REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3636 OF 2022
[ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 19035 OF 2021]

REDDY VEERANA …APPELLANT

VERSUS

STATE OF UTTAR PRADESH AND OTHERS …RESPONDENTS

WITH

CIVIL APPEAL NO. 3637 OF 2022
[ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 5500/2022]

NEW OKHLA INDUSTRIAL DEVELOPMENT AUTHORITY …APPELLANT

VERSUS

REDDY VEERANA AND OTHERS …RESPONDENTS

J U D G M E N T

1. Leave granted.

2. The present Civil Appeals arise out of the judgment dated 28.10.2021, passed by High Court of Judicature at Allahabad in Civil Miscellaneous Writ Petition No. 2272 of

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Reason:

2019 filed by appellant Reddy Veerana (co-petitioner), by which, the High Court intervened in the award of compensation dated 31.01.2011, passed by Additional District Magistrate (Land Acquisition) for acquired land of appellant, admeasuring 2.18.00 bighas of Khasra Nos. 422 and 427, situated in village Chhalera Bangar and disposed-off the petition.

3. Assailing the said order, both the parties are before this Court. Briefly stated, facts are that vide sale deed dated 24.04.1997, appellant along-with two others purchased the scheduled property land in Khasra No. 422 admeasuring 3 bighas 9 biswas and in Khasra No. 427 admeasuring 2 bighas 4 biswas and 10 biswansi (i.e., total of 13757.8 sq. meters) in village Chhalera Bangar, Gautam Buddh Nagar district for a total sale consideration of Rs. 1,00,00,000/- (One crore only). However, through the prior land acquisition proceedings in year 1979-1980, a portion of the purchased land to the extent of 1 bigha 5 biswas 15 biswansi in Khasra No. 427 and 1 bigha in Khasra No. 422 was acquired by State. Thus, the property which remained unacquired with the appellant was 2 bigha 18 biswa 10 biswansi (i.e. total of

7400 sq. meters) in both the aforesaid khasra numbers (in short be called as scheduled piece of land).

4. As is borne out of the record, pursuant to purchase of land by appellant, since early 2000s, employees of NOIDA were interfering with the peaceful possession of the appellant (land-owner), which resultantly led into Civil Suit No. 416/1998 being filed by appellant for permanent injunction against NOIDA, with a prayer to not interfere with the possession. For the purpose to demonstrate the utility and value of land, the averments made in the written statement filed by NOIDA inter-alia categorically contended, were as thus:

> *".....**the land in dispute is situated in the centre of development of authority and the use of land has been prescribed to be used for commercial. Therefore, this land is very costly**. Since.....the land of village Chhalera Bangar under the provisions of Section 2 of Act No. 6 of 1976 is declared as industrial area and construction on this land without the permission of defendant is illegal."*
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> **(emphasis supplied)**

5. The Trial Court, after due deliberation on the contentions raised by both the parties, vide order dated 16.02.2000, partly decreed the suit in favour of appellant (Reddy

Veerana) herein and restrained NOIDA from taking possession of land which was not the subject matter of the prior acquisition in year 1979-1980. Further, the Court also declared the appellant as the owner of the remaining portion of land of Khasra No. 422 and 427 which was purchased vide sale deed as mentioned earlier.

6. Being aggrieved by aforesaid order, NOIDA preferred Civil Appeal No. 61 of 2020 before District Judge, which also came to be dismissed vide order dated 30.03.2001 with certain observations made in the following manner –

> *"The lower court has not committed any error in decreeing the suit of permanent injunction of plaintiff produced in regard to the land admeasuring 02-09-00 bigha of Khasra no. 422 and land admeasuring 00-09-10 bigha of Khasra No. 427 of village Chhalera Bangar, Tehsil Dadri, District – Gautam Buddh Nagar against appellant.* ***The defendant/appellant even now is free to acquire the remaining land of the aforesaid Khasra Nos. but until and unless the land is not acquired, till then the decree of permanent injunction issued by the lower court shall remain applicable****."*
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> **(emphasis supplied)**

The judgment and decree granting permanent injunction passed by District Judge, confirming the order of Trial Court has not been assailed and therefore, it has become final.

Moreover, despite the decree of permanent injunction being operative, NOIDA in the year 2003 floated a tender for development of large piece of land including the remaining piece of land of Khasra No. 422 and Khasra No. 427 which is the subject matter of this case. The said tender was widely advertised by NOIDA in various newspapers and subsequently, nine reputed developers including MGF, Unitech, Sun City, Sahara India and Omex purchased the bid documents. It was a known fact that out of the large piece of the land, the scheduled piece of land was in dispute and hence, all the reputed developers abstained from bidding for the tender. Be that as it may, on the closing date of tender i.e. 9.03.2004, only one tender on behalf of respondent No. 7 herein, i.e., M/s DLF Universal Ltd. (hereinafter referred to as DLF) was received and evaluated by Technical Committee, whereafter, respondent No. 7 quoted the rate and qualified in the said tender. Consequently, the large piece of land as mentioned above was allotted to DLF vide order dated 12.04.2004, including the scheduled piece of land for which, the decree of permanent injunction was in operation.

7. After the allotment of land to respondent No. 7, a preliminary notification dated 02.09.2005 was issued by NOIDA under Section 4(1) read with Section 17(1) of the 'Land Acquisition Act, 1894' (hereinafter referred to as 1894 Act), followed by a notification dated 22.11.2005 under Section 6 of the 1894 Act, to acquire the scheduled piece of land measuring 0.7400 hectare in Khasra No. 422 and 427 at village Chhalera Bangar, Dadri, NOIDA. The possession of the scheduled piece of land was taken on 20.01.2006 as per order passed by Additional District Collector (Land Acquisition) Noida.

8. The aforesaid notifications were challenged by the appellant before High Court of Allahabad in Civil Miscellaneous Writ Petition No. 75152 of 2005 and Civil Miscellaneous Writ Petition No. 70088 of 2006. As per interim orders of the High Court in the aforesaid petitions, Revenue Inspector visited the scheduled piece of land on 05.08.2008 and in his report noted as under –

> *"In accordance to the spot, the land of Khasra No. 422 and 427 which in present has been converted in Sector 18 in regards to demarcation, has no identification spot* ***because the NOIDA authority has been fully***

***developed* and in absence of any fixed identification, demarcation of land is not possible."**

The High Court vide order dated 10.12.2009 disposed-off the matter and held as under –

> *"Perusal of record shows that the notification under Section 4 of the Act was issued on 2.9.2005 and in this notification under Section 4 of the Act a direction was also issued under Section17(4) of the Act to the effect that the provision of Section 5-A of the Act shall not apply. A notification under Section 6 of the Act as contained in Annexure No. 2 to the instant writ petition was issued on 22.11.2005 and the urgency clause was invoked under Section 17(1) of the Act.*
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> *Mr. S.D. Kautilya, learned counsel for the petitioners made a statement at bar that the petitioners do not press the relief claimed in the instant writ petitions and only pray that their compensation be determined and be paid to them in accordance with law and also keeping in mind the Judgement of High Court of Uttaranchal rendered in Bhopendra Singh and others Vs. Awas Vikas Parishad and others, reported in 2005(2) Uttaranchal Decision, 295. According to him this statement is being made keeping in mind the Commissioner's report that the land cannot be demarcated and the petitioners cannot get back the land.*
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> *Having heard the learned counsel for the parties, but without prejudice to the merits of the case,* ***the writ petition is disposed of with the direction to the SLAO to determine the compensation according to law as laid down in the judgement rendered in Bhopendra Singh and others (Supra). The payment of the compensation shall be made preferably within a period of one month****. However, it is further provided that if as per policy of NOIDA any land is to be given to the petitioners, same shall be expedited for rehabilitation of the petitioner. Writ petition is disposed of."*
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> **(emphasis supplied)**

It may not be out of context to state that, the appellant (land-owner) gave the concession before the Court in view of the observation made by Revenue Inspector in the report that the land was fully developed by NOIDA and demarcation was not possible. Therefore, the direction for determination of compensation as per the judgment rendered in the case of ***'Bhopendra Singh and Others Vs. Awas Evam Vikas Parishad and Others, 2005 (2) Uttaranchal Decision, 295; MANU/UC/0270/2005'*** was only prayed.

9. Being aggrieved, NOIDA challenged the aforesaid judgment in Special Leave to Appeal (C) No. 20196-20197 of 2010 (later admitted and converted into Civil Appeal No. 731-732 of 2013). During the pendency of the aforesaid appeal, this Court vide order dated 10.01.2011, issued notice while observing that 'in the meanwhile, there shall be stay of operation of the impugned judgment and order dated 10.12.2009 passed by High Court'. It is the specific case of the appellant (land-owner) that NOIDA did not even inform the Court about passing of award under Section 11 of the 1894 Act during the pendency of the said appeal.

10. Be that as it may, after almost delay of 5 years, an award dated 31.01.2011 was passed by Additional District Magistrate (Land Acquisition), NOIDA, Gautam Buddh Nagar, under Section 11 of 1894 Act. In the said award, the compensation was determined by the authority in the following manner –

> *"..... a decision was reached in the meeting on the basis of general acquisition process to pay them compensation at the rate of Rs. 181.87 per square yard on the basis of sell letter dated 04.02.2005 for the land sold in village Sadarpar of this circle, whose borders touch the borders of village Chhalera Bangar against the land sold in village Chhalera three years before the advertisement of this Act on 02.09.2005 under Section 4(1), 17 and were not found suitable for getting compensation, the approval of which was given by Commissioner, Meerut Division, Meerut through his official letter No. 452/891/2004-06 dated 18.01.2006."*

Regarding the pending litigation before this Court, the award dealt with the same as under –

> *"With reference to the disposal of Civil Misc. Writ Petition No. 75152/2005 – Vishnu Pradhan Vs. NOIDA & Ors., Hon. High Court of Allahabad on 10.12.2009 ordered to dispose the compensation on the basis of minimum determined circle rate by the District Collectors as per the order passed by the Hon. High Court, Uttaranchal, against the petition filed for compensation, determination and payment by Bhopendra Singh and Others Vs. Resident Development Council and Others, but against the orders of Hon. High Court, a Special Petition No. CC 20196-20197/2010 was filed in the Hon. Supreme Court of India*

by Naveen Okhla Udyog Vikas Pradhikaran, Noida versus Vishnu Pradhan and others, in ***which the enforcement of the orders of Hon. High Court dated 10.12.2009 was stopped on 10.01.2001****. Due to the postponement order issued by Hon. Supreme Court of India, the determined rate of Rs. 181.87 per square yard remains effective for the uncontracted lands as per the decision taken in the said meeting convened under the chairmanship of District Collector, Gautam Buddh Nagar and the decision of acquired land will be taken on this basis only."*

Finally, the award was passed in following terms subject to the decision of this court and compensation was computed as under –

"Therefore, for the 0.828 ha, land acquired by New Okhla Industrial Development Authority for planned industrial development in village Chhalera Bangar, Pargana Dadri, Tehsil Dadri, District – Gautam Buddh Nagar, the ***compensation is Rs. 18,00,481.00 and 30% solatium payable on it amounts to Rs. 5,40,144.00 and 12% payable on the compensatory amount is Rs. 53,866.00 which amounts to a total of Rs. 23,94,491.00 (Rupees Twenty-Three Lacs Ninety-Four Thousand Four Hundred Ninety-One only) and the decision upon it is being declared today on 31.01.2011. This decision will be as per the obedience of the order issued by the Hon. Supreme Court of India against Special Petition No. CC 20197-20197/2010 – NOIDA versus Vishnu Pradhan and others."***

(emphasis supplied)

Thereafter, on 04.11.2015, the appeal of NOIDA before this Court was dismissed for being devoid of merits.

11. It is also relevant to note that, vide order dated 04.11.2015, this Court also dismissed the Civil Appeal No. 1107 of 2009, which assailed the judgment of High Court of Uttaranchal in ***Bhopendra Singh*** *(supra).* In view of the aforesaid order, Deputy Chief Executive of NOIDA addressed a letter dated 11.05.2016 to Additional District Magistrate (Land Acquisition) to comply with the order of High Court of Judicature at Allahabad and Supreme Court of India. In the meanwhile, the appellant herein preferred representations before the concerned authority and thereby sought compensation in terms of the aforesaid orders passed by this Court, however, in vain. The District Magistrate, Gautam Buddh Nagar on 08.01.2018, dismissed the representation of the appellant (land-owner) and observed as under –

> *"In view of the aforesaid, it is clear that when the matter was pending adjudication before the Hon. Supreme Court,* ***then in such circumstances, the award/decision dated 31.01.2011 was not be announced/passed by then Additional District Magistrate (Land Acquisition), Noida, Gautam Buddh Nagar and the Additional District Magistrate (Land Acquisition), Noida, Gautam Buddh Nagar, in the matter has to wait for the final orders of Hon. Supreme Court****. The award/decision dated 31.01.2011 of Additional District Magistrate (Land Acquisition)* ***is not the compliance of order dated 10.12.2009 passed by Hon. High Court***

***and stay order dated 10.01.2011 passed by Hon. Supreme Court**, but because this award/decision has already been passed/declared by then Additional District Magistrate (Land Acquisition) Noida, Gautam Buddh Nagar, therefore, legally it is not appropriate to dispose-off this point at the level of District Magistrate."*

Being aggrieved by the order passed by District Magistrate, the appellant preferred Contempt Petition (C) Nos. 1841-1842 of 2018 in Civil Appeal Nos. 731-732 of 2013. This Court vide order dated 22.10.2018, dismissed the aforesaid contempt as withdrawn and granted liberty to the petitioner to avail appropriate remedy before the High Court.

12. In view of the order passed in Contempt Petition by this Court, the appellant (land-owner) again approached the High Court in Writ Petition No. 2272 of 2019, wherein the High Court vide impugned judgment and order dated 28.10.2021, with regard to question of title of appellant on the scheduled land, the High Court held as under –

> *"31. We would first be dealing with the issue as to whether the writ petition filed by the sole petitioner to claim compensation of land measuring 2.18.00 bighas of Khasra Nos. 422 and 427 is maintainable. The respondents have produced a copy of the order dated 12.09.2002 passed by the Civil Judge (Junior Division), Gautam Buddha Nagar to deny acceptance of compromise and accordingly, allegations have been made about suppression of*

aforesaid fact. It is also that no compromise deed or decree has been issued by the competent Court and for that reason, one co-owner of the land, namely, Vishnu Pradhan contested the case separately to challenge the acquisition of the land. ***We, however, find that petitioner has produced a copy of the Khatauni of Fasli Year 1407- 1412 when the land was recorded solely in the name of the petitioner. It was pursuant to the order dated 01.09.2010 in Suit No. 2441 of 2010 under Section 34 of the Land Revenue Act, 1996 and the judgment of Civil Judge (Senior Division) dated 17.06.2010 to record entire land of Khasra Nos. 422 and 427 in the name of the present petitioner. A copy of the Khatauni was submitted alongwith the supplementary affidavit, thereby the objection on maintainability of the writ petition in the hands of the petitioner is not tenable rather the petitioner became sole owner of the property in dispute after an order under Section 34 of the Land Revenue Act and the judgment of the Civil Court dated 17.06.2010****. His name was accordingly entered in the khatauni. The respondents have ignored the subsequent orders by which land was entered in the name of the petitioner alone."*

Further, on the aspect of whether the schedule property was an agriculture land or commercial land, the High Court referred to the pleadings of respondents themselves in Suit No. 416 of 1998 and provisions of Uttar Pradesh Industrial Development Act, 1976, to conclude that the schedule land

was a commercial property and the compensation shall be determined accordingly.

Regarding the deduction towards development charges, the High Court held as follows –

> *"63. The respondents were expected to take into account the circle rate of the land in question and thereupon to make reasonable deductions towards the development which may be between 20% and 50% as per the judgment of the Apex Court in the case of* ***Viluben Jhalejar Contractor*** *(supra).*
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> *64. If the proposition of law laid down by the Apex Court in the judgment cited above is applied, then determination of compensation should have been made after taking the circle rate of Rs.1,10,000/- per square meter of the land in question and thereupon to make deduction towards the development. The development charges can be maximum to the extent of 50% of it and accordingly respondents should have taken Rs.55,000/- per square meter to be the market value of the land.*
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> *65. The official respondents while doing it could have noticed that the land was allotted to respondent no.7 one and half years back prior to the notification under Section 4 of the Act of 1894. It was by the allotment letter dated 12.04.2004. The circle rate was determined thereupon on 16.04.2004. The allotment of land to the respondent no.7 was 8 times bigger than the land of the petitioner and it was one and half years back. While applying the judgment of the Apex Court, the market value should have been taken @ Rs.55,000/- per square meter. However, due to the interim order of the Apex Court dated 11.01.2011 against the judgment dated 10.12.2009, the respondents did not determine the*

compensation as per the direction given by this Court."

And lastly, the High Court disposed-off the petition with the following directions –

"69. Accordingly, we find reasons to cause interference in the award dated 31.01.2011 and direct the respondents to determine the compensation as under –

1. *The respondents are directed to take into consideration the circle rate of Sector – 18 since 16.04.2004 given in Annexure – 7 of supplementary counter affidavit filed by the respondent no. 5. It was Rs. 1,10,000/- per square meter for Sector – 18.*
2. *After making 50% deduction towards the development charges, it would come to Rs. 55,000/- per square meter and accordingly the compensation would be determined on the aforesaid rate for the land admeasuring 2.18 bighas.*
3. *The addition of solatium of 30% would be made thereupon. The amount arrived as per the direction in paras (1) and (2) would be payable with interest @ 9% per annum for one year from the date of possession i.e. February, 2005 and thereupon 15% per annum as per the Proviso to Section 34 of the Act of 1894.*
4. *The amount deposited in the year 2017 would earn interest @ 15% only till it was deposited. The amount so deposited would be paid to the petitioner with the interest earned on it.*
5. *The amount of compensation would be paid thereupon to the petitioner."*

13. The High Court on the issue of applicability of Section 24 of 'Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation and Resettlement Act, 2013' (hereinafter referred to as 2013 Act), held that, the argument of lapsing of acquisition for an award passed beyond a period prescribed under Section 11(a) cannot be accepted in view of the ratio of judgment of this Court in ***'Indore Development Authority Vs. Manohar Lal & Ors., 2020 (8) SCC 129'***. After going through the said judgment, it is clear that Section 24(1)(a) of 2013 Act, starts with non-obstante clause and states that in case where the proceedings have been initiated under 1894 Act, but, the award has not been made under Section 11, the provisions of the 2013 Act relating to the determination of compensation would apply. In the case at hand, the award was made on 31.01.2011 after grant of stay on 10.01.2011 in Civil Appeal No. 731-732 of 2013, though it was by a delay of 5 years. By the final order passed on 04.11.2015, the said appeals were dismissed. Thereafter, the representation was made by the appellant asking compensation at the rate of Rs. 1,10,000/- per sq. mtrs. as directed by High Court inter-party relying upon judgment of

Bhopendra Singh (supra) was rejected vide order dated 08.01.2018. Thereafter, the contempt petitions were filed alleging non-compliance of the order of the High Court which were dismissed as withdrawn while granting the liberty to appellant to avail appropriate remedy. Thus, on the date of commencement of the 2013 Act, the possession was taken and the award was passed, though as alleged it was non-est. In our opinion, by the impugned order, the determination of compensation as per circle rate of Rs. 1,10,000/- per sq. mtrs for commercial land was the question res-integra in the light of ***Bhopendra Singh*** *(supra)* judgment and the award, whether rightly or wrongly passed, was in existence on the date of commencement of 2013 Act. Therefore, in our considered opinion, the High Court has rightly refused to interfere on the issue of applicability of 2013 Act for determination of compensation and rightly relied upon the judgment on ***Indore Development Authority*** *(supra)*.

14. Being aggrieved by the impugned order, the appellant (land-owner) and NOIDA have filed separate appeals, which are heard analogously.

Mr. Ranjit Kumar, learned Senior Counsel for appellant,

in addition to the point of applicability of Section 24 of 2013 Act as discussed above, contended as under –

a. That, the award dated 31.01.2011 passed by District Magistrate was in violation of order of this Court as well as the High Court of Judicature at Allahabad;

b. The award itself acknowledged that it was contingent in nature;

c. There was no personal hearing granted to the appellant, even though NOIDA knew about the interest of the appellant in the scheduled property;

d. The impugned award was a void exercise since the public notice of the same was given two days after the designated date of hearing under Section 9 of the 1894 Act;

e. The award itself was passed after a delay of 5 years since the date of hearing, which violates the mandate

under Section 11A of the 1894 Act. Therefore, the date of award of compensation should be shifted or in alternate, since the compensation was deposited in the year 2017, therefore, the amount of compensation be determined as per the provisions of 2013 Act.

f. Deduction with respect to development charges could not be levied as the plot was already developed even before the acquisition;

g. NOIDA illegally sold the schedule property even before the acquisition which is a clear-cut violation of right to property under Article 300A of the Constitution. Such Constitutional tort should not be allowed to be left unpunished and the respondent authorities should not take benefit of their own wrongful acts.

15. Per contra, Mr. Balbir Singh, learned Additional Solicitor General appearing on behalf of NOIDA, contended as under–

a. Appellant cannot be entitled for a compensation more than Rs. 31,850/- which was the price tendered by respondent no. 7 (DLF);

b. The said price of Rs. 31,850/- has been adjudicated by this Court in ***'Anil Kumar Srivastava Vs. State of U.P., (2004) 8 SCC 671'*** to be reasonable;

c. It has been conceded that allotment to respondent no. 7 (DLF) was prior to the date of acquisition of the scheduled land;

d. Appellant (land-owner) acquired the property in year 1997 for a sale consideration of Rs. 1 crore. One of the earlier land owners namely Vishnu Vardhan had entered into an agreement to sale dated 07.06.2006, for a sale consideration of Rs. 3 crores only. These transactions indicate that the aforesaid land was an agricultural plot, however, the scheduled land has to be characterized as agriculture land or at best residential;

e. Jurisdiction of reference court constituted under Section 18 of 1894 Act has been by-passed by the High Court while determining the compensation;

f. Development charge amounting to 75% has to be deducted instead of 50%;

g. Compensation granted by the High Court would amount to unjust enrichment for the appellant which cannot be sustained under the law.

16. Mr. Rayzada, Additional Advocate General appearing for the State has submitted that, the subject land was bought as benami property and hence, appellant is only entitled for 1/3rd of the amount.

17. Learned counsel for respondent no. 7 has submitted that, the dispute is inter-se NOIDA and appellant herein and respondent no. 7 has nothing to add other than to state that the allotment of land was subject matter of litigation before this Court in ***Anil Kumar Srivastava*** *(supra),* which has upheld the allocation through the process of auction. However, the compensation, if any, enhanced, may be directed only against NOIDA.

18. Before adverting to the merits of the rival contentions raised by both parties, at the outset it is relevant to mention that, the legality and validity of judgment dated 10.12.2009 passed by High Court in Civil Miscellaneous Writ Petition No. 75152/2005 has sustained the scrutiny of this Court

and has been upheld vide order dated 04.11.2015 in Civil Appeal No. 731-732 of 2013. The judgment has attained finality inter-se the parties. It is not the case of respondents that the previous judgment as well as the impugned order has been rendered by an incompetent authority. In other words, the said judgment has effectively put the controversy inter-se the parties to rest. Thus, incidentally, what remains in the matter is mere observance of those directions given by the High Court in the light of prevailing law. Therefore, the contention disputing the payment of compensation altogether for the acquired land is untenable and cannot be entertained at this stage. The conclusion arrived at by High Court has been given seal of affirmation by this Court and hence, the right of the appellant herein to get compensation in terms of determination as directed has been crystallized and cannot be interfered with. It would be unjust and improper to allow re-agitation of issues and vexing the appellant twice when the matter has already been put to rest by impugned judgment inter-se the parties.

19. At this juncture, we consider it appropriate to refer ***'R. Unnikrishnan and Another Vs. V.K. Mahanudevan and Others, (2014) 4 SCC 434'***, wherein para 19, the Court while dealing with finality to binding judicial decisions observed as follows –

> ***"****19. It is trite that* ***law favours finality to binding judicial decisions pronounced by courts that are competent to deal with the subject-matter. Public interest is against individuals being vexed twice over with the same kind of litigation. The binding character of the judgments pronounced by the courts of competent jurisdiction has always been treated as an essential part of the rule of law which is the basis of the administration of justice in this country****. We may gainfully refer to the decision of the Constitution Bench of this Court in 'Daryao v. State of U.P. [AIR 1961 SC 1457]' where the Court succinctly summed up the law in the following words:*
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> *9. …It is in the interest of the public at large that a* ***finality should attach to the binding decisions pronounced by courts of competent jurisdiction, and it is also in the public interest that individuals should not be vexed twice over with the same kind of litigation****.*
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> ***
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> *11. …The binding character of judgments pronounced by courts of competent jurisdiction is itself an essential part of the rule of law, and the rule of law obviously is the basis of the*

administration of justice on which the Constitution lays so much emphasis."

20. Therefore, in view of settled legal position with respect to binding nature of the judgment that has attained finality, there is no iota of doubt that NOIDA is under mandatory obligation to determine the compensation as per law laid down in ***Bhopendra Singh*** (supra). The relevant extracts from ***Bhopendra Singh*** (supra) are being reproduced herein below for ready reference –

> *"4. Learned reference court has assessed the market value of similar land @ of Rs. 6/- per square feet on the ground that other land of the same area which was acquired with land in question was also valued at the said rate by the Special Land Acquisition Officer. However, learned Counsel for the Appellants argued that the land in question is adjoining to the main road unlike the land which was taken into consideration by the reference court. It is further argued that the land in question should not have been valued less than Rs. 50/- Square feet. On perusal of the oral evidence adduced by the parties we found that P.W.-1 Smt. Raj Dulari has stated that in the year 1976 value of land in question was Rs. 50/- per square feet. P.W.-2 Arvind Singh, P.W.-3 Ranvir Singh and P.W.-4 Harpal Singh have also made the similar statements.* ***But in the matters of Land Acquisition, best way to assess the market value is to examine the value in the light of price paid by the purchaser of similar land in the neighbourhood of the land in question. Such transaction if nearer the date of notification of acquisition, facilitates the***

court to assess the more accurate market value of the land. However, in the present case none of the above witnesses have adduced any evidence as to the exemplar sale deed pertaining to the nearby similar land. In absence of such sale, deeds we are compelled to see the valuation of the surrounding land made by the Collector Nainital under Rule 340-A of the U.P. Stamp (first amendment) Rules, 1976. Paper No. 44-C/1 is copy of the Circle rate showing market value assessed by the Collector for the purposes of registration of instrument of sale. The said documents shows that the circle rate of the land in question for imposing the stamp duty over the documents is Rs. 95/- to Rs. 135/- per sq. meter as market value of the land adjoining to road and Rs. 67/- to Rs. 80/- per sq. meter for the land away from the road*. From the evidence on record, it is clear that the land in question was near the main road. As such the market value as per the circle rate was treated for the purpose of realizing stamp duty not less than Rs. 95/- per sq. meter. It would be injustice to the owner of land if for realizing the stamp duty we apply the circle rate and deny at-least the said rate in making payment of compensation on acquisition of his land. The total area of the land in question is 2900 sq. yard. The learned reference court has erred in law by multiplying the rate mentioned per sq, feet with area in terms of sq. yard. That is why due to miscalculation the amount has been stuck at meager Rs. 17,400/-. Area measuring 0.6 acre is equal to 2900 Sq, yard which is equal to 2397 sq. meter. If we assess the market value relying on the circle rate it would be Rs. 95/- per sq. meter, the market value of the land in the year 1976 comes out to be Rs. 95/- A – 2397.80 sq. meters = 2,27,791/-.*

xxx xxx xxx

> *12. The market value determined for the circle, is the minimum statutory market value, in accordance with the statutory rules framed under the Stamp Act, as amended by the U.P. Act, on the basis of which, stamp duty is paid as per schedule appended to Section 3 and sale deed is to be entertained only after the payment of the stamp duty paid on the said minimum market value and if in the opinion of the Registering Authority the value of the property is more than the minimum value determined as per the rules, he may refer the matter to the Authority who may further proceed to require the vendee to pay more stamp duty. And if not paid they may impound the sale deed. Thus, the basis of exercise of power, is the minimum market value determined according to rule. If for the augmentation of the revenue, government fixes the market value of the property in a circle why that not be taken as minimum market value of the property for the purpose of Land Acquisition Act.* ***The procedure of determination of market value provided under Section 23 of Land Acquisition Act is pari-materia to the rules framed under the Stamp Act. Therefore, we hold that while avoiding compensation for land acquired under the Land Acquisition Act, the compensation cannot be paid at a lesser rate than that of market value determined for the purpose of payment of stamp duty under the Stamp Act****."*
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> **(emphasis supplied)**

21. Bare perusal of the aforesaid makes it clear that, the determination of the compensation has to be made by taking into consideration the circle rate which has been determined as per the market value. The market value of a property is

the price that a willing purchaser would pay to a willing seller for it, taking into account its current condition, all existing advantages, and potential possibilities when led out in the most advantageous manner, while excluding any benefit resulting from the implementation of the scheme for which the property is compulsorily acquired. Therefore, the market value is to be determined in the light of price paid by the purchaser of similar land in the neighbourhood of the land in question and in cases, where no records for such transaction/purchase is available, the minimum statutory value in accordance with Stamp Act must be taken as market value for circle rate.

22. In the instant case, since the title of the appellant on the scheduled piece of land has not been contested by the respondents and the adjudication is confined only to the quantum of compensation, we deem it appropriate not to interfere with the findings of the High Court with respect to the ownership. Be that as it may, moving further, the order dated 27.03.2004 passed by District Magistrate, Gautam Buddh Nagar notifying the circle rate to be Rs. 1,10,000/-

per sq. mt. as applicable on commercial properties, residential properties etc., situated in Noida is also on record. Further, the nature of acquired land is also not in dispute for the reason that, NOIDA while contesting the Civil Suit No. 416/1998 filed by appellant herein seeking permanent injunction, itself admitted that the land has been determined for use of commercial purposes and hence, it is a valuable land. This fact is also fortified by the Revenue Inspector's report dated 05.08.2008, submitted in compliance of interim order passed by High Court in Writ Petition No. 75152 of 2005. By the said report, it is apparent that, on spot the land of Khasra No. 422 and 427 was converted into a part of Sector 18, for which demarcation is not possible because of absence of any fixed identification points for demarcation since the land is fully developed. Thus, NOIDA cannot turn around to say in this case that the land is either agricultural or at best residential. Thus, the arguments as advanced is contrary to record, far from truth and cannot be countenanced.

23. Now, the argument advanced by learned Additional Solicitor General for State and counsel for respondent no. 7 relying upon the judgment of ***Anil Kumar Srivastava*** *(supra)*, which was a PIL filed before the Allahabad High Court and later transferred to this Court, is also required to be analyzed. This Court in the aforesaid case dealt with the challenge made to tender floated by NOIDA in 2003 and dismissed the said PIL while observing as thus –

> *"7. In reply, respondent no. 2 has pointed out that the* ***impugned Scheme was given wide publicity; that the development of the plot admeasuring 54,320.18 sq. m. became necessary to decongest Sector 18 where car parking has become an acute problem; that decongestion could be achieved by constructing shopping malls with matching parking facility****; that although the area of the plot in question is 54,320.18 sq. m., FAR is restricted to 150 and ground cover is restricted to 30% unlike the instances of plots submitted by the petitioner where for a smaller plot of 6000-7000 sq. m., FAR is 150 and for still smaller plots of 600 sq. m., FAR is 250 (see Annexure P-1). That by offering the said plot admeasuring 54,320.18 sq. m.,* ***the Authority is saving on internal development for amenities, parking, etc****……..*
>
> *xxx xxx xxx*
>
> *9. Mr. L. Nageswara Rao, learned Senior Counsel appearing on behalf of the petitioner submitted that the reserve price fixed by respondent no. 2 at the rate of Rs 27,500 per sq. m. is contrary to clause*

*2(e) of the Board resolution dated 10-7-2003; that under the said clause, the reserve rate of commercial plots admeasuring 5001 sq. m. or more was one-and-a-half times the sector rate; that the sector rate was Rs 90,000 per sq. m.; that the reserve price of Rs 27,500 per sq. m. for the plot admeasuring 54,320.18 sq. m., without sub-division, was abysmally low and understated.....**It was submitted that transfer of the said plot admeasuring 54,320.18 sq. m. at such a low reserve price of Rs 27,500 per sq. m. would result in causing huge loss of Rs 340 crores to the State exchequer**.*

xxx xxx xxx

14. *Applying the above tests to the facts of this case, we find that there is no material on record to show that the tender price of Rs 31,850 per sq. m. is a low price. The entire edifice of the petition is based on the challenge to the reserve price of Rs 27,500 per sq. m. As stated above, fixation of the reserve price is to facilitate the conduct of the sale. **It was open to the petitioner to challenge the tender price of Rs 31,850 per sq. m. as understated, notwithstanding the fixation of the reserve price**. No comparative sales instances, with similar parameters of ground cover of 30% and 150 FAR, have been placed before us. No figures of cost of 2800 ECS have been placed before us as such costs would increase the reserve price. On the other hand, we find that the reserve price has been fixed by taking into account several factors. Firstly, in the past tenders invited for relatively smaller plots with higher reserve price had failed. It is important to bear in mind that the tender process is an expensive exercise. To resort repeatedly to this exercise is a costly affair. Secondly, in the present case, the reserve price was fixed by taking into account the comparative offers/sales in the adjoining sectors.....*

> *15. Reading of the said clause indicates that the figure of Rs 90,000 is not mentioned. It is a figure alleged by the petitioner. As stated above, there is a difference between the circle rate and the sector rate. The petitioner has confused the two. The circle rate is notified by the Government for the guidance of the Sub-Registrar. They are notified for revenue purposes. There is nothing to show that Rs 90,000 per sq. m. was the sector rate. In the present case, we are concerned with a larger plot of 54,320.18 sq. m. with different variables of 30% ground cover and 150 FAR. Keeping in mind all these factors, the Authority has fixed the reserve price. In the present case, undue importance has been given to the fixation of the reserve price. As stated above, notwithstanding the reserve price, the petitioner could have brought before the Court material, if any, to show undervaluation. In the present case, the tender price is Rs 31,850 per sq. m. It is higher than the reserve price.* ***There is no material to show whether the tender price is understated****. In the circumstances, there is no merit in the contention of the petitioner that the land is sold at an abysmally low price."*
>
> **(emphasis supplied)**

24. From reading of the aforesaid judgment, it is clear that in the PIL, petitioner had only challenged the reserve rate as being abysmally low and did not challenge the tender price of Rs. 31,850 per sq. mtrs. Further, the PIL petitioner inter-alia had not led any evidence to show exemplar deeds as to the actual market value of the plot or the circle rate determined under the Stamp Act. On the pleadings and

evidence as existed before it, this Court concluded that the reserve price of land was reasonable and accordingly dismissed the PIL. It was fairly admitted by the learned Additional Solicitor General appearing for NOIDA that, at the time of arguments before this Court, NOIDA had not revealed this fact that they were intending to auction third party lands without there being formal acquisition as such. It is not out of place to mention that, emphasis in the PIL was on the act of handing over of the land by NOIDA to respondent no. 7 being arbitrary. While in the present case, the emphasis is on grant of compensation for the land of third party, whose land has been malafidely and forcefully handed over to respondent no. 7 in contravention of the decree of permanent injunction, without any formal acquisition, though made subsequently. In the said PIL, what may be the just and reasonable amount of compensation was not the question for determination. Therefore, the emphasis made by learned Additional Solicitor General relying on the judgment of ***Anil Kumar Srivastava*** *(supra)* in this regard is bereft of any merit.

25. As discussed above, with regard to determination of the compensation in the present case, the judgment of ***Bhopendra Singh*** *(supra)*, wherein the circle rate showing market value assessed by the Collector for the purpose of registration of instrument of sale was made valid. The said judgment was not interfered with by this Court thereafter. In the case of the land owner itself, the High Court by order dated 10.12.2009 passed in Writ Petition No. 75152 of 2005, directed the Special Land Acquisition Officer to determine the compensation according to the law as laid down in judgment rendered in ***Bhopendra Singh*** *(supra)*, which is sustained by this Court. Therefore, the issue of basis of determination of compensation has been settled inter-party and also un-interfered by this Court. Now, on the said issue, relying upon the judgment of ***Anil Kumar Srivastava*** *(supra)* cannot be interfered with in this case. In no event, the compensation can be paid at a rate lesser than that of market value as determined for the purpose of payment of stamp duty under Stamp Act.

26. As previously stated, the land in dispute was not only designated for commercial use, rather it was also declared to be part of industrial development plan area. After development, even a mall has been constructed on it. In our view, the High Court in the impugned order has rightly determined payment of compensation at the rate of Rs. 1,10,000/- per square meter as per circle rate. We, therefore, confirm the findings of High Court for grant of compensation with rate Rs. 1,10,000/- per sq. mt.

27. In the light of the preceding discussion, the only question that remains now for our consideration is with regard to deduction of development charges to the extent of 50% made by High Court in impugned order. On the said issue, there is no straight jacket formula to arrive at the quantum of deduction of development charge and same must be assessed based on the facts of the individual case after due consideration of all the factors which might affect such quantum. As evident, the High Court did not take into consideration all the factors encircling the issue and routinely proceeded with the maximum deduction of 50%

development charge. We say so because, on perusal of the impugned judgment, it is clear that the High Court has inter-alia highlighted the glaring mischiefs played by NOIDA in the whole acquisition proceedings but at the same time, it has failed to accord a substantial reason for maximum deduction of development charges. It is further observed that, it is not for the first time that NOIDA is in cross-roads before this Court for playing hand-in-glove with large developers.

28. Be as it may, it is uncontroverted from the material available on record that, the scheduled piece of land was allotted by NOIDA to respondent no. 7 in absence of formal acquisition, whereafter, the said scheduled land was developed in the line of commercial hub and even a mall was constructed on it. Hence, in our considered opinion, the quantum of deduction of development charges should have been evaluated by High Court from the contextual perspective of all the relevant factors, which clearly has not been done in the instant case. Nevertheless, to cure the anomaly, it is trite at this juncture to refer to the doctrine enunciated by this

Court in case of ***'Bhagwathula Samanna Vs. Special Tahsildar and Land Acquisition Officer, (1991) 4 SCC 506'***, wherein while dealing with the question of principle of deduction in the land value, this Court held as follows –

> ***"****11. The principle of deduction in the land value covered by the comparable sale is thus adopted in order to arrive at the market value of the acquired land.* ***In applying the principle, it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition which is the only relevant factor. Even in the vast area there may be land which is fully developed having all amenities and situated in an advantageous position. If smaller area within the large tract is already developed and suitable for building purposes and have in its vicinity roads, drainage, electricity, communications etc. then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified****.*
>
> *12. ..... The land involved in these cases is of even level and fit for construction without the necessity of levelling or reclamation. The High Court has itself concluded on the evidence that the lands covered by the acquisition are located by the side of the National Highway and the Southern Railway Staff Quarters with the town planning trust road on the north. The neighbouring areas are already developed ones and houses have been constructed, and the land has potential value for being used as building sites.* ***Having found that the land is to be valued only as building sites and having stated the advantageous position in which the***

land in question lies though forming part of the larger area, the High Court should not have applied the principles of deduction. It is not in every case that such deduction is to be allowed. Where the acquired land is in the midst of already developed land with amenities of roads, electricity etc., the deduction in the value of the comparable land is not warranted*.*

13. *The proposition that large area of land cannot possibly fetch a price at the same rate at which small plots are sold is not absolute proposition and in given circumstances it would be permissible to take into account the price fetched by the small plots of land. If the larger tract of land because of advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not warranted.* ***With regard to the nature of the plots involved in these two cases, it has been satisfactorily shown on the evidence on record that the land has facilities of road and other amenities and is adjacent to a developed colony and in such circumstances, it is possible to utilize the entire area in question as house sites. In respect of the land acquired for the road, the same advantages are available, and it did not require any further development. We, are, therefore, of the view that the High Court has erred in applying the principle of deduction and reducing the fair market value of land from Rs 10 per sq. yard to Rs 6.50 per sq. yard. In our opinion, no such deduction is justified in the facts and circumstances of these cases. The appellants, therefore, succeed****."*

29. Further, this Court in ***'Trishala Jain Vs. State of Uttaranchal, (2011) 6 SCC 47'***, while dealing with determination of compensation and deduction of development charges held as under –

> *"44.* ***It is thus evident from the above enunciated principle that the acquired land has to be more or less developed land as its developed surrounding areas, with all amenities and facilities and is fit to be used for the purpose for which it is acquired without any further expenditure, before such land could be considered for no deduction****. Similarly, the sale instances even of smaller plots could be considered for determining the market value of a larger chunk of land with some deduction unless, there was comparability in potential, utilization, amenities and infrastructure with hardly any distinction. On such principles each case would have to be considered on its own merits.*

Further, this Court in ***'Kasturi and Ors. Vs. State of Haryana, (2003) 1 SCC 354'***, while dealing with various factual factors to be taken into consideration while applying the cut in payment of compensation towards developmental charges held as under –

> *"7. .....****However, in cases of some land where there are certain advantages by virtue of the developed area around, it may help in reducing the percentage of cut to be applied, as the developmental charges required may be***

> ***less on that account. There may be various factual factors which may have to be taken into consideration while applying the cut in payment of compensation towards developmental charges, maybe in some cases it is more than 1/3rd and in some cases less than 1/3rd****. It must be remembered that there is difference between a developed area and an area having potential value, which is yet to be developed. The fact that an area is developed or adjacent to a developed area will not ipso facto make every land situated in the area also developed to be valued as a building site or plot, particularly when vast tracts are acquired, as in this case, for development purpose."*

The aforesaid judgments postulate general factors that are to be taken into consideration for deciding the quantum of deduction of development charges. As iterated above, such factors majorly include the nature of land to be acquired, the extent of area to be acquired, the extent of development in the adjoining land as well as land proposed to be acquired, the commercial potentiality and so on. Therefore, deduction of development charge in the instant case should have been made while considering the said factors. However, it is made clear that this observation is being made in peculiar facts of the present case and not in general.

30. Applying the ratio of said judgments in the facts of the case at hand, as per the stand taken by NOIDA, the scheduled piece of land is a costly land, being situated at the centre of development of authority and has commercial use. On spot, the demarcation was not possible because the land was fully developed. In the backdrop, without acquisition, the piece of land belonging to appellant was transferred to respondent no. 7. The acquisition was made subsequently in view of the observations made by the District Court confirming the decree of permanent injunction for the said piece of land. At the time of taking over of possession, the amount of compensation was not made and now, the appellant is running from pillar to post to receive the adequate compensation. Even after settling the dispute for payment of compensation at the circle rate of Rs. 1,10,000/- inter-party in the previous round of litigation, the NOIDA in its own volition neither determined the compensation nor paid to the appellant. The possession of scheduled piece of land, though taken long back in year 2004-2005, but till date, the appellant has not been able to reap the fruits of compensation and kept litigating before courts even up to

subsequent rounds. Considering all this aspect, deduction made to extent of 50% in by High Court in the said cannot be sustained and is set aside without touching the findings on the point of payment of solatium.

31. As determined hereinabove, the compensation at the circle rate of Rs. 1,10,000/- per sq. meter be payable to the appellant – Reddy Veerana. Now, the issue of interest is required to be looked into in the context of provisions of Section 34 of 1894 Act, which reads as thus:

> "34. Payment of interest - When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of [nine per centum] per annum from the time of so taking possession until it shall have been so paid or deposited:
>
> [Provided that if such compensation or any part thereof is not paid or deposited within 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 or expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.]"

On perusal, it is clear that if amount of compensation is not paid or deposited on or before taking possession of the land, interest @ 9% p.a. leviable from the time of taking of possession until it shall have been so paid or deposited. It further provides that if the amount of compensation has not

been paid or deposited within one year, the interest would be payable @ 15% p.a. on expiry of the period of one year. On perusal of the aforesaid, it is clear that if the amount of compensation is not paid or deposited, 9% interest would be leviable and payable. In case the said amount is not deposited or paid within one year, then interest would be payable @ 15% p.a. In the case at hand, as discussed above, the land was given initially in the year 2003 to respondent No. 7 and the acquisition was made subsequently. The additional award was passed on 31.1.2011 after a delay of five years from the date of taking over of possession. The amount was deposited in the year 2017 by a delay of approximately 14 years. In the peculiar facts of this case, in our view, the civil right of appellant Reddy Veerana is violated in breach of Article 300-A of the Constitution of India. Such action of the NOIDA clearly amounts to constitutional tort. In the context of acquisition as made in this case in violation of Article 300-A of the Constitution of India, judgment of this Court in the case of ***'Kalyani (Dead) Through Lrs. & Ors. Vs. Sulthan Bathery Municipality***

& Ors., Civil Appeal No. 3189 of 2022' is relevant, wherein it was observed as under –

> ***"****20. Article 300A clearly mandates that no person shall be deprived of his property save by authority of law. In the present case, we do not find, under which authority of law, the land of the appellants was taken and they were deprived of the same. If the Panchayat and the PWD failed to produce any evidence that appellants have surrendered their lands voluntarily, depriving the appellants of the property would be in violation of Article 300-A of the Constitution.*
>
> *21. A Constitution Bench of this Court in this case of* ***'K.T. Plantation Private Limited Vs. State of Karnataka, 2011 (9) SCC 63'****, apart from others, dealt with an issue relating to payment of compensation where a person is deprived of his property after deletion of Article 31(2). It laid down that there are two requirements to be fulfilled while depriving a person of his property. Requirement of public purpose is a pre-condition and right to claim compensation is also inbuilt in Article 300-A. While answering the reference in paragraph 221 (e), it provided as follows –*
>
> > *"221. We, therefore, answer the reference as follows:*
> >
> > *xxxxxx*
> >
> > *(e) Public purpose is a precondition for deprivation of a person from his property under Article 300-A and the right to claim compensation is also inbuilt in that Article and when a person is deprived of his property, the State has to justify both the grounds which may depend on scheme of the statute, legislative*

policy, object and purpose of the legislature and other related factors."

32. Taking note of the aforesaid and in the peculiar facts of this case, we are of the view that in addition to the statutorily paid interest, the additional amount of penal interest must be paid in place of shifting the date for determination of the amount of compensation or to determine the compensation as per 2013 Act, as demanded by the appellant Reddy Veerana. It is not out of place to mention here that the nature of interest is essentially a consideration paid either for the use of money or forbearance from demanding it after it has fallen due. Interest, whether it is statutory or otherwise, represents the profit, the creditor may have made if he had used the money or from the loss, he may have suffered because he could not use the amount. Therefore, in the present case, on the amount of compensation, in our view, the amount of compensation be payable along with statutory interest, as directed by the High Court and 3% penal interest, in the peculiar facts and circumstances of the case, is directed.

33. In view of the foregoing, Civil Appeal No.3637 of 2022, preferred by NOIDA is dismissed, whereas the Civil Appeal No. 3636 of 2022 filed by appellant Reddy Veerana is hereby allowed in part with the following directions:

1. Respondents are directed to compute the amount of compensation by taking the circle rate of Sector-18, i.e., Rs. 1,10,000/- per square meter;

2. The judgment of the High Court directing 50% deduction towards development charge stands set-aside. In the peculiar facts of the present case, the respondents are directed not to make any deduction towards the development charge while computing/calculating the amount of compensation as per circle rate, specified in para 1 above;

3. As directed by the High Court, the amount of solatium of 30% in terms of Section 23(2) of 1894 Act is also payable;

4. The statutory interest on the amount of compensation shall be payable @ 9% from the date of taking over of possession, i.e., February, 2005 for a period of one

year. Thereafter, @ 15% p.a. be paid as per the proviso of Section 34 of 1894 Act. In addition to the said statutory interest, 3% penal interest is further directed to be paid in the peculiar facts of this case.

5. It is made clear here that the amount so deposited in the year 2017 would also earn the interest at the same rate, as directed in para 4 above till the date of realization.

6. Since, the acquisition of the land in question was made by NOIDA which was purchased by respondent No. 7 in public auction, therefore, the liability to pay the amount of compensation would be of NOIDA. The entire amount shall be paid within a period of six weeks from the date of this judgment.

.....J.
(VINEET SARAN)

.....J.
(J.K. MAHESHWARI)

New Delhi;
May 5, 2022.