
(1989) 03 KAR CK 0036

In the Karnataka High Court

Case No : M.F.A. No's. 824, 868, 887, 888, 1026, 1029, 1031, 1034, 1036 and 1441 of 1984 and 1316 of 1985

Special Land Acquisition Officer

APPELLANT

Vs

Gundappagowda

RESPONDENT

Date of Decision : 01-03-1989

Acts Referred:

Land Acquisition Act, 1894 — Section 16, 18, 4 (1), 9

Citation : (1990) ILR (Kar) 1585

Hon'ble Judges : Rama Jois, J;Rajendra Babu, J

Bench : Division Bench

Advocate : Chandrashekaraiah, for the Appellant; G.V. Thimmappaiah, T.S. Ramachandra, Mohandas N. Hegde, T.V. Ananthamurthy and Ashok Haranahalli, for the Respondent

Judgement

Rama Jois, J.—These 11 appeals are presented by the Special Land Acquisition Officer, Hosanagar, against the awards made by the learned Civil Judge, Sagar, in separate references u/s 18 of the Land Acquisition Act.

2. There are large number of appeals presented by the Special Land Acquisition Officer, Hosanagar, against the awards made by the Civil Judge, Sagar, Shimoga district which are posted for hearing. There are also a few appeals by the claimants. These ten appeals together with the cross objection in one of the appeals are taken up for hearing. As the decision rendered in these appeals would govern all other appeals also, learned Counsel appearing for the claimants in other similar matters were also permitted to address arguments.

3. Though the awards are separate, as the questions of fact and law arising for consideration are the same in all the cases, they are disposed of by this common Judgment.

4. The facts of these cases, in brief, are these:-Preliminary Notifications u/s 4(1) of the Land Acquisition Act ("the Act" for short) were issued in July 1980, or

within a few months thereafter, proposing to acquire the lands in connection with the execution of "Varahi Hydro Electric Project" AND ANR. project called "Sane Hakkalu Project". After the final Notification was issued and notices were issued to interested persons u/s 9 of the Act, the claimants lodged their claims for compensation before the Special Land Acquisition Officer. In most of the cases lands acquired were areca garden lands and paddy growing wet lands, and in some of the cases lands acquired were also dry lands. Before the Land Acquisition Officer the compensation claimed by the claimants varied from Rs. 1,000/- to Rs. 14,000/- per acre for dry lands, Rs. 15,000/- to Rs. 40,000/- per acre of wet lands and Rs. 1,00,000/- to Rs. 1,50,000/- for areca garden lands. The Mahazardars had estimated the dry lands at Rs. 5,000/- per acre, wet land at Rs.15,000/- per acre and areca garden land at Rs.80,000/- per acre. There were no sale transactions in respect of any of the agricultural lands from 1972 onwards, as stated by the Special Land Acquisition Officer in his award. As a result, he had to ascertain the market value of the lands only by capitalisation method.

(i) He assessed the income per acre of dry land at the rate of Rs. 60/- per annum, for the reason that in the area in question no crops were being grown on dry lands but they were used only for grazing. Applying the multiple of 15, he fixed the compensation for dry lands at Rs. 900/- per acre.

(ii) As regards wet lands he was of the view that 8 quintals of paddy was being produced from one acre of land and on the basis of the rate of Rs. 110/- per quintal of paddy prevailing during the relevant time, quantified the gross income at Rs. 880/- per acre. The Assistant Director of Horticulture in his letter dated 21st January 1981 addressed to the Special Land Acquisition Officer had stated that the cost of cultivation was Rs. 1,715/- per acre. The Special Land Acquisition Officer found that it was highly unrealistic as the gross income from the land itself was Rs. 880/- per acre. He computed the cost of cultivation at 50% and consequently arrived at the conclusion that the net Income from each acre of land was Rs. 440/-. He added a sum of Rs. 60/- as income from hay and made it Rs.500/-and applying the multiple of 13, awarded compensation of Rs. 6,500/- per acre of wet land.

(iii) As regards the areca garden land, the evidence of different claimants was not consistent regarding quantum of yield of arecanut. It varied from 5 to 12 quintals per acre per annum. The Assistant Director of Horticulture, Thirthahalli, in his letter addressed to the Special Land Acquisition Officer was of the view that the yield from 1 acre of arecanut garden land was 7 quintals. There was also a Notification issued by the Tahsildar in the year 1973 under Rule 5 of the Karnataka Land Reforms Rules, 1965 framed under the Karnataka Land Reforms Act, 1961 after due determination, following the procedure prescribed under that Rule, classifying the lands as "good", "medium" and "inferior" and indicating the yield from each of the categories of land. According to the said Notification the annual yield from good, medium and inferior areca garden lands, was 6 to 7

quintals, 4 to 5 quintals and 3 to 4 quintals respectively. On the basis of these materials, the Special Land Acquisition Officer was of the view that even by a liberal estimate the yield from arecanut garden lands which were acquired could be only 5 quintals per acre per annum.

(iv) The claimants had also stated that in ascertaining the income from areca garden, the income from subsidiary crops such as banana, pepper, betel leaves etc., which were normally grown in areca garden should also be taken into account. In this behalf, the Special Land Acquisition Officer stated that he himself inspected the lands and found that some of these subsidiary crops were being raised in arecanut garden lands though the type of subsidiary crops differed from garden to garden. He estimated the income from subsidiary crops at Rs. 100/- per acre per annum. He estimated the cost of cultivation of areca garden at 30% and applying a multiple of 12, awarded compensation of Rs. 34,200/-per acre. Aggrieved by the said awards, the claimants sought references u/s 18 of the Act and it is in those references the awards under appeal were made by the Civil Judge, Sagar.

5. In the award which is the subject matter of appeal in M.F.A. No.824/84, the learned Civil Judge confirmed the compensation of Rs. 900/- per acre for dry lands, but enhanced the compensation to Rs. 8,400/-per acre for wet lands and to Rs. 44,000/- per acre for arecanut garden lands. In the awards which are the subject matter of the next nine appeals of 1984, the lands acquired were areca garden and wet lands or only areca garden lands. The learned Civil Judge awarded the same rate of compensation i.e. Rs. 44,000/-per acre of garden land and Rs. 8,400/- per acre of wet land. In these nine appeals, except in one i.e. M.F.A. No. 837/84, the claimants have not preferred appeals or cross-objections in M.F.A. 887/84, there is a cross-objection in which the claimant has claimed compensation at the rate of Rs. 50,000/- per acre of areca garden land.

6. In the award which is the subject matter of the last case M.F.A. 1316/85, the learned Civil Judge awarded a compensation of Rs. 54,000/- per acre of garden land, Rs. 9,500/- per acre of wet land and Rs. 2,000/- per acre of dry land.

7. As regards the compensation awarded in respect of dry lands and wet lands, learned Counsel on both sides submitted that the matter is covered by the decision of this Court in THE SPL. L.A.O. v. JAYAMMA, M.F.A. No. 139 of 1986: DD 23-9-1986, In the said decision, the compensation fixed by this Court is Rs. 8,500/- per acre of wet land and Rs. 1,500/-per acre of dry land. In view of the said decision the first nine appeals have to be dismissed in so far they relate to the award of compensation in respect of wet and dry lands and M.F.A. 1316/85 has to be allowed and the compensation has to be reduced to Rs. 8,500/-and Rs. 1,500/- per acre of wet and dry land respectively.

8. The main point urged by Sri Chandrashekaraiah, learned Government Advocate appearing for the appellants was regarding the compensation awarded in respect of arecanut garden lands. The learned Counsel does not dispute that

as in these cases no evidence in the form of sale of similar lands in the neighbourhood, round about the time when the preliminary Notification was issued was available and there was also no evidence by way of valuation by experts, the only method which could have been adopted by the Civil Judge in arriving at the market value of the acquired lands was by the method of capitalisation. But he submitted in doing so two factors which were relevant were, the net income from the land and application of a proper multiplier and on both these points the award was erroneous.

9. Sarvasri T.S. Ramachandra, Mohandas Hegde, G.V. Thimmappaiah and T.V. Anantha Murthy learned Counsel for the respondent-claimants, and/or the Cross Objector and Sri Ashok Harnahalli, who is appearing for the claimants in several other connected appeals, submitted that fixing the annual yield of areca per acre of areca garden land at 8 quintals and applying of multiple of ten was correct and therefore there was no substance in the contention of the appellant. They, however, submitted that the rate of areca on the basis of which the gross income was calculated and the taking of 50% of it as cost of cultivation was erroneous and therefore actually the compensation awarded was lower, far from being excessive as contended for the appellants.

10. As stated earlier, these being cases in which there is no evidence by way of sale of similar lands and there being no expert valuation of the lands, the only method which should be adopted for ascertaining the market value of the land is capitalisation method. For computing the market value of the areca garden, the essential bases are:-

(1) What was the annual yield from an acre of arecanut garden lands which were the subject matter of acquisition?

(2) What was the rate of areca during the relevant point of time?

(3) What portion of income was required towards the cultivation expenses of an acre of arecanut land and consequently what was the net income from an acre of areca garden?

(4) What is the appropriate number of years' purchase i.e., the multiple, to be applied to arrive at the market value of the arecanut garden lands?

11(i) As regards the first point, as stated earlier, before the Special Land Acquisition Officer, the oral evidence of the claimants put the annual yield from an acre of arecanut garden land from 4 to 12 quintals. None of the claimants adduced any specific evidence as to what was the actual yield from the land belonging to him which was acquired in the Notification in question.

(ii) None of them gave evidence as to the maximum number of areca trees which could be planted in an acre of land in order to secure maximum yield from one acre, and actual number of trees which existed on the land acquired at the time of issue of preliminary Notification.

(iii) According to the evidence available by way of the Notification issued by the Tahsildar, Hosanagar, in the year 1973 under Rule 5 of the Land Reforms Rules, 1965, the areca garden lands in the locality were classified into three categories, good, medium and inferior. The yield from good quality of areca garden land was 6 to 7 quintals of areca per acre per annum and in respect of medium variety of garden land the yield of areca was 4 to 5 quintals and in inferior variety of areca garden the yield of areca was 3 to 4 quintals per acre. None of the claimants claimed that these lands were of superior quality. In fact, they were silent on this aspect. Their evidence regarding yield was too vague, for they said the yield could be 4 to 12 quintals of areca per acre per annum. The Assistant Director of Horticulture, Thirthahalli in reply to the query by the Land Acquisition Officer had said that the average yield of arecanut was 7 quintals per acre. The Land Acquisition Officer found it unbelievable. On finding that the evidence adduced by the claimants was too vague, by taking into account the evidence in the form of Notification issued by the Tahsildar under the Land Reforms Rules, the Special Land Acquisition Officer came to the conclusion that even on a liberal estimate, the yield from an acre of arecanut garden lands which were the subject matter of acquisition, could be taken as 5 quintals per acre.

12. The learned Civil Judge, however, in the awards made which are the subject matter of the first nine appeals, computed the market value on the basis that the yield from 1 acre of arecanut garden land per annum was 8 quintals. We have gone through the award made by the learned Civil Judge. After referring to the Notification issued by the Tahsildar under the Land Reforms Rules, according to which the maximum yield was 6 to 7 quintals from good variety of areca garden and the opinion of the Assistant Director of Horticulture Thirthahalli that the yield was 7 quintals and after noticing that the Special Land Acquisition Officer was of the view that even on a liberal estimate the yield was only 5 quintals per acre, proceeded to hold without setting out any basis whatsoever that the yield could be taken as 8 quintals of areca per acre per annum without deciding as to what portion of it was "hasa" and what portion of it was "chalf or "bette". He has done the same thing in the award which is the subject matter of appeal in M.F.A.No. 1316/1985.

13. As pointed out by the learned Civil Judge the claimants gave vague oral evidence. The evidence regarding yield varied from 4 to 12 quintals of areca. On the basis of such evidence, it is difficult to work out the actual yield and income. In the absence of clear evidence on behalf of the claimants, the evidence found in the Notification of 1973 issued by the TahsiIdar, Hosanagar, under the Land Reforms Rules, is the most reliable one. According to it, the maximum yield in good variety of areca garden was 6 to 7 quintals per acre. The Assistant Director of Horticulture, Thirthahalli, had said that the yield was 7 quintals without any reference to the existence of good, medium and inferior varieties of gardens. Therefore, his evidence could be confined to the garden lands well maintained by the Department of which he was incharge.

14. In support of his contention that the yield could not be taken as 8 quintals of costly variety of areca, which is "Hasa" variety on which point there is no dispute, the learned Government Advocate has produced a Book entitled "Cultivation Practices for Plantation Crops," which is a combined Publication of the University of Agricultural Sciences, State Department of Horticulture, Indian Institute of Horticultural Research, Bangalore, and Central Plantation Crops Research Institute, Kasargod. The relevant portion regarding harvesting and yield is found at page No. 15 of the Book. It reads:-

"HARVESTING AND YIELD

Generally arecanut is harvested from November to March. In plains and to some extent in Malnad areas tender nuts are cured by cutting toe kernel, boiling and drying them. In South Kanara and in part of North Kanara, Shimoga and Coorg districts, ripped are canuts are dried to prepare "Chali".

The normal yield of tender cured kernel would be 1,250 kg. per ha (500 kg. per acre) and Chali would be about 2,000 kg. per ha (800 kg. per acre)."

15. As could be seen from the portion of the book extracted above, the normal yield of tender cured Kernel (Hasa) would be 5 quintals per acre and Chali (ripped hard variety) would be 8 quintals per acre. It is not disputed that if areca is harvested when it is still tender, it is called "Hasa" variety of areca which has the highest rate in the market. According to the above publication, if areca is harvested at tender stage the yield would be 5 quintals per acre. Whereas, if the same is allowed to ripe and it is harvested, it is called Chali or "Bette" or hard variety of areca, and its rate in the market compared to that of "Hasa" is lower. According to the book, areca if harvested after it is matured the yield would be 8 quintals per acre. In other words, the same five quintals when tender becomes eight quintals after full growth.

16. The learned Counsel for the claimants submitted that in the locality in which the acquired lands situate, the agriculturists produce more quantity of Hasa and less quantity of ripe or Chali or Bette areca. In support of this Sri Ashok, learned Counsel relied on the Book "Report on the Marketing of are canuts in India", a Government of India publication in which it is stated at page 29, that the agriculturists in the area produce 70% "hasa" and 30% "Bette".

17. He also relied on the evidence of Sri H. Jaya-sheela Shetty, Assistant Director of Horticulture, Karkala, who was examined as P.W-1 in L.A.C. No. 54/1983 before the Civil Judge, Shimoga, the award in which is the subject matter of appeal in M.F.A.No. 1583/1988, pending before this Court. He is the same Officer who had submitted the report to which reference has been made in the award of the Special Land Acquisition Officer, as stated earlier. The learned Counsel submitted that except the fact that this matter was before the Civil Judge, Shimoga, as the acquired areca gardens were pursuant to common Notification situated in the same locality, though falling within the area of Thirthahahi and Hosanagar taluks which are adjacent the said evidence evidence may also be

considered, as appeals against the award of the Civil Judge in LAC No. 54/83 is also pending in MFA 1583/88 before this Court. The learned Government Advocate said that in the circumstances he had no objection to consider that evidence as evidence for this case also. Accordingly, his deposition in that case together with his earlier report with reference to which he gave evidence is treated as evidence by consent of Counsel on both sides in these matters also. In his evidence the Officer has stated that in this part of the area, the agriculturists produce 75% "hasa" and 25% "bette". Relying on his evidence Sri Ashok, learned Counsel for the claimants in the connected matters, submitted that we should classify the total yield as constituting 75% "hasa" and 25% "bette". The said witness has also stated that the yield was subject to not being affected by "Koleroga", a normal disease which affect the areca plants in the locality and which has to be controlled by spraying the medicine called Bordo mixture on the areca trees.

18. A careful scrutiny of the evidence on record would show that except perhaps in extra-ordinary well maintained gardens the highest normal yield from one acre, that too of good variety of areca garden land, if not affected by "Koleroga" (disease) would be around five quintals of "Hasa" or tender variety or eight quintals of Chall or Bette or hard variety. This means 5 quintals of "hasa" I.e., tender variety if not harvested at that stage and harvested after it is ripe, it becomes 8 quintals of Chali. In other words, the quantity of areca which would have been one quintal "hasa" if harvested when It is tender, if not harvested and allowed to ripe and then harvested, it becomes 1.6 quintal of Chall (bette). As stated earlier, no evidence has been adduced regarding the variety or class of garden land. Further, according to the evidence of the Assistant Director of Horticulture, on which the claimants rely, the number of areca trees per acre has to be 600. Therefore, in order to secure the maximum yield the number of areca trees in each acre of areca garden has to be around 600 trees. But no evidence has been produced by the claimants regarding the number of trees which existed on their lands which were acquired. There is also no evidence regarding the total quantity of areca sold through the agency of the Market Committee year wise by each of the claimants. In our opinion the finding of the learned Judge that 3 quintals was the yield and treating the entire quantity as "hasa" would mean if the entire quantity is harvested as "chali" or "bette" it would become 12.8 quintals per acre, if we calculate on the basis of the book "Cultivation Practices for Plantation Crops", i.e., one quintal of "hasa", if allowed to ripe, would become 1.6 quintals of "chali". On careful consideration of the entire material on record and the submission made by the claimants, there Is no justification to take the yield as 8 quintals and to apply the rate of "hasa" to all the eight quintals, and that we should take the yield from the acquired lands at 4 quintals of hasa and 1 1/2 quintals of Chali or Bette. This would no doubt be a little more for such of the areca garden lands which were either medium or Inferior varieties and which did not have the maximum number of areca trees, but we consider it just and fair to do so, so that persons who are deprived of good areca growing plantation, are

not denied of adequate compensation.

19. Accordingly, on the question of yield, we assess the annual yield from the acquired areca garden land at 4 1/2 quintals of "hasa" and 1 1/2 quintals of "Chall" or "Bette".

20. The next point for consideration is about the annual gross income from the acquired areca gardens. In the award in L.A.C. 38/82 against which the appeal is M.F.A. 824 of 1984 and other awards against which other nine appeals have been filed, the learned Civil Judge had taken the price of one quintal of areca at Rs. 1,100/- stating that it was the modal price and on that basis computed the gross annual income at Rs. 8,800/- per annum.

21. However, in L.A.C. No. 47/83 out of which M.F.A. 1316/85, the learned Judge computed the gross annual income at Rs. 10,400/- by taking the rate of areca as Rs. 1,300/- per quintal as on the date of preliminary Notification.

22. The learned Counsel for the appellants did not object to the adopting of Rs. 1,100/- as the rate per quintal of areca, in the first nine cases. He, however, contended that the rate could not have been taken as Rs. 1,300/- per quintal In L.A.C. 47/83 when the preliminary Notification was issued in or about the same time.

23. The learned Counsel for the respondents and the cross-objector and also Sri Ashok submitted that the rate of areca adopted in L.A.C. No.47/83 at Rs. 1,300/- per quintal was correct and the rate of Rs. 1,100/- per quintal was not correct.

24. We have gone through the records of the Court below and in particular the awards made by the Special Land Acquisition Officer. In L.A.C. No. 47/83, in which the learned Civil Judge has taken the rate of areca at Rs. 1,300/- per quintal as on the date of preliminary Notification. He has done so on the basis that the preliminary Notification was issued on 3-9-1981 though actually it was on 12-6-1980. 3-9-1981 is the date on which the final Notification was issued. Therefore, as the preliminary Notification in all the cases was in June or July 1980, the rate of areca cannot be different for the first ten cases and the case which is the subject matter of appeal in M.F.A. 1316/1985.

25. It is appropriate at this stage to consider, as to whether it is correct to adopt the rate of an agricultural produce as on the date of preliminary Notification for the purpose of ascertaining the market value of the land acquired? In our opinion, it is not. It is no doubt, an accepted principle that if any similar land had been sold in a bonafide transaction in the area within a reasonable time prior to the issue of preliminary Notification proposing to acquire an agricultural land, that price can be taken as representing the correct market value of the land acquired. But for ascertaining the market value of a land acquired by capitalisation method, the price at which the agricultural produce from the land was sold at the time of preliminary Notification constitutes no rational basis. In the nature of things prices of agricultural produce would be fluctuating. On this

aspect of the matter, norm to, be adopted has been enunciated by the learned Author C.A. Gulanikar in his Book, 2 Acts, Gift and Wealth Tax Act (5th Edition) at page 916. He opines that the average of the prices of preceding three years should be taken as the basis. We are entirely in agreement with that view. Therefore, it is appropriate to take the average of the market rate of three years.

26. Sri Ashok, the learned Counsel for the claimants has produced the certified copy of Exhibit P-9 in L.A.C. 169 of 1984 before the Civil Judge, Sagar. It is an extract of statement of annual prices of arecanut maintained by the office of the Agricultural Produce Marketing Committee, Shimoga, signed by the Deputy Chief Marketing Officer and Secretary, APMC, Shimoga. This is an authentic document coming from the statutory authority entrusted with the regulation of sale and purchase of areca, which had been produced as documentary evidence in some of the connected cases before the Civil Judge, Sagar. The learned Government Advocate for the appellant also submitted that it constitutes the correct basis and it could be taken as the basis for finding out the price of areca during the relevant years. The learned Counsel are also agreed that "saraku" mentioned in the said document is "Hasa" and "Bette" is equal to "Chali". Therefore, we consider that the modal price of areca indicated in the document is the correct one and should be adopted as the basis for ascertaining the annual income from the acquired areca garden lands. The relevant portion of that Exhibit reads:

Office of the Agricultural Produce Market Committee, Shimoga.

Extract copy of the annual prices of Arecanut prevailed during the years from 1978-79 to 1981-82.

Sl. No.

Variety

1978-79

1979-80

1980-81

Minimum

Maximum

Modal

Minimum

Maximum

Modal

Minimum

Maximum

Modal

1.

Saraku

1000/-

1822/-

1649/-

1209/-

1866/-

1680/-

1309/-

2531/-

2260/-

2.

Bette

549/-

1489/-

1259/-

894/-

1362/-

1180/-

920/-

1905/-

1690/-

As can be seen from the above statement, the modal rate for the three years in respect of "Hasa" and "Bette" are:

Sl.No.

Year

Hasa

Bette

1.

1978-79

Rs. 1,649-00

Rs. 1,259-00

2.

1979-80

Rs. 1,680-00

Rs. 1,180-00

3.

1980-81

Rs. 2,260-00

Rs. 1,690-00

Total:

Rs. 5,580-00

Rs. 4,129-00

The average price for 3 years:

Rs. 1,860-00

Rs. 1,376-33

In view of this authentic material, we accept the contention of the claimants that the above price should be adopted as against the price of areca, as on the date of preliminary Notification, adopted by the learned Civil Judge. On the basis of the aforesaid average price of "Hasa" at Rs. 1,860-00 per quintal the total income from 4 1/2 quintals of "hasa" comes to Rs. 8,370-00. In respect of 1 1/2 quintals of "Bette" at the rate of Rs. 1,376-00 per quintal the income comes to Rs. 2,064-00. On that basis the gross income from one acre of arecanut garden land per annum comes to Rs. 10,434-00.

28. The next question for consideration is about the cost of cultivation. There are several decisions of this Court in which the question as to what percentage of gross income should be apportioned towards the cost of cultivation. In the case of SPECIAL LAND ACQUISITION OFFICER, SAGAR v. GANESHAIAH 1964(1) Mys.L.J. 107 in respect of arecanut garden land situate in the same locality, the cost of cultivation was computed at 50%. Same computation was made in the case of SPECIAL LAND ACQUISITION OFFICER v. RAMACHANDRA RAO 1973(2) Mys.L.J. 437 @ 440. In the case of SPECIAL LAND ACQUISITION OFFICER, DAVANAGERE v. KOTRAIAH 1976(2) KarLJ 318 @ 323 this Court observed the cost of cultivation would be somewhere between 40% to 50%. However, at page

323, the Court observed that in the absence of specific evidence 10% could be taken as the cost of cultivation. In SPECIAL LAND ACQUISITION OFFICER v. C.P. MOHAMAD, M.F.A. No.468 of 1975 a Division Bench of this Court observed that the cost of cultivation could be somewhere between 40% and 50%. Though in the said case 40% was taken as the cost of cultivation, the Division Bench observed that in the absence of specific evidence 50% could be taken as the cost of cultivation. Similar view has been taken in Special L.A.O. Vs. Laxman Radavo Gawada,

29. The learned Counsel for the claimants, however, relied strongly on the figures furnished by the Assistant Director of Horticulture, referred to earlier which is part of the lower Court records in M.F.A. 1583 of 1988, in which he said that cost of cultivation could be around Rs. 2,250/- per acre. We have gone through the said statement. Firstly, it is not of any evidentiary value as it is only in the nature of opinion evidence. Cultivation expenses has to be proved by the claimants adducing evidence in respect of actual expenses incurred. Further, there are several infirmities in the report as well as his oral testimony. When he gave evidence in one of the cases to which we have referred to earlier, in the cross-examination he admits that he has not verified the price of copper sulphate per kilogram during 1979 which is a substantial ingredient for preparation of bordo mixtures to be sprayed on areca plants for preventing diseases, twice a year. He also stated that he has not verified the fire wood required for buffing and processing of are canuts, which is one of the major expenses. He also stated that he had no document to show that he had surveyed the gardens of these areas. There was also a suggestion that in computing the expenses he had not taken into account the wages of several class IV employees, which of course he had denied, but the fact remains, in his computation of cultivation there is omission to take their salary into account. Some of the items of expenses mentioned on the face of it appear to be too low. For instance regarding the cost of slicing of the entire quantity of areca produced in one acre of land, i.e., about 7 quintals, he gives it at Rs. 70/- which on the face of it is too low. Therefore, his statement that the cultivation expenses for one acre of areca garden for only Rs. 2,250/-, which is even less than one-third of gross income cannot at all be accepted. Therefore, we have to proceed on the basis that there is no satisfactory evidence regarding cost of cultivation and therefore the cost of cultivation per acre of areca garden land should be taken at 50% which is taken as the basis consistently in most of the cases decided by this Court.

30. Now coming to the fourth and the last point, namely, as to what would be the appropriate number of years" purchase or multiple, which should be applied in computing the market value of the land, it has been the subject matter of consideration both by this Court and the Supreme Court. In the case of Special Land Acquisition Officer, Sagar v. Ganeshiah referred to earlier, this Court considered that in arriving at the market value of the agricultural land, the proper multiple to be applied was 20, when 5% was the return on gilt-edged securities. In the case of CHANNAVEERAPPA v. LAND ACQUISITION OFFICER

1973(2) Mys.L.J. 198 this Court held that multiple of 20 should be applied if only the rate of interest on gilt-edged security was 5% and in the same decision it was also held that multiple of 10 could be regarded as neither low nor arbitrary and it was further held that if return expected is 12 1/2% on investment on land the multiple of 8 would be appropriate. In *Special Land Acquisition Officer v. Ramachandra Rao* referred to earlier the multiple of 10 was adopted. However, further discussion on the point has become unnecessary in view of the decision of the Supreme Court, reported in the case of *Special Land Acquisition Officer, Davangere Vs. P. Veerabhadarappa and Others*, . The relevant part of the Judgment reads:

"20. In regard to Investment in agricultural lands there are many imponderables inasmuch as the investor runs a much greater risk than the risk that he runs in investment in housing which consists in vagaries of weather and other uncertainties. There is no security of principal, no liquidity of investment nor any certainty of income. The appreciation of principal or income is also uncertain. The reasons for these is that agricultural lands are not readily transferable under the various land reform legislations e.g. laws relating to ceiling on agricultural holdings under the existing State laws and tenancy laws which place restrictions on transfer of such lands with concomitant danger of effacement of the rights of the absentee-landlords and the creation of rights in the tillers of the soil. In evaluating the rate of return which would ordinarily satisfy an investor in such a property, the risk factor has further to be evaluated. There may be total or partial failure of crops either through failure of rain or drought, or inadequate or excessive rainfall. There may be a failure of crops on account of locust invasion or insects or pests. The cost inputs such as seeds, water, fertilizer, labour charges etc. would vary from year to year. If the overall cost goes up, the income from agricultural produce would be comparatively less. The fluctuations in price of agricultural produce introduce a great deal of uncertainty in regard to the income that can be expected from the sale of the produce. If the yield of the crop in other producing countries is large, or the market prices prevailing in such countries are low, the prices of such agricultural produce in India would go down. In view of these considerations, an investor would expect a much higher rate of return so that the risk factor is properly discounted.

21. In the premises, when the rate of return on investment was 8.25% in the years 1971 and 1972, a person investing his capital in agricultural lands would ordinarily expect 2% to 3% more than what he could obtain from gilt-edged securities or other forms of safe investment and therefore the proper multiplier to be applied for the purpose of capitalisation could not in any event exceed ten."

In the said decision, the Supreme Court held that when 8.25% was the expected annual return on gilt-edged security a person making investment on agricultural lands expects 2% to 3% return over and above the return expected from gilt-edged securities, and therefore appropriate multiple could not exceed ten. As far as areca garden lands are concerned, according to evidence on record maximum

yield is possible when assured irrigation facilities are available and the yield is not adversely affected either by vagaries of weather or the disease of "Koleroga". In view of these facts and in the light of the Judgment of the Supreme Court, we should proceed on the basis that a person making investment on areca garden land could expect at least 2% higher return than 10% which was the rate of return on gilt-edged securities in 1980 and if worked out on that basis the proper multiple would be 8 1/2. In our opinion, we should make it 9, by way of moderation and that it would be appropriate to fix the multiple at 9.

31. Now coming to the computation of the market value, as stated earlier, annual yield from 1 acre of areca garden land is 4 1/2 quintals of Hasa and 1 1/2 quintals of Bette. The average rate for three years was Rs. 1,860/-per quintal of Hasa. The total amount from Hasa comes to Rs. 8,370/-. In respect of 1 1/2 quintals of Bette, having regard to the average rate of Rs. 1,376-00 per quintal, the total amount comes to Rs. 2,064-00. Both put together the annual income would be Rs. 10,434-00. Out of that if cultivation expenses to the extent of 50% is deducted, the net Income comes to Rs. 5,217-00 per acre. To this we should add the income from subsidiary crops like Banana fruits, pepper and betel leaves which are the common subsidiary crops in areca garden, and the L.A.O. has computed the Income at the rate of Rs. 200-00 per acre. The learned Civil Judge in some of the connected cases has taken into account and has omitted in some of the cases. In fact, regarding the Income from subsidiary crops, there is no satisfactory evidence. Sri T.S. Ramachandra the learned Counsel for the cross objector in M.F.A. 887 of 1984 submitted that the cross objector in his evidence before the Civil Judge had stated that he was producing 15 Kgs. of Pepper and that the price of the Pepper was Rs. 40-00 per K.G. and that he had also stated that he was having income from banana. Though there is no specific evidence to establish the actual income from subsidiary crops, the fact that such subsidiary crops are being grown in areca gardens is not in dispute. Therefore, we consider that some value must be given in respect of these crops, though the learned Government Advocate submitted that income from these subsidiary crops should not be taken into account. We would consider that the compensation awarded on this count by the LAO should be accepted. As stated earlier, the LAO had taken Rs. 200-00 as the net income per annum from subsidiary crops. With the addition of Rs. 200 the income per annum comes to Rs. 5,417-00. Multiplied by Nine, it comes to Rs. 48,753-00 and we make it a round figure of Rs. 48,800-00 per acre and that in our opinion, is the market value of an acre of areca garden land, which was the subject matter of acquisition.

For the reasons aforesaid, we make the following order:

I. (1) In M.F.As. 824/1984, "868/1984, 888/1984. 1026/84, 1029/1984, 1031/1984, 1034/1984, 1036/84, and 1441/84.

(i) The appeals are dismissed.

(ii) No costs.

(2) In M.F.A. 887/1984:

(i) The appeal is dismissed,

(ii) The cross-objection is allowed;

(iii) The compensation awarded at the rate of Rs. 44,000-00 per acre of Areca Garden Land is enhanced to Rs. 48,800-00 (Rupees forty eight thousand eight hundred) per acre;

(3) In M.F.A. 1316/1985:

(i) The appeal is allowed;

(ii) The compensation awarded at the rate of Rs. 9,500-00 (Rupees nine thousand five hundred) per acre of wet land is reduced to Rs. 8,500-00 (Rupees eight thousand five hundred) per acre;

(iii) The compensation awarded at the rate of Rs. 2,000-00 (Rupees two thousand) per acre of dry land is reduced to Rs. 1,500-00 (Rupees one thousand five hundred) per acre.

(iv) The compensation awarded for Areca garden land at the rate of Rs. 54,000-00 (Rupees fifty four thousand) per acre is reduced to Rs. 48,800-00 (Rupees forty eight thousand eight hundred) per acre.

II. The Claimants in all the appeals shall be entitled to additional benefits flowing from the amendment to the Land Acquisition Act in 1984 subject to the decision of the Supreme Court on review in Bhag Singh's case.

III. The claimants shall be liable to pay additional Court fees, if it becomes payable consequent on the grant of additional benefits.