

(1972) 07 OHC CK 0007

In the Orissa High Court

Case No : First Appeal No's. 117 and 124 of 1971

Collector

APPELLANT

Vs

Mahabir Prasad Santuka and Others

RESPONDENT

Date of Decision : 14-07-1972

Acts Referred:

Land Acquisition Act, 1894 — Section 23, 34

Citation : AIR 1973 Ori 70

Hon'ble Judges : S.K. Ray, Acting C.J.;B.K. Patra, J

Bench : Division Bench

Advocate : Advocate General and R.K. Patra, Addl. Standing Counsel No. 1 in F.A. No. 117 of 1971 and K.C. Lenka, in F.A. No. 124 of 1971, for the Appellant; R. Mishra, D.K. Das, A.C. Mitra and K.C. Lenka, in F.A. No. 117 of 1971 and A.G. and Addl. Standing Counsel No. 1 and B. Mishra, D.K. Das and A.C. Mitra, in F.A. No. 124 of 1971, for the Respondent

Judgement

This Judgment has been overruled by : Mahabir Prasad Santuka and Others Vs. Collector, Cuttack and Others, AIR 1987 SC 720 : (1987) 63 CLT 584 : (1987) 1 JT 401 : (1987) 1 SCALE 301 : (1987) 1 SCC 587 : (1987) 2 SCR 289

Patra, J.—Both these appeals arise out of the judgment of the Subordinate judge, Cuttack in Land Acquisition Case No. 19 of 1970. By declaration dated 23-12-1966 published in the Orissa Gazette on 2-2-1967, 12 acres of land appertaining to plot No. 117 of mouza Jajbhairaba were acquired by Government for the purpose of construction of Aviation Research Centre at Charbatia. The Land Acquisition Collector valued the land at Rs. 2,000 per acre and has awarded the compensation jointly to Mahabir Prasad Santuka, Mahabir Prasad Modi, Kamali Debi and Bhati Bai, petitioners 1 to 4 in the Land Acquisition Case. Plot No. 177 has a total area of 167 acres. Exhibit B is the field verification map got prepared by the Land Acquisition Collector in respect of that plot. Various persons had acquired different portions of Plot No. 177. Exhibit B shows sub-division of Plot No. 177 into different parcels and each sub-division has been allotted a separate number. There is no dispute in this case that the 12 acres of

land acquired in this case cover sub-plot Nos. 16, 17, 16A and 17A of plot No. 177. So far as sub-plot Nos. 16 and 17, each measuring 5 acres are concerned, there is dispute regarding title.

While petitioners 1 and 2 Mahabir Prasad Santuka and Mahabir Prasad Modi claim title to these two sub-plots and their claim thereto is accepted by the Land Acquisition Collector, petitioners 5 and 6 Banwarilal Bathual and his wife Sabitri Debi respectively contend that they are the owners of these two sub-plots and that the Land Acquisition Collector was wrong in awarding compensation in respect of these ten acres of land to petitioners 1 and 2. Both these sets of claimants, namely, petitioners 1 to 4 and petitioners 5 and 6 also contended that the valuation of the land as fixed by the Collector is low with the result that petitioners 1 to 4 in whose favour the award was passed did not accept the same and wanted a reference to be made to the Court. Petitioners 5 and 6 also requested the Collector to make a reference under Sections 18 and 30 of the Land Acquisition Act (hereinafter referred to as the Act). Accordingly, the Collector made a reference under Sections 18 and 30 of the Act for determining the proper amount of compensation for the land acquired and for the apportionment thereof.

2. There is no dispute between the parties that Maulana Sayed Mohammed Molliha and three others were the owners of plot No. 177 and that one Fezrul Maque was their power-of-attorney-holder. The case of petitioners 1 to 4 is that one Syed Bazrul Rahim took lease of the disputed 12 acres of land, namely, sub-plot Nos. 16, 17, 16A and 17A from the Zamindars in 1944 under an unregistered deed of lease Exhibit 4/1 dated 23-2-1944 from the landlords, and after getting these lands demarcated by planting stone pillars all round the same, remained in possession thereof. Their further case is that in the year 1965, Bazrul Rahim sold these 12 acres of land under three different registered sale deeds to Anadi Lal, Mahabir Prasad Modi and Ganapati Debi as follows:

Exhibit 5/1 dated 9-2-1956: In favour of Ganapati Debi in respect of 5 acres of land out of plot No. 177 (boundaries not given) for Rs. 500.

Exhibit 5/a/1 dated 9-2-1956: In favour of Mahadeb Prasad Modi (petitioner No. 2) in respect of 5 acres of land out of plot No. 177. (boundaries not given) for Rs. 500:

Exhibit 5/b-1 dated 9-2-56: In favour of Anadi Lal in respect of 2 acres of land out of plot No. 177 (boundaries not given) for Rs. 200.

Ganapati Debi is dead and petitioner No. 1 Mahabir Prasad Santuka is her son. In a family partition, between Anadi Lal and his two sisters-in-law, Kamali Debi and Bhati Bai (petitioners 3 and 4), the two acres of land purchased by Anadi Lal under Exhibit 5/b-1 had fallen to the share of petitioners 3 and 4. This is how the petitioners 1 to 4 claim the entire compensation in respect of the 12 acres of land acquired in this case.

3. Petitioner No. 1, petitioner No. 2 and petitioners 3 and 4 jointly filed three separate applications u/s 18 of the Act requesting the Collector to make a reference to the Court for determining the proper amount of compensation and in each of these applications it was claimed that the value of the disputed lands on the date of acquisition was Rs, 1,500 per gunth, that is, Rs. 37,500 per acre.

4. The case of petitioner No. 5 Banwarilal Bathual and his wife petitioner No. 6 Sm. Sabitri Debi may now be noticed. As already indicated, they claim title only to sub-plots 16 and 17 and have no claim over sub-plots 16A and 17A. The case of Banwarilal, petitioner No. 5, as set out in his application under Sections 18 and 30 of the Act is as follows: One Durlava Debi obtained from the landlords in the year 1944 a lease of 5 acres of land now covered by sub-plot No. 17 and the landlords through their authorised agent executed a lease deed in favour of Durlava Debi and furnished to her also a sketch map of the land leased out to her. Since then, Durlava Debi remained in possession of the land as an occupancy raiyat and by a registered sale deed Exhibit 5 dated 8-5-1956 sold these 5 acres of land to petitioner No. 5, Banwarilal Bathual.

5. The case of Sabitri Debi, petitioner No. 6, as set out in her application under Sections 18 and 30 of the Act is that one Syed Abdul Matlab obtained from the Zamindars a settlement of 5 acres of land out of plot No, 177 which now corresponds to sub-plot No. 16 in the year 1944. The landlords also executed in favour of the said Syed Abdul Matlab a deed of lease and along with it also supplied to him a sketch map showing the area settled with him duly signed by the authorised agent to the landlords. Since the time of settlement, Syed Abdul Matlab remained in possession of the said 5 acres of land as an occupancy tenant and by registered Kabala Exhibit 3 dated 7-3-1956 sold the same to Sabitri Debi for a consideration of Rs. 500 and placed her in possession thereof. Boundaries of the land sold under Exhibits 3 and 5 are mentioned in the respective sale deeds and they are as under: In Exhibit 3 dated 7-3-1956, boundaries are;-- North--plot No. 177; south--road; east--road; and west--land of Rajkishore Agarwalla. Length from north to south is 640 feet and from east to west is 362 feet. Boundaries as given in Exhibit 5 dated 8-5-1956 are:--North, south and east--plot No. 177; west--rasta and land of Sabitri Debi. The land measures east to west 362 feet and north to south 640 feet. The lease deeds said to have been executed by the Zamindars in favour of Syed Abdul Matlab and Durlava Debi had not been filed and they are consequently not on record.

6. The claims of both the sets of petitioners were considered by the Subordinate Judge together and he came to the conclusion that the lands now acquired belong to petitioners 1 to 4 and that petitioners 5 and 6 have failed to establish their title thereto. On the question of valuation, relying mainly on Exhibits 12/1 and 9/1 and the oral evidence let in by the parties, he held that the lands should be valued at Rs. 600 per gunth, that is, Rs. 15,000 per acre and determined the value of the acquired lands at Rs. 1,80,000 and together with statutory compensation of 15 per cent, awarded to them Rs. 2,07,000 and directed that

the petitioners 1 to 4 having already been awarded the amount of Rs. 27,600 by the Collector they would be entitled to receive the balance amount.

7. Petitioners 1 to 4 were satisfied with the decree passed by the learned Subordinate Judge. Being dissatisfied with the amount of compensation awarded by the trial Court, the Collector, Cuttack, has filed First Appeal No. 117 of 1971. Petitioners 5 and 6 were aggrieved by the finding of the Court below that sub-plots 16 and 17 of plot No. 173 belong to petitioners 1 and 2. Claiming their own title thereto, they have filed First Appeal No. 124 of 1971. Both these appeals have been heard together and would be governed by this common judgment.

8. We would first deal with the question of apportionment which is the subject-matter of dispute in First Appeal No. 124 of 1971. As already indicated, out of the 12 acres of land, which have been acquired, there is no dispute with regard to sub-plots 16A and 17-A, the total area of which is two acres. The dispute is confined only to sub-plots 16 and 17 each of which measures 5 acres. Banwarilal Bathual and his wife Sabitri Debi who were petitioners 5 and 6 in the Court below and are appellants in F.A. No. 124 of 1971 do not claim to have acquired title to these ten acres of land directly from the admitted owners Maulana Sayed Mohammad Molliha and his co-sharers. According to them, Durlava Debi and Syed Abdul Matlab obtained leases from the owners each in respect of five acres of land covered by the present sub-plots 17 and 16 respectively and their case is that Durlav Debi sold sub-plot No. 17 to petitioner No. 5 by the sale deed Exhibit 5 dated 8-5-1956 and that Sabitri Debi purchased sub-plot No. 16 from Sayed Abdul Matlab by the sale deed Exhibit 8 dated 7-3-3956. Exhibit 3 is thus earlier in point of time than Exhibit 5. Shortly after these purchases were made, Banwarilal Bathual and his wife Sabitri Debi made applications to the Anchal Adhikari, Cuttack, for mutation of their names and these applications are Exhibits 7 and 8 respectively.

It is now claimed by the petitioners 5 and 6 that along with the applications for mutation they also submitted sketch maps of the lands purchased by them. These sketch maps are Exhibits 7/a and 8/a respectively. As the situation of the lands indicated in the sketch maps 7/a and 8/a tally to some extent with the position of subplot 16 and 17 as indicated in the sketch map Exhibit B got prepared by the Collector at the time of acquisition, it is contended on behalf of petitioners 5 and 6 that it must be held that what they purchased under Exhibits 3 and 5 are the two disputed lands sub-plots 16 and 17. The originals of these sketch maps have not been produced nor have the petitioners 5 and 6 examined the person who prepared the sketch maps. There is no reliable evidence to show that these sketch maps had been filed before the Anchal Adhikari along with mutation applications Exhibits 7 and 8. Significantly, the mutation applications Exhibits 7 and 8 do not show that any sketch maps were enclosed thereto. We do not also find any endorsement on these sketch maps to indicate that they had been filed before the Anchal Adhikari. In these circumstances, we are not

prepared to accept the case of petitioners 5 and 6 that these sketch maps Exhibits 7/a and 8/a were either prepared at the time of mutation applications were made or they were filed before the Anchal Adhikari along with the mutation applications. That apart Exhibit 8/a shows that the land purchased by petitioner No. 6 Sabitri Debi under Exhibit 3 lies on the north and south of a road. It is admitted by petitioner No. 5 examined as P.W. 4 that neither he nor his wife possessed any land to the south of the road. This statement indicates that the sketch map Exhibit 8/a is also not correct.

9. The map Exhibit B shows that sub-plot 16 lies adjoining to the west of Sub-plot 17 and that there is nothing also in between these two plots. It is also further seen from the map Exhibit B that to the south of plots 16 and 17, there is a road. We got it from P.W. 2 that this road is a black-topped one running from Chowdwar to Charbatia. This being the position of the two disputed sub-plots, the eastern boundary of sub-plot 16 is sub-plot 17 and the southern boundary of sub-plot 16 is a road, whereas the western boundary of sub-plot 17 is sub-plot 16 and the southern boundary of sub-plot 17 is the road. In Exhibit 3, dated 7-3-1956 by which Sabitri Debi (petitioner No. 6) claims to have purchased subplot 16, the eastern and southern boundaries are shown to be roads. While the southern boundary correctly corresponds to the southern boundary of sub-plot 16, the eastern boundary is evidently not correct. Exhibits under which petitioner No. 5 claims title to sub-plot 17 was executed about two months after Exhibit 3. In Exhibit 5 also the western boundary is shown as Rasta and the Sand of Sabitri Debi, There can thus be no doubt that the lands which petitioners 6 and 5 had purchased under Exhibits 3 and 5 respectively are separated by a road.

It is clear from Exhibit B that there is no road in-between sub-plots 16 and 17. This is one strong circumstance to indicate that Exhibits 3 and 5 do not relate to subplots 16 and 17. Then again, if under Exhibit 5 Banwarilal, petitioner No. 5, had purchased sub-plot 17, its southern boundary should have been shown as the black-topped road running from Chowdwar to Gharbatia. But Exhibit 5 shows the southern boundary as plot No. 177 and not the road. This is another circumstance which goes against the claim made by petitioner No. 5. These circumstances coupled with the fact that neither petitioner No. 5 nor petitioner No. 6 had filed in Court the lease deeds said to have been executed in favour of their respective vendors by the admitted owners of plot No. 177 go very much against the claim made by them.

10. The oral evidence let in by petitioners 5 and 6 does not in any way improve their case. P.W. 1 Anata Charan Routrai is an employee under the brother of petitioner No. 5 who, as it seems, has lands in Jajbhairebe mouza. He claims to have seen the disputed lands and says that one Anu Behera was looking after the same on behalf of petitioners 5 and 6. According to him, to the south of the land of Banwarilal petitioner No. 5, there is a road and to the north of Banwarilal's land there is a small Rasta and thereafter his wife's land. He further says that to the east of Banwarilal's land, there is a road leading to Charbatia and to the

west the lands of other people. Admittedly, the boundaries as given by this witness do not at all tally either with the boundaries of sub-plot 17 or the boundaries of sub-plots 16 and 17 put together. The boundaries of lands of Sabitri Debi as mentioned by P.W. 1 are equally wrong. P.W. 2, a pleader's clerk, says that he was present when mutation applications Exhibits 7 and 8 were filed before the Anchal Adhikari and that along with those mutation applications two sketch maps had been filed. We have already adverted to this part of the case and have shown how petitioners 5 and 6 have failed to establish that any such sketch map had been filed along with mutation applications. Gopal Charan Das, the Amin who is said to have prepared Exhibits 7/a and 8/a and is alive has not been examined. In these circumstances, no reliance can be placed on the testimony of P.W. 2. Anu Behera, P.W. 3 for petitioners 5 and 6 who claims to have been looking after the lands purchased by petitioners 5 and 6 under Exhibits 3 and 5 gives the boundaries of the lands thus:

"The land of Banwarilal is bounded on the south by road, north--a well in the land which also belongs to him. East--rail line and west--land of Savitri intervened by a path. The land of Sabitri Devi is bounded by south---road, north--vacant land of other, east and west--vacant lands of others."

The boundaries as given by him do not tally with the boundaries as given in Exhibits 3 and 5. This witness also speaks of the existence of a path to the west of the land purchased by petitioner No. 5 which, as already indicated, is not borne out by the sketch map Exhibit B. The last witness examined on the side of petitioners 5 and 6 is P.W. 4, petitioner No. 5 himself. He also speaks of the existence of a pathway in between the land purchased by him and the land purchased by his wife. This statement does not fit in with the position of sub-plots 16 and 17 as indicated in Exhibit B.

11. On a close review of the evidence both oral and documentary placed before us, we find that petitioners 5 and 6 have failed to establish that the lands purchased by them under Exhibits 3 and 5 are the lands shown as sub-plots 16 and 17 in the sketch map Exhibit B which have been acquired by Government. Plot No. 177 is a very big plot portions of which had been purchased by different persons at different times from the owners. It may be that petitioners 5 and 6 have purchased two such portions but judging from the evidence both oral and documentary placed before us, we are not convinced that the petitioners 5 and 6 have succeeded in establishing that they had purchased the sub-plots 16 and 17 or that they were in possession thereof at the time of acquisition by Government.

12. We will now notice the evidence on the side of petitioners 1 to 4, Their case, as already indicated, is that the 12 acres of land now acquired comprising sub-plots 16, 17, 16A and 17A had been taken on lease by one Bazrul Rahim in 1944 and that Bazrul Rahim, in his turn, had out of these 12 acres of land sold 5 acres to one Ganapati Debi under Exhibit 5/1, 5 acres to Mahadeb Prasad Modi under Exhibit 5/a-1 and 2 acres to Anadi Lal under sale deed Exhibit 5/b-1. All these three are registered sale deeds. We are not in this case concerned with the lands

purchased under Exhibit 5/b-1 in respect of which petitioners 5 and 6 do not lay any claim. The dispute is confined only to the sale deeds Exhibits 5/1 and 5/a-1 both of which are dated 9-2-1956 and are earlier in point of time to the sale deeds Exhibits 3 and 5 under which petitioners 5 and 6 claim title. Petitioners 1 to 4 have put in evidence the unregistered lease deed, Exhibit 4/1 dated 23-2-1944 executed in favour of Sayed Bazrul Rahim in respect of the 12 acres of land. The lease deed does not give any boundaries of the land leased out nor are any boundaries given in the three sale deeds which Bazrul Rahim had executed in favour of petitioners 1 and 2 and Anadi Lal. Petitioners 1 and 2, however, rely on the sketch map Exhibit 4/a-1 which purports to bear the signature of Saved Fazrul Haque, the authorised agent of the Zamindars who had executed the unregistered lease deed in favour of Bazrul Rahim. Fazrul Haque purports to have signed in the lease deed and also in the sketch map Exhibit 4/a-1 on 23-2-1944. There is no dispute that the land which according to the sketch map Exhibit 4/a-1 formed the subject-matter of the lease in favour of Bazrul Rahim corresponds to the land now acquired by Government, The only questions for consideration are whether the unregistered lease deed Exhibit 4/1 is genuine and whether at the time it was executed, the sketch map Exhibit 4/a-1 was prepared and handed over to the lessee.

On this point, the most important evidence is that of Ananta Rath, P.W. 5 for petitioners 1 to 4, who was working as Tahsildar and law agent of the Zamindars Maulana. Sayed Mohammed Mollihe and others. He has deposed that Fazrul Haque was the authorised agent of the Zamindars and he executed the lease deed Exhibit 4/1 and at that time handed over to the lessee Bazrul Rahim the sketch map Exhibit 4/a-1 which was prepared by one Kashaba Charan Mohanty. According to him, after Bazrul Rahim took lease of the land, he fixed stone pillars all round the land and that Jagu Mallik and Radhu Mallik were cultivating the lands on behalf of Bazrul Rahim and were raising horsegram thereon. He says that this very land was sold by Bazrul Rahim under the sale deeds Exhibits 5/1, 5/a-1 and 5/b-1. He is the identifying witness in all the three sale deeds. Although Fazrul Haque and Bazrul Rahim were alive, but were not examined--a circumstance which goes against the case of petitioners 1 to 4, yet nothing has been elicited in the cross-examination of Ananta Rath, to throw any doubt on the veracity of his testimony. P.W. 7, the father of petitioner No. 1, says that he was present when his wife Ganapati Debi had purchased 5 acres out of the disputed lands and that at that time Bazrul Rahim had delivered to her the lease deed Ex 4/1 and the sketch map Ex. 4/a-1. P.Ws. 1 to 3 who have got lands in Jaibhairaba mouza had seen the disputed lands and have given their correct boundaries and depose that Bazrul Rahim was in possession thereof till he sold the same in 1956 to Ganapati Debi, Mahabir Prasad Modi and Anadi Lal.

There is nothing in their evidence to discredit the testimony given by them. Thus, although the evidence let in on behalf of petitioners 1 to 4 regarding their title to the disputed lands suffers from certain infirmities already discussed, still this evidence appears to be of much superior quality than the evidence let in on

behalf of petitioners 5 and 6. In these circumstances, when the learned Subordinate Judge who had the advantage of seeing the witnesses himself had accepted the evidence of petitioners 1 to 4 in preference to the evidence let in on behalf of the petitioners 5 and 6, are not prepared to say that he is not justified in doing so.

13. We would accordingly uphold the finding of the learned Subordinate Judge that petitioners 1 to 4 are the owners of the 12 acres of land now acquired by Government and find no merit in First Appeal No. 124 of 1971 which must stand dismissed,

14. As regards the valuation of the lands which forms the subject-matter of dispute in F.A. No. 117 of 1971, the Collector had valued the lands at Rs. 2,000 per acre, while the Subordinate Judge had raised it to Rs. 15,000 per acre. As already indicated, both the sets of petitioners were aggrieved by the valuation made by the Collector. In the applications under Sections 18 and 30 of the Act made by petitioners 5 and 6 before the Land Acquisition Officer requesting him to make a reference to the Court, they had stated that the lands should have been valued at Rs. 10,000 per acre (vide pages 96 and 106 of paper-book). In the application u/s 18 made by the petitioners 1 to 4 before the Land Acquisition Officer making for a reference (vide pages 93, 100 and 103 of paper-book), they stated that the disputed lands should have been valued at Rs. 37,500 per acre. The learned Subordinate Judge, as already stated, fixed the valuation of the lands at Rs. 15,000 per acre and the correctness of such valuation is now challenged by the Collector, the appellant before us in F.A. No. 117 of 1971. These very lands had been purchased in February, 1956 for Rs. 1,200 at the rate of Rs. 100 per acre. Mahani Charan Panda. P.W. 1 for petitioners 1 to 4 had on 7-1-1964 sold under Ex. 9, A. 0,03-3 kadis of lands to one Ramchandra Panda for Rs. 390 which works out roughly to Rs. 11,800 per acre. According to this witness, the land sold under Exhibit 9 is about 100 yards off from the disputed lands.

It is well known that in determining compensation, the value fetched for small plots of land cannot be applied to lands covering a very large extent, because large area of land cannot possibly fetch a price at the same rate at which small plots are sold. We are here concerned with a large area of 12 acres of land. Therefore, the rate at which a small bit of land less than a gunth had been sold under Exhibit 9 cannot be the proper criterion to judge the value of the disputed lands. Clearly, therefore, the rate of Rs. 15,000 per acre at which compensation has been awarded by the learned Subordinate Judge cannot be accepted. The rate cannot also be as high as the one at which the land under Exhibit 9 has been sold. The principles of fixation of compensation are well settled. The market value on the basis of which compensation is payable u/s 23 of the Act means the price that a willing purchaser would pay to a willing seller for a property having due regard to its existing condition, with all its existing advantages and its potential possibilities when laid out in its most advantageous manner, excluding

any advantages due to the carrying out of the scheme for the purposes for which the property is compulsorily acquired.

Considerable reliance is placed by the respondents (F.A. 117 of 1971) on Exhibit 12/1 which is a judgment of the Subordinate Judge, Cuttack, in a reference u/s 18 of the Act in respect of land acquired for a Tile Factory in mouza Chowdar. In that case, compensation was awarded at Rs. 600 per gunth, which works out at Rs. 15,000 per acre. Even assuming that the compensation had been correctly fixed in that case, it has to be remembered that the land acquired there is situated in mouza Chowdar, whereas the lands in dispute in this case are situated in mouza Jajbhairaba and P.W. 3 has admitted that the Tile Factory is 1,000 yards off from the disputed lands. The petitioners cannot, therefore, claim compensation at the rate fixed under Exhibit 12/1. In February, 1968, the Government of Orissa in the Industries Department, in pursuance of their policy of industrial development, had undertaken certain measures to attract entrepreneurs to start industries in certain industrial areas, including Jagatpur-Chowdwar areas. For this purpose, they offered to make lands available at Rs. 7,500 per acre. Although it was termed as a concessional rate, it was open to any person who wished to start an industry in that area to make an application to Government for allotment of land at the rate announced.

15. Another piece of evidence on which reliance is placed on the respondent's side is the statement of P.W. 6 Ramavatar Modi who had stated that in 1964, he wanted to start a plastic factory on two acres of land and approached the father of petitioner No. 1 to sell to him two acres out of the disputed land at Rs. 600 per gunth. The latter, however, demanded Rs. 800 which P.W. 6 was not prepared to pay and the matter rested there. There is not a scrap of paper to support this evidence. If P.W. 6 was really sincere about starting a plastic factory, further negotiations should have been done with the father of petitioner No. 1 or he could have taken steps to purchase lands from other owners in that area. There is no such evidence that he did so. Subsequently, when the Government announced their readiness to provide lands at Rs. 7,500 per acre, P.W. 6 could have availed himself of that opportunity. But he does not appear to have done so. We are, therefore, not prepared to believe his evidence that he offered to purchase two acres out of the disputed lands at Rs. 600 per gunth.

16. On an analysis of the evidence on record and taking into consideration the fact that the disputed lands had been purchased in the year 1956 at Rs. 100 per acre, the situation of the lands with reference to the industries in the vicinity, we feel that the value thereof cannot in any event be more than Rs. 300 per gunth or Rs. 7,500 per acre, and we determine accordingly. The value of 12 acres of land would consequently be Rs. 90,000 to which would be added the statutory compensation at fifteen per cent amounting to Rs. 13,500. Respondents 1 to 4 would thus be entitled to the total amount of Rs. 1,03,500 from which should be deducted, if already received by them, the amount of Rs. 27,600 awarded by the Collector. u/s 34 of the Act, payment of interest on the excess amount is

compulsory and interest has to be calculated from the date of taking possession of the land by the Collector until the excess amount is paid or deposited. Although the trial Court has not granted interest still in view of the statutory provision referred to above, we order payment of interest to respondents 1 to 4 at the rate of six per cent per annum from the date of taking possession till, in the case of the amount awarded by the Collector the date of deposit in Court thereof, and in the case of the excess amount now awarded as compensation till payment or deposit in Court thereof. In view of the partial success of the parties, there would be no order as to costs of this appeal.

17. In the result, First Appeal No. 117 of 1971 is allowed in part to the extent indicated above, but without costs. First Appeal No. 124 of 1971 is dismissed without costs.

Ray, Actg. C.J.

18. I agree.