
(2004) 12 AP CK 0084

In the Andhra Pradesh High Court

Case No : FA No's. 2228, 2229, 2230, 2316, 2317 and 3123 of 2004

Singareni Collieries Co. Ltd.

APPELLANT

Vs

Kandula Ramaiah and Others

RESPONDENT

Date of Decision : 27-12-2004

Acts Referred:

Land Acquisition Act, 1894 — Section 12, 18, 4, 4(1), 5

Citation : (2005) 2 ALD 844

Hon'ble Judges : C.V. Ramulu, J;B. Sudershan Reddy, J

Bench : Division Bench

Advocate : Ramesh Rangandhan and D. Prakash Reddy, for M. Ram Mohan Reddy, I. Aga Reddy and V. Hariharan and Government Pleader, for the Appellant;

Judgement

C.V. Ramulu, J.—A.S. Nos.2228 to 2230 of 2004 are filed by the Singareni Collieries Company Limited (beneficiary), while A.S. Nos. 2316,2317 and 3123 of 2004 are filed by the claimants u/s 54 of the Land Acquisition Act, 1894 (for short "the Act") challenging the common Award and Decrees dated 8-12-2003 passed by the Court of Senior Civil Judge, Pedapalli in O.P. Nos.247 of 1999,316 of 1999 and 164 of 2001.

2. An extent of Acs.693.1 1/2 gts of land out of a total extent of Ac.970.09 gts situate at Lingapur Village, Ramagundam Mandal of Karimnagar District, acquired for Open Cast Mine of Medipalli is the subject-matter of the present appeals. The notification u/s 4(1) of the Act was gazetted on 4-2-1989. By an Award dated 27-3-1991, the Land Acquisition Officer fixed the market value of the acquired lands at Rs. 12,200/- per acre, Rs.2,84,000/- for the seven wells (approximately Rs.32,000/- for each well), Rs. 77.60 ps per Sendhi tree, Rs.96.50 per Toddy tree, Rs.200/- per Tamarind tree, Rs.150/- per Thumma tree and Rs.50/- per Burugu tree. The claimants sought for reference u/s 18 of the Act for determination of proper market value. Common evidence was let in and a common Award was passed in all the three OPs. Before the learned Senior Civil

Judge, on behalf of the claimants, P.Ws. 1 to 5 were examined and Exs. A1 to A15 were marked and for the respondents, R.Ws.1 to 3 were examined and Exs. B1 to B19 were marked and Ex.C1 - Report of the Advocate Commissioner was also marked. After appreciation of entire evidence on record, the Reference Court enhanced the compensation from Rs. 12,200/- to Rs. 40,000/- per acre for the lands. Similarly, the compensation was enhanced to Rs. 75,000/- per well, Rs. 150/- per Sendhi tree, Rs. 175/- per Toddy tree, Rs. 270/- per Tamarind tree, Rs. 200/- per Thumma tree and Rs. 100/- per Burugu tree .

3. In these cases, a peculiar situation arose. The lands, which were covered by very same notification were subject-matter of O.P. No. 22 of 1997, which attained finality in the Supreme Court in Special Leave to Appeal (CC) Nos.4301-4302 of 2002, which were dismissed on 8-7-2002 by the following Order:

"Delay condoned.

In the peculiar facts and circumstances of this case, we see no justification to interfere with the impugned Order of the High Court. The special leave petitions are dismissed.

Needless to point out if there are any other cases for acquisition of lands, the same will have to be considered on their own individual merits and materials placed in such cases."

Though the O.P. Nos.247 of 1999, 316 of 1999 and 164 of 2001, out of which the present appeals emanated, were pending at that time, the disposal of the above Special Leave Petitions by the Apex Court and the observations made therein were not brought to the notice of the Reference Court. Thus, the Court below proceeded on the basis of the earlier judgment in O.P. No. 22 of 1997 and the judgment in the appeals arose from that judgment i.e., A.S. Nos.686 and 922 of 2000. Therefore, the learned Counsel for the appellant-beneficiary submitted that the entire evidence on record needs to be reappreciated for the purpose of fixing proper market value for the lands in question and proceeded on that basis.

Heard- both sides.

The points that arise for consideration in these appeals are:

1. Whether the reference made u/s 12 of the Act to the Reference Court is barred by limitation ?
2. Whether the Reference Court was justified in relying upon Exs.A1 to A4 sale deeds, under which small extents of lands were sold out, when a huge extent of Acs.692. 41 1/2 gts of land was acquired and whether the said documents were executed only to boost the value of the lands under acquisition ?
3. Whether the lands under acquisition are submergible lands and they have no value whatsoever?

Point No. 1:

4. Sri Ramesh Ranganatham, learned Counsel for the appellant-Singareni Collieries Company Limited (beneficiary) contended that though an objection was raised with regard to the maintainability of the reference; however, the same was rejected. The main thrust is that the very applications u/s 18 of the Act were not made properly and within the stipulated time; as such, the reference u/s 18 of the Act was not maintainable.

5. Ex.A10 is a bunch of petitions u/s 18 of the Act in O.P. No. 247 of 1999, Ex. A11 is also a bunch of petitions u/s 18 of the Act in O.P. No. 316 of 1999 and Ex.A12 is another bunch of petitions u/s 18 of the Act in O.P. No. 164 of 2001. ExA13, dated 5-4-1991 is the office copy of Ex.A10. Firstly, under Ex.B5, the applications made by the claimants u/s 18 of the Act, were rejected by the Special Deputy Collector, Land Acquisition Unit, Singareni Collieries Company Ltd., Godavarikhani, through his Memo No. B2/146/96, dated-7-1996. Secondly, in Ex.B3 - Inward Register of Section 18 applications maintained by the Land Acquisition Officer - the applications received by the Office of the LAO were not entered in the said register in seriatim. Applications dated 9-5-1991 were entered in the register at SI. No. 1 onwards, whereas the applications dated 5-4-1991 were entered thereafter. Basing on the above documents, the learned Counsel for the appellant-beneficiary contended that it must be deemed that the entries made in the register were made only to favour the claimants. It is also the case of the appellant-beneficiary that several corrections were made in the applications. Apart from that, no inward stamp or office seal or inward number is available on the original applications, though such a seal (stamp) is available on Ex. A13 office copy. If really the applications were received on a particular date, they could have been entered in seriatim and the dates entered in Ex. B3 itself would show that there is any amount of suspicion as to the correctness of the applications filed under Ex.A13, is the contention of the learned Counsel for the appellant-beneficiary. Learned Counsel drawn attention of the Court to the evidence of R.Ws.1 and 2 in this regard.

6. R.W.1 stated that the applications received u/s 18 of the Act have to be entered in the concerned register in seriatim, date wise and in chronological Order. From the verification of the said register, it is evident that the petitions dated 9-5-1991 were entered first and later on, the petitions dated 5-4-1991 were entered. Subsequently, after the petitions dated 12-4-1991, the petitions dated 8-4-1991 and later 3-4-1991 were entered and again the petitions dated 9-5-1991, later 12-4-1991 and 5-5-1991 were entered. The entries of receipt of petitions are suspectable, since they were not in chronological Order. The LAO initialled the petitions on 8-4-1991 and 12-4-1991, whereas the Vakalatnamas enclosed to these petitions bear the date 14-10-1991 i.e., the date on which the claimants have signed before the concerned Advocate. Therefore, the petitions were time barred and manipulated and thus the petitions were rejected. Aggrieved by the same, the claimants filed W.P. No. 9249 of 1998, which was

disposed of by this Court on 1-5-1998 directing the LAO to refer the applications filed by the claimants to the Civil Court, if they are filed within the time stipulated. Thereafter, opinion was sought for from the Government Pleader on 22-6-1998 and the learned Government Pleader gave an opinion that if the petitions are filed within time, they may be referred to the Civil Court. R.W.2 - Deputy Estate Manager of the beneficiary-company - deposed that the records of the LAO would show that the claimants have not filed the petitions for referring their cases to Civil Court within limitation and have manipulated to get the signatures of the then LAO on their applications with back date. Apart from that, several discrepancies were found out in the records in filing the petitions as stated by R.W.1. In the cross-examination, R.W.1 stated that in this case, the last date for filing the petitions u/s 18 of the Act was 25-6-1991. He admitted that Section 18 petitions were filed on different dates, but within the stipulated time i.e., 25-6-1991. He also admitted that there are some corrections in Ex.B2 acquittance roll at surnames, names, and fathers' names of the awardees. He admitted that Section 18 petitions were not entered in the register in chronological Order. However, the awardees complied with, two conditions as laid down in Section 18 of the Act i.e., receiving the amount of compensation under protest and filing of Section 18 petitions within time. The awardees have satisfied the requisite conditions as laid down in Section 18 of the Act. He specifically admitted that the awardees are not concerned with the irregularities in Exs.B2 and B3. Ex.B14 contains the initials of the LAO with date as 5-4-1991. Under Ex.B14, 344 awardees filed Section 18 petitions and the same were initialled by LAO. No notice was issued to the awardees earlier when their petitions were rejected. Petitions u/s 18 were rejected only on one ground that they were manipulated to show that they are within time. He admitted that himself and his clerks examined Section 18 petitions and placed them before the LAO for passing Orders to refer the matter to the Civil Court. The claimants in O.P. No. 22 of 1997 filed their Section 18 petitions under Ex.B14. Their cases have been finalized before the Supreme Court of India. After verification of Section 18 petitions, they were found to be in Order and they were referred to the Civil Court. As per their records, the names and particulars of properties in all Section 18 petitions in these three OPs are correct. R.W.2 also admitted that the Advocate's copies of Section 18 petitions are not the criteria for referring the matter to the Civil Court. The Advocate's office copy contains the endorsement of receipt of Section 18 petitions by the Junior Assistant of LAO's Office. Ex.B5 rejection memo was issued by LAO addressed to K. Padma and 15 others through Sri Ashok Kumar, Advocate. He volunteered to say that similar memos were sent to all the claimants through their Counsel. He admitted that the advocate's office copy of Section 18 petition was only a carbon copy. He denied the suggestion that all the applications u/s 18 covered by Exs.A10 to A12 were not filed before the LAO within time and that there were discrepancies and manipulations.

7. Learned Counsel for the appellants-beneficiary further relied upon the cross-

examination of P.W. 1, wherein he stated that Section 18 petitions were got presented through their Counsel. On Exs.A1 and A12 petitions, the date and office stamp are not in existence. He denied the suggestion that all the petitions under Exs.A11 and A12 are submitted after lapse of limitation. He stated that he does not know whose initials with date appeared on the applications under Exs.A11 and A12. He admitted that Ex.A10 also does not contain the office stamp. He denied the suggestion that Ex.A9 receipt was obtained after limitation period and for the claimants in other O.Ps their Counsel has not received the receipts acknowledging the petitions u/s 18 of the Act. He also denied that after limitation period, they had submitted the petitions under Exs.A10 to A12 and got managed the revenue people to refer those petitions to the Civil Court. In support of his contentions, the learned Counsel relied upon the decision of the Apex Court reported in Mohammed Hasnuddin Vs. State of Maharashtra, , in which it was held that it is the duty of the Court to see that the statutory conditions laid down in Section 18 of the Act have been complied with, and it is not debarred from satisfying itself that the reference which it is called upon to hear is a valid reference.

8. Sri D. Prakash Reddy, learned Senior Counsel for the respondents-claimants submitted that the claimants cannot be made responsible for any mistaken entries made in the Inward Register of the LAO's Office. The claimants had submitted their claims in time as required under law. Maintaining the Inward Register is not the business of the claimants - how it should be maintained and what is the proper way of maintaining the same is the internal business of the acquisition department and it is not for the claimants to explain. In fact, when the request of the claimants to refer the applications to the Civil Court was refused, they filed a writ petition and after the writ petition was disposed of, the Land Acquisition Officer verified each and every application and on finding that the applications are within time, referred them to the Civil Court.

9. It is true that the applications filed by the claimants u/s 18 of the Act were originally rejected under Ex.B5, dated Nil-7-1996. However, aggrieved by the said Order, the claimants filed W.P. No. 9249 of 1998 before this Court and the same was disposed of directing the LAO to refer the petitions u/s 18 of the Act to the Civil Court, if they were presented within stipulated time. It is also brought to the notice of the Court that the rejection was on the basis of the advise of the Collector and not on the basis of the merits of the case. Except making a bald allegation that the entries in the Inwards Register are suspicious and the claimants managed the LAO; therefore, there were no applications within time, there is absolutely no evidence to that effect. We have gone through Ex.B3-Register. It is true that the applications, which were received on a later date, were entered first and the applications received on a prior date were entered on a later date. As stated above, R.Ws.1 and 2 themselves admitted that this discrepancy cannot be attributed to the claimants and for the corrections etc., in the applications u/s 18 of the Act. R.W.1 categorically admitted that all the applications u/s 18 of the Act were filed on different dates, but-within the time

stipulated i.e., before 25-6-1991. He categorically deposed that the claimants have satisfied the requisite conditions for referring the applications u/s 18 of the Act to the Civil Court. Once this is so, in the absence of any other evidence to show that the very applications were antedated or the very register (Ex.B3) itself was manipulated, the contention of the appellant-beneficiary is liable to be rejected. In fact, after the judgment of this Court in W.P. No. 9249 of 1998, the LAO sought for the opinion of the Government Pleader and after obtaining Ex.B11 opinion, verified each and every application and found the same to be in Order i.e., within the period of limitation and, therefore, referred the applications to the Civil Court. Thus, the contention of the appellant-beneficiary that the very reference u/s 18 of the Act was time barred and, hence, it was not maintainable, cannot be accepted. The finding recorded by the Court below that the evidence of R.W.1 coupled with Exs.A9 to A13 would crystal clear that all the claim petitions have been filed in time and accordingly after the LAO satisfied that those applications are within time, referred them to the Civil Court, is based on the evidence on record and the same cannot be interfered with. The decision relied on by the learned Counsel for the appellant-beneficiary in Md. Hasnuddin's case (supra) has no application to the facts of this case, since, in the instant case, R.Ws.1 and 2 themselves admitted that the applications u/s 18 of the Act were filed within time and the LAO himself verified each and every application and on finding that they are in Order, referred the same to the Civil Court. Under these circumstances, we uphold and confirm the finding of the Reference Court that petitions u/s 18 of the Act were filed by the claimants within the stipulated time and the reference is maintainable.

Point Nos.2 and 3:

10. Learned Counsel for the appellant-beneficiary contended that in the instant case, a large chunk of about Acs.970.00 of land was acquired, whereas the Court below relied upon Ex.A7 - Judgment of this Court in A.S. Nos.686 and 922 of 2000, which were filed against the Award in O.P. No. 22 of 1997 (Ex.A5). Exs.A5 and A7 were passed basing upon two sale deeds under which small extents of lands were sold and they cannot be comparable documents for determining the market value of the acquired land in the instant cases. The sale deeds relied upon in Exs.A5 and A7 are of small extents and were executed only to boost the value of the lands under acquisition and such sale deeds could not have been taken into consideration by the Reference Court while fixing market value for the lands in question.

11. Under Ex.A1, dated 28-6-1988, an extent of Ac. 1.06 gts of land situate at Sy. No. 116/B of Lingapur Village was sold by one Rangineni Rajeshwar Rao to Tippani Poshetti for Rs. 46,000/- i.e., at Rs. 40,000/- per acre. In the preamble of this document, it was mentioned that an agreement was entered into in the year 1984 and possession was handed over, but the registered sale deed was executed on 28-6-1988. He also contended that there was no evidence showing that there was really an agreement executed before registering Ex.A1 sale deed.

Further, both the vendor and vendee under the said document are the awardees in the present case. That apart, neither the attestors nor the scribe of the said sale deed was examined before the Court. Therefore, Ex.A1 is a doubtful and brought up document to claim higher compensation; as such, it cannot be considered for the purpose of fixing the market value of the acquired lands. Learned Counsel stated that under Ex.A2, dated 21-4-1986, an extent of Ac.0.03 guntas of land in Sy.No. 284 of Medipalli Village was sold for Rs. 10,890/-, which comes to Rs. 1,45,200/- per acre. The land under Ex.A2 was 200 mtrs away to NTPC Township. Therefore, it is not a comparable sale. Under Ex.A3, dated 25-2-1987 an extent of Ac.0.09 guntas of land in Sy.No. 594 of Medipalli Village was sold for Rs. 43,600/-, which comes to about Rs. 1,93,000/- per acre. The said land was abutting the National Highway and the same was in the midst of house sites. Further, under Ex.A4, dated 13-4-1988 an extent of Ac.0.06 gts of land in Sy.No. 288 of Medipalli Village was sold for Rs. 36,000/-, which comes to Rs. 2,42,000/- per acre. This was also for house sites. Therefore, the lands under Exs.A3 and A4 cannot be compared with that of the acquired lands. Exs.A14 and A15 sale deeds were executed on 26-9-1987. Under the said documents, Ac.0.03 gts each in Sy.No. 287 of Medipalli Village were sold for Rs. 18,200/-, which comes to about Rs. 2,42,000/- per acre. The learned Counsel for the appellant-beneficiary contended that all these sale deeds are brought into existence only for the purpose of claiming higher compensation for the land in question. With regard to these documents, learned Counsel for the appellant-beneficiary stated that an application was submitted by the beneficiary-company to the Director of Mines, A.P, for grant of mining lease over an extent of Ac.4060.30 in Medipalli, Lingapur and Ramagundam Villages in the erstwhile Pedapalli Taluk, Karimnagar District on 28-3-1984 and a requisition for Ac.996.33 of Medipalli was made on 1.2.1988; whereas the notification u/s 4(1) of the Act was published on 4-2-1989. Therefore, the claimants were aware of the requisition made by the company and as such, to claim higher amounts, inflated the value in the document showing as Rs. 40,000/- per acre. This would be abundantly clear from Ex.B18, dated 3-5-1984 through which the company was requested to depute one of its representatives to meet the Assistant Director of Mines and Geology on 17-5-1984 for proceeding to the spot inspection. From that day, the fact of acquiring lands was within the knowledge of each and every claimant. Therefore, Exs.A1 to A4, A14 and A15, which were executed subsequent to Ex.B18, are all cooked up documents; thus, they cannot be taken into consideration for the purpose of fixing market value of the acquired lands. Learned Counsel further contended that the lands under acquisition are submergible lands and they cannot be compared with that of the lands under the said documents. Small extents of 3 gts., 6 gts and 9 gts under Exs.A2 to A4 cannot be comparable sales when a large chunk of about Ac.970.00 gts was acquired in the instant case. In support of his contentions, the learned Counsel relied upon the judgments of the Apex Court in *M.V.K. Gundarao Vs. Revenue Divisional Officer, (L.A.O.), Narasaraopet*, *Land Acquisition Officer, Eluru and Others Vs. Jasti Rohini (Smt) and Another*, *State of Uttar Pradesh etc. Vs. Smt. Ram Kumari Devi etc.*, *Land*

Acquisition Officer and Sub-Collector, Gadwal Vs. Smt. Sreelatha Bhoopal and another, , Union of India v. Ram Phool , Shaji Kuriakose and Another Vs. Indian Oil Corpn. Ltd. and Others, and Ravinder Narain and Another Vs. Union of India (UOI), .

In M.V.K, Gundarao (supra) it was held as under:

"5. It would thus be seen that the appellant having had the knowledge of the proposed acquisition for the public purposes obviously brought these documents to inflate the market value and that, therefore, these sale transactions cannot be pressed into service. The learned subordinate Judge has committed palpable error of law in accepting ipso facto those documents without subjecting the evidence to closer and critical scrutiny, whether these documents are genuine documents executed between willing vendor and willing vendee....."

In Jasti Rohini's case (supra), it was held as under:

"7. 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....."

In Ram Kumari Devi's case (supra) the Apex Court held as under:

".....It is common knowledge that acquisition proposal would be made at an earlier point of time and finalization of acquisition would take long time. In the process, on becoming aware of the acquisition, obviously, these sale deeds have been brought into existence to inflate the market value. It is laid down by this Court which is well settled principle that it is the duty of the Court to assess reasonable compensation. Burden is on the owner to prove the prevailing market value. On adduction of evidence by the parties, the acid test which the Court has to adopt is that the Court has to sit in the armchair of a prudent purchaser, eschew feats of imagination and consider whether a reasonable prudent purchaser in the open market would offer the same price which the Court is intending to fix the market value in respect of the acquired land. Since it is a compulsory acquisition it is but the solemn duty of the Court to assess reasonable compensation so as to allow the same to the owner of the land whose property has been acquired by compulsory acquisition and also to avoid needless burden on public exchequer. No feats of imagination would require to bog the mind that when 13.75 acres of land was offered for sale in an open market, no prudent man would have credulity to purchase that land on sq. ft. basis. The High Court as well as the District Judge have committed a grave error in not applying the above acid test while considering the case. They merely proceeded

by accepting the sale deeds which were obviously brought into existence to inflate the market value and determined the compensation on the price settled by them. Thus, we hold that both the Courts have applied a wrong principle of law in determining the compensation."

12. In Sreelatha's case (supra), the Apex Court held that while determining market value of a large extent of land, placing reliance on sale deeds relating to small pieces of land is improper. It was also held that small pieces of land cannot offer the same market value as when a large tract of land is purchased in an open market by a willing and prudent purchaser. The Court has to put itself in the armchair of a prudent purchaser and put the question to itself whether the land, in the given circumstances, would fetch the same market value as is likely to be determined by the Court when small piece of land would be offered for sale. Similar is the view taken in Ram Phool's case (supra).

In Shaji Kuria Kose's case (supra) it was observed as under:

"3. It is no doubt 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 issue 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 fulfilment 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 proportionately reduce the compensation for acquired land than what is reflected in the sales depending upon the disadvantages attached with the acquired land....."

In Ravinder Narain's case (supra) it was held as follows:

"7. It cannot, however, be laid down as an absolute proposition that the rates fixed for the small plots cannot be the basis for fixation of the rate. For example, where there is no other material it may in appropriate cases be open to the

adjudicating Court to make comparison of the prices paid for small plots of land. However, in such cases necessary deductions/adjustments have to be made while determining the prices.

9. It can be broadly stated that the element of speculation is reduced to minimum if the underlying principles of fixation of market value with reference to comparable sales are made:

(i) when sale is within a reasonable time of the date of notification u/s 4(1);

(ii) it should be a bona fide transaction;

(iii) it should be of the land acquired or of the land adjacent to the land acquired; and

(iv) it should possess similar advantages.

10. It is only when these factors are present, it can merit a consideration as a comparable case..."

13. Whereas, learned Senior Counsel appearing for the respondent-claimants submitted that there was no suggestion that any one of the claimants was in the personal knowledge of the requisition before the lands were actually acquired, except making a general statement that it was within the knowledge of everybody that the company was going to requisition this land, no acceptable evidence was let in or brought to the notice of the Court Exs.A1 to A4 are much prior to the notification u/s 4(1) of the Act dated 4-2-1989. Therefore, they are comparable sales and they are within 1/2 to 1 Km to Ramagundam and the lands in question are all having similar potentiality as that of the lands under Exs.A1 to A4. The contention of the learned Counsel for the appellant-beneficiary that the lands are submergible lands and flood bund was constructed; therefore, absolutely there was no potentiality for the lands in question even for agriculture, is without any substance. The flood bund was constructed only after the acquisition of land to avoid any inundation of mines. There is no evidence as to any earlier inundation of these lands in the near past and even there was no such suggestion to the witnesses. In this regard, learned Counsel drawn attention of the Court to the evidence of P.W. 2.

14. P.W.2 in his evidence has categorically asserted that the acquired lands are situated at a distance of 1/2 Km from Ramagundam Village and 1 Km from Ramagundam Town and Mandal Headquarters and are very near to APSEB Thermal Power Station, NTPC, Ramagundam, Godavarikhani Town and FCI Town. The acquired lands are situated within the industrial belt of Ramagundam. The lands acquired and the lands covered by the sale transactions - Exs.A2 to A4 - are similar in all aspects, such as, soil, fertility, building, potentiality and very nearer to each other. In the cross-examination, he stated that the lands, which are acquired, are used by Singareni Collieries Company Limited for open cast mines. At present, the company erected a bund wall with a view to prevent flood water to the open cast, subsequent to acquisition. He denied the suggestion that

even four years prior to the acquisition of the lands, they are aware of the acquisition proceedings and that there is no similarity between the lands covered by Exs.A1 to A4 and the acquired lands. He further denied the suggestion that APSEB is at a distance of about 5 to 8 Kms from the lands under acquisition and that Ex.A1 is a nominal one and it was without consideration. He asserted that there are residential houses situated around the lands covered by the land under Ex.A3 (in Sy.No. 594), which is at a distance of 1 Km. He denied the suggestion that the residential houses are situated abutting the lands covered by Sy.No. 594. The lands covered by Sy.Nos.284 and 288 i.e., Exs.A1 and A2 are adjacent lands to the lands under acquisition. He denied the suggestion that at the time of acquisition, there were no residential houses in the lands covered under Sy.No. 284. The lands covered by Exs.A2 to A4 were acquired by the Company. He also denied the suggestion that they have created Exs.A2 to A4 for the purpose of claiming more compensation.

15. Learned Counsel for the respondents-claimants further submitted that may be the land under acquisition was about Acs.970.00, but the same was acquired from 600 claimants and majority of them owned small extents of less than 10 gts. The lands in question are nearer to the lands sold under Exs.A1 to A4 and the potentiality of both these lands is one and the same. In this regard, the learned Counsel relied upon the judgment of the Apex Court in *Thakarsibhai Devjibhai and Others Vs. Executive Engineer, Gujarat and Another*, in which it was held as under:

"12. As we have said above the High Court fell into error by reducing the quantum of compensation on this basis. The reduction has been made for two reasons, one that the present acquisition is of larger area and the second the distance between the land under acquisition and Ex.16 is about 5 Kms. With reference to question of acquisition being of a larger area, the error is, when we scan we find for the acquisition of each landowner, it could not be said that the acquisition is of a large area. Largeness is merely when each landholders land is clubbed together then the area becomes large. Each landowners holdings are of small area. Even otherwise visioning in the line with submission for the State we find Ex. 16 is about two hectares of land which cannot be said to be of small piece of land. So far the other question of distance between the two classes of lands, that by itself cannot derogate the claim of the claimant unless there are some such other materials to show that quality and potentiality of such land is inferior. However, distance between the land under Ex. 16 and the present land even if they are 5 kms. apart would not be relevant, the relevancy could be, their distances from the Viramgam Town. We find, as per map produced by the State the present acquired land is about 3 kms. away from it, while the land under Ex.16 is about two kilometers away from it. This difference is not such to lead to reduce the rate of compensation, specially on the facts of this case. In the present case, as we have recorded above, it has been found that the quality including potentiality of land between Exh.16 and the present one are similar. No evidence has been led on behalf of the State to find difference between the two.

In view of this, the inference drawn by the High Court for reducing the compensation by Rs. 10/- per sq. mtr. cannot be sustained."

16. We have, gone through the entire evidence on record and also the judgment of the Reference Court.

17. P.W.1 categorically asserted that the lands under acquisition are useful for construction of house sites and they are having building potentiality; therefore, the Court below recorded the findings that the evidence of the claimants reveals that the market value of the acquired lands is Rs. 4,000/- per gunta, if sold for house sites and Rs. 60,000/- per acre, if sold for agricultural purpose and the respondents therein could not rebut the evidence of P.Ws.1 and 2, coupled with P.Ws.3 and 4 and the claimants proved the sale deeds Exs.A1 to A4 and also examined vendors of the sale transactions. The evidence of P.W.1 has been corroborated by P.W.2; therefore, it can be easily said that the lands in question would fetch reasonable market value of Rs. 60,000/- per acre and more. However, the Reference Court fixed the compensation only at Rs. 40,000/- per acre, for which the appellants should not have any complaint.

18. It is not the specific case of the appellants that any one of the claimants was aware of the requisition proceedings made in 1984. Neither any acceptable evidence was let in nor anything was elicited from the evidence of the claimants as to this aspect. Therefore, Exs.A1 to A4, which are registered sale deeds executed prior to the date of notification u/s 4(1) of the Act dated 4-2-1989 cannot be disbelieved. Under Ex.A1, both vendor and vendee are the awardees and some reservation is expressed as to the agreement referred to in Ex.A1. Even eschewing Ex.A1 from consideration, there are other documents viz., Exs.A2, A3, A4, A14 and A15. The least value out of these four documents i.e., as per Ex.A2 would be about Rs. 1,45,000/- per acre. The Court below fixed the compensation at Rs. 40,000/- per acre basing on Ex.A7. No case is made out by the appellant-beneficiary to interfere with the findings of the Court below in this regard. Insofar as enhancement made by the Reference Court for wells from Rs. 37,000/- to Rs. 75,000/- per well is concerned, the same is not permissible in view of the judgment of the Apex Court in O. Janardhan Reddy and others Vs. Spl. Dy. Collector, L.A. Unit-IV, LMD, Karimnagar, A.P. and others, , and the lower Court erred in enhancing the compensation for the wells. Therefore, the enhancement made by the Reference Court for the wells is set aside and the compensation awarded by the LAO is confirmed. The enhancement of compensation regarding the trees is concerned, it is trivial and there is no much controversy with regard to the same. Therefore, the compensation awarded by the Reference Court insofar as the trees is also confirmed.

19. It is seen from the evidence of P.Ws.1 to 4 coupled with Exs.A1 to A4, A14 and A15 that the lands under acquisition are identical to those lands and has the same potentiality. The theory of submergence introduced by the appellant is not supported by any evidence. Even the evidence let in by the respondents before the Reference Court was that a bund was constructed to avoid flood water.

Absolutely, there is no evidence to show that these lands were under submergence at any point of time in the recent past. The bund was constructed only to avoid inundation of the open cast mines as a measure of precaution. It is in the evidence that the lands in question are within a distance of about 1/2 Km. to 1 Km. from the lands under Exs.A1 to A4, A14 and A15. Even if the lowest value of the sale deeds is taken into consideration, it comes to Rs. 1,45,000/- per acre. Therefore, the contention of the appellant-beneficiary that the claimants had knowledge of the proposed acquisition for the public purpose and obviously the documents were brought into existence is without any substance.

20. Once the documents are not doubtful, the only other aspect to be seen is whether the Reference Court has applied reasonable method to determine the market value of the acquired land. As noticed above, even if Ex.A1 is discarded, Exs.A2 to A4, A14 and A15 would make it abundantly clear that though the lands thereunder were small extents, but they are of same potential and are located within a distance of 1/2 to 1 Km. It is also curious to note that the lands acquired also range from Ac.0.02 gts to Acs.3.00 and majority of the claimants were holding less than 10 guntas. It is true that when large extent of land was sold, it cannot fetch the same value as that of small pieces. But, here is a case, where there is evidence to show that the lands under acquisition were of the same potentiality as that of the small extents sold under Exs.A2 to A4, A14 and A15, which are located within 1/2 Km. to 1 Km. from the acquired lands and they are abutting the acquired lands. Therefore, what needs to be seen is whether a prudent purchaser would buy the same for the same value as that of the small pieces -definitely not. The comparable sales have to be taken into consideration while fixing market value of the acquired lands. In this case, since the comparable sales are available, the capitalization method was not adopted. Unless certain factors, which are required to be satisfied, the compensation cannot be awarded as reflected in the comparable sales. In the instant cases, sale transactions under Exs.A2 to A4, A14 and A15 are genuine and they were executed prior to the notification u/s 4(1) of the Act. The lands covered by the comparable sales are around and in the vicinity of the acquired lands and there is any amount of evidence to show that the lands covered by the comparable sales are similar to the lands under acquisition. Therefore, there is no reason why the value shown in the comparable sales should not be taken into consideration, since there is no dissimilarity as to locality, shape, site or nature of land between the lands covered by Exs.A2 to A4, A14 and A15 and the lands under acquisition. Therefore, the judgment of the Court below fixing the market value of the lands under acquisition at Rs. 40,000/- per acre cannot be said to be unreasonable or arbitrary. It may be apt to note that this Court in *The Special Dy. Collector (Land Acquisition), Railways Vs. Panthangi Vidya Sagar Rao and Others*, , held as under:

"Fixation of compensation for any acquired land is largely an act of estimation on the basis of evidence adduced. It is for the parties contesting, to lead evidence to serve as the basis for making the exercise. In the present case the three sale deeds are respectively only for 487 1/2, 440 and 440 square yards, viz., for

about 1/10th of an acre or less. It has been held various times by the Supreme Court that the valuation of small patches of land is no real indicator of the price of the lands when the acquisition is for larger areas. This is so for the reason that while a higher price may be paid for smaller piece of land which may have peculiar or distinctive features like as abutting the road or having a special value for the purchaser, yet those factors would largely be absent in larger areas. Some part of the larger area may abut the road, but necessarily the other parts would be located beyond and as the distance of different portions of the land to the road increases, the prices would proportionately decrease. That apart to make the different parts of the acquired lands saleable, development programmes have to be undertaken like laying of roads, drainage system, providing electricity, entertainment, etc. The Supreme Court in Administrator General of West Bengal Vs. Collector, Varanasi, , held that deductions for roads and other developmental expenses can, together, come up to as much as 53%. Thus even if the valuation of small pieces of land is taken into account, yet in deciding the valuation of larger areas, deductions are to be made for the developmental expenses, value of which may, depending upon varying facts, come up to even 53% or higher or less.

Where evidence is not coming forth directly as to the price of large areas of land in the area of acquisition and the Courts are called upon to determine the valuation on the basis of evidence which is inadequate, necessarily an element of best judgment-assessment is involved to make the valuation. Of course the valuation cannot be made in vacuum and necessarily also not arbitrary but on cogent reasons and plausible inferences which must steer clear of any arbitrariness or unreasonableness."

Since there is no evidence forthcoming directly as to the price of large area of land in the area of acquisition, the Court below was called upon to determine the valuation on the basis of evidence, which was let in before it, though they are small extents. Even if 50% is deducted towards developmental charges etc., it comes to Rs. 72,500/- per acre. Therefore, the Award of the Reference Court fixing the market value of the land at Rs. 40,000/- per acre cannot be said to be on higher side and does not call for interference of this Court even assuming that the same was based on Ex.A7, which was not supposed to be taken into consideration by Reference Court, since it had to be decided on its own individual merits as per the judgment of the Supreme Court in Special Leave to Appeal (CC) Nos.4301-4302. As stated above, the enhancement made by the Reference Court for the wells is set aside and the compensation awarded by the LAO is confirmed. The compensation awarded by the Reference Court insofar as the trees is also confirmed.

Cross-appeals :

21. Insofar as the cross appeals i.e., A.S. Nos.2316, 2317 and 3123 of 2004 are concerned, learned Counsel for the appellants-claimants contended that the claimants are entitled for compensation of Rs. 60,000/- per acre. The

comparable documents, as noticed above, are Exs.A2, A3, A4, A14 and A15. Under Ex.A2, the land was sold at Rs. 1,45,000/- per acre. Even assuming that the land sold under Ex.A2 was a house site and the lands under acquisition, though has similar potentiality and despite 50% is deducted towards development charges, the amount that would come to Rs. 72,500/- per acre. There is overwhelming evidence on record that the land covered by Ex.A2 in all respects is having similar potentiality. The claim of the claimants at Rs. 60,000/- per acre is very reasonable and they are entitled for the same.

22. Sri Ramesh Ranganatham, learned Counsel for the respondents in these appeals, contends that, in fact, earlier when O.P. No. 22 of 1997 was disposed of enhancing the market value of the acquired lands to Rs. 30,000/- per acre, the matter was carried in appeal being A.S.No. 686 of 2000 before this Court. In that appeal, the market value was enhanced to Rs. 40,000/- per acre, as against Rs. 30,000/- per acre awarded by the Reference Court. Aggrieved by the same, the beneficiary-company filed an appeal before the Supreme Court in Special Leave to Appeal CC Nos.4301-4302 of 2002, which were dismissed on 8-7-2002 holding as under:

"Delay condoned.

In the peculiar facts and circumstances of this case, we see no justification to interfere with the impugned Order of the High Court. The special leave petitions are dismissed.

Needless to point out if there are any other cases for acquisition of lands, the same will have to be considered on their own individual merits and materials places in such cases."

Learned Counsel contends that the claimants are not entitled for any higher compensation, since the Supreme Court having taken note of the circumstances held as above. Whereas, learned Counsel for the appellants-claimants states that the entire evidence as available in the Original Petitions under the present appeals was not available in O.P. No. 22 of 1997. In these cases, there is additional evidence showing that the lands in question were all having similar potentiality as that of the lands under Exs.A1 to A4, A14 and A15. Therefore, basing on Exs.A1 to A4, A14 and A15 appropriate compensation may be fixed by this Court. The judgment of the Supreme Court referred to above arising out of O.P. No. 22 of 1997 is neither available to the appellants nor the respondents, since the appeals have to be decided on their own individual merits.

23. We need not repeat the entire evidence and discuss it again for the purpose of decision of these appeals. Even if the lands under Exs.A2 to A4, A14 and A15 are small extents, they can be taken into consideration and reasonable market value can be fixed in the absence of any other evidence. There is no hard and fast Rule that a small extent cannot be taken into consideration while fixing market value of a large extent. What needs to be seen is, when large extents of land are acquired and they need to be compared with small extents of land, the

market value has to be fixed reasonably for the acquired lands. We shall bear the principles referred to above in mind and proceed to determine the market value of the acquired land. We also bear in mind that the Courts must ensure that there is neither unjust enrichment on the part of the acquirer nor undue deprivation to the landowner. In the instant case, even if 55% is deducted towards developmental charges etc., the market value of the acquired lands cannot be less than Rs. 60,000/- per acre. Considering the overwhelming evidence on record, particularly, the oral evidence of P.Ws.1 and 2 and the documentary evidence of Exs.A2 to A4, A14 and A15, as discussed above, and keeping in mind the law laid down in the said decisions, we are of the opinion that the claimants are entitled for a compensation of about Rs. 65,000/- per acre and since they have restricted the claim only to Rs. 60,000/- per acre, we fix the market value of the acquired lands at Rs. 55,000/- per acre. On the said amount, the claimants are entitled for all the statutory benefits, including the additional market value, solatium and interest on the said components.

24. Accordingly, the appeals filed by the beneficiary i.e., A.S. Nos.2228 to 2230 of 2004 are allowed in part to the extent indicated above, while AS No. 2316, 2317 and 3123 of 2004 are allowed to the above extent. There shall be no Order as to costs.