

**(2010) 10 MAD CK 0355**

**In the Madras High Court**

**Case No :** A.S. No. 940 of 2005 and C.M.P. No. 16718 of 2005

Union of India (UOI)

APPELLANT

Vs

P. Ramasamy @ Govindarasu Pillai

RESPONDENT

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**Date of Decision :** 28-10-2010

**Acts Referred:**

Land Acquisition Act, 1894 — Section 10, 11, 12(2), 18, 23  
Legal Practitioners (Fees) Rules, 1973 — Rule 12, 12(1), 14, 19, 3(2)  
Pondicherry Town and Country Planning Act, 1969 — Section 8  
Pondicherry Town and Country Planning Act, 1971 — Section 6

**Citation :** (2010) 10 MAD CK 0355

**Hon'ble Judges :** M. Venugopal, J

**Bench :** Single Bench

**Advocate :** D. Sreenivasan, Government Pleader, for the Appellant; Usha Raman, for the Respondent

**Final Decision :** Dismissed

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**Judgement**

M. Venugopal, J.—The Appellants/Respondents have preferred this present Appeal as against the Award dated 09.01.2004 in L.A.O.P. No. 5 of 2002 and as reviewed by the Order dated 21.12.2004 in C.R.A. No. 2 of 2004 passed by the Learned Principal District Judge, Pondicherry.

2. The 2nd Appellant/2nd Respondent has acquired the land measuring an extent of 0.49.50 Hectares comprised in R.S. No. 12/2 in Valluvanpet, Villianur Revenue Village, Pondicherry State for the purpose of providing free house sites to Adi Dravidars. The due procedural requirements to be followed in respect of the acquisition of land have been complied with. The Notification u/s 4(1) of the Land Acquisition Act has been submitted to the Government, which has been approved as per G.O.Ms. No. 35 dated 17.03.1995 wherein the extent of land has been referred to as 0.67.00 Hectares. The publication has been made in English and Tamil dailies, the State Gazette and by public affixture. Notice to the land owners/ interest persons, including the Respondent/Claimant has been served. The Respondent/Claimant filed his objections. Section 5(A) enquiry has been held on

22.03.1996. The declaration u/s 6 of the Act has been approved as per G.O.Ms. No. 5 dated 11.02.1997. The said declaration has been published in English and Tamil dailies, the State Gazette and also by public affixture. During the enquiry, the Respondent/Claimant has informed that 3 kuzhis of land have been sold to 3rd party.

3. The Deputy Collector/Land Acquisition Officer by means of an Award dated 11.02.1999 in Award No. 3 of 1999 in the valuation has mentioned that the total compensation of Rs. 3,57,602.05p in respect of the land in R.S. No. 12/2 - 0.49.50 Hectares, R.S. No. 12/3 - 0.13.00 Hectares and R.S. No. 12/4 - 0.04.50 has been given. However, in the Form of Reference u/s 18 of the Land Acquisition Act, 1894, made at the instance of the Respondent/Claimant in respect of the Respondent/Claimant's land measuring 0.47.82 Hectares in R.S. No. 12/2 classified as Dry, it is mentioned as hereunder:

Particulars of Compensation awarded u/s 11 of the Land Acquisition Act:

(1) R.S. No. : 12/2 Extent : 0-47-82 Hects. Rate per Are : Rs. 2,974-00 Value of land : Rs. 1,42,216-68 Value of trees : NIL Value of Structure : NIL 30% Solatium : Rs. 42,665-00 12% AMV (1092 days) : Rs. 51,057-73 Total : Rs. 2,35,939-41 or Rs. 2,35,939-00

4. It is to be noted that the Award of compensation of Rs. 2,35,939/- has been intimated to the Respondent/Land owner by means of Section 12(2) Notice.

5. The Respondent/Claimant has filed a petition of objection before the Land Acquisition Officer mentioning that the amount awarded as compensation is too low and accordingly, at his instance, the Land Acquisition Officer has referred the matter before the Tribunal.

6. Before the trial Court, viz., the Learned Principle District Judge, Pondicherry on behalf of the Respondent/Claimant witness P.W.1 has been examined and Exs.A.1 and A.2 have been marked. On the side of the Appellants/Respondents witness R.W.1 has been examined and Exs.B.1 to B.9 have been marked.

7. The trial Court viz., the Learned Principle District Judge, Pondicherry on an appreciation of available oral and documentary evidence on record has come to the consequent conclusion in determining the market value of the acquired land at Rs. 5,000/- per Are and has deducted 20% towards development charges and resultantly arrived at the market value of the land Rs. 4,000/- per Are.

8. In short, the trial Court passed an award stating that the Respondent/Claimant is entitled for a sum of Rs. 1,76,886/- towards the enhanced compensation and directed the Appellants/Respondents to pay a sum with interest at 12% per annum from 10.01.2004 till date of entire payment.

9. Later, the Respondent/Claimant filed C.R.A. No. 2 of 2004 before the trial Court viz., the Learned Principal District Judge, Pondicherry and the trial Court has passed the following Order:

Heard. Counter has not been filed. As per the statute, the Petitioner is entitled to interest at the rate of 15% per annum from the date of Award till the payment of deposit of the entire compensation amount. Though the statute provide 15% interest from the date of Award till payment of the entire compensation amount, by oversight 12% has been allowed. Therefore, interest at the rate of 15% is allowed on Rs. 1,76,886/- from 10.01.2004 till payment of entire compensation amount. Therefore, the 12% rate of interest occurred in 12th line of page 7 and 4th line of para 12 be deleted and in those places 15% be substituted. Review petition is allowed.

10. Feeling aggrieved against the Award passed by the trial Court in L.A.O.P. No. 5 of 2002 dated 09.01.2004 and as reviewed in C.R.A. No. 2 of 2004 dated 21.12.2004, the Appellants have projected the present Appeal before this Court.

11. The points that arise for consideration in this Appeal is:

Whether the trial Court's Award in L.A.O.P. No. 5 of 2002 dated 09.01.2004 and the Order dated 21.12.2004 in C.R.A. No. 2 of 2004 are a valid and sustainable one in the eye of law?

The Contentions, Discussions and Findings on Point No. 1:

12. The Learned Government Pleader for the Appellants submits that the trial Court while considering the enhancement of compensation has misdirected itself to consider the claim of Respondent/Claimant without any evidence on file and has merely referred to Ex.B.3 Sales Statistics and as a matter of fact, the Respondent/Claimant has not filed any certified copy of the Sale Deed showing the higher value of the land and in the absence of any Sale Deed, the trial Court is not correct in accepting the claim of the Respondent/Claimant.

13. It is the further contention of the Learned Government Pleader for the Appellants that the Respondent/Claimant has not adduced any further evidence for comparing the nature of the property and the property covered by the alleged sale referred to by the Reference Code from the Sales Statistics.

14. The Learned Government Pleader for the Appellants refers to the G.O.Ms. No. 14, Revenue Department, dated 08.02.1989 of the Government of Pondicherry which has issued revised instructions for guidance pertaining to procedure to be followed under the Land Acquisition Act.

15. In short, it is the contention of the Learned Government Pleader for the Appellants that the trial Court has committed grave error both in regard to the factual aspects and also in appreciating the law and consequently, the Award and Review Order are erroneous and therefore, prays for allowing the Appeal to promote substantial cause of justice.

16. Per contra, it is the contention of the Learned Counsel for the Respondent/Claimant that the Tribunal/trial Court has clearly observed in Para-11 of its Award that "on perusal of Ex.B.3 Sales Statistics, this Court decides that the market

value of the acquired land can be fixed at Rs. 5,000/- per Are and after deducting 20% towards development charges, it has correctly determined the market value of the acquired land per Are at Rs. 4,000/- etc., and therefore, the same need not be interfered with by this Court sitting in Appeal at this distance of time.

17. This Court has heard the contentions advanced by the Learned Government Pleader for the Appellants and the Learned Counsel for the Respondent/Claimant and noticed the same.

18. In his evidence P.W.1 (Respondent/Claimant) has deposed that his land in R.S. No. 12/2 measuring an extent of 47.82 Are situated at Villianoor Revenue Village at Valluvanpet has been acquired by the Government for the purpose of providing free house sites for Adi Dravidars and that the Land Acquisition Officer has determined the compensation in respect of the acquired land at Rs. 2,974/- per Are and he has received a sum of Rs. 2,35,939/- and on the Northern side of the acquired land, houses and Chemical Industry are situated and another land in R.S. No. 33/7 has been sold per Are at Rs. 26,943/- (the land situated on the upper side of Claimant's land) and one Kannappan has sold the land to Ingarsal.

19. The evidence of P.W.1 is to the effect that the distance between the land sold by Kannappan and his land is 40 m and the concerned Sale Deed is Ex.A.1 dated 12.06.1995 and another land on the Western side of Ex.A.1 land in Survey No. 43/6 one Are has been sold at the rate of Rs. 43,200/- and one Balu has sold it to Coromandal Private Limited as per Ex.A.2 dated 12.07.1995 and the distance between the Ex.A.2 Sale Deed Land and his land is at a distance of 50m and therefore he prays for a compensation in respect of the acquired land per Are at Rs. 23,943/- inclusive of interest etc.

20. The evidence of R.W.1 (the then Deputy Collector/Land Acquisition Officer) in his evidence has stated that in Villianoor Revenue Village at Valluvanpet, the land in Survey Nos. R.S. No. 12/2, R.S. No. 12/3 and R.S. No. 12/4 measuring an extent of 66 Are agricultural land has been acquired for the purpose of providing house sites to Adi Dravidars and Section 4(1) Notification has been passed on 13.02.1996 and after observing the necessary formalities and after considering the 480 Sale Deeds for a period from 14.02.1995 to 13.02.1996, 6 Sale Deeds similar to that of the acquired land have been taken into account for the purpose of valuation and the highest Sale Deed per Are Rs. 3,716/- has been taken into account for the purpose of arriving at the market value of the acquired land.

21. It is the further evidence of R.W.1 that since the acquired land has a 3 to 4 feet pit, towards development charges 20% has been valued at Rs. 2,974/- and on 11.02.1999 an Award has been passed in Award No. 3 of 1999 and further the acquired land has been taken on 23.08.2001 and the Respondent/Claimant has been given the compensation of Rs. 2,35,939/-

22. R.W.1 (in his cross examination) has deposed that R.S. No. 12/2 is a Punja land and the acquired land has been situated near the houses and that on

14.02.1996 Section 4(1) Notification has been given and Ex.A.1 Land has been situated on the South of the acquired land and so also the Ex.A.2 Land has been situated on the South of the acquired land and the Exs.A.1 and A.2 lands have been situated at a distance of 30 to 50 m from the acquired land.

23. On going through the Award passed by the trial Court and the Review Order passed thereto, this Court is of the considered opinion that the trial Court in its Award in L.A.O.P. No. 5 of 2002 has not discussed about the evidence of P.W.1 and R.W.1 available on record. Infact, there is no discussion of the evidence of P.W.1 and R.W.1 by the trial Court in the Award passed in L.A.O.P. No. 5 of 2002.

24. The trial Court's judgment/Order/Award ought to be a reasoned one. An unreasoned Order/Award may be just, but may not appear to be so to the person affected. Conversely, a reasoned Order/Award will have the appearance of justice. The Award of a Court of Law in a L.A.O.P. case must state-

(a) the points for determination.

(b) the decision thereon.

(c) the reasons for the decision.

(d) must be evident from the Award/judgment/Order that the trial Court has properly appreciated the case, applied its mind, decided on considering evidence on record.

(e) discussion of evidence is imperative wherever it is necessary.

(f) the relief to which the parties are entitled to.

25. At this juncture, this Court pertinently opines that it is necessary and palatable for a trial Court/Tribunal while determining the market value of the land as compensation, it should discuss about the oral and documentary evidence available on record in a threadbare fashion and certainly it has to exhibit its forensic skills in analysing the oral evidence of witnesses and pros and cons of the documents marked before it, so as to enable the higher Forum/Appellate Authority to appreciate the Award in a proper and realistic perspective.

26. That apart, though in the Award, the trial Court has referred to Exs.A.1 and A.2, it has come to the conclusion that though Ex.A.1 Sale Deed is within one year prior to the date of Section 4(1) Notification, Ex.A.2 falls out of the said period and as such it has not taken into account both the documents in arriving at the correct market value of the acquired land.

27. It is to be borne in mind that Section 23(1)(A) of the Land Acquisition Act, 1894, refers to the fact that in addition to the market value of the land as referred to in Section 23(1), the Court shall award an amount calculated at the rate of 12% per annum on such market value for a period on and from the date of publication of the notification u/s 4(1) in respect of such land to the date of the Award of the Collector or the date of taking possession of the land, whichever

is earlier etc.

28. Also Section 23 of the Land Acquisition Act, Pondicherry Government has substituted the following which runs as follows:

23. Matters to be considered in determining compensation - (1) in determining the amount of compensation to be awarded for the land or any interest therein acquired under this Act, the Court shall take into consideration,-

first, the market value of the land as on the date of the declaration of the area as a planning area u/s 8 of the Pondicherry Town and Country Planning Act, 1969;

secondly, 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 when the possession was taken from him;

thirdly, the damage, if any, sustained by the person interested at the time of the possession being taken from him, by reason of severing such land from his other land;

fourthly, the damage, if any, sustained by the person interested at the time of the possession being taken from him of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner or his earnings; and

fifthly, if in consequence of the acquisition of the land the person interested is compelled to change his residence or place of business the reasonable expenses, if any, incidental to such change.

(2) In addition to the market value of the land as provided in Sub-section (1), 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. - Pondicherry Act 15 of 1971, Section 6 (w.e.f. 02.08.1971).

29. Section 28 of the Land Acquisition Act, 1894, speaks of Collector being directed to pay interest on excess compensation at the rate of 9% per annum from the date on which he has taken possession to the date of payment of such excess into the Court and further, the said Section also enables the Court to award interest at the rate of 15% per annum in regard to the excess amount paid into the Court after the expiry of a period of one year from the date on which possession is taken etc. Also, Section 34 of the Act refers to the payment of interest which enjoins that when the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest at the rate of 9% per annum from the time of so taking possession until it shall have been so paid or deposited, etc.

30. On a perusal of the xerox copy of the Ex.B.3 Sales Statistics reveals that Sale Deed dated 01.03.1995 bearing Document No. 358/95 in respect of R.S.91/7 measuring 0.01.15 Hectares has been shown the market value as Rs. 5,000/- and rate per Are comes to Rs. 4,348/- which has been rejected. Similarly, Sales

Deeds in Sl. Nos. 138 and 142 in Ex.B.3 Sales Statistics dated 27.04.1995 and 28.04.1995 respectively refers to the market value of the land measuring 0.01.20 and 0.01.28 Hectares at the market value of Rs. 5,000/- and they have been sold at Rs. 4,167/- Rs. 3,906/- per Are. Further, the Sale Deeds dated 10.05.1995 in Sl. Nos. 162 and 163 in Ex.B.3 Sales Statistics also refers to the market value of the land measuring 0.01.19 and 0.01.10 Hectares at Rs. 5,000/- per Are, it works out to Rs. 4,202/- and Rs. 4,545/- per Are respectively. Furthermore, the Sale Deeds dated 29.08.1995 in Sl. Nos. 305 to 310 in Ex.B.3 Sale Statistics refers to the market value of the extent of land thereto at Rs. 5,000/- per Are and the same has been valued at Rs. 4,545/- per Are.

31. At this juncture, the Learned Government Pleader appearing for the Appellants submits that market value of the land at Rs. 5,000/- mentioned in Ex.B.3 Sales Statistics are situated far away from the acquired land and therefore, it cannot be taken into account for consideration in arriving at the market value of the acquired land.

32. It is to be noted that Section 4(1) of the Land Acquisition Act, 1894, mentions about (i) the value of relevant potentialities of the Claimant/Owner to be included but as possibilities - and not as realised possibilities in the hands of the acquiring body.

(ii) that all restrictions on user and enjoyment should be taken into account.

(iii) that the measure of value is the market value of the property to the owner, or re-instatement value, whichever is more appropriate to give effect to the principle, on the date of publication of the notification u/s 4 with an allowance for the compulsory nature of acquisition.

(iv) the reasonable expenses incurred by the Owner/Claimant being compelled in consequence of the acquisition of the land and to change his residence or place of business.

(v) that the damage bona fide resulting from diminuting of the profit of the land between the time of the publication of the Declaration u/s 6 and at the time of Collector's taking possession of the land.

33. In order to fix the amount of compensation in respect of the acquired land a Court of law has to consider (a) what is to be valued? (b) the measure of value?

34. All the potentialities of the land viz., advantages which the land has, present or future in the hands of an owner will have to be taken into consideration as held in *Cedars Rapids Manufacturing and Power Co. v. Lacoste* 1914 AC 569.

35. Market value means the market value of concrete piece of land to which the notification u/s 4 of the Act applies and not separate interests in it.

36. Admittedly, the fixing of market value in respect of an acquired land is an indical process and a Court of Law may properly take into consideration all such relevant attendant factors which will influence a willing purchaser in making his

maximum offer or a willing vendor quoting a lower price.

37. The Probability of a potential user ought to be strong and as such as will induce a prudent man to invest in land in the good faith of such probability.

38. A land is to be valued not merely by reference to the use to which it is being put, but, also by reference to the use which it is reasonably capable of being put in future subject of course to the limitation provided as per Section 24 of the Act as per decision V.S. Subramania Chettiar v. State of Madras AIR 1953 Mad 943.

39. Where the land has been acquired compulsorily as per the Land Acquisition Act, the value to be paid for it, is the value of the owner as it existed on the date of notification as per Section 4 of the Act and not the value of the taker as per decision Manmatha Nath v. Secretary of State 83 IC 442.

40. While fixing the quantum of compensation, it is the duty of a Court of Law to award a Fair, Just and Equitable one. The potential value of the acquired land, its locational advantages, future prospects all these factors go a long way when a Court of law determines a compensation in respect of the acquired land.

41. There is no two opinion of the fact that fixing of compensation is not an exact science. However, a Court of Law has to take into account all relevant factors as per decision Baboo Ram and Others Vs. State of U.P., .

42. What has to be determined u/s 23(1) of the Act is the market value prevailing as on date of notification published u/s 4(1). But not what is claimed by a person pursuant to notice as per Section 10 or its reference u/s 18 or Grounds of Appeal u/s 54 of the Land Acquisition Act as per decision Basant Kumar v. Union of India 1997 (1) LACC 17 (SC).

43. No hard and fast rule can be laid down as to the method to be adopted for assessing the compensation to be paid to a litigant and it depends on each and every case.

44. It is the paramount duty of a Judge to keep before him the even scales to adopt a pragmatic approach without indulging in figment of imagination and assess the value, which is capable to fetch a reasonable market value.

45. It is to be noted that the market value of the land acquired cannot also be freezed at the rate fixed for similar land acquired about a year previously.

46. A Court of Law has to take note that prices of land concerned have seen an upward trend. A Judicial notice to be taken in view of continuous rising inflation and increasing land value as per decision Gulabi v. State of Himachal Pradesh 1998 1 LACC 60 (HP).

47. There are guidelines to be applied with understanding informed of a common sense as per decision State of Kerala v. Susheela Varghese (Dr) Central Hospital (2000) 1 LACC 614 Ker .

48. This Court recalls the decision of Honourable Supreme Court in the decision

Thakur Kuldeep Singh (D) thr. L.R. and Others Vs. Union of India (UOI) and Others, whereby and whereunder, it is observed as follows:

While fixing compensation, it is the duty of the Land Acquisition Collector and the Court to take into consideration the nature of the land, its suitability, nature of the use for which the lands are sought to be acquired on the date of notification, income derived or derivable from or any other special distinctive feature which the land is possessed of, the sale transactions in respect of land covered by the same notification are all relevant factors to be taken into consideration in determining the market value. It is equally relevant to consider the suitability of neighbourhood lands as are possessed of similar potentiality or any advantageous features or any special characteristics available. The Collector as well as the court should always keep in their mind that the object of assessment is to arrive at a reasonable and adequate market value of the land. While doing so, imagination should be eschewed and mechanical assessment of evidence should be avoided. More attention should be on the bona fide and genuine sale transactions as guiding star in evaluating the evidence. The relevant factor would be that of the hypothetical willing vendor would offer for the land and what a willing purchaser of normal human conduct would be willing to buy as a prudent man in normal market conditions prevailing in the open market in the locality in which the acquired lands are situated as on the date of notification u/s 4(1) of the Act. The Judge who sits in the armchair of the willing buyer and seeks an answer to the question whether in the given set of circumstances as a prudent buyer he would offer the same market value which the court proposed to fix for the acquired lands in the available market conditions. The market value so determined should be just, adequate and reasonable.

In view of the purpose for which the "circle rates" have been notified by the Ministry of Urban Affairs and Employment, market value of a plot cannot be determined solely on the basis of the circle rates. However, it cannot be ignored in toto. If other materials are available, government rates can also be considered as corroborative evidence. The nature of the land plays an important role. Likewise, market conditions prevailing as on the date of notification are also relevant. Sale price in respect of a small piece of land cannot be the basis for determination of market value of a large stretch of land.

49. Continuing further, in *Sangunthala (dead) through Lrs v. Special Tahsildar (Land Acquisition) and Ors.* (2010) 3 SCC 661, the Honourable Supreme Court has held as follows:

While determining value of the property acquired the fact whether the land has got building potentiality to be used for building purposes in immediate or in near future needs to be considered. Evidence of C.Ws established that the lands were near the residential housing colonies and well connected to roads. High Court ignored materials on record and relied only on depositions of C.Ws 1 and 6 who admitted that initially all the acquired lands were agriculture lands. It thus, fell into an error in concluding that the acquired lands were agriculture lands and

erroneously reversed the conclusions arrived at by the Reference Court.

50. In *Special Land Acquisition Officer Vs. Karigowda and Others*, , the Honourable Supreme Court has held as follows:

Keeping in mind the facts and circumstances of the case, it will also be just and fair to adopt some liberal approach with some element of guesswork to provide the claimants with just and fair market value of the land in question. It must be remembered that the entire land was acquired for the purpose of submerging the lands because of the water coming from Hemavathi Dam. In view of the cumulative discussion referred to above it will be just, fair, equitable and in consonance with Sections 23 and 24 of the Act that the market value of the land on 4-4-2002 can safely be taken as Rs. 2,30,000/- per acre in the case of garden land (instead of Rs. 5,00,000/- per acre awarded by the High Court) and, applying the accepted principle of reducing the said compensation in the case of dry land (instead of Rs. 2,53,4000 per acre awarded by the High Court) keeping in view the peculiar facts and circumstances of the present case and the evidence on record.

51. Also, in the aforesaid decision in Paragraphs-75, 76 & 77 it is observed as follows:

It is a settled principle of law that lands of adjacent villages can be made the basis for determining the fair market value of the acquired land. This principle of law is qualified by clear dictum of this Court itself that whenever direct evidence i.e. Instance of the same villages are available, then it is most desirable that the Court should consider that evidence. But where such evidence is not available Court can safely rely upon the sales statistics of adjoining lands provided the instances are comparable and the potentiality and location of the land is somewhat similar. The evidence tendered in relation to the land of the adjacent villages would be a relevant piece of evidence for such determination. Once it is shown that situation and potential of the land in two different villages are the same then they could be awarded similar compensation or such other compensation as would be just and fair.

The cases of acquisition are not unknown to our legal system where lands of a number of villages are acquired for the same public purpose or different schemes but on the commonality of purpose and unite development. The parties are expected to place documentary evidence on record that price adopt such a price and the same is not impermissible. Where there is commonality of purpose and common development, compensation based on statistical data of adjacent villages was held to be proper. Usefully, reference can be made to the judgments of this Court in *Kanwar Singh v. Union of India* and *Union of India v. Bal Ram*.

In this regard we may also make a reference to the judgment of this Court in *Kanwar Singh v. Union of India* where sale instances of the adjacent villages were taken into consideration for the purpose of determining the fair market value of the land in question and their comparability, potential and acquisition for

the same purpose was hardly in dispute. It was not only the sale statistics of the adjacent villages for determining the fair market value of the acquired land.

52. In *Tamil Nadu Electricity Board v. R. Kandhaswamy* (2003) 2 LACC 396 (Madras), it is held that "the crucial date for determining of the market value of the acquired land is on the date of the publication of Section 4(1) Notification.

53. It is essential that the Public Exchequer ought not to be put to undue burden by excess valuation. A Court of Law has to strike a balance between two interests, in the considered opinion of this Court.

54. As far as the present case is concerned, it is the evidence of P.W.1 (Land Acquisition Award) that Exs.A.1 and A.2 lands are situated to the South of the acquired land and that the acquired land is situated at a distance of 30-50 m from the acquired land. Though R.W.1 in his evidence has deposed that out of 480 Sales Deeds taken into consideration, six Sale Deeds have been determined on the higher value in the Sale Deed at Rs. 3,716/- per Are has been taken for the purpose of fixing the market value at Rs. 2,974/- per Are. Yet, this Court is of the considered view that P.W.1 (Respondent/Claimant) in his evidence has stated that there are houses situated to the North of his acquired land and even though the Land Acquisition Officer has determined the compensation in respect of the acquired land at Rs. 2,974/- per Are, this Court has taken into account the locational advantages, the potential value its future prospects and also bearing in mind an important fact that the lands have been acquired for the purpose of establishment of Adi Dravidars Welfare Department Office and for providing free house sites to land-less Adi Dravidars. The determination of compensation at the rate of Rs. 5,000/- per Are and after deduction of 20% towards the development charges, the fixation of market value in respect of the acquired land at Rs. 4,000/- per Are by the trial Court cannot be said to be an excessive, exorbitant and a capricious one. Looking at from any angle, the Award passed by the trial Court is a Fair and Sensible one and the trial Court has also corrected its error in the original Award when it passed an Order in C.R.A. No. 2 of 2004 dated 21.12.2004 and viewed in that perspective, the Appeal sans merits.

55. Before parting, this Court refers to Rule 12 of the Legal Practitioner's Fees Rules, 1973 which runs as follows:

Rule 12(1) In the High Court in appeals from original or appellate decrees in suits for money, effects or other personal property, or for land or other immovable property of any description, fees are payable on the same scales under Rule 3(2) (b).

Provided that when the appeal is compromised, settled withdrawn or dismissed for default (a) before the appeal gets into the ready board, the fee shall be one-fourth of the fee prescribed under Rule 3(2)(b) and (c) after the appeal stands on the ready board the fee shall be one-half of the fee prescribed under Rule 3(2) (b) subject to this, in all the above cases, the minima prescribed in Rule 14 shall apply:

(provided further that when the appeal is from an award or from any part of an award of a Court in a land acquisition case, as between the collector and the claimant or claimants the maximum fee shall be Rs. 2,000.00)

2) When the amount or value of the claim in the appeal exceeds Rs. 2,000/- an additional fee calculated at one-third of the fee allowable under Clause (1) shall be payable to junior Practitioner engaged with a senior practitioner:

Provided that the junior was on record at least from the last of the dates fixed for the appearance of the Respondent.

Provided further that in any case, where a junior's fee is payable under this rule or under Rule 19, the Court shall have a discretion to fix that fee at half the senior's fee instead of one-third.

(3) The fees for the junior legal practitioner for settling of documents for translation and or printing in first appeals shall be a minimum of Rs. 25 and a maximum of Rs. 50 subject to the discretion of the taxing officer.

56. In the result, the Appeal is dismissed, leaving the parties to bear their own costs. Consequently, the Award passed by the trial Court viz., the Learned Principal District Judge, Pondicherry, in L.A.O.P. No. 5 of 2002 dated 09.01.2004 and corrected by its C.R.A. No. 2 of 2004 dated 21.12.2004 are affirmed by this Court for the reasons assigned in this Appeal. Consequently, the connected miscellaneous petition is closed.