(1997) 09 AP CK 0051

In the Andhra Pradesh High Court

Case No : AS No''s. 2158 and 2160 of 1984 and 2575 of 1988

Spl. Dy. Collector, L.A., Nuzvid APPELLANT

Vs

D. Krishna Murthy (died) per LRs. and others RESPONDENT

Date of Decision : 12-09-1997

Acts Referred:
Constitution of India, 1950 — Article 31
Land Acquisition Act, 1894 — Section 18, 23, 23(1), 4(1)

Citation : (1998) 4 ALD 132 : (1998) 3 ALT 230

Hon'ble Judges : P. Venkatarama Reddi, J;B.V. Ranga Raju, J

Bench : Division Bench

Advocate : Government Pleader, Mr. R. Ramanujam and Mr. M.R.K. Choudary, for the Appellant;

Judgement

P. Venkatarama Reddi, J

1. Out of these three appeals filed u/s 54 of the Land Acquisition Act, AS Nos.2158 & 2160 of 1984 are filed by the State and AS No.2575 of 1988 is filed by the claimants. The relevant details pertaining to these appeals are set out hereunder in a tabular form:

AS No. OP No. Sy.No. Extent Classification

2158/84 25/1983 140 Ac.0-09 cents Dry

2160/84 19/1983 138 Ac.t-28 cants Wet

2575(88 40/1984 139 Ac.1-09 cents Wet

2. The above extents of land are part of the larger extent of Ac.4-35 cents acquired by the Government for the purpose of excavation of Bapulapadu Major Canal. The said lands are situate in Bapulapadu village (Krishna District) which is also popularly known as Hanuman junction, as revealed from the evidence. The notification u/s 4(1) of the Act was published on 8-7-1980. The Award was passed by the Special Deputy Collector (LA Unit), Nuzvid on 23-9-1982. The LAO

awarded a pittance as compensation taking the relevant date for the purpose of ascertainment of market value as 1-7-1953 under the provisions of Nagarjuna Sagar Project (Acquisition of Lands) Act, A.P. Act 32 of 1956. The value of wet lands was fixed at Rs.850/- per acre and the value of dry lands under Wet cultivation at Rs.750/- per acre.

3. On reference to the Court of Subordinate Judge, Nuzvid u/s 18 of the Land Acquisition Act, the Court which disposed of OP Nos.19 and 25 of 1983 took note of the fact that a Division Bench of this Court., struck down Act 32 of 1956 on the ground that it violated the 2nd proviso to Article 31A of the Constitution, insofar as the acquisitions after 1964 are concerned and proceeded to determine the market value as on the date of Section 4(1) notification i.e., 8-7-1980 as per the provisions of Land Acquisition Act. The reference Court fixed the market value at Rs.45/- per square yard.

4. However, in OP No.40 of 1984, the Court answered the reference against the claimant by confirming the Award. The learned Subordinate Judge, though gave a finding that the claimant will be otherwise entitled to get Rs.45/- per square yard as compensation in accordance with the previous Awards in OP Nos.19 of 1983 etc., felt that the interim order of the Supreme Court dated 7-5-1982 in the civil appeal filed by the State Government against the judgment of High Court in WP No.2989 of 1980 (similar to the reported decision in Kamikacherla Rangaiah and Others Vs. Government of Andhra Pradesh and Others, , came in the way of awarding compensation without reference to Act 32 of 1956. We must say that in holding so, the learned Subordinate Judge, who decided OP No.40 of 1984 laboured under a misconception as to the scope and effect of the interim order passed by die Hon''ble Supreme Court. The operation of the judgment of the High Court aforementioned was stayed in that particular case. It is obvious that stay operates as between the parties and it cannot be said that the judgment rendered by the Division Bench of this Court is denuded of its binding force or precedential value as regards third parties. The learned Government Pleader found it difficult to justify the view taken by the reference Court in this regard. Irrespective of the stay order in Ex.B4, the Subordinate Judge who passed the award in OP No.40 of 1984 should have fallen in line with the view taken by his predecessor that the Act No.32 of 1956 which was declared invalid by this Court cannot be applied to the reference before it.

5. However, even though the decision of the Division Bench of this Court in K. Rangaiah''s case (supra) holds the field despite the pendency of the appeal in the Supreme Court, the twin requirements envisaged by the 2nd proviso to Article 31A (introduced by 17th Amendment in 1964) ought to be satisfied. These requirements are - that the land acquired should have been under the personal cultivation of the land-holder and secondly, it must be within the ceiling limit applicable to him under any law in force. The Division Bench held that once these two requirements were satisfied, the right to receive compensation at the market value is a guaranteed right under Article 31A. We need not labour hard to say

that the pleas taken by the claimants, the observations in the award together with the evidence on record, establishes these two crucial factors. In fact, in all the cases, the orders passed by the Land Ceiling Tribunal to show that the claimant concerned held land below the ceiling limit have been filed. There was no serious controversy across the bar with reference to these aspects.

6. We shall now consider whether the determination of market value at Rs.45/- per square yard is proper and justified and if not, what should be the proper estimate of market value as on the date of notification i.e., 8-7-1980. It may be stated that the claimants in OP Nos.19 and 25 of 1983 sought for fixation of compensation at Rs.2 lakhs per acre and the claimant in OP No.40 of 1984 claimed Rs.1.50 lakhs per acre. In the application seeking reference, the claimants in OP No.19 of 1983 and 40 of 1984 stated that on the date of acquisition, the market value was Rs.1.50 lakhs and now, it increased to Rs.2.25 lakhs. The amount awarded by the reference Court in OP Nos. 19 and 25 of 1983 is much more than what was claimed by the respondents concerned before the reference Court. Per se, such determination may not be illegal in view of the amended Section 25 of the Land Acquisition Act. But we are only pointing out this aspect incidentally and perhaps the only thing which we can say at this stage is that the factum of such claim cannot be altogether eschewed from consideration" and it may assume some importance when there is no unequivocal and acceptable evidence to justify the fixation at Rs.45/- per square yard.

7. Let us now see how and on what basis the learned Subordinate Judge concluded that the market value of the acquired land was Rs.45/- per square yard. The learned Judge referred to the oral evidence and sale deeds filed by the witnesses and observed as follows:

"Considering the evidence adduced, exhibits marked on behalf of the petitioners and the situation of the land, vicinity and the area in which it is situated which is developed industrially and commercially and all around there are houses constructed, having shops, institutions etc., there can be no doubt that the market rate of the land has been increased and the acquired land is having potential value and the market value of the acquired land can be fixed at Rs.45/- per square yard."

8. That is all the reasoning and conclusion as well. The manner in which Rs.45/- per sq. yard has been arrived at is not spelt out in the judgment under appeal. There was absolutely no need to estimate the market value in terms of square yards in the case of acquisition of agricultural lands in a village under personal cultivation especially when the claimants themselves sought for fixation of value on acre basis. It is nobody''s case that the lands in question were already laid out as plots. There is no evidence to the effect that there was such a demand for plots for housing in the direction of the acquired land that the entire land could be converted into house plots and sold out immediately for building purpose. There is also no evidence that the construction for residential and commercial

purposes had come upto the immediate vicinity of the acquired land. Even in the year 1987, when the evidence was tendered by the claimants in OP No.40 of 1984, mere were no residential houses atleast upto a furlong from the acquired land. Certain houses were constructed within a distance of half-a-furlong in 1982 i.e., subsequent to acquisition, according to PW1 examined in OP No.40 of 1984. The acquired land is not close to Hanuman Junction Centre nor does it abut the National High-way though it is not far away. Nor was it in the midst of a developed area. Excepting the land in Sy.No.139 covered by OP No.40 of 1984 which is contiguous to Veleru road, the acquired land does not abut the road. We will deal with live physical features and potentialities of the land in more detail a little later. But, what we would like to stress at this stage is that the land should not have been evaluated on square yard basis as if the whole of it could be converted into readily saleable plots for building purposes.

9. It is true that the acquired land should not be valued merely as agricultural land having regard to its nearness to a commercially developed place and the potential for future development. It is, therefore permissible to look into the sale price of small plots if they are proximate from the point of view of distance and time. But, the very sale documents filed and relied upon by the claimants (shown in the annexure to this judgment) could not have led the Court to come to a reasonable conclusion that the market value could be estimated at Rs.45/- per square yard. All the sale transactions relied upon by the claimants in OP Nos.19 of 1983 and 25 of 1983 are post-sale transactions that took place more than two years after the notification u/s 4(1) excepting Ex.A5 sale which had a gap of 14 months. What is more, the sale prices shown therein ranges between Rs.50,000/- and Rs.2 lakhs, excepting Ex.A11 dated 12-11-1982 in which a very small plot of 58 Sq.yards which is 3/4th K.M. away (as per the evidence of PW6) was sold at a high price of Rs.8,000/-. The boundaries show that the plot sold under Ex. A11 has a strategic location abutting the National High-way etc. Obviously, it does not stand in comparison to the acquired land. In fact, neither the vendee nor the vendor of that document was examined. Only the scribe of the document was examined. He did not even speak to the factum of passing the consideration. He merely filed a photostat copy of the certified copy. Leaving Ex.A11 apart, as already mentioned, in the other sale deeds, the maximum sale price is Rs.2,50,000/-, that too in the case of sales that took place in June, 1983 and January, 1984 (Exs.A2 and A3). The learned Subordinate Judge himself was not inclined to treat Exs.A1 to A11 as reflecting comparable sales, going by the tenor of discussion towards the end of paragraph 7. He observed:

"The exhibits marked on behalf of the petitioners are almost by the side of the GNT road and are mostly of the year 1982 i.e., post-notification sales. It is already noted that one witness deposed that there was slight decrease in the prices in 1981 than in 1982."

10. Yet, the market value now determined is even more than the sale price reflected in most of the sale deeds filed by the claimants themselves. It is

surprising how the reference Court arrived at the market value at that high rate. Moreover, assuming that the prices paid under the sale deeds relied upon by the claimants can be taken as the basis, there should have been appropriate reduction on account of the time lag of 2 to 3 years and on account of the smallness and developed nature of the plots sold. It is well settled that in working out the market value of a large block of land acquired with reference to the value of small plots, deduction towards lay-out and development charges should be made. Normally, it would be l/3rd. Even this principle was given a go-by and the rate of Rs.45/- per sq. yard finds an abrupt mention in the judgment without being preceded by any discussion as to how it was arrived at.

11. If we take the sale deeds filed in OP 40/84 into account, the claimants'' position will be still worse. Ex.A1 sale deed pertains to 12-3/4 cents of land in R.S.167 which is in the southern direction of the acquired land and almost continuous to the high-way. RS No. 167 is not too far from the acquired land, though not too close, as seen from the plan filed in OP No. 19/83. The rate per acre works out to Rs.80,000/- only. Of course, none connected with the document was examined. Coming to Ex.X1 dated 27-8-1980, a small site of One cent (48 sq. yards) in RS No.80 adjacent to high-way which is quite far off from the acquired land was sold to PW4''s wife for the price of Rs.5,000/- i.e., Rs.5 lakhs per acre. PW4 stated that he purchased it for constructing a shop and he constructed the shop in 1982. Going by the direction in which RS No.80 is situate as per the plan Ex.B7 filed in OP 19/83, it seems to be nearer to Hanuman Junction Centre. Though PW4 stated that it was at a distance of 250 yards from the land in RS No. 139/2, it seems to be an exaggeration, when it is apparent from evidence that, the national high-way itself is at a distance of one furlong from RS No.139/2. RS No.80 is shown in the plan, Ex.B7 almost at the end, separated by blocks of lands in about ten survey numbers and the road going to Bapulapadu old village. The distance will certainly be between two and three furlongs. We do not think, it represents a comparable sale at all. The claimant in OP No.40/84 also relied on Ex.X2 dated 18-9-1984. PW5 is the vendee thereunder. The claimant himself sold an extent of six cents in the same survey number i.e., RS No.139/2 for Rs.15,330/-. The rate per acre works out to Rs.2.5 lakhs. Apart from the fact that the bom fides of this sale made just before the Award is highly doubtful, especially in view of the financial incapacity of the vendee, it would only give a clue that even 4 years after Section 4(1) notification in the instant case, the claimant purportedly sold the plot only at the rate of Rs.2.5 lakhs per acre. It is, therefore, unimaginable that even by the date of notification i.e., 8-7-1980, the market value of the acquired land could be estimated at Rs.2.25 lakhs per acre (Rs.45/- per sq. yard). Thus, it is crystal clear that the sale deeds relied upon by the claimants do not either reflect comparable sales or even if the prices therein are taken as the basis, the market value of the land cannot, in any case, be worked out at Rs.45/-per sq. yard.

12. In spite of the serious infirmities in the judgment under appeal, when the Appeals (AS Nos.2159 & 2163 of 1984) against the Courts Awards in connected

OP Nos.20 & 24 of 1983 came up before a learned single Judge of this Court, this is how the appeals were disposed of on 14-2-1989:

"The lands near Hanuman Junction were acquired by notification dated July 8, 1980 for providing house-sites to poor. The LAO determined the market value at the rate of Rs.750/- per acre. The civil Court enhanced the market value at Rs.45/- per sq. yard. As against enhanced market values, the appeals have been filed.

It is common knowledge that Hanuman Junction is very busy commercial centre. Therefore, determination of the market value at the rate of Rs.45/- per square yard is quite just and fair and reasonable. The appeal is accordingly dismissed. No costs."

13. It is at once seen that the judgment is bereft of discussion and reasoning. Obviously, no serious attempt was made on behalf of the appellant before the learned Judge to highlight the arbitrary projection of the figure of Rs.45/- per square yard as market value and the feet that even the sale deeds of small plots having more favourable location executed one or two years subsequent to the present acquisition did not justify the determination of market value of the land in question at that figure, more so when the claim itself was for a sum of Rs. 1.5 or 2 lakhs. Hanuman Junction Centre as such may have become a commercially important locality even by the date of acquisition. But, it does not follow therefrom that the agricultural lands situate about 3/4 K.M. from the said centre which, according to the evidence on record, was developing towards Vijayawada side in the western direction alongside the national high-way should be valued as readily saleable house plots at the rate of Rs.45/- per square yard, that too without any basis and without regard to the very sale deeds filed by the claimants to buttress their claim. In this context, we remind ourselves to the well settled proposition that though there is scope for some guess work in the process of evaluation, such guess work cannot be a wild guess work nor is it permissible to indulge in feats of imagination. This is what the Supreme Court speaking through K. Ramaswamy, J., observed in a recent case of Special Deputy Collector and another etc. Vs. Kurra Sambasiva Rao and others, etc., , at paragraph 4;

"It is well settled legal position that the claimants stand in the position of plaintiffs. Burden of proof is always on the claimants to prove by adduction of cogent and acceptable evidence that the lands are capable of fetching higher compensation than what is determined by the Land Acquisition Officer, which is only an offer. If the award is accepted without protest, it binds the parties. It is the bounden duty of the Court to evaluate the evidence on the basis of the human conduct, even if no rebuttal evidence is produced by the Land Acquisition Officer, ... In that process, though some guess work is involved, feats of imagination should be eschewed and mechanical assessment of the evidence should be avoided."

14. While we are not inclined to consider the judgment of the learned single

Judge affirming the award of the lower Court in the same batch of cases as having any persuasive value or to share the view taken by the learned single Judge, an allied problem confronts us. As the award passed by the reference Court has become final in connected OPs. forming part of the same batch by virtue of the affirmance of the said Award by the learned single Judge of this Court, we were faced with an enigma whether the parties in these OPs. should be denied the quantum of compensation that was paid to the other claimants in the connected OPs. As regards the course of action to be adopted in such cases, there does not seem to be uniformity of opinion in this Court. Some decisions have taken the view that notwithstanding the fact that the awards in OPs. forming part of a batch have become final by virtue of their affirmance in appeal by a learned single Judge, there is no legal bar to decide the matter independently when the remaining cases in the batch come up for hearing before a Division Bench, as in this case. However, in some other decisions, the view was taken that the same compensation ought to be awarded without further going into the merits of determination. When we prima facie felt that the conflict may have to be resolved by a Full Bench, both the learned Counsel appearing for the claimants have fairly stated before us that they do not take shelter under the previous awards/ judgments and they would prefer to have an early decision rather than reference to Full Beach. The learned Counsel therefore appealed to us to determine the reasonable compensation to be paid, de hors the earlier judgments of this Court in AS Nos.2159 and 2163 of 1983. We, therefore, proceed to determine the market value accordingly.

15. As a part of the exercise to determine the reasonable market value of the acquired land, in the first instance, we would like to advert to the details about the location and physical features of the land as disclosed from the evidence on record in OP No.19/83 as well as OP No.40/84 with a view to assess its potentialities from a proper perspective.

16. First, about the Hanuman Junction as already noted, it is an alias name for Bapulapadu village. The locality abutting the Madras-Calcutta National high-way upto some distance seems to be known as ''Hanuman Junction Centre''. It is in the evidence of PW4 examined in OP No.40/84 that Bapulapadu which was a small village in 1970s developed into a major village by 1980. It is also in the evidence of PWs.4, 5 and 6 examined in the same OP on behalf of the claimants, Bapulapadu town was developing towards Vijayawada side i.e., towards West of Hanuman Junction Centre. Bapulapadu old village is at a distance of about 3 furlongs from Hanuman Junction. Some cinema halls and shops came up within a distance of half furlong from Hanuman Junction towards West. PW1 (the claimant in OP No. 19/83) stated that Hanuman Junction was commercially and industrially developed. He deposed that there were several kandasari sugar factories, rice mills, oil mills and two paper mills. But, it is not clear from the evidence whether all these industries were there even by the date of acquisition of the land in question in 1980. It is also not clear as to the direction in which these industries are located and how far they are from the village proper. This is

what RW1, Special Surveyor working in the office of LAO, Nuzvid said in his deposition in OP No.40 of 1984:

"The land over a distance of two furlongs on either side of national high-way towards West from Hanuman Junction Centre has been developing towards Vijayawada side."

17. As far as the acquired lands are concerned, they are close to the road from Hanuman Junction to Veleru, but not to the national high-way. PW1, the claimant in OP No.19/83 states that the acquired land (RS No.138) is at a distance of half a furlong from the Veleru road towards northern side of the road. PW6 examined in OP No.40/84 states that Veleru road is the southern boundary of the acquired land in RS No. 139. From the Advocate-Commissioner''s report-Ex.C1 filed in OP No.40/84, RS No.139/2 is adjoining the road leading to Veleru whereas RS No. 138/ 1-B (which is the subject-matter of OP 19/83) is at a distance of about one furlong from Veleru road. It is also reported by the Commissioner that RS No.139/2 runs along Veleru road upto one furlong towards north of the road and then it joins RS No.138 (located further north to RS No. 139) The plan, Ex.B7 filed in OP 19/83 also confirms this fact. Thus, RS No. 139/2 abuts Veleru road, but RS No. 138 is little away from the road. The acquired land is towards north of national highway, as stated by PW4 in OP No.40/84 and PW1 in OP No:19/83. As regards the distance from the national high-way (otherwise known as Grand Trunk Road), PW1 (claimant in OP 19/83) stated that his land (in RS No. 138) was within a distance of half a furlong from GNT road PW1 examined in OP Np.40/ 84 stated that the land acquired from him in RS 139/2 was at a distance of one furlong from national high-way. In the Commissioner''s rcport-Ex.C1, the same distance is mentioned as regards RSI39/2. It may be noticed that RS No.138 is next to RSNo.139. It cannot, therefore, be within a distance of half-a-furlong from national high-way, as asserted by PW1 in OP No. 19/83. It must be between 1 and 2 furlongs. RW1, the Surveyor attached to LAO''s office, however, says that the land in RS No. 139 is at a distance of half-a-kilometre from the junction of national high-way and the katcha road (''donka'') leading to the Mandal Revenue Office. It is not clear from the evidence where exactly that junction lies.

18. The next aspect to be noticed is about the distance from the commercially developed Hanuman Junction Centre which as already noted was developed on either side of the national high-way towards Vijayawada side i.e., towards West. According to PW1 and PW6 in OP No.40/84 Hanuman Junction (meaning thereby Hanuman Junction Centre) is three furlongs away from the acquired land. PW1 stated that the land acquired is towards west of Hanuman Junction Centre. He further stated that from Hanuman Junction Centre, upto a distance of two furlongs along the national high-way, there were houses all over and from mere, one has to take a turn to reach the land acquired. PW6 in OP No.40/84 stated that the place of development of Veleru road was more than the other roads.

19. As regards the residential houses and the development activity in the vicinity,

the evidence of RW1 examined in OP No.40/84 is that over a distance of one and half-kilometres towards East, there were no residential houses from the acquired land and the same is covered by paddy fields. He stated that 10 houses were constructed between the acquired land and GNT road after Section 4(1) notification. It is also his evidence that the demand for the lands nearby the acquired lands had grown up since the last two years (i.e., from 1985 or so) because Mandal Revenue Office was located two years ago at a distance of two furlongs on the east from the acquired land. RW1 further stated that the Mandal Revenue Office was situated within half-a-kilometre from the national highway. Earlier, he stated that there was no construction between the built up area towards West of Hanuman Junction Centre and the road, over a distance of half-a-kilometre. The evidence of RW1 reveals that by the date of acquisition, the residential houses were not there within close proximity to the acquired lands and the demand and construction activity had increased after the Mandal Revenue Office was located within two furlongs towards east of the acquired land in the year 1985.

20. PW4 who was examined in OP No.40/84 stated that when he constructed his shop, there were no residential or commercial buildings on the west of the road i.e., towards the direction of the acquired land. PW4 added that by the time he constructed the shop in 1982, there were residential houses scattered over a distance of half-a-furlong from his shop. He then stated, in cross-examination:

"From 1980 till to-day, the construction of houses extended over a distance of one furlong towards west."

Then, he stated as follows:

"As the pace of progress was going on from 1980 onwards, the OP land might be used as house-sites within 3 or 4 years."

21. It may be recalled that the land purchased by PW4''s wife under Ex.X-1 for the purpose of construction of shops in RS No.80/2-A is quite for off from the acquired land and it is to the east of acquired land, as seen from Ex.B7 plan filed in OP No. 19/83. Thus, the evidence of PW4 examined in OP No.40/84 also goes to establish that by 1980, there were practically no residential houses in the immediate vicinity of acquired lands and the development was from 1980 onwards. But, the evidence also reveals that there were signs of development even by the date of acquisition i.e., in 1980.

22. PW1 the claimant in OP No.40/84 stated in the cross-examination that on the cast of the land in RS No.139/2 and at a distance of one furlong, there were residential houses and 15 to 20 houses were constructed after the acquisition of his land. As regards the houses alongside the national high-way, he stated in cross-examination as follows :

"From Hanuman Junction Centre, upto a distance of two furlongs on the national high-way, there are houses all over and from there one has to take a turn to reach the land acquired. There are residential houses over a distance of one furlong from national high-way towards land acquired. The houses between national high-way towards land acquired over a distance of half-a-furlong are not existing by the date of notification, they were constructed subsequently, but there arc houses near the national high-way. Cinema halls were constructed at a distance of half furlong from Hanuman Junction centre towards West. The land acquired is nearly 2 1/2 furlongs from Srinivas Theatre on Nuzvid road."

23. PW2 also stated flat the residential houses were at a distance of one furlong on the eastern side of the acquired land. He clarified, "of course some houses were constructed subsequent to acquisition." Though in Ex.C1 (Commissioner''s Report in OP 40/84), it was mentioned that there were houses on both sides of the Veleru road upto a distance of half-a-furlong to the acquired land, the Commissioner was evidently giving the factual position in 1987 when he inspected the locality.

24. PW6 examined in OP No.40/84 stated that there is a Milk Chilling Centre and EDO''s office towards East from the acquired land within a distance of one furlong. However, RW1 (Special Surveyor) categorically stated that the Milk Chilling Centre was one kilometre, away from the acquired land on the south of national highway. He also stated that the northern end of RS No.139 is at a distance of 2 1/2 furlongs from national high-way.

25. The evidence of the witnesses examined on both sides, though conflicting in some respects, makes it fairly clear that by the date of acquisition of the land in question, there were no residential houses in the close proximity to the acquired land. Few houses must have been mere on the eastern direction at a distance of one or two furlongs. It was only subsequent to 1980 i.e., after the acquisition, several residential houses have come up in the vicinity of the acquired land. It is difficult to come to a conclusion that even at the time of acquisition in 1980, the acquired land was surrounded by residential houses or mat it was in the thick of developed locality. But, there were definite signs of development, more so, in view of the growth of Hanuman Junction as a busy commercial centre. The bald observation in the concluding part of the judgment in OP Nos.19 and 25 of 1983 that alround, there were houses, shops and institutions and the area in which the land is situate was developed industrially and commercially is wholly unwarranted and based on either overlooking or misreading the evidence on record. However, by the date of Section 4(1) notification, it can be definitely said that the acquired lands had potential of being sold as house sites in the near future atleast gradually, if not the entire land at a time. It was a potentially valuable land in the sense that it could be laid out and sold for building purposes.

26. Keeping in view the potentialities of the acquired land as adverted to above and disregarding the bald observations made by the lower Court with regard to its situation and potentialities, what then is the reasonable market value on the date of notification is the question. As already observed, in view of the definite potentialities of the land and the undeniable demand for building plots in this

developed village, we can safely look into the value of small plots near the acquired land sold out of larger extents. As already noted, all the sale deeds filed in the three OPs. relate to post-notification sales. But, there is no taboo against looking into the post-notification sales not too remote in point of time, subject to the qualifications laid down by the Supreme Court in Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and Another, . In the said decision, the Supreme Court observed that "even post notification instances can be taken into account (1) if they are very proximate, (2) genuine and (3) the acquisition itself has not motivated the purchaser to pay a higher price on account of the resultant improvement in development prospects." The Supreme Court then observed : "The most comparable instances out of the genuine instances have to be identified on the following considerations:

(i) proximity from time angle,

(ii) proximity from situation angle."

The Supreme Court then indicated the plus and minus factors that has to be taken into account from the point of view of a prudent purchaser.

27. Bearing these principles in view, we feel that Ex.A5 dated 15-9-1981 filed in OPs.19 and 25 of 1983 which is more proximate in point of time than the other sale deeds could be legitimately taken into account as an instance of genuine and comparable sale. The situation of the plot sold under Ex.A5 is also not too far from the acquired land though not in its immediate vicinity. An extent of 17 1/2 cents of land situate in Sy.No.167 was sold under Ex.A5 for Rs.26,000/-. The rate per acre comes to Rs. 150 lakhs approximately. Sy.No.167, as seen from the plan, is on the southern direction to the acquired land, abutting the national high-way and is quite close to the land in RS No. 140 which is the subject-matter of OP No.25/83. From the boundaries mentioned in the sale deed, it is seen that the plot sold is almost abutting the high-way. PW4, the vendor was examined in OP No. 19 of 1983. He stated that "only GNT road intervenes between our land and the acquired land." One year later, PW4 sold two more plots, the price of which works out to Rs.2 lakhs per acre. Apart from Ex.A5, the next closest in proximity of time is the Ex.A4 sale effected by PW3 on 7-8-1982. That land is in RS 145 which is very close to RS No.140 (which is the subject-matter of OP25/83). An extent of 15 1/3 cents was sold for Rs.23,000/-and the rate per acre works out to Rs.1.5 lakhs. Even the sale under Ex.A10 dated 21-4-1982 (in respect of which only the scribe was examined) reveals the market value at Rs. 1.50 lakhs. Under Ex.A10, an extent of 25 1/3 cents in RS No. 163 was sold for Rs.38,000/-. According to the scribe PW6, the distance between the land sold under Ex.A10 and the acquired land is one furlong. The plan Ex.B7 also indicates that RS No. 163 is quite near to the acquired land. The other sale deeds which are either too remote in point of time or relatable to plots at considerable distance need not be referred to.

28. Taking into consideration the sale instances furnished by Exs.A5, A4 and A10,

more especially Ex.A5 and giving due allowance to the time lag and the additional advantage those plots possessed by virtue of their contiguity to the high-way, we feel that the market value of the small extent of 9 cents of land acquired from RS No.140/2B2 and 140/1B (which is the subject-matter of OP25/83, corresponding to AS2158/84) can be reasonably estimated at Rs. 1.40 lakhs per acre. That means, the market value of 9 cents comes to Rs.12,600/-. It may be mentioned that as seen from the plan, the land in RS No.140 is very near to the high-way, though it does not abut the high-way. Moreover, it is a small extent. We are therefore not inclined to make much of deduction on account of the aforementioned two factors.

29. Coming to the market value of the land in RS No.139/2 (subject-matter of OP40/84, corresponding to AS.2575 of 1988} part of which is adjacent to Veleru and it has to be estimated at Rs. 1.30 lakhs per acre. We would like to make a deduction of Rs. 10,000/- when compared to RS No. 140 in view of the fact that the extent of land covered by OP No. 40/84 is more than one acre and some deduction has to-be provided for in working out the value of a large extent with reference to the value of smaller plots of land.

30. Coming to RS No.138 (subject-matter of AS.2160/88) in which more than one acre was acquired, as discussed supra, it is not close to Veleru road and it is beyond RS No. 139 on the northern side. Hence, the market value of the said land should be slightly reduced. We are inclined to fix the same at Rs.1.25 lakhs per acre. The market value of the acquired land which is the subject-matter of OP-19/83, corresponding to AS No.2160 of 1984 is determined accordingly.

31. In the light of the foregoing discussion and conclusions, all the three appeals are partly allowed, without costs. The lower Court in each of the cases awarded solatium at 15% and interest at 6% per annum from the date of taking possession. Inasmuch as the award was passed by the LAO on 23-9-1982, the claimants shall be entitled to get solatium and interest at the enhanced rates as per the Land Acquisition (Amendment) Act, 1984. They will also be entitled to the benefit of additional amount u/s 23(1-A) of the Act in view of the judgments of the Supreme Court in K.S. Paripoornan Vs. State of Kerala and Others, and Khanna Improvement Trust Vs. Land Acquisition Tribunal and Others, .

32. The judgments and decrees of the lower Court, in each of the OPs. shall be modified in the light of this judgment.

