

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

MISCELLANEOUS FIRST APPEAL NO.2633 OF 2021 (LAC)

C/W

MISCELLANEOUS FIRST APPEAL NO.2630 OF 2021 (LAC)

MISCELLANEOUS FIRST APPEAL NO.2631 OF 2021 (LAC)

MISCELLANEOUS FIRST APPEAL NO.2632 OF 2021 (LAC)

MISCELLANEOUS FIRST APPEAL NO.2634 OF 2021 (LAC)

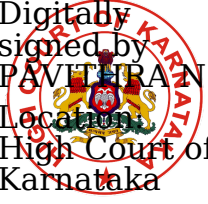
MISCELLANEOUS FIRST APPEAL NO.2637 OF 2021 (LAC)

IN MFA No.2633/2021

BETWEEN:

1. BENEDICTA PEREIRA
W/O LATE THOMAS MICHAEL PEREIRA
AGED ABOUT 71 YEARS
2. NELSON PEREIRA
S/O LATE THOMAS MICHAEL PEREIRA
AGED ABOUT 50 YEARS
3. HENRY WILSOR PEREIRA
S/O LATE THOMAS MICHAEL PEREIRA
AGED ABOUT 49 YEARS
4. MONTY MARY PEREIRA
W/O ALOSIYUS D'SOUZA
AGED ABOUT 43 YEARS

Digitally
signed by
PAVITHRA N
Locating
High Court of
Karnataka



5. JOHNSON STAPHEN PEREIRA
S/O LATE THOMAS MICHAEL PEREIRA
AGED ABOUT 33 YEARS
6. ROSHAN SANTHOSH PEREIRA
S/O LATE THOMAS MICHAEL PEREIRA
AGED ABOUT 38 YEARS

APPELLANTS NO.1 TO 6 ARE
RESIDING AT GUNDAU HOSUE
MALAVOOR VILLAGE
BAJPE POST-574 142
MANGALURU

APPELLANTS NO.3, 4 & 6 ARE
REPRESENTED BY THEIR MOTHER AND
GENERAL POWER OF ATTORNEY HOLDER NO.1
BENEDICTA PEREIRA

...APPELLANTS

(BY SMT. MAITREYI KRISHNAN, ADVOCATE)

AND:

1. THE SPL. LAND ACQUISITION OFFICER
AND ASSISTANT COMMISSIONER
MANGALURU
2. DISTRICT COMMANDANT INDIAN COAST GUARD
PANAMBUR
NEW MANGALURU

...RESPONDENTS

(BY SRI. G.S.ARUNA, HCGP FOR R1;
SRI. KUMAR M.N., ADV. FOR R2)

THIS MFA IS FILED UNDER SECTION 54 (1) OF THE LAND
ACQUISITION ACT, 1894 AGAINST THE JUDGMENT AND AWARD
DATED 25.02.2021 PASSED IN L.A.C.NO.22/2015 ON THE FILE

OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND CJM,
MANGALURU, DAKSHINA KANNADA, PARTLY ALLOWING THE
REFERENCE PETITION FILED UNDER SECTION 18 OF LAND
ACQUISITION ACT.

IN MFA NO.2630/2021

BETWEEN:

NIKLAM SOUZA
HELEN D'SOUZA
W/O ALBERT D'SOUZA
AGEDA BOUT 57 YEARS
KUNTALKAMBLA HOUSE
NEAR OLD AIRPORT GATE
BAJPE POST,
MANGALURU TALUK

...APPELLANT

(BY SMT. MAITREYI KRISHNAN, ADVOCATE)

AND:

1. THE SPL LAND ACQUISITION OFFICER
AND ASSISTANT COMMISSIONER
MANGALURU
2. DISTRICT COMMANDANT INDIAN COAST
GUARD
PANAMBUR
NEW MANGALURU

...RESPONDENTS

(BY SRI. G.S.ARUNA, HCGP FOR R1;
SRI. KUMAR M.N., ADV. FOR R2)

THIS MFA IS FILED UNDER SECTION 54(1) OF LAND
ACQUISITION ACT, 1894, AGAINST THE JUDGMENT AND AWARD
DATED 25.02.2021 PASSED IN LAC.NO.27/2015 ON THE FILE
OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND CJM,

MANGALURU, DAKSHINA KANNADA, PARTLY ALLOWING THE
REFERENCE PETITION FILED UNDER SECTION 18 OF LAND
ACQUISITION ACT.

IN MFA NO.2631/2021

BETWEEN:

OSWALD D'SOUZA
S/O LATE BENJAMINE D'SOUZA
AGED ABOUT 54 YEARS
KODI HOUSE
PACHANADY VILLAGE
BONDEL POST
MANGALURU

...APPELLANT

(BY SMT. MAITREYI KRISHNAN, ADVOCATE)

AND:

1. THE SPL. LAND ACQUISITION OFFICER
AND ASSISTANT COMMISSIONER
MANGALURU
2. DISTRICT COMMANDANT INDIAN COAST GUARD
PANAMBUR
NEW MANGALURU

...RESPONDENTS

(BY SRI. G.S.ARUNA, HCGP FOR R1;
SRI. KUMAR M.N., ADV. FOR R2)

THIS MFA IS FILED UNDER SECTION 54(1) OF LAND
ACQUISITION ACT, 1894, AGAINST THE JUDGMENT AND AWARD
DATED 25.02.2021, PASSED IN LAC NO.26/2015, ON THE FILE
OF THE II-ADDITIONAL SENIOR CIVIL JUDGE AND CHIEF
JUDICIAL MAGISTRATE, MANGALURU, D.K., PARTLY ALLOWING
THE REFERENCE PETITION FILED U/SEC.18 OF LAND
ACQUISITION ACT.

IN MFA NO. 2632/2021**BETWEEN:**

CARMINE LOBO
 SINCE DEAD
 REPRESENTED BY LR IVAN LOBO
 (CLAIMANT, NOW DEAD BY HIS LRS)

1. MARIA LOBO,
 W/O LATE IVAN LOBO
 AGED ABOUT 49 YEARS
2. MERVIN RAYAN LOBO
 S/O LATE IVAN LOBO
 AGED ABOUT 22 YEARS

BOTH WERE THE RESIDENTS OF
 KUNTALKAMBLA HOUSE
 NEAR OLD AIRPORT GATE
 BAJPE POST
 MANGALURU TALUK AND
 NOW RESIDING AT 1.116(78) 8, SOUHARDHA
 NAGARA,
 KOLAMBE VILLAGE,
 BAJPE POST 574 142
 MANGALURU

...APPELLANTS

(BY SMT. MAITREYI KRISHNAN, ADVOCATE)

AND:

1. THE SPL. LAND ACQUISITION OFFICER
 AND ASSISTANT COMMISSIONER
 MANGALURU
2. DISTRICT COMMANDANT
 INDIAN COAST GUARD
 PANAMBUR

NEW MANGALURU

...RESPONDENTS

(BY SRI. G.S.ARUNA, HCGP FOR R1;
SRI. KUMAR M.N., ADV. FOR R2)

THIS MFA IS FILED UNDER SECTION 54(1) OF LAND ACQUISITION ACT, 1894, AGAINST THE JUDGMENT AND AWARD DT.25.02.2021 PASSED IN LAC NO.19/2015 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND CJM, MANGALURU, D.K, PARTLY ALLOWING THE REFERENCE U/S.18 OF LAND ACQUISITION ACT.

IN MFA NO. 2634/2021

BETWEEN:

ALEX RODRIGUES
SINCE DEAD REP. BY LR
MR. STANY RODRIGUES
S/O LATE ALEX RODRIGUES
KUNTALKAMBLA HOSUE
AGED ABOUT 40 YEARS
NEAR OLD AIR PORT GATE BAJPE POST
MANGALURU TALUK

...APPELLANT

(BY SMT. MAITREYI KRISHNAN, ADVOCATE)

AND:

1. THE SPL. LAND ACQUISITION OFFICER
AND ASSISTANT COMMISSIONER
MANGALURU
2. DISTRICT COMMANDANT INDIAN COAST GUARD
PANAMBUR
NEW MANGALURU

...RESPONDENTS

(BY SRI. G.S.ARUNA, HCGP FOR R1;
SRI. KUMAR M.N., ADV. FOR R2)

THIS MFA IS FILED UNDER SECTION 54(1) OF LAND ACQUISITION ACT, 1894, AGAINST THE JUDGMENT AND AWARD DATED 25.02.2021, PASSED IN LAC NO.23/2015, ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND CHIEF JUDICIAL MAGISTRATE, MANGALURU, D.K., PARTLY ALLOWING THE REFERENCE PETITION FILED U/SEC.18 OF LAND ACQUISITION ACT.

IN MFA NO.2637/2021

BETWEEN:

MRS. MACRINE RODRIGUES
(SINCE DEAD BY HER LR'S)

1. MR. STANY RODRIGUES
S/O LATE PASCAL RODRIGUES
AGED ABOUT 56 YEARS
MUDAIKODI HOUSE
BENJANPADAU POST-574 219
VIA JODUMARGA
BANTWAL TALUK
2. LILLY RODRIGUES
D/O LATE PASCAL RODRIGUES
AGED ABOUT 59 YEARS
PERMANENT RESIDENT OF MUDAIKODI HOUSE
BENJANPADAU POST-574 219
VIA JODUMARGA, BANTWAL TALUK
DAKSHINA KANNDA DISTRICT
NOW RESIDING AT
C/O MOTHER REGINA
CONVENT OF ST. BRIGITTA
10 BRUNTON ROAD
NEXT TO UDAYA T.V.
NEAR M. G. ROAD
BANGALURU-560 025

3. ANITHA RODRIGUES
D/O LATE PASCAL RODRIGUES
AGED ABOUT 52 YEARS
PERMANENT RESIDENT OF 1-80
AMMUNJE HOUSE
MUDAIKODI HOUSE
BENJANPADAU POST-574 219
VIA JODUMARGA
BANTWAL TALUK
DAKSHINA KANNADA DISTRICT
4. GRACE PINTO (DEAD)
 - 4a) ALLEN JOSEPH PINTO
S/O LATE LAWRENCE PINTO
AGED ABOUT 71 YEARS
PERMANENT RESIDENT OF C/17
EUCRESS BUILDING
ANTOP HILL ROAD
NEAR WADALA BRIDGE
WADALA EAST
MUMBAI, MAHARASTRA-400 037
 - 4b) MARIANNE PINTO
D/O ALLEN JOSEPH PINTO
AGED ABOUT 35 YEARS
PERMANENT RESIDENT OF C/17
EUCRESS BUILDING, ANTOP HILL ROAD
NEAR WADALA BRIDGE
WADALA EAST
MUMBAI MAHARASTRA-400 037
NOW RESIDING AT AR L1
NAVEEN CLAREMONT COURT
METAL FACTORY ROAD
BEHIND PANTALOONS
OFF NELSON MANICKAM ROAD
AMINJIKARAI, CHENNAI

- 4c) COLLEEN PINTO
D/O ALLEN JOSEPH PINTO
AGED ABOUT 33 YEARS
PERMANENT RESIDENT OF C/17
EUCRESS BUILDING, ANTOP HILL ROAD
NEAR WADALA BRIDGE
WADALA EAST, MUMBAI
MAHARASHTRA-400 037.
NOW R/AT AL BADA OASIS
FLAT NO.308
SECOND FLOOR
SATWA, NEAR IRANIAN HOSPITAL
DUBAI
- 4d) ANNETTE ALLEN PINTO
D/O ALLEN JOSEPH PINTO
AGED ABOUT 28 YEARS
RESIDENT OF C/17
EUCRESS BUILDING, ANTOP HILL ROAD
NEAR WADALA BRIDGE
WADALA EAST, MUMBAI
MAHARASHTRA-400 037
5. THERASA VICTOR CASTELINO (DEAD)
- 5a) VANIA RAMONA CASTELINO
D/O VICTOR CASTELINO
AGED ABOUT 34 YEARS
PERMANENT RESIDENT OF D-302
ANAND GARDENS, ANAND PARK
NEW LING ROAD, KANDERPADA
DAHISAR(WEST)
MUMBAI-400 068
AND NOW RESIDING AT 399
BUNDY AVE
SAN JOSE CA 95117
USA

5b) VERNON VICTOR CASTELINO
S/O VICTOR CASTELINO
AGED ABOUT 26 YEARS
PERMANENT RESIDENT OF D-302
ANAND GARDENS
ANAND PARK
NEW LINK ROAD
KANDERPADA
DAHISAR(WEST)
MUMBAI-400 068
AND NOW RESIDING AT 511 HAVELOCK
DR. WATERLOO, ON N2L 4N8
CANADA

APPELLANTS NO.2 TO 9 ARE REPRESENTED BY THEIR
GENERAL POWER OF ATTORNEY HOLDER
NO.1 MR. STANY RODRIGUES.

...APPELLANTS

(BY SMT. MAITREYI KRISHNAN, ADVOCATE)

AND:

1. THE SPL LAND ACQUISITION OFFICER
AND ASSISTANT COMMISSIONER
MANGALURU
2. DISTRICT COMMANDANT INDIAN COAST GUARD
PANAMBUR
NEW MANGALURU

...RESPONDENTS

(BY SRI. G.S.ARUNA, HCGP FOR R1;
SRI. KUMAR M.N., ADV. FOR R2)

THIS MFA IS FILED UNDER SECTION 54(1) OF LAND
ACQUISITION ACT, 1894, AGAINST THE JUDGMENT AND AWARD
DT.25.02.2021 PASSED IN LAC NO.17/2015 ON THE FILE OF THE
II ADDITIONAL SENIOR CIVIL JUDGE AND CJM, MANGALURU,
D.K, PARTLY ALLOWING THE REFERENCE U/S.18 OF LAND
ACQUISITION ACT.

THESE APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 24.06.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

These appeals are filed against the Judgment dated 25.02.2021 passed by the II Additional Senior Civil Judge and CJM, Mangaluru, Dakshina Kannada ('Reference Court' for short) in LAC No.23/2015 and connected matters.

2. We have heard Smt. Maitreyi Krishnan, learned counsel appearing for the appellants and Shri. G.S Aruna, learned High Court Government Pleader and Shri. Kumar M.N learned counsel appearing for respondent No.2.

3. It is submitted by the learned counsel appearing for the appellants that the appellants are the absolute owners of lands measuring 0.85 acres in Sy.No.64/1, 2.13 acres in Sy.No.64/2A, 0.58 acres in Sy.No.64/2B and 0.40 acres in Sy.No.64/2C in MFA No.2633/2021; 0.18 acres in

Sy.No.139/1B1 in MFA No.2630; 0.42 acres in Sy.No.96/1B1A2 in MFA NO.2631/2021; 0.04 acres in Sy.No.139/2 and 0.20 acres in Sy.No.139/1B4 in MFA No.2632/2021; 0.17 acres in Sy.No.95/4 and 0.50 acres in Sy.No.96/1B3 in MFA No.2634/2021 and 0.45 acres in Sy.No.96/1B1A2 in MFA No.2637/2021 situated at Malavoor Village, Mangalore Taluk, Dakshina Kannada District. These lands were acquired by respondent No.1 - Special Land Acquisition Officer ('SLAO' for short) for the construction of an Air-station for the Coast Guard, Mangaluru - respondent No.2, vide Notifications under Sections 4(1) and 6 of the Land Acquisition Act, 1894 ('1894 Act' for short) dated 01.10.2012 and 28.03.2013, respectively. Thereafter, possession of the properties was taken on 04.09.2015.

4. On 30.08.2013, an Award was passed by respondent No.1 determining the market value at Rs.4,565/- per cent. Thereafter, a Notice under Section 12(2) of the 1894 Act was issued by respondent No.1 and, in response to the same, the appellants filed an application under Section 18(1) of the 1894 Act on 08.11.2013, contending that the

market value and the consequent compensation determined by the SLAO were too low, and requested that their claims be referred to the Reference Court. Accordingly, a Reference was made by the SLAO, which was received by the Reference Court on 18.09.2015.

5. The Reference Court in LAC No.23/2015 and connected matters, partly allowed the Reference under Section 18 of the 1894 Act by judgment dated 25.02.2021 and fixed the market value of the non-agricultural converted land at Rs.84,095/- per cent and agricultural dry land at Rs.14,367/- per cent. Further, the Reference Court held that the appellants were entitled to statutory benefit under Section 23 of the 1894 Act towards the additional market value at 12% per annum from the date of Section 4(1) Notification till the date of award or taking possession of the lands, whichever is earlier. The appellants were also entitled to 30% solatium on the enhanced market value, less the amount paid by the SLAO, and interest at the rate of 9% per annum according to Section 28 of the 1894 Act on the enhanced amount for a period of one year and 15% per

annum thereafter till the date of deposit of the compensation. Aggrieved by the Order of the Reference Court, the appellants are in appeal.

6. The learned counsel appearing for the appellants contended that the Reference Court has failed to consider the sale exemplars marked as Ex.P2 to Ex.P5 produced by the appellants. It is contended that the highest sale exemplar, that is, Ex.P3 ought to have been considered by the Reference Court. Reliance is placed on the case of ***Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona and Another*** reported in **(1988) 3 SCC 751**, wherein the Apex Court held that the Sale Exemplar should be the most comparable bearing in mind the proximity from time angle and situation angle. Ex.P3 - Sale Deed was executed on 14.06.2012 and the Section 4(1) Notification was issued on 01.10.2012 and the land acquired in the proposed sale exemplar is 500 metres away from the acquired properties. Therefore, Ex.P3 is the most suitable for determination of the market value and the consequent compensation.

7. It is further contended that the Reference Court did not take into consideration the potentiality of the land. The purpose of acquisition should also be a relevant criteria to determine the market value and the non-agricultural potentiality of the acquired lands. Further, it is contended that the properties acquired are about 17 kilometres from Mangalore City, adjacent to the Airport and various industrial complexes, educational institutions, Churches, Mosques and Government Offices are in close proximity to the acquired properties. Reliance is placed on the case of ***P. Ramareddy and Others v. Land Acquisition Officer, Hyderabad Urban Development Authority, Hyderabad and Others*** reported in ***(1995) 2 SCC 305***, wherein the Apex Court held that if the acquired land has building potentiality, its value should be taken into consideration for determining the market value of such land.

8. It is further contended that the Reference Court failed to consider the deposits of minor minerals, namely Laterite stone bed while determining the market value. It is contended that Ex.P14, which is a report prepared by PW-2,

retired Deputy Director of Mines and Geology Department, shows that there are Laterite deposits in the acquired lands. Ex.P14 provides detailed calculations of the expenditure for exploitation of Laterite in the acquired lands and concludes that the cost of exploiting 1 cubic metre of Laterite, inclusive of all expenses, amounts to Rs.864/-, at which rate the net income amounts to Rs.65,446.80/- per cent of land. It is contended that this report was not taken into consideration by the Reference Court.

9. The learned counsel appearing for the appellants has placed reliance on the following decisions:-

- ***Karnataka Urban Water Supply and Drainage Board and Others v. K.S. Gangadharappa and Another*** reported in **(2009) 11 SCC 164;**
- ***Udho Dass v. State of Haryana and Others*** reported in **(2010) 12 SCC 51;**
- ***Mehrawal Khewaji Trust (Registered), Faridkot and Others v. State of Punjab and Others*** reported in **(2012) 5 SCC 432;**
- ***Digamber and Others v. State of Maharashtra and Others*** reported in **(2013) 14 SCC 406;**

- ***Daya Khushal and Others v. The Assistant Collector, Surat*** reported in ***AIR 1914 Bombay 284***; and
- ***The State of Karnataka by Principal Secretary to Government Revenue Department and Others v. Arthur G. Pereira & Others*** reported in ***ILR 2019 KAR 3281***.

10. The learned High Court Government Pleader appearing for respondent No.1 - SLAO contended that the appellants have placed reliance on alleged Sale Deeds which cannot be made a basis for claiming enhanced compensation. Further, it is contended that the SLAO had obtained the sales statistics from the concerned jurisdictional Sub-Registrar, and that as per those sale statistics, the average market value was fixed. It is further contended that the acquired lands are dry and agricultural land and are near the airport, therefore, the SLAO had awarded 40% to 45% more than the average market value for the acquired lands.

11. The learned counsel appearing for respondent No.2 has placed reliance on the following judgments:-

- ***Shaji Kuriakose and Another v. Indian Oil Corpn. Ltd. and Others*** reported in **(2001) 7 SCC 650;**
- ***Major General Kapil Mehra and Others v. Union of India and Another*** reported in **(2015) 2 SCC 262;**
- ***Manilal Shamalbhai Patel (Deceased) through his Legal Heirs and Others v. Officer on Special Duty (Land Acquisition) and Another*** reported in **2025 SCC OnLine SC 634;**
- ***Krishan Kumar v. State of Haryana and Others*** reported in **2025 SCC OnLine SC 1043;** and
- ***Manohar and Others v. State of Maharashtra and Others*** reported in **2025 SCC OnLine SC 1519.**

12. We have considered the contentions advanced. These connected appeals arise out of a common judgment of the Reference Court in a batch of references under Section 18 of the 1894 Act. The lands in question lie in Malavoor Village, Mangaluru Taluk, and were acquired for the construction of an Air Station for the Indian Coast Guard, pursuant to a Preliminary Notification under Section 4(1) dated 01.10.2012, followed by an Award dated 30.08.2013. In each of these appeals the acquired land is dry agricultural

land. The SLAO treating the acquired land as dry agricultural land situated near the airport, passed an Award of Rs.4,565/- per cent for non-converted agricultural land and Rs.40,305/- per cent for converted land.

13. On reference under Section 18 of the 1894 Act, the Reference Court found that the SLAO had erred in fixing the market value of the lands, ignoring the higher sale instances on record. The Reference Court enhanced the market value to Rs.84,095/- per cent for non-agricultural converted land and Rs.14,367/- per cent for agricultural dry land, together with statutory benefits under Sections 23 and 28 of the 1894 Act.

14. The question that arises for consideration is whether the market value of the acquired lands fixed by the Reference Court requires enhancement. The enhancement is sought on three grounds:-

- (i) Reference Court ought to have fixed the market value on the basis of the sale exemplar at Ex.P3;

- (ii) The acquired lands possess non-agricultural potentiality, being situated adjacent to the airport and to developed areas; and
- (iii) The Reference Court failed to award any compensation for the Laterite mineral found in the acquired lands.

15. The Apex Court in ***Atma Singh (Dead) Through Lrs. and Others v. State of Haryana and Another*** reported in ***(2008) 2 SCC 568***, considered the question of determination of market value of an acquired land. The relevant paragraph on the point reads as under:

"4. In order to determine the compensation which the tenure-holders are entitled to get for their land which has been acquired, the main question to be considered is what is the market value of the land. Section 23(1) of the Act lays down what the court has to take into consideration while Section 24 lays down what the court shall not take into consideration and have to be neglected. The main object of the enquiry before the court is to determine the market value of the land acquired. The expression "market value" has been the subject-matter of consideration by this Court in several cases. The market value is the price that a willing purchaser would pay to a willing seller for the property having due regard to its existing condition with all its

existing advantages and its potential possibilities when led out in most advantageous manner excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. In considering market value disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy should be disregarded. The guiding star would be the conduct of hypothetical willing vendor who would offer the land and a purchaser in normal human conduct would be willing to buy as a prudent man in normal market conditions but not an anxious dealing at arm's length nor facade of sale nor fictitious sale brought about in quick succession or otherwise to inflate the market value. The determination of market value is the prediction of an economic event viz. a price outcome of hypothetical sale expressed in terms of probabilities."

16. One of the accepted methods for ascertaining the market value of the acquired land is by placing reliance on sale deeds. This Court in **Arthur Pereira's** case (supra), held as follows:-

"8. It is well settled that the determination of market value of the acquired lands under the provisions of the said Act, always involves an element of guess work. But, the determination of the market value has to be made by adopting well recognized methods. In the present case, Reference Court by using comparison method, placing reliance on the sale instances of two registered sale deeds in respect of adjacent comparable

land. The comparison method is a very well accepted method."

17. We notice that four sale exemplars have been placed on record for our consideration. They are:-

Exhibit	Date	Property	Price	Rate per cent
P2	28.08.2009	Malavoor Village, Mangalore Taluk	11.50 cents for Rs.13,75,000	Rs.1,19,565
P3	14.06.2012	Kolambe Village, Mangalore Taluk	80 cents for Rs.1,12,18,475	Rs.1,40,231
P4	07.01.2010	Kenjar Village, Mangalore Taluk	22 cents for Rs.35,00,000	Rs.1,59,091
P5	28.01.2011	Kenjar Village, Mangalore Taluk	3.5 cents for Rs.12,00,000	Rs.3,42,857

18. The Reference Court did not consider the above-mentioned Sale Exemplars citing the following reasons- Ex.P2, had already been referred to by the SLAO in the award, Ex.P3 was a Sale Deed of Kolambe Village and related to a property adjacent to land converted for commercial use and Ex.P4 and Ex.P5 were sales in Kenjar

Village, which included residential buildings and were situated by the side of the main road. We notice that in **Chimanlal Hargovinddas's** case (supra), the Apex Court held that the most comparable sale instance has to be identified on two considerations, namely proximity from the time angle and proximity from the situation angle, and the price reflected therein may be taken as the norm. The Apex Court further observed that there cannot be any hard and fast rule, but the valuation has to be arrived at with common sense. Therefore, Ex.P3 is to be taken as the basis for determining the market value.

19. The learned counsel appearing for the appellants contended that potentiality of the acquired land has to be taken into consideration while determining the market value. We notice that this contention is supported by the Apex Court in **Atma Singh's** case (supra), wherein it was held as follows:-

"5. For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into state of actuality. It is well settled that market value of a

property has to be determined having due regard to its existing condition with all its existing advantages and its potential possibility when led out in its most advantageous manner. The question whether a land has potential value or not, is primarily one of fact depending upon its condition, situation, user to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like water, electricity, possibility of their further extension, whether near about town is developing or has prospect of development have to be taken into consideration. It has been held in Kausalya Devi Bogra v. Land Acquisition Officer and Suresh Kumar v. Town Improvement Trust that failing to consider potential value of the acquired land is an error of principle."

Therefore, the potentiality of the acquired lands must be taken into consideration during the determination of the market value.

20. In the instant case, we notice that Ex.P3 is a Sale Deed pertaining to a land which is in close proximity to the acquired land. However, it is in respect of converted non-agricultural land, whereas the lands under acquisition are dry agricultural land. Under such circumstances, an appropriate deduction is to be applied to arrive at the market value. In **Lal Chand v. Union of India and**

Another reported in **(2009) 15 SCC 769**, the Apex Court held that the deduction to be made from the value of the sale exemplar, to arrive at the value of undeveloped land may range from 20% to 75% depending on the development required on the land. The relevant paragraphs on this point read as under:-

"13. 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.

14. The "deduction for development" consists of two components. The first is with reference to the area required to be utilised for developmental works and the second is the cost of the development works. For example, if a residential layout is formed by DDA or similar statutory authority, it may utilise around 40% of the land area in the layout, for roads, drains, parks, playgrounds and civic amenities (community facilities), etc.

15. The development authority will also incur considerable expenditure for development of undeveloped land into a developed layout, which includes the cost of levelling the land, cost of providing

roads, underground drainage and sewage facilities, laying water lines, electricity lines and developing parks and civil amenities, which would be about 35% of the value of the developed plot. The two factors taken together would be the "deduction for development" and can account for as much as 75% of the cost of the developed plot."

21. In ***Subh Ram and Others v. State of Haryana and Another*** reported in **(2010) 1 SCC 444**, the Apex Court reiterated that the quantum of deduction varies with the degree and cost of the development necessary to bring the acquired land to the standard of the land reflected in the exemplar. The Apex Court held as follows:-

"24. Deduction of "development cost" is the concept used to derive the "wholesale price" of a large undeveloped land with reference to the "retail price" of a small developed plot. The difference between the value of a small developed plot and the value of a large undeveloped land is the "development cost". Two factors have a bearing on the quantum (or percentage) of deduction in the "retail price" as development cost. Firstly, the percentage of deduction is decided with reference to the extent and nature of development of the area/layout in which the small developed plot is situated. Secondly, the condition of the acquired land as on the date of preliminary notification, whether it was undeveloped, or partly developed, is considered and appropriate adjustment is made in the percentage of

deduction to take note of the developed status of the acquired land.

25. The percentage of deduction (development cost factor) will be applied fully where the acquired land has no development. But where the acquired land can be considered to be partly developed (say for example, having good road access or having the amenity of electricity, water, etc.) then the development cost (that is, percentage of deduction) will be modulated with reference to the extent of development of the acquired land as on the date of acquisition. But under no circumstances, will the future use or purpose of acquisition play a role in determining the percentage of deduction towards development cost."

22. In the instant case, considering the extent of development the acquired lands would require and the fact that land in Ex.P3 was sold for commercial purpose, we are of the opinion that a deduction of one-half is appropriate. Therefore, deducting one-half from the value of Rs.1,40,231/- per cent in Ex.P3, the market value of the acquired dry agricultural land results in approximately Rs.70,000/- per cent. This value is further supported by a decision of this Court in **Arthur G. Pereira's** case (supra), wherein a dry agricultural land in Malavoor Village, acquired for the expansion of the airport and found to possess

commercial potential, was valued at Rs.25,500/- per cent after a deduction of 15% towards the cost of development. The Preliminary Notification in that case having been issued in the year 2005 and the present acquisition being of the year 2012, a reasonable cumulative escalation of that value over seven years results in a value in the same range.

23. The appellants have also claimed compensation towards Laterite mineral, relying on Ex.P14. We notice that the value of a mineral in acquired land lies in how far it enhances the market value of the land to a willing purchaser. We are of the opinion that since the acquired lands have been valued as lands with commercial potential, the presence of the mineral stands reflected in the value already determined. Therefore, taking note of the use that the lands were put to before and after the acquisition, we are of the opinion that no additional amount is to be awarded towards the Laterite mineral.

24. Further, we find no grounds to interfere with the Order of the Reference Court relating to the provision of statutory benefits granted by the Reference Court under

Section 23(1A) of the 1894 Act towards additional market value at 12% per annum from the date of the Section 4 Notification till the date of Award, solatium at 30% on the enhanced market value and interest under Section 28 of 1894 Act at 9% for the first year and 15% thereafter, till the date of payment. The compensation already paid by respondent No.1- SLAO shall be deducted from the total compensation provided herein.

25. In the result:-

- (i) The Miscellaneous First Appeals are ***allowed in part.***
- (ii) The Order of the Reference Court dated 25.02.2021 passed in L.A.C.No.23/2015 stands modified to the extent of enhancing the market value of the acquired non-converted dry agricultural land to ***Rs.70,000/-*** per cent with statutory benefits.

The parties shall bear their own costs.

All pending Interlocutory Applications shall stand
disposed of.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**

cp*