

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

L.A. Appeal No. 2 of 2018

1. The State of Manipur represented by the Commissioner/ Revenue, Government of Manipur, P.O. & P.S. Imphal, Imphal West District, Manipur, Pin No. 795001.
2. The Collector (LA), Churachandpur District, P.O. & P.S. Churachandpur, Manipur, Pin No. 795128.

...Appellants

-Versus -

1. Mr. Zamlianlal Haokip, S/o L.K. Haokip, Songpi Village, P.O. & P.S. Churachandpur, Manipur, Pin No. 795128.

.... Respondent

2. The Union of India represented by the Secretary (Home), Ministry of Home Affairs, North Block, Central Secretariat, New Delhi – 110001.
3. The Officer-in-Charge (Estate), Director General, Assam Rifles (Estate Branch), Shillong, Pin No. 793010.
4. The Commandant, 25th Assam Rifles, Churachandpur District, P.O. & P.S. Churachandpur, Manipur, Pin No. 795128.

... Proforma Respondents

-AND-

IN THE MATTER OF:

In O.S. (L.A.) No. 1 of 2018

Mr. Zamlianlal Haokip, S/o L.K. Haokip, Songpi Village, Churachandpu, Manipur.

...Applicant/ Claimant

-Versus-

The Collector (Land Acquisition), Churachandpur District, Manipur.

....Respondent

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the Appellants : Mr. R.K. Umakanta, Govt. Advocate
For the respondents : Mr. Ashish Deep Verma, Advocate asstd.
by Mr. Tapan Sharma, Advocate &
Mr. Kh. Samarjit, DSGI
Date of Hearing : **10-08-2022**
Date of Judgment & Order : **10-01-2023**

JUDGMENT & ORDER

[1] Heard Mr. R.K. Umakanta, learned Government Advocate appearing for the appellants, Mr. Ashish Deep Verma, learned counsel assisted by Mr. Tapan Sharma, learned counsel appearing for the respondent No. 1 and Mr. Kh. Samarjit, learned DSGI appearing for the respondent Nos. 2, 3 and 4.

[2] The core issue involved in the present appeal is about the valuation of the land under acquisition. The Collector of the land acquisition fixed the valuation of the land at Rs. 20/- per square feet, however, on a reference being made, the reference court enhanced the valuation of the land under acquisition at Rs. 35/- square feet under its judgment dated 19-09-2018 passed in Original (Land Acquisition) Case No. 1 of 2018. The present appeal is filed by the appellants challenging the said judgment passed by the reference court with the prayer for setting aside the same.

[3] The Commissioner (Revenue), Government of Manipur issued a Notification dated 10-05-2017 under Section 11(1) read with Section 40(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 'Acquisition Act', for short) notifying that land measuring

100 acres at Songpi Village, Churachandpur District, Manipur, as described in the schedule of the said notification, was likely to be needed urgently for the purpose of construction of Key Location Plant of Sector Headquarter and one Assam Rifles Battalion for maintenance of law and order and national security. In the said notification, it is also mentioned that since the land was required for the project falling within the purview of Section 40(2) of the said Acquisition Act, it was decided not to carry out the social impact assessment study in terms of Section 9 of the Acquisition Act.

[4] After receiving a detailed report as mandated under Section 12 of the Acquisition Act, the Collector made a report to the Commissioner (Revenue), Government of Manipur on 27-05-2017 as mandated under Section 15 of the Acquisition Act. In the said report, it was, inter alia, stated that the proposed land area to be acquired is a vacant un-surveyed hill land owned by Shri Zamlianlal Haokip of Songpi Village, Churachandpur District (Respondent No. 1 herein) and that no other persons were affected except the land owner and hence rehabilitation and resettlement scheme is not applicable in the proposed acquisition. It was also stated that no public utilities, Government buildings and infrastructural facilities existed within the proposed land area and that no objection was received from any interested persons to the proposed acquisition.

Along with the said report, the Collector submitted an approximate cost of the proposed land acquisition to be given as compensation for the land to the land owner i.e., the respondent No. 1 herein as required under Section 15(2) of the Acquisition Act. The total

[4]

amount of compensation as proposed by the Collector was Rs. 47,97,89,107/- (Rupees Forty Seven Crores Ninety Seven Lakhs Eighty Nine Thousand One Hundred and Seven) only. In the aforesaid proposed compensation award, the Collector calculated the market value of the land at Rs. 20/- per square feet on the basis of the Minimum Guidance Value of land issued by the Secretariat, Revenue Department, Government of Manipur, in its order dated 20-03-2012. The proposed compensation award also included the additional compensation of 75 percent of the total compensation amount as provided under Section 40(5) of the Acquisition Act, since urgency clause was invoked while acquiring the land.

[5] On receiving the aforesaid report submitted by the Collector under Section 15(2) of the Acquisition Act, the Deputy Secretary (Revenue), Government of Manipur wrote a letter dated 21-07-2017 to the concerned officials of the requiring authority informing the latter about the process of the land acquisition proceeding and Government's approval of the rate of compensation i.e., Rs. 20/- per square feet assessed by the Collector and requesting to deposit the proposed compensation amount of Rs. 47,97,89,107/- (Rupees Forty Seven Crores Ninety Seven Lakhs Eighty Nine Thousand One Hundred and Seven) only in the account of the Collector (LA), Churachandpur District in full or part so that declaration notification as provided under Section 19(1) of the Acquisition Act can be issued.

On receiving the aforesaid letter, the concerned officials of the requiring authority wrote a letter dated 02-08-2017 addressed to the Deputy Secretary (Revenue), Government of Manipur, requesting the

latter to remove the “urgency” clause from the present land acquisition proceeding and to submit fresh calculated amount under the normal land acquisition proceeding. Subsequently, the respondent No. 1/ Claimant submitted a written undertaking dated 14-08-2017 under cover of a letter dated 18-08-2017 to the effect that the additional compensation of 75 percent of the total compensation amount as provided under Section 40(5) of the Acquisition Act will not be claimed by him to expedite the acquisition proceeding and in the interest of maintenance of law and order and strategic interest of the State.

[6] On receiving the aforesaid letter from the officials of the requiring authority for dropping the urgency clause from the land acquisition proceeding and for recalculation of the compensation amount as well as the undertaking given by the respondent No. 1/ Claimant for not claiming the additional compensation of 75 percent as provided under Section 40(5) of the Acquisition Act, the Collector recalculated and fixed the total compensation amount as Rs. 48,83,29,533/- (Rupees Forty Eight Crores Eighty Three Lakhs Twenty Nine Thousand Five Hundred and Thirty Three) only and while recalculating the total compensation amount, the Collector determined the market value of the land at the rate of Rs. 28/- per square feet. After recalculation of the compensation amount, the Collector submitted a report dated 21-08-2017 to the Commissioner (Revenue), Government of Manipur. Thereafter, the Collector wrote another letter dated 11-09-2017 addressed to the concerned officer of the requiring authority informing the latter about the assessment of the total compensation amount and requesting to deposit the compensation amount in the account of the Collector (LA), Churachandpur so that

declaration notification under Section 19(1) of the Acquisition Act can be issued for further process of land acquisition. Subsequently, the Collector wrote a letter dated 27-03-2017 to the Secretary (Revenue), Government of Manipur informing the latter that the requiring authority had deposited the total compensation amount of Rs. 48,83,29,533/- (Rupees Forty Eight Crores Eighty Three Lakhs Twenty Nine Thousand Five Hundred and Thirty Three) only on 27-03-2018 and requested for issuing a declaration as required under Section 19(1) of the Acquisition Act. In pursuance of the letter to the Collector dated 27-03-2018 and as required under Section 19(1) of the Acquisition Act, the Secretary (Revenue), Government of Manipur, issued a notification dated 09-05-2018. On the same date of issuing the said notification, the Under Secretary (Revenue), Government of Manipur, wrote a letter dated 09-05-2018 to the Deputy Commissioner/ Collector (LA), Churachandpur informing the latter that the market value of the land at the rate of Rs. 28/- per square feet as proposed by him in place of the earlier approved rate of Rs. 20/- per square feet was not approved by the Government and that as the land owner had submitted an undertaking that he will not claim the additional 75 percent of the total compensation amount, the total compensation amount payable to the land owner was Rs. 34,89,37,532/- (Rupees Thirty Four Crores Eighty Nine Lakhs Thirty Seven Thousand Five Hundred and Thirty Two) only. Accordingly, the Collector was requested to prepare the award at the Government approved rate and the excess amount deposited earlier should be returned to the requiring department after adjusting the advertisement fees and other miscellaneous charges.

[7] The Collector (LA) issued public notice dated 11-05-2018 as required under Section 21(1) of the Acquisition Act calling upon all persons having interests in the said land to appear personally or by agent or Advocate before the Collector to state in writing the nature of their respective interest in the land, the amount and particulars of their claim to compensation for such interest, their claims to rehabilitation and resettlement and their objections, if any to the measurement made and marked on the referred area. Thereafter, as there was no claim or objection from any person, the Collector issued the order for award of compensation dated 11-06-2018 awarding for payment of total compensation amount of Rs. 34,89,37,532/- (Rupees Thirty Four Crores Eighty Nine Lakhs Thirty Seven Thousand Five Hundred and Thirty Two) only to the respondent No. 1/ Claimant for acquisition of 100 acres of land. In the said award, the Collector fixed the market value of the acquired land at the rate of Rs. 20/- per square feet. The respondent No. 1/ Claimant received the said compensation amount under protest. He also submitted an application dated 15-06-2018 to the Collector (LA), Churachandpur objecting to the fixation of market value of the acquired land at the rate of Rs. 20/- per square feet and claiming that he is entitled to receive the remaining amount of Rs. 13,93,92,001/- (Rupees Thirteen Crores Ninety Three Lakhs Ninety Two Thousand and One) only against the total amount of Rs. 48,83,29,533 (Rupees Forty Eight Crores Eighty Three Lakhs Twenty Nine Thousand Five Hundred and Thirty Three). On receiving the said application the Collector (LA) referred the claim of the respondent No. 1/Claimant to the District Judge, Churachandpur as provided under Section 64 of the Acquisition Act for deciding the same by issuing an Office Memorandum dated 13-07-2018. The District Judge,

Churachandpur registered the reference made by the collector as Original (LA) Case No. 1 of 2018 and decided the same by passing the judgment dated 19-09-2018, which is being impugned herein. In the said judgment, the reference court determined the market value of the acquired land at Rs. 35/- per square feet in place of Rs. 20/- per square feet for the whole area of acquired land measuring 100 acres. The reference court also directed the Collector to recalculate the award of compensation in terms of the findings made in the judgment and to pay the enhanced compensation award to the Claimant within a period of three months and that on default of such payment, the respondents shall be liable to pay interest at the rate of 9 percent per annum. The reference court further directed the Collector to release the remaining sum of Rs. 13,93,92,001/- (Rupees Thirteen Crores Ninety Three Lakhs Ninety Two Thousand and One) only of the Claimant within three days from the date of the said judgment.

[8] Mr. R.K. Umakanta, the learned Government Advocate appearing for the appellants draw the attention of this court at para No. 29 and 30 of the impugned judgment and submitted that the reference court enhanced the market value of the acquired land from Rs. 20/- to Rs. 35/- by relying on three documents produced by the respondent No. 1/ Claimant. Para 29 and 30 of the said judgment are reproduced herein for ready reference:-

“29. From perusal and analysis I have come to the conclusion that the Collector, Land Acquisition, Churachanpur District erred and had not adopted and complied with the mandatory provision under Section 26 of RECTLARR Act 2013 whereby relying on the Minimum Guidance Value of Land which is not the criteria in assessing and determining the market value of the land. The claimant has indeed exhibited a registered deed dated 31st October, 2015 of the

surrounding area which is at the rate of Rs. 31/- (Rupees Thirty-one only) per square feet. The Chairman, HAC, Manipur Legislative Assembly requesting review of land at Rs. 100/- per square feet and the Deputy Commissioner, Churachandpur proposal for market value for homestead in the periphery at Rs. 30/- per square feet clearly indicates that the market value fixed by the Collector, Land Acquisition, Churachandpur at Rs. 20/- per square feet is comparatively very low.

30. I have applied my mind keeping in view all the relevant factors coupled with the law laid down under the Act. Taking into consideration all the relevant factors emerging from the evidence and the findings regarding the location of the acquired land, its surroundings, nature, potentiality, the purpose of acquisition, etc., this Court is of the considered opinion that just, fair and proper market value of the acquired land in question on the date of issuance of Section 11 notification is determined at Rs. 35/- (Rupees Thirty-five only) per square feet in place of Rs. 20/- (Rupees Twenty only) per square feet. Hence, the claimant is awarded/ entitled to the enhanced compensation on the acquired land to the extent of Rs. 35/- (Rupees Thirty-five only) per square feet measuring an area of 100 acres (see section 70 of the Act). In other words, the applicant is held entitled to receive compensation for the acquired land as described hereunder:

Class of Land	Awarded Amount
a) All that un-surveyed hill land measuring 100 acres having schedule of land as: East : Jongtaphai Paddy Fields West : Old PWD road and Kelving Khenthang Hatland (un-surveyed land). North : STC BSF Land catching Jongtaphai. South : Road from Lingsiphai to Songpi (Semthong Road)	Rs. 35/- (Rupees Thirty-five) only per square feet

[9] It has been submitted by the learned Government Advocate that the registered Sale Deed dated 31-10-2015 relied on by the respondent

No. 1/Claimant is in respect of a well-developed and a small house plot measuring an area of only 1505 square feet or 35 feet x 43 feet. As per the said Sale Deed, the price of the small house plot is Rs. 47,250/- (Rupees Forty Seven Thousand Two Hundred and Fifty) only, which is at the rate of Rs. 31/- per square feet. The learned Government Advocate vehemently submitted that the market value of the well-developed small house plot cannot be compared or taken as an instance for determining the market value of a large undeveloped and un-surveyed vacant hill land measuring 100 acres and that even if the said Sale Deed is considered as an instance for determining the market value of the land under acquisition, certain percentage ranging between 50 to 70 percent is to be deducted as developmental charges while determining the market value of the acquired land. It has been submitted that the reference court has not taken into consideration this aspect and totally ignored the well settled principle of law laid down by the Hon'ble Apex Court in this regard in a catena of its judgment and enhanced the market value of the acquired land at the rate of Rs. 35/- per square feet, which is much more than the value of the small house plot as mentioned in the Sale Deed and accordingly, the enhanced rate of compensation is not sustainable.

[10] In support of his contention, the learned Government Advocate relied on the judgment rendered by the Hon'ble Apex Court in the case of **“Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona & anr.”** reported in (1988) 3 SCC 751 (para. 4), **Deputy Collector, Land Acquisition, Gujarat & anr. Vs. Madhubi Gobarbhai & anr.**, reported in (2002) 15 SCC 128 (paras 18 to 20, 46 to 48) and

judgment dated 06-04-2022 passed by the Apex Court in Civil Appeal No. 176-177 of 2022 (para 5, 6, 6.1)

[11] With regard to the two other documents produced by the respondent No. 1/ Claimant and relied on by the reference court, it has been submitted by Mr. R. K. Umakanta that both the documents dated 12-03-2013 and 08-08-2017 are mere proposals made by the Deputy Commissioner, Churachandpur and Chairman (Hill Area Committee), Manipur Legislative Assembly respectively of the value of land of Churachandpur District in connection with the Minimum Guidance Value of different categories of land in the State of Manipur determined by the Government in its order dated 20-03-2012 and that the said proposals are not yet approved by the Government. The learned Government Advocate further submitted that since the said two proposals are not yet approved by the Government, determination of the market value of the acquired land by the reference court by placing reliance on the said two documents is unreasonable, illegal and without any application of mind, hence the enhanced rate of market value of the acquired land as determined by the reference court is not sustainable and liable to be interfered with by quashing and setting aside the impugned judgment.

[12] It has also been submitted by the learned Government Advocate that Section 26 of the Acquisition Act deals with determination of market value of land by the Collector and that under Section 26(3) of the said Act, it is, inter alia, provided that where the market value of the acquired land cannot be determined under sub-section (1) or sub-section (2) of Section 26, the State Government shall specify the floor price or minimum price per unit area of the said land based on the price calculated in the manner

[12]

specified in sub-section (1) in respect of similar types of land situated in the immediate adjoining areas. The learned Government Advocate submitted that the Secretariat, Revenue Department, Government of Manipur issued an order dated 20-03-2012 fixing the Minimum Guidance Value of different categories of land in the State of Manipur and that in the said order, the minimum value of land in Churachandpur Town area had been fixed at the rate of Rs. 20/- per square feet. It has also been submitted that as the Collector cannot determine the market value of the acquired land as provided under Section 26(1) and (2), the Collector determined the market value of the acquired land on the basis of the Minimum Guidance Value of the land in Churachandpur District as prescribed by the Government in its order dated 20-03-2012 in terms of the provisions under Section 26(3) of the Acquisition Act and accordingly, the Collector did not commit any illegality in fixing the market value of the acquired land at the rate of Rs. 20/- per square feet. According to the learned Government Advocate, the reference court also failed to consider this point of fact and law and that the conclusion arrived at by the reference court under the impugned judgment that the Collector (LA), Churachandpur had erred in assessing and determining the market value of the acquired land by relying on the Minimum Guidance Value of the land and did not comply with the mandatory provisions of Section 26 of the Acquisition Act is misconceive and not sustainable.

[13] Mr. Ashish Deep Verma, learned counsel for the respondent No. 1/Claimant submitted that the Collector (LA), Churachandpur, in view of the request of the requiring authority for removing the urgency clause in the acquisition proceeding and for fresh calculation of the

[13]

compensation amount under normal acquisition proceeding and keeping in view the undertaking given by the respondent No. 1/Claimant for not claiming the additional compensation of 75 percent of the total compensation amount as provided under section 40(5) of the Acquisition Act, recalculated the total compensation amount at Rs. 48,83,29,533/- (Rupees Forty Eight Crores Eighty Three Lakhs Twenty Nine Thousand Five Hundred and Thirty Three) only by determining the market value of the acquired land at Rs. 28/- per square feet. It has been submitted by the learned counsel that the total recalculated compensation amount was accepted by the requiring authority and the total amount of compensation as fixed by the Collector was deposited into the account of the Collector on 27-03-2018. However, the State Government wrote a letter dated 09-05-2018 to the Collector informing him that the market value of the land which was proposed by him at the rate of Rs. 28/- per square feet in place of the earlier approved rate of Rs. 20/- per square feet was not approved by the Government and accordingly, the Collector was requested to prepare the award at the Government approved rate of Rs. 20/- per square feet. According to the learned counsel, the Government has no power and authority under the Acquisition Act to issue such direction or request and that since the Collector is the sole authority under the statute to assess or determine the market value of the acquired land, the respondent No. 1/Claimant is entitled to receive the compensation amount at the enhanced rate fixed by the Collector.

[14] By relying on the judgment rendered by the Hon'ble Apex Court in the case of “**Bharat Sanchar Nigam Limited Vs. Nemichand Damodardas & anr.**”, reported in **2022 SCC online SC 815**, it has been

[14]

argued by the learned counsel appearing for the respondent No. 1/ Claimant that the Minimum Guidance Value as fixed by the Government in its order dated 20-03-2012 cannot be the basis for determination of the market value of the acquired land. According to the learned counsel, the said Minimum Guidance Value had been fixed with a view to curb and prevent the practice of undervaluation of land in land transaction in the State of Manipur and that the issue as to whether the prices mentioned in such Minimum Guidance Value can be the basis for determining the compensation of the lands acquired under the land Acquisition Act had already been decided by the Hon'ble Apex Court. It has also been submitted that in the case of Bharat Sanchar Nigam Limited (supra), the Hon'ble Apex Court has, by relying in two of its earlier judgments, held that the prices mentioned in the ready reckoner for the purpose of calculation of the stamp duty, which were fixed for entire area, cannot be the basis for determination of the compensation under the Land Acquisition Act and that the said judgments of the Hon'ble Apex Court squarely covers the issue raised in the present appeal. The learned counsel, accordingly, submitted that the compensation amount fixed by the Collector on the basis of the Minimum Guidance Value is not sustainable and that the respondent No. 1/ Claimant is entitled to receive the higher compensation amount determined by the reference court.

[15] The learned counsel for the respondent No. 1/ Claimant also submitted that the reference court, after taking into consideration the gap in the time factor between the execution of the Sale Deed produced by the respondent No. 1/ Claimant and the issuance of the notification under Section 11 of the Acquisition Act, enhanced the market value of the lands

under acquisition and that the reference court can award a higher compensation than the amount claimed by the Claimant. It has also been argued by the learned counsel that the grounds raised by the learned Government Advocate in his argument are not pleaded by the appellants in the memorandum of appeal and accordingly, the arguments advanced by the learned Government Advocate should be rejected.

[16] I have heard the submissions of the learned counsel appearing for the parties at length and carefully examined the materials available on record. There is nothing on record to show that when the Collector issued notice dated 11-05-2018 calling upon all persons having interests in the acquired land to appear personally and to state in writing the nature of their interest in the acquired land, the amount and particulars of their claim to compensation, etc. as provided under Section 21(1) of the Acquisition Act, no one including the respondent No 1/Claimant submitted in writing any claim with regard to the amount of compensation for the acquired land. As the Collector cannot determine the market value of the acquired land as provided under sub-section (1) and (2) of Section 26 of the Acquisition Act, the Collector determined the market value of the land on the basis of the Minimum Guidance Value of Churachandpur District fixed by the Government under the aforesaid Minimum Guidance Value.

[17] The arguments advanced by the learned counsel appearing for the respondent No 1/Claimant is that the Minimum Guidance Value as fixed by the Government in its order dated 20-03-2012 cannot be the basis for determination of the market value of the acquired land and that the question as to whether the minimum value of land as prescribed in the said Minimum Guidance Value can be the basis for determining the compensation of lands

acquired under the Land Acquisition Act had already been decided by the Hon'ble Apex Court in the case of Bharat sanchar Nigam Limited (supra).

On careful perusal of the judgement of the Hon'ble Apex Court in the case of Bharat Sanchar Nigam Limited (supra), this court is of the considered view that the ratio laid down by the Hon'ble Apex Court in the said case is not applicable in the present case. The Hon'ble Apex Court rendered the said judgement on the basis of the statutory provisions provided under the old Land Acquisition Act, 1894, more particularly Section 23 of the said Act, which relates to the determination of the market value/ compensation of the acquired land. In the present case, the acquisition proceeding was under the new Acquisition Act of 2013. The criteria to be followed in assessing and determining the market value of the land to be acquired as provided under Section 23 and 24 of the old Land Acquisition Act, 1894 and the criteria to be followed in assessing and determining the market value of the land to be acquired as provided under Section 26 of the new Acquisition Act of 2013 are totally different. Under Section 26 of the new Acquisition Act of 2013, the Collector can determine the market value of the land not only on the basis of the market value specified in the Indian Stamp Act, 1899 but also on the basis of the floor price or minimum price specified by the State Government concerned. In view of the above, this court cannot agree with the submissions advanced by the learned counsel for the respondent No 1/Claimant.

[18] Under Section 15(2) of the Acquisition Act, the Collector is required to make a report to the appropriate Government in respect of the land to be acquired containing his recommendation on the objections, together with the record of the proceedings held by him along with a separate report giving

therein the approximate cost of land acquisition, particulars as to the number of affected families likely to be resettled, for the decision of the Government.

Under Section 15(3) of the Acquisition Act, it is provided that the decision of the appropriate Government on the objections made under sub-section (2) shall be final. On a bear perusal of the aforesaid provisions under Section 15(2) and (3) of the Acquisition Act, it is very clear that the Government is the final authority to take decision with regard to the report submitted by the Collector under the said provisions. In the present case, the Collector submitted a report dated 27-05-2017 along with the approximate cost of the proposed land acquisition to be given as compensation to the land owner as mandated under Section 15(2) of the Acquisition Act. In the aforesaid proposed compensation amount, the Collector calculated the market value of the acquired land at Rs. 20/- per square feet and the government approved the market value of the land fixed by the Collector and accordingly, the matter has attained finality in terms of provisions of Section 15(3) of the Acquisition Act. It is to be pointed out that the compensation amount as proposed by the Collector in terms of Section 15(2) of the Acquisition Act cannot be taken as a final award of compensation for the acquired land and that such an approximate compensation amount is required to be given for the purpose of enabling the Government to issue a declaration to the effect that the particular land is needed for the public purpose, etc. as provided under Section 19(1) read with the second proviso to sub-section (2) of Section 19 of the Acquisition Act. In the present case, the Collector issued the final compensation award on 11-06-2018 by fixing the market value of the acquired land at Rs. 20/- per square feet. In view of the above facts and provisions of law, this court is of the considered view that the arguments advanced by Mr. Ashish Deep

Verma that as the Collector re-determined the market value of the acquired land at Rs. 28/- per square feet and as the requiring authorities have accepted and deposited the re-calculated compensation amount fixed by the Collector and as the Government has no power and authority to direct the Collector, who is the sole authority to determine the market value of the acquired land, to prepare the award at the Government approved rate of Rs. 20/- per square feet, the respondent No. 1/ Claimant is entitled to receive the compensation amount at the enhanced rate fixed by the Collector, are mis-conceived and not sustainable in the eye of law.

[19] On careful perusal of the impugned judgment, this court also agree with the submission advanced by the learned Government Advocate that the reference court enhanced the market value of the acquired land only on the basis of three documents produced by the respondent No. 1/ Claimant. Out of the said three documents, two documents dated 12-03-2013 and 08-08-2017 are mere proposals made by the Deputy Commissioner, Churachandpur and Chairman (Hill Area Committee), Manipur Legislative Assembly respectively with regard to the value of land in Churachandpur District in connection with the Minimum Guidance Value issued by the Government under its order dated 20-03-2012. The said proposals are not yet accepted by the Government till date. Accordingly, this court is of the considered view that the said two documents have no legal value and that the reference court committed an error in relying on the said two documents while enhancing the market value of the acquired land from Rs. 20/- to Rs. 35/- per square feet.

[20] So far as the Sale Deed dated 31-10-2015 produced by the respondent No. 1/ Claimant is concerned, it is to be pointed out that in the

schedule appended to the said Sale Deed, the said land is described as a house plot measuring an area of only 1505 square feet or 35 feet x 43 feet and surrounded by village roads on the North, South and West and by village reserved land in the East. From the description of the said land under the said schedule, it can be reasonably presumed that the said house plot is a well developed land and situated within the inhabited village land surrounded on three sides by village roads and well-developed enough to be described as a house plot fit for construction of residential buildings. The said land is also a very small plot measuring only 35 feet x 43 feet and the market value of the said land is Rs. 47,250/- (Rupees Forty Seven Thousand Two Hundred and Fifty), which is at the rate of Rs. 31/- per square feet.

On the other hand, the land to be acquired is a vast area of undeveloped and un-surveyed vacant hill land measuring an area of 100 acres. There is also no material on record that the land to be acquired is situated near any town or inhabited village. On comparison of the said two lands, this court is of the considered view that there is considerable force in the arguments advanced by the learned Government Advocate that the market value of the well-developed small house plot cannot be compared or taken as an exemplar for determining the market value of a large undeveloped and un-surveyed vacant hill land and that even if the said Sale Deed is to be considered as an exemplar for determining the market value of the land in acquisition, certain percentage have to be deducted as developmental charges. In this connection, we can gainfully rely on the principles laid down by the Hon'ble Supreme Court in its

judgment dated 06-04-2022 passed in Civil Appeals No. 176 -179 of 2022 wherein it has been held as under:-

“5. As per the settled position of law, small plots/parcels of land cannot offer the same market value as when a large tract of land is purchased in an open market by a willing and prudent purchaser. As per the settled position of law, generally the sale instances with respect to small plots/parcels of land are not comparable to a large extent of land for the purpose of determining the compensation. In the case of *Mahanti Devi v. Jaiprakash Associates Ltd.*, reported in (2019) 5 SCC 163, after following the decision of this Court in the case of *Viluben Jhalejar Contractor v. State of Gujarat*, reported in (2005) 4 SCC 789, it is held that in case of acquisition of large tracts of land and the exemplars are of small portion of land, there shall be a suitable deduction towards development costs.

In the case of *Manoj Kumar v. State of Haryana*, reported in (2018) 13 SCC 96, this Court had an occasion to consider the deductions required to be made when considering transactions pertaining to small developed plots, for determining compensation of large areas and it is held that when a large area is acquired, two kinds of deductions have to be made, i.e., (i) for development, and (ii) in case of exemplar transaction is a small area, the deduction is required to be made to arrive at the value of large tract.”

“5.1 In the present case, the sale instance at Ex. 50 was with respect to plot admeasuring 135 Square Meters. Similarly, the sale instance at Ex. 51 was with respect to plot admeasuring 135 Square Meters. Even the sale instance at Ex. 27 was with respect to 1500 sq. ft. It is also to be noted that even in respect of sale instance at Ex. 50 dated 5.6.1987, the price determined was Rs. 10.34/- per square foot and so far as the sale instance at Ex. 51 dated 10.09.1987 is concerned, the price determined was at Rs. 3/- per square foot. In the present case, the land acquired is a large area, i.e., 45 Hectares 89 R. Therefore, as rightly observed and held by the Reference Court as well as the High Court, the sale instances produced at Ex. 50, 51 & 27 are not comparable at all. We are in complete agreement with the view taken by the Reference Court as well as the High Court discarding Ex. 50, 51 & 27.”

“6. Now the next issue is with respect to sale instances at Ex. 91 to 93 in respect of plots out of land bearing Survey No. 42, which can be said to be comparable and/or nearer to comparable sale instances as land bearing Survey No. 42 was adjacent to the acquired land. As per the sale deeds, Ex. 91 to 93, the plots were sold at Rs.7/- per square foot. However, considering the fact that survey No. 42 was having direct access to main road and was closer to Chandrapur – Nagpur N.H. 7 than the acquired land, the Reference Court determined the market price at Rs. 6/- per square foot and determined the compensation after deducting 25% towards development charges. The High Court has enhanced the deduction from 25 % to 1/3rd, i.e., 33.33%.

Thus, both, the Reference Court as well as the High Court have heavily relied upon Ex. 91 to 93 with respect to plots out of land bearing Survey No. 42 and determined the market price. It is true that as a general rule, the compensation shall not be determined on square foot basis (see *Pitambar Hemlal Badgujar (d) by Lrs. (supra)*). However, at the same time, in a given case, the Court may determine the compensation on square foot basis after making a reasonable deduction towards development charges, in case there are no other sale instances available.”

“6.1 What should be reasonable deduction towards development charges has been considered by this Court in the cases of *Lal Chand (supra)* and *Dyagala Devamma (supra)*.

As held by this Court in the case of *Lal Chand (supra)*, the percentage of “deduction for development” to be made to arrive at the market value of large tracts of undeveloped agricultural land (with potential for development), with reference to the sale price of small developed plots, varies between 20% to 75% of the price of such developed plots, the percentage depending upon the nature of development of the layout in which the exemplar plots are situated. The decision in the case of *Lal Chand (supra)* has been subsequently followed by this Court in the case of *Maya Devi (Dead) through Lrs. V. State of Haryana*, reported in (2018) 2 SCC 474 as well as in the case of *Andhra Pradesh Housing Board v. K. Manohar Reddy*, reported in (2010) 12 SCC 707.

“6.2 In the case of *Dyagala Devamma (supra)*, while quashing and setting aside the judgment and order of the High Court making

deduction towards development charges at 25% in place of 50% as was deducted by the Reference Court, in paragraphs 19 & 20, it is observed and held as under:

“19. In addition to these principles, this Court in several cases have laid down that while determining the true market value of the acquired land especially when the acquired land is a large chunk of undeveloped land, it is just and reasonable to make appropriate deduction towards expenses for development of acquired land. It has also been consistently held that at what percentage the deduction should be made varies from 10% to 86% and, therefore, the deduction should be made keeping in mind the nature of the land, area under acquisition, whether the land is developed or not and, if so, to what extent, the purpose of acquisition, etc. It has also been held that while determining the market value of the large chunk of land, the value of smaller pieces of land can be taken into consideration after making proper deduction in the value of lands especially when sale deeds of larger parcel of land are not available. This Court has also laid down that the court should also take into consideration the potentiality of the acquired land apart from other relevant considerations. This Court has also recognised that the courts can always apply reasonable amount of guesswork to balance the equities in order to fix a just and fair market value in terms of parameters specified under Section 23 of the Act. (See *Trishala Jain v. State of Uttaranchal* [*Trishala Jain v. State of Uttaranchal*, (2011) 6 SCC 47 : (2011) 3 SCC (Civ) 178] and *Vithal Rao v. LAO* [*Vithal Rao v. LAO*, (2017) 8 SCC 558 : (2017) 4 SCC (Civ) 155] .)”

“20. Keeping in mind the aforementioned principles, when we take note of the facts of the case at hand, we find that firstly, the land acquired in question is a large chunk of land (101 ac. approx.); secondly, it is not fully developed; thirdly, the respondents (landowners) have not filed any exemplar sale deed relating to large pieces of land sold in acres to prove the market value of the acquired land; fourthly, exemplar relied on by the respondents, especially Ext. P-18 pertains to very small pieces of land (19 guntas); fifthly, the three distinguishing features noticed in the land in sale deed (Ext. P-18) are not present in the acquired land.”

“7. Applying the law laid down by this Court on the deduction to be made towards development charges while determining the compensation to the facts of the case on hand, it is required to be noted that in the present case a large parcel of land admeasuring 46 Hectares 89 R has been acquired. The sale instances at Ex. 91 to 93 in respect of plots out of land bearing Survey No. 42 are with respect to small pieces of land admeasuring 1200 sq. ft. which were non-agricultural developed plots and even the market price mentioned in the said sale deeds were on square foot basis. In the present case, the acquired land is a barren agricultural land which may have a non- agricultural potentiality. Therefore, considering the fact that the sale exemplars/sale deeds produced at Ex. 91 to 93 are in respect of very small plots of land and were non-agricultural developed plots and even the same were on the highway and having the access to the main road, we are of the opinion that there shall be at least 40% deduction towards development charges.”

[21] The purpose for acquisition of the land is for construction of Key Location Plant of Sector Headquarters and one Assam Rifles Battalion. Considering that the land area under acquisition is an isolated, large, vacant, undeveloped and un-surveyed hill land, this court is of the considered view that a large amount will be required for its development to enable the requiring authority to utilize the same for the purpose for which the land had been acquired. Moreover, since the acquired land is a hill area and because of its topographical features, the requiring authority cannot utilize all the 100 acres for the purpose it has been acquired, at the most the requiring authority may be able to utilize only about 50 to 60 acres and for the purpose of construction of buildings and other structures, the requiring authority may be able to utilize only a small portion of the acquired land. Despite this unfavourable conditions, the requiring authority are compelled to make payment for the whole 100

acres of acquired land because of its topographical features and for security or other reasons.

Keeping in view all these factors, this court is of the considered view that atleast 40 to 50 percent will be required to be deducted while calculating the compensation amount, if such calculation is based on the market value of the land under the aforesaid Sale Deed relied on by the respondent No. 1/ Claimant, which is at the rate of Rs. 31/- per square feet. If 40 to 50 percent are to be deducted as developmental charges while calculating the market value of the acquired land, this court is of the considered view that the market value of the acquired land will be less than Rs. 20/-.

While passing the impugned judgment, the reference court did not take into consideration all these factors and the well-settled principles of law laid down by the Hon'ble Apex Court and enhanced the market value of the acquired land without any valid supporting documents and without application of mind. Accordingly, this court is of the considered view that the impugned judgment dated 19-09-2018 passed by the reference court is not sustainable.

[22] As the whole compensation amount awarded by the Collector had already been withdrawn by the respondent No. 1/ Claimant and as this court is of the view that there was no illegality or unreasonableness on the part of the Collector while determining the market value of the acquired land at the rate of Rs. 20/- per square feet, this court is not inclined to interfere or change the said compensation amount at this point of time.

In the result, the present appeal is allowed by quashing and setting aside the impugned judgment dated 19-09-2018 passed by the Court of District Judge, Churachandpur in Original (Land Acquisition) Case No. 1 of 2018. Parties are to bear their own cost.

JUDGE

FR/NFR

Devananda