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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 22.7.2015 AND PRONOUNCED ON: 29.7.2015

CORAM:

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN

AND

THE HON'BLE MR.JUSTICE T.MATHIVANAN

APPEAL SUIT NOS. 20 OF 2014 TO 61 OF 2014

THE SPECIAL TAHSILDAR, (Land Acquisition)  
JAYANKONDAM LIGNITE POWER PROJECT,  
JAYANKONDAM.

...APPELLANT

VS

|                  |     |                |                     |
|------------------|-----|----------------|---------------------|
| THANGARASU       | ... | 1st RESPONDENT | in AS No.20 of 2014 |
| RAMANUJAM        | ... | 1st RESPONDENT | in AS No.21 of 2014 |
| THIRUNAVUKKARASU | ... | 1st RESPONDENT | in AS No.22 of 2014 |
| THIRUNAVUKKARASU | ... | 1st RESPONDENT | in AS No.23 of 2014 |
| JAYALAKSHMI      | ... | 1st RESPONDENT | in AS No.24 of 2014 |
| JAYARAMAN        | ... | 1st RESPONDENT | in AS No.25 of 2014 |
| PALANIYAMMAL     | ... | 1st RESPONDENT | in AS No.26 of 2014 |
| SAVITHIRI        | ... | 1st RESPONDENT | in AS No.27 of 2014 |
| VAIRAKANNU       | ... | 1st RESPONDENT | in AS No.28 of 2014 |
| KANNAN           | ... | 1st RESPONDENT | in AS No.29 of 2014 |
| BALAKRISHNAN     | ... | 1st RESPONDENT | in AS No.30 of 2014 |
| THIRUNAVUKKARASU | ... | 1st RESPONDENT | in AS No.31 of 2014 |
| NATARAJAN        | ... | 1st RESPONDENT | in AS No.32 of 2014 |
| KOOTHAPPAN       | ... | 1st RESPONDENT | in AS No.33 of 2014 |
| CHANDIRAKASAN    | ... | 1st RESPONDENT | in AS No.34 of 2014 |
| KALIYAMURTHY     | ... | 1st RESPONDENT | in AS No.35 of 2014 |
| CHINNAPPAN       | ... | 1st RESPONDENT | in AS No.36 of 2014 |
| JAYALAKSHMI      | ... | 1st RESPONDENT | in AS No.37 of 2014 |
| CHANDIRAKASU     | ... | 1st RESPONDENT | in AS No.38 of 2014 |
| KARTHIKEYAN      | ... | 1st RESPONDENT | in AS No.39 of 2014 |
| MASILAMANI       | ... | 1st RESPONDENT | in AS No.40 of 2014 |
| CHANDIRAKSAN     | ... | 1st RESPONDENT | in AS No.41 of 2014 |
| THIRUNAVUKKARASU | ... | 1st RESPONDENT | in AS No.43 of 2014 |
| NATARAJAN        | ... | 1st RESPONDENT | in AS No.44 of 2014 |
| NATARAJAN        | ... | 1st RESPONDENT | in AS No.45 of 2014 |
| PALANISAMY       | ... | 1st RESPONDENT | in AS No.46 of 2014 |
| THANGARASU       | ... | 1st RESPONDENT | in AS No.47 of 2014 |
| JAYARAMAN        | ... | 1st RESPONDENT | in AS No.48 of 2014 |
| THIRUNAVUKKARASU | ... | 1st RESPONDENT | in AS No.49 of 2014 |



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|               |                    |                     |
|---------------|--------------------|---------------------|
| DHANASEKARAN  | ... 1st RESPONDENT | in AS No.50 of 2014 |
| RASAIYA       | ... 1st RESPONDENT | in AS No.51 of 2014 |
| AMBUJAMMAL    | ... 1st RESPONDENT | in AS No.52 of 2014 |
| JAYARAMAN     | ... 1st RESPONDENT | in AS No.53 of 2014 |
| RASAIYA       | ... 1st RESPONDENT | in AS No.54 of 2014 |
| AMBUJAMMAL    | ... 1st RESPONDENT | in AS No.55 of 2014 |
| AMBUJAMMAL    | ... 1st RESPONDENT | in AS No.56 of 2014 |
| JAYALAKSHMI   | ... 1st RESPONDENT | in AS No.57 of 2014 |
| KALIYAPERUMAL | ... 1st RESPONDENT | in AS No.58 of 2014 |
| MUTHAIYAN     | ... 1st RESPONDENT | in AS No.59 of 2014 |
| VASANTHA      | ... 1st RESPONDENT | in AS No.60 of 2014 |
| AMBUJAMMAL    | ... 1st RESPONDENT | in AS No.61 of 2014 |

2 THE EXECUTIVE DIRECTOR  
TAMILNADU INDUSTRIAL DEVELOPMENT  
CORPORATION LTD (TIDCO)  
CHENNAI - 8

3 THE CHAIRMAN  
NEYVELI LIGNITE CORPORATION LTD  
NEYVELI ... 2nd and 3rd Respondent in all AS

Appeal Suit filed under Section 54 of the Land Acquisition Act, 1894, against the Judgment and Decree dated 30.11.2012 made in L.A.O.P.Nos.686,696,699,702,744,747,748,749,751,752,753,754,756,762,763,767,771,772,777,780,784,717,718,724,725,728,732,733,735,736,737,738,741,742,743,775,787,790,792,794,795 & 797 of 2008 on the file of the Special Court No.1, Jayankondam.

For Appellant : Mr.P.Gunasekar, AGP (AS)

For Respondent-1: Mr.A.S.Vijayanand

#### COMMON JUDGMENT

V.RAMASUBRAMANIAN, J

These appeals are filed by the Special Tahsildar, Land Acquisition, under Section 54 of the Land Acquisition Act, 1894, challenging a common award passed by the Special Court No.1, Jayankondam (Land Acquisition Tribunal), enhancing the compensation awarded by the Land Acquisition Officer.

2. We have heard Mr.P.Gunasekar, learned Additional Government Pleader (AS) for the appellants and Mr.A.S.Vijayanand, learned counsel appearing for the respondents/claimants in a majority of the appeals.



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3. By a notification issued on 15.6.1998 under Section 4(1) of the Land Acquisition Act, 1894, the lands of a total extent of about 4017.17.0 Hectares of land in about 13 Villages namely Kattathur (South), Koovathur (South), Thandalai, Melur, Kilkudiyiruppu, Devanur, Variyankaval, Ilaiyur (East), Elaiyur (West), Jayankondam, Suriyamanal, Udayarpalayam (East) and Idaiyar were sought to be acquired. After conducting inquiries under Section 5(A) of the Act and issuing a declaration under Section 6 of the Act, the Land Acquisition Officer passed several awards namely Award Nos. 1/2000, 2/2000, 3/2000, 7/2000, 8/2000, 10/2000, 11/2000, 9/2001, 10/2001, 11/2001, 12/2001 and 15/2001 on various dates from 3.8.2000 to 8.5.2001.

4. The Land Acquisition Officer, after taking note of about 185 transactions that had taken place in a period of three years preceding the date of notification under Section 4(1), fixed the market value of the land at Rs.22,000/- per Acre or Rs.54,340/- per Hectare. The land owners sought references under Section 18 of the Act and the Collector referred the matter to the Special Court, Jayankondam. The references, numbered as L.A.O.P.Nos. 686 of 2008 etc., were taken together as a batch. Thereafter, by a common award passed on 30.11.2012, the Land Acquisition Tribunal arrived at the compensation payable as Rs.3,168/- per cent. Aggrieved by such enhancement, the Special Tahsildar has come up with the above appeals.

5. It is seen from the awards passed by the Acquisition Officer that he took note of 185 sale transactions as data sales. These transactions were divided by the Land Acquisition Officer into two categories namely (i) about 74 transactions that had taken place in the villages of Koovathur (South), Kattathur (South), Thandalai and Melur, within a radius of 1.6 Kms. and (ii) about 111 transactions that had taken place in Koovathur (South) village beyond the radius of 1.6 Kms. Thereafter, the Land Acquisition Officer took into account the data sale at Serial Number 119, which related to the sale of the land of a total extent of 0.58 Acres in S.Nos. 545/3 and 545/4 in Koovathur (South) village. Under a sale deed Document No.228 dated 26.2.1998, which was at Serial Number 119 of the data sales, the land of the extent of 0.58 Acres had been sold for Rs.12,760/-. Therefore, the Land Acquisition Officer held that the market value was Rs.22,000/- per Acre or Rs.54,340/- per Hectare.

6. The main grievance of the claimants before the Land Acquisition Tribunal was that the lands in question were used for cultivating cashew trees and that the owners were actually enjoying the income out of the cashew trees every year. The land owners contended before the Tribunal that the Land Acquisition Officer failed to follow the provisions of Section 23 of the Act.



7. In order to show that they were cultivating cashew trees on the lands and that they were getting an annual income, the claimants in each of the Land Acquisition Original Petitions examined themselves as witnesses. Since there were 46 Original Petitions, there were 46 witnesses examined on the side of the claimants as C.W.1 to C.W.46. A person by name Dr.P.Panneerselvam, who was considered to be an expert in evaluating the cashew trees, was examined as C.W.47. A sale deed dated 1.2.1993 was marked by each of the claimants in the 46 Original Petitions. Therefore, all of them were marked together as Ex.C-1 series. The Special Tahsildar, Land Acquisition was examined as R.W.1. Through him, the petitions filed under Section 18(1) of the Land Acquisition Act, by the claimants in each of the 46 Original Petitions were filed as Exx.R1 to R46. The awards passed by the Land Acquisition Tahsildar and the reference Applications made by the Land Acquisition Officer were filed as Exx.R-47 series and R-48 series. The topo sketch was filed as Ex.R-49 series. The sale deed documents dated 20.2.1998, 1.8.1997 and 4.6.1997 were marked as Exx.R-51 to R-53. The Gazette Notification was marked as Ex.R-54 series. The valuation reports for the trees were filed as Ex.R-55 series. The valuation report for the building was filed as Ex.R-56.

8. Since the acquisition was for the purpose of setting up a Lignite Power Project under the aegis of the Neyveli Lignite Corporation Limited, the Chief Manager of Neyveli Lignite Corporation Limited was examined as R.W.2. He filed two Government Orders and the various correspondences between the Neyveli Lignite Corporation Limited and the State Government as Exx.R-57 and R-58. These exhibits R-57 and R-58 had nothing to do with the market value of the lands acquired.

9. The Land Acquisition Tribunal found from the evidence on record that the lands involved in the 46 Original Petitions before the Tribunal were cashew plantations and that there were fruit bearing trees on those lands. Though it was contended on behalf of the Government as well as the Requisitioning Body that C.W.47 was an interested witness, the Tribunal found that he was a retired professor of the Department of Agriculture from the Annamalai University and that he was an expert. The Tribunal found that a majority of the claimants deposed very clearly about the number of trees available on the lands, their age, their annual yield and the income arising therefrom.

10. The claimants who were examined as C.Ws. 1 to 46 claimed that the annual yield from cashew trees was 1366 Kgs. and that the average yield was 24 Kg. per tree. Though they claimed that the price of cashew nuts per Kilogram was Rs.50/-, the Tribunal arrived at the value as Rs.44/- per Kilogram.



11. The Special Tahsildar himself had marked the valuation report of the trees as Ex.R-55. The documentary evidence on the side of the Special Tahsildar himself disclosed that C.W.1 and C.W.46 had about 315 cashew trees on their lands and that the extent of land was alone 1.22.5 Hectares. Therefore, based on their evidence, the Tribunal came to the conclusion that there would be 30 cashew trees in one acre of land. Since the average yield per tree was worked out as 24 Kg. per year, the Tribunal found that the annual yield per acre would be 720 Kgs. At the rate of Rs.44/- per Kg., the annual income derived from the cultivation of cashew trees would be Rs.31,680/-.

12. For arriving at the market value per acre on the basis of capitalization method, the Tribunal applied the multiplier of 10, after taking note of the decisions of the Supreme Court in Deputy Director, Land Acquisition v. Malla Atchi Naidu [(2006) 12 SCC 86], and Shaik Imambi v. Special Deputy Collector, Telugu Ganga Project [(2011) 11 SCC 639. After applying the multiplier of 10, on the average annual return of income per acre of cultivation, namely Rs.31,680/-, the Tribunal fixed the market value of the land as Rs.3,16,800/ per acre or Rs.3,168/- per cent. Aggrieved by such fixation, the Special Tahsildar has come up with the above appeals.

13. The main grounds of attack to the award of the Tribunal are (i) that the references were made beyond the period of limitation; (ii) that the Tribunal erred in not arriving at the market value of the land, on the basis of the sale deeds Exx. R-51 to R-53; (iii) that the Tribunal ought not to have followed the capitalisation method and (iv) that the Tribunal ought not to have accepted the testimony of C.W.47, as he was an interested witness.

14. We have carefully considered the grounds of attack to the award of the Tribunal and the submissions made by the learned Additional Government Pleader. From the pleadings and the contentions, it is seen that the following issues arise for our consideration:

(i) Whether the references were made beyond the period of limitation ?

(ii) Whether the Tribunal ought not to have followed the capitalisation method, but went by the market value as indicated by Exx.R-51 to R-53 ? and

(iii) Whether the Tribunal was right in accepting the testimony of C.W.47 and arriving at the compensation of Rs.3,168/- per cent ?

ISSUE-1:



15. The first issue raised by the Special Tahsildar in these appeals is as to whether the references were made within the period of limitation stipulated under Section 18(2) of the Land Acquisition Act, 1894.

16. Interestingly, the Land Acquisition Officer himself did not raise the question of limitation, before the Land Acquisition Tribunal. It is seen from para 9 of the award of the Tribunal that it was only the Neyveli Lignite Corporation, that raised the plea of limitation, relying upon the decision of the Supreme Court in Mohammed Nasruddin v. State of Maharashtra [AIR 1999 SC 404]. But, the plea was turned down by the Tribunal and the third respondent has not chosen to file any appeal. Therefore, the Special Tahsildar has now raised this plea of limitation.

17. As rightly pointed out by the Tribunal, the Act prescribes two different periods of limitation under the proviso to sub-section (2) of Section 18, for seeking a reference. The period of limitation is six weeks from the date of the award, if the objector was present or at least represented before the Collector at the time when he made the award. But the period of limitation is either six months from the date of the award, or six weeks of receipt of the notice under Section 12(2), whichever is earlier.

18. But the rigours of Section 18(2) got diluted with the insertion of Section 28-A, under the Amendment Act 68 of 1984. The State of Tamil Nadu diluted Section 28-A itself by expanding the scope of sub-section (1), under Tamil Nadu Amendment Act 16 of 1997.

19. Keeping this in mind, if we have a look at the evidence on record, it seen that there was nothing to show that the claimants either received the notice under Section 12(2) or were present when the award was made, so as to invoke any one of the clauses (a) or (b) of the proviso to sub-section (2) of Section 18. This is why the Land Acquisition Officer himself could not raise the plea of limitation. The Land Acquisition Officer could have simply refrained from making a reference, if the land owners had objected to the awards beyond the period stipulated under Section 18(2). He not only made references, but chose not to raise the plea of limitation. Hence, we are of the considered view that the Tribunal was right in rejecting the plea of limitation set up by the third respondent before the Tribunal and adopted by the Land Acquisition Officer in the present appeals.

ISSUE-2:



20. The second issue is as to whether the Tribunal ought not to have followed the capitalisation method, but went by the market value as indicated by Exx.R-51 to R-53.

21. It is too late in the day to blink for an answer to this question. Based upon the parameters laid down in Sections 23 and 24, the superior Courts have already laid the path very clear for others to follow. In Special Land Acquisition Officer vs. P.Veerabhadarappa [AIR 1984 SC 774], the Supreme Court gave an indication of the different methods of valuation to be adopted by courts in the following passage :

"7.The function of the Court in awarding compensation under the Act is to ascertain the market value of the land at the date of the notification under Section 4(1) of the Act and the methods of valuation may be: (1) Opinion of experts (2) The prices paid within a reasonable time in bona fide transactions of purchase or sale of the lands acquired or of the lands adjacent to those acquired and possessing similar advantages. And (3) A number of years' purchase of the actual or immediately prospective profits of the lands acquired. Normally, the method of capitalising the actual or immediately prospective profits or the rent of a number of years' purchase should not be resorted to if there is evidence of comparable sales or other evidence for computation of the market value. It can be resorted to only when no other method is available."

22. In para 8 and 9 of the said decision the Court outlined the circumstances under which the method of capitalisation can be followed:-

"8. Where definite material is not forthcoming either in the shape of sales of similar lands in the neighbourhood at or about the date of notification under Section 4(1) or otherwise, the Court has no other alternative but to fall back on the method of valuation by capitalisation. In valuing land or an interest in land for purposes of land acquisition proceedings, the rule as to number of years' purchase is not a theoretical or legal rule but depends upon economic factors such as the prevailing rate of interest in money investments. The return which an investor will expect from an investment will depend upon the characteristic of income as compared to that of idle security. The main features are: (1) Security of the income; (2) fluctuation; (3) chances of increase; (4) cost of collection etc. The most difficult and yet the most important and crucial part of the whole exercise is the determination of the reasonable rate of return



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in respect of investment in various types of properties. Once this rate of return and accordingly the rate of capitalisation are determined, there is no problem in valuation of the property."

"9. It is thus clear from the above enunciation that the method of determining the value of the property by application of a multiplier to the net annual income or profit should only be adopted when there is no evidence of comparable sales of similar lands in or about the neighbourhood at the relevant time i.e., on the date of the notification under Section 4(1) of the Act. In certain circumstances however the Court has no other alternative but to fall back on the capitalised value."

23. After quoting with approval, the ratio of the decision in P.Veerabhadarappa, the Supreme Court went a step further in Koyappathodi M. Ayisha Umma vs State Of Kerala [AIR 1991 SC 2027] to lay down the rules to be followed in the method of capitalisation, as follows:

"In valuing land or an interest in land for purposes of land acquisition proceedings, the rule as to number of years purchase is not a theoretical or legal rule but depends upon economic factors such as the prevailing rate of interest in money investments. The return which an investor will expect from an investment will depend upon the characteristic of income as compared to that of idle security. The main features are: (1) security of the income; (2) fluctuation; (3) chances of increase; (4) cost of collection; etc. The traditional view of capitalised value being linked with gilt-edged securities, no longer be rigorous when investment in fixed deposits with nationalised banks, National Savings Certificates, Unit Trusts and other forms of Govt. securities and even in the share market command a much greater return are available. The capital in agricultural lands normally when the rate of return on investment was 8.25 per cent in the years 1971-72, the proper multiplier to be applied for the purpose of capitalisation would not, in any event, exceeding 10 per cent. In that case the State had agreed to apply 12-1/2 per cent capitalised value of the lands, this court upheld capitalisation of the value of land at 12-1/2 per cent. In Admn. General of West Bengal v. Collector, Varanasi, [1988] 2 SCR 1025 this Court held that usually land and building thereon constitute one unit. Land is one kind of property; land and building' together



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constitute an altogether different kind of property. They must be valued as one unit."

"It is thus settled law that in evaluating the market value of the acquired property, namely, land and the building or the lands with fruit bearing trees standing thereon, value of both would not constitute one unit, but separate units; it would be open to the Land Acquisition Officer or the court either to assess the lands with all its advantages as potential value and fix the market value thereof or where there is reliable and acceptable evidence available, on record of the annual income of the fruit bearing trees the annual net income multiplied by appropriate capitalisation of 15 years would be the proper and fair method to determine the market value but not both."

24. In Deputy Director, Land Acquisition v. Malla Atchinaidu and others (2006) 12 SCC 87, the Supreme Court was concerned with the main question as to whether a separate valuation is possible for trees on land. The Court extracted the following paragraphs from State of Haryana v. Gurcharan Singh and Anr. , AIR (1996) SC 106, which is as follows:

"Ms. Suruchi Agarwal, learned counsel for the State, contended that the High Court has committed grave error of law in upholding the determination of the compensation both to the land as well as fruit bearing trees and has also further committed error in enhancing the market value to the fruit bearing trees in addition to the confirmation of the compensation separately awarded for the land and the fruit bearing trees. It is against the settled principle of law as laid down by this court in catena of decisions. We find force in the contention. Sri Bagga, learned counsel for the respondents, contended that in the year 1966 the price index was at 144 points whereas in 1970 the index was found to be at 213 points. The High Court, therefore, was right in increasing the compensation to the fruit bearing trees by 60%. We find no force in the contention. It is settled law that the Collector or the court who determines the compensation for the land as well as fruit bearing trees cannot determine them separately. The compensation is to the value of the acquired land....."



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25. In Spl.Land Acquisition Officer vs Karigowda [(2010) 5 SCC 708], the court once again laid down the parameters for choosing one method of valuation over the other, on the following lines:

"60. 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 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).

61. Normally, where the compensation is awarded on agricultural yield or capitalization



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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."

26. In *Ambya Kalya Mhatra(D) By Lrs.& Ors vs State Of Maharashtra* [2011 15 SCR 1], the Supreme Court held that under certain circumstances, the value of the land as well as the value of the trees could be taken together, for arriving at the market value. The relevant portion reads as follows:

"If the land value had been determined with reference to the sale statistics or compensation awarded for a nearby vacant land, then necessarily, the trees will have to be valued separately. But if the value of the land has been determined on the basis of the sale statistics or compensation awarded for an orchard, that is land with fruit-bearing trees, then there is no question of again adding the value of the trees. Further, if the market value has been determined by capitalizing the income with reference to yield, then also the question of making any addition either for the land or for the trees separately does not arise. In this case, the determination of market value was not with reference to the yield. Nor was the determination of market value in regard to the land with reference to the value of any orchard but was with reference to vacant agricultural land. In the circumstances, the value of the trees could be added to the value of the land.

27. In *Shaik Imambi v. Special Deputy Collector, Telugu Ganga Project* [(2011) 11 SCC 639, the Supreme Court was concerned with the determination of value of income from lime trees. The appellant was the owner of a lime orchard. For determining the market value of the said land by capitalization method, the Land acquisition officer valued the income from each lime tree as Rs.80 per annum. The High Court assessed the annual



income as Rs. 100 per lime tree. When the land owners approached the Supreme Court, the Court held:

"10. There is no specific documentary evidence in regard to the actual income from the orchard. As the reports of experts of the state government assessed the gross annual income from each tree as Rs.150-200/-, it would be appropriate to take the average thereof, namely Rs.175/- as the annual income per tree in this case. If Rs.35/- is deducted towards the cost of cultivation and other expenses as recommended by the experts, the net annual income would have been Rs.140/- per tree or Rs.1,06,540/- for 761 trees.

11. Thus instead of the increase of Rs.20/- per tree per annum awarded by the High Court, we assess the increase to be awarded as Rs.60/- per tree per annum. We affirm the multiplier of 10 adopted by the High Court in regard to the increase, without disturbing the assessment by the Land Acquisition Officer applying the multiplier of for the income of Rs. 80/- per annum per tree, assessed by him."

28. Keeping in mind the principles of law laid down in the aforesaid decisions of the Apex Court, if we have a look at the facts of the cases on hand, it is seen that the Tribunal had no alternative except to reject the fixation of market value at the rate of Rs.220/- per cent by the Land Acquisition Officer on the basis of the data land at Serial Number 119. The error committed by the Land Acquisition Officer was that he rejected the data sale deeds that related to the sale of house sites. He also ignored the cultivation of cashew trees and the annual yield therefrom. The Land Acquisition Officer simply valued the trees for the value of the wood. Therefore, the Land Acquisition Tribunal was right in rejecting the basis adopted by the Land Acquisition Officer.

29. After rejecting the method of fixation of market value by the Land Acquisition Officer, the Tribunal was left with two alternatives namely to take the market value of the land and the value of the trees together or to arrive at the market value of the land on the basis of the annual income. The Tribunal found on evidence that in a major portion of the land belonging to C.W.1 and C.W.46, there were 315 cashew trees. The Tribunal could not have adopted one method of valuation for one set of lands and another method of valuation for another set of lands forming part of the same acquisition, when the lands were of the same nature. Therefore, we find that the adoption of capitalisation method by the Tribunal cannot be found fault.



30. The Land Acquisition Officer placed strong reliance upon the sale deeds filed under Exx.R-51 to R-53. But the Tribunal recorded a finding that the lands covered by Exx.R51-R53 were not at all comparable to the lands acquired. Moreover, R.W.1 appears to have admitted that the guideline value fixed by the Government was taken as the basis in Exx.R51-R-53. But it is now well settled that the guideline value fixed by the Government for the purpose of preventing under valuation, cannot be the sole determining factor for arriving at the market value of the land. Therefore, we are of the considered view on the second issue that the Tribunal was right in following the capitalisation method on the basis of the principles laid down in the above decisions.  
ISSUE-3:

31. The third issue is as to whether the Tribunal was right in accepting the testimony of C.W.47 and arriving at compensation of Rs.3,168/- per cent.

32. The appellant assails the credibility of the oral evidence of C.W.47 on the ground that he was an interested witness. Though he was admittedly a retired Professor of Agricultural from the Annamalai University, the appellant claims that he was an interested witness, as he himself was one of the claimants.

33. But, we are unable to sustain the above objection. Merely because C.W.47 was also a claimant in a few Original Petitions, his expertise cannot be doubted or belittled. The oral testimony of a person who happens to have an interest in the case and who also is an expert in the field need not always be rejected. As a matter of fact, it is permitted in the Law of Evidence for the parties to a dispute, to examine the experts as witnesses on either side. If the contention of the appellant is accepted, every expert brought by one of the parties to a litigation could be treated as an interested witness. Even in criminal cases, the law is well settled that the evidence of a person cannot be disbelieved merely on the ground that he is related to the deceased. As pointed out by the Supreme Court in Gangabhavani vs. Royapatti Venkat Reddy, such an evidence may require careful scrutiny, but it can certainly be relied upon, if it has a ring of truth in it and is cogent, credible and trustworthy. Therefore, we are unable to sustain the objection of the appellant that the Tribunal ought not to have accepted the evidence of C.W.47.

34. This takes us to the last issue as to whether the fixation of compensation at Rs.3,168/- per cent is correct or not?

35. As we have pointed out earlier, the Tribunal found on facts that in a land of an extent of about 1.22.5 Hectares, there



were actually 95 cashew trees as against the claim of the land owners that 315 cashew trees could be grown in the lands. Therefore, the Tribunal accepted that if 95 trees were actually found in a land of an extent of 1.22.5 Hectares which is equivalent to about 3 acres, it was possible to grow at least 30 cashew trees per Acre. This logic cannot be found fault.

36. The average annual yield per tree was arrived at as 24 Kg. of cashew nuts, on the basis of evidence and the rate per Kg. was fixed at Rs.44/-. After fixing these values, the Tribunal applied only a multiplier of 10 to arrive at the market value as Rs.3,16,800/- per Acre. We do not find anything wrong with the calculation so made by the Tribunal. Therefore, the third issue is also answered against the appellant.

37. In the result, all the appeals are dismissed. There will be no order as to costs. The Additional Government Pleader (AS) shall be entitled to separate fees.

Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

- 1.The Judge,  
Special Court No.1,  
Jayankondam.
- 2.The Special Tahsildar (Land Acquisition)  
Jayankondam Lignite Power Project,  
Jayankondam.
- 3.The Executive Director,  
TamilNadu Industries Development,  
Corporation Ltd., (TIDCO),  
Chennai -600 008.
- 4.The Chairman,  
Neyveli Lignite Corporation Ltd.,  
Neyveli.

+42 ccs to Mr.A.S.Vijay Anand, Advocate Sr.39363 to 39404  
+1cc to the Government Pleader Sr.37286

A.S.Nos. 20 of 2014 to 61 of 2014

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srg 06/05/2016