

**Ram Phool and Another Vs. Union of India**

**Ram Phool and Another Vs. Union of India**

**SooperKanoon Citation :** [sooperkanoon.com/689984](http://sooperkanoon.com/689984)

**Court :** Delhi

**Decided On :** Jul-22-1998

**Reported in :** 1998VAD(Delhi)433; 76(1998)DLT498; 1999(48)DRJ795

**Judge :** Arun Kumar and; M.S.A. Siddiqui, JJ.

**Acts :** Land Acquisition Act, 1984 - Sections 4, 23(1-A) & (2), 24, 28 and 34;  
[Constitution of India, 1950](#) - Article 300-A

**Appeal No. :** R.F.A.No. 387/1991

**Appellant :** Ram Phool and Another

**Respondent :** Union of India

**Advocate for Def. :** Mr. Sanjay Poddar, Adv.

**Advocate for Pet/Ap. :** Mr. Mukul Rohtagi, Sr. Adv.,; Mr. R.P. Jain,; Mr. J.N.S.

**Judgement :**  
ORDER

**Arun Kumar, J.**

1. The question for consideration in this appeal is as to what should be the appropriate market value of the land in village Poothkalan, Delhi as on the date of notification under Section 4 of the Land Acquisition Act (hereinafter referred to as

the Act) which in this case was published on 11th December, 1981. The declaration under Section 6 was issued on 11th April, 1984. The Land Acquisition Collector made his award being award No.20/85-86 on 11th November, 1985. By the said notification dated 11th December, 1981 under Section 4 of the Act large tracts of land falling in village Poothkalan were acquired for planned development of Delhi. The Land Acquisition Collector categorised the acquired land into three categories and offered compensation for the acquired land as under:

Category A Rs. 12,100/- per bigha

Category B Rs. 12,000/- per bigha

Category C Rs. 6,000/- per bigha

2. The land owners were dissatisfied with the offer of compensation made by the Collector and sought reference under Section 18 of the Act. In this appeal the learned Addl. District Judge did not agree with the division of the acquired land into three categories by the Collector. Thus the categorisation was discarded. He fixed the market value of land on the relevant date as Rs.18,500/- per bigha. Another Addl. District Judge, Delhi in another set of cases pertaining to the same village, the same notification under Section 4 of the Act and the same award, fixed the market value of the land at Rs.15,700/- per bigha. Categorisation of land into three categories was again discarded.

3. Shri Mukul Rohtagi, the learned counsel for the appellants submitted that the land in village Poothkalan had tremendous potential value for building activity. He relied on the award of the Collector itself to show the unique locational advantage of the acquired land. The Collector had observed in the award that land of village Poothkalan is quite fertile and is situated on three sides of the village abadi. The main road from Delhi to Kanjhawla passes through the land and three minor roads are also at site which are from village Poothkalan to Rithala; from village Poothkalan to Pehladpur Banger and from village Poothkalan to Nangloi.

4. From this it is clear that the land in question was surrounded by village abadi and there was a network of roads all around leading to important places.

5. The learned counsel for the appellants next relied on the fact that the Rohini complex had been developed by the Delhi Development Authority in this very area which had all the civic amenities. The date of Section 4 notification in the present case is towards the end of the year 1981 and by that time lot of development had taken place all around the area. All the basic amenities like water, electricity, roads were available in the area. All these factors showed that the land had great potential as a building site which enhanced its market value.

6. So far as the evidence on record is concerned, the learned counsel for the appellants brought to our notice the fact that there are three sale deeds on record pertaining to sale of land within the village. These are Ex.A-1 dated 10th September, 1981. This sale deed is regarding sale of one bigha of agricultural land sold for Rs.30,000/- per bigha for use as agricultural land. The next sale deed is Ex.A-2 dated 21st December, 1979 regarding one bigha of land for a consideration of Rs.28,000/-. This was also a sale of agricultural land to be used for agricultural purposes as mentioned in the sale deed itself. The third sale deed is Ex.A-3 dated 22nd June, 1981 for 12 bids was for a sum of Rs.48,000/-. There are also Ex.A-5 to Ex.A-8 on record which are sale deeds all dated 7th September, 1981 for one bigha each for a sum of Rs.25,000/- each. The learned Addl. District Judge appears to have worked out an average of all the sale deeds excepting sale deed Ex.A-3 and has made certain deductions from the price arrived at on the basis of averages in order to arrive at the market value fixed by him. Sale deed Ex.A-3 was rejected by the learned Addl. District Judge because it was felt that it did not represent true market value of land.

7. Mr.Sanjay Poddar, learned counsel appearing for the Government argued that all the sale deeds referred to above pertain to small pieces of land and should be ignored. According to him the market value of land should be fixed on the basis of a decision of this Court in RFA No.427 of 1979 entitled Ram Swarup v. Union of India decided on 9th December, 1997 in which the market value of land in village Poothkalan was fixed at Rs.11,000/- per bigha for a notification under section 4 of the Act dated 20th August, 1976. He submits that following the principle of giving an annual appreciation 12%, the market value can be worked out. According to him since the date of notification under section 4 in the present set of appeals is

December 1981, an appreciation 12% per year, i.e., total 60% can be allowed on the base figure of Rs.11,000/- per bigha. He added that the learned Addl. District Judge has already given more than what will be worked out on this basis as the market value of land and, therefore, no case of enhancement in market value of land is made out.

8. We have considered the submissions made by the learned counsel for the parties. We are unable to agree with the approach for determination of market value as suggested by the learned counsel for the respondent. Firstly the figure of Rs.11,000/- per bigha for the notification dated 20th August, 1976 was arrived at on the basis of a Lok Adalat settlement. Secondly, when sale transactions for a period closer in point of time to the date of section 4 notification from the same village are available, the court need not go to the formula of adding at the rate of 12% per year to the base figure to arrive at the market value of the land as per the date of section 4 notification in a given case. Such an approach may have to be adopted on account of sheer necessity arising on account of total absence of sale transactions in the village in question or in the adjoining village. In the present case such a situation is not there and we need not resort to the said method of arriving at the market value of land.

9. We are also not impressed with the argument of the learned counsel for the respondent that instances of sale of small pieces of land need not be taken into consideration for determining the market value of land in a particular village. In RFA 554 of 1982 entitled Dharamvir and another v. Union of India decided on 26th September, 1986, a Division Bench of this Court relied on an instance of a small piece of land for arriving at the market value of land involved in the said appeal. The Supreme Court has recently approved placing reliance on instance of sale of a small piece of land in this connection, Land Acquisition Officer v. L. Kamalamma Etc. 1998 2 SC 385.

10. The sale transactions which are available on record in the present case and to which reference has already been made hereinbefore are near in point of time to the date of section 4 notification. They are transactions from within the same village and we see no reason why the same cannot be relied upon for arriving at

the market value of land in the village at the relevant time. The sale deeds Ex.A-1, A-2 and A-3 had been duly proved by producing the vendors who appeared as AW-1, AW-2 and AW-3 respectively. AW-1 who proved Ex.A-1 stated that he received the entire sale consideration of Rs.30,000/- before the sub-Registrar. The date of the sale deed is 10th September, 1991 which is closest in point of time to the date of Section 4 notification in the case. This witness was the owner of the land subject matter of the sale and he stated that the land was agricultural and it was sold for agricultural purposes. Similar is the statement of Pirthi Singh AW-2, the owner of the land, who sold the land subject matter of Ex.A-2. He sold the land which was agricultural to the vendee for agricultural purposes. He stated that he received Rs.7,000/- in advance and balance Rs.21,000/- was received before the Sub-Registrar. The vendor of Ex.A-3 is Basant Lal, AW-3, who sold the same as a power of attorney holder. According to him, he sold 12 bids was (600 sq.yds.) of land for Rs.48,000/-. He also stated he had already received the entire sale consideration in advance at his home. This transaction does not inspire confidence and was rightly rejected by both the Addl. District Judges who dealt with the cases of this village at the relevant time. We agree with the learned Addl. District Judges concerned that this sale deed does not represent the true market value of the land in the area and, therefore, has to be discarded.

11. This leaves us with the best evidence of Ex.A-1 which is a sale deed regarding sale of one bigha of land in the same village on 10th September, 1981 for Rs.30,000/-. The land sold was agricultural and it was sold for agricultural purposes. The date of Section 4 notification under consideration is 11th December, 1981. Thus this sale deed was about three months prior to the date of Section 4 notification for which we have to fix the market value of land in the village.

12. Keeping all the facts and circumstances of this case in view we are of the opinion that this sale deed can be safely relied upon to fix the market value of land in the village at the relevant time. The learned Addl. District Judge had taken out averages of various sale deeds excluding Ex.A-3 to arrive at the market value of land at the relevant time. We do not consider that to be a strictly right approach in the matter. There was no reason to work out averages when reliable evidence by

way of sale deeds was available. In this connection our attention has been invited to a Supreme Court decision in Sri Rani M.Vijayalakshamma Rao Bahadur, Ranees of Vuyyur v. The Collector of Madras, 1969 (1) M.L.J. 45 wherein it was held:-

'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.'

The judgment of the Supreme Court fortifies our view that the land owner is entitled to the best price available as per the evidence on record for his acquired land.

13. The learned counsel for the respondent urged that whatever price by way of market value of land is arrived at by this court, certain deductions ought to be made there from because the price is being worked out on the basis of sale transactions of small pieces of land. In our view for purposes of deductions we have to consider whether the two lands which are under comparison are of similar nature. If the price of developed land is being taken into consideration for purposes of arriving at the market value of undeveloped land, certain deductions depending upon the facts and circumstances of the case may have to be made. But where the nature of the lands under comparison is the same deduction may not be necessary. Deduction is a measure of comparison i.e. by making deduction the two lands under consideration are made comparable. Where, however, the two lands are already similarly circumstanced, deductions are not necessary. In the present case the sale deed being relied upon by this Court is a sale deed with respect to agricultural land which was sold for agricultural purposes. The land under acquisition was also agricultural land. therefore, we do not consider it necessary that deductions must be made from the value of land in the sale deed under consideration to arrive at the market value of land for purposes of awarding compensation to the appellants. Both the lands under consideration in the present appeals for the purposes of arriving at the market value of the land were

underdeveloped lands and, therefore, deductions need not be made.

14. On the question of deductions, learned counsel on both sides placed reliance on various judgment. The learned counsel for the appellant contended that the learned Additional District Judge has committed a grave error in deducting the cost for development from out of the market value of the land acquired. He has also challenged the constitutional validity of the said doctrine of deduction for development costs. He further submitted that location of the land in question is such that it does not require any investment in the matter of development. Reliance has been placed on the following observation of their Lordships of the Supreme Court in *Bhagwathula Samanna and Ors. Vs . Special Tehsildar and Land Acquisition Officer, Visakhapatnam Municipality* : AIR 1992 SC2298 :-

'The principle deduction in the land value covered by the comparable sale is thus adopted in order to arrive at the market value of the acquired land. In applying the principle it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition, the only relevant factor. Even in the vast area there may be land which is fully developed having all amenities and situated in an advantageous position. If smaller area within the large tract is already developed and suitable for building purposes and have in its vicinity roads, drainage, electricity communications etc., then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified.

The proposition that large area of land cannot possibly fetch a price at the same rate at which small plots are sold is not absolute proposition and in given circumstances it would be permissible to take into account the price fetched by the small plots of land. If the larger tract of land because of advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not warranted. With regard to the nature of the plots involved in these two cases, it has been satisfactorily shown on the evidence on record that the land has facilities of road and other amenities and is adjacent to a developed colony and in such circumstances it is possible to utilise the entire area in question as house sites. In

respect of the land acquired for the road, the same advantages are available and it did not require any further development. We, are, therefore, of the view that the High Court has erred in applying the principle of deduction and reducing the fair market value of land from Rs.10/- per sq. yard to Rs. 6.50 paise per sq. yard. In our opinion, no such deduction is justified in the facts and circumstances of these cases. The appellants, therefore, succeed.'

15. As against this, learned counsel for the respondent has supported the doctrine of deduction on account of development costs. Reliance has been placed on a series of decisions of the Supreme Court, which approve deduction for development costs out of the market value determination. These decisions are reported in Smt. Tribeni Devi and Others Vs . The Collector, Ranchi : [1972]3SCR208 P.S. Krishna and Co. Pvt. Ltd. Vs . The Land Acquisition Officer : AIR 1992 SC421 Spl. Tehsildar, Land Acqn., Vishakapatnam Vs . Smt. A. Mangala Gowri : [1991]3SCR472a , Administrator Genl. of West Bengal Vs . Collector, Varanasi : [1988]2SCR1025 and Brig. Sahib Singh Kalha Vs . Amritsar Improvement Trust and Others : AIR 1982 SC940 .

16. In Tribeni Devi Vs . Collector, Ranchi : [1972]3SCR208 , 1/3 of the market value of the acquired land was deducted by way of development cost.

17. In Special Tehsildar Land Acquisition Vishakapatnam Vs . A. Mangala Gowri : [1991]3SCR472a , the Apex Court has approved the deduction by way of development costs at varying rates ranging between 25% to 33% as noticed in para No.4 of the judgment which is to the following effect :-

'In Tribeni Devi Vs . Collector of Ranchi : [1972]3SCR208 , this Court held that 'in order to develop that area at least the value of 1/3 of the land will have to be deducted for roads, drainage and other amenities'. On this basis the value of the land at Rs. 2,08,135.70 per acre would, after the deduction of 1/3 come to Rs. 1,38,757 per acre. In Smt. Kaushalya Devi Bogra Vs . The Land Acquisition Officer, Aurangabad, : [1984]2SCR900 . This Court held that deduction of 1/3 was held to be reasonable. In Vijay Kumar Motilal Vs . State of Maharashtra, : AIR 1981 SC1632 1/3rd was deducted towards developmental charges in undeveloped area. In Vijaysingh Liladhar Vs . Spl. Land Acquisition Officer, : (1988)3SCC760



the deduction of 1/4th by the High Court which was not challenged in this court was upheld. In Spl. Land Acquisition Officer, Bangalore Vs . T. Adinarayan Setty : AIR 1959 SC429 (supra), deduction of 25 per cent was held to be reasonable. It is to be noted that in building Regulations, setting apart the lands for development of roads, drainage and other amenities like electricity etc. are condition precedent to approve lay out for building colonies. thereforee, based upon the situation of the land and the need for development the deduction shall be made. Where acquired land is in the midst of already developed land with amenities of roads, drainage, electricity etc. then deduction of 1/3 would not be justified. In the rural areas housing schemes relating to weaker sections deduction of 1/4 may be justified. On that basis, this court in R. Dharma Rao's case upheld deduction of 1/5 because the owner while obtaining the lay out had already set apart lands for road and drainage. thereforee, deduction of 1/3 would be reasonable. In fact in the Tehsildar, Land Acquisition, Vishakapatnam v. P. Narasing Rao (1985) 1 A P L J 99, a Division Bench of the High Court surveyed judgments of the High Court relating to housing schemes of Visakhapatnam upholding deduction of 1/3 to be reasonable. Accordingly we hold that 1/3 of the market value should be deducted for development of the lands. The High Court committed grievous error in giving a curious reasoning of valuing at Rs. 12 and upholding Rs. 10 to be the market value after deduction, though the market value was determined at Rs. 10. Accordingly the appeal is allowed. The market value is determined at Rs. 6 per sq. yard and after deducting 1/3 the market value is Rs. 4 per s. yard. The respondents are entitled to 15 per cent solarium on market value and 4 per cent interest thereon from the date of dispossession. But in the circumstances parties are directed to pay and receive their own costs.

18. In Brig. Sahib Singh Kalha Vs . Amritsar Improvement Trust : AIR 1982 SC940 the Apex Court held that the deduction on account of development costs can range between 20 to 33% depending upon the situational factors pertaining to the land acquired. In Administer General of West Bengal Vs . Collector Varanasi : [1988]2SCR1025 , the Supreme Court by placing reliance on Brig. Sahib Sing's case : AIR 1982 SC940 held that the deduction for development costs for arriving at potential market value of the land acquired can come up to as much as 53%. It was observed in para 6 of the judgment that :-

'In Brig. Sahib Singh Kalha Vs . Amritsar Improvement Trust, : AIR 1982 SC940 this court indicated that deductions for land acquired for roads and other development expenses can, together, come up to as much as 53%.'

19. Needless to say that the right to compensation is wholly regulated by the Act and Sections 23 and 24 of the Act lay down matters which should be considered in determining compensation and matters which ought not be considered in that process. Sections 23 and 24 form a complete code and the principles specified therein for determining market value of the land acquired are conclusive. Section 23 of the Act recognises only two kinds or categories of compensation to the owner - namely (i) for the market value of the acquired land, and (ii) a sum of 30% on such market value to be awarded as a conciliatory measure for the compulsory acquisition. It follows that compensation to be paid to an expropriated owner is the market value of the land acquired determined on principles set out in Section 23(i) of the Act and the Statutory charge of 30% on that market value as provided for by Section 23(2). The object of the principles of valuation embodied in the aforesaid section is to pay the expropriated owner for what he has lost including the benefit of advantages present as well as future. In State of Gujarat Vs . Shantilal : [1969]3SCR341 , it was observed that 'in ordinary parlance the expression 'compensation' means anything given to make things equivalent; a thing given to or to make amends for loss, recompense, remuneration or pay.' In determining the amount of market value on the principles set out in Section 23(i) of the Act, it should be borne in mind that compensation under Section 23 is paid to indemnify a person and it should be an equivalent or substitute of equal values. In Hemchand v. State of Haryana (1994) 6 S 720, it was held that compensation is paid to indemnify a person and it should normally be an equivalent, a substitute of equal values. The principle of equivalence which is at the root of Statutory compensation postulates that the expropriated owner shall be paid neither less nor more than his loss. We may, in this connection, usefully excerpt the following observations made in Horn v. Sudder land Corporation (1941) 1 ALL.E.R. 480:-

'The word 'compensation almost of itself carried the corollary that the loss to the seller must be completely made up to him, on the ground that unless he received a price which fully equaled his pecuniary detriment, the compensation would not be

equivalent to the compulsory sacrifice.'

20. What emerges, therefore, is that the compensation should be the equivalent in terms of money of the property compulsorily acquired and the principles for determination of the market value are intended to award to the expropriated owner the value of the property acquired. Article 300A of the Constitution of India mandates that no person shall be deprived of his property save by authority of law. There is no express statutory provision in the Act enabling the acquiring authority or the reference court to make any deduction from the statutory compensation on account of development costs.

21. It is significant to mention here that none of the authorities cited above gives any statutory justification for deduction for development costs from the amount of compensation. If the deduction for development costs at varying rates ranging between 25 to 53% is made from the amount of compensation, it is bound to deprive the owner of some proprietary interest or the other, and every such interest or right is treated by the courts as itself property. To state it in our Constitutional jargon, such deprivation is vocative of Article 300A, which declares that no person shall be deprived of his property save by authority of law. This has also been the view expressed by a Division Bench of this Court, to which one of us (Siddiqui, J) was a party, in *Ram Kumar & Ors v. Union of India & Anr.* 66 (1997) DLT 236. We are, in respectful agreement with the view taken in *Ram Kumar's* case (*supra*).

22. Next question is whether interest can be allowed on the amount of solatium awarded under Section 23(1) of the Act. Learned counsel for the appellant contended that interest can be allowed on the amount of solatium. Support was sought to be derived from the decisions rendered by the Supreme Court in *Narain Das Jain Vs . Agra Nagar Mahapalika* : [1991]1SCR389 and *Mamleshwar Prasad (Dead) by LRs and Anr. v. Union of India and Ors.* (Civil Appeal No. /1995, arising out of S.L.P. (C) Nos. 10567/85, 13732/85 and 2438/86 decided on 24.8.95). On the contrary, learned counsel for the respondent contended that interest cannot be allowed on the amount of solatium. Reliance was placed on the decisions of the Supreme Court in *Union of India v. Shri Ram Mehar and Ors.* (1973) 1 S 109; *Mr.*

Fazeelath Hussain v. Spl. Dy. Collector (1995) 3 S 208 and (1997) 3 S 628.

23. In Mamleshwar Prasad's case (supra), the Apex Court, by placing reliance on Narain Das Jain (supra), held that an owner is also entitled to interest under Section 34 of the Act not merely on the amount of compensation awarded by the Collector but on the account of compensation finally determined by the Court. In the case of Narain Das Jain (supra) their Lordships have held that solarium in the scheme of Section 23(2) of the Act is part of the compensation and interest can be allowed on the amount of solarium awarded under Section 23(2). Reference may be made to the following observations:-

'Before parting with the judgment, we need to clarify that solarium in the scheme of Section 23(2) of the Land Acquisition Act is part of the compensation and Sections 28 and 34 of the said Act provided payment of interest on the amount of compensation. This Court recently in Periyar and Pareekanni Rubbers Ltd. v. State of Kerala has ruled that compensation is recompense or reparation to the loss caused to the owner of the land and that payment of interest on solarium is to recompensate the owner of the land for the loss of user of the land from the date of taking possession till date of payment into court. Therein the land owner was held entitled to interest on solatium. Attention, however, may be invited to Dr. Shamlal Narula V. CIT. The quality of the sum paid as interest was held somewhat different. It was ruled therein that the statutory interest paid under the Act is interest paid for the delayed payment of compensation amount and in no event can that be described as compensation for owner's right to retain possession, for he has no right to retain possession after possession was taken under Sections 16 and 17 of the Act. The quality of the receipt of interest can be left by us here whether it be a recompense for the loss of user of land or is a sum paid for the delayed payment of compensation. solarium being part of compensation must fetch statutory interest from the date of dispossession of the land owner till date of payment.'

24. Their Lordships placed reliance on the opinion expressed in another case, Periyar and Pareekanni Rubbers Ltd. v. State of Kerala : AIR 1990 SC2192 . It is worth mentioning that in Periyar and Preekanni Rubbers Ltd's case (supra) the

question that came up for consideration was whether Section 25(1) of the Travancore Land Acquisition Act contemplates payment of interest on solatium, and, in construing the said provisions their Lordships held that Section 25(3) contemplates payment of interest on solatium. But Section 25 of the Land Acquisition Act does not contain any such provision for payment of interest. The relevant provisions for payment of interest have been incorporated in Section 4(3) of the Land Acquisition (Amendment and Validation) Act, and Sections 28 and 34 of the Act. The aforesaid provisions came up for consideration before the Apex Court in *Union of India v. Ram Mehar* (1973) 1 S 109 and it was held that interest should be payable on the market value of the land and not on the amount of compensation. In *Ram Mehar's* case (*supra*) the question arose whether the expression 'market value' in Section 4(3) of the Amending Act will take in the additional amount of solatium which is to be awarded on the market value of the land acquired, and after analysing relevant provisions of the Act, their Lordships held that since under the Act it is only the market value of land on which interest has to be paid solatium cannot form part of the market value of the land. It will be advantageous to extract the following passage in the judgment :-

'It seems to us that the term 'market value' has acquired a definite connotation by judicial decisions. Any addition to the value of the land to the owner whose land is compulsorily acquired which addition is the result of such factors as are unrelated to the open market cannot be regarded as a part of the market value. It is significant and has been noticed at an earlier stage also that according to the other sections which appear in the principal Act interest is payable on such amount which is either a part of compensation or is the total compensation which is payable itself. If market value and compensation were intended by the legislature to have the same meaning it is difficult to comprehend why the word 'compensation' in Section 28 and 34 and not 'market value' was used. Section 23(1) and that consists (a) of the market value of the land and (b) the sum of 15% on such market value which is stated to be the consideration for the compulsory nature of the acquisition. Market value is therefore only one of the compensation in the determination of the amount of compensation. If the Legislature has used the word 'market value' in Section 4(3) of the Amending Act of 1967 it must be held that it was done deliberately and what was intended was that interest should

be payable on the market value of the land and not on the amount of compensation otherwise there was no reason why the Parliament should not have employed the word 'compensation' in the aforesaid provision of the Amending Act.'

25. In *Mir Fazeelath Hussain & Ors. v. Special Deputy Collector* : AIR 1995 SC1424 , it was held that solarium is not a part of the award. The basis of the said dictum of law is to be found in the proposition that sub-Section (1) of Section 26 specially states that award shall specify the amount awarded under each clauses of sub-Section (1) Section 23, whereas solarium is dealt by sub-Section (2) of Section 23. It is worth mentioning that the decisions rendered in the cases of *Ram Mehar* and *Mir Fazeelath Hussain* (supra) are by larger Benches of the Apex Court. In *Union of India v. Raghbir Singh* : [1989]178ITR548(SC) , it was held that the statement of the law by a Division Bench is considered binding on a Division Bench of the same or lesser number of Judges. We would accordingly govern ourselves by the decisions of the Supreme Court in *Union of India v. Ram Mehar and Ors.* and *Mir Fazeelath Hussain* (supra) and hold that interest cannot be allowed on the amount of solarium awarded under Section 23(2) of the Act. This view finds support from the latest decision of the Supreme Court in *State of Haryana v. Joginder Singh* (1997) 3 S 628.

26. This aspect of the matter may be examined from another angle. In *Inglewood Pulp and Paper Co. Ltd. v. New Burnswick Electric Power Commission* AIR 1928 P.C. 287, it was held that 'upon the expropriation of land under Statutory power, whether for the purpose of private gain or for good to the public at large, the owner is entitled to interest upon the principal sum from the date when possession was taken, unless the Statute clearly shows a contrary intention.' This principle has been followed by the Supreme Court in *National Insurance Corporation of India* : AIR 1963 SC1171 *Satinder Singh v. Amrao Singh* : [1961]3SCR676 , *Hirachand Kothari (dead) through LRs v. State of Rajasthan* AIR 1985 SC 998 and *Abhay Singh v. Secy. Ministry of communication* : [1987]3SCR1045 .

27. In *Abhay Singh's* case (supra), it was observed that the claim for interest proceeds on the assumption that when the owner of immovable property loses

possession of it, he is entitled to claim interest in place of his right to retain possession. On a bare reading of Section 23 of the Act, it becomes clear that the principal sum to be awarded to an expropriated owner is the market value of the land acquired. Sub-Section 1-A of Section 23 of the Act empowers the Court to award interest on the market value of the land. sections 28 and 34 of the Act empower the Collector to award interest on compensation in certain circumstances. There is no express provision in the Act enabling the Court to award interest on solarium under sub-Section (2) of Section 23 of the Act. In this view of the matter we may reasonably infer that the Act intends to exclude the application of the general rule enunciated by the aforesaid authorities in the matter of payment of interest on the award of solarium under Section 23(2) of the Act. Thus the claim of interest on solarium is rejected.

28. The result of the above discussion is that the market value of the land in village Poothkalan is fixed at Rs.30,000/- per bigha as on 11th December, 1981, the date of notification under Section 4 of the Act. The appellants will get compensation for their acquired land on the basis of the said market value of land. Besides this, the appellants/land owners are entitled to solarium 30% of the market value of land. The appellants will also be entitled to interest 9% per annum from the date the Collector took possession of land till the expiry of one year from that date and thereafter 15% per annum till the date of payment. The appellants will also be entitled to an additional amount 12% per annum under Section 23(1-A) of the Act on the market value of land for the period commencing from the date of publication of the notification under Section 4 till the date of award of the Collector or the date of taking possession of the land whichever is earlier. The appellants will be entitled to proportionate costs.