HON'BLE SRI JUSTICE G. CHANDRAIAH
AND
HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

L.A.A.S. Nos.623, 202, 390, 168, 179, 729 and 190 of 2011;
177, 181, 184, 192, 217, 236, 167, 514 and 178 of 2011;
180, 199, 256, 347, 375 and 652 of 2011;
182, 191, 252, 254, 259, 376, 404, 615, 635, 250 and 193 of 2011;
183, 198, 226, 227, 228 and 262 of 2011;
218, 219, 220, 221, 233, 234, 284, 285, 1176, 232 and 491 of 2011;
301, 399 and 724 of 2011;
303, 313, 318, 576, 590, 653, 1175 and 645 of 2011;
312, 324, 377, 475, 549, 555, 577, 591, 651 and 622 of 2011;
325, 397, 446, 462, 478, 481, 575 and 588 of 2011;
348, 391, 461, 479, 485, 489, 521, 551, 552, 556, 558, 650 and 659 of 2011
349, 445, 465, 476, 488, 531, 535, 649, 658 and 442 of 2011;
353, 373, 388, 532, 538, 613, 608, 625, 633 and 1146 of 2011;
394, 395, 396, 460, 466, 524, 527, 528, 543, 643, 480 and 578 of 2011;
407 of 2011;
484, 490 and 632 of 2011; and
566, 644, 764, 765, 885, 886, 890, 891, 892 and 989 of 2011

COMMON JUDGMENT:(Per Hon'ble Sri Justice A. Shankar Narayana)

Feeling aggrieved by the common orders and decrees, passed by the learned II Additional Senior Civil Judge, Nandyal, Kurnool District, in O.P. No.29 of 2007 and batch (main O.P. No.27 of 2007), whereby and whereunder, the reference Court has enhanced market value of the acquired land in some of the matters from

Rs.46,000/-, Rs.1,04,000/-, Rs.72,000/- and Rs.68,000/- per acre to Rs.3,78,880/- and in other batch matters to Rs.3,70,000/-, the State, through the Special Deputy Collector - cum - Land Acquisition Officer, Srishailam Right Bank Canal, Nandyal, Kurnool District (LAO), preferred the instant appeals.

2. As could be gathered from the material on record, as many as seven (7) notifications have been issued under Section 4(1) of the Land Acquisition Act, 1894 (Amended Act 1984) (for short 'the Act') and an extent of Acs.358.79 cents was acquired for excavation of Owk Reservoir Complex, Stage - II of Srishailam Right Bank Canal Project, at Cherlopalli Village, Owk Mandal.

3. The relevant details of notifications under Section 4(1) of the Act and the extents proposed for acquisition in Cherlopalli village of Owk Mandal for Owk Reservoir Complex - II of SRBC and publication of 4(1) notification for convenience sake delineated as hereunder:

Sl. No.	Date of notification u/s. 4(1) of the Act	Extent Acs.-Cts.	Award No. and Date	Compensation granted by the LAO per acre Rs.	Compensation granted by the reference Court per acre Rs.
1.	11.08.2005	16-21	22/2005-06 27.02.2006	72,000-00	3,78,880-00

2.	30.11.2004	95-06 (total 113-48)	23/2005-06 27.02.2006	46,000-00 (C-I) 1,04,000-00 (C-II) 72,000-00 (C-III) 68,000-00 (C-IV)	3,70,000-00 3,70,000-00 3,70,000-00 3,70,000-00
3.	11.08.2005	48-14	24/2005-06 27.02.2006	46,000-00 (C-I) 1,04,000-00 (C-II) 72,000-00 (C-III)	3,78,880-00 3,78,880-00 3,78,880-00
4.	24.02.2005	13-39	25/2005-06 27.02.2006	46,000-00 (C-I) 1,04,000-00 (C-II)	3,78,880-00 3,78,880-00
5.	11.04.2005	48-81	26/2005-06 27.02.2006	46,000-00 (C-I) 1,04,000-00 (C-II) 72,000-00 (C-III)	3,78,880-00 3,78,880-00 3,78,880-00
6.	17.02.2005	66-29	27/2005-06 28.02.2006	1,04,000-00 (C-II) 72,000-00 (C-III) 68,000-00 (C-IV)	3,78,880-00 3,78,880-00 3,78,880-00

7.	21.12.2004	70-89	28/2005-06 27.02.2006	46,000-00 (C-I) 1,04,000-00 (C-II) 72,000-00 (C-III)	3,70,000-00 3,70,000-00 3,70,000-00

4. All these extents are situated in Cherlopalli village of Owk Mandal.

5. The reference Court has disposed of the original petitions in batches by passing as many as seventeen (17) common orders.

(a) The first batch of these appeals are covered by the
common order, dated 26.02.2010, relates to disposal of O.P. Nos.27, 23, 24, 25, 26, 28, and 29 (main O.P.) of 2007, respectively;

(b) The second batch of these appeals are covered by the common order, dated 26.02.2010, relates to disposal of
O.P. Nos.111, 116, 117, 115, 110, 113, 124 (main O.P.), 118 and 136 of 2007, respectively;

(c) The third batch of these appeals are covered by the common order, dated 26.02.2010, relates to disposal of O.P. Nos.8, 4, 2, 15, 3 and 5 of 2007, respectively;

(d) The fourth batch of these appeals are covered by the common order, dated 26.02.2010, relates to disposal of
O.P. Nos.85, 86, 37, 88, 83, 82, 89, 84, 90, 87 and 99 (main O.P.) of 2007, respectively;

(e) The fifth batch of these appeals are covered by the common order, dated 26.02.2010, relates to disposal of O.P. Nos.100, 91, 97, 103, 102 and 96 of 2007, respectively;

(f) The sixth batch of these appeals are covered by the common order, dated 26.02.2010, relates to disposal of O.P. Nos.123, 139, 134, 119, 114, 353, 349, 120 (main O.P.), 135, 137 and 138 of 2007, respectively;

(g) The seventh batch of these appeals are covered by the common order, dated 26.02.2010, relates to disposal of
O.P. Nos.20, 19 (main O.P.) and 21 of 2007, respectively;

(h) The eighth batch of these appeals are covered by the common order, dated 26.02.2010, relates to disposal of
O.P. Nos.17, 7, 6, 11, 16, 13(main O.P.), 12 and

14 of 2007, respectively;

(i) The ninth batch of these appeals are covered by the common order, dated 26.02.2010, relates to disposal of O.P. Nos.350, 107, 356, 354, 105, 351, 95, 94 (main O.P.), 108 and 352 of 2007, respectively;

(j) The tenth batch of these appeals are covered by the common order, dated 26.02.2010, relates to disposal of O.P. Nos.121, 131(main O.P.), 126, 129, 128, 122, 127 and 125 of 2007, respectively;

(k) The eleventh batch of these appeals are covered by the common order, dated 26.02.2010, relates to disposal of

O.P. Nos.38, 68, 35, 63, 73(main O.P.), 36, 69, 64, 67, 65, 61, 66, and 62 of 2007, respectively;

(l) The twelfth batch of these appeals are covered by the common order, dated 26.02.2010, relates to disposal of

O.P. Nos.45, 40, 43, 47, 48, 42, 44, 41(main O.P.), 46 and 39 of 2007, respectively;

(m) The thirteenth batch of these appeals are covered by the common order, dated 26.02.2010, relates to disposal of

O.P. Nos.71, 78, 70, 79, 74 (main O.P.), 75, 81, 72, 76 and 77 of 2007, respectively;

(n) The fourteenth batch of these appeals are covered by the common order, dated 26.02.2010, relates to disposal of
O.P. Nos.56, 51, 50, 55, 53, 60, 49, 59, 52, 58, 57(main O.P.) and 54 of 2007, respectively;

(o) The fifteenth batch of these appeals is covered by the order, dated26.02.2010, relates to disposal of O.P. No.22 of 2007, respectively;

(p) The sixteenth batch of these appeals are covered by the common order, dated 26.02.2010, relates to disposal of
O.P. Nos.31, 35 and 34(main O.P.) of 2007,respectively; and

(q) The seventeenth batch of these appeals are covered by the common order, dated 26.02.2010, relates to disposal of
O.P. Nos.357, 143, 142, 132, 130, 146, 140, 145, 141(main O.P.) and 144 of 2007.

6(a) The LAO, it appears, basing on the previous awards for acquisition of lands situate in Sunkesula village of the same Mandal, fixed market value by categorizing the lands into four (4) categories which are as under:

I. Rain fed dry land at Rs.46,000/- per acre,

II. Lands having mining potentiality at Rs.1,04,000/- per acre,

III. Lands cultivated with *bugganala* water at Rs.72,000/- per acre,

IV. Lands irrigated through the water drawn from neighbours at Rs.68,000/- per acre,

so far as acquisition of lands under first notification are concerned.

(b) The LAO has categorized the lands under the second notification into three (3), which are the first three categories mentioned above fixing the same market value.

(c) The lands acquired under third notification are Categories - II, III and IV.

(d) The lands acquired under fourth notification are covered by Categories - I and II.

(e) The lands acquired under fifth notification are covered by Categories - I, II and III.

(f) The lands acquired under sixth notification are covered by Category - III.

(g) The lands acquired under seventh notification are covered by Categories - I, II and III.

7. Feeling dissatisfied with the market value fixed by the LAO, claimants have made requests under Section 18 of the Act for reference to Civil Court for determination of compensation.

8. The Land Acquisition Officer has accordingly referred the references to the learned II Additional Senior Civil Judge, Nandyal, Kurnool District. The references have been registered as original petitions by assigning the aforesaid numbers covered by the seventeen (17) batches.

9. On behalf of the claimants, some of the claimants in each batch of O.Ps. were examined as RWs. and rest of the witnesses were examined as RWs.2 to 6, who are common witnesses in all the

batches of O.Ps., and Exs.B-1 to B-10 were marked. On the other hand, the Special Deputy Collector, SRBC, Nandyal, was examined as PW.1 and Exs.A-1 to A-6 were marked. Thus, except the claimants, all other witnesses examined on behalf of the claimants and the documents marked on their behalf and PW.1 and the documents marked on behalf of the LAO are one and the same in all the O.Ps.

10. Claimants filed their respective statements before the reference Court. Substantially their claims have been that the lands in Cherlopalli village were acquired even way-back in the years 1989, 1992, 1997, and 1998 for the very same purpose and thus, prices of the lands increased and market value of the lands in that village is more compared to the lands in other villages as the demand for land was high. Their further submission was that the lands under acquisition are having potentiality of Kadapa slabs fetching higher value than the other lands and even the LAO fixed market value basing on the award passed in Sunkesula Village for similar lands in 1993 at Rs.80,000/- per acre and on reference the Civil Court enhanced the same to Rs.1,49,000/- per acre, but these aspects were not considered by the LAO. They claimed that they used to raise two crops so far as paddy is concerned and used to earn Rs.35,000/- to 45,000/- per acre per year and for hybrid cotton, they used to get a minimum of Rs.25,000/- per acre per year and thus, in case of personal cultivation of dry and wet lands, the annual income per acre ranged from Rs.10,000/- to 15,000/- and Rs.30,000/- to 40,000/- respectively, which factors were not at all considered by the

LAO while fixing the market value for the acquired land. Therefore, they claimed to fix market value for the acquired lands at Rs.3,00,000/- per acre. They requested the Civil Court to fix market value at Rs.3,00,000/- per acre so far as dry lands are concerned, Rs.5,00,000/- for irrigated dry lands cultivated through bore-wells and *bugganala* water, Rs.10,00,000/- per acre for the lands adjacent and nearer to village sites, Rs.5,00,000/- per acre for the irrigated dry products by fetching the water from neighbouring pattedars and Rs.10,00,000/- per acre for the lands having mining potentiality of Kadapa slabs.

11. In arriving at fixation of market value, the reference Court has referred to Exs.A-1 to A-6 and Exs.B-1 to B-10 (LAAS No.623 of 2011). For convenience sake, we are referring the documents marked as exhibits in LAAS No.623 of 2011, since the same are marked with different exhibit numbers in other batch of O.Ps., more particularly, the consent Award No.4/1997-98, dated 26-03-1998, which is marked as Ex.B-10 in LAAS No.623 of 2011

12. In the above set of documents, Ex.A-1 is copy of the award No.25/2005-2006, dated 27.02.2006, passed by the LAO in respect of the lands acquired under Section 4(1) of the Act and Ex.A-2 is certified true copy of award No.26/1992-93, dated 30.03.1993 for acquisition of two

categories of lands i.e., dry land and the land having irrigation potentially, by fixing market value at Rs.20,000/- and Rs.25,000/- per acre, respectively. On reference in O.P. No.30 of 1998 and batch of cases, the reference Court enhanced the market value of both the categories to Rs.30,000/- and Rs.49,000/- per acre respectively, and the same was confirmed by this Court in A.S. No.2051 of 2004 and batch of cases dated 09.02.2007.

13. The other set relates to acquisition of land by publication of notification under Section 4(1) of the Act, dated 26.07.1993. The said land was acquired for the purpose of 'burrow area' for improvement of Thimmaraju Tank Bund as part of Owk valley complex under SRBC project. The market value fixed by the LAO at Rs.20,000/- and Rs.24,000/- per acre, respectively, for two categories of lands was uniformly enhanced to Rs.46,000/- per acre by the Civil Court which order is marked as Ex.A-5.

14. Thereafter, the reference Court proceeded with the documents filed on behalf of the claimants marked as Exs.B-1 to B-10. Exs.B-1 to B-3 are registration extracts of the sale deeds, dated 11.09.1997, 30.08.1997 and 17.05.2004, respectively, concerning sale of Ac.0.05 cents for a total consideration of Rs.25,000/-, Ac.0-05 cents for Rs.25,000/- and Ac.0.12 cents for a consideration of

Rs.76,000/- which sale transactions relate to the lands situate in Cherlopalli village itself.

15. The reference Court, then refers to orders passed by the very same Court in O.P. No.167 of 1996 and batch of cases, which is marked as Ex.B-4, concerning classification of lands situate in Sunkesula village of Owk Mandal; market value of Rs.80,000/- fixed by the LAO treating the land as mining land, which notification under Section 4(1) of the Act was issued on 18.05.1992, the reference Court enhanced it to Rs.1,49,000/- and this Court in A.S. No.148 of 2005 and batch, which is marked as Ex.B-5, preferred by the LAO, reduced the market value from Rs.1,49,000/- to Rs.1,48,000/-.

16. Ex.B-6 relates to the award, dated 12.03.1993, and Ex.B-7 is certified copy of the common order, dated 16.04.2008, passed by the very same Court in O.P. No.351 of 2003 and batch of cases fixing market value of the acquired land at Rs.43,000/- per acre, Rs.40,000/- per acre and Rs.36,000/- per acre for categories - I, II and III, as irrigated dry land, dry land having deposits of slab stone and dry lands, respectively. The said notification was issued on 01.03.2000 for the purpose of excavation of Major 1L minor, 2R minor under Block-XIV of SRBC project, enhancing the same to Rs.1,75,000/- per acre, uniformly, treating them as just one category of land

having extensive deposits of Napa Slabs.

17. Ex.B-8 is certified copy of the common order, dated 02.02.2009, passed by the very same Court in LAOP No.94 of 2004 and batch, enhancing market value from Rs.36,000/- per acre fixed for dry lands situate in Sunkesula Village with regard to which draft notification was issued on 26.09.2002, to Rs.2,96,000/- per acre.

18. Aggrieved by the above fixation of market value of the acquired land by the reference Court through the common order, the LAO has preferred the instant appeals mainly contending in the grounds that the reference Court without any basis and evidence on record, enhanced market value while not considering the case of the LAO in proper perspective.

19. It can be gathered from the grounds agitated in paragraph Nos.4 to 10 that the Land Acquisition Officer questioned the impugned orders contending that the reference Court ought to
have relied on Exs.A-1 to A-6 as the documentary evidence and Exs.A-1 to A-6 relate to market value fixed for the lands situate in the village of acquisition itself that were acquired earlier and compensation was awarded, which was confirmed by this Court rather than enhancing the compensation basing on Ex.B-5 which acquisition does not relate to the same village, but it relates to a

different village. It is stated that the reference Court failed to assign any reasons for discarding the evidence under Exs.A-1 to A-6 and also failed to give any reason for placing reliance on Ex.B-5 in order to enhance compensation.

20. Heard the learned Government Pleader for Appeals appearing for the State (appellant) and Sri Rathanga Pani Reddy, learned counsel for the respondents – claimants, in all these appeals.

21. At the outset, we would like to observe that the dispute in the instant appeals relates to fixation of market value for the acquired land only but not in regard to structures as represented by the learned Government Pleader and the learned counsel for the claimants - respondents.

22. The learned Government Pleader urged the following grounds.

23. He submits that the Government acquired lands in the very same village earlier by publication of notification under Section 4(1) of the Act on 03.02.1993. The reference Court has enhanced the compensation fixing the market value at Rs.49,000/- per acre under Ex.A-4 and the same was confirmed by this Court in A.S. No.2051 of 2004 and batch of cases by the judgment, dated 09.02.2007. It is, therefore, his submission that the

reference Court ought to have placed reliance on the value fixed under Exs.A-4 and A-5 and ought to have given increase for the time lag as per the settled law and instead of doing so, the reference Court, somehow, adopted 10% escalation over the market value fixed under Exs.B-4 and B-5, which acquisitions relate to Sunkesula village which is situated at a distance of 15 K.Ms. from Cherlopalli village without assigning any reasons. It is, therefore, his submission that the time lag between the notifications under Exs.B-3, B-4 and B-5 and the lands under present acquisition, at 10% escalation for 13 years is unsustainable and contrary to the well-established principles of law.

24. His next submission is that even in the year 1997, the Government acquired huge extents of land from Cherlopalli village itself and a common award was passed in award No.4/1997-98 fixing compensation for (1) dry lands at Rs.60,000/- per acre, (2) irrigable wet lands at Rs.1,40,000/- per acre, (3) slab factory at Rs.1,80,000/- per acre, (4) mining lands at Rs.2,00,000/- per acre and (5) kallam lands at Rs.3,00,000/- per acre and the compensation includes additional market value as well as solatium and in that view of the matter, when the said document was also exhibited as Ex.B-10, the reference court ought to have considered the evidentiary value of Ex.B-10 and, at least, ought to have preferred the said

rates in determining market value in preference to Exs.B-4 and B-5, if not preferred Exs.A-4 and A-5.

25. It is, therefore, his submission that the reference Court since enhanced market value in the absence of legally acceptable evidence, since Exs.B-4 and B-5 relate to acquisition of lands in a different village situate at a distance of 15 K.Ms. sought to set aside the awards and decrees and to reduce the compensation basing on either Exs.A-4 and A-5 or the value shown in Ex.B-10 by giving suitable deduction towards 12% additional market value and 30% towards solatium. In support of said submission, he placed reliance on the decision of Hon'ble Supreme Court in **Special Land Acquisition Officer, Kheda v. Vasudev Chandrashankar**[1]**.**

26. His last submission is that the reference Court has not resorted to deduction, despite the fact that huge extents were acquired and ought to have made suitable deduction as per the settled principles of law laid down by the Hon'ble Supreme Court in various decisions, and at least, 1/3rd deduction ought to have made even giving a go-bye to categorization of the lands done by the LAO basing on the revenue records, instead of fixing market value at uniform rate for all the four categories of land

which is unacceptable and that too without assigning any reasons, the reference Court has fixed uniform rate, merely basing on the evidence of Advocate Commissioner, though report of the Advocate Commissioner as well as report of the Royalty Inspector, refer to only five (5) survey numbers, but not all the survey numbers from which extents have been acquired in the instant proceedings.

27. The learned counsel for the claimants, per contra, would submit that there has been no deviation in fixing the market value by the reference Court basing on the market value fixed for the lands acquired in Sunkesula village covered by Exs.B-4 and B-5, for the reason that the Land Acquisition Officer has not adopted value of the earlier acquisitions from Cherlopalli village and instead taken the acquisitions made in Sunkesula village, mainly basing on the factor that the lands in Cherlopalli village and the lands in Sunkesula village are alike in nature as both the lands are mining lands as could be seen from the report of the Advocate Commissioner and the report of the Royalty Inspector and, therefore, there was no deviation in its approach in fixing market value by the reference Court.

28. His further submission is that when subsoil of the acquired lands indicate existence of mining ore of Napa slabs quality, which can be equated to Kadapa slabs, categorization done by the LAO, becomes

inconsequential in fixation of market value by the reference Court on uniform basis under the common orders and the decrees passed by it which are under challenge herein.

29. The learned counsel also placed reliance on the decisions of the Hon'ble Supreme Court in **Sri Rani M. Vijayalakshmamma Rao Bahadur, Ranee of Vuyyur v. The Collector of Madras**[2]**,** for the proposition that when sales of similar lands in the locality are available, while determining market value of the land, the sale transaction of highest value fetching has to be relied and not the average thereunder.

30. The learned counsel placed reliance on the decision of the Hon'ble Supreme Court in **Ashrafi v. State of Haryana**[3] in the context of applying 12% increase annually by taking 1983 as base year for calculation of market value. In the very same context, he has placed reliance on the decision of this Court in **Special Deputy Collector (L.A.) HNSS Unit IV, Kurnool v. Madiga Mallikarjuna and others**[4] wherein, this Court approved escalation in price at 10% per annum for agricultural lands. In **Om Prakash v. Union of India**[5]**,** the Hon'ble Supreme Court justified appreciation at 12% per every year at a flat rate resorted by the High Court.

31. The learned counsel also placed reliance on the decision of the Hon'ble Single Judge of this Court in **Karri Marriyamma v. Penumatcha Ramamma[6],** for the proposition that when no objections are filed for the report of the Commissioner, no necessity would arise to examine the Advocate-Commissioner since his report forms part of the record together with enclosures and mere fact that the Commissioner was not examined, does not disentitle the Court from taking the report into account.

32. Learned counsel also placed reliance on the decision of the Hon'ble Supreme Court in **State of Madras v. A.M. Nanjan[7]** and **ONGC LTD v. Sendhabhai Vastram Patel[8]** for the proposition that in the absence of any direct evidence such as deeds of sale, under which a willing purchaser of the land would pay to the owner of the land, the Court may take recourse to other methods in law viz., judgments and awards passed in respect of acquisition of lands made in the same village or neighbouring villages, and the proposition that the rates fixed in respect of earlier acquisitions for the same purpose, it would be better to adopt those rates with suitable increase than to rely upon the sale instances.

33. At the outset, we would like to state that it is a typical case on hand. We say so for the reason,

reference Court presided over by one and the same officer, approved categorization and enhanced market value on the basis of categorization of lands done by the LAO, which we had occasion to come across and which we would like to refer to sometime later contextually, but the very same Presiding Officer has resorted to fixation of market value on uniform basis despite the fact that the LAO has categorized the land into four (4) categories, the entire extent of Acs.358.79 cents, and fixed market value as referred to herein before. So, the questions with which we are confronted, we would like to point out as hereunder and adjudicate upon the same in arriving at fixation of market value in awarding just and fair compensation on the basis of awards passed by the very same reference Court, which were either confirmed by this Court or modified, concerning the lands acquired from the very same village and the village Sunkesula situate at a considerable distance, though, in regard to which there is dispute between the rival parties.

34. The questions that fall for consideration are;

1) Whether the market value fixed under Exs.A-3 to A-5 or Ex.B-10 for the lands acquired from Cherlopalli village can be taken as the basis for fixation of market value of the lands under instant acquisition in preference to the market value fixed for the lands acquired from Sunkesula Village under Exs.B-3 to B-5?

2) Whether the approach of the reference Court in fixation of market value on uniform basis for all the four (4) categories of
lands, to which different rates have been fixed by the LAO can be sustained?

35. For better appreciation of controversy between the parties, we opine that it is imperative to refer to certain details in regard to various acquisitions from the village Cherlopalli and acquisitions from the village Sunkesula situate in one and the same Mandal i.e., Owk.

36. Before the reference Court, the LAO was examined as PW.1 in the batch of cases. Through him, Exs.A-1 to A-6 were marked. Ex.A-2 is the copy of the award passed by the LAO bearing No.26/1992-93, dated 30.03.1993. The notification under Section 4(1) of the Act was published on 03.02.1993 for acquisition of Acs.60.15 cents for formation of bund across Gollaleru Valley embankment purpose under Owk Valley Complex from KM.115.584 to 119.500. The LAO has fixed market value at Rs.20,000/- per acre so far as dry lands are concerned, Rs.25,000/- per acre concerning dry lands having irrigation potentiality though the claimants claimed Rs.35,000/- per acre and Rs.50,000/- per acre respectively.
The reference Court enhanced the market value for dry

lands to Rs.30,000/- per acre and for Category - II at Rs.49,000/- per acre. When the LAO carried the matter to this Court on the ground that enhancement of market value was excessive, this Court in
A.S. No.2051 of 2004 and batch of appeals, by the common
judgment, dated 09.02.2007, confirmed the rates fixed by the reference Court.

37. In yet another acquisition from the very same village i.e., Cherlopalli, under the notification published on 26.07.1993, issued under Section 4(1) of the Act, an extent of Acs.296.05 cents was acquired for the purpose of burrow area for improving Thimmaraju Tankbund for Owk Valley complex under SRBC from KMs.115.584 to 119.500 and an award was passed on 23.08.1993 in award No.6/1993-94 fixing market value at Rs.20,000/- per acre for Category - I lands which are dry lands having *taram* rate of assessment at 0-4-0 Annas per acre and Rs.24,000/- per acre under category - II which are also dry lands but having *taram* rate of assessment at 0-8-0 annas.

38. When reference was made under Section 18 of the Act, the reference Court treating both the lands as Category - I, keeping in view that both the categories involve dry lands, enhanced market value to Rs.46,000/- per acre on uniform basis.

39. Thus, we find two acquisitions relating to the land situate in Cherlopalli village of the year 1993. At this juncture only, we would like to advert to Ex.B-10 filed by the claimants bearing award No.4/1997-98, dated 26.03.1998, passed by the Special Deputy Collector (Land Acquisition), S.R.B.C. Nandyal. It was a consent award indicating that the land owners of an extent of Acs.265.77 cents have agreed to receive compensation at the rate of Rs.60,000/- per acre for dry lands, Rs.145,000/- per acre for irrigable wet lands, Rs.1,80,000/- per acre for the land in which slab factories have been existing, Rs.2,00,000/- per acre for mining lands and Rs.3,00,000/- per acre for kallam lands. Since it was a consent award, awarding statutory benefits was obviated indicating that both the parties kept in view, the additional market value at 12% and solatium at 30% in fixation of market value at that rate. The notification under Section 4(1) of the Act was published on 29.09.1997. Thus, acquisition of lands from Cherlopally village occur under Ex.B-10 relating to the year 1997.

40. Now turning to the documentary evidence on which claimants have been heavily resting to substantiate their claim constituting Exs.B-1 to B-8; Ex.B-1 is a registration extract of a sale deed, dated 11.09.1997, executed by one K. NarasimhaCharyulu in favour of C.

Vijaya Bhaskara Reddy selling an extent of Ac.0.05 cents in Survey No.301, out of Acs.6-68 cents, for a consideration of Rs.25,000/-. The said extent is located in Cherlopalli village, but the said sale transaction is post-notification one. It has to be rejected out-rightly.

41. Ex.B-2, again a registered extract of a sale deed, dated 30.08.1997, concerning Ac.0.05 cents for a consideration of Rs.25,000/- and the said transaction is also a post-notification transaction, and, therefore, it has to be rejected. Ex.B-3 is again a copy of registration extract of the sale deed, dated 17.05.2004, executed by G. Rajagopal Naidu, examined as RW.3 by the claimants in the instant batch of appeals in favour of one G. Vijaya Kumar, who is a resident of Thadipathri village of Ananthapur District, who said to have purchased six (6) plots, each plot consisting of Ac.0.02 cents in Survey Nos. 490, 491/1, 491/2, 492/1, 492/2 and 492/3 of Cherlopalli village. Since RW.3, the vendor under Ex.B-3 admits in his cross-examination that the vendee under Ex.B-3 is a resident of Thadipathri village and except to the vendee, he has not sold the plots to any others, gives rise to an inescapable inference that the sale transaction under Ex.B-3 is got up for the purpose of claiming enhanced compensation and therefore, it just precedes a few months prior to earliest notification, dated 30.11.2004. It is

needless to mention that when a huge extent of Acs.358.79 cents sought to be acquired, there would be pre-scrutiny by a team visiting the proposed area for acquisition and that itself would be sufficient to show that the land owners, whose lands fall within the proposed acquisition, would make an attempt to bring into existence certain registered sales with an oblique motive of claiming higher compensation. Therefore, Ex.A-3 has to be excluded. Though, the reference Court has not assigned any reasons for excluding Exs.B-1 to B-3, still, not taking into consideration the sale transactions thereunder by the reference Court cannot be faulted.

42. Turning to the awards, which were taken as basis by the reference Court for fixation of market value for the acquired lands, Ex.B-4 is certified copy of the order, dated 30.11.2004 in O.P. No.167 of 1996 and batch, passed by the Principal Senior Civil Judge, Nandyal. The notification under Section 4(1) of the Act was published on 18.05.1992 for acquisition of Acs.47.11 cents situate in Sunkesula village and the LAO has fixed market value at Rs.80,000/- per acre, though, arrived at Rs.1,10,000/- per acre basing on a sale exemplar of Ac.0.11 cents for a consideration of Rs.12,100/- which sale transaction had taken place on 29.07.1991, but deducted Rs.30,000/- towards penalty on the ground that the claimants had not obtained quarry lease or permit for

extraction of Napa slab deposits in and around the area in this reach under acquisition as against the claim of Rs.5,00,000/-. The reference Court enhanced the market value to Rs.1,49,000/- per acre on the ground that the lands under acquisition were having flaggy lime stone which may yield Napa slabs with thickness of 1½" to 2" which would take polish with all statutory benefits.

43. The LAO, when carried the matter to this Court by preferring LAAS No.748 of 2005 and batch of appeals, this Court by judgment, dated 26.03.2007, slightly reduced the market value from Rs.1,49,000/- per acre to Rs.1,48,000/-. The said rate has been taken by the reference Court in fixation of market value for the acquired lands herein. Admittedly, the lands under Exs.B-4 and B-5 are situate in Sunkesula village which is not even an abutting village of Cherlopalli village. So far as distance between these two villages is concerned, the evidence let in by the claimants would show that by road, it would be at a distance of 20 KMs., but across the fields, it would be 7 KMs. Since the LAO stepped into witness box in the first instance, there was no occasion for him to speak as to the distance between the villages Cherlopalli and Sunkesula. Only when the claimants stepped into box later, they started asserting that Sunkesula village is situate at a distance of 7 KMs. from Cherlopalli.

44. Ex.B-6 is yet another award bearing

No.16/1992-93 passed by the LAO on 12.03.1993, concerning acquisition of land situate in Sunkesula village. An extent of Acs.47.11 cents was acquired by publication of notification under Section 4(1) of the Act on 18.05.1992 for SRBC from KM 130.400 to 133.400 KMs.
The LAO fixed market value at Rs.80,000/- per acre having deducted Rs.30,000/- from Rs.1,10,000/- for not obtaining quarry lease or permits for extraction of mining deposits in the said reach.
It appears, the claimants have not sought for any reference.

45. Ex.B-7 is copy of the order, dated 16.04.2008, in O.P. No.351 of 2003 and batch of O.Ps., passed by the learned Principal Senior Civil Judge, Nandyal, dated 16.04.2008. Notification under Section 4(1) of the Act was published on 01.03.2000 for acquiring an extent of Acs.39.52 cents situate in Sunkesula village for excavation of Major 1L, minor and 2R minor under Block No.XIV of SRBC. The LAO has divided the land into three categories viz., (1) irrigated dry lands, (2) dry (BC) having deposits of slab stone and (3) dry (BC) lands, and fixed market value at Rs.43,000/-, Rs.40,000/- and Rs.36,000/- per acre respectively. The reference Court brought all the categories under one category and fixed market value at Rs.1,75,000/- per acre.

46. Ex.B-8, dated 02.02.2009, again relates to acquisition of land in Sunkesula village. An extent of Ac.0.54 cents was acquired for the purpose of excavation of 1R minor under Block No.XIII and Major Distributory of Block No.XIV of SRBC covered by the notification under Section 4(1) of the Act published on 20.09.2002. When the LAO has fixed the market value at Rs.36,000/- per acre, the reference Court presided over by the same presiding officer whose common orders are under challenge in the instant appeals, enhanced market value to Rs.2,96,000/- per acre on the basis of market value fixed at Rs.1,48,000/- per acre by this Court under Ex.B-5.

47. Now, adverting to the first question, whether market value fixed under Exs.A-3 to A-5 or Ex.B-10 for the acquired lands can be taken as the basis for fixation of market value in preference to the market value fixed for the lands acquired located in Sunkesula village under Ex.B-3 to B-5, Ex.B-6 and B-7 we intend to refer to certain features borne out from the record. As could be gathered from the seven (7) notifications referred to in the above, except the lands acquired under the first notification, dated 11.08.2005, under the other notifications, the lands having mining potentiality as one of the categories is occurring. Even the material on record would show that only portions of land in different survey numbers are

having mining potentiality but not the entire extents of all the survey numbers under the instant acquisitions. This fact, somehow, went unnoticed by the reference Court. This apart, when the evidence on record is examined, we find that in LAOP No.13 of 2007 and batch, one of the claimants sought appointment of Advocate - Commissioner for localization of the lands in Survey Nos.340, 337/1, 350/1, 348/1 and 357 of Cherlopalli village, but warrant was issued to find out

Napa slabs and to note down physical features of the lands with the assistance of the Mandal Surveyor, Owk Mandal and the Royalty Inspector, Banaganapalli. The Commission was executed on 06.12.2009, and the report was submitted by the Advocate - Commissioner, enclosing thereto, the report of the Royalty

Inspector and the geological map of Kadapa basin. Thus, it is clear that the Royalty Inspector was required to find out Napa slabs in the said five (5) survey numbers. His report in paragraph No.3, indicates thus:

> "3. Geologically the area consist of sedimentary rock formations belongs to Nargy Flaggy Limestone of Kurnool System. The flaggy Lime stones are occurring in Black, colour in thin layer. These layers are extracted as slabs along their bedding planes. The black slabs are used as flooring and roofing purposes in building constructions. The material thickness more than 6 Cm to 15 Cm are also finding use in building construction as foundation stone, compounding was etc., further the same

material is made into slices by using center cutting machines."

48. It is really strange and un-understandable as to how the Royalty Inspector travels beyond the scope of the warrant, when he was required to find out the existence of Napa slabs only in the above five (5) survey numbers. It is no doubt true, the report of the Commissioner constitutes part of record as no objections appears to have been filed by the LAO, but by that itself, it cannot be said that the entire report has to be accepted in toto, more particularly, in a situation as the one occurring herein. The report of the Royalty Inspector lacks elaboration, as it does not mention at what depth the mines are located and its stretch, at least, approximately.

49. This apart, his report travels beyond the scope of the warrant itself as mentioned by us in the above. Therefore, it is difficult to accept and act upon the Royalty Inspector's report which is to be found as an enclosure to the Advocate - Commissioner's report. When the reports of the Advocate - Commissioner and the Royalty Inspector are ambiguous for the reasons aforesaid, an obligation is cast on the claimants, when they are seeking enhancement of market value, more particularly, on the ground that all the lands under acquisition are having mining potentiality and identical in nature with the mining lands situate in Sunkesula village, to adduce positive

evidence by examining the Geologist concerned as a witness, with all relevant documents to affirmatively prove that the lands covered by various survey numbers under instant acquisition have potentiality of mining nature. In the absence of the same, more particularly, when the reference court is absolutely silent on this aspect of the case, certainly, the finding recorded by the reference Court, fixing market value on uniform basis for all four categories of land, in our view, invariably, suffers from legal infirmity warranting interference. We find support from Ex.B-10 award itself, since the very fact that the land owners have willingly accepted the rates fixed for various categories of land under Ex.B-10 is sufficient enough to give rise to an irresistible inference that the lands situate in Cherlopalli village are not of one and the same category having mining potentiality, but they are of different nature. Further, RW.1 also says in his cross-examination that he has not obtained mining permission and the authorities have not granted mining permission to him. He also answers that he has not done mining operations in the acquired land and his land was not tested by the Geologists. The Special Deputy Collector, In-charge Land Acquisition, SRBC, Nandyal, who was examined as PW.1, asserts in his evidence that the claimants have no mining leases or licences and all the sale transactions in Cherlopalli village took place basing on the fertility of the land, but not on the basis of mining potentiality. Thus, we conclude that all the lands acquired from various survey numbers in Cherlopalli village are not one and the same quality having mining potentiality and only on the request of one of the claimants concerning five (5) survey numbers, Advocate - Commissioner was appointed to find out existence of mining potentiality.

50. Therefore, we have no hesitation to proceed with determination of market value for the acquired lands, category-wise as classified by the LAO.

51. Now turning to whether the approach of the reference Court in fixing market value resting on Exs.B-3 to B-5 can be sustained, we would like to state that the said approach is wholly incorrect.

52. We have already given the details in the above as to the dates of notifications and the market value fixed by the LAO, enhanced by the reference court and either confirmed or modified by this Court while referring to the awards, orders and judgments respectively.

53. Under Ex.B-5, which lands are situate in Sunkesula village, this Court fixed market value at Rs.1,48,000/- per acre reducing the rate from Rs.1,49,000/- per acre fixed by the reference Court. The date of notification issued under Section 4(1) of the Act was 18.05.1992. Under Ex.B-6, which again relates to

acquisition of lands situate in Sunkesula village, the date of notification was issued on 18.05.1992 and the market value fixed by the LAO was Rs.80,000/- per acre. Thus, these two notifications relate to the year 1992 for acquisition of lands in Sunkesula village. We find under Exs.A-2 to A-4, the notification was issued on 03.02.1993 for acquisition of the lands in Cherlopalli village itself. The market value of Rs.30,000/- and Rs.49,000/- per acre fixed by the reference Court for the dry and wet lands, respectively, was confirmed by this Court under Ex.A-4. Certainly, it is really strange, why the reference Court has not preferred Exs.A-2 to A-4 in preference to Ex.B-5. Absolutely, no reasons are assigned at all in any of the common orders under challenge herein, more particularly, when the village Sunkesula is not abutting village of Cherlopalli, and situate at a distance of 7 KMs. away from Cherlopalli village. This apart, even Ex.A-5 was not taken into consideration which acquisition relates to lands from Cherlopalli village itself and the notification published under Section 4(1) of the Act was issued on 26.07.1993 fixing the market value at Rs.46,000/- per acre as mentioned in the above. When the awards relating to acquisition of lands from the very same village are available, a duty is cast on the reference Court to fix market value for the subsequent acquisitions from that village, basing on the earlier awards of the same village in preference to the awards relating to a different village.

Thus, there is no justification in preferring market value fixed under Ex.B-5 and adopting the same by resorting to 10% increase for each year in fixing market value for the lands in Cherlopalli village. Thus, the very approach of the reference Court is wholly incorrect. It is no doubt true, the learned counsel for the claimants contended that the LAO himself has resorted to fixation of market value basing on the earlier awards made by the LAOs, under which mining lands from Sunkesula village were acquired. But, in our view, certainly, that would not advance to sustain the common awards under challenge in the instant appeals.

54. On the same lines, the market value fixed for acquisitions under Exs.B-7 and B-8 cannot be adopted for fixation of market value of the acquired lands herein.

55. Now, we intend to deal with the acquisition under Ex.B-10. Ex.B-10 was exhibited on behalf of the claimants for the purpose of proving that for mining lands, the LAO has fixed market value at Rs.2,00,000/- per acre, for kallam lands at Rs.3,00,000/- per acre, whereas for dry lands, the market value was fixed at Rs.60,000/- per acre and for irrigated wet lands at Rs.1,40,000/- per acre. However, we are not concerned with fixation of market value at Rs.1,80,000/- per acre so far as the land in which polishing plants are situate.

The award was a consent award passed by the LAO on

26.03.1998 in award No.4/1997-98. The extent acquired thereunder was Acs.267.74 cents for the purpose of foreshore submersion of Thimmaraju Tank and improvement to +220 MFRL under Owk Valley Complex.

The notification under Section 4(1) of the Act was issued on 29.09.1997. Since the said consent award relates to the land situate in Cherlopalli village itself, the reference Court ought to have given due importance to the rate fixed therein and ought to have fixed market value by taking escalation at 10% for each year for the time lag between notification under Section 4(1) of the Act under Ex.B-10 and the notifications in the instant batch of appeals by duly deducting 12% towards additional market value and 30% towards solatium from the market value fixed by the LAO. Merely because it was a consent award, the same cannot be thrown out, since, in our view, it would constitute material piece of evidence for fixation of market value in the instant appeal for the acquired land. When kept in view, the settled principle of law reiterated by the Hon'ble Supreme Court in **Sendhabhai Vastram Patel's Case** (Supra 8)**,** in the context of different modes for arriving at the market value for the land acquired, the best method would be the amount which a willing purchaser of the land would pay to the owner of the land as may be evidenced by the deeds of sale and in the absence of any direct evidence on the said point, the Court may take recourse to other methods of judgments and awards

passed in respect of acquisition of lands made in the same village or neighbouring villages and such a judgment and award in the absence of any other evidence like deed of sale, however, would have only evidentiary value. Hence, we have no hesitation to equate
Ex.B-10 with that of a sale deed under which a willing purchaser of the land would pay to the owner of the land.

56. In arriving at market value on the date of notification under Section 4(1) of the Act under Ex.B-10 acquisition, we feel it just and reasonable to deduct 30% equating to solatium from the rate fixed for the dry lands at Rs.60,000/-, wet lands at Rs.1,40,000/-, mining lands at Rs.2,00,000/- excluding deduction of 12% towards additional market value. When the same is done, for dry lands, per acre, it works out to Rs.42,000/-, for wet lands, it works out to Rs.98,000/- per acre and for mining lands it works out to Rs.1,40,000/- per acre as on the date of notification i.e., 29.09.1997.

57. Now further question that would arise for consideration is what should be the increase per annum?

58. In the present context, in our view, it would be apt to place reliance on a decision of the Hon'ble Apex Court in **General Manager, Oil and Natural Gas Corporation Ltd. v. Rameshbhai Jivanbhai Patel**[9].

59. A similar fact-situation akin to the one occurring herein is to be found in the said decision. The classification of land was situate in a village called Ijapura, Mehsana district of Gujarat State; earlier there was acquisition of lands in the neighboruing Santhal village, covered by Ex.15 therein. Whereas, Ex.16 therein relates to acquisition from another village called Chalsana which is situated at a distance of 4 KMs. away from Ijapura village. When a question arose that reliance on Exs.15 and 16 therein was erroneous, the Hon'ble Supreme Court on the ground that Chalsana village is at a far away place, whereas Ex.15 relates to acquisition of lands in neighbouring Santhal village, held that Ex.15 offered a reasonable basis for determining market value of the acquired lands in Ijapura village, having regard to the evidence relating to proximity of Santhal lands. In the same context, answering the question as to what should be the increase per annum and further question whether the increase should be at cumulative rate or flat rate and, still further question for what period, the increase should be calculated, the Hon'ble Supreme Court answered in paragraph Nos.8 to 17, thus:

> ***"What should be the increase per annum?***
>
> 10. The contention of appellant is that even if Ex. P15 should be the basis, in the absence of any specific evidence regarding increase in prices between 1987 and 1992, the annual increase could not be assumed to be 10% per year.

11. On the other hand, the learned counsel for the respondent claimants submitted that the rate of escalation in market value at the relevant time was in the range of 10% to 15% per annum. He relied on the decisions of this Court in *Ranjit Singh v. Union Territory of Chandigarh [(1992) 4 SCC 659]*, and *Land Acquisition Officer and Revenue Divisional Officer v. Ramanjulu [(2005) 9 SCC 594]* wherein this Court had accepted an escalation of ten per cent per annum, and the decision in *Krishi Utpadan Mandi Samiti v. Bipin Kumar [(2004) 2 SCC 283]* where this Court had accepted an escalation of 15% per annum. He, therefore, submitted that escalation at the rate of 10 per cent adopted by the Reference Court and approved by the High Court is a reasonable and correct standard to be applied.

12. We have examined the facts of the three decisions relied on by the respondents. They all related to acquisition of lands in urban or semi-urban areas. *Ranjit Singh* related to acquisition for development of Sector 41 of Chandigarh. *Ramanjulu* related to acquisition of the third phase of an existing and established industrial estate in an urban area. *Bipin Kumar* related to an acquisition of lands adjoining Badaun - Delhi Highway in a semi-urban area where building construction activity was going on all around the acquired lands.

13. Primarily, the increase in land prices depends on four factors : situation of the land, nature of development in surrounding area, availability of land for development in the area, and the demand for land in the area. In rural areas unless there is any prospect of development in the vicinity, increase in prices would be slow, steady and gradual, without any sudden spurts or jumps. On the other hand, in urban or semi-urban areas, where the development is faster, where the demand for

land is high and where there is construction activity all around, the escalation in market price is at a much higher rate, as compared to rural areas. In some pockets in big cities, due to rapid development and high demand for land, the escalations in prices have touched even 30% to 50% or more per year, during the nineties.

14. On the other extreme, in remote rural areas where there was no chance of any development and hardly any buyers, the prices stagnated for years or rose marginally at a nominal rate of 1% or 2% per annum. There is thus a significant difference in increases in market value of lands in urban/semi-urban areas and increases in market value of lands in the rural areas. Therefore if the increase in market value in urban/semi-urban areas is about 10% to 15% per annum, the corresponding increases in rural areas would at best be only around half of it, that is about 5% to 7.5% per annum. This rule of thumb refers to the general trend in the nineties, to be adopted in the absence of clear and specific evidence relating to increase in prices. Where there are special reasons for applying a higher rate of increase, or any specific evidence relating to the actual increase in prices, then the increase to be applied would depend upon the same.

15. Normally, recourse is taken to the mode of determining the market value by providing appropriate escalation over the proved market value of nearby lands in previous years (as evidenced by sale transactions or acquisition), where there is no evidence of any contemporaneous sale transactions or acquisitions of comparable lands in the neighbourhood. The said method is reasonably safe where the relied-on-sale transactions/acquisitions precede the subject acquisition by only a few years, that is upto four

to five years. Beyond that it may be unsafe, even if it relates to a neighbouring land. What may be a reliable standard if the gap is of only a few years, may become unsafe and unreliable standard where the gap is larger. For example, for determining the market value of a land acquired in 1992, adopting the annual increase method with reference to a sale or acquisition in 1970 or 1980 may have many pitfalls. This is because, over the course of years, the "rate" of annual increase may itself undergo drastic change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices affecting the very standard of increase.

16. Much more unsafe is the recent trend to determine the market value of acquired lands with reference to future sale transactions or acquisitions. To illustrate, if the market value of a land acquired in 1992 has to be determined and if there are no sale transactions/ acquisitions of 1991 or 1992 (prior to the date of preliminary notification), the statistics relating to sales/acquisitions in future, say of the years 1994-95 or 1995-96 are taken as the base price and the market value in 1992 is worked back by making deductions at the rate of 10% to 15% per annum. How far is this safe? One of the fundamental principles of valuation is that the transactions subsequent to the acquisition should be ignored for determining the market value of acquired lands, as the very acquisition and the consequential development would accelerate the overall development of the surrounding areas resulting in a sudden or steep spurt in the prices. Let us illustrate. Let us assume there was no development activity in a particular area. The appreciation in market price in such area would be slow and minimal. But if some lands in that area are acquired for a residential/ commercial/ industrial layout, there

will be all round development and improvement in the infrastructure/ amenities/ facilities in the next one or two years, as a result of which the surrounding lands will become more valuable. Even if there is no actual improvement in infrastructure, the *potential* and *possibility* of improvement on account of the proposed residential/commercial/ industrial layout will result in a higher rate of escalation in prices. As a result, if the annual increase in market value was around 10% per annum before the acquisition, the annual increase of market value of lands in the areas neighbouring the acquired land, will become much more, say 20% to 30%, or even more on account of the development/ proposed development. Therefore, if the percentage to be added with reference to previous acquisitions/sale transactions is 10% per annum, the percentage *to be deducted* to arrive at a market value with reference to future acquisitions/sale transactions should not be 10% per annum, but much more. The percentage of standard increase becomes *unreliable*. Courts should therefore avoid determination of market value with reference to subsequent/future transactions. Even if it becomes inevitable, there should be greater caution in applying the prices fetched for transactions in future. Be that as it may.

17. In this case, the acquisition was in a rural area. There was no evidence of any out of ordinary developments or increases in prices in the area. We are of the view that providing an escalation of 7.5% per annum over the 1987 price under Ex.15, would be sufficient and appropriate to arrive at the market value of acquired lands.

Whether the increase should be at a

cumulative rate or a flat rate?

18. The increase in market value is calculated with reference to the market value during the immediate preceding year. When market value is sought to be ascertained with reference to a transaction which took place some years before the acquisition, the method adopted is to calculate the year to year increase. As the percentage of increase is always with reference to the previous year's market value, the appropriate method is to calculate the increase cumulatively and not applying a flat rate. The difference between the two methods is shown by the following illustration (with reference to a 10% increase over a basic price of Rs.10/- per square metre):

Year	By flat rate increase method	By cumulative increase method
1987 (Base Year)	10.00	10.00
1988	10 + 1 = 11.00	10.00 + 1.00 = 11.00
1989	11 + 1 = 12.00	11.00 + 1.10 = 12.10
1990	12 + 1 = 13.00	12.10 + 1.21 = 13.31
1991	13 + 1 = 14.00	13.31 + 1.33 = 14.64
1992	14 + 1 = 15.00	14.64 + 1.46 = 16.10

19. We may also point out that application of a flat rate will lead to anomalous results. This may be demonstrated with further reference to the above illustration. In regard to the sale transaction in 1987, where the price was Rs.10 per square metre, if the annual increase to be applied is a flat rate of 10%, the increase will be Rs.1 per annum during each of the five years 1988, 1989, 1990, 1991 and 1992. If the price increase is to be determined with reference to

sale transaction of the year 1989 when the price was Rs.12 per square metre, the flat rate increase will be Rs.1.20 per annum, for the years 1990, 1991 and 1992. If the price increase is determined with reference to a sale transaction of the year 1990 when the price was Rs.13 per square metre, then the flat rate increase will be Rs.1.30 per annum for the years 1991 and 1992. It will thus be seen that even if the percentage of increase is constant, the application of a flat rate leads to different amounts being added depending upon the market value in the base year. On the other hand, the cumulative rate method will lead to consistency and more realistic results. Whether the base price is Rs.10/- or Rs.12.10 or Rs.13.31, the increase will lead to the same result.

The logical, practical and appropriate method is therefore to apply the increase cumulatively and not at a flat rate.

For what period, the increase should be calculated?

20. The reference court has stated that the gap between 6.1.1987 (the date of transaction covered by Ex.P15) and 15.9.1992 (the date of acquisition under consideration) was six and half years. It therefore calculated the increase for six and half years. This is obviously erroneous. The actual gap is five years and eight months and not six and half years. However, for the purpose of calculation, we have to exclude the year of the relied-upon transaction, which is the base year. If the year of relied-upon transaction in 1987, the increase is applied not from 1987 itself but only from the next year which is 1988. If the rate was Rs.10 per

square meter in 1987, and the cumulative rate of increase is 7.5% per year, the price will be

> Rs.10.75 in 1988, Rs.11.56 in 1989, Rs.12.42 in 1990, Rs.13.35 in 1991 and Rs.14.35 in 1992. Thus the calculation of increase is only for five years and not for six and half years."

60. In this batch of cases, the earlier acquisitions under Exs.A-2 to A-4, A-5 and Ex.B-10 were from the very same village, and therefore, we do not see any reason in accepting and acting upon the market value fixed either in Ex.A-4 or A-5 or Ex.B-10. Since among_these three (3) acquisitions, the latest being under Ex.B-10, we see no reason to reject it giving precedence over Exs.A-4 and A-5 acquisitions for determination of market value of the acquired lands. Hence, we prefer the market value fixed under Ex.B-10 consent award by giving deduction of 30% towards solatium, treating the balance amount as the rate per acre on the date of notification under Section 4(1) of the Act as stated herein before.

61. We intend to adopt the rate of increase at 10% per annum as resorted to by the reference court for a period of seven (7) years, taking the time lag between the date of notification under Section 4(1) of the Act under Ex.B-10 and the dates of notifications in the instant appeals in view of the decisions of the Hon'ble Supreme Court in

Om Prakash's Case (Supra 5) and a Division Bench of this Court in **Madiga Mallikarjuna's Case** (Supra 4).

62. When computed at 10% increase per year for Category - I lands, which are rain-fed dry lands at Rs.42,000/- per acre on the date of notification i.e. on 29.09.1997, it works out to Rs.81,845/- per acre which when rounded off, would be Rs.82,000/- per acre.

The computation is as follows:

1998	Rs.42,000/-	+	Rs.4,200/-	=	Rs.46,200/-
1999	Rs.46,200/-	+	Rs.4,620/-	=	Rs.50,820/-
2000	Rs.50,820/-	+	Rs.5,082/-	=	Rs.55,902/-
2001	Rs.55,902/-	+	Rs.5,590/-	=	Rs.61,492/-
2002	Rs.61,492/-	+	Rs.6,149/-	=	Rs.67,641/-
2003	Rs.67,641/-	+	Rs.6,764/-	=	Rs.74,405/-
2004	Rs.74,405/-	+	Rs.7,440/-	=	Rs.81,845/-

63. For Category - II lands which are irrigated through water drawn from the neighbours, where the LAO has fixed market value at Rs.68,000/- per acre and the lands cultivated with *bugganala* and borewells at Rs.72,000/- per acre, we treat them as identical as there

has been marginal difference only, we fix the market value at Rs.1,91,000/- per acre, taking the rate per acre at Rs.98,000/- as on the date of notification under Section 4(1) of the Act by adopting escalation at 10% per year which is as under:

1998	Rs.98,000/-	+	Rs.9,800/-	=	Rs.1,07,800/-
1999	Rs.1,07,800/-	+	Rs.10,780/-	=	Rs.1,18,580/-
2000	Rs.1,18,580/-	+	Rs.11,858/-	=	Rs.1,30,438/-
2001	Rs.1,30,438/-	+	Rs.13,044/-	=	Rs.1,43,482/-
2002	Rs.1,43,482/-	+	Rs.14,348/-	=	Rs.1,57,830/-
2003	Rs.1,57,830/-	+	Rs.15,783/-	=	Rs.1,73,613/-
2004	Rs.1,73,613/-	+	Rs.17,361/-	=	Rs.1,90,974/-

64. So far as market value for Category - III lands which are having mining potentiality are concerned, we fix market value at Rs.1,54,000/- per acre as on the date of notification under Section 4(1) of the Act and by increase at 10% per annum, when worked out the value per acre, would be Rs.2,72,820/- as shown in the following table

and the same is rounded off to Rs.2,73,000/-:

1998 Rs.1,40,000/- + Rs.14,000/- = Rs.1,54000/-

1999 Rs.1,54,000/- + Rs.15,400/- = Rs.1,69,400/-

2000 Rs.1,69,400/- + Rs.16,940/- = Rs.1,86,340/-

2001 Rs.1,86,340/- + Rs.18,634/- = Rs.2,04,974/-

2002 Rs.2,04,974/- + Rs.20,497/- = Rs.2,25,471/-

2003 Rs.2,25,471/- + Rs.22,547/- = Rs.2,48,018/-

2004 Rs.2,48,018/- + Rs.24,802/- = Rs.2,72,820/-

65. Incidentally, we would like to mention that one of the appeals in L.A.A.S. No.378 of 2011 was found missing in the present batch of appeals and on directions, the registry sorted out and reported that the said appeal was disposed of along with batch of appeals in L.A.A.S. No.151 of 2011 and batch by a common judgment, dated 20.12.2013, by a Hon'ble Division Bench of this Court and even placed on record the said common judgment and also the common judgment, dated 21.11.2013, rendered by the very same Division Bench in L.A.A.S. No.1 of 2010 and batch of appeals.

66. We have perused the common judgment, dated 20.12.2013, and we noticed that L.A.A.S. No.378 of 2011 was disposed of along with other batch of appeals (LAAS No.151 of 2011 and batch) on the representation made by the learned Government Pleader for Appeals appearing for the State as well as the learned counsel appearing for the claimants.

67. The question that fell for consideration in the said appeals (LAAS No.151 of 2011 and batch) was squarely covered by the earlier common judgment, dated 21.11.2013, in L.A.A.S. No.1 of 2010 and batch, wherein compensation for the lands of Category - I was reduced from Rs.1,90,000/- to Rs.1,70,000/- per acre and for the lands of Category - II, it was reduced from Rs.1,80,000/- to Rs.1,70,000/-, while confirming the compensation in respect of the lands of Categories - III and IV, and, having regard to the said submission, the Hon'ble Division Bench, partly allowed the said batch of appeals following the common judgment in L.A.A.S. No.1 of 2010 for the reasons recorded therein. That is how the appeal in LAAS No.378 of 2011 forming part of the instant batch of appeals was disposed of along with common judgment in LAAS No.151 of 2011 and batch, dated 20.12.2013.

68. We have perused the common judgment, dated 21.11.2013, in L.A.A.S. No.1 of 2010 and batch rendered by the very
same Division Bench. The fact situation therein would reflect that an extent of Acs.128-30 cents of land in various survey numbers
located in Gorakallu village was acquired for public purpose of formation of Gorakallu balancing reservoir by publication of notification under Section 4(1) of the Act in the official gazette on 30.05.2005. Thus, somehow, the appeal in LAAS No.378 of 2011 was tagged on to the batch of appeals in LAAS No.151 of 2011 and we would opine that the learned Government Pleader for appeals would take appropriate steps for disposal of LAAS No.378 of 2011 afresh.

69. Incidentally, we also would like to refer to fixation of market value per acre under each category for three reasons.
Firstly, the village Gorakallu appears to have located within the local limits of the very same reference Court's jurisdiction and the batch of original petitions were disposed of by one and the same Court and one and the same Presiding Officer who has disposed of original petitions from which the instant appeals have arisen. Second, the notification under Section 4(1) of the Act therein was published on 30.05.2005,

whereas the latest notification amongst the seven notifications in the instant appeals was issued on 11.08.2005, besides yet another notification issued on the same date to acquire distinct extents.

Third, the nature of the lands and source of irrigation are almost alike. It is to be found that when the LAO awarded compensation of Rs.70,000/- per acre for Category - I lands which are registered wet and irrigated with Venganna Cheruvu (Tank), Pedda Cheruvu (Tank), *Bugganala* (Spring Channel) (assured sources of irrigation), the reference Court enhanced it to Rs.1,90,000/- per acre, whereas this Court reduced it to Rs.1,80,000/- per acre. For Category - II which includes dry lands irrigated with own bore-wells raising wet and

ID crops by laying pipelines and bore-wells, when the LAO has awarded Rs.65,000/- per acre, the same was enhanced by the reference Court to Rs.1,80,000/-, but this Court reduced it to Rs.1,70,000/-. Under Category - III, which includes dry lands irrigated through bore-wells belonging to adjacent ryots raising wet and ID crops by laying pipelines, when the LAO fixed market value at Rs.60,000/- per acre, the reference Court enhanced it to Rs.1,70,000/- per acre and this Court confirmed the said rate. For Category - IV lands, which consists of dry lands irrigated through rain-fed crops, when the LAO fixed market value at Rs.50,000/- per acre, the reference Court enhanced it to Rs.1,50,000/- per acre and this Court confirmed the same. When we calculated market value basing on Ex.B-10 contents as mentioned in the above, for dry lands irrigated through rain-fed crops, we arrived the market value at Rs.82,000/- per acre.

70. Therefore, the further question that arises for our consideration is, when in the nearby village the dry lands irrigated through rain-fed crops were acquired and when market value at Rs.1,50,000/- was confirmed by this Court, could it be said that fixation of market value at Rs.82,000/- per acre would be reasonable when the nature of lands is one and the same in all respects, so far as that particular category of land is concerned.

71. When viewed from the circumstances, firstly, that the owners of the land would be losing their mainstay of living on account of compulsory acquisition and, second, fixation of market value at Rs.82,000/- per acre, which amount was arrived at by us as stated in the above, would be discriminatory when the land owners irrigating the land through rain-fed crops belonging to Gorakallu village are awarded Rs.1,50,000/- per acre, we are of the view, to adopt the rate fixed by this Court in the batch of appeals in LAAS No.1 of 2010 and LAAS No.151 of 2011 and batch. In that view of the matter, we intend to adopt the rate of Rs.1,50,000/- per acre for Category - I lands instead of Rs.82,000/- per acre and accordingly, we fix the market value concerning dry lands irrigated

through rain-fed crops. So far as fixation of market value concerning the lands covered by other categories, we are of the opinion to affirm the rates arrived at in the above i.e. at Rs.1,91,000/- per acre for Category - II and IV lands which are irrigated through water drawn from the neighbours and also cultivated with *bugganala* and bore-wells and Rs.2,73,000/- per acre for Category - III lands which are having mining potentiality.

72. Accordingly, the instant appeals are allowed in part fixing market value for the acquired land at Rs.1,50,000/- per acre for dry lands irrigated through rain-fed crops, at Rs.1,91,000/- per acre for the lands irrigated through the water drawn from the neighbours and also the lands cultivated with *bugganala* and bore-wells and at Rs.2,73,000/- per acre for the lands which possess mining potentiality by reducing the market value fixed by the reference Court at Rs.3,70,000/- and Rs.3,78,880/-, respectively. We, thus, make no order as to costs.

73. As a sequel thereto, Miscellaneous Applications, if any, pending in these batch of appeals stand disposed of.

G. CHANDRAIAH, J

A. SHANKAR NARAYANA, J

April 28, 2016.

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[1] 1997 Law Suit (SC) 637

[2] (1969) 1 MLJ 45 (SC)

[3] 2013 (5) SCC 527

[4] 2014 (4) ALT 579 (D.B.)

[5] (2004) 10 SCC 627

[6] 2007 (1) ALD 127

[7] AIR 1976 SC 651

[8] (2005) 6 SCC 454

[9] 2008(14) SCC 745 = 2008 (11) scale 637