

ITEM NO.59

COURT NO.8

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). 28906/2016

(Arising out of impugned final judgment and order dated 08-04-2016 in RFA No. 324/2010 passed by the High Court Of Punjab & Haryana At Chandigarh)

UMESH GUPTA

Petitioner(s)

VERSUS

THE STATE OF HARYANA

Respondent(s)

WITH

SLP(C) No. 11092-11251/2017 (IV-B)

SLP(C) No. 11257/2017 (IV-B)

SLP(C) No. 32949-32956/2016 (IV-B)

(FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 47893/2017)

SLP(C) No. 23565/2017 (IV-B)

SLP(C) No. 28676/2016 (IV-B)

SLP(C) No. 28643/2016 (IV-B)

SLP(C) No. 28907/2016 (IV-B)

SLP(C) No. 28569/2016 (IV-B)

SLP(C) No. 28564/2016 (IV-B)

SLP(C) No. 28562/2016 (IV-B)

SLP(C) No. 28909/2016 (IV-B)

SLP(C) No. 28561/2016 (IV-B)

SLP(C) No. 33919-33921/2016 (IV-B)

SLP(C) No. 28567/2016 (IV-B)

SLP(C) No. 28566/2016 (IV-B)

SLP(C) No. 28638/2016 (IV-B)

SLP(C) No. 24736-24790/2017 (IV-B)

(FOR CONDONATION OF DELAY IN FILING ON IA 1/2017

FOR CONDONATION OF DELAY IN REFILING ON IA 56/2017)

SLP(C) No. 37346-37349/2016 (IV-B)

SLP(C) No. 7696-7722/2017 (IV-B)

Date : 09-10-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s)/	Mr. V.K. Bali, Sr. Adv.
Respondent	Mr. Arun Bhardwaj, AAG, Haryana
	Mr. Ronak Karanpuria, Adv.
	Mr. Ashish Pandey, Adv.
	Mr. Piyush Hans, Adv.

Mr. Avinash Jain, Adv.  
Mr. Vishwa Pal Singh, AOR

Mr. Satish Kumar, AOR

Ms. Suresh Kumari, Adv.  
Ms. Divya Mishra, Adv.  
Mr. Ranjit Kumar Sharma, AOR

Mr. Mayank Datta, Adv.  
Mr. Shree Pal Singh, AOR

Mr. Sumeet Mahajan, Adv.  
Mr. Amit Kochar, Adv.  
Mr. Ashok K. Mahajan, AOR

Mr. Priyanjali Singh, AOR

Mr. Dhruv Mehta, Sr. Adv.  
Mr. Rishi Malhotra, AOR

Mr. M.L. Sharma, Adv.  
Mr. Dinesh Verma, Adv.  
Mr. Rajat Sharma, Adv.  
Mr. S. L. Aneja, AOR

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

Delay is condoned.

Leave granted.

In terms of the signed order, the appeals preferred by the State Government are allowed in part and the appeals preferred by the landowners are hereby dismissed. The remaining compensation to be paid along with the statutory benefits within a period of three months from today. No costs.

(OM PARKASH SHARMA)  
AR CUM PS

(Signed order is placed on the file)

(TAPAN KUMAR CHAKRABORTY)  
BRANCH OFFICER

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).17022 OF 2017  
(Arising out of SLP(C)No.28906/2016)

UMESH GUPTA

..APPELLANT(S)

VERSUS

THE STATE OF HARYANA

..RESPONDENT(S)

WITH

CIVIL APPEAL NO(S) .17034-17041/2017  
(@ SLP(C) No. 32949-32956/2016)  
CIVIL APPEAL NO(S) .17237 /2017  
(@ SLP(C) No. 23565/2017)  
CIVIL APPEAL NO(S) .17026 /2017  
(@ SLP(C) No. 28676/2016)  
CIVIL APPEAL NO(S) .17077-17236/2017  
(@ SLP(C) No. 11092-11251/2017)  
CIVIL APPEAL NO(S) .17076 /2017  
(@ SLP(C) No. 11257/2017)  
CIVIL APPEAL NO(S) .17027 /2017  
(@ SLP(C) No. 28643/2016)  
CIVIL APPEAL NO(S) .17025 /2017  
(@ SLP(C) No. 28907/2016)  
CIVIL APPEAL NO(S) .17029 /2017  
(@ SLP(C) No. 28569/2016)  
CIVIL APPEAL NO(S) .17030 /2017  
(@ SLP(C) No. 28564/2016)  
CIVIL APPEAL NO(S) .17028 /2017  
(@ SLP(C) No. 28562/2016)  
CIVIL APPEAL NO(S) .17024 /2017  
(@ SLP(C) No. 28909/2016)  
CIVIL APPEAL NO(S) .17023 /2017  
(@ SLP(C) No. 28561/2016)  
CIVIL APPEAL NO(S) .17042-17044 /2017  
(@ SLP(C) No. 33919-33921/2016)  
CIVIL APPEAL NO(S) .17031 /2017  
(@ SLP(C) No. 28567/2016)  
CIVIL APPEAL NO(S) .17032 /2017  
(@ SLP(C) No. 28566/2016)

CIVIL APPEAL NO(S) .17033 /2017  
(@ SLP(C) No. 28638/2016)  
CIVIL APPEAL NO(S) .17238-17292 /2017  
(@ SLP(C) No. 24736-24790/2017)  
CIVIL APPEAL NO(S) .17045-17048 /2017  
(@ SLP(C) No.37346-37349/2016)  
CIVIL APPEAL NO(S) .17049-17075/2017  
(@ SLP(C) No.7696-7722/2017)

O R D E R

Delay is condoned.

Leave granted.

These appeals have been preferred by the State Government as well as by the landowners, assailing the judgment and order passed by the High Court of Punjab and Haryana in Regular First Appeal No.324 of 2010, awarding compensation for the acquired land at the uniform rate of Rs.380/- per square yard.

The preliminary notification under Section 4 of the Land Acquisition Act, 1894 was issued on 26<sup>th</sup> June 1989 for the acquisition of certain lands in area village Ramgarh (655.93 acres), village Bhana Madanpur (485.93 acres), village Jhuriwla (5 acres) and village Mongi (3 acres) were acquired. The Land Acquisition Collector awarded the compensation at the rate of Rs.1,10,000/- per acre for Chahi/Abi land, Rs.90,000/- per acre for Barani land, Rs.70,000/- per acre for Banjar land, and

Rs.50,000/- per acre for Gair Mumkin land; whereas, the Reference Court after remand of the case by the High Court determined the compensation situated in the said four villages at the uniform rate of Rs.250/- per square yard.

The High Court, on appeals being preferred by the State Government as well as by the landowners, dismissed the appeal filed by the State, while partly allowing those filed by the landowners, and determined the compensation at the rate of Rs.380/- per square yard, relying upon the judgment in the case of *Santokh Singh v. State of Haryana and Anr.*, wherein land was acquired by issuing the notification under Section 4 on 5.4.1988. In that case, compensation @ Rs.332.50/- per sq. yard had been granted. Further, increase for a period of 14 months between the acquisition in the said case of *Santokh Singh* (supra) and the present acquisition till the issuance of preliminary notification, compensation has been worked out on the aforesaid figure of Rs.332.50 per square yard, to arrive at Rs.380/- per sq. yard. In *Santokh Singh* (supra), this Court has relied upon the rate of village Jhuriwala for that notifications had been issued way back

in the year 1981, 1983 as well as on 2.7.1985 after giving cumulative increase rate had been determined for the year 1988. The compensation had been worked out with respect to Kharak Manjoli and Majri villages, for which notification for land acquisition had been issued on 2.7.1985. The court has also taken into consideration the decision of this Court in *Ashok Kumar and Ors. v. State of Haryana and Ors.* (2015) 15 SCC 200 in which land has been acquired of the village Fatehpur, Maheshpur, Kundli and Railley respectively on 29.1.1990, 21.12.1994 and 26.4.1995, 21.12.1994, 26.4.1994. For village Maheshpur the notification under Section 4 had been issued on 29.1.1990 and compensation at the rate of Rs.394/- per acre has been awarded.

In the case of Gurdev's Singh, the following comparable exemplars were submitted:

	<u>Village</u>		<u>Situatio</u> <u>n</u>	<u>Date of</u> <u>Sale</u> <u>Deed</u>	<u>Area of</u> <u>sale</u> <u>Deed</u>	<u>Consider</u> <u>ation</u>	<u>Per</u> <u>square</u> <u>yard</u>	<u>Per acre</u>
Exhibit P-6	Ramgarh	Sale deed	Khasra No.69//19/2	03/01/91	3 Kanals 8 Marlas	576,000	280	1355200
Exhibit P-7	Ramgarh	Sale deed	Khasra No.69/19/2	03/01/91	3 Kanals 14 Marlas	504000	225	1089000

Exhibit P-8	Ramgarh	Sale deed	Khasra No.69//20	8 <sup>th</sup> of January 1991	3 Kanals 11 Marlas	612000	284	1374560
Exhibit P-9	Ramgarh	Sale deed	Khasra No.59//3/2and 62	14/02/1986	6 Marlas's	14000	77	372680
Exhibit P10	Ramgarh	Sale deed	Khasra No.80//2 Killa No.12	27/09/1988	15 Marla	22500	49	237160
Exhibit P11	Ramgarh	Sale deed	Khasra No.80//2	13/03/1989	10 Marlas	50000	165	798600
Exhibit PW 12/A		Sale deed		16/12/1985	10 Marlas	13500	44	212960
Exhibit PW 12/B	Ramgarh	Sale deed	Khasra No.80//2	3 <sup>rd</sup> of April 1986	10 Marlas	14000	46	222640
Exhibit PW 12/C	Ramgarh	Sale deed	Khasra No.69//2 1/2	14/11/1985	10 Marlas	14000	46	222640
Exhibit PW 13/A		Sale deed		23/03/1988	10 Marlas	25000	82	396880
Exhibit P 39		Sale deed		5 <sup>th</sup> of July 1984	8 Marlas	20000	82	396880
Exhibit P 56	Madanpur	Post sale deed	Khasra No.120/2	29 <sup>th</sup> of July 1998	5 Marlas	175,000	1157	5599880
Exhibit P 74	Madanpur	Sale deed	Khasra No.39//1 5/1, 2/2	11 <sup>th</sup> of August 1988	1 Kanal	35000	57	275880
Exhibit P 75	Ramgarh	Sale deed	Khasra No.79//5 /2	1 <sup>st</sup> of September 1992	6.5 Marla	33000	167	808280
Exhibit R-2	Ramgarh	Sale deed	Khasra No.15//2 0/2	7 <sup>th</sup> of June 1988	2 Kanal 1 Marla	20500	17	82280
Exhibit R 3	Ramgarh	Sale deed	Khasra No.63//1 0/1	6 <sup>th</sup> of April 1987	18 Marla	5000	9	43560

In the case of *Hansraj* following evidence had been adduced:

			<u>Hans Raj versus State of Haryana RFA No.1956 of 2010</u>
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Exhibit P-3	Ramgarh	Sale deed	Khasra No.69//19/2	03/01/91	3 Kanals 8 Marlas	576,000	280	1355200
Exhibit P-4	Ramgarh	Sale deed	Khasra No.69/19/2	03/01/91	3 Kanals 14 Marlas	504000	225	1089000
Exhibit P-5	Ramgarh	Sale deed	Khasra No.69//19/2	8 <sup>th</sup> of January 1991	1 Kanals 7 Marlas	264000	323	1563320
Exhibit P-6	Ramgarh	Sale deed	Khasra No.69//20	8 <sup>th</sup> of January 1991	3 Kanals 14 Marlas	612000	284	1374560
Exhibit P121-A	Madanpur	Sale deed		16/04/1990	4 Marlas	21000	173	837320

Following is the determination made in awards/ judgments relied on :

A	JUDGMENTS CITED BY STATE							
	Title of Judgment	Notification Under Section 4	Revenue Area of Village	Collect or Rate/Award	Reference Court Judgment Rate	High Court	Interse Distance	Remarks
1	RFA No.585 of 1988- Narota Vs. Land Acquisition Collector, Ambala	15-11-1984	Madanpur and Ramgarh (40 Acres, 6 Kanals, 16 Marlas) Hadbast No. 231 & 232	Rs.56,500/-		Rs.1,50,000/-		

2	Union of India Vs. O.P. Makhija	15-01-1985	Madanpur, Ramgarh  579 Kanals 18 Marlas)	Rs.56,500/- (Chahi), Rs.38,000/- (Barani), Rs.9500/- (Banjar)	Rs.1,50,000/-	Rs.1,50,000/- upheld in LPA	Acquired Land is part of Village Madapur and Ramgarh	Correct yardstick for giving the compensation of the land in dispute in the present case.
3	RFA No.3674 of 1992- Prem Wati and others Vs. State of Haryana & others. SLP No.4323-4324 of 2008 - Union of India vs. Premwati (D) by L.Rs. & others)	09-09-1987	Mankia Bhanu, (99 Acres, 9 Marlas)	Rs.45,000/- (Barani) Rs30,000/- (Banjar) Rs15,000/- (Banjar) Rs.7500/- (Gair Mumkin)		Rs.2,00,000/-		Setting up training centre of ITBP.
4	RFA No.1050 of 2006 - Harkirat Singh and others Vs. State of Haryana &	19-06-1995	Bhanu, Hadbast No.234, (229 Acres 7 Kanal 17 Marla)	Rs.1,70,000/- (chahi) Rs.1,55,000/- (Barani)	Rs.2,94,000/-	Rs.3,92,000/- and Rs.4,50,000/- per acre Land to depth of 2000 m from highway		For development and utilization for basic training Centre for ITBP
Case	Abhay Ram vs. SOH	Kashmiri Lal vs. SOH	Ravi Kumar vs State of Haryana	Parkash Rani vs SOH	Santokh Singh vs SOH	Ashok Kumar vs SOH (Civil Appeal No..2714-12 of 2012)	Ashok Kumar vs SOH (Civil Appeal No. 2231-2242 of 2015	

Village	Judian	Judian	Judian and Kundli	Kharak Manjoli and Majri	Naddah	Fatehpur	Fatehpur, Maheshpur, Kundli, and Railley
Section 4 Notification	12.12.1983	27.08.1981 12.12.1983 16.08.1983 16.08.1983	02.07.1985	2.07.1985	5.04.1988	19.09.1983	29.01.1990 21.12.1994 26.04.1995
LAC Award	Rs.2,66,200/- per acre (Rs 55 per sq yard) Land is not agricultural land	Rs.65,000/- per acre Rs.2,66,200/- per acre		Rs14,375 per acre (Rs.2.97 per sq yard)	Not mentioned in judgment	Not mentioned in judgment	Not mentioned in judgment

Reference Court	Boundaries of Manimajra and village Judian join each other. Location of an acquired land falls near Dhillon Cinema, Motor Market, Housing Board Colony and abuts the Kalka Chandigarh Road. Rs. 250 per sq yard	Rs.12,10,000/- per acre (Rs.250 per sq yard) (for all rest of three notification) Location of acquired land falls near Dhillon Cinema, Motor Market, Housing Board Colony and abuts the Kalka Chandigarh Highway on the left side of the road. Relied upon Award ExP2 in Abhay Ram vs SOH, ADJ awarded Rs 250 per sq yard.	Rs.250 per sq yard	Awarded Rs.1,20,000/- per acre relied upon another award passed in respect of the same village. Land acquired was situated at the crossing of National Highway Kalka Ambala Road and Village kharak Manjoli was adjacent to the land acquired	Rs.61,600/- per acre (Rs.12.72 sq yard) Ignored the award Ex P2 (u/s 4 dated 2.7.1985) passed in kharak Manjoli village which itself is passed on the basis of another award passed in village Judian and relief upon sale deed Ex R1 produce by State	Not mentioned in judgment	Rs .394 per sq yard on the basis of award passed in respect of village Judian and Kundi acquired vide notification dated 2.7.1985
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High Court		(RFA No.426 of 1994) Rs.250 per sq yard upheld		(RFA No.41 of 1997) Rs.12,10,000/- per acre (Rs.250 per sq yard) No comparable sales instances were available & ignored smaller sales instances of the year 1971 Potentiality of village Judian near land of UT Chandigarh is much better than Kharak Mangoli and Majri	(RFA No.2358 of 2002) Rs 16,09,300/- per acre (Rs 332.50 sq yard) ignored the sale deed dated 6.6.1987 Ex R1 and relied upon award Exp2 passed in Kharak Manjoli (Rs250 per sq yard) and applied 15% cumulative increase for 33 months. Kharak Mangoli situated on the East of Ambala - Shimla Highway and Village in this acquisition, Naddah, situated on the West of it.	RFA No.2358 of 1993 Rs.2,40,000/- per acre	Reduced to 366/- per sq yard (taking averaging the exemplars and applying 33.5% towards development charges)
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Supreme Court					SLP filed by State of Haryana dismissed	Rs.200 per sq.yard on the basis of Rs.250/- per sq.yard awarded for village Judian reducing it by Rs.50 as 375 yards away from National Highway , whereas Judian on the National Highway	Restored Reference court award of Rs.394 per sq yard
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It was submitted by Mr. V.K. Bali, learned senior counsel appearing on behalf of the State of Haryana, that in view of the evidence that was adduced in the case in the form of sale deed at Annexure P3 to P6 in which value was lower than what had been awarded.

It was submitted by learned senior counsel that for land in question comparative sale exemplar were available even the sale deed is prior to the preliminary notification issued under Section 4 are considered. If the sale deed executed in January 1991 and even

subsequent sale deeds to notification under Section 4 of the Act are taken into consideration the compensation would be much less, approximately Rs.280/- per square yard.

It was also submitted that land in question is situated on the other side of the river as such the award passed in the case of land of village Judia as well as Maheshpur could not have been taken as comparative exemplars. Learned counsel further urged that no deduction had been made for development and for smallness. It was further urged that in the case of acquisition of village Judian, no comparative exemplars had been taken into consideration and that only the potential value of the land had been taken into consideration, by observing that it was just adjacent to the Chandigarh, thus it would have a great potential value. It was not based on comparative sale instances or even awards. The land in question is situated on the other side of the river Jhajjar, land of State of Punjab also falls in between. Thus, learned senior counsel urged that the decision of *Ashok Kumar* (supra) need to be ignored and would not be a relevant piece of evidence and compensation has to be worked out on the basis of

comparative exemplars evidence that has been adduced in the instant case.

Mr. Dhruv Mehta, learned senior counsel appearing for the respondents-land owners submitted that no case for interference was made out, particularly in view of the award in case of *Ashok Kumar (supra)*, where this Court had enhanced the compensation to Rs.394/- per square yard for other villages also. The situation is more or less same as another highway also passed by the side of the village.

No doubt about it that certain awards have been noticed by the High Court, however, at the same time, since those awards are not inter parties, and each case has to be determined based upon the nature of evidence adduced therein, the value of the award or the judgment is like that of any other comparative exemplar. This Court has recently considered the question in *Manoj Kumar Etc. v. State of Haryana & Ors Etc.* in Civil Appeal Nos.013132-013141 of 2017 decided on 13.09.2017, *The Land Acquisition Officer, City Improvement Trust Board v. H. Narayanaiah & Ors.* (1976) 4 SCC 9, *Printers House Pvt. Ltd. v. Mst. Saiyadan (dead) by L.Rs. & Ors.* (1994) 2

SCC 133, *Karan Singh & Ors. v. Union of India* (1997) 8  
SCC 186, *Ranvir Singh & Anr. v. Union of India* (2005) 12  
SCC 59, *Special Land Acquisition Officer, Mysore Urban  
Development Authority v. Sakamma* (2010) 14 SCC 503.  
Though an award is a relevant piece of evidence, that  
cannot be said to be binding. There is no *res judicata*  
as the decision is not inter-party.

It is also a settled principle of law that when there  
are comparative sale instances available on record, the  
Court need not go into the awards which have been passed  
earlier, and need not apply the annual increase method to  
work out the compensation. The annual increase method;  
should not be adopted in any case, for more than 4-5  
years. It is not safe to adopt it for more than 4-5  
years, as there may be stagnancy in the prices since the  
prices are not bound to increase every year; thus it is  
not a very safe method to determine the compensation. We  
see that for the last few years there is no increase in  
the value of land.

When we consider the award on which reliance has  
been placed by the High Court we find no exemplar have

been referred to in *Ashok Kumar* (supra), reliance had been placed on award of village Judia where notifications had been issued on 27.8.1981, in the year 1983 and village Judian and Kundli on 2.7.1985 and particularly for village Judian compensation was determined not on exemplars but on nearness to Chandigarh. Comparative assessment has not been made. As awards are a relevant piece of evidence we propose to take them into consideration *inter alia* other material for awarding the compensation. In the case of *Ashok Kumar* (supra) of village Fatehpur when the third notification has been issued in the year 1983, compensation was worked out at the rate of Rs.200/- per square yard. Respondents had relied on the award of village Maheshpur that notifications had been issued in the year 1993, 1994 and 1995. We have to consider material in close proximity to time to notification with respect to village Fatehpur and Maheshpur.

Considering the comparative sale evidence that has been adduced in the cases of *Gurudev* and *Hansraj* (supra) and even otherwise if we work out the price even from the method of adopting the determination made in the awards,

certain deductions will have to be made for development and smallness of area as well. Considering entire evidence we deem it appropriate to work out the compensation at the rate of Rs.290/- per sq. yard. The amount granted by the High Court stands reduced to the aforesaid extent.

Resultantly the appeals preferred by the State Government are allowed in part to the aforesaid extent and the appeals preferred by the landowners are hereby dismissed. The remaining compensation to be paid along with the statutory benefits within a period of three months from today. No costs.

.....J.  
[ARUN MISHRA]

.....J.  
[MOHAN M. SHANTANAGOUDAR]

NEW DELHI  
OCTOBER 09, 2017