

HONOURABLE SRI JUSTICE P.NAVEEN RAO
&
HON'BLE SRI JUSTICE SAMBASIVARAO NAIDU

LAND ACQUISITION APPEAL SUIT NOS.308 of 2016, 205 and 566 of
2017

Date : 28.09.2022

LAAS No.308 of 2016:

Between:

P.Krishna Murthy s/o. late P.Chinna Subbaiah,
Aged 71 years, Occu: Business, r/o.No.1641,
Road No.12, Banjara Hills, Hyderabad.

.... Appellant
(claimant)

Vs.

Land Acquisition Officer, Hyderabad Metropolitan
Development Authority, Block-B, District
Commercial Complex, Tarnaka, Hyderabad.

....Respondent
(Referring Officer)

This Court made the following :

**HONOURABLE SRI JUSTICE P.NAVEEN RAO
&
HON'BLE SRI JUSTICE SAMBASIVARAO NAIDU**

**LAND ACQUISITION APPEAL SUIT NOS.308 of 2016, 205 and 566 of
2017**

COMMON JUDGMENT: (*Per Hon'ble Sri Justice P.Naveen Rao*)

These three appeals arise out of same land acquisition notification. The Hyderabad Urban Development Authority (HUDA), now called as Hyderabad Metropolitan Development Authority (HMDA), placed requisition with the District Collector, Ranga Reddy District to acquire land to an extent of Ac.1.31½ guntas in Sy.Nos.68 and 69, Madhapur village for widening of road from Kavuri Hills to Shilparamam. Draft notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the Act) was issued on 05.07.2006.

(i) LAAS No.566 of 2017:

The land of claimant to an extent of 256 square yards falling in Sy.Nos.68 and 69 of Madhapur village bearing plot no.63 was part of the acquisition notification. The Land Acquisition Officer (LAO) passed award No.23 of 2008 on 21.11.2008 granting compensation @ ₹ 3,040/- per square yard. Not satisfied with the said compensation, the claimant sought reference under Section 18 of the Act. The reference was placed before the Court of Special Sessions Judge for trial of Cases under SC/ST (PoA) Act, 1989-cum-VII Additional District and Sessions Judge at L.B.Nagar, Ranga Reddy District. The reference was numbered as LAOP No.13 of 2012. The reference Court

enhanced the compensation to ₹ 30,000/- per square yard. Aggrieved thereby, the HMDA is in appeal in LAAS No.566 of 2017.

(ii) LAAS No.308 of 2016:

This appeal is by claimant in LAOP No.13 of 2012 and respondent in LAAS No.566 of 2017. Not satisfied with the compensation determined by the reference Court, the claimant is in appeal.

(iii) LAAS No.205 of 2017:

The land of claimant to an extent of 200 square yards in plot No.63/A in Sy.Nos.68 and 69 of Madhapur village was also included in Section 4(1) notification dated 05.07.2006. The LAO passed award No.23/2008 determined compensation at the rate of ₹ 3,040/- per square yard. Not satisfied with the amount of compensation claimant sought reference under Section 18 of the Act. The reference was placed before the Court of Principal Senior Civil Judge, Ranga Reddy district. The reference was numbered as LAOP No.15 of 2012. The reference Court determined the compensation @ ₹ 46,960/- per square yard. Aggrieved thereby, the HMDA preferred this appeal.

2. LAAS No.566 of 2017 and LAAS No.308 of 2016 arise out of reference Court order in LAOP No.13 of 2012, one by HMDA another by claimant. While HMDA contests the enhancement to ₹ 30,000/- per square yard, the claimant seeks further enhancement. The claimant wants same compensation as determined by another

reference Court in LAOP No.15 of 2012, i.e., ₹ 46,960/- per square yard.

3. We have heard learned counsel Sri Vivek Jain for claimants and learned standing counsel Sri Y.Rama Rao for HMDA.

4. According to learned counsel Sri Vivek Jain, the reference Court in O.P.No.15 of 2012 correctly enhanced compensation to ₹ 46,960/- as the same is supported by evidence brought on record, whereas the reference Court in LAOP No.13 of 2012 erred in fixing the compensation @ ₹ 30,000/- depriving just compensation to the claimant. According to learned counsel both properties are situated on the main road opposite to Shilparamam having lot of potentiality and higher future prospects. Therefore, the same would fetch higher market price compared to the compensation determined by the reference court in LAOP No.13 of 2012. Though even determination of ₹ 46,960/- by the reference Court in OP No.15 of 2012 may not be adequate compared to the prevailing market price, but the claimants are satisfied to that extent.

4.1. According to learned counsel, at about the same time, the HUDA conducted auction of house plots in **Nandagiri Hills** layout which were sold at far higher price i.e., at about ₹ 80,000/- per square yard. Similarly, the HMDA has conducted auction with base price at

₹ 4.50 crores and secured even upto ₹ 15 crores per acre in the

property called as '**Golden Mile**' in Kokapet village. This property is 10 KMs away from the location of subject lands and comparatively less developed. When such is the potentiality of lands in Nandagiri Hills and Kokapet, there is no justification to pay far less compensation to the lands located in a fully developed area abutting the main road connecting various places in and around Shilparamam. Several Software companies were already established in and around the subject properties in addition to Hitec City and NIFT at a stone's throw away. Therefore, the lands owned by the claimants would have fetched far more money in the open market than ₹ 46,960/-. He would further submit that there is no justification of granting less than ₹ 46,960/- and for the HMDA to contest the compensation determined by the reference Court in LAOP No.15 of 2012.

4.2. He would further submit that the property located in Sy.No.64 fetched ₹ 55,000/- per square yard. Sy.No.64 is very near to Sy.Nos.68 and 69 and location is also similar i.e., on the main road and in fact location of the lands of claimants is far better as compared to land in Sy.No.64. The reference Court in LAOP No.15 of 2012 rightly relied upon the lands located in Sy.No.64 to grant compensation of ₹ 46,960/- per square yard and the other reference Court in LAOP No.13 of 2012 erred in not considering the same by holding as not proximate. Proximity does not mean it should be adjacent, but should be located in the same developed area.

4.3. According to learned counsel, within few months of Section 4(1) notification, high value transactions have taken place in Sy.No.64 and those transactions clearly point out to the potentiality of the land.

4.4. In support of his contentions, learned counsel for the claimants placed reliance on the following decisions:

(i) **Dr.Caetano Jose Filomeno Jacinto de Loilo Pereira vs. Deputy Collector and another**¹;

(ii) **Panna Lal Ghosh and others vs Land Acquisition officer and others**²;

(iii) **Mehta Ravindrarai Ajitrai (deceased) through his heirs and LRs and others vs. State of Gujarat**³;

(iv) **Chimanlal Hargovinddas vs. Special Land Acquisition Officer, Poona and others**⁴

5. *Per contra*, according to learned standing counsel Sri Y.Rama Rao, post notification transactions cannot be taken into consideration. By placing reliance on the order passed by the reference Court in LAOP No.573 of 2012 in the Court of Chairman, Land Reforms Appellate Tribunal-cum-II Additional District Judge, Ranga Reddy district at L.B.Nagar, he would urge that the reference Court has correctly refused to take into consideration the sale transactions that took place after the date of Section 4(1) notification. In the said sale transaction, the land in Sy.No.64 was sold at ₹ 70,943/- per square yard. The reference Court in that case, refused to consider the same

¹ 2004 SCC Online Bom 1321

² (2004) 1 SCC 467

³ (1989) 4 SCC 250

⁴ (1988) 3 SCC 751

and confirmed the compensation determined by the LAO at ₹ 6000/- per square yard. The decision in LAOP No.573 of 2012 has become final. The land in LAOP No.573 of 2012 is located in Sy.No.64. He would further submit that when the land located in Sy.No.64 was awarded compensation at the rate of ₹ 6000/- per square yard only, the claim of claimants in these two LAOPs is unreasonable and high and both reference Courts erred in enhancing compensation to ₹ 30,000/- and ₹ 46,960/- respectively.

5.1. He would further emphasize that the reference Courts have not assigned reasons why they have agreed for enhancement of compensation. When the reference Court is inclined to enhance the compensation, more particularly when compensation determined was far higher as compared to the compensation determined by the LAO, it must assign reasons in support of the decision and on this ground alone the orders of the reference Courts are liable to be set aside. He would further submit that in and around the year 2006 the property value was not as high as claimed by the claimants. The values have gone up only after the road widening was completed. Therefore, there cannot be any comparison with transactions made after section 4(1) notification. He would further submit that there cannot be any comparison of plots formed in Nandagiri Hills or Kokapet which are far away from the lands in issue.

6. A brief parade of decisions of Hon'ble Supreme Court is necessary to appreciate respective contentions.

6.1. **Mehta Ravindrarai Ajitrai v. State of Gujarat**⁵, the Hon'ble Supreme Court held as under:

"4. We do not feel called upon to enter into a detailed scrutiny of the evidence led by the parties before the learned Civil Judge. The main instance relied upon by the claimants was by way of an agreement to sell dated 21-1-1957 and a sale deed dated 2-4-1957 in respect of the sale of 42,552 square yards of land out of Survey No. 333/2 which is adjoining the land with which we are concerned which forms part of Survey No. 331. The land sold under this instance was known as "Kesarbagh" and was sold to Mahalaxmi Mills Limited by Prince Nirmalkumarsinghji. The rate at which it was sold works out to Rs 3 per square yard. On the basis of this instance, the claimants had made their claim at Rs 3 per square yard before the Land Acquisition Officer. The High Court inter alia rejected this instance on the basis that the contents of the sale deed were not properly proved. However, after an order for remand made by this Court on 25-8-1981 evidence has been led regarding this sale and the sale deed has been duly proved by the evidence of one Dharamdas, a director of Mahalaxmi Mills Limited, the purchaser, and the vendor Prince Nirmalkumarsinghji. It was marked originally as Ext. 87 and after the evidence on remand as Ext. 152. The evidence shows that this land was just adjacent to the land of the purchaser, Mahalakshmi Mills Limited. The agreement of sale is dated 21-1-1957 and the conveyance or sale deed is dated 2-4-1957 as aforesaid. The price has been fixed under the agreement of sale. This agreement of sale was entered into about five months after the publication of Section 4 notification in the case before us. The High Court rejected the said instance on the ground that the contents of the sale deed were not proved although the execution thereof was duly proved. In view of the evidence led after remand, it cannot be disputed that this agreement of sale as well as the sale deed have been duly proved and they have been duly marked as exhibits. The High Court further took the view that in any event, no reliance could be placed on this instance of sale because the acquisition of the land in question before us was for the construction of an industrial estate at Bhavnagar and such construction was bound to have pushed up the prices of land in the surrounding area. There is, however, nothing in the evidence to show that there was any sharp or speculative rise in the price of the land after the acquisition and this has been noticed by the High Court. It appears that under these circumstances, the High Court was not justified in not taking this instance into account at all as it has done on the ground that it was a post-acquisition sale and could not be regarded as a comparable instance at all. The market value of a piece of property for purposes of Section 23 of the Land Acquisition Act is stated to be the price at which the property changes hands from a willing seller to a willing, but not too anxious a buyer, dealing at arms length. **Prices fetched for similar lands with similar advantages and potentialities under bona fide transactions of sale at or about the time of the preliminary notification are the usual and, indeed the best, evidences of market value.** (See: *Administrator General of W.B. v. Collector, Varanasi* [(1988) 2 SCC 150, para 8]).

(emphasis supplied)

⁵ (1989) 4 SCC 250

6.2. In **Administrator General of West Bengal vs. Collector, Varanasi**

(supra) the Hon'ble Supreme Court held as under:

“8. The determination of market value of a piece of land with potentialities for urban use is an intricate exercise which calls for collection and collation of diverse economic criteria. The market value of a piece of property, for purposes of Section 23 of the Act, is stated to be the price at which the property changes hands from a willing seller to a willing, but not too anxious a buyer, dealing at arms length. ***The determination of market value, as one author put it, is the prediction of an economic event viz. the price outcome of a hypothetical sale, expressed in terms of probabilities. Prices fetched for similar lands with similar advantages and potentialities under bonafide transactions of sale at or about the time of the preliminary notification are the usual, and indeed the best, evidences of market value. Other methods of valuation are resorted to if the evidence of sale of similar lands is not available.*** (emphasis supplied)

6.3. In **BSNL v. Nemichand Damodardas**⁶, the Hon'ble Supreme Court reversed the impugned decision of the Bombay High Court holding that the prices mentioned in the Ready Reckoner cannot be the basis for determining compensation for the land acquired under the Act, 1894. While holding so the Court examined the Rule for determination of compensation as understood so far. It placed reliance on ***Jawajee Nagnatham v. Revenue Divisional Officer, A.P.***,⁷ and ***Krishi Utpadan Mandi Samiti v. Bipin Kumar***⁸. Hon'ble Supreme Court held:

“18. Whether the prices mentioned in the Ready Reckoner can be the basis for determining the compensation for the lands acquired under the Land Acquisition Act has been dealt with by this Court in the two decisions of this Court in the case of *Jawajee Nagnatham* (supra) and *Krishi Utpadan Mandi Samiti, Sahaswan* (supra). ***In the case of Jawajee Nagnatham (supra), this Court has observed and held that the amount of compensation for the lands under the Land Acquisition Act is determined by adopting the method of valuation namely, (1) opinion of experts; (2) the price paid within a reasonable time in bona fide transactions of purchase of the lands acquired or the lands adjacent to the lands acquired and possessing similar advantages; and (3) a number of years purchase of the actual or immediately prospective profits of the lands acquired. It is observed that in determining the market value, the Court has to take into account either one or the other of the three methods to determine market value of the lands appropriate to the facts of a***

⁶ 2022 SCC Online SC 815

⁷ (1994) 4 SCC 595

⁸ (2004) 2 SCC 283

given case to determine the market value. Thereafter, this Court considered whether the Basic Valuation Register would form the foundation to determine the market value. While negating the same and accepting the view taken by the High Court that the entries under the Basic Valuation Register cannot form the basis to enhance the market value, it is observed and held in paragraph 5 as under:—

“5. The question, therefore, is whether the Basic Valuation Register is evidence to determine the market value. This Court in *Special Land Acquisition Officer v. T. Adhinarayan Setty* [AIR 1959 SC 429] in paragraph 9 held that the function of the Court in awarding compensation under the Act is to ascertain the market value of the land at the date of the notification under Section 4(1). The methods of valuation may be (1) opinion of experts (2) the price paid within a reasonable time in bona fide transactions of purchase of the lands acquired or the lands adjacent to the lands acquired and possessing similar advantages; and (3) a number of years purchase of the actual or immediately prospective profits of the lands acquired. Same was the view in *Tribeni Devi v. Collector of Ranchi* [(1972) 1 SCC 480]. It was reiterated in catena of decisions, vide, *Periyar and Pareekanni Rubbers Ltd. v. State of Kerala* [(1991) 4 SCC 195]. **Therefore, it is settled law that in determining the market value, the Court has to take into account either one or the other three methods to determine market value of the lands appropriate on the facts of a given case to determine the market value. Generally the second method of valuation is accepted as the best.** The question, therefore, is whether the Basic Valuation Register would form foundation to determine the market value. The Indian Stamp Act, 1899 provides the power to prescribe stamp duty on instruments, etc. Entry 44 of List III, Concurrent List, of the VIIth Schedule read with Article 254 of the Constitution empowers the State Legislature to amend the Indian Stamp Act, 1899. In exercise thereof all the State Legislatures including the Legislature of A.P. amended the Act and enacted Section 47-A empowering the registering officer to levy stamp duty on instruments of conveyance, etc., if the registering officer has reason to believe that the market value of the property, covered by the conveyance, exchange, gift, release of right or settlement, has not been truly set forth in the instrument, he may refuse registering such instrument and refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon. On receipt of such opinion, he may call upon the vendor as per the rules prescribed, to pay the additional duty thereon. If the vendor is dissatisfied, he has been given the right to file an appeal and further getting reference made to the High Court for decision in that behalf. Section 47-A would thus clearly show that the exercise of the power thereunder is with reference to a particular land covered by the instrument brought for registration. When he has reasons to believe it to be undervalued, he should get verified whether the market value was truly reflected in the instrument for the purpose of stamp duty; the Collector on reference could determine the same on the basis of the prevailing market value. Section 47-A conferred no express power to the Government to determine the market value of the lands prevailing in a particular area, village, block, district or the region and to maintain Basic Valuation Register for levy of stamp duty for registration of an instrument, etc. No other statutory provision or rule having statutory force has been brought to our notice in support thereof. Whether an instrument is liable for higher stamp duty on the basis of valuation maintained in the Basic Valuation Register, came up for consideration in *Sagar Cements Ltd. v. State of A.P.* [(1989) 3 ALT 677] B.P. Jeevan Reddy, J., as he then was, considered the question and held that the Government has unilaterally fixed the valuation of the lands, the Basic Valuation Register had no statutory foundation and

therefore it does not bind the parties. Neither the Registrar nor the vendor is bound by it. ***The market value of the land for proper stamp duty has to be determined as per the law under Section 47-A itself. That view was followed by another learned Single Judge in P. Sasidar v. Sub-Registrar [(1992) 1 ALT 49]. It is, therefore, clear that the Basic Valuation Register prepared and maintained for the purpose of collecting stamp duty has no statutory base or force. It cannot form a foundation to determine the market value mentioned thereunder in instrument brought for registration. Equally it would not be a basis to determine the market value under Section 23 of the Act, of the lands acquired in that area or town or the locality or the taluk etc. Evidence of bona fide sales between willing prudent vendor and prudent vendee of the lands acquired or situated near about that land possessing same or similar advantageous features would furnish basis to determine market value.*** The Division Bench followed, in support of its view a decision of another Division Bench in *Land Acquisition Officer v. Venkateswara Prasad* [A.S. No. 880 of 1980, decided on 11-11-1981] which also decided that Basic Valuation Register cannot be relied on to determine the market value. It would appear that in *Govt. of A.P. v. Sohan Lal* [(1988) 2 ALT 306] a Division Bench of that High Court, without noticing these two binding decisions, held that the Basic Valuation Register would form foundation to determine the market value and directed to determine the compensation on that basis. ***The entire controversy was considered by yet another Division Bench in Vasireddi Bharata Rao v. Revenue Divisional Officer [(1992) 1 ALT 591]. The Division Bench, after considering the case law disagreeing with Sohan Lal [(1988) 2 ALT 306] view as per incuriam, also reiterated that the Basic Valuation Register maintained by the registering authority has no statutory foundation to determine the market value and cannot form the base under Section 23(1) to determine the market value.*** This Court in *Gulzara Singh v. State of Punjab* [(1993) 4 SCC 245] held that mutation entries of the land transactions in the revenue records are not evidence unless the parties to the transactions have been examined in proof of documents. In *Director of Survey-cum-LAO v. Mohd. Ghose* [(1985) 1 Mad LJ 116] relied on by Mr. Ganguli, the Division Bench of Madras High Court, relying upon the instructions issued by the Government to determine the market value for the purpose of registration of the instrument under Section 47-A, held that it would form basis to determine the market value under Section 23 in an appropriate case, subject to proof of the market value. What were the instructions issued by the Government and whether they had any statutory foundation, have not been stated by the Division Bench. If the broad proposition of law that under Section 47-A of Stamp Act such instructions could be issued, as contended for the appellant herein, as appears to be the view of the High Court, it is not correct law. ***As we have already noted, Section 47-A being local amendment, made by each State Legislature did not find any such statutory basis. Like A.P. Act, Tamil Nadu Act is also referable to transactions intra vivos and not as general guidelines. If they are based on evidence inter partes it would be consistent with Section 47-A.*** Accordingly we hold that the basic value of registration has no statutory base. It cannot form any basis to determine the market value of the acquired lands under Section 23 of the Act. The burden of proof is always on the claimant to prove, in each case the prevailing market value as on the date of notification published in the State Gazette under Section 4(1) of the Act with reference to the sale deeds of the same lands or neighbour's lands possessed of same or similar advantages and features executed between willing vendor and willing vendee or other relevant evidence in the reference court. The State did not file any appeal against the award of the reference court which itself is a matter gone in favour of the appellant. We do not find any justification to further enhance the market value.”

19. The aforesaid decision in the case of *Jawajee Nagnatham* (supra) has been subsequently followed in a subsequent decision of this Court in the case of *Lal Chand* (supra)...

21. In the case of ***Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona***, (1988) 3 SCC 751, this Court has laid down the broad principles to be followed in the case of determination of compensation, which are as under:—

“4. The following factors must be etched on the mental screen:

(1) A reference under Section 18 of the Land Acquisition Act is not an appeal against the award and the court cannot take into account the material relied upon by the Land Acquisition Officer in his award unless the same material is produced and proved before the court.

(2) So also the award of the Land Acquisition Officer is not to be treated as a judgment of the trial court open or exposed to challenge before the court hearing the reference. **It is merely an offer made by the Land Acquisition Officer and the material utilised by him for making his valuation cannot be utilised by the court unless produced and proved before it. It is not the function of the court to sit in appeal against the award, approve or disapprove its reasoning, or correct its error or affirm, modify or reverse the conclusion reached by the Land Acquisition Officer, as if it were an appellate court.**

(3) The court has to treat the reference as an original proceeding before it and determine the market value afresh on the basis of the material produced before it.

(4) The claimant is in the position of a plaintiff who has to show that the price offered for his land in the award is inadequate on the basis of the materials produced in the court. Of course the materials placed and proved by the other side can also be taken into account for this purpose.

(5) The market value of land under acquisition has to be determined as on the crucial date of publication of the notification under Section 4 of the Land Acquisition Act (dates of notifications under Sections 6 and 9 are irrelevant).

(6) The determination has to be made standing on the date line of valuation (date of publication of notification under Section 4) as if the valuer is a hypothetical purchaser willing to purchase land from the open market and is prepared to pay a reasonable price as on that day. It has also to be assumed that the vendor is willing to sell the land at a reasonable price.

(7) In doing so by the instances method, the court has to correlate the market value reflected in the most comparable instance, which provides the index of market value.

(8) Only genuine instances have to be taken into account. (Sometimes instances are rigged up in anticipation of acquisition of land.)

(9) Even post-notification instances can be taken into account (1) if they are very proximate, (2) genuine, and (3) the acquisition itself has not motivated the purchaser to pay a higher price on account of the resultant improvement in development prospects.

(10) The most comparable instances out of the genuine instances have to be identified on the following considerations:

(i) proximity from time angle,

(ii) proximity from situation angle.

(11) Having identified the instances which provide the index of market value, the price reflected therein may be taken as the norm and the market value of the land under acquisition may be deduced by making suitable adjustments for the plus and minus factors vis-à-vis land under acquisition by placing the two in juxtaposition.

(12) A balance sheet of plus and minus factors may be drawn for this purpose and the relevant factors may be evaluated in terms of price variation as a prudent purchaser would do.

(13) The market value of the land under acquisition has thereafter to be deduced by loading the price reflected in the instance taken as norm for plus factors and unloading it for minus factors.

(14) The exercise indicated in clauses (11) to (13) has to be undertaken in a common sense manner, as a prudent man of the world of business would do. We may illustrate some such illustrative (not exhaustive) factors:

Plus factors

1. smallness of size
2. proximity to a road
3. frontage on a road
4. nearness to developed area
5. regular shape
6. level vis-à-vis land under acquisition

Minus factors

1. largeness of area
2. situation in the interior at a distance from the road
3. narrow strip of land with very small frontage compared to depth
4. lower level requiring the depressed portion to be filled up
5. remoteness from developed locality
6. some special disadvantageous factor which would deter a purchaser

7. special value for an owner of an adjoining property to whom it may have some very special advantage

22. Thus, there may be various factors, which are required to be considered for determining the market value of the land. The market value of the land depends upon the location of the land; area of the land; whether the land is in a developed area or not; whether the acquisition is of a small plot of land or a big chunk of land and number of other advantageous and disadvantageous factors are required to be considered. Therefore, there cannot be the same market value for the different lands while determining the compensation for the lands acquired under the Land Acquisition Act. Therefore, the rates mentioned in the Ready Reckoner, which are basically for the purpose of collection of stamp duty and as observed hereinabove, which are the uniform rates for all the lands in the area, cannot be the basis for determination of the compensation for the lands acquired under the Land Acquisition Act."

(emphasis supplied)

6.4. At this stage, it is necessary to have a perusal of the statutory framework within which 'sale deeds' as evidence for determination of true market value is required. The Supreme Court in the **Lal Chand** case (supra) considered this in detail.

"57. The fact that the Land Acquisition Collector has awarded compensation at a particular rate does not mean that the sale deeds which are otherwise reliable, cannot be relied upon to find out what was the real market value. Further the very assumption that all awards made by the Collector were at a rate higher than what was disclosed by the sale deeds (Exts. R-3 to R-7) is also not correct.

63. The variation between the sale deeds relied upon by the respondents and the appellants is as much as 400%. The question then is which set of sale deeds should be accepted for determination of the market value of the acquired lands.

What is the effect of Section 51-A of the LA Act?

67. Before the amendment to the LA Act, introducing Section 51-A, it was necessary to examine either the vendor or a vendee to exhibit a sale deed and prove its contents. If the vendor or vendee was so examined, it was possible to cross-examine them so as to ascertain whether the transaction reflected by the exhibited instrument was a genuine transaction or a transaction showing a depressed value or a boosted value. But with the insertion of Section 51-A, certified copies of registered sale deeds could be tendered as evidence without examining the vendor or vendee thereof and the court is enabled to accept them as evidence of the transaction recorded therein.

68. The scope of Section 51-A was explained by a Constitution Bench of this Court in *Cement Corpn. of India v. Purya*⁹ [(2004) 8 SCC 270] thus: (SCC pp. 281-82, paras 28 & 33)

“28. ... But when the statute enables a court to accept a sale deed on the records evidencing a transaction, nothing further is required to be done. ... Even the vendor or vendee thereof is not required to examine themselves for proving the contents thereof. *This, however, would not mean that the contents of the transaction as evidenced by the registered sale deed would automatically be accepted.* (emphasis supplied) The legislature advisedly has used the word ‘may’. A discretion, therefore, has been conferred upon a court to be exercised judicially i.e. upon taking into consideration the relevant factors.

33. The submission of Mr G. Chandrashekhar to the effect that the contents of a sale deed should be a conclusive proof as regards the transaction contained therein or the court must raise a mandatory presumption in relation thereto in terms of Section 51-A of the Act cannot be accepted as the court *may or may not receive* (emphasis in original) a certified copy of sale deed in evidence. It is discretionary in nature. Only because a document is admissible in evidence, as would appear from the discussions made hereinbefore, the same by itself would not mean that the contents thereof stand proved. *Secondly, having regard to the other materials brought on record, the court may not accept the evidence contained in a deed of sale.* (emphasis supplied) When materials are brought on record by the parties to the lis, the court is entitled to appreciate the evidence brought on record for determining the issues raised before it and in the said process, may accept one piece of evidence and reject the other.”

69. The following view expressed earlier in *Land Acquisition Officer and Mandal Revenue Officer v. V. Narasaiah* [(2001) 3 SCC 530] was approved in *Cement Corpn. of India* [(2004) 8 SCC 270] and is extracted below: (*Narasaiah case* [(2001) 3 SCC 530] , SCC p. 535, para 14)

“14. The words ‘may be accepted as evidence’ in the section indicate that there is no compulsion on the court to accept such transaction as evidence, but it is open to the court to treat them as evidence. Merely accepting them as evidence does not mean that the court is bound to treat them as reliable evidence. What is sought to be achieved is that the transactions recorded in the documents may be treated as evidence, just like any other evidence, and it is for the court to weigh all the pros and cons to decide whether such transaction can be relied on for understanding the real price of the land concerned.”

Therefore, courts *may* accept and act upon certified copies of sale deeds exhibited without examining the vendor or vendee. They may not be relied upon if there is other acceptable evidence which throws a doubt about the correctness of the sale price shown therein.

70. The evidence to reject an exemplar sale deed as not relevant, may be either extrinsic or intrinsic. The statement of a witness describing the advantageous or disadvantageous features of the land which is the subject-matter of such document will be extrinsic evidence. An absurdly low or high freakish value when compared to the prevailing price disclosed by other

⁹ This judgment has also been placed on record by the Appellant

contemporaneous transactions may also be an extrinsic evidence. Where the sale deed recites the financial difficulties of the vendor and the urgent need to find money as reasons for the sale, that will be an intrinsic evidence of a distress sale.

71. Therefore, though a certified copy of a sale deed may be received in evidence and exhibited even without examining the vendor and vendee, and accepted as proof of the transaction to which it relates, the courts have the discretion to rely upon it or reject it as unreliable or unacceptable for reasons to be recorded. But a word of caution. What *Narasaiah* [(2001) 3 SCC 530] and *Cement Corpn. of India* [(2004) 8 SCC 270] clarified was that a certified copy of a sale deed could be marked as an exhibit and its contents may be relied upon as evidence of the sale transaction, even without examining either the vendor or the vendee, in view of the enabling provision in Section 51 of the LA Act.

72. If the acquisition is in regard to a large area of agricultural lands in a village, and the exemplar sale deed is also in respect of an agricultural land in the same village, it may be possible to rely upon the sale deed as prima facie evidence of the prevailing market value, even if such land is at the other end of the village at a distance of one or two kilometres. But the same may not be the position where the acquisition relates to plots in a town or city where every locality or road has a different value. For example in a place like Delhi there are some areas where the plot value is many times more than the value of plots in a neighbouring middle class locality which in turn may be many times more than the value of plot in a neighbouring slum area. Or the price of a property on a main road may be many times more than the price of a property on a parallel smaller road, though the two properties may be situated back to back.

73. It cannot be said that merely because two properties adjoin each other or touch each other the value applicable to the property facing a main road, should be applied to the property to its rear facing a service road. Therefore, while a distance of about a kilometre may not make a difference for the purposes of market value in a rural village, even a distance of 50 metres may make a huge difference in market value in urban properties.

74. There would be lesser likelihood of rejection of a sale deed exhibited to prove the market value, if some witness speaks about the property which is the subject-matter of the exemplar sale deed and explains its situation, potential, as also about the similarities or dissimilarities with the acquired land. The distance between the two properties, the nature and situation of the property, proximity to the village or a road and several other factors may all be relevant in determining the market value.

75. Mere production of some exemplar deeds without “connecting” the subject-matter of the instrument, to the acquired lands will be of little assistance in determining the market value. Section 51-A of the LA Act only exempts the production of the original sale deed and examination of the vendor or vendee.”

7. The aforementioned judgments lay down the framework within which determination of market value has to be considered. The following broad parameters are culled out from the above decisions:

- (i) For comparable instance of sale what is required is there must be a willing buyer but not too anxious a buyer (in

other words, a buyer who makes a calculated assessment of future prospects of the property); Transactions are bonafide; Lands are similar with similar advantages and potentialities; sales are at or about the time of preliminary notification. [**Administrator General of West Bengal vs. Collector, Varanasi** (supra); **Mehta Ravindrarai Ajitrai** (supra)].

- (ii) Three methods to determine market value are: (1) opinion of experts; (2) the price paid within a reasonable time in bona fide transactions of purchase of the lands acquired or the lands adjacent to the lands acquired and possessing similar advantages; and (3) a number of years purchase of the actual or immediately prospective profits of the lands acquired. The Court has to take into account either one or the other of the three methods (*Jawajee Nagnathan*)
- (iii) The entries in basic valuation register cannot form the basis to determine the market value.
- (iv) The award of the Land Acquisition Officer is merely an offer made by him. The Court has to treat the reference as original proceedings and determine the market value afresh on the basis of material produced before it. The market value of land under acquisition has to be determined as on the crucial date of publication of the notification under Section 4 of the Land Acquisition Act as if the valuer is hypothetical purchaser willing to purchase

land from the open market and is prepared to pay a reasonable price as on that day. In doing so, the Court has to correlate the market value reflected in the most comparable instance, but only genuine instances have to be taken based on proximity from time angle and situation angle. Post notification instances can be taken into account. However, Court must note that acquisition itself was not the motivation to raise the price. [**Chimanlal Hargovind Das** (supra)].

- (v) Various factors are required to be considered to determine the market value. It depends upon 1) the location; 2) the area; 3) whether the land is in developed area or not; 4) whether the acquisition is a small plot of land or big chunk; 5) other advantages and disadvantages factors are also required to be considered.
- (vi) Thus, Sale deeds can be received as evidence without examining the vendor or vendee and can be considered to assess the claimants' plea to enhance the compensation.

8. It is important to note that in the instant case no conflicting sale deeds are relied upon by the HMDA before the reference Court and in these appeals to show that the market value is indeed lower than the claimants have urged. The Hon'ble Supreme Court in **Chimanlal Hargovind Das** (supra) held that award of Land Acquisition Officer is not to be treated as judgment. It is merely an

offer made by the Land Acquisition Officer and the material utilized by him for making his valuation cannot be utilized by the reference Court unless produced and proved before it. No documents are marked on behalf of HMDA to show that the market value of claimants' properties is far less. It has only marked the award. On the other hand, the claimants marked certain sale deeds in comparable lands to justify his claim for enhancement, accepted by the reference Courts. Where the claimants produce sale deeds in comparable land, showing the market value as much higher, then the Court must infer and grant higher compensation in the absence of contrary evidence.

9. In the light of the judgment in **Lal Chand** it can be concluded that the sale transactions of adjacent lands produced by the claimants have to be given due weight. It is apt to note that the HMDA has not disputed these as unreliable evidence by bringing on record any acceptable material to show that they do not reflect true market value. Only pleaded case of HMDA was that the sales are not in same survey number.

10. In both references, claimants placed heavy reliance on location of their properties, the potentiality of their properties, and high value secured by HMDA while selling house plots in **Nandagiri Hills** and in **Golden Mile** plots in Kokapet. According to claimants in and around their plots several leading Software companies have established their offices, such as Satyam (later become Tech Mahindra), TCS, Raheja Mind Space, Google, Cybergate, Cyber Pearl, etc., and NIFT and

Hitech City buildings are also in the vicinity and prevailing market value at the time of acquisition was ₹ 1,00,000/- per square yard. Before both reference Courts the claimants relied on same precedent decisions.

11. The reference Courts rightly discarded the claim of ₹ 1,00,000/- per square yard as no evidence was produced to support the claim. In LAOP No.15 of 2012 the reference Court takes into consideration sale transaction in Sy.No.64 (Ex.P6) at ₹ 55,000/-, the sale of house plots in Nandagiri Hills at ₹ 80,000/- that acquired land is opposite to Shilparam and that several IT companies are located around the plot and holds that claimant is entitled to ₹ 46,960/- per square yard.

12. In LAOP No.13 of 2012, the reference Court discards the Nandagiri layout sale price and Golden Mile project land sale price holding them as very far.

13. Land Acquisition Officer relied on earlier sale transactions on land in Sy.Nos.70 and 71 to justify his decision to determine very low compensation. However, in both LAOPs no documents were marked on behalf of HMDA to show the distance between Sy.No.68 and 69 with Sy.Nos.70 and 71.

14. Sale deed document No.6505 of 2007 dated 25.04.2007 was marked as Ex.A6 in LAOP No.15 of 2012 and as Ex.A2 in LAOP No.13 of 2012. This sale transaction was on land in Sy.No.64. It fetched ₹ 55,000/- per square yard. The transaction took place after draft

notification dated 05.07.2006 and prior to passing of the award on 21.11.2008. Both reference Courts accepted the said sale transaction as a valid transaction and can be relied on to determine just compensation. However, only difference is, in LAOP No.15 of 2012, the reference Court determines market value at ₹ 50,000/- per square yard and awards ₹ 46,960/- per square yard, in LAOP No.13 of 2012 the reference Court fixes the market value at ₹ 30,000/-. Though, the assessment of claim is more elaborate in LAOP No.13 of 2012 as compared to LAOP No.15 of 2012, both take the sale deed dated 25.04.2007 as basis. Both reference Courts have held clearly that fixing compensation @ ₹ 3,040/- by the LAO was wholly inadequate. Both Courts applied their mind to enhance the market value.

15. It is not in dispute that these two plots are abutting existing road opposite to Shilparamam which was already established. Their plots are affected due to widening of existing road. This area is fully developed and several commercial units have come up. Full fledged civil infrastructure is in place. The acquisition was to widen existing road. It would not create speculative litigation but would enhance value of the existing land. By the time of acquisition, around the acquired properties several software companies have established their offices. The Hi-tech city, a hub to locate several software companies was operational. The Hi-tech city and software companies are within a very short distance. Having regard to their location and development around their plots these plots have high potentiality.

16. Having accepted the Ex.A2 as a valid sale transaction to be relied upon to determine market price of acquired land, no reason is assigned why the reference Court pegged the value at ₹ 30,000/- per square yard.

17. We are of the considered opinion that as per evidence brought on record, the Court of Principal Senior Civil Judge, Ranga Reddy District, has rightly decided the market value of subject land at ₹ 46,690/- per square yard in LAOP No.15 of 2012. It is just and equitable. Whereas, having relied on same sale deed document No.6505 of 2007 dated 25.04.2007 marked as Ex.A6, the Court of Special Sessions Judge for trial of cases under SC/ST(POA) Act, 1989-cum-VII Additional District and Sessions Judge, at L.B.Nagar, Ranga Reddy District, erred in pegging the compensation to ₹ 30,000/- per square yard. Both these plots are adjacent to each other. Acquired for same purpose. Both have same potentiality. Both claimants relied on same sale deed and both reference Courts have accepted same sale deed to assess the just compensation. Even by parity of reasoning, both claimants are entitled to same compensation.

18. As a result, L.A.A.S.Nos.205 and 566 of 2017 are dismissed. L.A.A.S.No.308 of 2016 is allowed. It is held that appellant in L.A.A.S.No.308 of 2016 is entitled for compensation at the rate of ₹ 46,690/- per square yard with all statutory benefits flowing there

from. In the facts of these cases, parties are directed to bear their costs. Pending miscellaneous petitions if any shall stand closed.

P.NAVEEN RAO, J

SAMBASIVARAO NAIDU, J

Date: 28.09.2022
Kkm/tvk

HONOURABLE SRI JUSTICE P.NAVEEN RAO
&
HON'BLE SRI JUSTICE SAMBASIVARAO NAIDU

LAND ACQUISITION APPEAL SUIT NOS.308 of 2016, 205 and 566 of
2017

Date : 28.09.2022

KKM/tvk