspect seriously. There should be an honest attempt to curtail frivolous, unfruitful litigation, particularly, if it can save innocent and poor citizens from litigious harassment.

117. In the present bunch of appeals, we find that total land acquired by State of Uttar Pradesh for the purpose of UPSIDCL is more than 26100 decimal. SLAO has determined compensation for land to the tune of Rs.2,43,42,238.70 and average market value comes to around Rs.932/- per decimal. Area of acquired land of different landowners vary from 1 decimal to more than 658 decimal. In 95 appeals preferred by UPSIDC, about 40 landowners own land, area whereof is less than 100 decimal while in others, it is 100 decimal or more and in some matters, even more than 500 decimal. Location of acquired land is appurtenant to Varanasi-Jaunpur National Highway and it is on both

sides. Acquired land admittedly had great potential of development for industrial and residential purpose, as observed by Reference Court and this fact is not disputed. The acquired land though is about 25 kms. from Varanasi city but it is near Babatpur International Airport. It is also true that at the time of acquisition of land, some part of land was Parti and rest was being used for agricultural purpose and mostly landowners were growing crop of rice on acquired land.

118. In our view, looking to peculiar facts of this case, it would not be appropriate to have different rates for each piece of land belong to different landowners, but, looking to the fact that area of acquired land of different landowners vary from less than 1 decimal to more than 500 decimal, uniform rate for entire land also would not be justified.

119. For the purpose of determining market value of Rs.5,115/- per decimal, where area of acquired land of landowner was 19 decimal, Reference Court has accepted exemplar sale-deed dated 22.12.1995 executed by one Ram Sagar of Arazi No.140, whereby 6.25 decimal land was transferred by sale at the rate of Rs.10,880/- per decimal. Reference Court allowed 53% deduction and thereby arrived at Rs.5,115/- per decimal.

120. Sri Chaturvedi, learned counsel for the appellant-UPSIDCL contended that in various other matters, lower market value have been determined and therefore, Reference Court in LAR No.3 of 2002 (First Appeal No.161 of 2010) was not justified in determining market value at Rs.5,115/- per decimal by allowing 53% deduction to the rate disclosed in sale-deed exemplar dated 22.12.1995. He pressed to consider those matters also at this stage.

121. In LAR no.77C of 2002 and some others, Reference Court has determined market value at Rs.3,838/- per decimal and award in LAR No.77C of 2007 is dated 8th April, 2009 passed by Sri Ram Achal Yadav, Additional District Judge, Court No.3, Varanasi. Therein landowner Ramjeet had one-half share in Arazi No.374 area 1.02 acre. Reference Court therein has relied on earlier award dated 28.04.2005 in LAR No.90 of 2002 wherein market value at Rs.3,838/- per decimal was determined on the basis of same sale deed exemplar dated 22.12.1995 but after allowing deduction at the rate of 65%.

122. Similarly, in LAR No.151 of 2002 (First Appeal No.257 of 2005) adjudicated by Sri B.D.Mishra, Additional District Judge, Court No.12, Varanasi, and some others, market value has been determined at Rs.1,800/- per decimal, wherein Reference Court has relied on the same exemplar sale deed dated 22.12.1995 but thereafter it has allowed 51% deduction for development of the land and 33-1/3% for other development work and thereby coming to Rs.1,700/- per decimal, but, adding Rs.100/- per decimal for the fact that the land is appurtenant to road, market value at the rate of Rs.1,800/- per decimal has been determined. We find that the manner of deduction applied by the Reference Court to arrive at a rate of Rs.1,800/- per decimal is highly excessive and goes beyond the maximum deduction of 75%, as discussed in the above authorities.

123. In LAR No.129 of 2002 (First Appeal No.64 of 2006) and some others, Rs.1,700/- per decimal has been determined as market value by Reference Court though it has also relied on the same exemplar sale deed dated 22.12.1995 as is the basis of award dated 05.12.2009 in LAR No.3 of 2002

(First Appeal No.161 of 2010), which is the leading case in this bunch of appeals.

124. In LAR No.131 of 2002 (First Appeal No.493 of 2005) Sri Lal Bahadur Singh, Additional District Judge, Court No.9, Varanasi, in its award dated 17.01.2005 has determined market value at Rs.1,10,000/- per acre (Rs.1,100/- per decimal) and for the said purpose, relied on sale deed dated 24.08.1997 whereby Arazi No.1, area 1.64-1/2 acre was transferred by sale for consideration of Rs.1,05,000/- and the said document was relied by UPSIDCL before Reference Court. In our view, when different exemplars are available before Reference Court in respect to same acquisition, the exemplar, which provide the highest rates must have been relied, as has been held in various authorities, discussed above, and, therefore, also determination of market value at Rs.1,100/- is not only highly inadequate but also does not show true market value of land in dispute and cannot be accepted.

125. In LAR No.152 of 2002 (First Appeal No.48 of 2011), Sri Dinesh Kumar Singh, Additional District Judge, Court No.10, Varanasi, in its award dated 16.10.2010, has determined market value at Rs.1,85,725.79 per acre (Rs.1,857/- per decimal). Here also the Reference Court has accepted determination of market value by SLAO at the rate of Rs.1,857/- per decimal and determined the same though it has referred to other award dated 28.04.2005 in LAR No.90 of 2002 wherein market value was determined at the rate of Rs.3,838/- by applying 65% deduction in the rates arrived from sale deed exemplar dated 22.12.1995 but has not followed the same without giving any cogent reason.

126. In LAR No.82 of 2002 (First Appeal no.311 of 2005) Sri S.B.Pandey, Additional District Judge, Court No.8, Varanasi, in its award dated 27.11.2004 has determined market value at Rs.2,20,000/- per acre (Rs.2,200/- per decimal). This value has been determined by Reference Court after taking into consideration a sale deed exemplar dated 02.07.1998 executed by one Jokhan transferring land at the rate of Rs.5,33,333.33 per acre. Reference Court has allowed 60% deduction on the sale consideration and thereafter has determined market value at Rs.2,20,000/- per acre (Rs.2,200/- per decimal).

127. In nutshell, what we find that since different References came to be considered for adjudication before different Reference Courts, the approach of Courts has been different though there was no justification for applying different yardstick in respect of the land, which is subject matter of acquisition under the same notification and having same potential for development etc. If there is a sizable difference in the area of land of different landowners and the area of land which is subject matter of sale deed exemplar, ultimately accepted for determining market value, then there may be a reasonable deduction but that too cannot be so substantial so as to cause substantive injustice to the person, who has larger area of land. A person, whose larger area of land is acquired cannot be made to suffer qua landowners having smaller area of land acquired, by determining market value at such rate, so that compensation to the landowner whose acquired land is larger in size gets reduced and sometimes may become lessor to the amount of compensation paid to the landowners whose area of land acquired is much smaller. A pragmatic, reasonable and equitable balance has to be made in this regard.

128. Broadly, sale deed exemplar dated 22.12.1995 has been accepted in most of the LARs and it is also evident that acquisition notification under Section 4(1) of Act, 1894 is of 19th May, 1998 i.e. after more than two years and 6 months from the date of the execution of sale deed exemplar dated 22.12.1995 yet instead of applying any increase, a flat deduction of high magnitude has been applied by the Courts thereby, in our view, already a considerate view has been shown in favour of UPSIDCL.

129. When questioned, learned Senior Counsel Sri Chaturvedi could not point out any apparent discrepancy in the award dated 05.12.2009 in LAR No.3 of 2003 (First Appeal no.161 of 2010) wherein, for an area of 19 decimal of acquired land, market value has been determined by Reference Court at Rs.5,115/- per decimal relying on sale deed exemplar, which pertains to land measuring 6-1/4 decimal. Therefore, in our view, in all the cases, where area of acquired land of different landowners is upto 250 decimal, market value at Rs.5,115/- per decimal would be justified and we do not find any valid reason to make distinction in every separate piece of land for the purpose of compensation, particularly when entire land has been acquired under same acquisition notification and has same kind of potential for development.

130. However, in all those cases where acquired land of different landowners is more than 250 decimal, deduction for largeness of area should be applied at the rate of 58%, which will bring market value at Rs.4,570/- per decimal.

131. Before parting, we find it appropriate to observe that this bunch of appeals has disclosed startling facts that land acquisition references in respect of same acquisition proceedings are posted for adjudication in different Courts and have resulted in determination of different market values though land acquired is in the same acquisition proceedings and other facts are similar. Since the same pertains to same acquisition proceedings, all such matters should have been heard and decided in one Court.

132. We, therefore, direct Registrar General to take appropriate steps on administrative side and get a letter/circular issued to concerned District Judges that all land acquisition reference(s) arising from same acquisition proceedings must be placed in one Court so that there may not be any divergent views and different judgments, determining different market value of land, which is subject matter of same acquisition proceedings, causing injustice to landowners and also results in unnecessary delay in finalization of proceedings, besides multiplicity of litigation. The appropriate circular/direction in this regard shall be issued without any further delay and expeditiously, and in any case, within two months from today.

133. In view of the above, all the appeals preferred by UPSIDCL are hereby dismissed. All the appeals preferred by claimant-landowners i.e. First Appeal Nos.368 of 2007, 39 of 2009, 737 of 2012, 90 of 2014, 782 of 2014 and 251 of 2016 are partly allowed. Judgments and awards impugned in the appeals of landowners shall stand modified accordingly.

134. The amount towards solatium, additional interest, as awarded by Reference Court, is maintained.

Order Date :- 16.4.2018

KA

(Shashi Kant,J.)

(Sudhir Agarwal,J.)