

(2019) 12 P&H CK 0163

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular First Appeal No. 2517 Of 2011

Indian Oil Corporation
Limited, Panipat
Refinery Project

APPELLANT

Vs

Khan Chand Bajaj
(Deceased) Through
His L.Rs. And Another
(Iii)

RESPONDENT

Date of Decision: Dec. 18, 2019

Acts Referred:

- Land Acquisition Act, 1894 - Section 4, 4(1), 17, 17(1), 17(4), 18, 23, 23(1), 23(1A), 23(2), 24, 28A, 30, 54
- Constitution Of India, 1950 - Article 141

Citation: (2019) 12 P&H CK 0163

Hon'ble Judges: G.S. Sandhawalia, J

Bench: Single Bench

Advocate: Anand Chibber, Deep Prabhu, Pawan Kumar Mutneja, Ashish Kapoor, Anupam Gupta, Gautam Pathania, Ashok Kumar, Gurneet Sagoo, Hitesh Malik, Nupur Chaudhary, Adarsh Jain, Vaneet Chaudhary, J.C. Malik, M.K. Garg, Ravinder Malik, Sachin Kadiyan, Ashok K. Khuber, Rajesh Bansal, C.B. Goel, Ashwani Talwar, T.P. Singh, Nitin Jain, M.S. Rana, S.S. Ghanghas, Rahul Jaiswal

Final Decision: Disposed Of

Judgement

'''

G.S. Sandhawalia , J",,,,

1. The present judgment shall dispose of 174 appeals, out of which 87 have been filed by the landowners and 87 by the Corporation alongwith 5 cross-"',,,,

objections filed by the landowners, under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') against the Awards of the Reference",,,,

Court, Panipat regarding the above 4 notifications in question.",,,,

2. The first notification is dated 13/25.05.1993, whereby the land measuring 40.63 acres was acquired of village Sithana for settlement of oustees of",,,,

village Baholi. Similarly, vide notification of even date land was acquired for the construction of road from National Highway No.1 to Panipat Oil",,,,

Refinery, from the revenue estates of 5 villages Ali Asgarpur (47 K 13M), Baroli (338 K 16 M), Rajapur (22.69 acres), Begumpur and Dadlana",,,,

(16.66 acres), Tehsil & District Panipat",,,,

3. Vide notification dated 12.12.1994 land measuring 174 acres falling in seven villages Shodapur, Khukhrana, Nohra, Sithana, Baholi, Assan Kalan,",,,

Garhi Sikandarpur, Tehsil & District Panipat was acquired for Broad Gauge Railway Siding for Indian Oil Corporation Ltd. The last notification in",,,,

question which has been issued under Section 4 of the Act is dated 04/24.11.1999, whereby 744 Acres 1 kanal 10 marlas of village Bal Jattan was",,,,

sought to be acquired for construction of Petro Chemical Complex of the IOC.,,,,

Facts of 1 st notification for village Sithana dated 25.05.1993.,,,,

4. The cases of this notification have a checkered history in as much as this matter has come up for the third time before this Court. The notification in",,,,

question was issued on 13/25.05.1993 under Section 4 of the Act and land measuring 40.63 acres of village Sithana, Hadbast No.14, Tehsil and",,,,

District Panipat was acquired for the settlement of the oustees of village Baholi, whose land had also been acquired for Panipat Oil Refinery. The",,,,

Land Acquisition Collector (for short 'LAC'), vide Award dated 07.05.1994, assessed the market value @ Rs.35.54 per square yard (Rs.1,70,000/- per",,,,

acre).,,,,

5. Firstly, on 07.06.1999, the Reference Court had assessed the market value @ Rs.83/- per square yard (Rs.4,01,720/- per acre). The sale deed",,,,

dated 18.11.1991 (Ex.P3) in respect of 1 kanal of land situated in village Kabri, which has been sold for Rs.1,50,000/- by one Krishan Lal to M/s",,,,,

Sapna Loom Textiles, the market value of which works out @ Rs.12 lakhs per acre was kept into consideration for awarding compensation. Keeping",,,,,

in view the fact that village Kabri was the adjoining village to village Sithana and the site plan showed that there were some industries in existence in",,,,,

the vicinity, the said sale exemplar was taken into consideration by deducting 25% on account of the small area and 55% deduction for laying the",,,,,

roads. Thus, by allowing 80% deduction, the valuation of the land was worked out @ Rs.100/- per square yard and keeping in view the fact that the",,,,,

sale deed was near the abadi area and there were commercial establishments nearby the market value was determined @ Rs.83/- per square yard.,,,,,

6. The matter was carried in appeal to this Court both by the landowners and the Corporation and the lead case of which was RFA No.3719 of 1999,,,,,

'Hukam Chand Vs. State of Haryana and others' was decided on 05.11.2008. This Court noticed that Ex.RA to RG, whereby big chunks of land had",,,,,

been sold @ Rs.1,80,000/- per acre to Rs. 1,87,000/- per acre were not considered and, therefore, the value of the land as determined by the",,,,,

Reference Court would require substantial deduction and there was no scope for increase and, resultantly, the matter was remanded to the Reference",,,,,

Court for fresh consideration.,,,,,

7. Vide the impugned order dated 19.11.2010, in LA Case No.36 of 2010 'Khan Chand Bajaj Vs. State of Haryana' the Reference Court examined",,,,,

Ex.RA to RG and a finding was recorded that they were not depicting the true market value, since the Collector had awarded higher compensation to",,,,,

the landowners after including the sale price depicted in the said sale deeds and they could not be considered for determining the market value fo the",,,,,

acquired land. Reliance was placed upon the Division Bench judgment of this Court passed in 'Dr. P.S. Verma Vs. State of Haryana and others', 2006",,,,,

(1) All India Land Acquisition and Compensation Cases 440. Resultantly, a finding was recorded that the sale deeds indicated less market value in",,,,,

order to avoid payment of the stamp duty and do not inspire confidence and being sham transactions, thus were kept out of consideration for",,,,

determining the market value. Sale deed dated 04.01.1993 (Ex.P2), whereby Manga Singh had sold land measuring 1 marla situated in village Sithana",,,,

to PW1-Rameshwar Singh for Rs.22,000/- was kept in mind. Similarly, the earlier sale deed which had been relied upon (Ex.P3) in favour of M/s",,,,

Sapna Loom Textiles was kept into consideration. Sale deeds dated",,,,

23. 06.1999, whereby land measuring 1 marla situated in village Baholi had been sold by one Murari (Ex.P4 and P5) for Rs.16,000/- were also kept",,,,

into consideration, though it had been recorded that they were of small area. It was noticed that Ex.P4 and Ex.P5 were post notification and of small",,,,

areas and on account of no further evidence available, it was held that the same could not be taken into consideration.",,,,

8. Reliance was placed upon various judgments of the Apex Court and of this Court which are 'Vasundana Devi Vs. Revenue Divisional Officer",,,,

(1995) 5 SCC 426 (SC), K.S. Shivadevamma Vs. Assistant Commissioner & Land Acquisition Officer and another, 1996 LACC 324 (SC), 'Jogi Ram",,,,

and others Vs. State of Haryana 1997 (2) LACC 463 (DB) (P&H) and 'Dayal Singh Vs. State of Haryana' 1998 (2) LACC 241 (DB) (P&H). that",,,,

cut could be applied and the sale instances had been shown in the site plan Ex.P1. The land having been sold by Krishan Lal to M/s Sapna Loom",,,,

Textiles for construction of a factory, a 80% cut was applied, to maintain the market price @ Rs.83/- per square yard. Reliance was placed upon the",,,,

other orders passed by the Reference Court, which had followed the earlier view dated 07.06.1999, for the notification dated 17.06.2002 wherein land",,,,

had been acquired for the construction of the site of I.O.C.L.(J.V.) Power and Petrol Chemical Project at Panipat and the rate of Rs.186.23 had been",,,,

fixed and the said order having been upheld in appeal in RFA No.1608 of 2007 'Lakha Singh Vs. State of Haryana', on 08.03.2010.",,,,

9. On additional issue No.1 regarding compensation on account of trees, Rs. 4 lakhs was awarded to Chaman Lal towards trees standing in the",,,,

acquired land, whereas against additional issues No.2 and 3, the statutory benefits as such were granted on account of the super-structure and the",,,,

tubewell etc., while maintaining Rs.83 per square yard.",,,,

10. The Coordinate Bench of this Court on 25.02.2016, assessed the market value @ Rs.5,20,600/- per acre (Rs.107 per square yard) by taking the",,,,

average price of Ex.P3 (M/s Sapna Loom Textiles) and Ex.RE dated 24.03.1993. for 13 kanals 8 marlas of land sold for Rs.1,01,492/-and fixing the",,,,

market value @ Rs.6,50,746/-. Thereafter, a 20% cut was put to assess the market value. The matter was taken to the Apex Court by both parties",,,,

and vide order dated 31.07.2018 in 'Civil Appeal No.7466 of 2018 'R.N. Kundu, Advocate Vs. State of Haryana and another', the matters have been",,,,

remanded. The Apex Court came to the conclusion that sale exemplar of one kanal was a small piece of land and could not be said to be a valid sale,,,,,

instance for determining the compensation having been sold for commercial purpose, in view of the law laid down in 'Major General Kapil Mehra and",,,,

others Vs. Union of India and another' (2015) 2 SCC 262. It was further noticed that for the subsequent notifications of 1994 and 1999 the said rate as,,,,,

such had been relied upon to grant further compensation and, therefore, the appeals qua other notifications dated 12.12.1994 and 04/24.11.1999 were",,,,

also allowed. The relevant portion of the order of the Apex Court reads as under:-,,,,,

Sr. No.,Village,Amount Awarded by LAC,,

1.,Ali Asgarpur,"Rs.1,80,000/- per acre for Chahi/Nehri

Rs.1,50,000/- per acre for Banjar Qadim",,,

2.,Baroli,"Rs.1,80,000/- per acre for Chahi/Nehri

Rs.1,50,000/- per acre for Banjar Qadim",,,

3.,Rajapur,"Rs.1,50,000/- for Chahi/Nehri

Rs.1,40,000/- for Barani Rs.1,30,000/-

for Banjar Qadim",,,

4., Begumpur,,,

5., "Dadlana

H.B No.25", "Rs.1,50,000/- for Chahi/Gair Mumkin

Rasta

Rs.50,000/- for Barani",,

1., Shodapur, "Rs.1,75,000/- per acre",,

2., Khukhrana,,,

3., Nohra,,,

4., Sithana,,,

5., Baholi,,,

6., Assan Kalan,,,

7., Garhi Sikandarpur,,,

towards village Baholi.,,,,

26. In cross-examination, it had transpired that he had purchased more land measuring 78 kanals 14 marlas (9.5 acres) on 28.06.1994, which has been",,,,

proved on record as Ex.RG by the Corporation. He, however, volunteered that the said land purchased by him was of third class quality and it had no",,,,

path available from Panipat-Baholi road. It was at a distance of 7 killas from the acquired land and was Chahi land. He volunteered that it was,,,,

originally Banjar land, but was subsequently reclaimed, but still did not yield anything. A handloom factory was situated just at a distance of two killas",,,,

from the acquired land, which was shown in Ex.P1 and the acquired land was at a distance of 6Kms from the Bus Stand. It was being used for",,,,

agricultural purposes, but he denied that it had no potentiality for being used for residential, industrial and commercial purpose. Apart from that he",,,,

deposed that he was a permanent lessee on the acquired land. He had been recalled in rebuttal and deposed that the entire land of abadi of village,,,,

Baholi had been acquired earlier for the Panipat Refinery Project, as it was not safe to reside there. The land was acquired for rehabilitation of",,,,

oustees of village abadi and the said persons had constructed the houses on the acquired land. In cross-examination he admitted that the land was",,,,

being used for agricultural purposes, but volunteered it had potentiality for being used for residential and commercial purposes." ,,,,

27. PW-3, K.L. Gupta, retired Superintending Engineer, who had been produced for the purpose of assessing the market value of the tubewell and",,,,

structures deposed that factories were in existence, but admitted that there were no factories in existence in the acquired land, in the cross-",,,,

examination. Similarly, PW-4, R.D. Rawal, retired IFS Officer from Himachal Pradesh had produced the valuation reports. He in cross-examination",,,,

stated that there was no residential colony and factories were in existence at a long distance. PW-8, C.L. Bajaj admitted that the acquired land was at",,,,

a distance of 2 ½ Kms from the abadi of village Kabri and it was at a distance of 5 Kms from the outskirts of Panipat town. Sapna Spinning Mills",,,,

was at a distance of 2 killas from the acquired land and was still working.,,,,

28. PW-9, Krishan Lal proved the sale deed of 1 kanal of land which had been sold to M/s Sapna Loom Textiles for Rs.1,50,000/- for the construction",,,,

of a factory. PW-10, Murari Lal proved the sale deed dated 23.06.1993 (Ex.P4 and Ex.P5) of 1 marla and 1 sarsai of land situated in village Baholi",,,,

and sold to Som Dutt and Parmod Kumar. He in cross-examination admitted that there was a road on the fourth side of the land of the sale deed. The",,,,

land of the said sale deed had been acquired alongwith other land surrounding the same. Similarly, PW-11, Rameshwar Singh, proved the sale deed",,,,

dated 04.01.1993, which he had purchased from Manga Singh falling in village Sithana for Rs.22,000/-(Ex.P2). In the cross-examination he admitted",,,,

that they had constructed two rooms in the land and he was residing there.,,,,

29. The respondents produced RW-4, Jai Gopal Patwari, who produced the site plan Ex.RP, whereby the acquired land was shown in the green line." ,,,,

He stated that the distance of the land covered by the sale deeds No.2395, 2396, 3486, 4837, 5978 and 1943 had been shown in the statement Ex.RX" ,,,,

and the said distances were stated to be correct.,,,,

30. A perusal of the said chart Ex.RX would go on to show that the sale deeds are in close vicinity with difference of one acre, whereas sale deed" ,,,,

dated 22.10.1992 (Ex.RC) and 21.01.1993 (Ex.RD) was stated to be adjoining. Similarly, land pertaining to sale deed dated 28.06.1994 (Ex.RG)" ,,,,

purchased by Shri. R.N. Kundu, was only 5 acres away. Land of sale deed dated 06.08.1992 (Ex.RB) was stated to be across the road of the" ,,,,

acquired land, whereby 24 kanals 6 marlas of land had been sold for Rs.1,83,000/- and the market value works out @ Rs.60,246/- per acre. This land" ,,,,

is, thus, similarly situated as the acquired land having the benefit of frontage. The witness RW-4 further clarified that 3 karams wide rasta was" ,,,,

available to the land shown at point A in Ex.RP, which is subject matter of Ex.RG. which was at a distance of 5 killas from the acquired land. Thus," ,,,,

the acquired land of Shri R.N. Kundu was stated to be on the Baholi-Panipat road, which was a Pucca road, whereas the Rasta to the balance land" ,,,,

purchased later was at point A and was Kacha.,,,,

31. RW-6, Faquir Chand, Tehsildar proved the sale deed dated 28. 06.1994 (Ex.RG) and stated that entire sale consideration was paid by the vendees" ,,,,

to the vendors in his presence and an endorsement to the effect was appended by him. The market value as such, thus, works out for Ex.RG, which" ,,,,

was of approximately 10 acres @ Rs.91,080/- per acre. The land though might have been situated behind the acquired land and might have not direct" ,,,,

access and by conservative means, even if 20% enhancement is also granted, the same would still not take it to the amount which had been granted" ,,,,

by the Reference Court to the tune of Rs.4,01,720/- per acre. The proximity of the sale deeds produced by the Corporation have not been discussed" ,,,,

nor the site plan has been perused leading to a gross illegality.,,,,

32. Sale deed dated 24.03.1993 (Ex.RE) was also proved which was regarding 13 kanals 8 marlas of land and the market value worked out @ ,,,,

Rs.1,01,492/- per acre. The sale deed dated 06.08.1992 (Ex.RB) was proved by RW-8, who was the Sub-Registrar between 1991 to 1994, wherein",,,,

land was sold in favour of Puran Singh and other by one Madhu and the market value, thus, works out @ Rs.60,246/- per acre.",,,,

Evidence/Arguments of 2 nd notification dated 13/25.05.1993,,,,

33. The record of LA Case No.21 of 1995 Biru @ Bir Singh Vs. Haryana State and others', decided on 03.04.1997 would go on to show that in the",,,,

petition filed under Section 18 of the Act, it was averred that village Dadlana falls on road from Kohand to Assandh. The land in question was falling" ,,,,

on the Babarpur-Dadlana road and there was a Middle School in the village and compensation @ Rs.6 lakhs per acre was prayed for. The same was,,,,

denied by the Corporation and by the State on the ground that whatever had been awarded by the LAC was the correct market value.,,,,

34. PW-1 Ram Pal Singh, stated that acquired land was near the refinery and there was a Middle School and Government Hospital and Veterinary" ,,,,

Hospital. He admitted that the land of village Badoli was 2 $\tilde{A}$, $\hat{A}^{1\frac{1}{2}}$ Kms away from the acquired land. Similar was the statement of PW-2 that village Ali,,,,

Asgarpur was 2 Kms away from the acquired land. In between Dadlana and Ali Asgarpur village Rajapur was falling. The distance between Rajapur,,,,

and Dadlana was 2 Kms. Village Ali Asgarpur only existed in the revenue record.,,,,

35. RW-1 proved the site plan Ex.R1, which showed the acquired land in red colour. The sale deeds were shown in blue colour. Lehar Pepsi factory" ,,,,

was 6.5 Kms from the acquired land and falling on the G.T. Road.,,,,

36. An application for additional evidence dated 14.03.1997 was filed to bring on record two sale deeds, which was allowed on the same day, as the",,,,

respondents had not entered in evidence, subject to payment of Rs.200/- as costs. Sale deed dated 22.11.1995 (Ex.P12) was one of the sale deeds," ,,,,

which was executed by the Sarpanch of Gram Panchayat, Dadlana. Vide the said instrument 35 acres 1 kanal 14 marlas (281 kanals 14 marlas) was" ,,,,

sold to M/s Bharat Petroleum Corporation Limited @ Rs.2.5 lakhs per acre, after taking due permissions from the relevant quarters." ,,,,

37. Similarly, in the reference petition pertaining to village Rajapur titled Bihari Lal (supra) it was averred that the acquired land was falling within the",,,,,

controlled urban area of Panipat and it was near the G.T. Road, National Highway No.1 and 3 Kms from the municipal area of Panipat City. The land",,,,,

was 2 Kms away from the Railway Station, Babarpur Mandi, where there was a cold drink factory of Lehar Pepsi. The land of the petitioner was 3",,,,,

Kms from the Urban Estate Sectors 6, 7 and 8 and Sector 13-17 was 2 Kms from Sector 18, which had been carved out by HUDA. The site of Civil",,,,,

Courts was stated to be 3 Kms away and, therefore, the potentiality of the land was immense. Claim of Rs.500/- per square yard was made.",,,,,

38. PW-1 Ram Chander stated that he had 2 kanals of land, which was sold for a sum of Rs.1,50,000/- (Ex.P1). In cross-examination, it came forth",,,,,

that the land was at a distance of one acre from the National Highway No.1 and village Rajapur was at a distance of 2 Kms. The railway line also",,,,,

intervened coming from Ambala to Delhi in between the said portion. PW-2 Sajjan Singh, Sarpanch of Bohli produced on record the sale deed dated",,,,,

16.05.1994 (Ex.P2) executed by Gram Panchayat village Baholi/Bohli, measuring 27.23 acres in favour of M/s Indo Burma Petroleum Company Ltd.",,,,,

for Rs.68,67,813/- (Rs.2.5 lakhs per acre), which was received by way of a bank draft. In cross-examination, it was clarified that from Panipat first",,,,,

came village Rajapur and then Baholi/Bohli. He denied that boundary of village Baholi and Rajapur did not adjoin each other.,,,,,

39. PW-3, Rajinder Singh, produced sale Ex.P3 dated 12.12.1995 measuring 7 marlas of land, which was sold for Rs.30,000/-, which he had purchased",,,,,

from the vendor for cultivation purposes. He could not give the description of the land which abutted to the land which he had purchased. PW-4,",,,,

Manglu Ram Patwari, stated that village Rajapur and Baroli adjoins each other and boundaries of village Baholi and Rajapur adjoins each other. The",,,,,

distance between Baroli and Baholi was more than 4 Kms and village Begampur and Dadlana fell on the boundaries of village Rajapur towards",,,,,

western side. It was also clarified that boundary of village Baholi lay towards the west of village Rajapur, whereas the boundary of village Baroli was" ,,, ,,,

towards the east of village Rajapur. ,,, ,,,

40. PW-5, Behari Lal claimed the value @ Rs.5 lakhs per acre. He has stated that the revenue estates of village Baholi and Baroli adjoin each other." ,,, ,,,

He could not site any sale deed to the effect of the valuation of the land and rather denied that he was benefited because of the construction of the ,,, ,,,

metalled road running though his land. PW-6 Ram Lal, also claimed Rs.5 lakhs per acre being the market price." ,,, ,,,

41. RW-1, Jessu Ram appeared who stated that 9 kanals 9 marlas of land at village Rajapur had been sold @ Rs.64,500/-, vide sale deed Ex.R1. RW-" ,,, ,,,

2 Tirath Patwari proved the site plan (Ex.R2) and stated that sale deeds had been shown in yellow colour and village Rajapur was at a distance of 6 ,,, ,,,

Kms from the G.T. Road. RW-3, Nebh Raj stated that he purchased 2 kanals 1 marlas of land situated in village Rajapur in the year 1993 for" ,,, ,,,

Rs.25,000/- from Devi Bai (Ex.R4). In cross-examination he stated that he purchased the land for Rs.1,25,000/-, but the sale deed was got executed" ,,, ,,,

for a lesser amount. ,,, ,,,

42. RW-4, Manglu Ram Patwari, again described the location as such that from Panipat, village Sithana would come first and then comes village" ,,, ,,,

Baholi. If one goes through G.T. Road, village Rajapur came first and then village Baholi. The boundaries of village Sithana also touched with the" ,,, ,,,

boundaries of Rajapur on the other side. Ex.P14 was an Award for the notification dated 09.10.1991 for village Baholi, whereby the land measuring 34" ,,, ,,,

kanals 4 marals was acquired for the Oil Refinery, whereby a sum of Rs.1,65,000/- was assessed as market value." ,,, ,,,

43. In the land reference petition of Pala @ Pale (supra), the earlier view taken in Bihari Lal's case (supra) decided on 27.05.2002 was followed on" ,,, ,,,

02.01.2004. In the case of Sobh Raj (supra) and in LA Case No.58 of 2005 'Karam Chand Vs. State of Haryana and others', the Reference Court" ,,, ,,,

allowed the petition under Section 28-A of the Act on 23.01.2006 by granting benefit of interest, since the LAC had allowed the petition and",,,,,

redetermined the compensation as awarded in Bihari Lal's case (supra), but had denied the interest @ 9% from the date of possession and disallowed",,,,,

interest on additional amount and solatium.,,,,,

44. For the land of village Baroli, record in Amrit Devi's case (supra) would go on to show that in the Section 18 petition, enhancement was sought on",,,,,

the ground that land of the petitioners was on the G.T. Road, which was a National Highway and 2 Kms from the municipal area of Panipat city. It",,,,,

was one km from Babarpur Mandi and from railway station of the said Mandi. Lehar Pepsi factory was adjoining the acquired land and on the",,,,,

opposite side Rajat Tyre Factory was situated 20 yards from abadi of village Baroli. Apart from that the land of the petitioners was just 20 yards from",,,,,

abadi of village Baroli and there were export oriented factories near around the land. The land was just 1 Km from the Dry Port set up by the",,,,,

Government and 2 Kms from Sectors 6 to 8 and 13, 17. Sector 18 was just 1 Km away from the acquired land. Rajdhani Spinning Mills was 1 Km",,,,,

away from the acquired land and Rice Shellers were stated to be existing in the land of the revenue estates. The land had been acquired for the",,,,,

construction of a road to the Oil Refinery and had great potential both residential and commercial. The market value was sought @ Rs.6 lakhs per",,,,,

acre.,,,,,

45. PW-1, Ram Singh stated that Lehar Pepsi was just 2 killas from the acquired land and there were number of factories on the land and reference",,,,,

was made to Aggarwal Woolen Mills, Rajat Tyres and another Refrigerator making factory. The land of the village was stated to be on the G.T. Road",,,,,

and the land was at a distance of 3-4 acres from G.T. Road and adjoining the abadi of village Baroli. Babarpur Mandi was at a distance of less than",,,,,

1Km and railway line was in existence between the abadi of the village and National Highway. The revenue estate being located on either side of the",,,,,

National Highway.,,,,,

46. PW-2, Ram Chander, proved the sale deed dated 05.03.1993 (Ex.P1), which was for 2 kanals of land, whereby the land had been sold for",,,,

Rs.1,50,000/- @ Rs.6 lakhs per acre, which was stated to be at a distance of 4 kilas from the land in question in which tyre factory had been",,,,

established. Sale deed dated 12.02.1995 (Ex.PW5/1) was produced by PW-5 Rajinder Singh, whereby he had purchased the land measuring 7 marlas",,,,

for Rs.30,000/- for agricultural purposes and other land adjoined this piece of land.",,,

47. RW-1 Tirath Patwari, stated that the acquired land had been shown in the site plan in the red colour (Ex.RA). The sale deeds dated 22. 03.1993",,,,

02.08.1994 had been shown in yellow colour. The area of sale deeds, Ex.P1 and Ex.PW5/1 had been shown in blue lines. Lehar Pepsi factory was",,,,

stated to be 2½ Kms from the acquired land and there was a railway line between the agricultural land from the acquired land to Lehar Pepsi. The",,,,

land of sale deed Ex.PW5/1 was on the right phirni of village and touching the abadi deh of village Baroli, whereas land of Ex.P1 was at a distance of",,,,

1 killa from the G.T. Road. The average sale price of sale deeds dated 22.03.1993 and 02.08.1994 was worked out in Ex.RB/1, which showed the",,,,

market value was ranging between Rs.69,565/- to Rs.75,789/- per acre. In cross-examination he admitted that the acquired land abutted the National",,,,

Highway No.1, which was acquired for a link road and it was shown the in the site plan. The land of village Ali Asgarpur had been acquired for the",,,,

construction of the road. Mark D to D in the site plan Ex.RA, fell within the area of village Ali Asgarpur. The boundaries of both the villages adjoined",,,,

each other. He had not shown the site which fell under Lehar Pepsi factory in village Ali Asgarpur and admitted that it was at a distance of 1 killa",,,,

from the acquired land. He denied that Rajat Tyre Factory was constructed in the area, which was covered by Ex.P1. He stated that village Baroli",,,,

was at a distance of 500 yards from the acquired land, which was being cultivated at the time of acquisition.",,,

48. RW-3, Shubh Ram Vashisht, proved the sale deed dated 22. 03.1993, which was of 3 kanals 9 marlas of land sold for Rs.30,000/-, being registered",,,,

before the relevant date. He admitted that the market value was much more than the land which is not so situated. Similarly, RW-4, Pirthi Singh," ,,,,

Tehsildar, proved the sale deed 02.08.1994 of 9 kanals 10 marlas of land of village Baroli in favour of Sandip Singh who had received sale" ,,,,

consideration of Rs.40,000/- at home and balance sale consideration of Rs.50,000/- was received by the vendor in his presence. He also admitted that" ,,,,

market value of the land situated on the National Highway was more than the land situated otherwise. Baroli was stated to be at a distance of 3-4" ,,,,

Kms from Babarpur Mandi. ,,,,

49. For the land of Ali Asgarpur, the Reference Court while deciding 3 petitions, lead case of which was LA Case No.210 of 1997 'Rattan Singh" ,,,,

(deceased) through legal heirs and others Vs. State of Haryana and others' had dismissed the reference petition on 31. 03.2003. The landowners had" ,,,,

taken the plea that the land was on the G.T. Road, abutting the National Highway No.1 and was within 2 Kms from the municipal area of Panipat" ,,,,

Town. Reliance was placed upon the Master Plan of the National Capital Region (NCR) and reference was made to the location of Lehar Pepsi and" ,,,,

Rajat Tyre Factory. The land of the petitioner was stated to be 20 yards away from the abadi of village Baroli and the extension of the Panipat town" ,,,,

was towards the acquired land and pleadings as such were similar to village Baroli. ,,,,

50. PW-1 Satyawar deposited regarding the potentiality in view of the fact that apart from location, Spinning Mills and industries were situated around" ,,,,

the land, whereas Babarpur Mandi was 1 Km from the acquired land. Similarly, Babarpur Railway Station and Dry Port was also at a distance of 1" ,,,,

Km. The fact that the land fell on the G.T. Road and Panipat Town was famous because of its Handloom Products, National Fertilizer Limited and" ,,,,

Thermal Power Station etc. and acquisition had been done for construction of a road for linking the Oil Refinery with the G.T. Road., he claimed" ,,,,

market value @ Rs.25 lakhs per acre. He stated that he owned 63 kanals of land, out of which 21 kanals of land had been acquired and the land had" ,,,,

been bifurcated into two parts and the value of the remaining land had been diminished and it was not possible to cultivate the same. Ex.P2 site plan,,,,,

was exhibited, wherein the acquired land was shown in black colour by arrow and the red marking showed the constructed area around the acquired",,,,,

land.,,,,,

51. He also brought on record the sale deed dated 11.07.1991 (Ex.P5) for the land falling in village Ali Asgarpur measuring 1 kanal 7 marlas, which",,,,,

was sold @ Rs.30,000/- and the market value of which works out @ Rs.45/- per square yard (Rs.2,17,800/- per acre). The said land was situated on",,,,,

the southern side of the acquired land, which is sandwiched between the said sale deed and the land falling under the Lehar Pepsi factory which is on",,,,,

the northern side.,,,,,

52. In cross-examination, he stated that the location of the Lehar Pepsi Industry was shown in the site plan, which was 1 Killa away from the land. He",,,,,

admitted that there was no residential area shown in the site plan (Ex.P2) and the land was outside the municipal area.,,,,,

53. PW-2, Raj Pal Draftsman, proved the site plan (Ex.P2), wherein the acquired land had been shown in the green colour marked with black arrow.",,,,,

Portion marked red in the site plan showed constructions at the spot and the sale deeds had been shown in blue clour and marked as A, B, C and D.",,,,,

He also stated that location of Lehar Pepsi was one acre away from the acquired land.

PW-3, Ram Chander, stated that he had sold 2 kanals of land",,,,,

to Satish Kumar on 05.03.1993, the proprietor of Rajat Tyres for a sum of Rs.1,50,000/-.

He also stated that his land was situated in village Baroli",,,,,

across the G.T. Road. In cross- examination it also came forth that the land of Ram Mehar and Hoshier Singh and Super Harriers Pvt. Ltd. were,,,,,

about 4 acres from his land.,,,,,

54. PW-4, Rajinder Singh, proved the sale of 7 marlas on 12. 12.1995 being the purchaser for a sum of Rs.30,000/- (Ex.P7) and his land was falling",,,,,

within the same rectangle from which the land was acquired. He denied the suggestion that the sale deed was executed after the announcement of,,,,,

the award and was for the purpose of showing an exorbitant amount in the sale deed to claim compensation.,,,,

55. PW-5, Surja stated that the Pepsi Cola factory was one side and on the other side there was a thread factory and his land was divided into two",,,,

parts and there was no water course for taking the water from one side to the other side and loss had been suffered. He claimed market value @,,,

Rs.16 lakhs per acre and stated that village Sithana and Bohli were 5 Kms from the acquired land, which was on the G.T. Road. In cross-examination,",,,

he stated that both Pepsi Cola and thread factory were installed earlier to the acquisition of the land, though he did not have any documentary proof",,,,

regarding this. He denied that these factories were got constructed after the acquisition of the land. The area pertained to Ali Asgarpur was a,,,

separate revenue estate from village Baroli. He admitted that there was a drain in between village Baroli and Sithana, which was 200 meters wide.",,,,

He could not tell the details of khasra numbers which were bifurcated due to the acquisition of the land.,,,,

56. RW-1 Tirath Patwari, Office of Naib Tehsildar, PWD (B&R) Sonapat, proved the Akshajra (Ex.R4), wherein the acquired land had been shown",,,,

in red colour and G.T. Road had been shown in black colour. The sale deeds of 1994 were depicted in the site plan and shown in yellow colour, which",,,,

were exhibited as Ex.R1 to R3. The land of Ex.R1 was six acres away from the acquired land and land sold by Ex.R2 was at a distance of 4 acres,,,

from the acquired land, whereas land covered in sale deed Ex.R3 was at a distance of 3 ½ Kms from the acquired land. He admitted that the",,,,

acquisition was for the same purpose as for Baroli, Rajapur, Begumpur and Dadlana. He clarified that the land of Nafe Singh and Rattan Singh, was",,,,

situated across railway line nearer to village Baroli, whereas land belongs to Surja was falling between the railway line and the G.T. Road.",,,,

57. In cross-examination, he admitted that the acquired land starts from G.T. Road and land of Surja starts from G.T. Road to the railway line. He",,,,

visited the acquired land from 1993 to 2001. He admitted that if one came from Karnal there were some factories on both sides towards G.T. Road," ,,,,

but he had not shown the factories in Ex.R4. He denied that there was any Kelvinator refrigerator factory near the acquired land, but Pepsi factory" ,,,,

adjoined the acquired land, but he had not shown the same in Ex.R4." ,,,,

58. Counsel for the landowners have, accordingly, pointed out that if 2 kanals of land were sold on 05.01.1993 for Rs.1,50,000/-, the market value" ,,,,

works out @ Rs.6 lakhs per acre. Only because it was across the highway, the potentiality of the land as such falling on the other side could not" ,,,,

decrease and the same amount of compensation should have been granted for village Ali Asgarpur. It was pointed out that for village Baholi/Bohli," ,,,,

which was far away and closer to the Refinery, 27 acres of land had been purchased by M/s Indo Burma Petroleum Company Ltd. from the Gram" ,,,,

Panchayat on 16.05.1994 (Ex.P11) @ Rs.2,50,000/- per acre. Therefore, land on the highway would have much more value and Reference Court was" ,,,,

not justified in dismissing the reference petitions. ,,,,

Evidence/Arguments of 3 rd notification dated 12.12.1994 ,,,,

59. The pleadings in the reference petition pertaining to village Sithana, Om Parkash (supra) would go on to show that plea was taken that the" ,,,,

acquired land was situated near village Kabri, which was 2 Kms away. The land was $\tilde{A}, \tilde{A}^{1\frac{1}{2}}$ Km away from the newly built up residential colony of" ,,,,

village Baholi/Bohli and that there was large number of industries of spinning mills. The city of Panipat was 4 Kms away and therefore, it had great" ,,,,

potentiality as such and the market value @ Rs.500/- per square yard was claimed. Severance was also sought, since the acquisition was for the" ,,,,

purpose of construction of railway siding, which had divided the land into two parts and there was no water line for the other side for 2.5 acres, which" ,,,,

was falling across, out of 24 acres patch and, therefore, compensation @ Rs.8 lakhs per acre was also claimed on that account." ,,,,

60. PW-1, Ram Sarup, proved the sale deed Ex.P2, P3 dated 12.01.1996 and 15.01.1996 of 24 kanals and 3 kanals, respectively for Rs.2 lakhs and" ,,,,

Rs.3 lakhs respectively. PW-2, Krishan Lal, proved the sale deed dated 18.11.1991 in favour of M/s Sapna Loom Textiles for the land measuring 605" ,,,,

square yards for Rs.1,50,000/- (Ex.P4) pertaining to village Kabri. He clarified that village Kabri and Sithana adjoined each other. PW-3, Murari Lal," ,,,,

proved sale deeds Ex.P5, Ex.P6 and Ex.P7 for 4 marlas of land, which was sold @ Rs.16,000/- per marla on 23.06.1993 of village Baholi." ,,,,

61. PW-5, Sampuran Singh stated that the land had been divided into two parts on account of railway line and for going across he had to travel 2-3" ,,,,

kms. The water from the tubewell could not be taken across the railway line and there was a Pucca road known as Baholi road in front of his land. A ,,,,

new residential colony had been set up by the refinery in village Sithana, which was at a distance of 1 ½ Kms from his land. He admitted that he" ,,,,

could go to other side of the land through the road as shown in Ex.P11. He denied that the land was at a distance of 11 Kms from the Panipat town ,,,,

and there was no factory near the acquired land. ,,,,

62. RW-1, R.K. Bhardwaj, Deputy Manager, R.C, IOC, stated that marketing division is a branch of IOC and its office was situated in the village" ,,,,

Baholi/Bohli. Prior to the acquisition, the land was being used for agricultural purposes and it was at a distance of 17 Kms from Panipat town. He" ,,,,

further stated that the refinery was adjacent to village Sithana and there was no industry and commercial set up near the acquired land. ,,,,

The site plan was exhibited as Ex.R8. He admitted that inhabitants of village Baholi/Bohli were uprooted and had been resettled on the land of village ,,,,

Sithana, which was known as New Township, Baholi/Bohli. He had not seen village Kabri and after the railway crossing, the land of village Sithana" ,,,,

started and there were 150 factories on both sides. He denied the suggestion that if one has to go from village Sithana to Panipat via Kabri distance ,,,,

was about 4 Kms. He denied the suggestion that IOC had purchased Banjar land of village Baholi/Bohli about 20 years back and did not know ,,,,

whether the compensation of the acquired land was assessed @ Rs.83/- per square yard. He clarified that the LAC had awarded compensation per ,,,,

acre.,.,.,

63. The pleadings of LA Case No.50 of 1998 'Rameshwar and others Vs. State of Haryana and others' decided on 27.09.2011, would go on to show",.,.,

that claim of Rs.500/- per square yard was made and that the land had been divided into two parts on account of the railway line as 12 kanals 10.,.,,

marlas had been acquired and land falling on the western side had been affected and there was no passage going from one side to other side.,.,.,

64. PW-1, Mahavir Singh, Patwari Halqa of Nohra, Khukhara and Sohadapur stated that the boundaries of village Nohra adjoined the boundaries of",.,.,

villages Khukharana, Sohadapur, Garhi Sikanderpur and Assanpur. The construction of the railway line had divided the lands and he could not tell",.,.,

whether any water channel had been left by the railways below the railway lines.,.,.,

65. PW-2, Nakli Ram stated that village Nohra was 5 Kms from Panipat city and there were number of factories on the road from Panipat city and",.,.,

Milk Diaries, Fish Farms and shops were on the road. By the construction of the railway line, the acquired land had been divided into two parts and",.,.,

compensation was sought @ Rs.8 lakhs per acre, apart from severance @ Rs.5 lakhs per acre. He denied that it was 15 Kms from Panipat city and",.,.,

denied the suggestion which had been put to him.,.,.,

Evidence/Arguments of 4 th notification dated 04/24.11.1999.,.,,

66. The pleadings of land reference petition pertaining to village Bal Jattan titled Dharambir (supra) would go on to show that the land was acquired.,.,,

for the construction of Petro Chemical Complex for Indian Oil Corporation. The acquired land was situated adjoining the Oil Refinery situated in.,.,,

village Baholi and was stated to be 8 Kms from Panipat City and near the abadi of the village. There were large number of industrial units near the.,.,,

acquired land and the area between village Baholi and Panipat was already covered with small scale and medium scale industries. The land, thus, had",.,.,

great potentiality for residential and industrial purposes.,.,.,

67. In evidence, PW-1 Dharambir tendered sale deeds Ex.P1 to P3 and copy of the Award dated 07.06.1999 titled as Khan Chand Bajaj (supra)",,,,,

alongwith other awards. He denied that the land was more than 20 Kms from Panipat and Thermal Power Plant was about 9 kms. In cross-,,,,

examination, he clarified that the acquired land was 2 Kms from the refinery.",,,,,

68. PW-2 Mahender Singh, Patwari Halqa of the village stated that the boundaries of villages Bal Jattan adjoined Sithana, Bohli, Rare Kalan, Assan,",,,,

Dharamgarh and Shera. He stated that between Bal Jattan, Bohli and Sithana there was Western Yamuna Canal (WYC). Similarly, some area of",,,,,

village Baholi/Bohli was also falling across the canal and it was a contiguous land. There was a railway line between village Sithana, but it did not",,,,,

bifurcate village Bal Jattan.,,,,,

69. RW-1, Raj Kumar, TRA, from the office of Deputy Commissioner, Panipat stated that there was no residential area, commercial shops in the",,,,,

acquired land or near the acquired land. The land pertaining to sale deeds Ex.R2 to Ex.R15 were near the acquired land. He denied the suggestion,,,,

that Indian Oil Refinery Project adjoined the acquired land and could not say land of village Baholi also adjoined the acquired land and whether the,,,,

same had been acquired or not. He admitted that in an Award announced on 15.01.2007 of village Baholi, compensation had been granted @ Rs.12.5",,,,,

lakhs per acre. He admitted that the refinery was connected through Pepsi Over Bridge from G.T. Road. He denied that the acquired land was at a,,,,

distance of 5-7 Kms from G.T. Road and stated that it was 12 Kms from G.T. Road. He did not clarify regarding the hotels, work shops, resorts and",,,,,

other commercial establishments, but volunteered there were certain hotels near the refinery. Private companies had also opened their respective",,,,,

depots such as HPC and IBP in the vicinity.,,,,,

70. In LA Case No.91 of 2004 'Mauji Ram Saini and others Vs. State of Haryana and others', decided on 15.09.2007, the same amount of market",,,,,

value was granted as in Dharambir (supra), apart from the fact that there was a Fish Farm for which Rs.2.5 lakhs additional was granted.",,,,,

71. Mr. Anupam Gupta, Senior Advocate in his usual vehement style has submitted that for the notification dated 04/24.11.1999, the amount awarded",,,,

earlier was liable to be maintained as the Apex Court vide order dated 31.07.2018 had only referred to the facts of the case of Khan Chand Bajaj",,,,

(supra) pertaining to the first notification of village Sithana and the sale deed therein. It was submitted that the present notification in question was",,,,

more than 6 years later and there was no discussion qua the purpose of acquisition and location and the notification had not been as such specifically",,,,

dealt with. He submitted that the Coordinate Bench while disposing of the case on 07.02.2017 had discussed the sale exemplars of both sides and",,,,

keeping in view the potentiality of the land as such had granted the enhancement. Reliance was placed upon the judgment of the Apex Court passed in",,,,

'Ashrafi and others Vs. State of Haryana and others', (2013) 5 SCC 527, 'Ashok Kumar Vs. State of Haryana', 2015 (15) SCC 20 0to submit that",,,,

when large number of notifications are subject matter of consideration, each notification had been separately dealt with. Reliance was, accordingly," ,,,,

placed upon the judgment of the Apex Court passed in 'Jayant Verma and others Vs. Union of India and others', (2018) 4 SCC 743 to submit that",,,,

when the matter having not been argued and when the judgment had been reversed without dealing with any facts and law, the doctrine of 'per",,,,

incuriam doctrine' would come into play. He relied upon the following observations:-",,,,

Ã¢â¬Å“59. It is clear, therefore, that where a matter is not argued at all by the respondent, and the judgment is one of reversal, it would be hazardous to",,,,

state that the law can be declared on an ex parte appraisal of the facts and the law, as demonstrated before the Court by the appellantÃ¢â¬Å“s counsel",,,,

alone. That apart, where there is a detailed judgment of the High Court dealing with several authorities, and it is reversed in a cryptic fashion without",,,,

dealing with any of them, the per incuriam doctrine kicks in, and the judgment loses binding force, because of the manner in which it deals with the",,,,

proposition of law in question. Also, the ratio decidendi of a judgment is the principle of law adopted having regard to the line of reasoning of the Judge",,,,

which alone binds in future cases. Such principle can only be laid down after a discussion of the relevant provisions and the case law on the subject. If,,,,

only one side is heard and a judgment is reversed, without any line of reasoning, and certain conclusions alone are arrived at, without any reference to",,,,

any case law, it would be difficult to hold that such a judgment would be binding upon us and that we would have to follow it. In the circumstances, we",,,,

are of the opinion that the judgment in Yasangi Venkateswara Rao (supra) cannot deter us in our task of laying down the law on the subject.Ã¢â€,,,,

Sr. No.,Sale deed dated,Ex.,Area,Rate

1.,18.11.1991,P3,605 square yards,"Rs.247.93 per
square yard

2.,06.08.1992,RA,24 K-0 M,"Rs.60,000/-
per acre

3.,06.08.1992,RB,24 K-6 M,"Rs.60,246/-
per acre

4.,22.10.1992,RC,2 K-18 M,"Rs.60,080/-
per acre

5.,04.01.1993,P2,28.5 square yards,"Rs.771.92/-
per square yard

6.,21.01.1993,RD,22 K 18 M,"Rs.61,135/-
per acre

7.,24.03.1993,RE,13 K 8 M,"Rs.1,01,492/-
per acre

8.,23.06.1993,P4,"32.75 square
yards","Rs.488.54 per
square yard

9.,23.06.1993,P5,"32.75 square

yards","Rs.488.54 per

square yard

10.,21.05.1994,RF,8 K 0 M,"Rs.80,000/-

per acre

11.,28.06.1994,RG,78 K 14 M,"Rs.91,080/-

per acre

the land was situated in the city of Hisar and the sale instances of large chunks of land could not be available and in such circumstances Ex.P38, ",,,,

which was only of 10 square yards was taken into account as to be the real reflective market value.,,,,

89. The judgment in K.S. Shivadevamma (supra) was also similar, wherein the land was situated in the municipal limits and, therefore, the facts would",,,,

not be applicable to the present acquisition. Similarly, in the case of Jogi Ram (supra), the Division Bench of this Court was dealing with the issue of",,,,

deduction on account of the size of the sale exemplar. As noticed the Apex Court has already noticed inter se the parties that the sale exemplar of",,,,

M/s Sapna Loom Textiles is not to be taken into consideration, on account of the fact that it was a purchase for commercial purpose and, therefore,",,,

the argument of the counsel for the landowners that the same should be kept in mind cannot be accepted.,,,,

90. The lands subject matter of Ex.RA to RG are identically situated with the land which had been acquired. The land was sold little less than a year",,,,

before the land was acquired. Therefore, even if the market value is doubled, still the amount which had been awarded by the Collector @",,,,

Rs.1,70,000/- would be adequate and just compensation.",,,

91. In the opinion of this Court, the observations of Major General Kapil Mehra (supra), thus, were not kept in mind by the Reference Court on both",,,,

the occasions, while fixing the market value @ Rs.83/- per square yard. The location of the land regarding its proximity to the road or the existing use",,,,

and the market value of the other land in the same locality seems to be totally ignored. Similarly, whether the sale exemplars, which had been relied",,,,

upon are bonafide transactions or not and the market value on the date of Section 4 notification was the basic principle. The same has been totally",,,,

ignored to grant the enhanced compensation in the peculiar facts and circumstances. The averaging aspect is also not permissible, once between the",,,,

two sale deeds produced by the State and the landowners there is great variance of Rs.1 lakh per acre in contrast to Rs.12 lakhs per are. A solitary",,,,

sale deed as such which was, thus, taken into consideration and which has not been appreciated by the Apex Court as per the observations as",,,,

reproduced above, therefore, could not be a basis for as such for enhancing the market value. The relevant portion of the judgment passed in the",,,,

Major General Kapil Mehra (supra) reads as under:-",,,,

“10. Market Value: First question that emerges is what would be the reasonable market value which the acquired lands are capable of fetching.",,,,

While fixing the market value of the acquired land, the Land Acquisition Officer 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 and (iv) market value of other land",,,,

situated in the same locality/village/area or adjacent or very near to the acquired land.",,,,

11. The standard method of determination of the market value of any acquired land is by the valuer evaluating the land on the date of valuation",,,,

publication of notification under Section 4(1) of the Act, acting as a hypothetical purchaser willing to purchase the land in open market at the prevailing",,,,

price on that day, from a seller willing to sell such land at a reasonable price. Thus, the market value is determined with reference to the open market",,,,

sale of comparable land in the neighbourhood, by a willing seller to a willing buyer, on or before the date of preliminary notification, as that would give",,,,

a fair indication of the market value.,.,.,

XXXXXXXXXXXXXXXXXXXXXXXXXXXX,.,.,

20. Where the lands acquired are of different type and different locations, averaging is not permissible. But where there are several sales of similar",.,.,

lands, more or less, at the same time, whose prices have marginal variation, averaging thereof is permissible. For the purpose of fixation of fair and",.,.,

reasonable market value of any type of land, abnormally high value or abnormally low value sales should be carefully discarded. If the number of sale",.,.,

deeds of the same locality and the same period with short intervals are available, the average price of the available number of sale deeds shall be",.,.,

considered as a fair and reasonable market price. Ultimately, it is in the interest of justice for the land losers to be awarded fair compensation. All",.,.,

attempts should be taken to award fair compensation to the extent possible on the basis of their accessibility to different kinds of roads, locational",.,.,

advantages etc. Four perpetual lease deeds A-7 to A-10 relied upon by the appellants are of the same locality "Vasant Kunj Residential Scheme",.,.,

and relate to the period ranging from September 1995 to December 1996, but they are just prior to Section 4(1) notification. In our view, the High",.,.,

Court was justified in taking the average of the said four exemplars and approach adopted by the High Court in averaging the sale prices of Exs A7 to",.,.,

A10 cannot be said to be perverse.".,.,

92. Keeping in view the overall discussion, the award of the Reference Court dated 19.11.2010 cannot be sustained. However, since the notifications",.,.,

in question are of even date, though for two different purposes i.e. dated 13/25.05.1993 and there is sufficient evidence as such for the adjoining",.,.,

villages pertaining to Ali Asgarpur and Baroli. On the basis of the market value for those two sale deeds, the market value has also been fixed for the",.,.,

villages Rajapur, Begumpur and Dadlana. On the principle of market value of adjoining villages, since for Dadlana this Court is awarding Rs.2,40,000/-",.,.,

per acre, therefore, for village Baroli, this Court is of the opinion that on the same principle market value can be assessed @ Rs.2,20,000/- per acre. It",.,.,

is also to be noticed that there is sufficient evidence to show that on 16.05.1994 land of village Baholi/Bohli measuring 27 acres was sold @ Rs.2.5,,,,

lakhs per acre to M/s Indo Burma Petroleum Company Ltd., by the Gram Panchayat. Similarly, on 22.11.1995 (Ex.P12) land measuring 35 acres 1",,,,

kanal 14 pertaining to village Dadlana for the same market value of Rs.2.5 lakhs per acre was sold by the Gram Panchayat to M/s Bharat Petroleum,,,,

Corporation Ltd. Though these sale exemplars are post dated notification, but can be safely relied upon that the market value was not in excess of this",,,,

amount at the time of Section 4 notification, which is claimed by the landowners. The said sale deeds have been brought on record by the landowners",,,,

themselves and now they cannot plead as such that the limited companies as such had purchased the land at a lesser rate than the prevailing market,,,,

value from the Gram Panchayats,,,,,

Findings of the 2 nd Notification dated 13/25.05.1993 93. As has been noticed above in paragraph Nos.32 to 56 pertaining to the facts of this present,,,,

notification, the Reference Court had declined to enhance the compensation, in spite of the fact that it had sale exemplar dated 30.04.1992 for 20",,,,

kanals 12 marlas of land falling in the revenue estate of village Begumpur, whereby the land had been sold for a sum of Rs.6,44,000/-, which works",,,,

out to Rs.2,57,600/- per acre. Similarly, the sale instance of village Baroli dated 05.02.1993 in favour of M/s Rajat Tyres was also rejected on the",,,,

ground that it was on the Kotpura Road, while deciding the reference petitions of village Dadlana, since village Begumpur was situated away from the",,,,

road and 6.5 kms from the acquired land and same was the position of village Baholi. However, for village Baroli, vide Award dated 28.03.2002, the",,,,

sale deed in favour of M/s Rajat Tyres dated 05.02.1993 for 2 kanals of land was again relied upon on the ground, but rejected on lack of contiguity.",,,,

Similarly, for village Rajapur, which is next village after Baroli, the only benefit given was to bring the value at par with village Begumpur on the",,,,

ground that the notification was same and that the purpose was the same. For village Baroli and Ali Asgarpur the amount was maintained on,,,,

31.03.2003 in the case of Rattan Singh (supra). Thus, this Court has now three sale exemplars on which it can fall back for assessing the market value",,,,

for the notification in question, since the said sale exemplars are all prior in point of time and are situated on the G.T. Road and the execution period as",,,,

such also varies between 1½ years. Thus, this Court has three sale exemplars dated 11.07.1991, 30.4.1992 and 05.02.1993 and the market value is",,,,

ranging from Rs.2,17,800/- per acre to Rs.6 lakhs per acre, which goes on to show the increase in prices between the two dates on account of the",,,,

potentiality factor. The range of the market value is also different and has shown considerable appreciation on account of the potentiality as such. The",,,,

sale deeds in the tabular form are reproduced as under:-,,,,

Sr.

No.",Ex.,Area,"Sale Consideration

and date",Market value

1.,P5,"1 K 7 M

(Ali Asgarpur)","Rs.30,000/-

11.07.1991","Rs.2,17,800/-

per acre

2.,P1,"20 K 12 M

(Ali Asgarpur)","Rs.6,44,000/-

30.04.1992","Rs.2,57,600/-

per acre

3.,P2,"2 kanals

(Baroli)","Rs.1,50,000/-

05.02.1993","Rs.6,00,000/-

per acre

being used for putting up buildings in the immediate or near future, such conclusion would be sufficient to hold that the acquired land had a building",,,,

potentiality and proceed to determine its market value taking into account the increase in price attributable to such building potentiality.,,,,

12. Then, comes the question of determining the market value of the acquired land with building potentiality. Undoubtedly such market value of the",,,,

acquired land with building potentiality comprises of the market value of the land having regard to the use to which it was put on the relevant date,,,,

envisaged under Section 4(1) of the LA Act plus the increase in that market value because of the possibility of the acquired land being used for putting,,,,

up buildings, in the immediate or near future. If there is any other land with building potentiality similar to the acquired land which had been sold for a",,,,

price obtained by a willing seller from a willing purchaser, such price could be taken to be the market value of the acquired land, in that, it would have",,,,

comprised of the market value of the land as was being actually used plus increase in price attributable to its building potentiality. If the prices fetched,,,,

by sale of similar land with building potentiality in the neighbourhood or vicinity of the acquired lands with building potentiality, as on the relevant date",,,,

envisaged under Section 4(1) of the LA Act, are unavailable, it becomes necessary to find out whether any building plots laid out in a land similar to",,,,

the acquired land had been sold by a willing seller to a willing buyer on or near about the relevant date under Section 4(1) when the acquired land had,,,,

been proposed for acquisition and then to find out what would be the price which the acquired land would have fetched if had been sold by making it,,,,

into building plots similar to those sold. In other words, an hypothetical lay- out of building plots in the acquired land similar to that of the layout of",,,,

building plots actually made in the other similar land, has to be prepared, and the price fetched by sale of building plots in the lay-out actually made",,,,

should form the basis for fixing the total price of the acquired land with building potentiality, to be got if plots similar to other plots had been made in",,,,

the latter land and sold by taking into account plus factors and minus factors involved in the process.,,,,

13. Prices fetched by sales of building plots which may become available could be of building plots in either a fully developed layout of building plots or.,,,,

in an un-developed layout of building plots, situated in the vicinity of the acquired land with building potentiality. If the market value of the acquired",,,,

land with building potentiality has to be fixed on. the basis of the evidence of the said prices, the first thing required to be done is to prepare a",,,,

hypothetical layout of building plots of the acquired land itself Then, how much of land out of the acquired land becomes available to be made into plots",,,,

similar to those in the developed layout of building plots or in the undeveloped layout of building plots has to be found out. If the building plots which so.,,,,

become available were to be sold at the prices at which the building plots in the developed layout of building plots or undeveloped layout of building.,,,,

plots could have been sold on the date envisaged in section 4(1) of the Act, what would be the total amount of such prices which could have been",,,,

obtained has to be seen. Then, what could have been the losses suffered or expenses incurred for getting such total amount has to be found out. The",,,,

market value of the acquired land with building potentiality, can then be regarded as the total amount of the prices of sales of all the building plots",,,,

envisaged in the hypothetical layout of building plots in the acquired land minus the losses which could have been suffered or expenses which could.,,,,

have been incurred in making the hypothetical layout of building plots in the acquired land on par with the developed layout of building plots or the.,,,,

undeveloped layout of building plots, as the case may be. If losses to be suffered or expenses to be incurred for making a layout of building plots in the",,,,

acquired land with building potentiality for purposes of selling such building plots at the prices to be fetched by similar building plots in the developed.,,,,

layout of building plots or in the undeveloped layout of building plots are to be found out, the losses which might have been suffered or expenses which",,,,

might have been incurred by the owners of the lands of either of a developed layout of building plots or of an undeveloped layout of building plots, in",,,,

making such lay outs, could prove to be the best evidence. The evidence of losses suffered or expenses incurred in having made a layout of building",,,,

plots may relate to lands lost for laying roads, drains, sewerages, parks etc., costs incurred in the making of roads, drains, sewerages, providing water",,,,

supply, electric supply, losses on investments and paying of conversion charges, development charges etc. in a developed layout or an undeveloped",,,,

layout in which building plots had been laid and sold and which sales form the basis for determining the market value of the acquired land. If evidence,,,,

to be adduced in the said regard is of public authorities or local boards or private developers who will have formed such layouts of building plots in the,,,,

lands in the neighbourhood of the acquired land and sold them, it could be of great value. No difficulty arises when all the materials needed to",,,,

determine the market value of the acquired land with building potentiality on the basis of a hypothetical layout of building plots to be formed in respect,,,,

of it is made available to the Court, so as to enable it to find out the possible market value of the acquired land with reference to the price to be",,,,

fetched by sale of building plots to be made in such land. But, owners of the acquired land with building potentiality, rarely produce all the material or",,,,

evidence needed for the Court to determine the market value of the acquired land with building potentiality on the basis of a hypothetical layout of,,,,

building plots to be thought of by the Court in respect of such land, although they rely on the price fetched by sale of plots in a developed layout or an",,,,

undeveloped layout for determining the market value of their lands with building potentiality in the vicinity of such layout. It is where, the Court may",,,,

have to inevitably fix the market value of the acquired land with building potentiality on the basis of the prices got in the sale transactions relating to the,,,,

building plots in a developed or an undeveloped layout, relied upon by the owners of the land, if such transactions are found to be genuine. A simple",,,,

method, therefore, is evolved by courts in determining the market value of the acquired land with building potentiality with reference to the retail price",,,,

to be fetched by sale of plots in a fully developed layout as on the date of publication of notification under section 4(1) of the Act In Bombay,,,,

Improvement Trust v. Marwanji Manekji Mistry reported in AIR 1926 Bombay 420, the said method is referred to by Macleod, C.J. as that where the",,,,

wholesale price of the acquired land with building potentiality could be fixed at one-third to one-half of the retail price fetched by sale of building plots,,,,

in a developed layout of building plots, depending upon the nature of development taken place in such layout. Thus, when it becomes inevitable for the",,,,

Court to fix the market value of the acquired land with building potentiality on the basis of the price fetched by sale of a building plot in a developed,,,,

layout of building plots in the vicinity, it must, in our view, fix the wholesale market value of the acquired land with building potentiality at one-third to",,,,

one-half of the retail price got by genuine sales of plots in a developed layout in the vicinity, by deducting two- thirds to one half out of the retail prices",,,,

of plots, as losses or expenses involved in having made the land where the plots are formed as developed, according to the degree of development.Ã¢â¬â¸",,,,

96. The above aspects were never taken into consideration by the Reference Court and the mental sketch of the area which was under development,,,,

was never kept into account. Reliance as such has been placed upon the awards of the adjoining villages passed on an earlier point of time, which is",,,,

contrary to what has been observed by the Apex Court in Manoj Kumar (supra). In the said case, the Apex Court was dealing with the enhancement",,,,

granted by this Court on the strength of earlier awards passed. It was, accordingly, held that situation of a village, nature of land and its value may",,,,

differ from 2 to 3 kms. The land abutting highways fetch higher value than the land situated in the interior and the tendency of increase on cumulative,,,,

basis was not appreciated. Rather it was held that where better evidence had been adduced and illegality had been committed in the previous award, it",,,,

would not be binding upon the landowners as such who had brought better evidence on record. It was held that sale deeds are at par for evidentiary,,,

value with awards of the property. Relevant paragraphs of the said judgment reads as under:-,,,

“14. In our opinion, the High Court could not have placed an outright reliance on the decision of Swaran Singh's case, without considering the",,,,

nature of transaction relied upon in the said decision. The decision could not have been applied ipso facto to the facts of the instant case. In such,,,

cases, where such judgments/awards are relied on as evidence, though they are relevant, but cannot be said to be binding with respect to the" ,,,,

determination of the price, that has to depend on the evidence adduced in the case. However, in the instant case, it appears that the land in Swaran",,,,

Singh's case was situated just across the road as observed by the High Court as such it is relevant evidence but not binding. As such it could have,,,

been taken into consideration due to the nearness of the area, but at the same time what was the nature of the transaction relied upon in the said case" ,,,,

was also required to be looked into in an objective manner. Such decisions in other cases cannot be adopted without examining the basis for,,,

determining compensation whether sale transaction referred to therein can be relied upon or not and what was the distance, size and also bonafide" ,,,,

nature of transaction before such judgments/awards are relied on for deciding the subsequent cases. It is not open to accepting determination in a,,,

mechanical manner without considering the merit. Such determination cannot be said to be binding. We have come across several decisions where the,,,

High Court is adopting the previous decisions as binding. The determination of compensation in each case depends upon the nature of land and what is,,,

the evidence adduced in each case, may be that better evidence has been adduced in later case regarding the actual value of property and subsequent" ,,,,

sale deeds after the award and before preliminary notification under section 4 are also to be considered, if filed. It is not proper to ignore the evidence" ,,,,

adduced in the case at hand. The compensation cannot be determined by blindly following the previous award/judgment. It has to be considered only a,,,

piece of evidence not beyond that. Court has to apply the judicial mind and is supposed not to follow the previous awards without due consideration of,,,

the facts and circumstances and evidence adduced in the case in question. The current value reflected by comparable sale deeds is more reliable and,,,

binding for determination of compensation in such cases award/judgment relating to an acquisition made before 5 to 10 years cannot form the safe,,,

basis for determining compensation.,,,,

15. The awards and judgment in the cases of others not being inter parties are not binding as precedents. Recently, we have seen the trend of the",,,,

courts to follow them blindly probably under the misconception of the concept of equality and fair treatment. The courts are being swayed away and,,,

this approach in the absence of and similar nature and situation of land is causing more injustice and tantamount to giving equal treatment in the case,,,

of unequalÃ¢âs. As per situation of a village, nature of land its value differ from the distance to distance even two to three-kilometer distance may",,,,

also make the material difference in value. Land abutting Highway may fetch higher value but not land situated in interior villages.,,,,

16. The previous awards/judgments are the only piece of evidence at par with comparative sale transactions. The similarity of the land covered by,,,

previous judgment/award is required to be proved like any other comparative exemplar. In case previous award/judgment is based on exemplar, which",,,,

is not similar or acceptable, previous award/judgment of court cannot be said to be binding. Such determination has to be out rightly rejected. In case",,,,

some mistake has been done in awarding compensation, it cannot be followed on the ground of parity an illegality cannot be perpetuated. Such",,,,

award/judgment would be wholly irrelevant.,,,,

xxxx xxxx xxxx,,,

18. To base determination of compensation on a previous award/ judgment, the evidence considered in the previous judgment/ award and its",,,,

acceptability on judicial parameters has to be necessarily gone into, otherwise, /gross injustice may be caused to any of the parties. In case some gross",,,,

mistake or illegality has been committed in previous award/judgment of not making deduction etc. and/or sufficient evidence had not been adduced and,,,,

better evidence is adduced in case at hand, previous award/judgment being not inter-parties cannot be followed and if land is not similar in nature in all",,,,

aspects it has to be out-rightly rejected as done in the case of comparative exemplars. Sale deeds are at par for evidentiary value with such awards of,,,,

the court as court bases its conclusions on such transaction only, to ultimately determine the value of the property.Ã¢â¬â¢",,,,

97. The Reference Courts, thus, have primarily decided the issue on the basis of the case of Khan Chand Bajaj (supra), which was for village Sithana.",,,,

The Courts below have failed to take into consideration that the land was acquired starting from G.T. Road to the Refinery, which was at a distance",,,,

of approximately 12 Kms. This aspect has come in the statement of witness from the Deputy Commissioner Office, PW-1 and evidence has already",,,,

come on record that the abadi of village Baroli was across the railway line, which was running parallel to the National Highway on the left, if one",,,,

proceeds from Delhi to Chandigarh. The land of village Rajapur would come thereafter and followed by the land of villages Begumpur, Dadlana and",,,,

Sithana. If one has to come from the G.T. Road, the land of village Ali Asgarpur and Baroli would fall first. Correspondingly if one has to come from",,,,

the other side from the Panipat Assandh Road village Kabri would come first, followed by village Sithana and Baholi/Bohli with Bal Jattana lying in",,,,

close vicinity. Thus, a semi circle is completed as the road on the National Highway connects into Panipat and is known as the refinery road. Ex.P5",,,,

dated 11.07.1991 of 1 kanal 2 marlas, whereby the market value works out @ Rs.45/- per square yard (Rs.2,17,800/- per acre) falling in village Ali",,,,

Asgarpur was never given any weightage as such, though its potentiality and location has been noticed. The benefit of the intervening period has also",,,,

to be granted to the landowners on the basis of cumulative enhancement on the principle laid down by the Apex Court in 'Oil and Natural Gas,,,

Corporation Limited Vs. Rameshbhai Jivanbhai Patel and another 2008 (14) SCC 74.5 Only because the land of village Baroli in which M/s Rajat,,,

Tyres was running, was across the road was not a ground as such to reject the sale exemplar. Once the land of village Ali Asgarpur was adjoining the",,,,

highway on the other side, it would command the same market value and thus, the sale deed has been wrongly ignored.",,,

98. It is pertinent to notice that the purpose of the acquisition was for the construction of the road from the National Highway No.1 to the Refinery,",,,

which was lost sight off by the Reference Court when it decided the reference petition on 28.03.2002 for village Baroli in Smt. Amrit Devi's case,,,

(supra). The Reference Court failed to notice that the land of village Baroli was situated on both sides of the G.T. Road and the alternative route had,,,

to be carved out from the left side. Only blind reliance has been placed upon on an earlier award dated 03.04.1997 passed in the case of Biru (supra),,,,

pertaining to village Dadlana, which had been dismissed. It failed to take into consideration that village Dadlana was situated further away in the",,,,

interior and the land of village Baroli and Ali Asgarpur was situated smack on the National Highway No.1. In spite of the sale deed in favour of M/s,,,

Rajat Tyres, which had been brought on record, merely because it was situated on the other side of the highway, the same was wrongly declined. It is",,,,

a settled principle that sale exemplars are the best piece of evidence for fixing the market value and, therefore, blind reliance upon the earlier award",,,,

as such was wrongly made. Reliance upon the sale deeds Exs. RA, RB, RC and RD/1, which had been proved by RW-6 Ram Sarup was another",,,,

reason for dismissing the reference petitions. The potentiality of the land, which showed that the Lehar Pepsi factory was just adjoining and one acre",,,,

away from where the road was to branch off from National Highway No.1 was totally lost sight off. On the other side sale dated 11.07.1991 (Ex.P5),,,,

of village Ali Asgarpur was situated where land measuring 1 kanal 7 marlas had been sold @ Rs.30,000/- and the market value works out @ Rs.45/-",,,,

per square yard (Rs.2,17,800/- per acre).",,,,

99. The fact that the evidence as such has been discussed above would go on to show that there were commercial institutions like M/s Aggarwal,,,

Woolen Mills, M/s Rajat Tyres and another Refrigerator making factory, apart from the fact that Babarpur Mandi was just close by.",,,,

100. The statement of RW-2 Tirath Patwari, would go on to show that the acquired land abutted the National Highway No.1 and mark point D to D in",,,,

the site plan fell within the area of village Ali Asgarpur, which goes on to show that it was falling on the left side of the highway. In cross-examination",,,,

the witness of the State stated that he had not shown the land underneath Lehar Pepsi factory which falls in village Ali Asgarpur and which was one,,,

acre from the acquired land. He admitted that the land of the said village had also been acquired for the construction of the road. The witness also,,,

avoided to tell the distance from last point shown in the site plan Ex.RA upto the Babarpur Mandi towards Panipat and also the distance between the,,,

acquired land to Babarpur Mandi. He denied that a petrol pump was existing near the G.T. Road. He admitted that village Baroli was about 3/4th of a,,,

Km from the G.T. Road. He denied the presence of the Dry Port, which was established by the Government of India and the LPG Bottling Plant,",,,

which was in existence close to the railway line.,,,,

101. Therefore, it is apparent that the official witness as such was concealing the true facts regarding the area which was being used around the land",,,,

which was being acquired and was of prime nature falling on the National Highway No.1 of village Ali Asgarpur. It has also come on record that the,,,

land of village Ali Asgarpur was not inhabited as it was Be-Chirag (Revenue estate having no abadi/habitation area) and main village is now Baroli,",,,

which is the adjoining village and the land of village Baroli starts immediately after village Ali Asgarpur, which was marked as point D to D and part of",,,,

it also falls across the National Highway No.1.,,,,

102. Even RW-3, Subh Ram Vashisht, M.D, Sugar Mills, admitted that the market value of the land near the National Highway No.1 or the link road",,,,

was much more than the land which was not so situated. Therefore, the blind reliance upon the sale deed dated 22. 03.1993 (Ex.R3) of 3 kanals 9",,,,

marlas, which had been sold for Rs.30,000/- would not be of much help for the counsel for the Corporation." ,,,,

103. RW-5, Ramesh Kumar, SDO, PWD (B&R), Panipat admitted that the land of village Baroli starts at a distance of 700 meters only from the",,,,

National Highway No.1 and there was a railway line as such, which is running parallel as such on the left side of the highway, if one proceeds from",,,,

Delhi to Chandigarh. He also admitted that Pepsi Cold Drink factory was at a distance of 2 acres from the said point where the approach road merges,,,,,

with the National Highway and also admitted about the aspect of Ali Asgarpur being Be-Chirag.,,,,

104. Similarly, Ex.RB which was proved by RW-6, Ram Sarup Sharma, would go on to show that he had sold the land measuring 3 kanals 9 marlas",,,,

vide sale deed dated 22.03.1993 (Ex.RB) for a sum of Rs.30,000/-. In cross-examination, he admitted that there was a high tension wire going through",,,,

his land, therefore, building could not be constructed for that very reason. He also admitted that registration of the sale deed was done on the basis of",,,,

rates fixed by the Collector/Deputy Commissioner. He, however, denied that the actual sale price of his land was much more than it was sold. Thus, it",,,,

is apparent that the land of Ex.RB which was relied upon by the Reference Court was a land which was having major disadvantage, as it cannot be",,,,

used for construction purposes.,,,,

105. Sale deed Ex.RC was registered on 02.08.1994 is post notification and, therefore, would not be relevant as such, which was unnecessarily kept in",,,,

mind. It is not disputed that after village Baroli village Rajapur as such is situated and the boundaries as such are common with village Begumpur,,,,,

which is the next village. Merely, because on an earlier occasion, in the case of Smt. Angrejo Devi (supra) pertaining to village Baroli, the",,,,

enhancement as such had been declined, the Reference Court had declined to interfere qua the amount awarded for the notification in question except" ,,,,

to bring it at par with what had been granted for village Baroli and failed to take into consideration the location as such. The same view was followed,,,,

for village Ali Asgarpur on 31.03.2003 in spite of the fact that the evidence had come on record vide Ex.P11 that the land measuring 27 acres had,,,,

been sold @ Rs.2,50,000/- per acre for village Baholi/Bohli, which was further away in the interior, which had been sold by the Gram Panchayat to" ,,,,

M/s Indo Burma Petroleum Company Ltd. Therefore, to dismiss the reference petitions as such has led to the landowners being prejudiced." ,,,,

106. The potentiality aspect as noticed which has to be kept in mind has already been discussed above regarding the usage of the land for,,,,

industrialization purpose on account of the refinery being set up earlier in 1991, which has led to the repeated notifications. Therefore, it can be safely" ,,,,

held that though the land was agricultural in nature, but scope for utilization for development on account of the location of the land would go to the" ,,,,

benefit of the landowners on account of the industrialization, which was taking place in the neighbourhood. The aspect of the market value as such of" ,,,,

the adjoining villages also is a principle which is liable to be kept in mind in the facts and circumstances of the case, thereafter for the second" ,,,,

notification in question which was for the purpose of the link road.,,,,

107. As noticed, it has already come on record that from the National Highway No.1 a road was going down to the oil refinery, which was" ,,,,

approximately 12 Kms. However, if one was to approach Panipat town from the Assandh road through village Kabri, the distance as such would be" ,,,,

only 6 Kms as the villages are separated as such by 2 Kms roughly. The market value of the land was, thus, more in relation to the land which was" ,,,,

purchased by the M/s Indo Burma Petroleum Company Ltd. @ Rs.2.5 lakhs per acre in the year 1994. The market price as such on the national,,,,

highway, thus, can be assessed on the basis of the sale deed in favour of M/s Rajat Tyres, whereby 2 kanals of land as such was sold for Rs.1.5" ,,,,

lakhs, which would work out Rs.6 lakhs per acre and if a 50% cut is given on the said sale deed, the market value would work out @ Rs.3 lakhs per" ,,,,

acre for village Ali Asgarpur and Baroli. From the tabulated chart of the three sale deeds which are in close vicinity as such on the land falling in,,,,

villages Ali Asgarpur and Baroli on the National Highway No.1, reproduced above, the benefit of the highest sale deeds as such is necessarily to be" ,,,,

granted to the landowners, keeping in view the observations of the Apex Court in 'Mehrawal Khewaji Trust (Regd.), Faridkot and others Vs. State of" ,,,,

Punjab and others' 2012 AIR (SC) 2721.,,,,

108. The observations made in the case of 'Charan Dass (dead) by L.Rs. Vs. Himachal Pradesh Housing and Urban Development Authority and,,,,

others' 2010 (13) SCC 398 would thus be applicable that in the absence of the sale deeds, the judgments and awards passed in respect of acquisition" ,,,,

of lands, made in the same village and/or neighbouring villages can be accepted as a valid piece of evidence, since an element of some guess work is" ,,,,

involved in the entire exercise to achieve an objective standard, which is the duty of the Courts. In 'Ram Kanwar and others Vs. State of Haryana and" ,,,,

another' 2015 (1) RCR (Civil) 234, the said view was followed." ,,,,

109. Resultantly, this Court is of the opinion that the market value can be reduced correspondingly as for the villages which are situated away from the" ,,,,

National Highway No.1 but are at a equal distance as such from the highway and town of Panipat on the other side. Accordingly, the market value of" ,,,,

the village Rajapur which is next village is assessed @ Rs.2,80,000/- per acre, whereas for village Begumpur, the market value is assessed @" ,,,,

Rs.2,60,000/- per acre, for village Dadlana the market value is assessed @ Rs.2,40,000/- per acre alongwith all statutory benefits." ,,,,

110. Another aspect, which has to be noticed that admittedly a road had been carved out in the acquired land and the balance land had fallen on the" ,,,,

both sides of the road, which has led to a disadvantage to the landowners and the aspect of the severance has not been duly considered. On that" ,,,,

account the landowners though might have been benefitted on account of the road being constructed through their land, but the viability of cultivating",,,,

the land across the road is an aspect which the Reference Court should have kept in mind while deciding the reference petitions. The observations,,,,,

that the LAC had kept the same into mind is without any basis. A perusal of the award of the LAC dated 31.01.1994 (Ex.P13) would go on to show,,,,,

that the LAC as such did not take the said aspect into mind and neither any amount has been paid on account of severance.,,,,,

111. This Court in 'Tehal Singh Vs. State of Punjab through Collector Land Acquisition Drainage Circle Patiala, 1987 RRR 495, 'State of Punjab Vs.",,,,,

Gopal Singh', 2002 (2) PLR 843, 'Surjit Singh Vs. State of Punjab, Land Acquisition Collector, 2008 (2) PLR 8763, State of Haryana Vs. Kartar Singh",,,,,

2010 (4) RCR (Civil) 443 and 'Smt. Maya Vs. State of Haryana', 2012 (4) PR 747 has consistently time and again granted 50% severance in case of",,,,,

water channel etc. In the case of Tehal Singh (supra) the land was acquired for the purpose of SYL Canal. The same was on the basis that the land,,,,,

which falls across and which is a small piece of land necessarily as such would be difficult to cultivate and landowners would not be able to get,,,,,

sufficient income from the same. The relevant observations read as under:-,,,,,

“10. The compensation for severance thus awarded does not appear to be based on sound reasoning. The loss which has been caused by,,,,,

severance includes loss on account of uneconomic agricultural holding, which has been left after acquisition, bifurcation of a big economical holding",,,,,

into two small holdings which may not be any longer viable for profitable cultivation, loss of access to the land where the canal intervenes between the",,,,,

village and the land or availability of a bridge over the canal in the course of time which may be quite distant from the village as also the land on the,,,,,

other side of the canal, loss of irrigation facilities in case the well or the canal watercourse which is the source of irrigation is located on the other side",,,,,

of the S.Y.L. Canal. It is well known that agricultural based habitations i.e. the villages, are located and in the course of time get established at a place",,,,,

where access to the agricultural land is easy; the agriculturists barter or sell small uneconomical holdings which are purchased by the adjoining,,,

landowners though the price fetched is comparatively less than its market value. Where land is canal irrigated the authorities of the Irrigation,,,

Department re-frame schemes for the watercourse to command the area for irrigation purposes taking due account of the obstruction caused by the,,,

construction for which the land has been acquired. Land measuring more than two acres normally makes a viable agricultural holding in the tehsil of,,,

Rajpura where the mode of cultivation and harvesting is by and large conventional and is yet to be mechanized.Ã¢â€,,,

112. Accordingly, on account of severance as such, keeping in view the fact that the landowners have also as such benefited on account of the road",,,

which has been carved out and the fields have been connected to the main road, they would be entitled for severance @ 20% of the market value of",,,

the land acquired. It is, however, made clear that on the amount of severance the landowners would not be entitled for the benefits of Section 23 (1A)",,,

and Section 23 (2) as it is not the market value as such and in view of the law laid down by the Apex Court passed in 'State of Punjab Vs. Amarjit,,,

Singh', 2011 (4) SCC 734. The relevant portion of the said judgment reads as under:-",,,

Ã¢â€6. Section 23(1) refers to market value of the land on the date of publication of the notification underSection 4(1) of the Act as a relevant factor,,,

for determining the amount of compensation to be awarded for land acquired under the Act. Sub-section (2) provides that in addition to the market,,,

value of the land determined under Section 23(1), the Court shall, in every case, award a sum of 30% on such market value in consideration of the",,,

compulsory nature of acquisition. Sub-section (1A) of Section 23, inserted by Act 68 of 1984 provides that in addition to the market value of the land,",,

as provided under Section 23(1), the Court shall, in every case, award an amount calculated at the rate of 12% per annum on such market value for",,,

the period commencing on or from the date of publication of the notification under Section 4(1) in respect of such land to the date of award of the",,,

collector or the date of taking possession of the land, whichever is earlier. The additional amount under Section 23(1A) and solatium under Section",,,,

23(2) are both payable only on the market value determined under Section 23(1) of the Act and not on any other amount. Solatium under Section 23(2),,,,

is not payable on the additional amount nor additional amount under Section 23(1A) payable on solatium. Solatium and additional amount are also not,,,,

payable on the damages/expenses that may be awarded under second to sixth factors under Section 23(1) of the Act.,,,,

7. Thus a person whose land is acquired is entitled to the following amounts under the Act.,,,,

(a) Compensation determined under Section 23(1) of the Act (comprising the market value of the land referred to as the first factor and any,,,,

damages/expenses referred to as the second to sixth factors under the said sub-section).,,,,

(b) Solatium at 30% on the market value determined as the first factor under section 23(1) of the Act.,,,,

(c) Additional amount at 12% per annum of the market value of the land referred to as the first factor under Section 23(1) of the Act, for the period",,,,

specified in Section 23(2).,,,,

(d) Interest on the aggregate of (a), (b) and (c) above for the period between the date of taking possession to date of payment/deposit at the rate of",,,,

9% per annum for the first year and 15% per annum for the remaining period.Ã¢â¬â¸,,,,

Findings of the 3 rd Notification dated 12.12.1994 113. It would be clear from the site plan that a railway line runs parallel to the Assandh Road,,,,

coming from Jind and eventually joins the main railway line which is running parallel to the National Highway No.1 on the western side. The railway,,,,

siding for the refinery as such which was primarily situated in village Baholi/Bohli, thus, connects the railway line to Jind at a perpendicular angle. It is,",,,,

thus, in a manner parallel to the railway line going from Panipat to Ambala. Thus, the land from village Nohra, Assan Kalan, Sithana, Shodapur,",,,,

Khukhrana and Baholi/Bohli was acquired for the said purpose. As noticed the land of village Baholi/Bohli had already been alienated in favour of the,,,,

M/s Indo Burma Petroleum Company Ltd. by the Gram Panchayat on 16.05.1994 @ Rs.2,50,000/- per acre, which has been proved by the Sarpanch",,,,,

of the said village, who appeared as PW-2 Sajjan. There could be no better sale exemplar as such qua the market value as this land would have been",,,,,

sold after taking due permission from all the relevant quarters and is measuring 27 acres. Being a large chunk of land, it would be the best sale",,,,,

exemplar, which has not been considered by the Courts below. There is only a difference of 7 months intervening as such between the said sale",,,,,

exemplar and the notification in question dated 12.12.1994. Keeping in view the fact that there have been repeated notifications for the development,,,,,

of the land on account of industrial purpose and on account of setting up a oil refinery right from 1991, this Court is of the opinion that enhancement @",,,,,

12% is liable to be granted for the intervening period of 7 months. Therefore, a sum of Rs.17,500/- would work out the additional value and the market",,,,,

value, thus, would come to Rs.2,67,500/- per acre. Reliance can be placed upon the observation of the Apex Court in Rameshbhai Jivanbhai (supra), in",,,,,

this regard.,,,,,

114. A perusal of the sale deed dated 16.05.1994 would go on to show that the sale was in pursuance of a resolution passed by the Panchayat Samiti,,,,,

dated 07.01.1994 which had been further confirmed by the order of the Financial Commissioner and Secretary to Government of Haryana dated,,,,,

07.04.1994. Thus, after all valid permissions had been granted, the Gram Panchayat had sold the land. The amount of sale consideration had been paid",,,,,

to the Gram Panchayat by way of a bank draft dated 02.05.1994. Resultantly, there could be no better sale exemplar as such qua the market value of",,,,,

the land in such facts and circumstances, which has been ignored by the Courts below while assessing the market value. The largeness and the fact",,,,,

that it was a bonafide sale transaction being executed in favour of a reputed petroleum company and the difference of time gap being in the Section 4,,,,,

notification and its execution would make it an ideal sale exemplar to fall back on the prevailing market value in the area. The settled principle being,,,

that the amount is to be assessed as what a willing purchaser would pay to a willing vendor.,,,,

115. Another way of assessing the market value would also be that for the notification dated 31.07.1993 the amount of Rs.1,65,000/-awarded by the",,,,

Reference Court for village Baholi has been upheld in RFA No.1040 of 1998 'Kapoor Singh and others Vs. State of Haryana and others' decided on,,,

16.07.2014. For the intervening period of 16 months and 12 days, if 12% increase is granted, the value would come to Rs.1,92,932/- per acre." ,,,,

Therefore, it can be safely said that the amount awarded by the LAC @ Rs.1,70,000/- was not commensurate." ,,,,

116. Apart from the amount of compensation the additional amount on account of severance is liable to be granted to the landowners under the third,,,

Clause of Section 23 of the Act, since they have suffered loss on account of laying of the railway siding. The landowners would face considerable" ,,,,

difficulties in crossing the railway line as such and transporting agricultural implements across the railway line to the balance land which is on the other,,,

side. In such circumstances, the percentage of severance is liable to be granted. Accordingly, in the opinion of this Court the adequate percentage as" ,,,,

such which would be sufficient to compensate the landowners would be to the tune of 30% on account of the severance of the land, only due to the" ,,,,

acquisition for the purpose of railway line.,,,,

Findings of the 4 th Notification dated 04/24.11.1999,,,

117. The arguments of Mr. Anupam Gupta, Senior Advocate cannot be accepted that the Apex Court was not dealing with the notification of 1999" ,,,,

except with a pinch of salt. It is not disputed that the IOC had specifically preferred Civil Appeal No.7583-7604 of 2018 'Indian Oil Corporation,,,

Limited Vs. Khan Chand Bajaj', against the judgment passed by this Court on 25.02.2016 in the case of Khan Chand Bajaj (supra). The cases had" ,,,,

been tagged alongwith SLP No.34867 of 2016 and corresponding to the Civil Appeal No.7468 of 2018 pertaining to the second notification dated,,,,,

13/25.05.1993 vide which the land was acquired for the purpose of the construction of the road from National Highway No.1 to Panipat Oil Refinery.,,,,,

The first set of cases for the 2nd notification were decided on 26.02.2016 in in Angrejo Devi (supra), against which SLP No.34867 of 2016/Civil",,,,,

Appeal No.7468 of 2018 was filed. Correspondingly for the third notification dated 12.12.1994, the matters were decided by this Court in RFA",,,,,

No.4502 of 2013 'Sampuran Singh Vs. State of Haryana and others' on 06.09.2016 and against which SLP No.2737 of 2017/Civil Appeal No.7469 of,,,,,

2018 was filed, which was ordered to be tagged alongwith SLP No.34867 of 2016/Civil Appeal No.7468 of 2018. Similarly, for the notification dated",,,,,

04/24.11.1999 against the judgment passed in the case of Baljit Singh (supra) on 07.02.2017 SLP No.27791 of 2017 was filed, which was ordered to",,,,,

be tagged with SLP No.17067 of 2017/Civil Appeal No.7476 of 2018. Eventually, all these cases were decided together on 31.07.2018 and the order",,,,,

has been reproduced above in paragraph No.10. The judgment of the Apex Court was categorically clear and can be read in two parts in as much as,,,,,

firstly the notification of 1993 was taken into consideration. Thereafter, it was held that for the notifications of 1994 and 1999, the determination was",,,,,

on the basis of the earlier notifications and therefore, matters have been remanded for fresh decision.",,,,,

118. The judgment passed in the case of Jayant Verma (supra) was where the Apex Court was dealing with the Coordinate Bench's judgment and",,,,,

therefore, the said observations as such flowed distinguishing the earlier judgment passed in 'State Bank of India v. Yasangi Venkateswara Rao',",,,,,

(1999) 2 SCC 375. It was, thus, held that the judgment as such had been passed without hearing the other side and the respondent had not appeared",,,,,

and there was ex parte appraisal of the facts and law and, thereafter, the said view was not followed.",,,,,

119. There are countless judgments on this aspect regarding binding precedent in terms of Article 141 of the Constitution of India, especially once the",,,,

present case have come after remand. The fanciful argument as such Mr. Gupta, cannot be accepted that the Apex Court was not dealing with the",,,,

subsequent notifications. Reference can be made to the judgments of the Apex Court passed in *Ambika Prasad Mishra v. State of U.P. and others*,",,,

(1980)3 SCC 719; '*Shenoy & Co. v. Commercial Tax Officer, Circle 11 Bangalore and others*', (1985) 2 SCC 512; *Director of Settlements, A.P. and*",,,

others v. Mr. Apparao and another, (2002)4 SCC 638; '*Union of India Vs. Krishan Lal Arneja*' (2004) 8 SCC 453 C, *entral Board of Dawoodi Bohra*",,,

Community and another v. State of Maharashtra and another, (2005)2 SCC 673 and *Fida Hussain and others v. Moradabad Development Authority*",,,

and *another*, (2011)12 SCC 615.",,,

120. In *Ambika Parsad Mishra* (supra), the Constitutional Bench has held that a decision would not loose its authority, merely because it was badly",,,

argued, inadequately considered and fallaciously reasoned and any creative or novel arguments could not compel reconsideration on account of high",,,

pressure advocacy. The relevant portion of the said judgment reads as under:-,,,,

“5.....That decision binds, on the simple score of stare decisions and the constitutional ground of Article 141. Every new discovery or",,,

argumentative novelty cannot undo or compel reconsideration of a binding precedent. In this view, other submissions sparkling with creative ingenuity",,,

and presented with high pressure advocacy, cannot persuade us to reopen what was laid down for the guidance of the nation as a solemn proposition",,,

by the epic Fundamental Rights case, (1973)4 SCC 225.",,,

6. It is wise to remember that fatal flaws silenced by earlier rulings cannot survive after death because a decision does not lose its authority ""merely" ,,,,

because it was badly argued, inadequately considered and fallaciously reasoned"". [Salmond : Jurisprudence, p 215 (11th Edition)." ,,,,

And none of these misfortunes can be imputed to *Kesavanand Bharti v. State of Kerala*, (1973)4 SCC 225.....“5.....That decision binds, on the simple score of stare decisions and the constitutional ground of Article 141. Every new discovery or" ,,,,

121. Similarly, in *Shenoy & Co. (supra)*, the Three Judges Bench of the Apex Court has held that the decision of the Apex Court would be binding on" ,,, ,

all whether they were parties or not. The law laid down by the Supreme Court is, thus, binding on all whether it is State or private party. In the said" ,,, ,

case a mandamus had been issued that the Karnataka Tax on Entry of Goods into local areas for Consumption, Use or Sale Therein Act, 1979 was" ,,, ,

constitutionally invalid. It was, accordingly, held that the matter had been decided by the Apex Court on an earlier occasion and, therefore, binding" ,,, ,

upon one and all and no one could escape from it and principle was accordingly upheld. The relevant portion of the said judgment reads as under:-" ,,, ,

“17. Though a large number of writ petitions were filed challenging the Act , all those writ petitions were grouped together , heard together and" ,,, ,

were disposed of by the High Court by a common Judgment. No petitioner advanced any contention peculiar or individual to his petition , not common" ,,, ,

to others. To be precise, the dispute in the cause or controversy between the State and each petitioner had no personal or individual element in it or" ,,, ,

anything personal or peculiar to each petitioner. The challenge to the constitutional validity of 1979 Act proceeded on identical grounds common to all" ,,, ,

petitioners. This challenge was accepted by the High Court by a common Judgment and it was this common Judgment that was the subject matter of" ,,, ,

appeal before this Court in *Hansa Corporation's* case. When the Supreme Court repelled the challenge and held the Act constitutionally valid , it in" ,,, ,

terms disposed of not the appeal in *Hansa Corporation's* case alone , but all petitions in which the High Court issued mandamus on the none existent" ,,, ,

ground that the 1979 Act was constitutionally invalid. It is , therefore , idle to contend that the law laid down by this Court in that Judgment would bind" ,,, ,

only the *Hansa Corporation* and not the other petitioners against whom the State of Karnataka had not filed any appeal. To do so is to ignore the" ,,, ,

binding nature of a Judgment of this Court under Article 141 of the Constitution." ,,, ,

Article 141 reads as follows: ""The law declared by the Supreme Court shall be binding on all courts within the territory of India"" ,,, ,

A mere reading of this Article brings into sharp focus its expanse and its all pervasive nature. In cases like this, where numerous petitions are disposed",,,,

of by a common Judgment and only one appeal is filed, the parties to the common Judgment could very well have and should have intervened and",,,,

could have requested the Court to hear them also. They cannot be heard to say that the decision was taken by this Court behind their back or profess,,,,

a ignorance of the fact that an appeal had been filed by the State against the common Judgment. We would like to observe that , in the fitness of",,,,

things , it would be desirable that the State Government also took out publication in such cases to alert parties bound by the Judgment , of the fact that",,,,

an appeal had been preferred before this Court by them. We do not find fault with the State for having filed only one appeal. It is , of course , an",,,,

economizing procedure.,,,,

18. The Judgment in the Hansa Corporation case rendered by one of us (Desai , J.) concludes as follows ""As we are not able to uphold the",,,,

contentions which found favour with the High Court in striking down the impugned Act and the notification issued thereunder and as we find no merit,,,,

in other contentions canvassed on behalf of the respondent for sustaining the Judgment of the High Court , this appeal must succeed. Accordingly ,",,,,

this appeal is allowed and the Judgment of the High Court is quashed and set aside and the petition filed by the respondent in the High Court is,,,,

dismissed with costs throughout.""",,,,

To contend that this conclusion applies only to the party before this Court is to destroy the efficacy and integrity of the Judgment and to make the,,,,

mandate of Article 141 illusory. By setting aside the common Judgment of the High Court , the mandamus issued by the High Court is rendered",,,,

ineffective not only in one case but in all cases.,,,,

19.A writ or an order in the nature of mandamus has always been understood to mean a command issuing from the Court , competent to do the same,",,,,

to a public servant amongst others , to perform a duty attaching to the office , failure to perform which leads to the initiation of action. In this case , the",,,,

petitioners-appellants assert that the mandamus in their case was issued by the High Court commanding the authority to desist or forbear from,,,,

enforcing the provisions of an Act which was not validly enacted. In other words , a writ of mandamus was predicated upon the view that the High",,,,

Court took that the 1979 Act was constitutionally invalid. Consequently the court directed the authorities under the said Act to forbear from enforcing,,,,

the provisions of the Act qua the petitioners. The Act was subsequently declared constitutionally valid by this Court. The Act , therefore , was under",,,,

an eclipse , for a short duration; but with the declaration of the law by this Court , the temporary shadow cast on it by the mandamus disappeared and",,,,

the Act revived with its full figure , the constitutional invalidity held by the High Court having been removed by the Judgment of this Court. If the law",,,,

so declared invalid is held constitutionally valid , effective and binding by the Supreme Court , the mandamus for bearing the authorities from enforcing",,,,

its provisions would become ineffective and the authorities cannot be compelled to perform a negative duty. The declaration of the law is binding on,,,,

everyone and it is therefore , futile to contend that the mandamus would survive in favour of those parties against whom appeals were not filed.",,,,

20. The fallacy of the argument can be better illustrated by looking at the submissions made from a slightly different angle. Assume for arguments,,,,

sake that the mandamus in favour of the appellants survived notwithstanding the Judgment of this Court. How do they enforce the mandamus ? The,,,,

normal procedure is to move the Court in contempt when the parties against whom mandamus is issued disrespect it. Supposing contempt petitions are,,,,

filed and notices are issued to the State. The State's answer to the Court will be: ""Can I be punished for disrespecting the mandamus , when the law of",,,,

the land has been laid down by the Supreme Court against the mandamus issued , which law is equally binding on me and on you ?"". Which Court can",,,,

punish a party for contempt under these circumstances ? The answer can be only in the negative because the mandamus issued by the High Court,,,,

becomes ineffective and unenforceable when the basis on which it was issued falls , by the declaration by the Supreme Court , of the validity of 1979" ,,,,

Act.Ã¢â¬â¸,âââ,

122. In Director of Settlements, A.P (supra), the Three Judges Bench discussed the question regarding the binding principle under Article 141 of the" ,,,,

Constitution of India and came to the conclusion that a decision of the Supreme Court could not be assailed on the ground that certain aspects were ,,,,

not considered and relevant provisions were not brought to the notice of the Court. The relevant portion of the said judgment reads as under:- ,,,,

Ã¢â¬â¸,âââ"So far as the first question is concerned, Article 141 of the Constitution unequivocally indicates that the law declared by the Supreme Court shall" ,,,,

be binding on all Courts within the territory of India. The aforesaid Article empowers the Supreme Court to declare the law. It is, therefore, an" ,,,,

essential function of the Court to interpret a legislation. The statements of the Court on matters other than law like facts may have no binding force as ,,,,

the facts of two cases may not be similar. But what is binding is the ratio of the decision and not any finding of facts. It is the principle found out upon ,,,,

a reading of a judgment as a whole, in the light of the questions before the Court that forms the ratio and not any particular word or sentence. To" ,,,,

determine whether a decision has 'declared law' it cannot be said to be a law when a point is disposed of on concession and what is binding is the ,,,,

principle underlying a decision. A judgment of the Court has to be read in the context of questions which arose for consideration in the case in which ,,,,

the judgment was delivered. An 'obiter dictum' as distinguished from a ratio decidendi is an observation by Court on a legal question suggested in a ,,,,

case before it but not arising in such manner as to require a decision. Such an obiter may not have a binding precedent as the observation was ,,,,

unnecessary for the decision pronounced, but even though an obiter may not have a bind effect as a precedent, but it cannot be denied that it is of" ,,,,

considerable weight. The law which will be binding under Article 141 would, therefore, extend to all observations of points raised and decided by the" ,,,,

Court in a given case. So far as constitutional matters are concerned, it is a practice of the Court not to make any pronouncement on points not",,,,

directly raised for its decision. The decision in a judgment of the Supreme Court cannot be assailed on the ground that certain aspects were not",,,,

considered or the relevant provisions were not brought to the notice of the Court (see AIR 1970 SC 1002 and AIR 1973 SC 794). When Supreme",,,,

Court decides a principle it would be the duty of the High Court or a subordinate Court to follow the decision of the Supreme Court.Ã¢â¬â¸",,,,

123. In Krishan Lal Arneja (supra), the Apex Court was dealing with the issue of land acquisition. Challenge in the said case was to the notification",,,,

issued under Section 4 and 17 of the Act, which had already been upheld in an earlier round of litigation. The ground was that in the earlier round of",,,,

litigation the root of the matter was neither argued nor decided and, therefore, the case was wrongly decided. Resultantly, it was held that though the",,,,

issue of res judicata might not come in as binding being properties specific, but the decision was binding as precedent on the question of validity of the",,,,

notification and there was no reason or distinction to entertain the second round of litigation. Relevant portion of the said judgment reads as under:-",,,,

Ã¢â¬â¸"12. It is needless to repeat that a judgment need not be read and interpreted as a statute and that a judgment should be read and understood in the",,,,

context of the facts of case and looking to the ratio. The sentence in paragraph 12, extracted above, that ""It is also not necessary to consider whether",,,,

the decision in Banwari Lal correctly enunciates the principles of law as to acquisitions under Section 17 of the Act as we are of the view that the",,,,

order of this Court dated 14.11.2000 was, in the circumstances of the case, correct"", has reference to enunciation of principles of law in relation to",,,,

Section 17 as to the expression of urgency as stated in Banwari Lal, i.e., to whether the existence of urgency and expression of urgency must be",,,,

specifically stated in the notification issued under Section 4(1) read with Section 17(1) of the Act and if not whether the notification is vitiated. In view",,,,

of the later decisions of this Court, even in the absence of stating as to the existence of urgency or express statement as to urgency, the issue of" ,,,,

urgency could be justified on the basis of the surrounding circumstances and the records available at the time of subjective satisfaction of authorities to,,,,

invoke the aid of Section 17(1)&(4). It is in that context that the statement is made in para 12 not with regard to the validity of the impugned common,,,,

notification in respect of all the 14 properties which fact is abundantly clear from what is stated specifically in para 15 of the judgment extracted above,,,,

in relation to sustainability of the impugned notification or otherwise in respect of one or other property. On this basis, the court had held that the" ,,,,,

expression of urgency in the common notification being general to all 14 properties could not be sustained in respect of any particular property, on the" ,,,,,

ground that the expression of urgency being one and the same cannot be partly good and partly bad. In the same para, the decision in Banwari Lal that" ,,,,,

the impugned common notification was bad, is accepted. As is evident from paragraph 13 that pursuant to the impugned notification, neither any" ,,,,,

award was passed nor any compensation was determined and paid on the ground that the impugned notification was quashed and set aside in Banwari,,,,

Lal case. This only indicates that even the appellants understood the impugned notification as a common and composite notification in respect of all the,,,,

14 properties. The ground of urgency also being common, it is not possible to accept that the decision rendered in the cases of Banwarl Lal or" ,,,,,

Shakuntala Gupta on the question of urgency was properties specific. The decision in Banwari Lal and Shakuntala Gupta of this Court in relation to,,,,

the same notification may not be binding on principle of res judicata. The argument, however, cannot be accepted that those decisions are not binding" ,,,,,

being 'properties specific' in those cases. In our considered opinion, the decisions are binding as precedents on question of validity of the notification," ,,,,,

which invokes urgency clause under Section 17 of the Act. We find ourselves in full agreement with the ratio of the decisions in those cases that,,,,

urgency clause, on the facts and circumstances, which are similar to the present cases, could not have been invoked. The two decisions are, therefore," ,,,,

binding as precedents of this Court. We are not able to find any distinction or difference as to the ground of urgency in regard to the properties,,,,

covered by these appeals.Ã¢â¬â¸,,,,

124. In Central Board of Dawoodi Bohra Community (supra), another Constitutional Bench of the Apex Court laid down the principle that the decision" ,,,,

of the larger Bench is binding on a subsequent Bench of lesser or co-equal strength while holding that Two Judges Bench could not direct that the,,,,

matter be listed before a seven Judges Bench and could not doubt the correctness of the Constitutional Bench. In Fida Hussain (supra), the issue was" ,,,,

again under the Land Acquisition Act, 1894 and challenge was repelled that once the Court had already examined the compensation assessed for the" ,,,,

lands notified, it would not be proper to take a different view." ,,,,

125. In Civil Appeal No.1265 of 2007 'The Peerless General Finance and Investment Company Ltd. Vs. Commissioner of Income Tax' decided on,,,,

09.07.2019, it has been categorically held that the pronouncement by the Apex Court would be binding upon the High Court even if it could not be" ,,,,

strictly called the ratio decidendi of the judgment. The relevant portion of the said judgment reads as under:-,,,,

Ã¢â¬â¸10. While it is true that there was no direct focus of the Court on whether subscriptions so received are capital or revenue in nature, we may still" ,,,,

advert to the fact that this Court has also, on general principles, held that such subscriptions would be capital receipts, and if they were treated to be" ,,,,

income, this would violate the Companies Act. It is, therefore, incorrect to state, as has been stated by the High Court, that the decision in Peerless" ,,,,

General Finance and Investment Co. Limited (supra) must be read as not having laid down any absolute proposition of law that all receipts of,,,,

subscription at the hands of the assessee for these years must be treated as capital receipts. We reiterate that though the Court's focus was not,,,,

directly on this, yet, a pronouncement by this Court, even if it cannot be strictly called the ratio decidendi of the judgment, would certainly be binding on",,,,

the High Court. Even otherwise, as we have stated, it is clear that on general principles also such subscription cannot possibly be treated as income.Ã¢â¬â¸",,,,

126. Similarly, the argument in favour of the reverse cut as such is not liable to be accepted, keeping in view the law laid down in the case of",,,,

Rameshbhai Jivanbhai (supra). The Apex Court has gone on to hold that the principle of reverse cut is not a safe methodology as such to assess the",,,,

market value. The relevant paragraph of the said judgment reads as under:-",,,,

Ã¢â¬â¸13. Much more unsafe is the recent trend to determine the market value of acquired lands with reference to future sale transactions or",,,,

acquisitions. To illustrate, if the market value of a land acquired in 1992 has to be determined and if there are no sale transactions/acquisitions of 1991",,,,

or 1992 (prior to the date of preliminary notification), the statistics relating to sales/acquisitions in future, say of the years 1994-95 or 1995-96 are taken",,,,

as the base price and the market value in 1992 is worked back by making deductions at the rate of 10% to 15% per annum. How far is this safe? One",,,,

of the fundamental principles of valuation is that the transactions subsequent to the acquisition should be ignored for determining the market value of",,,,

acquired lands, as the very acquisition and the consequential development would accelerate the overall development of the surrounding areas resulting",,,,

in a sudden or steep spurt in the prices. Let us illustrate. Let us assume there was no development activity in a particular area. The appreciation in",,,,

market price in such area would be slow and minimal. But if some lands in that area are acquired for a residential/commercial/industrial layout, there",,,,

will be all round development and improvement in the infrastructure/ amenities/facilities in the next one or two years, as a result of which the",,,,

surrounding lands will become more valuable. Even if there is no actual improvement in infrastructure, the potential and possibility of improvement on",,,,

account of the proposed residential/commercial/ industrial layout will result in a higher rate of escalation in prices. As a result, if the annual increase in",,,,

market value was around 10% per annum before the acquisition, the annual increase of market value of lands in the areas neighbouring the acquired",,,,

land, will become much more, say 20% to 30%, or even more on account of the development/proposed development. Therefore, if the percentage to",,,,

be added with reference to previous acquisitions/sale transactions is 10% per annum, the percentage to be deducted to arrive at a market value with",,,,

reference to future acquisitions/sale transactions should not be 10% per annum, but much more. The percentage of standard increase becomes",,,,

unreliable. Courts should therefore avoid determination of market value with reference to subsequent/future transactions. Even if it becomes",,,,

inevitable, there should be greater caution in applying the prices fetched for transactions in future. Be that as it may.Ã¢â€â€",,,,

127. In the case of Chandrashekar (supra), the principles of deduction were thrashed out by the Apex Court and the issue of reverse cut under the",,,,

head of de-escalation was discussed. Though the compensation as per the High Court of making 10% deduction under the head of de-escalation, on",,,,

account of sale exemplar executed 1 year 7 months and 17 days after the date of the notification was upheld. But in the present case since there is a",,,,

sale exemplar, which can be safely relied in the form of transfer of land to the M/s Indo Burma Petroleum Company Ltd., thus, this Court is of the",,,,

opinion that the reverse cut principle on the notifications which are more than 6 years subsequently are not liable to be applied. It is also to be noticed",,,,

that only on 17.06.2002 the land had been acquired for the site of the Indian Oil Corporation Ltd. (J.V.) Power and Petrol Chemical Project at Panipat",,,,

and the market value of Rs.3,50,000/- per acre had been upheld in the case of Subhash Chander (supra), therefore, to claim Rs.23 lakhs and more is",,,,

without any basis.",,,,

128. In such circumstances, for the landowners to clamour for more amount for the notification on the basis of the reverse cut as such for the land",,,,

which was acquired in the year 2005, six years later cannot be accepted. Merely, because there had been rapid industrialization, the landowners",,,,

cannot claim that their land has the same kind of potentiality which the land acquired six years later had. It is a settled principle that date of Section 4,,,,

notification is the relevant date, which has also been held in the case of Major General Kapil Mehra (supra).",,,,

129. Since Mr. Gupta, has placed strong reliance upon the judgment passed in Udho Dass (supra), thus one can go back to the earlier judgments of the",,,,

Apex Court on this issue namely 'Raghubans Narain Singh Vs. The Uttar Pradesh Government through Collector of Bijnor', 1967 (1) SCR 48,9",,,,

wherein it was held that the potential value of the land is to be seen at the time the notification under Section 4 was issued, which was 1945 in the said",,,,

case. The same view was taken by the Three Juges Bench in 'Dollar Company Vs. Collector of Madras', (1975) 2 SCC73,0 wherein it was held that",,,,

the market value is the price what a willing purchaser would pay to a willing vendor, which is to be assessed on the date of publication of notification",,,,

under Section 4 (1). Similar was the view in Chimanlal Hargovinddas (supra),,,,

130. In 'R.P. Singh Vs. Union of India', 2005 (7) SCC 24, the argument that the land was being sold by the respondents after development at a higher",,,,

price claiming, the same market value was repelled by holding that the date of publication of notification under Section 4 (1) is to be kept in mind and",,,,

not as it prevails at a later date after the land has been fully developed. In 'Ranvir Singh and another Vs. Union of India' 2005 (12) SCC 59 ,it was",,,,

held that for determining the market value the nature of the land plays an important role. The market value of fully developed land could not be,,,,

compared with wholly undeveloped land, though it might be situated at a little distance. It was in such circumstances, the matters were remitted to the",,,,

High Court for consideration afresh.,,,,

131. In 'Suresh Kumar Vs. Improvement Trust, Bhopal', 1989 (1) SCR 90,8 the Apex Court examined the issue that there has to be neither unjust",,,,

enrichment on the part of the acquirer nor undue deprivation on the part of the owner, while elaborating on the market value, which was to be",,,,

considered on the date of publication of notification under Section 4 (1). It was noticed that even though the land was being used for agricultural,,,,

purpose and on account of industrialization of neighbouring areas the potentiality as such could not be ignored in determining the compensation.,,,,

Relevant portion of the said judgment reads as under:-,,,

“9. It is true that the market value of the land acquired has to be correctly determined and paid so that there is neither unjust enrichment on the part,,,

of the acquirer nor undue deprivation on the part of the owner. Dr. Singhvi argues that failing to consider potential value is an error of principle. It is,,,

an accepted principle as was laid down in *Gajapatiraju v. Rev. Divisional Officer*, A.I.R. 1939 P.C. 98 that the compensation must be determined by" ,,,,

reference to the price which a willing vendor might reasonably expect to obtain from willing purchaser. The disinclination of the vendor to part with his,,,

land and the urgent necessity of the purchaser to buy it must alike be disregarded. Neither must be considered as acting under compulsion. The value,,,

of the land is not to be estimated at its value to the purchaser but this does not mean that the fact that some particular purchaser might desire the land,,,

more than others is to be disregarded. The wish of a particular purchaser, though not his compulsion, may always be taken into consideration for what" ,,,,

it is worth. Any sentimental value for the vendor need not be taken into account. The vendor is to be treated as a vendor willing to sell at the market,,,

price. Section 23 of the Land Acquisition Act, 1894, enumerates the matters to be considered in determining compensation- The first to be taken into" ,,,,

consideration is the market value of the land on the date of the publication of the Notification under Section 4(1). Market value is that of a willing,,,

vendor and a willing purchaser. A willing vendor would naturally take into consideration such factors as would contribute to the value of his land,,,

including its unearned increment. A willing purchaser would also consider more or less the same factors. There may be many ponderable and,,,

imponderable factors in such estimation or guess work. Section 24 of the Act enumerates the matters which the Court shall not take into consideration,,,

Year,"Principal

amount(Rs.)","Enhanced

Amount(Rs.)",Total amount(Rs.),

22.11.1995 to

21.11.1996","2,50,000",30000,280000,

22.11.1996 to

21.11.1997",280000,33600,313600,

22.11.1997 to

21.11.1998",313600,37632,351232,

22.11.1998 to

21.11.1999",351232,42147.84,"393379.84

(Rs.3,93,380/- per

acre rounded off)",

Village,"Market value

(per acre alongwith all statutory

benefits)",,,

Ali Asgarpur, Baroli","Rs.3,00,000/-",,,

Rajapur,"Rs.2,80,000/-",,,

Begumpur,"Rs.2,60,000/-",,,

Dadlana,"Rs.2,40,000/-",,,