
(2000) 08 GUJ CK 0052

In the Gujarat High Court

Case No : First Appeal No"s. 2043 to 2069 of 1999

Additional Special Land Acquisition Officer, Ahmedabad and
Another

APPELLANT

Vs

Popatlal Ghelabhai Patel

RESPONDENT

Date of Decision : 11-08-2000

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 96
Land Acquisition Act, 1894 — Section 11, 18, 23(1), 4, 4(1)

Citation : (2001) 2 GLR 1697

Hon'ble Judges : M.H. Kadri, J;C.K. Buch, J

Bench : Division Bench

Advocate : K.G. Sheth, for the Appellant; G.M. Amin, for the Respondent

Final Decision : Partly Allowed

Judgement

C.K. Buch, J.—Appellants have filed these appeals u/s 54 of the Land Acquisition Act, 1894 (hereinafter referred to as the "Act") read with Section 96 of the Civil Procedure Code, 1908, against common judgment and award dated 17-12-1997, rendered by the learned Reference Court of City of Ahmedabad in Land Reference Cases Nos. 1 to 27 of 1992. As common questions of facts and law arise for our consideration, we propose to dispose of all these appeals by this common judgment.

2. All the 27 Land References were made by the original land-property holders before the Additional Spl. Land Acq. Officer u/s 18 of the Act. These references were referred to the City Civil Court, Ahmedabad. Lands along with superstructure there on in most of the reference cases were acquired for the purpose of construction of "Express Highway "under one and same notification. Reference Court, therefore, consolidated all the reference cases and parties had led common, oral as well as documentary evidence in Land Ref. Case No. 1 of 1992. On appreciation of the oral as well as documentary evidence, Reference Court held that compensation awarded by the Land Acq. Officer for lands as well

as superstructure there on is inadequate and land owners were entitled to higher amount of compensation. Reference Court, therefore, vide common judgment and award dated 17-12-1997, awarded additional compensation for lands at the rate of Rs. 260/- per sq. mt., against an amount of Rs. 40/- per sq. mt., awarded by the Land Acq. Officer and also awarded additional amount of compensation qua superstructure as per the report of one Mr. Rami, an expert, examined by the applicants, after deducting 20% from the amount shown in the report of Mr. Rami. In two Land Ref. Cases i.e. Land. Ref. Case Nos. 14 of 1992 & 22 of 1992, the claim advanced for enhancement of compensation qua superstructure, was dismissed.

3. Undisputedly, lands are situated on the outskirts of City of Ahmedabad and are within the limits of Ahmedabad Municipal Corporation. There is no dispute as to the ownership of the property or measurements shown in the acquisition proceedings including the award drawn by the Land Acq. Officer u/s 11 of the Act.

4. Basic facts of the reference cases, in nutshell, reveal that the lands along with superstructure there on were put under acquisition for "Express Highway" by notification, issued u/s 4(1) of the Act on 29-1-1989. Declaration u/s 6 of the Act was made which was published on 19-8-1989. Before publication of declaration u/s 6 of the Act, all the formalities u/s 5 of the Act etc. were complied with by the Land Acq. Officer and after following due procedure prescribed u/s 9 etc., of the Act, award was drawn by the Land Acq. Officer on 2-11-1991, and market price of the acquired land was offered at the rate of Rs. 40/- per sq. mt., and compensation qua superstructure was offered as per the report given by the P.W.D. Engineer. Before awarding amount of compensation. Land Acq. Officer had obtained opinion of the Civil Engineer of the department concerned and that opinion was considered as final. We would like to mention details of different claims for the sake of convenience, on the strength of figures given by the Land Acq. Officer. It is, however, clarified that these details are reproduced by us on the strength of the details reflected in para-2 of the impugned judgment, which are as under :-

Case No.

Land Acquired Sq. Mt.

Survey No.

Construction etc.

Award claimed Rs. Ps.

Amount Rs. Ps.

1/92

21.94

156/2

Super Structure

9,803/

39,803/

2/92

22.29

156/2

-do-

5,233/

25,233/

3/92

22.27

156/2

-do-

17,724/

57,724/

4/92

21.51

156/2

-do-

17,119/

57,119/

5/92

21.32

156/2

-do-

4,004/

24,004/

6/92

24.78

156/2

-do-

19,784/

59,754/

7/92

4.38

156/2

-do-

2,206/

22,000/

8/92

24.78

156/2

-do-

4,654/

24,654/

9/92

25.56

156/2

-do-

11,96V

91,964/

10/92

26.4

156/1

-do-

20,0601

66,904/

11/92

87.39

156/1

-do-

40,935/

1,64,200/

12/92

31.80

156/2

-do-

13,620/

40,620/

13/92

23.94

156/2

-do-

5,621/

25,621/

14/92

10.60

156/2

-do-

4,841/

24,841/

15/92

27.28

156/1

-do-

10,296/

1,60,297/

16/92

22.47

156/2

-do-

17,883/

57,883/

17/92

28,51

156/2

-do-

11,895/

51,895/

18/92

18.75

156/2

-do-

8,583/

28,583/

19/92

24.78

156/2

-do-

5,818/

14,868/

20/92

82.64

156/1

-do-

39,678/

1,39,678/

21/92

249

156/2

-do- on 70.87 remitting open land

26,952/

1,93,000/

22/92

101.30

156/1

Sup.Str.

80,621/

1,11, TOO/

23/92

365

156/1

-do- on 49.59 remaining open land

39833/

219419/

24/92

21.51

156/2

Sup.Str.

17,119/

57119/

25/92

160

216

-do- on 78.64 remaining open land

40,607/

24,060/

26/92

175

156/1

-do- on 114.83 remaining open land

55,132/

1,76,190/

27/92

19.47

156/2

Sup.Str.

8,675/

78,675/

5. On scrutiny of above statement, we find that only in four cases, compensation was awarded on two different counts viz. (i) compensation for land, and (ii) compensation for superstructure, i.e. in Land Ref. Case Nos. 21/ 92, 23/92, 25/92 and 26/92 respectively. In rest of the Land Ref. Cases, compensation was awarded considering the entire value of the property which included value of the land as well as super-structure. In two Land Ref. Cases viz. Land Ref. Case Nos. 14/92 and 22/92, claim qua additional compensation for superstructure has not been accepted by the Reference Court. It was pleaded before the Reference Court that the property under acquisition was situated in the prime area and on National Highway. All the claimants were running their business in full swing. Superstructure on the lands acquired, in all the cases, was pakka construction and most of the construction was with R.C.C., and cement flooring, These premises were business premises, and therefore, compensation awarded by the Land Acq. Officer was grossly inadequate. It is pertinent to note that nothing was claimed by the claimants for loss of business. So, obviously, nothing was awarded by the Land Acq. Officer or the Reference Court to the claimants on the count of loss of business. Learned counsel appearing for the opponents-land owners has also not argued on this count, and therefore, we are also not obliged to deal with that aspect. It was prayed before the Reference Court by the land owners that the market value of the lands under acquisition was Rs. 600/- per sq. mt., and therefore, that amount should be awarded to them. It was submitted that the opinion considered by the Land Acq. Officer was given by an engineer of a department of the respondent-Government is bound to be a partial opinion. Land Acq. Officer has failed in gathering independent given by an engineer of a department of the respondent-Government is bound to be a partial opinion. Land Acq. Officer has failed in gathering independent opinion as to the value of the superstructure on the lands under acquisition. Claimants have examined an expert witness Mr. Rami vide Exh. 48. Reference Court has considered opinion of Mr. Rami and the oral evidence led by this witness. It is also submitted that in view of the documentary evidence Exh. 41, market price of the land could not have been assessed at the rate less than Rs. 200/- per sq.

mt., because the Government itself vide resolution Exh. 41 published in the year 1984, had fixed upset price of adjacent lands at that rate i.e. Rs. 200/- per sq. mt. It was also submitted before the Reference Court that Municipal Corporation itself had sold some lands in the very same area by public auction at the rate of Rs. 550/- per sq. mt. Land Acq. Officer had ignored all these material aspects and had awarded grossly inadequate compensation to the land owners-claimants. Reference Applications were resisted by the State. Contentions raised before the Reference Court by the State-Acquiring Body are usual. Opinion of Mr. Rami, an engineer who had given opinion in favour of the claimants, is criticized as partisan. It is submitted that compensation awarded by the Land Acq. Officer was most reasonable and adequate. It is, inter alia, contended that superstructure of different applicants was unauthorised construction and even otherwise, Government was authorised to remove such unauthorised construction and so there was no need to go for valuation of superstructure and so there was no need to obtain other opinion, and therefore, claimants are not entitled to any compensation for superstructure.

6. After considering rival contentions, Reference Court framed issues at Exh. 8 in Land Ref. Case No. 1 of 1992 wherein parties had led common oral as well as documentary evidence. Reference Court, after evaluating oral as well as documentary evidence, recorded finding that the amount awarded by the Land Acq. Officer was inadequate. It is in evidence that Land Acq. Officer had considered the amount of compensation awarded in the year 1983. Award passed by the Reference Court revealed that in the year 1983, compensation at the rate of Rs. 30/- per sq. mt., was awarded to the land owners for the lands situated in the same area and surprisingly, compensation at the rate of only Rs. 40/- per sq. mt., was awarded by the Land Acq. Officer in the year 1989. It also revealed from para 10 of the award that adjoining land was sold at the minimum price of Rs. 52/- per sq. mt., in the year 1988. Reference Court had rightly raised a question that when this set of facts was available before the Land Acq. Officer, it is failed to understand, why he had awarded compensation at the rate of Rs. 40/- per sq. mt. Considering the oral evidence led by the claimants and opinion of Mr. Rami vis-a-vis facts revealed in the award drawn by the Land Acq. Officer, we confirm the view of the Reference Court that the compensation awarded by the Land Acq. Officer was grossly inadequate and there was need to decide the market value which can be termed as fair or adequate amount for the lands under compulsory acquisition.

7. In the present appeals, the appellants have prayed that amount awarded by the Reference Court is much on a higher side and the findings as to market value of the land at the rate of Rs. 300/- per sq. mt., (Rs. 40/- per sq. mt., awarded by the Land Acq. Officer + Rs. 260/- per sq. mt., awarded by the Reference Court) is not based on any legal evidence and the same is based mainly on conjectures and surmises. The opinion of Mr. Rami, an expert examined by the claimants, could not have been accepted and there was no reason for discarding evidence collected by the Land Acq. Officer through the department concerned.

Government S.O.R., rates are considered while awarding compensation, and therefore, there was no need to award additional amount of compensation for superstructure, especially when superstructure was unauthorised. Learned A.G.P. Mr. Sheth has vehemently argued that amount of compensation awarded for super-structure is not in accordance with law of the land. Nothing should have been awarded for superstructure. Alternatively, he has submitted that the claimants could have been awarded to the maximum for debris and not for the alleged market value pleaded by the claimants. Mr. Rami cannot be said to be an independent or an expert witness. His evidence is one-sided, partisan and the Reference Court could not have accepted the opinion of Mr. Rami in toto. In nutshell, controversy before us is only on two counts i.e., (i) what was the market value of the land on the date of Section 4 notification? and, (ii) whether claimants are entitled to compensation for superstructure? If finding is in affirmative qua point no. (ii), then there is a scope to go into further discussion as to what amount should be awarded as compensation for superstructure.

8. Reference Court, while determining market value of the acquired lands, has considered various aspects including the fact that the lands under acquisition were having good potentiality. It is in evidence that after 1960, on more than two occasions, city limits of Ahmedabad Municipal Corporation have been expanded and because of consistent process of urbanisation, lands in the periphery of the City of Ahmedabad were also brought under the umbrella of Urban Land Ceiling. On the date of publication of Notification u/s 4 of the Act, lands under acquisition were undisputedly within the limits of Ahmedabad Municipal Corporation and only on periphery. In the reply filed by the present appellants, it is admitted that the lands were acquired for the junction of National Highway and they were within the limits of Ahmedabad Municipal Corporation. It is also admitted that there is a regular frequency of Ahmedabad Municipal Transport Service buses for the areas where lands under acquisition are situated. During the course of cross-examination of the original claimants-land holders, there was no challenge on the aspect that these lands were used for commercial purpose and/or for industrial purpose. Of course, on some lands, there were superstructures up to the plinth level and the construction was made to build up shops on piece of the land concerned. It was suggested during the course of cross-examination that lands were not on the Express Highway, but the said suggestion was denied. Considering the purpose of acquisition and the development in the surrounding areas, we are not inclined to accept the submission of the learned A.G.P. Mr. Sheth that the lands were without good potentiality. It is in evidence that there were number of small-scale industries in the very area where the lands under acquisition were situated and there were some residential houses in that area also. The officer who had filed the reply before the reference Court and examined by the appellants to disprove the claim advanced by the claimants-land holders, himself had accepted that the lands under acquisition were surrounded by many small-scale industries and residential houses. Reference Court has considered all these aspects and according to us,

these aspects are very relevant. One more fact also should not be ignored by us that upset price of one piece of land was once fixed at the rate of Rs. 200/- per sq. mt., and that land was acquired from T. P. Scheme No. 25. It would not be logical to conclude that the upset price fixed by the Government was the market value of the lands under acquisition on that relevant date, but the same can be considered to appreciate the case of the original claimants as to the potentiality of the lands under acquisition. Claimants can legitimately pray that the notification which is subsequent to the fixation of the upset price of the lands in the near vicinity, should be on higher side unless any contrary evidence is brought on record by the other side i.e. present appellants. Learned Counsel Mr. Amin has mainly hammered on these aspects. Mr. Amin has also argued that Reference Court was right in considering the evidence as to selling of land by Ahmedabad Municipal Corporation in that very area at the rate of Rs. 550/- per sq. mt., by a public auction. Exh. 42 indicates that a plot admeasuring 1717 sq. mts. of T. P. Scheme No. 25 was sold for development to one Manilal Nagjibhai Shah, resident of Maninagar, Ahmedabad, being the highest bidder, at the rate of Rs. 550/- per sq. mt., The letter Exh. 42 addressed to said Manibhai reveals mat the price offered by Mr. Manibhai Shah was the highest amongst five bidders. Bids were invited on tender basis. This can be said to be a sale of land by a public auction. We would like to refer judgment of Division Bench of this Court (Coram : M.H. Kadri & C.K. Buch, JJ.) in the case of Gujarat Industrial Development Corporation v. Ashok Kumar Jayantilal Jatakia (F. A. No. 7903 of 1999 with F.A. No. 7909 of 1999, (Group) decided on 10-5-2000), wherein it is laid down that sale by a public auction cannot be taken into consideration as a comparable sale or genuine sale instance as it may not reflect the correct market price. The Reference Court, therefore, has rightly not accepted the submission to award compensation of the lands at the rate of Rs. 600/- per sq. mt., It requires to be clarified that the land given to Mr. Manilal Shah is in the very near vicinity of the lands under acquisition. So, figure reflected in the letter Exh. 42 does not provide a base line for determination of the market value of the lands. Simultaneously, the same cannot be ignored in toto. Land owners themselves have prayed compensation of the acquired lands at the rate of Rs. 300/- per sq. mt., before the Land Acq. Officer. Enhanced figure was quoted before the Reference Court for the first time stating that they are entitled to the compensation at the rate of Rs. 600/- per sq. mt., The first assessment, by claimants themselves was of Rs. 300/ per sq. mt.. We agree that the amount of compensation can be enhanced by the claimants before the Reference Court and they are entitled to lead evidence to that effect. They have tried to lead that evidence, but totality of the evidence available on record takes us to the conclusion that the figure arrived at by the Reference Court as to the market value is reasonable and cannot be said to be on higher side. Reference Court has rightly considered the case of the present appellants. No cogent evidence was led which can disprove the basic claim of the respondents-land holders. Conclusions recorded by the Reference Court as to inadequacy of the amount awarded by the Land Acq. Officer are also based on evidence available on record and the logic

behind recording of such findings is just, proper and reasonable based on sufficient evidence on record. So, we are not inclined to interfere with the finding determining the market value of the lands under acquisition at the rate of Rs. 300/- per sq. mt., and so submissions of learned A.G.P. Mr. Sheth contrary to the findings recorded by the Reference Court, are not accepted. In short, determination of the market value of the lands under acquisition by the Reference Court at the rate of Rs. 300/- per sq. mt., is upheld.

9. So far as compensation for superstructure is concerned, we are not inclined to accept the submission of learned A.G.P. Mr. Sheth that nothing should be awarded for the superstructure and market value of the lands includes value of the superstructure standing there on. It was alternatively argued that the Reference Court has erred in awarding very excessive amount of compensation and the claimants were entitled to debris only. At the time of cross-examining claimants who were examined before the Reference Court, it was suggested to the claimants that their construction was unauthorised and/or illegal. This suggestion is not accepted either by the claimants or by the Reference Court. On the contrary, documents produced by the claimants show that the superstructure was assessed by the Municipal Corporation for the purpose of levying property tax and all of them were having authorised electric connections. Undisputedly, most of the claimants were running their business and/or small-scale industries on the lands under acquisition. Some of them had erected shops and some had put construction upto the plinth level. On careful perusal of the valuation report prepared by the expert witness, experienced civil engineer examined by the claimants, we are satisfied that the construction was of R.C.C. type, flooring was of cement or of pakka tiles. It was difficult for the Reference Court to ignore sketch map prepared by Mr. Rami in respect of superstructure evaluated by this witness. Exh. 45 is a Xerox copy of the photograph of shopping centre erected on Survey No. 156/1. This document is produced and proved by the power of attorney holder of the claimants of Reference Case No. 23 of 1992. Claimants' witness No. 22 Manibhai Jorabhai has categorically stated on oath, that photograph Exh. 45 shows constructed shops on the lands under acquisition. Electric bills as well as Municipal tax bills of these shops are also proved by this witness which are at Exhs. 46 & 47. Power of Attorney Holder Shri Manibhai Jorabhai is the father of the land-owner and conversant with all relevant facts. We agree that the lands under construction was purchased from one contractor named Shobhrajibhai and shops were erected in the year 1986. Possession of these lands were taken by the Acquiring Body in the year 1991. Thus, it is crystal clear that much prior to the publication of notification u/s 4 of the Act, these shops were constructed. In short, even if we are satisfied on the point that land-owners have failed in producing documentary evidence granting permission to erect superstructure, even then, it would not be legal or proper to conclude that all these structures were illegal or unauthorised. There was ample scope for Municipal Corporation to regularise this construction even though there may not be a formal permission to erect such construction. It was open to the appellants

to bring evidence on record that none of the claimants had even applied for erecting such construction. Nobody is examined from the office of Ahmedabad Municipal Corporation to prove the illegality of the superstructure on the lands under acquisition. When Ahmedabad Municipal Corporation was recovering property taxes and the claimants were running their business industries in the properties in question, they should not be deprived of compensation qua superstructure on technical submissions advanced by the learned A.G.P. Mr. Sheth. Learned Counsel Mr. Amin has rightly relied on recent judgment of the Apex Court in the case of Abdul Kuddus Mandal & Ors. v. State of Assam & Anr., reported in 1999 (2) LACC 261, wherein the Apex Court has held that house owner was entitled to compensation for houses standing on the lands under acquisition. In para 8 of the judgment, Apex Court has held that :-

"It appears to us that the High Court fell into a basic error in not awarding compensation for the houses on the ground that since land had been acquired, it is only compensation for removal of houses standing thereon, which could have been granted because houses had not been acquired. That is not a correct approach. The compensation was required to be paid for the houses which were standing on that land. The land could not have been acquired without the houses standing thereon. The Reference Court had rightly awarded compensation for the houses. The order of the High Court on this account suffers from apparent error. Insofar as the reduction in the rate for land from Rs. 36,600/- as awarded by the Reference Court to Rs. 20,000/- per bigha by the High Court is concerned, we are not persuaded to disagree because we have not found any error to have been committed by the High Court in that behalf. The High Court has not adverted to the compensation on account of Ziraat separately, though compensation on that account had been awarded by the Land Acquisition Collector and upheld by the Reference Court."

10. Land Acq. Officer himself had awarded some compensation for superstructure. Reference Court has rightly held that the report of the Engineer as to valuation of the superstructure is not acceptable. Report is not even legally proved before the Reference Court. Appellants have not even cared to produce this report. There is no evidence on record to show that the Land Acq. Officer was competent to appreciate technical part of the report prepared by the Engineer and on the other hand, there is convincing evidence of witness Civil Engineer Mr. Rami at Exh. 48 examined by the claimants. In view of above legal position, we have to accept the finding of the learned Reference Court that the claimants are entitled to the compensation for superstructure also. Hence, submissions advanced by the learned A.G.P. on this aspect are not accepted.

11. So far as amount of compensation qua superstructure is concerned, we are of the view that the compensation awarded by the Reference Court on this count is on higher side. Reference Court seems to have done some exercise in preparing chart as to the valuation of superstructure found on the land acquired, from the reports produced and proved by the expert witness Mr. Rami. We find

that this chart is not a part of the record of the Reference Court. A typed schedule attached immediately after the proceedings and copy thereof is also tagged with the copy of the judgment, is available with record. Careful reading of the figures mentioned in the typed schedule reveals that it does not tally with the figures mentioned in the valuation report proved by Mr. Rami. It is also pertinent to note that this schedule is not signed by the Presiding Officer of the Reference Court. So, the same shall have to be ignored. The valuation amount of superstructure or construction found on the land acquired is reflected in para 4 of this judgment. Amount awarded by the Collector is inclusive of compensation awarded for superstructure. Reference Court has not considered various columns of the report prepared by the approved valuer Mr. Rami. Careful reading shows that the year of construction differs in each case. We agree that in most of the cases, construction is made in the year 1984 or in the year 1987, but construction on some plots is made even earlier i.e., in the year 1978-79 etc. Reference Court has undisputedly accepted the report of Mr. Rami and has held that the amount of compensation qua superstructure should be paid after deducting 25% from the figure shown in the report of Mr. Rami. As discussed earlier, there is no evidence as to the actual costs incurred by the owner or occupier of the properties in question. The authority or permission to construct is also not produced by any of the claimants. The fact that value of each of the properties is to be assessed by applying the rule of depreciation and/or appreciation. We agree that there is some evidence as to potentiality of the area where properties are situated, but while awarding amount of compensation qua superstructure, potentiality criteria shall have no relevance. The difference between value of superstructure assessed by the engineer of P.W.D. of State of Gujarat and expert Engineer Mr. Rami shows a big gap. Mr. Rami has not tried to explain this big gap between two assessments. It was incumbent for the Reference Court to award the amount of compensation which can be termed as reasonable and just compensation. Totality of facts and circumstances indicate that valuation of superstructure assessed in each case by Mr. Rami shall have to be slashed down to the extent of 50% instead of 25% as decided by the Reference Court. It is not a finding of the Reference Court that the amount of compensation awarded for superstructure to the land owners is irrational. It has been held that in absence of report and the evidence, the compensation awarded by the Collector is not found acceptable. When the Reference Court finds that the amount awarded by way of compensation is inadequate, then there should be a finding that what amount otherwise could have been awarded by the Collector or by the reference Court and what amount could have been decided as a market value of such superstructure. The amount equivalent to net loss shall have to be awarded. The amount of compensation has no relation with the concept of "adequacy" only, but the same has concern with the determination of market value or monetary value on the date of publication of notification u/s 4 of the Act. After going through sketches/maps prepared by Mr. Rami and details of report prepared for each property vis-a-vis the facts and circumstances available on record, we hold that the amount of compensation qua superstructure or

construction should be reduced to 50% from the amount shown in the reports prepared and proved by Mr. Rami. We find that in each case, report submitted by Mr. Rami is in three parts; first part is in Form No. O-1, second part is valuation part and third part is the declaration made by the registered valuer i.e. by Mr. Rami. For our purpose, the figure reflected at the end of second part i.e. valuation wherein Mr. Rami has rounded his assessment as to the valuation of the superstructure, e.g. in Land Acq. Case No. 1 of 1992 where Mr. Popatlal Ghelabhai Patel is the owner of the property, valuation is assessed at Rs. 38,240/-. This figure does not carry the amount of compensation awardable qua value of the land. So, 50% of this figure i.e., Rs. 38,240/-, shall have to be awarded to the claimant of Land Acq. Case No. 1 of 1992 which would come to Rs. 19,120/-. We do not see any need to draw a chart for each Land Acq. Case. In short, we hold that figure of valuation of the superstructure or construction reflected as total valuation in second part of each valuation report submitted by Mr. Rami, shall have to be reduced to 50% and accordingly amount shall be awarded to each of the claimants, except claimants of Land Acq. Case No. 14 of 1992 and 22 of 1992 where on such amount for super-structure is awarded. Since no amount qua superstructure is awarded by the Reference Court in aforesaid two Land Acq. Cases, we are not inclined to interfere with the finding recorded by the Reference Court so far as these two Land Acq. Cases are concerned.

12. In the result, these First Appeals are partly allowed. Judgment and award passed by the Reference Court is modified to the extent that claimants are entitled to the amount of compensation qua lands acquired at the rate awarded by the Reference Court, but the amount awarded qua superstructure by the Reference Court is reduced to 50% Award be modified and drawn accordingly. Each of the claimants shall be entitled to 30% solatium on the additional amount of compensation awarded as per Section 23(2) of the Act and 12% increase p.a. from the date of publication of Notification u/s 4 of the Act till the date of award u/s 23(1-A) of the Act. Claimants are also entitled to interest on the additional amount at the rate of 9% p. a. for the first year and 15% p. a. for the remaining years from the date of taking over possession till the realisation of the amount. It is, however, clarified that the amount payable u/s 23(1-A) shall not carry solatium and no interest shall be payable on the amount of solatium as per the decision of the Supreme Court in the case of State of Maharashtra Vs. Maharau Srawan Hatkar, . The appellant is directed to deposit the amount of compensation within four months from the date of receipt of writ of this order. No order as to costs. Office is directed to draw decree in terms of this judgment.

13. Appeals partly allowed.