2025:PHHC:148558

187 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

RFA-639-2025 (O&M)
Decided on:-28.10.2025

Rampal Singh .....Appellant(s)..

vs.

State of Haryana and others ....Respondents..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sandeep Sharma, Advocate,
Ms. Gitanjali, Advocate,
Mr. Rohan Moudgil, Advocate and
Ms. Maninee, Advocate,
for the landowners.

Mr. Deepak Saini, Advocate for
Mr. Pritam Singh Saini, Advocate for the HSIIDC.

Mr. Abhinash Jain, DAG, Haryana.

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HARKESH MANUJA J. (Oral)

1. This common judgment of mine shall dispose of the batch of 27 connected Regular First Appeals, details whereof are given at the bottom of the judgment, as they all involve common question of law and facts.

1.1 For convenience, the facts are being taken from RFA-639-2025 (O&M).

2. By way of present appeals, challenge has been laid to an Award dated 11.04.2025 passed by the Rehabilitation & Settlement Authority-cum-Additional District Judge, Gurugram (for short, "Reference Court"), whereby, reference petition(s) preferred at the instance of appellants-

landowners invoking Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabiliation and Resettlement Act, 2013 (for short, "2013 Act"), were partly allowed.

3. Brief facts of the case are that 132 kanal of land owned by the appellants-landowners, situated in the revenue estate of Village Mohammadpur Jharsa, Tehsil & District Gurugram, was sought to be acquired vide notifications dated 24.12.2013 and 18.12.2014, issued under Sections 4 & 6, respectively, of the Land Acquisition Act, 1894 (hereinafter referred to as "1894 Act), for the public purpose, namely, Metro Rail Track and its allied uses. The Land Acquisition Collector-cum-District Revenue Officer vide its award dated 13.01.2017, assessed the market value of the acquired land at the rate of Rs.1,90,00,000/- per acre.

4. Aggrieved of the same, the appellants-landowners invoked separate reference petition(s) under Section 64 of the 2013 Act, seeking enhancement of compensation. Upon consideration of the material available on record, the Reference Court vide its Award dated 11.04.2025, enhanced the market value to Rs.2,04,02,826/- per acre besides grant of all other statutory benefits.

5. Feeling dissatisfied with the aforesaid Award passed by the ld. Reference Court, the landowners as well as HSIIDC have preferred their appeals, details whereof are given at the bottom of the judgment.

6. Impugning the aforementioned award, learned counsel for the appellants-landowners submits that the award by the Land Acquisition Collector-cum-District Revenue Officer, Gurugram in the present case was passed in exercise of powers under Section 26 of the 2013 Act on

13.01.2017 and in such a situation, relying upon clause 1(b) to Section 26 read with *explanation* 2 thereof, the compensation was required to be assessed on the basis of average sale price for similar type of land situated in the same revenue estate or at best the nearest revenue estate by taking into account one-half of the total number of sale deeds in which the highest sale price was mentioned.

6.1 Learned counsel submits that though the ld. Reference Court took into account the 05 sale deeds pertaining to the same revenue estate of Village Mohammadpur Jharsa having the highest price/value and calculated the average sale price, however, wrongly applied deduction of 40% while observing that such sale instances were of small parcels. While relying upon the aforementioned statutory provisions i.e. Section 26 of the 2013 Act and the latest proposition of law made thereupon by the Hon'ble Apex Court in ***"Madhya Pardesh Road Development Corporation vs. Vincent Daniel and Others, 2025 (7) SCC 798" ,*** learned counsel submits that under the new Land Acquisition Act, no deduction was required to be applied on the average sale price. He thus, submits that the market value should have been assessed exclusively on the basis of the average sale price of the highest sale exemplars as tabulated in paragraph No. 47 of the impugned award and thus, the market value was required to be enhanced accordingly. No other argument has been addressed.

7. On the other hand, learned counsel appearing on behalf of respondent No.3 submits that in view of the settled proposition of law in terms of repeated decisions rendered by the Hon'ble Apex Court, the ld. Reference Court was fully justified in applying the deduction over the

average sale price derived from the sale instances tabulated in paragraph No. 47 of the impugned award. In support, learned counsel places reliance upon the following decisions passed by the Hon'ble Apex Court:-

(i) ***Kasturi vs. State of Haryana, 2003(1) SCC 354***. Relevant paras 14 to 17 are reproduced hereunder:-

> *"14 On facts and in the light of the legal position emerging from the various decisions referred to above, it is not possible for us to say that cut of 20% adopted by the learned Single Judge as affirmed by the Division Bench in the impugned judgment is wrong or unsustainable. It appears to us having regard to facts and circumstances of the case that the High Court has applied cut of 20% as against the normal 1/3 deduction. We find that the High Court was right and justified in doing so.*
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> *15. The decision of Bhagwathula Samanna (supra) does not help the appellants as the said decision was rendered on the facts of that case. As already noticed above, the said decision was referred to in earlier decisions of this Court and distinguished. That was a case of a fully developed land having all amenities and situated in an advantageous position. In the context of the facts of that case, in para 11, it is stated thus:-*
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> *"The principle of deduction in the land value covered by the comparable sale is thus adopted in order to arrive at the market value of the acquired land. In applying the principle it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition which is the only relevant factor. Even in the vast area there may be land which is fully developed having all amenities and situated in an advantageous position. If smaller area within the large tract is already developed and suitable for building purposes and have in its vicinity roads, drainage, electricity, communications etc. then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified."(emphasis supplied)*
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> *16. In that case deduction was not given on the ground that even in the vast area there may be land, which is fully developed having all amenities and situated in an advantageous position; if smaller area*

within the large tract is already developed and suitable for building purposes and have in its vicinity roads, drainage, electricity, communication, etc., then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified.

17. In the present case the situation is entirely different. The area acquired is not a small area; it was not developed; may be it had some advantages; a small portion of the large tract was abutting the main road; it was also not the case that any smaller area within the large tract of land acquired was fully developed having all facilities as in the case of Bhagwathula Samanna (supra). The appellants herein did not establish that the entire area of 84 acres of land acquired was fully developed having all the facilities such as roads, drains, sewers, water, electricity lines and civic amenities. In order to convert the land into plots for the purpose of construction of residential and commercial buildings certain area was to be earmarked for the abovementioned purposes in accordance with the law governing in the matter of creating layouts in addition to incurring of expenditure for the development area. Hence the claim of the appellants that there should have been no deduction out of the compensation amount determined for the entire area acquired is unsustainable. May be the acquired land with potentiality for construction of residential and commercial buildings had some advantages, which aspect is taken note of by the High Court in giving cut of only 20% as against 1/3 normal deduction."

(ii) ***Kanta Devi and others vs. State of Haryana and another, 2008 AIR (SC)3107***. Relevant para 30 is reproduced hereunder:-

"30. The learned Single Judge of the High Court has taken into consideration the nature of the land sought to be acquired in relying on Ex.P.6 in assessing the market value thereof and has applied a deduction of 70% in arriving at the compensation to be awarded to the claimants in respect of the said lands. The various other documents which were produced on behalf of the claimants were in respect of the lands which were similar to the lands forming the subject matter of Ex.P.6. The learned Single Judge has given reasons for not relying on

all the other exemplars in choosing to rely on Ex.P.6 alone. But the rate of deduction applied appears to be on the high side in relation to the developmental work involved in making the acquired land suitable for the purposes for which they were so acquired. The acquired lands are adjacent to the village abadi which is already developed. Having regard to the consistent view that a deduction of 1/3rd of the market value is normal, though a higher deduction is permissible, we are of the view that deduction of 60% would meet the expenditure towards developmental charges considering the proximity of the acquired lands to the areas already developed.

(iii) ***Karnataka Housing Board vs. Land Acquisition Officer, Gadag and others, 2011(2) SCC 246***. Relevant para 10 is reproduced hereunder:-

"10. Evidence shows that the acquired lands were situated within the municipal limits, though on the outskirts of Gadag-Betegeri within a distance of one kilometer from Gadag Railway Station and the bus stand; and that there were several residential colonies and colleges in the surrounding areas. Therefore though the lands were agricultural, they could be classified as lands having urban development potential. Having regard to the partial access to infrastructural facilities, we are of the view that a deduction of 40% towards cost of development would meet the ends of justice. On the facts and circumstances, the cut of 53% applied by the Reference Court is too high and the cut of 33% applied by the High Court is low. On applying a cut of 40%, the rate per acre for the acquired land as on 6.2.1992 would be Rs. 2,95,476/- (rounded off to Rs. 2,95,500)."

(iv) ***Maj. Gen. Kapil Mehra and others vs. Union of India and another, 2015(2) SCC 262.*** Relevant paras 32 to 41:-

"32. While making one third deduction towards development cost, the learned single Judge did not keep in view the two essential components of deduction for development. Deduction for 20

development consists of two components:- firstly, appropriate deduction to be made towards the area required to be utilized for roads, drains and common facilities like parks etc.; secondly, further deduction to be made towards the cost of development, that is cost of levelling the land, cost of laying roads and drains, erection of electrical poles and water lines etc. For deduction of development towards land and development charges, the nature of development, conditions and nature of the land, the land required to be set apart under the Building Rules for roads, sewerage, electricity, parks, water supply etc. and other relevant circumstances involved are required to be considered.

33. In Haryana State Agricultural Market Board And Anr. vs. Krishan Kumar And Ors., (2011) 15 SCC 297, it was held as under: "10. It is now well settled that if the value of small developed plots should be the basis, appropriate deductions will have to be made therefrom towards the area to be used for roads, drains, and common facilities like park, open space, etc. Thereafter, further deduction will have to be made towards the cost of development, that is, the cost of leveling the land, cost of laying roads and drains, and the cost of drawing electrical, water and sewer lines."

34. Consistent view taken by this Court is that one third deduction is made towards the area to be used for roads, drains, and other facilities, subject to certain variations depending upon its nature, location, extent and development around the area. Further, appropriate deduction needs to be made for development cost, laying roads, erection of electricity lines depending upon the location of the 21 acquired land and the development that has taken place around the area.

35. Reiterating the rule of one third deduction towards development, in Sabhia Mohammed Yusuf Abdul Hamid Mulla (Dead) by Lrs. and Ors. vs. Special Land Acquisition Officer and Ors., (2012) 7 SCC 595, this Court in paragraph 19 held as under:- "19. In fixing the market value of the acquired land, which is undeveloped or underdeveloped, the courts have generally approved deduction of 1/3rd of the market value towards development cost except when no development is required to be made for implementation of the public purpose for which land in acquired. In Kasturi vs. State of Haryana

(2003) 1 SCC 354) the Court held: (SCC pp. 359-60, para 7) "7… It is well settled that in respect of agricultural land or undeveloped land which has potential value for housing or commercial purposes, normally 1/3rd amount of compensation has to be deducted out of the amount of compensation payable on the acquired land subject to certain variations depending on its nature, location, extent of expenditure involved for development and the area required for road and other civic amenities to develop the land so as to make the plots for residential or commercial purposes. A land may be plain or uneven, the soil of the land may be soft or hard bearing on the foundation for the purpose of making construction; may be the land is situated in the midst of a developed area all around but that land may have a hillock or may be low-lying or may be having deep ditches. So the amount of expenses that may be incurred in developing the area also varies. A claimant who claims that his land is fully developed and nothing more is required to be done for developmental purposes, must show on the basis of evidence that it is such a land and it is so located. In the absence of such evidence, merely saying that the area adjoining his land is a developed area, is not enough, particularly when the extent of the acquired land is large and even if a small portion of the land is abutting the main road in the developed area, does not give the land the character or a developed area. In 84 acres of land acquired even if one portion on one sides abuts the main road, the remaining large area where planned development is required, needs laying of internal roads, drainage, sewer, water, electricity lines, providing civic amenities, etc. However, in cases of some land where there 22 are certain advantages by virtue of the developed area around, it may help in reducing the percentage of cut to be applied, as the developmental charges required may be less on that account. There may be various factual factors which may have to be taken into consideration while applying the cut in payment of compensation towards developmental charges, may be in some cases it is more than 1/3rd and in some cases less than 1/3rd. It must be remembered that there is difference between a developed area and an area having potential value, which is yet to be developed. The fact that an area is developed or adjacent to a developed area will not ipso facto make every land situated in the area also developed to be

valued as a building site or plot, particularly when vast tracts are acquired, as in this case, for development purpose." (emphasis supplied) The rule of 1/3rd deduction was reiterated in Tejumal Bhojwani v. State of U.P. ((2003)10 SCC 525, V. Hanumantha Reddy v. Land Acquisition Officer, (2003) 12 SCC 642, H.P. Housing Board v. Bharat S. Negi (2004) 2 SCC 184 and Kiran Tandon v. Allahabad Development Authority. (2004)10 SCC 745"

36. While determining the market value of the acquired land, normally one third deduction i.e. 331/3% towards development charges is allowed. One third deduction towards development was allowed in Special Tehsildar, L.A. Vishakapatnam vs. Smt.A. Mangala Gowri, (1991) 4 SCC 218; Gulzara Singh & Ors. vs. State of Punjab & Ors., (1993) 4 SCC 245; Santosh Kumari & Ors. vs. State of Haryana, (1996) 10 SCC 631; Revenue Divisional Officer-cum-LAO vs. Shaik Azam Saheb etc., (2009) 4 SCC 395; A.P. Housing Board vs. K. Manohar Reddy, (2010)12 SCC 707; Ashrafi & Ors. vs. State of Haryana & Ors., (2013) 5 SCC 527 and Kashmir Singh vs. State of Haryana & Ors., (2014) 2 SCC 165.

37. Depending on nature and location of the acquired land, 23 extent of land required to be set apart and expenses involved for development, 30% to 50% deduction towards development was allowed in Haryana State Agricultural Market Board and Anr. vs. Krishan Kumar and Ors. (2011) 15 SCC 297; Deputy Director Land Acquisition vs. Malla Atchinaidua And Ors. AIR 2007 SC 740; Mummidi Apparao (Dead by LR) vs. Nagarjuna Fertilizers & Chemical Ltd., AIR 2009 SC 1506; and Lal Chand vs. Union of India and Anr. (2009) 15 SCC 769.

38. In few other cases, deduction of more than 50% was upheld. In the facts and circumstances of the case in Basavva (Smt.) And Ors. v. Spl. Land Acquisition Officer And Ors., (1996) 9 SCC 640, this Court upheld the deduction of 65%. In Kanta Devi & Ors. vs. State of Haryana And Anr., (2008) 15 SCC 201, deduction of 60% towards development charges was held to be legal. This Court in Subh Ram & Ors. vs. State of Haryana & Anr., (2010) 1 SCC 444, held that deduction of 67% amount was not improper. Similarly, in Chandrasekhar (dead) by L.Rs. and Ors. vs. LAO & Anr., (2012) 1 SCC 390, deduction of 70% was upheld.

39. We have referred to various decisions of this Court on deduction towards development to stress upon the point that deduction towards development depends upon the nature and location of the acquired land. The deduction includes components of 24 land required to be set apart under the building rules for roads, sewage, electricity, parks and other common facilities and also deduction towards development charges like laying of roads, construction of sewerage.

40. Rule of one third deduction towards development appears to be the general rule. But so far as Delhi Development Authority is concerned, or similar statutory authorities, where well planned layouts are put in place, larger land area may be utilized for forming layout, roads, parks and other common amenities. Percentage of deduction for development of land to be made in DDA or similar statutory authorities with reference to various types of layout was succinctly considered by this Court in Lal Chand vs. Union of India & Anr. (2009) 15 SCC 769 and observing that the deduction towards the development range from 20% to 75% of the price of the plots, in paras 13 to 22, this Court held as under:-

> *"13. The percentage of "deduction for development" to be made to arrive at the market value of large tracts of undeveloped agricultural land (with potential for development), with reference to the sale price of small developed plots, varies between 20% to 75% of the price of such developed plots, the percentage depending upon the nature of development of the layout in which the exemplar plots are situated.*
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> *14. The "deduction for development" consists of two components. The first is with reference to the area required to be utilized for developmental works and the second is the cost of the development works. For example, if a residential layout is formed by DDA or similar statutory authority, it may utilize around 40% of the land area in the layout, for roads, drains, parks, playgrounds and civic amenities (community facilities), etc.*
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> *15. The development authority will also incur considerable 25 expenditure for development of undeveloped land into a developed layout, which includes the cost of leveling the land, cost of providing roads, underground drainage and sewage facilities, laying water lines, electricity lines and developing parks ands civil amenities, which would be about 35% of the value of the developed plot. The two factors taken together would be the "deduction for development" and can account for as much as 75% of the cost of the developed plot.*
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> *16. On the other hand, if the residential plot is in an*

unauthorized private residential layout, the percentage of "deduction for development" may be far less. This is because in an unauthorized layout, usually no land will be set apart for parks, playgrounds and community facilities. Even if any land is set apart, it is likely to be minimal. The roads and drains will also be narrower, just adequate for movement of vehicles. The amount spent on development work would also be comparatively less and minimal. Thus the deduction on account of the two factors in respect of plots in unauthorized layouts, would be only about 20% plus 20% in all 40% as against 75% in regard to DDA plots.

17. The "deduction for development" with reference to prices of plots in authorized private residential layouts may range between 50% to 65% depending upon the standards and quality of the layout.

18. The position with reference to industrial layouts will be different. As the industrial plots will be large (say of the size of one or two acres or more as contrasted with the size of residential plots measuring 100 sq. m to 200 sq m), and as there will be very limited civic amenities and no playgrounds, the area to be set apart for development (for roads, parks, playgrounds and civic amenities) will be far less; and the cost to be incurred for development will also be marginally less, with the result the deduction to be made from the cost of an industrial plot may range only between 45% to 55% as contrasted from 65% to 75% for residential plots.

19. If the acquired land is in a semi-developed urban area, and not an undeveloped rural area, then the deduction for development may be as much less, that is, as little as 25% to 40%, as some basic infrastructure will already be available. (Note: The percentages mentioned above are tentative standards and subject to proof to the contrary.

20. Therefore the deduction for the "development factor" to be made with reference to the price of a small plot in a developed layout, to arrive at the cost of undeveloped land, will be far more than the deduction with reference to the price of a small plot in an unauthorized private layout or an industrial layout. It is also well known that the development cost incurred by statutory agencies is much higher than the cost incurred by private developers, having regard to higher overheads and expenditure.

21. Even among the layouts formed by DDA, the percentage of land utilized for roads, civic amenities, parks and playgrounds may vary with reference to the nature of layout- whether it is residential , residential-cum-commercial or industrial; and even among residential layouts, the percentage will differ having regard to the size of the plots, width of the roads, extent of community facilities, parks and playgrounds provided.

22. Some of the layouts formed by the statutory development authorities may have large areas earmarked for water/sewage treatment plants, water tanks, electrical substations, etc. in addition to the usual areas earmarked for

> *roads, drains, parks playgrounds and community/civic amenities. The purpose of the aforesaid examples is only to show that the "deduction for development" factor is a variable percentage and the range of percentage itself being very wide from 20% to 75%." Lal Chand's case deals with acquisition of lands by DDA under the Rohini Residential Housing Scheme where 40% deduction was made towards the land area to be utilized for laying down of roads, drains etc. Further deduction of 35% of the value of the developed plot towards cost of levelling the land, cost of providing roads, underground drainage, laying down water lines, electricity lines was made.*

41. In the instant case, having regard to the extent of the land acquired and the development in and around Vasant Kunj area, in our view, it is appropriate to make 35% deduction towards utilization of the land area in the layout for roads, drains, parks, playgrounds and civic amenities. So far as the expenditure for development of the large extent of land into a developed area by construction of proper roads, underground drainage, sewerage and erection of electricity 27 lines, it is appropriate to make further deduction of 25%, though 35% of the value was deducted in Lal Chand case (supra) towards development charges. Two components taken together, the total deduction to be made would be 60%. 60% of Rs.35,937/- works out to Rs.21,562/- and deducting the same, the value of the land would be Rs.14,375/- per sq. yard. What was awarded by the High Court was Rs.14,974/- per sq. yard. Since the SLP (Civil) No.15272/2011 filed by DDA was dismissed by this Court on 12.5.2011 and the sale has become final as against the appellants, we are not inclined to further reduce the value of the acquired land from Rs.14,974/- per sq. yard as determined by the High Court and the compensation awarded by the High Court at Rs.14974/- per sq. yard is maintained."

(v) ***Madhukar s/o Govindrao Kamble & ors. v. Vidarbha Irrigation Development Corporation and others, 2022(1) RCR(Civil) 820***.

Relevant para 11 is reproduced hereunder:-

> *"11. The evidence produced by the landowners is that the acquired land is close to Educational Institutions, Banks, Tahsil Office etc. whereas there is no evidence that the irrigated agricultural land has the potential of use for either residential or commercial purposes. It is not*

> *the nature of land which alone is determinative of the market value of the land. The market value must be determined keeping in view the various factors including proximity to the developed area and the road etc. As per the evidence led by the landowners, the land acquired is ½ km from the road. The land is close to developed residential or commercial or institutional area. On the other hand, there is no evidence that Exh.31 and Exh.32 are in any way comparable to the land acquired. The High Court has erred in law in holding that since the land of the sale exemplars Exh.31 and Exh.32 is of irrigated agricultural land whereas the land acquired is unirrigated, is not the reasonable yardstick to determine market value of the land as the land in question is close to already developed area."*

7.1 Learned counsel also points out that in the given facts and circumstances, the deduction applied @ 40% was on the lower side and considering the small area forming part of the sale exemplars relied upon by the ld. Reference Court, cut at the rate of at least 50% was required to be made and moreso, appropriate additional deduction towards the development costs was also to be applied.

7.2 Learned counsel further points out that the ld. Reference Court failed to take into account sale deeds Ex.R-1 to Ex.R-4, which were proved on record by the respondents-department. He submits that all the 04 sale exemplars Ex.R-1 to Ex.R-4 were pertaining to the same revenue estate of village Mohammadpur Jharsa and related to the period prior to the issuance of notification under Section 4 of the 1894 Act (i.e. 24.12.2013) and the average price per acre was approximately **@ Rs.1 crore.** He thus, contends that no further enhancement towards market value was required to be granted in favour of the appellants-landowners as the Land Acquisition Collector in exercise of powers under Section 26 of the 2013 Act already

granted much more beyond the aforesaid average price. Learned counsel thus, submits that the impugned award is liable to be set aside. No other argument has been addressed

8. I have heard learned counsel for the parties and gone through the paper book.

8.1 At the outset, it may be noticed here that no merit can be found in the submissions made on behalf of the learned counsel appearing on behalf of the respondents-department as regards the reliance been placed upon the sale exemplars Ex.R-1 to Ex.R-4 for two reasons. Firstly, a perusal of the award dated 13.01.2017 passed by the District Revenue Officer-cum-Land Acquisition Collector, Gurugram, whereby the market value of the acquired land was assessed at rate of Rs.1,90,00,000/- per acre, relies upon the price fixation made by the District Collector, Guguram. Thus, in such circumstances, the sale exemplar carrying price lesser than the rate fixed by the District Collector, Gurugram cannot be treated to be bonafide or genuine sale transactions. Relevant clause 4 of the award dated 13.01.2017 passed by the District Revenue Officer-cum-Land Acquisition Collector, Gurugram in exercise of powers under 26 of the 2013 Act is extracted hereunder:-

> *"4. In order to arrive at a conclusion about the market vlaue of the land under acquisition. I have visited the land under acquisition and taken into consideration its location and potentiality. To fix the market value the Haryana Government has constituted a Divisional level Land Rate Fixation Committee under the Chairmanship of the concerned Commissioner of the Division which has been dissolved by the Haryana Govt. Vide notification No.1917-R-5-2014/15193 dated 12.11.2014. Now the District Collector, Gurugram has fixed the rate of land as per under Section 27 of the said Act. The District Collector, Gurugram was requested for fixation of rate of land vide letter No.1570*

dated 28.03.2016 to supply the market value/price of land under acquisition. The rate was fixed by Ld. District Collector, Gurugra at Rs.1,90,00,000/- (One Crore Ninety Lac only) per acre for all kinds of land vide letter No.6409/DRA dated 05.12.2016.

Keeping in view, the above discuisson and market rate intimated by the Ld. District Collector, Gurugram. I have come to the conclusion that the rates fixed by the District level Land Rates Fixation Committee, Gurugram are just and fair, So, I award the same accordingly."

8.2 Secondly, as per the settled law and now even from the intent of the Legislature which flows from Section 26 of the 2013 Act, in case of determination of market value on the basis of sale deeds of similar type of land, the average sale price of the highest sale exemplar has to be taken into account. Thus, the sale instances referred to by the respondents-department in the form of Ex.R-1 to Ex.Ex.R-4 not being the highest of the sale exemplars were rightly and correctly discarded by the ld. Reference Court.

9. Further, before delving upon the issue of deduction applied by the ld. Reference Court @ 40% of the average sale price derived from the sale exemplars tabulated in para 47 of the impugned award, it may be necessary to recaptulate Section 26 of the 2013 Act.

"*26. **Determination of market value of land by Collector.**–(1) The "Collector shall adopt the following criteria" in assessing and determining the market value of the land, namely:—*

(a) the market value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899) for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or

(b) the average sale price for similar type of land situated in the nearest village or nearest vicinity area; or

(c) consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of lands for private companies or for public private partnership projects, whichever is

higher:

Provided that the date for determination of market value shall be the date on which the notification has been issued under section 11.

Explanation 1.—The average sale price referred to in clause (b) shall be determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made.

Explanation 2.—For determining the average sale price referred to in Explanation 1, one-half of the total number of sale deeds or the agreements to sell in which the highest sale price has been mentioned shall be taken into account.

Explanation 3.—While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration.

Explanation 4.—While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid, which in the opinion of the Collector is not indicative of actual prevailing market value may be discounted for the purposes of calculating market value.

(2) The market value calculated as per sub-section (1) shall be multiplied by a factor to be specified in the First Schedule.

(3) Where the market value under sub-section (1) or sub-section (2) cannot be determined for the reason that—

(a) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

(b) the registered sale deeds or agreements to sell as mentioned in clause (a) of sub-section (1) for similar land are not available for the immediately preceding three years; or

(c) the market value has not been specified under the Indian Stamp Act, 1899 (2 of 1899) by the appropriate authority,

the State Government concerned shall specify the floor price or minimum price per unit area of the said land based on the price

calculated in the manner specified in sub-section (1) in respect of similar types of land situated in the immediate adjoining areas:

Provided that in a case where the Requiring Body offers its shares to the owners of the lands (whose lands have been acquired) as a part compensation, for acquisition of land, such shares in no case shall exceed twenty-five per cent, of the value so calculated under sub-section (1) or sub-section (2) or sub-section (3) as the case may be:

Provided further that the Requiring Body shall in no case compel any owner of the land (whose land has been acquired) to take its shares, the value of which is deductible in the value of the land calculated under sub-section (1):

Provided also that the Collector shall, before initiation of any land acquisition proceedings in any area, take all necessary steps to revise and update the market value of the land on the basis of the prevalent market rate in that area:

Provided also that the appropriate Government shall ensure that the market value determined for acquisition of any land or property of an educational institution established and administered by a religious or linguistic minority shall be such as would not restrict or abrogate the right to establish and administer educational institutions of their choice."

A perusal of the aforesaid statutory provision makes it evident that for the purpose of determination of the market value of the acquired land while relying upon the sale deeds of the land situated either in the same revenue estate or in the nearest vicinity, the average sale price of half of the sale deeds carrying the highest sale price needs to be taken into account. Section 26(1)(b) read with *explanation* 2, nowhere talks about any deduction to be imposed upon such average sale price. However, in terms of *explanation* 4 to Section 26(1), any price paid, which in the opinion of the Collector is not indicative of actual prevailing market value can be discounted for the purposes of calculating the market value.

10. Even, the Hon'ble Supreme Court in ***Vincent Daniel's case (supra),*** upon detailed comparison of Section 23 of the 1894 Act with Section 26 of the 2013 Act, has went on to hold that the theory of deduction need not be applied unless any opinion was expressed by the Collector indicating that any deduction or discount was to be applied for the purpose of calculating the market value upon the average sale price. Relevant para 41 is extracted hereunder:-

> *"41. In view of the above-stated reasons, we hold that the compensation has been calculated in accordance with the mandate of the Acquisition Act, 2013. Thus, no reduction in the amount can be granted by applying the theory of deduction. It has been left to the Collector's discretion to make adjustments to the market value determined through Section 26(1), if deemed necessary in the opinion of the Collector. In the facts of the present case, there was no such formation of opinion by the Competent Authority or the Commissioner."*

11. In the given facts, no evidence has been pointed out by the learned counsel for the respondents-Department to show that any opinion was ever expressed by the Collector about any suspicion regarding the price paid under the sale instances tabulated in para 47 of the impunged award. No material has been placed on record to support any such kind of belief concluded by the Collector indicating that the average sale price derived from the sale consideration of the sale exemplars forming part of paragraph No. 47 of the impugned award did not indicate the actual prevailing market value; and accordingly, no deduction over the average price derived by the ld. Reference Court was permissible. As such, the reliance placed upon by the learned counsel for the respondents-department to the judgments in cases

of ***Kasturi's*** case; ***Kanta Devi's*** case; ***Karnataka Housing Board's*** case; ***Maj. Gen. Kapil Mehra's*** case and ***Madhukar's*** case (supra), in the most humble and respectful opinion of this Court was thus misplaced as the said judgments relate to the provisions of the 1894 Act and not under the provisions of 2013 Act.

12. Be that as it may, in the present case, the average sale price was derived by the ld. Reference Court while relying upon the five sale instances as tabulated in para no.47 of the impugned award. A perusal thereof shows that the area forming part of the said five sale instances range between 4 kanals to 27 kanals and as such, the same cannot be said to be of sale exemplars pertaining to small parcels, in comparison to the total land acquired in the present case being 132 kanals. Moreover, as per the law laid down by the Hon'ble Apex Court in terms of the provisions of 1894 Act, for the purpose of determination of market value of the acquired land on the basis of sale examplers, the sale instances fetching highest market price need to be taken into account and in case those pertain to small parcel of land, appropriate cut towards smallness of area in comparison to the are acquired has to be applied depending upon each case. However, in the case in hand, the acquisition proceedings have been carried out under the provisions of 2013 Act while taking into account the parameters laid down under Section 26 thereof and already an average of the five highest sale deeds has been made the basis, rather than taking into account only the top highest of the sale instance. As such, the effect of smallness of area involved in the sale examplers, if any, has already been accounted for by taking average the sale price of five highest sale examplers and thus, rights of the respondents have

been taken care of in all respects.

12.1 Furthermore, as the land in this case was acquired for the purpose of laying down of Metro Rail Track and its allied uses, the respondents were not going to incur any loss of land or cost/expenditure towards providing of additional infrastructural amenities for the ultimate beneficiaries and thus, in such circumstances, the ld. Reference Court went wrong while having applied the deduction of 40% over the average sale price derived from the sale exemplars tabulated in para 47 of the impugned award, whereas, at best a deduction of 10% was required to be applied in the given facts and circumstances while taking into account the factor of optimum utilization of land by the respondents and the beneficiary.

13. Accordingly, in the light of discussion made herein above, the appellants-landowners shall be entitled for award of market value @ Rs.3,06,04,239/- per acre as per the average price derived from the sale examplers mentioned in para 47 of the impugned award followed by 10% deduction thereupon along with all other statutory benefits and interest as provided under the 2013 Act.

14. In view of the aforesaid discussion, the appeals filed at the instance of landowners are partly allowed, whereas, the cross-appeals filed at the instance of HSIIDC are hereby dismissed.

15. Further, in case of unfortunate demise of any of the appellants-landowners, if the legal heir(s)-legal representative(s) have not been brought on record, they shall be entitled for filing exemption applications in their own names being legal heirs or legal representatives of the deceased-landowners; subject of course to any testamentary document created by the

deceased.

16. Pending application, if any, also stands disposed of.

28.10.2025 **(HARKESH MANUJA)**
sonika **JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/ No

Sr. No.	Case No.
1.	RFA-639-2025 (O&M)
2	RFA-642-2025 (O&M)
3.	RFA-650-2025 (O&M)
4.	RFA-651-2025 (O&M)
5	RFA-652-2025 (O&M)
6.	RFA-653-2025 (O&M)
7	RFA-668-2025 (O&M)
8	RFA-670-2025 (O&M)
9	RFA-675-2025 (O&M)
10	RFA-686-2025 (O&M)
11	RFA-763-2025 (O&M)
12	RFA-772-2025 (O&M)
13	RFA-687-2025 (O&M)
14	RFA-688-2025 (O&M)
15	RFA-689-2025 (O&M)
16	RFA-690-2025 (O&M)
17	RFA-691-2025 (O&M)
18	RFA-692-2025 (O&M)
19	RFA-693-2025 (O&M)
20	RFA-694-2025 (O&M)
21	RFA-695-2025 (O&M)
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23	RFA-697-2025 (O&M)
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25	RFA-699-2025 (O&M)
26	RFA-700-2025 (O&M)
27	RFA-701-2025 (O&M)

(HARKESH MANUJA)
JUDGE

28.10.2025
sonika