

(2001) 02 P&H CK 0057

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 2263 of 1995

Bir Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 13-02-2001

Acts Referred:

Land Acquisition Act, 1984 — Section 18, 23, 28, 28(A)(3), 4

Citation : (2001) 3 RCR(Civil) 141

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : Mr. Ashok Aggarwal, Mr. R.K. Jain, Mr. Lokesh Sinhal, Mr. Maharaj Kumar and Mr. Akash Jain, for the Appellant; Mr. Surya Kant, A.G. Haryana and Mr. Ranjit Saini, for the Respondent

Judgement

R.L. Anand, J.—By this judgment I dispose of as many as 206 appeals filed by the State of Haryana and the landowners. The details of the appeals filed by the State as well as by the claimants are enumerated as below :

1. R.F.A. No. 2637 of 1999, State of Haryana v. Smt. Kishan Devi;
2. R.F.A. No. 254 of 2000, Smt. Kishan Devi v. State of Haryana;
3. R.F.A. No. 2018 of 1996, State of Haryana v. Chatar Singh;
4. R.F.A. No. 2118 of 1996, Chater Singh v. State of Haryana;
5. R.F.A. No. 2120 of 1996, Daulat Ram v. State of Haryana;
6. R.F.A. No. 46 of 1997, State of Haryana v. Chatar Singh;
7. R.F.A. No. 1774 of 1996, Chander Bhan v. State of Haryana;
8. R.F.A. No. 2047 of 1996, State of Haryana v, Chander Bhan;
9. R.F.A. No. 1768 of 1996, Chander v. State of Haryana;
10. R.F.A. No. 2068 of 1996, State of Haryana v. Tcj Singh;

11. R.F.A. No. 2249 of 1996, Tej Singh etc. v. State of Haryana;
12. R.F.A. No. 2058 of 1996 State of Haryana v. Gi-raj;
13. R.F.A. No. 1747 of 1996, Giraj v. State of Hary-ana;
14. R.F.A. No. 2035 of 1996, State of Haryana v. Yoginder;
15. R.F.A. No. 1978 of 1996, Yoginder v. State of Haryana;
16. R.F.A. No. 2037 of 1996, State of Haryana v. Richpal Singh;
17. R.F.A. No. 1983 of 1996, Richpal Singh v. State of Haryana;
18. R.F.A. No. 2066 of 1996, State of Haryana v. Girdhan Lal;
19. R.F.A. No. 2060 of 1996, State of Haryana v. Prem Singh;
20. R.F.A. No. 2062 of 1996, State of Haryana v. Amar Lal.;
21. R.F.A. No. 1745 of 1996, Amar Lal v. State of Haryana;
22. R.F.A. No. 2065 of 1996, State of Haryana v. Rama Nand;
23. R.F.A. No. 1772 of 1996, RamaNand v. State of Haryana;
24. R.F.A. No. 2039 of 1996, State of Haryana v. Chhida Singh;
25. R.F.A. No. 1986 of 1996, Chhida Singh v. State of Haryana;
26. R.F.A. No. 2050 of 1996, State of Haryana v. Ak-hay Singh;
27. R.F.A. No, 1909 of 1996, Akhay Singh v. State of Haryana;
28. R.F.A. No. 2055 of 1996, State of Haryana v. Hari Ram;
29. R.F.A. No, 2209 of 1996, Hari Ram v. State of Haryana;
30. R.F.A. No. 2071 of 1996, State of Haryana v. Smt. Indrawati;
31. R.F.A. No. 1908 of 1996, Indrawati v. State of Haryana;
32. R.F.A. No. 2049 of 1996, State of Haryana v. Jas Lal;
33. R.F.A. No. 1771 of 1996, Jaslal v. State of Haryana;
34. R.F.A. No. 2067 of 1996, State of Haryana v. Giraj;
35. R.F.A. No. 767 of 1998, Giraj Kishore v. State of Haryana;
36. R.F.A. No. 2069 of 1996, State of Haryana v. Om Parkash;
37. R.F.A. No. 1748 of 1996, Om Parkash v. State of Haryana;
38. R.F.A. No. 2019 of 1996, State of Haryana v. Bhawan Dass;
39. R.F.A. No. 2021 of 1996, State of Haryana v. Ja-gat Singh;
40. R.F.A. No. 2119 of 1996, Jagat Singh v. State of Haryana;

41. R.F.A. No. No. 2032 of 1996, State of Harvana v. Santosh Kumari;
42. R.F.A. No. 2136 of 1996, Santosh Kumar v. State of Haryana;
43. R.F.A. No. 2027 of 1996, State of Haryana v. Santosh Kumari;
44. R.F.A. No. 1989 of 1996. Santosh Kumari v. State of Haryana;
45. R.F.A. No. 2031 of 1996, State of Haryana v. Ramdhan etc.
46. R.F.A. No. 2023 of 1996, State of Haryana v. Satbir Singh;
47. R.F.A. No. 1919 of 1996, Satbir Singh v. State of Haryana;
48. R.F.A. No. 2026 of 1996, State of Haryana v. Hari Ram;
49. R.F.A. No. 1779 of 1996, Had Ram v. State of Haryana;
50. R.F.A. No. 2022 of 1996, State of Haryana v. Shanti Devi;
51. R.F.A. No. 1984 of 1996, Shanti Devi v. State of Haryana.
52. R.F.A. No. 2024 of 1996, State of Haryana v. Ghasi etc.
53. R.F.A. No. 1981 of 1996. Ghasi etc. v. State of Haryana;
54. R.F.A. No. 2030 of 1996, State of Haryana v. Prem Singh:
55. R.F.A. No. 2029 of 1996, State of Haryana v. Ravi Dutt Sharma;
56. R.F.A. No. 1982 of 1996, Ravi Dutt Sharma v. State of Haryana;
57. R.F.A. No. 2028 of 1996, State of Haryana v. In-draj;
58. R.F.A. No. 2135 of 1996, Indraj v. State of Haryana;
59. R.F.A. No. 2025 of 1996, State of Haryana v. Smt. Simla;
60. R.F.A. No. 242 of 1998, Smt. Bimla v. State of Haryana;
61. R.F.A. No. 2070 of 1996, State of Haryana v. Parkash;
62. R.F.A. No. 2086 of 1996, Jai Pal Singh v. State of Haryana;
63. R.F.A. No. 2061 of 1996. State of Haryana v. Jai-pai Singh;
64. R.F.A. No. 2056 of 1996, State of Haryana v. Ja-gan Lal;
65. R.F.A. No. I 776 of 1996, Jagan Lal v. State of Haryana;
66. R.F.A. No. 2041 of 1996, State of Haryana v. Chander Bhan;
67. R.F.A. No. 2051 of 1996, State of Haryana v. Ra- mesh Chand;
68. R.F.A. No. 2561 of 1996, Ramesh Chand v. State of Haryana;
69. R.F.A. No. 2045 of 1996, State of Haryana v. Smt. Kela;
70. R.F.A. No. 664 of 1996, Smt. Kela v. State of Haryana;

71. R.F.A. No. 2043 of 1996, State of Haryana v. Jayasi Ram;
72. R.F.A. No. 1746 of 1996, Jayasi Ram v. State of Haryana;
73. R.F.A. No. 2052 of 1996, State of Haryana v. Col. Partap Singh;
74. R.F.A. No. 2044 of 1996, State of Haryana v. Lekh Ram;
75. R.F.A. No. 1740 of 1996, Lekh Ram v. State of Haryana;
76. R.F.A. No. 2042 of 1996, State of Haryana v. Kanta Rani;
77. R.F.A. No. 1910 of 1996, Kanta Rani v. State of Haryana;
78. R.F.A. No. 2059 of 1996, State of Haryana v. Radhe Lal;
79. R.F.A. No. 1751 of 1996, Radhey Lal v. State of Haryana;
80. R.F.A. No. 2036 of 1996. State of Haryana v. Bharath Lal;
81. R.F.A. No. 2054 of 1996, State of Haryana v. Daya Nand;
82. R.F.A. No. 1412 of 1996, Daya Nand v. State of Haryana;
83. R.F.A. No. 2064 of 1996, State of Haryana v. Sultan Singh;
84. R.F.A. No. 1773 of 1996, Sultan Singh v. State of Haryana;
85. R.F.A. No. 2038 of 1996, State of Haryana v. Satbir;
86. R.F.A. No. 1985 of 1996, Satbir v. State of Haryana;
87. R.F.A. No. 2073 of 1996, State of Haryana v. Net Ram;
88. R.F.A. No. 1918 of 1996, Net Ram v. State of Haryana;
89. R.F.A. No. 2053 of 1996, State of Haryana v. Birender;
90. R.F.A. No. 2112 of 1996, Birender v. State of Haryana;
91. R.F.A. No. 2046 of 1996, State of Haryana v. Ak-hey;
92. R.F.A. No. 1911 of 1996. Akhoy v. State of Haryana;
93. R.F.A. No. 2020 of 1996, State of Haryana v. Budhi;
94. R.F.A. No. 1775 of 1996, Budhi v. State of Haryana;
95. R.F.A. No. 2057 of 1996, State of Haryana v. Sukhbir Singh.
96. R.F.A. No. 2063 of 1996, State of Haryana v. Bhajan Lal;
97. R.F.A. No. 1770 of 1996, Bhajan Lal v. State of Haryana;
98. R.F.A. No. 2048 of 1996, State of Haryana v. Ja-gat Singh;
99. R.F.A. No. 1980 of 1996, Jagat Singh v. State of Haryana;
100. R.F.A. No. 2072 of 1996, State of Haryana v. Hardwari;

101. R.F.A. No. 1769 of 1996, Hardwari v. State of Haryana;
102. R.F.A. No. 2040 of 1996, State of Haryana v. Smt. Champa etc.
103. R.F.A. No. 1749 of 1996, Champa v. State of Haryana;
104. R.F.A. No. 2323 of 1995, Rishan Lal Singh v. State of Haryana;
105. R.F.A. No. 2324 of 1995, Bhajan Lal v. State of Haryana;
106. R.F.A. No. 2325 of 1995, Chandi v. State of Haryana;
107. R.F.A. No. 2326 of 1995, Gajay Singh v. State of Haryana;
108. R.F.A. No. 2327 of 1996, Sohan Pal v. State of Haryana;
109. R.F.A. No. 259 of 1996, Hukam Lal v. State of Haryana;
110. R.F.A. No. 260 of 1996, Kishan Lal v. State of Haryana;
111. R.F.A. No. 261 of 1996, Chandrawati v. State of Haryana;
112. R.F.A. No. 262 of 1996, Amar Lal v. State of Haryana;
113. R.F.A. No. 263 of 1996, Chiranji Lal v. State of Haryana;
114. R.F.A. No. 264 of 1996, Rati Ram v. State of Haryana;
115. R.F.A. No. 265 of 1996, Dharam Pal v. State of Haryana;
116. R.F.A. No. 266 of 1996, Sumer v. State of Haryana;
117. R.F.A. No. 267 of 1996, Kamla Devi v. State of Haryana;
118. R.F.A. No. 268 of 1996, Ramdhan v. State of Haryana;
119. R.F.A. No. 269 of 1996, Rikhi Ram v. State of Haryana;
120. R.F.A. No. 270 of 1996, Khacheru v. State of Haryana;
121. R.F.A. No. 271 of 1996, Kishan Singh v. State of Haryana;
122. R.F.A. No. 271-A of 1996, Bhup Singh v. State of Haryana;
123. R.F.A. No. 272 of 1996, Hari Kishan v. State of Haryana;
124. R.F.A. No. 171 of 1996, State of Haryana v. Bir Singh;
125. R.F.A. No. 172 of 1996, State of Haryana v. Kishan Singh;
126. R.F.A. No. 173 of 1996, State of Haryana v. Chandi;
127. R.F.A. No. 174 of 1996, State of Haryana v. Kishan Lal etc.
128. R.F.A. No. 175 of 1996, State of Haryana v. Amar Lal;
129. R.F.A. No. 176 of 1996, State of Haryana v. Rati Ram;
130. R.F.A. No. 177 of 1996, State of Haryana v. Dy-ali;

131. R.F.A. No. 178 of 1996, State of Haryana v. Bhup Lal;
132. R.F.A. No. 179 of 1996, State of Haryana v. Gaje Singh;
133. R.F.A. No. 180 of 1996, State of Haryana v. Pyare Lal;
134. R.F.A. No. 181 of 1996, State of Haryana v. Budh Ram;
135. R.F.A. No. 182 of 1996, State of Haryana v. Tara Chand;
136. R.F.A. No. 183 of 1996, State of Haryana v. Deepak;
137. R.F.A. No. 184 of 1996, State of Haryana v. Sohan Pal;
138. R.F.A. No. 2263 of 1995, Bir Singh v. State of Haryana;
139. R.F.A. No. 2264 of 1995, S.K. Gupta v. State of Haryana;
140. R.F.A. No. 2265 of 1995, Deepa v. State of Haryana;
141. R.F.A. No. 2266 of 1995, Krishan Devi v. State of Haryana;
142. R.F.A. No. 2267 of 1995, Amar Singh v. State of Haryana;
143. R.F.A. No. 2268 of 1995, Nawal Singh v. State of Haryana;
144. R.F.A. No. 2269 of 1995, Deepak v. State of Haryana;
145. R.F.A. No. 2270 of 1995, Jas Ram v. State of Haryana;
146. R.F.A. No. 2271 of 1995, Khem Chand v. State of Haryana;
147. R.F.A. No. 2272 of 1995, Nawal Singh v. State of Haryana;
148. R.F.A. No. 2273 of 1995, Nathi v. State of Haryana;
149. R.F.A. No. 577 of 1996, Kishan Singh v. State of Haryana;
150. R.F.A. No. 2208 of 1995, Dhanpat Rai v. State of Haryana;
151. R.F.A. No. 52 of 1996, Dayali v. State of Haryana;
152. R.F.A. No. 53 of 1996, Chunni Lal v. State of Haryana;
153. R.F.A. No. 54 of 1996, Pyare Lal v. State of Haryana;
154. R.F.A. No. 55 of 1996, Gopal Singh v. State of Haryana;
155. R.F.A. No. 589 of 1996, State of Haryana v. Man Singh;
156. R.F.A. No. 603 of 1996, State of Haryana v. Chanchal Kohli;
157. R.F.A. No. 604 of 1996, State of Haryana v. Nawal Singh;
158. R.F.A. No. 590 of 1996, State of Haryana v. Rikhi Ram;
159. R.F.A. No. 2332 of 1995, Sukh Ram v. State of Haryana;
160. R.F.A. No. 2333 of 1995, Bansi v. State of Haryana;

161. R.F.A. No. 2334 of 1995, Desh Raj v. State of Haryana;
162. R.F.A. No. 2335 of 1995, Tara Chand v. State of Haryana;
163. R.F.A. No. 2336 of 1995, Smt. Ranjna Gupta v. State of Haryana;
164. R.F.A. No. 2337 of 1995, Smt. Gul Kandi v. State of Haryana;
165. R.F.A. No. 2338 of 1995, Sardar Singh v. State of Haryana;
166. R.F.A. No. 2339 of 1995, Man Singh v. State of Haryana;
167. R.F.A. No. 3203 of 1998, State of Haryana. v. Ram Dhan;
168. R.F.A. No. 3204 of 1998, State of Haryana v. Kamla Devi;
169. R.F.A. No. 3205 of 1998, State of Haryana v. Hukam Lal;
170. R.F.A. No. 3206 of 1999, State of Haryana v. Gulkandi;
171. R.F.A. No. 3207 of 1998, State of Haryana v. Khacheru;
172. R.F.A. No. 3208 of 1998, State of Haryana v. Desh Raj;
173. R.F.A. No. 3209 of 1998, State of Haryana v. Jas Ram;
174. R.F.A. No. 3210 of 1998, State of Haryana v. Amar Singh;
175. R.F.A. No. 3211 of 1998, State of Haryana v. Ranjana Gupta;
176. R.F.A. No. 3212 of 1998, State of Haryana v. Chuni Lal;
177. R.F.A. No. 3213 of 1998, State of Haryana v. Bansi;
178. R.F.A. No. 3214 of 1998, State of Haryana v. Nawal Singh and others;
179. R.F.A. No. 3215 of 1998, State of Haryana v. Rishal Lal;
180. R.F.A. No. 3216 of 1998, State of Haryana v. Hari Krishan;
181. R.F.A. No. 3217 of 1998, State of Haryana v. Sukh Ram;
182. R.F.A. No. 3218 of 1998, State of Haryana v. Gopal Singh;
183. R.F.A. No. 3219 of 1998, State of Haryana v. Kamla Rani;
184. R.F.A. No. 3220 of 1998, State of Haryana v. Nathi;
185. R.F.A. No. 3221 of 1998, State of Haryana v. Desh Raj;
186. R.F.A. No. 3222 of 1998, State of Haryana v. Chanderwati;
187. R.F.A. No. 3223 of 1998, State of Haryana v. Sumer;
188. R.F.A. No. 3224 of 1998, State of Haryana v. Dhanpat Rai;
189. R.F.A. No. 3225 of 1998, State of Haryana v. Chiranji Lal;
190. R.F.A. No. 3226 of 1998, State of Haryana v. Bhajan Lal;

191. R.F.A. No. 3227 of 1998, State of Haryana v. Deepa;
192. R.F.A. No. 3228 of 1998, State of Haryana v. Satish Kumar Gupta;
193. R.F.A. No. 3229 of 1998, State of Haryana v. Dharam Pal;
194. R.F.A. No. 606 of 1996, State of Haryana v. M/s. Modem Paper Converters;
195. R.F.A. No. 607 of 1996, State of Haryana v. Mo-tan Dass;
196. R.F.A. No. 608 of 1996. State of Haryana v. Khem Chand;
197. R.F. A. No. 609 of 1996, State of Haryana v. Sar- dar Singh;
198. R.F.A. No. 610 of 1996, State of Haryana v. Smt. Kishan Devi;
199. R.F.A. No. 611 of 1996, State of Haryana v. Jai Kishan;
200. R.F.A. No. 612 of 1996, State of Haryana v. Richhpal;
201. R.F.A. No. 485 of 1996, v. State of Haryana v. Dharam Pal;
202. R.F.A. No 486 of 1996. State of Haryana v. Kishan Singh;
203. R.F.A. No. 212 of 1996, Lekh Ram v. State of Haryana;
204. R.F.A. No. 587 of 1996, Budh Ram v. State of Haryana;
205. R.F.A. No. 2246 of 1996, Desh Raj v. State of Haryana;
206. R.F.A. No. 361 of 1996, Dharam Pal v. State of Haryana.

In the opinion of this Court, all these matters can be disposed of by one judgment as these have been directed against the awards dated 26.9.1995 and 16.5.1996, passed by the learned District Judge, Faridabad, who assessed the market value of the land on the date of the Notification u/s 4(1) of the Land Acquisition Act vide award dated 26.9.1995 at the rate of Rs. 150/- per square yard and this very rate was adopted by him while giving the subsequent award dated 16.5.1996. The learned District Judge also awarded solatium at the rate of 30% besides other benefits admissible to the landowners under Sections 23 and 28 of the said Act.

2. Some facts can be noticed in the following manner. The State of Haryana issued Notification u/s 4 of the Land Acquisition Act on 26.12.1988, published in the official Gazette vide which a big chunk of land measuring 491.29 acres of land falling in villages Jharsentli and Ballabgarh was acquired. The nature of the land, according to the revenue record was Chahi, Nehari, Magdha, Banjar Kadim, Gair Mumkin and Gair Mumkin Talab. The land was acquired for public purposes namely development and utilization of land as industrial area in Sector 58 of Faridabad-Ballabgarh Controlled area under the Haryana Urban Development Authority Act, 1977. The landowners demanded compensation at the rate ranging between Rs. 500/- to Rs. 1200/- per square yard. However, the LandAcqui-sition Collector, awarded compensation at the rate of Rs. 2,40,000/-

per acre for the land classified as Chahi, Nehari, Magdha, Banjar Kadim, Gair Mumkin and at the rate of Rs. 1,50,000/- per acre for the remaining area measuring 37 Kanals described as Gair Mumkin Talab, He also awarded other statutory benefits under Sections 23 and 28 of the Land Acquisition Act.

2. The landowners were not satisfied with the award of the Land Acquisition Collector. They filed references u/s 18 of the Land Acquisition Act which were referred to the court for adjudication. It may also be mentioned here that some of the landowners could not file the application u/s 18 of the Land Acquisition Act. They subsequently made applications u/s 28(A)(3) of the Land Acquisition Act. Their prayer was also disposed of by the learned District Judge, Faridabad vide award dated 1.2.1999. Another award dated 16.5.1999 was also given by the learned District Judge in which he adopted the same rate which was awarded by him to the landowners vide decision dated 26.9.1995,

3. Both the State of Haryana and landowners were not satisfied with the decision of the learned District Judge when he awarded compensation at the rate of Rs. 150/-per square yard and the State and the landowners have filed the aforesaid appeals.

4. I am disposing of these matters with the assistance rendered by the learned Counsel for the parties whose names I have already reproduced above before the start of this judgment.

5. The controversy between the parties gave rise to the following issues which were framed by the District Judge :-

1. What was the market value of the area under acquisition at the time of publication of notification u/s 4 of the Land Acquisition Act, 1894 ? OPP

2. Relief.

6. The landowners produced oral and documentary evidence in support of their case and the nature of the documentary evidence produced by the claimants can be reproduced as follows :-

(i) Ex.P1. Blue Print of the plan of Faridabad-Ballabgarh Controlled Area;

(ii) Ex.P.2, photostat copy of Notification regarding the acquisition of land of village Jharsentli in Faridabad-Ballabgarh Controlled area;

(iii) Ex.P.3, Blue Print of lay-out plan of Sector 58, Faridabad;

(iv) Ex.P.4, Sketch Plan showing the location of Sector 58, Faridabad,

(v) Ex.P.5, record of Aks Shijra;

(vi) Ex.P.6, statement regarding average Consumer Price Index Numbers of Faridabad Centre from the year 1970 to 1993;

(vii) Ex.P.7, certified copy of judgment dated 12.5.1993 of the Court of the then

District Judge, Faridabad;

(viii) Ex.P.8, certified copy of judgment dated 13.1.1995 of this Court:

(ix) Ex.P.9, certified copy of judgment dated 9.4.1994 of the Hon"ble High Court in RFA No. 253 of 1992;

(x) Ex.P.10. attested copy of award for the year 1988-89;

(xi) Ex.P. 11, attested copy of award No. 4 for the year 1991-92;

(xii) Ex.P. 12, attested copy of award No. 11 for the year 1989-90;

(xiii) Ex.P. 13, certified copy of sale-deed dated 18.11.1983;

(xiv) Ex.P. 14 certified copy of sale deed dated 23.12.1982;

(xv) Bx.P.15, certified copy of sale deed dated 23.12.1982;

(xvi) Ex.P.16, certified copy of judgment dated 27.4.1988.

7. With regard to the oral evidence the landowners examined Shri Shiv Chand, a clerk in the office of Faridabad Complex Administration, who deposed that the land of Jharsentli was included in Faridabad-Bal-labgarh Controlled Area; Raja Ram; a Draftsman in the office of District Town Planner, proved lay out plan Ex.P.3 of Sector 58, Sant Parkash Mehta, a Civil Draftsman, had prepared sketch plan, Ex.P.4, depicting therein the location of Sector 58, Faridabad and the area in between Mile Stone Nos. 22 to 25 of Delhi-Mathura Road, Hukam Singh Patwari, proved the certified copy of record Aka Shijra Ex.P.5; Gulab Chand, a clerk in the office of Estate Officer, Haryana Urban Development Authority, deposed that the land of Sector 59, Urban Estate, Faridabad, was transferred by Haryana Urban Devejopment Authority in favour of Haryana State Industrial Development Corporation on 17.7.1992 at the rate of 8.33 lac per acre; Mool Chand, an Assistant in the Office of Labour Commissioner, Haryana, was summoned to produce the record regarding notification of Consumer Price Index, Sohan Lal Dogra, one of the claimants, testified to the effect that the land acquired by the Government for Industrial Sector-58, was surrounded by factories and residential colonies, Commercial Buildings and at the time of acquisition, its market value was not less than Rs. 1,000/-per square yard and that various Industrial Establishments had come up in that locality and that village Jharsentli had been a part of Faridabad Complex Administration since the year 1977 and further that there had been no transaction of sale during the period from the year 1972 to 1988 owing to issuance of Notification for the acquisition of the land by the State Government from time to time since the year 1972; Shri R.K. Yadav proved the record of statement, Ex.P.6, regarding Average Consumer Price Index Numbers of Faridabad Centre from the year 1970 to 1993; Shri Nathi Ram appeared as PW-9 and stated that the area acquired had great potential value and it could be used for commercial and other purposes.

8. On the contrary, the State has also produced certain documents such as the

copies of sale deeds dated 31.5.1988, Ex.R.1. dated 31.5.1988. Ex.R.2, dated 2.6.1998, Ex.R.3. dated 6.6.1998, Ex.R.4, dated 31.8.1988, Ex.R.5. dated 21.3.1989; Ex.R.6, dated 17.11.1989; Ex.R.7, dated 2.1.1990; Ex.R.8, dated 11.1.1990; Ex.R.9, dated 11.1.1990; Ex.R.10, dated 11.1.1990; Ex.R.11, dated 11.1.1990, Ex.R. 12. dated 11.1.1990; Ex.R.13, dated 11.1.1990; Ex.R.14, dated 11.1.1990; Ex.R.15, dated 11.1.1990; Ex.R.16, dated 11.1.1990; Ex.R.17, dated 11.1.1990; Ex.R.18, dated 11.1.1990; Ex.R.19, dated 11.1.1990; Ex.R.20 dated 8.4.1991; Ex.R.21, dated 16.4.1991; Ex.R.22, dated 2.5.1991; Ex.R.23, dated 6.5.1991; Ex.R.24 and true copy of proceedings regarding allotment of land to Haryana State Industrial Development Corporation, Ex.R.25, record of Aka Shijra, Ex.R.26 and copy of notification u/s 4 of the Land Acquisition Act Ex.R.27.

9. The learned District Judge for the reasons given in para Nos. 16 to 22 of the judgment dated 26.9.1995 awarded the compensation at the rate of Rs. 150/- per square yard. The aforesaid reasons are reproduced as follows;

"16. There can possibly be no dispute with the proposition that the determination of compensation for compulsory acquisition involves consideration of the price which a hypothetical willing purchaser can be expected to pay for the lands in the existing use as well as relatable potentialities. It has been held time and again that the relevant factors to be taken into consideration are prevailing conditions of normal market; fertility of lands, location suitability of the purpose for which it was purchased, its existing potentialities and that in case of acquisition of large tract of land for development projects extending over several villages, some stray sale deeds of tiny plots could not legitimately form basis of determination of compensation. It is the very case of State of Haryana that the land was acquired for establishing Industrial Sector 58 in Urban Estate at Faridabad. No challenge could, thus, possibly be passed by the State of Haryana against the plea of right holders that the acquired land had potentiality for use for Industrial and commercial purposes. The mere fact that the land was used for agricultural purposes before the acquisition proceedings was, therefore, quite inconsequential.

17. Indisputably the State of Haryana had acquired adjoining lands situated within these very revenue estates of Jharsentli and Ballabgarh in Faridabad-Ballabgarh Controlled Area for the development of Industrial Sector No. 59, pursuant to notification dated 10.6.1988. It was rightly advocated by the learned Counsel for the claimants, on the authority of observations made in *Paree Kanni Rubbers v. State of Kerala* 1993(1) S.L.J. 327 that the transactions relating to acquired land in the neighbourhood and the land possessing similar potentiality or fertility or other advantageous features were relevant pieces of evidence. Also that, the entire acquired land was within municipal limits of Faridabad Complex Administration. As has been held in *Kehar Singh v. Punjab State through Acquisition Collector* 1992(1) RRR 81 (P&H) : 1992(1) PLR 148 and *Punni Devi v. Collector, Land Acquisition* 1992(1) PLR 516. the compensation for entire land within the Municipal limits was awardable at the uniform rate and if some

factories had come into being near or around the acquired land, then it could justifiably be held to have potential for urban development. In such a fact-situation, it would be in the fitness of things to award compensation in respect of the acquired land at the rate applicable for the acquisition of land made for other Industrial Sector No. 59 in that very locality.

18. Adverting to that aspect of the matter, it was noteworthy that relying on another judgment dated 12.5.1993, Ex.P.7, handed down by the then District Judge, Faridabad, in a case pertaining to the acquisition of the land of revenue estates of Jharsentli and Ballabgarh for the development of Industrial Sector No. 59, this Court has already held vide judgment dated 13.1.1995 Ex.P.8, that the market value of the acquired land was Rs. 150/- per square yard at the relevant time of publication of the notification u/s 4 of the Act. The relevance of that judicial precedent for resolving the present tangle could not possibly be questioned. It is settled proposition of law that judicial precedents can safely be adopted as a yard-stick while determining the market value. The documents in the shape of development plan for Faridabad-Ballabgarh Controlled Area, Ex.P. 1, Notification dated 11.12.1991, Ex.P.2, in the matter of boundaries under Faridabad Complex Administration (Regulation and Development) Act, 1971, layout plan of Sector 58 Ex.P.3 sketch plan of Sector 58, Ex.P.4 and Shijra plan of Sector 58, Ex.P.5; clearly reflected that the land acquired for establishment of Industrial Sector No. 58 and 59 possessed similar advantages including potentiality for use for urban development projects. Having regard to all prevailing circumstances including the location of the acquired land in close proximity of National Highway and other Industrial and commercial establishments, it was concluded in the earlier judgment(s) that the market value of the land in that locality was Rs. 150/- per square yard.

19. During the course of hearing, the learned Counsel for the claimants had, of course, referred to the judgment dated 9.4.1994 Ex.P.9, cf the Hon'ble High Court in RFA No. 253 of 1992 whereby compensation for the land of village Mewla Ma-harajpur acquired for the purpose of constructing link road, per notification dated 30.10.1987, was awarded at the rate of Rs, 337/- per square yard. Reliance was also placed by the learned Counsel for the claimants on the observations made in Bhagwathula Samanna and others Vs. Special Tahsildar and Land Acquisition Officer, Visakhapatnam Municipality, . mat where a large area was acquired for development purposes. then no de- duction in the land value was warranted when the same had already been fully developed in Union of India v. Manga Singh and others 1987 RRR 348 (P&H): 1987 SLJ 206 and Harchal Singh v. State of Punjab, 1991(1) RRR 353 (P&H) : 1991 PLJ 20 that where land of different villages for extension of Industrial Focal Point/residential-cum-commer-cial urban estate etc. was acquired, then it would be appropriate to fix uniform rate for the entire acquired land in Rama Dia v. State of Haryana 1994(3) RRR 571 (P&H) : 1994(2) LJR 655 that where the lands were acquired under the same proceedings and the notification and for the same purposes, then the claimants could not be denied the benefit of judgment in the other

appeal; in *Bhagat Ram v. State of Punjab and others* 1981 PLR 34 that where the land was within the municipal limits, then the same must be treated as urban even if that was being cultivated; in *Kalyan Dass v. State of Haryana* 1979 CLJ P&H 188 that the compensation paid for the adjacent land without any meaningful disparity in the location and potentiality could be held to be proper basis for determination of market value and in *Radhey Shyam v. State of Haryana*, 1980 PLJ 77 that where the acquired land had potential of being used for industrial purposes etc., then its categorisation was illegal and whole of it should be evacuated at a flat rate.

20. There is certainly no dispute with the proposition laid down in all these judicial pronouncements. However, the ratio discerned therein could not in any way further the cause of claimants. The contention regarding awarding of compensation at the uniform rate for the acquired land as also parity in the price of lands acquired for different industrial sectors in the same locality, has been upheld. By no stretch of reasoning, the judgment of the Hon'ble High Court in RFA No. 253 of 1992, Ex.P.9, could champion the cause of claimants. That pertained to the acquisition in an altogether different locality. That judgment Ex.P.9, dealt with a case of acquisition of land of village Mewla Maharajpur for the construction of Link Road from Delhi-Mathura road in the close proximity of the National Capital Town. More so, that was with regard to a small piece of land and the person interested had been shown to have purchased the same at the rate awarded to them.

21. The copies of sale-deeds, Ex.R. I to R.24, including the year 1988, Ex.R.3 to R.5. no doubt gave the figure of average sale price as Rs. 20/- per square yard but the same have to be ruled out of consideration. That plea of the State Government was not upheld even by the Land Acquisition Collector while making relevant award dated 19.12.1991 Ex.P.11. As observed by the Land Acquisition Collector, the rate of the land supplied by the Collector of District was Rs. 2.50 lacs per acre. The stray instances of sale transactions relied upon by the State of Haryana have, therefore, to be ruled out of consideration. It must also be noticed on record that the issuance of such a notification relating to acquisition proceedings must have resulted in the pegging down of prices. That very view was held in *Smt. Ranjit Kaur and others v. State of Punjab and another* 1983 P.L.J. 164. The sale deeds relied upon by the State of Haryana could not, therefore, be regarded as true index of the market value.

22. Another question that survives for consideration is the demand of claimants for enhancement in the compensation already awarded for the land acquired for Industrial Sector No. 59 owing difference in the dates of notification. According to the claimants, the acquisition of that land for Industrial Sector No. 59 was made pursuant to notification dated 10.6.1988 whereas in the instant case, the notification was made on 26.12.1988. Drawing sustenance from the observations made in *Ranjit Singh and others Vs. Union Territory of Chandigarh*, , *Inder Singh v. State of Punjab* 1992(1) RRR488 (P&H) : 1988(2) PLR 190 and *Bhupinder*

Handa v. Union of India 1994(2) PLR 778 it was emphasised by the learned Counsel for the claimants that keeping in view the general increase in the prices of land, higher market value should be awarded to them for the acquisition made after a lapse of about six months, and that they were entitled to increase in the award of compensation at the rate of 1% per month. That contentions raised by the learned Counsel for the claimants though seemingly convincing must, however, be repelled, having regard to the totality of the circumstances on record. As has been authoritatively ruled in K. Posayya and Others Vs. Special Tahsildar, the doctrine of reinstatement value u/s 23(1) of the Act and the reference court has to be circumspect and careful in arriving at the just and fair market value. It is true that the owner or claimant could not be put to loss by under valuation but at the same time. Public exchequer could not be put to undue burden by excess valuation. The onus certainly lies on the claimants to adduce necessary and relevant evidence in proof of the objection for higher compensation. Striking balance between the diverse interests between the claimants and the State, the Court has already held that reasonable and just compensation was Rs. 150/- per square yard. The marginal gap of about six months in the publication of notification in the two cases was of little consequence. The claimants have failed to affirmatively establish on record and thereby to discharge the onus on them by adducing evidence regarding the increase in the land prices between that gap. which was too short to be taken cognizance of."

The parties are not satisfied with the findings of the trial Court, Hence these appeals.

10. In this case the notification u/s 4 of the Land Acquisition Act was issued on 26.12.1988. The acquired area was developed as Sector 58 which adjoins Sector 59. The land forms part of estate of village Jharsentli and Bhallabgarh which is now an integral part of Faridabad Administration Complex now called Municipal Corporation, Faridabad. The potential value of this land is quite evident. We all know that lot of industries have come in Faridabad and Gur-gaon and these are prized (prized ?) cities of Haryana State and are very near to National Capital. It is the common case of the parties that earlier the State of Haryana acquired land in order to carve out Sector 59. The litigation developed with regard to that acquisition also and the matter was referred to the Court for adjudication of compensation. Vide award dated 12.5.1993 (Ex.P.7) and vide judgment dated 13.1.1995 (Ex.P.8) the Court awarded compensation at the rate of Rs. 150/- per square yard. The Court has adopted this very yard stick for awarding of the compensation vis-a-vis the present notification dated 26.12.1988. The notification, which was the subject-matter of the two decisions dated 13.1,1995 and 12.5.1993, was dated 10.6.1988. We all know that we can even take a judicial notice about the galloping trend in the price rise of these two cities. In no circumstances, the same yard stick can be applied to the present acquisition which is subsequent and there is a marginal gap of six months.

11. The learned Counsel appearing on behalf of the landowners submitted that the market value of the land in the present case should not be less than Rs. 337/- per square yard and in support of his contention Shri Ashok Aggarwal, and other lawyers assisting him had relied upon the judgment Annexure P.9 dated 9.4.1994, passed by the High Court in RFA No. 253 of 1992, vide which the compensation for the land of village Mew la Maharajpur was assessed at the rate of Rs, 337/- per square yard. This submission of the learned Counsel for the petitioner cannot be accepted for the reasons that in the cited case the notification u/s 4 was issued on 30.10.1987. The location of the land of those villages is totally different and in no way adjoins to Sector 58. Therefore, that transaction, even it may be the basis of judgment of the High Court, cannot be made the basis for the purpose of calculating and determining the compensation for the present case. Best transaction has to be relied upon and even one valuable instance can become the guiding factor for the Court in order to determine the compensation. In this case, the land was acquired for carving out of Sector 59. This land was acquired on 10.6.1988 only six months earlier to the present notification. Therefore, instances P.7 and P.8 can be taken as good guiding factors for the purpose of adjudication of the controversy in hand. The Hon"ble Supreme Court in AIR 1997 Supreme Court 2625, Special Deputy Collector and another v. Kurra Sambasiva Rao and others, laid down the following principles of law for the purpose of determining the compensation and it was observed by their Lordships as follows :-

"What is fair and reasonable and adequate market value is always a question of fact depending on the evidence adduced, circumstantial evidence, and probabilities arising in each case. The guiding star or the acid test would be whether a hypothetical willing vendor would offer the lands and a willing purchaser in normal human conduct would be willing to buy as a prudent man in normal market conditions prevailing in the open market in the locality in which the acquired lands are situated as on the date of the notification u/s 4(1) of the Act but not an anxious buyer dealing at arms's length with throw away price, nor facade of sale or fictitious sales brought about it quick succession or otherwise to inflate the market value. The judge should sit in the arm chair of the said willing buyer and seek an answer to the question whether in the given set of circumstances as a prudent buyer he would offer the same market value which the Court proposed to fix for the acquired lands in the available market conditions."

12. I have already stated above that this Court can always take a judicial notice about the rising trend of the market price of the land. The market value of the land on which Sector 59 was developed in the month of June, 1988, was assessed by the learned District Judge at the rate of Rs. 150/- per square yard, therefore, by giving a reasonable increase, I assess the market value of the land in question at Rs. 165/- per square yard.

13. The learned Counsel appearing on behalf of the State, however, submitted

that the instances Ex.P.7 and P.8 are subject-matter of appeal pending in the High Court and, therefore, no finality can be attached to these instances. I do not subscribe to the argumem raised by the learned Counsel for the State because those judgments have not been set aside so far by any competent court of jurisdiction.

14. In this view of the matter, I hold and decide that the market value of the land in question on the date of the notification was Rs. 165/- per square yard and the landowners shall be entitled to the compensation at this rate. Apart from this, the landowners are also entitled to the other statutory benefits under Sections 23(1A) and 28 of the said Act. They shall also be entitled to solatium at the rate of 30%. The finding of the District Judge on issue No. 1 are modified to this extent. Consequently, the appeals filed by the State are hereby dismissed and the appeals of the land owners are allowed in part in the light of the observation and indication given above. There shall be no order as to costs in any of the appeals. The enhanced compensation shall be paid by the State of Haryana within three months.

15. Appeal partly allowed.