(2018) 04 BOM CK 0161

In the Bombay High Court

Case No : FIRST APPEAL NO.56, 116, 208, 591, 661, 737, OF 2006, 124, 133 OF 2007, 636, 1407, 1428 OF 2008, 1037, 1234, 1248, 1254, 1421, 425, 60 OF 2009, 215, 216, 276 OF 2011, 6, 602 OF 2012, 7 OF 2013,? 131 OF 201683 OF 2016, 489 OF 17, 431 OF 20 WITH CROSS

MAHARASHTRA INDUSTRIAL DEVELOPMENT CORPORATION, THROUGH ITS CHIEF EXECUTIVE OFFICER — APPELLANT

Vs

CHANDRASHEKHAR BRIJMOHAN MOR AND 3 OTHERS — RESPONDENT

Date of Decision : 24-04-2018

Acts Referred:
Maharashtra Industrial Development Act, 1961 — Section 1(3), 32(2), 34
Land Acquisition Act, 1894 — Section 18, 23, 24Maharashtra Land Revenue Code, 1966 — Section 44, 48, 48(3)
Maharashtra Land Revenue (Conversion Of Use Of Land And Non Agricultural Assessment) Rules, 1969 — Rule 4, 4(1)©

Citation : (2018) 04 BOM CK 0161

Hon'ble Judges : MANISH PITALE, J

Bench : Single Bench

Advocate : D Bhuibhar, Rohit Joshi, Abhay Sambre, A V Bhide, A B Nakshane, S C Mehadia, M A Barabde, A P Tathod, Sharad Thakare, S C Bhalerao, N R Saboo, A R Patil

Final Decision : Dismissed

Judgement

1. This bunch of appeals arises from land acquisition proceedings undertaken by the State Government for the Maharashtra Industrial Development

Corporation (MIDC), the acquiring body, for extension of industrial estate in village Bhoyar, Taluka and District Yavatmal. The State Government

issued a Notification on 30.11.1994 under Section 1(3) of the Maharashtra Industrial Development Act, 1961, identifying areas of land situated in the

said village, wherein Chapter VI of the said Act pertaining to acquisition and disposal of land would come into effect. Thereafter on 09.03.1995, the

State Government issued further Notification under Section 32 (2) of the said Act for acquisition of areas of lands pertaining to village Bhoyar. By this

notification, various pieces of land located in survey numbers spread out in the village of Bhoyar, belonging to the claimants herein, were acquired and

by awards issued by the respondent Special Land Acquisition Officer, quantum of compensation payable to the claimants was determined. The

claimants preferred reference applications under section 34 of the said Act read with section 18 of the Land Acquisition Act, 1894, before the

Reference Court seeking enhancement of compensation. It is from judgments and orders passed by the reference court in such applications that the

present set of appeals has arisen.

2. It is the acquiring body, the MIDC, which has approached this court by way of appeals challenging the enhanced quantum of compensation granted

by the reference court to the claimants, while in some cases the claimants have filed appeals seeking further enhancement of compensation. It is an

admitted position that while the claimants had placed on record documentary and oral evidence in support of their claims, neither the MIDC nor the

State Authorities placed any evidence on record to support their stand or to negate the contentions raised on behalf of the claimants.

3. Even though the MIDC and the state authorities failed to place on record evidence in support of their stand, as per settled law, the claimants being

in the position of plaintiffs in the court were required to support their case with cogent evidence and material. Therefore, while considering the present

set of appeals, this court has applied the said principle.

In fact, it would be appropriate to refer to the relevant portion of judgment of the Hon'ble Supreme Court in the case of Chimanlal Hargovinddas Vs.

Special Land Acquisition Officer, 1988 3 SCC 751, in this context, which reads as follows:

4. The following factors must be etched on the mental screen:

(1)......

(2)......

(3)......

(4) The claimant is in the position of a plaintiff who has to show that the price offered for his land in the award is anadequate on the basis of the

materials produced in the court. Of course the materials placed and proved by the other side can also be taken into account for this purpose.

(5)......

(6)......

(7)......

(7)......

(9)......

(10) The most comparable instances out of the genuine instances have to be identified on the following considerations:

(i) proximity from time angle,

(ii) proximity from situation angle.

(11) Having identified the instances which provide the index of market value the price reflected therein may be taken as the norm and the market

value of the land under acquisition may be deduced by making suitable adjustments for the plus and minus factors vis-a-vis land under acquisition by

placing the two in juxtaposition.

(12) A balance-sheet of plus and minus factors may be drawn for this purpose and the relevant factors may be evaluated in terms of price variation as

a prudent purchaser would do.

(13) The market value of the land under acquisition has thereafter to be deduced by loading the price reflected in the instance taken as norm for plus

factors and unloading it for minus factors

(14) The exercise indicated in clauses (11) to

(13) has to be undertaken in a common sense manner as a prudent man of the world of business would do. We may illustrate some such illustrative

(not exhaustive) factors:

Plus factors Minus factors

1. smallness of size. 1. largeness of area.

2. proximity to a road. 2. situation in the interior at a distances from the Road.

3. frontage on a road. 3. narrow strip of land with very small frontage compared to depth

4. nearness to developed 4. lower level requiring the area depressed portion to be filled up.

5. regular shape. 5. remoteness from developed locality.

6. level vis-a-vis land 6. some special under acquistion. disadvantageous factor which would deter a purchaser.

7. special value for an owner of an adjoining property to whom it may have some very special advantage.

4. A perusal of the impugned judgments and orders passed by the Reference Court in the present case shows that all the claimants have relied upon

sale instances of small plots of land located in adjoining village of Lohara, wherein there existed an already established industrial estate of MIDC.

None of the claimants placed on record sale instances from village Bhoyar, wherein the acquired lands of the claimants were located. It has also

come on record that not a single piece of land from village Bhoyar was converted to non-agricultural use.

The claimants did not place on record sale instances from village Bhoyar, although they would have been the most relevant pieces of evidence for

assessing market value of acquired lands.

5. The Reference Court in the impugned judgments and orders has referred to the sale instances placed on record on behalf of the claimants and

despite finding that the lands under acquisition and the plots of land pertaining to village Lohara were not comparable, it used the said sale instances

from village Lohara as reference points for arriving at the figures of enhanced compensation payable to the claimants. Only one sale instance from

village Bhoyar came on record dated 18.09.1992, which was the very sale deed on the basis of which the claimant therein had purchased the land that

was also subject matter of acquisition. This sale instance, along with assessment of location and features of the acquired lands would have been a

better basis for arriving at a proper figure of just and fair compensation payable to the claimants. The value that such lands would have fetched when

a prudent purchaser sought to buy such lands could have been a better basis for assessment.

6. A perusal of the impugned judgments and orders of the reference court shows that the enhanced compensation granted to claimant concerning First

Appeal No. 56 of 2006, has been referred to and relied upon in other cases of claimants. In the judgment and order in the case of the aforesaid

claimant, the Reference Court has relied upon a sale instance of a small plot of land from village Lohara and relying upon the same, it has calculated

amount of enhanced compensation payable to the claimant on square feet basis, by treating the land in village Bhoyar, which was subject matter of the

acquisition, virtually as developed land. This has had a trickle-down effect on other cases. Therefore, this court has considered an analyzed the

judgment and order in the case of the claimant in First Appeal No. 56 of 2006 in detail.

7. In the case of P. Rajan Vs. Kerala State Electricity Board, 1997 9 SCC 330, the Hon'ble Supreme Court has laid down that when a large extent of

land is acquired, it would be wrong to determine compensation on square feet or square yard basis. The relevant portion of the said judgment reads as

follows:

4. It is well settled legal position that when a large extent of land is acquired, determination of compensation on the foot of a cent, square yard of

square foot is a wrong principle. This Court repeatedly emphasised that the principle of fixation on acreage basis would be the correct principle. The

other principle is that if the acquired is situated in a developed area and is converted into buildings in a colony after obtaining sanction from the

competent authority or is situated in a well developed area like in the heart of a commercial centre, determination of the compensation could be on

square yard basis after giving due deduction according to law. Determination on square foot basis would be confined only to highly developed

commercial land or land situated at a place in the heart of a city like Nariman Point in Bombay or Connaught Place in Delhi. This principle of

determination of compensation on square foot basis would be justified.

Thus, compensation could be granted on square feet basis only if the land, which was subject matter of acquisition was developed land. In the present

case, the lands that were subject matter of acquisition were all agricultural lands. Although some of the claimants had applied for conversion of lands

to non-agricultural use, there was not a single instance of such conversion demonstrated by the claimants. Thus, grant of compensation was required

to be determined by treating the lands as agricultural lands with non-agricultural potentiality.

This was because the adjoining village of Lohara did have an industrial estate already established by the MIDC and there were certain factories and educational institutions in the said village, as has come on record in the evidence and material placed by the claimants. Therefore, it was necessary to

assess the quantum of compensation payable to the claimants by appreciating the location of the lands in terms of distance from the adjoining village of

Lohara and from the Yavatmal Darwha State highway running through the said village of Bhoyar. As the reference court did not undertake such an

exercise and emphasis was placed on sale instances pertaining to village Lohara, this court was required to look into the location of the lands in

question from map of village Bhoyar and adjoining villages, including Lohara, in district Yavatmal to make an assessment of the just and fair

compensation payable to the claimants on the basis of principles laid down in various judgments of the Hon'ble Supreme Court and this Court. The said

map was exhibited in some of the cases before the Reference Court, including in the cases concerning First Appeal No. 216 of 2011 and 276 of 2011,

wherein it was exhibited as Exhibit 33. The counsel appearing for the claimants and MIDC, as also the State Authorities, have all referred to and

relied upon the said map in order to make their submissions as regards the location and other features of the acquired lands for an assessment of the

quantum of enhanced compensation payable to the claimants.

8. Since this court has found that the basis on which the Reference Court proceeded to assess and arrive at figures of enhanced compensation was

not in terms of the law laid down in various judgments, the location of the lands in question has been taken into consideration and by applying settled

principles, the just and fair compensation payable to the claimants has been determined. In this context some amount of guesswork is inevitable, but,

this court has applied the principles laid down by the Hon'ble Supreme Court in the context of guesswork and the principles embodied in Sections 23

and 24 of the Land Acquisition Act, 1894, so that the quantum of compensation determined is just and fair.

9. This court has assessed the case of the claimant in First Appeal No. 56 of 2006 in detail as the land of the claimant therein was located in Survey

No. 33, which was adjacent to the industrial estate of village Lohara and it was on the aforesaid State highway. Thereafter, cases of other claimants

have been assessed and dealt with, keeping in mind the location of the lands, particularly distance from the said State highway and the already established industrial estate of village Lohara. In this manner, the fair market value of the lands as on 09.03.1995, when the notification was issued,

has been assessed and component of non-agricultural potentiality has been added to the same to arrive at figures of just and fair compensation payable

to the claimants. In doing so, this court has applied the principles enumerated in the case of Chimanlal Hargovinddas . The other principles elucidated

in various judgments of the Hon'ble Supreme Court and this court have also been applied, so as to arrive at such figures. Relevant portions of such

judgments have been quoted at appropriate places while dealing with the appeals individually. On this basis, the appeals have been decided and

disposed of.

The individual appeals are now considered hereinbelow.

First Appeal No.56 of 2006

1. By this appeal, the Maharashtra Industrial Development Corporation (MIDC) has challenged judgment and order dated 29.08.2005 passed by the

Court of Civil Judge, Senior Division, Yavatmal (Reference Court) in Land Acquisition Case No. 50 of 2002. By the said judgment and order, the

Reference Court has granted enhancement of compensation payable to respondent No.1 and the appellant herein is aggrieved by the same.

2. The State Government issued a Notification on 30.11.1994 under Section 1(3) of the Maharashtra Industrial Development Act, 1961 (hereinafter

referred to as ""the MID Act), identifying areas of land situated in village Bhoyar, taluka and district Yavatmal, wherein Chapter VI of the MID Act

pertaining to acquisition and disposal of land would come into effect. Thereafter on 09.03.1995, the State Government issued further Notification under

Section 32 (2) of the MID Act for acquisition of areas of lands pertaining to village Bhoyar. The said Notification under Section 32(2) of the MID Act

also pertained to land owned by the respondent no.1 admeasuring 4.47 hectares in field Survey No. 33/4 in village Bhoyar. An area of 1.10 hectares in

the said land was plain, while the balance 3.37 hectares was under hills. The purpose of the said acquisition was extension of industrial area of the

MIDC, as such industrial area had been already established in the adjoining village of Lohara.

3. Pursuant to completion of acquisition proceedings, on 03.11.1997, the respondent no.3- Special Land Acquisition Officer, issued award specifying

the rate of compensation fixed for acquisition of the aforesaid land. Under the award, the rate of compensation was fixed at Rs.1500/- per hectare for

the entire land and an amount of Rs.1305/- was fixed towards compensation for a well situated in the said land.

4. Aggrieved by the said award, on 27.01.1998, the respondent no.1 filed an application for enhancement of compensation before the Reference Court

under Section 34 of the MID Act read with Section 18 of the Land Acquisition Act, 1894. The respondent no.1 claimed compensation at Rs.9,00,000/-

per hectare for the land, Rs.1,00,000/- for the well and Rs.50,000/- for the minor mineral i.e. Murum (stone used in construction activity) said to be

found in the hills located on the aforesaid land. On this basis, the respondent no.1 claimed an amount of Rs.89,66,580/- towards compensation along

with 30 % solatium and 12% interest. Before the Reference Court, the respondent no.1 relied upon his own evidence as a witness in support of the

claim made in the reference application and upon the evidence of an expert Mr. Chendkapure, who appeared as witness no.2 on his behalf. The said

expert relied upon a valuation report prepared by him as regards the market value of the land and the value of the aforesaid minor mineral that could

have been excavated from the hills. The respondent nos. 2 and 3 being State Authorities, had filed their written statement in the said reference

application, but they failed to examine any witness on their behalf. The appellant MIDC was proceeded against ex parte before the Reference Court.

Thus, evidence before the Reference Court was only that which was produced on behalf of the respondent no.1 and cross-examination of witnesses

by the State Authorities.

5. On the basis of the pleadings, as also the evidence and material on record, by the impugned judgment and order, the Reference Court partly allowed

the application of respondent no.1, holding that he was entitled to compensation for land @ Rs.17/- per square feet amounting to Rs.34,75,260/- with

further compensation of Rs.34,53,582/- towards compensation for the said minor mineral Murum and an amount of Rs.35,000/- towards compensation

for the well. The Reference Court directed payment of the said amounts with interest @ 9% P.A. for the first year from the date of taking over

possession and thereafter at 15% P.A. , apart from 30% towards compensation and 12% P.A. towards additional component.

6. Aggrieved by the impugned judgment and order of the Reference Court, the appellant MIDC has filed this appeal. This appeal was admitted on

22.02.2006 by this Court. Later, interim order was granted in favour of the appellant MIDC upon deposit of 50% of the amount awarded by the

Reference Court. By order dated 12.11.2008, the respondent no.1 was permitted to withdraw 10% of the said deposited amount. As the respondent

No.1 expired during the pendency of the appeal, his legal representatives were brought on record, who are representing his interest in this Court.

7. Mr. M.M. Agnihotri, learned counsel appearing on behalf of the appellant MIDC, submitted that the enhancement of compensation granted by the

Reference Court is extremely high and it is not based on proper appreciation of the evidence and material on record. It is submitted that the reliance

placed by the Reference Court on sale deed dated 28.11.1994 (Exh.31) is wholly misplaced because it pertains to a plot of land in village Lohara,

which is the adjoining village and that the price of land at the relevant time in the said village was much higher than lands located in village Bhoyar,

because there was already an established industrial estate in village Lohara. It was submitted that sale instances pertaining to lands located in village

Bhoyar were deliberately not produced on behalf of the respondent no.1, as no land in village Bhoyar had been converted to non-agricultural use and

the market value of land at the relevant time in village Bhoyar was far less than plots of land located in village Lohara. It was submitted that the said

sale deed at Exh.31 could not be said to be pertaining to a piece of land that was comparable to the acquired land in the present case. It was further

submitted that while the land under acquisition was agricultural land, the Reference Court committed a grave error in fixing market value of the said

land on square feet basis.

8. In this regard, it was submitted that in one of the connected cases before the Reference Court there was a sale instance placed on record

pertaining to a piece of land in village Bhoyar of the year 1992, located in adjoining Survey No.20, wherein the sale consideration was only

Rs.1,11,000/- for an area of about 1.21 hectares. It was submitted that since this was the only sale instance of village Bhoyar before the Reference

Court in all the cases pertaining to acquisition from the said village, it could be taken as a valid reference for ascertaining the market value of the land even in the present case when Notification dated 09.03.1995 was issued under Section 32(2) of the MID Act. It was submitted that while the said

Notification was issued on 09.03.1995, the date of the aforesaid only available sale instance from the adjoining survey number of village Bhoyar was

18.09.1992, which could be a relevant factor for assessing the true market value of the land belonging to respondent No.1. It was contended that 10%

annual increase at cumulative rate could be granted from the date of the aforesaid sale instance of village Bhoyar till the issuance of aforesaid

Notification on 09.03.1995. It was further contended that since the said sale instance from village Bhoyar pertained to the adjoining survey number 20,

for the land belonging to respondent no.1 in Survey No. 33, which was nearer to the said village Lohara where there was an industrial estate already

established, some further amount could be added. On this basis, it was submitted that the enhanced compensation granted by the Reference Court,

which came to about Rs.7,77,463/- per hectare was extremely high and wholly unsustainable.

9. It was further submitted that the compensation granted for minor mineral Murum by the Reference Court was totally unsustainable, because it was

against the law laid down by the Hon'ble Supreme Court and this Court in the context of grant of compensation when a minor mineral was said to be

existing in a piece of land, which becomes subject matter of acquisition. It was contended that under the provisions of the Maharashtra Land Revenue

Code,1966, particularly Section 48 thereof and Rules framed thereunder, minerals existing under the surface of the land entirely belonged to the State

and no compensation was payable to respondent no.1 for the same.

10. As regards the finding of the Reference Court that since the respondent no.1 had applied for conversion of the land to non-agricultural use, which

was deemed to have been granted, it was submitted that there was lack of cogent evidence to show actual submission of such application for

permission by respondent no.1 before the concerned State Authorities. In the alternative, it was contended that under Rule 4(1)(c) of the Maharashtra

Land Revenue (Conversion of Use of Land and Non-agricultural Assessment) Rules, 1969, unless the respondent no.1 commenced non-agricultural

use of land within one year from such conversion, such permission was deemed to have lapsed. It was submitted that when the respondent no.1 had failed to show that he had actually put the land to any non-agricultural use and not a single plot from the said land was shown to have been sold,

payment of compensation treating the land as non-agricultural land by the Reference Court was wholly unsustainable. It was further contended that

the evidence of the expert witness produced by the respondent no.1 could not have been relied upon in the absence of proof of the report relied upon

by him. The learned counsel placed reliance on judgments of the Hon'ble Supreme Court in the case of Special Land Acquisition Officer .vs. Sidappa

Omanna Tumari, 1995 Supp2 SCC 168, Hookiyar Singh .vs. Spl. Land Acquisition Officer, 1996 3 SCC 766, P. Rajan .vs. Kerala State Electricity

Board, 1997 9 SCC 330, Union of India .vs. Pramod Gupta, 2005 12 SCC 1, and judgment of this Court in the case of MIDC .vs. Kantabhai dated

12.10.2015 passed in First Appeal No.448 of 2003.

11. Per contra, Mr. J.M. Gandhi, learned counsel appearing on behalf of the respondent no.1 submitted that the enhanced compensation granted by

the Reference Court was justified, as it was based on the evidence and material on record placed on behalf of respondent no.1. As no contra evidence

was produced by the appellant MIDC or the respondent State Authorities, it could not be said that there was any error committed by the Reference

Court. It was submitted that the location of the acquired land was such that it had immense non-agricultural potentiality, apart from the fact that it was

deemed to have been converted to nonagricultural use as permission for conversion was not refused by the concerned authorities within the stipulated

period of time. It was further contended that permission for excavation of the minor mineral Murum was granted on 04.08.1997 (Exh.37) and that,

therefore, the compensation granted for the said minor mineral by the Reference Court was justified. It was pointed out that the acquired land was

located in Survey No.33, which was adjacent to the already existing industrial estate of village Lohara with factories of Raymond and Hindustan Liver

towards the east, as also a water filter plant of the MIDC in the vicinity. The land had 57 meters of frontage on the YavatmalDarwha State Highway.

The distance between the land in village Lohara pertaining to the said sale deed at Exh. 31 and the acquired land was not much and that this

demonstrated the fact that grant of compensation on square feet basis by the Reference Court was fully justified. The learned counsel submitted that the appellant MIDC could not rely upon sale deed pertaining to aforesaid land in adjoining Survey No.20 of village Bhoyar because it had failed to

adduce any evidence in respect of its claims before the Reference Court. Reliance was placed on the judgment of the Hon'ble Supreme Court in the

case of Threesiamma Jacob .vs. Geologist, Deptt of Mining and Geology, 2013 AIR(SC) 3251, Special Land Acquisition Officer .vs. M.K. Rafiq

Saheb, 2011 AIR(SC) 3178.

12. The record of the present case shows that the appellant MIDC failed to file written statement before the Reference Court and it could not adduce

any evidence in support of its contentions. It was only the State Authorities (respondent nos. 2 and 3 herein) which filed written statement but they

also failed to adduce any evidence before the Reference Court. Thus, evidence was adduced only on behalf of the respondent No.1 (claimant). It was

the only material before the Reference Court to determine as to what was the just and fair compensation payable to respondent No.1 for acquisition of

his land. In this context, judgment of the Hon'ble Supreme Court in the case of Hookiyar Singh .vs. Spl. Land Acquisition Officer is relevant, wherein

it has been laid down that even if it is found that time and again the acquiring authorities failed to adduce evidence and there was ineffective cross-

examination on their behalf of the witnesses of the claimant, it was the duty of the Court to carefully scrutinize the evidence to determine just and

adequate compensation payable to the claimant. It has been emphasized that the Court ought not to indulge in feats of imagination but it must sit in the

armchair of the prudent purchaser in open market and to put a question to itself whether as a prudent purchaser it would offer the same price in the

open market as is claimed by the claimant. Reference has been made in the aforesaid judgment to clause fifthly of Section 24 of the Land Acquisition

Act, 1894, which prohibits taking into consideration future user to which the land would be put upon acquisition, while determining the amount of

compensation payable to the claimant. Applying the said principle, it would be necessary in the present case to examine whether the Reference Court

has properly analyzed the evidence and material on record, while rendering finding of grant of enhanced compensation to respondent no.1.

13. In the present case, it has come on record that lands in village Bhoyar were not converted to non-agricultural use. In the present case and in other

connected cases arising from acquisition of lands in the said village, not a single instance of conversion of land to non-agricultural use from village

Bhoyar was demonstrated. The sale instance relied upon in the present case by the Reference Court was dated 28.11.1994 (Exh.31) pertaining to a

plot of land in adjoining village Lohara. It was a plot of land admeasuring 1089 sq. ft. i.e. 101.20 sq.mt. It was clearly a small piece of land as

compared to the acquired land of respondent no.1 admeasuring 4.47 hectares. It has also come on record that an industrial estate of the appellant

MIDC had already come into existence in the lands of village Lohara.Thus, apart from the fact that the said land subject matter of the sale deed at

Exh.31 was a very small plot of land as compared to the acquired land, its nature in terms of being developed land, was very different from the

agricultural land belonging to respondent no.1, which was acquired in the instant case. Yet, the Reference Court relied upon the said sale deed at

Exh.31 on the ground that village Lohara was about 2 kms. away and that the said sale deed at Exh.31 was dated 28.11.1994, which was just before

the Notification dated 09.03.1995, issued in the present case under Section 32(2) of the MID Act. On this basis, the Reference Court held that even

the land of respondent no.1 could be considered for grant of compensation on square feet basis because the rate of market price of the land could be

worked out at Rs.17/- per square feet, taking into account the aforementioned sale deed at Exh.31. The Reference Court then referred to potentiality

of the land of respondent no.1 and held that it was clearly possible to equate the said land to the land mentioned in Exh.31. The Reference Court found

that since the land at village Lohara was used for establishment of industrial estate of the appellant MIDC and the acquired land of respondent no.1

was also to be put to extension of industrial estate, the two lands could be equated and compensation could be granted on that basis.

14. But, the Reference Court failed to appreciate that the two pieces of lands could not be compared and that they could certainly not be held to be

identical in terms of their valuation.

The Reference Court has placed much emphasis on the location of the acquired land and the testimony of respondent no.1 and his expert witness in

that regard. But, factors like the land at village Bhoyar still being agricultural land was not taken into consideration. As regards the application for conversion of land to non-agricultural use and the evidence of the respondent no.1 and his expert witness regarding deemed grant of permission, it was

still be necessary for the respondent no.1 to have shown that such land was actually put to non-agricultural use by him when the Notification dated

09.03.1995 was issued under Section 32(2) of the MID Act. In this regard, Rule 4(1)(c) of the Maharashtra Land Revenue (Conversion of Use of

Land and Non-agricultural Assessment) Rules, 1969, assumes importance. The said provision reads as follows:-

Rule 4 Conditions in which permission may be granted

(1) Permission to convert the use of agricultural land for any non-agricultural purpose, or to change the use of land from one non-agricultural purpose

to another nonagricultural purpose may be granted by the Collector after consulting the Planning Authority and such other authority as the State

Government may, from time to time, direct subject to the provisions of any law for the time being in force and to the following among other conditions,

that is to say

(a) .....

(b) .....

(c) the applicant shall commence the non-agricultural use applied for within one year from the date of the order made by the Collector in that behalf;

failing which, unless the said period is extended by the Collector from time to time, the permission granted shall be deemed to have lapsed.

15. In the present case, it was claimed by the respondent no.1 that he had applied for conversion of acquired land for non-agricultural use and that he

had submitted layout of plots with map to the Sub Divisional Officer after obtaining no objections from various departments. According to him, since

the said application submitted by him was not rejected, by operation of law i.e section 44 of the Maharashtra Land Revenue Code, 1966, , it was

deemed to have been granted. But, the respondent no.1 failed to demonstrate that, even assuming that deemed permission was granted to him, he had

utilized the said land for non-agricultural use as there was no material to show that even a single plot from alleged layout demarcated in the acquired

land was ever sold. Therefore, in the absence of any such material, by operation of the aforesaid Rule 4(1)(c), the permission for conversion, if any,

stood lapsed and the Reference Court could not have granted enhanced compensation treating the acquired land as developed land and fixing the rate of compensation on square feet basis.

16. In fact, the respondent no.1 himself stated that he had purchased the acquired land admeasuring 4.47 hectares on 01.04.1989 for consideration of only Rs.55,000/-. This could have been taken as a basis to arrive at a reasonable figure for market value of the said land on 09.03.1995, when the Notification under Section 32(2) of the MID Act was issued. But, no sale deed of a piece of land from village Bhoyar was produced by the respondent no.1 before the Reference Court. As stated above, in the entire group of appeals arising from the acquisition proceedings pertaining to village Bhoyar, only one sale deed proximate in time to notification dated 09.03.1995 from village Bhoyar was placed on record pertaining to a piece of land admeasuring 1.21 hectares from Survey No.20, which was adjacent to Survey No. 33 wherein the acquired land in the present case was located. The said sale deed from village Bhoyar shows consideration amount of only Rs.1,11,000/- for 1.21 hectares land. Since this Court has considered this group of appeals from village Bhoyar together, judicial notice of the aforesaid singular sale deed from village Bhoyar is being taken for the present appeal also, in order to ascertain the fair market value of the acquired land in the present case. In fact, it was for the respondent no.1 to have produced sale deed from the survey number of village Bhoyar wherein the acquired land was located or at least from any other adjoining survey number from village Bhoyar, which could be said to be a comparable sale instance. Such material would have been the best evidence for the Court to arrive at a proper evaluation of the market value of the acquired land. But, instead of doing so, the respondent no.1 produced sale deed at Exh.31 pertaining to small plot of developed land in village Lohara, where industrial estate of appellant MIDC was already established. It was not a comparable sale instance, which the Reference Court failed to appreciate. Even in the absence of any evidence produced by the appellant MIDC or the State Authorities, it was incumbent on the respondent no.1 to have produced relevant material pertaining to lands located in village Bhoyar. This demonstrates an error in the approach of the Reference Court in simply relying upon the aforesaid sale instance at Exh.31 and evidence of the expert witness produced on behalf of the respondent no.1.

17. In this situation, this Court is required to determine the just and fair compensation payable to the respondent no.1 on the basis of principles laid

down by the Hon'ble Supreme Court in this context. The law laid down by the Hon'ble Supreme Court in the context of annual increment in market

price of land, relevance of sale instances from other villages vis-Ã -vis sale instances from same village and the concept of guess work, assumes

significance.

18. The Hon'ble Supreme Court in its judgment in the case of Pehlad Ram .vs. HUDA, 2014 14 SCC 778, has taken into consideration various earlier

judgments regarding grant of annual increase in the amount of compensation for acquisition of land. Upon finding that the range of annual increment in

earlier judgments, in the facts and circumstances of those cases, was between 10% and 15%, the Hon'ble Supreme Court has found that a 10%

cumulative annual increment could be said to be the reasonable basis to calculate enhanced compensation payable to a claimant.

19. The Hon'ble Supreme Court in the case of Kanwar Singh .vs. Union of India, 1998 8 SCC 136, has held that if compensation was determined on

the basis of awarded compensation to claimants of adjoining village, it would not lead to correct assessment of market value because there would be

difference in location and potentiality of the lands situated in two different villages, even if they were adjoining and that if sale instances from the same

village were available, they ought to be relied on for determining market value of the acquired land. In the case of Ranvir Singh .vs. Union of India,

2005 12 SCC 59, the Hon'ble Supreme Court reiterated the position of law that sale deeds pertaining to portion of lands which were subject to

acquisition would be the most relevant piece of evidence for assessing the market value of the acquired lands. It was further held in the said judgment

by the Hon'ble Supreme Court that burden of proving that the acquired land and the land covered by a sale transaction bears similar or same

potentiality or advantageous features, was also on the claimant and it was reiterated that sale price in respect of small piece of land could not be a

basis for determination of the market value of a large stretch of land. The relevant principles laid down by the Hon'ble Supreme Court in this context

in the case of Chimanlal Hargovinddas have been already quoted hereinabove. This position of law, demonstrates that the reliance placed by the

Reference Court on the sale deed at Exh.31 in the present case pertaining to a small plot of land in village Lohara was wholly misplaced.

20. The Hon'ble Supreme Court has elaborated on the concept of guesswork and ""Guesstimate"" in its judgment in the case of Trishala Jain .vs. State

of Uttaranchal, 2011 6 SCC 47. It has been held by the Hon'ble Supreme Court in this context as follows:-

56. More often than not, it is not possible to fix the compensation with exactitude or arithmetic accuracy. Depending on the facts and circumstances

of the case, the Court may have to take recourse to some guesswork while determining the fair market value of the land and the consequential amount

of compensation that is required to be paid to the persons interested in the acquired land.

57. '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 mere 'guess' or

a 'conjecture' per se.

58. The concept of 'guesswork' is not unknown to various fields of law. It has been applied in cases relating to insurance, taxation, compensation

under the Motor Vehicles Act as well as under the Labour Laws.

All that is required from a Court is that such guesswork has to be used with greater element of caution and within the determinants of law declared by

the Legislature or by the Courts from time to time.

Thereafter, the Hon'ble Supreme Court has quoted from earlier judgments wherein guesswork has been applied to arrive at a figure of compensation

payable to claimants in land acquisition cases and thereupon, it has been further held in the said judgment of Trishala Jain .vs. State of Uttaranchal as

follows:-

64. These precedents clearly demonstrate that the Court may apply some guesswork before it could arrive at a final determination, which is in

consonance with the statutory law as well as the principles stated in the judicial pronouncements. As already noticed, the guesswork has to be used

for determination of compensation with greater element of caution and the principle of guesstimation will have no application to the case of 'no

evidence'. This principle is only intended to bridge the gap between the calculated compensation and the actual compensation that the claimants may

be entitled to receive as per the facts of a given case to meet the ends of justice.

65. It will be appropriate for us to state certain principles controlling the application of 'guesstimate:

(a) Wherever the evidence produced by the parties is not sufficient to determine the compensation with exactitude, this principle can be resorted to.

(b) Discretion of the court in applying guesswork to the facts of a given case is not unfettered but has to be reasonable and should have a connection

to the data on record produced by the parties by way of evidence. Further, this entire exercise has to be within the limitations specified under Sections

23 and 24 of the Act and cannot be made in detriment thereto.

21. Applying the aforesaid principles controlling the application of the concept of guesstimate, in the present case, it will be appropriate to guess the

enhanced compensation payable to respondent no.1 (claimant) on the potentiality of the acquired land. Taking into consideration the pleadings and

evidence on record, showing that the acquired land had on its East certain factories located in the already existing industrial estate of MIDC as also

the fact that the land was on the Yavatmal- Darwha road, it would be appropriate that enhancement for potentiality is granted to the respondent no.1.

22. Since the acquired land could not have been treated as developed land for which rate of compensation could have been granted on square feet

basis, its market value would have to be assessed on its location and non-agricultural potentiality.

In this situation, the evidence and material on record does show that the acquired land was located on the YavatmalDarwha State Highway (although

it has been claimed on behalf of the appellant -MIDC that it is not a State Highway but a road connecting the two places) and it was located near the

land of village Lohara wherein industrial estate of the MIDC was already established. Thus, non-agricultural potentiality of the agricultural land could

not be denied. In this context, the Reference Court has held that when the land in question was being acquired for extension of the industrial estate of the appellant MIDC, the user to which it was to be put could certainly be taken into consideration for determining the market value. But, this factor

has to be taken into consideration by taking into account the prohibition under Clause fifthly of Section 24 of the Land Acquisition Act, 1894, which

was ignored by the Reference Court in the present case.

The user to which the land may be put can said to be an aspect of non-agricultural potentiality of the acquired land. In the case of Digambar. vs. State

of Maharashtra, 2013 AIR(SC) 3532, the Hon'ble Supreme Court, in the context of potentiality, has held as follows:-

17. Also paras 16 and 17 from Sabhia Mohammed Yusuf Abdul Hamid Mulla are quoted hereunder:

16. We have considered the respective arguments and carefully perused the record. It is settled law that while fixing the market value of the acquired

land, the Land Acquisition Collector is required to keep in mind the following factors:

(i) Existing geographical situation of the land.

(ii) Existing use of the 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.

17. In Viluben Jhalejar Contractor v. State of Gujarat[8] this Court laid down the following principles for determination of market value of the acquired

land: (SCC pp. 796-97)

17. Section 23 of the Act specifies the matters required to be considered in determining the compensation; the principal among which is the

determination of the market value of the land on the date of the publication of the notification under subsection (1) of Section 4.

18. One of the principles for determination of the amount of compensation for acquisition of land would be the willingness of an informed buyer to

offer the price therefor. It is beyond any cavil that the price of the land which a willing and informed buyer would offer would be different in the cases

where the owner is in possession and enjoyment of the property and in the cases where he is not.

19. Market value is ordinarily the price the property may fetch in the open

market if sold by a willing seller unaffected by the special needs of a

particular purchase. Where definite material is not forthcoming either in the shape of sales of similar lands in the neighbourhood at or about the date of

notification under Section 4(1) or otherwise, other sale instances as well as other evidences have to be considered.

18. Further, it would be worthwhile to refer to the portion which is extracted from Atma Singh Vs. State of Haryana[9] which para is referred to at

para 18 in Sabhia Mohammed Yusuf Abdul Hamid Mulla's case which reads thus:

5. 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.

It is well settled that market value of a property has to be determined having due regard to its existing condition with all its existing advantages and its

potential possibility when led out in its most advantageous manner. The question whether a land has potential value or not, is primarily one of fact

depending upon its condition, situation, uses 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 nearabout town is developing or has

prospect of development have to be taken into consideration.

19. In para 22 of Sabhia Mohammed Yusuf Abdul Hamid Mulla's case , the judgment of this Court in Land Acquisition Officer Vs. L.

Kamalamma[10] is referred to and the relevant portion of which is extracted hereunder:

7. ... When a land is acquired which has the potentiality of being developed into an urban land, merely because some portion of it abuts the main road,

higher rate of compensation should be paid while in respect of the lands on the interior side it should be at lower rate may not stand to reason because

when sites are formed those abutting the main road may have its advantages as well as disadvantages. Many a discerning customer may prefer to

stay in the interior and far away from the main road and may be willing to pay a reasonably higher price for that site. One cannot rely on the mere

possibility so as to indulge in a meticulous exercise of classification of the land as was done by the Land Acquisition Officer when the entire land was

acquired in one block and therefore classification of the same into different categories does not stand to reason.

23. Thus, it would be evident that even in the present case the market value of acquired land for ascertaining just and fair compensation payable to the respondent no.1 ought to have been determined on the said factors i.e. geographical location of the land, its existing use, its proximity to road/highway and its potentiality. In the present case, the acquired land was on the State Highway with a frontage of about 57 meters and it definitely had non-agricultural potentiality when the Notification dated 09.03.1995 was issued under Section 32(2) of the MID Act. As noted above, it could not be held to be a land converted to non-agricultural use, but its proximity to village Lohara wherein there was already existing industrial estate of appellant MIDC, could not be ignored. But, the sale deed at Exh.31 could certainly not be used as a base for determination of market value of the acquired land because the small plot, which was subject matter of sale deed at Exh.31 located in village Lohara, was certainly not comparable to the acquired land. Therefore, grant of compensation on square feet basis by the Reference Court was wholly unsustainable.

24. In this situation, the process of ascertaining rate at which just and fair compensation was payable to respondent no.1 would necessarily involve some amount of guess work. Such guess work has to be based on logical criteria and it cannot be based on imagination. A reasonable basis for ascertaining such rate of compensation could be the sale deed dated 18.09.1992 pertaining to a piece of land admeasuring 1.21 hectares located in Survey No.20/2 of village Bhoyar, which was adjacent to Survey No.33 in which the acquired land of respondent no.1 was located. The aforesaid sale deed was exhibited as Exh.29 before the Reference Court in the cases pertaining to First Appeal Nos.116 of 2006 and 208 of 2006, which have also fallen for consideration of this Court in this group of appeals. The per hectare rate in the said sale deed comes to about Rs.91,736/- per hectare. Considering that the acquired land of respondent No.1 was located on the eastern side, further nearer to the already established industrial estate in village Lohara, it could be said that the value of the acquired land around the same time as 18.09.1992 was higher and it could be taken at about Rs.1,00,000/- per hectare. Since the Notification in the present case was issued on 09.03.1995 under Section 32(2) of the MID Act, adding 10%

increase cumulatively for about three years, at the time of issuance of the said Notification, the fair market rate of the acquired land would come to

Rs.1,33,100/- per hectare.

25. Since the location of the acquired land was such that its potentiality could not be denied, although it was not converted to non-agricultural use,

further amount would have been fetched by such land if it was ascertained as to what a prudent purchaser would have paid for the said land at the

time when the said Notification was issued on 09.03.1995. Taking into consideration the pleadings and evidence on record, showing that the acquired

land had on its East certain factories located in the already existing industrial estate of MIDC as also the fact that the land was on the Yavatmal-

Darwha road, it would be appropriate that enhancement for potentiality to the extent of Rs. 65,000/- is granted to respondent no.1. Adding the said

amount of Rs.65,000/- per hectare, the total amount would then would come to Rs.1,98,100/- per hectare, which can be rounded of to Rs. 200,000/-

per hectare. But, by ascertaining the market value of the acquired land erroneously at Rs.17/- per square feet, by equating the said land to the land

that was subject matter of Exh.31, located in village Lohara, the Reference Court committed a grave error. This is evident from the fact that at the

aforesaid per square feet rate, the enhanced compensation granted by the Reference Court has come to an extremely high figure to Rs.7,77,463/- per

hectare.The grant of such enhanced compensation by the Reference Court in the present case was clearly based on erroneous considerations and it

cannot be sustained. In fact, the findings rendered by the Reference Court in the present case of granting compensation at Rs.17/- per square feet has

been relied upon in the cases of other land owners of village Bhoyar where compensation was determined. As a result, there has been a trickle down

effect of error in determination of compensation in the other cases also. The basis of determining compensation on per square feet basis by the

Reference Court is found to be wholly erroneous and is, therefore, liable to be set aside.

26. As regards the grant of compensation for minor mineral Murum determined by the Reference Court, reliance has been placed in the impugned

judgment and order on the evidence of the expert witness and his method of determining valuation of the rate at which the said minor mineral would have been sold in the market. In this context, the learned counsel appearing on behalf of the appellant MIDC, has relied upon Section 48 of the

Maharashtra Land Revenue Code, 1966 and judgment of this Court in the case of MIDC .vs. Kantabhai passed in First Appeal No. 448 of 2003,

which in turn has relied upon the judgment of the Hon'ble Supreme Court in the case of Union of India .vs. Pramod Gupta.

27. Section 48 of the Maharashtra Land Revenue Code, 1966, provides that the right in minerals whether on surface or underground is expressly

reserved and shall vest in the State Government, which shall have all powers for proper enjoyment of such rights. Thus, a land owner cannot claim

right in any mineral found on the surface or underground, in land belonging to him as it is expressly reserved and vested in the State Government.

Therefore, unless the land owner has permission to mine or excavate such mineral located in his land, in accordance with the procedure established by

law, upon such conditions that the State Government may apply, he cannot claim any right in such mineral. Consequently, a land owner like the

respondent no.1 in the present case, could claim compensation for the minor minerals Murum said to be located in the hills in his land, only if there was

evidence on record that he had applied for and that he was granted permission for mining or excavating such mineral. This Court in its judgment in the

case of MIDC .vs. Kantabhai has considered this aspect and it has been held in the said judgment as follows:-

10. The Reference Court while enhancing the compensation has proceeded on the basis that mining minerals were available under the soil of the

acquired land and therefore valuation of said minerals had been successfully proved by the claimant. Much importance was not granted to the refusal

of permission to excavate the minerals. The evidence led on behalf of the claimant of the Architect and the Geologist came to be accepted.

11. In Union of India the Supreme Court in para 74 of its judgment it was observed thus:

But while examining the question of computing the quantum of compensation, the Courts are required to bear in mind the extent of such rights and in

particular the statutory provisions which prohibit carrying out mining operations without obtaining an appropriate mining lease, prospecting licence or

permits. Thus Courts much also bear in mind that even in a case where owners are entitled to the minerals having regard to the provisions contained in the Punjab Minor Minerals Rules, 1934, the amount of compensation would be much less and with the acquisition of land the right to use the minerals

would come to an end. Compensation for such minerals may not be computed on the basis of the profits earned by a mining lessee having a valid

mining lease therefor. Furthermore, a person having a right to use mines and minerals for his personal use and not for sale will still have to obtain an

appropriate permit in terms of the statutory provisions.

In para 77 it has been thereafter observed that any profit earned by carrying on mining operations in a manner contrary to relevant provisions would

not be a safe criterion for determining the amount of compensation.

12. Reference to provisions of Section 48 of the Maharashtra Land Revenue Code, 1966 (for short the Code) is also necessary. As per said

provisions, the right in minerals whether on surface or underground vests with the State Government.

Under Section 48(3) such right over mines and minerals can be assigned by the State Government and under Section 48(4) of the Code in case the

right of any person stands infringed, compensation can be paid by the State Government or its assignee for such infringement. Under Section 48(7) of

the Code illegal extraction of minerals without due permission of the State Government is prohibited. The evidence on record indicates that the

claimant had applied to the Collector for permission to carry out mining activities but he was not aware about the fate of his application. He further

stated that though the SubDivisional Officer had granted permission he had not filed a copy of said order. The SubDivisional Officer who was

examined vide Ex. 55 had stated that if permission is granted for excavation upto 1000 brass by the Sub Divisional Officer then such entry is taken in

the records. He further stated that there was a recommendation granted by the SubDivisional Officer vide Ex. 33 and there were other transit passes

also on record. He denied the suggestion that any such permission was granted by the SubDivisional Officer.

13. In the light of judgment of the Supreme Court in Union of India the aspect of necessary permission for excavating the minerals assumes

importance. The decision in the case of Threesiamma Jacob with regard to holders of Jenmom land in the State of Kerala would not apply to the facts

of the present case especially when under Section 48(1) of the Code, the right in such minor minerals in so far as the State of Maharashtra is

concerned vests with the State Government. Similarly the judgment of the Kerala High Court in State of Kerala requiring valuation of the minerals to

be taken into consideration also cannot be made applicable in view of observations made in para 74 of the judgment in Union of India that have been

reproduced herein above. The decision in Raja Anand is clearly distinguishable on facts as the acquisition was set aside on the ground that the

Notification issued under Section 4(1) of the said Act was found to be illegal. In view of aforesaid mere existence of minor minerals in the acquired

land would be of not much assistance to the claim for enhancement in the amount of compensation.

It is also pertinent to note that the market value was determined on the basis of deposition of Architect as per his report at Ex. 48. In his cross

examination he clearly admitted that the aspect of mineral mining was not part of architecture. Similarly, the other witness examined was a Hydro

Geologist who was concerned with the survey for investigating existence of water. His deposition is also not helpful in the present facts. The

Reference Court therefore was not justified in awarding compensation to the claimant on the basis of valuation of the minor minerals.

Â As is evident from the above quoted paragraphs, this Court has relied upon the judgment of the Hon'ble Supreme Court in the case of Union of

India .vs. Pramod Gupta to elucidate the aforesaid position of law. As noted in the above quoted judgment, the land owner cannot rely upon judgment

of the Hon'ble Supreme Court in the case of Threesiamma Jacob .vs. Geologist, Deptt of Mining and Geology, because it was clearly distinguishable

on facts. In the present case also, the learned counsel appearing on behalf of the respondent No.1 has relied upon the aforesaid judgment of the

Hon'ble Supreme Court in the case of Threesiamma Jacob .vs. Geologist, Deptt of Mining and Geology, , but, in the light of the aforesaid position of

law, it cannot be of assistance to the respondent no.1.

28. In the light of the aforesaid position of law, the evidence and material on record in the present case needs to be examined. The learned counsel

appearing on behalf of the respondent no.1 relied upon a document at Exh.37 to claim that the respondent no.1 was entitled to grant of compensation

for the minor mineral Murum located in the hills in the land at the rate specified by the expert witness who had appeared in support of the claim made by the respondent no.1. At Exh.37 is an order passed by the Collector, Yavatmal, dated 04.08.1987 granting permission to the respondent no.1 for mining of minor mineral Murum from land located in Survey No. 30/1 of mouza (village) Godani. This order has no relevance for the land of the respondent no.1 which was acquired , as it was located in Survey No. 33/4 in village Bhoyar. In fact, the said land at village Bhoyar was purchased by the respondent no.1 on 01.04.1989. Thus, it can have no connection with the order at Exh.37, which was passed on 04.08.1987. It was sought to be submitted on behalf of the respondent no.1 that the said order at Exh.37 at least demonstrated that the respondent no.1 was in the business of mining minor mineral Murum and that, therefore, it could be said that he would be entitled for compensation for the said minor mineral shown by the expert witness to be located in the hills in the acquired land. But, in view of the aforesaid position of law laid down by this Court in the case of MIDC .vs. Kantabhai , in the absence of evidence and material on record showing permission granted to respondent no.1 to mine the minor minerals Murum, no compensation could be claimed by the respondent no.1 in that regard. In this light, the evidence tendered by the expert witness as regards quantity of minor mineral Murum available in the hills in the acquired land and its valuation become meaningless and they cannot come to the aid of the respondent no.1. This clearly demonstrates that the respondent no.1 was not entitled to grant of compensation for minor mineral Murum , as granted by the Reference Court in the impugned judgment and order.

29. Thus, it becomes clear that the instant appeal filed by the MIDC deserves to be partly allowed. The compensation granted to the respondent no.1 for minor mineral Murum by the Reference Court in the impugned judgment and order is set aside. The compensation for acquired land @ Rs.17/- per square feet granted by the Reference Court is also set aside. It is held, on the basis of the calculation of compensation payable to respondent no.1 in the manner detailed above, that the respondent no.1 is entitled to compensation for acquisition of his land at the rate of Rs.2,00,000/- per hectare. The compensation granted by the Reference Court of Rs.35,000/- for the well located in the land is maintained. The other directions pertaining to solatium, additional component and interest granted by the Reference Court are also

maintained. The quantum of compensation payable to the respondent no.1

at the aforesaid rate shall be for the entire extent of 4.47 hectares of land. Accordingly, this appeal of the MIDC is partly allowed and the judgment

and order of the Reference Court is modified to the above extent.

First Appeal Nos. 116/2006 and 208/2006

1. These are two appeals filed by the acquiring body MIDC (First Appeal No. 116 of 2006) and the claimant Satish Nimodiya (First Appeal No. 208

of 2006), both challenging judgment and order dated 22.11.2005 passed by the Reference Court in Land Acquisition Case No. 214 of 2001. The

Reference Court has granted enhanced compensation to the said claimant @ Rs.4,00,000/- per hectare. While the appellant MIDC claims that the

aforesaid quantum of enhanced compensation is extremely high and unjustified, the claimant has contended that he deserved enhanced compensation

at Rs.35/- per square feet for part of the land touching the road and Rs.18/- per square feet for part of the land away from the road.

2. The State Government had issued notification dated 30.11.1994 under Section 1(3) of the MID Act in respect of making applicable the MID Act to

various lands in village Bhoyar, including land belonging to the claimant in this appeal, being land in Survey No.20/2 admeasuring 1.21 hectares of

village Bhoyar, tehsil and district Yavatmal. On 09.03.1995, Notification under Section 32(2) of the MID Act, was issued by the State Government in

respect of acquisition of the aforesaid land, thereby initiating acquisition proceedings. Upon culmination of the said proceedings, award was issued by

the respondent -Special Land Acquisition Officer on 27.11.1997, granting compensation @ Rs.1500/- for Pot Kharab land (i.e. land which is incapable

of being cultivated due to features in the land) admeasuring 0.51 hectares and an amount of Rs.56,000/- for 0.70 hectare of cultivable land. In addition,

the claimant was granted amount of Rs.3450/- towards cost of one mango tree.

3. Aggrieved by the said award, the claimant filed Land Acquisition Case No. 214 of 2001 under Section 34 of the MID Act read with Section 18 of

the Land Acquisition Act, 1894, being a Reference Application before the Reference Court, claiming enhancement of compensation. The respondent-

State Authorities filed written statement in the said reference application opposing enhancement of compensation claimed by the land owner, while the

appellant MIDC failed to file any written statement. The claimant examined himself and two witnesses in support of his claim before the Reference

Court. The State Authorities and the MIDC failed to examine any witness in support of their contentions. The documentary evidence placed on record

by the claimant included a sale deed dated 18.09.1992 at Exh.29. This was the very sale deed by which the claimant had purchased the said acquired

land admeasuring 1.21 hectares for a consideration of Rs.1,11,000/-. In fact, this is the only sale instance on record pertaining to the village Bhoyar in

all the appeals arising out of the acquisition proceedings undertaken by the appellant MIDC in village Bhoyar. The other document on which the

claimant relied before the Reference Court was a sale deed dated 28.11.1994 (Exh.28) pertaining to a plot of land located in adjoining village Lohara,

which was purchased for a consideration of Rs.18,500/-.

4. The Reference Court by the impugned judgment and order partly allowed the application of the claimant and held that he was entitled to enhanced

compensation @ Rs.4,00,000/- per hectare. Although the claimant relied upon the aforesaid sale deed pertaining to plot of land in adjoining village

Lohara (Exh.28), the Reference Court did not rely upon the same while arriving at findings in favour of the claimant. The Reference Court also found

that while the claimant had claimed that his land could be treated as non-agricultural land , there was nothing on record to show that he had taken

steps for conversion of the land to non-agricultural use or that despite advertisement issued by him, any person had come forward to buy a plot in the

alleged layout demarcated on his land. In this situation, the Reference Court took into consideration only Exh.29 i.e. the sale deed dated 18.09.1992

whereby the claimant had purchased the very land that was subject matter of acquisition in the present proceedings. Thereafter, the Reference Court

held that if the prices of lands in village Bhoyar were considered, they were increasing at the rate of 50% per year. On this basis, the Reference Court

granted increase for about three years, as Notification under Section 32(2) of MID Act, was issued on 09.03.1995. Thereupon, by adding further

amount towards potentiality of the land, as it was located near industrial zone, the Reference Court came to the conclusion that the claimant was

entitled to compensation at the rate of Rs.4,00,000/- per hectare.

5. Mr. M.M. Agnihotri, learned counsel appearing on behalf of the appellant - MIDC contended that the rate of increase at 50% P.A. granted by the

Reference Court was wholly unsustainable and that considering the position of law in respect of cumulative annual increment that could be granted,

such increase at 10% P.A. was reasonable. It was contended that grant of annual increase at 50% by the Reference Court was not sustainable at all.

On this basis, it was submitted that the appeal deserved to be allowed, even if the sale deed at Exh.29 dated 18.09.1992 pertaining to acquired land

was taken as a basis for calculation of compensation.

6. On the other hand, Mr. Rohan Joshi, learned counsel appearing on behalf of the claimant (respondent no.1) in First Appeal No. 116 of 2006 and

appellant in First Appeal No. 208 of 2006 submitted that the rate of compensation granted by the Reference Court was much less than the actual

market value of the land. In this regard, the learned counsel appearing on behalf of the claimant relied upon the documentary and oral evidence placed

on record. It was submitted that there was sufficient evidence to show that the acquired land was in the vicinity of developed industrial area of village

Lohara and that it was located on Yavatmal- Darwha State Highway. It was further contended that there were factories and educational institutions

in the vicinity and that such evidence was not shown to be false by the State Authorities or the appellantMIDC. In fact, the State Authorities and the

MIDC had failed to place on record any contra evidence. It was contended that considering the location of the acquired land, the claimant was entitled

to compensation at per square feet rate by treating the land as converted to non-agricultural use. On this basis, it was contended that the claimant was

entitled to compensation at the rate of Rs.35/- per square feet.

7. Having heard the counsel for the parties and upon perusal of the evidence and material on record, it appears that the enhanced compensation

granted by the Reference Court at Rs.4,00,000/- per hectare was on the higher side. The oral and documentary evidence on record shows that the

claimant has not been able to support his claim that the acquired land ought to have been treated as developed land or land converted to non-

agricultural use. The Reference Court itself has found that there was lack of evidence to show that acquired land was converted to non-agricultural

use and it also found that despite advertisements issued by the claimant for sale of plots allegedly demarcated in the acquired land, there were no

takers for the same. Therefore, it is evident that the claimant is not justified in contending that he was entitled to compensation at the rate of Rs.35/-

per square feet. A perusal of the oral and documentary evidence on record shows that the Reference Court was justified in treating the sale deed at

Exh.29 dated 18.09.1992 pertaining to the acquired land as the basis for calculating compensation payable to the claimant. But, the Reference Court

committed a grave error in granting increase at the rate of 50% P.A. from 1992 to 1995 i.e. a period of three years, while calculating the enhanced

amount of compensation. There was no basis for granting such an extremely high annual increment to the claimant. The Hon'ble Supreme Court has

held in various judgments that such annual increment could be granted on cumulative basis ranging between 7.5 % to 15%. In fact, in its judgment in

the case of Pehlad Ram. vs. HUDA, 2014 14 SCC 778, the Hon'ble Supreme Court has taken into consideration various judgments in this regard and

it has been held that an annual cumulative increment of 10% would be just and reasonable. Thus, applying the said rate of cumulative annual

increment to the facts of the present case, would give a proper estimate of the enhanced compensation that was payable to the claimant in the present

case. The valuation of the acquired land as per the aforesaid sale deed at Exh.29 dated 18.09.1992 comes to about Rs.91,736/- per hectare. Applying

cumulative annual increment for three years to the said rate, it comes to Rs.1,22,101/-.

8. The location of the acquired land ascertained on the basis of the evidence on record shows that it was located on the Yavatmal- Darwha Highway

and it also had industrial estate established by the appellant- MIDC in village Lohara towards its east. In fact, between Survey No.20/2 and the said

industrial estate was located Survey No.33 and, therefore, it can be said that the location of the land shows that it had potentiality, which needed to be

taken into consideration for arriving at a just and fair amount of compensation payable to the claimant. In this situation, some amount of guesswork is

inevitable, the principles of which have been quoted above in the judgment of the Hon'ble Supreme Court in the case of Trishala Jain. vs. State of

Uttaranchal . As it has been held that the claimant in the acquired land in adjoining Survey No.33, which was nearer on the eastern side to the already

established industrial estate of village Lohara, was entitled to enhanced compensation towards potentiality at Rs.65,000/- per hectare for the acquired land, in this case the land being a little further away towards the west from the said industrial estate, it would be just and reasonable to hold that the

claimant would be entitled to enhanced compensation towards potentiality at Rs.60,000/- per hectare.

9. Thus, by adding the aforementioned figure arrived at, upon grant of cumulative annual increment at 10% to the enhanced compensation payable for

potentiality, the total enhanced compensation to which the claimant would be entitled in the present case, would be Rs.1,82,101/-, which can be

rounded of to Rs. 1,85,000/- per hectare. This shows that the appeal (First Appeal No. 116/2006) filed by the appellantMIDC deserves to be partly

allowed and the appeal (First Appeal No.208/2006) filed by the claimant deserves to be dismissed.

10. Accordingly, it is held that the claimant in this case is entitled to enhanced compensation at the rate of Rs.1,85,000/- per hectare and First Appeal

No.208/2016 is dismissed while First Appeal No. 116/2006 filed by the appellant - MIDC is partly allowed and the impugned judgment and order of the

Reference Court is modified to that extent. The compensation of Rs.5000/- granted by the Reference Court towards one Neem tree is confirmed and

other directions pertaining to solatium, additional component and interest are also confirmed. The compensation payable to the claimant will have to be

worked out accordingly. The appeals are disposed of in above terms.

First Appeal No.489 of 2017

1. This is an appeal filed by the appellant - MIDC challenging the impugned judgment and order dated 23.11.2012 passed by the Reference Court in

Land Acquisition Case No. 13 of 2005. The land which is subject matter of acquisition in this case is located in Survey No.32/1 admeasuring 1.62 HR

in the said village Bhoyar, taluka and district Yavatmal. The Notification under Section 32(2) of the MID Act pertaining to the said land was published

on 09.03.1995, as it was a common notification for acquisition of various lands in the village Bhoyar, for extension of industrial estate of the MIDC. By

award dated 03.11.1997, the respondent- Special Land Acquisition Officer granted compensation to the respondent no.1-claimant at the rate of

Rs.1500/- per hectare for the entire land and further amount of Rs.2123/- was granted for four teak trees on the said acquired land.

2. Aggrieved by the said award, the respondent no.1 filed a reference application

under Section 34 of the MID Act read with Section 18 of the Land

Acquisition Act, 1894, numbered as Land Acquisition Case No. 13 of 2005 seeking enhanced compensation. While the respondent no.1 adduced oral

and documentary evidence on record in support of her claim, the respondent-State Authorities and the appellantMIDC failed to place any evidence on

record.

3. By the impugned judgment and order dated 23.11.2012 passed by the Reference Court, enhanced compensation was granted to the respondent no.1

at the rate of Rs.3,75,000/- per hectare for the acquired land. The Reference Court relied upon a sale deed at Exh.67 dated 21.06.1993, pertaining to a

piece of land in adjoining village Lohara to arrive at the aforesaid figure of enhanced compensation payable to respondent no.1.

4. Mr. M.M. Agnihotri, learned counsel appearing on behalf of the appellant-MIDC submitted that the Reference Court committed an error in relying

upon the sale deed at Exh.67 dated 21.06.1993, as it pertained to a piece of land located in village Lohara. It was contended that industrial estate had

been already established in the aforesaid village Lohara and that the lands in the said village were fetching far more price than the agricultural lands

located in village Bhoyar. It was pointed out that not a single piece of land in village Bhoyar had been converted to non-agricultural use and the

respondent no.1 had failed to place on record any sale deed pertaining to land in village Bhoyar, although sale deeds were available. It was contended

that only one sale deed pertaining to the village Bhoyar had come on record, which was the sale deed dated 18.09.1992 pertaining to the land located

in Survey No. 20/2 of village Bhoyar. It was contended that the land of the respondent no.1 in the present case was situated on the other side of the

Yavatmal- Darwha road, as compared to the land of the claimant in First Appeal No.56 of 2006 and that enhanced compensation payable that this

Court would determine in that case could be taken as a valid basis for determination of enhanced compensation payable to the respondent No.1

herein. None has appeared on behalf of the respondent no.1 claimant.

5. In the case of the claimant pertaining to First Appeal No.56 of 2006, it has been already held above that the sale deed pertaining to land located in

Survey no.20/2 could be taken into consideration as a basis for estimating the market value of the land on the date when the Notification was issued under Section 32(2) of the MID Act. Applying the same principle, since the land of the respondent no.1 in the present case also is on the Yavatmal-

Darwha road and it is adjoining the already existing industrial estate in village Lohara, like the land of the claimant pertaining to First Appeal No.56 of

2006, the same formula can be applied. On that basis, it can be held that the value of the land of the respondent no.1 in the present case would have

been about Rs.1,00,000/- per hectare in the year 1992 and granting cumulative annual increment of 10% for three years upto 1995 when the said

Notification was issued, it would come to Rs.1,33,100/-. Since the land in the present case is located on the other side of the YavatmalDarwha road,

as compared to the land of the claimant in First Appeal No.56 of 2006 and its location is otherwise identical to the said land, for non-agricultural

potentiality a further amount at the rate of Rs.65,000/- per hectare could be added. Some amount of guesswork is inevitable in such circumstances and

while arriving at the said figure, the principles laid down by the Hon'ble Supreme Court in the case of Trishala Jain .vs. State of Uttaranchal have been

taken into consideration.

6. By adding the two figures , the amount comes to Rs.1,98,100/-, which could be rounded of to Rs.2,00,000/- per hectare as in the case of the

claimant in First Appeal No.56 of 2006. Therefore, it becomes evident that this appeal filed by the MIDC deserves to be partly allowed. The

Reference Court has committed an error in relying upon sale deed at Exh.67 pertaining to land located in village Lohara. On this basis, it has erred in

granting compensation at Rs.3,75,000/- per hectare. Therefore, the impugned judgment and order passed by the Reference Court deserves to be

modified.

7. Accordingly, the instant appeal is partly allowed. It is held that the respondent no.1 is entitled to enhanced compensation at the rate of Rs.2,00,000/-

per hectare for the land acquired for the appellant- MIDC. The impugned judgment and order of the Reference Court is modified in the said terms.

But, it is made clear that other directions given in the impugned order by the Reference Court pertaining to solatium, additional component and interest

shall remain the same and they are confirmed. Accordingly this appeal is disposed of.

First Appeal Nos. 591/2006 & First Appeal No. 124/2007

1. These two appeals are filed by the MIDC (First Appeal No.124 of 2007) and the claimant Lilabai Langote (First Appeal No.591 of 2006)

challenging the judgment and order dated 15.04.2006 passed by the Reference Court in Land Acquisition Case No. 130/2002. The Reference Court

has granted enhanced compensation to the said claimant for acquisition of her land at Rs.4,00,000/- per hectare, which according to the claimant is not

sufficient, while it is contended on behalf of the MIDC that the said enhanced compensation is on the higher side. The subject matter of the present

case is land in Survey No. 33/2 admeasuring 2.43 hectares belonging to the said claimant in village Bhoyar, tehsil and district Yavatmal. By the

aforementioned Notification issued under Section 32(2) of the MID Act dated 09.03.1995, the aforesaid land belonging to the claimant was sought to

be acquired. Upon culmination of the acquisition proceedings, by award issued on 03.11.1997 by the respondent- Special Land Acquisition Officer,

compensation at Rs.1500/- per hectare was granted to the claimant.

2. Aggrieved by the same, the claimant filed reference application under Section 34 of the MID Act, read with Section 18 of the Land Acquisition

Act, 1894, before the Reference Court, wherein it was contended that the compensation granted under the award was meager and that the claimant

deserved enhanced compensation at Rs.12,50,000/- per hectare.

3. The appellant- MIDC filed written statement in the said reference application opposing the claim of enhanced compensation raised by the claimant.

The claimant adduced oral and documentary evidence in support of her claim by adducing evidence of her son-power of attorney holder, and also

evidence of expert witness Mr. Chendkapure, who had also appeared as expert witness in the case of the claimant in First Appeal No.56 of 2006.

4. By the impugned judgment and order, the Reference Court partly allowed the application of the claimant and directed payment of enhanced

compensation at Rs.4,00,000/- per hectare along with solatium and other benefits.

5. Mr. M.M. Agnihotri, learned counsel appearing on behalf of the appellant - MIDC in First Appeal No.124 of 2007, has submitted that the

Reference Court has erred in granting such enhanced compensation and that if the factors pertaining to the agricultural lands located in village Bhoyar

were properly taken into consideration, the Reference Court could not have granted such enhanced compensation. It was pointed out that the

documentary and oral evidence placed on record on behalf of the claimant was of no avail because the sale instances relied upon did not pertain to

village Bhoyar and the location of the land and its potentiality did not justify the enhanced compensation granted by the Reference Court.

6. On the other hand, Ms. Nidhi Singhvi, learned counsel holding for Mr. Anil Killor, Advocate, appearing on behalf of the claimant/appellant in First

Appeal No.591/2006 submitted that a perusal of the oral and documentary evidence on record demonstrated that the enhancement of compensation

granted by the Reference Court was on the lower side and that considering the location of the land in question, the claimant deserved compensation at

the rate of Rs.12,50,000/- per hectare claimed by her in her application filed before the Reference Court. It was submitted that the land was adjacent

to already existing industrial estate in village Lohara and that it was on the Yavatmal- Darwha road, with Raymond Factory and other factories in the

vicinity, which demonstrated that the enhanced compensation granted by the Reference Court was inadequate. On this basis, the learned counsel

appearing on behalf of the claimant, submitted that the appeal filed by the claimant deserved to be allowed and the appeal filed by the MIDC deserved

to be dismissed.

7. The reasoning of the Reference Court for grant of such enhanced compensation can be found in paragraph 18 of the impugned judgment and order.

The Reference Court has taken into consideration the amount paid by the claimant when she purchased the acquired land on 30.09.1980 by paying

Rs.10,000/-. The Reference Court has held that considering the increase in prices of land in village Bhoyar, an annual increment of 50% could be

granted till the year 1995 when the Notification under Section 32(2) of the MID Act was issued and on such basis, the Reference Court has come to

the figure of Rs.85,000/- per hectare in respect of the land in question. Thereafter, the Reference Court has abruptly jumped to the conclusion that

looking to the potentiality of the land and the fact that several industries were located in the vicinity, the prices of the land on the date of the

Notification could be calculated to be Rs.4,00,000/- per hectare. There is no reference to any evidence and material on record by the Reference Court

while arriving at the aforesaid conclusion. The annual increment of 50% granted from 1980 to 1995 is wholly misconceived because the Hon'ble

Supreme Court the case of Pehlad Ram .vs. HUDA has laid down in various judgments that cumulative annual increase could be between 7.5 % and

15 %.

8. Therefore, the aforesaid finding rendered by the Reference Court in paragraph 18 of the impugned judgment and order is wholly unsustainable.

Similarly, the abrupt finding that the prices of the land on the date of the Notification could be taken as Rs.4,00,000/- per hectare because the land had

industries in its vicinity and that it had immense potentiality, was also not based on any logical principle. Thus, the basis of the Reference Court

reaching conclusion in favour of the claimant in this case, is wholly unsustainable.

9. At the same time, location of the land in the present case in Survey No.33/2, shows that it is in the very survey number wherein the land of the

claimant in First Appeal No.56 of 2006 was located. In the earlier part of this judgment, the location of the land in Survey No.33 has been discussed in

detail in the case of the aforesaid claimant in First Appeal No.56 of 2006. Since, it has been held that the land in the said survey number would have

fetched about Rs.2,00,000/- per hectare on the date when Notification was issued under Section 32(2) of the MID Act, it can be held in the case of

the claimant in the present case also that she was entitled to compensation at the same rate of Rs.2,00,000/- per hectare, considering the value of the

land at the relevant date and the potentiality of the land on the basis of its location adjacent to the already established industrial estate at village Lohara

and being in close proximity to Yavatmal-Darwha State Highway.

10. Accordingly, it is held that the claimant in the present case is entitled to enhanced compensation at the rate of Rs.2,00,000/- per hectare. Hence,

First Appeal No.591/2006 filed by the claimant seeking further enhanced compensation is dismissed and the appeal filed by the appellant -MIDC First

Appeal No. 124/2007 is partly allowed and the impugned judgment and order of the Reference Court is accordingly modified. The directions pertaining

to solatium, additional component and interest on the enhanced amount of compensation granted by the Reference Court are not disturbed and they

are confirmed. These appeals are disposed of in above terms.

First Appeal No.683/2016 with Cross-Objection No.30/2017

1. By this appeal, the appellant- MIDC has challenged judgment and order dated 02.02.2008 passed by the Reference Court in Land Acquisition Case

No.61 of 2002, whereby the Reference Court has partly allowed the application of the respondent no.1-land owner and enhanced compensation at

Rs.2,00,000/- per hectare has been granted to him.

2. Upon Notification being issued by the State Government on 09.03.1995 under Section 32(2) of the MID Act for acquisition of land belonging to

respondent no.1 located in Survey No. 33/3-A admeasuring 1.21 HR in village Bhoyar, tehsil and district Yavatmal, the acquisition process

commenced and it culminated in award dated 03.11.1997. By the said award, the respondent- Special Land Acquisition Officer granted an amount of

Rs.2940/- towards compensation to respondent no.1.

3. Aggrieved by the said award, the respondent no.1 filed reference application under Section 34 of the MID Act read with Section 18 of the Land

Acquisition Act, 1894, which has been disposed of by the impugned judgment and order. The respondent no.1 claimed compensation at the rate of

Rs.15/- per square feet on the ground that the aforesaid land was likely to be used for non-agricultural purpose. It was claimed that since the land was

located very near to the industrial estate already established by the MIDC in adjoining village Lohara, there was high potentiality in the land and that,

therefore, respondent no.1 deserved compensation at the rate claimed by him. The appellant- MIDC failed to file written statement in response to the

aforesaid application while the State Authorities appeared before the Reference Court and denied the claim made by the respondent no.1.

Documentary evidence in the form of sale deeds pertaining to village Lohara were placed on record on behalf of respondent no.1 and reliance was

also placed on orders passed by the Reference Court in cases pertaining to other lands located in the same village of Bhoyar. On the basis of the

material on record, the Reference Court found that the claim made by the respondent no.1 of compensation at Rs.15/- per square feet could not be

granted. It was noted that not a single transaction pertaining to village Bhoyar was placed on record and that no land in village Bhoyar was converted

to non-agricultural use prior to the aforesaid Notification dated 09.03.1995. The Reference Court relied upon the development that had taken place in

adjoining village of Lohara and it also relied upon the fact that the land in question in the present case was situated near Yavatmal town. On this basis,

the Reference Court granted enhanced compensation at the rate of Rs.2,00,000/- per hectare.

4. Mr. M.M. Agnihotri, learned counsel appearing on behalf of the appellant-MIDC submitted that reliance on the developed land in adjoining village

Lohara was misplaced and the reasons given by the Reference Court for enhancing compensation in favour of respondent no.1 were not justified.

5. On the other hand, Mr. Bharat Vora, learned counsel appearing on behalf of the respondent no.1 as also the Crossobjector, submitted that the

location of the land in question and the fact that it was to be put to non-agricultural use justified the claim of enhanced compensation at Rs.15/- per

square feet. It was contended that there was already a well established industrial estate of the appellant - MIDC in the adjoining village of Lohara and

that, therefore, compensation at per square feet rate could be justified.

6. Having considered the contentions raised on behalf of the parties, although the reasons given by the Reference Court in enhancing the

compensation to Rs.2,00,000/- per hectare appear to be perfunctory, the amount granted cannot be said to be erroneous. This is because, as discussed

in detail in the order passed in First Appeal No.56 of 2006 above, considering the only available sale instance from the village Bhoyar and considering

the location of the land in Survey No.33, as also by giving cumulative annual increments upto the year 1995, it becomes evident that when the

Notification dated 09.03.1995 was issued by the State Government, the fair market value of the land in Survey No.33 was about Rs.2,00,000/- per

hectare. Thus, by relying upon the reasoning given in the order passed in First Appeal No. 56 of 2006, pertaining to land from the very same Survey

No.33, it is held that the compensation granted by the Reference Court in the present case at Rs.2,00,000/- per hectare is justified.

7. The claim raised on behalf of respondent No.1 in the cross-objection that the Reference Court ought to have granted compensation at Rs.15/- per

square feet is not sustainable, because there is no material on record to show that the land in the present case or for that matter any piece of land in

the whole village of Bhoyar was ever converted to non-agricultural use. In fact, it is found in the present case that right upto the date of the

Notification dated 09.03.1995, the respondent No.1 was performing agricultural activity in the land in question. Therefore, there is no substance in the

claim raised on behalf of respondent no.1 in his cross-objection.

8. Although, the reasons for arriving at the figure of Rs.2,00,000/- per hectare by this Court are different from those assigned by the Reference Court,

in the present case since the amount of enhanced compensation granted by the Reference Court at Rs.2,00,000/- per hectare is found to be correct,

the instant first appeal of the appellant- MIDC as well as the crossobjection of respondent no.1 are dismissed.

First Appeal No.1254/2009 with First Appeal No.7/2013

1. These are two appeals filed by the claimants/land owners and the MIDC, both challenging judgment and order dated 16.02.2009 passed by the

Reference Court in Land Acquisition Case No.49 of 2002. The land acquired in the present case belonging to the claimants herein was located in

Survey No.2/1 admeasuring 3.40 hectares in village Bhoyar, tehsil and district Yavatmal. The acquisition proceeding was initiated by issuance of

aforesaid Notification dated 09.03.1995 under Section 32(2) of the MID Act, which culminated in passing of award dated 27.11.1997 by the

respondent-Special Land Acquisition Officer. Under the award, the claimants were granted compensation at Rs.62,529/- per hectare for 2.75

hectares, at Rs.1500/- per hectare for 0.65 hectares, as the former piece of land was treated as cultivable land and the remaining land was treated at

Pot Kharab land.

2. Aggrieved by the said award, claimants filed reference application under Section 34 of the MID Act read with Section 18 of the Land Acquisition

Act,1894, wherein the Reference Court has passed the impugned judgment and order. It has been held by the Reference Court that the claimants

were entitled to enhanced compensation at Rs.2,00,000/- per hectare for 2.75 hectares of cultivable land and at Rs.1,00,000/- per hectare for 0.65

hectares of Pot Kharab land. The claimants had prayed for enhanced compensation at Rs.15,00,000/-per hectare before the Reference Court. The

State Authorities filed a written statement opposing the claim but the MIDC failed to file written statement. The claimants placed on record sale deeds

pertaining to lands located in village Lohara wherein industrial estate had been already established by MIDC and oral evidence was adduced by one of

the claimants appearing as witness before the Reference Court.

3. The Reference Court in the impugned judgment and order found that the sale deeds at Exhs. 61 to 64 relied upon by the claimants, did not pertain to

lands that were similar to the acquired land. But, the Reference Court found that they could be used as piece of evidence for guidance to fix the

market value of the acquired land on the basis of guesswork.On this basis, the Reference Court held that the acquired land located in village Bhoyar

would fetch 50% less than the market value of the land at the relevant time located in village Lohara. On this basis, the Reference Court arrived at the

aforesaid figures of enhanced compensation payable to the claimants. It was held that for the Pot Kharab land, half the amount of the compensation

could be granted as compared to the amount fixed for cultivable land. On this basis, the Reference Court granted the amounts of enhanced

compensation to the claimants.

4. Mr. R.D. Bhuibhar, learned counsel appearing on behalf of the claimants, who are appellants in First Appeal No. 1254 of 2009, submitted that the

claimants had placed on record sufficient oral and documentary evidence to support their claim for grant of enhanced compensation at Rs.15,00,000/-

per hectare. It was claimed that the land was located in proximity to the already developed industrial estate in the adjoining village of Lohara, wherein

various factories had been in existence for a long period of time. It was contended that the sale deeds placed on record by the claimants could be

relied upon, even though they pertained to lands located in village Lohara because the distance between the two villages was not much and the

potentiality of the acquired land located in village Bhoyar was also a factor pointing towards higher market value, as compared to the compensation

granted by the Reference Court.

5. On the other hand, Mr. M.M.Agnihotri, learned counsel appearing on behalf of the MIDC- appellant in First Appeal No. 7 of 2013, submitted that

when sale instance from village Bhoyar was available, reliance could not be placed on sale instances pertaining to village Lohara. It was pointed out

that sale instance from adjoining Survey No. 20 was available and it could be used as a basis for calculating fair market value of the land in the

present case on the date of Notification issued under Section 32(2) of the MID Act.

6. A perusal of the impugned judgment and order of the Reference Court shows

that although the sale deeds at Exhs. 61 to 64 pertaining to the village

Lohara have been held to be concerning lands not comparable to the acquired land, they have been used as a guiding factor by the Reference Court to

reach findings in favour of the claimants. A perusal of the oral evidence of the claimants in the present case shows that their claim of enhanced

compensation at Rs.15,00,000/- per hectare is mainly based on location of the land being on the YavatmalDarwha State Highway and the fact that

factories existed towards the eastern side of the land in the already established industrial estate of village Lohara. There is no material placed on

record by the claimants in support of their claim. Even in the cross-examination, the claimant has stated that the rate of land in village Bhoyar in the

year 1995 was at Rs.1,00,000/- per acre which comes to about Rs.2,50,000/- per hectare. But, he has admitted that not a single sale deed pertaining to

village Bhoyar was placed on record. Thus, it is evident that the claim of enhanced compensation at Rs.15,00,000/- per hectare made on behalf of the

claimants is not supported by material on record.

7. The map of village Bhoyar shows that the land belonging to the claimants was located in Survey No.2, which is towards western side of Survey

No.20 and it is located on the Yavatmal - Darwha road. It was further away from the Industrial estate of MIDC in village Lohara and, therefore, in

terms of potentiality it was having less non-agricultural potentiality as compared to lands located in Survey Nos. 20 and 33, which have been dealt with

in this order above. Since the only available sale instance from the entire village Bhoyar was from Survey No.20, which was towards the eastern side

of the acquired land in the present case, it can be used as a basis for arriving at a figure of fair market value of the acquired land in the present case.

In First Appeal Nos. 116 of 2006 and 208 of 2006, pertaining to acquired land located in survey No.20, it has been held above that the claimant was

entitled to compensation at Rs.1,85,000/- . This was based on the cumulative annual increments from the year 1992 to the year 1995 with the

component of non-agricultural potentiality being added to the same. Since the acquired land in the present case is further away from the industrial

estate of MIDC in village Lohara, its potentiality would certainly have been lesser than the aforesaid land in Survey No.20. But since, this land is also

located on the Yavatmal-Darwha road, the rate that the land could have fetched in the year 1995, could be said to be similar to the amount determined

above of the land located in Survey No.20. Only the amount towards potentiality would stand reduced as the acquired land in the present case is

further away on the western side from the industrial estate of the MIDC in village Lohara. Accordingly, the fair market value of the land in the year

1995 is held to be the same as granted above for the land in survey No.20, which comes to Rs.1,22,101/-. But the component of compensation

towards potentiality would have to be reduced to Rs.55,000/-. Therefore, the enhanced amount of compensation payable to the claimants in this case

would come to Rs.1,77,101/-, which can rounded of to Rs. 1,80,000/-. As the amount of compensation payable for Pot Kharab land would be half the

amount payable for cultivable land, the amount for Pot Kharab land would come to about Rs.90,000/-.

8. Accordingly, First Appeal No.1254 of 2009, filed on behalf of the claimants seeking further enhanced compensation is dismissed. The appeal filed

by MIDC, bearing First Appeal No.7 of 2013, is partly allowed and it is held that the claimants in the present case are entitled to compensation at

Rs.1,80,000/- per hectare for 2.75 hectares of cultivable land and Rs.90,000/- per hectare for 0.65 hectares of Pot Kharab land. The impugned

judgment and order stands modified accordingly. The other directions in the impugned judgment and order pertaining to solatium, additional component

and interest are maintained. These appeals are disposed of in above terms.

First Appeal No.216/2011 with First Appeal No.276/2011

1. These appeals have been filed by MIDC and the claimants, both challenging judgment and order dated 17.09.2010 passed by the Reference Court

in Land Acquisition Case No. 102 of 2001, whereby the Reference Court has granted enhanced compensation at Rs.2,40,000/- per hectare to the

claimants.

2. The land belonging to the claimants located in Survey No.2/2 in village Bhoyar, tehsil and district Yavatmal, admeasuring 2.2 HR was acquired by

issuance of Notification dated 09.03.1995 under Section 32(2) of the MIDC Act. The process culminated in issuance of award dated 27.11.1997,

whereby the respondent-Special Land Acquisition Officer granted compensation at Rs.1500/- per hectare.

3. Aggrieved by the same, the claimants filed reference application under Section

34 of the MID Act read with Section 18 of the Land Acquisition

Act, 1894, before the Reference Court. The claimants contended that they were entitled to compensation at Rs.30/- per square feet for their lands,

which would come to about Rs.8,00,000/- per acre. The MIDC filed its written statement opposing the claim. The claimants placed oral evidence on

record in the form of one of the claimants appearing as witness and by producing expert witness Mr. Chendakapure. The claimants also placed

reliance on sale deeds pertaining to villages Lohara and Wadgaon. The claimants could not place on record any sale instance pertaining to village

Bhoyar.

4. The Reference Court took into consideration the aforesaid sale deeds filed on behalf of the claimants and held that although they pertained to lands

belonging to other villages, they could be taken into consideration as evidence when sale instance from the same village was not filed on record. It was

held by the Reference Court that some guesswork could be undertaken. The Reference Court has also relied upon map at Exh.33 showing the

location of village Bhoyar and adjoining villages. It took into consideration the fact that lands in adjoining village Lohara and Wadgaon had been

converted to non-agricultural use and that, therefore, the lands in village Bhoyar did have non-agricultural potentiality. The said map at Exh.33, is in

fact the map relied upon by all parties in this group of appeals and it has been referred to by counsel while making submissions in respect of location of

various lands acquired by the State Government for MIDC. On the basis of its reasoning, the Reference Court granted enhanced compensation at

Rs.2,40,000/- per hectare to the acquired land belonging to the claimants herein.

5. Mr. Rohit Joshi, learned counsel appearing on behalf of the claimants, who are appellants in First Appeal No. 216/2011, submitted that location of

the land in the present case was crucial and that a perusal of the map demonstrated that the land was located in Survey No.2, which was on the

Yavatmal-Darwha State Highway. It was submitted that towards the eastern side of the acquired land were located factories in the already

established industrial estate of village Lohara and that the expert witness had also deposed in detail regarding the location of the land and its

tremendous nonagricultural potentiality. It was pointed out that even if the sale deeds placed on record on behalf of the claimants pertained to lands in villages Lohara and Wadgaon, the said villages were not very far from village Bhoyar and that the compensation claimed by the claimants on per

square feet basis was justified.

6. On the other hand, Mr. M.M. Agnihotri, learned counsel appearing on behalf of the MIDC, submitted that sale deeds of villages Lohara and

Wadgaon could not have been relied upon and that the Reference Court was not justified in holding that when a sale instance from the same village

was not placed on record, reliance could be placed on sale deeds pertaining to lands in other villages. It was contended that the amount of enhanced

compensation granted by the Reference Court was on the higher side.

7. It has been already held by this Court in the lands pertaining to claimants in First Appeal Nos. 1254 of 2009 and 7 of 2013, also located in the same

survey No.2, that looking to the location, fair market value of the land in the year 1995 and the non-agricultural potentiality, enhanced compensation

ought to be Rs.1,80,000/-. For the same reasons, it is held that in the present case also, the claimants are entitled to compensation at the aforesaid rate.

The claimants have failed to show any material to justify their claim of enhanced compensation at Rs.30/- per square feet. It is clear from the material

on record that the land in question was not converted to non-agricultural use. In fact, not a single piece of land in the entire village Bhoyar was

converted to non-agricultural use. The locational advantage claimed by the claimants also does not justify the extremely high figure of Rs.30/- per

square feet claimed by them. The acquired land was agricultural land and, therefore, claim of further enhanced compensation made by the claimants is

not supported by material on record.

8. Accordingly, First Appeal No.216 of 2011 filed by the claimants is dismissed and the First Appeal No. 276 of 2011 filed by the MIDC is partly

allowed. It is held that the claimants are entitled to enhanced compensation at Rs.1,80,000/- per hectare and the impugned judgment and order of the

Reference Court is modified accordingly. The other directions granted by the Reference Court pertaining to solatium, additional component and

interest are maintained and these appeals are disposed of.

First Appeal No. 661/2006

1. By this appeal, the appellant- MIDC has challenged judgment and order dated 29.07.2005 passed by the Reference Court in Land Acquisition Case

No.100/1999. The Reference Court has granted compensation to the respondent no.1 at Rs.1,50,000/- per hectare.

2. By Notification dated 09.03.1995 issued under Section 32(2) of the MID Act, the land belonging to the respondent no.1 located in Survey No. 2/3

admeasuring 4.04 hectares in village Bhoyar, tehsil and district Yavatmal, was acquired. By award dated 27.11.1997, the respondent no.1 was granted

compensation at the rate of Rs.1500/- per hectare.

3. Aggrieved by the same, the respondent no.1 filed reference application under Section 34 of the MID Act read with Section 18 of the Land

Acquisition Act, 1894, wherein the Reference Court has passed the impugned judgment and order enhancing the compensation to Rs.1,50,000/- per

hectare.

4. The respondent no.1 had claimed enhanced compensation at Rs.4,00,000/- per hectare. The respondent no.1 relied upon sale deeds pertaining to the

adjoining village Lohara in support of his claim. The Reference Court considered the said material placed on record by respondent no.1 and concluded

that he was entitled to compensation at Rs.1,50,000/- per hectare.

5. The counsel for the parties have been heard in this appeal. But, since in the case of claimants whose lands were acquired from the very same

Survey No. 2 in First Appeal Nos. 216 of 2011 and First Appeal No. 1254 of 2009 have been already held above to be entitled to compensation at

Rs.1,80,000/-, it cannot be said that the compensation granted by the Reference Court to respondent no.1 in the present case needs any interference.

Reliance is placed on the reasons given above, while disposing of First Appeal Nos. 216 of 2011 and 1254 of 2009 along with First Appeal No. 7 of

2013. Accordingly this appeal of the MIDC is dismissed.

First Appeal No.1421 of 2009.

1. By this appeal, the appellant, being land owner/claimant, has challenged judgment and order dated 22.04.2009 passed by the Reference Court in

Land Acquisition Case No. 122 of 2000, whereby enhanced compensation has been granted to the appellant at Rs.1,80,000/- per hectare for 0.27

hectares of cultivable land and at Rs.90,000/- per hectare for 0.94 hectare of Pot Kharab land.

2. By Notification dated 09.03.1995, issued under Section 32(2) of the MID Act, land belonging to the appellant was acquired located in Survey No.

2/4 admeasuring 1.21 hectares in village Bhoyar, tehsil and district Yavatmal. Award was passed by the respondent-Special Land Acquisition Officer

on 27.11.1997 awarding compensation of Rs.1500/- per hectare for 0.94 hectare Pot Kharab land and at Rs.50,000/- per hectare for 0.27 hectare of

cultivable land. Aggrieved by the same, the appellant filed reference application under Section 34 of the MID Act read with Section 18 of the Land

Acquisition Act, 1894 before the Reference Court claiming enhanced compensation of Rs.14,19,090/-. The appellant claimed that he was entitled to

such enhanced compensation, looking to the tremendous non-agricultural potentiality of the acquired land and the fact that it was located near factories

and educational institutions.

3. The Reference Court took into consideration the oral and documentary evidence placed on record on behalf of the appellant. There were sale

instances placed on record but none of them pertaining to village Bhoyar. The Reference Court noted that the appellant had admitted that no lands in

village Bhoyar were converted to non-agricultural use and that there were no residential houses or colonies constructed in village Bhoyar. The

Reference Court came to the conclusion that the sale deeds placed on record by the appellant did not pertain to lands similar to the acquired land. Yet,

it relied upon such sale instances to apply guesswork and by reducing the value as shown in the said sale deeds while coming to the conclusion that the

appellant was entitled to compensation at Rs. 1,80,000/- per hectare for cultivable land and at Rs.90,000/- per hectare for Pot Kharab Land.

4. Mr. A.V. Bhide, learned counsel appearing on behalf of the appellant has submitted that the Reference Court failed to appreciate the tremendous

non-agricultural potentiality of the acquired land and that the location of the land was not properly appreciated by the Reference Court. It was

contended that when already established industrial estate in village Lohara was located towards the eastern side of the acquired land, the locational

advantage of the acquired land and its nonagricultural potentiality ought to have been taken into consideration. It was submitted that there was an

order dated 21.01.1988 sanctioning industrial layout at Exh.75, which the Reference Court did not appreciate while passing the impugned judgment and

order. On the other hand, Mr. M.M. Agnihotri, learned counsel appearing for the respondent- MIDC opposed the contentions raised on behalf of the appellant.

5. A perusal of the impugned judgment and order shows that the Reference Court has taken into consideration various aspects of the matter, including

non-agricultural potentiality and location of the acquired land. Although the appellant claimed enhanced compensation on the basis of the said

document at Exh.75, the Reference Court has found that the appellant himself had given admissions to the effect that he was taking crop of Jawar

and Tur in the acquired land till its acquisition. Therefore, it cannot be said that the reasoning of the Reference Court in the impugned judgment and

order is vitiated.

6. Even otherwise, in the case of claimants whose lands were located in the same Survey No.2 in First Appeal Nos. 216 of 2011 and 1254 of 2009, it

has been already held above that they were entitled to compensation at Rs.1,80,000/-. This Court has taken into consideration the fair market value of

the said land in Survey No.2 in the year 1995 when the Notification for acquisition was issued and the component of nonagricultural potentiality

considering the location of the land in Survey No.2 has already been added to it. For the same reasons, this appeal can also be disposed of. Since the

Reference Court in the present case has granted Rs.1,80,000/- per hectare for cultivable land and Rs.90,000/- per hectare for Pot Kharab land, it

cannot be said that there is any error in the findings rendered by the Reference Court.

7. Accordingly, this appeal for further enhanced compensation filed by the appellant (original land owner/claimant) is dismissed.

First Appeal No.737 of 2006 with Cross-Objection No.8 of 2014

1. By this appeal the appellant- MIDC has challenged judgment and order dated 14.09.2005 passed by the Reference Court in Land Acquisition Case

No. 62 of 2002, whereby the Reference Court has granted enhanced compensation at the rate of Rs.1,00,000/- per hectare to the respondent no.1-

claimant.

2. By Notification dated 09.03.1995 under Section 32(2) of the MID Act, land belonging to respondent no.1 in Survey No. 35/1 in village Bhoyar, tehsil

and district Yavatmal, admeasuring 5.66 hectares was acquired. By award dated 03.11.1997, issued by the respondent-Special Land Acquisition

Officer, compensation at Rs.1500/- per hectare was granted. Aggrieved by the same, the respondent no.1 filed reference application under Section 34

of the MID Act read with Section 18 of the Land Acquisition Act, 1894 before the Reference Court. The respondent no.1 adduced oral and

documentary evidence in support of his claim for enhanced compensation of Rs.63,59,010/-.

3. By the impugned judgment and order, the Reference Court has held that looking to the location of the acquired land and applying guesswork based

on sale deeds of village Lohara placed on record by the respondent no.1, enhanced compensation at Rs.1,00,000/- per hectare could be granted.

4. Mr. M.M. Agnihotri, learned counsel appearing on behalf of the MIDC has fairly submitted that looking to the location of the acquired land in

Survey No.35, which is adjoining Survey No.33 towards the south, in view of the submissions made by him in respect of lands located in survey No.33,

pertaining to First Appeal No.56 of 2006, it could not be said that the enhanced compensation granted by the Reference Court in the present case was

exorbitant.

5. On the other hand, Mr. Bharat Vora, the learned counsel appearing on behalf of the respondent no.1 and crossobjector submitted that the

Reference Court has failed to take into consideration the non-agricultural potentiality of the acquired land and the fact that a valuation report had been

placed on record on behalf of the respondent no.1. It was claimed that since the land had tremendous non-agricultural potentiality, compensation on

per square feet rate ought to have been granted.

6. Since the acquired land in the present case is located in Survey No.35, which is adjoining Survey No.33 towards the south, without dilating any

further, it would be appropriate to rely upon the order passed by this Court above in First Appeal No.56 of 2006 pertaining to the land located in

adjoining Survey No.33. In the said case, value of the land has been determined on the basis of its location being on YavatmalDarwha State Highway

and potentiality has been estimated on the basis that factories in already established industrial estate MIDC in village Lohara are located immediately

towards the east of the said land.

7. The land in the present case is towards the south of Survey No.33 and hence it is further away from YavatmalDarwha State Highway and this is a

distinguishing feature for the present land. Insofar as potentiality is concerned, in terms of location, even this land has the already established industrial

estate of the village Lohara immediately towards its east. Therefore, reasoning given above while disposing of First Appeal No.56 of 2006 can be

relied upon, although some amount while estimating fair market value of the present land in the year 1995 will have to be reduced as the land in the

present case was located in Survey No.35, which was away from the Yavatmal-Darwha State Highway, as opposed to the land in First Appeal No.56

of 2006, which was on the State Highway. As the fair market value of the land in aforesaid Survey No.33 pertaining to First Appeal No.56 of 2006

was held to be Rs.1,33,100/- per hectare which in the present case it can be held to be Rs.1,20,000/- per hectare. The component of potentiality would

remain the same at Rs.65,000/- per hectare and, therefore, the total amount would come to Rs.1,85,000/- per hectare.

8. Accordingly, First Appeal No.737 of 2006 filed by the MIDC is dismissed and Cross-Objection No.8 of 2014 filed by the respondent no.1 is partly

allowed. It is held that the respondent No.1/Cross-Objector is entitled to compensation for his acquired land at the rate of Rs.1,85,000/- per hectare.

The other directions pertaining to solatium, additional component and interest granted by the Reference Court are maintained.

First Appeal No.1037/2009 with Cross-Objection No.8 of 2016.

1. By this appeal, the MIDC has challenged judgment and order dated 13.08.2008 passed by the Reference Court in Land Acquisition Case No. 16 of

2000, whereby the Reference Court has granted enhanced compensation at Rs.1,75,000/- per hectare for cultivable land and Rs.87,500/- per hectare

for Pot Kharab Land to the respondent no.1 (land owner-claimant).

2. By Notification dated 09.03.1995, land belonging to respondent no.1 in Survey No.4/4 admeasuring 3.82 hectares in village Bhoyar, tehsil and

district Yavatmal, was acquired. The respondent-Special Land Acquisition Officer declared award on 27.11.1997 and granted compensation at

Rs.56,845/- per hectare for 2.01 hectares of cultivable land and at Rs.1500/- per hectare for 1.81 hectares of Pot Kharab land.

3. Aggrieved by the same, the respondent no.1 filed reference application under Section 34 of the MID Act read with Section 18 of the Land

Acquisition Act, 1894, claiming enhanced compensation at Rs.3,00,000/- per hectare. The respondent no.1 relied upon sale deeds pertaining to small plots of land located in villages Lohara and Wadgaon in support of her claim. She also claimed that there was non-agricultural potentiality in the said

land and that, therefore, her claim for enhanced compensation was justified. The State Authorities and the appellant- MIDC filed their written

statement in the reference application and opposed the claim of respondent no.1. She appeared in the witness box in support of her claim and stated

that her land was located near industries already established in village Lohara and that since the entire area was developed, the meager compensation

granted in the award was not justified.

4. By the impugned judgment and order, the Reference Court held that although sale deeds relied upon by the respondent no.1 pertained to lands

located in villages Lohara and Wadgaon, but it could not be ignored that the said villages were in the vicinity of village Bhoyar wherein the acquired

land of respondent no.1 was located. Taking into consideration the aforesaid sale deeds, the Reference Court reduced the value by half and it came to

the conclusion that the fair market value of the acquired land of respondent no.1 was Rs. 1,75,000/- in the year 1995 when the Notification was

issued. On this basis, the Reference Court partly allowed the application of respondent no.1.

5. Mr. M.M. Agnihotri, learned counsel appearing on behalf of the appellant MIDC, submitted that the sale deeds pertaining to lands located in village

Lohara could not have been relied and that in any case, such sale deeds pertained to plots of land while the subject matter of acquisition in the present

case was a large piece of land admeasuring 3.82 hectares. It was contended that the non-agricultural potentiality claimed by the respondent no.1 was

taken into consideration by the Reference Court but higher compensation was erroneously granted.

6. On the other hand, Mr. A.B. Nakshane, learned counsel appearing on behalf of respondent no.1 and crossobjector contended that there was

sufficient evidence and material on record to demonstrate that the respondent no.1 was entitled to at least Rs.3,00,000/- per hectare. It was contended

that the non-agricultural potentiality was not taken into consideration by the Reference Court and that the location of the land being on the Yavatmal-

Darwha State Highway was also ignored. It was contended that although the lands in village Bhoyar were not converted to non-agricultural use, a fully developed industrial estate existed in the adjacent village of Lohara and that this aspect was not properly appreciated by the Reference Court.

Reliance was placed on judgment of the Hon'ble Supreme Court in the case of Atma Singh .vs. State of Harayana, 2008 2 SCC 568, to contend that

sale instances of smaller pieces of land could not be ignored by the Reference Court while determining just and fair compensation.

7. Having heard the counsel for the parties and upon perusal of the record, it is necessary to appreciate the location of the acquired land in the present

case. It was located in Survey No.4, which was on the Yavatmal-Darwha State Highway.On the other side of the State Highway was located Survey

No.2 of village Bhoyar. In terms of distance from the adjoining industrial estate of village Lohara on the eastern side, the location of the land in Survey

No.4 in the present case can be said to be comparable to the land in Survey No.2. Thus, for ascertaining the fair market value of the acquired land in

the present case in the year 1995 and the component of nonagricultural potentiality, location is such that it would have the same features and

advantages as the land located across the Highway in Survey No.2.

8. It has been already held in this order above in the case of lands located in Survey No.2 pertaining to First Appeal Nos. 216 of 2011 and 1254 of

2009 that the claimants in those cases were entitled to compensation at the rate of Rs.1,80,000/- per hectare. Since the location of the acquired land in

the present case is not much different from the aforesaid lands located in Survey No.2, this Court is placing reliance on the reasoning given in this

order above, pertaining to lands located in Survey No.2. The nature of oral and documentary evidence on record in the present case is not any

different from the material that was on record before the Reference Court in cases of claimants whose lands were located in Survey No.2. The

reliance placed on the aforesaid judgment in the case of Atma Singh .vs. State of Haryana by the learned counsel appearing on behalf of respondent

no.1/cross-objector would not come to the aid of the respondent no.1 in order to support her claim for further enhancement of compensation. The only

sale instance pertaining to the entire village Bhoyar has been already taken into consideration while ascertaining the enhanced compensation payable

to the claimants whose lands were located in Survey No.2 just across the State Highway.

9. Accordingly, in the present case also, it is held that based on fair market value of the acquired land in the year 1995 when the Notification was

issued and adding the component of non-agricultural potentiality, the respondent no.1 would be entitled to Rs.1,80,000/- per hectare. Hence the appeal

filed by the MIDC is dismissed , while the crossobjection of respondent no.1 is partly allowed and it is held that the respondent no.1 is entitled to

compensation at the rate of Rs.1,80,000/- per hectare for 2.01 hectares of cultivable land and at Rs.90,000/- per hectare for 1.81 hectares of Pot

Kharab land. The impugned judgment and order of the Reference Court is modified in above terms and other directions pertaining to solatium,

additional component and interest are maintained.

First Appeal Nos.215 of 2011 and 602/2012

1. By these appeals , both the acquiring body i.e. MIDC and the land owner-claimant have challenged judgment and order dated 26.10.2010 passed by

the Reference Court in Land Acquisition Case No. 22 of 2002, whereby the Reference Court has granted enhanced compensation to the claimant at

Rs.2,40,000/- per hectare and Rs.80,000/- for well located in the land.

2. By Notification dated 09.03.1995 issued under Section 32(2) of the MID Act, the land acquisition process was initiated in respect of land of the

claimants located in Survey No.4/3 in village Bhoyar, tehsil and district Yavatmal, admeasuring 4.5 HR. The respondent-Special Land Acquisition

Officer passed award dated 27.11.1997 and granted compensation of Rs.4,19,175/- to the claimant in the present case.

3. Aggrieved by the same, the claimant filed reference application under Section 34 of the MID Act read with Section 18 of the Land Acquisition Act,

1894 before the Reference Court, claiming enhanced compensation of Rs.38,91,250/-. The respondent-State Authorities and the MIDC filed their

written statements denying the claim made by the land ownerclaimant. The claimant placed on record oral and documentary evidence in support of his

contention seeking enhanced compensation. The Reference Court took into consideration the material on record and found that the respondent no.1

was entitled to enhanced compensation at Rs.2,40,000/- per hectare.

4. Mr. M.M. Agnihotri, learned counsel appearing on behalf of the appellant-MIDC has contended that the Reference Court erred in granting the

aforesaid enhanced compensation on the basis of the sale instances placed on record by the claimant, because all such sale instances pertained to

village Lohara, which already had an industrial estate developed by the MIDC. It was contended that not a single sale deed from the village Bhoyar

was placed on record and that it was for the claimant to have placed on record material pertaining to village Bhoyar in support of his claim of

enhanced compensation. It was contended that although the MIDC failed to examine witnesses, in the cross-examination of the witnesses who

appeared for the claimant, sufficient material was brought on record to demonstrate that the claim made by the claimant was not supported by cogent

evidence on record. It was contented that the evidence of the expert witness produced on behalf of the claimant was also not reliable, as the only sale

instance available from village Bhoyar was from Survey No.20 pertaining to First Appeal No. 116 of 2006. It was contented that the same could be

taken into account for arriving at a reasonable figure of enhanced compensation payable to the claimant.

5. Mr. S.C. Mehadia, learned counsel appearing on behalf of the claimant, contended that the Reference Court had erred in limiting the enhanced

compensation only to Rs.2,40,000/- per hectare, when there was sufficient material placed on record that further enhanced compensation ought to

have been granted to the claimant. The learned counsel submitted that material was placed on record by the claimant to demonstrate that his

application for conversion of land to non-agricultural use was deemed to have been granted under Section 44 of the Maharashtra Land Revenue Code,

1966 and that this factor was not properly taken into consideration by the Reference Court while passing the impugned judgment and order. It was

contended that once deemed conversion of the land was taken into consideration, further enhanced compensation ought to have been granted by

considering market value at square feet rate. On this basis, it was contended that the appeal filed by the MIDC deserved to be dismissed and the

appeal of the claimant being First Appeal No. 215 of 2011 deserved to be allowed.

6. Upon hearing counsel for the parties and having perused the evidence and material on record, it appears that the Reference Court has arrived at the

figure of enhanced compensation on the basis of sale instances placed on record by the claimant as also the location of the lands being adjacent to

already established industrial area of MIDC in village Lohara. It has been contended on behalf of the claimant that there was sufficient material on record to conclude that the application for conversion to non-agricultural use made in respect of the acquired land was deemed to have been granted under Section 44 of the Maharashtra Land Revenue Code, 1966. On this basis it was claimed that the Reference Court ought to have determined enhanced compensation by treating the acquired land as developed land. But, a perusal of the impugned order and the evidence and material on record shows that the evidence relied upon by the claimant in the present case, fell short of proving that there was deemed conversion under the said provision in the present case. The Reference Court found that the witnesses produced on behalf of the claimant to prove the aforesaid did not inspire confidence and that there was insufficient material on record to show that an application was indeed submitted by the claimant before the concerned authorities for conversion of the acquired land to nonagricultural use. Therefore, the said contention raised on behalf of the claimant cannot be accepted.

7. As regards the evidence pertaining to location of the land and its proximity to already established industrial estate in village Lohara, it cannot be accepted in the context of potentiality of the land only because the MIDC failed to examine any witness in support of its contentions. In fact, the evidence of the witnesses appearing on behalf of the claimant shows that reliance is heavily placed on the rate at which compensation was granted to the claimant pertaining to First Appeal No. 56 of 2006. It was claimed that if the claimant in that case was granted compensation at Rs.17/- per square feet, the land of the claimant herein deserved further enhanced compensation because the land in this case was not hilly and it was plain.

8. The order of the Reference Court granting compensation at square feet rate to the claimant in First Appeal No. 56 of 2006 has not been accepted by this Court and it has been found that reliance in that case was placed on the sale deeds pertaining to small plot of developed land in village Lohara and that such reliance was not sustainable. In the present case also, the claimant has relied upon sale deeds pertaining to plots of land located in village Lohara and, therefore, the claim based on such evidence cannot be accepted. As regards locational advantage claimed on behalf of the land owner-claimant in the present case, it is nothing but an aspect of potentiality of the

land. In this regard, the learned counsel appearing on behalf of the

claimant has relied upon judgment of the Hon'ble Supreme Court in the case of Sagunthala .vs. Special Tahsildar (Land Acquisition), 2010 3 SCC 661,

to contend that the purpose for which the land was being acquired was also an important factor for determining the quantum of compensation. There

is no doubt that the purpose of acquisition is a relevant factor, but, the mandate of Section 24 fifthly can also not be ignored. Even if the said factor is

taken into consideration, it cannot be said that the claimant in the present case was entitled to compensation at square feet rate. This aspect has been

already dealt with in detail in the order above pertaining to First Appeal No. 56 of 2006.

9. The acquired land in the present case is located in Survey No.4 and the location of the said survey number has been already discussed above in the

case of claimant pertaining to First Appeal No.1037 of 2009. The location of the land in Survey No.4 being on the Yavatmal- Darwha State Highway,

has been considered and its distance from the industrial estate of village Lohara on the east has been also considered and on that basis it has been

concluded that fair market value of the land in Survey No.4 in the year 1995 was Rs.1,80,000/- per hectare. Since the land in the present case is also

located in Survey No.4 of village Bhoyar, for the same reasons, it is held that in the present case also, the claimant is entitled to compensation at the

same rate.

10. Accordingly, First Appeal No.215 of 2011 filed by the claimant for further enhancement of compensation is dismissed and First Appeal No.602 of

2012 filed by MIDC is partly allowed. It is held that the claimant in the present case shall be paid compensation for acquisition of his land at

Rs.1,80,000/- per hectare. He shall be entitled to compensation of Rs.80,000/- granted by the Reference Court for the well located in the land. The

other directions pertaining to solatium, additional component and interest are maintained and these appeals are disposed of.

First Appeal No. 131 of 2015

1. By this appeal, the appellant- MIDC has challenged the judgment and order dated 13.06.2012 passed by the Reference Court in Land Acquisition

Case No. 81 of 2005, whereby the Reference Court has granted enhanced compensation at Rs.3,50,000/- per hectare to the respondent No.1 herein.

2. By Notification dated 09.03.1995 issued by the State Government, the land of the respondent no.1 was acquired being located in Survey No.15/2,

village Bhoyar, tehsil and district Yavatmal, admeasuring 7.24 HR. By award dated 03.11.1997, the respondent-Special Land Acquisition Officer

granted compensation of Rs.4,06,305/- to the respondent no.1. Aggrieved by the same, the respondent no.1 filed reference application under Section

34 of the MID Act read with Section 18 of the Land Acquisition Act, 1894, claiming that the compensation granted by the Reference Court was

meager and that he was entitled to further enhanced compensation.

3. By the impugned judgment and order, the Reference Court has enhanced the compensation at the aforesaid rate. The Reference Court found that

the respondent no.1 had failed to place on record any sale instance in support of his claim and, therefore, the method of ascertaining quantum of

compensation by comparable sale instances could not be used in the present case. In this situation, the Reference Court took into consideration orders

passed by it in other cases of acquisition pertaining to lands from the very same village of Bhoyar, acquired pursuant to the same Notification. Upon

taking into consideration such orders, the Reference Court held that on parity, the respondent no.1 was entitled to enhanced compensation at the rate

of Rs.3,50,000/- per hectare.

4. Mr. M.M. Agnihotri, learned counsel appearing on behalf of the appellant MIDC submitted that there was no discussion of any evidence and

material on record in the present case and the Reference Court had simply relied upon its own order pertaining to other pieces of land acquired from

the very same village of Bhoyar. It was submitted that such orders were obviously subject matter of challenge before this Court and the relief granted

to respondent no.1 merely on the basis of parity, without examination of the factors relevant for determination of compensation, was wholly

unsustainable.

5. On the other hand, Mr. Abhay Sambre, learned counsel appearing on behalf of the respondent no.1 submitted that the compensation granted by the

Reference Court was fully justified. It was submitted that the location of land in Survey No.15 was such that it was in proximity to the

YavatmalDarwha State Highway and that the industrial estate of village Lohara was also in the vicinity. On this basis, it was submitted that no interference was warranted in the impugned judgment and order passed by the Reference Court.

6. A perusal of the impugned judgment and order of the Reference Court shows that respondent no.1 had failed to place on record any cogent

documentary or oral evidence in support of his claim for enhanced compensation. The Reference Court had simply relied upon orders passed by it

pertaining to lands that were acquired from the same village of Bhoyar and there was no discussion or reasoning on the basis of which the Reference

Court had arrived at the figure of Rs.3,50,000/- per hectare as enhanced compensation payable to respondent no.1.

7. Survey No.15 of village Bhoyar is located towards the west of Survey No.4. It is not abutting the Yavatmal - Darwha State Highway and it has

Survey Nos. 4,5 and 6 between the said Highway and its location. It is also further away towards the west from the already established industrial

estate of village Lohara. Therefore, it can be inferred that the fair market value of the land and its non-agricultural potentiality, as compared to lands

abutting the said Highway and being nearer to the industrial estate of Lohara, would be much less.In respect of the lands located in Survey No.4, it

has already been held above that the claimants would be entitled to compensation by holding that the value of the land would be about Rs.1,22,701/-

and the component of potentiality would be about Rs.55,000/-(the total has been rounded of to Rs. 1,80,000/-). Thus, in the present case pertaining to

land of respondent no.1 located in Survey No.15, which is not abutting the Highway and it is further away from the industrial estate of Lohara, it

would be appropriate that the fair market value of the land in the year 1995 and its potentiality is estimated at a lesser value. On this basis, the

respondent no.1 in the present case would be entitled to fair market value of the land in the year 1995 at Rs.1,15,000/- per hectare and the component

of potentiality would also stand reduced at Rs.50,000/-. In this manner, the respondent no.1 would be entitled to compensation at the rate of

Rs.1,65,000/- per hectare.

8. Accordingly, this appeal is partly allowed and it is held that the respondent no.1 shall be paid compensation at the rate of Rs.1,65,000/- per hectare.

The impugned judgment and order of the Reference Court is modified accordingly. The other directions of the Reference Court pertaining to solatium, additional component and interest are maintained and this appeal is disposed of.

First Appeal No.425/2009 with First Appeal No.6 of 2012

1. These appeals have been filed by the acquiring body MIDC and the land owner-claimant, both challenging judgment and order dated 28.02.2008

passed by the Reference Court, in Land Acquisition Case No.15/2002, whereby the Reference Court has granted enhanced compensation at

Rs.2,00,000/- per hectare to the claimant.

2. Upon issuance of Notification dated 9.3.1995 by the State Government, the process of acquisition of land belonging to the claimant was initiated.

The said land was located in Survey No.26 of village Bhoyar, teshil and district Yavatmal , admeasuring 0.81 R. The respondent- Special Land

Acquisition Officer issued award in pursuance of the said acquisition proceedings and granted compensation of Rs.1969/- to the claimant.

3. Aggrieved by the same, the claimant filed reference application under Section 34 of the MID Act read with Section 18 of the Land Acquisition Act,

1894, claiming enhanced compensation at the rate of Rs.40/- per square feet i.e. Rs.29,62,962/- per hectare. The State Authorities and the MIDC filed

their written statements, opposing the claim of the claimant. The claimant examined himself and an expert witness in support of his claim, while the

State Authorities and MIDC failed to examine any witness.

4. In the impugned judgment and order, the Reference Court took into consideration the fact that the claimant had applied for conversion of his land to

non-agricultural use. It was held that although such order of conversion was not passed, the intention of the claimant for such conversion was evident.

It was also found that village Bhoyar was located next to village Lohara near village Wadgaon and that the said two villages of Lohara and Wadgaon

were already developed, having industrial estate. The valuation report and evidence of the expert witness was not relied upon by the Reference Court,

but, judgment and order passed in the case of claimant pertaining to First Appeal No.56 of 2006, wherein compensation was granted at Rs.17/- per

square feet, was taken into consideration. On this basis, the Reference Court held that the claimant was entitled to compensation at Rs.2,00,000/- per

hectare.

5. Mr. M.M. Agnihotri, learned counsel appearing on behalf of the MIDC submitted that there was no specific reasoning in the order of the

Reference Court while arriving at the figure of Rs.2,00,000/- per hectare. It was submitted that the land located in Survey No.26 was away from the

Yavatmal::: Darwha road and that it was clearly at a distance from village Lohara. On this basis, it was contended that the Reference Court had taken

into consideration factors which were irrelevant, while arriving at the aforesaid figure of compensation. Reliance was placed on the only sale instance

from Survey No.20 of village Bhoyar available on record in connected cases, to contend that the compensation granted by the Reference Court was

not sustainable.

6. On the other hand, Mr. A.P. Tathod, learned counsel appearing on behalf of the claimant submitted that there was sufficient material on record

placed by the claimant justifying payment of compensation at Rs.40/- per square feet. It was contended that the land in Survey No.26 was near

Gaothan of village Bhoyar and that the industrial estate of village Lohara was in the vicinity, due to which even though the land was not actually

converted to non-agricultural use, the claimant was entitled to compensation by treating the land as developed land.

7. A perusal of the map shows that Survey No.26 is towards the south and away from the Yavatmal-Darwha State Highway. Its distance from village

Lohara is also higher as compared to Survey Nos. 33,35, 20 and 2. The map does show that it is adjoining the Gaothan of village Bhoyar. A perusal of

the impugned judgment and order of the Reference Court, shows that specific reasoning for grant of compensation at Rs.2,00,000/- per hectare is

missing. The Reference Court has made observations pertaining to the location of the land being near the villages of Lohara and Wadgaon. It has also

stated that even though the land was not converted to nonagricultural use, the fact that the claimant had applied for such conversion was important. A

reference was also made to the order passed in the case of claimant whose land was located in Survey No.33 pertaining to First Appeal No.56 of

2006 wherein compensation at Rs.17/- per square feet was granted. Thereafter, the Reference Court has taken into consideration sale deeds placed

on record by the claimant pertaining to the village Lohara and it has observed that the enhanced compensation claimed at Rs.40/- per square feet was

not proper. Thereupon, the Reference Court has abruptly come to the conclusion that the claimant was entitled to compensation at Rs.2,00,000/- per hectare. There does not appear to be any analysis of material on record, including the evidence of the expert witness or the location of the land in

village Bhoyar.

8. As a consequence, it is necessary for this Court to take into consideration the material on record, particularly the location of the land in Survey

No.26, to arrive at a conclusion regarding just and fair compensation payable to the claimant in the present case. The evidence of the expert witness is

not of much assistance because he has admitted in the crossexamination that although he inspected the spot in the year 1998, the valuation report was

issued on 09.12.2004. He has also admitted that he had no rough notes of spot observation and valuation available with him in respect of the land in

question. Thus, the compensation payable in the present case has to be estimated by taking into account the location of the land, because mere

intention of the claimant of converting the land to non-agricultural use, cannot be a factor in determination of compensation, as the land continued to be

an agricultural land. A perusal of the map shows that the land in Survey No.26 in village Bhoyar is away from the YavatmalDarwha State Highway

as Gaothan and Survey No.1 are in between the said land and the Highway. It is also further away from village Lohara where the earlier industrial

estate of MIDC was located. In terms of distance from the State Highway and the existence of village Lohara towards the east, the location of the

land in Survey No.26 can be said to be comparable with the land in Survey No.15 discussed above. This is because the two survey numbers are

located almost at the same distance on either side on the said Yavatmal- Darwha State Highway. Their location in terms of distance from village

Lohara towards east also appears to be similar. Therefore, on both factors of estimated fair market value in the year 1995 and potentiality, lands in the

two survey numbers appear to be comparable.

9. It has been already held above that the claimant pertaining to land in Survey No.15 (First Appeal No.131 of 2015) was entitled to compensation of

Rs.1,65,000/- per hectare, which included fair market value of the land and component of non-agricultural potentiality. As the land in the present case

located in Survey No.26 appears to be similarly situated, the claimant in the present case would be entitled for the same amount of compensation.

10. Accordingly, First Appeal No.425 of 2009 filed by the claimant for further

enhancement of compensation is dismissed while First Appeal No.6 of

2012 is partly allowed and it is held that the claimant in the present case shall be paid compensation at Rs.1,65,000/- per hectare. The directions

pertaining to solatium, additional component and interest given by the Reference Court are maintained and these appeals are disposed of.

First Appeal No. 133/2007.

1. By this appeal, the appellant - MIDC has challenged judgment and order dated 13.04.2006 passed by the Reference Court in Land Acquisition Case

No. 213 of 1999, whereby the Reference Court granted enhanced compensation at Rs.3,75,000/- per hectare to the respondent no.1-claimant.

2. By issuance of Notification dated 09.03.1995 by the State Government, the process of acquisition of land of respondent no.1 was initiated. The said

land was located in Survey No.31/2 in village Bhoyar , tehsil and district Yavatmal, admeasuring 4.91 hectares. By award dated 03.11.1997,

respondent no.1- Special Land Acquisition Officer granted compensation at Rs.50,000/- for 4.23 hectares of cultivable land and at Rs.1500/- per

hectare for 0.68 hectares of Pot Kharab land.

3. Aggrieved by the same, the respondent no.1 filed reference application under Section 34 of the MID Act read with Section 18 of the Land

Acquisition Act, 1894, claiming enhanced compensation of Rs.58,33,690/-. The appellant - MIDC filed written statement opposing the aforesaid claim.

The claimant examined himself and a witness in support of his claim of enhanced compensation. The claimant also placed on record documentary

evidence in the form of sale deeds pertaining to land located in adjoining village Lohara. He also placed on record the aforementioned sale deed dated

18.09.1992, being the only sale deed pertaining to land located in village Bhoyar from Survey No.20/2.

4. In the impugned judgment and order, reference has been made to the aforesaid sale deeds relied upon by the respondent no.1, but, the finding

rendered by the Reference Court in favour of the respondent no.1 is essentially based on orders in other land acquisition cases from the village of

Bhoyar. The Reference Court has taken note of judgments and orders at Exh.41, 42 and 44 arising from the same Notification wherein fair market

value of different lands in village Bhoyar has been held to be in the range of Rs.3,75,000/- to Rs.4,00,000/-. It is also on the basis of the said documents at Exh.41, 42 and 44 that the Reference Court in the impugned order has granted enhanced compensation to respondent no.1 at Rs.

3,75,000/-per hectare.

5. In this backdrop, Mr. M.M. Agnihotri, learned counsel appearing on behalf of the appellant- MIDC has submitted that there is no basis for the

Reference Court to arrive at the aforesaid finding, other than orders passed in land acquisition cases, arising from the same village Bhoyar. There is

no application of mind by the Reference Court to material on record and there is no analysis of what could be the fair market value of the land in

question in the year 1995 when the Notification was issued by the State Government. It was contended that since the land in the present case was

located far away from the Yavatmal-Darwha road and village Lohara, the compensation granted by the Reference Court was unsustainable.

6. On the other hand, Mr. Abhay Sambre, learned counsel appearing on behalf of respondent no.1 submitted that there was sufficient material on

record to show that the land was irrigated and that crops were being taken on the land which was fertile and perennially irrigated. It was contended

that since cash crops were being taken on the said land, the amount of compensation granted by the Reference Court was justified.

7. As noted above, the Reference Court has simply relied upon orders passed in cases pertaining to acquisition of other pieces of land from the village

Bhoyar under the same Notification. There is no independent application of mind by the Reference Court in the present case while rendering findings

in favour of the respondent no.1. In this situation, it becomes necessary to peruse the map and to ascertain the location of Survey No.31 in village

Bhoyar. A perusal of the same shows that the land is clearly further away from the Yavatmal-Darwha road, because there are Survey Nos. 18 and

19 between the said road and the land in Survey No. 31 in the present case. It is also further away from village Lohara where the existing industrial

estate stood located. In this case, the only sale deed available from the entire village of Bhoyar was placed on record. It pertained to land belonging to

claimant in First Appeal No.116 of 2006 in Survey No.20/2. On the basis of the said sale deed, by applying cumulative annual increments for three

years till the year 1995, as the sale deed was of the year 1992, it has been held above that the fair market value of the said land would have been

Rs.1,22,101/- and a further component of potentiality to the extent of Rs.60,000/- was added, as the said land was located in proximity of industrial estate of village Lohara with only Survey No.33 being in between. It is significant that the said land at Survey No.20/2 was right on the Yavatmal-Darwha road. If a comparison is made of the land in the present case at Survey No.31 in village Bhoyar with the said land in Survey No.20/2, it would be evident that the value of the land as in the year 1995 on both the counts of location and potentiality would be reduced.

8. Taking into consideration the location of the land in the present case and reducing it proportionately, it would be appropriate that the fair market value of the land in the year 1995 is held to be Rs.1,00,000/- per hectare and considering that it is some distance away from the industrial estate of village Lohara, the component of non-agricultural potentiality would also stand reduced to Rs.50,000/-. Accordingly, the respondent no.1 would be entitled to compensation at the rate of Rs.1,50,000/- per hectare.

9. Hence, this appeal is partly allowed and it is held that the respondent no.1 shall be paid compensation at Rs.1,50,000/- per hectare and the impugned judgment and order of the Reference Court is modified accordingly. The directions given by the Reference Court towards solatium, additional component and interest are maintained and this appeal is disposed of.

First Appeal No.1234 of 2009 with First Appeal No.430 of 2018.

1. By these two appeals, the acquiring body MIDC as well as the land owner/ claimant have challenged judgment and order dated 18.10.2008 passed by the Reference Court in Land Acquisition Case No. 131 of 2002, whereby the Reference Court has granted enhanced compensation at Rs.1,80,000/- per hectare for cultivable land and Rs.90,000/- per hectare for Pot Kharab land to the claimants.

2. By Notification dated 09.03.1995 issued under Section 32(2) of the MID Act, the land belonging to the appellant was acquired, which was located in Survey No.17 of village Bhoyar, tehsil and district Yavatmal, admeasuring 2.02 hectares. By award dated 27.11.1997, passed by the respondent-Special Land Acquisition Officer, compensation at Rs.45,000/- per hectare was granted for 1.92 hectares cultivable land and at Rs.1500/- per hectare for 0.10 hectare of land belonging to the claimant.

3. Aggrieved by the same, the claimant filed reference application under Section

34 of the MID Act read with Section 18 of the Land Acquisition Act,

1894, claiming enhanced compensation at Rs.7,50,000/- per hectare. He also claimed further enhanced compensation towards well and bunds of

permanent nature located on the land as also further amount of Rs.1,75,000/- towards costs of trees. In support of his claim, the claimant relied upon

sale deeds of lands located in village Lohara and he also adduced his own oral evidence before the Reference Court. The State Authorities and the

acquiring body MIDC filed their written statements opposing the claim of the appellant, but, they failed to examine any witness.

4. By the impugned judgment and order, the Reference Court partly allowed the application of the claimant and granted enhanced compensation at the

aforesaid rates. Mr. Bhuibhar, the learned counsel appearing on behalf of the claimant, submitted that the Reference Court erred in not granting the

quantum of enhanced compensation as claimed by the claimant, when there was sufficient material on record to support his claim. According to the

learned counsel, the Reference Court erred in deducting 50% to 55% from the amount of consideration paid in respect of sale deeds at Exhs. 50 to 53

placed on record by the claimant. It was contended that merely because the sale deeds pertained to the adjoining village Lohara, the Reference Court

was not justified in drastically reducing the market value of the acquired land. It was contended that since village Lohara was in the vicinity of the

acquired land and the Yavatmal - Darwha road was also in the vicinity, the amount of enhanced compensation granted by the Reference Court was

on the lower side.

5. Mr.M.M. Agnihotri, learned counsel appearing on behalf of the MIDC submitted that failure on the part of the claimant to place on record sale

deeds pertaining to lands located in village Bhoyar demonstrated that there was suppression of facts in the present case. It was contended that the

lands located in village Lohara were not comparable to the acquired land located in Survey No.17 village Bhoyar. It was not converted to non-

agricultural use and, therefore, there was no question of accepting enhanced compensation claimed by the appellant.

6. As discussed in the context of other claimants in the connected appeals above, none of the lands in village Bhoyar were converted to non-

agricultural use and that they were not comparable or similar to the lands located in village Lohara where industrial estate of MIDC had been already established. The fair market value of the lands located in village Bhoyar, including the acquired land in the present case, was required to be determined on the basis of its own distinct features. In respect of lands located in Survey Nos. 33, 32 and 31 above, the compensation payable has been already determined on the basis of the only sale instance available from Survey No.20 of village Bhoyar, in addition to the non-agricultural potentiality as also distance from the Yavatmal - Darwha State Highway. Considering the fact that the land even in Survey No.31 of village Bhoyar has been granted compensation only at Rs.1,50,000/- per hectare above, the acquired land in the present case being located in Survey No.17, which is further away from the State Highway and the industrial estate and factories located on the east in village Lohara, it cannot be said that the claimant in the present case is entitled to any further enhancement in compensation.

7. Thus, relying upon the reasons given for lands located in aforesaid survey numbers of village Bhoyar, the appeal of the claimant for further enhanced compensation is dismissed. However, the appeal filed by the MIDC deserves to be partly allowed, because for land located in Survey No.31, amount of Rs.1,50,000/- per hectare has been granted. If location of the land in Survey No.17 is appreciated, it would show that although it is nearer to the Yavatmal-Darwha State Highway, as compared to lands in Survey No.31 of village Bhoyar, it is slightly away on the eastern side from the already established industrial estate of village Lohara. Therefore, it would be appropriate that for the land of the claimant in the present case, the same amount of compensation is fixed.

8. Accordingly, the appeal filed by the MIDC is partly allowed and it is held that the claimant is entitled to compensation at Rs.1,50,000/- per hectare for 1.92 hectares of cultivable land and Rs.75,000/- per hectare for 0.10 hectares of Pot Kharab land. The impugned judgment and order of the Reference Court is modified to that extent. The other directions granted by the Reference Court regarding solatium, additional component and interest are maintained.

First Appeal No.1248/2009 with First Appeal No.431 of 2018.

1. These are appeals filed by the acquiring body MIDC and the land owner-claimant challenging the impugned judgment and order dated 18.10.2008

passed by the Reference Court in Land Acquisition Case No. 54/2002, whereby the Reference Court has granted enhanced compensation at

Rs.1,80,000/- per hectare for cultivable land and Rs.90,000/- per hectare for Pot Kharab land to the claimant.

2. By Notification dated 09.03.1995, State Government initiated the process of acquisition of land belonging to the claimant, located in Survey No.17,

village Bhoyar, tehsil and district Yavatmal admeasuring 9.50 hectares. By award dated 27.11.1997, issued by the respondent- Special Land

Acquisition Officer, compensation at Rs.45,000/- per hectare for 7.24 hectares cultivable land and at Rs.1500/- per hectare for 0.51 hectare Pot

Kharab land was granted to the claimant.

3. Aggrieved by the same, the claimant filed reference application under Section 34 of the MID Act read with Section 18 of the Land Acquisition Act,

1894 before the Reference Court, claiming enhanced compensation of Rs.7,50,000/- per hectare along further amounts towards well, pipeline and

bunds located in the lands.

4. By the impugned judgment and order, the Reference granted the aforesaid quantum of compensation by relying upon sale instances pertaining to

lands located in village Lohara and applying guesswork while making deductions from the amounts reflected in such sale instances.

5. Mr. M.M. Agnihotri, learned counsel appearing on behalf of the MIDC submitted that the reasoning given by the Reference Court was not

sustainable as location of land and the fact that it was not converted to non-agricultural use, was not taken into consideration by the Reference Court

while passing the impugned judgment and order.

6. Mr. R.D. Bhuibhar, learned counsel appearing on behalf of the claimant submitted that the compensation granted by the Reference Court was

inadequate and that there was sufficient material placed on record to justify the claim made by the claimant of Rs.7,50,000/- per hectare. It is pointed

out that the acquired land was fertile irrigated land and that this aspect was also not properly taken into consideration by the Reference Court.

7. Since this land is also located in Survey No.17 of village Bhoyar and the material on record before the Reference Court was similar to the land

subject matter of First Appeal Nos. 1234 of 2009 and First Appeal No. 430 of 2018, for the reasons stated in the order above disposing of the said two appeals, these appeals can also be disposed of.

8. A perusal of the impugned judgment and order in this case shows that it is almost identical to the judgment and order passed by the Reference

Court, which was subject matter of challenge in First Appeal Nos.1234 of 2009 and 430 of 2018. The location of the land in the present case is also

similar and, therefore, by adopting the reasons given in the order above pertaining to the said two appeals, it is held that the appeal filed by the claimant

for further enhancement of compensation is liable to be dismissed and the appeal filed by MIDC deserves to be allowed.

9. Accordingly, First Appeal No.1248 of 2009 is dismissed and First Appeal No.431 of 2018 is partly allowed. It is held that the claimant in the present

case is entitled to compensation at Rs.1,50,000/- per hectare for 7.24 hectares of cultivable land and at Rs.75,000/- per hectare for 0.51 hectares Pot

Kharab land. The impugned judgment and order of the Reference Court is modified to that extent. The other directions pertaining to solatium,

additional component and interest granted by the Reference Court are maintained.

First Appeal No.60 of 2009.

1. By this appeal , the appellant- MIDC has challenged judgment and order 29.04.2006 passed by the Reference Court in Land Acquisition Case

No.55 of 2002, whereby the Reference Court has granted enhanced compensation to the respondent nos.1 and 2 at Rs.2,15,000/- per hectare.

2. By Notification dated 09.03.1995, the process of acquisition of the land belonging to respondent Nos. 1 and 2- claimants was initiated. The said land

was located in Survey No. 30/2 village Bhoyar, tehsil and district Yavatmal, admeasuring 2.10 hectares. By the award, issued by the respondent-

Special Land Acquisition Officer, the claimants were granted compensation at Rs.50,000/- per hectare for cultivable land and at Rs.1500/- for Pot

Kharab land.

3. Aggrieved by the same, the claimants filed reference application under Section 34 of the MID Act read with Section 18 of the Land Acquisition

Act,1894, claiming enhanced compensation at Rs.7,50,000/- per acre. By the impugned judgment and order, the Reference Court partly allowed the

application and granted enhanced compensation at Rs.2,15,000/- per hectare to the claimants. The Reference Court referred to the documentary and oral evidence placed on record on behalf of the claimants, which included sale deeds pertaining to lands located in village Lohara, as also certain

orders passed by the Reference Court in respect of acquisition of lands located in village Lohara and village Pangri. A reference was also made to

award passed by the Reference Court in respect of land belonging to claimant to First Appeal No.56 of 2006 decided above, wherein compensation

had been granted at Rs.17/- per square feet. The Reference Court noted the fact that the claimants had applied for conversion of land to non-

agricultural use. On the basis of the material on record, the Reference Court granted the aforesaid enhanced quantum of compensation.

4. Mr. M.M. Agnihotri, learned counsel appearing on behalf of the MIDC, submitted that the Reference Court erred in relying upon sale instances

pertaining to village Lohara and awards passed by the Reference Court concerning acquisitions in village Pangri, because the lands located in villages

Lohara and Pangri were not comparable at all to the acquired land located in village Bhoyar. It is pointed out that the Reference Court erred in

arriving at the aforesaid figure of enhanced compensation by relying upon sale instances, which pertained to land not comparable with the acquired

land. It was pointed out that the location of the land in Survey No.30 was such that it was far away from the Yavatmal-Darwha road and also from

village Lohara.

5. Mr. S.C. Bhalerao, learned counsel appearing on behalf of the respondents-claimants, submitted that the Reference Court had correctly enhanced

the compensation granted to them. It was submitted that village Lohara was not at a long distance from the acquired land and that since the land was

being acquired for extension of industrial estate of the MIDC, it had tremendous non-agricultural potentiality, which justified the quantum of

compensation granted by the Reference Court.

6. A perusal of the impugned judgment and order of the Reference Court shows that there is not a single sale instance from village Bhoyar that has

been placed on record. The claimants have relied upon sale deeds pertaining to lands of village Lohara and reliance has been placed on awards passed

by the Reference Court pertaining to lands of village Pangri. It has been discussed earlier in this common judgment and order how the lands located in

village Lohara are not comparable to the lands in village Bhoyar. The only sale instance available from village Bhoyar pertained to land located in

Survey No.20, which also was located on the Yavatmal- Darwha State Highway and it was comparatively in proximity to the industries and industrial

estate located in village Lohara, pointing towards non-agricultural potentiality of the said land.

7. If the location of the acquired land in the present case is ascertained from the map of village Bhoyar, it is found that the acquired land is located in

Survey No.30, which is far away from the Yavatmal- Darwha State Highway and clearly a further distance away from the boundary of industrial

estate located in village Lohara. On both these counts, the fair market value and the non-agricultural potentiality of the acquired land gets reduced.

Therefore, for the reasons given in this order above pertaining to determination of fair market value of land located in Survey No.31, the just and fair

compensation payable to the claimants in the present case is being determined. In the land pertaining to Survey No.31, which was subject matter of

First Appeal No.133 of 2007 decided above, the claimant has been held to be entitled to compensation of Rs.1,50,000/- per hectare. In the present

case, looking to the location of the acquired land, the fair market value of the land in the year 1995 is liable to be fixed at Rs.90,000/- and the

component of non-agricultural potentiality would get reduced to Rs.40,000/-. As a result, the amount of compensation payable to the claimants in the

present case would come to Rs.1,30,000/-per hectare.

8. Accordingly, this appeal is partly allowed and it is held that the respondent nos. and 1 and 2-claimants shall be paid compensation at the rate of

Rs.1,30,000/- per hectare and the impugned judgment and order of the Reference Court is modified to that extent. The other directions of the

Reference Court pertaining to solatium, additional component and interest payable to the respondent nos. 1 and 2 are maintained.

First Appeal No.636 of 2008.

1. By this appeal, the appellant- MIDC has challenged judgment and order dated 26.04.2006 passed by the Reference Court in Land Acquisition Case

No. 20 of 2002, whereby the reference application of the respondent no.1 has been partly allowed and enhanced compensation has been directed to

be paid to him at Rs.2,00,000/- per hectare.

2. By Notification dated 09.03.1995, issued under Section 32(2) of the MID Act,

the process of acquisition of the land of respondent no.1 was

initiated. The said land was located in Survey No.30/1 village Bhoyar, tehsil and district Yavatmal, admeasuring 1.74 hectares. The respondent-Special

Land Acquisition Officer granted total compensation to the respondent no.1 of Rs.70,995/-.

3. Aggrieved by the same, the respondent no.1 filed reference application under Section 34 of the MID Act read with Section 18 of the Land

Acquisition Act, 1894, claiming enhanced compensation at Rs.5,00,000/- per hectare. The respondent no.1 relied upon sale instances pertaining to

lands located in village Lohara and certain awards passed by the Reference Court in other cases of acquisition from the same village.

4. By the impugned judgment and order, the Reference Court granted enhanced compensation at Rs.2,00,000/- per hectare, essentially on the basis

that it had taken judicial notice of the trend of rising market value of the land, taking into consideration the rates at which lands were sold in village

Lohara.

5. Mr. M.M. Agnihotri, learned counsel appearing on behalf of the appellant - MIDC submitted that reliance placed by the Reference Court on sale

deeds pertaining to lands located in village Lohara was improper, as the said lands were not comparable to those located in village Bhoyar, particularly

the acquired land located in Survey No.30.85.

6. None appeared on behalf of the respondent no.1- claimant.

7. It is evident that the reasoning given by the Reference Court is not sustainable in view of findings rendered by this Court while deciding connected

appeals above in this common judgment and order. In fact, in the case of claimant pertaining to First Appeal No.60 of 2009, regarding land pertaining

to the very same survey number, it has been held that the claimant was entitled to enhanced compensation at Rs.1,30,000/- per hectare. Since the land

in the present case of respondent no.1 is also located in Survey No.30, it is evident that the same rate of compensation ought to be granted to the

respondent no.1 in the present case.

8. Accordingly, this appeal is partly allowed and it is held that the respondent no.1 in the present case shall be paid compensation at Rs.1,30,000/- per

hectare and the impugned judgment and order of the Reference Court is modified to that extent. The other directions given by the Reference Court shall be maintained.

First Appeal No.1407/2008

1. By this appeal, the appellant-MIDC has challenged the impugned judgment and order dated 28.04.2006 passed by the Reference Court in Land

Acquisition Case No.266 of 2002, whereby the Reference Court has granted enhanced compensation at Rs.2,15,000/- per hectare to the respondent

Nos. 1 and 2-claimants herein.

2. By Notification dated 09.03.1995 issued under Section 32(2) of the MID Act, lands belonging to the claimants were acquired. Their lands were

located in Survey No.30/2 in village Bhoyar, tehsil and district Yavatmal, while the land of respondent no.1 was admeasuring 3.40 hectares and that of

respondent no.2 was admeasuring 2.10 hectares. The respondent- Special Land Acquisition Officer granted compensation to the said respondents at

Rs.50,000/- per hectare for cultivable land and Rs.1500/- per hectare for Pot Kharab land.

3. Aggrieved by the same, the said respondents claimed compensation at Rs.7,50,000/- per hectare. The said respondents relied upon sale deeds

pertaining to lands located in villages of Lohara and Wadgaon and also on awards passed by the Reference Court in cases arising from the villages

Lohara, Pangri and Bhoyar. The reasoning given by the Reference Court in the impugned order is the same as given in the case of the claimant in

First Appeal No.60 of 2009 decided above, since the land therein was also located in Survey No.30/2.

4. Mr. M.M.Agnihotri, learned counsel appearing on behalf of the appellant- MIDC submits that reliance placed on the sale instances and awards

pertaining to different villages by the Reference Court was wholly misplaced and that the amount of enhanced compensation payable to the said

respondents ought to have been decided on its own merits.

5. On the other hand, Mr. S.C. Bhalerao, learned counsel appearing on behalf of respondent no.1, supported the impugned order passed by the

Reference Court.

6. Since the lands belonging to the said respondents in the present case are located in Survey No.30/2, which is the same as the land of the claimant in

respect of First Appeal No.60 of 2009 decided above, for the reasons stated in the order passed in First Appeal No.60/2009, this appeal is partly allowed.

7. It is held that the said respondents shall be paid compensation at Rs.1,30,000/- per hectare and the impugned judgment and order of the Reference

Court is modified to that extent. The other directions given in the impugned judgment and order pertaining to solatium, additional component and

interest are maintained.

First Appeal No.1428/2008 with Cross-Objection No.24/2012

1. By this appeal, the appellant-MIDC has challenged judgment and order dated 28.04.2006 passed by the Reference Court in Land Acquisition Case

No. 14 of 2002, whereby the Reference Court has granted enhanced compensation to the respondent Nos. 1-claimant at Rs.2,00,000/- per hectare

and a further sum of Rs.8029/- for teak tree standing in the acquired land.

2. By Notification dated 09.03.1995 issued under Section 32(2) of the MID Act, the process of acquisition of the land belonging to respondent no.1

was initiated. The said lands of the respondent no.1 were located in Survey Nos. 28/1, 29/1 and 30/1. By award passed by the respondent-Special

Land Acquisition Officer, the respondent no.1 was granted total compensation of Rs.2,80,415/-.

3. Aggrieved by the same, the respondent no.1 filed reference application under Section 34 of the MID Act read with Section 18 of the Land

Acquisition Act, 1894, claiming enhanced compensation of Rs.10,45,000/- for the land located in Survey No.28/1, Rs.15,60,000/- for the land located in

Survey No.29/1 and Rs.8,75,000/- for land located in Survey No.30/1. The respondent no.1 relied upon sale deeds pertaining to other villages and on

the basis that his lands were extremely fertile and further that they had high non-agricultural potentiality.

4. By the impugned judgment and order, the Reference Court has granted enhanced compensation at Rs.2,00,000/- per hectare by taking into account

certain sale instances. The Reference Curt has found that the respondent no.1 himself had admitted that village Bhoyar was 2 kms. away from village

Lohara and about 5-6 kms. away from Yavatmal and that land in Survey Nos. 4/3 and 4/1 in village Bhoyar had been sold at much lesser rate, as

compared to land located in other villages. Yet, the Reference Court granted the aforesaid amount of enhanced compensation to the respondent no.1

by observing that the sale instance did not reflect the actual prices, as the parties intended to save stamp duty. Therefore, the Reference Court came

to the conclusion that the aforesaid quantum of compensation was payable to respondent no.1 for nonagricultural potentiality of the lands belonging to

respondent no.1.

5. Mr. M.M.Agnihotri, learned counsel appearing on behalf of the appellant-MIDC submitted that there was no cogent reasoning in the impugned

judgment and order of the Reference Court while enhancing compensation, despite the fact that the Reference Court had taken note of the admissions

given by respondent no.1. It was contended that the location of the lands belonging to the respondent no.1 was such that the fair market value of the

land was far less than what was granted by the Reference Court in the impugned judgment and order.

6. Mr. N.R. Saboo, learned counsel appearing on behalf of the respondent no.1/ cross-objector submitted that, the Reference Court had in fact granted

much less compensation than what was payable to respondent no.1 for acquisition of his land. It was submitted that there was sufficient material on

record to show that there was tremendous non-agricultural potentiality in the acquired lands and that the claim raised by respondent no.1 before the

Reference Court was justified. It was submitted that village Lohara was adjoining village Bhoyar and that when a fully established industrial estate

existed in the said village, it was evident that the lands belonging to the respondent no.1 in village Bhoyar had demonstrated nonagricultural potentiality

which justified the claim raised on behalf of respondent no.1.

7. A perusal of the impugned judgment and order shows that the Reference Court has not given any detailed reasons for its conclusions that the

respondent no.1 was entitled to enhanced compensation at Rs.2,00,000/- per hectare. It is only stated in paragraph 17 of the impugned judgment and

order that since actual price in sale deed is not reflected because the parties intend to save stamp duty, considering the nonagricultural potentiality of

the lands in question, enhanced compensation was being determined at Rs.2,00,000/- per hectare. There was no analysis of the material on record or

the location of the acquired lands belonging to the respondent no.1.

8. Upon perusal of the map in the present case, it is evident that the lands belonging to the respondent no.1/crossobjector are located in Survey Nos.

28/1, 29/1 and 30/1. All these survey numbers are far away from Yavatmal-Darwha State Highway and from village Lohara on the east. As regards

land located in Survey No.30/1, reliance was placed by this Court on order passed in First Appeal No.60/2009, which pertained to land of claimant

belonging in the same survey number. In that case, the compensation payable to the claimant has been ascertained at Rs.1,30,000/- per hectare and

for the same reasons, in respect of land of respondent no.1 located in Survey No.30/1, it is held that he is entitled to compensation at Rs.1,30,000/- per

hectare.

9. As regards lands located in Survey No.28/1 and 29/1, it is evident that the said lands are located even further away from Survey No.30 and their

distance from State Highway as also village Lohara on the east, is more. Therefore, the fair market value of these lands in the year 1995 when the

Notification was issued was lesser than the lands located in Survey No.30 and it can be ascertained at Rs.80,000/- per hectare and the component of

non-agricultural potentiality would also be reduced further to Rs.30,000/- per hectare. Hence, it is held that for the lands located in Survey No.28/1 and

29/1, the respondent no.1 would be entitled to compensation at Rs.1,10,000/- per hectare.

10. Accordingly, this appeal is allowed and crossobjection is dismissed. It is held that the respondent no.1 shall be paid compensation for the lands

acquired from Survey Nos.28/1 and 29/1 at Rs.1,10,000/- per hectare and for his land acquired from Survey No.30/1 at Rs.1,30,000/- per hectare. The

impugned judgment and order of the Reference Court is modified to that extent. The other directions given by the Reference Court in the impugned

order pertaining to solatium, additional component and interest are maintained.

First Appeal No.288 of 2011

1. By this appeal, the appellant MIDC has challenged judgment and order dated 25.09.2008 passed by the Reference Court in Land Acquisition Case

No. 21/2002, whereby the Reference Court has granted compensation at Rs. 1,80,000/- per hectare for cultivable land and Rs.90,000/- per hectare for

Pot Kharab land to the respondent no.1-claimant.

2. By notification dated 09.03.1995 issued under Section 32(2) of the MID Act, the State Government initiated the process of acquisition of lands

belonging to the respondent no.1 located in Survey No. 28/3, 29/3 and 30/1-A of village Bhoyar, tehsil and district Yavatmal. By award dated

27.11.1997, issued by the respondent-Special Land Acquisition Officer, compensation for the said lands was granted to the respondent no.1 at

Rs.50,000/- per hectare for cultivable land and Rs.1500/- per hectare for Pot Kharab land.

3. Aggrieved by the said award, respondent no.1 filed reference application under Section 34 of the MID Act read with Section 18 of the Land

Acquisition Act, 1894, before the Reference Court claiming enhanced compensation at Rs.5,00,000/- per hectare. The respondent no.1 claimed that

the aforesaid lands belonging to him had tremendous nonagricultural potentiality and they were located near village Lohara, which was already

developed area. He also examined an expert witness, who deposed with respect to the potentiality of the aforesaid lands and their crop yielding

capacity.

4. In the impugned judgment and order, the Reference Court noted the fact that the lands located in village Bhoyar were not comparable with those in

village Lohara. It held that when there was lack of evidence about similarity of such lands. But, it was held that considering nearness of such lands to

each other, the amount of compensation payable to respondent no.1 could be determined. On this basis, the Reference Court granted the above

mentioned enhanced compensation to the respondent no.1.

5. Mr. M.M.Agnihotri, learned counsel appearing on behalf of the appellant- MIDC submitted that there was no appreciation of the location and other

features pertaining to the lands in question and that the reasoning of the Reference Court was not sustainable. He submitted that the location of the

land being away from the Yavatmal - Darwha road and the established industrial estate in village Lohara demonstrated that the quantum of enhanced

compensation granted by the Reference Court was not justified.

6. The lands in the present case belonging to respondent no.1 are in the same survey numbers as were the lands in the case of claimant pertaining to

First Appeal No.1428 of 2008 decided above. In the order disposing of the aforesaid first appeal, observations have been made and reasons have been

given for ascertaining the just and fair compensation payable to the claimant. Since the lands subject matter of First Appeal No.1428 of 2008 were

located in the same survey numbers in which the lands of respondent no.1 in the present case were located, this appeal is being disposed of for the

reasons stated while disposing of First Appeal No.1428 of 2008 above.

7. Accordingly, this appeal is partly allowed and it is held that the respondent no.1 shall be paid compensation at the rate of Rs.1,10,000/- per hectare

for cultivable land in Survey Nos. 28/3 and 29/3 and for the Pot Kharab land located in Survey No. 28/3 and 29/3, the respondent No.1 shall be paid

amount of Rs.55,000/- per hectare. It is further held that the respondent no.1 shall be paid compensation at Rs.1,30,000/- per hectare for cultivable

land in Survey No.30/1-A and at Rs.65,000/- per hectare for Pot Kharab land located in the said Survey No.30/1-A. The impugned judgment and

order of the Reference Court is modified to that extent. Other directions given by the Reference Court pertaining to solatium, additional component

and interest are maintained.

First Appeal No.340/2005 with First Appeal No. 389/2005

1. By these two appeals, the acquiring body MIDC and the land owner-claimant have both challenged the impugned judgment and order dated

25.02.2005 passed by the Reference Court in Land Acquisition Case No. 16 of 2002, whereby the Reference Court has granted enhanced

compensation to the claimant at Rs.70,000/- per hectare.

2. By Notification issued under Section 32(2) of the MID Act dated 09.03.1995, the process of acquisition of the land belonging to the claimant was

initiated. The land was located in Survey No.12/2 admeasuring 3.76 hectares in villge Bhoyar, tehsil and district Yavatmal. By award dated 03.11.1997

issued by the respondent-Special Land Acquisition Officer, the compensation at Rs.51,230/- per hectare was granted for cultivable land and at

Rs.1500/- per hectare for Pot Kharab land.

3. Aggrieved by the same, the claimant filed reference application under Section 34 of the MID Act read with Section 18 of the Land Acquisition Act,

1894, and claimed enhanced compensation at Rs.3,75,000/- per hectare. The claimant relied upon awards passed in cases of other claimants and also

on the claim of non-agricultural potentiality of the land. Certain sale deeds pertaining to village Lohara were also placed on record on behalf of the

claimant.

4. By the impugned judgment and order, the Reference Court has granted

enhanced compensation at Rs.70,000/- per hectare to the claimant. The

Reference Court relied upon a judgment passed in the case of a claimant whose land was located in the same survey number, wherein compensation

had been granted at Rs.50,000/- per hectare. By applying guesswork, the Reference Court granted enhanced compensation at Rs.70,000/- per

hectare.

5. Mr. M.M. Agnihotri, learned counsel appearing on behalf of the MIDC has fairly conceded that considering the submissions made by him in respect

of other lands located in village Bhoyar and the location of the land in the present case, the quantum of compensation granted by the Reference Court

in the present case was less than what could be said to be a fair market value of the land in the year 1995.

6. On the other hand, Mr. S.C. Bhalerao, learned counsel appearing on behalf of the claimant in support of his appeal for enhancement of

compensation, has submitted that there was ample material on record to show that the lands located in village Lohara were comparable to the

acquired land of the claimant in the present case and that his claim of enhanced compensation at Rs.3,75,000/- per hectare was clearly justified.

7. A perusal of the map showing location of the land of the claimant in the present case, demonstrates that it is in proximity with lands located in

survey no.28. Distance from the Yavatmal - Darwha State Highway, as also from the already established industrial estate of village Lohara on the

east, is similar to the land located in Survey No.28 of village Bhoyar.

8. Therefore, for the reasons on the basis of which First appeal No.1428 of 2008 has been decided above concerning land of claimant located in

Survey No.28, the present appeal of the acquiring body of the MIDC is dismissed and the appeal filed by the claimant is partly allowed.

9. Accordingly, it is held that the claimant i.e. appellant in First Appeal No. 389 of 2005 and respondent no.1 in First Appeal No.340 of 2005 is entitled

to compensation at Rs.1,10,000/- per hectare. The directions given by the Reference Court pertaining to solatium, additional component and interest

are maintained and the appeal are disposed of.

First Appeal No. 269 of 2007

1. By this appeal, the appellant-MIDC has challenged judgment and order dated 28.4.2006 passed by the Reference Court in Land Acquisition Case

No. 65/2002, whereby enhanced compensation has been granted to the respondent nos. 1 and 2 at Rs.2,15,000/- per hectare.

2. By Notification dated 09.03.1995 issued under Section 32(2) of the MID Act, the process of acquisition of the land belonging to the claimants was

initiated. The said land was located in survey no. 8/2 village Bhoyar, tehsil and district Yavatmal admeasuring 6.5 hectares. The respondent- Special

Land Acquisition Officer issued award granting total compensation of Rs.5,00,000/- to the claimants.

3. Being aggrieved by the said award, the claimants filed reference application under Section 34 of the MID Act read with Section 18 of the Land

Acquisition Act, 1894, claiming enhanced compensation at Rs.7,50,000/- per hectare and separate compensation for trees, pipeline and well located in

the land.

4. The claimant relied upon oral and documentary evidence including sale instances pertaining to lands located in villages Lohara and Wadgaon, as

also the award passed in the case of claimant pertaining to First Appeal No. 56 of 2006 wherein compensation had been awarded at Rs.17/- per

square feet. By the impugned judgment and order, the aforesaid rate of compensation was granted to the claimants. The Reference Court noted that

the claimants in their evidence had given admissions in favour of the State and that they had chosen not to file a single sale instance from village

Bhoyar. But, without any specific reasoning, the Reference Court granted such enhanced compensation.

5. Mr. M.M.Agnihotri, learned counsel appearing on behalf of the appellant - MIDC submitted that when admissions given by the claimants in their

evidence were noted by the Reference Court, there ought to have been specific reasons assigned in the impugned judgment and order for granting the

aforesaid enhanced compensation to the claimants. It was submitted that the perusal of the impugned judgment and order demonstrated that in the

absence of proper reasoning, the findings in favour of the claimants were not sustainable.

6. On the other hand, Mr. A.R. Patil, learned counsel appearing on behalf of respondent no.1, submitted that the sale instances pertaining to villages

Lohara and Wadgaon placed on record were proper for estimation of fair market value of the land in question. It was submitted that there was tremendous non-agricultural potentiality in the acquired land of the respondent no.1 and that no interference was called for in the findings rendered by

the Reference Court in the impugned judgment and order.

7. A perusal of the impugned judgment and order shows that the respondent no.1 essentially relied upon sale instances pertaining to villages Lohara

and Wadgaon. The Reference Court took note of the fact that not a single sale instance from village Bhoyar was placed on record and that there

were crucial admissions given by the respondent no.1 in his evidence. Yet, the said enhanced compensation was granted by the Reference Court

without assigning any specific reasons. Therefore, it is necessary to appreciate the location of the land of respondent no.1. The map pertaining to

village Bhoyar and its surrounding shows that survey no.8, wherein the land of respondent no.1 was located, was towards the western side of

Yavatmal-Darwha State Highway and that it was at quite a distance from the already established industrial estate of village Lohara on the east. The

distance of the said land from Yavatmal-Darwha State Highway, as compared to lands located in Survey Nos. 12, 28 and 29 considered above, is less.

But, distance from the already established industrial estate of village Lohara is almost about the same.

8. In this backdrop, taking into consideration the reasoning given for disposal of appeals concerning lands in Survey nos. 12, 28, 29 and 30, it can be

concluded that in the present case the fair market value of the lands in question in the year 1995 would have been Rs.90,000/- per hectare and the

component of non-agricultural potentiality would be Rs.30,000/- per hectare considering the distance from village Lohara in the east.

9. Accordingly, this appeal is partly allowed and it is held that the respondent no.1 shall be paid compensation at Rs. 1,20,000/- per hectare and the

impugned judgment and order of the Reference Court is modified to that extent. The amount of compensation granted for house and pipeline by the

Reference Court is maintained. The other directions granted in respect of solatium, additional component and interest are also maintained and the

appeal is disposed of.

First Appeal No.477 of 2012

1. By this appeal, the appellant- MIDC has challenged judgment and order dated 07.09.2010 passed by the Reference Court in Land Acquisition Case

No. 33 of 2005, whereby respondent nos. 1 to 7 (original claimants) have been granted enhanced compensation at Rs.2,20,000/- per hectare.

2. By Notification dated 09.03.1995 issued under Section 32(2) of the MID Act, the process of acquisition of land belonging to the claimants was

initiated. The said land was located in Survey No.10/1 village Bhoyar, tehsil and district Yavatmal, admeasuring 1.33 hectares. The respondent-

Special Land Acquisition Officer issued award dated 27.01.1997 granting compensation at Rs.1520/- per hectare.

3. Aggrieved by the same, the claimants filed reference application under Section 34 of the MID Act read with Section 18 of the Land Acquisition

Act, 1894, before the Reference Court claiming enhanced compensation at Rs.7,00,000/- per hectare. The claimants placed reliance on sale instances

at Exhs. 41 to 44 pertaining to village Lohara. It was contended that the distance between village Bhoyar, village Lohara and village Wadgaon, was

not much and that there was nonagricultural potentiality in the acquired land belonging to the claimants.

4. By the impugned judgment and order, the Reference Court held that when sale instances from the same village were not available, the sale

instances of similar lands located near the acquired land could be taken into consideration. On this basis, the sale deeds at Exhs. 41 to 44 were relied

upon by the Reference Court and upon making deduction, the aforesaid figure of Rs. 2,20,000/- per hectare was arrived at.

5. Mr. M.M. Agnihotri, learned counsel appearing on behalf of the MIDC submitted that the reliance placed by the Reference Court on sale instances

pertaining to the village Lohara, was erroneous and that the fair market value of the land in question ought to have been determined on the basis of the

location of the land and the fact that it was not converted to non-agricultural use.

6. None appeared on behalf of the respondent Nos. 1 to 7 - claimants.

7. A perusal of the impugned order shows that the claimants failed to place on record any material pertaining to the aspect as to what could have been

fair market value of the acquired land located in village Bhoyar. The entire material on record pertained to village Lohara, which was already a

developed area. The Reference Court has simply relied upon the sale instances pertaining to village Lohara and without taking into consideration the

locational features of the land in question, it has arrived at its findings.

8. In this situation, it is necessary to appreciate the location of the land in the present case. Survey No.10/1 of village Bhoyar is away from the Yavatmal-Darwha State Highway and it is further away from the already established industrial estate of village Lohara on the east. The said survey number is in proximity with Survey No.12 of village Bhoyar. It cannot be said that the location and other features of the land in question in the present case are similar to lands located in survey No.12.

9. Therefore, for the reasons on which First Appeal No. 340 of 2005 has been decided above pertaining to land located in Survey No.12, the present appeal can also be disposed of. In the said appeal, it has been held that the claimant was entitled to Rs.1,10,000/- per hectare. Accordingly, it is held that the claimants in the present case are also entitled to the same amount.

10. Accordingly, this appeal is partly allowed and it is held that the respondent nos. 1 to 7- claimants shall be entitled to compensation at Rs.1,10,000/- per hectare and the impugned judgment and order of the Reference Court is modified to that extent. The other directions pertaining to solatium, additional component and interest granted by the Reference Court are maintained.

First Appeal No.1255 of 2009.

1. By this appeal, the land owner-claimant has challenged judgment and order dated 16.02.2009 passed by the Reference Court in Land Acquisition Case No. 69 of 2002, whereby the Reference Court has granted enhanced compensation to the appellant.

2. By Notification dated 09.03.1995 issued under section 32(2) of the MID Act, the State Government initiated process of acquisition of land belonging to the appellant located in Survey No.10/3 village Bhoyar, tehsil and district Yavatmal. By award dated 27.11.1997, the respondent- Special Land Acquisition Officer granted enhanced compensation at Rs.45,000/- per hectare for cultivable land and Rs.1500/- per hectare for Pot Kharab land.

3. Being aggrieved by the same, the appellant filed reference application for further enhancement of compensation.

4. By the impugned judgment and order, the Reference Court has granted enhanced compensation at Rs.1,80,000/- per hectare for cultivable land and Rs.90,000/- per hectare for Pot Kharab land to the appellant.

5. By this appeal, the appellant is seeking further enhancement of compensation.

But, since it has been already held above in respect of lands located

in the very same survey number from village Bhoyar in First Appeal No. 477 of 2012 that the claimant therein is entitled to much less compensation,

for the reasons stated in the orders disposing of the said appeal, the present appeal is dismissed.

Â The appeals filed by the acquiring body-MIDC and landowners/claimants are disposed of in above terms. The calculation of compensation payable

in terms of this judgment and order shall be undertaken by the MIDC forthwith and the process of recovery of amounts from the

landowners/claimants and/or disbursal of enhanced compensation in terms of this judgment and order, as the case may be, shall be started after a

period of 2 months from the date of pronouncement of this judgment and order. There shall be no order as to costs.

