

(2008) 12 J&K CK 0036
In the Jammu And Kashmir High Court
Case No : CIMA No. 198 Of 2004

Union of India & Anr.

APPELLANT

Vs

Moti Singh & Ors.

RESPONDENT

Date of Decision : 04-12-2008

Acts Referred:

Jammu and Kashmir Requisitioning and Acquisition of Immovable Property Act, 1968
— Section 8(1)

Citation : (2009) 1 JKJ 364

Hon'ble Judges : Sunil Hali, J

Bench : Single Bench

Advocate : Sunil Sethi, Ajay Sharma, Advocates appearing for the Parties

Judgement

1. This appeal is directed against award and decree dated 16.08.2003 passed by the learned District Judge, Udhampur.

2. The facts in detail are that the requisitioned land measuring 108 kanals 7 marlas situate at village Omara, Tehsil and District Udhampur was

acquired under the provisions of the J&K Requisition and Acquisition of Immovable Property Act, 1968 (hereinafter referred to as the Act) for the

public purpose on 10.03.1988. The learned Collector, i.e. Deputy Commissioner, Udhampur awarded the compensation after categorizing the

land into four categories in the following manners:

(a) Hail Land : Rs.45,000/ per kanal.

(b) Warhal Change/Mandi: Rs.36,000/ per kanal

(c) Banjar Qadim : Rs. 25,000/ per kanal (d) Gair Mumkin: Rs. 19,500/ per kanal.

3. The compensation assessed was deposited by the appellants on 11.08.1989 with the Deputy Commissioner, Udhampur.

4. Out of the land acquired, the owners of the land measuring 41 kanals 10 marlas comprising in Khasra No.35 pt. 38 and 42 pt falling in village

Omara, Tehsil and Distt. Udhampur felt dissatisfied with the rate of compensation awarded as a result thereto sought intervention of exofficio

arbitrator in terms of Rule 9 and Section 8(1) of the Act. Dissatisfied claimants had to seek intervention of the court in referring the matter to an

arbitrator. They filed writ petition and as a result of intervention of the court, direction was issued for appointment of an arbitrator. State issued

SRO 185 dated 30.05.1997 for referring the matter to the arbitrator under the Act who happened to be a District and Sessions Judge, Udhampur.

The learned Arbitrator entered into reference and framed the following issues:

(1) Whether the amount of compensation was determined and paid as per the prevailing market rate at the time of acquisition ? .OPD.

(2) In case issue No.1 is not proved, what was the prevailing market rate at the time of the acquisition of land in dispute ? OPP.

(3) Whether the petitioners are entitled to solatium jabrana @ 15% and interest on the amount of compensation, if so, at what rate ? OPP.

(4) To what relief the petitioners owners are entitled 7....OPP

5. In pursuance to the issues framed, the parties were asked to lead evidence in the matter. The claimant examined himself along with Vinod

Kumar Patwari, Janak Raj Patwari Halqa Dhanori, Des Raj Patwari, Omara, Swarn Dass, Sr. Asstt. DC Office, Udhampur, Vijay Kumar, Ravi

Kumar and Romesh Chander.

6. On the other hand, respondents had examined Vijay Kumar, SDO, Defence Estate officer, Northern Command, Udhampur.

7. The learned arbitrator after examining the record and evidence produced by the parties awarded compensation of Rs.49,80,000/ @ 1.20 lac

per kanal plus interest @ 9% p.a. from the date of Collectors award till final realization of the awarded amount. He did not grant solatium as

prayed for by the petitioners. In pursuance to the award passed by the District Judge, decree sheet was accordingly framed.

8. It this award of the arbitrator which is challenged by the appellants in this court.

9. The award has been challenged on the following grounds :

(a) That while determining value of the property in the open market if it had

remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition, the trial court was required to consider what will be the true market value in that behalf. The determination of the price for the land fetched in the open market was to be based upon the fact that the land was acquired in 1988 while the court below has considered the rate of the year 1991 in determining the compensation.

(b) That while assessing the market value and determining the comparable rates, it has relied upon the sale deed of small piece of land. He has

failed to take into consideration that such rates cannot be applied when large chunk of land is acquired.

(c) That even while assessing the compensation and enhancing the same, the classification of land has not been taken into consideration.

10. I have heard learned counsel for the parties and perused the record.

11. The land in question was requisitioned by the defence department for public purpose on 10.03.1988. The sanction was accorded for

acquisition of the said land on 04.11.1986 and the demand for acquisition of the aforesaid land was placed with the Dy. Commissioner, Udhampur

by the Asstt. Defence Estates Officer on 27.11.1986. That the land in question was acquired for public purpose in Form J under Section 7 of the

Act on 10.03.1988. The appellants suggested the following rates per kanal vide their communication dated 06.02.1989:

(i) Class II: Rs.24,000/ per kanal; and (ii) Class III: Rs.12,000/. Per kanal.

12. The Tehsildar Udhampur vide letter dated 23.12.1987 taking into consideration sale status of village Omara, location of the land and other

facts in determining the market value, classwise has proposed the following rates per kanal :

1. Warhal change/mandi :Rs.70,000/.

2. Banjar Qadim :Rs.40,000/

3. Gair Mumkin: Rs.30,000/

13. The learned Collector after obtaining status report from both the parties proposed the rates detail of which has already been given

hereinabove.

14. Coming to the contention raised by the appellants, it will be relevant to crystallize the controversy in the following manners:

What would be the price fetched in the open market if status of the land continued to remain in the same condition as it was at the time of

requisition and sold on the date of the acquisition

15. The expression 'open market' is synonymous with the market value. What is fair and reasonable market value is always a question of fact

depending on the nature of the evidence, circumstances and probabilities in each case. The guiding factor would be the conduct of a hypothetical,

willing vendor would offer the lands and a willing purchaser in normal human conduct would be willing to buy as a prudent man in normal market

conditions as on the date of the notification. The relevant features to determine the market value would be the nature of the land; the quality of the

land, the market conditions prevailing as on the date of the acquisition, potential value of the land as on the date of its acquisition.

16. The court is required to consider while analyzing the aforementioned exigencies as to what is true market value of the land. Some of the

important methods for determination of market value are as under:

(a) Comparable sale rates of the area where land is situated;

(b) The average sale rates in the area as also its potential market value to which the land can be used; and

(c) The location of the land and the comparable sale rates on the date of notification.

17. Applying these principles in the case in hand, it would be necessary to analyze the evidence produced by the parties.

18. The claimant in addition to his own statement had examined seven witnesses. He had placed on record some sale deeds the detail of which is

given as under:

(i) 11 marlas of land out of Khasra No.317/77 was sold for Rs.50,000/ on 31.11.1985 and this sale deed gives a rate of Rs.86,950/ per kanal as

on 30.11.1985;

(ii) 8 marls of land out of khasra no.317/77 situated in village Omara, Tehsil Udhampur was sold by Ganga Dhar to Sh. Munshi Ram on

09.07.1985 giving the sale price of land at the rate of Rs.70,000/per kanal on 09.07.1985.;

(iii) Land measuring 8 marlas out of khasra No.132, situate in village Omara, Tehsil Udhampur sold by Sansar Chand to Sh. Ramesh Chandra on

26.05.1986 which amounts to the sale price of Rs.80,000/ per kanal in May 1986.;

(iv) Land measuring 1 kanal under Khasra no.28 situate in village Omara, Tehsil Udhampur sold by Smt. Lajwanti and Sanjogta Devi to Sh.

Yogeshwar Kumar on 10.04.1989 for a consideration of Rs.1,20,000/ giving the market rate of Rs.1,20,000/ per kanal.;

(v) Land acquired of village KallarHimti adjoining to the said village was sold by Mohd. Saleem to Charan Dass on 09.12.1988 for a

consideration of Rs.20,000/ giving the market rate of Rs.80,000/per kanal on 09.12.1988;

(vi) 7 marlas of land sold by Diwan Chand to Sh. Vijay Kumar on 23.08.1988 for a consideration of Rs.35,000/ again giving the market rate at

Rs.1.00 lac per kanal;

(vii) 8 kanals of land out of Khasra no. 139 of village Omara, Tehsil Udhamnpur during the year 1977,78 in which compensation has been paid at

the rate of Rs.35,000/ per kanal as awarded by the District Judge, Udhampur vide his order dated 15.03.1985;

(viii) The Collector Land Acquisition, Udhampur has also acquitioned land in village Omara, Tehsil Udhampur on 21.02.1992 for Education

Department, out of Khasra No.160 and the compensation of the same has been awarded by the court of District Judge, Udhampur at the rate of

Rs.1,60,000/ per kanal vide order dated 23.09.1994; and

(ix) Land measuring 4 marlas situate in village kalalr Himiti, Tehsil Udhampur was sold on 24.02.1989 by Sh. Kaka Ram to Satish Kumar which

gives the market rate of Rs.80,000/ per kanal.

19. In addition to the above, the claimant has also placed on record a site plan which indicates the location of the land on the National Highway,

Udhampur Jammu Road.

20. Moti Singhclaimant in his statement stated that the market value of land is Rs.5 lac per kanal as it is right on the National Highway. He also

stated that Education Department had paid Rs.1.60 lac per kanal as compensation to the owners lateron it was slashed to Rs.1 .20 lac per kanal

on the direction of the High Court. In his crossexamination he stated that when the land was taken over by the army he was of 20 years old. The

shops have been constructed around the place for the last 12/13 years.

21. PWVinod Kumar Patwari has stated that the land in question was in occupation of the army since 1951 and there is construction on the other side of the National Highway. According to him, the value of the land is Rs.2.00 lac per kanal at that relevant time.

22. PWJanak Singh Patwari Halqa Dhanori stated that village Dhanori and Omara are adjoining villages and both are situated on the main road. 7

marlas of land was sold by the owner Dewan Chand to Vijay Kumar for Rs.35,000/ in the year 1988. He further stated that the costs of the land

in Omara is more than that of Dhanori. He has also proved the Shajra EXPWJ.

23. PWDes Raj stated that he had produced the original revenue record which is proved as EXPWVKI and EXPWVK2 in which description of

the land is given;

24. PWSawarn Dass, Sr. Assistant, D.C. Office, Udhampur stated that he had brought the record of the acquired land. The rates of the land had

been assessed by the Deputy Commissioner, Udhampur which are as HailRs.75,000/ per kanal, Warhal Changi Rs.70,000/ per kanal, Warhal

Mandi, Rs.65,000/ per kanal, Banjar Qadim and Gair Mumkin Rs.40,000/. It is important to mention that village Rehmbal is situate 4/5 kms away

from the acquired land.

25. PWVijay Kumar stated that he had purchased 7 marlas of land @ Rs.5000/ per maral. He has produced the certified copy of the sale deed

during the relevant period.

26. PWRavi Kumar stated that his father had purchased 8 marlas of land at Omara for Rs.28,000/ in the year 1985.

27. PWRomesh Chander stated that he had purchased 8 marlas of land from Sansar Chand in the year 1986 for Rs.32,000/. The land was

situated in village Omara. Then he sold it back to the owner vide sale deed EXPWRC. This land was situated on the left side on the National

Highway while going from Udhampur towards Jammu.

28. On the other hand, the respondentsappellants herein examined one Vijay Kumar SDO, Defence Estate Officer, Northern Command,

Udhampur who stated that the land was acquired by the appellants and the rates were assessed by the learned Collector. He stated that the said

land is within the town area of Udhampur. The acquired land and the land in dispute are situated in Kh. No.35,38 adjoining the National Highway

whileas in Kh. No.42, it is slightly behind. There is SRTC Yard nearby and shops have also been constructed. This area is treated as commercial

area. He has also stated that he could not say whether the land would have fetched Rs. 2.00 lac per kanal, if the parties had sold it themselves.

This land is 11/2 kms away from the land whose cost was assessed at Rs.30,000/ by the Hon'ble Apex Court in Union of India and others Vs.

Chain Singh and others reported in (1997)5 SCC 305.

29. Before advertng to the question regarding the evidence that has come on record, it is important to take note of the arguments and judgments

submitted by the learned counsel for the parties.

30. Mr. Ajay Sharma learned counsel for the appellants states that the method adopted by the court below in determining the compensation is not

in consonance with the Act. He further states that the Supreme Court in Union of India and others Vs. Chain Singh and others reported in 1997(5)

SCC 305 has laid down the principle for determination of the market value and considered the question under the Requisitioning and Acquisition of

the Immovable Property Act in para No. 7. He states that under the similar circumstances, the Supreme Court has assessed the market value at

the rate of Rs.30,000/ per kanal. The learned arbitrator was wrong in placing reliance on comparative sales of small parcels of lands as factor to

determine the market value in the present case. It is held in para No.7 of Chain Singhs case as under:

All the relevant features, viz., the nature of the land, the quality of the land, the market conditions prevailing as on the date of the acquisition, the

income derived from the land etc. should be taken into consideration.

In State of J&K Vs. Mohammad Mateen Wani and others, reported in (1998)6 SCC 233 their lordships held in head note (A) as under:

Determination of acquisition of a big chunk of land, the sale instances of small area cannot be said to be comparable sale instances. The Supreme

Court held that in the circumstances of the case, evidence of such sale instances cannot be relied upon.

In K.S.Shivadevamma and others Vs. Assistant Commissioner and Land Acquisition Officer and another reported in AIR 1996 SC 2886, the

Supreme Court in its head note (c) held as under:Land possessing potential value, but no development had taken place as on date of notification

issued under S.4 Development charges can be deducted irrespective of purpose for which land was acquired. On the question of awarding uniform

compensation irrespective of the location of the land, learned counsel for the appellant places reliance in Union of India and others Vs. Mangatu

Ram reported in AIR 1997 SC 2704. Their Lordships in para No.4 held as under:

4. The question that arises for consideration is whether the belting is necessary in the circumstances of these cases ? When a large extent of land

under acquisition comprises of lands of several persons and some lands are abutting the main road and some lands are in the interior, the same

would not have the uniform rate of market value. Necessarily, reasonable demarcation/classification should be made before determination of the

compensation....

31. In Oriental Insurance Co.Ltd. Vs. Smt. Raj Kumari and others, reported in AIR 2008 SC 403, their lordships in head note (A) held as under:

Where large area is the subject matter of acquisition, rate at which small plots are sold cannot be said to be a safe criteria. It cannot, however, be

laid down as an absolute proposition that in such cases, the rates fixed for the small plots cannot be the basis for fixation of the rate. For example,

where there is no other material it may in appropriate cases be open to the adjudicating court of make comparison of the prices paid for small plots

of land. However, in such cases necessary deductions/adjustments have to be made while determining the prices

32. On the question of grant of solatium and interest under the Requisition and Acquisition of Immovable Property Act, it has been held by the

Supreme Court that the arbitrator has no power to grant solatium and interest. The Supreme Court in Union of India and others Vs. Sher Singh

and another, reported in AIR 1996 SC 3343 held in head note as under :

Determination of just compensation is with reference to the value of the land acquired under the Act. Since the payment of solatium and interest is

in addition to the compensation determined under the Act, the arbitrator is devoid of jurisdiction to award solatium and interest.

33. On the other hand, Mr. Sunil Sethi, learned counsel for the respondents placed reliance in Union of India Vs. Ajaib Singh and others reported

in (1996) 9 SCC 638 in which their lordships held in head note as under:

Solatium and interest on compensation, the principle of solatium and interest

under Land Acquisition Act, 1894 not applicable to acquisition of land

under the Act. However, the same can be awarded if the State is responsible for delay in appointing the arbitrator. Where there was no delay on

the part of the State in appointment of arbitrator the claimants were not entitled to solatium and interest.

34. In Punjab State and another Vs. Darshan Kumar reported in 1995 Supp (4) SCC 221, their lordships held in head note as under :

However, in view of delay of five years in appointment of the arbitrator claimants are entitled to solatium in equity at the rate of 15 per cent on the

market value. They are also entitled to interest at the rate of 6 percent per annum.

35. In Abhay Singh Surana and others Vs. Secretary, Ministry of Communication and others reported in (1987) 4 SCC 273, their lordships have

held in head note as under;

Section 8, interest on compensation, the person whose premises requisitioned under the Act entitled to interest on the principal amount of

compensation.

36. On the question of market value, learned counsel for the respondents has placed reliance in Land Acquisition Officer Revenue Divisional

Officer, Chittor Vs. Kamalamma(Smt) dead by LRs and others K.Krishnamachari and others reported in (1998) 2 SCC 385, wherein it is held as

under:

..The court can take judicial notice of general trend of rise in prices of land

37. Acquisition of large chunks of land, sale transactions relating to smaller extent when can be taken into consideration.

38. When no sales of comparable land were available where large chunks of land had been sold, even land transactions in respect of smaller extent

of land could be taken note of as indicating the price that it may fetch in respect of large tracts of land by making appropriate deductions

39. Land Acquisition Officer not justified in awarding higher compensation to lands abutting main road and lesser compensation to lands lying on

the interior side.

40. 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.

41. In *Hasanali Walichand (dead) by LRs. Vs. State of Maharashtra*, reported in (1998) 2 SCC 388, in head note (A) it is held by the Supreme

Court as under:

Market value, determination of building potentiality. Land having future potential on account of its location. High Court not justified in ignoring this

factor and instead resting its finding on realized potential only.

42. Applying tests of the aforementioned judgments in the present case, it is important to understand the import of the judgments on the case in

hand. Regarding first contention as to whether the court below has awarded compensation strictly in consonance with the market value or price

fetched in the open market. Admittedly, the land is located on the National Highway as per the site plan prepared by the Patwari concerned, which

stands already proved before the arbitrator. It has come in evidence that adjoining the land in question, various constructions have taken place and

it has become hub of commercial activities. This has been stated by the witnesses examined by the appellants. There is no dispute with respect to

the location of the place. It has also come on record that the area is fully developed and the same is abutted from the National Highway of three

sides and no further development is required.

43. The next question arises for consideration is that what is the market value of the land which is to be paid to the claimants.

44. The right of property still continues to be a fundamental right in the State of J&K and the persons are entitled to the protection of Articles 19

and 31 of the Constitution of India. The State in exercise of its power of eminent domain can acquire the property for public purpose, however,

subject to payment of compensation at the market rate to the owners of the land. This court can take judicial note of the general trend of rise of price of the land. The globalization has induced massive hike in real estate price which includes the land also. Cities and towns are saturated and people are moving towards rural areas. There is reluctance shown by the owners for selling their lands to the State and Union Governments. The question ultimately depends upon as to what is the market rate payable to the claimants in the present case. The date of acquisition is 10.03.1988 on the basis of which the market value has to be determined.

45. However, laudable guarantees are enshrined in the Constitution, the fact of the matter is that the State has the power to acquire the land and pay the market price to the owners. This market price has to be determined on the date notice under Section 7 of the Act (supra) is issued, which in the present case was issued on 10.03.1988. What was the market value on 10.03.1988 and what was the mode of determination of the market value, is a question to be determined in the backdrops of the various judgments and evidence produced by the parties.

46. The shortest method to determine the market value would be that what was the rate prevalent in the area in the year 1988, which can be determined by producing the requisite sale deeds of that period and also potential value of the land. The claimants in support of their claims produced various sale deeds starting from 31.11.1985 till the year 1989. One of the sale deeds has also been proved by the Vendee in which Romesh Chander stated that he had purchased 8 marlas of land in village Omara in the year 1986 at the rate of Rs.30,000/ per kanal. This land is situated in village Omara and value of the land per kanal was Rs.80,000/. All other sale deeds produced by the claimants indicate that the value of the land per kanal was Rs.80,000/ to Rs.1.00 lac. However, there is no evidence regarding the value of the lands which have been sold in bulk.

The statement of Moti Singh claimant indicates that he has been paid Rs. 1,20,000/ per kanal for a piece of land by the Education Department in terms of the direction of the High Court. Learned Arbitrator has taken it as the market value of the land and awarded compensation of Rs.1,20,000/ per kanal in favour of the claimants. While awarding compensation of Rs.1,20,000/ per kanal on the basis of the order passed in

CIA No.5/1995, the court has found that there is almost commonality between the circumstances of both the cases. There would be no harm in

giving weight to the view given by the High Court in a case CIA No.5/1995.

47. Undoubtedly, the findings recorded by the High Court assumed importance in determination of the compensation to be paid to the petitioner.

There is one difficulty in the matter that the date of acquiring the land in that case was the year 1991 while in the present case it is of 1988. It is also

not in dispute that 41 kanals of land is a big chunk of land and awarding compensation at the rate of Rs.1,20,000/ per kanal would not be

appropriate. The percentage of price will have to be knocked off. What is the amount payable to the claimants in the present case? The claimant as

already discussed hereinabove produced various sale deeds and examined the persons who have executed the sale deeds from the year 1985 to

1989. The minimum price of the land sold from the year 1985 to 1989 was at the rate of Rs.80,000/ to Rs.1.00 lac per kanal. So it will be

appropriate to award compensation at the rate of Rs.1,00,000/ instead Rs.1,20,000/ per kanal to the claimants. This is being done keeping in view

the fact that percentage of the price will have to be knocked off.

48. In arriving at this conclusion one more fact assumes significance that is first recommendation made by the Tehsildar concerned to the learned

Collector in the year 1987 whereby he has quoted the price of various categories which is much more than what has been determined by the

learned Collector. There is no hard and fast rule to determine as to what is the market value. It is paramount duty for the court to keep before him

always the even scales to adopt pragmatic approach without indulging in facts of imagination and assess the market value which is reasonably

capable to fetch reasonable market value. This determination has been based upon the evidence gathered. The guiding factor would be the conduct

of the willing vendor would offer the lands to the willing purchaser in normal human conduct. In arriving at the conclusion of Rs.1.00 lac per kanal

the compensation of the land, this court is weight by other factors also:

(a) The land is situated on the National Highway and abutted by three sides of road;

(b) That it has become hub of commercial activities even before the date of acquisition. This fact has been corroborated by the statements of the

witnesses of the appellants.

(c) That the property would fetch value of Rs.2.00 lac per kanal as is evident from the statement of Patwari Vinod Kumar.

49. There is another aspect of the matter. The value of the land in the year 1985 till 1989 was in the range of Rs.80,000/ to Rs.1,00,000/ as

already stated hereinabove. The potential value of the land under acquisition has been admitted by the appellants also. It has clearly come in

evidence of the appellants that the property under acquisition has acquired the commercial value. The claimants are also entitled to appreciation of

10% for every subsequent year. I fortify my view by placing reliance in Supreme Courts judgment entitled Special land Acquisition Officer,

Bagalkot Vs. Mohd. Hanif Bawa Sahib reported in AIR 2002 SC 1558 wherein their Lordships in its head note (B) held as under:

Land Acquisition Act (1 of 1894), S.23Market ValueDeterminationLand under acquisition adjacent to land in other connected casesPotential

value of land under acquisitionSame as in earlier casesSupreme Court fixed market value of land in an earlier notification for year 1985 at Rs.5/ per

sq.ft Value of land would come to Rs.8/ per sq.ft. on giving an appreciation of 10% in value of land for every subsequent yearClaimants not filing

either crossappeals or crossobjectionsValue of Rs.7/ per sq. ft. fixed by reference Court and confirmed by High Court is reasonable cannot be

interfered.

50. While applying this principle also, the amount of award of Rs.1.00 lac would be appropriate.

51. Undoubtedly, the present market value of the land would be much more than what is given but statute binds this court for not awarding more

than what the claimants are entitled to.

52. Coming to the contention of learned counsel for the appellants that belting method has not been adopted in the present case. It is not in dispute

that this method was applied and affirmed by the Supreme Court but the latest view of the Supreme Court is that belting method is obsolete one.

This observation has come in AIR 2008 SC 2873. Even otherwise also, the land which has been acquired has the potential being developed into

urban land as stated by the witnesses of the appellants. Merely because some portion of the land abuts the main road and thereby rate of

compensation should be paid at higher rate whereas in respect of 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. So there is no uniform standard for

permitting the belting method. This principle cannot be accepted to be uniform principle adopted by the court. In the present case, I do not agree

with the contention of Mr. Sharma that this method is required to be adopted.

53. The next question raised by Mr. Sharma that there has to be direction for compensation for developments charges. This principle in the present

case would not apply. The evidence has come on record and relying on the statement of witnesses of appellants, he has stated that much before

acquisition, this place has become commercial hub and no further development is required in the area. As already submitted that the area is abutted

on three sides of main road. It is only in cases where status of the land continue to remain the same at the time of acquisition and no development

has taken place where deduction on account of development has to be done, the same is not the case here.

54. In Chain Singh's case, the Supreme Court has awarded compensation of Rs.30,000/ per kanal and the date of acquisition was the year 1988.

As per the statement of Vijay Kumar, SDO, Defence Estate Officer, Northern Command, Udhampur this land is 11/2 kms. away from the land

whose cost was assessed at Rs.30,000/ per kanal by the Apex Court in Union of India and ors Vs. Chain Singh and others reported in (1997) 5

SCC 305.

55. The other ground raised by the appellants is that the court below has determined the uniform value of the land. This according to the appellants

is not the correct view of the matter. The categorization of the land has become irrelevant in the present case. Admittedly, the property was being

used for agricultural purposes and now it is being used for construction purposes. The property is in the occupation of the appellants from the year

1951 and they are enjoying the same and is being utilized for construction purposes. The arbitrator thus was right in giving uniform rate of all the

categories.

56. The arbitrator has rejected the claim of the claimants for grant of solatium and interest. Mr Sethi, however, stated that the claimants are entitled

to receive the solatium only for the period' State failed to refer the matter to the Arbitrator. He has not filed the crossappeal, as such, this plea

cannot be accepted. In the face of above, I do not agree that the compensation determined in that case would also apply in the present case.

57. For the reasons stated hereinabove, this appeal is allowed to the extent referred hereinabove and the amount of compensation is reduced from

Rs.1,20,000/ per kanal to Rs.1,00,000/ per kanal. The amount of compensation shall be released in favour of the claimants along with interest

after adjusting the amount which they have already received in terms of order passed by the learned Arbitrator (Distt. Judge, Udhampur).

58. Disposed of along with connected CMP(s), if any.