
(2015) 02 MAN CK 0008
In the Manipur High Court
Case No : L.A. Appeal No. 1 of 2010

R.S. Peter

APPELLANT

Vs

The Collector and Others

RESPONDENT

Date of Decision : 16-02-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 18, 28, 30, 34

Citation : (2015) 02 MAN CK 0008

Hon'ble Judges : Laxmi Kanta Mohapatra, J.

Bench : Single Bench

Advocate : A. Bimol, for the Appellant; Shyam Sharma, G.A. and S. Premchand, ASG., Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

Laxmi Kanta Mohapatra, J.—The land owners Association and others have preferred this appeal against the order of the learned District Judge, Manipur East dt. 30.1.2010 passed on a reference u/Ss 18 and 30 of the Land Acquisition Act, 1894(hereinafter refers to as the "Act").

2. The brief facts leading to the reference are as follows:

The Govt. of Manipur issued a Notification u/s. 4 of the Act for acquisition of 191.430 hectare of land located at Shangshak-Tengnoupal road for residential purpose of 25th Bn. Assam Rifles on 8.7.1991. The said land is bounded on the north by Govt. Inspection Bungalow and Shangshak village, on the east by the road, on the south by Koushou village and on the west by jhum fields/paddy fields. After the acquisition, an award was passed on 4.3.1993 in compliance with a direction of the Gauhati High Court dt. 27.11.1992 in C.R. No. 1350 of 1992 without obtaining prior approval of the Government u/s. 11 of the Act. Since the award was passed without obtaining prior approval of the government, Revenue Department of the Govt. Of Manipur, by a Notification dt. 7.10.1993, cancelled the award passed by the Collector on 4.3.1993 and directed the Collector to

submit a fresh proposal indicating the rate of compensation to the Government. In pursuance of the above direction issued by the Revenue Department, Govt. Of Manipur, the Collector submitted a fresh proposal on 18.10.1993 for approval of the Govt. By order dt. 26.10.13 the Revenue Department, Govt. of Manipur accorded approval to the said proposal and consequently the Collector, Land Acquisition announced the award on 28.10.1993. The said award was challenged before the Gauhati High Court in CR. No. 1021 of 1993. The Gauhati High Court quashed the award on the ground that the said award had been passed without giving opportunity to the persons interested and the occupants of the land for participation in the enquiry conducted by the Collector, Land Acquisition as provided under Sections 9 and 11 of the Act. Thereafter, the Land Acquisition Collector, Ukhrul published notice on 27.7.1997 inviting any claim either in writing or by personal appearance. After the enquiry was conducted, the Govt. Of Manipur examined the rates claimed by the persons interested the location, nature of the lands and available Sale deeds. The Collector, Land Acquisition had classified the lands into four categories such as Class-A, Class-B, Class-C and Class-D. So far as the class-A land is concerned, an award was passed for compensation of Rs. 9 per sq. metre and so far as Class-B lands are concerned, compensation of Rs. 6 per sq. m. was awarded. So far as the class-C lands are concerned, compensation of Rs. 4 per sq. m. was awarded and in respect of Class-D lands, compensation of Rs. 2.50 rupees per sq.m. was awarded. The award was passed on 25.1.1995 after approval of the Govt. 3. The Secretary of the Association, not being satisfied with the award, filed an application on 27.3.1995 praying for making a reference to the Court u/s. 18 of the Act for enhancement of the compensation and also praying for stay of the award under protest in respect of Dag Nos. 110 to 117 and 121 to 158 except 152. The land owners claimed 1,74,000/- per acre, 30% solatium and interest from the date of Notification under Section 4 of the Act till finalisation of the award. They also claimed to treat the lands as urban since it fulfils the criteria as such water supply, black topped road and concentration of large number of population which would be over 3000. The land owners also claimed that the acquired land is located at the junction of Shangshak-Tengnoupal NEC Road, Shangsak-Kamjong BRTF road and Shangsak-Phungyar PWD road and are homestead lands occupied by the land owners. It was also stated that the acquired land is adjacent to the lands acquired for construction of office building of PWD and for such acquisition Govt. had paid Rs. 82,895.35 paise for an area of 6480.29 sq. Metre which is equivalent to Rs. 1,30,680 per acre.

4. After receipt of the reference, the learned District Judge, framed as many as 7 (seven) issues. Out of the seven issues, 6 had been settled by order dt. 20.12.2009 and accordingly only issue, i.e. issue No. 7 was considered by the learned District Judge in the impugned order. Issue No. 7 is as follows:

"7. Whether the rate of compensation as assessed by the Collector (respondent No. 1) is unreasonably very low and inadequate? If so, what is the reasonable rate of compensation?" 5. On consideration of the evidence adduced before the

reference Court, both oral and documentary, the learned Judge recorded the following findings:

(i). The claimants admit the fact that the acquired land is a vast hilly tract but they have not adduced any evidence showing the potentials of constructing dwelling houses in the acquired lands and have not tendered any evidence in detail about construction of any house of the claimants in the acquired area;

(b) the Collector, Land Acquisition, has described in details the condition of the acquired lands, its potential of being under-developed area having no water resources, pucca road etc.

(c) in view of the above, the Collector, Land Acquisition has correctly arrived at the market value of the acquired lands after considering in details about the nature of the acquired lands and its conditions etc.

(d) the land being under-developed to be used for residential purpose, the Collector, Land Acquisition, was justified in deducting 30% as development charge which is permissible under law;

(e) there was nothing wrong in classifying the large hilly tract lands into four classes such as - A, B, C and D for arriving at a reasonable market value of the acquired land.

In view of the above findings, the reference was disposed of without interfering with the award given by the Land Acquisition Collector.

6. Mr. A. Bimol, learned counsel appearing for the claimant-appellants assailed the order of the learned District Judge on the following grounds-

(i) the reference Court has not applied its judicial mind to the principle that a reference u/s. 18 of the L.A. Act is not an appeal against the award and the Court cannot take into account materials relied upon by the L.A. officer in his award unless same materials are produced and proved before the Court. The award of the Land Acquisition Collector is only an offer and materials utilised by him for making his valuation cannot be utilised by the court unless produced and proved before it. According to the claimants, no material/evidence in support of the award was produced and proved before the reference court by the Government and said Court solely relied on the materials utilised by the Collector for making the award.

(ii) the normal method for working out market value of the land in acquisition is comparable sales method. The comparable sale instances of similar land in the neighbourhood at or about the date of notification under section 4(1) of the L.A. Act are the best guide for determination of the market value and in absence of any such sale deed, any judgment and award passed in respect of the acquisition of land made in the same village can be accepted as valid piece of evidence and it provides a sound basis to determine the market value of the acquired lands.

(iii) The claimants also adduced evidence with regard to comparable award and

sale instances of similar lands in the same village to prove that the award passed by the Land Acquisition Collector was inadequate. Non acceptance of such evidence by the Reference Court amounts to non appreciation of evidence.

(iv) The land acquired for construction of PWD office adjacent to the present acquired land was a developed land. Merely because some small piece of land acquired under the present Notification were not developed whereas the rest of the land was a developed land, directing deduction of 30% of the market value treating the entire piece of land as under-developed is unsustainable.

(v) The acquired land is a compact block of lands required for the residential purpose. The land was not acquired for development into small plots where the value of plot near the road would have higher value than those located far away from the road. In case where a compact block is acquired for a specific purpose, the belting method is not the correct method to be applied.

(vi) When the acquired land is of similar in nature and has the potentiality of becoming residential land, merely because some portion of the lands abuts the road/village, different rates will not apply to different piece of land depending on their location. The entire land had been acquired for the purpose of constructing residential building and official building of the Assam Rifles as a whole and therefore there was no need to classify the land as Class-A, B, C and D.

(vii) The Land Acquisition Officer committed an illegality in dividing the acquired land into four classes solely on the basis of distance between the land and the PWD land earlier acquired by the Manipur Government and such method should not have been adopted as the whole block of land had been acquired for a specific purpose.

(viii) The claimants who are entitled to compensation are also entitled to interest including solatium, but in the instant case the land Acquisition Officer as well as the Reference Court failed to grant interest on the compensation amount as provided u/s. 34 of the Land Acquisition Act despite a specific claim made by the claimants.

7. With reference to the above grounds taken in the appeal, Mr. A. Bimol, learned counsel appearing for the land owners submitted that the reference Court relied upon the materials referred to by the Collector, Land Acquisition in his award even though such materials were not produced and proved before the Reference Court. Relying on the decision of the Apex Court in the case of Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and Another, which was again followed in another decision of the Apex Court in the case of reported in Kiran Tandon Vs. Allahabad Development Authority and Another, it was further contended that the reference Court does not sit in appeal against the award of the LA Collector and the reference is to be answered on the basis of the materials produced before the reference Court and not on the basis of the materials produced before the Land Acquisition Collector unless such materials are produced and proved before the Reference Court.

8. With reference to the second ground, it was contended by Mr. A. Bimol, learned counsel for the land owners that ordinary best method of finding out the value of land is comparable sale method. If such sale instances are not available, the other best method for calculation of the just compensation is to look into the award passed in a land acquisition proceeding relating to the lands adjacent to the present acquisition. So far as this case is concerned, Mr. A. Bimol, learned counsel for the land owners drew attention of the Court to the award passed in respect of the land acquired earlier for the purpose of construction of office building of PWD which is adjacent to the present acquired land and submitted that the said award for the adjacent land would be the guiding factor for determination of the value of the land acquired under the present notification. In this connection, he also relied upon two decisions of the Apex Court-one in the case of Mohammad Raofuddin Vs. The Land Acquisition Officer, and in the case of Ravinder Narain and Another Vs. Union of India (UOI), .

9. In relation to the other grounds, it was contended by Mr. A. Bimol, learned counsel appearing for the land owners that if market value of a large tract of agricultural land or underdeveloped non-agricultural land possessing potential for development is to be determined with reference to market value of a development small residential plot situated in the neighbouring layout, it becomes necessary to work back the market value of the large tract of undeveloped lands from the market value of the small residential plot. As example, it was contended that value of 1 sq. foot of undeveloped land is not the same as one square foot of developed residential plot. Therefore, if the valuation of such agricultural or undeveloped land is to be based on the sale price of a small developed plot in a private layout, then it is necessary to deduct some amount as development allowance/costs from the market value of the small developed plot. But where the value of acquired agricultural or undeveloped land is determined with reference to the sale price of a neighbouring agricultural or undeveloped land, no deduction should be made towards development costs. So far as this case is concerned, it was contended that the Land Acquisition Officer referred to the compensation awarded by the Manipur PWD for determination of the market value of the acquired land as the land acquired by the PWD is of the same village similarly situated acquisition of which was prior to the present acquisition. However, without any justification the land acquisition Officer directed for deducting 30% of the market value as development charges. In this connection, reliance was also placed by the learned counsel for the land owners on the decision of the Apex Court in the case of Subh Ram and Others Vs. Haryana State and Another, .

10. The learned counsel for the land owners further submitted that with reference to the grounds taken that the present acquired land is a compact block of land acquired for the purpose of construction of residential houses of the official of the Assam Rifles. The entire block of land has not been acquired for development and division into small plots. Had it been so, plot adjacent to road and village could fetch better price than that of those plots which are far away

from the road/village. The land having been acquired for the purpose of construction of residential houses, there cannot be difference in prices so far as lands located near the road/village and the land located away from the road and village are concerned. The value of land should have been assessed without any such classification. Reliance was also placed by the learned counsel for the land owners on some judgments of the Apex Court such as (i) The Land Acquisition Officer, Revenue Divisional Officer, Chittoor Vs. Smt. L. Kamalamma (Dead) by Lrs. and Others K. Krishnamachari and Others, , (ii) Smt. Lila Ghosh (Dead) through LR Shri Tapas Chandra Roy Vs. The State of West Bengal, and (iii) Thakarsibhai Devjibhai and Others Vs. Executive Engineer, Gujarat and Another, . So far as the interest is concerned, with reference to Section 28 of the Act, it was contended by Mr. Bimol, learned counsel for the land owners that the land owners are entitled to interest on the compensation amount as provided u/s. 34 of the Act, but no interest has been allowed. Reliance was placed on 3(three) decisions of the Supreme Court out of which reference has been made to one of the decisions referred to earlier and other two decisions are the case of Shree Vijay Cotton and Oil Mills Ltd. Vs. State of Gujarat, and Sunder Vs. Union of India (UOI)--> .

11. Shri S. Premchand, learned counsel appearing for the respondent No. 3 submitted that the land acquired under dispute is a huge piece of land belonging to large number of persons. The entire piece of land is in the hilly tract and major portion of the same is undeveloped. Referring to the evidence of some of the witnesses, it was also contended by the learned counsel for the said respondent that certain areas of the acquired land were under water and therefore under no stretch of imagination it can be said that the acquired land was developed land merely because some portion of it had been used for the purpose of jhum cultivation. On the basis of such submission the learned counsel further submitted that not only the L.A. Collector but also the Reference court were justified in classifying the lands into four categories for the purpose of valuation. It was also submitted by the learned counsel that since major part of the land acquired under the present notification was underdeveloped, deduction of 30% towards development costs was also justified and rightly accepted by the Reference court. So far as valuation of the land is concerned, it was also contended by the learned counsel that the valuation made for the purpose of acquisition of land for construction of the PWD office cannot be the guiding factor considering the fact that it was a developed land and adjacent to the main road. It was also submitted that the said acquired land was a small piece of land in comparison to the size of the land under present acquisition. So far as the interest is concerned, the learned counsel for the respondent No. 3 submitted that interest has been award according to law and claimants cannot claim interest more than what they are entitled.

12. Several grounds having been taken in the appeal, let me deal with each ground separately.

It was submitted by Mr. A. Bimol, learned counsel appearing for the appellants that a reference u/s. 18 of the Land Acquisition Act, 1894 is not an appeal against the award and Court cannot take into consideration the materials relied upon by the L.A. officer in his award unless the same materials are produced and proved before the court. It was further submitted that the award of the L.A. officer is not to be treated as a judgment open or exposed to challenge before court hearing the reference. It is merely an offer made by the Collector. Reliance was placed by the learned counsel for the appellants on the decision of the Apex Court in the case of Sankaranarayanan Potti (Dead) By L.R.S. Vs. K. Sreedevi and Others, . In para 4 of the above reported judgment, the apex Court referred to certain factors which must be kept on the mental screen while deciding a reference. The Apex Court held that a reference u/s. 18 of the Land Acquisition Act is not an appeal against the award and Court cannot take into account materials relied upon by the L.A. Officer in his award unless the same materials are produced and proved before the court.

I have carefully examined the impugned order passed by the learned District Judge, Manipur East in relation to the above issue. 9 (nine) witnesses were examined on behalf of the land owners and 2 witnesses were examined on behalf of the respondents. 9 (nine) documents were also exhibited in course of the proceeding. The learned District Judge, while deciding the question as to whether classification of land into four categories was justified or not, referred to the deposition of every witness and with reference to documents produced and proved before the court rendered a finding with regard to classification of land. In course of discussing evidence, both oral and documentary, the learned District Judge made an observation that the Collector, Land Acquisition has described in details the condition of the acquired land are/area of the land and its potentiality under developed area having no water resources, compact road etc. However, I find that the ultimate conclusion arrived at by the District Judge with regard to the classification is not influenced by the above observation. On the other hand, the learned District Judge has taken into consideration the oral evidence of all the witnesses as well as the documents placed before her and has rendered a finding. I, therefore, do not find any substance in this ground taken by the learned counsel for the appellants.

13. The next important ground is with regard to classification of the land. A notification u/s. 4 of the Land Acquisition Act, 1894 was published on 8.1.1991. The first schedule relates to acquisition for 4th Assam Rifles; 2nd schedule relates to HQs (D) range Assam Rifles, 3rd schedule relates to 4th Assam Rifles and the 4th schedule relates to 25th Assam Rifles. This appeal is in relation to the lands notified for acquisition under the 4th schedule. On perusal of the 4th schedule, it appears that a huge patch of land had been notified to be acquired for the purpose of construction of residential buildings for the officers of 25th Assam Rifles. From the award of the Collector, L.A., it appears that the total land notified to be acquired u/s. 4 of the Act is 191.430 hec. On consideration of different factors the L.A. Collector classified the lands into four classes namely,

Class-A, Class-B, Class-C and Class-D. The class-A lands are closed to Imphal-Kamjong Road, Shangshak-Tengnoupal road junction and also close to Shangshak village. Class-B lands are adjacent to the class-A lands, but at a greater distance from the road and Shangshak village whereas class-C lands are situated adjacent to class-B but at a greater distance from both the road and Shangshak village. Class-D lands are far away from Shangshak village and as observed by the L.A. Collector, do not have the potential of becoming residential land. This classification of lands by the L.A. Collector was challenged before the reference court.

The learned District Judge, while discussing the evidence of all the witnesses examined on behalf of the parties, came to the conclusion that classification of lands into four categories was justified. It was contended by Mr. A. Bimol, learned counsel for the appellants that when the land acquired is similar in nature and has potentiality of becoming residential land merely because some portion it abuts the road/village, there should not be any difference in rate of compensation as the entire block of land is sought to be acquired as a compact block for a specific purpose for constructing residential buildings for the officers of the 25th Assam Rifles as a whole. It is not necessary to rely on mere possibility so as to indulge in meticulous exercise of classification of lands when the entire land is required in one block.

In support of the above contention Mr. Bimol, learned counsel for the appellants relied on a decision of the apex Court in the case of *The Land Acquisition Officer, Revenue Divisional Officer, Chittoor Vs. Smt. L. Kamalamma (Dead) by Lrs. and Others K. Krishnamachari and Others*, . In para 7 of the above reported judgment, the apex Court observed that when a land is acquired which has the potentiality of being developed into an urban land, merely because some portions of it abuts the main road, higher rate of compensation should be paid while in respect of the lands on the interior side it should be at lower rate may not stand to reason because when sites are formed those abutting the main road may have its advantages as well as disadvantages. The court further observed that one cannot rely on the mere possibility so as to indulge in a meticulous exercise of classification of the lands when the entire land is required in one block and therefore classification of the same into different categories does not stand to reason. In the case of *Smt. Lila Ghosh (Dead) through LR Shri Tapas Chandra Roy Vs. The State of West Bengal*, , the apex Court observed that the acquisition in the said reported case was for a film studio. It was a compact block of land which had been acquired for a specific purpose. The land was not acquired for development into small plots where the value of plots near to road shall have higher value whilst those further away may have lesser value. In such cases, where a compact block is acquired the belting method would not be the correct method. In the case of *Subh Ram and Others Vs. Haryana State and Another*, a large tract of land was acquired for establishment of a Jail. In para 17 of the judgment, the apex Court observed that the Land Acquisition Collectors in some cases adopt belting methods for valuation of land, with reference to a

focal point, that is, either with reference to the distance from the main road, or distance from a developed area. The Land Acquisition Collectors also award different compensation depending upon whether the acquired land is a dry land or wet/irrigated land. In para 18 of the judgment, court further observed that when different categories of lands are acquired for the same purpose, say for forming of a residential layout, courts have sometimes felt that determination of their value with reference to previous status or situation should be avoided and a uniform rate of compensation should be awarded for all lands acquired under the same notification. It was also observed in para 19 of the judgment that the logic employed by the court is that categorizing the lands acquired for a common purpose, say for a residential colony, into high value irrigated land or low value dry lands is meaningless, as all lands are to be levelled and used for the same purpose.

Keeping in mind the observations made by the apex Court in the above three decisions, it is necessary to examine the evidence of witnesses. PW-1, at the relevant time, was working as Secretary in the EDPL and is one of the claimants. He stated that before acquisition of the land, he and other land holders used some portions of the land under their occupation for residential purposes and some lands were used for cultivating crops. The acquired land is a plain area and there was also water resource. The acquired land lies in the junction of Shangshak road, Shangshak-Kamjong road and Ukhrul-Jesami road. Many inter village roads also pass through the acquired lands. He further stated that in the year, 1992 the Public Works Department, Manipur acquired some lands @ 64,000/- per acre and the land covered under the present acquisition is only 100-120 yards away from the land acquired by the PWD. In cross-examination, he denied the suggestion that the acquired land is fully undulated and hilly area and does not have the potentiality of construction of building. He admits in cross examination that some lands acquired are covered by jhum cultivation area. PW-2 is also another land holder who stated that before acquisition, the entire area was used for residential purpose and also for cultivation. He has also stated that the road junction is adjacent to the acquired land.

I have also examined the evidence of the rest of the witnesses examined on behalf of the land owners. PW-4, in cross examination, stated that his land was covered under water but at the same time he stated that he used his land for cultivation purpose. The evidence of other witnesses is more or less same.

DW-1 is an officer of the Assam Rifles who stated that the acquired area was in very bad condition before acquisition. DW-2 stated that almost all the portions of the acquired land were being utilised for jhum cultivation and there used to be water in the said area.

The learned District Judge, while dealing with the question as to whether classification of land was justified or not, though referred to the evidence of all the witnesses, picked up one or two sentences from the deposition and came to the conclusion that some portions of the lands were under developed, there

being water on the same and some lands classified as class-A have the potentiality of being used for residential purposes whereas other lands classified as class-B, C and D do not have the potentiality and have to be developed to make it fit for residential purposes. Therefore, the learned District Judge found that the classification of lands into four categories made by the L.A. Collector was justified.

I am unable to agree with the finding of the learned District Judge on consideration of entire evidence. The witnesses examined on behalf of the land holders had categorically stated that major portion of the land was being used for residential purposes and rest for agricultural purposes. Though PWs-1 and 4 stated that some portion of the land was being used for jhum cultivation and some portion of land used to be under water, that does not necessarily mean that the entire area acquired for the purpose of construction of residential houses do not have potentiality of being used for the purpose of developing a residential colony except the land classified as class-A. As decided by the apex Court in the above decisions when the entire land is acquired in a block for specific purpose, there should not be any difference in classification or valuation of the acquired land. I am, therefore, of the view that not only the LA Collector but also the learned District Judge committed an error by classifying the lands into four categories and valuing the lands at different rates under different categories. The entire block of land having been acquired for specific purpose, i.e. for the purpose of construction of residential houses for the officers of 25th Assam Rifles, there was no necessity of classification of lands into four categories or valuing the land as per the classification.

14. The next question for consideration is as to whether 30% of the award amount could be deducted towards development charges or not. It is admitted by the witnesses examined on behalf of the land holders that some portions of the land was being used for residential purpose and some portions of the lands acquired was being used for agricultural purposes including jhum cultivation. It is also admitted that some portion of the land used to be under water. In view of such admission on the part of the witnesses examined on behalf of the land holders, it goes without saying that land requires development for the purpose of construction of residential houses. I, therefore, do not find any illegality in deducting 30% of the award amount towards development costs.

15. Now, coming to the next question as to what should be the value of the land acquired under the said notification, reference can be made to a decision of the apex Court in the case of Mohammad Raofuddin Vs. The Land Acquisition Officer, . In para 14 of the judgment, the apex Court observed that comparable sale instances of similar lands in the neighbourhood at or about the date of notification under Section 4(1) of the Act are the best guide for determination of the market value of the land to arrive at a fair estimate of the amount of compensation payable to a landowner. Nevertheless, while ascertaining compensation, it is the duty of the Court to see that the compensation so

determined is just and fair not merely to the individual whose property has been acquired but also to the public which is to pay for it. In the case of Ravinder Narain and Another Vs. Union of India (UOI), the Court observed that while determining market value of the land acquired, it has to be correctly determined and paid so that there is neither unjust enrichment on the part of the acquirer nor undue deprivation on the part of the owner. When compensation is to be determined for a large area, rate fixed for similar plots in the same vicinity can also form the basis for fixation of the rate. There is absolutely no prohibition against it. However, this method should be adopted when there is no other material to assess the price of the acquired land.

16. From the award, I find that the land holders claimed compensation @ Rs. 6 per sq. ft. on the ground that the acquired land is much better than the land on which village itself is located and that the Govt. had given approval @ Rs. 40000/- per acre at Kamjong for acquiring certain lands for 4th Assam Rifles. A Sale Deed dt. 19.7.1994 was also relied upon by the land holders. Document was also placed to show that in 1992 Public Works Department had paid compensation @ 3 per sq. ft. for the land occupied by it which is adjacent to the acquired land divided by a road. Similar evidence was also placed before the learned District Judge by the land holders. The learned District Judge did not rely upon the three Sale deeds exhibited by the land holders on the ground that the land covered under the sale deed cannot be treated as similar as that of the acquired land and that the sale deeds had been executed 4/5 years after announcement of the award. This finding of the learned District Judge is absolutely correct and no reliance can be placed on such sale deeds which had been executed 4/5 years after award was passed. The claim for enhancement of compensation was not specifically considered by the learned District Judge solely on the ground that the classification of the land was justified and consequently the valuation of each class of land was also justified. Under Ext. A/4 additional land was acquired for 25 Assam Rifles for security purposes and an award was passed for such classification on 5.3.2002. The said acquired land has the following boundaries:

North-IB of PWD and Road leading to Phungyar

South-Dag No. 92(VVF) and Dag No. 23

East-Road leading to Phungyar

West-Dag No. 17, 21, 22.

The LA collector awarded compensation @ 70,000/- per acre. The present acquired land is also adjacent to IB of PWD only divided by a road and for acquisition of land for P.W.D. much higher compensation had been paid. Therefore, there is no reason as to why much lesser compensation should be allowed in respect of the acquired land.

17. The learned counsel for the respondent No. 3 submitted that prices fetched

for small plots cannot form safe bases for valuation of large tracts of land as two are not comparable properties. The principle requires that prices fetched for small developed plots cannot directly be adopted in valuing large extents. Reliance is placed by the learned counsel for the respondent No. 3 on two decisions of the Supreme Court in this regard, i.e. (i) Administrator General of West Bengal Vs. Collector, Varanasi, and (ii) Atma Singh (died) through LRs. and Others Vs. State of Haryana and Another, With reference to the above two decisions, it was further contended that the compensation granted for acquisition of land for the purpose of P.W.D. cannot be the determining factor for valuation of land under the present acquisition.

It was also contended by the learned counsel for the respondent No. 3 relying on a decision of the Apex Court in the case of Subh Ram (*supra*) that the purpose of acquisition can never be a factor to increase market value of the acquired land. As example, where irrigated land (A), dry land (B) and waste land (C) are acquired for the purpose of a Dam project, the owners of the category-(B) and (C) cannot content that they are entitled to the same rate of compensation which is awarded for category of land such as (A) just because the land acquired is for the same purpose.

18. The LA Collector, in his award, has granted compensation @ Rs. 9 per sq. m. in respect of class-A land, Rs. 6 per sq. m. for class-B land, Rs. 4 per sq. m. for class-C land and Rs. 2.5 per sq. m. for class-D land. Since I have already held that classification of land into four categories was not justified, the market value for the acquired land should be assessed at one rate. As stated earlier, the acquired land is adjacent to the PWD land which had been acquired in the 1992 and compensation was paid @ 12.80 per sq. m. for such acquisition. However, present acquisition involves a huge patch of land and market value of the same cannot be as that of the land acquired for PWD. I am, therefore, of the view that if uniform market value is to be assessed for the entire block of land, it should not be less than Rs. 7.50 per sq. m. I accordingly hold that all the land holders whose lands have been acquired under the present notification, are entitled to compensation @ Rs. 7.50 paise per sq. m.

19. The last ground taken by Mr. A. Bimol, the learned counsel appearing for the appellants is with regard to non payment of interest. It was contended by Shri Bimol, learned counsel appearing for the appellants that the land holders are entitled to interest from the date of acquisition, but no interest has been awarded on the compensation allowed by the L.A. Collector.

20. I have perused the award carefully. In para 18 of the award, the rate of compensation per sq. m. has been assessed in respect of all the four classes of lands. Compensation has also been assessed for standing structures and 12% interest has been directed to be paid in the award from the date of notification u/s. 4 of the LA Act till payment of compensation. The L.A. Collector has also awarded 30% of the market value as solatium. In the impugned order, the learned District Judge has not awarded any further interest. Referring to Section

28 and Section 34 of the LA Act, it was contended by Shri Bimol, learned counsel for the appellants that if any excess amount of compensation is allowed, interest has to be paid on such excess amount u/s. 28 of the Act and in terms of Section 34 of the Act if the amount of compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay amount awarded with interest @ 9% per annum from the time of taking possession. On perusal of Section 34 I find that though the L.A. Collector, while passing the award is also required to grant interest @ 9% per annum from the date of taking possession of the land till the amount of compensation is paid or deposited, in the present case the L.A. Collector has also awarded 12% interest from the date of taking over possession till payment of compensation. Therefore, the appellants can only take advantage of Section 28 and claim for interest on the excess amount of compensation to be paid which is statutorily provided at 9% per annum.

In the case of Shree Vijay Cotton and Oil Mills Ltd. Vs. State of Gujarat, it was held that interest under Sections 28 and 34 of the Act forms part of the compensation. It was further held that there can be no controversy or any lis between the parties regarding payment of interest. Once section 34 is attracted, it is obligatory for the Collector to pay the interest and if he fails to do so, the same can be claimed from the court in a proceeding u/s. 18 of the Act or even from the appellate Court. In the case of Sunder Vs. Union of India (UOI)--> , it was held that the question of payment of interest would arise only when compensation is not paid or deposited on or before the date of taking compensation of the land. It is inequitable that the person, who is deprived of compensation of the land on account of acquisition proceeding, is not given the amount which law demands to be paid to him and any delay thereafter would only be to his detriment. There must be a provision to buffet such iniquity. It is for the purpose of affording relief to the person who is entitled to such compensation when the payment of his money is delayed that the provision of Section 34 of the Act comes into play. It was further held that when the Court is of the opinion that the Collector should have awarded large sum as compensation, the Court has to direct the Collector to pay interest on such excess amount. This is also provided in Section 28 of the Act.

21. Land Acquisition Collector, having awarded 12% interest on the compensation payable from the date of taking over possession till the date of payment, the land holders are only entitled to interest over the differential amount, because of Court granting a higher compensation than that of L.A. Collector in his award and such interest shall be @ 9% per annum.

I, therefore, conclude with the following findings:

- (i) there shall be uniform compensation for the entire land acquired under the Notification and rate of compensation shall be Rs. 7.50 per sq. metre.
- (ii) Deduction of 30% from the compensation towards development costs is justified in the facts and circumstances of the present case.

(iii) The land holders shall be entitled to solatium of 30% as awarded by the LA Collector.

(iv) The land holders shall also be entitled to interest @ 9% per annum on the differential amount, the compensation having been enhanced by the Court from the date of acquisition till the date the differential amount is paid to the land holders or deposited, whichever is earlier.

22. The appeal is, accordingly, allowed in part.