

**(2009) 03 MAD CK 0110**

**In the Madras High Court**

**Case No :** A.S. No's. 759 to 764 of 1999, 325 of 2000, 170, 618, 721, 813, 820, 821 and 822 of 2003, 153 and 871 of 2006, 399 of 2007 and 756 of 2008, Cross Appeal No's. 136 to 141 of 2001 and 57 of 2003 in A.S. No's. 759 to 764 of 1999 and Cross Appeal No. 31 of

The Special Tahsildar, Neighbourhood Scheme

APPELLANT

Vs

Ramayammal and Others

RESPONDENT

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**Date of Decision :** 02-03-2009

**Acts Referred:**

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

**Citation :** (2009) 2 LW 733

**Hon'ble Judges :** Prabha Sridevan, J;K.K. Sasidharan, J

**Bench :** Division Bench

**Advocate :** V. Ravi, Spl. G.P. in A.S. Nos. 759 to 764 of 1999, 325 of 2000 and 170, 813 and 820 to 822 of 2003, R. Gandhi for V.P. Sengottuvel, in A.S. No. 153/2006 and 756/2008 and Cross Appeal Nos. 136 to 141 of 2001, for the Appellant; V. Ravi, Spl. G.P. for R1 in A.S. Nos. 153 of 2006, for R1 in A.S. No. 756 of 2008 and for R1 in Cross appeal Nos. 136 to 141 of 2001, S. Saravanan, for RR3 to 6 in A.S. No. 759 of 1999, for RR1 to 5 in A.S. No. 760 of 1999, for RR1 to 3 in A.S. No. 761 of 1999, for RR1 to 3 in A.S. No. 762 of 1999 and for R1 in A.S. No. 763 of 1999, P.S. Raman, A.A.G. for K. Chelladurai, Assisted by S. Kasikumar, for for TNHB, D. Krishna Kumar, for RR1 to 4 in A.S. No. 764 of 2006, R. Gandhi for V.P. Sengottuvel, for RR1 and 2 in A.S. No. 813 of 2003, for RR1 to 3 in A.S. No. 820 of 2003, for RR1 to 5 in A.S. No. 821 of 2003 and for R1 in A.S. No. 822 of 2003, M.M. Sundaresh, for R.1 in A.S. No. 871 of 2006, for R.3 in A.S. No. 399 of 2007 and for R1 in A.S. No. 170/2003, C. Prakasam, for RR1 and 2 in A.S. No. 399 of 2007 and T. Murugamanickam, for RR1 to 4 in A.S. No. 618 of 2003, for the Respondent

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**Judgement**

K.K. Sasidharan, J.—These Land Acquisition appeals involving common questions of fact and law were taken up for consideration together and are being disposed of by this common judgment.

2. The Tamil Nadu Housing Board had taken a decision in the year 1990 to launch a massive housing project at Erode "C" Village (Kasipalayam) in Erode District.

Land Acquisition proceedings were initiated in a phased manner. Statutory notifications u/s 4(1) of the Land Acquisition Act duly approved by the Government on 9.10.1990, 15.4.1991, 16.4.1991 and 27.5.1991 were published in the Gazette on different dates. These appeals pertain to the acquisition initiated as per the above referred notifications.

3. The extent of property acquired as per the relevant notifications are as follows:

- a) Notification dt.9.10.90 -- 75.60 Acres
- b) Notification dt.15.4.91 -- 79.33 Acres
- c) Notification dt.16.4.91 -- 30.59 Acres
- d) Notification dt.27.5.91 -- 57.30 Acres

4. The details of the land acquisition Original Petitions and the related appeals and Cross Objections and the compensation awarded by the Land Acquisition Officer as well as the Reference Court and the findings recorded after remand are detailed in the tabular columns below.

NOTIFICATION DATED 9.10.1990

DISTRICT/TALUK ? ERODE

VILLAGE-ERODE "C" VILLAGE (KASIPALAYAM)

4(1) NOTIFICATION- APPROVED IN G.O.Ms.No.1240 Hg.&U.D.D. Dated 9.10.1990

4(1) NOTIFICATION PUBLISHED IN THE GAZETTE ON 31-10-1990

AWARD No.6/94 dt.28-9-1994

Sl.No.

A.S.No.

Cross Objection/Appeal No.

LAOP No.

Date of LAOP order

Survey No.

Extent in Hec. & Acre

Amount awarded by LAO (per Acre)

Amount fixed by Reference Court (Per Sq.ft.)

Amount fixed after remand

(in Sq.ft.)

1

2

3

4

5

6

7

8

9

10

1

170/03

Nil

31/96

30.03.01

744/1

2.82.0 Hec/ 6.97 Ac

37500/-

Rs.16.00

Rs.16/- per sq.ft.

2

756/08

Nil

44/96

17.01.05

742/1,2,3

1.14.5 Hec/ 2.83 Ac

37500/-

Nil

Nil

NOTIFICATION DATED 15.04.1991

ERODE HOUSING BOARD BATCH (LAOP)

DISTRICT/TALUK ? ERODE

VILLAGE-ERODE "C" VILLAGE (KASIPALAYAM)

4(1) NOTIFICATION- APPROVED IN G.O.Ms.No.630 Hg.&U.D.D. Dated 15-04-1991

4(1) NOTIFICATION PUBLISHED IN THE GAZETTE ON 22-05-1991

AWARD No.1/94 dt.10-6-1994

Sl.No.

A.S.No.

Cross Objection / Appeal No.

LAOP No.

Date of LAOP order

Survey No.

Extent in Hec. & Acre

Amount awarded by LAO (per Acre)

Amount fixed by Reference Court (Per Sq.ft.)

Amount fixed after remand

(in Sq.ft.)

1

2

3

4

5

6

7

8

9

10

1

759/99

136/01

7/95

16.4.99

461/4

1.00.0Hec/2.47Ac

37500/-

Rs.2,18,500/- per Acre

Rs.400000/- per Acre

2

760/99

137/01

10/95

16.4.99

460/1 & 2

2.06.0Hec/5.09 Ac

37500/-

Rs.2,18,500/- per Acre

Rs.400000/- per Acre

3

761/99

138/01

12/95

16.4.99

461/2

0.46.0Hec/1.14Ac

37500/-

Rs.2,18,500/- per Acre

Rs.400000/- per Acre

4

762/99

139/01

6/96

16.4.99

459/3

1.22.0Hec/3.01Ac

37500/-

Rs.2,18,500/- per Acre

Rs.400000/- per Acre

5

763/99

140/01

8/95

16.4.99

460/3

0.61.0Hec/1.51 Ac

37500/-

Rs.2,18,500/- per Acre

Rs.400000/- per Acre

6

764/99

141/01 & 57/ 03

11/95

16.4.99

489/1,2

2.03.0 Hec/5.01 Ac

37500/-

Rs.2,18,500/- per Acre

Rs.400000/- per Acre

7

325/00

31/ 01

43/96

25-10-99

453/1,2 & 454

5.76.0Hec/14.22Ac

37500/-

Rs.17.00 per sq.ft.

Rs.600000/- per Acre

8

813/03

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25/02

27-11-02

461/3

0.50.0Hec/1.24Ac

37500/-

Rs.20.00 per Sq.ft.

Rs.600000/- per Acre

9

820/03

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29/02

27-11-02

489/4,7

0.82.0Hec/2.03Ac

37500/-

Rs.20.00 per Sq.ft.

Rs.600000/- per Acre

10

821/03

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30/02

27-11-02

459/6

0.98.0Hec/2.42Ac

37500/-

Rs.20.00 per Sq.ft.

Rs.600000/- per Acre

11

822/03

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28/02

27-11-02

458/1,2 &

459/5

1.98.5Hec/4.90Ac

37500/-

Rs.20.00 per Sq.ft. (Rs.8,71,200/-per acre)

Rs.600000/- per Acre

NOTIFICATION DATED 16.04.1991

DISTRICT/TALUK ? ERODE

VILLAGE-ERODE "C" VILLAGE (KASIPALAYAM)

4(1) NOTIFICATION- APPROVED IN G.O.Ms.No.674 Hg.&U.D.D. Dated 16-04-1991

4(1) NOTIFICATION PUBLISHED IN THE GAZETTE ON 22-05-1991

AWARD No.2/94 dt.10-6-1994

Sl.No.

A.S.No.

Cross Objection/Appeal No.

LAOP No.

Date of LAOP order

Survey No.

Extent in Hec. & Acre

Amount awarded by LAO (per Acre)

Amount fixed by Reference Court (Per Sq.ft.)

Amount fixed after remand

(in Sq.ft.)

1

2

3

4

5

6

7

8

9

10

1

871/06

--

25/03

3.1.06

753/2

1.32.0Hec/3.26 Ac

37500/-

Rs.15.00

Nil

2

339/07

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22/04

7.8.06

753/1

1.44.0 Hec/3.55 Ac

37500/-

Rs.20.00

Nil

NOTIFICATION DATED 27.05.1991

DISTRICT/TALUK ? ERODE

VILLAGE-ERODE "C" VILLAGE (KASIPALAYAM)

4(1) NOTIFICATION- APPROVED IN G.O.Ms.No.869 Hg.&U.D.D. Dated 27-05-1991

4(1) NOTIFICATION PUBLISHED IN THE GAZETTE ON 3-07-1991

AWARD No.5/94 dt.03-7-1994

Sl.No.

A.S.No.

Cross Objection/Appeal No.

LAOP No.

Date of LAOP order

Survey No.

Extent in Hec. & Acre

Amount awarded by LAO (per Acre)

Amount fixed by Reference Court (Per Sq.ft.)

Amount fixed after remand

(in Sq.ft.)

1

2

3

4

5

6

7

8

9

10

1

721/03

Nil

31/02

27.11.06

482/4

0.38.0Hec/0.94 Ac

37500/-

Rs.20.00

Rs.6,00,000/-

per acre

2

618/03

Nil

12/97

23.3.01

480/5,6

1.30.0 Hec/3.21 Ac

37500/-

Rs.17.00

Rs.17/- per sq.ft.

5. The factual matrix as projected in L.A.O.P. No. 7/95, 43/96 and 44/96 corresponding to A.S.No.759/99, 325/2000 and 756 of 2008 are extracted below as background facts.

A.S. No. 759/99 (LAOP 7/95)

At the instance of the Tamil Nadu Housing Board for putting up residential houses in Erode an extent of 1.00.0 Hectares of land was acquired from the claimants as per Notification dated 15.4.1991 issued u/s 4(1) of the Land Acquisition Act. According to the claimants the property involved in the Land Acquisition was agricultural land and they were doing agricultural operations and they have been

earning substantial income from agriculture. The property is situated in Kasipalayam revenue village in Erode District and is a well developed area and the residential colonies like Jeeva Nagar, Rail Nagar, K.K.Nagar, Bharathi Nagar and Anna Nagar etc. are situated very near to the acquired property. Similarly there are Colleges and other Educational Institutions, Hospitals, Railway workshops and other institutions in and around the acquired property. The claimants have also relied on documents to show the market value of the property as on the date on which the notification was issued by the Government. The Land Acquisition Officer rejected the documents evidencing higher value and accepted documents of lesser value and compensation was arrived at Rs. 37,500/- per acre. Before the Reference Court, ten witnesses were totally examined in the batch of cases and twenty eight documents were marked on the side of the claimants. On the side of the Land Acquisition Officer also oral evidence was tendered and the award as well as the topo sketch were marked as exhibits and it was contended that the acquired property was only manwari land and it requires considerable amount for development to convert it as house property.

6. Before the Reference Court the claimants have marked among other documents, document dated 4.9.1990 (Ex.C.8) and 8.2.1991 (Ex.C.9) which shows the market rate respectively at Rs. 20/- and Rs. 30/- per sq.ft.

7. The Land Acquisition Officer appears to have considered the documents relating to property transaction registered in the area for the period from 1.6.1990 to 31.5.1991 but rejected many of the documents. The documents in respect of the property in Survey No. 1227/6 evidencing land value at Rs. 1,75,000/- per acre, property in Survey No. 231/34 showing the value at Rs. 1,50,000/- per acre, property in Survey No. 321/4 for a sum of Rs. 1,95,000/- per acre and the property in Survey.No.368/1 for a sum of Rs. 2,00,217/- per acre were all rejected. The documents relating to the property in Survey No. 484 was also rejected by the Land Acquisition Officer on the ground that it was situated at a distance and that higher value was shown.

8. The award file shows that the Land Acquisition Officer has recommended to the Government to fix the land value at Rs. 87,120/- per acre.

9. The Reference Court found that the land value in 1990 was only in acres in the area and as such the claimants were not entitled to claim on Sq.ft. basis. The Reference Court also considered the document in Ex.C8 dated 4.9.1990 and found that the said property was sold as a house site, but the acquired land was only manwari land. The Reference Court ultimately fixed the land value at Rs. 2,18,500/- per Acre.

10. The award of the Reference Court was challenged by the appellants before this Court and cross objections were filed by the claimants. When the matter came up for consideration before this Court, additional evidence produced by the respective parties in appeal were considered and ultimately the matter was

remanded to the trial court as per order dated 28.11.2006 to consider the additional documents and to render a factual finding.

11. Subsequent to the remand, both the claimants and the Land Acquisition Officer, as well as the Tamil Nadu Housing Board produced additional documents in support of their respective contentions. The documents submitted by the claimants were marked as document Nos. 29 to 35 and the additional documents produced by the Land Acquisition Officer were marked as document Nos. 3 to 8. The claimants have produced the notification issued by the Tamil Nadu Housing Board wherein they have called for offers for allotment of building site at the rate of Rs. 65/- to Rs. 130/- per Sq.ft. By placing reliance on those notifications, the claimants have contended before the Reference Court that the property acquired from them were fit for construction of residential houses and it was only on the basis of the satisfaction so arrived at by the requisitioning department, that they have opted to acquire the property and as such it was their prayer for consideration of the potential value also for the purpose of fixing the market rate. They have also contended that on the north of the acquired property Erode-Perunthurai road is situated and on the south there is Erode-Sennimalai road. It was also contended that the Railway Station, Loco Diesel shed, Jeevan Transport Corporation Workshop, Bharathy Vidya Bhavan School , Womens college, Medical College, Temples, as well as residential colonies like Jeeva Nagar were all situated within the periphery of the acquired land. The claimants have also examined a witness by name Ramalingam and in his evidence he has stated that he sold an extent of one acre of land for a sum of Rs. 12 lakhs but however only a sum of Rs. 60,000/- per acre was shown in the document and the same was resorted to only for the purpose of avoiding stamp duty.

12. The Reference Court found that the acquired property was situated three kilometres away from the Erode junction and between Erode-Perunthurai road and Erode-Sennimalai road and the reputed residential colonies like Jeeva Nagar, Rail Nagar, K.K.Nagar, Bharathi Nagar, and Anna Nagar etc., are all situated within 1 km away from the acquired property.

13. The Reference Court has also given a factual finding that on the north of the acquired property, Erode town is situated and by taking into consideration the situation of the Bhavani river and Kalingarayan Canal, the Reference Court observed that the property is in a good residential locality. The Reference Court also considered the topo sketch, wherein the different housing colonies as well as the Collectorate, Railway station and other important places in and around the acquired land were shown. The Reference Court found that only Square feet valuation was shown in the documents produced on the side of the claimants. The Land Acquisition Officer has produced a document to show the value at Rs. 60,000/- per acre and the author of the said document by name Ramalingam was examined as a witness and it was only the said Ramalingam, who has given evidence to the effect that the transaction was a distress sale and the actual sale amount was Rs. 10 lakhs per acre. The Reference Court was of the opinion that

the documents are often undervalued and on the basis of the notifications issued by the Tamil Nadu Housing Board, wherein the very same land was offered for sale at the rate of Rs. 65/- to Rs. 130/- per sq.ft., the Reference Court arrived at a factual finding that the acquired property was fit for putting up residential houses. With respect to the documents produced by the claimants relating to the earlier acquisition of the property in Survey No. 767/B1, which was the subject matter of the First Appeal in A.S.226/91, wherein a sum of Rs. 17.11 per sq.ft. was awarded as compensation, the Court found that the said property was abutting the main road, but the subject property was not abutting the road and as such the Court was of the opinion that no reliance could be placed on the said document. According to the Reference Court only in case electricity, water etc. were available as well as well laid road that valuation on square feet basis could be resorted to. Ultimately, the reference court fixed a sum of Rs. 4 lakhs per acre as market value for the acquired property.

A.S. No. 325/2000 (LAOP No. 43/96)

14. In this particular reference, a sum of Rs. 6 lakhs was fixed as the market rate. This property is also covered by the notification dated 15.4.91. In this reference also, originally a sum of Rs. 37,500/- per acre was granted as compensation. The Reference Court relied on an earlier award of the Land Acquisition Officer, wherein a sum of Rs. 30/- was granted as compensation and after deducting 40% towards development charges, a sum of Rs. 17/- per Sq.ft. was fixed as market rate. After remand, documents were produced by both the claimants as well as the Land Acquisition Officer. Even though the claimants have relied on the notification issued by the Tamilnadu Housing Board calling for applications for allotment of the land at the rate of Rs. 65/- to Rs. 130/- per Sq. ft. the Reference Court was not inclined to accept the said valuation for the purpose of fixing the market value, as according to the Reference Court the property was developed by the Housing Board and they have also laid a road and provided common facilities. The Reference Court was also of the opinion that it was not possible to fix the market rate on square feet rate as the acquired property was only agricultural property extending to many acres and therefore the valuation should be on acre basis. From the documents produced by the claimants the Reference Court found that the market rate was between Rs. 25 to Rs. 35 per sq.ft., but it was only after development of the property as house sites. The Reference Court did not take at its face value the evidence of the vendor of the data sale land by name Ramalingam, who has deposed that he had sold the data land only for a sum of Rs. 10 lakhs and Rs. 60000/- shown as the value per acre was only to avoid the stamp duty. The Reference Court also recorded that no evidence was adduced on the side of the claimants about the actual distance from the acquired land to the Erode Town as well as about the income they have been getting from the agricultural operations carried on in the acquired property. The Reference Court also recorded a factual finding that all these properties are in same level. However without reference to any of the supporting documents the Reference Court fixed the market value at Rs. 6 lakhs

per acre.

A.S. No. 756 of 2008 (L.A.O.P. No. 44/1996)

15. This appeal is preferred by the claimant in L.A.O.P. No. 44 of 1996 dissatisfied with the award of the Reference Court fixing compensation in respect of his property bearing Survey Nos. 742/1, 2 and 3 having an extent of 1.14.5 hectares in Erode "C" Village (Kasipalayam) in Erode District. Section 4(1) notification was approved by the Government in G.O.Ms. No. 1240 dated 9.10.1990 and it was published in the gazette on 31.10.1990. The property was claimed to be an agricultural property. However the Land Acquisition Officer considered the property as a manwari land and determined the market value at Rs. 37,500/- per acre. Since the award was not acceptable to the appellant, he prayed for a reference to the Civil Court u/s 18 of the Land Acquisition Act. Before the Reference Court, the appellant contended that the property is situated in a developing locality and there are housing colonies in the nearby area. According to the appellant the property has got locational advantages. Reliance was placed on Exs.C1 and C2 relating to the sale of house property with an area of 2440 sq.ft. and 1220 sq.ft. sold at Rs. 16/- and Rs. 20/- per sq.ft. respectively. However, the Reference Court was of the opinion that the appellant was not entitled for valuation on square feet basis and rejected the contention regarding fixation of market value on the basis of Exs.C.1 and C.2. The Reference Court ultimately determined the market rate of the property at Rs. 75,000/- per acre without reference to any particular document. Being aggrieved by the award the claimant is before us.

16. We have perused the topo sketch and it was found that the property acquired from the appellant is lying adjacent to the property acquired as per notification dated 15.4.1991, 16.4.1991 and 27.5.1991. In view of the location of the property and lie of the land, we are of the opinion that the appellant is entitled to the very same market value which we propose to fix in respect of other property covered by notification dated 15.4.1991, 16.4.1991 and 27.5.1991.

Submissions:

17. The learned Senior Counsel appearing for the claimants would submit that it is a misnomer to call Kasipalayam as a Village. It is located just in the outskirts of Erode. The lands that are acquired are just situate behind the Collectorate and there are Educational Institutions, Hospitals, developed neighbourhoods like Rail Nagar and K.K.Nagar. The railway track also runs close by as also the main road and these locational advantages must be taken note of. He also submitted that they are not low lying lands which require development. The lands were already levelled and only dry cash crops were grown and therefore, there cannot be any reduction on the ground of development charges. In support of their case, they relied on the judgment of this Court in appeal No. 226 of 1993 wherein this Court had fixed the compensation at Rs. 7,42,506/- per acre for acquisition proceedings that commenced by Section 4(1) Notification issued in the year

1985. In that case, this Court had taken 17.11 per square feet as the market value of the property. The learned Senior Counsel submitted that if that is the accepted value in 1985, then for 1991, there should be appropriate increase and therefore, the value as per Ex-C-9 (K.K. Nagar) which works out to Rs. 30/- per square feet would not be excessive and it is only on that basis the value should be fixed.

18. According to the learned Senior Counsel for the claimants the data land taken by the Land Acquisition Officer for fixing the market rate is situated far away from the property acquired and as such, no reliance could be placed on the said document for arriving at the market value. It was further contended that the Tamil Nadu Housing Board had issued notification calling for application for allotment of land at the rate of Rs. 65/- to Rs. 130/- per sq.ft. and the same was borne out by the exhibits on the side of the claimants. Therefore, according to the learned Senior Counsel, the market rate has to be fixed with reference to the value as shown in the notification issued by the Housing Board as well as the other documents produced by the claimants before the Reference Court.

19. The learned Additional Advocate General appearing on behalf of the Housing Board submitted that Kasipalayam is really a Village and the land that were acquired were undeveloped lands and agricultural lands. Dry crops were grown. All the developmental activities had begun around the acquired area only just immediately after the acquisition or just on the eve of the acquisition. The learned Special Government Pleader submitted that judicial notice must be taken of the fact that once the residents of the area get information of the commencement of the land acquisition proceedings there is a spurt in transactions in and around the area so that when claims are made, these documents could be shown to support inflated values. The learned Special Government Pleader submitted that the data transaction in respect of survey No. 500 would be the appropriate value of the said land and nothing more. The learned Special Government Pleader further submitted that the documents that are relied on by the Counsel for the claimants all relate to small areas which were sold by square feet as house plots and this cannot be taken as the base value for acquisition of large tracts of lands. According to the learned Special Government Pleader these lands have to be developed to make them fit for laying out housing board plots which is the public purpose for which the lands were acquired. The learned Special Government Pleader also submitted that therefore, appropriate deductions should be made. The learned Special Government Pleader submitted that the Supreme Court has in some cases held that even 50% deduction towards development charges is not excessive.

20. The learned Principal Subordinate Judge, Erode on being directed by this Court to file a report by entertaining "additional evidence" if necessary had recorded additional evidence and had virtually given another award. The acquired lands as seen from the report filed by the learned Principal Subordinate Judge is about 3kms from road. It is between the Erode-Perundurai and Erode-

Chennimalai Road. Several colonies like Jeeva Nagar, Rail Nagar, K.K. Nagar, Bharathi Nagar, Anna Nagar are in and around these lands. There are educational institutions, Railway Station and State Transport Corporation Depot nearby. To the north of Erode Municipality there is the River Bhavani and to the east the Kalingarayan Channel. The learned Subordinate Judge on a perusal of base documents found that they are all transactions in respect of small areas where the valuation had been arrived at on a square feet basis. The Land Acquisition Officer would rely on a sale deed that relates to survey No. 500, according to which the value is Rs. 60,000/- per acre. It is this value that is stressed by the learned Special Government Pleader. The learned Subordinate Judge rejects this on the ground that one of the vendors of the land in survey No. 500 has been examined as C.W.12 and he had said that at the time of sale, the value was Rs. 12,00,000/- per acre. But since the family was in distressed state, he had sold it for less and to avoid stamp duty a very low value was shown. The learned Subordinate Judge totally accepts this evidence that it is a practice to show lower value for lands in order to avoid stamp duty. He also takes note of the offers made by the Housing Board while selling these plots for arriving at the value. It is on this basis that he rejects the data sale deed. On that basis, the learned Principal Subordinate Judge had fixed the value for L.A.O.P. Nos. 7,8,10, 12 of 1995 and 6 of 1996 at Rs. 4,00,000/- per acre. In respect of L.A.O.P. Nos. 43 of 1996, he fixes it at a sum of Rs. 6,00,000/- per acre and in respect of L.A.O.P. Nos. 25, 28, 29 and 30 of 2002, he fixes the value at Rs. 6,00,000/- per acre.

21. The Tabular Column has already been extracted above and we find that all the survey numbers which are subject matter of this acquisition lie in one block. In fact survey Nos. 453 and 454 for which Rs. 6,00,000/- is fixed is farther away from the railway track than survey No. 459. So we are not able to make out the reason for difference of 2 lakhs in the value of lands of the claimants, as Section 4(1) notification is one and the same and the lands are one contiguous block which is agreed by even the respondents. So, we will rely on the learned Subordinate Judge's report only with regard to the factual findings.

22. In the written submissions filed by the Housing Board, it is stated that all these lands are said to be one and the same "Tharam"(Quality) and assessed to Rs. 0.11 per cent. It is said that the lands were undeveloped, of uneven level and did not possess water, road, electricity and drainage connection at the time of acquisition. The documents produced on the side of the claimants, Ex-C2, sale deed is dated 23-01-1985 and the consideration shown is 17.11 square feet. Ex-C8, sale deed is dated 04-09-1990 and the value is Rs. 20/- per square feet and Ex-C9 is dated 08-02-1991 and the value is Rs. 30/- per square feet. The documents filed after remand are the advertisements of Housing Board. They cannot reflect the correct market value. Ex-C8 relates to survey No. 484 which is Rail Nagar and Ex-C9 relates to survey No. 732, K.K. Nagar. These are the documents that are heavily relied upon by the Counsel for claimants. They are documents under which small plots of lands have been sold. The finding of the learned Subordinate Judge is that only acre value can be taken for these lands.

23. We have perused the topo sketch of the property. It is found from the topo sketch that the document relating to the data sale was in respect of a property situated far away from the acquired property and as such we are of the considered view that the valuation as shown in the said document does not show the market rate prevailing in the locality as on the date on which Section 4(1) notification was issued. It is also found from the award proceedings that the Land Acquisition Officer collected documents relating to sale for the period from 1.6.1990 to 31.5.1991 and rejected those documents on various grounds. The document relating to Survey No. 1227/06 shows the valuation at Rs. 1,75,000/- per acre. Similarly the property in Survey Nos. 231/34, 321/4 and 368/1 shows the market value at Rs. 1,50,000/-, Rs. 1,95,000/- and Rs. 2,00,217/- per acre respectively. It is also found that the property in Survey No. 484 is very near to the acquired property. However all those documents were rejected by the Land Acquisition Officer on the ground of higher value as well as distance. The Sub Registrar has given evidence that during 1990 the property in the area were sold only on acre basis and there were no documents evidencing sale on square feet basis. The Reference Court originally fixed the land value at Rs. 2,18,500/- per acre in respect of the property in L.A.O.P. No. 7 of 1995.

24. Subsequent to the remand order, the claimants by producing the notification issued by the Tamil Nadu Housing Board contended that the rate shown in the said notification was the prevailing market rate in the area. Before the Reference Court, the Land Acquisition Officer has marked a document, being the sale deed executed by one Ramalingam wherein property was sold at Rs. 60,000/- per acre. The vendor was examined on the side of the claimants and during the examination, witness Ramalingam has deposed that the property was valued at Rs. 12 lakhs, but in fact it was sold for a sum of Rs. 10 lakhs per acre, as he was in urgent need of funds. However, the witness also stated that only a sum of Rs. 60,000/- per acre was shown in the document and that was only with a view to avoid stamp duty. The topo sketch also shows the situation of the property and the housing colonies in the nearby area. No evidence was adduced by the claimants before the Reference Court to show that they have been getting substantial income from the property by way of agricultural operation. In fact there was a factual finding by the Reference Court to the effect that no documents were produced to show the income from the property, though it was the consistent case of the claimants that they have been getting substantial income from the property. Even though the earlier award of this court in A.S. No. 226 of 1991 wherein a sum of Rs. 17.11 sq.ft. was granted as compensation, was relied on by the claimants, the said contention was rejected by the Reference Court on the ground that the property covered in A.S. No. 226/1991 was situated adjacent to the main road but on the other hand the acquired property has no such road access. While considering the situation of the land, the Reference Court also found that the entire acquired property is situated in one block and as such a uniform rate could be given for the property. The situation of the land in one block was also taken by the Reference Court for the purpose of

granting acre valuation for the property. Ultimately the Reference court fixed the market rate at Rs. 4 lakhs in respect of property in L.A.O.P. No. 7 of 1995 (A.S. No. 759 of 1995) but with regard to the property in L.A.O.P. No. 43 of 1996 (A.S. No. 325 of 2000), the Reference Court fixed the compensation at Rs. 6 lakhs per acre. However the fact remains that the Reference Court also indicated that for the purpose of selling the property in the market, the Housing Board has to set apart considerable portion of the property for laying roads as well as to provide common facilities. The Reference Court also found that the documents produced by the claimants as well as the evidence tendered by them, shows that the property was sold in the area at the rate of Rs. 25 to 35 per sq.ft., but it was only after developing the site as house-sites. The Ultimate fixation of market rate at Rs. 6,00,000/- per acre by the Reference Court was without reference to a particular document.

#### Fixation of Compensation ? Guiding Factors

25. There are well accepted norms for the purpose of fixing the market rate. While fixing the market value, the Land Acquisition Officer is required to consider the location of the property, its advantages as well as potential. Neither the document showing the inflated rate nor a document of distress sale is relevant for the purpose of fixing the land value. Courts and Tribunals have to sit in the arm-chair of a willing seller as well as a willing purchaser and to arrive at the market rate by taking into account all the positive and negative factors. The purpose for which the property was acquired, the nature of the property, presence of roads, electricity, educational institutions, hospital facilities and other infrastructural facilities available in the area are all relevant factors for the purpose of arriving at the market value.

#### Supreme Court Decisions on Principles for Determination of Amount of Compensation:

26. The Honourable Supreme Court in State of Uttar Pradesh etc. Vs. Smt. Ram Kumari Devi etc., laid down the test to be adopted for the purpose of arriving at the market value in the following words:

...It is laid down by this Court which is well settled principle that it is the duty of the Court to assess reasonable compensation. Burden is on the owner to prove the prevailing market value. On adduction of evidence by the parties, the acid test which the Court has to adopt is that the Court has to sit in the arm-chair of a prudent purchaser, eschew feats of imagination and consider whether a reasonable prudent purchaser in the open market would offer the same price which the Court is intending to fix the market value in respect of the acquired land. Since it is the compulsory acquisition, it is but the solemn duty of the Court to assess reasonable compensation so as to allow the same to the owner of the land whose property has been acquired by compulsory acquisition and also it avoid needless burden on public exchequer. No feats of imagination would require to bog the mind that when 13.75 acres of land was offered for sale in an

open market, no prudent man would have credulity to purchase that land on sq.ft. basis.

27. The positive as well as negative factors to be taken into consideration for arriving at the correct market value was highlighted by the Honourable Supreme Court in *Viluben Jhalejar Contractor (D) by LRs. Vs. State of Gujarat*, wherein it was held thus:

18. One of the principles for determination of the amount of compensation for acquisition of land would be the willingness of an informed buyer to offer the price therefor. It is beyond any cavil that the price of the land which a willing and informed buyer would offer would be different in the cases where the owner is in possession and enjoyment of the property and in the cases where he is not.

19. Market value is ordinarily the price the property may fetch in the open market if sold by a willing seller unaffected by the special needs of a particular purchase. Where definite material is not forthcoming either in the shape of sales of similar lands in the neighbourhood at or about the date of notification u/s 4(1) or otherwise, other sale instances as well as other evidences have to be considered.

20. The amount of compensation cannot be ascertained with mathematical accuracy. A comparable instance has to be identified having regard to the proximity from time angle as well as proximity from situation angle. For determining the market value of the land under acquisition, suitable adjustment has to be made having regard to various positive and negative factors vis-?-vis the land under acquisition by placing the two in juxtaposition. The positive and negative factors are as under:

Positive factors      Negative factors

(i) smallness of size (i) largeness of area (ii) proximity to a road (ii) situation in the interior at a distance from the road (iii) frontage on a road (iii) narrow strip of land with very small frontage compared to depth (iv) nearness to developed area (iv) lower level requiring the depressed portion to be filled up (v) regular shape (v) remoteness from developed locality (vi) level vis-?-vis land under (vi) some special disadvantageous acquisition factors which would deter a purchaser (vii) special value for an owner of an adjoining property to whom it may have some very special advantage

21. Whereas a smaller plot may be within the reach of many, a large block of land will have to be developed preparing a layout plan, carving out roads, leaving open spaces, plotting out smaller plots, waiting for purchasers and the hazards of an entrepreneur. Such development charges may range between 20% and 50% of the total price.

28. In *Atma Singh (died) through LRs. and Others Vs. State of Haryana and Another*, the Honourable Supreme Court reiterated the position that while considering the market value, the guiding star would be the conduct of

hypothetical willing vendor and willing purchaser and not an anxious dealing at arms length.

29. In *Special Deputy Collector and another etc. Vs. Kurra Sambasiva Rao and others, etc.*, , the Hon''ble Supreme Court also considered the best evidence for fixing the market value thus:

8. The best evidence of the value of property are the sale transactions in respect of the acquired land to which the claimant himself is a party; the time at which the property comes to be sold; the purpose for which it is sold; nature of the consideration; and the manner in which the transaction came to be brought out. They are all relevant factors. In the absence of such a sale deed relating to the acquired land, the sale transactions relating to the neighbouring lands in the vicinity of the acquired land. In that case, the features required to be present are: it must be within a reasonable time of the date of the notification; it must be a bona fide transaction; it should be a sale of land similar to the land acquired or land adjacent to the land acquired; and it should possess similar advantageous features. These are relevant features to be taken into consideration to prove the market value of the acquired land as on the date of the notification published u/s 4(1) of the Act.

30. In a recent decision of a three Judge Bench of the Honourable Supreme Court in *Revenue Divisional Officer-Cum-L.A.O. Vs. Shaik Azam Saheb etc. etc.*, , the positive as well as negative factors indicated in *Viluben Jhalejar Contractor (D) by LR. Vs. State of Gujarat*, as factors germane for consideration for the purpose of determining the market value was re-iterated thus:

11. Determination of market value of a land acquired in terms of the provisions of the said Act depends upon a large number of factors, the first being the nature and quality of the land, i.e., whether agricultural land or homestead land. Apart from nature and quality of land in the event the agricultural lands are acquired the other factors relevant therefore are also required to be considered, namely, as to whether they are irrigated or non-irrigated, extent of facilities available for irrigation, location of the land, closeness thereof from any road or highway, the evenness of land, its position in different seasons particularly in rainy season, existence of any building or structure as also the development in and around the area. A host of other factors will also have a bearing on determining the valuation of land.

12. The mode and manner in which determination of such valuation are to be carried out would also depend upon the facts and circumstances of each case, namely, whether any deed of sale executed in respect of similarly situated land near about the date of issuance of notification u/s 4(1) of the Act is available, or in absence of any such exemplars whether the claim can be determined on yield basis or in case of an orchard on the basis of the number of fruit bearing trees and the yield therefrom.

13. One other important factor which also should be borne in mind is that it may

not be safe to rely only on an award involving a neighbouring area irrespective of the nature and quality of the land. For determination of market value again, the positive and negative factors germane therefore should be taken into consideration, as laid down by this Court in Viluben Jhalejar Contractor (D) by LRs. Vs. State of Gujarat, .

31. The principles governing determination of market value with reference to the earlier decisions of the Supreme Court was considered recently by a two Judge Bench of the Honourable Supreme Court in Faridabad Gas Power Project, NTPC Ltd., etc. Vs. Om Prakash and Others, etc., .

Determination of Compensation ? Year to Year Increase Basis:

32. The learned Senior Counsel for the claimants by relying on the judgment of this Court in A.S. No. 226 of 1991 contended that even during the year 1985, the market value was arrived at Rs. 17.11per sq.ft. and as such this Court has to fix the market rate by adding certain percentage of increase every year. The question regarding calculation of market rate by adding certain percentage with reference to the market value fixed earlier was considered by the Honourable Supreme Court time and again and the legal position is reiterated in recent decisions.

33. In The General Manager, Oil and Natural Gas Corporation Ltd. Vs. Rameshbhai Jivanbhai Patel and Another, , Hon"ble Supreme Court gave an illustration of the increase in the market value and the percentage of increase to be made and the method of calculation of the increase thus:

15. The increase in market value is calculated with reference to the market value during the immediate preceding year. When market value is sought to be ascertained with reference to a transaction which took place some years before the acquisition, the method adopted is to calculate the year to year increase. As the percentage of increase is always with reference to the previous year's market value, the appropriate method is to calculate the increase cumulatively and not applying a flat rate. The difference between the two methods is shown by the following illustration (with reference to a 10% increase over a basic price of Rs. 10/- per sq.m):

| -----      | Year     | By flat      | rate     | By     |
|------------|----------|--------------|----------|--------|
| cumulative | increase | method       | increase | method |
| -----      | 1987     | 10.00        | 10.00    | -----  |
| -----      | (Base    | Year)        |          | -----  |
| -----      | 1988     | 10 + 1=11.00 |          | -----  |
| 10.00      | +        | 1.00         | =        | 11.00  |
| -----      | 1989     | 11 + 1=12.00 |          | -----  |
| 11.00      | +        | 1.10         | =        | 12.10  |
| -----      | 1990     | 12 + 1=13.00 |          | -----  |
| 12.10      | +        | 1.21         | =        | 13.31  |
| -----      | 1991     | 13 + 1=14.00 |          | -----  |

|                         |   |      |   |       |
|-------------------------|---|------|---|-------|
| 13.31                   | + | 1.33 | = | 14.64 |
| ----- 1992 14 + 1=15.00 |   |      |   |       |
| 14.64                   | + | 1.46 | = | 16.10 |
| ----- 16. We may also   |   |      |   |       |

point out that application of a flat rate will lead to anomalous results. This may be demonstrated with further reference to the above illustration. In regard to the sale transaction in 1987, where the price was Rs. 10 per sq.m, if the annual increase to be applied is a flat rate of 10%, the increase will be Rs. 1 per annum during each of the five years 1988, 1989, 1990, 1991 and 1992. If the price increase is to be determined with reference to sale transaction of the year 1989 when the price was Rs. 12 per sq.m, the flat rate increase will be Rs. 1.20 per annum, for the years 1990, 1991 and 1992. If the price increase is determined with reference to a sale transaction of the year 1990 when the price was Rs. 13 per sq.m, then the flat rate increase will be Rs. 1.30 per annum for the years 1991 and 1992. It will thus be seen that even if the percentage of increase is constant, the application of a flat rate leads to different amounts being added depending upon the market value in the base year. On the other hand, the cumulative rate method will lead to consistency and more realistic results. Whether the base price is Rs. 10/- or Rs. 12/10 or Rs. 13/31, the increase will lead to the same result. The logical, practical and appropriate method is therefore to apply the increase cumulatively and not at a flat rate.

34. Even though it is legally permissible to fix the market value with reference to a transaction which took place earlier by giving percentage of increase, the same is not feasible in the present case. The property covered by the earlier acquisition which was the subject matter in A.S. No. 226 of 1991 is situated just abutting the main road and the extent was also very small and as such no reliance could be placed on the said value. Therefore we are not inclined to accept the valuation as shown in the judgment in A.S. No. 226 of 1991 for the purpose of taking it as base value. In fact there was also a factual finding recorded by the Reference Court with respect to the advantages of the property which was the subject matter in A.S. No. 226 of 1991.

35. A perusal of the topo-sketch clearly shows that the property in Rail Nagar (Survey No. 484) is situated very near to the acquired property and as such the document marked as Ex.C.8 dated 4.9.1990 would throw light on the market value prevailing in the locality. As per the said document, an extent of 1500 sq.ft. of property was sold for a sum of Rs. 30,000/- and it would come to Rs. 20/- per sq.ft. However the fact remains that the extent of property is very small and it was also a developed property. Therefore while fixing the market rate for a larger extent of property, necessarily suitable deduction has to be made towards development charges as well as on account of the small size of the property retained for the purpose of fixing the land value.

Deduction Towards Development Charges:

36. While fixing the market value, development charges have to be deducted

depending upon the nature of the land. While giving such deduction, the Land Acquisition Officer must record reasons about the disadvantage of the land acquired and the purpose for which the land was sought to be acquired as well as extent of land necessary for providing developments like provision of roads, electricity, water and sewerage and other facilities. The extent of deduction cannot be put in a straitjacket formula and it varies from case to case. The Hon'ble Supreme court had time and again indicated the factors to be considered by the Land Acquisition Officer for making deduction towards development charges as well as percentage of deduction. Such deduction is also not automatic unless there is a factual finding that deduction was absolutely necessary on the facts of the case by taking into consideration the ground situation. In case the property has already been developed, there would be no requirement of deduction towards development.

37. In *Naganath (dead) by Lrs. v. Asst. Commissioner & Land Acquisition Officer and Anr.* 2008(13) Scale 202, the Honourable Supreme Court observed that the trend of the various Judgments of the Supreme Court indicates deduction on account of development charges in the range of 1/6th to 33%.

38. The Hon'ble Supreme Court in *Atma Singh (died) through LRs. and Others Vs. State of Haryana and Another*, referred to an earlier decision relating to deduction towards development charges, in *Bhagwathula Samanna and others Vs. Special Tahsildar and Land Acquisition Officer, Visakhapatnam Municipality*, wherein it was held thus:

In fixing the market value of a large property on the basis of a sale transaction for smaller property, generally a deduction is given taking into consideration the expenses required for development of the larger tract to make smaller plots within that area in order to compare with the small plots dealt with under the sale transaction. However, in applying this principle of deduction it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition which is the only relevant factor. If smaller area within the large tract is already developed and situated in an advantageous position suitable for building purposes and have all amenities such as roads, drainage, electricity, communications, etc. then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified.

In the present cases the lands covered by the acquisition are located by the side of the National Highway and the Southern Railway Staff Quarters with the Town Planning Trust Road on the north. The neighbouring areas are already developed ones and houses have been constructed, and the land has potential value for being used as building sites. Having found that the land is to be valued only as building sites and having stated the advantageous position in which the land in question lies though forming part of the larger area, the High Court should not have applied the principles of deduction. It is not in every case that such deduction is to be allowed. Therefore, the High Court erred in making a deduction of one-third of the value of the comparable sale and thus reducing the

fair market value of land from Rs. 10 per sq yd to Rs. 6.50 per sq. yd.

39. In *Atma Singh (died) through LRs. and Others Vs. State of Haryana and Another*, the Hon'ble Supreme Court also placed reliance on the Judgment in *Kasturi and Others Vs. State of Haryana*, and indicated the percentage of deduction towards development charges thus:

10. Shri Varma has also referred to *Kasturi v. State of Haryana* wherein it was observed that in cases of those lands where there are certain advantages by virtue of the developed area around, it may help in reducing the percentage of cut to be applied, as the development charges required may be less on that account. There may be various factual factors which may have to be taken into consideration while applying the cut in payment of compensation towards development charges, may be in some cases it is more than 1/3rd and in some cases less than 1/3rd. Therefore, in this case taking into consideration the potentiality of the acquired land for construction of residential and commercial buildings, the deduction made was only 20%.

40. In *Naganath (dead) by Lrs. v. Asst. Commissioner & Land Acquisition Officer and Anr.* 2008(13) Scale 202, cited supra, the Hon'ble Supreme Court indicated the percentage of deduction towards development charges thus:

4. We find merit in the Civil Appeal on the above three grounds. Firstly, we are of the view that deduction of 53% towards development charges is on the higher side. No reason has been given for applying the rate of 53% towards development charges. Generally, the trend of the various judgments of this Court indicates deduction in the range of 1/6th to 33%. In this case, the High Court has deducted the charges at 53% which, in our view, appears to be excessive.

41. The Honourable Supreme Court in *Revenue Divisional Officer-Cum-L.A.O. Vs. Shaik Azam Saheb etc. etc.*, indicated the extent of deduction taking into consideration the nature of land acquisition and the land involved in the subject matter of sale deed relied on for computing the market rate and deducted one third towards development cost and observed thus:

18. ...It must be bear in mind that the lands in question were agricultural lands whereas the lands which were the subject matter of the said deed of sale was a homestead land, thus, some amount, therefore, will have to be deducted towards the development cost.

19. Indisputably while comparing the market value of developed lands with that of undeveloped lands, the court has to make suitable deductions towards the cost of development.

We, however, may notice that this Court, at different times, has spoken in different voices.

In *P.S. Krishna and Co. Pvt. Ltd. Vs. The Land Acquisition Officer, (Deputy Collector) Hyderabad*, this Court refused to interfere with the judgment of the

High Court which had given a deduction of 20% towards development charges. Recently, a Division Bench of this Court in Mummidi Apparao (D) through LRs. Vs. Nagarjuna Fertilizers and Chemicals Ltd. and Another, did not interfere with the decision of the High Court which had given a direction for deduction of 50% as development charges. However, we are not oblivious of the fact that this Court had observed in Viluben Jhalejar Contractor (D) by LRs. Vs. State of Gujarat, :

28. In Hasanali Khanbhai and Sons and Others Vs. State of Gujarat, and The Land Acquisition Officer, Kammarapally Village, Nizamabad District, Andhra Pradesh Vs. Nookala Rajamallu and Others, it has been noticed that where lands are acquired for specific purposes deduction by way of development charges is permissible.

29. We are not, however, oblivious of the fact that normally one-third deduction of further amount of compensation has been directed in some cases. See Kasturi and Others Vs. State of Haryana, , Tejumaal Bhojwani (Dead) through Lrs. and Others Vs. State of U.P., , V. Hanumantha Reddy (Dead) by Lrs. Vs. The Land Acquisition Officer and Mandal R. Officer, , H.P. Housing Board Vs. Bharat S. Negi and Others, and Kiran Tandon Vs. Allahabad Development Authority and Another, .

42. The acquired property is a manwari land and even according to the claimants it was not a house-site developed by them. The acquisition was only for construction of residential houses and therefore necessarily the Housing Board has to spend considerable amount for development and to make it fit for construction of residential units. On the other hand, the property in Ex.C.8 is a developed site and the same was sold only as a house-site. Therefore considering the advantages, development and potential of the property in Ex.C.8 vis-a-vis the disadvantages, undeveloped state and lack of potential of the acquired property, we are of the view that deduction at the rate of 40% has to be given towards development charges.

Documents Relating to Smaller Extent ? Deduction:

43. While fixing the market rate, very often, documents of smaller extent would be taken as the basis. The normal rule in fixing compensation for large extent of land with reference to the value shown in the sale document of lesser extent is that there must be suitable deduction. It is common knowledge that larger extent of property invariably fetch less when compared to smaller extent. No prudent buyer would buy large extent of land by quoting the price prevailing in the market for a small piece of land.

44. The Hon''ble Supreme Court in Atma Singh (died) through LRs. and Others Vs. State of Haryana and Another, , by placing reliance on some of the earlier Judgments regarding deduction in the case of smaller extent when compared to the larger extent acquired, explained the legal position thus:

11. In Chimanlal Hargovinddas v. Special Land Acquisition Officer it was held as

follows:

4. (15) ...Firstly while a smaller plot is within the reach of many, a large block of land will have to be developed by preparing a layout, carving out roads, leaving open space, plotting out smaller plots, waiting for purchasers (meanwhile the invested money will be blocked up) and the hazards of an entrepreneur. The factor can be discounted by making a deduction by way of an allowance at an appropriate rate ranging approximately between 20 per cent to 50 per cent to account for land required to be set apart for carving out lands and plotting out small plots. The discounting will to some extent also depend on whether it is a rural area or urban area, whether building activity is picking up, and whether waiting period during which the capital of the entrepreneur would be locked up, will be longer or shorter and the attendant hazards.

12. Shri Dwivedi has also referred to *Basant Kumar v. Union of India*, *K. Vasundara Devi v. Revenue Divisional Officer (LAO)* and *H.P. Housing Board v. Bharat S. Negi*. In the first cited case, land was acquired for planned development of Delhi and in the other two cases for housing boards and a deduction of 33% was applied.

13. The reasons given for the principle that price fetched for small plots cannot form safe basis for valuation of large tracts of land, according to cases referred to above, are that substantial area is used for development of sites like laying out roads, drains, sewers, water and electricity lines and other civic amenities. Expenses are also incurred in providing these basic amenities. That apart it takes considerable period in carving out the roads making sewers and drains and waiting for the purchasers. Meanwhile the invested money is blocked up and the return on the investment flows after a considerable period of time. In order to make up for the area of land which is used in providing civic amenities and the waiting period during which the capital of the entrepreneur gets locked up a deduction from 20% onward, depending upon the facts of each case, is made.

45. The document in Ex.C.8 is admittedly a document of lesser extent, when compared to the property acquired by the Government. The said property is also found to be a house-site with high potential. The area of the property in Ex.C.8 is only 1500 sq.ft., but however the property acquired is found to be several acres in various survey numbers. The extent of property acquired from each of the claimants are also found to be much more than the area shown in Ex.C.8. Therefore we are of the considered view that there should be 20% deduction on account of small size of the plot retained for the purpose of fixing the market value.

Market Value After Deduction:

46. Taking an overall view of the matter we are of the opinion that 40% deduction should be made towards development costs and 20% on account of small size of the plot taken as the basis to arrive at the market value. Accordingly, while retaining the document in Ex.C.8 dated 4.9.1990 (value Rs.

20/- per sq.ft.) as the basic document to arrive at the market value, we deduct 40% on account of development charges and 20% on account of small size of the plot and accordingly fix the market value at Rs. 3,48,480/- per acre (Rs.8/- per sq.ft.)

To Sum Up:

47. In the result all the appeals and cross appeals are disposed of by fixing the land value at Rs. 3,48,480/- per acre (Rs.8/- per sq.ft.). The claimants are also entitled to the statutory benefits. The learned Special Government Pleader and the learned Counsel appearing on behalf of the Housing Board are entitled for separate fees for each of the First Appeals and Cross Appeals. Consequently, the connected Mps are closed. No costs.