
(1998) 03 GUJ CK 0055
In the Gujarat High Court

Santram Karsan

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 19-03-1998

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 96
Land Acquisition Act, 1894 — Section 11, 18, 4, 54, 5A

Citation : (1999) 1 GLR 303

Hon'ble Judges : Y.B. Bhatt, J;C.K. Buch, J

Bench : Division Bench

Judgement

Y.B. Bhatt, J.—These are appeals arising u/s 54 of the Land Acquisition Act read with Section 96 C.P.C. filed by the original claimants-land-holders, challenging the common judgment and awards passed by the Reference Court u/s 18 of the said Act.

2. The pertinent and relevant facts in brief are as under:

3. The lands in question were acquired for the purpose of Demy-2 Irrigation Scheme, and are situated in and around village Rajavad, Taluka Morbi, District Rajkot. The notification u/s 4 of the said Act was dated 19th February, 1979, which, however, came to be published in the Government Gazette only on 10th May, 1979. At this stage, we may only emphasize that there is a substantial interval between the making of the notification, and the publication thereof, the significance whereof will be discussed hereinafter. The notification u/s 6 of the said Act was published on 3rd January, 1980.

3.1 After going through the procedure required by law, the Land Acquisition Officer declared his award u/s 11 of the said Act on 26th March, 1981. In the said award, the L.A.O., determined the market value of the lands in question by categorising them according to the nature and quality, under three heads. Accordingly, he offered Rs. 80/- per Are for Jirayat lands (Non-irrigated lands), Rs. 110/- per Are for Bagayat lands (Irrigated lands) and Rs. 130/- per Are for superior Bagayat lands (Irrigated lands of superior quality/fertility).

3.2 Being aggrieved by the said award of the L.A.O. and not having accepted the same, the claimants preferred References u/s 18 of the said Act, which resulted in the common judgment and awards which are the subject-matter of the present appeals. The Reference Court determined the market value of the acquired lands under the same categorisation of Jirayat, Bagayat and superior Bagayat lands, by adding Rs. 30/- per Are to each category. Thus, the Reference Court determined the market value for Jirayat lands at Rs. 110/- per Are, for Bagayat lands at Rs. 140/- per Are and for superior Bagayat lands at the rate of Rs. 160/- per Are.

3.3 The claimants-land-holders being dissatisfied with the common judgment and awards, have, therefore, preferred the present appeals.

3.4 So far as the claim in these appeals is concerned, though the same is stated in monetary terms, learned Counsel for the appellant clarifies that the claimants seek in the present appeals the determination of the market price of the lands at Rs. 125/- per Are for Jirayat lands, Rs. 170/- per Are for Bagayat lands and Rs. 190/- per Are for superior Bagayat lands.

4. We consider it relevant at this stage to mention that this very common judgment and awards passed by the Reference Court were challenged by the State Government in a group of appeals being First Appeal Nos. 308 to 352 of 1986. These appeals came to be heard and dismissed by a Division Bench of this Court by judgment and order dated 12th March, 1986 (Coram: B.K. Mehta & I.C. Bhatt, JJ.). We have perused the said judgment with a due care, and we find that the same is a decision on the merits of the contentions of the State for the purpose of reducing the market value as determined by the Reference Court. No doubt in this decision, there are passing observations to the effect that it may have been possible for the Reference Court to have awarded something more. However, we do not look upon these observations as a finding of fact, when admittedly this decision deals only with the claim of the State for reduction of the compensation. These observations are made only with a view to sustain further observations made in the said decision to the effect that in the opinion of that Bench, the Government cannot be said to be legitimately aggrieved by the findings of the learned Assistant Judge, i.e., of the Reference Court. In our opinion, it would not be open for us to entertain the contention of the appellants herein that the said decision should be interpreted or construed as an expression of opinion for enhancement of the market value of the land beyond and above the market value determined by the Reference Court. We refer to the said decision only for the limited purpose of stating the relevant facts and also to deal with the subsequent contention of the State in the present appeals (as respondent) that the State be permitted to plead in these appeals, further grounds for reduction of the market value and/or rejection of the compensation payable to the claimants. If at all a case for reduction of market value and/or compensation was to be pressed and considered, it was in that group of appeals, which is now concluded by the rejection of those appeals. Thus, any point sought

to be urged in the present group of appeals filed by the claimants-land-holders for the purpose of reducing the compensation or market value, cannot be entertained. We, therefore, do not propose to deal with this contention of the State on the factual aspects.

5. Dealing with the minor aspects of the claim in appeal first, we may only note and observe that although a ground has been taken in the memos of the appeals, for enhancement of compensation for palas, pipelines and similar miscellaneous items, enhancement under these subheads is ultimately not pressed by learned Counsel for the appellants.

5.1. Similarly, additional compensation and/or enhancement of the compensation for wells situated on certain acquired lands is also not pressed in these appeals by learned Counsel for the appellant.

6. Now, coming to the substance of the contentions of learned Counsel for the appellant, the thrust of the argument is based upon the approach of the Reference Court to the material evidence on record, and to the scope, effect and interpretation of the sale deeds on record.

There are only three sale deeds which have been relied upon by way of evidence before the Reference Court, as also before us.

Exhibit 30 is a sale deed forming part of Survey No. 19 which is proved by the purchaser Amu Hamir (Exh. 29), reflecting the sale of 2 acres and 16 gunthas for a consideration of Rs. 12,300/- which reflects as sale price of Rs. 128/- per Are.

Exhibit 32 is a sale deed in favour of Jesang Hamir (Exh. 31) dealing with the part of the very same Survey No 19 reflecting the sale of 2 acres and 22 gunthas for a consideration of Rs. 12,500/- which reflects a sale price of Rs. 122.50 ps. per Are.

Exhibit 34 is a sale deed of land forming part of the same Survey No. 19 which is proved by the vendor Nam Rama (Exh. 33) reflecting the sale of 2 acres and 16 gunthas for a consideration of Rs. 12,300/- reflecting a rate of Rs. 128/- per Are.

It is pertinent to note and also to emphasize that the vendor-original holder of these three lands in question was one Nam Rama, that the original Survey No. 19 of which the said Nam Rama was the owner was divided into almost three equal parts and conveyed to the three purchasers referred to hereinabove, and that the purchasers were also real brothers. Furthermore, all the three deeds were executed on the same day, namely, 9th April, 1979. Basically therefore, as far as the vendor is concerned, it was only one transaction, effected through three sale deeds.

At this stage, we revert back to the facts stated hereinabove with a view to emphasize that all the three sale deeds executed on 9th April, 1979, are chronologically between the date of Section 4 notification, namely, 19th February, 1979 and the date of publication of the said notification, namely, 10th

May, 1979.

It May also be noted here that all the lands conveyed under these documents were Jirayat lands (Non-irrigated).

7. On the basis of these three sale deeds, it is contended by Counsel for the appellant that the Reference Court, having accepted these documents as valid and genuine, and as having been executed between a willing vendor and a willing vendee, ought to have awarded compensation and ought to have determined the market value of the acquired lands as per the price reflected in these three documents of sale. It was further contended in this context that when in fact, the Reference Court awarded compensation by determining a substantially smaller figure of market value, no reasons have been assigned therefor, let alone good reasons. According to learned Counsel for the appellant, therefore, the minimum that should have been awarded by way of compensation, would and should have been by valuing Jirayat lands at a minimum of Rs. 128/- per Are, and since the Reference Court has valued Jirayat lands only at Rs. 110/- per Are, this determination is both inadequate and without justification.

8. It would appear at first sight that this contention of learned Counsel for the appellants is justified inasmuch as the Reference Court has in fact accepted these sale deeds as genuine sales. It has also accepted these three sale deeds as relevant inasmuch as Survey No. 19 which is the subject-matter of these three sale deeds is in close proximity of the acquired lands. It would also appear at first glance that there is some substance in the contention of learned Counsel for the appellant that there are no good reasons for not accepting the market value as reflected in these sale deeds.

8.1 However, we are required to consider the contention of learned Counsel for the respondent-State in respect of these three sale deeds.

8.2 Learned Counsel for the respondent has sought to draw a distinction between the legality, validity and/or the genuineness of a sale deed as a document, (merely as an instrument of transfer), and the legality, validity, comparability and reliability of the transaction as such, such transaction being necessarily affected by the attending circumstances which would reflect upon the nature and character of the transaction as a whole, and which would affect the comparability of the sale instance and its resultant impact on forming the basis of determination of the market value of the lands under consideration.

8.3 In this context, our attention has been drawn to a decision of the Supreme Court in the case of Land Acquisition Officer and Assitant Commissioner, Mangalore Vs. Belekal Krishna Bhat, . The principle as laid down in the said decision is to the effect that the existence of a sale deed is merely a reflection of a transaction between a vendor and a vendee, which should also be examined from the perspective as to whether the same has been brought into existence with the intention to inflate the market value, and that it is also the duty of the Court to look into the attending circumstances to ascertain the genuineness of

the document and that of a transaction as a whole. On the facts of that case, the sale deed had been executed about a month prior to the issuance of the notification in question, and the witness had admitted that he had knowledge of the proposed acquisition. In para 3 of the said decision, the Supreme Court had occasion to observe as under:

Even otherwise, it would be a common knowledge that the acquisition would take a long time. It would be known to the people in the locality, when documents proximate to the time of acquisition were set up for inflating compensation. The Court has to look into the attending circumstances whether documents are brought into existence with the intention to inflate the market value or are true and genuine documents; consideration is device to know whether the vendor and the vendee are genuine parties or privy to pass off sale process.

8.4 Various judicial pronouncements have sought to define what is a "comparable sale instance". The most common expression used in this context is that "it must be a free sale, i.e., a sale between a willing seller and a willing purchaser." However, what may perhaps be overlooked on occasion, is that the transaction must also be free from any and all taint, and must also be free from any and all compulsion, whether such compulsions arise from acts of parties, or arise from pressure of adverse circumstances. Compulsions arising from economic need, family or social circumstances, pending or threatened litigation, as also, in general, all other oblique, illegal, unethical and/or anti-social motives must be ruled out, except perhaps the normal profit motive (so long as the same is not disguised, coloured or covertly concealed). For obvious reasons, we cannot define or delineate exhaustively all that is tainted. We do not attempt to do so.

8.5 In the context of the above observations, we reiterate and re-emphasize the essential fact already referred to hereinabove that the notification u/s 4 in the present case is dated 19th February, 1979 and the three sale deeds in question are dated 9th April, 1979, followed by the publication of the said notification on 10th May, 1979. This situation sows the first seed of doubt in the mind of the Court. It leads the Court to wonder whether this transaction as a whole is a mere coincidence or whether there is something in the nature of an ulterior motive behind it. Once the Court finds that a deeper scrutiny is required in respect of a transaction, going beyond the mere recitals made in the sale deeds themselves, the facts already established by way of evidence on record assume a very different character indeed. We, therefore, propose to discuss only in brief some of these relevant factors.

8.6 We believe that we would not be importing our personal knowledge as against the evidence on record in observing that the publication of notification u/s 4 of the Act did not come as a bolt from the blue so far as the land owners of the proposed acquisition are concerned. Usually, the proposal to take up a particular project for which land acquisition may have to be resorted to is generally made known to the public by way of policy decisions conveyed by newspapers' reports. This may be followed by the active participation of the

various departments involved in the implementation of the project. To get down to specifics, the lands which are proposed to be acquired are notified u/s 4 of the Act, and as provided by Sub-section (2) of Section 4, any officer as may be authorised for the purpose, may carry out all the acts contemplated under Sub-section (2). In most acquisitions under the said Act, such acts would include a pre-notification survey with a view to identify the extent of the area which may require to be acquired, as also the specific lands which ought to undergo acquisition. Such survey is also necessary to minimise the divergence between the lands proposed to be acquired u/s 4 and the lands so notified for acquisition u/s 6 of the Act. Another object of such pre-notification survey is to minimise the objections which may be raised by the concerned land owners, which objections are required to be heard u/s 5A of the Act. There is no reason to presume that such normal procedure was not followed in the instant acquisition. On the other hand, there is specific evidence on record that there was a pre-notification survey, and that the same was within the knowledge of the concerned parties. This aspect is reflected in the deposition of the claimants' own witness Shinabhai Hathibhai Bhachiya at Ex. 48.

8.7 Once it is found that the residents and land-holders in the area were aware of the pre-notification survey, creation of a sale deed in between the date of the notification u/s 4 and the publication thereof assumes a different dimension, and becomes something more than a mere possibility or coincidence.

8.8 From the depositions of Amu Hamir (Ex. 29), Jesang Hamir (Ex. 31) and Naru Rama (the vendor) at Exh. 33, it is ascertained that the three purchasers in question at the relevant point of time were not actual land-holders of any agricultural land and at best they may be assumed to be the agricultural labourers. This aspect is also required to be seen in juxtaposition with Ex. 13, which is an abstract of Village Form 7-12, pertaining to Survey No. 64. It is pertinent to note that Survey No. 64 is a part of the acquired land, and that the occupant thereof as disclosed in Ex. 13 is no other person than the father of the three purchasers, i.e., Hamir Vira. This occupant of Survey No. 64, namely, Hamir Vira is also the claimant in Land Reference Case No. 48 of 1982 (and appellant in First Appeal No. 483 of 1986). Thus, from a plain reading of Ex. 13, it can be culled out that Hamir Vira, being one of the claimants and affected by acquisition, got the names of his three sons (purchasers of the lands in question) inserted in the Village Form 7-12 as co-occupants, with a view to avoid a technical defect created on account of the relevant provisions of the Bombay Tenancy & Agricultural Lands Act, which would prevent or render difficult a sale of agricultural land in favour of a non-agriculturist.

8.9 Another aspect is that the transaction creates a direct and distinct motive for creating a sale instance which would establish a base line for determining the value of the acquired lands, including the land of their own father. Incidentally, the furtherance and pursuance of such a motive would also benefit other persons affected by the acquisition. This aspect is not insignificant, inasmuch as we find

from the record that most persons affected by the acquisitions are persons of the same community or caste, namely, Ahirs. Although we do not wish to speculate, we are not unmindful of the possibility that the caste or community may have directly or indirectly participated in or encouraged the transaction in question, inasmuch as the same would enure for their common benefit.

8.10 It is most likely that it was this common interest held by the community in this transaction that prompted the vendor Naru Rama to make an attempt to disassociate himself from the community. We find that the vendor had, in all the three sale-deeds, originally put his signature as "Naru Rama Aher", where the surname also discloses his community. This surname was struck out by him and substituted by another. Surely, a person cannot, even through error or oversight, make a mistake in writing his own surname! Yet the vendor did so, we are expected to believe! As aforesaid, the only logical reason for the vendor to ostensibly profess membership of another community, or to divert attention away from his true community, could only be to render covert the communality of interest in that transaction.

8.11 Another relevant aspect disclosed from the evidence on record is as to how or why Naru Rama, the vendor was chosen to be the person from whom the land was to be purchased for the common benefit. We are mindful of the fact that so far as the deposition of the vendor Naru Rama (Ex. 33) is concerned, he has stated in his examination-in-chief that on the date of the sale in question, he was not indebted or under any financial stringency. We are also conscious that there is no effective cross-examination on this point. However, our attention is also drawn to the fact that this very same vendor, namely, Nam Rama, has been examined by the claimants of a cognate Land Reference Case to prove these very same sale deeds for the purpose of that Land Reference Case. In that deposition, this very same vendor, after proving these sale deeds, was made to admit that he was indebted to the Co-operative Society and that the sale proceeds have been utilised for clearing that debt. Thus, although technically that deposition is not evidence in the present Land Reference Case, the fact remains that the version given out by the vendor by way of his deposition in the present Reference is not entirely aboveboard nor does it amount to disclosure of the entire truth. This by itself may not amount to much but is to be seen in the overall context of all the relevant circumstances.

8.12 It is also disclosed from the evidence on record that the vendor Nam Rama was the holder of only Survey No. 19, that he had no other lands, and the entire Survey Number was conveyed to the three purchasers in question after subdivision into almost three equal parts. We have to examine as to why a person should dispose of the totality of his only holding. The only rational and plausible answer is that he was part of a larger understanding entered into at least with the purchasers, whereby he was assured of a consideration which was otherwise unrealistic and was sufficiently exaggerated to induce him to part with the only means of livelihood. In this context, it is an admitted fact that Nam Rama had no

other lands, and as a consequence of this sale, he was required to shift to another village. This is also a fact which militates against the legitimacy of the transaction and provides motivation at the same time.

9. Another significant aspect is that the father of the purchasers, namely, Hamir Vira who is the claimant in Land Reference No. 48 of 1982, lost his entire holding, a large piece of land admeasuring almost 8 hectares, due to the acquisition. Thus, he i.e., Hamir Vira was also interested in acquiring other agricultural land. This need was satisfied by purchasing Survey No. 19 belonging to Nam Rama, and effecting the purchase in the name of his three sons, Amu Hamir, Jesang Hamir and Bhanu Hamir. For this reason also, it cannot be said that the three sale deeds reflect a transaction between a purchaser and a seller which is absolutely free from the element of compulsion. This fact also discloses a need, and if not an absolute need, atleast considerable need on the part of the purchasers to offset the loss of their father's lands.

10. Another significant aspect is that admittedly Survey No. 19 had only one well thereon, and the vendor Nam Rama admittedly had only 1/3rd interest in the said well. However, when the said Survey No. 19 was broken up and sold to the three purchasers under three different sale deeds, two of the sale deeds contained a recital that the well is sold to the purchaser, and there is no restriction as regards the limitation of their share in the said well so conveyed. In other words, whereas there was only a limited interest held by the vendor in one well, two of the purchasers are given full interest in two wells. Obviously, this is an impossibility. The reason for making such a recital is obvious, and that is to create an artificial justification for an artificially high consideration.

11. The need to create a transaction was also justified (from the perspective of the land owners) inasmuch as there are absolutely no other transactions at all, or at least none that would benefit them.

12. The different facts and circumstances stated hereinabove by themselves and seen in isolation, may not perhaps justify an inference or conclusion. However, in our opinion, when these facts are seen collectively and examined in juxtaposition, they can only lead to one conclusion. In our considered opinion, therefore, the three sale deeds in question may be legitimate sale deeds in the limited sense of being documents transferring title, but these documents fail to satisfy the test of constituting reliable sale instances or as genuine transactions on the basis of which the market value of the acquired lands may be culled out. In short, these three documents are far from being reliable sale instances for the purpose of determining the market value u/s 18 of the said Act. We specifically find and hold that for this purpose, the three sale deeds in question do not constitute reliable instances for the purpose of comparison, that the same are driven by both motivation and need, are also speculative in nature, and were entered into with a specific intention to create a precedent on the basis of which an artificially high price could be sought to be justified.

13. As a consequence of the above finding, we are required to examine what should be the correct market value of the acquired lands. In this context, it was submitted by learned Counsel for the appellant that although the Reference Court has accepted these three documents as genuine documents, the Reference Court did not determine the market value of the acquired lands at the prices reflected in those documents. Moreover, the Reference Court did not give any reasons or justification for determining the market value at a lower figure. With a view to ascertain the reasons as to why the Reference Court determined a lower figure, we find from a reading of the judgment that the Reference Court has not assigned any specific and explicit reason or reasoning. However, in our opinion, it is possible to read the judgment and to infer therefrom that the Reference Court did hold, at the back of its mind, the possibility and/or probability that the sale deeds did not reflect the true market value. As already observed hereinabove, this aspect which the Reference Court appears to have held at the back of its mind, has not been explicitly expressed, and yet it is reflected in the scaling down of the market value professed in the documents in question. In our opinion, this can be culled out by considering the extent by which the Reference Court has discounted the price disclosed in the document. It is for this reason, that the Reference Court determined the market value at Rs. 110/- per Are for Jirayat lands, Rs. 140/- per Are for Bagayat lands and Rs. 160/- per Are for superior Bagayat lands. In this context, learned Counsel for the appellant submitted that the precise fixation of the market value cannot be arrived at {de hors the market price disclosed in the three sale deeds}, and that this Court is not bound to accept the determination of the Reference Court. No doubt this is true, but in a limited sense. However, we would prefer to state that if this Court was applying its mind to the facts established on record in place of the Reference Court, we may have perhaps determined a different market value, and that may have been even lower than that by the Reference Court. However, while sitting as an Appellate Court, our prime consideration is only to consider whether the determination of a market price at the hands of the Reference Court is so unjustified, so as to compel us to interfere and redetermine the market price de novo. On the facts of the present case, we find that the Reference Court has maintained the distinction created by the L.A.O. himself between the nature, category and quality of the lands in question, and has also maintained the quantitative difference between the three categories of lands. In other words, the L.A.O. had determined three values distinctly for Jirayat, Bagayat and superior Bagayat lands and had specified the different value in each category. The same principle has been followed by the Reference Court. We, therefore, see no error atleast in principle in this determination carried out by the Reference Court. On the quantitative aspect, we find from a collective examination of the material evidence on record that there is no justification for interfering with the market value as fixed by the Reference Court, on the ground that it is substantially or even somewhat below the reasonable value based on evidence on record. In the ultimate analysis, we are of the opinion that this does not call for any interference, and accordingly we uphold the determination of the market value of

the lands under acquisition at Rs. 110/- per Are for Jirayat lands, Rs. 140/- per Are for Bagayat lands and Rs. 160/- per Are for superior Bagayat lands.

14. So far as the compensation awarded for the wells is concerned, it was submitted by learned Counsel for the respondent-State that no compensation in this regard ought to be awarded at all in view of the recent decision of the Supreme Court in the case of State of Bihar Vs. Ratan Lal Sahu and Others, , following the decision in the case of O. Janardhan Reddy and others Vs. Spl. Dy. Collector, L.A. Unit-IV, LMD, Karimnagar, A.P. and others, . There is no controversy that the Supreme Court has held that where lands are valued as Bagayat lands, and where the lands have the facility of irrigation through a well and that such facility is availed of, the value of the well is reflected in the value of the land itself, and that therefore, the wells cannot be separately compensated. However, we cannot lose sight of the fact that this principle is relied upon by the respondent-State in support of its claim for reduction in compensation. Such claim for reduction cannot arise or cannot be considered by us, firstly because there are no cross-objections in the present appeals and secondly, because independent appeals by the State for the purpose of reducing the compensation have already been dismissed by judgment on merits. Thus, we are unable to entertain this submission at all.

15. However, there is another contention raised by learned Counsel for the appellant, which we must uphold. The Reference Court, after having determined the market value and while passing the consequential order as to solatium and interest has through oversight, error or inadvertence, directed the solatium to be paid to the claimants at the rate of 30% only on the enhanced amount. In this context, we must agree with learned Counsel for the appellant that it is possible that this may be misconstrued in drawing up of the decree and in the computation of the total amount payable to the claimants, inasmuch as solatium is attributable not merely to the amount enhanced by the Reference Court u/s 18, but it would be payable on the entire amount of compensation, i.e., the amount payable under the award u/s 11 as also the amount payable u/s 18. No doubt, this apprehension of learned Counsel for the appellant is justified, looking to the language used in the final order passed in the common judgment. Inasmuch as there is no controversy on the principle involved, and no objection has been raised by learned Counsel for the respondent-State, we clarify, hold and direct that the solatium at the rate of 30% will be paid on the entire amount of compensation (which would include the amount of compensation under the award u/s 11). However, we may further clarify that by the word "compensation", we mean compensation attributable to the value of the lands paid on the basis of the prices determined by us, together with compensation in respect of other items such as palas, pipelines, wells etc.

16. A further contention raised by learned Counsel for the appellant also requires to be accepted in the context of the interest payable on the amount in question. Here also, we find that the Reference Court has in its final order directed

payment of interest at the rate of 9% p.a., on "the enhanced amount". Obviously, this is an error which requires to be rectified. We accordingly hold and direct that the interest would be payable on the entire amount of the compensation and not merely on the amount enhanced by the award u/s 18, and that such interest would be at the rate of 9% p.a. for the first year starting from the date of handing over possession, and at the rate of 15% p.a., for the period thereafter upto the date of payment of deposit in Court.

17. It was further submitted by learned Counsel for the appellant that the claimants are entitled to interest not merely on the market value of the lands, but are also entitled to interest on solatium. In support of his contention, learned Counsel for the appellant relied upon a decision of the Supreme Court in the case of Narain Das Jain (Since Deceased) by Lrs. Vs. Agra Nagar Mahapalika, Agra, . No doubt, this plea raised on behalf of the appellant is supported by observation made in para 7 of the said decision. There cannot be any controversy that para 7 of the said decision does lay down that the solatium follows automatically the market value of the lands acquired, and that the spirit of the provision as to compensation includes the award and solatium, and that therefore, interest would also accrue on the solatium part of the award. However, in a subsequent decision of the Supreme Court in the case of Yadavrao P. Pathade (Dead) by Lrs. and Others Vs. State of Maharashtra, , a contrary view has been explicitly expressed and consequently, the prior view expressed by the Supreme Court in the case of Naraindas Jain (supra) is impliedly overruled. In fact, in the latter decision referred to hereinabove, namely, Yadavrao P. Pathade v. State of Maharashtra, an earlier and contrary view taken in another Supreme Court decision, namely, Periyar and Pareekanni Rubbers Ltd. Vs. State of Kerala, , has been specifically considered and specifically overruled. In view of the decision in the case of Yadavrao P. Pathade (supra), learned Counsel for the appellant was unable to sustain this contention any further.

No other contention was raised.

18. Accordingly, these appeals fail so far as enhancement in the market value was sought, but succeed to the extent indicated hereinabove on the aspect of solatium and interest. Thus, the appeals succeed only in part. There shall be no order as to costs. Decree accordingly.