



F.A. No.226 of 2017 & Others

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

FIRST APPEAL No. 226 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

*Versus*

*RAMJIWAN AND OTHERS*

WITH

FIRST APPEAL No. 228 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

*Versus*

*SATYA NARAYAN AND OTHERS*

FIRST APPEAL No. 238 of 2017

*INDIRA SAGAR PROJECT AND OTHERS*

*Versus*

*OMPRAKASH AND OTHERS*

FIRST APPEAL No. 239 of 2017

*INDIRA SAGAR PROJECT AND OTHERS*

*Versus*

*REWA RAM AND OTHERS*

FIRST APPEAL No. 240 of 2017

*INDIRA SAGAR PROJECT AND OTHERS*

*Versus*

*RAMESH AND OTHERS*

FIRST APPEAL No. 298 of 2017

*INDIRA SAGAR PROJECT AND OTHERS*

*Versus*

*RUGHNATHSINGH AND OTHERS*



FIRST APPEAL No. 299 of 2017

*INDIRA SAGAR PROJECT AND OTHERS*

*Versus*

*KARANSINGH AND OTHERS*

FIRST APPEAL No. 300 of 2017

*INDIRA SAGAR PROJECT AND OTHERS*

*Versus*

*DASHRATH AND OTHERS*

FIRST APPEAL No. 302 of 2017

*INDIRA SAGAR PROJECT AND OTHERS*

*Versus*

*TULSIRAM AND OTHERS*

FIRST APPEAL No. 303 of 2017

*INDIRA SAGAR PROJECT AND OTHERS*

*Versus*

*NEENA BAI AND OTHERS*

FIRST APPEAL No. 455 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

*Versus*

*RAMESH CHAND AND OTHERS*

FIRST APPEAL No. 456 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

*Versus*

*RANCHOD AND OTHERS*

FIRST APPEAL No. 457 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

*Versus*

*HARI SINGH AND OTHERS*



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*POOJA DEVI AND OTHERS*

FIRST APPEAL No. 459 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

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*RANJEET SINGH AND OTHERS*

FIRST APPEAL No. 460 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

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*INDARSINGH AND OTHERS*

FIRST APPEAL No. 461 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

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*MANGILAL AND OTHERS*

FIRST APPEAL No. 462 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

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*SONU AND OTHERS*

FIRST APPEAL No. 898 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

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*RAMESHWAR AND OTHERS*

FIRST APPEAL No. 899 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

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*Versus*

*SARDAR SINGH AND OTHERS*

FIRST APPEAL No. 919 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

*Versus*

*KISHANLAL AND OTHERS*

FIRST APPEAL No. 920 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

*Versus*

*RAMVILAS AND OTHERS*

FIRST APPEAL No. 947 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

*Versus*

*SANTOSH AND OTHERS*

FIRST APPEAL No. 948 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

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*UMMED SINGH AND OTHERS*

FIRST APPEAL No. 949 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

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*LOKESH AND OTHERS*

FIRST APPEAL No. 950 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

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*NARMADA PRASAD AND OTHERS*

FIRST APPEAL No. 952 of 2017



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*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

*Versus*

*RAMPRASAD AND OTHERS*

FIRST APPEAL No. 953 of 2017

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

*Versus*

*RAMVILAS AND OTHERS*

FIRST APPEAL No. 1376 of 2018

*LAND ACQUISITION AND REHABILITATION OFFICER INDIRA  
SAGAR PROJECT AND OTHERS*

*Versus*

*TEJRAM AND OTHERS*

FIRST APPEAL No. 1377 of 2018

*LAND ACQUISITION AND REHABILITATION OFFICER AND OTHERS*

*Versus*

*TIJABAI*

FIRST APPEAL No. 2102 of 2019

*GENERAL MANAGER (R AND R) NHDC AND OTHERS*

*Versus*

*JAGDISH AND OTHERS*

FIRST APPEAL No. 2104 of 2019

*NHDC AND OTHERS*

*Versus*

*BALRAM AND OTHERS*

FIRST APPEAL No. 2105 of 2019

*GENERAL MANAGER (R AND R) NHDC AND OTHERS*

*Versus*

*PREMNARAYAN AND OTHERS*

FIRST APPEAL No. 2106 of 2019

*GENERAL MANAGER (R AND R) NHDC AND OTHERS*



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*Versus*  
**RAFIQ AND OTHERS**

**FIRST APPEAL No. 492 of 2020**

**NHDC AND OTHERS**

*Versus*  
**SUNDAR LAL S/O GANGADHAR THROUGH LRS SMT. GULABBAI  
AND OTHERS**

**Appearance:**

*Shri Romesh Dave, learned counsel for the appellants in all the first appeals.*

*Shri Brijendra Gupta & Shri Mohit Matta (through V.C.), learned counsel for  
the respondents.*

**Reserved on : 16<sup>th</sup> May, 2025**

**Delivered on : 16<sup>th</sup> June, 2025**

**O R D E R**

***Per : Justice Vivek Rusia***

Since the controversy involved in these cases is identical in nature, with the joint request of the parties, these appeal are analogously heard and being decided by this common order.

01. These appeals arise out of land acquisition proceedings undertaken under the Land Acquisition Act, 1894 ( now repealed ) (hereinafter referred to as ‘the LA Act’) for the purpose of the Indira Sagar Project implemented by Narmada Hydroelectric Development Corporation (NHDC). The lands situated in Village Rawlas, Tehsil Khategaon, District Dewas, were acquired due to submergence, and after the issuance of notifications, compensation was awarded under the LA Act. Being aggrieved by the lesser amount of compensation awarded by the Land Acquisition Officer, the respective landowners filed their references under Section 18 of the LA Act before learned Additional



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District Judge Khategaon which were decided by judgments passed on 10.03.2017 whereby the compensation awarded has been enhanced. The present appeals have been preferred by the Land Acquisition Officer and other acquiring authorities challenging the enhancement of compensation.

02. These appeals have not been heard on admission years together because the issue related to court fees paid by the appellants remained in controversy. The appellants initially paid court fees by way of a franking machine and filed an application to accept the same as the court fees paid in these appeals. Vide order dated 30.10.2017, the application was rejected and thereafter no court fees have been paid in these appeals. In 2024, an application for recalling of order dated 30.10.2017 has been filed. Thereafter, this Court directed the Taxing Officer to submit a report on whether such court fees can be accepted or not. The Taxing Officer submitted a report that at that time there was no rule for payment of the court fees in the High Court by way of a Special Adhesive Stamp through the franking machine. Now, the appellants have filed a response to the aforesaid report to justify that such court fees have rightly been paid by way of a franking machine. Since these appeals have been pending since 2017 without even formal admission hence parties have been directed to argue on merit. If this court finds the appeal worth admission, then the appropriate direction will be issued for payment of court fee.

03. For the sake of convenience, facts narrated in F.A. No.226/2017 are being taken into consideration which are as follows:-

3.1. The land of respondent – Ramjivan was acquired for the Indira Sagar Project. The acquired land comprised Khasra No. 105/1



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3.2. Feeling aggrieved by the inadequate amount of compensation, the respondent filed a reference under Section 18 of the Act before the reference court seeking enhancement on the grounds that the acquired land had been fully irrigated, fertile, situated adjacent to the Abadi area and accessible by the Pradhan Mantri Gram Sadak Yojana Road. It was contended that the Land Acquisition Officer had wrongly relied on average rent-based rates drawn from historic records of the Harda command area ignoring prevailing sale transactions of similar lands. In support, the claimant produced various registered sale deeds relating to irrigated lands situated in Village Jhundgav and Village Kukravad which comes in the Harda command area which were sold for Rs. 17,05,500/-, reflecting a rate of Rs. 5,66,611/- per acre. The appellants opposed the claim of enhancement in the reference case on the grounds that the reference is barred by limitation under Section 18(2) and that the award was based on uniform rates approved by the Divisional Purchase Committee which were derived from 16 sale deeds. However, the appellants neither examined any witness nor produced any documentary evidence like sale deeds in rebuttal.

3.3. The Reference Court framed issues regarding the limitation of the reference, the correctness of the compensation awarded and the





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reliability of the exemplar sale deed for determining market value. Before the Reference Court, the respondent examined himself as PW-1 and produced documentary evidence including the registered sale deed dated 25.06.2012, revenue records and valuation extracts to substantiate his claim for enhanced compensation. The appellants supported the award and submitted that it was duly awarded after considering all the aspects but did not bring any rebuttal evidence.

04. After appreciating oral and documentary evidence, learned Reference Court has recorded the findings as under:

1. *The reference is within limitation as notice under Section 12(2) of the LA Act was not duly served on the claimant.*
2. *The exemplar sale deeds of (Ex.P/14 and Ex.P/15) were found proximate in time and involving irrigated land in the same command area.*
3. *The transaction in Ex.P/14 and Ex.P/15 was held to be genuine, arms-length, and reflective of prevailing market value.*
4. *Revenue assessment documents (Ex.P/7 and Ex.P/10) were held to lack evidentiary value being based on average rent rates.*
5. *The Land Acquisition Officer's method of valuation was found arbitrary and not based on actual sale transactions.*
6. *The market value was redetermined at Rs. 5, 66,611/- per acre based on Ex.P/14 and Ex.P/15.*
7. *The claimant has been found entitled to all statutory benefits under Sections 23(1-A), 23(2), and 28 of the Act.*

05. The Learned Reference Court has found that the reliance of Land Acquisition Officer on rent-based average figures lacked correlation to actual market value and that no reliable exemplar was cited by the acquiring body. The exemplar sale deeds of Ex.P/14 and Ex.P/15 was



F.A. No.226 of 2017 & Others found to be proximate in time, pertaining to irrigated land within the same command area, and genuinely executed. The learned Court held that Ex.P/14 and Ex.P/15 represented the best evidence of market value. Assessment charts Ex.P/7 and P/10 were rejected as they were derived from historical averages and lacked transparency.

06. Apart from the above conclusion the learned Reference Court by relying on Apex court judgments in *ONGC v/s Sendhabhai Basantram Patel reported in (2005) 6 SCC 454*, *Special Land Acquisition Officer v/s Karigowda reported in (2010) 5 SCC 708* and also on the judgment of this court in *Sitabai v/s The State of Madhya Pradesh reported in 2009 (2) MPHT 442* held that highest bona fide exemplar transactions should be the basis for valuation.

07. The learned reference Court accordingly re-determined the market value at Rs. 5, 66,611/- per acre and directed payment at the said rate along with additional compensation under Section 23(1-A) at 12% per annum, solatium at 30% under Section 23(2) and interest under Section 28 of the Act at 9% per annum for the first year and 15% per annum thereafter from the date of possession till payment. The details of compensation awarded to the land owners/respondents in other appeals are as under:-

S.N o.	First Appeal No.	Parties	Khategaon tehsil, Dewas		Compensation awarded by the L.A.O	Compensation enhanced by the Reference Court
			Area acquired	Survey number		
	FA 226/2017	LAO and Ors. V. Ramjeevan	3.95 Acres	105/1, Ravlas	Rs. 6,03,923/- (Rs. 1,52,892/- per Acre)	Rs. 5,66,611/- per acre



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1.1	FA 228/201 7	L.A.O Vs Satya Narayan and Ors.	1.58 Acre	16/3 Village Ravlas	Rs. 4,10,667/- (Rs. 2,59,916 per Acre)	Rs. 5,66,611/- per acre
1.2	FA 238/201 7	Indira Sagar Project & Anr Vs Omprakash	1.04 Acre	16/1 Village Ravlas	Rs. 2,70,313/- (Rs. 2,59,916/- per Acre)	Rs. 5,66,611/- per acre
1.3	FA 239/201 7	Indira Sagar Project & Anr Vs Rewa Ram	3.09 Acre	110/1 Village Ravlas	Rs. 10,09,834/- (Rs. 3,26,807/- per Acre)	Rs. 5,66,611/- per acre
1.5	FA 298/201 7	Indira Sagar Project & Anr Vs Rughunath Singh	4.40 Acre (4.20 irrigated, 0.20 unirrigate d)	6 Village Melpipliya	Rs. 13,35,475/- (Rs. 3,03,873 per Acre)	Rs. 5,66,611/- per acre
1.6	FA 299/201 7	Indira Sagar Project & Anr Vs Karan Singh	2.72 Acre	4/1/1 Village Melpipliya	Rs. 3,36,019 (Rs. 2,25,516 per Acre)	Rs. 5,66,611/- per acre
1.7	FA 300/201 7	Indira Sagar Project & Anr Vs Dashrath	4.77 Acre	146/2 Village Rohanya Dewas	Rs. 5,19,984/- (4.62Acre = 97,489 per Acre; 0.15 Acre = Rs. 94,956 Per Acre)	Rs. 5,66,611/- per acre
1.8	FA 302/201 7	Indira Sagar Project & Anr Vs Tulsiram	4.57 Acre	33/2, 35/1, 35/3, 40/1 Village Melpipliya	Rs. 5,14,387/-	Rs. 5,66,611/- per acre
1.9	FA 303/201 7	Indira Sagar Project & Anr Vs Neena Bai	0.84 Acre	100/2 Village Pokharbujurg	Rs. 7,00,000/- (Rs. 1,86,188/- per Acre)	Rs. 5,66,611/- per acre
1.11	FA 456/201 7	L.A.O Vs Ranchod	1.43 Acre	129/1 Village Ravlas	Rs. 4,57,719/- (Rs. 4,01,381 /- per Acre)	Rs. 5,66,611/- per acre
1.12	FA 457/201 7	L.A.O Vs Hari Singh	0.82 Acre	163/1 Village Ravlas	Rs. 1,90,875/-	Rs. 5,66,611/- per acre



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1.13	FA 458/201 7	L.A.O Vs Pooja Devi	2.65 Acre	162/1, 165/2/1, 166/3 Village Mirzapur	Rs. 10,01,537/-	Rs. 5,66,611/- per acre
1.14	FA 459/201 7	L.A.O Vs Ranjeet Singh	1.61 Acre	2/1 Village Melpipliya	Rs. 3,91,338/-	Rs. 5,66,611/- per acre
1.15	FA 460/201 7	L.A.O Vs Indar Singh	1.36 Acre	8/1 Village Melpipliya	Rs. 2,24,076/-	Rs. 5,66,611/- per acre
1.16	FA 461/201 7	LAO Vs. mangilal	2 Acre	31/3 Village Melpipliya	Rs. 5,50,450/-	Rs. 5,66,611/- per acre
1.17	FA 462/201 7	L.A.O Vs Sonu	3.02 Acre	35/2, 40/3 Village Melpipliya	Rs. 9,05,450/-	Rs. 5,66,611/- per acre
1.18	FA 898/201 7	LAO v. Rameshwar	1.31 Acre	100/1, 95 Village Mirzapur	Rs. 4,55,716/-	Rs. 6,07,500/- per acre
1.19	FA 899/201 7	L.A.O Vs Narayan Singh	1.24 Acre	10/1 Village Melpipliya	Rs. 2,81,745/-	Rs. 6,07,500/- per acre
1.20	FA 915/201 7	L.A.O Vs Sardar Singh	0.86 Acre	9/1 Village Melpipliya	Rs. 1,94,921/-	Rs. 6,07,500/- per acre
1.21	FA 919/201 7	L.A.O Vs Kishanlal	1.09 Acre	73/2, 64/1 Village Nayapura	Rs. 2,04,705/-	Rs. 6,07,500/- per acre
1.22	FA 920/201 7	L.A.O Vs Ramvilas	2.23 Acre	65/1, 66/1 Village Nayapura	Rs. 3,87,511/-	Rs. 6,07,500/- per acre
1.23	FA 947/201 7	L.A.O Vs Santosh	3.53 Acre	68/2 Village Nayapura	Rs. 6,00,528/-	Rs. 6,07,500/- per acre
1.24	FA 948/201 7	L.A.O Vs Ummed Singh	4.55 Acre	4/2/1 Village Melpipliya	Rs. 10,45,354/-	Rs. 6,07,500/- per acre
1.25	FA 949/201 7	L.A.O Vs Lokesh	1.34 Acre	143/2 and 143/3 Village Ravlas	Rs. 1,85,009/-	Rs. 6,07,500/- per acre



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1.26	FA 950/201 7	L.A.O Vs Narmada Prasad	0.99 Acre	97/1 Village Ravlas	Rs. 1,43,347/-	Rs. 6,07,500/- per acre
1.27	FA 952/201 7	L.A.O Vs Ramprasad	0.94 Acre	156/3 Village Mirzapur	Rs. 1,98,185/-	Rs. 6,07,500/- per acre
1.28	FA 953/201 7	L.A.O Vs Ramvilas	1.46 Acre	63/1 Village Nayapura	Rs. 3,11,661/-	Rs. 6,07,500/- per acre
1.29	FA 1376/18	L.A.O Vs Tejram	1.68 Acre	76/2 Village Pokharbujurg	Rs. 2,88,574/-	Rs. 4,86,000/- per acre
1.30	FA 1377/18	L.A.O Vs Tijabai	1.48 Acre	77/2 Village Pokharbujurg	Rs. 2,35,682/-	Rs. 4,86,000/- per acre
1.31	FA 2102/19	NHDC Vs Jagdish	1.68 Acre	68/4 Village Nayapura	Rs. 3,22,999/-	Rs. 6,07,500/- per acre
1.32	FA 2104/19	NHDC vs Balram	1.36 Acre	143/5 Village Ravlas	Rs. 2,01,386/-	Rs. 6,07,500/- per acre
1.33	FA 2105//19	NHDC Vs Premnaraya n	3.88 Acre	16/4 Village Ravlas	Rs. 11,41,026/-	Rs. 6,07,500/- per acre
1.34	FA 2106/19	NHDC Vs Rafiq	1.24 Acre	205/2 and 205/3 Village Melpipliya	Rs. 2,80,071/-	Rs. 6,07,500/- per acre
1.35	FA 492/20	NHDC Vs Sundarlal through LR's	2.55 Acre	92 and 93 Village Tamarkhan	Rs. 7,78,545/-	Rs. 6,07,500/- per acre
1.36	FA 493/20	NHDC Vs Mukesh	2.17 Acre	117/2/4 Village Ravlas	Rs. 3,04,092/-	Rs. 6,07,500/- per acre

**SUBMISSION OF APPELLANTS**

08. Shri Romesh Dave, learned counsel for the appellants submitted that the learned Reference Court erred in interfering with the compensation determined by the Land Acquisition Officer which was



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fixed in accordance with the prevailing governmental policies and guidelines framed by the Narmada Valley Development Authority (NVDA) duly adopted for the Indira Sagar Project.

8.1. Shri Dave, learned counsel further submitted that the original compensation was determined by the LAO by taking into account 16 registered sale deeds of irrigated lands from the Harda Command Area which had been declared as a comparable command area for purposes of determining the value of lands submerged due to the Indira Sagar Project. These sale transactions were compiled and assessed by the Divisional Purchase Committee which arrived at an average value per rent rupee based on which the per-acre rates were then derived by applying the corresponding rent classification of the acquired land.

8.2. Learned counsel further submitted that the rent-based valuation mechanism was adopted pursuant to Clause 2.2 of the Rehabilitation and Resettlement Policy dated 31.05.2006 framed by the Narmada Valley Development Authority which provided that compensation for lands submerged under the project shall be calculated on the basis of prevailing rates in nearby command areas. In the instant case, the Land Acquisition Officer adopted the average market value derived from the rent-to-price conversion of the sale deeds in the command area and thus submitted that such determination was not arbitrary but based on objective material.

8.3. Learned counsel further submitted that the learned Reference Court has committed a grave error in relying solely on sale deeds (Ex-P/14 & Ex-P/15) from Village – Jhundgav and Village – Kukravad of Tehsil – Harda which according to the appellants is not situated in proximity to the acquired land and was not shown to be similar in



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quality, location, access and potential. No evidence was led by the respondent to establish that the said land was comparable in all material respects to the acquired land before the L.A.O. In the absence of such comparability, the use of Ex.P/14 and Ex.P/15 as the sole benchmark by the court is incorrect. Learned counsel further submitted that the Court also failed to assess whether the said transaction was a bonafide transaction or an isolated sale involving exceptional circumstances or inflated consideration.

8.4. Learned counsel further submitted that the Learned Reference Court failed to consider the fact that the sale deed relied upon by the claimant was dated 25.06.2012 and pertained to land sold approximately seven months prior to the notification under Section 4(1) under the act dated 25.01.2013. In the absence of any evidence of rising price trends, the Reference Court was not justified in mechanically applying the rate of Rs. 5, 66,611/- per acre from that transaction to the acquired land. Learned counsel further submitted that the Court failed to consider that the average derived by the Divisional Purchase Committee was based on a statistically broader dataset making it a more reliable determinant of fair market value.

8.5. Lastly, learned counsel submitted that the learned reference Court erred in awarding the entire statutory benefits under Sections 23(1-A), 23(2), and 28 of the Act, without any corresponding determination of entitlement under the relevant provisions, particularly when part compensation had already been disbursed and received without protest. Learned counsel thus prayed that the impugned award passed by the reference court be set aside.

### **SUBMISSION OF RESPONDENTS**



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09. Learned counsel appearing for the respondents / landowners supported the award passed by the Reference Court by submitting that the enhancement of compensation by the learned Additional District Judge is fully justified in the facts and circumstances of the case. Learned counsel submitted that the method adopted by the Land Acquisition Officer was based on the conversion of rent values to arrive at a market rate that is not acceptable in law.

9.1. Learned counsel further submitted that the land of the respondent was developed land and compensation based on average rent classification cannot do justice to him. Learned counsel submitted that the sale deed as an exemplar of the relevant period was made available to the court which has rightly been relied upon by the Reference Court.

9.2. Learned counsel submitted that the appellant did not lead any evidence either oral or documentary to justify that the average rent-to-value ratio used by the Divisional Purchase Committee is correct to assess the just and proper compensation. In the absence of such evidence, the Reference Court was right in accepting the only cogent material placed by the claimant hence no interference is called for and the appeal be dismissed.

9.3. Learned counsel finally submitted that now the landowners are compensated fairly and equitably in terms of the constitutional guarantee under Article 300-A of the Constitution of India. Learned counsel thus prayed that the present appeals be dismissed.

### **APPRECIATION & CONCLUSION**

10. Before going into the merit of the case in hand it would be proper to keep in mind the series of decisions of the apex Court in which the manner of assessment of just and proper compensation payable to the





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land owners in the matter of land acquisition has been settled. It is settled law that when the land owner seeks the reference for enhancement of compensation, then the burden lies on him to prove his case by adducing reliable evidence and also to establish that the compensation offered by the Land Acquisition Officer is inadequate and the lands are capable of fetching higher market value. In the cases of *Basant Kumar v/s Union of India* reported in (1996) 11 SCC 542; *Special Land Acquisition Officer v/s Karigowda* reported in (2010) 5 SCC 708 and *Ahemdabad Municipal Corporation v/s Shardaben* reported in (1996) 8 SCC 93, the Apex Court has held that *it is for the land owner to prove his case if he is claiming enhancement of a compensation granted by the Land Acquisition Officer. It is the duty of the Court to scrutinize the evidence and apply the test of prudent and willing purchaser whether he would be willing to purchase in the market the said very land.*

11. In the case of *Hookiyar Singh v/s Special Land Acquisition Officer* reported in (1996) 3 SCC 766, it has been held that *the Court must not indulge in the feats of imagination but consider the very fact that the prudent purchaser in open market is ready to purchase the said land at the rate claimed by the claimants.* The Apex Court in the case of *G. Narayan Rao v/s Land Acquisition Officer* reported in (1996) 10 SCC 607 held that *the claimant must establish that at the time of the date of notification under Section 4 of the LA Act, any buyer or purchaser was available.* A similar view has been taken in the case of *State of U.P. v/s Ram Kumari Devi* reported in (1996) 8 SCC 577. In the case of *Gujarat Industrial Department v/s Narottambhai Morarbhai* reported in (1996) 11 SCC 159, the apex Court observed



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*that the criteria and rate for the sale of small pieces of land and big areas of land are always different. The small plots are easily saleable at a higher rate; whereas the large area of the plots does not get the higher rates. Therefore, while assessing the compensation the Court must keep in the mind area of the land under acquisition.*

12. For payment of just and proper compensation and to arrive fair market value of agricultural land various facts and circumstances of the case are liable to be considered by the Court. The Court must exercise its discretion by adopting different methods; like (a) the Sales statistics method; (b) the Capitalisation of net income method; and (c) the Agricultural yield basis method. The Supreme Court in the case of *Special Karigowda (supra)* has held as under:-

*"70. To examine what method could be adopted for determining the market value of land and criticism of the method adopted by the Land Acquisition Collector, by the courts, that the same is not in accordance with law, we must notice various methods which are normally adopted by the Courts for determining the fair market value of the land and which of the method can be more properly applied in the facts and circumstances of this case.*

*71. Sections 23 and 24 of the Act spell out the have and have nots, applicable to the scheme of awarding compensation by the Collector but do not describe the methodology which should be adopted by the courts in determining the fair market value of the land at the relevant time. By development of law, the courts have adopted different methods for computing the compensation payable to the land owners depending upon the facts and circumstances of the case. The Courts have been exercising their discretion by adopting different methods, inter alia the following methods have a larger acceptance in law :*

*(a) Sales Statistics Method : In applying this method, it has been stated that, sales must be genuine and bonafide, should have been executed at the time proximate to the date of notification under [Section 4](#) of the Act, the land covered by the sale must be in the vicinity of the acquired land and the land should be comparable to the acquired land. The land covered under the sale instance should have similar potential and occasion as that of the acquired land {[Faridabad Gas Power Project, N.T.P.C. Ltd. & Ors. v. Om](#)*



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Prakash & Ors. [2009 (4) SCC 719], Shaji Kuriakose & Anr. v. Indian Oil Corp. Ltd. & Ors. [AIR 2001 SC 3341], Ravinder Narain & Anr. v. Union of India [2003 (4) SCC 481]}.

(b) Capitalization of Net Income Method : This method has also been applied by the courts. In this method of determination of market value, capitalization of net income method or expert opinion method has been applied. {Union of India & Anr. v. Smt. Shanti Devi & Ors. [1983 (4) SCC 542], Executive Director v. Sarat Chandra Bisoi & Anr. [2000 (6) SCC 326], Nelson Fernandes & Ors. V. Special Land Acquisition Officer, South Goa & Ors. (supra).

(c) Agriculture Yield Basis Method : Agricultural yield of the acquired land with reference to revenue records and keeping in mind the potential and nature of the land - wet (irrigated), dry and barren (banjar).

72. Normally, where the compensation is awarded on agricultural yield or capitalization method basis, the principle of multiplier is also applied for final determination. These are broadly the methods which are applied by the courts with further reduction on account of development charges. In some cases, depending upon the peculiar facts, this Court has accepted the principle of granting compound increase at the rate of 10% to 15% of the fair market value determined in accordance with law to avoid any unfair loss to the claimants suffering from compulsive acquisition. However, this consideration should squarely fall within the parameters of Section 23 while taking care that the negative mandate contained in Section 24 of the Act is not offended. How one or any of the principles afore-stated is to be applied by the courts, would depend on the facts and circumstances of a given case.

75. It is a settled principle of law that lands of adjacent villages can be made the basis for determining the fair market value of the acquired land. This principle of law is qualified by -: 10:- First Appeal No.131 of 1999. clear dictum of this Court itself that whenever direct evidence i.e. instances of the same villages are available, then it is most desirable that the court should consider that evidence. But where such evidence is not available court can safely rely upon the sales statistics of adjoining lands provided the instances are comparable and the potentiality and location of the land is somewhat similar. The evidence tendered in relation to the land of the adjacent villages would be a relevant piece of evidence for such determination. Once it is shown that situation and potential of the land in two different villages are the same then they



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*could be awarded similar compensation or such other compensation as would be just and fair.*

76. *The cases of acquisition are not unknown to our legal system where lands of a number of villages are acquired for the same public purpose or different schemes but on the commonality of purpose and unite development. The parties are expected to place documentary evidence on record that price of the land of adjoining village has an increasing trend and the court may adopt such a price as the same is not impermissible. Where there is commonality of purpose and common development, compensation based on statistical data of adjacent villages was held to be proper. Usefully, reference can be made to the judgments of this Court to the cases of Kanwar Singh & Ors. v. Union of India [JT 1998 (7) SC 397] and Union of India v. Bal Ram & Anr. [AIR 2004 SC 3981].*

77. *In this regard we may also make a reference to the judgment of this Court in the case of Kanwar Singh & Ors. v. Union of India [AIR 1999 SC 317], where sale instance of the adjacent villages were taken into consideration for the purpose of determining the fair market value of the land in question and their comparability, potential and acquisition for the same purpose was hardly in dispute. It was not only permissible but even more practical for the courts to take into consideration the sale statistics of the adjacent villages for determining the fair market value of the acquired land."*

13. The Apex Court in the case of **Kanwar Singh vs. Union of India** reported in **(1998) 8 SCC 136** held that the amount of compensation for the land acquired depends on the market value of land on the date immediately before the notification under Section 4 of the Act or when same land is acquired and offer of compensation is made through an award. The market value has to be determined on the basis of evidence produced before the Court. It was further held that the consideration in terms of the price received for land under bona fide transactions on the date or preceding the date of notification issued under Section 4 of the Act generally shows the market value of the acquired land and the market value of the acquired land to be assessed in terms of those transactions.

14. In the case of **Hansali Walichand v/s State of Maharashtra**



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*reported in (1998) 2 SCC 388*, hon held that the land having future potential on account of its location can not be ignored and realised potential is not the sole pivotal factor. In this regard it is noteworthy to refer to the decision rendered in the case of ***Land Acquisition Officer, Revenue Divisional Officer v/s L. Kamalamma reported in (1998) 2 SCC 385***, where it has been held *that when no sales of comparable land was available where large chunks of land had been sold, even land transactions in respect of the small extent of land could be taken note of as indicating the price that it may fetch in respect of large tracts of land by making appropriate deductions such as for development of the land by providing enough space for roads, sewers, drains, expenses involved in the formation of a layout, lump sum payment as also the waiting period required for selling the sites that would be formed.*

15. In the continuation of the decision rendered in the case of ***Union of India v/s Mangat (Dead) by L.Rs. & Others reported in (2000) 10 SCC 609*** is also liable to be referred, wherein Para 8 is as under:-

"8. Even if one were to disregard the quality of the land, i.e., irrigated, semi-irrigated or barren, one can not be oblivious of the fact that the market value of land which abuts on the national highway would be much more than the land which is away from it. A price of the land which is landlocked and which is farther away from the national highway can not be the same as that which abuts on the national highway. The formula which had been applied by the High Court, however, seems to indicate that the price of the entire land irrespective of the location of different parcels of land is the same. The formula which was applied by the learned Single Judge of the High Court is obviously incorrect."

16. In this regard it would be profitable to rely on the decision rendered in the case of ***Kasturi v/s State of Haryana reported in (2003) 1 SCC 354***, wherein it was held when there is a difference between a developed area and an area having potential value though yet to be



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developed cut 20% towards development charges as against the normal 1/3rd, from the amount of compensation was treated to be justified in the facts and circumstances of the case.

17. In the case of ***Chimanlal Hargovinddas v/s Special Land Acquisition Officer, Poona & Another*** reported in (1988) 3 SCC 751, the Supreme Court of India dealt with the question as to how the Court should determine the valuation of the lands under acquisition and what broad principle of law relating to the acquisition of land under the Act should be kept in consideration to determine the proper market value of the acquired land. In Para 4 of the judgment, as many as 17 principles, are reproduced below for perusal:-

4. *The following factors must be etched on the mental screen:*

(1) *A reference under Section 18 of the Land Acquisition Act is not an appeal against the award and the court cannot take into account the material relied upon by the Land Acquisition Officer in his award unless the same material is produced and proved before the court.*

(2) *So also the award of the Land Acquisition Officer is not to be treated as a judgment of the trial court open or exposed to challenge before the court hearing the reference. It is merely an offer made by the Land Acquisition Officer and the material utilised by him for making his valuation cannot be utilised by the court unless produced and proved before it. It is not the function of the court to sit in appeal against the award, approve or disapprove its reasoning, or correct its error or affirm, modify or reverse the conclusion reached by the Land Acquisition Officer, as if it were an appellate court.*

(3) *The court has to treat the reference as an original proceeding before it and determine the market value afresh on the basis of the material produced before it.*

(4) *The claimant is in the position of a plaintiff who has to show that the price offered for his land in the award is inadequate on the basis of the materials produced in the court. Of course, the materials placed and proved by the other side can also be taken into account for this purpose.*

(5) *The market value of land under acquisition has to be determined as on the crucial date of publication of the notification*



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*under Section 4 of the Land Acquisition Act (dates of notifications under Sections 6 and 9 are irrelevant).*

*(6) The determination has to be made standing on the date line of valuation (date of publication of notification under Section 4) as if the valuer is a hypothetical purchaser willing to purchase land from the open market and is prepared to pay a reasonable price as on that day. It has also to be assumed that the vendor is willing to sell the land at a reasonable price.*

*(7) In doing so by the instances method, the court has to correlate the market value reflected in the most comparable instance which provides the index of market value.*

*(8) Only genuine instances have to be taken into account. (Sometimes instances are rigged up in anticipation of acquisition of land.)*

*(9) Even post-notification instances can be taken into account (1) if they are very proximate, (2) genuine and (3) the acquisition itself has not motivated the purchaser to pay a higher price on account of the resultant improvement in development prospects.*

*(10) The most comparable instances out of the genuine instances have to be identified on the following considerations:*

- (i) proximity from time angle,*
- (ii) proximity from situation angle.*

*(11) Having identified the instances which provide the index of market value the price reflected therein may be taken as the norm and the market value of the land under acquisition may be deduced by making suitable adjustments for the plus and minus factors vis-à-vis land under acquisition by placing the two in juxtaposition.*

*(12) A balance-sheet of plus and minus factors may be drawn for this purpose and the relevant factors may be evaluated in terms of price variation as a prudent purchaser would do.*

*(13) The market value of the land under acquisition has thereafter to be deduced by loading the price reflected in the instance taken as norm for plus factors and unloading it for minus factors.*

*(14) The exercise indicated in clauses (11) to (13) has to be undertaken in a common sense manner as a prudent man of the world of business would do. We may illustrate some such illustrative (not exhaustive) factors:*

<i>Plus factor</i>	<i>Minus factor</i>
<i>1. smallness of size.</i>	<i>1. largeness of area</i>
<i>2. proximity to a road</i>	<i>2. situation in the interior at a distances from the Road .</i>
<i>3. frontage on a road</i>	<i>3. narrow strip of land with very</i>



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	<i>small frontage compared to death.</i>
<i>4. nearness to developed area</i>	<i>4. lower level requiring the depressed portion to be filled up</i>
<i>5. regular shape</i>	<i>5. remoteness from developed locality</i>
<i>6. level vis-a-vis land</i>	<i>6. some special under acquisition. Disadvantageous factor which would deter a purch.</i>

*(15) The evaluation of these factors of course depends on the facts of each case. There cannot be any hard and fast or rigid rule. Common sense is the best and most reliable guide. For instance, take the factor regarding the size. A building plot of land say 500 to 1000 sq. yds. cannot be compared with a large tract or block of land of say 10,000 sq. yds. or more. Firstly while a smaller plot is within the reach of many, a large block of land will have to be developed by preparing a lay out, carving out roads, leaving open space, plotting out smaller plots, waiting for purchasers (meanwhile the invested money will be blocked up) and the hazards of an entrepreneur. The factor can be discounted by making a deduction by way of an allowance at an appropriate rate ranging approximately between 20 per cent to 50 per cent to account for land required to be set apart for carving out lands and plotting out small plots. The discounting will to some extent also depend on whether it is a rural area or urban area, whether building activity is picking up, and whether waiting period during which the capital of the entrepreneur would be locked up, will be longer or shorter and the attendant hazards.*

*(16) Every case must be dealt with on its own fact pattern bearing in mind all these factors as a prudent purchaser of land in which position the judge must place himself.*

*(17) These are general guidelines to be applied with understanding informed with common sense.*

18. In this matter learned Reference Court has examined the sale deed produced by the respondent and found that it was executed at the time of issuance of Notification under Section 4 of the LA Act and in rebuttal the appellant did not produce any sale deed therefore, the Court rightly took into consideration. The land acquisition officer wrongly assessed the compensation on the basis of guidelines whereas as held by the





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Supreme Court of India the sale deeds should be taken into consideration hence no interference is liable to be made with the impugned order passed by the learned Additional District Judge which is based on the sale deed produced by the respondent.

19. The calculation of the compensation by the Land Acquisition Officer was based on the conversion of rent values to arrive at a market rate which is inherently flawed, outdated and violative of the principles laid down under Section 23 of the Land Acquisition Act, 1894 and alien to the law laid down by the Apex Court. The land under acquisition was not remote or underdeveloped and the valuation based merely on average rent classification did not reflect the potential or real market value of the property. The most proximate, genuine and comparable sale deed was made available to the court by the respondents against which no rebuttal evidence was brought by the appellants and thus was rightly relied upon by the Reference Court.

20. The acquiring body i.e. appellant had failed to lead any evidence before the Reference Court to justify the compensation awarded under the original award. No documents were produced to demonstrate that the average rent-to-value ratio used by the Divisional Purchase Committee was rational or in accordance with actual market conditions. In the absence of such evidence, the Reference Court was right in accepting the only cogent material placed by the claimant.

21. The enhancement is thus not only lawful but necessary to ensure that the landowner who is a poor farmer/ agriculturist is compensated fairly and equitably in terms of the constitutional guarantee under Article 300-A of the Constitution of India.

22. In view of the foregoing discussion, all the appeals being devoid



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of any merit, deserve to be and are hereby dismissed. The court fee paid through the franking machine by the appellant be treated to be paid, registry is directed to take necessary steps if required to take the court fee on record of this appeal.

Let a copy of this order be kept in the record of other first appeals. Records of the reference Court be sent back.

The amount of compensation if not paid due to the pendency of these appeals be paid to the respondents forthwith.

No order as to costs.

(VIVEK RUSIA)  
J U D G E

Ravi