

Haneef (Deceased) Through Legal Heirs ... vs State Of Uttarakhand & Anr on 8 May, 2026

IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL
FIRST APPEAL No.43 of 2014

Haneef (Deceased) through Legal HeirsAppellants

Versus

State of Uttarakhand & Anr. Respondents

Presence:-

1. Mr. Tapan Singh, learned counsel for the claimants/appellants.
2. Mr. I. P. Kohli, learned Standing Counsel for the State/respondent no.1.
3. Dr. Kartikey Hari Gupta, learned counsel for the respondent no.2.

----- Hon'ble Siddhartha Sah, J. (oral) By means of the present appeal under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act"), the claimants/appellants have assailed the judgment and order dated 18.12.2013 passed by the 5th Additional District Judge, Hariwar in Reference Case No.28 of 2007 titled as "Haneef (deceased) through Legal Heirs vs. State of Uttarakhand through Collector Haridwar & Another"

and have sought to modify the said judgment and decree and have thus sought enhancement of the compensation to the tune of Rs.650/- per sq. metre.

2. The brief facts leading to filing of the present first appeal are that a proposal was submitted by the Power Grid Corporation of India Ltd., Industrial area First, Roorkee, Haridwar to the State for acquisition of 15.4811 hectare of land in Village Puhana, Tehsil Roorkee, District Haridwar for setting up of 400 K.V. Sub-Station.

3. In pursuance to the aforesaid proposal, Notification under Section 4(1) of the Land Acquisition Act, 1894 was published in the Gazette on 10.08.2005 and it was published in the newspapers on 10.09.2005 and the public notice thereof was issued on 29.09.2005. Thereafter, Notification under Section 6 of the Act was issued on 03.03.2006 and the same was published in two newspapers on 01.05.2006. Urgency Clause 17 of the Land Acquisition Act, 1894 was invoked and possession of the property acquired was taken on 03.05.2006. The objections by the Bhumidhars of the proposed land were heard on 13.04.2006 and the Special Land Acquisition Officer declared the award on 20.11.2006. By virtue of the said award dated 20.11.2006, the Special Land Acquisition Officer,

Haridwar determined a flat rate of Rs.445.68/- per square metre. To come to this particular rate of Rs.445.68/- per square metres, the Special Land Acquisition Officer (hereinafter referred to as "SLAO") summoned all the sale deeds of the acquired property for the last three years from the date of publication of Section 4 notification from the Office of the Sub-Registrar, Haridwar and found that total 36 sale deeds had been executed. All the 36 sale deeds aforesaid were analyzed for selecting one as an exemplar sale deed and after discarding the others, the sale deed enlisted at Serial No.34 of the list, which was a sale deed executed between Avdesh Kumar and Rajnikant Gupta, which was executed on 03.06.2005, was adopted and accepted as the exemplar sale deed. The said sale deed was for Khasra No.284/2 Village Puhana by virtue of which, an area of 0.0718 hectare land was sold for Rs.4 lakhs, which on calculation came to Rs.55,71,030.64/- per hectare. After taking into consideration, the provisions of the Land Acquisition Manual, 20% deduction was made and Rs.44,56,824.51/- per hectare rate was determined, which comes to Rs.445.68/- per square metre. The said sale deed was adopted as the exemplar sale deed since it was a sale deed of the land, which was similarly situated to the acquired land and had the same usage and potential and therefore, it was determined that the said rate would be a flat rate to be applied for the entire acquired land, and thus, the SLAO proceeded to declare the award on the basis of the said rate.

4. Dissatisfied with the aforesaid rate adopted by the SLAO for the determination of the compensation/value of the acquired land, the appellants herein submitted a reference under Section 18 of the Land Acquisition Act to the SLAO and prayed that the reference be sent to the District Judge Haridwar for determination of the proper compensation, as per law. On this, the said reference was forwarded by the Special Land Acquisition Officer, Haridwar to the District Judge, Haridwar and the same was registered as L.A. Reference No.28 of 2007, "Haneef vs. Collector Haridwar and Another". The objections as raised by the claimants/appellants in his reference against the award of the SLAO were to the effect that the SLAO, Haridwar has granted insufficient compensation of Rs.445.68/- per square metre, whereas in the said area, the land was being sold and purchased between Rs.20,000/- to Rs.30,000/- per square metre. It was further contended that the basis of the compensation was the sale deed prior to the publication of the Notification under section 4(1) of the Act, whereas in the Land Acquisition Act, 1894, there is no such provision and the sale deed around the Notification under Section 4 (1) of the Act ought to have been considered and a minimum compensation has been granted, which is against law. It was further contended that near to the acquired land, all the facilities are available. The land is flat and fertile, which can be put to any use, whereas the Government ought to have acquired barren and sterile land. It was further contended that after the constitution of the Uttarakhand State, industrial area is getting developed very rapidly and big factories are getting established on account of which, the land which was acquired, the price of the same is getting appreciated on account of which, the claimant is entitled to receive compensation between Rs.20,000/- to Rs.30,000/- per square metre. It was also contended that in spite of availability of sale deeds for higher value, the SLAO has committed an error by accepting the exemplar sale deed of a lower value, whereas as per Land Acquisition Manual, the exemplar sale deed of the highest value ought to have been selected and thus, submitted that the claimants/appellants are entitled for compensation on the market value of Rs.20,000/- to Rs.30,000/- per square metre.

5. Against the aforesaid reference, the Collector, Haridwar filed his written statement and it was contended therein that the exemplar sale deed was adopted for the land which was near to the acquired land and having similar usage and therefore, it was adopted as exemplar sale deed. The Respondent No.2 Power Grid Corporation of India Ltd. also filed its W.S., wherein it was contended that the sale deed of the land near to the acquired land was adopted as an exemplar sale deed, which was pertaining to land bearing Khasra No.284/2, which was executed on 03.06.2005 and in addition to that, the SLAO had also summoned the circle rate and also considered the same and on the basis of the principles enunciated by the Hon'ble Supreme Court from time to time, had adopted the exemplar sale deed and had determined the rate @ Rs.44,56,824.5 paisa per hectare, wherein there is no error. The claim on behalf of the claimants/appellants that the market rate of the land in question would be between Rs.20,000/- and Rs.30,000/- per square metre was refuted and it was contended that the market value is very low and the SLAO has assessed the compensation as per the provisions of the Land Acquisition Act in which there is no error. In support of their case, the claimants/appellants have placed on record one sale deed, which was registered in the Office of the Sub-Registrar, Roorkee on 22.09.2005 by one Waheed in favour of Munsab Ali S/o Noor Hasan for an area of 120.81 square metres situated in Village Puhana pertaining to Gata No.234 Mi. Another sale deed was placed on record on behalf of the claimants/appellants, which was registered in the Office of Sub-Register, Roorkee. The said sale deed was executed by Mr. Mohammad Aslam, Pervej, Javed, Usman and Ahsaan sons of Late Sri Nazir Hasan R/o Village Mohanpura Mohammadpur Pargana & Tehsil Roorkee, District Haridwar in favour of KATG Therapeutics Private Limited and the said sale deed was for an area of 1020 sq. metres situated in Village Karondi, Pargana Bhagwanpur Tehsil Roorkee, District Haridwar. The claimants/appellants had also placed on record Sajra (map) of village Puhana and had also placed on record certified copies of CH forms. The claimants/appellants filed their affidavits of examination-in-chief and tried to prove their case and were also duly cross-examined by the other side. The Respondent No.2 Power Grid Corporation of India Limited led its evidence vide the affidavit of examination-in- chief of its witnesses, who were duly cross-examined. Thereafter, the Reference Court of the 5th Additional District & Sessions Judge, Haridwar heard the arguments of the counsel for the parties. After considering the rival contentions and the background of the case, following four issues were framed by the Reference Court - (1) Whether the compensation granted was insufficient? (2) Whether the deduction made by the opposite party was proper in the circumstances of the present case? (3) Whether the claimants have not been paid the proper compensation for tube well entries? (4) Whether the claimant is entitled to any relief?

6. On Issue No.1 regarding the sufficiency of the compensation, after considering the entire facts and circumstances and going through the evidence, the Reference Court came to the conclusion that the compensation granted by the acquiring officer, Rs.445.68/- per square metre, is proper.

7. On Issue no.2, the Reference Court, after considering the entire facts and circumstances of the case, concluded that the deduction of 20% was justified. Regarding the compensation on account of tubewell entries, the Reference Court came to the conclusion that on the head of tubewell, the claimant cannot be granted any compensation, and thus on the issue of relief, concluded that the claimant is not entitled to any relief, and the reference deserves to be dismissed, and thus by the impugned judgment and order dated 18.12.2013, dismissed the reference.

8. Aggrieved against the dismissal of the reference vide judgment and order dated 18.12.2013, passed by the 5th Additional District & Sessions Judge, Haridwar, the claimants/appellants have preferred the present appeal. Assailing the said judgement and order dated 18.12.2013, the learned counsel for the appellant would submit that the claimants/appellants had placed two sale deeds before the Reference Court, but the Reference Court has discarded them, and the said sale deeds reflected the true value of the land which was acquired and thus committed an error which requires to be rectified at the first appellate stage. Therefore, he makes a submission that the rate determined by the Reference Court was very low and the rate of the acquired land deserves to be enhanced. Regarding the deduction of 20% that was found proper by the Reference Court, learned counsel for the claimants/appellants would submit that even in the order of the SLAO dated 28.11.2006, while analyzing the 36 sale deeds to come to a conclusion for adoption of the exemplar sale deed, the SLAO himself has made the observation that the land is totally developed and has building potential and therefore, the deduction of 20% made by the SLAO and the same having not been interfered by the Reference Court, the Reference Court has committed an error and there ought not to have been any deduction even on the said value being adopted regarding the exemplar sale deed.

9. In reply thereto, the learned counsel for the respondent no.2 Dr. Kartikey Hari Gupta would submit that the sale deeds being relied upon by the counsel for the claimants/appellants are of lesser area and the first sale deed is after the date of the Notification under Section 4 (1) of the Act, and after the publication thereof on 10.09.2005 in the newspaper and as such, the first sale deed dated 22.09.2005 could not have been taken into consideration and it has rightly been discarded. Regarding the second sale deed dated 07.07.2005, he makes a submission that that sale deed is of another village and therefore it has rightly been discarded. On the aspect of deduction, the learned counsel for the respondent no.2 would submit that the land was developed by the respondent no.2 Power Grid Corporation of India Ltd. and therefore the deduction was justified and he also makes the submission that it is settled law that when a large area is acquired, one-third deduction is permissible, as per law towards the area to be used for roads, drains and other facilities.

10. After considering the submissions of the learned counsel for the parties, the key points that fall for determination in this first appeal are as follows:

"(i) Whether the Reference Court was justified in upholding the market value of the land determined at the rate of Rs.445.68/- per square metre by the Special Land Acquisition Officer?

(ii) Whether the deduction at the rate of 20% of the rate of the land as per the exemplar sale deed is justifiable and proper?"

Point for Determination No.1

11. Assailing the rate and the exemplar sale deed adopted by the SLAO and also relied upon by the reference court, learned counsel for the claimants/appellants would submit that while passing the award SLAO conducted a spot inspection and found that the land is fully developed and having potential. Learned counsel for the claimants/appellants would submit that the sale deed dated

03.06.2005 was abutting to the G.T. Road and only about 1 K.M. away from the acquired land which was sold out @ Rs.960/- per sq.m. and sale deed dated 22.09.2005 which is abutting to the G.T. Road and acquired land and was sold out @ Rs.750/- per sq.m. ought to have been relied upon by the reference court.

12. Learned counsel for the claimants/appellants relies upon the judgment of the Hon'ble Apex Court in the case of Mehrawal Khewaji Trust (Registered), Faridkot and others vs. State of Punjab & others, reported in (2012) 5 SCC 432, wherein, in para 15 it is held that in case of several exemplars with reference to similar lands, the highest of the exemplar, if a bona fide transaction, has to be considered and accepted. Para 17 of the aforesaid judgment is held as under:-

"17. It is clear that when there are several exemplars with reference to similar lands, it is the general rule that the highest of the exemplars, if it is satisfied that it is a bona fide transaction, has to be considered and accepted. When the land is being compulsorily taken away from a person, he is entitled to the highest value which similar land in the locality is shown to have fetched in a bona fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition. In our view, it seems to be only fair that where sale deeds pertaining to different transactions are relied on behalf of the Government, the transaction representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different course. It is not desirable to take an average of various sale deeds placed before the authority/court for fixing fair compensation."

13. He has also relied upon another judgment of the Hon'ble Apex Court in the case of Land Acquisition Officer (Revenue Divisional Officer), Nalgonda (A.P.) vs. Morisetty Satyanarayana and others reported in (2002) 10 SCC 570, wherein it is held that when the sale instances are for small piece of land, then appropriate deduction is required to be made, while fixing the market price of land under acquisition. However, in the present case, the land which is acquired is out of the same survey number. Various sale deeds produced on record, reflect the appreciation in price of the portions of land of the same survey number. In the present case, the surrounding land of the acquired land, there are several factories and SIDCUL area, therefore, there was increase in the price in the land in the village, during the relevant years, thus considering the increasing trend of the market price, reducing the amount on the ground that the relevant sale deed is for a small piece of land is not proper.

14. Learned counsel for the claimants/appellants further relied upon the judgment of Hon'ble Apex Court in the case of Special Land Acquisition Officer and another vs. M.K. Rafiq Saheb, reported in (2011) 7 SCC 714, and he has specifically referred to paragraph nos.17 to 23 and 26, wherein, it has been held that in normal course of events, it is hardly possible for a claimant to produce sale instances of large tracks of land. The sale of land containing large tracks are generally very far and few. Normally, the sale instances would relate to small pieces of land. The limitation of sale transaction cannot operate to disadvantage of the claimants. Thus, the Court should look into sale instances of small pieces of land, while applying reasonable element of deduction.

15. Another judgment being relied upon on behalf of the claimants/appellants is in the case of Satish and others vs. State of Uttar Pradesh and others reported in (2009) 14 SCC 758, in which, it has been held that when comparable exemplars are brought on record, the one carrying the highest market value among them may be followed.

16. Another judgment being relied upon by the learned counsel for the claimants/appellants is in the case of Hiralal Motilal Parikh (Deceased through Lrs) vs. Special Laq Officer and another reported in 2025 SCC OnLine SC 2338, wherein, it has been held that sale deed dated 29.08.1985 was executed within a month from the date of notification under Section 4 of the Land Acquisition Act. The proximity of sale deed and the date of notification is not in dispute. In this regard, an important question is needed to be answered, i.e., whether a document proximate to the date of notification can be considered as exemplar for determination of compensation? The Hon'ble Apex Court relying upon the judgment in the case of Chimanlal Hargovinddas vs. Special Land Acquisition Officer, Poona and another reported in (1988) 3 SCC 751 held that the bona fide transaction of sale, if proximate to the land acquired and the date, in absence of any evidence that acquisition has not motivated the purchaser to pay a higher price on account of resultant improvement in development prospects, can be relied upon while determining the compensation.

17. Per contra, Mr. K.H. Gupta, learned counsel for respondent no.2 would submit that for determination of market value of the acquired land under Section 23 of the Land Acquisition Act, 1894, qua the amount and compensation to be awarded for land acquired, the SLAO examined 36 sale deeds of three years prior to Section 4 publication date i.e. 29th of September 2005. The SLAO also conducted field inspection to find out the condition, local rates and actual market value on 8-7-2006. The SLAO examined 36 sale deeds and out of those found only one sale deed executed on 3-6-2005 between Shri Avdesh Kumar and Shri Rajnikant Gupta, situated at Khasra No.284/2 in village Puhana, having an area of 718 square metres i.e. 0.0718 hectare, suitable to be made as exemplar sale deed to determine market value of the acquired land. The exemplar sale deed was chosen because it is near to the acquired land and also it is of largest land area in available 36 sale deeds. The acquired land is at the right side of Roorkee-Saharanpur Highway and the exemplar sale deed is at the left side of the same highway. On the basis of exemplar sale deed, market value was determined and for total acquired land, i.e. 15.4811 hectare, the compensation was awarded at the rate of Rs.44,56,824.51 per hectare (Rs.445.68/- per square metre). Contending that the sale deed dated 22-9-2005, which is being relied upon by the claimant/appellant, the learned counsel for the respondent No. 2 would submit that the sale deed dated 22-9-2005 does not reflect actual market value. The sale deed dated 22-9-2005 may not be relied upon inasmuch as Section 23(1), the Land Acquisition Act, 1894 mandates that the market value of the land and the date of publication of the notification under Section 4 (1) of the Act, 1894 shall be taken into consideration. Hence, the sale deed dated 22-9-2005, which is much after the publication dated 10-9-2005 of Section 4 (1) notification dated 10-8-2005, cannot be relied upon. The sale deed dated 22-9-2005 may not be relied upon as it is of a very small piece of land, that is 120.81 square meters, hence does not reflect the actual market value. The learned counsel for the respondent No. 2 would place reliance upon the judgment of the Hon'ble Supreme Court in the case of Ranvir Singh and Another versus Union of India, (2005) 12 SCC 59, wherein in paragraph number 34, it has been held that it is well settled that sale price in respect of a small piece of land cannot be the basis for determination of a market value

of a large stretch of land. In the present case, the acquired land area is 154811 square metres, hence the sale deed of a small piece of land of 120.81 square meters cannot be relied upon. So far as the sale deed dated 2.7.2005, which is being relied upon by the claimant/ appellant is concerned, the learned counsel for the respondent no. 2 would submit that the sale deed dated 2.7.2005 does not reflect the actual market value, in as much as it is of village Karondi and the acquired land is in different village i.e. village Puhana, hence, it cannot be considered for determination of the market value.

18. The learned counsel for the respondent No.2. would further submit that the sale deed dated 3.6.2005 reflects the actual market value because it is the nearest as well as the largest land area sale deed available since last three years of Section 4(1) Gazette notification, newspaper publication dated 10.9.2005. The SLAO has examined as many as 36 sale deeds and recorded its finding regarding each of them and also did field inspection to find out the actual market value of the acquired land. PW3- Akhtar has admitted in his cross-examination that acquired land as well as its surrounding are agricultural lands and actual agriculture is being done on the same. The agricultural land value was Rs.65/- per square metre, despite the same, considering the potential of the land, the SLAO as well as the reference court has found Rs. 445.68/- per square meter as the adequate market value. The Sajra of village Puhana, in which the acquired land is situated, shows that the land situated in Khasra No. 234 Mi. vide sale deed dated 22.09.2005 and the land situated in Khasra No. 284/2 of exemplar sale deed dated 3.6.2005 are very near to each other and both are adjacent to the highway.

19. Learned Brief Holder for the State- Mr. I.P. Kohli, adopts the submissions made on behalf of the learned counsel for the respondent no.2-Mr. Kartikey Hari Gupta.

20. Now, what falls for determination in this case is the determination of the market value of the land which was acquired. In view of the rival submissions of the learned counsel for the parties, it has to be seen whether the sale deeds being relied upon on behalf of the claimants/appellants would be a guiding factor for adopting the exemplar sale deed or whether the exemplar sale deed as adopted by the SLAO was the correct approach and the exemplar sale deed as adopted by the SLAO truly reflects the value of the land that was acquired.

21. The Court is called upon to examine the two sale deeds which are being relied upon by the learned counsel for the claimants/ appellants, which he submits ought to have been considered as reflecting the true market value instead of the exemplar sale deed which was relied upon by the SLAO and the reference court. The sale deed dated 22-9-2005 pertains to the same Village Puhana and also abutting to the G.T. Road and also abutting the acquired land. However, the sale deed pertains to an area of 120.81 sq.m.

22. The learned counsel for the claimants/appellants has relied upon the judgment of the Hon'ble Supreme Court in the case of Hiralal Motilal Parikh (supra). The question before the Hon'ble Supreme Court was whether a document proximate to the date of notification can be considered as an exemplar for the determination of compensation? The position of law was clarified by the Hon'ble Supreme Court in Paragraph No. 9 of the said judgment which is as under:-

"9. On perusal of the above, it is clear that bona fide transaction of sale, if proximate to the land acquired and the date, in absence of any evidence that acquisition has not motivated the purchaser to pay a higher price on account of resultant improvement in development prospects, can be relied upon while determining the compensation. The said judgment has been followed by this Court in the case of Raj Kumar Baghal Singh (Dead) (supra)."

23. Though, the question of law has been clarified in the aforesaid judgment of the Hon'ble Supreme Court, however, the fact remains that the sale deed dated 22.09.2005 is still a sale deed for a smaller area of land i.e. 120.81 square metres. The question still remains open whether a sale deed for such a small area would be truly reflecting the market value of the acquired land, which is a very large area of 15.4811 hectares i.e. 154811 square metres. Another sale deed, which is being relied upon by the claimants/ appellants is a sale deed dated 02.07.2005, which has been registered in the Office of the Sub-Registrar on 7th of July, 2005. The said sale deed is for an area of 1020 sq.m. The sale deed is for a land situated in Village Karondi, Pargana Bhagwanpur, Tehsil Roorkee, District Haridwar. Learned counsel for the claimants/appellants would submit that this village 1 K.M. from the land which was acquired. The sale deed reflects that the sale transaction of this sale deed was @ Rs.960 per sq.m. Placing reliance upon this sale deed, the learned counsel for the claimants/appellants would submit that since it was quite close to the land acquired, hence this rate ought to have been adopted for determination of the compensation. He further submits that since the sale deed was adjacent to the G.T. Road it ought to have been relied by the Reference Court, who has ignored his sale deed, though the same was submitted before the Reference Court.

24. Learned counsel for the claimants/appellants has relied upon the judgment of the Hon'ble Supreme Court in the case of Special Land Acquisition Officer and another vs. M.K. Rafiq Saheb, reported in (2011) 7 SCC 714. He has referred to Paragraph Nos.17 to 23, 25 thereof and he has especially referred to Paragraph Nos.24 to 26 of the said judgment which are as under:-

"24. It may also be noticed that in the normal course of events, it is hardly possible for a claimant to produce sale instances of large tracts of land. The sale of land containing large tracts are generally very far and few. Normally, the sale instances would relate to small pieces of land. This limitation of sale transaction cannot operate to the disadvantage of the claimants. Thus, the court should look into sale instances of smaller pieces of land while applying reasonable element of deduction.

25. In the present case, the land acquired is 34 guntas and the notification under Section 4 of the Act was issued on 17-7-1994. We have already held that for the purposes of determining compensation, the acquired land should be considered to be non-

agricultural land. Ext. P-5 is a sale deed for sale of a non-agricultural land dated 23-4-1993. The land covered by the sale deed is about 2 km away from the acquired land. In contrast, the Reference Court relied upon the compensation awarded for acquisition of land in the neighbouring villages, which had occurred 5 years prior to

the present acquisition.

26. We are of the opinion that the market value of the land acquired in the present case is much better reflected by the exemplar Ext. P-5, which relates to sale of land just 2 km away from the acquired land and is just a little over a year before the issuance of the Section 4 notification in the present case. All other sale deeds presented before this Court could (sic not) be relied upon and were rightly rejected by both the Reference Court and the High Court for the reasons given above."

25. After relying upon the aforesaid judgment of Hon'ble Supreme Court, the learned counsel for the claimants/appellants would submit that the instant factor would thus not be a factor for not adopting the said sale deed of Village Karondi for arriving at the correct market value.

26. Learned counsel for the claimants/appellants has further relied upon the judgment of Hon'ble Supreme Court in the case of Satish and others vs. State of Uttar Pradesh and others reported in (2009) 14 SCC 758 and has drawn the attention of the Court in paragraph nos.29 and 30 thereof which are being quoted hereunder:-

"29. For determination of the amount of compensation in terms of Section 23 of the Act, the methods of valuation which can be adopted for ascertaining market value are--

(1) opinion of experts;

(2) the price paid within a reasonable time in bona fide transactions of purchase of the lands acquired or the lands adjacent to the lands acquired and possessing similar advantages; and (3) number of years purchase of the actual or immediately prospective profits of the lands acquired.

While adopting the second method, the transactions which are relevant, thus, are required to be taken into consideration. The Collector, the Reference Judge or the High Court without assigning appropriate reasons would not be entitled to discard one deed of sale and rely upon the other. It must be done on some legal principle, rationality and cogent reasons.

30. Some other factors which are relevant for determination of the amount of compensation are-- the nature and quality of land, whether irrigated or unirrigated, facilities for irrigation, presence of fruit-bearing trees, location of the land, closeness to any road or highway, evenness of the land, existence of any building or structure and a host of other factors bearing on the valuation of the land."

27. Learned counsel for the claimants/appellants makes a submission that the sale deed of the highest value ought to be adopted for determining the market value.

28. Learned counsel for the respondent No.2 Mr. Kartikey Hari Gupta has relied upon the judgment of the Hon'ble Supreme Court in the case of Ranvir Singh and another versus Union of India, reported in (2005) 12 SCC 59, and particularly, making reference to para 34 of the said judgment, he makes a submission that sale price in respect of a small piece of land, it is well settled, cannot be the basis for determination of a market value of a large stretch of land. Para 34 of the said judgment is being extracted hereinbelow:-

"34. Sale price in respect of a small piece of land, it is well settled, cannot be the basis for determination of a market value of a large stretch of land. In Ram Phool [(2003) 10 SCC 166, 167] this Court held that an isolated deed of sale showing a very high price cannot be the sale basis for determining the market value. The said decision was rendered in relation to a land situated at Village Poothkalan which is adjacent to the lands in question. Even the claimants, it is interesting to note, had exhibited sale deeds in respect of the land situated at Village Poothkalan for proving their claim."

29. After considering the rival submissions of counsel for the parties on the issue of the rightful determination of the market value to arrive for the purpose of determination of the compensation to the claimants/appellants, one crucial aspect in the present case is that the acquisition in the present case is of a very large area of land, which is having an area of 15.4811 hectares i.e. 154811 square metres. It is no doubt that the judgments relied upon by the learned counsel for the claimants/appellants that the sale deed for even a small area, can be guiding factor for determination of the compensation, but the question remains in the present case whether the sale deed for a small area can be adopted as an exemplar sale deed for such a large area which is acquired. However, for such a large area, whether it would be safe to adopt a sale deed for small area as an exemplar sale deed. In the present case, the Special Land Acquisition Officer has, in fact, considered all the 36 sale deeds for the last three years prior to the date of notification and after examining each and every sale deed, he has adopted the sale deed relating to the sale deed dated 3.6.2005 between Sri Avdesh Kumar and Sri Rajnikant Gupta, which was for an area of 718 square metres and which was quite close to the acquired land and, in fact, just on the opposite side of the G.T. Road.

30. It also needs a special mention that it has been admitted to the witness of the claimants/appellants that the subject land of the sale deed in question was recorded as an agricultural land and in fact, agricultural activities were being carried out on the land in question at the time of acquisition of the said land. Hence, instead of going by the usage of the land and in view of the future potential of the land, the SLAO has relied upon the sale deed of land proximate to the land that was acquired and has adopted a sale deed executed between the Shri Avdesh Kumar and Shri Rajnikant Gupta, situated at Khasra No.284/2 in village Puhana. After considering the entire facts and circumstances of the case and in view of the fact that a large stretch of land was acquired for the purpose of setting up a power station the submissions made on behalf of the learned counsel for the claimants/appellants could have been accepted, if the land acquired was for a smaller piece of land. But since, in the present case, the land acquired was for a very large track of land and the same was being used for the purpose of agriculture at that particular moment of time and since it was having a future potential for commercial activities and other purposes, hence the SLAO and the

reference court have rightly come to the conclusion that the rate of Rs. 445.68/- per square metre would be reflecting the correct market value. As such, on this count, there is no scope for interference and the Point for Determination No.1 is answered accordingly.

Point for Determination No.2

31. Regarding the deduction of 20% amount of the acquired land in view of the development charge by the SLAO, the learned counsel for the claimants/appellants would submit that while passing the award, the SLAO conducted the spot inspection and found that the land is fully developed and having residential potential. Since on the acquired land, respondent No. 2 constructed the 400 K.V. Sub-Station and it is admitted case that the acquired land is flat and fully developed, therefore, there is no question for 20% deduction as development charge. Development charge is to be deducted where land is to be developed by making road, park, electricity, drainage and sewer line, etc. Since in the acquired land, respondent No. 2 constructed the 400 K.V. Sub-Station, therefore, for the aforesaid purpose there was no need to make any development in the acquired land, thus there was no question of 20% deduction as development charge. It has been further submitted that usually a deduction towards development cost is necessary, when the wholesale market value of large undeveloped land is determined with reference to market value of small developed plots. Since land was acquired for construction of 400 K.V. Sub-Station, therefore 20% deduction as development charge is totally illegal, arbitrary and against the principle of natural justice.

32. Per contra, learned counsel for respondent no.2, Mr. Kartikey Hari Gupta, would submit that PW3 Akhtar, has admitted in his cross-examination that acquired land as well as its surrounding was agricultural land and actual agriculture is being done on the same. The agriculture land value was Rs.65/- per square metre despite of the same considering the potential of the land, the learned SLAO as well as the reference court has found @ Rs.445.68/- per square metre as adequate market rate after 20% deduction. The SLAO and the reference court has rightly made 20% deduction as the Hon'ble Supreme Court has in a number of cases held that deduction from range of 30% to 75% is justified depending on the location and purpose of land acquisition.

33. Learned counsel for respondent no.2 has relied upon the judgment of the Hon'ble Supreme Court in the case of Major General Kapil Mehra and others versus Union of India and another reported in (2015) 2 SCC 262 and relied upon paragraph nos. 34 and 35 therein and has made the submission that it has been the consistent view of the Hon'ble Supreme Court that one third deduction is made towards the area to be used for roads, common drains, and other facilities subject to certain variations depending upon its nature, location, extent, and development around the area. Further, appropriate deduction needs to be made for development costs, laying roads, erection of electricity lines, depending upon the location of the acquired land and the development that has taken place. Paras 34 and 35 of the aforesaid judgment are quoted hereunder:-

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

acquired land and the development that has taken place around the area.

35. Reiterating the rule of one-third deduction towards development, in *Sabha Mohammed Yusuf Abdul Hamid Mulla v. Land Acquisition Officer* [(2012) 7 SCC 595 : (2012) 4 SCC (Civ) 290], this Court in para 19 held as under : (SCC pp. 606-07) "19. In fixing the market value of the acquired land, which is undeveloped or underdeveloped, the courts have generally approved deduction of 1/3rd of the market value towards development cost except when no development is required to be made for implementation of the public purpose for which land is acquired. In *Kasturi v. State of Haryana* [(2003) 1 SCC 354] the Court held : (SCC pp. 359-60, para 7) '7. ... It is well settled that in respect of agricultural land or undeveloped land which has potential value for housing or commercial purposes, normally 1/3rd amount of compensation has to be deducted out of the amount of compensation payable on the acquired land subject to certain variations depending on its nature, location, extent of expenditure involved for development and the area required for road and other civic amenities to develop the land so as to make the plots for residential or commercial purposes. A land may be plain or uneven, the soil of the land may be soft or hard bearing on the foundation for the purpose of making construction; maybe the land is situated in the midst of a developed area all around but that land may have a hillock or may be low-lying or may be having deep ditches. So the amount of expenses that may be incurred in developing the area also varies. A claimant who claims that his land is fully developed and nothing more is required to be done for developmental purposes, must show on the basis of evidence that it is such a land and it is so located. In the absence of such evidence, merely saying that the area adjoining his land is a developed area, is not enough, particularly when the extent of the acquired land is large and even if a small portion of the land is abutting the main road in the developed area, does not give the land the character of a developed area. In 84 acres of land acquired even if one portion on one side abuts the main road, the remaining large area where planned development is required, needs laying of internal roads, drainage, sewer, water, electricity lines, providing civic amenities, etc. However, in cases of some land where there are certain advantages by virtue of the developed area around, it may help in reducing the percentage of cut to be applied, as the developmental charges required may be less on that account. There may be various factual factors which may have to be taken into consideration while applying the cut in payment of compensation towards developmental charges, maybe in some cases it is more than 1/3rd and in some cases less than 1/3rd. It must be remembered that there is difference between a developed area and an area having potential value, which is yet to be developed. The fact that an area is developed or adjacent to a developed area will not ipso facto make every land situated in the area also developed to be valued as a building site or plot, particularly when vast tracts are acquired, as in this case, for development purpose.'

34. The learned counsel for the respondent no.2 has also relied upon the judgment of the Hon'ble Supreme Court in the case of *Union of India versus Premlata and others* reported in (2022) 7 SCC 745, and has particularly relied upon para 16 thereof, which is being extracted hereunder:-

"16. What should be reasonable deduction towards development charges has been considered by this Court in the cases of *Lal Chand* [*Lal Chand v. Union of India*, (2009) 15 SCC 769 : (2009) 5 SCC (Civ) 766] and *Dyagala Devamma* [*Union of India v. Dyagala Devamma*, (2018) 8 SCC 485 : (2018) 4 SCC (Civ) 90]:

16.1. As held by this Court in Lal Chand [Lal Chand v. Union of India, (2009) 15 SCC 769 : (2009) 5 SCC (Civ) 766] , the percentage of "deduction for development" to be made to arrive at the market value of large tracts of undeveloped agricultural land (with potential for development), with reference to the sale price of small developed plots, varies between 20% to 75% of the price of such developed plots, the percentage depending upon the nature of development of the layout in which the exemplar plots are situated. The decision in Lal Chand [Lal Chand v. Union of India, (2009) 15 SCC 769 : (2009) 5 SCC (Civ) 766] has been subsequently followed by this Court in Maya Devi v. State of Haryana [Maya Devi v. State of Haryana, (2018) 2 SCC 474 : (2018) 2 SCC (Civ) 165] as well as in A.P. Housing Board v. K. Manohar Reddy [A.P. Housing Board v. K. Manohar Reddy, (2010) 12 SCC 707 : (2010) 4 SCC (Civ) 711] . 16.2. In Dyagala Devamma [Union of India v. Dyagala Devamma, (2018) 8 SCC 485 :

(2018) 4 SCC (Civ) 90] , while quashing and setting aside the judgment and order [LAO v. Dyagala Devamma, 2014 SCC OnLine Hyd 1453] of the High Court making deduction towards development charges at 25% in place of 50% as was deducted by the Reference Court, in paras 19 and 20, it is observed and held as under : (Dyagala Devamma case [Union of India v. Dyagala Devamma, (2018) 8 SCC 485 : (2018) 4 SCC (Civ) 90] , SCC pp. 490-91) "19. In addition to these principles, this Court in several cases has laid down that while determining the true market value of the acquired land especially when the acquired land is a large chunk of undeveloped land, it is just and reasonable to make appropriate deduction towards expenses for development of acquired land. It has also been consistently held that at what percentage the deduction should be made varies from 10% to 86% and, therefore, the deduction should be made keeping in mind the nature of the land, area under acquisition, whether the land is developed or not and, if so, to what extent, the purpose of acquisition, etc. It has also been held that while determining the market value of the large chunk of land, the value of smaller pieces of land can be taken into consideration after making proper deduction in the value of lands especially when sale deeds of larger parcel of land are not available. This Court has also laid down that the court should also take into consideration the potentiality of the acquired land apart from other relevant considerations. This Court has also recognised that the courts can always apply reasonable amount of guesswork to balance the equities in order to fix a just and fair market value in terms of parameters specified under Section 23 of the Act. (See Trishala Jain v. State of Uttaranchal [Trishala Jain v. State of Uttaranchal, (2011) 6 SCC 47 : (2011) 3 SCC (Civ) 178] and Vithal Rao v. LAO [Vithal Rao v. LAO, (2017) 8 SCC 558 : (2017) 4 SCC (Civ) 155] .)

20. Keeping in mind the aforementioned principles, when we take note of the facts of the case at hand, we find that firstly, the land acquired in question is a large chunk of land (101 acres approx.); secondly, it is not fully developed; thirdly, the respondents (landowners) have not filed any exemplar sale deed relating to large pieces of land sold in acres to prove the market value of the acquired land; fourthly, exemplar relied on by the respondents, especially Ext. P-18 pertains to very small pieces of land (19

guntas); fifthly, the three distinguishing features noticed in the land in sale deed (Ext. P-18) are not present in the acquired land."

35. The learned counsel for the respondent No.2 further relied upon the judgment of the Hon'ble Supreme Court in the case of Lal Chand versus Union of India and another reported in (2009) 15 SCC 769 and relied upon para nos. 13, 14, 15 and 22 thereof, which are being extracted hereunder:-

"13. The percentage of "deduction for development"

to be made to arrive at the market value of large tracts of undeveloped agricultural land (with potential for development), with reference to the sale price of small developed plots, varies between 20% to 75% of the price of such developed plots, the percentage depending upon the nature of development of the layout in which the exemplar plots are situated.

14. The "deduction for development" consists of two components. The first is with reference to the area required to be utilised for developmental works and the second is the cost of the development works. For example, if a residential layout is formed by DDA or similar statutory authority, it may utilise around 40% of the land area in the layout, for roads, drains, parks, playgrounds and civic amenities (community facilities), etc.

15. The development authority will also incur considerable expenditure for development of undeveloped land into a developed layout, which includes the cost of levelling the land, cost of providing roads, underground drainage and sewage facilities, laying water lines, electricity lines and developing parks and civil amenities, which would be about 35% of the value of the developed plot. The two factors taken together would be the "deduction for development" and can account for as much as 75% of the cost of the developed plot.

22. Some of the layouts formed by the statutory development authorities may have large areas earmarked for water/sewage treatment plants, water tanks, electrical substations, etc. in addition to the usual areas earmarked for roads, drains, parks, playgrounds and community/civic amenities. The purpose of the aforesaid examples is only to show that the "deduction for development" factor is a variable percentage and the range of percentage itself being very wide from 20% to 75%."

36. In the present case, it is admitted to the witness for the claimants/ appellants that it was the land which was acquired at that particular point of time was agricultural land and was being used for agricultural purposes.

37. As a rejoinder to the submissions made on behalf of the learned counsel for the respondent no.2, the learned counsel for the claimants/appellants would make a submission that from the SLAO award dated 20.11.2006, it is evident that the land which was being acquired was a fully developed land and it was having building potential. Therefore, nothing had to be developed with regards to drains, roads, etc. and therefore, the deduction at the rate of 20% which has been made was totally uncalled for.

38. Learned counsel for the claimants/appellants drew the attention of the Court that the award of the Special Land Acquisition Officer, he has also pointed out that after receipt of the list of the sale deeds, the Special Land Acquisition Officer had himself made an inspection of the acquired land to find out the status of the land on 08.07.2006, and upon inspection, he has categorically stated that the land is totally developed and is having building potential. Replying the said submission being made on behalf of the counsel for the claimants/appellants, the learned counsel for the respondent respondent no.2 Mr. Kartikey Hari Gupta would submit that the potential of the land would not be a guiding factor so far as the deduction are to be made. He makes a submission that for the purpose of construction of the sub-station a number of development activities have to be carried out on the land after its acquisition with laying of drains, roads, etc. Therefore, the deductions are to be made on this count and therefore, the SLAO and the reference court have not committed any illegality by making a deduction of 20%. In fact, the learned counsel for respondent no.2 would submit that there are instances where the deduction up to 60% has also been made and such deductions have also been upheld by the Hon'ble Apex Court.

39. Learned counsel for the claimants/appellants would make a submission that there was no requirement of any road, drainage any other infrastructure inasmuch as for installation of Sub-Station. On this, the learned counsel for respondent no.2 would submit that it is for the respondent no.2 Power Grid Corporation of India to determine as to in what fashion after acquiring the particular piece of land, the area acquired would be developed.

40. In view of the aforesaid facts and circumstances and after considering the position of law on the subject, it is evident that the PW3 Akhtar had himself admitted that the land being acquired was being used for agricultural purposes at the time of its acquisition and for using the said land for the purpose of Sub-Station, the respondent no. 2 would be required to develop the said land and for the said purposes would be required to lay drains, other infrastructure, roads, drains and other facilities etc. and on that account, the 20% deduction appears to be reasonable. The SLAO and the reference court have not committed any error and as such, thus Point for Determination No.2 is also answered against the claimants/appellants.

41. In such view of the matter, since the points for determination have been answered against the claimants/appellants the first appeal deserves to be dismissed.

42. The First Appeal is dismissed and the judgment and order of the 5th Additional District Judge, Haridwar passed in Reference Case No. 28 of 2007, Haneef (deceased) through Legal Heirs vs. State of Uttarakhand and others is affirmed.

43. The original record be transmitted to the court concerned.

(Siddhartha Sah, J.) 08.05.2026 Ravi/Akash