***IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

*** HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN**

AND

*** HON'BLE MS. JUSTICE J. UMA DEVI**

+C.C.C.A.Nos.210 and 226 of 2005 and W.P.No.24271 of 2005

% 22-11-2018

C.C.C.A.No.210 of 2005

#**Between**:

The Special Deputy Collector,
Land Acquisition (General), Nampally,
Station Road, Hyderabad.

… Appellant

And

Roshan H. Jehangir Allas (Mrs. Roshan H. Ardeshir),
W/o Homil Ardeshir, aged 48 years, Qr.No.8,
Police Quarters, Santhinagar, Hyderabad and 6 others

… Respondents

C.C.C.A.No.226 of 2005

#**Between**:

Roshan H. Jehangir Allas (Mrs. Roshan H. Ardeshir),
W/o Homil Ardeshir, aged 48 years, Qr.No.8,
Police Quarters, Santhinagar, Hyderabad and 6 others

… Appellants

And

The Special Deputy Collector,
Land Acquisition (General), Nampally,
Station Road, Hyderabad.

… Respondents

W.P.No.24271 of 2005

#**Between**:

Bharat Sanchar Nigam Limited, represented by its
General Manager, Hyderabad Telecom District,
Suryalok Complex, Abids, Gunfoundry,
Hyderabad.

… Petitioner

And

Government of Andhra Pradesh, represented
By its Secretary, Revenue Department,
Secretariat, Hyderabad and 10 others

… Respondents

! Counsel for the writ petitioner : Mr. P. Venugopal, Sr. Counsel

! Counsel for the Appellants in One appeal and respondents In the other : Mr. S. Niranjan Reddy, Sr. counsel

^ Counsel for the Appellant in One appeal and respondent In the other : G.P. for Appeals (Telangana)

<GIST:

> HEAD NOTE:

? Cases referred

1) 1993 (2) ALT 173 (DB)

2) AIR 1992 SC 2298

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

C.C.C.A.Nos.210 and 226 of 2005 and W.P.No.24271 of 2005

COMMON JUDGMENT: *(per V. Ramasubramanian, J)*

While the two City Civil Court Appeals arise out of the award passed by the Reference Court under Section 18 of the Land Acquisition Act, 1894, the writ petition is by the beneficiary, challenging the award on the ground that the land covered by the award was subjected to Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as "Urban Land Ceiling Act").

2. We have heard Mr. P. Venugopal, learned senior counsel appearing for the writ petitioner in W.P.No.24271 of 2005, Mr. S. Niranjan Reddy, learned senior counsel appearing for the land owners and the learned Government Pleader for Appeals (Telangana) for the Land Acquisition Officer.

W.P.No.24271 of 2005

3. Since the writ petition is capable of being disposed of without much ado, we shall take it first. The writ petition is filed by BSNL, which is the beneficiary of the acquisition, out of which the present proceedings arise.

4. By G.O.Rt.No.281 Transport, Roads & Buildings (P2), dated 15-03-1978 issued under Section 4 (1) of the Land Acquisition Act, 1894, the land and building known as Jahangir Mansion, located in Khandaswamy lane, Sultan Bazar, Hyderabad Urban, was sought to

be acquired for the purpose of locating a Telephone District Training Centre and Automobile workshop. This Government Order was published in the Andhra Pradesh Gazette dated 04-05-1978. It is relevant to note that the land and building sought to be acquired under the said notification was already the subject matter of a lease entered into on 01-10-1963 between the land owners and the Government of India. The lease was taken on behalf of the Department of Telephones, (now BSNL) represented by the District Manager, Hyderabad. Therefore, the beneficiary was already in occupation of the land.

5. The requisition for acquisition was actually mooted by the District Manager, Telephones, Hyderabad, by his letter dated 23-12-1975. When the requisition made by the Department of Telephones, for acquisition of the aforesaid property was pending with the Government, the Urban Land (Ceiling and Regulation) Act, 1976 came into force in the State of Andhra Pradesh on 17-02-1976.

6. In view of the said development, the Government of Andhra Pradesh issued a Memorandum vide U.O.614/G2/76-5, dated 30-03-1976 directing that the acquisition of the land under the Land Acquisition Act, 1894, should not be proceeded with, in five urban agglomerations and eight towns within the State, unless the possession of the land had been taken under the Land Acquisition Act, prior to 28-01-1976. But by a subsequent Memorandum vide No.1647/UC/76-3, dated 02-09-1976, the Government allowed publication of notification under Section 4 (1) and the publication of

the declaration under Section 6 of the Land Acquisition Act, wherever proceedings are to be finalized urgently.

7. After the coming into force of the Urban Land (Ceiling and Regulation) Act, 1976, the land owner filed necessary statements before the competent authority. It was only thereafter that the notification under Section 4 (1) was issued under G.O.Rt.No.281 Transport, Roads & Buildings (P2), dated 15-03-1978 and the same got published in the Andhra Pradesh Gazette on 04-05-1978.

8. Subsequently, by a Memorandum No.3151-P2/78-2, dated 08-03-1979, the Government exempted the entire land measuring 11,355 square meters for the construction of Telecom Centre at Sultan Bazar, Hyderabad. This exemption was granted in terms of the provisions of the guidelines issued in Memo No.1647/UC/76-3 Revenue, dated 02-09-1976. In view of the exemption so granted from the applicability of the Urban Land Ceiling Act, the Collector was directed to proceed further with the acquisition.

9. As a consequence, a declaration under Section 6 of the Land Acquisition Act, 1894 was published in the Hyderabad District Gazette on 14-02-1981. Thereafter, an award enquiry was held and the Land Acquisition Officer passed an award dated 11-05-1982, fixing the market value of the land at Rs.115/- per square yard and fixing the value of the entire superstructure at Rs.1,77,658/-.

10. The land owners sought a reference and the matter was referred to the City Civil Court. The reference was taken on file in O.P.No.407 of 1992 by the I Senior Civil Judge, City Civil Court,

Hyderabad. By an award passed on 22-08-2003, the reference Court fixed the compensation at Rs.400/- per square yard for the land and fixed the market value of the buildings and superstructures at Rs.5,46,222/-.

11. Aggrieved by the enhancement granted by the reference Court, the Land Acquisition Officer has come up with an appeal in CCCA.No.210 of 2005 under Section 54 of the Land Acquisition Act, 1894. Contending that the enhancement granted was insufficient, the land owners have come up with an appeal in CCCA.No.226 of 2005.

12. Contending that the land acquired was subjected to Urban Land Ceiling proceedings and that therefore, compensation is not payable as per the Land Acquisition Act, but payable only under the ULC Act, for the land that could have been declared as surplus, the beneficiary has come up with the writ petition.

13. The main contention of Mr. P. Venugopal, learned senior counsel appearing for the writ petitioner namely BSNL is that if the urban land ceiling proceedings had been taken to a logical end, without an exemption being granted, the land in excess of the ceiling limit would have vested with the State Government and that thereafter a lesser compensation would have become payable in respect of the land declared as surplus. The compensation payable under the Urban Land Ceiling Act, for the land declared as surplus, is far less than the compensation payable under the Land Acquisition Act. Therefore, the learned senior counsel contended

that the award should be set aside and the judgment of the reference Court should be confined only to the land, which will be within the ceiling limit.

14. But the aforesaid contention is fallacious for several reasons:

i) The Department of Telephones which is the beneficiary under the Land Acquisition Act and which has come up with the above writ petition, was already a lessee in respect of the property pursuant to a deed of lease entered into on 01-10-1963 between the owner and the Union of India. Therefore, the Department of Telephones was also hit by Section 3 of the Urban Land Ceiling Act, but for the fact that it was the Government. Section 3 disentitled any person from holding any vacant land in excess of the ceiling limit in the territories to which the Act applied. The expression “to hold” was defined in Section 2 (l) to mean even the possession of the land as a tenant. It is an admitted case that the land owner filed a statement under Section 6 of the Urban Land Ceiling Act. Despite being aware of this, the department pursued their request for the acquisition of the entire land. Therefore, the Government granted exemption in terms of the guidelines contained in the Memo dated 02-09-1976. It is only after the grant of such exemption that the notification under Section 4 (1) was issued under G.O.Rt.No.281, dated 15-03-1978 and the same was published in the Andhra Pradesh Gazette on

04-05-1978. Thus, the Department of Telephones, failed to fall back upon the provisions of the ULC Act, at the relevant point of time and hence they cannot indulge in a post mortem.

ii) As seen from a communication from the competent authority (ULC) dated 22-04-1978 addressed to the General Manager, Telephones, the Department of Telephones was put on notice of the statement filed by the land owner under Section 6 of the Urban Land Ceiling Act. It was only thereafter that the Gazette notification was issued under Section 4 (1). The Department of Telephones did not challenge either the grant of exemption or the issue of the notification under Section 4 (1) in respect of the entire land. Today, the Department of Telephones is challenging the award and not the notification under Section 4 (1). Since the notification under Section 4 (1) was issued after two years of the coming into force of the Urban Land Ceiling Act and also since the notification under Section 4 (1) included the total extent of land, the Department of Telephones ought to have raised objections at that stage, on the ground that the acquisition under the Land Acquisition Act cannot be in respect of the total extent and that the total extent should be split into two parts, requiring proceedings under the Land Acquisition Act in respect of one part and under the Urban Land Ceiling Act in respect of the other part. But the Department of Telephones kept quiet till the judgment of the reference Court in the year 2003. From the year of the notification under Section 4 (1) namely 1978, a period of 25 years had passed up to the date of the judgment of the reference Court. The Department of Telephones which kept quiet for a full period of 25 years, cannot now seek to fall back upon the provisions of the Urban Land Ceiling Act.

iii) In any case, it is admitted by the Government that no final statement under Section 9 of the Act was prepared and no proceedings under Section 10 were initiated. It is only after a notice is issued under Section 10 (5) and possession is taken under Section 10 (6) of the Urban Land Ceiling Act that the proceedings under the Urban Land Ceiling Act are complete in all respects. This stage never came. The Urban Land Ceiling Act 1976 itself was repealed by the Central Act 15 of 1999 and the same was adopted by the State of Andhra Pradesh with effect from 27-03-2008. Therefore, by virtue of Section 4 of the Repeal Act, all proceedings, even if there were any, under the Urban Land Ceiling Act, stood abated especially since the possession of the land had not been taken over by the State Government. In fact, the Department of Telephones continued to be the lessee of the land and their possession was under the land owners. Hence, it is not open to the beneficiary of the acquisition now to challenge the entire proceedings from the stage of notification under Section 4 (1) up to the stage of the award.

15. Inviting our reference to a judgment of a Division Bench of this Court in **Birguban Singh and others v. Land Acquisition Officer, R.D.O., Hyderabad East Division, R.R. District and another[1],** it was contended by Mr. P. Venugopal, learned senior counsel, that in view of Section 42 of the Urban Land Ceiling Act, it had overriding effect and that there was a dispute with regard to the land that would have been rendered as surplus under the Urban Land Ceiling Act and the land available for acquisition under the Land Acquisition Act. It is his contention that even the exemption granted by the Government from the operation of the provisions of the Urban Land Ceiling Act was wrong and that at least the Land Acquisition Officer should have confined the award only to the land, which was within the ceiling limit.

16. But we are unable to agree. The decision in **Birguban Singh v. Land Acquisition Officer, R.D.O., Hyderabad,** arose before repealing of the Urban Land Ceiling Act. The said case arose out of a reference under Section 30 of the Act. After the Land Acquisition Officer passed an award, the Government directed the award amount to be kept in deposit till finalization of the proceedings under the Urban Land Ceiling Act. Therefore, a reference under Section 30 of the Act came to be made in **Birguban Singh and others v. Land Acquisition Officer**. It is in that context that the court held in **Birguban Singh and others v. Land Acquisition Officer** that in respect of the land that might be eventually declared

---

[1] 1993 (2) ALT 173 (DB)

as surplus, compensation was payable only under the Urban Land Ceiling Act.

17. But, in the case on hand, the very notification under Section 4 (1) of the Act was issued after the grant of exemption. Therefore, even the stage of final statement under Section 9 and further proceedings under Section 10 of the Urban Land Ceiling Act were never reached. Eventually, the Urban Land Ceiling Act also got repealed.

18. One more fallacy in the claim of the beneficiary-writ petitioner is that even if all their contentions are accepted, the land declared as surplus under the Urban Land Ceiling Act will vest only with the State Government. If the Department of Telephones, Union of India has to seek the same from the State Government, the State Government is entitled to fix their own price. It will not then be a case of acquisition.

19. Therefore, the writ petition filed by the Department of Telephones (now BSNL) is bound to fail. Accordingly, W.P.No.24271 of 2005 is dismissed. No costs.

C.C.C.A.Nos.210 and 226 of 2005:

20. As pointed out earlier, the notification under Section 4 (1) was published in the Government Gazette on 04-05-1978 and the declaration under Section 6 was issued on 14-02-1981. The Land Acquisition Officer passed an award on 11-05-1982 fixing the compensation for the land at Rs.115/- per square yard and fixing the value of the superstructures in total in a sum of Rs.1,77,658/-.

21. The property acquired, was known as Jahangir Mansion in Khandaswamy lane at Sultan Bazar. The extent of the site was 11,355 sq.mtrs. The land was surrounded by a compound wall and there were one pucca double storied building, one out house, a big well and a number of trees, both fruit bearing and otherwise. The Department of Telephones was occupying the entire property and was paying monthly rent of Rs.3,550/- even in those days (1963).

22. The Land Acquisition Officer took note of nine sale transactions that had taken place in Sultan Bazar, the area in which the property was situated. The sale statistics taken by him were tabulated by the Land Acquisition Officer in his award and the tabulation was as follows:

SNo	Village or place	Description of property	Considera-tion	Distance from the land to be acquired	Rate Per Sq.yd.	Doc.No. & Date
1.	2.	3.	4.	5.	6.	7.
1.	Sultan Bazar	Open land area 550 sq.yds	Lease for 6yrs. For Rs.2000/-	2 ½ furlongs	330-33	1678, dt.3-4-75
2.	-do-	Open land 200 sq.yds. H.No.4-2-81/1	Rs.18,000/-	¾ -do-	90/-	2701 17-7-75
3.	-do-	Open land 200 sq.yds.	Rs.18,000/-	¾ -do-	90/-	2702 17-7-75
4.	-do-	Open land H.No.4-3-266 & 267 197 sq. yds.	Rs.40,000/-	1 -do-	203/-	37 8-1-77
5.	-do-	MCH No.40 New No.4-2-510, 511	Rs.34,000/-	¾ -do-	629-9	364 26-1-77

		55 sq.yds.				
6.	-do-	Open land MCH No.4-5-418 73-50 sq.yds.	Rs.27,000-	1 ¾ -do-	364-85	942, 22-4-77
7.	-do-	Open land MCH No.4-2-581, 582 90sq.yds.	Rs.9,000/-	½ -do-	100/-	1363, 8-6-77
8.	-do-	Open land part of old building No.759 new 4-5-24 to 4-5-44 area 78 sq.yds.	Rs.12,000/-	1 ½ -do-	153-90	1325 20-6-77
9.	-do-	Open land H.No.4-5-28 47 sq.yds.	Rs.5,000/-	1 ½ -do-	106-35	2931 18-2-77

23. The transaction under Item-1 of the above tabulation was rejected by the Land Acquisition Officer on the ground that the same related to a lease. The transactions at S.Nos.2 and 3 were rejected, as the Land Acquisition Officer himself found that the acquired land was in a more advantageous location. The transaction at S.No.5 was rejected on the ground that the value reflected in the document, covered both land and buildings, without any scope for finding out the market value of the land alone. The transactions at S.Nos.6 and 7 were rejected on the ground that the properties covered by those documents are not comparable. The transaction at S.No.8 was discarded on the ground that it related to a small extent. The transaction at S.No.9 was also rejected, on the ground that the acquired land was in a more advantageous position.

24. Therefore, the Land Acquisition Officer was left only with the document at S.No.4 of the tabulation. As per the document, the land value worked out to Rs.203/- per square yard. After allowing for the difference in situation and time gap, the Land Acquisition Officer took the rate of Rs.175/- per square yard. Then he allowed a deduction of 1/3rd and fixed the market value of the land at Rs.115/- per square yard.

25. In so far as the building is concerned, the Land Acquisition Officer went by the valuation done by the Executive Engineer.

26. Thereafter, the Land Acquisition Officer passed a supplementary award dated 11-08-1988. The supplementary award was necessitated on account of the fact that the land owners filed a writ petition in W.P.No.12144 of 1987 seeking certain directions. An interim order was passed in the said writ petition directing the Collector to pass a supplementary award.

27. In the supplementary award so passed, the Land Acquisition Officer confined himself only to the question of apportionment.

28. Thereafter, by a judgment dated 16-09-1992, the writ petition in W.P.No.12144 of 1987 was disposed of directing the Land Acquisition Officer to make a reference under Section 18 of the Act. Accordingly, a reference was made and the same was taken on file as O.P.No.407 of 1992.

29. Before the reference court, the claimants examined one of them as PW.1. A retired Chief Engineer and a retired Superintending

Engineer were examined as PWs.2 and 3. The owner of the mulgi, who was the vendor under Ex.A.5, was examined as PW.4. The land owners marked 21 documents as exhibits.

30. The Special Deputy Collector examined himself as RW.1 and he filed four documents as Exs.B.1 to B.4.

31. The reference Court primarily went by Ex.A.4. Ex.A.4 was a sale deed dated 21-04-1977. Under this sale deed, the land of an extent of 73.50 square yards with superstructures was sold for a consideration of Rs.27,000/-. This worked out to Rs.364.85 per square yard. In fact this sale deed was reflected at S.No.6 of the data sales taken by the Land Acquisition Officer.

32. What the reference Court did was to enhance the value of Rs.364.55 per square yard indicated in Ex.A.4 dated 21-04-1977, by 10% to arrive at the market value of the land on the date of notification under Section 4 (1) namely 04-05-1978. Accordingly, the reference Court arrived at the market value of the land as Rs.400/- per square yard.

33. In so far as the building is concerned, the reference Court went by Ex.A.1, which is a report submitted by the Retired Chief Engineer PW.2 and his colleague, who was a retired Superintending Engineer and who was also examined as PW.3. In a detailed report submitted by PW.2 under Ex.A.1, he demonstrated as to how the value fixed by the Land Acquisition Officer was completely wrong. In paragraph 6.3 of Ex.A.1, the retired Chief Engineer (examined as PW.2) gave a tabulation of the valuation worked out by the

Executive Engineer and the valuation worked out by the Registered Valuers. This table shows as to how the Land Acquisition Officer arrived at value of the land as Rs.1,77,658/-. He also arrived at the value of the building at Rs.5,46,222/-.

34. The table given in Ex.A.1 reads as follows:

	Valuation figures worked out by the E.E. P & T	**Valuation figures worked out by the Regd. Valuers**
<u>I. As per the Lr. Dt.22.12.1981 of EE P & T Civil Dvn. No.I, Hyd</u> Value of various structures: Items 1 to 12:	9,83,754/-	9.83,754/-
Water supply/sanitary installation @ 4% on Rs.7,71,603.	30,864/-	30, 864/-
Electric supply Internal @ 7 ½ % on Rs.7,61,603/- @ 12 ½ % on Rs.7,71,603/- Electric supply external @5% on Rs.7,71,603/- Note (1)	57,870/-	96,450/- 38,580/-
	10,72,488/-	11,49,648/-
<u>Deduct</u>: Reserved price (or residual value) for the purpose of calculating depreciation only (Note-2) 6% on Rs.10,72,488/- 10% on Rs.11,49,648/-	64,349/-	1,14,965/-
	10,08,139/-	10,34,683/-
<u>Depreciation:</u> Note (2) @ 85/100 on Rs.10,08,139/- @ 60/100 on Rs.10,34,683/-	8,56,919/-	6,20,810/-
Depreciated value	1,51,220/-	4,13,873/-
<u>Add back reserved price</u> (or residual value) deducted above for calculating		

depreciation only)	-------	1,14,965/-
Total value	1,51,220/-	5,28,838/-
II. <u>As per Lr. Dt. 8.3.1982 of EE P & T Dvn.I, Hyderabad.</u> Extra for cost of superior types of teakwood, glass ornamental panels Water supply/sanitary installation @ 4% on Rs.31,104/- (Note-1)	31,104/- ----	31,104/- 1,244/-
	31,104/-	32,348/-
Electric supply internal @12 ½ % on Rs.31,104/- (Note-1) Electric supply external @ 5% on Rs.31,104/- (Note-1)	------ ------	3,888/- ,555/-
	31,104/-	37,791/-
Deduct: Reserved price (or rersidual value) for the purpose of calculating depreciation only at 10% on Rs.37,791/- (Note-2)	-----	3,779/-
	31,104/-	34,012/-
Depreciation: (Note 2) @ 85/100 on Rs.31,104/- @ 60/100 on Rs.34,012/-	26,438/-	----- 20,407/-
Depreciated value: <u>Add back Reserved price:</u> (or residual value) deducted above for calculating depreciation only	4,666/- ----	13,605/- 3,779/-
Total Value	4,666/-	17,384/-

Total of Value I + II   Rs. 1,55,886/-   Rs. 5,46,222/-

But the Spl. Dy. Collector, L.A. took the value of the building at Rs.1,77,658/- made up as follows:

i) Depreciation value as per letter dt. 22.12.1981 of EE P & T Civil Dvn.No.1, Hyderabad   1,51,220/-

ii) Amount of extras vide letter dt.8.3.1982 of EE P&T Civil Dvn. No.1 Hyderabad.	31,104/-	
Less depreciation value.	4,666/-	26,438/-
	------------	----------------
		1,771,658/-

35. On the basis of the above tabulation, the reference Court fixed the market value of the building at Rs.5,46,222/-.

36. The grievance of the land owners as against the inadequate enhancement granted by the reference Court is not so much as to the market value of the building, as it is against the market value of the land. Despite the fact that the building known as Jahangir Mansion was 100 years old even at the time of acquisition and was actually a majestic monument, Mr. S. Niranjan Reddy, learned senior counsel appearing for the claimants focused more upon the market value of the land and claimed that the reference Court should have enhanced the market value of the land at least to Rs.600/- per square feet. This value is claimed by the land owners, on the basis of a sale deed dated 30-12-1978, marked as Ex.A.5. Under Ex.A.5, the land of an extent of 75 square yards together with the building was sold for a sale consideration of Rs.81,000/-. After deducting the value of the building, PWs.2 and 3 arrived at the market value of the land as indicated in Ex.A.5 as Rs.826/- per square yard.

37. Thereafter, PWs.1 and 2, in their valuation report filed as Ex.A.1, arrived at a via media between the value of Rs.327.77 per square yard indicated in a sale deed dated 22-04-1977 (Ex.A.4) and

the value of Rs.826/- indicated under Ex.A.5 to fix the market value at Rs.600/- per square yard.

38. Drawing our attention to the Ex.A.1 (valuation report) and the oral evidence of PWs.2 and 3, it is contended by Mr. S. Niranjan Reddy, learned senior counsel appearing for the claimants that though Ex.A.5 is of a subsequent date from the date of the notification under Section 4 (1), the court has to consider (i) the potentiality of the land as indicated by the steep increase under Ex.A.5, (ii) the locational advantages of the property as it was a corner plot with roads on three sides and (iii) the larger size of the property. According to the learned Senior counsel, the market value indicated in the other document cannot be taken as that property was in a bye-lane. Therefore, the learned counsel contended that the claimants are entitled to enhancement of the value of the land to Rs.600/- per square yard.

39. Per contra, it is contended by the learned Government Pleader that even the enhancement granted by the reference Court was quite steep and that the reference Court committed a grave error in going by the valuation of buildings as per Ex.A.1. Another grievance of the learned Government Pleader is that after arriving at the market value of land as Rs.400/- per square yard, on the basis of Ex.A.4, the court below refused even to allow a deduction of 1/3rd towards development charges. Therefore, the learned Government Pleader contended that the enhancement was unjustified, both in respect of land and in respect of building.

40. We have carefully considered the above submissions.

41. In so far as the valuation of the building is concerned, we do not think that we have much to do. The Land Acquisition Officer fixed the value of the buildings at Rs.1,77,658/-. This was on the basis of the valuation made by the Executive Engineer P & T Civil Division. It is seen from the tabulation contained in paragraph 6.3 of the valuation report given by PWs.2 and 3 and marked as Ex.A.1 that the total valuation basically arrived at even by the Executive Engineer P & T was Rs.9,83,754/-. PW.2 also adopted the same value as the basis. Where the difference arose between the valuation of the Executive Engineer P & T and the valuation of PW.2, was in certain additions and deductions. The Executive Engineer had not taken into account internal and external electric wiring and connections. There were differences in depreciation. This is why a huge difference arose between the valuation given by PW.2 and the valuation adopted by the Land Acquisition Officer on the basis of the report of the Executive Engineer.

42. We find from Ex.A.1, the oral evidence of PWs.2 and 3 and the reasoning given by the reference Court that there was a fair justification for the fixation of the value of the superstructures at Rs.5,46,222/-. Therefore, we are of the considered view that the valuation of the building arrived at by the reference Court does not call for any interference.

43. In so far as the valuation of the land is concerned, the claim made by the land owners before us is on the basis of Ex.A.5.

The date of execution of Ex.A.5 is 30-12-1978. The date of publication of notification under Section 4 (1) is 04-05-1978. Therefore, the same cannot form the basis.

44. In fact, it is agreed by Mr. S. Niranjan Reddy, learned senior counsel appearing for the claimants that the purpose of relying upon Ex.A.5 is only to show the potentiality of the land. It is his contention that if the market value reflected in Ex.A.4 dated 21-04-1977 was Rs.364.85 per square yard and the market value reflected in Ex.A.5 dated 30-12-1978 was Rs.826/- per square yard, it is reflective of the potentiality of the land and the step increases in prices.

45. But, the said argument does not appeal to us. The property had been in the occupation of the Department of Telephones from 1963. The proposals for acquisition started from 1975. After the coming into force of the Urban Land Ceiling Act, exemption was granted and the Government Order relating to the notification under Section 4 (1) was issued on 15-03-1978 and it was published in the Government Gazette on 04-05-1978. The extent of land covered by the acquisition is about 11,355 square meters. Therefore, the value indicated in Ex.A.5 dated 30-12-1978 in respect of a land of a small extent of 71 square yards cannot be taken as the basis to determine the potentiality. The property covered by Ex.A.5 is actually a shop located in the main Sultan Bazar itself. But the property acquired was in Khandaswamy lane. Therefore, the

reliance placed by the learned senior counsel for the claimants upon Ex.A.5 cannot be accepted.

46. In so far as Ex.A.4 is concerned, upon which the reference Court placed reliance, the same was executed at least one year before the date of notification under Section 4 (1). It was also a property in the same Sultan Bazar and the land covered by the said document was about 73.50 square yards. The market value worked out to Rs.364.85 square yard and the reference Court gave an increase of 10% on account of a time gap of one year from the date of Ex.A.4 and the date of notification under Section 4 (1). This we think is quite reasonable. In fact, the property is said to be a corner plot with roads on three sides. The monumental building on the land was in existence for several decades. Therefore, the reference Court refused to allow any deduction towards development charges. The law is well settled that where the property sought to be acquired is of a land which is also fully developed, the question of deducting some amount towards developmental charges does not arise. In **Bhagwathulla Samanna v. Special Tahsildar and Land Acquisition Officer, Visakhapatnam[2],** the Supreme Court held that if the lands involved are of even level and fit for construction without the necessity for leveling or reclamation, there is no question of deduction towards developmental charges. In fact, the Supreme Court went to the extent of pointing out that if a smaller area than a larger tract is already developed and suitable for building purpose

[2] AIR 1992 SC 2298

and also have in its vicinity, roads, drainage, electricity, communications etc., then the principle of deduction may not be justified simply for the reason that it is part of the larger tract acquired. Therefore, we are of the considered view that the rate fixed by the reference Court at Rs.400/- per square yard for the land was also reasonable.

47. In view of the above, we are of the considered view that the market value fixed by the reference Court both in respect of land and in respect of the buildings are reasonable and they do not call for any interference. Hence, the appeals filed by both the claimants and by the Land Acquisition Officer are dismissed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 22-11-2018

Ksn