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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Reserved on: 01 October, 2024
Decided on: 29 October, 2024

+ **LA.APP. 253/2016**

M/S ANANT RAJ PROJECTS LTD.(NOW KNOWN AS TARC PROJECT LTD.) .....Appellant

Through: Mr. Rajesh Yadav, Senior Advocate with Mr. Soham Kumar, Ms. Prarthana Singhania, Mr. Akshit Navaney, Advocates

V

UNION OF INDIA & ANOTHER .....Respondents

Through: Mr. Sanjay Kumar Pathak, SC with Mrs. K. K. Kiran Pathak, Mr. Sunil Kr. Jha, Mr. M. S. Akhtar, Mr. Musarrat B. Hasmi, Mr. Mayank Madhu, Mr. Sami S. Siddiqui, Advocates for R-1/UOI
Ms. Shama Sharma, Advocate for R-2/DMRC

AND

+ **LA.APP. 255/2016**

M/S ANANT RAJ PROJECTS LTD (NOW KNOWN AS TARC PROJECT LTD.) .....Appellant

Through: **Mr. Rajesh Yadav, Senior Advocate with Mr. Soham Kumar, Ms. Prarthana Singhania, Mr. Akshit Navaney, Advocates**

V

UNION OF INDIA & ANOTHER .....**Respondents**

Through: **Mr. Sanjay Kumar Pathak, SC with Mrs. K. K. Kiran Pathak, Mr. Sunil Kr. Jha, Mr. M. S. Akhtar, Mr. Musarrat B. Hasmi, Mr. Mayank Madhu, Mr. Sami S. Siddiqui, Advocates for R-1/UOI**
Ms. Shama Sharma, Advocate for R-2/DMRC

CORAM
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

J U D G M E N T

1. This common judgment shall decide above mentioned two appeals.The present appeals are filed under section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as "**the Act**") to challenge the judgment and decree dated 05.05.2016 passed in LAC bearing no. 73/10/07 titled as **M/s Anant Raj Projects Limited V Union of India & another** (hereinafter referred to as "**the impugned**

judgment 1") and judgment and decree dated 06.05.2016 passed in LAC bearing no. 71/10/07 titled as **Structural Fabricators Pvt. Ltd. V Union of India & Another** (hereinafter referred to as "**the impugned judgment 2**") passed by the court of Sh. Sanjay Kumar, ADJ-02, West District, Rohini Courts, Delhi (hereinafter referred to as "**the reference court**") whereby the market value of the appellant's land measuring 1410 sq. meters forming part of the Commercial complex at property no. 67, Najafgarh Road, DLF Industrial Area, Kirti Nagar, Delhi was assessed at a rate of Rs.30,124.21/- per sq. meter with other benefits (in LA. APP 253/2016) and the market value of the appellant's land measuring 3697 sq. meters forming part of the Commercial complex at property no. 67, Najafgarh Road, DLF Industrial Area, Kirti Nagar, Delhi was assessed at a rate of Rs. 28,510.41/- per sq. meter with other benefits (in LA. APP 255/2016).

2. The factual background of the case as reflected from the impugned judgment 1 in LA. APP. 253/2016 is that the Government of NCT of Delhi acquired the total land measuring 3257 sq. meter under section 4 of the Act vide notification no.

F.7(14)2003/LA/L&B/MRTS(W)/25040 dated 13.02.2004 and under section 6 of the Act vide notification no. F.7(14) 2003/LA/L&B/MRTS(W)/4011 dated 08.06.2004. The said land was notified under section 17 of the Act vide notification no. F.7(14) 2003/LA/L&B/MRTS(W)/4012 dated 08.06.2004 and was acquired for the purpose of Mass Rapid Transit System project. LAC (W) after completing the requisite formalities as provided under the Act announced the Award bearing no. 06/DC (W)/04-05 dated 28.01.2005 under section 11 of the Act in respect of the aforesaid acquired land and determined the market value of the acquired land at the uniform rate of Rs.19,660/- per sq. meter.

2.1 The factual background of the case as reflected from the impugned judgment 2 in LA. APP. 255/2016 is that the Government of Delhi acquired the total land measuring 15765 sq. meter under section 4 of the Act vide notification no. F.7(60)2001/L&B/LA/MRTS/19276 dated 04.03.2003 and under section 6 of the Act vide notification no. F.7(60) 2001/L&B/LA/MRTS/905 dated 25.04.2003. The said land was notified under section 17 of the Act vide notification no. F.7(60)

2001/L&B/LA/MRTS/906 dated 25.04.2003 and was acquired for the purpose of Mass Rapid Transit System project. The LAC (W) after completing the requisite formalities as provided under the Act announced the Award bearing no. 07/DC (W)/04-05 dated 02.02.2005 under section 11 of the Act in respect of the aforesaid acquired land and determined the market value of the acquired land at the uniform rate of Rs.19,660/- per sq. meter. The structure was also valued as per valuation report submitted by DMRC Ltd. duly vetted by PWD. The structure of the appellants as per award was determined for value of Rs.8,90,932/-.

2.2 The appellant, a private limited company, is the owner of both the properties i.e., 1410 sq. meters (LA. APP. 253/2016) and 3257 sq. meter (LA. APP. 255/2016) forming part of the Commercial complex situated at property no. 67, Najafgarh Road, DLF Industrial Area, Kirti Nagar, Delhi (hereinafter referred to as "**the acquired land**") which were acquired vide Award bearing no. 06/DC (W)/04-05 dated 28.01.2005 (LA. APP 253/2016) and Award bearing no. 07/DC(W)/04-05 dated 02.02.2005 (LA. APP 255/2016).

2.3 The appellant being aggrieved by the compensation assessed by LAC filed reference petitions under section 18 of the Act bearing LAC no. 73/10/07 and LAC no. 71/10/07 challenging the Award bearing no. 06/DC(W)/04-05 dated 28.01.2005 and 07/DC(W)/04-05 dated 02.02.2005 respectively and prayed for enhanced compensation along with statutory solatium, interest and other statutory benefits. The grounds to challenge the Awards in the reference petitions are produced verbatim hereinafter:

> **7. It is stated that the property under acquisition is a part of big industrial plot situated on the main Patel Road, it is an admitted fact as per the award that the land under acquisition is an industrial property situated in Kirti Nagar and have residential, commercial activities in the vicinity. This fact alone makes it abundantly clear that the land in question had potential value as industrial as well as commercial site and all around in the vicinity the land is/was being used as industrial as well as for commercial purposes.**
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> **8. It Is stated that the Collector through has admitted the land to be the industrial property and having commercial potential has valued the same at the rate which was fixed by DDA for conversion charges. The conversion charges which have been application by DDA in the year 2003 can not be the actual price of the land. The conversion charges are charged by the authorities with regard to residential property or other properties are sought to be converted for the purposes of user. It is stated that conversion charges by no stretch of imagination could be the market value of the land. The market value of the land is where the land of an**

ordinary prudent person will be prepared to sell his property and a man of ordinary prudence is willing to purchase the same. The price which is falling between the two constitutes the market value. The market value of the land around the vicinity at the time of issuance of notification under Section 4 of the Act was not less than Rs.2 lacs per sqm.

9. It is further stated that the property in question is situated on main Road having a great potential value as a perfect industrial site and was otherwise fit for any commercial activities. The land in question had a permitted use of industrial nature and has flatted factories. It is stated that the matter regarding user of the land which was earlier used for extensive industry came up from Hon'ble Supreme Court in CWP No. 467/1985 titled as 'M.C. Mehta vs. UOI' wherein it has been held that all plots which were earlier used to existing industries would be used only for light and service industry. As per the permissible use in Zone M (I) light and service industries the following are permissible; Hospitals, Guest House, Boarding House, Lodging House, Storage House, Warehouse, Cold Storage, Ice Factory, Gas Godown, Cinema, Bus Depot and Workshop and Nursing Home, Auditorium, Nigh Shelter, Weekly market. Junk Yard, Motel Garage, Flattered group industry, railway freight godown, vocational training centre, R&D Centre, Museum, Exhibition Centre and Art Gallery. The DDA vide resolution dated 18.08.2001 as alleged, commercial usage of industrial plot on payment of certain charges. With this back ground the plot of the appellants would be used for any of the purposes detailed herein above and all purposes are commercial in nature and could fetch a very decent income for the appellants. Even otherwise the permissible user being absolutely commercial, will definitely fetch a better price.

10. It is stated that the land of the appellant is well connected to various parts of Delhi, approachable by

mettled roads from all sides, one side is Patel Road, the other side is Kirti Nagar Industrial area road, the third side is Rama Road and the other road is leading towards Moti Nagar Industrial Area. The land being situated in such a position has market potential and is of great commercial/industrial value. All sort of civic amenities such as electricity, water transport, telephone, bus service, sewerage, educational institutions etc. are easily available to the lands of the appellants.

11. It is stated that the topography of the land which has been acquired is phenomenally exceptional within the close proximity of about 1- 1.1/2kms there are posh Residential colonies like Patel nagar, Rajender Nagar, Rajendra Park, Rajendra Place, Karol Bagh, Pusha Road etc. on the other side are the posh residential colonies of west Delhi like Rajouri Garden, Raja Garden, Kirti Nagar residential area, Bali Nagar etc. This being the topography, the land of the appellant is of the highest value being on the perfect location and thus enjoys a great potential value.

12. It is further stated that the question regarding fixation of market rates of the property in the vicinity came up before Hon'ble Supreme Court of India on various occasions and the Hon'ble Supreme Court has in unambiguous terms held that 2-3 kms. Distance is of no consequence in relation to the properties situated in urban areas or in urban agglomeration as the properties are capable of fetching the same market value. Appellant also relied on judgment of Hon'ble Supreme Court in LC Officers vs. Eluru & others Vs. Smt. Jasti Rohini & Others, 1995 Vol. I SCC 717.

13. It is further stated that the Collector has made no effort to find out the existing market rate in the vicinity. The award indicates only one sale deed which is no way can reflect the market value of the lands in the area. Appellant also relied on judgment of Hon'ble Supreme Court in

Special Land Acquisition Officer Dev Nagri vs. P. Veera Bhadha Rappa & others 1984 Vol. 2 SCC 120.

14. It is further stated that considering all the facts and circumstances and other related matters relevant for affixation of the correct market value of the land, the value of the land of the appellant at the relevant time was not less than Rs.2 lacs per sqm. and appellant claims the same amount as compensation for its land.

3. The respondent no1/Union of India filed respective written statement before the reference court in both the reference petitions wherein stated that the compensation has been assessed in the name of the recorded owner as per the revenue record and the appellant is not the recorded owner as per the revenue record. The acquired land is not surrounded by any developed or undeveloped colony and the acquired land can only be used for agricultural use. There was no structure, tree or tube at the time of publishing of the notification under section 4 of the Act on the acquired land. The respondent no 1 on merits denied averments made in the reference petition and stated that the Collector (West) has correctly assessed the compensation and the reference petitions are liable to be dismissed.

4. The respondent no.2/DMRC also filed written statement in both the reference petitions wherein preliminary objection was taken that the petitions are barred by limitation. The respondent no 2/DMRC on merits denied all the averments made in the reference petition and stated that the LAC (West) considered the conversion charge issued by the DDA, the schedule of rate for residential and commercial purposes circulated by the Department of Urban Development, Ministry of Urban Affairs and Employment vide letter no. J-22011/4/95-LD dated 16.04.1999 and price paid within reasonable time frame in a *bona fide* transaction of similar land possessing similar value. The locational advantage of the property being situated on the main road was kept in mind while assessing the market value at the rate of Rs.19,660/- per sq. meter. The claimants did not supply valid evidence regarding industrial land to LAC to support their claim. LAC relied on the best method of compensation assessment to achieve the market value of the property by evaluating similarly advantageous land in the proximity. LAC while passing the award took into account that the acquired property is situated on the main road and that there are residential as well as commercial activities in the vicinity. The acquired land was not used for industrial purposes and the conversion charge has been taken as only one dimension in the ascertainment of the true price as conversion charge is only Rs.17,870/- whereas the market price determined in the award is Rs.19,660/-. The structure was valued by Government approved Valuers and was also duly vetted by PWD of GNCTD. The Collector took into account the entire potential value but the range of potential value cannot be extended to conjectural value. The immediate and proximate potentiality can be considered not the distant potentiality.

5. The appellant in LAC no. 71/10/07 subject matter of LA.APP. 255/2016 filed rejoinder to the reply filed by the respondent no.1/UOI wherein stated that the compensation assessed by the Collector is too low, unjust, arbitrary, without any reasonable basis and the same is not acceptable to the appellant. The minimum market value of the acquired land was assessed by the Registered Valuer in his valuation report to be not less than Rs.2,10,000/- per sq. meter. The appellant also denied the averments made in the written statement.

5.1 The appellant in LAC no. 71/10/07 subject matter of LA. APP. 255/2016 also filed rejoinder to the reply filed by the respondent no.2/DMRC wherein the appellant denied the averments made in the written statement and reiterated the averments made in the petition. It was stated that the compensation assessed by the Collector is too low, unjust, arbitrary, without any reasonable basis and the same is not acceptable to the appellant. The minimum market value of the land in question was assessed by the Registered Valuer in his valuation report to be not less than Rs.2,10,000/- per sq. meter. It was further stated that the respondent did not deny the fact that the appellant has huge superstructure in the form of boundary wall, gate, iron grill, rooms etc. and that the said construction was a modern construction and hence, the value of the superstructure cannot be valued less than Rs.50 lacs.

6. The reference court in both the reference petitions on basis of pleadings framed following issues vide order dated 21.02.2008:-

> **1. What was the market value of the land on the date of notification U/S 4 Land Acquisition Act? OPP**
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> **2. What was the value of super structure raised by the appellant? OPP**
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> **3. To what amount of enhancement in compensation the appellants are entitled?**
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> **4. Relief.**

7. The appellant before the reference court examined Pankaj Nakra who is the Director of the appellant company as PW1 who tendered affidavit stating facts of the petition and submitted a copy of Board Resolution as Ex. PW1/A in evidence. PW1 in his cross examination admitted that the company has neither purchased or sold any piece of land at Kirti Nagar, Delhi and that he does not remember if the company sent any letter to the LAC for participation in the proceedings of evaluating the property being initiated by the approved valuer. PW1 deposed that he accompanied the valuer when they visited and initiated proceedings of valuation and multiple local property dealers including Mr. Avinash were called who gave the rate of the land to the valuer. PW1 further deposed that the distance between the Kirti Nagar and Moti Nagar Industrial Area is approximately 500 meters and the same is the distance between Patel Road and Rama Road. He admitted that there is a residential area at the distance of ½ - 1 km from the acquired land. He further deposed that the company used to manufacture tanks on the acquired land for almost 20 years but he cannot say whether the business was running in profit or loss. He deposed that he does not remember when the construction of the acquired land was done and whether he had submitted sale deed of similarly located property of that area before LAC.

7.1 The appellant also examined Balkishan Chauhan before the reference court as PW2 who tendered affidavit Ex.PW2/A in evidence wherein deposed that he is a Building Supervisor/Estimator Valuer approved by the MCD.PW2 deposed that on the request of PW1 Pankaj Nakra, he personally went to inspect the acquired land on 30.03.2003 to assess its market value which was done after verification of the documents produced and taking into consideration various locational factors.PW2 also made local enquiry regarding the prevailing market rate at the time of the section 4 notification from local property dealers.PW2 prepared Report PW2/2 wherein he assessed the market value of the acquired land at the rate of Rs. 2,25,000/- per sq. meter as on the date of the section 4 notification. PW2 in his cross examination admitted that he had not given any notice to LAC to participate during inspection of the acquired land for valuation but the manager of the appellant company had already given such notice to the LAC. He deposed that he had seen the House

Tax Receipt but no documents regarding purchase of building material was shown to him and he cannot tell the rateable value of the property fixed by MCD. He further deposed that he referred two sale deeds and made inquiries from local property dealers while assessing the market value of the acquired land. PW2 denied that he had not gone at the spot or assessed the valuation and gave his report at the higher value at the instance of appellant.

7.2 The appellant before the reference court also examined Anil Sarin as PW3who tendered an affidavit P-3 wherein reiterated the facts of the petition and submitted a copy of Board Resolution dated 04.05.2010 as Ex. PW3/1 in evidence. PW3 in his cross examination admitted that he was authorized on behalf of the company vide authorization letter to appear before the LAC during the proceedings of the Award and that on receipt of notice under section 9 and 10 of the Act, he has not appeared before the LAC but other Representatives of the appellant company appeared before the LAC and hence, he is not competent to disclose the then market value of the property in question. He denied the fact that they were not the owner of M/s Structural Fabricators Pvt. Ltd. in 2004. It was further deposed that the representative of the appellant company produced the report of the registered valuer pertaining to the acquired land before the LAC but no resale deed of the relevant period was produced before LAC of any other property to show the market value of the property in the vicinity and relied upon valuation report Ex. PW3/3. PW3 stated that he never worked for Jones Lang i.e. the Valuer who valued the acquired land as per report Ex. PW3/3 but rather he engaged them to value the acquired land but he has not placed on record any communication vide which the Valuer M/s. Johns Lang were engaged by the appellant company and admitted that Ex. PW3/3 does not bear signature of the Valuer or its agent or the seal or stamp of the Valuer. He further submitted that Jones Lang Company does not disclose the name of the person who has prepared the report. The report Ex. PW3/3 was duly forwarded by the Managing Director of Strategic Consulting Group which is part of M/s Jones Lang but he does not have any documentary proof to show the Strategic Consulting group is part of M/s. Jones Lang. The concerned officials of M/s. Jones Lang visited the spot in 2009 and admitted that the document Ex. PW3/4 is not legible. He visited the property qua sale deed Ex. PW3/2. He further admitted that the appellant company has no concern with the property as mentioned in Ex. PW3/2 as it was neither the buyer nor the seller. The appellant evidence was closed vide order dated 07.01.2016.

7.3 The respondent no 1/Union of India in evidence tendered Award as Ex. Rl. The respondent no 2/DMRC in evidence tendered photocopy of judgment **M/s. Sylvania Laxman Ltd. V UOI** dated 08.05.2009 decided by the court of Sh. Ashwani Sarpa, Additional District Judge as Ex. R2. The evidence on behalf of the respondents was ordered to be closed vide order dated 18.02.2016.

8. The perusal of impugned Awards reflect that LAC to arrive at fair market value of the acquired land considered the locality of the site, situation of the area and quality, potentiality and use of area and the quality, potentiality and use of land. The acquired property was an industrial property situated in area of Kirti Nagar with residential and commercial activities in the vicinities. LAC did not adopt method of schedule of rates circulated by the Department of Urban Development, Ministry of Urban Affairs & Development vide letter dated 16.04.1999 for assessment of compensation for acquired property/land. LAC adopted method of valuation i.e. the price within a reasonable time frame in *bona fide* transactions of purchase of similar lands possessing similar advantages. LAC collected certified registered sale deeds of rates of similar lands in the adjacent areas of West Patel Nagar and Kirti Nagar to estimate fair market value. LAC to arrive at fair market value of the land also considered the conversion rates charged by DDA issued in year 2003. The indicative rates of Kirti Nagar Industrial Area is Rs. 17,870/- per sq meter. LAC assessed market value of acquired industrial properties on basis of above methods and keeping the locational advantage being situated on main road side at Rs.19,660/- per sq meter. LAC also awarded compensation for structures and other statutory benefits.

9. The reference court in impugned judgments did not accept testimony of PW1 and opined that it was not supported with sufficient documentary evidence that the market value is not less than Rs.2,25,000/- and observed that testimony of PW1 is silent on important aspects. The reference court also observed that PW2 proved Report Ex.PW2/2 but it does not contain specific date when it was prepared and PW2 did not mention any basis for arriving at the conclusion that the rate of the acquired land was at Rs. 2,25,000/- per sq meter and PW2 carried out the inspection *ex parte* and report Ex.PW2/2 is based on local inquiries and there was no basis regarding expenditure information including cost of construction and value of the land. The reference court has rejected valuation report given by PW2. The reference court opined that that the appellant has failed to prove that the structure cost allowed by the collector was unjustified and rejected claim of the appellant as to structure. The reference court also rejected sale deed Ex. PW3/2 and copy of valuation report Ex.PW3/3 and another document produced in the testimony of PW3. The reference court observed that the appellant has not proved any sale deed to indicate market value of the acquired land at the time of notifications under section 4 of the Act. The reference court after relying on **Bedi Ram V UOI**, 93 (2001) DLT 150 delivered by this court gave appreciation of 12% at time of assessing compensation of acquired land. The reference court in LAC No. 71/10/07 which is subject matter of LA. APP bearing no 255 of 2016 determined fair market value of land at Rs. 28,510.41/- per sq meter and such awarded enhancement of Rs. 8850.41/- per sq meter.

The reference court in LAC No. 73/10/07 which is subject matter of LA. APP no 253 of 2016 determined fair market value of land at Rs.30,124.21/- per sq meter and such awarded enhancement of Rs.10,464.21/- per sq meter. The reference court also awarded statutory benefit as mentioned in finding on issue no 3 of impugned judgments.

10. The appellant being aggrieved filed the present appeals and challenged both the impugned judgments on grounds that the impugned judgments are liable to be set aside being passed without application of mind. The reference court has wrongly rejected testimony of PW2 Balkishan Chauhan who was a building supervisor and estimated valuer duly approved by MCD and his report Ex. PW2/2. The reference court wrongly rejected sale deed dated 01.05.2000 as referred in report Ex.PW2/2 merely on ground that copy of the sale deed was not filed. The reference court incorrectly rejected the reportEx.PW2/2 with respect to the valuation of the building/structure existing upon the acquired land. The reference court has not considered true commercial potential value of the acquired land in assessing market value of the acquired land which is well connected to various parts of Delhi and is approachable by mettled road from all sides. The acquired land is situated in the proximity of posh residential as well as commercial areas of Delhi. The acquired land is surrounded by Patel Road on one side, second side is Kirti Nagar DLF Industrial Area Road, the third side is Rama Road and the fourth road leads towards Moti Nagar Industrial Area. The topography of the acquired plot is phenomenally exceptional and is situated within the close proximity of about one/one and half km of posh residential colonies like Patel Nagar, Rajender Nagar, Rajendra Park, Rajendra Place, Karol Bagh, Pusa Road, etc. on one side and is having proximity to posh residential colonies of West Delhi like Rajouri Garden, Raja Garden, Kirti Nagar Residential Area, Bali Nagar, etc. on the other side. The reference court has wrongly rejected sale deed dated 17.06.2008 (Ex.PW3/2) on ground that it pertains to year 2008 and future/subsequent transactions can be considered in determining market value of the land particularly when the land acquiring authorities have failed to produce any credible evidence with respect to the prevailing market value. The reference court erroneously ignored the auction/conveyance deed dated

30.07.2004 with respect to Slum 85 JJ Department (Ex.PW3/4) on the ground that witnesses were not examined from Municipal Corporation of Delhi. Kirti Nagar DLF Industrial Area and other commercial complex situated in the vicinity, Mansarover Garden and Vivek Cinema were carved out from of the acquired land of Village Basaidarapur, Delhi. The acquired land is already well developed and market value of acquired land could not be less than Rs.2 lacs per sq meter after considering better location and commercial use of the acquired land. The reference court while assessing the market value of the acquired land ignored that acquired land is a front portion of the commercial complex situated on main 120 feet road and also failed to appreciate future capabilities and probabilities of acquired land. The reference court has wrongly ignored the valuation report dated 30.03.200 which established value of the acquired land is not less than Rs.2,25,000/- per sq meter. It was prayed that market value of the acquired land be determined @ Rs.2,00,000/- per sq meter including built up structure thereon and with all other statutory benefits.

11. Sh. Rajesh Yadav, the learned Senior Advocate for the appellant advanced oral arguments and common written arguments were also submitted on behalf of the appellant in both appeals bearing no. LA. APP. 253/2016 and LA. APP. 255/2016 since the acquired land in both the appeals is part of the same property. Sh. Yadav stated that the appellant is seeking enhancement in compensation at the rate of Rs. 2,00,000/- per sq meter being the market value of the acquired land on date of the notification under section 4 of the Act along with other statutory benefits as permissible under the Act. Sh. Yadav relied on **Virender Sood V Union of India & others**, LA.APP. 913/2008 decided on 15th November, 2017 by Co-ordinate Bench of this court pertaining to land measuring 557.61 sq meter situated in revenue estate of Basai Darapur known as Mansarovar Garden wherein market value of the acquired land was determined at Rs.52,000/- per sq meter on 01.04.2004 which was the date of notification under section 4 of the Act. Sh. Yadav also relied on map depicting the location of the lands acquired in case of **Virender Sood** and the land acquired in the present cases and argued that the location of land subject matter of present appeals is far better than the

Mansarover Garden land as the acquired land is situated on a 60-meter wide main Patel Nagar Road at the cross-section of Najafgarh Road and Patel Nagar Road and the land in Mansarover Garden is abutting 80 feet wide roads on two sides and 20 feet wide road on third side. He further argued that both the lands are situated in nearby localities/colonies although separated by a distance of 1.8 km and acquisition of land in **Virender Sood** is of contemporary period with acquisition of land subject matter of present appeals.

11.1 Sh. Yadav after referring **Virender Sood** argued that in said case, the court considered some of the evidences/exemplars which are relevant for the present case and said evidence/exemplars are Award dated 28.01.2005 which is subject matter of present LA Appeal 253/2016 (Exhibit PW1/8), Sale deed dated 15.11.1996 pertaining to the property bearing no.7, West Patel Nagar measuring 800 sq yards which was sold @ Rs.49,375/- per sq yard (Exhibit PW1/11), Auction dated 10.08.2004 in respect of plots situated at Shivaji Place, Delhi and plot no.10 was auctioned @ Rs.64,660/- per sq yard/Exhibit (PW1/13) and plot no.23 was auctioned @ Rs.73,680/- per sq meter (Exhibit PW1/14). Sh. Yadav referred para no 32 wherein court referred the sale deed dated 15.11.1996 (Exhibit PW1/11) which was sold at Rs. 59,043/- per sq. meter and land rate of said plot by applying 12% annual increment was assessed at Rs.1,33,325/- per sq. meter. The court in **Virender Sood** did not follow said exemplar for the sole reason that Patel Nagar was an older well developed colony than Mansarovar Garden falling in the revenue estate of Basai Darapur despite being observed that said plot was a comparable plot. The court in **Virender Sood** also considered the auction of plot in the area of Raja Garden (Shivaji Place), Exhibit PW1/14 but did not apply same on ground that said sale transaction was in relation to completely commercial plot whereas user of the acquired land in **Virender Sood** was not completely commercial but the court in para 36 observed that the said transaction was certainly a pointer to the rate that would have been prevailing in respect of the land in question. The court after applying some guess work in **Virender Sood** came to the conclusion that the market value of the acquired land would be Rs. 52,000/- per sq. meter and considered rate of the similar plot falling in Patel Nagar (Exhibit PW1/11) at Rs.59,043/-while determining the market value. Sh. Yadav stated that

Union of India also filed a SLP (Civil) no. 3786/2019 titled as **Union of India V Virender Sood & another** to challenge **Virender Sood** which was dismissed vide order dated 25.02.2019.Sh. Yadav argued that location of the land of the appellant is much better than the land situated in Mansarover Garden and the of the appellant is industrial in nature but is used for commercial purposes and is situated on a 60 meter wide road. He further stated that the industrial rates are two times higher than the residential rates as per the circle rates notified by the GNCTD.

11.2 Sh. Yadav argued that the property situated at Patel Nagar was sold at the rate of Rs. 59,043/- per sq meter as on 15.11.1996 is most comparable to the acquired property of the appellant except the fact that the said property was "residential" in nature whereas the land of the appellant is "Industrial" and both the properties are situated on the same road and are at a distance of 1.8 km. Sh. Yadav further stated that his court by applying 12% annual increment had observed in **Virender Sood** that the land rate of the said plot in 2004 would be Rs.1,33,525/- per sq meter but as per recent judgments passed by this court as well as by the Supreme Court, the yearly increase at rate of

15% can be given at compounding rates. Sh. Yadav prayed that after applying 15% increase with cumulative/compounding rates with effect from 15.11.1996 which is the date of sale transaction of the property situated at Patel Nagar to 13.02.2004 which is the date of notification under section 4 in LA Appeal No.253/2016 would be Rs.1,62,864.458/- per sq meter and on same logic, value of land subject matter of LA. APP 255/2016 till 04.03.2003, the date of notification under section 4 of the Act would be Rs. l,42,687.63/-. Thereafter by applying the multiplier of two (2), as per the circle rates, the market value of the acquired land being industrial in nature, in LA Appeal 253/2016, as on 13.02.2004, would be Rs.3,25,728.90/- per sq meter and in LA Appeal 255/2016, as on 04.03.2003, would be Rs.2,85,375.26/- per sq meter besides entitlement of the appellant to other statutory benefits. Sh. Yadav strongly argued that the exemplar of property no.7, West Patel Nagar, Delhi must be followed in the present appeals being the most comparable property.

11.3 Sh. Yadav in support of arguments cited **Ashok Kumar V State of Haryana & others**, (2016) 4 SCC 544, **Narendra & others V**

State of Uttar Pradesh &others, (2017) 9 SCC 426, **Mehrawal Khewaji Trust (Registered), Faridkot and others V State of Punjab and others**, (2012) 5 SCC 432, **Udho Dass V State of Haryana & others**, (2010) 12 SCC 51, **Viluben Jhalejar Contractor (Dead) By Lrs. V State of Gujarat**, (2005) 4 SCC 789, **National Fertilizers Limited V Jagga Singh (deceased) through LRs & Another**, (2012) 1 SCC 74, **Mehra (Major General) & Others V Union of India & another**, 2010 SCC OnLine Del 4612, **DDA V Kapil Mehra & others**, (2015) 2 SCC 289, **Anjani Molu Dessai V State of Goa and another**, (2010) 13 SCC 710, **Ashok Kumar & others. V State of Haryana & others**, (2015) 15 SCC 200, **Madhusudan Kabra & others. V State of Maharashtra and others,** (2018) 1 SCC 140 and various other decisions.

12. Sh. Sanjay Kumar Pathak, the Standing Counsel for the respondent no 1/UOI referred evidence led by the appellant in LA.APP No. 253/2016 and argued that PW1 Pankaj Nakra during cross examination admitted that their company i.e. the appellant has neither purchased nor sold any piece of land at Kirti Nagar and did not remember whether the appellant has sent any letter to LAC for participating in the proceedings of evaluating the property being initiated by approved valuer. PW1 further deposed that he accompanied with the valuer when they have visited and initiated proceedings of valuation and on the spot a number of local property dealers have been called who had given the rate of the land to the valuer and one of the property dealer was Mr. Avinash who was having office in the same area. Sh. Pathak further argued that there is a residential area at the distance of ½ to 1 km from the acquired land and word FAR is not mentioned in his reference petition. Sh. Pathak also referred cross examination of PW2 who deposed that on the request of Pankaj Nakra i.e. PW1 he went to inspect the property in question on 30.03.2003 to assess the market value of a portion of the property admeasuring 1410 sq. meters which was sought to be acquired vide notification dated 13.02.2004 but did not give any notice to LAC to participate during inspection of the building for the purpose of valuation. Sh. Pathak thereafter argued that PW2 was a civil Draftsman having Diploma of two years and without any experience of construction of building and the knowledge of material used during the construction. PW2 proved report Ex. PW2/2 in which no specific date month or year has been mentioned when it was conducted and prepared. The Report Ex.PW2/2 is based upon local inquiries and one sale deed of the year 2000 belonging to. Ashok Dang but neither copy nor original of said sale deed was filed on record. Sh. Pathak emphatically argued that no basis was mentioned by PW2 to arrive at the conclusion that the rate of the acquired land was Rs.2,25,000/- per sq. meter and further PW2 conducted inspection in absence of LAC and as such valuation report has rightly been rejected by the reference court. Even the appellant has not pressed or relied upon this evidence.

12.1 Sh. Pathak during argument also referred testimony of PW3 who admitted that Ex. PW3/3 does not bear signature of valuer or its agent etc. and further Report Ex. PW3/3 also does not seal, or stamp of the valuer. PW3 also admitted that Report Ex. PW3/3 does not bear the signature of any person on behalf of the appellant and no notice was issued to LAC or other competent authority for informing that the Report Ex. PW3/3 was under preparation or has been prepared. Sh. Pathak referred sale deed Ex. PW3/2 and argued that it pertains to year 2008 but land subject matter of present appeals were acquired on

04.03.2003 which is accordingly not relevant. Sh. Pathak further attacked valuation report Ex. PW3/3 by arguing that it was prepared by Jhones Lang LaSalle Meghraj which was appointed by the appellant and pertains to year 2010 i.e. after 6 years of notification under section 4 of the Act. The Report Ex. PW3/3 is also *ex parte* report and LAC has not joined proceedings at the time of inspection and as such the reference court rightly rejected the valuation report Ex.PW3/3 as well as Ex. PW3/4 as the appellant has failed to prove document Ex. PW3/4.

12.2 Sh. Pathak further argued that the appellant before the reference court has claimed that market value of the property is not less that Rs.2,25,000/- per sq. meter but could not produce any documents to prove that acquired land can fetch the said market value on the date of notification under section of the Act. The reference court has rightly rejected documents relied upon by the appellant. Sh. Pathak further argued that the reference court while determining market value of the acquired land relied upon Ex. R-2 i.e. judgment delivered in the case of **M/s. Sylvania & Laxman Ltd. V Union of India & another** in LAC No. 127/09/06 decided on 08.05.2009 by the court of Sh. A.K. Sarpal, Additional District Judge wherein market value of acquired land was fixed at Rs.26,896.62/- per sq. meter and also gave increase of 12 % per annum for 12 months and determined market value @ Rs.30,124.21/- per sq. meter as on 13.02.2004 i.e. date of Notification u/s 4. Accordingly, the reference court granted enhancement of Rs.10,464.21/- per sq. meter only in respect of the acquired land. Sh. Pathak said judgment Ex. R2 relied upon by the reference court was of the same area and notification of the contemporary period.

12.3 Sh. Pathak also referred **Virender Sood V UOI & another** and argued that **Virender Sood** cannot be relied upon in determining the market value of the acquired land subject matter of present appeals as it pertains to different village i.e. Basai Darapur which is situated at a distance of about 1.7 Kms from the acquired land and exemplars relied upon in **Virender Sood** cannot be applied in present appeal case as same would be hit by huge difference in potential value and location and distance from the acquired land. He further argued that date of notification was 01.04.2004 while in the present appeals, date of notification is 13.02.2004. Sh. Pathak relied on **Kanwar Singh V**

Union of India, (1998) 8 SCC 136 and argued that it is settled principle of law that the land in adjacent village or even the same village may not possess the same quality and therefore, cannot command common market price. He further argued that judgments relied upon by the appellant are misplaced as have been passed in particular facts and circumstances which are totally different from the present case.

12.4 Sh. Pathak also encountered argument advanced by Sh. Rajesh Yadav and stated that claim of the appellant in seeking 15% per annum increase at compounding rate is misplaced as suitable exemplars were not placed and proved before the reference court and the evidence relied upon by the appellant was rejected by the reference court. Sh. Pathak in support of his arguments cited **Priya Vart V Union of India,**(1995) 5 SCC 437;**ONGC V Ramesh Bhai Jivanbhai Patel & another,**(2008) 14 SCC 745and**Central Warehousing Corporation V Thakur Dwara Kalan ul-Maruf Baraglan Wala (Dead) and others,**2023SCC OnLine SC 1361**.** Sh. Pathak also referred **Lal Chand V Union of India & another,** (2009) 15 Supreme Court Cases 769 wherein the Supreme Court after examining the entire gamut of law including the development cost, has rejected the allotment rates/auction rates in regard to plots allotted by industrial authority or lease hold allotment made by developmental agency like DDA in developed layout for determination of adjoining under-developed land. He further argued that the Supreme Court also made observations that while a distance of about a 1 kilometre may not make a difference for purposes of market value in a rural village but even a distance of 50 metre may make a huge difference in market value in urban properties like in Delhi. Sh. Pathak further argued that the appellant has failed to produce any document/evidence to reflect that the acquired land was converted into residential/commercial land till the date of acquisition. Sh. Pathak also referred **Pratap Singh (Dead) through LRs V Union of India,** LA Appeal No. 193 of 2006decided on 19.12.2008 wherein it was held that when the land in question was used for agricultural purpose, mainly because it is likely to be used for commercial purpose, would not be relevant consideration in fixing the market value.

12.5 Sh. Pathak also attacked impugned judgments by arguing that the reference court wrongly gave increase of 12% per annum for 12 months and thus determined Rs.30,124.21/- per sq. meter as on 13.02.2004 i.e. date of notification under section 4 of the Act without considering the factor that whether there was increase in the price of the land during the relevant period or not. The reference court has failed to appreciate that LAC has already granted excess compensation after taking into account all relevant factors and thus enhancement granted by the learned reference court over and above the compensation awarded by the LAC is liable to be deducted by this court by exercising power under Order 41 Rule 33 CPC. He argued that no ground is made by the appellant for enhancement of compensation and LAC has granted just and reasonable compensation and after considering relevant factors including location of land, potentiality and other relevant factors assessed the market value of the land. The reference court should not granted further enhancement and enhancement of Rs. 10,464.21/- per sq. meter granted by the reference court over and above the compensation granted by LAC is bad and same need to be deducted/deleted. The appeals are liable to be dismissed.

12.6 Ms. Shama Sharma, Advocate for the respondent no 2/DMRC after referring Ex.PW2/2 which is the license issued by the MCD argued that it was issued by MCD and as per Ex. PW2/2, PW2 was entitled to valuation of the plot size measuring 200 sq. yards and a building of two and half storey and was valid till 31.12.2003. She argued that PW2 did valuation of plots measuring 480 sq. meters and 1410 sq. meters and valuation of the plot measuring 1410 sq. meter in March, 2004 i.e. after expiry of license. She further argued that Valuation as per Ex. PW3/3 was done after six years of acquisition. In addition of above arguments, Ms. Shama Sharma also referred arguments advanced on behalf of the respondent no 1/Union of India. Ms. Sharma argued that the appeals are liable to be dismissed.

13. Section 23 of the Act provides statutory provisions regarding determination of compensation for acquisition for land acquired for public purpose and section 24 of the Act also laid down the factors which are not to be considered for the purpose of determining the compensation. Sections 23 and 24 of the Act read as under:-

23. Matters to be considered on determining compensation.- (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration

first, the market-value of the land at the date of the publication of the [notification under section 4, sub-section (1)];

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of serving such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change, and

sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

[(1A) In addition to the market value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on

such market value for the period commencing on and from the date of the publication of the notification under section 4, sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation. - In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded.]

(2) In addition to the market value of the land as above provided, the Court shall in every case award a sum of [thirty per centum] on such market value, in consideration of the compulsory nature of the acquisition.

24. Matters to be neglected in determining compensation. - But the Court shall not take into consideration –

first, the degree of urgency which has led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put;

seventhly, any outlay or improvements on, or disposal of the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the [notification under section 4, sub-section (1); [or]

[eighthly, any increase to the value of the land on account of its being put to any use, which is forbidden by law or opposed to public policy.]

13.1 The Supreme Court in **Narendra & others V State of Uttar Pradesh & others,** (2017) 9SCC426 after following **Ashok Kumar V State of Haryana,** (2016) 4SCC 544 observed that it is duty of the court to award just and fair compensation taking into consideration true market value and other relevant factors, irrespective of claim made by the landowner and there is no cap on the maximum rate of compensation that can be awarded by the court and the courts are not restricted to awarding only that amount that has been claimed by the landowners/applicants in their application before it.

13.2 The Supreme Court also in **Major General Kapil Mehra & others V Union of India & another**, (2015) 2 SCC 262 observed as under:-

10. Market Value: First question that emerges is what would be the reasonable market value which the acquired lands are capable of fetching. While fixing the market value of the acquired land, the Land Acquisition Officer is required to keep in mind the following factors:-

(i) existing geographical situation of the land;
(ii) existing use of the land;
(iii) already available advantages, like proximity to National or State Highway or road and/or developed area and
(iv) market value of other land situated in the same locality/village/area or adjacent or very near to the acquired land.

11. The standard method of determination of the market value of any acquired land is by the valuer evaluating the land on the date of valuation publication of notification under Section 4(1) of the Act, acting as a hypothetical purchaser willing to purchase the land in open market at the prevailing price on that day, from a seller willing to sell such land at a reasonable price. Thus, the market value is determined with reference to the open market sale of comparable land in the neighbourhood, by a willing seller to a willing buyer, on or before the date of preliminary notification, as that would give a fair indication of the market value.

14. Sh. Rajesh Yadav during course of arguments placed heavy reliance on judgment passed by this court in **Virender Sood**. In **Virender Sood** case land of the appellant measuring 557.61 sq. meter which was situated in the revenue estate of Basai Darapur known as Mansarover Garden, New Delhi was notified u/s 4 of the

Act vide notification dated 01.04.2004 and the notification u/s 6 of the Act was issued on 10.11.2004. LAC passed the award on 07.04.2005 and assessed the compensation at rate of 13,4911/- per sq meter for land, Rs.2,000/- per large tree, Rs.l,000/- per small tree and Rs.5,000/- for borewell besides awarding statutory benefits. The appellant being dissatisfied ·with the said Award sought reference under section 18 of the Act for enhanced compensation. The appellant contented that LAC had failed to take into consideration the market value of the land situated in the surrounding localities and the land in question is situated in the heart of West Delhi i.e. Kirti Nagar. LAC also failed to take into account the nature of permitted use of the land in question which was residential-cum-commercial. LAC had also failed to assess the potentiality of the land for commercial as well as residential use. LAC had assessed the market value of the land in question by treating it as agricultural land and determined the value accordingly. The land in question is one of the best plots which could be used commercially as it was situated in Kirti Nagar which is one of the biggest timber markets in India. The land of the appellant was surrounded by developed colonies like Saraswati Garden and residential colonies like Rajouri Garden, and Patel Nagar which are hardly 1 km away from the acquired land. The acquired land was hardly 1 km from Mayapuri Industrial Area as well as Loha Mandi Naraina. It was less than 1 km from metro railway station at Kirti Nagar and Ramesh Nagar, Moti Nagar. It was also contended that LAC had also failed to appreciate that in terms of the Zonal Development Plan, the area m question could be used as guest house, nursing home, post office, dispensary, ESS and conveniences. LAC had failed to assess the compensation for the super structure over the land in question and damage caused to the appellant by uprooting him from his residence, as well as from his business. All modern amenities and facilities of life such as mettled road, electricity, drinking water were easily available on the land in question, much prior to the issuance of notification under section 4 of the Act. The appellant claimed that the market value of the land as on the date of issuance of notification under section 4 of the Act was not less than Rs.60,000/- per sq. meter. The respondent contested the claim of the appellant. It was claimed that the Delhi Land Reforms Act was applicable to the land in question. The land was not surrounded by developed or undeveloped colony and could be used only for agricultural purpose. The respondent defended the compensation assessed by LAC.

14.1 This court on basis of evidence led by the parties before the reference court observed that the land in question is the single plot measuring 557.61sq meters. It cannot be described as a 'large tract' of land and isusable as a single plot. The land is abutting 80 feet wide roads on 2 sides and 20 feet wide road on third side. It is a three side open plot. The area is fully developed, inasmuch, as in the immediate neighbourhood, there are few built up structures being gainfully occupied and utilized for residential-cum-commercial purposes. The plot in question is not in the immediate neighbourhood, it is at close quarters from other well-developed localities in West Delhi, such as Kirti Nagar, Saraswati Garden, Rajouri Garden and Patel Nagar. The plot in question is not situated on the far flung outskirts of Delhi.

14.2 The court considered the sale deed dated 01.05.2000 (Ex.PW1/10) pertaining to a plot admeasuring 50sq. yards (41.80 sq. meter) situated in the area of Kirti Nagar for Rs. 22.50 lakhs (Rs.53,827/- per sq meter) and by applying escalation of 12% per annum, the market rate of the plot translates to Rs.70,623/- per sq meter. However, the court did not accept said sale deed as the area of the plot was only 50 sq yards and smaller plots are able to fetch higher rate in the market. The court also considered another sale deed dated 15.11.1996 (Ex. PW1/11) pertaining to area measuring 669 sq. meter situated in Patel Nagar for sale consideration of Rs. 3.95 crores which translates to Rs. 59,043/- per sq meter. Sh. Yadav heavily relied on this sale deed during course of arguments in present appeals for claiming enhanced compensation. The court also observed that by applying 12% annual increment, the land rate of the said plot in the year 2004 comes to Rs.1,33,525/- per sq meter. It was also observed that said plot was is a comparable plot to the plot in question. However, the court after considering fact that Patel Nagar is an older well developed colony than Mansarovar Garden, New Delhi, falling in the revenue estate of Basai Darapur did not rely upon said sale deed to assess the value of the plot in question on the date of the issuance of notification under Section 4 of the Act but observed that same appears to be at a close distance from the plot in question. The court also did not accept another sale deed (Ex.PWl/15) dated

11.04.2005 in respect of a plot situated in Janakpuri having an area of 444 sq meter for consideration of Rs.2.5crores which translates to Rs.56,306/- per sq meter. The court noticed that the area of the plot in question is comparable to the area of the plot in respect whereof Ex. PWl/15 was executed and time is also approximate i.e. one year after the elate of issuance of notification under section 4 of the Act in the present case. But the court did not accept said sale deed as area of Janakpuri is about 5 km away from the plot in question and Janakpuri is an older development compared to Mansarovar Garden and if Ex.PWl/15 is to be adopted then the rate of the land in question would be higher.

14.3 The court in **Virender Sood**also considered two instances of open auction **(**Ex.PWl/12 and Ex.PWl/14) pertains to area of Raja Garden held on 30.07.2004 which were considered as relevant as the consideration disclosed in an auction sale is completely over board and there is no component which is hidden or undisclosed. The first sale pertains to plot admeasuring 10728 sq meters for Rs. 71.12crores which translates to Rs. 66,293/- per sq meter. The sale deed Ex.PWl/14 pertains to another plot admeasuring 11427sq meters for

Rs.84.08 crores which translates toRs.73,580/- per sq meter. But the court observed that these sale transactionsrelation to completely commercial plots but the user of the land in question was not a completely commercial on the date ofissuance of the notification under section 4 of the Act andthese transactions are in respect of very large plots. However, the court did not consider it to appropriate to lift rate of land emerging from above mentioned two open auction sale consideration as permitted user of the land in question was residential-cum-commercial which could be used as a guest house, nursing home, post office, dispensary, ESS and for conveniences. The court however and also emphasized by Sh. Rajesh Yadav that these auction sales are a pointer to the land rate that would have been prevailing on the date of acquisition of the plot in question. The court also considered that another auction sale (Ex. PW1/13) held on 30.07.2004 for a plot admeasuring 5832 sq meter for Rs.37.71 crores which translates to Rs. 54,372/- per sq meter in the area of Raja Garden but opined that the rate disclosed by this transaction also cannot be lifted and applied to the acquisition in question, though, it certainly is a pointer to the rate that would have been prevailing in respect of the land in question on the date of acquisition i.e. 01.04.2004.

14.4 The court in **Virender Sood** observed as under:-

> **37. Having discussed the pros and cons of the several transactionsrelied upon by the parties, the prevalent market rate on the date of issuance of notification under Section 4 of the Act i.e. on 01.04.2004, on an over-all assessment, which entails some amount of guess work, in my view, could fairly be assumed to be Rs.52,000/- per sq meter. While arriving at the said figure, I have taken into consideration the fact that the rate on the relevant date in respect of a similar plot falling in Patel Nagar came to Rs. 59043/-; the rate in respect of a plot admeasuring 444 sqmeters in Janakpuri on 11.04.2005 came to Rs. 56306/- per sq meter; and the rates of auction sales of large commercial plots in Raja Garden ranged between Rs.73580/- and Rs. 54372/- per sq meter as on 30.07.2004. Considering the fact that the plot in question has a significant locational advantage - being three side open with opening on 80' wide roads on two sides and 20' wide road on the third side, coupled with the fact that the plot could be used for residential-cum-commercial purposes, I am of the view that the rate of Rs. 52,000/- per sq meter on the elate of issuance of Section 4 notification is fair and just.**
>
> **39. Accordingly, while dismissing the appeal preferred by the respondent, the appeal preferred by the appellant is partially allowed. The market rate of the land in question is determined at Rs.52,000/- per sq. mtr. as on 01.04.2004. The appellant will also be entitled to all the statutory benefits granted by the learned ADJ. Decree sheet be prepared accordingly.**

15. It is reflecting that the acquired land is an industrial property. The perusal of impugned Awards also reflects that the acquired land which is situated in Kirt Nagar is having residential and commercial activities in the vicinities. The Report Ex.PW2/2 although not accepted by the reference court and referred by Sh. Yadav, the learned Senior Counsel for the appellant also reflects that the acquired land/plot subject matter of present appeals are situated on 120 feet wide road and are freehold properties. The acquired land/plot are situated on main Patel Road which is 120 feet wide and on back side there is road of 10 feet between the acquired land/plots and residential plots of Kirti Nagar. The acquired land/plots forms the front portion of the total plot and are situated opposite to Moti Nagar Market and two side open plots. It is further reported that number of showrooms are located in vicinity of the acquired land/plots. The appellant also pleaded that as mentioned in impugned Awards, acquired land/plots are having residential and commercial activities in vicinities and these facts make clear that the acquired land/plots are having potential value as well as commercial site. It is also admitted that all around in the vicinity land is being used as industrial as well as for commercial purposes. The acquired land/plots is stated to be fit for commercial activities. The acquired land/plots is stated to be well connected to various parts of Delhi and approachable by mettled roads from all sides. There is Patel Road on one side and there is Kirti Nagar Industrial Area Road on another side. It is also appearing that there is Rama Road on one side and another road is leading towards Moti Nagar Industrial Area. The appellant also stated that civic amenities such as electricity, water transport, telephone, bus service, sewerage educational institutions etc. are easily available to the acquired land/plots. It is also apparent that within close proximity of 1- 1 ½ km posh residential colonies like Patel Nagar, Rajender Nagar, Rajendra Park, Rajendra Place, Karol Bagh, Pusha Road etc. are situated besides other prominent posh colonies of West Delhi are situated on other side of acquired land/plots. The acquired land/plots are stated to have extreme potentiality and high value. Pankaj Nakra PW1 in affidavit Ex. PW1/A has deposed all these facts which are not much disputed on behalf of the respondents in pleadings as well as in cross examination of PW1.Sh. Rajesh Yadav during course of arguments also referred Valuation Report in respect of plot no 67, DLF Industrial Area, Kirti Nagar, New Delhi which was also not accepted by the reference court in impugned judgments.

16. Sh. Rajesh Yadav, the learned Senior Counsel for the appellant placed reliance on judgment delivered by Coordinate Bench of this court in **Virender Sood** as discussed herein above. This Court in **Virender Sood**case although did not accept but referred a sale deed dated 15.11.1996 pertaining to area of Patel Road which was measuring 669 sq. meter for consideration of Rs. 3.95 crores which translates to Rs. 59,043/- per sq. meter and further mentioned that by applying 12% annual increment, the rate of land of said plot would comes to Rs. 1,33,525/- per sq meter and opined that this is a comparable plot to the plot in question. The acquired land/plots were also acquired in year 2004 and area of Patel Nagar is situated in near vicinity of the acquired land/plots. This court again in **Virender Sood** case also referred two instances of open auction held on 30.07.2004 pertains to area of Raja Garden where rates of plots were translated to Rs.66,293/- per sq meter and Rs. 73,580/- per sq meter respectively. The court observed that these two instances are extremely relevant and would be pointer to the rate of land prevailing on the date of acquisition of land in question in **Virender Sood** although not accepted due to reason that these instances pertain to commercial land but land in question in said appeal was not completely commercial on date of issuance of notification under section 4 of the Act and permitted user of the land in question in said appeal i.e. **Virender Sood** was residential-cum-commercial. The Coordinate Bench of this court after entailing some amount of guess work awarded compensation of Rs. 52,000/- per sq meter and also after considering significant locational advantage. It is worth mentioning that Special Leave Petition filed by Union of India to impugned judgment dated 15.11.2017 passed in **Virender Sood** titled as **Union of India V Virender Sood & another**, SLP (Civil) no 3786/2019 was dismissed by the Supreme Court vide order dated 25.02.2019.

17. Sh. Rajesh Yadav argued that location of acquired land/plots is far better than the land situated in Mansarovar Garden which was subject matter of **Virender Sood** as the acquired land/plots are situated on a 60 meter wide main Patel Nagar Road at the cross section of Najafgarh Road and Patel Nagar Road while the land in

Mansarovar Garden is abutting 80 feet wide roads on two sides and 20 feet wide road on third side. Although both lands are separated by a distance of 1.8 km but are situated in nearby localities/colonies.

17.1 Sh. Rajesh Yadav further argued that property as referred in **Virender Sood** and situated at Patel Nagar was sold at rate of Rs.59,043/- per sq meter on 15.11.1996 is most comparable to the acquired land/plots belonged to the appellant and said property was residential in nature while acquired land/plots are industrial in nature. Both the properties/land/plots are situated on same road and are separated by a distance of 1.8 km. The court in **Virender Sood** after applying 12% annual increased observed that rate of land in year 2004 would be Rs. 1,33,525/- per sq meter. Sh. Yadav further argued that as per latest pronouncement by the Supreme Court and this court which are **Anjani Molu Dessai V State of Goa & another,** (2010) 13SCC710; **Ashok Kumar & others V State of Haryana & others,** (2015) 15 SCC 200; **Tripat Kaur V Union of India V Union of India & another**, LA. APP. Bearing no 749/2008 decided on 04.05.2021 by this court, 15% increase with cumulative/compounding rates from 15.11.1996 i.e. date of sale transaction till 13.02. 2004 i.e. date of notification under section 4 of the Act in appeal no 253/2016 should be applied and value of the acquired land subject matter of LA. App. No 253/2016 would be Rs.1,62,864.45/- per sq meter. Likewise, the value of land subject matter of LA. App. 255/2016 as per notification under section 4 of the Act dated 04.03.2003 would be Rs.1,42,687.63/-. Sh. Yadav finally argued that after applying multiplier of 2 (two) as per circle rates, the market value of the acquired land being industrial in nature would be Rs. 3,25,729.90/- per sq meter in LA.APP bearing no 253/2016 and Rs. 2,85,375.26/- per sq meter in LA. APP bearing no 255/2016 and he prayed accordingly.

18. The Supreme Court recently in **Horrmal (deceased) through his LRs and others V State of Haryana & others,** Civil Appeal No.---/2024 arising out of SLP (C) No. 7963/2023 decided on 21.10.2024 observed that the process of assessing or affixing is not tethered to precision but is rather aimed at a nuanced estimation of pertinent factors. The Supreme Court also referred **Special Land Acquisition Officer V T, Adinarayan Setty,** AIR 1959 SC 429 wherein it was observed that the market value connotes the price that a willing buyer would pay to a willing seller, taking into account the land's current conditions and its advantages and potentialities.

19. The Land Acquisition Act, 1984 is social welfare legislation and it is duty of the court to award just and fair compensation to the land owners and to consider relevant factors in assessing value of the land on date of notification issued under section 4 of the Act. The Supreme Court in **Narendra & others V State of Uttar Pradesh & others** also observed that it is duty of the court to award just and fair compensation taking into consideration true market value and other relevant factors. The arguments so advanced by Sh. Yadav appears to be attractive but cannot be accepted due to reason that Coordinate Bench of this court in **Virender Sood** did not accept sale deed 15.11.1996 and other exemplars by giving cogent reasons. The decision in **Virender Sood** against which SLP filed by Union of India was dismissed by Supreme Court can be the relevant factor to assess market value of the acquired land subject matter of present appeals. It is correct that the reference court did not accept the evidence led by the appellant and also rightly argued by Sh. Pathak. However there is no force in argument advanced by Sh. Pathak that reliance on **Virender Sood** by Sh. Rajesh Yadav was misplaced and decision in **Virender Sood** is not applicable in present appeals is without any force as lands in **Virender Sood** and in present appeals are separated by just 1.8 km and are situated in nearby localities. It is also come on record that that acquired land subject matter of present appeal is better placed and located from the land involved in **Virender Sood** case. The acquired land subject matter of present appeals is Industrial nature and land subject matter of **Virender Sood** was residential-cum-commercial in nature. The appellant is entitled for increase in assessment of compensation in comparison to compensation awarded in **Virender Sood** keeping in view that acquired land subject matter of present appeals is purely industrial in nature**.** LAC and the reference court have awarded very less compensation to the appellant and did not appreciate advantage and potentiality of the acquired land as referred and mentioned hereinabove. The acquired land is industrial in nature and is surrounded by huge residential and commercial activities. The compensation in present appeals is deserved to be enhanced and is accordingly assessed at Rs.65,000/- per sq meter and by multiplier of two (2) as per the circle rates, the market value of acquired land is assessed at Rs.1,30,000/- per sq meter on date of notification under section 4 of the Act which is just and fair. The appellants are not entitled to claim compensation at rate of Rs.3,25,728.90/- per sq meter in LA.APP. no 253/2016 as on 13.02.2004 and Rs.2,85,375.26/- per sq meter in LA. APP no 255/2016 as on 04.03.2003 on basis of sale deed 15.11.1996 which was not accepted by this court in **Virender Sood.** The appeal is partly allowed. The appellant shall also be entitled for other statutory benefits awarded by the reference court along with proportionate cost. The decree sheets be prepared accordingly in both the Appeals.

DR. SUDHIR KUMAR JAIN
(JUDGE)

OCTOBER 29, 2024
N/AK/ABK