

(1988) 02 BOM CK 0045
In the Bombay High Court
Case No : First Appeal No. 209 of 1984

State of Maharashtra and Another		APPELLANT
	Vs	
Nanabhai Rathod and Others		RESPONDENT

Date of Decision : 08-02-1988

Acts Referred:

Land Acquisition Act, 1894 — Section 23, 23(1A), 23(2), 28, 30(2)

Citation : AIR 1989 Bom 9 : (1988) 4 BomCR 282

Hon'ble Judges : Patel, J;Deshpande, J

Bench : Division Bench

Advocate : M.M. Gadkari, A.G.P, for the Appellant; M.C. Bhangde and S.C. Mehadia, for the Respondent

Judgement

Deshpande, J.—First Appeals Nos. 209 of 1984 and 1984 by the state of Maharashtra are directed respectively against the awards made by the Land Acquisition Officer, Bhandara in Land Acquisition Officer in both the cases and evidence was recovered by the trial Court in Land Acquisition Case no. 1 of 1978 and compensation was awarded by the common judgment recovered in both the cases.

2. In Land Acquisition Case No. 1 of 1978, 4.97 acres (2.15.622 sq. ft.) of land and in Land Acquisition Case No. 2 of 1978. 4.55 acres (1.99.134 sq.ft.) of land belonging respectively to Bhadupotes and Rathods came to be acquired. A notification under S. 4 of the Land Acquisition Act came to be issued on 25th July 1974 in Land Acquisition case No.1 of 1978,and notification under S. 4 of the Act was issued in respect of the land acquired in Land Acquisition Case No. 2 of 1978 on 25 Th. July. The notification under S. 6 of the Act in both the cases was issued on 18th Sept. 1976. The whole of the hand was divided into there bolts by the Land Acquisition Officer. The compensation awarded for the road-side belt.middle belt and the rear belt was respectively Rupees 25,000/-, 13,000/- per acre . All these lands were contiguous situated within the municipal limits of Gondia town and had access from the highway from Gondia to Balaghat. The frontage of

Bhadupotes" land on Balaghat road was 300 feet while that of Rathods " land was 50 to 60 feet. On the northern and southern sides of the property acquired were lands belonging to different individuals. To the south-west was located Muslim burial ground and beyond which was situated Christian cemetery. The lands were acquired for the purposes of a bus stand and a depot to be opened by one of the respondents Maharashtra State Road Transport Corporation. The award was passed by the Land Acquisition Officer on 16-5-1978 awarding to Rathods Rupee 66,677.29 p. and to Bhaduportes Rs. 77,614,78 p. including the solarium at 15 per cent.

3. The main contention of the claimants was that the land which was acquired, had non-agricultural potential, highlighted by it being situated within the municipal limits of Gondia, adjacent to Gondia-Balaghat high way and its vicinity to the residential locality. The site was of much importance for commercial as well as residential purposes and had a great potential value. They claimed compensation at Rs.3/- per sq.ft. Rathods additionally claimed compensation in respect of the value of the trees while Bhadupotes claimed compensation also for the house and well. The Land Acquisition Officer awarded Rs.2,900/- for the trees and RS. 1285/- for the house and Rs.680/- for the well. No claim was made while making reference to the Court for the value of the trees while Bhadupotes however, claimed Rs. 25,000/- and Rs.8,000/- respectively for the house and the well, in addition to compensation at Rs. 3/- per sq. ft. The learned Civil Judge, Senior Division granted compensation at Rs. 3/- per sq.ft. Rs. 3750/- for the trees and Rs. 4,000/- for the well and Rs. 10,000/- for the house. Before us it was conceded by Shri Bhangde, the learned counsel for the claimants that no additional compensation should have been awarded by the Court for the trees because no such claim was made at the time of the reference. Shri Mehadia, the learned counsel for the acquiring body. Maharashtra State Road Transport Corporation did not dispute the amount of compensation which was awarded by the learned Civil Judge, Senior Division in respect of the well and the trees. The only dispute before us is with regard to the rate awarded for the land.

4. Several witnesses were examined before the trial Court, Chimandas (A.W.1) stated that he had sold a small plot 90" x 60 "at Rs. 3/- per sq ft. for Rs. 16,270/- on 21-4-1975, the distance of this plot from the acquired land being about 1000 feet, He, however, did not produce the sale deed. The learned trial judge observed that the rate of which he spoke was not disputed, but it is apparent from his cross-examination that questions were put to him about not producing the sale deed. Apart from the unreliability of his evidence on account of non-production of the sale deed. One significant factor was that this was a small plot of land and though it was in the vicinity of the acquired land, the price paid for it could not be the proper basis for ascertaining the market value of the acquired land. Relying upon the observations in *Padma Uppal and Others Vs. State of Punjab and Others*, *Prithvi Raj Taneja (Dead) by Lrs. Vs. The State of Madhya Pradesh and Another*, and *Smt. Kausalya Devi Bogra and Others Vs. Land Acquisition Officer, Aurangabad and Another*, it was urged that for determining

the market value of large property on the basis of a sale transaction for smaller property a deduction could be given and this deduction may vary between 25 percent and 33 percent. Even if the rate given by Chimandas(A.W .1) were to be taken into account, the composition could not have been granted at a flat rate of Rs. 3/- per sq.ft. Even by applying the ratio of Kausalya Devi's case it would be obvious that by allowing a deduction of 33 percent, the rate could not have exceeded Rs. 2/- per sq.ft., subject to a deduction for development cost.

5. Chandan, another witness for the claimants, spoke about having sold his house 1200 sq.ft. in area for Rs. 10,000/- on 14-7-1980. This house was situated about 700 to 800 feet away from the road, but he too did not produce the sale deed. There would be a considerable variation in the prices depending on the type of the house he had and the one situated on the acquired land. According to him, the prices had undergone a rise 2 to 3 times during 1 to 2 years preceding his examination . He did not produce the sale deed of his house, but considering the time lag between the notification under S. 4 which came to be issued in the years 1974 and 1975. And the sale of his house in 1980, this sale instance cannot furnish any reliable basis for deterring the market value of the acquired property. Ramesh (A.W.3) who was the owner of the land on the northern side of the railway line in the neighborhood made a general statement regarding the prices prevalent from 1960 to 1980, and according to him the price of the land on Balaghat road was Rs.4/- to Rs.5/- per sq.ft. in the year 1974-75. He admitted in his cross-examination that no sale deeds at that rate were executed . No reliance can be placed on his evidence. Dinu Motising (A.W.%) gave a valuation report of Ex. 54 his estimate of the market value of the acquired land being Rs.3/- per sq. ft. His claim to be an expert was shown to be groundless because he never practiced as an architect, With regard to the information collected., he admitted that he could lay his hands on only one sale instance in 1974 and that he did not take into consideration the sale instances referred to in the award. He saw the indices in the Sub-Registrar's Office only for the year 1978 and did not even know that there was adjacent to the acquired land. The land belonging to the Zilla Parishad Housing Colony. While admitting that it was necessary to obtain sale instance of nearby land, he stated that he did not obtain any information about such sale transactions. His evidence was, therefore of no assistance to the claimants. Sureshkumar (A.W.6) stated that he had sold along with his father a plot 30"x60" for Rs. 3000/- in April. 1967 and a plot 23"x60" in August 1967, but could not remember the price of the second plot. These sale deeds were also not produced and considering that the transactions came to be made in 1967, they could price of the acquired land, In any event these sale instance were also of small plots and, therefore not very useful for the foregoing reasons.

6. Radhesham (A.W.7) one of the land owners, admitted that he was offered Rs.1/- per sq.ft. by the Divisional Controller of the Maharashtra State Road Transport Corporation, but he demanded Rs. 1.50.p per sq.ft. for the land, He consented to sell the land at Rs. 1/- per sq. ft. because he expected to get the

each immediately, but the transaction did not materialized, and he was approached later only in the year 1974. On the assurance that he would be paid at the market rate, he delivered possession of the land to the Maharashtra State Road Transport Corporation under receipt of possession dt. 10-1-1974 (Ex60). Most of Bhadupotes" land was converted for non-agricultural purposes in 1973. There was no dispute before us that the lands had non-agricultural potential and in course of time industries grew up in this area. But with what we are concerned is the rate in 1974-75. Even the Maharashtra State Road Transport Corporation in the written statement admitted that on the date of the notification the reasonable price of the land was Rs. 2/- per sq.ft. but according to them the land was at a lower level and zigzag. Amrutlal Rathod (A.W.*) deposed on the same times as Radhesham (A.W.7)

7. The Maharashtra State Road Transport Corporation examined 3 witnesses Bhayalal (N.A.W. 1) , Sewakram (N.A.W.2) and Gopal (N.A.W.3). Bhayalal spoke about the sale of 1.24 acres of land for Rs. 13,000/- i.e. at the rate of Rs. 10,500/- per acre and the sale of his brother's land in 1973 at Rs. 3,000/- to Rs.3500/- per acre. He gave the reason for selling his own land, as trespass by the neighbors and cattle. His land was situated on the western side of Gondia-Balaghal road where Zilla Parishad colony has now sprung up. He admitted that he had never used his land for non-agricultural purposes and that he had sold the land for agricultural purposes. Though he was not aware of the potential of his land, it is evident from the other evidence that his land had also such potential and it was for that purpose that the purpose was made. The evidence of Sewakram Thakre. The Chief Promoter of the Zilla Parishad and State Employees Society is that he had purchased Bhayalal's land for bringing up a housing colony. He was not aware of the prices of the adjoining lands. The land so purchased came to be converted later for non-agricultural purpose. The Land Acquisition Officer relied in this sale instance for fixing the price of the acquired land. But once it is obvious that the seller was not aware of the non-agricultural potential and felt that retaining the land would create a nuisance and loss to him . he would obviously agree to sell the land for a lower price and this may not represent the rule market price. Reliance on this sale instance , therefore , for fixing the market price of the acquired land, would be improper.

8. The Acquiring body's witness Gopal (N.A.W.3) who was working as Town Planning Officer with Nagpur Improvement Trust, prepared a valuation report Ex.102 under which the land was valued by adopting the belting system. The valuation of the portion 8160 sq. meter adjoining the frontage on the main road was made at Rs. 33,000/- per hectare, the area having no direct frontage per hectare: the area having no direct frontage from this belt measuring 10,874 sq. meters was estimated at Rs. 24,750/- per hectare and the remaining area in the second belt measuring 19,554 sq. meters was valued at Rs.22,000/- per hectare, the gross amount being Rs.96,890/- in respect of the land only, The trial Court did not accept his estimate for good reasons. We find that there were several factors which made his report unacceptable. He did not mention in the report

that he had visited the spot and his report was based on the information which was furnished to him. He did not verify the sale deeds mentioned in Ex.102 by going to the sub-Registrar's Office. He did not mention the dimensions of the existing structures in his report and made no reference to the trees because he had not then seen any trees on the spot. The dimensions of the well were also not mentioned in the report. No information was obtained as to when the land was converted to non-agricultural use. He resoled from his own statement that there was no rice mill. Oil mill. Etc., near the acquired land by saying that there was some industry at that time in the neighborhood. No effects were made to find out since when those industries were opened in the neighborhood. The material which would have bearing on the market value of the land was thus ignored and the rate which was too low in the circumstances was adopted. We are not impressed by the evidence adduced by the claimants with that it could not have been as high as Rs.3/- per.sq.ft. at the time of the notification under S. 4 of the Land Acquisition Act . the acquiring body in its written statement admitted that on the day of the notification, the reasonable price of the land was Rs.2/- per sq.ft. but it was submitted that the land under acquisition was submitted that the land under acquisition was very now and zigzag.

Shri Bhangde the learned counsel for the claimants urged that the land should have been valued at Rs.2/- per.sq.ft. if not at Rs. 3/- per sq. ft. Shri Mehadia the learned counsel for the acquiring body pointed out that the admission regarding the market value being Rs.2/- per.sq.ft. was a subject to the averment in para 11 of the written statement where it was stated that originally the claimants had shown their willingness to sell the land at Rs. 1.25p. per sq ft, but subsequently they offered to sell it at Rs.1/- per.sq.ft. Though it was urged that the land was converted for non-agricultural purposes. There was no development in the land. That much of the portion of the land was low its level being 11/2to 2 feet below the surrounding area and the land was irregular and uneven. There were many ditches 10to 12 feet deep and the soil was black cotton soil. The soil was unsuitable for construction of building. It is apparent that the admission regarding the rate being Rs.2/- per,sq.ft. was not unconditional and in any event, if the property were to be used for the purpose of building , then express would be required for the development of the land. We have already pointed out that both the properties which were acquired, were large areas and the rate at which smaller plots are sold could not be applied directly without taking into consideration the cost of the developing the large tracks of land. Radhesham (A.W.7) stated that the Divisional Controller and Engineer of the acquiring body met him in October or November 1971 and he quoted the rate at Rs.1.50p. per sq.ft. for the land., but they offered to purchase it at Es.1/- per sq.ft. Since the burden of the whole of the family fell him after the death of his father in 1970. Radhesham consented to sell the land at Rs.1/- per.sq.ft. in the hope getting the cash immediately. The talk regarding the sale of the land with Rathod also took place around the same time. There was no progress until the year 1974. Radhesham was refereed to the letter dated 2rd Feb. 1972 (Ex.71) which was

addressed to him wherein an offer at Rs.1/- per sq.ft. was made. In the reply dt. 9-2-1972 Radhesham stated that though he had quoted the rate at Rs.1.50p. per sq.ft he had finally agreed to sell the land Rs.1/- per sq.ft. and he confirmed that offer. There is no evidence to show that there was such an increase in the prices between Feb. 1972 and July 1974 which would have justified a rise of Rs.2/- per.sq.ft. and going by the admissions of the claimants and the admission of the acquiring body it appears to us that the market value of the land could not have exceeded in any event Rs.2/ sq ft. less the development charges. Disagreeing therefore with the learned that judge, we would fix the rate of the compensation at Rs2/per.sq.ft. less such development costs as would be required to be incurred for putting the site to use for building purposes.

9. There is no evidence on record to show what could be the development cost. But it is apparent having regarded to the nature of the property , comparative inaccessibility to the middle portion and the nature of the soil that the development of would have been substantial. Shri Mehadia on behalf of the acquiring body urged that the development cost should be computed at 33% while Shri Bhangde urged that it could not have been more than 20%. It is evidence that the evidence came to be recorded by the trial Court in the years 1982 to 1984 and by that time the land had been completely developed and it should have been possible for the acquiring body to state what was the expense incurred on the development. No such evidence was adduced and we find that the development cost t 33% would be on higher side and that at 20% would be on lower side. Our attention was drawn to the observations of the Supreme Court in Smt. Tribeni Devi and Others Vs. Collector of Ranchi, and Brig: Sahib Singh Kaldh v. Amritsar Improvement Trust., AIR 1982 SC 99940. In the former it was observed that in order develop the area at least 1/3 value of the land would have to be deducted for roads, drainage and amenities. While in the later it was observed that it is well settled principle of valuation that where there is a large area of undeveloped land under acquisition , provision has to be made for provision has to be made for providing the minimum amenities of town life such as water connection, well laid-out roads, drainage facility, electric connections. Etc. The process necessary involves deduction of the cost of factors required to bring the undeveloped lands on a par with the developed lands on a par with the developed lands. An extent 20per cent of the total land acquired is normally taken as a reasonable deduction for the space required for roads., but the cost of development may range from 20 to 33 per cent spending on the nature of the land, its situation and the stage of development., etc. in the circumstances of the present to make a deduction it would be only proper to make a deduction of 25 per cent from the value of the land as development costs. It takes care of the comparative inaccessibility of the central portion. While allowing therefore the rate of Rs. 2/- per sq.ft. for the whole of the area. We would deduct 25 percent as development costs and award compensation at a flat rate of Rs.1.50. p. per sq.ft. for the whole of the area, in place of the compensation awarded by the learned trial judge.

10. That brings us to the next question as to the benefit of the amendment to the Land Acquisition Act brought about by the Amending Act No. 68 of 1984. In view of the amendment to sub sec. (2) of S. 23 of the Land Acquisition Act, in addition to the market value of the land as provided by subsec. (1) the Court shall in every case award a sum of thirty per centum on such market value, in consideration of the compulsory nature of the acquisition. This would be in place of 15 per cent which was permissible before the amendment. The claimants would be entitled to interest at 9 per cent per annum for the first from the date on which the possession is taken. In the present case possession came to be taken even prior to the issue of the notification under S. 4 of the Land Acquisition Act on 10-1-1974, Therefore up to 9-1-1975 interest would be chargeable at the rate of 9 percent per annum and for the subsequent period at the rate of the 15 percent per annum till the date of payment. Under S. 30 of the Amending Act no. 68 of 1984. The provisions of sub-sec. (1A) of S. 21 of the principal Act, as inserted by CL (a) of Section 15 of the Amending Act shall apply, and shall be deemed to have applied also to and in relation to - (a) every proceeding for the acquisition of any land under the principal Act pending on the 30th day of April 1982 (the date of introduction of the Land Acquisition (Amendment) Act, 1982, in the House of the people in which no award has (b) every proceeding for the acquisition of any land date, whether or not an award has been made by the Collector before the commencement of this Act. In the present case the proceeding for the acquisition of the land was pending on 30th April 1982 and this position is not disputed. In *K. Kamalajammanniavar (Dead) by Lrs. Vs. Special Land Acquisition Officer*, it was held that the Parliament obviously desired to give effect to the amended S. 23(2) from the date of introduction of the Bill. So the amended provision was expressly made applicable by S. 30(2) to the awards made by the Collector or Court between April 30 1982 and Sept 24, 1984 also. The present case falls within this category and it is not necessary to go in the *Bhag Singh and Others Vs. Union Territory of Chandigarh* through the land acquisition collector, Chandigarh, in which it was held that the amended provisions of Ss. 23(2) and 28 are made applicable to all proceedings relating to compensation pending at the date of commencement of the Amending Act or are filed subsequent to that date. Whether before the Collector or the Supreme Court or before the High Court or the Supreme Court or by which *K. Kamalajammanniavar (Dead) by Lrs. Vs. Special Land Acquisition Officer*, came to be overruled. The later judgment is being reconsidered by the Constitution Bench of the Supreme Court as is apparent from the observations in *Mahabir Prasad Santuka and Others Vs. Collector, Cuttack and Others*, the controversy, however, need not directly be governed by the undisputed provisions of the Amending Act, We would, therefore, award enhanced rate of solarium under the Amending Act.

11. Shri Bhangade urged that in addition to those the claimants would also be entitled to the benefit of S. 23(1A) of the principal Act. Its provisions are as follows:-

" In addition to the market value of the land, as above provided, the Court shall

in every case award an amount calculated at the rate of award an amount calculated at the rate of twelve per Centum on such market value for the period commencing on and from the date of the publication of the notification under S.4 sub-sec. (1) in respect of such land to the date of the award of the Collector of the date of taking possession of the land, whichever is earlier".

It is not necessary to go to the explanation for the purposes of those appeals. The learned Assistant Government Pleader urged that since in this case possession had admittedly been given on 10-1-1974 before the issue of the notification under S. 4 of the land Acquisition Act . which event has occurred earlier, it would not be open to the claimants to ask for the benefit of sub-sec. (1A) . Now we must notice the mandatory nature of the provisions which is obvious from the use of the words " the Court shall in every case award" and the point of time from which the period over which the additional benefit would accrue, the starting point being prescribed by the expression " for the period commencing on and from the date of the publication of the notification under S. 4 . The period therefore, begins on and from the date of publication of the notification under S. 4 and shall and either on the date of the award of the Collector or the date of taking possession of the land. If both those later events occurred before the issue of the notification under S. 4 then evidently the period would be limited to the earlier event and it is only when both the events occurred after the issue of the notifications under S. 4 the limitation to the benefit would be brought in by the phrase " whichever Pleader". The learned Assistant Government Pleader agreed that if the date of taking possession were to be the same date on which the award under S. 4 came to be issued, there will be no right to the benefit under sub-sec.. (1A) and if this be the position. Then it would not make any difference if the possession were to have taken prior to the issue of the notification under S. 4(1) . this argument overlooks the starting point which we have already indicated which is put in sub-sec. (1A) itself, viz. " commencing on and from the date of the publication of notification under S. 4 . " It is only of both the events occurred after the notification that the limitation placed by the notification that is earlier" . come into operation.

12. It is necessary to refer to the Statement of Objects and Reasons accompanying the Bill which was introduced before the Parliament:

" Statement of Objects and Reasons: With the enormous expansion of the State's role in promoting public welfare and economic development since independence. Acquisition of land for public purposes. Industrialization, building of institutions, etc, has become far more numerous than ever before. While this is inevitable , promotion of public purpose has to be balanced with the rights of the individual whose land is acquired, thereby often depriving him of his means of livelihood. Again acquisition of land for private enterprise ought not to be placed on the same footing as acquisition for the State or for an enterprise under it. The individual and institutions who are unavoidably to be deprived of their property rights in land need to be adequately compensated for the loss keeping

in view the sacrifice they have to make for the larger interests of the community. The pendency of acquisition proceedings for long periods often causes hardship to the affected parties and renders unrealistic the scale of compensation offered to them.

We are aware that in the urgency clauses of S. 17 of the Land Acquisition Act, the appropriate Government or the Commissioner is empowered, though no such award has been made to take possession of any land needed for the before taking possession of any land under sub-sec (1) or sub-sec.(2). the Collector shall, without prejudice to the provisions of sub-sec. (3), (a) tender payment of eighty per centum of the compensation for such land as estimated by him to the persons interested entitled thereto, and (b) pay it to them, unless prevented by some one or more of the contingencies mentioned in s. 31, sub-sec. (2). The learned Assistant Govt. Pleader argued that since adequate provision has been made in respect of the contingency relating to the taking of possession prior to the award and a substantial portion of the compensation is to be tendered to the claimant, the date of taking possession would not be of much relevance and is not one of the factors which should influence the Court in interpreting the provisions of S. 23(1A) as sufficient relief is available to the claimants in that event. This overlooks the reasons that led to the Amending Act viz. The pendency of the acquisition proceedings for long periods often causing hardships to the affected parties and rendering unrealistic the scale of compensation offered to them ". Even if possession is taken, the proceedings culminating in the award would still be there leaving it open to the claimants to ask for additional compensation and if his claim is ultimately granted, as here he would be deprived of the real value of his land to be offered for a considerably long period despite the surrender of possession earlier. The relief has to be given because of the long pendency and not on the basis of the date of taking possession. It is true that in the amended sub sec. (1A) of S. 23, if the possession is taken after the notification under S. 4 the additional benefit would be confined to the smaller period and would not extend up to the date of passing the award by the Collector. We are inclined to think that losing possession even before the award may aggravate the hardship, but since the statute expressly provides for this situation, we need not go into the policy underlying such distinction. Considering the Section as it stands, we find that it cannot have any application to the situation where possession has been taken by the acquiring authority even before the issue of notification under S. 4 of the Land Acquisition Act, and having regard to the express language of the provision in the event of losing the possession before the notification the claimants would be entitled to ask for the benefit up to the period of the award by the Collector. We therefore, find that in the present case the claimants would be entitled in addition to the enhanced rate of interest and solatium, also to the addition of 12 per cent of the market value from the date of the notification until the date of award by the Collector. The award in this case was passed by the Land Acquisition Officer on 16-5-1978.

13. In the light of our conclusion in respect of First Appeal No. 209 of 1984, the

figures would be as follows:

(For tables see below)

The amount of Rs 4,27,155/- shall carry interest at the rate of 9 per cent per annum from 10-1-1974 (date of taking possession) till 9-1-1975 (date of completion of first year from the date of taking possession). There amount of Rs. 4,27,155/- shall carry interest at the rate of 15 per cent per annum from 10-1-1975 (date of completion of first year from the date of taking of possession) till the date of payment. The amount of Rs. 66,677.29 p. (total amount awarded by the Land Acquisition Officer) shall carry interest at the rate of 9 per cent per annum from 10-1-1974 (date of taking possession) to 9-1-1975 (date of completion of first year from the date of taking possession). The amount of Rs. 66,677.29 (total amount awarded by the Land Acquisition Officer) shall carry interest at the rate of 15 per cent per annum from 10-1-1975 (the date of completion of first year from the date of taking possession) to 30-5-1978 (date of payment of Rs. 66,677.29 by the Land Acquisition Officer.)

----- Total area under acquisition 1,99,134 sq. ft. Market value at the rate of Rs. 1.50 p. per sq. ft. Rs. 2,98,701.00 Solatium at the rate of 30 per cent of the market value .. Rs. 90,480.00 Additional compensation under s. 23(1A) on Rs. 3,01,601/- From 25-7-1975 (date of Section 4 notification) to 16-5-1978 (date of making the award by the Land Acquisition Officer)..... at the rate of 12 per cent per annum Rs. 1,01,751.09 .. ----- Total compensation Rs. 4,93,832.09 Less compensation paid by the Land Acquisition Officer..... Rs. 66,677.29 Amount now payable Rs. 4,27,154.80 Say Rs. 4,27,155.00.

14. IN respect of First Appeal No. 210 of 1984, the figures would be as follows:-

Total area under acquisition 2,15,622 sq .ft. Market value at the rate of Rs. 1.50 p. per sq, ft. Rs. 3,23,433.00 Compensation for the structure ... Rs. 10,000 .00 Compensation for the well ... Rs. 4,000 .00 ----- Rs. 3,37,433.00

Solatium at the rate of 30 per cent of the market value .. Rs. 1,01,229. 90- Additional Compensation under Section 23(1A) on Rs. 3,37,433/- From 25-7-1974 to 16-5-1978 at the rate of 12 per cent annum. Rs. 1,54,375. 59 ----- Total compensation ... Rs. 5,93,038.49 Less compensation paid by the Land Acquisition Officer, including The solatium. ... Rs. 77,614. 78 Amount now payable .. Rs. 5,15,423. 71

The amount of Rs. 5,15,423.71 p. shall carry interest at the rate of 9 per cent annum from 10-1-1974 (date of taking possession)till 9-1-1975 (date of completion of the first year the date of taking possession). The amount of Rs. 5,15,423.71 p. shall carry interest at the rate of 15 per cent per annum from

10-1-1975 (date of completion of the first year from the date of taking possession) till the date of payment. The amount of Rs. 77,614.78 p. (total amount awarded by the Land Acquisition Officer) shall carry interest at the rate of 9 per cent per annum from 10-1-1974 (date of taking possession) to 9-1-1975 (date of completion of the first year from the date of taking possession). The amount of Rs. 77.614.78 p. (total amount awarded by the Land Acquisition Officer) shall carry interest at the rate of 15 per cent per annum from 10-1-1975 (date of completion of the first year from the date of taking possession). The amount of Rs. 77,614.78 p. (total amount awarded by the Land Acquisition Officer) shall carry interest at the rate of 15 per cent per annum from 10-1-1975 (date of completion of the first year from the date of taking possession) to 30-5-1978 (date of payment of Rs. 77,614.78 p. by the Land Acquisition Officer).

We would, therefore, modify the award passed by the trial Court by substituting the above figures in place of the figure which have been mentioned in the operative portion of the award o the trial Court in the two cases respectively. With regard to the costs, we find that in view of the changes brought about in the statute in the meanwhile and our substantially modifying the amount payable, the parties would bear their costs of these appeals.

15. Order accordingly.