

**IN THE HIGH COURT OF MADHYA PRADESH, JABALPUR**

**BEFORE  
SHRI JUSTICE SUJOY PAUL  
&  
SHRI JUSTICE DWARKA DHISH BANSAL  
ON THE 13<sup>th</sup> APRIL, 2022**

**ARBITRATION APPEAL No. 8 of 2020**

**BETWEEN :-**

Madhya Pradesh Road  
Development Corporation,  
Through Divisional  
Manager, R.P. Singh aged  
about 55 years, O/o Road  
Development Corporation,  
Jabalpur, Chief Engineer,  
Madhya Kshetra, in front of  
Public Works Department,  
South Civil Lines, Jabalpur  
(M.P.) 482001.

**.....Appellant**

(By Shri Atul Nema, Advocate.)

**AND**

1. Mohd. Shahbuddin and  
others, R/o Gauraiyaghat,  
Teh. And Distt. Jabalpur  
(M.P.)
2. The Competent Authority  
[Land Acquisition  
National Highway  
No.12A, and Sub-  
Divisional Officer

(Revenue)] Jabalpur  
(M.P.)

3. Mohd. Abbas S/o Shri  
Abdul Waheed, R/o 903,  
Badi Omti Jabalpur,  
Distt. Jabalpur (M.P.)
4. Mohd. Riyaz S/o Shri  
Abdul Waheed, R/o 903,  
Badi Omti Jabalpur,  
Distt. Jabalpur (M.P.)
5. Mohd. Razzak S/o Shri  
Abdul Waheed, R/o 903,  
Badi Omti Jabalpur,  
Distt. Jabalpur (M.P.)

.....**Respondents**

(By Shri Sanjiv Kumar Chaturvedi, Advocate)

**ARBITRATION APPEAL No. 46 of 2021**

**BETWEEN :-**

Madhya Pradesh Road  
Development Corporation,  
Representing through  
Divisional Manager,  
Jabalpur O/o Road  
Development Corporation,  
in front of Public Works  
Department, South Civil  
Lines, Jabalpur (M.P.)  
482001

.....**Appellant**

(By Shri Atul Nema, Advocate)

**AND**

1. Sudeep Agrawal S/o Shri R.S. Agrawal, R/o 3, Adarsh Nagar, Narmada Road, Jabalpur (M.P.)
2. National Highway Authorities Pradhikaran, Road Transport and Highway, Through Project Director, Project Execution Unit, Near Ahinsa Chouk, Vijay Nagar, Jabalpur (M.P.)
3. The Competent Authority (Land Acquisition), National Highway No. 12A and Sub-Divisional Officer (Revenue) Jabalpur (M.P.)

.....**Respondents**

(By Shri Sanjiv Kumar Chaturvedi, Advocate)

**ARBITRATION APPEAL No. 59 of 2019**

**BETWEEN :-**

Smt. Damyanti Chouhan,  
W/o Dheeraj Bhai Chouhan,  
aged about 75 years, R/o  
Katiyaghat Pump House,  
Chouhan Dairy, Tahsil and  
District Jabalpur (M.P.)

.....**Appellant**

(By Shri Sanjiv Kumar Chaturvedi, Advocate.)

**AND**

1. Madhya Pradesh Road Development Corporation Through Divisional Manager/Road Development Corporation, Jabalpur, Chief Engineer, Madhya Kshetra, In Front of Public Works Department, South Civil Lines, Jabalpur (M.P.).
2. National Highway Authority, Road Transport and Highway through Project Director, Project Execution Unit, Near Ahinsa Chowk, Vijay Nagar, Jabalpur (M.P.) at present South Civil Lines, Near Ridge Road, Jabalpur (M.P.)
3. The Competent Authority (Land Acquisition), National Highway No. 12-A and Sub Divisional Officer (Revenue), Collectorate, Jabalpur (M.P.)

.....**Respondents**

(By Shri Atul Nema, Advocate)

**ARBITRATION APPEAL No. 84 of 2021**

**BETWEEN :-**

Madhya Pradesh Road  
Development Corporation,  
Representing through  
Divisional Manager,  
Jabalpur O/o Road  
Development Corporation,  
in front of Public Works  
Department, South Civil  
Lines, Jabalpur (M.P.)  
482001

.....Appellant

(By Shri Atul Nema, Advocate.)

**AND**

1. Prakash Kumar @  
Pradeep Kumar S/o  
Ramesh Prasad, R/o  
Katiyaghat, P.H. No.  
23/27, Teh. and Distt.  
Jabalpur (M.P.)
2. National Highway  
Authorities Pradhikaran,  
Road Transport and  
Highway, Through  
Project Director, Project  
Execution Unit, Near  
Ahinsa Chouk, Vijay  
Nagar, Jabalpur (M.P.)
3. The Competent Authority  
(Land Acquisition),  
National Highway No.  
12A and Sub-Divisional  
Officer (Revenue)  
Jabalpur (M.P.)

.....Respondents

(By Shri Sanjiv Kumar Chaturvedi, Advocate)

**ARBITRATION APPEAL No. 85 of 2021**

**BETWEEN :-**

Madhya Pradesh Road  
Development Corporation,  
Representing through  
Divisional Manager,  
Jabalpur O/o Road  
Development Corporation,  
in front of Public Works  
Department, South Civil  
Lines, Jabalpur (M.P.)  
482001

.....Appellant

(By Shri Atul Nema, Advocate.)

**AND**

1. Deepchand Mahavar S/o  
Shivdayal Mahavar, R/o  
Sadar Bazaar, Chaavni,  
Jabalpur (M.P.)
2. National Highway  
Authorities Pradhikaran,  
Road Transport and  
Highway, Through  
Project Director, Project  
Execution Unit, Near  
Ahinsa Chouk, Vijay  
Nagar, Jabalpur (M.P.)
3. The Competent Authority  
(Land Acquisition),

National Highway No.  
12A and Sub-Divisional  
Officer (Revenue)  
Jabalpur (M.P.)

.....Respondents

(By Shri Rakesh Pandey, Advocate)

**ARBITRATION APPEAL No. 86 of 2021**

**BETWEEN :-**

Madhya Pradesh Road  
Development Corporation,  
Representing through  
Divisional Manager,  
Jabalpur O/o Road  
Development Corporation,  
in front of Public Works  
Department, South Civil  
Lines, Jabalpur (M.P.)  
482001

.....Appellant

(By Shri Atul Nema, Advocate.)

**AND**

**1. Lalaji Maravi** S/o  
Kishan Maravi, R/o  
Katiyaghat, P.H.  
No.23/27, Teh. and Distt.  
Jabalpur (M.P.)

**2. National Highway  
Authorities Pradhikaran,  
Road Transport and  
Highway, Through  
Project Director, Project  
Execution Unit, Near**

Ahinsa Chouk, Vijay  
Nagar, Jabalpur (M.P.)

3. The Competent Authority  
(Land Acquisition),  
National Highway No.  
12A and Sub-Divisional  
Officer (Revenue)  
Jabalpur (M.P.)

.....Respondents

(By Shri D.R. Vishwakarma, Advocate)

**ARBITRATION APPEAL No. 87 of 2021**

**BETWEEN :-**

Madhya Pradesh Road  
Development Corporation,  
Representing through  
Divisional Manager,  
Jabalpur O/o Road  
Development Corporation,  
in front of Public Works  
Department, South Civil  
Lines, Jabalpur (M.P.)  
482001

.....Appellant

(By Shri Atul Nema, Advocate.)

**AND**

1. **Vincent Daniel** S/o Peter  
Daniel, Aged about 63  
years, R/o H. No. 9/1,  
Fourth Mile, Mandla  
Road, Jabalpur (M.P.)



2. National Highway Authorities Pradhikaran, Road Transport and Highway, Through Project Director, Project Execution Unit, Near Ahinsa Chouk, Vijay Nagar, Jabalpur (M.P.)
3. The Competent Authority (Land Acquisition), National Highway No. 12A and Sub-Divisional Officer (Revenue) Jabalpur (M.P.)

.....Respondents

**ARBITRATION APPEAL No. 88 of 2021**

**BETWEEN :-**

Madhya Pradesh Road Development Corporation, Representing through Divisional Manager, Jabalpur O/o Road Development Corporation, in front of Public Works Department, South Civil Lines, Jabalpur (M.P.) 482001

.....Appellant

(By Shri Atul Nema, Advocate.)

**AND**

1. **Lalaji Maravi** S/o  
Kishan Maravi, R/o  
Katiyaghat, P.H.  
No.23/27, Teh. and Distt.  
Jabalpur (M.P.)
2. National Highway  
Authorities Pradhikaran,  
Road Transport and  
Highway, Through  
Project Director, Project  
Execution Unit, Near  
Ahinsa Chouk, Vijay  
Nagar, Jabalpur (M.P.)
3. The Competent Authority  
(Land Acquisition),  
National Highway No.  
12A and Sub-Divisional  
Officer (Revenue)  
Jabalpur (M.P.)

.....**Respondents**

(By Shri D.R. Vishwakarma, Advocate)

**ARBITRATION APPEAL No. 89 of 2021**

**BETWEEN :-**

Madhya Pradesh Road  
Development Corporation,  
Representing through  
Divisional Manager,  
Jabalpur O/o Road  
Development Corporation,  
in front of Public Works  
Department, South Civil  
Lines, Jabalpur (M.P.)  
482001

.....Appellant

(By Shri Atul Nema, Advocate.)

**AND**

1. Society of A.B. Offnorum India S/o Sir Sevatan Father Niyolam A Ampresh Kadar Center Birds Primary, R/o Jamtara, Teh. and Distt. Jabalpur Through Head Jay Prakash Tirki.
2. National Highway Authorities Pradhikaran, Road Transport and Highway, Through Project Director, Project Execution Unit, Near Ahinsa Chouk, Vijay Nagar, Jabalpur (M.P.)
3. The Competent Authority (Land Acquisition), National Highway No. 12A and Sub-Divisional Officer (Revenue) Jabalpur (M.P.)

.....Respondents

**ARBITRATION APPEAL No. 90 of 2021**

**BETWEEN :-**

Madhya Pradesh Road Development Corporation,  
Representing through

Divisional Manager,  
Jabalpur O/o Road  
Development Corporation,  
in front of Public Works  
Department, South Civil  
Lines, Jabalpur (M.P.)  
482001

.....Appellant

(By Shri Atul Nema, Advocate.)

**AND**

1. Prakash Kumar @  
Pradeep Kumar S/o  
Ramesh Prasad, R/o  
Katiyaghat, P.H. No.  
23/27, Teh. and Distt.  
Jabalpur (M.P.)
2. National Highway  
Authorities Pradhikaran,  
Road Transport and  
Highway, Through  
Project Director, Project  
Execution Unit, Near  
Ahinsa Chouk, Vijay  
Nagar, Jabalpur (M.P.)
3. The Competent Authority  
(Land Acquisition),  
National Highway No.  
12A and Sub-Divisional  
Officer (Revenue)  
Jabalpur (M.P.)

.....Respondents

(By Shri D.R. Vishwakarma, Advocate)

**ARBITRATION APPEAL No. 91 of 2021**

**BETWEEN :-**

Madhya Pradesh Road  
Development Corporation,  
Representing through  
Divisional Manager,  
Jabalpur O/o Road  
Development Corporation,  
in front of Public Works  
Department, South Civil  
Lines, Jabalpur (M.P.)  
482001

.....Appellant

(By Shri Atul Nema, Advocate.)

**AND**

1. Prakash Kumar @  
Pradeep Kumar S/o  
Ramesh Prasad, R/o  
Katiyaghat, P.H. No.  
23/27, Teh. and Distt.  
Jabalpur (M.P.)
2. National Highway  
Authorities Pradhikaran,  
Road Transport and  
Highway, Through  
Project Director, Project  
Execution Unit, Near  
Ahinsa Chouk, Vijay  
Nagar, Jabalpur (M.P.)
3. The Competent Authority  
(Land Acquisition),  
National Highway No.  
12A and Sub-Divisional

Officer (Revenue)  
Jabalpur (M.P.)

.....Respondents

(By Shri D.R. Vishwakarma, Advocate)

**ARBITRATION APPEAL No. 97 of 2021**

**BETWEEN :-**

Madhya Pradesh Road  
Development Corporation,  
Representing through  
Divisional Manager,  
Jabalpur O/o Road  
Development Corporation,  
in front of Public Works  
Department, South Civil  
Lines, Jabalpur (M.P.)  
482001

.....Appellant

(By Shri Atul Nema, Advocate.)

**AND**

1. Sukhvir Kaur W/o Late  
Savinder Kaur, R/o  
Chauthameel Patthar,  
Mandla Road, Jabalpur  
(M.P.)
2. National Highway  
Authorities Pradhikaran,  
Road Transport and  
Highway, Through  
Project Director, Project  
Execution Unit, Near

Ahinsa Chouk, Vijay  
Nagar, Jabalpur (M.P.)

3. The Competent Authority  
(Land Acquisition),  
National Highway No.  
12A and Sub-Divisional  
Officer (Revenue)  
Jabalpur (M.P.)
4. Manjeet Singh S/o  
Savinder Singh, R/o  
Chauthameel Patthar,  
Mandla Road, Jabalpur  
(M.P.)

.....Respondents

(By Shri Tirthraj Pillai, Advocate)

<b>Whether approved for reporting</b>	Yes.
<b>Law Laid down :-</b>	<p><b>1. Section 23 of the Land Acquisition Act, 1894 (Act of 1894) and Section 26 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act of 2013)</b> - There is a marked difference in the language employed and formula prescribed for determination of market value of land in the previous act and the subsequent Act.</p> <p><b>2. Section 26 of Act of 2013-</b> The expression '<i>The Market Value, if any, specified in the Indian Stamp Act</i>' must be given full meaning and effect. The</p>

expression is not a dull and lifeless expression which can be ignored.

**3. Interpretation of Statute-** The endeavour should be made by the Courts to assign meaning to each word, term and expression used in the Statute. The golden principle of interpretation is that the legislature has used every word consciously and for a definite purpose.

**4. M.P. Preparation and Revision of Market Value Guideline Rules, 2018 (Guidelines Rules)-** Rules are statutory in nature and are introduced in exercise of power under Section 47-A and Section 75 of Indian Stamp Act.

**5. Collector Guideline dated 03.03.2014-** Guidelines are issued in furtherance of Indian Stamp Act and Guidelines Rules and therefore having statutory colour and effect.

**6. The Guidelines Rules, 2018-** a holistic reading of Rules shows that a scientific procedure is laid down for the expert committee to prepare the market value guidelines.

**7. M.P. Nagar तथा Gram Nivesh Adhinyam, 1973-** cannot be made applicable relating to lands acquired under the Highways Act/Act of 2013 for determination of compensation or



reduction of amount of compensation.

**8. The undeveloped acquired land-** the compensation needs to be determined as per Collector guideline dated 03.03.2014. The governing provision of Act of 2013, Highways Act and Collector guidelines do not permit any deduction while determining amount of compensation.

**9. Law of precedent-** A judgment of court is precedent for a principle which has been specifically decided and not for something which logically flows from it. A single difference of fact or a different applicable Statute may change the precedential value of a judgment.

**10. Arbitration and Conciliation Act, 1996-** Section 34 and 37-application/appeals can be entertained if the award is found to be contrary to-

- (i) Fundamental policy of Indian Law,
- (ii) The interest of India,
- (iii) Justice or morality or
- (iv) It is patently illegal.

The application/appeal under the Arbitration Act is not a regular first appeal like a civil appeal u/s 96 of CPC and therefore order impugned must be judged on the anvil of aforesaid *litmus test*.

**11. Theory of deduction-** The theory was applied by Supreme Court in certain matters arising out of 1894 Act. The Court opined that in view of legislative change as

	per Section 26 of the Act of 2013, the said theory cannot be pressed into service.
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## **J U D G M E N T**

### **Sujoy Paul, J.:-**

This common judgment will dispose of these batch of appeals which were analogously heard on the joint request of the parties considering the similitude of the questions involved.

2. Facts are taken from A.A. No.46/2021. Respondent/claimant is owner of Khasra No.73 total area 0.110 hectare. Out of this land, small piece of land was acquired. On 31.8.2015, the competent authority determined the amount of Rs.95,16,384/- as compensation by treating the land in question as 'agricultural land'. Being aggrieved by said determination of compensation made by the competent authority on 31.8.2015, a dispute under Section 3G(5) of the **National Highways Act, 1956** (in short '**Highways Act**') was filed by respondent No.1 before the Commissioner-cum-Arbitrator.

### **Argument of Corporation :**

3. The appellant entered appearance before the Arbitrator and filed a detailed reply stating that in case of raw land, necessary deduction would be applicable. Shri Atul Nema, learned counsel for the appellant placed

reliance on para- 16 (vii) & (xiv) of the reply and contended that specific objection / pleadings raised by appellant were not considered by learned Arbitrator.

4. Arbitrator passed the award dated 10.8.2016 whereby amount of compensation was enhanced.

5. The appellant feeling aggrieved by such enhancement, preferred an application under Section 34 of the **Arbitration and Conciliation Act, 1996** (in short '**Arbitration Act**') before the Court below. The Court below by order dated 22.3.2021, rejected the said application preferred by the present appellant.

6. Shri Atul Nema, learned counsel for the appellant Corporation fairly submits that in all these appeals filed by the Corporation, the lands acquired are admittedly undiverted and undeveloped agricultural lands. The size of lands is more than 1000 sq.m. The Collector has issued the guidelines on 03.03.2014. In the Collector guidelines, there is no mention that initial 1000 sq.m. should be determined by reducing the size of the land as per Section 59 of **M.P. Gram Tatha Nagar Nivesh Adhiniyam, 1973** (in short '**Adhiniyam**'). In other words, it is argued that initial 1000 sq.m. of lands in all the cases are undiverted agricultural lands. If lands are to be developed, as per the **Adhiniyam**, certain portion of the land must be left for the purpose of development in view of

statutory mandate ingrained in the said **Adhiniyam**. Thus, only 50% of the land out of 1000 sq.m. of land would be left as developed land. The compensation for this portion of land is to be quantified accordingly. The compensation would be applicable for 50% of the land and not for the entire piece of land of 1000 sq.m.

7. The next limb of argument is that the Court below has erred in rejecting the application under Section 34 of the Arbitration Act whereas a Coordinate Bench of Court below in MJC (AV) 165/2017 (**MPRDC vs. Damyanti Chouhan**) (Annexure A/2 in A.A. No.8/2020) took a decision in consonance with the aforesaid argument of the appellant. Putting it differently, Shri Nema submits that the Coordinate Bench of Court below in **Damyanti Chouhan** (supra) opined that the 50% of initial 1000 sq.m. of acquired land alone deserves compensation. It was not proper for the Coordinate Bench of Court below to take a different view in the impugned order.

8. Shri Atul Nema, Advocate in support of his aforesaid submissions placed reliance on the judgment of Supreme Court passed in **Civil Appeal No.15448/2017 (Union of India Vs. Savitri Devi)** and urged that the 'circle rate' mentioned in this judgment is nothing but the 'Collector guideline'. The Apex Court clarified as to how Collector guidelines can be prepared and to what extent they can be pressed into service. The said

requirements are not fulfilled in the instant case. Similarly, judgment of Supreme Court in **Union of India vs Dyagala Devamma and others** decided on 25<sup>th</sup> July, 2018 (**Civil Appeal No.6986/2018**) is referred to contend that para-24 makes it clear that Apex Court permitted 50% deduction from the value assessed on the basis of market value.

9. The bone of contention of Shri Nema is that market value has not been defined either in the Act of 1894 or in the Act of 2013. The Supreme Court while laying down law in catena of judgments relating to determination of compensation under the 1894 Act applied *theory of deduction*. The theory of deduction, since not defined in any statute, this judge made law occupied the field pursuant to various judgments of Supreme Court based on the 1894 Act and since that theory is not defined in 2013 Act also, the previous principle of deduction will continue to apply for the purpose of determination of compensation in cases arising out of Act of 2013 also.

10. The judgment of Supreme Court in **Patel Engineering Ltd Vs. North Eastern Electric Power Corporation Ltd. NEEPCO SLP (C) Nos. 3584-85 of 2020** is relied upon to contend that if award passed runs contrary to Section 31(3) of the Arbitration Act, it can be set aside by treating it to be a 'patent illegality' in view of test laid down in Section 34 of the said Act. For the same principle, the judgment of Andhra Pradesh

High Court in **Lingam Dasaradharamayya Vs. Kanuri Raja Rao and others AIR 1964 AP 348** is referred.

11. A Division Bench judgment of this Court in **Rohit Gupta vs. The Arbitrator- cum- Divisional Commissioner Revenue Jabalpur and others (W.P. No.13213/2019)** is relied upon wherein it is held that once section 3 (J) of NHA Act is declared as *ultra vires* by the Supreme Court, the compensation is to be determined under the relevant Land Acquisition Act. The judgment of Supreme Court in the case of **Vithal Rao and Another Vs. The Special Land Acquisition (Civil Appeal No.1645-1647 of 2016)** is cited to demonstrate the *theory of deduction*. It is urged that the said theory is still applicable. The cases reported in **(1988) 3 SCC 751 (Chimanlal Hargovinddas v. Special Land Acquisition Officer)** and **(2011) 6 SCC 47 (Trishala Jain v. State of Uttaranchal)** were also relied upon to contend that examining it from any angle, the determination of compensation without considering the theory of deduction is bad in law. Secondly, no reasons are assigned by the Arbitrator for not considering the relevant objection raised in the reply. He mechanically applied the Collector guidelines which is bad in law.

**Contentions of claimants :**

12. Shri Sanjeev Kumar Chaturvedi, learned counsel for certain claimants supported the order of learned Arbitrator and the Court below.

By placing reliance on various paragraphs of the impugned order, Shri Chaturvedi submits that the method of calculation of compensation is indisputably based on the Collector guidelines. The said guidelines and Adhiniyam nowhere prescribes that 50% of initial 1000 sq.m. alone can be taken into account for the purpose of grant of compensation.

13. Learned counsel for the claimants further urged that the First Schedule of the **Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013** ( in short ‘**Act of 2013**’) prescribes *compensation for land owners*. The law makers introduced the **Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Removal of Difficulties) Order, 2015** (in short, ‘**Order of 2015**’). He placed reliance on Clause 2 which reads as under:-

“2. The provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule **shall apply to all cases of land acquisition** under the enactments specified in the Fourth Schedule to the said Act.”

[**Emphasis Supplied**]

In the light of Clause 2, Shri Chaturvedi submits that the Act of 2013 and the relevant schedule is applicable. Section 26 of the Act of 2013 is pressed into service by contending that determination of market value of land by the Collector should be based on the factors mentioned in the said section.

**14.** Shri D.R. Vishwakarma, learned counsel for another claimant placed reliance on Section 3G(7) of the National Highways Act, 1956. The parameters of determination of the amount of compensation are laid down in this statutory provision is the next contention of Shri Vishwakarma.

**15.** It is common ground taken by learned counsel for the respondents/claimants that before the Court below, necessary ingredients for invoking jurisdiction under Section 34 of the **Arbitration Act** were not available and, therefore, no fault can be found in the impugned order of the Court below.

**16.** So far present appeals are concerned, it is jointly urged that the learned Arbitrator has determined the compensation as per the Collector guidelines. He has assigned adequate reasons for determining the amount as per the applicable formula. The Court below has considered all the grounds raised by the appellants. Thus, no case is made out for interference under Section 37 of the **Arbitration Act**.



17. Shri Sanjeev Chaturvedi, learned counsel for the claimants submits that the necessary factors on the basis of which compensation is to be determined are laid down in Section 26 of **Act of 2013**. The Collector guidelines in question were issued by the State Government in exercise of powers under Section 47-A and Section 75 of the **Indian Stamp Act**. The State Government in exercise of power under Sections 75 of the Indian Stamp Act also introduced Statutory Rules namely **M.P. Preparation and Revision of Market Value Guideline Rules, 2018 (Guidelines Rules)**. The various provisions of the said Rules makes it clear that an expert committee was constituted which was required to determine market value by taking into account relevant facts which are mentioned in Rule 6 of the said Rules. An expert committee after taking note of all the relevant facts prepared the 'Collector guidelines' which are binding in view of language employed in Section 26(1)(a) of the **Act of 2013**.

18. In support of his submissions, he placed reliance on the judgement of Supreme Court in Civil Appeal No.266/2022 (**Haryana Tourism Ltd. vs. M/S. Kandhari Beverages Ltd.**), another judgment in SLP (Civil No.14078/2019 (**R.B. Dealers Private Ltd. vs. The Metro Railway, Kolkata**)) and on the judgment of Andhra Pradesh High Court in

W.P.No.13720/2017 **Kashiraju Seetharamaiah and 82 Ors. vs. Union of India and 7 Ors.**

19. During the course of hearing, learned counsel for both the sides jointly submit that pivotal questions to be decided by this court are :-

1. *Whether the arbitrator was justified in determining the compensation solely on the basis of Collector guidelines without applying the theory of deduction.?*

2. *Whether the Court below while passing impugned orders failed to exercise jurisdiction under Section 34 of the Arbitration Act.?*

20. No other point is pressed by the learned counsel for the parties.

21. We have heard the parties at length and perused the record.

### **FINDINGS**

#### **First Question**

22. The bone of contention of Shri Atul Nema is founded on *theory of deduction*. It was canvassed that since the *theory of deduction* is applied by Supreme Court while examining correctness of compensation relating to acquisition of land made pursuant to Act of 1894, in absence of any justifiable reason, same *theory of deduction* must be applied relating to compensation determined under the Act of 2013 as well.

23. This point deserves serious consideration. In order to examine the legislative journey, it is apt to consider the relevant provisions relating to determination of compensation in the **Act of 1894** and in contrast to the **Act of 2013**. The same are reproduced in juxtaposition :-

Act of 1894	Act of 2013
<p><b>Section 23.</b> Matters to be considered in determining compensation.- (1) <b>In determining</b> the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration-</p> <p><i>first, the market value of the land</i> at the date of the publication of the [notification under section 4, sub-section (1)];</p> <p><i>secondly,</i> 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;</p> <p><i>thirdly,</i> 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;</p> <p><i>fourthly,</i> 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</p>	<p><b>26. Determination of market value of land by Collector.-</b> (1) The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely-</p> <p>(a) <b>the market value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899)</b> for the registration of sale deeds or agreements to sell, as the case may be, <b>in the area, where the land is situated; or</b></p> <p>(b) the average sale price for similar type of land situated in the nearest village or nearest vicinity area; or</p> <p>(c) consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of lands for private companies or for public private partnership projects,</p> <p><b>whichever is higher:</b></p> <p>Provided that the date for determination of market value shall be the date on which the notification has been issued under section 11.</p> <p><i>Explanation 1.</i>—The average sale price referred to in clause (b) shall be</p>

<p>immovable, in any other manner, or his earnings;</p> <p><i>fifthly</i>, 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</p> <p><i>sixthly</i>, the damage (if any) <i>bona fide</i> 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.</p>	<p>determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made.</p> <p><i>Explanation 2.</i>—For determining the average sale price referred to in <i>Explanation 1</i>, one-half of the total number of sale deeds or the agreements to sell in which the highest sale price has been mentioned shall be taken into account.</p> <p><i>Explanation 3.</i>—While determining the market value under this section and the average sale price referred to in <i>Explanation 1</i> or <i>Explanation 2</i>, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration.</p> <p><i>Explanation 4.</i>—While determining the market value under this section and the average sale price referred to in <i>Explanation 1</i> or <i>Explanation 2</i>, any price paid, which in the opinion of the Collector is not indicative of actual prevailing market value may be discounted for the purposes of calculating market value.</p> <p><b>(2) The market value calculated as per sub-section (1) shall be multiplied by a factor to be specified in the First Schedule.</b></p>
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**[Emphasis Supplied]**

24. A careful reading of Section 23 of previous Act (**Act of 1984**) makes it clear that it only talks about the *market value of the land* at the date of publication of notification whereas Section 26 (1) (a) of later Act (**Act of 2013**) envisages that the *market value* can be determined as *specified in the Indian Stamp Act, 1899*.

25. Thus, there is a marked difference in the language employed and in the formula prescribed for determination of *market value* of land in the previous act and the subsequent Act. The **Act of 2013** gives statutory recognition to the *market value* specified in the Stamp Act.

26. The golden Principle of Interpretation is that the legislature has used every word consciously and for a purpose. Thus, endeavour should be made to assign meaning to each word, term and expression used in the statute. It will not be proper to brush aside words of a statute as being inapposite surplusage. It is well established that it is incumbent on the courts to avoid a construction, if reasonable permissible on the language, which would render a part of statute devoid of any meaning or application. (See : **Aswini Kumar Ghose V. Arabinda Bose, AIR 1952 SC 369, p. 377 : 1953 SCR 1**; see further **Union of India v. Hansoli Devi, AIR 2002 SC 3240, p. 3246 : (2002) 7 SCC 273**; **State of Orissa**

**v. Joginder Patjoshi, AIR 2004 SC 1039, p. 1142 : (2004) 9 SCC 278.**  
**Rao Shiv Bhadur Singh v. State of U.P. AIR 1953 SC 394, p.397 :**  
**1953 SCR 1188. J.K. Cotton Spinning & Weaving Mills Co. Ltd. v.**  
**State of U.P., AIR 1961 SC 1170, p. 1174 : (1962) 1 SCJ 417 : (1961) 1**  
**LLJ 540; Shri Mohammad Alikhan v. Commissioner of Wealth Tax,**  
**AIR 1997 SC 1165, p. 1167 :(1997) 3 SCC 511; Dilawar Babu Kurane**  
**v. State of Maharashtra, AIR 2002 SC 564, p. 566 : (2002) 2 SCC 135;**  
**Ramphal Kundu v. Kamal Sharma, AIR 2004 SC 1039, p. 1042 :**  
**(2004) 9 SCC 278).**

27. In view of aforesaid principle, in our view, the new expression employed in Section 26 (1)(a) of Act, 2013 must be given full meaning and effect. We are unable to hold that the expression, *the market value, if any*, specified in the Indian Stamp Act is such a dull and lifeless expression which can be ignored. Apart from this, clause (a) aforesaid talks about the area where land is situated. These factors are of utmost importance for determination of market value of land by Collector.

28. In the case of **Savitri Devi** (*Supra*), the Supreme Court interfered in the impugned judgment of High Court and opined that the circle rates fixed for the purpose of stamp duty could not have been made basis for determining the *market value*. A closure scrutiny of this judgment shows that there was no material placed before the Supreme Court to establish

that any statutory Committee had determined the said rate on any scientific basis and methodical assessment of *market value* (See para-3). In this backdrop, the Apex Court opined that the circle rates cannot form basis for determining compensation. This is well settled that while considering a judgment, the facts and circumstances of that case as well as governing statutory provision must be taken into account (See: **Union of India v. Major Bahadur Singh, (2006) 1 SCC 368, Padma Sundara Rao and others v. State of T.N. and others, (2002) 3 SCC 533, Ram Prasad Sarma v. Mani Kumar Subba, (2003) 1 SCC 289**).

29. In exercise of power conferred by Section 75 of Stamp Act, the State Government introduced Statutory **Guidelines Rules, 2018**. Rule 3 and 4 reads as under :-

**“3. Constitution of Central Valuation Board and its functions.-**(1) *The Central Valuation Board shall consist of:-*

- |    |   |                     |
|----|---|---------------------|
| 1. | <i>Inspector General of Registration;</i>   | <i>-Chairperson</i> |
| 2. | <i>Engineer in Chief, Public works Department or his representative not below th rank of Chief Engineer</i> | <i>-Member</i>      |
| 3. | <i>Director of Town and Country Planning or his representative not Below the rank of Joint Director;</i>    | <i>-Member</i>      |
| 4. | <i>Commissioner, of Land Records or his representative not below the Rank of Deputy Commissioner;</i>       | <i>-Member</i>      |
| 5. | <i>Director, Agriculture or his representative not below the rank of Joint Director;</i>                    | <i>-Member</i>      |
| 6. | <i>Chief Conservator of Forest or his representative not below the rank of Conservator of Forest;</i>       | <i>-Member</i>      |

7. *Head of Department of Architecture of Maulana Azad National Institute of Technology;* -Member
8. *Head of The Department of Civil Engineering of Maulana Azad National Institute of Technology;* -Member
9. *All regional Deputy Inspector General, Registration;* -Member
10. *Joint Inspector General, Registration/departmental officer working in the office of Inspector General Registration - authorized by the Inspector General, Registration in this regard.* Member/  
Convener
11. *Any other member nominated by the State Government.* -Member

(2) *The Board shall perform the following function:-*

(a) *Receive information/date of property transactions entered by the District Valuation Committee alongwith the provisional rates for analysis and final approval.*

(b) *Determine norms/sub-clause for fixation of market values in respect of valuation of lands, buildings and various kinds of interests in the immovable property.*

(c) *May fix rates for different categories of construction etc., which may be different for different areas.*

**4. Constitution of District Valuation Committee and sub-District Valuation Committee and their Functions.--** (1) *District Valuation Committee shall consist of :-*

1. *Collector;* -Chairperson
2. *A Member of Legislative Assembly from the Urban area of the concerned constituency as recommended by the Minister in charge of the district concerned;* -Member
3. *Chairperson, Janpad Panchayat, District Headquarter;* -Member
4. *Executive Engineer, Public Works Department;* -Member
5. *.Executive Engineer, Department of Water Resources;* -Member
6. *Commissioner, Municipal Cooperation or Chief* -Member



*Municipal Officer at the District Headquarter;*

- |     |  |                  |
|-----|--|------------------|
| 7.  | <i>Chief Executive Officer, Jila Panchayat;</i>  | <i>-Member</i>   |
| 8.  | <i>Superintendent, Land records/Superintendent Diversion;-</i>                                       | <i>-Member</i>   |
| 9.  | <i>Rent Control Officer;</i>   | <i>-Member</i>   |
| 10. | <i>District Forest Officer;</i>  | <i>-Member</i>   |
| 11. | <i>Chief Executive Officer, Development Agency/Deputy Commissioner Madhya Pradesh Housing Board;</i> | <i>-Member</i>   |
| 12. | <i>Joint Director/Deputy Director Town and Country Planning.</i>                                     | <i>-Member</i>   |
| 13. | <i>General Manager, Industries.</i>  | <i>-Member</i>   |
| 14. | <i>Senior District Registrar/District Registrar of the District.</i>                                 | <i>-Convener</i> |

*(2) The District Valuation Committee shall perform the following functions namely ;-*

- (a) collect information on property values and property trends which would be compiled in the form of primary data along with the existing data.*
- (b) analyze the proposed values in the Formats received in the manner prescribed by Inspector General of registration which includes SAMPADA along with other information received from the Sub District Valuation Committee and the information collected in respect to construction rates, actual rates of the properties etc. compiled in the form of primary data and to fix the provisional values.*
- (c) notify the provisional values in the manner prescribed by the Inspector General of registration which includes SAMPADA and to invite the suggestions of the public thereon and to consider them.*
- (d) send the provisional values for approval of Central Valuation Board and to issue the market value guidelines for different areas on approval.*

(3) *The Sub-District Valuation Committee shall consist of:-*

- |    |  |                     |
|----|--|---------------------|
| 1. | <i>Sub-District Officer, Revenue;</i>  | <i>-Chairperson</i> |
| 2. | <i>Chairman, Janpad Panchayat, Sub District Headquarter</i>                          | <i>-Member</i>      |
| 3. | <i>Tehsildhar/Naib Tehsildar;</i>  | <i>-Member</i>      |
| 4. | <i>Assistant Engineer, Water Resource Department;</i>                                | <i>-Member</i>      |
| 5. | <i>Assistant Engineer, Public Works Department;</i>                                  | <i>-Member</i>      |
| 6. | <i>Chief Municipal Officer/or Commissioner Municipal Corporation or his nominee;</i> | <i>-Member</i>      |
| 7. | <i>Chief Executive officer, Janapad Panchayat or his Nominee</i>                     | <i>-Member</i>      |
| 8. | <i>Sub-Divisional Officer, Forest;</i>   | <i>-Member</i>      |
| 9. | <i>Senior Sub-Registrar/Sub Registrar.</i>   | <i>-Member</i>      |

(4) *The Sub-District Valuation Committee shall perform the following functions, namely:-*

(a) *Collect and compile data pertaining to property values. For this purpose the data of average value on the basis of documents registered in the Sub-Registrar office, shall be taken into consideration. In the absence of any sale transaction during that period, either sale instances of comparable land/property would be taken as the basis or the price may be increased as per price index. The information regarding the prevalent market value of the property may be provided by patwaries through Tehsildars. The other information like cost of construction, official sales, auction sale etc would be collected by the Committee from the concerned offices.*

(b) *Analyse the data collected and to propose the values in the prescribed input forms and forward the same in the manner prescribed by the Inspector General of Registration which includes "SAMPADA" to the respective District Valuation Committee alongwith all the data and information collected."*

30. Rule 6 prescribes the procedure to prepare market value guidelines.

The facts which needs to be considered for working out the value of immovable property are enumerated in Rule 6 which reads thus:-

**“6. Procedure to prepare Market Value Guideline-** *While working out the values of immovable property, the committees shall take into account the following facts:-*

(1) *The case of lands:-*

(a) *classification of land as unirrigated or irrigated, diverted or Non diverted and the like;*

(b) *classification under various categories in the settlements register;*

(c) *the rate of revenue assessments for each classification;*

(d) *other factors which influence the valuation of the land in question;*

(e) *points, if any, mentioned by the parties to the instrument or any other person which required special consideration;*

(f) *value of adjacent land or lands in vicinity;*

(g) *average yield from the land, proximity to road and market, distance from village site, level of land transport facilities, facilities available for irrigation in any form;*

(h) *the nature of Crops raised on the land;*

(i) *Use of land as residential, commercial or industrial,*

(j) *the relative position of urban area and investment area or development of the town.*

(2) *In case of house sites :-*

(a) *The general value of house sites in locality;*

(b) *Proximity to roads, railway stations, bus routes;*

(c) *Proximity to market, shop and the like;*

(d) *Amenities available in the place like, Public Offices, Hospitals and Educational Institutes;*

(e) *Development activities, industrial improvements in the vicinity;*

(f) *Any special feature having a special bearing on the valuation of the site; and*

(g) *Commercialization of home location and affiliation of these with reserved area by master plan or town and country planning.*

**(3)** *In case of buildings :-*

(a) *type and structure,*

(b) *locality in which constructed,*

(c) *plinth area,*

(d) *year of construction,*

(e) *kind of material used,*

(f) *rate of Depreciation,*

(g) *fluctuation in rates,*

(h) *Any special feature having a special bearing on the valuation of the site;*

(i) *The purpose for which the building is being used, and the income, if any, by way of rent per annum secured on the building; and*

(j) *Relative position and reputation of the area where the building is located.*

**(4)** *Other factors which the Committee considers necessary.”*

**31.** Rule 5 provides that market value guidelines needs to be revised annually from 1<sup>st</sup> April.

**32.** Rule 8 provides that the market value guidelines prepared under Rule 6 and 7 must be made available to the concerned statutory

officers. A holistic reading of the 'Guidelines Rules' shows that a scientific procedure is laid down for the expert committee to prepare the 'Market Value Guidelines.'

**33.** The Collector guidelines dated 03.03.2014 shows that the same are issued under Section 47 (A) read with Section 75 of **Stamp Act** and as per the **Guidelines Rules** aforesaid. Thus, Collector guidelines, in our view, provides determining factors for calculation of market value of land and compensation as per Section 26 (1)(a) of the Act.

**34.** As noticed, the judgments of Supreme Court on which reliance is placed by Shri Atul Nema are based on the aspect of determination of compensation for the lands acquired under the Act of 1894. Section 23 of the **Act of 1894** does not talk about specification of market value under the Indian Stamp Act whereas Section 26 of **Act of 2013** laid emphasis on such market value and therefore, this statutory recognition of market value specified under the Stamp Act cannot be brushed aside. Indeed, it deserves serious recognition in view of legislative change in the determination of market value pursuant to the Act of 2013. We are constrained to hold that the Collector guidelines have received statutory colour if read with Section 75 of the Stamp Act and provisions of guidelines Rules, 2018 and therefore the Collector rate can certainly

become the basis for determination of compensation for land acquired under Highways Act as well.

35. The judgment of Supreme Court cannot be read as *Euclid's theorem* (See: **Ashwani Kumar Singh v. U.P. Public Service Commission and others (2003) 11 SCC 584**, **Indian Performing Rights Society Ltd. v. Sanjay Dalia (2015) 10 SCC 161**, **Vishal N. Kalsaria v. Bank of India (2016) 3 SCC 762**). The judgment of Supreme Court is binding for the principles which are specifically laid down and not for something which logically flows from it [See: **State of Orissa Vs. Sudhansu Sekhar Mishra and others AIR 1968 SC 647**, **Regional Manager & Anr. vs. Pawan Kumar Dubey AIR 1976 SC 1766**, **Ambica Quarry Works & Anr vs State Of Gujarat & Ors. AIR 1987 SC 1073**, **Union Of India and another vs. Major Bahadur Singh (2006) 1 SCC 368**, **Commissioner of Customs (Port) vs. Toyota Kirloskar Motor (P) Ltd. (2007) 5 SCC 371**].

36. In the case of **Dyagala Devamma (Supra)** the compensation was determined on the basis of sale deed (Ex. P/18) which was relating to a small piece of land out of large chunk of land (101 acres approximately). In this backdrop and in view of provisions of old act where there existed no statutory recognition to Collector guidelines, the Apex court applied the *theory of deduction*. This theory, in view of statutory recognition

given to Collector guidelines in Section 26 (1)(a) of Act of 2013, in our view has lost its importance and applicability. Putting it differently, it must be remembered that a singular different fact may change the precedential value of previous judgments. None of the judgments cited by Shri Nema deal with impact of Section 26(1)(a) of 2013 Act and Collector guidelines issued pursuant to the Indian Stamp Act. Thus, those judgments cannot be pressed into service in this case.

37. In the Collector guidelines dated 03.03.2014, special provision is made for agricultural land. Clause-4 of said provision provides the method of valuation in urban areas relating to agricultural/nazul land. For municipal corporation area of Indore, Bhopal, Gwalior and Jabalpur, a separate valuation criteria is prescribed. The relevant portion on which parties laid emphasis reads as under :-

“(4.1) नगर निगम क्षेत्र इन्दौर, भोपाल, ग्वालियर, जबलपुर में तथा उक्त जिलों की गार्ड लाईन में इस प्रावधान हेतु विशिष्ट रूप से उल्लिखित ग्रामों में भूमि का मूल्यांकन निम्नानुसार मान्य किया जावेगा—

क्रमांक	भूमि का क्षेत्रफल	व्यपवर्तित कृषि भूमि	अव्यपवर्तित कृषि भूमि
(अ)	जब भूमि का क्षेत्रफल 1000 वर्गमीटर अथवा इससे कम हो	प्रारूप-1 में आवासीय व्यवसायिक भू-खण्ड की दर	प्रारूप-1 में निर्धारित आवासीय भूखण्ड की दर
(ब)	जब भूमि का क्षेत्रफल 1000 वर्गमीटर से अधिक हो	प्रथम 1000 वर्गमीटर तक (अ) अनुसार + शेष भूमि के लिए प्रारूप-3 में निर्धारित कृषि भूमि की अधिकतम दर का डेढ़ गुना	प्रथम 1000 वर्गमीटर तक (अ) अनुसार + शेष भूमि के लिए प्रारूप-3 में निर्धारित कृषि भूमि की दर

[Emphasis Supplied]

38. So far argument of Shri Nema based on the provisions of Local Act i.e. Adhiniyam is concerned, suffice it to say that no statutory provision/law is brought to our notice which mandates that while determining compensation under the **Act of 2013**, 50% compensation must be reduced for initial 1000 sq.m. of land or more. In view of Division Bench Judgment of this Court in **Rohit Gupta** (supra), the compensation needs to be determined as per the relevant Land Acquisition Act which is in vogue. Thus, this argument deserves to be rejected.

39. In our judgment, the scheme ingrained in Section 26 of the Act of 2013 gives legitimacy to the contention of counsel for claimants. Thus, we are constrained to hold that *theory of deduction* cannot be applied in a case of this nature which is covered and governed by statutory guidelines issued by the Collector.

### **Second Question**



40. This question is relating to legality, validity and propriety of the impugned order passed by the Court below. The Court below declined interference in exercise of power under Section 34 of **Arbitration Act**. The Apex Court in **Haryana Tourism Limited** (supra) poignantly held that such applications/appeals can be entertained if the award is found to be contrary to, (a) fundamental policy of Indian Law; or (b) the interest of India; or (c) justice or morality; or (d) if it is patently illegal. If we examine the impugned orders on the anvil of said *litmus test*, it will be clear that none of the said factors are attracted on which interference can be made. It is nobody's case that award is against the fundamental policy of Indian Law or against the interest of India or it runs contrary to justice or morality. The singular ground of attack was that *theory of deduction* is not made applicable by the Arbitrator which, in our opinion, does not fall within the ambit of aforesaid test mentioned in clause (a), (b) and (c). We are unable to hold that award or impugned order can be termed as 'patently illegal'. We say so because we analyzed this aspect in sufficient details hereinabove and found that theory of deduction is alien to the scheme envisaged in the **Act of 2013**. More particularly it is alien in view of Section 26(1)(a) of **Act of 2013**. In addition, it is noteworthy that in Madhya Pradesh for rural lands, factor (1) was determined by the Government as per Section 26 of the Act of 2013. This can be gathered

from the judgment of Andhra Pradesh High Court wherein in tabular form the factors applicable to different States were mentioned which contains the name of Madhya Pradesh (See **Kasiraju Seetharamaiah's case**) (supra).

**41.** In view of foregoing analysis, the appeals filed by Madhya Pradesh Road Development Corporation viz. **A.A. Nos.8/2020, 46/2021, 84/2021, 85/2021, 86/2021, 87/2021, 88/2021, 89/2021, 90/2021, 91/2021 97/2021** are devoid of substance and are hereby **dismissed**. In contrast, the appeal filed by the claimant **A.A. No. 59/2019** deserves to be and is accordingly **allowed**. The impugned judgment/order in this Appeal dated 08.07.2019 is set aside. The compensation of this claimant/appellant be determined by applying the Collector guidelines without any deduction as held in aforesaid Arbitration Appeals filed by Corporation. The entire exercise be completed within 90 days from the date of communication of this order and the compensation be paid to the appellant of A.A. No.59/2019 within aforesaid time.

**42.** The appeals are **disposed of. No cost.**

**(SUJOY PAUL)**  
**JUDGE**

**(DWARKA DHISH BANSAL)**  
**JUDGE**