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(With modifications as set out in Para 9 of Order dated 08.02.2019
passed in M.A. No.299 of 2019 in CA Nos.264-270 of 2019)

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 264-270 OF 2019
(Arising out of Special Leave Petition (Civil) Nos.19284-19290 of 2018)

Wazir & Anr. ……Appellants

VERSUS

State of Haryana ..…. Respondent

WITH

CIVIL APPEAL NO. 338 OF 2019
(Arising out of Special Leave Petition (Civil) No.27342 of 2018)

WITH

CIVIL APPEAL NOS. 333-335 OF 2019
(Arising out of Special Leave Petition (Civil) Nos.26603-26605 of 2018)

WITH

CIVIL APPEAL NOS. 336-337 OF 2019
(Arising out of Special Leave Petition (Civil) Nos.26607-26608 of 2018)

WITH

CIVIL APPEAL NOS. 272-332 OF 2019
(Arising out of Special Leave Petition (Civil) Nos.26527-26587 of 2018)

WITH

CIVIL APPEAL NO.339 OF 2019
(Arising out of Special Leave Petition (Civil) No.27343 of 2018)

WITH

CIVIL APPEAL NO. 271 OF 2019
(Arising out of Special Leave Petition (Civil) No.26457 of 2018)

WITH

CIVIL APPEAL NOS.340-341 OF 2019
(Arising out of Special Leave Petition (Civil) Nos.28210-28211 of 2018)

WITH

CIVIL APPEAL NO. 342 OF 2019
(Arising out of Special Leave Petition (Civil) No.28985 of 2018)

WITH

CIVIL APPEAL NOs.593-617 OF 2019
(Arising out of Special Leave Petition (Civil) Nos.33586-33610 of 2018)
(D.No.41362 of 2018)

WITH

CIVIL APPEAL NOs.343-592 OF 2019
(Arising out of Special Leave Petition (Civil) Nos.33168-33417 of 2018)
(D.No.42687 of 2018)

JUDGMENT

Uday Umesh Lalit, J.

1. Leave granted.

2. The landholders and HSIIDC[1] have filed these cross appeals challenging the final judgment and order dated 09.03.2018 passed by the High Court of Punjab and Haryana at Chandigarh in RFA No.2373 of 2010 (O&M) titled Madan Pal (III) v. State of Haryana and another and in all connected matters. Since all these matters arise out of the same acquisition proceedings, they are dealt with together by this common Judgment.

3. About 1500 acres of land was notified under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act") for the public purpose of development of Industrial Model Township, Manesar, Gurgaon Phases II, III and IV by three separate notifications. The proposed acquisition was:-

i) <u>re: Phase II</u>

About 177 Acres 5 Kanal 19 Marla situated in the Revenue Estate of Villages Kasan, Bas Kusla, Naharpur Kasan and Manesar, Tehsil and District Gurgaon was notified on 06.03.2002.

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1 Haryana State Industrial and Infrastructure Development Corporation

(ii) re: Phase III

About 598 Acres 5 Kanal 12 Marla situated in the Revenue Estate of Villages Bas Kusla, Kasan, Bas Haria and Dhana, Tehsil and District Gurgaon was notified on 07.03.2002.

(iii) re: Phase IV

About 657 Acres 4 Kanal 3 Marla situated in the Revenue Estate of villages Bas Kusla, Bas Haria, Dhana and Kasan, Tehsil and District Gurgaon was notified on 26.02.2002.

4. Appropriate declarations under Section 6 of the Act were issued by the State Government in respect of said lands under Phases II, III and IV on 15.11.2002, 25.11.2001 and 18.11.2002 respectively. Thereafter:

(i) In respect of lands proposed to be acquired for Phase II, Award No.5 of 2003 was passed by the Sub-Divisional Officer (C)-cum-Land Acquisition Collector, Gurgaon on 22.07.2003 and the compensation awarded to the land owners for different types of lands was as under:

	Kinds of Land and rates per acre		
Village	Chahi	Banjar	Gair Mumkin
Kasan	5,25,000/-	5,00,000/-	7,50,000
Bas Kusla	2,25,000/-	1,75,000/-	3,60,000/-
Naharpur Kasan	5,25,000/-	4,00,000/-	7,20,000/-
Manesar	7,00,000/-	7,00,000/-	10,00,000/-

The extent of lands under various categories in the aforesaid villages was set out in the award as under:-

Name of village	Kinds of Land			Total	
	Chahi	Gair Mumkin	Banjar	Kanal	Marla
Kasan	210-08	19-07	0	229	15
Bas Kusla	752-18	47-17	0	800	15
Naharpur Kasan	52-12	0-02	0	52	14
Manesar	272-00	16-05	09-07	297	12
Grand Total	1287-18	83-11	09-07	1380	16

(ii) In respect of lands in Phase No.III, Award No.1 of 2003 was passed by the Sub-Divisional Officer (C)-cum-Land Acquisition Collector, Gurgaon on 24.12.2003 and the compensation awarded to the land owners for different types of lands was as under:

Kinds of land and rates per acre		
Village	Chahi	Gair Mumkin
Kasan	5,25,000/-	7,50,000/-
Bas Kusla	2,25,000/-	3,60,000/-
Bas Haria	2,25,000/-	3,60,000/-
Dhana	2,25,000/-	3,60,000/-

The extent of lands under various categories in the aforesaid villages was set out in the award as under:

Name of Village	Kinds of land				Total	
	Chahi		Gair Mumkin		Kanal	Marla
	K	M	K	M		
Kasan	1602	8	234	11	1836	19
Bas Kusla	955	6	32	11	987	17
Bas Haria	163	15	2	7	166	2
Dhana	1740	4	58	10	1798	14
Grand Total	4461	13	327	19	4789	12

(iii) In respect of lands in Phase No.IV, Award No.6 of 2004 was passed by the Sub-Divisional Officer (C)-cum-Land Acquisition Collector, Gurgaon on 20.05.2004 and the compensation awarded to the land owners for different types of lands was as under:

Kinds of land and rates per acre		
Village	Chahi	Gair Mumkin
Bas Kusla	2,25,000/-	3,60,000/-
Bas Haria	2,25,000/-	3,60,000/-
Dhana	2,25,000/-	3,60,000/-
Kasan	5,25,000/-	7,50,000/-

The extent of lands under various categories in the aforesaid villages was set out in the award as under:

Name of Village	Kinds of land				Total	
	Chahi		Gair Mumkin		Kanal	Marla
	K	M	K	M		
Bas Kusla	1619	13	75	16	1695	9
Bas Haria	874	9	30	10	904	19
Dhana	1402	4	89	13	1491	17
Kasan	1035	5	132	13	1167	18
Grand Total	4931	11	328	12	5260	3

5. Aggrieved and dissatisfied, the land owners filed references under Section 18 of the Act. Said references as regards lands acquired for Phases II and III were dealt with as under:-

(i) In respect of lands acquired for Phase No.III, in LAC Case No.513 of 2004 and other connected matters, the Reference Court

passed an order on 16.12.2009 enhancing the compensation to Rs.28,15,849/- per acre with solatium and interest on the compensation amount at applicable rates. The Reference Court relied upon the decision of the High Court in ***Pran Sukh etc.*** v. ***State of Haryana*** which related to acquisition for the same purpose of setting up an Industrial Model Township, Manesar pursuant to notification under Section 4 of the Act issued on 15.11.1994, where the High Court had assessed the compensation at the rate of Rs.15 lakhs per acre. The Reference Court granted 12% increase per annum on the rate at which compensation was awarded in ***Pran Sukh*** by the High Court and arrived at the rate of Rs.28,15,356/- per acre which was a common rate for all kinds of lands.

(ii) In respect of lands acquired for Phase II, in LAC Case No.164 of 2004 and other connected matters, the Reference Court[2] passed an order on 27.01.2010 enhancing the compensation to Rs.28,15,356/- per acre with solatium and interest on the compensation at applicable rates. Reliance was placed on the earlier decision dated 16.12.2009

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[2] the Additional District Judge, Gurgaon

of the Reference Court. The Compensation was awarded at the same rate for all kinds of lands.

6. While the reference applications in respect of Phase IV were pending before the Reference Court, the appeal arising from the decision of the High Court in ***Pran Sukh*** was decided by this Court on 17.08.2010. This Court[3] determined the market value of the land, where notification was issued under Section 4 on 15.11.1994, to be Rs.20 lakhs per acre. Under said notification, 1490 acres of land from villages Manesar, Naharpur Kasan, Khoh and Kasan was acquired. This Court found that the High Court was right in relying upon the sale deed dated 16.09.1994 (Ext.P1) but held that the High Court was not right in imposing a cut of 20% and 25%. It held that all the lands would be assessed at the rate of Rs.20 lakhs per acre.

7. The reference applications in respect of Phase IV were thereafter taken up for consideration. Relying upon the decision of this court in ***Pran Sukh***[3] the Reference Court in its order dated 30.11.2010 in LAC Case No.263 of 2008 and other connected matters enhanced the compensation to

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[3] (2010) 11 SCC 175 (Haryana State Industrial Development Corporation v. Pran Sukh & Ors.)

Rs.37,40,230/- per acre. While so awarding, the Reference Court granted enhancement at the rate of Rs.12% per annum taking the base rate to be Rs.20 lakhs per acre as on 15.11.1994 in terms of the decision of this Court in ***Pran Sukh***[3]. The Reference Court also awarded solatium and interest on the compensation amount at applicable rates. It awarded compensation at the same rate for all kinds of lands.

8. In respect of acquisitions for Phases II and III where compensation was awarded at the rate of Rs.28,15,356/- per acre as mentioned hereinabove, RFA No.2373 of 2010 titled ***Madan Pal*** v. ***State of Haryana*** and all connected matters were preferred in the High Court. Said appeals were disposed of by the High Court by its judgment and order dated 11.02.2011. Relying on the decision of this Court in ***Pran Sukh***[3] it was observed by the High Court in paras 22 and 29 as under:

> "22. The issue under consideration in the present set of appeals is regarding determination of the value of land acquired for the purpose of development as Phase-II and Phase-III of Industrial Model Township, Manesar. The notification under Section 4 of the Act for Phase-II was issued on 06.03.2002, whereas for Phase-III, the same was issued on 07.03.2002. For Phase-II, the total acquired land was 1380 kanals and 16 marlas, whereas for Phase-III, the same was 4789 kanals and 12 marlas. The entire land is a compact block. It is adjoining to the land already acquired for development as Phase-I in the year 1994. The village, of

which the lands was acquired, are common in the acquisition or are contiguous as after crossing the boundaries of one village, the abutting land of the next revenue estate was acquired. It was also contended at the time of hearing that almost at the same time, land for development as Phase-IV was also acquired adjoining to the land in question by notification under Section 4 of the Act issued on 26.02.2002, the area being 567 acres 4 kanals and 3 marlas. Even subsequent thereto, for development as Phase-V in the same area, 956 acres, 5 kanals and 18 marlas of land was acquired vide notification under Section 4 of the Act issued on 17.09.2004.

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 acquisitions being 7 years and 3 months, the value of the land is determined at Rs.37,40,000/- per acre. The land owners shall also be entitled to the statutory benefits available to them under the Act."

However, as regards land held by M/s Kohli Holdings Private Limited, the compensation was awarded at the rate of Rs.1.02 crores per acre on the grounds that said land had frontage of two acres on National Highway No.8 and that on the back side there was connection from a link road.

9. The aforesaid judgment of the High Court passed on 11.02.2011 was challenged in Civil Appeal Nos.4843-4940 of 2013 before this Court. In its decision in ***Haryana State Industrial Development Corporation Limited*** v. ***UDAL and others***[4], this Court noted the contention of HSIIDC in para 22 and then concluded in paras 29 and 30 as under: -

> **"22.** 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 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 *ONGC Ltd.* v. *Rameshbhai Jivanbhai Patel* (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. The learned Senior Counsel emphasised that HSIIDC had to spend a substantial amount on carrying out development and argued that this factor should

[4] (2013) 14 SCC 506

have been taken into consideration by the learned Single Judge while fixing market value of the acquired land. Shri Tripathi also criticised 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 (P) Ltd. 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.

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 (P) Ltd., the learned Single Judge did make a reference to Ext. P-38 (para 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 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 (P) Ltd., the learned Single Judge squarely relied upon Ext. P-38 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 Ext. P-38 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 (P) Ltd. 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%."

This Court therefore allowed the appeals and remanded the matters back to the High Court for fresh disposal. Further, liberty was given to Maruti Suzuki India Limited, namely, one of the beneficiaries of the acquisition to file an application for impleadment in the pending appeals before the High Court.

10. Post remand, the High Court by its judgment and order dated 06.10.2015 passed in RFA No.2373 of 2010 titled ***Madan Pal (II)*** v. ***State of Haryana*** and in all connected matters, remanded the cases back to the Reference Court for fresh disposal. It was found that the acquiring authority had not defended the matters properly and the beneficiary of the acquisition ought to be given chance to place the material before the Court. It, therefore, permitted Maruti Suzuki India Limited to lead evidence in the Reference Court. Liberty was also given to all the parties to produce relevant evidence in support of their submissions. This judgment of the High Court was again challenged before this Court in Civil Appeal Nos.1587-1636 of 2017 and in all connected matters. In its decision in ***Satish Kumar Gupta and others*** v.

State of Haryana and others[5] and in all connected matters, this Court held that the post-acquisition allottee, namely, Maruti Suzuki India Limited could not be treated as a necessary or proper party while determining matters concerning compensation. It, therefore, set aside the judgment and order dated 06.10.2015 passed by the High Court and remanded the cases back to the High Court for deciding the cases afresh.

11. Thereafter, the matters were taken up for fresh consideration by the High Court. In support of the plea for enhancement in compensation, reliance was placed by the landholders on following exemplars :-

Exhibits	Date	Area/ Village	Sale Consideration in Rs.	Value per acre in Rs.
Ex.P1	12.06.1997	2 kanals / Bas Kusla	2,00,000/-	8 lakhs
Ex.P2	23.06.1997	1 kanal 10 marlas / Bas Kusla	4,50,000/-	8 lakhs
Ex.P3	18.09.1997	18 kanals/ Dhana	14,28,750/-	6,35,000/-
Ex.P4	18.08.2003	1 kanal 4 Marlas/ Kasan	7,30,000/-	48,66,666/-
Ex.P6	16.09.1994	96 kanals 13 marlas (12.081 acres)/Naharpur Kasan	2.42 crores	20 lakhs

5 (2017) 4 SCC 760

Ex.P8	20.09.1996	1 kanal 1½ marla/ Naharpur Kasan	3,53,000/-	25 lakhs
Ex.PY	28.04.2004	96 kanals 13 marlas/ Naharpur Kasan	13.62 crores	1.13 crores

Apart from the aforesaid exemplars, certain allotments of developed pieces of land namely Ext.P4 in favour of Orient Craft Ltd. dated 02.02.2002, Ext.P11 dated 30.09.1999 in favour of Krishna Maruti Ltd., Ext.P14 dated 07.08.2002 in favour of M/s Royal Tool, etc., were also relied upon. Submission was also made that taking the rate of Rs.20 lakhs per acre as held by this Court in ***Pran Sukh***[3] to be the prevalent rate in 1994, enhancement at 15% could also be considered to arrive at the appropriate rate for the year 2002.

On the other hand, a prayer was made on behalf of HSIIDC and the State to permit them to place on record certain sale deeds of 1994 and 2002 by way of additional evidence in support of the plea that compensation awarded by the Reference Court was on the higher side. The prayer to lead additional evidence was however rejected by the High Court.

12. The High Court observed that reliance on the allotment letters of various industrial plots or the instances of auction sales would not be a safe parameter to assess the market value. The High Court then considered cumulative increase in the price considering the rate of Rs.20 lakhs as awarded by this Court in ***Pran Sukh***[3] to be the base rate. Out of the sale deeds on record, it considered Ext.P8 dated 20.09.1996 in favour of Times Masters India Pvt. Ltd. to be the most appropriate exemplar, and at the same time it also computed the figures by giving cumulative enhancement at the rates of 12% and 15% over the base rate of Rs.20 lakhs per acre as awarded by this Court in ***Pran Sukh***[3] (supra). Thereafter, cut of 10% and 20% was also applied. Paragraphs 95, 96, 97, 98 of the judgment were:-

> "95. Thus, if cumulative benefit by way of 12% cumulative increase is to be given on the base price of Rs.20 lakhs from 1994 to 2001 enhancement would come to as under:-

Year	Principal Amount (Rs.)	Enhanced Amount (Rs.)	Total amount (Rs.)
1994	20,00,000.00	--	20,00,000.00
1995	20,00,000.00	2,40,000.00	22,40,000.00
1996	22,40,000.00	2,68,800.00	25,08,800.00
1997	25,08,800.00	3,01,056.00	28,09,856.00
1998	28,09,856.00	3,37,182.72	31,47,038.72

1999	31,47,038.72	3,77,644.65	35,24,683.37
2000	35,24,683.37	4,22,962.00	39,47,645.37
2001	39,47,645.37	4,73,717.44	44,21,362.81

Cut on the amount of Rs.44,21,362 @ 10% (Rs.4,42,136): 39,79,226/-

Cut on the amount of Rs.44,21,362 @ 20% (Rs.8,84,272/-): 35,37,090/-

96. Similarly, if the enhancement is to be granted @ 15% on Rs.20 lakhs from 1994 to 2001, it works out as under:-

Year	Principal Amount (Rs.)	Enhanced Amount (Rs.)	Total amount (Rs.)
1994	20,00,000.00	--	20,00,000.00
1995	20,00,000.00	3,00,000/-	23,00,000.00
1996	23,00,000.00	3,45,000/-	26,45,000.00
1997	26,45,000.00	3,96,750.00	30,41,750.00
1998	30,41,750.00	4,56,262.50	34,98,012.50
1999	34,41,750.00	5,24,701.87	40,22,714.37
2000	40,22,714.37	5,70,328.12	46,26,121.52
2001	46,26,121.52	6,93,918.23	53,20,039.76

Cut on the amount of Rs.53,20,039 @ 10% (Rs.5,32,003/-): 47,88,036/-

Cut on the amount of Rs.53,20,039 @ 20% (Rs.10,64,007/-): 42,56,032/-

97. Similarly, if the benefit of 12% cumulative increase is to be given on the sum of Rs.25 lakhs after the sale deed from 1996 (Ex.P8) in favour of Times Master India Private Limited to 2001 enhancement would come to as under:-

Year	Principal	Enhanced	Total amount

	Amount (Rs.)	Amount (Rs.)	(Rs.)
1996	25,00,000.00	--	25,00,000.00
1997	25,00,000.00	3,00,000.00	28,00,000.00
1998	28,00,000.00	3,36,000.00	31,36,000.00
1999	31,36,000.00	3,76,320.00	35,12,320.00
2000	35,12,320.00	4,21,478.40	39,33,798.40
2001	39,33,798.40	4,72,055.81	44,05,854.21

Cut on the amount of Rs.44,05,854 @10 (Rs.4,40,585/-): 39,65,269/-

Cut on the amount of Rs.44,05,854 @ 20% (Rs.8,81,1702/-): 35,24,684/-

98. For enhancement @ 15% on Rs.25 lakhs from 1996 to 2001, the amount works out as under:-

Year	Principal Amount (Rs.)	Enhanced Amount (Rs.)	Total amount (Rs.)
1996	25,00,000.00	--	25,00,000.00
1997	25,00,000.00	3,75,000.00	28,75,000.00
1998	28,75,000.00	4,31,250.00	33,06,250.00
1999	33,06,250.00	4,95,937.50	38,02,187.50
2000	38,02,187.50	5,70,328.12	43,72,515.62

Cut on the amount of Rs.50,28,392 @ 10% (Rs.5,02,839/-): 45,25,553/-

Cut on the amount of Rs.50,28,392 @ 20% (Rs.10,05,678/-): 40,22,714/-".

13. On the basis of the aforesaid figures, taking average of both the parameters after giving 15% enhancement but effecting 20% cut, the figure

of Rs.41,39,373/- which was rounded off to Rs.41.40 lakhs was taken as the market value for the lands in question as under:-

> "103. Thus, when we compare the enhancement firstly on the principle of cumulative increase on the price fixed by the Apex Court in ***Pran Sukh*** (supra) on Rs.20 Lakhs @15% from 1994 till 2001, it works out to Rs.53,20,039/-. Similarly, if the enhancement of 15% is given on the basis of the sale deed Ex.P8 in favour of Time Master India Private Limited from 1996 to 2001, the amount works out to Rs.50,28,392/-. In case the cut of 20% is applied on the said amount, the amounts worked out to Rs.42,56,032/- in one case and Rs.44,22,714/- in other case.
>
> 104. Resultantly, if the average of both the formulas is also worked out the amount after giving 20% cut the average of said formulas would take the market value to Rs.41,39,373/- and, accordingly, after rounding it off, this Court is of the opinion that Rs.41.40 lakhs would be the appropriate market value for the land in question."

14. The High Court, thus, by its judgment and order dated 09.03.2018 passed in RFA No.2373 of 2010 titled ***Madan Pal (III)*** v. ***State of Haryana*** and in all connected matters assessed the compensation at Rs.41.40 lakhs per acre along with statutory benefits in respect of lands acquired in villages Naharpur Kasan, Kasan, Bas Haria, Bas Kusla and Dhana (covered by Phases II and III). The compensation in village Maneswar (covered by Phase-IV) was assessed after giving 50% enhancement at Rs.62.10 lakhs per acre along with statutory benefits. As regards M/s Kohli Holdings Pvt. Ltd.,

additional component of 30% was also awarded on account of severance charges, over and above the rate of Rs.62.10 lakhs per acre.

15. The aforesaid view of the High Court is now under challenge in these cross appeals. Mr. Dhruv Mehta and Ms. Kiran Suri, learned Senior Advocates for the landholders relied upon the allotments of developed plots as indicators of high potential of the lands. It was submitted that even if the rate awarded in ***Pran Sukh***[3] was to be taken as the base rate, there ought not to have been any cut and secondly, the compensation ought to have been arrived at till 2002 and not upto 2001 as was done by the High Court. Mr. R. S. Suri, learned Senior Advocate appearing for M/s. Kohli Holdings Pvt. Ltd. stressed upon the incongruity in the price awarded presently as against one that was granted on the earlier occasion. He submitted that the lands of his client were on National Highway No.8 and were bestowed with all the advantages and as such the price awarded on the earlier occasion was the correct one. Mr. Alok Sangwan, learned Advocate appearing for HSIIDC contended that the sale deeds of 1994 and 2002 ought to have been allowed to be placed on record. In his submission the compensation awarded by the High Court was on the higher side. In any case, considering the huge extent of land the enhancement ought to have been in terms of law laid down by

this Court in ***General Manager, Oil and Natural Gas Corporation Limited.*** v. ***Rameshbhai Jivanbhai Patel and Another***[6] and other cases.

16. We must first consider the submissions based on the allotments and instances of auction purchases of developed plots effected by the Development Authority itself. These submissions were rightly rejected by the High Court. The law on the point is well settled as stated in ***Lal Chand vs. Union of India and another*** [7]**.** We therefore, reject these submissions.

17. Before we consider other submissions, it must be mentioned that the assessment made by the High Court in its judgment dated 11.02.2011 was not approved by this Court as is evident from its judgment[4]. This Court recorded the submission made by the learned counsel appearing for HSIIDC that 12% cumulative escalation on the rate in ***Pran Sukh***[3] itself was excessive and not in consonance with the law laid down by this Court and also found that the landholders were aggrieved by non-consideration of the documents produced before the Reference Court as well as the inter se discrimination between M/s. Kohli Holdings Pvt. Ltd. and the other

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6 (2008) 14 SCC 745

7 (2009) 15 SCC 769

landholders. We must therefore consider the matter from two perspectives namely on the strength of the documents on record and on the basis of the rate as found in ***Pran Sukh***[3] to arrive at the appropriate market value.

18. We must also note, at the outset, the governing legal principles regarding annual increase over a base rate. The law in that behalf has been succinctly stated by this Court in ***ONGC Limited*** (supra) in paras 10 to 17 under the heading "what should be the increase per annum" as under:-

> "10. The contention of the appellant is that even if Ext. 15 should be the basis, in the absence of any specific evidence regarding increase in prices between 1987 and 1992, the annual increase could not be assumed to be 10% per year.
>
> 11. On the other hand, the learned counsel for the respondent claimants submitted that the rate of escalation in market value at the relevant time was in the range of 10% to 15% per annum. He relied on the decisions of this Court in *Ranjit Singh* v. *Union Territory of Chandigarh* (1992) 4 SCC 659 and *Land Acquisition Officer and Revenue Divisional Officer* v. *Ramanjulu* (2005) 9 SCC 594 wherein this Court had accepted an escalation of ten per cent per annum, and the decision in *Krishi Utpadan Mandi Samiti* v. *Bipin Kumar* (2004) 2 SCC 283 where this Court had accepted an escalation of 15% per annum. He, therefore, submitted that escalation at the rate of 10 per cent adopted by the Reference Court and approved by the High Court is a reasonable and correct standard to be applied.
>
> 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* (1992) 4 SCC 659 related to acquisition for development of Sector 41 of Chandigarh. *Ramanjulu* (2005) 9 SCC 594 related to acquisition of the third phase of an existing and established industrial estate in an urban area. *Bipin Kumar* (2004) 2 SCC 283 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.

16. Much more unsafe is the recent trend to determine the market value of acquired lands with reference to future sale transactions or acquisitions. To illustrate, if the market value of a land acquired in 1992 has to be determined and if there are no sale transactions/acquisitions of 1991 or 1992 (prior to the date of preliminary notification), the statistics relating to sales/acquisitions in future, say of the years 1994-1995 or 1995-1996 are taken as the base price and the market value in 1992 is worked back by making deductions at the rate of 10% to 15% per annum. How far is this safe? One of the fundamental principles of valuation is that the transactions subsequent to the acquisition should be ignored for

determining the market value of acquired lands, as the very acquisition and the consequential development would accelerate the overall development of the surrounding areas resulting in a sudden or steep spurt in the prices. Let us illustrate. Let us assume there was no development activity in a particular area. The appreciation in market price in such area would be slow and minimal. But if some lands in that area are acquired for a residential/commercial/industrial layout, there will be all round development and improvement in the infrastructure/amenities/ facilities in the next one or two years, as a result of which the surrounding lands will become more valuable. Even if there is no actual improvement in infrastructure, the *potential* and *possibility* of improvement on account of the proposed residential/commercial/industrial layout will result in a higher rate of escalation in prices. As a result, if the annual increase in market value was around 10% per annum before the acquisition, the annual increase of market value of lands in the areas neighbouring the acquired land, will become much more, say 20% to 30%, or even more on account of the development/proposed development. Therefore, if the percentage to be added with reference to previous acquisitions/sale transactions is 10% per annum, the percentage *to be deducted* to arrive at a market value with reference to future acquisitions/sale transactions should not be 10% per annum, but much more. The percentage of standard increase becomes *unreliable*. Courts should, therefore, avoid determination of market value with reference to subsequent/future transactions. Even if it becomes inevitable, there should be greater caution in applying the prices fetched for transactions in future. Be that as it may.

17. In this case, the acquisition was in a rural area. There was no evidence of any out of the ordinary developments or increases in prices in the area. We are of the view that providing an escalation of 7.5% per annum over the 1987 price under Ext. 15, would be sufficient and appropriate to arrive at the market value of acquired lands."

19. The instant matter is required to be considered in the light of the aforesaid principles. The land under present acquisition is an extent of 1500 acres and from 6 villages i.e. Bas Kusla, Bas Haria, Dhana, Manesar, Naharpur Kasan and Kasan. If the computation which was accepted by the Sub-Divisional Officer cum Land Acquisition Collector is considered, the values of lands in villages Bas Kusla, Bas Haria and Dhana were definitely on the lower side as compared to the corresponding values from villages like Manesar, Naharpur Kasan and Kasan. In the awards, the maximum value of Rs.10 lakhs per acre was in respect of lands from Manesar while those from Naharpur Kasan and Kasan were Rs.7,20,000/- and Rs.7,50,000/-per acre respectively. As compared to these villages the values in respect of lands in Bas Kusla, Bas Haria and Dhana were almost less than 50%. If the extent of land which was subject matter of acquisition is again considered, more than ⅔rds of lands are from villages Bas Kusla, Bas Haria and Dhana. The earlier acquisition of 1994 which was dealt with in ***Pran Sukh***[3] was with regard to four villages, including Manesar, Naharpur Kasan and Kasan. In these villages, the valuation was found to be more than double as compared to villages Bas Kusla, Bas Haria and Dhana. The question then arises whether

these two sets of villages ought to be given differential treatment or should they be clubbed and put at the same level.

20. Recently, in the case of ***Surender Singh*** v. ***State of Haryana and others***[8] the acquisition was initiated on 11.01.2005 for acquiring an extent of 520 acres of land from 15 villages in the State of Haryana. Two villages, namely, Kasan and Dhana out of said 15 villages are also part of the present acquisition. Relying on the decision of ***Pran Sukh***[3] where compensation was awarded at the rate of Rs.20 lakhs per acre and after granting 8% cumulative increase over rates of 1994, the High Court had arrived at the rate of compensation for the entire extent of 520 acres. While remanding the matter back to the High Court for fresh consideration it was observed by this Court in paras 26 to 29 as under:

> **"26.** The High Court, however, noticed from the facts involved in *Pran Sukh*[3] that the land situated in one Village Kasan along with its some adjoining villages was acquired on 15-11-1994 by the State and this Court determined the compensation payable to the landowners of Kasan Village @ Rs 20,00,000 per acre.
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> **27.** The High Court felt that Rs 20,000,00 per acre should be taken as the base price for determining the rate of acquired

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8 (2018) 3 SCC 278

land in question. The High Court perhaps did this after having noticed that some part of the acquired land in these appeals is situated in Kasan Village and, therefore, it is ideal to take the rate of Kasan Village land as basis for determining the rate of acquired land also. The High Court accordingly gave annual increase of 8% to Rs 20,00,000 and worked out the rate at Rs 62,11,700 per acre for the entire acquired land in question by applying one uniform rate.

28. In our considered opinion, the approach of the High Court in the facts of these cases does not appear to be right inasmuch as the High Court failed to take into consideration several material issues which arose in these cases and had a bearing on determination of the fair market rate of the land in question under Section 23 of the Act:

28.1. First, the acquired land, in these cases, was a huge chunk of land measuring around 520 acres, 2 kanals and 13.5 marlas.

28.2. Second, the entire acquired land was not situated in Village Kasan but it was spread over in 15 villages as detailed above.

28.3. Third, there is no evidence to show much less any finding of the High Court as to what was the actual distance among the 15 villages against one another, the location, situation/area of each village, whether any development had taken place and, if so, its type, nature and when it took place in any of these villages, the potentiality and the quality of the acquired land situated in each village, its nature and the basis, the market rate of the land situated in each village prior to the date of acquisition or in its near proximity, whether small piece of land or preferably big chunk of land, the actual distance of each village qua any other nearby big developed city, town or a place, whether any activity is being carried on in the nearby areas, their details.

> **28.4.** Fourth, whether the acquired land in *Pran Sukh*[3] in Village Kasan and the acquired land in question are similar in nature or different and, if so, how and on what basis, their total distance, etc.
>
> **29.** These were, in our view, the issues which had material bearing while determining the rate of the acquired land in question."

21. In the instant case, the sale deeds Exts.P1, P2 and P3 relied upon by the landholders pertained to lands from villages Bas Kusla and Dhana and were of the year 1997 that is after the acquisition was initiated in ***Pran Sukh[3]***. The maximum value per acre in these villages was Rs.8 lakhs per acre and that too with respect to smaller plots. The sale deeds Exts.P4, P6, P8 and PY however pertained to lands coming from villages Naharpur Kasan and Kasan. Ext.PY dated 28.04.2004 was much after the acquisition was initiated in the present case. Secondly, as found by the High Court in para 74 of its judgment, there was construction and CLU was also obtained in relation to land in Ext. PY. For these reasons the High Court had rightly ruled out said transaction. At the same time Ext.P4 was also after the acquisition in the present case was initiated and pertained to a small plot of

land. Out of these four sale deeds, Ext.P8 is prior in point of time so far as the present acquisition is considered and was therefore rightly relied upon as the most appropriate exemplar by the High Court. If the value in Ext.P8 is compared with the maximum value under Exts.P1, P2 and P3 there is a marked difference. This difference is again consistent with the valuation that was accepted by the Sub-Divisional Officer cum Land Acquisition Collector. Since major part of the land under acquisition that is more than ⅔rds is from villages Bas Kusla, Bas Haria and Dhana, one way of assessing the correct value of compensation is to treat these three villages on one side while other three villages on the other side.

22. However, not only the Reference Court but the High Court on three different occasions had considered all these villages together and applied the same rate of compensation. The base rate was initially taken by the Reference Court to be Rs.15 lakhs in terms of the decision of the High Court in ***Pran Sukh*** and later to be Rs.20 lakhs as per the decision of this Court. The High court on all three occasions had based its assessment taking base rate in ***Pran Sukh[3]*** to be the starting point. We must also note that in ***Pran Sukh[3],*** this Court had also applied uniform rate for the entirety of the extent of 1490 acres of land coming from four different villages. It would

therefore be inappropriate at this stage to make a distinction between these two sets of villages for the purposes of base rate. But this point will certainly be of relevance when we consider the ratio of escalation. The sale deeds Exts.P1, P2 and P3 indicate that even after the initiation of acquisition in ***Pran Sukh***[3] case which was in 1994, the valuation of the lands was still at a lower level. On the other hand, the valuation in respect of Ext. P-8 has shown some increase.

23. As regards lands in Naharpur Kasan and Kasan, Exh. PY dated 28.04.2004 having been ruled out of consideration, we are now left with 3 sale instances namely Exh. P4, P6 and P8. We may first consider pre-acquisition instances namely Exh. P6 & P8. Exh. P6 dated 16.09.1994 pertained to land having an extent of 12 acres, a fairly large area, where the value was Rs.20.00 lakhs per acre. This value is equal to the one which was granted by this Court in the case of ***Pran Sukh***[3] for the acquisition of 1994. The next sale deed namely Exh.P8 dated 29.09.1996 pertained to very small piece of land which was less than ½ acre and the value was in the region of 25.00 lakhs per acre. Without effecting any deduction on account of smallness of the plot and considering the values as they stand, it shows an

increase of 25% over a period of two years, i.e. to say @ 12.5% per annum. This is one indication as to the nature of increase in price after 1994.

We have another sale instance namely Exh. P4 dated 18.08.2003 which was after a year and half from the dates of Notifications issued under Section 4 in the present matter. If the very same rate of increase, though this Court in the decision in ***ONGC Ltd.*** (supra) had ruled that while deducting from a post-acquisition instance and working backwards the rate of deduction ought to be higher, is adopted in the present matter, 18.75% will have to be deducted from the price which was prevalent in August 2003 to arrive at the corresponding value for the period when the present acquisition was initiated. The rate of Rs.48,66,666/- per acre[9], as available from Exh.P4, again without effecting any deductions for the smallness of the plot, must for the purposes of calculation suffer a deduction of Rs.9.12 lakhs @ 18.75%. We thus arrive at a figure of Rs.39,54,666/- per acre[10] as the prevalent price in the year 2002. This price is arrived at first by considering the rate of deduction which the value representing the sale instance of August 2003 must suffer and secondly after effecting appropriate deduction,

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9 **The figure was corrected in terms of Order dated 08.02.2019 in MA No.299/2019.**

10 **The figure was corrected in terms of Order dated 08.02.2019 in MA No.299/2019.**

arrive at the appropriate value for the present purposes. We may call this Method no.1.

24. We now consider the matter from a different perspective and take the rate awarded in ***Pran Sukh***[3] as the basis and then try to arrive at the appropriate value for the present acquisition. For this purpose, we may have to determine the rate of increase as shown by the sale deeds on record. The acquisition in ***Pran Sukh***[3] was of the year 1994 and the award of rate therein corresponds with the rate available on record through Exh.P6. We have two instances of Exh.P8 and P4, which may indicate the rise in values. However in both instances, the lands were very small plots i.e. of an extent of less than half an acre. If the prices are to be compared in real terms, the values representing in two sale deeds Exh.P4 and P8 must be re-worked after effecting appropriate deduction. Normally the deductions can range from 20% upwards. We may however take the lowest of the quotient namely 20%. On that basis, over a period of two years i.e. between ***Pran Sukh***[3] and Exh.P8 there would be no difference at all and the values would show the same rate. If the rate available from Exh.P4 is subjected to deduction of 20%, the corresponding value for a larger extent of land would be Rs.38.93 lakhs per acre. The difference between this value and the base value

awarded in ***Pran Sukh***[3] (supra) would then show the rise over a period of 7 years. In other words, the price of Rs.20.00 lakhs rose by Rs.18.93 lakhs in seven years that is to say it rose by 94.65% giving us an annual average of 13.52%. This rate represents pure increase on non-cumulative basis. If we adopt the rate, the base price as awarded in ***Pran Sukh***[3] would have risen to the level of Rs.36.22 lakhs per acre. We may call this Method no.2.

25. The instances representing Exh. P1, P2 & P3 as well as P6, as a matter of fact do not show any increase at all as against the base rate as awarded in ***Pran Sukh***[3] and the rise in Exh.P4 & P8 is also not substantial. Going by the law laid down by this Court on ***ONGC Ltd.*** (supra) in our considered view, the cumulative increase of 8% over the base rate as available in ***Pran Sukh***[3] would give us the correct picture as to the rise in values in the area comprising of villages Naharpur Kasan and Kasan. The tabulated chart in that regard would be as under:

Year	Principal Amount (Rs.)	Enhanced Amount (Rs.)	Total amount (Rs.)
1994	20,00,000/-	---	20,00,000/-
1995	20,00,000/-	1,60,000/-	21,60,000/-
1996	21,60,000/-	1,72,800/-	23,32,800/-
1997	23,32,800/-	1,86,624/-	25,19,424/-

1998	25,19,424/-	2,01,554/-	27,20,978/-
1999	27,20,978/-	2,17,678/-	29,38,656/-
2000	29,38,656/-	2,35,092/-	31,73,748/-
2001	31,73,748/-	2,53,900/-	34,27,648/-
2002	34,27,648/-	2,74,212/-	37,01,860/-

These calculations would show the corresponding value for the year 2002 at Rs.37,01,860/- per acre. We may call this as Method no.3.

26. If the figures arrived at through these three methods are compared, the values of Rs.39,54,666/- per acre[11] under Method no.1, Rs.36.22 lakhs under Method no.2 and Rs.37.01 lakhs under Method no.3 are quite comparable. If the highest of these three figures is taken, the appropriate value for the lands in Naharpur Kasan and Kasan would be Rs.39,54,666/- per acre[12] in the year 2002.

27. The values in other three villages namely Bas Kusla, Bas Haria and Dhana have not shown any such increase. Apart from Exh.P1, P2 and P3, nothing has been placed on record, insofar as said villages are concerned.

11 **The figure was corrected in terms of Order dated 08.02.2019 in MA No.299/2019.**

12 **The figure was corrected in terms of Order dated 08.02.2019 in MA No.299/2019.**

As stated herein above, even for these villages we may adopt the base rate of Rs.20.00 lakhs for the year 1994 and then consider the appropriate increase. As the sale deeds dated Exh. P1, P2 and P3 in respect of lands coming from these villages have not shown any increase at all, by way of rough and ready method we may adopt half the rise as shown in the lands coming from villages Naharpur Kasan and Kasan. Half the difference between Rs.20.00 lakhs as the base rate and Rs.39,54,666/- per acre[13] adopted for the villages of Naharpur Kasan, Kasan and Manewsar would mean difference of Rs.9,77,333/-[14] over the base figure of Rs.20.00 lakhs as awarded in ***Pran Sukh***[3]. Thus, in our considered view, the market value of lands from villages Bas Kusla, Bas Haria and Dhana in 2002 must be at Rs.29,77,333/- per acre[15].

28. In respect of lands coming from village Manesar, the High Court had granted 50% rise over and above the market value in respect of villages Naharpur Kasan and Kasan. The increase to that extent was well justified as the lands in village Manesar are abutting National Highway No.8 with

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13 **The figure was corrected in terms of Order dated 08.02.2019 in MA No.299/2019.**

14 **The figure was corrected in terms of Order dated 08.02.2019 in MA No.299/2019.**

15 **The figure was corrected in terms of Order dated 08.02.2019 in MA No.299/2019.**

excellent commercial potential. The grant of 50% rise is not seriously objected by the State and as such we confirm the same. Thus 50% rise over the figures as applicable to villages Naharpur Kasan and Kasan would lead us to the market value in respect of village Manesar which would be Rs.59,31,999/- per acre[16].

29. We, however, find it difficult to accept grant of further 30% as severance charges to M/s. Kohli Holdings Private Limited. Normally the additional component of compensation in terms of Section 23(1)(thirdly) of the Act is granted when, a landholder suffers damage as a result of acquisition to the extent that the holding that he is left with stands comparatively diminished in terms of quality and value. For instance, if a railway track is to be built through an agricultural land held by a person, leaving two different halves with him, it would be impossible for him to carry on agricultural operations at an optimum level. This would lead to reduction in the value of the halves that he is left with. On the other hand, in a case where part of the holding is acquired for which appropriate commercial value is awarded, the rest of the value of the land will not stand diminished in terms of commercial potential. On the other hand, the

16 **The figure was corrected in terms of Order dated 08.02.2019 in MA No.299/2019.**

potential of the remainder of the land would also increase drastically as the development would be right in the neighbourhood, thus giving substantial benefit to the landholder. In our view, the High Court was not justified in granting further compensation of 30% to M/s. Kohli Holdings Private Limited on account of severance charges. We, therefore, set aside that part and hold that no severance charges need be awarded to M/s. Kohli Holdings Private Limited.

[17]30. In the circumstances, we direct:

a) In respect of lands under acquisition from villages Naharpur Kasan and Kasan, the market value shall be Rs.39,54,666/- per acre. Additionally, all statutory benefits would be payable.

b) In respect of lands under acquisition from Villages Bas Kusla, Bas Haria and Dhana, the market value shall be Rs.29,77,333/- per acre. Additionally, all statutory benefits would be payable.

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17 **As substituted by Order dated 08.02.2019 in MA No.299 of 2019.**

c) In respect of lands from village Manesar the market value shall be Rs.59,31,999/- per acre. Additionally, all statutory benefits would be payable.

d) M/s. Kohli Holdings Private Limited shall not be entitled to any severance charges.

e) If any sum in excess of what has been found in this Judgment to be the entitlement of any landowner from any of the villages under acquisition was made over to him, the same shall be returned by the landowner to the State by 30th June, 2019. If the excess sum is returned by 30th June, 2019, no interest on said sum shall be payable by the landowner. However, if the sum is not returned by said date, the said sum shall carry interest @ 9% per annum from 1st July, 2019 till realisation and can be realised in a manner known to law.

31. The appeals preferred by HSIIDC and the State of Haryana stand allowed to the aforesaid extent. The appeals preferred by all the landholders including M/s. Kohli Holdings Private Limited stand dismissed. No costs.

……..…..……..…..……..……J.
(Uday Umesh Lalit)

.....……..…….……J.
(Dr. Dhananjaya Y. Chandrachud)

New Delhi,
January 11, 2019.

Reportable

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NOS.4354-4358 OF 2019
(Arising out of Special Leave Petition (C) D.No. 45393 of 2018)

HUKAM SINGH ETC. ETC. ……Petitioners

VERSUS

STATE OF HARYANA AND ANR. ETC. ETC. ..…. Respondents

WITH

M.A. NO. 299 OF 2019 IN CIVIL APPEAL NOS. 264-270 OF 2019
(Wazir and Another vs. State of Haryana)

O R D E R

Uday Umesh Lalit, J.

1. After the judgment dated 11.01.2019 was passed by this Court in Civil Appeal Nos.264-270 of 2019 (*Wazir and Another vs. State of Haryana*) and in all other connected matters (hereinafter referred to as the "Judgment"), these applications for recall of the Judgment have been filed on following grounds:-

a) The tabular chart extracted in paragraph 11 of the Judgment was not correct and there were mistakes pertaining to various sale deeds mentioned therein namely:

   i) With regard to Ex.P1 the correct sale consideration was Rs.4,00,000/- and thus the value per acre in respect of sale of said Ex.P1 sale deed would be Rs.16,00,000/-.

   ii) In respect of sale deed Ex.P2 the sale consideration was Rs.3,00,000/- and the value per acre would be Rs.16,00,000/-.

   iii) In respect of sale deed Ex.P4 the village was wrongly mentioned to be Kasan instead of village Bas Kusla.

b) Paragraph 20 of the Judgment extracted certain portions of the decision in ***Surender Singh vs. State of Haryana and others***[1] and para 27 of the decision in ***Surender Singh*** had wrongly mentioned annual increase of 8%, whereas, the High Court had actually granted annual increase of 15%.

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[1](2018) 3 SCC 278

c) In paragraph 23 of the Judgment, the figure of Rs.37.54 lakhs was arithmetically incorrect as after deducting Rs.9.12 lakhs from 48.666 lakhs the result would be Rs.39.546 lakhs and as said figure of Rs.37.54 lakhs was the foundation for further calculations, the resultant calculations were also incorrect.

d) In the earlier round, these matters were dealt with by this Court in ***Haryana State Industrial Development Corporation Limited vs. UDAL and others***[2] which decision was referred to in para 9 of the Judgment. Paragraphs 32, 33 and 34 of the decision in ***Haryana State Industrial Development Corporation Ltd***[2] were:-

> "32. 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. Ext. PW 9/A dated 23-11-1999 vide which HSIIDC had allotted land to M/s. Honda Motorcycles and Scooters India (P) Ltd. 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),

[2] (2013) 14 SCC 506

> market value of the land will be much higher than Rs.37,40,000 per acre.
>
> 33. In view of the above conclusions, we do not consider it necessary to deal with the other points argued by the learned counsel for the parties/intervenors and feel that the 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.
>
> 34. In the result, the appeals are allowed, the impugned judgment[3] is set aside and the matter is remitted to the High Court for fresh disposal of the appeals filed by the parties under Section 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."

Consequently, the landowners had actually received compensation in the sum of Rs.37.40 lakhs per acre, and as a result of the Judgment, they would now be required to return part of the compensation.

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[3] Madan Pal vs. State of Haryana, RFA No.2373 of 2010, decided on 11-2-2011 (P&H)

2. We have heard learned counsel for the applicants and the State.

3. The tabular chart extracted in paragraph 11 of the Judgment was exact reproduction of the chart set out by the High Court in paragraph 73 of its decision dated 09.03.2018, which was under appeal in this Court. Number of petitions were filed challenging the view taken by the High Court and in none of those petitions any exception was taken or objection was raised that the facts culled out in said tabular chart were, in any way, incorrect or required to be modified. The matter proceeded on the factual basis as was indicated in the chart and it would be difficult at this stage to reconsider that aspect of the matter. However, we have still looked into the matter and seen whether any benefit could be given to the landowners.

4. The sale deeds at Ex.P1, P2 and P4 pertained to small pieces of lands which were less than one acre. The value emanating from said sale deeds would not be correct indicator or exemplar in the context of the extent of 1500 acres of land which was involved in acquisition. Paragraph 21 of the Judgment shows that Ex.P1, P2 and P4 were found to be pertaining to small pieces of lands and that those sales were effected after the acquisition in the present case was initiated. Subsequent paragraphs show that though lands in

relation to sale deeds Ex.P4 and P8 pertained to smaller pieces, they were still taken into account to consider whether they showed any pattern of rise in prices. That was the basis of Method No.1. Under Method Nos. 2 and 3 the valuation, as was given in ***Haryana State Industrial Development Corporation vs. Pran Sukh & Ors.***[4], was taken as the basis to assess what could be the comparable price in the year 2002. Finally, the figures arrived at by three different methods were considered and the highest of the figures was taken to be appropriate compensation. Thus, the assessment made in the Judgment would not, in any way, get affected even if the changes/modifications suggested by the applicants are taken into account. We, therefore, reject the first submission.

5. The submission that paragraphs 26 and 27 of the decision in ***Surender Singh***[1] had not correctly recorded annual increase of 8% instead of 15% has no relevance in the present matter. The Judgment was not dependent on that figure of 8% from said decision but it had relied upon said decision only to bring home the point that if large extent of land is involved, reliance on one single sale deed of a very small plot would not be correct indicator or

[4] (2010) 11 SCC 175

exemplar for assessing the market value of the entire extent of land. We, therefore, reject the second submission.

6. We, however, find force in the submission that there were following arithmetical errors in the Judgment. The correct position ought to be:-

A. In para 23, instead of Rs.48.366 lakhs per acre the figure ought to be Rs.48,66,666/- and after deduction of Rs.9.12 lakhs @ 18.75% from said figure, the resultant figure would be Rs.39,54,666/- per acre.

B. Similarly, in paragraph 26, instead of Rs.37.54 lakhs per acre the figure ought to be Rs.39,54,666/- per acre and in terms of the conclusion arrived at in said paragraph, the appropriate value of lands in Naharpur Kasan and Kasan would be Rs.39,54,666/- per acre.

C. Further calculations ought to be based on the figure of Rs.39,54,666/- per acre and, therefore, that figure must be reflected everywhere in paragraphs 27 onwards and the figure of Rs.8.77 lakhs being the figure of difference over the base figure would be substituted by the figure of Rs.9,77,333/- per acre. Resultantly, the market value of

Villages Bas Kusla, Bas Haria and Dhana would be Rs.29,77,333/- per acre.

D. Similarly, instead of figure of Rs.56.31 lakhs per acre, the compensation in respect of village Manesar as indicated in para 28 would be Rs.59,31,999/-.

7. As regards the last submission, paragraph 32 of the decision in ***Haryana State Industrial Development Corporation Ltd***[2] recorded the submission of the learned counsel that on the basis of sale deed Ext.PW 9/A, the value ought to be higher than Rs.37,40,000/- per acre. The matter was not finally decided by this Court and was remitted in paragraph 34 for fresh consideration "*uninfluenced by the observations contained in this judgment*". We do not agree with the submission that the landowners were assured of minimum compensation at the level of Rs.37,40,000/- per acre. As a matter of fact, in tune with the observation that fresh consideration be uninfluenced by any of the observations contained in the judgment, the matter was left open and the assessment had to be done *de novo.* We, therefore, reject the submission. However, if the amount at the rate of Rs.37,40,000/- per acre or at any rate greater than the entitlement of the landowners as found in the

Judgment as modified by this Order, was actually made over, the only benefit that can be afforded to them is, that the return or refund of the money in excess of their entitlement may not carry any interest till the date of refund or till the expiry of some reasonable period from today, whichever is earlier.

8. Having considered all the submissions, we reject the prayer for recall of the Judgment but accept the submission that certain arithmetical errors occurring in the Judgment need to be corrected.

9. In the result, the Judgment shall stand modified to the extent indicated hereinbelow:-

i) The expression “Rs.48.366 lakhs per acre” occurring in para 23 of the judgment shall stand substituted by the expression “*Rs.48,66,666/- per acre*”.

ii) In para 23 instead of the expression “Rs.37.54 lakhs per acre”, the expression “*Rs.39,54,666/- per acre*”.

iii) In para 26 instead of the expression “Rs.37.54 lakhs per acre” occurring at two places, the expression “*Rs.39,54,666/- per acre*” shall stand substituted at both places.

iv) In para 27 onwards, for and in place of the expression "Rs.37.54 lakhs per acre" the expression *"Rs.39,54,666/- per acre"* shall stand substituted at every place.

v) Similarly, in para 27 onwards, in place of the expression "Rs.8.77 lakhs" the expression *"Rs.9,77,333/-"* shall stand substituted at every place and in place of figure "28.77 lakhs per acre" the expression *"Rs.29,77,333/- per acre"* shall stand substituted.

vi) For and in place of the expression "Rs.56.31 lakhs per acre" occurring in para 28 onwards, the expression *"Rs.59,31,999/- per acre"* shall stand substituted.

vii) Para 30 of the Judgment shall also stand substituted by the following:

"30. In the circumstances, we direct:

a) In respect of lands under acquisition from villages Naharpur Kasan and Kasan, the market value shall be Rs.39,54,666/- per acre. Additionally, all statutory benefits would be payable.

b) In respect of lands under acquisition from Villages Bas Kusla, Bas Haria and Dhana, the market value shall be Rs.29,77,333/- per acre. Additionally, all statutory benefits would be payable.

c) In respect of lands from village Manesar the market value shall be Rs.59,31,999/- per acre. Additionally, all statutory benefits would be payable.

d) M/s. Kohli Holdings Private Limited shall not be entitled to any severance charges.

e) If any sum in excess of what has been found in this Judgment to be the entitlement of any landowner from any of the villages under acquisition was made over to him, the same shall be returned by the landowner to the State by 30th June, 2019. If the excess sum is returned by 30th June, 2019, no interest on said sum shall be payable by the landowner. However, if the sum is not returned by said date, the said sum shall carry interest @ 9% per annum from 1st July, 2019 till

realisation and can be realised in a manner known to law."

10. The modifications set out in para 9 hereinabove shall be effected in the Judgment and a corrected copy shall again be uploaded by the Registry. Any certified copy of the Judgment issued hereafter must reflect the modifications as set out in para 9 of this order.

11. With the above observations all the Miscellaneous Applications stand disposed of.

……..……..…..……..……J.
(Uday Umesh Lalit)

……...…….……J.
(Dr. Dhananjaya Y Chandrachud)

New Delhi,
February 8, 2019.

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 264-270 OF 2019
(Arising out of Special Leave Petition (Civil) Nos.19284-19290 of 2018)

Wazir & Anr. ……Appellants

VERSUS

State of Haryana ..…. Respondent

WITH

CIVIL APPEAL NO. 338 OF 2019
(Arising out of Special Leave Petition (Civil) No.27342 of 2018)

WITH

CIVIL APPEAL NOS. 333-335 OF 2019
(Arising out of Special Leave Petition (Civil) Nos.26603-26605 of 2018)

WITH

CIVIL APPEAL NOS. 336-337 OF 2019
(Arising out of Special Leave Petition (Civil) Nos.26607-26608 of 2018)

WITH

CIVIL APPEAL NOS. 272-332 OF 2019
(Arising out of Special Leave Petition (Civil) Nos.26527-26587 of 2018)

WITH

CIVIL APPEAL NO.339 OF 2019
(Arising out of Special Leave Petition (Civil) No.27343 of 2018)

WITH

CIVIL APPEAL NO. 271 OF 2019
(Arising out of Special Leave Petition (Civil) No.26457 of 2018)

WITH

CIVIL APPEAL NOS.340-341 OF 2019
(Arising out of Special Leave Petition (Civil) Nos.28210-28211 of 2018)

WITH

CIVIL APPEAL NO. 342 OF 2019
(Arising out of Special Leave Petition (Civil) No.28985 of 2018)

WITH

CIVIL APPEAL NOs.593-617 OF 2019
(Arising out of Special Leave Petition (Civil) Nos.33586-33610 of 2018)
(D.No.41362 of 2018)

WITH

CIVIL APPEAL NOs.343-592 OF 2019
(Arising out of Special Leave Petition (Civil) Nos.33168-33417 of 2018)
(D.No.42687 of 2018)

JUDGMENT

Uday Umesh Lalit, J.

1. Leave granted.

2. The landholders and HSIIDC[1] have filed these cross appeals challenging the final judgment and order dated 09.03.2018 passed by the High Court of Punjab and Haryana at Chandigarh in RFA No.2373 of 2010 (O&M) titled Madan Pal (III) v. State of Haryana and another and in all connected matters. Since all these matters arise out of the same acquisition proceedings, they are dealt with together by this common Judgment.

3. About 1500 acres of land was notified under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act") for the public purpose of development of Industrial Model Township, Manesar, Gurgaon Phases II, III and IV by three separate notifications. The proposed acquisition was:-

i) re: Phase II

About 177 Acres 5 Kanal 19 Marla situated in the Revenue Estate of Villages Kasan, Bas Kusla, Naharpur Kasan and Manesar, Tehsil and District Gurgaon was notified on 06.03.2002.

(ii) re: Phase III

[1] Haryana State Industrial and Infrastructure Development Corporation

About 598 Acres 5 Kanal 12 Marla situated in the Revenue Estate of Villages Bas Kusla, Kasan, Bas Haria and Dhana, Tehsil and District Gurgaon was notified on 07.03.2002.

(iii) re: Phase IV

About 657 Acres 4 Kanal 3 Marla situated in the Revenue Estate of villages Bas Kusla, Bas Haria, Dhana and Kasan, Tehsil and District Gurgaon was notified on 26.02.2002.

4. Appropriate declarations under Section 6 of the Act were issued by the State Government in respect of said lands under Phases II, III and IV on 15.11.2002, 25.11.2001 and 18.11.2002 respectively. Thereafter:

(i) In respect of lands proposed to be acquired for Phase II, Award No.5 of 2003 was passed by the Sub-Divisional Officer (C)-cum-Land Acquisition Collector, Gurgaon on 22.07.2003 and the compensation awarded to the land owners for different types of lands was as under:

	Kinds of Land and rates per acre		
Village	Chahi	Banjar	Gair Mumkin
Kasan	5,25,000/-	5,00,000/-	7,50,000
Bas	2,25,000/-	1,75,000/-	3,60,000/-

Kusla			
Naharpur Kasan	5,25,000/-	4,00,000/-	7,20,000/-
Manesar	7,00,000/-	7,00,000/-	10,00,000/-

The extent of lands under various categories in the aforesaid villages was set out in the award as under:-

Name of village	Kinds of Land			Total	
	Chahi	Gair Mumkin	Banjar	Kanal	Marla
Kasan	210-08	19-07	0	229	15
Bas Kusla	752-18	47-17	0	800	15
Naharpur Kasan	52-12	0-02	0	52	14
Manesar	272-00	16-05	09-07	297	12
Grand Total	1287-18	83-11	09-07	1380	16

(ii) In respect of lands in Phase No.III, Award No.1 of 2003 was passed by the Sub-Divisional Officer (C)-cum-Land Acquisition Collector, Gurgaon on 24.12.2003 and the compensation awarded to the land owners for different types of lands was as under:

Kinds of land and rates per acre		
Village	Chahi	Gair Mumkin
Kasan	5,25,000/-	7,50,000/-
Bas	2,25,000/-	3,60,000/-

Kusla		
Bas Haria	2,25,000/-	3,60,000/-
Dhana	2,25,000/-	3,60,000/-

The extent of lands under various categories in the aforesaid villages was set out in the award as under:

Name of Village	Kinds of land				Total	
	Chahi		Gair Mumkin		Kanal	Marla
	K	M	K	M		
Kasan	1602	8	234	11	1836	19
Bas Kusla	955	6	32	11	987	17
Bas Haria	163	15	2	7	166	2
Dhana	1740	4	58	10	1798	14
Grand Total	4461	13	327	19	4789	12

(iii) In respect of lands in Phase No.IV, Award No.6 of 2004 was passed by the Sub-Divisional Officer (C)-cum-Land Acquisition Collector, Gurgaon on 20.05.2004 and the compensation awarded to the land owners for different types of lands was as under:

Kinds of land and rates per acre		
Village	Chahi	Gair Mumkin
Bas Kusla	2,25,000/-	3,60,000/-
Bas Haria	2,25,000/-	3,60,000/-
Dhana	2,25,000/-	3,60,000/-

Kasan	5,25,000/-	7,50,000/-

The extent of lands under various categories in the aforesaid villages was set out in the award as under:

Name of Village	Kinds of land				Total	
	Chahi		Gair Mumkin		Kanal	Marla
	K	M	K	M		
Bas Kusla	1619	13	75	16	1695	9
Bas Haria	874	9	30	10	904	19
Dhana	1402	4	89	13	1491	17
Kasan	1035	5	132	13	1167	18
Grand Total	4931	11	328	12	5260	3

5. Aggrieved and dissatisfied, the land owners filed references under Section 18 of the Act. Said references as regards lands acquired for Phases II and III were dealt with as under:-

(i) In respect of lands acquired for Phase No.III, in LAC Case No.513 of 2004 and other connected matters, the Reference Court passed an order on 16.12.2009 enhancing the compensation to Rs.28,15,849/- per acre with solatium and interest on the compensation amount at applicable rates. The Reference Court relied upon the decision of the High Court in ***Pran Sukh etc.*** v. ***State of Haryana*** which related to acquisition for the same purpose of setting

up an Industrial Model Township, Manesar pursuant to notification under Section 4 of the Act issued on 15.11.1994, where the High Court had assessed the compensation at the rate of Rs.15 lakhs per acre. The Reference Court granted 12% increase per annum on the rate at which compensation was awarded in ***Pran Sukh*** by the High Court and arrived at the rate of Rs.28,15,356/- per acre which was a common rate for all kinds of lands.

(ii) In respect of lands acquired for Phase II, in LAC Case No.164 of 2004 and other connected matters, the Reference Court[2] passed an order on 27.01.2010 enhancing the compensation to Rs.28,15,356/- per acre with solatium and interest on the compensation at applicable rates. Reliance was placed on the earlier decision dated 16.12.2009 of the Reference Court. The Compensation was awarded at the same rate for all kinds of lands.

6. While the reference applications in respect of Phase IV were pending before the Reference Court, the appeal arising from the decision of the High Court in ***Pran Sukh*** was decided by this Court on 17.08.2010. This Court[3]

[2] the Additional District Judge, Gurgaon
[3] (2010) 11 SCC 175 (Haryana State Industrial Development Corporation v. Pran Sukh & Ors.)

determined the market value of the land, where notification was issued under Section 4 on 15.11.1994, to be Rs.20 lakhs per acre. Under said notification, 1490 acres of land from villages Manesar, Naharpur Kasan, Khoh and Kasan was acquired. This Court found that the High Court was right in relying upon the sale deed dated 16.09.1994 (Ext.P1) but held that the High Court was not right in imposing a cut of 20% and 25%. It held that all the lands would be assessed at the rate of Rs.20 lakhs per acre.

7. The reference applications in respect of Phase IV were thereafter taken up for consideration. Relying upon the decision of this court in ***Pran Sukh***[3] the Reference Court in its order dated 30.11.2010 in LAC Case No.263 of 2008 and other connected matters enhanced the compensation to Rs.37,40,230/- per acre. While so awarding, the Reference Court granted enhancement at the rate of Rs.12% per annum taking the base rate to be Rs.20 lakhs per acre as on 15.11.1994 in terms of the decision of this Court in ***Pran Sukh***[3]. The Reference Court also awarded solatium and interest on the compensation amount at applicable rates. It awarded compensation at the same rate for all kinds of lands.

8. In respect of acquisitions for Phases II and III where compensation was awarded at the rate of Rs.28,15,356/- per acre as mentioned hereinabove, RFA No.2373 of 2010 titled ***Madan Pal*** v. ***State of Haryana*** and all connected matters were preferred in the High Court. Said appeals were disposed of by the High Court by its judgment and order dated 11.02.2011. Relying on the decision of this Court in ***Pran Sukh***[3] it was observed by the High Court in paras 22 and 29 as under:

> "22. The issue under consideration in the present set of appeals is regarding determination of the value of land acquired for the purpose of development as Phase-II and Phase-III of Industrial Model Township, Manesar. The notification under Section 4 of the Act for Phase-II was issued on 06.03.2002, whereas for Phase-III, the same was issued on 07.03.2002. For Phase-II, the total acquired land was 1380 kanals and 16 marlas, whereas for Phase-III, the same was 4789 kanals and 12 marlas. The entire land is a compact block. It is adjoining to the land already acquired for development as Phase-I in the year 1994. The village, of which the lands was acquired, are common in the acquisition or are contiguous as after crossing the boundaries of one village, the abutting land of the next revenue estate was acquired. It was also contended at the time of hearing that almost at the same time, land for development as Phase-IV was also acquired adjoining to the land in question by notification under Section 4 of the Act issued on 26.02.2002, the area being 567 acres 4 kanals and 3 marlas. Even subsequent thereto, for development as Phase-V in the same area, 956 acres, 5 kanals and 18 marlas of land was acquired vide notification under Section 4 of the Act issued on 17.09.2004.

> 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 acquisitions being 7 years and 3 months, the value of the land is determined at Rs.37,40,000/- per acre. The land owners shall also be entitled to the statutory benefits available to them under the Act."

However, as regards land held by M/s Kohli Holdings Private Limited, the compensation was awarded at the rate of Rs.1.02 crores per acre on the grounds that said land had frontage of two acres on National Highway No.8 and that on the back side there was connection from a link road.

9. The aforesaid judgment of the High Court passed on 11.02.2011 was challenged in Civil Appeal Nos.4843-4940 of 2013 before this Court. In its decision in ***Haryana State Industrial Development Corporation Limited*** v.

UDAL and others[4], this Court noted the contention of HSIIDC in para 22 and then concluded in paras 29 and 30 as under: -

> **"22.** 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 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 *ONGC Ltd.* v. *Rameshbhai Jivanbhai Patel* (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. The learned Senior Counsel emphasised 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 criticised 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 (P) Ltd. 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.
>
> **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 (P) Ltd., the learned Single Judge did make a reference to Ext. P-38 (para 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

[4](2013) 14 SCC 506

> simply referred to the judgment of this Court in *Pran Sukh 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 (P) Ltd., the learned Single Judge squarely relied upon Ext. P-38 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 Ext. P-38 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 (P) Ltd. 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%."

This Court therefore allowed the appeals and remanded the matters back to the High Court for fresh disposal. Further, liberty was given to Maruti Suzuki India Limited, namely, one of the beneficiaries of the acquisition to file an application for impleadment in the pending appeals before the High Court.

10. Post remand, the High Court by its judgment and order dated 06.10.2015 passed in RFA No.2373 of 2010 titled ***Madan Pal (II)*** v. ***State of***

Haryana and in all connected matters, remanded the cases back to the Reference Court for fresh disposal. It was found that the acquiring authority had not defended the matters properly and the beneficiary of the acquisition ought to be given chance to place the material before the Court. It, therefore, permitted Maruti Suzuki India Limited to lead evidence in the Reference Court. Liberty was also given to all the parties to produce relevant evidence in support of their submissions. This judgment of the High Court was again challenged before this Court in Civil Appeal Nos.1587-1636 of 2017 and in all connected matters. In its decision in ***Satish Kumar Gupta and others*** v. ***State of Haryana and others***[5] and in all connected matters, this Court held that the post-acquisition allottee, namely, Maruti Suzuki India Limited could not be treated as a necessary or proper party while determining matters concerning compensation. It, therefore, set aside the judgment and order dated 06.10.2015 passed by the High Court and remanded the cases back to the High Court for deciding the cases afresh.

11. Thereafter, the matters were taken up for fresh consideration by the High Court. In support of the plea for enhancement in compensation, reliance was placed by the landholders on following exemplars :-

[5] (2017) 4 SCC 760

Exhibits	Date	Area/ Village	Sale Consideration in Rs.	Value per acre in Rs.
Ex.P1	12.06.1997	2 kanals / Bas Kusla	2,00,000/-	8 lakhs
Ex.P2	23.06.1997	1 kanal 10 marlas / Bas Kusla	4,50,000/-	8 lakhs
Ex.P3	18.09.1997	18 kanals/ Dhana	14,28,750/-	6,35,000/-
Ex.P4	18.08.2003	1 kanal 4 Marlas/ Kasan	7,30,000/-	48,66,666/-
Ex.P6	16.09.1994	96 kanals 13 marlas (12.081 acres)/Naharpur Kasan	2.42 crores	20 lakhs
Ex.P8	20.09.1996	1 kanal 1½ marla/ Naharpur Kasan	3,53,000/-	25 lakhs
Ex.PY	28.04.2004	96 kanals 13 marlas/ Naharpur Kasan	13.62 crores	1.13 crores

Apart from the aforesaid exemplars, certain allotments of developed pieces of land namely Ext.P4 in favour of Orient Craft Ltd. dated 02.02.2002, Ext.P11 dated 30.09.1999 in favour of Krishna Maruti Ltd., Ext.P14 dated 07.08.2002 in favour of M/s Royal Tool, etc., were also relied upon. Submission was also made that taking the rate of Rs.20 lakhs per acre as held by this Court in ***Pran Sukh***[3] to be the prevalent rate in 1994,

enhancement at 15% could also be considered to arrive at the appropriate rate for the year 2002.

On the other hand, a prayer was made on behalf of HSIIDC and the State to permit them to place on record certain sale deeds of 1994 and 2002 by way of additional evidence in support of the plea that compensation awarded by the Reference Court was on the higher side. The prayer to lead additional evidence was however rejected by the High Court.

12. The High Court observed that reliance on the allotment letters of various industrial plots or the instances of auction sales would not be a safe parameter to assess the market value. The High Court then considered cumulative increase in the price considering the rate of Rs.20 lakhs as awarded by this Court in ***Pran Sukh***[3] to be the base rate. Out of the sale deeds on record, it considered Ext.P8 dated 20.09.1996 in favour of Times Masters India Pvt. Ltd. to be the most appropriate exemplar, and at the same time it also computed the figures by giving cumulative enhancement at the rates of 12% and 15% over the base rate of Rs.20 lakhs per acre as awarded by this Court in ***Pran Sukh***[3] (supra). Thereafter, cut of 10% and 20% was also applied. Paragraphs 95, 96, 97, 98 of the judgment were:-

"95. Thus, if cumulative benefit by way of 12% cumulative increase is to be given on the base price of Rs.20 lakhs from 1994 to 2001 enhancement would come to as under:-

Year	Principal Amount (Rs.)	Enhanced Amount (Rs.)	Total amount (Rs.)
1994	20,00,000.00	--	20,00,000.00
1995	20,00,000.00	2,40,000.00	22,40,000.00
1996	22,40,000.00	2,68,800.00	25,08,800.00
1997	25,08,800.00	3,01,056.00	28,09,856.00
1998	28,09,856.00	3,37,182.72	31,47,038.72
1999	31,47,038.72	3,77,644.65	35,24,683.37
2000	35,24,683.37	4,22,962.00	39,47,645.37
2001	39,47,645.37	4,73,717.44	44,21,362.81

Cut on the amount of Rs.44,21,362 @ 10% (Rs.4,42,136): 39,79,226/-

Cut on the amount of Rs.44,21,362 @ 20% (Rs.8,84,272/-): 35,37,090/-

96. Similarly, if the enhancement is to be granted @ 15% on Rs.20 lakhs from 1994 to 2001, it works out as under:-

Year	Principal Amount (Rs.)	Enhanced Amount (Rs.)	Total amount (Rs.)
1994	20,00,000.00	--	20,00,000.00
1995	20,00,000.00	3,00,000/-	23,00,000.00
1996	23,00,000.00	3,45,000/-	26,45,000.00
1997	26,45,000.00	3,96,750.00	30,41,750.00
1998	30,41,750.00	4,56,262.50	34,98,012.50
1999	34,41,750.00	5,24,701.87	40,22,714.37
2000	40,22,714.37	5,70,328.12	46,26,121.52
2001	46,26,121.52	6,93,918.23	53,20,039.76

Cut on the amount of Rs.53,20,039 @ 10% (Rs.5,32,003/-): 47,88,036/-

Cut on the amount of Rs.53,20,039 @ 20% (Rs.10,64,007/-): 42,56,032/-

97. Similarly, if the benefit of 12% cumulative increase is to be given on the sum of Rs.25 lakhs after the sale deed from 1996 (Ex.P8) in favour of Times Master India Private Limited to 2001 enhancement would come to as under:-

Year	Principal Amount (Rs.)	Enhanced Amount (Rs.)	Total amount (Rs.)
1996	25,00,000.00	--	25,00,000.00
1997	25,00,000.00	3,00,000.00	28,00,000.00
1998	28,00,000.00	3,36,000.00	31,36,000.00
1999	31,36,000.00	3,76,320.00	35,12,320.00
2000	35,12,320.00	4,21,478.40	39,33,798.40
2001	39,33,798.40	4,72,055.81	44,05,854.21

Cut on the amount of Rs.44,05,854 @10 (Rs.4,40,585/-): 39,65,269/-

Cut on the amount of Rs.44,05,854 @ 20% (Rs.8,81,1702/-): 35,24,684/-

98. For enhancement @ 15% on Rs.25 lakhs from 1996 to 2001, the amount works out as under:-

Year	Principal Amount (Rs.)	Enhanced Amount (Rs.)	Total amount (Rs.)
1996	25,00,000.00	--	25,00,000.00
1997	25,00,000.00	3,75,000.00	28,75,000.00
1998	28,75,000.00	4,31,250.00	33,06,250.00
1999	33,06,250.00	4,95,937.50	38,02,187.50
2000	38,02,187.50	5,70,328.12	43,72,515.62

Cut on the amount of Rs.50,28,392 @ 10% (Rs.5,02,839/-): 45,25,553/-

Cut on the amount of Rs.50,28,392 @ 20% (Rs.10,05,678/-): 40,22,714/-".

13. On the basis of the aforesaid figures, taking average of both the parameters after giving 15% enhancement but effecting 20% cut, the figure of Rs.41,39,373/- which was rounded off to Rs.41.40 lakhs was taken as the market value for the lands in question as under:-

"103. Thus, when we compare the enhancement firstly on the principle of cumulative increase on the price fixed by the Apex Court in ***Pran Sukh*** (supra) on Rs.20 Lakhs @15%

> from 1994 till 2001, it works out to Rs.53,20,039/-. Similarly, if the enhancement of 15% is given on the basis of the sale deed Ex.P8 in favour of Time Master India Private Limited from 1996 to 2001, the amount works out to Rs.50,28,392/-. In case the cut of 20% is applied on the said amount, the amounts worked out to Rs.42,56,032/- in one case and Rs.44,22,714/- in other case.
>
> 104. Resultantly, if the average of both the formulas is also worked out the amount after giving 20% cut the average of said formulas would take the market value to Rs.41,39,373/- and, accordingly, after rounding it off, this Court is of the opinion that Rs.41.40 lakhs would be the appropriate market value for the land in question."

14. The High Court, thus, by its judgment and order dated 09.03.2018 passed in RFA No.2373 of 2010 titled ***Madan Pal (III)*** v. ***State of Haryana*** and in all connected matters assessed the compensation at Rs.41.40 lakhs per acre along with statutory benefits in respect of lands acquired in villages Naharpur Kasan, Kasan, Bas Haria, Bas Kusla and Dhana (covered by Phases II and III). The compensation in village Maneswar (covered by Phase-IV) was assessed after giving 50% enhancement at Rs.62.10 lakhs per acre along with statutory benefits. As regards M/s Kohli Holdings Pvt. Ltd., additional component of 30% was also awarded on account of severance charges, over and above the rate of Rs.62.10 lakhs per acre.

15. The aforesaid view of the High Court is now under challenge in these cross appeals. Mr. Dhruv Mehta and Ms. Kiran Suri, learned Senior Advocates for the landholders relied upon the allotments of developed plots as indicators of high potential of the lands. It was submitted that even if the rate awarded in ***Pran Sukh***[3] was to be taken as the base rate, there ought not to have been any cut and secondly, the compensation ought to have been arrived at till 2002 and not upto 2001 as was done by the High Court. Mr. R. S. Suri, learned Senior Advocate appearing for M/s. Kohli Holdings Pvt. Ltd. stressed upon the incongruity in the price awarded presently as against one that was granted on the earlier occasion. He submitted that the lands of his client were on National Highway No.8 and were bestowed with all the advantages and as such the price awarded on the earlier occasion was the correct one. Mr. Alok Sangwan, learned Advocate appearing for HSIIDC contended that the sale deeds of 1994 and 2002 ought to have been allowed to be placed on record. In his submission the compensation awarded by the High Court was on the higher side. In any case, considering the huge extent of land the enhancement ought to have been in terms of law laid down by

this Court in ***General Manager, Oil and Natural Gas Corporation Limited.*** v. ***Rameshbhai Jivanbhai Patel and Another***[6] and other cases.

16. We must first consider the submissions based on the allotments and instances of auction purchases of developed plots effected by the Development Authority itself. These submissions were rightly rejected by the High Court. The law on the point is well settled as stated in ***Lal Chand vs. Union of India and another*** [7]**.** We therefore, reject these submissions.

17. Before we consider other submissions, it must be mentioned that the assessment made by the High Court in its judgment dated 11.02.2011 was not approved by this Court as is evident from its judgment[4]. This Court recorded the submission made by the learned counsel appearing for HSIIDC that 12% cumulative escalation on the rate in ***Pran Sukh***[3] itself was excessive and not in consonance with the law laid down by this Court and also found that the landholders were aggrieved by non-consideration of the documents produced before the Reference Court as well as the inter se discrimination between M/s. Kohli Holdings Pvt. Ltd. and the other landholders. We must therefore consider the matter from two perspectives

[6] (2008) 14 SCC 745
[7] (2009) 15 SCC 769

namely on the strength of the documents on record and on the basis of the rate as found in ***Pran Sukh***[3] to arrive at the appropriate market value.

18. We must also note, at the outset, the governing legal principles regarding annual increase over a base rate. The law in that behalf has been succinctly stated by this Court in ***ONGC Limited*** (supra) in paras 10 to 17 under the heading "what should be the increase per annum" as under:-

> "10. The contention of the appellant is that even if Ext. 15 should be the basis, in the absence of any specific evidence regarding increase in prices between 1987 and 1992, the annual increase could not be assumed to be 10% per year.
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> 11. On the other hand, the learned counsel for the respondent claimants submitted that the rate of escalation in market value at the relevant time was in the range of 10% to 15% per annum. He relied on the decisions of this Court in *Ranjit Singh* v. *Union Territory of Chandigarh* (1992) 4 SCC 659 and *Land Acquisition Officer and Revenue Divisional Officer* v. *Ramanjulu* (2005) 9 SCC 594 wherein this Court had accepted an escalation of ten per cent per annum, and the decision in *Krishi Utpadan Mandi Samiti* v. *Bipin Kumar* (2004) 2 SCC 283 where this Court had accepted an escalation of 15% per annum. He, therefore, submitted that escalation at the rate of 10 per cent adopted by the Reference Court and approved by the High Court is a reasonable and correct standard to be applied.
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> 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* (1992) 4 SCC 659 related to acquisition for development of Sector 41 of

Chandigarh. *Ramanjulu* (2005) 9 SCC 594 related to acquisition of the third phase of an existing and established industrial estate in an urban area. *Bipin Kumar* (2004) 2 SCC 283 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.

16. Much more unsafe is the recent trend to determine the market value of acquired lands with reference to future sale transactions or acquisitions. To illustrate, if the market value of a land acquired in 1992 has to be determined and if there are no sale transactions/acquisitions of 1991 or 1992 (prior to the date of preliminary notification), the statistics relating to sales/acquisitions in future, say of the years 1994-1995 or 1995-1996 are taken as the base price and the market value in 1992 is worked back by making deductions at the rate of 10% to 15% per annum. How far is this safe? One of the fundamental principles of valuation is that the transactions subsequent to the acquisition should be ignored for determining the market value of acquired lands, as the very

acquisition and the consequential development would accelerate the overall development of the surrounding areas resulting in a sudden or steep spurt in the prices. Let us illustrate. Let us assume there was no development activity in a particular area. The appreciation in market price in such area would be slow and minimal. But if some lands in that area are acquired for a residential/commercial/industrial layout, there will be all round development and improvement in the infrastructure/amenities/ facilities in the next one or two years, as a result of which the surrounding lands will become more valuable. Even if there is no actual improvement in infrastructure, the *potential* and *possibility* of improvement on account of the proposed residential/commercial/industrial layout will result in a higher rate of escalation in prices. As a result, if the annual increase in market value was around 10% per annum before the acquisition, the annual increase of market value of lands in the areas neighbouring the acquired land, will become much more, say 20% to 30%, or even more on account of the development/proposed development. Therefore, if the percentage to be added with reference to previous acquisitions/sale transactions is 10% per annum, the percentage *to be deducted* to arrive at a market value with reference to future acquisitions/sale transactions should not be 10% per annum, but much more. The percentage of standard increase becomes *unreliable*. Courts should, therefore, avoid determination of market value with reference to subsequent/future transactions. Even if it becomes inevitable, there should be greater caution in applying the prices fetched for transactions in future. Be that as it may.

17. In this case, the acquisition was in a rural area. There was no evidence of any out of the ordinary developments or increases in prices in the area. We are of the view that providing an escalation of 7.5% per annum over the 1987 price under Ext. 15, would be sufficient and appropriate to arrive at the market value of acquired lands.”

19. The instant matter is required to be considered in the light of the aforesaid principles. The land under present acquisition is an extent of 1500 acres and from 6 villages i.e. Bas Kusla, Bas Haria, Dhana, Manesar, Naharpur Kasan and Kasan. If the computation which was accepted by the Sub-Divisional Officer cum Land Acquisition Collector is considered, the values of lands in villages Bas Kusla, Bas Haria and Dhana were definitely on the lower side as compared to the corresponding values from villages like Manesar, Naharpur Kasan and Kasan. In the awards, the maximum value of Rs.10 lakhs per acre was in respect of lands from Manesar while those from Naharpur Kasan and Kasan were Rs.7,20,000/- and Rs.7,50,000/-per acre respectively. As compared to these villages the values in respect of lands in Bas Kusla, Bas Haria and Dhana were almost less than 50%. If the extent of land which was subject matter of acquisition is again considered, more than ⅔rds of lands are from villages Bas Kusla, Bas Haria and Dhana. The earlier acquisition of 1994 which was dealt with in ***Pran Sukh***[3] was with regard to four villages, including Manesar, Naharpur Kasan and Kasan. In these villages, the valuation was found to be more than double as compared to villages Bas Kusla, Bas Haria and Dhana. The question then arises whether

these two sets of villages ought to be given differential treatment or should they be clubbed and put at the same level.

20. Recently, in the case of ***Surender Singh*** v. ***State of Haryana and others***[8] the acquisition was initiated on 11.01.2005 for acquiring an extent of 520 acres of land from 15 villages in the State of Haryana. Two villages, namely, Kasan and Dhana out of said 15 villages are also part of the present acquisition. Relying on the decision of ***Pran Sukh***[3] where compensation was awarded at the rate of Rs.20 lakhs per acre and after granting 8% cumulative increase over rates of 1994, the High Court had arrived at the rate of compensation for the entire extent of 520 acres. While remanding the matter back to the High Court for fresh consideration it was observed by this Court in paras 26 to 29 as under:

> **"26.** The High Court, however, noticed from the facts involved in *Pran Sukh*[3] that the land situated in one Village Kasan along with its some adjoining villages was acquired on 15-11-1994 by the State and this Court determined the compensation payable to the landowners of Kasan Village @ Rs 20,00,000 per acre.
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> **27.** The High Court felt that Rs 20,000,00 per acre should be taken as the base price for determining the rate of acquired land in question. The High Court perhaps did this after having

[8] (2018) 3 SCC 278

noticed that some part of the acquired land in these appeals is situated in Kasan Village and, therefore, it is ideal to take the rate of Kasan Village land as basis for determining the rate of acquired land also. The High Court accordingly gave annual increase of 8% to Rs 20,00,000 and worked out the rate at Rs 62,11,700 per acre for the entire acquired land in question by applying one uniform rate.

28. In our considered opinion, the approach of the High Court in the facts of these cases does not appear to be right inasmuch as the High Court failed to take into consideration several material issues which arose in these cases and had a bearing on determination of the fair market rate of the land in question under Section 23 of the Act:

28.1. First, the acquired land, in these cases, was a huge chunk of land measuring around 520 acres, 2 kanals and 13.5 marlas.

28.2. Second, the entire acquired land was not situated in Village Kasan but it was spread over in 15 villages as detailed above.

28.3. Third, there is no evidence to show much less any finding of the High Court as to what was the actual distance among the 15 villages against one another, the location, situation/area of each village, whether any development had taken place and, if so, its type, nature and when it took place in any of these villages, the potentiality and the quality of the acquired land situated in each village, its nature and the basis, the market rate of the land situated in each village prior to the date of acquisition or in its near proximity, whether small piece of land or preferably big chunk of land, the actual distance of each village qua any other nearby big developed city, town or a place, whether any activity is being carried on in the nearby areas, their details.

> **28.4.** Fourth, whether the acquired land in *Pran Sukh*[3] in Village Kasan and the acquired land in question are similar in nature or different and, if so, how and on what basis, their total distance, etc.
>
> **29.** These were, in our view, the issues which had material bearing while determining the rate of the acquired land in question."

21. In the instant case, the sale deeds Exts.P1, P2 and P3 relied upon by the landholders pertained to lands from villages Bas Kusla and Dhana and were of the year 1997 that is after the acquisition was initiated in ***Pran Sukh***[3]. The maximum value per acre in these villages was Rs.8 lakhs per acre and that too with respect to smaller plots. The sale deeds Exts.P4, P6, P8 and PY however pertained to lands coming from villages Naharpur Kasan and Kasan. Ext.PY dated 28.04.2004 was much after the acquisition was initiated in the present case. Secondly, as found by the High Court in para 74 of its judgment, there was construction and CLU was also obtained in relation to land in Ext. PY. For these reasons the High Court had rightly ruled out said transaction. At the same time Ext.P4 was also after the acquisition in the present case was initiated and pertained to a small plot of land. Out of these four sale deeds, Ext.P8 is prior in point of time so far as the present acquisition is considered and was therefore rightly relied upon as

the most appropriate exemplar by the High Court. If the value in Ext.P8 is compared with the maximum value under Exts.P1, P2 and P3 there is a marked difference. This difference is again consistent with the valuation that was accepted by the Sub-Divisional Officer cum Land Acquisition Collector. Since major part of the land under acquisition that is more than $^{2}/_{3}^{rds}$ is from villages Bas Kusla, Bas Haria and Dhana, one way of assessing the correct value of compensation is to treat these three villages on one side while other three villages on the other side.

22. However, not only the Reference Court but the High Court on three different occasions had considered all these villages together and applied the same rate of compensation. The base rate was initially taken by the Reference Court to be Rs.15 lakhs in terms of the decision of the High Court in ***Pran Sukh*** and later to be Rs.20 lakhs as per the decision of this Court. The High court on all three occasions had based its assessment taking base rate in ***Pran Sukh***[3] to be the starting point. We must also note that in ***Pran Sukh***[3]**,** this Court had also applied uniform rate for the entirety of the extent of 1490 acres of land coming from four different villages. It would therefore be inappropriate at this stage to make a distinction between these two sets of villages for the purposes of base rate. But this point will

certainly be of relevance when we consider the ratio of escalation. The sale deeds Exts.P1, P2 and P3 indicate that even after the initiation of acquisition in ***Pran Sukh***[3] case which was in 1994, the valuation of the lands was still at a lower level. On the other hand, the valuation in respect of Ext. P-8 has shown some increase.

23. As regards lands in Naharpur Kasan and Kasan, Exh. PY dated 28.04.2004 having been ruled out of consideration, we are now left with 3 sale instances namely Exh. P4, P6 and P8. We may first consider pre-acquisition instances namely Exh. P6 & P8. Exh. P6 dated 16.09.1994 pertained to land having an extent of 12 acres, a fairly large area, where the value was Rs.20.00 lakhs per acre. This value is equal to the one which was granted by this Court in the case of ***Pran Sukh***[3] for the acquisition of 1994. The next sale deed namely Exh.P8 dated 29.09.1996 pertained to very small piece of land which was less than ½ acre and the value was in the region of 25.00 lakhs per acre. Without effecting any deduction on account of smallness of the plot and considering the values as they stand, it shows an increase of 25% over a period of two years, i.e. to say @ 12.5% per annum. This is one indication as to the nature of increase in price after 1994.

We have another sale instance namely Exh. P4 dated 18.08.2003 which was after a year and half from the dates of Notifications issued under Section 4 in the present matter. If the very same rate of increase, though this Court in the decision in ***ONGC Ltd.*** (supra) had ruled that while deducting from a post-acquisition instance and working backwards the rate of deduction ought to be higher, is adopted in the present matter, 18.75% will have to be deducted from the price which was prevalent in August 2003 to arrive at the corresponding value for the period when the present acquisition was initiated. The rate of Rs.48.366 lakhs per acre, as available from Exh.P4, again without effecting any deductions for the smallness of the plot, must for the purposes of calculation suffer a deduction of Rs.9.12 lakhs @ 18.75%. We thus arrive at a figure of Rs.37.54 lakhs as the prevalent price in the year 2002. This price is arrived at first by considering the rate of deduction which the value representing the sale instance of August 2003 must suffer and secondly after effecting appropriate deduction, arrive at the appropriate value for the present purposes. We may call this Method no.1.

24. We now consider the matter from a different perspective and take the rate awarded in ***Pran Sukh***[3] as the basis and then try to arrive at the appropriate value for the present acquisition. For this purpose, we may have

to determine the rate of increase as shown by the sale deeds on record. The acquisition in ***Pran Sukh***[3] was of the year 1994 and the award of rate therein corresponds with the rate available on record through Exh.P6. We have two instances of Exh.P8 and P4, which may indicate the rise in values. However in both instances, the lands were very small plots i.e. of an extent of less than half an acre. If the prices are to be compared in real terms, the values representing in two sale deeds Exh.P4 and P8 must be re-worked after effecting appropriate deduction. Normally the deductions can range from 20% upwards. We may however take the lowest of the quotient namely 20%. On that basis, over a period of two years i.e. between ***Pran Sukh***[3] and Exh.P8 there would be no difference at all and the values would show the same rate. If the rate available from Exh.P4 is subjected to deduction of 20%, the corresponding value for a larger extent of land would be Rs.38.93 lakhs per acre. The difference between this value and the base value awarded in ***Pran Sukh***[3] (supra) would then show the rise over a period of 7 years. In other words, the price of Rs.20.00 lakhs rose by Rs.18.93 lakhs in seven years that is to say it rose by 94.65% giving us an annual average of 13.52%. This rate represents pure increase on non-cumulative basis. If we

adopt the rate, the base price as awarded in ***Pran Sukh***[3] would have risen to the level of Rs.36.22 lakhs per acre. We may call this Method no.2.

25. The instances representing Exh. P1, P2 & P3 as well as P6, as a matter of fact do not show any increase at all as against the base rate as awarded in ***Pran Sukh***[3] and the rise in Exh.P4 & P8 is also not substantial. Going by the law laid down by this Court on ***ONGC Ltd.*** (supra) in our considered view, the cumulative increase of 8% over the base rate as available in ***Pran Sukh***[3] would give us the correct picture as to the rise in values in the area comprising of villages Naharpur Kasan and Kasan. The tabulated chart in that regard would be as under:

Year	Principal Amount (Rs.)	Enhanced Amount (Rs.)	Total amount (Rs.)
1994	20,00,000/-	---	20,00,000/-
1995	20,00,000/-	1,60,000/-	21,60,000/-
1996	21,60,000/-	1,72,800/-	23,32,800/-
1997	23,32,800/-	1,86,624/-	25,19,424/-
1998	25,19,424/-	2,01,554/-	27,20,978/-
1999	27,20,978/-	2,17,678/-	29,38,656/-
2000	29,38,656/-	2,35,092/-	31,73,748/-
2001	31,73,748/-	2,53,900/-	34,27,648/-
2002	34,27,648/-	2,74,212/-	37,01,860/-

These calculations would show the corresponding value for the year 2002 at Rs.37,01,860/- per acre. We may call this as Method no.3.

26. If the figures arrived at through these three methods are compared, the values of Rs.37.54 lakhs per acre under Method no.1, Rs.36.22 lakhs under Method no.2 and Rs.37.01 lakhs under Method no.3 are quite comparable. If the highest of these three figures is taken, the appropriate value for the lands in Naharpur Kasan and Kasan would be Rs.37.54 lakhs per acre in the year 2002.

27. The values in other three villages namely Bas Kusla, Bas Haria and Dhana have not shown any such increase. Apart from Exh.P1, P2 and P3, nothing has been placed on record, insofar as said villages are concerned. As stated herein above, even for these villages we may adopt the base rate of Rs.20.00 lakhs for the year 1994 and then consider the appropriate increase. As the sale deeds dated Exh. P1, P2 and P3 in respect of lands coming from these villages have not shown any increase at all, by way of rough and ready method we may adopt half the rise as shown in the lands coming from villages Naharpur Kasan and Kasan. Half the difference between Rs.20.00 lakhs as the base rate and Rs.37.54 lakhs adopted for the villages of Naharpur Kasan, Kasan and Manewsar would mean difference of Rs.8.77 lakhs over the base figure of Rs.20.00 lakhs as awarded in ***Pran Sukh***[3].

Thus, in our considered view, the market value of lands from villages Bas Kusla, Bas Haria and Dhana in 2002 must be at Rs.28.77 lakhs per acre.

28. In respect of lands coming from village Manesar, the High Court had granted 50% rise over and above the market value in respect of villages Naharpur Kasan and Kasan. The increase to that extent was well justified as the lands in village Manesar are abutting National Highway No.8 with excellent commercial potential. The grant of 50% rise is not seriously objected by the State and as such we confirm the same. Thus 50% rise over the figures as applicable to villages Naharpur Kasan and Kasan would lead us to the market value in respect of village Manesar which would be Rs.56.31 lakhs per acre.

29. We, however, find it difficult to accept grant of further 30% as severance charges to M/s. Kohli Holdings Private Limited. Normally the additional component of compensation in terms of Section 23(1)(thirdly) of the Act is granted when, a landholder suffers damage as a result of acquisition to the extent that the holding that he is left with stands comparatively diminished in terms of quality and value. For instance, if a railway track is to be built through an agricultural land held by a person,

leaving two different halves with him, it would be impossible for him to carry on agricultural operations at an optimum level. This would lead to reduction in the value of the halves that he is left with. On the other hand, in a case where part of the holding is acquired for which appropriate commercial value is awarded, the rest of the value of the land will not stand diminished in terms of commercial potential. On the other hand, the potential of the remainder of the land would also increase drastically as the development would be right in the neighbourhood, thus giving substantial benefit to the landholder. In our view, the High Court was not justified in granting further compensation of 30% to M/s. Kohli Holdings Private Limited on account of severance charges. We, therefore, set aside that part and hold that no severance charges need be awarded to M/s. Kohli Holdings Private Limited.

30. In the circumstances, we direct:

a) In respect of lands under acquisition from villages Naharpur Kasan and Kasan the market value shall be Rs.37.54 lakhs per acre. Additionally, all statutory benefits would be payable.

b) In respect of lands under acquisition from villages Bas Kusla, Bas Haria and Dhana the market value shall be Rs.28.77 lakhs per acre. Additionally, all statutory benefits would be payable.
c) In respect of lands from village Manesar the market value shall be Rs.56.31 lakhs per acre. Additionally, all statutory benefits would be payable.
d) M/s. Kohli Holdings Private Limited shall not be entitled to any severance charges.

31. The appeals preferred by HSIIDC and the State of Haryana stand allowed to the aforesaid extent. The appeals preferred by all the landholders including M/s. Kohli Holdings Private Limited stand dismissed. No costs.

……..…..……..…..……..……J.
(Uday Umesh Lalit)

.....……..…….……J.
(Dr. Dhananjaya Y. Chandrachud)

New Delhi,
January 11, 2019.