

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**FA No. 204 of 2005****Reserved on : 30.04.2019****Delivered on : 25.06.2019**

Smt. Man Devi, W/o Madanlal Kothari, R/o Village- Tildabandha, Tahsil- Simga, District- Raipur (C.G.)

Through power of attorney

Mr. Inderchand Parakh, R/o Village- Tildabandha, Tahsil- Simga, District- Raipur (C.G.)

---- Appellant**Versus**

1. State of Chhattisgarh, through Collector, Raipur (C.G.)
2. Executive Engineer Department of Water Resources/ Irrigation, Raipur Division Raipur (C.G.)

---- Respondents**FA No. 205 of 2005**

Smt. Sushila Devi Bai, W/o Vimal Kumar, R/o Village- Tildabandha, Tahsil- Simga, District- Raipur (C.G.)

Through power of attorney

Mr. Inderchand Parakh, R/o Village- Tildabandha, Tahsil- Simga, District- Raipur (C.G.)

---- Appellant**Versus**

1. State of Chhattisgarh, through Collector, Raipur (C.G.)
2. Executive Engineer Department of Water Resources/ Irrigation, Raipur Division Raipur (C.G.)

---- Respondents**FA No. 206 of 2005**

Smt. Paras Parakh, W/o Inderchand, R/o Village- Tildabandha, Tahsil- Simga, District- Raipur (C.G.)

Through power of attorney

Mr. Inderchand Parakh, S/o Late Shri Dharam Chand Parakh, R/o Village- Tildabandha, Tahsil- Simga, District- Raipur (C.G.)

---- Appellant

Versus

1. State of Chhattisgarh, through Collector, Raipur (C.G.)
2. Executive Engineer Department of Water Resources/ Irrigation, Raipur Division Raipur (C.G.)

---- Respondents**FA No. 207 of 2005**

Panna Bai, W/o Manoharlal Kothari, R/o Village- Tildabandha, Tahsil- Simga, District- Raipur (C.G.)

Through power of attorney

Mr. Inderchand Parakh, R/o Village- Tildabandha, Tahsil- Simga, District- Raipur (C.G.)

---- Appellant**Versus**

1. State of Chhattisgarh, through Collector, Raipur (C.G.)
2. Executive Engineer Department of Water Resources/ Irrigation, Raipur Division Raipur (C.G.)

---- Respondents**AND****FA No. 208 of 2005**

Mr. Inderchand, aged about 65 years, S/o Late Dharam Chand Parakh, R/o Village- Tildabandha, Tahsil- Simga, District- Raipur (C.G.)

---- Appellant**Versus**

1. State of Chhattisgarh, through Collector, Raipur (C.G.)
2. Executive Engineer Department of Water Resources/ Irrigation, Raipur Division Raipur (C.G.)

---- Respondents

For Appellants	:	Mr. B.P. Sharma, Advocate.
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For State/ respondent	:	Mr. A.N. Bhakta, Dy. A.G.
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Hon'ble Shri Justice Ram Prasanna Sharma

CAV JUDGMENT

1. Since all the five first appeals are preferred against the same

award/decreree/judgment, they are heard analogously and are being disposed of by this common judgment.

2. These five first appeals are preferred under Section 54 of the Land Acquisition Act, 1894 (for short "the Act, 1894") read with Section 96 of the Code of Civil Procedure, 1908 arises out of common judgment dated 13.05.2005 passed by Third Additional District Judge, Raipur (C.G.)/Reference Court in Land Acquisition Case No. 115/2002, 116/2002, 117/2002, 118/2002 & 119/2002. The Land Acquisition Officer passed award on 10.05.1995 in favour of appellant- Smt. Man Bai Kothari to the tune of Rs. 60,290/- for land area 1.972 Hectare, awarded Rs. 2,28,970/- to appellant- Inderchand for land area 5.091 Hectare, awarded Rs. 1,43,618/- to appellant- Panna Bai Kothari for land area 6.649 Hectare, awarded Rs. 1,94,875/- to appellant- Smt. Sushila Bai for land 6.087 Hectare and awarded Rs. 1,81,252/- to appellant- Smt. Paras Parakh for land area 4.030 Hectare, situated at Village- Tildabandha and the same was acquired by the State Government for construction of canal.
3. Notification under Section 4 (1) of the Act, 1894 was published on 14.08.1992 and it was published as per Section 6 of the Act, 1894 on 20.05.1993. A reference was made before the Reference Court which opined that valuation of the land should be done as per market value of the land on the date of notification and modified the award and awarded compensation to the tune of Rs. 1,27,710/- to appellant- Smt. Manbai, Rs. 3,27,686/- to appellant- Inderchand, Rs. 3,93,660/- to appellant- Sushila Bai, Rs. 4,32,201/- to appellant- Pannabai and Rs.

2,59,386/- to appellant- Paras Parakh.

4. The appellants made objection that the land should be assessed @ Rs. 33,000/- per acre because Grasim Cement Factory is situated just adjoining the proposed acquired land and other cement factory is also situated at about 2 km. away from the said land. The Reference Court declined to appreciate the claim of the appellants regarding market value and claims for higher valuation was rejected.
5. Learned counsel for the appellants submits as under:-
 - (i) Provisions of Section 31 of the Act, 1894 has not been complied with and documents produced by the appellants regarding price of similar land is also not considered.
 - (ii) The land in question are subjected to contour bonding and thereafter value of the land was increased as it is irrigated land, but the Reference Court ignored the document regarding contour bonding.
 - (iii) Sale-deed of adjoining village was produced before the Reference Court, but it was not considered by the Reference Court.
 - (iv) Interest should have been charged @ 15% on compensation and interest on solatium ought to have been charged, but that is not done contrary to the provisions of Sections 23, 24 & 28 of the Act, 1894.
6. On the other hand, learned State counsel submits that interest @ 12% has been charged and again, solatium has granted @ 30% as per provision of the Act, 1894, therefore, finding arrived at by the

Reference Court is not liable to be interfered with invoking jurisdiction of the appeal.

7. I have heard learned counsel for the parties and perused the record in which judgment and decree has been passed.
8. First question for consideration before this court is as to which is the relevant date for determination of market value of the acquired land. In the matter of **Land Acquisition Officer (Revenue Divisional Officer), Nalgonda (A.P.) Vs. Morisetty Satyanarayana & others** reported in **(2002) 10 SCC 570**, the relevant date for determination of market value is date of notification under Section 4 and value of similarly situated land prior to notification is most relevant piece of evidence. The Reference Court has assessed the market value on the basis of valuation of land on the date of notification or prior to date of notification, is relevant piece of evidence, therefore, it cannot be said that the Reference Court has not evaluated the market value properly. The sale-deed filed before the Reference Court related to subsequent dates of notification, is not considered because the same is not relevant and there is nothing on record that the land mentioned in such sale-deed is comparable with the land in question.
9. In the matter of **Shaji Kuriakose & another Vs. Indian Oil Corpn. Ltd. & others** reported in **(2001) 7 SCC 650**, it is held that there are certain factors which are required to be fulfilled and on fulfillment of those factors the compensation can be awarded, according to the value of the land reflected in the sales. The factors laid down inter alia are: (1) the sale must be a genuine transaction, (2) that the sale deed must have been executed at the time proximate to the date of issue of

notification under Section 4 of the Act, (3) that the land covered by the sale must be in the vicinity of the acquired land, (4) that the land covered by the sales must be similar to the acquired land, and (5) that the size of plot of the land covered by the sales be comparable to the land acquired.

10. In the present case, it is not established before the Reference Court that there is similarity in the land acquired and the land covered by sale-deed, therefore, the Reference Court was not in a position to enhance the compensation on the basis of such sale-deed. In the present case, interest @ 12% per annum was awarded on market value as per Section 23 (1A) for the period commencing on and from the date of publication of notification under Section 4, sub-section (1). In the present case, 12% amount of interest is provided in addition to market value of the land as per said provision. Again, 30% is awarded on market value as per Section 23 (2) of the Act, 1894.
11. Learned counsel for the appellants submits that the trial court overlooked the contour bonding which improved character of the land, but there is no evidence before the Reference Court as to how the value of the land is increased after contour bonding. In absence of evidence, the Reference Court was not in a position to grant additional sum on the basis of said contour bonding. In view of the above, ground raised on behalf of the appellants are without force and the same is not sustainable. Accordingly, all the five first appeals are liable to be dismissed.
12. The decree is passed against the appellants and in favour of the respondents on the following terms and conditions:-

- (i) The appeals are dismissed with cost.
- (ii) Parties to bear their own cost.
- (iii) Pleaders' fee, if certified be calculated as per certificate or as per schedule whichever is less.
- (iv) A decree be drawn accordingly.

Sd/-
(Ram Prasanna Sharma)
Judge