

2025 LiveLaw (SC) 746

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

B.R. GAVAI; CJI., AUGUSTINE GEORGE MASIH; J.

JULY 28, 2025

CIVIL APPEAL NO. _____ OF 2025 (Arising out of SLP(C) No. of 2025)

MANOHAR AND OTHERS VERSUS THE STATE OF MAHARASHTRA AND OTHERS

Land Acquisition Act, 1894 - Maharashtra Industrial Development Act, 1961 – Compensation - Determination of market value - Use of sale exemplars - Reference Court disregarded the highest value sale deed without providing reasons - High Court affirmed this decision with contradictory findings – Held, when there are several exemplars with reference to similar lands, the highest of the exemplars, if it is a bone fide transaction, should be considered when determining compensation for compulsorily acquired land - Averaging of sale prices is only permissible when prices is only permissible when prices have a narrow bandwidth or have a “marginal bandwidth” or a “marginal variation” and not when the values are “markedly different” - The reference Court’s approach of overlooking the highest exemplar and averaging the remaining was impermissible - Supreme Court enhanced the compensation by applying a 20% deduction to the highest sale exemplar’s value, considering the larger area of acquired land compared to the exemplar plot and granted appellant’s all benefit of solatium and interest on enhanced compensation - Set aside order of High Court citing as erroneous - **Appeal allowed. [*Relied on Anjani Molu Dessai v. State of Goa (2010) 13 SCC 710, Mehrawal Khewaji Trust (regd.) v. State of Punjab (2012) 5 SCC 432; Mohammad Yusuf v. State of Haryana (2018) 16 SCC 105; Paras 22, 31, 33, 46-48*]**

CIVIL APPEAL NO. _____ OF 2025 (Arising out of SLP(C) No. of 2025) Diary No. 25104 of 2025

CIVIL APPEAL NO. _____ OF 2025 (Arising out of SLP(C) No. of 2025) Diary No.25109 OF 2025

For Petitioner(s): Mr. Deshmukh Adith Satish, AOR Mr. Bharat Thakorlal Manubarwala, AOR

For Respondent(s): Ms. Rukhmini Bobde, Adv. Mr. Siddharth Dharmadhikari, Adv. Mr. Aaditya Aniruddha Pande, AOR Ms. Soumya Priyadarshinee, Adv. Mr. Vinayak Aren, Adv. Mr. Amlaan Kumar, Adv. Mr. Naveen Kumar Bhardwaj, Adv. Ms. Shyamali Gadre, Adv. (Through VC) Mr. Soumik Ghosal, AOR Mr. G Pal, Adv. Mr. Ashutosh Chaturvedi, Adv.

J U D G M E N T

B.R. GAVAI, CJI

- 1.** Delay condoned.
- 2.** Leave granted.
- 3.** The present batch of appeals challenge the common judgment and final order dated 21st April, 2022, passed by a learned Single Judge of the High Court of Judicature at Bombay, Bench at Aurangabad (hereinafter, “High Court”), whereby the First Appeals filed by the claimants/Appellants came to be *dismissed*.

FACTS

- 4.** The facts, *in brief*, giving rise to the present appeals are as given below:

4.1. The Appellants, in the lead matter, are farmers and were owners of land bearing Survey No. 103 and 104, admeasuring 16 Hectare 79 Are situated at Village Pungala, Taluq and District Parbhani, Maharashtra.

4.2. It appears that the land of the Appellants and other adjoining lands were sought to be acquired in the 1990s under the provisions of the *Maharashtra Industrial Development Act, 1961* (hereinafter, “Act of 1961”) for setting up an Industrial Area near Jintur town in Parbhani District.

4.3. On 16th January, 1992, the Land Acquisition Officer & Deputy Collector, Hingoli (hereinafter, “Land Acquisition Officer”) issued a notice under sub-section (2) of Section 32 of the Act of 1961.

4.4. On 6th December, 1994, the Respondent-State took possession of the Appellants’ land and an Award came to be passed by the Land Acquisition Officer. In terms of the said Award, the total area subject matter of the acquisition was 89 Hectares and 44 Are and the total compensation awarded was Rs. 45,70, 508/-.

4.5. Being aggrieved by the quantum of compensation awarded, the Appellants accepted the compensation under protest and simultaneously filed a Reference under Section 18 of the Land Acquisition Act, 1894 (hereinafter, “LA Act”) in the year 1997.

4.6. Vide judgment and award dated 7th June 2007, in L.A.R. No. 61 of 1997, the Court of Principal District Judge, Parbhani (hereinafter, “Reference Court”), *partly allowed* the reference with proportionate costs and directed the Respondent-State to pay the Appellants an amount of Rs. 46,26,013/- along with future interest @ 15% per annum from the date of award until the payment is made on the additional market value of Rs. 16,43,224/-.

4.7. Aggrieved still, the Appellants filed a First Appeal bearing No. 1179 of 2008 before the High Court.

4.8. Vide impugned judgment and final order, the learned Single Judge of the High Court *dismissed* the First Appeal.

4.9. Being aggrieved thereby, the present appeals came to be filed by way of special leave.

4.10. Vide order dated 22nd September, 2023, this Court issued notice on the application for condonation of delay in filing Special Leave Petition as well as on the Special Leave Petition.

SUBMISSIONS

5. We have heard Mr. Bharat Thakorlal Manubarwala, learned counsel for the Appellants, Ms. Rukhmini Bobde, learned counsel for Respondent Nos. 1 and 2 and Ms. Shyamali Gadre, learned counsel for Respondent No. 3.

6. Mr. Manubarwala submitted that the Appellants are farmers, who lost their only source of sustenance and ever since are prosecuting their claim for fair, just and reasonable compensation based on the highest exemplar dated 31st March 1990. He further submitted that the Reference Court having found the highest exemplar sale to be a *bona-fide* transaction erred in ignoring the same without any reasoning. He, therefore, submitted that the finding of the High Court, that the Reference Court considered the highest exemplar sale deed, is contrary to the record.

7. Mr. Manubarwala submitted that Reference Court and High Court ought to have given benefit of the highest exemplar sale deed to the Appellants. He further submitted that the Courts having found that, the lands acquired in the acquisition are situated near T-point of Nashik-Nirmal State Highway adjacent to Jintur town which is a prime location with percolation tank just opposite to the lands with sufficient water, ought to have

enhanced the compensation based on the highest exemplar sale deed dated 31st March, 1990.

8. To buttress his submissions, Mr. Manubarwala placed reliance on the judgments of this Court in the cases of ***State of Punjab and Another v. Hans Raj (Dead) by LRs. Sohan Singh and Others***,¹ ***Mehrawal Khewaji Trust (Registered), Faridkot and Others v. State of Punjab and Others***,² ***Mohammad Yusuf and Others v. State of Haryana and Others***,³ and ***Anjani Molu Dessai v. State of Goa and Another***.⁴

9. *Per contra*, Ms. Bobde appearing on behalf of the Respondent Nos. 1 and 2 submitted that the Land Acquisition Officer had considered the sale instances of similar lands in the vicinity of the acquired lands and arrived at a proper valuation. She, accordingly, submitted that the compensation of acquired lands is fair and reasonable.

10. Ms. Gadre appearing on behalf of the Respondent No. 3 submitted that the Appellants owned dry crop land which was subject matter of acquisition by Maharashtra Industrial Development Corporation (hereinafter, "MIDC"). She submitted that before the Reference Court, the Appellants relied on ten sale exemplars and the sale exemplars at Serial Nos. 1 to 4 are pre-notification sale exemplars from Jintur town. She further submitted that considering the total area under acquisition by MIDC, the sale exemplars relied upon, being of an area less than 1 Hectare, are of small plots in Jintur town.

11. Ms. Gadre submitted that the Reference Court has not entered any finding that the highest exemplar sale deed dated 31st March, 1990, is a *bona-fide* transaction. She further submitted that the Reference Court was justified in not considering the highest exemplar sale deed dated 31st March, 1990, showing market value of Rs. 72,900/- per Acre, as it reflected an unusually high rate. She further submitted that the sale exemplars at Serial Nos. 8 to 10 show that even after the acquisition, the market value of land had not increased in the same proportion.

12. In support of her submissions, Ms. Gadre placed reliance on the judgments of this Court in the cases of ***Major General Kapil Mehra and Others v. Union of India and Another***,⁵ ***Shawal Singh (Dead) Through Legal Representatives v. Land Acquisition Collector, Himachal Pradesh and Another***,⁶ ***Anjani Molu Dessai*** (supra), and ***Nirmal Singh and Others v. State of Haryana Through Collector***.⁷

ISSUE FOR CONSIDERATION

13. On a perusal of the material placed on record, in light of the submissions advanced by the learned counsel appearing on behalf of the parties, the only issue that falls for our consideration is whether the impugned judgment and final order dated 21st April, 2022, passed by the High Court is sustainable or not?

ANALYSIS

14. The land of the Appellants and other adjoining lands were acquired in the 1990s under the provisions of the Act of 1961 for setting up an Industrial Area near Jintur town in Parbhani District of Maharashtra. The Land Acquisition Officer, on 6th December, 1994,

¹ (1994) 5 SCC 734

² (2012) 5 SCC 432

³ (2018) 16 SCC 105

⁴ (2010) 13 SCC 710

⁵ (2015) 2 SCC 262

⁶ (2016) 12 SCC 619

⁷ (2015) 2 SCC 160

awarded compensation to the tune of Rs. 10,800/- per Acre (or Rs. 27,000/- per Hectare). However, not being satisfied with the compensation awarded, the Appellants preferred a petition under Section 18 of the LA Act before the Reference Court, claiming enhancement of compensation determined by the Land Acquisition Officer.

15. On a perusal of the judgment and award passed by the Reference Court dated 7th June, 2007, it appears that the case of the Appellants was that the Land Acquisition Officer has not considered that the land in question is touching the outskirts of municipal limits of Jintur city and having non-agricultural potential. It was further their case that Village Pungala is only one kilometre away from Jintur city so the Appellants, being farmers, had a good market for selling their agricultural produce.

16. It is pertinent to note that to substantiate their claim, the Appellants led evidence by way of affidavit. They placed on record the following sale instances:

S. No.	Date of Sale Deed	Name of Village	Area Sold	Price per Acre
1.	28/04/1989	Jintoor	20 R	Rs. 40,000/-
2.	22/05/1989	Jintoor	39 R	Rs. 41,000/-
3.	22/05/1989	Jintoor	80 R	Rs. 40,000/-
4.	31/03/1990	Jintoor	96 R	Rs. 72,900/-
5.	28/05/1990	Wazur	20 R	Rs. 40,000/-
6.	05/10/1990	Bhogaon	40 R	Rs. 25,000/-
7.	11/02/1992	Panghari	11 R	Rs. 54,500/-
8.	16/04/1992	Panghari	47 R	Rs. 18,000/-
9.	31/12/1992	Jintoor	26 R	Rs. 61,500/-
10.	06/03/1993	Jintoor	12 R	Rs. 60,000/-

17. It is further to be noted that though the Respondent State denied the correctness of the above documents (sale instances), but no rebuttal evidence was placed on record by them.

18. After deciding the issue of limitation in the favour of the Appellants, the Reference Court found that the lands under acquisition are located at a short distance from Jintur town, which is a district headquarter; the purpose for which the lands were acquired was for development of Industrial Area and that the lands which were acquired were having nonagricultural potential. Further, the Reference Court found that the location of the lands is suitable for industrial units and that a water facility is available just adjacent to the lands.

19. From *paragraph 28* onwards, the Reference Court has dealt with the most material piece of evidence placed on record by the Appellants *viz.*, the sale instances as specified above in tabular form. The Reference Court observed that the material date on which the market value of land is to be determined will be 19th July, 1990, when firstly the notification under subsection (2) of Section 32 of the Act of 1961 was issued. The Court, accordingly, came to the finding that the sale instances prior to the aforesaid date of notification will be

of relevance to the matter. Thereafter, the Reference Court observed that the sale instances at Sr. Nos. 1 to 3 and 4 to 6 are prior to or nearby to the notification under the Act of 1961 and that the lands which are covered under the sale deeds are from Jintur town. The Court, therefore, came to the finding that the sale instances relied on by the claimants can be relied on and acted upon and that the sale deeds of lesser area of land can also be considered for determining the market value.

20. Pertinently, the Reference Court found that the claimants have placed on record certified copies of the sale deeds and that the same has got presumptive value under Section 51A of the LA Act. The Court further found that no rebuttal evidence has been led by the Respondent-State. Accordingly, the Reference Court came to the conclusion that the sale instances covered under the sale deeds came to be effected in due course of business in routine manner between willing purchaser and seller and, therefore, the transaction covered therein can be relied upon and acted upon to determine the market value of the land.

21. Surprisingly, after reaching till this point, the Reference Court in *paragraph 31*, while determining the price of the claimants' land, came to the finding that since the price of land sold under the sale deeds at **Sr. Nos. 1, 2, 3 and 5**, was around Rs. 40,000/- per Acre *i.e.*, Rs. 1,00,000/- per Hectare so by applying the deduction of 20% in the price, the market value of dry crop land, at the time of acquisition, was ascertained as Rs. 32,000/- per Acre (or Rs. 80,000/- per Hectare) and the price of irrigated land, at the time of acquisition, was ascertained as Rs. 40,000/- per Acre (or Rs. 1,00,000/- per Hectare). In the result, compensation to be awarded for the land of the Appellants was enhanced to Rs. 32,000/- per Acre.

22. It can, therefore, be seen that the highest exemplar sale deed dated 31st March, 1990, showing market value of Rs. 72,900/- per Acre, available at Sr. No. 4 and relied upon by the claimants as a *bona-fide* sale instance was completely overlooked by the Reference Court. It would, however, have been a different matter if the Reference Court, for reasons to be recorded by it, came to a finding that the sale instance at Sr. No. 4 was not a *bona-fide* one or a sham/bogus one which could not be relied upon.

23. Being aggrieved by the judgment and award of the Reference Court, the claimants/Appellants filed a First Appeal before the High Court. The learned Single Judge of the High Court, however, finding no error in the approach and/or outcome of the judgment and award passed by the Reference Court dismissed the batch of appeals filed by the claimants. Aggrieved thereby, the Appellants filed the present appeals by way of special leave.

24. To ascertain whether the impugned judgment and final order passed by the learned Single Judge of the High Court is sustainable or not, it would be apposite to refer to *paragraphs 45-46 and 49-50* thereof, which read thus:

"45. Now coming to the determination of the market value of the acquired lands and sale instances produced by the claimants. It is not in dispute that the acquired lands are situated at village Pungala. The compulsory land acquisition is made according to the Act of 1961 for the public purpose for establishment of Jintur industrial area. According to the evidence of claimants, village Pungala is at a distance of 2 k.m. away from Jintur, which is a taluka place, where the market committee, Wakhar Mahamandal, dairy business and other basic facilities are available. The oral evidence of claimants regarding distance in between the acquired land and Jintur town is not at all challenged by way of crossexamination initiated by the learned A.G.P. As such, **there is no difficulty to accept the oral evidence produced by the claimants that the acquired lands**

are at a distance of 2 k.m. away from the Jintur town. Jintur is a town. There is a municipality and all the facilities are available. It is a taluka headquarter.

46. It is material to note that the acquired lands are selected for acquisition. **It is evident from the testimony of the claimants that the acquired lands are more convenient for the establishment of M.I.D.C. Jintur. Water facility is also available at a short distance from the acquired lands. The stock of evidence produced by the claimants regarding the proximity of the acquired lands with Jintur town coupled with facilities available and advantages is not any way challenged by way of cross-examination.** Certainly, the argument advanced by the learned counsel for the M.I.D.C. that the acquired lands are at a distance of 5 k.m. away from the Jintur town cannot be accepted. The claimants have also placed on record the documentary evidence in the nature of village map of Pungala and map of Jintur town in order to show the proximity. The learned reference Court has rightly considered the village map of Pungala and map of Jintur town and the location of acquired lands in para 11 of the impugned judgment. **It is rightly held by the reference Court (sic) that the acquired lands are adjacent to Jintur town.** There are hills in between the lands and village Pungala and the acquired lands and they are near to Jintur town rather than from Pungala. **The acquired lands are situated near T-point of Nashik-Nirmal State Highway. It is also observed by the reference Court that the acquired land has N.A. potentiality. The percolation tank is just opposite to the acquired lands, it has sufficient water. As such, selection of the acquired lands for acquisition for establishment of M.I.D.C. indicates their prime location as observed by the reference Court.**

...

49. Now, the source which is available is exemplars, which are on record to determine the market value of the acquired lands. **On going through the impugned judgments, it is noticed that the reference Court has considered in all ten exemplars as shown in para 10 of the impugned judgment. However, not considered the sale instance at Sr. No. 4 dated 31.03.1990, which is from Jintur pertaining to 96 R land sold for the consideration of Rs. 72,900/-, which is found to be the highest sale instance in the chart.** As pointed earlier, the market value of the acquired land is to be determined on the date of notification under Section 32 of the Act of 1961, which is published in the Government gazette on 19.07.1990.

50. Even though the sale instance at Sr. No. 8 of the chart is from the village Pungala, it is of post notification and must be kept out for consideration. **The reference Court has considered the sale instances at Sr. Nos. 1, 2, 3, 4 and 6 since they are found nearby to the notification under Section 32(2) of the Act of 1961. In para No. 31 of the impugned judgment, the reference Court has also considered the sale instance at Sr. No. 4 referred above. On going through para nos. 29 to 32 of the impugned judgment, it would be clear that the reference Court has rightly considered the sale instances at Sr. No. 1 to 3 and 4 to 6 for determination of market value.** The reference Court has also rightly deducted 20% by considering the proximity of the land with Jintur town coupled with advantages and determined the market value of the acquired lands at Rs. 1,00,000/- per Hectare for irrigated lands and Rs. 80,000/- per Hectare for dry lands, which appear to be adequate and reasonable having regard to the location, geographical situation coupled with advantages and proximity to Jintur town and nearby rates. **The exercise of determining the market value of the acquired lands made by the reference Court cannot be said to be erroneous.** The reference Court (sic) has attempted to award adequate compensation to the claimants, whose lands came to be acquired by way of compulsory acquisition for the industrial area of Jintur town. The reference Court has also awarded the statutory benefits available under the Land Acquisition Act, 1894 including solatium." (emphasis supplied)

25. It can thus be seen that though the High Court recorded, in *paragraph 49*, that the Reference Court considered in all ten exemplars and that it **did not consider** the sale instance at Sr. No. 4 dated 31st March 1990, which is from Jintur, in the immediate next paragraph *i.e., paragraph 50*, the High Court takes a diametrically opposite view that the Reference Court **has considered** the sale instance at Sr. No. 4 since they are found

nearby to the notification under the Act of 1961. Not only that but the High Court, placing reliance on *paragraph 31* of the judgment and award passed by the Reference Court, reiterated that it has considered the sale instance at Sr. No. 4.

26. Having already referred to *paragraph 31* of the judgment and award passed by the Reference Court hereinbefore, we have no difficulty in holding that the finding recorded by the learned Single Judge of the High Court in *paragraph 50* of the impugned judgment and final order is erroneous.

27. The Reference Court having taken note of the ten sale exemplars ought to have dealt with the sale instance at Serial No. 4, however, it did not. That being the case, the High Court should have taken note of the same and taken into consideration the sale instance at Sr. No. 4, however, the High Court having clearly observed that the Reference Court did not take into consideration the sale instance at Sr. No.4, in *paragraph 49*, recorded an incorrect finding in *paragraph 50* by holding that the Reference Court took into consideration the sale instance at Sr. No. 4.

28. Taking note of the same, we have no hesitation in holding that the impugned judgment and order dated 21st April, 2022, is not at all sustainable.

29. Having come to the above conclusion, we could have very well remitted the matter back to the High Court for consideration afresh, however, taking into consideration the fact that the Appellants are farmers and that their land was acquired by the Respondent-State in the early 1990s, we are of the view that it would be appropriate that we ourselves consider the case of the Appellants as to whether they ought to be granted compensation on the basis of the highest exemplar sale deed dated 31st March, 1990, showing market value of Rs. 72,900/- per Acre.

30. In this respect, it will be appropriate to refer to the judgments of this Court relied upon by the learned counsel for the parties.

31. In the case of *Anjani Molu Dessai* (supra) this Court, while referring to two previous decisions of this Court, held thus:

“20. The legal position is that even where there are several exemplars with reference to similar lands, usually the highest of the exemplars, which is a bona fide transaction, will be considered. Where however there are several sales of similar lands whose prices range in a narrow bandwidth, the average thereof can be taken, as representing the market price. But where the values disclosed in respect of two sales are markedly different, it can only lead to an inference that they are with reference to dissimilar lands or that the lower value sale is on account of undervaluation or other price depressing reasons. Consequently, averaging cannot be resorted to. We may refer to two decisions of this Court in this behalf.

21. In *M. Vijayalakshamma Rao Bahadur v. Collector* [(1969) 1 MLJ 45 (SC)] , a three Judge Bench of this Court observed that the proper method for evaluation of market value is by taking the highest of the exemplars and not by averaging of different types of sale transactions. This Court held: (MLJ pp. 46-47)

“It seems to us that there is substance in the first contention of Mr Ram Reddy. After all when the land is being compulsorily taken away from a person, he is entitled to say that he should be given the highest value which similar land in the locality is shown to have fetched in a bona fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition. It is not disputed that the transaction represented by Ext. R-19 was a few months prior to the notification under Section 4 that it was a bona fide transaction and that it was entered into between a willing purchaser and a willing seller. The land comprised in the sale deed is 11 grounds and was sold at Rs. 1961 per ground. The land covered by Ext. R-27 was also sold before the notification but after the land comprised in Ext. R-19 was

sold. It is true that this land was sold at Rs. 1096 per ground. This, however, is apparently because of two circumstances. One is that betterment levy at Rs. 500 per ground had to be paid by the vendee and the other that the land comprised in it is very much more extensive, that is about 93 grounds or so. Whatever that may be, it seems to us to be only fair that where sale deeds pertaining to different transactions are relied on behalf of the Government, that representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different course. In any case we see no reason why an average of two sale deeds should have been taken in this case.”

22. In *State of Punjab v. Hans Raj* [(1994) 5 SCC 734] this Court held: (SCC p. 736, para 4)

“4. Having given our anxious consideration to the respective contentions, we are of the considered view that the learned Single Judge of the High Court committed a grave error in working out average price paid under the sale transactions to determine the market value of the acquired land on that basis. As the method of averaging the prices fetched by sales of different lands of different kinds at different times, for fixing the market value of the acquired land, if followed, could bring about a figure of price which may not at all be regarded as the price to be fetched by sale of acquired land. One should not have, ordinarily recourse to such method. **It is well settled that genuine and bona fide sale transactions in respect of the land under acquisition or in its absence the bona fide sale transactions proximate to the point of acquisition of the lands situated in the neighbourhood of the acquired lands possessing similar value or utility taken place between a willing vendee and the willing vendor which could be expected to reflect the true value, as agreed between reasonable prudent persons acting in the normal market conditions are the real basis to determine the market value.**” (emphasis supplied)

32. Next, in the case of *Mehrawal Khewaji Trust* (supra), this Court held thus:

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

33. It can thus be seen that it is a settled position of law that when there are several exemplars with reference to similar land, usually the highest of the exemplars, which is a *bona-fide* transaction, will be considered. The same was reiterated in the judgment of this Court in the case of *Mohammad Yusuf* (supra).

34. The learned counsel for the Respondent No. 3 (MIDC), arguing in support of the impugned judgment and final order dated 21st April, 2022, in addition to relying on the judgment of this Court in *Anjani Molu Dessai* (supra) referred to three other judgments of this Court.

35. Firstly, she relied on *paragraph 20* of the judgment of this Court in the case of *Kapil Mehra* (supra), which reads thus:

“20. Where the lands acquired are of different type and different locations, averaging is not permissible. But where there are several sales of similar lands, more or less, at the same time, whose prices have marginal variation, averaging thereof is permissible. **For the purpose of fixation of fair and reasonable market value of any type of land, abnormally high value or abnormally low value sales should be carefully discarded.** If the number of sale deeds of the same locality and the same period with short intervals are available, the average price of the

available number of sale deeds shall be considered as a fair and reasonable market price.” **(emphasis supplied)**

36. It was sought to be contended that sale exemplar at Sr. No. 4 gave an abnormally high figure of Rs. 72,900/- per Acre and that this sale exemplar has rightly been excluded from consideration by the Courts below. Further, it was also contended that even the maximum increase in sale consideration in the later years i.e., till 1993 does not match up to the amount of sale exemplar at Sr. No. 4.

37. Secondly, relying on the judgment of this Court in the case of **Shawal Singh** (supra), specifically *paragraph 7* thereof, it was sought to be contended by the learned counsel for Respondent No. 3 (MIDC) that the claimants/Appellants did not lead any evidence to show that the sale exemplar at Sr. No. 4 is a *bona-fide* transaction. *Paragraph 7* of **Shawal Singh** (supra) reads thus:

“7. The decision of this Court in *Mehrawal Khewaji Trust* [*Mehrawal Khewaji Trust v. State of Punjab*, (2012) 5 SCC 432 : (2012) 3 SCC (Civ) 177] with regard to highest rate of comparable sales is subject to certain well-defined and well-understood exceptions **apart from the necessity of proving such sales to be bona fide as indicated in the decisions of this Court**. The extent of the area transferred would certainly be a relevant factor which issue stands concluded by findings of fact recorded by the learned Reference Court.” **(emphasis supplied)**

38. Thirdly, relying on *paragraph 20* of **Anjani Molu Dessai** (supra) which has been reproduced hereinbefore so also *paragraph 18* of **Nirmal Singh** (supra), the learned counsel for Respondent No. 3 (MIDC) contended that the Reference Court has rightly used the principle of averaging of sale price of sale exemplars at Sr. Nos. 1 to 3 and 5 for determination of market value of the acquired land as the same is a well-established principle of law laid down by this Court in several cases. For ease of reference, *paragraph 18* of **Nirmal Singh** (supra) is reproduced and it reads thus:

“18. Keeping in mind the guidelines laid down by this Court in the catena of cases referred to supra, we are of the opinion **to determine just and reasonable compensation for the acquired land on the basis of the sale instances as submitted by the appellants by taking the average of the sale considerations** mentioned therein that are relevant to the date of issue of notification under Section 4 of the Act. However, the same is to be determined keeping in mind that developmental costs are higher for larger areas of land as compared to small portions of land. The rate of compensation must be subject to deductions towards developmental purpose that will have to be incurred by the respondent State.” **(emphasis supplied)**

39. Insofar as the contention of the learned counsel for Respondent No. 3 (MIDC) that the Courts below rightly excluded the sale exemplar at Serial No. 4 on account of it being of an abnormally high value is concerned, we outrightly reject the said contention.

40. It is well-settled that the compensation payable to the owner of the land is determined by reference to the price which a seller might reasonably expect to obtain from a willing purchaser. It is further settled law that the land acquired has to be valued not only with reference to its condition at the time of notification under Section 4 of the LA Act but its potential value must be taken into account. In this respect, the sale deeds of lands situated in the vicinity and the comparable benefits and advantages which they have, provide a ready method of computing the market value.

41. In the instant case, it is not in dispute that the land was acquired for public purpose for the establishment of Jintur Industrial Area. Further, the lands in question are situated at village Pungala, which is at a distance of 2 kilometres from Jintur, a taluka place and where the market committee, Wakhar Mahamandal, dairy business and other basic facilities are available. Not only that but the Courts below found that the lands acquired

are situated near T-point of Nashik-Nirmal State Highway; that the acquired land has non-agricultural potential and that a percolation tank just opposite to the acquired lands, having sufficient water, could be found. It would also be relevant to note that the sale instances at Sr. Nos.1, 2 and 3 are of April/May of 1989 and the notice under Section 32(2) of the Act of 1961 was issued on 19th July 1990, as such, the sale exemplar at Sr. No.4 *i.e.*, the sale instance dated 31st March 1990, is the most proximate to the date of transaction. Further, the sale instances at Sr. Nos.9 and 10, from Jintur, show that after the notice under the Act of 1961, there has been a very high rise in the prices of the land in the nearby areas. We are, therefore, of the considered opinion that the land of the Appellants was situated in a *prime location* and they deserve the benefit of the highest sale exemplar.

42. On the same lines, the contention of the learned counsel for the Respondent No. 3 (MIDC) that the maximum increase in the sale consideration in the later years (*i.e.*, till 1993) does not match up to the amount of sale exemplar at Sr. No. 4 dated 31st March 1990 is also liable to be rejected. It can clearly be seen from the aforementioned table that the sale instances at Sr. Nos. 9 and 10 are from Jintur and they reflect sale consideration of Rs. 61,500/- and 60,000/- respectively, which are closer to the highest sale exemplar at Sr. No. 4 having value of Rs. 72,900/-, than they are to the sale instances at Sr. Nos. 1, 2, 3 and 5 which are having value of around Rs. 40,000/-.

43. Insofar as the contention of the learned counsel for Respondent No. 3 (MIDC) *qua* sale instance at Sr. No. 4 not being a *bona-fide* transaction is concerned, the same is also rejected on the basis of the provision contained in Section 51A of the LA Act as per which the certified copy of a document can be accepted as evidence of transaction recorded in the said document.

44. Further, it is clear from the judgment and award passed by the Reference Court that though the Respondent State denied the correctness of above documents, it did not lead any rebuttal evidence. In light of the same, the contention of the learned counsel for Respondent No. 3 (MIDC) on this count is also rejected.

45. Finally, insofar as the contention of the learned counsel for the Respondent No. 3 (MIDC) *qua* the method of computation of the compensation is concerned, we are of the view that the same does not merit acceptance.

46. It was sought to be contended by the learned counsel for the Respondent No. 3 (MIDC) that the Reference Court has rightly used the principle of averaging of sale price of sale exemplars at Sr. No. 1, 2, 3 and 5 for determination of market value of acquired land. However, it is clear from a reading of *paragraph 20* of the judgment of this Court in the case of **Anjani Molu Dessai** (supra) that the legal position is that even where there are several exemplars with reference to similar lands, usually the highest of the exemplars, which is a *bonafide* transaction will be considered. Further, only where there are several sales of similar lands whose prices range in a narrow bandwidth, the average thereof can be taken, as representing the market price. The said position of law was reiterated in the judgment of this Court in the cases of **Mehrawal Khewaji Trust** (supra) and **Mohammad Yusuf** (supra).

47. Even in the case of **Kapil Mehra** (supra), relied upon by the learned counsel for Respondent No. 3 (MIDC), it has been held that where there are several sales of similar lands, more or less, at the same time, whose prices have marginal variation, averaging thereof is permissible.

48. The position of law being thus and further on account of the fact that the lands acquired in the present case are in a *prime location*, we are of the considered opinion that

no occasion arose for the Reference Court to deviate from the well-settled position of law and that the claimants/Appellants deserve the benefit of the highest sale exemplar dated 31st March 1990. Not only that but in the event, the values of the sale instances taken into consideration by the Reference Court had a “marginal variation”, averaging thereof would have been permissible. But the sale exemplars taken into consideration by the Reference Court, in the present case, were the ones from Sr. Nos. 1 to 6 and they ranged from Rs. 25,000/- per Acre to Rs. 72,900/- per Acre. In such a case, the averaging thereof was clearly not permissible.

49. It is further to be noted that only because the Reference Court, without recording any reason, decided to completely overlook/omit the sale instance at Sr. No. 4 and only took into consideration the sale instances at Sr. Nos. 1, 2, 3 and 5, which are having value of Rs.40,000/- per Acre, Rs.41,000/- per Acre, Rs.40,000/- per Acre and Rs.40,000/- per Acre respectively; the averaging of these sale instances, having a marginal variation, could have been envisaged by the Reference Court. We are, however, of the considered opinion that such an approach taken by the Reference Court was completely impermissible. Even in the case of **Nirmal Singh** (supra), relied upon by the learned counsel for Respondent No. 3 (MIDC), where this Court took the average of the sale considerations mentioned therein, the range of prices was in a narrow bandwidth. The contention of the learned counsel for Respondent No.3 (MIDC) *qua* the method of computation of the compensation is, therefore, also rejected.

50. Having held thus, we, however, cannot lose sight of the aspect that the ten sale exemplars placed before the Reference Court by the claimants/Appellants are of small plots of land in Jintur town, each of them being less than 1 Hectare. The Reference Court, therefore, correctly came to the conclusion that while accepting the sale instances a reasonable reduction requires to be made. As such, the land which is acquired being much larger in area, the Reference Court applied a deduction of 20% in the price determined. Being in agreement with the same, while accepting the sale exemplar at Sr. No. 4 dated 31st March 1990, and having market value of Rs. 72,900/- per Acre, we deem it appropriate to apply a deduction of 20% *i.e.*, Rs. 14,580/- per Acre.

51. In the result, we pass the following order:

- i. The present batch of appeals are allowed;
- ii. The judgment and final order dated 21st April, 2022, passed by the learned Single Judge of the High Court is quashed and set aside;
- iii. The judgment and award dated 7th June, 2007 passed by the Reference Court is quashed and set aside;
- iv. We direct that the compensation granted to the Appellants be enhanced from Rs. 32,000/- per Acre to Rs. 58,320/- per Acre; and
- v. We further direct that all other consequential benefits of solatium and interest on the enhanced compensation in terms of Section 23(1-A), 23(2) and 28 of the Land Acquisition Act, 1894, be granted to the Appellants.

52. Pending applications, if any, are disposed of.