

SUPREME COURT OF INDIA

Ashrafi

Vs.

State of Haryana

C.A.Nos.3279-3287 of 2013

(Altamas Kabir CJI. and J. Chelameswar JJ.)

11.04.2013

JUDGMENT

ALTAMAS KABIR, CJI.

1. All these matters involve a common question relating to claims for enhancement of compensation in respect of lands acquired under the Land Acquisition Act, 1894, hereinafter referred to as the 1894 Act, in several States, such as, Punjab, Haryana, Madhya Pradesh, Andhra Pradesh and the Union Territory of Chandigarh. In some of the Special Leave Petitions, leave has already been granted and they have been listed as Civil Appeals. Leave is also granted in all other Special Leave Petitions which are being heard together in this batch of matters.

2. For the sake of convenience, we have taken up the batch matters State- wise. The major number of cases are from the States of Punjab and Haryana and, accordingly, it was decided to take up the said matters first. We have, therefore, heard the matters relating to the State of Haryana before the other matters and for the said purpose, we have also selected some specific matters, the decision wherein would also govern the rest. Since in the State of Haryana, the lands acquired were from different districts, such as Faridabad, Ambala, Fatehabad, Hisar, Sonapat and Kurukshetra and under different Notifications published under Section 4 of the 1894 Act, we took up the individual cases of Ashrafi and Others vs. State of Haryana Ors. Others, being SLP(C)Nos.24704-24712 of 2007, relating to the Notification dated 2nd August, 2009, and Sailak Ram (D) Tr. LRs. Ors. vs. State of Haryana Ors., being SLP(C)No.28686 of 2010, relating to the Notification dated 7th September, 1992, in respect of the lands situated in Faridabad. In

addition, we also took up SLP(C)No.18588 of 2006 filed by the State of Haryana against Surinder Kumar and Others, in respect of the Notification dated 26th May, 1981, relating to the lands situated within the District of Ambala. Another matter relating to the District of Ambala, namely, State of Haryana vs. Manohar Lal Khurana, being SLP(C)No.11527 of 2007, relating to the Notification dated 2nd February, 1989, was also taken up separately. As far as the lands relating to the District of Hisar are concerned, the Special Leave Petition filed by the State of Haryana against Partap Singh and Another, being SLP(C) No.21597 of 2006, relating to the Notification dated 21st March, 1991, was taken up for separate hearing as also some of the cases involving lands in Sonapat, Kurukshetra Districts, in respect of the Notifications published under Section 4 of the 1894 Act, dated 20th April, 1982 and 17th September, 1993, respectively.

3. Some of the Special Leave Petitions (now Appeals) have been filed by the State of Haryana, which is equally aggrieved by the enhancement of the compensation assessed in reference under Section 18 of the 1894 Act. As would be evident shortly, the High Court almost on a uniform basis awarded compensation at the rate of Rs.235/- per sq. yard notwithstanding the type of land involved. Although a distinction had been made between chahi lands, pahar gair mumkin lands and gair mumkin lands while assessing compensation, ultimately, a uniform rate was awarded in respect of the different types of lands which had been acquired. Different reasons have been given by the High Court in arriving at the uniform figure of Rs.235/- per sq. yard, but what is important is that ultimately by applying different methods, the compensation worked out to be same.

4. In the case of Smt. Ashrafi Ors., arising out of RFA No.99 of 1997 decided by the Punjab and Haryana High Court on 21st May, 2007, along with several other similar appeals, lands measuring 184.66 acres in village Mewla, Maharajpur, District Faridabad, were acquired for the development of Sector 45 in Faridabad. Notification was published under Section 4 of the 1894 Act on 2nd August, 1989. The Land Acquisition Collector awarded compensation at the rate of Rs.3,50,000/- per acre for chahi lands and Rs.1,50,000/- per acre for other lands. On a reference made by the land owners to the learned District Judge, Faridabad, under Section 18 of the 1894 Act, the Reference Court fixed the compensation at Rs.45/- per sq. yard against which the parties moved the High Court in First Appeal.

5. One of the other cases which was taken up separately was that of Smt. Kamlesh Kumari vs. State of Haryana Anr., being SLP(C)No.28613-28642 of 2010, wherein 486.61 acres of land in village Mewla, Maharajpur, were also acquired.

6. Coming back to the decision in Ashrafi's case, the High Court fixed the compensation at Rs.220/- per sq. yard in respect of the lands situated in village Mewla, Maharajpur, acquired for the purpose of establishing Sector 45, Faridabad.

7. It was sought to be urged that the compensation assessed was extremely low in comparison to the compensation awarded in respect of the lands acquired in the same area and under the same Notification under Section 4 of the 1894 Act. It was urged that the learned Single Judge in the High Court had wrongly assessed compensation at Rs.220/- per sq. yard, when in respect of the lands acquired under the same Notification dated 28th August, 1989, the learned District Judge had fixed the market value at Rs.328.50 per sq. yard and also at Rs.337/- per sq. yard, in respect of the lands acquired under a Notification issued in July, 1987.

8. In Smt. Kamlesh Kumari's case, it was urged by Mr. J.L. Gupta, learned Senior Advocate, that while the Collector had awarded Rs.1,96,000/- per acre in respect of the acquired lands, the Reference Court enhanced the same to Rs.325/- per sq. yard, which would be equivalent to Rs.15,73,000/- per acre. The High Court, however, reduced the rate from Rs.325/- per sq. yard to Rs.90/- per sq. yard, which would be equivalent to approximately Rs.4,35,000/- per acre. Letters Patent Appeals filed against the said decision of the learned Single Judge were dismissed and the matter ultimately came up to this Court in Civil Appeal No. 9808 of 2003, and the case was remanded to the Reference Court for a fresh determination. After remand, the Reference Court, by its Order dated 12th January, 2008, assessed the compensation at Rs.238/- per sq. yard. In appeal, after considering the decision of a learned Single Judge of the same Court in Sailak Ram's case, referred to hereinabove, the learned Judge determined the compensation at Rs.280/- per sq. yard. In fact, it was pointed out by Mr. Gupta that in Sailak Ram's case, different amounts were awarded as compensation in respect of lands comprised in village Mewla, Maharajpur, acquired under the Notification dated 2nd August, 1989. It was finally held that the market rate for the acquired properties would be Rs.280/- per sq. yard, along with all statutory benefits, as per the provisions of the 1894 Act.

9. Mr. Gupta urged that even the enhancement made by the High Court was not adequate in view of the compensation awarded in other cases, in respect of the lands comprised in the same village. It was highlighted that in Pritam Singh's case, compensation had been awarded at the rate of Rs.435/- per sq. yard. Even in the case of lands situated in village Ajronda acquired under Notification dated 5th June, 1992, for the development of Sector 20-B, Faridabad, compensation had been

awarded at Rs.392.50 per sq. yard. Mr. Gupta submitted that, in such circumstances, the compensation should have been assessed, if not at the said rate, at least at a figure near about the said rate. Mr. Gupta submitted that in yet another case regarding lands acquired from the same village by Notification dated 30th July, 1987, for constructing a link road from Delhi-Mathura road to Sector 46, Faridabad, compensation awarded was at the rate of Rs.337.20 per sq. yard.

10. Mr. Gupta lastly referred to the decision of this Court in *State of Haryana vs. Gurbax Singh (Dead) By LRs.* Anr. [(2008) 11 SCC 65], in which the decision of this Court in another case, viz., *Union of India vs. Harinder Pal Singh* [(2005) 12 SCC 564] was referred to and quoted. In paragraph 15 thereof, it was indicated that the entire area was in a stage of development and the different villages were capable of being developed in the same manner, as lands situated elsewhere. Mr. Gupta submitted that in the said decision, an enhancement of compensation by adding 12% per annum for a period of two years, was duly accepted by this Court. It was, therefore, submitted that the compensation awarded by the High Court was required to be revised in parity with the compensation awarded in respect of the other lands comprised in the same village, in line with the observations made by this Court in *Sailak Ram's* case and also in *Smt. Kamlesh Kumari's* case.

11. One of the other sets of cases, viz., *Sucha Singh Ors. vs. Collector, Land Acquisition Ors.*, being SLP(C)Nos.1678-1697 of 2010, were taken up separately, at the instance of Mr. R.K. Kapoor, learned Advocate, appearing for the Appellants-Claimants. According to Mr. Kapoor, the submissions made on behalf of the Appellant, *Sucha Singh*, would also cover SLP(C)Nos.13529-13549 of 2011, *Surjit Kaur Ors. vs. Collector, Land Acquisition and Colonisation Ors.*, SLP(C)Nos. 15508-15511 of 2011, *Joginder Singh Ors. vs. Land Acquisition Collector Ors.*, and SLP(C)..CC 2620 of 2011, *Mehar Singh (D) Tr. LRs. Ors. vs. Collector, Land Acquisition and Colonisation Department.*

12. Mr. Kapoor contended that the Notification under Section 4 was issued on 10th February, 1984, for acquisition of 79 acres and 5 kanals of land in village Talwandi Bhai, District Ferozepur, for the purpose of construction of a new grain market. In respect of such acquisition, the Land Acquisition Collector awarded compensation to the land owners at the rate of Rs.40,000/- per acre, which was enhanced by the Reference Court to Rs.4,60,000/- up to 1 killa and to Rs.4,00,000/- beyond one killa. On appeal to the High Court, the amounts were reduced. Special Leave Petitions were, thereafter, filed against the said Order in this Court. While issuing notice on 5th January, 2010, confined to the question of deduction, this Court

directed stay of recovery of the amounts already paid by way of compensation to the Petitioners therein.

13. Mr. Kapoor contended that having regard to certain plots which were auctioned by the Municipal Committee before acquiring the lands in question, the average rate in respect of various plots was Rs.30,000/- per marla and Rs.6,00,000/- per kanal, which would mean that the value of the land would be Rs.48,00,000/- per acre. Mr. Kapoor submitted that, since apart from the above, sale deeds are also a reliable indicator of the land value in a particular area, if the market value is not taken at Rs.48,00,000/- per acre, the value of sale transactions during the same period could also be taken into consideration in determining the compensation. According to Mr. Kapoor, the High Court took the average value of such transactions for the period 19th September, 1980 up to 3rd June, 1983. The average sale price was found to be Rs.6,23,997/- per acre, which would, therefore, be the market value of the land during the period in question. An added increase of 12% per annum would give a figure of Rs.7,82,746/- per acre. Accordingly, on the date of the Notification under Section 4 of the 1894 Act, i.e., 10th February, 1984, the market value of the land would be Rs.7,82,746/- per acre, even if the auction price of Rs.48,00,000/- per acre is not taken into consideration. Mr. Kapoor submitted that the lands in question fell within the Municipal limits of Talwandi Bhai and no development would be required since the lands had been acquired for constructing a new grain market only. Hence, a deduction of 40% was unjustified in the circumstances. Mr. Kapoor, therefore, prayed that even if the final figure of the market value, as determined by the High Court, i.e., Rs.6,23,997/-, is taken into consideration, then also by adding 12% per annum to the said figure, the compensation would amount to Rs.7,82,746/- per acre.

14. In one of the other matters, Surinder Kumar vs. State of Haryana, being SLP(C) Nos.16372-16404 of 2008, 250.51 acres of land situated in village Patti Mehar, Saunda and Jandli in Ambala District, covered by Notification dated 26th May, 1981, were intended to be acquired for development and utilisation of residential areas for an Urban Estate in Ambala. Three Awards were made by the Land Acquisition Collector. When Award No. 4 was pronounced on 27th June, 1984, the market value of the acquired lands was assessed at Rs.52,000/- per acre, thereafter, two further awards were pronounced wherein some other chahi lands were assessed at Rs.34,500/- per acre, barani land was assessed at Rs.27,520/- per acre and banjar and gair mumkin land was assessed at Rs.13,760/- per acre. On reference, the Reference Court enhanced the market value of the acquired lands to Rs.57,000/- per acre. Subsequently, however, another Reference Court assessed the

market value of the acquired lands at Rs.3,38,800/- per acre. Being dissatisfied with the orders of the Reference Courts, the parties approached the High Court. The State of Haryana also filed appeals relating to the judgment of 6th May, 1992. In the appeals filed by the claimants, they claimed that the acquired land was liable to be assessed at Rs.300/- per sq. yard. The Division Bench of the Punjab and Haryana High Court accepted the contention of the land owners and directed that they would be entitled to the market rate at Rs.110/- per sq. yard for the acquired land, together with all statutory benefits, as per the amended provisions of the Act. The appeals filed by the State of Haryana were dismissed.

15. Appearing for the Appellants, Ms. Indu Malhotra, learned Senior Advocate, submitted that though the compensation was enhanced by the Division Bench from Rs.70/- per sq. yard to Rs.110/- per sq. yard, there was no basis for fixing the value at the said rate. Ms. Malhotra urged that the said rate was fixed despite the fact that a Conveyance of the year 1973 i.e. earlier than the date of acquisition (26.5.1981), had been produced by the Appellants. Apart from the above, Sale Deeds of 1981 were also produced which showed the value of the lands to be Rs.209-213/- per sq. yard. Ms. Malhotra urged that it would be evident from the above that the High Court has erred in fixing the rate of compensation at Rs.110/- per sq. yard, without any basis whatsoever, when Sale Deeds of even previous years and years contemporaneous to the acquisition, indicated a much higher valuation in respect of the acquired lands. Ms. Malhotra submitted that the valuation of the acquired lands was liable to be enhanced in a manner which was commensurate with the value of the lands, as would be evident from the various Sale Deeds produced on behalf of the Appellants.

16. Mr. Manoj Swarup, learned Advocate, appeared in several of the matters relating to acquisition of the lands in Hisar, covered by various Notifications issued under Section 4 of the 1894 Act. Mr. Swarup, firstly, referred to the case of *Atam Singh Anr. vs. State of Haryana Ors.*, being SLP(C)Nos.33337-33340 of 2010, involving lands measuring 112 kanals and 12 marlas situated in village Basti Bhiwan, Tehsil Fatehabad, District Hisar, notified for acquisition for establishing new fruit, vegetable and fodder market, under Section 4 of the aforesaid Act. Mr. Swarup also referred to the case of *Sarwan Singh vs. State of Haryana Anr.*, being SLP(C)Nos.20144-20150 of 2007, involving lands measuring 429.75 acres of land, which is the subject matter of a Notification dated 21.03.1991, under Section 4 of the above Act for the development of a part of Sectors 11, 13, 15, 16 and 17, Hisar, Haryana. Reference was also made to the case of *Mukesh Kumar vs. State of Haryana Ors.*, being SLP(C)No.19668 of 2006, involving lands measuring 227.44

acres in Hisar, which was the subject matter of Notification dated 20.08.1992, under Section 4 of the above Act for use as a residential sector by Haryana Urban Development Authority (HUDA). Mr. Swarup, lastly, referred to the case of Mukesh vs. State of Haryana Anr., being Civil Appeal Nos. 319-352 of 2011, involving lands measuring 157.20 acres situated in Fatehabad, District Hisar, under Notification dated 21.07.1993, also for residential and commercial purposes in Sector 3, Fatehabad.

17. In Atam Singh's case, Mr. Swarup, pointed out that the lands had been notified on 15.10.1987 for establishing a new fruit, vegetable and fodder market and that initially compensation was awarded at the rate of Rs.54.75 per sq. yard. Mr. Swarup pointed out that the land acquired in 1987 is adjacent to the land acquired subsequently in 1993. It was urged that the Reference Court had in its judgment found the potentiality of the suit land to be high having regard to the various developments, which had occurred in the said area and also for future development relating to a proposal for a truck union and auto market. Certain contemporaneous private sales, for the purpose of comparison, had been filed, which were accepted by the High Court, which had been held to be genuine, from which it would appear that there has been a steady increase in the valuation of the lands and the chart indicates that the price of land in the year 1989 was about Rs.200/- per sq. yard. The chart also demonstrates that two years later, the prices had doubled to about Rs.400/- per sq. yard. Taking the same to be a yardstick, Mr. Swarup submitted that the value of the land acquired in 1987 should be taken as the comparative unit and that the value of the land acquired in 1987 should, therefore, be assessed at Rs.100/- per sq. yard.

18. Mr. Swarup pointed out that the decision in Atam Singh's case was thereafter followed by the High Court in the case of Sarwan Singh Anr., being SLP(C)Nos.20144-20150 of 2007. As indicated hereinbefore, the said matter involved acquisition of 429.75 acres of lands similar to the lands acquired in Atam Singh's case. However, for the purpose of assessing the value of the land, the methodology followed was to add 12% annually towards the value of the lands for a period of six years, which is also one of the methods for arriving at a valuation taking a base year and, thereafter, computing the annual increase of the value at the accepted rate of 12% per annum.

19. The question which was raised was whether the same should be on the basis of a flat rate annually or by adding to the value at the rate of 12% per annum at a flat rate from the date of notification till the award. In these matters, a connected

question arose as to whether instead of flat rate the interest should be added cumulatively, which, according to Mr. Swarup, had been considered and decided in the affirmative by this Court in *General Manager, Oil and Natural Gas Corporation Limited vs. Rameshbhai Jivanbhai Patel* Anr. [(2008) 14 SCC 745]. Mr. Swarup, therefore, urged that the compensation assessed at Rs.235/- per sq. yard on the basis of an annual increase of 12% was inadequate and the yearly escalation is required to be calculated on a cumulative basis.

20. In the case filed by Mukesh Kumar, being SLP(C)No.19668 of 2007, relating to acquisition of 227.44 acres under Notification dated 20.08.1992, Mr. Swarup pointed out that the decision had been arrived at on the reasoning in Sarwan Singh's case (supra) and Atam Singh's case, referred to hereinabove. Mr. Swarup urged that in Sarwan Singh's case, the High Court considered the location of the acquired lands and upon observing that they were situated next to prominent localities to the north of the acquired lands, it had no hesitation in arriving at the conclusion that the entire acquired land fell within the municipal limits of the District of Hisar with substantial potential for its development for residential and commercial purposes. Even the Division Bench in appeal, while rejecting the submissions made on behalf of the State, observed that having regard to the nature of the development of the surrounding areas, it would be improper to resort to the belting system and to award one set of compensation for the entire land.

21. Mr. Swarup then urged that in the case of *Udho Dass Vs. State of Haryana* Ors. [(2010) 12 SCC 51], this Court had the occasion to observe that although, in the 1894 Act provision has been made for the payment of solatium, interest and an additional amount, the same had not kept pace with the astronomical rise in land prices in many parts of India, and most certainly in North India, and the compensation awarded could not fully compensate for the acquisition of the land. This Court further observed that the 12% per annum increase which had often been found to be adequate in matters relating to compensation, hardly did justice to those land owners whose lands had been taken away and the increase was even at times up to 100% a year for land which had the potential of being urbanised and commercialised, such as in the present case.

22. Mr. Swarup pointed out that similar observations had been made by this Court in *General Manager, Oil and Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel* [(2008) 14 SCC 745], wherein similar views were expressed in a similar vein as in the earlier case that primarily the increase in land prices depends on four factors : (i) situation of the land, (ii) nature of development in surrounding

area, (iii) availability of land for development in the area, and (iv) the demand for land in the area. It was observed that in rural areas, unless there was any prospect of development in the vicinity, increase in prices would be slow, steady and gradual. On the other hand, in urban or semi-urban areas, where the development is faster and the demand for land is high and where there is construction activity all around, the escalation in market price is at a much higher rate, as compared to rural areas and in some pockets in big cities, due to rapid development and high demand for land, the escalation in prices have touched even 30% to 50% or more per year during the nineties.

23. In the light of his aforesaid submissions, Mr. Swarup submitted that although, the High Court had allowed yearly increase of 12%, taking 1983 as the base year, such increase was not commensurate with the yearly escalation of prices and the same was required to be calculated on a cumulative basis, as indicated in Rameshbhai Jivanbhai Patel's case (supra).

24. In regard to the 157.20 acres of land situated in Fatehabad, District Hisar, Haryana, acquired for utilisation and development of residential and commercial purposes in Sector-3, Fatehabad, by the Haryana Urban Development Authority (HUDA), the Collector had awarded compensation at a uniform rate of Rs.1,81,200/- per acre along with statutory benefits. As against the claim of the land owners that the market value was Rs.1000/- per square yard, the Reference Court determined the compensation at the uniform rate of Rs.206/- per square yard. The High Court modified the said award and awarded compensation at the rate of Rs.260/- per square yard for the land acquired up to the depth of 100 meters abutting National High Way No.10. The value of the rest of the acquired land was maintained at Rs.206/- per square yard. Mr. Swarup submitted that having regard to the sale instances for the years 1989 and 1991, wherein the prices had doubled, by the same equation the price of the land in 1993 should have been Rs.800/- per square yard. Urging that the High Court had erred in imposing a cut of 50% on the value, it was submitted that no cut was required to be imposed since the lands forming the subject matter of the sale instances formed part of the acquired land and was comprised in identically situated lands to the rest of the acquired land. Mr. Swarup submitted that at best the standard cut of 1/3rd would have been sufficient to balance the smallness of the exhibits and, in any event, the belting system resorted to by the High Court was erroneous in the light of the observations made by the High Court itself in Udho Dass and Rameshbhai Jivanbhai Patel (supra).

25. In regard to the lands forming the subject matter of C.A.Nos.3381-89 of 2011 and other connected matters (Smt. Jamna Bai Ors. Vs. State of Haryana), Mr. Anoop G. Choudhary, learned Senior Advocate, appearing for the Appellants, submitted that the price of the plots to be sold by auction by the municipality required an average of four sale transactions to be taken as a sale indice price of the lands in question. Mr. Choudhary urged that out of the four sale transactions taken into consideration the High Court erroneously chose the value of Rs.200/- per square yard, which ought not to have been taken for the purpose of determining the value of the lands acquired.

26. Mr. S.B. Upadhyay, learned Senior Advocate, who appeared for the Petitioners in four of the matters relating to the lands in question, submitted that if all the valuation available were taken together and an average was drawn, the valuation of the land would come to Rs.4572/- per square yard. Furthermore, deduction of 40% from the market value towards development charges was excessive and where the acquired land falls in the midst of already developed land, the reasonable deduction would be not more than 1/3rd of the assessed value of the land.

27. In this regard, reference was firstly made to the decision of this Court in Charan Dass Vs. Himachal Pradesh Housing and Urban Development Authority [(2010) 13 SCC 398], wherein quoting from the decision of this Court in Triveni Devi's case, this Court had observed that it had to be noted that in the Building Regulations, setting apart lands for development of roads, drainage and other amenities like electricity, etc., are condition precedent for approval of a layout for building colonies. Therefore, any deduction made should be based upon the situation of the land and the need for development. Where acquired land is in the midst of already developed land with amenities of roads, drainage, electricity, etc. then deduction of 1/3rd would not be justified. Reference was also made to the decision of this Court in Haridwar Development Authority Vs. Raghubir Singh Ors. [(2010) 11 SCC 581], wherein also, taking into consideration the various stages of development, this Court observed that appropriate deduction towards development costs could vary between 20% to 75% depending upon various factors, but that in the said case the deduction of 25% towards development cost was appropriate. Mr. Upadhyay also referred to the decision of this Court in Kasturi Ors. Vs. State of Haryana [(2003) 1 SCC 354], wherein also, as against the normal cut of 1/3rd from the amount of compensation, it was held that a cut of 20% towards development charges was justified.

28. Appearing for the State of Haryana in SLP(C)Nos.32764-32765 of 2011, Ms. Anubha Agarwal, learned Advocate, submitted that the disparity in the sale price of the different sale transactions was mainly on account of the different areas where the said lands were located. Furthermore, the sale transactions relied upon by the Petitioners/ Appellants related to only plots measuring about 60 square yards or so. On account of the above, the sale price of such transactions could not be taken to be an accurate assessment of the valuation of the lands which were acquired in bulk. What was also important was the level of development of the lands acquired. According to Ms. Agarwal, most of the lands forming the subject matter of the acquisition proceedings under different Notifications published under Section 4 of the 1894 Act, at different points of time, were agricultural in nature and comprised the interior portion of lands acquired which were not developed at all. The valuation of the said lands could not, in any way, be compared with the lands which were closer to the main roads and the developed zones and as such the High Court had wrongly relied upon the same in assessing the value of the extent of compensation for the lands forming the subject matter of the present proceedings.

29. Referring to the decision of the Reference Court, Ms. Agarwal pointed out that development work and/or construction had taken place alongside the roads, such as the National Highway, Tosham Road and Bhiwani Road and it was more or less established that the development in the acquired land was along the roads only and the entire acquired land was not a developed block. Even alongside the roads the development was not symmetrical or systematic, but at the same time, it also had to be recognised that the acquired land had potential for being developed for residential, commercial and/or industrial purposes as on the date of the Notification.

30. Referring to the decision of this Court in *Subh Ram Ors. Vs. State of Haryana Ors.* [(2010) 1 SCC 444], Ms. Agarwal pointed out that the factors determining percentage of deduction had nothing to do with the purpose for which the land was acquired, nor could the purpose of acquisition be used to increase the compensation awardable with reference to expected profits from future user. In the said judgment it was pointed out that Section 24 of the 1984 Act prohibits Courts from taking into consideration any increase in value of land acquired, or likely to accrue from use to which it is put when required. Ms. Agarwal submitted that it had also been indicated in the judgment that deduction of development cost is a concept used to derive the wholesale price of a large undeveloped plot. The difference between the value of a small developed plot and the value of a large

undeveloped land is the development cost. Reference was also made to the decision in *Kanta Devi Ors. Vs. State of Haryana Anr.* [(2008) 15 SCC 201], where it had been held that to determine the market value for purposes of compensation, deduction of development charges was normally 1/3rd of the market value which also required the nature of land to be acquired to be taken into consideration. In the said case, relying upon the sale price of a small plot, the High Court had fixed the market value of the acquired land, but deducted 70% therefrom towards development charges to make the land suitable for the purpose for which the land had been acquired. This Court held that since the land was adjacent to the village Abadi which was already developed, the deduction at the rate of 70% was on the high side and a deduction of 60% of the market value would be reasonable. Various other decisions were also cited on the same lines and referring to the same would only amount to repetition.

31. Ms. Agarwal submitted that the deduction towards development cost depended mainly on the area in which the land was located and their potentiality for development and in the instant case, the deduction of 40%, as suggested, was quite apposite and did not require any interference.

32. Mr. R.S. Badharan, learned Advocate for HUDA, in Civil Appeal Nos.3388-89 of 2011, urged that the lands in question could not be compared with the lands under consideration in a review. While referring to other decisions, Mr. Badharan also referred to the decision of this Court in *Kasturi Ors. Vs. State of Haryana* [(2003) 1 SCC 354], wherein a question had arisen as to whether the deduction of development charges at the rate of 70% in regard to the acquired lands was justified or not. Ultimately, after taking the various factors into consideration, the said Court agreed that a cut of 20% towards the development charges, which was lower than the normal 1/3rd, was understandable and could be justified. However, the same principle as has been relied upon in all the above-mentioned decisions, has also been dealt with in *Kasturi's case (supra)* and Courts have relied basically on the normal deduction of 1/3rd of the value.

33. Responding to the submissions made on behalf of the respective parties, the learned Additional Solicitor General, Mr. A.S. Chandhiok, referred to the decision of this Court in *Saibanna (Dead) by Lrs. Vs. Assistant Commissioner and Land Acquisition Officer* [(2009) 9 SCC 409], wherein the same question, as was considered earlier, once again fell for examination. Relying on the earlier judgments of this Court, the learned Judges reiterated the factors which led to higher rates of deduction in respect of lands within the municipal limits of a city.

Their Lordships held that the deduction of 53% as imposed was on the higher side and should not have been more than 1/3rd. Their Lordships observed that though no hard and fast or rigid rule can be laid down, and each case had to be decided on its individual facts, in the case before Their Lordships the deduction of 33 1/3 per cent towards development charges, was justifiable. Mr. Chandhiok urged that the quantum of compensation, as decided by the High Court in the various cases under consideration, was based on the above- mentioned principles and did not warrant the interference of this Court.

34. As indicated hereinbefore, a common question is involved in all these matters in respect of the lands acquired in the States of Punjab, Haryana, Madhya Pradesh, Andhra Pradesh and the Union Territory of Chandigarh. Since the acquired lands are situated in different areas even within the different States, different quantum of compensation have been awarded for the lands so acquired. The general principles which have been followed in assessing the compensation payable in all these matters are the location of the lands sought to be acquired, their potential for development, their proximity to areas which are already developed and the exorbitant rise in the value of the lands over the years. In some of the cases, the authorities have taken recourse to the comparison method in regard to sale transactions effected in respect of similar plots of land in the area under notifications close to the date of notification by which the lands of the Appellants were acquired. The Courts have also taken recourse to assessing the value of the lands for the purposes of compensation on a uniform rate in respect of the lands acquired, making a special concession in respect of the lands which are close to the roads and National Highways where a certain amount of development had already taken place.

35. Having resorted to the aforesaid methods, the Collectors of the different areas arrived at different valuations in respect of the lands situated within their respective jurisdictions. In most of the cases, the High Court almost on a uniform basis awarded compensation at the rate of Rs.235/- per sq. yard on a flat rate notwithstanding the type of land involved. In Smt. Ashrafi's case arising out of RFA No.99 of 1997 decided by the Punjab Haryana High Court on 21st May, 2007, along with several other similar appeals, the Land Acquisition Collector awarded compensation at the rate of Rs.3,50,000/- per acre for chahi lands and Rs.1,50,000/- per acre for other lands. The Reference Court fixed the compensation at Rs.45/- per sq. yard as against the rate of compensation awarded by the Land Acquisition Collector. In respect of similar lands, the High Court fixed the compensation at Rs.220/- per sq. yard in respect of the lands situated in village

Mewla and Maharajpur for establishing Sector 34, Faridabad. It has been agitated on behalf of the Appellants that the said assessment of compensation fixed by the High Court was on the lower side in view of the fact that in respect of lands acquired under the same Notification dated 20th August, 1989, the District Court had fixed the market value at Rs.328.50 per sq. yard and also at Rs.337/- per sq. yard, in respect of the lands acquired under a Notification issued in July, 1987. In Smt. Kamlesh Kumari's case, in which the facts were the same, as that in Smt. Ashrafi's case, the Collector had awarded Rs.1,96,000/- per acre in respect of the acquired lands which figure had been enhanced by the Reference Court to Rs.325/- per sq. yard, which would be equivalent to Rs.15,73,000/- per acre. The High Court reduced the rate from Rs.325/- per sq. yard to Rs.90/- per sq. yard, but ultimately the compensation was assessed at Rs.238/- per sq. yard. In appeal, the said amount was increased to Rs.280/- per sq. yard.

36. Even the aforesaid enhancement does not appear to have reflected the proper valuation of the lands acquired since soon, thereafter, in Pritam Singh's case (supra), compensation was awarded at Rs.435/- per sq. yard and also at the rate of Rs.392.50 per sq. yard in respect of the lands acquired under Notification dated 5th June, 1992, in village Ajronda.

37. In our view, the enhancement of the compensation from Rs.280/- per sq. yard to Rs.435/- per sq. yard and Rs.392.50 per sq. yard was probably occasioned by the fact that while the lands were acquired under the Notification issued in July, 1987, the comparative rate relating to the same property was Rs.392.50 per sq. yard. In view of the passage of time between the different acquisitions, in our view, a just compensation would be at the rate of Rs.325/- per sq. yard instead of Rs.280/- per sq. yard. Similar is the case of Smt. Kamlesh Kumari, where the facts were similar to those in Ashrafi's case. In Smt. Kamlesh Kumari's case, initially the amount of compensation assessed by the Reference Court at the rate of Rs.325/- per sq. yard was reduced to Rs.90/- per sq. yard by the High Court and, ultimately, the amount of compensation was increased to Rs.280/- per sq. yard, in appeal. In our view, the just compensation in the lands in Smt. Kamlesh Kumari's case also deserves to be increased to Rs.325/- per sq. yard, which had been the amount awarded by the Reference Court.

38. In Sailak Ram's case, different amounts were assessed as compensation in respect of the lands comprised in village Mewla, Maharajpur, acquired under the Notification dated 2nd August, 1989. There too the market rate was assessed at Rs.280/- per sq. yard along with all statutory benefits under the 1894 Act. In our

view, the compensation in respect of the lands involved has also to be assessed at Rs.325/- per sq. yard.

39. In Sucha Singh's case, Mr. Kapoor had submitted that the Land Acquisition Collector had awarded the compensation at the rate of Rs.40,000/- per acre, which was enhanced by the Reference Court to Rs.4,60,000/- up to one killa and to Rs.4,00,000/- beyond one killa. On appeal to the High Court, the amounts were reduced to Rs.3,74,400/- per acre up to one acre and Rs.2,24,640/- per acre beyond one acre. According to Mr. Kapoor, while the average sale price had been found to be Rs.6,23,997/- per acre, together with increase of 12% per annum, the figure would amount to Rs.7,82,746/- per acre. However, although the land belonging to Mr. Kapoor's clients fell within the municipal limits of Talwandi Bhai, a deduction of 40% was unjustified. On the other hand, a cut of $33\frac{1}{3}$ per cent would be more realistic. Accordingly, the compensation for the said lands, after taking into consideration the deduction of $33\frac{1}{3}$ per cent is assessed at Rs.7,25,000/- per acre.

40. As far as the lands within the District of Ambala are concerned, in respect of one set of lands, the Reference Court assessed the market value of the acquired lands to be Rs.57,000/- per acre. However, another Reference Court assessed the market value of the acquired lands at Rs.3,38,800/- per acre. In our view, the claim of the land owners, assessed at Rs.300/- per sq. yard is on the high side but Rs.110/- per sq. yard, as had been held by the Division Bench of the Punjab and Haryana High Court, is on the low side. On a comparison of the price of lands sold during 1981, or by adding 12% per annum on Rs.70/- per sq. yard on annual compounded basis, the value of the lands is assessed at Rs.180/- per sq. yard on a uniform basis for all lands, as also submitted by Ms. Malhotra.

41. In the lands covered in Atam Singh's case, the Collector had initially assessed the compensation at the rate of Rs.54.75 per sq. yard. Having regard to Mr. Manoj Swarup's submissions that the lands acquired in 1987 were adjacent to the lands acquired subsequently in 1993, the value of the lands in 1989 would be about Rs.200/- per sq. yard, the prices had, in fact, doubled to about Rs.400/- per sq. yard within the next two years. Mr. Swarup's submission that by such standards, the value of the lands acquired in 1987 should be Rs.100/- per sq. yard, is, in our view, justifiable.

42. In Mukesh Kumar's case (Supra), Mr. Manoj Swarup had pointed out that having regard to the potentiality of the acquired lands, the belting system should not have been resorted to. We are inclined to accept Mr. Swarup's contention on

this score. We are also inclined to accept Mr. Swarup's other submissions that, although, the High Court had allowed a yearly increase of 12%, taking 1983 as a base-year, such increase was not commensurate with the yearly escalation of prices and that was required to be calculated on a cumulative basis, as was held in Rameshbhai Jivanbhai Patel's case (supra). Accordingly, in Mukesh Kumar's case and the other cases heard along with the said case, we are of the view that while adding 12% annual increase to the value of the lands acquired, the same should be done on a cumulative basis. In Mukesh Kumar's case, the compensation awarded was at the rate of Rs.235/- per sq. yard along with all statutory benefits, as provided under Sections 23(1-A), 23(2) and 28 of the Land Acquisition Act. Having discarded the belting system which has been resorted to, we are of the view that the compensation as awarded at the rate of Rs.235/- per sq. yard, has to be reassessed by applying the cumulative rate of increase at the rate of 12% per annum with the base year being the date of the Notification under Section 4 of the Land Acquisition Act, together with the statutory benefits, as indicated hereinabove. The stand taken on behalf of the State of Haryana, regarding the amount of escalation fixed at 12% being improper, does not appeal to us having regard to the potentiality of the lands acquired and the sharp increase in the value of the lands in recent times. The valuation of the compensation of the acquired land at the rate of Rs.235/- per sq. yard by the High Court, appears to have been influenced by the compensation already assessed in Atam Prakash's case, where the market value of the land acquired in Sectors 9 and 11 was assessed at Rs.235/- per sq. yard. According to Mr. Swarup, the said lands were far away from the lands involved in the present set of cases and, accordingly, the rate of compensation for the lands under consideration should be definitely higher than awarded in respect of the lands covered in Atam Prakash's case. Accordingly, we re-assess the compensation assessed in respect of the lands covered by these cases by applying the cumulative rate of interest, taking the date of Notification under section 4 of the Land Acquisition Act as the base year for such calculation at Rs.325/- per sq. yard. The said valuation will also be applicable in Mahabir Anr. vs. State of Haryana Anr. [SLP(C)No.1512 of 2007], Sarwan Singh Anr. vs. State of Haryana Anr. [SLP(C)Nos.20144- 20150 of 2007] and State of Haryana Anr. vs. Partap Singh Anr. [SLP(C)No.21597 of 2006]. As far as the lands in village Patti Mehar, Saunda and Jandli in Ambala District and forming the subject matter in Surinder Kumar's case [SLP(C)Nos.16372-16404 of 2008], in Manohar Lal Khurana's case and in other cases falling in the same category are concerned, the compensation will be at the above rate on a uniform basis.

43. There is yet another set of lands forming the subject matter of the appeals arising out of Special Leave Petition (C) Nos.33637-33638 of 2011, filed by Manohar Singh and others, which are situated in Hansi, District Hisar. The said lands also form the subject matter of several other Special Leave Petitions, which will be covered by the decision in the above- mentioned Special Leave Petitions (now appeals). In the said cases, the High Court had assessed the compensation payable for the acquired lands at the rate of Rs.805/- per sq. yard along with the statutory sums available under Section 23(1A) of the Land Acquisition Act and solatium on the market value under Section 23(2) thereof. It was also indicated that the land owners would also be entitled to interest as provided under Section 28 of the Act.

44. While deciding the valuation of the lands, the High Court applied a cut of 60% and also took into consideration that the lands in question were small plots, the value whereof was definitely higher than the lands which had been acquired which were much larger in area.

45. In our view, the High Court was justified in taking into consideration the size of the plots, which were exhibited for the purposes of comparison with the size of the plots acquired, but we are unable to uphold the cut of 60%, which has been imposed by the High Court, since the acquired lands are already within developed municipal limits. In these cases also, a cut of one-third the value would be appropriate as in the other cases. Accordingly, we modify the valuation arrived at by the High Court upon imposing a cut of 60% and direct that the amount of compensation be re-assessed upon imposing a cut of $33\frac{1}{3}$ per cent while re-assessing the value of the land.

46. This brings us to the last part of the submissions made with regard to the amount of deduction effected in respect of the various properties. The general cut imposed is at a flat rate of 40%, which, in our view, is not warranted on account of the fact that the lands in question have lost their character and potentiality as agricultural lands and have more or less been converted into lands which were ready for use for the purpose of construction. Taking Ms. Agarwal's submissions regarding the factors which determine deduction towards development cost, such as location and potentiality, into account, we are of the view that a deduction of $33\frac{1}{3}$ per cent would be reasonable on account of the passage of time and the all round development in the area which has made it impossible for the lands to retain their original character.

47. Accordingly, we direct that except where we have provided otherwise, wherever a deduction of 40% had been made, the same should be altered to 33 1/3 per cent and the compensation awarded is to be modified accordingly.

48. In regard to the 157.20 acres of land situated in Fatehabad, District Hisar, Haryana, acquired for utilisation and development of residential and commercial purposes in Sector-3, Fatehabad, the compensation in respect thereof has been questioned in Civil Appeal Nos. 319-352 of 2011 by one Mukesh and a number of appeals have been tagged with the said matter, including the one filed by the Haryana Urban Development Authority, being SLP(C) Nos. 26772-26779 of 2009 (now appeals). As indicated hereinbefore, in paragraph 24, the Collector had awarded compensation at a uniform rate of Rs. 1,81,200/- per acre along with statutory benefits. The Reference Court determined the compensation at the uniform rate of Rs. 206/- per sq. yard. The High Court modified the said award and awarded compensation at the rate of Rs. 260/- per sq. yard for the land acquired up to the depth of 100 meters abutting National Highway No. 10. The value of the rest of the acquired land was maintained at Rs. 206/- per sq. yard. The area in question being already developed to some extent, a cut of 50% on the value is, in our view, excessive. We agree with Mr. Swarup that resorting to the belting system by the High Court was improper and that at best a standard cut of 1/3rd would have been sufficient to balance the smallness of the exhibits produced. It has been pointed out by Mr. Swarup that on a comparative basis, the price of lands in the area in 1991 was on an average of about Rs. 420/- per sq. yard. Given the sharp rise in land prices, the value, according to Mr. Swarup, would have doubled to about Rs. 800/- per sq. yard by 1993. Even if we have to apply the formula of 12% increase, the valuation of the lands in question in 1993 would be approximately Rs. 527/- per sq. yard. Imposing a deduction of 1/3rd, valuation comes to about Rs. 350/- per sq. yard, which, in our view, would be the proper compensation for the lands covered in the case of Mukesh (supra) and other connected matters.

49. This disposes of all the various matters which were heard along with lead matters, a table of which has been supplied by Mr. Swarup.

50. The decision rendered in the appeals arising out of SLP(C)Nos.24704- 24712 of 2007 (Ashrafi Ors. vs. State of Haryana Ors.) will govern SLP(C)Nos.13415-13426 of 2008, SLP(C)Nos.12263- 12282 of 2008, SLP(C)No.15648 of 2008, SLP(C)Nos. 5392-5394 of 2008, SLP(C)Nos. 15485- 15486 of 2009, SLP(C)Nos.8592-8596 of 2009, SLP(C)Nos.34118-34120 of 2010, SLP(C)Nos.4176-4179 of 2010, SLP(C)Nos. 11156-11158 of 2009, SLP(C)No.

28895 of 2008, SLP(C)...CC 863-865 of 2011, SLP(C)No.33257 of 2010, SLP(C)Nos.11171-11172 of 2009, SLP(C)Nos. 3125-3126 of 2011, SLP(C)Nos.29721-29722 of 2009, SLP(C)No.31281 of 2009, C.A. No.8719 of 2010, SLP(C)Nos.18744-18824 of 2008, SLP(C)Nos. 1089-1105 of 2008, SLP(C)Nos.27923-27924 of 2008, SLP(C)No. 246 of 2009, SLP(C)Nos.3367-3368 of 2010 and SLP(C) Nos.9268-9270 of 2011. The decision rendered in appeals arising out of SLP(C)Nos.28613-28642 of 2010 (Kamlesh Kumari Etc. Etc. vs. State of Haryana and Anr.) and SLP(C)No.28686 of 2010 (Sailak Ram Vs. State of Haryana) will govern the appeals arising out of SLP(C)Nos.7233-7239 of 2011, SLP(C)Nos.35673-35693 of 2010, SLP(C)Nos.12083- 12087 of 2011, SLP(C)Nos. 14389-14390 of 2011, SLP(C)No.13613 of 2011, SLP(C)Nos.674-681 of 2011, SLP(C)No.33749 of 2010, SLP(C)No.3647 of 2011, SLP(C)Nos.28644- 28685 of 2010, SLP(C)No.31832 of 2010, SLP(C)Nos.27706-27723 of 2010, SLP(C)No.14425 of 2011 and SLP(C)Nos. 31772-31776 of 2011. The decision rendered in the appeal arising out of SLP(C)No.19668 of 2007 (Mukesh Kumar Vs. State of Haryana) will govern the appeals arising out of SLP(C)No.16005 of 2006, SLP(C)No.16262 of 2006, SLP(C)No.16271 of 2006, SLP(C)No.16302 of 2006, SLP(C)No.16303 of 2006, SLP(C)No.16304 of 2006, SLP(C)No.16378 of 2006, SLP(C)No.16379 of 2006, SLP(C)No.16407 of 2006, SLP(C)No.16536 of 2006, SLP(C)No.16537 of 2006, SLP(C)No.16538 of 2006, SLP(C)No.19384 of 2006, SLP(C)No.16793 of 2006, SLP(C)No.16794 of 2006, SLP(C)No.18564 of 2006, SLP(C)No.19381 of 2006, SLP(C)No.19379 of 2006, SLP(C)No.19382 of 2006, SLP(C)No.19380 of 2006, SLP(C)No.19419 of 2006, SLP(C)No.19489 of 2006, SLP(C)No.19603 of 2006, SLP(C)No.21851 of 2006, SLP(C)No.21850 of 2006, SLP(C)No.20188 of 2006, SLP(C)No.5509 of 2007, SLP(C)No.6175 of 2007, SLP(C)No.8129 of 2007, SLP(C)No.7001 of 2007, SLP(C)No.5571 of 2007, SLP(C)No.5895 of 2007, SLP(C)No.5572 of 2007, SLP(C)No.6167 of 2007, SLP(C)No.7002 of 2007, SLP(C)No.11527 of 2007, SLP(C)No.29447 of 2008, SLP(C)No.18448 of 2006, SLP(C)No.18876 of 2006, SLP(C)No.18877 of 2006, SLP(C)No.19133 of 2006, SLP(C)No.19231 of 2006, SLP(C)No.5487 of 2007, SLP(C)No.18588 of 2006, SLP(C)No.7601 of 2007, SLP(C)No.21848 of 2006, SLP(C)No.21846 of 2006, SLP(C)No.3416 of 2007, SLP(C)No.3468 of 2007, SLP(C)No.2420 of 2007, SLP(C)Nos.6866-6880 of 2008, SLP(C)No.3356 of 2007, SLP(C)No.3415 of 2007, SLP(C)No.3411 of 2007, SLP(C)No.17564 of 2006, SLP(C)No.14642 of 2006, SLP(C)No.14536 of 2006, SLP(C)No.17361 of 2006, SLP(C)No.6326 of 2006, SLP(C)No.7165 of 2006, SLP(C)No.7106 of 2006, SLP(C)No.14161 of 2006, SLP(C)No.9990 of 2006, SLP(C)No.18583 of 2006, SLP(C)No.16272 of 2006, SLP(C)No.17268 of 2006, SLP(C)No.12661 of 2006, SLP(C)No.16273 of 2006, SLP(C)No.3646 of 2011,

SLP(C)No.3350 of 2007, SLP(C)No.6899 of 2006, SLP(C)No.7036 of 2006, SLP(C)No.7247 of 2006, SLP(C)No.19676 of 2007, SLP(C)Nos.19539-19542 of 2007, SLP(C)No.20667 of 2007, SLP(C)Nos.16372-16404 of 2008, SLP(C)No.....(CC 2754 of 2007), SLP(C)No..... (CC 9752 of 2007), SLP(C)No.6332 of 2007 and SLP(C)No.6335 of 2007. The decision rendered in the appeals arising out of SLP(C)Nos.1678-1697 of 2010 (Sucha Singh Vs. Collector) will govern the appeals arising out of SLP(C)Nos.13529-13549 of 2011, SLP(C)Nos.15508-15511 of 2011 and SLP(C).....(CC 2620 of 2011). The decision rendered in C.A.Nos.319-352 of 2011 (Mukesh etc. etc. Vs. State of Haryana and Another) will govern C.A.Nos.8654-8661 of 2010, C.A.Nos.8642-8645 of 2010, C.A.Nos.423-424 of 2011, C.A.No.418 of 2011, C.A.No.419 of 2011, C.A.No.8637 of 2010, C.A.No.8638 of 2010, C.A.Nos.8646-8653 of 2010, C.A.Nos.354-411 of 2011, C.A.Nos.412-417 of 2011, SLP(C)Nos. 26772-26779 of 2009 and SLP(C)Nos.31842-31845 of 2009. The decision rendered in the appeals arising out of SLP(C)Nos.33637-33638 of 2011 (Manohar Singh vs. State of Haryana Anr.) will govern Civil Appeal Nos.3388-3389 of 2011, C.A.No.5206 of 2011, C.A.No.5208 of 2011, C.A.No.5209 of 2011, C.A.No. 5210 of 2011, C.A.No.5211 of 2011, C.A.No.5212 of 2011, C.A.No.5213 of 2011, C.A.No.5214 of 2011, C.A.No.5207 of 2011, C.A.No.5215 of 2011, C.A.No. 5216 of 2011, C.A.Nos.7179-7182 of 2011, SLP(C)Nos.(CC 14220-14221 of 2011), SLP(C)No.....(CC 14164 of 2011), SLP(C)Nos.21344-21351 of 2011, SLP(C)Nos.32764-32765 of 2011, SLP(C)Nos.32766-32767 of 2011, SLP(C)Nos.32770- 32771 of 2011, SLP(C)Nos. 32772-32773 of 2011, SLP(C)Nos.32790-32791 of 2011, SLP(C)Nos.32792-32793 of 2011, SLP(C)Nos.32796-32797 of 2011, SLP(C)Nos.32798-32799 of 2011, SLP(C)Nos.32801-32802 of 2011 and SLP(C)Nos.32806-32807 of 2011.

51. Having regard to the facts of the various cases disposed of by this judgment, the parties will bear their own costs.