

enhanced the compensation to Rs. 29,54,000/- per acre and for the land acquired *vide* notification dated 05.03.2007 for the aforesaid villages, the High Court has assessed and awarded the compensation @ Rs. 45,00,000/- per acre, the Haryana State Industrial and Infrastructure Development Corporation Limited (for short, 'HSIIDC') has preferred the present appeals.

2. A large chunk of land situated at villages Badh Malik, Jatheri, Pritampura, Akbarpur Barota, Rasoi etc. in District Sonapat, Haryana came to be acquired for the purpose of construction of the Express Highway known as "Kundli – Manesar – Palwal Highway (for short, 'KMP') connecting National Highway No.1 in District Sonapat, Haryana, by different notifications. In the present appeals, we are concerned with the land acquired *vide* notifications dated 30.06.2005 and 5.3.2007 of villages Badh Malik, Pritampura and Rasoi. The lands were acquired for the expansion of industrial sector 39 also.

2.1 The Land Acquisition Officer determined and awarded compensation @ Rs.16,00,000/- per acre. The Reference Court enhanced the compensation to Rs. 19,00,000/- per acre for villages Badh Malik and Rasoi with respect to the land acquired *vide* notification dated 30.06.2005. The Reference Court did not enhance the amount of compensation so far as village Pritampura is concerned.

With respect to the land acquired *vide* notification dated 5.3.2007, the Reference Court did not enhance the amount of compensation in respect of villages Badh Malik and Pritampura, however, enhanced the amount of compensation to Rs. 23,00,000/- per acre for village Rasoi.

2.2 In the first round of litigation before the High Court, the High Court enhanced the amount of compensation to Rs. 40,00,000/- per acre up to depth of 4 acres and Rs.30,40,000/- per acre beyond that with respect to the land acquired *vide* notification dated 30.06.2005.

Similarly, in the first round of litigation before the High Court, the High Court enhanced the amount of compensation to Rs. 50,00,000/- per acre up to depth of 4 acres and Rs. 38,00,000/- per acre beyond that with respect to the land acquired *vide* notification dated 5.3.2007. The judgments and orders passed by the High Court were the subject matter of Civil Appeals before this Court being Civil Appeal No. 12847/2017 and Civil Appeal No. 20050/2017 along with other allied appeals. By judgments and orders dated 6.9.2017 & 28.11.2017, this Court disposed of the appeals and set aside the orders passed by the High Court and remitted the matters to the High Court for a fresh decision. This Court did not approve adoption of belting system by the High Court by observing that being an acquisition for an Express Way passing through different parcel of land, there is no need or justification for adopting the

belting system. This Court also observed that if the land value is to be fixed for KMP project acquisition, the relevant factors which are to be noted are mainly the value that was prevalent in the locality prior to 13.08.2004.

2.3 That thereafter on remand, in the second round of litigation before the High Court, by the impugned common judgment and order, the High Court has assessed and determined and awarded compensation @ Rs. 29,54,000/- per acre with respect to the land acquired *vide* notification dated 30.06.2005 and has enhanced the amount of compensation to Rs. 45,00,000/- per acre with respect to the land acquired *vide* notification dated 5.3.2007.

2.4 Being aggrieved and dissatisfied with the impugned common judgment and order passed by the High Court with respect to the lands acquired *vide* notifications dated 30.06.2005 and 5.3.2007, HSIIDC has preferred the present appeals.

At this stage, it is required to be noted that so far as the landowners' appeals against the very impugned common judgment and order are concerned, the same had been dismissed earlier by this Court *vide* order dated 13.01.2010 passed in Special Leave Petition (Civil) Diary No. 36995/2019 and other allied special leave petitions. Therefore, so far as the landowners are concerned, the impugned

common judgment and order passed by the High Court had attained finality and the present appeals are required to be considered at the instance of HSIIDC only.

Arguments of the learned counsel for the land acquired *vide* notification dated 30.06.2005

3. Learned counsel appearing on behalf of the appellants has vehemently submitted that the High Court has seriously erred in enhancing the amount of compensation to Rs. 29,54,000/- per acre with respect to the land acquired *vide* notification dated 30.06.2005. It is submitted that while enhancing the amount of compensation to Rs. 29,54,000/- per acre for the land acquired *vide* notification dated 30.06.2005, the High Court has relied upon the builder's sale deeds produced as Exhibits P43 & P44 and has not considered the sale deeds produced by the State. It is submitted that the High Court has wrongly interpreted Section 25 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act') and has not considered the sale deeds produced by the State.

3.1 It is further submitted that even otherwise the High Court ought to have appreciated that the lands acquired were all agricultural lands and therefore while assessing the compensation, the High Court ought not to have relied upon and/or considered the builder's sale deeds.

3.2 It is further submitted that the High Court has not properly appreciated the fact that in the surrounding areas, the lands were already under acquisition commencing from the notification dated 13.08.2004. It is submitted that therefore the market price/value of the lands as on 13.08.2004 ought to have been considered. It is submitted that even while remanding the matters to the High Court, this Court specifically observed that the value of the lands as on 13.08.2004 shall be the determinative factor. It is submitted that instead while assessing the compensation, the High Court has relied upon the sale deeds produced as Exhibits P43 & P44 dated 15.4.2005.

3.3 It is further submitted that even otherwise and assuming that the High Court was right in relying upon the sale deeds produced as Ex. P43 & P44, even in that case also and even as observed and held by the High Court in giving a 50% cut, the High Court ought not to have enhanced the amount of compensation to Rs. 29,54,000/- per acre. It is submitted that if the main of two sale deeds (Ex. P43 & P44) is taken and thereafter 50% cut, as adopted by the High Court, is applied, in that case, the compensation assessed would come to Rs. 24,43,693/- per acre. It is submitted that therefore the High Court has committed a very serious and grave error in determining and awarding compensation @

Rs. 29,54,000/- per acre for the lands acquired *vide* notification dated 30.06.2005.

Arguments of the learned counsel for the land acquired *vide* notification dated 05.03.2007

3.4 It is further submitted by the learned counsel appearing on behalf of the HSIIDC that the High Court has materially erred in enhancing the amount of compensation to Rs. 45,00,000/- per acre with respect to the land acquired *vide* notification dated 5.3.2007.

3.5 It is submitted that considering the time gap of approximately one year and nine months and granting 8 to 12 percent cumulative increase on the compensation awarded for the land acquired *vide* notification dated 30.06.2005, the compensation awarded by the High Court @ Rs. 45,00,000/- per acre is too excessive and can be said to be on much higher side.

3.6 It is submitted that as such for the land acquired *vide* notification dated 13.08.2004 of the very villages Badh Malik and Pritampura, the High Court earlier determined and awarded compensation @ 21,00,000/- per acre and therefore considering the time gap of approximately two and half years and granting 8 to 12 percent increase,

the amount awarded by the High Court at Rs. 45,00,000/- per acre is unsustainable.

4. All these appeals are vehemently opposed by the learned counsel appearing on behalf of the original claimants/landowners.

4.1 Learned counsel appearing on behalf of the original landowners have vehemently submitted that in fact while determining the compensation for the land acquired under both the notifications, the High Court has not considered the other sale deeds except Ex. P43 & P44. It is submitted that if other sale deeds would have been considered and the development in the surrounding areas would have been considered, the amount of compensation awarded by the High Court can be said to be on the lower side. It is submitted that as it is a case of compulsory acquisition, the landowners are entitled to the just compensation on the basis of the fair market value. Reliance is placed on the decisions of this Court in the cases of ***General Manager, Oil and Natural Gas Corporation Limited v. Rameshbhai Jivanbhai Patel and Another, reported in (2008) 14 SCC 745 (paras 13 & 14); Mehrawal Khewaji Trust (Registered), Faridkot and others v. State of Punjab and others, reported in (2012) 5 SCC 432 (para 17).***

4.2 Learned counsel appearing on behalf of the original landowners have relied upon the sale deeds produced as Ex. P4, P3, P6, P7 & P5 of

village Badh Malik and Badh Khalsa in support of their submission that in October 2005 and in the year 2006, the market value of the land was much much higher.

4.3 Making above submissions, it is prayed to dismiss the present appeals.

5. We have heard learned counsel for the respective parties at length.

We have gone through the impugned common judgment and order passed by the High Court in detail and have also considered the reasoning given by the High Court by assessing and determining the compensation @ Rs. 29,54,000/- per acre for the land acquired *vide* notification dated 30.06.2005 and at Rs. 45,00,000/- per acre for the land acquired *vide* notification dated 5.3.2007.

5.1 At the outset, it is required to be noted that in the present case the lands were acquired of villages Badh Malik, Pritampura and Rasoi in District Sonipat, Haryana, which were all agricultural lands and acquired for the purpose of industrial sector 39, Sonipat. It is also required to be noted that as such the time gap between the two notifications dated 30.06.2005 and 5.3.2007 would be approximately one year nine months. However, it is required to be noted that the acquisition with respect to the land situated at villages Badh Malik and Pritampura came to be acquired

initially *vide* notification dated 13.08.2004 and thereafter from time to time the notifications were issued and the lands came to be acquired for different public purposes.

At this stage, it is required to be noted that even while remanding the matter to the High Court, this Court *vide* judgment and order dated 6.9.2017 specifically observed that if the land value is to be fixed for KMP project acquisition, the relevant factors which are to be noted are mainly the value that was prevalent in the locality prior to 13.08.2004. However, in the present case, the lands acquired are for the expansion of industrial sector 39, Sonipat and therefore the amount of compensation assessed and determined for the land acquired *vide* notification dated 30.06.2005 acquired of very villages Badh Malik, Pritampura and Rasoi can be said to be the governing factor even while determining the compensation for the land acquired *vide* notification dated 5.3.2007 as under both the notifications the lands acquired are for the same public purpose, namely, development of industrial sector 39, Sonipat, Haryana.

6. Now so far as the land acquired *vide* notification dated 30.06.2005 is concerned, the High Court has assessed and determined compensation @ Rs. 29,54,000/- per acre. While assessing and determining the compensation @ Rs. 29,54,000/- per acre for the land

acquired *vide* notification dated 30.06.2005, the High Court has considered the sale deeds produced as Ex. P43 & P44. The High Court took into consideration the following sale deeds which are tabulated as under:

Exhibit	Sale deed/conveyance No.	Date of sale deed	Area sold in sale deed	Sale consideration	Amount per acre	Village
Ex.P-4	5368	10.12.03	0-10	656000	19,20,000	Pritampura
Ex.P-14	2931	2.6.05	0-13	7500000	92,30,769	Badh Malik
Ex.P42 & 106	12387	7.3.05	32-3	19290000	4802239	Rasoi
Ex.P43 & 108	516	15.4.05	37-16	23625000	5000000	Do
Ex.P44	517	15.4.05	21-4	13250000	4774775	Do
Ex.P45	871	25.4.2005	24-0	14400000	4800000	Do
Ex.P46	2755	30.5.05	5-2	3060000	4800000	Do
Ex.P47	3342	13.6.05	47-5	23625000	4473373	Do
Ex.P48	3358	13.6.05	21-5	11953200	4722252	Do
Ex.P-15 & P-62	8811	24.10.05	35-8	49123700	11101401	Do
Ex.P-16 & P63	8812	24.10.05	35-8	49123700	11101401	Do

Thereafter, the High Court has observed that Ex. P43 & P44 would be safe sale exemplars to fall back upon and after applying the cut off of 50%, the High Court has assessed the compensation @ Rs. 29,54,000/- per acre.

7. If we consider the main Ex. P43 & P44, which are the sale deeds dated 15.04.2005 and thereafter applying the cut off of 50%, the market value of the land would come to Rs. 24,43,693/- per acre. Instead, without any adequate reasons, the High Court has assessed and

enhanced the amount of compensation @ Rs. 29,54,000/- per acre. Therefore, the High Court has committed a very serious error in assessing and determining the compensation @ Rs. 29,54,000/- per acre for the land acquired *vide* notification dated 30.06.2005. After making the round figure, the landowners/claimants shall be entitled to compensation @ Rs.24,50,000/- per acre with respect to the land acquired *vide* notification dated 30.06.2005, with all other statutory benefits, which may be available under the provisions of the 1894 Act.

8. Now so far as the land acquired *vide* notification dated 5.3.2007 is concerned, there shall be a corresponding increase looking to the time gap of approximately one year and nine months and giving 8 to 12 percent cumulative increase. However, the High Court has determined the compensation @ Rs. 45,00,000/- per acre on the basis of the sale deed (Ex. P4) by applying 10% cut. It is to be noted that so far as the first notification dated 30.06.2005 is concerned, the High Court has applied the cut of 50%. Even otherwise, it is to be noted that the sale deed produced as Ex. P4 is dated 2.11.2006 and the acquisition of the same villages commenced *vide* notification dated 30.06.2005 and therefore the sale deed after the first notification dated 30.06.2005 could not have been the basis for assessing/determining the compensation with respect to the subsequent acquisition. On the contrary, giving 8 to

12 percent cumulative increase on the amount of compensation awarded for the land acquired *vide* notification dated 30.06.2005, would be a safe and guiding factor. If that be so, compensation with respect to the land acquired *vide* notification dated 5.3.2007, would come to Rs. 30,73,280/- per acre (Rs. 24,50,000/- + 12% increase = Rs.27,44,000/- + 12% increase = Rs.30,73,280/-).

To the aforesaid extent, the impugned common judgment and order passed by the High Court is required to be modified and the present appeals are required to be partly allowed accordingly.

9. In view of the above and for the reasons stated above, the present appeals succeed in part. The impugned common judgment and order passed by the High Court insofar as the land acquired *vide* notification dated 30.06.2005 is concerned, is modified and it is ordered that the landowners/claimants shall be entitled to compensation @ Rs. 24,50,000/- per acre (instead of Rs. 29,54,000/- per acre), with all other statutory benefits which may be available under the provisions of the 1894 Act.

9.1 Insofar as the land acquired *vide* notification dated 5.3.2007 is concerned, the impugned common judgment and order is modified and it is ordered that the landowners/claimants shall be entitled to compensation @ Rs. 30,73,280/- per acre (instead of Rs. 45,00,000/-

per acre) with all other statutory benefits which may be available under the provisions of the 1894 Act.

10. The present appeals are partly allowed to the aforesaid extent. However, in the facts and circumstances of the case, there shall be no order as to costs.

.....J.
[M.R. SHAH]

NEW DELHI;
FEBRUARY 09, 2023.

.....J.
[HIMA KOHLI]