IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

FIRST APPEAL No. 599/2019 WITH CROSS OBJECTION NO.14/2021

Premlata w/o Purushottam Paldiwal,
Aged about 67 years, Occu. Landlady and Housewife,
R/o Paldiwal Nursing Home, Giripeth, Nagpur. **APPELLANT**

.....VERSUS.....

1. State of Maharashtra,
through Collector, Nagpur.

2. The Deputy Collector and Land
Acquisition Officer (General) Nagpur.

3. Union of India, through Secretary,
Ministry of Defence, C/o Chief Construction
Engineer, Defense of India, Research and
Development Organization Project, Rani Kothi,
Opp. RBI Quarters, Civil Lines, Nagpur. **RESPONDENTS**

Shri R.M. Bhangde, counsel for appellant.
Smt. S.S. Jachak, Assistant Government Pleader for respondent nos.1 and 2.
Shri U.M. Aurangabadkar, Assistant Solicitor General of India for respondent no.3.

CORAM : A. S. CHANDURKAR AND PUSHPA V. GANEDIWALA, JJ.

DATE ON WHICH ARGUMENTS WERE HEARD : 01ST MARCH, 2021.
DATE ON WHICH JUDGMENT IS PRONOUNCED : 10TH MARCH, 2021.

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

This appeal under Section 54 of the Land Acquisition Act, 1894 (for short, 'the Act of 1894') takes exception to the judgment of the reference Court in L.A.C. No.38/1995 decided on 28.08.2018. By the said judgment, the reference Court has enhanced the compensation for the lands acquired from Rs.1,03,500/- per Hectare to Rs.6/- per square foot. The said rate has been made admissible for 75% of the acquired land. The claimant not being satisfied with the enhancement in the amount of compensation has preferred First Appeal No.599/2019. The acquiring body being aggrieved by the aforesaid enhancement in the amount of compensation has preferred Cross Objection No.14/2021.

2. The facts in brief giving rise to the present proceedings are that on 05.11.1992, notification under Section 4 of the Act of 1894 came to be issued seeking to acquire about 65 Hectares 47 R land situated at Borkhedi Tahsil and District Nagpur. These lands were sought to be acquired by the Ministry of Defence for its Research and Development Organization. Subsequently, the acquisition proceedings in respect of 19 Hectares 79 R of land came to be abandoned and the actual land acquired admeasured 45 Hectares 89 R. The appellant-claimant is the owner of four pieces of land as under:

Survey Number	Area	Square Meters
40	2 Hectares 02 R	20,200
41	30 R	3,000
43/2	81 R	8,100
44	2 Hectares 64 R	26,400

The Land Acquisition Officer passed his award on 09.03.1995 and he awarded an amount of Rs.1,13,500/- per Hectare to land from

Survey Number 43/2 and Rs.1,35,000/- per Hectare for lands from Survey Numbers 40, 41 and 44. The claimant not being satisfied with the said grant of compensation filed proceedings under Section 18 of the Act of 1894 on 27.09.1995. The reference Court by its judgment dated 10.09.1996 partly enhanced the amount of compensation. After deducting 25% area from the acquired land compensation at the rate of Rs.8/- per square foot came to be granted. The acquiring body being aggrieved filed First Appeal No.716/1996 on the ground that it did not have proper opportunity to contest the reference proceedings. On 21.09.2016 this Court set aside the award and remanded the proceedings for fresh adjudication after granting liberty to the parties to lead additional evidence. After such additional evidence was led, the reference Court on remand decided L.A.C. No.38/1995 on 28.08.2018. After deducting 25% land from the acquired land, compensation at the rate of Rs.6/- per square foot came to be granted. It is in these facts that both the parties have sought to challenge the judgment of the reference Court.

3. Shri R.M. Bhangde, learned counsel for the claimant after referring to the reference application filed under Section 18 of the said Act as well as the evidence on record submitted that the reference Court erred in not awarding appropriate and fair compensation for the lands as

acquired. According to him the acquired lands were located near National Highway No.7 and they had great non-agricultural potentiality. On 09.12.1991 the claimant had applied for grant of permission to convert the agricultural lands for non-agricultural use. While those proceedings were pending the notification under Section 4 of the said Act came to be issued. According to him various adjoining lands had been converted for non-agricultural use. To substantiate his contention as regards the potentiality of the acquired lands, he referred to various sale instances placed on record and especially the sale instances at Exhibits 50 and 51. According to him these plot of lands came to be sold on 05.06.1987 and 10.09.1987. While Plot No.399 admeasuring 135 square meters was sold for Rs.15000/- proceedings for determining the correct valuation of that land was undertaken by the Competent Authority. In those proceedings, the value of the said land was determined at Rs.29,955/- as per the order passed at Exhibit 41. Similarly with regard to land from Plot No.34C admeasuring 135 square meters which was sold for Rs.4,500/-, the market value of that plot of land was determined at Rs.13,935/- as per the order at Exhibit 47. Thus, according to the learned counsel in the year 1987 the value of the land which was in the vicinity of the acquired lands was about Rs.9.50/- per square foot. These sale instances were relevant but the learned Judge of the reference Court did not give much importance to the same. He also referred to the Index

Register dated 07.12.1987 at Exhibit 27 to substantiate his contention. According to him since the true market value was determined by the Appropriate Authority after following the due process of law and the deficit stamp duty was duly recovered these sale instances were liable to be taken into consideration for determining the fair market value of the acquired lands. In that regard he placed reliance on the decisions in *Chinda Fakira Patil (dead) through L.R.s Versus Special Land Acquisition Officer, Jalgaon* [**(2011) 10 SCC 787**] and *Mehrawal Khewaji Trust (Registered) Faridkot & Others Versus State of Punjab & Others* [**(2012) 5 SCC 432**].

4. With regard to the sale instances from Survey No.42 it was submitted that the said lands were undervalued when they were sold on 12.03.1992. These sale instances could be taken into consideration only for the purposes of indicating the potentiality of the acquired lands in view of the fact that these lands were adjoining the acquired lands and were already converted for non-agricultural use. It was then submitted that the claimant received various offers for purchasing the acquired land in September-1992 and October-1992. The rates offered were ranging from Rs.28/- per square foot to Rs.40/- per square foot. The claimant had examined the persons who had made such offers at Exhibits 59, 63 and 65. According to the learned counsel, the evidence led by these

persons could be treated to be the opinion expressed by them as to the market value of the said land shortly prior to their acquisition in the light of the observations in *Raghubans Narain Singh Versus The U.P. Government through Collector Bijnor* [**AIR 1967 SC 465**]. It was thus the submission of the learned counsel for the claimant that substantial evidence to indicate the prevailing market price of the acquired land was led. As the rates of land for the area in 1987 were Rs.9.50/- per square foot it was clear that in the year 1992 the value of the said lands was much higher. He thus submitted that even though the sale instances relied upon by the claimant related to smaller pieces of land, the same could be taken into consideration for determining the fair market value after making a reasonable deduction therein. He also relied upon the decisions in *Bhagwathula Samanna & Others Versus Special Tahsildar & Land Acquisition Officer, Visakhapatnam Municipality, Visakhapatnam* [**(1991) 4 SCC 506**], *Chinda Fakira Patil (dead) through L.R.s Versus Special Land Acquisition Officer, Jalgaon* [**(2011) 10 SCC 787**] and *Mehrawal Khewaji Trust (Registered) Faridkot & Others Versus State of Punjab & Others* [**(2012) 5 SCC 432**].

The claimant had examined an expert valuer below Exhibit 54. His valuation report at Exhibit 56 ought to have been taken into consideration by the reference Court but the same was discarded for non justifiable reasons. The reasons assigned by the reference Court in that regard were not justified. In that regard reliance was placed on the decisions in *Mahesh Dattatraya Thirthkar Versus State of Maharashtra* [**(2009) 11 SCC 141**] and *Nelson Fernandes & Others Versus Special Land Acquisition Officer, South Goa & Others* [**(2009) 9 SCC 447**]. The learned counsel further submitted that though the acquisition proceedings commenced in 1992 a substantial period had elapsed and the claimant was deprived of the fruits of the acquisition. Considering the passage of time and overall development the claimant was entitled for enhanced compensation. Reference was made to the decision in *Udho Dass Versus State of Haryana & Others* [**(2010) 12 SCC 51**] in that regard. The learned counsel therefore sought further enhancement in the amount of compensation.

5. Shri U.M. Aurangabadkar, learned Assistant Solicitor General of India for the respondents-Cross Objectors opposed aforesaid submissions. According to him, the learned Judge of the reference Court by not properly appreciating the evidence on record had proceeded awarded higher compensation for the acquired lands. He submitted that the lands when acquired were being used for agricultural purposes. The same were not converted and in fact the evidence on record indicated that the said lands were lying barren. Considering the size and area of the acquired lands the reference

Court was not justified in proceeding to award the compensation by determining the same on square foot basis. Even deduction of 25% as applied by the reference Court was on a lower side. For the purposes of determining the potentiality and market value of the acquired land the evidence as a whole was required to be considered. The claimant was seeking to rely upon the sale instances on small plots that were situated at some distance from the acquired land while ignoring the sale instances from adjoining Survey Number 42. The said transactions from Survey No.42 which had a common boundary with the acquired land could not be ignored. The learned counsel submitted that while the notification under Section 4 of the said Act was issued on 05.11.1992, the expert valuer had visited the acquired lands in December-1994 while his report was dated 04.11.1995. The reference Court was justified in not giving much weightage to the report of the expert and the same was rightly discarded. As regards the deposition of the witnesses who claimed to have made offers for purchasing the acquired land it was submitted that these were mere statements without any supporting evidence. No evidentiary value could be attached to their statements as it was not clear as to whether the said witnesses had the capacity to purchase the acquired lands. Referring to the various maps placed on record, it was submitted that the location of the acquired lands indicated the fact that the lands were away from the railway line as well as the National Highway. It was then submitted that the reasons for considering deduction of 25% while determining the amount of compensation were not indicated by the reference Court. On the contrary, considering the fact that large pieces of land were acquired and the same would have necessitated incurring of high development charges, the deduction ought to have been taken at 45% to 50% from the amount of compensation. To substantiate his contentions, the learned counsel placed reliance on the decisions in *Pitambar Hemlal Badgujar (Dead) by Lrs. Versus Sub-divisional Officer, Dhule* [**AIR 1996 SC 3117**], *Land Acquisition Officer Revenue Divisional Officer, Chittor Versus L.Kamalamma K. Krishnamachari* [**AIR 1998 SC 781**] and *Namdeo Shankar Govardhane (D) Thr. Lrs. And Others Versus State of Maharashtra & Others* [**AIR 2019 SC 3359**].

It was thus submitted that on a proper appreciation of the entire material on record it was clear that the reference Court had awarded higher compensation than the true market value of the acquired lands.

6. In the light of the rival submissions, the following points arise for adjudication:-

I. In view of the evidence on record what would be the appropriate and fair value of the acquired lands?

II. Whether the judgment of the reference Court deserves to be interfered with?

7. We have heard the learned counsel for the parties at length and with their assistance we have also perused the records of the case. For the purposes of seeking enhancement in the amount of compensation the claimant examined her husband below Exhibit 17. Besides said witness the claimant also examined an expert valuer at Exhibit 54 who submitted his valuation report at Exhibit 56. To support her stand that the acquired land had sufficient potentiality and that the claimant had received offers from interested persons for purchasing the same the claimant examined four witnesses at Exhibits 58, 60, 62 and 64.

The acquiring body examined the Land Acquisition Officer at Exhibit 70 who was in-charge in the year 1992 to June-1994. Similarly, the Land Acquisition Officer who took charge thereafter was examined below Exhibit 69.

8. The claimant relied upon various sale instances of adjoining plots. The following chart would indicate the area which was the subject matter of the sale transaction, its date and exhibit number.

S.N.	SALE INSTANCE DETAILS	DATE	EXHIBIT No.
1.	Plot No.399 with house of bricks and mud in Khasra No.20/1 Area 135 square meters for Rs.15,000/- at the rate of Rs.10.34/- per square foot.	05.06.1987	50
1A.	Proceedings under Section 32A of Bombay Stamps Act. Market Value determined at Rs.29,955/- at the rate of Rs.15/- per square foot.	04.12.1992	41
2.	Plot No.34C admeasuring 135 square meters for Rs.4,500/- at the rate of Rs.3/- per square foot.	10.09.1987	51
2A.	Proceedings under Section 32A of the Bombay Stamps Act. Market Value determined at Rs.13,935/- at the rate of Rs.9.50/- per square foot.	.1992	47
3.	Plot No.24 in Khasra Nos.86, 87 60 Feet X 25 Feet = 1500 square feet for Rs.2000/- Plot No.25 in Khasra Nos.86, 87 60 Feet X 25 Feet = 1500 square feet for Rs.2000/-	07.12.1987	27
3A.	Proceedings under Section 32A of Bombay Stamps Act. Market Value Rs.8364/- (Plot No.24) Proceedings under Section 32A of Bombay Stamps Act. Market Value Rs.8364/- (Plot No.25)	04.12.1992 04.12.1992	40 39
4	Sale-deed of Plot No.212 from Khasra No.42/3 area 1200 square feet for Rs.8400/- at the rate of Rs.7/- per square foot.	12.03.1992	91
5	Sale-deed of Plot No.221 from Khasra No.42/3 area 1200 square feet for Rs.8400/- at the rate of Rs.7/- per square foot.	12.03.1992	92
6	Sale-deed of Plot No.202 from Khasra No.42/3 area 1200 square feet for Rs.8400/- at the rate of Rs.7/- per square foot.	12.03.1992	93

With regard to the sale instances at Serial Numbers 1 to 3 proceedings under Section 32-A of the Maharashtra Stamp Act, 1958 (for short, 'the Act of 1958') had been initiated for the purposes of determining the appropriate stamp duty payable based on the market value of the said land. These sale transactions are of the year 1987 of plots from Khasra Numbers 20/1, 86 and 87. The sale instances at Serial Numbers 4 to 6 are from Khasra No.42/3 and the sale-deeds were executed on 12.03.1992. As per the map at Exhibit 36 placed on record by the claimant Khasra No.42 is adjoining the acquired lands and they share a common boundary. It is also seen that while Khasra No.42 has direct access to a road there is no such direct access for the acquired land. Moreover Khasra No.42 was already converted for non-agricultural use.

9. According to the claimant she was intending to execute a gift-deed of the aforesaid lands in favour of her son some time in the year 1991. Accordingly she moved an application-Exhibit 19 under Section 31(1) of the Act of 1958 requesting the Collector of Stamps to determine the true market value of the acquired lands. The gift-deed that was sought to be executed by the claimant dated 09.12.1991 was placed on record at Exhibit 20. After paying the necessary charges the Assistant Director of Town Planning on 20.03.1992 determined the true market value of the acquired lands admeasuring 5 Hectare 77 R at

Rs.16,87,725/- (Exhibit 23). The valuation report prepared by the said Authority on 20.03.1992 thereby determining the value of the said land at Rs.60/- per square meter is at Exhibit 24. The rate of this land approximately comes to Rs.2.71/- per square foot as per the aforesaid valuation. Similarly, the claimant on 05.12.1991 had moved an application before the Tahsildar seeking permission to convert the agricultural lands for non-agricultural use. The said application is at Exhibit 25 and on 23.12.1991 the Tahsildar informed the claimant *vide* Exhibit 26 that such permission for conversion could only be granted by the Collector. The claimant in his deposition admitted that till the date the notification under Section 4 of the Act of 1894 was issued the land had not been converted for non-agricultural use.

The Valuer examined below Exhibit 54 submitted his valuation report at Exhibit 56. He took into consideration various sale transactions of the year 1987. According to him the market value of the acquired land was approximately Rs.26.50/- per square foot. According to the claimant she was offered rates ranging from Rs.28/- per square foot to Rs.40/- per square foot and the same was brought on record by examining the proposed purchasers. Maps at Exhibits 33 and 36 were also placed on record to indicate the location of the acquired lands. The aforesaid is the material evidence that the claimant has brought on record while seeking enhancement in the amount of compensation before the reference Court.

10. According to the learned counsel for the claimant in the light of the fact that the proceedings under Section 32-A of the Act of 1958 came to be initiated for determining the true market value of the lands that were the subject matter of sale transactions in the year 1987 from Khasra Nos.86 and 87, the value determined therein ought to be considered for determining the market value of the acquired land. It was his submission that the market value as determined in those proceedings was between Rs.10 per square foot to Rs.15/- per square foot of plots sold from Khasra Nos.86 and 87. As these transactions took place in the year 1987 and the proceedings for determining the true market value were commenced prior to issuance of notification under Section 4 of the Act of 1894, these sale instances had good evidentiary value for being considered. On the other hand, according to the learned counsel for the Acquiring Body, these transactions were not comparable for the reason that the said lands were situated at a distance from the acquired land and the area in question that was sold was hardly 135 square meters in comparison with the land that was acquired which was admeasuring 5 Hectares 77 R.

Perusal of the map at Exhibit 55 indicates that Khasra Nos.86 and 87 are situated at some distance from the acquired lands. National Highway No.7 passes in between with the acquired lands and Survey No.42 on its western side while Survey Nos.86 and 87 are on its eastern side. There is Gaothan near Survey Nos.86 and 87. Survey No.42 touches National Highway No.7 as its eastern boundary and the acquired lands touch the western boundary of Survey No.42. It is thus clear that the acquired lands are slightly at the interior while Survey No.42 has one of its boundaries as National Highway No.7. Survey Nos.86 and 87 are at some distance from the acquired lands. The Claimant's witness no.1 in his deposition stated that Khasra Nos.86 and 87 were at a distance of half kilometer from the acquired land and the same were already converted for non-agricultural use. The distance between the said lands and the acquired lands can be gauged from the perusal of the maps at Exhibits 36 and 55. The fact that the sale transactions of 1987 from Survey Nos.86 and 87 pertain to small pieces of lands coupled with the fact that the proceedings for determination of true market value for the purposes of levying proper stamp duty were initiated are aspects that would have to be kept in mind while determining the fair market value of the acquired land.

11. The sale instances from Khasra No.42/3 which shares a common boundary with the acquired lands are also of small plots admeasuring 1,200 square feet and the said transactions are dated 12.03.1992. The evidence on record indicates that access is available from the main road for Khasra No.42/3 and such access is not directly

available for approaching the acquired lands. It was urged on behalf of the claimant that the sale instances at Exhibits 91 to 93 from Khasra No.42/3 were being relied upon only for the purposes of indicating the non-agricultural potentiality of the acquired lands as the said lands were sold after undervaluing the sale-deeds. The price indicated therein did not reflect the true market value. In the additional affidavit of the claimant at Exhibit 87 these three sale-deeds were placed on record. However, except for stating that the parties had undervalued the said transactions, there is no further evidence to substantiate the said stand. On the contrary, the claimant's witness admitted that the acquired lands and Khasra No.42 were sharing the same boundary and that the acquired lands continued to be used for agricultural purposes and were lying barren when they were proposed to be acquired. In the light of the fact that these sale transactions at Exhibits 91 to 93 pertain to lands that are adjoining the acquired lands it is found that this piece of evidence deserves to be taken into consideration for the purposes of determining the fair market value of the acquired lands. Moreover the fact that the claimant had herself initiated proceedings for determining the true market value of the acquired lands in the year 1991 and the same was so determined *vide* Exhibit 24 at approximately Rs.3/- per square foot in the year 1992 cannot be ignored. Though the claimant had taken steps to seek permission to convert the acquired lands for non-agricultural use, there is no such order of conversion passed till issuance of the notification under Section 4 of the Act of 1894.

12. Thus on an overall consideration of the evidence on record brought by the claimant, it can be said that the acquired lands did have potentiality for non-agricultural use. It was located next to Khasra No.42 which was already converted for non-agricultural use and plots therein were sold at the rate of Rs.7/- per square foot in the year 1992. We find that the sale instances at Exhibits 91 to 93 deserve due consideration while determining the fair market value of the acquired land. The lands relating to sale instances at Exhibits 50, 51 and 27 from Khasra Nos.86 and 87 are located at some distance from the acquired land and the same would indicate that lands in the vicinity of the acquired lands were converted into plots and were sold. Though it is true that proceedings under the Act of 1958 are principally for the purposes of adjudication of the appropriate stamp duty to be paid on the land in question, the market value determined in such proceedings can also be kept in mind. The sale instances at Exhibits 91 to 93 are of small plots which were sold at Rs.7/- per square foot from Khasra No.42/3 that was abutting the National Highway. The offers given by the witnesses examined by the claimant below Exhibits 58, 60, 62 and 64 are in the nature of opinion expressed by said witness as held in *Raghubans Narain Singh* (supra). The rates

quoted by the said witnesses would thus have the character of their opinion. When such opinion is considered alongwith other evidence on record, the rates offered appear to be on a higher side. The opinion expressed can be considered for the purposes of holding that the lands in question had good non-agricultural potentiality.

13. It was submitted on behalf of the claimant by relying upon the decision in *Udho Dass* (supra) that though the lands were acquired in 1992 the delay in adjudication of the prayer for enhancement entitles the claimant to higher compensation in view of the subsequent developments in the vicinity of the acquired land. It is true that the present proceedings were remanded on an earlier ocassion for fresh adjudication. However in 1997 itself the claimant was permitted to withdraw an amount of Rupees Thirty Five Lakhs on furnishing bank guarantee and the balance amount of compensation on furnishing solvent security. It is not the case that the claimant has been deprived of the amount of compensation. In these facts therefore the aspect that the proceedings for determination of compensation were long drawn would not entitle the claimant to seek further enhancement on that count.

14. Heavy reliance was placed by the claimant on the report of the expert valuer at Exhibit 56. Perusal of that report indicates that the

expert has referred to the sale instances dated 05.06.1987, 10.09.1987 and 07.12.1987. These transactions are of areas ranging from 14.35 square meters to 111.36 square meters. The consideration determined is from Rs.11/- per square foot to Rs.35/- per square foot as on 05.11.1992. We find the sale transactions taken into consideration to be of small plots of non-agricultural lands. Pertinently, the expert was not referred to the adjudication at Exhibit 24 by which the assistant Director of Town Planning determined the true market value of the acquired lands at Rs.2.71/- per square foot. After considering the observations of the Hon'ble Supreme Court in *Mahesh Dattatraya Tirthkar* and *Nelson Fernandes* (supra) we are inclined to consider the report at Exhibit 56 as the opinion of an expert which deserves consideration alongwith other evidence on record.

The reference Court after considering the evidence on record was pleased to hold the rate of Rs.6/- per square foot to be the fair market value of the acquired lands. Taking an overall view of the matter and especially the sale instances brought on record we find that the rate of Rs.6/- per square foot appears to be the reasonable rate that can be granted to the claimant as appropriate market value of the acquired lands. This is after keeping in mind the fact that the acquired land is a large tract admeasuring 5 Hectares 77 R while the sale instances are of small plots of land. The ratio of the decisions in *Bhagwathula*, *Chinda*

Fakira Patil and *Mehrawal Khewaji Trust* (supra) has also been kept in mind while determining the aforesaid market value.

15. Having determined the fair market value of the acquired lands at Rs.6/- per square foot it would be necessary to consider the percentage of deduction for development. The acquired lands remained agricultural lands till their acquisition. There is no evidence on record to indicate that there was any developmental activity in any portion of the acquired land. In fact it was lying barren when the notification under Section 4 of the Act of 1894 was issued. In this regard, the following observations in paragraph 7 of the decision in *Kasturi Versus State of Haryana* [**(2003) 1 SCC 354**] would be relevant:

> "*7. .....It is well settled that in respect of agricultural land or underdeveloped land which has potential value for housing or commercial purposes, normally 1/3rd amount of compensation has to be deducted out of the amount of compensation payable on the acquired land subject to certain variations depending on its nature, location, extent of expenditure involved for development and the area required for road and other civic amenities to develop the land so as to make the plots for residential or commercial purposes. A land may be plain or uneven, the soil of the land may be soft or hard bearing on the foundation for the purpose of making construction; may be the land is situated in the midst of a*

developed area all around but that land may have a hillock or may be low-lying or may be having deep ditches. So the amount of expenses that may be incurred in developing the area also varies. … There maybe various factual factors which may have to be taken into consideration while applying the cut in payment of compensation towards developmental charges, maybe in some cases it is more than 1/3rd and in some cases less than 1/3rd. It must be remembered that there is difference between a developed area and an area having potential value, which is yet to be developed. The fact that an area is developed or adjacent to a developed area will not ipso facto make every land situated in the area also developed to be valued as a building site or plot, particularly when vast tracts are acquired, as in this case, for development purpose."

This decision has been referred to in *Maya Devi* (supra).

16. In the light of aforesaid law and after considering all relevant aspects such as the extent of the area of the lands acquired, the agricultural nature of the lands and the purpose of acquisition that would require further development we are of the view that one-third deduction towards development charges would be reasonable in the facts of the present case.

Thus, in the light of aforesaid discussion and on a re-consideration of the entire material on record the points as framed are answered by holding that the claimant would be entitled to receive compensation for the acquired lands at the rate of Rs.6/- per square foot subject to one-third deduction towards development charges. The judgment of the reference Court is liable to be modified to that extent.

17. Accordingly, the judgment dated 20.08.2018 in L.A.C. No.38/1995 is partly modified by holding the claimant entitled to compensation for the acquired land at the rate of Rs.6/- per square foot subject to one-third deduction with all statutory benefits. First Appeal No.599/2019 is accordingly dismissed while Cross Objection No.14/2021 is allowed to aforesaid extent. The parties shall bear their own costs.

(**SMT. PUSHPA V. GANEDIWALA, J.**) (**A.S. CHANDURKAR, J.**)

APTE

At this stage, learned counsel for the appellant seeks stay of the aforesaid judgment.

The request is accepted.

This judgment shall come into effect after a period of six weeks.

(**SMT. PUSHPA V. GANEDIWALA, J.**) (**A.S. CHANDURKAR, J.**)

APTE

Rohit Apte

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