

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 339 OF 1989

~~Dattatraya Ramchandra Chinchalikar~~
through LR's.

Vijaya Dattatraya Chinchalikar & Ors.

.. Appellants

Versus

The Collector of Sangli

.. Respondent

WITH

FIRST APPEAL NO. 984 OF 1989

~~Dattatraya Ramchandra Chinchalikar~~
through LR's.

Vijaya Dattatraya Chinchalikar & Ors.

.. Appellants

Versus

The Collector of Sangli

.. Respondent

.....

- Mr. R. B. Paranjpe a/w Mr. S.K. Chinchalikar for the Appellants
- Mr. A. R. Patil, AGP for the Respondent

.....

CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 29, 2024.

ORAL COMMON JUDGMENT:

1. Heard Mr. Paranjpe, learned Advocate for the Appellants and Mr. Patil, learned AGP for Respondent.

2. These are two Land Acquisition First Appeals which are disposed of together by consent of parties. Parties shall be referred to as Claimants, Acquiring Body and Special Land Acquisition Officer (SLAO) for ease of convenience.

3. Both Appeals arise from Land Acquisition proceedings against the Reference Award / Judgment. Reason for disposal of both Appeals together is because acquired lands belong to the same Claimants who are Appellants before me. Though the relevant date in both Land Acquisition cases is 13 years apart, land which is acquired subsequently is from the same Survey number which is the subject matter of acquisition in the first instance. Claimants have led separate evidence before the Reference Court in both cases. That shall be noted and dealt with separately. However only for ease of convenience and reference both Appeals are disposed of by this judgment.

FIRST APPEAL NO. 339 OF 1989:

4. First Appeal No. 339/1989 originates from Land Acquisition Reference (LAR) No. 30/1978. Land acquired in this LAR is nomenclatured as Survey No. 879/2 (8 Acres 21 Gunthas) and Survey No. 880/2 (3 Acres X 32 Gunthas). Relevant date i.e. Section 4 Notification date for determination of market value is 04.03.1965. Award Under Section 11 is declared by Special Land Acquisition Officer (SLAO) on 16.09.1974, *inter alia*, awarding market value at the rate of Rs. 2,500/- per Acre for Survey No. 879/2 and Rs. 3,000/- per Acre for Survey No. 880/2. Being aggrieved Claimants filed Reference seeking enhancement of market value under Section 18 of the Land Acquisition Act, 1894 (for short "**the said Act**") and sought

enhancement of market value upto Rs. 15,000/- per Acre. By virtue of the impugned judgment and award passed by Reference Court which is the subject matter of First Appeal No. 339/1989, market value is enhanced from Rs. 2,500/- per Acre / Rs. 3,000/- per Acre to Rs. 6,000/- per Acre. Claimants have challenged the Award passed by Reference Court in this First Appeal. It is the principal grievance of Claimants that while arriving at the market value of acquired land on the relevant date in the present case i.e. 04.03.1965, learned Reference Court ought to have taken cognizance of the certified copy of the judgment passed by the Reference Court itself in another similarly placed Land Acquisition Case No. 29/1979, which was produced and taken on record as Exhibit, wherein the relevant date was 24.02.1965 wherein the Reference Court determined market value @ Rs. 7,000/- per Acre in that case. This submission of Claimants is on the premise that land which was subject matter of LAR No. 29/1979 was adjacent and adjoining the acquired lands and most importantly both lands were acquired for the very same public purpose and at the same time (relevant date being only 9 days apart) i.e. for construction of playground, open air stadium, administrative blocks, gymnasium and residential quarters for the staff of Lokmanya Tilak Shikshan Vidyalaya, Miraj Ambabai Talim Sanstha. Another submission which Claimants have argued vehemently is that no

cognizance has been taken by the Reference Court of a sale transaction placed on record by Claimants which returned a market value of Rs. 15,000/- per Acre at around the same time for land within close proximity of the relevant date and therefore there is non-appreciation of evidence by the Reference Court. That apart Claimants' case is that Reference Court ignored material evidence produced by them in the form of certified copies of the Award / Judgment in other Land Acquisition cases wherein market value of similarly placed adjoining land was determined at the rate of Rs. 14,000/- per Acre at around the same time.

5. Mr. Paranjpe, learned Senior Advocate appearing for Claimants would submit that Appellants being agriculturists have lost their lands for the public purpose for which they were acquired under the power of eminent domain and in that view of the matter they ought to have been compensated with appropriate market value for the acquired lands being commanded on the relevant date. He would submit that Claimants have placed on record cogent and material evidence in the form of certified copies of Land Acquisition awards passed by the Reference Court itself in similarly placed cases and comparable sale transactions which were exhibited and marked in evidence. He would submit that without considering any of them as being comparable, the exercise undertaken by the learned Reference

Court to enhance market value from Rs. 2,500/- per Acre / Rs. 3,000/- per Acre to Rs. 6,000/- per Acre is without any basis or reasons and based on an opinion expressed by the Reference Court on the law of averages. He would draw my attention to the impugned Award / Judgment dated 16.09.1974 passed by the Reference Court and contend that if specific relevant material evidence in the form of certified copies of sale transactions and certified copies of relevant Land Acquisition awards in similarly placed cases were exhibited and relied upon, then Reference Court ought to have considered the most comparable instance out of them and compared the same with the acquired lands and only then determined the market value rather than conclude and opine a lumpsum figure of Rs. 6,000/- per Acre on the basis of probability of averages. He would vehemently argue that no exercise whatsoever has been undertaken by the Reference Court in arriving at the market value of the acquired land @ Rs. 6,000/- per Acre for the relevant date and it is merely based on averages. He would submit that learned Reference Court has taken specific cognizance of the relevant material produced on record and has also discussed the same in its judgment, but has failed to give due consideration for arriving at the market value on the relevant date. He would submit that Claimants are entitled to market value @ Rs. 15,000/- per Acre as on the relevant date based on the sale transaction

in respect of RS No. 924/A/B situated at Miraj and exhibited as Exh. '29' as also another sale transaction which has been considered by the Reference Court in paragraph No. 9 of the impugned Award / Judgment. He has drawn my specific attention to the certified copy of the judgment in Land Acquisition Case No. 15/1982 which is produced and marked as Exh. '23' and would contend that after considering the same Claimants are entitled to a higher market value than what is awarded by the Reference Court. He would submit that copy of the Award / Judgment in Land Acquisition Case No. 24/1971 was also produced and exhibited as Exh. '28' in evidence before the Reference Court and it was proved that the market value awarded therein was Rs. 8,000/- per Acre. However this sale instance is discarded by the Reference Court merely on the ground that the relevant date of notification in that land Land Acquisition Case i.e. LA No. 24/1971 was not known.

5.1. Mr. Paranjpe would contend that in so far as acquired lands are concerned, learned Trial Court has accepted and upheld the situation and description of the said lands as enumerated and elucidated in the Award passed by SLAO. According to him, the acquired lands were very close to Miraj Sangli Road, they were in close vicinity of Manik Nagar Railway Colony, a residential colony established as far as back as in 1955 and within close proximity of

Miraj Railway station which was at a distance of one furlong from the acquired lands. That apart he would submit that acquired lands were situated in a well developed residential area in close vicinity of Sangam Housing Society comprising of about 50 plots which were already converted to non-agricultural use. He would submit that right across the acquired lands beyond the road were the buildings of Krupamayee Nursing Home and Ambabai Talim which were in existence much prior to the relevant date of acquisition in the present case. That apart, he would submit that acquired lands were very close to another fully developed residential area called Bethalnagar having about 200 to 300 residential premises as also in close proximity of MIDC and the Industrial Estate of Miraj which were established in 1962 and thus, would have immense potential for development on the relevant date. He would submit that what is considered by learned Trial Court while determining issue No. 1 for potentiality of acquired lands is also found to be replicated in the award passed by the SLAO and hence acquired lands commanded a much higher market value than what is awarded by the learned Reference Court. In view of his above submissions, he would submit that Claimants' claim of Rs. 15,000/- per Acre be allowed in the First Appeal on re-appreciation of evidence.

FIRST APPEAL NO. 984 OF 1989:

6. In so far as the acquired land in First Appeal No. 984/1989 is concerned, it is seen that land admeasuring 3 Hectare 38 Ares belonging to Claimants out of Survey No. 880/2 is acquired albeit for the public purpose of establishing a Central Warehouse by the Government. Mr. Paranjpe would submit that in so far as this subsequent acquisition is concerned, the relevant date for determination of market value is 25.05.1978. He would submit that the Award declared by SLAO in this case is dated 18.12.1981 whereas the area of land acquired admeasures 3 Hectare 38 Ares. He would draw my attention to SLAO's Award dated 18.12.1981 and would submit that SLAO has awarded market value @ Rs. 17,000/- per Hectare for the acquired land. He would submit that Claimants being aggrieved applied for enhancement under Section 18 and sought market value @ Rs. 62,500/- per Hectare. He would draw my attention to the impugned Award / Judgment dated 07.04.1988 passed by the Reference Court and submit that the Reference Court has clearly accepted Claimants' case for enhancement on the basis of cogent and reliable evidence produced by Claimants, but while doing so, market value is enhanced only upto Rs. 40,000/- per Hectare without any comparative basis and merely on the opinion expressed by the Court. He would submit that determination of market value @

Rs. 40,000/- per Hectare by Reference Court is once again based on the probability of averages as it is clearly evident on reading the impugned Award / Judgment despite the Court considering and acknowledging substantial evidence, rather direct evidence produced on record to prove the market value on the relevant date. He would submit that market value of Rs. 40,000/- awarded is on the basis of a mere opinion of the learned Reference Court as a lumpsum amount. He has drawn my attention to the impugned Award / Judgment to contend that the Reference Court has dealt with all issues framed giving elaborate reasons and returned affirmative findings thereon. However while doing so, according to him the Reference Court has not appreciated the direct evidence placed on record and restricted itself to fix the market value on the relevant date @ Rs. 40,000/- per Hectare on its own opinion. He would draw my attention to paragraph Nos. 4 to 8 of the impugned Award / Judgment to contend that apart from proving and accepting that acquired land was situated in a fully developed locality and having close proximity to all amenities and substantial direct evidence being placed on record in the form of Award / Judgment passed in Land Acquisition Case No. 29/1979 below Exh. 20, four Index II documents below Exhs. 30 to 33 regarding lands in close proximity to the relevant date and the acquired land to show the range of market value per Hectare having

risen upto Rs. 1,50,000/- per Hectare, six decisions namely certified copies of Awards / Judgments passed in Land Acquisition Reference matters in respect of similarly placed lands in the vicinity of the acquired land but with reference to different relevant dates in close proximity and which showed that market value of the said lands went upto Rs. 75,000/- per Hectare, sale transactions produced below Exhs. 37, 39, 41, and 42 which showed that market value of similarly placed lands commanded a price of Rs. 1,52,500/- per Hectare, the learned Trial Court has despite considering and upholding the above has merely opined that the price of the acquired land be flatly determined @ Rs. 40,000/- per Hectare on the relevant date. He would therefore urge the Court to appreciate the evidence which has in fact been considered by the learned Reference Court while determining issue No. 2 and urge the Court to enhance the market value awarded.

SUBMISSIONS OF RESPONDENT – STATE:-

7. *PER CONTRA*, Mr. Patil, learned AGP appearing on behalf of Respondent - State would at the outset submit that Claimants have failed to lead evidence of specific and comparable sale instances as none of the sale instances considered by the Reference Court, according to him can be considered comparable to the acquired lands in both References. He would submit that in both References, Claimants have not led any evidence to compare the features of

acquired lands with any of the lands in the sale instances / LAR Awards considered by the Court and therefore for lack of such evidence decision of the Reference Court in both References cannot be faulted with and it is deserved to be upheld.

7.1. In so far as First Appeal No. 339/1989 is concerned, he would submit that Reference Court has awarded market value of approximately more than 100% over and above the market value declared by SLAO. He would submit that there is a stark distinction in the features of the twin lands which are acquired. The acquisition comes out of two different parcels of land even though they are situated adjacently. In so far as Survey No. 879/2 is concerned, the said land is Bagayat land whereas land from Survey No. 880/2 is Jirayat land. He would submit that in so far as Bagayat land is concerned, it has good fertility and availability of water as also potential for cultivation of this land is better. However in so far as Jirayat land is concerned, it is agricultural land and for N.A. potentiality parties will have to take further steps as also incur expenditure if at all N.A. potential of such land is required to be exploited. He would therefore submit that while considering comparable sale instances / land acquisition Awards proved by Claimants, Reference Court has undertaken a cogent exercise of analysing the same while deciding issue Nos. 2 and 4 and considered

the sale deed dated 06.05.1971 which is produced on record below Exh. 27. He would submit that under this sale deed, the vendor therein Dr. Mankapure paid a price / market value of Rs. 6,000/- per Acre after almost five years beyond the relevant date. He would submit that this sale instance land is far away in terms of distance from the acquired land and therefore the learned Trial Court has rejected the same despite Claimants seeking to rely on the said transaction. Next he would submit that the Index II which has been produced below Exh. 28 showed that two acres of land was sold for Rs. 40,000/- on 22.12.1972. He would submit that it is categorically noted by the learned Reference Court that even this land was at a far away distance from the acquired lands and therefore this transaction has not been considered. He has drawn my attention to paragraph Nos. 9 and 10 of the impugned Award / Judgment to contend that based on certified copies of the judgment in Land Acquisition Case No. 15/1982 and Land Acquisition Case No. 39/1979, it is seen that certain lands were acquired for the Miraj - Pune broad gauge railway line and Award was declared on 27.01.1980. He would submit that in this case the price / market value fixed was @ Rs. 35,000/- per Hectare which would translate to Rs. 14,000/- per Acre. He would submit that since there is proximity of time of six years between the relevant dates this particular instance has been correctly rejected by

the Reference Court. He would submit that after a thorough analysis of all sale instances as also indexes and the land acquisition Awards / Judgments which were exhibited by Claimants, the learned Reference Court has opined that market value of the acquired lands as on 04.03.1965 is required to be determined @ of Rs. 6,000/- per Acre. He would therefore submit that no fault can be found with the reasoning given by the learned Reference Court while arriving at this decision in paragraph No. 10 of the impugned Award / Judgment of the learned Reference Court and has urged the Court to uphold the same.

7.2. In so far as First Appeal No. 984 of 1989 is concerned, he would submit that the Reference Court has considered the material placed on record enumerated in paragraph Nos. 4 to 8 of the Award / Judgment while determining issue No. 1. He would draw my attention to paragraph No. 11 of the impugned Award / Judgment of Reference Court to contend that it is categorically stated therein that all transactions referred to in the said paragraph under reference have been taken into consideration by Court including the price determined in the sale transactions, market value determined in the LAR Awards / proceedings and only thereafter market value is determined by Reference Court to be ranging from Rs. 20,000/- per Hectare to Rs. 75,000/- per Hectare. He would submit that after employing some

element of guess work, conjectures and surmises as also latitude, Reference Court in this case has in its opinion fixed the market value of acquired land @ Rs. 40,000/- per Hectare on the relevant date i.e. 25.05.1978. He would submit that determination of this market value has been opined by Reference Court after considering the evidence of Claimants which is discussed so as to meet the ends of justice. Hence he would submit that any further increase in market value if sought for by Claimants in this First Appeal is without any basis since the opinion of Reference Court has been translated into determining the market value of acquired land @ Rs. 40,000/- per Hectare which is a substantial enhancement of Rs.23,000/- per Hectare over and above the market value declared in the Award of SLAO. He would therefore submit that no fault whatsoever could be found with the reasons given by Reference Court while arriving at the market value of Rs. 40,000/- per Hectare. On the issue of specific sale transactions considered by Reference Court, he would submit that Claimants have produced on record copy of award in Land Acquisition No. 29/1979, the certified copy of which is taken on record as Exh. 20. He would submit that the relevant date in that case is 24.02.1965 and the SLAO's Award is in respect of land which is in close proximity to the acquired land. He would submit that market value awarded under the said Award is Rs. 18,000/- per Hectare in the year 1965 which is 13 years ago. He

would submit that even if the said LAR Award is considered as a comparable instance for arriving at the market value in the present case and a conservative escalation for rise of 5% per annum for land value is considered over the market value of Rs. 18,000/- determined in the year 1965 for the acquired land, it would rise to Rs. 29,700/- per Hectare in the year 1978. He would submit that if a comparative analysis of various general and special features / factors of both lands is undertaken, even then in that case the market value concluded by the Reference Court @ Rs. 40,000/- per Hectare will not be breached. In that view of the matter, he would vehemently submit that market value of Rs. 40,000/- per Hectare determined by Reference Court is infact on the higher side and therefore this Court should refrain from interfering with the award passed by the learned Reference Court and uphold the same.

7.3. In support of his submissions, Mr. Patil has placed on record the following two decisions of the Supreme Court viz. (i) *Maya Devi (dead) through Legal Representatives Vs. State of Haryana*¹ and (ii) *Kashiben Bhikabai & Ors. Vs. Special Land Acquisition Officer & Anr*².

7.4. While relying on the decision in the case of *Maya Devi (first supra)*, he would submit that post notification sale instances /

1 (2018) 2 SCC 474

2 (2002) 2 SCC 605

Index II as also awards having relevant date which is beyond the relevant date in the present case ought not to be considered by Court. He would submit that for arriving at the market value of acquired lands on the relevant date, under the science of valuation, the exercise of relying on post relevant date sale instances / LAR Awards should be avoided by the Court as they are not a proper indicator of market value of the acquired land on the relevant date.

7.5. In so far as the decision in the case of Kashiben (*second supra*) is concerned, he has drawn my attention to paragraph No. 17 of the said decision to contend that in so far as the present acquisition cases are concerned, the date of award in both cases is prior to 30.04.1982 which is the date of introduction and coming into effect of the amendment which was brought on statute under Section 23(1-A) by the 1984 Amendment Act. Therefore he would submit that decision of the learned Reference Court to award compensation towards additional component under Section 23(1-A) in the present case is incorrect and the same ought to be reversed and returned back by Claimants. However it is an admitted position that Respondent has not filed any First Appeal to challenge this grant of additional component. For the record, Mr. Patil is right in so far as acquisition of Lands in FA No. 339/1989 is concerned. Here the date of SLAO's Award is 16.09.1974. However in so far as the land in FA No.

984/1989 is concerned, the date of Award is 18.12.1981. Nevertheless, I have dealt with this submission of Mr. Patil in detail later.

8. I have heard Mr. Paranjpe, learned Advocate for Appellants and Mr. Patil, learned AGP for Respondent and perused the record and pleadings in both cases. Submissions made by the learned Advocates have received due consideration of the Court.

9. In the present case, it is seen that in so far as lands concerned in First Appeal No. 339/1989 are concerned, there are two land parcels namely, Survey No. 879/2 (8 Acres 21 Gunthas) and Survey No. 880/2 (3 Acres 32 Gunthas) whereas land concerned in First Appeal No. 984/1989 is out of Survey No. 880/2 (3 Hectare 38 Ares). The relevant date for determination of market value in so far as First Appeal No. 339 of 1989 is concerned is 04.03.1965 whereas relevant date in First Appeal No. 984/1989 is 25.05.1978. Considering that relevant dates are 13 years apart and evidence has been led separately in both cases, I propose to render my findings in both First Appeals separately.

FIRST APPEAL NO.339 OF 1989–LAND ACQUISITION NO.30 OF 1978

10. In so far as this LAR is concerned, it is seen that land admeasuring 8 Acre and 21 Gunthas out of Survey No. 879/2 and 3

Acres 32 Gunthas out of Survey No. 880/2 is acquired for the public purpose viz; construction of playground, open air stadium, gymnasium and residential quarters for staff of Lokmanya Tilak Shikshan Vidyalaya, Miraj Ambabai Talim Sanstha. Award under Section 11 is declared on 16.09.1974 and the market value of acquired land declared therein is fixed @ Rs. 2,500/- per Acre for Jirayat land and Rs. 3,000/- per Acre for Bagayat land as on 04.03.1965. In this Reference, Claimants have led oral evidence in support of their case and placed on record substantial documentary evidence which is exhibited, however Respondent has not led evidence in rebuttal. It is seen that Claimants have examined their witness one Mr. Anant Ramchandra Chinchalikar, who was Appellant No.4 before Reference Court. In his evidence, he has deposed that market value determined by SLAO in the Award is inadequate since acquired lands were situated in a fully developed locality of Miraj Town on the relevant date. He has deposed that acquired lands were situated on the western side of Miraj Town and were good and fertile lands. He has deposed that acquired lands lay to the southern side of Maniknagar Railway colony which was a fully developed residential colony established in the year 1955 and was in close proximity of acquired lands. That apart, he has deposed that Miraj Railway station was at a distance of one furlong on the southern side of acquired lands, thus having close proximity to the

railway station. He has deposed that to the eastern side of acquired lands a Cooperative Society called “Sangam Housing Co-operative Society” was developed in respect of 50 plots of land which were already converted into non-agricultural use. He has deposed that to the western side of acquired lands, there was a fully developed residential colony of about 300 residential houses called ‘Bethalnagar’ which was constructed sometime in the year 1962 and the M.I.D.C. and Industrial Estate area of Miraj was already established by then and at a distance of one furlong on the northern side of acquired lands. This deposition of the situation and description of acquired lands is corroborated by the SLAO in his Award.

10.1. Hence, from the above deposition, it is seen that acquired lands were situated and located in a fully developed residential area, had non-agricultural potential and were situated close to railway station and Sangli – Miraj road. Apart from oral deposition of Claimant’s witness, Claimants have also relied upon the evidence of one Mr. Laxman Ghondhali, who was Claimant in LA No. 39/1979 and his deposition and evidence is produced before the Reference Court and taken on record as Exhibit “31”. This evidence is relevant. Thereafter it is seen that Claimants have also placed on record certified copy of judgment in LA No. 15/1982 which showed that land admeasuring 22 R.S. out of Survey No. 834/1 which was in the

vicinity of acquired lands was acquired for Miraj – Pune Broad-gauge Railway line in the year 1972 and in those proceedings market value was determined @ Rs. 35,000/- per Hectare i.e. Rs. 14,000/- per Acre. If the lands acquired subsequently were determined at such a high rate and if the said Award and the certified copy of the said Award in LA No. 15/1982 was placed on record, the learned Reference Court ought to have considered the same for corroboration. Next, it is seen that Claimants relied on certain sale transactions and produced certified copies of Index-II of those transactions and certified copies of Awards / Judgments delivered in Land Acquisition cases viz; LA No. 41/1979, LA No. 34/1971 and LA No. 29/1979 to arrive at the market value on the relevant date. Reference Court has considered the aforesaid documentary evidence i.e. Index-II, sale transactions and Reference Court Awards / judgments in the aforesaid LARs on record as Exhibits ‘28’ and ‘29’ in detail. What is significant to note is the fact that after considering the aforesaid evidence, there is a clear affirmative finding returned by the learned Reference Court in paragraph No. 7 of the impugned Award / Judgment which reads thus:-

“... From all these evidence brought on record I am satisfied that the price determined by the Land Acquisition Officer is too low and inadequate...”

10.2. Thus, it is seen that once the learned Reference Court is fully satisfied that evidence placed on record by Claimants was good

enough for consideration to arrive at the market value of the acquired lands on the relevant date and that the price determined by SLAO was too low and inadequate, then the exercise that ought to have been followed pursuant to such affirmative finding was to compare the best possible sale instance / Land Acquisition Award / Judgment amongst the transactions exhibited on record with the acquired lands which was closest in terms of proximity of time and distance for determining the market value on the relevant date. Rather what has actually been done by the Reference Court is to the contrary. Reference Court after analysing the comparable transactions placed on record in great detail has merely stated as follows to arrive at the market value of the acquired lands on the relevant date in paragraph No.10 of the judgment:-

“From all this evidence brought on record and after considering all the aspects of this case, I am inclined to determine the price at Rs. 6,000/- per acre for both the lands collectively.”

10.3. The above finding, returned by Reference Court in paragraph No.10 is without any comparison, basis or consideration and it is a mere opinion expressed by Reference Court. Naturally being aggrieved with this finding First Appeal is filed before this Court seeking determination of market value for acquired lands on the relevant date based on evidence. What is seen is that once there was enough material evidence available before Reference Court in the form

of comparable sale transactions, certified copies of Awards / Judgments passed in similarly placed Land Acquisition Reference cases and Index-II documents of sale transactions, the Reference Court ought to have chosen the best possible comparable instance and considered the same for determining market value which was in close proximity of time and distance to the relevant date / acquired lands. Reference Court ought to have determined market value of acquired lands by comparing the market value awarded in the best / most comparable instance. Rather Reference Court has given its opinion without assigning any basis or reasons that market value of acquired lands after considering all aspects can be fixed @ Rs. 6,000/- per Acre on the relevant date. Hence the Award / Judgment of the Reference Court deserves to be interfered with. If the Reference Court would have explained the purported aspects or basis on which it arrived @ Rs. 6,000/- per Acre, it would have been acceptable, but on a plain reading of the Reference Court Award / Judgment, that exercise is absent and a lumpsum figure of Rs. 6,000/- is fixed as market value of acquired lands on the relevant date.

10.4. Now considering the evidence on record which is infact considered by the Reference Court itself in great detail, it is seen that one of the sale instances considered is an Award delivered in LAR No. 29/1979. In this particular case relevant date is 24.02.1965 which is

just one month prior to the relevant date in the present case (rather only 9 days apart). In that case an adjacent land was acquired for the same public purpose at the same time. Thus this becomes the best and the most comparable instance for determining market value of acquired lands in terms of proximity of time and distance. Reference Court in that LAR has determined market value of the acquired land therein @ Rs. 18,000/- per Hectare on that relevant date i.e. 24.02.1965. This market value translates to Rs. 7,500/- per Acre. It is seen that this particular date is in absolute proximity to the relevant date in the present case. Section 4 notification of land acquired in LAR No. 29/1979 is 24.02.1965 whereas relevant date in the present case is 04.03.1965. There is a specific reference to this particular Award which has been produced and exhibited on record by Claimants and which has been thoroughly considered by Reference Court in paragraph No. 9 of the impugned Judgment. If such direct evidence of the most and best comparable instance of market value determined by the Reference Court itself was available before the Court, then there is no reason for the Reference Court to not consider the same and instead determine the market value on the basis of an opinion, law of averages and its conjectures. Award passed by Reference Court in LA No. 29/1979, certified copy of which is produced on record is a direct piece of material evidence available before the Reference Court which

is comparable for arriving at the market value of acquired lands in the present case on the relevant date. Hence, if this Land Acquisition Award in LA No. 29/1979 is considered as a comparable instance, the impugned Award / Judgment of the learned Reference Court deserves to be interfered with as the rate of market value is Rs. 6,000/- per Acre as opined by Reference Court in paragraph No. 10 is not on the basis of comparable evidence available on record, but on the basis of the opinion based on its law of averages. As observed, Respondent nor the Acquiring Body have led any evidence in rebuttal.

10.5. In this case, it is therefore held that the certified copy of the Judgment / Award of the Reference Court in Land Acquisition case No. 29/1979 pertaining to acquisition of similarly placed lands having an almost closest (9 days apart) relevant date is the most comparable sale instance which has to be considered. Hence, it is concluded that market value of acquired lands in this case as on the relevant date i.e. 04.03.1965 determined @ Rs. 7,500/- per Acre instead of Rs. 6,000/- per Acre. Claimants have already been awarded the market value of Rs. 6,000/- per Acre alongwith all statutory benefits. Computation and calculation for determining the market value @ Rs. 7,500/- per Acre as on the relevant date i.e. 04.03.1965 shall be calculated by the Claimants and the Respondent / Collector / Land Acquisition Officer and the differential amount of market value for acquired lands as on

the relevant date i.e. 04.03.1965 shall be paid over to Claimants alongwith all statutory benefits as being entitled to under the provisions of the said Act including statutory interest until payment and or realisation. In this case, Mr. Patil has raised one objection regarding Claimants being awarded solatium under Section 23-1-A of the said Act despite the Award having being declared prior to 30.04.1982. I have dealt with this objection separately later.

FIRST APPEAL NO. 984 OF 1989

11. In so far as First Appeal No.984 of 1999 is concerned, it is seen that statutory Award dated 18.12.1981 declared by SLAO has awarded market value @ of Rs.17,000/- per Hectare and total area acquired is 3 Hectare 38 Ares. Relevant date for determining market value in this case is 25.05.1978. Learned Reference Court in the impugned Award / Judgment dated 07.04.1988 has enhanced market value of the acquired land to Rs.40,000/- per Hectare.

11.1. It is contended by Mr. Patil, learned AGP on behalf of Respondent that substantial enhancement has been granted by the Reference Court of Rs.23,000/- per Hectare over and above the market value awarded by SLAO. According to him enhancement of more than 130% has been granted which is absolutely fair and reasonable and in accordance with law. He would submit that Reference Court has

arrived at the said market value of Rs.40,000/- per Hectare after undertaking a cogent exercise of appreciation of evidence of various comparable sale transactions and land acquisition Awards / Judgments exhibited in evidence before Reference Court and therefore its Judgment dated 07.04.1988 calls for no interference whatsoever.

11.2. In this context, at the outset it will be pertinent to note the documentary evidence which was exhibited and considered by the said Court for arriving at the market value. While deciding this Reference, the Court has in its Award / Judgment recorded that with consent of parties, evidence of LA No.19/1982, LA No.25/1981, LA No.24/1982, LA No.26/1982, LA No.27/1982 and LA No.32/1982 was read in this Reference case. Claimants have prayed for enhancement of market value to Rs.62,500/- per Hectare on the relevant date in their Reference Application. Land parcel acquired in this land acquisition case is out of Survey No.880/2, out of which land was acquired in the previous land acquisition case bearing No.30 of 1978 having the relevant date as 04.03.1965. There is a gap of 13 years. Hence admittedly the situation and description of the acquired land in the present case as on 25.05.1978 will have to be seen differently, rather acquired land will be in a much more progressed and developed vicinity and locality with civic amenities and would have tremendous development potential. This observation is based on the basis of

findings returned by me while determining First Appeal No. 339 of 1989 in respect of the same land parcel namely Survey No. 880/2 (pt.) acquired 13 years ago.

11.3. In this case, Claimants have examined their witness Mr. Krishnaji Chinchalikar who was well conversant with the situation, description and facts of the case. He has deposed that acquired land was situated in the vicinity of a developed area in the year 1975. He has deposed that though acquired land was fertile agricultural land being cultivated for cash crops and had adequate supply of water from Niraji Water Scheme, it had tremendous N.A. potential as it was within close proximity to Miraj - Sangli Road and by that time had in its vicinity fully developed residential colonies and areas namely Maniknagar residential Colony (constructed in 1972), Bethalnagar Residential Colony, Miraj MIDC, Miraj Industrial Estate, Sangam Co-operative Housing Society and all civic amenities like hospitals, physical training college and residential development.

11.4. Claimants have relied upon Award / Judgment in LA Case No.29 of 1979, certified copy of which is produced below Exhibit "20" before the Reference Court. It is seen that the relevant date in that case was 24.02.1965 which is 13 years prior to the relevant date in the present case. In that case, market value determined by Reference Court was Rs.18,000/- per Hectare. Mr. Patil has urged the Court to

consider this land acquisition Award and compare the market value arrived at therein as a reference point for determining the market value of acquired land as on 25.05.1978 by giving a conservative rise for the 13 year period.

11.5. According to Mr. Patil, learned AGP, during the 13 year period from 1965 to 1978, a conservative rise of 5% per annum can be applied to the market value of Rs.18,000/- per Hectare to arrive at the market value of the acquired land in 1978. He would submit that if 5% rise is applied for 13 years, the market value in 1978 would be Rs.29,800/- per Hectare. He would submit that by all other conservative estimates, Reference Court has awarded Rs.40,000/- per Hectare in the Reference Award and therefore there is no scope whatsoever for any further enhancement. On the flip side, Mr. Paranjape would submit that if rise of 10% per annum is applied then in that case the market value will be in excess of Rs.45,000/- per Hectare in the year 1978.

11.6. The question before the Court is whether the land acquisition Award / Judgment below Exhibit "20" determining market value 13 years prior to the relevant date in the present case can be considered as comparable. In a given case, if there is virtually no other material or sale instance / Land Acquisition Award of similarly placed lands available on record, undoubtedly such an Award even can be

considered as it pertains to acquisition of adjacent lands 13 years ago. However such is not the case herein. The said Award having relevant date of 24.02.1965 is considered to be too remote in terms of proximity of time to the relevant date in this case and hence it cannot be considered as a comparable sale instance for comparison with acquired land for determining its market value as on 25.05.1978.

11.7. In this particular case, it is seen that apart from the above documentary evidence placed on record, Claimants have also produced certified copies of following transactions / documents which have been taken on record as evidence, exhibited by the Reference Court and most importantly each of them have been considered by the Court in its judgment:-

- (i) Index II (Exhibit-13) pertaining to a transaction dated 01.09.1981 which gives a rate of Rs.69,200/- per Hectare;
- (ii) Index II (Exhibit-31) pertaining to a transaction dated 12.10.1978 which gives a rate of Rs.75,000/- per Hectare;
- (iii) Index II (Exhibit-32) pertaining to a transaction dated 04.10.1978 which gives a rate of Rs.1,50,000/- per Hectare;

- (iv) Index II (Exhibit-33) pertaining to a transaction dated 12.10.1978 which gives a rate of Rs.75000/- per Hectare;
- (v) Mutation Entry (Exhibit-34) showing that on 04.06.1982 market value of land was Rs.65,000/- per Hectare.

11.8. The next set of documents produced on record by Claimants which have also been exhibited in evidence are certified copies of Awards / Judgments passed by Reference Court in land acquisition cases. These Awards have also been considered and discussed by the Court and have been exhibited in evidence. Particulars of the same are as follows:-

- (i) Certified copy of judgment in L.A. No.06 of 1968 decided on 16.03.1970 wherein market value of Rs.22,500/- per Hectare is determined;
- (ii) Certified copy of judgment in L.A. No.34 of 1972 wherein market value of Rs.37,500/- per Hectare is determined;
- (iii) Certified copy of judgment in L.A. No.19 of 1970 wherein market value of Rs.25,000/- per Hectare is determined;

- (iv) Certified copy of judgment in L.A. No.13 of 1982 wherein market value of Rs.37,500/- per Hectare is determined;
- (v) Certified copy of judgment in L.A. No.7 of 1972 wherein market value of Rs.30,000/- per Hectare is determined; and
- (vi) Certified copy of judgment in L.A. No.22 of 1971 wherein market value of Rs.37,500/- per Hectare is determined.

11.9. Claimants have also relied on copies of sale transactions of immovable properties which have also been exhibited in evidence which are considered and discussed by the Court in its judgment, the details of which are as follows:-

- (i) Exhibit-35 showing that on 26.10.1978 market value of land was Rs.75,000/- per Hectare;
- (ii) Exhibit-36 showing that on 26.05.1966 market value of land was Rs.48,000/- per Hectare;
- (iii) Exhibit-37 showing that on 22.02.1978 market value of land was Rs.75,000/- per Hectare;

- (iv) Exhibit-38 showing that on 12.10.1978 market value of land was Rs.75,000/- per Hectare;
- (v) Exhibit-48 showing that on 22.12.1972 market value of land was Rs.50,000/- per Hectare; and
- (vi) Exhibit-49 showing that on 04.10.1978, market value of land was Rs.1,52,500/- per Hectare.

11.10. It is seen that based on the above, learned Reference Court has returned a specific finding in paragraph No. 10 that it is satisfied that market value of the acquired land determined by SLAO of Rs.18,000/- per Hectare is too low and inadequate. If that be the case, then the acquired land would undoubtedly command a higher market value. While embarking upon the exercise for determination of market value on the basis of oral and documentary evidence on the basis of transactions / instances produced, the Court has concluded that market value of the acquired land is determined by the Court flatly @ Rs.40,000/- per Hectare. Such finding is returned despite the Court concluding that the transactions considered by Court alongwith the market value determined in previous L.A. cases showed that the market value ranged from Rs.20,000/- per Hectare to Rs.1,52,500/- per Hectare during the relevant date. Thus, it is seen that despite having a wide range of proven transactions and market value before

itself, Court has awarded Rs.40,000/- per Hectare as market value based on the law of averages by taking a median. No basis and reasons have been given by Reference Court for concluding and arriving at the above market value.

11.11. Admittedly, how has the Court arrived at the market value of the acquired land @ Rs.40,000/- per Hectare is not discussed nor the basis is explained. All that it states in paragraph No.11 of its Award / Judgment is that taking into consideration all aspects brought on record, it is opined that market value of Rs.40,000/- per Hectare would meet the ends of justice. Admittedly, the impugned judgment and Reference Court Award does not delve upon any of the purported aspects considered so as to translate it into the opinion of the Court.

11.12. In the present case it is seen that substantive documentary evidence is produced before the Court in the form of comparable sale instances of similarly placed lands and previous land acquisition Awards / Judgments determined by the Reference Court itself which can be taken into consideration for arriving at the market value. It is seen that rather than reflecting upon the most suitable comparable sale transaction / sale instance / award which was in close proximity of time and distance to the relevant date, the Court has not done so despite substantial material evidence being available on record. It is seen that admittedly in almost all transactions / sale instances placed

on record, lands which are acquired are in respect of adjacent survey numbers in the vicinity of the acquired land in question. It is further seen that there are atleast 5 transactions / Sale instances / Awards which pertain to a relevant date of the year 1978 itself, but they are executed after a period of 4 to 6 months after the relevant date. These transactions include a sale deed dated 04.10.1978 produced in land acquisition case No.25 of 1982 and taken on record as Exhibit "49" which returns a rate i.e. market value of Rs.1,52,500/- per Hectare. It is seen that there is certified copy of sale deed dated 22.12.1972 produced in land acquisition case No.25 of 1982 and marked in evidence as Exhibit "48" which returns a rate of Rs.50,000/- per Hectare. This instance is considered and discussed by Reference Court in paragraph No. 11 of its Award / Judgment. This sale deed incidentally is executed five and half years prior to the relevant date in the present case and is seen to be the most relevant and comparabale sale instance for arriving at the market value of acquired land.

11.13. It is seen that there is another instance of an Award which is a certified copy of the Award / Judgment in Land Acquisition case No.25 of 1982 wherein Reference Court has determined market value @ Rs.30,000/- per Hectare in respect of land from Survey No.834/7 and Rs.37,500/- per Hectare in respect of land from Survey Nos.834/4, 5 and 6. There is another Award, certified copy of which

is placed on record in L.A. No.16 of 1970 below Exhibit “38” and in L.A. No.25 of 1982 pertaining to acquisition of land from Survey Nos.795/6 and 800/2. In this Award / Judgment, relevant date of notification is of April 1969 and the Award determines market value of Rs.25,000/- per Hectare. It is seen that the learned Reference Court has not only referred to the aforesaid transactions / Awards but has also discussed therein, considered them and also analysed them and on that basis returned an affirmative finding that these transactions can be taken into consideration for determining the market value in the present case. This specific finding of the Reference Court is found in paragraph No.11 of its judgment. If that be the finding and conclusion of the Court then it is seen that in respect of acquisition of lands much prior in point of time to the relevant date in this case, the following rates / market value has been arrived at by the Reference Court namely, in April 1969, market value determined is Rs.25,000/- per Hectare for survey Nos.795/6 and 800/3, Rs.37,500/- per Hectare for survey Nos.834/4, 5 and 6, Rs.30,000/- per Hectare for survey Nos.834/7, Rs.37,500/- and Rs.50,000/- per Hectare for survey Nos.799 & 891.

11.14. It is seen that the relevant date in L.A. No. 25 of 1982 which has been considered in detail by the learned Reference Court as a comparable instance is April 1969 and for various lands which have

been acquired in that L.A. case, market value determined in the Award is Rs.25,000/- per Hectare. This market value has been enhanced to Rs.30,000/- per Hectare and upto Rs.50,000/- per Hectare in some cases by the Reference Court. The difference between the two relevant dates is almost 9 years and if the rise in the prices of land is considered from April 1969 to 25.05.1978 at the rate of 10% per annum simple interest, then the market value of the acquired land will have to be enhanced by 90% over and above Rs.30,000/- per Hectare and it would then give a market value of Rs.50,000/- per Hectare for the acquired land in 1978.

11.15. In view of my above observations and findings, it is concluded that the exercise adopted by learned Reference Court for determining a flat market value of Rs.40,000/- per Hectare on a lumpsum basis in the present case is its opinion and cannot be considered as a reflection of the true and correct market value of the acquired land on the relevant date. This market value in the impugned Reference Award / Judgment is based on opinion and the law of averages, despite there being a clear finding returned that sale instances and the land acquisition Awards which are analysed are not only comparable but considering that those lands are from the vicinity and adjacent to the acquired lands, the Reference Court has returned a positive finding that these transactions can be taken into

consideration. Therefore if that be the case, determination of market value by the Reference Court in its judgment in L.A. No.25 of 1982 which is taken on record below Exhibit “40” ought to have been considered as the most relevant sale instance transaction comparable to the acquired land in the present case for determination of market value.

11.16. Similarly, sale deed dated 22.12.1972 considered by the Reference Court and produced as Exhibit 48 in L.A. No. 25 of 1982 determining the rate of Rs.37,500/- per Hectare and having relevant date of its sale deed dated 22.12.1972 was also the most proximate sale instance in terms of time to the present case and ought to have been considered as the most relevant sale instance. It is seen that in this sale instance, land bearing survey No.891 has been sold at the rate of Rs.50,000/- per Hectare on 22.12.1972. This sale instance is five and half years prior to the relevant date in the present case and can therefore be considered as the most relevant and comparable sale instance.

11.17. Once it is determined to be a comparable sale instance then the rate of Rs.50,000/- per Hectare as on 22.12.1972 will have to be brought at par with the relevant date of 25.05.1978 in the present case. Even by any conservative estimate of rise in property prices @ 5% per annum simple interest as suggested and argued by Mr. Patil,

learned AGP on behalf of Respondent is applied to the present market rate of Rs.50,000/- per Hectare from 1969 onwards, then as on the relevant date, the market value will be enhanced by 27.5% i.e. by Rs.13,750/- per Hectare. Thus on the relevant date in the present case as on 25.05.1978, based on the sale instance dated 22.12.1972 (Exhibit- 48) in L.A. No. 25 of 1982, market value of the acquired land in the present case will rise to Rs.63,750/- per Hectare. Since land in L.A. No. 25 of 1982 is out of Survey No.891 and acquired land is out of Survey No.880/2, on the issue of comparability of factors, even if the exercise is not undertaken by Claimants, it can be dispensed with as in any event the sale instance is of a date prior in point of time.

11.18. In so far as submission of Mr. Patil, learned AGP is concerned that sale deeds which are post the relevant date should not be considered though they are available and proved in the present case, I am inclined to accept that submission of Mr. Patil primarily because there are several sale deeds / transactions and L.A. case Awards / Judgments of Reference Court of a later date available for consideration. However, the sale deed dated 22.12.1972 produced and exhibited below Exhibit “48” in L.A. No. 25 of 1982 has been duly considered and affirmed by the learned Reference Court in paragraph No.11 of its judgment. All that I have done is considered the same sale

deed as a comparable sale deed for computing the market value of the acquired land on the relevant date.

11.19. Thus, on the basis of the above observations and findings, the impugned Award of the Reference Court determining market value of acquired land flatly at Rs. 40,000/- per Hectare is not sustainable. Learned Reference Court having not undertaken the exercise of determining and comparing the most comparable sale instance with the acquired land for arriving at the market value of acquired land from the available sale instances on record, the impugned Award calls for interference. Having not done so, the opinionated market value of Rs. 40,000/- per Hectare stated to meet the ends of justice as determined cannot be accepted as the true and correct market value on the relevant date. Learned Reference Court ought to have undertaken some exercise of comparability by considering the sale instances and awards exhibited on record to arrive at the market value of acquired land on the relevant date. To determine the average market value on the basis of various rates between Rs. 15,000/- to Rs. 75,000/- per Hectare and opining that Rs. 40,000/- is the rate opined cannot be countenanced. Hence the impugned Reference Court Award / Judgment which is the subject matter of this First Appeal proceeds on a complete non-application of mind in so far as appreciation of available evidence is concerned. Appreciation of

evidence has to be on the basis of a comparable sale deed transaction / Award which is proved and exhibited to arrive at the market value of the acquired land on the relevant date. Once the learned Reference Court has arrived at the affirmative finding that various sale instances / Awards are comparable and can be taken into consideration, nothing prevented the Reference Court from undertaking the simple exercise of selecting the best and most relevant and comparable sale instances / Award which was comparable with the acquired land in terms of proximity of time and distance. Out of the various sale transactions which have been accepted and considered, sale deed dated 22.12.1972 produced on record below Exhibit "48" in my opinion is therefore the most relevant comparable transaction in terms of proximity of time and distance to the acquired land in the present case. The market value of Rs. 50,000/- per Hectare in this transaction in the year 1972 can easily be considered and adopted for determining the market value of the acquired land. For the period between 1972 and 1978 i.e. for 5 and half years, a conservative rise of 5% per annum can be applied and thus as on the relevant date the market value of the acquired land rise to be Rs.63,750/- per Hectare.

11.20. In view of the above observations and findings, the Claimants are therefore entitled to market value of Rs.63,750/- per

Hectare for their acquired land in this case as on the relevant date i.e. on 25.05.1978. If Claimants have received the compensation awarded by the Reference Court at the rate of Rs. 40,000/- per Hectare then the same shall be deducted from the amount payable to Claimants at the rate of Rs. 63,750/- per Hectare as on the relevant date after computation. Undoubtedly, Claimants shall also be entitled to all statutory benefits and payments as provided under the provisions of the said Act over and above the market value enhanced by this Court strictly in accordance with law including payment of interest under the provisions of Section 34 of the said Act until payment and or realisation.

12. One of the submission advanced by Mr. Patil, learned AGP pertains to the Award of compensation towards solatium under Section 23 (1-A) of the said Act to Claimants by the Reference Court. It is vehemently contended by Mr. Patil that both the Reference Court Awards are granting compensation towards solatium under Section 23(1-A) of the said Act in the respective Awards.

12.1. With reference to acquisition of lands in First Appeal No.339 of 1989, he would submit that Award in this case is passed on 16.09.1974 by SLAO. He would submit that Award of Reference Court in this case is delivered in January, 1988. He would submit that in the Award of the Reference Court, Reference Court has awarded an

amount of Rs.73,038.14 to Claimants towards solatium under Section 23(1-A) of the said Act for the period between 24.02.1965 to 16.09.1974 i.e. for 9 years, 6 months and 12 days. He would submit that this amount of Rs.73,038.14 has been arrived at after deducting Rs. 12,757.86 (towards interest) from the amount of Rs. 73,950/- payable under Section 23(1-A) of the said Act. He would submit that in view of the decision of the Supreme Court in the case of *Kashiben Bhikabai and Ors.* (2nd *supra*), since the Award in this case has been declared prior to 30.04.1982 by the Collector, Claimants will not be entitled to solatium i.e. any additional component under Section 23(1-A) of the said Act. He would submit that the Supreme Court in the above case has clearly held that entitlement of additional amount provided under Section 23(1-A) depends upon the pendency of acquisition proceedings as on 30.04.1982 or commencement of acquisition proceedings after that date. He would submit that if the Collector has made the Award before that date, then the additional component cannot be awarded, since Section 30 sub-section (1) (b) provides that Section 23(1-A) of the said Act shall be applicable to every acquisition proceedings commenced after 30.04.1982 irrespective of the fact where Collector has made an Award or not before 24.09.1984. This submission of Mr. Patil is correct and the decision of the Supreme Court in the above in paragraph No.17

upholds the same. For reference and convenience, paragraph No.17 is reproduced below:-

“17. Counsel appearing for the claimants contended that the claimants would be entitled to an additional compensation @ 12% as provided under Section 23(1-A) of the Act. This contention cannot be accepted in view of a Bench decision of this Court in Union of India v. FilipTiago De Gama of Vedem Vasco De Gama, 1990 (1) SCC 277, which held that additional compensation under Section 23(1-A) of the Act would not be available to a claimant in which the acquisition proceedings commenced and the award was made by the Collector prior to 30-4-1982. If the Collector made the award before 30-4-1982 then the additional amount under Section 23(1-A) cannot be awarded. The pendency of the acquisition proceedings on 30-4-1982 before the Collector was essential for attracting the benefit under Section 23(1-A) of the Act. It was held:

“21. Entitlement of additional amount provided under Section 23(1-A) depends upon pendency of acquisition proceedings as on 30-4-1982 or commencement of acquisition proceedings after that date. Section 30 sub-section (1) (a) provides that additional amount provided under Section 23(1-A) shall be applicable to acquisition proceedings pending before the Collector as on 30-4-1982 in which he has not made the award before that date. If the Collector has made the award before that date then, that additional amount cannot be awarded. Section 30 sub-section (1)(b) provides that Section 23(1-A) shall be applicable to every acquisition proceedings commenced after 30.4.1982 irrespective of the fact whether the Collector has made an award or not before 24.9.1984. The final point to note is that Section 30 sub-section (1) does not refer to court award and the court award is used only in Section 30 sub-section (2).”

No judgment taking a contrary view to the above-referred case was cited before us. Accordingly, it is held that the appellants would not be entitled to the additional compensation provided under Section 23(1-A) of the Act.”

12.2. Hence, it is directed that the Claimants in this Reference are not entitled to receive the 12% additional component which they have wrongfully received in the Reference Award. Claimants have received the amount of Rs. 72,038.14 to which they are not entitled

to. Hence while computing the enhanced compensation payable to Claimants as directed by this judgment, the Respondent shall deduct the amount of Rs. 72,038.14 received by Claimants from the enhanced compensation payable to Claimants @ Rs. 7,500/- per Acre as on the relevant date with all other statutory benefits.

12.3. Similarly in respect of land which is the subject matter of First Appeal No. 984 of 1989, Mr. Patil advances a similar submission. He has drawn my attention to the fact that the Award of the SLAO was declared in this case on 18.12.1981 which is prior to the cut off date of 30.04.1982. He would submit that in so far as this case is concerned, the Reference Court has granted additional component of Rs. 50,509/- which is arrived at after deducting Rs. 7,180/- (towards interest) under Section 23(1-A) of the said Act for the period 24.05.1978 to 18.12.1981 i.e. for 3 years 6 months 24 days. Hence, he would submit that awarding of this amount by the Reference Court in the Reference Award / Judgment is incorrect and the Claimants who have received this amount are required to return the same. I have perused the copy of the Award of the SLAO which is dated 18.12.1981. In that view of the matter, Claimants in this case are not entitled to receive 12% additional component which they have wrongfully received in the Reference Award / Judgment. Claimants have received the amount of Rs. 50,509/- as additional component in the Reference Award /

Judgment. Hence, while computing enhanced compensation payable to the Claimants as directed by this Judgment, Respondent shall deduct an amount of Rs. 50,509/- received by Claimants from enhanced compensation payable to Claimants @ Rs. 63,750/- per Hectare on the relevant date with all other statutory benefits.

13. The Respondent and Claimants are both directed to compute the differential payment of market value, additional component under Section 23(1A) in First Appeal No. 984 of 1989 only, interest under Section 34 and any other statutory benefit available to Claimants on revision and enhancement of the market value awarded by the Reference Court to the extent of the enhanced market value as awarded by this judgment in both First Appeals and exchange the same within one week from the date of uploading this Judgment. Collector is thereafter directed to pay the differential amount to the Claimants alongwith all statutory benefits within a period of four (4) weeks thereafter positively in respect of both Land Acquisition cases.

14. Since the acquisition pertains to a period 59 years ago, there will not be any delay in computation and payment of the enhanced amounts to Claimants by the Respondent - Collector. If there is any delay and breach of the timeline given in this Judgment or directions contained in this Judgment, Collector, Sangli who is

Respondent herein shall be held personally liable and responsible for breach of directions contained herein.

15. With the above findings and directions, both First Appeals are partly allowed and disposed.

[MILIND N. JADHAV, J.]

Ajay

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TRAMBAK
UGALMUGALE
Digitally signed by
AJAY TRAMBAK
UGALMUGALE
Date: 2024.09.03
18:17:07 +0530