Haryana State Industrial Development Corporation Ltd. Vs Udal and Others etc. etc.

Court: Supreme Court of India

Date of Decision: July 2, 2013

Acts Referred: Land Acquisition Act, 1894 â€" Section 18, 3, 4, 54, 6

Citation: (2013) 7 AD 548 : AIR 2013 SC 3111 : (2013) AIRSCW 4469 : (2013) ALT(Rev) 312 : (2013) 5 AWC 4790 : (2013) 116 CLT 1072 : (2013) 9 JT 451 : (2013) 3 RCR(Civil) 896 : (2013) 8 SCALE 601 : (2013) 14 SCC 506

Hon'ble Judges: Sudhansu Jyoti Mukhopadhaya, J; G.S. Singhvi, J

Bench: Division Bench

Advocate: Parag Tripathi, V.K. Bali, Dushyant Dave, R.S. Suri, Abhishek Manu Singhvi and P.S. Patwalia, Manjit Singh, AAG, Annam D.N. Rao, Abhishek Agrawal, Atul Sharma, Mahima Gupta, Amit Mittal, Vibhuti Sushant Gupta, Ram Naresh Yadav, Rohit K. Aggarwal, Rahul Malhotra, Chanchal Kumar Ganguli, Arun Sharma, Ram Naresh Yadav, V. Sushan Gupta, Jasbir Singh Malik, Varun Punia, Nitin Kumar, Gyanendra Singh, Vishwa Pal Singh, Sanjay Jain, Afshan Pracha, Milind Kumar, Amit Mittal, Ajay Thakur, Atul Berry, Shekhar Kumar, Kamal Mohan Gupta, S.K. Sabharwal, Yash Pal Dhingra and Vipin Kumar Jai, for the Appellant;

Final Decision: Allowed

Judgement

G.S. Singhvi, J.
Leave granted.

2. Feeling aggrieved/dissatisfied with the judgment of the learned Single Judge of the Punjab and Haryana High Court whereby he enhanced the

amount of compensation payable to the landowners from Rs. 28,15,356 per acre to Rs. 37,40,000 per acre, the beneficiary of the acquisition,

namely, Haryana State Industrial Development Corporation Limited, now known as Haryana State Industrial and Infrastructure Development

Corporation (HSIIDC), and the landowners have filed these appeals.

3. In furtherance of the policy decision taken by it to establish Industrial Model Township at Manesar (hereinafter described as "IMT Manesar"),

District Gurgaon, the Government of Haryana acquired large tracts of land under the Land Acquisition Act, 1894 (for short, "the Act"). For

Phase-I of IMT, Manesar, over 700 acres of land was acquired. By notification dated 30.04.1994 issued u/s 4 of the Act, which was followed by

declaration dated 30.09.1995 issued u/s 6, 256 acres 3 kanals and 17 marlas land of village Manesar was acquired. By another notification dated

15.11.1994 issued u/s 4 of the Act, which was followed by Section 6 declaration dated 10.11.1995, 490 acres 3 kanals 17 marlas land situated in

villages Manesar, Naharpur Kasan, Khoh and Kasan was acquired.

4. For Phase-II, 1380 kanals 16 marlas land situated in villages Kasan, Bas Kusla, Naharpur Kasan and Manesar was acquired vide notification

dated 6.3.2002 issued u/s 4 of the Act which was followed by Section 6 declaration dated 15.11.2002. Another notification was issued on

7.3.2002 u/s 4 of the Act for the acquisition of 595 acres 5 kanals 12 marlas land situated in villages Kasan, Bas Kusla, Bas Haria and Dhana for

Phase-III of IMT, Manesar. The declaration u/s 6 was issued on 25.11.2002.

5. For Phase-IV, 567 acres 4 kanals 3 marlas land was acquired vide notification dated 26.2.2002 issued u/s 4 of the Act and for Phase-V, 965

acres 5 kanals 18 marlas land was acquired vide notification dated 17.9.2004 issued u/s 4 of the Act.

6. Since the issue arising in these appeals relates to the quantum of compensation payable in lieu of the acquisitions made for Phases-II and III of

IMT, Manesar, we do not consider it necessary to take cognizance of the facts relating to other acquisitions but would make a reference to the

events leading to the judgment of this Court in Haryana State Industrial Development Corporation v. Pran Sukh and others (2010) 11 SCC 175 ,

and the orders passed in the review applications filed by HSIIDC.

7. For the acquisition made vide notification dated 30.4.1994, the Land Acquisition Collector passed award dated 28.3.1997 whereby he fixed

market value of the acquired land at the rate of Rs. 3,67,400 per acre. On a reference made at the instance of the landowners, the Reference

Court divided the acquired land into two blocks, i.e., A and B. For the land falling in Block A, i.e., land situated 500 yards from National Highway

8, the Reference Court determined the compensation at the rate of Rs. 6,51,994.13 per acre. For the remaining land categorized as Block B,

market value was fixed at the rate of Rs. 3,91,196.97 per acre.

8. For the acquisition made vide notification dated 15.11.1994, the Land Acquisition Collector passed award dated 3.4.1997 and fixed market

value at the rate of Rs. 4,13,600 per acre. The Reference Court fixed market value of the acquired land by dividing the same into two blocks.

Block A comprised of the land falling within 500 yards of National Highway 8 and market value thereof was fixed at Rs. 6,89,333. The remaining

land was included in Block B and market value thereof was not increased.

9. The appeals filed by the landowners in relation to the first acquisition were disposed of by the learned Single Judge of the Punjab and Haryana

High Court vide judgment dated 5.9.2008 and the amount of compensation was determined at the rate of Rs. 12,00,000 per acre. The appeals

filed by the landowners covered by notification dated 15.11.1994 were disposed of by the learned Single Judge by enhancing the amount of

compensation to Rs. 15,00,000 per acre for the entire acquired land.

10. The appeals arising out of the special leave petitions filed by HSIIDC and the landowners against the judgments of the High Court were

disposed of by this Court vide judgment dated 17.08.2010 titled Haryana State Industrial Development Corporation v. Pran Sukh and Ors.

(supra) and the amount of compensation payable to the landowners was enhanced to Rs. 20,00,000 per acre for the entire acquired land with a

stipulation that they shall be entitled to all statutory benefits. Paragraphs 22 to 26 of that judgment, which contain the reasons for granting enhanced

compensation to the landowners, are reproduced below:

22. In our view, the learned Single Judge did not commit any error by relying upon sale transaction, Ext. P-1 for the purpose of fixing market value

of the acquired land. Undisputedly, that sale transaction was between two corporate entities and the entire sale price was paid through bank drafts.

It is also not in dispute that the land which was subject-matter of Ext. P-1 is situated at Village Naharpur Kasan and is adjacent to the acquired

land. The Corporation and the State Government did not adduce any evidence to prove that the land sold vide Ext. P-1 was overvalued with an

oblique motive of helping the landowners to claim higher compensation. Therefore, we do not find any justification to discard or ignore sale deed,

Ext. P-1. The refusal of the learned Single Judge to rely upon other sale transactions in which sale price of the land was shown as Rs. 7 lakhs per

acre also does not suffer from any legal infirmity because it is well known that transactions involving transfer of properties are usually undervalued

with a view to avoid payment of the requisite stamp duty and registration charges.

23. However, we agree with the learned Counsel for the landowners that the High Court should not have imposed cut of 1/4th in one batch of

appeals and 20% cut in the other batch of appeals qua the average sale price reflected by Ext. P-1 only on the ground that the area of the land

acquired by the State Government was too large as compared to 12 acres of land for which sale deed, Ext. P-1 was executed.

24. In a matter like the present one, it cannot be ignored that the land was acquired for setting up an industrial model township at Manesar and

after developing the land, the Corporation was bound to sell the plots at a much higher price to the existing or prospective industrial entrepreneurs.

In this scenario, the learned Single Judges committed an error by applying 1/4th or 20% cut on market value determined for the purpose of

payment of compensation to the landowners.

25. This approach is in consonance with the law laid down in Subh Ram v. State of Haryana (2010) 1 SCC 444 the relevant portions of which are

extracted below:

16. Therefore, when deduction is made from the value of a small residential plot towards the development cost, to arrive at the value of a large

tract of agricultural or undeveloped land with development potential, the deduction has nothing to do with the purpose for which the land is

acquired. The deduction is with reference to the price of the small residential plot, to work back the value of the large tract of undeveloped land.

On the other hand, where the value of acquired agricultural land is determined with reference to the sale price of a neighbouring agricultural land,

no deduction need be made towards "development cost".

17. It is no doubt true that this Court in some decisions has observed that purpose of acquisition will also be relevant. But it is made in a different

context. The Land Acquisition Collectors in some cases adopt belting methods for valuation of land, with reference to a focal point, that is, either

with reference to the distance from the main road, or distance from a developed area. Lands that adjoin a developed area or a main road are given

a higher value than a land farther away from the road or the developed area. The Land Acquisition Collectors also award different compensation

depending upon whether the acquired land is a dry land or wet/irrigated land.

18. When different categories of lands (or lands with different situational advantages) are acquired for the same purpose, say for forming of a

residential layout, courts have sometimes felt that determination of their value with reference to previous status or situation should be avoided and a

uniform rate of compensation should be awarded for all lands acquired under the same notification.

26. For the reasons stated above, the appeals filed by the Corporation are dismissed and those filed by the landowners are allowed with the

direction that the Corporation shall pay market value of the entire acquired land at the rate of Rs. 20 lakhs per acre with all statutory benefits.

11. The first batch of the review petitions filed by HSIIDC was dismissed by detailed order dated 2.7.2012 titled Haryana State Industrial

Development Corporation Limited v. Mawasi (2012) 7 SCC 200 . The second batch of the review petitions was dismissed vide order dated

13.1.2011 titled Haryana State Industrial Development Corporation Limited v. Pran Sukh and others (2012) 7 SCC 721 . While dismissing the

first batch of review petitions, the Court took cognizance of the following averments contained in the reply affidavits filed on behalf of the

landowners:

Paras 4 to 9 of the reply affidavit filed in Review Petition No. 239 of 2011.

4. I state that vide five sale deeds all dated 6-7-1992 land measuring 49 kanals 2 marlas situated in Village Kherki Daula, District Gurgaon was

sold by some of the co-owners to one Shri D.C. Rastogi, s/o Shri L.P. Rastogi at the sale price of Rs. 1,35,000 per acre. The said village is at a

distance of about 2 km from the land in question. Copies of five sale deeds all dated 6-7-1992 are collectively Annexure R-1 hereto. Thereafter

the vendee Shri D.C. Rastogi sold the said land in terms of agreement to sell dated 6-12-1993 vide sale deed dated 16-3-1994 at the rate of

about Rs. 15,73,289 per acre. This shows that there was a jump in the price of the land in that area equal to almost 11 times of the original price.

It is also common knowledge that the parties often undervalue the land price in order to minimise stamp duty and the land might have been sold at

a higher price. Copy of sale deed dated 16-3-1994 is Annexure R-2 hereto. Thus if M/s. Heritage Furniture (P) Ltd. Purchased land, which is the

subject-matter of sale deed dated 16-9-1994, Ext. P-1, in the year 1993 at a price of about Rs. 6 lakhs per acre as alleged by the review

Petitioner even though there is no evidence of purchase at such rate then its value increasing to Rs. 20 lakhs per acre in the year 1994 is

commensurate with the market trend. Moreover agreement to sell dated 31-5-1994 was executed after first notification was issued u/s 4 on 30-4-

1994 and it is a common knowledge that after publication of Section 4 notification, the value of the land increases.

5. It is further submitted that vide sale deed dated 14-12-1993 (Ext. P-10) one M/s. DCN International Ltd. Sold land measuring 62 kanals 7

marlas situated in Village Naurangpur, District Gurgaon for Rs. 95,21,160 i.e. At the rate of Rs. 13,74,345 per acre. Copy of sale deed dated 14-

12-1993 is Annexure R-3 hereto.

6. I further state that sale deed dated 16-9-1994 (Ext. P-1) was executed pursuant to the agreement to sell dated 31-5-1994 between M/s.

Heritage Furniture (P) Ltd. (vendor) and M/s. Duracell (India) (P) Ltd. (vendee) wherein the vendor agreed to sell the land in question measuring

about 12 acres to the vendee at a sale price of Rs. 2,42,00,000 (Rupees two crore forty-two lakhs only) as is clear from the recital in the sale

deed itself. Ultimately vide sale deed dated 16-9-1994 the said land was sold at the same sale price by the vendor to the vendee. Thus the sale

price of the land was agreed upon and fixed on 31-5-1994 as is clear from the recitation of the sale deed itself.

7. I further state that as per assertion of the review Petitioner M/s. Heritage Furniture (P) Ltd. (vendor) and M/s. Duracell (India) (P) Ltd.

(vendee) had common persons in their Board of Directors, namely, Shri Saroj Kumar Poddar, Ms. Jyotsana Poddar and Shri Gurbunder Singh

Gill. The review Petitioner has filed search reports of both the said companies to show that the abovesaid three persons were common Directors of

both the companies. However, from the said search report of M/s. Duracell (India) (P) Ltd. It is clear that the two Directors, namely, Shri Saroj

Kumar Poddar and Ms. Jyotsana Poddar were appointed as Directors of this company on 9-6-1994 whereas Shri Gurbunder Singh Gill was

appointed as its Director on 9-2-1997. Thus all the three alleged common Directors of the vendor and vendee companies were not on the Board

of Directors of M/s. Duracell (India) (P) Ltd. On or before 31-5-1994 on which date the agreement to sell the land in question was executed and

the sale price was fixed. The said three Directors had no interest in M/s. Duracell (India) (P) Ltd. (vendee) as on 31-5-1994 when the sale price

of the land was fixed.

8. I further state that except for making a bald allegation that the sale price of the said land was inflated intentionally so that the vendee company

would increase its share holding in a joint venture it was going to enter into with one Duracell Inc. USA, this assertion has not been substantiated

by placing any cogent evidence on record. So much so that even it has not been pleaded in the review petition as to whether joint venture between

M/s. Duracell (India) (P) Ltd. And M/s. Duracell Inc. USA did take place or not. To the knowledge of the deponent there was no joint venture

between M/s. Duracell (India) (P) Ltd. And M/s. Duracell Inc. USA. This fact that there was no joint venture between the said two companies

also stands proved from the fact that the land purchased vide the said sale deed dated 16-9-1994 was sold by M/s. Duracell (India) (P) Ltd. Vide

sale deed dated 28-4-2004 to one M/s. Lattu Finance & Investments Ltd. At a sale consideration of Rs. 13,62,00,000 i.e. Approximately at the

rate of Rs. 1,13,00,000 (Rupees one crore thirteen lakhs per acre approximately). At the time the name of M/s. Duracell (India) (P) Ltd. Had

been changed to M/s. Gillette India Ltd. On account of its amalgamation with other company. In this sale deed dated 28-4-2004 entire history of

purchase of land by M/s. Duracell (India) (P) Ltd. From M/s. Heritage Furniture (P) Ltd. In 1994 onwards has been recited, which includes

construction of industrial building over the said land, its conversion of status from private limited to public limited company, its amalgamation with

Indian Shaving Products Ltd. In the year 2000 and its change of name from Indian Shaving Products Ltd. To Gillette India Ltd. In December 2000

and thereafter its sale to M/s. Lattu Finance & Investments Ltd. However, in the entire recitation there is no mention of any joint venture with M/s.

Duracell Inc. USA.

9. It is submitted by the Respondents/landowners that the said sale deed (Ext. P-1) reflects true market price of the land in the year 1994 when

Section 4 notification for the acquired land was issued. The allegation of the review Petitioner that the sale deed (Ext. P-1) reflects inflated price is

false and baseless. It is further submitted that another sale deed dated 17-7-1996 which is on record as (Ext. P-9) reflects the market value of the

land in one of the acquired villages at Rs. 25,00,000 (Rupees twenty-five lakhs) per acre. In this transaction 1 kanal 11 marlas of land situated in

Village Naharpur Kasan, has been sold at a price of Rs. 4,84,375. This sale deed also proves that the market price of the acquired land in the year

1994 was Rs. 20 lakhs per acre. Copy of sale deed dated 17-7-1996 is Annexure R-4 hereto. It may be mentioned here that the same purchaser

purchased different pieces of land at the same rate vide 15 different sale deeds and the total land purchased was 18 kanals 5 marlas i.e. More than

2.25 acres.

Para 5 of the reply-affidavit filed on behalf of the landowners who were Respondents in Civil Appeal No. 6561 of 2009

5. That the present review petition is being filed only on the ground that Ext. P-1, which has been relied upon by the Hon''ble High Court as well as

upheld by this Hon''ble Court was entered into by the corporates which were under the control and management of common Board of Directors

and hence it is not the correct market value. In reply thereto the Respondents humbly submits that:

(a) This fact for the first time is brought into notice at the level of this Hon''ble Court, therefore, the review Petitioner''s are estopped by their own

conduct.

(b) That merely both the corporates have a common Board of Directors does not prove that the sale in between the corporates was at escalated

rates, rather it should be on other side i.e. A common Board would have tried to get the sale as possible as on lower rate. Therefore the ground for

review is not legally justifiable.

(c) It is submitted that later on corporate Gillette India Ltd. Made a sale deed (land in issue of Ext. P-1) dated 28-4-2004 to another corporate,

namely, Lattu Finance & Investments Ltd. For a sum of Rs. 13,62,00,000 of land measuring 96 kanals and 13 marlas. (i.e. Rupees one crore

sixty-two lakhs per acre). It is submitted that this sale cannot be said to be at an escalated rate and therefore Ext. P-1 denotes the correct market

value at the relevant time. The copies of the relevant sale deeds are annexed herewith and marked as Annexure R-1.

(d) It is also submitted that some other sale deeds at the relevant time (20-9-1996) were executed in favour of Time Master (P) Ltd. Which came

around Rs. 25 lakhs per acre. Details of the same are as follows:

Total land sold is 15 kanals 3 marlas, total amount is Rs 47,34,375 i.e. at the rate of Rs. 25 lakhs per acre.

It is submitted that Sale Deed No. 5431 (at Sl. No. 14) was already produced as Ext. P-9 before the Reference Court in favour of Time Master

(P) Ltd. By Vinod Kumar (vendor).

Thus Time Master India (P) Ltd. Purchased total land measuring 16 kanals 14 marlas at the rate of Rs. 25 lakhs per acre.

(e) It is also relevant to point out the following are the sale transactions in December 2006 of Village Naharpur Kasan:

(f) It is also submitted that the rate at which auction-sale of Tower site on acquired land is done on 30-6-2006 is as follows:

(g) It also submitted the following details of auction by HSIDC IMT, Manesar:

Auction-sales by HSIDC IMT, Manesar Allotment of SCO sites for shopping booth in Sector 1, IMT, Manesar, auction held on 18-8-2009.

Total area 2376 sq m, total amount Rs. 35,78,50,000 i.e. Rs. 1,50,610.26 per metre i.e. Rs. 1,25,928.58 per yard i.e. Rs. 60,94,94,327 per

acre.

Allotment of SCO sites for shopping booth in Sector 1, IMT, Manesar, auction held on 11-8-2010:

Allotment of triple-storeyed SCO sites in Sector 1, IMT, Manesar, auction held on 11-8-2010 at the following rates:

Total area 972 sq m allotted for total amount of Rs. 18,62,50,000 i.e. Rs. 1,91,615.22 per metre i.e. Rs. 1,60,213.67 per square yard or Rs.

77,54,34,189 per acre.

12. For the land acquired for Phase-II of IMT, Manesar, the Land Acquisition Collector passed award dated 22.7.2003 and determined market

value of the acquired land as under:

13. The landowners did not feel satisfied with the award of the Land Acquisition Collector and filed applications u/s 18 of the Act. The Reference

Court relied upon the judgment of the High Court in Pran Sukh''s case whereby market value was assessed as Rs. 15,00,000 per acre, applied an

increase of 12% for the time gap of 7 years 3 months and 21 days and held that the landowners are entitled to compensation at the rate of Rs.

28,15,356 per acre with all statutory benefits. The Reference Court also held that its judgment would be subject to the outcome of the cases

pending before this Court.

14. For the land acquired for Phase-III of IMT, Manesar, the Land Acquisition Collector passed award dated 24.12.2003 and assessed the

market value of the acquired land as under:

15. The Reference Court relied upon the judgment rendered in relation to the acquisition made vide notification dated 6.3.2002 and held that the

landowners are entitled to compensation at the rate of Rs. 28,15,849 per acre with all statutory benefits.

16. In the appeals filed by them u/s 54 of the Act, the landowners prayed for further enhancement in the amount of compensation. HSIIDC also

challenged the judgments of the Reference Court and prayed that the amount of compensation awarded to the landowners be reduced. In some of

the matters cross objections were also filed by the parties.

17. When the appeals and cross objections were taken up for hearing, the learned Single Judge found that the site plans Ext. PW1/1 and P8 did

not clearly depict the location of various chunks of land acquired in 1994 and thereafter. Therefore, learned Counsel for HSIIDC was asked to

submit a plan showing the exact location of the lands acquired in the years 1994 and 2002. Accordingly, a fresh site plan marked ''A'' was

produced, the correctness of which was not disputed by the counsel appearing for the landowners.

18. The learned Single Judge then took cognizance of the site plan marked "A" and the acquisitions made for Phases-II to V Of IMT, Manesar

and proceeded to observe as under:

The aforesaid facts clearly establish that the area was developing. There was demand for plots. That is the reason that the State also sought to

acquire substantial land after acquisition of land for development of Phase-I, regularly after some intervals. It had also come in the cross-

examination of R.W.1-Dalbir Singh Bhati that 80% of the plots carved out of the land acquired in the year 1994 had already been sold when

notification u/s 4 of the Act in the present case was issued. 50% thereof had either been built or were under construction. This was the pace of

development, which clearly establish that the land in question had potentiality for being used for industrial/commercial purposes.

19. In support of their claim for award of higher compensation, the landowners relied upon the judgment of this Court in Pran Sukh''s case and the

allotments made by HSIIDC and its predecessor to various persons. The learned Single Judge did take cognizance of the allotments made vide

Exhibits P4 to P7 but declined to rely upon them for determination of the compensation payable to the landowners. This is evinced from

paragraphs 25 and 26 of the impugned judgment, which are extracted below:

25. In addition to that, reference was made to four allotment letters, namely, Ex. P4 to Ex. P7, the details of which are as under:

26. The aforesaid plots were big chunks of land. The average sale consideration paid therein was stated to be Rs. 1,25,608.67 per square yard.

However, the fact is that these plots were sold in open auction for commercial purpose and more than 4 years after the issuance of notification u/s

4 of the Act and that too carved out of the land, which had already been acquired in the year 1994 and located quite close to National Highway

No. 8. Reference had also been made to allotment letter dated 2.2.2000 (Ex.P38) pertaining to plots No. 13, 14 and 15, Sector 5, IMT,

Manesar, whereby 30,000 square meters of land was allotted for Rs. 4,50,00,000/- at an average price of Rs. 1,254.72 per square yard. The

aforesaid allotment was two years prior to the acquisition in question. However, the fact remains that even the aforesaid plots were also carved out

of the land acquired in the year 1994.

20. The learned Single Judge then noted that the State and HSIIDC did not adduce any documentary evidence to support the award made by the

Collector and observed:

28. As against the evidence led by the landowners, the State or even HSIIDC did not lead any documentary evidence to justify the award of the

Collector by showing any sale transaction pertaining to agricultural land in the area. This is not a case in isolation of the type. A lot of hue and cry is

raised by the agencies of the State for whose benefit the land is acquired that they should be heard before assessment of compensation at every

stage, but the experience is that it is very rare that in any case they lead evidence or raise any effective argument in the court below and many a

times, even in this Court.

21. The learned Single Judge finally relied upon the judgment of this Court in Pran Sukh''s case and held that the landowners are entitled to

compensation at the rate of Rs. 37,40,000 per acre. The reasons recorded by the learned Single Judge for arriving at this conclusion are contained

in paragraphs 29 and 30 of the impugned judgment, which are extracted below:

29. From the appreciation of evidence produced on record, in my opinion, the price of the agricultural land, which was acquired in the year 1994,

as determined by Hon''ble the Supreme Court in Pran Sukh''s case (supra), can very well be taken as base for assessment of value of the acquired

land, which also on the date of notification was being put to agricultural use. The additional advantage available at the time of acquisition of the land

in question was that the area in the vicinity had started developing during interregnum of 7-8 years after the first acquisition in the year 1994. The

value of the land, which was being put to agricultural use and was in the vicinity of the land already acquired cannot be determined at the same rate

at which the plots were being sold by way of allotment or auction in the already developed area but those prices are certainly the guiding factors

for determination of rate at which the increase should be awarded, which in my opinion, should be @ 12% per annum. Taking the same into

account and considering the time gap in the two acquisition being 7 years and 3 months, the value of the land is determined at Rs. 37,40,000/- per

acre. The landowners shall also be entitled to the statutory benefits available to them under the Act.

30. The aforesaid value will be quite close if we consider the valuation of land from different angle, i.e., considering the allotment of 30,000 square

meters of land vide allotment letter (Ex.P38) @ Rs. 1254/- per square yard on 2.2.2000, granting increase thereon @ 12% per annum and

reducing 50% therefrom on account of various factors.

22. The learned Single Judge separately considered the claim of M/s. Kohli Holdings Private Limited which had filed R.F.A. No. 4646 of 2010.

He took cognizance of the location of 69 kanals 15 marlas land belonging to M/s. Kohli Holdings Private Limited on National Highway 8 with

frontage of two acres and the existence of a five star hotel and a resort on the adjoining land. The learned Single Judge relied upon allotment of

30,000 square meters land made by HSIIDC vide Exhibit P38 to M/s. Orient Craft Limited (sister concern of M/s. Kohli Holdings Private

Limited) at the rate of Rs. 1,254 per square yard, granted an annual increase of 15% on that price and awarded compensation at the rate of Rs.

2119 per square yard (Rs. 1,02,55,960 per acre). Paragraphs 31, 33 and 34 of the impugned judgment which exclusively deal with the case of

M/s. Kohli Holdings Private Limited are as under:

31. As far as value of the land owned by M/s. Kohli Holdings Private Limited (R.F.A. No. 4646 of 2010) is concerned, the same has to be

determined separately. This fact was not even disputed by learned Counsel for HSIIDC and rightly so for the reason that the aforesaid portion of

69 kanals and 15 marlas is located on National Highway No. 8 with frontage of two acres. Even from the back side also, it has connection from a

link road. It was also not disputed that adjoining thereto is a five star hotel and a resort. The other area adjoining to it, which was earlier acquired

by the State in the year 1994, had already been developed. Even on the other side of National Highway No. 8, opposite the acquired land, the

area had already been developed as Housing Project for industrial workers. The value of this land cannot be assessed merely at the rates, which

have been granted to the owners of land which is located 4-5 kilometers from National Highway No. 8.

33. The aforesaid sale transaction having taken place two years prior to the issuance of notification u/s 4 of the Act and looking at the pace of

development close to the acquired land, in my opinion, increase @ 15% per annum can very well be added in the value, as is evident in Ex P38.

Adding the same, the value of the land will come out to Rs. 1,630/- per square yard. The aforesaid plot is located about one kilometer inside from

National Highway No. 8, though in the developed industrial estate, but as against that, the acquired land is abutting the National Highway with

frontage of two acres out of 69 kanals and 15 marlas owned by the Appellant-landowner. The value of the land on National Highway is always

more as against the value of the land, which is located off the road. It has its own advantages. There are certain limitations for which the land

located off the main road can be used, but as far as the land located on the National Highway or the State Highway is concerned, it can be put to

many uses, to which the land located off the road may not be appropriately used.

34. Considering the aforesaid facts, in my opinion, applying a thumb rule, an addition of 30% thereon can very well be added on account of special

locational advantage available to the land in question. Adding the same, the value of the land owned by M/s. Kohli Holdings Pvt. Ltd. (R.F.A. No.

4646 of 2010) is assessed at Rs. 2,119/- per square yard. The land owner shall also be entitled to the statutory benefits available under the Act.

23. Although in the special leave petitions filed by HSIIDC several grounds have been taken for challenging the judgment of the learned Single

Judge, the only point urged by Shri Parag P. Tripathi, learned senior counsel appearing on its behalf is that the escalation of 12% granted by the

learned Single Judge in the amount of compensation determined by this Court in Pran Sukh''s case is excessive and is not in consonance with the

law laid down by this Court. He relied upon the judgment of this Court in Oil and Natural Gas Corporation Limited v. Rameshbhai Jivanbhai Patel

and another (2008) 14 SCC 745 and argued that while assessing market value of a large chunk of land, the Court cannot award more than 7.5%

escalation in the market value determined in respect of similar parcels of land. Learned senior counsel emphasized that HSIIDC had to spend a

substantial amount on carrying out development and argued that this factor should have been taken into consideration by the learned Single Judge

while fixing market value of the acquired land. Shri Tripathi also criticized the impugned judgment insofar as it relates to the award of compensation

at the rate of Rs. 1,02,55,960 per acre in the case of M/s. Kohli Holdings Private Limited by arguing that in view of several statutory restrictions

on the development of land along National Highway 8, the landowners could not have been awarded higher compensation.

24. Shri V.K. Bali, learned senior counsel, and other learned Counsel appearing for the landowners, who are the Appellants in various appeals

except the appeals arising out of SLP(C) No. 18044 of 2011 (R.F.A. No. 4278 of 2010) and SLP(C) No. 21030 of 2011 raised several

contentions in support of their clients'' prayer for grant of further enhancement in the amount of compensation determined by the learned Single

Judge of the High Court. Their main contentions are enumerated below:

1. The High Court committed an error by not awarding higher compensation to all the landowners as was done in the case of M/s. Kohli Holdings

Private Limited.

2. The impugned judgment suffers from the vice of discrimination inasmuch as M/s. Kohli Holdings Private Limited has been allowed 15% increase

over and above the price for which 30,000 square meters land was allotted to M/s. Orient Craft Limited whereas the other landowners were

allowed only 12% increase. Likewise, they were not given an additional 30% amount as was done in the case of M/s. Kohli Holdings Private

Limited.

3. The learned Single Judge committed an error by not clarifying that the landowners shall be entitled to the benefit of annual increase on cumulative

basis.

4. Though the land of M/s. Kohli Holdings Private Limited appears to have special locational advantage inasmuch as it is adjacent to National

Highway 8, the development potential of land belonging to other landowners is much higher because the same is located between two highways,

i.e., National Highway 8 and KMP Express Way and a 60 meter road connects that land and National Highway 8.

5. The learned Single Judge committed an error by not relying upon Exhibit PW9/A dated 23.11.1999 by which HSIIDC allotted 26.778 acres

land to M/s. Honda Motorcycles and Scooters India (Private) Limited at the rate of Rs. 1254.18 per square yard for manufacture of two

wheelers/three wheelers. Even if 40% deduction is made towards development cost, as was done in Sanath Kumar v. Special Tahsildar and

another (2011) 12 SCC 404 and cumulative increase of 15% is given, the landowners will be entitled to compensation at a much higher rate.

25. Shri Dushyant Dave, learned senior counsel appearing for M/s. Kohli Holdings Private Limited vehemently argued that the learned Single

Judge of the High Court committed an error by not awarding higher compensation to his client in the light of the auction sale conducted by HSIIDC

in 2006. He submitted that even though these auctions were conducted about four years after finalization of the acquisition proceedings, the rate at

which the land was sold should be taken into consideration for the purpose of fixation of market value because no other tangible evidence was

available for that purpose. He relied upon the judgment in Executive Engineer, Karnataka Housing Board vs. Land Acquisition Officer, Gadag and

others (2011) 2 SCC 246 nd submitted that in the absence of private sale transactions, auction sale conducted by the beneficiary of acquisition can

be relied upon for the purpose of fixing market value.

26. Shri P.S. Patwalia and Dr. Abhishek Manu Singhvi, learned senior counsel appearing for Maruti Suzuki India Limited (for short, ''Maruti

Udyog Limited'') opposed the landowners'' claim for further enhancement in the amount of compensation by arguing that this would place

unbearable burden on the company. They pointed out that out of 771 acres land acquired for Phases-II and III of IMT, Manesar, 600 acres land

was allotted to Maruti Udyog Limited at the rate of Rs. 19,00,000 per acre in 2008 and if further enhancement is granted, the financial health of

the company will be seriously impaired. Learned senior counsel pointed out that vide letter dated 1.10.2012 HSIIDC has already made demand of

Rs. 500 crores in lieu of the enhanced compensation to the landowners and submitted that if further enhancement is granted, the management may

have to take a decision to discontinue the plant at Manesar. Shri Patwalia emphasized that if the manufacturing activities are closed by the company

at Manesar, more than 20000 workers will be rendered jobless and the State will suffer revenue loss to the tune of Rs. 8000 crores. Both the

learned senior counsel emphasized that the land was allotted to Maruti Udyog Limited without any development and argued that this should be

taken as the criteria for determination of the compensation. Shri Patwalia also made an additional submission that the judgments of the Reference

Court and the High Court are liable to be set aside because Maruti Udyog Limited was not impleaded as a party despite the fact that it falls within

the ambit of the expression ''person interested'' in Section 3(b) of the Act. In support of this argument, reliance has been placed on the judgments

of this Court in Himalayan Tiles and Marble (P) Limited v. Francis Victor Coutinlo (1980) 3 SCC 223 , U.P. Awas Vikas Parishad v. Giyan Devi

(1995) 2 SCC 326 and DDA v. Bhola Nath Sharma (2011) 2 SCC 54

27. Learned Counsel for the landowners controverted the statement made by the learned senior counsel for Maruti Udyog Limited that the

company was allotted the land in 2008. They pointed out that as per conveyance deed dated 7.8.2008, 501.8 acres of land was allotted to Maruti

Udyog Limited vide allotment letter dated 5.4.2004 which was followed by agreement dated 9.8.2004. They further argued that if the object of the

acquisition was to benefit Maruti Udyog Limited, the Government should have resorted to the provisions contained in Part VII of the Act and its

failure to do so should be treated as sufficient for quashing the acquisition proceedings in their entirety. In support of this argument, learned Counsel

relied upon the judgment of this Court in Royal Orchid Hotels Limited v. G. Jayarama Reddy (2011) 10 SCC 608 Learned Counsel also pointed

out that as per Exhibit P11 which was filed in L.A.C. No. 34/2008, 7875 square meters of land was allotted to M/s. Krishna Maruti Limited

(subsidiary of Maruti Udyog Limited) at the rate of Rs. 73,38,795 per acre and argued that this by itself should be treated as sufficient for

awarding higher compensation to the landowners.

28. We have considered the respective submissions and carefully scrutinized the records including the additional affidavits filed on behalf of the

parties and their written arguments.

29. A careful scrutiny of the impugned judgment shows that while determining the amount of compensation payable to the landowners other than

M/s. Kohli Holdings Private Limited, the learned Single Judge did make a reference to Exhibit P38 (paragraph 30) but did not rely upon the same

for the purpose of determination of the amount of compensation. Instead of adopting a holistic approach and examining the documents produced

before the Reference Court, the learned Single Judge simply referred to the judgment of this Court in Pran Sukh''s case, granted a flat increase of

12% for the time gap of about 7 years and 3 months between the two acquisitions, i.e., 1994 and 2002 and determined market value at the rate of

Rs. 37,40,000 per acre. In the case of M/s. Kohli Holdings Private Limited, the learned Single Judge squarely relied upon Exhibit P38 for the

purpose of fixing market value of the acquired land, granted an increase at a flat rate of 15% per annum on the price of land specified in Exhibit

P38 with an addition of 30% on account of special locational advantage and held that the particular landowner is entitled to compensation at the

rate of Rs. 2119 per square yard (Rs. 1,02,55,960 per acre). However, no discernible reason has been given for granting the benefit of annual

increase at different rates to M/s. Kohli Holdings Private Limited on the one hand and the remaining landowners on the other. Therefore, we find

merit in the argument of the learned Counsel for the remaining landowners that their clients have been subjected to discrimination in the matter of

grant of annual increase.

30. The other error committed by the learned Single Judge is that he granted annual increase at a flat rate of 12/15%.

31. The question whether the benefit of annual increase in the predetermined price of a portion of the acquired land or a similar land should be

cumulative was considered by this Court in Oil and Natural Gas Corporation Limited v. Rameshbhai Jivanbhai Patel (supra) and answered in the

affirmative. Paragraphs 12 to 15 and 18 and 19 of that judgment, which contain the rationale of granting cumulative increase are extracted below:

12. We have examined the facts of the three decisions relied on by the Respondents. They all related to acquisition of lands in urban or semi-urban

areas. Ranjit Singh related to acquisition for development of Sector 41 of Chandigarh. Ramanjulu related to acquisition of the third phase of an

existing and established industrial estate in an urban area. Bipin Kumar related to an acquisition of lands adjoining Badaun-Delhi Highway in a

semi-urban area where building construction activity was going on all around the acquired lands.

13. Primarily, the increase in land prices depends on four factors: situation of the land, nature of development in surrounding area, availability of

land for development in the area, and the demand for land in the area. In rural areas, unless there is any prospect of development in the vicinity,

increase in prices would be slow, steady and gradual, without any sudden spurts or jumps. On the other hand, in urban or semi-urban areas, where

the development is faster, where the demand for land is high and where there is construction activity all around, the escalation in market price is at

a much higher rate, as compared to rural areas. In some pockets in big cities, due to rapid development and high demand for land, the escalations

in prices have touched even 30% to 50% or more per year, during the nineties.

14. On the other extreme, in remote rural areas where there was no chance of any development and hardly any buyers, the prices stagnated for

years or rose marginally at a nominal rate of 1% or 2% per annum. There is thus a significant difference in increases in market value of lands in

urban/semi-urban areas and increases in market value of lands in the rural areas. Therefore, if the increase in market value in urban/semi-urban

areas is about 10% to 15% per annum, the corresponding increases in rural areas would at best be only around half of it, that is, about 5% to

7.5% per annum. This rule of thumb refers to the general trend in the nineties, to be adopted in the absence of clear and specific evidence relating

to increase in prices. Where there are special reasons for applying a higher rate of increase, or any specific evidence relating to the actual increase

in prices, then the increase to be applied would depend upon the same.

15. Normally, recourse is taken to the mode of determining the market value by providing appropriate escalation over the proved market value of

nearby lands in previous years (as evidenced by sale transactions or acquisitions), where there is no evidence of any contemporaneous sale

transactions or acquisitions of comparable lands in the neighbourhood. The said method is reasonably safe where the relied on sale

transactions/acquisitions precede the subject acquisition by only a few years, that is, up to four to five years. Beyond that it may be unsafe, even if

it relates to a neighbouring land. What may be a reliable standard if the gap is of only a few years, may become unsafe and unreliable standard

where the gap is larger. For example, for determining the market value of a land acquired in 1992, adopting the annual increase method with

reference to a sale or acquisition in 1970 or 1980 may have many pitfalls. This is because, over the course of years, the ""rate"" of annual increase

may itself undergo drastic change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices

affecting the very standard of increase.

18. The increase in market value is calculated with reference to the market value during the immediate preceding year. When market value is

sought to be ascertained with reference to a transaction which took place some years before the acquisition, the method adopted is to calculate the

year to year increase. As the percentage of increase is always with reference to the previous year''s market value, the appropriate method is to

calculate the increase cumulatively and not applying a flat rate. The difference between the two methods is shown by the following illustration (with

reference to a 10% increase over a basic price of Rs. 10 per square metre):

19. We may also point out that application of a flat rate will lead to anomalous results. This may be demonstrated with further reference to the

above illustration. In regard to the sale transaction in 1987, where the price was Rs. 10 per square metre, if the annual increase to be applied is a

flat rate of 10%, the increase will be Rs. 1 per annum during each of the five years 1988, 1989, 1990, 1991 and 1992. If the price increase is to

be determined with reference to sale transaction of the year 1989 when the price was Rs. 12 per square metre, the flat rate increase will be Rs.

1.20 per annum, for the years 1990, 1991 and 1992. If the price increase is determined with reference to a sale transaction of the year 1990 when

the price was Rs. 13 per square metre, then the flat rate increase will be Rs. 1.30 per annum for the years 1991 and 1992. It will thus be seen that

even if the percentage of increase is constant, the application of a flat rate leads to different amounts being added depending upon the market value

in the base year. On the other hand, the cumulative rate method will lead to consistency and more realistic results. Whether the base price is Rs. 10

or Rs. 12.10 or Rs. 13.31, the increase will lead to the same result. The logical, practical and appropriate method is therefore to apply the increase

cumulatively and not at a flat rate.

32. The same view was reiterated in Valliyammal v. Special Tahsildar (Land Acquisition) (2011) 8 SCC 91 Of course, in that case annual increase

of 10% was allowed to the landowners.

33. We also find merit in the argument of the learned Counsel for the landowners that while fixing market value of the acquired land the learned

Single Judge committed serious error by not considering an important piece of evidence, i.e., Exhibit PW9/A dated 23.11.1999 vide which

HSIIDC had allotted land to M/s. Honda Motorcycles and Scooters India (Private) Limited at the rate of Rs. 1254.18 per square yard. Although,

this document was produced before the Reference Court but the same was not taken into consideration while determining the amount of

compensation. The same error has been repeated in the impugned judgment. If this document is taken into consideration, then market value of the

acquired land would come to Rs. 60,69,360 per acre. By making deduction of 50% towards development cost and granting annual increase of

12/15% (cumulative), market value of the land will be much higher than Rs. 37,40,000 per acre.

34. In view of the above conclusions, we do not consider it necessary to deal with the other points argued by learned Counsel for the

parties/interveners and feel that ends of justice will be served by setting aside the impugned judgment and remitting the matters to the High Court

for fresh disposal of the appeals and cross objections filed by the parties subject to the rider that the State Government/HSIIDC shall pay the

balance of Rs. 37,40,000 to the landowners along with other statutory benefits.

35. In the result, the appeals are allowed, the impugned judgment is set aside and the matter is remitted to the High Court for fresh disposal of the

appeals filed by the parties u/s 54 of the Act as also the cross objections. The parties shall be free to urge all points in support of their respective

cause and the High Court shall decide the matter uninfluenced by the observations contained in this judgment.

36. Maruti Udyog Limited shall be free to file an appropriate application before the High Court for its impleadment or grant of leave to act as

intervener in the appeals filed by the parties. If such an application is filed, the same shall be decided on its own merits.

37. The State Government/HSIIDC shall pay the balance of compensation determined by the High Court, i.e., Rs. 37,40,000 - Rs. 28,15,356 =

Rs. 9,24,644 per acre to the landowners and/or their legal representatives along with all statutory benefits within a period of four months from

today. The payment shall be made to the landowners and/or their legal representatives by following the procedure laid down in the interim orders

passed by this Court.