



हरियाणा शहरी विकास प्राधिकरण

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HARYANA URBAN
DEVELOPMENT AUTHORITY

Address: C-3 HUDA HQ Sector-6,
Panchkula

To

1. Col. H.S. Guleria,
(Resident Welfare Society),
H.No. 1004, Sector-26, Panchkula.
CWP No. 18687/2012
2. Sh. Rajinder Parkash Sharma,
Plot No. 53, Sector-25, Panchkula,
CWP No. 2072/2012.
3. Sh. Rajinder Kumar,
H.No. 348, Sector-25, Panchkula.
CWP No. 19454/2005.
4. Brig. (Retd.) Sh. Ishwar Singh Punia
C/o Sh. S.K. Lamba (Advocate)
H.No. 110, Sector-25, Panchkula
CWP No. 2038 of 2006.
5. Mrs. Kanta Singh,
H.No. 706, Sector-25, Panchkula.
CWP No. 18724/2007.
6. Sh. Sukhwinder Singh,
H.No. 215, Sector-25, Panchkula.
CWP No. 11392/2009.
7. The President,
House Owner Society,
1774, Sector-28, Panchkula.
CWP No. 25666 of 2012.
8. The President,
The Himprastha Co-operative Group Housing Society Limited.
GH-8, Sector-24, Panchkula.
CWP No. 22319 of 2015.


NO.HUDA-CCF-ACCTT-II-2017/- 16497

DATED:- 25/01/2017

Subject:- Speaking order passed in compliance with the orders of Hon'ble Punjab & Haryana High Court in CWP No. 2642 of 2016-Residents Welfare Society (House Owners) Vs Sh. Vikas Gupta, IAS.

1. Please refer to the subject cited above.
2. Please find enclosed herewith the copy of speaking order No. 9/2017 passed by the Chief Administrator, HUDA, Panchkula in case of CWP No. 2642 of 2016-Residents Welfare Society (House Owners) Vs Sh. Vikas Gupta, IAS, in compliance of Hon'ble High Court vide order dated 02.05.2016.

DA/As above:


Chief Accounts Officer,
For Chief Administrator,
HUDA, Panchkula



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Address: C-3 HUDA HC Sector-6,
Panchkula

Endst.No.HUDA-CCF-Acctt-II-2017/- 16560-11 Dated:- 25/01/2017

1. A copy of the above is forwarded to the following for information and necessary action please :-
 - (i) District Attorney, Legal Cell, HUDA, Panchkula.
 - (ii) Estate Office, HUDA, Panchkula.

DA/As above:

dc Chief Accounts Officer,
For Chief Administrator,
HUDA, Panchkula

SPEAKING ORDER No. 9/2017

1. This order is being passed in compliance with the orders dated 27.2.2016 (Sr. No. 1-7 table below) and 2.5.2016 (Sr. No.8 table below) of Hon'ble Punjab & Haryana High Court as detailed below:-

Sr. No.	CWP No.	Sector No.	Petitioners (Title)
1	18687 of 2012	26	Residents Welfare Society Vs HUDA
2	2072 of 2001	25	Rajinder Parkash Sharma & Ors Vs. State of Haryana & Others
3	19454 of 2005	25	Rajinder Kumar & ors Vs State of Haryana & Others
4	2038 of 2006	25	Brig.(Retd.) Ishawar Singh Punia & Ors Vs State of Haryana & Others
5	18724 of 2007	25	Mrs. Kanta Singh Vs State of Haryana & Others
6	11392 of 2009	25	Sukhvinder Singh Vs State of Haryana & Others
7	25666 of 2012	28	House Owner Sociery Vs. HUDA & Others
8	22319 of 2015	24	Himprastha Coop. GHS Ltd. And Ors Vs HUDA

The writ petitions were disposed of by the Hon'ble Punjab and Haryana High Court with directions to issue self-speaking fresh demand notices subject to the following conditions:-

- i. *The respondent-authorities will upload the details of the subject-enhancement including the reasons justifying the additional demand now raised and such comprehensive self-speaking tentative order shall also be appended with individual demand notice to be served on the allottees;*
- ii. *The allottees or their Resident Welfare Society (in representative capacity) may seek further information, if need be, for submitting their effective replies to the demand notices;*
- iii. *The Chief Administrator, HUDA shall constitute a Committee comprising an officer in the rank of Administrator, one Estate Officer, and Chief Accounts Officer, HUDA who shall consider the*

replies and submit a reason-based report justifying the enhancement, if any. The final order shall be based upon such report only.

- iv. Till such order is passed, the allottees shall not be compelled to pay any additional amount. However, if an allottee has already deposited the enhanced amount, it may be retained by HUDA subject to its adjustment and/ or refund depending upon the final decision.*
- v. If HUDA has taken a decision in respect of any residential Sector to refund any amount to the allottees, let such benefit of refund be extended to similarly placed other allottees as well. However, if final adjudication in respect of such Sector is yet to attain finality, then the amount be retained though the final decision shall be required to be taken within a period of four months.*

2. Before passing the speaking order, it is relevant to mention there is a lot of litigation and queries from the plot owners about the manner of determination of additional price. A need was felt to notify the procedure required to be followed while determining the additional price under Regulation 2(b) of Haryana Urban Development (Disposal of Land & Building) Regulations, 1978. Therefore, a policy has now been approved by the HUDA Authority in its 111th meeting held on 27.7.2016 at Agenda item No.22. For the guidance of the public, the guiding principles on the basis of which enhancement is calculated by HUDA are available on HUDA Website under the link [https://www.huda.gov.in/ layouts/CCF/Policy regarding recovery of enhanced compensation from allottees in case of sale of land or building by allotment.pdf](https://www.huda.gov.in/layouts/CCF/Policy%20regarding%20recovery%20of%20enhanced%20compensation%20from%20allottees%20in%20case%20of%20sale%20of%20land%20or%20building%20by%20allotment.pdf).


Discussions and Findings

3. As per directions of Hon'ble High Court a Committee was constituted by Chief Administrator, HUDA, Panchkula on 10.5.2016 under the Chairmanship of Administrator, HUDA, Panchkula and consisting of Chief Controller of Finance, Chief Town Planner, Estate Office and Chief Accounts Officers to consider the replies and to submit a reason based report justifying the enhancement if any.
4. The Committee held personal hearing in the case on 20.9.2016. During hearing, the matter was discussed with the petitioners/representatives of petitioner's societies in detail. The petitioners submitted their representations regarding enhancement matter and requested to pass the speaking orders on the points

raised in their representations. Thereafter, the Committee has submitted its report on 13.1.2017.

5. Copy of the report is enclosed as **Annexure 'A'** of this order and may be treated as part and parcel of this speaking order.
6. I find that the committee had examined all the issues and submitted a reason based report justifying the calculations of enhancements of Sector-24 to 28, Panchkula and found the calculations in order.
7. It is, therefore, my considered opinion that the calculations of Sector-24 to 28, Panchkula made and uploaded on the website seems to be correct. The residents/allottees may be directed to deposit the enhancement accordingly. It may also be made clear that if some allottees have already excess deposited the enhancement earlier then the same is to be adjusted against the outstanding dues with regard to the plot on further enhancement.
8. I order accordingly.

Encl: Annexure 'A'


(Vikas Gupta, IAS)
Chief Administrator,
HUDA, Panchkula

REPORT

This Report is being submitted as per the orders dated 27.2.2016 of the Hon'ble High Court issued in CWP No. 18687 of 2012 -titled as Residents Welfare Society Vs HUDA & connected cases viz CWP No.2072 of 2001-Rajinder Parkash Sharma & Ors Vs. State of Haryana & Others, CWP No.19454 of 2005-Rajinder Kumar & ors Vs State of Haryana & Others, CWP No.2038 of 2006-Brig.(Retd.) Ishawar Singh Punia & Ors Vs State of Haryana & Others, CWP No.18724 of 2007-Mrs. Kanta Singh Vs State of Haryana & Others, CWP No. 11392 of 2009-Sukhjvinder Singh Vs State of Haryana & Others, CWP No. 25666 of 2012-House Owner Sociery Vs. HUDA & Others and order dated 2.5.2016 of Hon'ble High Court, issued in CWP No. 22319 of 2015-titled as Himprastha Coop. GHS Ltd. And Ors Vs HUDA.

Background of the cases are as under:-

1. That notices for recovery of enhancement compensation to the plot holders were issued by Estate Officer, HUDA, Panchkula pertaining to Sector-24 to 28, Panchkula on various dates in the year 2012 in October, 2012.
2. Vide various writ petitions the Resident Welfare Associations of the sector challenged the enhancement notices in the Hon'ble High Court on various grounds. Main writ petition in this case was CWP No. 18687 of 2012 titled as Resident Welfare Association Vs HUDA and other connected matter.
3. During the hearing of the writ petitions it transpired that the notices issued by the Estate Officer under regulations 10 (2) of Haryana Urban Development Authority Act, 1977 for recovery of additional price from the plot owner do not give the detail of calculations in the simplified speaking

language on the basis of which demand has been raised. Therefore it was decided to withdraw the demand notices issued against 5th and 6th enhancement to the allottees of Sector-25 and 26, Panchkula and issue fresh notices giving the basis of determination of additional price in the simplified speaking language. The Hon'ble High Court was apprised accordingly and the writ petitions were disposed of vide order dated 27.2.2016 treating the impugned notices as withdrawn with liberty to the respondent Authority (HUDA) to issue self speaking fresh demand notices subject to the following conditions:-

- i. The respondent-authorities will upload the details of the subject-enhancement including the reasons justifying the additional demand now raised and such comprehensive self-speaking tentative order shall also be appended with individual demand notice to be served on the allottees;
- ii. The allottees or their Resident Welfare Society (in representative capacity) may seek further information, if need be, for submitting their effective replies to the demand notices;
- iii. The Chief Administrator, HUDA shall constitute a Committee comprising an officer in the rank of Administrator, one Estate Officer, and Chief Accounts Officer, HUDA who shall consider the replies and submit a reason-based report justifying the enhancement, if any. The final order shall be based upon such report only.
- iv. Till such order is passed, the allottees shall not be compelled to pay any additional amount. However, if an allottee has

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already deposited the enhanced amount, it may be retained by HUDA subject to its adjustment and/ or refund depending upon the final decision.

- v. If HUDA has taken a decision in respect of any residential Sector to refund any amount to the allottees, let such benefit of refund be extended to similarly placed other allottees as well. However, if final adjudication in respect of such Sector is yet to attain finality, then the amount be retained though the final decision shall be required to be taken within a period of four months.

4. As per the directions of Hon'ble High Court the details of calculations made by HUDA for the recovery of enhanced compensation were uploaded on the website of HUDA on 22.6.2016. Thereafter, various representations against the uploaded recovery of enhancement were received from the Resident Welfare Association from Sector-24 to 28, Panchkula on 27.7.2016 onwards.

5. As per directions of Hon'ble High Court a Committee was constituted by Chief Administrator, HUDA, Panchkula on 10.5.2016 under the Chairmanship of Administrator, HUDA, Panchkula and consisting of Chief Controller of Finance, Chief Town Planner, Estate Office and Chief Accounts Officers to consider the replies and to submit a reason based report justifying the enhancement if any. The final order of enhancement shall be based upon such report only.

6. The constituted committee affords an opportunity of hearing to the various Resident Welfare Associations of the sectors concerned on 20.9.2016. Following issues were raised by the Societies of Sector-24 to 28, Panchkula which were considered and decided by the Committee.

The relevant record has been examined by the Committee and it is observed that :-

a. The Land forming part of villages Ramgarh, Madanpur, Nagal Moginand and Jhuriwala was acquired for development and utilization of land as residential, commercial etc. The detail of lands acquired is as under:

i. Award no. 6 dated 17.06.1992	655.93 acres
ii. Award no. 5 dated 17.06.1992	485.97 acres
iii. Award no. 7 dated 17.06.1992	3.08 acres
iv. Award No. 8 dated 17.06.1992	5.01 acres

That the Land Acquisition Collector, Panchkula awarded compensation @ Rs 1,10,000/- for Chahi and Abi land, Rs 90,000/- for barani land, Rs 70,000/- for Banjar Quadim land and Rs 50,000/- for Gair Mumkin land in respect to aforesaid land. That amount paid under the aforesaid awards of Land Acquisition Collector, Panchkula is Rs 8,27,05,758/-.

b. That thereafter land measuring 1.15 acres was acquired vide supplementary award No. 1 dated 06.03.1993 to main award no 6 of 1992-93. The LAC awarded compensation at the same rate as awarded vide award no 6 dated 17.06.1992.

c. Thereafter, land measuring 2.73 acres of village Ramgarh and land measuring 0.39 acres of village Bana Madanpur was acquired vide award

No. 2 dated 28.01.1997. The LAC awarded Rs 2,50,000/- per acre as compensation.

- d. The Sectors 24 to 28, Panchkula have been planned over the acquired land in question. That the total land acquired for Sector-24 to 28, Panchkula is 1154.26 acres. The sector wise bifurcation of land is as under:-

Sector No.	Acquired area (in acre)	Net planned	Ghaggar area	Communication / recreational zone
24	120	44.00	76.00	0.00
25	218.30	183.19	11.38	17.76+5.97
26	328.04	253.66	67.68	6.70
27	238.62	191.42	42.61	4.59
28	249.30	172.58	74.02	2.70
	1154.26	844.85	271.69	37.72

- e. The detail of total saleable and non-saleable/common area sector-wise has been mentioned in the enhancement notices, which has been uploaded on HUDA website.
- f. The committee observes that complete information pertaining to land acquired, area reserved for roads, common services etc along with layout plan original and revised, details of notification U/s 4 and 6, detail of deposit of enhancement compensation, interest paid thereon has already been provided to RWS vide memo no 38984 dated 23.11.2011. The RWS has also been provided with 260 nos. 'D' Form showing payment of Rs 5,80,43, 43,858/- vide letter no 2443 dated 18.01.2012. The committee further observed that the Land Acquisition Officer, Panchkula vide his

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office letter no 1961 dated 04.05.2012 certified the payment of Rs. 5,95,24,65,980.00, detail of which is also provided to the RWS.

The various issues which are taken up for discussion in following manner:

A. It has been alleged that Hon'ble Supreme Court in SLP (Civil) No. 21489/2008 observed that demand for enhanced compensation may be raised as and when higher compensation is awarded by the competent court. RWS with these submissions averred fresh demand notices needs to be avoided in absence of higher compensation. The committee has gone through this submission and find that the same is not as per record. It is a matter of fact that the aforesaid SLP was filed against the order dated 20.07.2006 passed in CWP No. 154/2006. The reference courts after passing of the order in aforesaid CWP has passed various awards. The detail of awards of learned Additional District Judge as given by LAO is as under:

Sr. No	LAC No. & Name of party	Date of award by Ld. ADJ
1.	1/95-Hans Raj etc. (7 cases)	21-8-09
2.	25/96-Shakuntla Devi etc.(35 cases)	24-8-09
3.	26/96-Gurdev Singh etc. (117 cases)	12-10-09
4.	8/96/09-Smt.Kesari etc. (19 cases)	20-10-09
5.	102/96/09-Smt.Mato etc. (12 cases)	26-10-09
6.	115/96/09-Gulzar Singh etc. (10 cases)	5-11-09
7.	182/99-Ajmer Singh etc. (18 cases)	19-7-10

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	cases)	
8.	11/99-Smt.Kreshni Devi etc. (9 cases)	2-8-10
9.	793/96-Parsanni Devi etc.(4 cases)	12-1-11
10	803/99-Rattan Singh	10-2-11
11	801/99-Pikhu	14-2-11
12	804/97-Devinder	3-3-11
13	753/10-Gurdev Singh	8-3-13

Therefore, the contention of the RWS that no award has been passed is not found correct. It is also observed by the committee that these facts were not brought to the notice of the Hon'ble Supreme Court when SLP was decided. Infact in RFA No. 1956 of 2010 State of Haryana vs Hans Raj and other connected RFAs, the compensation has been enhanced further to Rs 380/- per square yard by the Hon'ble High Court. This fact is duly in notice of the Joint Action Committee of the sectors concerned and fact of further enhancement by the Hon'ble High Court proves that the award of the Additional District Judge, Panchkula enhancing the compensation has been passed in this matter. Therefore, this contention of RWS that were no awards of the court being wrong and incorrect is completely untenable in eyes of law. The committee recommends to reject this contention.

B RWS has contended that vide award dated 11.01.1999 of ADJ, Ambala, compensation was assessed as Rs 250 per square yards. This is also factually correct as vide award dated 11.01.1999, compensation was determined @ Rs.250/- per square yard. The enhancement notices have been issued on the basis of actual payments made by the

concerned Land Acquisition Officer as per the enhanced rates of compensation by the Hon'ble Court.

- C. RWS has contended that Land Acquisition Office, Panchkula has paid the enhancement compensation to the land owners at huge interest amount @ 9 % and 15 % P.A. in the absence of the specific directions of the competent court for payment of such interest. This contention is also liable to be rejected because the courts have granted statutory benefits available under the Land Acquisition Act, 1894. The committee intends to refer to the following provision contained in land Acquisition Act, 1894. **Section-28** of Land Acquisition Act, 1894 provides as under:-

"Collector may be directed to pay interest on excess compensation:- If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of (nine per centum) per annum from the date on which he took possession of the land to the date of payment of such excess into Court:

Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date of expiry of a period of one year from the date on which possession is taken, interest at the rate of **fifteen per centum per annum** shall be payable from the date of expiry of the said period of one year on the amount of such excess or part there of which has not been paid into Court before the date of such expiry."

Therefore, the payment of interest @ 9 % P.A and 15 % P.A is the statutory obligation of the Haryana Urban Development Authority and could not be avoided under any circumstance. RWS relied on certain claims statement prepared by Land Acquisition Officer in support of

their contention and one such case is of LAC No. 874/96. In this regard, the committee finds that Land Acquisition Officer, Panchkula vide his office memo no. 1223 dated 17.04.2013 clarified that calculation of LAC No 874/96 of applicant Angrejo S/o Chamela is correct and amount has been deposited in the court in accordance with the decision of the court and interest has also been given as per decision. It has further been clarified that interest @ 15% P.A. on amount of Rs 5222928 comes to Rs 9358342 which is correct. In Gurdev Singh's case LAC reference, Additional District Judge Panchkula passed an award dated 05.09.2009 to following effect:

"In view of the above said discussion and finding on issue no. 1 hereby allow the present land reference with costs and the market value of the land acquired is determined at the rate of Rs. 250/- per square yard on the date of notification under section 4 of the Act. The value of the trees and structures in individual cases is fixed as described above. The petitioners shall also be entitled to statutory benefits under section 23(1a), 23(2), and 28 of the land acquisition Act. References are accordingly returned in favour of the petitioners with costs."

The committee do not find any merit. The committee recommends to reject this contention.

D. The next contention which is raised is that load of enhancement or the land of common purposes like roads, parks, community centre etc. has inadvertently been put allottees of residential plots. This contention has been gone through by the committee and finds that it is not based on correct facts. The committee is of the view that every sector has certain common areas which are meant for common utilization of the residents. These services including roads, parks, community centre, police station

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are meant for benefits of residents. Since this area is non-saleable area, therefore, the load of enhancement of common area is distributed proportionately over the saleable area which may include residential plots, Group Housing Sites, commercial area. Therefore, contention of RWS that load of enhancement of common area has been loaded on residential plot holders is not correct. It is pertinent to discuss herein that this load is also distributed over the commercial area which is actually borne out by Haryana Urban Development Authority. In *Ajay Sood vs Haryana Urban Development Authority And Ors.* (1997) 117 PLR 659 decided on 30/5/1997 held that In *Charanjit Bajaj v. State of Haryana and Ors.*, 1986 P.L.J. 601 *Charanjit Bajaj v. State of Haryana and Ors.*, C.W.P. 1270 of 1985 (decided on April 10, 1991) : 1992(1) R.R.R. 40 (P & H) (D.B.) and *Randeep Singh Surjewala v. Haryana Urban Development Authority and Anr.*, C.W.P. 510 of 1993, question similar to one raised in these petitions was raised by the petitioners to challenge the demand to enhanced compensation from the petitioners in respect of the plots allotted to them. In its order dated 10th April, 1991, the Division Bench has held that there was no ground for the Court to interfere with the calculation made by the Haryana Urban Development Authority. In Civil Writ Petition No. 510 of 1993 the Court took notice of the stand taken by the respondents and observed :- "Counsel for the petitioner did not doubt HUDA's rights and authority to demand enhanced price but argued that the enhanced compensation per square yard in fact comes to Rs. 130.61 per square yard and not Rs. 218.80. Petitioner's case is that the total compensation of Rs. 10,29,18,840.00 should be divided by 162.80 being the total number of

Sharda Prasad Singh

acres (net area) of the acquired land and not by 85.73 acres which is plotable area. As against this, the stand taken by HUDA is that for the land measuring 19.20 acres for L.I.C., shopping centre and HUDA land, the enhanced compensation of Rs.1,21,37,856.00 has been borne by HUDA and the balance amount of Rs.9,07,80,984.00 has been distributed on the plotable area of 85.73 acres. Area of 57.87 acres has been exempted from burden of enhanced compensation having been reserved for roads, parks and other similar amenities which have been provided to the plot-holders in the scheme. Counsel for the respondents has placed reliance on a Division Bench judgment of this Court in Charanjit Bajaj v. State of Haryana and Ors., C.W.P. No. 1270 of 1985 decided on 10.4.1991, wherein it has been held that the areas left for Roads and parks etc. can be exempted from burden of the enhanced compensation by transferring the entire burden of enhanced compensation on the area reserved for plots. No exception can be taken to the stand taken by the respondents. For the land measuring 19.20 acres which is reserved for L.I.C., shopping centre and HUDA land, the burden of the enhanced compensation of Rs.1,21,37,856.00, has been borne and debited to the account of HUDA. The plea regarding the discrimination and recovery of entire amount from the plot holders by excluding the area reserved for roads and parks from the burden of enhanced amount is squarely covered by Charanjit Bajaj's case (supra) in which it has been held as under :- "An additional argument has been raised by Mr. Sarin in C.W.P. No. 16866 of 1989 that the respondents have discriminated against the petitioners and certain other organisations with regard to the burden of sharing of the enhanced

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compensation and in the case of others, only 55 per cent of the area has been taken into account for getting the balance enhanced amount. This argument is also without force. The residential plot, holders have been given fully developed plots with all amenities like approach roads etc. whereas the organisations aforementioned have been given large area wherein certain area would be left out for the purpose of roads and other civic amenities." We are, therefore, of the view that the judgment of the Division Bench dated 8.7.1986, is sound in all respects and no interference is called for. The present writ petitions are, therefore, allowed in terms of the judgment of the Division Bench dated 8.7.1986. We order accordingly. No other point has been raised." In Welfare Association Of Sector 7 Plot Owners vs H.U.D.A. (2000) 124 PLR 358 decided on 8/9/1999, the Hon'ble High Court while dismissing the RSA held that the beneficiaries of the plots have also to share the burden with respect of those areas which were earmarked for green belt, police station, etc., which would be ultimate benefit to the allottees of the plots; whether residential or non-residential. In view of the same, contention of the RWS that allottees are liable to pay the enhanced price for area actually sold and transferred to them is untenable. The committee recommends to reject the same.

- E. Another issue raised by RWS is regarding not to recover the amount of compensation charged for the area of River Ghaggar in absence of provision of law. In Sukhwinder Singh's case (supra), additional point has been raised with respect to validity of acquisition of land falling in river Ghaggar and audit para framed by Public Accounts Committee. In Himprastha's case (supra), the petitioners have raised objection with

respect to the area of Ghaggar river charged on them with respect to demand of enhanced compensation vis a vis area of sector as depicted in layout plan. This issue has been deliberated in detail and for purpose of making recommendations in the matter, the committee has assistance of report of the Joint Site Inspection Committee. The operative part of the report is re-produced hereunder:

"Since the notification under section 6 was issued on 25.06.1990 the award of this land is to be announced prior to 25.06.92. The members of the Joint Site Inspection Committee have visited the land under acquisition and the Shajra Plan placed at Flag 'A' may kindly be seen. Out lined by colour pink is the area notified under Section 6 of the Land Acquisition Act measuring 1153.7 acres. This entire area is mainly agricultural land and free from any construction. The land situated between State Highway (State Highway is depicted named as 'X' and 'Y') and the black line is plain, level agricultural land which can be floated for saleable purpose without any problem. However, the land situated in the part of the black line upto the Punjab Border i.e outer barrier of the land under acquisition is low lying area which has been cut by the mining and flow of Nandan Cho and the river Ghaggar. The present course of the flowing nadan Cho and the river Ghaggar has been depicted in colour blue on the Shajra Plan. The area of the land falling between black line and the main course of Ghaggar is around 179 acres. This area with proper grading can be utilized for green belt and recreational purposes as proposed in the Development plan of this area. The area under main course of the Ghaggar is around 33 acres and the area beyond Ghaggar upto Punjab Border is around 52 acres. From the perusal of the plan it may kindly be seen that this area is in the form of linear belt varying in width from ½ acre to 2 acres. The committee is of the opinion that it might not be desirable to leave this area out of acquisition, in the public interest because as on today it may not be possible to put this area to any



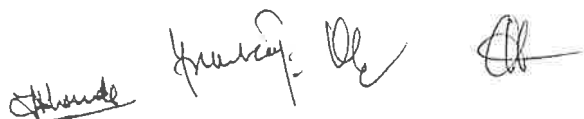
useful purposes but at a later stage when the Town grows it should be possible to put this area for various miscellaneous uses.

In the above context, the committee is of the opinion that it would be prudent to acquire the entire land notified under section 6 as leaving any area from acquisition would only lead to haphazard and speculative encroachments/ development o the land.

Therefore, due to the reasons mentioned above, the Joint Site Inspection Committee is of the opinion that entire land measuring 1153.75 acres notified under section 6 of the Land Acquisition Act should be acquired."

In view of the above discussion, it is apparently clear that the acquisition of the land falling in river Ghaggar was made consciously. Therefore, the acquisition cannot be questioned especially when much water has flow down during this period. As regards the audit para framed regarding expenditure incurred on acquiring the land in river bed of Ghaggar framed in Audit Report (Civil) for the year 31.03.2004, the committee observes that the said para was dropped and acquisition was thereby held to be justified. The area falling in river Ghaggar of about 30 acres has already been reclaimed. Engineering Wing of HUDA has already spent about Rs 10 crores on the strengthening of the bundhs on river Ghaggar to prevent flooding, for ultimate benefit of residents of the area concerned. Therefore, the committee do not find any merit in the objection so raised.

In so far as Himprastha's case is concerned, the committee observes that the reference made by the petitioner to Section 79 of the HUDA Act, 1977 is erroneous as said section is applicable only where the area has been declared as Local Development Area within the meaning of Section 62 of the HUDA Act, 1977 which is not in the



present case. Therefore, Section 79 of the HUDA Act, 1977 has no applicability to the present case.

It is also contended that area of Ghaggar is not part of the Sector-24, Panchkula as per layout plan so no enhancement is payable by them. The committee finds that the calculation of tentative price as well as the additional price on account of enhanced compensation is determined sector-wise as per Regulation 2 of Haryana Urban Development (Disposal of Land and Buildings) Regulations, 1978. Further, Section 2 (h) of HUDA Act 1977 read with Rule 2 (g) & (h) of the Punjab Scheduled Roads & Controlled Areas Restrictions of Unregulated Development Rules, 1965 define the sector means any part shown as "Sector" in the Development Plan. Therefore, the contention raised that since the area of the Ghaggar was not planned, so area of Ghaggar is not a part of this sector, is not acceptable. The Committee has to rely upon the sector as reflected in the Development Plan. The Committee finds that part of Ghaggar River is a part of Sector-24, Panchkula as per development plan, and therefore, enhanced compensation in respect to area of river Ghaggar falling in Sector-24, Panchkula has been charged on allottees of the said sector proportionately.

The committee therefore recommends that these contentions may be rejected.

It is further observed by the committee that :-

- a. Sector wise area has been provided by the Chief Town Planner, HUDA, Panchkula which has already been uploaded on HUDA website.



- b. The objection of the societies that the area which is a part of Ghaggar river and includes in the award should not be included in the area calculated for enhancement because it is not acquired for the benefits of the residents. From the perusal of record it was found that the details of land which were provided by Chief Town Planner, Panchkula for each sector has been taken as basis of enhancement. The committee considered the issue raised and reached at calculation that the enhancement for the area which falls in Ghaggar river in each sector has rightly been included in the common area of the sector and enhancement of which has been loaded proportionally to the various heads i.e. area under plots, area under Group Housing Society, Commercial area, area under public/ semi public use etc. As per calculation loaded on the website of HUDA. Enhancement for the commercial area has been borne by HUDA.
- c. It is also noted by the Committee that in each sector some land has been left out for common areas for providing services to the resident of the sector i.e land under Community Center, area under educational facility, area under medical facility, area under religious building, area under water works etc. area under open spaces, area under roads, area under communication zone and area under Ghaggar river are the common area in each sectors and enhancement of which has been proportionally divided towards the saleable area.
- d. Issue raised by the residents that the area left out for cremation ground be not included in the common area and its

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enhancement should be bearred by HUDA. In view of the committee, the averment of the applicant is not justified because the land left for crimination ground is for the benefit of the residents of the sector. Hence its enhancement has been rightly, proportionately divided on the saleable area.

- e. Area under communication zone and recreation Zone has rightly been treated as common area. Hence its enhancement has also been rightly, proportionately divided on the saleable area.
- f. Area reserved for Community Center, religious site were included into the common area and its enhancement was proportionately charged from saleable area as these facilities were provided in the sector for the benefit of the residents/allottees. It is found by the society that land from the acquired area in the area is being allotted to Government and private education institutions. Therefore, land reserve for these areas is divided into 50% into saleable area and 50% into common area as per policy and later on total land of common areas is divided on proportionately on the saleable area.
- g. Enhancement for the land allotted to EWS category has been charged proportionately of their area at the concessional rate.
- h. The enhancement for the area allotted to public and semi public use has been charged proportionately showing the land allotted to them in the saleable area. The enhancement regarding the land allotted to them is to bear by them.

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- i. Enhancement for the land under HT lines has rightly been taken into common area and thereafter proportionately divided on the saleable area.
7. It is also noted by the Committee that earlier enhancement of all common area is being charged from the plot holders only. The residents filed the writ petitioner No. 18681 of 2011, which was decided on 4.10.2011 and directions were given to pass the speaking order and thereafter speaking order was passed by the Administrator, HUDA (HQ) on 18.1.2012 and the enhancement to be charged from the allottees was reduced as per saleable area of the sector.
8. Now it is found by the committee constituted for the purpose that HUDA has rightly divided the acquired area of the sector into two categories i.e saleable area and common areas. Enhancement for the common area has been proportionately divided on the saleable areas which are clear from the calculation loaded on the website of HUDA. The committee only find irregularity in regard to the notice issued by the Estate Office to the effect that details of calculations for enhancement notices were not given with the notices issued due to the reason the enhancement notices were withdrawn when the allottees challenges the same in the Hon'ble High Court.
9. After considering all the objections raised by the residents of the sector- 24 to 28, Panchkula and the uploaded enhancement on the website of HUDA, it is now found that enhancement notices issued by HUDA are justified and no discrimination has been made with the petitioners/ allottees by HUDA by calling the present enhancement notices.

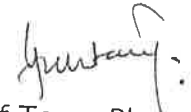
Atul Kumar *Secretary* *Be* *AK*


10. The committee also found that there were lot of litigations and queries from the plot owners about the manner of determination of additional price. The procedure required to be followed while determining the additional price under Regulation 2 (b) of Haryana Urban Development (Disposal) of Land & Building) Regulations, 1978 has been notified by a policy, approved by the HUDA Authority in its 111th meeting held on 27.7.2016 at Agenda Item 22. For the guidance of the public, the policy is available on HUDA Website under the link [https://www.huda.gov.in/layouts/CCF/Policy regarding recovery of enhanced compensation from allottees in case of sale of land or building by allotment.pdf](https://www.huda.gov.in/layouts/CCF/Policy%20regarding%20recovery%20of%20enhanced%20compensation%20from%20allottees%20in%20case%20of%20sale%20of%20land%20or%20building%20by%20allotment.pdf).


11. Hence, calculations made and uploaded on the website seems to be correct as per the above said policy. However, the calculations may be re-verified as per HUDA policy and any rectification, if needed, may be made and the residents/ allottees may be directed to deposit the enhancement accordingly. It may also be made clear that if some allottees have already excess deposited the enhancement earlier then the same is to be adjusted against the outstanding dues with regard to the plot on further enhancement.


Chief Accounts Officer
HUDA, Panchkula


Estate Officer
HUDA, Panchkula


Chief Town Planner
HUDA, Panchkula.


Chief Controller of Finance
HUDA, Panchkula


Administrator,
HUDA, Panchkula.