A.F.R.
Judgment Reserved on- 22.07.2026
Judgment Delivered on- 04.08.2026
Neutral Citation No. - 2026:AHC:162228

Court No. - 73

Case :- FIRST APPEAL No. – 530 of 2006
Appellant :- M/s Mahamaya General Finance Company Ltd.
Respondent :- State of U.P.
Counsel for Appellant :- H.p. Yadav, H.p. Yadav, J.s. Srivastava, K.c. Gupta, Murlidhar, R.p. Singh, Ravindra Kumar Pandey
Counsel for Respondent :- Ashish Agrawal, Swapnil Kumar

Hon'ble Sandeep Jain, J.

1. The instant appeal has been filed by the appellant under Section 54 of the Land Acquisition Act, 1894 read with Section 96 of the CPC for enhancement of compensation awarded by the 3rd Additional District Judge, Meerut in LA Reference No. 369 of 1972 M/s Mahamaya General Finance Co.Ltd. vs. State of U.P. vide judgment and award dated 20.6.1980, whereby for the acquired land situated in village **Maharajpur**, Pargana Loni, tehsil Ghaziabad, which was acquired by notification issued under Section 4(1) of the Act of 1894 dated 23.12.1967, the compensation awarded by the Collector @ ₹ 1.30 per squareyard has been upheld. Besides this, the reference court has also awarded solatium @ 15% of the compensation and interest on solatium @ 6% per annum.

Relevant facts

2. The U.P. State Industrial Corporation Ltd. Kanpur, subsequently known as U.P. State Industrial Development Authority(UPSIDA), for the planned development of industries submitted a proposal to the State Government for acquisition of 181.5344 acres of land in village **Maharajpur**, Pargana Loni, tehsil Ghaziabad which was part of District Meerut at that time. After acceptance of the proposal, the State government issued a notification under Section 4(1) of the Act, which was published in the U.P.Gazette dated 23.12.1967 followed by notification under Section 6 read with Section 17(1)(1-A) of the Act published in the U.P.Gazette dated 11.1.1969. The possession over the land was taken on 23.12.1969 and the award of the Collector was made on 13.9.1971 whereby the compensation @₹ 1.30 squareyard was awarded to the appellant for his acquired land, the total area of which was 37 bigha 2 Biswa, which was challenged by the appellant by filing reference, whereby the compensation awarded by the Collector has been upheld but the reference court has awarded

solatium @15% and interest on solatium @ 6% per annum, which has been challenged by the appellant by filing the instant appeal.

3. The award of the Collector mentions that for determination of compensation 25 sale deeds executed in the village **Maharajpur** during the period of one year preceding the date of notification under Section 4(1) of the Act were considered. It also mentions that the land transactions, as mentioned in the sale deeds, took place between ₹ 0.06 to ₹ 14 per squareyard. It also mentions that the acquired land was distantly situated from the GT Road, which is the main road in the acquired area. It also mentions that the recently constructed Ring Road has not gained importance so far and is not affecting the land prices, since it has not been completely linked with the GT Road so far and hence its importance is of a local road only.

4. The award of the Collector mentions that the land of the sale deed No. 17 has been purchased @ ₹ 14 per square yard, but it was concluded that since the purchaser was a coloniser and the land was purchased for commercialisation and the transaction was of a very small area i.e 150 squareyard, hence the Collector rejected this sale deed while determining compensation.

5. The appellant in his application to the Collector for referring the matter to the District Judge stated that it had purchased the land for Mahamaya Nagar Scheme, the layout of the aforesaid scheme had been approved by the U.P. town planner and the appellant had also marked various plots for disposal to intending industrial units and had also spent handsome amount for levelling and filling of the land covered by the said scheme and in laying out the same. The appellant submitted that he had also purchased the acquired land for the same purpose, for which it was acquired. It was also submitted that the valuation of the land was not less than ₹ 12 per square yard on the date of notification. It was also submitted by the appellant that it had also floated other schemes such as Sri Ram Cold storage comprising of 1-8-10 bigha land and Umrao Singh Industries comprising of 2-9-0 bigha land, for which the land was worth not less than ₹ 6 per square yard. It was also submitted by the appellant that the compensation awarded by the Collector does not have any relation either to the location of the land or to its intended use and also does not take into consideration the amount of money and energy spent by the appellant over the said land. The appellant has specifically mentioned that the compensation awarded by the Collector was much less than the market price. It was also submitted that the Collector has neither considered the situation of the acquired land nor its proximity to the various roads sought to be laid out under the master plan prepared for the area. It was also submitted that the Collector has also not awarded any compensation keeping in view that the appellant had purchased

the land privately for residential and industrial purposes which was intended to be sold profitably to carry out its business as financiers. The appellant also claimed that he is also entitled to solatium @ 15% and interest on the compensation.

6. The State government contested the reference and submitted its written statement in which it was pleaded that only 24-14-19 bigha land of the appellant was acquired and that the compensation awarded was fair and adequate and the appellant was not entitled to solatium @ 15%.

7. The reference court on the basis of pleadings of the parties framed the following issues:-

(i) What is the area of the applicants acquired land ?
(ii) Whether the compensation awarded to the applicant is unfair and inadequate? If so, what is the fair amount of compensation ?
(iii) To what relief, if any, is the applicant entitled ?

Oral evidence of the appellant before the reference court

8. The appellant examined its director Balwant Singh as CW-1 and supervisor Ramesh Tyagi as CW-2, whereas no evidence was led by the State and its functionaries.

Documentary evidence before the reference court

9. The appellant company filed copy of sale deed dated 7.11.1967, 20.11.1967, 16.5.1966 and copy of judgment dated 3.3.1976 in LAR 221 of 1974. The State of Uttar Pradesh filed copy of sale deed dated 15.3.1967 and copy of judgment dated 26.8.1975 passed in LAR 176 of 1973.

Reasoning of the reference court

Issue no.1

10. It was held by the reference court that 37 bigha 2 biswa land of the applicant company was acquired.

Issue no.2

11. The reference court concluded that the applicant company has not examined any of the vendors of the land to support the case regarding purchase of disputed land at alleged prices. Further, it was held that the applicant **company has not produced the sale deeds or their vendors and as such, the best possible evidence was withheld.** In view

of the above, it was held that the oral evidence of Balwant Singh CW-1 regarding the prices paid by the company for the disputed land cannot be relied upon. It was further concluded that the company could not produce the account books to prove the expenditure incurred for levelling, including plantation, and development of land. There was no evidence to claim compensation @ ₹ 15/- per squareyard. The evidence of CW-1 cannot be relied upon and made basis for determining the value of the disputed land on the date of notification. The disputed land was not developed into a colony in real sense. It was further concluded that since the proposed purchasers of the plots which the company intended to sell were not examined hence the evidence of CW-1 cannot be considered to be sufficient to prove the business loss. The reference Court considered the documentary evidence of the company and concluded that the sale deeds dated 7.11.1967 and 20.11.1967 discloses that the land transaction took place between ₹ 1.75 – 2 per square yard, not ₹ 14 per square yard. The land was of Chandpuri colony which was developed land demarcated into blocks and plots, in which roads were laid whereas, the disputed land was not a fully developed colony. It was further concluded that the land of the above sale deeds was at a considerable distance from the disputed land and was also in respect of small areas hence, the above sale deeds were not taken into consideration in determining the market value of the disputed land.

12. The reference court did not consider the sale deed relating to the land of village Bhanjpur and the judgment in LAR 221 of 1974 on the ground that it was not pertaining to the village in which the disputed land was situated. The trial court further held that in LAR no. 176 of 1973 the company was given compensation @ ₹ 1.33 per square yard regarding the land of village Maharajpur and the reference preferred by the company for enhancement of compensation was rejected and consequently, the award of the collector was affirmed in that case.

13. The reference court considered the sale deed dated 15.3.1967 which was of a plot close to acquired land and concluded that the compensation fixed by the Collector according to the above sale deed, was proper and adequate. Accordingly, this issue was decided in favour of the State.

Issue no.3

14. Although the Collector did not award any solatium but the reference court has awarded it @15% of the compensation. Besides this, under Section 28 of the Act interest @ 6% per annum has been allowed from the date of possession till the date of payment, on the above solatium.

15. Aggrieved against the above award of the reference Court dated 20.6.1980, the instant appeal has been preferred by the appellant company under Section 54 of the Land Acquisition Act 1894 read with Section 96 of the CPC.

Submissions of the learned counsel

16. Sri Sanjeev Singh learned Senior Counsel for the appellant company submitted that the acquired land of village **Maharajpur** is situated at a distance of only about 8 km from Connaught Place, New Delhi, which was proved from the evidence of Balwant Singh CW-1 before the reference court. He further submitted that the Collector in its award noted that an exemplar of a land transaction that took place @ ₹ 14 per squareyard was available, but it has illegally rejected that exemplar.

17. Learned Senior counsel further submitted that the reference court has committed illegality by not considering the highest exemplar on record. He further submitted that there is no legal requirement of examining the vendor of the exemplar, but the reference Court has held otherwise.

18. Learned Senior counsel further submitted that the land of **Jatwara Kalan**, District Ghaziabad was acquired wayback by notification dated 18.8.1962, which is at a distance of more than 20 km from New Delhi, but regarding this acquisition, the Apex Court in the case of '*Ghaziabad Development Authority vs. Anoop Singh*' reported in (2003)2 SCC 484 has upheld a compensation @ ₹ 85/- per squareyard. He further submitted that regarding the same land of Jatwara Kalan, District Ghaziabad which was acquired wayback by notification dated 9.2.1962, the Apex Court in the case of '*Ghaziabad Development Authority vs. Ram Krishana*' reported in (2016)13 SCC 100 has awarded a compensation @ ₹ 42.50 per squareyard.

19. Learned Senior Counsel further submitted that the land of Maharajpur is located in close proximity to New Delhi in comparison to the land situated in village Jatwara Kalan. He further submitted that the acquisition in the case of Jatwara Kalan took place in the year 1962 whereas, in the case of Maharajpur the acquisition took place after 5 years in the year 1967, hence even on this ground, the appellant is entitled to get at least compensation @ ₹ 85 per square yard for his acquired land, besides other statutory benefits as admissible under the Land Acquisition Act.

20. Learned Senior Counsel further submitted that the land acquisition was made for industrial purposes, hence even if the

acquired land was agricultural, even then the potentiality of the acquired land is to be considered, while determining its compensation, but the reference court has not considered this aspect. With these submissions, it was prayed that compensation payable to the appellant be enhanced. In support of his submission, the learned counsel has relied upon the following precedents:-

(i) Ghaziabad Development Authority vs. Anoop Singh and another (2003)2 SCC 484
(ii) Ghaziabad Development Authority vs. Ram Krishana and ors. (2016)13 SCC 100
(iii)Bijender and others vs. State of Haryana and another (2018) 11 SCC 180
(iv)Sajan vs. State of Maharashtra and others (2020)14 SCC 139
(v)Ram Kishan(since deceased) through LR's vs. State of Haryana & ors.2025 LiveLaw(SC)388.

21. Per contra, Shri H.N.Singh learned Senior Counsel for respondent UPSIDA submitted that the principle of 'same village' and 'same notification' is not applicable in the instant case. He further submitted that there is no comparison between the acquired land of village Mahrajpur and Jatwara Kalan, because the land of Jatwara Kalan was commercial, which was situated in the heart of the Ghaziabad city whereas, the land of village Maharajpur is agricultural and situated in the outskirts. He submitted that in view of the above facts, the ratio of the case of ***'Anoop Singh'*** and ***'Ram Krishana'***, as decided by the Apex Court, cannot be applied for determination of compensation in this case.

22. Learned Senior Counsel further submitted that in this case the acquisition was made in the year 1967, the award of the Collector was made on 13.9.1971 and the award of the reference court was made on 20.6.1980,hence Section 25(pre amended) of the Act of 1894 applies, according to which the compensation cannot be paid more than the amount claimed by the landowner and less than the amount awarded by the Collector. He further submitted that the amended Section 25 came into effect on 24.9.1984 and since the award of the Collector and the reference court was of a prior date, hence the amended Section 25 does not apply in the facts and circumstances of the case, hence the Court cannot award compensation more than the amount claimed by the appellant landowner, which in this case is only ₹ 5/- per squareyard.

23. Learned Senior Counsel further submitted that there is no exemplar on record which supports the claim of compensation of appellant @ ₹ 42.50 and 85/- per squareyard, hence the amount as claimed by the appellant cannot be awarded to it.

24. Learned Senior Counsel further submitted that since the acquired land was agricultural, hence, potentiality of land is not relevant for determining its compensation. With these submissions, it was prayed that the appeal lacks merit hence, it be dismissed. In support of his submissions, learned counsel has relied upon the following precedents:-

(i)Ghaziabad Development Authority vs. Anoop Singh and another FA no.160 of 1985 decided on 5.2.1993(All).
(ii)Ghaziabad Development Authority vs. Anoop Singh and another (2003)2 SCC 484
(iii)Manoj Kumar and others vs. State of Haryana and others (2018) 13 SCC 96
(iv)Ram Kishan(since deceased) through LR's vs. State of Haryana & ors.2025 INSC 441

25. I have heard the learned counsel of both the sides, perused the record of the lower court and the case law submitted by them.

26. The following issues arise for determination before this Court:-

(A)Whether Section 25(pre-amended) of the Land Acquisition Act 1894, is applicable for determining compensation in this case ?
(B)Whether potentiality of the acquired land is to be considered for determining its compensation ?
*(C)Whether the ratio of the case of **'Anoop Singh'** and **'Ram Krishana'**, as decided by the Apex Court, is applicable in the instant case, for determining compensation of the acquired land ?*
(D)Whether the compensation paid to the appellant by the reference court is required to be enhanced ? If so, then to what amount of compensation is the appellant entitled ?

Conclusion of this Court

(A) ***Whether Section 25(pre-amended) of the Land Acquisition Act 1894, is applicable for determining compensation in this case?***

27. Section 25(pre-amended)of the Land Acquisition Act 1894, reads as under:-

*"25. **Rules as to amount of compensation :***
(1)When the applicant has made a claim to compensation, pursuant to any notice given under Section 9, the amount awarded to him by the court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under Section 11.
(2)When the applicant has refused to make such claim or has omitted without sufficient reason(to be allowed by the Judge) to make such claim,

the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.
(3)When the applicant has omitted for a sufficient reason(to be allowed by the Judge) to make such claim, the amount awarded to him by the court shall not be less than, and may exceed, the amount awarded by the Collector."

28. The amended Section 25 of the Land Acquisition Act 1894, which came into effect on 24.9.1984, reads as under:-

*"25. **Amount of compensation awarded by Court not to be lower than the amount awarded by the Collector** – The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11."*

29. The issue whether amended Section 25 of the Act of 1894 would apply prospectively to proceeding on or after 24.9.1984, is no longer res-integra. The Apex Court in the case of ***Land Acquisition Officer -Cum-DSWO, Andhra Pradesh vs. B.V. Reddy & Sons (2002)3 SCC 463(by 3 Judges)*** held as under:-

*"**5.** When these appeals had been listed before a Bench of two learned Judges of this Court, the decision of this Court in Krishi Utpadan Mandi Samiti [(2000) 7 SCC 756] had been placed before the Bench and it was contended that since the award in the case in hand is between 30-9-1982 and 24-9-1984, the compensation could be awarded under the amended provisions of Section 25. Since that decision prima facie supported the contention of the claimant-respondents and the Bench was of the view that the said decision requires reconsideration, the matter had been referred to a Bench of three learned Judges and that is how the matter has been placed before us. On the rival submissions made by the counsel for the parties, the following questions arise for our consideration:*

(1) Can the provision of Section 25 of the Land Acquisition Act be construed to be procedural in nature or substantive?

(2) If it is held to be substantive in nature, then can the amended provisions of Section 25 of the Act apply to a case where the award of the Land Acquisition Collector had been made much prior to the amendment in question?

(3) Whether the judgment of this Court in Krishi Utpadan Mandi Samiti case [(2000) 7 SCC 756] can be held to be correctly decided?

(4) Whether at all it would be appropriate for this Court to lay down the law and yet not interfere with the judgment of the Division Bench of the Andhra Pradesh High Court with regard to the quantum of compensation awarded?

(5) Whether the petition under Article 32 can be entertained for deciding the validity of the unamended provisions of Section 25?

So far as the first question is concerned, on a plain reading of the same, it is difficult for us to hold that it is procedural in nature. On the other hand, it unequivocally limits the power of the court on a reference being made to award compensation, more than the amount claimed by the claimants and less than the amount awarded by the Collector. In other words, the substantive right of a claimant who has made a claim to the compensation, pursuant to a notice under Section 9, cannot be more than the amount claimed and under any circumstances, would not be less than the amount which the Land Acquisition Collector has awarded under Section 11, since that award of the Collector is the offer that is made to the claimant. *In course of the arguments, Mr Rao, the learned counsel for the claimants submitted before us that sub-section (5) of Section 25, as it stood prior to its amendment, gives sufficient power to the Reference Court to entertain a claim if the claimant had omitted to make such claim pursuant to the notice issued under Section 9 and determine the compensation on that. Consequently, Mr Rao contends that there should not be any embargo on the power of the court even if the claimant makes a claim pursuant to the notice issued under Section 9. We are unable to accept this submission inasmuch as sub-section (5) of Section 25 contemplates a situation where the claimant for sufficient reason had omitted to make a claim and the Reference Court on being satisfied about the same may permit the claimant to make a claim.* ***But the unambiguous and clear language of sub-section (1) of Section 25, as it stood prior to the amendment, makes it explicitly clear that if the claimant has made a claim pursuant to a notice under Section 9, then the court would be incompetent to award any amount exceeding the said claim.*** *In our considered opinion, sub-section (5) of Section 25 will be of no assistance to the claimant-respondents in the present case. Incidentally, we may deal with the submission of Mr Rao that the amount claimed was by the lawyer and not by the claimant himself and therefore, cannot be held to be a claim by the claimants, pursuant to the notice under Section 9 of the Act. On examining the records of the case, we do not find any justification to entertain this submission, inasmuch even in the application made for reference under Section 18, the claimant had not taken such a stand. It would, therefore, be futile for us to entertain this contention and hold that the claim made by the claimants through his lawyer cannot be held to be a claim by the claimants.* ***This Court in the very case of Krishi Utpadan Mandi Samiti [(2000) 7 SCC 756] on which the learned counsel for the respondents had placed reliance, considered the provisions of Section 25 and held that the said provision can never be held to be procedural and it is substantive in nature. We approve of the said conclusion and hold that the provision of Section 25 of the Land Acquisition Act is substantive in nature.***

6. ***Coming to the second question, it is a well-settled principle of*** *__construction that a substantive provision cannot be retrospective in nature unless the provision itself indicates the same. The amended provision of Section 25 nowhere indicates that the same would have any retrospective effect. Consequently, therefore, it would apply to all acquisitions made subsequent to 24-9-1984, the date on which Act 68 of 1984 came into force.__ The Land Acquisition (Amendment) Bill of 1982 was introduced in Parliament on 30-4-1982 and came into operation with effect from 24-9-1984. Under the amendment in question, the provisions of Section 23(2) dealing with solatium were amended and Section 30(2) of the amended Act provided that the provisions of sub-section (2) of Section 23 of the principal Act as amended by clause (b) of Section 15 shall apply and shall be deemed to have applied, also to and in relation to any award made by the Collector or court or to any order passed by the High Court or the Supreme Court in appeal against any such award under the provisions of the principal Act, after 30-4-1982 and before the commencement of the Act. It is because of the aforesaid provision, the question cropped up as to whether in respect of an award passed by the Collector between the two dates, the amended provision will have an application or not and that question has been answered by this Court in the Constitution Bench decision in Union of India v. Raghubir Singh [(1989) 2 SCC 754] . Sub-section (2) of Section 30 has at all no reference to the provisions of Section 25 of the Act. In that view of the matter, question of applicability of the amended provisions of Section 25 of the Act to an award of the Collector made earlier to the amendment and the matter was pending in appeal, does not arise. __In our considered opinion, the amended provisions of Section 25 of the Act, not being retrospective in nature, the case in hand would be governed by the unamended provisions of Section 25 of the Act.__*

*7. ****

***8.** Coming to the next question as to whether this Court would interfere with the impugned judgment of the Division Bench of the Andhra Pradesh High Court or not, the answer would depend on the provision of law which was under consideration and whether there was any ambiguity in the law which is being decided for the first time. It is no doubt true that in Taherakhatoon v. Salambin Mohammad [(2000) 7 SCC 756] this Court has held that even if the special leave has been granted under Article 136, unless and until, it is shown that a substantial and grave injustice will be caused if no interference is made out, the Court may refuse to interfere with the judgment under challenge. This principle would mainly depend upon the facts of each case which comes up for decision before the Court. To the case in hand, it is difficult for us to apply the aforesaid principle. __On the date the land was notified for acquisition under Section 4(1) of the Act, the unamended provision of Section 25 was in force and it was made known to all concerned that the Reference Court will have no power to award the amount in excess of the amount claimed by the claimants. Not only the language of the statute was clear and unambiguous, but also the question was not res integra, in view of the decision of this Court in Dadu Yogendre Nath__*

__Singh v. Collector, Seoni [(1977) 2 SCC 1 : AIR 1977 SC 1128]. Until the statutory rigour contained in sub-section (1) of Section 25 stood obliterated by the amended provisions of Section 25 and until all restraints and embargoes placed for the court stood totally liberated, the Reference Court had no jurisdiction to award the amount in excess of the amount claimed by the claimant.__ Such being the position of law, we are unable to persuade ourselves to agree with the submission of Mr Rao to hold that it would not be in the interest of justice to interfere with the judgment of the Division Bench of the Andhra Pradesh High Court. __In our considered opinion, the High Court had no jurisdiction on the law as it stood, to award any amount in excess of the amount claimed and in the case in hand in excess of Rs 30,000 per acre__ and, therefore, the principles enunciated in the decision of this Court in Taherakhatoon v. Salambin Mohammad [(2000) 7 SCC 756] cannot be applied to the case in hand."

(emphasis supplied)

30. The Apex Court again in the case of ***Stanes Higher Secondary School vs. Special Tahsildar,(Land Acquisition), Coimbatore, Tamil Nadu*** in Civil Appeal No. 321 of 2002 decided on 9.3.2010, wherein the award was made on 31.12.1981, held that the unamended provisions of Section 25, as they existed prior to the amendment brought into force with effect from 24.9.1984, would govern the acquisition proceedings. The relevant observations are reproduced below:-

*"**7.** It may be pertinent to mention that Section 25 of the Act was amended with effect from 24th September, 1984.*

***8.** The un-amended Section 25, as it existed prior to 24th September, 1984, stated as under:*

<u>"Section 25. Rules as to amount of compensation:</u>

(1) When the applicant has made a claim to compensation, pursuant to any notice given under Section 9, the amount awarded to him by the court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under Section 11.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the court shall not be less than, and may exceed, the amount awarded by the

Collector."

The amended Section 25 reads as under:

"Section 25. Amount of compensation awarded by Court not to be lower than the amount awarded by the Collector.

The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11."

***9.** This Court had an occasion to examine the controversy of almost similar nature in Krishi Utpadan Mandi Samiti etc. v. Kanhaiya Lal & Others etc. (2000) 7 SCC 756. In this case, this Court relying on its earlier judgment in Gobardhan Mahto v. State of Bihar (1979) 4 SCC 330, observed as under:*

"Section 25 of the Land Acquisition Act, 1894 before its substitution by Act 68 of 1984, mandated the court not to award compensation exceeding the amount so claimed by the landowners and not to be less than the amount awarded by the Collector. This very clearly limits awarding of compensation within the amount claimed. ***On the facts of the present case it is not in dispute that the award itself was given on 27-12-1977 and even proceeding pursuant to referring order, was concluded on 28-2-1981, i.e., much prior to the aforesaid amending Act. Thus, on the facts of this case it is unamended Section 25 to be applicable and not the amended section.*** *In view of this the peripheral limitation on the court awarding the compensation, would equally apply to the High Court exercising its power as the first appellate court."*

***10.** A three-judge bench of this Court in Land Acquisition Officer-cum-DSWO, A.P. v. B.V. Reddy and Sons (2002) 3 SCC 463, has clearly laid down in para 6, which reads as under:*

*"……**it is a well-settled principle of construction that a substantive provision cannot be retrospective in nature unless the provision itself indicates the same. The amended provision of Section 25 nowhere indicates that the same would have any retrospective effect. Consequently, therefore, it would apply to all acquisitions made subsequent to 24-9-1984, the date on which Act 68 of 1984 came into force.**"*

***11.** **In the instant case, admittedly, both the notification and the award were issued prior to 24th September, 1984. The parties are governed by an unamended provision of law.** Therefore, we do not find any infirmity in the impugned judgment of the High Court."*

(emphasis supplied)

31. It is apparent that in the instant case the notification under

Section 4 (1) of the Act of 1894 was published in the U.P. Gazette on 23.12.1967, the award of the Collector was made on 13.9.1971 and the award of the reference court was made on 20.6.1980, which is prior to the enforcement of amended Section 25 of the Act on 24.9.1984, hence Section 25(pre amended) of the Act of 1894 applies, according to which the compensation cannot be paid more than the amount claimed by the landowner and less than the amount awarded by the Collector. Accordingly, in the instant case the compensation is to be determined as per the pre-amended Section 25 of the Act of 1894.

(B) ***Whether potentiality of the acquired land is to be considered for determining its compensation ?***

32. The Apex Court in the case of ***Bijender*** (supra) considered the potentiality of the acquired land and what are the relevant consideration, which should be taken into consideration for deciding the potentiality of the land. It was held as under:-

> *"48. It is held that potentiality means capacity or possibility for changing or developing into state of actuality. The question as to whether the land has a potential value or not is primarily one of fact depending upon its condition, situation, user to which it is put or is reasonably capable of being put and whether it has any proximity to residential, commercial or industrial areas or institutions. The existing amenities such as water, electricity, possibility of their further extension, whether nearabout town is developing or has prospect of development need to be taken into consideration."*

33. The Apex Court in the case of ***Sajan*** (supra) was considering whether the acquired agricultural land was having the potential for non-agricultural purpose. It was held as under:-

> *"12. So far as the use of the entire land for non-agricultural purpose is concerned, the High Court found that the Reference Court is justified in treating the entire land having the potential for non-agricultural purpose of the remaining area — 1.44 ha. Referring to the project report, Ext. 42 scheme of the factory approved by the small scale industries, Aurangabad, the High Court found that the main raw material required for the sugar factory is sugarcane and part of the building is used for keeping the raw materials. The High Court further found that besides flow sheet, certain part of the land would be utilised for office building, workshop, staff quarters, etc. and also used for parking and various other purposes. The High Court also pointed out that the State has not adduced any evidence to the effect that the land admeasuring 1 ha 44 R out of the acquired land was mainly used for agricultural purpose and not for the non-agricultural purpose. In view of the concurrent findings by the Reference Court and by the High Court that apart from 0.80 ha, the land measuring 1 ha 44 R be taken as having the potential for non-agricultural purpose, we do not find any reason to take a different view."*

34. The Apex Court in the case of ***Ram Kishan*** (supra) has held that :-

> *"31........potentiality of the land is also to be taken into consideration while assessing the market value. It has been held that potentiality is the use to which the land is put to use or reasonably capable of being put to use........"*

35. It is apparent from the above precedents of the Apex Court that potentiality of the land is also to be taken into consideration while assessing its market value. It is also apparent that potentiality means the use to which the land is put to use or reasonably capable of being put to use. Accordingly, this issue is decided.

(C) ***Whether the ratio of the case of 'Anoop Singh' and 'Ram Krishana', as decided by the Apex Court, is applicable in the instant case, for determining compensation of the acquired land ?***

36. Learned Senior Counsel for the respondent submitted that the ratio of the case of '**Anoop Singh**' and '**Ram Krishana**', as decided by the Apex Court, is in-applicable because the principle of same village and same notification is not applicable in the instant case. He further submitted that an earlier judicial decision cannot be relied upon for determination of compensation in a land acquisition case. In support of his contention he relied upon the precedent of the Apex Court in ***Manoj Kumar*** (supra).

37. The Apex Court in the case of ***Manoj Kumar*** (supra) was dealing with the relevance of prior awards. It was held as under:-

> *"11. In our opinion, the High Court could not have placed an outright reliance on Swaran Singh case [Swaran Singh v. State of Haryana, 2012 SCC OnLine P&H 19044] , without considering the nature of transaction relied upon in the said decision. The decision could not have been applied ipso facto to the facts of the instant case. In such cases, where such judgments/awards are relied on as evidence, though they are relevant, but cannot be said to be binding with respect to the determination of the price, that has to depend on the evidence adduced in the case. However, in the instant case, it appears that the land in Swaran Singh case [Swaran Singh v. State of Haryana, 2012 SCC OnLine P&H 19044] was situated just across the road as observed by the High Court as such it is relevant evidence but not binding. As such it could have been taken into consideration due to the nearness of the area, but at the same time what was the nature of the transaction relied upon in the said case was also required to be looked into in an objective manner. Such decisions in other cases cannot be adopted without examining the basis for determining compensation whether sale transaction referred to therein can be relied upon or not and what was the distance, size and also bona fide nature of transaction before such judgments/awards are relied on for deciding the*

subsequent cases. It is not open to accepting determination in a mechanical manner without considering the merit. Such determination cannot be said to be binding.

12. We have come across several decisions where the High Court is adopting the previous decisions as binding. The determination of compensation in each case depends upon the nature of land and what is the evidence adduced in each case, may be that better evidence has been adduced in later case regarding the actual value of property and subsequent sale deeds after the award and before preliminary notification under Section 4 are also to be considered, if filed. It is not proper to ignore the evidence adduced in the case at hand. The compensation cannot be determined by blindly following the previous award/judgment. It has to be considered only a piece of evidence, not beyond that. The court has to apply the judicial mind and is supposed not to follow the previous awards without due consideration of the facts and circumstances and evidence adduced in the case in question. The current value reflected by comparable sale deeds is more reliable and binding for determination of compensation in such cases award/judgment relating to an acquisition made before 5 to 10 years cannot form the safe basis for determining compensation.

13. The awards and judgment in the cases of others not being inter partes are not binding as precedents. Recently, we have seen the trend of the courts to follow them blindly probably under the misconception of the concept of equality and fair treatment. The courts are being swayed away and this approach in the absence of and similar nature and situation of land is causing more injustice and tantamount to giving equal treatment in the case of unequals. As per situation of a village, nature of land, its value differ from distance to distance, even two to three kilometre distance may also make the material difference in value. Land abutting highway may fetch higher value but not land situated in interior villages.

14. The previous awards/judgments are the only piece of evidence on a par with comparative sale transactions. The similarity of the land covered by previous judgment/award is required to be proved like any other comparative exemplar. In case previous award/judgment is based on exemplar, which is not similar or acceptable, previous award/judgment of court cannot be said to be binding. Such determination has to be outrightly rejected. In case some mistake has been done in awarding compensation, it cannot be followed; on the ground of parity an illegality cannot be perpetuated. Such award/judgment would be wholly irrelevant.

*15.****

16. To base determination of compensation on a previous award/judgment, the evidence considered in the previous judgment/award and its acceptability on judicial parameters has to be necessarily gone *into, otherwise, gross injustice may be caused to any of the parties. In case some gross mistake or illegality has been committed in previous award/judgment of not making deduction, etc. and/or sufficient evidence had not been adduced and better evidence is adduced in case at hand, previous award/judgment being not inter partes cannot be followed and if land is not similar in nature in all aspects it has to be outrightly rejected as done in the case of comparative exemplars. Sale deeds are on a par for evidentiary value with such awards of the court as court bases its conclusions on such transaction only, to ultimately determine the value of the property.*

*17.****

*18.****

19. In Printers House (P) Ltd. v. Saiyadan [(1994) 2 SCC 133] , a three-Judge Bench of this Court had considered the value of previous awards and sale exemplar to be similar. It observed: (SCC pp. 144-45, paras 16-17)

> *"16. If the comparable sales or previous awards are more than one, whether the average price fetched by all the comparable sales should form the "price basis" for determination of the market value of the acquired land or the price fetched by the nearest or closest of the comparable sales should alone form the "price basis" for determination of the market value of the acquired land, being the real point requiring our consideration here, we shall deal with it. When several sale deeds or previous awards are produced in court as evidence of comparable sales, court has to necessarily examine every sale or award to find out as to what is the land which is the subject of sale or award and as to what is the price fetched by its sale or by the award made therefor.*
>
> *17. If the sale is found to be a genuine one or the award is an accepted one, and the sale or award pertains to land which was sold or acquired at about the time of publication of preliminary notification under the Act in respect of the acquired land, the market value of which has to be determined, the court has to mark the location and the features (advantages and disadvantages) of the land covered by the sale or the award. This process involves the marking by court of the size, shape, tenure, potentiality, etc. of the land. Keeping in view the various factors marked or noticed respecting the land covered by the sale or award, as the case may be, presence or absence of such factors, degree of presence or degree of absence of such factors in the acquired land the market value of which has to be determined, should be seen. When so seen, if it is found that the land covered by the sale or award, as the case may be, is almost identical with the acquired land under consideration, the land under the sale or the market value*

determined for the land in the award could be taken by the court as the "price basis" for determining the market value of the acquired land under consideration. If there are more comparable sales or awards of the same type, no difficulty arises since the "price basis" to be got from them would be common. But, difficulty arises when the comparable sales or awards are not of the same kind and when each of them furnish a different "price basis". This difficulty cannot be overcome by averaging the prices fetched by all the comparable sales or awards for getting the "price basis" on which the market value of the acquired land could be determined. It is so, for the obvious reason that such "price basis" may vary largely depending even on comparable sales or awards. Moreover, "price basis" got by averaging comparable sales or awards which are not of the same kind, cannot be correct reflection of the price which the willing seller would have got from the willing buyer, if the acquired land had been sold in the market. For instance, in the case on hand, there are three claimants. The plots of their acquired land, which are five in number, are not similar, in that, their location, size, shape vary greatly. One plot of land of one claimant and another plot of another claimant appear to be of one type. Another plot of land of one of them appears to be of a different type. Yet another plot of the second of them appears to be different. Insofar as third claimant's plot of land is concerned, it appears to be altogether different from the rest. Therefore, if each of the claimants were to sell her/his respective plots of land in the open market, it is impossible to think that they would have got a uniform rate for their lands. The position cannot be different if the comparable sales or awards when relate to different lands. Therefore, when there are several comparable sales or awards pertaining to different lands, what is required of the court is to choose that sale or award relating to a land which closely or nearly compares with the plot of land the market value of which it has to determine, and to take the price of land of such sale or award as the basis for determining the market value of the land under consideration."

20. In Karan Singh v. Union of India [(1997) 8 SCC 186] , this Court held that evidence has to be adduced to show similarity of the land in question to the one covered by previous award/judgment. This Court observed: (SCC p. 190, para 8)

"8. The learned counsel for the appellants then urged that the High Court erroneously discarded Ext. A-11 which was an award in respect of a land at Village Jhilmil Tahirpur on the ground that it was not a previous judgment of the Court. The land comprised in the award was acquired under Notification issued under Section 4 of the Act on 27-7-1981. By the said award, the Court awarded compensation @ Rs 625 per sq yd. It has earlier been seen that in the present case the notification issued under Section 4 of the Act was earlier in point of time than the notification issued for acquisition of

land comprised in Ext. A-11. There is no quarrel with the proposition that judgments of courts in land acquisition cases or awards given by the Land Acquisition Officers can be relied upon as a good piece of evidence for determining the market value of the land acquired under certain circumstances. One of the circumstances being that such an award or judgment of the court of law must be a previous judgment. In Pal Singh v. State (UT of Chandigarh) [Pal Singh v. State (UT of Chandigarh), (1992) 4 SCC 400] , it was observed thus: (SCC pp. 402-03, para 5)

'5. … But what cannot be overlooked is, that for a judgment relating to value of land to be admitted in evidence either as an instance or as one from which the market value of the acquired land could be inferred or deduced, must have been a previous judgment of court and as an instance, it must have been proved by the person relying upon such judgment by adducing evidence aliunde that due regard being given to all attendant facts and circumstances, it could furnish the basis for determining the market value of the acquired land.'

Following this decision, we hold that it is only the previous judgment of a court or an award which can be made the basis for assessment of the market value of the acquired land subject to party relying on such judgment to adduce evidence for showing that due regard being given to all attendant facts it could form the basis for fixing the market value of acquired land."

21. In Ranvir Singh v. Union of India [(2005) 12 SCC 59] , this Court considered value of previous judgment/award and held that it is only piece of evidence. There cannot be fixed criteria for determining compensation at any fixed rate, observing that: (SCC p. 71, para 36)

"36. Furthermore, a judgment or award determining the amount of compensation is not conclusive. The same would merely be a piece of evidence. There cannot be any fixed criteria for determining the increase in the value of land at a fixed rate. We, therefore, are unable to accept the contention of Mr Nariman that as in one case we have fixed the valuation at Rs 7000 per bigha wherein the lands were acquired in the year 1961, applying the rule of escalation the market rate should be determined by calculating the increase in the prices @ 12% p.a. We do not find any justifiable reason to base our decision only on the said criterion."

22. A three-Judge Bench in Mysore Urban Development Authority v. Sakamma [(2010) 14 SCC 503 : (2012) 1 SCC (Civ) 588] has observed in absence of evidence as to comparable land, award/judgment in another case cannot be accepted. This Court held: (SCC p. 505, paras 8-10)

"8. There is no evidence to show that the acquired lands at Keragalli

and Maragowdanahalli are comparable lands with similar market value. The distance, the extent of development and the facilities available in the two villages make it clear that the award made by the Reference Court with reference to an acquisition in Maragowdanahalli Village cannot be the basis for determining the market value for the lands at Keragalli.

9. We are of the view that the Reference Court and the High Court committed a serious error in relying upon the judgment (Ext. P-2) relating to Maragowdanahalli, to determine the market value of lands at Keragalli. If Ext. P-2 is excluded, we find that there is no evidence to determine the market value, as the only other document relied upon by the landowners was a sale transaction of 2007 which being nearly one decade after the acquisition, is not of any assistance. We also find that no evidence has been let in by the appellant in regard to the market value though the award of the Land Acquisition Officer refers to sale transactions during 1997-1998 showing a value of Rs 2,50,000 per acre in Keragalli. But those sale deeds were not produced.

10. We are also told that the reference cases in regard to several other lands under the same acquisition are still pending before the Reference Court and some cases are pending in the High Court. In the absence of any acceptable evidence, it is not possible for us to determine the market value. It would appear that sale transactions relating to 1996-1998 for lands near to acquired lands are available but not produced. Some of them are now produced by the appellant. We cannot obviously rely upon them as they are produced for the first time in this Court and the landowners did not have an opportunity to have their say in regard to such transactions by letting evidence. Interests of justice, therefore, requires that the matter should be remanded."

23. Basic principle before following award/judgment or comparative sales is that land should be comparable in nature and quality as laid down in State of M.P. v. Kashiram [(2010) 14 SCC 506 : (2012) 1 SCC (Civ) 591] and Hirabai v. LAO [(2010) 10 SCC 492 : (2010) 4 SCC (Civ) 233] and in close proximity of time to preliminary notification under Section 4 of the Act. In the instant case, we hold that the High Court could not have followed the judgment in a blind manner as done without due consideration of various aspects."

38. The Apex Court in the case of ***Sardara Singh and others vs. Land Acquisition Collector, Improvement Trust, Rup Nagar and others (2020)14 SCC 483*** has distinguished the judgment in ***Manoj Kumar*** (supra) and stated that the observations in the said case were made in the context of the peculiar facts of the matter.

39. The Apex Court in the case of ***Ram Kishan*** (supra) has again considered the judgment in ***Manoj Kumar*** (supra) and has held that:-

> *"30. Even in **Manoj Kumar** (supra), this Court did not hold that awards in other cases which are relevant cannot be relied upon at all. What is held was such awards will be relevant as a piece of evidence and not be conclusive in nature."*

40. In the case of ***Anoop Singh*** (supra) and ***Ram Krishana*** (supra) the acquired land was situated in village Jatwara Kalan, District Meerut(now Ghaziabad), the notification under Section 4(1) of the Act was issued on 18.8.1962 and 9.2.1962 respectively. In both the cases the land was acquired for the planned development of the area and to provide low-density residential accommodation in Ghaziabad.

41. In ***Ram Krishana***(supra) the Collector divided the land into 3 categories and awarded the compensation @ ₹ 1.92 per square yard for land within 100 yard from the highway; ₹ 0.96 per square yard for the land beyond 100 yard up to the death of another 100 yard and ₹ 0.48 per square yard for land beyond the depth of 200 yard, which was enhanced to ₹ 7 per square yard by the reference court taking into consideration the judgment of the reference court dated 31.5.1984 in ***Anoop Singh*** (supra) wherein compensation @ ₹ 40 per square yard was awarded, which was further enhanced to ₹ 85 per squareyard by the High Court on the basis of the judgment of Apex Court in ***Anoop Singh*** (supra), which was finally reduced by the Apex Court to ₹ 42.50 per squareyard, by distinguishing the judgment rendered in ***Anoop Singh*** (supra).

42. The Apex Court in ***Ram Krishana*** (supra) distinguished the previous judgment rendered in ***Anoop Singh*** (supra) on the basis that in *Anoop Singh* the notification under Section 4 of the Act was issued subsequently on 18.8.1962 whereas, in *Ram Krishana* it was issued on 9.2.1962. Further, the land involved in *Anoop Singh* case was small in area(2 bighas and 1 biswa) and was more strategically located than the land involved in the case of *Ram Krishana*. Further, the land in *Anoop Singh's* case was adjacent to the Ghaziabad – Hapur Highway whereas, the land in *Ram Krishana* was somewhat situated in interior. The land in *Anoop Singh's* case was within the Municipal Area of Ghaziabad whereas, in *Ram Krishana* it was not so. Keeping in view the above distinguishing factors, the compensation awarded by the Apex Court in *Ram Krishana* was only ₹ 42.50 per squareyard whereas, in *Anoop Singh* it was ₹ 85 per square yard.

43. It is true that in the instant case neither the acquired land is situated in village Jatwara Kalan, District Ghaziabad nor has been

acquired through notification issued under Section 4(1) of the Act in the year 1962, as such, the principle of same village and same notification is not strictly applicable for determining compensation in the instant case by applying the ratio of the case in ***Anoop Singh***(supra) and ***Ram Krishana***(supra) but in the considered opinion of this Court, the location of the acquired land in the above cases is relevant and can be considered for determining compensation in the instant case.

(D) ***Whether the compensation paid to the appellant by the reference court is required to be enhanced ? If so, then to what amount of compensation is the appellant entitled ?***

44. Balwant Singh CW-1 deposed in his examination-in-chief that on the date of Section 4 notification the market value of the acquired land situated in Maharajpur village was about ₹ 15 per square yard, which was purchased by the company for making a colony and its planned development. The land was started purchasing by the company in the year 1961, which they continued till the publication of notification. The company started purchasing land @ ₹ 1.50 per squareyard and at the time of notification it was purchased @ 4.50 per square yard. The company had got approved a building plan for establishment of industrial colony. The company had spent an amount of ₹ 50,000/- towards levelling of the land. The company suffered a loss of about ₹ 1 lakh due to the acquisition of its land.

45. He further deposed that the land of all the 3 villages Maharajpur, Prahladgarhi and Makanpur is at the same place and is compact. He further deposed that from Mohan Nagar(Ghaziabad) to New Delhi, a Linkroad has been constructed and the acquired land is situated on the above road and their land was also acquired for constructing the Linkroad. The Linkroad became operational in the year 1965. The company has filed the sale deeds executed before the notification, on record. He further deposed that the sale deeds on the basis of which the Collector has determined compensation, the lands of those sale deeds are at a distance of half kilometre from the Linkroad from the acquired land of the company. **The acquired land is a distance of 8 km from Connaught Place, New Delhi. Jangpura extension is a distance of 8.5 km from the acquired land. Mohan Nagar is at a distance of 3 km. Prakash Industrial Estate's land is situated near the acquired land of the company, where they established an industrial colony, where plots were sold out @ ₹ 25 per squareyard.** The company had other land also where a residential colony namely Ram Prasth colony and Rampuri were established. Ram Prasth colony is situated on the land of village Maharajpur, which was also purchased by the company @ ₹ 1.50 – 4.50 per squareyard from the year 1961 – 1967. The company sold its land ranging from ₹ 20/- per square yard to ₹ 150/-

per square yard. The company didn't receive solatium @ 15%. The company is also entitled to interest as per law.

46. CW-1 deposed in cross-examination that the acquired land never remained submerged. He denied the suggestion that the acquired land fell into an area known as Trans - Yamuna area, which always remained submerged. He denied that the acquired land was situated in a low-lying area. He further deposed that as far as he remembers no one has purchased the land by compacting the area. The company has purchased the acquired land through separate sale deeds at different times, which were filed before the Collector. He can neither tell the dates of those sale deeds nor the plot number of the purchased land. The company maintained the expenditure incurred for levelling the land, which was also filed before the Collector. The levelling of land was done by the labourers and truck. Some trucks were of the company and some were hired. Ram Prasth colony had excess soil, which was lifted and used for levelling.

47. He further deposed in cross-examination <u>that the acquired land of all the 3 villages was compacted, in which 2 colonies was intended to be developed</u>. He cannot tell the freight paid to truck owners. He also cannot tell the expenditure incurred under different heads. The levelling work started in the year 1964 which continued till December, 1967. He denied that there was a rumour many years prior to the issuance of notification that the land was going to be acquired. He denied the suggestion that the company didn't spent anything on the levelling and development of the acquired land situated in all the 3 villages. He admitted that the company had not constructed any road, sewerline, water pipeline or electricity line in the land of the 3 villages in which colonies were intended.He disclosed that only the road and plots were marked, trees were cut and planters were installed for protecting trees. He cannot tell the expenditure incurred in marking the road, plots and tree plantation but it is included in the expenditure incurred on levelling. The trees were obtained from his nursery which was situated in Rampuri colony, in which 2 gardeners were employed. He does not remember their name but each was paid salary @ ₹ 150/- per month. He does not remember the duration during which the gardeners worked but the expenditure incurred on them was entered in the books of the company. He denied the suggestion that neither any expenditure was incurred nor it was entered in the books of the company.

48. He further deposed in cross-examination <u>that the acquired land of the colonies consisting of plots, was proposed to be sold from May, 1968 but the Section 4 notification was issued in December, 1967</u>. He admitted that after the issuance of notification, he stopped developing the land. He admitted that the roads were yet to be constructed. He

disclosed that regarding the demarcated plots talks were held with the intending purchasers but due to issuance of notification, no agreement could be executed. He disclosed that the plots were to be sold from May 1968 @ ₹ 20/- per squareyard. Talks for selling plots took place with Shri B.M. Gupta, R.S.Sharma and others. He admitted that no sale deed @ ₹ 15/- per square yard was executed.

49. He further deposed in cross-examination that the construction of Link road between Mohannagar and New Delhi started in the year 1962, and the acquired land is situated adjoining to the above road, which is about three quarters of a mile long and is situated towards west of the road. In the acquired land of 3 villages government hotel, banks,industries, Bharat Electronics Limited and some small scale industries are functional. Prakash Industrial Estate was established in the year 1967, which is private. He has also filed the sale deeds of the above Estate, which were executed before the issuance of notification, in which plots were sold, but the road etc. was not constructed.

50. Ramesh Tyagi CW-2 deposed in his examination-in-chief that he is working as a supervisor in the company. He has prepared the site plan which is paper No. 84-C1. He had also prepared the blueprint of the above site plan, which bears his signature. He has shown the acquired land in the site plan. In cross-examination, he deposed that he has prepared the site plan by tracing it from the site plan of the Patwari. The blueprints were got prepared from a shop in the Connaught Place. He is working in the company as supervisor since the year 1965. The acquired land of 3 villages was purchased by the company during the year 1961 –1965, in which pucca roads were not constructed.

51. From the evidence of Balwant Singh CW-1 it is evident that the acquired land was situated on the Linkroad from Mohannagar to New Delhi, which was only at a distance of 8 km from Connaught Place, New Delhi. It is also evident that the Linkroad was already functional at the time of acquisition of the land. It is further evident that the appellant company was a coloniser, which had purchased the land between ₹ 1.5 – 4.5 per squareyard for developing residential colonies and selling plots therein to prospective buyers, for earning profit and the acquisition was made by the UPSIDA for developing industrial area. It is also evident that adjacent to the acquired land, large and small industries are functioning. It is apparent that even though the acquired land was not developed but it's potentiality was immense, because it was situated only at a distance of about 8 km from Connaught Place, New Delhi. It is also apparent that the acquired land of village Maharajpur was located in close proximity to New Delhi in comparison to the acquired land of village Jatwara

Kalan(Ghaziabad)in the case of ***Anoop Singh*** and ***Ram Krishana***.

52. The appellant company in its application dated 24.9.1971 to the Collector praying that the matter be referred to the District Judge Meerut for enhancement of compensation under Section 18 of the Act, stated that the land was acquired by the company for establishing Industrial Estate, which was also approved by the U.P. Town Planner and the scheme was also sanctioned by the Prescribed Authority, Ghaziabad in which various plots were earmarked for disposal to intending industrialists. It was also mentioned that the appellant had to spend quite a handsome amount on levelling and filling the land, which was situated on both sides of the Linkroad, **whose value was not less than Rs. 12 per squareyard on the date of the notification**. The appellant also stated that the compensation awarded does not have any regard either to the location of the land, nor to the use, to which it was to be put and also does not take into consideration the amount of money and energy spent by the company over the said land. The appellant company specifically stated that the compensation awarded by the Collector was much less than the market price. It also stated that the Collector has also not awarded any compensation to the company for the loss of the business of the company which was to acquire land privately for residential and industrial purposes and dispose them of profitabily and also to carry on business as financiers. It was averred that the amount invested by the company in acquiring land under acquisition was rendered entirely useless as a result of the acquisition and the company suffered doubly i.e. being deprived of the expected profit from its business and by being liable to pay interest to persons, from which it borrowed money for the purpose of acquiring land.

53. The award of the Collector dated 13.9.1971 relating to acquisition of land in village Maharajpur specifically mentions that 25 sale deeds executed in the village during the period of one year preceding to the date of notification under Section 4 (1) of the Act were considered, in which the rates varied from ₹ 0.06 to ₹ 14 per squareyard. The award mentions that the entire acquired area in this village is quite removed from the GT Road, which is the main road of the area. It also mentions that the recently constructed Ring Road has not gained importance so far and is not affecting the prices. It further mentions that the Ring Road has not been completely linked with the GT Road so far and has the importance of a local road only. The Collector has rejected the sale deed in which land transaction took place @ ₹ 14 per squareyard on the ground that the vendee is a coloniser and the land has obviously been purchased for commercialisation and further, it was of a very small area i.e.150 squareyard. It was further opined that the coloniser could therefore afford to pay this fancy price for this land due to its special utility to him.

54. It is apparent that for the acquired land of village Jatwara Kalan which was acquired in the year 1962, which was located more distantly from New Delhi in comparison to the acquired land of village Maharajpur, the Apex Court awarded compensation @ ₹ 42.50 and ₹ 85 per squareyard in the case of ***Ram Krishana***(supra) and ***Anoop Singh*** (supra), respectively. In the instant case, the land was acquired subsequently in the year 1967. The appellant company has proved that it was in the business of purchasing land and after developing it, selling it for industrial and residential purposes. The company has also claimed that by the compulsory acquisition of land by the State it has lost the expected profit from the sale of the land purchased by it and moreover, the company was also made to pay interest on the money borrowed for purchasing the plots.

55. Keeping in view, that the company has claimed in its application made to the Collector for referring the matter to District Judge Meerut that the acquired land was valued not less than ₹ 12 per squareyard, and it has spent money on developing the land and it was expecting to earn considerable profit, and also considering the potentiality of the acquired land which was used for industrial purposes, in the considered opinion of the Court, it would be just, fair and equitable to grant compensation @ ₹ 20/- per squareyard to the appellant company for the acquired land. This Court is conscious that in the instant case, the pre-amended Section 25 of the Act is applicable and consequently, the company cannot be awarded more than the amount claimed by it before the reference court, hence this Court cannot award the appellant company compensation @ ₹ 42.50 and ₹ 85 per squareyard, as awarded by the Apex Court in the case of ***Ram Krishana*** (supra) and ***Anoop Singh*** (supra), respectively. It is apparent that the Collector has awarded inadequate compensation @ ₹ 1.30 per squareyard and the reference court has erred by not enhancing it.

56. Accordingly, this issue is decided.

57. It is further apparent that although the Collector has not awarded any solatium, but the reference court has corrected that error and has awarded solatium @15%(pre-amended) on the compensation, which is perfectly justified. The Collector and the reference court has also awarded interest @ 6% (pre-amended) per annum, on the compensation including solatium, which is also justified, keeping in view that the award of the Collector and the reference court are prior to 30.4.1982, which was the date of introduction of the Land Acquisition (Amendment)Bill,1982 in the Parliament, which was subsequently enacted as Act No. 68 of 1984, which came into effect on 24.9.1984.

58. For the aforesaid reasons, **the appeal is hereby partly allowed**.

Accordingly, the compensation awarded by the reference court is enhanced from ₹ 1.30 per squareyard to ₹ 20/-(twenty) per square yard. Besides this, the appellant company will also be entitled to solatium @ 15% on the compensation and interest @ 6% per annum on the compensation and solatium amount, from the date of taking over possession of the acquired land till the date of actual payment.

59. The instant appeal was filed on 21.10.1980 but the deficiency of court fees was made good on 27.7.2004, hence the appellant is not entitled to interest on the enhanced amount of compensation awarded by this Court for the period 21.10.1980 till 26.7.2004.

60. The respondents are directed to pay the enhanced amount of compensation to the appellant within 2 months to the appellant company, failing which, the appellant company will be entitled to get it in accordance with law. The parties shall bear their respective costs.

61. Office is directed to prepare the decree accordingly.

Order Date:- 04.08.2026
Jitendra/Himanshu/Mayank

(Sandeep Jain, J.)