

**IN THE HIGH COURT OF BOMBAY AT GOA****FIRST APPEAL NO. 107 OF 2010**

Village Panchayat of Collem, through its  
Secretary, Collem, Sanguem, Goa.

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Appellant

Versus

1. Madhukar Y. Mordekar, deceased.

2. Vivek D. Mordekar,  
(Respondent No. 2 is the only LR)  
Both r/o Varde Valaulikar Road, Margao,  
Goa.

3. The Dy. Collector & Land Acquisition  
Officer, Quepem, Goa.

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Respondents

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Shri Nitin Sardessai, Senior Advocate with Ms. Neha Shirodkar,  
Advocate for the Appellant.

Shri Sudesh Usgaonkar with Ms. Rosette Pereira, Advocates for  
Respondent Nos. 1 and 2.

Shri Pradosh Dangui, Additional Government Advocate for  
Respondent No. 3.

**CORAM:- C. V. BHADANG, J.****RESERVED ON: 16<sup>th</sup> DECEMBER, 2016****PRONOUNCED ON: 22<sup>nd</sup> DECEMBER, 2016****JUDGMENT:**

By this petition, the appellant-Village Panchayat, which  
is the acquiring body, takes exception to the judgment and award

dated 13.01.2010 passed by the Reference Court in Land Acquisition Case No. 7/2009, by which, compensation in respect of the acquired land has been enhanced from Rs.30/- per square metre to Rs.102/- per square metre.

2. The brief facts are that 15,000 square metres of land, from out of field survey no. 6 (part) at village Collem belonging to the respondent nos. 1 and 2, was subject matter of acquisition, for a play ground. The notification under Section 4(1) of the Land Acquisition Act, 1894 (the Act, for short) was issued on 13.11.2006. The respondent no. 3 by an award dated 16.07.2008 determined the compensation at the rate of Rs.30/- per square metre. Feeling aggrieved, the respondent nos. 1 and 2 filed a reference under Section 18 of the Act, claiming compensation at the rate of Rs.500/- per square metre.

3. It was contended that the acquired property is at a distance of about 200 metres from the market area of Collem and the same is located along a road leading to Sanvordem. The land is in close vicinity of civic amenities such as a bank, school, health

centre, market place, church, panchayat office, public transport etc. and it is a table land. The respondent nos. 1 and 2 placed reliance on a sale instance in respect of 184 square metres of land, from out of same survey no. 6 (part), for Rs.73,600/- at the rate of Rs.400/- per square metre, amongst other sale deeds.

4. Before the Reference Court, the respondent-Madhukar was examined as AW-1 alongwith Shridhar Kamat (AW-2), who is a valuer. The appellant examined Sudhakar Gaonkar (RW-1) and Naresh Shigaonkar (RW-2). The parties produced three sale deeds each, namely, Exhibit Nos. 20, 21 and 22 and Exhibit Nos. 32,33 and 34.

5. The Reference Court discarded all the sale instances except one at Exhibit-34, which is sale deed dated 05.04.2004, which in the opinion of the Reference Court was bonafide and a genuine transaction. The Reference Court allowed an escalation of 10% per year and arrived at valuation of Rs.102/- per square metre, partly allowing the reference with all statutory benefits and interest. Feeling aggrieved the present appeal is filed.

6. I have heard Shri Sardessai, the learned Senior Counsel for the appellant, Shri Usgaonkar, the learned Counsel for respondent nos. 1 and 2 and Shri Dangui, the learned Additional Government Advocate for respondent no. 3.

7. It is submitted by Shri Sardessai, the learned Senior Counsel for the appellant that the sale instances relied upon by the Reference Court is in respect of small portion admeasuring 184 square metres, while the land acquired is 15,000 square metres. It is submitted that in such a case, the Reference Court ought to have considered and made deductions towards the notional cost of development. It is submitted that such deduction includes expenses of levelling of the land, laying of road and other civic amenities. It is submitted that a certain portion of the land, is consumed for laying of the internal roads as well as other civil amenities. On behalf of the appellant, reliance is placed on the decision of the Hon'ble Supreme Court in the case of **Chandrashekar and Others Vs. Land Acquisition Officer and Another, (2012) 1 SCC 390**, in order to submit that deductions can extend cumulative upto 67%, which is the upper bench mark,

depending on facts and circumstances of each case. It is submitted that the Reference Court has failed to make any deduction towards the expense for development. The learned Senior Counsel in all fairness submitted that the extent of such deduction would depend upon the facts and circumstances of each case and this Court, may arrive at appropriate deduction, to be made in this case.

8. On the contrary, it is submitted by Shri Usgaonkar, the learned Counsel for respondent nos. 1 and 2 that the Reference Court could not have discarded the sale instance (Exhibit-20). It is submitted that the reasons articulated by the Reference Court while discarding the sale instance (Exhibit-20) cannot be sustained. The learned Counsel has pointed out that the sale deed (Exhibit-20) is in respect of a portion of the land, namely, survey no. 6 (part), which is subject matter of acquisition. It is submitted that the said sale deed, which is dated 27.06.2006, is proximate in time with the notification under Section 4 of the Act and as such, was the best possible comparable instance available on record. The learned Counsel has pointed out that the reasons mentioned in

paras 8 and 9 of the judgment (namely, suppression of existence of the house in the property), cannot be accepted. It is submitted that merely because there was a direction given by the Deputy Director of Panchayats, for demolition of a portion of the structure constructed, would not be sufficient to hold that the purchaser Smt. Sita Kolvekar had purchased the property under the threat of demolition of the house. This would not be sufficient to indicate that it was purchased at a higher price than the existing market price of the property. It is submitted that the Reference Court should have determined the compensation on the basis of the sale deed (Exhibit-20), which works out at the rate of Rs.400/- per square metre. It is submitted that the sale instance (Exhibit-20), cannot be said to be a distress sale.

9. It is next submitted that the land acquired is a flat and table land, having a road passing through the property and the same is in the vicinity of various civic amenities. Reliance is placed on the decision of the Hon'ble Supreme Court in the case of **Bhagwathula Samanna and Others Vs. Special Tahsildar and Land Acquisition Officer, (1991) 4 SCC 506**. It is submitted

that the deduction towards development costs would be permissible only where the land proposed to be acquired is required to be levelled, in a given case requiring hill cutting and laying of roads and provision of other civic amenities. It is pointed out that in the present case, the subject land was already being used as a playground and did not require any further development. The learned Counsel did not dispute that in an appropriate case, deductions would have to be made as indicated in the case of **Chandrashekar** (supra). However, in the facts of the present case, no such deduction is required to be made.

10. It is submitted that under Order XLI, Rule 22 of CPC and Order XLI, Rule 33 of CPC, the Appellate Court has wide powers to grant relief to the respondent, even where there is no cross objection or cross appeal filed. In other words, it is submitted that this Court would not be precluded from considering the sale instance at Exhibit-20 and for the matter of that, sale instances at Exhibits-21 and 22, although there is no cross appeal or cross objection filed by the respondents. It is submitted that in any case, the compensation cannot be less than Rs.102/- per

square metre as determined by the Reference Court. It is submitted that the notification under Section 4 was published in the newspaper, which is almost a year later than the publication in the official gazette. It is submitted that for this reason, a further 10% escalation, will have to be allowed in the market price. Thus, the compensation ought to have been granted at the rate of Rs. 112/- per square metre.

Reliance is placed on the decision in the case of **Ravinder Kumar Sharma Vs. State of Assam, AIR 1999 SC 3571** and the decision of the Madras High Court in the case of **The Special Tahsildar, ADW, Paramkudi Vs. N.A. Katheeja Beevi**, (dated 20.04.2012 passed in S.A. (MD) No. 1188/2006). Reliance is also placed in the case of **Banarsi and Others Vs. Ram Phal, (2003) 9 SCC 606**. Lastly, reliance is placed on the decision of the Hon'ble Supreme Court in the case of **Nelson Fernandes and Others Vs. Special Land Acquisition Officer and Others, AIR 2007 SC 1414**, in order to submit that the question whether a deduction is to be made, depends upon the object for which the acquisition is made.

11. In reply, it is submitted by Shri Sardessai, the learned Senior Counsel for the appellant that the respondents cannot seek to place reliance on the sale instance (Exhibit-20), without filing cross objection. Thus, in the absence of challenge to the impugned judgment, the respondent nos. 1 and 2 cannot seek to urge that the sale instance (Exhibit-20), could not have been discarded. It is submitted that although, powers under Order XLI, Rule 22(1) and Rule 33 of CPC are wide enough, but they are not without limitations as indicated in para 15 of the judgment in the case of **Banarsi** (supra). He therefore submits that the respondent nos. 1 and 2 cannot be permitted to place reliance on the sale deed (Exhibit-20), in the absence of any challenge at their instance to the impugned judgment. It is submitted that the Reference Court has rightly rejected all other sale instances, than the one at Exhibit-34 and thus, the only question that arises is regarding appropriate deductions to be made towards developmental expenses.

12. In view of the circumstances and the rival submissions made, the following points fall for determination in this appeal:

(i) Whether respondent nos. 1 and 2 can take exception to the impugned award, in the absence of a challenge to the same, by filing an independent appeal or a cross objection ?

(ii) Whether any deduction is to be made, in the compensation granted, towards the development/developmental expenses ?

(iii) Whether the compensation fixed by the Reference Court, is legal and proper ?

13. As to Point No. (i): As noticed earlier, the Reference Court has discarded all other sale instances, except Exhibit-34. On behalf of respondent nos. 1 and 2, it is claimed that the Reference Court was not justified in rejecting the sale instance at Exhibit-20, which translates into a rate of Rs.400/- per square metre. It is also submitted that although, the sale instance (Exhibit-20) is subsequent to the notification under Section 4 of the Act, the same could have been considered to ascertain the general trend in rising

prices. Admittedly, respondent nos. 1 and 2 have not chosen to independently challenge the award by filing an appeal or a cross objection. The question is whether in such circumstances, respondent nos. 1 and 2 could justifiably stake such challenge to the impugned award in the present appeal. For this purpose, reliance is placed on behalf of respondent nos. 1 and 2 on the provisions of Order XLI, Rules 22 and 33 of CPC, which to the extent relevant read thus:

**“22. Upon hearing, respondent may object to decree as if he had preferred separate appeal.-** (1) Any respondent, though he may not have appealed from any part of the decree, may not only support the decree [but may also state that the finding against him in the Court below in respect of any issue ought to have been in his favour; and may also take any cross-objection] to the decree which he could have taken by way of appeal, provided he has filed such objection in the Appellate Court within one month from the date of service on him or his pleader of notice of the day fixed for hearing the appeal, or within such further time as the Appellate Court may see fit to allow.

[Explanation: A respondent aggrieved by a finding of the Court in the judgment on which the decree

appealed against is based may, under this rule, file cross objection in respect of the decree in so far as it is based on that finding, notwithstanding that by reason of the decision of the Court on any other finding which is sufficient for the decision of the suit, the decree, is, wholly or in part, in favour of that respondent.]

**33. Power of Court of Appeal.-** The Appellate Court shall have power to pass any decree and make any order which ought to have been passed or made and to pass or make such further or other decree or order as the case may require, and this power may be exercised by the Court notwithstanding that the appeal is as to part only of the decree and may be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have filed any appeal or objection, [and may, where there have been decrees in cross-suits or where two or more decrees are passed in one suit, be exercised in respect of all or any of the decrees, although an appeal may not have been filed against such decrees]:

[Provided that the Appellate Court shall not make any order under Section 35-A, in pursuance of any objection on which the Court from whose decree

the appeal is preferred has omitted or refused to make such order.]”

14. The provisions of Order XLI, Rule 22(1) of CPC (after the 1976 amendment), fell for the consideration of the Hon'ble Supreme Court in the case of **Ravinder Kumar Sharma** (supra). In that case, the appellant-plaintiff had filed a suit for damages for malicious prosecution, where damages were claimed, both on account of pecuniary loss (as set out in Schedules B and C to the plaint) and non-pecuniary loss (as set out in Schedule A to the plaint). The High Court granted a decree for damages towards pecuniary loss only, but refused to decree the suit in respect of non-pecuniary damages. The plaintiff carried the matter to the Supreme Court to the extent of refusal to grant non-pecuniary damages. The respondent-defendant, without filing an appeal or cross objection, sought to question the decree, granting the pecuniary damages. It was in these circumstances held that the defendant could challenge the part of the decree, which was against it, even in the absence of filing of an appeal or a cross objection. After taking note of the explanation to Order XLI, Rule 22 of CPC by 1976 amendment, the Hon'ble Apex Court held thus

in para 22 of the judgment:

*"We hold that the respondent-defendant in an appeal can, without filing cross-objections attack an adverse finding upon which a decree in part has been passed against the respondent, for the purpose sustaining the decree to the extent the lower Court had dismissed the suit against the defendants-respondents. The filing of cross-objection, after the 1976 Amendment is purely optional and not mandatory. In other words, the law as stated in Venkata Rao's case (AIR 1943 Mad 698) by the Madras Full Bench and Chandre Prabhuji's case (AIR 1973 SC 2565) by this Court is merely clarified by the 1976 Amendment and there is no change in the law after the Amendment."*

15. It can thus be seen that the decision in the case of **Ravinder Kumar Sharma** (supra) turned on its own facts. The Hon'ble Apex Court has *inter alia* held that the explanation added to Order XLI, Rule 22 of CPC by the 1976 amendment, does not bring about any material change in the legal position as existed prior there to, except that, it incorporates an enabling provision, where the defendant in such a case "may" file cross objection, although it is not obligatory.

16. The situation covered by Order XLI, Rule 22 of CPC can be made explicit by an illustration. The plaintiff files a suit for a monetary claim, which is opposed by the defendant, both on merits and on the ground of the suit being barred by limitation. The Court although holds that the plaintiff has established the claim on merits, dismisses the suit on the ground of limitation. In an appeal, at the instance of the plaintiff, challenging the dismissal of the suit, the defendant can, support the judgment, on the ground that the suit is barred by limitation and can also challenge the decree, to the extent it holds that the plaintiff has established the claim on merits. This, the defendant can do without filing a cross objection. This is all that Order XLI, Rule 22 of CPC coupled with the explanation appended thereto provides for. It would appear that, for the application of Order XLI, Rule 22 CPC, the determination, involves more than one issues, some of which are decided in favour of one of the parties, and rest in favour of the adversary, however the ultimate decision, has to be in favour of one of them. Here is a case where the only issue involved was the compensation to be awarded, in respect of the acquired land, on the basis of the market price, as on the date of the notification

under Section 4 of the Act. The Reference Court discarded all other sale instances, except the sale instance (at Exhibit-34), and came to a finding as to the market price as on the date of notification under Section 4 of the Act. In such a case, it is incumbent on the part of the original claimants (respondent nos. 1 and 2 herein), to challenge the award by filing an independent appeal or a cross objection, if they intend to challenge such determination.

17. The Hon'ble Supreme Court in the case of **Mahant Dhangir and Another Vs. Shri Madan Mohan and Others, AIR 1988 SC 54**, has held that Rules 22 and 33 of Order XLI are not mutually exclusive. They are closely related with each other. The provisions of Order XLI, Rules 22 and 33 of CPC again fell for the consideration of the Supreme Court in the case of **Banarsi** (supra), in which it is reiterated that the 1976 amendment has not materially or substantially altered the law except for a marginal difference. It has been held that even under the amended provisions, the party in whose favour the decree stands, is neither entitled nor obliged to prefer any cross objection. However, the

explanation is an enabling provision. The Hon'ble Apex Court has set out three situations, which can be visualised, as under:

*(i) The impugned decree is partly in favour of the appellant and partly in favour of the respondent.*

*(ii) The decree is entirely in favour of the respondent though an issue has been decided against the respondent.*

*(iii) The decree is entirely in favour of the respondent and all the issues have also been answered in favour of the respondent, but there is a finding in the judgment, which goes against the respondent.*

18. The Hon'ble Apex Court has then held in para 11 that in cases covered by clause (i), it is necessary for the respondent to file an appeal or take cross objection against that part of the decree, which is against him, if he seeks to get rid of the same, though that part of the decree, which is in his favour, he is entitled to support without raising any cross objection. It has been held that the law remains so even after the amendment.

In the present case, the enhancement claimed by the respondents has been partly granted, and thus it can be said that a case of the present nature would be covered by clause (i) aforesaid. It was thus incumbent on the respondent nos. 1 and 2 to have challenged the award, if so advised. In the absence of such challenge, the reliance sought to be placed on the sale deed (Exhibit-20), cannot be accepted.

19. Let us now consider the case in relation to Order XLI, Rule 33 of CPC. The Hon'ble Supreme Court in para 15 of the judgment in the case of **Banarsi** (supra), has held that the power under Order XLI, Rule 33 of CPC, is subject to atleast three limitations. Firstly, the power cannot be exercised to the prejudice or disadvantage of a person not a party before the Court. Secondly, a claim given up or lost, cannot be revived and thirdly, such part of the decree which essentially ought to have been appealed against or objected to by a party and which that party has permitted to achieve a finality, cannot be reversed to the advantage of such party. It is further held that a case where there are two reliefs prayed for and one is refused and the other

one is granted and the former is not inseparably connected with or necessarily depending on the other, in an appeal against the latter, the former relief cannot be granted in favour of the respondent by the Appellate Court exercising power under Rule 33 of Order XLI of CPC. In my considered view, the present case would be covered by the third limitation as set out above, in which it was obligatory on behalf of the appellant to challenge the same if, they were so aggrieved.

20. On behalf of the appellants, strong reliance is placed on the decision of the learned Single Judge of the Madras High Court in the case of **N.A. Katheeja Beevi** (supra). The learned Single Judge of the Madras High Court has relied upon the decision in the case of **Banarsi** (supra) and the decision in the case of **Bhag Singh and Others Vs. Union Territory of Chandigarh, (1985) 3 SCC 737** and particularly, the following observations therein:

*"The learned single Judge and the Division Bench should not have, in our opinion, adopted a technical approach and denied the benefit of enhanced compensation to the appellants merely because they had not initially paid the proper amount of court fee. It must be remembered that this was not a dispute*

*between two private citizens where it would be quite just and legitimate to confine the claimant to the claim made by him and not to award him any higher amount than that claimed though even in such a case there may be situations where an amount higher than that claimed can be awarded to the claimant as for instance where an amount is claimed as due at the foot of an account. Here was a claim made by the appellants against the State Government for compensation for acquisition of their land and under the law, the State was bound to pay to the appellants compensation on the basis of the market value of the land acquired and if according to the judgments of the learned Single Judge and the Division Bench, the market value of the land acquired was higher than that awarded by the Land Acquisition Collector or the Additional District Judge, there is no reason why the appellants should have been denied the benefit of payment of the market value so determined. To deny this benefit to the appellants would tantamount to permitting the State Government to acquire the land of the appellants on payment of less than the true market value. There may be cases where, as for instance, under-agrarian reform legislation, the holder of land may, legitimately, as a matter of social justice, with a view to eliminating concentration of land in the hands of a few and bringing about its equitable distribution, be deprived of*

*land which is not being personally cultivated by him or which is in excess of the ceiling area with payment of little compensation or no compensation at all, but where land is acquired under the Land Acquisition Act, 1894, it would not be fair and just to deprive the holder of his land without payment of the true market value when the law, in so many terms, declares that he shall be paid such market value. The State Government must do what is fair and just to the citizen and should not, as far as possible, except in cases where tax or revenue is received or recovered without protest or where the State Government would otherwise be irretrievably be prejudiced, take up a technical plea to defeat the legitimate and just claim of the citizen. We are, therefore, of the view that, in the present case, the Division Bench as well as the learned Single Judge should have allowed the appellants to pay up the deficit court fee and awarded to them compensation at the higher rate or rates determined by them."*

It can thus be seen that, in the case of **Bhag Singh** (supra), the claimants had challenged the award and the question was about deficit court fee. It was in this context held that the High Court should have allowed the appellant to pay the deficit fee and awarded compensation at the higher rate.

21. In my humble view, the decision in the case of **Bhag Singh** (supra) arose in the context of its peculiar factual situation. Although, it cannot be disputed that right to hold property is a constitutional right under Article 300-A of the Constitution of India, under which no person can be deprived of his property saved by the authority of law, the determination of compensation has to be in accordance with the provisions of the Act also hedged with procedural considerations. Thus, merely because the right to hold the property is a constitutional right, would not be sufficient to hold that the Reference Court and for the matter of that, the Appellate Court, can grant compensation by ignoring all the procedural requirements. Thus if, under the procedure applicable, the claimant is required to challenge the award by filing an appeal or cross objection, the claimant cannot be permitted to question the award in the absence of an independent challenge, in an appeal filed by the State and/or the acquiring body, as in the present case. With respect, I am unable to agree with the decision of the Madras High Court in the case of **N.A. Katheeja Beevi** (supra). Thus, it is not possible to accept that the claimant can challenge the award, in an appeal filed by the State or the

acquiring body, without filing an independent appeal or cross objection. For these reasons, Point No. (i), is answered in the negative.

22. In view of the findings as above, it is neither necessary nor permissible to examine as to whether the Reference Court was justified in discarding the sale instance at Exhibit-20. The submission based on the publication of the notification under Section 4 of the Act in the newspaper almost a year after its publication in the official gazette (in order to claim a further escalation at 10%), also cannot be accepted. Thus, the question in the present appeal has to be confined to the question of deduction towards the development/developmental expenses.

23. As to Point Nos. (ii) and (iii): The only contention raised on behalf of the appellant is that the Reference Court has failed to consider appropriate deduction towards developmental expenses. For this, reliance is placed on the decision of the Hon'ble Supreme Court in the case of **Chandrashekar** (supra). In that case, the Hon'ble Apex Court, after taking survey of various decisions, on

the aspect of such deduction, has held thus, in paras 19 and 20 of the judgment:

*"19. Based on the precedents on the issue referred to above it is seen that as the legal proposition on the point crystallized, this Court divided the quantum of deductions (to be made from the market value determined on the basis of the developed exemplar transaction) on account of development into two components.*

*19.1. Firstly, space/area which would have to be left out, for providing indispensable amenities like formation of roads and adjoining pavements, laying of sewers and rain/flood water drains, overhead water tanks and water lines, water and effluent treatment plants, electricity sub-stations, electricity lines and street lights, telecommunication towers etc. Besides the aforesaid, land has also to be kept apart for parks, gardens and playgrounds. Additionally, development includes provision of civic amenities like educational institutions, dispensaries and hospitals, police stations, petrol pumps etc. This "first component", may conveniently be referred to as deductions for keeping aside area/space for providing developmental infrastructure.*

*19.2. Secondly, deduction has to be made for the expenditure/expense which is likely to be incurred in providing and raising the infrastructure and civic amenities referred to above, including costs for levelling hillocks and filling up low lying lands and ditches, plotting out smaller plots and the like. This "second component" may conveniently be referred to as deductions for developmental expenditure/expense.*

*20. It is essential to earmark appropriate deductions, out of the market value of an exemplar land, for each of the two components referred to above. This would be the first step towards balancing the differential factors. This would pave the way for determining the market value of the undeveloped acquired land on the basis of market value of the developed exemplar land."*

It can thus be seen that so far as the first component of deduction is concerned, the Court has to look to the space/area, which would have to be left out/excluded, for providing indispensable amenities like roads, adjoining pavements and other civil amenities including parks, garden and playgrounds as well as educational institutions, dispensaries and hospitals etc. This first component has been referred to as deductions for keeping aside

area/space for providing developmental infrastructure. The second component of the deduction is towards expenditure/expenses, which are likely to be incurred in providing and raising the infrastructure and the civil amenities referred above, including costs of levelling hillock and filling up low lying lands and ditches, making out smaller plots and the like. This second component has been referred to as deductions for developmental expenditure/expenses. It has been clarified that the deduction on account of developmental activities has to be capped at 67%. It has been held that before applying deductions for ascertaining the market value of the undeveloped acquired land, it would be necessary to classify the nature of the exemplar land, as also, the acquired land.

24. Now coming back to the present case, 15,000/- square metres of land, which is subject matter of acquisition is for the purpose of a playground. It has come on record that the said acquired land is a table land, which was already being used as a playground. It has also come on record that there is a road passing through the land. That apart, the object for which the

land has been acquired, would not require laying of any drainage/roads or other civil amenities as referred above. Consequently, it is not necessary that any portion of the land from out of the area acquired, would be required to be set apart for providing such amenities, which is the first component of deduction. As a necessary corollary, it would not entail any expenditure or expenses for providing such amenities for the purpose of the use of the acquired land as a playground. Thus, the second component of deduction is also absent in this case.

25. In the case of **Bhagwathula Samanna and Others Vs. Special Tahsildar and Land Acquisition Officer, (1991) 4 SCC 506**, it has been held that the sale value of even a small developed plot of land, can form basis for determining value of a large tract of acquired land, if it is also fully developed with all facilities requiring little or no further development. It has been held that the proposition that large area of land cannot possibly fetch a price at the same rate at which small plots are sold is not absolute proposition and in given circumstances it would be permissible to take into account the price fetched by small plots of

land.

26. It is true that the Reference Court has not adverted to the aspect of such deductions, however, having regard to the nature of the land under the sale instance at Exhibit-34, as well as the acquired land and the object for acquisition, I do not find that any deduction can be made towards any of the two components towards development/developmental expenses. Accordingly, point no. (ii), is answered in the negative and point no. (iii), is answered in the affirmative. Thus, no interference is called for in the impugned judgment. The appeal is without any merit and is accordingly dismissed, with no order as to costs.

**C. V. BHADANG, J.**

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