
(2003) 04 AP CK 0127

In the Andhra Pradesh High Court

Case No : Appeal No"s. 1053 and 1054 of 1980

P. Vishnuvardhan Reddy

APPELLANT

Vs

Government of A.P. and Another

RESPONDENT

Date of Decision : 18-04-2003

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (2003) 6 ALD 686

Hon'ble Judges : R. Subhash Reddy, J;G. Bikshapathy, J

Bench : Division Bench

Advocate : K. Pratap Reddy, for V.R. Reddy, for the Appellant; Advocate-General and R. Subba Rao, for the Respondent

Judgement

G. Bikshapathy, J.—These appeals have a long tail with tiny head.

2. Fixation of market value continue to be the never ending issue in Land Acquisition proceedings over a period of half a century. Right from Justice Romer AIR 1939 98 (Privy Council) to Justice S. V. Patil Kasturi and Others Vs. State of Haryana, Officer, the Judge made law has been a guiding factor rather than strict interpretation of statutory provisions. Yet, the edifice "market value" is based on sole principal pillar - price which a willing vendor might reasonably expect to obtain from a willing purchaser. These two obscure personalities per force make the Courts to indulge in a guesswork and create any amount of judicial exercise to feel their pulse to arrive a just and reasonable compensation.

3. Turning to the genealogy of these appeals, an extent of Ac. 37-23 gts. in S.Nos. 461, 462 and 463 and another extent of Ac. 1-39 gts. in S.No. 431 of Patancheruvu Village of Medak Mandal were acquired for Industrial Development area. Section 4(1) notifications were issued on 11-7-1974 and 2-9-1976 and awards were passed by the Land Acquisition Officer on 26-3-1976 and 9-5-1977 fixing the market value at Rs. 4,000/- per acre for the lands covered by A.S. No. 1053 of 1980 and Rs. 5,500/- per acre for the lands covered by A.S. No. 1054 of 1980. However, on reference, the reference Court increased the market value

and fixed the same at Rs. 6,000/- per acre for the lands covered by O.P. No. 135 of 1978 (dated 31-12-1979) corresponding to A.S. No. 1053 of 1980 and Rs. 7,000/- per acre for the lands covered by O.P. No. 35 of 1978, dated 31-12-1979 corresponding to A.S. No. 1054 of 1980. The reference Court passed common orders dated 31-12-1979 in a batch of O.Ps. including O.P. No. 135 of 1978 and O.P. No. 35 of 1978. Not satisfied with the enhancement the claimants carried the matter in appeal in A.S. No. 1053/ 80 and 1054/80. While the former appeal relates to the extent of Ac. 37.25 covered by notification dated 11-7-1974, later concerned with Ac. 1-39 gts. covered by notification dated 2-9-1976. The Division Bench of this Court in A.S. No. 1053 of 1980 and 1054 of 1980 by separate Orders dated 7-2-1995 fixed the market value at Rs. 17/- and Rs. 19/-per sq.yd. against which the State filed SLP before the Supreme Court. The Apex Court by an order in SLP (Civil Appeal) Nos.9532 of 1995 and 9533 of 1995, dated 20-9-2001 set aside the orders of this Court and remanded for fresh disposal, while observing thus:

"In the present case what we find is that the High Court has applied comparable sales method of valuation of the land. No doubt, the comparable sales method of valuation of land is preferred than any other method for ascertaining the true market value of acquired land. Before comparable sales method of valuation of land is applied for ascertaining the true market value of the acquired land, the Court is required first to consider certain other aspects of the matter. The first aspect is that the comparable sales should be genuine documents. The second aspect which is to be seen by the Court is whether the comparable sales relate to land in the same vicinity or village. The third aspect of the matter is whether comparable sales relate to the small pieces of land. These are the few among other aspects of the matter which are required to be seen before applying the comparable sales method of valuation of the land. It has been stated that Exhs. A-5, A-6 and A-8 which were relied upon for the assessment of the market value of the acquired land relate to a different village known as "Ramachandrapuram", whereas the claimant's land is situate in village "Patancheruvu". It has also been pointed out that Exs. A-5, A-6 and A-8 relate to small pieces of land which were building sites. It is often seen that sales in respect of a small piece of land do not reflect the true market value of large tract of land sought to be acquired, The High Court without undertaking any exercise to go into the aforesaid aspects, relied upon Exs. A-5, A-6 and A-8 for fixing the market value of the acquired land. We are, therefore, of the view that the method adopted by the High Court in fixing the market value of the acquired land was erroneous and, for that reason, the judgment under appeal deserves to be set aside. Consequently the judgment under appeal is set aside and the matter is sent back to the High Court to decide the appeal in accordance with law. The appeal is allowed. There shall be no order as to costs.

Before we part with the case, we would like to observe that we have not expressed any opinion on the merits of the matter. Further, since the matter relates to the years 1974-76, we request the High Court to decide the appeal

expeditiously, if possible within three months on receipt of the certified copy of this order.

CA. No. 9533/95:

In this appeal the preliminary notification u/s 4 of the Act is stated to have been issued in the year 1974. However, the High Court has applied Exs. A-5, A-6 and A-8 for fixing the market value of the acquired land. For the reasons given in Civil Appeal No. 9532/95, this appeal is also deserves to be allowed. Consequently, the judgment of the High Court is set aside and the matter is sent back to the High Court for decision on merits. The appeal is allowed. There shall be no order as to costs."

Thus, the matters are once again heard on the question of proper fixation of market value.

4. On the aforesaid scenario, the sole principal question is what is the just and reasonable compensation that can be fixed?

5. The Privy Council and Apex Court have laid down multifaceted principles to ascertain the compensation. But, these principles are not straightjacket formulae and they are to be stented with reference to the structural foundation of the case.

6. In Vyricherla Narayana Gajapatiraju v. Revenue Divisional Officer case (supra), an extent of Ac. 105-92 cents was acquired by the Vizagapatnam Harbour Authority in February, 1928 for execution of anti-malarial works. While referring to Section 23 of the Act, the Privy Council observed:

"The compensation must be determined therefore, by reference to the price which a willing vendor might reasonably expect to obtain from a willing purchaser. The disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy must alike be disregarded. Neither must be considered as acting under compulsion. This is implied in the common saying that the value of the land is not to be estimated as its value to the purchaser. But, this does not mean that the fact that some particular purchaser might desire the land more than others is to be disregarded. The wish of a particular purchaser, though not his compulsion, may always be taken into consideration for what it is worth. But, the question of what it may be worth, that is to say, to what extent it should affect the compensation to be awarded is one that will be dealt with later in this judgment. It may also be observed in passing that it is often said that it is the value of the land to the vendor that has to be estimated. This however is not in strictness accurate. The land for instance, may have for the vendor a sentimental value far in excess of its "market value." But, the compensation must not be increased by reason of any such consideration. The vendor is to be treated as a vendor willing to sell at "the market price", to use the words of Section 23 of the Indian Act."

7. Explaining the expression the "market price" the Privy Council stated:

"It is perhaps desirable in this connection to say something about this expression "the market price". There is not in general any market for land in the sense in which one speaks of a market for shares or a market for sugar or any like commodity. The value of any such article at any particular time can readily be ascertained by the prices being obtained for similar articles in the market. In the case of land, its value in general can also be measured by a consideration of the prices that have been obtained in the past for land of similar quality and in similar positions, and this is what must be meant in general by "the market value" in Section 23. But sometimes it happens that the land to be valued possesses some unusual, and it may be, unique features as regards its position or its potentialities. In such a case the Arbitrator in determining its value will have no market value to guide him, and he will have to ascertain as best he may from the materials before him, what a willing vendor might reasonably expect to obtain from a willing purchaser, for the land in that particular position and with those particular potentialities. For it has been established by numerous authorities that the land is not to be valued merely by reference to the use to which it is being put at the time at which its value has to be determined that time under the Indian Act being the date of the notification u/s 4(1), but also by reference to the uses to which it is reasonably capable of being put in the future. No authority indeed is required for this proposition. It is a self-evident one. No one can suppose in the case of land which is certain, or even likely, to be used in the immediate or reasonably near future for building purposes but which at the valuation date is waste land or is being used for agricultural purposes, that the owner, however willing a vendor, will be content to sell the land for its value as was to or agricultural land as the case may be. It is plain that in ascertaining its value, the possibility of its being used for building purposes would have to be taken into account. It is equally plain, however, that the land must not be valued as though it had already been built upon, a proposition that is embodied in Section 24(5) of the Act and is sometimes expressed by saying that it is the possibilities of the land and not its realized possibilities that must be taken into consideration.

8. Delving on the potentiality of the land vis-a-vis its value, it observed:

"But, how is the increase accruing to the value of the land by reason of its potentialities or possibilities to be measured? In the case instanced above of land possessing the possibility of being used for building purposes, the Arbitrator (which expression in this judgment includes any person who has to determine the value) would probably have before him evidence of the prices paid, in the neighbourhood, for land immediately required for such purposes. He would then have to deduct from the value so ascertained such a sum as he would think proper by reason of the degree of possibility that the land might never be so required or might not be so required for a considerable time. In the case however of land possessing potentialities of such an unusual nature that the Arbitrator has not similar cases to guide him, the value of the land must be ascertained in some other way. In such a case moreover there will be in all

probability be only a very limited number of persons capable of turning the potentialities of the land to account.

Proceeding, therefore, with the imaginary auction at which are present two classes of buyers viz., the "poramboke buyers" and the "potentiality buyers", the former will disappear from the bidding as soon as the "poramboke" value has been reached, and the bidding will thereafter be confined to the "potentiality buyers". But at what figure will this bidding stop? As already pointed out it cannot be imagined as going on until the ultimate purchaser has been driven by the competition up to a fantastic price. For he is *ex hypothesi* a willing purchaser and not one who is by circumstances, forced to buy. Nor can the bidding be imagined to stop at the first advance on the poramboke value. For the vendor is a willing vendor and not one compelled by circumstances to sell his potentiality for anything that he can get. The Arbitrator will therefore, continue the imaginary bidding until a bid is reached which, in the Arbitrator's estimate, represents the true value to the vendor of the potentiality. The auction will therefore, have been an entire waste of the Arbitrator's imagination. If the value of the potentiality be Rs. X, the imaginary action will have taken place to ascertain the value of X from the imaginary bidding, and all that can be said is that the bidding will stop at Rs. X. The truth of the matter is that the value of the potentiality must be ascertained by the Arbitrator on such materials as are available to him and without indulging in feats of the imagination.

Upon the question of the value of the potentiality where there is only one possible purchaser, there are some authorities to which their Lordships will have to refer. But dealing with the matter apart from authority it would seem that the value should be the sum which the Arbitrator estimates a willing purchaser will pay and not what a purchaser will pay under compulsion. It was contended on behalf of respondent that in a *tan* auction where there is only one possible purchaser of the potentiality, the bidding will only rise above the "poramboke" value sufficiently to enable the land to be knocked down to that purchaser. But, if the potentiality is of value to the vendor if there happen to be two or more possible purchasers of it, it is difficult to see why he should be willing to part with it for nothing merely because there is only one purchaser. To compel him to do so is to treat him as a vendor parting with his land under compulsion and not as a willing vendor. The fact is that the only possible purchaser of a potentiality is usually quite willing to pay for it. An instance of this is to be found in *Inland Revenue Commissioners v. Clay* (1914) 3 K.B.466. That was a case *u/s* 25(1), Finance (1909-1910) Act, 1910, and is not perhaps strictly relevant to the present case. The facts of it however are worth recalling. There was a house of which the value to anyone except certain trustees was no more than \$ 750. These trustees were the owners of a nurses' home which adjoined the house, and they were desirous of extending their premises. They accordingly, purchased the house for \$1000, the owner thus receiving \$ 250 for the potentiality his house possessed by reason of its position adjoining the nurses' home. It was held by the Court of appeal that \$ 1000 was the value of the house to a willing

seller. "To say", said Lord Cozens-Hardy M.R. that a small farm in the middle of a wealthy landowner's estate is to be valued without reference to the fact that he will probably be willing to pay a large price, but solely with reference to its ordinary agricultural value, seems to me absurd."

9. This landmark judgment continued to be a beckon light and perennially emitting its rays (principles) to assist the Courts to reach right conclusions.

10. In *Raghubans Narain Singh v. U.P, Government Through Collector of Bijnor*, AIR 1967 SC 465, the Supreme Court reiterated the principle in the following words:

"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 advantage due to the carrying out of the scheme for the purposes for which the property is compulsorily acquired. As observed in *South Eastern Rail Company v. L.C.C (I)* (1915) 2 Ch. 252):

"The value to be ascertained is the price to be paid for the land with all its potentialities, and with all the use made of it by the vendor."

Dealing with the doctrine of potential value this Court in *N.B. Jeejabhoy v. The District Collector, Thana* (Civil Appeal Nos. 313 to 315 of 1963, dated 30-8-1965 (SC) observed as follows:

"A vendor willing to sell his land at the market value will take into consideration a particular potentiality or special adaptability of the land in fixing the price. It is not the fancy or the obsession of the vendor that enters the market value, but the objective factor namely, whether the said potentiality can be turned to account within a reasonably near future.....The question therefore turns upon the facts of each case. In the context of building potentiality many questions will have to be asked and answered: whether there is pressure on the land for building activity, whether the acquired land is suitable for building purposes, whether the extension of the said activity is towards the land acquired, what is the pace of the progress and how far the said activity has extended and within what time, whether buildings have been put up on lands purchased for building purposes, what is the distance between the built-in-land and the land acquired and similar other questions will have to be answered. It is the overall picture drawn on the said relevant circumstances that affords the solution."

11. In *Ebrahim Akbaralli v. The District Deputy Collector, P&Harpur Division, District Sholapur*, (1969) 3 SCC 735, the Supreme Court held thus:

"It is true that the major portion of the land bears the technical nomenclature non-agricultural land but is possessed of all the requisite potentialities for being converted into building sites- It is well established that adaptability of the agricultural land as site for buildings is an essential element to be taken into

account for determining the market value. The entire land required should be valued on the basis of its adaptability for building purposes. As regards the measure of valuation, it is necessary to take into account the prices that have been obtained for lands similarly situated in the same neighbourhood at the relevant period."

12. Justice Krishna Iyer in *The Dollar Company, Madras Vs. Collector of Madras*, , introduced yet another method of ascertaining the market value. He said:

"It is true that compensation for compulsory acquisition, as governed by Section 23, gives high priority to the market value of the land at the date of the publication of the notification u/s 4, Sub-section (1). But what is market value? It is a common place of this branch of jurisprudence that the main criterion is what a willing purchaser would pay a willing vendor. Ordinarily a party will be entitled to get the amount that he actually and willingly paid for a particular property, provided the transaction be bona fide and entered into with due regard to the prevalent market conditions and is proximate in time to the relevant date u/s 23. We may even say that the best evidence of the value of property is the sale of the very property to which the claimant is a party. If the sale is of recent date, then all that need normally be proved is that the sale was between a willing purchaser and a willing seller, that there has not been any appreciable rise or fall since and that nothing has been done on the land during the short interval to raise its value (See Park's "Principles and Practice of Valuations" P.29 - Eastern Law House, Calcutta -IV Edition, 1970)."

13. In *Thakur Kamta Prasad Singh (Dead) by Lrs. Vs. The State of Bihar*, , the Supreme Court again reiterated the basic principle thus:

"Section 23 of the Act provides that in determining the amount of compensation to be awarded for land acquisition under the Act the Court shall inter alia take into consideration the market value of the land at the date of the publication of the notification u/s 4 of the Act. Market value means the price that a willing purchaser would pay to a willing seller for the property having due regard to its existing condition with all its existing advantages and its potential possibilities when laid out in the most advantageous manner excluding any advantages due to the carrying out of the scheme for which the property is compulsorily acquired. In considering market value disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy should be disregarded. There is an element of guess work inherent in most cases involving determination of the market value of the acquired land, but this in the very nature of things cannot be helped. The essential thing is to keep in view the relevant factors prescribed by the Act. If the judgment of the High Court reveals that it has taken into consideration the relevant factors, its assessment of the fair market value of the acquired land should not be disturbed. No such infirmity has been brought to our notice as might induce us to disturb the finding of the High Court. The appeal consequently fails and is dismissed but in the circumstances without costs."

14. When a large tract of land is acquired, and the value of small plots are available for comparison, the method of assessing the market value has been indicated by the Supreme Court in many decisions.

15. In *Smt. Kausalya Devi Bogra and Others Vs. Land Acquisition Officer, Aurangabad and Another*, , the Supreme Court observed as under:

"When large tracts are acquired, the transaction in respect of small properties do not offer a proper guideline..... In certain other cases this Court indicated that for determining the market value of a large property on the basis of a sale transaction for smaller property a deduction should be given."

16. The Supreme Court made further observations in *Administrator General of West Bengal Vs. Collector, Varanasi*, , thus:

"The principle that evidence of market value of sales of small, developed plots is not a safe guide in valuing large extents of land has to be understood in its proper perspective. The principle requires that prices fetched for small developed plots cannot directly be adopted in valuing large extents. However, if it is shown that the large extent to be valued does admit of and is ripe for use for building purposes; that building lots that could be laid out on the land would be good selling propositions and that valuation on the basis of the method of a hypothetical lay-out could with justification be adopted, then in valuing such small, laid out sites the valuation indicated by sale of comparable small sites in the area at or about the time of the notification would be relevant. In such a case, necessary deductions for the extent of land required for the formation of roads and other civic amenities; expenses of development of the sites by laying out roads, drains sewers, water and electricity lines, and the interest on the outlays for the period of deferment of the realisation of the price; the profits on the venture etc., are to be made."

17. The Supreme Court in a recent decision in *Spl. Tehsildar, Land Acqn., Vishakapatnam Vs. Smt. A. Mangala Gowri*, , following the decision in *Smt. Tribeni Devi and Others Vs. Collector of Ranchi*, , pointed out as under:

"It is to be noted that in building Regulations setting apart the lands for development of roads, drainage and other amenities like electricity etc. are condition precedent to approve lay out for building colonies. Therefore, based upon the situation of the land and the need for development the deduction shall be made. Where acquired land is in the midst of already developed land with amenities of roads, drainage, electricity etc., then deduction of 1/3rd would not be justified. In the rural areas housing schemes relating to weaker sections deduction of 1/4th may be justified."

18. In *Bhagwathula Samanna and others Vs. Special Tahsildar and Land Acquisition Officer, Visakhapatnam Municipality*, , further observed that in circumstances, the deduction need not be resorted to and observed thus:

"The principle of deduction in the land value covered by the comparable sale is

thus adopted in order to arrive at the market value of the acquired land. In applying the principle it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition, the only relevant factor. Even in the vast area there may be land which is fully developed having all amenities and situated in an advantageous position. If smaller area within the large tract is already developed and suitable for building purposes and have in its vicinity roads, drainage, electricity, communications etc., then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified. The proposition that large area of land cannot possibly fetch a price at the same rate at which small plots are sold is not absolute proposition and in given circumstances it would be permissible to take into account the price fetched by the small plots of land. If the larger tract of land because of advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not warranted. With regard to the nature of the plots involved in these two cases, it has been satisfactorily shown on the evidence on record that the land has facilities of road and other amenities and is adjacent to a developed colony and in such circumstances it is possible to utilise the entire area in question as house sites. In respect of the land acquired for the road, the same advantages are available and it did not require any further development. We are, therefore, of the view that the High Court has erred in applying the principle of deduction and reducing the fair market value of land from Rs. 10/- per sq. yard to Rs. 6.50 paise per sq.yard. In our opinion, no such deduction is justified in the facts and circumstances of these cases. The appellants, therefore, succeed."

19. Deductions for the market value while comparing the sales of higher extent of lands with the smaller ones, it has been laid down by the Supreme Court that the deduction has to be made taking into consideration various factors. While no deduction is warranted in respect of a well developed land with all infrastructural facilities, in an undeveloped area in urban localities, 1/3rd deduction and in case of rural housing schemes 1/4th deduction was felt just and reasonable. Justice K. Ramaswamy in Spl. Tehsildar, Land Acqn., Vishakapatnam Vs. Smt. A. Mangala Gowri, , held thus:

"It is to be noted that in building Regulations, setting apart the lands for development of roads, drainage and other amenities like electricity etc., are condition precedent to approve layout for building colonies. Therefore, based upon the situation of the land and the need for development the deduction shall be made. Where acquired land is in the midst of already developed land with amenities of roads, drainage, electricity etc., then deduction of 1/3rd would not be justified. In the rural areas housing schemes relating to weaker sections deduction of 1/4th may be justified."

20. In The Special Land Acquisition Officer and another etc. etc. Vs. Sri Siddappa

Omanna Tumari and others etc., , the Supreme Court while reiterating that some guess work is unavoidable observed thus:

"The estimation of market value of the acquired land depends on evaluation of many imponderables. Play of conjecture and guess in the estimation of market value of the acquired land cannot be avoided even though such conjecture or guess has to be founded on the facts and circumstances of each case. But, the market value of the acquired land must be the near estimate of the price which the claimant by voluntarily selling the awarded land would have got from a willing purchaser. What could be regarded as the near estimate of the acquired land has to be ascertained, be it the Collector or be it the Court on the basis of authenticated transactions of sales or agreements to sell relating to the same land or a portion of it wherever possible because such transactions of sale or agreements to sell are always regarded as the best evidence available for the purpose.

However, the Court cautioned that the comparison should be resorted as a last step and said thus:

"One aspect, which however, should weigh is, that determination of the value of large extents of acquired lands on the basis of the prices fetched by smaller plots must be a matter of last resort and should be adopted when there is no possibility of determining the market value of acquired lands on the basis of comparable transactions of larger extents."

21. In Gujarat Industrial Development Corpn. Vs. Narottambhai Morarbhai and Another, , the Supreme Court introduced the deduction of market value under armchair theory and observed thus:

"No prudent purchaser would purchase large extent of land on the basis of sale of a small extent of land in the open market. The acid test the Court should always adopt in determining market value in the matter of compulsory acquisition would be to eschew feats of imagination, sit in the armchair of a prudent willing purchaser, it should consider whether the willing vendee would offer the rate at which the Trial Court proposes to determine the compensation. Taking these facts into consideration, we are of the view that the reasonable and adequate compensation for the lands would be at a net rate of Rs. 22/-per sq.mtr. After giving deduction of 1/3rd of the amount towards developmental charges."

22. Even in respect of past notification sales, the Supreme Court in Mehta Ravindrarai Ajitrai (Deceased) by Lrs and Others Vs. State of Gujarat, , said they cannot be ignored. While holding that distress sale cannot be the criteria for determination of market value, the Court observed thus:

"The market value of a piece of property for purposes of Section 23 the Land Acquisition Act is stated to be price at which the property changes hands from a willing seller to a willing, but not too anxious a buyer, dealing at arms length.

Prices fetched for similar lands with similar advantages and potentialities under bona fide transactions of sale at or about the time of the preliminary notification are the usual and, indeed the best, evidences of market value (See: Administrator General of West Bengal Vs. Collector, Varanasi, .

Keeping these factors in mind, we feel that although the instance reflected in the sale deed (Exhibit 152) and the agreement for sale in connection with that land, pertains to a sale after the acquisition, it can be fairly regarded as reasonably proximate to the acquisition and, in the absence of any, evidence to show, that there was any speculative or sharp rise in the prices after the acquisition, the agreement of sell dated January 21, 1957 must be regarded as furnishing some light on the market value of the land on the date of publication of Section 4 notification. However, certain factors have to be taken into account and appropriate deductions made from the rate disclosed in the said agreement to sell in estimating the market value of the land with which we are concerned at the date of the acquisition. One of these factors is that there seems to have been some rise in the price of land on account of the acquisition of the land in question before us for purposes of constructing an industrial estate. Another factor is that the land proposed to be purchased under the said agreement to sell was adjoining the land of the purchaser and the purchaser might have paid some extra amount for the convenience of getting the neighbouring land."

23. Similar view is contained in Administrator General of West Bengal Vs. Collector, Varanasi, . The Supreme Court observed thus:

"The market-value of a piece of property, for purposes of Section 23 of the Act, is stated to be the price at which the property changes hands from a willing seller to a willing, but not too anxious a buyer, dealing at arms length. The determination of market-value, as one author put it, is the prediction of an economic event, viz, the price-outcome of a hypothetical sale, expressed in terms of probabilities. Prices fetched for similar lands with similar advantages and potentialities under bona fide transactions of sale at or about the time of the preliminary notification are the usual, and indeed the best, evidences of market-value. Other methods of valuation are resorted to if the evidence of sale of similar lands is not available.

Prices fetched for small plots cannot form safe bases for and cannot be directly adopted in valuation of large tracts of land as the two are not comparable properties-the former reflects the "retail" price of land and the latter the "wholesale" price. However, if it is shown that the large extent to be valued does admit of and is ripe for use for building purposes; that building lots that could be laid out on the land would be good selling propositions and that valuation on the basis of the method of a hypothetical layout could with justification be adopted, then in valuing such small laid out sites the valuation indicated by sale of comparable small sites in the area or about the time of the notification would be relevant. In such a case, necessary deductions for the extent of land required for the formation of roads and other civic amenities; expenses of development of the

sites laying out roads, drains, sewers, water and electricity lines and the interest on the outlays for the period of deferment of the realisation of the price; the profits on the venture etc., are to be made. From the value of small plots which represents what may be called the retail price of land, the "wholesale" price of land is to be estimated. This is a simple way of cross-checking whether the valuation made in a particular case after taking into account all the relevant factors calls for or justifies any upward revision at all. This is not so in the present case, where Rs. 200/-per decimal for the large extent of the acquired land worked out to 40 per cent of the "retail" price.

Subsequent transactions which are not proximate in point of time to the acquisition can be taken into account for purposes of determining whether as on the date of acquisition there was an upward trend in the prices of land in the area. Further, under certain circumstances where it is shown that the market was stable and there were no fluctuations in the prices between the date of the preliminary notification and the date of such subsequent transaction, the transaction could also be relied upon to ascertain the market value. But, this principle could be appealed to only where there is evidence to the effect that there was no upward surge in the prices in the interregnum. The burden of establishing this would be squarely on the party relying on such subsequent transaction."

24. In *Land Acquisition Officer, Eluru and Others Vs. Jasti Rohini (Smt) and Another*, a more detailed guidelines were carved out by the Supreme Court, While reiterating the principle settled by Lord Romer, the Supreme Court observed thus:

"The question of fixation of market value is a paradox which lies at the heart of the law of compulsory purchase of land. The paradox lies in the facts that the market value concept is purely a phenomenon evolved by the Courts to fix the price of land arrived between the hypothetical willing buyer and willing seller bargaining as prudent persons without a medium of constraints or without any extraordinary circumstances. But the condition of free market is the very opposite of the condition of the compulsory purchase which is *ex hypothesi*, a situation of constraints. Therefore, to say, that for compulsory purchase, compensation is to be assessed and market value is to be determined in that state of affairs has to be visualised in terms by its direct opposite. To solve the riddle, Courts have consistently evolved the principle that the present value as on the date of the compulsory acquisition comprised of all utility reached in a competitive field as on the date of the notification and the price on which a prudent and willing vendor and a similar purchaser would agree. The value of the land shall be taken to be the amount that the land if sold in the open market by a willing seller might be expected to realise from a willing purchaser. A willing seller is a person who is a free agent to offer his land for sale with all its existing advantages and potentialities as on the date of the sale and willing purchaser taking all factors into consideration would offer to purchase the land as on the

date of the sale. The compensation must, therefore, be determined by reference to the price which a willing vendor might reasonably expect to obtain from a willing purchaser as on the date of the notification published u/s 4(1). The disinclination of the seller to part with his land and the urgent necessity of the vendee to purchase the land must, alike, be disregarded and neither of them must be considered as acting under compulsion.

In determining the market value and fixation of com, the Act should be alive to the factors mentioned in Section 24 of the Act and keep them at the back of the mind and should not be influenced by the future or later development in the locality or neighbourhood and should not get influenced by the prevailing situation as on the date of the determination of the com. Its consideration should alone be confined to the market value prevailing as on the date of the notification u/s 4(1).

The reasonable method to determine the market value of the acquired land is on the evidence of transactions of bona fide sales of acquired land, but not on evidence of sales of such land got up having had knowledge of the proposed acquisition, the former would furnish reasonable basis to determine the compensation. In its absence, bona fide sales but not manipulated sales of the lands in the neighbourhood possessed of same or similar quality and having the same or similar advantages would give an unerring assurance to the Court to determine just and proper compensation. Such sales must not only be proved but also be bona fide transactions etc. These factors must be established as a fact by examining either the vendor or the vendee. Marking of certified copies of sale deeds are not proof of either the contents or the circumstances in which it came to be executed. Bona fide sale or series of sales of small pieces of land do not furnish the sole basis to determine market value. Bona fide sales may furnish evidence of the market conditions for consideration.

In fixing the market value on the basis of its potentiality for use for building purposes, it must be established by evidence aliunde that the potential purpose must exist as on the date of acquisition by other possible purchasers in the market conditions, prevailing as on the date of the notification. Existence of constructed house or construction activity in other similar lands in the locality for the purpose contended for or of purchase for such purposes as on the date of proposed acquisition prima facie indicates that there is demand for and the possibility of the immediate user of the land and it is a reasonable possibility to infer that the acquired lands also are possessed of potential value. Therefore, the existence of a demand for and a market at the time of acquisition for potential use must be established as a fact from reliable and acceptable evidence to show that if the acquired land has been thrown into the market, others would have bought it for the special purposes or for building activity which would show the demand for and a market to purchase the land possessed of potential value for the purpose of building activity at that time. On proof thereof the land must not be valued as though it has already been built up but the possibility to use for

building purpose existing as on the date of the notification must be taken into consideration. The question whether the land has potential value as a building site or not is primarily one of fact depending upon diverse factors as to its conditions, the use to which it is put or is reasonably capable of being put and its suitability for building purpose. Its proximity to residential, commercial or industrial area, existence of educational, cultural, industrial or commercial institutions, existence of amenities like water, electricity, drainage and the possibility of future extension in that area, the existence of or prospects of development schemes, the existence or absence of building activities towards the acquired land or in the neighbourhood thereof are the relevant facts to be taken into consideration in evaluating the market value on the basis of potential use of the land. It is true that an element of guess, in an estimate, would have a play in determining the market value. But the present value alone falls to be determined and feats of imagination should not run riot or travel beyond its manifest limits nor be an arbitrary or whim of the Court in determining the compensation or the fixation of the market value. The existing conditions, the demand for the land in the neighbourhood and other related and relevant facts should be taken into consideration in determining the compensation on the basis of potential value of the land."

However, in later cases, proving the Sale Deeds by examining vendor or vendee was not considered essential requirement. Interpreting Section 51-A, the Supreme Court in *Land Acquisition Officer and Mandal Revenue Officer Vs. V. Narasaiah*, , held that the certified copies of the documents of Sale Deeds without examining the parties can be looked into as they possess evidentiary value. It held thus:

"Section 51-A has been incorporated in the Land Acquisition Act, 1894 specifically for obviating the insistence for examination of anyone connected with the transaction mentioned in Sale Deeds relating to similar lands situated in vicinity of acquired land if the Court has to consider such transactions as evidence in the case. The State has the burden to prove the market value of the lands acquired by it for which the State may have to depend upon the prices of lands similarly situated which were transacted or sold in the recent past, particularly those lands situated in the neighbouring areas. The practice had shown that for the State officials it was a burden to trace out the persons connected with such transactions mentioned in the sale deeds and then to examine them in Court for the purpose of proving such transactions. It was in the wake of the aforesaid practical difficulties that the new Section 51-A was introduced in the L.A. Act. The words "may be accepted as evidence" the Section indicate that there is no compulsion on the Court to accept such transaction as evidence, but it is open to the Court to treat them as evidence. Merely accepting them as evidence does not mean that the Court is bound to treat them as reliable evidence. What is sought to be achieved is that the transactions recorded in the documents may be treated as evidence, just like any other evidence, and it is for the Court to weigh all the pros and cons to decide whether such

transaction can be relied on for understanding the real price of the land concerned. It is open to the Court to act on the documents regarding the transaction recorded in such documents. However, this will not prevent any party who supports or opposes the said document or the transaction recorded therein to adduce other evidence to substantiate their stand regarding such transactions. But it is not possible to hold that even after the introduction of Section 51-A the position would remain the same as before. Therefore, certified copies of the sale-deed could not be considered without examining persons connected with the transactions mentioned therein."

(See also: *State of Haryana v. Ram Singh*, (2001) 5 ALT 37 SC = AIR 2001 SC 2532) and *Land Acquisition Officer and Mandal Revenue Officer Vs. V. Narasaiah*,

In this case, the Court further held thus:

"If the only purpose served by Section 51-A is to enable the Court to admit the copy of the document in evidence there was no need for a legislative exercise because even otherwise the certified copy of the document could have been admitted in evidence.

The State has the burden to prove the market value of the lands acquired by it for which the State may have to depend upon the prices of lands similarly situated which were transacted or sold in the recent past, particularly those lands situated in the neighbouring areas. The practice had shown that for the State officials it was a burden to trace out the persons connected with such transaction mentioned in the sale deeds and then to examine them in Court for the purpose of proving such transactions. It was in the wake of the aforesaid practical difficulties that the new Section 51-A was introduced in the L.A. Act. When the Section says that certified copy of a registered document "may be accepted as evidence of the transaction recorded in such document" it enable the Court to treat what is recorded in the document, in respect of the transactions referred to therein, as evidence.

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

25. The assessment of market value based on comparable sales method was approved as a safe method by the Supreme Court in *Shaji Kuriakose and Another Vs. Indian Oil Corpn. Ltd. and Others*, , the Supreme Court observed as follows:

"True that Courts adopt Comparable Sales Method of valuation of land while fixing the market value of the acquired land. While fixing the market value of the

acquired land, Comparable Sales Method of valuation is preferred than other methods of valuation of land such as Capitalization of Net Income Method or Expert Opinion Method. Comparable Sales Method of valuation is preferred because it furnishes the evidence for determination of the market value of the acquired land at which a willing purchaser would pay for the acquired land if it has been sold in open market at the time of issuing of notification u/s 4 of the Act. However, Comparable Sales Method of valuation of land for fixing the market value of the acquired land is not always conclusive. There are certain factors which are required to be fulfilled and on fulfillment of those factors the compensation can be awarded, according to the value of the land reflected in the sales. The factors laid down inter alia are: (1) the sale must be a genuine transaction, that (2) the sale deed must have been executed at the time proximate to the date of issue of notification u/s 4 of the Act, that (3) the land covered by the sale must be in the vicinity of the acquired land, that (4) the land covered by the sales must be similar to the acquired land and that (5) the size of plot of the land covered by the sales be comparable to the land acquired. If all these factors are satisfied, then there is no reason why the sale value of the land covered by the sales be not given for the acquired land. However, if there is a dissimilarity in regard to locality shape, site or nature of land between land covered by sales and land acquired, it is open to Court to proportionally reduce the compensation for acquired land than what is reflected in the sales depending upon the disadvantages attached with the acquired land."

26. The Supreme Court in *Prithvi Raj Taneja (Dead) by Lrs. Vs. The State of Madhya Pradesh and Another*, , fixed the guidelines by stating thus:

"Section 23 of the Land Acquisition Act provides that in determining the amount of compensation to be awarded for the land acquired under the Act, the Court shall take into account inter alia the market value of the land at the date of the publication of the notification u/s 4 of the Act. The market value means price that a willing purchaser would pay to a willing seller for the property, having due regard to its existing condition with all its existing advantages and its potential possibilities when laid out in the most advantageous manner excluding any advantage due to the carrying out of the scheme for which the property is compulsorily acquired. In considering market value the disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy should, be disregarded. There is an element of guess-work inherent in most cases involving determination of the market value of the acquired land. But this in the very nature of things cannot be helped. The essential thing is to keep in view the relevant factors prescribed by the Act. If the judgment of the High Court reveals that it has taken into consideration the relevant factors, the assessment of the market value of the acquired land should not be disturbed."

27. In *P. Ram Reddy and Others Vs. Land Acquisition Officer, Hyderabad Urban Development Authority, Hyderabad and Others*, , the facts which are relevant for determining the compensation-market value have been succinctly stated thus:

"The fact that the acquired land had been acquired for building purposes, cannot be sufficient circumstance to regard it as a land with building potentiality. Possibility of the user of the acquired land for building purposes can never be wholly a matter of conjecture or surmise or guess. On the other hand, it should be a matter of inference to be drawn based on appreciation of material placed on record to establish such possibility. Material so placed on record or made available must necessarily relate to the matters such as:

(I) the situation of the acquired land vis-a-vis the city or the town or village which had been growing in size because of its commercial, industrial, educational, religious or any other kind of importance or because of its explosive population;

(II) the suitability of the acquired land for putting up the buildings, be they residential, commercial or industrial, as the case may be;

(III) possibility of obtaining water and electric supply for occupants of buildings to be put up on that land;

(IV) absence of statutory impediments or the like for using the acquired land for building purposes;

(V) existence of highways, public roads, layouts of building plots or developed residential extensions in the vicinity or close proximity of the acquired land;

(VI) benefits or advantages of educational institutions, health care centres, or the like in the surrounding areas of the acquired land which may become available to the occupiers of buildings, if built on the acquired land; and

(VII) lands around the acquired land or the acquired land itself being in demand for building purposes, to specify a few.

Hence, whether the acquired land has building potentiality or not, has to be decided upon reference to the material to be placed on record or made available by the parties concerned. The material to be so placed on record or made available in respect of the said matters and the like cannot have the needed evidentiary value for concluding that the acquired land being used for building purposes in the immediate or near future unless the same is supported by reliable documentary evidence, as far as the circumstances permit."

28. In *Periyar and Pareekanni Rubbers Ltd. Vs. State of Kerala*, , the Supreme Court laid down certain test for assessing the market value, it held thus:

"What is fair and reasonable market value is always a question, of fact depending on the nature of the evidence, circumstances and probabilities in each case. The guiding star would be the conduct of a hypothetical willing vendor would offer the lands and willing purchaser in normal human conduct would be willing to buy as a prudent man in normal market conditions as on the date of the notification u/s 4(1) but not an anxious buyer dealing at arm's length nor facade of sale or fictitious sales brought about in quick succession or otherwise to inflate the

market value.

When the Courts are called upon to fix the market value of the land in compulsory acquisition, the best evidence of the value of property is the sale of the acquired land to which the claimant himself is a party, in its absence the sales of the neighbouring lands. The transaction relating to the acquired land of recent dates or in the neighbourhood lands that possessed of similar potentiality or fertility or other advantageous, features are relevant pieces of evidence. In proof of the sale transaction, the relationship of the parties to the transaction, the market conditions, the terms of the sale and the date of the sale are to be looked into. These features would be established by examining either the vendor or vendee and if they are not available, the attesting witnesses who have personal knowledge of the transaction etc. The original sale deed or certified copy thereof should be tendered as evidence. The underlying principle to fix a fair market value with reference to comparable sale is to reduce the element of speculation. In a comparable sale the features are: (1) it must be within a reasonable time of the date of the notification; (2) it should be a bona fide transaction; (3) it should be a sale of the land acquired or land adjacent to the land acquired and (4) it should possess similar advantages. These should be established by adduction of material evidence by examining as stated above the parties to the sale or persons having personal knowledge of the sale transactions. The proof also would focus on the fact whether the transactions are genuine and bona fide transactions.

It is the paramount duty of the Courts of facts to subject the evidence to close scrutiny, objectively assess the evidence tendered by the parties on proper considerations thereof in correct perspective to arrive at reasonable market value. The attending facts and circumstances in each case would furnish guidance to arrive at the market value of the acquired lands. The neighbourhood lands possessed of similar potentialities or same advantageous features or any advantageous special circumstances available in each case also are to be taken into account. Thus, the object of the assessment of the evidence is to arrive at a fair and reasonable market value of the lands and in that process sometimes trench on the border of the guesswork but mechanical assessment has to be eschewed. The Judges are to draw from their experience and the normal human conduct of parties in bona fide and genuine sale transactions is the guiding star in evaluating evidence. Misplaced sympathies or undue emphasis solely on the claimants' right to compensation would place heavy burden on the public exchequer to which everyone contributes by direct or indirect taxes.

The official act cannot be a refuge to fix arbitrary and unreasonable market value and the persons concerned shall not camouflage the official act to a hidden conduct in the function of fixing arbitrary or unreasonable compensation to the, acquired land. Equally it is statutory to note that the claimant has legal and legitimate right to a fair and reasonable compensation to the land he is deprived of by legal process. The claimant has to be recompensated for. rehabilitation or

to purchase similar lands elsewhere. In some cases for lack of comparable sales it may not be possible to adduce evidence of sale transactions of the neighbouring lands possessed of same or similar quality. So insistence of adduction of precise or scientific evidence would cause disadvantage to the claimants in not getting the reasonable and proper market value prevailing on the date of notification u/s 4(1). Therefore, it is the paramount duty of the Land Acquisition Judge/authority to keep before him always the even scales to adopt pragmatic approach without indulging in "facts of imagination" and assess the market value which is reasonably capable to fetch reasonable market value."

29. In *Kasturi and Others Vs. State of Haryana*, , the Supreme Court resurveyed the entire gamut of decisions relating to the fixation of the market value and deductions towards the development charges. In that case, the Supreme Court however upheld the deduction of 20% towards the development charges, basing on the facts of that case. But, however, it made general observations which are as follows:

"In respect of agricultural land or undeveloped land which has potential value for housing or commercial purposes, normally 1/3rd amount of compensation has to be deducted out of the amount of compensation payable on the acquired land subject to certain variations depending on its nature, location, extent of expenditure involved for development and the area required for roads and other civil amenities to develop the land so as to make the plots for residential or commercial purposes. A land may be plain or uneven, the soil of the land may be soft or hard bearing on the foundation for the purpose of making construction; may be the land is situated in the midst of a developed area all around but that land may have a hillock or may be low-lying or may be having deep ditches. So the amount of expenses that maybe incurred in developing the area also varies. A claimant who claims that his land is fully developed and nothing more is required to be done for developmental purposes, must show on the basis of evidence that it is such a land and it is so located. In the absence of such evidence, merely saying that the area adjoining his land is a developed area, is not enough particularly when the extent of the acquired land is large and even if a small portion of the land is abutting the main road in the developed area, does not give the land character of a developed area. There is difference between a developed area and an area having potential value, which is yet to be developed. The fact that an area is developed or adjacent to a developed area will not also ipso facto make every land situated in the area also developed to be valued as a building or a site or plot, particularly when vast tracts are acquired, as in this case, for development purpose. The land acquired even if one portion on one side abuts the main road, the remaining large area where planned development is required, needs laying of internal roads, drainage, sewer, water, electricity lines, providing civic amenities etc. However, in cases of some land where there are certain advantages by virtue of the developed area around, it may help in reducing the percentage of cut to be applied, as the developmental charges required may be less on that account. There may be various factual factors which

may have to be taken into consideration while applying the cut in payment of compensation towards developmental charges, maybe in some cases it is more than 1/3rd and in some cases less than 1/3rd.

The acquired land is not a small plot located in such a way that no other development was required at all and it could be utilized as it is as a developed building site. The land acquired is a large area and it was not developed. Though may be it had some advantages; a small portion of the large tract was abutting the main road, but it was not the case that any smaller area within the large tract of land acquired was fully developed having all facilities. If smaller area within the large tract is already developed and suitable for building purposes and has in its vicinity roads, drainage, electricity, communication etc., then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified. The Appellants herein did not establish that the entire area of 84 acres of land acquired was fully developed having all the facilities such as roads, drains, sewers, water, electricity lines and civic amenities. In order to convert the land into plots for the purpose of construction of residential and commercial buildings certain area was to be earmarked for the above mentioned purposes in accordance with law governing in the matter of creating layouts in addition to incurring of expenditure for the development area. Hence, the claim of the Appellants that there should have been no deduction out of the compensation amount determined for the entire area acquired is unsustainable. May be, the acquired land with potentiality for construction of residential and commercial buildings had some advantages, which aspect is taken note of by the High Court in giving cut of only 20% as against 1/3rd normal deduction."

30. However, the Supreme Court has also laid down guidelines to assess the market value on the basis of the yield in respect of agricultural land in the absence of data relating to the dependable sales. It has also laid down guidelines as to the determination of the market value of the garden lands and horticultural lands. However, we are not concerned with these type of lands. In this case we are only concerned with the determination of market value of the lands acquired for making industrial plots by the A.P. Industrial Infrastructure Corporation.

31. Therefore, the issue that arises for consideration is whether the market value fixed by the reference Court is just and reasonable. As already noted, the lands were acquired in 1974 and 1976 for the purpose of industrial layouts by the Industrial Infrastructure Corporation. These lands are situated in Patancheruvu Village. It is also in evidence that Ramachandrapuram and Patancheruvu Villages are adjacent villages and in Ramachandrapuram, the area has already been industrially developed on account of the establishment of giant industrial establishment namely B.H.E.L., a Government of India Undertaking and with the upcoming of number of ancillary industries. The reference Court fixed the compensation at Rs. 6,000/- Rs. 7,000/- per acre. But, however, on an appeal preferred by the claimant, this Court enhanced the compensation @ Rs. 17/- and

19/- per sq.yd. and the said Order of the Division Bench was set aside and the matter was remanded to this Court for fresh consideration keeping in view the guidelines framed by the Supreme Court in various decisions.

32. The reference Court fixed the market value at Rs. 6,000/- per annum in respect of the lands covered by the awards Exs. B-2 to B-7 and in respect of the award Ex. B-8, the notification was issued on 17-8-1976 and keeping in view the time lag of two years the reference Court fixed Rs. 7,000/- Per acre by common Order passed in O.P. Nos. 35, 38, 39, 45, 49 to 55, 58 to 62/1978. Appeal No. 1054 of 1980 is against O.P. No. 35 of 1978. The claimants examined as many as 15 witnesses and marked Exs. A-1 to 25 while no witnesses were examined on behalf of the referring officer and Exs. B-1 to B-9 were marked. Exs. B-2 to B-8 are awards while Ex. B-1 is the valuation and estimates of the wells.

33. We have to only consider the market value of the acquired lands with reference to the bona fide and genuine Sale Deeds of the adjacent lands or nearby lands in or about the period of notification that would be a best piece of evidence as held by the Supreme Court in the cases referred to above.

34. It is in the evidence of the claimants in general that the area has been well developed and acquired potential value for house sites and it is situated adjacent to the well developed industrial area and therefore, they sought the compensation on the basis of the yardage. Ex. A-3 is the registered sale deed dated 25-5-1972 in respect of the 260 sq.mts. in S.No. 393 of Ramachandrapuram area which was sold for Rs. 1,500/- and P.W.2 is the vendor. Ex. A-4 is another registered Sale Deed wherein he sold 261.14 sq. mts. in S.No. 395 of Ramachandrapuram Village to one Abdullah. Under Ex. A-5 dated 18-7-1972 an extent of 300 sq.yds. in S.No. 205 situated at Ramachandrapuram was sold to one Mohiuddin for Rs. 3,000/-. P.W.3 was examined in this regard. Under Ex. A-6 dated 27-11-1974, 120 sq. yds. was sold for Rs. 3600/- in S.No. 348 of Ramachandrapuram and P.W.5 testifies this. Ex. A-7 is the Sale Deed dated 16-10-1975 relating to 181 sq.yds. in S.No. 590 Patancheru for Rs. 4,000/-. This Sale Deed was properly pressed into service. Ex. A-8 relates to an extent of 19 sq.mts. which was sold @ Rs. 40/- per sq.yd. on 4-12-1975. Ex. A-9 is another Sale Deed dated 28-5-1976 relating to an extent of 240 sq.yds. in S.No. 347 of Ramachandrapuram Village for an amount of Rs. 9,600/-. Ex. A-11 to Ex. A-15 are dated 30-4-1975 under which an acre of land was sold at Rs. 20,000/-. Ex. A-2 is a certified copy of Sale Deed dated 2-7-1965 under which the land was sold for a sum of Rs. 800/-. Thus, the following is the picture of the lands sold under various exhibits:

S. No.	Ex.No.	Extent of land sold/	Date of sale	Rs.	Land situated in	S.No.
		Value per sq.yd./per acre.		Rs.	ps.	

1.	A-2	500 sq.yds/800/-	2.7.1965	437	Patancheruvu	1.60 per sq.yd.
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2.	A-3	260 sq.yds.	395	Ramacnandrapuram	5.76 per sq. yd.	
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3. A4 261.14 sq. mts./1000/- 26.5.1972 395 Ramachandrapuram 3.83. per sq. yd
4. A-5 300 Sq. yds./3,000/- 18-7-1972 205 Ramachandrapuram 10/- per sq. yd.
5. A-6 120 sq. yds./3,600/ 27-11-1974 348 Ramachandrapuram 30/- per sq.yd
6. A-7 181 sq. yds./4,000/- 16-10-1975 590 Patancheruvu 22/- per sq. yd.
7. A-8 19 sq. mts./40/- per sq. mtr. 4-12-1975 ___ Patancheruvu 1,61,880/- per acres
8. A-9 240 sq. yds./9600/- 28-5-1976 347 Ramachandrapuram 40/- per sq. yd.
9. A-11 to A-13 30-4-1975 registered sale deed when land has sold @ Rs.20,000/- per acre.

35. Respondents also filed C.M.P. No. 24887 of 2001 to receive additional evidence such as judgment copies of the Division Bench of this Court in various Land Acquisition proceedings relating to the acquisition of lands in Patancheruvu and Bandlaguda Villages for establishing industries by the A.P. Industrial Infrastructure Corporation. They also filed certain documents relating to the sale of lands in Patancheruvu village. The sketch has also been filed for proper identification of the acquired lands. The said application was allowed and Exs. A-26 to A-40 were marked. Out of the said documents only two documents are relevant. They are certified copies of Orders of this Court in Appeal No. 153 of 1980 and Batch dated 24-12-1984 and Appeal No. 1587 of 1984 and Batch dated 10-4-1985. Ex. A-26 is the certified copy of the judgment of Division Bench in A.S. No. 1587/84 and Batch, dated 12-4-1985. Ex. A-27 is the certified copy of the judgment of the Division Bench in A.S. No. 572 of 1985, dated 14-6-1985. Ex. A-28 is document No. 414 of 1971, Sale Deed dated 24-3-1971 wherein an extent of Ac. 6-34 gts. situated in S.No. 811 of Patancheruvu village was sold for a sum of Rs. 7,000/-.

36. Ex. A-29 is the document No. 4685 dated 23-8-1979 in which 500 sq.yds. situated in S.No. 437 of Patancheruvu Village was sold for Rs. 800/-. Ex. A-30 is the document No. 273 of 1974, dated 1-3-1974 in which an extent of Ac. 1-22 1/2 gts. in S.No. 432 situated in Patancheruvu village was sold for a sum of Rs. 6,750/-. Ex. A-31 is the document No. 1128/1974, dated 17-7-1974 an extent of Ac. 5-39 gts. were sold @ Rs. 6,600/- per acre, These lands are situated in S.Nos. 441/1, 441/4, 441/5 in Patancheruvu Village. Ex. A-32 is the document No. 1559/74 dated 5-10-1974 wherein the total extent of Ac. 6-02 gts was sold for a sum of Rs. 39,325/-. Ex. A-33 is the document No. 1560/1974 dated 5-10-1974 in which an extent of Ac. 4-36 gts. in S.No. 794 situated in Patancheruvu Village was sold @ Rs. 6,500/- per acre. Ex. A-34 is the copy of document No. 1960/1975 in which an extent of Ac. 5-16 gts. were sold @ Rs. 5,000/- per acre. These lands are situated in S.No. 450 of Bandlaguda Village.

Ex. A-35 is the copy of the document No. 2307/1976 dated 4-2-1976 in which an extent of Ac. 5-03 gts. situated in S.No. 449 was sold @ Rs. 5,000/- per acre. Ex. A-36 is the document No. 337 of 1979 in which an extent of Ac. 4-16 gts. situated in S.No. 849 of Patancheruvu Village was sold @ Rs. 5,000/- per acre. Sketch map was already marked as Ex. A-I and hence it need not be again marked.

37. Be it noted that an application was filed in C.M.P. No. 1989 of 2003 in Appeal No. 1053 and C.M.P. No. 1990 of 2003 in Appeal No. 1054/1980 by the claimants to amend the memo of the valuation enhancing the claim from Rs. 8/-to Rs. 22/- per sq.yd. and Rs. 8/- to Rs. 25/-per sq. yd. respectively. The said applications were ordered.

38. The issue that arises for consideration is whether the claimants are entitled for enhancement as claimed by them?

39. The State has not preferred any appeal challenging the awards passed by the reference Court. As already pointed out the land in the same village was acquired for A.P. Industrial Infrastructure Corporation in 1974 and 1976 and this Court has finally fixed the Rs. 10,000/- per acre vide Exs. A-26 and 27. The effect of the above judgments will be discussed supra.

40. It was observed by the reference Court that Ramachandrapuram is a different village and it is 2 kms. from Patancheruvu village on national high way Bombay to Hyderabad. The reference Court failed to take into consideration the Sale Deeds of Ramachandrapuram by stating thus:

"Ex. A-1 is the sketch of Patancheruvu Village and it shows that most of the lands that are acquired are to the west of Patancheruvu Village. Ramachandrapuram Village is a different village. It is more than 2 kms from Patancheruvu Village. So the lands situated at Ramachandrapuram cannot be taken as a criteria in fixing the land value. The village Ramachandrapuram and adjacent villages might have gained prominence because of B.H.E.L. and the same cannot be extended to Patancheruvu Village. The value of the land depends on the location, if it is taken as house site."

He further observed that at the time of notification, there are no residential houses within 3 to 4 furlongs of the acquired land and there is no immediate prospects of coming up houses in the land acquired. He further observed that the evidence was let in to the effect that number of industries are coming up in that area, but admittedly most of the industries came up in the lands acquired i.e., subsequent to the acquisition. It is worth noting in this connection that the lands were acquired for industrial area and obviously there cannot be houses or house sites. It is also to be noted in this regard that earlier the lands were acquired for the same purpose and the rate that is payable for house sites cannot be extended to the industrial plots as they are bigger in sizes and the purchasers also will be different unlike owners of house sites. It is also not in dispute that there is no possibility of houses coming up immediately as the land itself is

earmarked for industrial purpose and the possibility of houses coming up abutting the industrial area cannot be ruled out. But, however, the compensation cannot be determined on the ground of existence of the houses abutting acquired lands, but possibility of development and the potentiality of land for house sites cannot be totally eliminated from consideration. The reference Court refused to consider the small extents of land sold under various Sale Deeds on the ground that they cannot be said to be comparable sales for the purpose of fixation of market value of large extents.

41. It is also not in dispute that in 1964 itself certain extent of lands in Patancheruvu Village falling on both the sides of national high way was acquired for the same Industrial Infrastructure Corporation and in 1974 further extent was sought to be acquired in two phases from out of the villages of Patancheruvu, Ramachandrapuram and Bandlaguda. An extent of Ac. 382-39 gts. of dry chelka from the following villages were acquired.

Name of the village	Extent Ac.gts.
Bandlaguda	149-26
Ramachandrapuram	103-03
Patancheruvu	130-10
Total	382.39

While in 2nd phase, a total extent of Ac. 424-17 gts. both wet and dry were sought to be acquired. From the award passed by the Land Acquisition Officer, it is observed the Land Acquisition Officer clearly stated that as per the requisition received from the A.P. Industrial Infrastructure Corporation, in the 1st phase, dry lands are to be acquired and in the 2nd phase block cotton and wet lands are to be acquired.

42. It is also observed by the Land Acquisition Officer that the entire acquired area falling in three villages namely Ramachandrapuram, Bandlaguda, and Patancheruvu is contiguous and abutting national high way (leading from Hyderabad to Bombay). Therefore, he was of the view that one rate has to be fixed for the entire dry chelka land of three villages. Therefore, it is to be noted that no separate assessment for each village was made by the Land Acquisition Officer but taking into consideration the contiguous nature of the lands he fixed a common price.

43. As can be seen from the sketch under Ex. A-I also the lands covered by the A.S. No. 1054 of 1980, is near to town and also to national highway, while the land covered by A.S. No. 1053 of 1980 is abutting the national highway and opposite to the said land various offices including Panchayat Samithi, Zilla Praja Parishad Office and banking institutions are existing. The land covered in S.Nos. 461, 462 and 463 are the subject-matter of A.S. No. 1054 of 1980 are also near to the town and theatres, hospitals and Police Station were also in a close proximity. In fact, these lands are forming part of major acquisition. Inasmuch as, the acquired lands are abutting the National highway, there is a bus stand, shopping complex, travellers bungalow, ICRISAT establishment, Z.P. High School, Panchayat Samithi Office, State Bank of India, B.H.E.L. Township. Therefore, it has to be necessarily concluded that the acquired lands have potential value for

house sites. But, in the instant case, it is being acquired for development of industrial plots. Exs. A-6 and A-9 relates to the land situated in Ramachandrapuram Village while Ex. A-7 relate to the land in Patancheruvu, so also Ex. A-8. But, as already stated, these lands are contiguous lands and therefore, any Sale Deed which is worth relying in respect of the lands either situated in Ramachandrapuram or Patancheruvu can be safely taken into consideration for fixing a proper common market value. In fact that is the reason why the Land Acquisition Officer also adopted the same procedure view taking into consideration the various Sale Deeds in all these three villages.

44. Considered from that point of view, we have to scrutinise the documents filed by the claimants. The Sale Deeds Ex. A-2 is the Sale Deed dated 2-7-1965 in which 500 sq.yds. in Patancheruvu Village was sold for Rs. 800/- in 1965 and therefore, rate per acre would come to Rs. 4,840/- x 1.60 ps. per sq.yd. and that it was sold in 1965. Under ExA-10, it is dated 25-4-1965, the land was sold @ Rs. 15,000/- per acre. Ex. A-3 is dated 25-5-1972. An extent of 260.58 sq.mts. was sold for a sum of Rs. 1,500/- would come to Rs. 5.76 per sq. yd. Under Ex. A-4 an extent of 261.14 sq.mts. was sold for a sum of Rs. 1,000/-. Under Ex. A-5 an extent of 300 sq.yds. was sold for an amount of Rs. 3,000/- which would come to Rs. 10/- per sq.yd., which was sold in 1972. Ex. A-6 is dated 27-11-1974, under which 120 sq.yds. was sold for a sum of Rs. 3,600/- which would come to Rs. 30/- per sq. yd.

45. Undisputably both the O.Ps. along with other O.Ps. were decided by the reference Court under a common Order and the documents relied on by the parties are also common. The reference Court discarded certain documents on the premise that the small extent of lands cannot be compared with large extents, that lands are situate in Ramachandrapuram and that in some cases it was discarded on the ground that none of the witnesses were examined in support of the documents. But these grounds are unsustainable in law. The Supreme Court has ruled that in the absence of availability of Sale Deeds in respect of large extents, the value under small extents of lands can be relied on provided the sales are genuine and they are not motivated with a view to get higher compensation. As held by the Supreme Court in Land Acquisition Officer and Mandal Revenue Officer v. V.Narsaiah's case (supra) the certified copies of the documents can be received in evidence, but yet the contents are to be scrutinised so as to eliminate mala fide intention or motivation to claim higher compensation. Moreover, the Land Acquisition Officer as well as the reference Court have fixed uniform rate in respect of the land situated in Ramachandrapuram and Patancheruvu irrespective of the location of land, as admittedly the land was acquired for extension to Stages I and II of industrial area of Patancheruvu and they are on the national highway and they are contiguously situate. As can be seen from Exs. A-2, A-3, A-5 to A-9, the price of lands are on the ascending order. Therefore, all the documents filed by the claimants have evidentiary value and they can be considered subject to the test of acceptability. The genuineness of the documents has not been put to

challenge. Only adoptability is under adjudication. Ex. A-5 is the nearest documents, which can be considered for arriving at proper market value. P.W.3 is the vendor. Further, the documents exhibited by the Corporation Exs. A-29 to A-36 do represent lesser rate. But among the exhibited documents, on both sides, the highest of value has to be preferred as held in *Rani of Vuyyur v. Collector*, 1969 (1) MLJ SC 45. Moreover, when the acquired lands have potentiality for house sites, the rates applicable to agricultural lands cannot be made applicable. As early as 1969, the Supreme Court in *Ebrahim Akbarali* (supra) categorically held that adoptability of agricultural lands as site for buildings is an essential element to be taken into account for determining the market value. The entire land should be valued on the basis of its adoptability for building purpose. As regards market value the prices of similarly situate lands in the same or neighbourhood during relevant period should be guiding factor. It is also noticed that the lands other than the lands covered by these appeals which were jointly disposed of by the reference Court, the claimants and State filed appeals and this Court fixed uniform rate of Rs. 10,000/- per acre (See: Ex. A-27). The learned Government Pleader and Counsel for Andhra Pradesh Industrial Infrastructure Corporation tried to take interpretation from Exs. A-26 and 27. Ex. A-26 is the certified copy of Orders passed by this Court in AS No. 153 of 1980 and Batch, dated 24-12-1982. The lands therein was acquired for the same Industrial Infrastructure Corporation. The notifications are between 6-7-1974 and 6-12-1974. The reference Court awarded Rs. 14,000/-per acre and the same was reduced to Rs. 10,000/-per acre. In another batch of O.Ps. in respect of same lands situate in these three villages, the reference Court fixed the market value at Rs. 8/- per sq.yd. This Court in A.S. No. 26 of 1979, the rate was reduced to Rs. 10,000/-. The following is the extract from Ex. A-26:

"In the instant case, the market value has to be fixed only with reference to the comparable sales. Ex. A-1 is a Sale Deed dated 2-7-1965 in respect of Rs. 500/-sq.yds. in S.No. 437 of Patancheruvu for Rs. 800/- and the rate works out to Rs. 7,744/- per acre. Ex. A-2 is a Sale Deed dated 15-11-1965 under which Ac. 1-00 in S.No. 13 of Bandlaguda Village was sold for Rs. 15,000/-. Ex. A-3 is a Sale Deed dated 26-5-1972 in respect of 261.14 sq.mts in S.No. 395 of Ramachandrapuram for Rs. 1,000/-. Ex. A-4 relates to a sale transaction dated 18-7-1972 in respect of 300 sq. yds. in S.No. 206 of Ramachandrapuram for Rs. 3,000/-. Ex. A-5 is another Sale Deed dated 26-5-1972 in respect of 300 sq.yds. in S.No. 395 of Ramachandrapuram for Rs. 1,500/-. Ex. A-10 is a Sale Deed dated 27-11-1974 in respect of 120 sq. yds. in Ramachandrapuram for Rs. 3,600/-. It will be seen that the aforesaid sale deeds except Ex. A-2 were in respect of small extents of house sites and not lands sold or acquired for industrial purposes. Therefore, they cannot be relied upon for fixing the market value when huge extents of land were acquired. Then coming to Ex. A-6, which is a judgment of the District Court, Medak in O.P. No. 1 of 1975, where for a house site of 148.13 sq.yds. in Manmolu Village, the market value was fixed at Rs. 8/- per sq.yd. This is also a transaction relating to a small extent of land of house

site and that too in different village and therefore, cannot be relied upon. Ex. A-8 is a judgment of the District Court, Medak in O.P. No. 150 of 1974 in respect of houses and house site in Kanchireddipalli Village awarding Rs. 8/- per sq. yd. But, that is also a small extent of house sites and it cannot be acted upon. The other document Ex. A-12 is the judgment in O.P. No. 34 of 1976 in which the District Court, Medak awarded Rs. 8/- per sq. yd. for the lands acquired in Bandlaguda village for the same industrial purpose. But against the said judgment, the Government has preferred an appeal A.S. No. 26779 in which we have delivered judgment today setting aside the fixation of market value at Rs. 8/- per sq.yd. by the District Court and awarding Rs. 10,000/- per acre irrespective of the land being dry, black cotton dry or wet"

46. Similarly, the reference Court disposed of another batch of O.Ps. relating to lands in the villages by a common Order dated 31-12-1979. The appeals against all the O.Ps. except O.P. No. 35 of 1978 and O.P. No. 135 of 1978 were disposed of by this Court in A.S. No. 1587 of 1984 and batch (Ex.A-28). This Court following the Orders passed in Ex. A-27, fixed the compensation at Rs. 10,000/- per acre. These two O.Ps. came to be dealt with separately by this Court in A.S. Nos. 1053 and 1054 of 1984. It is noticed that this Court refused to consider the small extent of lands, which goes contrary to the judgments of various judgments of Supreme Court referred to infra. It is also to be noted that no Sale Deeds relating to industrial plots are available for compensation purpose. The Division Bench also found that when the lands are acquired for industrial purpose common market value can be fixed. Therefore, the smaller extents of lands can be considered for fixing market value of large extent subject to deduction as held in *Kasturi v. State of Haryana*, case (supra). Hence, discarding smaller extents of land by the Division Bench in the aforesaid Orders was not proper and justified. Under these circumstances, we are of the view that the value of small extent of lands could form the basis. Probably this is the reason why these judgments were not filed before the Division Bench. When they were heard and decided on 7-2-1995. Moreover, this principle was enunciated by the Supreme Court in *Kauhsalya Devi Bogra v. Land Acquisition Officer*, case (supra) for the first time and it was being enlarged in subsequent decisions right up to *Kasturi's* case (supra). The Division Bench obviously was not having the advantage of these decisions. Therefore, in the fact situation we have to hold that the value of small extent of lands can be considered for fixation of market value of larger extents subject to certain condition. Admittedly, the Division Bench fixed the value after discarding these documents. In the wake of the decisions of Supreme Court, we have to follow the Order basing on the small extents if the Sale Deed are genuine and bona fide untainted by extraneous consideration. If they are found to be motivated sales with a view to obtain higher compensation, they are to be discarded. The further requirement is that the lands should be situate in the same or neighbourhood of the acquired lands during the relevant or near about period. Even taking into consideration post notification sales is not totally prohibited. In the instant case, the reference Court did not find fault with the

documents and nature of transactions. There is also no rule that the Courts ought not to depend on single transaction. If the transaction conforms to the tests laid down by the Supreme Court there is no reason why they should not be relied upon for assessing correct market value. Exs. A-3, A-4 and A-5 relate to small extents of lands and the transactions are in 1972. Ex. A-6 is dated 27-11-1974. Out of Exs. A-3, A-4 and A-5, the highest value can be presumed as per the judgment of the Supreme Court *Rani of Vuyyur v. Collector* case (supra). Ex. A-6 is four months later to the notification. In such instances, either the market value can be fixed by appropriately escalating the value under Ex. A-5 or by de-escalating from Ex. A-6 in as much as both these transactions are bona fide and dependable. Similarly, the land loser should not be deprived of rightful compensation for deprivation of his property. We consider that fixing of market value on the basis of Ex. A-6 duly making deduction of 20% towards de-escalation and 25% towards development charges would be more appropriate, just and also reasonable. Calculated on the said basis we arrive at Rs. 16.50 per sq. yd. in respect of lands covered by notification dated 11-7-1974 and A.S. No. 1053 of 1980 is accordingly allowed to the extent indicated above.

47. As there is a gap of nearly 2 years between earlier notification and later notification, by giving 10% adjusted escalation the value can be fixed at Rs. 19/- per sq. yd. in respect of lands acquired under notification dated 2-9-1976. A.S. No. 1054 of 1980 is accordingly allowed to the extent indicated above.

48. The claimants apart from the other statutory benefits are entitled to interest at 4% from the date of notification to 30-4-1982 and 9% for period of one year and thereafter 15%. They are also entitled for additional market value u/s 23(1-A) of the Act.

49. No costs.