

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s) OF 2017
(Arising out of SLP(C) No.16063 of 2016)

JAG MAHENDER & ANR. APPELLANT(S)

VERSUS

STATE OF HARYANA & ORS. RESPONDENT(S)

WITH

CIVIL APPEAL No(s) OF 2017
(Arising out of SLP(C) Nos.12759-12793 of 2017)

CIVIL APPEAL No(s) OF 2017
(Arising out of SLP(C) No. 19623 of 2016)

CIVIL APPEAL No(s) OF 2017
(Arising out of SLP(C) No. 35379 of 2016)

CIVIL APPEAL No(s) OF 2017
(Arising out of SLP(C) No.19412 of 2016)

CIVIL APPEAL No(s) OF 2017
(Arising out of SLP(C) No.19552 of 2016)

CIVIL APPEAL No(s) OF 2017
(Arising out of SLP(C) No.19942 of 2016)

CIVIL APPEAL No(s) OF 2017
(Arising out of SLP(C) No. 20459 of 2016)

CIVIL APPEAL No(s). OF 2017
(Arising out of SLP(C) No.7398 of 2017)

CIVIL APPEAL No(s). OF 2017
(Arising out of SLP(C) No. 19540 of 2016)

CIVIL APPEAL No(s). OF 2017
(Arising out of SLP(C) Nos.3258-3354 of 2017)

O R D E R

Leave granted.

The appeals have been preferred by the State of Haryana, as well as by the landowners. The State has come up in the appeal for questioning the compensation granted by the High Court and for the deduction to be made, whereas the landowners have come up in the appeals for enhancement of the compensation.

The Notification under Section 4 of the Land Acquisition Act, 1894 (in short 'the Act') is on 29.09.2005 and 15.12.2005 for villages Asoudha Todran and Mandothi, respectively, in District Jhajjar. The Land Acquisition Collector determined

the compensation at the rate of Rs.12,50,000/- per acre. On the reference made under Section 18 of the Act, the reference court, after recording the evidence, awarded compensation at the rate of Rs.14,24,996/- per acre for village Asoudha Todran, and Rs.14,69,052/- per acre for village Mandothi.

The High Court has relied upon the sale deed (P3) dated 6.6.2002, with respect to 8 kanals area, the land was sold at the rate of Rs.30,00,000/- per acre. The High Court has given 15% increase, for three years, that too on a cumulative basis. The High Court has determined the compensation at the rate of Rs.45,62,625/- per acre for both the aforesaid villages.

We have heard learned counsel for the parties. In our opinion, the High Court has erred in law in not applying the cut for the development, and in giving the 15% appreciation and that too on a cumulative basis. The area has to be deducted for the purpose of development, as has been laid down by this court, while considering a plethora of decisions, in *Major General Kapil Mehra & Ors. vs. Union of India & Anr.* [(2015) 2 SC 262] in which this court has considered

this question thus:

"33. In Haryana State Agricultural Market Board vs. Krishan Kumar, (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."

35. Reiterating the rule of one-third deduction towards development, in Sabha Mohammed Yusuf Abdul Hamid Mulla vs. Special Land Acquisition Officer, (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 is 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 side 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 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."

The rule of 1/3rd deduction was reiterated in *Tejmal 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. 33 1/3% towards development charges is allowed. One-third deduction towards development was Land in *Tehsildar(L.A.) vs. A. Mangala Gowri*, (1991) 4 SCC 218; *Gulzara Singh vs. State of Punjab*, (1993) 4 SCC 245; *Santosh Kumari vs. State of Haryana*, (1996) 10 SCC 631; *Revenue Divisional Officer & L.A.O. vs. Sk. Azam Saheb*, (2009) 4 SCC 395; *A.P. Housing Board vs. K. Manohar Reddy*, (2010)12 SCC 707; *Ashrafi vs. State of Haryana*, (2013) 5 SCC 527 and *Kashmir Singh vs. State of Haryana*, (2014) 2 SCC 165.

37. Depending on nature and location of the acquired land, 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 vs. Krishan Kumar* (2011) 15 SCC 297; *Director, Land Acquisition vs. Malla Atchinaiudua* 2006 (12) SCC 87; *Mummidi Apparao vs. Nagarjuna Fertilizers & Chemicals Ltd.*, AIR 2009 SC 1506; and *Lal Chand vs. Union of India* (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 v. Land Acquisition Officer*, (1996) 9 SCC 640, this Court upheld the deduction of 65%. In *Kanta Devi vs. State of Haryana* (2008) 15 SCC 201, deduction of 60% towards development charges was held to be legal. This Court in *Subh Ram vs. State of Haryana*, (2010) 1 SCC 444, held that deduction of 67% amount was not improper. Similarly, in *Chandrasekhar vs. Land Acquisition Officer*, (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 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."

Considering the aforesaid aspect, we deem it appropriate to modify the determination made by the High Court to the extent that we deduct 25% of the area from the sale deed (P3), its value comes to Rs.22,50,000/- per acre, and then adding 15% appreciation on flat basis for three years, confined to the facts of this case. The amount comes to Rs.32,62,500/- per acre. Along with the amount of compensation awarded at the aforesaid rate the amount to carry the statutory benefits. The amount which has

not been paid so far be paid within a period of three months from today.

The appeals filed by the State are allowed to the aforesaid extent, and that by the landowners are also accordingly disposed of.

.....J.
(ARUN MISHRA)

.....J.
(MOHAN M. SHANTANAGOUDAR)

NEW DELHI;
SEPTEMBER 21, 2017

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s) . _____ OF 2017
(Arising out of SLP(C) No.20497-20500 of 2016)

BHARTI & ANR. ETC. ETC. APPELLANT(S)

VERSUS

THE STATE OF HARYANA & ORS. RESPONDENT(S)

WITH

CIVIL APPEAL No(s) . _____ OF 2017
(Arising out of SLP(C) No.6513-6530 of 2017)

CIVIL APPEAL No(s) . _____ OF 2017
(Arising out of SLP(C) No. 23179 of 2017)

CIVIL APPEAL No(s) . _____ OF 2017
(Arising out of SLP(C) No. 23128-23177 of 2017)

CIVIL APPEAL No(s) . _____ OF 2017
(Arising out of SLP(C) No. 23124 of 2017)

CIVIL APPEAL No(s) . _____ OF 2017
(Arising out of SLP(C) No.23798 of 2017)

CIVIL APPEAL No(s) . _____ OF 2017
(Arising out of SLP(C) No. 23679 of 2017)

CIVIL APPEAL No(s) . _____ OF 2017
(Arising out of SLP(C) No. 22905 of 2017)

CIVIL APPEAL No(s) . OF 2017
(Arising out of SLP(C) No. 23802-23803 of 2017)

CIVIL APPEAL No(s) . OF 2017
(Arising out of SLP(C) No.23180 of 2017)

CIVIL APPEAL No(s) . OF 2017
(Arising out of SLP(C) No.23125 of 2017)

CIVIL APPEAL No(s) . OF 2017
(Arising out of SLP(C) No.23822 of 2017)

CIVIL APPEAL No(s) . OF 2017
(Arising out of SLP(C) No.23901 of 2017)

CIVIL APPEAL No(s) . OF 2017
(Arising out of SLP(C) No. 23825 of 2017)

CIVIL APPEAL No(s) . OF 2017
(Arising out of SLP(C) Nos.23807-23818 of 2017)

O R D E R

Leave granted.

Heard learned counsel for the parties.

The appeals have been preferred by the State of Haryana as well as by the landowners. The State has come up in the appeal for questioning the

compensation granted by the High Court and for the deduction made, whereas the landowners have come up in the appeals for enhancement of the compensation.

The Notification under Section 4 of the Land Acquisition Act, 1894 (in short 'the Act') was published on 25.08.2005. The Land Acquisition Collector determined the compensation at the rate of Rs.12,50,000/- per acre. On reference being sought under Section 18 of the Act, the reference court, after recording the evidence, dismissed all the reference petitions and upheld the LAC Award. The High Court has relied upon the sale deed (P1) dated 8.8.2003, which was with respect to 2 kanals area only and in which the land was sold at the rate of Rs.38,91,200/- per acre.

On the appeal of landowners, the High Court enhanced the compensation to Rs.48,57,000/- per acre.

We have heard learned counsel for the parties, and after considering the very small sale deed in the instant cases, covering only 1210 sq.yard area, we are of

the view to make deductions towards smallness, as well as for development. In *Maj. Gen. Kapil Mehra & Ors. v. Union of India & Anr.* (2015) 2 SCC 262 this court has observed that deduction has to be made for smallness as well for development. This Court has laid down:

33. In *Haryana State Agricultural Market Board and Anr. v. 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.

36. While determining the market value of the acquired land, normally one third deduction i.e. $33\frac{1}{3}\%$ towards development charges is allowed. One third deduction towards development was allowed in *Special Tehsildar, L.A. Vishakapatnam v. Smt. A. Mangala Gowri* (1991) 4 SCC 218; *Gulzara Singh and Ors. v. State of Punjab and Ors.* (1993) 4 SCC 245; *Santosh Kumari and Ors. v. State of Haryana* (1996) 10 SCC 631; *Revenue Divisional Officer-cum-LAO v. Shaik Azam Saheb etc.* (2009) 4 SCC 395; *A.P. Housing Board v. K. Manohar Reddy* (2010) 12 SCC 707; *Ashrafi and Ors. v. State of Haryana and Ors.* (2013) 5 SCC 527 and *Kashmir Singh v. State of Haryana and Ors.* (2014) 2 SCC 165.

37. Depending on nature and location of the acquired land, 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. v. Krishan Kumar and Ors. (2011) 15 SCC 297; Deputy Director Land Acquisition v. Malla Atchinaidu and Ors. (2006) 12 SCC 87; Mummidi Apparao (Dead by LR) v. Nagarjuna Fertilizers and Chemical Ltd. (2009) 4 SCC 402; and Lal Chand v. Union of India and Anr. (2009) 15 SCC 769.

In the facts of the case considering its situation for development and smallness of comparable land we deduct approximately 32 to 33 % of amount. We reduce the compensation, as determined by the High Court, to Rs.32,62,500/- per acre for aforesaid villages of District Palwal. The amount of compensation awarded at the aforesaid rate, to carry the statutory benefits. The amount which has not been paid so far be paid within a period of three months from today.

The appeals filed by the State are allowed to the aforesaid extent, and that by the landowners are also, accordingly, disposed of.

.....J.
(ARUN MISHRA)

.....J.
(MOHAN M. SHANTANAGODAR)

NEW DELHI;
SEPTEMBER 21, 2017

ITEM NO.2

COURT NO.10

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 16063/2016

(Arising out of impugned final judgment and order dated 12-02-2016 in RFA No. 9573/2014 passed by the High Court Of Punjab & Haryana At Chandigarh)

JAG MAHENDER & ANR.

Petitioner(s)

VERSUS

THE STATE OF HARYANA STATE OF HARYANA & ORS.

Respondent(s)

WITH

SLP(C) No. 12759-12793/2017 (IV-B)

SLP(C) No. 19623/2016 (IV-B)

SLP(C) No. 35379/2016 (IV-B)

SLP(C) No. 19412/2016 (IV-B)

SLP(C) No. 19552/2016 (IV-B)

SLP(C) No. 19942/2016 (IV-B)

SLP(C) No. 20459/2016 (IV-B)

SLP(C) No. 7398/2017 (IV-B)

SLP(C) No. 19540/2016 (IV-B)

SLP(C) No. 20497-20500/2016 (IV-B)

SLP(C) No. 3258-3354/2017 (IV-B)

SLP(C) No. 6513-6530/2017 (IV-B)

(and IA No.67432/2017-XTRA and IA No.95226/2017-APPLICATION FOR SUBSTITUTION and IA No.95226/2017-APPLICATION FOR SUBSTITUTION and IA No.95226/2017-APPLICATION FOR SUBSTITUTION and IA No.95236/2017-APPLICATION FOR TRANSPOSITION)

SLP(C) No. 23179/2017 (IV-B)

(IA No.65464/2017-CONDONATION OF DELAY IN REFILING)

SLP(C) No. 23128-23177/2017 (IV-B)

(FOR ADMISSION and I.R. and IA No.52451/2017-CONDONATION OF DELAY IN FILING)

SLP(C) No. 23124/2017 (IV-B)

(FOR ADMISSION and I.R. and IA No.63609/2017-CONDONATION OF DELAY IN REFILING)

SLP(C) No. 23825/2017 (IV-B)

(FOR ADMISSION and I.R. and IA No.67531/2017-CONDONATION OF DELAY IN FILING and IA No.67528/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.67533/2017-CONDONATION OF DELAY IN REFILING)

SLP(C) No. 23125/2017 (IV-B)

(FOR ADMISSION and I.R. and IA No.68294/2017-CONDONATION OF DELAY IN FILING and IA No.68293/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.68295/2017-CONDONATION OF DELAY IN REFILING)

SLP(C) No. 23180/2017 (IV-B)
 (FOR ADMISSION and I.R. and IA No.66033/2017-EXEMPTION FROM FILING
 C/C OF THE IMPUGNED JUDGMENT and IA No.66034/2017-CONDONATION OF
 DELAY IN REFILING)

SLP(C) No. 23679/2017 (IV-B)
 (FOR ADMISSION and I.R. and IA No.63699/2017-CONDONATION OF DELAY
 IN REFILING)

SLP(C) No. 22905/2017 (IV-B)
 (FOR ADMISSION and I.R. and IA No.63029/2017-CONDONATION OF DELAY
 IN REFILING)

SLP(C) No. 23802-23803/2017 (IV-B)
 (FOR ADMISSION and IA No.64736/2017-CONDONATION OF DELAY IN
 REFILING)

SLP(C) No. 23798/2017 (IV-B)
 (FOR ADMISSION and I.R. and IA No.66104/2017-CONDONATION OF DELAY
 IN REFILING)

SLP(C) No. 23807-23818/2017 (IV-B)
 (IA No.70632/2017-CONDONATION OF DELAY IN FILING and IA
 No.70634/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 23901/2017 (IV-B)
 (FOR ADMISSION and I.R. and IA No.77442/2017-CONDONATION OF DELAY
 IN FILING and IA No.77449/2017-EXEMPTION FROM FILING C/C OF THE
 IMPUGNED JUDGMENT and IA No.77445/2017-CONDONATION OF DELAY IN
 REFILING)

SLP(C) No. 23822/2017 (IV-B)
 (IA No.69236/2017-CONDONATION OF DELAY IN FILING and IA
 No.69235/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
 and IA No.69239/2017-CONDONATION OF DELAY IN REFILING)

Date : 21-09-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
 HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For the parties:

Mr. Jay Kishor Singh, AOR
 Mr. Gautam Godara, Adv.

Mr. Somvir Singh Deswal, Adv.
 Mrs. Amit Kumar S., Adv.
 Mr. Satbir Singh P., Adv.
 Mr. M. Quyam Ud Din, Adv.
 Ms. Sumita Bano, Adv.
 Mr. Umesh P. Wadhvani, Adv.
 Mr. Vibhakar Mishra, Adv.
 Mr. Nischal Kumar Neeraj, AOR

Mr. Abhay Pratap, Adv.
 Mr. Manju Jetley, AOR

Mr. Alok Sangwan, Addl.A.G.
Mr. Abhinash Jain, Asst. A.G.
Mr. Sunny Kadiyan, Adv.
Dr. Monika Gusain, AOR

Mr. Rohit Vats, Adv.
Mr. Monika Sharma, Adv.
Mr. Rajesh Saharan, Adv.
Mr. Daya Krishan Sharma, AOR

Mr. Deepkaran Dalal, Adv.
Mr. Yash Pal Dhingra, AOR

Mr. N.S. Dalal, Adv.
Mr. M.S. Tawatia, Adv.
Mr. R. C. Kaushik, AOR

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Substitution allowed.

Leave granted.

The appeals filed by the State allowed to the extent mentioned in the signed order and that by the owners are disposed of in terms of two signed orders.

Pending application, if any shall stand disposed of.

(NEELAM GULATI)
COURT MASTER (SH)

(two signed orders are placed on the file)

(TAPAN KUMAR CHAKRABORTY)
BRANCH OFFICER