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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 29.07.2026
Date of decision:29.09.2026
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\# **CNR No: DLHC010296302007**

\+ LA.APP. 67/2007

SHAMBHU NATH SHARMA & ANR. .....Appellants

Through: Mr. Rajesh Yadav and Ms. Ruchira Vasisht, Advs.
Mr. Deepak Khosla, Adv.

versus

UOI & ANR. .....Respondents

Through: Mr. Sanjay Kumar Pathak, SC with K.K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. M.S. Akhtar, Ms. Musarrat Benazeer Hasmi, Mr. Kushagra Dixit and Mr. Aman Singh, Advs. for R-1.
Mr. Sachin Nawani, Adv. for DDA

\# **CNR No: DLHC011358412007**

\+ LA.APP. 332/2007 & CM APPL. 15097/2007

UOI .....Appellant

Through: Mr. Sanjay Kumar Pathak, SC with K.K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. M.S. Akhtar, Ms. Musarrat Benazeer Hasmi, Mr. Kushagra Dixit and Mr. Aman Singh, Advs.
Mr. Sachin Nawani, Adv. for DDA

versus

SHAMBHU NATH SHARMA & ORS. .....Respondents

Through: Mr. Rajesh Yadav and Ms. Ruchira Vasisht, Advs.
Mr. Deepak Khosla, Adv.

\# **CNR No. DLHC010295272007**

\+ LA.APP. 115/2016

MAHENDRA KUMAR & ORS. .....Appellants

Through: Mr. N.S. Vasisth, Ms. Jyoti Kataria and Mr. Aashu Tyagi, Advs.

versus

UNION OF INDIA .....Respondent

Through: Mr. Sanjay Kumar Pathak, SC with K.K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. M.S. Akhtar, Ms. Musarrat Benazeer Hasmi, Mr. Kushagra Dixit and Mr. Aman Singh, Advs. for R-1.
Mr. Siddharth Panda, Mr. Anil Pandey and Mr. Akshay Vaid, Advs.

 # CNR No. DLHC011452062018

\+ LA.APP. 122/2018

UNION OF INDIA .....Appellant

Through: Mr. Sanjay Kumar Pathak, SC with K.K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. M.S. Akhtar, Ms. Musarrat Benazeer Hasmi, Mr. Kushagra Dixit and Mr. Aman Singh, Advs.
Mr. Siddarth Panda and Mr. Anil Pandey, Advs.

versus

MAHENDER KUMAR & ORS .....Respondents

Through: Mr. N.S. Vasisth, Ms. Jyoti Kataria and Mr. Aashu Tyagi, Advs.

CORAM:
HON'BLE MS. JUSTICE SHAIL JAIN

JUDGMENT

SHAIL JAIN, J.

Litigation should not serve individual gain at the expense of sustainable societal development. The pursuit of unjust enrichment must not overshadow the overarching purpose of benefiting society at large.

1. The present batch comprises four appeals arising out of two separate land acquisition proceedings pertaining to the revenue estate of Village Bahapur, Delhi.

L.A. (Appeal) No. 67/2007 has been preferred by Shambhu Nath Sharma and another, whereas ***L.A. (Appeal) No. 332/2007*** has been preferred by the Union of India, both arising out of the judgment dated 08.09.2006 passed by the learned Additional District Judge in LAC No. 159/1/2006. ***L.A. (Appeal) No. 115/2016*** has been preferred by Mahendra Kumar and others and ***L.A. (Appeal) No. 122/2018*** has been preferred by the Union of India, both arising out of the judgment dated 02.02.2016 passed by the learned Additional District Judge in LAC No. 31/2011. Since the appeals arise out of acquisitions in the same revenue estate and involve overlapping questions concerning determination of market value, they have been heard together and are being dealt with by this common judgment.

BRIEF FACTS OF THE CASE:

I. Acquisition forming subject matter of L.A. (Appeal) Nos. 67/2007 and 332/2007

2. The first set of appeals arise out of acquisition of land comprised in Khasra No. 1777/1198/559 min., situated in the revenue estate of Village Bahapur, Tehsil Kalkaji, New Delhi. The appellants in L.A. (Appeal) No. 67/2007, namely Shambhu Nath Sharma and Smt. Radha Sharma, claimed an interest corresponding to 170/223 share in land measuring 11 bighas and 3 biswas. The acquisition was undertaken for the public purpose of Planned Development of Delhi.

3. A notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter, "*the Act*") was issued on 12.10.1998, followed by a declaration under Section 6 of the Act dated 11.10.1999. Pursuant thereto, Award No. 9/DC/S/2001-02 was made by the Land Acquisition Collector, whereby the market value of the acquired land was determined at the rate of Rs.11,20,000/- per acre, besides the statutory benefits. Aggrieved by the determination made by the Land Acquisition

Collector, the landowners sought a reference under Section 18 of the Act for enhancement of compensation.

4. The reference was registered as Shambhu Nath(supra) and came to be decided by the learned Additional District Judge, *vide* judgment dated 08.09.2006. The learned Reference Court enhanced the market value of the acquired land to Rs.4,760/- per square yard. Aggrieved by the said determination, the landowners preferred L.A. (Appeal) No. 67/2007 seeking further enhancement, while the Union of India preferred L.A. (Appeal) No. 332/2007 challenging the enhancement granted by the learned Reference Court.

5. In the proceedings before the learned Reference Court, material was placed on record concerning the location and surrounding development of the acquired land. The landowners also relied upon a perpetual lease deed dated 23.01.1996 pertaining to Plot No. 70 in the District Centre, Nehru Place. The said plot measured approximately 1784.38 square metres and the premium payable therefor was stated to be Rs.34.20 crores. The said transaction was relied upon as an exemplar for the purpose of determination of the market value of the acquired land.

6. The record further reflects that reliance was placed upon earlier proceedings concerning acquisition of land in the revenue estate of Village Bahapur. In particular, reference was made to the acquisition pursuant to notification dated 30.06.1978 and to the determination of market value in the proceedings arising therefrom. The subsequent proceedings concerning the 1998 acquisition also referred to the earlier determination in respect of land situated in the same revenue estate.

7. It is in the aforesaid factual background that the learned Reference Court determined the market value of the land acquired pursuant to the notification dated

12.10.1998 at Rs.4,760/- per square yard. The correctness of the aforesaid determination, including the material and methodology adopted for arriving at the said rate, is assailed by the respective parties in L.A. (Appeal) Nos. 67/2007 and 332/2007.

II. Acquisition forming subject matter of L.A. (Appeal) Nos. 115/2016 and 122/2018

8. The second set of appeals arises out of acquisition of another parcel of land situated in the revenue estate of Village Bahapur, namely land comprised in Khasra No. 1715/1613/558, measuring 10 bighas and 14 biswas. The landowners, namely Mahendra Kumar, Arbind Kumar and Sachinder Kumar, were recorded as having shares in the said land, with the share of the third co-owner devolving upon his legal representatives. The land was stated to be freehold in nature.

9. Village Bahapur, including the land in question, had been declared an urban area under Section 507(a) of the Delhi Municipal Corporation Act, 1957, *vide* notification dated 28.05.1966. The aforesaid land was thereafter acquired under the provisions of the Act for the public purpose of Planned Development of Delhi. A notification under Section 4 of the Act was issued on 10.05.2002 and a declaration under Section 6 followed on 08.05.2003. Possession of the land was taken on 29.07.2005.

10. Award No. 22/2005-06 was made by the Land Acquisition Collector on 01.05.2005. By the said award, the market value of the acquired land was determined at the rate of Rs.15.70 lakhs per acre, on the basis of the schedule of market prices stated to have been fixed by the Government of Delhi *vide* letter dated 09.08.2001. Being dissatisfied with the determination made by the Land Acquisition Collector, the landowners sought a reference under Section 18 of the Act, claiming enhancement of compensation.

11. The reference was registered as LAC No. 31/2011 before the learned Additional District Judge, South District, Saket Courts, New Delhi. The learned Reference Court framed, *inter alia*, the issue as to the market value of the acquired land as on the date of issuance of the notification under Section 4 of the Act. The landowners led evidence before the learned Reference Court, including oral evidence and evidence relating to the location of the acquired land, the relevant zonal plan, market rates and the perpetual lease deed pertaining to Plot No. 70, District Centre, Nehru Place.

12. The learned Reference Court, *vide* judgment dated 02.02.2016, enhanced the market value of the acquired land and determined the same at the rate of Rs.7,089/- per square yard. The landowners, who had claimed compensation at a substantially higher rate, preferred L.A. (Appeal) No. 115/2016 seeking further enhancement. The Union of India, on the other hand, preferred L.A. (Appeal) No. 122/2018 challenging the enhancement granted by the learned Reference Court and seeking setting aside of the judgment dated 02.02.2016.

13. While determining the market value in the second reference, the proceedings concerning earlier acquisitions in Village Bahapur were also brought on record. These included the determination made in respect of the acquisition pursuant to the notification dated 30.06.1978 and the determination made in respect of the acquisition pursuant to the notification dated 12.10.1998. The latter acquisition was the subject matter of LAC No. 159/1/2006, wherein the market value had been determined at Rs.4,760/- per square yard.

14. Thus, while L.A. (Appeal) Nos. 67/2007 and 332/2007 concern the determination of market value of the land acquired pursuant to the notification dated 12.10.1998, L.A. (Appeal) Nos. 115/2016 and 122/2018 concern the determination of market value of the land acquired pursuant to the subsequent

notification dated 10.05.2002. The respective parties challenge the determinations made by the learned Reference Courts, with the landowners seeking further enhancement and the Union of India seeking reduction or setting aside of the enhancement granted.

SUBMISSIONS OF THE PARTIES:

15. Learned counsel appearing on behalf of the appellants/landowners assailed the judgments passed by the learned Reference Courts primarily on the ground that the market value of the acquired land has been assessed substantially below its true and fair market value. It was contended that the learned Reference Courts failed to appreciate the location of the acquired land, its surrounding development, its potentiality and its proximity to established residential and commercial areas, particularly Nehru Place, while determining the market value as on the respective dates of the notifications under Section 4 of the Act.

16. Learned counsel submitted that the acquired land forms part of the revenue estate of Village Bahapur and that the nature, location and potentiality of land situated in the same revenue estate have already been considered by this Court in earlier land acquisition proceedings. It was contended that the present cases are squarely covered by the judgment of this Court in ***Chet Ram Sharma (Deceased) through LR & Ors. v. Union of India & Anr.*, LA.APP. 78/2022, decided on 06.11.2024**, wherein, while dealing with land situated in Village Bahapur and forming part of the Nehru Place District Centre, this Court ultimately determined the market value at Rs.1,12,500/- per square yard after making an appropriate deduction towards development.

17. Learned counsel further submitted that the observations made by this Court in ***Chet Ram Sharma* (supra)** regarding the location and development

surrounding the land in Village Bahapur are directly relevant to the present appeals. It was pointed out that the acquired land in the said case was recorded as being surrounded by well-developed residential and commercial colonies, including Nehru Place, Kalkaji, East of Kailash, Greater Kailash and Okhla Industrial Area, and that the land possessed substantial building potential. It was therefore contended that the learned Reference Courts could not have treated the acquired land as ordinary agricultural or undeveloped land for the purpose of valuation.

18. Learned counsel also placed reliance upon the earlier judgment in **Bhola Nath Sharma through LRs. v. Union of India through LAC & Anr., LA.APP. 109/2013, decided on 23.03.2016**, wherein this Court had determined the market value of land in Village Bahapur, acquired pursuant to the notification dated 30.06.1978, at Rs.2,000/- per square yard. It was submitted that the said determination had attained finality, the Special Leave Petition preferred against the said judgment having been dismissed by the Hon'ble Supreme Court and the subsequent review petition having also been dismissed.

19. It was contended that the aforesaid determination in *Bhola Nath Sharma* could not be disregarded while determining the market value of land situated in the same revenue estate in the subsequent acquisitions. Learned counsel submitted that the determination of market value in the earlier acquisition constitutes relevant material for assessing the appreciation in the value of land over the intervening period, particularly when the subsequent acquisition also pertains to Village Bahapur and the surrounding development continued to increase during the intervening period.

20. Learned counsel further submitted that the landowners had placed reliance upon the perpetual lease deed in respect of **Plot No.70, District Centre, Nehru**

Place, as an exemplar of the prevailing market value of land in the vicinity. It was contended that the said transaction was a transaction emanating from DDA itself and, therefore, could not have been discarded merely on the ground that it related to a commercial plot. According to learned counsel, the proximity of the acquired land to Nehru Place and the surrounding development made the transaction relevant for assessing the potentiality and market value of the acquired land.

21. It was further contended that the learned Reference Court had erred in mechanically applying a uniform percentage of annual increase without appropriately accounting for the actual appreciation in the value of land in South Delhi. Learned counsel submitted that the increase in land prices in Delhi during the relevant period was substantial and that the evidence regarding location, surrounding development and potentiality warranted a higher valuation than that awarded by the learned Reference Courts.

22. Learned counsel also submitted that the acquired land was urbanised and formed part of an area which had ceased to retain the character of a rural or agricultural belt. It was contended that the existence of roads, civic amenities and developed colonies in the vicinity, coupled with the proximity to Nehru Place, Kalkaji, Greater Kailash, East of Kailash and Okhla Industrial Area, demonstrated that the land possessed considerable potential for residential and commercial development. The market value, according to learned counsel, was therefore required to be determined keeping in view not merely the existing physical use of the land but also its reasonably foreseeable potentiality on the relevant date.

23. Learned counsel further submitted that the subsequent judicial determination in ***Chet Ram Sharma*** **(supra)** was particularly significant as it concerned land in the same revenue estate and considered substantially similar issues relating to location, development, commercial potentiality and the

relevance of exemplars. It was argued that the principles and observations contained therein furnished a reliable basis for reconsidering the valuation adopted by the learned Reference Courts in the present appeals.

24. *Per contra*, learned counsel appearing on behalf of the Respondent No. 2/ Delhi Development Authority (DDA) supported the valuation adopted by the Land Acquisition Collector and challenged the enhancement granted by the learned Reference Courts. Learned counsel submitted that the nature and permissible use of the acquired land were material factors which had not been properly appreciated. It was submitted that the acquisition was for the purpose of *Planned Development of Delhi*, with the acquired land being shown as "Green" in the relevant planning material, and consequently its permissible use was substantially restricted.

25. Learned counsel for DDA submitted that the land had a very limited building potential and that such restriction was required to be taken into account while determining its market value. It was contended that even prior to the issuance of the Section 4 notification, the land could not have been freely utilised for residential or commercial construction and that its permissible use was essentially confined to a park/open green area. Reliance was placed upon the ***Khasra Girdawari*** and other revenue records to demonstrate the nature and classification of the land.

26. Learned counsel for DDA specifically relied upon the entries contained in the revenue records, submitting that the **Khatoni** recorded the nature of the land as **"Khal Land"**, whereas the **Khasra Girdawari** recorded its nature and user as **"Gair Mumkin Park"**. It was contended that these entries carry a presumption of correctness and had not been rebutted by the appellants through cogent documentary or oral evidence. According to learned counsel, "Khal Land" denotes

barren, rocky, uneven and non-cultivable land requiring substantial levelling, filling and development, while "Gair Mumkin Park" denotes land which is reserved or incapable of being used except as a park or open green area.

27. Learned counsel submitted that the transactions relied upon by the landowners, particularly the transaction relating to Plot No.70, District Centre, Nehru Place, could not be treated as comparable sale instances for valuation of the acquired land. It was contended that the said plot was a developed commercial plot forming part of a planned commercial complex, whereas the acquired land was a large tract of land which was not similarly developed. It was submitted that the price paid for a developed commercial plot necessarily reflects factors such as development, infrastructure, planning and other advantages which cannot be directly attributed to a large parcel of undeveloped acquired land.

28**.** Learned counsel for the DDA further submitted that the mere fact that the acquired land was situated in the revenue estate of Village Bahapur or was located in the vicinity of developed colonies could not, by itself, justify valuation of the land at commercial rates applicable to developed plots in Nehru Place. It was contended that market value has to be determined with reference to the condition, location, size, existing use and potentiality of the acquired land as on the date of the Section 4 notification and that the landowners could not be permitted to claim the benefit of development undertaken on surrounding lands without establishing that the acquired land itself commanded a similar market value.

29**.** Learned counsel for the DDA also challenged the method of applying annual escalation to the earlier determination of Rs.2,000/- per square yard in *Bhola Nath Sharma*. It was submitted that the learned Reference Court had applied a straight 12% increase over the intervening period without there being sufficient evidence to establish that the market value of land in the locality had increased uniformly at that rate. Reliance was placed upon the judgment of the Hon'ble Supreme Court in ***Central Warehousing Corporation v. Thakur Dwara Kalan Ul-Maruf Baraglan Wala (Dead) & Ors.***, wherein the Supreme Court, while dealing with an 11-year gap between the relevant acquisitions, held that an annual cumulative increase of 8% was appropriate in the facts of that case and observed that for shorter periods of three to five years, 10% or 12% could be considered, but 15% was not justified for an 11-year period.

30**.** Learned counsel for DDA accordingly submitted that the claims for further enhancement were liable to be rejected and, insofar as the appeals preferred by the Union of India were concerned, the enhancement granted by the learned Reference Courts was liable to be suitably reduced or set aside.

QUESTIONS ARISING FOR DETERMINATION:

31. The decision in these connected appeals thus turns on:

(i) What is the just and fair market value of the acquired land, and what rate is applicable thereto as on 12.10.1998 / 10.05.2002, whether the rate determined by the Reference Court, or the higher rate of Rs. 1,12,500/- per square yard claimed by the landowners on the basis of appreciation over the rate determined for Village Bahapur in *Chet Ram Sharma (Deceased) through LRs & Ors. v. Union of India*, or the rate awarded by the LAC, or any other rate that may be just and fair in the facts and circumstances of the case?

ANALYSIS:

32. Having bestowed due consideration to the rival submissions advanced on behalf of the parties, scrutinised the record of the case, and examined the impugned award as well as the written submissions filed on behalf of the parties, this Court proceeds to determine the issues framed herein. The controversy

essentially revolves around the correctness of the market value adopted by the Reference Court while determining compensation for the acquired land, which determination stands assailed by both sides for opposite reasons.

33. The imperative to understand a matter's historical trajectory, particularly its point of inception, is a foundational principle not only in philosophy and historiography but also in the administration of justice.

In legal adjudication, the past is often the key to unlocking the complexities of the present.

34. Legal certainty for a controversy spanning nearly three decades necessitates an inquiry into its genesis. As the echoes of the 1998 and 2002 acquisition continue to inform the present dispute, this Court must return to the inception of the transaction to render a just conclusion. With this principle in mind, the Court now proceeds to examine the historical development and the sequence of events that commenced with the initial acquisition notification in the village Bahapur. The Revenue Estate of Village Bahapur carries within it a long and unbroken history of planned acquisition, each successive wave of which has left in its wake a more developed and more integrated urban landscape. The story of this Revenue Estate, insofar as it bears upon the question of the character and potential of the subject land as on the date of acquisition, is known to all.

35. The land of the appellants which was acquired was situated in the revenue estate of village Bahapur, Nehru Place, one of the affluent and posh commercial areas developed out of the land of village Bahapur itself. All around the land of the appellants numerous commercial buildings developed in the land of village Bahapur. The entire commercial complex which is now commonly known as Nehru Place is spread over 200 acres. The land of the appellants is stated to be situated in the hub of Nehru Place. Different acquisitions took place in regard to

land of village Bahapur for the development of the Nehru Place Commercial Centre.

36. Running alongside this history of acquisition was a parallel process of formal urbanisation and planned development. The Revenue Estates of Village Bahapur and the adjoining Village Jasola contiguous to each other and closely interlinked in terms of their development trajectory were together declared urbanised by **Notification No. F-2(49)/65-LSG** dated 28.05.1966, issued under Section 507(A) of the Delhi Municipal Corporation Act, 1957 and published on 03.06.1966.

37. The cumulative effect of these successive acquisitions and formal declarations was transformative. The land acquired from Village Bahapur has the well-known residential and thriving commercial locality of Kalkaji and the nationally recognised business district of Nehru Place having developed on its acquired lands. The adjoining Revenue Estate of Village Jasola had kept pace with this transformation, with over the course of the preceding three and a half decades had, well before the date of the present acquisition, been developed into a constellation of well-established residential, institutional and industrial localities. Sukhdev Vihar, Ishwar Nagar, Jasola DDA Flats, Jasola Colony, Harkesh Nagar, Sarita Vihar, part of the Mohan Co-operative Industrial Area, Okhla Industrial Area Part II and Friends Colony all of these had taken shape on the acquired lands of Village Jasola. The Apollo Hospital, had similarly come up in this very area, further underscoring the stature and connectivity of the locality.

38. Against this backdrop, the nature/character of the subject property on the date of issuance of the notification under Section 4 of the Act on 12.10.1998 appears to be quite different. On a perusal of the Khatoni and Khasra Girdawari, placed on record, the nature and user of the land are mentioned as "Khal Land"

and "Gair Mumkin Park" respectively.

39. Before proceeding to examine the rival contentions as they were ultimately pressed before this Court, it would be instructive to briefly recapitulate what was urged before the learned Reference Court in relation to this very land, and how those contentions were dealt with in the impugned judgment dated 08.09.2006, since much of the present controversy is rooted in issues already canvassed and answered at that stage.

40. Before the learned Reference Court, the landowners contended that the land lay in close proximity to the Nehru Place Complex and the Okhla Industrial Estate, that the surrounding locality stood fully developed and required no further development for basic amenities, and that the area had been urbanised as far back as 1966. It was further contended that the land, being freehold, possessed the potential of a ready building site suitable for commercial construction, having regard to the metalled roads, regular transport facilities and the proximity of the Okhla Railway Station. Reliance was placed upon the compensation of Rs.830/- per square yard awarded for an earlier, adjoining acquisition under Award No. 7/91-92 (notification dated 05.10.1989), and, more significantly, upon the determination of Rs.2,000/- per square yard fixed by this Court in ***Bhola Nath Sharma & Anr. v. UOI*** for land comprised in the adjoining Khasra No. 1773/1200/559/1/1, forming part of the very same parent Khasra No. 559 and owned by the present petitioners in interest in respect of the acquisition under notification dated 30.06.1978, a determination which had attained finality up to the Hon'ble Supreme Court. A claim of Rs.1,00,000/- per square yard, together with Rs.10 crores by way of severance charges, was accordingly advanced.

41. The learned Reference Court after considering the exemplars and sale deeds on record held that the exemplars relating to Plot No. 70, Nehru Place, and the

judgments concerning land in Village Jasola, Village Tughlakabad and Greater Kailash-II were neither proximate nor comparable to the land in question and could not be relied upon, but that the determination of Rs.2,000/- per square yard fixed for the adjoining land in ***Bhola Nath(supra)*** having attained finality, furnished the appropriate base for valuation. Applying a progressive increase of 12% per annum for the period from 30.06.1978 to 12.10.1998, the learned Reference Court arrived at a value of Rs.6,800/- per square yard, from which a deduction of 30% was made towards development cost and land required for roads, parks and common facilities, resulting in the determination of market value at Rs.4,760/- per square yard as on 12.10.1998.

42. It becomes relevant, in this context, to trace how the very question of classification which underlay the Reference Court's approach was earlier dealt with by the Land Acquisition Collector at the initial stage of the proceedings, before turning to the specific grounds on which the correctness of the impugned judgment is assailed before this Court.

43. On a perusal of the material placed on record it is reflected that LAC while awarding the compensation, relied heavily on the contention of the U.O.I. that the disputed land was Gair Mumkin Park and therefore, must not be valued as Commercial land.

44. Now tuning to the plea of landowner qua this appeal, the primary plank of the case set up by the appellants/landowners before this court is that the present appeals are squarely covered by the judgment of this Court in ***Chet Ram Sharma (Deceased) through LR & Ors. v. Union of India & Anr.,*** LA.APP. 78/2022, decided on 06.11.2024, and that consequently the same rate of compensation, namely Rs.1,12,500/- per square yard, ought to be awarded in the present proceedings as well.

45. In order to scrutinise the award rendered by the reference court, as to whether it was correct and reasonable and whether the parity of ***Chet Ram Sharma*** **(supra)** can be given to the landowners herein, considering ***Chet Ram Sharma*** **(supra)** was a further development, after the award was passed, this court needs to deal with ***Chet Ram Sharma*** **(supra)** at some length.

46. Having examined the record and the judgment in ***Chet Ram Sharma*** **(supra)** with some care, this Court *prima facie* finds itself unable to accept the said contention. It would be instructive, at the outset, to trace the history of the litigation culminating in that judgment, for it is this very history and the findings recorded at each stage thereof that underscores why the rate ultimately awarded therein cannot be transposed to the present appeals.

47. The notification for acquisition of ***Chet Ram Sharma*** **(supra)** was issued in the year 2002. Before the Land Acquisition Collector could make an award, the landowners therein Malook Nagar, Chet Ram and Mahant Surendra Nath approached this Court by way of a writ petition assailing the notification of acquisition and sought interim protection against dispossession, which was declined on the ground that the acquisition having already taken place, the prayer for interim protection stood frustrated.

48. Upon further challenge, the Hon'ble Supreme Court, while dismissing the appeal, directed that the appropriate compensation payable to the landowners be determined. Pursuant to the said direction, this Court *vide* order dated 03.03.2005, and after considering the submissions of the DDA, the Union of India and the landowners together with the evidence on record, determined compensation at the rate of Rs.2,684/- per square yard.

49. The Land Acquisition Collector in the LAC proceedings before it thereafter, made the award in terms of the said determination. Dissatisfied, the landowners

sought a reference, and the Reference Court enhanced the compensation to Rs.8,840/- per square yard. On further appeal, this Court, by judgment dated 06.11.2024, determined compensation at Rs.1,12,500/- per square yard, principally on the ground that the land fell within 'Category A' of the categorisation adopted by the DDA in 2007 for the purpose of determination of circle rates in Delhi, and that, having regard to compensation awarded at the rate of Rs.1,25,000/- per square metre for land falling within 'Category E' in the Yusuf Sarai acquisition, it would be inappropriate to award a lower rate for land falling within the higher 'Category A'.

50. In the course of that litigation, the Reference Court in ***Chet Ram Sharma* (supra)** recorded a specific finding that the acquired land possessed the capability of supporting construction, that it enjoyed established civic amenities on account of the development of the neighbourhood, and that it had easy accessibility and connectivity. It was further found that the land formed part of the expansion plan of the Nehru Place District Centre, a planned commercial development. It is also borne out from the judgment that the soil of the land, though rocky, was found to be levelled and to possess building potential, such that it was capable of being put to residential, commercial or industrial use in the near future. These findings, taken together, establish that the land in ***Chet Ram Sharma* (supra)** was, throughout, treated and dealt with as commercially exploitable land forming part of a planned commercial expansion a characterisation that, as will presently be seen, has no counterpart on the facts of the present appeals.

51. Turning to the land presently under consideration, it may be noticed that the landowners in ***Chet Ram Sharma* (supra)** had placed reliance, in support of their claim, upon transactions of the year 1995 as also upon a letter dated 31.01.2003 addressed by the DDA to the Chief Town Planner, MCD, expressly confirming

that the user of the land in question was commercial in nature. No comparable material exists on the record of the present appeals. On the contrary, the revenue record pertaining to the land presently under consideration, namely the Khatoni and Khasra Girdawari, records the nature and user of the land as "Khal Land" and "Gair Mumkin Park" respectively. In revenue parlance, "Khal Land" denotes barren, rocky, uneven and non-cultivable land of limited utility, requiring substantial levelling, filling and development before it can be put to any beneficial use, whereas "Gair Mumkin Park" denotes land reserved for use, or capable of being used, only as a park or open green area. Land falling within either of these classifications is subject to inherent legal and practical restrictions upon its permissible user and cannot, therefore, be equated with land recorded as buildable residential or commercial land, such as was the case in ***Chet Ram Sharma* (supra).**

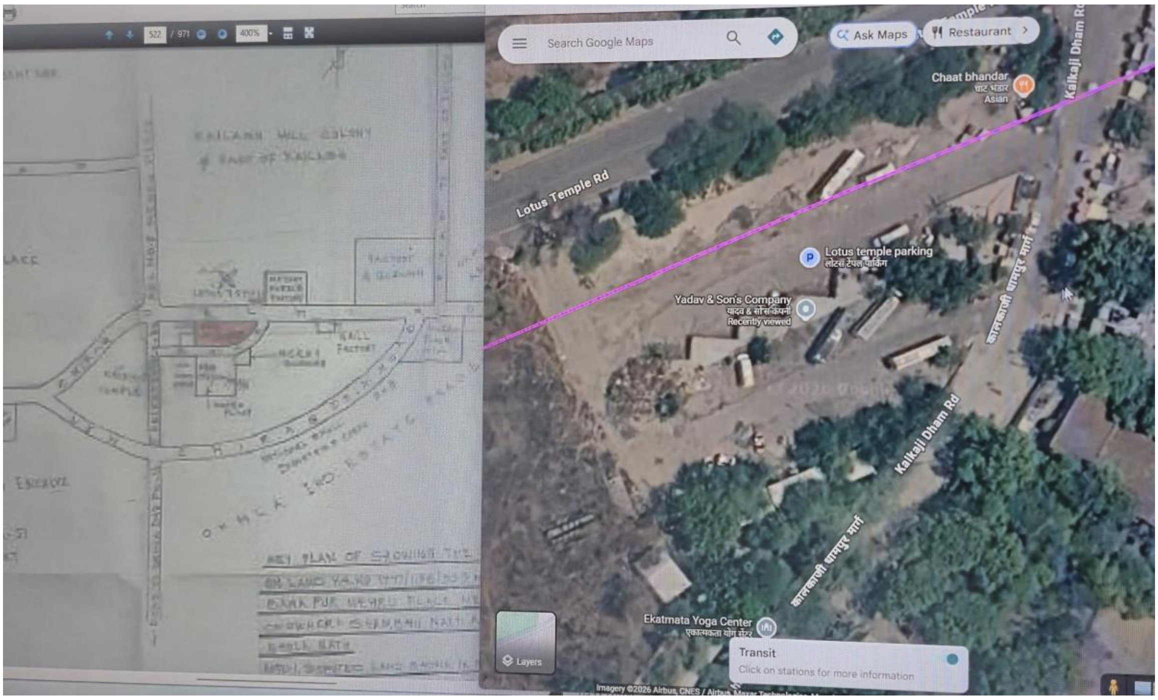
52. It is well settled that the nature of the acquired land is a determinative factor in the assessment of compensation payable on acquisition. Tested on this touchstone, the subject land in ***Chet Ram Sharma*** **(supra)** was shown, as noticed above, to be of a commercial character, whereas the land which is the subject matter of the present appeals stood at the opposite end of the spectrum as it was not merely non-commercial but was land which had not even been levelled or rendered fit for any regular use, without the application of substantial developmental effort. As already noticed, the soil of the land in ***Chet Ram Sharma*** **(supra)**, though rocky, was found to be levelled and possessed of building potentiality, a finding conspicuously absent in respect of the land presently under consideration, which was, on the contrary, an unlevelled parcel not put to any beneficial use, including residential use, as on the date of acquisition. The two parcels of land cannot, therefore, be treated as being on the

same footing.

53. This Court is not unmindful of the settled position that, while assessing compensation, it is not the use to which the land was in fact being put on the date of the notification alone that is determinative; the Court must equally have regard to the potential use to which the land is reasonably capable of being put by a prudent owner, and to the best use to which it may be applied. Even applying this principle, however, the appellants are unable to derive any assistance, for the reason that the classification of the land as "Khal Land" is not disputed by the landowners themselves. Once it is accepted that the land was uneven and non-cultivable and required substantial levelling and development even for ordinary use, there is no material on record to justify a finding that the land was, in addition, reasonably capable of commercial or residential exploitation such as would attract a market rate of the kind awarded in ***Chet Ram Sharma* (supra)**.

54. This conclusion is reinforced by the purpose for which the acquisition itself was undertaken. It is not in dispute that the notification records the object of acquisition as Planned Development of Delhi, with the land shown as "Green" in the relevant planning material, and that the said notification has not been assailed by the landowners at any stage. The purpose of acquisition being the creation of a green belt, it cannot be defeated by treating the land, contrary to its recorded classification and its stated purpose, as land which ought to have been valued as though it were destined for commercial construction. This is to be contrasted with the position in ***Chet Ram Sharma* (supra)**, where, as already noticed, the acquired land formed part of the expansion plan of the Nehru Place District Centre, a planned commercial development, and where the landowners were able to demonstrate, on the strength of contemporaneous material, that the land possessed building potential and was capable of being put to residential, commercial or

industrial use in the near future. No such material has been placed on record in the present case. Learned Counsel for the Union of India has, in this regard, pointed out, and it has not been seriously disputed, that the land in question continues to be used and is presently reflected as an open green belt adjoining the Kalkaji Temple and the Lotus Temple. The Court, for the limited purpose of appreciating the location and present physical character of the subject land, also referred to the satellite imagery available on Google Maps and compared the same with the site plan forming part of the record. The reference to such satellite imagery is only by way of a corroborative aid for identification and appreciation of the site and is not being treated as independent or substantive evidence for determination of any disputed question of fact. The imagery, when viewed alongside the site plan and the material already available on record, substantially corroborates the position regarding the present use and character of the land as an open green belt. For the sake of ready reference, the relevant satellite image is reproduced hereunder:



55. It is no doubt true that the land presently in question, like the land in Village Bahapur (in ***Chet Ram Sharma*** **(supra)**) generally, enjoys reasonable accessibility on account of its proximity within a range of three to four kilometres to well-developed localities such as Village Jasola, Sarita Vihar, Apollo Hospital, Mohan Estate, New Friends Colony, Greater Kailash and the Okhla Industrial Area. That fact, however, is not in itself sufficient to warrant valuation of the land at par with fully developed and commercially classified land situated elsewhere in the same general vicinity.

56. Mere proximity to developed localities, without more, cannot be treated as the sole determinant of market value; the nature, classification and intrinsic potentiality of the acquired land itself must equally be established, and it is this burden that the landowners have failed to discharge in the present case.

57. For the reasons set out above, the contention of the appellants/landowners that they are entitled to be placed on the same footing as the landowners in ***Chet Ram Sharma*** **(supra)**, and to be awarded compensation at the rate of Rs.1,12,500/- per square yard determined therein, cannot be accepted and is accordingly rejected.

58. This brings the Court to the question of the just and appropriate compensation payable to the landowners in the present appeals. In undertaking this exercise, the Court is required not merely to weigh the evidence on record but also to apply due prudence, keeping in view the principles of natural justice, while ensuring that the compensation awarded does not travel beyond what is permissible in law.

59. In order to determine the same this Court may now turn to the documents specifically relied upon by the appellants in support of their claim for

compensation at least at the rate of Rs.1,12,500/- per square yard, namely:

(i) the lease deed dated 23.01.1996 pertaining to Plot No. 70, District Centre, Nehru Place;

(ii) the valuation report dated 18.08.2004 prepared by a private Architect firm namely, Dayal & Associates (Architects, Engineers & Valuers);

(iii) the site plan prepared by the same Architect firm purporting to show the proximity of the acquired land to Nehru Place;

(iv) the award passed by Shri N.N. Goswamy in respect of land situate in the revenue estate of Village Bahapur; and

(v) the Schedule of Market Rates maintained by the Land & Development Office (L&DO). Each of these documents has been considered, and, for the reasons that follow, none of them furnishes a sound basis for the compensation claimed.

60. As regards the lease deed dated 23.01.1996, the appellants claim that the rate of Rs.1,91,663.21 per square metre (equivalent to Rs.1,60,268.42 per square yard) fetched for Plot No. 70, together with a compounded annual escalation of 12% for the intervening period between 23.01.1996 and the date of the notification, furnishes the appropriate basis for valuation of the acquired land. This contention cannot be accepted. Plot No. 70 was a fully developed commercial plot allotted by the DDA as part of a planned commercial complex at Nehru Place, whereas the acquired land, as already noticed, is recorded as "Khal Land" and "Gair Mumkin Park" and was, on the date of the notification, an unlevelled and undeveloped parcel reserved for green-belt use.

61. It is well settled that the price fetched for a fully developed plot allotted by a public authority cannot ordinarily furnish a safe or reliable index of the market value of undeveloped land sought to be acquired and that comparable sales, to be

of any evidentiary value, must relate to land similar in nature, size, location and potentiality. Even where a developed plot is, in a given case, taken as a starting point for valuation, the Hon'ble Supreme Court has held that substantial deductions, ranging from 20% to 75%, are called for while comparing undeveloped land with developed plots. Given that the appellants have made no attempt to establish comparability, much less to justify any deduction, the lease deed relating to Plot No. 70, and the escalation claimed thereon, cannot be accepted as a proper basis for valuation of the acquired land.

62. It may additionally be noted that, in any event, a straight compounded escalation of the kind claimed by the appellants would run contrary to the note of caution sounded by the Hon'ble Supreme Court in ***Central Warehousing Corporation v. Thakur Dwara Kalan Ul-Maruf Baraglan Wala (Dead) & Ors.***, 2023 INSC 940 where an annual cumulative increase of 8% was held appropriate for an 11-year gap, with escalation of 10–12% being permissible only for shorter periods of three to five years and a rate of 15% being found unjustified even over an 11-year period; mechanical reliance upon a compounded escalation, divorced from evidence of actual appreciation in land values in the locality, cannot legally justify the inflated compensation claimed.

63. Similarly, the valuation report dated 18.08.2004 prepared by a private Architect firm does not stand on any better footing. The report was prepared nearly six years after the notification dated 12.10.1998 and, on a perusal thereof, appears to proceed substantially upon the very same Plot No. 70 transaction already found to be an unsafe exemplar. Being, in substance, an opinion of the valuer rather than independent evidence of the nature, classification or actual/potential use of the acquired land as on the relevant date, the report cannot be permitted to override the contemporaneous revenue record.

64. This court is well aware that the existing lawful use and permissible use of the land are the relevant considerations for determining market value and that compensation cannot be founded upon speculative or fanciful future possibilities. Tested against these principles, the valuation report, unsupported as it is by any material establishing that the acquired land itself was, on the relevant date, put to or reasonably capable of commercial use, cannot be accepted.

65. Additionally, the site plan prepared by the architect, said to demonstrate the proximity of the acquired land to Nehru Place, stands on no different footing. Mere locational proximity to a developed commercial centre does not, without more, establish the nature, classification or permissible use of the acquired land itself, and cannot substitute for evidence of comparability. The Hon'ble Supreme Court in ***K. Periasami v. Sub-Tehsildar (Land Acquisition)***, AIR 1995 SC 1642 has held that the principle of parity applies only where the lands in question are genuinely comparable and similarly situated. A condition that, for the reasons already discussed, is plainly not satisfied on the facts of the present case.

66. Equally footed is the award passed by Shri N.N. Goswamy in respect of land situated in the revenue estate of Village Bahapur which fares no better. No material has been placed on record to establish that the land which formed the subject matter of the said award carried a classification, nature or user comparable to the “Khal Land”/“Gair Mumkin Park” classification of the land presently under consideration, nor has any attempt been made to demonstrate that the two parcels were similarly situated in point of location, size or potentiality. In the absence of such a foundation, mechanical reliance upon an award rendered in respect of differently situated land without more cannot be permitted; as already noticed, comparable instances must relate to land similar in nature, size, location and potentiality and the principle of parity applies only as between genuinely

comparable holdings.

67. Lastly, reliance upon the Schedule of Market Rates maintained by the L&DO is equally misplaced. The said Schedule reflects rates generally applicable to leasehold and institutional/commercial allotments made by the L&DO across Delhi and does not, by itself, have regard to the specific and restricted classification of the acquired land as "Khal Land" and "Gair Mumkin Park". As already noticed, market value must be determined on the basis of the existing nature, classification and permissible use of the particular land in question, and not by reference to generalised schedules divorced from that classification.

68. The aspect of proximity to the developed localities has already been considered hereinbefore (para 55-56), for the reasons recorded there does not aid the landowners.

69. The submissions advanced on behalf of the Union of India and the DDA, and the precedents relied upon in support thereof, may usefully be summarised at this stage. Land possessing restricted utility on account of its classification whether as Khadar/Sailabi land or, as in the present case, as "Khal Land"/"Gair Mumkin Park" cannot be equated with developed urban land, and commercial exemplars cannot be permitted to mechanically govern its valuation in terms of ***Bed Ram v. Union of India & Ors.***, 2011 SCC OnLine Del 2387, and ***Tindey & Ors. v. Union of India & Anr.,*** 1999 SCC OnLine Del 1070. Comparable sales must relate to land similar in nature, size, location and potentiality; a developed plot cannot be directly compared with a large undeveloped tract without substantial deductions; agricultural or undeveloped land cannot command rates equivalent to fully developed urban land, compensation cannot rest upon speculative or fanciful future possibilities; the principle of parity applies only as between genuinely comparable holdings; and existing lawful use and permissible

user remain the touchstone for determining market value. Applying these settled principles cumulatively to the facts at hand, none of the five documents relied upon by the appellants the Plot No. 70 lease deed, the valuation report, the site plan, the N.N. Goswamy award, or the L&DO Schedule of Rates furnishes a sound or legally sustainable basis for valuing the acquired land at Rs.1,12,500/- per square yard, or indeed at any rate approximating the same.

70. For the reasons set out in the preceding paragraphs, the contention of the appellants/landowners that they are entitled to be placed on the same footing as the landowners in ***Chet Ram Sharma*** **(supra)**, and to be awarded compensation at the rate of Rs.1,12,500/- per square yard determined therein or on the strength of the documents relied upon by them, cannot be accepted and is accordingly rejected.

Since the appeals preferred by the Union of India assail the enhancement granted by the learned Reference Courts, while the appeals preferred by the landowners seek further enhancement, it becomes necessary to examine the methodology actually adopted by the two Reference Courts in arriving at their respective determinations, and whether that methodology can be sustained.

71. In L.A. (Appeal) Nos. 67/2007 and 332/2007, the learned Reference Court, while determining the market value of the land acquired pursuant to the notification dated 12.10.1998, adopted as its base the rate of Rs.2,000/- per square yard awarded in respect of the acquisition under the earlier notification dated 30.06.1978, as determined in ***Bhola Nath Sharma through LRs. v. Union of India through LAC & Anr.,*** LA.APP. 109/2013, decided on 23.03.2016. To the said base, the learned Reference Court applied a progressive that is, simple, non-compounding escalation of 12% per annum for the intervening period between 30.06.1978 and 12.10.1998, a span of approximately twenty years, arriving at a

value of Rs.6,800/- per square yard. From this figure, a further deduction of 30% was made towards the cost of development and the land required to be set apart for roads, parks and other common facilities, resulting in the determination of market value at the rate of Rs.4,760/- per square yard.

72. Whereas, in **L.A. (Appeal) Nos. 115/2016 and 122/2018**, on the other hand, the learned Reference Court, while determining the market value of the land acquired pursuant to the subsequent notification dated 10.05.2002, adopted as its base the rate of Rs.4,760/- per square yard, being the very rate determined by the Reference Court in ***Shambhu Nath(supra)***for the 1998 acquisition, and applied thereto a progressive escalation of 12% per annum for the intervening period, resulting in the determination of market value at the rate of Rs.7,089/- per square yard.

73. It will thus be seen that both Reference Courts, in the absence of any exemplar or sale instance more directly proximate to the respective notifications under consideration, have taken recourse to the compensation determined in respect of the acquisition immediately preceding in point of time in the same revenue estate, and have applied a cumulative or progressive rate of annual escalation thereto in order to arrive at the market value as on the relevant date. The propriety of this method of valuation falls to be tested against the principles laid down by the Hon'ble Supreme Court in ***ONGC Ltd. v. Rameshbhai Jivanbhai Patel***, (2008) 14 SCC 745.

74. In ***ONGC Ltd.* (supra)**, the Hon'ble Supreme Court held that the method of cumulative annual appreciation is a realistic and reasonably accurate method of determining market value in cases where there exists a time gap between the exemplar relied upon and the date of the acquisition notification, and that such a method cannot be rejected merely on the ground of the length of the intervening

period. At the same time, the Supreme Court cautioned that the said method is reasonably safe only where the exemplar or the earlier acquisition precedes the acquisition under consideration by a few years, ordinarily not exceeding four to five years, and that beyond such a period, fluctuations in market conditions, changes in developmental patterns, periods of stagnation and sudden spurts in land prices render a uniform rate of annual increase unsafe and unreliable as a determinative tool, absent independent evidence reflective of the actual market conditions prevailing over the intervening period. The relevant extract of the judgment in ***ONGC Ltd. (supra)*** is reproduced herein below:

> *"**15.** Normally, recourse is taken to the mode of determining the market value by providing appropriate escalation over the proved market value of nearby lands in previous years (as evidenced by sale transactions or acquisitions), where there is no evidence of any contemporaneous sale transactions or acquisitions of comparable lands in the neighbourhood. <u>The said method is reasonably safe where the relied-on sale transactions/acquisitions precede the subject acquisition by only a few years, that is, up to four to five years. Beyond that it may be unsafe, even if it relates to a neighbouring land.</u> What may be a reliable standard if the gap is of only a few years, <u>may become unsafe and unreliable standard where the gap is larger.</u> For example, for determining the market value of a land acquired in 1992, adopting the annual increase method with reference to a sale or acquisition in 1970 or 1980 may have many pitfalls. This is because, over the course of years, the "rate" of annual increase may itself undergo drastic change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices affecting the very standard of increase.*
>
> *(emphasis supplied by this court)*

75. Tested against the aforesaid principles, the method adopted by the learned Reference Court in LAC No. 31/2011 is sound in principle. It took as its base the compensation judicially determined for the immediately preceding acquisition in the very same revenue estate (notification dated 12.10.1998), and escalated it over an interval of approximately three-and-a-half to four years. That interval falls squarely within the window ordinarily treated as safe under ***ONGC Ltd.*** **(supra)**, and is consistent with the escalation of 10% to 12% per annum found permissible for such shorter periods in ***Central Warehousing Corporation*** **(supra)**. The rate of Rs.7,089/- per square yard is, however, derivative of the 1998 rate of Rs.4,760/- per square yard. Since that base stands displaced for the reasons recorded hereafter, the rate for the 2002 acquisition cannot survive independently and must be recomputed on the revised base.

76. The determination made by the learned Reference Court in ***Shambhu Nath*** **(supra)**, resulting in the rate of ₹4,760/- per square yard for the land acquired pursuant to the notification dated 12.10.1998, presents a different position, inasmuch as the intervening period between the base determination of 1978 and the notification of 1998 extends to approximately twenty years. Ordinarily, such a long period would warrant considerable caution in applying an escalation factor, having regard to the observations in ***ONGC Ltd.*** **(supra)** on the limited period over which a rate may safely be extrapolated. The determination cannot, however, be discarded merely on account of the length of the period. The base rate was not derived from an isolated or uncertain private sale, but from the judicial determination of compensation for land in the same revenue estate in ***Bhola Nath Sharma*** **(supra)**, which attained finality up to the Hon'ble Supreme Court. What requires correction is the manner of escalation. The learned Reference Court applied a progressive (simple, non-compounding) increase of 12% per annum.

Over a span of two decades, such a method does not adequately reflect the cumulative appreciation of urban land, which is the method endorsed in ***ONGC Ltd. (supra)***. At the same time, a high nominal rate cannot safely be extrapolated over so long a period. This Court therefore considers it appropriate to adopt a moderate nominal rate of **7% per annum on a cumulative basis**. That rate is below the 8% cumulative rate approved in ***Central Warehousing Corporation*** **(supra)** even for a shorter, eleven-year gap, and it avoids undue extrapolation of the earlier determination.

77. Accordingly, the rate of ₹4,760/- per square yard determined for the acquisition pursuant to the notification dated 12.10.1998 cannot be sustained on the escalation methodology adopted by the learned Reference Court. Applying cumulative escalation at 7% per annum to the judicially determined base of Rs.2,000/- per square yard, this Court determines the value of the acquired land as on 12.10.1998 (*Shambhu Nath*) at **₹7,740 per square yard**. The rate for the acquisition pursuant to the notification dated 10.05.2002 (*Om Prakash*) is consequently recomputed by applying the same cumulative escalation of 7% per annum, for the corresponding intervening period, to the revised 1998 rate. The value for the said acquisition is accordingly determined at **₹10,145 per square yard**. The intervening periods have been taken, for convenience, as twenty and four complete years respectively.

78. The duty of this court does not terminate here, as the deduction towards development charges cannot be applied mechanically or by reference to a fixed percentage. The underlying rationale for such deduction is to account for the difference between the value of a small developed plot, which forms the basis of the exemplar, and the value of a larger tract having regard to the development actually required to put the acquired land to the use for which it is acquired. The

nature of the public purpose, the extent of the acquired land and the actual developmental works required are, therefore, material considerations.

79. The aforesaid principle assumes particular significance in the present case. The Section 4 notification does not contemplate development of the acquired land into a residential or commercial colony; the notified public purpose is "green development of Delhi". Further, the Khasra and Khatoni records describe the subject land as "gair mumkin park". Thus, the very purpose for which the land was acquired was to utilise it as a green belt, park or open green area.

80. The recent pronouncement of Hon'ble the Supreme Court reinforces the necessity of calibrating the development deduction to the actual nature of public purpose. In ***Rajasab v. Special Land Acquisition Officer***, Civil Appeal Nos. 10403-10404 of 2024, decided on 09.09.2024, the Supreme Court considered an acquisition of two acres for laying a railway line. The High Court had applied a deduction of 77% towards development charges. The Supreme Court found no rationale for such a deduction in the absence of a finding that a substantial portion of the acquired land could not be utilised for the purpose of acquisition. The Court specifically observed that laying a railway line does not require the degree of development ordinarily necessitated for residential, commercial or industrial areas or regulated urbanisation and accordingly upheld the Reference Court's deduction of 20%. The relevant extract reads as under:

> "*2. The land of the appellant bearing Survey No.241/P measuring 2 acres situated in Ward No.6 of Gangavathi was acquired by the Indian Railways. The appellant, being dissatisfied with the Collector's award, sought a reference under Section 18(1) of the Land Acquisition Act, 1894. The Reference Court vide award dated 29.11.2014 assessed the market value of the land at the rate of Rs.560 per square feet.*

3. Cross appeals were filed before the High Court. Vide the impugned judgment dated 10.12.2019, the High Court dismissed the appellant's appeal and allowed the Railway's appeal to the extent that the compensation amount was reduced to Rs.506 square feet, after deducting 77% towards development charges.

4. The aggrieved land owner is before us.

5. Upon notice, the railways (respondent no.3) have chosen not to contest these proceedings. It is contended on behalf of the appellant that since the purpose of acquisition is for laying railway line between Mehaboob Nagar to Munirabad, there was hardly any necessity of 77% deduction towards development charges as the entire acquired land can be utilized for the purpose of laying and maintaining the railway line on both sides. It is pointed out that the Reference Court after due consideration of the evidence has found that 20% deduction towards development charges would be sufficient.

6. We find from the impugned judgment that the High Court, after taking notice of the acquisition of a large chunk of undeveloped land, viewed that 77% deduction towards development charges from the market value of the land, would be justified. <u>We see no rationale or logic behind this in the absence of any categorical finding that a substantial part of the acquired land cannot be utilized for the purpose of its acquisition. It is not a case where the acquired land would be utilized for construction of amenities or ancillary services. In the very nature of things, the laying of railway line does not require that degree of development as may be necessitated in the case of development of residential/commercial/industrial areas or for that matter, regulated urbanization of the acquired land. That being so, the Reference Court was right in</u>

applying the cut of 20% toward development charges.

> *7. Consequently, we allow the appeals in part. The impugned judgment of the High Court dated 10.12.2019 is set aside and the award of the Reference Court dated 29.11.2014 is restored. The appellant shall be entitled to compensation along with all the statutory benefits as per the award passed by the Reference Court."*
>
> *(emphasis supplied by this court)*

81. The principle was thereafter considered by the Supreme Court in ***Siddamma v. Land Acquisition Officer,*** Civil Appeal Nos. 719-720 of 2026, decided on 03.02.2026. There, while noticing that the acquired extent was larger, namely 5 acres and 2 guntas, the Supreme Court nevertheless held that deduction of 83% towards development charges was on the higher side and reduced the same to 40%. The decision is significant in as much as it demonstrates that even where the acquired extent is larger and small sale exemplars are relied upon, an exceptionally high deduction cannot be sustained without calibrating the deduction to the actual circumstances of the acquisition.

82. The aforesaid decisions have to be read with the earlier line of authority, including ***Haryana State Agricultural Marketing Board v. Krishan Kumar,*** (2011) 15 SCC 297 and ***Chandrashekar v. Land Acquisition Officer***, (2012) 1 SCC 390, which explain that the development deduction comprises, broadly, the area required to be utilised for developmental works and the cost of carrying out such development. The percentage is consequently required to vary according to the nature and extent of development actually contemplated.

83. Applying these principles, the conventional deduction of one-third, which is ordinarily encountered where a large undeveloped tract is sought to be valued with reference to small developed plots in a residential or commercial layout, cannot be

imported mechanically into the present case. The very land acquired herein was intended to serve as the green/park area. Consequently, the rationale for deducting an additional portion of the acquired land towards parks or open spaces in the manner applicable to a residential layout is materially diminished. Any deduction towards development must instead correspond to the actual works required for implementation of the notified purpose of green development.

84. The fact that the subject land stood recorded as "gair mumkin park" assumes further significance in this context. The revenue classification, read with the notified public purpose, indicates that the intended use of the acquired land was itself as a park or green/open area. The development deduction, therefore, cannot be founded merely on the description of the land as undeveloped and must have a reasonable nexus with the actual developmental requirements of the green-belt purpose.

85. In the facts and circumstances of the present case, therefore, a deduction of **15% towards development charges** would adequately account for the limited development expenditure that may be required for implementation of the notified purpose, while avoiding an unwarranted deduction based on the development requirements of a residential or commercial layout. The Court is, accordingly, of the view that deduction of **15%** from the value indicated by the comparable developed sale instances would be just and reasonable.

86. The resultant market value payable to the landowners/claimants, after applying the aforesaid 15% deduction, is accordingly determined at Rs.6,579/- per square yard (i.e. Rs.7,740 minus 15%) for the acquisition dated 12.10.1998 (*Shambhu Nath*), and at Rs.8,624/- per square yard (i.e. Rs.10,145 minus 15%) for the acquisition dated 10.05.2002 (*Om Prakash*).

87. In view of the aforesaid discussion, the impugned determination is modified

to the aforesaid extent. The appeals preferred by the claimants are accordingly **allowed to the extent indicated hereinabove**, whereas the cross-appeals, being **LA.APP. 332/2007** and **LA.APP. 122/2018**, preferred by the UOI/DDA, are **dismissed**. The claimants shall be entitled to compensation at the rates determined hereinabove, together with all statutory benefits, including solatium, additional amount and interest, as permissible in law.

CONCLUSION:

88. In the light of the discussion and findings recorded hereinabove, this Court arrives at the following conclusion:

89. The fair market value of the acquired land in the Revenue Estate of Village Bahapur, as on **12.10.1998**, is accordingly determined at the rate arrived at by applying **7% cumulative annual escalation** to the judicially determined base rate in ***Bhola Nath Sharma (supra)***. The market value as on **10.05.2002** shall thereafter be determined by applying the same **7% cumulative annual escalation** to the rate so determined for the 1998 acquisition. The determination made by the learned Reference Court, insofar as it adopts a different rate on the basis of the earlier methodology, cannot, therefore, be sustained and is modified to the aforesaid extent.

90. In view of the aforesaid determination, there is no basis on the evidence on record for any further enhancement of the market value beyond the rates determined in terms of the aforesaid methodology, whether to **Rs.1,12,500/- per square yard**, as claimed by the landowners, or to any other higher figure. The claim for parity with the rates relied upon by the landowners cannot be accepted in view of the material differences in the nature, location and potentiality of the lands forming the subject matter of the respective acquisitions.

91. **LA.APP. 67/2007** and **LA.APP. 115/2016**, filed by the landowners/claimants seeking further enhancement of compensation, are accordingly **partly allowed to the aforesaid extent**. The impugned judgments and awards are modified insofar as the market value is concerned, in terms of the rates determined hereinabove.

92. **LA.APP. 332/2007** and **LA.APP. 122/2018**, filed by the Union of India, are hereby **dismissed**. The impugned judgment and award dated 08.09.2006 passed by the learned Additional District Judge, Tis Hazari Courts, Delhi, in LAC No. 159/1/06 (Old No. 25/03), and the award dated 02.02.2016 passed by the learned Additional District Judge-02, South-East, Saket Courts, New Delhi, in LAC No. 31/02/11 (Old No. 69/2006), stand modified only to the extent indicated hereinabove.

93. The landowners/claimants shall accordingly be entitled to compensation in respect of the acquired land at the market value determined hereinabove, together with all consequential statutory benefits, namely:

(a) **30% solatium** under Section 23(2) of the Land Acquisition Act, 1894, on the enhanced market value;

(b) **Additional amount at the rate of 12% per annum** under Section 23(1A) of the Act on the market value, computed from the date of publication of the notification under Section 4 of the Act to the date of the Award of the Collector or the date of taking possession of the land, whichever is earlier;

(c) **Interest at the rate of 9% per annum** on the enhanced compensation from the date of possession until the expiry of one year, and **at the rate of**

15% per annum thereafter until the date of actual deposit, under Section 34 of the Act; and

(d) All other statutory benefits to which the landowners/claimants are otherwise entitled in accordance with law and as directed by the learned Reference Court.

94**.** The parties shall bear their own costs throughout. All pending applications, if any, stand disposed of accordingly.

95**.** The impugned judgments and awards dated **08.09.2006** and **02.02.2016** are accordingly **modified to the extent indicated hereinabove**.

96**.** The appeals are disposed of in the aforesaid terms.

SHAIL JAIN
JUDGE

SEPTEMBER 29, 2026
H.P.