



2025:DHC:5100



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

% ***Judgment pronounced on : 01.07.2025***

+ **LA.APP. 93/2021, CM APPL. 37683/2021 & 37684/2021**

**UNION OF INDIA**

**.....Appellant**

Through: Mr. Sunil Kumar Jha, Mr. MS Akhtar, Advocates for Mr. Sanjay Kumar Pathak, Standing Counsel.

versus

**LAXMAN PUBLIC SCHOOL & ANR.**

**.....Respondents**

Through: Mr. Bheem Sain Jain, Advocate with Mr. Sanjay Racoat, Coordinator for R-1.

**CORAM:**

**HON'BLE MS. JUSTICE TARA VITASTA GANJU**

### **JUDGMENT**

**TARA VITASTA GANJU, J.:**

1. The present Appeal has been filed under Section 54 of the Land Acquisition Act, 1894 [hereinafter referred to as "LA Act"] seeking to challenge the Judgment dated 08.08.2018 passed by the learned Additional District Judge-02, Saket Court, South District, New Delhi [hereinafter referred to as "Impugned Judgment"].

2. By the Impugned Judgment, the Reference Court has partly allowed the Petition under Section 18 of the LA Act and enhanced the compensation due to Respondent No.1 and DDA from Rs.4,292/- per sq.mtr. to Rs.5,500 per sq.mtr. Other antecedent directions were also passed with respect to solatium and interest.

3. By an order dated 26.10.2021, a Coordinate Bench of this Court



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stayed the Impugned Judgment, subject to the deposit of the amount awarded.

4. The Respondent No.2/Delhi Metro Rail Corporation [DMRC] has filed an Affidavit dated 19.04.2022 stating that the enhanced compensation as directed was deposited before the learned Reference Court on 08.07.2019.

5. Briefly, the facts are that a notification under Section 4 of the Act was issued on 30.11.2007 for acquisition of land admeasuring 1882.79 sq.m. being the south-east part of the property called Laxman Public School, Hauz Khas, New Delhi [hereinafter referred to as the "acquired land"]. The land was acquired for the purpose of setting up part of the Central Secretariat - Qutub Minar Corridor of Delhi line called MRTS Project, Phase II for Respondent No.2/DMRC.

6. Pursuant thereto, the notification under Section 6 and Section 17 of the Act was issued on 07.02.2008 in respect of the acquired land. Possession of the land was taken on 05.06.2008.

7. The Land Acquisition Collector [hereinafter referred to as "LAC"] made and pronounced an Award No.11 of 2009-2010 on 05.02.2010, under Section 11 of the Act, assessing the market value of the land at Rs.3219 per sq.m. in addition to granting other statutory benefits [hereinafter referred to as the "Award"].

8. The Award was challenged before the learned Reference Court by Respondent No.1. In pursuance of this challenge, the learned Reference Court by the Impugned Judgment enhanced the market value of land to Rs.5,500/- per sq.m. and held that the Respondent No.1 is entitled to



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receive 75% of the market value which would be Rs.4,125/- per sq.m., as the lessee of the land, while 25% of the awarded amount was granted to the lessor - Delhi Development Authority [DDA], in view of the fact that the acquired land is lease hold land. The learned Reference Court also held that since the Respondent No.1 failed to prove its entitlement in respect of trees and plants, the claim for the same was rejected.

9. The Impugned Judgment enhanced the total compensation to Rs.5,500/- per sq.m. and awarded 30% solatium and interest at the rate of 12% per annum from the date of notification up to the date of the Award or the date of taking possession, whichever is earlier, 9% additional interest on the excess amount was also awarded for one year and 15% until the amount is deposited in the Court under Section 28 of the LA Act.

**DELAY IN FILING THE PRESENT APPEAL:**

10. The Appeal has been filed by the Appellant after a delay of 1035 days. The Appellant has contended that the delay was caused on account of approvals of the competent authority; taking of legal opinions, on account of the legal cell obtaining clarifications and documents and for sanction for the Court fee, which caused the delay. In addition, the Appellant has also stated that the imposition of the lockdown for the COVID-19 pandemic added to the delay.

11. Learned Counsel for Respondent No.1 on the other hand has submitted that the Appellant has failed to give any adequate explanation for inordinate delay in filing of the present Appeal. It is contended that no documents to substantiate the averments as set out for the delay have been placed on record either. In addition, it is stated that if the period of limitation expired prior to the imposition of the lockdown on 15.03.2020



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the extension of time as set out by the Supreme Court in *Suo Moto Writ Petition (Civil) NO.3/2020, In Re: Cognizance for Extension of Limitation*<sup>1</sup> case could not be obtained. Thus, it is contended that the Appeal is required to be dismissed on this ground alone.

12. Learned Counsel for Respondent No.1 further stated that it is a settled law that delay cannot mechanically be condoned and that there is no separate period of limitation for Government/Government departments. Reliance in this regard is placed on the decisions of the *State of Madhya Pradesh & Ors. v. Bherulal*<sup>2</sup> and *Deputy Conservator of Forests v. Timblo Irmaos Ltd. & Ors.*<sup>3</sup> It is averred that a liberal approach in condoning the delay cannot be used to defeat the substantial law applicable under Section 3 of the Limitation Act, 1963 [hereinafter referred to as “Limitation Act”] which has to be construed strictly. If the right remedy is not exercised for a long time, it must come to an end. The Respondent No.1 has placed reliance on the following judgments: *Pathapati Subba Reddy (Died) by LRs & Ors. v. Special Deputy Collector (LA)*<sup>4</sup> and *University of Delhi v. Union of India & Ors.*<sup>5</sup> in this regard.

### **CONTENTIONS ON MERIT:**

13. Learned Counsel for the Appellant has contended that the LAC had rightly applied the rates as affixed by the Land and Development Officer [L&DO] for the Malviya Nagar area. However, the learned Reference Court has wrongly enhanced the compensation to be awarded to the Respondent No.1 based on the rates as applicable to Hauz Khas. It is

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<sup>1</sup> (2022) 3 SCC 117

<sup>2</sup> (2020) 10 SCC 654

<sup>3</sup> (2021) 14 SCC 516

<sup>4</sup> 2024 SCC OnLine SC 513

<sup>5</sup> (2020) 13 SCC 745



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contended that the learned Reference Court has wrongly placed reliance on the principles of guesstimation as held in *Trishala Jain & Anr. v. State of Uttaranchal & Anr.*<sup>6</sup> The learned Reference Court has failed to appreciate that although an element of guesswork is inherent in most of the cases involving determination of the market value of the acquired land, but such guesswork cannot be unfettered and has to be reasonable having connection to the facts on record adduced by the parties by way of evidence and that “guesstimate” is an estimate based on mixture of guesswork and calculations.

14. Learned Counsel for the Appellant further contended that guesstimation is a process and has to be conducted based on the evidence adduced by the parties. It was further contended that the learned Reference Court failed to appreciate that the witness of Respondent No.1 had admitted that Respondent No.1 was entitled to receive only 40% of the market value and the remaining was to be given to the lessor/DDA, whereas the LAC had already granted compensation based on apportionment of 75% of the market value to Respondent No.1. Thus, Respondent No.1 being already compensated in excess of its entitlement did not require any further enhancement to the compensation awarded.

14.1 Learned Counsel for the Appellant submitted that the Award by the LAC was in accordance with the settled principles of law and judicial pronouncements in the case of *Prakash Chand Kashyap v. Union of India*<sup>7</sup> and *Inder Parshad v. Union of India & Ors.*<sup>8</sup>

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<sup>6</sup> (2011) 6 SCC 47

<sup>7</sup> AIR 1988 Del 316

<sup>8</sup> (1994) 5 SCC 239



15. Learned Counsel for Respondent No.1 on the other hand contended that the Impugned Award does not suffer from any perversity. It is submitted that the Reference Court examined the Award and based on the principles of guesstimation assessed the fair market value payable for the acquired land. Although, the acquired land was in Hauz Khas, New Delhi, the LAC had relied upon an exemplar of Malviya Nagar, which was a distance away. In addition, it is contended that the Appellant did not lead any evidence before the learned Reference Court to support its contentions.

15.1 Learned Counsel for Respondent No.1 further contended that in ascertaining the market value of a land/property, various considerations need to be taken, such as, the area; the amenities in that area; and the value of properties in the vicinity of the acquired land. It is contended that the acquired land was in Hauz Khas Enclave/Hauz Khas, which is a 'Category B' colony as set out in the classification of colonies used by the Municipal Corporation of Delhi for determination of rates for house tax. While, the value that was taken by the LAC was based on the rates for Malviya Nagar, which is a lower category, i.e., 'Category C' colony, and thus, the rates of Malviya Nagar could not be made applicable to the acquired land.

15.2 It is further contended by the learned Counsel for Respondent No. 1 that the learned Reference Court gave a finding that for the northern part of the property, the Section 4 notification was issued on 19.12.2013 and Rs.46,078.75 per sq.m. was awarded as compensation. However, and since there was a gap of 7 years between the notification under Section 4 of the LA Act in this case, the same was not comparable. Thus, relying on the principle of guesstimation as set out in the judgment of the Supreme Court in ***New Okhla Industrial Development Authority v. Harnand Singh***



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*(Deceased) Through LRs & Ors.<sup>9</sup> and Krishan Kumar v. Union of India and Anr.<sup>10</sup>*, the learned Reference Court correctly assessed the market value and arrived at the rate of Rs.5,500/- enhancing the compensation in favour of the Respondent No.1 to Rs.4,125/- per sq.m. in addition to solatium and interest.

16. The only averment of the learned Counsel for Respondent No.2/DMRC before this Court was that they have complied with the directions of the Court by depositing the enhanced amount awarded.

### **IMPUGNED JUDGEMENT:**

17. As stated above, the Award was passed on 05.02.2010 for the acquisition of land for the construction of the Central Secretariat-Qutub Minar Corridor of the Delhi Metro Rail Transport Service Project, Phase-II, Delhi. The LAC determined the compensation at Rs.3,219/- per sq.m. for the acquired land. The Respondent No.1 challenged this determination by filing a reference Petition under Section 18 of the LA Act. In addition to the enhancement of the value of the land acquired, the Respondent No.1 also claimed compensation in lieu of trees, plants and existing structures on the acquired land at the rate of Rs.5,00,000/- per sq. yard for the acquired land and Rs.50,000/- per tree on the acquired land; Rs.10,000/- per plant on the acquired land and Rs.10,00,000/- for the structure which existed on the land.

18. By an order dated 06.08.2013, the following issues were framed by the Reference Court:

- (i) Whether the present reference has been filed within the period of limitation?

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<sup>9</sup> 2024 SCC OnLine SC 1691

<sup>10</sup> (2015) 15 SCC 220



(ii) Whether the petitioner has got any right, title or interest in the acquired disputed land and is entitled to compensation? If so, to what extent/share and from which Respondent?

(iii) What was the market value of the acquired land on the date of notification under Section 4 of the Land Acquisition Act and what enhancement in market value, if any, the petitioner is entitled thereto?

19. As stated above, no evidence was led by the Appellant before the learned Reference Court other than the Award No. 11/2009-10 dated 05.02.2010 of Village Hauz Khas as Ex-RI. However, evidence was led by Respondent No.1 and Respondent No.2/DMRC.

20. The learned Reference Court found that the reference Petition being filed by the Respondent No.1 on 15.09.2010, which was within a month of receiving the compensation, and thus was within the prescribed period of limitation as set out in Section 18(2) of the LA Act.

21. On issue No. (ii), it was held by the learned Reference Court that the LAC had relied on the judgment of the Supreme Court in *Inder Prasad* case to give a finding that compensation should be divided between the lessee and the lessor in the ratio of 75% : 25% for the acquired land. The LAC had given a finding that Respondent No.1 shall be entitled to 75% of the share of the compensation amount. This finding was upheld by the learned Reference Court. No challenge has been made by the Appellant to the finding of apportionment of compensation in the ratio of 75% : 25% between Respondent No. 1 and DDA respectively. Thus, this issue has attained finality. The challenge made in this Appeal is only to the finding of the learned Reference Court for enhancement of the market value of the acquired land.





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22. In order to calculate the market value of the acquired land as on the date of the notification and for its enhancement, the Respondent No.1 relied on sale deeds in respect of residential properties situated in Hauz Khas Enclave, while the Appellant had relied on an Award No.11/2009-10 passed by the LAC in respect of institutional land at Malviya Nagar of the year 2000 which was Rs.88,00,000/- per acre. The LAC further relied on the judgment of this Court in the ***Prakash Chand Kashyap*** case to give compensation at a graded yearly escalation of Rs.12% per annum, to arrive at a market value of Rs.4,292/- per sq.m. and 75% of this value, that is, Rs.3,219/- per sq.m., was held to be the share of Respondent No.1.

23. The learned Reference Court found that the reliance by the Respondent No.1 on the sale deeds of the area [Ex PW 2/1 and Ex PW 2/2] was not relevant since these pertained to a residential area and not an institutional one, like the acquired land. The learned Reference Court ruled that the reliance was placed by the LAC on the land in the institutional area of Malviya Nagar, applying graded yearly escalation from 2000 to the year 2007, and to the ***Prakash Chand Kashyap*** case. However, the learned Reference Court referred to an Award in respect of a northern part of the property of Respondent No.1 of an area of 120 sq.m. which was brought on record by the DMRC in its evidence and on a perusal of this Award it was found that it does not reveal any cogent basis for the Award of Rs.46,078.75 per sq.m. as compensation. The learned Reference Court also found that this was awarded under the Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 [hereinafter referred to as “LA ACT, 2013”] and lacked transparency on how zonal variant rates had been applied. In addition, the learned Reference Court gave a finding that the compensation had gone up almost



10 times, in a 7 years of gap in the notifications between the two awards.

24. Thus, the learned Reference Court for assessing the correct market value, applied the principle of guesstimation and assessed the correct market value of the acquired land in the year 2007 as Rs.5,500/- per sq.m.

25. However, the Ld. Reference Court found that Respondent No. 1 has failed to prove its entitlement for trees, plants and existing structure and hence, did not award any amount for the same.

25.1 The Impugned Judgment, to the extent it does not award any amounts for compensation on account of the trees, plants and existing structures has not been challenged by the Respondent No. 1.

### **FINDINGS:**

#### **CM APPL. 37684/2021 [Condonation of Delay in filing the Appeal]**

26. Prior to examining the matter on merits, it is apposite to examine the delay in filing the present Appeal. It is the case of the Respondent No.1 that the Appeal is *ex facie* time barred, and there is no "sufficient cause" shown for the delay in filing the Appeal.

26.1 The Respondent No.1 has relied on the reasons for the delay as set out in the Application filed by the Appellant seeking condonation of delay in filing the Appeal to submit that the Impugned Judgment was passed on 08.08.2018, however, as per the Application detailed reasons for the delay were not given and only excuses were given. It is further averred that, although the certified copy was ready on 24.08.2018, it was not till November, 2018 that the Competent Authority granted approval for filing the Appeal. Thereafter, after a delay of almost 6 months, the documents were provided to the Counsel to draft the Appeal, preparations and



clarifications for which took up to 21.05.2019, while the Court fee was not made available till June, 2019.

26.2 The Respondent No.1 has emphasised that from the period from June, 2019 till September, 2021, when the Appeal was filed, no explanation has been provided by the Appellant as to the reasons for such delay. The only explanation that has been set out is that of ensuing Covid-19 pandemic, which commenced in March, 2020.

27. It is no longer *res integra* that the delay cannot be mechanically condoned by the Courts. It is also settled law that the Government Departments cannot claim separate period of limitation. The Supreme Court in ***Postmaster General & Ors. v. Living Media (India) Ltd. & Anr.***<sup>11</sup> has held that the Government Departments possess competent personnel who are aware of the law. The usual explanation that the file was kept pending at various departments does not suffice. The relevant extract is below:

*“27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. **In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.***

*28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. **The law of limitation undoubtedly binds everybody, including the Government.***

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<sup>11</sup> (2012) 3 SCC 563



29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

[Emphasis Supplied]

27.1 A similar view was taken in the *Bherulal* case, while discussing the law as set out in *Collector Land Acquisition, Anantnag and Anr. v. Mst. Katiji and Ors.*<sup>12</sup> and the *Postmaster General* case, wherein the Supreme Court held that the Government Departments cannot claim to have a separate period of limitation especially when the department was possessed with competent persons familiar with Court proceedings and in the absence of plausible and acceptable explanation, the delay cannot be condoned mechanically merely because the Government is a party. It was further held that the bar of limitation cannot be given a go-by even in a case which is meritorious. Keeping in mind the casual manner in which the Application for condoning delay was worded, the Supreme Court imposed costs and dismissed the Appeal as time barred. The relevant extract of *Bherulal* case is below:

“3. No doubt, some leeway is given for the government inefficiencies but the sad part is that the authorities keep on relying on judicial pronouncements for a period of time when technology had not advanced

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<sup>12</sup> (1987) 2 SCC 107



and a greater leeway was given to the Government [LAO v. Katiji [LAO v. Katiji, (1987) 2 SCC 107]. This position is more than elucidated by the judgment of this Court in Postmaster General v. Living Media (India) Ltd. [Postmaster General v. Living Media (India) Ltd., (2012) 3 SCC 563 : (2012) 2 SCC (Civ) 327 : (2012) 2 SCC (Cri) 580 : (2012) 1 SCC (L&S) 649] wherein the Court observed as under : (Postmaster General case [Postmaster General v. Living Media (India) Ltd., (2012) 3 SCC 563 : (2012) 2 SCC (Civ) 327 : (2012) 2 SCC (Cri) 580 : (2012) 1 SCC (L&S) 649] , SCC pp. 573-74, paras 27-30)

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30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay.”

Eight years hence the judgment is still unheeded!

4. A reading of the aforesaid application shows that the reason for such an inordinate delay is stated to be only “due to unavailability of the documents and the process of arranging the documents”. In para 4, a reference has been made to “bureaucratic process works, it is inadvertent that delay occurs”.

5. A preposterous proposition is sought to be propounded that if there is some merit in the case, the period of delay is to be given a go-by. If a case is good on merits, it will succeed in any case. It is really a bar of limitation which can even shut out good cases. This does not, of course, take away the jurisdiction of the Court in an appropriate case to condone the delay.

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8. Looking to the period of delay and the casual manner in which the application has been worded, we consider it appropriate to impose costs on the petitioner State of Rs 25,000 (Rupees twenty-five thousand) to be deposited with the Mediation and Conciliation Project Committee. The amount be deposited in four weeks. The amount be recovered from the officers responsible for the delay in filing the special leave petition and a certificate of recovery of the said amount be also filed in this Court within the said period of time.

9. The special leave petition is dismissed as time barred in the terms aforesaid.”

[Emphasis Supplied]

28. The Supreme Court in *Pathapati Subba Reddy* case analysed the provisions *qua* the condonation of delay. It relied on the *Basawaraj & Anr.*



*v. Special Land Acquisition Officer*<sup>13</sup> to hold that the discretion to condone the delay has to be exercised judiciously and based upon the facts and circumstances of each case and where negligence, inaction and lack of *bonafides* is writ large, limitation although harsh has to be applied as it stands and the Courts have no power to condone the delay. The relevant extract is below:

*"23. In Basawaraj v. Special Land Acquisition Officer (2013) 14 SCC 81, this Court held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. The expression 'sufficient cause' as occurring in Section 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large. It was also observed that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds."*

[Emphasis Supplied]

28.1 The Supreme Court in the *Pathapati Subba Reddy case* further held that to advance substantial justice, the Courts are empowered to exercise discretion to condone the delay if sufficient cause has been explained. It was held that the power to condone although discretionary may not be exercised where there is inordinate delay, negligence or want of due diligence. The relevant extract is below:

*"26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:*

*(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;*

*(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;*

*(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense*

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<sup>13</sup> (2013) 14 SCC 81



whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.

27. It is in the light of the above legal position that now we have to test whether the inordinate delay in filing the proposed appeal ought to be condoned or not in this case."

[Emphasis Supplied]

29. The Supreme Court in the case of ***Sheo Raj Singh (Deceased) Thr. LRs & Ors. v. Union of India & Anr.***<sup>14</sup> has held that the power to condone must be exercised based on the cause and not the length of the delay. A genuine explanation and not a mere excuse is required. The relevant extract of the ***Sheo Raj Singh*** case is reproduced below:

*"30. Considering the aforementioned decisions, there cannot be any quarrel that this Court has stepped in to ensure that substantive rights of private parties and the State are not defeated at the threshold simply due to technical considerations of delay. However, these decisions notwithstanding, we reiterate that condonation of delay being a discretionary power available to courts, exercise of discretion must necessarily depend upon the sufficiency of the cause shown and the degree of acceptability of the explanation, the length of delay being immaterial.*

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<sup>14</sup> (2023) 10 SCC 531



31. Sometimes, due to want of sufficient cause being shown or an acceptable explanation being proffered, delay of the shortest range may not be condoned whereas, in certain other cases, delay of long periods can be condoned if the explanation is satisfactory and acceptable. Of course, the courts must distinguish between an “explanation” and an “excuse”. An “explanation” is designed to give someone all of the facts and lay out the cause for something. It helps clarify the circumstances of a particular event and allows the person to point out that something that has happened is not his fault, if it is really not his fault. Care must, however, be taken to distinguish an “explanation” from an “excuse”. Although people tend to see “explanation” and “excuse” as the same thing and struggle to find out the difference between the two, there is a distinction which, though fine, is real.

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35. We find that the High Court in the present case assigned the following reasons in support of its order:

35.1. The law of limitation was founded on public policy, and that some lapse on the part of a litigant, by itself, would not be sufficient to deny condonation of delay as the same could cause miscarriage of justice.

35.2. The expression “sufficient cause” is elastic enough for courts to do substantial justice. Further, when substantial justice and technical considerations are pitted against one another, the former would prevail.

35.3. It is upon the courts to consider the sufficiency of cause shown for the delay, and the length of delay is not always decisive while exercising discretion in such matters if the delay is properly explained. Further, the merits of a claim were also to be considered when deciding such applications for condonation of delay.

35.4. Further, a distinction should be drawn between inordinate unexplained delay and explained delay, where in the present case, the first respondent had sufficiently explained the delay on account of negligence on part of the government functionaries and the government counsel on record before the Reference Court.

35.5. The officer responsible for the negligence would be liable to suffer and not public interest through the State. The High Court felt inclined to take a pragmatic view since the negligence therein did not border on callousness.”

[Emphasis Supplied]

30. In the case of *DDA v. Tejpal & Ors.*<sup>15</sup>, the Supreme Court has held

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<sup>15</sup> (2024) 7 SCC 433





that Courts are vested with the discretion to extend the period of limitation if the applicant shows sufficient cause for not preferring the Appeal within the prescribed period and what the Courts have to analyse is that “sufficient case” has been made out and that such cause is shown for not filing the Appeal ‘within the prescribed period’. It has been further held that it is the explanation for the delay which would be the decisive factor. The relevant extract of the **DDA** case is reproduced below:

“25. As is clear from a plain reading of Section 5 of the Limitation Act, there are exceptions to this general rule. The statute allows for admitting an action provided “sufficient cause” is shown. This vests courts with the discretion to extend the period of limitation if the applicant can show that he had sufficient cause for not preferring an appeal or application within the prescribed period. **Section 5 requires analysis of two ingredients : first, an examination of whether “sufficient cause” has been made out; and second, whether such cause has been shown for not filing the appeal/application “within the prescribed period”.**

26. As regards the first ingredient, the Limitation Act itself does not provide more guidance on what its constituent elements ought to be. Instead, Section 5 leaves the task of determining appropriate reasons for seeking condonation of delay to judicial interpretation and exercise of discretion upon the facts and individual circumstances of each case.

27. **While there is no arithmetical formula, through decades of judicial application, certain yardsticks for judging the sufficiency of cause for condonation of delay have evolved. Mere good cause is not sufficient enough to turn back the clock and allow resuscitation of a claim otherwise barred by delay. The court ought to be cautious while undertaking such an exercise, being circumspect against condoning delay which is attributable to the applicant. [Basawaraj v. LAO, (2013) 14 SCC 81, paras 9-11] Although the actual period of delay might be instructive, it is the explanation for the delay which would be the decisive factor. [Perumon Bhagvathy Devaswom v. Bhargavi Amma, (2008) 8 SCC 321, para 13]**

28. **The court must also desist from throwing the baby out with the bathwater. A justice-oriented approach must be prioritised over technicalities. [Raheem Shah v. Govind Singh, (2023) 18 SCC 764 : 2023 SCC OnLine SC 910, para 6] as one motivation underlying such rules is to prevent parties from using dilatory tactics or abusing the judicial process. Pragmatism over pedanticism is therefore sometimes necessary — despite it appearing liberal or magnanimous. The expression “sufficient cause” should be given liberal construction so as to advance substantial justice. [Lonand Grampanchayat v. Ramgiri Gosavi, 1967 SCC OnLine SC 105, para 4.]**



**29. In addition to “sufficient cause”, Section 5 also requires that such cause must be shown within the prescribed period. To satisfy the latter condition, the applicant must show sufficient cause for not filing the appeal/application on the last day of the prescribed period and explain the delay made thereafter. [Ramlal v. Rewa Coalfields Ltd., 1961 SCC OnLine SC 39, para 8] Causes arising after the culmination of the limitation period, despite being sufficient in substance, would not suffice for condonation given this second prong of Section 5 of the Limitation Act. However, the applicant shall not be required to prove each day's delay till the date of filing such appeal/application. [Ummer v. Pottengal Subida, (2018) 15 SCC 127, para 14 : (2019) 1 SCC (Civ) 113]”**

[Emphasis Supplied]

31. It is thus requisite to cull out some of the principles as elucidated in the judgments above which are:

- (i) The discretion to condone delay has to be exercised based on the circumstances of each case. Where negligence, inaction and lack of bona fides is apparent, the delay cannot be condoned;
- (ii) The delays by Government departments specially where there are huge delays and no acceptable reasons are provided, the delay is not to be condoned unless acceptable and cogent reasons are given;
- (iii) Although, the Courts are empowered to exercise discretion to condone delay, the discretion cannot be exercised unless there is sufficient cause and due diligence has been exercised by the Applicant. If an Applicant is negligent and indifferent in its explanation, the delay cannot be condoned;
- (iv) The length of the delay is not as important as the cause for such delay. Where a genuine explanation is given and the delay is properly explained, delay can be condoned;
- (v) The Courts are required to analyse if sufficient cause for not filing the Appeal within the prescribed time is shown, the delay can be condoned, no matter the length of the delay. In addition, the



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Applicant is not required to prove each day's delay till the date of the filing of the Appeal but sufficient explanation must be given for the entire period of delay.

32. Undisputably, in the present case, there is a delay of more than 3 years in filing the Appeal. The explanation as set out for this delay by Respondent No. 1 in CM Appl. 37684/2021 shows that the entire process has been dealt with in a very lackadaisical manner by the Land Acquisition Department of the Appellant. There can be no doubt that the officials of the Department are aware of the limitation period for filing appeals to awards pronounced by the learned Reference Court, however, it has taken them more than 3 years for the Appeal to actually be filed.

32.1 The Application for condonation of delay as has been drafted by the Appellant has given no appropriate explanation except for mentioning various dates. No cogent reasons sufficient for the delay have also been given. In fact, for the period of more than 2 years from June, 2019 to September, 2021, no explanation has been given at all other than a reference to the judgment of the Supreme Court *In Re: Cognizance for Extension of Limitation* case.

32.2 The reliance placed by the Appellant on the *In Re: Cognizance for Extension of Limitation* case is also misconceived. The extension of limitation under the *In Re: Cognizance for Extension of Limitation* case is applicable to cases where the period of limitation has expired between 15-3-2020 and 28-2-2022. In the present case, the period of limitation expired in November, 2018 itself, thus, the *In Re: Cognizance for Extension of Limitation* case does not come to the aid of the Appellant. Reliance can be placed on the following extract:



*“5.1. The order dated 23-3-2020 is restored and in continuation of the subsequent orders dated 8-3-2021, 27-4-2021 and 23-9-2021, **it is directed that the period from 15-3-2020 till 28-2-2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.**”*

*5.2. Consequently, the balance period of limitation remaining as on 3-10-2021, if any, shall become available with effect from 1-3-2022.*

*5.3. **In cases where the limitation would have expired during the period between 15-3-2020 till 28-2-2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 1-3-2022. In the event the actual balance period of limitation remaining, with effect from 1-3-2022 is greater than 90 days, that longer period shall apply.**”*

*5.4. **It is further clarified that the period from 15-3-2020 till 28-2-2022 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29-A of the Arbitration and Conciliation Act, 1996, Section 12-A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.**”*

[Emphasis Supplied]

33. This Court finds that no sufficient explanation or cause has been given for the delay of 1035 days in filing the Appeal.

33.1 CM APPL. 37684/2021 is therefore dismissed.

### **FINDINGS - ON MERITS**

34. However, this Court has also examined the matter briefly on merits.

35. As discussed above, the challenge made in this Appeal is only to the finding of the Reference Court, which has enhanced the market value of the acquired land.

36. As stated above, the Respondent No.1 produced two witnesses before the learned Reference Court. The PW-1 was an official of the School and deposed that the acquired land was situated within a posh colony



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surrounded by other posh colonies in Delhi and it is situated on the main outer ring road having all facilities to be used as commercial purposes, thus, the potential value of the land should have been assessed at more than Rs.5 lacs per sq. yards/Rs.5,97,995.28 per sq. m.

36.1 The Respondent No.1 has also produced the Sub-Registrar, Mehrauli as its witness along with two sale deeds of the vicinity showing the value of the land as Rs.5 lacs per sq. yards and Rs. 5,97,995.28 (approx.) per. sq.m. The details of these two sale deeds are set out below:

S. No.	Particulars	Sale Deed – Ex PW 2/1	Sale Deed – Ex PW/2/2
1.	Date of execution	20.07.2007	07.08.2007
2.	Plot Area	1249.66 sq. m	1997.48/100 sq. y
3.	Sale Price	Rs. 1,25,00,000/-	Rs. 42,50,00,000/-
4.	Name of Colony/Locality	Hauz Khas Enclave	Hauz Khas Enclave
5.	Type of Property	Residential	Residential Property
6.	Value per Sq.Ft.	929.28 per sq. ft.	23,640,89 per sq. ft.
7.	Value per Sq. M.	10,002,72 per sq. m.	2,54,469 per sq. m.

37. The Appellant, on the other hand, did not produce any witness. The Respondent No.2/DMRC produced its law officer, one Sh. A. S. Rao, whose statement was recorded as RW 2 deposed that the acquired land is an institutional land and a leasehold property belonging to the DDA, which has been leased to the Respondent No.1 at concessional rates for running a School.

38. The learned Reference Court examined the evidence and found that the sale deeds relied upon by the Respondent No.1 were of residential properties situated in Hauz Khas Enclave and not of properties in an institutional area. The learned Reference Court further gave a finding that since the acquired land is situated in an institutional area and is not being



used for residential purposes, it would not be feasible to assess the market value based on the sale deeds i.e., Ex. PW 2/1 and Ex. PW 2/2. A reference was also made to an Award in respect of a northern part of the property of Respondent No.1 of an area of 120 sq.m. which was brought on record by the DMRC in its evidence and on a perusal of this Award it was found that it does not reveal any cogent basis for the Award of Rs.46,078.75 per sq.m. as compensation. The learned Reference Court also gave a finding that the institutional land rate of Malviya Nagar would not be appropriate to be relied upon in the present case.

38.1 However, the learned Reference Court held that given that the value of land at Hauz Khas would be higher and applying the principles of guesstimation, the learned Reference Court assessed the market value of the acquired land at Rs.5,500/- per sq.m. It is apposite to extract paragraph 23, 24 and 25 of the Impugned Judgment which reflect this below:

*"23. In order to prove this issue, petitioner society relied on sale deeds in respect of the residential properties situated in Hauz Khas Enclave. Petitioner summoned an official witness to prove the Sale Deeds relied upon by it in support of its contention that the LAC did not assess the correct market value of the acquired land. However, the Sales Deeds relied upon by the petitioner are not relevant since the same pertain to residential area whereas the land in question pertains to an institutional area and it is not logical as well as feasible to assess the correct market value of a land of an institutional area by comparing it with the market value of residential areas. The acquired land being a part of institutional land, cannot be assessed in terms of a land which is being put to a completely different use.*

*24. Respondents, on the other hand, relied on the Award No.11/2009-10 passed by the LAC which assessed the market value of the acquired land on the basis of indicative price fixed by L. & D. O. of the institutional land rate of Malviya Nagar of the year 01.04.1998 to 31.03.2000 since the same was in close proximity of Laxman Public School, Hauz Khas and also since rate of institutional land of Hauz Khas was not available. Since the notification under Section 4 of the L. A. Act was published on 30.11.2007 and indicative price fixed by L. & D. O. was of the year 2000 which was Rs,88,00,000/- per acre, the LAC relied on the judgment delivered by the Hon'ble High Court of Delhi in **Prakash Chand Kashyap vs. UOI** AIR 1998 (Delhi) 316 to arrive at the correct market value of the*



institutional land of Hauz Khas by graded yearly escalation in the institutional land rate from the year 2000 till the year 2007. In the cited judgment, the Hon'ble High Court had given escalation of 12% per annum to arrive at the correct market value of the acquired land. Accordingly, market value of the acquired land was fixed @ Rs.4292/- per sq. meters as on the date of notification under Section 4 of the L. A. Act. However, the LAC further relied on the judgment delivered by the Hon'ble Supreme Court i.e. *Inder Prasad vs. UOI* (1994) 5 SCC 239 wherein apportionment of compensation between the lessee and the lessor was granted in the ratio of 75:25 and deducted 25% from the assessed market value being the share of the lessor. Consequently, the LAC worked out Rs.3219/- per sq. meters as the share of the petitioner society in the assessed compensation and thereafter added statutory benefits on the said amount of Rs.3219/- per sq.meters."

25. It needs to be highlighted that in respect of another part of the property of which petitioner society is the lessee, another area of 120 sq. meters (vacant land of Laxman Public School, Hauz Khas) was acquired for construction of a segment of Delhi-Metro Project vide notification dated 19.12.2013 under Section 4 of the L. A. Act. The Award in respect of this acquisition was put to Sh. A. S. Rao, Law officer of the DMRC during his cross examination. However, the assessment of compensation for compulsory acquisition for this subsequent Award was done by the LAC under the provisions of Right to Fair Compensation and Transparency in Land Acquisition in 2013. Perusal of the subsequent Award does not reveal any cogent basis for the LAC to award Rs.46,078.75 per sq. meters as the compensation except that it considered Zonal variant rates. However, the Award does not reveal as to in what manner were the Zonal variant rates applied by the LAC to award compensation at the rate of Rs.46,078.75 per sq. meters. There is a gap of 7 years between the notification issued under Section 4 of the L. A. Act in the present reference and in the subsequent Award but the amount of compensation has gone up by almost 10 times despite the fact that nature of the land remained the same. Consequently, as an accepted principle for assessing the correct market value, some aspect of guess work is involved in arriving at the market value as on the date of notification under Section 4 of the L. A. Act. Therefore, I deem it appropriate to assess the correct market value of the acquired land in the year 2007 as Rs.5500/- per sq. meters."

[Emphasis Supplied]

39. The Impugned Judgment references the principle of guesstimation to arrive at the market rate for the acquired land. The principle of guesstimation has been discussed in several judgments including in *New Okhla Industrial Development* case and *Krishan Kumar* case of the Supreme Court. Relying on the *Trishala Jain* case, the Supreme Court has



held that in cases where there is no direct evidence of relevant sale exemplars, it is reasonable to make an informed guess or an estimation of the market value of the land acquired and pay compensation in terms thereof. It was explained by the Supreme Court that this principle accentuates the fundamental understanding that determining compensation for land is not an exact science but involves a multitude of factors which include land valuation including location, surrounding market conditions, feasible uses etc. The relevant extract of *New Okhla Industrial Development* case is below:

*"31. Guesstimation is a heuristic device that enables the court, in the absence of direct evidence and relevant sale exemplars, to make a reasonable and informed guess or estimation of the market value of the land under acquisition, and concomitantly the compensation payable by the appropriate Government. In that sense, guesstimation hinges on the Court's ability to exercise informed judgment and expertise in assessing the market value of land, especially when the evidence does not tender a straightforward answer.*

*32. This principle accentuates the fundamental understanding that determining compensation for land is not a matter of exact science but involves a significant element of estimation. Indeed, this holds true for valuation of land in general, which is affected by a multitude of factors such as its location, surrounding market conditions, feasible uses etc. Accordingly, while evidence and calculations can aid in estimating the land value, they ultimately serve as tools for approximation rather than precision. Instead, land valuation—and consequently the affixation of compensation—remains an exercise of informed estimation, requiring the integration of diverse data points and professional judgment concerning subjective, intangible and dynamic elements. Pursuing a single precise valuation or compensation figure is bound to be unjust, representing a rigid approach and a procrustean endeavour at best."*

[Emphasis Supplied]

40. Relying on the *Trishala Jain* case, the Supreme Court in the *New Okhla Industrial Development* case held that the principle of guesstimation involves that the estimation should be made based on the limitations specified in Sections 23 and 24 of the LA Act. The Supreme Court further held that broadly there are three relevant factors of ascertaining the





compensation:

- (i) **Characteristics of the land**: which includes key features such as connectivity via roads, availability of essential utilities and any advantageous features including nature and status of the surrounding area;
- (ii) **Future potentiality of the land**: which includes characteristics such as whether the land can be used for residential or commercial purposes, if it is located near the developed area or proximate to an area which may hold a greater value in the future; and
- (iii) **Factors denoting market sentiment**: which include economic condition at the time of publication of the notification including political instability or recession. These are also to be considered while ascertaining the land valuation.

40.1 Reliance is placed on the following extract of *New Okhla Industrial Development* case:

*"34. Accordingly, while the Court can use the principle of guesstimation in reasonably estimating the value of land in the absence of direct evidence, the exercise ought not to be purely hypothetical. Instead, the Court must embrace a holistic view and consider all relevant factors and existing evidence, even if not directly comparable, to arrive at a fair determination of compensation. Trishala Jain v. State of Uttaranchal, summarizes these yardsticks as follows:*

*"65. It will be appropriate for us to state certain principles controlling the application of "guesstimate":*

*(a) **Wherever the evidence produced by the parties is not sufficient to determine the compensation with exactitude, this principle** can be resorted to.*

*(b) **Discretion of the court in applying guesswork to the facts of a given case is not unfettered but has to be reasonable and should have a connection to the data on record produced** by the parties by way of evidence. Further, this entire exercise has to be within the limitations specified under Sections 23 and 24 of the Act and cannot be made in detriment thereto."*

*35. Broadly, such relevant factors can be divided into three categories:*



i. **Characteristics of the land** : The valuation of land is undeniably influenced by its inherent characteristics. A parcel of land endowed with **advantageous features that enhance** its accessibility and usability tends to command higher market price and thus, a greater valuation in comparison to lands lacking such attributes. **Key factors contributing to such features include connectivity via roads and other means of transportation, the size and shape of the land, availability of essential utilities such as electricity and water, the evenness or levelling of the land's surface, width of frontage, and nature and status of the surrounding area etc.;**

ii. **Future potentiality of the land** : In addition to its characteristics, the **valuation of land is also influenced by its potentiality**. Lands with the **potential to be used for commercial or residential purposes; that are located in or near a developed area; or which are proximate to tourist destinations, are perceived to hold greater value in the future**. Consequently, landowners may anticipate higher future prices and accordingly demand higher sale prices compared to lands lacking these attributes. Accordingly, these features also lead to an increase in valuation; and

iii. **Factors denoting market sentiment** : **Market sentiments are powerful drivers of land valuation. Even if a particular piece of land possesses all desirable features,** its valuation can still suffer if the market conditions at the time of publication of the notification under Section 4 of the 1894 Act were unfavourable. **Factors such as economic recessions, political instability, speculative investments or real estate crisis can impact the perceived value of the land**. Thus, these extraneous economic and political factors must also be considered when assessing land valuation."

[Emphasis Supplied]

41. The Supreme Court in ***Krishan Kumar*** case has held that in the absence of sale exemplars, the Court can apply reasonable guesswork to determine fair market value under Section 23 of the LA Act. Relying on precedent in the case of ***Special Land Acquisition Officer v. Karigowda & Ors.***<sup>16</sup>, it has held that a marginal increase over government-fixed rates is justified and directed an enhancement of Rs.1,00,000/- per acre in the peculiar facts of that case. The relevant extract is below:

"24. Keeping in view the aforesaid principles, and having peculiarity of the present appeals where there is total absence of exemplars, we are of the opinion that some increase, but only marginal one, can be ordered over and above the circular rates fixed by the government orders. In Land Acquisition

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<sup>16</sup> (2010) 5 SCC 708



*Officer v. Karigowda [Land Acquisition Officer v. Karigowda, (2010) 5 SCC 708 : (2010) 2 SCC (Civ) 531], following pertinent observations were made by this Court: (SCC p. 740)*

**“90. ... The Court is entitled to apply some [amount] of reasonable guesswork to balance the equities and fix a just and fair market value in terms of the parameters specified under Section 23 of the Act.”**

**25. This Court can indulge in the some reasonable guesswork to balance the equity for fixing just and fair market value.** *In the absence of any other exemplar in the form of sale deed, though it is difficult to say as to what extent the actual market value was higher in contradistinction to the value of land fixed by the Government in the aforesaid notifications, we are of the opinion that as a thumb rule an increase of Rs 1,00,000 per acre be granted, in the peculiar facts and circumstances of this case.”*

[Emphasis Supplied]

42. The Appellant has contended that the rates as affixed by the LAC for the Malviya Nagar area were correctly applied and that the enhancement by the learned Reference Court was incorrect. It was further argued that the principle of guesstimation has to be based on evidence and thus the enhancement by the learned Reference Court was not in accordance with the settled law.

43. This Court does not agree. Evidence was placed on record by the Respondent No.1. However, since the sale exemplars were of an institutional area, the principle of guesstimation was used.

44. In order to ‘guesstimate’ the market value of the acquired land, the provisions of Sections 23 and 24 of the LA Act need to be looked at first.

44.1 Sections 23 and 24 of the LA Act set out the principles based on which compensation can be awarded [Section 23] and what not to take into consideration while computing the compensation [Section 24]. In determining compensation for the acquired land, the Court is required to consider all relevant factors as provided under Section 23(1) of the LA Act.



It is apposite to extract Section 23 and Section 24 of the LA Act which are set out below:

*"23. **Matters to be considered in 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 or 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 severing 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, if, 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 49[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."*

[Emphasis Supplied]

45. The LAC took into account the indicative price as fixed by the L&DO for the period from 01.04.1998 to 31.03.2000 for land at Malviya Nagar as Rs.88 lacs per acre. Since the notification under Section 4 of the LA Act for the acquired land was for the year 2007 and the L&DO rates pertained to the year 2000, the LAC gave an escalation of 12% per year to arrive at the market value of Rs.4292 per sq.m. Since Rs.88 lacs per sq. acre equals Rs. 2175 per sq.m. (approx.) adding escalation at the rate of 12% per year for 7 years, the LAC assessed the market value at Rs.4292/- per sq.m.



46. Taking into account these principles discussed above along with the relevant factors to be examined for guesstimation, this Court finds that the comparison to the area in Hauz Khas with the area in Malviya Nagar cannot be made without some enhancement. Malviya Nagar, which is a category “C” colony has a lower value of its land than that of Hauz Khas, which is a category “B” colony. In fact, the minimum rates/circle rates for the two areas for the purposes of ascertaining the value of the land are completely different. For Malviya Nagar, the rate of land for the relevant period was Rs. 27,300/- per sq. m. while for Hauz Khas in category B it is Rs. 34,100/- per sq.m.<sup>17</sup>

47. The acquired land is at outer ring road and did have future potentiality. There were no adverse market conditions prevailing at the time of acquisition, which have been brought to the notice of the Court by the Appellant, which would bring down the value of the land at the time the notification under Section 4 of the LA Act were passed.

48. The learned Reference Court has enhanced the compensation awarded from Rs.4,292/- per sq. m. to Rs.5,500/- per sq. m., which is approximately 28% increase in the compensation awarded. The Respondent No.1 has produced residential sale deeds of the area showing a value of Rs.5 lacs per sq. yards/Rs. Rs. 5,97,995.28 per sq. m. for the land in Hauz Khas Enclave/Hauz Khas. Reliance has been placed on two sale deeds dated 30.07.2007 and 07.08.2007, respectively, both concerning properties located in Hauz Khas Enclave. However, and given the fact that these sale deeds do not relate to institutional areas and since the acquired land has been allotted to the Respondent No.1 at concessional rates, this Court does

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<sup>17</sup> See Notification No. F.2(12)/Fin.(E.I)/Part File/Vol.1(ii)/3548, dated 18.07.2007, issued by the Government of NCT of Delhi (Revenue Department) – Annexure I



not deem it apposite to take into account the sale deeds for the residential area which have been placed on record by the Respondent No.1. In any event, as stated above, there is no challenge to the Impugned Award by the Respondent No. 1.

49. As stated above, the rate for institutional areas in Malviya Nagar for the year 1998-2000 was Rs.2175/- per sq.m. Applying escalation for the period from 1998 onwards [and not 2000] at 12% per year in terms of the ***Prakash Chand Kashyap*** case, the escalation would come to Rs. 4524/- per sq. m. Since, the value of land in category C colonies, where Malviya Nagar is situated is approximately 25% less than value of land in category B colonies, where the acquired land is situated, the compensation awarded would be required to be enhanced by 25% as well. Thus, the compensation amount of Rs. 2175/- per sq.m. with an escalation at the rate of 12% for a period of 9 years and then enhanced by 25 % [increase of category B over category C] amounts to Rs. 5655 /-per sq. mtr., as can be seen from the calculation below:

<u>S.No</u>	<u>Particulars</u>	<u>Amount (approx.)</u>
A	Rs. 2175 per sq.m. with an escalation @ 12% for a period of 9 years	Rs.4524/-per sq. mtr. [2,175 + 2,349]
B	Difference in the value of land in Category B and Category C colonies @ 25% Enhancement	Rs.1131/-per sq. mtr.
<b>Total</b>	<b>A + B</b>	<b>Rs.5655 /-per sq. mtr</b>

50. The learned Reference Court has awarded Rs.5,500/- per sq. m. In view of the foregoing discussion, this Court finds no infirmity with the



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guesstimate/guesstimation undertaken by the learned Reference Court.

51. The Appeal is accordingly dismissed as being barred by time as well as on merits. All pending Applications also stand closed.

52. The parties shall act based on the digitally signed copy of the order.

**TARA VITASTA GANJU, J**

**JULY 01, 2025/r**