

(1999) 06 AP CK 0071

In the Andhra Pradesh High Court

Case No : Appeal No"s. 1886, 1887 and 1888 of 1993

Sub-Collector, L.A.O.

APPELLANT

Vs

Koppiseti Appala Narasomma

RESPONDENT

Date of Decision : 29-06-1999

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 11
Land Acquisition Act, 1894 — Section 23

Citation : AIR 2000 AP 223 : (1999) 6 ALT 461

Hon'ble Judges : N.M.Y. Hanumanthappa, J;A. Hanumanthu J. Chelameswar, J

Bench : Division Bench

Advocate : Govt. Pleader for Panchayat Raj, for the Appellant; P. Prabhakar Rao, for the Respondent

Judgement

N.Y. Hanumanthappa, J.—These appeals filed u/s 54 of the Land Acquisition Act came up for hearing before the Division Bench consisting of their Lordships Honlale Sri Justice P. Venkatarama Reddy and Hon"ble Sri Justice B.V. Ranga Raju of this Court. After hearing both sides and going through various issues Involved in the appeals and conflicting views given by this Court (separate Benches) on the similar issues, the learned Judges felt that some of the unanswered questions on several aspects coming up every day in the appeals filed u/s 54 of the Land Acquisition Act require to be dealt and an authoritative pronouncement to be rendered by a Full Bench of this Court. Accordingly these appeals have been referred to the Full Bench.

2. Before answering the reference, we would like to set out a few facts which are involved in these appeals as follows :-- An extent of Ac. 9.42 cents of dry land situated in NTC Nos. 369 to 372 of Mogalrajapuram, revenue manda of Vijayawada municipality belonging to the respondents was the subject matter of acquisition by the Government for purpose of rehabilitating the fire accident victims. The said land was a part of huge extent of Ac. 42.16 cents which was acquired u/s 4(1) of the Land Acquisition Act, 1894 by publishing Notification

dated 19-4-1979. The Land Acquisition Officer passed an award on 16-1-1982 fixing the market value of the acquired land at Rs. 22,230/-per acre. On reference u/s 18 of the Land Acquisition Act, in a batch of cases, the Reference Court by its common judgment in O.P. No. 113/82 fixed the market value at Rs. 30/- per sq. yard. Challenging the same both the State and the claimants preferred appeals and cross-objections before this Court in A.S. Nos. 2332/86 and 3134/85. This Court by an order dated 25-10-1989 dismissed the appeal filed by the State and allowed the cross objections filed by the claimants enhancing the compensation to Rs. 40/- per sq. yard. The remaining reference applications in respect of same land came up for consideration before the Reference Court where the claimants claimed compensation at Rs. 2 lakhs per acre. The Reference Court by placing reliance on Exs. A-1 to A-3, i.e. judgments and decrees of this Court passed in A.S. No. 1886 of 1986, A.S. No 3134 of 1985 and common judgment in A.S. No. 1886 of 1986 and A.S . No. 2332 of 1986 dated 25-10-1989 respectively and also taking into consideration the location of the land as being nearer to the National High Way when compared to the lands involved in other appeals, enhanced the compensation to Rs. 40/- per sq. yard. Aggrieved by this these appeals. It was canvassed that the lands are situate in urban agglomeration area. Some claimants filed their declarations. This Court in A.S. Nos. 3134/85, dated 25-10-1989 (Ex.A-3) found that the land though notified as agricultural land in the Master Plan it can be evaluated as non-agricultural land and the market value be fixed with reference to the value of house plots.

3. The Division Bench of this Court (Sri PVRR & BVRR, JJ.) found that (i) in some of the cases while determining the market value, the Court took into consideration the market value in respect of small bits of land as a guide to determine the market value in respect of large extent of land, (ii) though the lands are situated nearer to the city area but the occupants contended that the said lands are not included that the said lands are not included in urban agglomeration and as such still they are agricultural lands. But when the said lands were acquired the claimants started claiming compensation in respect of the said lands as non-agricultural lands. In some cases this Court accepted the said compensation and awarded compensation treating such lands as non-agricultural lands having potentiality to form house sites. In other words treating the said land as house sites. The Court proceeded on the hypothesis that where the lands situated in urban agglomeration the Government would in normal course grant permission for converting the agricultural land as non-agricultural lands. But their Lordships found such a classification and approach was incorrect for the reasons that once conversion is granted in respect of the lands situated in urban agglomeration, such lands become vacant lands within the meaning of Urban Land Ceiling Act and sale of such lands in excess of 1500 sq. metres is impermissible; and (iii) it is not proper to determine the market value of large extent of land basing on the value of small sites as the same cannot be a correct basis. On the other hand market value has to be determined on the basis of

various factors existing as on the date of acquisition.

4. In some cases which were brought to their Lordships notice awarding separate compensation in respect of similar lands which were acquired under the same notification and situated in the same locality the Division Bench felt that in view of the earlier judgments rendered in A.S. No. 3134/ 85 (Ex. A-3) which became final, a different market value can be fixed in respect of other lands belonging to the other claimants.

5. On the question of parity or equality in awarding compensation and when several bits of lands acquired by the same notification, the judgment rendered in some cases, later the said judgment can be followed to fix the compensation for the remaining lands or in other words such a judgment will operate as res judicata, their Lordships referred to the observations of this Court in the case of The Land Acquisition Officer, Sub Collector, Vijayawada Vs. Shaik Bahileem and Others, (i.e. A.S. No. 2801/81, 2721/81 and 2508/ 80). In Bahileem's case, their Lordships referred to the following arguments advanced by the parties :--

"The learned counsel for the claimants contended that the Civil Court fixed compensation at Rs. 1,52,875/- per acre in all the five Original Petitions against which five appeals were filed. Four appeals were dismissed by the learned single Judge confirming the judgments of the Civil Court awarding compensation at Rs. 1,52,875/- per acre and only against the judgment in one Original Petition i.e. OP No. 263/81, the Letters Patent Appeal was filed. Against the judgments in the other three appeal suits, no Letters Patent Appeals were filed and the judgment became final. The entire land involved in all the case is acquired under one notification and out of only one plot of land in R.S. No. 45. Therefore, when those three judgments became final no interference can be made in this Letters Patent Appeal and the same is liable to be dismissed as the judgments in the other three appeals against which no Letters Patent Appeal was filed operate as res judicata. On that simple ground, therefore, it is contended, no deduction can be made towards developmental costs as no such deduction was made by the learned single Judge or by the Civil Court in other Original Petition."

6. Their Lordships (Sri YBR & SVM, JJ.) referring to the judgment rendered by the Supreme Court in the case of The Land Acquisition Officer, City Improvement Trust Board Vs. H. Narayanaiah and Others, held that previous judgment cannot operate as res judicata and notwithstanding the fact that no deduction was made towards lay out and the developmental costs in the earlier judgments which became final, the Court is entitled to fix different market value by applying the well settled principle of deduction towards developmental costs while computing the market value of large extents. Their Lordships in Shaik Bahileem's case also referred to subsequent judgment of the Supreme Court rendered in Basant Kumar and Others Vs. Union of India (UOI) and Others, while considering the issue relating to fixation of market value in respect of lands situated in the same village and covered by the same notification with reference to value fixed for small extent of lands vis-a-vis large extent where it was held as follows :--

"In this case, it is seen that land is as vast as admeasuring 1669 bighas, 18 hiswas of land in the village. So all lands cannot and should not be classified as possessed of same market value.... The doctrine of equality in determination and payment of same compensation for all claimants involved in the same notification is not a good principle acceptable for the aforesaid reasons. When both the lands are proved to be possessed of same advantages, features etc., then only equal compensation is permissible."

7. During the course of arguments, their Lordships were confronted with another Division Bench decision of this Court rendered by their Lordships (Sri Lingaraj Rath, and B.S. Raikote, JJ.) in LPA No. 393/89 and 76/92 dated 21-6-1992 ordering for higher compensation basing on earlier judgments rendered in the connected appeals. Their Lordships observed that the lands in earlier case and the lands involved in LPA Nos. 393/89 and 76/92 are adjacent. The reasons for the learned Judges (LRR & BSRK, JJ.) to award the same compensation as given in the above judgment are extracted herein :--

"The resultant situation as obtained now is that so far as the land involved in A.S. No. 1547/85 is concerned, the award made by the Addl. District Judge granting Rs. 50/-per sq. yard in OP No. 759/80 has become binding on the Land Acquisition Officer, the appeal against the decision of the Addl. District Judge having been dismissed for non-prosecution. Thus while the lands have been acquired in one notification u/s 4(1) of the Land Acquisition Act, one batch of it is valued for compensation at the rate of Rs. 50/- per sq. yard whereas, by virtue of the dcision in AS No. 352/85, compensation for another patch has been determined at Rs. 30/- per sq. yard which obviously leads to an inconsistent position.

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..... We hence find no justification for enhancement of compensation from Rs. 50/-. But so far as LPA No. 76/92 is concerned, as has been already seen, the maintenance of the judgment in AS No. 352/85 would mean lesser compensation being paid for a patch of land acquired under the same Section 4(1) notification. It is for such reason we are inclined to allow the appeal and enhance the compensation at the rate of Rs. 50/- per sq. yard to bring it on par with the compensation determined in AS No. 1547/85".

8. Their Lordships (Sri PVRR & Sri BVRR J J.) found that the views of the two Benches, viz., The Land Acquisition Officer, Sub Collector, Vijayawada Vs. Shaik Bahileem and Others, (YBR & SVM, JJ) and LPA Nos. 393/89 and 76/92 (LRR & BSRK, JJ.) are conflicting in nature. Their Lordships further felt that even in Basant Kumar's case the Hon"ble Supreme Court has not given a definite and categorical finding as to whether (i) there shall be parity or equality in compensation in respect of lands belonging to different persons and acquired separately though situated in the same village and acquired by the same

notification and for the same purpose, (ii) earlier judgment rendered in the case of one appellant will operate as res judicata in case of subsequent appeals though the location of lands, notification and purpose of acquisition of lands covered in both the appeals are same ?

9. Existing of conflicting views and uncertainty as to which principle to be followed in such circumstances their Lordships made this reference to answer on the following two questions :

1. Where the Court is convinced that its earlier judgment determining the market value of similar land covered by the same notification is erroneous in law. Is it open to the Court to assess the market value afresh and independently OR the Court is bound to fix the same market value irrespective of the correctness or otherwise of the earlier judgment that has become final ?

2. (a) If the answer to the question is that there is no bar in having a fresh look into the matter and evaluating the market value independently despite the finality reached by the earlier award/judgment, whether the decision of this Court in A.S. No. 3134/85, dt: 25-10-1989 (Ex. A-3) is correct and the market value fixed therein can be legitimately applied to the present case as well ?

(b) If not, what is the market value to be adopted in the present case on the basis of the evidence on record ?

10. While parting with the reference, the learned Judges observed that the Full Bench need not necessarily decide the question posed in question No. 2 (b) and may consider whether it is proper to remit the case to the Division Bench after answering the other questions.

11. Before answering the reference, it is proper to bear in mind the ingredients of Sections 11, 23 and 28-A of the Land Acquisition Act 1894 which deal about awarding of compensation and the principles which shall govern in determining just and adequate market value.

Section 11. Enquiry and award by Collector :--

(1) On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given u/s 9 to the measurements, made u/s 8, and into the value of the land at the date of the publication of the notification u/s 4, Sub-section (1), and into the respective interests of the persons claiming the compensation and shall make an award under his hand of -

(i) the true area of the land;

(ii) the compensation which in his opinion should be allowed for the land; and

(iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has

information, whether or not they have respectively appeared before him; provided that no award shall be made by the Collector under this sub-section without the previous approval of the appropriate Government or of such officer as the appropriate Government may authorise in this behalf.

Provided further that it shall be competent for appropriate Government to direct that the Collector may make such award without such approval in such class of cases as the appropriate Government may specify in this behalf.

(2) Notwithstanding anything contained in Sub-section (1)-- If at any stage of the proceedings, the Collector is satisfied that all the persons interested in the land who appeared before him have agreed in writing on the matters to be included in the award of the Collector in the form prescribed by rules made by the appropriate Government, he may, without making further enquiry, make an award according to the terms of such agreement.

(3) The determination of compensation for any land under Sub-section (2) shall not in any way effect the determination of compensation in respect of other lands in the same locality or elsewhere in accordance with the other provisions of this Act.

(4) Notwithstanding anything contained in the Registration Act, 1908 (16 of 1908), no agreement made under Sub-section (2) shall be liable to registration under that Act.

Section 23. (1)Matters to be considered in determining compensation :--

In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration--

First, the market value of the land at the date of the publication of the notification u/s 4, Sub-section (1);

Second, the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

Thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

Fourthly, the damage (if any) sustained by the persons interested, at the time of Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable in any other manner, or his earnings;

Fifthly, If, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

Sixthly, the damage (if any) bona fide resulting from diminution of the profits of

the land between the time of the publication of the declaration u/s 6 and the time of the Collector's taking possession of the land.

(2) In addition to the market value of the land as above provided, the Court shall, in every case, award a sum of fifteen per centum on such market value in consideration of the compulsory nature of the acquisition.

Section 28-A. Re-determination of the amount of compensation on the basis of the award of the Court:--

(1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector u/s 11, the persons interested in all the other land covered by the same notification u/s 4, Sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector u/s 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court :

Provided that in computing the period of three months within which an application to the Collector shall be made under this subsection the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under Sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under Sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of Sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference u/ S. 18."

12. It is well settled that the market value determined in respect of small extents of lands cannot be equalised with the market value of large extents of lands. The lands situated in the same village or same area with different potentialities will not command the same market value. When large extents of land abutting high ways or important centres its market value what will apply to such abutting lands normally will diminish when the track goes back. Though for the same purpose different lands are acquired and even such lands are situated in the same area or contiguous with each other, it is settled that there cannot be equal compensation, likewise the period during which the said lands are acquired. Mere acquisition of a land by the same notification need not suggest the same value. There is no hard and fast rule that parity or equality in determining the market value in respect of similar lands shall be followed even though lands of the same

location are acquired under same notification.

13. Earlier judgments rendered in similar cases cannot be a *res judicata* while subsequently determining the market value of the similar lands. Because such judgments are only judgments in personem and not in rem unless the land is of the same location, potentiality, with same advantages and acquired under the same notification for the same purpose. To say a particular judgment acts as *res judicata* one has to see whether the lands and the parties involved in earlier judgment are the same in subsequent case.

14. How far the earlier judgments will act as *res judicata* for subsequent determination of compensation and to what extent the said judgments are relevant, there is no unanimity in judicial opinion. Though there are catena of decisions on this point, it is suffice if we go through the following decisions.

15. In the case of *Daisy and Another Vs. The State of Kerala*, the Supreme Court took the view that the value fixed in earlier case can be taken as a guide and fix the value in respect of contiguous land acquired subsequently or appealed subsequently after comparing the relative situation and importance of two plots.

16. In the case of *The Land Acquisition Officer, City Improvement Trust Board Vs. H. Narayanaiah and Others*, the Supreme Court while interpreting Section 23-A of the L. A. Act to what extent the earlier judgments can be made use of while determining the value of other lands, held as follows :--

"Appeals to High Court in Land Acquisition case -- Questions relating to market value of particular pieces of land -- Judgments not inter partes would be relevant if they relate to similarly situated properties and contain determinations of value on dates fairly proximate to the relevant date -- High Court admitting such evidence without recording reasons why it found the admission of such evidence to be necessary nor giving any opportunity to party affected to rebut any inference arising from its existence by leading other evidence -- Judgment and order of High Court set aside by Supreme Court and case remanded for deciding the case afresh."

17. In the case of "*Ram Dhar v. Union of India*", 1979 ILR(1) Del 545 the Division Bench of Delhi High Court took a view that such orders or judgments while making use to subsequent cases shall prove their relevancy and the Courts while acting upon shall give reasons.

18. In the case of *State of Bihar Vs. Mosafir Thakur and Others*, the Court took a view that in respect of similar lands the earlier judgments can form the basis though such judgments were not inter partes. Their Lordships stressed on the principle that while determining to market value such lands shall be similarly situated and acquired for the same scheme with similar advantages. Similar is the view taken by the Division Bench of Orissa High Court in the case of *State of Orissa Vs. Sukru Mirdha*, .

19. In the case of *Collector, Cuttack Vs. Smt. Jayasri Debi*, the High Court of

Orissa took the following view:--

"Land Acquisition Act (1 of 1894), Section 23 --Compensation -- Determination -- Earlier judgment of Division Bench of same High Court determining market value of lands similarly situated and compulsorily acquired for self-same purpose -- No evidence to distinguish land in dispute differently --Rate fixed by trial Court as that in earlier aforesaid judgment -- Justified."

20. In the case of Sharadchandra Chimanlal and Others Vs. State of Gujarat and Others, the Division Bench of Gujarat High Court took a view that while fixing the market value of a land the Court shall take into consideration the contiguous land as a guide.

21. In the case of Pal Singh and others Vs. Union Territory of Chandigarh, , the Supreme Court held that if the Court wants to rely upon the previous judgment it shall see the same shall be proved,

22. In the case of The Sub-Collector and Land Acquisition Officer Vs. N. Mahaboob Saheb and others, this Court took view that valuation of neighbouring lands which became final can be taken into consideration to determine the market value.

23. In the case of K. Periasami Vs. Sub-Tehsildar (Land Acquisition), , the Supreme Court in the matter of applying parity or equality took a view that location of the lands shall be same and acquired under same notification with same advantages.

24. In the case of Bakhtawar Singh and Another Vs. Union of India (UOI) and Another, the Supreme Court took a view that in order to make the earlier judgment a basis the Court has to see whether such earlier judgment was rendered on merit.

25. In the case of "Basant Kumar v. Union of India" (supra), their Lordships observed that equality in compensation is not a good principle. To maintain parity the land shall possess of similar potentiality and value with similar advantages. The relevant portion is extracted herein :--

"It is common knowledge that even in the same village, no two lands command same market value. The lands abutting the main road or national highway command higher market value and as the location goes backward, market value of interior lands would be less even for the same kind of land. It is a settled legal position that the lands possessed of only similar potentiality or the value with similar advantages offer comparable parity of the value. It is common knowledge that the lands in the village are spread over the vast extent. So, all lands cannot and should not be classified as possessed of same market value. Burden is always on the claimant to prove the market value and the Court should adopt realistic standards and pragmatic approach in evaluation of the evidence. The doctrine of equality in determination and payment of same compensation for all claimants involved in the same notification is not a good principle."

26. Section 11 of the Land Acquisition Act 1894 compels the Collector or the Land Acquisition Officer that while offering compensation he shall bear in mind the nature of the lands, its true area and what shall be the just compensation in his opinion. On reference u/s 18 of the Land Acquisition Act, 1894 the Court while determining the amount of compensation, shall have to take into consideration the market value of the land at the time of Section 4(1) Notification. It is also mentioned therein that what are the factors that shall be taken into consideration in determining the just and reasonable compensation.

27. u/s 28-A of the Land Acquisition Act the persons whose lands were acquired and award was passed but for one reason or the other they were unable to seek reference u/s 18 of the Act, but still they can request the Collector to give them equal compensation that has been given by the Court where in respect of the lands of both the parties were acquired under same notification, provided such a request is made within the time stipulated u/s 28-A of the Act. The object of incorporating Section 28-A by 1984 amendment is to see that no person is deprived of just compensation because this is a beneficial legislation made with a view to see that the persons whether they sought reference u/s 18 or not shall be placed in equal circumstances in the matter of awarding compensation. The scope and object of Section 28-A has been explained by the Supreme Court in the case of Union of India and another Vs. Pradeep Kumari and others, . When a relief sought u/s 28-A of the Land Acquisition Act 1894 such applicant is entitled to the same compensation on par with the compensation awarded to some other person where lands of both the persons acquired under the same notification. This Court in the case of "A. Peda Veerender v. Land Acquisition Officer/R. D. O., Nizamabad" held such a determination will be subject to the scrutiny as to the matters like proximity of the lands, their potentiality and utility and then to determine the reasonable and just compensation.

28. If we examine the reference sought in the light of some of the provisions of the Land Acquisition Act, 1894 and the judicial pronouncements on several aspects we have to answer as follows :--

From the above discussion, it is clear that the judgments rendered earlier but not inter partes cannot be taken as res judicata to determine the market value in subsequent cases filed at the instance of different claimants. The maximum is that the judgments not inter partes are relevant provided they relate to similarly situated lands, they shall be contiguous with similar advantages, acquired under the same notification, shall disclose on comparison of lands acquired they have no distinguishable features. The judgments to be relied on in subsequent cases should have been rendered on merit. If the Court wants to make use of the earlier judgment it shall give reasons that too after giving an opportunity to the opposite party to rebut the relevancy to admit or to make use of such documents or judgment. As observed by the Supreme Court in Basant Kumar's case that doctrine of equality in determination and payment of same compensation for all claimants involved in the same notification not a good principle. Because

different lands acquired under the same notification, though situated in the same locality cannot be said as possessed of same potentialities or advantages. To classify different lands as similar and to award same market value, they shall possess of similar potentialities or advantages then only they suggest parity in the value to be determined. In other words judgment in earlier case not relating to same parties and not in respect of same land may have a persuasive value to determine the compensation, but will not be conclusive by itself. None of the provisions of the Land Acquisition Act suggests that where the lands belonging to different claimants are acquired, compensation shall be the same. All that the provisions suggest is that compensation or market value to be fixed shall be just, reasonable and adequate. No one shall say that when both parties are placed in similar situations their claim is not properly considered for just and fair compensation. Thus, equality or parity of the market value can be thought of only when all the circumstances namely the location, potentiality, contiguity, advantages, date of notification and the evidence given therein suggest to be accepted by the Court that too by giving reasons while accepting such evidence.

29. These principles were rightly considered by the Division Bench of this Court (Sri : YBR & SVM, JJ.) while rendering the judgment in the case of "Land Acquisition Officer v. Shaik Bahileem" (supra) and reached a conclusion that judgments in earlier case cannot be a *res judicata* for subsequent case though the lands situated in the same area and acquired under the same notification unless the parties in both the cases are the same, subject matter of land involved is the same, nature of evidence given is the same and same evidence that was given in earlier case is also produced in the subsequent case. Otherwise each case has to be dealt with on its own merit. The above view is nearer to the views expressed by various High Courts and Supreme Court in several decisions referred to above including Basant Kumar's case. Whereas the views expressed by their Lordships Sri Lingaraja Rath and Sri B.S. Raikote, JJ. in A.S. No. 393/89 and 76/92, dt/- 21-6-1992 in applying the doctrine of parity or equality, cannot be considered as a correct view. This disagreement of ours with the view expressed by their Lordships Sriyutha LRR & BSRK, JJ. is purely on question of law but not in respect of quantum arrived at by their Lordships by enhancing compensation as it depended upon various factors involved in the said case. Further the non-applicability of doctrine of parity or equality or the applicability of the principle of *res judicata* were not seriously urged by the parties in the said case.

30. Having reached the above conclusion by resolving the controversy that was felt by the Division Bench, now we have been constrained to hold on the reference sought that (i) if the Court finds that the judgment rendered in earlier case determining the market value of similar lands covered by same notification is erroneous or incorrect then the Court can assess the market value of such lands afresh and independently as there is no such legal obligation for the Court to fix the same market value, (ii) since the assessment of the market value in different cases have to be made independently, ignoring the decision rendered by

this Court in A.S. No. 3134/85 dated 25-10-1989 (Ex. A-3) the Court can decide the market value afresh. In view of this observation, giving any finding on the correctness or otherwise of the market value fixed in A.S. No. 3134/ 85, dt: 25-10-1989 (Ex. A-3) is redundant.

31. Regarding Question No. 2 (b) in the reference since we have observed throughout and answered that the market value in respect of different lands have to be determined afresh and independently, we feel it is better if it is left to the Division Bench to decide before whom the entire material has been produced for consideration.

32. Having answered above, now the reference is remitted back to the Division Bench to hear the parties on merit to fix correct market value in respect of the lands involved in the appeals.

33. Office to place the papers before the Hon"ble the Chief Justice to place the papers before appropriate Bench for disposal.